

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 436**

**Representatives Jordan, Carfagna**

**Cosponsors: Representatives Gross, Hall, Baldrige, Stephens, Miller, J.,  
Johnson**

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**A BILL**

To amend sections 4582.06 and 5739.02 of the 1  
Revised Code to narrow the purposes for which a 2  
port authority that was created prior to July 9, 3  
1982, may issue revenue bonds beyond the limit 4  
of bonded indebtedness and to exempt from sales 5  
and use tax sales of tangible personal property 6  
or services used in fulfilling a public contract 7  
with a port authority. 8

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

**Section 1.** That sections 4582.06 and 5739.02 of the 9  
Revised Code be amended to read as follows: 10

**Sec. 4582.06.** (A) A port authority created in accordance 11  
with section 4582.02 of the Revised Code may: 12

(1) Acquire, construct, furnish, equip, maintain, repair, 13  
sell, exchange, lease to or from, lease with an option to 14  
purchase, convey other interests in, or operate real or personal 15  
property, or any combination thereof, related to, useful for, or 16  
in furtherance of any authorized purpose, and make charges for 17

the use of any port authority facility, which shall be not less 18  
than the charges established for the same services furnished by 19  
a public utility or common carrier in the jurisdiction of the 20  
particular port authority; 21

(2) Straigten, deepen, and improve any canal, channel, 22  
river, stream, or other water course or way that may be 23  
necessary or proper in the development of the facilities of the 24  
port authority; 25

(3) Issue bonds or notes for the acquisition, 26  
construction, furnishing, or equipping of any real or personal 27  
property, or any combination thereof, related to, useful for, or 28  
in furtherance of any authorized purpose, in compliance with 29  
Chapter 133. of the Revised Code, except that the bonds or notes 30  
only may be issued pursuant to a vote of the electors residing 31  
within the territory of the port authority. The net indebtedness 32  
incurred by a port authority shall never exceed two per cent of 33  
the total value of all property within the territory comprising 34  
the authority as listed and assessed for taxation. 35

(4) By resolution of its board of directors, issue revenue 36  
bonds beyond the limit of bonded indebtedness provided by law, 37  
~~for the acquisition, construction, furnishing, or equipping of~~ 38  
~~any real or personal property, or any combination thereof,~~ 39  
~~related to, useful for, or in furtherance of any authorized~~ 40  
~~purpose, including all costs in connection with or incidental~~ 41  
~~theretopayable solely from revenues as provided in section~~ 42  
4582.48 of the Revised Code, for the purpose of providing funds 43  
to pay the costs of any port authority facility or facilities or 44  
parts thereof. 45

The revenue bonds of the port authority shall be secured 46  
only by a pledge of and a lien on the revenues of the port 47

authority derived from those loan payments, rentals, fees, 48  
charges, or other revenues that are designated in the 49  
resolution, including, but not limited to, any property to be 50  
acquired, constructed, furnished, or equipped with the proceeds 51  
of the bond issue, after provision only for the reasonable cost 52  
of operating, maintaining, and repairing the property of the 53  
port authority so designated. The bonds may further be secured 54  
by the covenant of the port authority to maintain rates or 55  
charges that will produce revenues sufficient to meet the costs 56  
of operating, maintaining, and repairing such property and to 57  
meet the interest and principal requirements of the bonds and to 58  
establish and maintain reserves for the foregoing purposes. The 59  
board of directors, by resolution, may provide for the issuance 60  
of additional revenue bonds from time to time, to be secured 61  
equally and ratably, without preference, priority, or 62  
distinction, with outstanding revenue bonds, but subject to the 63  
terms and limitations of any trust agreement described in this 64  
section, and of any resolution authorizing bonds then 65  
outstanding. The board of directors, by resolution, may 66  
designate additional property of the port authority, the 67  
revenues of which shall be pledged and be subject to a lien for 68  
the payment of the debt charges on revenue bonds theretofore 69  
authorized by resolution of the board of directors, to the same 70  
extent as the revenues above described. 71

In the discretion of the board of directors, the revenue 72  
bonds of the port authority may be secured by a trust agreement 73  
between the board of directors on behalf of the port authority 74  
and a corporate trustee, that may be any trust company or bank 75  
having powers of a trust company, within or without the state. 76

The trust agreement may provide for the pledge or 77  
assignment of the revenues to be received, but shall not pledge 78

the general credit and taxing power of the port authority. A 79  
trust agreement securing revenue bonds issued to acquire, 80  
construct, furnish, or equip real property, plants, factories, 81  
offices, and other structures and facilities for authorized 82  
purposes consistent with Section 13 or 16 of Article VIII, Ohio 83  
Constitution, may mortgage the real or personal property, or a 84  
combination thereof, to be acquired, constructed, furnished, or 85  
equipped from the proceeds of such revenue bonds, as further 86  
security for the bonds. The trust agreement or the resolution 87  
providing for the issuance of revenue bonds may set forth the 88  
rights and remedies of the bondholders and trustee, and may 89  
contain other provisions for protecting and enforcing their 90  
rights and remedies that are determined in the discretion of the 91  
board of directors to be reasonable and proper. The agreement or 92  
resolution may provide for the custody, investment, and 93  
disbursement of all moneys derived from the sale of such bonds, 94  
or from the revenues of the port authority, other than those 95  
moneys received from taxes levied pursuant to section 4582.14 of 96  
the Revised Code, and may provide for the deposit of such funds 97  
without regard to section 4582.15 of the Revised Code. 98

All bonds issued under authority of this chapter, 99  
regardless of form or terms and regardless of any other law to 100  
the contrary, shall have all qualities and incidents of 101  
negotiable instruments, subject to provisions for registration, 102  
and may be issued in coupon, fully registered, or other form, or 103  
any combination thereof, as the board of directors determines. 104  
Provision may be made for the registration of any coupon bonds 105  
as to principal alone or as to both principal and interest, and 106  
for the conversion into coupon bonds of any fully registered 107  
bonds or bonds registered as to both principal and interest. 108

