

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 484**

**Representatives Sykes, Cera**

**Cosponsors: Representatives Johnson, G., Howse, Boyce, Fedor, O'Brien, M.,  
Sheehy, Phillips, Smith, K., Kuhns, Antonio, Rogers, Ramos, Patterson, Leland,  
O'Brien, S., Lepore-Hagan, Celebrezze**

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**A BILL**

To amend sections 131.51 and 5739.02 and to enact 1  
sections 130.40, 5739.212, and 5741.033 of the 2  
Revised Code to exempt from sales and use tax 3  
the sale of nonprescription human drugs, 4  
feminine hygiene products associated with 5  
menstruation, and disposable baby diapers, to 6  
reimburse the Local Government Fund and Public 7  
Library Fund and county and transit sales and 8  
use tax collections for any revenue lost due to 9  
those exemptions, and to create the Legislative 10  
Commission on Middle Class Economic Strength to 11  
study proposed income, sales, or use tax 12  
legislation that changes the proportionate tax 13  
burden among income classes or other classes. 14

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

**Section 1.** That sections 131.51 and 5739.02 be amended and 15  
sections 130.40, 5739.212, and 5741.033 of the Revised Code be 16  
enacted to read as follows: 17

Sec. 130.40. (A) There is hereby created the legislative 18  
commission on middle class economic strength, consisting of 19  
twelve members, composed of the following: 20

(1) The chairperson and ranking minority member of the 21  
committee of the house of representatives that primarily deals 22  
with state finance and appropriations; 23

(2) The chairperson and ranking minority member of the 24  
committee of the senate that primarily deals with state finance 25  
and appropriations; 26

(3) The chairperson and ranking minority member of the 27  
committee of the house of representatives that primarily deals 28  
with taxation; 29

(4) The chairperson and ranking minority member of the 30  
committee of the senate that primarily deals with taxation; 31

(5) One member of the house of representatives appointed 32  
by the speaker of the house of representatives; 33

(6) One member of the house of representatives appointed 34  
by the minority leader of the house of representatives; 35

(7) One member of the senate appointed by the president of 36  
the senate; 37

(8) One member of the senate appointed by the minority 38  
leader of the senate. 39

A vacancy on the commission for a member appointed under 40  
divisions (A) (5) to (8) of this section shall be filled by the 41  
member's appointing authority, in the same manner as the 42  
original appointment. 43

Members of the commission shall serve during their terms 44

as members of the general assembly and until their successors 45  
are appointed and qualified, notwithstanding the adjournment of 46  
the general assembly of which they are members or the expiration 47  
of their terms as members of such general assembly. 48

(B) Meetings of the commission shall be called in such 49  
manner and at such times as prescribed by rules adopted by the 50  
commission. A vacancy on the commission does not impair the 51  
right of the other members to exercise all the functions of the 52  
commission. The presence of a majority of the members of the 53  
commission constitutes a quorum for the conduct of business of 54  
the commission. The concurrence of at least a majority of the 55  
members of the commission is necessary for any action to be 56  
taken by the commission. At the first meeting of the commission, 57  
which shall occur within ninety days after the effective date of 58  
this act, members shall elect a chairperson, vice-chairperson, 59  
and such other officers as the commission considers necessary. 60  
The chairperson and the vice-chairperson shall not be members of 61  
the same political party. The chair and the vice-chair shall 62  
alternate each year between members of the majority and minority 63  
political parties. 64

The commission shall adopt rules for the conduct of its 65  
business and the election of its officers, and shall establish 66  
an office in Columbus. Members of the commission shall serve 67  
without compensation but shall be reimbursed for actual and 68  
necessary expenses incurred in the performance of their duties. 69

The commission is a public body for the purposes of 70  
section 121.22 of the Revised Code. Records of the commission 71  
are public records for purposes of section 149.43 of the Revised 72  
Code. 73

(C) The commission shall do all of the following: 74

(1) Identify any legislation, including amendments 75  
incorporated into pending legislation, proposed by the general 76  
assembly that affects a tax levied under Chapter 5739., 5741., 77  
or 5747. of the Revised Code and that may change the 78  
distribution of the incidence of such taxes among income 79  
classes, and issue a report to the general assembly on the 80  
extent to which that distribution would be affected by the 81  
legislation. In the case of legislation proposed in the form of 82  
an introduced bill or resolution, the report shall be issued 83  
before the bill or resolution receives its second consideration 84  
in the house of introduction; in the case of legislation 85  
proposed as an amendment incorporated into a pending bill or 86  
resolution, the report shall be issued as soon as is practicable 87  
after the amendment is adopted as a part of the pending bill or 88  
resolution. 89

(2) Prescribe demographic or geographic classes other than 90  
income classes for purposes of analyzing proposed legislation 91  
under division (C) (3) of this section. 92

(3) Study every provision of proposed legislation the 93  
commission studies under division (C) (1) of this section that 94  
may change the distribution of the incidence of such taxes among 95  
the demographic or geographic classes prescribed by the 96  
commission under division (C) (2) of this section, and include in 97  
the report issued under division (C) (1) of this section 98  
information on the extent to which that distribution is 99  
affected. If the commission finds that it is not feasible to 100  
analyze the distributional effects of a provision on one or more 101  
of the classes prescribed under division (C) (2) of this section, 102  
the report shall include an explanation of the reasons such an 103  
analysis is not feasible. 104

