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Sub. S. B. No. 125

Senators Hottinger, Brenner

**Cosponsors: Senators Terhar, Wilson, Fedor, Roegner, Hackett, Blessing, Coley,
Huffman, S., Lehner, Manning, McColley, O'Brien, Peterson, Rulli, Yuko
Representative Merrin**

A BILL

To amend sections 3333.26, 5747.01, and 5747.70 of
the Revised Code to expand the income tax
deduction allowed for contributions to 529
education savings plans, to enact the "Anthony
Dia Act" regarding residency determination for
tuition and fee waivers for survivors of service
officers and service members killed in the line
of duty, and to make other changes to those
waivers.

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

Section 1. That sections 3333.26, 5747.01, and 5747.70 of
the Revised Code be amended to read as follows:

Sec. 3333.26. (A) Any citizen of this state who has
resided within the state for one year, who was in the active
service of the United States as a soldier, sailor, nurse, or
marine between April 6, 1917, and November 11, 1918, and who has
been honorably discharged from that service, shall be admitted
to any school, college, or university that receives state funds

in support thereof, without being required to pay any tuition or 18
matriculation fee, but is not relieved from the payment of 19
laboratory or similar fees. 20

(B) (1) As used in this ~~division~~ section: 21

(a) "Volunteer firefighter" has the meaning as in division 22
(B) (1) of section 146.01 of the Revised Code. 23

(b) "Public service officer" means an Ohio firefighter, 24
volunteer firefighter, police officer, member of the state 25
highway patrol, employee designated to exercise the powers of 26
police officers pursuant to section 1545.13 of the Revised Code, 27
or other peace officer as defined by division (B) of section 28
2935.01 of the Revised Code, or a person holding any equivalent 29
position in another state. 30

(c) "Qualified former spouse" means the former spouse of a 31
public service officer, or of a member of the armed services of 32
the United States, who is the custodial parent of a minor child 33
of that marriage pursuant to an order allocating the parental 34
rights and responsibilities for care of the child issued 35
pursuant to section 3109.04 of the Revised Code. 36

(d) "Operation enduring freedom" means that period of 37
conflict which began October 7, 2001, and ends on a date 38
declared by the president of the United States or the congress. 39

(e) "Operation Iraqi freedom" means that period of 40
conflict which began March 20, 2003, and ends on a date declared 41
by the president of the United States or the congress. 42

(f) "Combat zone" means an area that the president of the 43
United States by executive order designates, for purposes of 26 44
U.S.C. 112, as an area in which armed forces of the United 45
States are or have engaged in combat. 46

(2) Any Subject to division (D) of this section, any 47
resident of this state who is under twenty-six years of age, or 48
under thirty years of age if the resident has been honorably 49
discharged from the armed services of the United States, who is 50
the child of a public service officer killed in the line of duty 51
or of a member of the armed services of the United States killed 52
in the line of duty during operation enduring freedom or 53
operation Iraqi freedom, and who is admitted to any state 54
university or college as defined in division (A) (1) of section 55
3345.12 of the Revised Code, community college, state community 56
college, university branch, or technical college shall not be 57
required to pay any tuition or any student fee for up to four 58
academic years of education, which shall be at the undergraduate 59
level, or a certificate program as prescribed under division (E) 60
of this section. 61

A child of a member of the armed services of the United 62
States killed in the line of duty during operation enduring 63
freedom or operation Iraqi freedom is eligible for a waiver of 64
tuition and student fees under this division only if the student 65
is not eligible for a war orphans and severely disabled 66
veterans' children scholarship authorized by Chapter 5910. of 67
the Revised Code. In any year in which the war orphans and 68
severely disabled veterans' children scholarship board reduces 69
the percentage of tuition covered by a war orphans and severely 70
disabled veterans' children scholarship below one hundred per 71
cent pursuant to division (A) of section 5910.04 of the Revised 72
Code, the waiver of tuition and student fees under this division 73
for a child of a member of the armed services of the United 74
States killed in the line of duty during operation enduring 75
freedom or operation Iraqi freedom shall be reduced by the same 76
percentage. 77

(3) ~~Any Subject to division (D) of this section, any~~ 78
resident of this state who is the spouse or qualified former 79
spouse of a public service officer killed in the line of duty, 80
and who is admitted to any state university or college as 81
defined in division (A)(1) of section 3345.12 of the Revised 82
Code, community college, state community college, university 83
branch, or technical college, shall not be required to pay any 84
tuition or any student fee for up to four academic years of 85
education, which shall be at the undergraduate level, or a 86
certificate program as prescribed under division (E) of this 87
section. 88

(4) Any resident of this state who is the spouse or 89
qualified former spouse of a member of the armed services of the 90
United States killed in the line of duty while serving in a 91
combat zone after May 7, 1975, and who is admitted to any state 92
university or college as defined in division (A)(1) of section 93
3345.12 of the Revised Code, community college, state community 94
college, university branch, or technical college, shall not be 95
required to pay any tuition or any student fee for up to four 96
years of academic education, which shall be at the undergraduate 97
level, or a certificate program as prescribed under division (E) 98
of this section. In order to qualify under division (B)(4) of 99
this section, the spouse or qualified former spouse shall have 100
been a resident of this state at the time the member was killed 101
in the line of duty. 102

(C) Any institution that is not subject to division (B) of 103
this section and that holds a valid certificate of registration 104
issued under Chapter 3332. of the Revised Code, a valid 105
certificate issued under Chapter 4709. of the Revised Code, or a 106
valid license issued under Chapter 4713. of the Revised Code, or 107
that is nonprofit and has a certificate of authorization issued 108

under section 1713.02 of the Revised Code, or that is a private 109
institution exempt from regulation under Chapter 3332. of the 110
Revised Code as prescribed in section 3333.046 of the Revised 111
Code, which reduces tuition and student fees of a student who is 112
eligible to attend an institution of higher education under the 113
provisions of division (B) of this section by an amount 114
indicated by the chancellor of higher education shall be 115
eligible to receive a grant in that amount from the chancellor. 116

Each institution that enrolls students under division (B) 117
of this section shall report to the chancellor, by the first day 118
of July of each year, the number of students who were so 119
enrolled and the average amount of all such tuition and student 120
fees waived during the preceding year. The chancellor shall 121
determine the average amount of all such tuition and student 122
fees waived during the preceding year. The average amount of the 123
tuition and student fees waived under division (B) of this 124
section during the preceding year shall be the amount of grants 125
that participating institutions shall receive under this 126
division during the current year, but no grant under this 127
division shall exceed the tuition and student fees due and 128
payable by the student prior to the reduction referred to in 129
this division. The grants shall be made for two certificate 130
programs or four years of undergraduate education of an eligible 131
student. 132

(D) Notwithstanding anything to the contrary in section 133
3333.31 of the Revised Code, for the purposes of divisions (B) 134
(2) and (3) of this section, the child, spouse, or qualified 135
former spouse of a public service officer or a member of the 136
armed services of the United States killed in the line of duty 137
shall be considered a resident of this state for the purposes of 138
this section if the child, spouse, or qualified former spouse 139

was a resident of this state at the time that the public service 140
officer or member of the armed services was killed. 141

However, no child, spouse, or qualified former spouse of a 142
public service officer or a member of the armed services of the 143
United States killed in the line of duty shall be required to be 144
a resident of this state at the time the public service officer 145
or member of the armed services of the United States was killed 146
in order to receive benefits under divisions (B) (2) and (3) of 147
this section. 148

(E) A child, spouse, or qualified former spouse of a 149
public service officer or a member of the armed services killed 150
in the line of duty shall receive benefits for a certificate 151
program in accordance with division (B) or (C) of this section, 152
except that a particular child, spouse, or qualified former 153
spouse shall not receive benefits for: 154

(1) More than two certificate programs; 155

(2) A total number of academic credits or instructional 156
hours equivalent to more than four academic years; 157

(3) For any particular academic year, an amount that is 158
greater than eight thousand dollars. 159

Sec. 5747.01. Except as otherwise expressly provided or 160
clearly appearing from the context, any term used in this 161
chapter that is not otherwise defined in this section has the 162
same meaning as when used in a comparable context in the laws of 163
the United States relating to federal income taxes or if not 164
used in a comparable context in those laws, has the same meaning 165
as in section 5733.40 of the Revised Code. Any reference in this 166
chapter to the Internal Revenue Code includes other laws of the 167
United States relating to federal income taxes. 168

