

**As Reported by the House Ways and Means Committee**

**124th General Assembly**

**Regular Session**

**2001-2002**

**Sub. S. B. No. 143**

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

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**A B I L L**

To amend sections 307.671, 307.672, 307.674, 307.695, 1  
311.37, 311.99, 351.01, 351.021, 351.03, 351.141, 2  
505.56, 3715.52, 4501.32, 5739.01, 5739.02, 3  
5739.024, 5739.033, 5739.31, and 5739.99; to amend, 4  
for the purpose of adopting a new section number as 5  
indicated in parentheses, section 5739.024 6  
(5739.09); and to enact sections 5739.034, 5739.08, 7  
5740.01 to 5740.08, and 5747.083 of the Revised 8  
Code and to repeal Section 6 of Sub. H.B. 483 of 9  
the 123rd General Assembly to enact the Simplified 10  
Sales and Use Tax Administration Act, to prohibit 11  
the Tax Commissioner from requiring reporting or 12  
payment of certain use tax liability as part of a 13  
taxpayer's personal income tax return, and to make 14  
other changes to the sales and use tax laws. 15

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

**Section 1.** That sections 307.671, 307.672, 307.674, 307.695, 16  
311.37, 311.99, 351.01, 351.021, 351.03, 351.141, 505.56, 3715.52, 17  
4501.32, 5739.01, 5739.02, 5739.024, 5739.033, 5739.31, and 18  
5739.99 be amended, section 5739.024 (5739.09) be amended for the 19  
purpose of adopting a new section number as indicated in 20  
parentheses, and sections 5739.034, 5739.08, 5740.01, 5740.02, 21

5740.03, 5740.04, 5740.05, 5740.06, 5740.07, 5740.08, and 5747.083 22  
of the Revised Code be enacted to read as follows: 23

**Sec. 307.671.** (A) As used in this section: 24

(1) "Bonds" means, as the context requires: general 25  
obligation bonds of the county, or notes in anticipation thereof, 26  
described in division (B)(1)(b) of this section; revenue bonds of 27  
the port authority described in division (B)(2)(a) of this 28  
section; and urban renewal bonds, or notes in anticipation 29  
thereof, of the host municipal corporation described in division 30  
(B)(3)(a) of this section. 31

(2) "Corporation" means a nonprofit corporation that is 32  
organized under the laws of this state and that includes within 33  
the purposes for which it is incorporated the authorization to 34  
lease and operate facilities such as a port authority educational 35  
and cultural facility. 36

(3) "Debt service charges" means, for any period or payable 37  
at any time, the principal of and interest and any premium due on 38  
bonds for that period or payable at that time whether due at 39  
maturity or upon mandatory redemption, together with any required 40  
deposits to reserves for the payment of principal of and interest 41  
on such bonds, and includes any payments required by the port 42  
authority to satisfy any of its obligations arising from any 43  
guaranty agreements, reimbursement agreements, or other credit 44  
enhancement agreements described in division (C) of this section. 45

(4) "Host municipal corporation" means the municipal 46  
corporation within the boundaries of which the port authority 47  
educational and cultural facility is located. 48

(5) "Port authority" means a port authority created pursuant 49  
to the authority of section 4582.02 of the Revised Code by a 50  
county and a host municipal corporation. 51

(6) "Port authority educational and cultural facility" means 52  
a facility located within an urban renewal area that may consist 53  
of a museum, archives, library, hall of fame, center for 54  
contemporary music, or other facilities necessary to provide 55  
programs of an educational and cultural nature, together with all 56  
parking facilities, walkways, and other auxiliary facilities, real 57  
and personal property, property rights, easements, and interests 58  
that may be appropriate for, or used in connection with, the 59  
operation of the facility. 60

(7) "Urban renewal area" means an area of a host municipal 61  
corporation that the legislative authority of the host municipal 62  
corporation has designated as appropriate for an urban renewal 63  
project pursuant to Chapter 725. of the Revised Code. 64

(B) The board of county commissioners of a county, a port 65  
authority, and a host municipal corporation may enter into a 66  
cooperative agreement with a corporation, under which: 67

(1) The board of county commissioners agrees to do all of the 68  
following: 69

(a) Levy a tax under division (D) of section ~~5739.024~~ 5739.09 70  
of the Revised Code exclusively for the purposes described in 71  
divisions (B)(1)(c) and (d) of this section; 72

(b) Issue general obligation bonds of the county, or notes in 73  
anticipation thereof, pursuant to Chapter 133. of the Revised 74  
Code, for the purpose of acquiring, constructing, and equipping 75  
the port authority educational and cultural facility and 76  
contribute the proceeds from the issuance to the port authority 77  
for such purpose. The cooperative agreement may provide that such 78  
proceeds be deposited with and administered by the trustee 79  
pursuant to the trust agreement provided for in division (C) of 80  
this section. 81

(c) Following the issuance, sale, and delivery of the port 82

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. 114  
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(3) The host municipal corporation agrees to do both of the following: 116  
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(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. 118  
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(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. 127  
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(4) The corporation agrees to do all of the following: 135

(a) Lease the port authority educational and cultural facility from the port authority; 136  
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(b) Operate and maintain the port authority educational and cultural facility pursuant to the lease; 138  
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(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. 140  
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(C) The pledges and contributions described in divisions 144  
(B)(1)(c) and (d) of this section and provided for in the 145  
cooperative agreement shall be for the period stated in the 146  
cooperative agreement, but shall not be in excess of the period 147  
necessary to provide for the final retirement of the port 148  
authority revenue bonds provided for in division (B)(2)(a) of this 149  
section and any bonds issued by the port authority to refund such 150  
bonds, and for the satisfaction by the port authority of any of 151  
its obligations arising from any guaranty agreements, 152  
reimbursement agreements, or other credit enhancement agreements 153  
relating to such bonds or to the revenues pledged to such bonds. 154  
The cooperative agreement shall provide for the termination of the 155  
cooperative agreement including the pledges and contributions 156  
described in divisions (B)(1)(c) and (d) of this section if the 157  
port authority revenue bonds provided for in division (B)(2)(a) of 158  
this section have not been issued, sold, and delivered within two 159  
years of the effective date of the cooperative agreement. 160

The cooperative agreement shall provide that any revenue 161  
bonds of the port authority shall be secured by a trust agreement 162  
between the port authority and a corporate trustee that is a trust 163  
company or bank having the powers of a trust company within or 164  
outside the state. The county may be a party to such trust 165  
agreement for the purpose of securing the pledge by the county of 166  
its contribution to the corporation pursuant to division (B)(1)(d) 167  
of this section. A tax levied pursuant to division (B)(1)(a) of 168  
this section is not subject to diminution by initiative or 169  
referendum or diminution by statute, unless provision is made 170  
therein for an adequate substitute therefor reasonably 171  
satisfactory to the trustee under the trust agreement that secures 172  
the revenue bonds of the port authority. 173

(D) A pledge of money by a county under this section shall 174  
not be net indebtedness of the county for purposes of section 175

133.07 of the Revised Code.

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(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.

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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.

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

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(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.

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(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, 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 268  
contract with the host municipal corporation pursuant to which the 269  
corporation shall operate and maintain the facility on behalf of 270  
the host municipal corporation; 271

(b) To the extent provided for in the cooperative agreement 272  
or the lease or contract with the host municipal corporation, 273  
administer on behalf of the host municipal corporation the 274  
contracts for acquiring, constructing, equipping, or improving a 275  
municipal educational and cultural facility. 276

(C) A tax levied pursuant to division (E) of section ~~5739.024~~ 277  
5739.09 of the Revised Code, the revenue from which is to be used 278  
to pay debt service charges on bonds described in division (B)(1) 279  
or (2) of this section is not subject to diminution by initiative 280  
or referendum or diminution by statute, unless provision is made 281  
therein for an adequate substitute therefor reasonably 282  
satisfactory to the legislative authorities of the host municipal 283  
corporation and the county. 284

(D) The legislative authorities of a county and a host 285  
municipal corporation that have entered into a cooperative 286  
agreement with a corporation pursuant to division (B) of this 287  
section may amend that cooperative agreement, with the 288  
participation of the corporation and a port authority as defined 289  
in section 307.674 of the Revised Code, to provide also for a port 290  
authority educational and cultural performing arts facility in 291  
accordance with section 307.674 of the Revised Code. Such an 292  
amendment shall become effective only to the extent that the tax 293  
levied under division (E) of section ~~5739.024~~ 5739.09 of the 294  
Revised Code is not needed for the duration of the original tax to 295  
pay costs of the municipal educational and cultural facility, 296  
including debt service charges on related bonds, as determined by 297  
the parties to the amendment. The tax may be pledged and paid by 298  
the parties to the amendment for the balance of the duration of 299

the tax to a port authority educational and cultural performing arts facility. 300  
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**Sec. 307.674.** (A) As used in this section: 302

(1) "Bonds" means: 303

(a) Revenue bonds of the port authority described in division (B)(2)(a) of this section; 304  
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(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; 306  
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(c) Any bonds issued to refund any of those revenue bonds or securities. 309  
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(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. 311  
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(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 316  
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construction, costs arising under guaranty agreements, 330  
reimbursement agreements, or other credit enhancement agreements 331  
relating to bonds, engineering, expenses of research and 332  
development with respect to such facility, legal expenses, plans, 333  
specifications, surveys, studies, estimates of costs and revenues, 334  
other expenses necessary or incident to determining the 335  
feasibility or practicability of acquiring or constructing the 336  
facility, administrative expense, and other expenses as may be 337  
necessary or incident to that acquisition or construction and the 338  
financing of such acquisition or construction, including, with 339  
respect to the revenue bonds of a port authority, amounts to be 340  
paid into any special funds from the proceeds of those bonds, and 341  
repayments to the port authority, host county, host municipal 342  
corporation, or corporation of any amounts advanced for the 343  
foregoing purposes. 344

(4) "Debt service charges" means, for any period or payable 345  
at any time, the principal of and interest and any premium due on 346  
bonds for that period or payable at that time whether due at 347  
maturity or upon mandatory redemption, together with any required 348  
deposits to reserves for the payment of principal of and interest 349  
on those bonds, and includes any payments required by the port 350  
authority to satisfy any of its obligations under or arising from 351  
any guaranty agreements, reimbursement agreements, or other credit 352  
enhancement agreements described in division (C) of this section. 353

(5) "Host county" means the county within the boundaries of 354  
which the port authority educational and cultural performing arts 355  
facility is or will be located. 356

(6) "Host municipal corporation" means the municipal 357  
corporation within the boundaries of which the port authority 358  
educational and cultural performing arts facility is or will be 359  
located. 360

(7) "Port authority" means a port authority created pursuant 361

to section 4582.22 of the Revised Code. 362

(8) "Port authority educational and cultural performing arts 363  
facility" means a facility that consists of a center for music or 364  
other performing arts, a theater or other facilities to provide 365  
programs of an educational, recreational, or cultural nature, or 366  
any combination of those purposes as determined by the parties to 367  
the cooperative agreement for which provision is made in division 368  
(B) of this section to fulfill the public educational, 369  
recreational, and cultural purposes set forth therein, together 370  
with all parking facilities, walkways, and other auxiliary 371  
facilities, real and personal property, property rights, 372  
easements, and interests that may be appropriate for, or used in 373  
connection with, the operation of the facility. 374

(B) A host county, a host municipal corporation, and a port 375  
authority may enter into a cooperative agreement with a 376  
corporation under which, as further provided for in that 377  
agreement: 378

(1) The host county may agree to do any or all of the 379  
following: 380

(a) Levy and collect a tax under division (E) and division 381  
(F) of section ~~5739.024~~ 5739.09 of the Revised Code for the 382  
purposes, and in an amount sufficient for those purposes, 383  
described in divisions (B)(1)(b) and (c) of this section; 384

(b) Pay to the port authority all or such portion as provided 385  
for in the cooperative agreement of the revenue from the tax, 386  
together with any investment earnings on that revenue, to be used 387  
to pay a portion of the costs of acquiring, constructing, 388  
renovating, rehabilitating, equipping, or improving the port 389  
authority educational and cultural performing arts facility; 390

(c) Pledge and pay to the corporation all or such portion as 391  
provided for in the cooperative agreement of the revenue from the 392

tax, together with any investment earnings on that revenue, to be 393  
used to pay a portion of the costs to the corporation of leasing 394  
the port authority educational and cultural performing arts 395  
facility from the port authority. 396

(2) The port authority may agree to do any or all of the 397  
following: 398

(a) Issue its revenue bonds pursuant to section 4582.48 of 399  
the Revised Code for the purpose of paying all or a portion of the 400  
costs of the port authority educational and cultural performing 401  
arts facility; 402

(b) Acquire, construct, renovate, rehabilitate, equip, and 403  
improve the port authority educational and cultural performing 404  
arts facility; 405

(c) Lease the port authority educational and cultural 406  
performing arts facility to the corporation; 407

(d) To the extent provided for in the cooperative agreement 408  
or the lease to the corporation, authorize the corporation to 409  
administer on behalf of the port authority the contracts for 410  
acquiring, constructing, renovating, rehabilitating, or equipping 411  
the port authority educational and cultural performing arts 412  
facility; 413

(e) Use the revenue derived from the lease of the port 414  
authority educational and cultural performing arts facility to the 415  
corporation solely to pay debt service charges on revenue bonds of 416  
the port authority issued pursuant to division (B)(2)(a) of this 417  
section and to pay its obligations under or arising from any 418  
guaranty agreements, reimbursement agreements, or other credit 419  
enhancement agreements provided for in this section. 420

(3) The host municipal corporation may agree to do either or 421  
both of the following: 422

(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

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shall not be net indebtedness of the host municipal corporation  
for purposes of section 133.05 of the Revised Code.

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(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.

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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.

