

As Introduced

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H. B. No. 292

Representatives Sobecki, Cutrona

**Cosponsors: Representatives Crossman, Smith, K., Galonski, Russo, Miller, J.,
Lepore-Hagan, O'Brien, Sheehy, Upchurch, Jarrells, Cross, Stewart, Miller, A.,
Lightbody, Creech, Bird, Weinstein, Carfagna**

A BILL

To amend section 5739.02 and to enact sections 1
4501.82 and 4501.821 of the Revised Code to 2
create a temporary sales tax exemption for 3
electric vehicle production parts and to create 4
the Electric Vehicle Commission. 5

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

Section 1. That section 5739.02 be amended and sections 6
4501.82 and 4501.821 of the Revised Code be enacted to read as 7
follows: 8

Sec. 4501.82. (A) As used in this section, "electric 9
vehicle product" means a battery powered electric vehicle, an 10
alternative powertrain technology vehicle, a hydrogen powered 11
vehicle, or a plug-in electric motor vehicle, as well as the 12
charging stations needed to make use of those vehicles. 13

(B) The electric vehicle commission is hereby established. 14

(C) The commission is established within the department of 15
transportation, which shall provide administrative support to 16

the commission as needed for the commission to carry out the 17
responsibilities prescribed in this section and in section 18
4501.821 of the Revised Code. 19

(D) The commission shall consist of the following members: 20

(1) Two members of the senate, appointed by the president 21
of the senate, one of whom shall be of the same political party 22
as the president of the senate and one of whom shall be from a 23
different political party; 24

(2) Two members of the house of representatives, appointed 25
by the speaker of the house of representatives, one of whom 26
shall be of the same political party as the speaker of the house 27
of representatives and one of whom shall be from a different 28
political party; 29

(3) Three members appointed by the governor, as follows: 30

(a) One representative of local governments; 31

(b) One representative of organized labor operating in the 32
automotive industry; 33

(c) One representative of the automotive industry. 34

(E) (1) A member of the commission appointed by the 35
governor shall serve a four-year term. A member may be 36
reappointed. 37

(2) The governor may remove a member appointed pursuant to 38
division (D) (3) of this section. 39

(3) A vacancy created under division (E) (1) or (2) of this 40
section shall be filled by the governor. 41

(F) (1) A member of the commission that is a member of the 42
general assembly shall serve until the end of the member's 43

current term of office in the general assembly expires or until 44
the legislator is removed as a member of the commission by the 45
president of the senate or the speaker of the house, as 46
applicable. 47

(2) The president of the senate may remove members of the 48
commission who are appointed pursuant to division (D) (1) of this 49
section. The speaker of the house of representatives may remove 50
a member appointed pursuant to division (D) (2) of this section. 51

(3) A vacancy created under division (F) (1) of this 52
section shall be filled in accordance with divisions (D) (1) or 53
(2) of this section, as applicable. The term of a such a member 54
shall be in accordance with division (F) (1) of this section. 55

(G) Members of the commission shall be appointed not later 56
than thirty days after the effective date of this section. The 57
governor shall designate one of the members appointed under 58
division (D) of this section to act as the chairperson of the 59
commission and annually thereafter. The commission shall hold 60
its initial meeting not later than thirty days after the last 61
member is appointed. All subsequent meetings of the commission 62
shall be held at the call of the chairperson. Five members of 63
the commission constitute a quorum. 64

(H) The members of the commission shall serve without 65
compensation but shall receive travel reimbursement at the same 66
mileage rate allowed for the reimbursement of travel expenses of 67
state agents as provided by rule of the director of budget and 68
management pursuant to division (B) of section 126.31 of the 69
Revised Code. 70

Sec. 4501.821. (A) The electric vehicle commission 71
established under section 4501.82 of the Revised Code shall be 72

responsible for making all policy decisions relating to the 73
evaluations, determinations, and other duties described in 74
division (B) of this section and the report described in 75
division (C) of this section. 76

(B) The commission shall be responsible for all of the 77
following: 78

(1) Evaluating the inventory of existing electric vehicle 79
product facilities and production capability; 80

(2) Evaluating the inventory of skilled and non-skilled 81
workers in the electric vehicle product industry; 82

(3) Evaluating opportunities and needs for training within 83
the electric vehicle product industry; 84

(4) Determining if training centers promoting careers in 85
the electric vehicle product industry should be created or 86
transitioned from traditional automotive industry training 87
centers; 88

(5) Determining which traditional automotive industry 89
facilities should be transitioned into electric vehicle product 90
facilities; 91

(6) Identifying and evaluating opportunities for growth 92
within the electric vehicle product industry; 93

(7) Identifying and documenting results from previous 94
instances of retooling and transforming manufacturing facilities 95
in the automotive industry; 96

(8) Identifying opportunities for research and development 97
within the electric vehicle product industry; 98

(9) Evaluating the effectiveness of the tax exemption for 99

electric vehicle products created under section 5739.02 of the 100
Revised Code; 101

(10) Tracking employment data from the electric vehicle 102
product industry, including job growth or contraction figures, 103
wages paid, and other factors related to employment. 104

