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132nd General Assembly
Regular Session
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Sub. H. B. No. 427

A BILL

To amend sections 2903.04, 5166.01, and 5747.01 and 1
to enact sections 109.96, 109.961, 3705.161, 2
3727.80, 3727.81, 4765.60, 4765.61, 5119.58, 3
5119.581, 5119.582, 5119.583, 5119.584, 5119.59, 4
5119.591, 5119.63, 5119.64, 5119.65, 5166.38, 5
and 5747.014 of the Revised Code regarding drug 6
abuse response teams, drug overdose death and 7
naloxone administration reports, emergency 8
assessments for drug addiction, faith-based 9
substance abuse grant programs, a physician 10
income tax deduction for faith-based pro bono 11
addiction services, and involuntary manslaughter 12
involving a controlled substance. 13

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

Section 1. That sections 2903.04, 5166.01, and 5747.01 be 14
amended and sections 109.96, 109.961, 3705.161, 3727.80, 15
3727.81, 4765.60, 4765.61, 5119.58, 5119.581, 5119.582, 16
5119.583, 5119.584, 5119.59, 5119.591, 5119.63, 5119.64, 17
5119.65, 5166.38, and 5747.014 of the Revised Code be enacted to 18
read as follows: 19



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Sec. 109.96. (A) As used in this section and section 20
109.961 of the Revised Code: 21

(1) "Drug abuse response team" or "quick response team" 22
means a team of law enforcement officers who partner with 23
community addiction services providers and other individuals to 24
assist drug overdose survivors in the addiction recovery 25
process. 26

(2) "Peace officer" has the same meaning as in section 27
2921.51 of the Revised Code. 28

(B) The attorney general shall establish a procedure for 29
the approval of faith-based organizations that provide addiction 30
services or recovery supports to individuals who suffer from 31
drug abuse or addiction and that desire to participate on drug 32
abuse response teams or quick response teams that receive grants 33
from the attorney general. The procedure shall include 34
provisions that require a faith-based organization to submit 35
evidence that it has all required licenses or certifications for 36
the services it provides, that it has been successful in 37
assisting drug addicts with recovery, that it is financially 38
stable, and that it has a positive reputation among drug or 39
common pleas court personnel and peace officers in the 40
geographic communities it serves. The attorney general may 41
consult with the director of mental health and addiction 42
services as well as other persons or government entities 43
experienced with the provision of addiction services and 44
recovery supports when fulfilling this requirement. 45

(C) The attorney general shall maintain a registry of each 46
faith-based organization the attorney general approves pursuant 47
to the procedure established under division (B) of this section. 48
The attorney general shall periodically review the registry and 49

update it as the attorney general considers appropriate. 50

Sec. 109.961. (A) If the attorney general establishes and 51
maintains a program to award grants to drug abuse response teams 52
and quick response teams, the attorney general shall create a 53
grant application and develop a process to receive grant 54
applications and evaluate them on a competitive basis. The grant 55
application shall require an applicant to do either of the 56
following: 57

(1) Identify at least one faith-based organization 58
approved by the attorney general pursuant to the procedure 59
established under division (B) of section 109.96 of the Revised 60
Code that will participate on the drug abuse response team or 61
quick response team; 62

(2) Specify that no approved faith-based organizations 63
exist in the geographic communities served by the team. 64

(B) An applicant that fails to fulfill the requirement in 65
division (A) of this section is ineligible for a grant. 66

Sec. 2903.04. (A) (1) No person shall cause the death of 67
another or the unlawful termination of another's pregnancy as a 68
proximate result of the offender's committing or attempting to 69
commit a felony. 70

(2) No person shall recklessly cause the death of another 71
or the unlawful termination of another's pregnancy as a result 72
of the offender's sale of any controlled substance or controlled 73
substance analog in violation of section 2925.03 of the Revised 74
Code. 75

(B) No person shall cause the death of another or the 76
unlawful termination of another's pregnancy as a proximate 77
result of the offender's committing or attempting to commit a 78

misdemeanor of any degree, a regulatory offense, or a minor 79
misdemeanor other than a violation of any section contained in 80
Title XLV of the Revised Code that is a minor misdemeanor and 81
other than a violation of an ordinance of a municipal 82
corporation that, regardless of the penalty set by ordinance for 83
the violation, is substantially equivalent to any section 84
contained in Title XLV of the Revised Code that is a minor 85
misdemeanor. 86

(C) Whoever violates this section is guilty of involuntary 87
manslaughter. Violation of division (A) of this section is a 88
felony of the first degree. Violation of division (B) of this 89
section is a felony of the third degree. 90

(D) If an offender is convicted of or pleads guilty to a 91
violation of division (A) or (B) of this section and if the 92
felony, misdemeanor, or regulatory offense that the offender 93
committed or attempted to commit, that proximately resulted in 94
the death of the other person or the unlawful termination of 95
another's pregnancy, and that is the basis of the offender's 96
violation of division (A) or (B) of this section was a violation 97
of division (A) or (B) of section 4511.19 of the Revised Code or 98
of a substantially equivalent municipal ordinance or included, 99
as an element of that felony, misdemeanor, or regulatory 100
offense, the offender's operation or participation in the 101
operation of a snowmobile, locomotive, watercraft, or aircraft 102
while the offender was under the influence of alcohol, a drug of 103
abuse, or alcohol and a drug of abuse, both of the following 104
apply: 105

(1) The court shall impose a class one suspension of the 106
offender's driver's or commercial driver's license or permit or 107
nonresident operating privilege as specified in division (A)(1) 108

of section 4510.02 of the Revised Code. 109

(2) The court shall impose a mandatory prison term for the 110
violation of division (A) or (B) of this section from the range 111
of prison terms authorized for the level of the offense under 112
section 2929.14 of the Revised Code. 113

(E) As used in this section, "controlled substance" and 114
"controlled substance analog" have the same meanings as in 115
section 3719.01 of the Revised Code. 116

Sec. 3705.161. (A) The department of health shall publish 117
on its internet web site the number of deaths, delineated by 118
county, for which it determined during the preceding month that 119
the known cause of death was drug overdose. The department shall 120
update this information on a monthly basis using information 121
submitted to it by coroners through the Ohio public health data 122
warehouse. The department shall issue a press release each time 123
a monthly update is completed. The press release shall include 124
the most current hotline number for addiction treatment referral 125
services administered by the department of mental health and 126
addiction services or its representative. 127

(B) The director of health may adopt rules the director 128
considers necessary to implement this section. All rules adopted 129
under this division shall be adopted in accordance with Chapter 130
119. of the Revised Code. 131

Sec. 3727.80. (A) As used in this section: 132

(1) "Drug abuse response team" and "quick response team" 133
have the same meanings as in section 109.96 of the Revised Code. 134

(2) "Emergency medical services person" is the singular of 135
"emergency medical services personnel" as defined in section 136
4765.01 of the Revised Code. 137

(3) "Peace officer" has the same meaning as in section 138
2921.51 of the Revised Code. 139

(B) A hospital in which naloxone was administered to an 140
individual shall notify a drug abuse response team or quick 141
response team, if one exists in the community in which the 142
administration occurred. If the hospital is aware that the 143
individual participates in a local drug court or similar 144
program, the hospital also shall notify that program. If 145
requested, the hospital shall assist the drug abuse response 146
team or quick response team with its assessment of the 147
individual. 148

Sec. 3727.81. For public health surveillance purposes, a 149
hospital shall submit monthly reports to the state board of 150
emergency medical, fire, and transportation services regarding 151
each individual to whom naloxone was administered on hospital 152
premises in the preceding calendar month. If known, the hospital 153
shall include the individual's name, social security number, 154
birth date, and residential address. The board may, to the 155
extent permitted by law, require hospitals to report other 156
information about those individuals or the circumstances of 157
administration that it considers appropriate. 158

Sec. 4765.60. (A) As used in this section and section 159
4765.61 of the Revised Code: 160

(1) "Drug abuse response team" and "quick response team" 161
have the same meanings as in section 109.96 of the Revised Code. 162

(2) "Emergency medical services person" is the singular of 163
"emergency medical services personnel." 164

(3) "Peace officer" has the same meaning as in section 165
2921.51 of the Revised Code. 166

(B) An emergency medical services person or peace officer 167
who administers naloxone to an individual shall notify a drug 168
abuse response team or quick response team, if one exists in the 169
community in which the administration occurred. If the person or 170
officer is aware that the individual participates in a local 171
drug court or similar program, the person or officer also shall 172
notify that program. If requested, the person or officer shall 173
assist the drug abuse response team or quick response team with 174
the team's assessment of an individual to whom the person or 175
officer administered naloxone. 176

Sec. 4765.61. For public health surveillance purposes, an 177
emergency medical services organization or person or government 178
entity that employs peace officers shall submit monthly reports 179
to the state board of emergency medical, fire, and 180
transportation services regarding each individual to whom an 181
emergency medical services person or peace officer employed by 182
the organization, person, or government entity administered 183
naloxone in the preceding calendar month. If known, the 184
organization, person, or government entity shall include the 185
individual's name, social security number, birth date, and 186
residential address. The board may, to the extent permitted by 187
law, require the organizations, persons, and entities to report 188
other information about those individuals or the circumstances 189
of administration that it considers appropriate. 190

Sec. 5119.58. As used in this section and sections 191
5119.581 to 5119.591 of the Revised Code: 192

(A) "Certified nurse practitioner" and "clinical nurse 193
specialist" have the same meanings as in section 4723.01 of the 194
Revised Code. 195

(B) "Danger" or "threat of danger to self, family, or 196

others" means substantial physical harm or threat of substantial 197
physical harm upon self, family, or others, including a threat 198
of death by drug overdose. 199

(C) "Emergency medical services person" is the singular of 200
"emergency medical services personnel" as defined in section 201
4765.01 of the Revised Code. 202

(D) "Hospital" means a hospital registered with the 203
department of health under section 3701.07 of the Revised Code. 204