The revenue bonds shall bear interest at such rate or 109

rates, shall bear such date or dates, and shall mature within 110  
forty-five years following the date of issuance and in such 111  
amount, at such time or times, and in such number of 112  
installments, as may be provided in or pursuant to the 113  
resolution authorizing their issuance. The final maturity of any 114  
original issue of revenue bonds shall not be later than forty- 115  
five years from their date of issue. Such resolution also shall 116  
provide for the execution of the bonds, which may be by 117  
facsimile signatures unless prohibited by the resolution, and 118  
the manner of sale of the bonds. The resolution shall provide 119  
for, or provide for the determination of, any other terms and 120  
conditions relative to the issuance, sale, and retirement of the 121  
bonds that the board of directors in its discretion determines 122  
to be reasonable and proper. 123

Whenever a port authority considers it expedient, it may 124  
issue renewal notes and refund any bonds, whether the bonds to 125  
be refunded have or have not matured. The final maturity of any 126  
notes, including any renewal notes, shall not be later than five 127  
years from the date of issue of the original issue of notes. The 128  
final maturity of any refunding bonds shall not be later than 129  
the later of forty-five years from the date of issue of the 130  
original issue of bonds. The refunding bonds shall be sold and 131  
the proceeds applied to the purchase, redemption, or payment of 132  
the bonds to be refunded and the costs of issuance of the 133  
refunding bonds. The bonds and notes issued under this chapter, 134  
their transfer, and the income therefrom, shall at all times be 135  
free from taxation within the state. 136

(5) Do any of the following, in regard to any interests in 137  
any real or personal property, or any combination thereof, 138  
including, without limitation, machinery, equipment, plants, 139  
factories, offices, and other structures and facilities related 140

to, useful for, or in furtherance of any authorized purpose, for 141  
such consideration and in such manner, consistent with Article 142  
VIII, Ohio Constitution, as the board in its sole discretion may 143  
determine: 144

(a) Loan moneys to any person or governmental entity for 145  
the acquisition, construction, furnishing, and equipping of the 146  
property; 147

(b) Acquire, construct, maintain, repair, furnish, and 148  
equip the property; 149

(c) Sell to, exchange with, lease, convey other interests 150  
in, or lease with an option to purchase the same or any lesser 151  
interest in the property to the same or any other person or 152  
governmental entity; 153

(d) Guarantee the obligations of any person or 154  
governmental entity. 155

A port authority may accept and hold as consideration for 156  
the conveyance of property or any interest therein such property 157  
or interests therein as the board in its discretion may 158  
determine, notwithstanding any restrictions that apply to the 159  
investment of funds by a port authority. 160

(6) Construct, maintain, repair, furnish, equip, sell, 161  
exchange, lease, or lease with an option to purchase, any 162  
property that it is authorized to acquire. A port authority that 163  
is subject to this section also may operate any property in 164  
connection with transportation, recreational, governmental 165  
operations, or cultural activities. 166

(a) Any purchase, exchange, sale, lease, lease with an 167  
option to purchase, conveyance of other interests in, or other 168  
contract with a person or governmental entity that pertains to 169

the acquisition, construction, maintenance, repair, furnishing, 170  
equipping, or operation of any real or personal property, or any 171  
combination thereof, related to, useful for, or in furtherance 172  
of an activity contemplated by Section 13 or 16 of Article VIII, 173  
Ohio Constitution, shall be made in such manner and subject to 174  
such terms and conditions as may be determined by the board of 175  
directors in its discretion. 176

(b) Division (A) (6) (a) of this section applies to all 177  
contracts that are subject to the division, notwithstanding any 178  
other provision of law that might otherwise apply, including, 179  
without limitation, any requirement of notice, any requirement 180  
of competitive bidding or selection, or any requirement for the 181  
provision of security. 182

(c) Divisions (A) (6) (a) and (b) of this section do not 183  
apply to either of the following: 184

(i) Any contract secured by or to be paid from moneys 185  
raised by taxation or the proceeds of obligations secured by a 186  
pledge of moneys raised by taxation; 187

(ii) Any contract secured exclusively by or to be paid 188  
exclusively from the general revenues of the port authority. For 189  
the purposes of this section, any revenues derived by the port 190  
authority under a lease or other agreement that, by its terms, 191  
contemplates the use of amounts payable under the agreement 192  
either to pay the costs of the improvement that is the subject 193  
of the contract or to secure obligations of the port authority 194  
issued to finance costs of such improvement, are excluded from 195  
general revenues. 196

(7) Apply to the proper authorities of the United States 197  
pursuant to appropriate law for the right to establish, operate, 198

and maintain foreign trade zones and to establish, operate, and 199  
maintain foreign trade zones; and to acquire land or property 200  
therefor, in a manner consistent with section 4582.17 of the 201  
Revised Code; 202

(8) Exercise the right of eminent domain to appropriate 203  
any land, rights, rights-of-way, franchises, easements, or other 204  
property, necessary or proper for any authorized purpose, 205  
pursuant to the procedure provided in sections 163.01 to 163.22 206  
of the Revised Code, if funds equal to the appraised value of 207  
the property to be acquired as a result of such proceedings are 208  
available for that purpose, except that nothing contained in 209  
sections 4582.01 to 4582.20 of the Revised Code shall authorize 210  
a port authority to take or disturb property or facilities 211  
belonging to any agency or political subdivision of this state, 212  
public utility, or common carrier, which property or facilities 213  
are necessary and convenient in the operation of the agency or 214  
political subdivision, public utility, or common carrier, unless 215  
provision is made for the restoration, relocation, or 216  
duplication of the property or facilities, or upon the election 217  
of the agency or political subdivision, public utility, or 218  
common carrier, for the payment of compensation, if any, at the 219  
sole cost of the port authority, provided that: 220

(a) If any restoration or duplication proposed to be made 221  
pursuant to this section involves a relocation of such property 222  
or facilities, the new facilities and location shall be of at 223  
least comparable utilitarian value and effectiveness, and the 224  
relocation shall not impair the ability of the public utility or 225  
common carrier to compete in its original area of operation. 226

(b) If any restoration or duplication made pursuant to 227  
this section involves a relocation of such property or 228



facilities, the port authority shall acquire no interest or 229  
right in or to the appropriated property or facilities, except 230  
as provided in division (A) (11) of this section, until the 231  
relocated property or facilities are available for use and until 232  
marketable title thereto has been transferred to the public 233  
utility or common carrier. 234

