

As Introduced

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Representatives Kuhns, Boyd

Cosponsors: Representatives Sykes, Johnson, G., Ramos, Antonio, Lepore-Hagan, Clyde, Boggs, Boyce, Phillips, Cera, Ashford, Patterson, Rogers, Sheehy, O'Brien, M., Celebrezze, Craig, Smith, K., Bishoff, Driehaus, Curtin, Leland, Sweeney, Fedor, Bocchieri, Slesnick, Reece, O'Brien, S., Howse, Strahorn

A BILL

To amend sections 4117.10, 4745.01, and 5747.01 and 1
to enact sections 4143.01, 4143.02, 4143.03, 2
4143.04, 4143.05, 4143.06, 4143.07, 4143.08, 3
4143.09, 4143.10, 4143.11, 4143.12, 4143.13, 4
4143.14, and 4143.99 of the Revised Code to 5
establish family and medical leave insurance 6
benefits to provide paid leave to allow an 7
individual to address the individual's own 8
serious health condition, to care for a family 9
member, or to bond with a new child and to 10
exempt those benefits from personal income tax. 11

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

Section 1. That sections 4117.10, 4745.01, and 5747.01 be 12
amended and sections 4143.01, 4143.02, 4143.03, 4143.04, 13
4143.05, 4143.06, 4143.07, 4143.08, 4143.09, 4143.10, 4143.11, 14
4143.12, 4143.13, 4143.14, and 4143.99 of the Revised Code be 15
enacted to read as follows: 16

Sec. 4117.10. (A) An agreement between a public employer 17
and an exclusive representative entered into pursuant to this 18
chapter governs the wages, hours, and terms and conditions of 19
public employment covered by the agreement. If the agreement 20
provides for a final and binding arbitration of grievances, 21
public employers, employees, and employee organizations are 22
subject solely to that grievance procedure and the state 23
personnel board of review or civil service commissions have no 24
jurisdiction to receive and determine any appeals relating to 25
matters that were the subject of a final and binding grievance 26
procedure. Where no agreement exists or where an agreement makes 27
no specification about a matter, the public employer and public 28
employees are subject to all applicable state or local laws or 29
ordinances pertaining to the wages, hours, and terms and 30
conditions of employment for public employees. All of the 31
following prevail over conflicting provisions of agreements 32
between employee organizations and public employers: 33

- (1) Laws pertaining to any of the following subjects: 34
 - (a) Civil rights; 35
 - (b) Affirmative action; 36
 - (c) Unemployment compensation; 37
 - (d) Workers' compensation; 38
 - (e) The retirement of public employees; 39
 - (f) Residency requirements; 40
 - (g) The minimum educational requirements contained in the 41
Revised Code pertaining to public education including the 42
requirement of a certificate by the fiscal officer of a school 43
district pursuant to section 5705.41 of the Revised Code; 44

(h) The provisions of division (A) of section 124.34 of the Revised Code governing the disciplining of officers and employees who have been convicted of a felony;

(i) The minimum standards promulgated by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(2) The law pertaining to the leave of absence and compensation provided under section 5923.05 of the Revised Code, if the terms of the agreement contain benefits which are less than those contained in that section or the agreement contains no such terms and the public authority is the state or any agency, authority, commission, or board of the state or if the public authority is another entity listed in division (B) of section 4117.01 of the Revised Code that elects to provide leave of absence and compensation as provided in section 5923.05 of the Revised Code;

(3) The law pertaining to the leave established under section 5906.02 of the Revised Code, if the terms of the agreement contain benefits that are less than those contained in section 5906.02 of the Revised Code;

(4) The law pertaining to excess benefits prohibited under section 3345.311 of the Revised Code with respect to an agreement between an employee organization and a public employer entered into on or after ~~the effective date of this amendment~~ September 29, 2015;

(5) The law pertaining to family and medical leave insurance benefits provided under Chapter 4143. of the Revised Code, if the terms of the agreement contain benefits less than those contained in that chapter.

Except for sections 306.08, 306.12, 306.35, and 4981.22 of 74
the Revised Code and arrangements entered into thereunder, and 75
section 4981.21 of the Revised Code as necessary to comply with 76
section 13(c) of the "Urban Mass Transportation Act of 1964," 87
Stat. 295, 49 U.S.C.A. 1609(c), as amended, and arrangements 78
entered into thereunder, this chapter prevails over any and all 79
other conflicting laws, resolutions, provisions, present or 80
future, except as otherwise specified in this chapter or as 81
otherwise specified by the general assembly. Nothing in this 82
section prohibits or shall be construed to invalidate the 83
provisions of an agreement establishing supplemental workers' 84
compensation or, unemployment compensation, or family and 85
medical leave insurance benefits or exceeding minimum 86
requirements contained in the Revised Code pertaining to public 87
education or the minimum standards promulgated by the state 88
board of education pursuant to division (D) of section 3301.07 89
of the Revised Code. 90

(B) The public employer shall submit a request for funds 91
necessary to implement an agreement and for approval of any 92
other matter requiring the approval of the appropriate 93
legislative body to the legislative body within fourteen days of 94
the date on which the parties finalize the agreement, unless 95
otherwise specified, but if the appropriate legislative body is 96
not in session at the time, then within fourteen days after it 97
convenes. The legislative body must approve or reject the 98
submission as a whole, and the submission is deemed approved if 99
the legislative body fails to act within thirty days after the 100
public employer submits the agreement. The parties may specify 101
that those provisions of the agreement not requiring action by a 102
legislative body are effective and operative in accordance with 103
the terms of the agreement, provided there has been compliance 104

with division (C) of this section. If the legislative body 105
rejects the submission of the public employer, either party may 106
reopen all or part of the entire agreement. 107

As used in this section, "legislative body" includes the 108
governing board of a municipal corporation, school district, 109
college or university, village, township, or board of county 110
commissioners or any other body that has authority to approve 111
the budget of their public jurisdiction and, with regard to the 112
state, "legislative body" means the controlling board. 113

(C) The chief executive officer, or the chief executive 114
officer's representative, of each municipal corporation, the 115
designated representative of the board of education of each 116
school district, college or university, or any other body that 117
has authority to approve the budget of their public 118
jurisdiction, the designated representative of the board of 119
county commissioners and of each elected officeholder of the 120
county whose employees are covered by the collective 121
negotiations, and the designated representative of the village 122
or the board of township trustees of each township is 123
responsible for negotiations in the collective bargaining 124
process; except that the legislative body may accept or reject a 125
proposed collective bargaining agreement. When the matters about 126
which there is agreement are reduced to writing and approved by 127
the employee organization and the legislative body, the 128
agreement is binding upon the legislative body, the employer, 129
and the employee organization and employees covered by the 130
agreement. 131

(D) There is hereby established an office of collective 132
bargaining in the department of administrative services for the 133
purpose of negotiating with and entering into written agreements 134

between state agencies, departments, boards, and commissions and 135
the exclusive representative on matters of wages, hours, terms 136
and other conditions of employment and the continuation, 137
modification, or deletion of an existing provision of a 138
collective bargaining agreement. Nothing in any provision of law 139
to the contrary shall be interpreted as excluding the bureau of 140
workers' compensation and the industrial commission from the 141
preceding sentence. This office shall not negotiate on behalf of 142
other statewide elected officials or boards of trustees of state 143
institutions of higher education who shall be considered as 144
separate public employers for the purposes of this chapter; 145
however, the office may negotiate on behalf of these officials 146
or trustees where authorized by the officials or trustees. The 147
staff of the office of collective bargaining are in the 148
unclassified service. The director of administrative services 149
shall fix the compensation of the staff. 150

The office of collective bargaining shall: 151

(1) Assist the director in formulating management's 152
philosophy for public collective bargaining as well as planning 153
bargaining strategies; 154

(2) Conduct negotiations with the exclusive 155
representatives of each employee organization; 156

(3) Coordinate the state's resources in all mediation, 157
fact-finding, and arbitration cases as well as in all labor 158
disputes; 159

(4) Conduct systematic reviews of collective bargaining 160
agreements for the purpose of contract negotiations; 161

(5) Coordinate the systematic compilation of data by all 162
agencies that is required for negotiating purposes; 163

(6) Prepare and submit an annual report and other reports 164
as requested to the governor and the general assembly on the 165
implementation of this chapter and its impact upon state 166
government. 167

Sec. 4143.01. As used in this chapter: 168

(A) "Average weekly wage" means the amount obtained by 169
dividing an employee's total wages for all qualifying weeks 170
during the employee's base period by the number of qualifying 171
weeks in the employee's base period. 172

(B) (1) "Base period" means the first four of the last five 173
completed calendar quarters immediately preceding the first day 174
of an individual's twelve-month period, except as provided in 175
division (B) (2) of this section. 176

(2) If an individual does not have sufficient qualifying 177
weeks and wages in the base period to be eligible for family and 178
medical leave insurance benefits, the individual's base period 179
shall be the four most recently completed calendar quarters 180
preceding the first day of the individual's twelve-month period. 181
Such base period shall be known as the "alternate base period." 182
No calendar quarter in a base period or alternate base period 183
shall be used to establish a subsequent benefit year. 184

(3) For purposes of determining the weeks that comprise a 185
completed calendar quarter under this division, only those weeks 186
ending at midnight Saturday within the calendar quarter shall be 187
utilized. 188

(C) "Child" means a biological, adopted, or foster son or 189
daughter, a stepson or stepdaughter, a legal ward, or a son or 190
daughter of a person standing in loco parentis. 191

(D) "Contributions" means the money payments to the family 192

<u>and medical leave insurance fund made by employers under section</u>	193
<u>4143.10 of the Revised Code.</u>	194
<u>(E) "Eligible individual" means an individual who</u>	195
<u>satisfies the requirements of section 4143.03 of the Revised</u>	196
<u>Code to receive family and medical leave insurance benefits.</u>	197
<u>(F) "Employee" and "employer" have the same meanings as in</u>	198
<u>section 4113.51 of the Revised Code.</u>	199
<u>(G) "Family and medical leave insurance benefits" means</u>	200
<u>money payments payable to an individual who has established</u>	201
<u>benefit rights under this chapter.</u>	202
<u>(H) "Family member" means a person for whom an employee</u>	203
<u>may take Family and Medical Leave Act leave, and includes a</u>	204
<u>child, parent, or spouse.</u>	205
<u>(I) "Family and Medical Leave Act" means the "Family and</u>	206
<u>Medical Leave Act of 1993," 107 Stat. 6, 29 U.S.C. 2601, as</u>	207
<u>amended.</u>	208
<u>(J) "Family and Medical Leave Act leave" means leave taken</u>	209
<u>from work and all other benefits authorized under the Family and</u>	210
<u>Medical Leave Act.</u>	211
<u>(K) "Health care professional" means any of the following:</u>	212
<u>(1) A dentist or dental hygienist licensed under Chapter</u>	213
<u>4715. of the Revised Code;</u>	214
<u>(2) A registered nurse, clinical nurse specialist,</u>	215
<u>certified nurse-midwife, or licensed practical nurse licensed or</u>	216
<u>certified under Chapter 4723. of the Revised Code;</u>	217
<u>(3) A person licensed under Chapter 4729. of the Revised</u>	218
<u>Code to practice as a pharmacist;</u>	219