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| As used in this chapter: | 169 |
| (A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section: | 170 171 172 173 |
| (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. | 174 175 176 177 |
| (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. | 178 179 180 181 182 |
| (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. | 183 184 185 186 187 188 |
| (4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income. | 189 190 |
| (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. | 191 192 193 194 |
| (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 | 195 196 197 |

beneficiary's taxable years beginning before 2002, the portion, 198
if any, of such distribution that does not exceed the 199
undistributed net income of the trust for the three taxable 200
years preceding the taxable year in which the distribution is 201
made to the extent that the portion was not included in the 202
trust's taxable income for any of the trust's taxable years 203
beginning in 2002 or thereafter. "Undistributed net income of a 204
trust" means the taxable income of the trust increased by (a) (i) 205
the additions to adjusted gross income required under division 206
(A) of this section and (ii) the personal exemptions allowed to 207
the trust pursuant to section 642(b) of the Internal Revenue 208
Code, and decreased by (b) (i) the deductions to adjusted gross 209
income required under division (A) of this section, (ii) the 210
amount of federal income taxes attributable to such income, and 211
(iii) the amount of taxable income that has been included in the 212
adjusted gross income of a beneficiary by reason of a prior 213
accumulation distribution. Any undistributed net income included 214
in the adjusted gross income of a beneficiary shall reduce the 215
undistributed net income of the trust commencing with the 216
earliest years of the accumulation period. 217

(7) Deduct the amount of wages and salaries, if any, not 218
otherwise allowable as a deduction but that would have been 219
allowable as a deduction in computing federal adjusted gross 220
income for the taxable year, had the targeted jobs credit 221
allowed and determined under sections 38, 51, and 52 of the 222
Internal Revenue Code not been in effect. 223

(8) Deduct any interest or interest equivalent on public 224
obligations and purchase obligations to the extent that the 225
interest or interest equivalent is included in federal adjusted 226
gross income. 227

(9) Add any loss or deduct any gain resulting from the 228
sale, exchange, or other disposition of public obligations to 229
the extent that the loss has been deducted or the gain has been 230
included in computing federal adjusted gross income. 231

(10) Deduct or add amounts, as provided under section 232
5747.70 of the Revised Code, related to contributions made to 233
~~variable college savings program accounts made~~ or tuition units 234
purchased ~~pursuant to Chapter 3334. of the Revised Code~~under a 235
qualified tuition program established pursuant to section 529 of 236
the Internal Revenue Code. 237

(11) (a) Deduct, to the extent not otherwise allowable as a 238
deduction or exclusion in computing federal or Ohio adjusted 239
gross income for the taxable year, the amount the taxpayer paid 240
during the taxable year for medical care insurance and qualified 241
long-term care insurance for the taxpayer, the taxpayer's 242
spouse, and dependents. No deduction for medical care insurance 243
under division (A) (11) (a) of this section shall be allowed 244
either to any taxpayer who is eligible to participate in any 245
subsidized health plan maintained by any employer of the 246
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 247
entitled to, or on application would be entitled to, benefits 248
under part A of Title XVIII of the "Social Security Act," 49 249
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 250
division (A) (11) (a) of this section, "subsidized health plan" 251
means a health plan for which the employer pays any portion of 252
the plan's cost. The deduction allowed under division (A) (11) (a) 253
of this section shall be the net of any related premium refunds, 254
related premium reimbursements, or related insurance premium 255
dividends received during the taxable year. 256

(b) Deduct, to the extent not otherwise deducted or 257

excluded in computing federal or Ohio adjusted gross income 258
during the taxable year, the amount the taxpayer paid during the 259
taxable year, not compensated for by any insurance or otherwise, 260
for medical care of the taxpayer, the taxpayer's spouse, and 261
dependents, to the extent the expenses exceed seven and one-half 262
per cent of the taxpayer's federal adjusted gross income. 263

(c) Deduct, to the extent not otherwise deducted or 264
excluded in computing federal or Ohio adjusted gross income, any 265
amount included in federal adjusted gross income under section 266
105 or not excluded under section 106 of the Internal Revenue 267
Code solely because it relates to an accident and health plan 268
for a person who otherwise would be a "qualifying relative" and 269
thus a "dependent" under section 152 of the Internal Revenue 270
Code but for the fact that the person fails to meet the income 271
and support limitations under section 152(d)(1)(B) and (C) of 272
the Internal Revenue Code. 273

(d) For purposes of division (A)(11) of this section, 274
"medical care" has the meaning given in section 213 of the 275
Internal Revenue Code, subject to the special rules, 276
limitations, and exclusions set forth therein, and "qualified 277
long-term care" has the same meaning given in section 7702B(c) 278
of the Internal Revenue Code. Solely for purposes of divisions 279
(A)(11)(a) and (c) of this section, "dependent" includes a 280
person who otherwise would be a "qualifying relative" and thus a 281
"dependent" under section 152 of the Internal Revenue Code but 282
for the fact that the person fails to meet the income and 283
support limitations under section 152(d)(1)(B) and (C) of the 284
Internal Revenue Code. 285

(12)(a) Deduct any amount included in federal adjusted 286
gross income solely because the amount represents a 287

reimbursement or refund of expenses that in any year the 288
taxpayer had deducted as an itemized deduction pursuant to 289
section 63 of the Internal Revenue Code and applicable United 290
States department of the treasury regulations. The deduction 291
otherwise allowed under division (A) (12) (a) of this section 292
shall be reduced to the extent the reimbursement is attributable 293
to an amount the taxpayer deducted under this section in any 294
taxable year. 295

(b) Add any amount not otherwise included in Ohio adjusted 296
gross income for any taxable year to the extent that the amount 297
is attributable to the recovery during the taxable year of any 298
amount deducted or excluded in computing federal or Ohio 299
adjusted gross income in any taxable year. 300

(13) Deduct any portion of the deduction described in 301
section 1341(a) (2) of the Internal Revenue Code, for repaying 302
previously reported income received under a claim of right, that 303
meets both of the following requirements: 304

(a) It is allowable for repayment of an item that was 305
included in the taxpayer's adjusted gross income for a prior 306
taxable year and did not qualify for a credit under division (A) 307
or (B) of section 5747.05 of the Revised Code for that year; 308

(b) It does not otherwise reduce the taxpayer's adjusted 309
gross income for the current or any other taxable year. 310

(14) Deduct an amount equal to the deposits made to, and 311
net investment earnings of, a medical savings account during the 312
taxable year, in accordance with section 3924.66 of the Revised 313
Code. The deduction allowed by division (A) (14) of this section 314
does not apply to medical savings account deposits and earnings 315
otherwise deducted or excluded for the current or any other 316

taxable year from the taxpayer's federal adjusted gross income. 317

(15) (a) Add an amount equal to the funds withdrawn from a 318
medical savings account during the taxable year, and the net 319
investment earnings on those funds, when the funds withdrawn 320
were used for any purpose other than to reimburse an account 321
holder for, or to pay, eligible medical expenses, in accordance 322
with section 3924.66 of the Revised Code; 323

(b) Add the amounts distributed from a medical savings 324
account under division (A) (2) of section 3924.68 of the Revised 325
Code during the taxable year. 326

(16) Add any amount claimed as a credit under section 327
5747.059 of the Revised Code to the extent that such amount 328
satisfies either of the following: 329

(a) The amount was deducted or excluded from the 330
computation of the taxpayer's federal adjusted gross income as 331
required to be reported for the taxpayer's taxable year under 332
the Internal Revenue Code; 333

(b) The amount resulted in a reduction of the taxpayer's 334
federal adjusted gross income as required to be reported for any 335
of the taxpayer's taxable years under the Internal Revenue Code. 336

(17) Deduct the amount contributed by the taxpayer to an 337
individual development account program established by a county 338
department of job and family services pursuant to sections 339
329.11 to 329.14 of the Revised Code for the purpose of matching 340
funds deposited by program participants. On request of the tax 341
commissioner, the taxpayer shall provide any information that, 342
in the tax commissioner's opinion, is necessary to establish the 343
amount deducted under division (A) (17) of this section. 344

