

**As Introduced**

**124th General Assembly  
Regular Session  
2001-2002**

**S. B. No. 261**

**SENATOR Carnes**

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**A BILL**

To amend sections 5733.04, 5733.05, 5743.02, 5743.05, 1  
5743.32, and 5747.01, to enact sections 5733.043, 2  
5733.045, and 5747.011, and to repeal sections 3  
5743.023 and 5743.322 of the Revised Code and to 4  
amend Sections 63.18, 125, and 144 of Am. Sub. H.B. 5  
94 of the 124th General Assembly; to amend Section 6  
63 of Am. Sub. H.B. 94 of the 124th General 7  
Assembly, as subsequently amended; to amend Section 8  
29 of Am. Sub. H.B. 405 of the 124th General 9  
Assembly; and to repeal Section 31 of Am. Sub. H.B. 10  
405 of the 124th General Assembly to increase the 11  
rate of tax on cigarettes; to require corporations 12  
and individuals, in computing franchise or income 13  
tax liability, to add back some of the depreciation 14  
bonus permitted under federal law; to make 15  
budgetary modifications; and to make an 16  
appropriation. 17

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

**Section 1.** That sections 5733.04, 5733.05, 5743.02, 5743.05, 18  
5743.32, and 5747.01 be amended and sections 5733.043, 5733.045, 19  
and 5747.011 of the Revised Code be enacted to read as follows: 20

**Sec. 5733.04.** As used in this chapter: 21

(A) "Issued and outstanding shares of stock" applies to 22  
nonprofit corporations, as provided in section 5733.01 of the 23  
Revised Code, and includes, but is not limited to, membership 24  
certificates and other instruments evidencing ownership of an 25  
interest in such nonprofit corporations, and with respect to a 26  
financial institution that does not have capital stock, "issued 27  
and outstanding shares of stock" includes, but is not limited to, 28  
ownership interests of depositors in the capital employed in such 29  
an institution. 30

(B) "Taxpayer" means a corporation subject to the tax imposed 31  
by section 5733.06 of the Revised Code. 32

(C) "Resident" means a corporation organized under the laws 33  
of this state. 34

(D) "Commercial domicile" means the principal place from 35  
which the trade or business of the taxpayer is directed or 36  
managed. 37

(E) "Taxable year" means the period prescribed by division 38  
(A) of section 5733.031 of the Revised Code upon the net income of 39  
which the value of the taxpayer's issued and outstanding shares of 40  
stock is determined under division (B) of section 5733.05 of the 41  
Revised Code or the period prescribed by division (A) of section 42  
5733.031 of the Revised Code that immediately precedes the date as 43  
of which the total value of the corporation is determined under 44  
division (A) or (C) of section 5733.05 of the Revised Code. 45

(F) "Tax year" means the calendar year in and for which the 46  
tax imposed by section 5733.06 of the Revised Code is required to 47  
be paid. 48

(G) "Internal Revenue Code" means the "Internal Revenue Code 49  
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 50

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first.

(b) For losses incurred in taxable years ending on or before December 31, 1981, the designated carryover period shall be the five consecutive taxable years after the taxable year in which the net operating loss occurred. For losses incurred in taxable years

ending on or after January 1, 1982, the designated carryover 83  
period shall be the fifteen consecutive taxable years after the 84  
taxable year in which the net operating loss occurs. 85

(c) The tax commissioner may require a taxpayer to furnish 86  
any information necessary to support a claim for deduction under 87  
division (I)(1)(a) of this section and no deduction shall be 88  
allowed unless the information is furnished. 89

(2) Deduct any amount included in net income by application 90  
of section 78 or 951 of the Internal Revenue Code, amounts 91  
received for royalties, technical or other services derived from 92  
sources outside the United States, and dividends received from a 93  
subsidiary, associate, or affiliated corporation that neither 94  
transacts any substantial portion of its business nor regularly 95  
maintains any substantial portion of its assets within the United 96  
States. For purposes of determining net foreign source income 97  
deductible under division (I)(2) of this section, the amount of 98  
gross income from all such sources other than dividend income and 99  
income derived by application of section 78 or 951 of the Internal 100  
Revenue Code shall be reduced by: 101

(a) The amount of any reimbursed expenses for personal 102  
services performed by employees of the taxpayer for the 103  
subsidiary, associate, or affiliated corporation; 104

(b) Ten per cent of the amount of royalty income and 105  
technical assistance fees; 106

(c) Fifteen per cent of the amount of ~~dividends and~~ all other 107  
income. 108

The amounts described in divisions (I)(2)(a) to (c) of this 109  
section are deemed to be the expenses attributable to the 110  
production of deductible foreign source income unless the taxpayer 111  
shows, by clear and convincing evidence, less actual expenses, or 112  
the tax commissioner shows, by clear and convincing evidence, more 113

actual expenses. 114

(3) Add any loss or deduct any gain resulting from the sale, 115  
exchange, or other disposition of a capital asset, or an asset 116  
described in section 1231 of the Internal Revenue Code, to the 117  
extent that such loss or gain occurred prior to the first taxable 118  
year on which the tax provided for in section 5733.06 of the 119  
Revised Code is computed on the corporation's net income. For 120  
purposes of division (I)(3) of this section, the amount of the 121  
prior loss or gain shall be measured by the difference between the 122  
original cost or other basis of the asset and the fair market 123  
value as of the beginning of the first taxable year on which the 124  
tax provided for in section 5733.06 of the Revised Code is 125  
computed on the corporation's net income. At the option of the 126  
taxpayer, the amount of the prior loss or gain may be a percentage 127  
of the gain or loss, which percentage shall be determined by 128  
multiplying the gain or loss by a fraction, the numerator of which 129  
is the number of months from the acquisition of the asset to the 130  
beginning of the first taxable year on which the fee provided in 131  
section 5733.06 of the Revised Code is computed on the 132  
corporation's net income, and the denominator of which is the 133  
number of months from the acquisition of the asset to the sale, 134  
exchange, or other disposition of the asset. The adjustments 135  
described in this division do not apply to any gain or loss where 136  
the gain or loss is recognized by a qualifying taxpayer, as 137  
defined in section 5733.0510 of the Revised Code, with respect to 138  
a qualifying taxable event, as defined in that section. 139

(4) Deduct the dividend received deduction provided by 140  
section 243 of the Internal Revenue Code. 141

(5) Deduct any interest or interest equivalent on public 142  
obligations and purchase obligations to the extent included in 143  
federal taxable income. As used in divisions (I)(5) and (6) of 144  
this section, "public obligations," "purchase obligations," and 145

"interest or interest equivalent" have the same meanings as in 146  
section 5709.76 of the Revised Code. 147

(6) Add any loss or deduct any gain resulting from the sale, 148  
exchange, or other disposition of public obligations to the extent 149  
included in federal taxable income. 150

(7) To the extent not otherwise allowed, deduct any dividends 151  
or distributions received by a taxpayer from a public utility, 152  
excluding an electric company, if the taxpayer owns at least 153  
eighty per cent of the issued and outstanding common stock of the 154  
public utility. As used in division (I)(7) of this section, 155  
"public utility" means a public utility as defined in Chapter 156  
5727. of the Revised Code, whether or not the public utility is 157  
doing business in the state. 158

(8) To the extent not otherwise allowed, deduct any dividends 159  
received by a taxpayer from an insurance company, if the taxpayer 160  
owns at least eighty per cent of the issued and outstanding common 161  
stock of the insurance company. As used in division (I)(8) of this 162  
section, "insurance company" means an insurance company that is 163  
taxable under Chapter 5725. or 5729. of the Revised Code. 164  
165

(9) Deduct expenditures for modifying existing buildings or 166  
structures to meet American national standards institute standard 167  
A-117.1-1961 (R-1971), as amended; provided, that no deduction 168  
shall be allowed to the extent that such deduction is not 169  
permitted under federal law or under rules of the tax 170  
commissioner. Those deductions as are allowed may be taken over a 171  
period of five years. The tax commissioner shall adopt rules under 172  
Chapter 119. of the Revised Code establishing reasonable 173  
limitations on the extent that expenditures for modifying existing 174  
buildings or structures are attributable to the purpose of making 175  
the buildings or structures accessible to and usable by physically 176  
handicapped persons. 177

(10) Deduct the amount of wages and salaries, if any, not 178  
otherwise allowable as a deduction but that would have been 179  
allowable as a deduction in computing federal taxable income 180  
before operating loss deduction and special deductions for the 181  
taxable year, had the targeted jobs credit allowed and determined 182  
under sections 38, 51, and 52 of the Internal Revenue Code not 183  
been in effect. 184

(11) Deduct net interest income on obligations of the United 185  
States and its territories and possessions or of any authority, 186  
commission, or instrumentality of the United States to the extent 187  
the laws of the United States prohibit inclusion of the net 188  
interest for purposes of determining the value of the taxpayer's 189  
issued and outstanding shares of stock under division (B) of 190  
section 5733.05 of the Revised Code. As used in division (I)(11) 191  
of this section, "net interest" means interest net of any expenses 192  
taken on the federal income tax return that would not have been 193  
allowed under section 265 of the Internal Revenue Code if the 194  
interest were exempt from federal income tax. 195

(12)(a) Except as set forth in division (I)(12)(d) of this 196  
section, to the extent not included in computing the taxpayer's 197  
federal taxable income before operating loss deduction and special 198  
deductions, add gains and deduct losses from direct or indirect 199  
sales, exchanges, or other dispositions, made by a related entity 200  
who is not a taxpayer, of the taxpayer's indirect, beneficial, or 201  
constructive investment in the stock or debt of another entity, 202  
unless the gain or loss has been included in computing the federal 203  
taxable income before operating loss deduction and special 204  
deductions of another taxpayer with a more closely related 205  
investment in the stock or debt of the other entity. The amount of 206  
gain added or loss deducted shall not exceed the product obtained 207  
by multiplying such gain or loss by the taxpayer's proportionate 208  
share, directly, indirectly, beneficially, or constructively, of 209

the outstanding stock of the related entity immediately prior to 210  
the direct or indirect sale, exchange, or other disposition. 211  
212

(b) Except as set forth in division (I)(12)(e) of this 213  
section, to the extent not included in computing the taxpayer's 214  
federal taxable income before operating loss deduction and special 215  
deductions, add gains and deduct losses from direct or indirect 216  
sales, exchanges, or other dispositions made by a related entity 217  
who is not a taxpayer, of intangible property other than stock, 218  
securities, and debt, if such property was owned, or used in whole 219  
or in part, at any time prior to or at the time of the sale, 220  
exchange, or disposition by either the taxpayer or by a related 221  
entity that was a taxpayer at any time during the related entity's 222  
ownership or use of such property, unless the gain or loss has 223  
been included in computing the federal taxable income before 224  
operating loss deduction and special deductions of another 225  
taxpayer with a more closely related ownership or use of such 226  
intangible property. The amount of gain added or loss deducted 227  
shall not exceed the product obtained by multiplying such gain or 228  
loss by the taxpayer's proportionate share, directly, indirectly, 229  
beneficially, or constructively, of the outstanding stock of the 230  
related entity immediately prior to the direct or indirect sale, 231  
exchange, or other disposition. 232

(c) As used in division (I)(12) of this section, "related 233  
entity" means those entities described in divisions (I)(12)(c)(i) 234  
to (iii) of this section: 235

(i) An individual stockholder, or a member of the 236  
stockholder's family enumerated in section 318 of the Internal 237  
Revenue Code, if the stockholder and the members of the 238  
stockholder's family own, directly, indirectly, beneficially, or 239  
constructively, in the aggregate, at least fifty per cent of the 240  
value of the taxpayer's outstanding stock; 241



(ii) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(iii) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (I)(12)(c)(iv) of this section, if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock.

