

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 550**

**Representatives Boyd, Boggs**

**Cosponsors: Representatives Kelly, Leland, Antonio, Lepore-Hagan, Clyde, Fedor, West, Howse, Miller, Ramos, Celebrezze, Smith, K., Rogers, Patterson, Sheehy, Kent, Sykes, Craig, O'Brien, Brown, Reece, Galonski, Strahorn, Ashford, Bocchieri**

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**A BILL**

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

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

**Section 1.** That sections 4117.10 and 5747.01 be amended 12  
and sections 4143.01, 4143.02, 4143.03, 4143.04, 4143.05, 13  
4143.06, 4143.07, 4143.08, 4143.09, 4143.10, 4143.11, 4143.12, 14  
4143.13, 4143.14, and 4143.99 of the Revised Code be enacted to 15  
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 45

the Revised Code governing the disciplining of officers and 46  
employees who have been convicted of a felony; 47

(i) The minimum standards promulgated by the state board 48  
of education pursuant to division (D) of section 3301.07 of the 49  
Revised Code. 50

(2) The law pertaining to the leave of absence and 51  
compensation provided under section 5923.05 of the Revised Code, 52  
if the terms of the agreement contain benefits which are less 53  
than those contained in that section or the agreement contains 54  
no such terms and the public authority is the state or any 55  
agency, authority, commission, or board of the state or if the 56  
public authority is another entity listed in division (B) of 57  
section 4117.01 of the Revised Code that elects to provide leave 58  
of absence and compensation as provided in section 5923.05 of 59  
the Revised Code; 60

(3) The law pertaining to the leave established under 61  
section 5906.02 of the Revised Code, if the terms of the 62  
agreement contain benefits that are less than those contained in 63  
section 5906.02 of the Revised Code; 64

(4) The law pertaining to excess benefits prohibited under 65  
section 3345.311 of the Revised Code with respect to an 66  
agreement between an employee organization and a public employer 67  
entered into on or after ~~the effective date of this amendment~~ 68  
September 29, 2015; 69

(5) The law pertaining to family and medical leave 70  
insurance benefits provided under Chapter 4143. of the Revised 71  
Code, if the terms of the agreement contain benefits less than 72  
those contained in that chapter. 73

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  
and medical leave insurance fund made by employers under section 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
<u>qualifying week. The number of qualifying weeks that may be</u>	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  
Chapter 119. of the Revised Code to establish all of the 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 305  
an individual in excess of the benefits the individual is 306  
entitled to receive under section 4143.09 of the Revised Code; 307

(11) The time periods during which an independent 308  
contractor who has elected coverage under section 4143.08 of the 309  
Revised Code may withdraw from coverage. 310

(B) The director may adopt additional rules the director 311  
considers necessary to administer and enforce the program and 312  
this chapter. 313

**Sec. 4143.03.** (A) An individual may receive family and 314  
medical leave insurance benefits for any of the following 315  
reasons: 316

(1) The individual has a serious health condition that 317  
makes the individual unable to perform the functions of one or 318  
more of the individual's jobs. 319

(2) The individual is caring for a new child during the 320  
first year after the birth or adoption of the child or the 321  
placement of the child through foster care. 322

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

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

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

(a) File a claim for benefits in accordance with rules 329  
adopted by the director of job and family services under section 330  
4143.02 of the Revised Code; 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, 2023, 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, 2022, 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. 5747.01.** Except as otherwise expressly provided or 725  
clearly appearing from the context, any term used in this 726  
chapter that is not otherwise defined in this section has the 727  
same meaning as when used in a comparable context in the laws of 728  
the United States relating to federal income taxes or if not 729  
used in a comparable context in those laws, has the same meaning 730  
as in section 5733.40 of the Revised Code. Any reference in this 731  
chapter to the Internal Revenue Code includes other laws of the 732

United States relating to federal income taxes.	733
As used in this chapter:	734
(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:	735 736 737 738
(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.	739 740 741 742
(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.	743 744 745 746 747
(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.	748 749 750 751 752 753
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	754 755
(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.	756 757 758 759
(6) In the case of a taxpayer who is a beneficiary of a	760

trust that makes an accumulation distribution as defined in 761  
section 665 of the Internal Revenue Code, add, for the 762  
beneficiary's taxable years beginning before 2002, the portion, 763  
if any, of such distribution that does not exceed the 764  
undistributed net income of the trust for the three taxable 765  
years preceding the taxable year in which the distribution is 766  
made to the extent that the portion was not included in the 767  
trust's taxable income for any of the trust's taxable years 768  
beginning in 2002 or thereafter. "Undistributed net income of a 769  
trust" means the taxable income of the trust increased by (a) (i) 770  
the additions to adjusted gross income required under division 771  
(A) of this section and (ii) the personal exemptions allowed to 772  
the trust pursuant to section 642(b) of the Internal Revenue 773  
Code, and decreased by (b) (i) the deductions to adjusted gross 774  
income required under division (A) of this section, (ii) the 775  
amount of federal income taxes attributable to such income, and 776  
(iii) the amount of taxable income that has been included in the 777  
adjusted gross income of a beneficiary by reason of a prior 778  
accumulation distribution. Any undistributed net income included 779  
in the adjusted gross income of a beneficiary shall reduce the 780  
undistributed net income of the trust commencing with the 781  
earliest years of the accumulation period. 782

(7) Deduct the amount of wages and salaries, if any, not 783  
otherwise allowable as a deduction but that would have been 784  
allowable as a deduction in computing federal adjusted gross 785  
income for the taxable year, had the targeted jobs credit 786  
allowed and determined under sections 38, 51, and 52 of the 787  
Internal Revenue Code not been in effect. 788

(8) Deduct any interest or interest equivalent on public 789  
obligations and purchase obligations to the extent that the 790  
interest or interest equivalent is included in federal adjusted 791

gross income.	792
(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.	793 794 795 796
(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.	797 798 799 800
(11) (a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A) (11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A) (11) (a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A) (11) (a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.	801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819
(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income	820 821

during the taxable year, the amount the taxpayer paid during the 822  
taxable year, not compensated for by any insurance or otherwise, 823  
for medical care of the taxpayer, the taxpayer's spouse, and 824  
dependents, to the extent the expenses exceed seven and one-half 825  
per cent of the taxpayer's federal adjusted gross income. 826

(c) Deduct, to the extent not otherwise deducted or 827  
excluded in computing federal or Ohio adjusted gross income, any 828  
amount included in federal adjusted gross income under section 829  
105 or not excluded under section 106 of the Internal Revenue 830  
Code solely because it relates to an accident and health plan 831  
for a person who otherwise would be a "qualifying relative" and 832  
thus a "dependent" under section 152 of the Internal Revenue 833  
Code but for the fact that the person fails to meet the income 834  
and support limitations under section 152(d)(1)(B) and (C) of 835  
the Internal Revenue Code. 836