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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

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performing arts facility funded completely or in part with money 518  
appropriated by the state to the Ohio arts and sports facilities 519  
commission may be provided by a port authority or a corporation 520  
that occupies, will occupy, or is responsible for that facility, 521  
as determined by the commission. The construction services and 522  
general building services to be provided by the port authority or 523  
the corporation shall be specified in an agreement between the 524  
commission and the port authority or corporation. That agreement, 525  
or any actions taken under it, are not subject to Chapters 123. or 526  
153. of the Revised Code, but are subject to Chapter 4115. of the 527  
Revised Code. 528

**Sec. 307.695.** (A) As used in this section, "convention 529  
center" means any structure expressly designed and constructed for 530  
the purposes of presenting conventions, public meetings, and 531  
exhibitions and includes parking facilities that serve the center 532  
and any personal property used in connection with any such 533  
structure or facilities. 534

(B) A board of county commissioners may enter into an 535  
agreement with a convention and visitors' bureau operating in the 536  
county under which: 537

(1) The bureau agrees to construct and equip a convention 538  
center in the county and to pledge and contribute from the tax 539  
revenues received by it under division (A) of section ~~5739.024~~ 540  
5739.09 of the Revised Code, not more than such portion thereof 541  
that it is authorized to pledge and contribute for the purpose 542  
described in division (C) of this section; and 543

(2) The board agrees to levy a tax under division (C) of 544  
section ~~5739.024~~ 5739.09 of the Revised Code and pledge and 545  
contribute the revenues therefrom for the purpose described in 546  
division (C) of this section. 547

(C) The purpose of the pledges and contributions described in 548

divisions (B)(1) and (2) of this section is payment of principal, 549  
interest, and premium, if any, on bonds and notes issued by or for 550  
the benefit of the bureau to finance the construction and 551  
equipping of a convention center. The pledges and contributions 552  
provided for in the agreement shall be for the period stated in 553  
the agreement, but not to exceed thirty years. Revenues determined 554  
from time to time by the board to be needed to cover the real and 555  
actual costs of administering the tax imposed by division (C) of 556  
section ~~5739.024~~ 5739.09 of the Revised Code may not be pledged or 557  
contributed. The agreement shall provide that any such bonds and 558  
notes shall be secured by a trust agreement between the bureau or 559  
other issuer acting for the benefit of the bureau and a corporate 560  
trustee that is a trust company or bank having the powers of a 561  
trust company within or without the state, and the trust agreement 562  
shall pledge or assign to the retirement of the bonds or notes, 563  
all moneys paid by the county under this section. A tax the 564  
revenues from which are pledged under an agreement entered into by 565  
a board of county commissioners under this section shall not be 566  
subject to diminution by initiative or referendum, or diminution 567  
by statute, unless provision is made therein for an adequate 568  
substitute therefor reasonably satisfactory to the trustee under 569  
the trust agreement that secures the bonds and notes. 570

(D) A pledge of money by a county under this section shall 571  
not be indebtedness of the county for purposes of Chapter 133. of 572  
the Revised Code. 573  
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(E) If the terms of the agreement so provide, the board of 575  
county commissioners may acquire and lease real property to the 576  
convention bureau as the site of the convention center. The lease 577  
shall be for a term not to exceed thirty years and shall be on 578  
such terms as are set forth in the agreement. The purchase and 579  
lease are not subject to the limitations of sections 307.02 and 580

307.09 of the Revised Code.

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**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:

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

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(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;

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

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(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.

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(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.

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(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;

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(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.

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(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.

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

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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.

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**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.

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(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

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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: 685

(A) "Convention facilities authority" means a body corporate  
and politic created pursuant to section 351.02 of the Revised  
Code. 686  
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(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. 689  
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(C) "Person" means any individual, firm, partnership,  
association, or corporation, or any combination of them. 699  
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(D) "Facility" or "facilities" means any convention,  
entertainment, or sports facility, or combination of them, located  
within the territory of the convention facilities authority, 701  
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together with all parking facilities, walkways, and other 704  
auxiliary facilities, real and personal property, property rights, 705  
easements and interests that may be appropriate for, or used in 706  
connection with, the operation of the facility. 707

(E) "Cost" means the cost of acquisition of all land, 708  
rights-of-way, property rights, easements, franchise rights, and 709  
interests required for such acquisition; the cost of demolishing 710  
or removing any buildings or structures on land so acquired, 711  
including the cost of acquiring any lands to which such buildings 712  
or structures may be moved; the cost of acquiring or constructing 713  
and equipping a principal office of the convention facilities 714  
authority; the cost of diverting highways, interchange of 715  
highways, access roads to private property, including the cost of 716  
land or easements for such access roads; the cost of public 717  
utility and common carrier relocation or duplication; the cost of 718  
all machinery, furnishings, and equipment; financing charges; 719  
interest prior to and during construction and for no more than 720  
eighteen months after completion of construction; expenses of 721  
research and development with respect to facilities; legal 722  
expenses; expenses of obtaining plans, specifications, engineering 723  
surveys, studies, and estimates of cost and revenues; working 724  
capital; expenses necessary or incident to determining the 725  
feasibility or practicability of acquiring or constructing such 726  
facility; administrative expense; and such other expenses as may 727  
be necessary or incident to the acquisition or construction of the 728  
facility, the financing of such acquisition or construction, 729  
including the amount authorized in the resolution of the 730  
convention facilities authority providing for the issuance of 731  
convention facilities authority revenue bonds to be paid into any 732  
special funds from the proceeds of such bonds, the cost of issuing 733  
the bonds, and the financing of the placing of such facility in 734  
operation. Any obligation, cost, or expense incurred by any 735

governmental agency or person for surveys, borings, preparation of 736  
plans and specifications, and other engineering services, or any 737  
other cost described above, in connection with the acquisition or 738  
construction of a facility may be regarded as part of the cost of 739  
such facility and may be reimbursed out of the proceeds of 740  
convention facilities authority revenue bonds as authorized by 741  
this chapter. 742

(F) "Owner" includes a person having any title or interest in 743  
any property, rights, easements, or interests authorized to be 744  
acquired by Chapter 351. of the Revised Code. 745

(G) "Revenues" means all rentals and other charges received 746  
by the convention facilities authority for the use or services of 747  
any facility, the sale of any merchandise, or the operation of any 748  
concessions; any gift or grant received with respect to any 749  
facility, any moneys received with respect to the lease, sublease, 750  
sale, including installment sale or conditional sale, or other 751  
disposition of a facility or part thereof; moneys received in 752  
repayment of and for interest on any loans made by the authority 753  
to a person or governmental agency, whether from the United States 754  
or any department, administration, or agency thereof, or 755  
otherwise; proceeds of convention facilities authority revenue 756  
bonds to the extent the use thereof for payment of principal or of 757  
premium, if any, or interest on the bonds is authorized by the 758  
authority; proceeds from any insurance, appropriation, or guaranty 759  
pertaining to a facility or property mortgaged to secure bonds or 760  
pertaining to the financing of the facility; income and profit 761  
from the investment of the proceeds of convention facilities 762  
authority revenue bonds or of any revenues; contributions of the 763  
proceeds of a tax levied pursuant to division (A)(3) of section 764  
~~5739.024~~ 5739.09 of the Revised Code; and moneys transmitted to 765  
the authority pursuant to division (B) of section 5739.211 and 766  
division (B) of section 5741.031 of the Revised Code. 767

(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 798  
in section 5739.01 of the Revised Code. 799

(Q) "Sports facility" means a facility intended to house 800  
major league professional athletic teams. 801

(R) "Constructing" or "construction" includes providing 802  
fixtures, furnishings, and equipment. 803

**Sec. 351.021.** (A) The resolution of the county commissioners 804  
creating a convention facilities authority, or any amendment or 805  
supplement to that resolution, may authorize the authority to levy 806  
one or both of the excise taxes authorized by division (B) of this 807  
section to pay the cost of one or more facilities; to pay 808  
principal, interest, and premium on convention facilities 809  
authority tax anticipation bonds issued to pay those costs; to pay 810  
the operating costs of the authority; to pay operating and 811  
maintenance costs of those facilities; and to pay the costs of 812  
administering the excise tax. 813

(B) The board of directors of a convention facilities 814  
authority that has been authorized pursuant to resolution adopted, 815  
amended, or supplemented by the board of county commissioners 816  
pursuant to division (A) of this section may levy, by resolution 817  
adopted on or before December 31, 1988, either or both of the 818  
following: 819

(1) Within the territory of the authority, an additional 820  
excise tax not to exceed four per cent on each transaction. The 821  
excise tax authorized by division (B)(1) of this section shall be 822  
in addition to any excise tax levied pursuant to ~~division (C) of~~ 823  
section 5739.02, ~~section 5739.024~~ 5739.08 or 5739.09 of the 824  
Revised Code, or division (B)(2) of this section. 825

(2) Within that portion of any municipal corporation that is 826  
located within the territory of the authority or within the 827

boundaries of any township that is located within the territory of 828  
the authority, which municipal corporation or township is levying 829  
any portion of the excise tax authorized by division ~~(C)(1)(A)~~ of 830  
section ~~5739.02~~ 5739.08 of the Revised Code, and with the 831  
approval, by ordinance or resolution, of the legislative authority 832  
of that municipal corporation or township, an additional excise 833  
tax not to exceed nine-tenths of one per cent on each transaction. 834  
The excise tax authorized by division (B)(2) of this section may 835  
be levied only if, on the effective date of the levy specified in 836  
the resolution making the levy, the amount being levied pursuant 837  
to division ~~(C)(1)(A)~~ of section ~~5739.02~~ 5739.08 of the Revised 838  
Code by each municipal corporation or township in which the tax 839  
authorized by division (B)(2) of this section will be levied, when 840  
added to the amount levied under division (B)(2) of this section, 841  
does not exceed three per cent on each transaction. The excise tax 842  
authorized by division (B)(2) of this section shall be in addition 843  
to any excise tax that is levied pursuant to ~~division (C) of~~ 844  
~~section 5739.02 of the Revised Code,~~ section ~~5739.024~~ 5739.08 or 845  
5739.09 of the Revised Code, or division (B)(1) of this section. 846

(C) The authority shall provide for the administration and 847  
allocation of the excise taxes levied pursuant to division (B) of 848  
this section. All receipts arising from those excise taxes shall 849  
be expended for the purposes provided in, and in accordance with 850  
this section and section 351.141 of the Revised Code. An excise 851  
tax levied under division (B) of this section shall remain in 852  
effect at the rate at which it is levied for at least the duration 853  
of the period for which the receipts from the tax have been 854  
anticipated and pledged pursuant to section 351.141 of the Revised 855  
Code. 856

(D) Except as provided in division (B)(2) of this section, 857  
the levy of an excise tax on each transaction pursuant to ~~division~~ 858  
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~~(C) of section 5739.02 of the Revised Code and section 5739.024~~ 860  
sections 5739.08 and 5739.09 of the Revised Code does not prevent 861  
a convention facilities authority from levying the excise taxes 862  
pursuant to division (B) of this section. 863

**Sec. 351.03.** (A) Except as provided in division (A)(3) of 864  
section ~~5739.024~~ 5739.09 or in section 5739.026 of the Revised 865  
Code, no county creating a convention facilities authority may 866  
appropriate and expend public funds to finance or subsidize the 867  
operation of the authority. 868

(B) Subject to making due provisions for payment and 869  
performance of its obligations, a convention facilities authority 870  
may be dissolved by the county creating it. In such event the 871  
properties of the authority shall be transferred to the county 872  
creating it, and the county may thereupon appropriate and expend 873  
public funds to finance or subsidize the operation of such 874  
facilities. 875

**Sec. 351.141.** A convention facilities authority that levies 876  
one or both of the excise taxes authorized by division (B) of 877  
section 351.021 of the Revised Code or that receives contributions 878  
pursuant to division (A)(3) of section ~~5739.024~~ 5739.09 of the 879  
Revised Code, by resolution may anticipate the proceeds of the 880  
levy and issue convention facilities authority tax anticipation 881  
bonds, and notes anticipating the proceeds or the bonds, in the 882  
principal amount that, in the opinion of the authority, are 883  
necessary for the purpose of paying the cost of one or more 884  
facilities or parts of one or more facilities, and as able, with 885  
the interest on them, be paid over the term of the issue, or in 886  
the case of notes anticipating bonds over the term of the bonds, 887  
by the estimated amount of the excise taxes or contributions 888  
anticipated thereby. The excise taxes or contributions are 889  
determined by the general assembly to satisfy any applicable 890

requirement of Section 11 of Article XII, Ohio Constitution. An 891  
authority, at any time, may issue renewal tax anticipation notes, 892  
issue tax anticipation bonds to pay such notes, and, whenever it 893  
considers refunding expedient, refund any tax anticipation bonds 894  
by the issuance of tax anticipation refunding bonds whether the 895  
bonds to be refunded have or have not matured, and issue tax 896  
anticipation bonds partly to refund bonds then outstanding and 897  
partly for any other authorized purpose. The refunding bonds shall 898  
be sold and the proceeds needed for such purpose applied in the 899  
manner provided in the bond proceedings to the purchase, 900  
redemption, or payment of the bonds to be refunded. 901

Every issue of outstanding tax anticipation bonds shall be 902  
payable out of the proceeds of the excise taxes or contributions 903  
anticipated and other revenues of the authority that are pledged 904  
for such payment. The pledge shall be valid and binding from the 905  
time the pledge is made, and the anticipated excise taxes, 906  
contributions, and revenues so pledged and thereafter received by 907  
the authority immediately shall be subject to the lien of that 908  
pledge without any physical delivery of those excise taxes, 909  
contributions, and revenues or further act. The lien of any pledge 910  
is valid and binding as against all parties having claims of any 911  
kind in tort, contract, or otherwise against the authority, 912  
whether or not such parties have notice of the lien. Neither the 913  
resolution nor any trust agreement by which a pledge is created 914  
need be filed or recorded except in the authority's records. 915

Whether or not the bonds or notes are of such form and 916  
character as to be negotiable instruments under Title XIII of the 917  
Revised Code, the bonds or notes shall have all the qualities and 918  
incidents of negotiable instruments, subject only to their 919  
provisions for registration, if any. 920

The tax anticipation bonds shall bear such date or dates, and 921  
shall mature at such time or times, in the case of any such notes 922

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 988  
the administration and allocation of the tax. All funds arising 989  
from such an excise tax shall be deposited in the township 990  
treasury and may be expended for any lawful purpose. A board of 991  
township trustees shall not levy the tax authorized by this 992  
section in any city or village. 993

As used in this section, "hotel" and "transient guests" have 994  
the same meaning as in section 5739.01 of the Revised Code. 995

**Sec. 3715.52.** (A) The following acts and causing them are 996  
prohibited: 997

(1) The manufacture, sale, or delivery, holding or offering 998  
for sale of any food, drug, device, or cosmetic that is 999  
adulterated or misbranded; 1000

(2) The adulteration or misbranding of any food, drug, 1001  
device, or cosmetic; 1002

(3) The receipt in commerce of any food, drug, device, or 1003  
cosmetic that is adulterated or misbranded, and the delivery or 1004  
proffered delivery thereof for pay or otherwise; 1005

(4) The sale, delivery for sale, holding for sale, or 1006  
offering for sale of any article in violation of section 3715.61 1007  
or 3715.65 of the Revised Code; 1008

(5) The dissemination of any false advertisement; 1009

(6) The refusal to permit entry or inspection, or to permit 1010  
the taking of a sample, as authorized by section 3715.70 of the 1011  
Revised Code; 1012

(7) The giving of a guaranty or undertaking that is false, 1013  
except by a person who relied on a guaranty or undertaking to the 1014  
same effect signed by, and containing the name and address of the 1015  
person residing in this state from whom the person received in 1016  
good faith the food, drug, device, or cosmetic; 1017

