

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 571

Representative Greenspan

**Cosponsors: Representatives Scherer, Arndt, Lipps, Kick, Rezabek, Hoops,
Boggs, Green**

A BILL

To amend sections 351.021, 353.06, 5739.01, and 1
5739.09 and to enact section 5739.081 of the 2
Revised Code to specify that, for the purposes 3
of the sales and use tax and local lodging 4
taxes, the "price" on the basis of which a hotel 5
intermediary must collect and remit the tax is 6
the total amount paid by the customer for the 7
hotel lodging, as advertised by the hotel 8
intermediary. 9

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

Section 1. That sections 351.021, 353.06, 5739.01, and 10
5739.09 be amended and section 5739.081 of the Revised Code be 11
enacted to read as follows: 12

Sec. 351.021. (A) The resolution of the county 13
commissioners creating a convention facilities authority, or any 14
amendment or supplement to that resolution, may authorize the 15
authority to levy one or both of the excise taxes authorized by 16
division (B) of this section to pay the cost of one or more 17
facilities; to pay principal, interest, and premium on 18

convention facilities authority tax anticipation bonds issued to 19
pay those costs; to pay the operating costs of the authority; to 20
pay operating and maintenance costs of those facilities; and to 21
pay the costs of administering the excise tax. 22

(B) The board of directors of a convention facilities 23
authority that has been authorized pursuant to resolution 24
adopted, amended, or supplemented by the board of county 25
commissioners pursuant to division (A) of this section may levy, 26
by resolution adopted on or before December 31, 1988, either or 27
both of the following: 28

(1) Within the territory of the authority, an additional 29
excise tax not to exceed four per cent on each transaction. The 30
excise tax authorized by division (B)(1) of this section shall 31
be in addition to any excise tax levied pursuant to section 32
5739.08 or 5739.09 of the Revised Code, or division (B)(2) of 33
this section. 34

(2) Within that portion of any municipal corporation that 35
is located within the territory of the authority or within the 36
boundaries of any township that is located within the territory 37
of the authority, which municipal corporation or township is 38
levying any portion of the excise tax authorized by division (A) 39
of section 5739.08 of the Revised Code, and with the approval, 40
by ordinance or resolution, of the legislative authority of that 41
municipal corporation or township, an additional excise tax not 42
to exceed nine-tenths of one per cent on each transaction. The 43
excise tax authorized by division (B)(2) of this section may be 44
levied only if, on the effective date of the levy specified in 45
the resolution making the levy, the amount being levied pursuant 46
to division (A) of section 5739.08 of the Revised Code by each 47
municipal corporation or township in which the tax authorized by 48

division (B) (2) of this section will be levied, when added to 49
the amount levied under division (B) (2) of this section, does 50
not exceed three per cent on each transaction. The excise tax 51
authorized by division (B) (2) of this section shall be in 52
addition to any excise tax that is levied pursuant to section 53
5739.08 or 5739.09 of the Revised Code, or division (B) (1) of 54
this section. 55

(C) (1) The board of directors of a convention facilities 56
authority that is located in an eligible Appalachian county; 57
that has been authorized pursuant to resolution adopted, 58
amended, or supplemented by the board of county commissioners 59
pursuant to division (A) of this section; and that is not 60
levying a tax under division (B) (1) or (2) of this section may 61
levy within the territory of the authority, by resolution 62
adopted on or before December 31, 2005, an additional excise tax 63
not to exceed three per cent on each transaction. The excise tax 64
authorized under division (C) (1) of this section shall be in 65
addition to any excise tax levied pursuant to section 5739.08 or 66
5739.09 of the Revised Code. 67

As used in division (C) (1) of this section, "eligible 68
Appalachian county" means a county in this state designated as 69
being in the "Appalachian region" under the "Appalachian 70
Regional Development Act of 1965," 79 Stat. 4, 40 U.S.C. App. 71
403, and having a population less than eighty thousand according 72
to the most recent federal decennial census. 73

(2) Division (C) (2) of this section applies only to a 74
convention facilities authority located in a county with a 75
population, according to the 2000 federal decennial census, of 76
at least one hundred thirty-five thousand and not more than one 77
hundred fifty thousand and containing entirely within its 78

boundaries the territory of a municipal corporation with a 79
population according to that census of more than fifty thousand. 80
The board of directors of such a convention facilities 81
authority, by resolution adopted on or before November 1, 2009, 82
may levy within the territory of the authority an excise tax on 83
transactions by which lodging by a hotel is or is to be 84
furnished to transient guests at a rate not to exceed three per 85
cent on such transactions for the same purposes for which a tax 86
may be levied under division (B) of this section. The resolution 87
may be adopted only if the board of county commissioners of the 88
county, by resolution, authorizes the levy of the tax. The 89
resolution of the board of county commissioners is subject to 90
referendum as prescribed by sections 305.31 to 305.41 of the 91
Revised Code. If, pursuant to those procedures, a referendum is 92
to be held, the board's resolution does not take effect until 93
approved by a majority of electors voting on the question. The 94
convention facilities authority may adopt the resolution 95
authorized by division (C) (2) of this section before the 96
election, but the authority's resolution shall not take effect 97
if the board of commissioners' resolution is not approved at the 98
election. A tax levied under division (C) (2) of this section is 99
in addition to any tax levied under section 5739.09 of the 100
Revised Code. 101

(D) The authority shall provide for the administration and 102
allocation of an excise tax levied pursuant to division (B) or 103
(C) of this section. All receipts arising from those excise 104
taxes shall be expended for the purposes provided in, and in 105
accordance with this section and section 351.141 of the Revised 106
Code. An excise tax levied under division (B) or (C) of this 107
section shall remain in effect at the rate at which it is levied 108
for at least the duration of the period for which the receipts 109

from the tax have been anticipated and pledged pursuant to 110
section 351.141 of the Revised Code. 111

(E) Except as provided in division (B)(2) of this section, 112
the levy of an excise tax on each transaction pursuant to 113
sections 5739.08 and 5739.09 of the Revised Code does not 114
prevent a convention facilities authority from levying an excise 115
tax pursuant to division (B) or (C) of this section. 116

(F) A convention facilities authority located in a county 117
with a population greater than eighty thousand but less than 118
ninety thousand according to the 2010 federal decennial census 119
that levies a tax under division (B) of this section may amend 120
the resolution levying the tax to allocate a portion of the 121
revenue from the tax for support of tourism-related sites or 122
facilities and programs operated by the county or a municipal 123
corporation within the county in which the authority is located 124
or for the purpose of leasing lands for county fairs, erecting 125
buildings for county fair purposes, making improvements on a 126
county fairground, or for any purpose connected with the use of 127
a county fairground or with the management thereof by the county 128
in which the authority is located. The revenue allocated by the 129
authority for such purposes in a calendar year shall not exceed 130
fifteen per cent of the total revenue from the tax in the 131
preceding calendar year. 132

(G) A tax levied by a convention facilities authority 133
under this section on transactions by which lodging by a hotel 134
is or is to be furnished to transient guests, if the transaction 135
is conducted through a hotel intermediary, shall be levied on 136
the total amount paid by the consumer for hotel lodging as 137
advertised by the hotel intermediary. The hotel intermediary 138
shall collect the tax due from the purchaser and remit it to the 139

convention facilities authority. As used in this division, 140
"hotel intermediary" has the same meaning as in section 5739.01 141
of the Revised Code. 142

Sec. 353.06. As used in this section, "hotel," "hotel 143
intermediary," and "transient guests" have the same meanings as 144
in section 5739.01 of the Revised Code. 145

A resolution creating a lake facilities authority under 146
section 353.02 of the Revised Code, or any amendments or 147
supplements thereto, may authorize the authority to levy an 148
excise tax on transactions by which lodging in a hotel is or is 149
to be furnished to transient guests to pay any costs authorized 150
under this chapter; to pay principal, interest, and premium on 151
lake facilities authority tax anticipation bonds issued to pay 152
those costs; to pay the operating costs of the authority; and to 153
pay the costs of administering the tax. 154

Upon the affirmative vote of at least a majority of the 155
qualified electors in a primary or general election within the 156
impacted lake district voting at an election held for the 157
purpose of authorizing the tax, the board of directors of a lake 158
facilities authority authorized to levy a tax under this section 159
may, by resolution, levy an additional excise tax within the 160
territory of the impacted lake district on all transactions by 161
which lodging in a hotel is or is to be furnished to transient 162
guests. The rate of the tax, when added to the aggregate rate of 163
excise taxes levied in the impacted lake district pursuant to 164
section 351.021, 5739.08, or 5739.09 of the Revised Code, shall 165
not cause the total aggregate rate to exceed five per cent on 166
any such transaction. 167

The lake facilities authority shall provide for the 168
administration and allocation of a tax levied pursuant to this 169

section. All receipts arising from the tax shall be expended for 170
the purposes provided in, and in accordance with, this section. 171
An excise tax levied under this section shall remain in effect 172
at the rate at which it is levied for at least the duration of 173
the period for which the receipts from the tax have been 174
anticipated and pledged pursuant to section 353.08 of the 175
Revised Code. 176

The form of the ballot in an election held on the question 177
of levying a tax proposed pursuant to this section shall be as 178
follows or in any other form acceptable to the secretary of 179
state: 180

"An excise tax on all transactions by which lodging in a 181
hotel is or is to be furnished to transient guests within the 182
territory of the (name of impacted lake district) 183
for the purpose of at a rate of 184
for (number of years the tax is to be levied). 185

For the Excise Tax
Against the Excise Tax

" 189

A tax levied by a lake facilities authority under this 190
section on transactions by which lodging by a hotel is or is to 191
be furnished to transient guests, if the transaction is 192
conducted through a hotel intermediary, shall be levied on the 193
total amount paid by the consumer for hotel lodging as 194
advertised by the hotel intermediary. The hotel intermediary 195
shall collect the tax due from the purchaser and remit it to the 196
lake facilities authority. 197

Sec. 5739.01. As used in this chapter: 198

(A) "Person" includes individuals, receivers, assignees,	199
trustees in bankruptcy, estates, firms, partnerships,	200
associations, joint-stock companies, joint ventures, clubs,	201
societies, corporations, the state and its political	202
subdivisions, and combinations of individuals of any form.	203
(B) "Sale" and "selling" include all of the following	204
transactions for a consideration in any manner, whether	205
absolutely or conditionally, whether for a price or rental, in	206
money or by exchange, and by any means whatsoever:	207
(1) All transactions by which title or possession, or	208
both, of tangible personal property, is or is to be transferred,	209
or a license to use or consume tangible personal property is or	210
is to be granted;	211
(2) All transactions by which lodging by a hotel is or is	212
to be furnished to transient guests;	213
(3) All transactions by which:	214
(a) An item of tangible personal property is or is to be	215
repaired, except property, the purchase of which would not be	216
subject to the tax imposed by section 5739.02 of the Revised	217
Code;	218
(b) An item of tangible personal property is or is to be	219
installed, except property, the purchase of which would not be	220
subject to the tax imposed by section 5739.02 of the Revised	221
Code or property that is or is to be incorporated into and will	222
become a part of a production, transmission, transportation, or	223
distribution system for the delivery of a public utility	224
service;	225
(c) The service of washing, cleaning, waxing, polishing,	226
or painting a motor vehicle is or is to be furnished;	227

(d) Until August 1, 2003, industrial laundry cleaning 228
services are or are to be provided and, on and after August 1, 229
2003, laundry and dry cleaning services are or are to be 230
provided; 231

(e) Automatic data processing, computer services, or 232
electronic information services are or are to be provided for 233
use in business when the true object of the transaction is the 234
receipt by the consumer of automatic data processing, computer 235
services, or electronic information services rather than the 236
receipt of personal or professional services to which automatic 237
data processing, computer services, or electronic information 238
services are incidental or supplemental. Notwithstanding any 239
other provision of this chapter, such transactions that occur 240
between members of an affiliated group are not sales. An 241
"affiliated group" means two or more persons related in such a 242
way that one person owns or controls the business operation of 243
another member of the group. In the case of corporations with 244
stock, one corporation owns or controls another if it owns more 245
than fifty per cent of the other corporation's common stock with 246
voting rights. 247

(f) Telecommunications service, including prepaid calling 248
service, prepaid wireless calling service, or ancillary service, 249
is or is to be provided, but not including coin-operated 250
telephone service; 251

(g) Landscaping and lawn care service is or is to be 252
provided; 253

(h) Private investigation and security service is or is to 254
be provided; 255

(i) Information services or tangible personal property is 256

provided or ordered by means of a nine hundred telephone call;	257
(j) Building maintenance and janitorial service is or is to be provided;	258 259
(k) Employment service is or is to be provided;	260
(l) Employment placement service is or is to be provided;	261
(m) Exterminating service is or is to be provided;	262
(n) Physical fitness facility service is or is to be provided;	263 264
(o) Recreation and sports club service is or is to be provided;	265 266
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	267 268
(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	269 270 271 272 273 274 275 276 277
(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued	278 279 280 281 282 283 284

under 49 U.S.C. 41102;	285
(s) On and after August 1, 2003, motor vehicle towing	286
service is or is to be provided. As used in this division,	287
"motor vehicle towing service" means the towing or conveyance of	288
a wrecked, disabled, or illegally parked motor vehicle.	289
(t) On and after August 1, 2003, snow removal service is	290
or is to be provided. As used in this division, "snow removal	291
service" means the removal of snow by any mechanized means, but	292
does not include the providing of such service by a person that	293
has less than five thousand dollars in sales of such service	294
during the calendar year.	295
(u) Electronic publishing service is or is to be provided	296
to a consumer for use in business, except that such transactions	297
occurring between members of an affiliated group, as defined in	298
division (B) (3) (e) of this section, are not sales.	299
(4) All transactions by which printed, imprinted,	300
overprinted, lithographic, multilithic, blueprinted,	301
photostatic, or other productions or reproductions of written or	302
graphic matter are or are to be furnished or transferred;	303
(5) The production or fabrication of tangible personal	304
property for a consideration for consumers who furnish either	305
directly or indirectly the materials used in the production of	306
fabrication work; and include the furnishing, preparing, or	307
serving for a consideration of any tangible personal property	308
consumed on the premises of the person furnishing, preparing, or	309
serving such tangible personal property. Except as provided in	310
section 5739.03 of the Revised Code, a construction contract	311
pursuant to which tangible personal property is or is to be	312
incorporated into a structure or improvement on and becoming a	313

part of real property is not a sale of such tangible personal 314
property. The construction contractor is the consumer of such 315
tangible personal property, provided that the sale and 316
installation of carpeting, the sale and installation of 317
agricultural land tile, the sale and erection or installation of 318
portable grain bins, or the provision of landscaping and lawn 319
care service and the transfer of property as part of such 320
service is never a construction contract. 321