(d) For purposes of division (A)(11) of this section, 837  
"medical care" has the meaning given in section 213 of the 838  
Internal Revenue Code, subject to the special rules, 839  
limitations, and exclusions set forth therein, and "qualified 840  
long-term care" has the same meaning given in section 7702B(c) 841  
of the Internal Revenue Code. Solely for purposes of divisions 842  
(A)(11)(a) and (c) of this section, "dependent" includes a 843  
person who otherwise would be a "qualifying relative" and thus a 844  
"dependent" under section 152 of the Internal Revenue Code but 845  
for the fact that the person fails to meet the income and 846  
support limitations under section 152(d)(1)(B) and (C) of the 847  
Internal Revenue Code. 848

(12)(a) Deduct any amount included in federal adjusted 849  
gross income solely because the amount represents a 850  
reimbursement or refund of expenses that in any year the 851

taxpayer had deducted as an itemized deduction pursuant to 852  
section 63 of the Internal Revenue Code and applicable United 853  
States department of the treasury regulations. The deduction 854  
otherwise allowed under division (A) (12) (a) of this section 855  
shall be reduced to the extent the reimbursement is attributable 856  
to an amount the taxpayer deducted under this section in any 857  
taxable year. 858

(b) Add any amount not otherwise included in Ohio adjusted 859  
gross income for any taxable year to the extent that the amount 860  
is attributable to the recovery during the taxable year of any 861  
amount deducted or excluded in computing federal or Ohio 862  
adjusted gross income in any taxable year. 863

(13) Deduct any portion of the deduction described in 864  
section 1341(a) (2) of the Internal Revenue Code, for repaying 865  
previously reported income received under a claim of right, that 866  
meets both of the following requirements: 867

(a) It is allowable for repayment of an item that was 868  
included in the taxpayer's adjusted gross income for a prior 869  
taxable year and did not qualify for a credit under division (A) 870  
or (B) of section 5747.05 of the Revised Code for that year; 871

(b) It does not otherwise reduce the taxpayer's adjusted 872  
gross income for the current or any other taxable year. 873

(14) Deduct an amount equal to the deposits made to, and 874  
net investment earnings of, a medical savings account during the 875  
taxable year, in accordance with section 3924.66 of the Revised 876  
Code. The deduction allowed by division (A) (14) of this section 877  
does not apply to medical savings account deposits and earnings 878  
otherwise deducted or excluded for the current or any other 879  
taxable year from the taxpayer's federal adjusted gross income. 880

(15) (a) Add an amount equal to the funds withdrawn from a 881  
medical savings account during the taxable year, and the net 882  
investment earnings on those funds, when the funds withdrawn 883  
were used for any purpose other than to reimburse an account 884  
holder for, or to pay, eligible medical expenses, in accordance 885  
with section 3924.66 of the Revised Code; 886

(b) Add the amounts distributed from a medical savings 887  
account under division (A) (2) of section 3924.68 of the Revised 888  
Code during the taxable year. 889

(16) Add any amount claimed as a credit under section 890  
5747.059 or 5747.65 of the Revised Code to the extent that such 891  
amount satisfies either of the following: 892

(a) The amount was deducted or excluded from the 893  
computation of the taxpayer's federal adjusted gross income as 894  
required to be reported for the taxpayer's taxable year under 895  
the Internal Revenue Code; 896

(b) The amount resulted in a reduction of the taxpayer's 897  
federal adjusted gross income as required to be reported for any 898  
of the taxpayer's taxable years under the Internal Revenue Code. 899

(17) Deduct the amount contributed by the taxpayer to an 900  
individual development account program established by a county 901  
department of job and family services pursuant to sections 902  
329.11 to 329.14 of the Revised Code for the purpose of matching 903  
funds deposited by program participants. On request of the tax 904  
commissioner, the taxpayer shall provide any information that, 905  
in the tax commissioner's opinion, is necessary to establish the 906  
amount deducted under division (A) (17) of this section. 907

(18) Beginning in taxable year 2001 but not for any 908  
taxable year beginning after December 31, 2005, if the taxpayer 909



is married and files a joint return and the combined federal 910  
adjusted gross income of the taxpayer and the taxpayer's spouse 911  
for the taxable year does not exceed one hundred thousand 912  
dollars, or if the taxpayer is single and has a federal adjusted 913  
gross income for the taxable year not exceeding fifty thousand 914  
dollars, deduct amounts paid during the taxable year for 915  
qualified tuition and fees paid to an eligible institution for 916  
the taxpayer, the taxpayer's spouse, or any dependent of the 917  
taxpayer, who is a resident of this state and is enrolled in or 918  
attending a program that culminates in a degree or diploma at an 919  
eligible institution. The deduction may be claimed only to the 920  
extent that qualified tuition and fees are not otherwise 921  
deducted or excluded for any taxable year from federal or Ohio 922  
adjusted gross income. The deduction may not be claimed for 923  
educational expenses for which the taxpayer claims a credit 924  
under section 5747.27 of the Revised Code. 925

(19) Add any reimbursement received during the taxable 926  
year of any amount the taxpayer deducted under division (A) (18) 927  
of this section in any previous taxable year to the extent the 928  
amount is not otherwise included in Ohio adjusted gross income. 929

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 930  
(v) of this section, add five-sixths of the amount of 931  
depreciation expense allowed by subsection (k) of section 168 of 932  
the Internal Revenue Code, including the taxpayer's 933  
proportionate or distributive share of the amount of 934  
depreciation expense allowed by that subsection to a pass- 935  
through entity in which the taxpayer has a direct or indirect 936  
ownership interest. 937

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 938  
of this section, add five-sixths of the amount of qualifying 939

section 179 depreciation expense, including the taxpayer's 940  
proportionate or distributive share of the amount of qualifying 941  
section 179 depreciation expense allowed to any pass-through 942  
entity in which the taxpayer has a direct or indirect ownership 943  
interest. 944

(iii) Subject to division (A) (20) (a) (v) of this section, 945  
for taxable years beginning in 2012 or thereafter, if the 946  
increase in income taxes withheld by the taxpayer is equal to or 947  
greater than ten per cent of income taxes withheld by the 948  
taxpayer during the taxpayer's immediately preceding taxable 949  
year, "two-thirds" shall be substituted for "five-sixths" for 950  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 951

(iv) Subject to division (A) (20) (a) (v) of this section, 952  
for taxable years beginning in 2012 or thereafter, a taxpayer is 953  
not required to add an amount under division (A) (20) of this 954  
section if the increase in income taxes withheld by the taxpayer 955  
and by any pass-through entity in which the taxpayer has a 956  
direct or indirect ownership interest is equal to or greater 957  
than the sum of (I) the amount of qualifying section 179 958  
depreciation expense and (II) the amount of depreciation expense 959  
allowed to the taxpayer by subsection (k) of section 168 of the 960  
Internal Revenue Code, and including the taxpayer's 961  
proportionate or distributive shares of such amounts allowed to 962  
any such pass-through entities. 963