(iv) The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in divisions (I)(12)(c)(i) to (iii) of this section have been met.

(d) For purposes of the adjustments required by division (I)(12)(a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

(e) For purposes of the adjustments required by division (I)(12)(b) of this section, the term "related entity" excludes all of the following:

(i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;

(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;	273 274
(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;	275 276 277
(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.	278 279
The exclusions described in divisions (I)(12)(e)(i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C)(1) to (5) of section 5733.042 of the Revised Code.	280 281 282 283
(f) Nothing in division (I)(12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I)(12)(f)(i) and (ii) of this section:	284 285 286
(i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in division (I)(12)(c) of this section;	287 288 289 290
(ii) A related entity's gains or losses described in division (I)(12)(b) if the taxpayer's ownership of or use of such intangible property was limited to a period not exceeding nine months and was attributable to a transaction or a series of transactions executed in accordance with the election or elections made by the taxpayer or a related entity pursuant to section 338 of the Internal Revenue Code.	291 292 293 294 295 296 297
(13) Any adjustment required by section 5733.042 of the Revised Code.	298 299
(14) Add any amount claimed as a credit under section 5733.0611 of the Revised Code to the extent that such amount satisfies either of the following:	300 301 302

(a) It was deducted or excluded from the computation of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for the corporation's taxable year under the Internal Revenue Code;

(b) It resulted in a reduction of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for any of the corporation's taxable years under the Internal Revenue Code.

(15) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (I)(15) of this section.

(16) Any adjustment required by section 5733.0510 of the Revised Code.

(17)(a) Add five-sixths of the amount of depreciation expense allowed under subsection (k) of section 168 of the Internal Revenue Code. Nothing in division (I)(17) of this section shall be construed to exclude from the add-back required by that division five-sixths of a person's proportionate or distributive share of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code to any pass-through entity in which the person has direct or indirect ownership.

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

(c) To the extent the add-back is attributable to property generating allocable income enumerated in section 5733.051 of the

Revised Code, the add-back shall be considered to be allocable 334  
income for the purposes of that section. 335

(J) Any term used in this chapter has the same meaning as 336  
when used in comparable context in the laws of the United States 337  
relating to federal income taxes unless a different meaning is 338  
clearly required. Any reference in this chapter to the Internal 339  
Revenue Code includes other laws of the United States relating to 340  
federal income taxes. 341

(K) "Financial institution" has the meaning given by section 342  
5725.01 of the Revised Code but does not include a production 343  
credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091. 344

(L)(1) A "qualifying holding company" is any corporation 345  
satisfying all of the following requirements: 346

(a) Subject to divisions (L)(2) and (3) of this section, the 347  
net book value of the corporation's intangible assets is greater 348  
than or equal to ninety per cent of the net book value of all of 349  
its assets and at least fifty per cent of the net book value of 350  
all of its assets represents direct or indirect investments in the 351  
equity of, loans and advances to, and accounts receivable due from 352  
related members; 353

(b) At least ninety per cent of the corporation's gross 354  
income for the taxable year is attributable to the following: 355

(i) The maintenance, management, ownership, acquisition, use, 356  
and disposition of its intangible property, its aircraft the use 357  
of which is not subject to regulation under 14 C.F.R. part 121 or 358  
part 135, and any real property described in division (L)(2)(c) of 359  
this section; 360

(ii) The collection and distribution of income from such 361  
property. 362

(c) The corporation is not a financial institution on the 363

last day of the taxable year ending prior to the first day of the 364  
tax year; 365

(d) The corporation's related members make a good faith and 366  
reasonable effort to make timely and fully the adjustments 367  
required by division (C)(2) of section 5733.05 of the Revised Code 368  
and to pay timely and fully all uncontested taxes, interest, 369  
penalties, and other fees and charges imposed under this chapter; 370

(e) Subject to division (L)(4) of this section, the 371  
corporation elects to be treated as a qualifying holding company 372  
for the tax year. 373

A corporation otherwise satisfying divisions (L)(1)(a) to (e) 374  
of this section that does not elect to be a qualifying holding 375  
company is not a qualifying holding company for the purposes of 376  
this chapter. 377

(2)(a)(i) For purposes of making the ninety per cent 378  
computation under division (L)(1)(a) of this section, the net book 379  
value of the corporation's assets shall not include the net book 380  
value of aircraft or real property described in division 381  
(L)(1)(b)(i) of this section. 382

(ii) For purposes of making the fifty per cent computation 383  
under division (L)(1)(a) of this section, the net book value of 384  
assets shall include the net book value of aircraft or real 385  
property described in division (L)(1)(b)(i) of this section. 386

(b)(i) As used in division (L) of this section, "intangible 387  
asset" includes, but is not limited to, the corporation's direct 388  
interest in each pass-through entity only if at all times during 389  
the corporation's taxable year ending prior to the first day of 390  
the tax year the corporation's and the corporation's related 391  
members' combined direct and indirect interests in the capital or 392  
profits of such pass-through entity do not exceed fifty per cent. 393  
If the corporation's interest in the pass-through entity is an 394

intangible asset for that taxable year, then the distributive  
share of any income from the pass-through entity shall be income  
from an intangible asset for that taxable year.

(ii) If a corporation's and the corporation's related  
members' combined direct and indirect interests in the capital or  
profits of a pass-through entity exceed fifty per cent at any time  
during the corporation's taxable year ending prior to the first  
day of the tax year, "intangible asset" does not include the  
corporation's direct interest in the pass-through entity, and the  
corporation shall include in its assets its proportionate share of  
the assets of any such pass-through entity and shall include in  
its gross income its distributive share of the gross income of  
such pass-through entity in the same form as was earned by the  
pass-through entity.

(iii) A pass-through entity's direct or indirect  
proportionate share of any other pass-through entity's assets  
shall be included for the purpose of computing the corporation's  
proportionate share of the pass-through entity's assets under  
division (L)(2)(b)(ii) of this section, and such pass-through  
entity's distributive share of any other pass-through entity's  
gross income shall be included for purposes of computing the  
corporation's distributive share of the pass-through entity's  
gross income under division (L)(2)(b)(ii) of this section.

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii),  
(2)(a)(i), and (2)(a)(ii) of this section, real property is  
described in division (L)(2)(c) of this section only if all of the  
following conditions are present at all times during the taxable  
year ending prior to the first day of the tax year:

(i) The real property serves as the headquarters of the  
corporation's trade or business, or is the place from which the  
corporation's trade or business is principally managed or  
directed;

(ii) Not more than ten per cent of the value of the real 427  
property and not more than ten per cent of the square footage of 428  
the building or buildings that are part of the real property is 429  
used, made available, or occupied for the purpose of providing, 430  
acquiring, transferring, selling, or disposing of tangible 431  
property or services in the normal course of business to persons 432  
other than related members, the corporation's employees and their 433  
families, and such related members' employees and their families. 434

(d) As used in division (L) of this section, "related member" 435  
has the same meaning as in division (A)(6) of section 5733.042 of 436  
the Revised Code without regard to division (B) of that section. 437

(3) The percentages described in division (L)(1)(a) of this 439  
section shall be equal to the quarterly average of those 440  
percentages as calculated during the corporation's taxable year 441  
ending prior to the first day of the tax year. 442

(4) With respect to the election described in division 443  
(L)(1)(e) of this section: 444

(a) The election need not accompany a timely filed report; 445

(b) The election need not accompany the report; rather, the 446  
election may accompany a subsequently filed but timely application 447  
for refund and timely amended report, or a subsequently filed but 448  
timely petition for reassessment; 449

(c) The election is not irrevocable; 450

(d) The election applies only to the tax year specified by 451  
the corporation; 452

(e) The corporation's related members comply with division 453  
(L)(1)(d) of this section. 454

Nothing in division (L)(4) of this section shall be construed 455  
to extend any statute of limitations set forth in this chapter. 456

(M) "Qualifying controlled group" means two or more 457  
corporations that satisfy the ownership and control requirements 458  
of division (A) of section 5733.052 of the Revised Code. 459

(N) "Limited liability company" means any limited liability 460  
company formed under Chapter 1705. of the Revised Code or under 461  
the laws of any other state. 462

(O) "Pass-through entity" means a corporation that has made 463  
an election under subchapter S of Chapter 1 of Subtitle A of the 464  
Internal Revenue Code for its taxable year under that code, or a 465  
partnership, limited liability company, or any other person, other 466  
than an individual, trust, or estate, if the partnership, limited 467  
liability company, or other person is not classified for federal 468  
income tax purposes as an association taxed as a corporation. 469

(P) "Electric company" and "combined company" have the same 470  
meanings as in section 5727.01 of the Revised Code. 471

**Sec. 5733.043.** (A)(1) If the tax computed under division (C) 472  
of section 5733.06 of the Revised Code is greater than the tax 473  
computed under divisions (A) and (B) of that section, and if the 474  
amount described in division (B) of section 5733.05 of the Revised 475  
Code without the application of division (C) of this section and 476  
division (I)(17)(a) of section 5733.04 of the Revised Code, is 477  
greater than zero, then the "suspended tax benefit portion of the 478  
depreciation expense deduction" is zero. 479