(4) Make an annual report to the governor and general assembly summarizing its studies and reports under divisions (C) (1) and (3) and (D) of this section for the preceding year. 105  
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(5) Appoint a director to manage and direct the duties of the staff of the commission. The director shall be a person with training and experience in areas related to the duties of the commission. 108  
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(6) Appoint professional, technical, and clerical employees as are necessary, and employ or hire on a consulting basis legal or other technical services required for the performance of the commission's duties. 112  
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(7) Fix the compensation of the director and all other employees of the commission. The employees of the commission shall be members of the public employees retirement system. 116  
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(D) The commission may report to the general assembly whether proposed legislation studied under division (C) of this section is in the best interests of the people of this state. 119  
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(E) The compensation of all employees of the commission and other expenses of the commission shall be paid upon vouchers approved by the director and the chairperson of the commission. Compensation and other expenses of the commission shall be paid from money appropriated by the general assembly for that purpose. 122  
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The commission shall establish policies and procedures for purchasing goods and services on a competitive basis and maintaining tangible personal property. The policies and procedures shall be designed to safeguard the use of funds received by the commission. An audit performed under Chapter 117. of the Revised Code shall include a determination of the 128  
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commission's compliance with the policies and procedures. 134

(F) The department of taxation and the office of budget 135  
and management shall provide any assistance or information, 136  
except otherwise confidential information, to the commission as 137  
requested by the commission. 138

**Sec. 131.51.** (A) On or before July 5, 2013, the tax 139  
commissioner shall compute the following amounts and certify 140  
those amounts to the director of budget and management: 141

(1) A percentage calculated by multiplying one hundred by 142  
the quotient obtained by dividing the total amount credited to 143  
the local government fund in fiscal year 2013 by the total 144  
amount of tax revenue credited to the general revenue fund in 145  
fiscal year 2013. The percentage shall be rounded to the nearest 146  
one-hundredth of one per cent. 147

(2) A percentage calculated by multiplying one hundred by 148  
the quotient obtained by dividing the total amount credited to 149  
the public library fund in fiscal year 2013 by the total amount 150  
of tax revenue credited to the general revenue fund in fiscal 151  
year 2013. The percentage shall be rounded to the nearest one- 152  
hundredth of one per cent. 153

(B) On or before the seventh day of each month, the 154  
director of budget and management shall credit to the local 155  
government fund an amount equal to the product obtained by 156  
multiplying the percentage calculated under division (A) (1) of 157  
this section by the sum of the total tax revenue credited to the 158  
general revenue fund during the preceding month plus the ...B... 159  
supplemental distribution. In determining the total tax revenue 160  
credited to the general revenue fund during the preceding month, 161  
the director shall include amounts transferred from the fund 162

during the preceding month under this division and division (C) 163  
of this section. Money shall be distributed from the local 164  
government fund as required under section 5747.50 of the Revised 165  
Code during the same month in which it is credited to the fund. 166

(C) On or before the seventh day of each month, the 167  
director of budget and management shall credit to the public 168  
library fund an amount equal to the product obtained by 169  
multiplying the percentage calculated under division (A) (2) of 170  
this section by the sum of the total tax revenue credited to the 171  
general revenue fund during the preceding month plus the ...B... 172  
supplemental distribution. In determining the total tax revenue 173  
credited to the general revenue fund during the preceding month, 174  
the director shall include amounts transferred from the fund 175  
during the preceding month under this division and division (B) 176  
of this section. Money shall be distributed from the public 177  
library fund as required under section 5747.47 of the Revised 178  
Code during the same month in which it is credited to the fund. 179

(D) The director of budget and management shall develop a 180  
schedule identifying the specific tax revenue sources to be used 181  
to make the monthly transfers required under divisions (B) and 182  
(C) of this section. The director may, from time to time, revise 183  
the schedule as the director considers necessary. 184

(E) As used in this section, "...B... supplemental 185  
distribution" means the difference obtained by subtracting the 186  
total tax revenue credited to the general revenue fund during 187  
the preceding month from the amount of such revenue the 188  
commissioner estimates would have been credited to that fund 189  
during that month if sections 131.51 and 5739.02 of the Revised 190  
Code had not been amended by ...B... of the 131st general 191  
assembly. 192

**Sec. 5739.02.** For the purpose of providing revenue with 193  
which to meet the needs of the state, for the use of the general 194  
revenue fund of the state, for the purpose of securing a 195  
thorough and efficient system of common schools throughout the 196  
state, for the purpose of affording revenues, in addition to 197  
those from general property taxes, permitted under 198  
constitutional limitations, and from other sources, for the 199  
support of local governmental functions, and for the purpose of 200  
reimbursing the state for the expense of administering this 201  
chapter, an excise tax is hereby levied on each retail sale made 202  
in this state. 203

(A) (1) The tax shall be collected as provided in section 204  
5739.025 of the Revised Code. The rate of the tax shall be five 205  
and three-fourths per cent. The tax applies and is collectible 206  
when the sale is made, regardless of the time when the price is 207  
paid or delivered. 208

