

**As Introduced**

**136th General Assembly  
Regular Session  
2025-2026**

**H. B. No. 936**

**Representatives Baker, Sigrist**

---

To amend section 5739.02 of the Revised Code to 1  
authorize a sales and use tax exemption for 2  
medical items and services eligible to be 3  
purchased with proceeds from flexible spending 4  
and health savings accounts. 5

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

**Section 1.** That section 5739.02 of the Revised Code be 6  
amended to read as follows: 7

**Sec. 5739.02.** For the purpose of providing revenue with 8  
which to meet the needs of the state, for the use of the general 9  
revenue fund of the state, for the purpose of securing a 10  
thorough and efficient system of common schools throughout the 11  
state, for the purpose of affording revenues, in addition to 12  
those from general property taxes, permitted under 13  
constitutional limitations, and from other sources, for the 14  
support of local governmental functions, and for the purpose of 15  
reimbursing the state for the expense of administering this 16  
chapter, an excise tax is hereby levied on each retail sale made 17  
in this state. 18

(A) (1) The tax shall be collected as provided in section 19  
5739.025 of the Revised Code. The rate of the tax shall be five 20

and three-fourths per cent. The tax applies and is collectible 21  
when the sale is made, regardless of the time when the price is 22  
paid or delivered. 23

(2) In the case of the lease or rental, with a fixed term 24  
of more than thirty days or an indefinite term with a minimum 25  
period of more than thirty days, of any motor vehicles designed 26  
by the manufacturer to carry a load of not more than one ton, 27  
watercraft, outboard motor, or aircraft, or of any tangible 28  
personal property, other than motor vehicles designed by the 29  
manufacturer to carry a load of more than one ton, to be used by 30  
the lessee or renter primarily for business purposes, the tax 31  
shall be collected by the vendor at the time the lease or rental 32  
is consummated and shall be calculated by the vendor on the 33  
basis of the total amount to be paid by the lessee or renter 34  
under the lease agreement. If the total amount of the 35  
consideration for the lease or rental includes amounts that are 36  
not calculated at the time the lease or rental is executed, the 37  
tax shall be calculated and collected by the vendor at the time 38  
such amounts are billed to the lessee or renter. In the case of 39  
an open-end lease or rental, the tax shall be calculated by the 40  
vendor on the basis of the total amount to be paid during the 41  
initial fixed term of the lease or rental, and for each 42  
subsequent renewal period as it comes due. As used in this 43  
division, "motor vehicle" has the same meaning as in section 44  
4501.01 of the Revised Code, and "watercraft" includes an 45  
outdrive unit attached to the watercraft. 46

A lease with a renewal clause and a termination penalty or 47  
similar provision that applies if the renewal clause is not 48  
exercised is presumed to be a sham transaction. In such a case, 49  
the tax shall be calculated and paid on the basis of the entire 50  
length of the lease period, including any renewal periods, until 51

the termination penalty or similar provision no longer applies. 52  
The taxpayer shall bear the burden, by a preponderance of the 53  
evidence, that the transaction or series of transactions is not 54  
a sham transaction. 55

(3) Except as provided in division (A) (2) of this section, 56  
in the case of a sale, the price of which consists in whole or 57  
in part of the lease or rental of tangible personal property, 58  
the tax shall be measured by the installments of that lease or 59  
rental. 60

(4) In the case of a sale of a physical fitness facility 61  
service or recreation and sports club service, the price of 62  
which consists in whole or in part of a membership for the 63  
receipt of the benefit of the service, the tax applicable to the 64  
sale shall be measured by the installments thereof. 65

(B) The tax does not apply to the following: 66

(1) Sales to the state or any of its political 67  
subdivisions, or to any other state or its political 68  
subdivisions if the laws of that state exempt from taxation 69  
sales made to this state and its political subdivisions 70  
including either of the following: 71

(a) Sales or rentals of tangible personal property by 72  
construction contractors or subcontractors to provide temporary 73  
traffic control or temporary structures, including material and 74  
equipment used to comply with the Ohio manual of uniform traffic 75  
control devices adopted pursuant to section 4511.09 of the 76  
Revised Code, whereby the state or any of its political 77  
subdivisions take title to, or permanent or temporary possession 78  
of, such tangible personal property for use by the state or any 79  
of its political subdivisions, including for use by the general 80

public thereof;	81
(b) Sales of services by construction contractors or subcontractors to provide temporary traffic control or structures, including labor used to comply with the Ohio manual of uniform traffic control devices adopted pursuant to section 4511.09 of the Revised Code, whereby the state or any of its political subdivisions, including the general public thereof, receive the benefit of such services.	82 83 84 85 86 87 88
As used in divisions (B) (1) (a) and (b) of this section, "temporary structures" include temporary roads, bridges, drains, and pavement.	89 90 91
(2) Sales of food for human consumption off the premises where sold;	92 93
(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;	94 95 96
(4) Sales of newspapers and sales or transfers of magazines distributed as controlled circulation publications;	97 98
(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;	99 100 101 102
(6) (a) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a	103 104 105 106 107 108 109

refund of motor fuel tax pursuant to division (A) of section 110  
5735.14 of the Revised Code and shall cause the amount deducted 111  
to be paid into the general revenue fund of this state; 112