<u>(4) A person authorized under Chapter 4730. of the Revised</u>	220
<u>Code to practice as a physician assistant;</u>	221
<u>(5) A person authorized under Chapter 4731. of the Revised</u>	222
<u>Code to practice medicine and surgery, osteopathic medicine and</u>	223
<u>surgery, or podiatry;</u>	224
<u>(6) A psychologist licensed under Chapter 4732. of the</u>	225
<u>Revised Code;</u>	226
<u>(7) A speech-language pathologist or audiologist licensed</u>	227
<u>under Chapter 4753. of the Revised Code;</u>	228
<u>(8) An occupational therapist, physical therapist,</u>	229
<u>physical therapist assistant, or athletic trainer licensed under</u>	230
<u>Chapter 4755. of the Revised Code;</u>	231
<u>(9) A professional clinical counselor, professional</u>	232
<u>counselor, independent social worker, or social worker licensed</u>	233
<u>under Chapter 4757. of the Revised Code;</u>	234
<u>(10) A dietician licensed under Chapter 4759. of the</u>	235
<u>Revised Code.</u>	236
<u>(L) "Internal Revenue Code" has the same meaning as in</u>	237
<u>section 5747.01 of the Revised Code.</u>	238
<u>(M) "Parent" means a biological, foster, or adoptive</u>	239
<u>parent, stepparent, legal guardian, or other person who stood in</u>	240
<u>loco parentis to a person when the person was a child.</u>	241
<u>(N) "Qualifying week" means any calendar week in an</u>	242
<u>individual's base period with respect to which the individual</u>	243
<u>earns or is paid wages. A calendar week with respect to which an</u>	244
<u>individual earns wages but for which payment was not made within</u>	245
<u>the base period, when necessary to qualify for family and</u>	246
<u>medical leave insurance benefits, may be considered to be a</u>	247

qualifying week. The number of qualifying weeks which may be 248
established in a calendar quarter shall not exceed the number of 249
calendar weeks in the quarter. 250

(O) "Serious health condition" means an illness, injury, 251
impairment, or physical or mental condition that involves 252
inpatient care in a hospital, hospice, or residential health 253
care facility, or continuing treatment or continuing supervision 254
by a health care professional. 255

(P) "Statewide average weekly wage" means the amount 256
calculated by the director of job and family services in 257
accordance with division (B) (3) of section 4141.30 of the 258
Revised Code. 259

(Q) "Twelve-month period" with respect to any individual, 260
means the three hundred sixty-five consecutive days that begin 261
with the first day an individual establishes a claim for family 262
and medical leave insurance benefits. 263

(R) "Wages" means all remuneration payable to an employee 264
for personal services performed for an employer, including 265
commissions and bonuses, and the reasonable cash value of all 266
remuneration payable to an employee in any medium other than 267
cash. 268

(S) "Weekly benefit amount" means the amount provided in 269
section 4143.05 of the Revised Code. 270

(T) "Yearly earnings" means the total wages an individual 271
earns for the calendar year. 272

Sec. 4143.02. (A) There is hereby created the family and 273
medical leave insurance program. The director of job and family 274
services shall administer and enforce the program in accordance 275
with this chapter and shall adopt rules in accordance with 276

<u>Chapter 119. of the Revised Code to establish all of the</u>	277
<u>following with respect to the program:</u>	278
<u>(1) Procedures for an individual to follow to allow the</u>	279
<u>individual to file a claim for family and medical leave</u>	280
<u>insurance benefits under section 4143.03 of the Revised Code;</u>	281
<u>(2) The form an individual shall use to apply for family</u>	282
<u>and medical leave insurance benefits;</u>	283
<u>(3) A sliding scale for determining the amount of the</u>	284
<u>premium each employee shall contribute to the program based on</u>	285
<u>the employee's yearly earnings;</u>	286
<u>(4) The manner and schedule by which an employer shall</u>	287
<u>remit premiums to the director as prescribed by section 4143.10</u>	288
<u>of the Revised Code;</u>	289
<u>(5) A maximum annual premium an employee shall contribute</u>	290
<u>to the family and medical leave insurance fund created in</u>	291
<u>section 4143.10 of the Revised Code;</u>	292
<u>(6) Procedures to adjust the amounts of the premiums each</u>	293
<u>year to ensure the actuarial soundness of the fund created in</u>	294
<u>section 4143.10 of the Revised Code;</u>	295
<u>(7) Procedures for an employer to follow to allow the</u>	296
<u>employer to make contributions on behalf of an employee to the</u>	297
<u>family and medical leave insurance fund under section 4143.10 of</u>	298
<u>the Revised Code;</u>	299
<u>(8) Procedures for an individual to follow to allow the</u>	300
<u>individual to elect to opt out of participating in the program</u>	301
<u>under section 4143.06 of the Revised Code;</u>	302
<u>(9) The form an individual shall use to elect to opt out</u>	303
<u>of participating in the program;</u>	304

(10) Procedures to recover a payment of benefits made to an individual in excess of the benefits the individual is entitled to receive under section 4143.09 of the Revised Code; 305
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(11) The time periods during which an independent contractor who has elected coverage under section 4143.08 of the Revised Code may withdraw from coverage. 308
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(B) The director may adopt additional rules the director considers necessary to administer and enforce the program and this chapter. 311
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Sec. 4143.03. (A) An individual may receive family and medical leave insurance benefits for any of the following reasons: 314
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(1) The individual has a serious health condition that makes the individual unable to perform the functions of one or more of the individual's jobs. 317
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(2) The individual is caring for a new child during the first year after the birth or adoption of the child or the placement of the child through foster care. 320
321
322

(3) The individual is caring for a family member who has a serious health condition. 323
324

(4) The individual is taking any other leave from work authorized by the Family and Medical Leave Act. 325
326

(B) (1) To be eligible to receive benefits, an individual shall do all of the following: 327
328

(a) File a claim for benefits in accordance with rules adopted by the director of job and family services under section 4143.02 of the Revised Code; 329
330
331

(b) Consent to the release of information that is 332
considered confidential under section 4143.12 of the Revised 333
Code; 334

(c) Demonstrate that the individual has been employed by 335
and worked for one or more employers for at least six hundred 336
eighty hours during the individual's base period; 337

(d) Demonstrate that the individual's employer has 338
withheld and remitted premiums or made contributions to the 339
family and medical leave insurance program for at least one 340
year; 341

(e) Attest in the claim for benefits that the individual 342
notified the individual's employer in writing of the 343
individual's intent to take leave for one of the reasons listed 344
in division (A) of this section. 345

(2) The director shall require an individual filing a 346
claim for benefits under this section to provide both of the 347
following: 348

(a) An attestation that the individual is not receiving 349
benefits under Chapter 4121., 4123., 4127., 4131., or 4141. of 350
the Revised Code in an amount that would exceed the individual's 351
wages, as determined by the director, when combined with the 352
benefits available to the individual under this chapter; 353

(b) A certification from a health care professional 354
supporting the individual's claim that the individual or a 355
family member of the individual has a serious health condition. 356

(C) (1) The director shall notify an employer within five 357
business days after an individual files a claim for benefits 358
under this section that the claim has been filed. 359

(2) The director shall notify an individual within five 360
business days after the individual files a claim for benefits 361
under this section that the premiums or contributions due under 362
section 4143.10 of the Revised Code have not been paid as 363
described in division (B) of that section. 364

(D) An individual who meets the requirements of division 365
(B) of this section may receive family and medical leave 366
insurance benefits regardless of whether the individual is 367
currently employed or is working at a different job while taking 368
leave. 369

(E) No claim for benefits or an individual's eligibility 370
to receive benefits under this section shall be invalidated for 371
any of the following reasons: 372

(1) A failure to file a claim for benefits; 373

(2) A failure to furnish notice of the intent to take 374
leave to an employer; 375

(3) A failure to submit an attestation or certification 376
required by division (B)(2) of this section. 377

(F) An individual whose claim for benefits is denied by 378
the director may appeal the decision to the director within 379
twenty-one calendar days after the written determination was 380
sent to the individual. Within twenty-one days after the receipt 381
of the appeal, the director shall issue a determination. A 382
determination made under this division is final and may be 383
appealed pursuant to section 119.12 of the Revised Code. 384

Sec. 4143.04. (A) (1) An eligible individual shall serve a 385
seven-day waiting period before benefits become payable. The 386
waiting period applies only once in a twelve-month period, 387
regardless of how often the individual takes leave during the 388

twelve-month period. 389

(2) An eligible individual who takes ten or more days of 390
leave in a twelve-month period shall receive benefits for the 391
waiting period described in division (A)(1) of this section. The 392
amount of benefits an individual receives shall be reduced by 393
the amount of any compensation the individual received from the 394
individual's employer during the waiting period. 395

(B)(1) An eligible individual may receive benefits for a 396
maximum of two weeks before the date on which the individual 397
files a claim for benefits, notifies the individual's employer 398
of the intent to take leave, or provides the director of job and 399
family services with the attestation and certification required 400
in division (B) of section 4143.03 of the Revised Code. 401

(2) The director may grant an eligible individual benefits 402
beyond those in division (B)(1) of this section upon the 403
individual's demonstrating that the individual filed a claim, 404
notified the individual's employer, or provided an attestation 405
and certification as soon as was practicable. 406

Sec. 4143.05. (A)(1) The director of job and family 407
services shall determine the weekly benefit amount an eligible 408
individual may receive, subject to division (B) of this section, 409
as follows: 410

(a) For an eligible individual whose yearly earnings are 411
twenty per cent or less of the statewide average weekly wage, 412
the weekly benefit amount shall be equal to ninety-five per cent 413
of the individual's average weekly wage; 414

(b) For an eligible individual whose yearly earnings are 415
more than twenty per cent but not more than thirty per cent of 416
the statewide average weekly wage, the weekly benefit amount 417

shall be equal to ninety per cent of the individual's average 418
weekly wage; 419

(c) For an eligible individual whose yearly earnings are 420
more than thirty per cent but not more than fifty per cent of 421
the statewide average weekly wage, the weekly benefit amount 422
shall be equal to eighty-five per cent of the individual's 423
average weekly wage; 424