(2) If the tax computed under division (C) of section 5733.06 480  
of the Revised Code is greater than the tax computed under 481  
divisions (A) and (B) of that section, the amount described in 482  
division (B) of section 5733.05 of the Revised Code is equal to or 483  
greater than zero, and the amount described in division (B) of 484  
section 5733.05 of the Revised Code without the application of 485  
division (C) of this section and division (I)(17)(a) of section 486  
5733.04 of the Revised Code is less than zero, the "suspended tax 487



benefit portion of the depreciation expense deduction" is the 488  
absolute value of the difference between zero and what the amount 489  
described in division (B) of section 5733.05 of the Revised Code 490  
would be without the application of division (C) of this section 491  
and division (I)(17)(a) of section 5733.04 of the Revised Code. 492

(3) If the tax computed under division (C) of section 5733.06 493  
of the Revised Code is greater than the tax computed under 494  
divisions (A) and (B) of that section, and the amount described in 495  
division (B) of section 5733.05 of the Revised Code without the 496  
application of division (C) of this section and division 497  
(I)(17)(a) of section 5733.04 of the Revised Code is less than 498  
zero, the "suspended tax benefit portion of the depreciation 499  
expense deduction" is the absolute value of the difference between 500  
the amount described in division (B) of section 5733.05 of the 501  
Revised Code and what that amount would be without the application 502  
of division (C) of this section and division (I)(17)(a) of section 503  
5733.04 of the Revised Code. 504

(4) If the tax computed under divisions (A) and (B) of 505  
section 5733.06 of the Revised Code is greater than the tax 506  
computed under division (C) of that section, and the tax computed 507  
under divisions (A) and (B) of that section without the 508  
application of division (C) of this section and division 509  
(I)(17)(a) of section 5733.04 of the Revised Code is greater than 510  
the tax computed under division (C) of section 5733.06 of the 511  
Revised Code, the "suspended tax benefit portion of the 512  
depreciation expense deduction" is the difference between the 513  
amount described in division (B) of section 5733.05 of the Revised 514  
Code and what that amount would be without the application of 515  
division (C) of this section and division (I)(17)(a) of section 516  
5733.04 of the Revised Code. 517

(5) If the tax computed under divisions (A) and (B) of 518  
section 5733.06 of the Revised Code is greater than the tax 519

computed under division (C) of that section, and the tax computed 520  
under divisions (A) and (B) of section 5733.06 of the Revised Code 521  
without the application of division (C) of this section and 522  
division (I)(17)(a) of section 5733.04 of the Revised Code is less 523  
than the tax computed under division (C) of section 5733.06 of the 524  
Revised Code, the "suspended tax benefit portion of the 525  
depreciation expense deduction" is the amount which, if subtracted 526  
from taxable income, would result in a reduced taxable income, the 527  
tax computed on the basis of which under divisions (A) and (B) of 528  
section 5733.06 of the Revised Code would equal the tax computed 529  
under division (C) of section 5733.06 of the Revised Code. 530

(B)(1) If the taxpayer is a member of a combined group of 531  
corporations filing a combined report for the tax year, the 532  
"amount described in division (B) of section 5733.05 of the 533  
Revised Code," as used in division (A) of this section, shall be 534  
computed with respect to that tax year in accordance with section 535  
5733.052 of the Revised Code. 536

(2) The "tax computed under divisions (A) and (B) of section 537  
5733.06 of the Revised Code" and the "tax computed under division 538  
(C) of section 5733.06 of the Revised Code," as used in division 539  
(A) of this section, includes all surtaxes and additional tax 540  
attributable to additional rates applicable to the tax year with 541  
respect to which the tax computation is made. 542

(C)(1) If, for a tax year, a taxpayer is required to make the 543  
adjustment described in division (I)(17)(a) of section 5733.04 of 544  
the Revised Code, the taxpayer shall deduct one-fifth of that tax 545  
year's suspended tax benefit portion of the depreciation expense 546  
deduction as defined in division (A) of this section from income 547  
apportioned and allocated to this state for each of the next five 548  
consecutive tax years. 549

(2) To the extent the amount described in division (C)(1) of 550  
this section is attributable to property generating allocable 551

income enumerated in section 5733.051 of the Revised Code, the 552  
amount shall also be deducted from the related allocable income. 553

Sec. 5733.045. (A)(1) Subject to division (A)(2) of this 554  
section, for the purposes of this section "deferred bonus 555  
depreciation amount" means the amount described in division 556  
(I)(17)(a) of section 5733.04 of the Revised Code with respect to 557  
each asset, less the sum of the yearly adjustments with respect to 558  
the asset that the taxpayer was required to deduct under division 559  
(C) of section 5733.043 for each taxable year prior to the taxable 560  
year in which the taxpayer disposed of the asset and recognized 561  
gain or loss in connection with that disposition. 562

(2) If, in connection with a disposition of an asset, the 563  
recognized gain is less than the realized gain, the deferred bonus 564  
depreciation amount with respect to that asset shall be 565  
proportionately reduced. 566

(B) Divisions (B)(1) and (2) of this section apply if a 567  
taxpayer disposes of an asset and recognizes a gain or loss from 568  
that disposition. 569

(1)(a) For the taxable year in which the taxpayer recognizes 570  
the gain or loss, the taxpayer shall deduct from the amount 571  
described in division (B) of section 5733.05 of the Revised Code 572  
the deferred bonus depreciation amount, if any, with respect to 573  
that asset. 574

(b) To the extent the amount described in division (B)(1)(a) 575  
of this section is attributable to property generating allocable 576  
income enumerated in section 5733.051 of the Revised Code, the 577  
amount also shall be deducted from the related allocable income. 578

(2)(a) Except as set forth in division (B)(2)(b) of this 579  
section, with respect to that asset the deduction otherwise 580  
provided by section 5733.043 of the Revised Code shall not apply 581

to the taxable year in which the taxpayer recognizes the gain or 582  
loss and shall not apply to any subsequent taxable year. 583

(b) If, in connection with the disposition of the asset, the 584  
recognized gain is less than the realized gain, the deduction 585  
provided by section 5733.043 of the Revised Code shall continue to 586  
apply to the difference between the amount described in division 587  
(A)(1) of this section and the amount described in division (A)(2) 588  
of this section. 589

**Sec. 5733.05.** As used in this section, "qualified research" 590  
means laboratory research, experimental research, and other 591  
similar types of research; research in developing or improving a 592  
product; or research in developing or improving the means of 593  
producing a product. It does not include market research, consumer 594  
surveys, efficiency surveys, management studies, ordinary testing 595  
or inspection of materials or products for quality control, 596  
historical research, or literary research. "Product" as used in 597  
this paragraph does not include services or intangible property. 598

The annual report determines the value of the issued and 600  
outstanding shares of stock of the taxpayer, which under division 601  
(A) or divisions (B) and (C) of this section is the base or 602  
measure of the franchise tax liability. Such determination shall 603  
be made as of the date shown by the report to have been the 604  
beginning of the corporation's annual accounting period that 605  
includes the first day of January of the tax year. For the 606  
purposes of this chapter, the value of the issued and outstanding 607  
shares of stock of any corporation that is a financial institution 608  
shall be deemed to be the value as calculated in accordance with 609  
division (A) of this section. For the purposes of this chapter, 610  
the value of the issued and outstanding shares of stock of any 611  
corporation that is not a financial institution shall be deemed to 612

be the values as calculated in accordance with divisions (B) and  
(C) of this section.

(A) The total value, as shown by the books of the financial  
institution, of its capital, surplus, whether earned or unearned,  
undivided profits, and reserves shall be determined as prescribed  
by section 5733.056 of the Revised Code for tax years 1998 and  
thereafter.

(B) The sum of the corporation's net income during the  
corporation's taxable year, allocated or apportioned to this state  
as prescribed in divisions (B)(1) and (2) of this section, and  
subject to sections 5733.043, 5733.045, 5733.052, 5733.053,  
5733.057, 5733.058, 5733.059, and 5733.0510 of the Revised Code:

(1) The net income allocated to this state as provided by  
section 5733.051 of the Revised Code.

(2) The amount of Ohio apportioned net income from sources  
other than those allocated under section 5733.051 of the Revised  
Code, which shall be determined by multiplying the corporation's  
net income by a fraction. The numerator of the fraction is the sum  
of the following products: the property factor multiplied by  
twenty, the payroll factor multiplied by twenty, and the sales  
factor multiplied by sixty. The denominator of the fraction is one  
hundred, provided that the denominator shall be reduced by twenty  
if the property factor has a denominator of zero, by twenty if the  
payroll factor has a denominator of zero, and by sixty if the  
sales factor has a denominator of zero.

The property, payroll, and sales factors shall be determined  
as follows:

(a) The property factor is a fraction the numerator of which  
is the average value of the corporation's real and tangible  
personal property owned or rented, and used in the trade or  
business in this state during the taxable year, and the

denominator of which is the average value of all the corporation's  
real and tangible personal property owned or rented, and used in  
the trade or business everywhere during such year. There shall be  
excluded from the numerator and denominator of the property factor  
the original cost of all of the following property within Ohio:  
property with respect to which a "pollution control facility"  
certificate has been issued pursuant to section 5709.21 of the  
Revised Code; property with respect to which an "industrial water  
pollution control certificate" has been issued pursuant to section  
6111.31 of the Revised Code; and property used exclusively during  
the taxable year for qualified research.

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(i) Property owned by the corporation is valued at its  
original cost. Property rented by the corporation is valued at  
eight times the net annual rental rate. "Net annual rental rate"  
means the annual rental rate paid by the corporation less any  
annual rental rate received by the corporation from subrentals.

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(ii) The average value of property shall be determined by  
averaging the values at the beginning and the end of the taxable  
year, but the tax commissioner may require the averaging of  
monthly values during the taxable year, if reasonably required to  
reflect properly the average value of the corporation's property.

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(b) The payroll factor is a fraction the numerator of which  
is the total amount paid in this state during the taxable year by  
the corporation for compensation, and the denominator of which is  
the total compensation paid everywhere by the corporation during  
such year. There shall be excluded from the numerator and the  
denominator of the payroll factor the total compensation paid in  
this state to employees who are primarily engaged in qualified  
research.

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(i) Compensation means any form of remuneration paid to an  
employee for personal services.

