

\_\_\_\_\_ moved to amend as follows:

In line 1 of the title, delete "5739.02" and insert "5741.01 and to 1  
enact section 5741.072" 2

In line 2 of the title, delete "exempt certain baby products" 3

In line 3 of the title, delete "from" and insert "modify the"; 4  
delete "tax" and insert "taxation of network delivery services" 5

In line 4, delete "5739.02" and insert "5741.01 be amended and 6  
section 5741.072" 7

In line 5, delete "amended" and insert "enacted" 8

Delete lines 6 through 1117 9

After line 1117, insert: 10

**"Sec. 5739.01.** As used in this chapter: 11

(A) "Person" includes individuals, receivers, assignees, 12  
trustees in bankruptcy, estates, firms, partnerships, 13  
associations, joint-stock companies, joint ventures, clubs, 14  
societies, corporations, the state and its political 15



subdivisions, and combinations of individuals of any form. 16

(B) "Sale" and "selling" include all of the following 17  
transactions for a consideration in any manner, whether 18  
absolutely or conditionally, whether for a price or rental, in 19  
money or by exchange, and by any means whatsoever: 20

(1) All transactions by which title or possession, or 21  
both, of tangible personal property, is or is to be transferred, 22  
or a license to use or consume tangible personal property is or 23  
is to be granted; 24

(2) All transactions by which lodging by a hotel is or is 25  
to be furnished to transient guests; 26

(3) All transactions by which: 27

(a) An item of tangible personal property is or is to be 28  
repaired, except property, the purchase of which would not be 29  
subject to the tax imposed by section 5739.02 of the Revised 30  
Code; 31

(b) An item of tangible personal property is or is to be 32  
installed, except property, the purchase of which would not be 33  
subject to the tax imposed by section 5739.02 of the Revised 34  
Code or property that is or is to be incorporated into and will 35  
become a part of a production, transmission, transportation, or 36  
distribution system for the delivery of a public utility 37  
service; 38

(c) The service of washing, cleaning, waxing, polishing, 39  
or painting a motor vehicle is or is to be furnished; 40

(d) Laundry and dry cleaning services are or are to be 41  
provided; 42

(e) Automatic data processing, computer services, or 43

electronic information services are or are to be provided for 44  
use in business when the true object of the transaction is the 45  
receipt by the consumer of automatic data processing, computer 46  
services, or electronic information services rather than the 47  
receipt of personal or professional services to which automatic 48  
data processing, computer services, or electronic information 49  
services are incidental or supplemental. Notwithstanding any 50  
other provision of this chapter, such transactions that occur 51  
between members of an affiliated group are not sales. An 52  
"affiliated group" means two or more persons related in such a 53  
way that one person owns or controls the business operation of 54  
another member of the group. In the case of corporations with 55  
stock, one corporation owns or controls another if it owns more 56  
than fifty per cent of the other corporation's common stock with 57  
voting rights. 58

(f) Telecommunications service, including prepaid calling 59  
service, prepaid wireless calling service, or ancillary service, 60  
is or is to be provided, but not including coin-operated 61  
telephone service; 62

(g) Landscaping and lawn care service is or is to be 63  
provided; 64

(h) Private investigation and security service is or is to 65  
be provided; 66

(i) Information services or tangible personal property is 67  
provided or ordered by means of a nine hundred telephone call; 68

(j) Building maintenance and janitorial service is or is 69  
to be provided; 70

(k) Exterminating service is or is to be provided; 71

(l) Physical fitness facility service is or is to be provided;	72 73
(m) Recreation and sports club service is or is to be provided;	74 75
(n) Satellite broadcasting service is or is to be provided;	76 77
(o) Personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	78 79 80 81 82 83 84 85
(p) The transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;	86 87 88 89 90 91 92
(q) Motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.	93 94 95 96
(r) Snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand	97 98 99 100

dollars in sales of such service during the calendar year. 101

(s) Electronic publishing service is or is to be provided 102  
to a consumer for use in business, except that such transactions 103  
occurring between members of an affiliated group, as defined in 104  
division (B) (3) (e) of this section, are not sales. 105

(4) All transactions by which printed, imprinted, 106  
overprinted, lithographic, multilithic, blueprinted, 107  
photostatic, or other productions or reproductions of written or 108  
graphic matter are or are to be furnished or transferred; 109

(5) The production or fabrication of tangible personal 110  
property for a consideration for consumers who furnish either 111  
directly or indirectly the materials used in the production of 112  
fabrication work; and include the furnishing, preparing, or 113  
serving for a consideration of any tangible personal property 114  
consumed on the premises of the person furnishing, preparing, or 115  
serving such tangible personal property. Except as provided in 116  
section 5739.03 of the Revised Code, a construction contract 117  
pursuant to which tangible personal property is or is to be 118  
incorporated into a structure or improvement on and becoming a 119  
part of real property is not a sale of such tangible personal 120  
property. The construction contractor is the consumer of such 121  
tangible personal property, provided that the sale and 122  
installation of carpeting, the sale and installation of 123  
agricultural land tile, the sale and erection or installation of 124  
portable grain bins, or the provision of landscaping and lawn 125  
care service and the transfer of property as part of such 126  
service is never a construction contract. 127

As used in division (B) (5) of this section: 128

(a) "Agricultural land tile" means fired clay or concrete 129

tile, or flexible or rigid perforated plastic pipe or tubing, 130  
incorporated or to be incorporated into a subsurface drainage 131  
system appurtenant to land used or to be used primarily in 132  
production by farming, agriculture, horticulture, or 133  
floriculture. The term does not include such materials when they 134  
are or are to be incorporated into a drainage system appurtenant 135  
to a building or structure even if the building or structure is 136  
used or to be used in such production. 137

(b) "Portable grain bin" means a structure that is used or 138  
to be used by a person engaged in farming or agriculture to 139  
shelter the person's grain and that is designed to be 140  
disassembled without significant damage to its component parts. 141

(6) All transactions in which all of the shares of stock 142  
of a closely held corporation are transferred, or an ownership 143  
interest in a pass-through entity, as defined in section 5733.04 144  
of the Revised Code, is transferred, if the corporation or pass- 145  
through entity is not engaging in business and its entire assets 146  
consist of boats, planes, motor vehicles, or other tangible 147  
personal property operated primarily for the use and enjoyment 148  
of the shareholders or owners; 149

(7) All transactions in which a warranty, maintenance or 150  
service contract, or similar agreement by which the vendor of 151  
the warranty, contract, or agreement agrees to repair or 152  
maintain the tangible personal property of the consumer is or is 153  
to be provided; 154

(8) The transfer of copyrighted motion picture films used 155  
solely for advertising purposes, except that the transfer of 156  
such films for exhibition purposes is not a sale; 157

(9) All transactions by which tangible personal property 158

is or is to be stored, except such property that the consumer of 159  
the storage holds for sale in the regular course of business; 160

(10) All transactions in which "guaranteed auto 161  
protection" is provided whereby a person promises to pay to the 162  
consumer the difference between the amount the consumer receives 163  
from motor vehicle insurance and the amount the consumer owes to 164  
a person holding title to or a lien on the consumer's motor 165  
vehicle in the event the consumer's motor vehicle suffers a 166  
total loss under the terms of the motor vehicle insurance policy 167  
or is stolen and not recovered, if the protection and its price 168  
are included in the purchase or lease agreement; 169

(11) (a) Except as provided in division (B) (11) (b) of this 170  
section, all transactions by which health care services are paid 171  
for, reimbursed, provided, delivered, arranged for, or otherwise 172  
made available by a medicaid health insuring corporation 173  
pursuant to the corporation's contract with the state. 174

(b) If the centers for medicare and medicaid services of 175  
the United States department of health and human services 176  
determines that the taxation of transactions described in 177  
division (B) (11) (a) of this section constitutes an impermissible 178  
health care-related tax under the "Social Security Act," section 179  
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 180  
the medicaid director shall notify the tax commissioner of that 181  
determination. Beginning with the first day of the month 182  
following that notification, the transactions described in 183  
division (B) (11) (a) of this section are not sales for the 184  
purposes of this chapter or Chapter 5741. of the Revised Code. 185  
The tax commissioner shall order that the collection of taxes 186  
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 187  
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 188

for transactions occurring on or after that date. 189

(12) All transactions by which a specified digital product 190  
is provided for permanent use or less than permanent use, 191  
regardless of whether continued payment is required. 192