(8) The removal or disposal of a detained or embargoed 1018  
article in violation of section 3715.55 or 3715.551 of the Revised 1019  
Code; 1020

(9) The alteration, mutilation, destruction, obliteration, or 1021  
removal of the whole or any part of the labeling of, or the doing 1022  
of any other act with respect to a food, drug, device, or 1023  
cosmetic, if the act is done while the article is held for sale 1024  
and results in the article being misbranded; 1025

(10) Forging, counterfeiting, simulating, or falsely 1026  
representing, or without proper authority using any mark, stamp, 1027  
tag, label, or other identification device authorized or required 1028  
by rules adopted pursuant to sections 3715.52 to 3715.72 of the 1029  
Revised Code; 1030

(11) The using, on the labeling of any drug or in any 1031  
advertisement relating to a drug, of any representation or 1032  
suggestion that any application with respect to the drug is 1033  
effective under section 3715.65 of the Revised Code or that the 1034  
drug complies with the provisions of that section; 1035

(12) The using by any person to the person's own advantage, 1036  
or revealing, other than to the director of agriculture or to the 1037  
courts when relevant in any judicial proceeding under sections 1038  
3715.52 to 3715.72 of the Revised Code, any information acquired 1039  
under authority of sections 3715.01 and 3715.52 to 3715.72 of the 1040  
Revised Code, concerning any information that as a trade secret is 1041  
entitled to protection; 1042

(13) The issuance by the manufacturer, packer, or distributor 1043  
of a dangerous drug of any advertisements, catalogues, or price 1044  
lists, except those lists specifically designed for disseminating 1045  
price change information, that do not contain in clearly legible 1046  
form the name and place of business of the manufacturer who mixed 1047  
the final ingredients and, if different, the manufacturer who 1048

produced the drug in its finished dosage form and, if different, 1049  
the packer or distributor. 1050

(B)(1) No person at a flea market shall sell, offer for sale, 1051  
or knowingly permit the sale of any of the following products: 1052  
1053

(a) Baby food, infant formula, or similar products; 1054

(b) Any drug, cosmetic, or device; 1055

(c) Any product on which is printed or stamped an expiration 1056  
date or a date recommended by the manufacturer as either the last 1057  
day on which the product should be offered for sale or the last 1058  
day on which the product should be used. 1059

(2) Division (B)(1) of this section does not apply to a 1060  
person who keeps available for public inspection an identification 1061  
card identifying the person as an authorized representative of the 1062  
manufacturer or distributor of any drug, cosmetic, or device, as 1063  
long as the card is not false, fraudulent, or fraudulently 1064  
obtained. 1065

(3) Division (B)(1)(c) of this section does not apply to a 1066  
person or governmental entity that is licensed as a retail food 1067  
establishment or food service operation under Chapter 3717. of the 1068  
Revised Code or is listed in division (B)(9) or (12) of section 1069  
3717.42 of the Revised Code. 1070

(4) As used in division (B)(1) of this section, "flea market" 1071  
means any location, other than a permanent retail store, at which 1072  
space is rented or otherwise made available to others for the 1073  
conduct of business as transient ~~or limited~~ vendors as defined in 1074  
section 5739.17 of the Revised Code. 1075

**Sec. 4501.32.** (A) There is hereby created in the state 1076  
treasury the professional sports teams license plate fund. The 1077  
fund shall consist of the contributions that are paid to the 1078

registrar of motor vehicles by applicants who voluntarily choose 1079  
to obtain license plates bearing the logo of a professional sports 1080  
team pursuant to section 4503.591 of the Revised Code. 1081

(B) If a professional sports team located in this state 1082  
desires to have its logo appear on license plates issued by this 1083  
state, it shall inform the largest convention and visitors' bureau 1084  
of the county in which the professional sports team is located of 1085  
that desire. That convention and visitors' bureau shall create a 1086  
sports commission to operate in that county to receive the 1087  
contributions that are paid by applicants who choose to be issued 1088  
license plates bearing the logo of that professional sports team 1089  
for display on their motor vehicles. The sports commission shall 1090  
negotiate with the professional sports team to permit the display 1091  
of the team's logo on license plates issued by this state, enter 1092  
into the contract with the team to permit such display, and pay to 1093  
the team any licensing or rights fee that must be paid in 1094  
connection with the issuance of the license plates. Upon execution 1095  
of the contract, the sports commission shall provide a copy of it 1096  
to the registrar of motor vehicles, along with any other 1097  
documentation the registrar may require. Upon receipt of the 1098  
contract and any required additional documentation, and when the 1099  
numerical requirement contained in division (A) of section 4503.78 1100  
of the Revised Code has been met relative to that particular 1101  
professional sports team, the registrar shall take the measures 1102  
necessary to issue license plates bearing the logo of that team. 1103

The registrar shall pay to the sports commission all 1105  
contributions that are paid by applicants who obtain license 1106  
plates that bear the logos of participating professional sports 1107  
teams located in the county of the sports commission, irrespective 1108  
of the county of residence of an applicant. 1109

(C) A sports commission shall expend the money it receives 1110

under this section to attract amateur regional, national, and 1111  
international sporting events to the municipal corporation, 1112  
county, or township in which it is located, and it may sponsor 1113  
such events. Prior to attracting or sponsoring such events, the 1114  
sports commission shall perform an economic analysis to determine 1115  
whether the proposed event will have a positive economic effect on 1116  
the greater area in which the event will be held. A sports 1117  
commission shall not expend any money it receives under this 1118  
section to attract or sponsor an amateur regional, national, or 1119  
international sporting event if its economic analysis does not 1120  
result in a finding that the proposed event will have a positive 1121  
economic effect on the greater area in which the event will be 1122  
held. 1123

A sports commission that receives money pursuant to this 1124  
section, in addition to any other duties imposed on it by law and 1125  
notwithstanding the scope of those duties, also shall encourage 1126  
the economic development of this state through the promotion of 1127  
tourism within all areas of this state. A sports commission that 1128  
receives ten thousand dollars or more during any calendar year 1129  
pursuant to this section shall submit a written report to the 1130  
director of development, on or before the first day of October of 1131  
the next succeeding year, detailing its efforts and expenditures 1132  
in the promotion of tourism during the calendar year in which it 1133  
received the ten thousand dollars or more. 1134

As used in this division, "promotion of tourism" means the 1135  
encouragement through advertising, educational and informational 1136  
means, and public relations, both within the state and outside of 1137  
it, of travel by persons away from their homes for pleasure, 1138  
personal reasons, or other purposes, except to work, to this state 1139  
or to the region in which the sports commission is located. 1140

(D) For purposes of this section: 1141

(1) The "largest" convention and visitors' bureau of a county 1142

is the bureau that receives the largest amount of money generated 1143  
in that county from excise taxes levied on lodging transactions 1144  
under sections 351.021, ~~5739.02~~ 5739.08, and ~~5739.024~~ 5739.09 of 1145  
the Revised Code. 1146

(2) "Sports commission" means a nonprofit corporation 1147  
organized under the laws of this state that is entitled to tax 1148  
exempt status under section 501(c)(3) of the "Internal Revenue 1149  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and 1150  
whose function is to attract, promote, or sponsor sports and 1151  
athletic events within a municipal corporation, county, or 1152  
township. 1153

Such a commission shall consist of twenty-one members. Seven 1154  
members shall be appointed by the mayor of the largest city to be 1155  
served by the commission. Seven members shall be appointed by the 1156  
board of county commissioners of the county to be served by the 1157  
commission. Seven members shall be appointed by the largest 1158  
convention and ~~visitor's~~ visitors' bureau in the area to be served 1159  
by the commission. A sports commission may provide all services 1160  
related to attracting, promoting, or sponsoring such events, 1161  
including, but not limited to, the booking of athletes and teams, 1162  
scheduling, and hiring or contracting for staff, ushers, managers, 1163  
and other persons whose functions are directly related to the 1164  
sports and athletic events the commission attracts, promotes, or 1165  
sponsors. 1166

**Sec. 5739.01.** As used in this chapter: 1167

(A) "Person" includes individuals, receivers, assignees, 1168  
trustees in bankruptcy, estates, firms, partnerships, 1169  
associations, joint-stock companies, joint ventures, clubs, 1170  
societies, corporations, the state and its political subdivisions, 1171  
and combinations of individuals of any form. 1172

(B) "Sale" and "selling" include all of the following 1173

transactions for a consideration in any manner, whether absolutely 1174  
or conditionally, whether for a price or rental, in money or by 1175  
exchange, and by any means whatsoever: 1176

(1) All transactions by which title or possession, or both, 1177  
of tangible personal property, is or is to be transferred, or a 1178  
license to use or consume tangible personal property is or is to 1179  
be granted; 1180

(2) All transactions by which lodging by a hotel is or is to 1181  
be furnished to transient guests; 1182

(3) All transactions by which: 1183

(a) An item of tangible personal property is or is to be 1184  
repaired, except property, the purchase of which would be exempt 1185  
from the tax imposed by section 5739.02 of the Revised Code; 1186

(b) An item of tangible personal property is or is to be 1187  
installed, except property, the purchase of which would be exempt 1188  
from the tax imposed by section 5739.02 of the Revised Code or 1189  
property that is or is to be incorporated into and will become a 1190  
part of a production, transmission, transportation, or 1191  
distribution system for the delivery of a public utility service; 1192

(c) The service of washing, cleaning, waxing, polishing, or 1193  
painting a motor vehicle is or is to be furnished; 1194

(d) Industrial laundry cleaning services are or are to be 1195  
provided; 1196

(e) Automatic data processing, computer services, or 1197  
electronic information services are or are to be provided for use 1198  
in business when the true object of the transaction is the receipt 1199  
by the consumer of automatic data processing, computer services, 1200  
or electronic information services rather than the receipt of 1201  
personal or professional services to which automatic data 1202  
processing, computer services, or electronic information services 1203

are incidental or supplemental. Notwithstanding any other 1204  
provision of this chapter, such transactions that occur between 1205  
members of an affiliated group are not sales. An affiliated group 1206  
means two or more persons related in such a way that one person 1207  
owns or controls the business operation of another member of the 1208  
group. In the case of corporations with stock, one corporation 1209  
owns or controls another if it owns more than fifty per cent of 1210  
the other corporation's common stock with voting rights. 1211

(f) Telecommunications service, other than mobile 1212  
telecommunications service after July 31, 2002, is provided that 1213  
originates or terminates in this state and is charged in the 1214  
records of the telecommunications service vendor to the consumer's 1215  
telephone number or account in this state, or that both originates 1216  
and terminates in this state; but does not include transactions by 1217  
which telecommunications service is paid for by using a prepaid 1218  
authorization number or prepaid telephone calling card, or by 1219  
which local telecommunications service is obtained from a 1220  
coin-operated telephone and paid for by using coin; 1221

(g) Landscaping and lawn care service is or is to be 1222  
provided; 1223

(h) Private investigation and security service is or is to be 1224  
provided; 1225

(i) Information services or tangible personal property is 1226  
provided or ordered by means of a nine hundred telephone call; 1227

(j) Building maintenance and janitorial service is or is to 1228  
be provided; 1229

(k) Employment service is or is to be provided; 1230

(l) Employment placement service is or is to be provided; 1231

(m) Exterminating service is or is to be provided; 1232

(n) Physical fitness facility service is or is to be 1233

provided; 1234

(o) Recreation and sports club service is or is to be 1235  
provided. 1236

(p) After July 31, 2002, mobile telecommunications service is 1237  
deemed to be provided in this state, pursuant to the "Mobile 1238  
Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 1239  
626 (2000), 4 U.S.C.A. 116 to 126, as amended. 1240

(4) All transactions by which printed, imprinted, 1241  
overprinted, lithographic, multilithic, blueprinted, photostatic, 1242  
or other productions or reproductions of written or graphic matter 1243  
are or are to be furnished or transferred; 1244

(5) The production or fabrication of tangible personal 1245  
property for a consideration for consumers who furnish either 1246  
directly or indirectly the materials used in the production of 1247  
fabrication work; and include the furnishing, preparing, or 1248  
serving for a consideration of any tangible personal property 1249  
consumed on the premises of the person furnishing, preparing, or 1250  
serving such tangible personal property. Except as provided in 1251  
section 5739.03 of the Revised Code, a construction contract 1252  
pursuant to which tangible personal property is or is to be 1253  
incorporated into a structure or improvement on and becoming a 1254  
part of real property is not a sale of such tangible personal 1255  
property. The construction contractor is the consumer of such 1256  
tangible personal property, provided that the sale and 1257  
installation of carpeting, the sale and installation of 1258  
agricultural land tile, the sale and erection or installation of 1259  
portable grain bins, or the provision of landscaping and lawn care 1260  
service and the transfer of property as part of such service is 1261  
never a construction contract. The transfer of copyrighted motion 1262  
picture films for exhibition purposes is not a sale, except such 1263  
films as are used solely for advertising purposes. Other than as 1264  
provided in this section, "sale" and "selling" do not include 1265

professional, insurance, or personal service transactions that 1266  
involve the transfer of tangible personal property as an 1267  
inconsequential element, for which no separate charges are made. 1268

As used in division (B)(5) of this section: 1269

(a) "Agricultural land tile" means fired clay or concrete 1270  
tile, or flexible or rigid perforated plastic pipe or tubing, 1271  
incorporated or to be incorporated into a subsurface drainage 1272  
system appurtenant to land used or to be used directly in 1273  
production by farming, agriculture, horticulture, or floriculture. 1274  
The term does not include such materials when they are or are to 1275  
be incorporated into a drainage system appurtenant to a building 1276  
or structure even if the building or structure is used or to be 1277  
used in such production. 1278

(b) "Portable grain bin" means a structure that is used or to 1279  
be used by a person engaged in farming or agriculture to shelter 1280  
the person's grain and that is designed to be disassembled without 1281  
significant damage to its component parts. 1282

(6) All transactions in which all of the shares of stock of a 1283  
closely held corporation are transferred, if the corporation is 1284  
not engaging in business and its entire assets consist of boats, 1285  
planes, motor vehicles, or other tangible personal property 1286  
operated primarily for the use and enjoyment of the shareholders; 1287

(7) All transactions in which a warranty, maintenance or 1288  
service contract, or similar agreement by which the vendor of the 1289  
warranty, contract, or agreement agrees to repair or maintain the 1290  
tangible personal property of the consumer is or is to be 1291  
provided; 1292

(8) All transactions by which a prepaid authorization number 1293  
or a prepaid telephone calling card is or is to be transferred. 1294

(C) "Vendor" means the person providing the service or by 1295  
whom the transfer effected or license given by a sale is or is to 1296

be made or given and, for sales described in division (B)(3)(i) of 1297  
this section, the telecommunications service vendor that provides 1298  
the nine hundred telephone service; if two or more persons are 1299  
engaged in business at the same place of business under a single 1300  
trade name in which all collections on account of sales by each 1301  
are made, such persons shall constitute a single vendor. 1302

