

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 225

Representative Thompson

Cosponsors: Representatives Hambley, Householder, Stein, Brenner, Riedel, Dean, Schaffer, Seitz, Keller, Edwards, Greenspan, Patterson, Goodman, Wiggam, Retherford, Ginter, Barnes, Young, Romanchuk, Landis, Kick, Patton, Faber, West, Boccieri, Hagan, O'Brien, Gavarone

A BILL

To amend sections 1509.071, 1509.34, and 5747.01 of
the Revised Code to allow a landowner to report
an idle and orphaned well or abandoned well, to
require the Chief of the Division of Oil and Gas
Resources Management to inspect and classify
such a well, to require the Chief to begin
plugging a well classified as distressed-high
priority within a specified time period, and to
authorize an income tax deduction for
reimbursements paid by the state to a landowner
for costs incurred to plug an idle or orphaned
well.

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

Section 1. That sections 1509.071, 1509.34, and 5747.01 of
the Revised Code be amended to read as follows:

Sec. 1509.071. (A) When the chief of the division of oil
and gas resources management finds that an owner has failed to

comply with a final nonappealable order issued or compliance 17
agreement entered into under section 1509.04, the restoration 18
requirements of section 1509.072, plugging requirements of 19
section 1509.12, or permit provisions of section 1509.13 of the 20
Revised Code, or rules and orders relating thereto, the chief 21
shall make a finding of that fact and declare any surety bond 22
filed to ensure compliance with those sections and rules 23
forfeited in the amount set by rule of the chief. The chief 24
thereupon shall certify the total forfeiture to the attorney 25
general, who shall proceed to collect the amount of the 26
forfeiture. In addition, the chief may require an owner, 27
operator, producer, or other person who forfeited a surety bond 28
to post a new surety bond in the amount of fifteen thousand 29
dollars for a single well, thirty thousand dollars for two 30
wells, or fifty thousand dollars for three or more wells. 31

In lieu of total forfeiture, the surety or owner, at the 32
surety's or owner's option, may cause the well to be properly 33
plugged and abandoned and the area properly restored or pay to 34
the treasurer of state the cost of plugging and abandonment. 35

(B) (1) All moneys collected because of forfeitures of 36
bonds as provided in this section shall be deposited in the 37
state treasury to the credit of the oil and gas well fund 38
created in section 1509.02 of the Revised Code. 39

~~The~~ For purposes of promoting the competent management and 40
conservation of the state's oil and natural gas resources and 41
the proper and lawful plugging of historic oil and gas wells for 42
which there is no known responsible owner, the chief annually 43
shall spend not less than ~~fourteen~~ forty-five per cent of the 44
revenue credited to the oil and gas well fund during the 45
previous fiscal year for the following purposes: 46

~~(1)~~(a) In accordance with division ~~(D)~~(F) of this 47
section, to plug idle and orphaned wells or to restore the land 48
surface properly as required in section 1509.072 of the Revised 49
Code; 50

~~(2)~~(b) In accordance with division ~~(E)~~(G) of this 51
section, to correct conditions that the chief reasonably has 52
determined are causing imminent health or safety risks at an 53
idle and orphaned well or a well for which the owner cannot be 54
contacted in order to initiate a corrective action within a 55
reasonable period of time as determined by the chief. 56

(2) Expenditures from the fund shall be made only for 57
lawful purposes. In addition, expenditures from the fund shall 58
not be made to purchase real property or to remove a dwelling in 59
order to access a well. 60

(3) On or before the close of each calendar quarter, the 61
chief shall submit a written report to the technical advisory 62
council established under section 1509.38 of the Revised Code 63
describing the efforts of the division of oil and gas resources 64
management to plug idle and orphaned wells and abandoned wells 65
during the immediately preceding calendar quarter. The chief 66
also shall include in the report all of the following 67
information: 68

(a) The total number of known idle and orphaned wells and 69
abandoned wells in the state and the total number in each county 70
of the state categorized as distressed-high priority, moderate- 71
medium priority, and maintenance-low priority in accordance with 72
rules adopted under division (J) of this section prior to the 73
date of the report; 74

(b) The total number of newly discovered idle and orphaned 75

wells and abandoned wells during the immediately preceding 76
calendar quarter; 77

(c) The total number of wells plugged in accordance with 78
this section during the immediately preceding calendar quarter; 79

(d) The total number of wells plugged in accordance with 80
this section and the estimated average and indirect costs of 81
plugging activities conducted under this section prior to the 82
date of the report; 83

(e) The number of wells approved for plugging in 84
accordance with this section and the estimated average and 85
indirect costs of plugging activities conducted under this 86
section during the immediately preceding calendar quarter. 87

Not later than the thirty-first day of March of each year, 88
the chief and the technical advisory council shall jointly 89
provide to the speaker of the house of representatives and the 90
chair of the committee of the house of representatives 91
responsible for energy and natural resources issues a report 92
containing, at a minimum, the information required to be 93
included in the quarterly reports. 94

(C) The chief shall issue an order that requires the owner 95
of a well to pay the actual documented costs of a corrective 96
action that is described in division (B) (1) (b) of this section 97
concerning the well. The chief shall transmit the money so 98
recovered to the treasurer of state who shall deposit the money 99
in the state treasury to the credit of the oil and gas well 100
fund. 101

(D) (1) If a landowner discovers an idle and orphaned well 102
or abandoned well on the landowner's real property and the 103
landowner is not the owner of the well, the landowner may report 104

the existence of the well to the chief. 105

(2) If the chief receives a report from a landowner of the 106
existence of an idle and orphaned well or an abandoned well, the 107
chief shall inspect the well not later than thirty days after 108
the date of the landowner's report. 109

(3) Not later than sixty days after the date of the 110
chief's inspection, the chief shall provide the landowner with a 111
written report categorizing the well as either distressed-high 112
priority, moderate-medium priority, or maintenance-low priority 113
in accordance with rules adopted under this section. 114

(4) If the chief categorizes the well as distressed-high 115
priority, the chief shall begin plugging the well in accordance 116
with the requirements of this section not later than six months 117
after the date the chief issued the report to the landowner 118
regarding the well. 119

(5) A landowner that reports the existence of a well in 120
accordance with division (D) of this section is not financially 121
responsible for plugging that well, but the landowner may elect 122
to proceed in accordance with division (F) (2) (a) of this 123
section. 124

(E)(1) Upon determining that the owner of a well has 125
failed to properly plug and abandon it or to properly restore 126
the land surface at the well site in compliance with the 127
applicable requirements of this chapter and applicable rules 128
adopted and orders issued under it or that a well is an 129
abandoned well for which no funds are available to plug the well 130
in accordance with this chapter, the chief shall do all of the 131
following: 132

(a) Determine from the records in the office of the county 133

recorder of the county in which the well is located the identity 134
of the owner of the land on which the well is located, the 135
identity of the owner of the oil or gas lease under which the 136
well was drilled or the identity of each person owning an 137
interest in the lease, and the identities of the persons having 138
legal title to, or a lien upon, any of the equipment appurtenant 139
to the well; 140

(b) Mail notice to the owner of the land on which the well 141
is located informing the landowner that the well is to be 142
plugged. If the owner of the oil or gas lease under which the 143
well was drilled is different from the owner of the well or if 144
any persons other than the owner of the well own interests in 145
the lease, the chief also shall mail notice that the well is to 146
be plugged to the owner of the lease or to each person owning an 147
interest in the lease, as appropriate. 148

(c) Mail notice to each person having legal title to, or a 149
lien upon, any equipment appurtenant to the well, informing the 150
person that the well is to be plugged and offering the person 151
the opportunity to plug the well and restore the land surface at 152
the well site at the person's own expense in order to avoid 153
forfeiture of the equipment to this state. 154

(2) If none of the persons described in division (C) (1) (c) 155
of this section plugs the well within ~~sixty~~thirty days after 156
the mailing of the notice required by that division, all 157
equipment appurtenant to the well is hereby declared to be 158
forfeited to this state without compensation and without the 159
necessity for any action by the state for use to defray the cost 160
of plugging and abandoning the well and restoring the land 161
surface at the well site. 162

~~(D) Expenditures~~ (F) The chief may expend money from the 163

oil and gas well fund for the purpose of division (B) (1) (a) of 164
this section, and such expenditures shall be made in accordance 165
with either of the following: 166