(18) Beginning in taxable year 2001 but not for any 345

taxable year beginning after December 31, 2005, if the taxpayer 346
is married and files a joint return and the combined federal 347
adjusted gross income of the taxpayer and the taxpayer's spouse 348
for the taxable year does not exceed one hundred thousand 349
dollars, or if the taxpayer is single and has a federal adjusted 350
gross income for the taxable year not exceeding fifty thousand 351
dollars, deduct amounts paid during the taxable year for 352
qualified tuition and fees paid to an eligible institution for 353
the taxpayer, the taxpayer's spouse, or any dependent of the 354
taxpayer, who is a resident of this state and is enrolled in or 355
attending a program that culminates in a degree or diploma at an 356
eligible institution. The deduction may be claimed only to the 357
extent that qualified tuition and fees are not otherwise 358
deducted or excluded for any taxable year from federal or Ohio 359
adjusted gross income. The deduction may not be claimed for 360
educational expenses for which the taxpayer claims a credit 361
under section 5747.27 of the Revised Code. 362

(19) Add any reimbursement received during the taxable 363
year of any amount the taxpayer deducted under division (A) (18) 364
of this section in any previous taxable year to the extent the 365
amount is not otherwise included in Ohio adjusted gross income. 366

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 367
(v) of this section, add five-sixths of the amount of 368
depreciation expense allowed by subsection (k) of section 168 of 369
the Internal Revenue Code, including the taxpayer's 370
proportionate or distributive share of the amount of 371
depreciation expense allowed by that subsection to a pass- 372
through entity in which the taxpayer has a direct or indirect 373
ownership interest. 374

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 375

of this section, add five-sixths of the amount of qualifying 376
section 179 depreciation expense, including the taxpayer's 377
proportionate or distributive share of the amount of qualifying 378
section 179 depreciation expense allowed to any pass-through 379
entity in which the taxpayer has a direct or indirect ownership 380
interest. 381

(iii) Subject to division (A)(20)(a)(v) of this section, 382
for taxable years beginning in 2012 or thereafter, if the 383
increase in income taxes withheld by the taxpayer is equal to or 384
greater than ten per cent of income taxes withheld by the 385
taxpayer during the taxpayer's immediately preceding taxable 386
year, "two-thirds" shall be substituted for "five-sixths" for 387
the purpose of divisions (A)(20)(a)(i) and (ii) of this section. 388

(iv) Subject to division (A)(20)(a)(v) of this section, 389
for taxable years beginning in 2012 or thereafter, a taxpayer is 390
not required to add an amount under division (A)(20) of this 391
section if the increase in income taxes withheld by the taxpayer 392
and by any pass-through entity in which the taxpayer has a 393
direct or indirect ownership interest is equal to or greater 394
than the sum of (I) the amount of qualifying section 179 395
depreciation expense and (II) the amount of depreciation expense 396
allowed to the taxpayer by subsection (k) of section 168 of the 397
Internal Revenue Code, and including the taxpayer's 398
proportionate or distributive shares of such amounts allowed to 399
any such pass-through entities. 400

(v) If a taxpayer directly or indirectly incurs a net 401
operating loss for the taxable year for federal income tax 402
purposes, to the extent such loss resulted from depreciation 403
expense allowed by subsection (k) of section 168 of the Internal 404
Revenue Code and by qualifying section 179 depreciation expense, 405

"the entire" shall be substituted for "five-sixths of the" for 406
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 407

The tax commissioner, under procedures established by the 408
commissioner, may waive the add-backs related to a pass-through 409
entity if the taxpayer owns, directly or indirectly, less than 410
five per cent of the pass-through entity. 411

(b) Nothing in division (A) (20) of this section shall be 412
construed to adjust or modify the adjusted basis of any asset. 413

(c) To the extent the add-back required under division (A) 414
(20) (a) of this section is attributable to property generating 415
nonbusiness income or loss allocated under section 5747.20 of 416
the Revised Code, the add-back shall be situated to the same 417
location as the nonbusiness income or loss generated by the 418
property for the purpose of determining the credit under 419
division (A) of section 5747.05 of the Revised Code. Otherwise, 420
the add-back shall be apportioned, subject to one or more of the 421
four alternative methods of apportionment enumerated in section 422
5747.21 of the Revised Code. 423

(d) For the purposes of division (A) (20) (a) (v) of this 424
section, net operating loss carryback and carryforward shall not 425
include the allowance of any net operating loss deduction 426
carryback or carryforward to the taxable year to the extent such 427
loss resulted from depreciation allowed by section 168(k) of the 428
Internal Revenue Code and by the qualifying section 179 429
depreciation expense amount. 430

(e) For the purposes of divisions (A) (20) and (21) of this 431
section: 432

(i) "Income taxes withheld" means the total amount 433
withheld and remitted under sections 5747.06 and 5747.07 of the 434

Revised Code by an employer during the employer's taxable year. 435

(ii) "Increase in income taxes withheld" means the amount 436
by which the amount of income taxes withheld by an employer 437
during the employer's current taxable year exceeds the amount of 438
income taxes withheld by that employer during the employer's 439
immediately preceding taxable year. 440

(iii) "Qualifying section 179 depreciation expense" means 441
the difference between (I) the amount of depreciation expense 442
directly or indirectly allowed to a taxpayer under section 179 443
of the Internal Revised Code, and (II) the amount of 444
depreciation expense directly or indirectly allowed to the 445
taxpayer under section 179 of the Internal Revenue Code as that 446
section existed on December 31, 2002. 447

(21)(a) If the taxpayer was required to add an amount 448
under division (A)(20)(a) of this section for a taxable year, 449
deduct one of the following: 450

(i) One-fifth of the amount so added for each of the five 451
succeeding taxable years if the amount so added was five-sixths 452
of qualifying section 179 depreciation expense or depreciation 453
expense allowed by subsection (k) of section 168 of the Internal 454
Revenue Code; 455

(ii) One-half of the amount so added for each of the two 456
succeeding taxable years if the amount so added was two-thirds 457
of such depreciation expense; 458

(iii) One-sixth of the amount so added for each of the six 459
succeeding taxable years if the entire amount of such 460
depreciation expense was so added. 461

(b) If the amount deducted under division (A)(21)(a) of 462
this section is attributable to an add-back allocated under 463

division (A) (20) (c) of this section, the amount deducted shall 464
be sitused to the same location. Otherwise, the add-back shall 465
be apportioned using the apportionment factors for the taxable 466
year in which the deduction is taken, subject to one or more of 467
the four alternative methods of apportionment enumerated in 468
section 5747.21 of the Revised Code. 469

(c) No deduction is available under division (A) (21) (a) of 470
this section with regard to any depreciation allowed by section 471
168(k) of the Internal Revenue Code and by the qualifying 472
section 179 depreciation expense amount to the extent that such 473
depreciation results in or increases a federal net operating 474
loss carryback or carryforward. If no such deduction is 475
available for a taxable year, the taxpayer may carry forward the 476
amount not deducted in such taxable year to the next taxable 477
year and add that amount to any deduction otherwise available 478
under division (A) (21) (a) of this section for that next taxable 479
year. The carryforward of amounts not so deducted shall continue 480
until the entire addition required by division (A) (20) (a) of 481
this section has been deducted. 482

(d) No refund shall be allowed as a result of adjustments 483
made by division (A) (21) of this section. 484

(22) Deduct, to the extent not otherwise deducted or 485
excluded in computing federal or Ohio adjusted gross income for 486
the taxable year, the amount the taxpayer received during the 487
taxable year as reimbursement for life insurance premiums under 488
section 5919.31 of the Revised Code. 489

(23) Deduct, to the extent not otherwise deducted or 490
excluded in computing federal or Ohio adjusted gross income for 491
the taxable year, the amount the taxpayer received during the 492
taxable year as a death benefit paid by the adjutant general 493

under section 5919.33 of the Revised Code. 494

(24) Deduct, to the extent included in federal adjusted 495
gross income and not otherwise allowable as a deduction or 496
exclusion in computing federal or Ohio adjusted gross income for 497
the taxable year, military pay and allowances received by the 498
taxpayer during the taxable year for active duty service in the 499
United States army, air force, navy, marine corps, or coast 500
guard or reserve components thereof or the national guard. The 501
deduction may not be claimed for military pay and allowances 502
received by the taxpayer while the taxpayer is stationed in this 503
state. 504

(25) Deduct, to the extent not otherwise allowable as a 505
deduction or exclusion in computing federal or Ohio adjusted 506
gross income for the taxable year and not otherwise compensated 507
for by any other source, the amount of qualified organ donation 508
expenses incurred by the taxpayer during the taxable year, not 509
to exceed ten thousand dollars. A taxpayer may deduct qualified 510
organ donation expenses only once for all taxable years 511
beginning with taxable years beginning in 2007. 512