(C) The commission shall annually make a report to the 105
department of transportation, the president of the senate, the 106
minority leader of the senate, the speaker of the house of 107
representatives, and the minority leader of the house of 108
representatives. The report shall include a description of all 109
activities undertaken by the commission during the prior year. 110
The report shall be in an electronic format and shall be 111
delivered no later than the thirtieth day of September. 112

(D) The commission may adopt rules in accordance with 113
Chapter 119. of the Revised Code as necessary to carry out the 114
requirements of this section and section 4501.82 of the Revised 115
Code. 116

Sec. 5739.02. For the purpose of providing revenue with 117
which to meet the needs of the state, for the use of the general 118
revenue fund of the state, for the purpose of securing a 119
thorough and efficient system of common schools throughout the 120
state, for the purpose of affording revenues, in addition to 121
those from general property taxes, permitted under 122
constitutional limitations, and from other sources, for the 123
support of local governmental functions, and for the purpose of 124
reimbursing the state for the expense of administering this 125
chapter, an excise tax is hereby levied on each retail sale made 126
in this state. 127

(A) (1) The tax shall be collected as provided in section 128

5739.025 of the Revised Code. The rate of the tax shall be five 129
and three-fourths per cent. The tax applies and is collectible 130
when the sale is made, regardless of the time when the price is 131
paid or delivered. 132

(2) In the case of the lease or rental, with a fixed term 133
of more than thirty days or an indefinite term with a minimum 134
period of more than thirty days, of any motor vehicles designed 135
by the manufacturer to carry a load of not more than one ton, 136
watercraft, outboard motor, or aircraft, or of any tangible 137
personal property, other than motor vehicles designed by the 138
manufacturer to carry a load of more than one ton, to be used by 139
the lessee or renter primarily for business purposes, the tax 140
shall be collected by the vendor at the time the lease or rental 141
is consummated and shall be calculated by the vendor on the 142
basis of the total amount to be paid by the lessee or renter 143
under the lease agreement. If the total amount of the 144
consideration for the lease or rental includes amounts that are 145
not calculated at the time the lease or rental is executed, the 146
tax shall be calculated and collected by the vendor at the time 147
such amounts are billed to the lessee or renter. In the case of 148
an open-end lease or rental, the tax shall be calculated by the 149
vendor on the basis of the total amount to be paid during the 150
initial fixed term of the lease or rental, and for each 151
subsequent renewal period as it comes due. As used in this 152
division, "motor vehicle" has the same meaning as in section 153
4501.01 of the Revised Code, and "watercraft" includes an 154
outdrive unit attached to the watercraft. 155

A lease with a renewal clause and a termination penalty or 156
similar provision that applies if the renewal clause is not 157
exercised is presumed to be a sham transaction. In such a case, 158
the tax shall be calculated and paid on the basis of the entire 159

length of the lease period, including any renewal periods, until 160
the termination penalty or similar provision no longer applies. 161
The taxpayer shall bear the burden, by a preponderance of the 162
evidence, that the transaction or series of transactions is not 163
a sham transaction. 164

(3) Except as provided in division (A) (2) of this section, 165
in the case of a sale, the price of which consists in whole or 166
in part of the lease or rental of tangible personal property, 167
the tax shall be measured by the installments of that lease or 168
rental. 169

(4) In the case of a sale of a physical fitness facility 170
service or recreation and sports club service, the price of 171
which consists in whole or in part of a membership for the 172
receipt of the benefit of the service, the tax applicable to the 173
sale shall be measured by the installments thereof. 174

(B) The tax does not apply to the following: 175

(1) Sales to the state or any of its political 176
subdivisions, or to any other state or its political 177
subdivisions if the laws of that state exempt from taxation 178
sales made to this state and its political subdivisions; 179

(2) Sales of food for human consumption off the premises 180
where sold; 181

(3) Sales of food sold to students only in a cafeteria, 182
dormitory, fraternity, or sorority maintained in a private, 183
public, or parochial school, college, or university; 184

(4) Sales of newspapers and sales or transfers of 185
magazines distributed as controlled circulation publications; 186

(5) The furnishing, preparing, or serving of meals without 187

charge by an employer to an employee provided the employer 188
records the meals as part compensation for services performed or 189
work done; 190

(6) (a) Sales of motor fuel upon receipt, use, 191
distribution, or sale of which in this state a tax is imposed by 192
the law of this state, but this exemption shall not apply to the 193
sale of motor fuel on which a refund of the tax is allowable 194
under division (A) of section 5735.14 of the Revised Code; and 195
the tax commissioner may deduct the amount of tax levied by this 196
section applicable to the price of motor fuel when granting a 197
refund of motor fuel tax pursuant to division (A) of section 198
5735.14 of the Revised Code and shall cause the amount deducted 199
to be paid into the general revenue fund of this state; 200

(b) Sales of motor fuel other than that described in 201
division (B) (6) (a) of this section and used for powering a 202
refrigeration unit on a vehicle other than one used primarily to 203
provide comfort to the operator or occupants of the vehicle. 204

