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Am. H. B. No. 21

Representative King

**Cosponsors: Representatives Barhorst, Creech, John, Williams, Klopfenstein,
Gross, Lear, Lorenz, Brennan, Mathews, T., Miller, M., Sigrist, Willis**

A BILL

To amend sections 1716.01 and 5747.01 and to enact 1
sections 1716.22 and 3333.96 of the Revised Code 2
to enact the Health Care Sharing Ministries 3
Freedom to Share Act. 4

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

Section 1. That sections 1716.01 and 5747.01 be amended 5
and sections 1716.22 and 3333.96 of the Revised Code be enacted 6
to read as follows: 7

Sec. 1716.01. As used in this chapter: 8

(A) (1) "Charitable organization" means either of the 9
following: 10

(a) Any person that is determined by the internal revenue 11
service to be a tax exempt organization pursuant to section 12
501(c) (3) of the Internal Revenue Code; 13

(b) Any person that is or holds itself out to be 14
established for any benevolent, philanthropic, patriotic, 15
educational, humane, scientific, public health, environmental 16

conservation, civic, or other eleemosynary purpose or for the 17
benefit of law enforcement personnel, firefighters, or other 18
persons who protect the public safety, or any person who in any 19
manner employs a charitable appeal as the basis of any 20
solicitation or an appeal that suggests that there is a 21
charitable purpose to any solicitation. 22

(2) "Charitable organization" is not limited to only those 23
organizations to which contributions are tax deductible under 24
section 170 of the Internal Revenue Code. 25

"Charitable organization" does not include an employer who 26
is not engaged in the business of soliciting contributions or 27
conducting charitable sales promotions but who incidentally 28
solicits contributions for a charitable organization or purpose; 29
or a compensated employee of an employer not engaged in the 30
business of soliciting contributions or conducting charitable 31
sales promotions, when the employee solicits contributions or 32
conducts charitable sales promotions at the direction of the 33
employee's employer. 34

(B) (1) "Charitable purpose" means either of the following: 35

(a) Any purpose described in section 501(c)(3) of the 36
Internal Revenue Code; 37

(b) Any benevolent, philanthropic, patriotic, educational, 38
humane, scientific, public health, environmental conservation, 39
civic, or other eleemosynary objective or any objective that 40
benefits law enforcement personnel, firefighters, or other 41
persons who protect the public safety. 42

(2) "Charitable purpose" is not limited to only those 43
purposes for which contributions are tax deductible under 44
section 170 of the Internal Revenue Code. 45

(C) "Charitable sales promotion" means any advertising or 46
sale conducted by a person who represents that the purchase or 47
use of goods or services offered by the person will benefit, in 48
whole or in part, any charitable organization or charitable 49
purpose. The provision of advertising services to a charitable 50
organization, either for compensation or as a donation, does not 51
of itself constitute a charitable sales promotion. 52

(D) (1) "Collection receptacle" means an attended or 53
unattended container the purpose of which is to collect 54
donations of any of the following: 55

(a) Clothing; 56

(b) Books; 57

(c) Subject to division (D) (2) of this section, personal 58
items, household items, or other goods. 59

(2) "Collection receptacle" does not include a container 60
used to collect monetary donations or donations of food, 61
consumable household supplies, or personal health products to be 62
distributed for a charitable purpose. 63

(E) "Commercial co-venturer" means any person who for 64
profit regularly and primarily is engaged in trade or commerce 65
other than in connection with soliciting for charitable 66
organizations or charitable purposes and who conducts a 67
charitable sales promotion. 68

(F) "Contribution" means the promise, pledge, or grant of 69
any money or property, financial assistance, or any other thing 70
of value in response to a solicitation. "Contribution" does not 71
include any bona fide fees, or any dues or assessments paid by 72
members, provided that membership is not conferred solely as a 73
consideration for making a contribution in response to a 74

solicitation. 75

(G) "Deceptive act or practice" means knowingly 76
misrepresenting any material fact related to the planning, 77
conducting, or executing of any solicitation of contributions 78
for a charitable organization or charitable purpose or to the 79
planning, conducting, or executing of a charitable sales 80
promotion, when the misrepresentation induces any person to make 81
a contribution to a charitable organization, for a charitable 82
purpose, or in response to a charitable sales promotion. 83

(H) "Fund-raising counsel" means any person who, for 84
compensation, plans, manages, advises, consults, or prepares 85
material for or with respect to the solicitation in this state 86
of contributions for any charitable organization or at any time 87
has custody of contributions from a solicitation, but does not 88
solicit contributions and does not employ, procure, or otherwise 89
engage any compensated person to solicit contributions. "Fund- 90
raising counsel" does not include the following: 91

(1) An attorney, investment counselor, or banker who in 92
the conduct of the attorney's, investment counselor's, or 93
banker's profession advises a client; 94

(2) A charitable organization or a bona fide officer, 95
employee, or volunteer of a charitable organization, when the 96
charitable organization has full knowledge of the services being 97
performed on its behalf and either of the following applies: 98

(a) The services performed by the charitable organization, 99
bona fide officer, employee, or volunteer are performed on 100
behalf of the charitable organization that employs the bona fide 101
officer or employee or engages the services of the bona fide 102
volunteer; 103

(b) The charitable organization on whose behalf the 104
services are performed shares some element of common control or 105
an historic or continuing relationship with the charitable 106
organization that performs the services or employs the bona fide 107
officer or employee or engages the services of the bona fide 108
volunteer; 109

(3) An employer who is not engaged in the business of 110
soliciting contributions or conducting charitable sales 111
promotions but who incidentally solicits contributions for a 112
charitable organization or purpose without compensation; 113

(4) A compensated employee of an employer who is not 114
engaged in the business of soliciting contributions or 115
conducting charitable sales promotions, when the employee 116
solicits contributions or conducts charitable sales promotions 117
at the direction of the employee's employer. 118

(I) "Health care sharing ministry" means a nonprofit 119
organization that meets all of the following: 120

(1) Limits its participants to those members who share a 121
common set of ethical or religious beliefs; 122

(2) Retains membership for participants who develop a 123
medical condition; 124

(3) Acts as a facilitator among participants who have 125
financial or medical needs to assist in meeting those financial 126
and medical needs in accordance with criteria established by the 127
organization; 128

(4) Provides for the financial or medical needs of a 129
participant through contributions from other participants; 130

(5) Provides amounts that participants may contribute with 131

no assumption of risk or promise to pay by the health care 132
sharing ministry to the participants; 133

(6) Conducts an annual audit which is performed by an 134
independent certified public accounting firm in accordance with 135
generally accepted accounting principles and which is made 136
available to the public by providing a copy upon request or by 137
posting the audit on the organization's web site; 138

(7) Provides to the participants, on at least an annual 139
basis, the total dollar amount of qualified financial and 140
medical needs actually shared in the previous year, or other 141
relevant time period, if the report is made more frequently than 142
annually, in accordance with criteria established by the 143
organization; 144

(8) Provides a written disclaimer on or accompanying all 145
applications and guideline materials distributed by or on behalf 146
of the organization that reads, in substance: 147

"Notice: The organization facilitating the sharing of 148
medical expenses is not an insurance company, and neither its 149
guidelines nor plan of operation is an insurance policy. Whether 150
anyone chooses to assist you with your medical bills will be 151
totally voluntary, because no other participant will be 152
compelled by law to contribute toward your medical bills. As 153
such, participation in the organization or a subscription to any 154
of its documents should never be considered to be insurance. 155
Regardless of whether you receive any payments for medical 156
expenses or whether this organization continues to operate, you 157
are always personally responsible for the payment of your own 158
medical bills." 159

(J) "Internal Revenue Code" means the "Internal Revenue 160

Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 161

~~(J)~~(K) "Person" has the same meaning as in section 1.59 of 162
the Revised Code and includes a group, foundation, or any other 163
entity however styled. 164

~~(K)~~(L) "Professional solicitor" means any person who, for 165
compensation, performs on behalf of or for the benefit of a 166
charitable organization any service in connection with which 167
contributions are or will be solicited in this state by the 168
compensated person or by any person it employs, procures, or 169
otherwise engages directly or indirectly to solicit 170
contributions. "Professional solicitor" does not include the 171
following: 172

(1) An attorney, investment counselor, or banker who in 173
the conduct of the attorney's, investment counselor's, or 174
banker's profession advises a client; 175

(2) A charitable organization or a bona fide officer, 176
employee, or volunteer of a charitable organization, when the 177
charitable organization has full knowledge of the services being 178
performed on its behalf and either of the following applies: 179

