

**As Passed by the House**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Sub. S. B. No. 226**

**Senator Bacon**

**Cosponsors: Senators Eklund, LaRose, Yuko, Oelslager, Manning, Hottinger, Lehner, Terhar, Beagle, Hackett, Wilson, Balderson, Brown, Burke, Dolan, Gardner, Hoagland, Huffman, Kunze, Obhof, O'Brien, Peterson, Schiavoni, Sykes, Tavares, Thomas, Uecker, Williams Representatives Schaffer, Rogers, Anielski, Cera, Hambley, Patmon, Retherford, Antani, Antonio, Arndt, Ashford, Boggs, Brenner, Brown, Carfagna, Celebrezze, Clyde, Craig, Edwards, Faber, Galonski, Gavarone, Green, Greenspan, Hagan, Holmes, Hood, Hoops, Hughes, Koehler, Landis, LaTourette, Leland, Lepore-Hagan, Lipps, Manning, Merrin, Miller, O'Brien, Patterson, Patton, Pelanda, Reineke, Rezabek, Riedel, Roegner, Romanchuk, Schuring, Slaby, Smith, K., Smith, R., Stein, Thompson, Wiggam, Young**

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**A BILL**

To amend sections 3311.50, 5705.215, 5739.02, 1  
5739.03, and 5739.05 of the Revised Code to 2  
provide for a permanent three-day sales tax 3  
"holiday" each August during which sales of 4  
clothing and school supplies are exempt from 5  
sales and use tax, to authorize a county school 6  
financing district property tax for school 7  
safety, security, and mental health services, 8  
and to declare an emergency. 9

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

**Section 1.** That sections 3311.50, 5705.215, 5739.02, 10  
5739.03, and 5739.05 of the Revised Code be amended to read as 11  
follows: 12

**Sec. 3311.50.** (A) As used in this section, "county school financing district" means a taxing district consisting of the following territory:

(1) The territory that constitutes the educational service center on the date that the governing board of that educational service center adopts a resolution under division (B) of this section declaring that the territory of the educational service center is a county school financing district, exclusive of any territory subsequently withdrawn from the district under division (D) of this section;

(2) Any territory that has been added to the county school financing district under this section.

A county school financing district may include the territory of a city, local, or exempted village school district whose territory also is included in the territory of one or more other county school financing districts.

(B) The governing board of any educational service center may, by resolution, declare that the territory of the educational service center is a county school financing district. The resolution shall state the purpose for which the county school financing district is created, which may be for any one or more of the following purposes:

(1) To levy taxes for the provision of special education by the school districts that are a part of the district, including taxes for permanent improvements for special education;

(2) To levy taxes for the provision of specified educational programs and services by the school districts that are a part of the district, as identified in the resolution

creating the district, including the levying of taxes for 42  
permanent improvements for those programs and services~~+~~. 43  
Services financed by the levy may include school safety and 44  
security and mental health services, including training and 45  
employment of or contracting for the services of safety 46  
personnel, mental health personnel, social workers, and 47  
counselors. 48

(3) To levy taxes for permanent improvements of school 49  
districts that are a part of the district. 50

The governing board of the educational service center that 51  
creates a county school financing district shall serve as the 52  
taxing authority of the district and may use educational service 53  
center governing board employees to perform any of the functions 54  
necessary in the performance of its duties as a taxing 55  
authority. A county school financing district shall not employ 56  
any personnel. 57

With the approval of a majority of the members of the 58  
board of education of each school district within the territory 59  
of the county school financing district, the taxing authority of 60  
the financing district may amend the resolution creating the 61  
district to broaden or narrow the purposes for which it was 62  
created. 63

A governing board of an educational service center may 64  
create more than one county school financing district. If a 65  
governing board of an educational service center creates more 66  
than one such district, it shall clearly distinguish among the 67  
districts it creates by including a designation of each 68  
district's purpose in the district's name. 69

(C) A majority of the members of a board of education of a 70

city, local, or exempted village school district may adopt a 71  
resolution requesting that its territory be joined with the 72  
territory of any county school financing district. Copies of the 73  
resolution shall be filed with the state board of education and 74  
the taxing authority of the county school financing district. 75  
Within sixty days of its receipt of such a resolution, the 76  
county school financing district's taxing authority shall vote 77  
on the question of whether to accept the school district's 78  
territory as part of the county school financing district. If a 79  
majority of the members of the taxing authority vote to accept 80  
the territory, the school district's territory shall thereupon 81  
become a part of the county school financing district unless the 82  
county school financing district has in effect a tax imposed 83  
under section ~~5705.211~~ 5705.215 of the Revised Code. If the 84  
county school financing district has such a tax in effect, the 85  
taxing authority shall certify a copy of its resolution 86  
accepting the school district's territory to the school 87  
district's board of education, which may then adopt a 88  
resolution, with the affirmative vote of a majority of its 89  
members, proposing the submission to the electors of the 90  
question of whether the district's territory shall become a part 91  
of the county school financing district and subject to the taxes 92  
imposed by the financing district. The resolution shall set 93  
forth the date on which the question shall be submitted to the 94  
electors, which shall be at a special election held on a date 95  
specified in the resolution, which shall not be earlier than 96  
ninety days after the adoption and certification of the 97  
resolution. A copy of the resolution shall immediately be 98  
certified to the board of elections of the proper county, which 99  
shall make arrangements for the submission of the proposal to 100  
the electors of the school district. The board of the joining 101  
district shall publish notice of the election in a newspaper of 102

general circulation in the county once a week for two 103  
consecutive weeks, or as provided in section 7.16 of the Revised 104  
Code, prior to the election. Additionally, if the board of 105  
elections operates and maintains a web site, the board of 106  
elections shall post notice of the election on its web site for 107  
thirty days prior to the election. The question appearing on the 108  
ballot shall read: 109

"Shall the territory within ..... (name of the school 110  
district proposing to join the county school financing district) 111  
..... be added to ..... (name) ..... county 112  
school financing district, and a property tax for the purposes 113  
of ..... (here insert purposes) ..... at a rate of 114  
taxation not exceeding ..... (here insert the outstanding 115  
tax rate) ..... be in effect for ..... (here insert 116  
the number of years the tax is to be in effect or "a continuing 117  
period of time," as applicable) .....?" 118

If the proposal is approved by a majority of the electors 119  
voting on it, the joinder shall take effect on the first day of 120  
July following the date of the election, and the county board of 121  
elections shall notify the county auditor of each county in 122  
which the school district joining its territory to the county 123  
school financing district is located. 124

(D) The board of any city, local, or exempted village 125  
school district whose territory is part of a county school 126  
financing district may withdraw its territory from the county 127  
school financing district thirty days after submitting to the 128  
governing board that is the taxing authority of the district and 129  
the state board a resolution proclaiming such withdrawal, 130  
adopted by a majority vote of its members, but any county school 131  
financing district tax levied in such territory on the effective 132

date of the withdrawal shall remain in effect in such territory 133  
until such tax expires or is renewed. No board may adopt a 134  
resolution withdrawing from a county school financing district 135  
that would take effect during the forty-five days preceding the 136  
date of an election at which a levy proposed under section 137  
5705.215 of the Revised Code is to be voted upon. 138

(E) A city, local, or exempted village school district 139  
does not lose its separate identity or legal existence by reason 140  
of joining its territory to a county school financing district 141  
under this section and an educational service center does not 142  
lose its separate identity or legal existence by reason of 143  
creating a county school financing district that accepts or 144  
loses territory under this section. 145

**Sec. 5705.215.** (A) The governing board of an educational 146  
service center that is the taxing authority of a county school 147  
financing district, upon receipt of identical resolutions 148  
adopted within a sixty-day period by a majority of the members 149  
of the board of education of each school district that is within 150  
the territory of the county school financing district, may 151  
submit a tax levy to the electors of the territory in the same 152  
manner as a school board may submit a levy under division (C) of 153  
section 5705.21 of the Revised Code, except that: 154