(1) The chief may make expenditures ~~may be made~~ pursuant 167
to contracts entered into by the chief with persons who agree to 168
furnish all of the materials, equipment, work, and labor as 169
specified and provided in such a contract for activities 170
associated with the restoration or plugging of a well as 171
determined by the chief. The activities may include excavation 172
to uncover a well, geophysical methods to locate a buried well 173
when clear evidence of leakage from the well exists, cleanout of 174
wellbores to remove material from a failed plugging of a well, 175
plugging operations, installation of vault and vent systems, 176
including associated engineering certifications and permits, 177
restoration of property, and repair of damage to property that 178
is caused by such activities. ~~Expenditures~~ The chief shall not 179
~~be used~~ make expenditures for salaries, maintenance, equipment, 180
or other administrative purposes, except for costs directly 181
attributed to the plugging of an idle and orphaned well. Agents 182
or employees of persons contracting with the chief for a 183
restoration or plugging project may enter upon any land, public 184
or private, on which the well is located for the purpose of 185
performing the work. Prior to such entry, the chief shall give 186
to the following persons written notice of the existence of a 187
contract for a project to restore or plug a well, the names of 188
the persons with whom the contract is made, and the date that 189
the project will commence: the owner of the well, the owner of 190
the land upon which the well is located, the owner or agents of 191
adjoining land, and, if the well is located in the same township 192
as or in a township adjacent to the excavations and workings of 193
a mine and the owner or lessee of that mine has provided written 194

notice identifying those townships to the chief at any time 195
during the immediately preceding three years, the owner or 196
lessee of the mine. 197

(2) (a) The owner of the land on which a well is located 198
who has received notice under division ~~(C)~~(E) (1) (b) of this 199
section may plug the well and be reimbursed by the division of 200
oil and gas resources management for the reasonable cost of 201
plugging the well. In order to plug the well, the landowner 202
shall submit an application to the chief on a form prescribed by 203
the chief and approved by the technical advisory council on oil 204
and gas created in section 1509.38 of the Revised Code. The 205
application, at a minimum, shall require the landowner to 206
provide the same information as is required to be included in 207
the application for a permit to plug and abandon under section 208
1509.13 of the Revised Code. The application shall be 209
accompanied by a copy of a proposed contract to plug the well 210
prepared by a contractor regularly engaged in the business of 211
plugging oil and gas wells. The proposed contract shall require 212
the contractor to furnish all of the materials, equipment, work, 213
and labor necessary to plug the well properly and shall specify 214
the price for doing the work, including a credit for the 215
equipment appurtenant to the well that was forfeited to the 216
state through the operation of division ~~(C)~~(E) (2) of this 217
section. Expenditures under division ~~(D)~~(F) (2) (a) of this 218
section shall be consistent with the expenditures for activities 219
described in division ~~(D)~~(F) (1) of this section. The application 220
also shall be accompanied by the permit fee required by section 221
1509.13 of the Revised Code unless the chief, in the chief's 222
discretion, waives payment of the permit fee. The application 223
constitutes an application for a permit to plug and abandon the 224
well for the purposes of section 1509.13 of the Revised Code. 225

(b) Within thirty days after receiving an application and 226
accompanying proposed contract under division ~~(D)~~(F)(2) (a) of 227
this section, the chief shall determine whether the plugging 228
would comply with the applicable requirements of this chapter 229
and applicable rules adopted and orders issued under it and 230
whether the cost of the plugging under the proposed contract is 231
reasonable. If the chief determines that the proposed plugging 232
would comply with those requirements and that the proposed cost 233
of the plugging is reasonable, the chief shall notify the 234
landowner of that determination and issue to the landowner a 235
permit to plug and abandon the well under section 1509.13 of the 236
Revised Code. Upon approval of the application and proposed 237
contract, the chief shall transfer ownership of the equipment 238
appurtenant to the well to the landowner. The chief may 239
disapprove an application submitted under division ~~(D)~~(F)(2) (a) 240
of this section if the chief determines that the proposed 241
plugging would not comply with the applicable requirements of 242
this chapter and applicable rules adopted and orders issued 243
under it, that the cost of the plugging under the proposed 244
contract is unreasonable, or that the proposed contract is not a 245
bona fide, arm's length contract. 246

(c) After receiving the chief's notice of the approval of 247
the application and permit to plug and abandon a well under 248
division ~~(D)~~(F)(2) (b) of this section, the landowner shall enter 249
into the proposed contract to plug the well. 250

(d) Upon determining that the plugging has been completed 251
in compliance with the applicable requirements of this chapter 252
and applicable rules adopted and orders issued under it, the 253
chief shall reimburse the landowner for the cost of the plugging 254
as set forth in the proposed contract approved by the chief. The 255
reimbursement shall be paid from the oil and gas well fund. If 256

the chief determines that the plugging was not completed in 257
accordance with the applicable requirements, the chief shall not 258
reimburse the landowner for the cost of the plugging, and the 259
landowner or the contractor, as applicable, promptly shall 260
transfer back to this state title to and possession of the 261
equipment appurtenant to the well that previously was 262
transferred to the landowner under division ~~(D)~~(F) (2) (b) of this 263
section. If any such equipment was removed from the well during 264
the plugging and sold, the landowner shall pay to the chief the 265
proceeds from the sale of the equipment, and the chief promptly 266
shall pay the moneys so received to the treasurer of state for 267
deposit into the oil and gas well fund. 268

The chief may establish an annual limit on the number of 269
wells that may be plugged under division ~~(D)~~(F) (2) of this 270
section or an annual limit on the expenditures to be made under 271
that division. 272

As used in division ~~(D)~~(F) (2) of this section, "plug" and 273
"plugging" include the plugging of the well and the restoration 274
of the land surface disturbed by the plugging. 275

~~(E)~~(G) Expenditures from the oil and gas well fund for 276
the purpose of division (B) ~~(2)~~(1) (b) of this section may be 277
made pursuant to contracts entered into by the chief with 278
persons who agree to furnish all of the materials, equipment, 279
work, and labor as specified and provided in such a contract. 280
The competitive bidding requirements of Chapter 153. of the 281
Revised Code do not apply if the chief reasonably determines 282
that an emergency situation exists requiring immediate action 283
for the correction of the applicable health or safety risk. A 284
contract or purchase of materials for purposes of addressing the 285
emergency situation is not subject to division (B) of section 286

127.16 of the Revised Code. The chief, designated 287
representatives of the chief, and agents or employees of persons 288
contracting with the chief under this division may enter upon 289
any land, public or private, for the purpose of performing the 290
work. 291

~~(F)~~(H) Contracts entered into by the chief under this 292
section are not subject to any of the following: 293

(1) Chapter 4115. of the Revised Code; 294

(2) Section 153.54 of the Revised Code, except that the 295
contractor shall obtain and provide to the chief as a bid 296
guaranty a surety bond or letter of credit in an amount equal to 297
ten per cent of the amount of the contract; 298

(3) Section 4733.17 of the Revised Code. 299

~~(G)~~(I) The owner of land on which a well is located who 300
has received notice under division ~~(C)~~(E) (1) (b) of this section, 301
in lieu of plugging the well in accordance with division ~~(D)~~(F) 302
(2) of this section, may cause ownership of the well to be 303
transferred to an owner who is lawfully doing business in this 304
state and who has met the financial responsibility requirements 305
established under section 1509.07 of the Revised Code, subject 306
to the approval of the chief. The transfer of ownership also 307
shall be subject to the landowner's filing the appropriate forms 308
required under section 1509.31 of the Revised Code and providing 309
to the chief sufficient information to demonstrate the 310
landowner's or owner's right to produce a formation or 311
formations. That information may include a deed, a lease, or 312
other documentation of ownership or property rights. 313

The chief shall approve or disapprove the transfer of 314
ownership of the well. If the chief approves the transfer, the 315

owner is responsible for operating the well in accordance with 316
this chapter and rules adopted under it, including, without 317
limitation, all of the following: 318

(1) Filing an application with the chief under section 319
1509.06 of the Revised Code if the owner intends to drill deeper 320
or produce a formation that is not listed in the records of the 321
division for that well; 322

(2) Taking title to and possession of the equipment 323
appurtenant to the well that has been identified by the chief as 324
having been abandoned by the former owner; 325

(3) Complying with all applicable requirements that are 326
necessary to drill deeper, plug the well, or plug back the well. 327

~~(H) The chief shall issue an order that requires the owner 328
of a well to pay the actual documented costs of a corrective 329
action that is described in division (B)(2) of this section 330
concerning the well. The chief shall transmit the money so 331
recovered to the treasurer of state who shall deposit the money 332
in the state treasury to the credit of the oil and gas well 333
fund. 334~~

~~(I)-(J) For purposes of division (D) of this section, the 335
chief shall adopt rules in accordance with Chapter 119. of the 336
Revised Code establishing the following three categories of idle 337
and orphaned wells or abandoned wells: distressed-high priority, 338
moderate-medium priority, and maintenance-low priority. The 339
rules shall include a description of what constitutes each 340
category of idle and orphaned wells or abandoned wells. 341~~

(K) The chief may engage in cooperative projects under 342
this section with any agency of this state, another state, or 343
the United States; any other governmental agencies; or any state 344

university or college as defined in section 3345.27 of the Revised Code. A contract entered into for purposes of a cooperative project is not subject to division (B) of section 127.16 of the Revised Code.