(c) Provisions for restoration or duplication shall be 235  
described in detail in the resolution for appropriation passed 236  
by the port authority. 237

(9) Enjoy and possess the same rights, privileges, and 238  
powers granted municipal corporations under sections 721.04 to 239  
721.11 of the Revised Code; 240

(10) Maintain such funds as it considers necessary; 241

(11) Direct its agents or employees, when properly 242  
identified in writing, and after at least five days' written 243  
notice, to enter upon lands within the confines of its 244  
jurisdiction in order to make surveys and examinations 245  
preliminary to location and construction of works for the 246  
purposes of the port authority, without liability of the port 247  
authority or its agents or employees except for actual damage 248  
done; 249

(12) Sell, lease, or convey other interests in real and 250  
personal property and grant easements or rights-of-way over 251  
property of the port authority. The board of directors shall 252  
specify the consideration and any terms thereof for the sale, 253  
lease, or conveyance of other interests in real and personal 254  
property. Any determinations made by the board of directors 255  
under this division shall be conclusive. The sale, lease, or 256  
conveyance may be made without advertising and the receipt of 257

bids.	258
(13) Promote, advertise, and publicize the port authority facilities and its authorized purposes, provide information to persons with an interest in transportation and other port authority activities, and appear before rate-making authorities to represent and promote the interests of the port authority and its authorized purposes;	259 260 261 262 263 264
(14) Adopt rules, not in conflict with general law, governing the use of and the safeguarding of its property, grounds, buildings, equipment, and facilities, safeguarding persons and their property located on or in port authority property, and governing the conduct of its employees and the public, in order to promote the public safety and convenience in and about its terminals and grounds, and to maintain order. Any such regulation shall be posted at no less than five public places in the port authority, as determined by the board of directors, for a period of not fewer than fifteen days, and shall be available for public inspection at the principal office of the port authority during regular business hours. No person shall violate any lawful regulation adopted and posted as provided in this division.	265 266 267 268 269 270 271 272 273 274 275 276 277 278
(15) Establish and administer one or more payment card programs for purposes of paying expenses related to port authority business. Any obligation incurred as a result of the use of such a payment card shall be paid from port authority funds.	279 280 281 282 283
(16) Act as a portal operator for purposes of an OhioInvests offering under sections 1707.05 to 1707.058 of the Revised Code;	284 285 286

(17) Do all acts necessary or appropriate to carry out its 287  
authorized purposes. The port authority shall have the powers 288  
and rights granted to other subdivisions under section 9.20 of 289  
the Revised Code. 290

(B) Any instrument by which real property is acquired 291  
pursuant to this section shall identify the agency of the state 292  
that has the use and benefit of the real property as specified 293  
in section 5301.012 of the Revised Code. 294

(C) Whoever violates division (A) (14) of this section is 295  
guilty of a minor misdemeanor. 296

**Sec. 5739.02.** For the purpose of providing revenue with 297  
which to meet the needs of the state, for the use of the general 298  
revenue fund of the state, for the purpose of securing a 299  
thorough and efficient system of common schools throughout the 300  
state, for the purpose of affording revenues, in addition to 301  
those from general property taxes, permitted under 302  
constitutional limitations, and from other sources, for the 303  
support of local governmental functions, and for the purpose of 304  
reimbursing the state for the expense of administering this 305  
chapter, an excise tax is hereby levied on each retail sale made 306  
in this state. 307

(A) (1) The tax shall be collected as provided in section 308  
5739.025 of the Revised Code. The rate of the tax shall be five 309  
and three-fourths per cent. The tax applies and is collectible 310  
when the sale is made, regardless of the time when the price is 311  
paid or delivered. 312

(2) In the case of the lease or rental, with a fixed term 313  
of more than thirty days or an indefinite term with a minimum 314  
period of more than thirty days, of any motor vehicles designed 315

by the manufacturer to carry a load of not more than one ton, 316  
watercraft, outboard motor, or aircraft, or of any tangible 317  
personal property, other than motor vehicles designed by the 318  
manufacturer to carry a load of more than one ton, to be used by 319  
the lessee or renter primarily for business purposes, the tax 320  
shall be collected by the vendor at the time the lease or rental 321  
is consummated and shall be calculated by the vendor on the 322  
basis of the total amount to be paid by the lessee or renter 323  
under the lease agreement. If the total amount of the 324  
consideration for the lease or rental includes amounts that are 325  
not calculated at the time the lease or rental is executed, the 326  
tax shall be calculated and collected by the vendor at the time 327  
such amounts are billed to the lessee or renter. In the case of 328  
an open-end lease or rental, the tax shall be calculated by the 329  
vendor on the basis of the total amount to be paid during the 330  
initial fixed term of the lease or rental, and for each 331  
subsequent renewal period as it comes due. As used in this 332  
division, "motor vehicle" has the same meaning as in section 333  
4501.01 of the Revised Code, and "watercraft" includes an 334  
outdrive unit attached to the watercraft. 335

A lease with a renewal clause and a termination penalty or 336  
similar provision that applies if the renewal clause is not 337  
exercised is presumed to be a sham transaction. In such a case, 338  
the tax shall be calculated and paid on the basis of the entire 339  
length of the lease period, including any renewal periods, until 340  
the termination penalty or similar provision no longer applies. 341  
The taxpayer shall bear the burden, by a preponderance of the 342  
evidence, that the transaction or series of transactions is not 343  
a sham transaction. 344

(3) Except as provided in division (A) (2) of this section, 345  
in the case of a sale, the price of which consists in whole or 346

in part of the lease or rental of tangible personal property, 347  
the tax shall be measured by the installments of that lease or 348  
rental. 349

(4) In the case of a sale of a physical fitness facility 350  
service or recreation and sports club service, the price of 351  
which consists in whole or in part of a membership for the 352  
receipt of the benefit of the service, the tax applicable to the 353  
sale shall be measured by the installments thereof. 354