(2) In the case of the lease or rental, with a fixed term 209  
of more than thirty days or an indefinite term with a minimum 210  
period of more than thirty days, of any motor vehicles designed 211  
by the manufacturer to carry a load of not more than one ton, 212  
watercraft, outboard motor, or aircraft, or of any tangible 213  
personal property, other than motor vehicles designed by the 214  
manufacturer to carry a load of more than one ton, to be used by 215  
the lessee or renter primarily for business purposes, the tax 216  
shall be collected by the vendor at the time the lease or rental 217  
is consummated and shall be calculated by the vendor on the 218  
basis of the total amount to be paid by the lessee or renter 219  
under the lease agreement. If the total amount of the 220  
consideration for the lease or rental includes amounts that are 221  
not calculated at the time the lease or rental is executed, the 222  
tax shall be calculated and collected by the vendor at the time 223

such amounts are billed to the lessee or renter. In the case of 224  
an open-end lease or rental, the tax shall be calculated by the 225  
vendor on the basis of the total amount to be paid during the 226  
initial fixed term of the lease or rental, and for each 227  
subsequent renewal period as it comes due. As used in this 228  
division, "motor vehicle" has the same meaning as in section 229  
4501.01 of the Revised Code, and "watercraft" includes an 230  
outdrive unit attached to the watercraft. 231

A lease with a renewal clause and a termination penalty or 232  
similar provision that applies if the renewal clause is not 233  
exercised is presumed to be a sham transaction. In such a case, 234  
the tax shall be calculated and paid on the basis of the entire 235  
length of the lease period, including any renewal periods, until 236  
the termination penalty or similar provision no longer applies. 237  
The taxpayer shall bear the burden, by a preponderance of the 238  
evidence, that the transaction or series of transactions is not 239  
a sham transaction. 240

(3) Except as provided in division (A)(2) of this section, 241  
in the case of a sale, the price of which consists in whole or 242  
in part of the lease or rental of tangible personal property, 243  
the tax shall be measured by the installments of that lease or 244  
rental. 245

(4) In the case of a sale of a physical fitness facility 246  
service or recreation and sports club service, the price of 247  
which consists in whole or in part of a membership for the 248  
receipt of the benefit of the service, the tax applicable to the 249  
sale shall be measured by the installments thereof. 250

(B) The tax does not apply to the following: 251

(1) Sales to the state or any of its political 252

subdivisions, or to any other state or its political	253
subdivisions if the laws of that state exempt from taxation	254
sales made to this state and its political subdivisions;	255
(2) Sales of food for human consumption off the premises	256
where sold;	257
(3) Sales of food sold to students only in a cafeteria,	258
dormitory, fraternity, or sorority maintained in a private,	259
public, or parochial school, college, or university;	260
(4) Sales of newspapers and sales or transfers of	261
magazines distributed as controlled circulation publications;	262
(5) The furnishing, preparing, or serving of meals without	263
charge by an employer to an employee provided the employer	264
records the meals as part compensation for services performed or	265
work done;	266
(6) Sales of motor fuel upon receipt, use, distribution,	267
or sale of which in this state a tax is imposed by the law of	268
this state, but this exemption shall not apply to the sale of	269
motor fuel on which a refund of the tax is allowable under	270
division (A) of section 5735.14 of the Revised Code; and the tax	271
commissioner may deduct the amount of tax levied by this section	272
applicable to the price of motor fuel when granting a refund of	273
motor fuel tax pursuant to division (A) of section 5735.14 of	274
the Revised Code and shall cause the amount deducted to be paid	275
into the general revenue fund of this state;	276
(7) Sales of natural gas by a natural gas company, of	277
water by a water-works company, or of steam by a heating	278
company, if in each case the thing sold is delivered to	279
consumers through pipes or conduits, and all sales of	280
communications services by a telegraph company, all terms as	281

defined in section 5727.01 of the Revised Code, and sales of	282
electricity delivered through wires;	283
(8) Casual sales by a person, or auctioneer employed	284
directly by the person to conduct such sales, except as to such	285
sales of motor vehicles, watercraft or outboard motors required	286
to be titled under section 1548.06 of the Revised Code,	287
watercraft documented with the United States coast guard,	288
snowmobiles, and all-purpose vehicles as defined in section	289
4519.01 of the Revised Code;	290
(9) (a) Sales of services or tangible personal property,	291
other than motor vehicles, mobile homes, and manufactured homes,	292
by churches, organizations exempt from taxation under section	293
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit	294
organizations operated exclusively for charitable purposes as	295
defined in division (B) (12) of this section, provided that the	296
number of days on which such tangible personal property or	297
services, other than items never subject to the tax, are sold	298
does not exceed six in any calendar year, except as otherwise	299
provided in division (B) (9) (b) of this section. If the number of	300
days on which such sales are made exceeds six in any calendar	301
year, the church or organization shall be considered to be	302
engaged in business and all subsequent sales by it shall be	303
subject to the tax. In counting the number of days, all sales by	304
groups within a church or within an organization shall be	305
considered to be sales of that church or organization.	306
(b) The limitation on the number of days on which tax-	307
exempt sales may be made by a church or organization under	308
division (B) (9) (a) of this section does not apply to sales made	309
by student clubs and other groups of students of a primary or	310
secondary school, or a parent-teacher association, booster	311

group, or similar organization that raises money to support or 312  
fund curricular or extracurricular activities of a primary or 313  
secondary school. 314

(c) Divisions (B) (9) (a) and (b) of this section do not 315  
apply to sales by a noncommercial educational radio or 316  
television broadcasting station. 317

(10) Sales not within the taxing power of this state under 318  
the Constitution or laws of the United States or the 319  
Constitution of this state; 320

(11) Except for transactions that are sales under division 321  
(B) (3) (r) of section 5739.01 of the Revised Code, the 322  
transportation of persons or property, unless the transportation 323  
is by a private investigation and security service; 324

