

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 326

Representatives Amstutz, McClain

A BILL

To amend sections 9.66, 122.16, 122.172, 122.173, 1
5709.65, 5709.66, 5733.33, 5733.42, 5733.98, 2
5747.01, 5747.02, 5747.05, 5747.054, 5747.055, 3
5747.056, 5747.059, 5747.21, 5747.212, 5747.22, 4
5747.27, 5747.28, 5747.29, 5747.331, 5747.37, 5
5747.65, 5747.66, 5747.71, 5747.75, 5747.76, 6
5747.80, 5747.81, and 5747.98 and to repeal 7
sections 5733.48, 5747.051, 5747.057, 5747.26, 8
5747.261, 5747.31, 5747.32, 5747.34, 5747.35, 9
5747.36, 5747.38, 5747.39, and 5747.77 of the 10
Revised Code to make technical changes to the 11
state income tax law, to modify the requirements 12
for receiving the joint filing credit, and to 13
provide that, for the 2015 taxable year, any 14
taxable business income under \$125,000 for 15
married taxpayers filing separately or \$250,000 16
for other taxpayers is subject to the graduated 17
tax rates applicable to nonbusiness income, 18
while business income in excess of those amounts 19
remains subject to the existing 3% flat tax. 20

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

Section 1. That sections 9.66, 122.16, 122.172, 122.173, 21
5709.65, 5709.66, 5733.33, 5733.42, 5733.98, 5747.01, 5747.02, 22
5747.05, 5747.054, 5747.055, 5747.056, 5747.059, 5747.21, 23
5747.212, 5747.22, 5747.27, 5747.28, 5747.29, 5747.331, 5747.37, 24
5747.65, 5747.66, 5747.71, 5747.75, 5747.76, 5747.80, 5747.81, 25
and 5747.98 of the Revised Code be amended to read as follows: 26

Sec. 9.66. (A) As used in this section: 27

(1) "Economic development assistance" means all of the 28
following: 29

(a) The programs and assistance provided or administered 30
by the department of development under Chapters 122. and 166. of 31
the Revised Code and any other section of the Revised Code under 32
which the department provides or administers economic 33
development assistance; 34

(b) The programs and assistance provided or administered 35
by a political subdivision under Chapters 725. and 1728. and 36
sections 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 37
5709.69, 5709.73 to 5709.75, and 5709.77 to 5709.81 of the 38
Revised Code and any other section of the Revised Code under 39
which a political subdivision provides economic development 40
assistance; 41

(c) Assistance provided under any other section of the 42
Revised Code under which the state or a state agency provides or 43
administers economic development assistance; 44

(d) The tax credit authorized by section 5725.31, 5729.07, 45
or 5733.42, ~~or 5747.39~~ of the Revised Code. 46

(2) "Liability" means any of the following: 47

(a) Any delinquent tax owed the state or a political 48

subdivision of the state; 49

(b) Any moneys owed the state or a state agency for the 50
administration or enforcement of the environmental laws of the 51
state; 52

(c) Any other moneys owed the state, a state agency, or a 53
political subdivision of the state that are past due. 54

"Liability" includes any item described in division (A) (2) 55
of this section that is being contested in a court of law. 56

(3) "Political subdivision" means any county, municipal 57
corporation, or township of the state. 58

(4) "State agency" means every organized body, office, or 59
agency established by the laws of the state for the exercise of 60
any function of state government. 61

(B) A person who applies to the state, a state agency, or 62
a political subdivision for economic development assistance 63
shall indicate on the application for assistance whether the 64
person has any outstanding liabilities owed to the state, a 65
state agency, or a political subdivision. Such a person also 66
shall authorize the state, state agency, or political 67
subdivision to inspect the personal or corporate financial 68
statements of the applicant, including tax records and other 69
similar information not open to public inspection. 70

(C) (1) Whoever knowingly makes a false statement under 71
division (B) of this section concerning an application for 72
economic development assistance or who fails to provide any 73
information required by that division is ineligible for the 74
assistance applied for and is ineligible for any future economic 75
development assistance from the state, a state agency, or a 76
political subdivision. 77

(2) Whoever knowingly makes a false statement under 78
division (B) of this section concerning an application for 79
economic development assistance or who fails to provide any 80
information required by that division shall return any moneys 81
received from the state, a state agency, or a political 82
subdivision in connection with that application. 83

Sec. 122.16. (A) As used in this section: 84

(1) "Distressed area" means either a municipal corporation 85
that has a population of at least fifty thousand or a county, 86
that meets two of the following criteria: 87

(a) Its average rate of unemployment, during the most 88
recent five-year period for which data are available, is equal 89
to at least one hundred twenty-five per cent of the average rate 90
of unemployment for the United States for the same period. 91

(b) It has a per capita income equal to or below eighty 92
per cent of the median county per capita income of the United 93
States as determined by the most recently available figures from 94
the United States census bureau. 95

(c) (i) In the case of a municipal corporation, at least 96
twenty per cent of the residents have a total income for the 97
most recent census year that is below the official poverty line. 98

(ii) In the case of a county, in intercensal years, the 99
county has a ratio of transfer payment income to total county 100
income equal to or greater than twenty-five per cent. 101

(2) "Eligible area" means a distressed area, a labor 102
surplus area, an inner city area, or a situational distress 103
area. 104

(3) "Eligible costs associated with a voluntary action" 105

means costs incurred during the qualifying period in performing 106
a remedy or remedial activities, as defined in section 3746.01 107
of the Revised Code, and any costs incurred during the 108
qualifying period in performing both a phase I and phase II 109
property assessment, as defined in the rules adopted under 110
section 3746.04 of the Revised Code, provided that the 111
performance of the phase I and phase II property assessment 112
resulted in the implementation of the remedy or remedial 113
activities. 114

(4) "Inner city area" means, in a municipal corporation 115
that has a population of at least one hundred thousand and does 116
not meet the criteria of a labor surplus area or a distressed 117
area, targeted investment areas established by the municipal 118
corporation within its boundaries that are comprised of the most 119
recent census block tracts that individually have at least 120
twenty per cent of their population at or below the state 121
poverty level or other census block tracts contiguous to such 122
census block tracts. 123

(5) "Labor surplus area" means an area designated as a 124
labor surplus area by the United States department of labor. 125

(6) "Official poverty line" has the same meaning as in 126
division (A) of section 3923.51 of the Revised Code. 127

(7) "Partner" includes a member of a limited liability 128
company formed under Chapter 1705. of the Revised Code or under 129
the laws of any other state if the limited liability company is 130
not treated as a corporation for purposes of Chapter 5733. of 131
the Revised Code and is not classified as an association taxable 132
as a corporation for federal income tax purposes. 133

(8) "Partnership" includes a limited liability company 134

formed under Chapter 1705. of the Revised Code or under the laws 135
of any other state if the limited liability company is not 136
treated as a corporation for purposes of Chapter 5733. of the 137
Revised Code and is not classified as an association taxable as 138
a corporation for federal income tax purposes. 139

(9) "Qualifying period" means the period that begins July 140
1, 1996, and ends June 30, 1999. 141

(10) "S corporation" means a corporation that has made an 142
election under subchapter S of chapter one of subtitle A of the 143
Internal Revenue Code for its taxable year under the Internal 144
Revenue Code; 145

(11) "Situational distress area" means a county or a 146
municipal corporation that has experienced or is experiencing a 147
closing or downsizing of a major employer that will adversely 148
affect the economy of the county or municipal corporation. In 149
order for a county or municipal corporation to be designated as 150
a situational distress area, the governing body of the county or 151
municipal corporation shall submit a petition to the director of 152
development in the form prescribed by the director. A county or 153
municipal corporation may be designated as a situational 154
distress area for a period not exceeding thirty-six months. 155

The petition shall include written documentation that 156
demonstrates all of the following: 157

(a) The number of jobs lost by the closing or downsizing; 158

(b) The impact that the job loss has on the unemployment 159
rate of the county or municipal corporation as measured by the 160
director of job and family services; 161

(c) The annual payroll associated with the job loss; 162

(d) The amount of state and local taxes associated with 163
the job loss; 164

(e) The impact that the closing or downsizing has on the 165
suppliers located in the county or municipal corporation. 166

(12) "Voluntary action" has the same meaning as in section 167
3746.01 of the Revised Code. 168

(13) "Taxpayer" means a corporation subject to the tax 169
imposed by section 5733.06 of the Revised Code or any person 170
subject to the tax imposed by section 5747.02 of the Revised 171
Code. 172

(14) "Governing body" means the board of county 173
commissioners of a county, the board of township trustees of a 174
township, or the legislative authority of a municipal 175
corporation. 176

(15) "Eligible site" means property for which a covenant 177
not to sue has been issued under section 3746.12 of the Revised 178
Code. 179

(B) (1) A taxpayer, partnership, or S corporation that has 180
been issued, under section 3746.12 of the Revised Code, a 181
covenant not to sue for a site by the director of environmental 182
protection during the qualifying period may apply to the 183
director of development, in the manner prescribed by the 184
director, to enter into an agreement under which the applicant 185
agrees to economically redevelop the site in a manner that will 186
create employment opportunities and a credit will be granted to 187
the applicant against the tax imposed by section 5733.06 or 188
5747.02 of the Revised Code. The application shall state the 189
eligible costs associated with a voluntary action incurred by 190
the applicant. The application shall be accompanied by proof, in 191

a form prescribed by the director of development, that the 192
covenant not to sue has been issued. 193

The applicant shall request the certified professional 194
that submitted the no further action letter for the eligible 195
site under section 3746.11 of the Revised Code to submit an 196
affidavit to the director of development verifying the eligible 197
costs associated with the voluntary action at that site. 198

The director shall review the applications in the order 199
they are received. If the director determines that the applicant 200
meets the requirements of this section, the director may enter 201
into an agreement granting a credit against the tax imposed by 202
section 5733.06 or 5747.02 of the Revised Code. In making the 203
determination, the director may consider the extent to which 204
political subdivisions and other units of government will 205
cooperate with the applicant to redevelop the eligible site. The 206
agreement shall state the amount of the tax credit and the 207
reporting requirements described in division (F) of this 208
section. 209

(2) The maximum annual amount of credits the director of 210
development may grant under such agreements shall be as follows: 211

1996	\$5,000,000	212
1997	\$10,000,000	213
1998	\$10,000,000	214
1999	\$5,000,000	215

For any year in which the director of development does not 216
grant tax credits under this section equal to the maximum annual 217
amount, the amount not granted for that year shall be added to 218
the maximum annual amount that may be granted for the following 219

year. However, the director shall not grant any tax credits 220
under this section after June 30, 1999. 221

(C) (1) If the covenant not to sue was issued in connection 222
with a site that is not located in an eligible area, the credit 223
amount is equal to the lesser of five hundred thousand dollars 224
or ten per cent of the eligible costs associated with a 225
voluntary action incurred by the taxpayer, partnership, or S 226
corporation. 227

(2) If a covenant not to sue was issued in connection with 228
a site that is located in an eligible area, the credit amount is 229
equal to the lesser of seven hundred fifty thousand dollars or 230
fifteen per cent of the eligible costs associated with a 231
voluntary action incurred by the taxpayer, partnership, or S 232
corporation. 233

(3) A taxpayer, partnership, or S corporation that has 234
been issued covenants not to sue under section 3746.12 of the 235
Revised Code for more than one site may apply to the director of 236
development to enter into more than one agreement granting a 237
credit against the tax imposed by section 5733.06 or 5747.02 of 238
the Revised Code. 239

(4) For each year for which a taxpayer, partnership, or S 240
corporation has been granted a credit under an agreement entered 241
into under this section, the director of development shall issue 242
a certificate to the taxpayer, partnership, or S corporation 243
indicating the amount of the credit the taxpayer, the partners 244
of the partnership, or the shareholders of the S corporation may 245
claim for that year, not including any amount that may be 246
carried forward from previous years under section 5733.34 ~~or~~ 247
~~5747.32~~ of the Revised Code. 248

(D) (1) Each agreement entered into under this section 249
shall incorporate a commitment by the taxpayer, partnership, or 250
S corporation not to permit the use of an eligible site to cause 251
the relocation of employment positions to that site from 252
elsewhere in this state, except as otherwise provided in 253
division (D) (2) of this section. The commitment shall be binding 254
on the taxpayer, partnership, or S corporation for the lesser of 255
five years from the date the agreement is entered into or the 256
number of years the taxpayer, partnership, or S corporation is 257
entitled to claim the tax credit under the agreement. 258

(2) An eligible site may be the site of employment 259
positions relocated from elsewhere in this state if the director 260
of development determines both of the following: 261

(a) That the site from which the employment positions 262
would be relocated is inadequate to meet market and industry 263
conditions, expansion plans, consolidation plans, or other 264
business considerations affecting the relocating employer; 265

(b) That the governing body of the county, township, or 266
municipal corporation from which the employment positions would 267
be relocated has been notified of the possible relocation. 268

For purposes of this section, the movement of an 269
employment position from one political subdivision to another 270
political subdivision shall be considered a relocation of an 271
employment position, but the transfer of an individual employee 272
from one political subdivision to another political subdivision 273
shall not be considered a relocation of an employment position 274
as long as the individual's employment position in the first 275
political subdivision is refilled. 276

(E) A taxpayer, partnership, or S corporation that has 277

entered into an agreement granting a credit against the tax 278
imposed by section 5733.06 or 5747.02 of the Revised Code that 279
subsequently recovers in a lawsuit or settlement of a lawsuit at 280
least seventy-five per cent of the eligible costs associated 281
with a voluntary action shall not claim any credit amount 282
remaining, including any amounts carried forward from prior 283
years, beginning with the taxable year in which the judgment in 284
the lawsuit is entered or the settlement is finally agreed to. 285

Any amount of credit that a taxpayer, partnership, or S 286
corporation may not claim by reason of this division shall not 287
be considered to have been granted for the purpose of 288
determining the total amount of credits that may be issued under 289
division (B) (2) of this section. 290

(F) Each year for which a taxpayer, partnership, or S 291
corporation claims a credit under section 5733.34 ~~or 5747.32~~ of 292
the Revised Code, the taxpayer, partnership, or S corporation 293
shall report the following to the director of development: 294

(1) The status of all cost recovery litigation described 295
in division (E) of this section to which it was a party during 296
the previous year; 297

(2) Confirmation that the covenant not to sue has not been 298
revoked or has not been voided; 299

(3) Confirmation that the taxpayer, partnership, or S 300
corporation has not permitted the eligible site to be used in 301
such a manner as to cause the relocation of employment positions 302
from elsewhere in this state in violation of the commitment 303
required under division (D) of this section; 304

(4) Any other information the director of development 305
requires to perform the director's duties under this section. 306

(G) The director of development shall annually certify, by 307
the first day of January of each year during the qualifying 308
period, the eligible areas for the calendar year that includes 309
that first day of January. 310

(H) The director of development, in accordance with 311
Chapter 119. of the Revised Code, shall adopt rules necessary to 312
implement this section, including rules prescribing forms 313
required for administering this section. 314

Sec. 122.172. (A) As used in this section, "tax liability" 315
means the tax owed under section 5733.06 or 5747.02 of the 316
Revised Code after allowance of all nonrefundable credits and 317
prior to the allowance of all refundable credits. The tax owed 318
under section 5733.06 of the Revised Code shall take into 319
account any adjustments to such tax required by division (G) of 320
section 5733.01 of the Revised Code that apply prior to 321
allowance of refundable credits. 322

(B) (1) The director of development shall administer the 323
manufacturing equipment grant program to provide grants for new 324
manufacturing machinery and equipment qualifying for the grant 325
under section 122.173 of the Revised Code. Except as provided in 326
division (C) of this section, the grants apply to the taxes 327
imposed by sections 5733.06 and 5747.02 of the Revised Code for 328
taxable years ending on or after July 1, 2005. 329

(2) To claim a grant, a taxpayer satisfying the 330
requirements of section 122.173 of the Revised Code shall 331
complete a grant request form, as prescribed by the director in 332
consultation with the tax commissioner, and shall file the form 333
with the tax return for the taxable year for which the grant is 334
claimed. In no event shall the grant reduce a taxpayer's tax 335
liability below the minimum tax owed for the taxable year. The 336

grant request form shall provide the information required to 337
allow the grant for the taxable year and is subject to audit by 338
the director and the commissioner. Any portion of the grant in 339
excess of the taxpayer's tax liability shall not be refundable 340
but may be carried forward as provided in section 122.173 of the 341
Revised Code. Upon the director's request, the commissioner 342
shall provide completed grant request forms filed under this 343
section to the director in a mutually agreed upon format. 344

(C) If a taxpayer is required to repay any credit allowed 345
under section 5733.33 ~~or 5747.31~~ of the Revised Code for a 346
taxable year ending prior to July 1, 2005, for a reason not 347
specified in Chapter 5733. or 5747. of the Revised Code, a grant 348
shall be available for that taxable year under section 122.173 349
of the Revised Code to the extent provided in that section. 350

(D) Any tax liability under section 5733.06 or 5747.02 of 351
the Revised Code that is underpaid as the result of an improper 352
claim for a grant under this section may be assessed by the tax 353
commissioner in the manner provided by section 5733.11 or 354
5747.11 of the Revised Code. 355

Sec. 122.173. (A) As used in this section: 356

(1) "Manufacturing machinery and equipment" means engines 357
and machinery, and tools and implements, of every kind used, or 358
designed to be used, in refining and manufacturing. 359

"Manufacturing machinery and equipment" does not include 360
property acquired after December 31, 1999, that is used: 361

(a) For the transmission and distribution of electricity; 362

(b) For the generation of electricity, if fifty per cent 363
or more of the electricity that the property generates is 364
consumed, during the one-hundred-twenty-month period commencing 365

with the date the property is placed in service, by persons that 366
are not related members to the person who generates the 367
electricity. 368

(2) "New manufacturing machinery and equipment" means 369
manufacturing machinery and equipment, the original use in this 370
state of which commences with the taxpayer or with a partnership 371
of which the taxpayer is a partner. "New manufacturing machinery 372
and equipment" does not include property acquired after December 373
31, 1999, that is used: 374

(a) For the transmission and distribution of electricity; 375

(b) For the generation of electricity, if fifty per cent 376
or more of the electricity that the property generates is 377
consumed, during the one-hundred-twenty-month period commencing 378
with the date the property is placed in service, by persons that 379
are not related members to the person who generates the 380
electricity. 381

(3) (a) "Purchase" has the same meaning as in section 382
179(d) (2) of the Internal Revenue Code. 383

(b) For purposes of this section, any property that is not 384
manufactured or assembled primarily by the taxpayer is 385
considered purchased at the time the agreement to acquire the 386
property becomes binding. Any property that is manufactured or 387
assembled primarily by the taxpayer is considered purchased at 388
the time the taxpayer places the property in service in the 389
county for which the taxpayer will calculate the county excess 390
amount. 391

(c) Notwithstanding section 179(d) of the Internal Revenue 392
Code, a taxpayer's direct or indirect acquisition of new 393
manufacturing machinery and equipment is not purchased on or 394

after July 1, 1995, if the taxpayer, or a person whose
relationship to the taxpayer is described in subparagraphs (A),
(B), or (C) of section 179(d)(2) of the Internal Revenue Code,
had directly or indirectly entered into a binding agreement to
acquire the property at any time prior to July 1, 1995.

(4) "Qualifying period" means the period that begins July
1, 1995, and ends June 30, 2005.

(5) "County average new manufacturing machinery and
equipment investment" means either of the following:

(a) The average annual cost of new manufacturing machinery
and equipment purchased for use in the county during baseline
years, in the case of a taxpayer that was in existence for more
than one year during baseline years.

(b) Zero, in the case of a taxpayer that was not in
existence for more than one year during baseline years.

(6) "Partnership" includes a limited liability company
formed under Chapter 1705. of the Revised Code or under the laws
of any other state, provided that the company is not classified
for federal income tax purposes as an association taxable as a
corporation.

(7) "Partner" includes a member of a limited liability
company formed under Chapter 1705. of the Revised Code or under
the laws of any other state, provided that the company is not
classified for federal income tax purposes as an association
taxable as a corporation.

(8) "Distressed area" means either a municipal corporation
that has a population of at least fifty thousand or a county
that meets two of the following criteria of economic distress,
or a municipal corporation the majority of the population of

which is situated in such a county: 424

(a) Its average rate of unemployment, during the most 425
recent five-year period for which data are available, is equal 426
to at least one hundred twenty-five per cent of the average rate 427
of unemployment for the United States for the same period; 428

(b) It has a per capita income equal to or below eighty 429
per cent of the median county per capita income of the United 430
States as determined by the most recently available figures from 431
the United States census bureau; 432

(c) (i) In the case of a municipal corporation, at least 433
twenty per cent of the residents have a total income for the 434
most recent census year that is below the official poverty line; 435

(ii) In the case of a county, in intercensal years, the 436
county has a ratio of transfer payment income to total county 437
income equal to or greater than twenty-five per cent. 438

(9) "Eligible area" means a distressed area, a labor 439
surplus area, an inner city area, or a situational distress 440
area. 441

(10) "Inner city area" means, in a municipal corporation 442
that has a population of at least one hundred thousand and does 443
not meet the criteria of a labor surplus area or a distressed 444
area, targeted investment areas established by the municipal 445
corporation within its boundaries that are comprised of the most 446
recent census block tracts that individually have at least 447
twenty per cent of their population at or below the state 448
poverty level or other census block tracts contiguous to such 449
census block tracts. 450

(11) "Labor surplus area" means an area designated as a 451
labor surplus area by the United States department of labor. 452

(12) "Official poverty line" has the same meaning as in 453
division (A) of section 3923.51 of the Revised Code. 454

(13) "Situational distress area" means a county or a 455
municipal corporation that has experienced or is experiencing a 456
closing or downsizing of a major employer that will adversely 457
affect the county's or municipal corporation's economy. In order 458
to be designated as a situational distress area, for a period 459
not to exceed thirty-six months, the county or municipal 460
corporation may petition the director of development. The 461
petition shall include written documentation that demonstrates 462
all of the following adverse effects on the local economy: 463

(a) The number of jobs lost by the closing or downsizing; 464

(b) The impact that the job loss has on the county's or 465
municipal corporation's unemployment rate as measured by the 466
state director of job and family services; 467

(c) The annual payroll associated with the job loss; 468

(d) The amount of state and local taxes associated with 469
the job loss; 470

(e) The impact that the closing or downsizing has on 471
suppliers located in the county or municipal corporation. 472

(14) "Cost" has the same meaning and limitation as in 473
section 179(d)(3) of the Internal Revenue Code. 474

(15) "Baseline years" means: 475

(a) Calendar years 1992, 1993, and 1994, with regard to a 476
grant claimed for the purchase during calendar year 1995, 1996, 477
1997, or 1998 of new manufacturing machinery and equipment; 478

(b) Calendar years 1993, 1994, and 1995, with regard to a 479

grant claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;	480 481
(c) Calendar years 1994, 1995, and 1996, with regard to a grant claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment;	482 483 484
(d) Calendar years 1995, 1996, and 1997, with regard to a grant claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;	485 486 487
(e) Calendar years 1996, 1997, and 1998, with regard to a grant claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;	488 489 490
(f) Calendar years 1997, 1998, and 1999, with regard to a grant claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;	491 492 493
(g) Calendar years 1998, 1999, and 2000, with regard to a grant claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;	494 495 496
(h) Calendar years 1999, 2000, and 2001, with regard to a grant claimed for the purchase on or after January 1, 2005, and on or before June 30, 2005, of new manufacturing machinery and equipment.	497 498 499 500
(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	501 502
(17) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.	503 504
(18) "Tax liability" has the same meaning as in section 122.172 of the Revised Code.	505 506

(B) (1) Subject to divisions (I) and (J) of this section, a grant is allowed against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are installed in this state not later than June 30, 2006.