(13) All transactions by a delivery network company for 193  
the company's delivery network services, provided the company 194  
has a waiver issued under section 5741.072 of the Revised Code. 195

Except as provided in this section, "sale" and "selling" 196  
do not include transfers of interest in leased property where 197  
the original lessee and the terms of the original lease 198  
agreement remain unchanged, or professional, insurance, or 199  
personal service transactions that involve the transfer of 200  
tangible personal property as an inconsequential element, for 201  
which no separate charges are made. 202

(C) "Vendor" means the person providing the service or by 203  
whom the transfer effected or license given by a sale is or is 204  
to be made or given and, for sales described in division (B)(3) 205  
(i) of this section, the telecommunications service vendor that 206  
provides the nine hundred telephone service; if two or more 207  
persons are engaged in business at the same place of business 208  
under a single trade name in which all collections on account of 209  
sales by each are made, such persons shall constitute a single 210  
vendor. 211

Physicians, dentists, hospitals, and veterinarians who are 212  
engaged in selling tangible personal property as received from 213  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 214  
articles, are vendors. Veterinarians who are engaged in 215  
transferring to others for a consideration drugs, the dispensing 216  
of which does not require an order of a licensed veterinarian or 217



physician under federal law, are vendors. 218

The operator of any peer-to-peer car sharing program shall 219  
be considered to be the vendor. 220

(D) (1) "Consumer" means the person for whom the service is 221  
provided, to whom the transfer effected or license given by a 222  
sale is or is to be made or given, to whom the service described 223  
in division (B) (3) (f) or (i) of this section is charged, or to 224  
whom the admission is granted. 225

(2) Physicians, dentists, hospitals, and blood banks 226  
operated by nonprofit institutions and persons licensed to 227  
practice veterinary medicine, surgery, and dentistry are 228  
consumers of all tangible personal property and services 229  
purchased by them in connection with the practice of medicine, 230  
dentistry, the rendition of hospital or blood bank service, or 231  
the practice of veterinary medicine, surgery, and dentistry. In 232  
addition to being consumers of drugs administered by them or by 233  
their assistants according to their direction, veterinarians 234  
also are consumers of drugs that under federal law may be 235  
dispensed only by or upon the order of a licensed veterinarian 236  
or physician, when transferred by them to others for a 237  
consideration to provide treatment to animals as directed by the 238  
veterinarian. 239

(3) A person who performs a facility management, or 240  
similar service contract for a contractee is a consumer of all 241  
tangible personal property and services purchased for use in 242  
connection with the performance of such contract, regardless of 243  
whether title to any such property vests in the contractee. The 244  
purchase of such property and services is not subject to the 245  
exception for resale under division (E) of this section. 246

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

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

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

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

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

separate from the service.	277
(7) In the case of a transaction for health care services under division (B) (11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid health insuring corporation is not subject to the exception for resale under division (E) of this section or to the exemptions provided under divisions (B) (12), (18), (19), and (22) of section 5739.02 of the Revised Code.	278 279 280 281 282 283 284 285
(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.	286 287 288 289 290
(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.	291 292 293 294
(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.	295 296 297 298
(H) (1) (a) "Price," except as provided in divisions (H) (2), (3), and (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:	299 300 301 302 303 304
(i) The vendor's cost of the property sold;	305

(ii) The cost of materials used, labor or service costs,	306
interest, losses, all costs of transportation to the vendor, all	307
taxes imposed on the vendor, including the tax imposed under	308
Chapter 5751. of the Revised Code, and any other expense of the	309
vendor;	310
(iii) Charges by the vendor for any services necessary to	311
complete the sale;	312
(iv) Delivery charges. As used in this division, "delivery	313
charges" means charges by the vendor for preparation and	314
delivery to a location designated by the consumer of tangible	315
personal property or a service, including transportation,	316
shipping, postage, handling, crating, and packing.	317
(v) Installation charges;	318
(vi) Credit for any trade-in.	319
(b) "Price" includes consideration received by the vendor	320
from a third party, if the vendor actually receives the	321
consideration from a party other than the consumer, and the	322
consideration is directly related to a price reduction or	323
discount on the sale; the vendor has an obligation to pass the	324
price reduction or discount through to the consumer; the amount	325
of the consideration attributable to the sale is fixed and	326
determinable by the vendor at the time of the sale of the item	327
to the consumer; and one of the following criteria is met:	328
(i) The consumer presents a coupon, certificate, or other	329
document to the vendor to claim a price reduction or discount	330
where the coupon, certificate, or document is authorized,	331
distributed, or granted by a third party with the understanding	332
that the third party will reimburse any vendor to whom the	333
coupon, certificate, or document is presented;	334

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

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

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

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

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

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

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

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

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

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft.

(4) In the case of transactions for health care services under division (B)(11) of this section, "price" means the amount

of managed care premiums received each month by a medicaid 393  
health insuring corporation. 394

(I) "Receipts" means the total amount of the prices of the 395  
sales of vendors, provided that the dollar value of gift cards 396  
distributed pursuant to an awards, loyalty, or promotional 397  
program, and cash discounts allowed and taken on sales at the 398  
time they are consummated are not included, minus any amount 399  
deducted as a bad debt pursuant to section 5739.121 of the 400  
Revised Code. "Receipts" does not include the sale price of 401  
property returned or services rejected by consumers when the 402  
full sale price and tax are refunded either in cash or by 403  
credit. 404

(J) "Place of business" means any location at which a 405  
person engages in business. 406

(K) "Premises" includes any real property or portion 407  
thereof upon which any person engages in selling tangible 408  
personal property at retail or making retail sales and also 409  
includes any real property or portion thereof designated for, or 410  
devoted to, use in conjunction with the business engaged in by 411  
such person. 412

(L) "Casual sale" means a sale of an item of tangible 413  
personal property that was obtained by the person making the 414  
sale, through purchase or otherwise, for the person's own use 415  
and was previously subject to any state's taxing jurisdiction on 416  
its sale or use, and includes such items acquired for the 417  
seller's use that are sold by an auctioneer employed directly by 418  
the person for such purpose, provided the location of such sales 419  
is not the auctioneer's permanent place of business. As used in 420  
this division, "permanent place of business" includes any 421  
location where such auctioneer has conducted more than two 422

auctions during the year. 423

(M) "Hotel" means every establishment kept, used, 424  
maintained, advertised, or held out to the public to be a place 425  
where sleeping accommodations are offered to guests, in which 426  
five or more rooms are used for the accommodation of such 427  
guests, whether the rooms are in one or several structures, 428  
except as otherwise provided in section 5739.091 of the Revised 429  
Code. 430

(N) "Transient guests" means persons occupying a room or 431  
rooms for sleeping accommodations for less than thirty 432  
consecutive days. 433

(O) "Making retail sales" means the effecting of 434  
transactions wherein one party is obligated to pay the price and 435  
the other party is obligated to provide a service or to transfer 436  
title to or possession of the item sold. "Making retail sales" 437  
does not include the preliminary acts of promoting or soliciting 438  
the retail sales, other than the distribution of printed matter 439  
which displays or describes and prices the item offered for 440  
sale, nor does it include delivery of a predetermined quantity 441  
of tangible personal property or transportation of property or 442  
personnel to or from a place where a service is performed. 443

(P) "Used directly in the rendition of a public utility 444  
service" means that property that is to be incorporated into and 445  
will become a part of the consumer's production, transmission, 446  
transportation, or distribution system and that retains its 447  
classification as tangible personal property after such 448  
incorporation; fuel or power used in the production, 449  
transmission, transportation, or distribution system; and 450  
tangible personal property used in the repair and maintenance of 451  
the production, transmission, transportation, or distribution 452



system, including only such motor vehicles as are specially 453  
designed and equipped for such use. Tangible personal property 454  
and services used primarily in providing highway transportation 455  
for hire are not used directly in the rendition of a public 456  
utility service. In this definition, "public utility" includes a 457  
citizen of the United States holding, and required to hold, a 458  
certificate of public convenience and necessity issued under 49 459  
U.S.C. 41102. 460