(a) The services performed by the charitable organization, 180
bona fide officer, employee, or volunteer are performed on 181
behalf of the charitable organization that employs the bona fide 182
officer or employee or engages the services of the bona fide 183
volunteer; 184

(b) The charitable organization on whose behalf the 185
services are performed shares some element of common control or 186
an historic or continuing relationship with the charitable 187
organization that performs the services or employs the bona fide 188
officer or employee or engages the services of the bona fide 189

volunteer; 190

(3) An employer who is not engaged in the business of 191
soliciting contributions or conducting charitable sales 192
promotions but who incidentally solicits contributions for a 193
charitable organization or purpose without compensation; 194

(4) A compensated employee of an employer who is not 195
engaged in the business of soliciting contributions or 196
conducting charitable sales promotions, when the employee 197
solicits contributions or conducts charitable sales promotions 198
at the direction of the employee's employer. 199

~~(L) (1)~~ (M) (1) "Solicit" or "solicitation" means to request 200
or a request directly or indirectly for money, property, 201
financial assistance, or any other thing of value on the plea or 202
representation that such money, property, financial assistance, 203
or other thing of value or a portion of it will be used for a 204
charitable purpose or will benefit a charitable organization. 205
"Solicit" or "solicitation" includes but is not limited to the 206
following methods of requesting or securing the promise, pledge, 207
or grant of money, property, financial assistance, or any other 208
thing of value: 209

(a) Any oral or written request; 210

(b) Making any announcement to the press, on radio or 211
television, by telephone or telegraph, or by any other 212
communication device concerning an appeal or solicitation 213
campaign by or for any charitable organization or for any 214
charitable purpose; 215

(c) Distributing, circulating, posting, or publishing any 216
handbill, written advertisement, or other publication that 217
directly or by implication seeks to obtain any contribution; 218

(d) Selling or offering or attempting to sell any 219
advertisement, advertising space, book, card, tag, coupon, 220
chance, device, magazine, membership, merchandise, subscription, 221
sponsorship, flower, ticket, admission, candy, cookies, or other 222
tangible item, or any right of any description in connection 223
with which an appeal is made for any charitable organization or 224
charitable purpose, or when the name of any charitable 225
organization is used or referred to in any such appeal as an 226
inducement or reason for making the sale, or when in connection 227
with the sale or offer or attempt to sell, any statement is made 228
that all or part of the proceeds from the sale will be used for 229
any charitable purpose or will benefit any charitable 230
organization; 231

(e) Operating a collection receptacle that purports, 232
either through language appearing on the collection receptacle 233
itself or otherwise, to be collecting items for the purpose of 234
benefiting a charitable purpose or charitable organization. 235
"Solicit" or "solicitation" does not include removing or 236
delivering donations placed in a collection receptacle for a 237
fixed fee if the person doing so does not otherwise directly or 238
indirectly receive any of the proceeds of the sale of such 239
donations or derive any other benefit from such activity. 240

(2) A solicitation is considered as having taken place for 241
purposes of division ~~(L)~~ (1) ~~(M)~~ (1) of this section whether or not 242
the person making the solicitation receives any contribution. A 243
solicitation does not occur when a person applies for a grant or 244
an award to the government or to an organization that is exempt 245
from federal income taxation under section 501(a) and described 246
in section 501(c)(3) of the Internal Revenue Code. 247

~~(M)~~ (N) "Solicitation campaign" means a series of 248

solicitations that are made by the same person for the same 249
charitable organization and that are similar in content or are 250
based on a similar pitch or sales approach, which series leads 251
up to or is represented to lead up to an event or lasts or is 252
intended to last for a definite period of time. 253

~~(N)~~(O) "Theft offense" has the same meaning as in section 254
2913.01 of the Revised Code. 255

~~(O)~~(P) "Elderly person" and "disabled adult" have the same 256
meanings as in section 2913.01 of the Revised Code. 257

Sec. 1716.22. (A) A health care sharing ministry is not 258
considered to be engaging in the business of insurance and is 259
not subject to the insurance laws of this state. 260

(B) Nothing in this chapter shall be construed as 261
abrogating or reducing a right, privilege, or protection 262
reserved for or accruing to a religious organization or 263
individual pursuant to the Ohio Constitution, the United States 264
Constitution, or the common law of this state, including 265
Humphrey v. Lane, 2000-Ohio-435. 266

Sec. 3333.96. Any state institution of higher education, 267
as defined in section 3345.011 of the Revised Code, that 268
requires attending students to have health care coverage through 269
a health insurer or public health care plan shall accept, in 270
satisfaction of such requirement, the student's participation in 271
a health care sharing ministry, as defined in section 1716.01 of 272
the Revised Code. 273

Sec. 5747.01. Except as otherwise expressly provided or 274
clearly appearing from the context, any term used in this 275
chapter that is not otherwise defined in this section has the 276
same meaning as when used in a comparable context in the laws of 277

the United States relating to federal income taxes or if not 278
used in a comparable context in those laws, has the same meaning 279
as in section 5733.40 of the Revised Code. Any reference in this 280
chapter to the Internal Revenue Code includes other laws of the 281
United States relating to federal income taxes. 282

As used in this chapter: 283

(A) "Adjusted gross income" or "Ohio adjusted gross 284
income" means federal adjusted gross income, as defined and used 285
in the Internal Revenue Code, adjusted as provided in this 286
section: 287

(1) Add interest or dividends on obligations or securities 288
of any state or of any political subdivision or authority of any 289
state, other than this state and its subdivisions and 290
authorities. 291

(2) Add interest or dividends on obligations of any 292
authority, commission, instrumentality, territory, or possession 293
of the United States to the extent that the interest or 294
dividends are exempt from federal income taxes but not from 295
state income taxes. 296

(3) Deduct interest or dividends on obligations of the 297
United States and its territories and possessions or of any 298
authority, commission, or instrumentality of the United States 299
to the extent that the interest or dividends are included in 300
federal adjusted gross income but exempt from state income taxes 301
under the laws of the United States. 302

(4) Deduct disability and survivor's benefits to the 303
extent included in federal adjusted gross income. 304

(5) Deduct the following, to the extent not otherwise 305
deducted or excluded in computing federal or Ohio adjusted gross 306

income: 307

(a) Benefits under Title II of the Social Security Act and 308
tier 1 railroad retirement; 309

(b) Railroad retirement benefits, other than tier 1 310
railroad retirement benefits, to the extent such amounts are 311
exempt from state taxation under federal law. 312

(6) Deduct the amount of wages and salaries, if any, not 313
otherwise allowable as a deduction but that would have been 314
allowable as a deduction in computing federal adjusted gross 315
income for the taxable year, had the work opportunity tax credit 316
allowed and determined under sections 38, 51, and 52 of the 317
Internal Revenue Code not been in effect. 318

(7) Deduct any interest or interest equivalent on public 319
obligations and purchase obligations to the extent that the 320
interest or interest equivalent is included in federal adjusted 321
gross income. 322

(8) Add any loss or deduct any gain resulting from the 323
sale, exchange, or other disposition of public obligations to 324
the extent that the loss has been deducted or the gain has been 325
included in computing federal adjusted gross income. 326

(9) Deduct or add amounts, as provided under section 327
5747.70 of the Revised Code, related to contributions made to or 328
tuition units purchased under a qualified tuition program 329
established pursuant to section 529 of the Internal Revenue 330
Code. 331

(10) (a) Deduct, to the extent not otherwise allowable as a 332
deduction or exclusion in computing federal or Ohio adjusted 333
gross income for the taxable year, the amount the taxpayer paid 334
during the taxable year for medical care insurance and qualified 335

long-term care insurance for the taxpayer, the taxpayer's 336
spouse, and dependents. No deduction for medical care insurance 337
under division (A)(10)(a) of this section shall be allowed 338
either to any taxpayer who is eligible to participate in any 339
subsidized health plan maintained by any employer of the 340
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 341
entitled to, or on application would be entitled to, benefits 342
under part A of Title XVIII of the "Social Security Act," 49 343
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 344
division (A)(10)(a) of this section, "subsidized health plan" 345
means a health plan for which the employer pays any portion of 346
the plan's cost. The deduction allowed under division (A)(10)(a) 347
of this section shall be the net of any related premium refunds, 348
related premium reimbursements, or related insurance premium 349
dividends received during the taxable year. 350

(b) Deduct, to the extent not otherwise deducted or 351
excluded in computing federal or Ohio adjusted gross income 352
during the taxable year, the amount the taxpayer paid during the 353
taxable year, not compensated for by any insurance or otherwise, 354
for medical care of the taxpayer, the taxpayer's spouse, and 355
dependents, to the extent the expenses exceed seven and one-half 356
per cent of the taxpayer's federal adjusted gross income. 357