As used in division (B)(5) of this section: 322

(a) "Agricultural land tile" means fired clay or concrete 323
tile, or flexible or rigid perforated plastic pipe or tubing, 324
incorporated or to be incorporated into a subsurface drainage 325
system appurtenant to land used or to be used primarily in 326
production by farming, agriculture, horticulture, or 327
floriculture. The term does not include such materials when they 328
are or are to be incorporated into a drainage system appurtenant 329
to a building or structure even if the building or structure is 330
used or to be used in such production. 331

(b) "Portable grain bin" means a structure that is used or 332
to be used by a person engaged in farming or agriculture to 333
shelter the person's grain and that is designed to be 334
disassembled without significant damage to its component parts. 335

(6) All transactions in which all of the shares of stock 336
of a closely held corporation are transferred, or an ownership 337
interest in a pass-through entity, as defined in section 5733.04 338
of the Revised Code, is transferred, if the corporation or pass- 339
through entity is not engaging in business and its entire assets 340
consist of boats, planes, motor vehicles, or other tangible 341
personal property operated primarily for the use and enjoyment 342
of the shareholders or owners; 343

(7) All transactions in which a warranty, maintenance or 344
service contract, or similar agreement by which the vendor of 345
the warranty, contract, or agreement agrees to repair or 346
maintain the tangible personal property of the consumer is or is 347
to be provided; 348

(8) The transfer of copyrighted motion picture films used 349
solely for advertising purposes, except that the transfer of 350
such films for exhibition purposes is not a sale; 351

(9) On and after August 1, 2003, all transactions by which 352
tangible personal property is or is to be stored, except such 353
property that the consumer of the storage holds for sale in the 354
regular course of business; 355

(10) All transactions in which "guaranteed auto 356
protection" is provided whereby a person promises to pay to the 357
consumer the difference between the amount the consumer receives 358
from motor vehicle insurance and the amount the consumer owes to 359
a person holding title to or a lien on the consumer's motor 360
vehicle in the event the consumer's motor vehicle suffers a 361
total loss under the terms of the motor vehicle insurance policy 362
or is stolen and not recovered, if the protection and its price 363
are included in the purchase or lease agreement; 364

(11) (a) Except as provided in division (B) (11) (b) of this 365
section, on and after October 1, 2009, all transactions by which 366
health care services are paid for, reimbursed, provided, 367
delivered, arranged for, or otherwise made available by a 368
medicaid health insuring corporation pursuant to the 369
corporation's contract with the state. 370

(b) If the centers for medicare and medicaid services of 371
the United States department of health and human services 372

determines that the taxation of transactions described in 373
division (B) (11) (a) of this section constitutes an impermissible 374
health care-related tax under the "Social Security Act," section 375
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 376
the medicaid director shall notify the tax commissioner of that 377
determination. Beginning with the first day of the month 378
following that notification, the transactions described in 379
division (B) (11) (a) of this section are not sales for the 380
purposes of this chapter or Chapter 5741. of the Revised Code. 381
The tax commissioner shall order that the collection of taxes 382
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 383
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 384
for transactions occurring on or after that date. 385

(12) All transactions by which a specified digital product 386
is provided for permanent use or less than permanent use, 387
regardless of whether continued payment is required. 388

Except as provided in this section, "sale" and "selling" 389
do not include transfers of interest in leased property where 390
the original lessee and the terms of the original lease 391
agreement remain unchanged, or professional, insurance, or 392
personal service transactions that involve the transfer of 393
tangible personal property as an inconsequential element, for 394
which no separate charges are made. 395

(C) "Vendor" means the person providing the service or by 396
whom the transfer effected or license given by a sale is or is 397
to be made or given and, for sales described in division (B) (3) 398
(i) of this section, the telecommunications service vendor that 399
provides the nine hundred telephone service; if two or more 400
persons are engaged in business at the same place of business 401
under a single trade name in which all collections on account of 402

sales by each are made, such persons shall constitute a single 403
vendor. 404

Physicians, dentists, hospitals, and veterinarians who are 405
engaged in selling tangible personal property as received from 406
others, such as eyeglasses, mouthwashes, dentifrices, or similar 407
articles, are vendors. Veterinarians who are engaged in 408
transferring to others for a consideration drugs, the dispensing 409
of which does not require an order of a licensed veterinarian or 410
physician under federal law, are vendors. 411

(D) (1) "Consumer" means the person for whom the service is 412
provided, to whom the transfer effected or license given by a 413
sale is or is to be made or given, to whom the service described 414
in division (B) (3) (f) or (i) of this section is charged, or to 415
whom the admission is granted. 416

(2) Physicians, dentists, hospitals, and blood banks 417
operated by nonprofit institutions and persons licensed to 418
practice veterinary medicine, surgery, and dentistry are 419
consumers of all tangible personal property and services 420
purchased by them in connection with the practice of medicine, 421
dentistry, the rendition of hospital or blood bank service, or 422
the practice of veterinary medicine, surgery, and dentistry. In 423
addition to being consumers of drugs administered by them or by 424
their assistants according to their direction, veterinarians 425
also are consumers of drugs that under federal law may be 426
dispensed only by or upon the order of a licensed veterinarian 427
or physician, when transferred by them to others for a 428
consideration to provide treatment to animals as directed by the 429
veterinarian. 430

(3) A person who performs a facility management, or 431
similar service contract for a contractee is a consumer of all 432

tangible personal property and services purchased for use in 433
connection with the performance of such contract, regardless of 434
whether title to any such property vests in the contractee. The 435
purchase of such property and services is not subject to the 436
exception for resale under division (E) of this section. 437

(4) (a) In the case of a person who purchases printed 438
matter for the purpose of distributing it or having it 439
distributed to the public or to a designated segment of the 440
public, free of charge, that person is the consumer of that 441
printed matter, and the purchase of that printed matter for that 442
purpose is a sale. 443

(b) In the case of a person who produces, rather than 444
purchases, printed matter for the purpose of distributing it or 445
having it distributed to the public or to a designated segment 446
of the public, free of charge, that person is the consumer of 447
all tangible personal property and services purchased for use or 448
consumption in the production of that printed matter. That 449
person is not entitled to claim exemption under division (B) (42) 450
(f) of section 5739.02 of the Revised Code for any material 451
incorporated into the printed matter or any equipment, supplies, 452
or services primarily used to produce the printed matter. 453

(c) The distribution of printed matter to the public or to 454
a designated segment of the public, free of charge, is not a 455
sale to the members of the public to whom the printed matter is 456
distributed or to any persons who purchase space in the printed 457
matter for advertising or other purposes. 458

(5) A person who makes sales of any of the services listed 459
in division (B) (3) of this section is the consumer of any 460
tangible personal property used in performing the service. The 461
purchase of that property is not subject to the resale exception 462

under division (E) of this section. 463

(6) A person who engages in highway transportation for 464
hire is the consumer of all packaging materials purchased by 465
that person and used in performing the service, except for 466
packaging materials sold by such person in a transaction 467
separate from the service. 468

(7) In the case of a transaction for health care services 469
under division (B) (11) of this section, a medicaid health 470
insuring corporation is the consumer of such services. The 471
purchase of such services by a medicaid health insuring 472
corporation is not subject to the exception for resale under 473
division (E) of this section or to the exemptions provided under 474
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 475
the Revised Code. 476

(E) "Retail sale" and "sales at retail" include all sales, 477
except those in which the purpose of the consumer is to resell 478
the thing transferred or benefit of the service provided, by a 479
person engaging in business, in the form in which the same is, 480
or is to be, received by the person. 481

(F) "Business" includes any activity engaged in by any 482
person with the object of gain, benefit, or advantage, either 483
direct or indirect. "Business" does not include the activity of 484
a person in managing and investing the person's own funds. 485

(G) "Engaging in business" means commencing, conducting, 486
or continuing in business, and liquidating a business when the 487
liquidator thereof holds itself out to the public as conducting 488
such business. Making a casual sale is not engaging in business. 489

(H) (1) (a) "Price," except as provided in divisions (H) (2), 490
(3), ~~and~~ (4), and (5) of this section, means the total amount of 491

consideration, including cash, credit, property, and services,	492
for which tangible personal property or services are sold,	493
leased, or rented, valued in money, whether received in money or	494
otherwise, without any deduction for any of the following:	495
(i) The vendor's cost of the property sold;	496
(ii) The cost of materials used, labor or service costs,	497
interest, losses, all costs of transportation to the vendor, all	498
taxes imposed on the vendor, including the tax imposed under	499
Chapter 5751. of the Revised Code, and any other expense of the	500
vendor;	501
(iii) Charges by the vendor for any services necessary to	502
complete the sale;	503
(iv) On and after August 1, 2003, delivery charges. As	504
used in this division, "delivery charges" means charges by the	505
vendor for preparation and delivery to a location designated by	506
the consumer of tangible personal property or a service,	507
including transportation, shipping, postage, handling, crating,	508
and packing.	509
(v) Installation charges;	510
(vi) Credit for any trade-in.	511
(b) "Price" includes consideration received by the vendor	512
from a third party, if the vendor actually receives the	513
consideration from a party other than the consumer, and the	514
consideration is directly related to a price reduction or	515
discount on the sale; the vendor has an obligation to pass the	516
price reduction or discount through to the consumer; the amount	517
of the consideration attributable to the sale is fixed and	518
determinable by the vendor at the time of the sale of the item	519
to the consumer; and one of the following criteria is met:	520

(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;

(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.

(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

(c) "Price" does not include any of the following:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 550
this section, any discount allowed by an automobile manufacturer 551
to its employee, or to the employee of a supplier, on the 552
purchase of a new motor vehicle from a new motor vehicle dealer 553
in this state. 554

(v) The dollar value of a gift card that is not sold by a 555
vendor or purchased by a consumer and that is redeemed by the 556
consumer in purchasing tangible personal property or services if 557
the vendor is not reimbursed and does not receive compensation 558
from a third party to cover all or part of the gift card value. 559
For the purposes of this division, a gift card is not sold by a 560
vendor or purchased by a consumer if it is distributed pursuant 561
to an awards, loyalty, or promotional program. Past and present 562
purchases of tangible personal property or services by the 563
consumer shall not be treated as consideration exchanged for a 564
gift card. 565

(2) In the case of a sale of any new motor vehicle by a 566
new motor vehicle dealer, as defined in section 4517.01 of the 567
Revised Code, in which another motor vehicle is accepted by the 568
dealer as part of the consideration received, "price" has the 569
same meaning as in division (H) (1) of this section, reduced by 570
the credit afforded the consumer by the dealer for the motor 571
vehicle received in trade. 572

(3) In the case of a sale of any watercraft or outboard 573
motor by a watercraft dealer licensed in accordance with section 574
1547.543 of the Revised Code, in which another watercraft, 575
watercraft and trailer, or outboard motor is accepted by the 576
dealer as part of the consideration received, "price" has the 577
same meaning as in division (H) (1) of this section, reduced by 578
the credit afforded the consumer by the dealer for the 579

watercraft, watercraft and trailer, or outboard motor received 580
in trade. As used in this division, "watercraft" includes an 581
outdrive unit attached to the watercraft. 582

(4) In the case of transactions for health care services 583
under division (B)(11) of this section, "price" means the amount 584
of managed care premiums received each month by a medicaid 585
health insuring corporation. 586

(5) In the case of transactions in which the vendor is a 587
hotel intermediary, "price" means the total amount paid by the 588
consumer for hotel lodging as advertised by the hotel 589
intermediary. 590

(I) "Receipts" means the total amount of the prices of the 591
sales of vendors, provided that the dollar value of gift cards 592
distributed pursuant to an awards, loyalty, or promotional 593
program, and cash discounts allowed and taken on sales at the 594
time they are consummated are not included, minus any amount 595
deducted as a bad debt pursuant to section 5739.121 of the 596
Revised Code. "Receipts" does not include the sale price of 597
property returned or services rejected by consumers when the 598
full sale price and tax are refunded either in cash or by 599
credit. 600

(J) "Place of business" means any location at which a 601
person engages in business. 602

(K) "Premises" includes any real property or portion 603
thereof upon which any person engages in selling tangible 604
personal property at retail or making retail sales and also 605
includes any real property or portion thereof designated for, or 606
devoted to, use in conjunction with the business engaged in by 607
such person. 608

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

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in division (G) of section 5739.09 of the Revised Code.

