

As Introduced

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H. B. No. 600

Representatives Beck, Adams, J.

Cosponsors: Representatives Retherford, Brenner

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A B I L L

To amend sections 5739.02, 5741.02, 5741.03, and 1
5751.03 and to enact sections 5739.20 and 5751.031 2
of the Revised Code to earmark new Ohio use tax 3
collections by remote sellers for the purposes of 4
paying back amounts borrowed by the state from the 5
federal government to issue unemployment benefits 6
and reducing the rates of the sales and use tax 7
and commercial activity tax. 8

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

Section 1. That sections 5739.02, 5741.02, 5741.03, and 9
5751.03 be amended and sections 5739.20 and 5751.031 of the 10
Revised Code be enacted to read as follows: 11

Sec. 5739.02. For the purpose of providing revenue with which 12
to meet the needs of the state, for the use of the general revenue 13
fund of the state, for the purpose of securing a thorough and 14
efficient system of common schools throughout the state, for the 15
purpose of affording revenues, in addition to those from general 16
property taxes, permitted under constitutional limitations, and 17
from other sources, for the support of local governmental 18
functions, and for the purpose of reimbursing the state for the 19

expense of administering this chapter, an excise tax is hereby 20
levied on each retail sale made in this state. 21

(A)(1) The tax shall be collected as provided in section 22
5739.025 of the Revised Code. ~~The~~ Except as provided in section 23
5739.20 of the Revised Code, the rate of the tax shall be five and 24
three-fourths per cent. The tax applies and is collectible when 25
the sale is made, regardless of the time when the price is paid or 26
delivered. 27

(2) In the case of the lease or rental, with a fixed term of 28
more than thirty days or an indefinite term with a minimum period 29
of more than thirty days, of any motor vehicles designed by the 30
manufacturer to carry a load of not more than one ton, watercraft, 31
outboard motor, or aircraft, or of any tangible personal property, 32
other than motor vehicles designed by the manufacturer to carry a 33
load of more than one ton, to be used by the lessee or renter 34
primarily for business purposes, the tax shall be collected by the 35
vendor at the time the lease or rental is consummated and shall be 36
calculated by the vendor on the basis of the total amount to be 37
paid by the lessee or renter under the lease agreement. If the 38
total amount of the consideration for the lease or rental includes 39
amounts that are not calculated at the time the lease or rental is 40
executed, the tax shall be calculated and collected by the vendor 41
at the time such amounts are billed to the lessee or renter. In 42
the case of an open-end lease or rental, the tax shall be 43
calculated by the vendor on the basis of the total amount to be 44
paid during the initial fixed term of the lease or rental, and for 45
each subsequent renewal period as it comes due. As used in this 46
division, "motor vehicle" has the same meaning as in section 47
4501.01 of the Revised Code, and "watercraft" includes an outdrive 48
unit attached to the watercraft. 49

A lease with a renewal clause and a termination penalty or 50
similar provision that applies if the renewal clause is not 51

exercised is presumed to be a sham transaction. In such a case, 52
the tax shall be calculated and paid on the basis of the entire 53
length of the lease period, including any renewal periods, until 54
the termination penalty or similar provision no longer applies. 55
The taxpayer shall bear the burden, by a preponderance of the 56
evidence, that the transaction or series of transactions is not a 57
sham transaction. 58

(3) Except as provided in division (A)(2) of this section, in 59
the case of a sale, the price of which consists in whole or in 60
part of the lease or rental of tangible personal property, the tax 61
shall be measured by the installments of that lease or rental. 62

(4) In the case of a sale of a physical fitness facility 63
service or recreation and sports club service, the price of which 64
consists in whole or in part of a membership for the receipt of 65
the benefit of the service, the tax applicable to the sale shall 66
be measured by the installments thereof. 67

(B) The tax does not apply to the following: 68

(1) Sales to the state or any of its political subdivisions, 69
or to any other state or its political subdivisions if the laws of 70
that state exempt from taxation sales made to this state and its 71
political subdivisions; 72

(2) Sales of food for human consumption off the premises 73
where sold; 74

(3) Sales of food sold to students only in a cafeteria, 75
dormitory, fraternity, or sorority maintained in a private, 76
public, or parochial school, college, or university; 77

(4) Sales of newspapers and sales or transfers of magazines 78
distributed as controlled circulation publications; 79

(5) The furnishing, preparing, or serving of meals without 80
charge by an employer to an employee provided the employer records 81

the meals as part compensation for services performed or work 82
done; 83

(6) Sales of motor fuel upon receipt, use, distribution, or 84
sale of which in this state a tax is imposed by the law of this 85
state, but this exemption shall not apply to the sale of motor 86
fuel on which a refund of the tax is allowable under division (A) 87
of section 5735.14 of the Revised Code; and the tax commissioner 88
may deduct the amount of tax levied by this section applicable to 89
the price of motor fuel when granting a refund of motor fuel tax 90
pursuant to division (A) of section 5735.14 of the Revised Code 91
and shall cause the amount deducted to be paid into the general 92
revenue fund of this state; 93

(7) Sales of natural gas by a natural gas company, of water 94
by a water-works company, or of steam by a heating company, if in 95
each case the thing sold is delivered to consumers through pipes 96
or conduits, and all sales of communications services by a 97
telegraph company, all terms as defined in section 5727.01 of the 98
Revised Code, and sales of electricity delivered through wires; 99

(8) Casual sales by a person, or auctioneer employed directly 100
by the person to conduct such sales, except as to such sales of 101
motor vehicles, watercraft or outboard motors required to be 102
titled under section 1548.06 of the Revised Code, watercraft 103
documented with the United States coast guard, snowmobiles, and 104
all-purpose vehicles as defined in section 4519.01 of the Revised 105
Code; 106

(9)(a) Sales of services or tangible personal property, other 107
than motor vehicles, mobile homes, and manufactured homes, by 108
churches, organizations exempt from taxation under section 109
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 110
organizations operated exclusively for charitable purposes as 111
defined in division (B)(12) of this section, provided that the 112
number of days on which such tangible personal property or 113

services, other than items never subject to the tax, are sold does 114
not exceed six in any calendar year, except as otherwise provided 115
in division (B)(9)(b) of this section. If the number of days on 116
which such sales are made exceeds six in any calendar year, the 117
church or organization shall be considered to be engaged in 118
business and all subsequent sales by it shall be subject to the 119
tax. In counting the number of days, all sales by groups within a 120
church or within an organization shall be considered to be sales 121
of that church or organization. 122

