

As Passed by the House

132nd General Assembly

Regular Session

2017-2018

Sub. S. B. No. 226

Senator Bacon

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

A BILL

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

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

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

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

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of the educational service center is a county school financing district, exclusive of any territory subsequently withdrawn from the district under division (D) of this section;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

education and related services within the territory of the 162
district; 163

(b) For permanent improvements within the territory of the 164
district for special education and related services; 165

(c) For current expenses for specified educational 166
programs within the territory of the district; 167

(d) For permanent improvements within the territory of the 168
district for specified educational programs; 169

(e) For permanent improvements within the territory of the 170
district; 171

(f) For current expenses for school safety and security 172
and mental health services, including training and employment of 173
or contracting for the services of safety personnel, mental 174
health personnel, social workers, and counselors. 175

(B) If the levy provides for but is not limited to current 176
expenses, the resolutions shall apportion the annual rate of the 177
levy between current expenses and the other purposes. The 178
apportionment need not be the same for each year of the levy, 179
but the respective portions of the rate actually levied each 180
year for current expenses and the other purposes shall be 181
limited by that apportionment. 182

(C) Prior to the application of section 319.301 of the 183
Revised Code, the rate of a levy that is limited to, or to the 184
extent that it is apportioned to, purposes other than current 185
expenses shall be reduced in the same proportion in which the 186
district's total valuation increases during the life of the levy 187
because of additions to such valuation that have resulted from 188
improvements added to the tax list and duplicate. 189

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

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

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

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

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

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

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

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

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

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

For the issue	292
Against the issue	293

294

" 295

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

technological knowledge and information primarily for the 522
public. 523

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

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

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

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

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

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

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

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

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

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

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

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

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

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

instrumentalities, institutions, or authorities; 644

(23) Sales of motor vehicles to nonresidents of this state 645
under the circumstances described in division (B) of section 646
5739.029 of the Revised Code; 647

(24) Sales to persons engaged in the preparation of eggs 648
for sale of tangible personal property used or consumed directly 649
in such preparation, including such tangible personal property 650
used for cleaning, sanitizing, preserving, grading, sorting, and 651
classifying by size; packages, including material and parts for 652
packages, and machinery, equipment, and material for use in 653
packaging eggs for sale; and handling and transportation 654
equipment and parts therefor, except motor vehicles licensed to 655
operate on public highways, used in intraplant or interplant 656
transfers or shipment of eggs in the process of preparation for 657
sale, when the plant or plants within or between which such 658
transfers or shipments occur are operated by the same person. 659
"Packages" includes containers, cases, baskets, flats, fillers, 660
filler flats, cartons, closure materials, labels, and labeling 661
materials, and "packaging" means placing therein. 662

(25) (a) Sales of water to a consumer for residential use; 663

(b) Sales of water by a nonprofit corporation engaged 664
exclusively in the treatment, distribution, and sale of water to 665
consumers, if such water is delivered to consumers through pipes 666
or tubing. 667

(26) Fees charged for inspection or reinspection of motor 668
vehicles under section 3704.14 of the Revised Code; 669

(27) Sales to persons licensed to conduct a food service 670
operation pursuant to section 3717.43 of the Revised Code, of 671
tangible personal property primarily used directly for the 672

following: 673

(a) To prepare food for human consumption for sale; 674

(b) To preserve food that has been or will be prepared for 675
human consumption for sale by the food service operator, not 676
including tangible personal property used to display food for 677
selection by the consumer; 678

(c) To clean tangible personal property used to prepare or 679
serve food for human consumption for sale. 680

(28) Sales of animals by nonprofit animal adoption 681
services or county humane societies; 682

(29) Sales of services to a corporation described in 683
division (A) of section 5709.72 of the Revised Code, and sales 684
of tangible personal property that qualifies for exemption from 685
taxation under section 5709.72 of the Revised Code; 686

(30) Sales and installation of agricultural land tile, as 687
defined in division (B) (5) (a) of section 5739.01 of the Revised 688
Code; 689

(31) Sales and erection or installation of portable grain 690
bins, as defined in division (B) (5) (b) of section 5739.01 of the 691
Revised Code; 692

(32) The sale, lease, repair, and maintenance of, parts 693
for, or items attached to or incorporated in, motor vehicles 694
that are primarily used for transporting tangible personal 695
property belonging to others by a person engaged in highway 696
transportation for hire, except for packages and packaging used 697
for the transportation of tangible personal property; 698

(33) Sales to the state headquarters of any veterans' 699
organization in this state that is either incorporated and 700