(E) "Inpatient drug treatment facility" means a facility 205
operated by a community addiction services provider that 206
provides drug treatment services on an inpatient basis. 207

(F) "Physician" means an individual who holds a valid 208
license to practice medicine and surgery or osteopathic medicine 209
and surgery issued under Chapter 4731. of the Revised Code. 210

(G) "Physician assistant" means an individual who holds a 211
valid license to practice as a physician assistant under Chapter 212
4730. of the Revised Code. 213

Sec. 5119.581. (A) Subject to section 3727.06 of the 214
Revised Code, if applicable, a physician, physician assistant, 215
clinical nurse specialist, or certified nurse practitioner may, 216
without consent, admit to a hospital or inpatient drug treatment 217
facility an individual who meets the criteria in division (B) of 218
this section. The purpose of the admission shall be emergency 219
assessment and stabilization for drug abuse or addiction. 220

(B) No individual shall be admitted to a hospital or 221
inpatient drug treatment facility under the circumstances in 222
division (A) of this section unless the professional who 223
initiates the admission knows that the individual to be admitted 224
has been treated with naloxone for reversal of an apparent 225

opioid overdose at least twice in a single seventy-two-hour 226
period during the week immediately before the admission. 227

Sec. 5119.582. An emergency medical services person may, 228
when an individual refuses to consent to assistance for drug 229
abuse or addiction and the emergency medical services person 230
knows that the individual has been treated with naloxone for 231
reversal of an apparent opioid overdose at least twice in a 232
single seventy-two-hour period during the week immediately 233
before the refusal, transport the individual to a hospital or 234
inpatient drug treatment facility. On arrival at the hospital or 235
facility, the emergency medical services person shall complete 236
an affidavit developed by the department of mental health and 237
addiction services under section 5119.584 of the Revised Code. 238
The completed affidavit shall be filed in the individual's 239
medical record. 240

After review of the completed affidavit by a physician, 241
physician assistant, clinical nurse specialist, or certified 242
nurse practitioner, the reviewing health care professional may, 243
subject to section 3727.06 of the Revised Code, if applicable, 244
admit the individual to the hospital or facility. 245

Transportation to a hospital or inpatient drug treatment 246
facility as described in this section is not an arrest for any 247
purpose, and no entry or other record may be made to indicate 248
that the individual was charged with any crime. 249

Sec. 5119.583. (A) An individual who has been admitted to 250
a hospital or inpatient drug treatment facility under section 251
5119.581 or 5119.582 of the Revised Code shall be assessed for 252
drug abuse or addiction without delay. Not later than seventy- 253
two hours after admission, the admitting health care 254
professional or another health care professional authorized to 255

complete drug abuse or addiction assessments shall complete a 256
report in which the professional specifies all of the following: 257

(1) Whether the professional, based on the professional's 258
judgment and training, determines that the individual suffers 259
from drug abuse or addiction; 260

(2) Whether the professional, based on the professional's 261
judgment and training, determines either of the following: 262

(a) That the individual presents an imminent danger or 263
imminent threat of danger to self, family, or others as a result 264
of drug abuse or addiction; 265

(b) That there exists a substantial likelihood of a threat 266
described in division (A) (2) (a) of this section in the near 267
future. If the professional believes that the individual is more 268
likely than not to suffer another accidental overdose in the 269
near future, that belief alone is sufficient to constitute a 270
substantial likelihood of an imminent threat to self in the near 271
future. 272

(3) Whether the professional, based on the professional's 273
judgment and training, determines that the individual can 274
reasonably benefit from drug abuse or addiction treatment. 275

(B) If the professional completing the assessment 276
determines that the individual does not meet all of the criteria 277
in division (A) of this section, the hospital or facility shall 278
immediately notify the individual of that determination and 279
discharge the individual if the individual does not consent to 280
further inpatient treatment. If appropriate and requested by the 281
individual, the hospital or facility may arrange for the 282
individual to receive services offered by the hospital or 283
facility or refer the individual to other services. 284

(C) (1) If the professional who completes the assessment 285
determines that the individual meets all of the criteria in 286
division (A) of this section and the individual consents to 287
inpatient treatment, the hospital or facility may retain the 288
individual at the hospital or facility for the period of time 289
covered by the consent. 290

(2) If the professional who completes the assessment 291
determines that the individual meets all of the criteria in 292
division (A) of this section, but the individual does not 293
consent to inpatient treatment, the hospital or facility may do 294
one of the following: 295

(a) Determine if the individual has a spouse, relative, or 296
guardian who is willing to initiate proceedings for involuntary 297
treatment for drug abuse under section 5119.93 of the Revised 298
Code. If such a person is available and willing to initiate such 299
proceedings, the hospital or facility shall refer that person to 300
the appropriate probate court. While a petition to initiate 301
proceedings under section 5119.93 of the Revised Code is 302
pending, the hospital or facility may retain the individual for 303
treatment. 304

(b) Determine if the individual has a co-occurring mental 305
illness that could make the individual a mentally ill person 306
subject to court order as defined in division (B) of section 307
5122.01 of the Revised Code. If such a determination is made, 308
the hospital or facility may consult with a person authorized to 309
initiate involuntary mental health treatment under section 310
5122.10 of the Revised Code and recommend that such treatment be 311
initiated. 312

(c) Discharge the individual and, if appropriate, refer 313
the individual to a community addiction services provider that 314

offers services suited to the individual's needs. 315

Sec. 5119.584. The department of mental health and 316
addiction services shall develop an affidavit that an emergency 317
medical services person may use to initiate an individual's 318
treatment for drug abuse or addiction at a hospital or inpatient 319
drug treatment facility under section 5119.582 of the Revised 320
Code. The department shall make the form available on its 321
internet web site in a format that may be downloaded and 322
reproduced. 323

Sec. 5119.59. (A) As used in this section: 324

(1) "Drug abuse response team" and "quick response team" 325
have the same meanings as in section 109.96 of the Revised Code. 326

(2) "Peace officer" has the same meaning as in section 327
2921.51 of the Revised Code. 328

(B) An inpatient drug treatment facility in which naloxone 329
was administered to an individual shall notify a drug abuse 330
response team or quick response team, if one exists in the 331
community in which the administration occurred. If the facility 332
is aware that the individual participates in a local drug court 333
or similar program, the facility also shall notify that program. 334
If requested, the facility shall assist the drug abuse response 335
team or quick response team with its assessment of the 336
individual. 337

Sec. 5119.591. For public health surveillance purposes, an 338
inpatient drug treatment facility shall submit monthly reports 339
to the state board of emergency medical, fire, and 340
transportation services regarding each individual to whom 341
naloxone was administered on facility premises in the preceding 342
calendar month. If known, the facility shall include each 343

individual's name, social security number, birth date, and 344
residential address. The board may, to the extent permitted by 345
law, require facilities to report other information about the 346
individuals or circumstances of administration that it considers 347
appropriate. 348

Sec. 5119.63. There is hereby created the faith-based 349
substance abuse curricula grant program. The department of 350
mental health and addiction services shall administer the 351
program. 352

Under the program, the department shall award grants to 353
nonprofit faith-based entities that administer programs intended 354
to support individuals in avoiding abuse of or overcoming 355
addiction to one or more substances and that use curricula 356
materials to achieve this intended purpose. The curricula 357
materials that are used may be faith-based in nature. The 358
department shall create a grant application for the program and 359
develop a process for receiving and evaluating completed grant 360
applications on a competitive basis. The grant application shall 361
require an applicant to specify which of the following the 362
department must consult with to obtain input about the entity's 363
success with supporting individuals in avoiding abuse of or 364
overcoming addiction to one or more substances: a judge or 365
magistrate from the drug court or other court that considers 366
drug-related prosecutions in the same jurisdiction as the 367
entity, that jurisdiction's chief police officer or the 368
officer's delegate, the attorney general, or any combination of 369
the foregoing. The department shall give this input significant 370
weight when making a final determination regarding a grant 371
award, although the department's decision is final. 372

The department shall select initial grant recipients not 373

later than nine months after the effective date of this section. 374
The department may award a grant to an applicant from outside 375
this state if the applicant has attested in the application that 376
the amount received will be used only to purchase curricula 377
materials for residents of this state. 378

Sec. 5119.64. There is hereby created the faith-based 379
substance abuse transportation assistance grant program. The 380
department of mental health and addiction services shall 381
administer the program. 382

Under the program, the department shall award grants to 383
nonprofit faith-based entities that administer programs intended 384
to support individuals in avoiding abuse of or overcoming 385
addiction to one or more substances. 386

An entity that is awarded a grant may use the amount 387
received only to defray the cost of providing participants in 388
its program with transportation services to program meetings or 389
activities or to reimburse participants for the costs they incur 390
in traveling to program meetings or activities. 391

The department shall create a grant application for the 392
program and develop a process for receiving and evaluating 393
completed grant applications on a competitive basis. The grant 394
application shall require an applicant to specify which of the 395
following the department must consult with to obtain input about 396
the entity's success with supporting individuals in avoiding 397
abuse of or overcoming addiction to one or more substances: a 398
judge or magistrate from the drug court or other court that 399
considers drug-related prosecutions in the same jurisdiction as 400
the entity, that jurisdiction's chief police officer or the 401
officer's delegate, the attorney general, or any combination of 402
the foregoing. The department shall give this input significant 403

weight when making a final determination regarding a grant 404
award, although the department's decision is final. 405

The department shall select initial grant recipients not 406
later than nine months after the effective date of this section. 407
The department may award a grant to an applicant from outside 408
this state if the applicant has attested in the application that 409
the amount received will be used only to defray transportation 410
costs involving residents of this state. 411

The department shall not transfer any funds appropriated 412
to it for this program to other programs or services 413
administered by the department. 414

Sec. 5119.65. (A) There is hereby created the faith-based 415
substance abuse rehabilitation facility grant program. The 416
department of mental health and addiction services shall 417
administer the program. 418

(B) Under the program, the department shall award grants 419
to nonprofit faith-based entities that meet all of the following 420
criteria: 421