(2) (a) Except as otherwise provided in division (B) (2) (b) of this section, a grant may be claimed under this section in excess of one million dollars only if the cost of all manufacturing machinery and equipment owned in this state by the taxpayer claiming the grant on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year.

As used in division (B) (2) (a) of this section, "calendar year" means the calendar year in which the machinery and equipment for which the grant is claimed was purchased.

(b) Division (B) (2) (a) of this section does not apply if the taxpayer claiming the grant applies for and is issued a waiver of the requirement of that division. A taxpayer may apply to the director of development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the grant is necessary to increase or retain employees in this state, and that the grant has not caused relocation of manufacturing machinery and equipment among counties within this state for the primary purpose of qualifying for the grant.

(C) (1) Except as otherwise provided in division (C) (2) and division (I) of this section, the grant amount is equal to seven

and one-half per cent of the excess of the cost of the new 537
manufacturing machinery and equipment purchased during the 538
calendar year for use in a county over the county average new 539
manufacturing machinery and equipment investment for that 540
county. 541

(2) Subject to division (I) of this section, as used in 542
division (C)(2) of this section, "county excess" means the 543
taxpayer's excess cost for a county as computed under division 544
(C)(1) of this section. 545

Subject to division (I) of this section, a taxpayer with a 546
county excess, whose purchases included purchases for use in any 547
eligible area in the county, the grant amount is equal to 548
thirteen and one-half per cent of the cost of the new 549
manufacturing machinery and equipment purchased during the 550
calendar year for use in the eligible areas in the county, 551
provided that the cost subject to the thirteen and one-half per 552
cent rate shall not exceed the county excess. If the county 553
excess is greater than the cost of the new manufacturing 554
machinery and equipment purchased during the calendar year for 555
use in eligible areas in the county, the grant amount also shall 556
include an amount equal to seven and one-half per cent of the 557
amount of the difference. 558

(3) If a taxpayer is allowed a grant for purchases of new 559
manufacturing machinery and equipment in more than one county or 560
eligible area, it shall aggregate the amount of those grants 561
each year. 562

(4) Except as provided in division (J) of this section, 563
the taxpayer shall claim one-seventh of the grant amount for the 564
taxable year ending in the calendar year in which the new 565
manufacturing machinery and equipment is purchased for use in 566

the county by the taxpayer or partnership. One-seventh of the 567
taxpayer grant amount is allowed for each of the six ensuing 568
taxable years. Except for carried-forward amounts, the taxpayer 569
is not allowed any grant amount remaining if the new 570
manufacturing machinery and equipment is sold by the taxpayer or 571
partnership or is transferred by the taxpayer or partnership out 572
of the county before the end of the seven-year period unless, at 573
the time of the sale or transfer, the new manufacturing 574
machinery and equipment has been fully depreciated for federal 575
income tax purposes. 576

(5) (a) A taxpayer that acquires manufacturing machinery 577
and equipment as a result of a merger with the taxpayer with 578
whom commenced the original use in this state of the 579
manufacturing machinery and equipment, or with a taxpayer that 580
was a partner in a partnership with whom commenced the original 581
use in this state of the manufacturing machinery and equipment, 582
is entitled to any remaining or carried-forward grant amounts to 583
which the taxpayer was entitled. 584

(b) A taxpayer that enters into an agreement under 585
division (C) (3) of section 5709.62 of the Revised Code and that 586
acquires manufacturing machinery or equipment as a result of 587
purchasing a large manufacturing facility, as defined in section 588
5709.61 of the Revised Code, from another taxpayer with whom 589
commenced the original use in this state of the manufacturing 590
machinery or equipment, and that operates the large 591
manufacturing facility so purchased, is entitled to any 592
remaining or carried-forward grant amounts to which the other 593
taxpayer who sold the facility would have been entitled under 594
this section had the other taxpayer not sold the manufacturing 595
facility or equipment. 596

(c) New manufacturing machinery and equipment is not 597
considered sold if a pass-through entity transfers to another 598
pass-through entity substantially all of its assets as part of a 599
plan of reorganization under which substantially all gain and 600
loss is not recognized by the pass-through entity that is 601
transferring the new manufacturing machinery and equipment to 602
the transferee and under which the transferee's basis in the new 603
manufacturing machinery and equipment is determined, in whole or 604
in part, by reference to the basis of the pass-through entity 605
that transferred the new manufacturing machinery and equipment 606
to the transferee. 607

(d) Division (C) (5) of this section applies only if the 608
acquiring taxpayer or transferee does not sell the new 609
manufacturing machinery and equipment or transfer the new 610
manufacturing machinery and equipment out of the county before 611
the end of the seven-year period to which division (C) (4) of 612
this section refers. 613

(e) Division (C) (5) (b) of this section applies only to the 614
extent that the taxpayer that sold the manufacturing machinery 615
or equipment, upon request, timely provides to the tax 616
commissioner any information that the tax commissioner considers 617
to be necessary to ascertain any remaining or carried-forward 618
amounts to which the taxpayer that sold the facility would have 619
been entitled under this section had the taxpayer not sold the 620
manufacturing machinery or equipment. Nothing in division (C) (5) 621
(b) or (e) of this section shall be construed to allow a 622
taxpayer to claim any grant amount with respect to the acquired 623
manufacturing machinery or equipment that is greater than the 624
amount that would have been available to the other taxpayer that 625
sold the manufacturing machinery or equipment had the other 626
taxpayer not sold the manufacturing machinery or equipment. 627

(D) The taxpayer shall claim the grant allowed by this 628
section in the manner provided by section 122.172 of the Revised 629
Code. Any portion of the grant in excess of the taxpayer's tax 630
liability for the taxable year shall not be refundable but may 631
be carried forward for the next three consecutive taxable years. 632

(E) A taxpayer purchasing new manufacturing machinery and 633
equipment and intending to claim the grant shall file, with the 634
director of development, a notice of intent to claim the grant 635
on a form prescribed by the director of development. The 636
director of development shall inform the tax commissioner of the 637
notice of intent to claim the grant. No grant may be claimed 638
under this section for any manufacturing machinery and equipment 639
with respect to which a notice was not filed by the date of a 640
timely filed return, including extensions, for the taxable year 641
that includes September 30, 2005, but a notice filed on or 642
before such date under division (E) of section 5733.33 of the 643
Revised Code of the intent to claim the credit under that 644
section ~~or section 5747.31 of the Revised Code~~ also shall be 645
considered a notice of the intent to claim a grant under this 646
section. 647

(F) The director of development shall annually certify, by 648
the first day of January of each year during the qualifying 649
period, the eligible areas for the tax grant for the calendar 650
year that includes that first day of January. The director shall 651
send a copy of the certification to the tax commissioner. 652

(G) New manufacturing machinery and equipment for which a 653
taxpayer claims the credit under section 5733.31~~7~~ or 5733.311~~7~~ 654
~~5747.26, or 5747.261~~ of the Revised Code shall not be considered 655
new manufacturing machinery and equipment for purposes of the 656
grant under this section. 657

(H) (1) Notwithstanding sections 5733.11 and 5747.13 of the Revised Code, but subject to division (H) (2) of this section, the tax commissioner may issue an assessment against a person with respect to a grant claimed under this section for new manufacturing machinery and equipment described in division (A) (1) (b) or (2) (b) of this section, if the machinery or equipment subsequently does not qualify for the grant.

(2) Division (H) (1) of this section shall not apply after the twenty-fourth month following the last day of the period described in divisions (A) (1) (b) and (2) (b) of this section.

(I) Notwithstanding any other provision of this section to the contrary, in the case of a qualifying controlled group, the grant available under this section to a taxpayer or taxpayers in the qualifying controlled group shall be computed as if all corporations in the group were a single corporation. The grant shall be allocated to such a taxpayer or taxpayers in the group in any amount elected for the taxable year by the group. The election shall be revocable and amendable during the period described in division (B) of section 5733.12 of the Revised Code.

This division applies to all purchases of new manufacturing machinery and equipment made on or after January 1, 2001, and to all baseline years used to compute any grant attributable to such purchases; provided, that this division may be applied solely at the election of the qualifying controlled group with respect to all purchases of new manufacturing machinery and equipment made before that date, and to all baseline years used to compute any grant attributable to such purchases. The qualifying controlled group at any time may elect to apply this division to purchases made prior to January 1,

2001, subject to the following: 688

(1) The election is irrevocable; 689

(2) The election need not accompany a timely filed report, 690
but the election may accompany a subsequently filed but timely 691
application for refund, a subsequently filed but timely amended 692
report, or a subsequently filed but timely petition for 693
reassessment. 694

(J) Except as provided in division (B) of section 122.172 695
of the Revised Code, no grant under this section may be claimed 696
for any taxable year for which a credit is allowed under section 697
5733.33 ~~or 5747.31~~ of the Revised Code. If the tax imposed by 698
section 5733.06 of the Revised Code for which a grant is allowed 699
under this section has been prorated under division (G) (2) of 700
section 5733.01 of the Revised Code, the grant shall be prorated 701
by the same percentage as the tax. 702

Sec. 5709.65. (A) An enterprise issued a certificate under 703
section 5709.64 of the Revised Code shall be entitled to the 704
following tax incentives: 705

(1) With the exception of improvements to land or tangible 706
personal property constituting or used in the retail portion, if 707
any, of a facility, any improvement to land or tangible personal 708
property at a facility for which a certificate is issued, first 709
used in business at the facility as the result of a project, 710
shall not be considered an asset of a corporate enterprise in 711
determining the value of its issued and outstanding stock under 712
division (A) of section 5733.05 of the Revised Code at the end 713
of the taxable year that includes the certificate's date of 714
issuance. 715

(2) With the exception of the original cost of 716

improvements to land or tangible personal property constituting 717
or used in the retail portion, if any, of a facility, the 718
original cost of any improvement to land or tangible personal 719
property at the facility for which the certificate is issued, 720
first used in business at the facility as a result of a project, 721
shall be excluded from the numerator upon computation of the 722
property factor of a corporate enterprise under division (B) (2) 723
(a) of section 5733.05 of the Revised Code, or of a noncorporate 724
enterprise under division (A) of section 5747.21 of the Revised 725
Code, for the taxable year that includes the certificate's date 726
of issuance. 727

As used in divisions (A) (1) and (2) of this section, the 728
"retail portion" of a facility is that part of a facility used 729
primarily for making retail sales as defined in division (O) of 730
section 5739.01 of the Revised Code. 731

(3) Compensation paid to new employees described under 732
divisions (A) (2) (a) to (e) of section 5709.64 of the Revised 733
Code at the facility for which the certificate is issued, who 734
are hired as a result of a project, shall be excluded from the 735
numerator upon computation of the payroll factor of a corporate 736
enterprise under division (B) (2) (b) of section 5733.05 of the 737
Revised Code, or of a noncorporate enterprise under division (B) 738
of section 5747.21 of the Revised Code, for the taxable year 739
that includes the certificate's date of issuance. 740

(4) An enterprise that reimburses its new employees 741
described under divisions (A) (2) (a) to (e) of section 5709.64 of 742
the Revised Code for all or part of the cost of day-care 743
services necessary to enable them to be employed at a facility 744
for which a certificate is issued shall be entitled to a credit 745
equal to the amounts so reimbursed, up to a maximum of three 746

hundred dollars for each child or dependent receiving the 747
services, for the taxable year in which reimbursement is made, 748
against the tax imposed by section 5733.06 of the Revised Code 749
on a corporate enterprise, or ~~by~~ against the aggregate amount of 750
tax imposed on the owners of a noncorporate enterprise under 751
section 5747.02 of the Revised Code ~~on the owners of a~~ 752
~~noncorporate enterprise~~, for the taxable year that includes the 753
certificate's date of issuance. Only reimbursements of amounts 754
paid by new employees to day-care centers licensed by the 755
department of job and family services for day-care services 756
provided during the first twenty-four months of employment as a 757
new employee may be applied toward the credit provided under 758
this division. Any enterprise claiming this credit shall 759
maintain records verifying that the credit is claimed only for 760
reimbursement of amounts expended by new employees for such 761
services. 762

(5) For each new employee described in divisions (A) (2) (a) 763
to (e) of section 5709.64 of the Revised Code who completes a 764
training program and is subsequently employed by an enterprise 765
for at least ninety days, if the enterprise pays or reimburses 766
all or part of the cost of the employee's participation in the 767
training program, it may claim a credit equal to the amount paid 768
or reimbursed or one thousand dollars, whichever is less, in the 769
taxable year in which the employee completes the ninety days of 770
subsequent employment, against the tax imposed on a corporate 771
enterprise by section 5733.06 of the Revised Code, or against 772
the aggregate amount of tax imposed on the owners of a 773
noncorporate enterprise ~~by~~ under section 5747.02 of the Revised 774
Code. Only one credit shall be allowed with respect to any 775
individual. Attendance at a qualified training program under 776
this section does not bar an otherwise eligible individual from 777

receipt of benefits under Chapter 4141. of the Revised Code. 778

(B) None of the items set forth in divisions (A) (2) and 779
(3) of this section shall be considered in making any allocation 780
or apportionment under division (B) (2) (d) of section 5733.05 or 781
division (D) of section 5747.21 of the Revised Code. 782

(C) All credits provided under this section to a 783
noncorporate enterprise shall be divided pro rata among the 784
owners of the enterprise subject to the tax imposed by section 785
5747.02 of the Revised Code, based upon their proportionate 786
ownership interests in the enterprise. The enterprise shall file 787
with the tax commissioner, on a form prescribed by the 788
commissioner, a statement showing the total available credit and 789
the portion thereof attributed to each owner. The statement 790
shall identify each owner by name and social security number and 791
shall be filed with the tax commissioner by the date prescribed 792
by the commissioner, which shall be no earlier than the 793
fifteenth day of the month following the close of the 794
enterprise's taxable year for which the credit is claimed. 795

(D) All state income tax or corporation franchise tax 796
credits provided under this section shall be claimed in the 797
order required under section 5733.98 or 5747.98 of the Revised 798
Code. The credits, to the extent they exceed the taxpayer's 799
aggregate tax liability for the taxable year after allowance for 800
any other credits that precede the credits under this section in 801
that order, shall be carried forward to the next succeeding 802
taxable year or years until fully utilized. 803

Sec. 5709.66. (A) If an enterprise has been granted an 804
incentive for the current calendar year under an agreement 805
entered into pursuant to section 5709.62 or 5709.63 of the 806
Revised Code and satisfies both of the requirements described in 807

divisions (A) (1) and (2) of this section at the time of 808
application, it may apply to the director of development, on a 809
form prescribed by the director, for the employee tax credit 810
certificate under division (B) of this section. 811

(1) The enterprise has established, expanded, renovated, 812
or occupied a facility pursuant to an agreement under section 813
5709.62 or 5709.63 of the Revised Code in a zone that is 814
certified by the director of development as having one of the 815
characteristics described in divisions (A) (1) (a) or (b) and at 816
least one of the characteristics described in divisions (A) (1) 817
(c) to (h) of section 5709.61 of the Revised Code. 818

(2) The enterprise or any predecessor enterprise has not 819
closed or reduced employment at any place of business in this 820
state within the twelve months preceding application unless the 821
enterprise, since the date the agreement was formally approved 822
by the legislative authority, has hired new employees equal in 823
number to not less than fifty per cent of the total number of 824
employees employed by the enterprise at other locations in this 825
state on that date. The legislative authority of any municipal 826
corporation or county that concludes that an enterprise or any 827
predecessor enterprise has closed or reduced employment at a 828
place of business in that municipal corporation or county may 829
appeal to the director to determine whether the enterprise or 830
any predecessor enterprise has done so. Upon receiving such an 831
appeal, the director shall investigate the allegations and 832
determine whether the enterprise satisfies the requirement of 833
division (A) (2) of this section before proceeding under division 834
(B) of this section. 835

Within sixty days after receiving an application under 836
this section, the director shall review, investigate, and verify 837

the application and determine whether the enterprise is eligible 838
for the employee tax credit certificate under division (B) of 839
this section. The application shall contain such information and 840
documents as the director requires, by rule, to ascertain 841
whether the enterprise is eligible for the certificate. On 842
finding that the enterprise is eligible, the director shall 843
proceed under division (B) of this section. 844

On determining that an enterprise is not eligible for the 845
certificate under division (B) of this section, the director 846
shall send notice of this determination, specifying the reasons 847
for it, by certified mail, to the applicant, the board of county 848
commissioners, and the chief executive of the municipal 849
corporation in which the facility to which the certificate would 850
have been given is located. Within thirty days after receiving 851
such a notice, an enterprise may request, in writing, a hearing 852
before the director for the purpose of reviewing the application 853
and the reasons for the determination. Within sixty days after 854
receiving a request for a hearing, the director shall afford one 855
and, within thirty days after the hearing, shall issue a 856
redetermination of the enterprise's eligibility for the 857
incentives. If the enterprise is found to be eligible, the 858
director shall proceed under division (B) of this section. If 859
the enterprise is found to be ineligible, the director shall 860
send notice of this finding, by certified mail, to the 861
applicant, the board of commissioners of the county or the chief 862
executive of the municipal corporation in which the facility to 863
which the certificate would have been given is located. The 864
director's redetermination that an enterprise is ineligible may 865
be appealed to the board of tax appeals under section 5717.02 of 866
the Revised Code. 867

(B) (1) If the director determines an enterprise to be 868

eligible under division (A) of this section, the director shall 869
determine if the enterprise is entitled to an employee tax 870
credit certificate. An enterprise is entitled to an employee tax 871
credit certificate for each eligible employee the enterprise 872
hires. A taxpayer who is issued an employee tax credit 873
certificate under this section may claim a nonrefundable credit 874
of one thousand dollars against the ~~tax imposed by taxpayer's~~ 875
aggregate tax liability under either section 5733.06 or 5747.02 876
of the Revised Code for each taxable year of the agreement 877
entered into under section 5709.62 or 5709.63 of the Revised 878
Code in which an eligible employee is employed for the 879
taxpayer's full taxable year. If the eligible employee is 880
employed for less than the taxpayer's full taxable year, the 881
taxpayer may claim a reduced credit against the aggregate amount 882
of tax imposed by due under either section 5733.06 or 5747.02 of 883
the Revised Code. The reduced credit shall be computed by 884
dividing the total number of days in the taxable year into one 885
thousand dollars and multiplying the quotient by the number of 886
days the eligible employee was employed in the taxable year. For 887
purposes of the computation, the eligible employee shall be 888
deemed to have been employed for each day of the taxable year 889
commencing on the date of employment or ending on the date of 890
termination of employment. 891

The credit provided under this division to a noncorporate 892
enterprise or an enterprise that is an S corporation as defined 893
in section 1361 of the Internal Revenue Code shall be divided 894
pro rata among the owners or shareholders of the enterprise 895
subject to the tax imposed by section 5747.02 of the Revised 896
Code, based on their proportionate ownership interests in the 897
enterprise. The enterprise shall file with the tax commissioner, 898
on a form prescribed by the tax commissioner, a statement 899

showing the total available credit and the portion of that 900
credit attributed to each owner or shareholder. The statement 901
shall identify each owner or shareholder by name and social 902
security number and shall be filed with the tax commissioner by 903
the date prescribed by the tax commissioner, which shall be no 904
earlier than the fifteenth day of the month following the close 905
of the enterprise's taxable year for which the credit is 906
claimed. 907

The taxpayer shall claim the credit in the order required 908
under section 5733.98 or 5747.98 of the Revised Code. If the 909
credit provided under this division exceeds the taxpayer's tax 910
liability for the taxable year after allowance for any other 911
credits that precede the credit under this section in that 912
order, the credit may be carried forward for the next three 913
succeeding taxable years, but the amount of any excess credit 914
allowed in any such year shall be deducted from the balance 915
carried forward to the succeeding taxable year. 916

(2) As used in this division: 917

(a) "Eligible employee" means a new employee at a facility 918
who, at the time the employee was hired to work at the facility, 919
was a participant of the Ohio works first program under Chapter 920
5107. of the Revised Code or the prevention, retention, and 921
contingency program under Chapter 5108. of the Revised Code or a 922
recipient of general assistance under former Chapter 5113. of 923
the Revised Code and resided for at least one year in the county 924
in which the facility is located. "Eligible employee" does not 925
include any employee of the enterprise who is a new employee, as 926
defined under section 122.17 of the Revised Code, on the basis 927
of whom the enterprise has claimed a credit under that section. 928

(b) "Taxable year" has the same meaning as in section 929

5733.04 or 5747.01 of the Revised Code, as applicable to the 930
enterprise claiming the credit. 931

Sec. 5733.33. (A) As used in this section: 932

(1) "Manufacturing machinery and equipment" means engines 933
and machinery, and tools and implements, of every kind used, or 934
designed to be used, in refining and manufacturing. 935

"Manufacturing machinery and equipment" does not include 936
property acquired after December 31, 1999, that is used: 937

(a) For the transmission and distribution of electricity; 938

(b) For the generation of electricity, if fifty per cent 939
or more of the electricity that the property generates is 940
consumed, during the one-hundred-twenty-month period commencing 941
with the date the property is placed in service, by persons that 942
are not related members to the person who generates the 943
electricity. 944

(2) "New manufacturing machinery and equipment" means 945
manufacturing machinery and equipment, the original use in this 946
state of which commences with the taxpayer or with a partnership 947
of which the taxpayer is a partner. "New manufacturing machinery 948
and equipment" does not include property acquired after December 949
31, 1999, that is used: 950

(a) For the transmission and distribution of electricity; 951

(b) For the generation of electricity, if fifty per cent 952
or more of the electricity that the property generates is 953
consumed, during the one-hundred-twenty-month period commencing 954
with the date the property is placed in service, by persons that 955
are not related members to the person who generates the 956
electricity. 957

(3) (a) "Purchase" has the same meaning as in section 179(d) (2) of the Internal Revenue Code. 958
959

(b) For purposes of this section, any property that is not manufactured or assembled primarily by the taxpayer is considered purchased at the time the agreement to acquire the property becomes binding. Any property that is manufactured or assembled primarily by the taxpayer is considered purchased at the time the taxpayer places the property in service in the county for which the taxpayer will calculate the county excess amount. 960
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(c) Notwithstanding section 179(d) of the Internal Revenue Code, a taxpayer's direct or indirect acquisition of new manufacturing machinery and equipment is not purchased on or after July 1, 1995, if the taxpayer, or a person whose relationship to the taxpayer is described in subparagraphs (A), (B), or (C) of section 179(d) (2) of the Internal Revenue Code, had directly or indirectly entered into a binding agreement to acquire the property at any time prior to July 1, 1995. 968
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(4) "Qualifying period" means the period that begins July 1, 1995, and ends June 30, 2005. 976
977