Sec. 1509.34. (A) (1) If an owner fails to pay the fees imposed by this chapter, or if the chief of the division of oil and gas resources management incurs costs under division ~~(E)~~ (G) of section 1509.071 of the Revised Code to correct conditions associated with the owner's well that the chief reasonably has determined are causing imminent health or safety risks, the division of oil and gas resources management shall have a priority lien against that owner's interest in the applicable well in front of all other creditors for the amount of any such unpaid fees and costs incurred. The chief shall file a statement in the office of the county recorder of the county in which the applicable well is located of the amount of the unpaid fees and costs incurred as described in this division. The statement shall constitute a lien on the owner's interest in the well as of the date of the filing. The lien shall remain in force so long as any portion of the lien remains unpaid or until the chief issues a certificate of release of the lien. If the chief issues a certificate of release of the lien, the chief shall file the certificate of release in the office of the applicable county recorder.

(2) A lien imposed under division (A) (1) of this section shall be in addition to any lien imposed by the attorney general for failure to pay the assessment imposed by section 1509.50 of the Revised Code or the tax levied under division (A) (5) or (6) of section 5749.02 of the Revised Code, as applicable.

(3) If the attorney general cannot collect from a severer

or an owner for an outstanding balance of amounts due under 375
section 1509.50 of the Revised Code or of unpaid taxes levied 376
under division (A) (5) or (6) of section 5749.02 of the Revised 377
Code, as applicable, the tax commissioner may request the chief 378
to impose a priority lien against the owner's interest in the 379
applicable well. Such a lien has priority in front of all other 380
creditors. 381

(B) The chief promptly shall issue a certificate of 382
release of a lien under either of the following circumstances: 383

(1) Upon the repayment in full of the amount of unpaid 384
fees imposed by this chapter or costs incurred by the chief 385
under division ~~(E)~~(G) of section 1509.071 of the Revised Code 386
to correct conditions associated with the owner's well that the 387
chief reasonably has determined are causing imminent health or 388
safety risks; 389

(2) Any other circumstance that the chief determines to be 390
in the best interests of the state. 391

(C) The chief may modify the amount of a lien under this 392
section. If the chief modifies a lien, the chief shall file a 393
statement in the office of the county recorder of the applicable 394
county of the new amount of the lien. 395

(D) An owner regarding which the division has recorded a 396
lien against the owner's interest in a well in accordance with 397
this section shall not transfer a well, lease, or mineral rights 398
to another owner or person until the chief issues a certificate 399
of release for each lien against the owner's interest in the 400
well. 401

(E) All money from the collection of liens under this 402
section shall be deposited in the state treasury to the credit 403

of the oil and gas well fund created in section 1509.02 of the Revised Code. 404
405

Sec. 5747.01. Except as otherwise expressly provided or 406
clearly appearing from the context, any term used in this 407
chapter that is not otherwise defined in this section has the 408
same meaning as when used in a comparable context in the laws of 409
the United States relating to federal income taxes or if not 410
used in a comparable context in those laws, has the same meaning 411
as in section 5733.40 of the Revised Code. Any reference in this 412
chapter to the Internal Revenue Code includes other laws of the 413
United States relating to federal income taxes. 414

As used in this chapter: 415

(A) "Adjusted gross income" or "Ohio adjusted gross 416
income" means federal adjusted gross income, as defined and used 417
in the Internal Revenue Code, adjusted as provided in this 418
section: 419

(1) Add interest or dividends on obligations or securities 420
of any state or of any political subdivision or authority of any 421
state, other than this state and its subdivisions and 422
authorities. 423

(2) Add interest or dividends on obligations of any 424
authority, commission, instrumentality, territory, or possession 425
of the United States to the extent that the interest or 426
dividends are exempt from federal income taxes but not from 427
state income taxes. 428

(3) Deduct interest or dividends on obligations of the 429
United States and its territories and possessions or of any 430
authority, commission, or instrumentality of the United States 431
to the extent that the interest or dividends are included in 432

federal adjusted gross income but exempt from state income taxes 433
under the laws of the United States. 434

(4) Deduct disability and survivor's benefits to the 435
extent included in federal adjusted gross income. 436

(5) Deduct benefits under Title II of the Social Security 437
Act and tier 1 railroad retirement benefits to the extent 438
included in federal adjusted gross income under section 86 of 439
the Internal Revenue Code. 440

(6) In the case of a taxpayer who is a beneficiary of a 441
trust that makes an accumulation distribution as defined in 442
section 665 of the Internal Revenue Code, add, for the 443
beneficiary's taxable years beginning before 2002, the portion, 444
if any, of such distribution that does not exceed the 445
undistributed net income of the trust for the three taxable 446
years preceding the taxable year in which the distribution is 447
made to the extent that the portion was not included in the 448
trust's taxable income for any of the trust's taxable years 449
beginning in 2002 or thereafter. "Undistributed net income of a 450
trust" means the taxable income of the trust increased by (a) (i) 451
the additions to adjusted gross income required under division 452
(A) of this section and (ii) the personal exemptions allowed to 453
the trust pursuant to section 642(b) of the Internal Revenue 454
Code, and decreased by (b) (i) the deductions to adjusted gross 455
income required under division (A) of this section, (ii) the 456
amount of federal income taxes attributable to such income, and 457
(iii) the amount of taxable income that has been included in the 458
adjusted gross income of a beneficiary by reason of a prior 459
accumulation distribution. Any undistributed net income included 460
in the adjusted gross income of a beneficiary shall reduce the 461
undistributed net income of the trust commencing with the 462

earliest years of the accumulation period. 463

(7) Deduct the amount of wages and salaries, if any, not 464
otherwise allowable as a deduction but that would have been 465
allowable as a deduction in computing federal adjusted gross 466
income for the taxable year, had the targeted jobs credit 467
allowed and determined under sections 38, 51, and 52 of the 468
Internal Revenue Code not been in effect. 469

(8) Deduct any interest or interest equivalent on public 470
obligations and purchase obligations to the extent that the 471
interest or interest equivalent is included in federal adjusted 472
gross income. 473

(9) Add any loss or deduct any gain resulting from the 474
sale, exchange, or other disposition of public obligations to 475
the extent that the loss has been deducted or the gain has been 476
included in computing federal adjusted gross income. 477

(10) Deduct or add amounts, as provided under section 478
5747.70 of the Revised Code, related to contributions to 479
variable college savings program accounts made or tuition units 480
purchased pursuant to Chapter 3334. of the Revised Code. 481

(11) (a) Deduct, to the extent not otherwise allowable as a 482
deduction or exclusion in computing federal or Ohio adjusted 483
gross income for the taxable year, the amount the taxpayer paid 484
during the taxable year for medical care insurance and qualified 485
long-term care insurance for the taxpayer, the taxpayer's 486
spouse, and dependents. No deduction for medical care insurance 487
under division (A) (11) of this section shall be allowed either 488
to any taxpayer who is eligible to participate in any subsidized 489
health plan maintained by any employer of the taxpayer or of the 490
taxpayer's spouse, or to any taxpayer who is entitled to, or on 491

application would be entitled to, benefits under part A of Title 492
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 493
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 494
of this section, "subsidized health plan" means a health plan 495
for which the employer pays any portion of the plan's cost. The 496
deduction allowed under division (A) (11) (a) of this section 497
shall be the net of any related premium refunds, related premium 498
reimbursements, or related insurance premium dividends received 499
during the taxable year. 500