(12) Sales of tangible personal property or services to 325  
churches, to organizations exempt from taxation under section 326  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 327  
nonprofit organizations operated exclusively for charitable 328  
purposes in this state, no part of the net income of which 329  
inures to the benefit of any private shareholder or individual, 330  
and no substantial part of the activities of which consists of 331  
carrying on propaganda or otherwise attempting to influence 332  
legislation; sales to offices administering one or more homes 333  
for the aged or one or more hospital facilities exempt under 334  
section 140.08 of the Revised Code; and sales to organizations 335  
described in division (D) of section 5709.12 of the Revised 336  
Code. 337

"Charitable purposes" means the relief of poverty; the 338  
improvement of health through the alleviation of illness, 339  
disease, or injury; the operation of an organization exclusively 340

for the provision of professional, laundry, printing, and 341  
purchasing services to hospitals or charitable institutions; the 342  
operation of a home for the aged, as defined in section 5701.13 343  
of the Revised Code; the operation of a radio or television 344  
broadcasting station that is licensed by the federal 345  
communications commission as a noncommercial educational radio 346  
or television station; the operation of a nonprofit animal 347  
adoption service or a county humane society; the promotion of 348  
education by an institution of learning that maintains a faculty 349  
of qualified instructors, teaches regular continuous courses of 350  
study, and confers a recognized diploma upon completion of a 351  
specific curriculum; the operation of a parent-teacher 352  
association, booster group, or similar organization primarily 353  
engaged in the promotion and support of the curricular or 354  
extracurricular activities of a primary or secondary school; the 355  
operation of a community or area center in which presentations 356  
in music, dramatics, the arts, and related fields are made in 357  
order to foster public interest and education therein; the 358  
production of performances in music, dramatics, and the arts; or 359  
the promotion of education by an organization engaged in 360  
carrying on research in, or the dissemination of, scientific and 361  
technological knowledge and information primarily for the 362  
public. 363

Nothing in this division shall be deemed to exempt sales 364  
to any organization for use in the operation or carrying on of a 365  
trade or business, or sales to a home for the aged for use in 366  
the operation of independent living facilities as defined in 367  
division (A) of section 5709.12 of the Revised Code. 368

(13) Building and construction materials and services sold 369  
to construction contractors for incorporation into a structure 370  
or improvement to real property under a construction contract 371

with this state or a political subdivision of this state, or 372  
with the United States government or any of its agencies; 373  
building and construction materials and services sold to 374  
construction contractors for incorporation into a structure or 375  
improvement to real property that are accepted for ownership by 376  
this state or any of its political subdivisions, or by the 377  
United States government or any of its agencies at the time of 378  
completion of the structures or improvements; building and 379  
construction materials sold to construction contractors for 380  
incorporation into a horticulture structure or livestock 381  
structure for a person engaged in the business of horticulture 382  
or producing livestock; building materials and services sold to 383  
a construction contractor for incorporation into a house of 384  
public worship or religious education, or a building used 385  
exclusively for charitable purposes under a construction 386  
contract with an organization whose purpose is as described in 387  
division (B) (12) of this section; building materials and 388  
services sold to a construction contractor for incorporation 389  
into a building under a construction contract with an 390  
organization exempt from taxation under section 501(c) (3) of the 391  
Internal Revenue Code of 1986 when the building is to be used 392  
exclusively for the organization's exempt purposes; building and 393  
construction materials sold for incorporation into the original 394  
construction of a sports facility under section 307.696 of the 395  
Revised Code; building and construction materials and services 396  
sold to a construction contractor for incorporation into real 397  
property outside this state if such materials and services, when 398  
sold to a construction contractor in the state in which the real 399  
property is located for incorporation into real property in that 400  
state, would be exempt from a tax on sales levied by that state; 401  
building and construction materials for incorporation into a 402  
transportation facility pursuant to a public-private agreement 403

entered into under sections 5501.70 to 5501.83 of the Revised 404  
Code; and, until one calendar year after the construction of a 405  
convention center that qualifies for property tax exemption 406  
under section 5709.084 of the Revised Code is completed, 407  
building and construction materials and services sold to a 408  
construction contractor for incorporation into the real property 409  
comprising that convention center; 410

(14) Sales of ships or vessels or rail rolling stock used 411  
or to be used principally in interstate or foreign commerce, and 412  
repairs, alterations, fuel, and lubricants for such ships or 413  
vessels or rail rolling stock; 414

(15) Sales to persons primarily engaged in any of the 415  
activities mentioned in division (B) (42) (a), (g), or (h) of this 416  
section, to persons engaged in making retail sales, or to 417  
persons who purchase for sale from a manufacturer tangible 418  
personal property that was produced by the manufacturer in 419  
accordance with specific designs provided by the purchaser, of 420  
packages, including material, labels, and parts for packages, 421  
and of machinery, equipment, and material for use primarily in 422  
packaging tangible personal property produced for sale, 423  
including any machinery, equipment, and supplies used to make 424  
labels or packages, to prepare packages or products for 425  
labeling, or to label packages or products, by or on the order 426  
of the person doing the packaging, or sold at retail. "Packages" 427  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 428  
bindings, wrappings, and other similar devices and containers, 429  
but does not include motor vehicles or bulk tanks, trailers, or 430  
similar devices attached to motor vehicles. "Packaging" means 431  
placing in a package. Division (B) (15) of this section does not 432  
apply to persons engaged in highway transportation for hire. 433

(16) Sales of food to persons using supplemental nutrition 434  
assistance program benefits to purchase the food. As used in 435  
this division, "food" has the same meaning as in 7 U.S.C. 2012 436  
and federal regulations adopted pursuant to the Food and 437  
Nutrition Act of 2008. 438