(v) If a taxpayer directly or indirectly incurs a net 964  
operating loss for the taxable year for federal income tax 965  
purposes, to the extent such loss resulted from depreciation 966  
expense allowed by subsection (k) of section 168 of the Internal 967  
Revenue Code and by qualifying section 179 depreciation expense, 968  
"the entire" shall be substituted for "five-sixths of the" for 969

the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 970

The tax commissioner, under procedures established by the 971  
commissioner, may waive the add-backs related to a pass-through 972  
entity if the taxpayer owns, directly or indirectly, less than 973  
five per cent of the pass-through entity. 974

(b) Nothing in division (A) (20) of this section shall be 975  
construed to adjust or modify the adjusted basis of any asset. 976

(c) To the extent the add-back required under division (A) 977  
(20) (a) of this section is attributable to property generating 978  
nonbusiness income or loss allocated under section 5747.20 of 979  
the Revised Code, the add-back shall be situated to the same 980  
location as the nonbusiness income or loss generated by the 981  
property for the purpose of determining the credit under 982  
division (A) of section 5747.05 of the Revised Code. Otherwise, 983  
the add-back shall be apportioned, subject to one or more of the 984  
four alternative methods of apportionment enumerated in section 985  
5747.21 of the Revised Code. 986

(d) For the purposes of division (A) (20) (a) (v) of this 987  
section, net operating loss carryback and carryforward shall not 988  
include the allowance of any net operating loss deduction 989  
carryback or carryforward to the taxable year to the extent such 990  
loss resulted from depreciation allowed by section 168(k) of the 991  
Internal Revenue Code and by the qualifying section 179 992  
depreciation expense amount. 993

(e) For the purposes of divisions (A) (20) and (21) of this 994  
section: 995

(i) "Income taxes withheld" means the total amount 996  
withheld and remitted under sections 5747.06 and 5747.07 of the 997  
Revised Code by an employer during the employer's taxable year. 998

(ii) "Increase in income taxes withheld" means the amount 999  
by which the amount of income taxes withheld by an employer 1000  
during the employer's current taxable year exceeds the amount of 1001  
income taxes withheld by that employer during the employer's 1002  
immediately preceding taxable year. 1003

(iii) "Qualifying section 179 depreciation expense" means 1004  
the difference between (I) the amount of depreciation expense 1005  
directly or indirectly allowed to a taxpayer under section 179 1006  
of the Internal Revised Code, and (II) the amount of 1007  
depreciation expense directly or indirectly allowed to the 1008  
taxpayer under section 179 of the Internal Revenue Code as that 1009  
section existed on December 31, 2002. 1010

(21) (a) If the taxpayer was required to add an amount 1011  
under division (A) (20) (a) of this section for a taxable year, 1012  
deduct one of the following: 1013

(i) One-fifth of the amount so added for each of the five 1014  
succeeding taxable years if the amount so added was five-sixths 1015  
of qualifying section 179 depreciation expense or depreciation 1016  
expense allowed by subsection (k) of section 168 of the Internal 1017  
Revenue Code; 1018

(ii) One-half of the amount so added for each of the two 1019  
succeeding taxable years if the amount so added was two-thirds 1020  
of such depreciation expense; 1021

(iii) One-sixth of the amount so added for each of the six 1022  
succeeding taxable years if the entire amount of such 1023  
depreciation expense was so added. 1024

(b) If the amount deducted under division (A) (21) (a) of 1025  
this section is attributable to an add-back allocated under 1026  
division (A) (20) (c) of this section, the amount deducted shall 1027

be situated to the same location. Otherwise, the add-back shall 1028  
be apportioned using the apportionment factors for the taxable 1029  
year in which the deduction is taken, subject to one or more of 1030  
the four alternative methods of apportionment enumerated in 1031  
section 5747.21 of the Revised Code. 1032

(c) No deduction is available under division (A) (21) (a) of 1033  
this section with regard to any depreciation allowed by section 1034  
168(k) of the Internal Revenue Code and by the qualifying 1035  
section 179 depreciation expense amount to the extent that such 1036  
depreciation results in or increases a federal net operating 1037  
loss carryback or carryforward. If no such deduction is 1038  
available for a taxable year, the taxpayer may carry forward the 1039  
amount not deducted in such taxable year to the next taxable 1040  
year and add that amount to any deduction otherwise available 1041  
under division (A) (21) (a) of this section for that next taxable 1042  
year. The carryforward of amounts not so deducted shall continue 1043  
until the entire addition required by division (A) (20) (a) of 1044  
this section has been deducted. 1045

(d) No refund shall be allowed as a result of adjustments 1046  
made by division (A) (21) of this section. 1047

(22) Deduct, to the extent not otherwise deducted or 1048  
excluded in computing federal or Ohio adjusted gross income for 1049  
the taxable year, the amount the taxpayer received during the 1050  
taxable year as reimbursement for life insurance premiums under 1051  
section 5919.31 of the Revised Code. 1052

(23) Deduct, to the extent not otherwise deducted or 1053  
excluded in computing federal or Ohio adjusted gross income for 1054  
the taxable year, the amount the taxpayer received during the 1055  
taxable year as a death benefit paid by the adjutant general 1056  
under section 5919.33 of the Revised Code. 1057

(24) Deduct, to the extent included in federal adjusted 1058  
gross income and not otherwise allowable as a deduction or 1059  
exclusion in computing federal or Ohio adjusted gross income for 1060  
the taxable year, military pay and allowances received by the 1061  
taxpayer during the taxable year for active duty service in the 1062  
United States army, air force, navy, marine corps, or coast 1063  
guard or reserve components thereof or the national guard. The 1064  
deduction may not be claimed for military pay and allowances 1065  
received by the taxpayer while the taxpayer is stationed in this 1066  
state. 1067

(25) Deduct, to the extent not otherwise allowable as a 1068  
deduction or exclusion in computing federal or Ohio adjusted 1069  
gross income for the taxable year and not otherwise compensated 1070  
for by any other source, the amount of qualified organ donation 1071  
expenses incurred by the taxpayer during the taxable year, not 1072  
to exceed ten thousand dollars. A taxpayer may deduct qualified 1073  
organ donation expenses only once for all taxable years 1074  
beginning with taxable years beginning in 2007. 1075

For the purposes of division (A) (25) of this section: 1076

(a) "Human organ" means all or any portion of a human 1077  
liver, pancreas, kidney, intestine, or lung, and any portion of 1078  
human bone marrow. 1079

(b) "Qualified organ donation expenses" means travel 1080  
expenses, lodging expenses, and wages and salary forgone by a 1081  
taxpayer in connection with the taxpayer's donation, while 1082  
living, of one or more of the taxpayer's human organs to another 1083  
human being. 1084