Physicians, dentists, hospitals, and veterinarians who are 1303  
engaged in selling tangible personal property as received from 1304  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 1305  
articles, are vendors. Veterinarians who are engaged in 1306  
transferring to others for a consideration drugs, the dispensing 1307  
of which does not require an order of a licensed veterinarian or 1308  
physician under federal law, are vendors. 1309

(D)(1) "Consumer" means the person for whom the service is 1310  
provided, to whom the transfer effected or license given by a sale 1311  
is or is to be made or given, to whom the service described in 1312  
division (B)(3)(f) or (i) of this section is charged, or to whom 1313  
the admission is granted. 1314

(2) Physicians, dentists, hospitals, and blood banks operated 1315  
by nonprofit institutions and persons licensed to practice 1316  
veterinary medicine, surgery, and dentistry are consumers of all 1317  
tangible personal property and services purchased by them in 1318  
connection with the practice of medicine, dentistry, the rendition 1319  
of hospital or blood bank service, or the practice of veterinary 1320  
medicine, surgery, and dentistry. In addition to being consumers 1321  
of drugs administered by them or by their assistants according to 1322  
their direction, veterinarians also are consumers of drugs that 1323  
under federal law may be dispensed only by or upon the order of a 1324  
licensed veterinarian or physician, when transferred by them to 1325  
others for a consideration to provide treatment to animals as 1326  
directed by the veterinarian. 1327

(3) A person who performs a facility management, or similar 1328

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 1360  
except those in which the purpose of the consumer is: 1361

(1) To resell the thing transferred or benefit of the service 1362  
provided, by a person engaging in business, in the form in which 1363  
the same is, or is to be, received by the person; 1364

(2) To incorporate the thing transferred as a material or a 1365  
part, into tangible personal property to be produced for sale by 1366  
manufacturing, assembling, processing, or refining, or to use or 1367  
consume the thing transferred directly in producing a product for 1368  
sale by mining, including without limitation the extraction from 1369  
the earth of all substances that are classed geologically as 1370  
minerals, production of crude oil and natural gas, farming, 1371  
agriculture, horticulture, or floriculture, and persons engaged in 1372  
rendering farming, agricultural, horticultural, or floricultural 1373  
services, and services in the exploration for, and production of, 1374  
crude oil and natural gas, for others are deemed engaged directly 1375  
in farming, agriculture, horticulture, and floriculture, or 1376  
exploration for, and production of, crude oil and natural gas; 1377  
directly in the rendition of a public utility service, except that 1378  
the sales tax levied by section 5739.02 of the Revised Code shall 1379  
be collected upon all meals, drinks, and food for human 1380  
consumption sold upon Pullman and railroad coaches. This paragraph 1381  
does not exempt or except from "retail sale" or "sales at retail" 1382  
the sale of tangible personal property that is to be incorporated 1383  
into a structure or improvement to real property. 1384

(3) To hold the thing transferred as security for the 1385  
performance of an obligation of the vendor; 1386

(4) To use or consume the thing transferred in the process of 1387  
reclamation as required by Chapters 1513. and 1514. of the Revised 1388  
Code; 1389

(5) To resell, hold, use, or consume the thing transferred as 1390

evidence of a contract of insurance;	1391
(6) To use or consume the thing directly in commercial fishing;	1392 1393
(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;	1394 1395 1396 1397
(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;	1398 1399 1400 1401 1402
(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;	1403 1404 1405
(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;	1406 1407 1408 1409 1410 1411
(11) To use the thing transferred as qualified research and development equipment;	1412 1413
(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	1414 1415 1416 1417 1418 1419 1420 1421

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 1453  
continuing in business, and liquidating a business when the 1454  
liquidator thereof holds itself out to the public as conducting 1455  
such business. Making a casual sale is not engaging in business. 1456

(H)(1) "Price," except as provided in divisions (H)(2) and 1457  
(3) of this section, means the aggregate value in money of 1458  
anything paid or delivered, or promised to be paid or delivered, 1459  
in the complete performance of a retail sale, without any 1460  
deduction on account of the cost of the property sold, cost of 1461  
materials used, labor or service cost, interest, discount paid or 1462  
allowed after the sale is consummated, or any other expense. If 1463  
the retail sale consists of the rental or lease of tangible 1464  
personal property, "price" means the aggregate value in money of 1465  
anything paid or delivered, or promised to be paid or delivered, 1466  
in the complete performance of the rental or lease, without any 1467  
deduction for tax, interest, labor or service charge, damage 1468  
liability waiver, termination or damage charge, discount paid or 1469  
allowed after the lease is consummated, or any other expense. The 1470  
sales tax shall be calculated and collected by the lessor on each 1471  
payment made by the lessee. "Price" does not include the 1472  
consideration received as a deposit refundable to the consumer 1473  
upon return of a beverage container, the consideration received as 1474  
a deposit on a carton or case that is used for such returnable 1475  
containers, or the consideration received as a refundable security 1476  
deposit for the use of tangible personal property to the extent 1477  
that it actually is refunded, if the consideration for such 1478  
refundable deposit is separately stated from the consideration 1479  
received or to be received for the tangible personal property 1480  
transferred in the retail sale. Such separation must appear in the 1481  
sales agreement or on the initial invoice or initial billing 1482  
rendered by the vendor to the consumer. Price is the amount 1483  
received inclusive of the tax, provided the vendor establishes to 1484

the satisfaction of the tax commissioner that the tax was added to 1485  
the price. When the price includes both a charge for tangible 1486  
personal property and a charge for providing a service and the 1487  
sale of the property and the charge for the service are separately 1488  
taxable, or have a separately determinable tax status, the price 1489  
shall be separately stated for each such charge so the tax can be 1490  
correctly computed and charged. 1491

The tax collected by the vendor from the consumer under this 1492  
chapter is not part of the price, but is a tax collection for the 1493  
benefit of the state and of counties levying an additional sales 1494  
tax pursuant to section 5739.021 or 5739.026 of the Revised Code 1495  
and of transit authorities levying an additional sales tax 1496  
pursuant to section 5739.023 of the Revised Code. Except for the 1497  
discount authorized in section 5739.12 of the Revised Code, no 1498  
person other than the state or such a county or transit authority 1499  
shall derive any benefit from the collection or payment of such 1500  
tax. 1501

(2) In the case of a sale of any new motor vehicle by a new 1502  
motor vehicle dealer, as defined in section 4517.01 of the Revised 1503  
Code, in which another motor vehicle is accepted by the dealer as 1504  
part of the consideration received, "price" has the same meaning 1505  
as in division (H)(1) of this section, reduced by the credit 1506  
afforded the consumer by the dealer for the motor vehicle received 1507  
in trade. 1508

(3) In the case of a sale of any watercraft or outboard motor 1509  
by a watercraft dealer licensed in accordance with section 1510  
1547.543 of the Revised Code, in which another watercraft, 1511  
watercraft and trailer, or outboard motor is accepted by the 1512  
dealer as part of the consideration received, "price" has the same 1513  
meaning as in division (H)(1) of this section, reduced by the 1514  
credit afforded the consumer by the dealer for the watercraft, 1515  
watercraft and trailer, or outboard motor received in trade. As 1516

used in division (H)(3) of this section, "watercraft" includes an 1517  
outdrive unit attached to the watercraft. 1518

(I) "Receipts" means the total amount of the prices of the 1519  
sales of vendors, provided that cash discounts allowed and taken 1520  
on sales at the time they are consummated are not included, minus 1521  
any amount deducted as a bad debt pursuant to section 5739.121 of 1522  
the Revised Code. "Receipts" does not include the sale price of 1523  
property returned or services rejected by consumers when the full 1524  
sale price and tax are refunded either in cash or by credit. 1525

(J) "Place of business" means any location at which a person 1526  
engages in business. 1527

(K) "Premises" includes any real property or portion thereof 1528  
upon which any person engages in selling tangible personal 1529  
property at retail or making retail sales and also includes any 1530  
real property or portion thereof designated for, or devoted to, 1531  
use in conjunction with the business engaged in by such person. 1532

(L) "Casual sale" means a sale of an item of tangible 1533  
personal property that was obtained by the person making the sale, 1534  
through purchase or otherwise, for the person's own use in this 1535  
state and was previously subject to any state's taxing 1536  
jurisdiction on its sale or use, and includes such items acquired 1537  
for the seller's use that are sold by an auctioneer employed 1538  
directly by the person for such purpose, provided the location of 1539  
such sales is not the auctioneer's permanent place of business. As 1540  
used in this division, "permanent place of business" includes any 1541  
location where such auctioneer has conducted more than two 1542  
auctions during the year. 1543

(M) "Hotel" means every establishment kept, used, maintained, 1544  
advertised, or held out to the public to be a place where sleeping 1545  
accommodations are offered to guests, in which five or more rooms 1546  
are used for the accommodation of such guests, whether the rooms 1547

are in one or several structures. 1548

(N) "Transient guests" means persons occupying a room or 1549  
rooms for sleeping accommodations for less than thirty consecutive 1550  
days. 1551

(O) "Making retail sales" means the effecting of transactions 1552  
wherein one party is obligated to pay the price and the other 1553  
party is obligated to provide a service or to transfer title to or 1554  
possession of the item sold. "Making retail sales" does not 1555  
include the preliminary acts of promoting or soliciting the retail 1556  
sales, other than the distribution of printed matter which 1557  
displays or describes and prices the item offered for sale, nor 1558  
does it include delivery of a predetermined quantity of tangible 1559  
personal property or transportation of property or personnel to or 1560  
from a place where a service is performed, regardless of whether 1561  
the vendor is a delivery vendor. 1562

(P) "Used directly in the rendition of a public utility 1563  
service" means that property which is to be incorporated into and 1564  
will become a part of the consumer's production, transmission, 1565  
transportation, or distribution system and that retains its 1566  
classification as tangible personal property after such 1567  
incorporation; fuel or power used in the production, transmission, 1568  
transportation, or distribution system; and tangible personal 1569  
property used in the repair and maintenance of the production, 1570  
transmission, transportation, or distribution system, including 1571  
only such motor vehicles as are specially designed and equipped 1572  
for such use. Tangible personal property and services used 1573  
primarily in providing highway transportation for hire are not 1574  
used in providing a public utility service as defined in this 1575  
division. 1576

(Q) "Refining" means removing or separating a desirable 1577  
product from raw or contaminated materials by distillation or 1578  
physical, mechanical, or chemical processes. 1579

(R) "Assembly" and "assembling" mean attaching or fitting 1580  
together parts to form a product, but do not include packaging a 1581  
product. 1582

(S) "Manufacturing operation" means a process in which 1583  
materials are changed, converted, or transformed into a different 1584  
state or form from which they previously existed and includes 1585  
refining materials, assembling parts, and preparing raw materials 1586  
and parts by mixing, measuring, blending, or otherwise committing 1587  
such materials or parts to the manufacturing process. 1588  
"Manufacturing operation" does not include packaging. 1589

(T) "Fiscal officer" means, with respect to a regional 1590  
transit authority, the secretary-treasurer thereof, and with 1591  
respect to a county that is a transit authority, the fiscal 1592  
officer of the county transit board if one is appointed pursuant 1593  
to section 306.03 of the Revised Code or the county auditor if the 1594  
board of county commissioners operates the county transit system. 1595

(U) "Transit authority" means a regional transit authority 1596  
created pursuant to section 306.31 of the Revised Code or a county 1597  
in which a county transit system is created pursuant to section 1598  
306.01 of the Revised Code. For the purposes of this chapter, a 1599  
transit authority must extend to at least the entire area of a 1600  
single county. A transit authority that includes territory in more 1601  
than one county must include all the area of the most populous 1602  
county that is a part of such transit authority. County population 1603  
shall be measured by the most recent census taken by the United 1604  
States census bureau. 1605

(V) "Legislative authority" means, with respect to a regional 1606  
transit authority, the board of trustees thereof, and with respect 1607  
to a county that is a transit authority, the board of county 1608  
commissioners. 1609

(W) "Territory of the transit authority" means all of the 1610

area included within the territorial boundaries of a transit 1611  
authority as they from time to time exist. Such territorial 1612  
boundaries must at all times include all the area of a single 1613  
county or all the area of the most populous county that is a part 1614  
of such transit authority. County population shall be measured by 1615  
the most recent census taken by the United States census bureau. 1616

(X) "Providing a service" means providing or furnishing 1617  
anything described in division (B)(3) of this section for 1618  
consideration. 1619

(Y)(1)(a) "Automatic data processing" means processing of 1620  
others' data, including keypunching or similar data entry services 1621  
together with verification thereof, or providing access to 1622  
computer equipment for the purpose of processing data. 1623

(b) "Computer services" means providing services consisting 1624  
of specifying computer hardware configurations and evaluating 1625  
technical processing characteristics, computer programming, and 1626  
training of computer programmers and operators, provided in 1627  
conjunction with and to support the sale, lease, or operation of 1628  
taxable computer equipment or systems. 1629

(c) "Electronic information services" means providing access 1630  
to computer equipment by means of telecommunications equipment for 1631  
the purpose of either of the following: 1632

(i) Examining or acquiring data stored in or accessible to 1633  
the computer equipment; 1634

(ii) Placing data into the computer equipment to be retrieved 1635  
by designated recipients with access to the computer equipment. 1636  
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(d) "Automatic data processing, computer services, or 1638  
electronic information services" shall not include personal or 1639  
professional services. 1640

- (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. 1671

The services listed in divisions (Y)(2)(a) to (j) of this 1672  
section are not automatic data processing or computer services. 1673

(Z) "Highway transportation for hire" means the 1674  
transportation of personal property belonging to others for 1675  
consideration by any of the following: 1676

(1) The holder of a permit or certificate issued by this 1677  
state or the United States authorizing the holder to engage in 1678  
transportation of personal property belonging to others for 1679  
consideration over or on highways, roadways, streets, or any 1680  
similar public thoroughfare; 1681

(2) A person who engages in the transportation of personal 1682  
property belonging to others for consideration over or on 1683  
highways, roadways, streets, or any similar public thoroughfare 1684  
but who could not have engaged in such transportation on December 1685  
11, 1985, unless the person was the holder of a permit or 1686  
certificate of the types described in division (Z)(1) of this 1687  
section; 1688

(3) A person who leases a motor vehicle to and operates it 1689  
for a person described by division (Z)(1) or (2) of this section. 1690

(AA) "Telecommunications service" means the transmission of 1691  
any interactive, two-way electromagnetic communications, including 1692  
voice, image, data, and information, through the use of any medium 1693  
such as wires, cables, microwaves, cellular radio, radio waves, 1694  
light waves, or any combination of those or similar media. 1695  
"Telecommunications service" includes message toll service even 1696  
though the vendor provides the message toll service by means of 1697  
wide area transmission type service or private communications 1698  
service purchased from another telecommunications service 1699  
provider, but does not include any of the following: 1700

