

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 436

Representatives Jordan, Carfagna

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

A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The revenue bonds shall bear interest at such rate or 109

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;	588 589 590 591 592
(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;	593 594 595
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.	596 597 598 599 600 601 602 603 604 605 606 607 608 609 610
(25) (a) Sales of water to a consumer for residential use;	611
(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	612 613 614 615
(26) Fees charged for inspection or reinspection of motor	616

vehicles under section 3704.14 of the Revised Code;	617
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	618 619 620 621
(a) To prepare food for human consumption for sale;	622
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	623 624 625 626
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	627 628
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	629 630
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	631 632 633 634
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	635 636 637
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;	638 639 640
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway	641 642 643 644

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

formatting, editing, storing, and disseminating data or 822
information by electronic publishing; 823

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

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

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

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

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

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

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

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

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

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

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

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

(48) Sales of feminine hygiene products.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

month beginning after the effective date of this section. 1108

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

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