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**Representatives Trakas, Kilbane, Latta, Gibbs, Blessing, Collier, Schaffer,
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A B I L L

To amend sections 5747.01, 5747.24, and 5748.01, and 1
to repeal section 5747.25 of the Revised Code to 2
increase the amount of time an individual may 3
spend in Ohio before being presumed to be a 4
resident for income tax purposes and to apply the 5
residency test to active-duty military personnel. 6

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

Section 1. That sections 5747.01, 5747.24, and 5748.01 of the 7
Revised Code be amended to read as follows: 8

Sec. 5747.01. Except as otherwise expressly provided or 9
clearly appearing from the context, any term used in this chapter 10
that is not otherwise defined in this section has the same meaning 11
as when used in a comparable context in the laws of the United 12
States relating to federal income taxes or if not used in a 13
comparable context in those laws, has the same meaning as in 14
section 5733.40 of the Revised Code. Any reference in this chapter 15
to the Internal Revenue Code includes other laws of the United 16
States relating to federal income taxes. 17

As used in this chapter: 18

(A) "Adjusted gross income" or "Ohio adjusted gross income" 19

means federal adjusted gross income, as defined and used in the	20
Internal Revenue Code, adjusted as provided in this section:	21
(1) Add interest or dividends on obligations or securities of	22
any state or of any political subdivision or authority of any	23
state, other than this state and its subdivisions and authorities.	24
(2) Add interest or dividends on obligations of any	25
authority, commission, instrumentality, territory, or possession	26
of the United States to the extent that the interest or dividends	27
are exempt from federal income taxes but not from state income	28
taxes.	29
(3) Deduct interest or dividends on obligations of the United	30
States and its territories and possessions or of any authority,	31
commission, or instrumentality of the United States to the extent	32
that the interest or dividends are included in federal adjusted	33
gross income but exempt from state income taxes under the laws of	34
the United States.	35
(4) Deduct disability and survivor's benefits to the extent	36
included in federal adjusted gross income.	37
(5) Deduct benefits under Title II of the Social Security Act	38
and tier 1 railroad retirement benefits to the extent included in	39
federal adjusted gross income under section 86 of the Internal	40
Revenue Code.	41
(6) In the case of a taxpayer who is a beneficiary of a trust	42
that makes an accumulation distribution as defined in section 665	43
of the Internal Revenue Code, add, for the beneficiary's taxable	44
years beginning before 2002, the portion, if any, of such	45
distribution that does not exceed the undistributed net income of	46
the trust for the three taxable years preceding the taxable year	47
in which the distribution is made to the extent that the portion	48
was not included in the trust's taxable income for any of the	49
trust's taxable years beginning in 2002 or thereafter.	50

"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 that the interest or interest equivalent is included in federal adjusted gross income.

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

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

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

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

(c) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702~~(B)~~~~(b)~~B(c) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross 114
income solely because the amount represents a reimbursement or 115
refund of expenses that in any year the taxpayer had deducted as 116
an itemized deduction pursuant to section 63 of the Internal 117
Revenue Code and applicable United States department of the 118
treasury regulations. The deduction otherwise allowed under 119
division (A)(12)(a) of this section shall be reduced to the extent 120
the reimbursement is attributable to an amount the taxpayer 121
deducted under this section in any taxable year. 122

(b) Add any amount not otherwise included in Ohio adjusted 123
gross income for any taxable year to the extent that the amount is 124
attributable to the recovery during the taxable year of any amount 125
deducted or excluded in computing federal or Ohio adjusted gross 126
income in any taxable year. 127

(13) Deduct any portion of the deduction described in section 128
1341(a)(2) of the Internal Revenue Code, for repaying previously 129
reported income received under a claim of right, that meets both 130
of the following requirements: 131

(a) It is allowable for repayment of an item that was 132
included in the taxpayer's adjusted gross income for a prior 133
taxable year and did not qualify for a credit under division (A) 134
or (B) of section 5747.05 of the Revised Code for that year; 135

(b) It does not otherwise reduce the taxpayer's adjusted 136
gross income for the current or any other taxable year. 137

(14) Deduct an amount equal to the deposits made to, and net 138
investment earnings of, a medical savings account during the 139
taxable year, in accordance with section 3924.66 of the Revised 140
Code. The deduction allowed by division (A)(14) of this section 141
does not apply to medical savings account deposits and earnings 142
otherwise deducted or excluded for the current or any other 143
taxable year from the taxpayer's federal adjusted gross income. 144

(15)(a) Add an amount equal to the funds withdrawn from a 145
medical savings account during the taxable year, and the net 146
investment earnings on those funds, when the funds withdrawn were 147
used for any purpose other than to reimburse an account holder 148
for, or to pay, eligible medical expenses, in accordance with 149
section 3924.66 of the Revised Code; 150

(b) Add the amounts distributed from a medical savings 151
account under division (A)(2) of section 3924.68 of the Revised 152
Code during the taxable year. 153

(16) Add any amount claimed as a credit under section 154
5747.059 of the Revised Code to the extent that such amount 155
satisfies either of the following: 156

(a) The amount was deducted or excluded from the computation 157
of the taxpayer's federal adjusted gross income as required to be 158
reported for the taxpayer's taxable year under the Internal 159
Revenue Code; 160