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(ii) Compensation is paid in this state if: (1) the 675  
recipient's service is performed entirely within this state, (2) 676  
the recipient's service is performed both within and without this 677  
state, but the service performed without this state is incidental 678  
to the recipient's service within this state, (3) some of the 679  
service is performed within this state and either the base of 680  
operations, or if there is no base of operations, the place from 681  
which the service is directed or controlled is within this state, 682  
or the base of operations or the place from which the service is 683  
directed or controlled is not in any state in which some part of 684  
the service is performed, but the recipient's residence is in this 685  
state. 686

(iii) Compensation is paid in this state to any employee of a 687  
common or contract motor carrier corporation, who performs the 688  
employee's regularly assigned duties on a motor vehicle in more 689  
than one state, in the same ratio by which the mileage traveled by 690  
such employee within the state bears to the total mileage traveled 691  
by such employee everywhere during the taxable year. 692

(c) Except as provided in section 5733.059 of the Revised 693  
Code, the sales factor is a fraction the numerator of which is the 694  
total sales in this state by the corporation during the taxable 695  
year, and the denominator of which is the total sales by the 696  
corporation everywhere during such year. In determining the 697  
numerator and denominator of the sales factor, receipts from the 698  
sale or other disposal of a capital asset or an asset described in 699  
section 1231 of the Internal Revenue Code shall be eliminated. 700  
Also, in determining the numerator and denominator of the sales 701  
factor, in the case of a reporting corporation owning at least 702  
eighty per cent of the issued and outstanding common stock of one 703  
or more insurance companies or public utilities, except an 704  
electric company, or owning at least twenty-five per cent of the 705  
issued and outstanding common stock of one or more financial 706

institutions, receipts received by the reporting corporation from  
such utilities, insurance companies, and financial institutions  
shall be eliminated.

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For the purpose of this section and section 5733.03 of the  
Revised Code, sales of tangible personal property are in this  
state where such property is received in this state by the  
purchaser. In the case of delivery of tangible personal property  
by common carrier or by other means of transportation, the place  
at which such property is ultimately received after all  
transportation has been completed shall be considered as the place  
at which such property is received by the purchaser. Direct  
delivery in this state, other than for purposes of transportation,  
to a person or firm designated by a purchaser constitutes delivery  
to the purchaser in this state, and direct delivery outside this  
state to a person or firm designated by a purchaser does not  
constitute delivery to the purchaser in this state, regardless of  
where title passes or other conditions of sale.

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Except as provided in section 5733.059 of the Revised Code,  
sales, other than sales of tangible personal property, are in this  
state if either:

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(i) The income-producing activity is performed solely in this  
state;

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(ii) The income-producing activity is performed both within  
and without this state and a greater proportion of the  
income-producing activity is performed within this state than in  
any other state, based on costs of performance.

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(d) If the allocation and apportionment provisions of  
division (B) of this section do not fairly represent the extent of  
the taxpayer's business activity in this state, the taxpayer may  
request, which request must be in writing and must accompany the  
report, timely filed petition for reassessment, or timely filed

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amended report, or the tax commissioner may require, in respect to 738  
all or any part of the taxpayer's allocated or apportioned base, 739  
if reasonable, any one or more of the following: 740

(i) Separate accounting; 741

(ii) The exclusion of any one or more of the factors; 742

(iii) The inclusion of one or more additional factors that 743  
will fairly represent the taxpayer's allocated or apportioned base 744  
in this state. 745

An alternative method will be effective only with approval by 746  
the tax commissioner. 747

Nothing in this section shall be construed to extend any 748  
statute of limitations set forth in this chapter. 749

(C)(1) Subject to divisions (C)(2) and (3) of this section, 750  
the total value, as shown on the books of each corporation that is 751  
not a qualified holding company, of the net book value of a 752  
corporation's assets less the net carrying value of its 753  
liabilities, and excluding from the corporation's assets land 754  
devoted exclusively to agricultural use as of the first Monday of 755  
June in the corporation's taxable year as determined by the county 756  
auditor of the county in which the land is located pursuant to 757  
section 5713.31 of the Revised Code. For the purposes of 758  
determining that total value, any reserves shown on the 759  
corporation's books shall be considered liabilities or contra 760  
assets, except for any reserves that are deemed appropriations of 761  
retained earnings under generally accepted accounting principles. 762

(2)(a) If, on the last day of the taxpayer's taxable year 763  
preceding the tax year, the taxpayer is a related member to a 764  
corporation that elects to be a qualifying holding company for the 765  
tax year beginning after the last day of the taxpayer's taxable 766  
year, or if, on the last day of the taxpayer's taxable year 767  
preceding the tax year, a corporation that elects to be a 768

qualifying holding company for the tax year beginning after the 769  
last day of the taxpayer's taxable year is a related member to the 770  
taxpayer, then the taxpayer's total value shall be adjusted by the 771  
qualifying amount. Except as otherwise provided under division 772  
(C)(2)(b) of this section, "qualifying amount" means the amount 773  
that, when added to the taxpayer's total value, and when 774  
subtracted from the net carrying value of the taxpayer's 775  
liabilities computed without regard to division (C)(2) of this 776  
section, or when subtracted from the taxpayer's total value and 777  
when added to the net carrying value of the taxpayer's liabilities 778  
computed without regard to division (C)(2) of this section, 779  
results in the taxpayer's debt-to-equity ratio equaling the 780  
debt-to-equity ratio of the qualifying controlled group on the 781  
last day of the taxable year ending prior to the first day of the 782  
tax year computed on a consolidated basis in accordance with 783  
general accepted accounting principles. For the purposes of 784  
division (C)(2)(a) of this section, the corporation's total value, 785  
after the adjustment required by that division, shall not exceed 786  
the net book value of the corporation's assets. 787

(b)(i) The amount added to the taxpayer's total value and 788  
subtracted from the net carrying value of the taxpayer's 789  
liabilities shall not exceed the amount of the net carrying value 790  
of the taxpayer's liabilities owed to the taxpayer's related 791  
members. 792

(ii) A liability owed to the taxpayer's related members 793  
includes, but is not limited to, any amount that the corporation 794  
owes to a person that is not a related member if the corporation's 795  
related member or related members in whole or in part guarantee 796  
any portion or all of that amount, or pledge, hypothecate, 797  
mortgage, or carry out any similar transactions to secure any 798  
portion or all of that amount. 799

(3) The base upon which the tax is levied under division (C) 800

of section 5733.06 of the Revised Code shall be computed by 801  
multiplying the amount determined under divisions (C)(1) and (2) 802  
of this section by the fraction determined under divisions 803  
(B)(2)(a) to (c) of this section and, if applicable, divisions 804  
(B)(2)(d)(ii) to (iv) of this section but without regard to 805  
section 5733.052 of the Revised Code. 806

(4) For purposes of division (C) of this section, "related 807  
member" has the same meaning as in division (A)(6) of section 808  
5733.042 of the Revised Code without regard to division (B) of 809  
that section. 810

**Sec. 5743.02.** To provide revenues for the general revenue 811  
fund, an excise tax on sales of cigarettes is hereby levied at the 812  
rate of ~~eleven and one-half~~ thirty-seven mills on each cigarette. 813

Only one sale of the same article shall be used in computing 814  
the amount of tax due. 815

The treasurer of state shall place to the credit of the tax 816  
refund fund created by section 5703.052 of the Revised Code, out 817  
of receipts from the tax levied by this section, amounts equal to 818  
the refunds certified by the tax commissioner pursuant to section 819  
5743.05 of the Revised Code. The balance of taxes collected under 820  
such section, after the credits to the tax refund fund, shall be 821  
paid into the general revenue fund. 822

**Sec. 5743.05.** All stamps provided for by section 5743.03 of 823  
the Revised Code, when procured by the tax commissioner, shall be 824  
immediately delivered to the treasurer of state, who shall execute 825  
a receipt therefor showing the number and aggregate face value of 826  
each denomination received by the treasurer of state and any other 827  
information that the commissioner requires to enforce the 828  
collection and distribution of all taxes imposed under section 829  
5743.024 or 5743.026 of the Revised Code, and deliver the receipt 830

to the commissioner. The treasurer of state shall sell the stamps 831  
and, on the fifth day of each month, make a report showing all 832  
sales made during the preceding month, with the names of 833  
purchasers, the number of each denomination, the aggregate face 834  
value purchased by each, and any other information as the 835  
commissioner requires to enforce the collection and distribution 836  
of all taxes imposed under section 5743.024 of the Revised Code, 837  
and deliver it to the commissioner. The treasurer of state shall 838  
be accountable for all stamps received and unsold. The stamps 839  
shall be sold and accounted for at their face value, except the 840  
commissioner shall, by rule certified to the treasurer of state, 841  
authorize the sale of stamps and meter impressions to wholesale or 842  
retail dealers in this state, or to wholesale dealers outside this 843  
state, at a discount of not less than one and eight-tenths per 844  
cent or more than ten per cent of their face value, as a 845  
commission for affixing and canceling the stamps or meter 846  
impressions. 847

The tax commissioner, by rule certified to the treasurer of 848  
state, shall authorize the delivery of stamps and meter 849  
impressions to wholesale and retail dealers in this state and to 850  
wholesale dealers outside this state on credit when the purchaser 851  
files with the commissioner a bond to the state in the amount and 852  
in the form prescribed by the commissioner, and with surety to the 853  
satisfaction of the treasurer of state, conditioned on payment to 854  
the treasurer of state within thirty days for stamps or meter 855  
impressions delivered within that time. ~~The tax commissioner shall~~ 856  
~~limit delivery of stamps and meter impressions on credit to the~~ 857  
~~period running from the first day of July of the fiscal year until~~ 858  
~~the first day of the following May.~~ Any discount allowed as a 859  
commission for affixing and canceling stamps or meter impressions 860  
shall be allowed with respect to sales of stamps and meter 861  
impressions on credit. 862