(d) For an eligible individual whose yearly earnings are 425
more than fifty per cent of the statewide average weekly wage, 426
the weekly benefit amount shall be equal to sixty-six per cent 427
of the individual's average weekly wage. 428

(2) The maximum weekly benefit amount an eligible 429
individual may receive under this section is one thousand 430
dollars per week. 431

(3) Beginning on January 1, 2021, and every year 432
thereafter, the director shall adjust the maximum weekly benefit 433
amount to reflect changes in the consumer price index or its 434
successor index for all urban consumers in the midwest region 435
for all items as calculated by the federal government for the 436
previous calendar year. 437

(B) The director shall calculate an eligible individual's 438
weekly benefit amount under division (A) of this section based 439
on the individual's average weekly wage earned from the job from 440
which the individual is taking leave. If the individual is able 441
to continue working at a different job while taking leave, the 442
director shall not consider the individual's average weekly wage 443
from the other job when calculating the individual's weekly 444
benefit amount. 445

(C) (1) The director shall make the first payment of 446

benefits to an eligible individual within fourteen calendar days 447
after the individual files a claim for benefits under section 448
4143.03 of the Revised Code. 449

(2) The director shall make subsequent payments to an 450
eligible individual biweekly after the first payment under 451
division (C) (1) of this section. 452

(D) An eligible individual may receive a maximum of twelve 453
weeks of benefits payable during a twelve-month period. Benefits 454
are not payable for a period of less than eight consecutive 455
hours of leave taken during one work week. 456

Sec. 4143.06. (A) (1) A period of leave taken by an 457
eligible individual under this chapter runs concurrently with 458
any leave taken under the Family and Medical Leave Act. 459

(2) An employer may require that any leave taken under 460
this chapter be taken concurrently with leave allowed under the 461
terms of disability or family care leave under a collective 462
bargaining agreement or employer policy. The employer shall 463
provide employees with a written notice of this requirement. 464

(B) (1) An employer shall comply with a collective 465
bargaining agreement or employer policy that provides employees 466
with greater leave than that provided by the Family and Medical 467
Leave Act. 468

(2) An employee who is covered by an employer policy 469
described in division (B) (1) of this section may elect not to 470
participate in the family and medical leave insurance program by 471
filing an election to opt out in accordance with rules adopted 472
by the director of job and family services under section 4143.02 473
of the Revised Code. 474

(C) No collective bargaining agreement or employer policy 475

shall diminish an individual's rights to benefits under this 476
chapter. 477

(D) Any agreement by an individual to waive the 478
individual's rights under this chapter is void as against public 479
policy. This division does not apply to an individual who elects 480
to opt out of participating in the program under division (B) (2) 481
of this section. 482

Sec. 4143.07. (A) An eligible individual who serves a 483
waiting period described in section 4143.04 of the Revised Code 484
or takes a period of leave under this chapter shall be restored 485
to the individual's position of employment with the individual's 486
employer before taking leave, or to an equivalent position with 487
equivalent benefits, pay, status, and other terms and conditions 488
of employment. 489

(B) No employer shall discharge, demote, discriminate, or 490
take an adverse employment action against an employee at any 491
time for any of the following reasons: 492

(1) The employee filed a claim or received benefits under 493
this chapter. 494

(2) The employee communicated to the employer the 495
employee's intent to file a claim for benefits, a complaint, or 496
an appeal under this chapter. 497

(3) The employee testified, agreed to testify, or 498
otherwise assisted in a proceeding under this chapter. 499

(C) The director of job and family services, after a 500
notice and hearing conducted under Chapter 119. of the Revised 501
Code, may assess a civil penalty against an employer who 502
violates this section of up to three thousand dollars per 503
violation. If the employer fails to pay the civil penalty 504

assessed by the director under this division, the director shall 505
forward to the attorney general the name of the employer and the 506
amount of the civil penalty for the purpose of collecting that 507
civil penalty. In addition to the civil penalty assessed under 508
this division, the employer shall pay any fee assessed by the 509
attorney general for collection of the civil penalty. Any civil 510
penalty collected for a violation shall be deposited into the 511
family and medical leave insurance fund created in section 512
4143.10 of the Revised Code. 513

(D) (1) An aggrieved employee may bring a civil action in a 514
court of competent jurisdiction against an employer who the 515
employee believes violated this section. If the court finds that 516
a violation has occurred, the employer shall be liable to the 517
aggrieved employee for any of the following: 518

(a) Damages in the amount of lost wages, salary, benefits, 519
or other compensation; 520

(b) Damages for any actual monetary losses sustained by 521
the employee; 522

(c) Interest on damages calculated at the prevailing rate; 523

(d) Equitable relief as may be appropriate. 524

(2) An employer may be liable for liquidated damages in an 525
amount equal to those described in division (D) (1) (a) or (b) of 526
this section if the employer cannot prove that a violation of 527
this section was unintentional and made in good faith. 528

Sec. 4143.08. (A) An independent contractor may elect 529
coverage under this chapter for an initial period of a minimum 530
of three years. An independent contractor shall file a notice of 531
election of coverage in writing with the director of job and 532
family services. The election is effective on the date the 533

notice is filed. 534

(B) An independent contractor may elect continuing 535
coverage under this chapter for a period of a minimum of one 536
year immediately following another period of coverage by filing 537
a notice for election of coverage as described in division (A) 538
of this section at least thirty days before the prior election 539
period expires. 540

(C) An independent contractor may withdraw from coverage 541
by filing a written notice with the director within thirty days 542
before the end of a period of coverage or during a period the 543
director has designated by rule under section 4143.02 of the 544
Revised Code. The withdrawal is effective thirty days after the 545
notice is filed. 546

Sec. 4143.09. (A) No individual shall receive family and 547
medical leave insurance benefits for one year after the 548
individual willfully makes a false statement or misrepresents or 549
willfully fails to report a material fact in connection with a 550
claim for benefits under this chapter. 551

(B) (1) The director of job and family services may seek 552
repayment of benefits that are paid to an individual in excess 553
of the benefits the individual is entitled to receive for any of 554
the following reasons: 555

(a) The individual willfully made a false statement or 556
misrepresented or willfully failed to report a material fact in 557
connection with a claim for benefits. 558

(b) The individual received benefits to which the 559
individual is subsequently determined to not be entitled as a 560
result of a decision of an appeal under division (F) of section 561
4143.03 of the Revised Code. 562

(c) The individual failed to demonstrate that the individual took the actions listed in division (B) (2) of section 4143.04 of the Revised Code to remain eligible for benefits granted under that division. 563
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(d) The individual received benefits to which the individual was not entitled due to a mistake or a clerical error. 567
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(2) The director may waive a repayment or part of a repayment in division (B) (1) of this section if the director decides the recovery is against equity and good conscience. 570
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Sec. 4143.10. (A) There is hereby created the family and medical leave insurance fund, which shall be in the custody of the treasurer of state but shall not be a part of the state treasury. All premiums and contributions received under this section and any other moneys collected pursuant to this chapter shall be deposited into the fund. The treasurer of state shall invest any portion of the fund not needed for immediate use in the same manner as, and subject to all applicable laws regarding the investment of, state funds. Any investment earnings of the fund shall be credited to the fund. The treasurer of state shall disburse money from the fund on order of the director of job and family services or a designee of the director. 573
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(B) (1) Except as provided in division (B) (2) of section 4143.06 of the Revised Code or division (B) (2) or (D) (2) of this section, every employer paying any wages to an employee shall deduct and withhold from such wages for each payroll period a premium computed in accordance with rules adopted by the director under section 4143.02 of the Revised Code. The employer shall deduct and withhold the premium on the date that the employer directly, indirectly, or constructively pays wages to, 585
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or credits wages to the benefit of, the employee. 593

(2) An employer may elect to pay contributions into the 594
fund on behalf of an employee. The employer shall follow the 595
procedures prescribed by the director under section 4143.02 of 596
the Revised Code to establish the employer's obligation to pay 597
contributions to the fund. 598

(C) (1) The failure of an employer to withhold premiums as 599
required by this section does not relieve an employee from the 600
liability for the premium unless the employer paid the 601
contribution under division (B) (2) of this section. The failure 602
of an employer to remit the premium as required by section 603
4143.02 of the Revised Code does not relieve an employee from 604
liability for the premium if the director ascertains that the 605
employee colluded with the employer with respect to the failure 606
to remit the premium. 607

(2) If an employer fails to deduct and withhold premiums 608
as required, and thereafter the premium is paid, the premium so 609
required to be deducted and withheld shall not be collected from 610
the employer, but the employer is not relieved from liability 611
for penalties otherwise applicable in respect to the failure to 612
deduct and withhold the premium. 613

(3) The failure of an employer to make contributions as 614
permitted by this section does not relieve an employee for the 615
liability for the premium that would otherwise be due if the 616
employer had not elected to pay contributions. 617

(D) (1) To ensure that premiums imposed by this section are 618
deducted and withheld as provided, each employee shall furnish 619
the employer with sufficient and correct information to enable 620
the employer to withhold the premium. The employee shall provide 621

additional or corrected information whenever information 622
previously provided to the employer becomes insufficient or 623
incorrect. 624

(2) If the employee fails to comply with the requirements 625
of division (D)(1) of this section, the employer is not required 626
to withhold and pay the premium and is not subject to any 627
penalties otherwise applicable for failing to deduct and 628
withhold such premiums. 629

(E) An employee who elects to opt out of participating in 630
the family and medical leave insurance program under division 631
(B)(2) of section 4143.06 of the Revised Code is not liable for 632
any premium or contribution to the fund under this chapter. 633

(F)(1) The director may apply for and accept gifts, 634
grants, donations, and available federal funding to pay for the 635
costs to establish the family and medical leave insurance 636
program created under section 4143.02 of the Revised Code. The 637
director shall transmit any gifts, grants, donations, or federal 638
funding the director receives to the treasurer of state for 639
deposit in the fund. 640

(2) The director may request an appropriation to cover the 641
costs to establish the program, if the director does not receive 642
adequate funding under division (F)(1) of this section. 643

Sec. 4143.11. (A) If the internal revenue service 644
determines benefits under this chapter are subject to federal 645
income tax, the director of job and family services shall inform 646
an individual for whom the director approved a claim for 647
benefits under section 4143.03 of the Revised Code, before 648
making the first benefit payment, of each of the following: 649