(b) The amount resulted in a reduction of the taxpayer's 161
federal adjusted gross income as required to be reported for any 162
of the taxpayer's taxable years under the Internal Revenue Code. 163

(17) Deduct the amount contributed by the taxpayer to an 164
individual development account program established by a county 165
department of job and family services pursuant to sections 329.11 166
to 329.14 of the Revised Code for the purpose of matching funds 167
deposited by program participants. On request of the tax 168
commissioner, the taxpayer shall provide any information that, in 169
the tax commissioner's opinion, is necessary to establish the 170
amount deducted under division (A)(17) of this section. 171

(18) Beginning in taxable year 2001 but not for any taxable 172
year beginning after December 31, 2005, if the taxpayer is married 173
and files a joint return and the combined federal adjusted gross 174
income of the taxpayer and the taxpayer's spouse for the taxable 175

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

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

(20)(a)(i) Add five-sixths of the amount of depreciation
expense allowed by subsection (k) of section 168 of the Internal
Revenue Code, including the taxpayer's proportionate or
distributive share of the amount of depreciation expense allowed
by that subsection to a pass-through entity in which the taxpayer
has a direct or indirect ownership interest.

(ii) Add five-sixths of the amount of qualifying section 179
depreciation expense, including a person's proportionate or
distributive share of the amount of qualifying section 179
depreciation expense allowed to any pass-through entity in which
the person has a direct or indirect ownership. For the purposes of
this division, "qualifying section 179 depreciation expense" means
the difference between (I) the amount of depreciation expense
directly or indirectly allowed to the taxpayer under section 179
of the Internal Revenue Code, and (II) the amount of depreciation

expense directly or indirectly allowed to the taxpayer under 208
section 179 of the Internal Revenue Code as that section existed 209
on December 31, 2002. 210

The tax commissioner, under procedures established by the 211
commissioner, may waive the add-backs related to a pass-through 212
entity if the taxpayer owns, directly or indirectly, less than 213
five per cent of the pass-through entity. 214

(b) Nothing in division (A)(20) of this section shall be 215
construed to adjust or modify the adjusted basis of any asset. 216

(c) To the extent the add-back required under division 217
(A)(20)(a) of this section is attributable to property generating 218
nonbusiness income or loss allocated under section 5747.20 of the 219
Revised Code, the add-back shall be situated to the same location 220
as the nonbusiness income or loss generated by the property for 221
the purpose of determining the credit under division (A) of 222
section 5747.05 of the Revised Code. Otherwise, the add-back shall 223
be apportioned, subject to one or more of the four alternative 224
methods of apportionment enumerated in section 5747.21 of the 225
Revised Code. 226

(d) For the purposes of division (A) of this section, net 227
operating loss carryback and carryforward shall not include 228
five-sixths of the allowance of any net operating loss deduction 229
carryback or carryforward to the taxable year to the extent such 230
loss resulted from depreciation allowed by section 168(k) of the 231
Internal Revenue Code and by the qualifying section 179 232
depreciation expense amount. 233

(21)(a) If the taxpayer was required to add an amount under 234
division (A)(20)(a) of this section for a taxable year, deduct 235
one-fifth of the amount so added for each of the five succeeding 236
taxable years. 237

(b) If the amount deducted under division (A)(21)(a) of this 238

section is attributable to an add-back allocated under division 239
(A)(20)(c) of this section, the amount deducted shall be situated 240
to the same location. Otherwise, the add-back shall be apportioned 241
using the apportionment factors for the taxable year in which the 242
deduction is taken, subject to one or more of the four alternative 243
methods of apportionment enumerated in section 5747.21 of the 244
Revised Code. 245

(c) No deduction is available under division (A)(21)(a) of 246
this section with regard to any depreciation allowed by section 247
168(k) of the Internal Revenue Code and by the qualifying section 248
179 depreciation expense amount to the extent that such 249
depreciation resulted in or increased a federal net operating loss 250
carryback or carryforward to a taxable year to which division 251
(A)(20)(d) of this section does not apply. 252

(B) "Business income" means income, including gain or loss, 253
arising from transactions, activities, and sources in the regular 254
course of a trade or business and includes income, gain, or loss 255
from real property, tangible property, and intangible property if 256
the acquisition, rental, management, and disposition of the 257
property constitute integral parts of the regular course of a 258
trade or business operation. "Business income" includes income, 259
including gain or loss, from a partial or complete liquidation of 260
a business, including, but not limited to, gain or loss from the 261
sale or other disposition of goodwill. 262

(C) "Nonbusiness income" means all income other than business 263
income and may include, but is not limited to, compensation, rents 264
and royalties from real or tangible personal property, capital 265
gains, interest, dividends and distributions, patent or copyright 266
royalties, or lottery winnings, prizes, and awards. 267

(D) "Compensation" means any form of remuneration paid to an 268
employee for personal services. 269