(Q) "Refining" means removing or separating a desirable 461  
product from raw or contaminated materials by distillation or 462  
physical, mechanical, or chemical processes. 463

(R) "Assembly" and "assembling" mean attaching or fitting 464  
together parts to form a product, but do not include packaging a 465  
product. 466

(S) "Manufacturing operation" means a process in which 467  
materials are changed, converted, or transformed into a 468  
different state or form from which they previously existed and 469  
includes refining materials, assembling parts, and preparing raw 470  
materials and parts by mixing, measuring, blending, or otherwise 471  
committing such materials or parts to the manufacturing process. 472  
"Manufacturing operation" does not include packaging. 473

(T) "Fiscal officer" means, with respect to a regional 474  
transit authority, the secretary-treasurer thereof, and with 475  
respect to a county that is a transit authority, the fiscal 476  
officer of the county transit board if one is appointed pursuant 477  
to section 306.03 of the Revised Code or the county auditor if 478  
the board of county commissioners operates the county transit 479  
system. 480

(U) "Transit authority" means a regional transit authority 481

created pursuant to section 306.31 of the Revised Code or a 482  
county in which a county transit system is created pursuant to 483  
section 306.01 of the Revised Code. For the purposes of this 484  
chapter, a transit authority must extend to at least the entire 485  
area of a single county. A transit authority that includes 486  
territory in more than one county must include all the area of 487  
the most populous county that is a part of such transit 488  
authority. County population shall be measured by the most 489  
recent census taken by the United States census bureau. 490

(V) "Legislative authority" means, with respect to a 491  
regional transit authority, the board of trustees thereof, and 492  
with respect to a county that is a transit authority, the board 493  
of county commissioners. 494

(W) "Territory of the transit authority" means all of the 495  
area included within the territorial boundaries of a transit 496  
authority as they from time to time exist. Such territorial 497  
boundaries must at all times include all the area of a single 498  
county or all the area of the most populous county that is a 499  
part of such transit authority. County population shall be 500  
measured by the most recent census taken by the United States 501  
census bureau. 502

(X) "Providing a service" means providing or furnishing 503  
anything described in division (B) (3) of this section for 504  
consideration. 505

(Y) (1) (a) "Automatic data processing" means processing of 506  
others' data, including keypunching or similar data entry 507  
services together with verification thereof, or providing access 508  
to computer equipment for the purpose of processing data. 509

(b) "Computer services" means providing services 510

consisting of specifying computer hardware configurations and 511  
evaluating technical processing characteristics, computer 512  
programming, and training of computer programmers and operators, 513  
provided in conjunction with and to support the sale, lease, or 514  
operation of taxable computer equipment or systems. 515

(c) "Electronic information services" means providing 516  
access to computer equipment by means of telecommunications 517  
equipment for the purpose of either of the following: 518

(i) Examining or acquiring data stored in or accessible to 519  
the computer equipment; 520

(ii) Placing data into the computer equipment to be 521  
retrieved by designated recipients with access to the computer 522  
equipment. 523

"Electronic information services" does not include 524  
electronic publishing. 525

(d) "Automatic data processing, computer services, or 526  
electronic information services" shall not include personal or 527  
professional services. 528

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 529  
section, "personal and professional services" means all services 530  
other than automatic data processing, computer services, or 531  
electronic information services, including but not limited to: 532

(a) Accounting and legal services such as advice on tax 533  
matters, asset management, budgetary matters, quality control, 534  
information security, and auditing and any other situation where 535  
the service provider receives data or information and studies, 536  
alters, analyzes, interprets, or adjusts such material; 537

(b) Analyzing business policies and procedures; 538

(c) Identifying management information needs;	539
(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	540 541 542
(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;	543 544 545 546 547
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	548 549 550
(g) Testing of business procedures;	551
(h) Training personnel in business procedure applications;	552
(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;	553 554 555 556 557 558 559
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	560 561
(k) Providing digital advertising services;	562
(l) Providing services to electronically file any federal, state, or local individual income tax return, report, or other related document or schedule with a federal, state, or local government entity or to electronically remit a payment of any	563 564 565 566

such individual income tax to such an entity. For the purpose of 567  
this division, "individual income tax" does not include federal, 568  
state, or local taxes withheld by an employer from an employee's 569  
compensation. 570

The services listed in divisions (Y) (2) (a) to (l) of this 571  
section are not automatic data processing or computer services. 572

(Z) "Highway transportation for hire" means the 573  
transportation of personal property belonging to others for 574  
consideration by any of the following: 575

(1) The holder of a permit or certificate issued by this 576  
state or the United States authorizing the holder to engage in 577  
transportation of personal property belonging to others for 578  
consideration over or on highways, roadways, streets, or any 579  
similar public thoroughfare; 580

(2) A person who engages in the transportation of personal 581  
property belonging to others for consideration over or on 582  
highways, roadways, streets, or any similar public thoroughfare 583  
but who could not have engaged in such transportation on 584  
December 11, 1985, unless the person was the holder of a permit 585  
or certificate of the types described in division (Z) (1) of this 586  
section; 587

(3) A person who leases a motor vehicle to and operates it 588  
for a person described by division (Z) (1) or (2) of this 589  
section. 590

"Highway transportation for hire" does not include 591  
delivery network services. 592

(AA) (1) "Telecommunications service" means the electronic 593  
transmission, conveyance, or routing of voice, data, audio, 594

video, or any other information or signals to a point, or 595  
between or among points. "Telecommunications service" includes 596  
such transmission, conveyance, or routing in which computer 597  
processing applications are used to act on the form, code, or 598  
protocol of the content for purposes of transmission, 599  
conveyance, or routing without regard to whether the service is 600  
referred to as voice-over internet protocol service or is 601  
classified by the federal communications commission as enhanced 602  
or value-added. "Telecommunications service" does not include 603  
any of the following: 604

(a) Data processing and information services that allow 605  
data to be generated, acquired, stored, processed, or retrieved 606  
and delivered by an electronic transmission to a consumer where 607  
the consumer's primary purpose for the underlying transaction is 608  
the processed data or information; 609

(b) Installation or maintenance of wiring or equipment on 610  
a customer's premises; 611

(c) Tangible personal property; 612

(d) Advertising, including directory advertising; 613

(e) Billing and collection services provided to third 614  
parties; 615

(f) Internet access service; 616

(g) Radio and television audio and video programming 617  
services, regardless of the medium, including the furnishing of 618  
transmission, conveyance, and routing of such services by the 619  
programming service provider. Radio and television audio and 620  
video programming services include, but are not limited to, 621  
cable service, as defined in 47 U.S.C. 522(6), and audio and 622

video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3; 623  
624

(h) Ancillary service; 625

(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones. 626  
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(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division: 628  
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(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge. 634  
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(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. 639  
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(c) "Directory assistance" means an ancillary service of providing telephone number or address information. 642  
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(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service. 644  
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(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded 649  
650

messages. "Voice mail service" does not include any vertical 651  
services that the customer may be required to have in order to 652  
utilize the voice mail service. 653

(3) "900 service" means an inbound toll telecommunications 654  
service purchased by a subscriber that allows the subscriber's 655  
customers to call in to the subscriber's prerecorded 656  
announcement or live service, and which is typically marketed 657  
under the name "900 service" and any subsequent numbers 658  
designated by the federal communications commission. "900 659  
service" does not include the charge for collection services 660  
provided by the seller of the telecommunications service to the 661  
subscriber, or services or products sold by the subscriber to 662  
the subscriber's customer. 663

(4) "Prepaid calling service" means the right to access 664  
exclusively telecommunications services, which must be paid for 665  
in advance and which enables the origination of calls using an 666  
access number or authorization code, whether manually or 667  
electronically dialed, and that is sold in predetermined units 668  
or dollars of which the number declines with use in a known 669  
amount. 670

(5) "Prepaid wireless calling service" means a 671  
telecommunications service that provides the right to utilize 672  
mobile telecommunications service as well as other non- 673  
telecommunications services, including the download of digital 674  
products delivered electronically, and content and ancillary 675  
services, that must be paid for in advance and that is sold in 676  
predetermined units or dollars of which the number declines with 677  
use in a known amount. 678