(b) The limitation on the number of days on which tax-exempt 123
sales may be made by a church or organization under division 124
(B)(9)(a) of this section does not apply to sales made by student 125
clubs and other groups of students of a primary or secondary 126
school, or a parent-teacher association, booster group, or similar 127
organization that raises money to support or fund curricular or 128
extracurricular activities of a primary or secondary school. 129

(c) Divisions (B)(9)(a) and (b) of this section do not apply 130
to sales by a noncommercial educational radio or television 131
broadcasting station. 132

(10) Sales not within the taxing power of this state under 133
the Constitution or laws of the United States or the Constitution 134
of this state; 135

(11) Except for transactions that are sales under division 136
(B)(3)(r) of section 5739.01 of the Revised Code, the 137
transportation of persons or property, unless the transportation 138
is by a private investigation and security service; 139

(12) Sales of tangible personal property or services to 140
churches, to organizations exempt from taxation under section 141
501(c)(3) of the Internal Revenue Code of 1986, and to any other 142
nonprofit organizations operated exclusively for charitable 143
purposes in this state, no part of the net income of which inures 144

to the benefit of any private shareholder or individual, and no 145
substantial part of the activities of which consists of carrying 146
on propaganda or otherwise attempting to influence legislation; 147
sales to offices administering one or more homes for the aged or 148
one or more hospital facilities exempt under section 140.08 of the 149
Revised Code; and sales to organizations described in division (D) 150
of section 5709.12 of the Revised Code. 151

"Charitable purposes" means the relief of poverty; the 152
improvement of health through the alleviation of illness, disease, 153
or injury; the operation of an organization exclusively for the 154
provision of professional, laundry, printing, and purchasing 155
services to hospitals or charitable institutions; the operation of 156
a home for the aged, as defined in section 5701.13 of the Revised 157
Code; the operation of a radio or television broadcasting station 158
that is licensed by the federal communications commission as a 159
noncommercial educational radio or television station; the 160
operation of a nonprofit animal adoption service or a county 161
humane society; the promotion of education by an institution of 162
learning that maintains a faculty of qualified instructors, 163
teaches regular continuous courses of study, and confers a 164
recognized diploma upon completion of a specific curriculum; the 165
operation of a parent-teacher association, booster group, or 166
similar organization primarily engaged in the promotion and 167
support of the curricular or extracurricular activities of a 168
primary or secondary school; the operation of a community or area 169
center in which presentations in music, dramatics, the arts, and 170
related fields are made in order to foster public interest and 171
education therein; the production of performances in music, 172
dramatics, and the arts; or the promotion of education by an 173
organization engaged in carrying on research in, or the 174
dissemination of, scientific and technological knowledge and 175
information primarily for the public. 176

Nothing in this division shall be deemed to exempt sales to 177
any organization for use in the operation or carrying on of a 178
trade or business, or sales to a home for the aged for use in the 179
operation of independent living facilities as defined in division 180
(A) of section 5709.12 of the Revised Code. 181

(13) Building and construction materials and services sold to 182
construction contractors for incorporation into a structure or 183
improvement to real property under a construction contract with 184
this state or a political subdivision of this state, or with the 185
United States government or any of its agencies; building and 186
construction materials and services sold to construction 187
contractors for incorporation into a structure or improvement to 188
real property that are accepted for ownership by this state or any 189
of its political subdivisions, or by the United States government 190
or any of its agencies at the time of completion of the structures 191
or improvements; building and construction materials sold to 192
construction contractors for incorporation into a horticulture 193
structure or livestock structure for a person engaged in the 194
business of horticulture or producing livestock; building 195
materials and services sold to a construction contractor for 196
incorporation into a house of public worship or religious 197
education, or a building used exclusively for charitable purposes 198
under a construction contract with an organization whose purpose 199
is as described in division (B)(12) of this section; building 200
materials and services sold to a construction contractor for 201
incorporation into a building under a construction contract with 202
an organization exempt from taxation under section 501(c)(3) of 203
the Internal Revenue Code of 1986 when the building is to be used 204
exclusively for the organization's exempt purposes; building and 205
construction materials sold for incorporation into the original 206
construction of a sports facility under section 307.696 of the 207
Revised Code; building and construction materials and services 208
sold to a construction contractor for incorporation into real 209

property outside this state if such materials and services, when 210
sold to a construction contractor in the state in which the real 211
property is located for incorporation into real property in that 212
state, would be exempt from a tax on sales levied by that state; 213
building and construction materials for incorporation into a 214
transportation facility pursuant to a public-private agreement 215
entered into under sections 5501.70 to 5501.83 of the Revised 216
Code; and, until one calendar year after the construction of a 217
convention center that qualifies for property tax exemption under 218
section 5709.084 of the Revised Code is completed, building and 219
construction materials and services sold to a construction 220
contractor for incorporation into the real property comprising 221
that convention center; 222

(14) Sales of ships or vessels or rail rolling stock used or 223
to be used principally in interstate or foreign commerce, and 224
repairs, alterations, fuel, and lubricants for such ships or 225
vessels or rail rolling stock; 226

(15) Sales to persons primarily engaged in any of the 227
activities mentioned in division (B)(42)(a), (g), or (h) of this 228
section, to persons engaged in making retail sales, or to persons 229
who purchase for sale from a manufacturer tangible personal 230
property that was produced by the manufacturer in accordance with 231
specific designs provided by the purchaser, of packages, including 232
material, labels, and parts for packages, and of machinery, 233
equipment, and material for use primarily in packaging tangible 234
personal property produced for sale, including any machinery, 235
equipment, and supplies used to make labels or packages, to 236
prepare packages or products for labeling, or to label packages or 237
products, by or on the order of the person doing the packaging, or 238
sold at retail. "Packages" includes bags, baskets, cartons, 239
crates, boxes, cans, bottles, bindings, wrappings, and other 240
similar devices and containers, but does not include motor 241

vehicles or bulk tanks, trailers, or similar devices attached to 242
motor vehicles. "Packaging" means placing in a package. Division 243
(B)(15) of this section does not apply to persons engaged in 244
highway transportation for hire. 245

(16) Sales of food to persons using supplemental nutrition 246
assistance program benefits to purchase the food. As used in this 247
division, "food" has the same meaning as in 7 U.S.C. 2012 and 248
federal regulations adopted pursuant to the Food and Nutrition Act 249
of 2008. 250