(5) "County average new manufacturing machinery and equipment investment" means either of the following: 978
979

(a) The average annual cost of new manufacturing machinery and equipment purchased for use in the county during baseline years, in the case of a taxpayer that was in existence for more than one year during baseline years. 980
981
982
983

(b) Zero, in the case of a taxpayer that was not in existence for more than one year during baseline years. 984
985

(6) "Partnership" includes a limited liability company 986

formed under Chapter 1705. of the Revised Code or under the laws 987
of any other state, provided that the company is not classified 988
for federal income tax purposes as an association taxable as a 989
corporation. 990

(7) "Partner" includes a member of a limited liability 991
company formed under Chapter 1705. of the Revised Code or under 992
the laws of any other state, provided that the company is not 993
classified for federal income tax purposes as an association 994
taxable as a corporation. 995

(8) "Distressed area" means either a municipal corporation 996
that has a population of at least fifty thousand or a county 997
that meets two of the following criteria of economic distress, 998
or a municipal corporation the majority of the population of 999
which is situated in such a county: 1000

(a) Its average rate of unemployment, during the most 1001
recent five-year period for which data are available, is equal 1002
to at least one hundred twenty-five per cent of the average rate 1003
of unemployment for the United States for the same period; 1004

(b) It has a per capita income equal to or below eighty 1005
per cent of the median county per capita income of the United 1006
States as determined by the most recently available figures from 1007
the United States census bureau; 1008

(c) (i) In the case of a municipal corporation, at least 1009
twenty per cent of the residents have a total income for the 1010
most recent census year that is below the official poverty line; 1011

(ii) In the case of a county, in intercensal years, the 1012
county has a ratio of transfer payment income to total county 1013
income equal to or greater than twenty-five per cent. 1014

(9) "Eligible area" means a distressed area, a labor 1015

surplus area, an inner city area, or a situational distress area. 1016
1017

(10) "Inner city area" means, in a municipal corporation 1018
that has a population of at least one hundred thousand and does 1019
not meet the criteria of a labor surplus area or a distressed 1020
area, targeted investment areas established by the municipal 1021
corporation within its boundaries that are comprised of the most 1022
recent census block tracts that individually have at least 1023
twenty per cent of their population at or below the state 1024
poverty level or other census block tracts contiguous to such 1025
census block tracts. 1026

(11) "Labor surplus area" means an area designated as a 1027
labor surplus area by the United States department of labor. 1028

(12) "Official poverty line" has the same meaning as in 1029
division (A) of section 3923.51 of the Revised Code. 1030

(13) "Situational distress area" means a county or a 1031
municipal corporation that has experienced or is experiencing a 1032
closing or downsizing of a major employer, that will adversely 1033
affect the county's or municipal corporation's economy. In order 1034
to be designated as a situational distress area for a period not 1035
to exceed thirty-six months, the county or municipal corporation 1036
may petition the director of development. The petition shall 1037
include written documentation that demonstrates all of the 1038
following adverse effects on the local economy: 1039

(a) The number of jobs lost by the closing or downsizing; 1040

(b) The impact that the job loss has on the county's or 1041
municipal corporation's unemployment rate as measured by the 1042
state director of job and family services; 1043

(c) The annual payroll associated with the job loss; 1044

(d) The amount of state and local taxes associated with	1045
the job loss;	1046
(e) The impact that the closing or downsizing has on the	1047
suppliers located in the county or municipal corporation.	1048
(14) "Cost" has the same meaning and limitation as in	1049
section 179(d) (3) of the Internal Revenue Code.	1050
(15) "Baseline years" means:	1051
(a) Calendar years 1992, 1993, and 1994, with regard to a	1052
credit claimed for the purchase during calendar year 1995, 1996,	1053
1997, or 1998 of new manufacturing machinery and equipment;	1054
(b) Calendar years 1993, 1994, and 1995, with regard to a	1055
credit claimed for the purchase during calendar year 1999 of new	1056
manufacturing machinery and equipment;	1057
(c) Calendar years 1994, 1995, and 1996, with regard to a	1058
credit claimed for the purchase during calendar year 2000 of new	1059
manufacturing machinery and equipment;	1060
(d) Calendar years 1995, 1996, and 1997, with regard to a	1061
credit claimed for the purchase during calendar year 2001 of new	1062
manufacturing machinery and equipment;	1063
(e) Calendar years 1996, 1997, and 1998, with regard to a	1064
credit claimed for the purchase during calendar year 2002 of new	1065
manufacturing machinery and equipment;	1066
(f) Calendar years 1997, 1998, and 1999, with regard to a	1067
credit claimed for the purchase during calendar year 2003 of new	1068
manufacturing machinery and equipment;	1069
(g) Calendar years 1998, 1999, and 2000, with regard to a	1070
credit claimed for the purchase during calendar year 2004 of new	1071

manufacturing machinery and equipment; 1072

(h) Calendar years 1999, 2000, and 2001, with regard to a 1073
credit claimed for the purchase on or after January 1, 2005, and 1074
on or before June 30, 2005, of new manufacturing machinery and 1075
equipment. 1076

(16) "Related member" has the same meaning as in section 1077
5733.042 of the Revised Code. 1078

(B) (1) Subject to division (I) of this section, a 1079
nonrefundable credit is allowed against the tax imposed by 1080
section 5733.06 of the Revised Code for a taxpayer that 1081
purchases new manufacturing machinery and equipment during the 1082
qualifying period, provided that the new manufacturing machinery 1083
and equipment are installed in this state no later than June 30, 1084
2006. No credit shall be allowed under this section ~~or section~~ 1085
~~5747.31 of the Revised Code~~ for taxable years ending on or after 1086
July 1, 2005. The elimination of the credit for those taxable 1087
years includes the elimination of any remaining one-sevenths of 1088
credit amounts for which a portion was allowed for prior taxable 1089
years and the elimination of any credit carry-forward, but the 1090
purchases on which the credits were based remain subject to 1091
grants under section 122.173 of the Revised Code for those 1092
remaining one-seventh amounts or carry-forward amounts. 1093

(2) (a) Except as otherwise provided in division (B) (2) (b) 1094
of this section, a credit may be claimed under this section in 1095
excess of one million dollars only if the cost of all 1096
manufacturing machinery and equipment owned in this state by the 1097
taxpayer claiming the credit on the last day of the calendar 1098
year exceeds the cost of all manufacturing machinery and 1099
equipment owned in this state by the taxpayer on the first day 1100
of that calendar year. 1101

As used in division (B) (2) (a) of this section, "calendar year" means the calendar year in which the machinery and equipment for which the credit is claimed was purchased.

(b) Division (B) (2) (a) of this section does not apply if the taxpayer claiming the credit applies for and is issued a waiver of the requirement of that division. A taxpayer may apply to the director of development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the credit is necessary to increase or retain employees in this state, and that the credit has not caused relocation of manufacturing machinery and equipment among counties within this state for the primary purpose of qualifying for the credit.

(C) (1) Except as otherwise provided in division (C) (2) and division (I) of this section, the credit amount is equal to seven and one-half per cent of the excess of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in a county over the county average new manufacturing machinery and equipment investment for that county.

(2) Subject to division (I) of this section, as used in division (C) (2) of this section "county excess" means the taxpayer's excess cost for a county as computed under division (C) (1) of this section.

Subject to division (I) of this section, a taxpayer with a county excess, whose purchases included purchases for use in any eligible area in the county, the credit amount is equal to thirteen and one-half per cent of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in the eligible areas in the county,

provided that the cost subject to the thirteen and one-half per 1132
cent rate shall not exceed the county excess. If the county 1133
excess is greater than the cost of the new manufacturing 1134
machinery and equipment purchased during the calendar year for 1135
use in eligible areas in the county, the credit amount also 1136
shall include an amount equal to seven and one-half per cent of 1137
the amount of the difference. 1138

(3) If a taxpayer is allowed a credit for purchases of new 1139
manufacturing machinery and equipment in more than one county or 1140
eligible area, it shall aggregate the amount of those credits 1141
each year. 1142

(4) The taxpayer shall claim one-seventh of the credit 1143
amount for the tax year immediately following the calendar year 1144
in which the new manufacturing machinery and equipment is 1145
purchased for use in the county by the taxpayer or partnership. 1146
One-seventh of the taxpayer credit amount is allowed for each of 1147
the six ensuing tax years. Except for carried-forward amounts, 1148
the taxpayer is not allowed any credit amount remaining if the 1149
new manufacturing machinery and equipment is sold by the 1150
taxpayer or partnership or is transferred by the taxpayer or 1151
partnership out of the county before the end of the seven-year 1152
period unless, at the time of the sale or transfer, the new 1153
manufacturing machinery and equipment has been fully depreciated 1154
for federal income tax purposes. 1155

(5) (a) A taxpayer that acquires manufacturing machinery 1156
and equipment as a result of a merger with the taxpayer with 1157
whom commenced the original use in this state of the 1158
manufacturing machinery and equipment, or with a taxpayer that 1159
was a partner in a partnership with whom commenced the original 1160
use in this state of the manufacturing machinery and equipment, 1161

is entitled to any remaining or carried-forward credit amounts 1162
to which the taxpayer was entitled. 1163

(b) A taxpayer that enters into an agreement under 1164
division (C) (3) of section 5709.62 of the Revised Code and that 1165
acquires manufacturing machinery or equipment as a result of 1166
purchasing a large manufacturing facility, as defined in section 1167
5709.61 of the Revised Code, from another taxpayer with whom 1168
commenced the original use in this state of the manufacturing 1169
machinery or equipment, and that operates the large 1170
manufacturing facility so purchased, is entitled to any 1171
remaining or carried-forward credit amounts to which the other 1172
taxpayer who sold the facility would have been entitled under 1173
this section had the other taxpayer not sold the manufacturing 1174
facility or equipment. 1175

(c) New manufacturing machinery and equipment is not 1176
considered sold if a pass-through entity transfers to another 1177
pass-through entity substantially all of its assets as part of a 1178
plan of reorganization under which substantially all gain and 1179
loss is not recognized by the pass-through entity that is 1180
transferring the new manufacturing machinery and equipment to 1181
the transferee and under which the transferee's basis in the new 1182
manufacturing machinery and equipment is determined, in whole or 1183
in part, by reference to the basis of the pass-through entity 1184
which transferred the new manufacturing machinery and equipment 1185
to the transferee. 1186

(d) Division (C) (5) of this section shall apply only if 1187
the acquiring taxpayer or transferee does not sell the new 1188
manufacturing machinery and equipment or transfer the new 1189
manufacturing machinery and equipment out of the county before 1190
the end of the seven-year period to which division (C) (4) of 1191

this section refers. 1192

(e) Division (C) (5) (b) of this section applies only to the 1193
extent that the taxpayer that sold the manufacturing machinery 1194
or equipment, upon request, timely provides to the tax 1195
commissioner any information that the tax commissioner considers 1196
to be necessary to ascertain any remaining or carried-forward 1197
amounts to which the taxpayer that sold the facility would have 1198
been entitled under this section had the taxpayer not sold the 1199
manufacturing machinery or equipment. Nothing in division (C) (5) 1200
(b) or (e) of this section shall be construed to allow a 1201
taxpayer to claim any credit amount with respect to the acquired 1202
manufacturing machinery or equipment that is greater than the 1203
amount that would have been available to the other taxpayer that 1204
sold the manufacturing machinery or equipment had the other 1205
taxpayer not sold the manufacturing machinery or equipment. 1206

(D) The taxpayer shall claim the credit in the order 1207
required under section 5733.98 of the Revised Code. Each year, 1208
any credit amount in excess of the tax due under section 5733.06 1209
of the Revised Code after allowing for any other credits that 1210
precede the credit under this section in that order may be 1211
carried forward for three tax years. 1212

(E) A taxpayer purchasing new manufacturing machinery and 1213
equipment and intending to claim the credit shall file, with the 1214
department of development, a notice of intent to claim the 1215
credit on a form prescribed by the department of development. 1216
The department of development shall inform the tax commissioner 1217
of the notice of intent to claim the credit. No credit may be 1218
claimed under this section for any manufacturing machinery and 1219
equipment with respect to which a notice was not filed by the 1220
date of a timely filed return, including extensions, for the 1221

taxable year that includes September 30, 2005. 1222

(F) The director of development shall annually certify, by 1223
the first day of January of each year during the qualifying 1224
period, the eligible areas for the tax credit for the calendar 1225
year that includes that first day of January. The director shall 1226
send a copy of the certification to the tax commissioner. 1227

(G) New manufacturing machinery and equipment for which a 1228
taxpayer claims the credit under section 5733.31~~7~~or 5733.311~~7~~ 1229
~~5747.26, or 5747.261~~ of the Revised Code shall not be considered 1230
new manufacturing machinery and equipment for purposes of the 1231
credit under this section. 1232

(H) (1) Notwithstanding sections 5733.11 and 5747.13 of the 1233
Revised Code, but subject to division (H) (2) of this section, 1234
the tax commissioner may issue an assessment against a person 1235
with respect to a credit claimed under this section for new 1236
manufacturing machinery and equipment described in division (A) 1237
(1) (b) or (2) (b) of this section, if the machinery or equipment 1238
subsequently does not qualify for the credit. 1239

(2) Division (H) (1) of this section shall not apply after 1240
the twenty-fourth month following the last day of the period 1241
described in divisions (A) (1) (b) and (2) (b) of this section. 1242

(I) Notwithstanding any other provision of this section to 1243
the contrary, in the case of a qualifying controlled group, the 1244
credit available under this section to a taxpayer or taxpayers 1245
in the qualifying controlled group shall be computed as if all 1246
corporations in the group were a single corporation. The credit 1247
shall be allocated to such a taxpayer or taxpayers in the group 1248
in any amount elected for the taxable year by the group. Such 1249
election shall be revocable and amendable during the period 1250

described in division (B) of section 5733.12 of the Revised Code. 1251
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This division applies to all purchases of new manufacturing machinery and equipment made on or after January 1, 2001, and to all baseline years used to compute any credit attributable to such purchases; provided, that this division may be applied solely at the election of the qualifying controlled group with respect to all purchases of new manufacturing machinery and equipment made before that date, and to all baseline years used to compute any credit attributable to such purchases. The qualifying controlled group at any time may elect to apply this division to purchases made prior to January 1, 2001, subject to the following: 1253
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(1) The election is irrevocable; 1264

(2) The election need not accompany a timely filed report, but the election may accompany a subsequently filed but timely application for refund, a subsequently filed but timely amended report, or a subsequently filed but timely petition for reassessment. 1265
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Sec. 5733.42. (A) As used in this section: 1270

(1) "Eligible training program" means a program to provide job skills to eligible employees who are unable effectively to function on the job due to skill deficiencies or who would otherwise be displaced because of their skill deficiencies or inability to use new technology, or to provide job skills to eligible employees that enable them to perform other job duties for the taxpayer. Eligible training programs do not include executive, management, or personal enrichment training programs, or training programs intended exclusively for personal career 1271
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development.	1280
(2) "Eligible employee" means an individual who is	1281
employed in this state by a taxpayer and has been so employed by	1282
the same taxpayer for at least one hundred eighty consecutive	1283
days before the day an application for the credit is filed under	1284
this section. "Eligible employee" does not include any employee	1285
for which a credit is claimed pursuant to division (A)(5) of	1286
section 5709.65 of the Revised Code for all or any part of the	1287
same year, an employee who is not a full-time employee, or	1288
executive or managerial personnel, except for the immediate	1289
supervisors of nonexecutive, nonmanagerial personnel.	1290
(3) "Eligible training costs" means:	1291
(a) Direct instructional costs, such as instructor	1292
salaries, materials and supplies, textbooks and manuals,	1293
videotapes, and other instructional media and training equipment	1294
used exclusively for the purpose of training eligible employees;	1295
(b) Wages paid to eligible employees for time devoted	1296
exclusively to an eligible training program during normal paid	1297
working hours.	1298
(4) "Full-time employee" means an individual who is	1299
employed for consideration for at least thirty-five hours per	1300
week, or who renders any other standard of service generally	1301
accepted by custom or specified by contract as full-time	1302
employment.	1303
(5) "Partnership" includes a limited liability company	1304
formed under Chapter 1705. of the Revised Code or under the laws	1305
of another state, provided that the company is not classified	1306
for federal income tax purposes as an association taxable as a	1307
corporation.	1308

(B) There is hereby allowed a nonrefundable credit against 1309
the tax imposed by section 5733.06 of the Revised Code for 1310
taxpayers for which a tax credit certificate is issued under 1311
division (C) of this section. The credit may be claimed for tax 1312
years 2004, 2005, 2006, 2007, and 2008. The amount of the credit 1313
for tax year 2004 shall equal one-half of the average of the 1314
eligible training costs paid or incurred by the taxpayer during 1315
calendar years 1999, 2000, and 2001, not to exceed one thousand 1316
dollars for each eligible employee on account of whom eligible 1317
training costs were paid or incurred by the taxpayer during 1318
those calendar years. The amount of the credit for tax year 2005 1319
shall equal one-half of the average of the eligible training 1320
costs paid or incurred by the taxpayer during calendar years 1321
2002, 2003, and 2004, not to exceed one thousand dollars for 1322
each eligible employee on account of whom eligible training 1323
costs were paid or incurred by the taxpayer during those 1324
calendar years. The amount of the credit for tax year 2006 shall 1325
equal one-half of the average of the eligible training costs 1326
paid or incurred by the taxpayer during calendar years 2003, 1327
2004, and 2005, not to exceed one thousand dollars for each 1328
eligible employee on account of whom eligible training costs 1329
were paid or incurred by the taxpayer during those calendar 1330
years. The amount of the credit for tax year 2007 shall equal 1331
one-half of the average of the eligible training costs paid or 1332
incurred by the taxpayer during calendar years 2004, 2005, and 1333
2006, not to exceed one thousand dollars for each eligible 1334
employee on account of whom eligible training costs were paid or 1335
incurred by the taxpayer during those calendar years. The amount 1336
of the credit for tax year 2008 shall equal one-half of the 1337
average of the eligible training costs paid or incurred by the 1338
taxpayer during calendar years 2005, 2006, and 2007, not to 1339
exceed one thousand dollars for each eligible employee on 1340

account of whom eligible training costs were paid or incurred by 1341
the taxpayer during those calendar years. 1342

The credit claimed by a taxpayer each tax year shall not 1343
exceed one hundred thousand dollars. 1344

(C) A taxpayer who proposes to conduct an eligible 1345
training program may apply to the director of job and family 1346
services for a tax credit certificate under this section. The 1347
taxpayer may apply for such a certificate for tax years 2004, 1348
2005, 2006, 2007, and 2008 subject to division (L) of this 1349
section. The director shall prescribe the form of the 1350
application, which shall require a detailed description of the 1351
proposed training program. The director may require applicants 1352
to remit an application fee with each application filed with the 1353
director. The fee shall not exceed the reasonable and necessary 1354
expenses incurred by the director in receiving, reviewing, and 1355
approving such applications and issuing tax credit certificates. 1356
Proceeds from fees shall be used solely for the purpose of 1357
receiving, reviewing, and approving such applications and 1358
issuing such certificates. 1359

After receipt of an application, the director shall 1360
authorize a credit under this section by issuing a tax credit 1361
certificate, in the form prescribed by the director, if the 1362
director determines all of the following: 1363

(1) The proposed training program is an eligible training 1364
program under this section; 1365

(2) The proposed training program is economically sound 1366
and will benefit the people of this state by improving workforce 1367
skills and strengthening the economy of this state; 1368

(3) Receiving the tax credit is a major factor in the 1369

taxpayer's decision to go forward with the training program; 1370

(4) Authorization of the credit is consistent with 1371
division (H) of this section. 1372

The credit also is allowed for a taxpayer that is a 1373
partner in a partnership that pays or incurs eligible training 1374
costs. Such a taxpayer shall determine the taxpayer's credit 1375
amount in the manner prescribed by division (K) of this section. 1376

(D) If the director of job and family services denies an 1377
application for a tax credit certificate, the director shall 1378
send notice of the denial and the reason for denial to the 1379
applicant by certified mail, return receipt requested. If the 1380
director determines that an authorized training program, as 1381
actually conducted, fails to meet the requirements of this 1382
section or to comply with any condition set forth in the 1383
authorization, the director may reduce the amount of the tax 1384
credit previously granted. If the director reduces a tax credit, 1385
the director shall send notice of the reduction and the reason 1386
for the reduction to the taxpayer by certified mail, return 1387
receipt requested, and shall certify the reduction to the tax 1388
commissioner or, in the case of the reduction of a credit 1389
claimed by an insurance company, the superintendent of 1390
insurance. The tax commissioner or superintendent of insurance 1391
shall reduce the credit that may be claimed by the taxpayer 1392
accordingly. Within sixty days after receiving a notice of 1393
denial or notice of reduction of the tax credit, an applicant or 1394
taxpayer may request, in writing, a hearing before the director 1395
to review the denial or reduction. Within sixty days after 1396
receiving a request that is filed within the prescribed time, 1397
the director shall hold such a hearing at a location to be 1398
determined by the director. Within thirty days after the hearing 1399

is adjourned, the director shall issue a redetermination 1400
affirming, reversing, or modifying the denial or reduction of 1401
the tax credit and send notice of the redetermination to the 1402
applicant or taxpayer by certified mail, return receipt 1403
requested, and shall issue a notice of the redetermination to 1404
the tax commissioner or superintendent of insurance. If an 1405
applicant or taxpayer is aggrieved by the director's 1406
redetermination, the applicant or taxpayer may appeal the 1407
redetermination to the board of tax appeals in the manner 1408
prescribed by section 5717.02 of the Revised Code. 1409

(E) A taxpayer to which a tax credit certificate is issued 1410
shall retain records indicating the eligible training costs it 1411
pays or incurs for the eligible training program for which the 1412
certificate is issued for four years following the end of the 1413
tax year for which the credit is claimed. Such records shall be 1414
open to inspection by the director of job and family services 1415
upon the director's request during business hours. 1416

Financial statements and other information submitted by an 1417
applicant to the director of job and family services for a tax 1418
credit under this section, and any information taken for any 1419
purpose from such statements or information, are not public 1420
records subject to section 149.43 of the Revised Code. However, 1421
the director of job and family services, the tax commissioner, 1422
or superintendent of insurance may make use of the statements 1423
and other information for purposes of issuing public reports or 1424
in connection with court proceedings concerning tax credits 1425
allowed under this section and sections 5725.31~~7~~ and 5729.07~~7~~ 1426
and ~~5747.39~~ of the Revised Code. 1427

