

As Reported by the House Criminal Justice Committee

134th General Assembly

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H. B. No. 150

Representatives Hillyer, Leland

**Cosponsors: Representatives Seitz, Ingram, Boggs, Miller, A., Miller, J., Crawley,
Galonski**

A BILL

To amend sections 5747.01 and 5747.10 and to enact 1
sections 120.61, 120.62, 120.63, 120.64, 120.65, 2
120.66, 120.67, and 120.68 of the Revised Code 3
to establish the Ohio Public Defender State Loan 4
Repayment Program, to establish a task force to 5
study Ohio's indigent defense system, and to 6
make an appropriation. 7

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

Section 1. That sections 5747.01 and 5747.10 be amended 8
and sections 120.61, 120.62, 120.63, 120.64, 120.65, 120.66, 9
120.67, and 120.68 of the Revised Code be enacted to read as 10
follows: 11

Sec. 120.61. As used in sections 120.61 to 120.68 of the 12
Revised Code, "employed as a public defender" means either of 13
the following: 14

(A) An attorney employed by the state public defender, a 15
county public defender commission, or a joint county public 16
defender commission to represent indigent persons, who works a 17

minimum of thirty-five hours per week for a minimum of forty- 18
five weeks each service year; 19

(B) Counsel appointed by the court or selected by an 20
indigent person under division (E) of section 120.16 or division 21
(E) of section 120.26 of the Revised Code, who works in an area 22
designated as a public defender shortage area under section 23
120.63 of the Revised Code for a minimum of five hundred twenty 24
hours each service year. 25

Sec. 120.62. There is hereby created the Ohio public 26
defender state loan repayment program, which shall be 27
administered by the state public defender. The program shall 28
provide loan repayment on behalf of attorneys who agree to 29
employment as public defenders in areas designated as public 30
defender shortage areas by the Ohio public defender commission 31
pursuant to section 120.63 of the Revised Code. 32

Under the program, the state public defender, by means of 33
a contract entered into under section 120.66 of the Revised 34
Code, may agree to repay up to the amount set pursuant to 35
section 120.66 of the Revised Code of the principal and interest 36
of a government or other educational loan taken by an individual 37
for the following expenses, so long as the expenses were 38
incurred while the individual was enrolled in a law school in 39
the United States that was, during the time enrolled, accredited 40
by the American bar association, or a law school located outside 41
the United States for which the individual received a foreign 42
equivalency evaluation: 43

(A) Tuition; 44

(B) Other educational expenses, such as fees, books, and 45
expenses, for specific purposes and in amounts determined to be 46

reasonable by the state public defender; 47

(C) Room and board, in an amount determined reasonable by 48
the state public defender. 49

Sec. 120.63. The Ohio public defender commission shall 50
evaluate counties once every two years and shall designate by 51
rule any county that satisfies one or more of the following as a 52
public defender shortage area: 53

(A) The ratio of attorneys to the population in the county 54
is equal to or less than one to seven hundred. 55

(B) The case load of attorneys employed as public 56
defenders exceeds the maximum standard set by the Ohio public 57
defender commission. 58

(C) The attorneys employed as public defenders in the 59
county do not have pay parity with the county prosecutor's 60
office. 61

Sec. 120.64. (A) An individual who meets both of the 62
following requirements may apply for participation in the Ohio 63
public defender state loan repayment program: 64

(1) The individual is a citizen of the United States, a 65
national of the United States, or a permanent resident of the 66
United States. 67

(2) The individual either: 68

(a) Is a student enrolled in the final year of law school; 69
or 70

(b) Has been admitted to the practice of law in this state 71
by the Ohio supreme court for less than eight years and remains 72
in good standing. 73

(B) An application for participation in the Ohio public defender state loan repayment program shall be submitted to the state public defender on a form that the state public defender shall prescribe. The individual shall submit the following information with an application: 74
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(1) The individual's name, permanent address or address at which the individual is currently residing if different from the permanent address, and telephone number; 79
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(2) The law school the individual is attending or attended, the dates of attendance, and verification of attendance; 82
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(3) The individual's employer, as applicable; 85

(4) A summary and verification of the educational expenses for which the individual seeks reimbursement under the program; 86
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(5) Verification that the individual has been admitted to the practice of law in this state for less than eight years by the Ohio supreme court and remains in good standing, unless the individual is a student; 88
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(6) Verification the individual is a citizen of the United States, a national of the United States, or a permanent resident of the United States. 92
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Sec. 120.65. If funds are available in the Ohio public defender state loan repayment fund created under section 120.67 of the Revised Code and the general assembly has appropriated funds for the Ohio public defender state loan repayment program, the state public defender shall approve an individual for participation in the program, for reimbursement up to fifty thousand dollars, if the state public defender finds that the individual is eligible for participation in the program. 95
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Upon approval, the state public defender shall notify and 103
enter into discussions with the individual. The object of the 104
discussions is to facilitate the recruitment of the individual 105
to become or remain employed as a public defender within a 106
public defender shortage area. 107

If the state public defender and individual agree on the 108
individual's employment as a public defender within a public 109
defender shortage area, the individual shall prepare, sign, and 110
deliver to the state public defender a letter of intent agreeing 111
to that placement. 112

Sec. 120.66. (A) After signing a letter of intent under 113
section 120.65 of the Revised Code, an individual and the state 114
public defender may enter into a contract for the individual's 115
participation in the Ohio public defender state loan repayment 116
program. The individual's employer also may be a party to the 117
contract. 118

(B) The contract shall include all of the following 119
obligations: 120

(1) The individual agrees to remain employed as a public 121
defender within the public defender shortage area identified in 122
the letter of intent for the number of hours and duration 123
specified in the contract; 124

(2) The state public defender agrees, as provided in 125
section 120.62 of the Revised Code, to repay, so long as the 126
individual satisfies the service obligation agreed to under 127
division (B)(1) of this section, the following amount of the 128
principal and interest of a government or other educational loan 129
taken by the individual for expenses described in section 120.62 130
of the Revised Code: 131

<u>(a) For a three-year service obligation, up to thirty</u>	132
<u>thousand dollars;</u>	133
<u>(b) For an additional fourth or fifth year of service, up</u>	134
<u>to an additional twenty thousand dollars.</u>	135
<u>(3) The individual agrees to pay the state public defender</u>	136
<u>an amount established by rules adopted under section 120.68 of</u>	137
<u>the Revised Code if the individual fails to complete the service</u>	138
<u>obligation agreed to under division (B) (1) of this section.</u>	139
<u>(C) The contract shall include the following terms as</u>	140
<u>agreed upon by the parties:</u>	141
<u>(1) The individual's required length of service in the</u>	142
<u>public defender shortage area, which must be at least three</u>	143
<u>years with an optional fourth year and optional fifth year;</u>	144
<u>(2) (a) In the case of an attorney employed by the state</u>	145
<u>public defender, a county public defender commission, or a joint</u>	146
<u>county public defender commission, the number of weekly hours</u>	147
<u>the individual will be engaged in practice in the public</u>	148
<u>defender shortage area;</u>	149
<u>(b) In the case of private counsel appointed by the court</u>	150
<u>or selected by an indigent person pursuant to Chapter 120. of</u>	151
<u>the Revised Code, the number of hours over the service year the</u>	152
<u>individual will be engaged in practice in the public defender</u>	153
<u>shortage area.</u>	154
<u>(3) The maximum amount that the state public defender will</u>	155
<u>repay on behalf of the individual.</u>	156
<u>(D) If the amount specified in division (C) (3) of this</u>	157
<u>section includes federal funds, the amount of state funds repaid</u>	158
<u>on the individual's behalf shall be the same as the amount of</u>	159

those federal funds. 160

Sec. 120.67. The state public defender may accept gifts of 161
money from any source for the implementation and administration 162
of sections 120.61 to 120.68 of the Revised Code. The state 163
public defender shall pay all gifts accepted under this section 164
into the state treasury to the credit of the public defender 165
shortage area fund, which is hereby created. 166

The state public defender shall pay all damages collected 167
under division (B) (3) of section 120.66 of the Revised Code into 168
the state treasury to the credit of the public defender loan 169
repayment fund, which is hereby created. 170

The state public defender shall use the public defender 171
shortage area fund and the public defender loan repayment fund 172
for the implementation and administration of sections 120.61 to 173
120.68 of the Revised Code. 174

Sec. 120.68. The state public defender, in accordance with 175
section 111.15 of the Revised Code, shall adopt rules as 176
necessary to implement and administer sections 120.61 to 120.67 177
of the Revised Code. 178

