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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. 5

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 6
Revised Code be amended to read as follows: 7

Sec. 5747.01. Except as otherwise expressly provided or 8
clearly appearing from the context, any term used in this chapter 9
that is not otherwise defined in this section has the same meaning 10
as when used in a comparable context in the laws of the United 11
States relating to federal income taxes or if not used in a 12
comparable context in those laws, has the same meaning as in 13
section 5733.40 of the Revised Code. Any reference in this chapter 14
to the Internal Revenue Code includes other laws of the United 15
States relating to federal income taxes. 16

As used in this chapter: 17

(A) "Adjusted gross income" or "Ohio adjusted gross income" 18
means federal adjusted gross income, as defined and used in the 19

Internal Revenue Code, adjusted as provided in this section:	20
(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.	21 22 23
(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.	24 25 26 27 28
(3) 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 to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.	29 30 31 32 33 34
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	35 36
(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.	37 38 39 40
(6) 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, add, for the beneficiary's taxable years beginning before 2002, 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 to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter.	41 42 43 44 45 46 47 48 49
"Undistributed net income of a trust" means the taxable income of	50

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

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

(b) Add any amount not otherwise included in Ohio adjusted 122
gross income for any taxable year to the extent that the amount is 123
attributable to the recovery during the taxable year of any amount 124
deducted or excluded in computing federal or Ohio adjusted gross 125
income in any taxable year. 126

(13) Deduct any portion of the deduction described in section 127
1341(a)(2) of the Internal Revenue Code, for repaying previously 128
reported income received under a claim of right, that meets both 129
of the following requirements: 130

(a) It is allowable for repayment of an item that was 131
included in the taxpayer's adjusted gross income for a prior 132
taxable year and did not qualify for a credit under division (A) 133
or (B) of section 5747.05 of the Revised Code for that year; 134

(b) It does not otherwise reduce the taxpayer's adjusted 135
gross income for the current or any other taxable year. 136

(14) Deduct an amount equal to the deposits made to, and net 137
investment earnings of, a medical savings account during the 138
taxable year, in accordance with section 3924.66 of the Revised 139
Code. The deduction allowed by division (A)(14) of this section 140
does not apply to medical savings account deposits and earnings 141
otherwise deducted or excluded for the current or any other 142
taxable year from the taxpayer's federal adjusted gross income. 143

(15)(a) Add an amount equal to the funds withdrawn from a 144

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

(b) Add the amounts distributed from a medical savings 150
account under division (A)(2) of section 3924.68 of the Revised 151
Code during the taxable year. 152

(16) Add any amount claimed as a credit under section 153
5747.059 of the Revised Code to the extent that such amount 154
satisfies either of the following: 155

(a) The amount was deducted or excluded from the computation 156
of the taxpayer's federal adjusted gross income as required to be 157
reported for the taxpayer's taxable year under the Internal 158
Revenue Code; 159

(b) The amount resulted in a reduction of the taxpayer's 160
federal adjusted gross income as required to be reported for any 161
of the taxpayer's taxable years under the Internal Revenue Code. 162

(17) Deduct the amount contributed by the taxpayer to an 163
individual development account program established by a county 164
department of job and family services pursuant to sections 329.11 165
to 329.14 of the Revised Code for the purpose of matching funds 166
deposited by program participants. On request of the tax 167
commissioner, the taxpayer shall provide any information that, in 168
the tax commissioner's opinion, is necessary to establish the 169
amount deducted under division (A)(17) of this section. 170

(18) Beginning in taxable year 2001 but not for any taxable 171
year beginning after December 31, 2005, if the taxpayer is married 172
and files a joint return and the combined federal adjusted gross 173
income of the taxpayer and the taxpayer's spouse for the taxable 174
year does not exceed one hundred thousand dollars, or if the 175

taxpayer is single and has a federal adjusted gross income for the 176
taxable year not exceeding fifty thousand dollars, deduct amounts 177
paid during the taxable year for qualified tuition and fees paid 178
to an eligible institution for the taxpayer, the taxpayer's 179
spouse, or any dependent of the taxpayer, who is a resident of 180
this state and is enrolled in or attending a program that 181
culminates in a degree or diploma at an eligible institution. The 182
deduction may be claimed only to the extent that qualified tuition 183
and fees are not otherwise deducted or excluded for any taxable 184
year from federal or Ohio adjusted gross income. The deduction may 185
not be claimed for educational expenses for which the taxpayer 186
claims a credit under section 5747.27 of the Revised Code. 187

(19) Add any reimbursement received during the taxable year 188
of any amount the taxpayer deducted under division (A)(18) of this 189
section in any previous taxable year to the extent the amount is 190
not otherwise included in Ohio adjusted gross income. 191

(20)(a)(i) Add five-sixths of the amount of depreciation 192
expense allowed by subsection (k) of section 168 of the Internal 193
Revenue Code, including the taxpayer's proportionate or 194
distributive share of the amount of depreciation expense allowed 195
by that subsection to a pass-through entity in which the taxpayer 196
has a direct or indirect ownership interest. 197