(1) The levy may be for a period not to exceed ten years, 155  
or, if the levy is solely for the purpose or purposes described 156  
in division (A) (2) (a) ~~or, (c), or (f)~~ of this section, for a 157  
continuing period of time. 158

(2) The purpose of the levy shall be one or more of the 159  
following: 160

(a) For current expenses for the provision of special 161

education and related services within the territory of the district;	162 163
(b) For permanent improvements within the territory of the district for special education and related services;	164 165
(c) For current expenses for specified educational programs within the territory of the district;	166 167
(d) For permanent improvements within the territory of the district for specified educational programs;	168 169
(e) For permanent improvements within the territory of the district;	170 171
<u>(f) For current expenses for school safety and security and mental health services, including training and employment of or contracting for the services of safety personnel, mental health personnel, social workers, and counselors.</u>	172 173 174 175
(B) If the levy provides for but is not limited to current expenses, the resolutions shall apportion the annual rate of the levy between current expenses and the other purposes. The apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for current expenses and the other purposes shall be limited by that apportionment.	176 177 178 179 180 181 182
(C) Prior to the application of section 319.301 of the Revised Code, the rate of a levy that is limited to, or to the extent that it is apportioned to, purposes other than current expenses shall be reduced in the same proportion in which the district's total valuation increases during the life of the levy because of additions to such valuation that have resulted from improvements added to the tax list and duplicate.	183 184 185 186 187 188 189

(D) After the approval of a county school financing 190  
district levy under this section, the taxing authority may 191  
anticipate a fraction of the proceeds of such levy and may from 192  
time to time during the life of such levy, but in any given year 193  
prior to the time when the tax collection from such levy can be 194  
made for that year, issue anticipation notes in an amount not 195  
exceeding fifty per cent of the estimated proceeds of the levy 196  
to be collected in each year up to a period of five years after 197  
the date of the issuance of such notes, less an amount equal to 198  
the proceeds of such levy obligated for each year by the 199  
issuance of anticipation notes, provided that the total amount 200  
maturing in any one year shall not exceed fifty per cent of the 201  
anticipated proceeds of the levy for that year. Each issue of 202  
notes shall be sold as provided in Chapter 133. of the Revised 203  
Code, and shall, except for such limitation that the total 204  
amount of such notes maturing in any one year shall not exceed 205  
fifty per cent of the anticipated proceeds of such levy for that 206  
year, mature serially in substantially equal installments during 207  
each year over a period not to exceed five years after their 208  
issuance. 209

(E) (1) In a resolution to be submitted to the taxing 210  
authority of a county school financing district under division 211  
(A) of this section calling for a ballot issue on the question 212  
of the levying of a tax for a continuing period of time by the 213  
taxing authority, the board of education of a school district 214  
that is part of the territory of the county school financing 215  
district also may propose to reduce the rate of one or more of 216  
that school district's property taxes levied for a continuing 217  
period of time in excess of the ten-mill limitation. The 218  
reduction in the rate of a property tax may be any amount, 219  
expressed in mills per one dollar of valuation, not exceeding 220



the rate at which the tax is authorized to be levied. The 221  
reduction in the rate of a tax shall first take effect in the 222  
same year that the county school financing district tax takes 223  
effect, and shall continue for each year that the county school 224  
financing district tax is in effect. A board of education's 225  
resolution proposing to reduce the rate of one or more of its 226  
school district property taxes shall specifically identify each 227  
such tax and shall state for each tax the maximum rate at which 228  
it currently may be levied and the maximum rate at which it 229  
could be levied after the proposed reduction, expressed in mills 230  
per one dollar of valuation. 231

Before submitting the resolution to the taxing authority 232  
of the county school financing district, the board of education 233  
of the school district shall certify a copy of it to the tax 234  
commissioner. Within ten days of receiving the copy, the tax 235  
commissioner shall certify to the board the reduction in the 236  
school district's total effective tax rate for each class of 237  
property that would have resulted if the proposed reduction in 238  
the rate or rates had been in effect the previous year. After 239  
receiving the certification from the commissioner, the board may 240  
amend its resolution to change the proposed property tax rate 241  
reduction before submitting the resolution to the financing 242  
district taxing authority. As used in this paragraph, "effective 243  
tax rate" has the same meaning as in section 323.08 of the 244  
Revised Code. 245

If the board of education of a school district that is 246  
part of the territory of a county school financing district 247  
adopts a resolution proposing to reduce the rate of one or more 248  
of its property taxes in conjunction with the levying of a tax 249  
by the financing district, the resolution submitted by the board 250  
to the taxing authority of the financing district under division 251

(A) of this section does not have to be identical in this 252  
respect to the resolutions submitted by the boards of education 253  
of the other school districts that are part of the territory of 254  
the county school financing district. 255

(2) Each school district that is part of the territory of 256  
a county school financing district may tailor to its own 257  
situation a proposed reduction in one or more property tax rates 258  
in conjunction with the proposed levying of a tax by the county 259  
school financing district; if one such school district proposes 260  
a reduction in one or more tax rates, another school district 261  
may propose a reduction of a different size or may propose no 262  
reduction. Within each school district that is part of the 263  
territory of the county school financing district, the electors 264  
shall vote on one ballot issue combining the question of the 265  
levying of the tax by the taxing authority of the county school 266  
financing district with, if any such reduction is proposed, the 267  
question of the reduction in the rate of one or more taxes of 268  
the school district. If a majority of the electors of the county 269  
school financing district voting on the question of the proposed 270  
levying of a tax by the taxing authority of the financing 271  
district vote to approve the question, any tax reductions 272  
proposed by school districts that are part of the territory of 273  
the financing district also are approved. 274

(3) The form of the ballot for an issue proposing to levy 275  
a county school financing district tax in conjunction with the 276  
reduction of the rate of one or more school district taxes shall 277  
be as follows: 278

"Shall the ..... (name of the county school financing 279  
district) be authorized to levy an additional tax for ..... 280  
(purpose stated in the resolutions) at a rate not 281

exceeding ..... mills for each one dollar of valuation, which 282  
amounts to ..... (rate expressed in dollars and cents) for 283  
each one hundred dollars of valuation, for a continuing period 284  
of time? If the county school financing district tax is 285  
approved, the rate of an existing tax currently levied by 286  
the ..... (name of the school district of which the elector is 287  
a resident) at the rate of ..... mills for each one dollar of 288  
valuation shall be reduced to ..... mills until any such time 289  
as the county school financing district tax is decreased or 290  
repealed. 291

For the issue	292
Against the issue	293

" 294

If the board of education of the school district proposes 295  
to reduce the rate of more than one of its existing taxes, the 296  
second sentence of the ballot language shall be modified for 297  
residents of that district to express the rates at which those 298  
taxes currently are levied and the rates to which they would be 299  
reduced. If the board of education of the school district does 300  
not propose to reduce the rate of any of its taxes, the second 301  
sentence of the ballot language shall not be used for residents 302  
of that district. In any case, the first sentence of the ballot 303  
language shall be the same for all the electors in the county 304  
school financing district, but the second sentence shall be 305  
different in each school district depending on whether and in 306  
what amount the board of education of the school district 307  
proposes to reduce the rate of one or more of its property 308  
taxes. 309  
310

(4) If the rate of a school district property tax is 311

reduced pursuant to this division, the tax commissioner shall 312  
compute the percentage required to be computed for that tax 313  
under division (D) of section 319.301 of the Revised Code each 314  
year the rate is reduced as if the tax had been levied in the 315  
preceding year at the rate to which it has been reduced. If the 316  
reduced rate of a tax is increased under division (E) (5) of this 317  
section, the commissioner shall compute the percentage required 318  
to be computed for that tax under division (D) of section 319  
319.301 of the Revised Code each year the rate is increased as 320  
if the tax had been levied in the preceding year at the rate to 321  
which it has been increased. 322

