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132nd General Assembly
Regular Session
2017-2018

Sub. S. B. No. 22

A BILL

To amend sections 3334.01, 3334.02, 3334.08, 1
3334.09, 3334.18, 3334.19, 3334.20, 5701.11, 2
5747.01, and 5747.70 of the Revised Code to 3
expressly incorporate changes in the Internal 4
Revenue Code since March 30, 2017, into Ohio 5
law, to allow tax deductible contributions to 6
Ohio 529 plans for K-12 education expenses, and 7
to declare an emergency. 8

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

Section 1. That sections 3334.01, 3334.02, 3334.08, 9
3334.09, 3334.18, 3334.19, 3334.20, 5701.11, 5747.01, and 10
5747.70 of the Revised Code be amended to read as follows: 11

Sec. 3334.01. As used in this chapter: 12

(A) "Aggregate original principal amount" means the 13
aggregate of the initial offering prices to the public of 14
college savings bonds, exclusive of accrued interest, if any. 15
"Aggregate original principal amount" does not mean the 16
aggregate accreted amount payable at maturity or redemption of 17



such bonds. 18

(B) "Beneficiary" means: 19

(1) An individual designated by the purchaser under a 20
tuition payment contract or through a scholarship program as the 21
individual on whose behalf tuition units purchased under the 22
contract or awarded through the scholarship program will be 23
applied toward the payment of undergraduate, graduate, or 24
professional tuition; or 25

(2) An individual designated by the contributor under a 26
variable college savings program contract as the individual 27
whose ~~tuition and other~~ higher education expenses will be paid 28
from a variable college savings program account. 29

(C) "Capital appreciation bond" means a bond for which the 30
following is true: 31

(1) The principal amount is less than the amount payable 32
at maturity or early redemption; and 33

(2) No interest is payable on a current basis. 34

(D) "Tuition unit" means a credit of the Ohio tuition 35
trust authority purchased under section 3334.09 of the Revised 36
Code. "Tuition unit" includes a tuition credit purchased prior 37
to July 1, 1994. 38

(E) "College savings bonds" means revenue and other 39
obligations issued on behalf of the state or any agency or 40
issuing authority thereof as a zero-coupon or capital 41
appreciation bond, and designated as college savings bonds as 42
provided in this chapter. "College savings bond issue" means any 43
issue of bonds of which any part has been designated as college 44
savings bonds. 45

(F) "Institution of higher education" means a state 46
institution of higher education, a private college, university, 47
or other postsecondary institution located in this state that 48
possesses a certificate of authorization issued pursuant to 49
Chapter 1713. of the Revised Code or a certificate of 50
registration issued by the state board of career colleges and 51
schools under Chapter 3332. of the Revised Code, or an 52
accredited college, university, or other postsecondary 53
institution located outside this state that is accredited by an 54
accrediting organization or professional association recognized 55
by the authority. To be considered an institution of higher 56
education, an institution shall meet the definition of an 57
eligible educational institution under section 529 of the 58
Internal Revenue Code. 59

(G) "Issuing authority" means any authority, commission, 60
body, agency, or individual empowered by the Ohio Constitution 61
or the Revised Code to issue bonds or any other debt obligation 62
of the state or any agency or department thereof. "Issuer" means 63
the issuing authority or, if so designated under division (B) of 64
section 3334.04 of the Revised Code, the treasurer of state. 65

(H) "Tuition" means the charges imposed to attend an 66
institution of higher education as an undergraduate, graduate, 67
or professional student and all fees required as a condition of 68
enrollment, as determined by the Ohio tuition trust authority. 69
"Tuition" does not include laboratory fees, room and board, or 70
other similar fees and charges. 71

(I) "Weighted average tuition" means the tuition cost 72
resulting from the following calculation: 73

(1) Add the products of the annual undergraduate tuition 74
charged to Ohio residents at each four-year state university 75

multiplied by that institution's total number of undergraduate 76
fiscal year equated students; and 77

(2) Divide the gross total of the products from division 78
(I)(1) of this section by the total number of undergraduate 79
fiscal year equated students attending four-year state 80
universities. 81

When making this calculation, the "annual undergraduate 82
tuition charged to Ohio residents" shall not incorporate any 83
tuition reductions that vary in amount among individual 84
recipients and that are awarded to Ohio residents based upon 85
their particular circumstances, beyond any minimum amount 86
awarded uniformly to all Ohio residents. In addition, any 87
tuition reductions awarded uniformly to all Ohio residents shall 88
be incorporated into this calculation. 89

(J) "Zero-coupon bond" means a bond which has a stated 90
interest rate of zero per cent and on which no interest is 91
payable until the maturity or early redemption of the bond, and 92
is offered at a substantial discount from its original stated 93
principal amount. 94

(K) "State institution of higher education" includes the 95
state universities listed in section 3345.011 of the Revised 96
Code, community colleges created pursuant to Chapter 3354. of 97
the Revised Code, university branches created pursuant to 98
Chapter 3355. of the Revised Code, technical colleges created 99
pursuant to Chapter 3357. of the Revised Code, state community 100
colleges created pursuant to Chapter 3358. of the Revised Code, 101
and the northeast Ohio medical university. 102

(L) "Four-year state university" means those state 103
universities listed in section 3345.011 of the Revised Code. 104

(M) "Principal amount" refers to the initial offering price to the public of an obligation, exclusive of the accrued interest, if any. "Principal amount" does not refer to the aggregate accreted amount payable at maturity or redemption of an obligation.

(N) "Scholarship program" means a program registered with the Ohio tuition trust authority pursuant to section 3334.17 of the Revised Code.

~~(O) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended.~~

~~(P) "Other higher Higher education expenses" means ~~room and board and books, supplies, equipment, and nontuition-related fees associated with the cost of attendance of a beneficiary at an institution of higher education, but only to the extent that such expenses~~ that meet the definition of "qualified higher education expenses" under section 529 of the Internal Revenue Code. ~~"Other higher education expenses" does not include tuition as defined in division (H) of this section.~~~~

~~(Q)~~ (P) "Purchaser" means the person signing the tuition payment contract, who controls the account and acquires tuition units for an account under the terms and conditions of the contract.

~~(R)~~ (Q) "Contributor" means a person who signs a variable college savings program contract with the Ohio tuition trust authority and contributes to and owns the account created under the contract.

~~(S)~~ (R) "Contribution" means any payment directly allocated to an account for the benefit of the designated

beneficiary of the account. 134

Sec. 3334.02. (A) In order to help make higher education 135
affordable and accessible to all citizens of Ohio, to maintain 136
state institutions of higher education by helping to provide a 137
stable financial base to these institutions, to provide the 138
citizens of Ohio with financing assistance for higher education 139
and protection against rising tuition costs, to encourage saving 140
to enhance the ability of citizens of Ohio to obtain financial 141
access to institutions of higher education, to encourage 142
elementary and secondary students in this state to achieve 143
academic excellence, and to promote a well-educated and 144
financially secure population to the ultimate benefit of all 145
citizens of the state of Ohio, there is hereby created the Ohio 146
college savings program. The program shall consist of the 147
issuance of college savings bonds and the sale of tuition units. 148

(B) The provisions of Chapter 1707. of the Revised Code 149
shall not apply to tuition units or any agreement or transaction 150
related thereto. 151

(C) To provide the citizens of Ohio with a choice of tax- 152
advantaged college savings programs and the opportunity to 153
participate in more than one type of college savings program at 154
a time, the Ohio tuition trust authority shall establish and 155
administer a variable college savings program as a qualified 156
state tuition program under section 529 of the Internal Revenue 157
Code. The program shall allow contributors to make cash 158
contributions to variable college savings program accounts 159
created for the purpose of paying future ~~tuition and other~~ 160
higher education expenses and providing variable rates of return 161
on contributions. 162

(D) A person may participate simultaneously in both the 163

Ohio college savings program and the variable college savings program.	164 165
Sec. 3334.08. (A) Subject to division (B) of this section, in addition to any other powers conferred by this chapter, the Ohio tuition trust authority may do any of the following:	166 167 168
(1) Impose reasonable residency requirements for beneficiaries of tuition units;	169 170
(2) Impose reasonable limits on the number of tuition unit participants;	171 172
(3) Impose and collect administrative fees and charges in connection with any transaction under this chapter;	173 174
(4) Purchase insurance from insurers licensed to do business in this state providing for coverage against any loss in connection with the authority's property, assets, or activities or to further ensure the value of tuition units;	175 176 177 178
(5) Indemnify or purchase policies of insurance on behalf of members, officers, and employees of the authority from insurers licensed to do business in this state providing for coverage for any liability incurred in connection with any civil action, demand, or claim against a director, officer, or employee by reason of an act or omission by the director, officer, or employee that was not manifestly outside the scope of the employment or official duties of the director, officer, or employee or with malicious purpose, in bad faith, or in a wanton or reckless manner;	179 180 181 182 183 184 185 186 187 188
(6) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of the powers and duties of the authority;	189 190 191