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

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

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

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

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

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

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

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

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

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

(a) Motor racing vehicles; 758

(b) Repair services for motor racing vehicles; 759

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

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

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

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

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

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

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

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

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

fishing; 819

(e) To incorporate the thing transferred as a material or 820
a part into, or to use or consume the thing transferred directly 821
in the production of, magazines distributed as controlled 822
circulation publications; 823

(f) To use or consume the thing transferred in the 824
production and preparation in suitable condition for market and 825
sale of printed, imprinted, overprinted, lithographic, 826
multilithic, blueprinted, photostatic, or other productions or 827
reproductions of written or graphic matter; 828

(g) To use the thing transferred, as described in section 829
5739.011 of the Revised Code, primarily in a manufacturing 830
operation to produce tangible personal property for sale; 831

(h) To use the benefit of a warranty, maintenance or 832
service contract, or similar agreement, as described in division 833
(B) (7) of section 5739.01 of the Revised Code, to repair or 834
maintain tangible personal property, if all of the property that 835
is the subject of the warranty, contract, or agreement would not 836
be subject to the tax imposed by this section; 837

(i) To use the thing transferred as qualified research and 838
development equipment; 839

(j) To use or consume the thing transferred primarily in 840
storing, transporting, mailing, or otherwise handling purchased 841
sales inventory in a warehouse, distribution center, or similar 842
facility when the inventory is primarily distributed outside 843
this state to retail stores of the person who owns or controls 844
the warehouse, distribution center, or similar facility, to 845
retail stores of an affiliated group of which that person is a 846
member, or by means of direct marketing. This division does not 847

apply to motor vehicles registered for operation on the public 848
highways. As used in this division, "affiliated group" has the 849
same meaning as in division (B) (3) (e) of section 5739.01 of the 850
Revised Code and "direct marketing" has the same meaning as in 851
division (B) (35) of this section. 852

(k) To use or consume the thing transferred to fulfill a 853
contractual obligation incurred by a warrantor pursuant to a 854
warranty provided as a part of the price of the tangible 855
personal property sold or by a vendor of a warranty, maintenance 856
or service contract, or similar agreement the provision of which 857
is defined as a sale under division (B) (7) of section 5739.01 of 858
the Revised Code; 859

(l) To use or consume the thing transferred in the 860
production of a newspaper for distribution to the public; 861

(m) To use tangible personal property to perform a service 862
listed in division (B) (3) of section 5739.01 of the Revised 863
Code, if the property is or is to be permanently transferred to 864
the consumer of the service as an integral part of the 865
performance of the service; 866

(n) To use or consume the thing transferred primarily in 867
producing tangible personal property for sale by farming, 868
agriculture, horticulture, or floriculture. Persons engaged in 869
rendering farming, agriculture, horticulture, or floriculture 870
services for others are deemed engaged primarily in farming, 871
agriculture, horticulture, or floriculture. This paragraph does 872
not exempt from "retail sale" or "sales at retail" the sale of 873
tangible personal property that is to be incorporated into a 874
structure or improvement to real property. 875

(o) To use or consume the thing transferred in acquiring, 876

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

chapter 1 of title 14 of the Code of Federal Regulations. 965

(51) Any transfer or lease of tangible personal property 966
between the state and JobsOhio in accordance with section 967
4313.02 of the Revised Code. 968

(52) (a) Sales to a qualifying corporation. 969

(b) As used in division (B) (52) of this section: 970

(i) "Qualifying corporation" means a nonprofit corporation 971
organized in this state that leases from an eligible county 972
land, buildings, structures, fixtures, and improvements to the 973
land that are part of or used in a public recreational facility 974
used by a major league professional athletic team or a class A 975
to class AAA minor league affiliate of a major league 976
professional athletic team for a significant portion of the 977
team's home schedule, provided the following apply: 978

(I) The facility is leased from the eligible county 979
pursuant to a lease that requires substantially all of the 980
revenue from the operation of the business or activity conducted 981
by the nonprofit corporation at the facility in excess of 982
operating costs, capital expenditures, and reserves to be paid 983
to the eligible county at least once per calendar year. 984

(II) Upon dissolution and liquidation of the nonprofit 985
corporation, all of its net assets are distributable to the 986
board of commissioners of the eligible county from which the 987
corporation leases the facility. 988

(ii) "Eligible county" has the same meaning as in section 989
307.695 of the Revised Code. 990

(53) Sales to or by a cable service provider, video 991
service provider, or radio or television broadcast station 992

regulated by the federal government of cable service or 993
programming, video service or programming, audio service or 994
programming, or electronically transferred digital audiovisual 995
or audio work. As used in division (B) (53) of this section, 996
"cable service" and "cable service provider" have the same 997
meanings as in section 1332.01 of the Revised Code, and "video 998
service," "video service provider," and "video programming" have 999
the same meanings as in section 1332.21 of the Revised Code. 1000