(E) "Fiduciary" means a guardian, trustee, executor,	270
administrator, receiver, conservator, or any other person acting	271
in any fiduciary capacity for any individual, trust, or estate.	272
(F) "Fiscal year" means an accounting period of twelve months	273
ending on the last day of any month other than December.	274
(G) "Individual" means any natural person.	275
(H) "Internal Revenue Code" means the "Internal Revenue Code	276
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	277
(I) "Resident" means any of the following, provided that	278
division (I)(3) of this section applies only to taxable years of a	279
trust beginning in 2002 or thereafter:	280
(1) An individual who is domiciled in this state, subject to	281
section 5747.24 of the Revised Code;	282
(2) The estate of a decedent who at the time of death was	283
domiciled in this state. The domicile tests of section 5747.24 of	284
the Revised Code and any election under section 5747.25 of the	285
Revised Code are not controlling for purposes of division (I)(2)	286
of this section.	287
(3) A trust that, in whole or part, resides in this state. If	288
only part of a trust resides in this state, the trust is a	289
resident only with respect to that part.	290
For the purposes of division (I)(3) of this section:	291
(a) A trust resides in this state for the trust's current	292
taxable year to the extent, as described in division (I)(3)(d) of	293
this section, that the trust consists directly or indirectly, in	294
whole or in part, of assets, net of any related liabilities, that	295
were transferred, or caused to be transferred, directly or	296
indirectly, to the trust by any of the following:	297
(i) A person, a court, or a governmental entity or	298
instrumentality on account of the death of a decedent, but only if	299

the trust is described in division (I)(3)(e)(i) or (ii) of this section; 300
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(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year; 302
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(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section. 308
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(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code. 318
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(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code. 321
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(d) For the purposes of division (I)(3)(a) of this section, 331
the extent to which a trust consists directly or indirectly, in 332
whole or in part, of assets, net of any related liabilities, that 333
were transferred directly or indirectly, in whole or part, to the 334
trust by any of the sources enumerated in that division shall be 335
ascertained by multiplying the fair market value of the trust's 336
assets, net of related liabilities, by the qualifying ratio, which 337
shall be computed as follows: 338

(i) The first time the trust receives assets, the numerator 339
of the qualifying ratio is the fair market value of those assets 340
at that time, net of any related liabilities, from sources 341
enumerated in division (I)(3)(a) of this section. The denominator 342
of the qualifying ratio is the fair market value of all the 343
trust's assets at that time, net of any related liabilities. 344

(ii) Each subsequent time the trust receives assets, a 345
revised qualifying ratio shall be computed. The numerator of the 346
revised qualifying ratio is the sum of (1) the fair market value 347
of the trust's assets immediately prior to the subsequent 348
transfer, net of any related liabilities, multiplied by the 349
qualifying ratio last computed without regard to the subsequent 350
transfer, and (2) the fair market value of the subsequently 351
transferred assets at the time transferred, net of any related 352
liabilities, from sources enumerated in division (I)(3)(a) of this 353
section. The denominator of the revised qualifying ratio is the 354
fair market value of all the trust's assets immediately after the 355
subsequent transfer, net of any related liabilities. 356

(iii) Whether a transfer to the trust is by or from any of 357
the sources enumerated in division (I)(3)(a) of this section shall 358
be ascertained without regard to the domicile of the trust's 359
beneficiaries. 360

(e) For the purposes of division (I)(3)(a)(i) of this 361

section: 362

(i) A trust is described in division (I)(3)(e)(i) of this 363
section if the trust is a testamentary trust and the testator of 364
that testamentary trust was domiciled in this state at the time of 365
the testator's death for purposes of the taxes levied under 366
Chapter 5731. of the Revised Code. 367

(ii) A trust is described in division (I)(3)(e)(ii) of this 368
section if the transfer is a qualifying transfer described in any 369
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 370
irrevocable inter vivos trust, and at least one of the trust's 371
qualifying beneficiaries is domiciled in this state for purposes 372
of this chapter during all or some portion of the trust's current 373
taxable year. 374

(f) For the purposes of division (I)(3)(e)(ii) of this 375
section, a "qualifying transfer" is a transfer of assets, net of 376
any related liabilities, directly or indirectly to a trust, if the 377
transfer is described in any of the following: 378

(i) The transfer is made to a trust, created by the decedent 379
before the decedent's death and while the decedent was domiciled 380
in this state for the purposes of this chapter, and, prior to the 381
death of the decedent, the trust became irrevocable while the 382
decedent was domiciled in this state for the purposes of this 383
chapter. 384

(ii) The transfer is made to a trust to which the decedent, 385
prior to the decedent's death, had directly or indirectly 386
transferred assets, net of any related liabilities, while the 387
decedent was domiciled in this state for the purposes of this 388
chapter, and prior to the death of the decedent the trust became 389
irrevocable while the decedent was domiciled in this state for the 390
purposes of this chapter. 391

(iii) The transfer is made on account of a contractual 392

relationship existing directly or indirectly between the 393
transferor and either the decedent or the estate of the decedent 394
at any time prior to the date of the decedent's death, and the 395
decedent was domiciled in this state at the time of death for 396
purposes of the taxes levied under Chapter 5731. of the Revised 397
Code. 398

(iv) The transfer is made to a trust on account of a 399
contractual relationship existing directly or indirectly between 400
the transferor and another person who at the time of the 401
decedent's death was domiciled in this state for purposes of this 402
chapter. 403

(v) The transfer is made to a trust on account of the will of 404
a testator. 405