(7) Sales of natural gas by a natural gas company or 205
municipal gas utility, of water by a water-works company, or of 206
steam by a heating company, if in each case the thing sold is 207
delivered to consumers through pipes or conduits, and all sales 208
of communications services by a telegraph company, all terms as 209
defined in section 5727.01 of the Revised Code, and sales of 210
electricity delivered through wires; 211

(8) Casual sales by a person, or auctioneer employed 212
directly by the person to conduct such sales, except as to such 213
sales of motor vehicles, watercraft or outboard motors required 214
to be titled under section 1548.06 of the Revised Code, 215
watercraft documented with the United States coast guard, 216
snowmobiles, and all-purpose vehicles as defined in section 217

4519.01 of the Revised Code;	218
(9) (a) Sales of services or tangible personal property,	219
other than motor vehicles, mobile homes, and manufactured homes,	220
by churches, organizations exempt from taxation under section	221
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit	222
organizations operated exclusively for charitable purposes as	223
defined in division (B) (12) of this section, provided that the	224
number of days on which such tangible personal property or	225
services, other than items never subject to the tax, are sold	226
does not exceed six in any calendar year, except as otherwise	227
provided in division (B) (9) (b) of this section. If the number of	228
days on which such sales are made exceeds six in any calendar	229
year, the church or organization shall be considered to be	230
engaged in business and all subsequent sales by it shall be	231
subject to the tax. In counting the number of days, all sales by	232
groups within a church or within an organization shall be	233
considered to be sales of that church or organization.	234
(b) The limitation on the number of days on which tax-	235
exempt sales may be made by a church or organization under	236
division (B) (9) (a) of this section does not apply to sales made	237
by student clubs and other groups of students of a primary or	238
secondary school, or a parent-teacher association, booster	239
group, or similar organization that raises money to support or	240
fund curricular or extracurricular activities of a primary or	241
secondary school.	242
(c) Divisions (B) (9) (a) and (b) of this section do not	243
apply to sales by a noncommercial educational radio or	244
television broadcasting station.	245
(10) Sales not within the taxing power of this state under	246
the Constitution or laws of the United States or the	247

Constitution of this state;	248
(11) Except for transactions that are sales under division	249
(B) (3) (r) of section 5739.01 of the Revised Code, the	250
transportation of persons or property, unless the transportation	251
is by a private investigation and security service;	252
(12) Sales of tangible personal property or services to	253
churches, to organizations exempt from taxation under section	254
501(c) (3) of the Internal Revenue Code of 1986, and to any other	255
nonprofit organizations operated exclusively for charitable	256
purposes in this state, no part of the net income of which	257
inures to the benefit of any private shareholder or individual,	258
and no substantial part of the activities of which consists of	259
carrying on propaganda or otherwise attempting to influence	260
legislation; sales to offices administering one or more homes	261
for the aged or one or more hospital facilities exempt under	262
section 140.08 of the Revised Code; and sales to organizations	263
described in division (D) of section 5709.12 of the Revised	264
Code.	265
"Charitable purposes" means the relief of poverty; the	266
improvement of health through the alleviation of illness,	267
disease, or injury; the operation of an organization exclusively	268
for the provision of professional, laundry, printing, and	269
purchasing services to hospitals or charitable institutions; the	270
operation of a home for the aged, as defined in section 5701.13	271
of the Revised Code; the operation of a radio or television	272
broadcasting station that is licensed by the federal	273
communications commission as a noncommercial educational radio	274
or television station; the operation of a nonprofit animal	275
adoption service or a county humane society; the promotion of	276
education by an institution of learning that maintains a faculty	277

of qualified instructors, teaches regular continuous courses of 278
study, and confers a recognized diploma upon completion of a 279
specific curriculum; the operation of a parent-teacher 280
association, booster group, or similar organization primarily 281
engaged in the promotion and support of the curricular or 282
extracurricular activities of a primary or secondary school; the 283
operation of a community or area center in which presentations 284
in music, dramatics, the arts, and related fields are made in 285
order to foster public interest and education therein; the 286
production of performances in music, dramatics, and the arts; or 287
the promotion of education by an organization engaged in 288
carrying on research in, or the dissemination of, scientific and 289
technological knowledge and information primarily for the 290
public. 291

Nothing in this division shall be deemed to exempt sales 292
to any organization for use in the operation or carrying on of a 293
trade or business, or sales to a home for the aged for use in 294
the operation of independent living facilities as defined in 295
division (A) of section 5709.12 of the Revised Code. 296