The treasurer of state shall redeem and pay for any 863  
destroyed, unused, or spoiled tax stamps and any unused meter 864  
impressions at their net value, and shall refund to wholesale 865  
dealers the net amount of state and county taxes paid erroneously 866  
or paid on cigarettes which have been sold in interstate or 867  
foreign commerce or which have become unsalable, and the net 868  
amount of county taxes that were paid on cigarettes that have been 869  
sold at retail or for retail sale outside a taxing county. An 870  
application for a refund of tax shall be filed with the tax 871  
commissioner, on the form prescribed by the commissioner for that 872  
purpose, within three years from the date the tax stamps are 873  
destroyed or spoiled, from the date of the erroneous payment, or 874  
from the date that cigarettes on which taxes have been paid have 875  
been sold in interstate or foreign commerce or have become 876  
unsalable. On the filing of the application the commissioner shall 877  
determine the amount of refund due payable from receipts of the 878  
state tax, and, if applicable, payable from receipts of a county 879  
tax and certify such amounts to the director of budget and 880  
management and treasurer of state for payment from the tax refund 881  
fund created by section 5703.052 of the Revised Code. When a 882  
refund is granted for payment of an illegal or erroneous 883  
assessment issued by the department, the refund shall include 884  
interest on the amount of the refund from the date of the 885  
overpayment. The interest shall be computed at the rate per annum 886  
prescribed by section 5703.47 of the Revised Code. 887

**Sec. 5743.32.** To provide revenue for the general revenue fund 888  
of the state, an excise tax is hereby levied on the use, 889  
consumption, or storage for consumption of cigarettes by consumers 890  
in this state at the rate of ~~eleven and one-half~~ thirty-seven 891  
mills on each cigarette. The tax shall not apply if the tax levied 892  
by section 5743.02 of the Revised Code has been paid. 893

The money received into the state treasury from the excise 894

tax levied by this section shall be credited to the general 895  
revenue fund. 896

**Sec. 5747.01.** Except as otherwise expressly provided or 897  
clearly appearing from the context, any term used in this chapter 898  
has the same meaning as when used in a comparable context in the 899  
Internal Revenue Code, and all other statutes of the United States 900  
relating to federal income taxes. 901

As used in this chapter: 902

(A) "Adjusted gross income" or "Ohio adjusted gross income" 903  
means adjusted gross income as defined and used in the Internal 904  
Revenue Code, adjusted as provided in this section and section 905  
5747.011 of the Revised Code: 906

(1) Add interest or dividends on obligations or securities of 907  
any state or of any political subdivision or authority of any 908  
state, other than this state and its subdivisions and authorities. 909

(2) Add interest or dividends on obligations of any 910  
authority, commission, instrumentality, territory, or possession 911  
of the United States that are exempt from federal income taxes but 912  
not from state income taxes. 913

(3) Deduct interest or dividends on obligations of the United 914  
States and its territories and possessions or of any authority, 915  
commission, or instrumentality of the United States to the extent 916  
included in federal adjusted gross income but exempt from state 917  
income taxes under the laws of the United States. 918

(4) Deduct disability and survivor's benefits to the extent 919  
included in federal adjusted gross income. 920

(5) Deduct benefits under Title II of the Social Security Act 921  
and tier 1 railroad retirement benefits to the extent included in 922  
federal adjusted gross income under section 86 of the Internal 923  
Revenue Code. 924

(6) Add, in the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

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

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

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

(10) Deduct or add amounts, as provided under section 5747.70

of the Revised Code, related to contributions to variable college 957  
savings program accounts made or tuition credits purchased 958  
pursuant to Chapter 3334. of the Revised Code. 959

(11)(a) Deduct, to the extent not otherwise allowable as a 960  
deduction or exclusion in computing federal or Ohio adjusted gross 961  
income for the taxable year, the amount the taxpayer paid during 962  
the taxable year for medical care insurance and qualified 963  
long-term care insurance for the taxpayer, the taxpayer's spouse, 964  
and dependents. No deduction for medical care insurance under 965  
division (A)(11) of this section shall be allowed either to any 966  
taxpayer who is eligible to participate in any subsidized health 967  
plan maintained by any employer of the taxpayer or of the 968  
taxpayer's spouse, or to any taxpayer who is entitled to, or on 969  
application would be entitled to, benefits under part A of Title 970  
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 971  
301, as amended. For the purposes of division (A)(11)(a) of this 972  
section, "subsidized health plan" means a health plan for which 973  
the employer pays any portion of the plan's cost. The deduction 974  
allowed under division (A)(11)(a) of this section shall be the net 975  
of any related premium refunds, related premium reimbursements, or 976  
related insurance premium dividends received during the taxable 977  
year. 978

(b) Deduct, to the extent not otherwise deducted or excluded 979  
in computing federal or Ohio adjusted gross income during the 980  
taxable year, the amount the taxpayer paid during the taxable 981  
year, not compensated for by any insurance or otherwise, for 982  
medical care of the taxpayer, the taxpayer's spouse, and 983  
dependents, to the extent the expenses exceed seven and one-half 984  
per cent of the taxpayer's federal adjusted gross income. 985

(c) For purposes of division (A)(11) of this section, 986  
"medical care" has the meaning given in section 213 of the 987  
Internal Revenue Code, subject to the special rules, limitations, 988



and exclusions set forth therein, and "qualified long-term care" 989  
has the same meaning given in section 7702(B)(b) of the Internal 990  
Revenue Code. 991

(12)(a) Deduct any amount included in federal adjusted gross 992  
income solely because the amount represents a reimbursement or 993  
refund of expenses that in any year the taxpayer had deducted as 994  
an itemized deduction pursuant to section 63 of the Internal 995  
Revenue Code and applicable United States department of the 996  
treasury regulations. The deduction otherwise allowed under 997  
division (A)(12)(a) of this section shall be reduced to the extent 998  
the reimbursement is attributable to an amount the taxpayer 999  
deducted under this section in any taxable year. 1000

(b) Add any amount not otherwise included in Ohio adjusted 1001  
gross income for any taxable year to the extent that the amount is 1002  
attributable to the recovery during the taxable year of any amount 1003  
deducted or excluded in computing federal or Ohio adjusted gross 1004  
income in any taxable year. 1005

(13) Deduct any portion of the deduction described in section 1006  
1341(a)(2) of the Internal Revenue Code, for repaying previously 1007  
reported income received under a claim of right, that meets both 1008  
of the following requirements: 1009

(a) It is allowable for repayment of an item that was 1010  
included in the taxpayer's adjusted gross income for a prior 1011  
taxable year and did not qualify for a credit under division (A) 1012  
or (B) of section 5747.05 of the Revised Code for that year; 1013

(b) It does not otherwise reduce the taxpayer's adjusted 1014  
gross income for the current or any other taxable year. 1015

(14) Deduct an amount equal to the deposits made to, and net 1016  
investment earnings of, a medical savings account during the 1017  
taxable year, in accordance with section 3924.66 of the Revised 1018  
Code. The deduction allowed by division (A)(14) of this section 1019

does not apply to medical savings account deposits and earnings 1020  
otherwise deducted or excluded for the current or any other 1021  
taxable year from the taxpayer's federal adjusted gross income. 1022

(15)(a) Add an amount equal to the funds withdrawn from a 1023  
medical savings account during the taxable year, and the net 1024  
investment earnings on those funds, when the funds withdrawn were 1025  
used for any purpose other than to reimburse an account holder 1026  
for, or to pay, eligible medical expenses, in accordance with 1027  
section 3924.66 of the Revised Code; 1028

(b) Add the amounts distributed from a medical savings 1029  
account under division (A)(2) of section 3924.68 of the Revised 1030  
Code during the taxable year. 1031

(16) Add any amount claimed as a credit under section 1032  
5747.059 of the Revised Code to the extent that such amount 1033  
satisfies either of the following: 1034

(a) The amount was deducted or excluded from the computation 1035  
of the taxpayer's federal adjusted gross income as required to be 1036  
reported for the taxpayer's taxable year under the Internal 1037  
Revenue Code; 1038

(b) The amount resulted in a reduction of the taxpayer's 1039  
federal adjusted gross income as required to be reported for any 1040  
of the taxpayer's taxable years under the Internal Revenue Code. 1041

(17) Deduct the amount contributed by the taxpayer to an 1042  
individual development account program established by a county 1043  
department of job and family services pursuant to sections 329.11 1044  
to 329.14 of the Revised Code for the purpose of matching funds 1045  
deposited by program participants. On request of the tax 1046  
commissioner, the taxpayer shall provide any information that, in 1047  
the tax commissioner's opinion, is necessary to establish the 1048  
amount deducted under division (A)(17) of this section. 1049

(18) Beginning in taxable year 2001, if the taxpayer is 1050

married and files a joint return and the combined federal adjusted 1051  
gross income of the taxpayer and the taxpayer's spouse for the 1052  
taxable year does not exceed one hundred thousand dollars, or if 1053  
the taxpayer is single and has a federal adjusted gross income for 1054  
the taxable year not exceeding fifty thousand dollars, deduct 1055  
amounts paid during the taxable year for qualified tuition and 1056  
fees paid to an eligible institution for the taxpayer, the 1057  
taxpayer's spouse, or any dependent of the taxpayer, who is a 1058  
resident of this state and is enrolled in or attending a program 1059  
that culminates in a degree or diploma at an eligible institution. 1060  
The deduction may be claimed only to the extent that qualified 1061  
tuition and fees are not otherwise deducted or excluded for any 1062  
taxable year from federal or Ohio adjusted gross income. The 1063  
deduction may not be claimed for educational expenses for which 1064  
the taxpayer claims a credit under section 5747.27 of the Revised 1065  
Code. 1066

(19) Add any reimbursement received during the taxable year 1067  
of any amount the taxpayer deducted under division (A)(18) of this 1068  
section in any previous taxable year to the extent the amount is 1069  
not otherwise included in Ohio adjusted gross income. 1070

(B) "Business income" means income arising from transactions, 1071  
activities, and sources in the regular course of a trade or 1072  
business and includes income from tangible and intangible property 1073  
if the acquisition, rental, management, and disposition of the 1074  
property constitute integral parts of the regular course of a 1075  
trade or business operation. 1076

(C) "Nonbusiness income" means all income other than business 1077  
income and may include, but is not limited to, compensation, rents 1078  
and royalties from real or tangible personal property, capital 1079  
gains, interest, dividends and distributions, patent or copyright 1080  
royalties, or lottery winnings, prizes, and awards. 1081

1082

(D) "Compensation" means any form of remuneration paid to an employee for personal services.	1083 1084
(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.	1085 1086 1087
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	1088 1089
(G) "Individual" means any natural person.	1090
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	1091 1092
(I) "Resident" means:	1093
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	1094 1095
(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 and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.	1096 1097 1098 1099 1100
(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.	1101 1102 1103 1104
(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.	1105 1106
(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.	1107 1108 1109 1110
(M) "Taxable year" means the calendar year or the taxpayer's	1111

fiscal year ending during the calendar year, or fractional part 1112  
thereof, upon which the adjusted gross income is calculated 1113  
pursuant to this chapter. 1114