(vi) The transfer is made to a trust created by or caused to 406
be created by a court, and the trust was directly or indirectly 407
created in connection with or as a result of the death of an 408
individual who, for purposes of the taxes levied under Chapter 409
5731. of the Revised Code, was domiciled in this state at the time 410
of the individual's death. 411

(g) The tax commissioner may adopt rules to ascertain the 412
part of a trust residing in this state. 413

(J) "Nonresident" means an individual or estate that is not a 414
resident. An individual who is a resident for only part of a 415
taxable year is a nonresident for the remainder of that taxable 416
year. 417

(K) "Pass-through entity" has the same meaning as in section 418
5733.04 of the Revised Code. 419

(L) "Return" means the notifications and reports required to 420
be filed pursuant to this chapter for the purpose of reporting the 421
tax due and includes declarations of estimated tax when so 422

required.	423
(M) "Taxable year" means the calendar year or the taxpayer's	424
fiscal year ending during the calendar year, or fractional part	425
thereof, upon which the adjusted gross income is calculated	426
pursuant to this chapter.	427
(N) "Taxpayer" means any person subject to the tax imposed by	428
section 5747.02 of the Revised Code or any pass-through entity	429
that makes the election under division (D) of section 5747.08 of	430
the Revised Code.	431
(O) "Dependents" means dependents as defined in the Internal	432
Revenue Code and as claimed in the taxpayer's federal income tax	433
return for the taxable year or which the taxpayer would have been	434
permitted to claim had the taxpayer filed a federal income tax	435
return.	436
(P) "Principal county of employment" means, in the case of a	437
nonresident, the county within the state in which a taxpayer	438
performs services for an employer or, if those services are	439
performed in more than one county, the county in which the major	440
portion of the services are performed.	441
(Q) As used in sections 5747.50 to 5747.55 of the Revised	442
Code:	443
(1) "Subdivision" means any county, municipal corporation,	444
park district, or township.	445
(2) "Essential local government purposes" includes all	446
functions that any subdivision is required by general law to	447
exercise, including like functions that are exercised under a	448
charter adopted pursuant to the Ohio Constitution.	449
(R) "Overpayment" means any amount already paid that exceeds	450
the figure determined to be the correct amount of the tax.	451
(S) "Taxable income" or "Ohio taxable income" applies only to	452

estates and trusts, and means federal taxable income, as defined 453
and used in the Internal Revenue Code, adjusted as follows: 454

(1) Add interest or dividends, net of ordinary, necessary, 455
and reasonable expenses not deducted in computing federal taxable 456
income, on obligations or securities of any state or of any 457
political subdivision or authority of any state, other than this 458
state and its subdivisions and authorities, but only to the extent 459
that such net amount is not otherwise includible in Ohio taxable 460
income and is described in either division (S)(1)(a) or (b) of 461
this section: 462

(a) The net amount is not attributable to the S portion of an 463
electing small business trust and has not been distributed to 464
beneficiaries for the taxable year; 465

(b) The net amount is attributable to the S portion of an 466
electing small business trust for the taxable year. 467

(2) Add interest or dividends, net of ordinary, necessary, 468
and reasonable expenses not deducted in computing federal taxable 469
income, on obligations of any authority, commission, 470
instrumentality, territory, or possession of the United States to 471
the extent that the interest or dividends are exempt from federal 472
income taxes but not from state income taxes, but only to the 473
extent that such net amount is not otherwise includible in Ohio 474
taxable income and is described in either division (S)(1)(a) or 475
(b) of this section; 476

(3) Add the amount of personal exemption allowed to the 477
estate pursuant to section 642(b) of the Internal Revenue Code; 478

(4) Deduct interest or dividends, net of related expenses 479
deducted in computing federal taxable income, on obligations of 480
the United States and its territories and possessions or of any 481
authority, commission, or instrumentality of the United States to 482
the extent that the interest or dividends are exempt from state 483

taxes under the laws of the United States, but only to the extent 484
that such amount is included in federal taxable income and is 485
described in either division (S)(1)(a) or (b) of this section; 486

(5) Deduct the amount of wages and salaries, if any, not 487
otherwise allowable as a deduction but that would have been 488
allowable as a deduction in computing federal taxable income for 489
the taxable year, had the targeted jobs credit allowed under 490
sections 38, 51, and 52 of the Internal Revenue Code not been in 491
effect, but only to the extent such amount relates either to 492
income included in federal taxable income for the taxable year or 493
to income of the S portion of an electing small business trust for 494
the taxable year; 495

(6) Deduct any interest or interest equivalent, net of 496
related expenses deducted in computing federal taxable income, on 497
public obligations and purchase obligations, but only to the 498
extent that such net amount relates either to income included in 499
federal taxable income for the taxable year or to income of the S 500
portion of an electing small business trust for the taxable year; 501

(7) Add any loss or deduct any gain resulting from sale, 502
exchange, or other disposition of public obligations to the extent 503
that such loss has been deducted or such gain has been included in 504
computing either federal taxable income or income of the S portion 505
of an electing small business trust for the taxable year; 506

(8) Except in the case of the final return of an estate, add 507
any amount deducted by the taxpayer on both its Ohio estate tax 508
return pursuant to section 5731.14 of the Revised Code, and on its 509
federal income tax return in determining federal taxable income; 510