(b) Sales of motor fuel other than that described in 113  
division (B) (6) (a) of this section and used for powering a 114  
refrigeration unit on a vehicle other than one used primarily to 115  
provide comfort to the operator or occupants of the vehicle. 116

(7) Sales of natural gas by a natural gas company or 117  
municipal gas utility, of water by a water-works company, or of 118  
steam by a heating company, if in each case the thing sold is 119  
delivered to consumers through pipes or conduits, and all sales 120  
of communications services by a telegraph company, all terms as 121  
defined in section 5727.01 of the Revised Code, and sales of 122  
electricity delivered through wires; 123

(8) Casual sales by a person, or auctioneer employed 124  
directly by the person to conduct such sales, except as to such 125  
sales of motor vehicles, watercraft or outboard motors required 126  
to be titled under section 1548.06 of the Revised Code, 127  
watercraft documented with the United States coast guard, 128  
snowmobiles, and all-purpose vehicles as defined in section 129  
4519.01 of the Revised Code; 130

(9) (a) Sales of services or tangible personal property, 131  
other than motor vehicles, mobile homes, and manufactured homes, 132  
by churches, organizations exempt from taxation under section 133  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 134  
organizations operated exclusively for charitable purposes as 135  
defined in division (B) (12) of this section, provided that the 136  
number of days on which such tangible personal property or 137  
services, other than items never subject to the tax, are sold 138  
does not exceed six in any calendar year, except as otherwise 139

provided in division (B) (9) (b) of this section. If the number of 140  
days on which such sales are made exceeds six in any calendar 141  
year, the church or organization shall be considered to be 142  
engaged in business and all subsequent sales by it shall be 143  
subject to the tax. In counting the number of days, all sales by 144  
groups within a church or within an organization shall be 145  
considered to be sales of that church or organization. 146

(b) The limitation on the number of days on which tax- 147  
exempt sales may be made by a church or organization under 148  
division (B) (9) (a) of this section does not apply to sales made 149  
by student clubs and other groups of students of a primary or 150  
secondary school, or a parent-teacher association, booster 151  
group, or similar organization that raises money to support or 152  
fund curricular or extracurricular activities of a primary or 153  
secondary school. 154

(c) Divisions (B) (9) (a) and (b) of this section do not 155  
apply to sales by a noncommercial educational radio or 156  
television broadcasting station. 157

(10) Sales not within the taxing power of this state under 158  
the Constitution or laws of the United States or the 159  
Constitution of this state including either of the following: 160

(a) Sales or rentals of tangible personal property by 161  
construction contractors or subcontractors to provide temporary 162  
traffic control or temporary structures, including material and 163  
equipment used to comply with the Ohio manual of uniform traffic 164  
control devices adopted pursuant to section 4511.09 of the 165  
Revised Code, whereby the United States takes title to, or 166  
permanent or temporary possession of, such tangible personal 167  
property for use by the United States including for use by the 168  
general public thereof; 169

(b) Sales of services by construction contractors or 170  
subcontractors to provide temporary traffic control or 171  
structures, including labor used to comply with the Ohio manual 172  
of uniform traffic control devices adopted pursuant to section 173  
4511.09 of the Revised Code, whereby the United States, 174  
including the general public thereof, receives the benefit of 175  
such services. 176

As used in divisions (B) (10) (a) and (b) of this section, 177  
"temporary structures" include temporary roads, bridges, drains, 178  
and pavement. 179

(11) Except for transactions that are sales under division 180  
(B) (3) (p) of section 5739.01 of the Revised Code, the 181  
transportation of persons or property, unless the transportation 182  
is by a private investigation and security service; 183

(12) Sales of tangible personal property or services to 184  
churches, to organizations exempt from taxation under section 185  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 186  
nonprofit organizations operated exclusively for charitable 187  
purposes in this state, no part of the net income of which 188  
inures to the benefit of any private shareholder or individual, 189  
and no substantial part of the activities of which consists of 190  
carrying on propaganda or otherwise attempting to influence 191  
legislation; sales to offices administering one or more homes 192  
for the aged or one or more hospital facilities exempt under 193  
section 140.08 of the Revised Code; and sales to organizations 194  
described in division (D) of section 5709.12 of the Revised 195  
Code. 196

"Charitable purposes" means the relief of poverty; the 197  
improvement of health through the alleviation of illness, 198  
disease, or injury; the operation of an organization exclusively 199

for the provision of professional, laundry, printing, and 200  
purchasing services to hospitals or charitable institutions; the 201  
operation of a home for the aged, as defined in section 5701.13 202  
of the Revised Code; the operation of a radio or television 203  
broadcasting station that is licensed by the federal 204  
communications commission as a noncommercial educational radio 205  
or television station; the operation of a nonprofit animal 206  
adoption service or a county humane society; the promotion of 207  
education by an institution of learning that maintains a faculty 208  
of qualified instructors, teaches regular continuous courses of 209  
study, and confers a recognized diploma upon completion of a 210  
specific curriculum; the operation of a parent-teacher 211  
association, booster group, or similar organization primarily 212  
engaged in the promotion and support of the curricular or 213  
extracurricular activities of a primary or secondary school; the 214  
operation of a community or area center in which presentations 215  
in music, dramatics, the arts, and related fields are made in 216  
order to foster public interest and education therein; the 217  
production of performances in music, dramatics, and the arts; or 218  
the promotion of education by an organization engaged in 219  
carrying on research in, or the dissemination of, scientific and 220  
technological knowledge and information primarily for the 221  
public. 222