(1) Have been operating for at least three years 422
immediately prior to the date the entity submits the grant 423
application to the department; 424

(2) Are able to demonstrate success with supporting 425
individuals, including those who participate in drug court or 426
are incarcerated, in avoiding abuse of or overcoming addiction 427
to one or more substances using faith-based programming; 428

(3) Are able to demonstrate that they have received 429
community support for their programming, including financial 430
support; 431

(4) Have been endorsed by at least three judges or police officers in a community intended to benefit from a grant. 432
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(C) An entity that is awarded a grant may use the amount received only to open and operate one or more facilities at which drug addiction services, certified by the department under section 5119.36 of the Revised Code, are provided. The entity must ensure that all such facilities are located in or not more than ten miles from a community that has historically had a high incidence of accidental death by opioid overdose. 434
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(D) The department shall create a grant application for the program and develop a process for receiving and evaluating completed grant applications on a competitive basis. The grant application shall require an applicant to provide evidence of meeting the criteria specified in division (B) of this section. The department shall give significant weight to the quality of the evidence it receives when making a final determination regarding a grant award. The department's decision regarding a grant award is final. 441
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The department shall select initial grant recipients not later than nine months after the effective date of this section. The department may award a grant to an applicant from outside this state if the applicant has attested in the application that the amount received will be used only to serve residents of this state. 450
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Sec. 5166.01. As used in this chapter: 456

"209(b) option" means the option described in section 457
1902(f) of the "Social Security Act," 42 U.S.C. 1396a(f), under 458
which the medicaid program's eligibility requirements for aged, 459
blind, and disabled individuals are more restrictive than the 460

eligibility requirements for the supplemental security income program. 461
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"Administrative agency" means, with respect to a home and community-based services medicaid waiver component, the department of medicaid or, if a state agency or political subdivision contracts with the department under section 5162.35 of the Revised Code to administer the component, that state agency or political subdivision. 463
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"Care management system" means the system established under section 5167.03 of the Revised Code. 469
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"Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code. 471
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"Expansion eligibility group" has the same meaning as in section 5163.01 of the Revised Code. 473
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"Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code. 475
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"Federal poverty line" has the same meaning as in section 5162.01 of the Revised Code. 477
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"Home and community-based services medicaid waiver component" means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital services, nursing facility services, or ICF/IID services. 479
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"Hospital" has the same meaning as in section 3727.01 of the Revised Code. 484
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"Hospital long-term care unit" has the same meaning as in section 5168.40 of the Revised Code. 486
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"ICDS participant" has the same meaning as in section 5164.01 of the Revised Code.	488 489
"ICF/IID" and "ICF/IID services" have the same meanings as in section 5124.01 of the Revised Code.	490 491
"Integrated care delivery system" and "ICDS" have the same meanings as in section 5164.01 of the Revised Code.	492 493
<u>"Institution for mental diseases" has the same meaning as in section 1905(i) of the "Social Security Act," 42 U.S.C. 1396d(i).</u>	494 495 496
"Level of care determination" means a determination of whether an individual needs the level of care provided by a hospital, nursing facility, or ICF/IID and whether the individual, if determined to need that level of care, would receive hospital services, nursing facility services, or ICF/IID services if not for a home and community-based services medicaid waiver component.	497 498 499 500 501 502 503
"Medicaid buy-in for workers with disabilities program" has the same meaning as in section 5163.01 of the Revised Code.	504 505
"Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code.	506 507
"Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.	508 509
"Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under the "Social Security Act," section 1115 or 1915, 42 U.S.C. 1315 or 1396n.	510 511 512 513
"Medicaid waiver component" does not include a care management system established under section 5167.03 of the Revised Code.	514 515

"Medically fragile child" means an individual who is under 516
eighteen years of age, has intensive health care needs, and is 517
considered blind or disabled under section 1614(a)(2) or (3) of 518
the "Social Security Act," 42 U.S.C. 1382c(a)(2) or (3). 519

"Nursing facility" and "nursing facility services" have 520
the same meanings as in section 5165.01 of the Revised Code. 521

"Ohio home care waiver program" means the home and 522
community-based services medicaid waiver component that is known 523
as Ohio home care and was created pursuant to section 5166.11 of 524
the Revised Code. 525

"Provider agreement" has the same meaning as in section 526
5164.01 of the Revised Code. 527

"Residential treatment facility" means a residential 528
facility licensed by the department of mental health and 529
addiction services under section 5119.34 of the Revised Code, or 530
an institution certified by the department of job and family 531
services under section 5103.03 of the Revised Code, that serves 532
children and either has more than sixteen beds or is part of a 533
campus of multiple facilities or institutions that, combined, 534
have a total of more than sixteen beds. 535

"Skilled nursing facility" has the same meaning as in 536
section 5165.01 of the Revised Code. 537

"Unified long-term services and support medicaid waiver 538
component" means the medicaid waiver component authorized by 539
section 5166.14 of the Revised Code. 540

Sec. 5166.38. Not later than thirty days after the 541
effective date of this section, the department of medicaid shall 542
create and administer a medicaid waiver component that does both 543
of the following: 544

(A) Permits an individual to enroll in medicaid despite 545
being a patient in an institution for mental diseases who is at 546
least twenty-one years of age but less than sixty-five years of 547
age if all of the following apply: 548

(1) The individual was admitted to the institution only 549
for the treatment of substance addiction. 550

(2) The institution has less than one hundred beds. 551

(3) The individual would be eligible to enroll in medicaid 552
if not for the individual's age and being such a patient. 553

(B) Provides for the medicaid program to receive federal 554
financial participation for medicaid services provided to 555
individuals who enroll in medicaid under the waiver component, 556
including services provided by an institution for mental 557
diseases. 558

Sec. 5747.01. Except as otherwise expressly provided or 559
clearly appearing from the context, any term used in this 560
chapter that is not otherwise defined in this section has the 561
same meaning as when used in a comparable context in the laws of 562
the United States relating to federal income taxes or if not 563
used in a comparable context in those laws, has the same meaning 564
as in section 5733.40 of the Revised Code. Any reference in this 565
chapter to the Internal Revenue Code includes other laws of the 566
United States relating to federal income taxes. 567

As used in this chapter: 568

(A) "Adjusted gross income" or "Ohio adjusted gross 569
income" means federal adjusted gross income, as defined and used 570
in the Internal Revenue Code, adjusted as provided in this 571
section: 572

(1) Add interest or dividends on obligations or securities	573
of any state or of any political subdivision or authority of any	574
state, other than this state and its subdivisions and	575
authorities.	576
(2) Add interest or dividends on obligations of any	577
authority, commission, instrumentality, territory, or possession	578
of the United States to the extent that the interest or	579
dividends are exempt from federal income taxes but not from	580
state income taxes.	581
(3) Deduct interest or dividends on obligations of the	582
United States and its territories and possessions or of any	583
authority, commission, or instrumentality of the United States	584
to the extent that the interest or dividends are included in	585
federal adjusted gross income but exempt from state income taxes	586
under the laws of the United States.	587
(4) Deduct disability and survivor's benefits to the	588
extent included in federal adjusted gross income.	589
(5) Deduct benefits under Title II of the Social Security	590
Act and tier 1 railroad retirement benefits to the extent	591
included in federal adjusted gross income under section 86 of	592
the Internal Revenue Code.	593
(6) In the case of a taxpayer who is a beneficiary of a	594
trust that makes an accumulation distribution as defined in	595
section 665 of the Internal Revenue Code, add, for the	596
beneficiary's taxable years beginning before 2002, the portion,	597
if any, of such distribution that does not exceed the	598
undistributed net income of the trust for the three taxable	599
years preceding the taxable year in which the distribution is	600
made to the extent that the portion was not included in the	601

trust's taxable income for any of the trust's taxable years 602
beginning in 2002 or thereafter. "Undistributed net income of a 603
trust" means the taxable income of the trust increased by (a) (i) 604
the additions to adjusted gross income required under division 605
(A) of this section and (ii) the personal exemptions allowed to 606
the trust pursuant to section 642(b) of the Internal Revenue 607
Code, and decreased by (b) (i) the deductions to adjusted gross 608
income required under division (A) of this section, (ii) the 609
amount of federal income taxes attributable to such income, and 610
(iii) the amount of taxable income that has been included in the 611
adjusted gross income of a beneficiary by reason of a prior 612
accumulation distribution. Any undistributed net income included 613
in the adjusted gross income of a beneficiary shall reduce the 614
undistributed net income of the trust commencing with the 615
earliest years of the accumulation period. 616

(7) Deduct the amount of wages and salaries, if any, not 617
otherwise allowable as a deduction but that would have been 618
allowable as a deduction in computing federal adjusted gross 619
income for the taxable year, had the targeted jobs credit 620
allowed and determined under sections 38, 51, and 52 of the 621
Internal Revenue Code not been in effect. 622

(8) Deduct any interest or interest equivalent on public 623
obligations and purchase obligations to the extent that the 624
interest or interest equivalent is included in federal adjusted 625
gross income. 626

(9) Add any loss or deduct any gain resulting from the 627
sale, exchange, or other disposition of public obligations to 628
the extent that the loss has been deducted or the gain has been 629
included in computing federal adjusted gross income. 630

(10) Deduct or add amounts, as provided under section 631

5747.70 of the Revised Code, related to contributions to 632
variable college savings program accounts made or tuition units 633
purchased pursuant to Chapter 3334. of the Revised Code. 634

(11) (a) Deduct, to the extent not otherwise allowable as a 635
deduction or exclusion in computing federal or Ohio adjusted 636
gross income for the taxable year, the amount the taxpayer paid 637
during the taxable year for medical care insurance and qualified 638
long-term care insurance for the taxpayer, the taxpayer's 639
spouse, and dependents. No deduction for medical care insurance 640
under division (A) (11) of this section shall be allowed either 641
to any taxpayer who is eligible to participate in any subsidized 642
health plan maintained by any employer of the taxpayer or of the 643
taxpayer's spouse, or to any taxpayer who is entitled to, or on 644
application would be entitled to, benefits under part A of Title 645
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 646
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 647
of this section, "subsidized health plan" means a health plan 648
for which the employer pays any portion of the plan's cost. The 649
deduction allowed under division (A) (11) (a) of this section 650
shall be the net of any related premium refunds, related premium 651
reimbursements, or related insurance premium dividends received 652
during the taxable year. 653