(F) The director of job and family services, in accordance 1428
with Chapter 119. of the Revised Code, shall adopt rules 1429

necessary to implement this section and sections 5725.31~~7~~ and 1430
5729.07~~7~~ and 5747.39 of the Revised Code. The rules shall be 1431
adopted after consultation with the tax commissioner and the 1432
superintendent of insurance. The rules shall require that if a 1433
taxpayer to which a tax credit certificate is issued under any 1434
of those sections permanently relocates or transfers employees 1435
trained under the tax credit certificate to another state or 1436
country within two years of receiving the certificate, the 1437
taxpayer shall repay the total amount of the tax credit received 1438
by the taxpayer for any employees permanently relocated or 1439
transferred. At the time the director gives public notice under 1440
division (A) of section 119.03 of the Revised Code of the 1441
adoption of the rules, the director shall submit copies of the 1442
proposed rules to the chairpersons and ranking minority members 1443
of the standing committees in the senate and the house of 1444
representatives to which legislation on economic development 1445
matters are customarily referred. 1446

(G) On or before the thirtieth day of September of 2001, 1447
2003, 2004, 2005, 2006, 2007, and 2008 the director of job and 1448
family services shall submit a report to the governor, the 1449
president of the senate, and the speaker of the house of 1450
representatives on the tax credit program under this section and 1451
sections 5725.31~~7~~ and 5729.07~~7~~ and 5747.39 of the Revised Code. 1452
The report shall include information on the number of training 1453
programs that were authorized under those sections during the 1454
preceding calendar year, a description of each authorized 1455
training program, the dollar amounts of the credits granted, and 1456
an estimate of the impact of the credits on the economy of this 1457
state. 1458

(H) The aggregate amount of credits authorized under this 1459
section and sections 5725.31~~7~~ and 5729.07~~7~~ and 5747.39 of the 1460

Revised Code shall not exceed twenty million dollars per 1461
calendar year. No more than ten million dollars in credits per 1462
calendar year shall be authorized for persons engaged primarily 1463
in manufacturing. No less than five million dollars in credits 1464
per calendar year shall be set aside for persons engaged 1465
primarily in activities other than manufacturing and having 1466
fewer than five hundred employees. Subject to such limits, the 1467
director of job and family services shall adopt a rule under 1468
division (F) of this section that establishes criteria and 1469
procedures for distribution of the credits. 1470

(I) A nonrefundable credit allowed under this section 1471
shall be claimed in the order required under section 5733.98 of 1472
the Revised Code. 1473

(J) The taxpayer may carry forward any credit amount in 1474
excess of its tax due after allowing for any other credits that 1475
precede the credit under this section in the order required 1476
under section 5733.98 of the Revised Code. The excess credit may 1477
be carried forward for three years following the tax year for 1478
which it is first claimed under this section. 1479

(K) A taxpayer that is a partner in a partnership on the 1480
last day of the third calendar year of the three-year period 1481
during which the partnership pays or incurs eligible training 1482
costs may claim a credit under this section for the tax year 1483
immediately following that calendar year. The amount of a 1484
partner's credit equals the partner's interest in the 1485
partnership on the last day of such calendar year multiplied by 1486
the credit available to the partnership as computed by the 1487
partnership. 1488

(L) The director of job and family services shall not 1489
authorize any credits under this section and sections 5725.31~~7~~ 1490

and 5729.07, ~~and 5747.39~~ of the Revised Code for eligible 1491
training costs paid or incurred after December 31, 2007. 1492

Sec. 5733.98. (A) To provide a uniform procedure for 1493
calculating the amount of tax imposed by section 5733.06 of the 1494
Revised Code that is due under this chapter, a taxpayer shall 1495
claim any credits to which it is entitled in the following 1496
order, except as otherwise provided in section 5733.058 of the 1497
Revised Code: 1498

(1) For tax year 2005, the credit for taxes paid by a 1499
qualifying pass-through entity allowed under section 5733.0611 1500
of the Revised Code; 1501

(2) The credit allowed for financial institutions under 1502
section 5733.45 of the Revised Code; 1503

(3) The credit for qualifying affiliated groups under 1504
section 5733.068 of the Revised Code; 1505

(4) The subsidiary corporation credit under section 1506
5733.067 of the Revised Code; 1507

(5) The savings and loan assessment credit under section 1508
5733.063 of the Revised Code; 1509

(6) The credit for recycling and litter prevention 1510
donations under section 5733.064 of the Revised Code; 1511

(7) The credit for employers that enter into agreements 1512
with child day-care centers under section 5733.36 of the Revised 1513
Code; 1514

(8) The credit for employers that reimburse employee child 1515
care expenses under section 5733.38 of the Revised Code; 1516

(9) The credit for maintaining railroad active grade 1517

crossing warning devices under section 5733.43 of the Revised Code;	1518 1519
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	1520 1521
(11) The nonrefundable job retention credit under division (B) of section 5733.0610 of the Revised Code;	1522 1523
(12) The credit for tax years 2008 and 2009 for selling alternative fuel under section 5733.48 of the Revised Code;	1524 1525
(13) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	1526 1527 1528
(14) <u>(13)</u> The job training credit under section 5733.42 of the Revised Code;	1529 1530
(15) <u>(14)</u> The credit for qualified research expenses under section 5733.351 of the Revised Code;	1531 1532
(16) <u>(15)</u> The enterprise zone credit under section 5709.66 of the Revised Code;	1533 1534
(17) <u>(16)</u> The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	1535 1536 1537
(18) <u>(17)</u> The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	1538 1539 1540
(19) <u>(18)</u> The ethanol plant investment credit under section 5733.46 of the Revised Code;	1541 1542
(20) <u>(19)</u> The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	1543 1544

(21) <u>(20)</u> The export sales credit under section 5733.069 of the Revised Code;	1545 1546
(22) <u>(21)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	1547 1548
(23) <u>(22)</u> The credit for using Ohio coal under section 5733.39 of the Revised Code;	1549 1550
(24) <u>(23)</u> The credit for purchases of qualified low-income community investments under section 5733.58 of the Revised Code;	1551 1552
(25) <u>(24)</u> The credit for small telephone companies under section 5733.57 of the Revised Code;	1553 1554
(26) <u>(25)</u> The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;	1555 1556
(27) <u>(26)</u> For tax year 2005, the credit for providing programs to aid the communicatively impaired under division (A) of section 5733.56 of the Revised Code;	1557 1558 1559
(28) <u>(27)</u> The research and development credit under section 5733.352 of the Revised Code;	1560 1561
(29) <u>(28)</u> For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;	1562 1563 1564
(30) <u>(29)</u> The refundable credit for rehabilitating a historic building under section 5733.47 of the Revised Code;	1565 1566
(31) <u>(30)</u> The refundable jobs creation credit or job retention credit under division (A) of section 5733.0610 of the Revised Code;	1567 1568 1569
(32) <u>(31)</u> The refundable credit for tax withheld under division (B) (2) of section 5747.062 of the Revised Code;	1570 1571

~~(33)~~-(32) The refundable credit under section 5733.49 of 1572
the Revised Code for losses on loans made to the Ohio venture 1573
capital program under sections 150.01 to 150.10 of the Revised 1574
Code; 1575

~~(34)~~-(33) For tax years 2006, 2007, and 2008, the 1576
refundable credit allowable under division (B) of section 1577
5733.56 of the Revised Code; 1578

~~(35)~~-(34) The refundable motion picture production credit 1579
under section 5733.59 of the Revised Code. 1580

(B) For any credit except the refundable credits 1581
enumerated in this section, the amount of the credit for a tax 1582
year shall not exceed the tax due after allowing for any other 1583
credit that precedes it in the order required under this 1584
section. Any excess amount of a particular credit may be carried 1585
forward if authorized under the section creating that credit. 1586

Sec. 5747.01. Except as otherwise expressly provided or 1587
clearly appearing from the context, any term used in this 1588
chapter that is not otherwise defined in this section has the 1589
same meaning as when used in a comparable context in the laws of 1590
the United States relating to federal income taxes or if not 1591
used in a comparable context in those laws, has the same meaning 1592
as in section 5733.40 of the Revised Code. Any reference in this 1593
chapter to the Internal Revenue Code includes other laws of the 1594
United States relating to federal income taxes. 1595

As used in this chapter: 1596

(A) "Adjusted gross income" or "Ohio adjusted gross 1597
income" means federal adjusted gross income, as defined and used 1598
in the Internal Revenue Code, adjusted as provided in this 1599
section: 1600

(1) Add interest or dividends on obligations or securities 1601
of any state or of any political subdivision or authority of any 1602
state, other than this state and its subdivisions and 1603
authorities. 1604

(2) Add interest or dividends on obligations of any 1605
authority, commission, instrumentality, territory, or possession 1606
of the United States to the extent that the interest or 1607
dividends are exempt from federal income taxes but not from 1608
state income taxes. 1609

(3) Deduct interest or dividends on obligations of the 1610
United States and its territories and possessions or of any 1611
authority, commission, or instrumentality of the United States 1612
to the extent that the interest or dividends are included in 1613
federal adjusted gross income but exempt from state income taxes 1614
under the laws of the United States. 1615

(4) Deduct disability and survivor's benefits to the 1616
extent included in federal adjusted gross income. 1617

(5) Deduct benefits under Title II of the Social Security 1618
Act and tier 1 railroad retirement benefits to the extent 1619
included in federal adjusted gross income under section 86 of 1620
the Internal Revenue Code. 1621

(6) In the case of a taxpayer who is a beneficiary of a 1622
trust that makes an accumulation distribution as defined in 1623
section 665 of the Internal Revenue Code, add, for the 1624
beneficiary's taxable years beginning before 2002, the portion, 1625
if any, of such distribution that does not exceed the 1626
undistributed net income of the trust for the three taxable 1627
years preceding the taxable year in which the distribution is 1628
made to the extent that the portion was not included in the 1629

trust's taxable income for any of the trust's taxable years 1630
beginning in 2002 or thereafter. "Undistributed net income of a 1631
trust" means the taxable income of the trust increased by (a) (i) 1632
the additions to adjusted gross income required under division 1633
(A) of this section and (ii) the personal exemptions allowed to 1634
the trust pursuant to section 642(b) of the Internal Revenue 1635
Code, and decreased by (b) (i) the deductions to adjusted gross 1636
income required under division (A) of this section, (ii) the 1637
amount of federal income taxes attributable to such income, and 1638
(iii) the amount of taxable income that has been included in the 1639
adjusted gross income of a beneficiary by reason of a prior 1640
accumulation distribution. Any undistributed net income included 1641
in the adjusted gross income of a beneficiary shall reduce the 1642
undistributed net income of the trust commencing with the 1643
earliest years of the accumulation period. 1644

(7) Deduct the amount of wages and salaries, if any, not 1645
otherwise allowable as a deduction but that would have been 1646
allowable as a deduction in computing federal adjusted gross 1647
income for the taxable year, had the targeted jobs credit 1648
allowed and determined under sections 38, 51, and 52 of the 1649
Internal Revenue Code not been in effect. 1650

(8) Deduct any interest or interest equivalent on public 1651
obligations and purchase obligations to the extent that the 1652
interest or interest equivalent is included in federal adjusted 1653
gross income. 1654

(9) Add any loss or deduct any gain resulting from the 1655
sale, exchange, or other disposition of public obligations to 1656
the extent that the loss has been deducted or the gain has been 1657
included in computing federal adjusted gross income. 1658

(10) Deduct or add amounts, as provided under section 1659

5747.70 of the Revised Code, related to contributions to 1660
variable college savings program accounts made or tuition units 1661
purchased pursuant to Chapter 3334. of the Revised Code. 1662

(11) (a) Deduct, to the extent not otherwise allowable as a 1663
deduction or exclusion in computing federal or Ohio adjusted 1664
gross income for the taxable year, the amount the taxpayer paid 1665
during the taxable year for medical care insurance and qualified 1666
long-term care insurance for the taxpayer, the taxpayer's 1667
spouse, and dependents. No deduction for medical care insurance 1668
under division (A) (11) of this section shall be allowed either 1669
to any taxpayer who is eligible to participate in any subsidized 1670
health plan maintained by any employer of the taxpayer or of the 1671
taxpayer's spouse, or to any taxpayer who is entitled to, or on 1672
application would be entitled to, benefits under part A of Title 1673
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 1674
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 1675
of this section, "subsidized health plan" means a health plan 1676
for which the employer pays any portion of the plan's cost. The 1677
deduction allowed under division (A) (11) (a) of this section 1678
shall be the net of any related premium refunds, related premium 1679
reimbursements, or related insurance premium dividends received 1680
during the taxable year. 1681

(b) Deduct, to the extent not otherwise deducted or 1682
excluded in computing federal or Ohio adjusted gross income 1683
during the taxable year, the amount the taxpayer paid during the 1684
taxable year, not compensated for by any insurance or otherwise, 1685
for medical care of the taxpayer, the taxpayer's spouse, and 1686
dependents, to the extent the expenses exceed seven and one-half 1687
per cent of the taxpayer's federal adjusted gross income. 1688

(c) Deduct, to the extent not otherwise deducted or 1689

excluded in computing federal or Ohio adjusted gross income, any 1690
amount included in federal adjusted gross income under section 1691
105 or not excluded under section 106 of the Internal Revenue 1692
Code solely because it relates to an accident and health plan 1693
for a person who otherwise would be a "qualifying relative" and 1694
thus a "dependent" under section 152 of the Internal Revenue 1695
Code but for the fact that the person fails to meet the income 1696
and support limitations under section 152(d)(1)(B) and (C) of 1697
the Internal Revenue Code. 1698

(d) For purposes of division (A)(11) of this section, 1699
"medical care" has the meaning given in section 213 of the 1700
Internal Revenue Code, subject to the special rules, 1701
limitations, and exclusions set forth therein, and "qualified 1702
long-term care" has the same meaning given in section 7702B(c) 1703
of the Internal Revenue Code. Solely for purposes of divisions 1704
(A)(11)(a) and (c) of this section, "dependent" includes a 1705
person who otherwise would be a "qualifying relative" and thus a 1706
"dependent" under section 152 of the Internal Revenue Code but 1707
for the fact that the person fails to meet the income and 1708
support limitations under section 152(d)(1)(B) and (C) of the 1709
Internal Revenue Code. 1710

(12)(a) Deduct any amount included in federal adjusted 1711
gross income solely because the amount represents a 1712
reimbursement or refund of expenses that in any year the 1713
taxpayer had deducted as an itemized deduction pursuant to 1714
section 63 of the Internal Revenue Code and applicable United 1715
States department of the treasury regulations. The deduction 1716
otherwise allowed under division (A)(12)(a) of this section 1717
shall be reduced to the extent the reimbursement is attributable 1718
to an amount the taxpayer deducted under this section in any 1719
taxable year. 1720

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

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

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

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

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

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

(b) Add the amounts distributed from a medical savings

account under division (A) (2) of section 3924.68 of the Revised Code during the taxable year. 1750
1751

(16) Add any amount claimed as a credit under section 1752
5747.059 or 5747.65 of the Revised Code to the extent that such 1753
amount satisfies either of the following: 1754

(a) The amount was deducted or excluded from the 1755
computation of the taxpayer's federal adjusted gross income as 1756
required to be reported for the taxpayer's taxable year under 1757
the Internal Revenue Code; 1758

(b) The amount resulted in a reduction of the taxpayer's 1759
federal adjusted gross income as required to be reported for any 1760
of the taxpayer's taxable years under the Internal Revenue Code. 1761

(17) Deduct the amount contributed by the taxpayer to an 1762
individual development account program established by a county 1763
department of job and family services pursuant to sections 1764
329.11 to 329.14 of the Revised Code for the purpose of matching 1765
funds deposited by program participants. On request of the tax 1766
commissioner, the taxpayer shall provide any information that, 1767
in the tax commissioner's opinion, is necessary to establish the 1768
amount deducted under division (A) (17) of this section. 1769

(18) Beginning in taxable year 2001 but not for any 1770
taxable year beginning after December 31, 2005, if the taxpayer 1771
is married and files a joint return and the combined federal 1772
adjusted gross income of the taxpayer and the taxpayer's spouse 1773
for the taxable year does not exceed one hundred thousand 1774
dollars, or if the taxpayer is single and has a federal adjusted 1775
gross income for the taxable year not exceeding fifty thousand 1776
dollars, deduct amounts paid during the taxable year for 1777
qualified tuition and fees paid to an eligible institution for 1778

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

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

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

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) of this section, add five-sixths of the amount of qualifying section 179 depreciation expense, including the taxpayer's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(iii) Subject to division (A) (20) (a) (v) of this section, for taxable years beginning in 2012 or thereafter, if the

increase in income taxes withheld by the taxpayer is equal to or 1809
greater than ten per cent of income taxes withheld by the 1810
taxpayer during the taxpayer's immediately preceding taxable 1811
year, "two-thirds" shall be substituted for "five-sixths" for 1812
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 1813

(iv) Subject to division (A) (20) (a) (v) of this section, 1814
for taxable years beginning in 2012 or thereafter, a taxpayer is 1815
not required to add an amount under division (A) (20) of this 1816
section if the increase in income taxes withheld by the taxpayer 1817
and by any pass-through entity in which the taxpayer has a 1818
direct or indirect ownership interest is equal to or greater 1819
than the sum of (I) the amount of qualifying section 179 1820
depreciation expense and (II) the amount of depreciation expense 1821
allowed to the taxpayer by subsection (k) of section 168 of the 1822
Internal Revenue Code, and including the taxpayer's 1823
proportionate or distributive shares of such amounts allowed to 1824
any such pass-through entities. 1825

(v) If a taxpayer directly or indirectly incurs a net 1826
operating loss for the taxable year for federal income tax 1827
purposes, to the extent such loss resulted from depreciation 1828
expense allowed by subsection (k) of section 168 of the Internal 1829
Revenue Code and by qualifying section 179 depreciation expense, 1830
"the entire" shall be substituted for "five-sixths of the" for 1831
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 1832

The tax commissioner, under procedures established by the 1833
commissioner, may waive the add-backs related to a pass-through 1834
entity if the taxpayer owns, directly or indirectly, less than 1835
five per cent of the pass-through entity. 1836

(b) Nothing in division (A) (20) of this section shall be 1837
construed to adjust or modify the adjusted basis of any asset. 1838

(c) To the extent the add-back required under division (A) 1839
(20)(a) of this section is attributable to property generating 1840
nonbusiness income or loss allocated under section 5747.20 of 1841
the Revised Code, the add-back shall be situated to the same 1842
location as the nonbusiness income or loss generated by the 1843
property for the purpose of determining the credit under 1844
division (A) of section 5747.05 of the Revised Code. Otherwise, 1845
the add-back shall be apportioned, subject to one or more of the 1846
four alternative methods of apportionment enumerated in section 1847
5747.21 of the Revised Code. 1848

(d) For the purposes of division (A)(20)(a)(v) of this 1849
section, net operating loss carryback and carryforward shall not 1850
include the allowance of any net operating loss deduction 1851
carryback or carryforward to the taxable year to the extent such 1852
loss resulted from depreciation allowed by section 168(k) of the 1853
Internal Revenue Code and by the qualifying section 179 1854
depreciation expense amount. 1855

(e) For the purposes of divisions (A)(20) and (21) of this 1856
section: 1857

(i) "Income taxes withheld" means the total amount 1858
withheld and remitted under sections 5747.06 and 5747.07 of the 1859
Revised Code by an employer during the employer's taxable year. 1860

(ii) "Increase in income taxes withheld" means the amount 1861
by which the amount of income taxes withheld by an employer 1862
during the employer's current taxable year exceeds the amount of 1863
income taxes withheld by that employer during the employer's 1864
immediately preceding taxable year. 1865

(iii) "Qualifying section 179 depreciation expense" means 1866
the difference between (I) the amount of depreciation expense 1867

directly or indirectly allowed to a taxpayer under section 179 1868
of the Internal Revised Code, and (II) the amount of 1869
depreciation expense directly or indirectly allowed to the 1870
taxpayer under section 179 of the Internal Revenue Code as that 1871
section existed on December 31, 2002. 1872

(21) (a) If the taxpayer was required to add an amount 1873
under division (A) (20) (a) of this section for a taxable year, 1874
deduct one of the following: 1875

(i) One-fifth of the amount so added for each of the five 1876
succeeding taxable years if the amount so added was five-sixths 1877
of qualifying section 179 depreciation expense or depreciation 1878
expense allowed by subsection (k) of section 168 of the Internal 1879
Revenue Code; 1880

(ii) One-half of the amount so added for each of the two 1881
succeeding taxable years if the amount so added was two-thirds 1882
of such depreciation expense; 1883

(iii) One-sixth of the amount so added for each of the six 1884
succeeding taxable years if the entire amount of such 1885
depreciation expense was so added. 1886

(b) If the amount deducted under division (A) (21) (a) of 1887
this section is attributable to an add-back allocated under 1888
division (A) (20) (c) of this section, the amount deducted shall 1889
be situated to the same location. Otherwise, the add-back shall 1890
be apportioned using the apportionment factors for the taxable 1891
year in which the deduction is taken, subject to one or more of 1892
the four alternative methods of apportionment enumerated in 1893
section 5747.21 of the Revised Code. 1894

(c) No deduction is available under division (A) (21) (a) of 1895
this section with regard to any depreciation allowed by section 1896

168(k) of the Internal Revenue Code and by the qualifying 1897
section 179 depreciation expense amount to the extent that such 1898
depreciation results in or increases a federal net operating 1899
loss carryback or carryforward. If no such deduction is 1900
available for a taxable year, the taxpayer may carry forward the 1901
amount not deducted in such taxable year to the next taxable 1902
year and add that amount to any deduction otherwise available 1903
under division (A) (21) (a) of this section for that next taxable 1904
year. The carryforward of amounts not so deducted shall continue 1905
until the entire addition required by division (A) (20) (a) of 1906
this section has been deducted. 1907

(d) No refund shall be allowed as a result of adjustments 1908
made by division (A) (21) of this section. 1909

(22) Deduct, to the extent not otherwise deducted or 1910
excluded in computing federal or Ohio adjusted gross income for 1911
the taxable year, the amount the taxpayer received during the 1912
taxable year as reimbursement for life insurance premiums under 1913
section 5919.31 of the Revised Code. 1914

(23) Deduct, to the extent not otherwise deducted or 1915
excluded in computing federal or Ohio adjusted gross income for 1916
the taxable year, the amount the taxpayer received during the 1917
taxable year as a death benefit paid by the adjutant general 1918
under section 5919.33 of the Revised Code. 1919

(24) Deduct, to the extent included in federal adjusted 1920
gross income and not otherwise allowable as a deduction or 1921
exclusion in computing federal or Ohio adjusted gross income for 1922
the taxable year, military pay and allowances received by the 1923
taxpayer during the taxable year for active duty service in the 1924
United States army, air force, navy, marine corps, or coast 1925
guard or reserve components thereof or the national guard. The 1926

deduction may not be claimed for military pay and allowances 1927
received by the taxpayer while the taxpayer is stationed in this 1928
state. 1929

(25) Deduct, to the extent not otherwise allowable as a 1930
deduction or exclusion in computing federal or Ohio adjusted 1931
gross income for the taxable year and not otherwise compensated 1932
for by any other source, the amount of qualified organ donation 1933
expenses incurred by the taxpayer during the taxable year, not 1934
to exceed ten thousand dollars. A taxpayer may deduct qualified 1935
organ donation expenses only once for all taxable years 1936
beginning with taxable years beginning in 2007. 1937