(1) Sales of incoming or outgoing wide area transmission 1701

service or wide area transmission type service, including eight 1702  
hundred or eight-hundred-type service, to the person contracting 1703  
for the receipt of that service; 1704

(2) Sales of private communications service to the person 1705  
contracting for the receipt of that service that entitles the 1706  
purchaser to exclusive or priority use of a communications channel 1707  
or group of channels between exchanges; 1708

(3) Sales of telecommunications service by companies subject 1709  
to the excise tax imposed by Chapter 5727. of the Revised Code; 1710

(4) Sales of telecommunications service to a provider of 1711  
telecommunications service, including access services, for use in 1712  
providing telecommunications service; 1713

(5) Value-added nonvoice services in which computer 1714  
processing applications are used to act on the form, content, 1715  
code, or protocol of the information to be transmitted; 1716

(6) Transmission of interactive video programming by a cable 1717  
television system as defined in section 505.90 of the Revised 1718  
Code; 1719

(7) After July 31, 2002, mobile telecommunications service. 1720

(BB) "Industrial laundry cleaning services" means removing 1721  
soil or dirt from or supplying towels, linens, or articles of 1722  
clothing that belong to others and are used in a trade or 1723  
business. 1724

(CC) "Magazines distributed as controlled circulation 1725  
publications" means magazines containing at least twenty-four 1726  
pages, at least twenty-five per cent editorial content, issued at 1727  
regular intervals four or more times a year, and circulated 1728  
without charge to the recipient, provided that such magazines are 1729  
not owned or controlled by individuals or business concerns which 1730  
conduct such publications as an auxiliary to, and essentially for 1731

the advancement of the main business or calling of, those who own 1732  
or control them. 1733

(DD) "Landscaping and lawn care service" means the services 1734  
of planting, seeding, sodding, removing, cutting, trimming, 1735  
pruning, mulching, aerating, applying chemicals, watering, 1736  
fertilizing, and providing similar services to establish, promote, 1737  
or control the growth of trees, shrubs, flowers, grass, ground 1738  
cover, and other flora, or otherwise maintaining a lawn or 1739  
landscape grown or maintained by the owner for ornamentation or 1740  
other nonagricultural purpose. However, "landscaping and lawn care 1741  
service" does not include the providing of such services by a 1742  
person who has less than five thousand dollars in sales of such 1743  
services during the calendar year. 1744

(EE) "Private investigation and security service" means the 1745  
performance of any activity for which the provider of such service 1746  
is required to be licensed pursuant to Chapter 4749. of the 1747  
Revised Code, or would be required to be so licensed in performing 1748  
such services in this state, and also includes the services of 1749  
conducting polygraph examinations and of monitoring or overseeing 1750  
the activities on or in, or the condition of, the consumer's home, 1751  
business, or other facility by means of electronic or similar 1752  
monitoring devices. "Private investigation and security service" 1753  
does not include special duty services provided by off-duty police 1754  
officers, deputy sheriffs, and other peace officers regularly 1755  
employed by the state or a political subdivision. 1756

(FF) "Information services" means providing conversation, 1757  
giving consultation or advice, playing or making a voice or other 1758  
recording, making or keeping a record of the number of callers, 1759  
and any other service provided to a consumer by means of a nine 1760  
hundred telephone call, except when the nine hundred telephone 1761  
call is the means by which the consumer makes a contribution to a 1762  
recognized charity. 1763

(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.

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(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.

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(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.

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(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

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service" does not include:	1796
(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.	1797 1798 1799
(2) Medical and health care services.	1800
(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.	1801 1802 1803 1804
(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.	1805 1806
(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.	1807 1808 1809
(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.	1810 1811 1812 1813 1814
(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.	1815 1816 1817 1818 1819 1820 1821
(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	1822 1823 1824 1825

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 exclusively 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. 1857

(TT) "Professional racing team" means a person that employs 1858  
at least twenty full-time employees for the purpose of conducting 1859  
a motor vehicle racing business for profit. The person must 1860  
conduct the business with the purpose of racing one or more motor 1861  
racing vehicles in at least ten competitive professional racing 1862  
events each year that comprise all or part of a motor racing 1863  
series sanctioned by one or more motor racing sanctioning 1864  
organizations. A "motor racing vehicle" means a vehicle for which 1865  
the chassis, engine, and parts are designed exclusively for motor 1866  
racing, and does not include a stock or production model vehicle 1867  
that may be modified for use in racing. For the purposes of this 1868  
division: 1869

(1) A "competitive professional racing event" is a motor 1870  
vehicle racing event sanctioned by one or more motor racing 1871  
sanctioning organizations, at which aggregate cash prizes in 1872  
excess of eight hundred thousand dollars are awarded to the 1873  
competitors. 1874

(2) "Full-time employee" means an individual who is employed 1875  
for consideration for thirty-five or more hours a week, or who 1876  
renders any other standard of service generally accepted by custom 1877  
or specified by contract as full-time employment. 1878

(UU)(1) "Prepaid authorization number" means a numeric or 1879  
alphanumeric combination that represents a prepaid account that 1880  
can be used by the account holder solely to obtain 1881  
telecommunications service, and includes any renewals or increases 1882  
in the prepaid account. 1883

(2) "Prepaid telephone calling card" means a tangible item 1884  
that contains a prepaid authorization number that can be used 1885  
solely to obtain telecommunications service, and includes any 1886  
renewals or increases in the prepaid account. 1887

(VV) "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.

(WW) "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, 1918  
or to any other state or its political subdivisions if the laws of 1919  
that state exempt from taxation sales made to this state and its 1920  
political subdivisions; 1921
- (2) Sales of food for human consumption off the premises 1922  
where sold; 1923
- (3) Sales of food sold to students only in a cafeteria, 1924  
dormitory, fraternity, or sorority maintained in a private, 1925  
public, or parochial school, college, or university; 1926
- (4) Sales of newspapers, and of magazine subscriptions 1927  
shipped by second class mail, and sales or transfers of magazines 1928  
distributed as controlled circulation publications; 1929
- (5) The furnishing, preparing, or serving of meals without 1930  
charge by an employer to an employee provided the employer records 1931  
the meals as part compensation for services performed or work 1932  
done; 1933
- (6) Sales of motor fuel upon receipt, use, distribution, or 1934  
sale of which in this state a tax is imposed by the law of this 1935  
state, but this exemption shall not apply to the sale of motor 1936  
fuel on which a refund of the tax is allowable under section 1937  
5735.14 of the Revised Code; and the tax commissioner may deduct 1938  
the amount of tax levied by this section applicable to the price 1939  
of motor fuel when granting a refund of motor fuel tax pursuant to 1940  
section 5735.14 of the Revised Code and shall cause the amount 1941  
deducted to be paid into the general revenue fund of this state; 1942
- (7) Sales of natural gas by a natural gas company, of water 1943  
by a water-works company, or of steam by a heating company, if in 1944  
each case the thing sold is delivered to consumers through pipes 1945  
or conduits, and all sales of communications services by a 1946  
telephone or telegraph company, all terms as defined in section 1947  
5727.01 of the Revised Code; 1948

(8) Casual sales by a person, or auctioneer employed directly 1949  
by the person to conduct such sales, except as to such sales of 1950  
motor vehicles, watercraft or outboard motors required to be 1951  
titled under section 1548.06 of the Revised Code, watercraft 1952  
documented with the United States coast guard, snowmobiles, and 1953  
all-purpose vehicles as defined in section 4519.01 of the Revised 1954  
Code; 1955

(9) Sales of services or tangible personal property, other 1956  
than motor vehicles, mobile homes, and manufactured homes, by 1957  
churches, organizations exempt from taxation under section 1958  
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 1959  
organizations operated exclusively for charitable purposes as 1960  
defined in division (B)(12) of this section, provided that the 1961  
number of days on which such tangible personal property or 1962  
services, other than items never subject to the tax, are sold does 1963  
not exceed six in any calendar year. If the number of days on 1964  
which such sales are made exceeds six in any calendar year, the 1965  
church or organization shall be considered to be engaged in 1966  
business and all subsequent sales by it shall be subject to the 1967  
tax. In counting the number of days, all sales by groups within a 1968  
church or within an organization shall be considered to be sales 1969  
of that church or organization, except that sales made by separate 1970  
student clubs and other groups of students of a primary or 1971  
secondary school, and sales made by a parent-teacher association, 1972  
booster group, or similar organization that raises money to 1973  
support or fund curricular or extracurricular activities of a 1974  
primary or secondary school, shall not be considered to be sales 1975  
of such school, and sales by each such club, group, association, 1976  
or organization shall be counted separately for purposes of the 1977  
six-day limitation. This division does not apply to sales by a 1978  
noncommercial educational radio or television broadcasting 1979  
station. 1980

(10) Sales not within the taxing power of this state under the Constitution of the United States;	1981 1982
(11) The transportation of persons or property, unless the transportation is by a private investigation and security service;	1983 1984
(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.	1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996
"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	1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012

support of the curricular or extracurricular activities of a 2013  
primary or secondary school; the operation of a community or area 2014  
center in which presentations in music, dramatics, the arts, and 2015  
related fields are made in order to foster public interest and 2016  
education therein; the production of performances in music, 2017  
dramatics, and the arts; or the promotion of education by an 2018  
organization engaged in carrying on research in, or the 2019  
dissemination of, scientific and technological knowledge and 2020  
information primarily for the public. 2021

Nothing in this division shall be deemed to exempt sales to 2022  
any organization for use in the operation or carrying on of a 2023  
trade or business, or sales to a home for the aged for use in the 2024  
operation of independent living facilities as defined in division 2025  
(A) of section 5709.12 of the Revised Code. 2026

(13) Building and construction materials and services sold to 2027  
construction contractors for incorporation into a structure or 2028  
improvement to real property under a construction contract with 2029  
this state or a political subdivision thereof, or with the United 2030  
States government or any of its agencies; building and 2031  
construction materials and services sold to construction 2032  
contractors for incorporation into a structure or improvement to 2033  
real property that are accepted for ownership by this state or any 2034  
of its political subdivisions, or by the United States government 2035  
or any of its agencies at the time of completion of such 2036  
structures or improvements; building and construction materials 2037  
sold to construction contractors for incorporation into a 2038  
horticulture structure or livestock structure for a person engaged 2039  
in the business of horticulture or producing livestock; building 2040  
materials and services sold to a construction contractor for 2041  
incorporation into a house of public worship or religious 2042  
education, or a building used exclusively for charitable purposes 2043  
under a construction contract with an organization whose purpose 2044

is as described in division (B)(12) of this section; building 2045  
materials and services sold to a construction contractor for 2046  
incorporation into a building under a construction contract with 2047  
an organization exempt from taxation under section 501(c)(3) of 2048  
the Internal Revenue Code of 1986 when the building is to be used 2049  
exclusively for the organization's exempt purposes; building and 2050  
construction materials sold for incorporation into the original 2051  
construction of a sports facility under section 307.696 of the 2052  
Revised Code; and building and construction materials and services 2053  
sold to a construction contractor for incorporation into real 2054  
property outside this state if such materials and services, when 2055  
sold to a construction contractor in the state in which the real 2056  
property is located for incorporation into real property in that 2057  
state, would be exempt from a tax on sales levied by that state; 2058

(14) Sales of ships or vessels or rail rolling stock used or 2059  
to be used principally in interstate or foreign commerce, and 2060  
repairs, alterations, fuel, and lubricants for such ships or 2061  
vessels or rail rolling stock; 2062

(15) Sales to persons engaged in any of the activities 2063  
mentioned in division (E)(2) or (9) of section 5739.01 of the 2064  
Revised Code, to persons engaged in making retail sales, or to 2065  
persons who purchase for sale from a manufacturer tangible 2066  
personal property that was produced by the manufacturer in 2067  
accordance with specific designs provided by the purchaser, of 2068  
packages, including material, labels, and parts for packages, and 2069  
of machinery, equipment, and material for use primarily in 2070  
packaging tangible personal property produced for sale, including 2071  
any machinery, equipment, and supplies used to make labels or 2072  
packages, to prepare packages or products for labeling, or to 2073  
label packages or products, by or on the order of the person doing 2074  
the packaging, or sold at retail. "Packages" includes bags, 2075  
baskets, cartons, crates, boxes, cans, bottles, bindings, 2076

wrappings, and other similar devices and containers, and 2077  
"packaging" means placing therein. 2078

(16) Sales of food to persons using food stamp benefits to 2079  
purchase the food. As used in division (B)(16) of this section, 2080  
"food" has the same meaning as in the "Food Stamp Act of 1977," 91 2081  
Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations 2082  
adopted pursuant to that act. 2083

(17) Sales to persons engaged in farming, agriculture, 2084  
horticulture, or floriculture, of tangible personal property for 2085  
use or consumption directly in the production by farming, 2086  
agriculture, horticulture, or floriculture of other tangible 2087  
personal property for use or consumption directly in the 2088  
production of tangible personal property for sale by farming, 2089  
agriculture, horticulture, or floriculture; or material and parts 2090  
for incorporation into any such tangible personal property for use 2091  
or consumption in production; and of tangible personal property 2092  
for such use or consumption in the conditioning or holding of 2093  
products produced by and for such use, consumption, or sale by 2094  
persons engaged in farming, agriculture, horticulture, or 2095  
floriculture, except where such property is incorporated into real 2096  
property; 2097

(18) Sales of drugs dispensed by a licensed pharmacist upon 2098  
the order of a licensed health professional authorized to 2099  
prescribe drugs to a human being, as the term "licensed health 2100  
professional authorized to prescribe drugs" is defined in section 2101  
4729.01 of the Revised Code; insulin as recognized in the official 2102  
United States pharmacopoeia; urine and blood testing materials 2103  
when used by diabetics or persons with hypoglycemia to test for 2104  
glucose or acetone; hypodermic syringes and needles when used by 2105  
diabetics for insulin injections; epoetin alfa when purchased for 2106  
use in the treatment of persons with end-stage renal disease; 2107  
hospital beds when purchased for use by persons with medical 2108

problems for medical purposes; and oxygen and oxygen-dispensing 2109  
equipment when purchased for use by persons with medical problems 2110  
for medical purposes; 2111

(19)(a) Sales of artificial limbs or portion thereof, breast 2112  
prostheses, and other prosthetic devices for humans; braces or 2113  
other devices for supporting weakened or nonfunctioning parts of 2114  
the human body; crutches or other devices to aid human 2115  
perambulation; and items of tangible personal property used to 2116  
supplement impaired functions of the human body such as 2117  
respiration, hearing, or elimination; 2118