(ii) Add five-sixths of the amount of qualifying section 179 198
depreciation expense, including a person's proportionate or 199
distributive share of the amount of qualifying section 179 200
depreciation expense allowed to any pass-through entity in which 201
the person has a direct or indirect ownership. For the purposes of 202
this division, "qualifying section 179 depreciation expense" means 203
the difference between (I) the amount of depreciation expense 204
directly or indirectly allowed to the taxpayer under section 179 205
of the Internal Revenue Code, and (II) the amount of depreciation 206
expense directly or indirectly allowed to the taxpayer under 207

section 179 of the Internal Revenue Code as that section existed 208
on December 31, 2002. 209

The tax commissioner, under procedures established by the 210
commissioner, may waive the add-backs related to a pass-through 211
entity if the taxpayer owns, directly or indirectly, less than 212
five per cent of the pass-through entity. 213

(b) Nothing in division (A)(20) of this section shall be 214
construed to adjust or modify the adjusted basis of any asset. 215

(c) To the extent the add-back required under division 216
(A)(20)(a) of this section is attributable to property generating 217
nonbusiness income or loss allocated under section 5747.20 of the 218
Revised Code, the add-back shall be situated to the same location 219
as the nonbusiness income or loss generated by the property for 220
the purpose of determining the credit under division (A) of 221
section 5747.05 of the Revised Code. Otherwise, the add-back shall 222
be apportioned, subject to one or more of the four alternative 223
methods of apportionment enumerated in section 5747.21 of the 224
Revised Code. 225

(d) For the purposes of division (A) of this section, net 226
operating loss carryback and carryforward shall not include 227
five-sixths of the allowance of any net operating loss deduction 228
carryback or carryforward to the taxable year to the extent such 229
loss resulted from depreciation allowed by section 168(k) of the 230
Internal Revenue Code and by the qualifying section 179 231
depreciation expense amount. 232

(21)(a) If the taxpayer was required to add an amount under 233
division (A)(20)(a) of this section for a taxable year, deduct 234
one-fifth of the amount so added for each of the five succeeding 235
taxable years. 236

(b) If the amount deducted under division (A)(21)(a) of this 237
section is attributable to an add-back allocated under division 238

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

(c) No deduction is available under division (A)(21)(a) of 245
this section with regard to any depreciation allowed by section 246
168(k) of the Internal Revenue Code and by the qualifying section 247
179 depreciation expense amount to the extent that such 248
depreciation resulted in or increased a federal net operating loss 249
carryback or carryforward to a taxable year to which division 250
(A)(20)(d) of this section does not apply. 251

(B) "Business income" means income, including gain or loss, 252
arising from transactions, activities, and sources in the regular 253
course of a trade or business and includes income, gain, or loss 254
from real property, tangible property, and intangible property if 255
the acquisition, rental, management, and disposition of the 256
property constitute integral parts of the regular course of a 257
trade or business operation. "Business income" includes income, 258
including gain or loss, from a partial or complete liquidation of 259
a business, including, but not limited to, gain or loss from the 260
sale or other disposition of goodwill. 261

(C) "Nonbusiness income" means all income other than business 262
income and may include, but is not limited to, compensation, rents 263
and royalties from real or tangible personal property, capital 264
gains, interest, dividends and distributions, patent or copyright 265
royalties, or lottery winnings, prizes, and awards. 266

(D) "Compensation" means any form of remuneration paid to an 267
employee for personal services. 268

(E) "Fiduciary" means a guardian, trustee, executor, 269

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

section; 300

(ii) A person who was domiciled in this state for the 301
purposes of this chapter when the person directly or indirectly 302
transferred assets to an irrevocable trust, but only if at least 303
one of the trust's qualifying beneficiaries is domiciled in this 304
state for the purposes of this chapter during all or some portion 305
of the trust's current taxable year; 306

(iii) A person who was domiciled in this state for the 307
purposes of this chapter when the trust document or instrument or 308
part of the trust document or instrument became irrevocable, but 309
only if at least one of the trust's qualifying beneficiaries is a 310
resident domiciled in this state for the purposes of this chapter 311
during all or some portion of the trust's current taxable year. If 312
a trust document or instrument became irrevocable upon the death 313
of a person who at the time of death was domiciled in this state 314
for purposes of this chapter, that person is a person described in 315
division (I)(3)(a)(iii) of this section. 316

(b) A trust is irrevocable to the extent that the transferor 317
is not considered to be the owner of the net assets of the trust 318
under sections 671 to 678 of the Internal Revenue Code. 319

(c) With respect to a trust other than a charitable lead 320
trust, "qualifying beneficiary" has the same meaning as "potential 321
current beneficiary" as defined in section 1361(e)(2) of the 322
Internal Revenue Code, and with respect to a charitable lead trust 323
"qualifying beneficiary" is any current, future, or contingent 324
beneficiary, but with respect to any trust "qualifying 325
beneficiary" excludes a person or a governmental entity or 326
instrumentality to any of which a contribution would qualify for 327
the charitable deduction under section 170 of the Internal Revenue 328
Code. 329