(17) Sales to persons engaged in farming, agriculture, 439  
horticulture, or floriculture, of tangible personal property for 440  
use or consumption primarily in the production by farming, 441  
agriculture, horticulture, or floriculture of other tangible 442  
personal property for use or consumption primarily in the 443  
production of tangible personal property for sale by farming, 444  
agriculture, horticulture, or floriculture; or material and 445  
parts for incorporation into any such tangible personal property 446  
for use or consumption in production; and of tangible personal 447  
property for such use or consumption in the conditioning or 448  
holding of products produced by and for such use, consumption, 449  
or sale by persons engaged in farming, agriculture, 450  
horticulture, or floriculture, except where such property is 451  
incorporated into real property; 452

(18) Sales of drugs for a human being ~~that may be~~ 453  
~~dispensed only pursuant to a prescription;~~ insulin as recognized 454  
in the official United States pharmacopoeia; urine and blood 455  
testing materials when used by diabetics or persons with 456  
hypoglycemia to test for glucose or acetone; hypodermic syringes 457  
and needles when used by diabetics for insulin injections; 458  
epoetin alfa when purchased for use in the treatment of persons 459  
with medical disease; hospital beds when purchased by hospitals, 460  
nursing homes, or other medical facilities; and medical oxygen 461  
and medical oxygen-dispensing equipment when purchased by 462  
hospitals, nursing homes, or other medical facilities; 463

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.

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

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

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

(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for

packages, and machinery, equipment, and material for use in	493
packaging eggs for sale; and handling and transportation	494
equipment and parts therefor, except motor vehicles licensed to	495
operate on public highways, used in intraplant or interplant	496
transfers or shipment of eggs in the process of preparation for	497
sale, when the plant or plants within or between which such	498
transfers or shipments occur are operated by the same person.	499
"Packages" includes containers, cases, baskets, flats, fillers,	500
filler flats, cartons, closure materials, labels, and labeling	501
materials, and "packaging" means placing therein.	502
(25) (a) Sales of water to a consumer for residential use;	503
(b) Sales of water by a nonprofit corporation engaged	504
exclusively in the treatment, distribution, and sale of water to	505
consumers, if such water is delivered to consumers through pipes	506
or tubing.	507
(26) Fees charged for inspection or reinspection of motor	508
vehicles under section 3704.14 of the Revised Code;	509
(27) Sales to persons licensed to conduct a food service	510
operation pursuant to section 3717.43 of the Revised Code, of	511
tangible personal property primarily used directly for the	512
following:	513
(a) To prepare food for human consumption for sale;	514
(b) To preserve food that has been or will be prepared for	515
human consumption for sale by the food service operator, not	516
including tangible personal property used to display food for	517
selection by the consumer;	518
(c) To clean tangible personal property used to prepare or	519
serve food for human consumption for sale.	520

(28) Sales of animals by nonprofit animal adoption	521
services or county humane societies;	522
(29) Sales of services to a corporation described in	523
division (A) of section 5709.72 of the Revised Code, and sales	524
of tangible personal property that qualifies for exemption from	525
taxation under section 5709.72 of the Revised Code;	526
(30) Sales and installation of agricultural land tile, as	527
defined in division (B) (5) (a) of section 5739.01 of the Revised	528
Code;	529
(31) Sales and erection or installation of portable grain	530
bins, as defined in division (B) (5) (b) of section 5739.01 of the	531
Revised Code;	532
(32) The sale, lease, repair, and maintenance of, parts	533
for, or items attached to or incorporated in, motor vehicles	534
that are primarily used for transporting tangible personal	535
property belonging to others by a person engaged in highway	536
transportation for hire, except for packages and packaging used	537
for the transportation of tangible personal property;	538
(33) Sales to the state headquarters of any veterans'	539
organization in this state that is either incorporated and	540
issued a charter by the congress of the United States or is	541
recognized by the United States veterans administration, for use	542
by the headquarters;	543
(34) Sales to a telecommunications service vendor, mobile	544
telecommunications service vendor, or satellite broadcasting	545
service vendor of tangible personal property and services used	546
directly and primarily in transmitting, receiving, switching, or	547
recording any interactive, one- or two-way electromagnetic	548
communications, including voice, image, data, and information,	549

through the use of any medium, including, but not limited to, 550  
poles, wires, cables, switching equipment, computers, and record 551  
storage devices and media, and component parts for the tangible 552  
personal property. The exemption provided in this division shall 553  
be in lieu of all other exemptions under division (B) (42) (a) or 554  
(n) of this section to which the vendor may otherwise be 555  
entitled, based upon the use of the thing purchased in providing 556  
the telecommunications, mobile telecommunications, or satellite 557  
broadcasting service. 558

(35) (a) Sales where the purpose of the consumer is to use 559  
or consume the things transferred in making retail sales and 560  
consisting of newspaper inserts, catalogues, coupons, flyers, 561  
gift certificates, or other advertising material that prices and 562  
describes tangible personal property offered for retail sale. 563

(b) Sales to direct marketing vendors of preliminary 564  
materials such as photographs, artwork, and typesetting that 565  
will be used in printing advertising material; and of printed 566  
matter that offers free merchandise or chances to win sweepstake 567  
prizes and that is mailed to potential customers with 568  
advertising material described in division (B) (35) (a) of this 569  
section; 570