(7) Promote, advertise, and publicize the Ohio college savings program and the variable college savings program;	192 193
(8) Adopt rules under section 111.15 of the Revised Code for the implementation of the Ohio college savings program;	194 195
(9) Contract, for the provision of all or part of the services necessary for the management and operation of the Ohio college savings program and the variable college savings program, with a bank, trust company, savings and loan association, insurance company, or licensed dealer in securities if the bank, company, association, or dealer is authorized to do business in this state and information about the contract is filed with the controlling board pursuant to division (D)(6) of section 127.16 of the Revised Code; provided, however, that any funds of the Ohio college savings program and the variable college savings program that are not needed for immediate use shall be deposited by the treasurer of state in the same manner provided under Chapter 135. of the Revised Code for public moneys of the state. All interest earned on those deposits shall be credited to the Ohio college savings program or the variable college savings program, as applicable.	196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211
(10) Contract for other services, or for goods, needed by the authority in the conduct of its business, including but not limited to credit card services;	212 213 214
(11) Employ an executive director and other personnel as necessary to carry out its responsibilities under this chapter, and fix the compensation of these persons. All employees of the authority shall be in the unclassified civil service and shall be eligible for membership in the public employees retirement system. In the hiring of the executive director, the Ohio tuition trust authority shall obtain the advice and consent of	215 216 217 218 219 220 221

the Ohio tuition trust investment board created in section 222
3334.03 of the Revised Code, provided that the executive 223
director shall not be hired unless a majority of the board votes 224
in favor of the hiring. In addition, the board may remove the 225
executive director at any time subject to the advice and consent 226
of the chancellor of higher education. 227

(12) Contract with financial consultants, actuaries, 228
auditors, and other consultants as necessary to carry out its 229
responsibilities under this chapter; 230

(13) Enter into agreements with any agency of the state or 231
its political subdivisions or with private employers under which 232
an employee may agree to have a designated amount deducted in 233
each payroll period from the wages or salary due the employee 234
for the purpose of purchasing tuition units pursuant to a 235
tuition payment contract or making contributions pursuant to a 236
variable college savings program contract; 237

(14) Enter into an agreement with the treasurer of state 238
under which the treasurer of state will receive, and credit to 239
the Ohio tuition trust fund or variable college savings program 240
fund, from any bank or savings and loan association authorized 241
to do business in this state, amounts that a depositor of the 242
bank or association authorizes the bank or association to 243
withdraw periodically from the depositor's account for the 244
purpose of purchasing tuition units pursuant to a tuition 245
payment contract or making contributions pursuant to a variable 246
college savings program contract; 247

(15) Solicit and accept gifts, grants, and loans from any 248
person or governmental agency and participate in any 249
governmental program; 250

(16) Impose limits on the number of units which may be purchased on behalf of or assigned or awarded to any beneficiary and on the total amount of contributions that may be made on behalf of a beneficiary;	251 252 253 254
(17) Impose restrictions on the substitution of another individual for the original beneficiary under the Ohio college savings program;	255 256 257
(18) Impose a limit on the age of a beneficiary, above which tuition units may not be purchased on behalf of that beneficiary;	258 259 260
(19) Enter into a cooperative agreement with the treasurer of state to provide for the direct disbursement of payments under tuition payment or variable college savings program contracts;	261 262 263 264
(20) Determine the other higher education expenses for which tuition units or contributions may be used;	265 266
(21) Terminate any tuition payment or variable college savings program contract if no purchases or contributions are made for a period of three years or more and there are fewer than a total of five tuition units or less than a dollar amount set by rule on account, provided that notice of a possible termination shall be provided in advance, explaining any options to prevent termination, and a reasonable amount of time shall be provided within which to act to prevent a termination;	267 268 269 270 271 272 273 274
(22) <u>(21)</u> Maintain a separate account for each tuition payment or variable college savings program contract;	275 276
(23) <u>(22)</u> Perform all acts necessary and proper to carry out the duties and responsibilities of the authority pursuant to this chapter.	277 278 279

(B) The authority shall adopt rules under section 111.15 280
of the Revised Code for the implementation and administration of 281
the variable college savings program. The rules shall provide 282
taxpayers with the maximum tax advantages and flexibility 283
consistent with section 529 of the Internal Revenue Code and 284
regulations adopted thereunder with regard to disposition of 285
contributions and earnings, designation of beneficiaries, and 286
rollover of account assets to other programs. 287

(C) Except as otherwise specified in this chapter, the 288
provisions of Chapters 123. and 4117. of the Revised Code shall 289
not apply to the authority and Chapter 125. of the Revised Code 290
shall not apply to contracts approved under the powers of the 291
Ohio tuition trust authority investment board under section 292
3334.03 of the Revised Code. 293

Sec. 3334.09. (A) Except in the case of a scholarship 294
program established in accordance with section 3334.17 of the 295
Revised Code, the Ohio tuition trust authority may enter into a 296
tuition payment contract with any person for the purchase of 297
tuition units if either the purchaser or the beneficiary is a 298
resident of this state at the time the contract is entered into. 299
A tuition payment contract shall allow any person to purchase 300
tuition units at the price determined by the authority pursuant 301
to section 3334.07 or 3334.12 of the Revised Code for the year 302
in which the tuition unit is purchased. The purchaser shall name 303
in the payment contract one specific individual as the 304
beneficiary for the tuition units. 305

In accordance with rules of the authority, units may be 306
transferred to the credit of another beneficiary and a new 307
beneficiary may be substituted for the beneficiary originally 308
named in the contract. 309

(B) Each tuition unit shall entitle the beneficiary to an amount equal to one per cent of the weighted average tuition.

(C) Nothing in this chapter or in any tuition payment contract entered into pursuant to this chapter shall be construed as a guarantee by the state, the authority, or any institution of higher education that a beneficiary will be admitted to an institution of higher education, or, upon admission to an institution of higher education, will be permitted to continue to attend or will receive a degree from an institution of higher education. Nothing in this chapter or in any tuition payment contract entered into pursuant to this chapter shall be considered a guarantee that the beneficiary's cost of tuition at an institution of higher education other than a state institution of higher education will be covered in full by the proceeds of the beneficiary's tuition units.

(D) The following information shall be disclosed in writing to each purchaser of tuition units and, where appropriate, to each entity establishing a scholarship program under section 3334.17 of the Revised Code:

(1) The terms and conditions for the purchase and use of tuition units;

(2) In the case of a contract described by division (A) of this section, any restrictions on the substitution of another individual for the original beneficiary and any restrictions on the transfer of ownership of units in the payment account;

(3) The person or entity entitled to terminate the contract;

(4) The terms and conditions under which the contract may be terminated and the amount of the refund, if any, to which the

person or entity terminating the contract, or that person's or 339
entity's designee, is entitled upon termination; 340

(5) The obligation of the authority to make payments to a 341
beneficiary, or an institution of higher education on behalf of 342
a beneficiary, under division (B) of this section based upon the 343
number of tuition units purchased on behalf of the beneficiary 344
or awarded to the beneficiary pursuant to a scholarship program; 345

(6) The method by which tuition units shall be applied 346
toward payment of ~~tuition and other~~ higher education expenses if 347
in any academic term the beneficiary is a part-time student; 348

(7) The period of time during which a beneficiary may 349
receive benefits under the contract; 350

(8) The terms and conditions under which money may be 351
wholly or partially withdrawn from the program, including, but 352
not limited to, any reasonable charges and fees that may be 353
imposed for withdrawal; 354

(9) All other rights and obligations of the purchaser and 355
the authority, including the provisions of division (A) of 356
section 3334.12 of the Revised Code, and any other terms, 357
conditions, and provisions the authority considers necessary and 358
appropriate. 359

(E) A tuition payment contract may provide that the 360
authority will pay directly to the institution of higher 361
education in which a beneficiary is enrolled during a term the 362
amount represented by the tuition units being used that term. 363

(F) A tuition payment contract described by division (A) 364
of this section may provide that if the contract has not been 365
terminated or units purchased under the contract have not been 366
applied toward the payment of ~~tuition or other~~ higher education 367

expenses within a specified period of time, the authority may, 368
after making a reasonable effort to locate the purchaser of the 369
tuition units, the beneficiary, and any person designated in the 370
contract to act on behalf of the purchaser of the units or the 371
beneficiary, terminate the contract and retain the amounts 372
payable under the contract. 373

(G) If, at any time after tuition units are purchased on 374
behalf of a beneficiary or awarded to a beneficiary or pursuant 375
to a scholarship program, the beneficiary becomes a nonresident 376
of this state, or, if the beneficiary was not a resident of this 377
state at the time the tuition payment contract was entered into, 378
the purchaser becomes a nonresident of this state, units 379
purchased or awarded while the beneficiary was a resident may be 380
applied on behalf of the beneficiary toward the payment of 381
~~tuition at an institution of higher education and other higher~~ 382
education expenses in the manner specified in division (B) of 383
this section, except that if the beneficiary enrolls in a state 384
institution of higher education, the beneficiary shall be 385
responsible for payment of all nonresident fees charged to out- 386
of-state residents by the institution in which the beneficiary 387
is enrolled. 388

Sec. 3334.18. (A) A variable college savings program 389
established by the Ohio tuition trust authority shall include 390
provisions for a contract to be entered into between a 391
contributor and the authority that will authorize the 392
contributor to open an account for a beneficiary and authorize 393
the contributor to substitute a new beneficiary for one 394
originally named in the contract, to the extent permitted by 395
section 529 of the Internal Revenue Code. 396

(B) The authority shall provide adequate safeguards to 397

prevent total contributions to a variable college savings 398
program account or purchases of tuition units, either separately 399
or combined, that are made on behalf of a beneficiary from 400
exceeding the amount necessary to provide for the ~~tuition and~~ 401
~~other~~ higher education expenses of the beneficiary, consistent 402
with the maximum contributions permitted by section 529 of the 403
Internal Revenue Code. However, in no event shall contributions 404
or purchases exceed the allowable limit for a qualified tuition 405
program under section 529 of the Internal Revenue Code. 406

(C) (1) Participation in the variable college savings 407
program does not guarantee that contributions and the investment 408
return on contributions, if any, will be adequate to cover 409
future ~~tuition and other~~ higher education expenses or that a 410
beneficiary will be admitted to or permitted to continue to 411
attend an institution of higher education. 412

(2) Returns on contributors' investments in the variable 413
college savings program are not guaranteed by the state and the 414
contributors to the variable college savings program assume all 415
investment risk, including the potential loss of principal and 416
liability for penalties such as those levied for noneducational 417
withdrawals. 418