(d) For the purposes of division (I)(3)(a) of this section, 330

the extent to which a trust consists directly or indirectly, in 331
whole or in part, of assets, net of any related liabilities, that 332
were transferred directly or indirectly, in whole or part, to the 333
trust by any of the sources enumerated in that division shall be 334
ascertained by multiplying the fair market value of the trust's 335
assets, net of related liabilities, by the qualifying ratio, which 336
shall be computed as follows: 337

(i) The first time the trust receives assets, the numerator 338
of the qualifying ratio is the fair market value of those assets 339
at that time, net of any related liabilities, from sources 340
enumerated in division (I)(3)(a) of this section. The denominator 341
of the qualifying ratio is the fair market value of all the 342
trust's assets at that time, net of any related liabilities. 343

(ii) Each subsequent time the trust receives assets, a 344
revised qualifying ratio shall be computed. The numerator of the 345
revised qualifying ratio is the sum of (1) the fair market value 346
of the trust's assets immediately prior to the subsequent 347
transfer, net of any related liabilities, multiplied by the 348
qualifying ratio last computed without regard to the subsequent 349
transfer, and (2) the fair market value of the subsequently 350
transferred assets at the time transferred, net of any related 351
liabilities, from sources enumerated in division (I)(3)(a) of this 352
section. The denominator of the revised qualifying ratio is the 353
fair market value of all the trust's assets immediately after the 354
subsequent transfer, net of any related liabilities. 355

(iii) Whether a transfer to the trust is by or from any of 356
the sources enumerated in division (I)(3)(a) of this section shall 357
be ascertained without regard to the domicile of the trust's 358
beneficiaries. 359

(e) For the purposes of division (I)(3)(a)(i) of this 360
section: 361

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

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

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

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

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

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the

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

(iv) The transfer is made to a trust on account of a 398
contractual relationship existing directly or indirectly between 399
the transferor and another person who at the time of the 400
decedent's death was domiciled in this state for purposes of this 401
chapter. 402

(v) The transfer is made to a trust on account of the will of 403
a testator. 404

(vi) The transfer is made to a trust created by or caused to 405
be created by a court, and the trust was directly or indirectly 406
created in connection with or as a result of the death of an 407
individual who, for purposes of the taxes levied under Chapter 408
5731. of the Revised Code, was domiciled in this state at the time 409
of the individual's death. 410

(g) The tax commissioner may adopt rules to ascertain the 411
part of a trust residing in this state. 412

(J) "Nonresident" means an individual or estate that is not a 413
resident. An individual who is a resident for only part of a 414
taxable year is a nonresident for the remainder of that taxable 415
year. 416

(K) "Pass-through entity" has the same meaning as in section 417
5733.04 of the Revised Code. 418

(L) "Return" means the notifications and reports required to 419
be filed pursuant to this chapter for the purpose of reporting the 420
tax due and includes declarations of estimated tax when so 421
required. 422

(M) "Taxable year" means the calendar year or the taxpayer's 423
fiscal year ending during the calendar year, or fractional part 424
thereof, upon which the adjusted gross income is calculated 425
pursuant to this chapter. 426

(N) "Taxpayer" means any person subject to the tax imposed by 427
section 5747.02 of the Revised Code or any pass-through entity 428
that makes the election under division (D) of section 5747.08 of 429
the Revised Code. 430

(O) "Dependents" means dependents as defined in the Internal 431
Revenue Code and as claimed in the taxpayer's federal income tax 432
return for the taxable year or which the taxpayer would have been 433
permitted to claim had the taxpayer filed a federal income tax 434
return. 435

(P) "Principal county of employment" means, in the case of a 436
nonresident, the county within the state in which a taxpayer 437
performs services for an employer or, if those services are 438
performed in more than one county, the county in which the major 439
portion of the services are performed. 440

(Q) As used in sections 5747.50 to 5747.55 of the Revised 441
Code: 442

(1) "Subdivision" means any county, municipal corporation, 443
park district, or township. 444

(2) "Essential local government purposes" includes all 445
functions that any subdivision is required by general law to 446
exercise, including like functions that are exercised under a 447
charter adopted pursuant to the Ohio Constitution. 448

(R) "Overpayment" means any amount already paid that exceeds 449
the figure determined to be the correct amount of the tax. 450

(S) "Taxable income" or "Ohio taxable income" applies only to 451
estates and trusts, and means federal taxable income, as defined 452

and used in the Internal Revenue Code, adjusted as follows: 453

(1) Add interest or dividends, net of ordinary, necessary, 454
and reasonable expenses not deducted in computing federal taxable 455
income, on obligations or securities of any state or of any 456
political subdivision or authority of any state, other than this 457
state and its subdivisions and authorities, but only to the extent 458
that such net amount is not otherwise includible in Ohio taxable 459
income and is described in either division (S)(1)(a) or (b) of 460
this section: 461