For the purposes of division (A) (25) of this section: 513

(a) "Human organ" means all or any portion of a human 514
liver, pancreas, kidney, intestine, or lung, and any portion of 515
human bone marrow. 516

(b) "Qualified organ donation expenses" means travel 517
expenses, lodging expenses, and wages and salary forgone by a 518
taxpayer in connection with the taxpayer's donation, while 519
living, of one or more of the taxpayer's human organs to another 520
human being. 521

(26) Deduct, to the extent not otherwise deducted or 522

excluded in computing federal or Ohio adjusted gross income for 523
the taxable year, amounts received by the taxpayer as retired 524
personnel pay for service in the uniformed services or reserve 525
components thereof, or the national guard, or received by the 526
surviving spouse or former spouse of such a taxpayer under the 527
survivor benefit plan on account of such a taxpayer's death. If 528
the taxpayer receives income on account of retirement paid under 529
the federal civil service retirement system or federal employees 530
retirement system, or under any successor retirement program 531
enacted by the congress of the United States that is established 532
and maintained for retired employees of the United States 533
government, and such retirement income is based, in whole or in 534
part, on credit for the taxpayer's uniformed service, the 535
deduction allowed under this division shall include only that 536
portion of such retirement income that is attributable to the 537
taxpayer's uniformed service, to the extent that portion of such 538
retirement income is otherwise included in federal adjusted 539
gross income and is not otherwise deducted under this section. 540
Any amount deducted under division (A) (26) of this section is 541
not included in a taxpayer's adjusted gross income for the 542
purposes of section 5747.055 of the Revised Code. No amount may 543
be deducted under division (A) (26) of this section on the basis 544
of which a credit was claimed under section 5747.055 of the 545
Revised Code. 546

(27) Deduct, to the extent not otherwise deducted or 547
excluded in computing federal or Ohio adjusted gross income for 548
the taxable year, the amount the taxpayer received during the 549
taxable year from the military injury relief fund created in 550
section 5902.05 of the Revised Code. 551

(28) Deduct, to the extent not otherwise deducted or 552
excluded in computing federal or Ohio adjusted gross income for 553

the taxable year, the amount the taxpayer received as a veterans 554
bonus during the taxable year from the Ohio department of 555
veterans services as authorized by Section 2r of Article VIII, 556
Ohio Constitution. 557

(29) Deduct, to the extent not otherwise deducted or 558
excluded in computing federal or Ohio adjusted gross income for 559
the taxable year, any income derived from a transfer agreement 560
or from the enterprise transferred under that agreement under 561
section 4313.02 of the Revised Code. 562

(30) Deduct, to the extent not otherwise deducted or 563
excluded in computing federal or Ohio adjusted gross income for 564
the taxable year, Ohio college opportunity or federal Pell grant 565
amounts received by the taxpayer or the taxpayer's spouse or 566
dependent pursuant to section 3333.122 of the Revised Code or 20 567
U.S.C. 1070a, et seq., and used to pay room or board furnished 568
by the educational institution for which the grant was awarded 569
at the institution's facilities, including meal plans 570
administered by the institution. For the purposes of this 571
division, receipt of a grant includes the distribution of a 572
grant directly to an educational institution and the crediting 573
of the grant to the enrollee's account with the institution. 574

(31) Deduct from the portion of an individual's federal 575
adjusted gross income that is eligible business income, to the 576
extent not otherwise deducted or excluded in computing federal 577
adjusted gross income for the taxable year, one hundred twenty- 578
five thousand dollars for each spouse if spouses file separate 579
returns under section 5747.08 of the Revised Code or two hundred 580
fifty thousand dollars for all other individuals. 581

(32) Deduct, as provided under section 5747.78 of the 582
Revised Code, contributions to ABLE savings accounts made in 583

accordance with sections 113.50 to 113.56 of the Revised Code. 584

(33) (a) Deduct, to the extent not otherwise deducted or 585
excluded in computing federal or Ohio adjusted gross income 586
during the taxable year, all of the following: 587

(i) Compensation paid to a qualifying employee described 588
in division (A) (14) (a) of section 5703.94 of the Revised Code to 589
the extent such compensation is for disaster work conducted in 590
this state during a disaster response period pursuant to a 591
qualifying solicitation received by the employee's employer; 592

(ii) Compensation paid to a qualifying employee described 593
in division (A) (14) (b) of section 5703.94 of the Revised Code to 594
the extent such compensation is for disaster work conducted in 595
this state by the employee during the disaster response period 596
on critical infrastructure owned or used by the employee's 597
employer; 598

(iii) Income received by an out-of-state disaster business 599
for disaster work conducted in this state during a disaster 600
response period, or, if the out-of-state disaster business is a 601
pass-through entity, a taxpayer's distributive share of the 602
pass-through entity's income from the business conducting 603
disaster work in this state during a disaster response period, 604
if, in either case, the disaster work is conducted pursuant to a 605
qualifying solicitation received by the business. 606

(b) All terms used in division (A) (33) of this section 607
have the same meanings as in section 5703.94 of the Revised 608
Code. 609

(B) (1) "Business income" means income, including gain or 610
loss, arising from transactions, activities, and sources in the 611
regular course of a trade or business and includes income, gain, 612

or loss from real property, tangible property, and intangible 613
property if the acquisition, rental, management, and disposition 614
of the property constitute integral parts of the regular course 615
of a trade or business operation. "Business income" includes 616
income, including gain or loss, from a partial or complete 617
liquidation of a business, including, but not limited to, gain 618
or loss from the sale or other disposition of goodwill. 619

(2) "Eligible business income" means business income 620
excluding income from a trade or business that performs either 621
or both of the following: 622

(a) Legal services provided by an active attorney admitted 623
to the practice of law in this state or by an attorney 624
registered for corporate counsel status under section 6 of rule 625
VI of the Ohio supreme court rules for the government of the bar 626
of Ohio; 627

(b) Executive agency lobbying activity, retirement system 628
lobbying activity, or actively advocating by a person required 629
to register with the joint legislative ethics committee under 630
section 101.78, 101.92, or 121.62 of the Revised Code. Terms 631
used in division (B) (2) of this section have the same meaning as 632
in section 101.70, 101.92, or 121.60 of the Revised Code. 633

(C) "Nonbusiness income" means all income other than 634
business income and may include, but is not limited to, 635
compensation, rents and royalties from real or tangible personal 636
property, capital gains, interest, dividends and distributions, 637
patent or copyright royalties, or lottery winnings, prizes, and 638
awards. 639

(D) "Compensation" means any form of remuneration paid to 640
an employee for personal services. 641

(E) "Fiduciary" means a guardian, trustee, executor, 642
administrator, receiver, conservator, or any other person acting 643
in any fiduciary capacity for any individual, trust, or estate. 644

(F) "Fiscal year" means an accounting period of twelve 645
months ending on the last day of any month other than December. 646

(G) "Individual" means any natural person. 647

(H) "Internal Revenue Code" means the "Internal Revenue 648
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 649

(I) "Resident" means any of the following, provided that 650
division (I) (3) of this section applies only to taxable years of 651
a trust beginning in 2002 or thereafter: 652

(1) An individual who is domiciled in this state, subject 653
to section 5747.24 of the Revised Code; 654

(2) The estate of a decedent who at the time of death was 655
domiciled in this state. The domicile tests of section 5747.24 656
of the Revised Code are not controlling for purposes of division 657
(I) (2) of this section. 658

(3) A trust that, in whole or part, resides in this state. 659
If only part of a trust resides in this state, the trust is a 660
resident only with respect to that part. 661

For the purposes of division (I) (3) of this section: 662

(a) A trust resides in this state for the trust's current 663
taxable year to the extent, as described in division (I) (3) (d) 664
of this section, that the trust consists directly or indirectly, 665
in whole or in part, of assets, net of any related liabilities, 666
that were transferred, or caused to be transferred, directly or 667
indirectly, to the trust by any of the following: 668

(i) A person, a court, or a governmental entity or 669
instrumentality on account of the death of a decedent, but only 670
if the trust is described in division (I) (3) (e) (i) or (ii) of 671
this section; 672

(ii) A person who was domiciled in this state for the 673
purposes of this chapter when the person directly or indirectly 674
transferred assets to an irrevocable trust, but only if at least 675
one of the trust's qualifying beneficiaries is domiciled in this 676
state for the purposes of this chapter during all or some 677
portion of the trust's current taxable year; 678