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

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

personnel to or from a place where a service is performed. 639

(P) "Used directly in the rendition of a public utility 640
service" means that property that is to be incorporated into and 641
will become a part of the consumer's production, transmission, 642
transportation, or distribution system and that retains its 643
classification as tangible personal property after such 644
incorporation; fuel or power used in the production, 645
transmission, transportation, or distribution system; and 646
tangible personal property used in the repair and maintenance of 647
the production, transmission, transportation, or distribution 648
system, including only such motor vehicles as are specially 649
designed and equipped for such use. Tangible personal property 650
and services used primarily in providing highway transportation 651
for hire are not used directly in the rendition of a public 652
utility service. In this definition, "public utility" includes a 653
citizen of the United States holding, and required to hold, a 654
certificate of public convenience and necessity issued under 49 655
U.S.C. 41102. 656

(Q) "Refining" means removing or separating a desirable 657
product from raw or contaminated materials by distillation or 658
physical, mechanical, or chemical processes. 659

(R) "Assembly" and "assembling" mean attaching or fitting 660
together parts to form a product, but do not include packaging a 661
product. 662

(S) "Manufacturing operation" means a process in which 663
materials are changed, converted, or transformed into a 664
different state or form from which they previously existed and 665
includes refining materials, assembling parts, and preparing raw 666
materials and parts by mixing, measuring, blending, or otherwise 667
committing such materials or parts to the manufacturing process. 668

"Manufacturing operation" does not include packaging. 669

(T) "Fiscal officer" means, with respect to a regional 670
transit authority, the secretary-treasurer thereof, and with 671
respect to a county that is a transit authority, the fiscal 672
officer of the county transit board if one is appointed pursuant 673
to section 306.03 of the Revised Code or the county auditor if 674
the board of county commissioners operates the county transit 675
system. 676

(U) "Transit authority" means a regional transit authority 677
created pursuant to section 306.31 of the Revised Code or a 678
county in which a county transit system is created pursuant to 679
section 306.01 of the Revised Code. For the purposes of this 680
chapter, a transit authority must extend to at least the entire 681
area of a single county. A transit authority that includes 682
territory in more than one county must include all the area of 683
the most populous county that is a part of such transit 684
authority. County population shall be measured by the most 685
recent census taken by the United States census bureau. 686

(V) "Legislative authority" means, with respect to a 687
regional transit authority, the board of trustees thereof, and 688
with respect to a county that is a transit authority, the board 689
of county commissioners. 690

(W) "Territory of the transit authority" means all of the 691
area included within the territorial boundaries of a transit 692
authority as they from time to time exist. Such territorial 693
boundaries must at all times include all the area of a single 694
county or all the area of the most populous county that is a 695
part of such transit authority. County population shall be 696
measured by the most recent census taken by the United States 697
census bureau. 698

(X) "Providing a service" means providing or furnishing 699
anything described in division (B) (3) of this section for 700
consideration. 701

(Y) (1) (a) "Automatic data processing" means processing of 702
others' data, including keypunching or similar data entry 703
services together with verification thereof, or providing access 704
to computer equipment for the purpose of processing data. 705

(b) "Computer services" means providing services 706
consisting of specifying computer hardware configurations and 707
evaluating technical processing characteristics, computer 708
programming, and training of computer programmers and operators, 709
provided in conjunction with and to support the sale, lease, or 710
operation of taxable computer equipment or systems. 711

(c) "Electronic information services" means providing 712
access to computer equipment by means of telecommunications 713
equipment for the purpose of either of the following: 714

(i) Examining or acquiring data stored in or accessible to 715
the computer equipment; 716

(ii) Placing data into the computer equipment to be 717
retrieved by designated recipients with access to the computer 718
equipment. 719

For transactions occurring on or after the effective date 720
of the amendment of this section by H.B. 157 of the 127th 721
general assembly, December 21, 2007, "electronic information 722
services" does not include electronic publishing as defined in 723
division (LLL) of this section. 724

(d) "Automatic data processing, computer services, or 725
electronic information services" shall not include personal or 726
professional services. 727

(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:	728 729 730 731
(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;	732 733 734 735 736
(b) Analyzing business policies and procedures;	737
(c) Identifying management information needs;	738
(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	739 740 741
(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;	742 743 744 745 746
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	747 748 749
(g) Testing of business procedures;	750
(h) Training personnel in business procedure applications;	751
(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	752 753 754 755

limited to gathering, organizing, analyzing, recording, and 756
furnishing such information by any oral, written, graphic, or 757
electronic medium; 758

(j) Providing debt collection services by any oral, 759
written, graphic, or electronic means; 760

(k) Providing digital advertising services. 761

The services listed in divisions (Y) (2) (a) to (k) of this 762
section are not automatic data processing or computer services. 763

(Z) "Highway transportation for hire" means the 764
transportation of personal property belonging to others for 765
consideration by any of the following: 766

(1) The holder of a permit or certificate issued by this 767
state or the United States authorizing the holder to engage in 768
transportation of personal property belonging to others for 769
consideration over or on highways, roadways, streets, or any 770
similar public thoroughfare; 771

(2) A person who engages in the transportation of personal 772
property belonging to others for consideration over or on 773
highways, roadways, streets, or any similar public thoroughfare 774
but who could not have engaged in such transportation on 775
December 11, 1985, unless the person was the holder of a permit 776
or certificate of the types described in division (Z) (1) of this 777
section; 778

(3) A person who leases a motor vehicle to and operates it 779
for a person described by division (Z) (1) or (2) of this 780
section. 781

(AA) (1) "Telecommunications service" means the electronic 782
transmission, conveyance, or routing of voice, data, audio, 783

video, or any other information or signals to a point, or 784
between or among points. "Telecommunications service" includes 785
such transmission, conveyance, or routing in which computer 786
processing applications are used to act on the form, code, or 787
protocol of the content for purposes of transmission, 788
conveyance, or routing without regard to whether the service is 789
referred to as voice-over internet protocol service or is 790
classified by the federal communications commission as enhanced 791
or value-added. "Telecommunications service" does not include 792
any of the following: 793

(a) Data processing and information services that allow 794
data to be generated, acquired, stored, processed, or retrieved 795
and delivered by an electronic transmission to a consumer where 796
the consumer's primary purpose for the underlying transaction is 797
the processed data or information; 798

(b) Installation or maintenance of wiring or equipment on 799
a customer's premises; 800

(c) Tangible personal property; 801

(d) Advertising, including directory advertising; 802

(e) Billing and collection services provided to third 803
parties; 804

(f) Internet access service; 805

(g) Radio and television audio and video programming 806
services, regardless of the medium, including the furnishing of 807
transmission, conveyance, and routing of such services by the 808
programming service provider. Radio and television audio and 809
video programming services include, but are not limited to, 810
cable service, as defined in 47 U.S.C. 522(6), and audio and 811
video programming services delivered by commercial mobile radio 812

service providers, as defined in 47 C.F.R. 20.3;	813
(h) Ancillary service;	814
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	815 816
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	817 818 819 820 821 822
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.	823 824 825 826 827
(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.	828 829 830
(c) "Directory assistance" means an ancillary service of providing telephone number or address information.	831 832
(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.	833 834 835 836 837
(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical	838 839 840

services that the customer may be required to have in order to 841
utilize the voice mail service. 842

(3) "900 service" means an inbound toll telecommunications 843
service purchased by a subscriber that allows the subscriber's 844
customers to call in to the subscriber's prerecorded 845
announcement or live service, and which is typically marketed 846
under the name "900 service" and any subsequent numbers 847
designated by the federal communications commission. "900 848
service" does not include the charge for collection services 849
provided by the seller of the telecommunications service to the 850
subscriber, or services or products sold by the subscriber to 851
the subscriber's customer. 852

(4) "Prepaid calling service" means the right to access 853
exclusively telecommunications services, which must be paid for 854
in advance and which enables the origination of calls using an 855
access number or authorization code, whether manually or 856
electronically dialed, and that is sold in predetermined units 857
or dollars of which the number declines with use in a known 858
amount. 859

(5) "Prepaid wireless calling service" means a 860
telecommunications service that provides the right to utilize 861
mobile telecommunications service as well as other non- 862
telecommunications services, including the download of digital 863
products delivered electronically, and content and ancillary 864
services, that must be paid for in advance and that is sold in 865
predetermined units or dollars of which the number declines with 866
use in a known amount. 867

(6) "Value-added non-voice data service" means a 868
telecommunications service in which computer processing 869
applications are used to act on the form, content, code, or 870

protocol of the information or data primarily for a purpose 871
other than transmission, conveyance, or routing. 872

(7) "Coin-operated telephone service" means a 873
telecommunications service paid for by inserting money into a 874
telephone accepting direct deposits of money to operate. 875

(8) "Customer" has the same meaning as in section 5739.034 876
of the Revised Code. 877

(BB) "Laundry and dry cleaning services" means removing 878
soil or dirt from towels, linens, articles of clothing, or other 879
fabric items that belong to others and supplying towels, linens, 880
articles of clothing, or other fabric items. "Laundry and dry 881
cleaning services" does not include the provision of self- 882
service facilities for use by consumers to remove soil or dirt 883
from towels, linens, articles of clothing, or other fabric 884
items. 885

(CC) "Magazines distributed as controlled circulation 886
publications" means magazines containing at least twenty-four 887
pages, at least twenty-five per cent editorial content, issued 888
at regular intervals four or more times a year, and circulated 889
without charge to the recipient, provided that such magazines 890
are not owned or controlled by individuals or business concerns 891
which conduct such publications as an auxiliary to, and 892
essentially for the advancement of the main business or calling 893
of, those who own or control them. 894

(DD) "Landscaping and lawn care service" means the 895
services of planting, seeding, sodding, removing, cutting, 896
trimming, pruning, mulching, aerating, applying chemicals, 897
watering, fertilizing, and providing similar services to 898
establish, promote, or control the growth of trees, shrubs, 899

flowers, grass, ground cover, and other flora, or otherwise 900
maintaining a lawn or landscape grown or maintained by the owner 901
for ornamentation or other nonagricultural purpose. However, 902
"landscaping and lawn care service" does not include the 903
providing of such services by a person who has less than five 904
thousand dollars in sales of such services during the calendar 905
year. 906

(EE) "Private investigation and security service" means 907
the performance of any activity for which the provider of such 908
service is required to be licensed pursuant to Chapter 4749. of 909
the Revised Code, or would be required to be so licensed in 910
performing such services in this state, and also includes the 911
services of conducting polygraph examinations and of monitoring 912
or overseeing the activities on or in, or the condition of, the 913
consumer's home, business, or other facility by means of 914
electronic or similar monitoring devices. "Private investigation 915
and security service" does not include special duty services 916
provided by off-duty police officers, deputy sheriffs, and other 917
peace officers regularly employed by the state or a political 918
subdivision. 919

(FF) "Information services" means providing conversation, 920
giving consultation or advice, playing or making a voice or 921
other recording, making or keeping a record of the number of 922
callers, and any other service provided to a consumer by means 923
of a nine hundred telephone call, except when the nine hundred 924
telephone call is the means by which the consumer makes a 925
contribution to a recognized charity. 926

(GG) "Research and development" means designing, creating, 927
or formulating new or enhanced products, equipment, or 928
manufacturing processes, and also means conducting scientific or 929

technological inquiry and experimentation in the physical 930
sciences with the goal of increasing scientific knowledge which 931
may reveal the bases for new or enhanced products, equipment, or 932
manufacturing processes. 933

(HH) "Qualified research and development equipment" means 934
capitalized tangible personal property, and leased personal 935
property that would be capitalized if purchased, used by a 936
person primarily to perform research and development. Tangible 937
personal property primarily used in testing, as defined in 938
division (A) (4) of section 5739.011 of the Revised Code, or used 939
for recording or storing test results, is not qualified research 940
and development equipment unless such property is primarily used 941
by the consumer in testing the product, equipment, or 942
manufacturing process being created, designed, or formulated by 943
the consumer in the research and development activity or in 944
recording or storing such test results. 945

(II) "Building maintenance and janitorial service" means 946
cleaning the interior or exterior of a building and any tangible 947
personal property located therein or thereon, including any 948
services incidental to such cleaning for which no separate 949
charge is made. However, "building maintenance and janitorial 950
service" does not include the providing of such service by a 951
person who has less than five thousand dollars in sales of such 952
service during the calendar year. As used in this division, 953
"cleaning" does not include sanitation services necessary for an 954
establishment described in 21 U.S.C. 608 to comply with rules 955
and regulations adopted pursuant to that section. 956

(JJ) "Employment service" means providing or supplying 957
personnel, on a temporary or long-term basis, to perform work or 958
labor under the supervision or control of another, when the 959

personnel so provided or supplied receive their wages, salary, 960
or other compensation from the provider or supplier of the 961
employment service or from a third party that provided or 962
supplied the personnel to the provider or supplier. "Employment 963
service" does not include: 964

(1) Acting as a contractor or subcontractor, where the 965
personnel performing the work are not under the direct control 966
of the purchaser. 967

(2) Medical and health care services. 968

(3) Supplying personnel to a purchaser pursuant to a 969
contract of at least one year between the service provider and 970
the purchaser that specifies that each employee covered under 971
the contract is assigned to the purchaser on a permanent basis. 972

(4) Transactions between members of an affiliated group, 973
as defined in division (B) (3) (e) of this section. 974

(5) Transactions where the personnel so provided or 975
supplied by a provider or supplier to a purchaser of an 976
employment service are then provided or supplied by that 977
purchaser to a third party as an employment service, except 978
"employment service" does include the transaction between that 979
purchaser and the third party. 980

(KK) "Employment placement service" means locating or 981
finding employment for a person or finding or locating an 982
employee to fill an available position. 983

(LL) "Exterminating service" means eradicating or 984
attempting to eradicate vermin infestations from a building or 985
structure, or the area surrounding a building or structure, and 986
includes activities to inspect, detect, or prevent vermin 987
infestation of a building or structure. 988

(MM) "Physical fitness facility service" means all 989
transactions by which a membership is granted, maintained, or 990
renewed, including initiation fees, membership dues, renewal 991
fees, monthly minimum fees, and other similar fees and dues, by 992
a physical fitness facility such as an athletic club, health 993
spa, or gymnasium, which entitles the member to use the facility 994
for physical exercise. 995

(NN) "Recreation and sports club service" means all 996
transactions by which a membership is granted, maintained, or 997
renewed, including initiation fees, membership dues, renewal 998
fees, monthly minimum fees, and other similar fees and dues, by 999
a recreation and sports club, which entitles the member to use 1000
the facilities of the organization. "Recreation and sports club" 1001
means an organization that has ownership of, or controls or 1002
leases on a continuing, long-term basis, the facilities used by 1003
its members and includes an aviation club, gun or shooting club, 1004
yacht club, card club, swimming club, tennis club, golf club, 1005
country club, riding club, amateur sports club, or similar 1006
organization. 1007

(OO) "Livestock" means farm animals commonly raised for 1008
food, food production, or other agricultural purposes, 1009
including, but not limited to, cattle, sheep, goats, swine, 1010
poultry, and captive deer. "Livestock" does not include 1011
invertebrates, amphibians, reptiles, domestic pets, animals for 1012
use in laboratories or for exhibition, or other animals not 1013
commonly raised for food or food production. 1014

(PP) "Livestock structure" means a building or structure 1015
used exclusively for the housing, raising, feeding, or 1016
sheltering of livestock, and includes feed storage or handling 1017
structures and structures for livestock waste handling. 1018

(QQ) "Horticulture" means the growing, cultivation, and 1019
production of flowers, fruits, herbs, vegetables, sod, 1020
mushrooms, and nursery stock. As used in this division, "nursery 1021
stock" has the same meaning as in section 927.51 of the Revised 1022
Code. 1023

(RR) "Horticulture structure" means a building or 1024
structure used exclusively for the commercial growing, raising, 1025
or overwintering of horticultural products, and includes the 1026
area used for stocking, storing, and packing horticultural 1027
products when done in conjunction with the production of those 1028
products. 1029