(a) The net amount is not attributable to the S portion of an 462
electing small business trust and has not been distributed to 463
beneficiaries for the taxable year; 464

(b) The net amount is attributable to the S portion of an 465
electing small business trust for the taxable year. 466

(2) Add interest or dividends, net of ordinary, necessary, 467
and reasonable expenses not deducted in computing federal taxable 468
income, on obligations of any authority, commission, 469
instrumentality, territory, or possession of the United States to 470
the extent that the interest or dividends are exempt from federal 471
income taxes but not from state income taxes, but only to the 472
extent that such net amount is not otherwise includible in Ohio 473
taxable income and is described in either division (S)(1)(a) or 474
(b) of this section; 475

(3) Add the amount of personal exemption allowed to the 476
estate pursuant to section 642(b) of the Internal Revenue Code; 477

(4) Deduct interest or dividends, net of related expenses 478
deducted in computing federal taxable income, on obligations of 479
the United States and its territories and possessions or of any 480
authority, commission, or instrumentality of the United States to 481
the extent that the interest or dividends are exempt from state 482
taxes under the laws of the United States, but only to the extent 483

that such amount is included in federal taxable income and is 484
described in either division (S)(1)(a) or (b) of this section; 485

(5) Deduct the amount of wages and salaries, if any, not 486
otherwise allowable as a deduction but that would have been 487
allowable as a deduction in computing federal taxable income for 488
the taxable year, had the targeted jobs credit allowed under 489
sections 38, 51, and 52 of the Internal Revenue Code not been in 490
effect, but only to the extent such amount relates either to 491
income included in federal taxable income for the taxable year or 492
to income of the S portion of an electing small business trust for 493
the taxable year; 494

(6) Deduct any interest or interest equivalent, net of 495
related expenses deducted in computing federal taxable income, on 496
public obligations and purchase obligations, but only to the 497
extent that such net amount relates either to income included in 498
federal taxable income for the taxable year or to income of the S 499
portion of an electing small business trust for the taxable year; 500

(7) Add any loss or deduct any gain resulting from sale, 501
exchange, or other disposition of public obligations to the extent 502
that such loss has been deducted or such gain has been included in 503
computing either federal taxable income or income of the S portion 504
of an electing small business trust for the taxable year; 505

(8) Except in the case of the final return of an estate, add 506
any amount deducted by the taxpayer on both its Ohio estate tax 507
return pursuant to section 5731.14 of the Revised Code, and on its 508
federal income tax return in determining federal taxable income; 509

(9)(a) Deduct any amount included in federal taxable income 510
solely because the amount represents a reimbursement or refund of 511
expenses that in a previous year the decedent had deducted as an 512
itemized deduction pursuant to section 63 of the Internal Revenue 513
Code and applicable treasury regulations. The deduction otherwise 514

allowed under division (S)(9)(a) of this section shall be reduced 515
to the extent the reimbursement is attributable to an amount the 516
taxpayer or decedent deducted under this section in any taxable 517
year. 518

(b) Add any amount not otherwise included in Ohio taxable 519
income for any taxable year to the extent that the amount is 520
attributable to the recovery during the taxable year of any amount 521
deducted or excluded in computing federal or Ohio taxable income 522
in any taxable year, but only to the extent such amount has not 523
been distributed to beneficiaries for the taxable year. 524

(10) Deduct any portion of the deduction described in section 525
1341(a)(2) of the Internal Revenue Code, for repaying previously 526
reported income received under a claim of right, that meets both 527
of the following requirements: 528

(a) It is allowable for repayment of an item that was 529
included in the taxpayer's taxable income or the decedent's 530
adjusted gross income for a prior taxable year and did not qualify 531
for a credit under division (A) or (B) of section 5747.05 of the 532
Revised Code for that year. 533

(b) It does not otherwise reduce the taxpayer's taxable 534
income or the decedent's adjusted gross income for the current or 535
any other taxable year. 536

(11) Add any amount claimed as a credit under section 537
5747.059 of the Revised Code to the extent that the amount 538
satisfies either of the following: 539

(a) The amount was deducted or excluded from the computation 540
of the taxpayer's federal taxable income as required to be 541
reported for the taxpayer's taxable year under the Internal 542
Revenue Code; 543

(b) The amount resulted in a reduction in the taxpayer's 544

federal taxable income as required to be reported for any of the 545
taxpayer's taxable years under the Internal Revenue Code. 546

(12) Deduct any amount, net of related expenses deducted in 547
computing federal taxable income, that a trust is required to 548
report as farm income on its federal income tax return, but only 549
if the assets of the trust include at least ten acres of land 550
satisfying the definition of "land devoted exclusively to 551
agricultural use" under section 5713.30 of the Revised Code, 552
regardless of whether the land is valued for tax purposes as such 553
land under sections 5713.30 to 5713.38 of the Revised Code. If the 554
trust is a ~~pass-through~~ pass-through entity investor, section 555
5747.231 of the Revised Code applies in ascertaining if the trust 556
is eligible to claim the deduction provided by division (S)(12) of 557
this section in connection with the pass-through entity's farm 558
income. 559