(6) "Value-added non-voice data service" means a 679  
telecommunications service in which computer processing 680



applications are used to act on the form, content, code, or 681  
protocol of the information or data primarily for a purpose 682  
other than transmission, conveyance, or routing. 683

(7) "Coin-operated telephone service" means a 684  
telecommunications service paid for by inserting money into a 685  
telephone accepting direct deposits of money to operate. 686

(8) "Customer" has the same meaning as in section 5739.034 687  
of the Revised Code. 688

(BB) "Laundry and dry cleaning services" means removing 689  
soil or dirt from towels, linens, articles of clothing, or other 690  
fabric items that belong to others and supplying towels, linens, 691  
articles of clothing, or other fabric items. "Laundry and dry 692  
cleaning services" does not include the provision of self- 693  
service facilities for use by consumers to remove soil or dirt 694  
from towels, linens, articles of clothing, or other fabric 695  
items. 696

(CC) "Magazines distributed as controlled circulation 697  
publications" means magazines containing at least twenty-four 698  
pages, at least twenty-five per cent editorial content, issued 699  
at regular intervals four or more times a year, and circulated 700  
without charge to the recipient, provided that such magazines 701  
are not owned or controlled by individuals or business concerns 702  
which conduct such publications as an auxiliary to, and 703  
essentially for the advancement of the main business or calling 704  
of, those who own or control them. 705

(DD) "Landscaping and lawn care service" means the 706  
services of planting, seeding, sodding, removing, cutting, 707  
trimming, pruning, mulching, aerating, applying chemicals, 708  
watering, fertilizing, and providing similar services to 709

establish, promote, or control the growth of trees, shrubs, 710  
flowers, grass, ground cover, and other flora, or otherwise 711  
maintaining a lawn or landscape grown or maintained by the owner 712  
for ornamentation or other nonagricultural purpose. However, 713  
"landscaping and lawn care service" does not include the 714  
providing of such services by a person who has less than five 715  
thousand dollars in sales of such services during the calendar 716  
year. 717

(EE) "Private investigation and security service" means 718  
the performance of any activity for which the provider of such 719  
service is required to be licensed pursuant to Chapter 4749. of 720  
the Revised Code, or would be required to be so licensed in 721  
performing such services in this state, and also includes the 722  
services of conducting polygraph examinations and of monitoring 723  
or overseeing the activities on or in, or the condition of, the 724  
consumer's home, business, or other facility by means of 725  
electronic or similar monitoring devices. "Private investigation 726  
and security service" does not include special duty services 727  
provided by off-duty police officers, deputy sheriffs, and other 728  
peace officers regularly employed by the state or a political 729  
subdivision. 730

(FF) "Information services" means providing conversation, 731  
giving consultation or advice, playing or making a voice or 732  
other recording, making or keeping a record of the number of 733  
callers, and any other service provided to a consumer by means 734  
of a nine hundred telephone call, except when the nine hundred 735  
telephone call is the means by which the consumer makes a 736  
contribution to a recognized charity. 737

(GG) "Research and development" means designing, creating, 738  
or formulating new or enhanced products, equipment, or 739

manufacturing processes, and also means conducting scientific or 740  
technological inquiry and experimentation in the physical 741  
sciences with the goal of increasing scientific knowledge which 742  
may reveal the bases for new or enhanced products, equipment, or 743  
manufacturing processes. 744

(HH) "Qualified research and development equipment" means 745  
either of the following: 746

(1) Capitalized tangible personal property, and leased 747  
personal property that would be capitalized if purchased, used 748  
by a person primarily to perform research and development; 749

(2) Any tangible personal property used by a megaproject 750  
operator primarily to perform research and development at the 751  
site of a megaproject that satisfies the criteria described in 752  
division (A) (11) (a) (ii) of section 122.17 of the Revised Code 753  
during the period that the megaproject operator has an agreement 754  
for such megaproject with the tax credit authority under 755  
division (D) of that section that remains in effect and has not 756  
expired or been terminated. 757

"Qualified research and development equipment" does not 758  
include tangible personal property primarily used in testing, as 759  
defined in division (A) (4) of section 5739.011 of the Revised 760  
Code, or used for recording or storing test results, unless such 761  
property is primarily used by the consumer in testing the 762  
product, equipment, or manufacturing process being created, 763  
designed, or formulated by the consumer in the research and 764  
development activity or in recording or storing such test 765  
results. 766

(II) "Building maintenance and janitorial service" means 767  
cleaning the interior or exterior of a building and any tangible 768

personal property located therein or thereon, including any 769  
services incidental to such cleaning for which no separate 770  
charge is made. However, "building maintenance and janitorial 771  
service" does not include the providing of such service by a 772  
person who has less than five thousand dollars in sales of such 773  
service during the calendar year. As used in this division, 774  
"cleaning" does not include sanitation services necessary for an 775  
establishment described in 21 U.S.C. 608 to comply with rules 776  
and regulations adopted pursuant to that section. 777

(JJ) "Exterminating service" means eradicating or 778  
attempting to eradicate vermin infestations from a building or 779  
structure, or the area surrounding a building or structure, and 780  
includes activities to inspect, detect, or prevent vermin 781  
infestation of a building or structure. 782

(KK) "Physical fitness facility service" means all 783  
transactions by which a membership is granted, maintained, or 784  
renewed, including initiation fees, membership dues, renewal 785  
fees, monthly minimum fees, and other similar fees and dues, by 786  
a physical fitness facility such as an athletic club, health 787  
spa, or gymnasium, which entitles the member to use the facility 788  
for physical exercise. 789

(LL) "Recreation and sports club service" means all 790  
transactions by which a membership is granted, maintained, or 791  
renewed, including initiation fees, membership dues, renewal 792  
fees, monthly minimum fees, and other similar fees and dues, by 793  
a recreation and sports club, which entitles the member to use 794  
the facilities of the organization. "Recreation and sports club" 795  
means an organization that has ownership of, or controls or 796  
leases on a continuing, long-term basis, the facilities used by 797  
its members and includes an aviation club, gun or shooting club, 798

yacht club, card club, swimming club, tennis club, golf club, 799  
country club, riding club, amateur sports club, or similar 800  
organization. 801

(MM) "Livestock" means farm animals commonly raised for 802  
food, food production, or other agricultural purposes, 803  
including, but not limited to, cattle, sheep, goats, swine, 804  
poultry, and captive deer. "Livestock" does not include 805  
invertebrates, amphibians, reptiles, domestic pets, animals for 806  
use in laboratories or for exhibition, or other animals not 807  
commonly raised for food or food production. 808

(NN) "Livestock structure" means a building or structure 809  
used exclusively for the housing, raising, feeding, or 810  
sheltering of livestock, and includes feed storage or handling 811  
structures and structures for livestock waste handling. 812

(OO) "Horticulture" means the growing, cultivation, and 813  
production of flowers, fruits, herbs, vegetables, sod, 814  
mushrooms, and nursery stock. As used in this division, "nursery 815  
stock" has the same meaning as in section 927.51 of the Revised 816  
Code. 817

(PP) "Horticulture structure" means a building or 818  
structure used exclusively for the commercial growing, raising, 819  
or overwintering of horticultural products, and includes the 820  
area used for stocking, storing, and packing horticultural 821  
products when done in conjunction with the production of those 822  
products. 823

(QQ) "Newspaper" means an unbound publication bearing a 824  
title or name that is regularly published, at least as 825  
frequently as biweekly, and distributed from a fixed place of 826  
business to the public in a specific geographic area, and that 827

contains a substantial amount of news matter of international, 828  
national, or local events of interest to the general public. 829

(RR) (1) "Feminine hygiene products" means tampons, panty 830  
liners, menstrual cups, sanitary napkins, and other similar 831  
tangible personal property designed for feminine hygiene in 832  
connection with the human menstrual cycle, but does not include 833  
grooming and hygiene products. 834

(2) "Grooming and hygiene products" means soaps and 835  
cleaning solutions, shampoo, toothpaste, mouthwash, 836  
antiperspirants, and sun tan lotions and screens, regardless of 837  
whether any of these products are over-the-counter drugs. 838