(SS) "Newspaper" means an unbound publication bearing a 1030
title or name that is regularly published, at least as 1031
frequently as biweekly, and distributed from a fixed place of 1032
business to the public in a specific geographic area, and that 1033
contains a substantial amount of news matter of international, 1034
national, or local events of interest to the general public. 1035

(TT) "Professional racing team" means a person that 1036
employs at least twenty full-time employees for the purpose of 1037
conducting a motor vehicle racing business for profit. The 1038
person must conduct the business with the purpose of racing one 1039
or more motor racing vehicles in at least ten competitive 1040
professional racing events each year that comprise all or part 1041
of a motor racing series sanctioned by one or more motor racing 1042
sanctioning organizations. A "motor racing vehicle" means a 1043
vehicle for which the chassis, engine, and parts are designed 1044
exclusively for motor racing, and does not include a stock or 1045
production model vehicle that may be modified for use in racing. 1046
For the purposes of this division: 1047

(1) A "competitive professional racing event" is a motor 1048

vehicle racing event sanctioned by one or more motor racing 1049
sanctioning organizations, at which aggregate cash prizes in 1050
excess of eight hundred thousand dollars are awarded to the 1051
competitors. 1052

(2) "Full-time employee" means an individual who is 1053
employed for consideration for thirty-five or more hours a week, 1054
or who renders any other standard of service generally accepted 1055
by custom or specified by contract as full-time employment. 1056

(UU) (1) "Lease" or "rental" means any transfer of the 1057
possession or control of tangible personal property for a fixed 1058
or indefinite term, for consideration. "Lease" or "rental" 1059
includes future options to purchase or extend, and agreements 1060
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 1061
trailers where the amount of consideration may be increased or 1062
decreased by reference to the amount realized upon the sale or 1063
disposition of the property. "Lease" or "rental" does not 1064
include: 1065

(a) A transfer of possession or control of tangible 1066
personal property under a security agreement or a deferred 1067
payment plan that requires the transfer of title upon completion 1068
of the required payments; 1069

(b) A transfer of possession or control of tangible 1070
personal property under an agreement that requires the transfer 1071
of title upon completion of required payments and payment of an 1072
option price that does not exceed the greater of one hundred 1073
dollars or one per cent of the total required payments; 1074

(c) Providing tangible personal property along with an 1075
operator for a fixed or indefinite period of time, if the 1076
operator is necessary for the property to perform as designed. 1077

For purposes of this division, the operator must do more than 1078
maintain, inspect, or set up the tangible personal property. 1079

(2) "Lease" and "rental," as defined in division (UU) of 1080
this section, shall not apply to leases or rentals that exist 1081
before June 26, 2003. 1082

(3) "Lease" and "rental" have the same meaning as in 1083
division (UU) (1) of this section regardless of whether a 1084
transaction is characterized as a lease or rental under 1085
generally accepted accounting principles, the Internal Revenue 1086
Code, Title XIII of the Revised Code, or other federal, state, 1087
or local laws. 1088

(VV) "Mobile telecommunications service" has the same 1089
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 1090
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 1091
amended, and, on and after August 1, 2003, includes related fees 1092
and ancillary services, including universal service fees, 1093
detailed billing service, directory assistance, service 1094
initiation, voice mail service, and vertical services, such as 1095
caller ID and three-way calling. 1096

(WW) "Certified service provider" has the same meaning as 1097
in section 5740.01 of the Revised Code. 1098

(XX) "Satellite broadcasting service" means the 1099
distribution or broadcasting of programming or services by 1100
satellite directly to the subscriber's receiving equipment 1101
without the use of ground receiving or distribution equipment, 1102
except the subscriber's receiving equipment or equipment used in 1103
the uplink process to the satellite, and includes all service 1104
and rental charges, premium channels or other special services, 1105
installation and repair service charges, and any other charges 1106

having any connection with the provision of the satellite 1107
broadcasting service. 1108

(YY) "Tangible personal property" means personal property 1109
that can be seen, weighed, measured, felt, or touched, or that 1110
is in any other manner perceptible to the senses. For purposes 1111
of this chapter and Chapter 5741. of the Revised Code, "tangible 1112
personal property" includes motor vehicles, electricity, water, 1113
gas, steam, and prewritten computer software. 1114

(ZZ) "Municipal gas utility" means a municipal corporation 1115
that owns or operates a system for the distribution of natural 1116
gas. 1117

(AAA) "Computer" means an electronic device that accepts 1118
information in digital or similar form and manipulates it for a 1119
result based on a sequence of instructions. 1120

(BBB) "Computer software" means a set of coded 1121
instructions designed to cause a computer or automatic data 1122
processing equipment to perform a task. 1123

(CCC) "Delivered electronically" means delivery of 1124
computer software from the seller to the purchaser by means 1125
other than tangible storage media. 1126

(DDD) "Prewritten computer software" means computer 1127
software, including prewritten upgrades, that is not designed 1128
and developed by the author or other creator to the 1129
specifications of a specific purchaser. The combining of two or 1130
more prewritten computer software programs or prewritten 1131
portions thereof does not cause the combination to be other than 1132
prewritten computer software. "Prewritten computer software" 1133
includes software designed and developed by the author or other 1134
creator to the specifications of a specific purchaser when it is 1135

sold to a person other than the purchaser. If a person modifies 1136
or enhances computer software of which the person is not the 1137
author or creator, the person shall be deemed to be the author 1138
or creator only of such person's modifications or enhancements. 1139
Prewritten computer software or a prewritten portion thereof 1140
that is modified or enhanced to any degree, where such 1141
modification or enhancement is designed and developed to the 1142
specifications of a specific purchaser, remains prewritten 1143
computer software; provided, however, that where there is a 1144
reasonable, separately stated charge or an invoice or other 1145
statement of the price given to the purchaser for the 1146
modification or enhancement, the modification or enhancement 1147
shall not constitute prewritten computer software. 1148

(EEE) (1) "Food" means substances, whether in liquid, 1149
concentrated, solid, frozen, dried, or dehydrated form, that are 1150
sold for ingestion or chewing by humans and are consumed for 1151
their taste or nutritional value. "Food" does not include 1152
alcoholic beverages, dietary supplements, soft drinks, or 1153
tobacco. 1154

(2) As used in division (EEE) (1) of this section: 1155

(a) "Alcoholic beverages" means beverages that are 1156
suitable for human consumption and contain one-half of one per 1157
cent or more of alcohol by volume. 1158

(b) "Dietary supplements" means any product, other than 1159
tobacco, that is intended to supplement the diet and that is 1160
intended for ingestion in tablet, capsule, powder, softgel, 1161
gelcap, or liquid form, or, if not intended for ingestion in 1162
such a form, is not represented as conventional food for use as 1163
a sole item of a meal or of the diet; that is required to be 1164
labeled as a dietary supplement, identifiable by the "supplement 1165

facts" box found on the label, as required by 21 C.F.R. 101.36; 1166
and that contains one or more of the following dietary 1167
ingredients: 1168

(i) A vitamin; 1169

(ii) A mineral; 1170

(iii) An herb or other botanical; 1171

(iv) An amino acid; 1172

(v) A dietary substance for use by humans to supplement 1173
the diet by increasing the total dietary intake; 1174

(vi) A concentrate, metabolite, constituent, extract, or 1175
combination of any ingredient described in divisions (EEE) (2) (b) 1176
(i) to (v) of this section. 1177

(c) "Soft drinks" means nonalcoholic beverages that 1178
contain natural or artificial sweeteners. "Soft drinks" does not 1179
include beverages that contain milk or milk products, soy, rice, 1180
or similar milk substitutes, or that contains greater than fifty 1181
per cent vegetable or fruit juice by volume. 1182

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 1183
tobacco, or any other item that contains tobacco. 1184

(FFF) "Drug" means a compound, substance, or preparation, 1185
and any component of a compound, substance, or preparation, 1186
other than food, dietary supplements, or alcoholic beverages 1187
that is recognized in the official United States pharmacopoeia, 1188
official homeopathic pharmacopoeia of the United States, or 1189
official national formulary, and supplements to them; is 1190
intended for use in the diagnosis, cure, mitigation, treatment, 1191
or prevention of disease; or is intended to affect the structure 1192
or any function of the body. 1193

(GGG) "Prescription" means an order, formula, or recipe 1194
issued in any form of oral, written, electronic, or other means 1195
of transmission by a duly licensed practitioner authorized by 1196
the laws of this state to issue a prescription. 1197

(HHH) "Durable medical equipment" means equipment, 1198
including repair and replacement parts for such equipment, that 1199
can withstand repeated use, is primarily and customarily used to 1200
serve a medical purpose, generally is not useful to a person in 1201
the absence of illness or injury, and is not worn in or on the 1202
body. "Durable medical equipment" does not include mobility 1203
enhancing equipment. 1204

(III) "Mobility enhancing equipment" means equipment, 1205
including repair and replacement parts for such equipment, that 1206
is primarily and customarily used to provide or increase the 1207
ability to move from one place to another and is appropriate for 1208
use either in a home or a motor vehicle, that is not generally 1209
used by persons with normal mobility, and that does not include 1210
any motor vehicle or equipment on a motor vehicle normally 1211
provided by a motor vehicle manufacturer. "Mobility enhancing 1212
equipment" does not include durable medical equipment. 1213

(JJJ) "Prosthetic device" means a replacement, corrective, 1214
or supportive device, including repair and replacement parts for 1215
the device, worn on or in the human body to artificially replace 1216
a missing portion of the body, prevent or correct physical 1217
deformity or malfunction, or support a weak or deformed portion 1218
of the body. As used in this division, "prosthetic device" does 1219
not include corrective eyeglasses, contact lenses, or dental 1220
prosthesis. 1221

(KKK) (1) "Fractional aircraft ownership program" means a 1222
program in which persons within an affiliated group sell and 1223

manage fractional ownership program aircraft, provided that at 1224
least one hundred airworthy aircraft are operated in the program 1225
and the program meets all of the following criteria: 1226

(a) Management services are provided by at least one 1227
program manager within an affiliated group on behalf of the 1228
fractional owners. 1229

(b) Each program aircraft is owned or possessed by at 1230
least one fractional owner. 1231

(c) Each fractional owner owns or possesses at least a 1232
one-sixteenth interest in at least one fixed-wing program 1233
aircraft. 1234

(d) A dry-lease aircraft interchange arrangement is in 1235
effect among all of the fractional owners. 1236

(e) Multi-year program agreements are in effect regarding 1237
the fractional ownership, management services, and dry-lease 1238
aircraft interchange arrangement aspects of the program. 1239

(2) As used in division (KKK)(1) of this section: 1240

(a) "Affiliated group" has the same meaning as in division 1241
(B)(3)(e) of this section. 1242

(b) "Fractional owner" means a person that owns or 1243
possesses at least a one-sixteenth interest in a program 1244
aircraft and has entered into the agreements described in 1245
division (KKK)(1)(e) of this section. 1246

(c) "Fractional ownership program aircraft" or "program 1247
aircraft" means a turbojet aircraft that is owned or possessed 1248
by a fractional owner and that has been included in a dry-lease 1249
aircraft interchange arrangement and agreement under divisions 1250
(KKK)(1)(d) and (e) of this section, or an aircraft a program 1251

manager owns or possesses primarily for use in a fractional 1252
aircraft ownership program. 1253

(d) "Management services" means administrative and 1254
aviation support services furnished under a fractional aircraft 1255
ownership program in accordance with a management services 1256
agreement under division (KKK) (1) (e) of this section, and 1257
offered by the program manager to the fractional owners, 1258
including, at a minimum, the establishment and implementation of 1259
safety guidelines; the coordination of the scheduling of the 1260
program aircraft and crews; program aircraft maintenance; 1261
program aircraft insurance; crew training for crews employed, 1262
furnished, or contracted by the program manager or the 1263
fractional owner; the satisfaction of record-keeping 1264
requirements; and the development and use of an operations 1265
manual and a maintenance manual for the fractional aircraft 1266
ownership program. 1267

(e) "Program manager" means the person that offers 1268
management services to fractional owners pursuant to a 1269
management services agreement under division (KKK) (1) (e) of this 1270
section. 1271

(LLL) "Electronic publishing" means providing access to 1272
one or more of the following primarily for business customers, 1273
including the federal government or a state government or a 1274
political subdivision thereof, to conduct research: news; 1275
business, financial, legal, consumer, or credit materials; 1276
editorials, columns, reader commentary, or features; photos or 1277
images; archival or research material; legal notices, identity 1278
verification, or public records; scientific, educational, 1279
instructional, technical, professional, trade, or other literary 1280
materials; or other similar information which has been gathered 1281

and made available by the provider to the consumer in an 1282
electronic format. Providing electronic publishing includes the 1283
functions necessary for the acquisition, formatting, editing, 1284
storage, and dissemination of data or information that is the 1285
subject of a sale. 1286

(MMM) "Medicaid health insuring corporation" means a 1287
health insuring corporation that holds a certificate of 1288
authority under Chapter 1751. of the Revised Code and is under 1289
contract with the department of medicaid pursuant to section 1290
5167.10 of the Revised Code. 1291

(NNN) "Managed care premium" means any premium, 1292
capitation, or other payment a medicaid health insuring 1293
corporation receives for providing or arranging for the 1294
provision of health care services to its members or enrollees 1295
residing in this state. 1296

(OOO) "Captive deer" means deer and other cervidae that 1297
have been legally acquired, or their offspring, that are 1298
privately owned for agricultural or farming purposes. 1299

(PPP) "Gift card" means a document, card, certificate, or 1300
other record, whether tangible or intangible, that may be 1301
redeemed by a consumer for a dollar value when making a purchase 1302
of tangible personal property or services. 1303

(QQQ) "Specified digital product" means an electronically 1304
transferred digital audiovisual work, digital audio work, or 1305
digital book. 1306

As used in division (QQQ) of this section: 1307

(1) "Digital audiovisual work" means a series of related 1308
images that, when shown in succession, impart an impression of 1309
motion, together with accompanying sounds, if any. 1310

(2) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(3) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(4) "Electronically transferred" means obtained by the purchaser by means other than tangible storage media.

(RRR) "Digital advertising services" means providing access, by means of telecommunications equipment, to computer equipment that is used to enter, upload, download, review, manipulate, store, add, or delete data for the purpose of electronically displaying, delivering, placing, or transferring promotional advertisements to potential customers about products or services or about industry or business brands.