Except for farm income attributable to the S portion of an 560
electing small business trust, the deduction provided by division 561
(S)(12) of this section is allowed only to the extent that the 562
trust has not distributed such farm income. Division (S)(12) of 563
this section applies only to taxable years of a trust beginning in 564
2002 or thereafter. 565

(13) Add the net amount of income described in section 641(c) 566
of the Internal Revenue Code to the extent that amount is not 567
included in federal taxable income. 568

(14) Add or deduct the amount the taxpayer would be required 569
to add or deduct under division (A)(20) or (21) of this section if 570
the taxpayer's Ohio taxable income were computed in the same 571
manner as an individual's Ohio adjusted gross income is computed 572
under this section. In the case of a trust, division (S)(14) of 573
this section applies only to any of the trust's taxable years 574
beginning in 2002 or thereafter. 575

(T) "School district income" and "school district income tax"	576
have the same meanings as in section 5748.01 of the Revised Code.	577
(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7)	578
of this section, "public obligations," "purchase obligations," and	579
"interest or interest equivalent" have the same meanings as in	580
section 5709.76 of the Revised Code.	581
(V) "Limited liability company" means any limited liability	582
company formed under Chapter 1705. of the Revised Code or under	583
the laws of any other state.	584
(W) "Pass-through entity investor" means any person who,	585
during any portion of a taxable year of a pass-through entity, is	586
a partner, member, shareholder, or equity investor in that	587
pass-through entity.	588
(X) "Banking day" has the same meaning as in section 1304.01	589
of the Revised Code.	590
(Y) "Month" means a calendar month.	591
(Z) "Quarter" means the first three months, the second three	592
months, the third three months, or the last three months of the	593
taxpayer's taxable year.	594
(AA)(1) "Eligible institution" means a state university or	595
state institution of higher education as defined in section	596
3345.011 of the Revised Code, or a private, nonprofit college,	597
university, or other post-secondary institution located in this	598
state that possesses a certificate of authorization issued by the	599
Ohio board of regents pursuant to Chapter 1713. of the Revised	600
Code or a certificate of registration issued by the state board of	601
career colleges and schools under Chapter 3332. of the Revised	602
Code.	603
(2) "Qualified tuition and fees" means tuition and fees	604
imposed by an eligible institution as a condition of enrollment or	605

attendance, not exceeding two thousand five hundred dollars in 606
each of the individual's first two years of post-secondary 607
education. If the individual is a part-time student, "qualified 608
tuition and fees" includes tuition and fees paid for the academic 609
equivalent of the first two years of post-secondary education 610
during a maximum of five taxable years, not exceeding a total of 611
five thousand dollars. "Qualified tuition and fees" does not 612
include: 613

(a) Expenses for any course or activity involving sports, 614
games, or hobbies unless the course or activity is part of the 615
individual's degree or diploma program; 616

(b) The cost of books, room and board, student activity fees, 617
athletic fees, insurance expenses, or other expenses unrelated to 618
the individual's academic course of instruction; 619

(c) Tuition, fees, or other expenses paid or reimbursed 620
through an employer, scholarship, grant in aid, or other 621
educational benefit program. 622

(BB)(1) "Modified business income" means the business income 623
included in a trust's Ohio taxable income after such taxable 624
income is first reduced by the qualifying trust amount, if any. 625

(2) "Qualifying trust amount" of a trust means capital gains 626
and losses from the sale, exchange, or other disposition of equity 627
or ownership interests in, or debt obligations of, a qualifying 628
investee to the extent included in the trust's Ohio taxable 629
income, but only if the following requirements are satisfied: 630

(a) The book value of the qualifying investee's physical 631
assets in this state and everywhere, as of the last day of the 632
qualifying investee's fiscal or calendar year ending immediately 633
prior to the date on which the trust recognizes the gain or loss, 634
is available to the trust. 635

(b) The requirements of section 5747.011 of the Revised Code 636
are satisfied for the trust's taxable year in which the trust 637
recognizes the gain or loss. 638

Any gain or loss that is not a qualifying trust amount is 639
modified business income, qualifying investment income, or 640
modified nonbusiness income, as the case may be. 641

(3) "Modified nonbusiness income" means a trust's Ohio 642
taxable income other than modified business income, other than the 643
qualifying trust amount, and other than qualifying investment 644
income, as defined in section 5747.012 of the Revised Code, to the 645
extent such qualifying investment income is not otherwise part of 646
modified business income. 647

(4) "Modified Ohio taxable income" applies only to trusts, 648
and means the sum of the amounts described in divisions (BB)(4)(a) 649
to (c) of this section: 650

(a) The fraction, calculated under section 5747.013, and 651
applying section 5747.231 of the Revised Code, multiplied by the 652
sum of the following amounts: 653

(i) The trust's modified business income; 654

(ii) The trust's qualifying investment income, as defined in 655
section 5747.012 of the Revised Code, but only to the extent the 656
qualifying investment income does not otherwise constitute 657
modified business income and does not otherwise constitute a 658
qualifying trust amount. 659