(b) Deduct, to the extent not otherwise deducted or 654
excluded in computing federal or Ohio adjusted gross income 655
during the taxable year, the amount the taxpayer paid during the 656
taxable year, not compensated for by any insurance or otherwise, 657
for medical care of the taxpayer, the taxpayer's spouse, and 658
dependents, to the extent the expenses exceed seven and one-half 659
per cent of the taxpayer's federal adjusted gross income. 660

(c) Deduct, to the extent not otherwise deducted or 661

excluded in computing federal or Ohio adjusted gross income, any 662
amount included in federal adjusted gross income under section 663
105 or not excluded under section 106 of the Internal Revenue 664
Code solely because it relates to an accident and health plan 665
for a person who otherwise would be a "qualifying relative" and 666
thus a "dependent" under section 152 of the Internal Revenue 667
Code but for the fact that the person fails to meet the income 668
and support limitations under section 152(d)(1)(B) and (C) of 669
the Internal Revenue Code. 670

(d) For purposes of division (A)(11) of this section, 671
"medical care" has the meaning given in section 213 of the 672
Internal Revenue Code, subject to the special rules, 673
limitations, and exclusions set forth therein, and "qualified 674
long-term care" has the same meaning given in section 7702B(c) 675
of the Internal Revenue Code. Solely for purposes of divisions 676
(A)(11)(a) and (c) of this section, "dependent" includes a 677
person who otherwise would be a "qualifying relative" and thus a 678
"dependent" under section 152 of the Internal Revenue Code but 679
for the fact that the person fails to meet the income and 680
support limitations under section 152(d)(1)(B) and (C) of the 681
Internal Revenue Code. 682

(12)(a) Deduct any amount included in federal adjusted 683
gross income solely because the amount represents a 684
reimbursement or refund of expenses that in any year the 685
taxpayer had deducted as an itemized deduction pursuant to 686
section 63 of the Internal Revenue Code and applicable United 687
States department of the treasury regulations. The deduction 688
otherwise allowed under division (A)(12)(a) of this section 689
shall be reduced to the extent the reimbursement is attributable 690
to an amount the taxpayer deducted under this section in any 691
taxable year. 692

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15) (a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings

account under division (A) (2) of section 3924.68 of the Revised Code during the taxable year. 722
723

(16) Add any amount claimed as a credit under section 724
5747.059 or 5747.65 of the Revised Code to the extent that such 725
amount satisfies either of the following: 726

(a) The amount was deducted or excluded from the 727
computation of the taxpayer's federal adjusted gross income as 728
required to be reported for the taxpayer's taxable year under 729
the Internal Revenue Code; 730

(b) The amount resulted in a reduction of the taxpayer's 731
federal adjusted gross income as required to be reported for any 732
of the taxpayer's taxable years under the Internal Revenue Code. 733

(17) Deduct the amount contributed by the taxpayer to an 734
individual development account program established by a county 735
department of job and family services pursuant to sections 736
329.11 to 329.14 of the Revised Code for the purpose of matching 737
funds deposited by program participants. On request of the tax 738
commissioner, the taxpayer shall provide any information that, 739
in the tax commissioner's opinion, is necessary to establish the 740
amount deducted under division (A) (17) of this section. 741

(18) Beginning in taxable year 2001 but not for any 742
taxable year beginning after December 31, 2005, if the taxpayer 743
is married and files a joint return and the combined federal 744
adjusted gross income of the taxpayer and the taxpayer's spouse 745
for the taxable year does not exceed one hundred thousand 746
dollars, or if the taxpayer is single and has a federal adjusted 747
gross income for the taxable year not exceeding fifty thousand 748
dollars, deduct amounts paid during the taxable year for 749
qualified tuition and fees paid to an eligible institution for 750

the taxpayer, the taxpayer's spouse, or any dependent of the 751
taxpayer, who is a resident of this state and is enrolled in or 752
attending a program that culminates in a degree or diploma at an 753
eligible institution. The deduction may be claimed only to the 754
extent that qualified tuition and fees are not otherwise 755
deducted or excluded for any taxable year from federal or Ohio 756
adjusted gross income. The deduction may not be claimed for 757
educational expenses for which the taxpayer claims a credit 758
under section 5747.27 of the Revised Code. 759

(19) Add any reimbursement received during the taxable 760
year of any amount the taxpayer deducted under division (A) (18) 761
of this section in any previous taxable year to the extent the 762
amount is not otherwise included in Ohio adjusted gross income. 763

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 764
(v) of this section, add five-sixths of the amount of 765
depreciation expense allowed by subsection (k) of section 168 of 766
the Internal Revenue Code, including the taxpayer's 767
proportionate or distributive share of the amount of 768
depreciation expense allowed by that subsection to a pass- 769
through entity in which the taxpayer has a direct or indirect 770
ownership interest. 771

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 772
of this section, add five-sixths of the amount of qualifying 773
section 179 depreciation expense, including the taxpayer's 774
proportionate or distributive share of the amount of qualifying 775
section 179 depreciation expense allowed to any pass-through 776
entity in which the taxpayer has a direct or indirect ownership 777
interest. 778

(iii) Subject to division (A) (20) (a) (v) of this section, 779
for taxable years beginning in 2012 or thereafter, if the 780

increase in income taxes withheld by the taxpayer is equal to or 781
greater than ten per cent of income taxes withheld by the 782
taxpayer during the taxpayer's immediately preceding taxable 783
year, "two-thirds" shall be substituted for "five-sixths" for 784
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 785

(iv) Subject to division (A) (20) (a) (v) of this section, 786
for taxable years beginning in 2012 or thereafter, a taxpayer is 787
not required to add an amount under division (A) (20) of this 788
section if the increase in income taxes withheld by the taxpayer 789
and by any pass-through entity in which the taxpayer has a 790
direct or indirect ownership interest is equal to or greater 791
than the sum of (I) the amount of qualifying section 179 792
depreciation expense and (II) the amount of depreciation expense 793
allowed to the taxpayer by subsection (k) of section 168 of the 794
Internal Revenue Code, and including the taxpayer's 795
proportionate or distributive shares of such amounts allowed to 796
any such pass-through entities. 797

(v) If a taxpayer directly or indirectly incurs a net 798
operating loss for the taxable year for federal income tax 799
purposes, to the extent such loss resulted from depreciation 800
expense allowed by subsection (k) of section 168 of the Internal 801
Revenue Code and by qualifying section 179 depreciation expense, 802
"the entire" shall be substituted for "five-sixths of the" for 803
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 804

The tax commissioner, under procedures established by the 805
commissioner, may waive the add-backs related to a pass-through 806
entity if the taxpayer owns, directly or indirectly, less than 807
five per cent of the pass-through entity. 808

(b) Nothing in division (A) (20) of this section shall be 809
construed to adjust or modify the adjusted basis of any asset. 810

(c) To the extent the add-back required under division (A) 811
(20)(a) of this section is attributable to property generating 812
nonbusiness income or loss allocated under section 5747.20 of 813
the Revised Code, the add-back shall be situated to the same 814
location as the nonbusiness income or loss generated by the 815
property for the purpose of determining the credit under 816
division (A) of section 5747.05 of the Revised Code. Otherwise, 817
the add-back shall be apportioned, subject to one or more of the 818
four alternative methods of apportionment enumerated in section 819
5747.21 of the Revised Code. 820

(d) For the purposes of division (A)(20)(a)(v) of this 821
section, net operating loss carryback and carryforward shall not 822
include the allowance of any net operating loss deduction 823
carryback or carryforward to the taxable year to the extent such 824
loss resulted from depreciation allowed by section 168(k) of the 825
Internal Revenue Code and by the qualifying section 179 826
depreciation expense amount. 827

(e) For the purposes of divisions (A)(20) and (21) of this 828
section: 829

(i) "Income taxes withheld" means the total amount 830
withheld and remitted under sections 5747.06 and 5747.07 of the 831
Revised Code by an employer during the employer's taxable year. 832

(ii) "Increase in income taxes withheld" means the amount 833
by which the amount of income taxes withheld by an employer 834
during the employer's current taxable year exceeds the amount of 835
income taxes withheld by that employer during the employer's 836
immediately preceding taxable year. 837

(iii) "Qualifying section 179 depreciation expense" means 838
the difference between (I) the amount of depreciation expense 839

directly or indirectly allowed to a taxpayer under section 179 840
of the Internal Revised Code, and (II) the amount of 841
depreciation expense directly or indirectly allowed to the 842
taxpayer under section 179 of the Internal Revenue Code as that 843
section existed on December 31, 2002. 844

(21) (a) If the taxpayer was required to add an amount 845
under division (A) (20) (a) of this section for a taxable year, 846
deduct one of the following: 847

(i) One-fifth of the amount so added for each of the five 848
succeeding taxable years if the amount so added was five-sixths 849
of qualifying section 179 depreciation expense or depreciation 850
expense allowed by subsection (k) of section 168 of the Internal 851
Revenue Code; 852

(ii) One-half of the amount so added for each of the two 853
succeeding taxable years if the amount so added was two-thirds 854
of such depreciation expense; 855

(iii) One-sixth of the amount so added for each of the six 856
succeeding taxable years if the entire amount of such 857
depreciation expense was so added. 858

(b) If the amount deducted under division (A) (21) (a) of 859
this section is attributable to an add-back allocated under 860
division (A) (20) (c) of this section, the amount deducted shall 861
be situated to the same location. Otherwise, the add-back shall 862
be apportioned using the apportionment factors for the taxable 863
year in which the deduction is taken, subject to one or more of 864
the four alternative methods of apportionment enumerated in 865
section 5747.21 of the Revised Code. 866