(13) Building and construction materials and services sold 297
to construction contractors for incorporation into a structure 298
or improvement to real property under a construction contract 299
with this state or a political subdivision of this state, or 300
with the United States government or any of its agencies; 301
building and construction materials and services sold to 302
construction contractors for incorporation into a structure or 303
improvement to real property that are accepted for ownership by 304
this state or any of its political subdivisions, or by the 305
United States government or any of its agencies at the time of 306
completion of the structures or improvements; building and 307
construction materials sold to construction contractors for 308

incorporation into a horticulture structure or livestock	309
structure for a person engaged in the business of horticulture	310
or producing livestock; building materials and services sold to	311
a construction contractor for incorporation into a house of	312
public worship or religious education, or a building used	313
exclusively for charitable purposes under a construction	314
contract with an organization whose purpose is as described in	315
division (B) (12) of this section; building materials and	316
services sold to a construction contractor for incorporation	317
into a building under a construction contract with an	318
organization exempt from taxation under section 501(c) (3) of the	319
Internal Revenue Code of 1986 when the building is to be used	320
exclusively for the organization's exempt purposes; building and	321
construction materials sold for incorporation into the original	322
construction of a sports facility under section 307.696 of the	323
Revised Code; building and construction materials and services	324
sold to a construction contractor for incorporation into real	325
property outside this state if such materials and services, when	326
sold to a construction contractor in the state in which the real	327
property is located for incorporation into real property in that	328
state, would be exempt from a tax on sales levied by that state;	329
building and construction materials for incorporation into a	330
transportation facility pursuant to a public-private agreement	331
entered into under sections 5501.70 to 5501.83 of the Revised	332
Code; and, until one calendar year after the construction of a	333
convention center that qualifies for property tax exemption	334
under section 5709.084 of the Revised Code is completed,	335
building and construction materials and services sold to a	336
construction contractor for incorporation into the real property	337
comprising that convention center;	338
(14) Sales of ships or vessels or rail rolling stock used	339

or to be used principally in interstate or foreign commerce, and 340
repairs, alterations, fuel, and lubricants for such ships or 341
vessels or rail rolling stock; 342

(15) Sales to persons primarily engaged in any of the 343
activities mentioned in division (B)(42)(a), (g), or (h) of this 344
section, to persons engaged in making retail sales, or to 345
persons who purchase for sale from a manufacturer tangible 346
personal property that was produced by the manufacturer in 347
accordance with specific designs provided by the purchaser, of 348
packages, including material, labels, and parts for packages, 349
and of machinery, equipment, and material for use primarily in 350
packaging tangible personal property produced for sale, 351
including any machinery, equipment, and supplies used to make 352
labels or packages, to prepare packages or products for 353
labeling, or to label packages or products, by or on the order 354
of the person doing the packaging, or sold at retail. "Packages" 355
includes bags, baskets, cartons, crates, boxes, cans, bottles, 356
bindings, wrappings, and other similar devices and containers, 357
but does not include motor vehicles or bulk tanks, trailers, or 358
similar devices attached to motor vehicles. "Packaging" means 359
placing in a package. Division (B)(15) of this section does not 360
apply to persons engaged in highway transportation for hire. 361

(16) Sales of food to persons using supplemental nutrition 362
assistance program benefits to purchase the food. As used in 363
this division, "food" has the same meaning as in 7 U.S.C. 2012 364
and federal regulations adopted pursuant to the Food and 365
Nutrition Act of 2008. 366

(17) Sales to persons engaged in farming, agriculture, 367
horticulture, or floriculture, of tangible personal property for 368
use or consumption primarily in the production by farming, 369

agriculture, horticulture, or floriculture of other tangible 370
personal property for use or consumption primarily in the 371
production of tangible personal property for sale by farming, 372
agriculture, horticulture, or floriculture; or material and 373
parts for incorporation into any such tangible personal property 374
for use or consumption in production; and of tangible personal 375
property for such use or consumption in the conditioning or 376
holding of products produced by and for such use, consumption, 377
or sale by persons engaged in farming, agriculture, 378
horticulture, or floriculture, except where such property is 379
incorporated into real property; 380

(18) Sales of drugs for a human being that may be 381
dispensed only pursuant to a prescription; insulin as recognized 382
in the official United States pharmacopoeia; urine and blood 383
testing materials when used by diabetics or persons with 384
hypoglycemia to test for glucose or acetone; hypodermic syringes 385
and needles when used by diabetics for insulin injections; 386
epoetin alfa when purchased for use in the treatment of persons 387
with medical disease; hospital beds when purchased by hospitals, 388
nursing homes, or other medical facilities; and medical oxygen 389
and medical oxygen-dispensing equipment when purchased by 390
hospitals, nursing homes, or other medical facilities; 391

(19) Sales of prosthetic devices, durable medical 392
equipment for home use, or mobility enhancing equipment, when 393
made pursuant to a prescription and when such devices or 394
equipment are for use by a human being. 395