(1) That the internal revenue service has determined that 650

benefits are subject to federal income tax; 651

(2) The requirement for the individual to make estimated tax payments on the basis of those benefits as required by the Internal Revenue Code; 652
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(3) That the individual may elect to have federal income tax deducted and withheld from the individual's payment of benefits in the amount authorized under the Internal Revenue Code; 655
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(4) That the individual may change a previously elected federal withholding status as authorized under the Internal Revenue Code. 659
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(B) The director shall follow all procedures prescribed by the internal revenue service when deducting, withholding, and remitting federal income tax. 662
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Sec. 4143.12. (A) Except as provided in division (B) of this section, any information contained in the files and records of an individual in the possession of the director of job and family services under this chapter is confidential and is not a public record under section 149.43 of the Revised Code. 665
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(B) The following individuals may have access to the files and records of an individual under this chapter: 670
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(1) A public employee in the performance of the public employee's official duties; 672
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(2) The individual or a person authorized by the individual, with an authorization form signed by the individual; 674
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(3) An employer or the employer's duly authorized representative, in connection with a pending claim of an individual employed by the employer; 676
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(4) An individual who is assisting the director of job and family services on any matter regarding the administration of this chapter, at the director's request. 679
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Sec. 4143.13. (A) Not later than March 1, 2020, and every year thereafter, the director of job and family services shall submit a report to the standing committees of the house of representatives and the senate that are principally responsible for commerce and labor policy and the standing committees of the house of representatives and the senate that are principally responsible for health and human services policy. The report shall contain all of the following information: 682
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(1) Projected program participation; 690

(2) Actual program participation; 691

(3) Demographic information of participants, including gender, race, and ethnicity; 692
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(4) Purpose and duration of leave taken by participants; 694

(5) Premium rates; 695

(6) Fund balances; 696

(7) Outreach efforts. 697

(B) The director shall make the report available to the public by posting the report on the internet web site maintained by the department of job and family services. 698
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Sec. 4143.14. (A) The director of job and family services shall develop and implement an outreach program to educate the public about the family and medical leave insurance program created under section 4143.02 of the Revised Code and the availability of family and medical leave insurance benefits for 701
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individuals under this chapter. The outreach program shall 706
explain all of the following information about the program: 707

(1) Eligibility requirements; 708

(2) The claims process; 709

(3) Weekly benefit amounts and maximum benefits payable; 710

(4) Notice and medical certification requirements; 711

(5) Reinstatement and nondiscrimination rights; 712

(6) Confidentiality of records; 713

(7) The relationship between employment protection, leave 714
from employment, and benefits under this chapter and other laws, 715
collective bargaining agreements, and employer policies; 716

(8) Other information the director considers necessary. 717

(B) The director shall develop a program notice containing 718
the information listed in division (A) of this section. Each 719
employer shall post the program notice in a prominent location 720
in the employer's workplace and inform employees of the program. 721

Sec. 4143.99. Whoever recklessly violates section 4143.10 722
of the Revised Code by failing to remit premiums withheld from 723
an employee is guilty of a felony of the fifth degree. 724

Sec. 4745.01. (A) "Standard renewal procedure," as used in 725
Chapters 905., 907., 909., 911., 913., 915., 918., 921., 923., 726
927., 942., 943., 953., 1321., 3710., 3713., 3719., 3742., 727
3748., 3769., 3783., 3921., 3951., 4104., 4105., ~~4143.~~ 4169., 728
4561., 4703., 4707., 4709., 4713., 4715., 4717., 4723., 4725., 729
4727., 4728., 4729., 4731., 4733., 4734., 4735., 4739., 4741., 730
4747., 4749., 4752., 4753., 4755., 4757., 4758., 4759., 4761., 731
4766., 4773., and 4775. of the Revised Code, means the license 732

renewal procedures specified in this chapter. 733

(B) "Licensing agency," as used in this chapter, means any 734
department, division, board, section of a board, or other state 735
governmental unit subject to the standard renewal procedure, as 736
defined in this section, and authorized by the Revised Code to 737
issue a license to engage in a specific profession, occupation, 738
or occupational activity, or to have charge of and operate 739
certain specified equipment, machinery, or premises. 740

(C) "License," as used in this chapter, means a license, 741
certificate, permit, card, or other authority issued or 742
conferred by a licensing agency by authority of which the 743
licensee has or claims the privilege to engage in the 744
profession, occupation, or occupational activity, or to have 745
control of and operate certain specific equipment, machinery, or 746
premises, over which the licensing agency has jurisdiction. 747

(D) "Licensee," as used in this chapter, means either the 748
person to whom the license is issued or renewed by a licensing 749
agency, or the person, partnership, or corporation at whose 750
request the license is issued or renewed. 751

(E) "Renewal" and "renewed," as used in this chapter and 752
in the chapters of the Revised Code specified in division (A) of 753
this section, includes the continuing licensing procedure 754
provided in Chapter 3748. of the Revised Code and rules adopted 755
under it and in sections 1321.05 and 3921.33 of the Revised 756
Code, and as applied to those continuing licenses any reference 757
in this chapter to the date of expiration of any license shall 758
be construed to mean the due date of the annual or other fee for 759
the continuing license. 760

Sec. 5747.01. Except as otherwise expressly provided or 761

clearly appearing from the context, any term used in this 762
chapter that is not otherwise defined in this section has the 763
same meaning as when used in a comparable context in the laws of 764
the United States relating to federal income taxes or if not 765
used in a comparable context in those laws, has the same meaning 766
as in section 5733.40 of the Revised Code. Any reference in this 767
chapter to the Internal Revenue Code includes other laws of the 768
United States relating to federal income taxes. 769

As used in this chapter: 770

(A) "Adjusted gross income" or "Ohio adjusted gross 771
income" means federal adjusted gross income, as defined and used 772
in the Internal Revenue Code, adjusted as provided in this 773
section: 774

(1) Add interest or dividends on obligations or securities 775
of any state or of any political subdivision or authority of any 776
state, other than this state and its subdivisions and 777
authorities. 778

(2) Add interest or dividends on obligations of any 779
authority, commission, instrumentality, territory, or possession 780
of the United States to the extent that the interest or 781
dividends are exempt from federal income taxes but not from 782
state income taxes. 783

(3) Deduct interest or dividends on obligations of the 784
United States and its territories and possessions or of any 785
authority, commission, or instrumentality of the United States 786
to the extent that the interest or dividends are included in 787
federal adjusted gross income but exempt from state income taxes 788
under the laws of the United States. 789

(4) Deduct disability and survivor's benefits to the 790

extent included in federal adjusted gross income. 791

(5) Deduct benefits under Title II of the Social Security 792
Act and tier 1 railroad retirement benefits to the extent 793
included in federal adjusted gross income under section 86 of 794
the Internal Revenue Code. 795

(6) In the case of a taxpayer who is a beneficiary of a 796
trust that makes an accumulation distribution as defined in 797
section 665 of the Internal Revenue Code, add, for the 798
beneficiary's taxable years beginning before 2002, the portion, 799
if any, of such distribution that does not exceed the 800
undistributed net income of the trust for the three taxable 801
years preceding the taxable year in which the distribution is 802
made to the extent that the portion was not included in the 803
trust's taxable income for any of the trust's taxable years 804
beginning in 2002 or thereafter. "Undistributed net income of a 805
trust" means the taxable income of the trust increased by (a) (i) 806
the additions to adjusted gross income required under division 807
(A) of this section and (ii) the personal exemptions allowed to 808
the trust pursuant to section 642(b) of the Internal Revenue 809
Code, and decreased by (b) (i) the deductions to adjusted gross 810
income required under division (A) of this section, (ii) the 811
amount of federal income taxes attributable to such income, and 812
(iii) the amount of taxable income that has been included in the 813
adjusted gross income of a beneficiary by reason of a prior 814
accumulation distribution. Any undistributed net income included 815
in the adjusted gross income of a beneficiary shall reduce the 816
undistributed net income of the trust commencing with the 817
earliest years of the accumulation period. 818

(7) Deduct the amount of wages and salaries, if any, not 819
otherwise allowable as a deduction but that would have been 820

allowable as a deduction in computing federal adjusted gross 821
income for the taxable year, had the targeted jobs credit 822
allowed and determined under sections 38, 51, and 52 of the 823
Internal Revenue Code not been in effect. 824

(8) Deduct any interest or interest equivalent on public 825
obligations and purchase obligations to the extent that the 826
interest or interest equivalent is included in federal adjusted 827
gross income. 828

(9) Add any loss or deduct any gain resulting from the 829
sale, exchange, or other disposition of public obligations to 830
the extent that the loss has been deducted or the gain has been 831
included in computing federal adjusted gross income. 832

(10) Deduct or add amounts, as provided under section 833
5747.70 of the Revised Code, related to contributions to 834
variable college savings program accounts made or tuition units 835
purchased pursuant to Chapter 3334. of the Revised Code. 836

(11) (a) Deduct, to the extent not otherwise allowable as a 837
deduction or exclusion in computing federal or Ohio adjusted 838
gross income for the taxable year, the amount the taxpayer paid 839
during the taxable year for medical care insurance and qualified 840
long-term care insurance for the taxpayer, the taxpayer's 841
spouse, and dependents. No deduction for medical care insurance 842
under division (A) (11) of this section shall be allowed either 843
to any taxpayer who is eligible to participate in any subsidized 844
health plan maintained by any employer of the taxpayer or of the 845
taxpayer's spouse, or to any taxpayer who is entitled to, or on 846
application would be entitled to, benefits under part A of Title 847
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 848
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 849
of this section, "subsidized health plan" means a health plan 850

for which the employer pays any portion of the plan's cost. The 851
deduction allowed under division (A)(11)(a) of this section 852
shall be the net of any related premium refunds, related premium 853
reimbursements, or related insurance premium dividends received 854
during the taxable year. 855

(b) Deduct, to the extent not otherwise deducted or 856
excluded in computing federal or Ohio adjusted gross income 857
during the taxable year, the amount the taxpayer paid during the 858
taxable year, not compensated for by any insurance or otherwise, 859
for medical care of the taxpayer, the taxpayer's spouse, and 860
dependents, to the extent the expenses exceed seven and one-half 861
per cent of the taxpayer's federal adjusted gross income. 862

(c) Deduct, to the extent not otherwise deducted or 863
excluded in computing federal or Ohio adjusted gross income, any 864
amount included in federal adjusted gross income under section 865
105 or not excluded under section 106 of the Internal Revenue 866
Code solely because it relates to an accident and health plan 867
for a person who otherwise would be a "qualifying relative" and 868
thus a "dependent" under section 152 of the Internal Revenue 869
Code but for the fact that the person fails to meet the income 870
and support limitations under section 152(d)(1)(B) and (C) of 871
the Internal Revenue Code. 872

(d) For purposes of division (A)(11) of this section, 873
"medical care" has the meaning given in section 213 of the 874
Internal Revenue Code, subject to the special rules, 875
limitations, and exclusions set forth therein, and "qualified 876
long-term care" has the same meaning given in section 7702B(c) 877
of the Internal Revenue Code. Solely for purposes of divisions 878
(A)(11)(a) and (c) of this section, "dependent" includes a 879
person who otherwise would be a "qualifying relative" and thus a 880