(iii) A person who was domiciled in this state for the 679
purposes of this chapter when the trust document or instrument 680
or part of the trust document or instrument became irrevocable, 681
but only if at least one of the trust's qualifying beneficiaries 682
is a resident domiciled in this state for the purposes of this 683
chapter during all or some portion of the trust's current 684
taxable year. If a trust document or instrument became 685
irrevocable upon the death of a person who at the time of death 686
was domiciled in this state for purposes of this chapter, that 687
person is a person described in division (I) (3) (a) (iii) of this 688
section. 689

(b) A trust is irrevocable to the extent that the 690
transferor is not considered to be the owner of the net assets 691
of the trust under sections 671 to 678 of the Internal Revenue 692
Code. 693

(c) With respect to a trust other than a charitable lead 694
trust, "qualifying beneficiary" has the same meaning as 695
"potential current beneficiary" as defined in section 1361(e) (2) 696
of the Internal Revenue Code, and with respect to a charitable 697
lead trust "qualifying beneficiary" is any current, future, or 698

contingent beneficiary, but with respect to any trust 699
"qualifying beneficiary" excludes a person or a governmental 700
entity or instrumentality to any of which a contribution would 701
qualify for the charitable deduction under section 170 of the 702
Internal Revenue Code. 703

(d) For the purposes of division (I)(3)(a) of this 704
section, the extent to which a trust consists directly or 705
indirectly, in whole or in part, of assets, net of any related 706
liabilities, that were transferred directly or indirectly, in 707
whole or part, to the trust by any of the sources enumerated in 708
that division shall be ascertained by multiplying the fair 709
market value of the trust's assets, net of related liabilities, 710
by the qualifying ratio, which shall be computed as follows: 711

(i) The first time the trust receives assets, the 712
numerator of the qualifying ratio is the fair market value of 713
those assets at that time, net of any related liabilities, from 714
sources enumerated in division (I)(3)(a) of this section. The 715
denominator of the qualifying ratio is the fair market value of 716
all the trust's assets at that time, net of any related 717
liabilities. 718

(ii) Each subsequent time the trust receives assets, a 719
revised qualifying ratio shall be computed. The numerator of the 720
revised qualifying ratio is the sum of (1) the fair market value 721
of the trust's assets immediately prior to the subsequent 722
transfer, net of any related liabilities, multiplied by the 723
qualifying ratio last computed without regard to the subsequent 724
transfer, and (2) the fair market value of the subsequently 725
transferred assets at the time transferred, net of any related 726
liabilities, from sources enumerated in division (I)(3)(a) of 727
this section. The denominator of the revised qualifying ratio is 728

the fair market value of all the trust's assets immediately 729
after the subsequent transfer, net of any related liabilities. 730

(iii) Whether a transfer to the trust is by or from any of 731
the sources enumerated in division (I) (3) (a) of this section 732
shall be ascertained without regard to the domicile of the 733
trust's beneficiaries. 734

(e) For the purposes of division (I) (3) (a) (i) of this 735
section: 736

(i) A trust is described in division (I) (3) (e) (i) of this 737
section if the trust is a testamentary trust and the testator of 738
that testamentary trust was domiciled in this state at the time 739
of the testator's death for purposes of the taxes levied under 740
Chapter 5731. of the Revised Code. 741

(ii) A trust is described in division (I) (3) (e) (ii) of 742
this section if the transfer is a qualifying transfer described 743
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 744
trust is an irrevocable inter vivos trust, and at least one of 745
the trust's qualifying beneficiaries is domiciled in this state 746
for purposes of this chapter during all or some portion of the 747
trust's current taxable year. 748

(f) For the purposes of division (I) (3) (e) (ii) of this 749
section, a "qualifying transfer" is a transfer of assets, net of 750
any related liabilities, directly or indirectly to a trust, if 751
the transfer is described in any of the following: 752

(i) The transfer is made to a trust, created by the 753
decedent before the decedent's death and while the decedent was 754
domiciled in this state for the purposes of this chapter, and, 755
prior to the death of the decedent, the trust became irrevocable 756
while the decedent was domiciled in this state for the purposes 757

of this chapter. 758

(ii) The transfer is made to a trust to which the 759
decedent, prior to the decedent's death, had directly or 760
indirectly transferred assets, net of any related liabilities, 761
while the decedent was domiciled in this state for the purposes 762
of this chapter, and prior to the death of the decedent the 763
trust became irrevocable while the decedent was domiciled in 764
this state for the purposes of this chapter. 765

(iii) The transfer is made on account of a contractual 766
relationship existing directly or indirectly between the 767
transferor and either the decedent or the estate of the decedent 768
at any time prior to the date of the decedent's death, and the 769
decedent was domiciled in this state at the time of death for 770
purposes of the taxes levied under Chapter 5731. of the Revised 771
Code. 772

(iv) The transfer is made to a trust on account of a 773
contractual relationship existing directly or indirectly between 774
the transferor and another person who at the time of the 775
decedent's death was domiciled in this state for purposes of 776
this chapter. 777

(v) The transfer is made to a trust on account of the will 778
of a testator who was domiciled in this state at the time of the 779
testator's death for purposes of the taxes levied under Chapter 780
5731. of the Revised Code. 781

(vi) The transfer is made to a trust created by or caused 782
to be created by a court, and the trust was directly or 783
indirectly created in connection with or as a result of the 784
death of an individual who, for purposes of the taxes levied 785
under Chapter 5731. of the Revised Code, was domiciled in this 786

state at the time of the individual's death. 787

(g) The tax commissioner may adopt rules to ascertain the 788
part of a trust residing in this state. 789

(J) "Nonresident" means an individual or estate that is 790
not a resident. An individual who is a resident for only part of 791
a taxable year is a nonresident for the remainder of that 792
taxable year. 793

(K) "Pass-through entity" has the same meaning as in 794
section 5733.04 of the Revised Code. 795

(L) "Return" means the notifications and reports required 796
to be filed pursuant to this chapter for the purpose of 797
reporting the tax due and includes declarations of estimated tax 798
when so required. 799

(M) "Taxable year" means the calendar year or the 800
taxpayer's fiscal year ending during the calendar year, or 801
fractional part thereof, upon which the adjusted gross income is 802
calculated pursuant to this chapter. 803

(N) "Taxpayer" means any person subject to the tax imposed 804
by section 5747.02 of the Revised Code or any pass-through 805
entity that makes the election under division (D) of section 806
5747.08 of the Revised Code. 807

(O) "Dependents" means one of the following: 808

(1) For taxable years beginning on or after January 1, 809
2018, and before January 1, 2026, dependents as defined in the 810
Internal Revenue Code; 811

(2) For all other taxable years, dependents as defined in 812
the Internal Revenue Code and as claimed in the taxpayer's 813
federal income tax return for the taxable year or which the 814

taxpayer would have been permitted to claim had the taxpayer 815
filed a federal income tax return. 816

(P) "Principal county of employment" means, in the case of 817
a nonresident, the county within the state in which a taxpayer 818
performs services for an employer or, if those services are 819
performed in more than one county, the county in which the major 820
portion of the services are performed. 821

(Q) As used in sections 5747.50 to 5747.55 of the Revised 822
Code: 823

(1) "Subdivision" means any county, municipal corporation, 824
park district, or township. 825

(2) "Essential local government purposes" includes all 826
functions that any subdivision is required by general law to 827
exercise, including like functions that are exercised under a 828
charter adopted pursuant to the Ohio Constitution. 829

(R) "Overpayment" means any amount already paid that 830
exceeds the figure determined to be the correct amount of the 831
tax. 832

(S) "Taxable income" or "Ohio taxable income" applies only 833
to estates and trusts, and means federal taxable income, as 834
defined and used in the Internal Revenue Code, adjusted as 835
follows: 836

(1) Add interest or dividends, net of ordinary, necessary, 837
and reasonable expenses not deducted in computing federal 838
taxable income, on obligations or securities of any state or of 839
any political subdivision or authority of any state, other than 840
this state and its subdivisions and authorities, but only to the 841
extent that such net amount is not otherwise includible in Ohio 842
taxable income and is described in either division (S)(1)(a) or 843

(b) of this section: 844

(a) The net amount is not attributable to the S portion of 845
an electing small business trust and has not been distributed to 846
beneficiaries for the taxable year; 847

(b) The net amount is attributable to the S portion of an 848
electing small business trust for the taxable year. 849