(b) Deduct, to the extent not otherwise deducted or 501
excluded in computing federal or Ohio adjusted gross income 502
during the taxable year, the amount the taxpayer paid during the 503
taxable year, not compensated for by any insurance or otherwise, 504
for medical care of the taxpayer, the taxpayer's spouse, and 505
dependents, to the extent the expenses exceed seven and one-half 506
per cent of the taxpayer's federal adjusted gross income. 507

(c) Deduct, to the extent not otherwise deducted or 508
excluded in computing federal or Ohio adjusted gross income, any 509
amount included in federal adjusted gross income under section 510
105 or not excluded under section 106 of the Internal Revenue 511
Code solely because it relates to an accident and health plan 512
for a person who otherwise would be a "qualifying relative" and 513
thus a "dependent" under section 152 of the Internal Revenue 514
Code but for the fact that the person fails to meet the income 515
and support limitations under section 152(d) (1) (B) and (C) of 516
the Internal Revenue Code. 517

(d) For purposes of division (A) (11) of this section, 518
"medical care" has the meaning given in section 213 of the 519
Internal Revenue Code, subject to the special rules, 520
limitations, and exclusions set forth therein, and "qualified 521

long-term care" has the same meaning given in section 7702B(c) 522
of the Internal Revenue Code. Solely for purposes of divisions 523
(A) (11) (a) and (c) of this section, "dependent" includes a 524
person who otherwise would be a "qualifying relative" and thus a 525
"dependent" under section 152 of the Internal Revenue Code but 526
for the fact that the person fails to meet the income and 527
support limitations under section 152(d) (1) (B) and (C) of the 528
Internal Revenue Code. 529

(12) (a) Deduct any amount included in federal adjusted 530
gross income solely because the amount represents a 531
reimbursement or refund of expenses that in any year the 532
taxpayer had deducted as an itemized deduction pursuant to 533
section 63 of the Internal Revenue Code and applicable United 534
States department of the treasury regulations. The deduction 535
otherwise allowed under division (A) (12) (a) of this section 536
shall be reduced to the extent the reimbursement is attributable 537
to an amount the taxpayer deducted under this section in any 538
taxable year. 539

(b) Add any amount not otherwise included in Ohio adjusted 540
gross income for any taxable year to the extent that the amount 541
is attributable to the recovery during the taxable year of any 542
amount deducted or excluded in computing federal or Ohio 543
adjusted gross income in any taxable year. 544

(13) Deduct any portion of the deduction described in 545
section 1341(a) (2) of the Internal Revenue Code, for repaying 546
previously reported income received under a claim of right, that 547
meets both of the following requirements: 548

(a) It is allowable for repayment of an item that was 549
included in the taxpayer's adjusted gross income for a prior 550
taxable year and did not qualify for a credit under division (A) 551

or (B) of section 5747.05 of the Revised Code for that year; 552

(b) It does not otherwise reduce the taxpayer's adjusted 553
gross income for the current or any other taxable year. 554

(14) Deduct an amount equal to the deposits made to, and 555
net investment earnings of, a medical savings account during the 556
taxable year, in accordance with section 3924.66 of the Revised 557
Code. The deduction allowed by division (A) (14) of this section 558
does not apply to medical savings account deposits and earnings 559
otherwise deducted or excluded for the current or any other 560
taxable year from the taxpayer's federal adjusted gross income. 561

(15) (a) Add an amount equal to the funds withdrawn from a 562
medical savings account during the taxable year, and the net 563
investment earnings on those funds, when the funds withdrawn 564
were used for any purpose other than to reimburse an account 565
holder for, or to pay, eligible medical expenses, in accordance 566
with section 3924.66 of the Revised Code; 567

(b) Add the amounts distributed from a medical savings 568
account under division (A) (2) of section 3924.68 of the Revised 569
Code during the taxable year. 570

(16) Add any amount claimed as a credit under section 571
5747.059 or 5747.65 of the Revised Code to the extent that such 572
amount satisfies either of the following: 573

(a) The amount was deducted or excluded from the 574
computation of the taxpayer's federal adjusted gross income as 575
required to be reported for the taxpayer's taxable year under 576
the Internal Revenue Code; 577

(b) The amount resulted in a reduction of the taxpayer's 578
federal adjusted gross income as required to be reported for any 579
of the taxpayer's taxable years under the Internal Revenue Code. 580

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

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

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

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 611
(v) of this section, add five-sixths of the amount of 612
depreciation expense allowed by subsection (k) of section 168 of 613
the Internal Revenue Code, including the taxpayer's 614
proportionate or distributive share of the amount of 615
depreciation expense allowed by that subsection to a pass- 616
through entity in which the taxpayer has a direct or indirect 617
ownership interest. 618

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 619
of this section, add five-sixths of the amount of qualifying 620
section 179 depreciation expense, including the taxpayer's 621
proportionate or distributive share of the amount of qualifying 622
section 179 depreciation expense allowed to any pass-through 623
entity in which the taxpayer has a direct or indirect ownership 624
interest. 625

(iii) Subject to division (A) (20) (a) (v) of this section, 626
for taxable years beginning in 2012 or thereafter, if the 627
increase in income taxes withheld by the taxpayer is equal to or 628
greater than ten per cent of income taxes withheld by the 629
taxpayer during the taxpayer's immediately preceding taxable 630
year, "two-thirds" shall be substituted for "five-sixths" for 631
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 632

(iv) Subject to division (A) (20) (a) (v) of this section, 633
for taxable years beginning in 2012 or thereafter, a taxpayer is 634
not required to add an amount under division (A) (20) of this 635
section if the increase in income taxes withheld by the taxpayer 636
and by any pass-through entity in which the taxpayer has a 637
direct or indirect ownership interest is equal to or greater 638
than the sum of (I) the amount of qualifying section 179 639
depreciation expense and (II) the amount of depreciation expense 640

allowed to the taxpayer by subsection (k) of section 168 of the Internal Revenue Code, and including the taxpayer's proportionate or distributive shares of such amounts allowed to any such pass-through entities.

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

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

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

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

(d) For the purposes of division (A) (20) (a) (v) of this section, net operating loss carryback and carryforward shall not

include the allowance of any net operating loss deduction 670
carryback or carryforward to the taxable year to the extent such 671
loss resulted from depreciation allowed by section 168(k) of the 672
Internal Revenue Code and by the qualifying section 179 673
depreciation expense amount. 674

(e) For the purposes of divisions (A) (20) and (21) of this 675
section: 676

(i) "Income taxes withheld" means the total amount 677
withheld and remitted under sections 5747.06 and 5747.07 of the 678
Revised Code by an employer during the employer's taxable year. 679

(ii) "Increase in income taxes withheld" means the amount 680
by which the amount of income taxes withheld by an employer 681
during the employer's current taxable year exceeds the amount of 682
income taxes withheld by that employer during the employer's 683
immediately preceding taxable year. 684

(iii) "Qualifying section 179 depreciation expense" means 685
the difference between (I) the amount of depreciation expense 686
directly or indirectly allowed to a taxpayer under section 179 687
of the Internal Revised Code, and (II) the amount of 688
depreciation expense directly or indirectly allowed to the 689
taxpayer under section 179 of the Internal Revenue Code as that 690
section existed on December 31, 2002. 691

(21) (a) If the taxpayer was required to add an amount 692
under division (A) (20) (a) of this section for a taxable year, 693
deduct one of the following: 694

(i) One-fifth of the amount so added for each of the five 695
succeeding taxable years if the amount so added was five-sixths 696
of qualifying section 179 depreciation expense or depreciation 697
expense allowed by subsection (k) of section 168 of the Internal 698

Revenue Code; 699

(ii) One-half of the amount so added for each of the two 700
succeeding taxable years if the amount so added was two-thirds 701
of such depreciation expense; 702

(iii) One-sixth of the amount so added for each of the six 703
succeeding taxable years if the entire amount of such 704
depreciation expense was so added. 705