Sec. 5747.01. Except as otherwise expressly provided or 179
clearly appearing from the context, any term used in this 180
chapter that is not otherwise defined in this section has the 181
same meaning as when used in a comparable context in the laws of 182
the United States relating to federal income taxes or if not 183
used in a comparable context in those laws, has the same meaning 184
as in section 5733.40 of the Revised Code. Any reference in this 185
chapter to the Internal Revenue Code includes other laws of the 186
United States relating to federal income taxes. 187

As used in this chapter: 188

(A) "Adjusted gross income" or "Ohio adjusted gross	189
income" means federal adjusted gross income, as defined and used	190
in the Internal Revenue Code, adjusted as provided in this	191
section:	192
(1) Add interest or dividends on obligations or securities	193
of any state or of any political subdivision or authority of any	194
state, other than this state and its subdivisions and	195
authorities.	196
(2) Add interest or dividends on obligations of any	197
authority, commission, instrumentality, territory, or possession	198
of the United States to the extent that the interest or	199
dividends are exempt from federal income taxes but not from	200
state income taxes.	201
(3) Deduct interest or dividends on obligations of the	202
United States and its territories and possessions or of any	203
authority, commission, or instrumentality of the United States	204
to the extent that the interest or dividends are included in	205
federal adjusted gross income but exempt from state income taxes	206
under the laws of the United States.	207
(4) Deduct disability and survivor's benefits to the	208
extent included in federal adjusted gross income.	209
(5) Deduct benefits under Title II of the Social Security	210
Act and tier 1 railroad retirement benefits to the extent	211
included in federal adjusted gross income under section 86 of	212
the Internal Revenue Code.	213
(6) Deduct the amount of wages and salaries, if any, not	214
otherwise allowable as a deduction but that would have been	215
allowable as a deduction in computing federal adjusted gross	216
income for the taxable year, had the targeted jobs credit	217

allowed and determined under sections 38, 51, and 52 of the	218
Internal Revenue Code not been in effect.	219
(7) Deduct any interest or interest equivalent on public	220
obligations and purchase obligations to the extent that the	221
interest or interest equivalent is included in federal adjusted	222
gross income.	223
(8) Add any loss or deduct any gain resulting from the	224
sale, exchange, or other disposition of public obligations to	225
the extent that the loss has been deducted or the gain has been	226
included in computing federal adjusted gross income.	227
(9) Deduct or add amounts, as provided under section	228
5747.70 of the Revised Code, related to contributions to	229
variable college savings program accounts made or tuition units	230
purchased pursuant to Chapter 3334. of the Revised Code.	231
(10) (a) Deduct, to the extent not otherwise allowable as a	232
deduction or exclusion in computing federal or Ohio adjusted	233
gross income for the taxable year, the amount the taxpayer paid	234
during the taxable year for medical care insurance and qualified	235
long-term care insurance for the taxpayer, the taxpayer's	236
spouse, and dependents. No deduction for medical care insurance	237
under division (A) (10) (a) of this section shall be allowed	238
either to any taxpayer who is eligible to participate in any	239
subsidized health plan maintained by any employer of the	240
taxpayer or of the taxpayer's spouse, or to any taxpayer who is	241
entitled to, or on application would be entitled to, benefits	242
under part A of Title XVIII of the "Social Security Act," 49	243
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of	244
division (A) (10) (a) of this section, "subsidized health plan"	245
means a health plan for which the employer pays any portion of	246
the plan's cost. The deduction allowed under division (A) (10) (a)	247

of this section shall be the net of any related premium refunds, 248
related premium reimbursements, or related insurance premium 249
dividends received during the taxable year. 250

(b) Deduct, to the extent not otherwise deducted or 251
excluded in computing federal or Ohio adjusted gross income 252
during the taxable year, the amount the taxpayer paid during the 253
taxable year, not compensated for by any insurance or otherwise, 254
for medical care of the taxpayer, the taxpayer's spouse, and 255
dependents, to the extent the expenses exceed seven and one-half 256
per cent of the taxpayer's federal adjusted gross income. 257

(c) For purposes of division (A)(10) of this section, 258
"medical care" has the meaning given in section 213 of the 259
Internal Revenue Code, subject to the special rules, 260
limitations, and exclusions set forth therein, and "qualified 261
long-term care" has the same meaning given in section 7702B(c) 262
of the Internal Revenue Code. Solely for purposes of division 263
(A)(10)(a) of this section, "dependent" includes a person who 264
otherwise would be a "qualifying relative" and thus a 265
"dependent" under section 152 of the Internal Revenue Code but 266
for the fact that the person fails to meet the income and 267
support limitations under section 152(d)(1)(B) and (C) of the 268
Internal Revenue Code. 269

(11)(a) Deduct any amount included in federal adjusted 270
gross income solely because the amount represents a 271
reimbursement or refund of expenses that in any year the 272
taxpayer had deducted as an itemized deduction pursuant to 273
section 63 of the Internal Revenue Code and applicable United 274
States department of the treasury regulations. The deduction 275
otherwise allowed under division (A)(11)(a) of this section 276
shall be reduced to the extent the reimbursement is attributable 277

to an amount the taxpayer deducted under this section in any taxable year.	278 279
(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.	280 281 282 283 284
(12) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:	285 286 287 288
(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;	289 290 291 292
(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.	293 294
(13) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(13) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.	295 296 297 298 299 300 301
(14)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance	302 303 304 305 306

with section 3924.66 of the Revised Code;	307
(b) Add the amounts distributed from a medical savings	308
account under division (A) (2) of section 3924.68 of the Revised	309
Code during the taxable year.	310
(15) Add any amount claimed as a credit under section	311
5747.059 of the Revised Code to the extent that such amount	312
satisfies either of the following:	313
(a) The amount was deducted or excluded from the	314
computation of the taxpayer's federal adjusted gross income as	315
required to be reported for the taxpayer's taxable year under	316
the Internal Revenue Code;	317
(b) The amount resulted in a reduction of the taxpayer's	318
federal adjusted gross income as required to be reported for any	319
of the taxpayer's taxable years under the Internal Revenue Code.	320
(16) Deduct the amount contributed by the taxpayer to an	321
individual development account program established by a county	322
department of job and family services pursuant to sections	323
329.11 to 329.14 of the Revised Code for the purpose of matching	324
funds deposited by program participants. On request of the tax	325
commissioner, the taxpayer shall provide any information that,	326
in the tax commissioner's opinion, is necessary to establish the	327
amount deducted under division (A) (16) of this section.	328
(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and	329
(v) of this section, add five-sixths of the amount of	330
depreciation expense allowed by subsection (k) of section 168 of	331
the Internal Revenue Code, including the taxpayer's	332
proportionate or distributive share of the amount of	333
depreciation expense allowed by that subsection to a pass-	334
through entity in which the taxpayer has a direct or indirect	335

ownership interest. 336

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 337
of this section, add five-sixths of the amount of qualifying 338
section 179 depreciation expense, including the taxpayer's 339
proportionate or distributive share of the amount of qualifying 340
section 179 depreciation expense allowed to any pass-through 341
entity in which the taxpayer has a direct or indirect ownership 342
interest. 343

(iii) Subject to division (A) (17) (a) (v) of this section, 344
for taxable years beginning in 2012 or thereafter, if the 345
increase in income taxes withheld by the taxpayer is equal to or 346
greater than ten per cent of income taxes withheld by the 347
taxpayer during the taxpayer's immediately preceding taxable 348
year, "two-thirds" shall be substituted for "five-sixths" for 349
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 350

(iv) Subject to division (A) (17) (a) (v) of this section, 351
for taxable years beginning in 2012 or thereafter, a taxpayer is 352
not required to add an amount under division (A) (17) of this 353
section if the increase in income taxes withheld by the taxpayer 354
and by any pass-through entity in which the taxpayer has a 355
direct or indirect ownership interest is equal to or greater 356
than the sum of (I) the amount of qualifying section 179 357
depreciation expense and (II) the amount of depreciation expense 358
allowed to the taxpayer by subsection (k) of section 168 of the 359
Internal Revenue Code, and including the taxpayer's 360
proportionate or distributive shares of such amounts allowed to 361
any such pass-through entities. 362

(v) If a taxpayer directly or indirectly incurs a net 363
operating loss for the taxable year for federal income tax 364
purposes, to the extent such loss resulted from depreciation 365

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) (17) (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) (17) 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) (17) (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) (17) (a) (v) of this section, net operating loss carryback and carryforward shall not include the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

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

(i) "Income taxes withheld" means the total amount 395
withheld and remitted under sections 5747.06 and 5747.07 of the 396
Revised Code by an employer during the employer's taxable year. 397

(ii) "Increase in income taxes withheld" means the amount 398
by which the amount of income taxes withheld by an employer 399
during the employer's current taxable year exceeds the amount of 400
income taxes withheld by that employer during the employer's 401
immediately preceding taxable year. 402