(5) After the levying of a county school financing 323  
district tax in conjunction with the reduction of the rate of 324  
one or more school district taxes is approved by the electors 325  
under this division, if the rate of the county school financing 326  
district tax is decreased pursuant to an election under section 327  
5705.261 of the Revised Code, the rate of each school district 328  
tax that had been reduced shall be increased by the number of 329  
mills obtained by multiplying the number of mills of the 330  
original reduction by the same percentage that the financing 331  
district tax rate is decreased. If the county school financing 332  
district tax is repealed pursuant to an election under section 333  
5705.261 of the Revised Code, each school district may resume 334  
levying the property taxes that had been reduced at the full 335  
rate originally approved by the electors. A reduction in the 336  
rate of a school district property tax under this division is a 337  
reduction in the rate at which the board of education may levy 338  
that tax only for the period during which the county school 339  
financing district tax is levied prior to any decrease or repeal 340  
under section 5705.261 of the Revised Code. The resumption of 341  
the authority of the board of education to levy an increased or 342

the full rate of tax does not constitute the levying of a new 343  
tax in excess of the ten-mill limitation. 344

(F) If a county school financing district has a tax in 345  
effect under this section, the territory of a city, local, or 346  
exempted village school district that is not a part of the 347  
county school financing district shall not become a part of the 348  
county school financing district unless approved by the electors 349  
of the city, local, or exempted village school district in 350  
accordance with division (C) of section 3311.50 of the Revised 351  
Code. 352

**Sec. 5739.02.** For the purpose of providing revenue with 353  
which to meet the needs of the state, for the use of the general 354  
revenue fund of the state, for the purpose of securing a 355  
thorough and efficient system of common schools throughout the 356  
state, for the purpose of affording revenues, in addition to 357  
those from general property taxes, permitted under 358  
constitutional limitations, and from other sources, for the 359  
support of local governmental functions, and for the purpose of 360  
reimbursing the state for the expense of administering this 361  
chapter, an excise tax is hereby levied on each retail sale made 362  
in this state. 363

(A) (1) The tax shall be collected as provided in section 364  
5739.025 of the Revised Code. The rate of the tax shall be five 365  
and three-fourths per cent. The tax applies and is collectible 366  
when the sale is made, regardless of the time when the price is 367  
paid or delivered. 368

(2) In the case of the lease or rental, with a fixed term 369  
of more than thirty days or an indefinite term with a minimum 370  
period of more than thirty days, of any motor vehicles designed 371  
by the manufacturer to carry a load of not more than one ton, 372

watercraft, outboard motor, or aircraft, or of any tangible 373  
personal property, other than motor vehicles designed by the 374  
manufacturer to carry a load of more than one ton, to be used by 375  
the lessee or renter primarily for business purposes, the tax 376  
shall be collected by the vendor at the time the lease or rental 377  
is consummated and shall be calculated by the vendor on the 378  
basis of the total amount to be paid by the lessee or renter 379  
under the lease agreement. If the total amount of the 380  
consideration for the lease or rental includes amounts that are 381  
not calculated at the time the lease or rental is executed, the 382  
tax shall be calculated and collected by the vendor at the time 383  
such amounts are billed to the lessee or renter. In the case of 384  
an open-end lease or rental, the tax shall be calculated by the 385  
vendor on the basis of the total amount to be paid during the 386  
initial fixed term of the lease or rental, and for each 387  
subsequent renewal period as it comes due. As used in this 388  
division, "motor vehicle" has the same meaning as in section 389  
4501.01 of the Revised Code, and "watercraft" includes an 390  
outdrive unit attached to the watercraft. 391

A lease with a renewal clause and a termination penalty or 392  
similar provision that applies if the renewal clause is not 393  
exercised is presumed to be a sham transaction. In such a case, 394  
the tax shall be calculated and paid on the basis of the entire 395  
length of the lease period, including any renewal periods, until 396  
the termination penalty or similar provision no longer applies. 397  
The taxpayer shall bear the burden, by a preponderance of the 398  
evidence, that the transaction or series of transactions is not 399  
a sham transaction. 400

(3) Except as provided in division (A) (2) of this section, 401  
in the case of a sale, the price of which consists in whole or 402  
in part of the lease or rental of tangible personal property, 403

the tax shall be measured by the installments of that lease or rental. 404  
405

(4) In the case of a sale of a physical fitness facility 406  
service or recreation and sports club service, the price of 407  
which consists in whole or in part of a membership for the 408  
receipt of the benefit of the service, the tax applicable to the 409  
sale shall be measured by the installments thereof. 410

(B) The tax does not apply to the following: 411

(1) Sales to the state or any of its political 412  
subdivisions, or to any other state or its political 413  
subdivisions if the laws of that state exempt from taxation 414  
sales made to this state and its political subdivisions; 415

(2) Sales of food for human consumption off the premises 416  
where sold; 417

(3) Sales of food sold to students only in a cafeteria, 418  
dormitory, fraternity, or sorority maintained in a private, 419  
public, or parochial school, college, or university; 420

(4) Sales of newspapers and sales or transfers of 421  
magazines distributed as controlled circulation publications; 422

(5) The furnishing, preparing, or serving of meals without 423  
charge by an employer to an employee provided the employer 424  
records the meals as part compensation for services performed or 425  
work done; 426

(6) Sales of motor fuel upon receipt, use, distribution, 427  
or sale of which in this state a tax is imposed by the law of 428  
this state, but this exemption shall not apply to the sale of 429  
motor fuel on which a refund of the tax is allowable under 430  
division (A) of section 5735.14 of the Revised Code; and the tax 431

commissioner may deduct the amount of tax levied by this section 432  
applicable to the price of motor fuel when granting a refund of 433  
motor fuel tax pursuant to division (A) of section 5735.14 of 434  
the Revised Code and shall cause the amount deducted to be paid 435  
into the general revenue fund of this state; 436

(7) Sales of natural gas by a natural gas company or 437  
municipal gas utility, of water by a water-works company, or of 438  
steam by a heating company, if in each case the thing sold is 439  
delivered to consumers through pipes or conduits, and all sales 440  
of communications services by a telegraph company, all terms as 441  
defined in section 5727.01 of the Revised Code, and sales of 442  
electricity delivered through wires; 443

(8) Casual sales by a person, or auctioneer employed 444  
directly by the person to conduct such sales, except as to such 445  
sales of motor vehicles, watercraft or outboard motors required 446  
to be titled under section 1548.06 of the Revised Code, 447  
watercraft documented with the United States coast guard, 448  
snowmobiles, and all-purpose vehicles as defined in section 449  
4519.01 of the Revised Code; 450

(9) (a) Sales of services or tangible personal property, 451  
other than motor vehicles, mobile homes, and manufactured homes, 452  
by churches, organizations exempt from taxation under section 453  
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 454  
organizations operated exclusively for charitable purposes as 455  
defined in division (B)(12) of this section, provided that the 456  
number of days on which such tangible personal property or 457  
services, other than items never subject to the tax, are sold 458  
does not exceed six in any calendar year, except as otherwise 459  
provided in division (B)(9)(b) of this section. If the number of 460  
days on which such sales are made exceeds six in any calendar 461



year, the church or organization shall be considered to be 462  
engaged in business and all subsequent sales by it shall be 463  
subject to the tax. In counting the number of days, all sales by 464  
groups within a church or within an organization shall be 465  
considered to be sales of that church or organization. 466

(b) The limitation on the number of days on which tax- 467  
exempt sales may be made by a church or organization under 468  
division (B) (9) (a) of this section does not apply to sales made 469  
by student clubs and other groups of students of a primary or 470  
secondary school, or a parent-teacher association, booster 471  
group, or similar organization that raises money to support or 472  
fund curricular or extracurricular activities of a primary or 473  
secondary school. 474

(c) Divisions (B) (9) (a) and (b) of this section do not 475  
apply to sales by a noncommercial educational radio or 476  
television broadcasting station. 477

(10) Sales not within the taxing power of this state under 478  
the Constitution or laws of the United States or the 479  
Constitution of this state; 480

(11) Except for transactions that are sales under division 481  
(B) (3) (r) of section 5739.01 of the Revised Code, the 482  
transportation of persons or property, unless the transportation 483  
is by a private investigation and security service; 484