(B) The tax does not apply to the following: 355

(1) Sales to the state or any of its political 356  
subdivisions, or to any other state or its political 357  
subdivisions if the laws of that state exempt from taxation 358  
sales made to this state and its political subdivisions; 359

(2) Sales of food for human consumption off the premises 360  
where sold; 361

(3) Sales of food sold to students only in a cafeteria, 362  
dormitory, fraternity, or sorority maintained in a private, 363  
public, or parochial school, college, or university; 364

(4) Sales of newspapers and sales or transfers of 365  
magazines distributed as controlled circulation publications; 366

(5) The furnishing, preparing, or serving of meals without 367  
charge by an employer to an employee provided the employer 368  
records the meals as part compensation for services performed or 369  
work done; 370

(6) (a) Sales of motor fuel upon receipt, use, 371  
distribution, or sale of which in this state a tax is imposed by 372  
the law of this state, but this exemption shall not apply to the 373  
sale of motor fuel on which a refund of the tax is allowable 374

under division (A) of section 5735.14 of the Revised Code; and 375  
the tax commissioner may deduct the amount of tax levied by this 376  
section applicable to the price of motor fuel when granting a 377  
refund of motor fuel tax pursuant to division (A) of section 378  
5735.14 of the Revised Code and shall cause the amount deducted 379  
to be paid into the general revenue fund of this state; 380

(b) Sales of motor fuel other than that described in 381  
division (B) (6) (a) of this section and used for powering a 382  
refrigeration unit on a vehicle other than one used primarily to 383  
provide comfort to the operator or occupants of the vehicle. 384

(7) Sales of natural gas by a natural gas company or 385  
municipal gas utility, of water by a water-works company, or of 386  
steam by a heating company, if in each case the thing sold is 387  
delivered to consumers through pipes or conduits, and all sales 388  
of communications services by a telegraph company, all terms as 389  
defined in section 5727.01 of the Revised Code, and sales of 390  
electricity delivered through wires; 391

(8) Casual sales by a person, or auctioneer employed 392  
directly by the person to conduct such sales, except as to such 393  
sales of motor vehicles, watercraft or outboard motors required 394  
to be titled under section 1548.06 of the Revised Code, 395  
watercraft documented with the United States coast guard, 396  
snowmobiles, and all-purpose vehicles as defined in section 397  
4519.01 of the Revised Code; 398

(9) (a) Sales of services or tangible personal property, 399  
other than motor vehicles, mobile homes, and manufactured homes, 400  
by churches, organizations exempt from taxation under section 401  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 402  
organizations operated exclusively for charitable purposes as 403  
defined in division (B) (12) of this section, provided that the 404

number of days on which such tangible personal property or 405  
services, other than items never subject to the tax, are sold 406  
does not exceed six in any calendar year, except as otherwise 407  
provided in division (B) (9) (b) of this section. If the number of 408  
days on which such sales are made exceeds six in any calendar 409  
year, the church or organization shall be considered to be 410  
engaged in business and all subsequent sales by it shall be 411  
subject to the tax. In counting the number of days, all sales by 412  
groups within a church or within an organization shall be 413  
considered to be sales of that church or organization. 414

(b) The limitation on the number of days on which tax- 415  
exempt sales may be made by a church or organization under 416  
division (B) (9) (a) of this section does not apply to sales made 417  
by student clubs and other groups of students of a primary or 418  
secondary school, or a parent-teacher association, booster 419  
group, or similar organization that raises money to support or 420  
fund curricular or extracurricular activities of a primary or 421  
secondary school. 422

(c) Divisions (B) (9) (a) and (b) of this section do not 423  
apply to sales by a noncommercial educational radio or 424  
television broadcasting station. 425

(10) Sales not within the taxing power of this state under 426  
the Constitution or laws of the United States or the 427  
Constitution of this state; 428

(11) Except for transactions that are sales under division 429  
(B) (3) (r) of section 5739.01 of the Revised Code, the 430  
transportation of persons or property, unless the transportation 431  
is by a private investigation and security service; 432

(12) Sales of tangible personal property or services to 433

churches, to organizations exempt from taxation under section 434  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 435  
nonprofit organizations operated exclusively for charitable 436  
purposes in this state, no part of the net income of which 437  
inures to the benefit of any private shareholder or individual, 438  
and no substantial part of the activities of which consists of 439  
carrying on propaganda or otherwise attempting to influence 440  
legislation; sales to offices administering one or more homes 441  
for the aged or one or more hospital facilities exempt under 442  
section 140.08 of the Revised Code; and sales to organizations 443  
described in division (D) of section 5709.12 of the Revised 444  
Code. 445

"Charitable purposes" means the relief of poverty; the 446  
improvement of health through the alleviation of illness, 447  
disease, or injury; the operation of an organization exclusively 448  
for the provision of professional, laundry, printing, and 449  
purchasing services to hospitals or charitable institutions; the 450  
operation of a home for the aged, as defined in section 5701.13 451  
of the Revised Code; the operation of a radio or television 452  
broadcasting station that is licensed by the federal 453  
communications commission as a noncommercial educational radio 454  
or television station; the operation of a nonprofit animal 455  
adoption service or a county humane society; the promotion of 456  
education by an institution of learning that maintains a faculty 457  
of qualified instructors, teaches regular continuous courses of 458  
study, and confers a recognized diploma upon completion of a 459  
specific curriculum; the operation of a parent-teacher 460  
association, booster group, or similar organization primarily 461  
engaged in the promotion and support of the curricular or 462  
extracurricular activities of a primary or secondary school; the 463  
operation of a community or area center in which presentations 464



in music, dramatics, the arts, and related fields are made in 465  
order to foster public interest and education therein; the 466  
production of performances in music, dramatics, and the arts; or 467  
the promotion of education by an organization engaged in 468  
carrying on research in, or the dissemination of, scientific and 469  
technological knowledge and information primarily for the 470  
public. 471

Nothing in this division shall be deemed to exempt sales 472  
to any organization for use in the operation or carrying on of a 473  
trade or business, or sales to a home for the aged for use in 474  
the operation of independent living facilities as defined in 475  
division (A) of section 5709.12 of the Revised Code. 476