(20) Sales of emergency and fire protection vehicles and 396
equipment to nonprofit organizations for use solely in providing 397
fire protection and emergency services, including trauma care 398
and emergency medical services, for political subdivisions of 399

the state;	400
(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;	401 402 403 404 405 406 407
(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;	408 409 410 411 412
(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;	413 414 415
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling	416 417 418 419 420 421 422 423 424 425 426 427 428 429

materials, and "packaging" means placing therein.	430
(25) (a) Sales of water to a consumer for residential use;	431
(b) Sales of water by a nonprofit corporation engaged	432
exclusively in the treatment, distribution, and sale of water to	433
consumers, if such water is delivered to consumers through pipes	434
or tubing.	435
(26) Fees charged for inspection or reinspection of motor	436
vehicles under section 3704.14 of the Revised Code;	437
(27) Sales to persons licensed to conduct a food service	438
operation pursuant to section 3717.43 of the Revised Code, of	439
tangible personal property primarily used directly for the	440
following:	441
(a) To prepare food for human consumption for sale;	442
(b) To preserve food that has been or will be prepared for	443
human consumption for sale by the food service operator, not	444
including tangible personal property used to display food for	445
selection by the consumer;	446
(c) To clean tangible personal property used to prepare or	447
serve food for human consumption for sale.	448
(28) Sales of animals by nonprofit animal adoption	449
services or county humane societies;	450
(29) Sales of services to a corporation described in	451
division (A) of section 5709.72 of the Revised Code, and sales	452
of tangible personal property that qualifies for exemption from	453
taxation under section 5709.72 of the Revised Code;	454
(30) Sales and installation of agricultural land tile, as	455
defined in division (B) (5) (a) of section 5739.01 of the Revised	456

Code;	457
(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;	458 459 460
(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;	461 462 463 464 465 466
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;	467 468 469 470 471
(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B) (42) (a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.	472 473 474 475 476 477 478 479 480 481 482 483 484 485 486

(35) (a) Sales where the purpose of the consumer is to use 487
or consume the things transferred in making retail sales and 488
consisting of newspaper inserts, catalogues, coupons, flyers, 489
gift certificates, or other advertising material that prices and 490
describes tangible personal property offered for retail sale. 491

(b) Sales to direct marketing vendors of preliminary 492
materials such as photographs, artwork, and typesetting that 493
will be used in printing advertising material; and of printed 494
matter that offers free merchandise or chances to win sweepstake 495
prizes and that is mailed to potential customers with 496
advertising material described in division (B) (35) (a) of this 497
section; 498

(c) Sales of equipment such as telephones, computers, 499
facsimile machines, and similar tangible personal property 500
primarily used to accept orders for direct marketing retail 501
sales. 502

(d) Sales of automatic food vending machines that preserve 503
food with a shelf life of forty-five days or less by 504
refrigeration and dispense it to the consumer. 505

For purposes of division (B) (35) of this section, "direct 506
marketing" means the method of selling where consumers order 507
tangible personal property by United States mail, delivery 508
service, or telecommunication and the vendor delivers or ships 509
the tangible personal property sold to the consumer from a 510
warehouse, catalogue distribution center, or similar fulfillment 511
facility by means of the United States mail, delivery service, 512
or common carrier. 513

(36) Sales to a person engaged in the business of 514
horticulture or producing livestock of materials to be 515

incorporated into a horticulture structure or livestock structure; 516
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(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students; 518
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(38) Sales of tangible personal property that is not required to be registered or licensed under the laws of this state to a citizen of a foreign nation that is not a citizen of the United States, provided the property is delivered to a person in this state that is not a related member of the purchaser, is physically present in this state for the sole purpose of temporary storage and package consolidation, and is subsequently delivered to the purchaser at a delivery address in a foreign nation. As used in division (B)(38) of this section, "related member" has the same meaning as in section 5733.042 of the Revised Code, and "temporary storage" means the storage of tangible personal property for a period of not more than sixty days. 524
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(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000; 537
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(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its 540
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classification as tangible personal property after 546
incorporation; fuel or power used in the production, 547
transmission, or distribution of electricity; energy conversion 548
equipment as defined in section 5727.01 of the Revised Code; and 549
tangible personal property and services used in the repair and 550
maintenance of the production, transmission, or distribution 551
system, including only those motor vehicles as are specially 552
designed and equipped for such use. The exemption provided in 553
this division shall be in lieu of all other exemptions in 554
division (B) (42) (a) or (n) of this section to which a provider 555
of electricity may otherwise be entitled based on the use of the 556
tangible personal property or service purchased in generating, 557
transmitting, or distributing electricity. 558

(41) Sales to a person providing services under division 559
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 560
personal property and services used directly and primarily in 561
providing taxable services under that section. 562

(42) Sales where the purpose of the purchaser is to do any 563
of the following: 564

(a) To incorporate the thing transferred as a material or 565
a part into tangible personal property to be produced for sale 566
by manufacturing, assembling, processing, or refining; or to use 567
or consume the thing transferred directly in producing tangible 568
personal property for sale by mining, including, without 569
limitation, the extraction from the earth of all substances that 570
are classed geologically as minerals, or directly in the 571
rendition of a public utility service, except that the sales tax 572
levied by this section shall be collected upon all meals, 573
drinks, and food for human consumption sold when transporting 574
persons. This paragraph does not exempt from "retail sale" or 575