(b) Sales of wheelchairs; items incorporated into or used in 2119  
conjunction with a motor vehicle for the purpose of transporting 2120  
wheelchairs, other than transportation conducted in connection 2121  
with the sale or delivery of wheelchairs; and items incorporated 2122  
into or used in conjunction with a motor vehicle that are 2123  
specifically designed to assist a person with a disability to 2124  
access or operate the motor vehicle. As used in this division, 2125  
"person with a disability" means any person who has lost the use 2126  
of one or both legs or one or both arms, who is blind, deaf, or 2127  
disabled to the extent that the person is unable to move about 2128  
without the aid of crutches or a wheelchair, or whose mobility is 2129  
restricted by a permanent cardiovascular, pulmonary, or other 2130  
disabling condition. 2131

(c) No exemption under this division shall be allowed for 2132  
nonprescription drugs, medicines, or remedies; items or devices 2133  
used to supplement vision; items or devices whose function is 2134  
solely or primarily cosmetic; or physical fitness equipment. This 2135  
division does not apply to sales to a physician or medical 2136  
facility for use in the treatment of a patient. 2137

(20) Sales of emergency and fire protection vehicles and 2138  
equipment to nonprofit organizations for use solely in providing 2139  
fire protection and emergency services, including trauma care and 2140

emergency medical services, for political subdivisions of the	2141
state;	2142
(21) Sales of tangible personal property manufactured in this	2143
state, if sold by the manufacturer in this state to a retailer for	2144
use in the retail business of the retailer outside of this state	2145
and if possession is taken from the manufacturer by the purchaser	2146
within this state for the sole purpose of immediately removing the	2147
same from this state in a vehicle owned by the purchaser;	2148
	2149
(22) Sales of services provided by the state or any of its	2150
political subdivisions, agencies, instrumentalities, institutions,	2151
or authorities, or by governmental entities of the state or any of	2152
its political subdivisions, agencies, instrumentalities,	2153
institutions, or authorities;	2154
(23) Sales of motor vehicles to nonresidents of this state	2155
upon the presentation of an affidavit executed in this state by	2156
the nonresident purchaser affirming that the purchaser is a	2157
nonresident of this state, that possession of the motor vehicle is	2158
taken in this state for the sole purpose of immediately removing	2159
it from this state, that the motor vehicle will be permanently	2160
titled and registered in another state, and that the motor vehicle	2161
will not be used in this state;	2162
(24) Sales to persons engaged in the preparation of eggs for	2163
sale of tangible personal property used or consumed directly in	2164
such preparation, including such tangible personal property used	2165
for cleaning, sanitizing, preserving, grading, sorting, and	2166
classifying by size; packages, including material and parts for	2167
packages, and machinery, equipment, and material for use in	2168
packaging eggs for sale; and handling and transportation equipment	2169
and parts therefor, except motor vehicles licensed to operate on	2170
public highways, used in intraplant or interplant transfers or	2171
shipment of eggs in the process of preparation for sale, when the	2172

plant or plants within or between which such transfers or	2173
shipments occur are operated by the same person. "Packages"	2174
includes containers, cases, baskets, flats, fillers, filler flats,	2175
cartons, closure materials, labels, and labeling materials, and	2176
"packaging" means placing therein.	2177
(25)(a) Sales of water to a consumer for residential use,	2178
except the sale of bottled water, distilled water, mineral water,	2179
carbonated water, or ice;	2180
(b) Sales of water by a nonprofit corporation engaged	2181
exclusively in the treatment, distribution, and sale of water to	2182
consumers, if such water is delivered to consumers through pipes	2183
or tubing.	2184
(26) Fees charged for inspection or reinspection of motor	2185
vehicles under section 3704.14 of the Revised Code;	2186
(27) Sales to persons licensed to conduct a food service	2187
operation pursuant to section 3717.43 of the Revised Code, of	2188
tangible personal property primarily used directly for the	2189
following:	2190
(a) To prepare food for human consumption for sale;	2191
(b) To preserve food that has been or will be prepared for	2192
human consumption for sale by the food service operator, not	2193
including tangible personal property used to display food for	2194
selection by the consumer;	2195
(c) To clean tangible personal property used to prepare or	2196
serve food for human consumption for sale.	2197
(28) Sales of animals by nonprofit animal adoption services	2198
or county humane societies;	2199
(29) Sales of services to a corporation described in division	2200
(A) of section 5709.72 of the Revised Code, and sales of tangible	2201
personal property that qualifies for exemption from taxation under	2202

section 5709.72 of the Revised Code;	2203
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	2204 2205 2206
(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;	2207 2208 2209
(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;	2210 2211 2212 2213
(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;	2214 2215 2216 2217 2218
(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.	2219 2220 2221 2222 2223 2224 2225 2226 2227 2228 2229 2230 2231
(35) Sales of investment metal bullion and investment coins.	2232
"Investment metal bullion" means any elementary precious metal	2233

that has been put through a process of smelting or refining, 2234  
including, but not limited to, gold, silver, platinum, and 2235  
palladium, and which is in such state or condition that its value 2236  
depends upon its content and not upon its form. "Investment metal 2237  
bullion" does not include fabricated precious metal that has been 2238  
processed or manufactured for one or more specific and customary 2239  
industrial, professional, or artistic uses. "Investment coins" 2240  
means numismatic coins or other forms of money and legal tender 2241  
manufactured of gold, silver, platinum, palladium, or other metal 2242  
under the laws of the United States or any foreign nation with a 2243  
fair market value greater than any statutory or nominal value of 2244  
such coins. 2245

(36)(a) Sales where the purpose of the consumer is to use or 2246  
consume the things transferred in making retail sales and 2247  
consisting of newspaper inserts, catalogues, coupons, flyers, gift 2248  
certificates, or other advertising material that prices and 2249  
describes tangible personal property offered for retail sale. 2250

(b) Sales to direct marketing vendors of preliminary 2251  
materials such as photographs, artwork, and typesetting that will 2252  
be used in printing advertising material; of printed matter that 2253  
offers free merchandise or chances to win sweepstake prizes and 2254  
that is mailed to potential customers with advertising material 2255  
described in division (B)(36)(a) of this section; and of equipment 2256  
such as telephones, computers, facsimile machines, and similar 2257  
tangible personal property primarily used to accept orders for 2258  
direct marketing retail sales. 2259

(c) Sales of automatic food vending machines that preserve 2260  
food with a shelf life of forty-five days or less by refrigeration 2261  
and dispense it to the consumer. 2262

For purposes of division (B)(36) of this section, "direct 2263  
marketing" means the method of selling where consumers order 2264  
tangible personal property by United States mail, delivery 2265

service, or telecommunication and the vendor delivers or ships the 2266  
tangible personal property sold to the consumer from a warehouse, 2267  
catalogue distribution center, or similar fulfillment facility by 2268  
means of the United States mail, delivery service, or common 2269  
carrier. 2270

(37) Sales to a person engaged in the business of 2271  
horticulture or producing livestock of materials to be 2272  
incorporated into a horticulture structure or livestock structure; 2273

(38) The sale of a motor vehicle that is used exclusively for 2274  
a vanpool ridesharing arrangement to persons participating in the 2275  
vanpool ridesharing arrangement when the vendor is selling the 2276  
vehicle pursuant to a contract between the vendor and the 2277  
department of transportation; 2278

(39) Sales of personal computers, computer monitors, computer 2279  
keyboards, modems, and other peripheral computer equipment to an 2280  
individual who is licensed or certified to teach in an elementary 2281  
or a secondary school in this state for use by that individual in 2282  
preparation for teaching elementary or secondary school students; 2283  
2284

(40) Sales to a professional racing team of any of the 2285  
following: 2286

(a) Motor racing vehicles; 2287

(b) Repair services for motor racing vehicles; 2288

(c) Items of property that are attached to or incorporated in 2289  
motor racing vehicles, including engines, chassis, and all other 2290  
components of the vehicles, and all spare, replacement, and 2291  
rebuilt parts or components of the vehicles; except not including 2292  
tires, consumable fluids, paint, and accessories consisting of 2293  
instrumentation sensors and related items added to the vehicle to 2294  
collect and transmit data by means of telemetry and other forms of 2295  
communication. 2296

(41) Sales of used manufactured homes and used mobile homes, 2297  
as defined in section 5739.0210 of the Revised Code, made on or 2298  
after January 1, 2000; 2299

(42) Sales of tangible personal property and services to a 2300  
provider of electricity used or consumed directly and primarily in 2301  
generating, transmitting, or distributing electricity for use by 2302  
others, including property that is or is to be incorporated into 2303  
and will become a part of the consumer's production, transmission, 2304  
or distribution system and that retains its classification as 2305  
tangible personal property after incorporation; fuel or power used 2306  
in the production, transmission, or distribution of electricity; 2307  
and tangible personal property and services used in the repair and 2308  
maintenance of the production, transmission, or distribution 2309  
system, including only those motor vehicles as are specially 2310  
designed and equipped for such use. The exemption provided in this 2311  
division shall be in lieu of all other exceptions in division 2312  
(E)(2) of section 5739.01 of the Revised Code to which a provider 2313  
of electricity may otherwise be entitled based on the use of the 2314  
tangible personal property or service purchased in generating, 2315  
transmitting, or distributing electricity. 2316

For the purpose of the proper administration of this chapter, 2317  
and to prevent the evasion of the tax, it is presumed that all 2318  
sales made in this state are subject to the tax until the contrary 2319  
is established. 2320

As used in this section, except in division (B)(16) of this 2321  
section, "food" includes cereals and cereal products, milk and 2322  
milk products including ice cream, meat and meat products, fish 2323  
and fish products, eggs and egg products, vegetables and vegetable 2324  
products, fruits, fruit products, and pure fruit juices, 2325  
condiments, sugar and sugar products, coffee and coffee 2326  
substitutes, tea, and cocoa and cocoa products. It does not 2327  
include: spirituous or malt liquors; soft drinks; sodas and 2328

beverages that are ordinarily dispensed at bars and soda fountains 2329  
or in connection therewith, other than coffee, tea, and cocoa; 2330  
root beer and root beer extracts; malt and malt extracts; mineral 2331  
oils, cod liver oils, and halibut liver oil; medicines, including 2332  
tonics, vitamin preparations, and other products sold primarily 2333  
for their medicinal properties; and water, including mineral, 2334  
bottled, and carbonated waters, and ice. 2335

~~(C) The levy of an excise tax on transactions by which 2336  
lodging by a hotel is or is to be furnished to transient guests 2337  
pursuant to this section and division (B) of section 5739.01 of 2338  
the Revised Code does not prevent any of the following: 2339~~

~~(1) A municipal corporation or township from levying an 2340  
excise tax for any lawful purpose not to exceed three per cent on 2341  
transactions by which lodging by a hotel is or is to be furnished 2342  
to transient guests in addition to the tax levied by this section. 2343  
If a municipal corporation or township repeals a tax imposed under 2344  
division (C)(1) of this section and a county in which the 2345  
municipal corporation or township has territory has a tax imposed 2346  
under division (C) of section 5739.024 of the Revised Code in 2347  
effect, the municipal corporation or township may not reimpose its 2348  
tax as long as that county tax remains in effect. A municipal 2349  
corporation or township in which a tax is levied under division 2350  
(B)(2) of section 351.021 of the Revised Code may not increase the 2351  
rate of its tax levied under division (C)(1) of this section to 2352  
any rate that would cause the total taxes levied under both of 2353  
those divisions to exceed three per cent on any lodging 2354  
transaction within the municipal corporation or township. 2355~~

~~(2) A municipal corporation or a township from levying an 2356  
additional excise tax not to exceed three per cent on such 2357  
transactions pursuant to division (B) of section 5739.024 of the 2358  
Revised Code. Such tax is in addition to any tax imposed under 2359  
division (C)(1) of this section. 2360~~

<del>(3) A county from levying an excise tax pursuant to division</del>	2361
<del>(A) of section 5739.024 of the Revised Code.</del>	2362
<del>(4) A county from levying an excise tax not to exceed three</del>	2363
<del>per cent of such transactions pursuant to division (C) of section</del>	2364
<del>5739.024 of the Revised Code. Such a tax is in addition to any tax</del>	2365
<del>imposed under division (C)(3) of this section.</del>	2366
<del>(5) A convention facilities authority, as defined in division</del>	2367
<del>(A) of section 351.01 of the Revised Code, from levying the excise</del>	2368
<del>taxes provided for in division (B) of section 351.021 of the</del>	2369
<del>Revised Code.</del>	2370
<del>(6) A county from levying an excise tax not to exceed one and</del>	2371
<del>one half per cent of such transactions pursuant to division (D) of</del>	2372
<del>section 5739.024 of the Revised Code. Such tax is in addition to</del>	2373
<del>any tax imposed under division (C)(3) or (4) of this section.</del>	2374
	2375
<del>(7) A county from levying an excise tax not to exceed one and</del>	2376
<del>one half per cent of such transactions pursuant to division (E) of</del>	2377
<del>section 5739.024 of the Revised Code. Such a tax is in addition to</del>	2378
<del>any tax imposed under division (C)(3), (4), or (6) of this</del>	2379
<del>section.</del>	2380
<del>(D) The levy of this tax on retail sales of recreation and</del>	2381
<del>sports club service shall not prevent a municipal corporation from</del>	2382
<del>levying any tax on recreation and sports club dues or on any</del>	2383
<del>income generated by recreation and sports club dues.</del>	2384
<b>Sec. 5739.033.</b> The amount of tax due pursuant to sections	2385
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is	2386
the sum of the taxes imposed pursuant to those sections at the	2387
situs of the consummation of the sale as determined under this	2388
section.	2389
(A) Except as otherwise provided in this section and,	2390

division (C) of section 5739.031, and section 5739.034 of the 2391  
Revised Code, all sales are conclusively determined to be 2392  
consummated at the vendor's place of business. 2393

(1) If the consumer or the consumer's agent takes possession 2394  
of the tangible personal property at a place of business of the 2395  
vendor where the purchase contract or agreement was made, the sale 2396  
is consummated at that place of business. 2397

(2) If the consumer or the consumer's agent takes possession 2398  
of the tangible personal property other than at a place of 2399  
business of the vendor, or takes possession at a warehouse or 2400  
similar facility of the vendor, the sale is consummated at the 2401  
vendor's place of business where the purchase contract or 2402  
agreement was made or the purchase order was received. 2403

(3) If the vendor provides a service specified in division 2404  
(B)(3)(a), (b), (c), (d), (n), or (o) of section 5739.01 of the 2405  
Revised Code, the sale is consummated at the vendor's place of 2406  
business where the service is performed or the contract or 2407  
agreement for the service was made or the purchase order was 2408  
received. 2409

(B) If the vendor is a transient vendor as specified in 2410  
division (B) of section 5739.17 of the Revised Code, the sale is 2411  
conclusively determined to be consummated at the vendor's 2412  
temporary place of business or, if the transient vendor is the 2413  
lessor of titled motor vehicles, titled watercraft, or titled 2414  
outboard motors, at the location where the lessee keeps the leased 2415  
property. 2416

(C) If the vendor makes sales of tangible personal property 2417  
from a stock of goods carried in a motor vehicle, from which the 2418  
purchaser makes selection and takes possession, or from which the 2419  
vendor sells tangible personal property the quantity of which has 2420  
not been determined prior to the time the purchaser takes 2421  
possession, the sale is conclusively determined to be consummated 2422

at the location of the motor vehicle when the sale is made. 2423

(D) If the vendor is a delivery vendor as specified in 2424  
division (D) of section 5739.17 of the Revised Code, the sale is 2425  
conclusively determined to be consummated at the place where the 2426  
tangible personal property is delivered, where the leased property 2427  
is used, or where the service is performed or received. 2428

(E) If the vendor provides a service specified in division 2429  
(B)(3)(e), (g), (h), (j), (k), (l), or (m) of section 5739.01 of 2430  
the Revised Code, the sale is conclusively determined to be 2431  
consummated at the location of the consumer where the service is 2432  
performed or received. 2433

(F) Except as provided in division (I) of this section, if 2434  
the vendor provides a service specified in division (B)(3)(f) or 2435  
(i) of section 5739.01 of the Revised Code, the sale is 2436  
conclusively determined to be consummated at the location of the 2437  
telephone number or account as reflected in the records of the 2438  
vendor. If, in the case of a telecommunications service, the 2439  
telephone number or account is located outside this state, the 2440  
sale is conclusively determined to be consummated at the location 2441  
in this state from which the service originated. 2442

(G) If the vendor provides lodging to transient guests as 2443  
specified in division (B)(2) of section 5739.01 of the Revised 2444  
Code, the sale is conclusively determined to be consummated at the 2445  
location where the lodging is located. 2446

(H) If the vendor sells a warranty, maintenance or service 2447  
contract, or similar agreement as specified in division (B)(7) of 2448  
section 5739.01 of the Revised Code and the vendor is a delivery 2449  
vendor, the sale is conclusively determined to be consummated at 2450  
the location of the consumer. If the vendor is not a delivery 2451  
vendor, the sale is conclusively determined to be consummated at 2452  
the vendor's place of business where the contract or agreement was 2453

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.