Nothing in this division shall be deemed to exempt sales 223  
to any organization for use in the operation or carrying on of a 224  
trade or business, or sales to a home for the aged for use in 225  
the operation of independent living facilities as defined in 226  
division (A) of section 5709.12 of the Revised Code. 227

(13) Building and construction materials and services sold 228  
to construction contractors for incorporation into a structure 229  
or improvement to real property under a construction contract 230

with this state or a political subdivision of this state, or 231  
with the United States government or any of its agencies; 232  
building and construction materials and services sold to 233  
construction contractors for incorporation into a structure or 234  
improvement to real property that are accepted for ownership by 235  
this state or any of its political subdivisions, or by the 236  
United States government or any of its agencies at the time of 237  
completion of the structures or improvements; building and 238  
construction materials sold to construction contractors for 239  
incorporation into a horticulture structure or livestock 240  
structure for a person engaged in the business of horticulture 241  
or producing livestock; building materials and services sold to 242  
a construction contractor for incorporation into a house of 243  
public worship or religious education, or a building used 244  
exclusively for charitable purposes under a construction 245  
contract with an organization whose purpose is as described in 246  
division (B) (12) of this section; building materials and 247  
services sold to a construction contractor for incorporation 248  
into a building under a construction contract with an 249  
organization exempt from taxation under section 501(c) (3) of the 250  
Internal Revenue Code of 1986 when the building is to be used 251  
exclusively for the organization's exempt purposes; tangible 252  
personal property sold for incorporation into the construction 253  
of a sports facility under section 307.696 of the Revised Code; 254  
building and construction materials and services sold to a 255  
construction contractor for incorporation into real property 256  
outside this state if such materials and services, when sold to 257  
a construction contractor in the state in which the real 258  
property is located for incorporation into real property in that 259  
state, would be exempt from a tax on sales levied by that state; 260  
building and construction materials for incorporation into a 261  
transportation facility pursuant to a public-private agreement 262

entered into under sections 5501.70 to 5501.83 of the Revised Code; until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center; and building and construction materials sold for incorporation into a structure or improvement to real property that is used primarily as, or primarily in support of, a manufacturing facility or research and development facility and that is to be owned by a megaproject operator upon completion and located at the site of a megaproject that satisfies the criteria described in division (A) (11) (a) (ii) of section 122.17 of the Revised Code, provided that the sale occurs during the period that the megaproject operator has an agreement for such megaproject with the tax credit authority under division (D) of section 122.17 of the Revised Code that remains in effect and has not expired or been terminated.

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

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

including any machinery, equipment, and supplies used to make 294  
labels or packages, to prepare packages or products for 295  
labeling, or to label packages or products, by or on the order 296  
of the person doing the packaging, or sold at retail. "Packages" 297  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 298  
bindings, wrappings, and other similar devices and containers, 299  
but does not include motor vehicles or bulk tanks, trailers, or 300  
similar devices attached to motor vehicles. "Packaging" means 301  
placing in a package. Division (B) (15) of this section does not 302  
apply to persons engaged in highway transportation for hire. 303

(16) Sales of food to persons using supplemental nutrition 304  
assistance program benefits to purchase the food. As used in 305  
this division, "food" has the same meaning as in 7 U.S.C. 2012 306  
and federal regulations adopted pursuant to the Food and 307  
Nutrition Act of 2008. 308

(17) Sales to persons engaged in farming, agriculture, 309  
horticulture, or floriculture, of tangible personal property for 310  
use or consumption primarily in the production by farming, 311  
agriculture, horticulture, or floriculture of other tangible 312  
personal property for use or consumption primarily in the 313  
production of tangible personal property for sale by farming, 314  
agriculture, horticulture, or floriculture; or material and 315  
parts for incorporation into any such tangible personal property 316  
for use or consumption in production; and of tangible personal 317  
property for such use or consumption in the conditioning or 318  
holding of products produced by and for such use, consumption, 319  
or sale by persons engaged in farming, agriculture, 320  
horticulture, or floriculture, except where such property is 321  
incorporated into real property; 322

(18) Sales of drugs for a human being that may be 323

dispensed only pursuant to a prescription; insulin as recognized	324
in the official United States pharmacopoeia; urine and blood	325
testing materials when used by diabetics or persons with	326
hypoglycemia to test for glucose or acetone; hypodermic syringes	327
and needles when used by diabetics for insulin injections;	328
epoetin alfa when purchased for use in the treatment of persons	329
with medical disease; hospital beds when purchased by hospitals,	330
nursing homes, or other medical facilities; and medical oxygen	331
and medical oxygen-dispensing equipment when purchased by	332
hospitals, nursing homes, or other medical facilities;	333
(19) Sales of prosthetic devices, durable medical	334
equipment for home use, or mobility enhancing equipment, when	335
made pursuant to a prescription and when such devices or	336
equipment are for use by a human being.	337
(20) Sales of emergency and fire protection vehicles and	338
equipment to nonprofit organizations for use solely in providing	339
fire protection and emergency services, including trauma care	340
and emergency medical services, for political subdivisions of	341
the state;	342
(21) Sales of tangible personal property manufactured in	343
this state, if sold by the manufacturer in this state to a	344
retailer for use in the retail business of the retailer outside	345
of this state and if possession is taken from the manufacturer	346
by the purchaser within this state for the sole purpose of	347
immediately removing the same from this state in a vehicle owned	348
by the purchaser;	349
(22) Sales of services provided by the state or any of its	350
political subdivisions, agencies, instrumentalities,	351
institutions, or authorities, or by governmental entities of the	352
state or any of its political subdivisions, agencies,	353