(17) Sales to persons engaged in farming, agriculture, 251
horticulture, or floriculture, of tangible personal property for 252
use or consumption primarily in the production by farming, 253
agriculture, horticulture, or floriculture of other tangible 254
personal property for use or consumption primarily in the 255
production of tangible personal property for sale by farming, 256
agriculture, horticulture, or floriculture; or material and parts 257
for incorporation into any such tangible personal property for use 258
or consumption in production; and of tangible personal property 259
for such use or consumption in the conditioning or holding of 260
products produced by and for such use, consumption, or sale by 261
persons engaged in farming, agriculture, horticulture, or 262
floriculture, except where such property is incorporated into real 263
property; 264

(18) Sales of drugs for a human being that may be dispensed 265
only pursuant to a prescription; insulin as recognized in the 266
official United States pharmacopoeia; urine and blood testing 267
materials when used by diabetics or persons with hypoglycemia to 268
test for glucose or acetone; hypodermic syringes and needles when 269
used by diabetics for insulin injections; epoetin alfa when 270
purchased for use in the treatment of persons with medical 271
disease; hospital beds when purchased by hospitals, nursing homes, 272
or other medical facilities; and medical oxygen and medical 273

oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;	274 275
(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.	276 277 278 279
(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;	280 281 282 283 284
(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;	285 286 287 288 289 290
(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;	291 292 293 294 295
(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;	296 297 298
(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	299 300 301 302 303 304

packaging eggs for sale; and handling and transportation equipment	305
and parts therefor, except motor vehicles licensed to operate on	306
public highways, used in intraplant or interplant transfers or	307
shipment of eggs in the process of preparation for sale, when the	308
plant or plants within or between which such transfers or	309
shipments occur are operated by the same person. "Packages"	310
includes containers, cases, baskets, flats, fillers, filler flats,	311
cartons, closure materials, labels, and labeling materials, and	312
"packaging" means placing therein.	313
(25)(a) Sales of water to a consumer for residential use;	314
(b) Sales of water by a nonprofit corporation engaged	315
exclusively in the treatment, distribution, and sale of water to	316
consumers, if such water is delivered to consumers through pipes	317
or tubing.	318
(26) Fees charged for inspection or reinspection of motor	319
vehicles under section 3704.14 of the Revised Code;	320
(27) Sales to persons licensed to conduct a food service	321
operation pursuant to section 3717.43 of the Revised Code, of	322
tangible personal property primarily used directly for the	323
following:	324
(a) To prepare food for human consumption for sale;	325
(b) To preserve food that has been or will be prepared for	326
human consumption for sale by the food service operator, not	327
including tangible personal property used to display food for	328
selection by the consumer;	329
(c) To clean tangible personal property used to prepare or	330
serve food for human consumption for sale.	331
(28) Sales of animals by nonprofit animal adoption services	332
or county humane societies;	333
(29) Sales of services to a corporation described in division	334

(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;	335 336 337
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	338 339 340
(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;	341 342 343
(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;	344 345 346 347 348 349
(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;	350 351 352 353 354
(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	355 356 357 358 359 360 361 362 363 364 365

(n) of this section to which the vendor may otherwise be entitled, 366
based upon the use of the thing purchased in providing the 367
telecommunications, mobile telecommunications, or satellite 368
broadcasting service. 369

(35)(a) Sales where the purpose of the consumer is to use or 370
consume the things transferred in making retail sales and 371
consisting of newspaper inserts, catalogues, coupons, flyers, gift 372
certificates, or other advertising material that prices and 373
describes tangible personal property offered for retail sale. 374

(b) Sales to direct marketing vendors of preliminary 375
materials such as photographs, artwork, and typesetting that will 376
be used in printing advertising material; and of printed matter 377
that offers free merchandise or chances to win sweepstake prizes 378
and that is mailed to potential customers with advertising 379
material described in division (B)(35)(a) of this section; 380

(c) Sales of equipment such as telephones, computers, 381
facsimile machines, and similar tangible personal property 382
primarily used to accept orders for direct marketing retail sales. 383

(d) Sales of automatic food vending machines that preserve 384
food with a shelf life of forty-five days or less by refrigeration 385
and dispense it to the consumer. 386

For purposes of division (B)(35) of this section, "direct 387
marketing" means the method of selling where consumers order 388
tangible personal property by United States mail, delivery 389
service, or telecommunication and the vendor delivers or ships the 390
tangible personal property sold to the consumer from a warehouse, 391
catalogue distribution center, or similar fulfillment facility by 392
means of the United States mail, delivery service, or common 393
carrier. 394

(36) Sales to a person engaged in the business of 395
horticulture or producing livestock of materials to be 396

incorporated into a horticulture structure or livestock structure;	397
(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;	398 399 400 401 402
(38) Sales to a professional racing team of any of the following:	403 404
(a) Motor racing vehicles;	405
(b) Repair services for motor racing vehicles;	406
(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.	407 408 409 410 411 412 413 414
(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;	415 416 417
(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 classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in	418 419 420 421 422 423 424 425 426 427

the repair and maintenance of the production, transmission, or 428
distribution system, including only those motor vehicles as are 429
specially designed and equipped for such use. The exemption 430
provided in this division shall be in lieu of all other exemptions 431
in division (B)(42)(a) or (n) of this section to which a provider 432
of electricity may otherwise be entitled based on the use of the 433
tangible personal property or service purchased in generating, 434
transmitting, or distributing electricity. 435

(41) Sales to a person providing services under division 436
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 437
personal property and services used directly and primarily in 438
providing taxable services under that section. 439

(42) Sales where the purpose of the purchaser is to do any of 440
the following: 441

(a) To incorporate the thing transferred as a material or a 442
part into tangible personal property to be produced for sale by 443
manufacturing, assembling, processing, or refining; or to use or 444
consume the thing transferred directly in producing tangible 445
personal property for sale by mining, including, without 446
limitation, the extraction from the earth of all substances that 447
are classed geologically as minerals, production of crude oil and 448
natural gas, or directly in the rendition of a public utility 449
service, except that the sales tax levied by this section shall be 450
collected upon all meals, drinks, and food for human consumption 451
sold when transporting persons. Persons engaged in rendering 452
services in the exploration for, and production of, crude oil and 453
natural gas for others are deemed engaged directly in the 454
exploration for, and production of, crude oil and natural gas. 455
This paragraph does not exempt from "retail sale" or "sales at 456
retail" the sale of tangible personal property that is to be 457
incorporated into a structure or improvement to real property. 458