(b) If the amount deducted under division (A) (21) (a) of 706
this section is attributable to an add-back allocated under 707
division (A) (20) (c) of this section, the amount deducted shall 708
be situated to the same location. Otherwise, the add-back shall 709
be apportioned using the apportionment factors for the taxable 710
year in which the deduction is taken, subject to one or more of 711
the four alternative methods of apportionment enumerated in 712
section 5747.21 of the Revised Code. 713

(c) No deduction is available under division (A) (21) (a) of 714
this section with regard to any depreciation allowed by section 715
168(k) of the Internal Revenue Code and by the qualifying 716
section 179 depreciation expense amount to the extent that such 717
depreciation results in or increases a federal net operating 718
loss carryback or carryforward. If no such deduction is 719
available for a taxable year, the taxpayer may carry forward the 720
amount not deducted in such taxable year to the next taxable 721
year and add that amount to any deduction otherwise available 722
under division (A) (21) (a) of this section for that next taxable 723
year. The carryforward of amounts not so deducted shall continue 724
until the entire addition required by division (A) (20) (a) of 725
this section has been deducted. 726

(d) No refund shall be allowed as a result of adjustments 727

| | |
|---|--|
| made by division (A) (21) of this section. | 728 |
| (22) 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 as reimbursement for life insurance premiums under section 5919.31 of the Revised Code. | 729 730 731 732 733 |
| (23) 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 as a death benefit paid by the adjutant general under section 5919.33 of the Revised Code. | 734 735 736 737 738 |
| (24) Deduct, to the extent included in federal adjusted gross income and not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, military pay and allowances received by the taxpayer during the taxable year for active duty service in the United States army, air force, navy, marine corps, or coast guard or reserve components thereof or the national guard. The deduction may not be claimed for military pay and allowances received by the taxpayer while the taxpayer is stationed in this state. | 739 740 741 742 743 744 745 746 747 748 |
| (25) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year and not otherwise compensated for by any other source, the amount of qualified organ donation expenses incurred by the taxpayer during the taxable year, not to exceed ten thousand dollars. A taxpayer may deduct qualified organ donation expenses only once for all taxable years beginning with taxable years beginning in 2007. | 749 750 751 752 753 754 755 756 |

For the purposes of division (A) (25) of this section: 757

(a) "Human organ" means all or any portion of a human 758
liver, pancreas, kidney, intestine, or lung, and any portion of 759
human bone marrow. 760

(b) "Qualified organ donation expenses" means travel 761
expenses, lodging expenses, and wages and salary forgone by a 762
taxpayer in connection with the taxpayer's donation, while 763
living, of one or more of the taxpayer's human organs to another 764
human being. 765

(26) Deduct, to the extent not otherwise deducted or 766
excluded in computing federal or Ohio adjusted gross income for 767
the taxable year, amounts received by the taxpayer as retired 768
personnel pay for service in the uniformed services or reserve 769
components thereof, or the national guard, or received by the 770
surviving spouse or former spouse of such a taxpayer under the 771
survivor benefit plan on account of such a taxpayer's death. If 772
the taxpayer receives income on account of retirement paid under 773
the federal civil service retirement system or federal employees 774
retirement system, or under any successor retirement program 775
enacted by the congress of the United States that is established 776
and maintained for retired employees of the United States 777
government, and such retirement income is based, in whole or in 778
part, on credit for the taxpayer's uniformed service, the 779
deduction allowed under this division shall include only that 780
portion of such retirement income that is attributable to the 781
taxpayer's uniformed service, to the extent that portion of such 782
retirement income is otherwise included in federal adjusted 783
gross income and is not otherwise deducted under this section. 784
Any amount deducted under division (A) (26) of this section is 785
not included in a taxpayer's adjusted gross income for the 786

purposes of section 5747.055 of the Revised Code. No amount may 787
be deducted under division (A) (26) of this section on the basis 788
of which a credit was claimed under section 5747.055 of the 789
Revised Code. 790

(27) Deduct, to the extent not otherwise deducted or 791
excluded in computing federal or Ohio adjusted gross income for 792
the taxable year, the amount the taxpayer received during the 793
taxable year from the military injury relief fund created in 794
section 5902.05 of the Revised Code. 795

(28) Deduct, to the extent not otherwise deducted or 796
excluded in computing federal or Ohio adjusted gross income for 797
the taxable year, the amount the taxpayer received as a veterans 798
bonus during the taxable year from the Ohio department of 799
veterans services as authorized by Section 2r of Article VIII, 800
Ohio Constitution. 801

(29) Deduct, to the extent not otherwise deducted or 802
excluded in computing federal or Ohio adjusted gross income for 803
the taxable year, any income derived from a transfer agreement 804
or from the enterprise transferred under that agreement under 805
section 4313.02 of the Revised Code. 806

(30) Deduct, to the extent not otherwise deducted or 807
excluded in computing federal or Ohio adjusted gross income for 808
the taxable year, Ohio college opportunity or federal Pell grant 809
amounts received by the taxpayer or the taxpayer's spouse or 810
dependent pursuant to section 3333.122 of the Revised Code or 20 811
U.S.C. 1070a, et seq., and used to pay room or board furnished 812
by the educational institution for which the grant was awarded 813
at the institution's facilities, including meal plans 814
administered by the institution. For the purposes of this 815
division, receipt of a grant includes the distribution of a 816

grant directly to an educational institution and the crediting 817
of the grant to the enrollee's account with the institution. 818

(31) (a) For taxable years beginning in 2015, deduct from 819
the portion of an individual's adjusted gross income that is 820
business income, to the extent not otherwise deducted or 821
excluded in computing federal or Ohio adjusted gross income for 822
the taxable year, the lesser of the following amounts: 823

(i) Seventy-five per cent of the individual's business 824
income; 825

(ii) Ninety-three thousand seven hundred fifty dollars for 826
each spouse if spouses file separate returns under section 827
5747.08 of the Revised Code or one hundred eighty-seven thousand 828
five hundred dollars for all other individuals. 829

(b) For taxable years beginning in 2016 or thereafter, 830
deduct from the portion of an individual's adjusted gross income 831
that is business income, to the extent not otherwise deducted or 832
excluded in computing federal adjusted gross income for the 833
taxable year, one hundred twenty-five thousand dollars for each 834
spouse if spouses file separate returns under section 5747.08 of 835
the Revised Code or two hundred fifty thousand dollars for all 836
other individuals. 837

(32) Deduct, as provided under section 5747.78 of the 838
Revised Code, contributions to ABLE savings accounts made in 839
accordance with sections 113.50 to 113.56 of the Revised Code. 840

(33) Deduct, to the extent not otherwise deducted or 841
excluded in computing federal or Ohio adjusted gross income for 842
the taxable year, the amount the taxpayer received from the 843
division of oil and gas resources management under division (F) 844
(2) of section 1509.071 of the Revised Code. 845

(B) "Business income" means income, including gain or 846
loss, arising from transactions, activities, and sources in the 847
regular course of a trade or business and includes income, gain, 848
or loss from real property, tangible property, and intangible 849
property if the acquisition, rental, management, and disposition 850
of the property constitute integral parts of the regular course 851
of a trade or business operation. "Business income" includes 852
income, including gain or loss, from a partial or complete 853
liquidation of a business, including, but not limited to, gain 854
or loss from the sale or other disposition of goodwill. 855

(C) "Nonbusiness income" means all income other than 856
business income and may include, but is not limited to, 857
compensation, rents and royalties from real or tangible personal 858
property, capital gains, interest, dividends and distributions, 859
patent or copyright royalties, or lottery winnings, prizes, and 860
awards. 861

(D) "Compensation" means any form of remuneration paid to 862
an employee for personal services. 863

(E) "Fiduciary" means a guardian, trustee, executor, 864
administrator, receiver, conservator, or any other person acting 865
in any fiduciary capacity for any individual, trust, or estate. 866

(F) "Fiscal year" means an accounting period of twelve 867
months ending on the last day of any month other than December. 868

(G) "Individual" means any natural person. 869

(H) "Internal Revenue Code" means the "Internal Revenue 870
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 871