(3) "Over-the-counter drugs" means a drug that contains a 839  
label that identifies the product as a drug as required by 21 840  
C.F.R. 201.66, which label includes a drug facts panel or a 841  
statement of the active ingredients with a list of those 842  
ingredients contained in the compound, substance, or 843  
preparation. 844

(SS) (1) "Lease" or "rental" means any transfer of the 845  
possession or control of tangible personal property for a fixed 846  
or indefinite term, for consideration. "Lease" or "rental" 847  
includes future options to purchase or extend, and agreements 848  
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 849  
trailers where the amount of consideration may be increased or 850  
decreased by reference to the amount realized upon the sale or 851  
disposition of the property. "Lease" or "rental" does not 852  
include: 853

(a) A transfer of possession or control of tangible 854  
personal property under a security agreement or a deferred 855  
payment plan that requires the transfer of title upon completion 856

of the required payments; 857

(b) A transfer of possession or control of tangible 858  
personal property under an agreement that requires the transfer 859  
of title upon completion of required payments and payment of an 860  
option price that does not exceed the greater of one hundred 861  
dollars or one per cent of the total required payments; 862

(c) Providing tangible personal property along with an 863  
operator for a fixed or indefinite period of time, if the 864  
operator is necessary for the property to perform as designed. 865  
For purposes of this division, the operator must do more than 866  
maintain, inspect, or set up the tangible personal property. 867

(2) "Lease" and "rental," as defined in division (SS) of 868  
this section, shall not apply to leases or rentals that exist 869  
before June 26, 2003. 870

(3) "Lease" and "rental" have the same meaning as in 871  
division (SS) (1) of this section regardless of whether a 872  
transaction is characterized as a lease or rental under 873  
generally accepted accounting principles, the Internal Revenue 874  
Code, Title XIII of the Revised Code, or other federal, state, 875  
or local laws. 876

(TT) "Mobile telecommunications service" has the same 877  
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 878  
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 879  
amended, and, on and after August 1, 2003, includes related fees 880  
and ancillary services, including universal service fees, 881  
detailed billing service, directory assistance, service 882  
initiation, voice mail service, and vertical services, such as 883  
caller ID and three-way calling. 884

(UU) "Certified service provider" has the same meaning as 885

in section 5740.01 of the Revised Code. 886

(VV) "Satellite broadcasting service" means the 887  
distribution or broadcasting of programming or services by 888  
satellite directly to the subscriber's receiving equipment 889  
without the use of ground receiving or distribution equipment, 890  
except the subscriber's receiving equipment or equipment used in 891  
the uplink process to the satellite, and includes all service 892  
and rental charges, premium channels or other special services, 893  
installation and repair service charges, and any other charges 894  
having any connection with the provision of the satellite 895  
broadcasting service. 896

(WW) "Tangible personal property" means personal property 897  
that can be seen, weighed, measured, felt, or touched, or that 898  
is in any other manner perceptible to the senses. For purposes 899  
of this chapter and Chapter 5741. of the Revised Code, "tangible 900  
personal property" includes motor vehicles, electricity, water, 901  
gas, steam, and prewritten computer software. 902

(XX) "Municipal gas utility" means a municipal corporation 903  
that owns or operates a system for the distribution of natural 904  
gas. 905

(YY) "Computer" means an electronic device that accepts 906  
information in digital or similar form and manipulates it for a 907  
result based on a sequence of instructions. 908

(ZZ) "Computer software" means a set of coded instructions 909  
designed to cause a computer or automatic data processing 910  
equipment to perform a task. 911

(AAA) "Delivered electronically" means delivery of 912  
computer software from the seller to the purchaser by means 913  
other than tangible storage media. 914



(BBB) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

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

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

(a) "Dietary supplements" means any product, other than

tobacco, that is intended to supplement the diet and that is	945
intended for ingestion in tablet, capsule, powder, softgel,	946
gelcap, or liquid form, or, if not intended for ingestion in	947
such a form, is not represented as conventional food for use as	948
a sole item of a meal or of the diet; that is required to be	949
labeled as a dietary supplement, identifiable by the "supplement	950
facts" box found on the label, as required by 21 C.F.R. 101.36;	951
and that contains one or more of the following dietary	952
ingredients:	953
(i) A vitamin;	954
(ii) A mineral;	955
(iii) An herb or other botanical;	956
(iv) An amino acid;	957
(v) A dietary substance for use by humans to supplement	958
the diet by increasing the total dietary intake;	959
(vi) A concentrate, metabolite, constituent, extract, or	960
combination of any ingredient described in divisions (CCC) (2) (a)	961
(i) to (v) of this section.	962
(b) "Soft drinks" means nonalcoholic beverages that	963
contain natural or artificial sweeteners. "Soft drinks" does not	964
include beverages that contain milk or milk products, soy, rice,	965
or similar milk substitutes, or that contains greater than fifty	966
per cent vegetable or fruit juice by volume.	967
(DDD) "Drug" means a compound, substance, or preparation,	968
and any component of a compound, substance, or preparation,	969
other than food, dietary supplements, or alcoholic beverages	970
that is recognized in the official United States pharmacopoeia,	971
official homeopathic pharmacopoeia of the United States, or	972

official national formulary, and supplements to them; is 973  
intended for use in the diagnosis, cure, mitigation, treatment, 974  
or prevention of disease; or is intended to affect the structure 975  
or any function of the body. 976

(EEE) "Prescription" means an order, formula, or recipe 977  
issued in any form of oral, written, electronic, or other means 978  
of transmission by a duly licensed practitioner authorized by 979  
the laws of this state to issue a prescription. 980

(FFF) "Durable medical equipment" means equipment, 981  
including repair and replacement parts for such equipment, that 982  
can withstand repeated use, is primarily and customarily used to 983  
serve a medical purpose, generally is not useful to a person in 984  
the absence of illness or injury, and is not worn in or on the 985  
body. "Durable medical equipment" does not include mobility 986  
enhancing equipment. 987

(GGG) "Mobility enhancing equipment" means equipment, 988  
including repair and replacement parts for such equipment, that 989  
is primarily and customarily used to provide or increase the 990  
ability to move from one place to another and is appropriate for 991  
use either in a home or a motor vehicle, that is not generally 992  
used by persons with normal mobility, and that does not include 993  
any motor vehicle or equipment on a motor vehicle normally 994  
provided by a motor vehicle manufacturer. "Mobility enhancing 995  
equipment" does not include durable medical equipment. 996

(HHH) "Prosthetic device" means a replacement, corrective, 997  
or supportive device, including repair and replacement parts for 998  
the device, worn on or in the human body to artificially replace 999  
a missing portion of the body, prevent or correct physical 1000  
deformity or malfunction, or support a weak or deformed portion 1001  
of the body. As used in this division, before July 1, 2019, 1002

"prosthetic device" does not include corrective eyeglasses, 1003  
contact lenses, or dental prosthesis. On or after July 1, 2019, 1004  
"prosthetic device" does not include dental prosthesis but does 1005  
include corrective eyeglasses or contact lenses. 1006

(III)(1) "Fractional aircraft ownership program" means a 1007  
program in which persons within an affiliated group sell and 1008  
manage fractional ownership program aircraft, provided that at 1009  
least one hundred airworthy aircraft are operated in the program 1010  
and the program meets all of the following criteria: 1011

(a) Management services are provided by at least one 1012  
program manager within an affiliated group on behalf of the 1013  
fractional owners. 1014

(b) Each program aircraft is owned or possessed by at 1015  
least one fractional owner. 1016

(c) Each fractional owner owns or possesses at least a 1017  
one-sixteenth interest in at least one fixed-wing program 1018  
aircraft. 1019

(d) A dry-lease aircraft interchange arrangement is in 1020  
effect among all of the fractional owners. 1021

(e) Multi-year program agreements are in effect regarding 1022  
the fractional ownership, management services, and dry-lease 1023  
aircraft interchange arrangement aspects of the program. 1024

(2) As used in division (III)(1) of this section: 1025

(a) "Affiliated group" has the same meaning as in division 1026  
(B)(3)(e) of this section. 1027