(N) "Taxpayer" means any person subject to the tax imposed by 1115  
section 5747.02 of the Revised Code or any pass-through entity 1116  
that makes the election under division (D) of section 5747.08 of 1117  
the Revised Code. 1118

(O) "Dependents" means dependents as defined in the Internal 1119  
Revenue Code and as claimed in the taxpayer's federal income tax 1120  
return for the taxable year or which the taxpayer would have been 1121  
permitted to claim had the taxpayer filed a federal income tax 1122  
return. 1123

(P) "Principal county of employment" means, in the case of a 1124  
nonresident, the county within the state in which a taxpayer 1125  
performs services for an employer or, if those services are 1126  
performed in more than one county, the county in which the major 1127  
portion of the services are performed. 1128

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1129  
Code: 1130

(1) "Subdivision" means any county, municipal corporation, 1131  
park district, or township. 1132

(2) "Essential local government purposes" includes all 1133  
functions that any subdivision is required by general law to 1134  
exercise, including like functions that are exercised under a 1135  
charter adopted pursuant to the Ohio Constitution. 1136

(R) "Overpayment" means any amount already paid that exceeds 1137  
the figure determined to be the correct amount of the tax. 1138

(S) "Taxable income" applies to estates only and means 1139  
taxable income as defined and used in the Internal Revenue Code 1140  
adjusted as follows: 1141

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities;	1142 1143 1144
(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States that are exempt from federal income taxes but not from state income taxes;	1145 1146 1147 1148
(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;	1149 1150
(4) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States that are exempt from state taxes under the laws of the United States;	1151 1152 1153 1154 1155
(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect;	1156 1157 1158 1159 1160 1161
(6) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income;	1162 1163 1164
(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent included in federal taxable income;	1165 1166 1167
(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining either federal adjusted gross income or federal taxable income;	1168 1169 1170 1171 1172

(9)(a) Deduct any amount included in federal taxable income 1173  
solely because the amount represents a reimbursement or refund of 1174  
expenses that in a previous year the decedent had deducted as an 1175  
itemized deduction pursuant to section 63 of the Internal Revenue 1176  
Code and applicable treasury regulations. The deduction otherwise 1177  
allowed under division (S)(9)(a) of this section shall be reduced 1178  
to the extent the reimbursement is attributable to an amount the 1179  
taxpayer or decedent deducted under this section in any taxable 1180  
year. 1181

(b) Add any amount not otherwise included in Ohio taxable 1182  
income for any taxable year to the extent that the amount is 1183  
attributable to the recovery during the taxable year of any amount 1184  
deducted or excluded in computing federal or Ohio taxable income 1185  
in any taxable year. 1186

(10) Deduct any portion of the deduction described in section 1187  
1341(a)(2) of the Internal Revenue Code, for repaying previously 1188  
reported income received under a claim of right, that meets both 1189  
of the following requirements: 1190

(a) It is allowable for repayment of an item that was 1191  
included in the taxpayer's taxable income or the decedent's 1192  
adjusted gross income for a prior taxable year and did not qualify 1193  
for a credit under division (A) or (B) of section 5747.05 of the 1194  
Revised Code for that year. 1195

(b) It does not otherwise reduce the taxpayer's taxable 1196  
income or the decedent's adjusted gross income for the current or 1197  
any other taxable year. 1198

(11) Add any amount claimed as a credit under section 1199  
5747.059 of the Revised Code to the extent that the amount 1200  
satisfies either of the following: 1201

(a) The amount was deducted or excluded from the computation 1202  
of the taxpayer's federal taxable income as required to be 1203

reported for the taxpayer's taxable year under the Internal Revenue Code; 1204  
1205

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code. 1206  
1207  
1208

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code. 1209  
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1211

(U) As used in divisions (A)(8), (A)(9), (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. 1212  
1213  
1214  
1215

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state. 1216  
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1218

(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 investor in that pass-through entity. 1219  
1220  
1221  
1222

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code. 1223  
1224

(Y) "Month" means a calendar month. 1225

(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. 1226  
1227  
1228

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the 1229  
1230  
1231  
1232  
1233



Ohio board of regents pursuant to Chapter 1713. of the Revised 1234  
Code or a certificate of registration issued by the state board of 1235  
proprietary school registration under Chapter 3332. of the Revised 1236  
Code. 1237

(2) "Qualified tuition and fees" means tuition and fees 1238  
imposed by an eligible institution as a condition of enrollment or 1239  
attendance, not exceeding two thousand five hundred dollars in 1240  
each of the individual's first two years of post-secondary 1241  
education. If the individual is a part-time student, "qualified 1242  
tuition and fees" includes tuition and fees paid for the academic 1243  
equivalent of the first two years of post-secondary education 1244  
during a maximum of five taxable years, not exceeding a total of 1245  
five thousand dollars. "Qualified tuition and fees" does not 1246  
include: 1247

(a) Expenses for any course or activity involving sports, 1248  
games, or hobbies unless the course or activity is part of the 1249  
individual's degree or diploma program; 1250

(b) The cost of books, room and board, student activity fees, 1251  
athletic fees, insurance expenses, or other expenses unrelated to 1252  
the individual's academic course of instruction; 1253

(c) Tuition, fees, or other expenses paid or reimbursed 1254  
through an employer, scholarship, grant in aid, or other 1255  
educational benefit program. 1256

(BB) Any term used in this chapter that is not otherwise 1257  
defined in this section and that is not used in a comparable 1258  
context in the Internal Revenue Code and other statutes of the 1259  
United States relating to federal income taxes has the same 1260  
meaning as in section 5733.40 of the Revised Code. 1261

Sec. 5747.011. (A)(1) Subject to division (A)(2) of this 1262  
section, for the purposes of this section "deferred bonus 1263

depreciation amount" means the amount described in division (B)(1) 1264  
of this section, with respect to each asset, less the sum of the 1265  
yearly adjustments with respect to the asset that the taxpayer was 1266  
required to deduct under division (C) of this section for each 1267  
taxable year prior to the taxable year in which the taxpayer 1268  
disposed of the asset and recognized gain or loss in connection 1269  
with that disposition. 1270

(2) If, in connection with a disposition of an asset the 1271  
recognized gain is less than the realized gain, the deferred bonus 1272  
depreciation amount with respect to that asset shall be 1273  
proportionately reduced. 1274

(B)(1) Subject to division (B)(2) of this section, add to the 1275  
taxpayer's federal adjusted gross income five-sixths of the amount 1276  
of depreciation expense allowed by subsection (k) of section 168 1277  
of the Internal Revenue Code. Nothing in section 5747.231 of the 1278  
Revised Code shall be construed to exclude from the add-back 1279  
required by this division five-sixths of the taxpayer's 1280  
proportionate or distributive share of the amount of depreciation 1281  
expense allowed by subsection (k) of section 168 of the Internal 1282  
Revenue Code to any pass-through entity which the taxpayer has a 1283  
direct or indirect ownership interest. 1284

(2) Nothing in this division shall be construed to adjust or 1285  
modify the adjusted basis of any asset. 1286

(3) To the extent the add-back is attributable to property 1287  
generating nonbusiness income, the add-back shall be considered to 1288  
be nonbusiness income. 1289

(C)(1) Subject to division (D)(2) of this section, beginning 1290  
with taxable year 2003, deduct from federal adjusted gross income 1291  
one-fifth of the amount described in division (B) of this section 1292  
with respect to each preceding taxable year, but such amount shall 1293  
be deducted for not more than five consecutive taxable years 1294

commencing with the taxable year immediately following the taxable 1295  
year for which the taxpayer made the adjustment required by 1296  
division (B) of this section for that taxable year. 1297

(2) To the extent the amount described in division (C)(1) of 1298  
this section is attributable to property generating nonbusiness 1299  
income, the amount shall also be deducted from the related 1300  
nonbusiness income. 1301

(D) Divisions (D)(1) and (2) of this section apply if a 1302  
taxpayer disposes of an asset and recognizes a gain or loss from 1303  
that disposition. 1304

(1)(a) For the taxable year in which a taxpayer recognizes 1305  
the gain or loss, the taxpayer shall deduct from federal adjusted 1306  
gross income the deferred bonus depreciation amount, if any, with 1307  
respect to that asset. 1308

(b) To the extent the amount described in division (D)(1)(a) 1309  
of this section is attributable to property generating nonbusiness 1310  
income, the amount also shall be deducted from the related 1311  
nonbusiness income. 1312

(2)(a) Except as set forth in division (D)(2)(b) of this 1313  
section, with respect to that asset the deduction otherwise 1314  
provided by division (C) of this section shall not apply to the 1315  
taxable year in which the taxpayer recognizes the gain or loss and 1316  
shall not apply to all subsequent taxable years. 1317

(b) If, in connection with the disposition of the asset the 1318  
recognized gain is less than the realized gain, the deduction 1319  
provided by division (C) of this section shall continue to apply 1320  
to the difference between the amount described in division (A)(1) 1321  
of this section and the amount described in division (A)(2) of 1322  
this section. 1323

**Section 2.** That existing sections 5733.04, 5733.05, 5743.02, 1324

5743.05, 5743.32, and 5747.01 and sections 5743.023 and 5743.322 1325  
of the Revised Code are hereby repealed. 1326

**Section 3.** In addition to the return required by section 1327  
5743.03 of the Revised Code, each wholesale dealer and each retail 1328  
dealer shall make and file a return on forms prescribed by the Tax 1329  
Commissioner, showing the total number of cigarettes that the 1330  
wholesale or retail dealer had on hand as of the beginning of 1331  
business on the effective date of the increased rate of tax levied 1332  
under section 5743.02 of the Revised Code, as amended by this act, 1333  
and any other information that the Commissioner considers 1334  
necessary for the administration of sections 5743.01 to 5743.20 of 1335  
the Revised Code. Within twenty days after that effective date or 1336  
by June 20, 2002, whichever is later, each wholesale dealer and 1337  
each retail dealer shall deliver the return together with a 1338  
remittance of the additional amount of tax due as a result of the 1339  
amendment to section 5743.02 of the Revised Code made by this act, 1340  
on all packages of Ohio stamped cigarettes and on all unaffixed 1341  
Ohio cigarette tax stamps to the Treasurer of State. The Treasurer 1342  
of State shall stamp or otherwise mark on the return the date it 1343  
was received and also shall show on the return by stamp or 1344  
otherwise the tax payment remitted with the return. The Treasurer 1345  
of State immediately shall transmit all returns filed under this 1346  
section to the Tax Commissioner. Any wholesale or retail dealer 1347  
who fails to file a return as prescribed by this section, for each 1348  
day the dealer fails to do so, shall forfeit and pay into the 1349  
state treasury the sum of one dollar as revenue arising from the 1350  
tax imposed by this section. Any unpaid or unreported tax 1351  
liability or one dollar per day charge levied by this section may 1352  
be collected by assessment in the manner provided in section 1353  
5743.081 or 5743.082 of the Revised Code. 1354