(3) The state shall have no debt or obligation to any 419
contributor, beneficiary, or any other person as a result of the 420
establishment of the program, and the state assumes no risk or 421
liability for funds invested in the variable college savings 422
program. 423

(4) Informational materials about the variable college 424
savings program prepared by the authority or its agents and 425
provided to prospective contributors shall state clearly the 426
information set forth in division (C) of this section. 427

Sec. 3334.19. (A) The Ohio tuition trust authority shall 428
adopt an investment plan that sets forth investment policies and 429
guidelines to be utilized in administering the variable college 430
savings program and investment options offered by the authority. 431
The investment options shall include a default option to benefit 432
contributors who are first-time investors or have low to 433
moderate incomes. Except as provided in section 3334.20 of the 434
Revised Code, the authority shall contract with one or more 435
insurance companies, banks, or other financial institutions to 436
act as its investment agents and to provide such services as the 437
authority considers appropriate to the investment plan, 438
including: 439

(1) Purchase, control, and safekeeping of assets; 440

(2) Record keeping and accounting for individual accounts 441
and for the program as a whole; 442

(3) Provision of consolidated statements of account. 443

(B) The authority or its investment agents shall maintain 444
a separate account for the beneficiary of each contract entered 445
into under the variable college savings program. If a 446
beneficiary has more than one such account, the authority or its 447
agents shall track total contributions and earnings and provide 448
a consolidated system of account distributions to public or 449
nonpublic schools or institutions of higher education. 450

(C) The authority or its investment agents may place 451
assets of the program in savings accounts and may purchase fixed 452
or variable life insurance or annuity contracts, securities, 453
evidence of indebtedness, or other investment products pursuant 454
to the investment plan. 455

(D) Contributors shall not direct the investment of their 456

contributions under the investment plan. The authority shall 457
impose other limits on contributors' investment discretion to 458
the extent required under section 529 of the Internal Revenue 459
Code. 460

(E) The investment agents with which the authority 461
contracts shall discharge their duties with respect to program 462
funds with the care and diligence that a prudent person familiar 463
with such matters and with the character and aims of the program 464
would use. 465

(F) The assets of the program shall be preserved, 466
invested, and expended solely for the purposes of this chapter 467
and shall not be loaned or otherwise transferred or used by the 468
state for any other purpose. This section shall not be construed 469
to prohibit the investment agents of the authority from 470
investing, by purchase or otherwise, in bonds, notes, or other 471
obligations of the state or any agency or instrumentality of the 472
state. Unless otherwise specified by the authority, assets of 473
the program shall be expended in the following order of 474
priority: 475

(1) To make payments on behalf of beneficiaries; 476

(2) To make refunds upon termination of variable college 477
savings program contracts; 478

(3) To pay the authority's costs of administering the 479
program; 480

(4) To pay or cover any other expenditure or disbursement 481
the authority determines necessary or appropriate. 482

(G) Fees, charges, and other costs imposed or collected by 483
the authority in connection with the variable college savings 484
program, including any fees or other payments that the authority 485

requires an investment agent to pay to the authority, shall be 486
credited to either the variable operating fund or the index 487
operating fund at the discretion of the authority. These funds 488
are hereby created in the state treasury. Expenses incurred in 489
the administration of the variable college savings program, as 490
well as other expenses, disbursements, or payments the authority 491
considers appropriate for the benefit of any college savings 492
programs administered by the authority, the state of Ohio and 493
its citizens, shall be paid from the variable operating fund or 494
the index operating fund at the discretion of the authority. 495

(H) No records of the authority indicating the identity of 496
purchasers, contributors, and beneficiaries under the program or 497
amounts contributed to, earned by, or distributed from program 498
accounts are public records within the meaning of section 149.43 499
of the Revised Code. 500

Sec. 3334.20. (A) As used in this section, "state agency" 501
means every department, bureau, board, commission, office, or 502
other organized body established by the constitution or laws of 503
this state for the exercise of state government. 504

(B) If a condition arises concerning the investment of 505
funds received under the variable college savings program and 506
requiring an interim period for investment of program funds, 507
which condition is determined pursuant to division (D) of this 508
section, the Ohio tuition trust authority shall choose the 509
treasurer of state, a state agency having investment authority, 510
or an investment agent under contract with the authority to 511
invest program funds pursuant to the investment plan established 512
under division (A) of section 3334.19 of the Revised Code. The 513
treasurer of state, state agency, or investment agent chosen by 514
the authority pursuant to this division shall be subject to the 515

requirements and conditions that apply to investment agents 516
specified in section 3334.19 of the Revised Code. 517

(C) The authority shall be the trustee of the program. 518
During the interim period, the authority shall receive and hold 519
all payments, deposits, and contributions, as well as gifts, 520
bequests, endowments, and federal, state, or local grants and 521
any funds from any other source, public or private, and all 522
earnings, until disbursed to pay ~~tuition or other~~ higher 523
education expenses or refunds pursuant to college savings plans 524
contracts. The authority shall keep such funds segregated from 525
all other assets of the authority. 526

(D) The authority shall adopt rules under section 111.15 527
of the Revised Code defining the conditions under which an 528
interim investment period is required and this section applies. 529
The rules shall include any condition requiring the termination 530
of the interim period and the authority to contract with 531
alternative investment agents pursuant to section 3334.19 of the 532
Revised Code and any other requirements that apply during the 533
interim investment period. 534

(E) When the interim period for investment of program 535
funds terminates, the investment agents selected pursuant to 536
section 3334.19 of the Revised Code for the investment of 537
program funds shall have the sole authority to invest program 538
funds pursuant to the investment plan established under division 539
(A) of that section and shall be subject to that section. 540

Sec. 5701.11. The effective date to which this section 541
refers is the effective date of this section as amended by ~~H.B.~~ 542
~~11~~-S.B. 22 of the 132nd general assembly. 543

(A) (1) Except as provided under division (A) (2) or (B) of 544

this section, any reference in Title LVII of the Revised Code to 545
the Internal Revenue Code, to the Internal Revenue Code "as 546
amended," to other laws of the United States, or to other laws 547
of the United States, "as amended," means the Internal Revenue 548
Code or other laws of the United States as they exist on the 549
effective date. 550

(2) This section does not apply to any reference in Title 551
LVII of the Revised Code to the Internal Revenue Code as of a 552
date certain specifying the day, month, and year, or to other 553
laws of the United States as of a date certain specifying the 554
day, month, and year. 555

(B) (1) For purposes of applying section 5733.04, 5745.01, 556
or 5747.01 of the Revised Code to a taxpayer's taxable year 557
ending after ~~February 14, 2016~~March 30, 2017, and before the 558
effective date, a taxpayer may irrevocably elect to incorporate 559
the provisions of the Internal Revenue Code or other laws of the 560
United States that are in effect for federal income tax purposes 561
for that taxable year if those provisions differ from the 562
provisions that, under division (A) of this section, would 563
otherwise apply. The filing by the taxpayer for that taxable 564
year of a report or return that incorporates the provisions of 565
the Internal Revenue Code or other laws of the United States 566
applicable for federal income tax purposes for that taxable 567
year, and that does not include any adjustments to reverse the 568
effects of any differences between those provisions and the 569
provisions that would otherwise apply, constitutes the making of 570
an irrevocable election under this division for that taxable 571
year. 572

(2) Elections under prior versions of division (B) (1) of 573
this section remain in effect for the taxable years to which 574

they apply. 575

Sec. 5747.01. Except as otherwise expressly provided or 576
clearly appearing from the context, any term used in this 577
chapter that is not otherwise defined in this section has the 578
same meaning as when used in a comparable context in the laws of 579
the United States relating to federal income taxes or if not 580
used in a comparable context in those laws, has the same meaning 581
as in section 5733.40 of the Revised Code. Any reference in this 582
chapter to the Internal Revenue Code includes other laws of the 583
United States relating to federal income taxes. 584

As used in this chapter: 585

(A) "Adjusted gross income" or "Ohio adjusted gross 586
income" means federal adjusted gross income, as defined and used 587
in the Internal Revenue Code, adjusted as provided in this 588
section: 589

(1) Add interest or dividends on obligations or securities 590
of any state or of any political subdivision or authority of any 591
state, other than this state and its subdivisions and 592
authorities. 593

(2) Add interest or dividends on obligations of any 594
authority, commission, instrumentality, territory, or possession 595
of the United States to the extent that the interest or 596
dividends are exempt from federal income taxes but not from 597
state income taxes. 598

(3) Deduct interest or dividends on obligations of the 599
United States and its territories and possessions or of any 600
authority, commission, or instrumentality of the United States 601
to the extent that the interest or dividends are included in 602
federal adjusted gross income but exempt from state income taxes 603

under the laws of the United States. 604

(4) Deduct disability and survivor's benefits to the 605
extent included in federal adjusted gross income. 606

(5) Deduct benefits under Title II of the Social Security 607
Act and tier 1 railroad retirement benefits to the extent 608
included in federal adjusted gross income under section 86 of 609
the Internal Revenue Code. 610

(6) In the case of a taxpayer who is a beneficiary of a 611
trust that makes an accumulation distribution as defined in 612
section 665 of the Internal Revenue Code, add, for the 613
beneficiary's taxable years beginning before 2002, the portion, 614
if any, of such distribution that does not exceed the 615
undistributed net income of the trust for the three taxable 616
years preceding the taxable year in which the distribution is 617
made to the extent that the portion was not included in the 618
trust's taxable income for any of the trust's taxable years 619
beginning in 2002 or thereafter. "Undistributed net income of a 620
trust" means the taxable income of the trust increased by (a) (i) 621
the additions to adjusted gross income required under division 622
(A) of this section and (ii) the personal exemptions allowed to 623
the trust pursuant to section 642(b) of the Internal Revenue 624
Code, and decreased by (b) (i) the deductions to adjusted gross 625
income required under division (A) of this section, (ii) the 626
amount of federal income taxes attributable to such income, and 627
(iii) the amount of taxable income that has been included in the 628
adjusted gross income of a beneficiary by reason of a prior 629
accumulation distribution. Any undistributed net income included 630
in the adjusted gross income of a beneficiary shall reduce the 631
undistributed net income of the trust commencing with the 632
earliest years of the accumulation period. 633

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

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

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

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.