(54) Sales of investment metal bullion and investment 1001
coins. "Investment metal bullion" means any bullion described in 1002
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 1003
whether that bullion is in the physical possession of a trustee. 1004
"Investment coin" means any coin composed primarily of gold, 1005
silver, platinum, or palladium. 1006

(55) Sales of a digital audio work electronically 1007
transferred for delivery through use of a machine, such as a 1008
juke box, that does all of the following: 1009

(a) Accepts direct payments to operate; 1010

(b) Automatically plays a selected digital audio work for 1011
a single play upon receipt of a payment described in division 1012
(B) (55) (a) of this section; 1013

(c) Operates exclusively for the purpose of playing 1014
digital audio works in a commercial establishment. 1015

(56) (a) Sales of the following occurring on the first 1016
Friday of August and the following Saturday and Sunday of each 1017
year, beginning in 2018: 1018

(i) An item of clothing, the price of which is seventy- 1019
five dollars or less; 1020

(ii) An item of school supplies, the price of which is 1021
twenty dollars or less; 1022

(iii) An item of school instructional material, the price 1023
of which is twenty dollars or less. 1024

(b) As used in division (B) (56) of this section: 1025

(i) "Clothing" means all human wearing apparel suitable 1026
for general use. "Clothing" includes, but is not limited to, 1027
aprons, household and shop; athletic supporters; baby receiving 1028
blankets; bathing suits and caps; beach capes and coats; belts 1029
and suspenders; boots; coats and jackets; costumes; diapers, 1030
children and adult, including disposable diapers; ear muffs; 1031
footlets; formal wear; garters and garter belts; girdles; gloves 1032
and mittens for general use; hats and caps; hosiery; insoles for 1033
shoes; lab coats; neckties; overshoes; pantyhose; rainwear; 1034
rubber pants; sandals; scarves; shoes and shoe laces; slippers; 1035
sneakers; socks and stockings; steel-toed shoes; underwear; 1036
uniforms, athletic and nonathletic; and wedding apparel. 1037
"Clothing" does not include items purchased for use in a trade 1038
or business; clothing accessories or equipment; protective 1039
equipment; sports or recreational equipment; belt buckles sold 1040
separately; costume masks sold separately; patches and emblems 1041
sold separately; sewing equipment and supplies including, but 1042
not limited to, knitting needles, patterns, pins, scissors, 1043
sewing machines, sewing needles, tape measures, and thimbles; 1044
and sewing materials that become part of "clothing" including, 1045
but not limited to, buttons, fabric, lace, thread, yarn, and 1046
zippers. 1047

(ii) "School supplies" means items commonly used by a 1048
student in a course of study. "School supplies" includes only 1049
the following items: binders; book bags; calculators; cellophane 1050

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

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

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

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

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

additional sales tax pursuant to section 5739.023 of the Revised 1081
Code. Except for the discount authorized under section 5739.12 1082
of the Revised Code and the effects of any rounding pursuant to 1083
section 5703.055 of the Revised Code, no person other than the 1084
state or such a county or transit authority shall derive any 1085
benefit from the collection or payment of the tax levied by this 1086
section or section 5739.021, 5739.023, or 5739.026 of the 1087
Revised Code. 1088

Sec. 5739.03. (A) Except as provided in section 5739.05 or 1089
section 5739.051 of the Revised Code, the tax imposed by or 1090
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 1091
the Revised Code shall be paid by the consumer to the vendor, 1092
and each vendor shall collect from the consumer, as a trustee 1093
for the state of Ohio, the full and exact amount of the tax 1094
payable on each taxable sale, in the manner and at the times 1095
provided as follows: 1096

(1) If the price is, at or prior to the provision of the 1097
service or the delivery of possession of the thing sold to the 1098
consumer, paid in currency passed from hand to hand by the 1099
consumer or the consumer's agent to the vendor or the vendor's 1100
agent, the vendor or the vendor's agent shall collect the tax 1101
with and at the same time as the price; 1102

(2) If the price is otherwise paid or to be paid, the 1103
vendor or the vendor's agent shall, at or prior to the provision 1104
of the service or the delivery of possession of the thing sold 1105
to the consumer, charge the tax imposed by or pursuant to 1106
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 1107
Code to the account of the consumer, which amount shall be 1108
collected by the vendor from the consumer in addition to the 1109
price. Such sale shall be reported on and the amount of the tax 1110

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

liability on those materials. 1231

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

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

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

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

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

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

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

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

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

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

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

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

Section 2. That existing sections 3311.50, 5705.215,

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

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