(c) Sales of equipment such as telephones, computers, 571  
facsimile machines, and similar tangible personal property 572  
primarily used to accept orders for direct marketing retail 573  
sales. 574

(d) Sales of automatic food vending machines that preserve 575  
food with a shelf life of forty-five days or less by 576  
refrigeration and dispense it to the consumer. 577

For purposes of division (B) (35) of this section, "direct 578

marketing" means the method of selling where consumers order 579  
tangible personal property by United States mail, delivery 580  
service, or telecommunication and the vendor delivers or ships 581  
the tangible personal property sold to the consumer from a 582  
warehouse, catalogue distribution center, or similar fulfillment 583  
facility by means of the United States mail, delivery service, 584  
or common carrier. 585

(36) Sales to a person engaged in the business of 586  
horticulture or producing livestock of materials to be 587  
incorporated into a horticulture structure or livestock 588  
structure; 589

(37) Sales of personal computers, computer monitors, 590  
computer keyboards, modems, and other peripheral computer 591  
equipment to an individual who is licensed or certified to teach 592  
in an elementary or a secondary school in this state for use by 593  
that individual in preparation for teaching elementary or 594  
secondary school students; 595

(38) Sales to a professional racing team of any of the 596  
following: 597

(a) Motor racing vehicles; 598

(b) Repair services for motor racing vehicles; 599

(c) Items of property that are attached to or incorporated 600  
in motor racing vehicles, including engines, chassis, and all 601  
other components of the vehicles, and all spare, replacement, 602  
and rebuilt parts or components of the vehicles; except not 603  
including tires, consumable fluids, paint, and accessories 604  
consisting of instrumentation sensors and related items added to 605  
the vehicle to collect and transmit data by means of telemetry 606  
and other forms of communication. 607

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

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B) (42) (a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

(41) Sales to a person providing services under division (B) (3) (r) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

(42) Sales where the purpose of the purchaser is to do any of the following:

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale

by manufacturing, assembling, processing, or refining; or to use 638  
or consume the thing transferred directly in producing tangible 639  
personal property for sale by mining, including, without 640  
limitation, the extraction from the earth of all substances that 641  
are classed geologically as minerals, production of crude oil 642  
and natural gas, or directly in the rendition of a public 643  
utility service, except that the sales tax levied by this 644  
section shall be collected upon all meals, drinks, and food for 645  
human consumption sold when transporting persons. Persons 646  
engaged in rendering services in the exploration for, and 647  
production of, crude oil and natural gas for others are deemed 648  
engaged directly in the exploration for, and production of, 649  
crude oil and natural gas. This paragraph does not exempt from 650  
"retail sale" or "sales at retail" the sale of tangible personal 651  
property that is to be incorporated into a structure or 652  
improvement to real property. 653

(b) To hold the thing transferred as security for the 654  
performance of an obligation of the vendor; 655

(c) To resell, hold, use, or consume the thing transferred 656  
as evidence of a contract of insurance; 657

(d) To use or consume the thing directly in commercial 658  
fishing; 659

(e) To incorporate the thing transferred as a material or 660  
a part into, or to use or consume the thing transferred directly 661  
in the production of, magazines distributed as controlled 662  
circulation publications; 663

(f) To use or consume the thing transferred in the 664  
production and preparation in suitable condition for market and 665  
sale of printed, imprinted, overprinted, lithographic, 666

multilithic, blueprinted, photostatic, or other productions or 667  
reproductions of written or graphic matter; 668

(g) To use the thing transferred, as described in section 669  
5739.011 of the Revised Code, primarily in a manufacturing 670  
operation to produce tangible personal property for sale; 671

(h) To use the benefit of a warranty, maintenance or 672  
service contract, or similar agreement, as described in division 673  
(B) (7) of section 5739.01 of the Revised Code, to repair or 674  
maintain tangible personal property, if all of the property that 675  
is the subject of the warranty, contract, or agreement would not 676  
be subject to the tax imposed by this section; 677

(i) To use the thing transferred as qualified research and 678  
development equipment; 679

(j) To use or consume the thing transferred primarily in 680  
storing, transporting, mailing, or otherwise handling purchased 681  
sales inventory in a warehouse, distribution center, or similar 682  
facility when the inventory is primarily distributed outside 683  
this state to retail stores of the person who owns or controls 684  
the warehouse, distribution center, or similar facility, to 685  
retail stores of an affiliated group of which that person is a 686  
member, or by means of direct marketing. This division does not 687  
apply to motor vehicles registered for operation on the public 688  
highways. As used in this division, "affiliated group" has the 689  
same meaning as in division (B) (3) (e) of section 5739.01 of the 690  
Revised Code and "direct marketing" has the same meaning as in 691  
division (B) (35) of this section. 692

(k) To use or consume the thing transferred to fulfill a 693  
contractual obligation incurred by a warrantor pursuant to a 694  
warranty provided as a part of the price of the tangible 695

personal property sold or by a vendor of a warranty, maintenance 696  
or service contract, or similar agreement the provision of which 697  
is defined as a sale under division (B) (7) of section 5739.01 of 698  
the Revised Code; 699

(l) To use or consume the thing transferred in the 700  
production of a newspaper for distribution to the public; 701

(m) To use tangible personal property to perform a service 702  
listed in division (B) (3) of section 5739.01 of the Revised 703  
Code, if the property is or is to be permanently transferred to 704  
the consumer of the service as an integral part of the 705  
performance of the service; 706