(9)(a) Deduct any amount included in federal taxable income 511
solely because the amount represents a reimbursement or refund of 512
expenses that in a previous year the decedent had deducted as an 513
itemized deduction pursuant to section 63 of the Internal Revenue 514

Code and applicable treasury regulations. The deduction otherwise 515
allowed under division (S)(9)(a) of this section shall be reduced 516
to the extent the reimbursement is attributable to an amount the 517
taxpayer or decedent deducted under this section in any taxable 518
year. 519

(b) Add any amount not otherwise included in Ohio taxable 520
income for any taxable year to the extent that the amount is 521
attributable to the recovery during the taxable year of any amount 522
deducted or excluded in computing federal or Ohio taxable income 523
in any taxable year, but only to the extent such amount has not 524
been distributed to beneficiaries for the taxable year. 525

(10) Deduct any portion of the deduction described in section 526
1341(a)(2) of the Internal Revenue Code, for repaying previously 527
reported income received under a claim of right, that meets both 528
of the following requirements: 529

(a) It is allowable for repayment of an item that was 530
included in the taxpayer's taxable income or the decedent's 531
adjusted gross income for a prior taxable year and did not qualify 532
for a credit under division (A) or (B) of section 5747.05 of the 533
Revised Code for that year. 534

(b) It does not otherwise reduce the taxpayer's taxable 535
income or the decedent's adjusted gross income for the current or 536
any other taxable year. 537

(11) Add any amount claimed as a credit under section 538
5747.059 of the Revised Code to the extent that the amount 539
satisfies either of the following: 540

(a) The amount was deducted or excluded from the computation 541
of the taxpayer's federal taxable income as required to be 542
reported for the taxpayer's taxable year under the Internal 543
Revenue Code; 544

(b) The amount resulted in a reduction in the taxpayer's 545
federal taxable income as required to be reported for any of the 546
taxpayer's taxable years under the Internal Revenue Code. 547

(12) Deduct any amount, net of related expenses deducted in 548
computing federal taxable income, that a trust is required to 549
report as farm income on its federal income tax return, but only 550
if the assets of the trust include at least ten acres of land 551
satisfying the definition of "land devoted exclusively to 552
agricultural use" under section 5713.30 of the Revised Code, 553
regardless of whether the land is valued for tax purposes as such 554
land under sections 5713.30 to 5713.38 of the Revised Code. If the 555
trust is a ~~pass-through~~ pass-through entity investor, section 556
5747.231 of the Revised Code applies in ascertaining if the trust 557
is eligible to claim the deduction provided by division (S)(12) of 558
this section in connection with the pass-through entity's farm 559
income. 560

Except for farm income attributable to the S portion of an 561
electing small business trust, the deduction provided by division 562
(S)(12) of this section is allowed only to the extent that the 563
trust has not distributed such farm income. Division (S)(12) of 564
this section applies only to taxable years of a trust beginning in 565
2002 or thereafter. 566

(13) Add the net amount of income described in section 641(c) 567
of the Internal Revenue Code to the extent that amount is not 568
included in federal taxable income. 569

(14) Add or deduct the amount the taxpayer would be required 570
to add or deduct under division (A)(20) or (21) of this section if 571
the taxpayer's Ohio taxable income were computed in the same 572
manner as an individual's Ohio adjusted gross income is computed 573
under this section. In the case of a trust, division (S)(14) of 574
this section applies only to any of the trust's taxable years 575

beginning in 2002 or thereafter.	576
(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.	577 578
(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.	579 580 581 582
(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.	583 584 585
(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.	586 587 588 589
(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.	590 591
(Y) "Month" means a calendar month.	592
(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.	593 594 595
(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 Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.	596 597 598 599 600 601 602 603 604
(2) "Qualified tuition and fees" means tuition and fees	605

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

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

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

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

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

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

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

(b) The requirements of section 5747.011 of the Revised Code 637
are satisfied for the trust's taxable year in which the trust 638
recognizes the gain or loss. 639

Any gain or loss that is not a qualifying trust amount is 640
modified business income, qualifying investment income, or 641
modified nonbusiness income, as the case may be. 642

(3) "Modified nonbusiness income" means a trust's Ohio 643
taxable income other than modified business income, other than the 644
qualifying trust amount, and other than qualifying investment 645
income, as defined in section 5747.012 of the Revised Code, to the 646
extent such qualifying investment income is not otherwise part of 647
modified business income. 648

(4) "Modified Ohio taxable income" applies only to trusts, 649
and means the sum of the amounts described in divisions (BB)(4)(a) 650
to (c) of this section: 651

(a) The fraction, calculated under section 5747.013, and 652
applying section 5747.231 of the Revised Code, multiplied by the 653
sum of the following amounts: 654

(i) The trust's modified business income; 655

(ii) The trust's qualifying investment income, as defined in 656
section 5747.012 of the Revised Code, but only to the extent the 657
qualifying investment income does not otherwise constitute 658
modified business income and does not otherwise constitute a 659
qualifying trust amount. 660