(12) Sales of tangible personal property or services to 485  
churches, to organizations exempt from taxation under section 486  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 487  
nonprofit organizations operated exclusively for charitable 488  
purposes in this state, no part of the net income of which 489  
inures to the benefit of any private shareholder or individual, 490

and no substantial part of the activities of which consists of 491  
carrying on propaganda or otherwise attempting to influence 492  
legislation; sales to offices administering one or more homes 493  
for the aged or one or more hospital facilities exempt under 494  
section 140.08 of the Revised Code; and sales to organizations 495  
described in division (D) of section 5709.12 of the Revised 496  
Code. 497

"Charitable purposes" means the relief of poverty; the 498  
improvement of health through the alleviation of illness, 499  
disease, or injury; the operation of an organization exclusively 500  
for the provision of professional, laundry, printing, and 501  
purchasing services to hospitals or charitable institutions; the 502  
operation of a home for the aged, as defined in section 5701.13 503  
of the Revised Code; the operation of a radio or television 504  
broadcasting station that is licensed by the federal 505  
communications commission as a noncommercial educational radio 506  
or television station; the operation of a nonprofit animal 507  
adoption service or a county humane society; the promotion of 508  
education by an institution of learning that maintains a faculty 509  
of qualified instructors, teaches regular continuous courses of 510  
study, and confers a recognized diploma upon completion of a 511  
specific curriculum; the operation of a parent-teacher 512  
association, booster group, or similar organization primarily 513  
engaged in the promotion and support of the curricular or 514  
extracurricular activities of a primary or secondary school; the 515  
operation of a community or area center in which presentations 516  
in music, dramatics, the arts, and related fields are made in 517  
order to foster public interest and education therein; the 518  
production of performances in music, dramatics, and the arts; or 519  
the promotion of education by an organization engaged in 520  
carrying on research in, or the dissemination of, scientific and 521

technological knowledge and information primarily for the 522  
public. 523

Nothing in this division shall be deemed to exempt sales 524  
to any organization for use in the operation or carrying on of a 525  
trade or business, or sales to a home for the aged for use in 526  
the operation of independent living facilities as defined in 527  
division (A) of section 5709.12 of the Revised Code. 528

(13) Building and construction materials and services sold 529  
to construction contractors for incorporation into a structure 530  
or improvement to real property under a construction contract 531  
with this state or a political subdivision of this state, or 532  
with the United States government or any of its agencies; 533  
building and construction materials and services sold to 534  
construction contractors for incorporation into a structure or 535  
improvement to real property that are accepted for ownership by 536  
this state or any of its political subdivisions, or by the 537  
United States government or any of its agencies at the time of 538  
completion of the structures or improvements; building and 539  
construction materials sold to construction contractors for 540  
incorporation into a horticulture structure or livestock 541  
structure for a person engaged in the business of horticulture 542  
or producing livestock; building materials and services sold to 543  
a construction contractor for incorporation into a house of 544  
public worship or religious education, or a building used 545  
exclusively for charitable purposes under a construction 546  
contract with an organization whose purpose is as described in 547  
division (B) (12) of this section; building materials and 548  
services sold to a construction contractor for incorporation 549  
into a building under a construction contract with an 550  
organization exempt from taxation under section 501(c) (3) of the 551  
Internal Revenue Code of 1986 when the building is to be used 552

exclusively for the organization's exempt purposes; building and 553  
construction materials sold for incorporation into the original 554  
construction of a sports facility under section 307.696 of the 555  
Revised Code; building and construction materials and services 556  
sold to a construction contractor for incorporation into real 557  
property outside this state if such materials and services, when 558  
sold to a construction contractor in the state in which the real 559  
property is located for incorporation into real property in that 560  
state, would be exempt from a tax on sales levied by that state; 561  
building and construction materials for incorporation into a 562  
transportation facility pursuant to a public-private agreement 563  
entered into under sections 5501.70 to 5501.83 of the Revised 564  
Code; and, until one calendar year after the construction of a 565  
convention center that qualifies for property tax exemption 566  
under section 5709.084 of the Revised Code is completed, 567  
building and construction materials and services sold to a 568  
construction contractor for incorporation into the real property 569  
comprising that convention center; 570

(14) Sales of ships or vessels or rail rolling stock used 571  
or to be used principally in interstate or foreign commerce, and 572  
repairs, alterations, fuel, and lubricants for such ships or 573  
vessels or rail rolling stock; 574

(15) Sales to persons primarily engaged in any of the 575  
activities mentioned in division (B) (42) (a), (g), or (h) of this 576  
section, to persons engaged in making retail sales, or to 577  
persons who purchase for sale from a manufacturer tangible 578  
personal property that was produced by the manufacturer in 579  
accordance with specific designs provided by the purchaser, of 580  
packages, including material, labels, and parts for packages, 581  
and of machinery, equipment, and material for use primarily in 582  
packaging tangible personal property produced for sale, 583

including any machinery, equipment, and supplies used to make 584  
labels or packages, to prepare packages or products for 585  
labeling, or to label packages or products, by or on the order 586  
of the person doing the packaging, or sold at retail. "Packages" 587  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 588  
bindings, wrappings, and other similar devices and containers, 589  
but does not include motor vehicles or bulk tanks, trailers, or 590  
similar devices attached to motor vehicles. "Packaging" means 591  
placing in a package. Division (B) (15) of this section does not 592  
apply to persons engaged in highway transportation for hire. 593

(16) Sales of food to persons using supplemental nutrition 594  
assistance program benefits to purchase the food. As used in 595  
this division, "food" has the same meaning as in 7 U.S.C. 2012 596  
and federal regulations adopted pursuant to the Food and 597  
Nutrition Act of 2008. 598

(17) Sales to persons engaged in farming, agriculture, 599  
horticulture, or floriculture, of tangible personal property for 600  
use or consumption primarily in the production by farming, 601  
agriculture, horticulture, or floriculture of other tangible 602  
personal property for use or consumption primarily in the 603  
production of tangible personal property for sale by farming, 604  
agriculture, horticulture, or floriculture; or material and 605  
parts for incorporation into any such tangible personal property 606  
for use or consumption in production; and of tangible personal 607  
property for such use or consumption in the conditioning or 608  
holding of products produced by and for such use, consumption, 609  
or sale by persons engaged in farming, agriculture, 610  
horticulture, or floriculture, except where such property is 611  
incorporated into real property; 612

(18) Sales of drugs for a human being that may be 613

dispensed only pursuant to a prescription; insulin as recognized 614  
in the official United States pharmacopoeia; urine and blood 615  
testing materials when used by diabetics or persons with 616  
hypoglycemia to test for glucose or acetone; hypodermic syringes 617  
and needles when used by diabetics for insulin injections; 618  
epoetin alfa when purchased for use in the treatment of persons 619  
with medical disease; hospital beds when purchased by hospitals, 620  
nursing homes, or other medical facilities; and medical oxygen 621  
and medical oxygen-dispensing equipment when purchased by 622  
hospitals, nursing homes, or other medical facilities; 623

(19) Sales of prosthetic devices, durable medical 624  
equipment for home use, or mobility enhancing equipment, when 625  
made pursuant to a prescription and when such devices or 626  
equipment are for use by a human being. 627

(20) Sales of emergency and fire protection vehicles and 628  
equipment to nonprofit organizations for use solely in providing 629  
fire protection and emergency services, including trauma care 630  
and emergency medical services, for political subdivisions of 631  
the state; 632

(21) Sales of tangible personal property manufactured in 633  
this state, if sold by the manufacturer in this state to a 634  
retailer for use in the retail business of the retailer outside 635  
of this state and if possession is taken from the manufacturer 636  
by the purchaser within this state for the sole purpose of 637  
immediately removing the same from this state in a vehicle owned 638  
by the purchaser; 639