(c) For purposes of division (A)(10) of this section, 358
"medical care" has the meaning given in section 213 of the 359
Internal Revenue Code, subject to the special rules, 360
limitations, and exclusions set forth therein, and "qualified 361
long-term care" has the same meaning given in section 7702B(c) 362
of the Internal Revenue Code. Solely for purposes of division 363
(A)(10)(a) of this section, "dependent" includes a person who 364
otherwise would be a "qualifying relative" and thus a 365
"dependent" under section 152 of the Internal Revenue Code but 366

for the fact that the person fails to meet the income and 367
support limitations under section 152(d)(1)(B) and (C) of the 368
Internal Revenue Code. 369

(11)(a) Deduct any amount included in federal adjusted 370
gross income solely because the amount represents a 371
reimbursement or refund of expenses that in any year the 372
taxpayer had deducted as an itemized deduction pursuant to 373
section 63 of the Internal Revenue Code and applicable United 374
States department of the treasury regulations. The deduction 375
otherwise allowed under division (A)(11)(a) of this section 376
shall be reduced to the extent the reimbursement is attributable 377
to an amount the taxpayer deducted under this section in any 378
taxable year. 379

(b) Add any amount not otherwise included in Ohio adjusted 380
gross income for any taxable year to the extent that the amount 381
is attributable to the recovery during the taxable year of any 382
amount deducted or excluded in computing federal or Ohio 383
adjusted gross income in any taxable year. 384

(12) Deduct any portion of the deduction described in 385
section 1341(a)(2) of the Internal Revenue Code, for repaying 386
previously reported income received under a claim of right, that 387
meets both of the following requirements: 388

(a) It is allowable for repayment of an item that was 389
included in the taxpayer's adjusted gross income for a prior 390
taxable year and did not qualify for a credit under division (A) 391
or (B) of section 5747.05 of the Revised Code for that year; 392

(b) It does not otherwise reduce the taxpayer's adjusted 393
gross income for the current or any other taxable year. 394

(13) Deduct an amount equal to the deposits made to, and 395

net investment earnings of, a medical savings account during the 396
taxable year, in accordance with section 3924.66 of the Revised 397
Code. The deduction allowed by division (A) (13) of this section 398
does not apply to medical savings account deposits and earnings 399
otherwise deducted or excluded for the current or any other 400
taxable year from the taxpayer's federal adjusted gross income. 401

(14) (a) Add an amount equal to the funds withdrawn from a 402
medical savings account during the taxable year, and the net 403
investment earnings on those funds, when the funds withdrawn 404
were used for any purpose other than to reimburse an account 405
holder for, or to pay, eligible medical expenses, in accordance 406
with section 3924.66 of the Revised Code; 407

(b) Add the amounts distributed from a medical savings 408
account under division (A) (2) of section 3924.68 of the Revised 409
Code during the taxable year. 410

(15) Add any amount claimed as a credit under section 411
5747.059 of the Revised Code to the extent that such amount 412
satisfies either of the following: 413

(a) The amount was deducted or excluded from the 414
computation of the taxpayer's federal adjusted gross income as 415
required to be reported for the taxpayer's taxable year under 416
the Internal Revenue Code; 417

(b) The amount resulted in a reduction of the taxpayer's 418
federal adjusted gross income as required to be reported for any 419
of the taxpayer's taxable years under the Internal Revenue Code. 420

(16) Deduct the amount contributed by the taxpayer to an 421
individual development account program established by a county 422
department of job and family services pursuant to sections 423
329.11 to 329.14 of the Revised Code for the purpose of matching 424

funds deposited by program participants. On request of the tax 425
commissioner, the taxpayer shall provide any information that, 426
in the tax commissioner's opinion, is necessary to establish the 427
amount deducted under division (A) (16) of this section. 428

(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and 429
(v) of this section, add five-sixths of the amount of 430
depreciation expense allowed by subsection (k) of section 168 of 431
the Internal Revenue Code, including the taxpayer's 432
proportionate or distributive share of the amount of 433
depreciation expense allowed by that subsection to a pass- 434
through entity in which the taxpayer has a direct or indirect 435
ownership interest. 436

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 437
of this section, add five-sixths of the amount of qualifying 438
section 179 depreciation expense, including the taxpayer's 439
proportionate or distributive share of the amount of qualifying 440
section 179 depreciation expense allowed to any pass-through 441
entity in which the taxpayer has a direct or indirect ownership 442
interest. 443

(iii) Subject to division (A) (17) (a) (v) of this section, 444
for taxable years beginning in 2012 or thereafter, if the 445
increase in income taxes withheld by the taxpayer is equal to or 446
greater than ten per cent of income taxes withheld by the 447
taxpayer during the taxpayer's immediately preceding taxable 448
year, "two-thirds" shall be substituted for "five-sixths" for 449
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 450

(iv) Subject to division (A) (17) (a) (v) of this section, 451
for taxable years beginning in 2012 or thereafter, a taxpayer is 452
not required to add an amount under division (A) (17) of this 453
section if the increase in income taxes withheld by the taxpayer 454

and by any pass-through entity in which the taxpayer has a 455
direct or indirect ownership interest is equal to or greater 456
than the sum of (I) the amount of qualifying section 179 457
depreciation expense and (II) the amount of depreciation expense 458
allowed to the taxpayer by subsection (k) of section 168 of the 459
Internal Revenue Code, and including the taxpayer's 460
proportionate or distributive shares of such amounts allowed to 461
any such pass-through entities. 462

(v) If a taxpayer directly or indirectly incurs a net 463
operating loss for the taxable year for federal income tax 464
purposes, to the extent such loss resulted from depreciation 465
expense allowed by subsection (k) of section 168 of the Internal 466
Revenue Code and by qualifying section 179 depreciation expense, 467
"the entire" shall be substituted for "five-sixths of the" for 468
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 469

The tax commissioner, under procedures established by the 470
commissioner, may waive the add-backs related to a pass-through 471
entity if the taxpayer owns, directly or indirectly, less than 472
five per cent of the pass-through entity. 473

(b) Nothing in division (A) (17) of this section shall be 474
construed to adjust or modify the adjusted basis of any asset. 475

(c) To the extent the add-back required under division (A) 476
(17) (a) of this section is attributable to property generating 477
nonbusiness income or loss allocated under section 5747.20 of 478
the Revised Code, the add-back shall be situated to the same 479
location as the nonbusiness income or loss generated by the 480
property for the purpose of determining the credit under 481
division (A) of section 5747.05 of the Revised Code. Otherwise, 482
the add-back shall be apportioned, subject to one or more of the 483
four alternative methods of apportionment enumerated in section 484

5747.21 of the Revised Code. 485

(d) For the purposes of division (A) (17) (a) (v) of this 486
section, net operating loss carryback and carryforward shall not 487
include the allowance of any net operating loss deduction 488
carryback or carryforward to the taxable year to the extent such 489
loss resulted from depreciation allowed by section 168(k) of the 490
Internal Revenue Code and by the qualifying section 179 491
depreciation expense amount. 492

(e) For the purposes of divisions (A) (17) and (18) of this 493
section: 494

(i) "Income taxes withheld" means the total amount 495
withheld and remitted under sections 5747.06 and 5747.07 of the 496
Revised Code by an employer during the employer's taxable year. 497

(ii) "Increase in income taxes withheld" means the amount 498
by which the amount of income taxes withheld by an employer 499
during the employer's current taxable year exceeds the amount of 500
income taxes withheld by that employer during the employer's 501
immediately preceding taxable year. 502

(iii) "Qualifying section 179 depreciation expense" means 503
the difference between (I) the amount of depreciation expense 504
directly or indirectly allowed to a taxpayer under section 179 505
of the Internal Revised Code, and (II) the amount of 506
depreciation expense directly or indirectly allowed to the 507
taxpayer under section 179 of the Internal Revenue Code as that 508
section existed on December 31, 2002. 509

(18) (a) If the taxpayer was required to add an amount 510
under division (A) (17) (a) of this section for a taxable year, 511
deduct one of the following: 512

(i) One-fifth of the amount so added for each of the five 513

succeeding taxable years if the amount so added was five-sixths 514
of qualifying section 179 depreciation expense or depreciation 515
expense allowed by subsection (k) of section 168 of the Internal 516
Revenue Code; 517

(ii) One-half of the amount so added for each of the two 518
succeeding taxable years if the amount so added was two-thirds 519
of such depreciation expense; 520

(iii) One-sixth of the amount so added for each of the six 521
succeeding taxable years if the entire amount of such 522
depreciation expense was so added. 523