(I) "Resident" means any of the following, provided that 872
division (I) (3) of this section applies only to taxable years of 873
a trust beginning in 2002 or thereafter: 874

| | |
|---|--|
| (1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code; | 875 876 |
| (2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section. | 877 878 879 880 |
| (3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part. | 881 882 883 |
| For the purposes of division (I) (3) of this section: | 884 |
| (a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following: | 885 886 887 888 889 890 |
| (i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I) (3) (e) (i) or (ii) of this section; | 891 892 893 894 |
| (ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year; | 895 896 897 898 899 900 |
| (iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, | 901 902 903 |

but only if at least one of the trust's qualifying beneficiaries 904
is a resident domiciled in this state for the purposes of this 905
chapter during all or some portion of the trust's current 906
taxable year. If a trust document or instrument became 907
irrevocable upon the death of a person who at the time of death 908
was domiciled in this state for purposes of this chapter, that 909
person is a person described in division (I) (3) (a) (iii) of this 910
section. 911

(b) A trust is irrevocable to the extent that the 912
transferor is not considered to be the owner of the net assets 913
of the trust under sections 671 to 678 of the Internal Revenue 914
Code. 915

(c) With respect to a trust other than a charitable lead 916
trust, "qualifying beneficiary" has the same meaning as 917
"potential current beneficiary" as defined in section 1361(e) (2) 918
of the Internal Revenue Code, and with respect to a charitable 919
lead trust "qualifying beneficiary" is any current, future, or 920
contingent beneficiary, but with respect to any trust 921
"qualifying beneficiary" excludes a person or a governmental 922
entity or instrumentality to any of which a contribution would 923
qualify for the charitable deduction under section 170 of the 924
Internal Revenue Code. 925

(d) For the purposes of division (I) (3) (a) of this 926
section, the extent to which a trust consists directly or 927
indirectly, in whole or in part, of assets, net of any related 928
liabilities, that were transferred directly or indirectly, in 929
whole or part, to the trust by any of the sources enumerated in 930
that division shall be ascertained by multiplying the fair 931
market value of the trust's assets, net of related liabilities, 932
by the qualifying ratio, which shall be computed as follows: 933

(i) The first time the trust receives assets, the 934
numerator of the qualifying ratio is the fair market value of 935
those assets at that time, net of any related liabilities, from 936
sources enumerated in division (I) (3) (a) of this section. The 937
denominator of the qualifying ratio is the fair market value of 938
all the trust's assets at that time, net of any related 939
liabilities. 940

(ii) Each subsequent time the trust receives assets, a 941
revised qualifying ratio shall be computed. The numerator of the 942
revised qualifying ratio is the sum of (1) the fair market value 943
of the trust's assets immediately prior to the subsequent 944
transfer, net of any related liabilities, multiplied by the 945
qualifying ratio last computed without regard to the subsequent 946
transfer, and (2) the fair market value of the subsequently 947
transferred assets at the time transferred, net of any related 948
liabilities, from sources enumerated in division (I) (3) (a) of 949
this section. The denominator of the revised qualifying ratio is 950
the fair market value of all the trust's assets immediately 951
after the subsequent transfer, net of any related liabilities. 952

(iii) Whether a transfer to the trust is by or from any of 953
the sources enumerated in division (I) (3) (a) of this section 954
shall be ascertained without regard to the domicile of the 955
trust's beneficiaries. 956

(e) For the purposes of division (I) (3) (a) (i) of this 957
section: 958

(i) A trust is described in division (I) (3) (e) (i) of this 959
section if the trust is a testamentary trust and the testator of 960
that testamentary trust was domiciled in this state at the time 961
of the testator's death for purposes of the taxes levied under 962
Chapter 5731. of the Revised Code. 963

(ii) A trust is described in division (I) (3) (e) (ii) of 964
this section if the transfer is a qualifying transfer described 965
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 966
trust is an irrevocable inter vivos trust, and at least one of 967
the trust's qualifying beneficiaries is domiciled in this state 968
for purposes of this chapter during all or some portion of the 969
trust's current taxable year. 970

(f) For the purposes of division (I) (3) (e) (ii) of this 971
section, a "qualifying transfer" is a transfer of assets, net of 972
any related liabilities, directly or indirectly to a trust, if 973
the transfer is described in any of the following: 974

(i) The transfer is made to a trust, created by the 975
decedent before the decedent's death and while the decedent was 976
domiciled in this state for the purposes of this chapter, and, 977
prior to the death of the decedent, the trust became irrevocable 978
while the decedent was domiciled in this state for the purposes 979
of this chapter. 980

(ii) The transfer is made to a trust to which the 981
decedent, prior to the decedent's death, had directly or 982
indirectly transferred assets, net of any related liabilities, 983
while the decedent was domiciled in this state for the purposes 984
of this chapter, and prior to the death of the decedent the 985
trust became irrevocable while the decedent was domiciled in 986
this state for the purposes of this chapter. 987

(iii) The transfer is made on account of a contractual 988
relationship existing directly or indirectly between the 989
transferor and either the decedent or the estate of the decedent 990
at any time prior to the date of the decedent's death, and the 991
decedent was domiciled in this state at the time of death for 992
purposes of the taxes levied under Chapter 5731. of the Revised 993

| | |
|--|--|
| Code. | 994 |
| (iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter. | 995 996 997 998 999 |
| (v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code. | 1000 1001 1002 1003 |
| (vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death. | 1004 1005 1006 1007 1008 1009 |
| (g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state. | 1010 1011 |
| (J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year. | 1012 1013 1014 1015 |
| (K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code. | 1016 1017 |
| (L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required. | 1018 1019 1020 1021 |

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

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

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

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

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

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

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

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

(S) "Taxable income" or "Ohio taxable income" applies only 1051
to estates and trusts, and means federal taxable income, as 1052
defined and used in the Internal Revenue Code, adjusted as 1053
follows: 1054

(1) Add interest or dividends, net of ordinary, necessary, 1055
and reasonable expenses not deducted in computing federal 1056
taxable income, on obligations or securities of any state or of 1057
any political subdivision or authority of any state, other than 1058
this state and its subdivisions and authorities, but only to the 1059
extent that such net amount is not otherwise includible in Ohio 1060
taxable income and is described in either division (S) (1) (a) or 1061
(b) of this section: 1062

(a) The net amount is not attributable to the S portion of 1063
an electing small business trust and has not been distributed to 1064
beneficiaries for the taxable year; 1065

(b) The net amount is attributable to the S portion of an 1066
electing small business trust for the taxable year. 1067

(2) Add interest or dividends, net of ordinary, necessary, 1068
and reasonable expenses not deducted in computing federal 1069
taxable income, on obligations of any authority, commission, 1070
instrumentality, territory, or possession of the United States 1071
to the extent that the interest or dividends are exempt from 1072
federal income taxes but not from state income taxes, but only 1073
to the extent that such net amount is not otherwise includible 1074
in Ohio taxable income and is described in either division (S) 1075
(1) (a) or (b) of this section; 1076

(3) Add the amount of personal exemption allowed to the 1077
estate pursuant to section 642(b) of the Internal Revenue Code; 1078

(4) Deduct interest or dividends, net of related expenses 1079

deducted in computing federal taxable income, on obligations of 1080
the United States and its territories and possessions or of any 1081
authority, commission, or instrumentality of the United States 1082
to the extent that the interest or dividends are exempt from 1083
state taxes under the laws of the United States, but only to the 1084
extent that such amount is included in federal taxable income 1085
and is described in either division (S)(1)(a) or (b) of this 1086
section; 1087

(5) Deduct the amount of wages and salaries, if any, not 1088
otherwise allowable as a deduction but that would have been 1089
allowable as a deduction in computing federal taxable income for 1090
the taxable year, had the targeted jobs credit allowed under 1091
sections 38, 51, and 52 of the Internal Revenue Code not been in 1092
effect, but only to the extent such amount relates either to 1093
income included in federal taxable income for the taxable year 1094
or to income of the S portion of an electing small business 1095
trust for the taxable year; 1096

(6) Deduct any interest or interest equivalent, net of 1097
related expenses deducted in computing federal taxable income, 1098
on public obligations and purchase obligations, but only to the 1099
extent that such net amount relates either to income included in 1100
federal taxable income for the taxable year or to income of the 1101
S portion of an electing small business trust for the taxable 1102
year; 1103