(iii) "Qualifying section 179 depreciation expense" means 403
the difference between (I) the amount of depreciation expense 404
directly or indirectly allowed to a taxpayer under section 179 405
of the Internal Revised Code, and (II) the amount of 406
depreciation expense directly or indirectly allowed to the 407
taxpayer under section 179 of the Internal Revenue Code as that 408
section existed on December 31, 2002. 409

(18) (a) If the taxpayer was required to add an amount 410
under division (A) (17) (a) of this section for a taxable year, 411
deduct one of the following: 412

(i) One-fifth of the amount so added for each of the five 413
succeeding taxable years if the amount so added was five-sixths 414
of qualifying section 179 depreciation expense or depreciation 415
expense allowed by subsection (k) of section 168 of the Internal 416
Revenue Code; 417

(ii) One-half of the amount so added for each of the two 418
succeeding taxable years if the amount so added was two-thirds 419
of such depreciation expense; 420

(iii) One-sixth of the amount so added for each of the six 421
succeeding taxable years if the entire amount of such 422
depreciation expense was so added. 423

(b) If the amount deducted under division (A) (18) (a) of 424
this section is attributable to an add-back allocated under 425
division (A) (17) (c) of this section, the amount deducted shall 426
be situated to the same location. Otherwise, the add-back shall 427
be apportioned using the apportionment factors for the taxable 428
year in which the deduction is taken, subject to one or more of 429
the four alternative methods of apportionment enumerated in 430
section 5747.21 of the Revised Code. 431

(c) No deduction is available under division (A) (18) (a) of 432
this section with regard to any depreciation allowed by section 433
168(k) of the Internal Revenue Code and by the qualifying 434
section 179 depreciation expense amount to the extent that such 435
depreciation results in or increases a federal net operating 436
loss carryback or carryforward. If no such deduction is 437
available for a taxable year, the taxpayer may carry forward the 438
amount not deducted in such taxable year to the next taxable 439
year and add that amount to any deduction otherwise available 440
under division (A) (18) (a) of this section for that next taxable 441
year. The carryforward of amounts not so deducted shall continue 442
until the entire addition required by division (A) (17) (a) of 443
this section has been deducted. 444

(19) Deduct, to the extent not otherwise deducted or 445
excluded in computing federal or Ohio adjusted gross income for 446
the taxable year, the amount the taxpayer received during the 447
taxable year as reimbursement for life insurance premiums under 448
section 5919.31 of the Revised Code. 449

(20) Deduct, to the extent not otherwise deducted or 450
excluded in computing federal or Ohio adjusted gross income for 451
the taxable year, the amount the taxpayer received during the 452
taxable year as a death benefit paid by the adjutant general 453

under section 5919.33 of the Revised Code. 454

(21) Deduct, to the extent included in federal adjusted 455
gross income and not otherwise allowable as a deduction or 456
exclusion in computing federal or Ohio adjusted gross income for 457
the taxable year, military pay and allowances received by the 458
taxpayer during the taxable year for active duty service in the 459
United States army, air force, navy, marine corps, or coast 460
guard or reserve components thereof or the national guard. The 461
deduction may not be claimed for military pay and allowances 462
received by the taxpayer while the taxpayer is stationed in this 463
state. 464

(22) Deduct, to the extent not otherwise allowable as a 465
deduction or exclusion in computing federal or Ohio adjusted 466
gross income for the taxable year and not otherwise compensated 467
for by any other source, the amount of qualified organ donation 468
expenses incurred by the taxpayer during the taxable year, not 469
to exceed ten thousand dollars. A taxpayer may deduct qualified 470
organ donation expenses only once for all taxable years 471
beginning with taxable years beginning in 2007. 472

For the purposes of division (A) (22) of this section: 473

(a) "Human organ" means all or any portion of a human 474
liver, pancreas, kidney, intestine, or lung, and any portion of 475
human bone marrow. 476

(b) "Qualified organ donation expenses" means travel 477
expenses, lodging expenses, and wages and salary forgone by a 478
taxpayer in connection with the taxpayer's donation, while 479
living, of one or more of the taxpayer's human organs to another 480
human being. 481

(23) Deduct, to the extent not otherwise deducted or 482

excluded in computing federal or Ohio adjusted gross income for 483
the taxable year, amounts received by the taxpayer as retired 484
personnel pay for service in the uniformed services or reserve 485
components thereof, or the national guard, or received by the 486
surviving spouse or former spouse of such a taxpayer under the 487
survivor benefit plan on account of such a taxpayer's death. If 488
the taxpayer receives income on account of retirement paid under 489
the federal civil service retirement system or federal employees 490
retirement system, or under any successor retirement program 491
enacted by the congress of the United States that is established 492
and maintained for retired employees of the United States 493
government, and such retirement income is based, in whole or in 494
part, on credit for the taxpayer's uniformed service, the 495
deduction allowed under this division shall include only that 496
portion of such retirement income that is attributable to the 497
taxpayer's uniformed service, to the extent that portion of such 498
retirement income is otherwise included in federal adjusted 499
gross income and is not otherwise deducted under this section. 500
Any amount deducted under division (A) (23) of this section is 501
not included in a taxpayer's adjusted gross income for the 502
purposes of section 5747.055 of the Revised Code. No amount may 503
be deducted under division (A) (23) of this section on the basis 504
of which a credit was claimed under section 5747.055 of the 505
Revised Code. 506

(24) Deduct, to the extent not otherwise deducted or 507
excluded in computing federal or Ohio adjusted gross income for 508
the taxable year, the amount the taxpayer received during the 509
taxable year from the military injury relief fund created in 510
section 5902.05 of the Revised Code. 511

(25) Deduct, to the extent not otherwise deducted or 512
excluded in computing federal or Ohio adjusted gross income for 513

the taxable year, the amount the taxpayer received as a veterans 514
bonus during the taxable year from the Ohio department of 515
veterans services as authorized by Section 2r of Article VIII, 516
Ohio Constitution. 517

(26) Deduct, to the extent not otherwise deducted or 518
excluded in computing federal or Ohio adjusted gross income for 519
the taxable year, any income derived from a transfer agreement 520
or from the enterprise transferred under that agreement under 521
section 4313.02 of the Revised Code. 522

(27) Deduct, to the extent not otherwise deducted or 523
excluded in computing federal or Ohio adjusted gross income for 524
the taxable year, Ohio college opportunity or federal Pell grant 525
amounts received by the taxpayer or the taxpayer's spouse or 526
dependent pursuant to section 3333.122 of the Revised Code or 20 527
U.S.C. 1070a, et seq., and used to pay room or board furnished 528
by the educational institution for which the grant was awarded 529
at the institution's facilities, including meal plans 530
administered by the institution. For the purposes of this 531
division, receipt of a grant includes the distribution of a 532
grant directly to an educational institution and the crediting 533
of the grant to the enrollee's account with the institution. 534

(28) Deduct from the portion of an individual's federal 535
adjusted gross income that is business income, to the extent not 536
otherwise deducted or excluded in computing federal adjusted 537
gross income for the taxable year, one hundred twenty-five 538
thousand dollars for each spouse if spouses file separate 539
returns under section 5747.08 of the Revised Code or two hundred 540
fifty thousand dollars for all other individuals. 541

(29) Deduct, as provided under section 5747.78 of the 542
Revised Code, contributions to ABLE savings accounts made in 543

accordance with sections 113.50 to 113.56 of the Revised Code.	544
(30) (a) Deduct, to the extent not otherwise deducted or	545
excluded in computing federal or Ohio adjusted gross income	546
during the taxable year, all of the following:	547
(i) Compensation paid to a qualifying employee described	548
in division (A) (14) (a) of section 5703.94 of the Revised Code to	549
the extent such compensation is for disaster work conducted in	550
this state during a disaster response period pursuant to a	551
qualifying solicitation received by the employee's employer;	552
(ii) Compensation paid to a qualifying employee described	553
in division (A) (14) (b) of section 5703.94 of the Revised Code to	554
the extent such compensation is for disaster work conducted in	555
this state by the employee during the disaster response period	556
on critical infrastructure owned or used by the employee's	557
employer;	558
(iii) Income received by an out-of-state disaster business	559
for disaster work conducted in this state during a disaster	560
response period, or, if the out-of-state disaster business is a	561
pass-through entity, a taxpayer's distributive share of the	562
pass-through entity's income from the business conducting	563
disaster work in this state during a disaster response period,	564
if, in either case, the disaster work is conducted pursuant to a	565
qualifying solicitation received by the business.	566
(b) All terms used in division (A) (30) of this section	567
have the same meanings as in section 5703.94 of the Revised	568
Code.	569
(31) For a taxpayer who is a qualifying Ohio educator,	570
deduct, to the extent not otherwise deducted or excluded in	571
computing federal or Ohio adjusted gross income for the taxable	572

year, the lesser of two hundred fifty dollars or the amount of 573
expenses described in subsections (a) (2) (D) (i) and (ii) of 574
section 62 of the Internal Revenue Code paid or incurred by the 575
taxpayer during the taxpayer's taxable year in excess of the 576
amount the taxpayer is authorized to deduct for that taxable 577
year under subsection (a) (2) (D) of that section. 578