"sales at retail" the sale of tangible personal property that is	576
to be incorporated into a structure or improvement to real	577
property.	578
(b) To hold the thing transferred as security for the	579
performance of an obligation of the vendor;	580
(c) To resell, hold, use, or consume the thing transferred	581
as evidence of a contract of insurance;	582
(d) To use or consume the thing directly in commercial	583
fishing;	584
(e) To incorporate the thing transferred as a material or	585
a part into, or to use or consume the thing transferred directly	586
in the production of, magazines distributed as controlled	587
circulation publications;	588
(f) To use or consume the thing transferred in the	589
production and preparation in suitable condition for market and	590
sale of printed, imprinted, overprinted, lithographic,	591
multilithic, blueprinted, photostatic, or other productions or	592
reproductions of written or graphic matter;	593
(g) To use the thing transferred, as described in section	594
5739.011 of the Revised Code, primarily in a manufacturing	595
operation to produce tangible personal property for sale;	596
(h) To use the benefit of a warranty, maintenance or	597
service contract, or similar agreement, as described in division	598
(B) (7) of section 5739.01 of the Revised Code, to repair or	599
maintain tangible personal property, if all of the property that	600
is the subject of the warranty, contract, or agreement would not	601
be subject to the tax imposed by this section;	602
(i) To use the thing transferred as qualified research and	603

development equipment; 604

(j) To use or consume the thing transferred primarily in 605
storing, transporting, mailing, or otherwise handling purchased 606
sales inventory in a warehouse, distribution center, or similar 607
facility when the inventory is primarily distributed outside 608
this state to retail stores of the person who owns or controls 609
the warehouse, distribution center, or similar facility, to 610
retail stores of an affiliated group of which that person is a 611
member, or by means of direct marketing. This division does not 612
apply to motor vehicles registered for operation on the public 613
highways. As used in this division, "affiliated group" has the 614
same meaning as in division (B) (3) (e) of section 5739.01 of the 615
Revised Code and "direct marketing" has the same meaning as in 616
division (B) (35) of this section. 617

(k) To use or consume the thing transferred to fulfill a 618
contractual obligation incurred by a warrantor pursuant to a 619
warranty provided as a part of the price of the tangible 620
personal property sold or by a vendor of a warranty, maintenance 621
or service contract, or similar agreement the provision of which 622
is defined as a sale under division (B) (7) of section 5739.01 of 623
the Revised Code; 624

(l) To use or consume the thing transferred in the 625
production of a newspaper for distribution to the public; 626

(m) To use tangible personal property to perform a service 627
listed in division (B) (3) of section 5739.01 of the Revised 628
Code, if the property is or is to be permanently transferred to 629
the consumer of the service as an integral part of the 630
performance of the service; 631

(n) To use or consume the thing transferred primarily in 632

producing tangible personal property for sale by farming, 633
agriculture, horticulture, or floriculture. Persons engaged in 634
rendering farming, agriculture, horticulture, or floriculture 635
services for others are deemed engaged primarily in farming, 636
agriculture, horticulture, or floriculture. This paragraph does 637
not exempt from "retail sale" or "sales at retail" the sale of 638
tangible personal property that is to be incorporated into a 639
structure or improvement to real property. 640

(o) To use or consume the thing transferred in acquiring, 641
formatting, editing, storing, and disseminating data or 642
information by electronic publishing; 643

(p) To provide the thing transferred to the owner or 644
lessee of a motor vehicle that is being repaired or serviced, if 645
the thing transferred is a rented motor vehicle and the 646
purchaser is reimbursed for the cost of the rented motor vehicle 647
by a manufacturer, warrantor, or provider of a maintenance, 648
service, or other similar contract or agreement, with respect to 649
the motor vehicle that is being repaired or serviced; 650

(q) To use or consume the thing transferred directly in 651
production of crude oil and natural gas for sale. Persons 652
engaged in rendering production services for others are deemed 653
engaged in production. 654

As used in division (B) (42) (q) of this section, 655
"production" means operations and tangible personal property 656
directly used to expose and evaluate an underground reservoir 657
that may contain hydrocarbon resources, prepare the wellbore for 658
production, and lift and control all substances yielded by the 659
reservoir to the surface of the earth. 660

(i) For the purposes of division (B) (42) (q) of this 661

section, the "thing transferred" includes, but is not limited to, any of the following:

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

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

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

(IV) Casing, tubulars, and float and centralizing equipment;

(V) Trailers to which production equipment is attached;

(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;

(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;

(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;

(IX) Pressure pumping equipment;

(X) Artificial lift systems equipment;

(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	689 690 691
(XII) Tangible personal property directly used to control production equipment.	692 693
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	694 695 696
(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;	697 698 699
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well stimulation as defined in section 1509.01 of the Revised Code;	700 701 702
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	703 704 705
(IV) Tangible personal property used primarily in transporting, delivering, or removing equipment to or from the well site or storing such equipment before its use at the well site;	706 707 708 709
(V) Tangible personal property used primarily in gathering operations occurring off the well site, including gathering pipelines transporting hydrocarbon gas or liquids away from a crude oil or natural gas production facility;	710 711 712 713
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	714 715
(VII) Well site fencing, lighting, or security systems;	716