(SSS) "Hotel intermediary" means a person that brokers, coordinates, or otherwise arranges for the purchase, sale, use, or possession of lodging at hotels to or by transient guests, but does not include any of the following:

(1) A hotel;

(2) A person receiving a commission from a hotel;

(3) A person imposing a charge for services described in division (SSS) of this section, provided the charge is separately stated on an invoice, bill of sale, receipt, or similar document given to the consumer.

Sec. 5739.081. A tax levied by a board of township trustees or the legislative authority of a municipal corporation

pursuant to section 5739.08 of the Revised Code on transactions 1339
by which lodging by a hotel is or is to be furnished to 1340
transient guests, if the transaction is conducted through a 1341
hotel intermediary, shall be levied on the total amount paid by 1342
the consumer for hotel lodging as advertised by the hotel 1343
intermediary. The hotel intermediary shall collect the tax due 1344
from the purchaser and remit it to the municipal corporation. 1345

Sec. 5739.09. (A) (1) A board of county commissioners may, 1346
by resolution adopted by a majority of the members of the board, 1347
levy an excise tax not to exceed three per cent on transactions 1348
by which lodging by a hotel is or is to be furnished to 1349
transient guests. The board shall establish all regulations 1350
necessary to provide for the administration and allocation of 1351
the tax. The regulations may prescribe the time for payment of 1352
the tax, and may provide for the imposition of a penalty or 1353
interest, or both, for late payments, provided that the penalty 1354
does not exceed ten per cent of the amount of tax due, and the 1355
rate at which interest accrues does not exceed the rate per 1356
annum prescribed pursuant to section 5703.47 of the Revised 1357
Code. Except as provided in divisions (A) (2), (3), (4), (5), 1358
(6), (7), (8), (9), (10), (11), and (12) of this section, the 1359
regulations shall provide, after deducting the real and actual 1360
costs of administering the tax, for the return to each municipal 1361
corporation or township that does not levy an excise tax on the 1362
transactions, a uniform percentage of the tax collected in the 1363
municipal corporation or in the unincorporated portion of the 1364
township from each transaction, not to exceed thirty-three and 1365
one-third per cent. The remainder of the revenue arising from 1366
the tax shall be deposited in a separate fund and shall be spent 1367
solely to make contributions to the convention and visitors' 1368
bureau operating within the county, including a pledge and 1369

contribution of any portion of the remainder pursuant to an 1370
agreement authorized by section 307.678 or 307.695 of the 1371
Revised Code, provided that if the board of county commissioners 1372
of an eligible county as defined in section 307.678 or 307.695 1373
of the Revised Code adopts a resolution amending a resolution 1374
levying a tax under this division to provide that revenue from 1375
the tax shall be used by the board as described in either 1376
division (D) of section 307.678 or division (H) of section 1377
307.695 of the Revised Code, the remainder of the revenue shall 1378
be used as described in the resolution making that amendment. 1379
Except as provided in division (A) (2), (3), (4), (5), (6), (7), 1380
(8), (9), (10), or (11) or (H) of this section, on and after May 1381
10, 1994, a board of county commissioners may not levy an excise 1382
tax pursuant to this division in any municipal corporation or 1383
township located wholly or partly within the county that has in 1384
effect an ordinance or resolution levying an excise tax pursuant 1385
to division (B) of this section. The board of a county that has 1386
levied a tax under division (C) of this section may, by 1387
resolution adopted within ninety days after July 15, 1985, by a 1388
majority of the members of the board, amend the resolution 1389
levying a tax under this division to provide for a portion of 1390
that tax to be pledged and contributed in accordance with an 1391
agreement entered into under section 307.695 of the Revised 1392
Code. A tax, any revenue from which is pledged pursuant to such 1393
an agreement, shall remain in effect at the rate at which it is 1394
imposed for the duration of the period for which the revenue 1395
from the tax has been so pledged. 1396

The board of county commissioners of an eligible county as 1397
defined in section 307.695 of the Revised Code may, by 1398
resolution adopted by a majority of the members of the board, 1399
amend a resolution levying a tax under this division to provide 1400

that the revenue from the tax shall be used by the board as 1401
described in division (H) of section 307.695 of the Revised 1402
Code, in which case the tax shall remain in effect at the rate 1403
at which it was imposed for the duration of any agreement 1404
entered into by the board under section 307.695 of the Revised 1405
Code, the duration during which any securities issued by the 1406
board under that section are outstanding, or the duration of the 1407
period during which the board owns a project as defined in 1408
section 307.695 of the Revised Code, whichever duration is 1409
longest. 1410

The board of county commissioners of an eligible county as 1411
defined in section 307.678 of the Revised Code may, by 1412
resolution, amend a resolution levying a tax under this division 1413
to provide that revenue from the tax, not to exceed five hundred 1414
thousand dollars each year, may be used as described in division 1415
(E) of section 307.678 of the Revised Code. 1416

Notwithstanding division (A) (1) of this section, the board 1417
of county commissioners of a county described in division (A) (8) 1418
(a) of this section may, by resolution, amend a resolution 1419
levying a tax under this division to provide that all or a 1420
portion of the revenue from the tax, including any revenue 1421
otherwise required to be returned to townships or municipal 1422
corporations under this division, may be used or pledged for the 1423
payment of debt service on securities issued to pay the costs of 1424
constructing, operating, and maintaining sports facilities 1425
described in division (A) (8) (b) of this section. 1426

The board of county commissioners of a county described in 1427
division (A) (9) of this section may, by resolution, amend a 1428
resolution levying a tax under this division to provide that all 1429
or a portion of the revenue from the tax may be used for the 1430

purposes described in section 307.679 of the Revised Code. 1431

(2) A board of county commissioners that levies an excise 1432
tax under division (A)(1) of this section on June 30, 1997, at a 1433
rate of three per cent, and that has pledged revenue from the 1434
tax to an agreement entered into under section 307.695 of the 1435
Revised Code or, in the case of the board of county 1436
commissioners of an eligible county as defined in section 1437
307.695 of the Revised Code, has amended a resolution levying a 1438
tax under division (C) of this section to provide that proceeds 1439
from the tax shall be used by the board as described in division 1440
(H) of section 307.695 of the Revised Code, may, at any time by 1441
a resolution adopted by a majority of the members of the board, 1442
amend the resolution levying a tax under division (A)(1) of this 1443
section to provide for an increase in the rate of that tax up to 1444
seven per cent on each transaction; to provide that revenue from 1445
the increase in the rate shall be used as described in division 1446
(H) of section 307.695 of the Revised Code or be spent solely to 1447
make contributions to the convention and visitors' bureau 1448
operating within the county to be used specifically for 1449
promotion, advertising, and marketing of the region in which the 1450
county is located; and to provide that the rate in excess of the 1451
three per cent levied under division (A)(1) of this section 1452
shall remain in effect at the rate at which it is imposed for 1453
the duration of the period during which any agreement is in 1454
effect that was entered into under section 307.695 of the 1455
Revised Code by the board of county commissioners levying a tax 1456
under division (A)(1) of this section, the duration of the 1457
period during which any securities issued by the board under 1458
division (I) of section 307.695 of the Revised Code are 1459
outstanding, or the duration of the period during which the 1460
board owns a project as defined in section 307.695 of the 1461

Revised Code, whichever duration is longest. The amendment also 1462
shall provide that no portion of that revenue need be returned 1463
to townships or municipal corporations as would otherwise be 1464
required under division (A)(1) of this section. 1465

(3) A board of county commissioners that levies a tax 1466
under division (A)(1) of this section on March 18, 1999, at a 1467
rate of three per cent may, by resolution adopted not later than 1468
forty-five days after March 18, 1999, amend the resolution 1469
levying the tax to provide for all of the following: 1470

(a) That the rate of the tax shall be increased by not 1471
more than an additional four per cent on each transaction; 1472

(b) That all of the revenue from the increase in the rate 1473
shall be pledged and contributed to a convention facilities 1474
authority established by the board of county commissioners under 1475
Chapter 351. of the Revised Code on or before November 15, 1998, 1476
and used to pay costs of constructing, maintaining, operating, 1477
and promoting a facility in the county, including paying bonds, 1478
or notes issued in anticipation of bonds, as provided by that 1479
chapter; 1480

(c) That no portion of the revenue arising from the 1481
increase in rate need be returned to municipal corporations or 1482
townships as otherwise required under division (A)(1) of this 1483
section; 1484

(d) That the increase in rate shall not be subject to 1485
diminution by initiative or referendum or by law while any 1486
bonds, or notes in anticipation of bonds, issued by the 1487
authority under Chapter 351. of the Revised Code to which the 1488
revenue is pledged, remain outstanding in accordance with their 1489
terms, unless provision is made by law or by the board of county 1490

commissioners for an adequate substitute therefor that is 1491
satisfactory to the trustee if a trust agreement secures the 1492
bonds. 1493

Division (A) (3) of this section does not apply to the 1494
board of county commissioners of any county in which a 1495
convention center or facility exists or is being constructed on 1496
November 15, 1998, or of any county in which a convention 1497
facilities authority levies a tax pursuant to section 351.021 of 1498
the Revised Code on that date. 1499

As used in division (A) (3) of this section, "cost" and 1500
"facility" have the same meanings as in section 351.01 of the 1501
Revised Code, and "convention center" has the same meaning as in 1502
section 307.695 of the Revised Code. 1503

(4) (a) A board of county commissioners that levies a tax 1504
under division (A) (1) of this section on June 30, 2002, at a 1505
rate of three per cent may, by resolution adopted not later than 1506
September 30, 2002, amend the resolution levying the tax to 1507
provide for all of the following: 1508

(i) That the rate of the tax shall be increased by not 1509
more than an additional three and one-half per cent on each 1510
transaction; 1511

(ii) That all of the revenue from the increase in rate 1512
shall be pledged and contributed to a convention facilities 1513
authority established by the board of county commissioners under 1514
Chapter 351. of the Revised Code on or before May 15, 2002, and 1515
be used to pay costs of constructing, expanding, maintaining, 1516
operating, or promoting a convention center in the county, 1517
including paying bonds, or notes issued in anticipation of 1518
bonds, as provided by that chapter; 1519

(iii) That no portion of the revenue arising from the 1520
increase in rate need be returned to municipal corporations or 1521
townships as otherwise required under division (A) (1) of this 1522
section; 1523

(iv) That the increase in rate shall not be subject to 1524
diminution by initiative or referendum or by law while any 1525
bonds, or notes in anticipation of bonds, issued by the 1526
authority under Chapter 351. of the Revised Code to which the 1527
revenue is pledged, remain outstanding in accordance with their 1528
terms, unless provision is made by law or by the board of county 1529
commissioners for an adequate substitute therefor that is 1530
satisfactory to the trustee if a trust agreement secures the 1531
bonds. 1532

(b) Any board of county commissioners that, pursuant to 1533
division (A) (4) (a) of this section, has amended a resolution 1534
levying the tax authorized by division (A) (1) of this section 1535
may further amend the resolution to provide that the revenue 1536
referred to in division (A) (4) (a) (ii) of this section shall be 1537
pledged and contributed both to a convention facilities 1538
authority to pay the costs of constructing, expanding, 1539
maintaining, or operating one or more convention centers in the 1540
county, including paying bonds, or notes issued in anticipation 1541
of bonds, as provided in Chapter 351. of the Revised Code, and 1542
to a convention and visitors' bureau to pay the costs of 1543
promoting one or more convention centers in the county. 1544

As used in division (A) (4) of this section, "cost" has the 1545
same meaning as in section 351.01 of the Revised Code, and 1546
"convention center" has the same meaning as in section 307.695 1547
of the Revised Code. 1548

(5) (a) As used in division (A) (5) of this section: 1549

(i) "Port authority" means a port authority created under Chapter 4582. of the Revised Code.

(ii) "Port authority military-use facility" means port authority facilities on which or adjacent to which is located an installation of the armed forces of the United States, a reserve component thereof, or the national guard and at least part of which is made available for use, for consideration, by the armed forces of the United States, a reserve component thereof, or the national guard.

(b) For the purpose of contributing revenue to pay operating expenses of a port authority that operates a port authority military-use facility, the board of county commissioners of a county that created, participated in the creation of, or has joined such a port authority may do one or both of the following:

(i) Amend a resolution previously adopted under division (A) (1) of this section to designate some or all of the revenue from the tax levied under the resolution to be used for that purpose, notwithstanding that division;

(ii) Amend a resolution previously adopted under division (A) (1) of this section to increase the rate of the tax by not more than an additional two per cent and use the revenue from the increase exclusively for that purpose.