~~(34)~~ (32) Deduct, to the extent not otherwise deducted or 579
excluded in computing federal or Ohio adjusted gross income for 580
the taxable year, amounts received by the taxpayer as a 581
disability severance payment, computed under 10 U.S.C. 1212, 582
following discharge or release under honorable conditions from 583
the armed forces, as defined by 10 U.S.C. 101. 584

(33) Deduct, to the extent included in federal adjusted 585
gross income, income attributable to loan repayments on behalf 586
of the taxpayer under the Ohio public defender state loan 587
repayment program under section 120.66 of the Revised Code. 588

(B) "Business income" means income, including gain or 589
loss, arising from transactions, activities, and sources in the 590
regular course of a trade or business and includes income, gain, 591
or loss from real property, tangible property, and intangible 592
property if the acquisition, rental, management, and disposition 593
of the property constitute integral parts of the regular course 594
of a trade or business operation. "Business income" includes 595
income, including gain or loss, from a partial or complete 596
liquidation of a business, including, but not limited to, gain 597
or loss from the sale or other disposition of goodwill. 598

(C) "Nonbusiness income" means all income other than 599
business income and may include, but is not limited to, 600
compensation, rents and royalties from real or tangible personal 601
property, capital gains, interest, dividends and distributions, 602

patent or copyright royalties, or lottery winnings, prizes, and 603
awards. 604

(D) "Compensation" means any form of remuneration paid to 605
an employee for personal services. 606

(E) "Fiduciary" means a guardian, trustee, executor, 607
administrator, receiver, conservator, or any other person acting 608
in any fiduciary capacity for any individual, trust, or estate. 609

(F) "Fiscal year" means an accounting period of twelve 610
months ending on the last day of any month other than December. 611

(G) "Individual" means any natural person. 612

(H) "Internal Revenue Code" means the "Internal Revenue 613
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 614

(I) "Resident" means any of the following: 615

(1) An individual who is domiciled in this state, subject 616
to section 5747.24 of the Revised Code; 617

(2) The estate of a decedent who at the time of death was 618
domiciled in this state. The domicile tests of section 5747.24 619
of the Revised Code are not controlling for purposes of division 620
(I) (2) of this section. 621

(3) A trust that, in whole or part, resides in this state. 622
If only part of a trust resides in this state, the trust is a 623
resident only with respect to that part. 624

For the purposes of division (I) (3) of this section: 625

(a) A trust resides in this state for the trust's current 626
taxable year to the extent, as described in division (I) (3) (d) 627
of this section, that the trust consists directly or indirectly, 628
in whole or in part, of assets, net of any related liabilities, 629

that were transferred, or caused to be transferred, directly or 630
indirectly, to the trust by any of the following: 631

(i) A person, a court, or a governmental entity or 632
instrumentality on account of the death of a decedent, but only 633
if the trust is described in division (I) (3) (e) (i) or (ii) of 634
this section; 635

(ii) A person who was domiciled in this state for the 636
purposes of this chapter when the person directly or indirectly 637
transferred assets to an irrevocable trust, but only if at least 638
one of the trust's qualifying beneficiaries is domiciled in this 639
state for the purposes of this chapter during all or some 640
portion of the trust's current taxable year; 641

(iii) A person who was domiciled in this state for the 642
purposes of this chapter when the trust document or instrument 643
or part of the trust document or instrument became irrevocable, 644
but only if at least one of the trust's qualifying beneficiaries 645
is a resident domiciled in this state for the purposes of this 646
chapter during all or some portion of the trust's current 647
taxable year. If a trust document or instrument became 648
irrevocable upon the death of a person who at the time of death 649
was domiciled in this state for purposes of this chapter, that 650
person is a person described in division (I) (3) (a) (iii) of this 651
section. 652

(b) A trust is irrevocable to the extent that the 653
transferor is not considered to be the owner of the net assets 654
of the trust under sections 671 to 678 of the Internal Revenue 655
Code. 656

(c) With respect to a trust other than a charitable lead 657
trust, "qualifying beneficiary" has the same meaning as 658

"potential current beneficiary" as defined in section 1361(e) (2) 659
of the Internal Revenue Code, and with respect to a charitable 660
lead trust "qualifying beneficiary" is any current, future, or 661
contingent beneficiary, but with respect to any trust 662
"qualifying beneficiary" excludes a person or a governmental 663
entity or instrumentality to any of which a contribution would 664
qualify for the charitable deduction under section 170 of the 665
Internal Revenue Code. 666

(d) For the purposes of division (I) (3) (a) of this 667
section, the extent to which a trust consists directly or 668
indirectly, in whole or in part, of assets, net of any related 669
liabilities, that were transferred directly or indirectly, in 670
whole or part, to the trust by any of the sources enumerated in 671
that division shall be ascertained by multiplying the fair 672
market value of the trust's assets, net of related liabilities, 673
by the qualifying ratio, which shall be computed as follows: 674

(i) The first time the trust receives assets, the 675
numerator of the qualifying ratio is the fair market value of 676
those assets at that time, net of any related liabilities, from 677
sources enumerated in division (I) (3) (a) of this section. The 678
denominator of the qualifying ratio is the fair market value of 679
all the trust's assets at that time, net of any related 680
liabilities. 681

(ii) Each subsequent time the trust receives assets, a 682
revised qualifying ratio shall be computed. The numerator of the 683
revised qualifying ratio is the sum of (1) the fair market value 684
of the trust's assets immediately prior to the subsequent 685
transfer, net of any related liabilities, multiplied by the 686
qualifying ratio last computed without regard to the subsequent 687
transfer, and (2) the fair market value of the subsequently 688

transferred assets at the time transferred, net of any related 689
liabilities, from sources enumerated in division (I) (3) (a) of 690
this section. The denominator of the revised qualifying ratio is 691
the fair market value of all the trust's assets immediately 692
after the subsequent transfer, net of any related liabilities. 693

(iii) Whether a transfer to the trust is by or from any of 694
the sources enumerated in division (I) (3) (a) of this section 695
shall be ascertained without regard to the domicile of the 696
trust's beneficiaries. 697

(e) For the purposes of division (I) (3) (a) (i) of this 698
section: 699

(i) A trust is described in division (I) (3) (e) (i) of this 700
section if the trust is a testamentary trust and the testator of 701
that testamentary trust was domiciled in this state at the time 702
of the testator's death for purposes of the taxes levied under 703
Chapter 5731. of the Revised Code. 704

(ii) A trust is described in division (I) (3) (e) (ii) of 705
this section if the transfer is a qualifying transfer described 706
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 707
trust is an irrevocable inter vivos trust, and at least one of 708
the trust's qualifying beneficiaries is domiciled in this state 709
for purposes of this chapter during all or some portion of the 710
trust's current taxable year. 711

(f) For the purposes of division (I) (3) (e) (ii) of this 712
section, a "qualifying transfer" is a transfer of assets, net of 713
any related liabilities, directly or indirectly to a trust, if 714
the transfer is described in any of the following: 715

(i) The transfer is made to a trust, created by the 716
decedent before the decedent's death and while the decedent was 717

domiciled in this state for the purposes of this chapter, and, 718
prior to the death of the decedent, the trust became irrevocable 719
while the decedent was domiciled in this state for the purposes 720
of this chapter. 721

(ii) The transfer is made to a trust to which the 722
decedent, prior to the decedent's death, had directly or 723
indirectly transferred assets, net of any related liabilities, 724
while the decedent was domiciled in this state for the purposes 725
of this chapter, and prior to the death of the decedent the 726
trust became irrevocable while the decedent was domiciled in 727
this state for the purposes of this chapter. 728

(iii) The transfer is made on account of a contractual 729
relationship existing directly or indirectly between the 730
transferor and either the decedent or the estate of the decedent 731
at any time prior to the date of the decedent's death, and the 732
decedent was domiciled in this state at the time of death for 733
purposes of the taxes levied under Chapter 5731. of the Revised 734
Code. 735