(13) Building and construction materials and services sold 477  
to construction contractors for incorporation into a structure 478  
or improvement to real property under a construction contract 479  
with this state or a political subdivision of this state, or 480  
with the United States government or any of its agencies; 481  
building and construction materials and services sold to 482  
construction contractors for incorporation into a structure or 483  
improvement to real property that are accepted for ownership by 484  
this state or any of its political subdivisions, or by the 485  
United States government or any of its agencies at the time of 486  
completion of the structures or improvements; building and 487  
construction materials sold to construction contractors for 488  
incorporation into a horticulture structure or livestock 489  
structure for a person engaged in the business of horticulture 490  
or producing livestock; building materials and services sold to 491  
a construction contractor for incorporation into a house of 492  
public worship or religious education, or a building used 493  
exclusively for charitable purposes under a construction 494  
contract with an organization whose purpose is as described in 495

division (B) (12) of this section; building materials and 496  
services sold to a construction contractor for incorporation 497  
into a building under a construction contract with an 498  
organization exempt from taxation under section 501(c) (3) of the 499  
Internal Revenue Code of 1986 when the building is to be used 500  
exclusively for the organization's exempt purposes; building and 501  
construction materials sold for incorporation into the original 502  
construction of a sports facility under section 307.696 of the 503  
Revised Code; building and construction materials and services 504  
sold to a construction contractor for incorporation into real 505  
property outside this state if such materials and services, when 506  
sold to a construction contractor in the state in which the real 507  
property is located for incorporation into real property in that 508  
state, would be exempt from a tax on sales levied by that state; 509  
building and construction materials for incorporation into a 510  
transportation facility pursuant to a public-private agreement 511  
entered into under sections 5501.70 to 5501.83 of the Revised 512  
Code; and, until one calendar year after the construction of a 513  
convention center that qualifies for property tax exemption 514  
under section 5709.084 of the Revised Code is completed, 515  
building and construction materials and services sold to a 516  
construction contractor for incorporation into the real property 517  
comprising that convention center; 518

(14) Sales of ships or vessels or rail rolling stock used 519  
or to be used principally in interstate or foreign commerce, and 520  
repairs, alterations, fuel, and lubricants for such ships or 521  
vessels or rail rolling stock; 522

(15) Sales to persons primarily engaged in any of the 523  
activities mentioned in division (B) (42) (a), (g), or (h) of this 524  
section, to persons engaged in making retail sales, or to 525  
persons who purchase for sale from a manufacturer tangible 526

personal property that was produced by the manufacturer in 527  
accordance with specific designs provided by the purchaser, of 528  
packages, including material, labels, and parts for packages, 529  
and of machinery, equipment, and material for use primarily in 530  
packaging tangible personal property produced for sale, 531  
including any machinery, equipment, and supplies used to make 532  
labels or packages, to prepare packages or products for 533  
labeling, or to label packages or products, by or on the order 534  
of the person doing the packaging, or sold at retail. "Packages" 535  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 536  
bindings, wrappings, and other similar devices and containers, 537  
but does not include motor vehicles or bulk tanks, trailers, or 538  
similar devices attached to motor vehicles. "Packaging" means 539  
placing in a package. Division (B) (15) of this section does not 540  
apply to persons engaged in highway transportation for hire. 541

(16) Sales of food to persons using supplemental nutrition 542  
assistance program benefits to purchase the food. As used in 543  
this division, "food" has the same meaning as in 7 U.S.C. 2012 544  
and federal regulations adopted pursuant to the Food and 545  
Nutrition Act of 2008. 546

(17) Sales to persons engaged in farming, agriculture, 547  
horticulture, or floriculture, of tangible personal property for 548  
use or consumption primarily in the production by farming, 549  
agriculture, horticulture, or floriculture of other tangible 550  
personal property for use or consumption primarily in the 551  
production of tangible personal property for sale by farming, 552  
agriculture, horticulture, or floriculture; or material and 553  
parts for incorporation into any such tangible personal property 554  
for use or consumption in production; and of tangible personal 555  
property for such use or consumption in the conditioning or 556  
holding of products produced by and for such use, consumption, 557

or sale by persons engaged in farming, agriculture, 558  
horticulture, or floriculture, except where such property is 559  
incorporated into real property; 560

(18) Sales of drugs for a human being that may be 561  
dispensed only pursuant to a prescription; insulin as recognized 562  
in the official United States pharmacopoeia; urine and blood 563  
testing materials when used by diabetics or persons with 564  
hypoglycemia to test for glucose or acetone; hypodermic syringes 565  
and needles when used by diabetics for insulin injections; 566  
epoetin alfa when purchased for use in the treatment of persons 567  
with medical disease; hospital beds when purchased by hospitals, 568  
nursing homes, or other medical facilities; and medical oxygen 569  
and medical oxygen-dispensing equipment when purchased by 570  
hospitals, nursing homes, or other medical facilities; 571

(19) Sales of prosthetic devices, durable medical 572  
equipment for home use, or mobility enhancing equipment, when 573  
made pursuant to a prescription and when such devices or 574  
equipment are for use by a human being. 575

(20) Sales of emergency and fire protection vehicles and 576  
equipment to nonprofit organizations for use solely in providing 577  
fire protection and emergency services, including trauma care 578  
and emergency medical services, for political subdivisions of 579  
the state; 580

(21) Sales of tangible personal property manufactured in 581  
this state, if sold by the manufacturer in this state to a 582  
retailer for use in the retail business of the retailer outside 583  
of this state and if possession is taken from the manufacturer 584  
by the purchaser within this state for the sole purpose of 585  
immediately removing the same from this state in a vehicle owned 586  
by the purchaser; 587

(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;	588 589 590 591 592
(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;	593 594 595
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.	596 597 598 599 600 601 602 603 604 605 606 607 608 609 610
(25) (a) Sales of water to a consumer for residential use;	611
(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	612 613 614 615
(26) Fees charged for inspection or reinspection of motor	616

vehicles under section 3704.14 of the Revised Code;	617
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	618 619 620 621
(a) To prepare food for human consumption for sale;	622
(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;	623 624 625 626
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	627 628
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	629 630
(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;	631 632 633 634
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	635 636 637
(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;	638 639 640
(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	641 642 643 644

transportation for hire, except for packages and packaging used 645  
for the transportation of tangible personal property; 646