(b) If the amount deducted under division (A) (18) (a) of 524
this section is attributable to an add-back allocated under 525
division (A) (17) (c) of this section, the amount deducted shall 526
be situated to the same location. Otherwise, the add-back shall 527
be apportioned using the apportionment factors for the taxable 528
year in which the deduction is taken, subject to one or more of 529
the four alternative methods of apportionment enumerated in 530
section 5747.21 of the Revised Code. 531

(c) No deduction is available under division (A) (18) (a) of 532
this section with regard to any depreciation allowed by section 533
168(k) of the Internal Revenue Code and by the qualifying 534
section 179 depreciation expense amount to the extent that such 535
depreciation results in or increases a federal net operating 536
loss carryback or carryforward. If no such deduction is 537
available for a taxable year, the taxpayer may carry forward the 538
amount not deducted in such taxable year to the next taxable 539
year and add that amount to any deduction otherwise available 540
under division (A) (18) (a) of this section for that next taxable 541
year. The carryforward of amounts not so deducted shall continue 542
until the entire addition required by division (A) (17) (a) of 543

this section has been deducted. 544

(19) Deduct, to the extent not otherwise deducted or 545
excluded in computing federal or Ohio adjusted gross income for 546
the taxable year, the amount the taxpayer received during the 547
taxable year as reimbursement for life insurance premiums under 548
section 5919.31 of the Revised Code. 549

(20) Deduct, to the extent not otherwise deducted or 550
excluded in computing federal or Ohio adjusted gross income for 551
the taxable year, the amount the taxpayer received during the 552
taxable year as a death benefit paid by the adjutant general 553
under section 5919.33 of the Revised Code. 554

(21) Deduct, to the extent included in federal adjusted 555
gross income and not otherwise allowable as a deduction or 556
exclusion in computing federal or Ohio adjusted gross income for 557
the taxable year, military pay and allowances received by the 558
taxpayer during the taxable year for active duty service in the 559
United States army, air force, navy, marine corps, or coast 560
guard or reserve components thereof or the national guard. The 561
deduction may not be claimed for military pay and allowances 562
received by the taxpayer while the taxpayer is stationed in this 563
state. 564

(22) Deduct, to the extent not otherwise allowable as a 565
deduction or exclusion in computing federal or Ohio adjusted 566
gross income for the taxable year and not otherwise compensated 567
for by any other source, the amount of qualified organ donation 568
expenses incurred by the taxpayer during the taxable year, not 569
to exceed ten thousand dollars. A taxpayer may deduct qualified 570
organ donation expenses only once for all taxable years 571
beginning with taxable years beginning in 2007. 572

For the purposes of division (A) (22) of this section: 573

(a) "Human organ" means all or any portion of a human 574
liver, pancreas, kidney, intestine, or lung, and any portion of 575
human bone marrow. 576

(b) "Qualified organ donation expenses" means travel 577
expenses, lodging expenses, and wages and salary forgone by a 578
taxpayer in connection with the taxpayer's donation, while 579
living, of one or more of the taxpayer's human organs to another 580
human being. 581

(23) Deduct, to the extent not otherwise deducted or 582
excluded in computing federal or Ohio adjusted gross income for 583
the taxable year, amounts received by the taxpayer as retired 584
personnel pay for service in the uniformed services or reserve 585
components thereof, or the national guard, or received by the 586
surviving spouse or former spouse of such a taxpayer under the 587
survivor benefit plan on account of such a taxpayer's death. If 588
the taxpayer receives income on account of retirement paid under 589
the federal civil service retirement system or federal employees 590
retirement system, or under any successor retirement program 591
enacted by the congress of the United States that is established 592
and maintained for retired employees of the United States 593
government, and such retirement income is based, in whole or in 594
part, on credit for the taxpayer's uniformed service, the 595
deduction allowed under this division shall include only that 596
portion of such retirement income that is attributable to the 597
taxpayer's uniformed service, to the extent that portion of such 598
retirement income is otherwise included in federal adjusted 599
gross income and is not otherwise deducted under this section. 600
Any amount deducted under division (A) (23) of this section is 601
not included in a taxpayer's adjusted gross income for the 602

purposes of section 5747.055 of the Revised Code. No amount may
be deducted under division (A) (23) of this section on the basis
of which a credit was claimed under section 5747.055 of the
Revised Code.

(24) 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.

(25) 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.

(26) 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.

(27) 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 633
of the grant to the enrollee's account with the institution. 634

(28) Deduct from the portion of an individual's federal 635
adjusted gross income that is business income, to the extent not 636
otherwise deducted or excluded in computing federal adjusted 637
gross income for the taxable year, one hundred twenty-five 638
thousand dollars for each spouse if spouses file separate 639
returns under section 5747.08 of the Revised Code or two hundred 640
fifty thousand dollars for all other individuals. 641

(29) Deduct, as provided under section 5747.78 of the 642
Revised Code, contributions to ABLE savings accounts made in 643
accordance with sections 113.50 to 113.56 of the Revised Code. 644

(30) (a) Deduct, to the extent not otherwise deducted or 645
excluded in computing federal or Ohio adjusted gross income 646
during the taxable year, all of the following: 647

(i) Compensation paid to a qualifying employee described 648
in division (A) (14) (a) of section 5703.94 of the Revised Code to 649
the extent such compensation is for disaster work conducted in 650
this state during a disaster response period pursuant to a 651
qualifying solicitation received by the employee's employer; 652

(ii) Compensation paid to a qualifying employee described 653
in division (A) (14) (b) of section 5703.94 of the Revised Code to 654
the extent such compensation is for disaster work conducted in 655
this state by the employee during the disaster response period 656
on critical infrastructure owned or used by the employee's 657
employer; 658

(iii) Income received by an out-of-state disaster business 659
for disaster work conducted in this state during a disaster 660
response period, or, if the out-of-state disaster business is a 661

pass-through entity, a taxpayer's distributive share of the 662
pass-through entity's income from the business conducting 663
disaster work in this state during a disaster response period, 664
if, in either case, the disaster work is conducted pursuant to a 665
qualifying solicitation received by the business. 666

(b) All terms used in division (A) (30) of this section 667
have the same meanings as in section 5703.94 of the Revised 668
Code. 669

(31) For a taxpayer who is a qualifying Ohio educator, 670
deduct, to the extent not otherwise deducted or excluded in 671
computing federal or Ohio adjusted gross income for the taxable 672
year, the lesser of two hundred fifty dollars or the amount of 673
expenses described in subsections (a) (2) (D) (i) and (ii) of 674
section 62 of the Internal Revenue Code paid or incurred by the 675
taxpayer during the taxpayer's taxable year in excess of the 676
amount the taxpayer is authorized to deduct for that taxable 677
year under subsection (a) (2) (D) of that section. 678

(32) Deduct, to the extent not otherwise deducted or 679
excluded in computing federal or Ohio adjusted gross income for 680
the taxable year, amounts received by the taxpayer as a 681
disability severance payment, computed under 10 U.S.C. 1212, 682
following discharge or release under honorable conditions from 683
the armed forces, as defined by 10 U.S.C. 101. 684

(33) Deduct, to the extent not otherwise deducted or 685
excluded in computing federal adjusted gross income or Ohio 686
adjusted gross income, amounts not subject to tax due to an 687
agreement entered into under division (A) (2) of section 5747.05 688
of the Revised Code. 689

(34) Deduct amounts as provided under section 5747.79 of 690

the Revised Code related to the taxpayer's qualifying capital 691
gains and deductible payroll. 692

To the extent a qualifying capital gain described under 693
division (A) (34) of this section is business income, the 694
taxpayer shall deduct those gains under this division before 695
deducting any such gains under division (A) (28) of this section. 696

(35) (a) For taxable years beginning in or after 2026, 697
deduct, to the extent not otherwise deducted or excluded in 698
computing federal or Ohio adjusted gross income for the taxable 699
year: 700

(i) One hundred per cent of the capital gain received by 701
the taxpayer in the taxable year from a qualifying interest in 702
an Ohio venture capital operating company attributable to the 703
company's investments in Ohio businesses during the period for 704
which the company was an Ohio venture operating company; and 705

(ii) Fifty per cent of the capital gain received by the 706
taxpayer in the taxable year from a qualifying interest in an 707
Ohio venture capital operating company attributable to the 708
company's investments in all other businesses during the period 709
for which the company was an Ohio venture operating company. 710

(b) Add amounts previously deducted by the taxpayer under 711
division (A) (35) (a) of this section if the director of 712
development certifies to the tax commissioner that the 713
requirements for the deduction were not met. 714

(c) All terms used in division (A) (35) of this section 715
have the same meanings as in section 122.851 of the Revised 716
Code. 717