(b) To hold the thing transferred as security for the 459

performance of an obligation of the vendor;	460
(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;	461 462
(d) To use or consume the thing directly in commercial fishing;	463 464
(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	465 466 467 468
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	469 470 471 472 473
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	474 475 476
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	477 478 479 480 481 482
(i) To use the thing transferred as qualified research and development equipment;	483 484
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the	485 486 487 488 489

warehouse, distribution center, or similar facility, to retail 490
stores of an affiliated group of which that person is a member, or 491
by means of direct marketing. This division does not apply to 492
motor vehicles registered for operation on the public highways. As 493
used in this division, "affiliated group" has the same meaning as 494
in division (B)(3)(e) of section 5739.01 of the Revised Code and 495
"direct marketing" has the same meaning as in division (B)(35) of 496
this section. 497

(k) To use or consume the thing transferred to fulfill a 498
contractual obligation incurred by a warrantor pursuant to a 499
warranty provided as a part of the price of the tangible personal 500
property sold or by a vendor of a warranty, maintenance or service 501
contract, or similar agreement the provision of which is defined 502
as a sale under division (B)(7) of section 5739.01 of the Revised 503
Code; 504

(l) To use or consume the thing transferred in the production 505
of a newspaper for distribution to the public; 506

(m) To use tangible personal property to perform a service 507
listed in division (B)(3) of section 5739.01 of the Revised Code, 508
if the property is or is to be permanently transferred to the 509
consumer of the service as an integral part of the performance of 510
the service; 511

(n) To use or consume the thing transferred primarily in 512
producing tangible personal property for sale by farming, 513
agriculture, horticulture, or floriculture. Persons engaged in 514
rendering farming, agriculture, horticulture, or floriculture 515
services for others are deemed engaged primarily in farming, 516
agriculture, horticulture, or floriculture. This paragraph does 517
not exempt from "retail sale" or "sales at retail" the sale of 518
tangible personal property that is to be incorporated into a 519
structure or improvement to real property. 520

(o) To use or consume the thing transferred in acquiring, 521
formatting, editing, storing, and disseminating data or 522
information by electronic publishing. 523

As used in division (B)(42) of this section, "thing" includes 524
all transactions included in divisions (B)(3)(a), (b), and (e) of 525
section 5739.01 of the Revised Code. 526

(43) Sales conducted through a coin operated device that 527
activates vacuum equipment or equipment that dispenses water, 528
whether or not in combination with soap or other cleaning agents 529
or wax, to the consumer for the consumer's use on the premises in 530
washing, cleaning, or waxing a motor vehicle, provided no other 531
personal property or personal service is provided as part of the 532
transaction. 533

(44) Sales of replacement and modification parts for engines, 534
airframes, instruments, and interiors in, and paint for, aircraft 535
used primarily in a fractional aircraft ownership program, and 536
sales of services for the repair, modification, and maintenance of 537
such aircraft, and machinery, equipment, and supplies primarily 538
used to provide those services. 539

(45) Sales of telecommunications service that is used 540
directly and primarily to perform the functions of a call center. 541
As used in this division, "call center" means any physical 542
location where telephone calls are placed or received in high 543
volume for the purpose of making sales, marketing, customer 544
service, technical support, or other specialized business 545
activity, and that employs at least fifty individuals that engage 546
in call center activities on a full-time basis, or sufficient 547
individuals to fill fifty full-time equivalent positions. 548

(46) Sales by a telecommunications service vendor of 900 549
service to a subscriber. This division does not apply to 550
information services, as defined in division (FF) of section 551

5739.01 of the Revised Code.	552
(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.	553 554 555
(48)(a) Sales of machinery, equipment, and software to a qualified direct selling entity for use in a warehouse or distribution center primarily for storing, transporting, or otherwise handling inventory that is held for sale to independent salespersons who operate as direct sellers and that is held primarily for distribution outside this state;	556 557 558 559 560 561
(b) As used in division (B)(48)(a) of this section:	562
(i) "Direct seller" means a person selling consumer products to individuals for personal or household use and not from a fixed retail location, including selling such product at in-home product demonstrations, parties, and other one-on-one selling.	563 564 565 566
(ii) "Qualified direct selling entity" means an entity selling to direct sellers at the time the entity enters into a tax credit agreement with the tax credit authority pursuant to section 122.17 of the Revised Code, provided that the agreement was entered into on or after January 1, 2007. Neither contingencies relevant to the granting of, nor later developments with respect to, the tax credit shall impair the status of the qualified direct selling entity under division (B)(48) of this section after execution of the tax credit agreement by the tax credit authority.	567 568 569 570 571 572 573 574 575
(c) Division (B)(48) of this section is limited to machinery, equipment, and software first stored, used, or consumed in this state within the period commencing June 24, 2008, and ending on the date that is five years after that date.	576 577 578 579
(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	580 581 582

maintenance services in this state performed on aircraft or on an 583
aircraft's avionics, engine, or component materials or parts. As 584
used in division (B)(49) of this section, "aircraft" means 585
aircraft of more than six thousand pounds maximum certified 586
takeoff weight or used exclusively in general aviation. 587

(50) Sales of full flight simulators that are used for pilot 588
or flight-crew training, sales of repair or replacement parts or 589
components, and sales of repair or maintenance services for such 590
full flight simulators. "Full flight simulator" means a replica of 591
a specific type, or make, model, and series of aircraft cockpit. 592
It includes the assemblage of equipment and computer programs 593
necessary to represent aircraft operations in ground and flight 594
conditions, a visual system providing an out-of-the-cockpit view, 595
and a system that provides cues at least equivalent to those of a 596
three-degree-of-freedom motion system, and has the full range of 597
capabilities of the systems installed in the device as described 598
in appendices A and B of part 60 of chapter 1 of title 14 of the 599
Code of Federal Regulations. 600

(51) Any transfer or lease of tangible personal property 601
between the state and JobsOhio in accordance with section 4313.02 602
of the Revised Code. 603

(52)(a) Sales to a qualifying corporation. 604

(b) As used in division (B)(52) of this section: 605

(i) "Qualifying corporation" means a nonprofit corporation 606
organized in this state that leases from an eligible county land, 607
buildings, structures, fixtures, and improvements to the land that 608
are part of or used in a public recreational facility used by a 609
major league professional athletic team or a class A to class AAA 610
minor league affiliate of a major league professional athletic 611
team for a significant portion of the team's home schedule, 612
provided the following apply: 613