(33) Sales to the state headquarters of any veterans' 647  
organization in this state that is either incorporated and 648  
issued a charter by the congress of the United States or is 649  
recognized by the United States veterans administration, for use 650  
by the headquarters; 651

(34) Sales to a telecommunications service vendor, mobile 652  
telecommunications service vendor, or satellite broadcasting 653  
service vendor of tangible personal property and services used 654  
directly and primarily in transmitting, receiving, switching, or 655  
recording any interactive, one- or two-way electromagnetic 656  
communications, including voice, image, data, and information, 657  
through the use of any medium, including, but not limited to, 658  
poles, wires, cables, switching equipment, computers, and record 659  
storage devices and media, and component parts for the tangible 660  
personal property. The exemption provided in this division shall 661  
be in lieu of all other exemptions under division (B) (42) (a) or 662  
(n) of this section to which the vendor may otherwise be 663  
entitled, based upon the use of the thing purchased in providing 664  
the telecommunications, mobile telecommunications, or satellite 665  
broadcasting service. 666

(35) (a) Sales where the purpose of the consumer is to use 667  
or consume the things transferred in making retail sales and 668  
consisting of newspaper inserts, catalogues, coupons, flyers, 669  
gift certificates, or other advertising material that prices and 670  
describes tangible personal property offered for retail sale. 671

(b) Sales to direct marketing vendors of preliminary 672  
materials such as photographs, artwork, and typesetting that 673  
will be used in printing advertising material; and of printed 674

matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B) (35) (a) of this section;

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

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

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

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

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



(38) Sales of tangible personal property that is not 704  
required to be registered or licensed under the laws of this 705  
state to a citizen of a foreign nation that is not a citizen of 706  
the United States, provided the property is delivered to a 707  
person in this state that is not a related member of the 708  
purchaser, is physically present in this state for the sole 709  
purpose of temporary storage and package consolidation, and is 710  
subsequently delivered to the purchaser at a delivery address in 711  
a foreign nation. As used in division (B) (38) of this section, 712  
"related member" has the same meaning as in section 5733.042 of 713  
the Revised Code, and "temporary storage" means the storage of 714  
tangible personal property for a period of not more than sixty 715  
days. 716

(39) Sales of used manufactured homes and used mobile 717  
homes, as defined in section 5739.0210 of the Revised Code, made 718  
on or after January 1, 2000; 719

(40) Sales of tangible personal property and services to a 720  
provider of electricity used or consumed directly and primarily 721  
in generating, transmitting, or distributing electricity for use 722  
by others, including property that is or is to be incorporated 723  
into and will become a part of the consumer's production, 724  
transmission, or distribution system and that retains its 725  
classification as tangible personal property after 726  
incorporation; fuel or power used in the production, 727  
transmission, or distribution of electricity; energy conversion 728  
equipment as defined in section 5727.01 of the Revised Code; and 729  
tangible personal property and services used in the repair and 730  
maintenance of the production, transmission, or distribution 731  
system, including only those motor vehicles as are specially 732  
designed and equipped for such use. The exemption provided in 733  
this division shall be in lieu of all other exemptions in 734

division (B) (42) (a) or (n) of this section to which a provider 735  
of electricity may otherwise be entitled based on the use of the 736  
tangible personal property or service purchased in generating, 737  
transmitting, or distributing electricity. 738

(41) Sales to a person providing services under division 739  
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 740  
personal property and services used directly and primarily in 741  
providing taxable services under that section. 742

(42) Sales where the purpose of the purchaser is to do any 743  
of the following: 744

(a) To incorporate the thing transferred as a material or 745  
a part into tangible personal property to be produced for sale 746  
by manufacturing, assembling, processing, or refining; or to use 747  
or consume the thing transferred directly in producing tangible 748  
personal property for sale by mining, including, without 749  
limitation, the extraction from the earth of all substances that 750  
are classed geologically as minerals, or directly in the 751  
rendition of a public utility service, except that the sales tax 752  
levied by this section shall be collected upon all meals, 753  
drinks, and food for human consumption sold when transporting 754  
persons. This paragraph does not exempt from "retail sale" or 755  
"sales at retail" the sale of tangible personal property that is 756  
to be incorporated into a structure or improvement to real 757  
property. 758

(b) To hold the thing transferred as security for the 759  
performance of an obligation of the vendor; 760

(c) To resell, hold, use, or consume the thing transferred 761  
as evidence of a contract of insurance; 762

(d) To use or consume the thing directly in commercial 763

fishing;	764
(e) To incorporate the thing transferred as a material or	765
a part into, or to use or consume the thing transferred directly	766
in the production of, magazines distributed as controlled	767
circulation publications;	768
(f) To use or consume the thing transferred in the	769
production and preparation in suitable condition for market and	770
sale of printed, imprinted, overprinted, lithographic,	771
multilithic, blueprinted, photostatic, or other productions or	772
reproductions of written or graphic matter;	773
(g) To use the thing transferred, as described in section	774
5739.011 of the Revised Code, primarily in a manufacturing	775
operation to produce tangible personal property for sale;	776
(h) To use the benefit of a warranty, maintenance or	777
service contract, or similar agreement, as described in division	778
(B) (7) of section 5739.01 of the Revised Code, to repair or	779
maintain tangible personal property, if all of the property that	780
is the subject of the warranty, contract, or agreement would not	781
be subject to the tax imposed by this section;	782
(i) To use the thing transferred as qualified research and	783
development equipment;	784
(j) To use or consume the thing transferred primarily in	785
storing, transporting, mailing, or otherwise handling purchased	786
sales inventory in a warehouse, distribution center, or similar	787
facility when the inventory is primarily distributed outside	788
this state to retail stores of the person who owns or controls	789
the warehouse, distribution center, or similar facility, to	790
retail stores of an affiliated group of which that person is a	791
member, or by means of direct marketing. This division does not	792

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 822  
information by electronic publishing; 823