"dependent" under section 152 of the Internal Revenue Code but 881
for the fact that the person fails to meet the income and 882
support limitations under section 152(d)(1)(B) and (C) of the 883
Internal Revenue Code. 884

(12)(a) Deduct any amount included in federal adjusted 885
gross income solely because the amount represents a 886
reimbursement or refund of expenses that in any year the 887
taxpayer had deducted as an itemized deduction pursuant to 888
section 63 of the Internal Revenue Code and applicable United 889
States department of the treasury regulations. The deduction 890
otherwise allowed under division (A)(12)(a) of this section 891
shall be reduced to the extent the reimbursement is attributable 892
to an amount the taxpayer deducted under this section in any 893
taxable year. 894

(b) Add any amount not otherwise included in Ohio adjusted 895
gross income for any taxable year to the extent that the amount 896
is attributable to the recovery during the taxable year of any 897
amount deducted or excluded in computing federal or Ohio 898
adjusted gross income in any taxable year. 899

(13) Deduct any portion of the deduction described in 900
section 1341(a)(2) of the Internal Revenue Code, for repaying 901
previously reported income received under a claim of right, that 902
meets both of the following requirements: 903

(a) It is allowable for repayment of an item that was 904
included in the taxpayer's adjusted gross income for a prior 905
taxable year and did not qualify for a credit under division (A) 906
or (B) of section 5747.05 of the Revised Code for that year; 907

(b) It does not otherwise reduce the taxpayer's adjusted 908
gross income for the current or any other taxable year. 909

(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.

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

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

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

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections

329.11 to 329.14 of the Revised Code for the purpose of matching 939
funds deposited by program participants. On request of the tax 940
commissioner, the taxpayer shall provide any information that, 941
in the tax commissioner's opinion, is necessary to establish the 942
amount deducted under division (A)(17) of this section. 943

(18) Beginning in taxable year 2001 but not for any 944
taxable year beginning after December 31, 2005, if the taxpayer 945
is married and files a joint return and the combined federal 946
adjusted gross income of the taxpayer and the taxpayer's spouse 947
for the taxable year does not exceed one hundred thousand 948
dollars, or if the taxpayer is single and has a federal adjusted 949
gross income for the taxable year not exceeding fifty thousand 950
dollars, deduct amounts paid during the taxable year for 951
qualified tuition and fees paid to an eligible institution for 952
the taxpayer, the taxpayer's spouse, or any dependent of the 953
taxpayer, who is a resident of this state and is enrolled in or 954
attending a program that culminates in a degree or diploma at an 955
eligible institution. The deduction may be claimed only to the 956
extent that qualified tuition and fees are not otherwise 957
deducted or excluded for any taxable year from federal or Ohio 958
adjusted gross income. The deduction may not be claimed for 959
educational expenses for which the taxpayer claims a credit 960
under section 5747.27 of the Revised Code. 961

(19) Add any reimbursement received during the taxable 962
year of any amount the taxpayer deducted under division (A)(18) 963
of this section in any previous taxable year to the extent the 964
amount is not otherwise included in Ohio adjusted gross income. 965

(20) (a) (i) Subject to divisions (A)(20)(a)(iii), (iv), and 966
(v) of this section, add five-sixths of the amount of 967
depreciation expense allowed by subsection (k) of section 168 of 968

the Internal Revenue Code, including the taxpayer's 969
proportionate or distributive share of the amount of 970
depreciation expense allowed by that subsection to a pass- 971
through entity in which the taxpayer has a direct or indirect 972
ownership interest. 973

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 974
of this section, add five-sixths of the amount of qualifying 975
section 179 depreciation expense, including the taxpayer's 976
proportionate or distributive share of the amount of qualifying 977
section 179 depreciation expense allowed to any pass-through 978
entity in which the taxpayer has a direct or indirect ownership 979
interest. 980

(iii) Subject to division (A) (20) (a) (v) of this section, 981
for taxable years beginning in 2012 or thereafter, if the 982
increase in income taxes withheld by the taxpayer is equal to or 983
greater than ten per cent of income taxes withheld by the 984
taxpayer during the taxpayer's immediately preceding taxable 985
year, "two-thirds" shall be substituted for "five-sixths" for 986
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 987

(iv) Subject to division (A) (20) (a) (v) of this section, 988
for taxable years beginning in 2012 or thereafter, a taxpayer is 989
not required to add an amount under division (A) (20) of this 990
section if the increase in income taxes withheld by the taxpayer 991
and by any pass-through entity in which the taxpayer has a 992
direct or indirect ownership interest is equal to or greater 993
than the sum of (I) the amount of qualifying section 179 994
depreciation expense and (II) the amount of depreciation expense 995
allowed to the taxpayer by subsection (k) of section 168 of the 996
Internal Revenue Code, and including the taxpayer's 997
proportionate or distributive shares of such amounts allowed to 998

any such pass-through entities. 999

(v) If a taxpayer directly or indirectly incurs a net 1000
operating loss for the taxable year for federal income tax 1001
purposes, to the extent such loss resulted from depreciation 1002
expense allowed by subsection (k) of section 168 of the Internal 1003
Revenue Code and by qualifying section 179 depreciation expense, 1004
"the entire" shall be substituted for "five-sixths of the" for 1005
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 1006

The tax commissioner, under procedures established by the 1007
commissioner, may waive the add-backs related to a pass-through 1008
entity if the taxpayer owns, directly or indirectly, less than 1009
five per cent of the pass-through entity. 1010

(b) Nothing in division (A) (20) of this section shall be 1011
construed to adjust or modify the adjusted basis of any asset. 1012

(c) To the extent the add-back required under division (A) 1013
(20) (a) of this section is attributable to property generating 1014
nonbusiness income or loss allocated under section 5747.20 of 1015
the Revised Code, the add-back shall be situated to the same 1016
location as the nonbusiness income or loss generated by the 1017
property for the purpose of determining the credit under 1018
division (A) of section 5747.05 of the Revised Code. Otherwise, 1019
the add-back shall be apportioned, subject to one or more of the 1020
four alternative methods of apportionment enumerated in section 1021
5747.21 of the Revised Code. 1022

(d) For the purposes of division (A) (20) (a) (v) of this 1023
section, net operating loss carryback and carryforward shall not 1024
include the allowance of any net operating loss deduction 1025
carryback or carryforward to the taxable year to the extent such 1026
loss resulted from depreciation allowed by section 168(k) of the 1027

Internal Revenue Code and by the qualifying section 179	1028
depreciation expense amount.	1029
(e) For the purposes of divisions (A) (20) and (21) of this	1030
section:	1031
(i) "Income taxes withheld" means the total amount	1032
withheld and remitted under sections 5747.06 and 5747.07 of the	1033
Revised Code by an employer during the employer's taxable year.	1034
(ii) "Increase in income taxes withheld" means the amount	1035
by which the amount of income taxes withheld by an employer	1036
during the employer's current taxable year exceeds the amount of	1037
income taxes withheld by that employer during the employer's	1038
immediately preceding taxable year.	1039
(iii) "Qualifying section 179 depreciation expense" means	1040
the difference between (I) the amount of depreciation expense	1041
directly or indirectly allowed to a taxpayer under section 179	1042
of the Internal Revised Code, and (II) the amount of	1043
depreciation expense directly or indirectly allowed to the	1044
taxpayer under section 179 of the Internal Revenue Code as that	1045
section existed on December 31, 2002.	1046
(21) (a) If the taxpayer was required to add an amount	1047
under division (A) (20) (a) of this section for a taxable year,	1048
deduct one of the following:	1049
(i) One-fifth of the amount so added for each of the five	1050
succeeding taxable years if the amount so added was five-sixths	1051
of qualifying section 179 depreciation expense or depreciation	1052
expense allowed by subsection (k) of section 168 of the Internal	1053
Revenue Code;	1054
(ii) One-half of the amount so added for each of the two	1055
succeeding taxable years if the amount so added was two-thirds	1056

of such depreciation expense; 1057

(iii) One-sixth of the amount so added for each of the six 1058
succeeding taxable years if the entire amount of such 1059
depreciation expense was so added. 1060

(b) If the amount deducted under division (A) (21) (a) of 1061
this section is attributable to an add-back allocated under 1062
division (A) (20) (c) of this section, the amount deducted shall 1063
be situated to the same location. Otherwise, the add-back shall 1064
be apportioned using the apportionment factors for the taxable 1065
year in which the deduction is taken, subject to one or more of 1066
the four alternative methods of apportionment enumerated in 1067
section 5747.21 of the Revised Code. 1068

(c) No deduction is available under division (A) (21) (a) of 1069
this section with regard to any depreciation allowed by section 1070
168(k) of the Internal Revenue Code and by the qualifying 1071
section 179 depreciation expense amount to the extent that such 1072
depreciation results in or increases a federal net operating 1073
loss carryback or carryforward. If no such deduction is 1074
available for a taxable year, the taxpayer may carry forward the 1075
amount not deducted in such taxable year to the next taxable 1076
year and add that amount to any deduction otherwise available 1077
under division (A) (21) (a) of this section for that next taxable 1078
year. The carryforward of amounts not so deducted shall continue 1079
until the entire addition required by division (A) (20) (a) of 1080
this section has been deducted. 1081

(d) No refund shall be allowed as a result of adjustments 1082
made by division (A) (21) of this section. 1083

(22) Deduct, to the extent not otherwise deducted or 1084
excluded in computing federal or Ohio adjusted gross income for 1085

the taxable year, the amount the taxpayer received during the 1086
taxable year as reimbursement for life insurance premiums under 1087
section 5919.31 of the Revised Code. 1088

(23) Deduct, to the extent not otherwise deducted or 1089
excluded in computing federal or Ohio adjusted gross income for 1090
the taxable year, the amount the taxpayer received during the 1091
taxable year as a death benefit paid by the adjutant general 1092
under section 5919.33 of the Revised Code. 1093

(24) Deduct, to the extent included in federal adjusted 1094
gross income and not otherwise allowable as a deduction or 1095
exclusion in computing federal or Ohio adjusted gross income for 1096
the taxable year, military pay and allowances received by the 1097
taxpayer during the taxable year for active duty service in the 1098
United States army, air force, navy, marine corps, or coast 1099
guard or reserve components thereof or the national guard. The 1100
deduction may not be claimed for military pay and allowances 1101
received by the taxpayer while the taxpayer is stationed in this 1102
state. 1103