(26) Deduct, to the extent not otherwise deducted or 1085  
excluded in computing federal or Ohio adjusted gross income for 1086

the taxable year, amounts received by the taxpayer as retired 1087  
personnel pay for service in the uniformed services or reserve 1088  
components thereof, or the national guard, or received by the 1089  
surviving spouse or former spouse of such a taxpayer under the 1090  
survivor benefit plan on account of such a taxpayer's death. If 1091  
the taxpayer receives income on account of retirement paid under 1092  
the federal civil service retirement system or federal employees 1093  
retirement system, or under any successor retirement program 1094  
enacted by the congress of the United States that is established 1095  
and maintained for retired employees of the United States 1096  
government, and such retirement income is based, in whole or in 1097  
part, on credit for the taxpayer's uniformed service, the 1098  
deduction allowed under this division shall include only that 1099  
portion of such retirement income that is attributable to the 1100  
taxpayer's uniformed service, to the extent that portion of such 1101  
retirement income is otherwise included in federal adjusted 1102  
gross income and is not otherwise deducted under this section. 1103  
Any amount deducted under division (A) (26) of this section is 1104  
not included in a taxpayer's adjusted gross income for the 1105  
purposes of section 5747.055 of the Revised Code. No amount may 1106  
be deducted under division (A) (26) of this section on the basis 1107  
of which a credit was claimed under section 5747.055 of the 1108  
Revised Code. 1109

(27) Deduct, to the extent not otherwise deducted or 1110  
excluded in computing federal or Ohio adjusted gross income for 1111  
the taxable year, the amount the taxpayer received during the 1112  
taxable year from the military injury relief fund created in 1113  
section 5902.05 of the Revised Code. 1114

(28) Deduct, to the extent not otherwise deducted or 1115  
excluded in computing federal or Ohio adjusted gross income for 1116  
the taxable year, the amount the taxpayer received as a veterans 1117

bonus during the taxable year from the Ohio department of 1118  
veterans services as authorized by Section 2r of Article VIII, 1119  
Ohio Constitution. 1120

(29) Deduct, to the extent not otherwise deducted or 1121  
excluded in computing federal or Ohio adjusted gross income for 1122  
the taxable year, any income derived from a transfer agreement 1123  
or from the enterprise transferred under that agreement under 1124  
section 4313.02 of the Revised Code. 1125

(30) Deduct, to the extent not otherwise deducted or 1126  
excluded in computing federal or Ohio adjusted gross income for 1127  
the taxable year, Ohio college opportunity or federal Pell grant 1128  
amounts received by the taxpayer or the taxpayer's spouse or 1129  
dependent pursuant to section 3333.122 of the Revised Code or 20 1130  
U.S.C. 1070a, et seq., and used to pay room or board furnished 1131  
by the educational institution for which the grant was awarded 1132  
at the institution's facilities, including meal plans 1133  
administered by the institution. For the purposes of this 1134  
division, receipt of a grant includes the distribution of a 1135  
grant directly to an educational institution and the crediting 1136  
of the grant to the enrollee's account with the institution. 1137

(31) (a) For taxable years beginning in 2015, deduct from 1138  
the portion of an individual's adjusted gross income that is 1139  
business income, to the extent not otherwise deducted or 1140  
excluded in computing federal or Ohio adjusted gross income for 1141  
the taxable year, the lesser of the following amounts: 1142

(i) Seventy-five per cent of the individual's business 1143  
income; 1144

(ii) Ninety-three thousand seven hundred fifty dollars for 1145  
each spouse if spouses file separate returns under section 1146



5747.08 of the Revised Code or one hundred eighty-seven thousand 1147  
five hundred dollars for all other individuals. 1148

(b) For taxable years beginning in 2016 or thereafter, 1149  
deduct from the portion of an individual's adjusted gross income 1150  
that is business income, to the extent not otherwise deducted or 1151  
excluded in computing federal adjusted gross income for the 1152  
taxable year, one hundred twenty-five thousand dollars for each 1153  
spouse if spouses file separate returns under section 5747.08 of 1154  
the Revised Code or two hundred fifty thousand dollars for all 1155  
other individuals. 1156

(32) Deduct, as provided under section 5747.78 of the 1157  
Revised Code, contributions to ABLE savings accounts made in 1158  
accordance with sections 113.50 to 113.56 of the Revised Code. 1159

(33) Deduct benefits under Chapter 4143. of the Revised 1160  
Code to the extent included in federal adjusted gross income. 1161

(B) "Business income" means income, including gain or 1162  
loss, arising from transactions, activities, and sources in the 1163  
regular course of a trade or business and includes income, gain, 1164  
or loss from real property, tangible property, and intangible 1165  
property if the acquisition, rental, management, and disposition 1166  
of the property constitute integral parts of the regular course 1167  
of a trade or business operation. "Business income" includes 1168  
income, including gain or loss, from a partial or complete 1169  
liquidation of a business, including, but not limited to, gain 1170  
or loss from the sale or other disposition of goodwill. 1171

(C) "Nonbusiness income" means all income other than 1172  
business income and may include, but is not limited to, 1173  
compensation, rents and royalties from real or tangible personal 1174  
property, capital gains, interest, dividends and distributions, 1175

patent or copyright royalties, or lottery winnings, prizes, and awards.	1176 1177
(D) "Compensation" means any form of remuneration paid to an employee for personal services.	1178 1179
(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.	1180 1181 1182
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	1183 1184
(G) "Individual" means any natural person.	1185
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	1186 1187
(I) "Resident" means any of the following, provided that division (I) (3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:	1188 1189 1190
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	1191 1192
(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section.	1193 1194 1195 1196
(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.	1197 1198 1199
For the purposes of division (I) (3) of this section:	1200
(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d)	1201 1202

of this section, that the trust consists directly or indirectly, 1203  
in whole or in part, of assets, net of any related liabilities, 1204  
that were transferred, or caused to be transferred, directly or 1205  
indirectly, to the trust by any of the following: 1206

(i) A person, a court, or a governmental entity or 1207  
instrumentality on account of the death of a decedent, but only 1208  
if the trust is described in division (I) (3) (e) (i) or (ii) of 1209  
this section; 1210

(ii) A person who was domiciled in this state for the 1211  
purposes of this chapter when the person directly or indirectly 1212  
transferred assets to an irrevocable trust, but only if at least 1213  
one of the trust's qualifying beneficiaries is domiciled in this 1214  
state for the purposes of this chapter during all or some 1215  
portion of the trust's current taxable year; 1216

(iii) A person who was domiciled in this state for the 1217  
purposes of this chapter when the trust document or instrument 1218  
or part of the trust document or instrument became irrevocable, 1219  
but only if at least one of the trust's qualifying beneficiaries 1220  
is a resident domiciled in this state for the purposes of this 1221  
chapter during all or some portion of the trust's current 1222  
taxable year. If a trust document or instrument became 1223  
irrevocable upon the death of a person who at the time of death 1224  
was domiciled in this state for purposes of this chapter, that 1225  
person is a person described in division (I) (3) (a) (iii) of this 1226  
section. 1227