(11) (a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A) (11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42

U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 664
of this section, "subsidized health plan" means a health plan 665
for which the employer pays any portion of the plan's cost. The 666
deduction allowed under division (A) (11) (a) of this section 667
shall be the net of any related premium refunds, related premium 668
reimbursements, or related insurance premium dividends received 669
during the taxable year. 670

(b) Deduct, to the extent not otherwise deducted or 671
excluded in computing federal or Ohio adjusted gross income 672
during the taxable year, the amount the taxpayer paid during the 673
taxable year, not compensated for by any insurance or otherwise, 674
for medical care of the taxpayer, the taxpayer's spouse, and 675
dependents, to the extent the expenses exceed seven and one-half 676
per cent of the taxpayer's federal adjusted gross income. 677

(c) Deduct, to the extent not otherwise deducted or 678
excluded in computing federal or Ohio adjusted gross income, any 679
amount included in federal adjusted gross income under section 680
105 or not excluded under section 106 of the Internal Revenue 681
Code solely because it relates to an accident and health plan 682
for a person who otherwise would be a "qualifying relative" and 683
thus a "dependent" under section 152 of the Internal Revenue 684
Code but for the fact that the person fails to meet the income 685
and support limitations under section 152(d) (1) (B) and (C) of 686
the Internal Revenue Code. 687

(d) For purposes of division (A) (11) of this section, 688
"medical care" has the meaning given in section 213 of the 689
Internal Revenue Code, subject to the special rules, 690
limitations, and exclusions set forth therein, and "qualified 691
long-term care" has the same meaning given in section 7702B(c) 692
of the Internal Revenue Code. Solely for purposes of divisions 693

(A) (11) (a) and (c) of this section, "dependent" includes a 694
person who otherwise would be a "qualifying relative" and thus a 695
"dependent" under section 152 of the Internal Revenue Code but 696
for the fact that the person fails to meet the income and 697
support limitations under section 152(d) (1) (B) and (C) of the 698
Internal Revenue Code. 699

(12) (a) Deduct any amount included in federal adjusted 700
gross income solely because the amount represents a 701
reimbursement or refund of expenses that in any year the 702
taxpayer had deducted as an itemized deduction pursuant to 703
section 63 of the Internal Revenue Code and applicable United 704
States department of the treasury regulations. The deduction 705
otherwise allowed under division (A) (12) (a) of this section 706
shall be reduced to the extent the reimbursement is attributable 707
to an amount the taxpayer deducted under this section in any 708
taxable year. 709

(b) Add any amount not otherwise included in Ohio adjusted 710
gross income for any taxable year to the extent that the amount 711
is attributable to the recovery during the taxable year of any 712
amount deducted or excluded in computing federal or Ohio 713
adjusted gross income in any taxable year. 714

(13) Deduct any portion of the deduction described in 715
section 1341(a) (2) of the Internal Revenue Code, for repaying 716
previously reported income received under a claim of right, that 717
meets both of the following requirements: 718

(a) It is allowable for repayment of an item that was 719
included in the taxpayer's adjusted gross income for a prior 720
taxable year and did not qualify for a credit under division (A) 721
or (B) of section 5747.05 of the Revised Code for that year; 722

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.	723 724
(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.	725 726 727 728 729 730 731
(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;	732 733 734 735 736 737
(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.	738 739 740
(16) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that such amount satisfies either of the following:	741 742 743
(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;	744 745 746 747
(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.	748 749 750
(17) Deduct the amount contributed by the taxpayer to an	751

individual development account program established by a county 752
department of job and family services pursuant to sections 753
329.11 to 329.14 of the Revised Code for the purpose of matching 754
funds deposited by program participants. On request of the tax 755
commissioner, the taxpayer shall provide any information that, 756
in the tax commissioner's opinion, is necessary to establish the 757
amount deducted under division (A)(17) of this section. 758

(18) Beginning in taxable year 2001 but not for any 759
taxable year beginning after December 31, 2005, if the taxpayer 760
is married and files a joint return and the combined federal 761
adjusted gross income of the taxpayer and the taxpayer's spouse 762
for the taxable year does not exceed one hundred thousand 763
dollars, or if the taxpayer is single and has a federal adjusted 764
gross income for the taxable year not exceeding fifty thousand 765
dollars, deduct amounts paid during the taxable year for 766
qualified tuition and fees paid to an eligible institution for 767
the taxpayer, the taxpayer's spouse, or any dependent of the 768
taxpayer, who is a resident of this state and is enrolled in or 769
attending a program that culminates in a degree or diploma at an 770
eligible institution. The deduction may be claimed only to the 771
extent that qualified tuition and fees are not otherwise 772
deducted or excluded for any taxable year from federal or Ohio 773
adjusted gross income. The deduction may not be claimed for 774
educational expenses for which the taxpayer claims a credit 775
under section 5747.27 of the Revised Code. 776

(19) Add any reimbursement received during the taxable 777
year of any amount the taxpayer deducted under division (A)(18) 778
of this section in any previous taxable year to the extent the 779
amount is not otherwise included in Ohio adjusted gross income. 780

(20) (a) (i) Subject to divisions (A)(20)(a)(iii), (iv), and 781

(v) of this section, add five-sixths of the amount of 782
depreciation expense allowed by subsection (k) of section 168 of 783
the Internal Revenue Code, including the taxpayer's 784
proportionate or distributive share of the amount of 785
depreciation expense allowed by that subsection to a pass- 786
through entity in which the taxpayer has a direct or indirect 787
ownership interest. 788

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 789
of this section, add five-sixths of the amount of qualifying 790
section 179 depreciation expense, including the taxpayer's 791
proportionate or distributive share of the amount of qualifying 792
section 179 depreciation expense allowed to any pass-through 793
entity in which the taxpayer has a direct or indirect ownership 794
interest. 795

(iii) Subject to division (A) (20) (a) (v) of this section, 796
for taxable years beginning in 2012 or thereafter, if the 797
increase in income taxes withheld by the taxpayer is equal to or 798
greater than ten per cent of income taxes withheld by the 799
taxpayer during the taxpayer's immediately preceding taxable 800
year, "two-thirds" shall be substituted for "five-sixths" for 801
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 802

(iv) Subject to division (A) (20) (a) (v) of this section, 803
for taxable years beginning in 2012 or thereafter, a taxpayer is 804
not required to add an amount under division (A) (20) of this 805
section if the increase in income taxes withheld by the taxpayer 806
and by any pass-through entity in which the taxpayer has a 807
direct or indirect ownership interest is equal to or greater 808
than the sum of (I) the amount of qualifying section 179 809
depreciation expense and (II) the amount of depreciation expense 810
allowed to the taxpayer by subsection (k) of section 168 of the 811

Internal Revenue Code, and including the taxpayer's 812
proportionate or distributive shares of such amounts allowed to 813
any such pass-through entities. 814

(v) If a taxpayer directly or indirectly incurs a net 815
operating loss for the taxable year for federal income tax 816
purposes, to the extent such loss resulted from depreciation 817
expense allowed by subsection (k) of section 168 of the Internal 818
Revenue Code and by qualifying section 179 depreciation expense, 819
"the entire" shall be substituted for "five-sixths of the" for 820
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 821

The tax commissioner, under procedures established by the 822
commissioner, may waive the add-backs related to a pass-through 823
entity if the taxpayer owns, directly or indirectly, less than 824
five per cent of the pass-through entity. 825

(b) Nothing in division (A) (20) of this section shall be 826
construed to adjust or modify the adjusted basis of any asset. 827

(c) To the extent the add-back required under division (A) 828
(20) (a) of this section is attributable to property generating 829
nonbusiness income or loss allocated under section 5747.20 of 830
the Revised Code, the add-back shall be situated to the same 831
location as the nonbusiness income or loss generated by the 832
property for the purpose of determining the credit under 833
division (A) of section 5747.05 of the Revised Code. Otherwise, 834
the add-back shall be apportioned, subject to one or more of the 835
four alternative methods of apportionment enumerated in section 836
5747.21 of the Revised Code. 837

(d) For the purposes of division (A) (20) (a) (v) of this 838
section, net operating loss carryback and carryforward shall not 839
include the allowance of any net operating loss deduction 840

carryback or carryforward to the taxable year to the extent such 841
loss resulted from depreciation allowed by section 168(k) of the 842
Internal Revenue Code and by the qualifying section 179 843
depreciation expense amount. 844

(e) For the purposes of divisions (A) (20) and (21) of this 845
section: 846

(i) "Income taxes withheld" means the total amount 847
withheld and remitted under sections 5747.06 and 5747.07 of the 848
Revised Code by an employer during the employer's taxable year. 849

(ii) "Increase in income taxes withheld" means the amount 850
by which the amount of income taxes withheld by an employer 851
during the employer's current taxable year exceeds the amount of 852
income taxes withheld by that employer during the employer's 853
immediately preceding taxable year. 854

(iii) "Qualifying section 179 depreciation expense" means 855
the difference between (I) the amount of depreciation expense 856
directly or indirectly allowed to a taxpayer under section 179 857
of the Internal Revised Code, and (II) the amount of 858
depreciation expense directly or indirectly allowed to the 859
taxpayer under section 179 of the Internal Revenue Code as that 860
section existed on December 31, 2002. 861