For the purposes of division (A) (25) of this section: 1938

(a) "Human organ" means all or any portion of a human 1939
liver, pancreas, kidney, intestine, or lung, and any portion of 1940
human bone marrow. 1941

(b) "Qualified organ donation expenses" means travel 1942
expenses, lodging expenses, and wages and salary forgone by a 1943
taxpayer in connection with the taxpayer's donation, while 1944
living, of one or more of the taxpayer's human organs to another 1945
human being. 1946

(26) Deduct, to the extent not otherwise deducted or 1947
excluded in computing federal or Ohio adjusted gross income for 1948
the taxable year, amounts received by the taxpayer as retired 1949
personnel pay for service in the uniformed services or reserve 1950
components thereof, or the national guard, or received by the 1951
surviving spouse or former spouse of such a taxpayer under the 1952
survivor benefit plan on account of such a taxpayer's death. If 1953
the taxpayer receives income on account of retirement paid under 1954
the federal civil service retirement system or federal employees 1955

retirement system, or under any successor retirement program 1956
enacted by the congress of the United States that is established 1957
and maintained for retired employees of the United States 1958
government, and such retirement income is based, in whole or in 1959
part, on credit for the taxpayer's uniformed service, the 1960
deduction allowed under this division shall include only that 1961
portion of such retirement income that is attributable to the 1962
taxpayer's uniformed service, to the extent that portion of such 1963
retirement income is otherwise included in federal adjusted 1964
gross income and is not otherwise deducted under this section. 1965
Any amount deducted under division (A) (26) of this section is 1966
not included in a taxpayer's adjusted gross income for the 1967
purposes of section 5747.055 of the Revised Code. No amount may 1968
be deducted under division (A) (26) of this section on the basis 1969
of which a credit was claimed under section 5747.055 of the 1970
Revised Code. 1971

(27) Deduct, to the extent not otherwise deducted or 1972
excluded in computing federal or Ohio adjusted gross income for 1973
the taxable year, the amount the taxpayer received during the 1974
taxable year from the military injury relief fund created in 1975
section 5902.05 of the Revised Code. 1976

(28) Deduct, to the extent not otherwise deducted or 1977
excluded in computing federal or Ohio adjusted gross income for 1978
the taxable year, the amount the taxpayer received as a veterans 1979
bonus during the taxable year from the Ohio department of 1980
veterans services as authorized by Section 2r of Article VIII, 1981
Ohio Constitution. 1982

(29) Deduct, to the extent not otherwise deducted or 1983
excluded in computing federal or Ohio adjusted gross income for 1984
the taxable year, any income derived from a transfer agreement 1985

or from the enterprise transferred under that agreement under 1986
section 4313.02 of the Revised Code. 1987

(30) Deduct, to the extent not otherwise deducted or 1988
excluded in computing federal or Ohio adjusted gross income for 1989
the taxable year, Ohio college opportunity or federal Pell grant 1990
amounts received by the taxpayer or the taxpayer's spouse or 1991
dependent pursuant to section 3333.122 of the Revised Code or 20 1992
U.S.C. 1070a, et seq., and used to pay room or board furnished 1993
by the educational institution for which the grant was awarded 1994
at the institution's facilities, including meal plans 1995
administered by the institution. For the purposes of this 1996
division, receipt of a grant includes the distribution of a 1997
grant directly to an educational institution and the crediting 1998
of the grant to the enrollee's account with the institution. 1999

(31) ~~Deduct all business income~~ (a) For taxable years 2000
beginning in 2015, deduct from the portion of an individual's 2001
adjusted gross income that is business income, to the extent not 2002
otherwise deducted or excluded in computing federal or Ohio 2003
adjusted gross income for the taxable year, the lesser of the 2004
following amounts: 2005

(i) Seventy-five per cent of the individual's business 2006
income; 2007

(ii) Ninety-three thousand seven hundred fifty dollars for 2008
each spouse if spouses file separate returns under section 2009
5747.08 of the Revised Code or one hundred eighty-seven thousand 2010
five hundred dollars for all other individuals. 2011

(b) For taxable years beginning in 2016 or thereafter, 2012
deduct from the portion of an individual's adjusted gross income 2013
that is business income, to the extent not otherwise deducted or 2014

excluded in computing federal adjusted gross income for the 2015
taxable year, one hundred twenty-five thousand dollars for each 2016
spouse if spouses file separate returns under section 5747.08 of 2017
the Revised Code or two hundred fifty thousand dollars for all 2018
other individuals. 2019

(B) "Business income" means income, including gain or 2020
loss, arising from transactions, activities, and sources in the 2021
regular course of a trade or business and includes income, gain, 2022
or loss from real property, tangible property, and intangible 2023
property if the acquisition, rental, management, and disposition 2024
of the property constitute integral parts of the regular course 2025
of a trade or business operation. "Business income" includes 2026
income, including gain or loss, from a partial or complete 2027
liquidation of a business, including, but not limited to, gain 2028
or loss from the sale or other disposition of goodwill. 2029

(C) "Nonbusiness income" means all income other than 2030
business income and may include, but is not limited to, 2031
compensation, rents and royalties from real or tangible personal 2032
property, capital gains, interest, dividends and distributions, 2033
patent or copyright royalties, or lottery winnings, prizes, and 2034
awards. 2035

(D) "Compensation" means any form of remuneration paid to 2036
an employee for personal services. 2037

(E) "Fiduciary" means a guardian, trustee, executor, 2038
administrator, receiver, conservator, or any other person acting 2039
in any fiduciary capacity for any individual, trust, or estate. 2040

(F) "Fiscal year" means an accounting period of twelve 2041
months ending on the last day of any month other than December. 2042

(G) "Individual" means any natural person. 2043

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 2044
2045

(I) "Resident" means any of the following, provided that division (I) (3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter: 2046
2047
2048

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code; 2049
2050

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section. 2051
2052
2053
2054

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part. 2055
2056
2057

For the purposes of division (I) (3) of this section: 2058

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following: 2059
2060
2061
2062
2063
2064

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I) (3) (e) (i) or (ii) of this section; 2065
2066
2067
2068

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least 2069
2070
2071

one of the trust's qualifying beneficiaries is domiciled in this 2072
state for the purposes of this chapter during all or some 2073
portion of the trust's current taxable year; 2074

(iii) A person who was domiciled in this state for the 2075
purposes of this chapter when the trust document or instrument 2076
or part of the trust document or instrument became irrevocable, 2077
but only if at least one of the trust's qualifying beneficiaries 2078
is a resident domiciled in this state for the purposes of this 2079
chapter during all or some portion of the trust's current 2080
taxable year. If a trust document or instrument became 2081
irrevocable upon the death of a person who at the time of death 2082
was domiciled in this state for purposes of this chapter, that 2083
person is a person described in division (I) (3) (a) (iii) of this 2084
section. 2085

(b) A trust is irrevocable to the extent that the 2086
transferor is not considered to be the owner of the net assets 2087
of the trust under sections 671 to 678 of the Internal Revenue 2088
Code. 2089

(c) With respect to a trust other than a charitable lead 2090
trust, "qualifying beneficiary" has the same meaning as 2091
"potential current beneficiary" as defined in section 1361(e) (2) 2092
of the Internal Revenue Code, and with respect to a charitable 2093
lead trust "qualifying beneficiary" is any current, future, or 2094
contingent beneficiary, but with respect to any trust 2095
"qualifying beneficiary" excludes a person or a governmental 2096
entity or instrumentality to any of which a contribution would 2097
qualify for the charitable deduction under section 170 of the 2098
Internal Revenue Code. 2099

(d) For the purposes of division (I) (3) (a) of this 2100
section, the extent to which a trust consists directly or 2101

indirectly, in whole or in part, of assets, net of any related 2102
liabilities, that were transferred directly or indirectly, in 2103
whole or part, to the trust by any of the sources enumerated in 2104
that division shall be ascertained by multiplying the fair 2105
market value of the trust's assets, net of related liabilities, 2106
by the qualifying ratio, which shall be computed as follows: 2107

(i) The first time the trust receives assets, the 2108
numerator of the qualifying ratio is the fair market value of 2109
those assets at that time, net of any related liabilities, from 2110
sources enumerated in division (I) (3) (a) of this section. The 2111
denominator of the qualifying ratio is the fair market value of 2112
all the trust's assets at that time, net of any related 2113
liabilities. 2114

(ii) Each subsequent time the trust receives assets, a 2115
revised qualifying ratio shall be computed. The numerator of the 2116
revised qualifying ratio is the sum of (1) the fair market value 2117
of the trust's assets immediately prior to the subsequent 2118
transfer, net of any related liabilities, multiplied by the 2119
qualifying ratio last computed without regard to the subsequent 2120
transfer, and (2) the fair market value of the subsequently 2121
transferred assets at the time transferred, net of any related 2122
liabilities, from sources enumerated in division (I) (3) (a) of 2123
this section. The denominator of the revised qualifying ratio is 2124
the fair market value of all the trust's assets immediately 2125
after the subsequent transfer, net of any related liabilities. 2126

(iii) Whether a transfer to the trust is by or from any of 2127
the sources enumerated in division (I) (3) (a) of this section 2128
shall be ascertained without regard to the domicile of the 2129
trust's beneficiaries. 2130

(e) For the purposes of division (I) (3) (a) (i) of this 2131

section: 2132

(i) A trust is described in division (I) (3) (e) (i) of this 2133
section if the trust is a testamentary trust and the testator of 2134
that testamentary trust was domiciled in this state at the time 2135
of the testator's death for purposes of the taxes levied under 2136
Chapter 5731. of the Revised Code. 2137

(ii) A trust is described in division (I) (3) (e) (ii) of 2138
this section if the transfer is a qualifying transfer described 2139
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 2140
trust is an irrevocable inter vivos trust, and at least one of 2141
the trust's qualifying beneficiaries is domiciled in this state 2142
for purposes of this chapter during all or some portion of the 2143
trust's current taxable year. 2144

(f) For the purposes of division (I) (3) (e) (ii) of this 2145
section, a "qualifying transfer" is a transfer of assets, net of 2146
any related liabilities, directly or indirectly to a trust, if 2147
the transfer is described in any of the following: 2148

(i) The transfer is made to a trust, created by the 2149
decedent before the decedent's death and while the decedent was 2150
domiciled in this state for the purposes of this chapter, and, 2151
prior to the death of the decedent, the trust became irrevocable 2152
while the decedent was domiciled in this state for the purposes 2153
of this chapter. 2154

(ii) The transfer is made to a trust to which the 2155
decedent, prior to the decedent's death, had directly or 2156
indirectly transferred assets, net of any related liabilities, 2157
while the decedent was domiciled in this state for the purposes 2158
of this chapter, and prior to the death of the decedent the 2159
trust became irrevocable while the decedent was domiciled in 2160

this state for the purposes of this chapter. 2161

(iii) The transfer is made on account of a contractual 2162
relationship existing directly or indirectly between the 2163
transferor and either the decedent or the estate of the decedent 2164
at any time prior to the date of the decedent's death, and the 2165
decedent was domiciled in this state at the time of death for 2166
purposes of the taxes levied under Chapter 5731. of the Revised 2167
Code. 2168

(iv) The transfer is made to a trust on account of a 2169
contractual relationship existing directly or indirectly between 2170
the transferor and another person who at the time of the 2171
decedent's death was domiciled in this state for purposes of 2172
this chapter. 2173

(v) The transfer is made to a trust on account of the will 2174
of a testator who was domiciled in this state at the time of the 2175
testator's death for purposes of the taxes levied under Chapter 2176
5731. of the Revised Code. 2177

(vi) The transfer is made to a trust created by or caused 2178
to be created by a court, and the trust was directly or 2179
indirectly created in connection with or as a result of the 2180
death of an individual who, for purposes of the taxes levied 2181
under Chapter 5731. of the Revised Code, was domiciled in this 2182
state at the time of the individual's death. 2183

(g) The tax commissioner may adopt rules to ascertain the 2184
part of a trust residing in this state. 2185

(J) "Nonresident" means an individual or estate that is 2186
not a resident. An individual who is a resident for only part of 2187
a taxable year is a nonresident for the remainder of that 2188
taxable year. 2189

(K) "Pass-through entity" has the same meaning as in	2190
section 5733.04 of the Revised Code.	2191
(L) "Return" means the notifications and reports required	2192
to be filed pursuant to this chapter for the purpose of	2193
reporting the tax due and includes declarations of estimated tax	2194
when so required.	2195
(M) "Taxable year" means the calendar year or the	2196
taxpayer's fiscal year ending during the calendar year, or	2197
fractional part thereof, upon which the adjusted gross income is	2198
calculated pursuant to this chapter.	2199
(N) "Taxpayer" means any person subject to the tax imposed	2200
by section 5747.02 of the Revised Code or any pass-through	2201
entity that makes the election under division (D) of section	2202
5747.08 of the Revised Code.	2203
(O) "Dependents" means dependents as defined in the	2204
Internal Revenue Code and as claimed in the taxpayer's federal	2205
income tax return for the taxable year or which the taxpayer	2206
would have been permitted to claim had the taxpayer filed a	2207
federal income tax return.	2208
(P) "Principal county of employment" means, in the case of	2209
a nonresident, the county within the state in which a taxpayer	2210
performs services for an employer or, if those services are	2211
performed in more than one county, the county in which the major	2212
portion of the services are performed.	2213
(Q) As used in sections 5747.50 to 5747.55 of the Revised	2214
Code:	2215
(1) "Subdivision" means any county, municipal corporation,	2216
park district, or township.	2217

(2) "Essential local government purposes" includes all 2218
functions that any subdivision is required by general law to 2219
exercise, including like functions that are exercised under a 2220
charter adopted pursuant to the Ohio Constitution. 2221

(R) "Overpayment" means any amount already paid that 2222
exceeds the figure determined to be the correct amount of the 2223
tax. 2224

(S) "Taxable income" or "Ohio taxable income" applies only 2225
to estates and trusts, and means federal taxable income, as 2226
defined and used in the Internal Revenue Code, adjusted as 2227
follows: 2228

(1) Add interest or dividends, net of ordinary, necessary, 2229
and reasonable expenses not deducted in computing federal 2230
taxable income, on obligations or securities of any state or of 2231
any political subdivision or authority of any state, other than 2232
this state and its subdivisions and authorities, but only to the 2233
extent that such net amount is not otherwise includible in Ohio 2234
taxable income and is described in either division (S)(1)(a) or 2235
(b) of this section: 2236

(a) The net amount is not attributable to the S portion of 2237
an electing small business trust and has not been distributed to 2238
beneficiaries for the taxable year; 2239

(b) The net amount is attributable to the S portion of an 2240
electing small business trust for the taxable year. 2241

(2) Add interest or dividends, net of ordinary, necessary, 2242
and reasonable expenses not deducted in computing federal 2243
taxable income, on obligations of any authority, commission, 2244
instrumentality, territory, or possession of the United States 2245
to the extent that the interest or dividends are exempt from 2246

federal income taxes but not from state income taxes, but only 2247
to the extent that such net amount is not otherwise includible 2248
in Ohio taxable income and is described in either division (S) 2249
(1) (a) or (b) of this section; 2250

(3) Add the amount of personal exemption allowed to the 2251
estate pursuant to section 642(b) of the Internal Revenue Code; 2252

(4) Deduct interest or dividends, net of related expenses 2253
deducted in computing federal taxable income, on obligations of 2254
the United States and its territories and possessions or of any 2255
authority, commission, or instrumentality of the United States 2256
to the extent that the interest or dividends are exempt from 2257
state taxes under the laws of the United States, but only to the 2258
extent that such amount is included in federal taxable income 2259
and is described in either division (S) (1) (a) or (b) of this 2260
section; 2261

(5) Deduct the amount of wages and salaries, if any, not 2262
otherwise allowable as a deduction but that would have been 2263
allowable as a deduction in computing federal taxable income for 2264
the taxable year, had the targeted jobs credit allowed under 2265
sections 38, 51, and 52 of the Internal Revenue Code not been in 2266
effect, but only to the extent such amount relates either to 2267
income included in federal taxable income for the taxable year 2268
or to income of the S portion of an electing small business 2269
trust for the taxable year; 2270

(6) Deduct any interest or interest equivalent, net of 2271
related expenses deducted in computing federal taxable income, 2272
on public obligations and purchase obligations, but only to the 2273
extent that such net amount relates either to income included in 2274
federal taxable income for the taxable year or to income of the 2275
S portion of an electing small business trust for the taxable 2276

year;	2277
(7) Add any loss or deduct any gain resulting from sale,	2278
exchange, or other disposition of public obligations to the	2279
extent that such loss has been deducted or such gain has been	2280
included in computing either federal taxable income or income of	2281
the S portion of an electing small business trust for the	2282
taxable year;	2283
(8) Except in the case of the final return of an estate,	2284
add any amount deducted by the taxpayer on both its Ohio estate	2285
tax return pursuant to section 5731.14 of the Revised Code, and	2286
on its federal income tax return in determining federal taxable	2287
income;	2288
(9) (a) Deduct any amount included in federal taxable	2289
income solely because the amount represents a reimbursement or	2290
refund of expenses that in a previous year the decedent had	2291
deducted as an itemized deduction pursuant to section 63 of the	2292
Internal Revenue Code and applicable treasury regulations. The	2293
deduction otherwise allowed under division (S) (9) (a) of this	2294
section shall be reduced to the extent the reimbursement is	2295
attributable to an amount the taxpayer or decedent deducted	2296
under this section in any taxable year.	2297
(b) Add any amount not otherwise included in Ohio taxable	2298
income for any taxable year to the extent that the amount is	2299
attributable to the recovery during the taxable year of any	2300
amount deducted or excluded in computing federal or Ohio taxable	2301
income in any taxable year, but only to the extent such amount	2302
has not been distributed to beneficiaries for the taxable year.	2303
(10) Deduct any portion of the deduction described in	2304
section 1341(a) (2) of the Internal Revenue Code, for repaying	2305

previously reported income received under a claim of right, that 2306
meets both of the following requirements: 2307

(a) It is allowable for repayment of an item that was 2308
included in the taxpayer's taxable income or the decedent's 2309
adjusted gross income for a prior taxable year and did not 2310
qualify for a credit under division (A) or (B) of section 2311
5747.05 of the Revised Code for that year. 2312

(b) It does not otherwise reduce the taxpayer's taxable 2313
income or the decedent's adjusted gross income for the current 2314
or any other taxable year. 2315

(11) Add any amount claimed as a credit under section 2316
5747.059 or 5747.65 of the Revised Code to the extent that the 2317
amount satisfies either of the following: 2318

(a) The amount was deducted or excluded from the 2319
computation of the taxpayer's federal taxable income as required 2320
to be reported for the taxpayer's taxable year under the 2321
Internal Revenue Code; 2322

(b) The amount resulted in a reduction in the taxpayer's 2323
federal taxable income as required to be reported for any of the 2324
taxpayer's taxable years under the Internal Revenue Code. 2325

(12) Deduct any amount, net of related expenses deducted 2326
in computing federal taxable income, that a trust is required to 2327
report as farm income on its federal income tax return, but only 2328
if the assets of the trust include at least ten acres of land 2329
satisfying the definition of "land devoted exclusively to 2330
agricultural use" under section 5713.30 of the Revised Code, 2331
regardless of whether the land is valued for tax purposes as 2332
such land under sections 5713.30 to 5713.38 of the Revised Code. 2333
If the trust is a pass-through entity investor, section 5747.231 2334

of the Revised Code applies in ascertaining if the trust is 2335
eligible to claim the deduction provided by division (S) (12) of 2336
this section in connection with the pass-through entity's farm 2337
income. 2338

Except for farm income attributable to the S portion of an 2339
electing small business trust, the deduction provided by 2340
division (S) (12) of this section is allowed only to the extent 2341
that the trust has not distributed such farm income. Division 2342
(S) (12) of this section applies only to taxable years of a trust 2343
beginning in 2002 or thereafter. 2344

(13) Add the net amount of income described in section 2345
641(c) of the Internal Revenue Code to the extent that amount is 2346
not included in federal taxable income. 2347

(14) Add or deduct the amount the taxpayer would be 2348
required to add or deduct under division (A) (20) or (21) of this 2349
section if the taxpayer's Ohio taxable income were computed in 2350
the same manner as an individual's Ohio adjusted gross income is 2351
computed under this section. In the case of a trust, division 2352
(S) (14) of this section applies only to any of the trust's 2353
taxable years beginning in 2002 or thereafter. 2354

(T) "School district income" and "school district income 2355
tax" have the same meanings as in section 5748.01 of the Revised 2356
Code. 2357

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 2358
(7) of this section, "public obligations," "purchase 2359
obligations," and "interest or interest equivalent" have the 2360
same meanings as in section 5709.76 of the Revised Code. 2361

(V) "Limited liability company" means any limited 2362
liability company formed under Chapter 1705. of the Revised Code 2363

or under the laws of any other state. 2364

(W) "Pass-through entity investor" means any person who, 2365
during any portion of a taxable year of a pass-through entity, 2366
is a partner, member, shareholder, or equity investor in that 2367
pass-through entity. 2368

(X) "Banking day" has the same meaning as in section 2369
1304.01 of the Revised Code. 2370

(Y) "Month" means a calendar month. 2371

(Z) "Quarter" means the first three months, the second 2372
three months, the third three months, or the last three months 2373
of the taxpayer's taxable year. 2374

(AA) (1) "Eligible institution" means a state university or 2375
state institution of higher education as defined in section 2376
3345.011 of the Revised Code, or a private, nonprofit college, 2377
university, or other post-secondary institution located in this 2378
state that possesses a certificate of authorization issued by 2379
the chancellor of higher education pursuant to Chapter 1713. of 2380
the Revised Code or a certificate of registration issued by the 2381
state board of career colleges and schools under Chapter 3332. 2382
of the Revised Code. 2383

(2) "Qualified tuition and fees" means tuition and fees 2384
imposed by an eligible institution as a condition of enrollment 2385
or attendance, not exceeding two thousand five hundred dollars 2386
in each of the individual's first two years of post-secondary 2387
education. If the individual is a part-time student, "qualified 2388
tuition and fees" includes tuition and fees paid for the 2389
academic equivalent of the first two years of post-secondary 2390
education during a maximum of five taxable years, not exceeding 2391
a total of five thousand dollars. "Qualified tuition and fees" 2392

does not include:	2393
(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;	2394 2395 2396
(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;	2397 2398 2399
(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.	2400 2401 2402
(BB) (1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.	2403 2404 2405 2406
(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:	2407 2408 2409 2410 2411 2412
(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.	2413 2414 2415 2416 2417
(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.	2418 2419 2420

Any gain or loss that is not a qualifying trust amount is 2421
modified business income, qualifying investment income, or 2422
modified nonbusiness income, as the case may be. 2423