(VIII) Communication devices or services;	717
(IX) Office supplies;	718
(X) Trailers used as offices or lodging;	719
(XI) Motor vehicles of any kind;	720
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	721 722
(XIII) Tangible personal property used primarily as a safety device;	723 724
(XIV) Data collection or monitoring devices;	725
(XV) Access ladders, stairs, or platforms attached to storage tanks.	726 727
The enumeration of tangible personal property in division (B) (42) (q) (ii) of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) of this section.	728 729 730 731 732
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the commissioner deems necessary to administer division (B) (42) (q) of this section.	733 734 735 736
As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b), and (e) of section 5739.01 of the Revised Code.	737 738 739
(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises	740 741 742 743

in washing, cleaning, or waxing a motor vehicle, provided no 744
other personal property or personal service is provided as part 745
of the transaction. 746

(44) Sales of replacement and modification parts for 747
engines, airframes, instruments, and interiors in, and paint 748
for, aircraft used primarily in a fractional aircraft ownership 749
program, and sales of services for the repair, modification, and 750
maintenance of such aircraft, and machinery, equipment, and 751
supplies primarily used to provide those services. 752

(45) Sales of telecommunications service that is used 753
directly and primarily to perform the functions of a call 754
center. As used in this division, "call center" means any 755
physical location where telephone calls are placed or received 756
in high volume for the purpose of making sales, marketing, 757
customer service, technical support, or other specialized 758
business activity, and that employs at least fifty individuals 759
that engage in call center activities on a full-time basis, or 760
sufficient individuals to fill fifty full-time equivalent 761
positions. 762

(46) Sales by a telecommunications service vendor of 900 763
service to a subscriber. This division does not apply to 764
information services. 765

(47) Sales of value-added non-voice data service. This 766
division does not apply to any similar service that is not 767
otherwise a telecommunications service. 768

(48) Sales of feminine hygiene products. 769

(49) Sales of materials, parts, equipment, or engines used 770
in the repair or maintenance of aircraft or avionics systems of 771
such aircraft, and sales of repair, remodeling, replacement, or 772

maintenance services in this state performed on aircraft or on 773
an aircraft's avionics, engine, or component materials or parts. 774
As used in division (B) (49) of this section, "aircraft" means 775
aircraft of more than six thousand pounds maximum certified 776
takeoff weight or used exclusively in general aviation. 777

(50) Sales of full flight simulators that are used for 778
pilot or flight-crew training, sales of repair or replacement 779
parts or components, and sales of repair or maintenance services 780
for such full flight simulators. "Full flight simulator" means a 781
replica of a specific type, or make, model, and series of 782
aircraft cockpit. It includes the assemblage of equipment and 783
computer programs necessary to represent aircraft operations in 784
ground and flight conditions, a visual system providing an out- 785
of-the-cockpit view, and a system that provides cues at least 786
equivalent to those of a three-degree-of-freedom motion system, 787
and has the full range of capabilities of the systems installed 788
in the device as described in appendices A and B of part 60 of 789
chapter 1 of title 14 of the Code of Federal Regulations. 790

(51) Any transfer or lease of tangible personal property 791
between the state and JobsOhio in accordance with section 792
4313.02 of the Revised Code. 793

(52) (a) Sales to a qualifying corporation. 794

(b) As used in division (B) (52) of this section: 795

(i) "Qualifying corporation" means a nonprofit corporation 796
organized in this state that leases from an eligible county 797
land, buildings, structures, fixtures, and improvements to the 798
land that are part of or used in a public recreational facility 799
used by a major league professional athletic team or a class A 800
to class AAA minor league affiliate of a major league 801

professional athletic team for a significant portion of the 802
team's home schedule, provided the following apply: 803

(I) The facility is leased from the eligible county 804
pursuant to a lease that requires substantially all of the 805
revenue from the operation of the business or activity conducted 806
by the nonprofit corporation at the facility in excess of 807
operating costs, capital expenditures, and reserves to be paid 808
to the eligible county at least once per calendar year. 809

(II) Upon dissolution and liquidation of the nonprofit 810
corporation, all of its net assets are distributable to the 811
board of commissioners of the eligible county from which the 812
corporation leases the facility. 813

(ii) "Eligible county" has the same meaning as in section 814
307.695 of the Revised Code. 815

(53) Sales to or by a cable service provider, video 816
service provider, or radio or television broadcast station 817
regulated by the federal government of cable service or 818
programming, video service or programming, audio service or 819
programming, or electronically transferred digital audiovisual 820
or audio work. As used in division (B) (53) of this section, 821
"cable service" and "cable service provider" have the same 822
meanings as in section 1332.01 of the Revised Code, and "video 823
service," "video service provider," and "video programming" have 824
the same meanings as in section 1332.21 of the Revised Code. 825

(54) Sales of a digital audio work electronically 826
transferred for delivery through use of a machine, such as a 827
juke box, that does all of the following: 828