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

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

(B) Notwithstanding section 5739.033 of the Revised Code, on  
and after August 1, 2002, if a vendor provides mobile  
telecommunications service, the situs of all sales of that service  
is the residential or business street address that is the  
customer's place of primary use of the service that is within the  
licensed service area of the home service provider 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. The tax  
commissioner may adopt rules necessary to implement and administer  
this section, and may provide an electronic database to be used by  
home service providers.

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; 2516  
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(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. 2520  
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(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. 2525  
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**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 2530  
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municipal corporation or in the unincorporated portion of the 2547  
township from each such transaction, not to exceed thirty-three 2548  
and one-third per cent. The remainder of the revenue arising from 2549  
the tax shall be deposited in a separate fund and shall be spent 2550  
solely to make contributions to the convention and visitors' 2551  
bureau operating within the county, including a pledge and 2552  
contribution of any portion of such remainder pursuant to an 2553  
agreement authorized by section 307.695 of the Revised Code. 2554  
Except as provided in division (A)(2) or (3) of this section, on 2555  
and after May 10, 1994, a board of county commissioners may not 2556  
levy an excise tax pursuant to this division in any municipal 2557  
corporation or township located wholly or partly within the county 2558  
that has in effect an ordinance or resolution levying an excise 2559  
tax pursuant to division (B) of this section. The board of a 2560  
county that has levied a tax under division (C) of this section 2561  
may, by resolution adopted within ninety days after July 15, 1985, 2562  
by a majority of the members of the board, amend the resolution 2563  
levying a tax under this division to provide for a portion of that 2564  
tax to be pledged and contributed in accordance with an agreement 2565  
entered into under section 307.695 of the Revised Code. A tax, any 2566  
revenue from which is pledged pursuant to such an agreement, shall 2567  
remain in effect at the rate at which it is imposed for the 2568  
duration of the period for which the revenue therefrom has been so 2569  
pledged. 2570

(2) A board of county commissioners that levies an excise tax 2571  
under division (A)(1) of this section on June 30, 1997, at a rate 2572  
of three per cent, and that has pledged revenue from the tax to an 2573  
agreement entered into under section 307.695 of the Revised Code, 2574  
may amend the resolution levying that tax to provide for an 2575  
increase in the rate of the tax up to five per cent on each 2576  
transaction; to provide that revenue from the increase in the rate 2577  
shall be spent solely to make contributions to the convention and 2578

visitors' bureau operating within the county to be used 2579  
specifically for promotion, advertising, and marketing of the 2580  
region in which the county is located; to provide that the rate in 2581  
excess of the three per cent levied under division (A)(1) of this 2582  
section shall remain in effect at the rate at which it is imposed 2583  
for the duration of the period during which any agreement is in 2584  
effect that was entered into under section 307.695 of the Revised 2585  
Code by the board of county commissioners levying a tax under 2586  
division (A)(1) of this section; and to provide that no portion of 2587  
that revenue need be returned to townships or municipal 2588  
corporations as would otherwise be required under division (A)(1) 2589  
of this section. 2590

(3) A board of county commissioners that levies a tax under 2591  
division (A)(1) of this section on March 18, 1999, at a rate of 2592  
three per cent may, by resolution adopted not later than 2593  
forty-five days after March 18, 1999, amend the resolution levying 2594  
the tax to provide for all of the following: 2595

(a) That the rate of the tax shall be increased by not more 2596  
than an additional four per cent on each transaction; 2597

(b) That all of the revenue from the increase in the rate 2598  
shall be pledged and contributed to a convention facilities 2599  
authority established by the board of county commissioners under 2600  
Chapter 351. of the Revised Code on or before November 15, 1998, 2601  
and used to pay costs of constructing, maintaining, operating, and 2602  
promoting a facility in the county, including paying bonds, or 2603  
notes issued in anticipation of bonds, as provided by that 2604  
chapter; 2605

(c) That no portion of the revenue arising from the increase 2606  
in rate need be returned to municipal corporations or townships as 2607  
otherwise required under division (A)(1) of this section; 2608

(d) That the increase in rate shall not be subject to 2609

diminution by initiative or referendum or by law while any bonds, 2610  
or notes in anticipation of bonds, issued by the authority under 2611  
Chapter 351. of the Revised Code to which the revenue is pledged, 2612  
remain outstanding in accordance with their terms, unless 2613  
provision is made by law or by the board of county commissioners 2614  
for an adequate substitute therefor that is satisfactory to the 2615  
trustee if a trust agreement secures the bonds. 2616

Division (A)(3) of this section does not apply to the board 2617  
of county commissioners of any county in which a convention center 2618  
or facility exists or is being constructed on November 15, 1998, 2619  
or of any county in which a convention facilities authority levies 2620  
a tax pursuant to section 351.021 of the Revised Code on that 2621  
date. 2622

As used in division (A)(3) of this section, "costs" and 2623  
"facility" have the same meanings as in section 351.01 of the 2624  
Revised Code, and "convention center" has the same meaning as in 2625  
section 307.695 of the Revised Code. 2626

(B) The legislative authority of a municipal corporation or 2627  
the board of trustees of a township that is not wholly or partly 2628  
located in a county that has in effect a resolution levying an 2629  
excise tax pursuant to division (A)(1) of this section may by 2630  
ordinance or resolution levy an excise tax not to exceed three per 2631  
cent on transactions by which lodging by a hotel is or is to be 2632  
furnished to transient guests. The legislative authority of the 2633  
municipal corporation or township shall deposit at least fifty per 2634  
cent of the revenue from the tax levied pursuant to this division 2635  
into a separate fund, which shall be spent solely to make 2636  
contributions to convention and visitors' bureaus operating within 2637  
the county in which the municipal corporation or township is 2638  
wholly or partly located, and the balance of such revenue shall be 2639  
deposited in the general fund. The municipal corporation or 2640  
township shall establish all regulations necessary to provide for 2641

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 2674  
with section 307.695 of the Revised Code. A tax imposed under this 2675  
section shall remain in effect at the rate at which it is imposed 2676  
for the duration of the period for which the revenue therefrom has 2677  
been pledged pursuant to such section. 2678

(D) For the purpose of providing contributions under division 2679  
(B)(1) of section 307.671 of the Revised Code to enable the 2680  
acquisition, construction, and equipping of a port authority 2681  
educational and cultural facility in the county and, to the extent 2682  
provided for in the cooperative agreement authorized by that 2683  
section, for the purpose of paying debt service charges on bonds, 2684  
or notes in anticipation thereof, described in division (B)(1)(b) 2685  
of that section, a board of county commissioners, by resolution 2686  
adopted within ninety days after December 22, 1992, by a majority 2687  
of the members of the board, may levy an additional excise tax not 2688  
to exceed one and one-half per cent on transactions by which 2689  
lodging by a hotel is or is to be furnished to transient guests. 2690  
The excise tax authorized by this division shall be in addition to 2691  
any tax that is levied pursuant to divisions (A), (B), and (C) of 2692  
this section, to any excise tax levied pursuant to ~~division (C) of~~ 2693  
section ~~5739.02~~ 5739.08 of the Revised Code, and to any excise tax 2694  
levied pursuant to section 351.021 of the Revised Code. The board 2695  
of county commissioners shall establish all regulations necessary 2696  
to provide for the administration and allocation of the tax that 2697  
are not inconsistent with this section or section 307.671 of the 2698  
Revised Code. The regulations may prescribe the time for payment 2699  
of the tax, and may provide for the imposition of a penalty or 2700  
interest, or both, for late payments, provided that the penalty 2701  
does not exceed ten per cent of the amount of tax due, and the 2702  
rate at which interest accrues does not exceed the rate per annum 2703  
prescribed pursuant to section 5703.47 of the Revised Code. All 2704  
revenues arising from the tax shall be expended in accordance with 2705  
section 307.671 of the Revised Code and division (D) of this 2706

section. The levy of a tax imposed under this section may not 2707  
commence prior to the first day of the month next following the 2708  
execution of the cooperative agreement authorized by section 2709  
307.671 of the Revised Code by all parties to that agreement. Such 2710  
tax shall remain in effect at the rate at which it is imposed for 2711  
the period of time described in division (C) of section 307.671 of 2712  
the Revised Code for which the revenue from the tax has been 2713  
pledged by the county to the corporation pursuant to such section, 2714  
but, to any extent provided for in the cooperative agreement, for 2715  
no lesser period than the period of time required for payment of 2716  
the debt service charges on bonds, or notes in anticipation 2717  
thereof, described in division (B)(1)(b) of that section. 2718

(E) For the purpose of paying the costs of acquiring, 2719  
constructing, equipping, and improving a municipal educational and 2720  
cultural facility, including debt service charges on bonds 2721  
provided for in division (B) of section 307.672 of the Revised 2722  
Code, and for such additional purposes as are determined by the 2723  
county in the resolution levying the tax or amendments thereto, 2724  
including subsequent amendments providing for paying costs of 2725  
acquiring, constructing, renovating, rehabilitating, equipping, 2726  
and improving a port authority educational and cultural performing 2727  
arts facility, as defined in section 307.674 of the Revised Code, 2728  
including debt service charges on bonds provided for in division 2729  
(B) of section 307.674 of the Revised Code, the legislative 2730  
authority of a county, by resolution adopted within ninety days 2731  
after June 30, 1993, by a majority of the members of the 2732  
legislative authority, may levy an additional excise tax not to 2733  
exceed one and one-half per cent on transactions by which lodging 2734  
by a hotel is or is to be furnished to transient guests. The 2735  
excise tax authorized by this division shall be in addition to any 2736  
tax that is levied pursuant to divisions (A), (B), (C), and (D) of 2737  
this section, to any excise tax levied pursuant to ~~division (C) of~~ 2738  
section ~~5739.02~~ 5739.08 of the Revised Code, and to any excise tax 2739

levied pursuant to section 351.021 of the Revised Code. The 2740  
legislative authority of the county shall establish all 2741  
regulations necessary to provide for the administration and 2742  
allocation of the tax. The regulations may prescribe the time for 2743  
payment of the tax, and may provide for the imposition of a 2744  
penalty or interest, or both, for late payments, provided that the 2745  
penalty does not exceed ten per cent of the amount of tax due, and 2746  
the rate at which interest accrues does not exceed the rate per 2747  
annum prescribed pursuant to section 5703.47 of the Revised Code. 2748  
All revenues arising from the tax shall be expended in accordance 2749  
with section 307.672 of the Revised Code and division (E) of this 2750  
section. The levy of a tax imposed under this division shall not 2751  
commence prior to the first day of the month next following the 2752  
execution of the cooperative agreement authorized by section 2753  
307.672 of the Revised Code by all parties to that agreement. Such 2754  
tax shall remain in effect at the rate at which it is imposed for 2755  
the period of time determined by the legislative authority of the 2756  
county, but not to exceed fifteen years. 2757

(F) The legislative authority of a county that has levied a 2758  
tax under division (E) of this section may, by resolution adopted 2759  
within one hundred eighty days after January 4, 2001, by a 2760  
majority of the members of the legislative authority, amend the 2761  
resolution levying a tax under division (E) of this section to 2762  
provide for the use of the proceeds of that tax, to the extent 2763  
that it is no longer needed for its original purpose as determined 2764  
by the parties to a cooperative agreement amendment pursuant to 2765  
division (D) of section 307.672 of the Revised Code, to pay costs 2766  
of acquiring, constructing, renovating, rehabilitating, equipping, 2767  
and improving a port authority educational and cultural performing 2768  
arts facility, including debt service charges on bonds provided 2769  
for in division (B) of section 307.674 of the Revised Code, and to 2770  
pay all obligations under any guaranty agreements, reimbursement 2771  
agreements, or other credit enhancement agreements described in 2772

division (C) of section 307.674 of the Revised Code. The 2773  
resolution may also provide for the extension of the tax at the 2774  
same rate for the longer of the period of time determined by the 2775  
legislative authority of the county, but not to exceed an 2776  
additional twenty-five years, or the period of time required to 2777  
pay all debt service charges on bonds provided for in division (B) 2778  
of section 307.672 of the Revised Code and on port authority 2779  
revenue bonds provided for in division (B) of section 307.674 of 2780  
the Revised Code. All revenues arising from the amendment and 2781  
extension of the tax shall be expended in accordance with section 2782  
307.674 of the Revised Code and divisions (E) and (F) of this 2783  
section. 2784