(21) (a) If the taxpayer was required to add an amount 862
under division (A) (20) (a) of this section for a taxable year, 863
deduct one of the following: 864

(i) One-fifth of the amount so added for each of the five 865
succeeding taxable years if the amount so added was five-sixths 866
of qualifying section 179 depreciation expense or depreciation 867
expense allowed by subsection (k) of section 168 of the Internal 868
Revenue Code; 869

(ii) One-half of the amount so added for each of the two 870
succeeding taxable years if the amount so added was two-thirds 871
of such depreciation expense; 872

(iii) One-sixth of the amount so added for each of the six 873
succeeding taxable years if the entire amount of such 874
depreciation expense was so added. 875

(b) If the amount deducted under division (A) (21) (a) of 876
this section is attributable to an add-back allocated under 877
division (A) (20) (c) of this section, the amount deducted shall 878
be situated to the same location. Otherwise, the add-back shall 879
be apportioned using the apportionment factors for the taxable 880
year in which the deduction is taken, subject to one or more of 881
the four alternative methods of apportionment enumerated in 882
section 5747.21 of the Revised Code. 883

(c) No deduction is available under division (A) (21) (a) of 884
this section with regard to any depreciation allowed by section 885
168(k) of the Internal Revenue Code and by the qualifying 886
section 179 depreciation expense amount to the extent that such 887
depreciation results in or increases a federal net operating 888
loss carryback or carryforward. If no such deduction is 889
available for a taxable year, the taxpayer may carry forward the 890
amount not deducted in such taxable year to the next taxable 891
year and add that amount to any deduction otherwise available 892
under division (A) (21) (a) of this section for that next taxable 893
year. The carryforward of amounts not so deducted shall continue 894
until the entire addition required by division (A) (20) (a) of 895
this section has been deducted. 896

(d) No refund shall be allowed as a result of adjustments 897
made by division (A) (21) of this section. 898

(22) Deduct, to the extent not otherwise deducted or 899
excluded in computing federal or Ohio adjusted gross income for 900
the taxable year, the amount the taxpayer received during the 901
taxable year as reimbursement for life insurance premiums under 902
section 5919.31 of the Revised Code. 903

(23) Deduct, to the extent not otherwise deducted or 904
excluded in computing federal or Ohio adjusted gross income for 905
the taxable year, the amount the taxpayer received during the 906
taxable year as a death benefit paid by the adjutant general 907
under section 5919.33 of the Revised Code. 908

(24) Deduct, to the extent included in federal adjusted 909
gross income and not otherwise allowable as a deduction or 910
exclusion in computing federal or Ohio adjusted gross income for 911
the taxable year, military pay and allowances received by the 912
taxpayer during the taxable year for active duty service in the 913
United States army, air force, navy, marine corps, or coast 914
guard or reserve components thereof or the national guard. The 915
deduction may not be claimed for military pay and allowances 916
received by the taxpayer while the taxpayer is stationed in this 917
state. 918

(25) Deduct, to the extent not otherwise allowable as a 919
deduction or exclusion in computing federal or Ohio adjusted 920
gross income for the taxable year and not otherwise compensated 921
for by any other source, the amount of qualified organ donation 922
expenses incurred by the taxpayer during the taxable year, not 923
to exceed ten thousand dollars. A taxpayer may deduct qualified 924
organ donation expenses only once for all taxable years 925
beginning with taxable years beginning in 2007. 926

For the purposes of division (A) (25) of this section: 927

(a) "Human organ" means all or any portion of a human 928
liver, pancreas, kidney, intestine, or lung, and any portion of 929
human bone marrow. 930

(b) "Qualified organ donation expenses" means travel 931
expenses, lodging expenses, and wages and salary forgone by a 932
taxpayer in connection with the taxpayer's donation, while 933
living, of one or more of the taxpayer's human organs to another 934
human being. 935

(26) Deduct, to the extent not otherwise deducted or 936
excluded in computing federal or Ohio adjusted gross income for 937
the taxable year, amounts received by the taxpayer as retired 938
personnel pay for service in the uniformed services or reserve 939
components thereof, or the national guard, or received by the 940
surviving spouse or former spouse of such a taxpayer under the 941
survivor benefit plan on account of such a taxpayer's death. If 942
the taxpayer receives income on account of retirement paid under 943
the federal civil service retirement system or federal employees 944
retirement system, or under any successor retirement program 945
enacted by the congress of the United States that is established 946
and maintained for retired employees of the United States 947
government, and such retirement income is based, in whole or in 948
part, on credit for the taxpayer's uniformed service, the 949
deduction allowed under this division shall include only that 950
portion of such retirement income that is attributable to the 951
taxpayer's uniformed service, to the extent that portion of such 952
retirement income is otherwise included in federal adjusted 953
gross income and is not otherwise deducted under this section. 954
Any amount deducted under division (A) (26) of this section is 955
not included in a taxpayer's adjusted gross income for the 956
purposes of section 5747.055 of the Revised Code. No amount may 957
be deducted under division (A) (26) of this section on the basis 958

of which a credit was claimed under section 5747.055 of the Revised Code.

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

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

(29) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

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

(31) (a) For taxable years beginning in 2015, deduct from 989
the portion of an individual's adjusted gross income that is 990
business income, to the extent not otherwise deducted or 991
excluded in computing federal or Ohio adjusted gross income for 992
the taxable year, the lesser of the following amounts: 993

(i) Seventy-five per cent of the individual's business 994
income; 995

(ii) Ninety-three thousand seven hundred fifty dollars for 996
each spouse if spouses file separate returns under section 997
5747.08 of the Revised Code or one hundred eighty-seven thousand 998
five hundred dollars for all other individuals. 999

(b) For taxable years beginning in 2016 or thereafter, 1000
deduct from the portion of an individual's adjusted gross income 1001
that is business income, to the extent not otherwise deducted or 1002
excluded in computing federal adjusted gross income for the 1003
taxable year, one hundred twenty-five thousand dollars for each 1004
spouse if spouses file separate returns under section 5747.08 of 1005
the Revised Code or two hundred fifty thousand dollars for all 1006
other individuals. 1007

(32) Deduct, as provided under section 5747.78 of the 1008
Revised Code, contributions to ABLE savings accounts made in 1009
accordance with sections 113.50 to 113.56 of the Revised Code. 1010

(B) "Business income" means income, including gain or 1011
loss, arising from transactions, activities, and sources in the 1012
regular course of a trade or business and includes income, gain, 1013
or loss from real property, tangible property, and intangible 1014
property if the acquisition, rental, management, and disposition 1015
of the property constitute integral parts of the regular course 1016
of a trade or business operation. "Business income" includes 1017

income, including gain or loss, from a partial or complete 1018
liquidation of a business, including, but not limited to, gain 1019
or loss from the sale or other disposition of goodwill. 1020

(C) "Nonbusiness income" means all income other than 1021
business income and may include, but is not limited to, 1022
compensation, rents and royalties from real or tangible personal 1023
property, capital gains, interest, dividends and distributions, 1024
patent or copyright royalties, or lottery winnings, prizes, and 1025
awards. 1026

(D) "Compensation" means any form of remuneration paid to 1027
an employee for personal services. 1028

(E) "Fiduciary" means a guardian, trustee, executor, 1029
administrator, receiver, conservator, or any other person acting 1030
in any fiduciary capacity for any individual, trust, or estate. 1031

(F) "Fiscal year" means an accounting period of twelve 1032
months ending on the last day of any month other than December. 1033

(G) "Individual" means any natural person. 1034

(H) "Internal Revenue Code" means the "Internal Revenue 1035
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 1036

(I) "Resident" means any of the following, provided that 1037
division (I) (3) of this section applies only to taxable years of 1038
a trust beginning in 2002 or thereafter: 1039

(1) An individual who is domiciled in this state, subject 1040
to section 5747.24 of the Revised Code; 1041

(2) The estate of a decedent who at the time of death was 1042
domiciled in this state. The domicile tests of section 5747.24 1043
of the Revised Code are not controlling for purposes of division 1044
(I) (2) of this section. 1045

(3) A trust that, in whole or part, resides in this state. 1046
If only part of a trust resides in this state, the trust is a 1047
resident only with respect to that part. 1048

For the purposes of division (I) (3) of this section: 1049

(a) A trust resides in this state for the trust's current 1050
taxable year to the extent, as described in division (I) (3) (d) 1051
of this section, that the trust consists directly or indirectly, 1052
in whole or in part, of assets, net of any related liabilities, 1053
that were transferred, or caused to be transferred, directly or 1054
indirectly, to the trust by any of the following: 1055

(i) A person, a court, or a governmental entity or 1056
instrumentality on account of the death of a decedent, but only 1057
if the trust is described in division (I) (3) (e) (i) or (ii) of 1058
this section; 1059

(ii) A person who was domiciled in this state for the 1060
purposes of this chapter when the person directly or indirectly 1061
transferred assets to an irrevocable trust, but only if at least 1062
one of the trust's qualifying beneficiaries is domiciled in this 1063
state for the purposes of this chapter during all or some 1064
portion of the trust's current taxable year; 1065

(iii) A person who was domiciled in this state for the 1066
purposes of this chapter when the trust document or instrument 1067
or part of the trust document or instrument became irrevocable, 1068
but only if at least one of the trust's qualifying beneficiaries 1069
is a resident domiciled in this state for the purposes of this 1070
chapter during all or some portion of the trust's current 1071
taxable year. If a trust document or instrument became 1072
irrevocable upon the death of a person who at the time of death 1073
was domiciled in this state for purposes of this chapter, that 1074

person is a person described in division (I) (3) (a) (iii) of this section. 1075
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(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code. 1077
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(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e) (2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code. 1081
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(d) For the purposes of division (I) (3) (a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows: 1091
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(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I) (3) (a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related 1099
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liabilities. 1105