(b) A trust is irrevocable to the extent that the 1228  
transferor is not considered to be the owner of the net assets 1229  
of the trust under sections 671 to 678 of the Internal Revenue 1230  
Code. 1231

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

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

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

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the

qualifying ratio last computed without regard to the subsequent 1262  
transfer, and (2) the fair market value of the subsequently 1263  
transferred assets at the time transferred, net of any related 1264  
liabilities, from sources enumerated in division (I) (3) (a) of 1265  
this section. The denominator of the revised qualifying ratio is 1266  
the fair market value of all the trust's assets immediately 1267  
after the subsequent transfer, net of any related liabilities. 1268

(iii) Whether a transfer to the trust is by or from any of 1269  
the sources enumerated in division (I) (3) (a) of this section 1270  
shall be ascertained without regard to the domicile of the 1271  
trust's beneficiaries. 1272

(e) For the purposes of division (I) (3) (a) (i) of this 1273  
section: 1274

(i) A trust is described in division (I) (3) (e) (i) of this 1275  
section if the trust is a testamentary trust and the testator of 1276  
that testamentary trust was domiciled in this state at the time 1277  
of the testator's death for purposes of the taxes levied under 1278  
Chapter 5731. of the Revised Code. 1279

(ii) A trust is described in division (I) (3) (e) (ii) of 1280  
this section if the transfer is a qualifying transfer described 1281  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1282  
trust is an irrevocable inter vivos trust, and at least one of 1283  
the trust's qualifying beneficiaries is domiciled in this state 1284  
for purposes of this chapter during all or some portion of the 1285  
trust's current taxable year. 1286

(f) For the purposes of division (I) (3) (e) (ii) of this 1287  
section, a "qualifying transfer" is a transfer of assets, net of 1288  
any related liabilities, directly or indirectly to a trust, if 1289  
the transfer is described in any of the following: 1290

(i) The transfer is made to a trust, created by the 1291  
decedent before the decedent's death and while the decedent was 1292  
domiciled in this state for the purposes of this chapter, and, 1293  
prior to the death of the decedent, the trust became irrevocable 1294  
while the decedent was domiciled in this state for the purposes 1295  
of this chapter. 1296

(ii) The transfer is made to a trust to which the 1297  
decedent, prior to the decedent's death, had directly or 1298  
indirectly transferred assets, net of any related liabilities, 1299  
while the decedent was domiciled in this state for the purposes 1300  
of this chapter, and prior to the death of the decedent the 1301  
trust became irrevocable while the decedent was domiciled in 1302  
this state for the purposes of this chapter. 1303

(iii) The transfer is made on account of a contractual 1304  
relationship existing directly or indirectly between the 1305  
transferor and either the decedent or the estate of the decedent 1306  
at any time prior to the date of the decedent's death, and the 1307  
decedent was domiciled in this state at the time of death for 1308  
purposes of the taxes levied under Chapter 5731. of the Revised 1309  
Code. 1310

(iv) The transfer is made to a trust on account of a 1311  
contractual relationship existing directly or indirectly between 1312  
the transferor and another person who at the time of the 1313  
decedent's death was domiciled in this state for purposes of 1314  
this chapter. 1315

(v) The transfer is made to a trust on account of the will 1316  
of a testator who was domiciled in this state at the time of the 1317  
testator's death for purposes of the taxes levied under Chapter 1318  
5731. of the Revised Code. 1319

(vi) The transfer is made to a trust created by or caused 1320  
to be created by a court, and the trust was directly or 1321  
indirectly created in connection with or as a result of the 1322  
death of an individual who, for purposes of the taxes levied 1323  
under Chapter 5731. of the Revised Code, was domiciled in this 1324  
state at the time of the individual's death. 1325

(g) The tax commissioner may adopt rules to ascertain the 1326  
part of a trust residing in this state. 1327

(J) "Nonresident" means an individual or estate that is 1328  
not a resident. An individual who is a resident for only part of 1329  
a taxable year is a nonresident for the remainder of that 1330  
taxable year. 1331

(K) "Pass-through entity" has the same meaning as in 1332  
section 5733.04 of the Revised Code. 1333

(L) "Return" means the notifications and reports required 1334  
to be filed pursuant to this chapter for the purpose of 1335  
reporting the tax due and includes declarations of estimated tax 1336  
when so required. 1337

(M) "Taxable year" means the calendar year or the 1338  
taxpayer's fiscal year ending during the calendar year, or 1339  
fractional part thereof, upon which the adjusted gross income is 1340  
calculated pursuant to this chapter. 1341

(N) "Taxpayer" means any person subject to the tax imposed 1342  
by section 5747.02 of the Revised Code or any pass-through 1343  
entity that makes the election under division (D) of section 1344  
5747.08 of the Revised Code. 1345

(O) "Dependents" means dependents as defined in the 1346  
Internal Revenue Code and as claimed in the taxpayer's federal 1347  
income tax return for the taxable year or which the taxpayer 1348

would have been permitted to claim had the taxpayer filed a 1349  
federal income tax return. 1350

(P) "Principal county of employment" means, in the case of 1351  
a nonresident, the county within the state in which a taxpayer 1352  
performs services for an employer or, if those services are 1353  
performed in more than one county, the county in which the major 1354  
portion of the services are performed. 1355

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1356  
Code: 1357

(1) "Subdivision" means any county, municipal corporation, 1358  
park district, or township. 1359

(2) "Essential local government purposes" includes all 1360  
functions that any subdivision is required by general law to 1361  
exercise, including like functions that are exercised under a 1362  
charter adopted pursuant to the Ohio Constitution. 1363

(R) "Overpayment" means any amount already paid that 1364  
exceeds the figure determined to be the correct amount of the 1365  
tax. 1366

(S) "Taxable income" or "Ohio taxable income" applies only 1367  
to estates and trusts, and means federal taxable income, as 1368  
defined and used in the Internal Revenue Code, adjusted as 1369  
follows: 1370

(1) Add interest or dividends, net of ordinary, necessary, 1371  
and reasonable expenses not deducted in computing federal 1372  
taxable income, on obligations or securities of any state or of 1373  
any political subdivision or authority of any state, other than 1374  
this state and its subdivisions and authorities, but only to the 1375  
extent that such net amount is not otherwise includible in Ohio 1376  
taxable income and is described in either division (S) (1) (a) or 1377