(c) No deduction is available under division (A) (21) (a) of 867
this section with regard to any depreciation allowed by section 868

168(k) of the Internal Revenue Code and by the qualifying 869
section 179 depreciation expense amount to the extent that such 870
depreciation results in or increases a federal net operating 871
loss carryback or carryforward. If no such deduction is 872
available for a taxable year, the taxpayer may carry forward the 873
amount not deducted in such taxable year to the next taxable 874
year and add that amount to any deduction otherwise available 875
under division (A) (21) (a) of this section for that next taxable 876
year. The carryforward of amounts not so deducted shall continue 877
until the entire addition required by division (A) (20) (a) of 878
this section has been deducted. 879

(d) No refund shall be allowed as a result of adjustments 880
made by division (A) (21) of this section. 881

(22) Deduct, to the extent not otherwise deducted or 882
excluded in computing federal or Ohio adjusted gross income for 883
the taxable year, the amount the taxpayer received during the 884
taxable year as reimbursement for life insurance premiums under 885
section 5919.31 of the Revised Code. 886

(23) Deduct, to the extent not otherwise deducted or 887
excluded in computing federal or Ohio adjusted gross income for 888
the taxable year, the amount the taxpayer received during the 889
taxable year as a death benefit paid by the adjutant general 890
under section 5919.33 of the Revised Code. 891

(24) Deduct, to the extent included in federal adjusted 892
gross income and not otherwise allowable as a deduction or 893
exclusion in computing federal or Ohio adjusted gross income for 894
the taxable year, military pay and allowances received by the 895
taxpayer during the taxable year for active duty service in the 896
United States army, air force, navy, marine corps, or coast 897
guard or reserve components thereof or the national guard. The 898

deduction may not be claimed for military pay and allowances 899
received by the taxpayer while the taxpayer is stationed in this 900
state. 901

(25) Deduct, to the extent not otherwise allowable as a 902
deduction or exclusion in computing federal or Ohio adjusted 903
gross income for the taxable year and not otherwise compensated 904
for by any other source, the amount of qualified organ donation 905
expenses incurred by the taxpayer during the taxable year, not 906
to exceed ten thousand dollars. A taxpayer may deduct qualified 907
organ donation expenses only once for all taxable years 908
beginning with taxable years beginning in 2007. 909

For the purposes of division (A) (25) of this section: 910

(a) "Human organ" means all or any portion of a human 911
liver, pancreas, kidney, intestine, or lung, and any portion of 912
human bone marrow. 913

(b) "Qualified organ donation expenses" means travel 914
expenses, lodging expenses, and wages and salary forgone by a 915
taxpayer in connection with the taxpayer's donation, while 916
living, of one or more of the taxpayer's human organs to another 917
human being. 918

(26) Deduct, to the extent not otherwise deducted or 919
excluded in computing federal or Ohio adjusted gross income for 920
the taxable year, amounts received by the taxpayer as retired 921
personnel pay for service in the uniformed services or reserve 922
components thereof, or the national guard, or received by the 923
surviving spouse or former spouse of such a taxpayer under the 924
survivor benefit plan on account of such a taxpayer's death. If 925
the taxpayer receives income on account of retirement paid under 926
the federal civil service retirement system or federal employees 927

retirement system, or under any successor retirement program 928
enacted by the congress of the United States that is established 929
and maintained for retired employees of the United States 930
government, and such retirement income is based, in whole or in 931
part, on credit for the taxpayer's uniformed service, the 932
deduction allowed under this division shall include only that 933
portion of such retirement income that is attributable to the 934
taxpayer's uniformed service, to the extent that portion of such 935
retirement income is otherwise included in federal adjusted 936
gross income and is not otherwise deducted under this section. 937
Any amount deducted under division (A) (26) of this section is 938
not included in a taxpayer's adjusted gross income for the 939
purposes of section 5747.055 of the Revised Code. No amount may 940
be deducted under division (A) (26) of this section on the basis 941
of which a credit was claimed under section 5747.055 of the 942
Revised Code. 943

(27) Deduct, to the extent not otherwise deducted or 944
excluded in computing federal or Ohio adjusted gross income for 945
the taxable year, the amount the taxpayer received during the 946
taxable year from the military injury relief fund created in 947
section 5902.05 of the Revised Code. 948

(28) Deduct, to the extent not otherwise deducted or 949
excluded in computing federal or Ohio adjusted gross income for 950
the taxable year, the amount the taxpayer received as a veterans 951
bonus during the taxable year from the Ohio department of 952
veterans services as authorized by Section 2r of Article VIII, 953
Ohio Constitution. 954

(29) Deduct, to the extent not otherwise deducted or 955
excluded in computing federal or Ohio adjusted gross income for 956
the taxable year, any income derived from a transfer agreement 957

or from the enterprise transferred under that agreement under 958
section 4313.02 of the Revised Code. 959

(30) Deduct, to the extent not otherwise deducted or 960
excluded in computing federal or Ohio adjusted gross income for 961
the taxable year, Ohio college opportunity or federal Pell grant 962
amounts received by the taxpayer or the taxpayer's spouse or 963
dependent pursuant to section 3333.122 of the Revised Code or 20 964
U.S.C. 1070a, et seq., and used to pay room or board furnished 965
by the educational institution for which the grant was awarded 966
at the institution's facilities, including meal plans 967
administered by the institution. For the purposes of this 968
division, receipt of a grant includes the distribution of a 969
grant directly to an educational institution and the crediting 970
of the grant to the enrollee's account with the institution. 971

(31) (a) For taxable years beginning in 2015, deduct from 972
the portion of an individual's adjusted gross income that is 973
business income, to the extent not otherwise deducted or 974
excluded in computing federal or Ohio adjusted gross income for 975
the taxable year, the lesser of the following amounts: 976

(i) Seventy-five per cent of the individual's business 977
income; 978

(ii) Ninety-three thousand seven hundred fifty dollars for 979
each spouse if spouses file separate returns under section 980
5747.08 of the Revised Code or one hundred eighty-seven thousand 981
five hundred dollars for all other individuals. 982

(b) For taxable years beginning in 2016 or thereafter, 983
deduct from the portion of an individual's adjusted gross income 984
that is business income, to the extent not otherwise deducted or 985
excluded in computing federal adjusted gross income for the 986

taxable year, one hundred twenty-five thousand dollars for each 987
spouse if spouses file separate returns under section 5747.08 of 988
the Revised Code or two hundred fifty thousand dollars for all 989
other individuals. 990

(32) Deduct, as provided under section 5747.78 of the 991
Revised Code, contributions to ABLE savings accounts made in 992
accordance with sections 113.50 to 113.56 of the Revised Code. 993

(33) Deduct, to the extent not otherwise deducted or 994
excluded in computing federal or Ohio adjusted gross income for 995
the taxable year, amounts computed under section 5747.014 of the 996
Revised Code relating to a physician providing uncompensated 997
medical care through or on behalf of a nonprofit faith-based 998
entity that provides drug addiction services. 999

(B) "Business income" means income, including gain or 1000
loss, arising from transactions, activities, and sources in the 1001
regular course of a trade or business and includes income, gain, 1002
or loss from real property, tangible property, and intangible 1003
property if the acquisition, rental, management, and disposition 1004
of the property constitute integral parts of the regular course 1005
of a trade or business operation. "Business income" includes 1006
income, including gain or loss, from a partial or complete 1007
liquidation of a business, including, but not limited to, gain 1008
or loss from the sale or other disposition of goodwill. 1009

(C) "Nonbusiness income" means all income other than 1010
business income and may include, but is not limited to, 1011
compensation, rents and royalties from real or tangible personal 1012
property, capital gains, interest, dividends and distributions, 1013
patent or copyright royalties, or lottery winnings, prizes, and 1014
awards. 1015

(D) "Compensation" means any form of remuneration paid to an employee for personal services. 1016
1017

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate. 1018
1019
1020

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December. 1021
1022

(G) "Individual" means any natural person. 1023

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 1024
1025

(I) "Resident" means any of the following, provided that division (I) (3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter: 1026
1027
1028

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code; 1029
1030

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section. 1031
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(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part. 1035
1036
1037

For the purposes of division (I) (3) of this section: 1038

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, 1039
1040
1041
1042

that were transferred, or caused to be transferred, directly or 1043
indirectly, to the trust by any of the following: 1044

(i) A person, a court, or a governmental entity or 1045
instrumentality on account of the death of a decedent, but only 1046
if the trust is described in division (I) (3) (e) (i) or (ii) of 1047
this section; 1048

(ii) A person who was domiciled in this state for the 1049
purposes of this chapter when the person directly or indirectly 1050
transferred assets to an irrevocable trust, but only if at least 1051
one of the trust's qualifying beneficiaries is domiciled in this 1052
state for the purposes of this chapter during all or some 1053
portion of the trust's current taxable year; 1054

(iii) A person who was domiciled in this state for the 1055
purposes of this chapter when the trust document or instrument 1056
or part of the trust document or instrument became irrevocable, 1057
but only if at least one of the trust's qualifying beneficiaries 1058
is a resident domiciled in this state for the purposes of this 1059
chapter during all or some portion of the trust's current 1060
taxable year. If a trust document or instrument became 1061
irrevocable upon the death of a person who at the time of death 1062
was domiciled in this state for purposes of this chapter, that 1063
person is a person described in division (I) (3) (a) (iii) of this 1064
section. 1065

(b) A trust is irrevocable to the extent that the 1066
transferor is not considered to be the owner of the net assets 1067
of the trust under sections 671 to 678 of the Internal Revenue 1068
Code. 1069

(c) With respect to a trust other than a charitable lead 1070
trust, "qualifying beneficiary" has the same meaning as 1071