**Section 4.** If a person's taxable year ending in 2002 ends 1355

before the effective date of this section, that person may elect 1356  
to apply to its tax year 2003 corporation franchise tax report the 1357  
amendments and enactments by this act of sections 5733.04, 1358  
5733.043, 5733.045, and 5733.05 of the Revised Code. The election 1359  
shall accompany or be reflected in the report when filed, or shall 1360  
accompany or be reflected in an amended report. The election is 1361  
revocable at the option of the person making the election, but no 1362  
revocation is effective if it is made after the ninetieth day 1363  
before the last day of the applicable period of time described in 1364  
division (B) of section 5733.12 of the Revised Code. 1365

**Section 5.** That Sections 63.18, 125, and 144 of Am. Sub. H.B. 1366  
94 of the 124th General Assembly be amended to read as follows: 1367

**"Sec. 63.18. EMPLOYER SURCHARGE 1368**

(A) The surcharge and the interest on the surcharge amounts 1369  
due for calendar years 1988, 1989, and 1990 as required by Am. 1370  
Sub. H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of 1371  
the 118th General Assembly, and section 4141.251 of the Revised 1372  
Code as it existed prior to Sub. H.B. 478 of the 122nd General 1373  
Assembly, again shall be assessed and collected by, accounted for, 1374  
and made available to the Department of Job and Family Services in 1375  
the same manner as set forth in section 4141.251 of the Revised 1376  
Code as it existed prior to Sub. H.B. 478 of the 122nd General 1377  
Assembly, notwithstanding the repeal of the surcharge for calendar 1378  
years after 1990, pursuant to Sub. H.B. 478 of the 122nd General 1379  
Assembly, except that amounts received by the Director on or after 1380  
July 1, 2001, shall be deposited into the special administrative 1381  
fund established pursuant to section 4141.11 of the Revised Code. 1382

Effective July 1, 2001, the balance of the unemployment 1383  
compensation surcharge trust funds created in custody of the 1384  
Treasurer of State pursuant to section 4141.251 of the Revised 1385  
Code shall be transferred into the special administrative fund 1386

established pursuant to section 4141.11 of the Revised Code. 1387

(B) Of the foregoing appropriation item 600-678, Federal 1388  
Unemployment Programs, \$51,000,000 in fiscal year 2003 made 1389  
available to the state under Section 903 (d) of the Social 1390  
Security Act, as amended, shall be used under the direction of the 1391  
Department of Job and Family Services to pay for the 1392  
administrative activities for the Unemployment Insurance Program, 1393  
employment services, and other allowable expenditures under 1394  
Section 903 (d) of the Social Security Act, as amended. 1395

The amounts obligated pursuant to this division shall not 1396  
exceed at any time the amount by which the aggregate of the 1397  
amounts transferred to the account of this state pursuant to 1398  
Section 903 (d) of the Social Security Act, as amended, exceeds 1399  
the aggregate of the amounts obligated for administration and paid 1400  
out for benefits and required by law to be charged against the 1401  
amounts transferred to the account of this state. 1402

Of the foregoing appropriation item 600-678, Federal 1403  
Unemployment Programs, up to \$18,000,000 in fiscal year 2003 shall 1404  
be used by the Department of Job and Family Services to reimburse 1405  
the General Revenue Fund, through intrastate vouchers, for 1406  
expenditures made on or after April 1, 2002, from the General 1407  
Revenue Fund for the aforementioned programs as reported to the 1408  
federal government as allowable expenditures. 1409

**Sec. 125. UNCLAIMED FUNDS TRANSFER** 1410

Notwithstanding division (A) of section 169.05 of the Revised 1411  
Code, prior to June 30, 2003, upon the request of the Director of 1412  
Budget and Management, the Director of Commerce shall transfer to 1413  
the General Revenue Fund up to ~~\$30,000,000~~ \$55,000,000 of the 1414  
unclaimed funds that have been reported by the holder of unclaimed 1415  
funds as provided by section 169.05 of the Revised Code, 1416  
irrespective of the allocation of the unclaimed funds under that 1417

section. 1418

**Sec. 144.** TRANSFERS TO THE GENERAL REVENUE FUND 1419

Notwithstanding any other provision of law to the contrary, 1420  
during fiscal years 2002 and 2003, the Director of Budget and 1421  
Management is hereby authorized to transfer cash from non-federal, 1422  
non-General Revenue Fund funds that are not constitutionally 1423  
restricted to the General Revenue Fund. ~~The total amount of cash~~ 1424  
~~transfers made pursuant to this section to the General Revenue~~ 1425  
~~Fund during fiscal years 2002 and 2003 shall not exceed~~ 1426  
~~\$31,794,657."~~ 1427

**Section 6.** That existing Sections 63.18, 125, and 144 of Am. 1428  
Sub. H.B. 94 of the 124th General Assembly are hereby repealed. 1429

**Section 7.** That Section 63 of Am. Sub. H.B. 94 of the 124th 1430  
General Assembly, as subsequently amended by Am. Sub. H.B. 299 of 1431  
the 124th General Assembly, be amended to read as follows: 1432

**"Sec. 63.** JFS DEPARTMENT OF JOB AND FAMILY SERVICES 1433

General Revenue Fund 1434

GRF 600-100 Personal Services 1435

State	\$	56,614,143	\$	58,715,838	1436
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Federal	\$	18,645,558	\$	19,317,882	1437
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Personal Services	\$	75,259,701	\$	78,033,720	1438
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Total

GRF 600-200 Maintenance 1439

State	\$	30,439,164	\$	24,320,541	1440
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Federal	\$	7,295,237	\$	5,828,810	1441
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Maintenance Total	\$	37,734,401	\$	30,149,351	1442
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GRF 600-300 Equipment 1443

State	\$	5,469,830	\$	979,504	1444
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Federal	\$	179,026	\$	32,059	1445
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	Equipment Total	\$	5,648,856	\$	1,011,563	1446
GRF 600-402	Electronic Benefits Transfer (EBT)					1447
	State	\$	7,551,305	\$	7,715,079	1448
	Federal	\$	7,551,305	\$	7,715,079	1449
	EBT Total	\$	15,102,610	\$	15,430,158	1450
GRF 600-410	TANF State	\$	268,636,561	\$	268,619,061	1451
GRF 600-413	Day Care	\$	84,120,606	\$	84,120,606	1452
	Match/Maintenance of Effort					
GRF 600-416	Computer Projects					1453
	State	\$	137,583,171	\$	142,908,736	1454
	Federal	\$	32,665,206	\$	34,770,353	1455
	Computer Projects Total	\$	170,248,377	\$	177,679,089	1456
GRF 600-420	Child Support Administration	\$	7,919,511	\$	7,885,309	1457
GRF 600-426	Children's Health Insurance Plan (CHIP)					1458
	State	\$	13,571,338	\$	15,770,373	1459
	Federal	\$	33,535,007	\$	38,968,860	1460
	CHIP Total	\$	47,106,345	\$	54,739,233	1461
GRF 600-427	Child and Family Services Activities	\$	7,189,086	\$	7,000,427	1462
GRF 600-435	Unemployment Compensation Review Commission	\$	3,759,151	\$	3,785,380	1463
GRF 600-436	Medicaid Systems Enhancements	\$	4,445,384	\$	1,853,611	1464
GRF 600-502	Child Support Match	\$	17,383,992	\$	16,814,103	1465
GRF 600-504	Non-TANF County Administration	\$	70,554,373	\$	68,697,679	1466
GRF 600-511	Disability	\$	84,662,017	\$	98,152,408	1467



	Assistance/Other				
	Assistance				
GRF 600-512	Non-TANF Emergency Assistance	\$ 1,079,000	\$ 1,079,000		1468
GRF 600-525	Health Care/Medicaid State	\$ 2,908,181,745	\$ 3,112,834,875		1469
	Federal	\$ 4,174,579,446	\$ 4,460,972,607		1470
	Health Care Total	\$ 7,082,761,191	\$ 7,573,807,482		1471
GRF 600-527	Child Protective Services	\$ 59,592,059	\$ 64,047,479		1472
GRF 600-528	Adoption Services State	\$ 33,085,023	\$ 37,697,562		1473
	Federal	\$ 32,158,564	\$ 36,641,941		1474
	Adoption Services Total	\$ 65,243,587	\$ 74,339,503		1475
GRF 600-534	Adult Protective Services	\$ 2,850,975	\$ 2,775,950		1476
GRF 600-552	County Social Services	\$ 11,354,550	\$ 11,055,746		1477
TOTAL GRF	General Revenue Fund				1478
	State	\$ 3,816,042,984	\$ 4,036,829,267		1479
	Federal	\$ 4,306,609,349	\$ 4,604,247,591		1480
	GRF Total	\$ 8,122,652,333	\$ 8,641,076,858		1481
	General Services Fund Group				1482
4A8 600-658	Child Support Collections	\$ 42,389,027	\$ 42,389,027		1483
4R4 600-665	BCII Service Fees	\$ 124,522	\$ 136,974		1484
5C9 600-671	Medicaid Program Support	\$ 50,846,239	\$ 59,226,893		1485
5R1 600-677	County Computers	\$ 5,000,000	\$ 5,000,000		1486
613 600-645	Training Activities	\$ 1,462,626	\$ 1,157,525		1487
TOTAL GSF	General Services Fund Group	\$ 99,822,414	\$ 107,910,419		1488