(b) of this section:	1378
(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;	1379 1380 1381
(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.	1382 1383
(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;	1384 1385 1386 1387 1388 1389 1390 1391 1392
(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;	1393 1394
(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;	1395 1396 1397 1398 1399 1400 1401 1402 1403
(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for	1404 1405 1406

the taxable year, had the targeted jobs credit allowed under 1407  
sections 38, 51, and 52 of the Internal Revenue Code not been in 1408  
effect, but only to the extent such amount relates either to 1409  
income included in federal taxable income for the taxable year 1410  
or to income of the S portion of an electing small business 1411  
trust for the taxable year; 1412

(6) Deduct any interest or interest equivalent, net of 1413  
related expenses deducted in computing federal taxable income, 1414  
on public obligations and purchase obligations, but only to the 1415  
extent that such net amount relates either to income included in 1416  
federal taxable income for the taxable year or to income of the 1417  
S portion of an electing small business trust for the taxable 1418  
year; 1419

(7) Add any loss or deduct any gain resulting from sale, 1420  
exchange, or other disposition of public obligations to the 1421  
extent that such loss has been deducted or such gain has been 1422  
included in computing either federal taxable income or income of 1423  
the S portion of an electing small business trust for the 1424  
taxable year; 1425

(8) Except in the case of the final return of an estate, 1426  
add any amount deducted by the taxpayer on both its Ohio estate 1427  
tax return pursuant to section 5731.14 of the Revised Code, and 1428  
on its federal income tax return in determining federal taxable 1429  
income; 1430

(9) (a) Deduct any amount included in federal taxable 1431  
income solely because the amount represents a reimbursement or 1432  
refund of expenses that in a previous year the decedent had 1433  
deducted as an itemized deduction pursuant to section 63 of the 1434  
Internal Revenue Code and applicable treasury regulations. The 1435  
deduction otherwise allowed under division (S) (9) (a) of this 1436

section shall be reduced to the extent the reimbursement is 1437  
attributable to an amount the taxpayer or decedent deducted 1438  
under this section in any taxable year. 1439

(b) Add any amount not otherwise included in Ohio taxable 1440  
income for any taxable year to the extent that the amount is 1441  
attributable to the recovery during the taxable year of any 1442  
amount deducted or excluded in computing federal or Ohio taxable 1443  
income in any taxable year, but only to the extent such amount 1444  
has not been distributed to beneficiaries for the taxable year. 1445

(10) Deduct any portion of the deduction described in 1446  
section 1341(a)(2) of the Internal Revenue Code, for repaying 1447  
previously reported income received under a claim of right, that 1448  
meets both of the following requirements: 1449

(a) It is allowable for repayment of an item that was 1450  
included in the taxpayer's taxable income or the decedent's 1451  
adjusted gross income for a prior taxable year and did not 1452  
qualify for a credit under division (A) or (B) of section 1453  
5747.05 of the Revised Code for that year. 1454

(b) It does not otherwise reduce the taxpayer's taxable 1455  
income or the decedent's adjusted gross income for the current 1456  
or any other taxable year. 1457

(11) Add any amount claimed as a credit under section 1458  
5747.059 or 5747.65 of the Revised Code to the extent that the 1459  
amount satisfies either of the following: 1460

(a) The amount was deducted or excluded from the 1461  
computation of the taxpayer's federal taxable income as required 1462  
to be reported for the taxpayer's taxable year under the 1463  
Internal Revenue Code; 1464

(b) The amount resulted in a reduction in the taxpayer's 1465

federal taxable income as required to be reported for any of the 1466  
taxpayer's taxable years under the Internal Revenue Code. 1467

(12) Deduct any amount, net of related expenses deducted 1468  
in computing federal taxable income, that a trust is required to 1469  
report as farm income on its federal income tax return, but only 1470  
if the assets of the trust include at least ten acres of land 1471  
satisfying the definition of "land devoted exclusively to 1472  
agricultural use" under section 5713.30 of the Revised Code, 1473  
regardless of whether the land is valued for tax purposes as 1474  
such land under sections 5713.30 to 5713.38 of the Revised Code. 1475  
If the trust is a pass-through entity investor, section 5747.231 1476  
of the Revised Code applies in ascertaining if the trust is 1477  
eligible to claim the deduction provided by division (S)(12) of 1478  
this section in connection with the pass-through entity's farm 1479  
income. 1480

Except for farm income attributable to the S portion of an 1481  
electing small business trust, the deduction provided by 1482  
division (S)(12) of this section is allowed only to the extent 1483  
that the trust has not distributed such farm income. Division 1484  
(S)(12) of this section applies only to taxable years of a trust 1485  
beginning in 2002 or thereafter. 1486

(13) Add the net amount of income described in section 1487  
641(c) of the Internal Revenue Code to the extent that amount is 1488  
not included in federal taxable income. 1489

(14) Add or deduct the amount the taxpayer would be 1490  
required to add or deduct under division (A)(20) or (21) of this 1491  
section if the taxpayer's Ohio taxable income were computed in 1492  
the same manner as an individual's Ohio adjusted gross income is 1493  
computed under this section. In the case of a trust, division 1494  
(S)(14) of this section applies only to any of the trust's 1495

taxable years beginning in 2002 or thereafter.	1496
(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.	1497 1498 1499
(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.	1500 1501 1502 1503
(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.	1504 1505 1506
(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.	1507 1508 1509 1510
(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.	1511 1512
(Y) "Month" means a calendar month.	1513
(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.	1514 1515 1516
(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the	1517 1518 1519 1520 1521 1522 1523

state board of career colleges and schools under Chapter 3332. 1524  
of the Revised Code. 1525

(2) "Qualified tuition and fees" means tuition and fees 1526  
imposed by an eligible institution as a condition of enrollment 1527  
or attendance, not exceeding two thousand five hundred dollars 1528  
in each of the individual's first two years of post-secondary 1529  
education. If the individual is a part-time student, "qualified 1530  
tuition and fees" includes tuition and fees paid for the 1531  
academic equivalent of the first two years of post-secondary 1532  
education during a maximum of five taxable years, not exceeding 1533  
a total of five thousand dollars. "Qualified tuition and fees" 1534  
does not include: 1535

(a) Expenses for any course or activity involving sports, 1536  
games, or hobbies unless the course or activity is part of the 1537  
individual's degree or diploma program; 1538

(b) The cost of books, room and board, student activity 1539  
fees, athletic fees, insurance expenses, or other expenses 1540  
unrelated to the individual's academic course of instruction; 1541

(c) Tuition, fees, or other expenses paid or reimbursed 1542  
through an employer, scholarship, grant in aid, or other 1543  
educational benefit program. 1544

(BB) (1) "Modified business income" means the business 1545  
income included in a trust's Ohio taxable income after such 1546  
taxable income is first reduced by the qualifying trust amount, 1547  
if any. 1548