(b) The qualifying trust amount multiplied by a fraction, the 661
numerator of which is the sum of the book value of the qualifying 662
investee's physical assets in this state on the last day of the 663
qualifying investee's fiscal or calendar year ending immediately 664
prior to the day on which the trust recognizes the qualifying 665
trust amount, and the denominator of which is the sum of the book 666

value of the qualifying investee's total physical assets 667
everywhere on the last day of the qualifying investee's fiscal or 668
calendar year ending immediately prior to the day on which the 669
trust recognizes the qualifying trust amount. If, for a taxable 670
year, the trust recognizes a qualifying trust amount with respect 671
to more than one qualifying investee, the amount described in 672
division (BB)(4)(b) of this section shall equal the sum of the 673
products so computed for each such qualifying investee. 674

(c)(i) With respect to a trust or portion of a trust that is 675
a resident as ascertained in accordance with division (I)(3)(d) of 676
this section, its modified nonbusiness income. 677

(ii) With respect to a trust or portion of a trust that is 678
not a resident as ascertained in accordance with division 679
(I)(3)(d) of this section, the amount of its modified nonbusiness 680
income satisfying the descriptions in divisions (B)(2) to (5) of 681
section 5747.20 of the Revised Code. 682

If the allocation and apportionment of a trust's income under 683
divisions (BB)(4)(a) and (c) of this section do not fairly 684
represent the modified Ohio taxable income of the trust in this 685
state, the alternative methods described in division (C) of 686
section 5747.21 of the Revised Code may be applied in the manner 687
and to the same extent provided in that section. 688

(5)(a) Except as set forth in division (BB)(5)(b) of this 689
section, "qualifying investee" means a person in which a trust has 690
an equity or ownership interest, or a person or unit of government 691
the debt obligations of either of which are owned by a trust. For 692
the purposes of division (BB)(2)(a) of this section and for the 693
purpose of computing the fraction described in division (BB)(4)(b) 694
of this section, all of the following apply: 695

(i) If the qualifying investee is a member of a qualifying 696
controlled group on the last day of the qualifying investee's 697

fiscal or calendar year ending immediately prior to the date on 698
which the trust recognizes the gain or loss, then "qualifying 699
investee" includes all persons in the qualifying controlled group 700
on such last day. 701

(ii) If the qualifying investee, or if the qualifying 702
investee and any members of the qualifying controlled group of 703
which the qualifying investee is a member on the last day of the 704
qualifying investee's fiscal or calendar year ending immediately 705
prior to the date on which the trust recognizes the gain or loss, 706
separately or cumulatively own, directly or indirectly, on the 707
last day of the qualifying investee's fiscal or calendar year 708
ending immediately prior to the date on which the trust recognizes 709
the qualifying trust amount, more than fifty per cent of the 710
equity of a pass-through entity, then the qualifying investee and 711
the other members are deemed to own the proportionate share of the 712
pass-through entity's physical assets which the pass-through 713
entity directly or indirectly owns on the last day of the 714
pass-through entity's calendar or fiscal year ending within or 715
with the last day of the qualifying investee's fiscal or calendar 716
year ending immediately prior to the date on which the trust 717
recognizes the qualifying trust amount. 718

(iii) For the purposes of division (BB)(5)(a)(iii) of this 719
section, "upper level pass-through entity" means a pass-through 720
entity directly or indirectly owning any equity of another 721
pass-through entity, and "lower level pass-through entity" means 722
that other pass-through entity. 723

An upper level pass-through entity, whether or not it is also 724
a qualifying investee, is deemed to own, on the last day of the 725
upper level pass-through entity's calendar or fiscal year, the 726
proportionate share of the lower level pass-through entity's 727
physical assets that the lower level pass-through entity directly 728
or indirectly owns on the last day of the lower level pass-through 729

entity's calendar or fiscal year ending within or with the last 730
day of the upper level pass-through entity's fiscal or calendar 731
year. If the upper level pass-through entity directly and 732
indirectly owns less than fifty per cent of the equity of the 733
lower level pass-through entity on each day of the upper level 734
pass-through entity's calendar or fiscal year in which or with 735
which ends the calendar or fiscal year of the lower level 736
pass-through entity and if, based upon clear and convincing 737
evidence, complete information about the location and cost of the 738
physical assets of the lower pass-through entity is not available 739
to the upper level pass-through entity, then solely for purposes 740
of ascertaining if a gain or loss constitutes a qualifying trust 741
amount, the upper level pass-through entity shall be deemed as 742
owning no equity of the lower level pass-through entity for each 743
day during the upper level pass-through entity's calendar or 744
fiscal year in which or with which ends the lower level 745
pass-through entity's calendar or fiscal year. Nothing in division 746
(BB)(5)(a)(iii) of this section shall be construed to provide for 747
any deduction or exclusion in computing any trust's Ohio taxable 748
income. 749

(b) With respect to a trust that is not a resident for the 750
taxable year and with respect to a part of a trust that is not a 751
resident for the taxable year, "qualifying investee" for that 752
taxable year does not include a C corporation if both of the 753
following apply: 754

(i) During the taxable year the trust or part of the trust 755
recognizes a gain or loss from the sale, exchange, or other 756
disposition of equity or ownership interests in, or debt 757
obligations of, the C corporation. 758

(ii) Such gain or loss constitutes nonbusiness income. 759

(6) "Available" means information is such that a person is 760

able to learn of the information by the due date plus extensions, 761
if any, for filing the return for the taxable year in which the 762
trust recognizes the gain or loss. 763