(b) The qualifying trust amount multiplied by a fraction, the 660
numerator of which is the sum of the book value of the qualifying 661
investee's physical assets in this state on the last day of the 662
qualifying investee's fiscal or calendar year ending immediately 663
prior to the day on which the trust recognizes the qualifying 664
trust amount, and the denominator of which is the sum of the book 665

value of the qualifying investee's total physical assets 666
everywhere on the last day of the qualifying investee's fiscal or 667
calendar year ending immediately prior to the day on which the 668
trust recognizes the qualifying trust amount. If, for a taxable 669
year, the trust recognizes a qualifying trust amount with respect 670
to more than one qualifying investee, the amount described in 671
division (BB)(4)(b) of this section shall equal the sum of the 672
products so computed for each such qualifying investee. 673

(c)(i) With respect to a trust or portion of a trust that is 674
a resident as ascertained in accordance with division (I)(3)(d) of 675
this section, its modified nonbusiness income. 676

(ii) With respect to a trust or portion of a trust that is 677
not a resident as ascertained in accordance with division 678
(I)(3)(d) of this section, the amount of its modified nonbusiness 679
income satisfying the descriptions in divisions (B)(2) to (5) of 680
section 5747.20 of the Revised Code. 681

If the allocation and apportionment of a trust's income under 682
divisions (BB)(4)(a) and (c) of this section do not fairly 683
represent the modified Ohio taxable income of the trust in this 684
state, the alternative methods described in division (C) of 685
section 5747.21 of the Revised Code may be applied in the manner 686
and to the same extent provided in that section. 687

(5)(a) Except as set forth in division (BB)(5)(b) of this 688
section, "qualifying investee" means a person in which a trust has 689
an equity or ownership interest, or a person or unit of government 690
the debt obligations of either of which are owned by a trust. For 691
the purposes of division (BB)(2)(a) of this section and for the 692
purpose of computing the fraction described in division (BB)(4)(b) 693
of this section, all of the following apply: 694

(i) If the qualifying investee is a member of a qualifying 695
controlled group on the last day of the qualifying investee's 696

fiscal or calendar year ending immediately prior to the date on 697
which the trust recognizes the gain or loss, then "qualifying 698
investee" includes all persons in the qualifying controlled group 699
on such last day. 700

(ii) If the qualifying investee, or if the qualifying 701
investee and any members of the qualifying controlled group of 702
which the qualifying investee is a member on the last day of the 703
qualifying investee's fiscal or calendar year ending immediately 704
prior to the date on which the trust recognizes the gain or loss, 705
separately or cumulatively own, directly or indirectly, on the 706
last day of the qualifying investee's fiscal or calendar year 707
ending immediately prior to the date on which the trust recognizes 708
the qualifying trust amount, more than fifty per cent of the 709
equity of a pass-through entity, then the qualifying investee and 710
the other members are deemed to own the proportionate share of the 711
pass-through entity's physical assets which the pass-through 712
entity directly or indirectly owns on the last day of the 713
pass-through entity's calendar or fiscal year ending within or 714
with the last day of the qualifying investee's fiscal or calendar 715
year ending immediately prior to the date on which the trust 716
recognizes the qualifying trust amount. 717

(iii) For the purposes of division (BB)(5)(a)(iii) of this 718
section, "upper level pass-through entity" means a pass-through 719
entity directly or indirectly owning any equity of another 720
pass-through entity, and "lower level pass-through entity" means 721
that other pass-through entity. 722

An upper level pass-through entity, whether or not it is also 723
a qualifying investee, is deemed to own, on the last day of the 724
upper level pass-through entity's calendar or fiscal year, the 725
proportionate share of the lower level pass-through entity's 726
physical assets that the lower level pass-through entity directly 727
or indirectly owns on the last day of the lower level pass-through 728

entity's calendar or fiscal year ending within or with the last 729
day of the upper level pass-through entity's fiscal or calendar 730
year. If the upper level pass-through entity directly and 731
indirectly owns less than fifty per cent of the equity of the 732
lower level pass-through entity on each day of the upper level 733
pass-through entity's calendar or fiscal year in which or with 734
which ends the calendar or fiscal year of the lower level 735
pass-through entity and if, based upon clear and convincing 736
evidence, complete information about the location and cost of the 737
physical assets of the lower pass-through entity is not available 738
to the upper level pass-through entity, then solely for purposes 739
of ascertaining if a gain or loss constitutes a qualifying trust 740
amount, the upper level pass-through entity shall be deemed as 741
owning no equity of the lower level pass-through entity for each 742
day during the upper level pass-through entity's calendar or 743
fiscal year in which or with which ends the lower level 744
pass-through entity's calendar or fiscal year. Nothing in division 745
(BB)(5)(a)(iii) of this section shall be construed to provide for 746
any deduction or exclusion in computing any trust's Ohio taxable 747
income. 748