(iv) The transfer is made to a trust on account of a 736
contractual relationship existing directly or indirectly between 737
the transferor and another person who at the time of the 738
decedent's death was domiciled in this state for purposes of 739
this chapter. 740

(v) The transfer is made to a trust on account of the will 741
of a testator who was domiciled in this state at the time of the 742
testator's death for purposes of the taxes levied under Chapter 743
5731. of the Revised Code. 744

(vi) The transfer is made to a trust created by or caused 745
to be created by a court, and the trust was directly or 746

indirectly created in connection with or as a result of the 747
death of an individual who, for purposes of the taxes levied 748
under Chapter 5731. of the Revised Code, was domiciled in this 749
state at the time of the individual's death. 750

(g) The tax commissioner may adopt rules to ascertain the 751
part of a trust residing in this state. 752

(J) "Nonresident" means an individual or estate that is 753
not a resident. An individual who is a resident for only part of 754
a taxable year is a nonresident for the remainder of that 755
taxable year. 756

(K) "Pass-through entity" has the same meaning as in 757
section 5733.04 of the Revised Code. 758

(L) "Return" means the notifications and reports required 759
to be filed pursuant to this chapter for the purpose of 760
reporting the tax due and includes declarations of estimated tax 761
when so required. 762

(M) "Taxable year" means the calendar year or the 763
taxpayer's fiscal year ending during the calendar year, or 764
fractional part thereof, upon which the adjusted gross income is 765
calculated pursuant to this chapter. 766

(N) "Taxpayer" means any person subject to the tax imposed 767
by section 5747.02 of the Revised Code or any pass-through 768
entity that makes the election under division (D) of section 769
5747.08 of the Revised Code. 770

(O) "Dependents" means one of the following: 771

(1) For taxable years beginning on or after January 1, 772
2018, and before January 1, 2026, dependents as defined in the 773
Internal Revenue Code; 774

(2) For all other taxable years, dependents as defined in 775
the Internal Revenue Code and as claimed in the taxpayer's 776
federal income tax return for the taxable year or which the 777
taxpayer would have been permitted to claim had the taxpayer 778
filed a federal income tax return. 779

(P) "Principal county of employment" means, in the case of 780
a nonresident, the county within the state in which a taxpayer 781
performs services for an employer or, if those services are 782
performed in more than one county, the county in which the major 783
portion of the services are performed. 784

(Q) As used in sections 5747.50 to 5747.55 of the Revised 785
Code: 786

(1) "Subdivision" means any county, municipal corporation, 787
park district, or township. 788

(2) "Essential local government purposes" includes all 789
functions that any subdivision is required by general law to 790
exercise, including like functions that are exercised under a 791
charter adopted pursuant to the Ohio Constitution. 792

(R) "Overpayment" means any amount already paid that 793
exceeds the figure determined to be the correct amount of the 794
tax. 795

(S) "Taxable income" or "Ohio taxable income" applies only 796
to estates and trusts, and means federal taxable income, as 797
defined and used in the Internal Revenue Code, adjusted as 798
follows: 799

(1) Add interest or dividends, net of ordinary, necessary, 800
and reasonable expenses not deducted in computing federal 801
taxable income, on obligations or securities of any state or of 802
any political subdivision or authority of any state, other than 803

this state and its subdivisions and authorities, but only to the 804
extent that such net amount is not otherwise includible in Ohio 805
taxable income and is described in either division (S) (1) (a) or 806
(b) of this section: 807

(a) The net amount is not attributable to the S portion of 808
an electing small business trust and has not been distributed to 809
beneficiaries for the taxable year; 810

(b) The net amount is attributable to the S portion of an 811
electing small business trust for the taxable year. 812

(2) Add interest or dividends, net of ordinary, necessary, 813
and reasonable expenses not deducted in computing federal 814
taxable income, on obligations of any authority, commission, 815
instrumentality, territory, or possession of the United States 816
to the extent that the interest or dividends are exempt from 817
federal income taxes but not from state income taxes, but only 818
to the extent that such net amount is not otherwise includible 819
in Ohio taxable income and is described in either division (S) 820
(1) (a) or (b) of this section; 821

(3) Add the amount of personal exemption allowed to the 822
estate pursuant to section 642(b) of the Internal Revenue Code; 823

(4) Deduct interest or dividends, net of related expenses 824
deducted in computing federal taxable income, on obligations of 825
the United States and its territories and possessions or of any 826
authority, commission, or instrumentality of the United States 827
to the extent that the interest or dividends are exempt from 828
state taxes under the laws of the United States, but only to the 829
extent that such amount is included in federal taxable income 830
and is described in either division (S) (1) (a) or (b) of this 831
section; 832

(5) Deduct the amount of wages and salaries, if any, not 833
otherwise allowable as a deduction but that would have been 834
allowable as a deduction in computing federal taxable income for 835
the taxable year, had the targeted jobs credit allowed under 836
sections 38, 51, and 52 of the Internal Revenue Code not been in 837
effect, but only to the extent such amount relates either to 838
income included in federal taxable income for the taxable year 839
or to income of the S portion of an electing small business 840
trust for the taxable year; 841

(6) Deduct any interest or interest equivalent, net of 842
related expenses deducted in computing federal taxable income, 843
on public obligations and purchase obligations, but only to the 844
extent that such net amount relates either to income included in 845
federal taxable income for the taxable year or to income of the 846
S portion of an electing small business trust for the taxable 847
year; 848

(7) Add any loss or deduct any gain resulting from sale, 849
exchange, or other disposition of public obligations to the 850
extent that such loss has been deducted or such gain has been 851
included in computing either federal taxable income or income of 852
the S portion of an electing small business trust for the 853
taxable year; 854

(8) Except in the case of the final return of an estate, 855
add any amount deducted by the taxpayer on both its Ohio estate 856
tax return pursuant to section 5731.14 of the Revised Code, and 857
on its federal income tax return in determining federal taxable 858
income; 859

(9) (a) Deduct any amount included in federal taxable 860
income solely because the amount represents a reimbursement or 861
refund of expenses that in a previous year the decedent had 862

deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

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

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

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

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

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

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required

to be reported for the taxpayer's taxable year under the 892
Internal Revenue Code; 893

(b) The amount resulted in a reduction in the taxpayer's 894
federal taxable income as required to be reported for any of the 895
taxpayer's taxable years under the Internal Revenue Code. 896

(12) Deduct any amount, net of related expenses deducted 897
in computing federal taxable income, that a trust is required to 898
report as farm income on its federal income tax return, but only 899
if the assets of the trust include at least ten acres of land 900
satisfying the definition of "land devoted exclusively to 901
agricultural use" under section 5713.30 of the Revised Code, 902
regardless of whether the land is valued for tax purposes as 903
such land under sections 5713.30 to 5713.38 of the Revised Code. 904
If the trust is a pass-through entity investor, section 5747.231 905
of the Revised Code applies in ascertaining if the trust is 906
eligible to claim the deduction provided by division (S) (12) of 907
this section in connection with the pass-through entity's farm 908
income. 909

Except for farm income attributable to the S portion of an 910
electing small business trust, the deduction provided by 911
division (S) (12) of this section is allowed only to the extent 912
that the trust has not distributed such farm income. 913

(13) Add the net amount of income described in section 914
641(c) of the Internal Revenue Code to the extent that amount is 915
not included in federal taxable income. 916

(14) Add or deduct the amount the taxpayer would be 917
required to add or deduct under division (A) (17) or (18) of this 918
section if the taxpayer's Ohio taxable income were computed in 919
the same manner as an individual's Ohio adjusted gross income is 920

computed under this section.	921
(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.	922 923 924
(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) (7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.	925 926 927 928
(V) "Limited liability company" means any limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state.	929 930 931
(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.	932 933 934 935
(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.	936 937
(Y) "Month" means a calendar month.	938
(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.	939 940 941
(AA) (1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.	942 943 944 945
(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a	946 947 948

qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

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

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

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

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

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

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

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined

in section 5747.012 of the Revised Code, but only to the extent 977
the qualifying investment income does not otherwise constitute 978
modified business income and does not otherwise constitute a 979
qualifying trust amount. 980

(b) The qualifying trust amount multiplied by a fraction, 981
the numerator of which is the sum of the book value of the 982
qualifying investee's physical assets in this state on the last 983
day of the qualifying investee's fiscal or calendar year ending 984
immediately prior to the day on which the trust recognizes the 985
qualifying trust amount, and the denominator of which is the sum 986
of the book value of the qualifying investee's total physical 987
assets everywhere on the last day of the qualifying investee's 988
fiscal or calendar year ending immediately prior to the day on 989
which the trust recognizes the qualifying trust amount. If, for 990
a taxable year, the trust recognizes a qualifying trust amount 991
with respect to more than one qualifying investee, the amount 992
described in division (AA) (4) (b) of this section shall equal the 993
sum of the products so computed for each such qualifying 994
investee. 995