	Federal Special Revenue Fund Group				1492		
3A2	600-641	Emergency Food Distribution	\$	2,018,844	\$	2,018,844	1493
3D3	600-648	Children's Trust Fund Federal	\$	2,040,524	\$	2,040,524	1494
3F0	600-623	Health Care Federal	\$	260,504,926	\$	281,562,040	1495
3F0	600-650	Hospital Care Assurance Match	\$	320,551,643	\$	332,807,785	1496
3G5	600-655	Interagency Reimbursement	\$	852,461,818	\$	860,986,436	1497
3G9	600-657	Special Activities Self Sufficiency	\$	522,500	\$	190,000	1498
3H7	600-617	Day Care Federal	\$	299,156,430	\$	337,848,130	1499
3N0	600-628	IV-E Foster Care Maintenance	\$	152,981,760	\$	173,963,142	1500
3S5	600-622	Child Support Projects	\$	534,050	\$	534,050	1501
3V0	600-688	Workforce Investment Act	\$	128,476,093	\$	128,476,093	1502
3V4	600-678	Federal Unemployment Programs	\$	74,025,525	\$	<del>74,025,525</del>	1503
						<u>125,025,525</u>	1504
3V4	600-679	Unemployment Compensation Review Commission - Federal	\$	2,286,421	\$	2,286,421	1505
3V6	600-689	TANF Block Grant	\$	654,410,661	\$	677,098,311	1506
3V6	600-690	Wellness	\$	14,337,515	\$	14,337,515	1507
316	600-602	State and Local Training	\$	10,166,587	\$	10,325,460	1508
327	600-606	Child Welfare	\$	34,594,191	\$	34,592,977	1509
331	600-686	Federal Operating	\$	41,600,896	\$	41,640,897	1510
365	600-681	JOB Training Program	\$	25,000,000	\$	5,469,259	1511
384	600-610	Food Stamps and State Administration	\$	160,371,358	\$	161,716,857	1512

385	600-614	Refugee Services	\$	4,388,503	\$	4,559,632	1513
395	600-616	Special Activities/Child and Family Services	\$	9,491,000	\$	9,491,000	1514
396	600-620	Social Services Block Grant	\$	51,195,100	\$	51,297,478	1515
397	600-626	Child Support	\$	248,001,590	\$	247,353,041	1516
398	600-627	Adoption Maintenance/ Administration	\$	277,806,175	\$	341,298,661	1517
TOTAL FED Federal Special Revenue							1518
Fund Group			\$	3,626,924,110	\$	<del>3,795,920,078</del>	1519
						<u>3,846,920,078</u>	1520
State Special Revenue Fund Group							1521
198	600-647	Children's Trust Fund	\$	4,368,785	\$	4,379,333	1522
3W3	600-695	Adult Protective Services	\$	120,227	\$		1523
3W3	600-696	Non-TANF Adult Assistance	\$	1,000,000	\$		1524
3W8	600-638	Hippy Program	\$	62,500	\$		1525
3W9	600-640	Adoption Connection	\$	50,000	\$		1526
4A9	600-607	Unemployment Compensation Admin Fund	\$	9,420,000	\$	9,420,000	1527
4E3	600-605	Nursing Home Assessments	\$	95,511	\$	95,511	1528
4E7	600-604	Child and Family Services Collections	\$	145,805	\$	149,450	1529
4F1	600-609	Foundation Grants/Child and Family Services	\$	116,400	\$	119,310	1530
4J5	600-613	Nursing Facility Bed Assessments	\$	31,179,798	\$	31,279,798	1531
4J5	600-618	Residential State	\$	15,700,000	\$	15,700,000	1532

		Supplement Payments				
4K1	600-621	ICF/MR Bed Assessments	\$	21,604,331	\$	22,036,418 1533
4R3	600-687	Banking Fees	\$	592,937	\$	592,937 1534
4V2	600-612	Child Support	\$	124,993	\$	124,993 1535
		Activities				
4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000 1536
5A5	600-685	Unemployment Benefit	\$	19,607,027	\$	13,555,667 1537
		Automation				
5E6	600-634	State Option Food	\$	6,000,000	\$	6,000,000 1538
		Stamps				
5P4	600-691	TANF Child Welfare	\$	7,500,000	\$	7,500,000 1539
5P5	600-692	Health Care Services	\$	223,847,498	\$	255,386,713 1540
5R2	600-608	Medicaid-Nursing	\$	59,462,415	\$	79,283,220 1541
		Facilities				
651	600-649	Hospital Care	\$	222,480,109	\$	233,384,431 1542
		Assurance Program Fund				
TOTAL SSR		State Special Revenue				1543
Fund Group			\$	633,478,336	\$	690,240,508 1544
Agency Fund Group						1545
192	600-646	Support Intercept -	\$	80,000,000	\$	82,000,000 1546
		Federal				
5B6	600-601	Food Stamp Intercept	\$	5,283,920	\$	5,283,920 1547
583	600-642	Support Intercept -	\$	20,162,335	\$	20,565,582 1548
		State				
TOTAL AGY		Agency Fund Group	\$	105,446,255	\$	107,849,502 1549
Holding Account Redistribution Fund Group						1550
R12	600-643	Refunds and Audit	\$	200,000	\$	200,000 1551
		Settlements				
R13	600-644	Forgery Collections		700,000		700,000 1552
TOTAL	090	Holding Account	\$	900,000	\$	900,000 1553
Redistribution Fund Group						
TOTAL ALL BUDGET FUND GROUPS			\$	12,589,223,448	\$	<del>13,343,897,365</del> 1554

13,394,897,365" 1555

**Section 8.** That existing Section 63 of Am. Sub. H.B. 94 of 1557  
the 124th General Assembly, as subsequently amended by Am. Sub. 1558  
H.B. 299 of the 124th General Assembly, is hereby repealed. 1559

**Section 9.** That Section 29 of Am. Sub. H.B. 405 of the 124th 1560  
General Assembly be amended to read as follows: 1561

**"Sec. 29. BUDGET STABILIZATION FUND TRANSFERS** 1562

(A) Notwithstanding section 131.43 and division (D) of 1563  
section 127.14 of the Revised Code, the Director of Budget and 1564  
Management may, with Controlling Board approval, transfer up to 1565  
\$248 million from the Budget Stabilization Fund to the General 1566  
Revenue Fund during the 2002-2003 biennium to help ensure that the 1567  
available revenue receipts and balances in the General Revenue 1568  
Fund are not less than the appropriations for each fiscal year. 1569

(B) Notwithstanding section 131.43 and division (D) of 1570  
section 127.14 of the Revised Code, the Director of Budget and 1571  
Management shall transfer, not later than 30 days after the 1572  
effective date of this section, \$8.0 million from the Budget 1573  
Stabilization Fund to the General Revenue Fund. These funds Of the 1574  
amount transferred, \$2.0 million shall be used for emergency 1575  
purposes, to include, but not be limited to, the Department of 1576  
Health and Department of Agriculture for anthrax and bioterrorism 1577  
testing, the Adjutant General for costs associated with the 1578  
deployment of troops, armory maintenance, equipment costs and 1579  
capital needs, the Department of Public Safety, security, and 1580  
other emergency purpose expenses. These amounts are hereby 1581  
appropriated for General Revenue Fund appropriation line items 1582  
established by the Director of Budget and Management. 1583

Prior to utilizing these funds, the appropriate agency must 1584

receive the approval of the Controlling Board. Any of these funds 1585  
unspent in fiscal year 2002 shall be transferred to fiscal year 1586  
2003 by the Director of Budget and Management for the same purpose 1587  
as in fiscal year 2002. 1588

The Of the \$2.0 million transferred for emergency purposes as 1589  
specified in this division, the unobligated and unencumbered 1590  
balance of these funds as of June 30, 2003, shall be transferred 1591  
back to the Budget Stabilization Fund." 1592

**Section 10.** That existing Section 29 of Am. Sub. H.B. 405 of 1593  
the 124th General Assembly is hereby repealed. 1594

**Section 11.** In addition to any amounts that have been 1595  
authorized for transfer from the Budget Stabilization Fund to the 1596  
General Revenue Fund in fiscal year 2002, there is hereby 1597  
appropriated in fiscal year 2002, \$290,000,000 from the Budget 1598  
Stabilization Fund (Fund 013) to the Director of Budget and 1599  
Management for the purpose of overcoming the current shortfall of 1600  
revenues to the General Revenue Fund. From the amount so 1601  
appropriated, the Director shall deposit, into the State Treasury 1602  
to the credit of the General Revenue Fund, such amounts as are 1603  
necessary to ensure that the available revenue receipts and 1604  
balances in the General Revenue Fund are not less than the 1605  
appropriations from the fund for fiscal year 2002. 1606

In addition to any amounts that have been authorized for 1607  
transfer from the Budget Stabilization Fund to the General Revenue 1608  
Fund in fiscal year 2003, there is hereby appropriated in fiscal 1609  
year 2003, \$170,000,000 from the Budget Stabilization Fund (Fund 1610  
013) to the Director of Budget and Management. From the amounts so 1611  
appropriated, the Director shall deposit, into the State Treasury 1612  
to the credit of the General Revenue Fund, such amounts as are 1613  
necessary to ensure that the available revenue receipts and 1614

balances in the General Revenue Fund are not less than the 1615  
appropriations from the fund for fiscal year 2003. 1616

**Section 12.** That Section 31 of Am. Sub. H.B. 405 of the 124th 1617  
General Assembly is hereby repealed. 1618

**Section 13.** The codified and uncodified sections of law 1619  
amended or enacted in this act, and the items of law of which the 1620  
codified and uncodified sections of law amended or enacted in this 1621  
act are composed, are not subject to the referendum. Therefore, 1622  
under Ohio Constitution, Article II, Section 1d, the codified and 1623  
uncodified sections of law amended or enacted in this act, and the 1624  
items of law of which the codified and uncodified sections of law 1625  
amended or enacted in this act are composed, go into immediate 1626  
effect when this act becomes law. 1627

**Section 14.** The repeal of Section 31 of Am. Sub. H.B. 405 of 1628  
the 124th General Assembly is not subject to the referendum. 1629  
Therefore, under Ohio Constitution, Article II, Section 1d, the 1630  
repeal of Section 31 of Am. Sub. H.B. 405 of the 124th General 1631  
Assembly goes into immediate effect when this act becomes law. 1632

**Section 15.** Section 5733.05 of the Revised Code is presented 1633  
in this act as a composite of the section as amended by both Am. 1634  
Sub. H.B. 283 and Am. Sub. S.B. 3 of the 123rd General Assembly. 1635  
The General Assembly, applying the principle stated in division 1636  
(B) of section 1.52 of the Revised Code that amendments are to be 1637  
harmonized if reasonably capable of simultaneous operation, finds 1638  
that the composite is the resulting version of the section in 1639  
effect prior to the effective date of the section as presented in 1640  
this act. 1641