(2) Add interest or dividends, net of ordinary, necessary, 850
and reasonable expenses not deducted in computing federal 851
taxable income, on obligations of any authority, commission, 852
instrumentality, territory, or possession of the United States 853
to the extent that the interest or dividends are exempt from 854
federal income taxes but not from state income taxes, but only 855
to the extent that such net amount is not otherwise includible 856
in Ohio taxable income and is described in either division (S) 857
(1) (a) or (b) of this section; 858

(3) Add the amount of personal exemption allowed to the 859
estate pursuant to section 642(b) of the Internal Revenue Code; 860

(4) Deduct interest or dividends, net of related expenses 861
deducted in computing federal taxable income, on obligations of 862
the United States and its territories and possessions or of any 863
authority, commission, or instrumentality of the United States 864
to the extent that the interest or dividends are exempt from 865
state taxes under the laws of the United States, but only to the 866
extent that such amount is included in federal taxable income 867
and is described in either division (S) (1) (a) or (b) of this 868
section; 869

(5) Deduct the amount of wages and salaries, if any, not 870
otherwise allowable as a deduction but that would have been 871
allowable as a deduction in computing federal taxable income for 872

the taxable year, had the targeted jobs credit allowed under 873
sections 38, 51, and 52 of the Internal Revenue Code not been in 874
effect, but only to the extent such amount relates either to 875
income included in federal taxable income for the taxable year 876
or to income of the S portion of an electing small business 877
trust for the taxable year; 878

(6) Deduct any interest or interest equivalent, net of 879
related expenses deducted in computing federal taxable income, 880
on public obligations and purchase obligations, but only to the 881
extent that such net amount relates either to income included in 882
federal taxable income for the taxable year or to income of the 883
S portion of an electing small business trust for the taxable 884
year; 885

(7) Add any loss or deduct any gain resulting from sale, 886
exchange, or other disposition of public obligations to the 887
extent that such loss has been deducted or such gain has been 888
included in computing either federal taxable income or income of 889
the S portion of an electing small business trust for the 890
taxable year; 891

(8) Except in the case of the final return of an estate, 892
add any amount deducted by the taxpayer on both its Ohio estate 893
tax return pursuant to section 5731.14 of the Revised Code, and 894
on its federal income tax return in determining federal taxable 895
income; 896

(9) (a) Deduct any amount included in federal taxable 897
income solely because the amount represents a reimbursement or 898
refund of expenses that in a previous year the decedent had 899
deducted as an itemized deduction pursuant to section 63 of the 900
Internal Revenue Code and applicable treasury regulations. The 901
deduction otherwise allowed under division (S) (9) (a) of this 902

section shall be reduced to the extent the reimbursement is 903
attributable to an amount the taxpayer or decedent deducted 904
under this section in any taxable year. 905

(b) Add any amount not otherwise included in Ohio taxable 906
income for any taxable year to the extent that the amount is 907
attributable to the recovery during the taxable year of any 908
amount deducted or excluded in computing federal or Ohio taxable 909
income in any taxable year, but only to the extent such amount 910
has not been distributed to beneficiaries for the taxable year. 911

(10) Deduct any portion of the deduction described in 912
section 1341(a)(2) of the Internal Revenue Code, for repaying 913
previously reported income received under a claim of right, that 914
meets both of the following requirements: 915

(a) It is allowable for repayment of an item that was 916
included in the taxpayer's taxable income or the decedent's 917
adjusted gross income for a prior taxable year and did not 918
qualify for a credit under division (A) or (B) of section 919
5747.05 of the Revised Code for that year. 920

(b) It does not otherwise reduce the taxpayer's taxable 921
income or the decedent's adjusted gross income for the current 922
or any other taxable year. 923

(11) Add any amount claimed as a credit under section 924
5747.059 of the Revised Code to the extent that the amount 925
satisfies either of the following: 926

(a) The amount was deducted or excluded from the 927
computation of the taxpayer's federal taxable income as required 928
to be reported for the taxpayer's taxable year under the 929
Internal Revenue Code; 930

(b) The amount resulted in a reduction in the taxpayer's 931

federal taxable income as required to be reported for any of the 932
taxpayer's taxable years under the Internal Revenue Code. 933

(12) Deduct any amount, net of related expenses deducted 934
in computing federal taxable income, that a trust is required to 935
report as farm income on its federal income tax return, but only 936
if the assets of the trust include at least ten acres of land 937
satisfying the definition of "land devoted exclusively to 938
agricultural use" under section 5713.30 of the Revised Code, 939
regardless of whether the land is valued for tax purposes as 940
such land under sections 5713.30 to 5713.38 of the Revised Code. 941
If the trust is a pass-through entity investor, section 5747.231 942
of the Revised Code applies in ascertaining if the trust is 943
eligible to claim the deduction provided by division (S) (12) of 944
this section in connection with the pass-through entity's farm 945
income. 946

Except for farm income attributable to the S portion of an 947
electing small business trust, the deduction provided by 948
division (S) (12) of this section is allowed only to the extent 949
that the trust has not distributed such farm income. Division 950
(S) (12) of this section applies only to taxable years of a trust 951
beginning in 2002 or thereafter. 952

(13) Add the net amount of income described in section 953
641(c) of the Internal Revenue Code to the extent that amount is 954
not included in federal taxable income. 955

(14) Add or deduct the amount the taxpayer would be 956
required to add or deduct under division (A) (20) or (21) of this 957
section if the taxpayer's Ohio taxable income were computed in 958
the same manner as an individual's Ohio adjusted gross income is 959
computed under this section. In the case of a trust, division 960
(S) (14) of this section applies only to any of the trust's 961

taxable years beginning in 2002 or thereafter. 962

(T) "School district income" and "school district income 963
tax" have the same meanings as in section 5748.01 of the Revised 964
Code. 965

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S) 966
(7) of this section, "public obligations," "purchase 967
obligations," and "interest or interest equivalent" have the 968
same meanings as in section 5709.76 of the Revised Code. 969

(V) "Limited liability company" means any limited 970
liability company formed under Chapter 1705. of the Revised Code 971
or under the laws of any other state. 972

(W) "Pass-through entity investor" means any person who, 973
during any portion of a taxable year of a pass-through entity, 974
is a partner, member, shareholder, or equity investor in that 975
pass-through entity. 976

(X) "Banking day" has the same meaning as in section 977
1304.01 of the Revised Code. 978

(Y) "Month" means a calendar month. 979

(Z) "Quarter" means the first three months, the second 980
three months, the third three months, or the last three months 981
of the taxpayer's taxable year. 982

(AA)(1) "Eligible institution" means a state university or 983
state institution of higher education as defined in section 984
3345.011 of the Revised Code, or a private, nonprofit college, 985
university, or other post-secondary institution located in this 986
state that possesses a certificate of authorization issued by 987
the chancellor of higher education pursuant to Chapter 1713. of 988
the Revised Code or a certificate of registration issued by the 989

state board of career colleges and schools under Chapter 3332. 990
of the Revised Code. 991

(2) "Qualified tuition and fees" means tuition and fees 992
imposed by an eligible institution as a condition of enrollment 993
or attendance, not exceeding two thousand five hundred dollars 994
in each of the individual's first two years of post-secondary 995
education. If the individual is a part-time student, "qualified 996
tuition and fees" includes tuition and fees paid for the 997
academic equivalent of the first two years of post-secondary 998
education during a maximum of five taxable years, not exceeding 999
a total of five thousand dollars. "Qualified tuition and fees" 1000
does not include: 1001

(a) Expenses for any course or activity involving sports, 1002
games, or hobbies unless the course or activity is part of the 1003
individual's degree or diploma program; 1004

(b) The cost of books, room and board, student activity 1005
fees, athletic fees, insurance expenses, or other expenses 1006
unrelated to the individual's academic course of instruction; 1007

(c) Tuition, fees, or other expenses paid or reimbursed 1008
through an employer, scholarship, grant in aid, or other 1009
educational benefit program. 1010

(BB)(1) "Modified business income" means the business 1011
income included in a trust's Ohio taxable income after such 1012
taxable income is first reduced by the qualifying trust amount, 1013
if any. 1014