(3) "Modified nonbusiness income" means a trust's Ohio 2424
taxable income other than modified business income, other than 2425
the qualifying trust amount, and other than qualifying 2426
investment income, as defined in section 5747.012 of the Revised 2427
Code, to the extent such qualifying investment income is not 2428
otherwise part of modified business income. 2429

(4) "Modified Ohio taxable income" applies only to trusts, 2430
and means the sum of the amounts described in divisions (BB) (4) 2431
(a) to (c) of this section: 2432

(a) The fraction, calculated under section 5747.013, and 2433
applying section 5747.231 of the Revised Code, multiplied by the 2434
sum of the following amounts: 2435

(i) The trust's modified business income; 2436

(ii) The trust's qualifying investment income, as defined 2437
in section 5747.012 of the Revised Code, but only to the extent 2438
the qualifying investment income does not otherwise constitute 2439
modified business income and does not otherwise constitute a 2440
qualifying trust amount. 2441

(b) The qualifying trust amount multiplied by a fraction, 2442
the numerator of which is the sum of the book value of the 2443
qualifying investee's physical assets in this state on the last 2444
day of the qualifying investee's fiscal or calendar year ending 2445
immediately prior to the day on which the trust recognizes the 2446
qualifying trust amount, and the denominator of which is the sum 2447
of the book value of the qualifying investee's total physical 2448
assets everywhere on the last day of the qualifying investee's 2449

fiscal or calendar year ending immediately prior to the day on 2450
which the trust recognizes the qualifying trust amount. If, for 2451
a taxable year, the trust recognizes a qualifying trust amount 2452
with respect to more than one qualifying investee, the amount 2453
described in division (BB) (4) (b) of this section shall equal the 2454
sum of the products so computed for each such qualifying 2455
investee. 2456

(c) (i) With respect to a trust or portion of a trust that 2457
is a resident as ascertained in accordance with division (I) (3) 2458
(d) of this section, its modified nonbusiness income. 2459

(ii) With respect to a trust or portion of a trust that is 2460
not a resident as ascertained in accordance with division (I) (3) 2461
(d) of this section, the amount of its modified nonbusiness 2462
income satisfying the descriptions in divisions (B) (2) to (5) of 2463
section 5747.20 of the Revised Code, except as otherwise 2464
provided in division (BB) (4) (c) (ii) of this section. With 2465
respect to a trust or portion of a trust that is not a resident 2466
as ascertained in accordance with division (I) (3) (d) of this 2467
section, the trust's portion of modified nonbusiness income 2468
recognized from the sale, exchange, or other disposition of a 2469
debt interest in or equity interest in a section 5747.212 2470
entity, as defined in section 5747.212 of the Revised Code, 2471
without regard to division (A) of that section, shall not be 2472
allocated to this state in accordance with section 5747.20 of 2473
the Revised Code but shall be apportioned to this state in 2474
accordance with division (B) of section 5747.212 of the Revised 2475
Code without regard to division (A) of that section. 2476

If the allocation and apportionment of a trust's income 2477
under divisions (BB) (4) (a) and (c) of this section do not fairly 2478
represent the modified Ohio taxable income of the trust in this 2479

state, the alternative methods described in division (C) of 2480
section 5747.21 of the Revised Code may be applied in the manner 2481
and to the same extent provided in that section. 2482

(5) (a) Except as set forth in division (BB) (5) (b) of this 2483
section, "qualifying investee" means a person in which a trust 2484
has an equity or ownership interest, or a person or unit of 2485
government the debt obligations of either of which are owned by 2486
a trust. For the purposes of division (BB) (2) (a) of this section 2487
and for the purpose of computing the fraction described in 2488
division (BB) (4) (b) of this section, all of the following apply: 2489

(i) If the qualifying investee is a member of a qualifying 2490
controlled group on the last day of the qualifying investee's 2491
fiscal or calendar year ending immediately prior to the date on 2492
which the trust recognizes the gain or loss, then "qualifying 2493
investee" includes all persons in the qualifying controlled 2494
group on such last day. 2495

(ii) If the qualifying investee, or if the qualifying 2496
investee and any members of the qualifying controlled group of 2497
which the qualifying investee is a member on the last day of the 2498
qualifying investee's fiscal or calendar year ending immediately 2499
prior to the date on which the trust recognizes the gain or 2500
loss, separately or cumulatively own, directly or indirectly, on 2501
the last day of the qualifying investee's fiscal or calendar 2502
year ending immediately prior to the date on which the trust 2503
recognizes the qualifying trust amount, more than fifty per cent 2504
of the equity of a pass-through entity, then the qualifying 2505
investee and the other members are deemed to own the 2506
proportionate share of the pass-through entity's physical assets 2507
which the pass-through entity directly or indirectly owns on the 2508
last day of the pass-through entity's calendar or fiscal year 2509

ending within or with the last day of the qualifying investee's 2510
fiscal or calendar year ending immediately prior to the date on 2511
which the trust recognizes the qualifying trust amount. 2512

(iii) For the purposes of division (BB) (5) (a) (iii) of this 2513
section, "upper level pass-through entity" means a pass-through 2514
entity directly or indirectly owning any equity of another pass- 2515
through entity, and "lower level pass-through entity" means that 2516
other pass-through entity. 2517

An upper level pass-through entity, whether or not it is 2518
also a qualifying investee, is deemed to own, on the last day of 2519
the upper level pass-through entity's calendar or fiscal year, 2520
the proportionate share of the lower level pass-through entity's 2521
physical assets that the lower level pass-through entity 2522
directly or indirectly owns on the last day of the lower level 2523
pass-through entity's calendar or fiscal year ending within or 2524
with the last day of the upper level pass-through entity's 2525
fiscal or calendar year. If the upper level pass-through entity 2526
directly and indirectly owns less than fifty per cent of the 2527
equity of the lower level pass-through entity on each day of the 2528
upper level pass-through entity's calendar or fiscal year in 2529
which or with which ends the calendar or fiscal year of the 2530
lower level pass-through entity and if, based upon clear and 2531
convincing evidence, complete information about the location and 2532
cost of the physical assets of the lower pass-through entity is 2533
not available to the upper level pass-through entity, then 2534
solely for purposes of ascertaining if a gain or loss 2535
constitutes a qualifying trust amount, the upper level pass- 2536
through entity shall be deemed as owning no equity of the lower 2537
level pass-through entity for each day during the upper level 2538
pass-through entity's calendar or fiscal year in which or with 2539
which ends the lower level pass-through entity's calendar or 2540

fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 2541
shall be construed to provide for any deduction or exclusion in 2542
computing any trust's Ohio taxable income. 2543

(b) With respect to a trust that is not a resident for the 2544
taxable year and with respect to a part of a trust that is not a 2545
resident for the taxable year, "qualifying investee" for that 2546
taxable year does not include a C corporation if both of the 2547
following apply: 2548

(i) During the taxable year the trust or part of the trust 2549
recognizes a gain or loss from the sale, exchange, or other 2550
disposition of equity or ownership interests in, or debt 2551
obligations of, the C corporation. 2552

(ii) Such gain or loss constitutes nonbusiness income. 2553

(6) "Available" means information is such that a person is 2554
able to learn of the information by the due date plus 2555
extensions, if any, for filing the return for the taxable year 2556
in which the trust recognizes the gain or loss. 2557

(CC) "Qualifying controlled group" has the same meaning as 2558
in section 5733.04 of the Revised Code. 2559

(DD) "Related member" has the same meaning as in section 2560
5733.042 of the Revised Code. 2561

(EE) (1) For the purposes of division (EE) of this section: 2562

(a) "Qualifying person" means any person other than a 2563
qualifying corporation. 2564

(b) "Qualifying corporation" means any person classified 2565
for federal income tax purposes as an association taxable as a 2566
corporation, except either of the following: 2567

(i) A corporation that has made an election under	2568
subchapter S, chapter one, subtitle A, of the Internal Revenue	2569
Code for its taxable year ending within, or on the last day of,	2570
the investor's taxable year;	2571
(ii) A subsidiary that is wholly owned by any corporation	2572
that has made an election under subchapter S, chapter one,	2573
subtitle A of the Internal Revenue Code for its taxable year	2574
ending within, or on the last day of, the investor's taxable	2575
year.	2576
(2) For the purposes of this chapter, unless expressly	2577
stated otherwise, no qualifying person indirectly owns any asset	2578
directly or indirectly owned by any qualifying corporation.	2579
(FF) For purposes of this chapter and Chapter 5751. of the	2580
Revised Code:	2581
(1) "Trust" does not include a qualified pre-income tax	2582
trust.	2583
(2) A "qualified pre-income tax trust" is any pre-income	2584
tax trust that makes a qualifying pre-income tax trust election	2585
as described in division (FF)(3) of this section.	2586
(3) A "qualifying pre-income tax trust election" is an	2587
election by a pre-income tax trust to subject to the tax imposed	2588
by section 5751.02 of the Revised Code the pre-income tax trust	2589
and all pass-through entities of which the trust owns or	2590
controls, directly, indirectly, or constructively through	2591
related interests, five per cent or more of the ownership or	2592
equity interests. The trustee shall notify the tax commissioner	2593
in writing of the election on or before April 15, 2006. The	2594
election, if timely made, shall be effective on and after	2595
January 1, 2006, and shall apply for all tax periods and tax	2596

years until revoked by the trustee of the trust. 2597

(4) A "pre-income tax trust" is a trust that satisfies all 2598
of the following requirements: 2599

(a) The document or instrument creating the trust was 2600
executed by the grantor before January 1, 1972; 2601

(b) The trust became irrevocable upon the creation of the 2602
trust; and 2603

(c) The grantor was domiciled in this state at the time 2604
the trust was created. 2605

(GG) "Uniformed services" has the same meaning as in 10 2606
U.S.C. 101. 2607

(HH) "Taxable business income" means the amount by which 2608
an individual's business income ~~reduced by deductions from~~ 2609
~~business income and by one of the following amounts, provided~~ 2610
~~that "taxable business income" shall not be less than zero:~~ 2611

~~(1) For taxable years beginning in 2015, the lesser of~~ 2612
~~seventy five per cent of Ohio business income or (a) ninety~~ 2613
~~three thousand seven hundred fifty dollars for each spouse if~~ 2614
~~spouses file separate returns under section 5747.08 of the~~ 2615
~~Revised Code or (b) one hundred eighty-seven thousand five~~ 2616
~~hundred dollars for all other taxpayers;~~ 2617

~~(2) For taxable years beginning in 2016 and thereafter,~~ 2618
that is included in federal adjusted gross income exceeds one 2619
hundred twenty-five thousand dollars for each spouse if spouses 2620
file separate returns under section 5747.08 of the Revised Code 2621
or two hundred fifty thousand dollars for all other individuals. 2622

Sec. 5747.02. (A) For the purpose of providing revenue for 2623
the support of schools and local government functions, to 2624

provide relief to property taxpayers, to provide revenue for the 2625
general revenue fund, and to meet the expenses of administering 2626
the tax levied by this chapter, there is hereby levied on every 2627
individual, trust, and estate residing in or earning or 2628
receiving income in this state, on every individual, trust, and 2629
estate earning or receiving lottery winnings, prizes, or awards 2630
pursuant to Chapter 3770. of the Revised Code, on every 2631
individual, trust, and estate earning or receiving winnings on 2632
casino gaming, and on every individual, trust, and estate 2633
otherwise having nexus with or in this state under the 2634
Constitution of the United States, an annual tax measured as 2635
prescribed in divisions (A) (1) to (4) of this section. 2636

(1) In the case of trusts, the tax imposed by this section 2637
shall be measured by modified Ohio taxable income under division 2638
(D) of this section and levied at the same rates prescribed in 2639
division (A) (3) of this section for individuals. 2640

(2) In the case of estates, the tax imposed by this 2641
section shall be measured by Ohio taxable income and levied at 2642
the same rates prescribed in division (A) (3) of this section for 2643
individuals. 2644

(3) In the case of individuals, for taxable years 2645
beginning in 2015 or thereafter, the tax imposed by this section 2646
on income other than taxable business income shall be measured 2647
by Ohio adjusted gross income, less taxable business income and 2648
less an exemption for the taxpayer, the taxpayer's spouse, and 2649
each dependent as provided in section 5747.025 of the Revised 2650
Code. The tax imposed on the balance thus obtained is hereby 2651
levied as follows: 2652

OHIO ADJUSTED GROSS 2653

_____INCOME LESS <u>TAXABLE BUSINESS</u>		2654
_____INCOME AND EXEMPTIONS		2655
(INDIVIDUALS)		2656
OR		2657
MODIFIED OHIO		2658
TAXABLE INCOME (TRUSTS)		2659
OR		2660
OHIO TAXABLE INCOME (ESTATES)	TAX	2661
\$5,000 or less	.495%	2662
More than \$5,000 but	\$24.75 plus .990% of the amount	2663
not more than \$10,000	in excess of \$5,000	2664
More than \$10,000 but	\$74.25 plus 1.980% of the amount	2665
not more than \$15,000	in excess of \$10,000	2666
More than \$15,000 but	\$173.25 plus 2.476% of the amount	2667
not more than \$20,000	in excess of \$15,000	2668
More than \$20,000 but	\$297.05 plus 2.969% of the amount	2669
not more than \$40,000	in excess of \$20,000	2670
More than \$40,000 but	\$890.85 plus 3.465% of the amount	2671
not more than \$80,000	in excess of \$40,000	2672
More than \$80,000 but	\$2,276.85 plus 3.960% of the amount	2673
not more than \$100,000	in excess of \$80,000	2674
More than \$100,000 but	\$3,068.85 plus 4.597% of the amount	2675
not more than \$200,000	in excess of \$100,000	2676
More than \$200,000	\$7,665.85 plus 4.997% of the amount	2677
	in excess of \$200,000	2678
(4) (a) In the case of individuals, for taxable years		2679
beginning in 2015 or thereafter, the tax imposed by this section		2680
on <u>taxable business</u> income shall equal three per cent of <u>the</u>		2681
<u>result obtained by subtracting any amount allowed under division</u>		2682
<u>(A) (4) (b) of this section from the taxpayer's individual's</u>		2683

taxable business income. 2684

(b) If the exemptions allowed to an individual under 2685
division (A) (3) of this section exceed the taxpayer's Ohio 2686
adjusted gross income less taxable business income, the excess 2687
shall be deducted from taxable business income before computing 2688
the tax under division (A) (4) (a) of this section. 2689

Except as otherwise provided in this division, in August 2690
of each year, the tax commissioner shall make a new adjustment 2691
to the income amounts prescribed in division (A) (3) of this 2692
section by multiplying the percentage increase in the gross 2693
domestic product deflator computed that year under section 2694
5747.025 of the Revised Code by each of the income amounts 2695
resulting from the adjustment under this division in the 2696
preceding year, adding the resulting product to the 2697
corresponding income amount resulting from the adjustment in the 2698
preceding year, and rounding the resulting sum to the nearest 2699
multiple of fifty dollars. The tax commissioner also shall 2700
recompute each of the tax dollar amounts to the extent necessary 2701
to reflect the new adjustment of the income amounts. The rates 2702
of taxation shall not be adjusted. 2703

The adjusted amounts apply to taxable years beginning in 2704
the calendar year in which the adjustments are made and to 2705
taxable years beginning in each ensuing calendar year until a 2706
calendar year in which a new adjustment is made pursuant to this 2707
division. The tax commissioner shall not make a new adjustment 2708
in any year in which the amount resulting from the adjustment 2709
would be less than the amount resulting from the adjustment in 2710
the preceding year. The commissioner shall not make a new 2711
adjustment for taxable years beginning in 2013, 2014, or 2015. 2712

(B) If the director of budget and management makes a 2713

certification to the tax commissioner under division (B) of 2714
section 131.44 of the Revised Code, the amount of tax as 2715
determined under divisions (A) (1) to (3) of this section shall 2716
be reduced by the percentage prescribed in that certification 2717
for taxable years beginning in the calendar year in which that 2718
certification is made. 2719

(C) The levy of this tax on income does not prevent a 2720
municipal corporation, a joint economic development zone created 2721
under section 715.691, or a joint economic development district 2722
created under section 715.70 or 715.71 or sections 715.72 to 2723
715.81 of the Revised Code from levying a tax on income. 2724

(D) This division applies only to taxable years of a trust 2725
beginning in 2002 or thereafter. 2726

(1) The tax imposed by this section on a trust shall be 2727
computed by multiplying the Ohio modified taxable income of the 2728
trust by the rates prescribed by division (A) of this section. 2729

(2) A resident trust may claim a credit against the tax 2730
computed under division (D) of this section equal to the lesser 2731
of (1) the tax paid to another state or the District of Columbia 2732
on the resident trust's modified nonbusiness income, other than 2733
the portion of the resident trust's nonbusiness income that is 2734
qualifying investment income as defined in section 5747.012 of 2735
the Revised Code, or (2) the effective tax rate, based on 2736
modified Ohio taxable income, multiplied by the resident trust's 2737
modified nonbusiness income other than the portion of the 2738
resident trust's nonbusiness income that is qualifying 2739
investment income. The credit applies before any other 2740
applicable credits. 2741

(3) The credits enumerated in ~~division~~divisions (A) (1) ~~or~~ 2742

~~(2) to (10) and (A) (19) to (21)~~ of section 5747.98 of the Revised Code do not apply to a trust subject to division (D) of this section. Any credits enumerated in ~~division (A) (3) or (4)~~ other divisions of section 5747.98 of the Revised Code apply to a trust subject to division (D) of this section. To the extent that the trust distributes income for the taxable year for which a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

(E) For the purposes of this section, "trust" means any trust described in Subchapter J of Chapter 1 of the Internal Revenue Code, excluding trusts that are not irrevocable as defined in division (I) (3) (b) of section 5747.01 of the Revised Code and that have no modified Ohio taxable income for the taxable year, charitable remainder trusts, qualified funeral trusts and preneed funeral contract trusts established pursuant to sections 4717.31 to 4717.38 of the Revised Code that are not qualified funeral trusts, endowment and perpetual care trusts, qualified settlement trusts and funds, designated settlement trusts and funds, and trusts exempted from taxation under section 501(a) of the Internal Revenue Code.

Sec. 5747.05. As used in this section, "income tax" includes both a tax on net income and a tax measured by net income.

The following credits shall be allowed against the aggregate income tax liability imposed by section 5747.02 of the Revised Code on individuals and estates:

(A) (1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the combined

adjusted gross income and business income of any nonresident taxpayer that is not allocable or apportionable to this state pursuant to sections 5747.20 to 5747.23 of the Revised Code. The credit provided under this division shall not exceed the total tax due under section 5747.02 of the Revised Code.

(2) The tax commissioner may enter into an agreement with the taxing authorities of any state or of the District of Columbia that imposes an income tax to provide that compensation paid in this state to a nonresident taxpayer shall not be subject to the tax levied in section 5747.02 of the Revised Code so long as compensation paid in such other state or in the District of Columbia to a resident taxpayer shall likewise not be subject to the income tax of such other state or of the District of Columbia.

(B) The lesser of division (B) (1) or (2) of this section:

(1) The aggregate amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the combined adjusted gross income and business income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B) (1) of this section shall not exceed the total tax due under section 5747.02 of the Revised Code.

(2) The amount of income tax liability to another state or the District of Columbia on the portion of the combined adjusted gross income and business income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B) (2) of this section shall not exceed the total amount of tax otherwise due under section 5747.02 of the Revised Code.

(3) If the credit provided under division (B) of this section is affected by a change in either the portion of the combined adjusted gross income and business income of a resident taxpayer subjected to an income tax in another state or the District of Columbia or the amount of income tax liability that has been paid to another state or the District of Columbia, the taxpayer shall report the change to the tax commissioner within sixty days of the change in such form as the commissioner requires.

(a) In the case of an underpayment, the report shall be accompanied by payment of any additional tax due as a result of the reduction in credit together with interest on the additional tax and is a return subject to assessment under section 5747.13 of the Revised Code solely for the purpose of assessing any additional tax due under this division, together with any applicable penalty and interest. It shall not reopen the computation of the taxpayer's tax liability under this chapter from a previously filed return no longer subject to assessment except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

(b) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the report even if it is beyond the period prescribed in section 5747.11 of the Revised Code if it otherwise conforms to the requirements of such section. An application filed under this division shall only claim refund of overpayments resulting from an adjustment to the credit allowed by division (B) of this section unless it is also filed within the time prescribed in section 5747.11 of the Revised Code. It shall not reopen the computation of the taxpayer's tax liability

except to the extent that such liability is affected by an 2833
adjustment to the credit allowed by division (B) of this 2834
section. 2835

(4) No credit shall be allowed under division (B) of this 2836
section: 2837

(a) For income tax paid or accrued to another state or to 2838
the District of Columbia if the taxpayer, when computing federal 2839
adjusted gross income, has directly or indirectly deducted, or 2840
was required to directly or indirectly deduct, the amount of 2841
that income tax; 2842

(b) For compensation that is not subject to the income tax 2843
of another state or the District of Columbia as the result of an 2844
agreement entered into by the tax commissioner under division 2845
(A) (3) of this section; or 2846

(c) For income tax paid or accrued to another state or the 2847
District of Columbia if the taxpayer fails to furnish such proof 2848
as the tax commissioner shall require that such income tax 2849
liability has been paid. 2850

(C) An individual who is a resident for part of a taxable 2851
year and a nonresident for the remainder of the taxable year is 2852
allowed the credits under divisions (A) and (B) of this section 2853
in accordance with rules prescribed by the tax commissioner. In 2854
no event shall the same income be subject to both credits. 2855

(D) The credit allowed under division (A) of this section 2856
shall be calculated based upon the amount of tax due under 2857
section 5747.02 of the Revised Code after subtracting any other 2858
credits that precede the credit under that division in the order 2859
required under section 5747.98 of the Revised Code. The credit 2860
allowed under division (B) of this section shall be calculated 2861

based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code.