(2) "Qualifying trust amount" of a trust means capital 1549  
gains and losses from the sale, exchange, or other disposition 1550  
of equity or ownership interests in, or debt obligations of, a 1551  
qualifying investee to the extent included in the trust's Ohio 1552

taxable income, but only if the following requirements are	1553
satisfied:	1554
(a) The book value of the qualifying investee's physical	1555
assets in this state and everywhere, as of the last day of the	1556
qualifying investee's fiscal or calendar year ending immediately	1557
prior to the date on which the trust recognizes the gain or	1558
loss, is available to the trust.	1559
(b) The requirements of section 5747.011 of the Revised	1560
Code are satisfied for the trust's taxable year in which the	1561
trust recognizes the gain or loss.	1562
Any gain or loss that is not a qualifying trust amount is	1563
modified business income, qualifying investment income, or	1564
modified nonbusiness income, as the case may be.	1565
(3) "Modified nonbusiness income" means a trust's Ohio	1566
taxable income other than modified business income, other than	1567
the qualifying trust amount, and other than qualifying	1568
investment income, as defined in section 5747.012 of the Revised	1569
Code, to the extent such qualifying investment income is not	1570
otherwise part of modified business income.	1571
(4) "Modified Ohio taxable income" applies only to trusts,	1572
and means the sum of the amounts described in divisions (BB) (4)	1573
(a) to (c) of this section:	1574
(a) The fraction, calculated under section 5747.013, and	1575
applying section 5747.231 of the Revised Code, multiplied by the	1576
sum of the following amounts:	1577
(i) The trust's modified business income;	1578
(ii) The trust's qualifying investment income, as defined	1579
in section 5747.012 of the Revised Code, but only to the extent	1580

the qualifying investment income does not otherwise constitute 1581  
modified business income and does not otherwise constitute a 1582  
qualifying trust amount. 1583

(b) The qualifying trust amount multiplied by a fraction, 1584  
the numerator of which is the sum of the book value of the 1585  
qualifying investee's physical assets in this state on the last 1586  
day of the qualifying investee's fiscal or calendar year ending 1587  
immediately prior to the day on which the trust recognizes the 1588  
qualifying trust amount, and the denominator of which is the sum 1589  
of the book value of the qualifying investee's total physical 1590  
assets everywhere on the last day of the qualifying investee's 1591  
fiscal or calendar year ending immediately prior to the day on 1592  
which the trust recognizes the qualifying trust amount. If, for 1593  
a taxable year, the trust recognizes a qualifying trust amount 1594  
with respect to more than one qualifying investee, the amount 1595  
described in division (BB) (4) (b) of this section shall equal the 1596  
sum of the products so computed for each such qualifying 1597  
investee. 1598

(c) (i) With respect to a trust or portion of a trust that 1599  
is a resident as ascertained in accordance with division (I) (3) 1600  
(d) of this section, its modified nonbusiness income. 1601

(ii) With respect to a trust or portion of a trust that is 1602  
not a resident as ascertained in accordance with division (I) (3) 1603  
(d) of this section, the amount of its modified nonbusiness 1604  
income satisfying the descriptions in divisions (B) (2) to (5) of 1605  
section 5747.20 of the Revised Code, except as otherwise 1606  
provided in division (BB) (4) (c) (ii) of this section. With 1607  
respect to a trust or portion of a trust that is not a resident 1608  
as ascertained in accordance with division (I) (3) (d) of this 1609  
section, the trust's portion of modified nonbusiness income 1610



recognized from the sale, exchange, or other disposition of a 1611  
debt interest in or equity interest in a section 5747.212 1612  
entity, as defined in section 5747.212 of the Revised Code, 1613  
without regard to division (A) of that section, shall not be 1614  
allocated to this state in accordance with section 5747.20 of 1615  
the Revised Code but shall be apportioned to this state in 1616  
accordance with division (B) of section 5747.212 of the Revised 1617  
Code without regard to division (A) of that section. 1618

If the allocation and apportionment of a trust's income 1619  
under divisions (BB) (4) (a) and (c) of this section do not fairly 1620  
represent the modified Ohio taxable income of the trust in this 1621  
state, the alternative methods described in division (C) of 1622  
section 5747.21 of the Revised Code may be applied in the manner 1623  
and to the same extent provided in that section. 1624

(5) (a) Except as set forth in division (BB) (5) (b) of this 1625  
section, "qualifying investee" means a person in which a trust 1626  
has an equity or ownership interest, or a person or unit of 1627  
government the debt obligations of either of which are owned by 1628  
a trust. For the purposes of division (BB) (2) (a) of this section 1629  
and for the purpose of computing the fraction described in 1630  
division (BB) (4) (b) of this section, all of the following apply: 1631

(i) If the qualifying investee is a member of a qualifying 1632  
controlled group on the last day of the qualifying investee's 1633  
fiscal or calendar year ending immediately prior to the date on 1634  
which the trust recognizes the gain or loss, then "qualifying 1635  
investee" includes all persons in the qualifying controlled 1636  
group on such last day. 1637

(ii) If the qualifying investee, or if the qualifying 1638  
investee and any members of the qualifying controlled group of 1639  
which the qualifying investee is a member on the last day of the 1640

qualifying investee's fiscal or calendar year ending immediately 1641  
prior to the date on which the trust recognizes the gain or 1642  
loss, separately or cumulatively own, directly or indirectly, on 1643  
the last day of the qualifying investee's fiscal or calendar 1644  
year ending immediately prior to the date on which the trust 1645  
recognizes the qualifying trust amount, more than fifty per cent 1646  
of the equity of a pass-through entity, then the qualifying 1647  
investee and the other members are deemed to own the 1648  
proportionate share of the pass-through entity's physical assets 1649  
which the pass-through entity directly or indirectly owns on the 1650  
last day of the pass-through entity's calendar or fiscal year 1651  
ending within or with the last day of the qualifying investee's 1652  
fiscal or calendar year ending immediately prior to the date on 1653  
which the trust recognizes the qualifying trust amount. 1654

(iii) For the purposes of division (BB) (5) (a) (iii) of this 1655  
section, "upper level pass-through entity" means a pass-through 1656  
entity directly or indirectly owning any equity of another pass- 1657  
through entity, and "lower level pass-through entity" means that 1658  
other pass-through entity. 1659

An upper level pass-through entity, whether or not it is 1660  
also a qualifying investee, is deemed to own, on the last day of 1661  
the upper level pass-through entity's calendar or fiscal year, 1662  
the proportionate share of the lower level pass-through entity's 1663  
physical assets that the lower level pass-through entity 1664  
directly or indirectly owns on the last day of the lower level 1665  
pass-through entity's calendar or fiscal year ending within or 1666  
with the last day of the upper level pass-through entity's 1667  
fiscal or calendar year. If the upper level pass-through entity 1668  
directly and indirectly owns less than fifty per cent of the 1669  
equity of the lower level pass-through entity on each day of the 1670  
upper level pass-through entity's calendar or fiscal year in 1671

which or with which ends the calendar or fiscal year of the 1672  
lower level pass-through entity and if, based upon clear and 1673  
convincing evidence, complete information about the location and 1674  
cost of the physical assets of the lower pass-through entity is 1675  
not available to the upper level pass-through entity, then 1676  
solely for purposes of ascertaining if a gain or loss 1677  
constitutes a qualifying trust amount, the upper level pass- 1678  
through entity shall be deemed as owning no equity of the lower 1679  
level pass-through entity for each day during the upper level 1680  
pass-through entity's calendar or fiscal year in which or with 1681  
which ends the lower level pass-through entity's calendar or 1682  
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 1683  
shall be construed to provide for any deduction or exclusion in 1684  
computing any trust's Ohio taxable income. 1685