"potential current beneficiary" as defined in section 1361(e) (2) 1072
of the Internal Revenue Code, and with respect to a charitable 1073
lead trust "qualifying beneficiary" is any current, future, or 1074
contingent beneficiary, but with respect to any trust 1075
"qualifying beneficiary" excludes a person or a governmental 1076
entity or instrumentality to any of which a contribution would 1077
qualify for the charitable deduction under section 170 of the 1078
Internal Revenue Code. 1079

(d) For the purposes of division (I) (3) (a) of this 1080
section, the extent to which a trust consists directly or 1081
indirectly, in whole or in part, of assets, net of any related 1082
liabilities, that were transferred directly or indirectly, in 1083
whole or part, to the trust by any of the sources enumerated in 1084
that division shall be ascertained by multiplying the fair 1085
market value of the trust's assets, net of related liabilities, 1086
by the qualifying ratio, which shall be computed as follows: 1087

(i) The first time the trust receives assets, the 1088
numerator of the qualifying ratio is the fair market value of 1089
those assets at that time, net of any related liabilities, from 1090
sources enumerated in division (I) (3) (a) of this section. The 1091
denominator of the qualifying ratio is the fair market value of 1092
all the trust's assets at that time, net of any related 1093
liabilities. 1094

(ii) Each subsequent time the trust receives assets, a 1095
revised qualifying ratio shall be computed. The numerator of the 1096
revised qualifying ratio is the sum of (1) the fair market value 1097
of the trust's assets immediately prior to the subsequent 1098
transfer, net of any related liabilities, multiplied by the 1099
qualifying ratio last computed without regard to the subsequent 1100
transfer, and (2) the fair market value of the subsequently 1101

transferred assets at the time transferred, net of any related 1102
liabilities, from sources enumerated in division (I) (3) (a) of 1103
this section. The denominator of the revised qualifying ratio is 1104
the fair market value of all the trust's assets immediately 1105
after the subsequent transfer, net of any related liabilities. 1106

(iii) Whether a transfer to the trust is by or from any of 1107
the sources enumerated in division (I) (3) (a) of this section 1108
shall be ascertained without regard to the domicile of the 1109
trust's beneficiaries. 1110

(e) For the purposes of division (I) (3) (a) (i) of this 1111
section: 1112

(i) A trust is described in division (I) (3) (e) (i) of this 1113
section if the trust is a testamentary trust and the testator of 1114
that testamentary trust was domiciled in this state at the time 1115
of the testator's death for purposes of the taxes levied under 1116
Chapter 5731. of the Revised Code. 1117

(ii) A trust is described in division (I) (3) (e) (ii) of 1118
this section if the transfer is a qualifying transfer described 1119
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1120
trust is an irrevocable inter vivos trust, and at least one of 1121
the trust's qualifying beneficiaries is domiciled in this state 1122
for purposes of this chapter during all or some portion of the 1123
trust's current taxable year. 1124

(f) For the purposes of division (I) (3) (e) (ii) of this 1125
section, a "qualifying transfer" is a transfer of assets, net of 1126
any related liabilities, directly or indirectly to a trust, if 1127
the transfer is described in any of the following: 1128

(i) The transfer is made to a trust, created by the 1129
decedent before the decedent's death and while the decedent was 1130

domiciled in this state for the purposes of this chapter, and, 1131
prior to the death of the decedent, the trust became irrevocable 1132
while the decedent was domiciled in this state for the purposes 1133
of this chapter. 1134

(ii) The transfer is made to a trust to which the 1135
decedent, prior to the decedent's death, had directly or 1136
indirectly transferred assets, net of any related liabilities, 1137
while the decedent was domiciled in this state for the purposes 1138
of this chapter, and prior to the death of the decedent the 1139
trust became irrevocable while the decedent was domiciled in 1140
this state for the purposes of this chapter. 1141

(iii) The transfer is made on account of a contractual 1142
relationship existing directly or indirectly between the 1143
transferor and either the decedent or the estate of the decedent 1144
at any time prior to the date of the decedent's death, and the 1145
decedent was domiciled in this state at the time of death for 1146
purposes of the taxes levied under Chapter 5731. of the Revised 1147
Code. 1148

(iv) The transfer is made to a trust on account of a 1149
contractual relationship existing directly or indirectly between 1150
the transferor and another person who at the time of the 1151
decedent's death was domiciled in this state for purposes of 1152
this chapter. 1153

(v) The transfer is made to a trust on account of the will 1154
of a testator who was domiciled in this state at the time of the 1155
testator's death for purposes of the taxes levied under Chapter 1156
5731. of the Revised Code. 1157

(vi) The transfer is made to a trust created by or caused 1158
to be created by a court, and the trust was directly or 1159

indirectly created in connection with or as a result of the 1160
death of an individual who, for purposes of the taxes levied 1161
under Chapter 5731. of the Revised Code, was domiciled in this 1162
state at the time of the individual's death. 1163

(g) The tax commissioner may adopt rules to ascertain the 1164
part of a trust residing in this state. 1165

(J) "Nonresident" means an individual or estate that is 1166
not a resident. An individual who is a resident for only part of 1167
a taxable year is a nonresident for the remainder of that 1168
taxable year. 1169

(K) "Pass-through entity" has the same meaning as in 1170
section 5733.04 of the Revised Code. 1171

(L) "Return" means the notifications and reports required 1172
to be filed pursuant to this chapter for the purpose of 1173
reporting the tax due and includes declarations of estimated tax 1174
when so required. 1175

(M) "Taxable year" means the calendar year or the 1176
taxpayer's fiscal year ending during the calendar year, or 1177
fractional part thereof, upon which the adjusted gross income is 1178
calculated pursuant to this chapter. 1179

(N) "Taxpayer" means any person subject to the tax imposed 1180
by section 5747.02 of the Revised Code or any pass-through 1181
entity that makes the election under division (D) of section 1182
5747.08 of the Revised Code. 1183

(O) "Dependents" means dependents as defined in the 1184
Internal Revenue Code and as claimed in the taxpayer's federal 1185
income tax return for the taxable year or which the taxpayer 1186
would have been permitted to claim had the taxpayer filed a 1187
federal income tax return. 1188

(P) "Principal county of employment" means, in the case of 1189
a nonresident, the county within the state in which a taxpayer 1190
performs services for an employer or, if those services are 1191
performed in more than one county, the county in which the major 1192
portion of the services are performed. 1193

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1194
Code: 1195

(1) "Subdivision" means any county, municipal corporation, 1196
park district, or township. 1197

(2) "Essential local government purposes" includes all 1198
functions that any subdivision is required by general law to 1199
exercise, including like functions that are exercised under a 1200
charter adopted pursuant to the Ohio Constitution. 1201

(R) "Overpayment" means any amount already paid that 1202
exceeds the figure determined to be the correct amount of the 1203
tax. 1204

(S) "Taxable income" or "Ohio taxable income" applies only 1205
to estates and trusts, and means federal taxable income, as 1206
defined and used in the Internal Revenue Code, adjusted as 1207
follows: 1208

(1) Add interest or dividends, net of ordinary, necessary, 1209
and reasonable expenses not deducted in computing federal 1210
taxable income, on obligations or securities of any state or of 1211
any political subdivision or authority of any state, other than 1212
this state and its subdivisions and authorities, but only to the 1213
extent that such net amount is not otherwise includible in Ohio 1214
taxable income and is described in either division (S) (1) (a) or 1215
(b) of this section: 1216

(a) The net amount is not attributable to the S portion of 1217

an electing small business trust and has not been distributed to 1218
beneficiaries for the taxable year; 1219

(b) The net amount is attributable to the S portion of an 1220
electing small business trust for the taxable year. 1221

(2) Add interest or dividends, net of ordinary, necessary, 1222
and reasonable expenses not deducted in computing federal 1223
taxable income, on obligations of any authority, commission, 1224
instrumentality, territory, or possession of the United States 1225
to the extent that the interest or dividends are exempt from 1226
federal income taxes but not from state income taxes, but only 1227
to the extent that such net amount is not otherwise includible 1228
in Ohio taxable income and is described in either division (S) 1229
(1) (a) or (b) of this section; 1230

(3) Add the amount of personal exemption allowed to the 1231
estate pursuant to section 642(b) of the Internal Revenue Code; 1232

(4) Deduct interest or dividends, net of related expenses 1233
deducted in computing federal taxable income, on obligations of 1234
the United States and its territories and possessions or of any 1235
authority, commission, or instrumentality of the United States 1236
to the extent that the interest or dividends are exempt from 1237
state taxes under the laws of the United States, but only to the 1238
extent that such amount is included in federal taxable income 1239
and is described in either division (S) (1) (a) or (b) of this 1240
section; 1241

(5) Deduct the amount of wages and salaries, if any, not 1242
otherwise allowable as a deduction but that would have been 1243
allowable as a deduction in computing federal taxable income for 1244
the taxable year, had the targeted jobs credit allowed under 1245
sections 38, 51, and 52 of the Internal Revenue Code not been in 1246

effect, but only to the extent such amount relates either to 1247
income included in federal taxable income for the taxable year 1248
or to income of the S portion of an electing small business 1249
trust for the taxable year; 1250

(6) Deduct any interest or interest equivalent, net of 1251
related expenses deducted in computing federal taxable income, 1252
on public obligations and purchase obligations, but only to the 1253
extent that such net amount relates either to income included in 1254
federal taxable income for the taxable year or to income of the 1255
S portion of an electing small business trust for the taxable 1256
year; 1257

(7) Add any loss or deduct any gain resulting from sale, 1258
exchange, or other disposition of public obligations to the 1259
extent that such loss has been deducted or such gain has been 1260
included in computing either federal taxable income or income of 1261
the S portion of an electing small business trust for the 1262
taxable year; 1263

(8) Except in the case of the final return of an estate, 1264
add any amount deducted by the taxpayer on both its Ohio estate 1265
tax return pursuant to section 5731.14 of the Revised Code, and 1266
on its federal income tax return in determining federal taxable 1267
income; 1268