instrumentalities, institutions, or authorities;	354
(23) Sales of motor vehicles to nonresidents of this state	355
under the circumstances described in division (B) of section	356
5739.029 of the Revised Code;	357
(24) Sales to persons engaged in the preparation of eggs	358
for sale of tangible personal property used or consumed directly	359
in such preparation, including such tangible personal property	360
used for cleaning, sanitizing, preserving, grading, sorting, and	361
classifying by size; packages, including material and parts for	362
packages, and machinery, equipment, and material for use in	363
packaging eggs for sale; and handling and transportation	364
equipment and parts therefor, except motor vehicles licensed to	365
operate on public highways, used in intraplant or interplant	366
transfers or shipment of eggs in the process of preparation for	367
sale, when the plant or plants within or between which such	368
transfers or shipments occur are operated by the same person.	369
"Packages" includes containers, cases, baskets, flats, fillers,	370
filler flats, cartons, closure materials, labels, and labeling	371
materials, and "packaging" means placing therein.	372
(25) (a) Sales of water to a consumer for residential use;	373
(b) Sales of water by a nonprofit corporation engaged	374
exclusively in the treatment, distribution, and sale of water to	375
consumers, if such water is delivered to consumers through pipes	376
or tubing.	377
(26) Fees charged for inspection or reinspection of motor	378
vehicles under section 3704.14 of the Revised Code;	379
(27) Sales to persons licensed to conduct a food service	380
operation pursuant to section 3717.43 of the Revised Code, of	381
tangible personal property primarily used directly for the	382

following:	383
(a) To prepare food for human consumption for sale;	384
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	385 386 387 388
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	389 390
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	391 392
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	393 394 395 396
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	397 398 399
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;	400 401 402
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	403 404 405 406 407 408
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and	409 410

issued a charter by the congress of the United States or is 411  
recognized by the United States veterans administration, for use 412  
by the headquarters; 413

(34) Sales to a telecommunications service vendor, mobile 414  
telecommunications service vendor, or satellite broadcasting 415  
service vendor of tangible personal property and services used 416  
directly and primarily in transmitting, receiving, switching, or 417  
recording any interactive, one- or two-way electromagnetic 418  
communications, including voice, image, data, and information, 419  
through the use of any medium, including, but not limited to, 420  
poles, wires, cables, switching equipment, computers, and record 421  
storage devices and media, and component parts for the tangible 422  
personal property. The exemption provided in this division shall 423  
be in lieu of all other exemptions under division (B) (42) (a) or 424  
(n) of this section to which the vendor may otherwise be 425  
entitled, based upon the use of the thing purchased in providing 426  
the telecommunications, mobile telecommunications, or satellite 427  
broadcasting service. 428

(35) (a) Sales where the purpose of the consumer is to use 429  
or consume the things transferred in making retail sales and 430  
consisting of newspaper inserts, catalogues, coupons, flyers, 431  
gift certificates, or other advertising material that prices and 432  
describes tangible personal property offered for retail sale. 433

(b) Sales to direct marketing vendors of preliminary 434  
materials such as photographs, artwork, and typesetting that 435  
will be used in printing advertising material; and of printed 436  
matter that offers free merchandise or chances to win sweepstake 437  
prizes and that is mailed to potential customers with 438  
advertising material described in division (B) (35) (a) of this 439  
section; 440

(c) Sales of equipment such as telephones, computers, 441  
facsimile machines, and similar tangible personal property 442  
primarily used to accept orders for direct marketing retail 443  
sales. 444

(d) Sales of automatic food vending machines that preserve 445  
food with a shelf life of forty-five days or less by 446  
refrigeration and dispense it to the consumer. 447

For purposes of division (B) (35) of this section, "direct 448  
marketing" means the method of selling where consumers order 449  
tangible personal property by United States mail, delivery 450  
service, or telecommunication and the vendor delivers or ships 451  
the tangible personal property sold to the consumer from a 452  
warehouse, catalogue distribution center, or similar fulfillment 453  
facility by means of the United States mail, delivery service, 454  
or common carrier. 455

(36) Sales to a person engaged in the business of 456  
horticulture or producing livestock of materials to be 457  
incorporated into a horticulture structure or livestock 458  
structure; 459

(37) Sales of personal computers, computer monitors, 460  
computer keyboards, modems, and other peripheral computer 461  
equipment to an individual who is licensed or certified to teach 462  
in an elementary or a secondary school in this state for use by 463  
that individual in preparation for teaching elementary or 464  
secondary school students; 465