(c) (i) With respect to a trust or portion of a trust that 996
is a resident as ascertained in accordance with division (I) (3) 997
(d) of this section, its modified nonbusiness income. 998

(ii) With respect to a trust or portion of a trust that is 999
not a resident as ascertained in accordance with division (I) (3) 1000
(d) of this section, the amount of its modified nonbusiness 1001
income satisfying the descriptions in divisions (B) (2) to (5) of 1002
section 5747.20 of the Revised Code, except as otherwise 1003
provided in division (AA) (4) (c) (ii) of this section. With 1004
respect to a trust or portion of a trust that is not a resident 1005
as ascertained in accordance with division (I) (3) (d) of this 1006

section, the trust's portion of modified nonbusiness income 1007
recognized from the sale, exchange, or other disposition of a 1008
debt interest in or equity interest in a section 5747.212 1009
entity, as defined in section 5747.212 of the Revised Code, 1010
without regard to division (A) of that section, shall not be 1011
allocated to this state in accordance with section 5747.20 of 1012
the Revised Code but shall be apportioned to this state in 1013
accordance with division (B) of section 5747.212 of the Revised 1014
Code without regard to division (A) of that section. 1015

If the allocation and apportionment of a trust's income 1016
under divisions (AA) (4) (a) and (c) of this section do not fairly 1017
represent the modified Ohio taxable income of the trust in this 1018
state, the alternative methods described in division (C) of 1019
section 5747.21 of the Revised Code may be applied in the manner 1020
and to the same extent provided in that section. 1021

(5) (a) Except as set forth in division (AA) (5) (b) of this 1022
section, "qualifying investee" means a person in which a trust 1023
has an equity or ownership interest, or a person or unit of 1024
government the debt obligations of either of which are owned by 1025
a trust. For the purposes of division (AA) (2) (a) of this section 1026
and for the purpose of computing the fraction described in 1027
division (AA) (4) (b) of this section, all of the following apply: 1028

(i) If the qualifying investee is a member of a qualifying 1029
controlled group on the last day of the qualifying investee's 1030
fiscal or calendar year ending immediately prior to the date on 1031
which the trust recognizes the gain or loss, then "qualifying 1032
investee" includes all persons in the qualifying controlled 1033
group on such last day. 1034

(ii) If the qualifying investee, or if the qualifying 1035
investee and any members of the qualifying controlled group of 1036

which the qualifying investee is a member on the last day of the 1037
qualifying investee's fiscal or calendar year ending immediately 1038
prior to the date on which the trust recognizes the gain or 1039
loss, separately or cumulatively own, directly or indirectly, on 1040
the last day of the qualifying investee's fiscal or calendar 1041
year ending immediately prior to the date on which the trust 1042
recognizes the qualifying trust amount, more than fifty per cent 1043
of the equity of a pass-through entity, then the qualifying 1044
investee and the other members are deemed to own the 1045
proportionate share of the pass-through entity's physical assets 1046
which the pass-through entity directly or indirectly owns on the 1047
last day of the pass-through entity's calendar or fiscal year 1048
ending within or with the last day of the qualifying investee's 1049
fiscal or calendar year ending immediately prior to the date on 1050
which the trust recognizes the qualifying trust amount. 1051

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1052
section, "upper level pass-through entity" means a pass-through 1053
entity directly or indirectly owning any equity of another pass- 1054
through entity, and "lower level pass-through entity" means that 1055
other pass-through entity. 1056

An upper level pass-through entity, whether or not it is 1057
also a qualifying investee, is deemed to own, on the last day of 1058
the upper level pass-through entity's calendar or fiscal year, 1059
the proportionate share of the lower level pass-through entity's 1060
physical assets that the lower level pass-through entity 1061
directly or indirectly owns on the last day of the lower level 1062
pass-through entity's calendar or fiscal year ending within or 1063
with the last day of the upper level pass-through entity's 1064
fiscal or calendar year. If the upper level pass-through entity 1065
directly and indirectly owns less than fifty per cent of the 1066
equity of the lower level pass-through entity on each day of the 1067

upper level pass-through entity's calendar or fiscal year in 1068
which or with which ends the calendar or fiscal year of the 1069
lower level pass-through entity and if, based upon clear and 1070
convincing evidence, complete information about the location and 1071
cost of the physical assets of the lower pass-through entity is 1072
not available to the upper level pass-through entity, then 1073
solely for purposes of ascertaining if a gain or loss 1074
constitutes a qualifying trust amount, the upper level pass- 1075
through entity shall be deemed as owning no equity of the lower 1076
level pass-through entity for each day during the upper level 1077
pass-through entity's calendar or fiscal year in which or with 1078
which ends the lower level pass-through entity's calendar or 1079
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1080
shall be construed to provide for any deduction or exclusion in 1081
computing any trust's Ohio taxable income. 1082

(b) With respect to a trust that is not a resident for the 1083
taxable year and with respect to a part of a trust that is not a 1084
resident for the taxable year, "qualifying investee" for that 1085
taxable year does not include a C corporation if both of the 1086
following apply: 1087

(i) During the taxable year the trust or part of the trust 1088
recognizes a gain or loss from the sale, exchange, or other 1089
disposition of equity or ownership interests in, or debt 1090
obligations of, the C corporation. 1091

(ii) Such gain or loss constitutes nonbusiness income. 1092

(6) "Available" means information is such that a person is 1093
able to learn of the information by the due date plus 1094
extensions, if any, for filing the return for the taxable year 1095
in which the trust recognizes the gain or loss. 1096

(BB) "Qualifying controlled group" has the same meaning as 1097
in section 5733.04 of the Revised Code. 1098

(CC) "Related member" has the same meaning as in section 1099
5733.042 of the Revised Code. 1100

(DD) (1) For the purposes of division (DD) of this section: 1101

(a) "Qualifying person" means any person other than a 1102
qualifying corporation. 1103

(b) "Qualifying corporation" means any person classified 1104
for federal income tax purposes as an association taxable as a 1105
corporation, except either of the following: 1106

(i) A corporation that has made an election under 1107
subchapter S, chapter one, subtitle A, of the Internal Revenue 1108
Code for its taxable year ending within, or on the last day of, 1109
the investor's taxable year; 1110

(ii) A subsidiary that is wholly owned by any corporation 1111
that has made an election under subchapter S, chapter one, 1112
subtitle A of the Internal Revenue Code for its taxable year 1113
ending within, or on the last day of, the investor's taxable 1114
year. 1115

(2) For the purposes of this chapter, unless expressly 1116
stated otherwise, no qualifying person indirectly owns any asset 1117
directly or indirectly owned by any qualifying corporation. 1118

(EE) For purposes of this chapter and Chapter 5751. of the 1119
Revised Code: 1120

(1) "Trust" does not include a qualified pre-income tax 1121
trust. 1122

(2) A "qualified pre-income tax trust" is any pre-income 1123

tax trust that makes a qualifying pre-income tax trust election 1124
as described in division (EE) (3) of this section. 1125

(3) A "qualifying pre-income tax trust election" is an 1126
election by a pre-income tax trust to subject to the tax imposed 1127
by section 5751.02 of the Revised Code the pre-income tax trust 1128
and all pass-through entities of which the trust owns or 1129
controls, directly, indirectly, or constructively through 1130
related interests, five per cent or more of the ownership or 1131
equity interests. The trustee shall notify the tax commissioner 1132
in writing of the election on or before April 15, 2006. The 1133
election, if timely made, shall be effective on and after 1134
January 1, 2006, and shall apply for all tax periods and tax 1135
years until revoked by the trustee of the trust. 1136

(4) A "pre-income tax trust" is a trust that satisfies all 1137
of the following requirements: 1138

(a) The document or instrument creating the trust was 1139
executed by the grantor before January 1, 1972; 1140

(b) The trust became irrevocable upon the creation of the 1141
trust; and 1142

(c) The grantor was domiciled in this state at the time 1143
the trust was created. 1144

(FF) "Uniformed services" has the same meaning as in 10 1145
U.S.C. 101. 1146

(GG) "Taxable business income" means the amount by which 1147
an individual's business income that is included in federal 1148
adjusted gross income exceeds the amount of business income the 1149
individual is authorized to deduct under division (A) (31) of 1150
this section for the taxable year. 1151