(ii) Each subsequent time the trust receives assets, a 1106
revised qualifying ratio shall be computed. The numerator of the 1107
revised qualifying ratio is the sum of (1) the fair market value 1108
of the trust's assets immediately prior to the subsequent 1109
transfer, net of any related liabilities, multiplied by the 1110
qualifying ratio last computed without regard to the subsequent 1111
transfer, and (2) the fair market value of the subsequently 1112
transferred assets at the time transferred, net of any related 1113
liabilities, from sources enumerated in division (I) (3) (a) of 1114
this section. The denominator of the revised qualifying ratio is 1115
the fair market value of all the trust's assets immediately 1116
after the subsequent transfer, net of any related liabilities. 1117

(iii) Whether a transfer to the trust is by or from any of 1118
the sources enumerated in division (I) (3) (a) of this section 1119
shall be ascertained without regard to the domicile of the 1120
trust's beneficiaries. 1121

(e) For the purposes of division (I) (3) (a) (i) of this 1122
section: 1123

(i) A trust is described in division (I) (3) (e) (i) of this 1124
section if the trust is a testamentary trust and the testator of 1125
that testamentary trust was domiciled in this state at the time 1126
of the testator's death for purposes of the taxes levied under 1127
Chapter 5731. of the Revised Code. 1128

(ii) A trust is described in division (I) (3) (e) (ii) of 1129
this section if the transfer is a qualifying transfer described 1130
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1131
trust is an irrevocable inter vivos trust, and at least one of 1132
the trust's qualifying beneficiaries is domiciled in this state 1133

for purposes of this chapter during all or some portion of the 1134
trust's current taxable year. 1135

(f) For the purposes of division (I) (3) (e) (ii) of this 1136
section, a "qualifying transfer" is a transfer of assets, net of 1137
any related liabilities, directly or indirectly to a trust, if 1138
the transfer is described in any of the following: 1139

(i) The transfer is made to a trust, created by the 1140
decedent before the decedent's death and while the decedent was 1141
domiciled in this state for the purposes of this chapter, and, 1142
prior to the death of the decedent, the trust became irrevocable 1143
while the decedent was domiciled in this state for the purposes 1144
of this chapter. 1145

(ii) The transfer is made to a trust to which the 1146
decedent, prior to the decedent's death, had directly or 1147
indirectly transferred assets, net of any related liabilities, 1148
while the decedent was domiciled in this state for the purposes 1149
of this chapter, and prior to the death of the decedent the 1150
trust became irrevocable while the decedent was domiciled in 1151
this state for the purposes of this chapter. 1152

(iii) The transfer is made on account of a contractual 1153
relationship existing directly or indirectly between the 1154
transferor and either the decedent or the estate of the decedent 1155
at any time prior to the date of the decedent's death, and the 1156
decedent was domiciled in this state at the time of death for 1157
purposes of the taxes levied under Chapter 5731. of the Revised 1158
Code. 1159

(iv) The transfer is made to a trust on account of a 1160
contractual relationship existing directly or indirectly between 1161
the transferor and another person who at the time of the 1162

decedent's death was domiciled in this state for purposes of 1163
this chapter. 1164

(v) The transfer is made to a trust on account of the will 1165
of a testator who was domiciled in this state at the time of the 1166
testator's death for purposes of the taxes levied under Chapter 1167
5731. of the Revised Code. 1168

(vi) The transfer is made to a trust created by or caused 1169
to be created by a court, and the trust was directly or 1170
indirectly created in connection with or as a result of the 1171
death of an individual who, for purposes of the taxes levied 1172
under Chapter 5731. of the Revised Code, was domiciled in this 1173
state at the time of the individual's death. 1174

(g) The tax commissioner may adopt rules to ascertain the 1175
part of a trust residing in this state. 1176

(J) "Nonresident" means an individual or estate that is 1177
not a resident. An individual who is a resident for only part of 1178
a taxable year is a nonresident for the remainder of that 1179
taxable year. 1180

(K) "Pass-through entity" has the same meaning as in 1181
section 5733.04 of the Revised Code. 1182

(L) "Return" means the notifications and reports required 1183
to be filed pursuant to this chapter for the purpose of 1184
reporting the tax due and includes declarations of estimated tax 1185
when so required. 1186

(M) "Taxable year" means the calendar year or the 1187
taxpayer's fiscal year ending during the calendar year, or 1188
fractional part thereof, upon which the adjusted gross income is 1189
calculated pursuant to this chapter. 1190

(N) "Taxpayer" means any person subject to the tax imposed 1191
by section 5747.02 of the Revised Code or any pass-through 1192
entity that makes the election under division (D) of section 1193
5747.08 of the Revised Code. 1194

(O) "Dependents" means one of the following: 1195

(1) For taxable years beginning on or after January 1, 1196
2018, and before January 1, 2026, dependents as defined in the 1197
Internal Revenue Code; 1198

(2) For all other taxable years, dependents as defined in 1199
the Internal Revenue Code and as claimed in the taxpayer's 1200
federal income tax return for the taxable year or which the 1201
taxpayer would have been permitted to claim had the taxpayer 1202
filed a federal income tax return. 1203

(P) "Principal county of employment" means, in the case of 1204
a nonresident, the county within the state in which a taxpayer 1205
performs services for an employer or, if those services are 1206
performed in more than one county, the county in which the major 1207
portion of the services are performed. 1208

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1209
Code: 1210

(1) "Subdivision" means any county, municipal corporation, 1211
park district, or township. 1212

(2) "Essential local government purposes" includes all 1213
functions that any subdivision is required by general law to 1214
exercise, including like functions that are exercised under a 1215
charter adopted pursuant to the Ohio Constitution. 1216

(R) "Overpayment" means any amount already paid that 1217
exceeds the figure determined to be the correct amount of the 1218

tax. 1219

(S) "Taxable income" or "Ohio taxable income" applies only 1220
to estates and trusts, and means federal taxable income, as 1221
defined and used in the Internal Revenue Code, adjusted as 1222
follows: 1223

(1) Add interest or dividends, net of ordinary, necessary, 1224
and reasonable expenses not deducted in computing federal 1225
taxable income, on obligations or securities of any state or of 1226
any political subdivision or authority of any state, other than 1227
this state and its subdivisions and authorities, but only to the 1228
extent that such net amount is not otherwise includible in Ohio 1229
taxable income and is described in either division (S) (1) (a) or 1230
(b) of this section: 1231

(a) The net amount is not attributable to the S portion of 1232
an electing small business trust and has not been distributed to 1233
beneficiaries for the taxable year; 1234

(b) The net amount is attributable to the S portion of an 1235
electing small business trust for the taxable year. 1236

(2) Add interest or dividends, net of ordinary, necessary, 1237
and reasonable expenses not deducted in computing federal 1238
taxable income, on obligations of any authority, commission, 1239
instrumentality, territory, or possession of the United States 1240
to the extent that the interest or dividends are exempt from 1241
federal income taxes but not from state income taxes, but only 1242
to the extent that such net amount is not otherwise includible 1243
in Ohio taxable income and is described in either division (S) 1244
(1) (a) or (b) of this section; 1245

(3) Add the amount of personal exemption allowed to the 1246
estate pursuant to section 642(b) of the Internal Revenue Code; 1247

(4) Deduct interest or dividends, net of related expenses 1248
deducted in computing federal taxable income, on obligations of 1249
the United States and its territories and possessions or of any 1250
authority, commission, or instrumentality of the United States 1251
to the extent that the interest or dividends are exempt from 1252
state taxes under the laws of the United States, but only to the 1253
extent that such amount is included in federal taxable income 1254
and is described in either division (S) (1) (a) or (b) of this 1255
section; 1256

(5) Deduct the amount of wages and salaries, if any, not 1257
otherwise allowable as a deduction but that would have been 1258
allowable as a deduction in computing federal taxable income for 1259
the taxable year, had the targeted jobs credit allowed under 1260
sections 38, 51, and 52 of the Internal Revenue Code not been in 1261
effect, but only to the extent such amount relates either to 1262
income included in federal taxable income for the taxable year 1263
or to income of the S portion of an electing small business 1264
trust for the taxable year; 1265

(6) Deduct any interest or interest equivalent, net of 1266
related expenses deducted in computing federal taxable income, 1267
on public obligations and purchase obligations, but only to the 1268
extent that such net amount relates either to income included in 1269
federal taxable income for the taxable year or to income of the 1270
S portion of an electing small business trust for the taxable 1271
year; 1272

(7) Add any loss or deduct any gain resulting from sale, 1273
exchange, or other disposition of public obligations to the 1274
extent that such loss has been deducted or such gain has been 1275
included in computing either federal taxable income or income of 1276
the S portion of an electing small business trust for the 1277

taxable year;	1278
(8) Except in the case of the final return of an estate,	1279
add any amount deducted by the taxpayer on both its Ohio estate	1280
tax return pursuant to section 5731.14 of the Revised Code, and	1281
on its federal income tax return in determining federal taxable	1282
income;	1283
(9) (a) Deduct any amount included in federal taxable	1284
income solely because the amount represents a reimbursement or	1285
refund of expenses that in a previous year the decedent had	1286
deducted as an itemized deduction pursuant to section 63 of the	1287
Internal Revenue Code and applicable treasury regulations. The	1288
deduction otherwise allowed under division (S) (9) (a) of this	1289
section shall be reduced to the extent the reimbursement is	1290
attributable to an amount the taxpayer or decedent deducted	1291
under this section in any taxable year.	1292
(b) Add any amount not otherwise included in Ohio taxable	1293
income for any taxable year to the extent that the amount is	1294
attributable to the recovery during the taxable year of any	1295
amount deducted or excluded in computing federal or Ohio taxable	1296
income in any taxable year, but only to the extent such amount	1297
has not been distributed to beneficiaries for the taxable year.	1298
(10) Deduct any portion of the deduction described in	1299
section 1341(a) (2) of the Internal Revenue Code, for repaying	1300
previously reported income received under a claim of right, that	1301
meets both of the following requirements:	1302
(a) It is allowable for repayment of an item that was	1303
included in the taxpayer's taxable income or the decedent's	1304
adjusted gross income for a prior taxable year and did not	1305
qualify for a credit under division (A) or (B) of section	1306