(c) If a board of county commissioners amends a resolution to increase the rate of a tax as authorized in division (A) (5) (b) (ii) of this section, the board also may amend the resolution to specify that the increase in rate of the tax does not apply to "hotels," as otherwise defined in section 5739.01 of the Revised Code, having fewer rooms used for the accommodation of

guests than a number of rooms specified by the board. 1579

(6) A board of county commissioners of a county organized 1580
under a county charter adopted pursuant to Article X, Section 3, 1581
Ohio Constitution, and that levies an excise tax under division 1582
(A) (1) of this section at a rate of three per cent and levies an 1583
additional excise tax under division (E) of this section at a 1584
rate of one and one-half per cent may, by resolution adopted not 1585
later than January 1, 2008, by a majority of the members of the 1586
board, amend the resolution levying a tax under division (A) (1) 1587
of this section to provide for an increase in the rate of that 1588
tax by not more than an additional one per cent on transactions 1589
by which lodging by a hotel is or is to be furnished to 1590
transient guests. Notwithstanding divisions (A) (1) and (E) of 1591
this section, the resolution shall provide that all of the 1592
revenue from the increase in rate, after deducting the real and 1593
actual costs of administering the tax, shall be used to pay the 1594
costs of improving, expanding, equipping, financing, or 1595
operating a convention center by a convention and visitors' 1596
bureau in the county. The increase in rate shall remain in 1597
effect for the period specified in the resolution, not to exceed 1598
ten years, and may be extended for an additional period of time 1599
not to exceed ten years thereafter by a resolution adopted by a 1600
majority of the members of the board. The increase in rate shall 1601
be subject to the regulations adopted under division (A) (1) of 1602
this section, except that the resolution may provide that no 1603
portion of the revenue from the increase in the rate shall be 1604
returned to townships or municipal corporations as would 1605
otherwise be required under that division. 1606

(7) Division (A) (7) of this section applies only to a 1607
county with a population greater than sixty-five thousand and 1608
less than seventy thousand according to the most recent federal 1609

decennial census and in which, on December 31, 2006, an excise 1610
tax is levied under division (A) (1) of this section at a rate 1611
not less than and not greater than three per cent, and in which 1612
the most recent increase in the rate of that tax was enacted or 1613
took effect in November 1984. 1614

The board of county commissioners of a county to which 1615
this division applies, by resolution adopted by a majority of 1616
the members of the board, may increase the rate of the tax by 1617
not more than one per cent on transactions by which lodging by a 1618
hotel is or is to be furnished to transient guests. The increase 1619
in rate shall be for the purpose of paying expenses deemed 1620
necessary by the convention and visitors' bureau operating in 1621
the county to promote travel and tourism. The increase in rate 1622
shall remain in effect for the period specified in the 1623
resolution, not to exceed twenty years, provided that the 1624
increase in rate may not continue beyond the time when the 1625
purpose for which the increase is levied ceases to exist. If 1626
revenue from the increase in rate is pledged to the payment of 1627
debt charges on securities, the increase in rate is not subject 1628
to diminution by initiative or referendum or by law for so long 1629
as the securities are outstanding, unless provision is made by 1630
law or by the board of county commissioners for an adequate 1631
substitute for that revenue that is satisfactory to the trustee 1632
if a trust agreement secures payment of the debt charges. The 1633
increase in rate shall be subject to the regulations adopted 1634
under division (A) (1) of this section, except that the 1635
resolution may provide that no portion of the revenue from the 1636
increase in the rate shall be returned to townships or municipal 1637
corporations as would otherwise be required under division (A) 1638
(1) of this section. A resolution adopted under division (A) (7) 1639
of this section is subject to referendum under sections 305.31 1640

to 305.99 of the Revised Code. 1641

(8) (a) Division (A) (8) of this section applies only to a 1642
county satisfying all of the following: 1643

(i) The population of the county is greater than one 1644
hundred seventy-five thousand and less than two hundred twenty- 1645
five thousand according to the most recent federal decennial 1646
census. 1647

(ii) An amusement park with an average yearly attendance 1648
in excess of two million guests is located in the county. 1649

(iii) On December 31, 2014, an excise tax was levied in 1650
the county under division (A) (1) of this section at a rate of 1651
three per cent. 1652

(b) The board of county commissioners of a county to which 1653
this division applies, by resolution adopted by a majority of 1654
the members of the board, may increase the rate of the tax by 1655
not more than one per cent on transactions by which lodging by a 1656
hotel is or is to be furnished to transient guests. The increase 1657
in rate shall be used to pay the costs of constructing and 1658
maintaining facilities owned by the county or by a port 1659
authority created under Chapter 4582. of the Revised Code, and 1660
designed to host sporting events and expenses deemed necessary 1661
by the convention and visitors' bureau operating in the county 1662
to promote travel and tourism with reference to the sports 1663
facilities, and to pay or pledge to the payment of debt service 1664
on securities issued to pay the costs of constructing, 1665
operating, and maintaining the sports facilities. The increase 1666
in rate shall remain in effect for the period specified in the 1667
resolution. If revenue from the increase in rate is pledged to 1668
the payment of debt charges on securities, the increase in rate 1669

is not subject to diminution by initiative or referendum or by 1670
law for so long as the securities are outstanding, unless 1671
provision is made by law or by the board of county commissioners 1672
for an adequate substitute for that revenue that is satisfactory 1673
to the trustee if a trust agreement secures payment of the debt 1674
charges. The increase in rate shall be subject to the 1675
regulations adopted under division (A)(1) of this section, 1676
except that the resolution may provide that no portion of the 1677
revenue from the increase in the rate shall be returned to 1678
townships or municipal corporations as would otherwise be 1679
required under division (A)(1) of this section. 1680

(9) The board of county commissioners of a county with a 1681
population greater than seventy-five thousand and less than 1682
seventy-eight thousand, by resolution adopted by a majority of 1683
the members of the board not later than October 15, 2015, may 1684
increase the rate of the tax by not more than one per cent on 1685
transactions by which lodging by a hotel is or is to be 1686
furnished to transient guests. The increase in rate shall be for 1687
the purposes described in section 307.679 of the Revised Code or 1688
for the promotion of travel and tourism in the county, including 1689
travel and tourism to sports facilities. The increase in rate 1690
shall remain in effect for the period specified in the 1691
resolution and as necessary to fulfill the county's obligations 1692
under a cooperative agreement entered into under section 307.679 1693
of the Revised Code. If the resolution is adopted by the board 1694
before September 29, 2015, but after that enactment becomes law, 1695
the increase in rate shall become effective beginning on 1696
September 29, 2015. If revenue from the increase in rate is 1697
pledged to the payment of debt charges on securities, or to 1698
substitute for other revenues pledged to the payment of such 1699
debt, the increase in rate is not subject to diminution by 1700

initiative or referendum or by law for so long as the securities 1701
are outstanding, unless provision is made by law or by the board 1702
of county commissioners for an adequate substitute for that 1703
revenue that is satisfactory to the trustee if a trust agreement 1704
secures payment of the debt charges. The increase in rate shall 1705
be subject to the regulations adopted under division (A) (1) of 1706
this section, except that no portion of the revenue from the 1707
increase in the rate shall be returned to townships or municipal 1708
corporations as would otherwise be required under division (A) 1709
(1) of this section. 1710

(10) Division (A) (10) of this section applies only to 1711
counties satisfying either of the following: 1712

(a) A county that, on July 1, 2015, does not levy an 1713
excise tax under division (A) (1) of this section and that has a 1714
population of at least thirty-nine thousand but not more than 1715
forty thousand according to the 2010 federal decennial census; 1716

(b) A county that, on July 1, 2015, levies an excise tax 1717
under division (A) (1) of this section at a rate of three per 1718
cent and that has a population of at least seventy-one thousand 1719
but not more than seventy-five thousand according to 2010 1720
federal decennial census. 1721

The board of county commissioners of a county to which 1722
division (A) (10) of this section applies, by resolution adopted 1723
by a majority of the members of the board, may levy an excise 1724
tax at a rate not to exceed three per cent on transactions by 1725
which lodging by a hotel is or is to be furnished to transient 1726
guests for the purpose of acquiring, constructing, equipping, or 1727
repairing permanent improvements, as defined in section 133.01 1728
of the Revised Code. If the board does not levy a tax under 1729
division (A) (1) of this section, the board shall establish 1730

regulations necessary to provide for the administration of the 1731
tax, which may prescribe the time for payment of the tax and the 1732
imposition of penalty or interest subject to the limitations on 1733
penalty and interest provided in division (A) (1) of this 1734
section. No portion of the revenue shall be returned to 1735
townships or municipal corporations in the county unless 1736
otherwise provided by resolution of the board. The tax shall 1737
apply throughout the territory of the county, including in any 1738
township or municipal corporation levying an excise tax under 1739
division (B) of this section or division (A) of section 5739.08 1740
of the Revised Code. The levy of the tax is subject to 1741
referendum as provided under section 305.31 of the Revised Code. 1742

The tax shall remain in effect for the period specified in 1743
the resolution. If revenue from the increase in rate is pledged 1744
to the payment of debt charges on securities, the increase in 1745
rate is not subject to diminution by initiative or referendum or 1746
by law for so long as the securities are outstanding unless 1747
provision is made by law or by the board for an adequate 1748
substitute for that revenue that is satisfactory to the trustee 1749
if a trust agreement secures payment of the debt charges. 1750

(11) The board of county commissioners of an eligible 1751
county, as defined in section 307.678 of the Revised Code, that 1752
levies an excise tax under division (A) (1) of this section on 1753
July 1, 2017, at a rate of three per cent may, by resolution 1754
adopted by a majority of the members of the board, amend the 1755
resolution levying the tax to increase the rate of the tax by 1756
not more than an additional three per cent on each transaction. 1757
No portion of the revenue shall be returned to townships or 1758
municipal corporations in the county unless otherwise provided 1759
by resolution of the board. Otherwise, the revenue from the 1760
increase in the rate shall be distributed and used in the same 1761

manner described under division (A) (1) of this section. The 1762
increase in rate shall remain in effect for the period specified 1763
in the resolution. If revenue from the increase in rate is 1764
pledged to the payment of debt charges on securities, the 1765
increase in rate is not subject to diminution by initiative or 1766
referendum or by law for so long as the securities are 1767
outstanding unless provision is made by law or by the board for 1768
an adequate substitute for that revenue that is satisfactory to 1769
the trustee if a trust agreement secures payment of the debt 1770
charges. 1771

(12) (a) As used in this division: 1772

(i) "Eligible county" means a county that has a population 1773
greater than one hundred ninety thousand and less than two 1774
hundred thousand according to the 2010 federal decennial census 1775
and that levies an excise tax under division (A) (1) of this 1776
section at a rate of three per cent. 1777

(ii) "Professional sports facility" means a sports 1778
facility that is intended to house major or minor league 1779
professional athletic teams, including a stadium, together with 1780
all parking facilities, walkways, and other auxiliary 1781
facilities, real and personal property, property rights, 1782
easements, and interests that may be appropriate for, or used in 1783
connection with, the operation of the facility. 1784

(b) Subject to division (A) (12) (c) of this section, the 1785
board of county commissioners of an eligible county, by 1786
resolution adopted by a majority of the members of the board, 1787
may increase the rate of the tax by not more than one per cent 1788
on transactions by which lodging by a hotel is or is to be 1789
furnished to transient guests. Revenue from the increase in rate 1790
shall be used for the purposes of paying the costs of 1791

constructing, improving, and maintaining a professional sports 1792
facility in the county and paying expenses considered necessary 1793
by the convention and visitors' bureau operating in the county 1794
to promote travel and tourism with respect to that professional 1795
sports facility. The tax shall take effect only after the 1796
convention and visitors' bureau enters into a contract for the 1797
construction, improvement, or maintenance of a professional 1798
sports facility that is or will be located on property acquired, 1799
in whole or in part, with revenue from the increased rate, and 1800
thereafter shall remain in effect for the period specified in 1801
the resolution. If revenue from the increase in rate is pledged 1802
to the payment of debt charges on securities, the increase in 1803
rate is not subject to diminution by initiative or referendum or 1804
by law for so long as the securities are outstanding, unless a 1805
provision is made by law or by the board of county commissioners 1806
for an adequate substitute for that revenue that is satisfactory 1807
to the trustee if a trust agreement secures payment of the debt 1808
charges. The increase in rate shall be subject to the 1809
regulations adopted under division (A) (1) of this section, 1810
except that the resolution may provide that no portion of the 1811
revenue from the increase in the rate shall be returned to 1812
townships or municipal corporations as would otherwise be 1813
required under division (A) (1) of this section. 1814

(c) If, on January 1, 2019, the convention and visitors' 1815
bureau has not entered into a contract for the construction, 1816
improvement, or maintenance of a professional sports facility 1817
that is or will be located on property acquired, in whole or in 1818
part, with revenue from the increased rate, the authority to 1819
levy the tax under division (A) (12) (b) of this section is hereby 1820
repealed on that date. 1821

(B) (1) The legislative authority of a municipal 1822

corporation or the board of trustees of a township that is not 1823
wholly or partly located in a county that has in effect a 1824
resolution levying an excise tax pursuant to division (A) (1) of 1825
this section may, by ordinance or resolution, levy an excise tax 1826
not to exceed three per cent on transactions by which lodging by 1827
a hotel is or is to be furnished to transient guests. The 1828
legislative authority of the municipal corporation or the board 1829
of trustees of the township shall deposit at least fifty per 1830
cent of the revenue from the tax levied pursuant to this 1831
division into a separate fund, which shall be spent solely to 1832
make contributions to convention and visitors' bureaus operating 1833
within the county in which the municipal corporation or township 1834
is wholly or partly located, and the balance of that revenue 1835
shall be deposited in the general fund. The municipal 1836
corporation or township shall establish all regulations 1837
necessary to provide for the administration and allocation of 1838
the tax. The regulations may prescribe the time for payment of 1839
the tax, and may provide for the imposition of a penalty or 1840
interest, or both, for late payments, provided that the penalty 1841
does not exceed ten per cent of the amount of tax due, and the 1842
rate at which interest accrues does not exceed the rate per 1843
annum prescribed pursuant to section 5703.47 of the Revised 1844
Code. The levy of a tax under this division is in addition to 1845
any tax imposed on the same transaction by a municipal 1846
corporation or a township as authorized by division (A) of 1847
section 5739.08 of the Revised Code. 1848

(2) (a) The legislative authority of the most populous 1849
municipal corporation located wholly or partly in a county in 1850
which the board of county commissioners has levied a tax under 1851
division (A) (4) of this section may amend, on or before 1852
September 30, 2002, that municipal corporation's ordinance or 1853

resolution that levies an excise tax on transactions by which 1854
lodging by a hotel is or is to be furnished to transient guests, 1855
to provide for all of the following: 1856

(i) That the rate of the tax shall be increased by not 1857
more than an additional one per cent on each transaction; 1858

(ii) That all of the revenue from the increase in rate 1859
shall be pledged and contributed to a convention facilities 1860
authority established by the board of county commissioners under 1861
Chapter 351. of the Revised Code on or before May 15, 2002, and 1862
be used to pay costs of constructing, expanding, maintaining, 1863
operating, or promoting a convention center in the county, 1864
including paying bonds, or notes issued in anticipation of 1865
bonds, as provided by that chapter; 1866

(iii) That the increase in rate shall not be subject to 1867
diminution by initiative or referendum or by law while any 1868
bonds, or notes in anticipation of bonds, issued by the 1869
authority under Chapter 351. of the Revised Code to which the 1870
revenue is pledged, remain outstanding in accordance with their 1871
terms, unless provision is made by law, by the board of county 1872
commissioners, or by the legislative authority, for an adequate 1873
substitute therefor that is satisfactory to the trustee if a 1874
trust agreement secures the bonds. 1875