(I) The facility is leased from the eligible county pursuant 614
to a lease that requires substantially all of the revenue from the 615
operation of the business or activity conducted by the nonprofit 616
corporation at the facility in excess of operating costs, capital 617
expenditures, and reserves to be paid to the eligible county at 618
least once per calendar year. 619

(II) Upon dissolution and liquidation of the nonprofit 620
corporation, all of its net assets are distributable to the board 621
of commissioners of the eligible county from which the corporation 622
leases the facility. 623

(ii) "Eligible county" has the same meaning as in section 624
307.695 of the Revised Code. 625

(53) Sales to or by a cable service provider, video service 626
provider, or radio or television broadcast station regulated by 627
the federal government of cable service or programming, video 628
service or programming, audio service or programming, or 629
electronically transferred digital audiovisual or audio work. As 630
used in division (B)(53) of this section, "cable service" and 631
"cable service provider" have the same meanings as in section 632
1332.01 of the Revised Code, and "video service," "video service 633
provider," and "video programming" have the same meanings as in 634
section 1332.21 of the Revised Code. 635

(C) For the purpose of the proper administration of this 636
chapter, and to prevent the evasion of the tax, it is presumed 637
that all sales made in this state are subject to the tax until the 638
contrary is established. 639

(D) The levy of this tax on retail sales of recreation and 640
sports club service shall not prevent a municipal corporation from 641
levying any tax on recreation and sports club dues or on any 642
income generated by recreation and sports club dues. 643

(E) The tax collected by the vendor from the consumer under 644

this chapter is not part of the price, but is a tax collection for 645
the benefit of the state, and of counties levying an additional 646
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 647
Code and of transit authorities levying an additional sales tax 648
pursuant to section 5739.023 of the Revised Code. Except for the 649
discount authorized under section 5739.12 of the Revised Code and 650
the effects of any rounding pursuant to section 5703.055 of the 651
Revised Code, no person other than the state or such a county or 652
transit authority shall derive any benefit from the collection or 653
payment of the tax levied by this section or section 5739.021, 654
5739.023, or 5739.026 of the Revised Code. 655

Sec. 5739.20. (A) There is hereby created in the state 656
treasury the sales and use tax relief fund, which shall consist of 657
remote seller use tax collections credited by the director of 658
budget and management pursuant to division (C)(2)(b) of section 659
5741.03 of the Revised Code. 660

(B) Not later than the thirty-first day of July of each year 661
beginning in 2015, the director shall calculate the following 662
based on the director's best estimates: 663

(1) The revenue that will be received from the taxes levied 664
under sections 5739.02 and 5741.02 of the Revised Code in the 665
twelve-month period beginning on the succeeding first day of 666
November and ending on the last day of the following October with 667
no reductions to the rates specified in division (A)(1) of section 668
5739.02 and division (A)(1) of section 5741.02 of the Revised 669
Code; 670

(2) The revenue that would be received from such taxes during 671
that period if the director subtracted one-half of one percentage 672
point from each of the rates specified in division (A)(1) of 673
section 5739.02 and division (A)(1) of section 5741.02 of the 674
Revised Code; 675

(3) The percentage obtained by multiplying the balance of the sales and use tax relief fund, after all credits for the current year have been made pursuant to divisions (C)(2)(a) and (b) of section 5741.03 of the Revised Code, by the tax rate specified in division (A)(1) of section 5739.02 of the Revised Code, then dividing the product by the revenue estimate determined in division (B)(1) of this section. 676
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(C) Not later than the thirty-first day of July of each year beginning in 2015, the director shall certify the percentage calculated in division (B)(3) of this section to the tax commissioner. If the percentage is not less than one-half of one per cent, the commissioner shall reduce the rates of the taxes levied under sections 5739.02 and 5741.02 of the Revised Code by one-half of one percentage point. If the percentage is less than one-half of one per cent but not less than one-quarter of one per cent, the commissioner shall reduce the rates of such taxes by one-quarter of one percentage point. If the percentage is less than one-quarter of one per cent, the commissioner shall not reduce the rate of such taxes. 683
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Rate reductions under this division apply during the twelve-month period beginning on the succeeding first day of October and ending on the thirtieth day of the following September. If the rate of tax levied under section 5739.02 of the Revised Code is reduced under this division, the rate and amount of tax levied under section 5739.10 of the Revised Code shall be reduced to the same extent for the same period. 695
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(D) The director shall transfer money in the sales and use tax relief fund to the general revenue fund, the local government fund, and the public library fund as necessary to offset revenue reductions resulting from the reductions in taxes required under division (C) of this section in the respective amounts and percentages prescribed by sections 131.51, 5739.21, and 5741.03 of 702
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the Revised Code. If no reductions in taxes are made under that 708
division, the director shall not transfer money from the sales and 709
use tax relief fund to the general revenue fund, the local 710
government fund, and the public library fund. Interest earned on 711
money in the sales and use tax relief fund shall be credited to 712
the sales and use tax relief fund. 713

Sec. 5741.02. (A)(1) For the use of the general revenue fund 714
of the state, an excise tax is hereby levied on the storage, use, 715
or other consumption in this state of tangible personal property 716
or the benefit realized in this state of any service provided. The 717
tax shall be collected as provided in section 5739.025 of the 718
Revised Code. ~~The~~ Except as provided in section 5739.20 of the 719
Revised Code, the rate of the tax shall be five and three-fourths 720
per cent. 721

(2) In the case of the lease or rental, with a fixed term of 722
more than thirty days or an indefinite term with a minimum period 723
of more than thirty days, of any motor vehicles designed by the 724
manufacturer to carry a load of not more than one ton, watercraft, 725
outboard motor, or aircraft, or of any tangible personal property, 726
other than motor vehicles designed by the manufacturer to carry a 727
load of more than one ton, to be used by the lessee or renter 728
primarily for business purposes, the tax shall be collected by the 729
seller at the time the lease or rental is consummated and shall be 730
calculated by the seller on the basis of the total amount to be 731
paid by the lessee or renter under the lease or rental agreement. 732
If the total amount of the consideration for the lease or rental 733
includes amounts that are not calculated at the time the lease or 734
rental is executed, the tax shall be calculated and collected by 735
the seller at the time such amounts are billed to the lessee or 736
renter. In the case of an open-end lease or rental, the tax shall 737
be calculated by the seller on the basis of the total amount to be 738
paid during the initial fixed term of the lease or rental, and for 739

each subsequent renewal period as it comes due. As used in this 740
division, "motor vehicle" has the same meaning as in section 741
4501.01 of the Revised Code, and "watercraft" includes an outdrive 742
unit attached to the watercraft. 743