5747.05 of the Revised Code for that year. 1307

(b) It does not otherwise reduce the taxpayer's taxable 1308
income or the decedent's adjusted gross income for the current 1309
or any other taxable year. 1310

(11) Add any amount claimed as a credit under section 1311
5747.059 or 5747.65 of the Revised Code to the extent that the 1312
amount satisfies either of the following: 1313

(a) The amount was deducted or excluded from the 1314
computation of the taxpayer's federal taxable income as required 1315
to be reported for the taxpayer's taxable year under the 1316
Internal Revenue Code; 1317

(b) The amount resulted in a reduction in the taxpayer's 1318
federal taxable income as required to be reported for any of the 1319
taxpayer's taxable years under the Internal Revenue Code. 1320

(12) Deduct any amount, net of related expenses deducted 1321
in computing federal taxable income, that a trust is required to 1322
report as farm income on its federal income tax return, but only 1323
if the assets of the trust include at least ten acres of land 1324
satisfying the definition of "land devoted exclusively to 1325
agricultural use" under section 5713.30 of the Revised Code, 1326
regardless of whether the land is valued for tax purposes as 1327
such land under sections 5713.30 to 5713.38 of the Revised Code. 1328
If the trust is a pass-through entity investor, section 5747.231 1329
of the Revised Code applies in ascertaining if the trust is 1330
eligible to claim the deduction provided by division (S)(12) of 1331
this section in connection with the pass-through entity's farm 1332
income. 1333

Except for farm income attributable to the S portion of an 1334
electing small business trust, the deduction provided by 1335

division (S) (12) of this section is allowed only to the extent 1336
that the trust has not distributed such farm income. Division 1337
(S) (12) of this section applies only to taxable years of a trust 1338
beginning in 2002 or thereafter. 1339

(13) Add the net amount of income described in section 1340
641(c) of the Internal Revenue Code to the extent that amount is 1341
not included in federal taxable income. 1342

(14) Add or deduct the amount the taxpayer would be 1343
required to add or deduct under division (A) (20) or (21) of this 1344
section if the taxpayer's Ohio taxable income were computed in 1345
the same manner as an individual's Ohio adjusted gross income is 1346
computed under this section. In the case of a trust, division 1347
(S) (14) of this section applies only to any of the trust's 1348
taxable years beginning in 2002 or thereafter. 1349

(T) "School district income" and "school district income 1350
tax" have the same meanings as in section 5748.01 of the Revised 1351
Code. 1352

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 1353
(7) of this section, "public obligations," "purchase 1354
obligations," and "interest or interest equivalent" have the 1355
same meanings as in section 5709.76 of the Revised Code. 1356

(V) "Limited liability company" means any limited 1357
liability company formed under Chapter 1705. of the Revised Code 1358
or under the laws of any other state. 1359

(W) "Pass-through entity investor" means any person who, 1360
during any portion of a taxable year of a pass-through entity, 1361
is a partner, member, shareholder, or equity investor in that 1362
pass-through entity. 1363

(X) "Banking day" has the same meaning as in section 1364

1304.01 of the Revised Code.	1365
(Y) "Month" means a calendar month.	1366
(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.	1367 1368 1369
(AA) (1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.	1370 1371 1372 1373 1374 1375 1376 1377 1378
(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:	1379 1380 1381 1382 1383 1384 1385 1386 1387 1388
(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;	1389 1390 1391
(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses	1392 1393

unrelated to the individual's academic course of instruction;	1394
(c) Tuition, fees, or other expenses paid or reimbursed	1395
through an employer, scholarship, grant in aid, or other	1396
educational benefit program.	1397
(BB) (1) "Modified business income" means the business	1398
income included in a trust's Ohio taxable income after such	1399
taxable income is first reduced by the qualifying trust amount,	1400
if any.	1401
(2) "Qualifying trust amount" of a trust means capital	1402
gains and losses from the sale, exchange, or other disposition	1403
of equity or ownership interests in, or debt obligations of, a	1404
qualifying investee to the extent included in the trust's Ohio	1405
taxable income, but only if the following requirements are	1406
satisfied:	1407
(a) The book value of the qualifying investee's physical	1408
assets in this state and everywhere, as of the last day of the	1409
qualifying investee's fiscal or calendar year ending immediately	1410
prior to the date on which the trust recognizes the gain or	1411
loss, is available to the trust.	1412
(b) The requirements of section 5747.011 of the Revised	1413
Code are satisfied for the trust's taxable year in which the	1414
trust recognizes the gain or loss.	1415
Any gain or loss that is not a qualifying trust amount is	1416
modified business income, qualifying investment income, or	1417
modified nonbusiness income, as the case may be.	1418
(3) "Modified nonbusiness income" means a trust's Ohio	1419
taxable income other than modified business income, other than	1420
the qualifying trust amount, and other than qualifying	1421
investment income, as defined in section 5747.012 of the Revised	1422

Code, to the extent such qualifying investment income is not 1423
otherwise part of modified business income. 1424

(4) "Modified Ohio taxable income" applies only to trusts, 1425
and means the sum of the amounts described in divisions (BB) (4) 1426
(a) to (c) of this section: 1427

(a) The fraction, calculated under section 5747.013, and 1428
applying section 5747.231 of the Revised Code, multiplied by the 1429
sum of the following amounts: 1430

(i) The trust's modified business income; 1431

(ii) The trust's qualifying investment income, as defined 1432
in section 5747.012 of the Revised Code, but only to the extent 1433
the qualifying investment income does not otherwise constitute 1434
modified business income and does not otherwise constitute a 1435
qualifying trust amount. 1436

(b) The qualifying trust amount multiplied by a fraction, 1437
the numerator of which is the sum of the book value of the 1438
qualifying investee's physical assets in this state on the last 1439
day of the qualifying investee's fiscal or calendar year ending 1440
immediately prior to the day on which the trust recognizes the 1441
qualifying trust amount, and the denominator of which is the sum 1442
of the book value of the qualifying investee's total physical 1443
assets everywhere on the last day of the qualifying investee's 1444
fiscal or calendar year ending immediately prior to the day on 1445
which the trust recognizes the qualifying trust amount. If, for 1446
a taxable year, the trust recognizes a qualifying trust amount 1447
with respect to more than one qualifying investee, the amount 1448
described in division (BB) (4) (b) of this section shall equal the 1449
sum of the products so computed for each such qualifying 1450
investee. 1451

(c) (i) With respect to a trust or portion of a trust that 1452
is a resident as ascertained in accordance with division (I) (3) 1453
(d) of this section, its modified nonbusiness income. 1454

(ii) With respect to a trust or portion of a trust that is 1455
not a resident as ascertained in accordance with division (I) (3) 1456
(d) of this section, the amount of its modified nonbusiness 1457
income satisfying the descriptions in divisions (B) (2) to (5) of 1458
section 5747.20 of the Revised Code, except as otherwise 1459
provided in division (BB) (4) (c) (ii) of this section. With 1460
respect to a trust or portion of a trust that is not a resident 1461
as ascertained in accordance with division (I) (3) (d) of this 1462
section, the trust's portion of modified nonbusiness income 1463
recognized from the sale, exchange, or other disposition of a 1464
debt interest in or equity interest in a section 5747.212 1465
entity, as defined in section 5747.212 of the Revised Code, 1466
without regard to division (A) of that section, shall not be 1467
allocated to this state in accordance with section 5747.20 of 1468
the Revised Code but shall be apportioned to this state in 1469
accordance with division (B) of section 5747.212 of the Revised 1470
Code without regard to division (A) of that section. 1471

If the allocation and apportionment of a trust's income 1472
under divisions (BB) (4) (a) and (c) of this section do not fairly 1473
represent the modified Ohio taxable income of the trust in this 1474
state, the alternative methods described in division (C) of 1475
section 5747.21 of the Revised Code may be applied in the manner 1476
and to the same extent provided in that section. 1477

(5) (a) Except as set forth in division (BB) (5) (b) of this 1478
section, "qualifying investee" means a person in which a trust 1479
has an equity or ownership interest, or a person or unit of 1480
government the debt obligations of either of which are owned by 1481

a trust. For the purposes of division (BB) (2) (a) of this section 1482
and for the purpose of computing the fraction described in 1483
division (BB) (4) (b) of this section, all of the following apply: 1484

(i) If the qualifying investee is a member of a qualifying 1485
controlled group on the last day of the qualifying investee's 1486
fiscal or calendar year ending immediately prior to the date on 1487
which the trust recognizes the gain or loss, then "qualifying 1488
investee" includes all persons in the qualifying controlled 1489
group on such last day. 1490