(n) To use or consume the thing transferred primarily in 707  
producing tangible personal property for sale by farming, 708  
agriculture, horticulture, or floriculture. Persons engaged in 709  
rendering farming, agriculture, horticulture, or floriculture 710  
services for others are deemed engaged primarily in farming, 711  
agriculture, horticulture, or floriculture. This paragraph does 712  
not exempt from "retail sale" or "sales at retail" the sale of 713  
tangible personal property that is to be incorporated into a 714  
structure or improvement to real property. 715

(o) To use or consume the thing transferred in acquiring, 716  
formatting, editing, storing, and disseminating data or 717  
information by electronic publishing; 718

(p) To provide the thing transferred to the owner or 719  
lessee of a motor vehicle that is being repaired or serviced, if 720  
the thing transferred is a rented motor vehicle and the 721  
purchaser is reimbursed for the cost of the rented motor vehicle 722  
by a manufacturer, warrantor, or provider of a maintenance, 723  
service, or other similar contract or agreement, with respect to 724

the motor vehicle that is being repaired or serviced.	725
As used in division (B) (42) of this section, "thing"	726
includes all transactions included in divisions (B) (3) (a), (b),	727
and (e) of section 5739.01 of the Revised Code.	728
(43) Sales conducted through a coin operated device that	729
activates vacuum equipment or equipment that dispenses water,	730
whether or not in combination with soap or other cleaning agents	731
or wax, to the consumer for the consumer's use on the premises	732
in washing, cleaning, or waxing a motor vehicle, provided no	733
other personal property or personal service is provided as part	734
of the transaction.	735
(44) Sales of replacement and modification parts for	736
engines, airframes, instruments, and interiors in, and paint	737
for, aircraft used primarily in a fractional aircraft ownership	738
program, and sales of services for the repair, modification, and	739
maintenance of such aircraft, and machinery, equipment, and	740
supplies primarily used to provide those services.	741
(45) Sales of telecommunications service that is used	742
directly and primarily to perform the functions of a call	743
center. As used in this division, "call center" means any	744
physical location where telephone calls are placed or received	745
in high volume for the purpose of making sales, marketing,	746
customer service, technical support, or other specialized	747
business activity, and that employs at least fifty individuals	748
that engage in call center activities on a full-time basis, or	749
sufficient individuals to fill fifty full-time equivalent	750
positions.	751
(46) Sales by a telecommunications service vendor of 900	752
service to a subscriber. This division does not apply to	753

information services, as defined in division (FF) of section 754  
5739.01 of the Revised Code. 755

(47) Sales of value-added non-voice data service. This 756  
division does not apply to any similar service that is not 757  
otherwise a telecommunications service. 758

(48) (a) Sales of machinery, equipment, and software to a 759  
qualified direct selling entity for use in a warehouse or 760  
distribution center primarily for storing, transporting, or 761  
otherwise handling inventory that is held for sale to 762  
independent salespersons who operate as direct sellers and that 763  
is held primarily for distribution outside this state; 764

(b) As used in division (B) (48) (a) of this section: 765

(i) "Direct seller" means a person selling consumer 766  
products to individuals for personal or household use and not 767  
from a fixed retail location, including selling such product at 768  
in-home product demonstrations, parties, and other one-on-one 769  
selling. 770

(ii) "Qualified direct selling entity" means an entity 771  
selling to direct sellers at the time the entity enters into a 772  
tax credit agreement with the tax credit authority pursuant to 773  
section 122.17 of the Revised Code, provided that the agreement 774  
was entered into on or after January 1, 2007. Neither 775  
contingencies relevant to the granting of, nor later 776  
developments with respect to, the tax credit shall impair the 777  
status of the qualified direct selling entity under division (B) 778  
(48) of this section after execution of the tax credit agreement 779  
by the tax credit authority. 780

(c) Division (B) (48) of this section is limited to 781  
machinery, equipment, and software first stored, used, or 782

consumed in this state within the period commencing June 24,	783
2008, and ending on the date that is five years after that date.	784
(49) Sales of materials, parts, equipment, or engines used	785
in the repair or maintenance of aircraft or avionics systems of	786
such aircraft, and sales of repair, remodeling, replacement, or	787
maintenance services in this state performed on aircraft or on	788
an aircraft's avionics, engine, or component materials or parts.	789
As used in division (B) (49) of this section, "aircraft" means	790
aircraft of more than six thousand pounds maximum certified	791
takeoff weight or used exclusively in general aviation.	792
(50) Sales of full flight simulators that are used for	793
pilot or flight-crew training, sales of repair or replacement	794
parts or components, and sales of repair or maintenance services	795
for such full flight simulators. "Full flight simulator" means a	796
replica of a specific type, or make, model, and series of	797
aircraft cockpit. It includes the assemblage of equipment and	798
computer programs necessary to represent aircraft operations in	799
ground and flight conditions, a visual system providing an out-	800
of-the-cockpit view, and a system that provides cues at least	801
equivalent to those of a three-degree-of-freedom motion system,	802
and has the full range of capabilities of the systems installed	803
in the device as described in appendices A and B of part 60 of	804
chapter 1 of title 14 of the Code of Federal Regulations.	805
(51) Any transfer or lease of tangible personal property	806
between the state and JobsOhio in accordance with section	807
4313.02 of the Revised Code.	808
(52) (a) Sales to a qualifying corporation.	809
(b) As used in division (B) (52) of this section:	810
(i) "Qualifying corporation" means a nonprofit corporation	811

organized in this state that leases from an eligible county 812  
land, buildings, structures, fixtures, and improvements to the 813  
land that are part of or used in a public recreational facility 814  
used by a major league professional athletic team or a class A 815  
to class AAA minor league affiliate of a major league 816  
professional athletic team for a significant portion of the 817  
team's home schedule, provided the following apply: 818