(E) (1) On a joint return filed by ~~a husband and wife~~ two married individuals, each of whom had adjusted gross income of at least five hundred dollars, ~~exclusive of interest, dividends and distributions, royalties, rent, and capital gains~~, a credit equal to the ~~percentage shown in the table contained in this division of the amount of tax due after allowing for any other credit that precedes the credit under this division in the order required under section 5747.98 of the Revised Code.~~

~~(2) The credit to which a taxpayer is entitled under this division in any taxable year is lesser of six hundred fifty dollars or the percentage shown in column B that corresponds with the taxpayer's adjusted gross income, less exemptions for the taxable year, of the total amount of tax due after allowing for any other credit that precedes this credit as required under section 5747.98 of the Revised Code:~~

A.	B.	
IF THE ADJUSTED GROSS INCOME,	THE CREDIT FOR THE TAXABLE	
LESS EXEMPTIONS, FOR THE	YEAR IS:	
TAX YEAR IS:		
\$25,000 or less	20%	
More than \$25,000 but not more than \$50,000	15%	
More than \$50,000 but not more than \$75,000	10%	
More than \$75,000	5%	

~~(3) The credit allowed under this division shall not exceed six hundred fifty dollars in any taxable year.~~ 2891
2892

~~(4)~~ (2) The credit shall be claimed in the order required under section 5747.98 of the Revised Code. 2893
2894

(F) No claim for credit under this section shall be allowed unless the claimant furnishes such supporting information as the tax commissioner prescribes by rules. 2895
2896
2897

Sec. 5747.054. ~~As used in this section, "adjusted gross income" means adjusted gross income as defined in section 5747.01 of the Revised Code.~~ 2898
2899
2900

~~For taxable years ending on or after January 1, 1988, in addition to all other credits allowed by this chapter, a credit shall be allowed against the a taxpayer's aggregate tax imposed by liability under section 5747.02 of the Revised Code for taxpayers with adjusted gross income of less than ~~thirty thousand dollars; and, for taxable years beginning on or after January 1, 1993, for taxpayers with adjusted gross income of less than~~ forty thousand dollars. The amount of the credit shall equal twenty-five per cent of the federal dependent care credit for which the taxpayer is eligible for the taxable year under section 21 of the Internal Revenue Code, 26 U.S.C.A. 21; except that, ~~for taxable years beginning on or after January 1, 1997,~~ the amount of the credit for a taxpayer with adjusted gross income of less than twenty thousand dollars shall equal the federal credit for which the taxpayer is eligible, in any case without regard to any limitation imposed by section 26 of the Internal Revenue Code, 26 U.S.C.A. 26.~~ 2901
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The credit allowed by this section shall be claimed in the order required under section 5747.98 of the Revised Code. 2918
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Sec. 5747.055. (A) As used in this section "retirement income" means retirement benefits, annuities, or distributions that are made from or pursuant to a pension, retirement, or profit-sharing plan and that:

(1) In the case of an individual, are received by the individual on account of retirement and are included in the individual's adjusted gross income;

(2) In the case of an estate, are payable to the estate for the benefit of the surviving spouse of the decedent and are included in the estate's taxable income.

(B) A credit shall be allowed against ~~the a taxpayer's aggregate tax imposed by liability under~~ section 5747.02 of the Revised Code for taxpayers who received retirement income during the taxable year and whose adjusted gross income for the taxable year, less applicable exemptions under section 5747.025 of the Revised Code, as shown on an individual or joint annual return is less than one hundred thousand dollars. Only one such credit shall be allowed for each return, and the amount of the credit shall be computed in accordance with the following schedule:

AMOUNT OF RETIREMENT INCOME RECEIVED DURING THE TAXABLE YEAR	CREDIT FOR THE TAXABLE YEAR
\$500 or less	\$ 0
Over \$500 but not more than \$1,500	\$ 25
Over \$1,500 but not more than \$3,000	\$ 50
Over \$3,000 but not more than \$5,000	\$ 80
Over \$5,000 but not more than \$8,000	\$130
Over \$8,000	\$200

(C) A taxpayer who received a lump-sum distribution from a pension, retirement, or profit-sharing plan in the taxable year

and whose adjusted gross income for the taxable year, less 2949
applicable exemptions under section 5747.025 of the Revised 2950
Code, as shown on an individual or joint annual return is less 2951
than one hundred thousand dollars, may elect to receive a credit 2952
under this division in lieu of the credit allowed under division 2953
(B) of this section. A taxpayer making such an election is not 2954
entitled to the credit authorized under this division or 2955
division (B) of this section in subsequent taxable years. A 2956
taxpayer electing the credit under this division shall receive a 2957
credit for the taxable year against the taxpayer's aggregate tax 2958
~~imposed by liability under~~ section 5747.02 of the Revised Code 2959
computed as follows: 2960

(1) Divide the amount of retirement income received during 2961
the taxable year by the taxpayer's expected remaining life on 2962
the last day of the taxable year, as shown by annuity tables 2963
issued under the provisions of the Internal Revenue Code and in 2964
effect for the calendar year that includes the last day of the 2965
taxable year; 2966

(2) Using the quotient thus obtained as the amount of 2967
retirement income received during the taxable year, compute the 2968
credit for the taxable year in accordance with division (B) of 2969
this section; 2970

(3) Multiply the credit thus obtained by the taxpayer's 2971
expected remaining life. The product thus obtained shall be the 2972
credit under this division for the taxable year. 2973

(D) If the credit under division (C) or (E) of this 2974
section exceeds the taxpayer's aggregate tax ~~due liability under~~ 2975
section 5747.02 of the Revised Code for the taxable year after 2976
allowing for any other credit that precedes that credit in the 2977
order required under section 5747.98 of the Revised Code, the 2978

taxpayer may elect to receive a credit for each subsequent 2979
taxable year. The amount of the credit for each such year shall 2980
be computed as follows: 2981

(1) Determine the amount by which the unused credit 2982
elected under division (C) or (E) of this section exceeded the 2983
total tax due for the taxable year after allowing for any 2984
preceding credit in the required order; 2985

(2) Divide the amount of such excess by one year less than 2986
the taxpayer's expected remaining life on the last day of the 2987
taxable year of the distribution for which the credit was 2988
allowed under division (C) or (E) of this section. The quotient 2989
thus obtained shall be the credit for each subsequent year. 2990

(E) If subsequent to the receipt of a lump-sum 2991
distribution and an election under division (C) of this section 2992
an individual receives another lump-sum distribution within one 2993
taxable year, and the taxpayer's adjusted gross income for the 2994
taxable year, less applicable exemptions under section 5747.025 2995
of the Revised Code, as shown on an individual or joint annual 2996
return is less than one hundred thousand dollars, the taxpayer 2997
may elect to receive a credit for that taxable year. The credit 2998
shall equal the lesser of: 2999

(1) A credit computed in the manner prescribed in division 3000
(C) of this section; 3001

(2) The amount of credit, if any, to which the taxpayer 3002
would otherwise be entitled for the taxable year under division 3003
(D) of this section times the taxpayer's expected remaining life 3004
on the last day of the taxable year. A taxpayer who elects to 3005
receive a credit under this division is not entitled to a credit 3006
under this division or division (B) or (C) of this section for 3007

any subsequent year except as provided in division (D) of this section. 3008
3009

(F) A credit equal to fifty dollars for each return 3010
required to be filed under section 5747.08 of the Revised Code 3011
shall be allowed against ~~the a taxpayer's aggregate tax imposed~~ 3012
by liability under section 5747.02 of the Revised Code for 3013
taxpayers sixty-five years of age or older during the taxable 3014
year whose adjusted gross income, less applicable exemptions 3015
under section 5747.025 of the Revised Code, as shown on an 3016
individual or joint annual return is less than one hundred 3017
thousand dollars for that taxable year. 3018

(G) A taxpayer sixty-five years of age or older during the 3019
taxable year who has received a lump-sum distribution from a 3020
pension, retirement, or profit-sharing plan in the taxable year, 3021
and whose adjusted gross income, less applicable exemptions 3022
under section 5747.025 of the Revised Code, as shown on an 3023
individual or joint annual return is less than one hundred 3024
thousand dollars for that taxable year may elect to receive a 3025
credit under this division in lieu of the credit to which the 3026
taxpayer is entitled under division (F) of this section. A 3027
taxpayer making such an election shall receive a credit for the 3028
taxable year against the taxpayer's aggregate tax imposed by 3029
liability under section 5747.02 of the Revised Code equal to 3030
fifty dollars times the taxpayer's expected remaining life as 3031
shown by annuity tables issued under the Internal Revenue Code 3032
and in effect for the calendar year that includes the last day 3033
of the taxable year. A taxpayer making an election under this 3034
division is not entitled to the credit authorized under this 3035
division or division (F) of this section in subsequent taxable 3036
years. 3037

(H) The credits allowed by this section shall be claimed 3038
in the order required under section 5747.98 of the Revised Code. 3039
The tax commissioner may require a taxpayer to furnish any 3040
information necessary to support a claim for credit under this 3041
section, and no credit shall be allowed unless such information 3042
is provided. 3043

Sec. 5747.056. For taxable years beginning in ~~2005-2015~~ or 3044
thereafter, a nonrefundable credit equal to eighty-eight dollars 3045
shall be allowed per return against the aggregate amount of tax 3046
~~imposed by due under~~ section 5747.02 of the Revised Code ~~for a~~ 3047
~~on an individual's~~ return ~~not filed by an estate or trust~~ that 3048
indicates Ohio adjusted gross income less exemptions of ten 3049
thousand dollars or less. ~~For taxable years beginning in 2005,~~ 3050
~~the credit shall equal one hundred seven dollars. For taxable~~ 3051
~~years beginning in 2006, the credit shall equal one hundred two~~ 3052
~~dollars. For taxable years beginning in 2007, the credit shall~~ 3053
~~equal ninety-eight dollars. For taxable years beginning in 2008,~~ 3054
~~2009, or 2010, the credit shall equal ninety-three dollars. For~~ 3055
~~taxable years beginning in 2011 or thereafter, the credit shall~~ 3056
~~equal eighty-eight dollars.~~ The credit shall be claimed in the 3057
order required under section 5747.98 of the Revised Code. 3058

Sec. 5747.059. (A) This section applies only to reduce ~~the~~ 3059
a taxpayer's aggregate tax imposed by liability under section 3060
5747.02 of the Revised Code. 3061

(B) There is hereby allowed a refundable credit against 3062
~~the a taxpayer's aggregate tax imposed liability~~ under section 3063
5747.02 of the Revised Code. This credit shall be equal to the 3064
taxpayer's proportionate share of the lesser of either the tax 3065
due or the tax paid under section 5733.41 or 5747.41 of the 3066
Revised Code by any qualifying entity as defined in section 3067

5733.40 of the Revised Code for the qualifying taxable year of 3068
the qualifying entity which ends in the taxable year of the 3069
taxpayer. 3070

(C) The taxpayer shall claim the credit for the taxpayer's 3071
taxable year in which ends the qualifying entity's qualifying 3072
taxable year. For purposes of making tax payments under this 3073
chapter, taxes equal to the amount of the credit shall be 3074
considered to be paid by the taxpayer to this state on the day 3075
that the qualifying entity pays to the treasurer of state the 3076
amount due pursuant to section 5733.41 and sections 5747.41 to 3077
5747.453 of the Revised Code with respect to and for the 3078
taxpayer. 3079

(D) In claiming the credit and determining the taxpayer's 3080
proportionate share of the tax due and the tax paid by any 3081
qualifying entity, the taxpayer shall follow the concepts set 3082
forth in subchapters J and K of the Internal Revenue Code. 3083

(E) The credit shall be claimed in the order required 3084
under section 5747.98 of the Revised Code. If the amount of the 3085
credit under this section exceeds the aggregate amount of tax 3086
otherwise due under section 5747.02 of the Revised Code after 3087
deduction of all other credits in that order, the taxpayer is 3088
entitled to a refund of the excess. 3089

Sec. 5747.21. (A) This section applies solely for the 3090
purposes of computing the credit allowed under division (A) of 3091
section 5747.05 of the Revised Code, and computing income 3092
taxable in this state under division (D) of section 5747.08 of 3093
the Revised Code, ~~computing the deduction under division (A) (31)~~ 3094
~~of section 5747.01 of the Revised Code, and computing the credit~~ 3095
~~allowed under section 5747.057 of the Revised Code.~~ 3096

(B) Except as otherwise provided under section 5747.212 of 3097
the Revised Code, all items of business income and business 3098
deduction shall be apportioned to this state by multiplying 3099
business income by the fraction calculated under division (B) (2) 3100
of section 5733.05 and section 5733.057 of the Revised Code as 3101
if the taxpayer's business were a corporation subject to the tax 3102
imposed by section 5733.06 of the Revised Code. 3103

(C) If the allocation and apportionment provisions of 3104
sections 5747.20 to 5747.23 of the Revised Code or of any rule 3105
adopted by the tax commissioner, do not fairly represent the 3106
extent of business activity in this state of a taxpayer or pass- 3107
through entity, the taxpayer or pass-through entity may request, 3108
which request must be in writing accompanying a timely filed 3109
return or timely filed amended return, or the tax commissioner 3110
may require, in respect of all or any part of the business 3111
activity, if reasonable, any one or more of the following: 3112

(1) Separate accounting; 3113

(2) The exclusion of one or more factors; 3114

(3) The inclusion of one or more additional factors which 3115
will fairly represent the business activity in this state; 3116

(4) The employment of any other method to effectuate an 3117
equitable allocation and apportionment of such business in this 3118
state. An alternative method will be effective only with 3119
approval of the tax commissioner. 3120

The tax commissioner may adopt rules in the manner 3121
provided by sections 5703.14 and 5747.18 of the Revised Code 3122
providing for alternative methods of calculating business income 3123
and nonbusiness income applicable to all taxpayers and pass- 3124
through entities, to classes of taxpayers and pass-through 3125

entities, or only to taxpayers and pass-through entities within 3126
a certain industry. 3127

Sec. 5747.212. (A) This section applies solely for the 3128
purpose of computing the credit allowed under division (A) of 3129
section 5747.05 of the Revised Code, and computing income 3130
taxable in this state under division (D) of section 5747.08 of 3131
the Revised Code, ~~and computing the credit allowed under section~~ 3132
~~5747.057 of the Revised Code.~~ 3133

(B) A taxpayer, directly or indirectly, owning at any time 3134
during the three-year period ending on the last day of the 3135
taxpayer's taxable year at least twenty per cent of the equity 3136
voting rights of a section 5747.212 entity shall apportion any 3137
income, including gain or loss, realized from each sale, 3138
exchange, or other disposition of a debt or equity interest in 3139
that entity as prescribed in this section. For such purposes, in 3140
lieu of using the method prescribed by sections 5747.20 and 3141
5747.21 of the Revised Code, the investor shall apportion the 3142
income using the average of the section 5747.212 entity's 3143
apportionment fractions otherwise applicable under section 3144
5733.05, 5733.056, or 5747.21 of the Revised Code for the 3145
current and two preceding taxable years. If the section 5747.212 3146
entity was not in business for one or more of those years, each 3147
year that the entity was not in business shall be excluded in 3148
determining the average. 3149

(C) For the purposes of this section: 3150

(1) A "section 5747.212 entity" is any qualifying person 3151
if, on at least one day of the three-year period ending on the 3152
last day of the taxpayer's taxable year, any of the following 3153
apply: 3154

(a) The qualifying person is a pass-through entity;	3155
(b) Five or fewer persons directly or indirectly own all the equity interests, with voting rights, of the qualifying person;	3156 3157 3158
(c) One person directly or indirectly owns at least fifty per cent of the qualifying person's equity interests with voting rights.	3159 3160 3161
(2) A "qualifying person" is any person other than an individual, estate, or trust.	3162 3163
(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.	3164 3165 3166
Sec. 5747.22. (A) This section applies solely for the purposes of computing the credit allowed under division (A) of section 5747.05 <u>of the Revised Code and</u> computing income taxable in this state under division (D) of section 5747.08, and computing the deduction under division (A) (31) of section 5747.01 of the Revised Code.	3167 3168 3169 3170 3171 3172
(B) With respect to a pass-through entity, one or more of the pass-through entity investors of which are liable for the tax imposed by section 5747.02 of the Revised Code, the business income and deductions included in the adjusted gross income of the pass-through entity shall be apportioned to this state in the hands of the pass-through entity investors pursuant to section 5747.21 of the Revised Code. The business income and deductions as thus apportioned to this state then shall be allocated to the pass-through entity investors in proportion to their right to share in that business income.	3173 3174 3175 3176 3177 3178 3179 3180 3181 3182
(C) With respect to a pass-through entity described in	3183

division (B) of this section, the nonbusiness income and 3184
deductions ~~included in the adjusted gross income~~ of the pass- 3185
through entity shall be allocated to the pass-through entity 3186
investors in proportion to their right to share in the 3187
nonbusiness income, and then the pass-through entity shares 3188
shall be allocated to this state in the hands of each pass- 3189
through entity investor pursuant to section 5747.20 of the 3190
Revised Code. 3191

Sec. 5747.27. As used in this section, "displaced worker" 3192
means an individual who has lost or left ~~his~~ the individual's 3193
job due to the closing or moving of the facility at which ~~he~~ the 3194
individual was employed or the abolishment of ~~his~~ the 3195
individual's position or shift at that facility and who has not 3196
obtained another job at which ~~he~~ the individual works more than 3197
twenty hours a week. 3198

A nonrefundable credit is allowed against the aggregate 3199
tax ~~imposed liability~~ under section 5747.02 of the Revised Code 3200
~~for of~~ a displaced worker who pays for job training to enhance 3201
~~his~~ the displaced worker's ability to get a new job. The amount 3202
of the credit equals the lesser of five hundred dollars or fifty 3203
per cent of the amount the individual actually paid less any 3204
reimbursements for job training during the twelve-month period 3205
beginning when ~~he loses or leaves his job and becomes displaced~~ 3206
the individual became a displaced worker. However, if the worker 3207
~~receives reimbursement for his job training expenses from any~~ 3208
~~source, the amount of the credit equals the lesser of five~~ 3209
~~hundred dollars or fifty per cent of the amount obtained by~~ 3210
~~subtracting the reimbursement from the amount paid for job~~ 3211
~~training during that twelve-month period.~~ The credit shall be 3212
claimed for the taxable year in which the worker pays for the 3213
job training. If the twelve-month period after ~~he loses or~~ 3214

~~leaves his job~~ the individual becomes a displaced worker extends 3215
over two taxable years ~~and the worker pays for job training in~~ 3216
~~both those taxable years,~~ the worker may claim all or a portion 3217
of the credit, not to exceed five hundred dollars, for both 3218
~~those taxable years, but the aggregate amount claimed shall not~~ 3219
~~exceed five hundred dollars.~~ The displaced worker shall claim 3220
the credit in the order required under section 5747.98 of the 3221
Revised Code. The credit for a taxable year shall not exceed the 3222
displaced worker's tax liability for that year after allowing 3223
for any other credit that precedes the credit under this section 3224
in that order. 3225

Sec. 5747.28. (A) As used in this section: 3226

(1) "Qualifying property" means any property, plant, or 3227
equipment used to produce grapes in this state, and includes but 3228
is not limited to land and improvements to land, grape seeds and 3229
vines, stakes, wiring, tractors, and other machinery used in the 3230
growth, harvesting, or producing of grapes. 3231

(2) "Related member" has the same meaning as in division 3232
(A) (6) of section 5733.042 of the Revised Code, without regard 3233
to division (B) of that section. 3234

(B) A nonrefundable credit is allowed against ~~the a~~ 3235
taxpayer's aggregate tax imposed by liability under section 3236
5747.02 of the Revised Code for a taxpayer engaged in the 3237
business of producing grapes who purchases qualifying property 3238
on or after January 1, 1994. The amount of the credit equals ten 3239
per cent of the cost of purchasing and installing or 3240
constructing the qualifying property. The taxpayer shall claim 3241
the credit in the taxable year in which the qualifying property 3242
is placed in operation. The taxpayer shall claim the credit in 3243
the order required under section 5747.98 of the Revised Code. 3244

The taxpayer may carry forward for the ensuing seven taxable 3245
years any credit amount in excess of its aggregate tax due under 3246
section 5747.02 of the Revised Code in the taxable year in which 3247
the qualifying property is placed in operation after allowing 3248
for any other credits that precede the credit under this section 3249
in that order, and shall deduct the amount of the excess credit 3250
allowed in any such year from the balance carried forward to the 3251
next year. However, if the taxpayer is subject to a recapture 3252
tax under division (C) (1) of this section because ~~it~~ the 3253
taxpayer disposes of the qualifying property or ceases to use it 3254
as qualifying property during the seven-year recapture period 3255
prescribed under that division, ~~it~~ the taxpayer may claim no 3256
credit in connection with that property in the taxable year of 3257
disposal or cessation or any ensuing taxable year. 3258

(C) (1) If, within the seven-year period after qualifying 3259
property is placed in operation, the taxpayer disposes of the 3260
property or ceases to use it as qualifying property, the amount 3261
of tax otherwise imposed on the taxpayer by section 5747.02 of 3262
the Revised Code shall be increased in the taxable year in which 3263
the property is disposed of or ceases to be used as qualifying 3264
property. The amount of the increase shall equal the recapture 3265
percentage multiplied by the aggregate credit the taxpayer has 3266
been allowed under this section in all prior taxable years in 3267
connection with that property. The recapture percentage shall be 3268
determined in accordance with the following table: 3269

If the property is disposed of		3270
or ceases to be used as qualifying		3271
property within this amount of time	The recapture	3272
after being placed in operation:	percentage is:	3273
One year	100%	3274
Two years	86%	3275

Three years	72%	3276
Four years	58%	3277
Five years	44%	3278
Six years	30%	3279
Seven years	15%	3280
(2) Division (C) (1) of this section does not apply in any		3281
of the following circumstances:		3282
(a) The qualifying property is transferred to a related		3283
member and the related member continues to use the property to		3284
produce grapes in this state;		3285
(b) The qualifying property is transferred to a family		3286
member and the family member continues to use the property to		3287
produce grapes in this state;		3288
(c) There is an involuntary disposition of the qualifying		3289
property. The involuntary disposition may be due to, without		3290
limitation, a bankruptcy, a receivership, or destruction by		3291
natural forces.		3292
(D) The tax commissioner, by rule, may prescribe		3293
guidelines for taxpayers to use in determining if their property		3294
is qualifying property for the purposes of this section.		3295
Sec. 5747.29. A nonrefundable credit is allowed against		3296
the a taxpayer's aggregate tax imposed by liability under		3297
section 5747.02 of the Revised Code for contributions of money		3298
made to the campaign committee of candidates for any of the		3299
following public offices: governor, lieutenant governor,		3300
secretary of state, auditor of state, treasurer of state,		3301
attorney general, member of the state board of education, chief		3302
justice of the supreme court, justice of the supreme court, or		3303
member of the general assembly. The amount of the credit for a		3304

taxable year equals the lesser of the combined total 3305
contributions made during the taxable year by each taxpayer 3306
filing a return required to be filed under section 5747.08 of 3307
the Revised Code or the amount of fifty dollars, in the case of 3308
an individual return, or one hundred dollars, in the case of a 3309
joint return. 3310

As used in this section: 3311

(A) "Candidate" has the same meaning as in division (C) (3) 3312
of section 3517.01 of the Revised Code, but is limited to 3313
candidates for the public offices specified in this section. 3314

(B) "Contribution" has the same meaning as in division (C) 3315
(5) of section 3517.01 of the Revised Code, but is limited to 3316
contributions of money only. 3317

The taxpayer shall claim the credit in the order required 3318
under section 5747.98 of the Revised Code. The credit for a 3319
taxable year shall not exceed the aggregate amount of tax 3320
otherwise due for that year after allowing for any other credits 3321
that precede the credit under this section in that order. 3322

Sec. 5747.331. (A) As used in this section: 3323

(1) "Borrower" means any person that receives a loan from 3324
the director of development under section 166.21 of the Revised 3325
Code, regardless of whether the borrower is subject to the tax 3326
imposed by section 5747.02 of the Revised Code. 3327

(2) "Related member" has the same meaning as in section 3328
5733.042 of the Revised Code. 3329

(3) "Qualified research and development loan payments" has 3330
the same meaning as in section 166.21 of the Revised Code. 3331