(3) Except as provided in division (A)(2) of this section, in 744
the case of a transaction, the price of which consists in whole or 745
part of the lease or rental of tangible personal property, the tax 746
shall be measured by the installments of those leases or rentals. 747

(B) Each consumer, storing, using, or otherwise consuming in 748
this state tangible personal property or realizing in this state 749
the benefit of any service provided, shall be liable for the tax, 750
and such liability shall not be extinguished until the tax has 751
been paid to this state; provided, that the consumer shall be 752
relieved from further liability for the tax if the tax has been 753
paid to a seller in accordance with section 5741.04 of the Revised 754
Code or prepaid by the seller in accordance with section 5741.06 755
of the Revised Code. 756

(C) The tax does not apply to the storage, use, or 757
consumption in this state of the following described tangible 758
personal property or services, nor to the storage, use, or 759
consumption or benefit in this state of tangible personal property 760
or services purchased under the following described circumstances: 761

(1) When the sale of property or service in this state is 762
subject to the excise tax imposed by sections 5739.01 to 5739.31 763
of the Revised Code, provided said tax has been paid; 764

(2) Except as provided in division (D) of this section, 765
tangible personal property or services, the acquisition of which, 766
if made in Ohio, would be a sale not subject to the tax imposed by 767
sections 5739.01 to 5739.31 of the Revised Code; 768

(3) Property or services, the storage, use, or other 769
consumption of or benefit from which this state is prohibited from 770

taxing by the Constitution of the United States, laws of the 771
United States, or the Constitution of this state. This exemption 772
shall not exempt from the application of the tax imposed by this 773
section the storage, use, or consumption of tangible personal 774
property that was purchased in interstate commerce, but that has 775
come to rest in this state, provided that fuel to be used or 776
transported in carrying on interstate commerce that is stopped 777
within this state pending transfer from one conveyance to another 778
is exempt from the excise tax imposed by this section and section 779
5739.02 of the Revised Code; 780

(4) Transient use of tangible personal property in this state 781
by a nonresident tourist or vacationer, or a nonbusiness use 782
within this state by a nonresident of this state, if the property 783
so used was purchased outside this state for use outside this 784
state and is not required to be registered or licensed under the 785
laws of this state; 786

(5) Tangible personal property or services rendered, upon 787
which taxes have been paid to another jurisdiction to the extent 788
of the amount of the tax paid to such other jurisdiction. Where 789
the amount of the tax imposed by this section and imposed pursuant 790
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 791
exceeds the amount paid to another jurisdiction, the difference 792
shall be allocated between the tax imposed by this section and any 793
tax imposed by a county or a transit authority pursuant to section 794
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 795
to the respective rates of such taxes. 796

As used in this subdivision, "taxes paid to another 797
jurisdiction" means the total amount of retail sales or use tax or 798
similar tax based upon the sale, purchase, or use of tangible 799
personal property or services rendered legally, levied by and paid 800
to another state or political subdivision thereof, or to the 801
District of Columbia, where the payment of such tax does not 802

entitle the taxpayer to any refund or credit for such payment. 803

(6) The transfer of a used manufactured home or used mobile 804
home, as defined by section 5739.0210 of the Revised Code, made on 805
or after January 1, 2000; 806

(7) Drugs that are or are intended to be distributed free of 807
charge to a practitioner licensed to prescribe, dispense, and 808
administer drugs to a human being in the course of a professional 809
practice and that by law may be dispensed only by or upon the 810
order of such a practitioner; 811

(8) Computer equipment and related software leased from a 812
lessor located outside this state and initially received in this 813
state on behalf of the consumer by a third party that will retain 814
possession of such property for not more than ninety days and that 815
will, within that ninety-day period, deliver such property to the 816
consumer at a location outside this state. Division (C)(8) of this 817
section does not provide exemption from taxation for any otherwise 818
taxable charges associated with such property while it is in this 819
state or for any subsequent storage, use, or consumption of such 820
property in this state by or on behalf of the consumer. 821

(9) Tangible personal property held for sale by a person but 822
not for that person's own use and donated by that person, without 823
charge or other compensation, to either of the following: 824

(a) A nonprofit organization operated exclusively for 825
charitable purposes in this state, no part of the net income of 826
which inures to the benefit of any private shareholder or 827
individual and no substantial part of the activities of which 828
consists of carrying on propaganda or otherwise attempting to 829
influence legislation; or 830

(b) This state or any political subdivision of this state, 831
but only if donated for exclusively public purposes. 832

For the purposes of division (C)~~(10)~~(9) of this section, 833

"charitable purposes" has the same meaning as in division (B)(12) 834
of section 5739.02 of the Revised Code. 835

(D) The tax applies to the storage, use, or other consumption 836
in this state of tangible personal property or services, the 837
acquisition of which at the time of sale was excepted under 838
division (E) of section 5739.01 of the Revised Code from the tax 839
imposed by section 5739.02 of the Revised Code, but which has 840
subsequently been temporarily or permanently stored, used, or 841
otherwise consumed in a taxable manner. 842

(E)(1)(a) If any transaction is claimed to be exempt under 843
division (E) of section 5739.01 of the Revised Code or under 844
section 5739.02 of the Revised Code, with the exception of 845
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 846
Code, the consumer shall provide to the seller, and the seller 847
shall obtain from the consumer, a certificate specifying the 848
reason that the transaction is not subject to the tax. The 849
certificate shall be in such form, and shall be provided either in 850
a hard copy form or electronic form, as the tax commissioner 851
prescribes. 852

(b) A seller that obtains a fully completed exemption 853
certificate from a consumer is relieved of liability for 854
collecting and remitting tax on any sale covered by that 855
certificate. If it is determined the exemption was improperly 856
claimed, the consumer shall be liable for any tax due on that sale 857
under this chapter. Relief under this division from liability does 858
not apply to any of the following: 859

(i) A seller that fraudulently fails to collect tax; 860

(ii) A seller that solicits consumers to participate in the 861
unlawful claim of an exemption; 862

(iii) A seller that accepts an exemption certificate from a 863
consumer that claims an exemption based on who purchases or who 864

sells property or a service, when the subject of the transaction 865
sought to be covered by the exemption certificate is actually 866
received by the consumer at a location operated by the seller in 867
this state, and this state has posted to its web site an exemption 868
certificate form that clearly and affirmatively indicates that the 869
claimed exemption is not available in this state; 870