(2) "Qualifying trust amount" of a trust means capital 1015
gains and losses from the sale, exchange, or other disposition 1016
of equity or ownership interests in, or debt obligations of, a 1017
qualifying investee to the extent included in the trust's Ohio 1018

taxable income, but only if the following requirements are 1019
satisfied: 1020

(a) The book value of the qualifying investee's physical 1021
assets in this state and everywhere, as of the last day of the 1022
qualifying investee's fiscal or calendar year ending immediately 1023
prior to the date on which the trust recognizes the gain or 1024
loss, is available to the trust. 1025

(b) The requirements of section 5747.011 of the Revised 1026
Code are satisfied for the trust's taxable year in which the 1027
trust recognizes the gain or loss. 1028

Any gain or loss that is not a qualifying trust amount is 1029
modified business income, qualifying investment income, or 1030
modified nonbusiness income, as the case may be. 1031

(3) "Modified nonbusiness income" means a trust's Ohio 1032
taxable income other than modified business income, other than 1033
the qualifying trust amount, and other than qualifying 1034
investment income, as defined in section 5747.012 of the Revised 1035
Code, to the extent such qualifying investment income is not 1036
otherwise part of modified business income. 1037

(4) "Modified Ohio taxable income" applies only to trusts, 1038
and means the sum of the amounts described in divisions (BB) (4) 1039
(a) to (c) of this section: 1040

(a) The fraction, calculated under section 5747.013, and 1041
applying section 5747.231 of the Revised Code, multiplied by the 1042
sum of the following amounts: 1043

(i) The trust's modified business income; 1044

(ii) The trust's qualifying investment income, as defined 1045
in section 5747.012 of the Revised Code, but only to the extent 1046

the qualifying investment income does not otherwise constitute 1047
modified business income and does not otherwise constitute a 1048
qualifying trust amount. 1049

(b) The qualifying trust amount multiplied by a fraction, 1050
the numerator of which is the sum of the book value of the 1051
qualifying investee's physical assets in this state on the last 1052
day of the qualifying investee's fiscal or calendar year ending 1053
immediately prior to the day on which the trust recognizes the 1054
qualifying trust amount, and the denominator of which is the sum 1055
of the book value of the qualifying investee's total physical 1056
assets everywhere on the last day of the qualifying investee's 1057
fiscal or calendar year ending immediately prior to the day on 1058
which the trust recognizes the qualifying trust amount. If, for 1059
a taxable year, the trust recognizes a qualifying trust amount 1060
with respect to more than one qualifying investee, the amount 1061
described in division (BB) (4) (b) of this section shall equal the 1062
sum of the products so computed for each such qualifying 1063
investee. 1064

(c) (i) With respect to a trust or portion of a trust that 1065
is a resident as ascertained in accordance with division (I) (3) 1066
(d) of this section, its modified nonbusiness income. 1067

(ii) With respect to a trust or portion of a trust that is 1068
not a resident as ascertained in accordance with division (I) (3) 1069
(d) of this section, the amount of its modified nonbusiness 1070
income satisfying the descriptions in divisions (B) (2) to (5) of 1071
section 5747.20 of the Revised Code, except as otherwise 1072
provided in division (BB) (4) (c) (ii) of this section. With 1073
respect to a trust or portion of a trust that is not a resident 1074
as ascertained in accordance with division (I) (3) (d) of this 1075
section, the trust's portion of modified nonbusiness income 1076

recognized from the sale, exchange, or other disposition of a 1077
debt interest in or equity interest in a section 5747.212 1078
entity, as defined in section 5747.212 of the Revised Code, 1079
without regard to division (A) of that section, shall not be 1080
allocated to this state in accordance with section 5747.20 of 1081
the Revised Code but shall be apportioned to this state in 1082
accordance with division (B) of section 5747.212 of the Revised 1083
Code without regard to division (A) of that section. 1084

If the allocation and apportionment of a trust's income 1085
under divisions (BB) (4) (a) and (c) of this section do not fairly 1086
represent the modified Ohio taxable income of the trust in this 1087
state, the alternative methods described in division (C) of 1088
section 5747.21 of the Revised Code may be applied in the manner 1089
and to the same extent provided in that section. 1090

(5) (a) Except as set forth in division (BB) (5) (b) of this 1091
section, "qualifying investee" means a person in which a trust 1092
has an equity or ownership interest, or a person or unit of 1093
government the debt obligations of either of which are owned by 1094
a trust. For the purposes of division (BB) (2) (a) of this section 1095
and for the purpose of computing the fraction described in 1096
division (BB) (4) (b) of this section, all of the following apply: 1097

(i) If the qualifying investee is a member of a qualifying 1098
controlled group on the last day of the qualifying investee's 1099
fiscal or calendar year ending immediately prior to the date on 1100
which the trust recognizes the gain or loss, then "qualifying 1101
investee" includes all persons in the qualifying controlled 1102
group on such last day. 1103

(ii) If the qualifying investee, or if the qualifying 1104
investee and any members of the qualifying controlled group of 1105
which the qualifying investee is a member on the last day of the 1106

qualifying investee's fiscal or calendar year ending immediately 1107
prior to the date on which the trust recognizes the gain or 1108
loss, separately or cumulatively own, directly or indirectly, on 1109
the last day of the qualifying investee's fiscal or calendar 1110
year ending immediately prior to the date on which the trust 1111
recognizes the qualifying trust amount, more than fifty per cent 1112
of the equity of a pass-through entity, then the qualifying 1113
investee and the other members are deemed to own the 1114
proportionate share of the pass-through entity's physical assets 1115
which the pass-through entity directly or indirectly owns on the 1116
last day of the pass-through entity's calendar or fiscal year 1117
ending within or with the last day of the qualifying investee's 1118
fiscal or calendar year ending immediately prior to the date on 1119
which the trust recognizes the qualifying trust amount. 1120

(iii) For the purposes of division (BB) (5) (a) (iii) of this 1121
section, "upper level pass-through entity" means a pass-through 1122
entity directly or indirectly owning any equity of another pass- 1123
through entity, and "lower level pass-through entity" means that 1124
other pass-through entity. 1125

An upper level pass-through entity, whether or not it is 1126
also a qualifying investee, is deemed to own, on the last day of 1127
the upper level pass-through entity's calendar or fiscal year, 1128
the proportionate share of the lower level pass-through entity's 1129
physical assets that the lower level pass-through entity 1130
directly or indirectly owns on the last day of the lower level 1131
pass-through entity's calendar or fiscal year ending within or 1132
with the last day of the upper level pass-through entity's 1133
fiscal or calendar year. If the upper level pass-through entity 1134
directly and indirectly owns less than fifty per cent of the 1135
equity of the lower level pass-through entity on each day of the 1136
upper level pass-through entity's calendar or fiscal year in 1137

which or with which ends the calendar or fiscal year of the 1138
lower level pass-through entity and if, based upon clear and 1139
convincing evidence, complete information about the location and 1140
cost of the physical assets of the lower pass-through entity is 1141
not available to the upper level pass-through entity, then 1142
solely for purposes of ascertaining if a gain or loss 1143
constitutes a qualifying trust amount, the upper level pass- 1144
through entity shall be deemed as owning no equity of the lower 1145
level pass-through entity for each day during the upper level 1146
pass-through entity's calendar or fiscal year in which or with 1147
which ends the lower level pass-through entity's calendar or 1148
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 1149
shall be construed to provide for any deduction or exclusion in 1150
computing any trust's Ohio taxable income. 1151

(b) With respect to a trust that is not a resident for the 1152
taxable year and with respect to a part of a trust that is not a 1153
resident for the taxable year, "qualifying investee" for that 1154
taxable year does not include a C corporation if both of the 1155
following apply: 1156

(i) During the taxable year the trust or part of the trust 1157
recognizes a gain or loss from the sale, exchange, or other 1158
disposition of equity or ownership interests in, or debt 1159
obligations of, the C corporation. 1160

(ii) Such gain or loss constitutes nonbusiness income. 1161

(6) "Available" means information is such that a person is 1162
able to learn of the information by the due date plus 1163
extensions, if any, for filing the return for the taxable year 1164
in which the trust recognizes the gain or loss. 1165

(CC) "Qualifying controlled group" has the same meaning as 1166

in section 5733.04 of the Revised Code. 1167

(DD) "Related member" has the same meaning as in section 1168
5733.042 of the Revised Code. 1169

(EE) (1) For the purposes of division (EE) of this section: 1170

(a) "Qualifying person" means any person other than a 1171
qualifying corporation. 1172

(b) "Qualifying corporation" means any person classified 1173
for federal income tax purposes as an association taxable as a 1174
corporation, except either of the following: 1175