(B) Beginning with taxable years beginning in 2003, a 3332

nonrefundable credit is allowed against ~~the~~ a taxpayer's 3333
aggregate tax imposed by liability under section 5747.02 of the 3334
Revised Code equal to a borrower's qualified research and 3335
development loan payments made during the calendar year that 3336
includes the last day of the taxable year for which the credit 3337
is claimed. The amount of the credit for a taxable year shall 3338
not exceed one hundred fifty thousand dollars. No taxpayer is 3339
entitled to claim a credit under this section unless it has 3340
obtained a certificate issued by the director of development 3341
under division (D) of section 166.21 of the Revised Code and 3342
submits a copy of the certificate with its report for the 3343
taxable year. Failure to submit a copy of the certificate with 3344
the report does not invalidate a claim for a credit if the 3345
taxpayer submits a copy of the certificate within sixty days 3346
after the tax commissioner requests it. The credit shall be 3347
claimed in the order required under section 5747.98 of the 3348
Revised Code. No credit shall be allowed under this section if 3349
the credit was available against the tax imposed by Chapter 3350
5751. of the Revised Code except to the extent the credit was 3351
not applied against that tax. The credit, to the extent it 3352
exceeds the taxpayer's aggregate tax liability for the taxable 3353
year after allowance for any other credits that precede the 3354
credit under this section in that order, shall be carried 3355
forward to the next succeeding taxable year or years until fully 3356
used. 3357

(C) A borrower entitled to a credit under this section may 3358
assign the credit, or a portion thereof, to any of the 3359
following: 3360

(1) A related member of that borrower; 3361

(2) The owner or lessee of the eligible research and 3362

development project; 3363

(3) A related member of the owner or lessee of the 3364
eligible research and development project. 3365

A borrower making an assignment under this division shall 3366
provide written notice of the assignment to the tax commissioner 3367
and the director of development, in such form as the tax 3368
commissioner prescribes, before the credit that was assigned is 3369
used. The assignor may not claim the credit to the extent it was 3370
assigned to an assignee. The assignee may claim the credit only 3371
to the extent the assignor has not claimed it. 3372

(D) If any taxpayer is a shareholder in an S corporation, 3373
a partner in a partnership, or a member in a limited liability 3374
company treated as a partnership for federal income tax 3375
purposes, the taxpayer shall be allowed the taxpayer's 3376
distributive or proportionate share of the credit available 3377
through the S corporation, partnership, or limited liability 3378
company. 3379

(E) The aggregate credit against the taxes imposed by 3380
section 5747.02 and Chapter 5751. of the Revised Code that may 3381
be claimed under this section and section 5751.52 of the Revised 3382
Code by a borrower as a result of qualified research and 3383
development loan payments attributable during a calendar year to 3384
any one loan shall not exceed one hundred fifty thousand 3385
dollars. 3386

Sec. 5747.37. (A) As used in this section: 3387

(1) "Minor child" means a person under eighteen years of 3388
age. 3389

(2) "Legally adopt" means to adopt a minor child pursuant 3390
to Chapter 3107. of the Revised Code, or pursuant to the laws of 3391

any other state or nation if such an adoption is recognizable 3392
under section 3107.18 of the Revised Code. For the purposes of 3393
this section, a minor child is legally adopted when the final 3394
decree or order of adoption is issued by the proper court under 3395
the laws of the state or nation under which the child is 3396
adopted, or, in the case of an interlocutory order of adoption, 3397
when the order becomes final under the laws of the state or 3398
nation. "Legally adopt" does not include the adoption of a minor 3399
child by the child's stepparent. 3400

(B) There is hereby granted a credit against ~~the tax~~ 3401
~~imposed by a taxpayer's aggregate tax liability under~~ section 3402
5747.02 of the Revised Code for the legal adoption by a taxpayer 3403
of a minor child. The ~~total~~ amount of the credit ~~applied against~~ 3404
~~the taxes imposed under divisions (A) (3) and (4) of section~~ 3405
~~5747.02 of the Revised Code~~ for each minor child legally adopted 3406
by the taxpayer shall equal the greater of the following: 3407

(1) One thousand five hundred dollars; 3408

(2) The amount of expenses incurred by the taxpayer and 3409
the taxpayer's spouse to legally adopt the child, not to exceed 3410
ten thousand dollars. For the purposes of this division, 3411
expenses incurred to legally adopt a child include expenses 3412
described in division (C) of section 3107.055 of the Revised 3413
Code. 3414

The taxpayer shall claim the credit for each child 3415
beginning with the taxable year in which the child was legally 3416
adopted. If the sum of the credit to which the taxpayer would 3417
otherwise be entitled under this section is greater than the 3418
total tax due under section 5747.02 of the Revised Code for that 3419
taxable year after allowing for any other credits that precede 3420
the credit under this section in the order required under 3421

section 5747.98 of the Revised Code, such excess shall be 3422
allowed as a credit in each of the ensuing five taxable years, 3423
but the amount of any excess credit allowed in any such taxable 3424
year shall be deducted from the balance carried forward to the 3425
ensuing taxable year. The credit shall be claimed in the order 3426
required under section 5747.98 of the Revised Code. For the 3427
purposes of making tax payments under this chapter, taxes equal 3428
to the amount of the credit shall be considered to be paid to 3429
this state on the first day of the taxable year. 3430

The taxpayer shall provide to the tax commissioner any 3431
receipts or other documentation of the expenses incurred to 3432
legally adopt the child upon the request of the tax commissioner 3433
for the purpose of division (B) (2) of this section. 3434

Sec. 5747.65. There is hereby allowed a refundable credit 3435
against ~~the tax imposed a taxpayer's aggregate tax liability~~ 3436
under section 5747.02 of the Revised Code. The amount of the 3437
credit shall equal the taxpayer's proportionate share of the 3438
lesser of either the tax due or the tax paid for the tax imposed 3439
by section 5726.02 of the Revised Code by a pass-through entity 3440
for the pass-through entity's taxable year ending in the 3441
taxpayer's taxable year. 3442

The taxpayer shall claim the credit for the taxpayer's 3443
taxable year that includes the last day of the pass-through 3444
entity's taxable year. For purposes of making tax payments under 3445
this chapter, taxes equal to the amount of the credit shall be 3446
considered to be paid by the taxpayer on the day the pass- 3447
through entity pays to the treasurer of state the amount due for 3448
the tax imposed by section 5726.02 of the Revised Code. 3449

In claiming the credit and determining the taxpayer's 3450
proportionate share of the tax due and the tax paid by a pass- 3451

through entity, the taxpayer shall follow the concepts set forth 3452
in subchapters J and K of the Internal Revenue Code. 3453

The credit shall be claimed in the order required under 3454
section 5747.98 of the Revised Code. If the amount of the credit 3455
exceeds the aggregate amount of tax otherwise due under section 3456
5747.02 of the Revised Code after deduction of all other credits 3457
in that order, the taxpayer is entitled to a refund of the 3458
excess. 3459

Sec. 5747.66. (A) Any term used in this section has the 3460
same meaning as in section 122.85 of the Revised Code. 3461

(B) There is allowed a credit against ~~the tax imposed by a~~ 3462
taxpayer's aggregate tax liability under section 5747.02 of the 3463
Revised Code for any individual who, on the last day of the 3464
individual's taxable year, is the certificate owner of a tax 3465
credit certificate issued under section 122.85 of the Revised 3466
Code. The credit shall be claimed for the taxable year that 3467
includes the date the certificate was issued by the director of 3468
development. The credit amount equals the amount stated in the 3469
certificate. The credit shall be claimed in the order required 3470
under section 5747.98 of the Revised Code. If the credit amount 3471
exceeds the aggregate amount of tax otherwise due under section 3472
5747.02 of the Revised Code after deducting all other credits in 3473
that order, the excess shall be refunded. 3474

Nothing in this section limits or disallows pass-through 3475
treatment of the credit. 3476

Sec. 5747.71. There is hereby allowed a nonrefundable 3477
credit against ~~the tax imposed by a taxpayer's aggregate tax~~ 3478
liability under section 5747.02 of the Revised Code for a 3479
taxpayer who is an "eligible individual" as defined in section 3480

32 of the Internal Revenue Code. The credit shall equal five per cent of the credit allowed on the taxpayer's federal income tax return pursuant to section 32 of the Internal Revenue Code for taxable years beginning in 2013, and ten per cent of the federal credit allowed for taxable years beginning in or after 2014. If the Ohio adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse if the taxpayer and the taxpayer's spouse file a joint return under section 5747.08 of the Revised Code, less applicable exemptions under section 5747.025 of the Revised Code, exceeds twenty thousand dollars, the credit authorized by this section shall not exceed fifty per cent of the aggregate amount of tax otherwise due under section 5747.02 of the Revised Code after deducting any other nonrefundable credits that precede the credit allowed under this section in the order prescribed by section 5747.98 of the Revised Code except for the joint filing credit authorized under division (E) of section 5747.05 of the Revised Code. In all other cases, the credit authorized by this section shall not exceed the aggregate amount of tax otherwise due under section 5747.02 of the Revised Code after deducting any other nonrefundable credits that precede the credit allowed under this section in the order prescribed by section 5747.98 of the Revised Code.

The credit shall be claimed in the order prescribed by section 5747.98 of the Revised Code.

Sec. 5747.75. (A) As used in this section:

(1) "Ethanol" means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal, grains, cheese whey, and sugar beets; forest products; or other renewable resources, including residue and waste generated from the production, processing, and marketing of agricultural

products, forest products, and other renewable resources that 3511
meet all of the specifications in the American society for 3512
testing and materials (ASTM) specification D 4806-88 and is 3513
denatured as specified in Parts 20 and 21 of Title 27 of the 3514
Code of Federal Regulations. 3515

(2) "Certified ethanol plant" means a facility at which 3516
ethanol is produced and for which a certificate has been issued 3517
under section 901.13 of the Revised Code. 3518

(3) "Money" means United States currency, or a check, 3519
draft, or cashier's check for United States currency, payable on 3520
demand and drawn on a bank. 3521

(B) Beginning in taxable year 2002 and ending in taxable 3522
year 2012, there is hereby allowed a nonrefundable credit 3523
against ~~the tax imposed by a taxpayer's aggregate tax liability~~ 3524
under section 5747.02 of the Revised Code for a taxpayer that 3525
invests money in a certified ethanol plant. The amount of the 3526
credit equals fifty per cent of the money the taxpayer invests 3527
in the plant, but the credit amount shall not exceed five 3528
thousand dollars per taxpayer per certified ethanol plant 3529
regardless of the number of years in which the taxpayer makes 3530
investments. The credit shall be claimed for the taxable year 3531
during which the investment was made. 3532

(C) The taxpayer shall claim the credit in the order 3533
required by section 5747.98 of the Revised Code. Any credit 3534
amount in excess of the aggregate amount of tax due under 3535
section 5747.02 of the Revised Code, after allowing for any 3536
other credits preceding the credit in that order, may be carried 3537
forward for three taxable years, but the amount of the excess 3538
credit allowed in any such year shall be deducted from the 3539
balance carried forward to the next year. 3540

(D) If the taxpayer is a direct or indirect investor in a pass-through entity that has made an investment under this section, the taxpayer may claim its proportionate or distributive share of the credit allowed under this section.

(E) The tax commissioner may require that the taxpayer furnish information as is necessary to support the claim for the credit under this section, and no credit shall be allowed unless the information is provided.

Sec. 5747.76. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against ~~the tax imposed a~~ taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for a taxpayer that is the certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of credit allowed for any taxpayer shall not exceed five million dollars. The credit shall be claimed for the taxable year specified in the certificate and in the order required under section 5747.98 of the Revised Code.

(C) Nothing in this section limits or disallows pass-through treatment of the credit if the certificate owner is a pass-through entity. If the certificate owner is a pass-through entity, the amount of the credit allowed for the pass-through entity shall not exceed five million dollars. If the certificate owner is a pass-through entity, the credit may be allocated among the entity's equity owners in proportion to their ownership interests or in such proportions or amounts as the equity owners mutually agree.

(D) If the credit allowed for any taxable year exceeds the aggregate amount of tax otherwise due under section 5747.02 of the Revised Code, after allowing for any other credits preceding the credit in the order prescribed by section 5747.98 of the Revised Code, the excess shall be refunded to the taxpayer but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the aggregate amount of tax otherwise due for that year shall not exceed three million dollars or, if the certificate owner is a pass-through entity, shall not exceed the taxpayer's distributive or proportionate share, as allocated under division (C) of this section, of three million dollars. The taxpayer may carry forward any balance of the credit in excess of the amount claimed for that year for not more than five ensuing taxable years, and shall deduct any amount claimed for any such year from the amount claimed in an ensuing year.

(E) A taxpayer claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the taxable year to which the credit was applied, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

Sec. 5747.80. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a refundable credit may be claimed against ~~the tax imposed by a taxpayer's aggregate tax liability~~ under section 5747.02 of the Revised Code. The credit shall be claimed for the taxable year specified in the certificate issued by the authority and in the order required under section 5747.98 of the Revised Code.

Sec. 5747.81. (A) Any term used in this section that is 3601
defined in section 122.86 of the Revised Code has the same 3602
meaning as defined in that section. 3603

(B) For the purpose of encouraging new capital investment 3604
in small businesses in this state and thereby promoting the 3605
economic welfare of all Ohioans, a nonrefundable credit is 3606
allowed against ~~the tax imposed by a taxpayer's aggregate tax~~ 3607
liability under section 5747.02 of the Revised Code for a 3608
taxpayer to whom a small business investment certificate was 3609
issued under section 122.86 of the Revised Code if the taxpayer 3610
did not sell or otherwise dispose of the qualifying investment 3611
before the conclusion of the applicable holding period and if 3612
the small business enterprise on the basis of which the 3613
certificate was issued is included in the register maintained 3614
under division (D) of section 122.86 of the Revised Code. 3615

The credit shall be claimed for the taxpayer's taxable 3616
year that includes the last day of the holding period of the 3617
qualifying investment. If the certificate was issued to a pass- 3618
through entity that made the qualifying investment, a taxpayer 3619
that holds a direct or indirect equity interest in the pass- 3620
through entity on the last day of the entity's taxable year that 3621
includes the last day of the holding period may claim the 3622
taxpayer's distributive or proportionate share of the credit for 3623
the taxpayer's taxable year that includes the last day of the 3624
entity's taxable year. 3625

The credit equals the amount of the taxpayer's qualifying 3626
investment as indicated on the certificate multiplied by ten per 3627
cent. If a taxpayer claims a credit on the basis of more than 3628
one small business investment certificate issued for the same 3629
fiscal biennium, including a certificate issued to a pass- 3630

through entity in which the taxpayer owns an equity interest, 3631
the total amount of credit claimed by the taxpayer on the basis 3632
of all such certificates shall not exceed one million dollars. 3633
If a taxpayer and the taxpayer's spouse file a joint return 3634
under section 5747.08 of the Revised Code, the credit shall be 3635
computed on the basis of the total qualifying investments made 3636
by both spouses or by any pass-through entities in which either 3637
spouse owns an equity interest, but the total amount of credit 3638
claimed on the basis of all certificates issued to the spouses 3639
or to such pass-through entities for a fiscal biennium shall not 3640
exceed two million dollars. 3641

The credit shall be claimed in the order prescribed by 3642
section 5747.98 of the Revised Code. If the credit exceeds the 3643
aggregate amount of tax otherwise due for the taxable year, the 3644
excess may be carried forward and applied against the tax due 3645
for not more than seven succeeding taxable years, provided that 3646
the amount applied to the tax due for any taxable year shall be 3647
subtracted from the amount available to carry forward to 3648
succeeding years. 3649

Sec. 5747.98. (A) To provide a uniform procedure for 3650
calculating ~~the amount of tax due a taxpayer's aggregate tax~~ 3651
liability under section 5747.02 of the Revised Code, a taxpayer 3652
shall claim any credits to which the taxpayer is entitled in the 3653
following order: 3654

~~(1) Against the tax imposed by division (A) (3) of section~~ 3655
~~5747.02 of the Revised Code:~~ 3656

~~(a) The~~ Either the retirement income credit under division 3657
(B) of section 5747.055 of the Revised Code or the lump sum 3658
retirement income credits under divisions (C), (D), and (E) of 3659
that section; 3660

(b) The (2) Either the senior citizen credit under	3661
division (F) of section 5747.055 of the Revised Code <u>or the lump</u>	3662
<u>sum distribution credit under division (G) of that section;</u>	3663
(c) The lump sum distribution credit under division (G) of	3664
section 5747.055 of the Revised Code;	3665
(d) (3) The dependent care credit under section 5747.054	3666
of the Revised Code;	3667
(e) The lump sum retirement income credit under division	3668
(C) of section 5747.055 of the Revised Code;	3669
(f) The lump sum retirement income credit under division	3670
(D) of section 5747.055 of the Revised Code;	3671
(g) The lump sum retirement income credit under division	3672
(E) of section 5747.055 of the Revised Code;	3673
(h) (4) The low-income credit under section 5747.056 of	3674
the Revised Code;	3675
(i) (5) The credit for displaced workers who pay for job	3676
training under section 5747.27 of the Revised Code;	3677
(j) (6) The campaign contribution credit under section	3678
5747.29 of the Revised Code;	3679
(k) (7) The twenty-dollar personal exemption credit under	3680
section 5747.022 of the Revised Code;	3681
(l) (8) The joint filing credit under division (G) of	3682
section 5747.05 of the Revised Code;	3683
(m) (9) The earned income credit under section 5747.71 of	3684
the Revised Code.	3685
(2) Against the tax imposed by division (A) (4) of section	3686
5747.02 of the Revised Code;	3687

(a) The credit for employers that reimburse employee child-	3688
care expenses under section 5747.36 of the Revised Code;	3689
(b) The credit for purchases of lights and reflectors	3690
under section 5747.38 of the Revised Code;	3691
(c) (10) <u>The credit for adoption of a minor child under</u>	3692
<u>section 5747.37 of the Revised Code;</u>	3693
(11) The nonrefundable job retention credit under division	3694
(B) of section 5747.058 of the Revised Code;	3695
(d) The credit for selling alternative fuel under section	3696
5747.77 of the Revised Code;	3697
(e) The second credit for purchases of new manufacturing	3698
machinery and equipment and the credit for using Ohio coal under	3699
section 5747.31 of the Revised Code;	3700
(f) The job training credit under section 5747.39 of the	3701
Revised Code;	3702
(g) (12) The enterprise zone credit under section 5709.66	3703
of the Revised Code;	3704
(h) The credit for the eligible costs associated with a	3705
voluntary action under section 5747.32 of the Revised Code;	3706
(i) The credit for employers that establish on-site child-	3707
day care centers under section 5747.35 of the Revised Code;	3708
(j) (13) The ethanol plant investment credit under section	3709
5747.75 of the Revised Code;	3710
(k) (14) The credit for purchases of qualifying grape	3711
production property under section 5747.28 of the Revised Code;	3712
(l) (15) The small business investment credit under	3713
section 5747.81 of the Revised Code;	3714

(m) <u>(16)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	3715 3716
(n) <u>(17)</u> The research and development credit under section 5747.331 of the Revised Code;	3717 3718
(o) <u>(18)</u> The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	3719 3720
(3) Against the tax imposed by either division (A) (3) or (4) of section 5747.02 of the Revised Code:—	3721 3722
(a) The credit for adoption of a minor child under section 5747.37 of the Revised Code;—	3723 3724
(b) <u>(19)</u> The nonresident credit under division (A) of section 5747.05 of the Revised Code;	3725 3726
(c) <u>(20)</u> The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	3727 3728
(d) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;—	3729 3730
(e) <u>(21)</u> The refundable motion picture production credit under section 5747.66 of the Revised Code;	3731 3732
<u>(22)</u> The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	3733 3734 3735
(f) <u>(23)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	3736 3737 3738
(g) <u>(24)</u> The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	3739 3740 3741

~~(h)~~ (25) The refundable credit under section 5747.80 of 3742
the Revised Code for losses on loans made to the Ohio venture 3743
capital program under sections 150.01 to 150.10 of the Revised 3744
Code; 3745

~~(i)~~ ~~The refundable motion picture production credit under~~ 3746
~~section 5747.66 of the Revised Code;~~ 3747

~~(j)~~ (26) The refundable credit for rehabilitating a 3748
historic building under section 5747.76 of the Revised Code; 3749

(27) The refundable credit for financial institution taxes 3750
paid by a pass-through entity granted under section 5747.65 of 3751
the Revised Code. 3752

(B) For any credit, except the refundable credits 3753
enumerated in this section and the credit granted under division 3754
(H) of section 5747.08 of the Revised Code, the amount of the 3755
credit for a taxable year shall not exceed the taxpayer's 3756
aggregate amount of tax due under division (A) (3) or (4) of 3757
section 5747.02 of the Revised Code, ~~as applicable~~, after 3758
allowing for any other credit that precedes it in the order 3759
required under this section. Any excess amount of a particular 3760
credit may be carried forward if authorized under the section 3761
creating that credit. Nothing in this chapter shall be construed 3762
to allow a taxpayer to claim, directly or indirectly, a credit 3763
more than once for a taxable year. 3764

Section 2. That existing sections 9.66, 122.16, 122.172, 3765
122.173, 5709.65, 5709.66, 5733.33, 5733.42, 5733.98, 5747.01, 3766
5747.02, 5747.05, 5747.054, 5747.055, 5747.056, 5747.059, 3767
5747.21, 5747.212, 5747.22, 5747.27, 5747.28, 5747.29, 5747.331, 3768
5747.37, 5747.65, 5747.66, 5747.71, 5747.75, 5747.76, 5747.80, 3769
5747.81, and 5747.98 and sections 5733.48, 5747.051, 5747.057, 3770

5747.26, 5747.261, 5747.31, 5747.32, 5747.34, 5747.35, 5747.36, 3771
5747.38, 5747.39, and 5747.77 of the Revised Code are hereby 3772
repealed. 3773

Section 3. Section 5709.66 of the Revised Code is 3774
presented in this act as a composite of the section as amended 3775
by both Am. Sub. H.B. 215 and Sub. H.B. 408 of the 122nd General 3776
Assembly. The General Assembly, applying the principle stated in 3777
division (B) of section 1.52 of the Revised Code that amendments 3778
are to be harmonized if reasonably capable of simultaneous 3779
operation, finds that the composite is the resulting version of 3780
the section in effect prior to the effective date of the section 3781
as presented in this act. 3782

Section 4. The amendment or repeal by this act of sections 3783
9.66, 122.16, 122.172, 122.173, 5709.65, 5709.66, 5733.33, 3784
5733.42, 5733.48, 5733.98, 5747.01, 5747.02, 5747.05, 5747.051, 3785
5747.057, 5747.21, 5747.212, 5747.22, 5747.26, 5747.261, 3786
5747.31, 5747.32, 5747.34, 5747.35, 5747.36, 5747.38, 5747.39, 3787
5747.77, and 5747.98 of the Revised Code provides for the levy 3788
of a tax and is exempt from the referendum under Ohio 3789
Constitution, Article II, section 1d and therefore takes effect 3790
immediately when this act becomes law. 3791