(38) Sales of tangible personal property that is not 466  
required to be registered or licensed under the laws of this 467  
state to a citizen of a foreign nation that is not a citizen of 468  
the United States, provided the property is delivered to a 469

person in this state that is not a related member of the 470  
purchaser, is physically present in this state for the sole 471  
purpose of temporary storage and package consolidation, and is 472  
subsequently delivered to the purchaser at a delivery address in 473  
a foreign nation. As used in division (B)(38) of this section, 474  
"related member" has the same meaning as in section 5733.042 of 475  
the Revised Code, and "temporary storage" means the storage of 476  
tangible personal property for a period of not more than sixty 477  
days. 478

(39) Sales of used manufactured homes and used mobile 479  
homes, as defined in section 5739.0210 of the Revised Code, made 480  
on or after January 1, 2000; 481

(40) Sales of tangible personal property and services to a 482  
provider of electricity used or consumed directly and primarily 483  
in generating, transmitting, or distributing electricity for use 484  
by others, including property that is or is to be incorporated 485  
into and will become a part of the consumer's production, 486  
transmission, or distribution system and that retains its 487  
classification as tangible personal property after 488  
incorporation; fuel or power used in the production, 489  
transmission, or distribution of electricity; energy conversion 490  
equipment as defined in section 5727.01 of the Revised Code; and 491  
tangible personal property and services used in the repair and 492  
maintenance of the production, transmission, or distribution 493  
system, including only those motor vehicles as are specially 494  
designed and equipped for such use. The exemption provided in 495  
this division shall be in lieu of all other exemptions in 496  
division (B)(42)(a) or (n) of this section to which a provider 497  
of electricity may otherwise be entitled based on the use of the 498  
tangible personal property or service purchased in generating, 499  
transmitting, or distributing electricity. 500

(41) Sales to a person providing services under division	501
(B) (3) (p) of section 5739.01 of the Revised Code of tangible	502
personal property and services used directly and primarily in	503
providing taxable services under that section.	504
(42) Sales where the purpose of the purchaser is to do any	505
of the following:	506
(a) To incorporate the thing transferred as a material or	507
a part into tangible personal property to be produced for sale	508
by manufacturing, assembling, processing, or refining; or to use	509
or consume the thing transferred directly in producing tangible	510
personal property for sale by mining, including, without	511
limitation, the extraction from the earth of all substances that	512
are classed geologically as minerals, or directly in the	513
rendition of a public utility service, except that the sales tax	514
levied by this section shall be collected upon all meals,	515
drinks, and food for human consumption sold when transporting	516
persons. This paragraph does not exempt from "retail sale" or	517
"sales at retail" the sale of tangible personal property that is	518
to be incorporated into a structure or improvement to real	519
property.	520
(b) To hold the thing transferred as security for the	521
performance of an obligation of the vendor;	522
(c) To resell, hold, use, or consume the thing transferred	523
as evidence of a contract of insurance;	524
(d) To use or consume the thing directly in commercial	525
fishing;	526
(e) To incorporate the thing transferred as a material or	527
a part into, or to use or consume the thing transferred directly	528
in the production of, magazines distributed as controlled	529

circulation publications;	530
(f) To use or consume the thing transferred in the	531
production and preparation in suitable condition for market and	532
sale of printed, imprinted, overprinted, lithographic,	533
multilithic, blueprinted, photostatic, or other productions or	534
reproductions of written or graphic matter;	535
(g) To use the thing transferred, as described in section	536
5739.011 of the Revised Code, primarily in a manufacturing	537
operation to produce tangible personal property for sale;	538
(h) To use the benefit of a warranty, maintenance or	539
service contract, or similar agreement, as described in division	540
(B) (7) of section 5739.01 of the Revised Code, to repair or	541
maintain tangible personal property, if all of the property that	542
is the subject of the warranty, contract, or agreement would not	543
be subject to the tax imposed by this section;	544
(i) To use the thing transferred as qualified research and	545
development equipment;	546
(j) To use or consume the thing transferred primarily in	547
storing, transporting, mailing, or otherwise handling purchased	548
sales inventory in a warehouse, distribution center, or similar	549
facility when the inventory is primarily distributed outside	550
this state to retail stores of the person who owns or controls	551
the warehouse, distribution center, or similar facility, to	552
retail stores of an affiliated group of which that person is a	553
member, or by means of direct marketing. This division does not	554
apply to motor vehicles registered for operation on the public	555
highways. As used in this division, "affiliated group" has the	556
same meaning as in division (B) (3) (e) of section 5739.01 of the	557
Revised Code and "direct marketing" has the same meaning as in	558

division (B) (35) of this section.	559
(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B) (7) of section 5739.01 of the Revised Code;	560 561 562 563 564 565 566
(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;	567 568
(m) To use tangible personal property to perform a service listed in division (B) (3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;	569 570 571 572 573
(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.	574 575 576 577 578 579 580 581 582
(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing;	583 584 585
(p) To provide the thing transferred to the owner or lessee of a motor vehicle that is being repaired or serviced, if	586 587

the thing transferred is a rented motor vehicle and the 588  
purchaser is reimbursed for the cost of the rented motor vehicle 589  
by a manufacturer, warrantor, or provider of a maintenance, 590  
service, or other similar contract or agreement, with respect to 591  
the motor vehicle that is being repaired or serviced; 592