(HH) "Employer" does not include a franchisor with respect 1152
to the franchisor's relationship with a franchisee or an 1153
employee of a franchisee, unless the franchisor agrees to assume 1154
that role in writing or a court of competent jurisdiction 1155
determines that the franchisor exercises a type or degree of 1156
control over the franchisee or the franchisee's employees that 1157
is not customarily exercised by a franchisor for the purpose of 1158
protecting the franchisor's trademark, brand, or both. For 1159
purposes of this division, "franchisor" and "franchisee" have 1160
the same meanings as in 16 C.F.R. 436.1. 1161

(II) "Modified adjusted gross income" means Ohio adjusted 1162
gross income plus any amount deducted under division (A) (28) of 1163
this section for the taxable year. 1164

(JJ) "Qualifying Ohio educator" means an individual who, 1165
for a taxable year, qualifies as an eligible educator, as that 1166
term is defined in section 62 of the Internal Revenue Code, and 1167
who holds a certificate, license, or permit described in Chapter 1168
3319. or section 3301.071 of the Revised Code. 1169

Sec. 5747.10. (A) As used in this section: 1170

(1) "Audited partnership" means a partnership subject to 1171
an examination by the internal revenue service pursuant to 1172
subchapter C, chapter 63, subtitle F of the Internal Revenue 1173
Code resulting in a federal adjustment. 1174

(2) (a) "Direct investor" means a partner or other investor 1175
that holds a direct interest in a pass-through entity. 1176

(b) "Indirect investor" means a partner or other investor 1177
that holds an interest in a pass-through entity that itself 1178
holds an interest, directly or through another indirect partner 1179
or other investor, in a pass-through entity. 1180

(3) "Exempt partner" means a partner that is neither a 1181
pass-through entity nor a person subject to the tax imposed by 1182
section 5747.02 of the Revised Code. 1183

(4) "Federal adjustment" means a change to an item or 1184
amount required to be determined under the Internal Revenue Code 1185
that directly or indirectly affects a taxpayer's aggregate tax 1186
liability under section 5747.02 or Chapter 5748. of the Revised 1187
Code and that results from an action or examination by the 1188
internal revenue service, or from the filing of an amended 1189
federal tax return, a claim for a federal tax refund, or an 1190
administrative adjustment request filed by a partnership under 1191
section 6227 of the Internal Revenue Code. 1192

(5) "Federal adjustments return" means the form or other 1193
document prescribed by the tax commissioner for use by a 1194
taxpayer in reporting final federal adjustments. 1195

(6) "State partnership representative" means either of the 1196
following: 1197

(a) The person who served as the partnership's 1198
representative for federal income tax purposes, pursuant to 1199
section 6223(a) of the Internal Revenue Code, during the 1200
corresponding federal partnership audit; 1201

(b) The person designated, on a form prescribed by the tax 1202
commissioner, to serve as the partnership's representative 1203
during the state partnership audit. The commissioner may 1204
establish reasonable qualifications and procedures for a person 1205
to be designated as a state partnership representative under 1206
this division. 1207

(7) A federal adjustment is "final" or "agreed to or 1208
finally determined for federal income tax purposes" on any of 1209

the following: 1210

(a) The day after which the period for appeal of a federal 1211
assessment has expired; 1212

(b) The date on a refund check issued by the internal 1213
revenue service; or 1214

(c) For agreements required to be signed by the internal 1215
revenue service and the taxpayer or audited partnership, the 1216
date on which the last party signed the agreement. 1217

(B) (1) If any of the facts, figures, computations, or 1218
attachments required in a taxpayer's annual return to determine 1219
the tax charged by this chapter or Chapter 5748. of the Revised 1220
Code must be altered as the result of a final federal 1221
adjustment, and the federal adjustment is not required to be 1222
reported under division (C) of this section, the taxpayer shall 1223
file an amended return with the tax commissioner in such form as 1224
the commissioner requires. The amended return shall be filed not 1225
later than ninety days after the federal adjustment has been 1226
agreed to or finally determined for federal income tax purposes. 1227

(2) "One hundred eighty" shall be substituted for "ninety" 1228
in divisions (B) (1) and (E) (1) of this section if, for any 1229
taxable year, the final federal adjustment results from taxes 1230
paid by the taxpayer on an amount described in division ~~(A) (34)~~ 1231
(A) (32) of section 5747.01 of the Revised Code. 1232

(C) Except for adjustments required to be reported for 1233
federal purposes pursuant to section 6225(a) (2) of the Internal 1234
Revenue Code and adjustments that are taken into account on a 1235
federal amended return or similar report filed pursuant to 1236
section 6225(c) (2) of the Internal Revenue Code, partnerships 1237
and partners shall report final federal adjustments and make 1238

payments as required under division (C) of this section. 1239

(1) With respect to an action required or permitted to be 1240
taken by a partnership under this section, and any petition for 1241
reassessment or appeal to the board of tax appeals or any court 1242
with respect to such an action, the state partnership 1243
representative shall have the sole authority to act on behalf of 1244
the audited partnership, and the partnership's direct and 1245
indirect investors shall be bound by those actions. 1246

(2) Unless an audited partnership makes the election under 1247
division (C) (3) of this section: 1248

(a) The audited partnership, through its state partnership 1249
representative, shall do all of the following within ninety days 1250
after the federal adjustment is final: 1251

(i) File a federal adjustments return with the tax 1252
commissioner, including a copy of the notifications provided 1253
under division (C) (2) (a) (ii) of this section; 1254

(ii) Notify each of its direct investors, on a form 1255
prescribed by the commissioner, of the investor's distributive 1256
share of the final federal adjustments; 1257

(iii) File an amended tax return on behalf of its 1258
nonresident direct investors and pay any additional tax that 1259
would have been due under sections 5733.41 and 5747.41, or 1260
division (D) of section 5747.08, of the Revised Code with 1261
respect to those direct investors had the final federal 1262
adjustments been reported properly on the original filing. 1263

(b) Each direct investor that is subject to the tax 1264
imposed by section 5747.02 of the Revised Code shall file an 1265
original or amended tax return to include the investor's 1266
distributive share of the adjustments reported to the direct 1267

investor under division (C) (2) (a) of this section, and pay any 1268
additional tax due, within ninety days after the audited 1269
partnership files its federal adjustments return with the 1270
commissioner. 1271

(c) (i) Each direct and indirect investor of an audited 1272
partnership that is a pass-through entity and all investors in 1273
such a pass-through entity that are subject to the filing and 1274
payment requirements of Chapters 5733. and 5747. of the Revised 1275
Code are subject to the reporting and payment requirements of 1276
division (C) (2) or, upon a timely election, division (C) (3) of 1277
this section. 1278

(ii) Such direct and indirect investors shall make the 1279
required returns and payments within ninety days after the 1280
deadline for filing and furnishing statements under section 1281
6226(b) (4) of the Internal Revenue Code and applicable treasury 1282
regulations. 1283

(3) If an audited partnership makes the election under 1284
this division, the audited partnership, through its state 1285
partnership representative, shall do all of the following within 1286
ninety days after all federal adjustments are final: 1287

(a) File a federal adjustments return with the tax 1288
commissioner indicating the partnership has made the election 1289
under division (C) (3) of this section; 1290

(b) Pay the amount of combined additional tax due under 1291
division (D) (2) of this section, calculated by multiplying the 1292
highest rate of tax set forth in section 5747.02 of the Revised 1293
Code by the sum of the following: 1294

(i) The distributive shares of the final federal 1295
adjustments that are allocable or apportionable to this state of 1296

each investor who is a nonresident taxpayer or pass-through entity; 1297
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(ii) The distributive share of the final federal adjustments for each investor who is a resident taxpayer. 1299
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(c) Notify each of its direct investors, on a form prescribed by the commissioner, of the investor's distributive share of the final federal adjustments and the amount paid on their behalf pursuant to division (C) (3) (b) of this section. 1301
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(4) (a) A direct investor of an audited partnership is not required to file an amended return or pay tax otherwise due under section 5747.02 of the Revised Code if the audited partnership properly reports and pays the tax under division (C) (3) of this section. 1305
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(b) (i) Nothing in division (C) of this section precludes a direct or indirect investor in the audited partnership from filing a return to report the investor's share of the final federal adjustments. Such an investor who files a return and reports the income related to the final federal adjustments is entitled to a refundable credit for taxes paid by the audited partnership under division (C) (3) (b) of this section. The credit shall be computed and claimed in the same manner as the credit allowed under division (I) of section 5747.08 of the Revised Code. 1310
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(ii) Notwithstanding division (C) (4) (b) (i) of this section, an exempt partner, whether a direct or indirect investor, may file an application for refund of its proportionate share of the amounts erroneously paid by the audited partnership pursuant to division (C) (3) (b) of this section on the exempt partner's behalf. 1320
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(5) Upon request by an audited partnership, the tax commissioner may agree, in writing, to allow an alternative method of reporting and payment than required by divisions division (C) (2) or (3) of this section. The request must be submitted to the commissioner in writing before the applicable deadline for filing a return under division (C) (2) (a) or (3) of this section. The commissioner's decision on whether to enter into an agreement under this division is not subject to further administrative review or appeal.