(25) Deduct, to the extent not otherwise allowable as a 1104
deduction or exclusion in computing federal or Ohio adjusted 1105
gross income for the taxable year and not otherwise compensated 1106
for by any other source, the amount of qualified organ donation 1107
expenses incurred by the taxpayer during the taxable year, not 1108
to exceed ten thousand dollars. A taxpayer may deduct qualified 1109
organ donation expenses only once for all taxable years 1110
beginning with taxable years beginning in 2007. 1111

For the purposes of division (A) (25) of this section: 1112

(a) "Human organ" means all or any portion of a human 1113
liver, pancreas, kidney, intestine, or lung, and any portion of 1114

human bone marrow. 1115

(b) "Qualified organ donation expenses" means travel 1116
expenses, lodging expenses, and wages and salary forgone by a 1117
taxpayer in connection with the taxpayer's donation, while 1118
living, of one or more of the taxpayer's human organs to another 1119
human being. 1120

(26) Deduct, to the extent not otherwise deducted or 1121
excluded in computing federal or Ohio adjusted gross income for 1122
the taxable year, amounts received by the taxpayer as retired 1123
personnel pay for service in the uniformed services or reserve 1124
components thereof, or the national guard, or received by the 1125
surviving spouse or former spouse of such a taxpayer under the 1126
survivor benefit plan on account of such a taxpayer's death. If 1127
the taxpayer receives income on account of retirement paid under 1128
the federal civil service retirement system or federal employees 1129
retirement system, or under any successor retirement program 1130
enacted by the congress of the United States that is established 1131
and maintained for retired employees of the United States 1132
government, and such retirement income is based, in whole or in 1133
part, on credit for the taxpayer's uniformed service, the 1134
deduction allowed under this division shall include only that 1135
portion of such retirement income that is attributable to the 1136
taxpayer's uniformed service, to the extent that portion of such 1137
retirement income is otherwise included in federal adjusted 1138
gross income and is not otherwise deducted under this section. 1139
Any amount deducted under division (A) (26) of this section is 1140
not included in a taxpayer's adjusted gross income for the 1141
purposes of section 5747.055 of the Revised Code. No amount may 1142
be deducted under division (A) (26) of this section on the basis 1143
of which a credit was claimed under section 5747.055 of the 1144
Revised Code. 1145

(27) Deduct, to the extent not otherwise deducted or 1146
excluded in computing federal or Ohio adjusted gross income for 1147
the taxable year, the amount the taxpayer received during the 1148
taxable year from the military injury relief fund created in 1149
section 5902.05 of the Revised Code. 1150

(28) Deduct, to the extent not otherwise deducted or 1151
excluded in computing federal or Ohio adjusted gross income for 1152
the taxable year, the amount the taxpayer received as a veterans 1153
bonus during the taxable year from the Ohio department of 1154
veterans services as authorized by Section 2r of Article VIII, 1155
Ohio Constitution. 1156

(29) Deduct, to the extent not otherwise deducted or 1157
excluded in computing federal or Ohio adjusted gross income for 1158
the taxable year, any income derived from a transfer agreement 1159
or from the enterprise transferred under that agreement under 1160
section 4313.02 of the Revised Code. 1161

(30) Deduct, to the extent not otherwise deducted or 1162
excluded in computing federal or Ohio adjusted gross income for 1163
the taxable year, Ohio college opportunity or federal Pell grant 1164
amounts received by the taxpayer or the taxpayer's spouse or 1165
dependent pursuant to section 3333.122 of the Revised Code or 20 1166
U.S.C. 1070a, et seq., and used to pay room or board furnished 1167
by the educational institution for which the grant was awarded 1168
at the institution's facilities, including meal plans 1169
administered by the institution. For the purposes of this 1170
division, receipt of a grant includes the distribution of a 1171
grant directly to an educational institution and the crediting 1172
of the grant to the enrollee's account with the institution. 1173

(31) (a) For taxable years beginning in 2015, deduct from 1174
the portion of an individual's adjusted gross income that is 1175

business income, to the extent not otherwise deducted or 1176
excluded in computing federal or Ohio adjusted gross income for 1177
the taxable year, the lesser of the following amounts: 1178

(i) Seventy-five per cent of the individual's business 1179
income; 1180

(ii) Ninety-three thousand seven hundred fifty dollars for 1181
each spouse if spouses file separate returns under section 1182
5747.08 of the Revised Code or one hundred eighty-seven thousand 1183
five hundred dollars for all other individuals. 1184

(b) For taxable years beginning in 2016 or thereafter, 1185
deduct from the portion of an individual's adjusted gross income 1186
that is business income, to the extent not otherwise deducted or 1187
excluded in computing federal adjusted gross income for the 1188
taxable year, one hundred twenty-five thousand dollars for each 1189
spouse if spouses file separate returns under section 5747.08 of 1190
the Revised Code or two hundred fifty thousand dollars for all 1191
other individuals. 1192

(32) Deduct benefits under Chapter 4143. of the Revised 1193
Code to the extent included in federal adjusted gross income. 1194

(B) "Business income" means income, including gain or 1195
loss, arising from transactions, activities, and sources in the 1196
regular course of a trade or business and includes income, gain, 1197
or loss from real property, tangible property, and intangible 1198
property if the acquisition, rental, management, and disposition 1199
of the property constitute integral parts of the regular course 1200
of a trade or business operation. "Business income" includes 1201
income, including gain or loss, from a partial or complete 1202
liquidation of a business, including, but not limited to, gain 1203
or loss from the sale or other disposition of goodwill. 1204

(C) "Nonbusiness income" means all income other than 1205
business income and may include, but is not limited to, 1206
compensation, rents and royalties from real or tangible personal 1207
property, capital gains, interest, dividends and distributions, 1208
patent or copyright royalties, or lottery winnings, prizes, and 1209
awards. 1210

(D) "Compensation" means any form of remuneration paid to 1211
an employee for personal services. 1212

(E) "Fiduciary" means a guardian, trustee, executor, 1213
administrator, receiver, conservator, or any other person acting 1214
in any fiduciary capacity for any individual, trust, or estate. 1215

(F) "Fiscal year" means an accounting period of twelve 1216
months ending on the last day of any month other than December. 1217

(G) "Individual" means any natural person. 1218

(H) "Internal Revenue Code" means the "Internal Revenue 1219
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 1220

(I) "Resident" means any of the following, provided that 1221
division (I) (3) of this section applies only to taxable years of 1222
a trust beginning in 2002 or thereafter: 1223

(1) An individual who is domiciled in this state, subject 1224
to section 5747.24 of the Revised Code; 1225

(2) The estate of a decedent who at the time of death was 1226
domiciled in this state. The domicile tests of section 5747.24 1227
of the Revised Code are not controlling for purposes of division 1228
(I) (2) of this section. 1229

(3) A trust that, in whole or part, resides in this state. 1230
If only part of a trust resides in this state, the trust is a 1231
resident only with respect to that part. 1232

For the purposes of division (I) (3) of this section: 1233

(a) A trust resides in this state for the trust's current 1234
taxable year to the extent, as described in division (I) (3) (d) 1235
of this section, that the trust consists directly or indirectly, 1236
in whole or in part, of assets, net of any related liabilities, 1237
that were transferred, or caused to be transferred, directly or 1238
indirectly, to the trust by any of the following: 1239

(i) A person, a court, or a governmental entity or 1240
instrumentality on account of the death of a decedent, but only 1241
if the trust is described in division (I) (3) (e) (i) or (ii) of 1242
this section; 1243

(ii) A person who was domiciled in this state for the 1244
purposes of this chapter when the person directly or indirectly 1245
transferred assets to an irrevocable trust, but only if at least 1246
one of the trust's qualifying beneficiaries is domiciled in this 1247
state for the purposes of this chapter during all or some 1248
portion of the trust's current taxable year; 1249

(iii) A person who was domiciled in this state for the 1250
purposes of this chapter when the trust document or instrument 1251
or part of the trust document or instrument became irrevocable, 1252
but only if at least one of the trust's qualifying beneficiaries 1253
is a resident domiciled in this state for the purposes of this 1254
chapter during all or some portion of the trust's current 1255
taxable year. If a trust document or instrument became 1256
irrevocable upon the death of a person who at the time of death 1257
was domiciled in this state for purposes of this chapter, that 1258
person is a person described in division (I) (3) (a) (iii) of this 1259
section. 1260

(b) A trust is irrevocable to the extent that the 1261

transferor is not considered to be the owner of the net assets 1262
of the trust under sections 671 to 678 of the Internal Revenue 1263
Code. 1264

(c) With respect to a trust other than a charitable lead 1265
trust, "qualifying beneficiary" has the same meaning as 1266
"potential current beneficiary" as defined in section 1361(e)(2) 1267
of the Internal Revenue Code, and with respect to a charitable 1268
lead trust "qualifying beneficiary" is any current, future, or 1269
contingent beneficiary, but with respect to any trust 1270
"qualifying beneficiary" excludes a person or a governmental 1271
entity or instrumentality to any of which a contribution would 1272
qualify for the charitable deduction under section 170 of the 1273
Internal Revenue Code. 1274

(d) For the purposes of division (I)(3)(a) of this 1275
section, the extent to which a trust consists directly or 1276
indirectly, in whole or in part, of assets, net of any related 1277
liabilities, that were transferred directly or indirectly, in 1278
whole or part, to the trust by any of the sources enumerated in 1279
that division shall be ascertained by multiplying the fair 1280
market value of the trust's assets, net of related liabilities, 1281
by the qualifying ratio, which shall be computed as follows: 1282

(i) The first time the trust receives assets, the 1283
numerator of the qualifying ratio is the fair market value of 1284
those assets at that time, net of any related liabilities, from 1285
sources enumerated in division (I)(3)(a) of this section. The 1286
denominator of the qualifying ratio is the fair market value of 1287
all the trust's assets at that time, net of any related 1288
liabilities. 1289

(ii) Each subsequent time the trust receives assets, a 1290
revised qualifying ratio shall be computed. The numerator of the 1291

revised qualifying ratio is the sum of (1) the fair market value 1292
of the trust's assets immediately prior to the subsequent 1293
transfer, net of any related liabilities, multiplied by the 1294
qualifying ratio last computed without regard to the subsequent 1295
transfer, and (2) the fair market value of the subsequently 1296
transferred assets at the time transferred, net of any related 1297
liabilities, from sources enumerated in division (I) (3) (a) of 1298
this section. The denominator of the revised qualifying ratio is 1299
the fair market value of all the trust's assets immediately 1300
after the subsequent transfer, net of any related liabilities. 1301

(iii) Whether a transfer to the trust is by or from any of 1302
the sources enumerated in division (I) (3) (a) of this section 1303
shall be ascertained without regard to the domicile of the 1304
trust's beneficiaries. 1305