(d) To the extent a capital gain described in division (A) 718
(35) (a) of this section is business income, the taxpayer shall 719

apply that division before applying division (A) (28) of this 720
section. 721

(36) Add, to the extent not otherwise included in 722
computing federal or Ohio adjusted gross income for any taxable 723
year, the taxpayer's proportionate share of the amount of the 724
tax levied under section 5747.38 of the Revised Code and paid by 725
an electing pass-through entity for the taxable year. 726

Notwithstanding any provision of the Revised Code to the 727
contrary, the portion of the addition required by division (A) 728
(36) of this section related to the apportioned business income 729
of the pass-through entity shall be considered business income 730
under division (B) of this section. Such addition is eligible 731
for the deduction in division (A) (28) of this section, subject 732
to the applicable dollar limitations, and the tax rate 733
prescribed by division (A) (4) (a) of section 5747.02 of the 734
Revised Code. The taxpayer shall provide, upon request of the 735
tax commissioner, any documentation necessary to verify the 736
portion of the addition that is business income under this 737
division. 738

(37) Deduct, to the extent not otherwise deducted or 739
excluded in computing federal or Ohio adjusted gross income for 740
the taxable year, amounts delivered to a qualifying institution 741
pursuant to section 3333.128 of the Revised Code for the benefit 742
of the taxpayer or the taxpayer's spouse or dependent. 743

(38) Deduct, to the extent not otherwise deducted or 744
excluded in computing federal or Ohio adjusted gross income for 745
the taxable year, amounts received under the Ohio adoption grant 746
program pursuant to section 5101.191 of the Revised Code. 747

(39) Deduct, to the extent included in federal adjusted 748

gross income, income attributable to amounts provided to a 749
taxpayer for any of the purposes for which an exclusion would 750
have been authorized under section 139 of the Internal Revenue 751
Code if the train derailment near the city of East Palestine on 752
February 3, 2023, had been a qualified disaster pursuant to that 753
section, or to compensate for lost business resulting from that 754
derailment, if such amounts are provided by any of the 755
following: 756

(a) A federal, state, or local government agency; 757

(b) A railroad company, as that term is defined in section 758
5727.01 of the Revised Code; 759

(c) Any subsidiary, insurer, or agent of a railroad 760
company or any related person. 761

Notwithstanding any provision to the contrary, the 762
derailment is not required to meet the definition of a 763
"qualified disaster" pursuant to section 139 of the Internal 764
Revenue Code to qualify for the deduction under this section. 765

(40) Deduct, to the extent included in federal adjusted 766
gross income, income attributable to loan repayments on behalf 767
of the taxpayer under the rural practice incentive program under 768
section 3333.135 of the Revised Code. 769

(41) Add any income taxes deducted in computing federal or 770
Ohio adjusted gross income to the extent the income taxes were 771
derived from income subject to a tax levied in another state or 772
the District of Columbia when such tax was enacted for purposes 773
of complying with internal revenue service notice 2020-75. 774

Notwithstanding any provision of the Revised Code to the 775
contrary, the portion of the addition required by division (A) 776
(41) of this section related to the apportioned business income 777

of the pass-through entity shall be considered business income 778
under division (B) of this section. Such addition is eligible 779
for the deduction in division (A) (28) of this section, subject 780
to the applicable dollar limitations, and the tax rate 781
prescribed by division (A) (4) (a) of section 5747.02 of the 782
Revised Code. The taxpayer shall provide, upon request of the 783
tax commissioner, any documentation necessary to verify the 784
portion of the addition that is business income under this 785
division. 786

(42) Deduct amounts contributed to a homeownership savings 787
account and calculated pursuant to divisions (B) and (C) of 788
section 5747.85 of the Revised Code. 789

(43) If the taxpayer is the account owner, add the amount 790
of funds withdrawn from a homeownership savings account not used 791
for eligible expenses, regardless of who deposited those funds. 792
As used in division (A) (43) of this section, "homeownership 793
savings account," "account owner," and "eligible expenses" have 794
the same meanings as in section 5747.85 of the Revised Code. 795

(44) 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 paid during the 798
taxable year pursuant to membership in a health care sharing 799
ministry, as defined in section 1716.01 of the Revised Code, for 800
participation by the taxpayer, the taxpayer's spouse, and the 801
taxpayer's dependents. 802

(B) "Business income" means income, including gain or 803
loss, arising from transactions, activities, and sources in the 804
regular course of a trade or business and includes income, gain, 805
or loss from real property, tangible property, and intangible 806
property if the acquisition, rental, management, and disposition 807

of the property constitute integral parts of the regular course 808
of a trade or business operation. "Business income" includes 809
income, including gain or loss, from a partial or complete 810
liquidation of a business, including, but not limited to, gain 811
or loss from the sale or other disposition of goodwill or the 812
sale of an equity or ownership interest in a business. 813

As used in this division, the "sale of an equity or 814
ownership interest in a business" means sales to which either or 815
both of the following apply: 816

(1) The sale is treated for federal income tax purposes as 817
the sale of assets. 818

(2) The seller materially participated, as described in 26 819
C.F.R. 1.469-5T, in the activities of the business during the 820
taxable year in which the sale occurs or during any of the five 821
preceding taxable years. 822

(C) "Nonbusiness income" means all income other than 823
business income and may include, but is not limited to, 824
compensation, rents and royalties from real or tangible personal 825
property, capital gains, interest, dividends and distributions, 826
patent or copyright royalties, or lottery winnings, prizes, and 827
awards. 828

(D) "Compensation" means any form of remuneration paid to 829
an employee for personal services. 830

(E) "Fiduciary" means a guardian, trustee, executor, 831
administrator, receiver, conservator, or any other person acting 832
in any fiduciary capacity for any individual, trust, or estate. 833

(F) "Fiscal year" means an accounting period of twelve 834
months ending on the last day of any month other than December. 835

(G) "Individual" means any natural person. 836

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 837
838

(I) "Resident" means any of the following: 839

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code; 840
841

(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. 842
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(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part. 846
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For the purposes of division (I) (3) of this section: 849

(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: 850
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(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; 856
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(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 860
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863

state for the purposes of this chapter during all or some 864
portion of the trust's current taxable year; 865

(iii) A person who was domiciled in this state for the 866
purposes of this chapter when the trust document or instrument 867
or part of the trust document or instrument became irrevocable, 868
but only if at least one of the trust's qualifying beneficiaries 869
is a resident domiciled in this state for the purposes of this 870
chapter during all or some portion of the trust's current 871
taxable year. If a trust document or instrument became 872
irrevocable upon the death of a person who at the time of death 873
was domiciled in this state for purposes of this chapter, that 874
person is a person described in division (I) (3) (a) (iii) of this 875
section. 876

(b) A trust is irrevocable to the extent that the 877
transferor is not considered to be the owner of the net assets 878
of the trust under sections 671 to 678 of the Internal Revenue 879
Code. 880

(c) With respect to a trust other than a charitable lead 881
trust, "qualifying beneficiary" has the same meaning as 882
"potential current beneficiary" as defined in section 1361(e) (2) 883
of the Internal Revenue Code, and with respect to a charitable 884
lead trust "qualifying beneficiary" is any current, future, or 885
contingent beneficiary, but with respect to any trust 886
"qualifying beneficiary" excludes a person or a governmental 887
entity or instrumentality to any of which a contribution would 888
qualify for the charitable deduction under section 170 of the 889
Internal Revenue Code. 890

(d) For the purposes of division (I) (3) (a) of this 891
section, the extent to which a trust consists directly or 892
indirectly, in whole or in part, of assets, net of any related 893

liabilities, that were transferred directly or indirectly, in 894
whole or part, to the trust by any of the sources enumerated in 895
that division shall be ascertained by multiplying the fair 896
market value of the trust's assets, net of related liabilities, 897
by the qualifying ratio, which shall be computed as follows: 898

(i) The first time the trust receives assets, the 899
numerator of the qualifying ratio is the fair market value of 900
those assets at that time, net of any related liabilities, from 901
sources enumerated in division (I) (3) (a) of this section. The 902
denominator of the qualifying ratio is the fair market value of 903
all the trust's assets at that time, net of any related 904
liabilities. 905

(ii) Each subsequent time the trust receives assets, a 906
revised qualifying ratio shall be computed. The numerator of the 907
revised qualifying ratio is the sum of (1) the fair market value 908
of the trust's assets immediately prior to the subsequent 909
transfer, net of any related liabilities, multiplied by the 910
qualifying ratio last computed without regard to the subsequent 911
transfer, and (2) the fair market value of the subsequently 912
transferred assets at the time transferred, net of any related 913
liabilities, from sources enumerated in division (I) (3) (a) of 914
this section. The denominator of the revised qualifying ratio is 915
the fair market value of all the trust's assets immediately 916
after the subsequent transfer, net of any related liabilities. 917