(b) "Fractional owner" means a person that owns or 1028  
possesses at least a one-sixteenth interest in a program 1029  
aircraft and has entered into the agreements described in 1030

division (III) (1) (e) of this section. 1031

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (III) (1) (d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program. 1032  
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(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (III) (1) (e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program. 1039  
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(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (III) (1) (e) of this section. 1053  
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(JJJ) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; 1057  
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business, financial, legal, consumer, or credit materials; 1061  
 editorials, columns, reader commentary, or features; photos or 1062  
 images; archival or research material; legal notices, identity 1063  
 verification, or public records; scientific, educational, 1064  
 instructional, technical, professional, trade, or other literary 1065  
 materials; or other similar information which has been gathered 1066  
 and made available by the provider to the consumer in an 1067  
 electronic format. Providing electronic publishing includes the 1068  
 functions necessary for the acquisition, formatting, editing, 1069  
 storage, and dissemination of data or information that is the 1070  
 subject of a sale. 1071

(KKK) "Medicaid health insuring corporation" means a 1072  
 health insuring corporation that holds a certificate of 1073  
 authority under Chapter 1751. of the Revised Code and is under 1074  
 contract with the department of medicaid pursuant to section 1075  
 5167.10 of the Revised Code. 1076

(LLL) "Managed care premium" means any premium, 1077  
 capitation, or other payment a medicaid health insuring 1078  
 corporation receives for providing or arranging for the 1079  
 provision of health care services to its members or enrollees 1080  
 residing in this state. 1081

(MMM) "Captive deer" means deer and other cervidae that 1082  
 have been legally acquired, or their offspring, that are 1083  
 privately owned for agricultural or farming purposes. 1084

(NNN) "Gift card" means a document, card, certificate, or 1085  
 other record, whether tangible or intangible, that may be 1086  
 redeemed by a consumer for a dollar value when making a purchase 1087  
 of tangible personal property or services. 1088

(OOO) "Specified digital product" means an electronically 1089

transferred digital audiovisual work, digital audio work, or 1090  
digital book. 1091

As used in division (000) of this section: 1092

(1) "Digital audiovisual work" means a series of related 1093  
images that, when shown in succession, impart an impression of 1094  
motion, together with accompanying sounds, if any. 1095

(2) "Digital audio work" means a work that results from 1096  
the fixation of a series of musical, spoken, or other sounds, 1097  
including digitized sound files that are downloaded onto a 1098  
device and that may be used to alert the customer with respect 1099  
to a communication. 1100

(3) "Digital book" means a work that is generally 1101  
recognized in the ordinary and usual sense as a book. 1102

(4) "Electronically transferred" means obtained by the 1103  
purchaser by means other than tangible storage media. 1104

(PPP) "Digital advertising services" means providing 1105  
access, by means of telecommunications equipment, to computer 1106  
equipment that is used to enter, upload, download, review, 1107  
manipulate, store, add, or delete data for the purpose of 1108  
electronically displaying, delivering, placing, or transferring 1109  
promotional advertisements to potential customers about products 1110  
or services or about industry or business brands. 1111

(QQQ) "Peer-to-peer car sharing program" has the same 1112  
meaning as in section 4516.01 of the Revised Code. 1113

(RRR) "Megaproject" and "megaproject operator" have the 1114  
same meanings as in section 122.17 of the Revised Code. 1115

(SSS) (1) "Diaper" means an absorbent garment worn by 1116  
humans who are incapable of, or have difficulty, controlling 1117

their bladder or bowel movements.	1118
(2) "Children's diaper" means a diaper marketed to be worn by children.	1119 1120
(3) "Adult diaper" means a diaper other than a children's diaper.	1121 1122
(TTT) "Sales tax holiday" means three or more dates on which sales of all eligible tangible personal property are exempt from the taxes levied under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code.	1123 1124 1125 1126 1127
(UUU) "Eligible tangible personal property" means any item of tangible personal property that meets both of the following requirements:	1128 1129 1130
(1) The price of the item does not exceed five hundred dollars;	1131 1132
(2) The item is not a watercraft or outboard motor required to be titled pursuant to Chapter 1548. of the Revised Code, a motor vehicle, an alcoholic beverage, tobacco, a vapor product as defined in section 5743.01 of the Revised Code, or an item that contains marijuana as defined in section 3796.01 of the Revised Code.	1133 1134 1135 1136 1137 1138
(VVV) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.	1139 1140 1141
(WWW) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.	1142 1143
<u>(XXX) (1) "Delivery network company" means a person that operates a business platform, including a web site or mobile</u>	1144 1145



application, to facilitate delivery network services. 1146

(2) "Delivery network courier" means an individual 1147  
connected to a consumer through a delivery network company and 1148  
who provides delivery network services to that consumer. 1149

(3) "Delivery network services" means both of the 1150  
following when performed as part of a single transaction: 1151

(a) Pickup of a local product by a delivery network 1152  
courier from a local merchant that is not under common ownership 1153  
or control of the delivery network company through which the 1154  
transaction was initiated, and which may include selection, 1155  
collection, and purchase of the local product; 1156

(b) Delivery by the delivery network courier of that local 1157  
product to a location designated by the consumer that is not 1158  
more than seventy-five miles from the local merchant's place of 1159  
business where the pickup described in division (XXX) (3) (a) of 1160  
this section occurs. 1161

(4) "Local merchant" means a person engaged in selling 1162  
local products from a temporary or fixed place of business in 1163  
this state, including a kitchen, restaurant, grocery store, 1164  
retail store, or convenience store. 1165

(5) "Local product" means any tangible personal property, 1166  
including food, but excluding freight, mail, or a package to 1167  
which postage is affixed." 1168

Delete lines 1118 through 1968 1169

After line 1968, insert: 1170

**"Sec. 5741.01.** As used in this chapter: 1171

(A) "Person" includes individuals, receivers, assignees, 1172

trustees in bankruptcy, estates, firms, partnerships, 1173  
associations, joint-stock companies, joint ventures, clubs, 1174  
societies, corporations, business trusts, governments, and 1175  
combinations of individuals of any form. 1176

(B) "Storage" means and includes any keeping or retention 1177  
in this state for use or other consumption in this state. 1178

(C) "Use" means and includes the exercise of any right or 1179  
power incidental to the ownership of the thing used. A thing is 1180  
also "used" in this state if its consumer gives or otherwise 1181  
distributes it, without charge, to recipients in this state. 1182

(D) "Purchase" means acquired or received for a 1183  
consideration, whether such acquisition or receipt was effected 1184  
by a transfer of title, or of possession, or of both, or a 1185  
license to use or consume; whether such transfer was absolute or 1186  
conditional, and by whatever means the transfer was effected; 1187  
and whether the consideration was money, credit, barter, or 1188  
exchange. Purchase includes production, even though the article 1189  
produced was used, stored, or consumed by the producer. The 1190  
transfer of copyrighted motion picture films for exhibition 1191  
purposes is not a purchase, except such films as are used solely 1192  
for advertising purposes. 1193

(E) "Seller" means the person from whom a purchase is 1194  
made, and includes every person engaged in this state or 1195  
elsewhere in the business of selling tangible personal property 1196  
or providing a service for storage, use, or other consumption or 1197  
benefit in this state; and when, in the opinion of the tax 1198  
commissioner, it is necessary for the efficient administration 1199  
of this chapter, to regard any salesperson, representative, 1200  
peddler, or canvasser as the agent of a dealer, distributor, 1201  
supervisor, or employer under whom the person operates, or from 1202

whom the person obtains tangible personal property, sold by the 1203  
person for storage, use, or other consumption in this state, 1204  
irrespective of whether or not the person is making such sales 1205  
on the person's own behalf, or on behalf of such dealer, 1206  
distributor, supervisor, or employer, the commissioner may 1207  
regard the person as such agent, and may regard such dealer, 1208  
distributor, supervisor, or employer as the seller. ~~A~~ 1209