(iv) A seller that accepts an exemption certificate from a 871
consumer who claims a multiple points of use exemption under 872
division (D) of section 5739.033 of the Revised Code, if the item 873
purchased is tangible personal property, other than prewritten 874
computer software. 875

(2) The seller shall maintain records, including exemption 876
certificates, of all sales on which a consumer has claimed an 877
exemption, and provide them to the tax commissioner on request. 878

(3) If no certificate is provided or obtained within ninety 879
days after the date on which the transaction is consummated, it 880
shall be presumed that the tax applies. Failure to have so 881
provided or obtained a certificate shall not preclude a seller, 882
within one hundred twenty days after the tax commissioner gives 883
written notice of intent to levy an assessment, from either 884
establishing that the transaction is not subject to the tax, or 885
obtaining, in good faith, a fully completed exemption certificate. 886

(4) If a transaction is claimed to be exempt under division 887
(B)(13) of section 5739.02 of the Revised Code, the contractor 888
shall obtain certification of the claimed exemption from the 889
contractee. This certification shall be in addition to an 890
exemption certificate provided by the contractor to the seller. A 891
contractee that provides a certification under this division shall 892
be deemed to be the consumer of all items purchased by the 893
contractor under the claim of exemption, if it is subsequently 894
determined that the exemption is not properly claimed. The 895
certification shall be in such form as the tax commissioner 896

prescribes. 897

(F) A seller who files a petition for reassessment contesting 898
the assessment of tax on transactions for which the seller 899
obtained no valid exemption certificates, and for which the seller 900
failed to establish that the transactions were not subject to the 901
tax during the one-hundred-twenty-day period allowed under 902
division (E) of this section, may present to the tax commissioner 903
additional evidence to prove that the transactions were exempt. 904
The seller shall file such evidence within ninety days of the 905
receipt by the seller of the notice of assessment, except that, 906
upon application and for reasonable cause, the tax commissioner 907
may extend the period for submitting such evidence thirty days. 908

(G) For the purpose of the proper administration of sections 909
5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 910
of the tax hereby levied, it shall be presumed that any use, 911
storage, or other consumption of tangible personal property in 912
this state is subject to the tax until the contrary is 913
established. 914

(H) The tax collected by the seller from the consumer under 915
this chapter is not part of the price, but is a tax collection for 916
the benefit of the state, and of counties levying an additional 917
use tax pursuant to section 5741.021 or 5741.023 of the Revised 918
Code and of transit authorities levying an additional use tax 919
pursuant to section 5741.022 of the Revised Code. Except for the 920
discount authorized under section 5741.12 of the Revised Code and 921
the effects of any rounding pursuant to section 5703.055 of the 922
Revised Code, no person other than the state or such a county or 923
transit authority shall derive any benefit from the collection of 924
such tax. 925

Sec. 5741.03. (A) One hundred per cent of all money deposited 926
into the state treasury under sections 5741.01 to 5741.22 of the 927

Revised Code that is not required to be distributed as provided in 928
division (B) of this section shall be credited to the general 929
revenue fund. 930

(B) In any case where any county or transit authority has 931
levied a tax or taxes pursuant to section 5741.021, 5741.022, or 932
5741.023 of the Revised Code, the tax commissioner shall, within 933
forty-five days after the end of each month, determine and certify 934
to the director of budget and management the amount of the 935
proceeds of such tax or taxes from billings and assessments 936
received during that month, or shown on tax returns or reports 937
filed during that month, to be returned to the county or transit 938
authority levying the tax or taxes, which amounts shall be 939
determined in the manner provided in section 5739.21 of the 940
Revised Code. The director of budget and management shall 941
transfer, from the general revenue fund, to the permissive tax 942
distribution fund created by division (B)(1) of section 4301.423 943
of the Revised Code and to the local sales tax administrative fund 944
created by division (C) of section 5739.21 of the Revised Code, 945
the amounts certified by the tax commissioner. The tax 946
commissioner shall then, on or before the twentieth day of the 947
month in which such certification is made, provide for payment of 948
such respective amounts to the county treasurer or to the fiscal 949
officer of the transit authority levying the tax or taxes. The 950
amount transferred to the local sales tax administrative fund is 951
for use by the tax commissioner in defraying costs the 952
commissioner incurs in administering such taxes levied by a county 953
or transit authority. 954

(C)(1) Not later than the ~~first~~ thirty-first day of ~~January~~ 955
~~and of~~ July each calendar year beginning July ~~±~~ 31, 2015, the tax 956
commissioner and the director of budget and management shall 957
jointly determine the remote seller use tax collections for the 958
preceding fiscal year. The amount of remote seller use tax 959

collections equals the amount of tax imposed by section 5741.02 of 960
the Revised Code and remitted under this chapter by remote sellers 961
during the six month period ending on the preceding last day of 962
November and of May, respectively, that fiscal year reduced by any 963
the following: 964

(a) Any such tax remitted by sellers pursuant to an agreement 965
entered into under section 5740.03 of the Revised Code during the 966
six month period and by any that fiscal year; 967

(b) Any refunds issued during the six month period that 968
fiscal year to remote sellers from the tax refund fund on account 969
of that tax; 970

(c) The amount of that tax remitted during fiscal year 2013 971
by remote sellers that voluntarily registered under section 972
5741.17 of the Revised Code. 973

(2) Not later than that ~~first~~ thirty-first day of ~~January and~~ 974
~~of July of the~~ each calendar year beginning July ~~±~~ 31, 2015, the 975
director of budget and management shall ~~transfer from the general~~ 976
~~revenue fund to the income tax reduction fund~~ credit the remote 977
seller use tax collections amount determined under division (C)(1) 978
of this section, ~~less one half of the amount of that tax remitted~~ 979
~~during fiscal year 2013 by remote sellers that voluntarily~~ 980
~~registered under section 5741.17 of the Revised Code. Amounts~~ 981
~~transferred to the income tax reduction fund under this section~~ 982
~~shall be included in the determination of the percentage under~~ 983
~~division (B)(2) of section 131.44 of the Revised Code required to~~ 984
~~be made by the thirty first day of July of the calendar year in~~ 985
~~which the commissioner makes the certifications under this~~ 986
~~division. as follows:~~ 987