(a) Accepts direct payments to operate; 829

(b) Automatically plays a selected digital audio work for 830

a single play upon receipt of a payment described in division	831
(B) (54) (a) of this section;	832
(c) Operates exclusively for the purpose of playing	833
digital audio works in a commercial establishment.	834
(55) (a) Sales of the following occurring on the first	835
Friday of August and the following Saturday and Sunday of each	836
year, beginning in 2018:	837
(i) An item of clothing, the price of which is seventy-	838
five dollars or less;	839
(ii) An item of school supplies, the price of which is	840
twenty dollars or less;	841
(iii) An item of school instructional material, the price	842
of which is twenty dollars or less.	843
(b) As used in division (B) (55) of this section:	844
(i) "Clothing" means all human wearing apparel suitable	845
for general use. "Clothing" includes, but is not limited to,	846
aprons, household and shop; athletic supporters; baby receiving	847
blankets; bathing suits and caps; beach capes and coats; belts	848
and suspenders; boots; coats and jackets; costumes; diapers,	849
children and adult, including disposable diapers; earmuffs;	850
footlets; formal wear; garters and garter belts; girdles; gloves	851
and mittens for general use; hats and caps; hosiery; insoles for	852
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	853
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	854
sneakers; socks and stockings; steel-toed shoes; underwear;	855
uniforms, athletic and nonathletic; and wedding apparel.	856
"Clothing" does not include items purchased for use in a trade	857
or business; clothing accessories or equipment; protective	858
equipment; sports or recreational equipment; belt buckles sold	859

separately; costume masks sold separately; patches and emblems 860
sold separately; sewing equipment and supplies including, but 861
not limited to, knitting needles, patterns, pins, scissors, 862
sewing machines, sewing needles, tape measures, and thimbles; 863
and sewing materials that become part of "clothing" including, 864
but not limited to, buttons, fabric, lace, thread, yarn, and 865
zippers. 866

(ii) "School supplies" means items commonly used by a 867
student in a course of study. "School supplies" includes only 868
the following items: binders; book bags; calculators; cellophane 869
tape; blackboard chalk; compasses; composition books; crayons; 870
erasers; folders, expandable, pocket, plastic, and manila; glue, 871
paste, and paste sticks; highlighters; index cards; index card 872
boxes; legal pads; lunch boxes; markers; notebooks; paper, 873
loose-leaf ruled notebook paper, copy paper, graph paper, 874
tracing paper, manila paper, colored paper, poster board, and 875
construction paper; pencil boxes and other school supply boxes; 876
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 877
and writing tablets. "School supplies" does not include any item 878
purchased for use in a trade or business. 879

(iii) "School instructional material" means written 880
material commonly used by a student in a course of study as a 881
reference and to learn the subject being taught. "School 882
instructional material" includes only the following items: 883
reference books, reference maps and globes, textbooks, and 884
workbooks. "School instructional material" does not include any 885
material purchased for use in a trade or business. 886

(56) (a) Sales of diapers or incontinence underpads sold 887
pursuant to a prescription, for the benefit of a medicaid 888
recipient with a diagnosis of incontinence, and by a medicaid 889

provider that maintains a valid provider agreement under section 890
5164.30 of the Revised Code with the department of medicaid, 891
provided that the medicaid program covers diapers or 892
incontinence underpads as an incontinence garment. 893

(b) As used in division (B) (56) (a) of this section: 894

(i) "Diaper" means an absorbent garment worn by humans who 895
are incapable of, or have difficulty, controlling their bladder 896
or bowel movements. 897

(ii) "Incontinence underpad" means an absorbent product, 898
not worn on the body, designed to protect furniture or other 899
tangible personal property from soiling or damage due to human 900
incontinence. 901

(57) Sales, on or before December 31, 2026, of qualifying 902
property directly used in the production of electric vehicle 903
products. As used in division (B) (57) of this section: 904

(a) "Electric vehicle product" means a battery powered 905
electric vehicle, an alternative powertrain technology vehicle, 906
a hydrogen powered vehicle, or a plug-in hybrid electric 907
vehicle, and charging stations needed to make use of those 908
vehicles. 909

(b) "Qualifying property" means parts and components 910
specifically designed for use in, and unique to the production 911
of electric vehicle products, including engines, transmissions, 912
batteries, and brakes. Qualifying property does not include 913
parts or components, such as tires, interior or exterior 914
features, or any other parts or accessories, that are commonly 915
used in electric vehicle products and other motor vehicles and 916
related products. 917

(C) For the purpose of the proper administration of this 918

chapter, and to prevent the evasion of the tax, it is presumed 919
that all sales made in this state are subject to the tax until 920
the contrary is established. 921

(D) The tax collected by the vendor from the consumer 922
under this chapter is not part of the price, but is a tax 923
collection for the benefit of the state, and of counties levying 924
an additional sales tax pursuant to section 5739.021 or 5739.026 925
of the Revised Code and of transit authorities levying an 926
additional sales tax pursuant to section 5739.023 of the Revised 927
Code. Except for the discount authorized under section 5739.12 928
of the Revised Code and the effects of any rounding pursuant to 929
section 5703.055 of the Revised Code, no person other than the 930
state or such a county or transit authority shall derive any 931
benefit from the collection or payment of the tax levied by this 932
section or section 5739.021, 5739.023, or 5739.026 of the 933
Revised Code. 934

Section 2. That existing section 5739.02 of the Revised 935
Code is hereby repealed. 936

Section 3. The amendment by this act of section 5739.02 of 937
the Revised Code applies to taxable years beginning on or after 938
the effective date of this section. 939