(ii) If the qualifying investee, or if the qualifying 1491
investee and any members of the qualifying controlled group of 1492
which the qualifying investee is a member on the last day of the 1493
qualifying investee's fiscal or calendar year ending immediately 1494
prior to the date on which the trust recognizes the gain or 1495
loss, separately or cumulatively own, directly or indirectly, on 1496
the last day of the qualifying investee's fiscal or calendar 1497
year ending immediately prior to the date on which the trust 1498
recognizes the qualifying trust amount, more than fifty per cent 1499
of the equity of a pass-through entity, then the qualifying 1500
investee and the other members are deemed to own the 1501
proportionate share of the pass-through entity's physical assets 1502
which the pass-through entity directly or indirectly owns on the 1503
last day of the pass-through entity's calendar or fiscal year 1504
ending within or with the last day of the qualifying investee's 1505
fiscal or calendar year ending immediately prior to the date on 1506
which the trust recognizes the qualifying trust amount. 1507

(iii) For the purposes of division (BB) (5) (a) (iii) of this 1508
section, "upper level pass-through entity" means a pass-through 1509
entity directly or indirectly owning any equity of another pass- 1510
through entity, and "lower level pass-through entity" means that 1511

other pass-through entity. 1512

An upper level pass-through entity, whether or not it is 1513
also a qualifying investee, is deemed to own, on the last day of 1514
the upper level pass-through entity's calendar or fiscal year, 1515
the proportionate share of the lower level pass-through entity's 1516
physical assets that the lower level pass-through entity 1517
directly or indirectly owns on the last day of the lower level 1518
pass-through entity's calendar or fiscal year ending within or 1519
with the last day of the upper level pass-through entity's 1520
fiscal or calendar year. If the upper level pass-through entity 1521
directly and indirectly owns less than fifty per cent of the 1522
equity of the lower level pass-through entity on each day of the 1523
upper level pass-through entity's calendar or fiscal year in 1524
which or with which ends the calendar or fiscal year of the 1525
lower level pass-through entity and if, based upon clear and 1526
convincing evidence, complete information about the location and 1527
cost of the physical assets of the lower pass-through entity is 1528
not available to the upper level pass-through entity, then 1529
solely for purposes of ascertaining if a gain or loss 1530
constitutes a qualifying trust amount, the upper level pass- 1531
through entity shall be deemed as owning no equity of the lower 1532
level pass-through entity for each day during the upper level 1533
pass-through entity's calendar or fiscal year in which or with 1534
which ends the lower level pass-through entity's calendar or 1535
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 1536
shall be construed to provide for any deduction or exclusion in 1537
computing any trust's Ohio taxable income. 1538

(b) With respect to a trust that is not a resident for the 1539
taxable year and with respect to a part of a trust that is not a 1540
resident for the taxable year, "qualifying investee" for that 1541
taxable year does not include a C corporation if both of the 1542

following apply: 1543

(i) During the taxable year the trust or part of the trust 1544
recognizes a gain or loss from the sale, exchange, or other 1545
disposition of equity or ownership interests in, or debt 1546
obligations of, the C corporation. 1547

(ii) Such gain or loss constitutes nonbusiness income. 1548

(6) "Available" means information is such that a person is 1549
able to learn of the information by the due date plus 1550
extensions, if any, for filing the return for the taxable year 1551
in which the trust recognizes the gain or loss. 1552

(CC) "Qualifying controlled group" has the same meaning as 1553
in section 5733.04 of the Revised Code. 1554

(DD) "Related member" has the same meaning as in section 1555
5733.042 of the Revised Code. 1556

(EE) (1) For the purposes of division (EE) of this section: 1557

(a) "Qualifying person" means any person other than a 1558
qualifying corporation. 1559

(b) "Qualifying corporation" means any person classified 1560
for federal income tax purposes as an association taxable as a 1561
corporation, except either of the following: 1562

(i) A corporation that has made an election under 1563
subchapter S, chapter one, subtitle A, of the Internal Revenue 1564
Code for its taxable year ending within, or on the last day of, 1565
the investor's taxable year; 1566

(ii) A subsidiary that is wholly owned by any corporation 1567
that has made an election under subchapter S, chapter one, 1568
subtitle A of the Internal Revenue Code for its taxable year 1569

ending within, or on the last day of, the investor's taxable 1570
year. 1571

(2) For the purposes of this chapter, unless expressly 1572
stated otherwise, no qualifying person indirectly owns any asset 1573
directly or indirectly owned by any qualifying corporation. 1574

(FF) For purposes of this chapter and Chapter 5751. of the 1575
Revised Code: 1576

(1) "Trust" does not include a qualified pre-income tax 1577
trust. 1578

(2) A "qualified pre-income tax trust" is any pre-income 1579
tax trust that makes a qualifying pre-income tax trust election 1580
as described in division (FF)(3) of this section. 1581

(3) A "qualifying pre-income tax trust election" is an 1582
election by a pre-income tax trust to subject to the tax imposed 1583
by section 5751.02 of the Revised Code the pre-income tax trust 1584
and all pass-through entities of which the trust owns or 1585
controls, directly, indirectly, or constructively through 1586
related interests, five per cent or more of the ownership or 1587
equity interests. The trustee shall notify the tax commissioner 1588
in writing of the election on or before April 15, 2006. The 1589
election, if timely made, shall be effective on and after 1590
January 1, 2006, and shall apply for all tax periods and tax 1591
years until revoked by the trustee of the trust. 1592

(4) A "pre-income tax trust" is a trust that satisfies all 1593
of the following requirements: 1594

(a) The document or instrument creating the trust was 1595
executed by the grantor before January 1, 1972; 1596

(b) The trust became irrevocable upon the creation of the 1597

trust; and 1598

(c) The grantor was domiciled in this state at the time 1599
the trust was created. 1600

(GG) "Uniformed services" has the same meaning as in 10 1601
U.S.C. 101. 1602

(HH) "Taxable business income" means the amount by which 1603
an individual's business income that is included in federal 1604
adjusted gross income exceeds the amount of business income the 1605
individual is authorized to deduct under division (A) (31) of 1606
this section for the taxable year. 1607

Sec. 5747.70. (A) In computing Ohio adjusted gross income, 1608
a deduction from federal adjusted gross income is allowed to a 1609
contributor for the amount contributed during the taxable year 1610
to a variable college savings program account and to a purchaser 1611
of tuition units under the Ohio college savings program created 1612
by Chapter 3334. of the Revised Code to the extent that the 1613
amounts of such contributions and purchases were not deducted in 1614
determining the contributor's or purchaser's federal adjusted 1615
gross income for the taxable year. The combined amount of 1616
contributions and purchases deducted in any taxable year by a 1617
taxpayer or the taxpayer and the taxpayer's spouse, regardless 1618
of whether the taxpayer and the taxpayer's spouse file separate 1619
returns or a joint return, is limited to four thousand dollars 1620
for each beneficiary for whom contributions or purchases are 1621
made. If the combined annual contributions and purchases for a 1622
beneficiary exceed four thousand dollars, the excess may be 1623
carried forward and deducted in future taxable years until the 1624
contributions and purchases have been fully deducted. 1625

(B) In computing Ohio adjusted gross income, a deduction 1626

from federal adjusted gross income is allowed for: 1627

(1) Income related to tuition units and contributions that 1628
as of the end of the taxable year have not been refunded 1629
pursuant to the termination of a tuition payment contract or 1630
variable college savings program account under section 3334.10 1631
of the Revised Code, to the extent that such income is included 1632
in federal adjusted gross income. 1633

(2) The excess of the total purchase price of tuition 1634
units refunded during the taxable year pursuant to the 1635
termination of a tuition payment contract under section 3334.10 1636
of the Revised Code over the amount of the refund, to the extent 1637
the amount of the excess was not deducted in determining federal 1638
adjusted gross income. Division (B)(2) of this section applies 1639
only to units for which no deduction was allowable under 1640
division (A) of this section. 1641

(C) In computing Ohio adjusted gross income, there shall 1642
be added to federal adjusted gross income the amount of loss 1643
related to tuition units and contributions that as of the end of 1644
the taxable year have not been refunded pursuant to the 1645
termination of a tuition payment contract or variable college 1646
savings program account under section 3334.10 of the Revised 1647
Code, to the extent that such loss was deducted in determining 1648
federal adjusted gross income. 1649

(D) For taxable years in which distributions or refunds 1650
are made under a tuition payment or variable college savings 1651
program contract for any reason other than payment of ~~tuition or~~ 1652
~~other~~ higher education expenses, or the beneficiary's death, 1653
disability, or receipt of a scholarship as described in section 1654
3334.10 of the Revised Code: 1655

(1) If the distribution or refund is paid to the purchaser 1656
or contributor or beneficiary, any portion of the distribution 1657
or refund not included in the recipient's federal adjusted gross 1658
income shall be added to the recipient's federal adjusted gross 1659
income in determining the recipient's Ohio adjusted gross 1660
income, except that the amount added shall not exceed amounts 1661
previously deducted under division (A) of this section less any 1662
amounts added under division (D) (1) of this section in a prior 1663
taxable year. 1664

(2) If amounts paid by a purchaser or contributor on or 1665
after January 1, 2000, are distributed or refunded to someone 1666
other than the purchaser or contributor or beneficiary, the 1667
amount of the payment not included in the recipient's federal 1668
adjusted gross income, less any amounts added under division (D) 1669
of this section in a prior taxable year, shall be added to the 1670
recipient's federal adjusted gross income in determining the 1671
recipient's Ohio adjusted gross income. 1672

Section 2. That existing sections 3334.01, 3334.02, 1673
3334.08, 3334.09, 3334.18, 3334.19, 3334.20, 5701.11, 5747.01, 1674
and 5747.70 of the Revised Code are hereby repealed. 1675

Section 3. This act is hereby declared to be an emergency 1676
measure necessary for the immediate preservation of the public 1677
peace, health, and safety. The reason for such necessity is to 1678
enable taxpayers to avoid making miscellaneous adjustments on 1679
their 2017 tax returns that increase costs of compliance. 1680
Therefore, this act shall go into immediate effect. 1681