(G) For purposes of a tax levied by a county, township, or 2785  
municipal corporation under this section or ~~division (C) of~~ 2786  
section ~~5739.02~~ 5739.08 of the Revised Code, a board of county 2787  
commissioners, board of township trustees, or the legislative 2788  
authority of a municipal corporation may adopt a resolution or 2789  
ordinance at any time specifying that "hotel," as otherwise 2790  
defined in section 5739.01 of the Revised Code, includes 2791  
establishments in which fewer than five rooms are used for the 2792  
accommodation of guests. The resolution or ordinance may apply to 2793  
a tax imposed pursuant to this section prior to the adoption of 2794  
the resolution or ordinance if the resolution or ordinance so 2795  
states, but the tax shall not apply to transactions by which 2796  
lodging by such an establishment is provided to transient guests 2797  
prior to the adoption of the resolution or ordinance. 2798

**Sec. 5739.31.** (A)(1) No person shall engage in the business 2799  
of selling at retail or sell at retail incidental to any other 2800  
regularly conducted business without having a license therefor, as 2801  
required by sections 5739.01 to 5739.31 of the Revised Code. 2802

(2) No person shall engage in the business of selling at 2803

retail as a transient vendor, as defined in ~~division (B) of~~ 2804  
section 5739.17 of the Revised Code, without first having obtained 2805  
a license as required by that section. 2806

~~(3) No person shall engage in the business of selling at 2807  
retail as a limited vendor as defined in division (B) of section 2808  
5739.17 of the Revised Code, without first having a license as 2809  
required by that section. 2810~~

(B) No person shall continue to engage in the business of 2811  
selling at retail or sell at retail incidental to any other 2812  
regularly conducted business after the license issued to that 2813  
person pursuant to section 5739.17 of the Revised Code has been 2814  
revoked under section 5739.19 of the Revised Code or while the 2815  
license is suspended by the tax commissioner under division (B)(2) 2816  
of section 5739.30 of the Revised Code, nor shall any person 2817  
obtain a new license from the county auditor or the tax 2818  
commissioner while such revocation or suspension is in effect. If 2819  
a corporation's license has been revoked or suspended, none of its 2820  
officers, or employees having control or supervision of or charged 2821  
with the responsibility of filing returns and making payments of 2822  
tax due, shall obtain a license from the county auditor or the tax 2823  
commissioner during the period of such revocation or suspension. 2824

**Sec. 5739.99.** (A) Whoever violates section 5739.26 or 5739.29 2825  
of the Revised Code shall be fined not less than twenty-five nor 2826  
more than one hundred dollars for a first offense; for each 2827  
subsequent offense such person shall, if a corporation, be fined 2828  
not less than one hundred nor more than five hundred dollars, or 2829  
if an individual, or a member of a partnership, firm, or 2830  
association, be fined not less than twenty-five nor more than one 2831  
hundred dollars, or imprisoned not more than sixty days, or both. 2832

(B) Whoever violates division (A) of section 5739.30 of the 2834

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 2866  
twenty-five nor more than one hundred dollars. 2867

(E) Whoever violates section 5739.12 of the Revised Code by 2868  
failing to remit to the state the tax collected under section 2869  
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code is 2870  
guilty of a felony of the fourth degree and shall suffer the loss 2871  
of ~~his~~ the person's vendor's license as required by section 2872  
5739.17 of the Revised Code. A person shall not be eligible for a 2873  
vendor's license for two years following conviction. 2874

(F) Whoever violates division ~~(D)~~(E) of section 5739.17 of 2875  
the Revised Code is guilty of failure to display a transient ~~or~~ 2876  
~~limited~~ vendor's license, a minor misdemeanor. A sheriff or police 2877  
officer in a municipal corporation may enforce this division. The 2878  
prosecuting attorney of a county shall inform the tax commissioner 2879  
of any instance when a complaint is brought against a transient ~~or~~ 2880  
~~limited~~ vendor pursuant to this division. 2881

(G) Whoever violates section 5739.103 of the Revised Code 2882  
shall be fined not less than twenty-five nor more than one hundred 2883  
dollars. If the offender previously has been convicted of 2884  
violating that section, ~~he~~ the offender is guilty of a felony of 2885  
the fourth degree. 2886

(H) The penalties provided in this section are in addition to 2887  
any penalties imposed by the tax commissioner under section 2888  
5739.133 of the Revised Code. 2889

**Sec. 5740.01. As used in this chapter:** 2890

(A) "Agreement" means the streamlined sales and use tax 2891  
agreement as amended and adopted on January 27, 2001, by the 2892  
national conference of state legislatures' special task force on 2893  
state and local taxation of telecommunications and electronic 2894  
commerce, and unanimously adopted by the national conference of 2895

state legislatures' executive committee, and as subsequently 2896  
amended and adopted by the member states. 2897

(B) "Certified automated system" means software certified 2898  
jointly by the member states to calculate the sales or use tax 2899  
imposed by each jurisdiction on a transaction, determine the 2900  
amount of tax to remit to the appropriate state, and maintain a 2901  
record of the transaction. 2902

(C) "Certified service provider" means an agent certified 2903  
jointly by the member states to perform all of the seller's sales 2904  
and use tax functions. 2905

(D) "Member state" means any state that is a signatory to the 2906  
agreement. 2907

(E) "Person" means an individual, trust, estate, fiduciary, 2908  
partnership, limited liability company, limited liability 2909  
partnership, corporation, or any other legal entity. 2910

(F) "Sales tax" means the tax levied by section 5739.02, 2911  
5739.021, 5739.023, 5739.026, or 5739.10 of the Revised Code. 2912

(G) "Seller" means any person making sales, leases, or 2913  
rentals of personal property or services. 2914

(H) "State" means any state of the United States and the 2915  
District of Columbia. 2916

(I) "Use tax" means the tax levied by section 5741.02, 2917  
5741.021, 5741.022, or 5741.023 of the Revised Code. 2918

**Sec. 5740.02.** (A) Subject to division (B) of this section, 2919  
the state of Ohio shall participate in discussions with other 2920  
states regarding the development of a streamlined sales and use 2921  
tax system to reduce the burden and cost for all sellers to 2922  
collect this state's sales and use taxes. The state also shall 2923  
participate in multi-state discussions to review or amend the 2924

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 discussions, 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, unanimous approval by this state's delegation shall be required for the state, through the chairperson, to cast this state's vote. 2925  
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(B) The state shall not participate in the discussions referred to in division (A) of this section unless the meetings at which the discussions occur are conducted in accordance with the requirements of divisions (C), (F), (G), and (H) of section 121.22 of the Revised Code as if the participants of the meeting were a public body as defined in that section or substantially similar requirements. Notwithstanding division (F) of that section, written notice of such meetings shall be provided to the news media that have requested notification at least thirty days before the day of the meeting. Any person may bring an action to enforce this division in the court of common pleas of Franklin county. Upon proof of a violation or threatened violation of this division, the court shall issue a writ of injunction or mandamus to compel compliance with this division. 2937  
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**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, provided that the general assembly first authorizes the tax commissioner to enter into the agreement. In furtherance of the agreement, the commissioner may act jointly with other member states to establish standards for certification of service 2951  
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providers and automated systems, establish performance standards 2957  
for multi-state sellers, and procure goods and services. The 2958  
commissioner may take other actions reasonably required to 2959  
implement this chapter, including adopting rules. 2960

**Sec. 5740.04.** (A) No provision of the agreement, in whole or 2961  
in part, invalidates or amends the law of this state. Adoption of 2962  
the agreement by this state does not amend the law of this state. 2963  
Implementation in this state of any condition of the agreement, 2964  
whether adopted before, at, or after membership of this state in 2965  
the agreement, must be by the action of this state. 2966

(B) The agreement is an accord among individual cooperating 2967  
sovereigns in furtherance of their governmental functions. The 2968  
agreement provides a mechanism among the member states to 2969  
establish and maintain a cooperative, simplified system for the 2970  
application and administration of sales and use taxes under the 2971  
duly adopted laws of each member state. 2972

**Sec. 5740.05.** The tax commissioner shall not enter into the 2973  
agreement unless the agreement requires each state to meet the 2974  
requirements set forth in divisions (A) to (I) of this section. 2975  
The agreement shall: 2976

(A) Set restrictions to limit over time the number of state 2977  
sales and use tax rates; 2978

(B) Establish uniform standards for attributing the source of 2979  
transactions to taxing jurisdictions, the administration of exempt 2980  
sales, and sales and use tax returns and remittances; 2981

(C) Provide a central, electronic registration system that 2982  
allows a seller to register to collect sales and use taxes for, 2983  
and remit them to, all member states; 2984

(D) Provide that registration with the central registration 2985

<u>system and the collection of sales and use taxes in the member</u>	2986
<u>states will not be used as a factor in determining whether the</u>	2987
<u>seller has nexus with a state for any tax;</u>	2988
<u>(E) Provide for reduction of the burdens of complying with</u>	2989
<u>local sales and use taxes through the following:</u>	2990
<u>(1) Restricting variances between the state and local tax</u>	2991
<u>bases;</u>	2992
<u>(2) Requiring states to administer any sales and use taxes</u>	2993
<u>levied by local jurisdictions within the states so that sellers</u>	2994
<u>collecting and remitting those taxes will not have to register or</u>	2995
<u>file returns with, remit funds to, or be subject to independent</u>	2996
<u>audits from, local taxing jurisdictions;</u>	2997
<u>(3) Restricting the frequency of changes in the local sales</u>	2998
<u>and use tax rates and setting effective dates for the application</u>	2999
<u>of local jurisdictional boundary changes to local sales and use</u>	3000
<u>taxes;</u>	3001
<u>(4) Providing notice to sellers and certified service</u>	3002
<u>providers of changes in local sales and use tax rates and in the</u>	3003
<u>boundaries of local taxing jurisdictions.</u>	3004
<u>(F) Outline any monetary allowances that are to be provided</u>	3005
<u>by the member states to sellers or certified service providers.</u>	3006
<u>The agreement must allow for a joint public and private sector</u>	3007
<u>study of the compliance cost on sellers and certified service</u>	3008
<u>providers to collect sales and use taxes for state and local</u>	3009
<u>governments under various levels of complexity, to be completed by</u>	3010
<u>July 1, 2002.</u>	3011
<u>(G) Require each state to certify compliance with the terms</u>	3012
<u>of the agreement prior to becoming a member of the agreement, and</u>	3013
<u>to maintain compliance, under the laws of the member state, with</u>	3014
<u>all provisions of the agreement while a member;</u>	3015

(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; 3016  
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(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. 3019  
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**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. 3023  
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(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. 3029  
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(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. 3037  
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**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 3041  
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transactions it processes for the seller, except as provided in this section.

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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.

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(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.

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(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.

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**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

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contracted for the collection and remittance of sales and use 3077  
taxes to this state. The provider shall protect consumer 3078  
information in the same manner as required of the department of 3079  
taxation for taxpayer information. The provider shall use a 3080  
certified automated system to perform sales and use tax 3081  
calculations, remittances, and reporting that does not retain the 3082  
personally identifiable information of consumers, except as 3083  
follows: 3084

(1) To determine whether a consumer's status or intended use 3085  
of the goods or services purchased is exempt from the sales or use 3086  
tax; 3087

(2) To investigate fraud by a consumer or seller; 3088

(3) To the extent necessary to ensure the reliability of the 3089  
providers' technology and certified automated system in performing 3090  
all of a seller's sales and use tax functions. 3091

The provider shall provide technical, physical, and 3092  
administrative safeguards to protect personally identifiable 3093  
information from unauthorized access and disclosure. 3094

(B) A certified service provider shall provide to consumers 3095  
clear and conspicuous notice of its information retention and 3096  
sharing practices, including what information it collects, how the 3097  
information collected is used, and whether the information is 3098  
disclosed to other member states. A provider that retains 3099  
personally identifiable information in accordance with division 3100  
(A) of this section shall notify consumers of its intent to retain 3101  
such information and shall afford consumers reasonable access to 3102  
their data and the opportunity to correct inaccurately recorded 3103  
data. 3104

(C) If any person, other than a member state, seeks to 3105  
discover a consumer's personally identifiable information, a 3106  
reasonable and timely effort shall be made by the provider to 3107

<u>notify the consumer of such request.</u>	3108
<u>(D) Notwithstanding this section, the laws of this state</u>	3109
<u>regarding the collection, use, and maintenance of confidential</u>	3110
<u>taxpayer information remain applicable and binding. The agreement</u>	3111
<u>does not enlarge or limit this state's authority to do any of the</u>	3112
<u>following:</u>	3113
<u>(1) Conduct audits or other reviews as provided under the</u>	3114
<u>agreement or state law;</u>	3115
<u>(2) Provide records pursuant to section 149.43 of the Revised</u>	3116
<u>Code or to governmental agencies under disclosure laws;</u>	3117
<u>(3) Prevent the disclosure of confidential taxpayer</u>	3118
<u>information in accordance with Title LVII of the Revised Code;</u>	3119
<u>(4) Prevent, consistent with federal law, the disclosure or</u>	3120
<u>misuse of federal return information obtained under a disclosure</u>	3121
<u>agreement with the Internal Revenue Service;</u>	3122
<u>(5) Collect, disclose, disseminate, or otherwise use</u>	3123
<u>anonymous data for governmental purposes.</u>	3124
<u>(E) This section does not enlarge or limit the privacy</u>	3125
<u>policies of any seller that has selected a certified service</u>	3126
<u>provider as its agent to perform all of the seller's sales and use</u>	3127
<u>tax functions.</u>	3128
<u>(F) A certified service provider that fails to comply with</u>	3129
<u>this section is subject to investigation by the tax commissioner</u>	3130
<u>or the commissioner's agents and the attorney general, and to</u>	3131
<u>prosecution by the attorney general.</u>	3132
<b><u>Sec. 5747.083.</u></b> <u>The tax commissioner may not require the</u>	3133
<u>taxpayer, as a part of the taxpayer's personal income tax return,</u>	3134
<u>to report or pay use tax for any purchase made during the tax year</u>	3135
<u>on which the taxpayer has paid any sales tax to this state or any</u>	3136

<u>other state at the time of the purchase.</u>	3137
<b>Section 2.</b> That existing sections 307.671, 307.672, 307.674,	3138
307.695, 311.37, 311.99, 351.01, 351.021, 351.03, 351.141, 505.56,	3139
3715.52, 4501.32, 5739.01, 5739.02, 5739.024, 5739.033, 5739.31,	3140
and 5739.99 of the Revised Code are hereby repealed.	3141
<b>Section 3.</b> That Section 6 of Sub. H.B. 483 of the 123rd	3142
General Assembly is hereby repealed.	3143
<b>Section 4.</b> Section 5739.02 of the Revised Code is presented	3144
in this act as a composite of the section as amended by both Am.	3145
Sub. H.B. 94 and Sub. H.B. 117 of the 124th General Assembly. The	3146
General Assembly, applying the principle stated in division (B) of	3147
section 1.52 of the Revised Code that amendments are to be	3148
harmonized if reasonably capable of simultaneous operation, finds	3149
that the composite is the resulting version of the section in	3150
effect prior to the effective date of the section as presented in	3151
this act.	3152