(6) Nothing in division (C) of this section precludes either of the following:

(a) A resident taxpayer from filing a return to claim the credit under division (B) of section 5747.05 or division (D) (2) of section 5747.02 of the Revised Code based upon any amounts paid by the audited partnership on such investor's behalf to another state.

(b) The tax commissioner from issuing an assessment under this chapter against any direct or indirect investor for taxes due from the investor if an audited partnership, or direct and indirect investor of an audited partnership that is a pass-through entity, fails to timely file any return or remit any payment required by this section or underreports income or underpays tax on behalf of an indirect investor who is a resident taxpayer.

(D) In the case of an underpayment, and unless otherwise agreed to in writing by the tax commissioner:

(1) The taxpayer's amended return shall be accompanied by payment of any combined additional tax due together with interest thereon. An amended return required by this section is

a return subject to assessment under section 5747.13 of the Revised Code for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. It shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the final federal adjustment to the taxpayer's federal income tax return.

(2) The audited partnership's federal adjustments return shall be accompanied by payment of any combined additional tax due together with interest thereon. The federal adjustments return required by this section is a return subject to assessment under section 5747.13 of the Revised Code for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. It shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the final federal adjustment.

(3) The tax commissioner may accept estimated payments of the tax arising from pending federal adjustments before the date for filing a federal adjustments return. The commissioner may adopt rules for the payment of such estimated taxes.

(E) In the case of an overpayment, and unless otherwise agreed to in writing by the tax commissioner:

(1) A taxpayer may file an application for refund under this division within the ninety-day period prescribed for filing the amended return even if it is filed beyond the period prescribed in section 5747.11 of the Revised Code if it otherwise conforms to the requirements of such section. An

application filed under this division shall claim refund of 1385
overpayments resulting from alterations to only those facts, 1386
figures, computations, or attachments required in the taxpayer's 1387
annual return that are affected, either directly or indirectly, 1388
by the final federal adjustment to the taxpayer's federal income 1389
tax return unless it is also filed within the time prescribed in 1390
section 5747.11 of the Revised Code. It shall not reopen those 1391
facts, figures, computations, or attachments that are not 1392
affected, either directly or indirectly, by the adjustment to 1393
the taxpayer's federal income tax return. 1394

(2) (a) Except as otherwise provided in division (E) (2) (b) 1395
of this section, an audited partnership may file an application 1396
for a refund under this division within the ninety-day period 1397
prescribed for filing the federal adjustments return, even if it 1398
is filed beyond the period prescribed by section 5747.11 of the 1399
Revised Code, if it otherwise conforms to the requirements of 1400
that section. An application filed under this division may claim 1401
a refund of overpayments resulting only from final federal 1402
adjustments unless it is also filed within the time prescribed 1403
by section 5747.11 of the Revised Code. It shall not reopen 1404
those facts, figures, computations, or attachments that are not 1405
affected, either directly or indirectly, by the federal 1406
adjustment. 1407

(b) An audited partnership may not file an application for 1408
refund under division (E) of this section based on final federal 1409
adjustments described in section 6225(a) (2) of the Internal 1410
Revenue Code. 1411

(3) Any refund granted to a pass-through entity filing an 1412
application for refund under division (E) of this section shall 1413
be reduced by amounts previously claimed as a credit under 1414

section 5747.059 or division (I) of section 5747.08 of the Revised Code by the pass-through entity's direct or indirect investors. 1415
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(F) Excluding the deadline in division (C)(2)(c)(ii) of this section, an audited partnership, or a direct or indirect investor of an audited partnership that is a pass-through entity, may automatically extend the deadline for reporting, payments, and refunds under this section by sixty days if the entity has ten thousand or more direct investors and notifies the commissioner of such extension, in writing, before the unextended deadline. 1418
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Section 2. That existing sections 5747.01 and 5747.10 of the Revised Code are hereby repealed. 1426
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Section 3. All items in this act are hereby appropriated as designated out of any moneys in the state treasury to the credit of the designated fund. For all operating appropriations made in this act, those in the first column are for fiscal year 2022 and those in the second column are for fiscal year 2023. The operating appropriations made in this act are in addition to any other operating appropriations made for the FY 2022-FY 2023 biennium. 1428
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Section 4. 1436
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B	Dedicated Purpose Fund Group				
C	5VY0	019624	Public Defender Loan Repayment Program	\$1,500,000	\$1,500,000
D	TOTAL DPF Dedicated Purpose Fund Group			\$1,500,000	\$1,500,000
E	TOTAL ALL BUDGET FUND GROUPS			\$1,500,000	\$1,500,000

PUBLIC DEFENDER LOAN REPAYMENT PROGRAM 1439

The foregoing appropriation item 019624, Public Defender
Loan Repayment Program, shall be used to provide loan repayments
on behalf of certain attorneys as described in section 120.62 of
the Revised Code. 1440
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CASH TRANSFER FROM THE GENERAL REVENUE FUND TO THE PUBLIC
DEFENDER LOAN REPAYMENT FUND 1444
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On July 1 of each fiscal year, or as soon as possible
thereafter, the Director of Budget and Management shall transfer
\$1,500,000 cash from the General Revenue Fund to the Public
Defender Loan Repayment Fund (Fund 5VY0). 1446
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Section 5. Within the limits set forth in this act, the
Director of Budget and Management shall establish accounts
indicating the source and amount of funds for each appropriation
made in this act, and shall determine the form and manner in
which appropriation accounts shall be maintained. Expenditures
from operating appropriations contained in this act shall be
accounted for as though made in the main operating
appropriations act of the 134th General Assembly. The operating
appropriations made in this act are subject to all provisions of
the main operating appropriations act of the 134th General
Assembly that are generally applicable to such appropriations. 1450
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Section 6. (A) There is hereby created a task force to	1461
study Ohio's indigent defense system and provide recommendations	1462
to the General Assembly regarding the delivery, structure, and	1463
funding of indigent defense.	1464
(B) The task force shall consist of the following voting	1465
members, appointed not later than ninety days after the	1466
effective date of this section:	1467
(1) The State Public Defender;	1468
(2) The Chair of the Ohio Public Defender Commission;	1469
(3) The Governor or the Governor's designee;	1470
(4) The Chief Justice of the Ohio Supreme Court, or the	1471
Chief Justice's designee;	1472
(5) One judge appointed by the Ohio Judicial Conference;	1473
(6) One attorney appointed by the Ohio State Bar	1474
Association;	1475
(7) One public defender appointed by the Ohio Public	1476
Defender Commission;	1477
(8) One attorney who participates in the assigned counsel	1478
system, appointed by the Ohio Public Defender Commission;	1479
(9) One county commissioner appointed by the president of	1480
the County Commissioners' Association of Ohio;	1481
(10) The Attorney General or a designee of the Attorney	1482
General;	1483
(11) Six members of the General Assembly, including:	1484
(a) Three members of the Senate, including two from the	1485
majority party appointed by the Senate President, and one from	1486

the minority party appointed by the Senate Minority Leader; 1487

(b) Three members of the House of Representatives, 1488
including two from the majority party appointed by the Speaker 1489
of the House of Representatives, and one from the minority party 1490
appointed by the House Minority Leader. 1491

(C) The task force shall be co-chaired by one member of 1492
the Senate and one member of the House of Representatives, both 1493
from the majority party and appointed by their respective 1494
leaders. 1495

(D) Not later than one year after the effective date of 1496
this section, the task force shall report its recommendations to 1497
the General Assembly. The Legislative Service Commission shall 1498
assist the task force as needed. 1499

(E) The task force may reimburse the travel expenses of 1500
any experts invited to present to the task force. 1501

(F) The State Public Defender shall use \$9,100 in fiscal 1502
year 2022 and \$900 in fiscal year 2023 from appropriation item 1503
019401, State Legal Defense Services, for the reimbursement of 1504
travel expenses of experts invited to present to the task force. 1505

Section 7. Section 5747.01 of the Revised Code is 1506
presented in this act as a composite of the section as amended 1507
by H.B. 18, H.B. 197, S.B. 26, and S.B. 276 all of the 133rd 1508
General Assembly. The General Assembly, applying the principle 1509
stated in division (B) of section 1.52 of the Revised Code that 1510
amendments are to be harmonized if reasonably capable of 1511
simultaneous operation, finds that the composite is the 1512
resulting version of the section in effect prior to the 1513
effective date of the section as presented in this act. 1514