(22) Sales of services provided by the state or any of its 640  
political subdivisions, agencies, instrumentalities, 641  
institutions, or authorities, or by governmental entities of the 642  
state or any of its political subdivisions, agencies, 643

instrumentalities, institutions, or authorities;	644
(23) Sales of motor vehicles to nonresidents of this state	645
under the circumstances described in division (B) of section	646
5739.029 of the Revised Code;	647
(24) Sales to persons engaged in the preparation of eggs	648
for sale of tangible personal property used or consumed directly	649
in such preparation, including such tangible personal property	650
used for cleaning, sanitizing, preserving, grading, sorting, and	651
classifying by size; packages, including material and parts for	652
packages, and machinery, equipment, and material for use in	653
packaging eggs for sale; and handling and transportation	654
equipment and parts therefor, except motor vehicles licensed to	655
operate on public highways, used in intraplant or interplant	656
transfers or shipment of eggs in the process of preparation for	657
sale, when the plant or plants within or between which such	658
transfers or shipments occur are operated by the same person.	659
"Packages" includes containers, cases, baskets, flats, fillers,	660
filler flats, cartons, closure materials, labels, and labeling	661
materials, and "packaging" means placing therein.	662
(25) (a) Sales of water to a consumer for residential use;	663
(b) Sales of water by a nonprofit corporation engaged	664
exclusively in the treatment, distribution, and sale of water to	665
consumers, if such water is delivered to consumers through pipes	666
or tubing.	667
(26) Fees charged for inspection or reinspection of motor	668
vehicles under section 3704.14 of the Revised Code;	669
(27) Sales to persons licensed to conduct a food service	670
operation pursuant to section 3717.43 of the Revised Code, of	671
tangible personal property primarily used directly for the	672

following:	673
(a) To prepare food for human consumption for sale;	674
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	675 676 677 678
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	679 680
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	681 682
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	683 684 685 686
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	687 688 689
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;	690 691 692
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	693 694 695 696 697 698
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and	699 700



issued a charter by the congress of the United States or is 701  
recognized by the United States veterans administration, for use 702  
by the headquarters; 703

(34) Sales to a telecommunications service vendor, mobile 704  
telecommunications service vendor, or satellite broadcasting 705  
service vendor of tangible personal property and services used 706  
directly and primarily in transmitting, receiving, switching, or 707  
recording any interactive, one- or two-way electromagnetic 708  
communications, including voice, image, data, and information, 709  
through the use of any medium, including, but not limited to, 710  
poles, wires, cables, switching equipment, computers, and record 711  
storage devices and media, and component parts for the tangible 712  
personal property. The exemption provided in this division shall 713  
be in lieu of all other exemptions under division (B) (42) (a) or 714  
(n) of this section to which the vendor may otherwise be 715  
entitled, based upon the use of the thing purchased in providing 716  
the telecommunications, mobile telecommunications, or satellite 717  
broadcasting service. 718

(35) (a) Sales where the purpose of the consumer is to use 719  
or consume the things transferred in making retail sales and 720  
consisting of newspaper inserts, catalogues, coupons, flyers, 721  
gift certificates, or other advertising material that prices and 722  
describes tangible personal property offered for retail sale. 723

(b) Sales to direct marketing vendors of preliminary 724  
materials such as photographs, artwork, and typesetting that 725  
will be used in printing advertising material; and of printed 726  
matter that offers free merchandise or chances to win sweepstake 727  
prizes and that is mailed to potential customers with 728  
advertising material described in division (B) (35) (a) of this 729  
section; 730

(c) Sales of equipment such as telephones, computers, 731  
facsimile machines, and similar tangible personal property 732  
primarily used to accept orders for direct marketing retail 733  
sales. 734

(d) Sales of automatic food vending machines that preserve 735  
food with a shelf life of forty-five days or less by 736  
refrigeration and dispense it to the consumer. 737

For purposes of division (B) (35) of this section, "direct 738  
marketing" means the method of selling where consumers order 739  
tangible personal property by United States mail, delivery 740  
service, or telecommunication and the vendor delivers or ships 741  
the tangible personal property sold to the consumer from a 742  
warehouse, catalogue distribution center, or similar fulfillment 743  
facility by means of the United States mail, delivery service, 744  
or common carrier. 745

(36) Sales to a person engaged in the business of 746  
horticulture or producing livestock of materials to be 747  
incorporated into a horticulture structure or livestock 748  
structure; 749

(37) Sales of personal computers, computer monitors, 750  
computer keyboards, modems, and other peripheral computer 751  
equipment to an individual who is licensed or certified to teach 752  
in an elementary or a secondary school in this state for use by 753  
that individual in preparation for teaching elementary or 754  
secondary school students; 755

(38) Sales to a professional racing team of any of the 756  
following: 757

(a) Motor racing vehicles; 758

(b) Repair services for motor racing vehicles; 759

(c) Items of property that are attached to or incorporated 760  
in motor racing vehicles, including engines, chassis, and all 761  
other components of the vehicles, and all spare, replacement, 762  
and rebuilt parts or components of the vehicles; except not 763  
including tires, consumable fluids, paint, and accessories 764  
consisting of instrumentation sensors and related items added to 765  
the vehicle to collect and transmit data by means of telemetry 766  
and other forms of communication. 767

(39) Sales of used manufactured homes and used mobile 768  
homes, as defined in section 5739.0210 of the Revised Code, made 769  
on or after January 1, 2000; 770

(40) Sales of tangible personal property and services to a 771  
provider of electricity used or consumed directly and primarily 772  
in generating, transmitting, or distributing electricity for use 773  
by others, including property that is or is to be incorporated 774  
into and will become a part of the consumer's production, 775  
transmission, or distribution system and that retains its 776  
classification as tangible personal property after 777  
incorporation; fuel or power used in the production, 778  
transmission, or distribution of electricity; energy conversion 779  
equipment as defined in section 5727.01 of the Revised Code; and 780  
tangible personal property and services used in the repair and 781  
maintenance of the production, transmission, or distribution 782  
system, including only those motor vehicles as are specially 783  
designed and equipped for such use. The exemption provided in 784  
this division shall be in lieu of all other exemptions in 785  
division (B) (42) (a) or (n) of this section to which a provider 786  
of electricity may otherwise be entitled based on the use of the 787  
tangible personal property or service purchased in generating, 788  
transmitting, or distributing electricity. 789

(41) Sales to a person providing services under division 790  
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 791  
personal property and services used directly and primarily in 792  
providing taxable services under that section. 793

(42) Sales where the purpose of the purchaser is to do any 794  
of the following: 795

(a) To incorporate the thing transferred as a material or 796  
a part into tangible personal property to be produced for sale 797  
by manufacturing, assembling, processing, or refining; or to use 798  
or consume the thing transferred directly in producing tangible 799  
personal property for sale by mining, including, without 800  
limitation, the extraction from the earth of all substances that 801  
are classed geologically as minerals, production of crude oil 802  
and natural gas, or directly in the rendition of a public 803  
utility service, except that the sales tax levied by this 804  
section shall be collected upon all meals, drinks, and food for 805  
human consumption sold when transporting persons. Persons 806  
engaged in rendering services in the exploration for, and 807  
production of, crude oil and natural gas for others are deemed 808  
engaged directly in the exploration for, and production of, 809  
crude oil and natural gas. This paragraph does not exempt from 810  
"retail sale" or "sales at retail" the sale of tangible personal 811  
property that is to be incorporated into a structure or 812  
improvement to real property. 813

(b) To hold the thing transferred as security for the 814  
performance of an obligation of the vendor; 815

(c) To resell, hold, use, or consume the thing transferred 816  
as evidence of a contract of insurance; 817