(b) The legislative authority of a municipal corporation 1876
that, pursuant to division (B) (2) (a) of this section, has 1877
amended its ordinance or resolution to increase the rate of the 1878
tax authorized by division (B) (1) of this section may further 1879
amend the ordinance or resolution to provide that the revenue 1880
referred to in division (B) (2) (a) (ii) of this section shall be 1881
pledged and contributed both to a convention facilities 1882
authority to pay the costs of constructing, expanding, 1883

maintaining, or operating one or more convention centers in the 1884
county, including paying bonds, or notes issued in anticipation 1885
of bonds, as provided in Chapter 351. of the Revised Code, and 1886
to a convention and visitors' bureau to pay the costs of 1887
promoting one or more convention centers in the county. 1888

As used in division (B) (2) of this section, "cost" has the 1889
same meaning as in section 351.01 of the Revised Code, and 1890
"convention center" has the same meaning as in section 307.695 1891
of the Revised Code. 1892

(3) The legislative authority of an eligible municipal 1893
corporation may amend, on or before December 31, 2017, that 1894
municipal corporation's ordinance or resolution that levies an 1895
excise tax on transactions by which lodging by a hotel is or is 1896
to be furnished to transient guests, to provide for the 1897
following: 1898

(a) That the rate of the tax shall be increased by not 1899
more than an additional three per cent on each transaction; 1900

(b) That all of the revenue from the increase in rate 1901
shall be used by the municipal corporation for economic 1902
development and tourism-related purposes. 1903

As used in division (B) (3) of this section, "eligible 1904
municipal corporation" means a municipal corporation that, on 1905
the effective date of the amendment of this section by H.B. 49 1906
of the 132nd general assembly, September 29, 2017, levied a tax 1907
under division (B) (1) of this section at a rate of three per 1908
cent and that is located in a county that, on that date, levied 1909
a tax under division (A) of this section at a rate of three per 1910
cent and that has, according to the most recent federal 1911
decennial census, a population exceeding three hundred thousand 1912

but not greater than three hundred fifty thousand. 1913

(C) For the purposes described in section 307.695 of the 1914
Revised Code and to cover the costs of administering the tax, a 1915
board of county commissioners of a county where a tax imposed 1916
under division (A) (1) of this section is in effect may, by 1917
resolution adopted within ninety days after July 15, 1985, by a 1918
majority of the members of the board, levy an additional excise 1919
tax not to exceed three per cent on transactions by which 1920
lodging by a hotel is or is to be furnished to transient guests. 1921
The tax authorized by this division shall be in addition to any 1922
tax that is levied pursuant to division (A) of this section, but 1923
it shall not apply to transactions subject to a tax levied by a 1924
municipal corporation or township pursuant to the authorization 1925
granted by division (A) of section 5739.08 of the Revised Code. 1926
The board shall establish all regulations necessary to provide 1927
for the administration and allocation of the tax. The 1928
regulations may prescribe the time for payment of the tax, and 1929
may provide for the imposition of a penalty or interest, or 1930
both, for late payments, provided that the penalty does not 1931
exceed ten per cent of the amount of tax due, and the rate at 1932
which interest accrues does not exceed the rate per annum 1933
prescribed pursuant to section 5703.47 of the Revised Code. All 1934
revenues arising from the tax shall be expended in accordance 1935
with section 307.695 of the Revised Code. The board of county 1936
commissioners of an eligible county as defined in section 1937
307.695 of the Revised Code may, by resolution adopted by a 1938
majority of the members of the board, amend the resolution 1939
levying a tax under this division to provide that the revenue 1940
from the tax shall be used by the board as described in division 1941
(H) of section 307.695 of the Revised Code. A tax imposed under 1942
this division shall remain in effect at the rate at which it is 1943

imposed for the duration of the period during which any 1944
agreement entered into by the board under section 307.695 of the 1945
Revised Code is in effect, the duration of the period during 1946
which any securities issued by the board under division (I) of 1947
section 307.695 of the Revised Code are outstanding, or the 1948
duration of the period during which the board owns a project as 1949
defined in section 307.695 of the Revised Code, whichever 1950
duration is longest. 1951

(D) For the purpose of providing contributions under 1952
division (B) (1) of section 307.671 of the Revised Code to enable 1953
the acquisition, construction, and equipping of a port authority 1954
educational and cultural facility in the county and, to the 1955
extent provided for in the cooperative agreement authorized by 1956
that section, for the purpose of paying debt service charges on 1957
bonds, or notes in anticipation of bonds, described in division 1958
(B) (1) (b) of that section, a board of county commissioners, by 1959
resolution adopted within ninety days after December 22, 1992, 1960
by a majority of the members of the board, may levy an 1961
additional excise tax not to exceed one and one-half per cent on 1962
transactions by which lodging by a hotel is or is to be 1963
furnished to transient guests. The excise tax authorized by this 1964
division shall be in addition to any tax that is levied pursuant 1965
to divisions (A), (B), and (C) of this section, to any excise 1966
tax levied pursuant to section 5739.08 of the Revised Code, and 1967
to any excise tax levied pursuant to section 351.021 of the 1968
Revised Code. The board of county commissioners shall establish 1969
all regulations necessary to provide for the administration and 1970
allocation of the tax that are not inconsistent with this 1971
section or section 307.671 of the Revised Code. The regulations 1972
may prescribe the time for payment of the tax, and may provide 1973
for the imposition of a penalty or interest, or both, for late 1974

payments, provided that the penalty does not exceed ten per cent 1975
of the amount of tax due, and the rate at which interest accrues 1976
does not exceed the rate per annum prescribed pursuant to 1977
section 5703.47 of the Revised Code. All revenues arising from 1978
the tax shall be expended in accordance with section 307.671 of 1979
the Revised Code and division (D) of this section. The levy of a 1980
tax imposed under this division may not commence prior to the 1981
first day of the month next following the execution of the 1982
cooperative agreement authorized by section 307.671 of the 1983
Revised Code by all parties to that agreement. The tax shall 1984
remain in effect at the rate at which it is imposed for the 1985
period of time described in division (C) of section 307.671 of 1986
the Revised Code for which the revenue from the tax has been 1987
pledged by the county to the corporation pursuant to that 1988
section, but, to any extent provided for in the cooperative 1989
agreement, for no lesser period than the period of time required 1990
for payment of the debt service charges on bonds, or notes in 1991
anticipation of bonds, described in division (B) (1) (b) of that 1992
section. 1993

(E) For the purpose of paying the costs of acquiring, 1994
constructing, equipping, and improving a municipal educational 1995
and cultural facility, including debt service charges on bonds 1996
provided for in division (B) of section 307.672 of the Revised 1997
Code, and for any additional purposes determined by the county 1998
in the resolution levying the tax or amendments to the 1999
resolution, including subsequent amendments providing for paying 2000
costs of acquiring, constructing, renovating, rehabilitating, 2001
equipping, and improving a port authority educational and 2002
cultural performing arts facility, as defined in section 307.674 2003
of the Revised Code, and including debt service charges on bonds 2004
provided for in division (B) of section 307.674 of the Revised 2005

Code, the legislative authority of a county, by resolution 2006
adopted within ninety days after June 30, 1993, by a majority of 2007
the members of the legislative authority, may levy an additional 2008
excise tax not to exceed one and one-half per cent on 2009
transactions by which lodging by a hotel is or is to be 2010
furnished to transient guests. The excise tax authorized by this 2011
division shall be in addition to any tax that is levied pursuant 2012
to divisions (A), (B), (C), and (D) of this section, to any 2013
excise tax levied pursuant to section 5739.08 of the Revised 2014
Code, and to any excise tax levied pursuant to section 351.021 2015
of the Revised Code. The legislative authority of the county 2016
shall establish all regulations necessary to provide for the 2017
administration and allocation of the tax. The regulations may 2018
prescribe the time for payment of the tax, and may provide for 2019
the imposition of a penalty or interest, or both, for late 2020
payments, provided that the penalty does not exceed ten per cent 2021
of the amount of tax due, and the rate at which interest accrues 2022
does not exceed the rate per annum prescribed pursuant to 2023
section 5703.47 of the Revised Code. All revenues arising from 2024
the tax shall be expended in accordance with section 307.672 of 2025
the Revised Code and this division. The levy of a tax imposed 2026
under this division shall not commence prior to the first day of 2027
the month next following the execution of the cooperative 2028
agreement authorized by section 307.672 of the Revised Code by 2029
all parties to that agreement. The tax shall remain in effect at 2030
the rate at which it is imposed for the period of time 2031
determined by the legislative authority of the county. That 2032
period of time shall not exceed fifteen years, except that the 2033
legislative authority of a county with a population of less than 2034
two hundred fifty thousand according to the most recent federal 2035
decennial census, by resolution adopted by a majority of its 2036
members before the original tax expires, may extend the duration 2037

of the tax for an additional period of time. The additional 2038
period of time by which a legislative authority extends a tax 2039
levied under this division shall not exceed fifteen years. 2040

(F) The legislative authority of a county that has levied 2041
a tax under division (E) of this section may, by resolution 2042
adopted within one hundred eighty days after January 4, 2001, by 2043
a majority of the members of the legislative authority, amend 2044
the resolution levying a tax under that division to provide for 2045
the use of the proceeds of that tax, to the extent that it is no 2046
longer needed for its original purpose as determined by the 2047
parties to a cooperative agreement amendment pursuant to 2048
division (D) of section 307.672 of the Revised Code, to pay 2049
costs of acquiring, constructing, renovating, rehabilitating, 2050
equipping, and improving a port authority educational and 2051
cultural performing arts facility, including debt service 2052
charges on bonds provided for in division (B) of section 307.674 2053
of the Revised Code, and to pay all obligations under any 2054
guaranty agreements, reimbursement agreements, or other credit 2055
enhancement agreements described in division (C) of section 2056
307.674 of the Revised Code. The resolution may also provide for 2057
the extension of the tax at the same rate for the longer of the 2058
period of time determined by the legislative authority of the 2059
county, but not to exceed an additional twenty-five years, or 2060
the period of time required to pay all debt service charges on 2061
bonds provided for in division (B) of section 307.672 of the 2062
Revised Code and on port authority revenue bonds provided for in 2063
division (B) of section 307.674 of the Revised Code. All 2064
revenues arising from the amendment and extension of the tax 2065
shall be expended in accordance with section 307.674 of the 2066
Revised Code, this division, and division (E) of this section. 2067

(G) For purposes of a tax levied by a county, township, or 2068

municipal corporation under this section or section 5739.08 of 2069
the Revised Code, a board of county commissioners, board of 2070
township trustees, or the legislative authority of a municipal 2071
corporation may adopt a resolution or ordinance at any time 2072
specifying that "hotel," as otherwise defined in section 5739.01 2073
of the Revised Code, includes the following: 2074

(1) Establishments in which fewer than five rooms are used 2075
for the accommodation of guests. 2076

(2) Establishments at which rooms are used for the 2077
accommodation of guests regardless of whether each room is 2078
accessible through its own keyed entry or several rooms are 2079
accessible through the same keyed entry; and, in determining the 2080
number of rooms, all rooms are included regardless of the number 2081
of structures in which the rooms are situated or the number of 2082
parcels of land on which the structures are located if the 2083
structures are under the same ownership and the structures are 2084
not identified in advertisements of the accommodations as 2085
distinct establishments. For the purposes of division (G) (2) of 2086
this section, two or more structures are under the same 2087
ownership if they are owned by the same person, or if they are 2088
owned by two or more persons the majority of the ownership 2089
interests of which are owned by the same person. 2090

The resolution or ordinance may apply to a tax imposed 2091
pursuant to this section prior to the adoption of the resolution 2092
or ordinance if the resolution or ordinance so states, but the 2093
tax shall not apply to transactions by which lodging by such an 2094
establishment is provided to transient guests prior to the 2095
adoption of the resolution or ordinance. 2096

(H) (1) As used in this division: 2097

(a) "Convention facilities authority" has the same meaning 2098
as in section 351.01 of the Revised Code. 2099

(b) "Convention center" has the same meaning as in section 2100
307.695 of the Revised Code. 2101

(2) Notwithstanding any contrary provision of division (D) 2102
of this section, the legislative authority of a county with a 2103
population of one million or more according to the most recent 2104
federal decennial census that has levied a tax under division 2105
(D) of this section may, by resolution adopted by a majority of 2106
the members of the legislative authority, provide for the 2107
extension of such levy and may provide that the proceeds of that 2108
tax, to the extent that they are no longer needed for their 2109
original purpose as defined by a cooperative agreement entered 2110
into under section 307.671 of the Revised Code, shall be 2111
deposited into the county general revenue fund. The resolution 2112
shall provide for the extension of the tax at a rate not to 2113
exceed the rate specified in division (D) of this section for a 2114
period of time determined by the legislative authority of the 2115
county, but not to exceed an additional forty years. 2116

(3) The legislative authority of a county with a 2117
population of one million or more that has levied a tax under 2118
division (A)(1) of this section may, by resolution adopted by a 2119
majority of the members of the legislative authority, increase 2120
the rate of the tax levied by such county under division (A)(1) 2121
of this section to a rate not to exceed five per cent on 2122
transactions by which lodging by a hotel is or is to be 2123
furnished to transient guests. Notwithstanding any contrary 2124
provision of division (A)(1) of this section, the resolution may 2125
provide that all collections resulting from the rate levied in 2126
excess of three per cent, after deducting the real and actual 2127

costs of administering the tax, shall be deposited in the county 2128
general fund. 2129

(4) The legislative authority of a county with a 2130
population of one million or more that has levied a tax under 2131
division (A)(1) of this section may, by resolution adopted on or 2132
before August 30, 2004, by a majority of the members of the 2133
legislative authority, provide that all or a portion of the 2134
proceeds of the tax levied under division (A)(1) of this 2135
section, after deducting the real and actual costs of 2136
administering the tax and the amounts required to be returned to 2137
townships and municipal corporations with respect to the first 2138
three per cent levied under division (A)(1) of this section, 2139
shall be deposited in the county general fund, provided that 2140
such proceeds shall be used to satisfy any pledges made in 2141
connection with an agreement entered into under section 307.695 2142
of the Revised Code. 2143