Except as provided in sections 5741.071 and 5747.072 of 1210  
the Revised Code, a marketplace facilitator shall be treated as 1211  
the "seller" with respect to all sales facilitated by the 1212  
marketplace facilitator on behalf of one or more marketplace 1213  
sellers on and after the first day of the first month that 1214  
begins at least thirty days after the marketplace facilitator 1215  
first has substantial nexus with this state. Otherwise, "seller" 1216  
does not include any person to the extent the person provides a 1217  
communications medium, such as, but not limited to, newspapers, 1218  
magazines, radio, television, or cable television, by means of 1219  
which sellers solicit purchases of their goods or services. 1220

(F) "Consumer" means any person who has purchased tangible 1221  
personal property or has been provided a service for storage, 1222  
use, or other consumption or benefit in this state. "Consumer" 1223  
does not include a person who receives, without charge, tangible 1224  
personal property or a service. 1225

A person who performs a facility management or similar 1226  
service contract for a contractee is a consumer of all tangible 1227  
personal property and services purchased for use in connection 1228  
with the performance of such contract, regardless of whether 1229  
title to any such property vests in the contractee. The purchase 1230  
of such property and services is not subject to the exception 1231  
for resale under division (E) of section 5739.01 of the Revised 1232

Code.	1233
(G) (1) "Price," except as provided in divisions (G) (2) to	1234
(6) of this section, has the same meaning as in division (H) (1)	1235
of section 5739.01 of the Revised Code.	1236
(2) In the case of watercraft, outboard motors, or new	1237
motor vehicles, "price" has the same meaning as in divisions (H)	1238
(2) and (3) of section 5739.01 of the Revised Code.	1239
(3) In the case of a nonresident business consumer that	1240
purchases and uses tangible personal property outside this state	1241
and subsequently temporarily stores, uses, or otherwise consumes	1242
such tangible personal property in the conduct of business in	1243
this state, the consumer or the tax commissioner may determine	1244
the price based on the value of the temporary storage, use, or	1245
other consumption, in lieu of determining the price pursuant to	1246
division (G) (1) of this section. A price determination made by	1247
the consumer is subject to review and redetermination by the	1248
commissioner.	1249
(4) In the case of tangible personal property held in this	1250
state as inventory for sale or lease, and that is temporarily	1251
stored, used, or otherwise consumed in a taxable manner, the	1252
price is the value of the temporary use. A price determination	1253
made by the consumer is subject to review and redetermination by	1254
the commissioner.	1255
(5) In the case of tangible personal property originally	1256
purchased and used by the consumer outside this state, and that	1257
becomes permanently stored, used, or otherwise consumed in this	1258
state more than six months after its acquisition by the	1259
consumer, the consumer or the commissioner may determine the	1260
price based on the current value of such tangible personal	1261

property, in lieu of determining the price pursuant to division 1262  
(G) (1) of this section. A price determination made by the 1263  
consumer is subject to review and redetermination by the 1264  
commissioner. 1265

(6) If a consumer produces tangible personal property for 1266  
sale and removes that property from inventory for the consumer's 1267  
own use, the price is the produced cost of that tangible 1268  
personal property. 1269

(H) "Nexus with this state" means that the seller engages 1270  
in continuous and widespread solicitation of purchases from 1271  
residents of this state or otherwise purposefully directs its 1272  
business activities at residents of this state. 1273

(I) (1) "Substantial nexus with this state" means that the 1274  
seller has sufficient contact with this state, in accordance 1275  
with Section 8 of Article I of the Constitution of the United 1276  
States, to allow the state to require the seller to collect and 1277  
remit use tax on sales of tangible personal property or services 1278  
made to consumers in this state. 1279

(2) "Substantial nexus with this state" is presumed to 1280  
exist when the seller does any of the following: 1281

(a) Uses an office, distribution facility, warehouse, 1282  
storage facility, or similar place of business within this 1283  
state, whether operated by the seller or any other person, other 1284  
than a common carrier acting in its capacity as a common 1285  
carrier. 1286

(b) Regularly uses employees, agents, representatives, 1287  
solicitors, installers, repairers, salespersons, or other 1288  
persons in this state for the purpose of conducting the business 1289  
of the seller or either to engage in a business with the same or 1290

a similar industry classification as the seller selling a	1291
similar product or line of products as the seller, or to use	1292
trademarks, service marks, or trade names in this state that are	1293
the same or substantially similar to those used by the seller.	1294
(c) Uses any person, other than a common carrier acting in	1295
its capacity as a common carrier, in this state for any of the	1296
following purposes:	1297
(i) Receiving or processing orders of the seller's goods	1298
or services;	1299
(ii) Using that person's employees or facilities in this	1300
state to advertise, promote, or facilitate sales by the seller	1301
to customers;	1302
(iii) Delivering, installing, assembling, or performing	1303
maintenance services for the seller's customers;	1304
(iv) Facilitating the seller's delivery of tangible	1305
personal property to customers in this state by allowing the	1306
seller's customers to pick up property sold by the seller at an	1307
office, distribution facility, warehouse, storage facility, or	1308
similar place of business.	1309
(d) Makes regular deliveries of tangible personal property	1310
into this state by means other than common carrier.	1311
(e) Has an affiliated person that has substantial nexus	1312
with this state.	1313
(f) Owns tangible personal property that is rented or	1314
leased to a consumer in this state, or offers tangible personal	1315
property, on approval, to consumers in this state.	1316
(g) Has gross receipts in excess of one hundred thousand	1317
dollars in the current or preceding calendar year from the sale	1318

of tangible personal property for storage, use, or consumption 1319  
in this state or from providing services the benefit of which is 1320  
realized in this state. 1321

(h) Engages, in the current or preceding calendar year, in 1322  
two hundred or more separate transactions selling tangible 1323  
personal property for storage, use, or consumption in this state 1324  
or providing services the benefit of which is realized in this 1325  
state. 1326

(3) A seller presumed to have substantial nexus with this 1327  
state under divisions (I) (2) (a) to (f), (g), and (h) of this 1328  
section may rebut that presumption by demonstrating that 1329  
activities described in any of those divisions that are 1330  
conducted by a person in this state on the seller's behalf are 1331  
not significantly associated with the seller's ability to 1332  
establish or maintain a market in this state for the seller's 1333  
sales. 1334

(4) A marketplace facilitator is presumed to have 1335  
substantial nexus with this state if either of the following 1336  
apply in the current or preceding calendar year: 1337

(a) The aggregate gross receipts derived from sales of 1338  
tangible personal property for storage, use, or consumption in 1339  
this state or services the benefit of which is realized in this 1340  
state, including sales made by the marketplace facilitator on 1341  
its own behalf and sales facilitated by the marketplace 1342  
facilitator on behalf of one or more marketplace sellers, exceed 1343  
one hundred thousand dollars; 1344

(b) The marketplace facilitator engages in on its own 1345  
behalf, or facilitates on behalf of one or more marketplace 1346  
sellers, two hundred or more separate transactions selling 1347

tangible personal property for storage, use, or consumption in 1348  
this state or services the benefit of which is realized in this 1349  
state. 1350

(5) A seller that does not have substantial nexus with 1351  
this state, and any affiliated person of the seller, before 1352  
selling or leasing tangible personal property or services to a 1353  
state agency, shall register with the tax commissioner in the 1354  
same manner as a seller described in division (A)(1) of section 1355  
5741.17 of the Revised Code. 1356

(6) As used in division (I) of this section: 1357

(a) "Affiliated person" means any person that is a member 1358  
of the same controlled group of corporations as the seller or 1359  
any other person that, notwithstanding the form of organization, 1360  
bears the same ownership relationship to the seller as a 1361  
corporation that is a member of the same controlled group of 1362  
corporations. 1363

(b) "Controlled group of corporations" has the same 1364  
meaning as in section 1563(a) of the Internal Revenue Code. 1365

(c) "State agency" has the same meaning as in section 1.60 1366  
of the Revised Code. 1367

(J) "Fiscal officer" means, with respect to a regional 1368  
transit authority, the secretary-treasurer thereof, and with 1369  
respect to a county which is a transit authority, the fiscal 1370  
officer of the county transit board appointed pursuant to 1371  
section 306.03 of the Revised Code or, if the board of county 1372  
commissioners operates the county transit system, the county 1373  
auditor. 1374

(K) "Territory of the transit authority" means all of the 1375



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

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

(M) "Providing a service" has the same meaning as in section 5739.01 of the Revised Code.