(d) To use or consume the thing directly in commercial 818

fishing;	819
(e) To incorporate the thing transferred as a material or	820
a part into, or to use or consume the thing transferred directly	821
in the production of, magazines distributed as controlled	822
circulation publications;	823
(f) To use or consume the thing transferred in the	824
production and preparation in suitable condition for market and	825
sale of printed, imprinted, overprinted, lithographic,	826
multilithic, blueprinted, photostatic, or other productions or	827
reproductions of written or graphic matter;	828
(g) To use the thing transferred, as described in section	829
5739.011 of the Revised Code, primarily in a manufacturing	830
operation to produce tangible personal property for sale;	831
(h) To use the benefit of a warranty, maintenance or	832
service contract, or similar agreement, as described in division	833
(B) (7) of section 5739.01 of the Revised Code, to repair or	834
maintain tangible personal property, if all of the property that	835
is the subject of the warranty, contract, or agreement would not	836
be subject to the tax imposed by this section;	837
(i) To use the thing transferred as qualified research and	838
development equipment;	839
(j) To use or consume the thing transferred primarily in	840
storing, transporting, mailing, or otherwise handling purchased	841
sales inventory in a warehouse, distribution center, or similar	842
facility when the inventory is primarily distributed outside	843
this state to retail stores of the person who owns or controls	844
the warehouse, distribution center, or similar facility, to	845
retail stores of an affiliated group of which that person is a	846
member, or by means of direct marketing. This division does not	847

apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B) (3) (e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B) (35) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B) (7) of section 5739.01 of the Revised Code;

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

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

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

(o) To use or consume the thing transferred in acquiring,

formatting, editing, storing, and disseminating data or 877  
information by electronic publishing; 878

(p) To provide the thing transferred to the owner or 879  
lessee of a motor vehicle that is being repaired or serviced, if 880  
the thing transferred is a rented motor vehicle and the 881  
purchaser is reimbursed for the cost of the rented motor vehicle 882  
by a manufacturer, warrantor, or provider of a maintenance, 883  
service, or other similar contract or agreement, with respect to 884  
the motor vehicle that is being repaired or serviced. 885

As used in division (B) (42) of this section, "thing" 886  
includes all transactions included in divisions (B) (3) (a), (b), 887  
and (e) of section 5739.01 of the Revised Code. 888

(43) Sales conducted through a coin operated device that 889  
activates vacuum equipment or equipment that dispenses water, 890  
whether or not in combination with soap or other cleaning agents 891  
or wax, to the consumer for the consumer's use on the premises 892  
in washing, cleaning, or waxing a motor vehicle, provided no 893  
other personal property or personal service is provided as part 894  
of the transaction. 895

(44) Sales of replacement and modification parts for 896  
engines, airframes, instruments, and interiors in, and paint 897  
for, aircraft used primarily in a fractional aircraft ownership 898  
program, and sales of services for the repair, modification, and 899  
maintenance of such aircraft, and machinery, equipment, and 900  
supplies primarily used to provide those services. 901

(45) Sales of telecommunications service that is used 902  
directly and primarily to perform the functions of a call 903  
center. As used in this division, "call center" means any 904  
physical location where telephone calls are placed or received 905

in high volume for the purpose of making sales, marketing, 906  
customer service, technical support, or other specialized 907  
business activity, and that employs at least fifty individuals 908  
that engage in call center activities on a full-time basis, or 909  
sufficient individuals to fill fifty full-time equivalent 910  
positions. 911

(46) Sales by a telecommunications service vendor of 900 912  
service to a subscriber. This division does not apply to 913  
information services, as defined in division (FF) of section 914  
5739.01 of the Revised Code. 915

(47) Sales of value-added non-voice data service. This 916  
division does not apply to any similar service that is not 917  
otherwise a telecommunications service. 918

(48) (a) Sales of machinery, equipment, and software to a 919  
qualified direct selling entity for use in a warehouse or 920  
distribution center primarily for storing, transporting, or 921  
otherwise handling inventory that is held for sale to 922  
independent salespersons who operate as direct sellers and that 923  
is held primarily for distribution outside this state; 924

(b) As used in division (B) (48) (a) of this section: 925

(i) "Direct seller" means a person selling consumer 926  
products to individuals for personal or household use and not 927  
from a fixed retail location, including selling such product at 928  
in-home product demonstrations, parties, and other one-on-one 929  
selling. 930

(ii) "Qualified direct selling entity" means an entity 931  
selling to direct sellers at the time the entity enters into a 932  
tax credit agreement with the tax credit authority pursuant to 933  
section 122.17 of the Revised Code, provided that the agreement 934



was entered into on or after January 1, 2007. Neither 935  
contingencies relevant to the granting of, nor later 936  
developments with respect to, the tax credit shall impair the 937  
status of the qualified direct selling entity under division (B) 938  
(48) of this section after execution of the tax credit agreement 939  
by the tax credit authority. 940

(c) Division (B) (48) of this section is limited to 941  
machinery, equipment, and software first stored, used, or 942  
consumed in this state within the period commencing June 24, 943  
2008, and ending on the date that is five years after that date. 944

(49) Sales of materials, parts, equipment, or engines used 945  
in the repair or maintenance of aircraft or avionics systems of 946  
such aircraft, and sales of repair, remodeling, replacement, or 947  
maintenance services in this state performed on aircraft or on 948  
an aircraft's avionics, engine, or component materials or parts. 949  
As used in division (B) (49) of this section, "aircraft" means 950  
aircraft of more than six thousand pounds maximum certified 951  
takeoff weight or used exclusively in general aviation. 952

(50) Sales of full flight simulators that are used for 953  
pilot or flight-crew training, sales of repair or replacement 954  
parts or components, and sales of repair or maintenance services 955  
for such full flight simulators. "Full flight simulator" means a 956  
replica of a specific type, or make, model, and series of 957  
aircraft cockpit. It includes the assemblage of equipment and 958  
computer programs necessary to represent aircraft operations in 959  
ground and flight conditions, a visual system providing an out- 960  
of-the-cockpit view, and a system that provides cues at least 961  
equivalent to those of a three-degree-of-freedom motion system, 962  
and has the full range of capabilities of the systems installed 963  
in the device as described in appendices A and B of part 60 of 964

chapter 1 of title 14 of the Code of Federal Regulations.	965
(51) Any transfer or lease of tangible personal property	966
between the state and JobsOhio in accordance with section	967
4313.02 of the Revised Code.	968
(52) (a) Sales to a qualifying corporation.	969
(b) As used in division (B) (52) of this section:	970
(i) "Qualifying corporation" means a nonprofit corporation	971
organized in this state that leases from an eligible county	972
land, buildings, structures, fixtures, and improvements to the	973
land that are part of or used in a public recreational facility	974
used by a major league professional athletic team or a class A	975
to class AAA minor league affiliate of a major league	976
professional athletic team for a significant portion of the	977
team's home schedule, provided the following apply:	978
(I) The facility is leased from the eligible county	979
pursuant to a lease that requires substantially all of the	980
revenue from the operation of the business or activity conducted	981
by the nonprofit corporation at the facility in excess of	982
operating costs, capital expenditures, and reserves to be paid	983
to the eligible county at least once per calendar year.	984
(II) Upon dissolution and liquidation of the nonprofit	985
corporation, all of its net assets are distributable to the	986
board of commissioners of the eligible county from which the	987
corporation leases the facility.	988
(ii) "Eligible county" has the same meaning as in section	989
307.695 of the Revised Code.	990
(53) Sales to or by a cable service provider, video	991
service provider, or radio or television broadcast station	992

regulated by the federal government of cable service or	993
programming, video service or programming, audio service or	994
programming, or electronically transferred digital audiovisual	995
or audio work. As used in division (B) (53) of this section,	996
"cable service" and "cable service provider" have the same	997
meanings as in section 1332.01 of the Revised Code, and "video	998
service," "video service provider," and "video programming" have	999
the same meanings as in section 1332.21 of the Revised Code.	1000
(54) Sales of investment metal bullion and investment	1001
coins. "Investment metal bullion" means any bullion described in	1002
section 408(m) (3) (B) of the Internal Revenue Code, regardless of	1003
whether that bullion is in the physical possession of a trustee.	1004
"Investment coin" means any coin composed primarily of gold,	1005
silver, platinum, or palladium.	1006
(55) Sales of a digital audio work electronically	1007
transferred for delivery through use of a machine, such as a	1008
juke box, that does all of the following:	1009
(a) Accepts direct payments to operate;	1010
(b) Automatically plays a selected digital audio work for	1011
a single play upon receipt of a payment described in division	1012
(B) (55) (a) of this section;	1013
(c) Operates exclusively for the purpose of playing	1014
digital audio works in a commercial establishment.	1015
<u>(56) (a) Sales of the following occurring on the first</u>	1016
<u>Friday of August and the following Saturday and Sunday of each</u>	1017
<u>year, beginning in 2018:</u>	1018
<u>(i) An item of clothing, the price of which is seventy-</u>	1019
<u>five dollars or less;</u>	1020