(b) With respect to a trust that is not a resident for the 1686  
taxable year and with respect to a part of a trust that is not a 1687  
resident for the taxable year, "qualifying investee" for that 1688  
taxable year does not include a C corporation if both of the 1689  
following apply: 1690

(i) During the taxable year the trust or part of the trust 1691  
recognizes a gain or loss from the sale, exchange, or other 1692  
disposition of equity or ownership interests in, or debt 1693  
obligations of, the C corporation. 1694

(ii) Such gain or loss constitutes nonbusiness income. 1695

(6) "Available" means information is such that a person is 1696  
able to learn of the information by the due date plus 1697  
extensions, if any, for filing the return for the taxable year 1698  
in which the trust recognizes the gain or loss. 1699

(CC) "Qualifying controlled group" has the same meaning as 1700

in section 5733.04 of the Revised Code. 1701

(DD) "Related member" has the same meaning as in section 1702  
5733.042 of the Revised Code. 1703

(EE) (1) For the purposes of division (EE) of this section: 1704

(a) "Qualifying person" means any person other than a 1705  
qualifying corporation. 1706

(b) "Qualifying corporation" means any person classified 1707  
for federal income tax purposes as an association taxable as a 1708  
corporation, except either of the following: 1709

(i) A corporation that has made an election under 1710  
subchapter S, chapter one, subtitle A, of the Internal Revenue 1711  
Code for its taxable year ending within, or on the last day of, 1712  
the investor's taxable year; 1713

(ii) A subsidiary that is wholly owned by any corporation 1714  
that has made an election under subchapter S, chapter one, 1715  
subtitle A of the Internal Revenue Code for its taxable year 1716  
ending within, or on the last day of, the investor's taxable 1717  
year. 1718

(2) For the purposes of this chapter, unless expressly 1719  
stated otherwise, no qualifying person indirectly owns any asset 1720  
directly or indirectly owned by any qualifying corporation. 1721

(FF) For purposes of this chapter and Chapter 5751. of the 1722  
Revised Code: 1723

(1) "Trust" does not include a qualified pre-income tax 1724  
trust. 1725

(2) A "qualified pre-income tax trust" is any pre-income 1726  
tax trust that makes a qualifying pre-income tax trust election 1727

as described in division (FF) (3) of this section. 1728

(3) A "qualifying pre-income tax trust election" is an 1729  
election by a pre-income tax trust to subject to the tax imposed 1730  
by section 5751.02 of the Revised Code the pre-income tax trust 1731  
and all pass-through entities of which the trust owns or 1732  
controls, directly, indirectly, or constructively through 1733  
related interests, five per cent or more of the ownership or 1734  
equity interests. The trustee shall notify the tax commissioner 1735  
in writing of the election on or before April 15, 2006. The 1736  
election, if timely made, shall be effective on and after 1737  
January 1, 2006, and shall apply for all tax periods and tax 1738  
years until revoked by the trustee of the trust. 1739

(4) A "pre-income tax trust" is a trust that satisfies all 1740  
of the following requirements: 1741

(a) The document or instrument creating the trust was 1742  
executed by the grantor before January 1, 1972; 1743

(b) The trust became irrevocable upon the creation of the 1744  
trust; and 1745

(c) The grantor was domiciled in this state at the time 1746  
the trust was created. 1747

(GG) "Uniformed services" has the same meaning as in 10 1748  
U.S.C. 101. 1749

(HH) "Taxable business income" means the amount by which 1750  
an individual's business income that is included in federal 1751  
adjusted gross income exceeds the amount of business income the 1752  
individual is authorized to deduct under division (A) (31) of 1753  
this section for the taxable year. 1754

**Section 2.** That existing sections 4117.10 and 5747.01 of 1755

the Revised Code are hereby repealed. 1756

**Section 3.** Section 1 of this act, except for section 1757  
4143.03 and division (A) of section 4143.10 of the Revised Code, 1758  
shall take effect July 1, 2019. Section 4143.03 of the Revised 1759  
Code, as enacted by this act, shall take effect July 1, 2022. 1760  
Division (A) of section 4143.10 of the Revised Code, as enacted 1761  
by this act, shall take effect on the effective date of this 1762  
section. 1763

**Section 4.** Employers shall begin to deduct and withhold 1764  
premiums from the wages of employees or pay contributions as 1765  
described in divisions (B), (C), and (D) of section 4143.10 of 1766  
the Revised Code, as enacted by this act, on July 1, 2021. 1767

**Section 5.** Section 4143.06 of the Revised Code, as enacted 1768  
by this act, applies to collective bargaining agreements that 1769  
are entered into or renewed, or employer policies that are 1770  
adopted or revised, on or after the effective date of this act. 1771

**Section 6.** (A) Not later than July 1, 2019, the Director 1772  
of Job and Family Services shall complete an actuarial 1773  
evaluation before establishing the Family and Medical Leave 1774  
Insurance Program under Chapter 4143. of the Revised Code, as 1775  
enacted by this act. The actuarial evaluation shall determine 1776  
all of the following: 1777

(1) The premium amounts required under section 4143.10 of 1778  
the Revised Code, as enacted by this act, necessary to 1779  
sufficiently fund the Program; 1780

(2) The balance necessary to ensure the actuarial 1781  
soundness of the Family and Medical Leave Insurance Fund created 1782  
by section 4143.10 of the Revised Code, as enacted by this act; 1783

(3) The administrative and technology costs necessary to 1784

establish and operate the Program; 1785

(4) The financial feasibility and cost-effectiveness of 1786  
contracting with one or more external vendors to provide benefit 1787  
eligibility determinations and claims management for the 1788  
Program. 1789

(B) The Director may apply for and accept gifts, grants, 1790  
donations, and any available federal funding to conduct the 1791  
actuarial evaluation in division (A) of this section. The 1792  
Director shall transmit any gifts, grants, donations, or federal 1793  
funding to the Treasurer of State for deposit in the Family and 1794  
Medical Leave Insurance Fund created by section 4143.10 of the 1795  
Revised Code, as enacted by this act. 1796

(C) Notwithstanding the deadline in division (A) of this 1797  
section, the Director shall not conduct the actuarial evaluation 1798  
unless the Director receives sufficient funds to cover the costs 1799  
to perform the evaluation. 1800