(I) The facility is leased from the eligible county 819  
pursuant to a lease that requires substantially all of the 820  
revenue from the operation of the business or activity conducted 821  
by the nonprofit corporation at the facility in excess of 822  
operating costs, capital expenditures, and reserves to be paid 823  
to the eligible county at least once per calendar year. 824

(II) Upon dissolution and liquidation of the nonprofit 825  
corporation, all of its net assets are distributable to the 826  
board of commissioners of the eligible county from which the 827  
corporation leases the facility. 828

(ii) "Eligible county" has the same meaning as in section 829  
307.695 of the Revised Code. 830

(53) Sales to or by a cable service provider, video 831  
service provider, or radio or television broadcast station 832  
regulated by the federal government of cable service or 833  
programming, video service or programming, audio service or 834  
programming, or electronically transferred digital audiovisual 835  
or audio work. As used in division (B) (53) of this section, 836  
"cable service" and "cable service provider" have the same 837  
meanings as in section 1332.01 of the Revised Code, and "video 838  
service," "video service provider," and "video programming" have 839  
the same meanings as in section 1332.21 of the Revised Code. 840

<u>(54) Sales of disposable baby diapers.</u>	841
<u>(55) Sales of tampons, panty liners, menstrual cups,</u>	842
<u>sanitary napkins, and other similar tangible personal property</u>	843
<u>the principal purpose of which is feminine hygiene in connection</u>	844
<u>with the menstrual cycle.</u>	845
(C) For the purpose of the proper administration of this	846
chapter, and to prevent the evasion of the tax, it is presumed	847
that all sales made in this state are subject to the tax until	848
the contrary is established.	849
(D) The levy of this tax on retail sales of recreation and	850
sports club service shall not prevent a municipal corporation	851
from levying any tax on recreation and sports club dues or on	852
any income generated by recreation and sports club dues.	853
(E) The tax collected by the vendor from the consumer	854
under this chapter is not part of the price, but is a tax	855
collection for the benefit of the state, and of counties levying	856
an additional sales tax pursuant to section 5739.021 or 5739.026	857
of the Revised Code and of transit authorities levying an	858
additional sales tax pursuant to section 5739.023 of the Revised	859
Code. Except for the discount authorized under section 5739.12	860
of the Revised Code and the effects of any rounding pursuant to	861
section 5703.055 of the Revised Code, no person other than the	862
state or such a county or transit authority shall derive any	863
benefit from the collection or payment of the tax levied by this	864
section or section 5739.021, 5739.023, or 5739.026 of the	865
Revised Code.	866
<u>Sec. 5739.212. On or before the twentieth day of the month</u>	867
<u>in which a certification is made under division (B) (1) of</u>	868
<u>section 5739.21 of the Revised Code, the director of budget and</u>	869

management shall pay from the general revenue fund to the county 870  
treasurer of a county or fiscal officer of a transit authority 871  
levying a tax or taxes pursuant to section 5739.021, 5739.023, 872  
or 5739.026 of the Revised Code an amount equal to the 873  
difference obtained by subtracting (a) the amount of the payment 874  
provided to the county treasurer or fiscal officer under 875  
division (D) of section 5739.21 of the Revised Code for the 876  
applicable month from (b) the amount the tax commissioner 877  
estimates would have been payable to that county treasurer or 878  
fiscal officer under that division for that month if section 879  
5739.02 of the Revised Code had not been amended by ...B... of 880  
the 131st general assembly. A payment received by a county 881  
treasurer or fiscal officer under this division shall be 882  
deposited as would revenue from such tax or taxes levied by the 883  
county or transit authority as required under section 5739.211 884  
of the Revised Code proportionately according to the ratio the 885  
rate of each such tax levied by the county or transit authority 886  
bears to the total rate of all such taxes levied thereby. 887

**Sec. 5741.033.** On or before the twentieth day of the month 888  
in which a certification under division (B) of section 5741.03 889  
of the Revised Code is made, the director of budget and 890  
management shall pay from the general revenue fund to the county 891  
treasurer of a county or fiscal officer of a transit authority 892  
levying the tax or taxes pursuant to section 5741.021, 5741.022, 893  
or 5741.023 of the Revised Code an amount equal to the 894  
difference obtained by subtracting (a) the amount of the payment 895  
provided to the county treasurer or fiscal officer under 896  
division (B) of section 5741.03 of the Revised Code for the 897  
applicable month from (b) the amount the tax commissioner 898  
estimates would have been payable to that county treasurer or 899  
fiscal officer under that division for that month if section 900

5739.02 of the Revised Code had not been amended by ...B... of 901  
the 131st general assembly. A payment received by a county 902  
treasurer or fiscal officer under this division shall be 903  
deposited as would revenue from such tax or taxes levied by the 904  
county or transit authority as required under section 5741.031 905  
of the Revised Code proportionately according to the ratio the 906  
rate of each such tax levied by the county or transit authority 907  
bears to the total rate of all such taxes levied thereby. 908

**Section 2.** That existing sections 131.51 and 5739.02 of 909  
the Revised Code are hereby repealed. 910

**Section 3.** The amendment by this act of section 5739.02 of 911  
the Revised Code applies on and after August 1, 2017. 912