(N) "Other consumption" includes receiving the benefits of a service.

(O) "Lease" or "rental" has the same meaning as in section 5739.01 of the Revised Code.

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

(Q) "Marketplace facilitator" means a person that owns, operates, or controls a physical or electronic marketplace through which retail sales or delivery network services, or both, are facilitated on behalf of one or more marketplace

sellers, or an affiliate of such a person. "Marketplace  
facilitator" does not include a person that provides advertising  
services, including tangible personal property or services  
listed for sale, if the advertising service platform or forum  
does not engage directly or indirectly through one or more  
affiliated persons in the activities described in division (T)  
(2) of this section.

(R) "Marketplace seller" means a person on behalf of which  
a marketplace facilitator facilitates the sale of tangible  
personal property for storage, use, or consumption in this state  
or services the benefit of which are realized in this state,  
regardless of whether or not the person has a substantial nexus  
with this state.

(S) "Electronic marketplace" includes digital distribution  
services, digital distribution platforms, online portals,  
application stores, computer software applications, in-app  
purchase mechanisms, or other digital products.

(T) A sale is "facilitated" by a marketplace facilitator  
on behalf of a marketplace seller if it satisfies divisions (T)  
(1), (2), and (3) of this section:

(1) The marketplace facilitator, directly or indirectly,  
does any of the following:

(a) Lists, makes available, or advertises the tangible  
personal property or services that are the subject of the sale  
in a physical or electronic marketplace owned, operated, or  
controlled by the marketplace facilitator;

(b) Transmits or otherwise communicates an offer or  
acceptance of the sale between the marketplace seller and the  
purchaser in a shop, store, booth, catalog, internet site, or

other similar forum;	1434
(c) Owns, rents, licenses, makes available, or operates	1435
any electronic or physical infrastructure or any property,	1436
process, method, copyright, trademark, or patent that connects	1437
the marketplace seller to the purchaser for the purpose of	1438
making sales;	1439
(d) Provides the marketplace in which the sale was made or	1440
otherwise facilitates the sale regardless of ownership or	1441
control of the tangible personal property or services that are	1442
the subject of the sale;	1443
(e) Provides software development or research and	1444
development services directly related to a physical or	1445
electronic marketplace that is involved in one or more of the	1446
activities described in division (T)(1) of this section;	1447
(f) Provides fulfillment or storage services for the	1448
marketplace seller that are related to the tangible personal	1449
property or services that are the subject of the sale;	1450
(g) Sets the price of the sale on behalf of the	1451
marketplace seller;	1452
(h) Provides or offers customer service to the marketplace	1453
seller or the marketplace seller's customers, or accepts or	1454
assists with taking orders, returns, or exchanges of the	1455
tangible personal property or services that are the subject of	1456
the sale;	1457
(i) Brands or otherwise identifies the sale as a sale of	1458
the marketplace facilitator.	1459
(2) The marketplace facilitator, directly or indirectly,	1460
does any of the following:	1461

(a) Collects the price of the tangible personal property	1462
or services sold to the consumer;	1463
(b) Provides payment processing services for the sale;	1464
(c) Collects payment in connection with the sale from the	1465
consumer through terms and conditions, agreements, or	1466
arrangements with a third party, and transmits that payment to	1467
the marketplace seller, regardless of whether the person	1468
collecting and transmitting such payment receives compensation	1469
or other consideration in exchange for the service;	1470
(d) Provides virtual currency that consumers are allowed	1471
or required to use to purchase the tangible personal property or	1472
services that are the subject of the sale.	1473
(3) The subject of the sale is tangible personal property	1474
or services other than lodging by a hotel that is or is to be	1475
furnished to transient guests.	1476
<u>(U) "Delivery network company," "delivery network</u>	1477
<u>services," and "local merchant" have the same meanings as in</u>	1478
<u>section 5739.01 of the Revised Code.</u>	1479
<b><u>Sec. 5741.072. (A) If all of the following conditions are</u></b>	1480
<b><u>met, a delivery network company that facilitates delivery</u></b>	1481
<b><u>network services may request a waiver from the requirement in</u></b>	1482
<b><u>division (E) of section 5741.01 of the Revised Code that a</u></b>	1483
<b><u>marketplace facilitator be treated as the seller of goods sold</u></b>	1484
<b><u>by marketplace sellers through the marketplace facilitator:</u></b>	1485
<u>(1) The delivery network company is current on all taxes,</u>	1486
<u>fees, and charges administered by the department of taxation</u>	1487
<u>that are not subject to a bona fide dispute.</u>	1488
<u>(2) The delivery network company has not, within the</u>	1489

twelve months preceding the request for waiver, requested that a 1490  
previously granted waiver be canceled or had a previously 1491  
granted waiver revoked by the commissioner. 1492

(3) The delivery network company has not violated division 1493  
(B) of section 5739.30 of the Revised Code. 1494

A waiver granted under this section does not affect the 1495  
delivery network company's status as the seller of its delivery 1496  
network services. 1497

(B) A delivery network company that requests a waiver 1498  
pursuant to this section shall make the request to the tax 1499  
commissioner on a form prescribed by the commissioner. A waiver 1500  
that is not affirmatively granted or denied by the commissioner 1501  
within thirty days of the date it was filed with the 1502  
commissioner is automatically granted. A waiver that is granted 1503  
by the commissioner or granted automatically is effective on and 1504  
after the first day of the first month that begins at least 1505  
thirty days after the commissioner grants the waiver or the 1506  
waiver is automatically granted. The waiver is valid until the 1507  
first day of the first month that begins at least sixty days 1508  
after it is revoked by the commissioner or canceled by the 1509  
delivery network company. 1510

(C) (1) When a waiver is granted pursuant to division (B) 1511  
of this section, the commissioner shall notify the delivery 1512  
network company, which shall then notify each local merchant 1513  
operating on the delivery network company's physical or 1514  
electronic marketplace that the local merchant shall be 1515  
considered a vendor pursuant to division (C) of section 5739.01 1516  
of the Revised Code or a seller pursuant to division (E) of 1517  
section 5741.01 of the Revised Code, as applicable, with respect 1518  
to the local products sold by the seller through the delivery 1519

network company's physical or electronic marketplace. 1520

(2) A delivery network company that has been granted a 1521  
waiver under this section may cancel the waiver by sending 1522  
notice to the commissioner. The commissioner may revoke a waiver 1523  
if the commissioner determines that any of the conditions 1524  
described in divisions (A) (1) to (3) of this section are no 1525  
longer met by the delivery network company. The commissioner 1526  
shall notify the delivery network company upon revoking a 1527  
waiver. A delivery network for which a waiver has been canceled 1528  
or revoked shall promptly notify each local merchant operating 1529  
on the delivery network company's physical or electronic 1530  
marketplace that its waiver has been canceled or revoked. 1531

(D) Notwithstanding section 5703.21 of the Revised Code, 1532  
the commissioner may divulge information related to the status 1533  
of a waiver granted to a delivery network company if requested 1534  
by a local merchant operating on the delivery network company's 1535  
physical or electronic marketplace. 1536

(E) The commissioner may adopt any rules necessary to 1537  
administer this section." 1538

In line 1969, delete "5739.02" and insert "5741.01" 1539

Delete lines 1971 through 1973 1540

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS 1541

**Sales and use tax exemption for baby products** 1542

<b>R.C. 5739.01 and 5739.02; Section 3</b>	1543
Removes provisions from the bill that would have exempted	1544
children's diapers, restraint devices, and booster seats and	1545
certain baby products from sales and use tax. Several of these	1546
products were exempted from sales and use tax by H.B. 33 of the	1547
135th General Assembly.	1548
<b>Network delivery service taxation</b>	1549
<b>R.C. 5739.01, 5741.01, and 5741.072</b>	1550
Allows a company that coordinates delivery of goods	1551
between customers and local businesses to obtain a waiver from	1552
the requirement that it collect and remit sales or use tax on	1553
the goods as if it was the seller.	1554
Subjects the delivery charges of a company that has	1555
obtained a waiver to sales or use tax, thus requiring such a	1556
company to collect and remit tax on its delivery services but	1557
not the cost of goods delivered.	1558