(p) To provide the thing transferred to the owner or 824  
lessee of a motor vehicle that is being repaired or serviced, if 825  
the thing transferred is a rented motor vehicle and the 826  
purchaser is reimbursed for the cost of the rented motor vehicle 827  
by a manufacturer, warrantor, or provider of a maintenance, 828  
service, or other similar contract or agreement, with respect to 829  
the motor vehicle that is being repaired or serviced; 830

(q) To use or consume the thing transferred directly in 831  
production of crude oil and natural gas for sale. Persons 832  
engaged in rendering production services for others are deemed 833  
engaged in production. 834

As used in division (B) (42) (q) of this section, 835  
"production" means operations and tangible personal property 836  
directly used to expose and evaluate an underground reservoir 837  
that may contain hydrocarbon resources, prepare the wellbore for 838  
production, and lift and control all substances yielded by the 839  
reservoir to the surface of the earth. 840

(i) For the purposes of division (B) (42) (q) of this 841  
section, the "thing transferred" includes, but is not limited 842  
to, any of the following: 843

(I) Services provided in the construction of permanent 844  
access roads, services provided in the construction of the well 845  
site, and services provided in the construction of temporary 846  
impoundments; 847

(II) Equipment and rigging used for the specific purpose 848  
of creating with integrity a wellbore pathway to underground 849  
reservoirs; 850

(III) Drilling and workover services used to work within a subsurface wellbore, and tangible personal property directly used in providing such services;	851 852 853
(IV) Casing, tubulars, and float and centralizing equipment;	854 855
(V) Trailers to which production equipment is attached;	856
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	857 858 859
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	860 861 862
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	863 864 865 866
(IX) Pressure pumping equipment;	867
(X) Artificial lift systems equipment;	868
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	869 870 871
(XII) Tangible personal property directly used to control production equipment.	872 873
(ii) For the purposes of division (B)(42)(q) of this section, the "thing transferred" does not include any of the following:	874 875 876
(I) Tangible personal property used primarily in the	877

exploration and production of any mineral resource regulated	878
under Chapter 1509. of the Revised Code other than oil or gas;	879
(II) Tangible personal property used primarily in storing,	880
holding, or delivering solutions or chemicals used in well	881
stimulation as defined in section 1509.01 of the Revised Code;	882
(III) Tangible personal property used primarily in	883
preparing, installing, or reclaiming foundations for drilling or	884
pumping equipment or well stimulation material tanks;	885
(IV) Tangible personal property used primarily in	886
transporting, delivering, or removing equipment to or from the	887
well site or storing such equipment before its use at the well	888
site;	889
(V) Tangible personal property used primarily in gathering	890
operations occurring off the well site, including gathering	891
pipelines transporting hydrocarbon gas or liquids away from a	892
crude oil or natural gas production facility;	893
(VI) Tangible personal property that is to be incorporated	894
into a structure or improvement to real property;	895
(VII) Well site fencing, lighting, or security systems;	896
(VIII) Communication devices or services;	897
(IX) Office supplies;	898
(X) Trailers used as offices or lodging;	899
(XI) Motor vehicles of any kind;	900
(XII) Tangible personal property used primarily for the	901
storage of drilling byproducts and fuel not used for production;	902
(XIII) Tangible personal property used primarily as a	903
safety device;	904

(XIV) Data collection or monitoring devices;	905
(XV) Access ladders, stairs, or platforms attached to storage tanks.	906 907
The enumeration of tangible personal property in division (B) (42) (q) (ii) of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) of this section.	908 909 910 911 912
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the commissioner deems necessary to administer division (B) (42) (q) of this section.	913 914 915 916
As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b), and (e) of section 5739.01 of the Revised Code.	917 918 919
(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.	920 921 922 923 924 925 926
(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.	927 928 929 930 931 932
(45) Sales of telecommunications service that is used	933



directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services.

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

(48) Sales of feminine hygiene products.

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

(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of

aircraft cockpit. It includes the assemblage of equipment and 963  
computer programs necessary to represent aircraft operations in 964  
ground and flight conditions, a visual system providing an out- 965  
of-the-cockpit view, and a system that provides cues at least 966  
equivalent to those of a three-degree-of-freedom motion system, 967  
and has the full range of capabilities of the systems installed 968  
in the device as described in appendices A and B of part 60 of 969  
chapter 1 of title 14 of the Code of Federal Regulations. 970

(51) Any transfer or lease of tangible personal property 971  
between the state and JobsOhio in accordance with section 972  
4313.02 of the Revised Code. 973

(52) (a) Sales to a qualifying corporation. 974

(b) As used in division (B) (52) of this section: 975

(i) "Qualifying corporation" means a nonprofit corporation 976  
organized in this state that leases from an eligible county 977  
land, buildings, structures, fixtures, and improvements to the 978  
land that are part of or used in a public recreational facility 979  
used by a major league professional athletic team or a class A 980  
to class AAA minor league affiliate of a major league 981  
professional athletic team for a significant portion of the 982  
team's home schedule, provided the following apply: 983

(I) The facility is leased from the eligible county 984  
pursuant to a lease that requires substantially all of the 985  
revenue from the operation of the business or activity conducted 986  
by the nonprofit corporation at the facility in excess of 987  
operating costs, capital expenditures, and reserves to be paid 988  
to the eligible county at least once per calendar year. 989

(II) Upon dissolution and liquidation of the nonprofit 990  
corporation, all of its net assets are distributable to the 991

board of commissioners of the eligible county from which the	992
corporation leases the facility.	993
(ii) "Eligible county" has the same meaning as in section	994
307.695 of the Revised Code.	995
(53) Sales to or by a cable service provider, video	996
service provider, or radio or television broadcast station	997
regulated by the federal government of cable service or	998
programming, video service or programming, audio service or	999
programming, or electronically transferred digital audiovisual	1000
or audio work. As used in division (B) (53) of this section,	1001
"cable service" and "cable service provider" have the same	1002
meanings as in section 1332.01 of the Revised Code, and "video	1003
service," "video service provider," and "video programming" have	1004
the same meanings as in section 1332.21 of the Revised Code.	1005
(54) Sales of a digital audio work electronically	1006
transferred for delivery through use of a machine, such as a	1007
juke box, that does all of the following:	1008
(a) Accepts direct payments to operate;	1009
(b) Automatically plays a selected digital audio work for	1010
a single play upon receipt of a payment described in division	1011
(B) (54) (a) of this section;	1012
(c) Operates exclusively for the purpose of playing	1013
digital audio works in a commercial establishment.	1014
(55) (a) Sales of the following occurring on the first	1015
Friday of August and the following Saturday and Sunday of each	1016
year, beginning in 2018:	1017
(i) An item of clothing, the price of which is seventy-	1018
five dollars or less;	1019