(e) For the purposes of division (I) (3) (a) (i) of this 1306
section: 1307

(i) A trust is described in division (I) (3) (e) (i) of this 1308
section if the trust is a testamentary trust and the testator of 1309
that testamentary trust was domiciled in this state at the time 1310
of the testator's death for purposes of the taxes levied under 1311
Chapter 5731. of the Revised Code. 1312

(ii) A trust is described in division (I) (3) (e) (ii) of 1313
this section if the transfer is a qualifying transfer described 1314
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1315
trust is an irrevocable inter vivos trust, and at least one of 1316
the trust's qualifying beneficiaries is domiciled in this state 1317
for purposes of this chapter during all or some portion of the 1318
trust's current taxable year. 1319

(f) For the purposes of division (I) (3) (e) (ii) of this 1320

section, a "qualifying transfer" is a transfer of assets, net of 1321
any related liabilities, directly or indirectly to a trust, if 1322
the transfer is described in any of the following: 1323

(i) The transfer is made to a trust, created by the 1324
decedent before the decedent's death and while the decedent was 1325
domiciled in this state for the purposes of this chapter, and, 1326
prior to the death of the decedent, the trust became irrevocable 1327
while the decedent was domiciled in this state for the purposes 1328
of this chapter. 1329

(ii) The transfer is made to a trust to which the 1330
decedent, prior to the decedent's death, had directly or 1331
indirectly transferred assets, net of any related liabilities, 1332
while the decedent was domiciled in this state for the purposes 1333
of this chapter, and prior to the death of the decedent the 1334
trust became irrevocable while the decedent was domiciled in 1335
this state for the purposes of this chapter. 1336

(iii) The transfer is made on account of a contractual 1337
relationship existing directly or indirectly between the 1338
transferor and either the decedent or the estate of the decedent 1339
at any time prior to the date of the decedent's death, and the 1340
decedent was domiciled in this state at the time of death for 1341
purposes of the taxes levied under Chapter 5731. of the Revised 1342
Code. 1343

(iv) The transfer is made to a trust on account of a 1344
contractual relationship existing directly or indirectly between 1345
the transferor and another person who at the time of the 1346
decedent's death was domiciled in this state for purposes of 1347
this chapter. 1348

(v) The transfer is made to a trust on account of the will 1349

of a testator who was domiciled in this state at the time of the 1350
testator's death for purposes of the taxes levied under Chapter 1351
5731. of the Revised Code. 1352

(vi) The transfer is made to a trust created by or caused 1353
to be created by a court, and the trust was directly or 1354
indirectly created in connection with or as a result of the 1355
death of an individual who, for purposes of the taxes levied 1356
under Chapter 5731. of the Revised Code, was domiciled in this 1357
state at the time of the individual's death. 1358

(g) The tax commissioner may adopt rules to ascertain the 1359
part of a trust residing in this state. 1360

(J) "Nonresident" means an individual or estate that is 1361
not a resident. An individual who is a resident for only part of 1362
a taxable year is a nonresident for the remainder of that 1363
taxable year. 1364

(K) "Pass-through entity" has the same meaning as in 1365
section 5733.04 of the Revised Code. 1366

(L) "Return" means the notifications and reports required 1367
to be filed pursuant to this chapter for the purpose of 1368
reporting the tax due and includes declarations of estimated tax 1369
when so required. 1370

(M) "Taxable year" means the calendar year or the 1371
taxpayer's fiscal year ending during the calendar year, or 1372
fractional part thereof, upon which the adjusted gross income is 1373
calculated pursuant to this chapter. 1374

(N) "Taxpayer" means any person subject to the tax imposed 1375
by section 5747.02 of the Revised Code or any pass-through 1376
entity that makes the election under division (D) of section 1377
5747.08 of the Revised Code. 1378

(O) "Dependents" means dependents as defined in the 1379
Internal Revenue Code and as claimed in the taxpayer's federal 1380
income tax return for the taxable year or which the taxpayer 1381
would have been permitted to claim had the taxpayer filed a 1382
federal income tax return. 1383

(P) "Principal county of employment" means, in the case of 1384
a nonresident, the county within the state in which a taxpayer 1385
performs services for an employer or, if those services are 1386
performed in more than one county, the county in which the major 1387
portion of the services are performed. 1388

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1389
Code: 1390

(1) "Subdivision" means any county, municipal corporation, 1391
park district, or township. 1392

(2) "Essential local government purposes" includes all 1393
functions that any subdivision is required by general law to 1394
exercise, including like functions that are exercised under a 1395
charter adopted pursuant to the Ohio Constitution. 1396

(R) "Overpayment" means any amount already paid that 1397
exceeds the figure determined to be the correct amount of the 1398
tax. 1399

(S) "Taxable income" or "Ohio taxable income" applies only 1400
to estates and trusts, and means federal taxable income, as 1401
defined and used in the Internal Revenue Code, adjusted as 1402
follows: 1403

(1) Add interest or dividends, net of ordinary, necessary, 1404
and reasonable expenses not deducted in computing federal 1405
taxable income, on obligations or securities of any state or of 1406
any political subdivision or authority of any state, other than 1407

this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S) (1) (a) or (b) of this section:

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

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

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

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

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

(5) Deduct the amount of wages and salaries, if any, not 1437
otherwise allowable as a deduction but that would have been 1438
allowable as a deduction in computing federal taxable income for 1439
the taxable year, had the targeted jobs credit allowed under 1440
sections 38, 51, and 52 of the Internal Revenue Code not been in 1441
effect, but only to the extent such amount relates either to 1442
income included in federal taxable income for the taxable year 1443
or to income of the S portion of an electing small business 1444
trust for the taxable year; 1445

(6) Deduct any interest or interest equivalent, net of 1446
related expenses deducted in computing federal taxable income, 1447
on public obligations and purchase obligations, but only to the 1448
extent that such net amount relates either to income included in 1449
federal taxable income for the taxable year or to income of the 1450
S portion of an electing small business trust for the taxable 1451
year; 1452

(7) Add any loss or deduct any gain resulting from sale, 1453
exchange, or other disposition of public obligations to the 1454
extent that such loss has been deducted or such gain has been 1455
included in computing either federal taxable income or income of 1456
the S portion of an electing small business trust for the 1457
taxable year; 1458

(8) Except in the case of the final return of an estate, 1459
add any amount deducted by the taxpayer on both its Ohio estate 1460
tax return pursuant to section 5731.14 of the Revised Code, and 1461
on its federal income tax return in determining federal taxable 1462
income; 1463

(9) (a) Deduct any amount included in federal taxable 1464
income solely because the amount represents a reimbursement or 1465
refund of expenses that in a previous year the decedent had 1466

deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable 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 taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) 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 taxable income or the decedent'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 taxable income or the decedent's adjusted gross income for the current or any other taxable year.

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

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

to be reported for the taxpayer's taxable year under the 1496
Internal Revenue Code; 1497

(b) The amount resulted in a reduction in the taxpayer's 1498
federal taxable income as required to be reported for any of the 1499
taxpayer's taxable years under the Internal Revenue Code. 1500

(12) Deduct any amount, net of related expenses deducted 1501
in computing federal taxable income, that a trust is required to 1502
report as farm income on its federal income tax return, but only 1503
if the assets of the trust include at least ten acres of land 1504
satisfying the definition of "land devoted exclusively to 1505
agricultural use" under section 5713.30 of the Revised Code, 1506
regardless of whether the land is valued for tax purposes as 1507
such land under sections 5713.30 to 5713.38 of the Revised Code. 1508
If the trust is a pass-through entity investor, section 5747.231 1509
of the Revised Code applies in ascertaining if the trust is 1510
eligible to claim the deduction provided by division (S)(12) of 1511
this section in connection with the pass-through entity's farm 1512
income. 1513

Except for farm income attributable to the S portion of an 1514
electing small business trust, the deduction provided by 1515
division (S)(12) of this section is allowed only to the extent 1516
that the trust has not distributed such farm income. Division 1517
(S)(12) of this section applies only to taxable years of a trust 1518
beginning in 2002 or thereafter. 1519

(13) Add the net amount of income described in section 1520
641(c) of the Internal Revenue Code to the extent that amount is 1521
not included in federal taxable income. 1522

(14) Add or deduct the amount the taxpayer would be 1523
required to add or deduct under division (A)(20) or (21) of this 1524

section if the taxpayer's Ohio taxable income were computed in 1525
the same manner as an individual's Ohio adjusted gross income is 1526
computed under this section. In the case of a trust, division 1527
(S) (14) of this section applies only to any of the trust's 1528
taxable years beginning in 2002 or thereafter. 1529

(T) "School district income" and "school district income 1530
tax" have the same meanings as in section 5748.01 of the Revised 1531
Code. 1532

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 1533
(7) of this section, "public obligations," "purchase 1534
obligations," and "interest or interest equivalent" have the 1535
same meanings as in section 5709.76 of the Revised Code. 1536

(V) "Limited liability company" means any limited 1537
liability company formed under Chapter 1705. of the Revised Code 1538
or under the laws of any other state. 1539

(W) "Pass-through entity investor" means any person who, 1540
during any portion of a taxable year of a pass-through entity, 1541
is a partner, member, shareholder, or equity investor in that 1542
pass-through entity. 1543

(X) "Banking day" has the same meaning as in section 1544
1304.01 of the Revised Code. 1545

(Y) "Month" means a calendar month. 1546

(Z) "Quarter" means the first three months, the second 1547
three months, the third three months, or the last three months 1548
of the taxpayer's taxable year. 1549

(AA) (1) "Eligible institution" means a state university or 1550
state institution of higher education as defined in section 1551
3345.011 of the Revised Code, or a private, nonprofit college, 1552

university, or other post-secondary institution located in this 1553
state that possesses a certificate of authorization issued by 1554
the chancellor of higher education pursuant to Chapter 1713. of 1555
the Revised Code or a certificate of registration issued by the 1556
state board of career colleges and schools under Chapter 3332. 1557
of the Revised Code. 1558

(2) "Qualified tuition and fees" means tuition and fees 1559
imposed by an eligible institution as a condition of enrollment 1560
or attendance, not exceeding two thousand five hundred dollars 1561
in each of the individual's first two years of post-secondary 1562
education. If the individual is a part-time student, "qualified 1563
tuition and fees" includes tuition and fees paid for the 1564
academic equivalent of the first two years of post-secondary 1565
education during a maximum of five taxable years, not exceeding 1566
a total of five thousand dollars. "Qualified tuition and fees" 1567
does not include: 1568

(a) Expenses for any course or activity involving sports, 1569
games, or hobbies unless the course or activity is part of the 1570
individual's degree or diploma program; 1571

(b) The cost of books, room and board, student activity 1572
fees, athletic fees, insurance expenses, or other expenses 1573
unrelated to the individual's academic course of instruction; 1574