(iii) Whether a transfer to the trust is by or from any of 918
the sources enumerated in division (I) (3) (a) of this section 919
shall be ascertained without regard to the domicile of the 920
trust's beneficiaries. 921

(e) For the purposes of division (I) (3) (a) (i) of this 922
section: 923

(i) A trust is described in division (I) (3) (e) (i) of this 924
section if the trust is a testamentary trust and the testator of 925
that testamentary trust was domiciled in this state at the time 926
of the testator's death for purposes of the taxes levied under 927
Chapter 5731. of the Revised Code. 928

(ii) A trust is described in division (I) (3) (e) (ii) of 929
this section if the transfer is a qualifying transfer described 930
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 931
trust is an irrevocable inter vivos trust, and at least one of 932
the trust's qualifying beneficiaries is domiciled in this state 933
for purposes of this chapter during all or some portion of the 934
trust's current taxable year. 935

(f) For the purposes of division (I) (3) (e) (ii) of this 936
section, a "qualifying transfer" is a transfer of assets, net of 937
any related liabilities, directly or indirectly to a trust, if 938
the transfer is described in any of the following: 939

(i) The transfer is made to a trust, created by the 940
decedent before the decedent's death and while the decedent was 941
domiciled in this state for the purposes of this chapter, and, 942
prior to the death of the decedent, the trust became irrevocable 943
while the decedent was domiciled in this state for the purposes 944
of this chapter. 945

(ii) The transfer is made to a trust to which the 946
decedent, prior to the decedent's death, had directly or 947
indirectly transferred assets, net of any related liabilities, 948
while the decedent was domiciled in this state for the purposes 949
of this chapter, and prior to the death of the decedent the 950
trust became irrevocable while the decedent was domiciled in 951
this state for the purposes of this chapter. 952

(iii) The transfer is made on account of a contractual 953
relationship existing directly or indirectly between the 954
transferor and either the decedent or the estate of the decedent 955
at any time prior to the date of the decedent's death, and the 956
decedent was domiciled in this state at the time of death for 957
purposes of the taxes levied under Chapter 5731. of the Revised 958
Code. 959

(iv) The transfer is made to a trust on account of a 960
contractual relationship existing directly or indirectly between 961
the transferor and another person who at the time of the 962
decedent's death was domiciled in this state for purposes of 963
this chapter. 964

(v) The transfer is made to a trust on account of the will 965
of a testator who was domiciled in this state at the time of the 966
testator's death for purposes of the taxes levied under Chapter 967
5731. of the Revised Code. 968

(vi) The transfer is made to a trust created by or caused 969
to be created by a court, and the trust was directly or 970
indirectly created in connection with or as a result of the 971
death of an individual who, for purposes of the taxes levied 972
under Chapter 5731. of the Revised Code, was domiciled in this 973
state at the time of the individual's death. 974

(g) The tax commissioner may adopt rules to ascertain the 975
part of a trust residing in this state. 976

(J) "Nonresident" means an individual or estate that is 977
not a resident. An individual who is a resident for only part of 978
a taxable year is a nonresident for the remainder of that 979
taxable year. 980

(K) "Pass-through entity" has the same meaning as in 981

section 5733.04 of the Revised Code. 982

(L) "Return" means the notifications and reports required 983
to be filed pursuant to this chapter for the purpose of 984
reporting the tax due and includes declarations of estimated tax 985
when so required. 986

(M) "Taxable year" means the calendar year or the 987
taxpayer's fiscal year ending during the calendar year, or 988
fractional part thereof, upon which the adjusted gross income is 989
calculated pursuant to this chapter. 990

(N) "Taxpayer" means any person subject to the tax imposed 991
by section 5747.02 of the Revised Code or any pass-through 992
entity that makes the election under division (D) of section 993
5747.08 of the Revised Code. 994

(O) "Dependents" means one of the following: 995

(1) For taxable years beginning on or after January 1, 996
2018, and before January 1, 2026, dependents as defined in the 997
Internal Revenue Code; 998

(2) For all other taxable years, dependents as defined in 999
the Internal Revenue Code and as claimed in the taxpayer's 1000
federal income tax return for the taxable year or which the 1001
taxpayer would have been permitted to claim had the taxpayer 1002
filed a federal income tax return. 1003

(P) "Principal county of employment" means, in the case of 1004
a nonresident, the county within the state in which a taxpayer 1005
performs services for an employer or, if those services are 1006
performed in more than one county, the county in which the major 1007
portion of the services are performed. 1008

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1009

Code: 1010

(1) "Subdivision" means any county, municipal corporation,
park district, or township. 1011
1012

(2) "Essential local government purposes" includes all 1013
functions that any subdivision is required by general law to 1014
exercise, including like functions that are exercised under a 1015
charter adopted pursuant to the Ohio Constitution. 1016

(R) "Overpayment" means any amount already paid that 1017
exceeds the figure determined to be the correct amount of the 1018
tax. 1019

(S) "Taxable income" or "Ohio taxable income" applies only 1020
to estates and trusts, and means federal taxable income, as 1021
defined and used in the Internal Revenue Code, adjusted as 1022
follows: 1023

(1) Add interest or dividends, net of ordinary, necessary, 1024
and reasonable expenses not deducted in computing federal 1025
taxable income, on obligations or securities of any state or of 1026
any political subdivision or authority of any state, other than 1027
this state and its subdivisions and authorities, but only to the 1028
extent that such net amount is not otherwise includible in Ohio 1029
taxable income and is described in either division (S) (1) (a) or 1030
(b) of this section: 1031

(a) The net amount is not attributable to the S portion of 1032
an electing small business trust and has not been distributed to 1033
beneficiaries for the taxable year; 1034

(b) The net amount is attributable to the S portion of an 1035
electing small business trust for the taxable year. 1036

(2) Add interest or dividends, net of ordinary, necessary, 1037

and reasonable expenses not deducted in computing federal 1038
taxable income, on obligations of any authority, commission, 1039
instrumentality, territory, or possession of the United States 1040
to the extent that the interest or dividends are exempt from 1041
federal income taxes but not from state income taxes, but only 1042
to the extent that such net amount is not otherwise includible 1043
in Ohio taxable income and is described in either division (S) 1044
(1) (a) or (b) of this section; 1045

(3) Add the amount of personal exemption allowed to the 1046
estate pursuant to section 642(b) of the Internal Revenue Code; 1047

(4) Deduct interest or dividends, net of related expenses 1048
deducted in computing federal taxable income, on obligations of 1049
the United States and its territories and possessions or of any 1050
authority, commission, or instrumentality of the United States 1051
to the extent that the interest or dividends are exempt from 1052
state taxes under the laws of the United States, but only to the 1053
extent that such amount is included in federal taxable income 1054
and is described in either division (S) (1) (a) or (b) of this 1055
section; 1056

(5) Deduct the amount of wages and salaries, if any, not 1057
otherwise allowable as a deduction but that would have been 1058
allowable as a deduction in computing federal taxable income for 1059
the taxable year, had the work opportunity tax credit allowed 1060
under sections 38, 51, and 52 of the Internal Revenue Code not 1061
been in effect, but only to the extent such amount relates 1062
either to income included in federal taxable income for the 1063
taxable year or to income of the S portion of an electing small 1064
business trust for the taxable year; 1065

(6) Deduct any interest or interest equivalent, net of 1066
related expenses deducted in computing federal taxable income, 1067

on public obligations and purchase obligations, but only to the 1068
extent that such net amount relates either to income included in 1069
federal taxable income for the taxable year or to income of the 1070
S portion of an electing small business trust for the taxable 1071
year; 1072

(7) Add any loss or deduct any gain resulting from sale, 1073
exchange, or other disposition of public obligations to the 1074
extent that such loss has been deducted or such gain has been 1075
included in computing either federal taxable income or income of 1076
the S portion of an electing small business trust for the 1077
taxable year; 1078

(8) Except in the case of the final return of an estate, 1079
add any amount deducted by the taxpayer on both its Ohio estate 1080
tax return pursuant to section 5731.14 of the Revised Code, and 1081
on its federal income tax return in determining federal taxable 1082
income; 1083

(9) (a) Deduct any amount included in federal taxable 1084
income solely because the amount represents a reimbursement or 1085
refund of expenses that in a previous year the decedent had 1086
deducted as an itemized deduction pursuant to section 63 of the 1087
Internal Revenue Code and applicable treasury regulations. The 1088
deduction otherwise allowed under division (S) (9) (a) of this 1089
section shall be reduced to the extent the reimbursement is 1090
attributable to an amount the taxpayer or decedent deducted 1091
under this section in any taxable year. 1092