(9) (a) Deduct any amount included in federal taxable 1269
income solely because the amount represents a reimbursement or 1270
refund of expenses that in a previous year the decedent had 1271
deducted as an itemized deduction pursuant to section 63 of the 1272
Internal Revenue Code and applicable treasury regulations. The 1273
deduction otherwise allowed under division (S) (9) (a) of this 1274
section shall be reduced to the extent the reimbursement is 1275
attributable to an amount the taxpayer or decedent deducted 1276

under this section in any taxable year.	1277
(b) Add any amount not otherwise included in Ohio taxable	1278
income for any taxable year to the extent that the amount is	1279
attributable to the recovery during the taxable year of any	1280
amount deducted or excluded in computing federal or Ohio taxable	1281
income in any taxable year, but only to the extent such amount	1282
has not been distributed to beneficiaries for the taxable year.	1283
(10) Deduct any portion of the deduction described in	1284
section 1341(a)(2) of the Internal Revenue Code, for repaying	1285
previously reported income received under a claim of right, that	1286
meets both of the following requirements:	1287
(a) It is allowable for repayment of an item that was	1288
included in the taxpayer's taxable income or the decedent's	1289
adjusted gross income for a prior taxable year and did not	1290
qualify for a credit under division (A) or (B) of section	1291
5747.05 of the Revised Code for that year.	1292
(b) It does not otherwise reduce the taxpayer's taxable	1293
income or the decedent's adjusted gross income for the current	1294
or any other taxable year.	1295
(11) Add any amount claimed as a credit under section	1296
5747.059 or 5747.65 of the Revised Code to the extent that the	1297
amount satisfies either of the following:	1298
(a) The amount was deducted or excluded from the	1299
computation of the taxpayer's federal taxable income as required	1300
to be reported for the taxpayer's taxable year under the	1301
Internal Revenue Code;	1302
(b) The amount resulted in a reduction in the taxpayer's	1303
federal taxable income as required to be reported for any of the	1304
taxpayer's taxable years under the Internal Revenue Code.	1305

(12) Deduct any amount, net of related expenses deducted 1306
in computing federal taxable income, that a trust is required to 1307
report as farm income on its federal income tax return, but only 1308
if the assets of the trust include at least ten acres of land 1309
satisfying the definition of "land devoted exclusively to 1310
agricultural use" under section 5713.30 of the Revised Code, 1311
regardless of whether the land is valued for tax purposes as 1312
such land under sections 5713.30 to 5713.38 of the Revised Code. 1313
If the trust is a pass-through entity investor, section 5747.231 1314
of the Revised Code applies in ascertaining if the trust is 1315
eligible to claim the deduction provided by division (S) (12) of 1316
this section in connection with the pass-through entity's farm 1317
income. 1318

Except for farm income attributable to the S portion of an 1319
electing small business trust, the deduction provided by 1320
division (S) (12) of this section is allowed only to the extent 1321
that the trust has not distributed such farm income. Division 1322
(S) (12) of this section applies only to taxable years of a trust 1323
beginning in 2002 or thereafter. 1324

(13) Add the net amount of income described in section 1325
641(c) of the Internal Revenue Code to the extent that amount is 1326
not included in federal taxable income. 1327

(14) Add or deduct the amount the taxpayer would be 1328
required to add or deduct under division (A) (20) or (21) of this 1329
section if the taxpayer's Ohio taxable income were computed in 1330
the same manner as an individual's Ohio adjusted gross income is 1331
computed under this section. In the case of a trust, division 1332
(S) (14) of this section applies only to any of the trust's 1333
taxable years beginning in 2002 or thereafter. 1334

(T) "School district income" and "school district income" 1335

tax" have the same meanings as in section 5748.01 of the Revised Code. 1336
1337

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 1338
(7) of this section, "public obligations," "purchase 1339
obligations," and "interest or interest equivalent" have the 1340
same meanings as in section 5709.76 of the Revised Code. 1341

(V) "Limited liability company" means any limited 1342
liability company formed under Chapter 1705. of the Revised Code 1343
or under the laws of any other state. 1344

(W) "Pass-through entity investor" means any person who, 1345
during any portion of a taxable year of a pass-through entity, 1346
is a partner, member, shareholder, or equity investor in that 1347
pass-through entity. 1348

(X) "Banking day" has the same meaning as in section 1349
1304.01 of the Revised Code. 1350

(Y) "Month" means a calendar month. 1351

(Z) "Quarter" means the first three months, the second 1352
three months, the third three months, or the last three months 1353
of the taxpayer's taxable year. 1354

(AA) (1) "Eligible institution" means a state university or 1355
state institution of higher education as defined in section 1356
3345.011 of the Revised Code, or a private, nonprofit college, 1357
university, or other post-secondary institution located in this 1358
state that possesses a certificate of authorization issued by 1359
the chancellor of higher education pursuant to Chapter 1713. of 1360
the Revised Code or a certificate of registration issued by the 1361
state board of career colleges and schools under Chapter 3332. 1362
of the Revised Code. 1363

(2) "Qualified tuition and fees" means tuition and fees 1364
imposed by an eligible institution as a condition of enrollment 1365
or attendance, not exceeding two thousand five hundred dollars 1366
in each of the individual's first two years of post-secondary 1367
education. If the individual is a part-time student, "qualified 1368
tuition and fees" includes tuition and fees paid for the 1369
academic equivalent of the first two years of post-secondary 1370
education during a maximum of five taxable years, not exceeding 1371
a total of five thousand dollars. "Qualified tuition and fees" 1372
does not include: 1373

(a) Expenses for any course or activity involving sports, 1374
games, or hobbies unless the course or activity is part of the 1375
individual's degree or diploma program; 1376

(b) The cost of books, room and board, student activity 1377
fees, athletic fees, insurance expenses, or other expenses 1378
unrelated to the individual's academic course of instruction; 1379

(c) Tuition, fees, or other expenses paid or reimbursed 1380
through an employer, scholarship, grant in aid, or other 1381
educational benefit program. 1382

(BB) (1) "Modified business income" means the business 1383
income included in a trust's Ohio taxable income after such 1384
taxable income is first reduced by the qualifying trust amount, 1385
if any. 1386

(2) "Qualifying trust amount" of a trust means capital 1387
gains and losses from the sale, exchange, or other disposition 1388
of equity or ownership interests in, or debt obligations of, a 1389
qualifying investee to the extent included in the trust's Ohio 1390
taxable income, but only if the following requirements are 1391
satisfied: 1392

(a) The book value of the qualifying investee's physical 1393
assets in this state and everywhere, as of the last day of the 1394
qualifying investee's fiscal or calendar year ending immediately 1395
prior to the date on which the trust recognizes the gain or 1396
loss, is available to the trust. 1397

(b) The requirements of section 5747.011 of the Revised 1398
Code are satisfied for the trust's taxable year in which the 1399
trust recognizes the gain or loss. 1400

Any gain or loss that is not a qualifying trust amount is 1401
modified business income, qualifying investment income, or 1402
modified nonbusiness income, as the case may be. 1403

(3) "Modified nonbusiness income" means a trust's Ohio 1404
taxable income other than modified business income, other than 1405
the qualifying trust amount, and other than qualifying 1406
investment income, as defined in section 5747.012 of the Revised 1407
Code, to the extent such qualifying investment income is not 1408
otherwise part of modified business income. 1409

(4) "Modified Ohio taxable income" applies only to trusts, 1410
and means the sum of the amounts described in divisions (BB) (4) 1411
(a) to (c) of this section: 1412

(a) The fraction, calculated under section 5747.013, and 1413
applying section 5747.231 of the Revised Code, multiplied by the 1414
sum of the following amounts: 1415

(i) The trust's modified business income; 1416

(ii) The trust's qualifying investment income, as defined 1417
in section 5747.012 of the Revised Code, but only to the extent 1418
the qualifying investment income does not otherwise constitute 1419
modified business income and does not otherwise constitute a 1420
qualifying trust amount. 1421

(b) The qualifying trust amount multiplied by a fraction, 1422
the numerator of which is the sum of the book value of the 1423
qualifying investee's physical assets in this state on the last 1424
day of the qualifying investee's fiscal or calendar year ending 1425
immediately prior to the day on which the trust recognizes the 1426
qualifying trust amount, and the denominator of which is the sum 1427
of the book value of the qualifying investee's total physical 1428
assets everywhere on the last day of the qualifying investee's 1429
fiscal or calendar year ending immediately prior to the day on 1430
which the trust recognizes the qualifying trust amount. If, for 1431
a taxable year, the trust recognizes a qualifying trust amount 1432
with respect to more than one qualifying investee, the amount 1433
described in division (BB) (4) (b) of this section shall equal the 1434
sum of the products so computed for each such qualifying 1435
investee. 1436

(c) (i) With respect to a trust or portion of a trust that 1437
is a resident as ascertained in accordance with division (I) (3) 1438
(d) of this section, its modified nonbusiness income. 1439

(ii) With respect to a trust or portion of a trust that is 1440
not a resident as ascertained in accordance with division (I) (3) 1441
(d) of this section, the amount of its modified nonbusiness 1442
income satisfying the descriptions in divisions (B) (2) to (5) of 1443
section 5747.20 of the Revised Code, except as otherwise 1444
provided in division (BB) (4) (c) (ii) of this section. With 1445
respect to a trust or portion of a trust that is not a resident 1446
as ascertained in accordance with division (I) (3) (d) of this 1447
section, the trust's portion of modified nonbusiness income 1448
recognized from the sale, exchange, or other disposition of a 1449
debt interest in or equity interest in a section 5747.212 1450
entity, as defined in section 5747.212 of the Revised Code, 1451
without regard to division (A) of that section, shall not be 1452

allocated to this state in accordance with section 5747.20 of 1453
the Revised Code but shall be apportioned to this state in 1454
accordance with division (B) of section 5747.212 of the Revised 1455
Code without regard to division (A) of that section. 1456

If the allocation and apportionment of a trust's income 1457
under divisions (BB) (4) (a) and (c) of this section do not fairly 1458
represent the modified Ohio taxable income of the trust in this 1459
state, the alternative methods described in division (C) of 1460
section 5747.21 of the Revised Code may be applied in the manner 1461
and to the same extent provided in that section. 1462