<u>(ii) An item of school supplies, the price of which is</u>	1021
<u>twenty dollars or less;</u>	1022
<u>(iii) An item of school instructional material, the price</u>	1023
<u>of which is twenty dollars or less.</u>	1024
<u>(b) As used in division (B) (56) of this section:</u>	1025
<u>(i) "Clothing" means all human wearing apparel suitable</u>	1026
<u>for general use. "Clothing" includes, but is not limited to,</u>	1027
<u>aprons, household and shop; athletic supporters; baby receiving</u>	1028
<u>blankets; bathing suits and caps; beach capes and coats; belts</u>	1029
<u>and suspenders; boots; coats and jackets; costumes; diapers,</u>	1030
<u>children and adult, including disposable diapers; ear muffs;</u>	1031
<u>footlets; formal wear; garters and garter belts; girdles; gloves</u>	1032
<u>and mittens for general use; hats and caps; hosiery; insoles for</u>	1033
<u>shoes; lab coats; neckties; overshoes; pantyhose; rainwear;</u>	1034
<u>rubber pants; sandals; scarves; shoes and shoe laces; slippers;</u>	1035
<u>sneakers; socks and stockings; steel-toed shoes; underwear;</u>	1036
<u>uniforms, athletic and nonathletic; and wedding apparel.</u>	1037
<u>"Clothing" does not include items purchased for use in a trade</u>	1038
<u>or business; clothing accessories or equipment; protective</u>	1039
<u>equipment; sports or recreational equipment; belt buckles sold</u>	1040
<u>separately; costume masks sold separately; patches and emblems</u>	1041
<u>sold separately; sewing equipment and supplies including, but</u>	1042
<u>not limited to, knitting needles, patterns, pins, scissors,</u>	1043
<u>sewing machines, sewing needles, tape measures, and thimbles;</u>	1044
<u>and sewing materials that become part of "clothing" including,</u>	1045
<u>but not limited to, buttons, fabric, lace, thread, yarn, and</u>	1046
<u>zippers.</u>	1047
<u>(ii) "School supplies" means items commonly used by a</u>	1048
<u>student in a course of study. "School supplies" includes only</u>	1049
<u>the following items: binders; book bags; calculators; cellophane</u>	1050

tape; blackboard chalk; compasses; composition books; crayons; 1051  
erasers; folders, expandable, pocket, plastic, and manila; glue, 1052  
paste, and paste sticks; highlighters; index cards; index card 1053  
boxes; legal pads; lunch boxes; markers; notebooks; paper, 1054  
loose-leaf ruled notebook paper, copy paper, graph paper, 1055  
tracing paper, manila paper, colored paper, poster board, and 1056  
construction paper; pencil boxes and other school supply boxes; 1057  
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 1058  
and writing tablets. "School supplies" does not include any item 1059  
purchased for use in a trade or business. 1060

(iii) "School instructional material" means written 1061  
material commonly used by a student in a course of study as a 1062  
reference and to learn the subject being taught. "School 1063  
instructional material" includes only the following items: 1064  
reference books, reference maps and globes, textbooks, and 1065  
workbooks. "School instructional material" does not include any 1066  
material purchased for use in a trade or business. 1067

(C) For the purpose of the proper administration of this 1068  
chapter, and to prevent the evasion of the tax, it is presumed 1069  
that all sales made in this state are subject to the tax until 1070  
the contrary is established. 1071

(D) The levy of this tax on retail sales of recreation and 1072  
sports club service shall not prevent a municipal corporation 1073  
from levying any tax on recreation and sports club dues or on 1074  
any income generated by recreation and sports club dues. 1075

(E) The tax collected by the vendor from the consumer 1076  
under this chapter is not part of the price, but is a tax 1077  
collection for the benefit of the state, and of counties levying 1078  
an additional sales tax pursuant to section 5739.021 or 5739.026 1079  
of the Revised Code and of transit authorities levying an 1080

additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code.

**Sec. 5739.03.** (A) Except as provided in section 5739.05 or section 5739.051 of the Revised Code, the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the state of Ohio, the full and exact amount of the tax payable on each taxable sale, in the manner and at the times provided as follows:

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

(2) If the price is otherwise paid or to be paid, the vendor or the vendor's agent shall, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, charge the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to the account of the consumer, which amount shall be collected by the vendor from the consumer in addition to the price. Such sale shall be reported on and the amount of the tax

applicable thereto shall be remitted with the return for the 1111  
period in which the sale is made, and the amount of the tax 1112  
shall become a legal charge in favor of the vendor and against 1113  
the consumer. 1114

(B) (1) (a) If any sale is claimed to be exempt under 1115  
division (E) of section 5739.01 of the Revised Code or under 1116  
section 5739.02 of the Revised Code, with the exception of 1117  
divisions (B) (1) to (11) ~~or~~, (28), or (56) of section 5739.02 of 1118  
the Revised Code, or if the consumer claims the transaction is 1119  
not a taxable sale due to one or more of the exclusions provided 1120  
under divisions (JJ) (1) to (5) of section 5739.01 of the Revised 1121  
Code, the consumer must provide to the vendor, and the vendor 1122  
must obtain from the consumer, a certificate specifying the 1123  
reason that the sale is not legally subject to the tax. The 1124  
certificate shall be in such form, and shall be provided either 1125  
in a hard copy form or electronic form, as the tax commissioner 1126  
prescribes. 1127

(b) A vendor that obtains a fully completed exemption 1128  
certificate from a consumer is relieved of liability for 1129  
collecting and remitting tax on any sale covered by that 1130  
certificate. If it is determined the exemption was improperly 1131  
claimed, the consumer shall be liable for any tax due on that 1132  
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 1133  
Chapter 5741. of the Revised Code. Relief under this division 1134  
from liability does not apply to any of the following: 1135

(i) A vendor that fraudulently fails to collect tax; 1136

(ii) A vendor that solicits consumers to participate in 1137  
the unlawful claim of an exemption; 1138

(iii) A vendor that accepts an exemption certificate from 1139

a consumer that claims an exemption based on who purchases or 1140  
who sells property or a service, when the subject of the 1141  
transaction sought to be covered by the exemption certificate is 1142  
actually received by the consumer at a location operated by the 1143  
vendor in this state, and this state has posted to its web site 1144  
an exemption certificate form that clearly and affirmatively 1145  
indicates that the claimed exemption is not available in this 1146  
state; 1147

(iv) A vendor that accepts an exemption certificate from a 1148  
consumer who claims a multiple points of use exemption under 1149  
division (D) of section 5739.033 of the Revised Code, if the 1150  
item purchased is tangible personal property, other than 1151  
prewritten computer software. 1152

(2) The vendor shall maintain records, including exemption 1153  
certificates, of all sales on which a consumer has claimed an 1154  
exemption, and provide them to the tax commissioner on request. 1155

(3) The tax commissioner may establish an identification 1156  
system whereby the commissioner issues an identification number 1157  
to a consumer that is exempt from payment of the tax. The 1158  
consumer must present the number to the vendor, if any sale is 1159  
claimed to be exempt as provided in this section. 1160

(4) If no certificate is provided or obtained within 1161  
ninety days after the date on which such sale is consummated, it 1162  
shall be presumed that the tax applies. Failure to have so 1163  
provided or obtained a certificate shall not preclude a vendor, 1164  
within one hundred twenty days after the tax commissioner gives 1165  
written notice of intent to levy an assessment, from either 1166  
establishing that the sale is not subject to the tax, or 1167  
obtaining, in good faith, a fully completed exemption 1168  
certificate. 1169