(b) With respect to a trust that is not a resident for the 749
taxable year and with respect to a part of a trust that is not a 750
resident for the taxable year, "qualifying investee" for that 751
taxable year does not include a C corporation if both of the 752
following apply: 753

(i) During the taxable year the trust or part of the trust 754
recognizes a gain or loss from the sale, exchange, or other 755
disposition of equity or ownership interests in, or debt 756
obligations of, the C corporation. 757

(ii) Such gain or loss constitutes nonbusiness income. 758

(6) "Available" means information is such that a person is 759

able to learn of the information by the due date plus extensions, 760
if any, for filing the return for the taxable year in which the 761
trust recognizes the gain or loss. 762

(CC) "Qualifying controlled group" has the same meaning as in 763
section 5733.04 of the Revised Code. 764

(DD) "Related member" has the same meaning as in section 765
5733.042 of the Revised Code. 766

(EE)(1) For the purposes of division (EE) of this section: 767

(a) "Qualifying person" means any person other than a 768
qualifying corporation. 769

(b) "Qualifying corporation" means any person classified for 770
federal income tax purposes as an association taxable as a 771
corporation, except either of the following: 772

(i) A corporation that has made an election under subchapter 773
S, chapter one, subtitle A, of the Internal Revenue Code for its 774
taxable year ending within, or on the last day of, the investor's 775
taxable year; 776

(ii) A subsidiary that is wholly owned by any corporation 777
that has made an election under subchapter S, chapter one, 778
subtitle A of the Internal Revenue Code for its taxable year 779
ending within, or on the last day of, the investor's taxable year. 780

(2) For the purposes of this chapter, unless expressly stated 781
otherwise, no qualifying person indirectly owns any asset directly 782
or indirectly owned by any qualifying corporation. 783

Sec. 5747.24. This section is to be ~~used~~ applied solely for 784
the purposes of Chapters 5747. and 5748. of the Revised Code. 785

(A)~~(1)~~ As used in this section ~~and section 5747.25 of the~~ 786
~~Revised Code:~~ 787

~~(a) Except as otherwise provided in division (A)(2) of this~~ 788

~~section, an (1) An individual "has one contact period in this~~ 789
~~state" if the individual is away overnight from the individual's~~ 790
~~abode located outside this state and while away overnight from~~ 791
~~that abode spends at least some portion, however minimal, of each~~ 792
~~of two consecutive days in this state.~~ 793

~~(b)(2) An individual is considered to be "away overnight from~~ 794
~~the individual's abode located outside this state" if the~~ 795
~~individual is away from the individual's abode located outside~~ 796
~~this state for a continuous period of time, however minimal,~~ 797
~~beginning at any time on one day and ending at any time on the~~ 798
~~next day.~~ 799

~~(c) "Medical hardship" includes circumstances under which the~~ 800
~~individual or a member of the individual's immediate or extended~~ 801
~~family is admitted as a patient into a hospital located in this~~ 802
~~state, examined in this state by a medical professional, admitted~~ 803
~~into a nursing home in this state, receiving nursing care in this~~ 804
~~state while staying in a dwelling located in this state, or~~ 805
~~otherwise receiving ongoing, necessary medical care in this state.~~ 806
~~"Medical hardship" includes receiving treatment or care for acute~~ 807
~~or chronic illness or obstetric treatment or care.~~ 808

~~(d) "Medical professional" means a person licensed under~~ 809
~~Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734.,~~ 810
~~4753., 4755., 4757., 4759., 4760., 4761., 4762., or 4773. of the~~ 811
~~Revised Code.~~ 812

~~(e) "Immediate or extended family" of an individual means the~~ 813
~~individual's spouse, children, grandchildren, parents,~~ 814
~~grandparents, siblings, in laws, or any of the individual's~~ 815
~~dependents.~~ 816

~~(2) Up to thirty periods that would otherwise constitute~~ 817
~~contact periods under division (A)(1)(a) of this section shall not~~ 818
~~be considered contact periods during a taxable year if the~~ 819

~~individual spends any portion of either day of each such contact
period for one or more of the following purposes:~~ 820
821

~~(a) To provide services for no consideration or to raise
funds for an organization described in section 501(c)(3) of the
Internal Revenue Code. "Consideration" does not include any
reimbursement of the individual's actual expenses directly or
indirectly related to such activity.~~ 822
823
824
825
826

~~(b) To attend to a medical hardship involving the individual
or a member of the individual's immediate or extended family or to
attend a funeral involving a member of the individual's immediate
or extended family.~~ 827
828
829
830

(B) An individual who during a taxable year has no more than 831
one hundred ~~twenty~~ eighty-two contact periods in this state, which 832
need not be consecutive, and who during the entire taxable year 833
has at least one abode outside this state, is presumed to be not 834
domiciled in this state during the taxable year. The tax 835
commissioner, in writing and by personal service or certified 836
mail, return receipt requested, may request a statement from an 837
individual verifying that the individual was not domiciled in this 838
state under this division during the taxable year. The 839
commissioner shall not make such a request after the expiration of 840
the period, if any, within which the commissioner may make an 841
assessment under section 5747.13 of the Revised Code against the 842
individual for the taxable year. Within sixty days after receiving 843
the commissioner's request, the individual shall submit a written 844
statement to the commissioner stating both of the following: 845