(CC) "Qualifying controlled group" has the same meaning as in 764
section 5733.04 of the Revised Code. 765

(DD) "Related member" has the same meaning as in section 766
5733.042 of the Revised Code. 767

(EE)(1) For the purposes of division (EE) of this section: 768

(a) "Qualifying person" means any person other than a 769
qualifying corporation. 770

(b) "Qualifying corporation" means any person classified for 771
federal income tax purposes as an association taxable as a 772
corporation, except either of the following: 773

(i) A corporation that has made an election under subchapter 774
S, chapter one, subtitle A, of the Internal Revenue Code for its 775
taxable year ending within, or on the last day of, the investor's 776
taxable year; 777

(ii) A subsidiary that is wholly owned by any corporation 778
that has made an election under subchapter S, chapter one, 779
subtitle A of the Internal Revenue Code for its taxable year 780
ending within, or on the last day of, the investor's taxable year. 781

(2) For the purposes of this chapter, unless expressly stated 782
otherwise, no qualifying person indirectly owns any asset directly 783
or indirectly owned by any qualifying corporation. 784

Sec. 5747.24. This section is to be ~~used~~ applied solely for 785
the purposes of Chapters 5747. and 5748. of the Revised Code. This 786
section applies to individuals, including individuals who are 787
serving on active duty service in the United States army, air 788
force, navy, marine corps, or coast guard, reserve components 789

thereof, or national guard during the individual's taxable year, 790
notwithstanding a declaration or indication of residency in this 791
state in the "state of legal residence" form (department of 792
defense form 2058) or other declaration of a home of record 793
-serving the same purpose as that form. 794

(A)(1) As used in this section ~~and section 5747.25 of the~~ 795
~~Revised Code:~~ 796

(a) Except as otherwise provided in division (A)(2) of this 797
section, an individual "has one contact period in this state" if 798
the individual is away overnight from the individual's abode 799
located outside this state and while away overnight from that 800
abode spends at least some portion, however minimal, of each of 801
two consecutive days in this state. 802

(b) An individual is considered to be "away overnight from 803
the individual's abode located outside this state" if the 804
individual is away from the individual's abode located outside 805
this state for a continuous period of time, however minimal, 806
beginning at any time on one day and ending at any time on the 807
next day. 808

~~(c) "Medical hardship" includes circumstances under which the~~ 809
~~individual or a member of the individual's immediate or extended~~ 810
~~family is admitted as a patient into a hospital located in this~~ 811
~~state, examined in this state by a medical professional, admitted~~ 812
~~into a nursing home in this state, receiving nursing care in this~~ 813
~~state while staying in a dwelling located in this state, or~~ 814
~~otherwise receiving ongoing, necessary medical care in this state.~~ 815
~~"Medical hardship" includes receiving treatment or care for acute~~ 816
~~or chronic illness or obstetric treatment or care.~~ 817

~~(d) "Medical professional" means a person licensed under~~ 818
~~Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734.,~~ 819
~~4753., 4755., 4757., 4759., 4760., 4761., 4762., or 4773. of the~~ 820

Revised Code. 821

~~(e) "Immediate or extended family" of an individual means the~~ 822
~~individual's spouse, children, grandchildren, parents,~~ 823
~~grandparents, siblings, in laws, or any of the individual's~~ 824
~~dependents.~~ 825

(2) ~~Up to thirty~~ Any periods that would otherwise constitute 826
contact periods under division (A)(1)(a) of this section shall not 827
be considered contact periods during a taxable year if the 828
individual spends any portion of either day of each such contact 829
period ~~for one or more of the following purposes:~~ 830

~~(a) To~~ to provide services for no consideration or to raise 831
funds for an organization described in section 501(c)(3) of the 832
Internal Revenue Code, or to serve for no consideration on a body 833
serving a public or philanthropic purpose, including a study 834
committee or other body formed or dedicated to examine matters of 835
interest to the general public or to make recommendations 836
regarding such matters. "Consideration" does not include any 837
reimbursement of the individual's actual expenses directly or 838
indirectly related to such activity. 839

~~(b) To attend to a medical hardship involving the individual~~ 840
~~or a member of the individual's immediate or extended family or to~~ 841
~~attend a funeral involving a member of the individual's immediate~~ 842
~~or extended family.~~ 843

(B) An individual who during a taxable year has no more than 844
one hundred ~~twenty~~ eighty-two contact periods in this state, which 845
need not be consecutive, and who during the entire taxable year 846
has at least one abode outside this state, is presumed to be not 847
domiciled in this state during the taxable year. The tax 848
commissioner, in writing and by personal service or certified 849
mail, return receipt requested, may request a statement from an 850
individual verifying that the individual was not domiciled in this 851

state under this division during the taxable year. The 852
commissioner shall not make such a request after the expiration of 853
the period, if any, within which the commissioner may make an 854
assessment under section 5747.13 of the Revised Code against the 855
individual for the taxable year. Within sixty days after receiving 856
the commissioner's request, the individual shall submit a written 857
statement to the commissioner stating both of the following: 858

(1) During the entire taxable year, the individual was not 859
domiciled in this state; 860

(2) During the entire taxable year, the individual had at 861
least one abode outside this state. 862