(5) No amount collected from a tax levied, extended, or 2144
required to be deposited in the county general fund under 2145
division (H) of this section shall be contributed to a 2146
convention facilities authority, corporation, or other entity 2147
created after July 1, 2003, for the principal purpose of 2148
constructing, improving, expanding, equipping, financing, or 2149
operating a convention center unless the mayor of the municipal 2150
corporation in which the convention center is to be operated by 2151
that convention facilities authority, corporation, or other 2152
entity has consented to the creation of that convention 2153
facilities authority, corporation, or entity. Notwithstanding 2154
any contrary provision of section 351.04 of the Revised Code, if 2155
a tax is levied by a county under division (H) of this section, 2156
the board of county commissioners of that county may determine 2157
the manner of selection, the qualifications, the number, and 2158

terms of office of the members of the board of directors of any 2159
convention facilities authority, corporation, or other entity 2160
described in division (H) (5) of this section. 2161

(6) (a) No amount collected from a tax levied, extended, or 2162
required to be deposited in the county general fund under 2163
division (H) of this section may be used for any purpose other 2164
than paying the direct and indirect costs of constructing, 2165
improving, expanding, equipping, financing, or operating a 2166
convention center and for the real and actual costs of 2167
administering the tax, unless, prior to the adoption of the 2168
resolution of the legislative authority of the county 2169
authorizing the levy, extension, increase, or deposit, the 2170
county and the mayor of the most populous municipal corporation 2171
in that county have entered into an agreement as to the use of 2172
such amounts, provided that such agreement has been approved by 2173
a majority of the mayors of the other municipal corporations in 2174
that county. The agreement shall provide that the amounts to be 2175
used for purposes other than paying the convention center or 2176
administrative costs described in division (H) (6) (a) of this 2177
section be used only for the direct and indirect costs of 2178
capital improvements, including the financing of capital 2179
improvements. 2180

(b) If the county in which the tax is levied has an 2181
association of mayors and city managers, the approval of that 2182
association of an agreement described in division (H) (6) (a) of 2183
this section shall be considered to be the approval of the 2184
majority of the mayors of the other municipal corporations for 2185
purposes of that division. 2186

(7) Each year, the auditor of state shall conduct an audit 2187
of the uses of any amounts collected from taxes levied, 2188

extended, or deposited under division (H) of this section and 2189
shall prepare a report of the auditor of state's findings. The 2190
auditor of state shall submit the report to the legislative 2191
authority of the county that has levied, extended, or deposited 2192
the tax, the speaker of the house of representatives, the 2193
president of the senate, and the leaders of the minority parties 2194
of the house of representatives and the senate. 2195

(I) (1) As used in this division: 2196

(a) "Convention facilities authority" has the same meaning 2197
as in section 351.01 of the Revised Code. 2198

(b) "Convention center" has the same meaning as in section 2199
307.695 of the Revised Code. 2200

(2) Notwithstanding any contrary provision of division (D) 2201
of this section, the legislative authority of a county with a 2202
population of one million two hundred thousand or more according 2203
to the most recent federal decennial census or the most recent 2204
annual population estimate published or released by the United 2205
States census bureau at the time the resolution is adopted 2206
placing the levy on the ballot, that has levied a tax under 2207
division (D) of this section may, by resolution adopted by a 2208
majority of the members of the legislative authority, provide 2209
for the extension of such levy and may provide that the proceeds 2210
of that tax, to the extent that the proceeds are no longer 2211
needed for their original purpose as defined by a cooperative 2212
agreement entered into under section 307.671 of the Revised Code 2213
and after deducting the real and actual costs of administering 2214
the tax, shall be used for paying the direct and indirect costs 2215
of constructing, improving, expanding, equipping, financing, or 2216
operating a convention center. The resolution shall provide for 2217
the extension of the tax at a rate not to exceed the rate 2218

specified in division (D) of this section for a period of time 2219
determined by the legislative authority of the county, but not 2220
to exceed an additional forty years. 2221

(3) The legislative authority of a county with a 2222
population of one million two hundred thousand or more that has 2223
levied a tax under division (A)(1) of this section may, by 2224
resolution adopted by a majority of the members of the 2225
legislative authority, increase the rate of the tax levied by 2226
such county under division (A)(1) of this section to a rate not 2227
to exceed five per cent on transactions by which lodging by a 2228
hotel is or is to be furnished to transient guests. 2229
Notwithstanding any contrary provision of division (A)(1) of 2230
this section, the resolution shall provide that all collections 2231
resulting from the rate levied in excess of three per cent, 2232
after deducting the real and actual costs of administering the 2233
tax, shall be used for paying the direct and indirect costs of 2234
constructing, improving, expanding, equipping, financing, or 2235
operating a convention center. 2236

(4) The legislative authority of a county with a 2237
population of one million two hundred thousand or more that has 2238
levied a tax under division (A)(1) of this section may, by 2239
resolution adopted on or before July 1, 2008, by a majority of 2240
the members of the legislative authority, provide that all or a 2241
portion of the proceeds of the tax levied under division (A)(1) 2242
of this section, after deducting the real and actual costs of 2243
administering the tax and the amounts required to be returned to 2244
townships and municipal corporations with respect to the first 2245
three per cent levied under division (A)(1) of this section, 2246
shall be used to satisfy any pledges made in connection with an 2247
agreement entered into under section 307.695 of the Revised Code 2248
or shall otherwise be used for paying the direct and indirect 2249

costs of constructing, improving, expanding, equipping, 2250
financing, or operating a convention center. 2251

(5) Any amount collected from a tax levied or extended 2252
under division (I) of this section may be contributed to a 2253
convention facilities authority created before July 1, 2005, but 2254
no amount collected from a tax levied or extended under division 2255
(I) of this section may be contributed to a convention 2256
facilities authority, corporation, or other entity created after 2257
July 1, 2005, unless the mayor of the municipal corporation in 2258
which the convention center is to be operated by that convention 2259
facilities authority, corporation, or other entity has consented 2260
to the creation of that convention facilities authority, 2261
corporation, or entity. 2262

(J) (1) Except as provided in division (J) (2) of this 2263
section, money collected by a county and distributed under this 2264
section to a convention and visitors' bureau in existence as of 2265
June 30, 2013, the effective date of H.B. 59 of the 130th 2266
general assembly, except for any such money pledged, as of that 2267
effective date, to the payment of debt service charges on bonds, 2268
notes, securities, or lease agreements, shall be used solely for 2269
tourism sales, marketing and promotion, and their associated 2270
costs, including, but not limited to, operational and 2271
administrative costs of the bureau, sales and marketing, and 2272
maintenance of the physical bureau structure. 2273

(2) A convention and visitors' bureau that has entered 2274
into an agreement under section 307.678 of the Revised Code may 2275
use revenue it receives from a tax levied under division (A) (1) 2276
of this section as described in division (E) of section 307.678 2277
of the Revised Code. 2278

(K) The board of county commissioners of a county with a 2279

population between one hundred three thousand and one hundred 2280
seven thousand according to the most recent federal decennial 2281
census, by resolution adopted by a majority of the members of 2282
the board within six months after September 15, 2014, the 2283
effective date of H.B. 483 of the 130th general assembly, may 2284
levy a tax not to exceed three per cent on transactions by which 2285
a hotel is or is to be furnished to transient guests. The 2286
purpose of the tax shall be to pay the costs of expanding, 2287
maintaining, or operating a soldiers' memorial and the costs of 2288
administering the tax. All revenue arising from the tax shall be 2289
credited to one or more special funds in the county treasury and 2290
shall be spent solely for the purposes of paying those costs. 2291
The board of county commissioners shall adopt all rules 2292
necessary to provide for the administration of the tax subject 2293
to the same limitations on imposing penalty or interest under 2294
division (A) (1) of this section. 2295

As used in this division "soldiers' memorial" means a 2296
memorial constructed and funded under Chapter 345. of the 2297
Revised Code. 2298

(L) A board of county commissioners of an eligible county, 2299
by resolution adopted by a majority of the members of the board, 2300
may levy an excise tax at the rate of up to three per cent on 2301
transactions by which lodging by a hotel is or is to be 2302
furnished to transient guests for the purpose of paying the 2303
costs of permanent improvements at sites at which one or more 2304
agricultural societies conduct fairs or exhibits, paying the 2305
costs of maintaining or operating such permanent improvements, 2306
and paying the costs of administering the tax. A resolution 2307
adopted under this division shall direct the board of elections 2308
to submit the question of the proposed lodging tax to the 2309
electors of the county at a special election held on the date 2310

specified by the board in the resolution, provided that the 2311
election occurs not less than ninety days after a certified copy 2312
of the resolution is transmitted to the board of elections. A 2313
resolution submitted to the electors under this division shall 2314
not go into effect unless it is approved by a majority of those 2315
voting upon it. The resolution takes effect on the date the 2316
board of county commissioners receives notification from the 2317
board of elections of an affirmative vote. 2318

The tax shall remain in effect for the period specified in 2319
the resolution, not to exceed five years. All revenue arising 2320
from the tax shall be credited to one or more special funds in 2321
the county treasury and shall be spent solely for the purposes 2322
of paying the costs of such permanent improvements and 2323
maintaining or operating the improvements. Revenue allocated for 2324
the use of a county agricultural society may be credited to the 2325
county agricultural society fund created in section 1711.16 of 2326
the Revised Code upon appropriation by the board. If revenue is 2327
credited to that fund, it shall be expended only as provided in 2328
that section. 2329

The board of county commissioners shall adopt all rules 2330
necessary to provide for the administration of the tax. The 2331
rules may prescribe the time for payment of the tax, and may 2332
provide for the imposition or penalty or interest, or both, for 2333
late payments, provided that the penalty does not exceed ten per 2334
cent of the amount of tax due, and the rate at which interest 2335
accrues does not exceed the rate per annum prescribed in section 2336
5703.47 of the Revised Code. 2337

As used in this division, "eligible county" means a county 2338
in which a county agricultural society or independent 2339
agricultural society is organized under section 1711.01 or 2340

1711.02 of the Revised Code, provided the agricultural society 2341
owns a facility or site in the county at which an annual harness 2342
horse race is conducted where one-day attendance equals at least 2343
forty thousand attendees. 2344

(M) As used in this division, "eligible county" means a 2345
county in which a tax is levied under division (A) of this 2346
section at a rate of three per cent and whose territory includes 2347
a part of Lake Erie the shoreline of which represents at least 2348
fifty per cent of the linear length of the county's border with 2349
other counties of this state. 2350

The board of county commissioners of an eligible county 2351
that has entered into an agreement with a port authority in the 2352
county under section 4582.56 of the Revised Code may levy an 2353
additional lodging tax on transactions by which lodging by a 2354
hotel is or is to be furnished to transient guests for the 2355
purpose of financing lakeshore improvement projects constructed 2356
or financed by the port authority under that section. The 2357
resolution levying the tax shall specify the purpose of the tax, 2358
the rate of the tax, which shall not exceed two per cent, and 2359
the number of years the tax will be levied or that it will be 2360
levied for a continuing period of time. The tax shall be 2361
administered pursuant to the regulations adopted by the board 2362
under division (A) of this section, except that all the proceeds 2363
of the tax levied under this division shall be pledged to the 2364
payment of the costs, including debt charges, of lakeshore 2365
improvements undertaken by a port authority pursuant to the 2366
agreement under section 4582.56 of the Revised Code. No revenue 2367
from the tax may be used to pay the current expenses of the port 2368
authority. 2369

A resolution levying a tax under this division is subject 2370

to referendum under sections 305.31 to 305.41 and 305.99 of the Revised Code. 2371
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(N) (1) Notwithstanding division (A) of this section, the board of county commissioners, board of township trustees, or legislative authority of any county, township, or municipal corporation that levies a lodging tax on ~~the effective date of the amendment of this section September 29, 2017,~~ and in which any part of a tourism development district is located on or after that date shall amend the ordinance or resolution levying the tax to require either of the following: 2373
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(a) In the case of a tax levied by a county, that all tourism development district lodging tax proceeds from that tax be used exclusively to foster and develop tourism in the tourism development district; 2381
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(b) In the case of a tax levied by a township or municipal corporation, that all tourism development district lodging tax proceeds from that tax be used exclusively to foster and develop tourism in the tourism development district. 2385
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(2) Notwithstanding division (A) of this section, any ordinance or resolution levying a lodging tax adopted on or after ~~the effective date of the amendment of this section~~ September 29, 2017, by a county, township, or municipal corporation in which any part of a tourism development district is located on or after that date shall require that all tourism development district lodging tax proceeds from that tax be used exclusively to foster and develop tourism in the tourism development district. 2389
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(3) A county shall not use any of the proceeds described in division (N) (1) (a) or (N) (2) of this section unless the 2398
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convention and visitors' bureau operating within the county 2400
approves the manner in which such proceeds are used to foster 2401
and develop tourism in the tourism development district. Upon 2402
obtaining such approval, the county may pay such proceeds to the 2403
bureau to use for the agreed-upon purpose. 2404

A municipal corporation or township shall not use any of 2405
the proceeds described in division (N) (1) (b) or (N) (2) of this 2406
section unless the convention and visitors' bureau operating 2407
within the municipal corporation or township approves the manner 2408
in which such proceeds are used to foster and develop tourism in 2409
the tourism development district. Upon obtaining such approval, 2410
the municipal corporation or township may pay such proceeds to 2411
the bureau to use for the agreed-upon purpose. 2412

(4) As used in division (N) of this section: 2413

(a) "Tourism development district" means a district 2414
designated by a municipal corporation under section 715.014 of 2415
the Revised Code or by a township under section 503.56 of the 2416
Revised Code. 2417

(b) "Lodging tax" means a tax levied pursuant to this 2418
section or section 5739.08 of the Revised Code. 2419

(c) "Tourism development district lodging tax proceeds" 2420
means all proceeds of a lodging tax derived from transactions by 2421
which lodging by a hotel located in a tourism development 2422
district is or is to be provided to transient guests. 2423

(O) A tax levied pursuant to this section on transactions 2424
by which lodging by a hotel is or is to be furnished to 2425
transient guests, if the transaction is conducted through a 2426
hotel intermediary, shall be levied on the total amount paid by 2427
the consumer for hotel lodging as advertised by the hotel 2428

intermediary. The hotel intermediary shall collect the tax due 2429
from the purchaser and remit it to the county, township, or 2430
municipal corporation levying the tax. 2431

Section 2. That existing sections 351.021, 353.06, 2432
5739.01, and 5739.09 of the Revised Code are hereby repealed. 2433

Section 3. The amendment or enactment by this act of 2434
sections 351.021, 353.06, 5739.01, 5739.081, and 5739.09 of the 2435
Revised Code applies on and after January 1, 2019. 2436