(b) Add any amount not otherwise included in Ohio taxable 1093
income for any taxable year to the extent that the amount is 1094
attributable to the recovery during the taxable year of any 1095
amount deducted or excluded in computing federal or Ohio taxable 1096
income in any taxable year, but only to the extent such amount 1097

has not been distributed to beneficiaries for the taxable year. 1098

(10) Deduct any portion of the deduction described in 1099
section 1341(a)(2) of the Internal Revenue Code, for repaying 1100
previously reported income received under a claim of right, that 1101
meets both of the following requirements: 1102

(a) It is allowable for repayment of an item that was 1103
included in the taxpayer's taxable income or the decedent's 1104
adjusted gross income for a prior taxable year and did not 1105
qualify for a credit under division (A) or (B) of section 1106
5747.05 of the Revised Code for that year. 1107

(b) It does not otherwise reduce the taxpayer's taxable 1108
income or the decedent's adjusted gross income for the current 1109
or any other taxable year. 1110

(11) Add any amount claimed as a credit under section 1111
5747.059 of the Revised Code to the extent that the amount 1112
satisfies either of the following: 1113

(a) The amount was deducted or excluded from the 1114
computation of the taxpayer's federal taxable income as required 1115
to be reported for the taxpayer's taxable year under the 1116
Internal Revenue Code; 1117

(b) The amount resulted in a reduction in the taxpayer's 1118
federal taxable income as required to be reported for any of the 1119
taxpayer's taxable years under the Internal Revenue Code. 1120

(12) Deduct any amount, net of related expenses deducted 1121
in computing federal taxable income, that a trust is required to 1122
report as farm income on its federal income tax return, but only 1123
if the assets of the trust include at least ten acres of land 1124
satisfying the definition of "land devoted exclusively to 1125
agricultural use" under section 5713.30 of the Revised Code, 1126

regardless of whether the land is valued for tax purposes as 1127
such land under sections 5713.30 to 5713.38 of the Revised Code. 1128
If the trust is a pass-through entity investor, section 5747.231 1129
of the Revised Code applies in ascertaining if the trust is 1130
eligible to claim the deduction provided by division (S)(12) of 1131
this section in connection with the pass-through entity's farm 1132
income. 1133

Except for farm income attributable to the S portion of an 1134
electing small business trust, the deduction provided by 1135
division (S)(12) of this section is allowed only to the extent 1136
that the trust has not distributed such farm income. 1137

(13) Add the net amount of income described in section 1138
641(c) of the Internal Revenue Code to the extent that amount is 1139
not included in federal taxable income. 1140

(14) Deduct the amount the taxpayer would be required to 1141
deduct under division (A)(18) of this section if the taxpayer's 1142
Ohio taxable income ~~were~~was computed in the same manner as an 1143
individual's Ohio adjusted gross income is computed under this 1144
section. 1145

(15) Add, to the extent not otherwise included in 1146
computing taxable income or Ohio taxable income for any taxable 1147
year, the taxpayer's proportionate share of the amount of the 1148
tax levied under section 5747.38 of the Revised Code and paid by 1149
an electing pass-through entity for the taxable year. 1150

(16) Add any income taxes deducted in computing federal 1151
taxable income or Ohio taxable income to the extent the income 1152
taxes were derived from income subject to a tax levied in 1153
another state or the District of Columbia when such tax was 1154
enacted for purposes of complying with internal revenue service 1155

notice 2020-75. 1156

(T) "School district income" and "school district income 1157
tax" have the same meanings as in section 5748.01 of the Revised 1158
Code. 1159

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1160
(7) of this section, "public obligations," "purchase 1161
obligations," and "interest or interest equivalent" have the 1162
same meanings as in section 5709.76 of the Revised Code. 1163

(V) "Limited liability company" means any limited 1164
liability company formed under former Chapter 1705. of the 1165
Revised Code as that chapter existed prior to February 11, 2022, 1166
Chapter 1706. of the Revised Code, or the laws of any other 1167
state. 1168

(W) "Pass-through entity investor" means any person who, 1169
during any portion of a taxable year of a pass-through entity, 1170
is a partner, member, shareholder, or equity investor in that 1171
pass-through entity. 1172

(X) "Banking day" has the same meaning as in section 1173
1304.01 of the Revised Code. 1174

(Y) "Month" means a calendar month. 1175

(Z) "Quarter" means the first three months, the second 1176
three months, the third three months, or the last three months 1177
of the taxpayer's taxable year. 1178

(AA) (1) "Modified business income" means the business 1179
income included in a trust's Ohio taxable income after such 1180
taxable income is first reduced by the qualifying trust amount, 1181
if any. 1182

(2) "Qualifying trust amount" of a trust means capital 1183

gains and losses from the sale, exchange, or other disposition 1184
of equity or ownership interests in, or debt obligations of, a 1185
qualifying investee to the extent included in the trust's Ohio 1186
taxable income, but only if the following requirements are 1187
satisfied: 1188

(a) The book value of the qualifying investee's physical 1189
assets in this state and everywhere, as of the last day of the 1190
qualifying investee's fiscal or calendar year ending immediately 1191
prior to the date on which the trust recognizes the gain or 1192
loss, is available to the trust. 1193

(b) The requirements of section 5747.011 of the Revised 1194
Code are satisfied for the trust's taxable year in which the 1195
trust recognizes the gain or loss. 1196

Any gain or loss that is not a qualifying trust amount is 1197
modified business income, qualifying investment income, or 1198
modified nonbusiness income, as the case may be. 1199

(3) "Modified nonbusiness income" means a trust's Ohio 1200
taxable income other than modified business income, other than 1201
the qualifying trust amount, and other than qualifying 1202
investment income, as defined in section 5747.012 of the Revised 1203
Code, to the extent such qualifying investment income is not 1204
otherwise part of modified business income. 1205

(4) "Modified Ohio taxable income" applies only to trusts, 1206
and means the sum of the amounts described in divisions (AA) (4) 1207
(a) to (c) of this section: 1208

(a) The fraction, calculated under section 5747.013, and 1209
applying section 5747.231 of the Revised Code, multiplied by the 1210
sum of the following amounts: 1211

(i) The trust's modified business income; 1212

(ii) The trust's qualifying investment income, as defined 1213
in section 5747.012 of the Revised Code, but only to the extent 1214
the qualifying investment income does not otherwise constitute 1215
modified business income and does not otherwise constitute a 1216
qualifying trust amount. 1217

(b) The qualifying trust amount multiplied by a fraction, 1218
the numerator of which is the sum of the book value of the 1219
qualifying investee's physical assets in this state on the last 1220
day of the qualifying investee's fiscal or calendar year ending 1221
immediately prior to the day on which the trust recognizes the 1222
qualifying trust amount, and the denominator of which is the sum 1223
of the book value of the qualifying investee's total physical 1224
assets everywhere on the last day of the qualifying investee's 1225
fiscal or calendar year ending immediately prior to the day on 1226
which the trust recognizes the qualifying trust amount. If, for 1227
a taxable year, the trust recognizes a qualifying trust amount 1228
with respect to more than one qualifying investee, the amount 1229
described in division (AA) (4) (b) of this section shall equal the 1230
sum of the products so computed for each such qualifying 1231
investee. 1232

(c) (i) With respect to a trust or portion of a trust that 1233
is a resident as ascertained in accordance with division (I) (3) 1234
(d) of this section, its modified nonbusiness income. 1235

(ii) With respect to a trust or portion of a trust that is 1236
not a resident as ascertained in accordance with division (I) (3) 1237
(d) of this section, the amount of its modified nonbusiness 1238
income satisfying the descriptions in divisions (B) (2) to (5) of 1239
section 5747.20 of the Revised Code, except as otherwise 1240
provided in division (AA) (4) (c) (ii) of this section. With 1241
respect to a trust or portion of a trust that is not a resident 1242

as ascertained in accordance with division (I) (3) (d) of this 1243
section, the trust's portion of modified nonbusiness income 1244
recognized from the sale, exchange, or other disposition of a 1245
debt interest in or equity interest in a section 5747.212 1246
entity, as defined in section 5747.212 of the Revised Code, 1247
without regard to division (A) of that section, shall not be 1248
allocated to this state in accordance with section 5747.20 of 1249
the Revised Code but shall be apportioned to this state in 1250
accordance with division (B) of section 5747.212 of the Revised 1251
Code without regard to division (A) of that section. 1252