(5) Certificates need not be obtained nor provided where 1170  
the identity of the consumer is such that the transaction is 1171  
never subject to the tax imposed or where the item of tangible 1172  
personal property sold or the service provided is never subject 1173  
to the tax imposed, regardless of use, or when the sale is in 1174  
interstate commerce. 1175

(6) If a transaction is claimed to be exempt under 1176  
division (B) (13) of section 5739.02 of the Revised Code, the 1177  
contractor shall obtain certification of the claimed exemption 1178  
from the contractee. This certification shall be in addition to 1179  
an exemption certificate provided by the contractor to the 1180  
vendor. A contractee that provides a certification under this 1181  
division shall be deemed to be the consumer of all items 1182  
purchased by the contractor under the claim of exemption, if it 1183  
is subsequently determined that the exemption is not properly 1184  
claimed. The certification shall be in such form as the tax 1185  
commissioner prescribes. 1186

(C) As used in this division, "contractee" means a person 1187  
who seeks to enter or enters into a contract or agreement with a 1188  
contractor or vendor for the construction of real property or 1189  
for the sale and installation onto real property of tangible 1190  
personal property. 1191

Any contractor or vendor may request from any contractee a 1192  
certification of what portion of the property to be transferred 1193  
under such contract or agreement is to be incorporated into the 1194  
realty and what portion will retain its status as tangible 1195  
personal property after installation is completed. The 1196  
contractor or vendor shall request the certification by 1197  
certified mail delivered to the contractee, return receipt 1198  
requested. Upon receipt of such request and prior to entering 1199

into the contract or agreement, the contractee shall provide to 1200  
the contractor or vendor a certification sufficiently detailed 1201  
to enable the contractor or vendor to ascertain the resulting 1202  
classification of all materials purchased or fabricated by the 1203  
contractor or vendor and transferred to the contractee. This 1204  
requirement applies to a contractee regardless of whether the 1205  
contractee holds a direct payment permit under section 5739.031 1206  
of the Revised Code or provides to the contractor or vendor an 1207  
exemption certificate as provided under this section. 1208

For the purposes of the taxes levied by this chapter and 1209  
Chapter 5741. of the Revised Code, the contractor or vendor may 1210  
in good faith rely on the contractee's certification. 1211  
Notwithstanding division (B) of section 5739.01 of the Revised 1212  
Code, if the tax commissioner determines that certain property 1213  
certified by the contractee as tangible personal property 1214  
pursuant to this division is, in fact, real property, the 1215  
contractee shall be considered to be the consumer of all 1216  
materials so incorporated into that real property and shall be 1217  
liable for the applicable tax, and the contractor or vendor 1218  
shall be excused from any liability on those materials. 1219

If a contractee fails to provide such certification upon 1220  
the request of the contractor or vendor, the contractor or 1221  
vendor shall comply with the provisions of this chapter and 1222  
Chapter 5741. of the Revised Code without the certification. If 1223  
the tax commissioner determines that such compliance has been 1224  
performed in good faith and that certain property treated as 1225  
tangible personal property by the contractor or vendor is, in 1226  
fact, real property, the contractee shall be considered to be 1227  
the consumer of all materials so incorporated into that real 1228  
property and shall be liable for the applicable tax, and the 1229  
construction contractor or vendor shall be excused from any 1230

liability on those materials. 1231

This division does not apply to any contract or agreement 1232  
where the tax commissioner determines as a fact that a 1233  
certification under this division was made solely on the 1234  
decision or advice of the contractor or vendor. 1235

(D) Notwithstanding division (B) of section 5739.01 of the 1236  
Revised Code, whenever the total rate of tax imposed under this 1237  
chapter is increased after the date after a construction 1238  
contract is entered into, the contractee shall reimburse the 1239  
construction contractor for any additional tax paid on tangible 1240  
property consumed or services received pursuant to the contract. 1241

(E) A vendor who files a petition for reassessment 1242  
contesting the assessment of tax on sales for which the vendor 1243  
obtained no valid exemption certificates and for which the 1244  
vendor failed to establish that the sales were properly not 1245  
subject to the tax during the one-hundred-twenty-day period 1246  
allowed under division (B) of this section, may present to the 1247  
tax commissioner additional evidence to prove that the sales 1248  
were properly subject to a claim of exception or exemption. The 1249  
vendor shall file such evidence within ninety days of the 1250  
receipt by the vendor of the notice of assessment, except that, 1251  
upon application and for reasonable cause, the period for 1252  
submitting such evidence shall be extended thirty days. 1253

The commissioner shall consider such additional evidence 1254  
in reaching the final determination on the assessment and 1255  
petition for reassessment. 1256

(F) Whenever a vendor refunds the price, minus any 1257  
separately stated delivery charge, of an item of tangible 1258  
personal property on which the tax imposed under this chapter 1259

has been paid, the vendor shall also refund the amount of tax 1260  
paid, minus the amount of tax attributable to the delivery 1261  
charge. 1262

**Sec. 5739.05.** (A) (1) The tax commissioner shall enforce 1263  
and administer sections 5739.01 to 5739.31 of the Revised Code, 1264  
which are hereby declared to be sections which the commissioner 1265  
is required to administer within the meaning of sections 5703.17 1266  
to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised Code. 1267  
The commissioner may adopt and promulgate, in accordance with 1268  
sections 119.01 to 119.13 of the Revised Code, such rules as the 1269  
commissioner deems necessary to administer sections 5739.01 to 1270  
5739.31 of the Revised Code. 1271

(2) On or before the first day of May of each year, the 1272  
commissioner shall make available to vendors a notice explaining 1273  
the three-day exemption period required under division (B) (56) 1274  
of section 5739.02 of the Revised Code. 1275

(B) Upon application, the commissioner may authorize a 1276  
vendor to pay on a predetermined basis the tax levied by or 1277  
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 1278  
the Revised Code upon sales of things produced or distributed or 1279  
services provided by such vendor, and the commissioner may waive 1280  
the collection of the tax from the consumer. The commissioner 1281  
shall not grant such authority unless the commissioner finds 1282  
that the granting of the authority would improve compliance and 1283  
increase the efficiency of the administration of the tax. The 1284  
person to whom such authority is granted shall post a notice, if 1285  
required by the commissioner, at the location where the product 1286  
is offered for sale that the tax is included in the selling 1287  
price. The commissioner may adopt rules to administer this 1288  
division. 1289

(C) Upon application, the commissioner may authorize a vendor to remit, on the basis of a prearranged agreement under this division, the tax levied by section 5739.02 or pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code. The proportions and ratios in a prearranged agreement shall be determined either by a test check conducted by the commissioner under terms and conditions agreed to by the commissioner and the vendor or by any other method agreed upon by the vendor and the commissioner. If the parties are unable to agree to the terms and conditions of the test check or other method, the application shall be denied.

If used, the test check shall determine the proportion that taxable retail sales bear to all of the vendor's retail sales and the ratio which the tax required to be collected under sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code bears to the receipts from the vendor's taxable retail sales.

The vendor's liability for remitting the tax shall be based solely upon the proportions and ratios established in the agreement until such time that the vendor or the commissioner believes that the nature of the vendor's business has so changed as to make the agreement no longer representative. The commissioner may give notice to the vendor at any time that the authorization is revoked or the vendor may notify the commissioner that the vendor no longer elects to report under the authorization. Such notice shall be delivered to the other party personally or by registered mail. The revocation or cancellation is effective the last day of the month in which the vendor or the commissioner receives the notice.

**Section 2.** That existing sections 3311.50, 5705.215,

5739.02, 5739.03, and 5739.05 of the Revised Code are hereby 1320  
repealed. 1321

**Section 3.** This act is hereby declared to be an emergency 1322  
measure necessary for the immediate preservation of the public 1323  
peace, health, and safety. The reason for such necessity is to 1324  
permit governing boards of educational service centers that are 1325  
the taxing authorities of county school financing districts to 1326  
submit levies to the electors of their territories for school 1327  
safety and security as soon as possible. Therefore, this act 1328  
shall go into immediate effect. 1329