(c) Tuition, fees, or other expenses paid or reimbursed 1575
through an employer, scholarship, grant in aid, or other 1576
educational benefit program. 1577

(BB) (1) "Modified business income" means the business 1578
income included in a trust's Ohio taxable income after such 1579
taxable income is first reduced by the qualifying trust amount, 1580
if any. 1581

(2) "Qualifying trust amount" of a trust means capital 1582
gains and losses from the sale, exchange, or other disposition 1583
of equity or ownership interests in, or debt obligations of, a 1584
qualifying investee to the extent included in the trust's Ohio 1585
taxable income, but only if the following requirements are 1586
satisfied: 1587

(a) The book value of the qualifying investee's physical 1588
assets in this state and everywhere, as of the last day of the 1589
qualifying investee's fiscal or calendar year ending immediately 1590
prior to the date on which the trust recognizes the gain or 1591
loss, is available to the trust. 1592

(b) The requirements of section 5747.011 of the Revised 1593
Code are satisfied for the trust's taxable year in which the 1594
trust recognizes the gain or loss. 1595

Any gain or loss that is not a qualifying trust amount is 1596
modified business income, qualifying investment income, or 1597
modified nonbusiness income, as the case may be. 1598

(3) "Modified nonbusiness income" means a trust's Ohio 1599
taxable income other than modified business income, other than 1600
the qualifying trust amount, and other than qualifying 1601
investment income, as defined in section 5747.012 of the Revised 1602
Code, to the extent such qualifying investment income is not 1603
otherwise part of modified business income. 1604

(4) "Modified Ohio taxable income" applies only to trusts, 1605
and means the sum of the amounts described in divisions (BB) (4) 1606
(a) to (c) of this section: 1607

(a) The fraction, calculated under section 5747.013, and 1608
applying section 5747.231 of the Revised Code, multiplied by the 1609
sum of the following amounts: 1610

(i) The trust's modified business income; 1611

(ii) The trust's qualifying investment income, as defined 1612
in section 5747.012 of the Revised Code, but only to the extent 1613
the qualifying investment income does not otherwise constitute 1614
modified business income and does not otherwise constitute a 1615
qualifying trust amount. 1616

(b) The qualifying trust amount multiplied by a fraction, 1617
the numerator of which is the sum of the book value of the 1618
qualifying investee's physical assets in this state on the last 1619
day of the qualifying investee's fiscal or calendar year ending 1620
immediately prior to the day on which the trust recognizes the 1621
qualifying trust amount, and the denominator of which is the sum 1622
of the book value of the qualifying investee's total physical 1623
assets everywhere on the last day of the qualifying investee's 1624
fiscal or calendar year ending immediately prior to the day on 1625
which the trust recognizes the qualifying trust amount. If, for 1626
a taxable year, the trust recognizes a qualifying trust amount 1627
with respect to more than one qualifying investee, the amount 1628
described in division (BB) (4) (b) of this section shall equal the 1629
sum of the products so computed for each such qualifying 1630
investee. 1631

(c) (i) With respect to a trust or portion of a trust that 1632
is a resident as ascertained in accordance with division (I) (3) 1633
(d) of this section, its modified nonbusiness income. 1634

(ii) With respect to a trust or portion of a trust that is 1635
not a resident as ascertained in accordance with division (I) (3) 1636
(d) of this section, the amount of its modified nonbusiness 1637
income satisfying the descriptions in divisions (B) (2) to (5) of 1638
section 5747.20 of the Revised Code, except as otherwise 1639
provided in division (BB) (4) (c) (ii) of this section. With 1640

respect to a trust or portion of a trust that is not a resident 1641
as ascertained in accordance with division (I) (3) (d) of this 1642
section, the trust's portion of modified nonbusiness income 1643
recognized from the sale, exchange, or other disposition of a 1644
debt interest in or equity interest in a section 5747.212 1645
entity, as defined in section 5747.212 of the Revised Code, 1646
without regard to division (A) of that section, shall not be 1647
allocated to this state in accordance with section 5747.20 of 1648
the Revised Code but shall be apportioned to this state in 1649
accordance with division (B) of section 5747.212 of the Revised 1650
Code without regard to division (A) of that section. 1651

If the allocation and apportionment of a trust's income 1652
under divisions (BB) (4) (a) and (c) of this section do not fairly 1653
represent the modified Ohio taxable income of the trust in this 1654
state, the alternative methods described in division (C) of 1655
section 5747.21 of the Revised Code may be applied in the manner 1656
and to the same extent provided in that section. 1657

(5) (a) Except as set forth in division (BB) (5) (b) of this 1658
section, "qualifying investee" means a person in which a trust 1659
has an equity or ownership interest, or a person or unit of 1660
government the debt obligations of either of which are owned by 1661
a trust. For the purposes of division (BB) (2) (a) of this section 1662
and for the purpose of computing the fraction described in 1663
division (BB) (4) (b) of this section, all of the following apply: 1664

(i) If the qualifying investee is a member of a qualifying 1665
controlled group on the last day of the qualifying investee's 1666
fiscal or calendar year ending immediately prior to the date on 1667
which the trust recognizes the gain or loss, then "qualifying 1668
investee" includes all persons in the qualifying controlled 1669
group on such last day. 1670

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on 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, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

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

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity

directly and indirectly owns less than fifty per cent of the 1702
equity of the lower level pass-through entity on each day of the 1703
upper level pass-through entity's calendar or fiscal year in 1704
which or with which ends the calendar or fiscal year of the 1705
lower level pass-through entity and if, based upon clear and 1706
convincing evidence, complete information about the location and 1707
cost of the physical assets of the lower pass-through entity is 1708
not available to the upper level pass-through entity, then 1709
solely for purposes of ascertaining if a gain or loss 1710
constitutes a qualifying trust amount, the upper level pass- 1711
through entity shall be deemed as owning no equity of the lower 1712
level pass-through entity for each day during the upper level 1713
pass-through entity's calendar or fiscal year in which or with 1714
which ends the lower level pass-through entity's calendar or 1715
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 1716
shall be construed to provide for any deduction or exclusion in 1717
computing any trust's Ohio taxable income. 1718

(b) With respect to a trust that is not a resident for the 1719
taxable year and with respect to a part of a trust that is not a 1720
resident for the taxable year, "qualifying investee" for that 1721
taxable year does not include a C corporation if both of the 1722
following apply: 1723

(i) During the taxable year the trust or part of the trust 1724
recognizes a gain or loss from the sale, exchange, or other 1725
disposition of equity or ownership interests in, or debt 1726
obligations of, the C corporation. 1727

(ii) Such gain or loss constitutes nonbusiness income. 1728

(6) "Available" means information is such that a person is 1729
able to learn of the information by the due date plus 1730
extensions, if any, for filing the return for the taxable year 1731

in which the trust recognizes the gain or loss. 1732

(CC) "Qualifying controlled group" has the same meaning as 1733
in section 5733.04 of the Revised Code. 1734

(DD) "Related member" has the same meaning as in section 1735
5733.042 of the Revised Code. 1736

(EE) (1) For the purposes of division (EE) of this section: 1737

(a) "Qualifying person" means any person other than a 1738
qualifying corporation. 1739

(b) "Qualifying corporation" means any person classified 1740
for federal income tax purposes as an association taxable as a 1741
corporation, except either of the following: 1742

(i) A corporation that has made an election under 1743
subchapter S, chapter one, subtitle A, of the Internal Revenue 1744
Code for its taxable year ending within, or on the last day of, 1745
the investor's taxable year; 1746

(ii) A subsidiary that is wholly owned by any corporation 1747
that has made an election under subchapter S, chapter one, 1748
subtitle A of the Internal Revenue Code for its taxable year 1749
ending within, or on the last day of, the investor's taxable 1750
year. 1751

(2) For the purposes of this chapter, unless expressly 1752
stated otherwise, no qualifying person indirectly owns any asset 1753
directly or indirectly owned by any qualifying corporation. 1754

(FF) For purposes of this chapter and Chapter 5751. of the 1755
Revised Code: 1756

(1) "Trust" does not include a qualified pre-income tax 1757
trust. 1758

(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section. 1759
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(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust. 1762
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(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements: 1773
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(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972; 1775
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(b) The trust became irrevocable upon the creation of the trust; and 1777
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(c) The grantor was domiciled in this state at the time the trust was created. 1779
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(GG) "Uniformed services" has the same meaning as in 10 U.S.C. 101. 1781
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(HH) "Taxable business income" means the amount by which an individual's business income that is included in federal adjusted gross income exceeds the amount of business income the individual is authorized to deduct under division (A)(31) of this section for the taxable year. 1783
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Section 2. That existing sections 4117.10, 4745.01, and 5747.01 of the Revised Code are hereby repealed. 1788
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Section 3. Section 1 of this act, except for section 4143.03 and division (A) of section 4143.10 of the Revised Code, shall take effect July 1, 2017. Section 4143.03 of the Revised Code, as enacted by this act, shall take effect July 1, 2020. Division (A) of section 4143.10 of the Revised Code, as enacted by this act, shall take effect on the effective date of this section. 1790
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Section 4. Employers shall begin to deduct and withhold premiums from the wages of employees or pay contributions as described in divisions (B), (C), and (D) of section 4143.10 of the Revised Code, as enacted by this act, on July 1, 2019. 1797
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Section 5. Section 4143.06 of the Revised Code, as enacted by this act, applies to collective bargaining agreements that are entered into or renewed, or employer policies that are adopted or revised, on or after the effective date of this act. 1801
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Section 6. (A) Not later than July 1, 2017, the Director of Job and Family Services shall conduct an actuarial evaluation prior to establishing the Family and Medical Leave Insurance Program under Chapter 4143. of the Revised Code, as enacted by this act. The actuarial evaluation shall determine all of the following: 1805
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(1) The premium amounts required under section 4143.10 of the Revised Code, as enacted by this act, necessary to sufficiently fund the Program; 1811
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(2) The balance necessary to ensure the actuarial soundness of the Family and Medical Leave Insurance Fund created by section 4143.10 of the Revised Code, as enacted by this act; 1814
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(3) The administrative and technology costs necessary to 1817
establish and operate the Program. 1818

(B) The Director may apply for and accept gifts, grants, 1819
donations, and any available federal funding to conduct the 1820
actuarial evaluation in division (A) of this section. The 1821
Director shall transmit any gifts, grants, donations, or federal 1822
funding to the Treasurer of State for deposit in the Family and 1823
Medical Leave Insurance Fund created by section 4143.10 of the 1824
Revised Code, as enacted by this act. 1825

(C) Notwithstanding the deadline in division (A) of this 1826
section, the Director shall not conduct the actuarial evaluation 1827
unless the Director receives sufficient funds to cover the costs 1828
to perform the evaluation. 1829