(q) To use or consume the thing transferred directly in 593  
production of crude oil and natural gas for sale. Persons 594  
engaged in rendering production services for others are deemed 595  
engaged in production. 596

As used in division (B) (42) (q) of this section, 597  
"production" means operations and tangible personal property 598  
directly used to expose and evaluate an underground reservoir 599  
that may contain hydrocarbon resources, prepare the wellbore for 600  
production, and lift and control all substances yielded by the 601  
reservoir to the surface of the earth. 602

(i) For the purposes of division (B) (42) (q) of this 603  
section, the "thing transferred" includes, but is not limited 604  
to, any of the following: 605

(I) Services provided in the construction of permanent 606  
access roads, services provided in the construction of the well 607  
site, and services provided in the construction of temporary 608  
impoundments; 609

(II) Equipment and rigging used for the specific purpose 610  
of creating with integrity a wellbore pathway to underground 611  
reservoirs; 612

(III) Drilling and workover services used to work within a 613  
subsurface wellbore, and tangible personal property directly 614  
used in providing such services; 615

(IV) Casing, tubulars, and float and centralizing 616

equipment;	617
(V) Trailers to which production equipment is attached;	618
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	619 620 621
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	622 623 624
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	625 626 627 628
(IX) Pressure pumping equipment;	629
(X) Artificial lift systems equipment;	630
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	631 632 633
(XII) Tangible personal property directly used to control production equipment.	634 635
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	636 637 638
(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	639 640 641
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well	642 643

stimulation as defined in section 1509.01 of the Revised Code;	644
(III) Tangible personal property used primarily in	645
preparing, installing, or reclaiming foundations for drilling or	646
pumping equipment or well stimulation material tanks;	647
(IV) Tangible personal property used primarily in	648
transporting, delivering, or removing equipment to or from the	649
well site or storing such equipment before its use at the well	650
site;	651
(V) Tangible personal property used primarily in gathering	652
operations occurring off the well site, including gathering	653
pipelines transporting hydrocarbon gas or liquids away from a	654
crude oil or natural gas production facility;	655
(VI) Tangible personal property that is to be incorporated	656
into a structure or improvement to real property;	657
(VII) Well site fencing, lighting, or security systems;	658
(VIII) Communication devices or services;	659
(IX) Office supplies;	660
(X) Trailers used as offices or lodging;	661
(XI) Motor vehicles of any kind;	662
(XII) Tangible personal property used primarily for the	663
storage of drilling byproducts and fuel not used for production;	664
(XIII) Tangible personal property used primarily as a	665
safety device;	666
(XIV) Data collection or monitoring devices;	667
(XV) Access ladders, stairs, or platforms attached to	668
storage tanks.	669

The enumeration of tangible personal property in division 670  
(B) (42) (q) (ii) of this section is not intended to be exhaustive, 671  
and any tangible personal property not so enumerated shall not 672  
necessarily be construed to be a "thing transferred" for the 673  
purposes of division (B) (42) (q) of this section. 674

The commissioner shall adopt and promulgate rules under 675  
sections 119.01 to 119.13 of the Revised Code that the 676  
commissioner deems necessary to administer division (B) (42) (q) 677  
of this section. 678

As used in division (B) (42) of this section, "thing" 679  
includes all transactions included in divisions (B) (3) (a), (b), 680  
and (e) of section 5739.01 of the Revised Code. 681

(43) Sales conducted through a coin operated device that 682  
activates vacuum equipment or equipment that dispenses water, 683  
whether or not in combination with soap or other cleaning agents 684  
or wax, to the consumer for the consumer's use on the premises 685  
in washing, cleaning, or waxing a motor vehicle, provided no 686  
other personal property or personal service is provided as part 687  
of the transaction. 688

(44) Sales of replacement and modification parts for 689  
engines, airframes, instruments, and interiors in, and paint 690  
for, aircraft used primarily in a fractional aircraft ownership 691  
program, and sales of services for the repair, modification, and 692  
maintenance of such aircraft, and machinery, equipment, and 693  
supplies primarily used to provide those services. 694

(45) Sales of telecommunications service that is used 695  
directly and primarily to perform the functions of a call 696  
center. As used in this division, "call center" means any 697  
physical location where telephone calls are placed or received 698

in high volume for the purpose of making sales, marketing, 699  
customer service, technical support, or other specialized 700  
business activity, and that employs at least fifty individuals 701  
that engage in call center activities on a full-time basis, or 702  
sufficient individuals to fill fifty full-time equivalent 703  
positions. 704

(46) Sales by a telecommunications service vendor of 900 705  
service to a subscriber. This division does not apply to 706  
information services. 707

(47) Sales of value-added non-voice data service. This 708  
division does not apply to any similar service that is not 709  
otherwise a telecommunications service. 710

(48) Sales of feminine hygiene products. 711

(49) Sales of materials, parts, equipment, or engines used 712  
in the repair or maintenance of aircraft or avionics systems of 713  
such aircraft, and sales of repair, remodeling, replacement, or 714  
maintenance services in this state performed on aircraft or on 715  
an aircraft's avionics, engine, or component materials or parts. 716  
As used in division (B) (49) of this section, "aircraft" means 717  
aircraft of more than six thousand pounds maximum certified 718  
takeoff weight or used exclusively in general aviation. 719