The presumption that the individual was not domiciled in this 863
state is irrebuttable unless either the individual fails to timely 864
submit the statement as required or the statement is fraudulent. 865
If the individual fails to timely submit the statement as 866
required, the individual is presumed under division (C) of this 867
section to have been domiciled in this state the entire taxable 868
year. 869

In the case of an individual who dies, the personal 870
representative of the estate of the deceased individual may comply 871
with this division by making to the best of the representative's 872
knowledge and belief the statement under this division with 873
respect to the deceased individual, and submitting the statement 874
to the commissioner within sixty days after receiving the 875
commissioner's request for it. 876

An individual or personal representative of an estate who 877
knowingly makes a false statement under this division is guilty of 878
perjury under section 2921.11 of the Revised Code. 879

~~(C) An individual who during a taxable year has less than one 880
hundred eighty three contact periods in this state, which need not 881
be consecutive, and who is not irrebuttably presumed under 882~~

~~division (B) of this section to be not domiciled in this state 883
with respect to that taxable year, is presumed to be domiciled in 884
this state for the entire taxable year. An individual can rebut 885
this presumption for any portion of the taxable year only with a 886
preponderance of the evidence to the contrary. An individual who 887
rebutts the presumption under this division for any portion of the 888
taxable year is presumed to be domiciled in this state for the 889
remainder of the taxable year for which the individual does not 890
provide a preponderance of the evidence to the contrary. 891~~

~~(D)~~ An individual who during a taxable year has at least one 892
hundred eighty-three contact periods in this state, which need not 893
be consecutive, is presumed to be domiciled in this state for the 894
entire taxable year. An individual can rebut this presumption for 895
any portion of the taxable year only with clear and convincing 896
evidence to the contrary. An individual who rebuts the presumption 897
under this division for any portion of the taxable year is 898
presumed to be domiciled in this state for the remainder of the 899
taxable year for which the individual does not provide clear and 900
convincing evidence to the contrary. 901

~~(E)~~(D) If the tax commissioner challenges the number of 902
contact periods an individual claims to have in this state during 903
a taxable year, the individual bears the burden of proof to verify 904
such number, by a preponderance of the evidence. An individual 905
challenged by the commissioner is presumed to have a contact 906
period in this state for any period for which ~~he~~ the individual 907
does not prove by a preponderance of the evidence that the 908
individual had no such contact period. 909

Sec. 5748.01. As used in this chapter: 910

(A) "School district income tax" means an income tax adopted 911
under one of the following: 912

(1) Former section 5748.03 of the Revised Code as it existed 913

prior to its repeal by Amended Substitute House Bill No. 291 of
the 115th general assembly;

(2) Section 5748.03 of the Revised Code as enacted in
Substitute Senate Bill No. 28 of the 118th general assembly;

(3) Section 5748.08 of the Revised Code as enacted in Amended
Substitute Senate Bill No. 17 of the 122nd general assembly.

(B) "Individual" means an individual subject to the tax
levied by section 5747.02 of the Revised Code.

(C) "Estate" means an estate subject to the tax levied by
section 5747.02 of the Revised Code.

(D) "Taxable year" means a taxable year as defined in
division (M) of section 5747.01 of the Revised Code.

(E) "Taxable income" means:

(1) In the case of an individual, one of the following, as
specified in the resolution imposing the tax:

(a) Ohio adjusted gross income for the taxable year as
defined in division (A) of section 5747.01 of the Revised Code,
less the exemptions provided by section 5747.02 of the Revised
Code;

(b) Wages, salaries, tips, and other employee compensation to
the extent included in Ohio adjusted gross income as defined in
section 5747.01 of the Revised Code, and net earnings from
self-employment, as defined in section 1402(a) of the Internal
Revenue Code, to the extent included in Ohio adjusted gross
income.

(2) In the case of an estate, taxable income for the taxable
year as defined in division (S) of section 5747.01 of the Revised
Code.

(F) ~~Except as provided in section 5747.25 of the Revised~~

Code, "resident" <u>"Resident"</u> of the school district means:	943
(1) An individual who is a resident of this state as defined in division (I) of section 5747.01 of the Revised Code during all or a portion of the taxable year and who, during all or a portion of such period of state residency, is domiciled in the school district or lives in and maintains a permanent place of abode in the school district;	944 945 946 947 948 949
(2) An estate of a decedent who, at the time of death, was domiciled in the school district.	950 951
(G) "School district income" means:	952
(1) With respect to an individual, the portion of the taxable income of an individual that is received by the individual during the portion of the taxable year that the individual is a resident of the school district and the school district income tax is in effect in that school district. An individual may have school district income with respect to more than one school district.	953 954 955 956 957 958
(2) With respect to an estate, the taxable income of the estate for the portion of the taxable year that the school district income tax is in effect in that school district.	959 960 961
(H) "Taxpayer" means an individual or estate having school district income upon which a school district income tax is imposed.	962 963 964
(I) "School district purposes" means any of the purposes for which a tax may be levied pursuant to section 5705.21 of the Revised Code.	965 966 967
Section 2. That existing sections 5747.01, 5747.24, and 5748.01, and section 5747.25 of the Revised Code are hereby repealed.	968 969 970
Section 3. Sections 1 and 2 of this act apply to taxable years beginning on or after January 1, 2006.	971 972