(7) Add any loss or deduct any gain resulting from sale, 1104
exchange, or other disposition of public obligations to the 1105
extent that such loss has been deducted or such gain has been 1106
included in computing either federal taxable income or income of 1107
the S portion of an electing small business trust for the 1108
taxable year; 1109

(8) Except in the case of the final return of an estate, 1110
add any amount deducted by the taxpayer on both its Ohio estate 1111
tax return pursuant to section 5731.14 of the Revised Code, and 1112
on its federal income tax return in determining federal taxable 1113
income; 1114

(9) (a) Deduct any amount included in federal taxable 1115
income solely because the amount represents a reimbursement or 1116
refund of expenses that in a previous year the decedent had 1117
deducted as an itemized deduction pursuant to section 63 of the 1118
Internal Revenue Code and applicable treasury regulations. The 1119
deduction otherwise allowed under division (S) (9) (a) of this 1120
section shall be reduced to the extent the reimbursement is 1121
attributable to an amount the taxpayer or decedent deducted 1122
under this section in any taxable year. 1123

(b) Add any amount not otherwise included in Ohio taxable 1124
income for any taxable year to the extent that the amount is 1125
attributable to the recovery during the taxable year of any 1126
amount deducted or excluded in computing federal or Ohio taxable 1127
income in any taxable year, but only to the extent such amount 1128
has not been distributed to beneficiaries for the taxable year. 1129

(10) Deduct any portion of the deduction described in 1130
section 1341(a) (2) of the Internal Revenue Code, for repaying 1131
previously reported income received under a claim of right, that 1132
meets both of the following requirements: 1133

(a) It is allowable for repayment of an item that was 1134
included in the taxpayer's taxable income or the decedent's 1135
adjusted gross income for a prior taxable year and did not 1136
qualify for a credit under division (A) or (B) of section 1137
5747.05 of the Revised Code for that year. 1138

(b) It does not otherwise reduce the taxpayer's taxable 1139
income or the decedent's adjusted gross income for the current 1140
or any other taxable year. 1141

(11) Add any amount claimed as a credit under section 1142
5747.059 or 5747.65 of the Revised Code to the extent that the 1143
amount satisfies either of the following: 1144

(a) The amount was deducted or excluded from the 1145
computation of the taxpayer's federal taxable income as required 1146
to be reported for the taxpayer's taxable year under the 1147
Internal Revenue Code; 1148

(b) The amount resulted in a reduction in the taxpayer's 1149
federal taxable income as required to be reported for any of the 1150
taxpayer's taxable years under the Internal Revenue Code. 1151

(12) Deduct any amount, net of related expenses deducted 1152
in computing federal taxable income, that a trust is required to 1153
report as farm income on its federal income tax return, but only 1154
if the assets of the trust include at least ten acres of land 1155
satisfying the definition of "land devoted exclusively to 1156
agricultural use" under section 5713.30 of the Revised Code, 1157
regardless of whether the land is valued for tax purposes as 1158
such land under sections 5713.30 to 5713.38 of the Revised Code. 1159
If the trust is a pass-through entity investor, section 5747.231 1160
of the Revised Code applies in ascertaining if the trust is 1161
eligible to claim the deduction provided by division (S) (12) of 1162
this section in connection with the pass-through entity's farm 1163
income. 1164

Except for farm income attributable to the S portion of an 1165
electing small business trust, the deduction provided by 1166
division (S) (12) of this section is allowed only to the extent 1167

that the trust has not distributed such farm income. Division 1168
(S) (12) of this section applies only to taxable years of a trust 1169
beginning in 2002 or thereafter. 1170

(13) Add the net amount of income described in section 1171
641(c) of the Internal Revenue Code to the extent that amount is 1172
not included in federal taxable income. 1173

(14) Add or deduct the amount the taxpayer would be 1174
required to add or deduct under division (A) (20) or (21) of this 1175
section if the taxpayer's Ohio taxable income were computed in 1176
the same manner as an individual's Ohio adjusted gross income is 1177
computed under this section. In the case of a trust, division 1178
(S) (14) of this section applies only to any of the trust's 1179
taxable years beginning in 2002 or thereafter. 1180

(T) "School district income" and "school district income 1181
tax" have the same meanings as in section 5748.01 of the Revised 1182
Code. 1183

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 1184
(7) of this section, "public obligations," "purchase 1185
obligations," and "interest or interest equivalent" have the 1186
same meanings as in section 5709.76 of the Revised Code. 1187

(V) "Limited liability company" means any limited 1188
liability company formed under Chapter 1705. of the Revised Code 1189
or under the laws of any other state. 1190

(W) "Pass-through entity investor" means any person who, 1191
during any portion of a taxable year of a pass-through entity, 1192
is a partner, member, shareholder, or equity investor in that 1193
pass-through entity. 1194

(X) "Banking day" has the same meaning as in section 1195
1304.01 of the Revised Code. 1196

| | |
|---|------|
| (Y) "Month" means a calendar month. | 1197 |
| (Z) "Quarter" means the first three months, the second | 1198 |
| three months, the third three months, or the last three months | 1199 |
| of the taxpayer's taxable year. | 1200 |
| (AA) (1) "Eligible institution" means a state university or | 1201 |
| state institution of higher education as defined in section | 1202 |
| 3345.011 of the Revised Code, or a private, nonprofit college, | 1203 |
| university, or other post-secondary institution located in this | 1204 |
| state that possesses a certificate of authorization issued by | 1205 |
| the chancellor of higher education pursuant to Chapter 1713. of | 1206 |
| the Revised Code or a certificate of registration issued by the | 1207 |
| state board of career colleges and schools under Chapter 3332. | 1208 |
| of the Revised Code. | 1209 |
| (2) "Qualified tuition and fees" means tuition and fees | 1210 |
| imposed by an eligible institution as a condition of enrollment | 1211 |
| or attendance, not exceeding two thousand five hundred dollars | 1212 |
| in each of the individual's first two years of post-secondary | 1213 |
| education. If the individual is a part-time student, "qualified | 1214 |
| tuition and fees" includes tuition and fees paid for the | 1215 |
| academic equivalent of the first two years of post-secondary | 1216 |
| education during a maximum of five taxable years, not exceeding | 1217 |
| a total of five thousand dollars. "Qualified tuition and fees" | 1218 |
| does not include: | 1219 |
| (a) Expenses for any course or activity involving sports, | 1220 |
| games, or hobbies unless the course or activity is part of the | 1221 |
| individual's degree or diploma program; | 1222 |
| (b) The cost of books, room and board, student activity | 1223 |
| fees, athletic fees, insurance expenses, or other expenses | 1224 |
| unrelated to the individual's academic course of instruction; | 1225 |

(c) Tuition, fees, or other expenses paid or reimbursed 1226
through an employer, scholarship, grant in aid, or other 1227
educational benefit program. 1228

(BB) (1) "Modified business income" means the business 1229
income included in a trust's Ohio taxable income after such 1230
taxable income is first reduced by the qualifying trust amount, 1231
if any. 1232

(2) "Qualifying trust amount" of a trust means capital 1233
gains and losses from the sale, exchange, or other disposition 1234
of equity or ownership interests in, or debt obligations of, a 1235
qualifying investee to the extent included in the trust's Ohio 1236
taxable income, but only if the following requirements are 1237
satisfied: 1238

(a) The book value of the qualifying investee's physical 1239
assets in this state and everywhere, as of the last day of the 1240
qualifying investee's fiscal or calendar year ending immediately 1241
prior to the date on which the trust recognizes the gain or 1242
loss, is available to the trust. 1243

(b) The requirements of section 5747.011 of the Revised 1244
Code are satisfied for the trust's taxable year in which the 1245
trust recognizes the gain or loss. 1246

Any gain or loss that is not a qualifying trust amount is 1247
modified business income, qualifying investment income, or 1248
modified nonbusiness income, as the case may be. 1249

(3) "Modified nonbusiness income" means a trust's Ohio 1250
taxable income other than modified business income, other than 1251
the qualifying trust amount, and other than qualifying 1252
investment income, as defined in section 5747.012 of the Revised 1253
Code, to the extent such qualifying investment income is not 1254

otherwise part of modified business income. 1255

(4) "Modified Ohio taxable income" applies only to trusts, 1256
and means the sum of the amounts described in divisions (BB) (4) 1257
(a) to (c) of this section: 1258