If the allocation and apportionment of a trust's income 1253
under divisions (AA) (4) (a) and (c) of this section do not fairly 1254
represent the modified Ohio taxable income of the trust in this 1255
state, the alternative methods described in division (C) of 1256
section 5747.21 of the Revised Code may be applied in the manner 1257
and to the same extent provided in that section. 1258

(5) (a) Except as set forth in division (AA) (5) (b) of this 1259
section, "qualifying investee" means a person in which a trust 1260
has an equity or ownership interest, or a person or unit of 1261
government the debt obligations of either of which are owned by 1262
a trust. For the purposes of division (AA) (2) (a) of this section 1263
and for the purpose of computing the fraction described in 1264
division (AA) (4) (b) of this section, all of the following apply: 1265

(i) If the qualifying investee is a member of a qualifying 1266
controlled group on the last day of the qualifying investee's 1267
fiscal or calendar year ending immediately prior to the date on 1268
which the trust recognizes the gain or loss, then "qualifying 1269
investee" includes all persons in the qualifying controlled 1270
group on such last day. 1271

(ii) If the qualifying investee, or if the qualifying 1272

investee and any members of the qualifying controlled group of 1273
which the qualifying investee is a member on the last day of the 1274
qualifying investee's fiscal or calendar year ending immediately 1275
prior to the date on which the trust recognizes the gain or 1276
loss, separately or cumulatively own, directly or indirectly, on 1277
the last day of the qualifying investee's fiscal or calendar 1278
year ending immediately prior to the date on which the trust 1279
recognizes the qualifying trust amount, more than fifty per cent 1280
of the equity of a pass-through entity, then the qualifying 1281
investee and the other members are deemed to own the 1282
proportionate share of the pass-through entity's physical assets 1283
which the pass-through entity directly or indirectly owns on the 1284
last day of the pass-through entity's calendar or fiscal year 1285
ending within or with the last day of the qualifying investee's 1286
fiscal or calendar year ending immediately prior to the date on 1287
which the trust recognizes the qualifying trust amount. 1288

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1289
section, "upper level pass-through entity" means a pass-through 1290
entity directly or indirectly owning any equity of another pass- 1291
through entity, and "lower level pass-through entity" means that 1292
other pass-through entity. 1293

An upper level pass-through entity, whether or not it is 1294
also a qualifying investee, is deemed to own, on the last day of 1295
the upper level pass-through entity's calendar or fiscal year, 1296
the proportionate share of the lower level pass-through entity's 1297
physical assets that the lower level pass-through entity 1298
directly or indirectly owns on the last day of the lower level 1299
pass-through entity's calendar or fiscal year ending within or 1300
with the last day of the upper level pass-through entity's 1301
fiscal or calendar year. If the upper level pass-through entity 1302
directly and indirectly owns less than fifty per cent of the 1303

equity of the lower level pass-through entity on each day of the 1304
upper level pass-through entity's calendar or fiscal year in 1305
which or with which ends the calendar or fiscal year of the 1306
lower level pass-through entity and if, based upon clear and 1307
convincing evidence, complete information about the location and 1308
cost of the physical assets of the lower pass-through entity is 1309
not available to the upper level pass-through entity, then 1310
solely for purposes of ascertaining if a gain or loss 1311
constitutes a qualifying trust amount, the upper level pass- 1312
through entity shall be deemed as owning no equity of the lower 1313
level pass-through entity for each day during the upper level 1314
pass-through entity's calendar or fiscal year in which or with 1315
which ends the lower level pass-through entity's calendar or 1316
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1317
shall be construed to provide for any deduction or exclusion in 1318
computing any trust's Ohio taxable income. 1319

(b) With respect to a trust that is not a resident for the 1320
taxable year and with respect to a part of a trust that is not a 1321
resident for the taxable year, "qualifying investee" for that 1322
taxable year does not include a C corporation if both of the 1323
following apply: 1324

(i) During the taxable year the trust or part of the trust 1325
recognizes a gain or loss from the sale, exchange, or other 1326
disposition of equity or ownership interests in, or debt 1327
obligations of, the C corporation. 1328

(ii) Such gain or loss constitutes nonbusiness income. 1329

(6) "Available" means information is such that a person is 1330
able to learn of the information by the due date plus 1331
extensions, if any, for filing the return for the taxable year 1332
in which the trust recognizes the gain or loss. 1333

(BB) "Qualifying controlled group" has the same meaning as 1334
in section 5733.04 of the Revised Code. 1335

(CC) "Related member" has the same meaning as in section 1336
5733.042 of the Revised Code. 1337

(DD) (1) For the purposes of division (DD) of this section: 1338

(a) "Qualifying person" means any person other than a 1339
qualifying corporation. 1340

(b) "Qualifying corporation" means any person classified 1341
for federal income tax purposes as an association taxable as a 1342
corporation, except either of the following: 1343

(i) A corporation that has made an election under 1344
subchapter S, chapter one, subtitle A, of the Internal Revenue 1345
Code for its taxable year ending within, or on the last day of, 1346
the investor's taxable year; 1347

(ii) A subsidiary that is wholly owned by any corporation 1348
that has made an election under subchapter S, chapter one, 1349
subtitle A of the Internal Revenue Code for its taxable year 1350
ending within, or on the last day of, the investor's taxable 1351
year. 1352

(2) For the purposes of this chapter, unless expressly 1353
stated otherwise, no qualifying person indirectly owns any asset 1354
directly or indirectly owned by any qualifying corporation. 1355

(EE) For purposes of this chapter and Chapter 5751. of the 1356
Revised Code: 1357

(1) "Trust" does not include a qualified pre-income tax 1358
trust. 1359

(2) A "qualified pre-income tax trust" is any pre-income 1360

tax trust that makes a qualifying pre-income tax trust election 1361
as described in division (EE) (3) of this section. 1362

(3) A "qualifying pre-income tax trust election" is an 1363
election by a pre-income tax trust to subject to the tax imposed 1364
by section 5751.02 of the Revised Code the pre-income tax trust 1365
and all pass-through entities of which the trust owns or 1366
controls, directly, indirectly, or constructively through 1367
related interests, five per cent or more of the ownership or 1368
equity interests. The trustee shall notify the tax commissioner 1369
in writing of the election on or before April 15, 2006. The 1370
election, if timely made, shall be effective on and after 1371
January 1, 2006, and shall apply for all tax periods and tax 1372
years until revoked by the trustee of the trust. 1373

(4) A "pre-income tax trust" is a trust that satisfies all 1374
of the following requirements: 1375

(a) The document or instrument creating the trust was 1376
executed by the grantor before January 1, 1972; 1377

(b) The trust became irrevocable upon the creation of the 1378
trust; and 1379

(c) The grantor was domiciled in this state at the time 1380
the trust was created. 1381

(FF) "Uniformed services" has the same meaning as in 10 1382
U.S.C. 101. 1383

(GG) "Taxable business income" means the amount by which 1384
an individual's business income that is included in federal 1385
adjusted gross income exceeds the amount of business income the 1386
individual is authorized to deduct under division (A) (28) of 1387
this section for the taxable year. 1388

(HH) "Employer" does not include a franchisor with respect 1389
to the franchisor's relationship with a franchisee or an 1390
employee of a franchisee, unless the franchisor agrees to assume 1391
that role in writing or a court of competent jurisdiction 1392
determines that the franchisor exercises a type or degree of 1393
control over the franchisee or the franchisee's employees that 1394
is not customarily exercised by a franchisor for the purpose of 1395
protecting the franchisor's trademark, brand, or both. For 1396
purposes of this division, "franchisor" and "franchisee" have 1397
the same meanings as in 16 C.F.R. 436.1. 1398

(II) "Modified adjusted gross income" means Ohio adjusted 1399
gross income plus any amount deducted under divisions (A) (28) 1400
and (34) of this section for the taxable year. 1401

(JJ) "Qualifying Ohio educator" means an individual who, 1402
for a taxable year, qualifies as an eligible educator, as that 1403
term is defined in section 62 of the Internal Revenue Code, and 1404
who holds a certificate, license, or permit described in Chapter 1405
3319. or section 3301.071 of the Revised Code. 1406

Section 2. That existing sections 1716.01 and 5747.01 of 1407
the Revised Code are hereby repealed. 1408

Section 3. The amendment by this act of section 5747.01 of 1409
the Revised Code applies to taxable years ending on or after the 1410
effective date of this section. 1411

Section 4. The amendment or enactment by this act of 1412
sections 1716.01, 1716.22, 3333.96, and 5747.01 of the Revised 1413
Code shall be known as the Health Care Sharing Ministries 1414
Freedom to Share Act. 1415