(1) During the entire taxable year, the individual was not 846
domiciled in this state; 847

(2) During the entire taxable year, the individual had at 848
least one abode outside this state. 849

The presumption that the individual was not domiciled in this 850

state is irrebuttable unless either the individual fails to timely 851
submit the statement as required or the statement is fraudulent. 852
If the individual fails to timely submit the statement as 853
required, the individual is presumed under division (C) of this 854
section to have been domiciled in this state the entire taxable 855
year. 856

In the case of an individual who dies, the personal 857
representative of the estate of the deceased individual may comply 858
with this division by making to the best of the representative's 859
knowledge and belief the statement under this division with 860
respect to the deceased individual, and submitting the statement 861
to the commissioner within sixty days after receiving the 862
commissioner's request for it. 863

An individual or personal representative of an estate who 864
knowingly makes a false statement under this division is guilty of 865
perjury under section 2921.11 of the Revised Code. 866

~~(C) An individual who during a taxable year has less than one 867
hundred eighty three contact periods in this state, which need not 868
be consecutive, and who is not irrebuttably presumed under 869
division (B) of this section to be not domiciled in this state 870
with respect to that taxable year, is presumed to be domiciled in 871
this state for the entire taxable year. An individual can rebut 872
this presumption for any portion of the taxable year only with a 873
preponderance of the evidence to the contrary. An individual who 874
rebutts the presumption under this division for any portion of the 875
taxable year is presumed to be domiciled in this state for the 876
remainder of the taxable year for which the individual does not 877
provide a preponderance of the evidence to the contrary. 878~~

~~(D) An individual who during a taxable year has at least one 879
hundred eighty-three contact periods in this state, which need not 880
be consecutive, is presumed to be domiciled in this state for the 881~~

entire taxable year. An individual can rebut this presumption for 882
any portion of the taxable year only with clear and convincing 883
evidence to the contrary. An individual who rebuts the presumption 884
under this division for any portion of the taxable year is 885
presumed to be domiciled in this state for the remainder of the 886
taxable year for which the individual does not provide clear and 887
convincing evidence to the contrary. 888

~~(E)~~(D) If the tax commissioner challenges the number of 889
contact periods an individual claims to have in this state during 890
a taxable year, the individual bears the burden of proof to verify 891
such number, by a preponderance of the evidence. An individual 892
challenged by the commissioner is presumed to have a contact 893
period in this state for any period for which ~~he~~ the individual 894
does not prove by a preponderance of the evidence that the 895
individual had no such contact period. 896

Sec. 5748.01. As used in this chapter: 897

(A) "School district income tax" means an income tax adopted 898
under one of the following: 899

(1) Former section 5748.03 of the Revised Code as it existed 900
prior to its repeal by Amended Substitute House Bill No. 291 of 901
the 115th general assembly; 902

(2) Section 5748.03 of the Revised Code as enacted in 903
Substitute Senate Bill No. 28 of the 118th general assembly; 904

(3) Section 5748.08 of the Revised Code as enacted in Amended 905
Substitute Senate Bill No. 17 of the 122nd general assembly. 906

(B) "Individual" means an individual subject to the tax 907
levied by section 5747.02 of the Revised Code. 908

(C) "Estate" means an estate subject to the tax levied by 909
section 5747.02 of the Revised Code. 910

(D) "Taxable year" means a taxable year as defined in 911

division (M) of section 5747.01 of the Revised Code.	912
(E) "Taxable income" means:	913
(1) In the case of an individual, one of the following, as specified in the resolution imposing the tax:	914
(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;	918
(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.	925
(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.	928
(F) Except as provided in section 5747.25 of the Revised Code, "resident" <u>"Resident"</u> of the school district means:	930
(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;	936
(2) An estate of a decedent who, at the time of death, was domiciled in the school district.	938
(G) "School district income" means:	939
(1) With respect to an individual, the portion of the taxable income of an individual that is received by the individual during	941

the portion of the taxable year that the individual is a resident 942
of the school district and the school district income tax is in 943
effect in that school district. An individual may have school 944
district income with respect to more than one school district. 945

(2) With respect to an estate, the taxable income of the 946
estate for the portion of the taxable year that the school 947
district income tax is in effect in that school district. 948

(H) "Taxpayer" means an individual or estate having school 949
district income upon which a school district income tax is 950
imposed. 951

(I) "School district purposes" means any of the purposes for 952
which a tax may be levied pursuant to section 5705.21 of the 953
Revised Code. 954

Section 2. That existing sections 5747.01, 5747.24, and 955
5748.01, and section 5747.25 of the Revised Code are hereby 956
repealed. 957

Section 3. Sections 1 and 2 of this act apply to taxable 958
years beginning on or after January 1, 2006. 959