(i) A corporation that has made an election under 1176
subchapter S, chapter one, subtitle A, of the Internal Revenue 1177
Code for its taxable year ending within, or on the last day of, 1178
the investor's taxable year; 1179

(ii) A subsidiary that is wholly owned by any corporation 1180
that has made an election under subchapter S, chapter one, 1181
subtitle A of the Internal Revenue Code for its taxable year 1182
ending within, or on the last day of, the investor's taxable 1183
year. 1184

(2) For the purposes of this chapter, unless expressly 1185
stated otherwise, no qualifying person indirectly owns any asset 1186
directly or indirectly owned by any qualifying corporation. 1187

(FF) For purposes of this chapter and Chapter 5751. of the 1188
Revised Code: 1189

(1) "Trust" does not include a qualified pre-income tax 1190
trust. 1191

(2) A "qualified pre-income tax trust" is any pre-income 1192
tax trust that makes a qualifying pre-income tax trust election 1193

as described in division (FF) (3) of this section. 1194

(3) A "qualifying pre-income tax trust election" is an 1195
election by a pre-income tax trust to subject to the tax imposed 1196
by section 5751.02 of the Revised Code the pre-income tax trust 1197
and all pass-through entities of which the trust owns or 1198
controls, directly, indirectly, or constructively through 1199
related interests, five per cent or more of the ownership or 1200
equity interests. The trustee shall notify the tax commissioner 1201
in writing of the election on or before April 15, 2006. The 1202
election, if timely made, shall be effective on and after 1203
January 1, 2006, and shall apply for all tax periods and tax 1204
years until revoked by the trustee of the trust. 1205

(4) A "pre-income tax trust" is a trust that satisfies all 1206
of the following requirements: 1207

(a) The document or instrument creating the trust was 1208
executed by the grantor before January 1, 1972; 1209

(b) The trust became irrevocable upon the creation of the 1210
trust; and 1211

(c) The grantor was domiciled in this state at the time 1212
the trust was created. 1213

(GG) "Uniformed services" has the same meaning as in 10 1214
U.S.C. 101. 1215

(HH) "Taxable business income" means the amount by which 1216
an individual's eligible business income that is included in 1217
federal adjusted gross income exceeds the amount of eligible 1218
business income the individual is authorized to deduct under 1219
division (A) (31) of this section for the taxable year. 1220

(II) "Employer" does not include a franchisor with respect 1221

to the franchisor's relationship with a franchisee or an 1222
employee of a franchisee, unless the franchisor agrees to assume 1223
that role in writing or a court of competent jurisdiction 1224
determines that the franchisor exercises a type or degree of 1225
control over the franchisee or the franchisee's employees that 1226
is not customarily exercised by a franchisor for the purpose of 1227
protecting the franchisor's trademark, brand, or both. For 1228
purposes of this division, "franchisor" and "franchisee" have 1229
the same meanings as in 16 C.F.R. 436.1. 1230

(JJ) "Modified adjusted gross income" means Ohio adjusted 1231
gross income plus any amount deducted under division (A) (31) of 1232
this section for the taxable year. 1233

Sec. 5747.70. (A) In computing Ohio adjusted gross income, 1234
a deduction from federal adjusted gross income is allowed to a 1235
~~contributor for the amount contributed during the taxable year~~ 1236
~~taxpayer who contributes to a variable college savings program~~ 1237
~~account and to a purchaser of or purchases~~ tuition units under 1238
~~the Ohio college savings program created by Chapter 3334. of the~~ 1239
~~Revised Code a qualified tuition program established in~~ 1240
~~accordance with section 529 of the Internal Revenue Code. The~~ 1241
~~amount of the deduction shall equal the amount contributed or~~ 1242
~~purchased during the taxable year~~ to the extent that the amounts 1243
of such contributions and purchases were not deducted in 1244
determining the contributor's or purchaser's federal adjusted 1245
gross income for the taxable year. The combined amount of 1246
contributions and purchases deducted in any taxable year by a 1247
taxpayer or the taxpayer and the taxpayer's spouse, regardless 1248
of whether the taxpayer and the taxpayer's spouse file separate 1249
returns or a joint return, is limited to four thousand dollars 1250
for each beneficiary for whom contributions or purchases are 1251
made. If the combined annual contributions and purchases for a 1252

beneficiary exceed four thousand dollars, the excess may be 1253
carried forward and deducted in future taxable years until the 1254
contributions and purchases have been fully deducted. 1255

(B) In computing Ohio adjusted gross income, a deduction 1256
from federal adjusted gross income is allowed for: 1257

(1) Income related to tuition units and contributions that 1258
as of the end of the taxable year have not been refunded 1259
pursuant to the termination of a qualified tuition program 1260
payment contract or ~~variable college savings program~~ account 1261
~~under section 3334.10 of the Revised Code,~~ to the extent that 1262
such income is included in federal adjusted gross income. 1263

(2) The excess of the total purchase price of tuition 1264
units refunded during the taxable year pursuant to the 1265
termination of a qualified tuition program payment contract 1266
~~under section 3334.10 of the Revised Code~~ over the amount of the 1267
refund, to the extent the amount of the excess was not deducted 1268
in determining federal adjusted gross income. Division (B) (2) of 1269
this section applies only to units for which no deduction was 1270
allowable under division (A) of this section. 1271

(C) In computing Ohio adjusted gross income, there shall 1272
be added to federal adjusted gross income the amount of loss 1273
related to tuition units and contributions that as of the end of 1274
the taxable year have not been refunded pursuant to the 1275
termination of a qualified tuition program payment contract or 1276
~~variable college savings program~~ account ~~under section 3334.10~~ 1277
~~of the Revised Code,~~ to the extent that such loss was deducted 1278
in determining federal adjusted gross income. 1279

(D) For taxable years in which distributions or refunds 1280
are made under a qualified tuition ~~payment or variable college~~ 1281

~~savings program contract program~~ for any reason other than 1282
payment of higher education expenses, or the beneficiary's 1283
death, disability, or receipt of a scholarship as described in 1284
section 3334.10 of the Revised Code: 1285

(1) If the distribution or refund is paid to the purchaser 1286
or contributor or beneficiary, any portion of the distribution 1287
or refund not included in the recipient's federal adjusted gross 1288
income shall be added to the recipient's federal adjusted gross 1289
income in determining the recipient's Ohio adjusted gross 1290
income, except that the amount added shall not exceed amounts 1291
previously deducted under division (A) of this section less any 1292
amounts added under division (D) (1) of this section in a prior 1293
taxable year. 1294

(2) If amounts paid by a purchaser or contributor on or 1295
after January 1, 2000, are distributed or refunded to someone 1296
other than the purchaser or contributor or beneficiary, the 1297
amount of the payment not included in the recipient's federal 1298
adjusted gross income, less any amounts added under division (D) 1299
of this section in a prior taxable year, shall be added to the 1300
recipient's federal adjusted gross income in determining the 1301
recipient's Ohio adjusted gross income. 1302

Section 2. That existing sections 3333.26, 5747.01, and 1303
5747.70 of the Revised Code are hereby repealed. 1304

Section 3. The amendment by this act of section 5747.70 of 1305
the Revised Code applies to taxable years beginning on or after 1306
January 1, 2023. 1307

Nothing in this act shall limit the ability of a taxpayer 1308
whose combined contributions to an Ohio variable college savings 1309
program account and purchases of tuition units under the Ohio 1310

college savings program for a beneficiary exceeded four thousand 1311
dollars in a taxable year beginning before January 1, 2023, from 1312
carrying forward and deducting the excess in taxable years 1313
beginning on or after January 1, 2023. 1314

Section 4. The provisions of this act concerning the 1315
determination of residency for a waiver of post-secondary 1316
tuition and fees for a child, spouse, or qualified former spouse 1317
of a public service officer or United States armed service 1318
member killed in the line of duty shall be known as the "Anthony 1319
Dia Act." 1320

Section 5. Section 5747.01 of the Revised Code is 1321
presented in this act as a composite of the section as amended 1322
by H.B. 166 of the 133rd General Assembly and H.B. 24 and S.B. 1323
22 both of the 132nd General Assembly. The General Assembly, 1324
applying the principle stated in division (B) of section 1.52 of 1325
the Revised Code that amendments are to be harmonized if 1326
reasonably capable of simultaneous operation, finds that the 1327
composite is the resulting version of the section in effect 1328
prior to the effective date of the section as presented in this 1329
act. 1330