(5) (a) Except as set forth in division (BB) (5) (b) of this 1463
section, "qualifying investee" means a person in which a trust 1464
has an equity or ownership interest, or a person or unit of 1465
government the debt obligations of either of which are owned by 1466
a trust. For the purposes of division (BB) (2) (a) of this section 1467
and for the purpose of computing the fraction described in 1468
division (BB) (4) (b) of this section, all of the following apply: 1469

(i) If the qualifying investee is a member of a qualifying 1470
controlled group on the last day of the qualifying investee's 1471
fiscal or calendar year ending immediately prior to the date on 1472
which the trust recognizes the gain or loss, then "qualifying 1473
investee" includes all persons in the qualifying controlled 1474
group on such last day. 1475

(ii) If the qualifying investee, or if the qualifying 1476
investee and any members of the qualifying controlled group of 1477
which the qualifying investee is a member on the last day of the 1478
qualifying investee's fiscal or calendar year ending immediately 1479
prior to the date on which the trust recognizes the gain or 1480
loss, separately or cumulatively own, directly or indirectly, on 1481
the last day of the qualifying investee's fiscal or calendar 1482

year ending immediately prior to the date on which the trust 1483
recognizes the qualifying trust amount, more than fifty per cent 1484
of the equity of a pass-through entity, then the qualifying 1485
investee and the other members are deemed to own the 1486
proportionate share of the pass-through entity's physical assets 1487
which the pass-through entity directly or indirectly owns on the 1488
last day of the pass-through entity's calendar or fiscal year 1489
ending within or with the last day of the qualifying investee's 1490
fiscal or calendar year ending immediately prior to the date on 1491
which the trust recognizes the qualifying trust amount. 1492

(iii) For the purposes of division (BB) (5) (a) (iii) of this 1493
section, "upper level pass-through entity" means a pass-through 1494
entity directly or indirectly owning any equity of another pass- 1495
through entity, and "lower level pass-through entity" means that 1496
other pass-through entity. 1497

An upper level pass-through entity, whether or not it is 1498
also a qualifying investee, is deemed to own, on the last day of 1499
the upper level pass-through entity's calendar or fiscal year, 1500
the proportionate share of the lower level pass-through entity's 1501
physical assets that the lower level pass-through entity 1502
directly or indirectly owns on the last day of the lower level 1503
pass-through entity's calendar or fiscal year ending within or 1504
with the last day of the upper level pass-through entity's 1505
fiscal or calendar year. If the upper level pass-through entity 1506
directly and indirectly owns less than fifty per cent of the 1507
equity of the lower level pass-through entity on each day of the 1508
upper level pass-through entity's calendar or fiscal year in 1509
which or with which ends the calendar or fiscal year of the 1510
lower level pass-through entity and if, based upon clear and 1511
convincing evidence, complete information about the location and 1512
cost of the physical assets of the lower pass-through entity is 1513

not available to the upper level pass-through entity, then 1514
solely for purposes of ascertaining if a gain or loss 1515
constitutes a qualifying trust amount, the upper level pass- 1516
through entity shall be deemed as owning no equity of the lower 1517
level pass-through entity for each day during the upper level 1518
pass-through entity's calendar or fiscal year in which or with 1519
which ends the lower level pass-through entity's calendar or 1520
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 1521
shall be construed to provide for any deduction or exclusion in 1522
computing any trust's Ohio taxable income. 1523

(b) With respect to a trust that is not a resident for the 1524
taxable year and with respect to a part of a trust that is not a 1525
resident for the taxable year, "qualifying investee" for that 1526
taxable year does not include a C corporation if both of the 1527
following apply: 1528

(i) During the taxable year the trust or part of the trust 1529
recognizes a gain or loss from the sale, exchange, or other 1530
disposition of equity or ownership interests in, or debt 1531
obligations of, the C corporation. 1532

(ii) Such gain or loss constitutes nonbusiness income. 1533

(6) "Available" means information is such that a person is 1534
able to learn of the information by the due date plus 1535
extensions, if any, for filing the return for the taxable year 1536
in which the trust recognizes the gain or loss. 1537

(CC) "Qualifying controlled group" has the same meaning as 1538
in section 5733.04 of the Revised Code. 1539

(DD) "Related member" has the same meaning as in section 1540
5733.042 of the Revised Code. 1541

(EE) (1) For the purposes of division (EE) of this section: 1542

(a) "Qualifying person" means any person other than a qualifying corporation.	1543 1544
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	1545 1546 1547
(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;	1548 1549 1550 1551
(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.	1552 1553 1554 1555 1556
(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.	1557 1558 1559
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	1560 1561
(1) "Trust" does not include a qualified pre-income tax trust.	1562 1563
(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.	1564 1565 1566
(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or	1567 1568 1569 1570

controls, directly, indirectly, or constructively through 1571
related interests, five per cent or more of the ownership or 1572
equity interests. The trustee shall notify the tax commissioner 1573
in writing of the election on or before April 15, 2006. The 1574
election, if timely made, shall be effective on and after 1575
January 1, 2006, and shall apply for all tax periods and tax 1576
years until revoked by the trustee of the trust. 1577

(4) A "pre-income tax trust" is a trust that satisfies all 1578
of the following requirements: 1579

(a) The document or instrument creating the trust was 1580
executed by the grantor before January 1, 1972; 1581

(b) The trust became irrevocable upon the creation of the 1582
trust; and 1583

(c) The grantor was domiciled in this state at the time 1584
the trust was created. 1585

(GG) "Uniformed services" has the same meaning as in 10 1586
U.S.C. 101. 1587

(HH) "Taxable business income" means the amount by which 1588
an individual's business income that is included in federal 1589
adjusted gross income exceeds the amount of business income the 1590
individual is authorized to deduct under division (A) (31) of 1591
this section for the taxable year. 1592

Sec. 5747.014. (A) As used in this section and division 1593
(A) (33) of section 5747.01 of the Revised Code, "physician" 1594
means an individual who holds a valid license to practice 1595
medicine and surgery or osteopathic medicine and surgery issued 1596
under Chapter 4731. of the Revised Code. 1597

(B) A physician may deduct, in computing Ohio adjusted 1598

gross income for a taxable year, an amount equal to the product 1599
obtained by multiplying one hundred twenty-five dollars by the 1600
number of hours the physician provides medical care during the 1601
taxable year to patients through or on behalf of a nonprofit 1602
faith-based entity that provides drug addiction services, 1603
certified under section 5119.36 of the Revised Code, excluding 1604
any such hour for which the physician is compensated or 1605
reimbursed. The amount deducted for a taxable year may not 1606
exceed ten thousand dollars. 1607

(C) A physician who claims a deduction under this section 1608
and division (A) (33) of section 5747.01 of the Revised Code 1609
shall submit, along with the return required under section 1610
5747.08 of the Revised Code, a written statement from the 1611
nonprofit faith-based entity confirming the number of hours the 1612
physician provided uncompensated and unreimbursed medical care 1613
to patients during the taxable year through or on behalf of the 1614
nonprofit faith-based entity. A physician may not claim the 1615
deduction without first obtaining such a statement. 1616

(D) The tax commissioner may adopt rules for the 1617
administration of this section including rules governing 1618
documents, records, or other information physicians claiming the 1619
deduction shall provide to the commissioner. 1620

Section 2. That existing sections 2903.04, 5166.01, and 1621
5747.01 of the Revised Code are hereby repealed. 1622

Section 3. The Department of Mental Health and Addiction 1623
Services shall expend \$50,000 in fiscal year 2018 and \$50,000 in 1624
fiscal year 2019 for the Faith-Based Substance Abuse Curricula 1625
Grant Program established by section 5119.63 of the Revised 1626
Code. The Department shall also expend \$50,000 in fiscal year 1627
2018 and \$50,000 in fiscal year 2019 for the Faith-Based 1628

Substance Abuse Transportation Assistance Grant Program 1629
established in section 5119.64 of the Revised Code. The 1630
Department shall use any available appropriations contained in 1631
Am. Sub. H.B. 49 of the 132nd General Assembly as the source of 1632
funding for these two programs. 1633

Section 4. All items in this section are hereby 1634
appropriated as designated out of any moneys in the state 1635
treasury to the credit of the designated fund. For all 1636
appropriations made in this act, those in the first column are 1637
for fiscal year 2018 and those in the second column are for 1638
fiscal year 2019. The appropriations made in this act are in 1639
addition to any other appropriations made for the FY 2018-FY 1640
2019 biennium. 1641

MHA DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES 1642

General Revenue Fund 1643

GRF	336421	Continuum of Care	\$ 1,000,000	\$ 1,000,000	1644
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Services 1645

TOTAL GRF	General Revenue Fund	\$ 1,000,000	\$ 1,000,000	1646
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TOTAL ALL BUDGET FUND GROUPS	\$ 1,000,000	\$ 1,000,000	1647
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CONTINUUM OF CARE SERVICES 1648

The foregoing appropriation item 336421, Continuum of Care 1649
Services, shall be used for the Faith-Based Substance Abuse 1650
Rehabilitation Facility Grant Program established in section 1651
5119.65 of the Revised Code. 1652

Section 5. Within the limits set forth in this act, the 1653
Director of Budget and Management shall establish accounts 1654
indicating the source and amount of funds for each appropriation 1655
made in this act, and shall determine the form and manner in 1656

which appropriation accounts shall be maintained. Expenditures 1657
from appropriations contained in this act shall be accounted for 1658
as though made in Am. Sub. H.B. 49 of the 132nd General 1659
Assembly. 1660

The appropriations made in this act are subject to all 1661
provisions of Am. Sub. H.B. 49 of the 132nd General Assembly 1662
that are generally applicable to such appropriations. 1663

Section 6. The amendment or enactment by this act of 1664
sections 5747.01 and 5747.014 of the Revised Code applies to 1665
taxable years beginning on or after January 1, 2018. 1666