(a) The fraction, calculated under section 5747.013, and 1259
applying section 5747.231 of the Revised Code, multiplied by the 1260
sum of the following amounts: 1261

(i) The trust's modified business income; 1262

(ii) The trust's qualifying investment income, as defined 1263
in section 5747.012 of the Revised Code, but only to the extent 1264
the qualifying investment income does not otherwise constitute 1265
modified business income and does not otherwise constitute a 1266
qualifying trust amount. 1267

(b) The qualifying trust amount multiplied by a fraction, 1268
the numerator of which is the sum of the book value of the 1269
qualifying investee's physical assets in this state on the last 1270
day of the qualifying investee's fiscal or calendar year ending 1271
immediately prior to the day on which the trust recognizes the 1272
qualifying trust amount, and the denominator of which is the sum 1273
of the book value of the qualifying investee's total physical 1274
assets everywhere on the last day of the qualifying investee's 1275
fiscal or calendar year ending immediately prior to the day on 1276
which the trust recognizes the qualifying trust amount. If, for 1277
a taxable year, the trust recognizes a qualifying trust amount 1278
with respect to more than one qualifying investee, the amount 1279
described in division (BB) (4) (b) of this section shall equal the 1280
sum of the products so computed for each such qualifying 1281
investee. 1282

(c) (i) With respect to a trust or portion of a trust that 1283

is a resident as ascertained in accordance with division (I) (3) 1284
(d) of this section, its modified nonbusiness income. 1285

(ii) With respect to a trust or portion of a trust that is 1286
not a resident as ascertained in accordance with division (I) (3) 1287
(d) of this section, the amount of its modified nonbusiness 1288
income satisfying the descriptions in divisions (B) (2) to (5) of 1289
section 5747.20 of the Revised Code, except as otherwise 1290
provided in division (BB) (4) (c) (ii) of this section. With 1291
respect to a trust or portion of a trust that is not a resident 1292
as ascertained in accordance with division (I) (3) (d) of this 1293
section, the trust's portion of modified nonbusiness income 1294
recognized from the sale, exchange, or other disposition of a 1295
debt interest in or equity interest in a section 5747.212 1296
entity, as defined in section 5747.212 of the Revised Code, 1297
without regard to division (A) of that section, shall not be 1298
allocated to this state in accordance with section 5747.20 of 1299
the Revised Code but shall be apportioned to this state in 1300
accordance with division (B) of section 5747.212 of the Revised 1301
Code without regard to division (A) of that section. 1302

If the allocation and apportionment of a trust's income 1303
under divisions (BB) (4) (a) and (c) of this section do not fairly 1304
represent the modified Ohio taxable income of the trust in this 1305
state, the alternative methods described in division (C) of 1306
section 5747.21 of the Revised Code may be applied in the manner 1307
and to the same extent provided in that section. 1308

(5) (a) Except as set forth in division (BB) (5) (b) of this 1309
section, "qualifying investee" means a person in which a trust 1310
has an equity or ownership interest, or a person or unit of 1311
government the debt obligations of either of which are owned by 1312
a trust. For the purposes of division (BB) (2) (a) of this section 1313

and for the purpose of computing the fraction described in 1314
division (BB) (4) (b) of this section, all of the following apply: 1315

(i) If the qualifying investee is a member of a qualifying 1316
controlled group on the last day of the qualifying investee's 1317
fiscal or calendar year ending immediately prior to the date on 1318
which the trust recognizes the gain or loss, then "qualifying 1319
investee" includes all persons in the qualifying controlled 1320
group on such last day. 1321

(ii) If the qualifying investee, or if the qualifying 1322
investee and any members of the qualifying controlled group of 1323
which the qualifying investee is a member on the last day of the 1324
qualifying investee's fiscal or calendar year ending immediately 1325
prior to the date on which the trust recognizes the gain or 1326
loss, separately or cumulatively own, directly or indirectly, on 1327
the last day of the qualifying investee's fiscal or calendar 1328
year ending immediately prior to the date on which the trust 1329
recognizes the qualifying trust amount, more than fifty per cent 1330
of the equity of a pass-through entity, then the qualifying 1331
investee and the other members are deemed to own the 1332
proportionate share of the pass-through entity's physical assets 1333
which the pass-through entity directly or indirectly owns on the 1334
last day of the pass-through entity's calendar or fiscal year 1335
ending within or with the last day of the qualifying investee's 1336
fiscal or calendar year ending immediately prior to the date on 1337
which the trust recognizes the qualifying trust amount. 1338

(iii) For the purposes of division (BB) (5) (a) (iii) of this 1339
section, "upper level pass-through entity" means a pass-through 1340
entity directly or indirectly owning any equity of another pass- 1341
through entity, and "lower level pass-through entity" means that 1342
other pass-through entity. 1343

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB) (5) (a) (iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

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

(i) During the taxable year the trust or part of the trust 1375
recognizes a gain or loss from the sale, exchange, or other 1376
disposition of equity or ownership interests in, or debt 1377
obligations of, the C corporation. 1378

(ii) Such gain or loss constitutes nonbusiness income. 1379

(6) "Available" means information is such that a person is 1380
able to learn of the information by the due date plus 1381
extensions, if any, for filing the return for the taxable year 1382
in which the trust recognizes the gain or loss. 1383

(CC) "Qualifying controlled group" has the same meaning as 1384
in section 5733.04 of the Revised Code. 1385

(DD) "Related member" has the same meaning as in section 1386
5733.042 of the Revised Code. 1387

(EE) (1) For the purposes of division (EE) of this section: 1388

(a) "Qualifying person" means any person other than a 1389
qualifying corporation. 1390

(b) "Qualifying corporation" means any person classified 1391
for federal income tax purposes as an association taxable as a 1392
corporation, except either of the following: 1393

(i) A corporation that has made an election under 1394
subchapter S, chapter one, subtitle A, of the Internal Revenue 1395
Code for its taxable year ending within, or on the last day of, 1396
the investor's taxable year; 1397

(ii) A subsidiary that is wholly owned by any corporation 1398
that has made an election under subchapter S, chapter one, 1399
subtitle A of the Internal Revenue Code for its taxable year 1400
ending within, or on the last day of, the investor's taxable 1401
year. 1402

(2) For the purposes of this chapter, unless expressly 1403
stated otherwise, no qualifying person indirectly owns any asset 1404
directly or indirectly owned by any qualifying corporation. 1405

(FF) For purposes of this chapter and Chapter 5751. of the 1406
Revised Code: 1407

(1) "Trust" does not include a qualified pre-income tax 1408
trust. 1409

(2) A "qualified pre-income tax trust" is any pre-income 1410
tax trust that makes a qualifying pre-income tax trust election 1411
as described in division (FF)(3) of this section. 1412

(3) A "qualifying pre-income tax trust election" is an 1413
election by a pre-income tax trust to subject to the tax imposed 1414
by section 5751.02 of the Revised Code the pre-income tax trust 1415
and all pass-through entities of which the trust owns or 1416
controls, directly, indirectly, or constructively through 1417
related interests, five per cent or more of the ownership or 1418
equity interests. The trustee shall notify the tax commissioner 1419
in writing of the election on or before April 15, 2006. The 1420
election, if timely made, shall be effective on and after 1421
January 1, 2006, and shall apply for all tax periods and tax 1422
years until revoked by the trustee of the trust. 1423

(4) A "pre-income tax trust" is a trust that satisfies all 1424
of the following requirements: 1425

(a) The document or instrument creating the trust was 1426
executed by the grantor before January 1, 1972; 1427

(b) The trust became irrevocable upon the creation of the 1428
trust; and 1429

(c) The grantor was domiciled in this state at the time 1430

the trust was created. 1431

(GG) "Uniformed services" has the same meaning as in 10 1432
U.S.C. 101. 1433

(HH) "Taxable business income" means the amount by which 1434
an individual's business income that is included in federal 1435
adjusted gross income exceeds the amount of business income the 1436
individual is authorized to deduct under division (A) (31) of 1437
this section for the taxable year. 1438

Section 2. That existing sections 1509.071, 1509.34, and 1439
5747.01 of the Revised Code are hereby repealed. 1440

Section 3. The amendment by this act of section 5747.01 of 1441
the Revised Code shall apply to taxable years ending on or after 1442
the effective date of this act. 1443