(50) Sales of full flight simulators that are used for 720  
pilot or flight-crew training, sales of repair or replacement 721  
parts or components, and sales of repair or maintenance services 722  
for such full flight simulators. "Full flight simulator" means a 723  
replica of a specific type, or make, model, and series of 724  
aircraft cockpit. It includes the assemblage of equipment and 725  
computer programs necessary to represent aircraft operations in 726  
ground and flight conditions, a visual system providing an out- 727

of-the-cockpit view, and a system that provides cues at least 728  
equivalent to those of a three-degree-of-freedom motion system, 729  
and has the full range of capabilities of the systems installed 730  
in the device as described in appendices A and B of part 60 of 731  
chapter 1 of title 14 of the Code of Federal Regulations. 732

(51) Any transfer or lease of tangible personal property 733  
between the state and JobsOhio in accordance with section 734  
4313.02 of the Revised Code. 735

(52) (a) Sales to a qualifying corporation. 736

(b) As used in division (B) (52) of this section: 737

(i) "Qualifying corporation" means a nonprofit corporation 738  
organized in this state that leases from an eligible county 739  
land, buildings, structures, fixtures, and improvements to the 740  
land that are part of or used in a public recreational facility 741  
used by a major league professional athletic team or a class A 742  
to class AAA minor league affiliate of a major league 743  
professional athletic team for a significant portion of the 744  
team's home schedule, provided the following apply: 745

(I) The facility is leased from the eligible county 746  
pursuant to a lease that requires substantially all of the 747  
revenue from the operation of the business or activity conducted 748  
by the nonprofit corporation at the facility in excess of 749  
operating costs, capital expenditures, and reserves to be paid 750  
to the eligible county at least once per calendar year. 751

(II) Upon dissolution and liquidation of the nonprofit 752  
corporation, all of its net assets are distributable to the 753  
board of commissioners of the eligible county from which the 754  
corporation leases the facility. 755

(ii) "Eligible county" has the same meaning as in section 756

307.695 of the Revised Code.	757
(53) Sales to or by a cable service provider, video	758
service provider, or radio or television broadcast station	759
regulated by the federal government of cable service or	760
programming, video service or programming, audio service or	761
programming, or electronically transferred digital audiovisual	762
or audio work. As used in division (B) (53) of this section,	763
"cable service" and "cable service provider" have the same	764
meanings as in section 1332.01 of the Revised Code, and "video	765
service," "video service provider," and "video programming" have	766
the same meanings as in section 1332.21 of the Revised Code.	767
(54) Sales of a digital audio work electronically	768
transferred for delivery through use of a machine, such as a	769
juke box, that does all of the following:	770
(a) Accepts direct payments to operate;	771
(b) Automatically plays a selected digital audio work for	772
a single play upon receipt of a payment described in division	773
(B) (54) (a) of this section;	774
(c) Operates exclusively for the purpose of playing	775
digital audio works in a commercial establishment.	776
(55) (a) Sales of the following occurring on the first	777
Friday of August and the following Saturday and Sunday of any	778
year, except in 2024 or any subsequent year in which a sales tax	779
holiday is held pursuant to section 5739.41 of the Revised Code:	780
(i) An item of clothing, the price of which is seventy-	781
five dollars or less;	782
(ii) An item of school supplies, the price of which is	783
twenty dollars or less;	784

(iii) An item of school instructional material, the price	785
of which is twenty dollars or less.	786
(b) As used in division (B) (55) of this section:	787
(i) "Clothing" means all human wearing apparel suitable	788
for general use. "Clothing" includes, but is not limited to,	789
aprons, household and shop; athletic supporters; baby receiving	790
blankets; bathing suits and caps; beach capes and coats; belts	791
and suspenders; boots; coats and jackets; costumes; diapers,	792
children and adult, including disposable diapers; earmuffs;	793
footlets; formal wear; garters and garter belts; girdles; gloves	794
and mittens for general use; hats and caps; hosiery; insoles for	795
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	796
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	797
sneakers; socks and stockings; steel-toed shoes; underwear;	798
uniforms, athletic and nonathletic; and wedding apparel.	799
"Clothing" does not include items purchased for use in a trade	800
or business; clothing accessories or equipment; protective	801
equipment; sports or recreational equipment; belt buckles sold	802
separately; costume masks sold separately; patches and emblems	803
sold separately; sewing equipment and supplies including, but	804
not limited to, knitting needles, patterns, pins, scissors,	805
sewing machines, sewing needles, tape measures, and thimbles;	806
and sewing materials that become part of "clothing" including,	807
but not limited to, buttons, fabric, lace, thread, yarn, and	808
zippers.	809
(ii) "School supplies" means items commonly used by a	810
student in a course of study. "School supplies" includes only	811
the following items: binders; book bags; calculators; cellophane	812
tape; blackboard chalk; compasses; composition books; crayons;	813
erasers; folders, expandable, pocket, plastic, and manila; glue,	814

paste, and paste sticks; highlighters; index cards; index card 815  
boxes; legal pads; lunch boxes; markers; notebooks; paper, 816  
loose-leaf ruled notebook paper, copy paper, graph paper, 817  
tracing paper, manila paper, colored paper, poster board, and 818  
construction paper; pencil boxes and other school supply boxes; 819  
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 820  
and writing tablets. "School supplies" does not include any item 821  
purchased for use in a trade or business. 822