(a) To the extent that the remote seller use tax collections 988
do not exceed the debt the state owes to the federal government 989
for amounts borrowed to issue unemployment benefits from the 990

state's unemployment compensation trust fund, credit the amount to 991
the federal unemployment insurance debt retirement fund, which is 992
hereby created in the state treasury. The director shall use money 993
in the fund to make payments to the United States secretary of the 994
treasury on the balance of amounts borrowed by the state from the 995
federal government to issue unemployment benefits from the state's 996
unemployment compensation trust fund. Interest earned on money in 997
the debt retirement fund shall be credited to that fund. If the 998
debt is paid in full or is no longer owed, the director shall use 999
the remainder of the remote seller use tax collections and any 1000
money remaining in the debt retirement fund as provided in 1001
divisions (C)(2)(b) and (c) of this section. 1002

(b) To the extent that the remaining remote seller use tax 1003
collections do not exceed the difference between the sales and use 1004
tax revenue estimates calculated by the director under divisions 1005
(B)(1) and (2) of section 5739.20 of the Revised Code, credit the 1006
amount to the sales and use tax relief fund created under that 1007
section. Any remaining remote seller use tax collections shall be 1008
used as provided in division (C)(2)(c) of this section. 1009

(c) To the extent that the remote seller use tax collections 1010
remaining after crediting under division (C)(2)(b) of this section 1011
do not exceed the difference between the commercial activity tax 1012
revenue estimates calculated by the director under divisions 1013
(B)(1) and (2) of section 5751.031 of the Revised Code, credit the 1014
amount to the commercial activity tax relief fund created under 1015
that section. Remaining remote seller use tax collections shall be 1016
retained in the general revenue fund. 1017

Sec. 5751.03. (A) Except as provided in division (B) of this 1018
section and section 5751.031 of the Revised Code, the tax levied 1019
under this section for each tax period shall be the product of two 1020
and six-tenths mills per dollar times the remainder of the 1021

taxpayer's taxable gross receipts for the tax period after 1022
subtracting the exclusion amount provided for in division (C) of 1023
this section. 1024

(B) Notwithstanding division (C) of this section, the tax on 1025
the first one million dollars in taxable gross receipts each 1026
calendar year shall be calculated as follows: 1027

(1) For taxpayers with annual taxable gross receipts of one 1028
million dollars or less for the calendar year, one hundred fifty 1029
dollars; 1030

(2) For taxpayers with annual taxable gross receipts greater 1031
than one million dollars, but less than or equal to two million 1032
dollars for the calendar year, eight hundred dollars; 1033

(3) For taxpayers with annual taxable gross receipts greater 1034
than two million dollars, but less than or equal to four million 1035
dollars for the calendar year, two thousand one hundred dollars; 1036

(4) For taxpayers with annual taxable gross receipts greater 1037
than four million dollars for the calendar year, two thousand six 1038
hundred dollars. 1039

The tax imposed under division (B)(1) of this section shall 1040
be paid not later than the tenth day of May of each year along 1041
with the annual tax return. The tax imposed under divisions 1042
(B)(2), (3), and (4) of this section shall be paid not later than 1043
the tenth day of May of each year along with the first quarter tax 1044
return. 1045

(C)(1) Each taxpayer may exclude the first one million 1046
dollars of taxable gross receipts for a calendar year. Calendar 1047
quarter taxpayers shall apply the full exclusion amount to the 1048
first calendar quarter return the taxpayer files that calendar 1049
year and may carry forward and apply any unused exclusion amount 1050
to subsequent calendar quarters within that same calendar year. 1051

(2) A taxpayer switching from a calendar year tax period to a calendar quarter tax period may, for the first quarter of the change, apply the full one-million-dollar exclusion amount to the first calendar quarter return the taxpayer files that calendar year. Such taxpayers may carry forward and apply any unused exclusion amount to subsequent calendar quarters within that same calendar year. The tax rate shall be based on the rate imposed that calendar quarter when the taxpayer switches from a calendar year to a calendar quarter tax period.

(3) A taxpayer shall not exclude more than one million dollars pursuant to division (C) of this section in a calendar year.

Sec. 5751.031. (A) There is hereby created in the state treasury the commercial activity tax relief fund, which shall consist of remote seller use tax collections credited by the director of budget and management pursuant to division (C)(2)(c) of section 5741.03 of the Revised Code.

(B) Not later than the thirty-first day of July of each year beginning in 2015, the director shall calculate the following based on the director's best estimates:

(1) The revenue that will be received from the tax levied under Chapter 5751. of the Revised Code in the twelve-month period beginning on the succeeding first day of December and ending on the last day of the following November with no reduction to the rate specified in division (A) of section 5751.03 of the Revised Code;

(2) The revenue that would be received from that tax during that period if the rate of the tax were to be two mills per dollar instead of the rate specified in division (A) of section 5751.03 of the Revised Code;

(3) The percentage obtained by multiplying the balance of the commercial activity tax relief fund, after all credits for the current year have been made pursuant to divisions (C)(2)(a), (b), and (c) of section 5741.03 of the Revised Code, by twenty-six hundredths of one per cent, then dividing the product by the revenue estimate determined in division (B)(1) of this section.

(C) Not later than the thirty-first day of July of each year beginning in 2015, the director shall certify the percentage calculated in division (B)(3) of this section to the tax commissioner. If the percentage is not less than six thousandths of one per cent, the commissioner shall reduce the rate specified in division (A) of section 5751.03 of the Revised Code by six-tenths of one mill per dollar. If the percentage is less than six thousandths of one per cent but not less than three thousandths of one per cent, the commissioner shall reduce the tax rate by three-tenths of one mill per dollar. If the percentage is less than one-one thousandth of one per cent, the commissioner shall not reduce the tax rate.

Rate reductions under this division apply to tax periods beginning on the succeeding first day of October and ending on the thirtieth day of the following September.

(D) The director shall transfer money in the commercial activity tax relief fund to the general revenue fund, the local government fund, the public library fund, the revenue enhancement fund, the commercial activity tax motor fuel receipts fund, the school district tangible property tax replacement fund, and the local government property tax replacement fund as necessary to offset revenue reductions resulting from the reductions in taxes required under division (C) of this section in the respective amounts and percentages prescribed by sections 131.51 and 5751.20 of the Revised Code. If no reductions in taxes are made under that division, the director shall not transfer money from the

commercial activity relief fund. Interest earned on money in the 1114

commercial activity tax relief fund shall be credited to the 1115

commercial activity tax relief fund. 1116

Section 2. That existing sections 5739.02, 5741.02, 5741.03, 1117

and 5751.03 of the Revised Code are hereby repealed. 1118