(ii) An item of school supplies, the price of which is	1020
twenty dollars or less;	1021
(iii) An item of school instructional material, the price	1022
of which is twenty dollars or less.	1023
(b) As used in division (B) (55) of this section:	1024
(i) "Clothing" means all human wearing apparel suitable	1025
for general use. "Clothing" includes, but is not limited to,	1026
aprons, household and shop; athletic supporters; baby receiving	1027
blankets; bathing suits and caps; beach capes and coats; belts	1028
and suspenders; boots; coats and jackets; costumes; diapers,	1029
children and adult, including disposable diapers; earmuffs;	1030
footlets; formal wear; garters and garter belts; girdles; gloves	1031
and mittens for general use; hats and caps; hosiery; insoles for	1032
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	1033
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	1034
sneakers; socks and stockings; steel-toed shoes; underwear;	1035
uniforms, athletic and nonathletic; and wedding apparel.	1036
"Clothing" does not include items purchased for use in a trade	1037
or business; clothing accessories or equipment; protective	1038
equipment; sports or recreational equipment; belt buckles sold	1039
separately; costume masks sold separately; patches and emblems	1040
sold separately; sewing equipment and supplies including, but	1041
not limited to, knitting needles, patterns, pins, scissors,	1042
sewing machines, sewing needles, tape measures, and thimbles;	1043
and sewing materials that become part of "clothing" including,	1044
but not limited to, buttons, fabric, lace, thread, yarn, and	1045
zippers.	1046
(ii) "School supplies" means items commonly used by a	1047
student in a course of study. "School supplies" includes only	1048
the following items: binders; book bags; calculators; cellophane	1049

tape; blackboard chalk; compasses; composition books; crayons; 1050  
erasers; folders, expandable, pocket, plastic, and manila; glue, 1051  
paste, and paste sticks; highlighters; index cards; index card 1052  
boxes; legal pads; lunch boxes; markers; notebooks; paper, 1053  
loose-leaf ruled notebook paper, copy paper, graph paper, 1054  
tracing paper, manila paper, colored paper, poster board, and 1055  
construction paper; pencil boxes and other school supply boxes; 1056  
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 1057  
and writing tablets. "School supplies" does not include any item 1058  
purchased for use in a trade or business. 1059

(iii) "School instructional material" means written 1060  
material commonly used by a student in a course of study as a 1061  
reference and to learn the subject being taught. "School 1062  
instructional material" includes only the following items: 1063  
reference books, reference maps and globes, textbooks, and 1064  
workbooks. "School instructional material" does not include any 1065  
material purchased for use in a trade or business. 1066

(56) (a) Sales of diapers or incontinence underpads sold 1067  
pursuant to a prescription, for the benefit of a medicaid 1068  
recipient with a diagnosis of incontinence, and by a medicaid 1069  
provider that maintains a valid provider agreement under section 1070  
5164.30 of the Revised Code with the department of medicaid, 1071  
provided that the medicaid program covers diapers or 1072  
incontinence underpads as an incontinence garment. 1073

(b) As used in division (B) (56) (a) of this section: 1074

(i) "Diaper" means an absorbent garment worn by humans who 1075  
are incapable of, or have difficulty, controlling their bladder 1076  
or bowel movements. 1077

(ii) "Incontinence underpad" means an absorbent product, 1078

not worn on the body, designed to protect furniture or other 1079  
tangible personal property from soiling or damage due to human 1080  
incontinence. 1081

(57) Sales of tangible personal property or services to a 1082  
person under contract with a port authority for use in 1083  
performing the person's obligations under that contract. As used 1084  
in division (B) (57) of this section, "port authority" means a 1085  
port authority created under Chapter 4582. of the Revised Code. 1086

(C) For the purpose of the proper administration of this 1087  
chapter, and to prevent the evasion of the tax, it is presumed 1088  
that all sales made in this state are subject to the tax until 1089  
the contrary is established. 1090

(D) The tax collected by the vendor from the consumer 1091  
under this chapter is not part of the price, but is a tax 1092  
collection for the benefit of the state, and of counties levying 1093  
an additional sales tax pursuant to section 5739.021 or 5739.026 1094  
of the Revised Code and of transit authorities levying an 1095  
additional sales tax pursuant to section 5739.023 of the Revised 1096  
Code. Except for the discount authorized under section 5739.12 1097  
of the Revised Code and the effects of any rounding pursuant to 1098  
section 5703.055 of the Revised Code, no person other than the 1099  
state or such a county or transit authority shall derive any 1100  
benefit from the collection or payment of the tax levied by this 1101  
section or section 5739.021, 5739.023, or 5739.026 of the 1102  
Revised Code. 1103

**Section 2.** That existing sections 4582.06 and 5739.02 of 1104  
the Revised Code are hereby repealed. 1105

**Section 3.** The amendment by this act of section 5739.02 of 1106  
the Revised Code applies on and after the first day of the first 1107

month beginning after the effective date of this section. 1108

**Section 4.** Pursuant to division (G) of section 5703.95 of 1109  
the Revised Code, which states that any bill introduced in the 1110  
House of Representatives or the Senate that proposes to enact or 1111  
modify one or more tax expenditures should include a statement 1112  
explaining the objectives of the tax expenditure or its 1113  
modification and the sponsor's intent in proposing the tax 1114  
expenditure or its modification: 1115

The objective of this act is to modify the Ohio Revised 1116  
Code to exempt from sales and use tax sales of tangible personal 1117  
property or services to a person or corporation under contract 1118  
with an Ohio port or finance authority. The legislation also 1119  
seeks to make modifications to Ohio port authority revenue 1120  
bonds. 1121