(iii) "School instructional material" means written 823  
material commonly used by a student in a course of study as a 824  
reference and to learn the subject being taught. "School 825  
instructional material" includes only the following items: 826  
reference books, reference maps and globes, textbooks, and 827  
workbooks. "School instructional material" does not include any 828  
material purchased for use in a trade or business. 829

(56) (a) Sales of adult diapers or incontinence underpads 830  
sold pursuant to a prescription, for the benefit of a medicaid 831  
recipient with a diagnosis of incontinence, and by a medicaid 832  
provider that maintains a valid provider agreement under section 833  
5164.30 of the Revised Code with the department of medicaid, 834  
provided that the medicaid program covers diapers or 835  
incontinence underpads as an incontinence garment. 836

(b) As used in division (B) (56) (a) of this section, 837  
"incontinence underpad" means an absorbent product, not worn on 838  
the body, designed to protect furniture or other tangible 839  
personal property from soiling or damage due to human 840  
incontinence. 841

(57) Sales of investment metal bullion and investment 842  
coins. "Investment metal bullion" means any bullion described in 843  
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 844

whether that bullion is in the physical possession of a trustee. 845  
"Investment coin" means any coin composed primarily of gold, 846  
silver, platinum, or palladium. 847

(58) Sales of tangible personal property used primarily 848  
for any of the following purposes by a megaproject operator at 849  
the site of a megaproject that satisfies the criteria described 850  
in division (A) (11) (a) (ii) of section 122.17 of the Revised 851  
Code, provided that the sale occurs during the period that the 852  
megaproject operator has an agreement for such megaproject with 853  
the tax credit authority under division (D) of section 122.17 of 854  
the Revised Code that remains in effect and has not expired or 855  
been terminated: 856

(a) To store, transmit, convey, distribute, recycle, 857  
circulate, or clean water, steam, or other gases used in or 858  
produced as a result of manufacturing activity, including items 859  
that support or aid in the operation of such property; 860

(b) To clean or prepare inventory, at any stage of storage 861  
or production, or equipment used in a manufacturing activity, 862  
including chemicals, solvents, catalysts, soaps, and other items 863  
that support or aid in the operation of property; 864

(c) To regulate, treat, filter, condition, improve, clean, 865  
maintain, or monitor environmental conditions within areas where 866  
manufacturing activities take place; 867

(d) To handle, transport, or convey inventory during 868  
production or manufacturing. 869

(59) Documentary services charges imposed pursuant to 870  
section 4517.261 or 4781.24 of the Revised Code. 871

(60) Sales of children's diapers. 872

(61) Sales of therapeutic or preventative creams and wipes marketed primarily for use on the skin of children.	873 874
(62) Sales of a child restraint device or booster seat that meets the national highway traffic safety administration standard for child restraint systems under 49 C.F.R. 571.213.	875 876 877
(63) Sales of cribs intended to provide sleeping accommodations for children that comply with the United States consumer product safety commission's safety standard for full-size baby cribs under 16 C.F.R. 1219 or the commission's safety standard for non-full-size baby cribs under 16 C.F.R. 1220.	878 879 880 881 882
(64) Sales of strollers meant for transporting children from infancy to about thirty-six months of age that meet the United States consumer product safety commission safety standard for carriages and strollers under 16 C.F.R. 1227.2.	883 884 885 886
(65) The fee imposed by section 3743.22 of the Revised Code, if it is separately stated on the invoice, bill of sale, or similar document given by the vendor to the consumer for a retail sale made in this state.	887 888 889 890
(66) Sales of eligible tangible personal property occurring during the period of a sales tax holiday held pursuant to section 5739.41 of the Revised Code.	891 892 893
<u>(67) Sales of tangible personal property or services for medical care, as defined in section 213 of the Internal Revenue Code.</u>	894 895 896
(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.	897 898 899 900

(D) The tax collected by the vendor from the consumer 901  
under this chapter is not part of the price, but is a tax 902  
collection for the benefit of the state, and of counties levying 903  
an additional sales tax pursuant to section 5739.021 or 5739.026 904  
of the Revised Code and of transit authorities levying an 905  
additional sales tax pursuant to section 5739.023 of the Revised 906  
Code. Except for the discount authorized under section 5739.12 907  
of the Revised Code and the effects of any rounding pursuant to 908  
section 5703.055 of the Revised Code, no person other than the 909  
state or such a county or transit authority shall derive any 910  
benefit from the collection or payment of the tax levied by this 911  
section or section 5739.021, 5739.023, or 5739.026 of the 912  
Revised Code. 913

**Section 2.** That existing section 5739.02 of the Revised 914  
Code is hereby repealed. 915

**Section 3.** The amendment by this act of section 5739.02 of 916  
the Revised Code applies beginning on and after the first day of 917  
the first month occurring after the effective date of this 918  
section. 919