

As Introduced

133rd General Assembly

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H. B. No. 91

Representatives Boggs, Boyd

Cosponsors: Representatives Brent, Brown, Clites, Crawley, Crossman, Galonski, Howse, Ingram, Kelly, Kent, Leland, Lepore-Hagan, Liston, Miller, A., Miranda, O'Brien, Patterson, Rogers, Russo, Sheehy, Skindell, Smith, K., Sobecki, Sykes, Sweeney, Weinstein, West

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. 6

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

Section 1. That sections 4117.10 and 5747.01 be amended 7
and sections 4143.01, 4143.02, 4143.03, 4143.04, 4143.05, 8
4143.06, 4143.07, 4143.08, 4143.09, 4143.10, 4143.11, 4143.12, 9
4143.13, 4143.14, and 4143.99 of the Revised Code be enacted to 10
read as follows: 11

Sec. 4117.10. (A) An agreement between a public employer 12
and an exclusive representative entered into pursuant to this 13
chapter governs the wages, hours, and terms and conditions of 14
public employment covered by the agreement. If the agreement 15
provides for a final and binding arbitration of grievances, 16

public employers, employees, and employee organizations are 17
subject solely to that grievance procedure and the state 18
personnel board of review or civil service commissions have no 19
jurisdiction to receive and determine any appeals relating to 20
matters that were the subject of a final and binding grievance 21
procedure. Where no agreement exists or where an agreement makes 22
no specification about a matter, the public employer and public 23
employees are subject to all applicable state or local laws or 24
ordinances pertaining to the wages, hours, and terms and 25
conditions of employment for public employees. All of the 26
following prevail over conflicting provisions of agreements 27
between employee organizations and public employers: 28

(1) Laws pertaining to any of the following subjects: 29

(a) Civil rights; 30

(b) Affirmative action; 31

(c) Unemployment compensation; 32

(d) Workers' compensation; 33

(e) The retirement of public employees; 34

(f) Residency requirements; 35

(g) The minimum educational requirements contained in the 36
Revised Code pertaining to public education including the 37
requirement of a certificate by the fiscal officer of a school 38
district pursuant to section 5705.41 of the Revised Code; 39

(h) The provisions of division (A) of section 124.34 of 40
the Revised Code governing the disciplining of officers and 41
employees who have been convicted of a felony; 42

(i) The minimum standards promulgated by the state board 43

of education pursuant to division (D) of section 3301.07 of the Revised Code. 44
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(2) The law pertaining to the leave of absence and 46
compensation provided under section 5923.05 of the Revised Code, 47
if the terms of the agreement contain benefits which are less 48
than those contained in that section or the agreement contains 49
no such terms and the public authority is the state or any 50
agency, authority, commission, or board of the state or if the 51
public authority is another entity listed in division (B) of 52
section 4117.01 of the Revised Code that elects to provide leave 53
of absence and compensation as provided in section 5923.05 of 54
the Revised Code; 55

(3) The law pertaining to the leave established under 56
section 5906.02 of the Revised Code, if the terms of the 57
agreement contain benefits that are less than those contained in 58
section 5906.02 of the Revised Code; 59

(4) The law pertaining to excess benefits prohibited under 60
section 3345.311 of the Revised Code with respect to an 61
agreement between an employee organization and a public employer 62
entered into on or after ~~the effective date of this amendment~~ 63
September 29, 2015; 64

(5) The law pertaining to family and medical leave 65
insurance benefits provided under Chapter 4143. of the Revised 66
Code, if the terms of the agreement contain benefits less than 67
those contained in that chapter. 68

Except for sections 306.08, 306.12, 306.35, and 4981.22 of 69
the Revised Code and arrangements entered into thereunder, and 70
section 4981.21 of the Revised Code as necessary to comply with 71
section 13(c) of the "Urban Mass Transportation Act of 1964," 87 72

Stat. 295, 49 U.S.C.A. 1609(c), as amended, and arrangements 73
entered into thereunder, this chapter prevails over any and all 74
other conflicting laws, resolutions, provisions, present or 75
future, except as otherwise specified in this chapter or as 76
otherwise specified by the general assembly. Nothing in this 77
section prohibits or shall be construed to invalidate the 78
provisions of an agreement establishing supplemental workers' 79
compensation ~~or~~, unemployment compensation, or family and 80
medical leave insurance benefits or exceeding minimum 81
requirements contained in the Revised Code pertaining to public 82
education or the minimum standards promulgated by the state 83
board of education pursuant to division (D) of section 3301.07 84
of the Revised Code. 85

(B) The public employer shall submit a request for funds 86
necessary to implement an agreement and for approval of any 87
other matter requiring the approval of the appropriate 88
legislative body to the legislative body within fourteen days of 89
the date on which the parties finalize the agreement, unless 90
otherwise specified, but if the appropriate legislative body is 91
not in session at the time, then within fourteen days after it 92
convenes. The legislative body must approve or reject the 93
submission as a whole, and the submission is deemed approved if 94
the legislative body fails to act within thirty days after the 95
public employer submits the agreement. The parties may specify 96
that those provisions of the agreement not requiring action by a 97
legislative body are effective and operative in accordance with 98
the terms of the agreement, provided there has been compliance 99
with division (C) of this section. If the legislative body 100
rejects the submission of the public employer, either party may 101
reopen all or part of the entire agreement. 102

As used in this section, "legislative body" includes the 103

governing board of a municipal corporation, school district, 104
college or university, village, township, or board of county 105
commissioners or any other body that has authority to approve 106
the budget of their public jurisdiction and, with regard to the 107
state, "legislative body" means the controlling board. 108

(C) The chief executive officer, or the chief executive 109
officer's representative, of each municipal corporation, the 110
designated representative of the board of education of each 111
school district, college or university, or any other body that 112
has authority to approve the budget of their public 113
jurisdiction, the designated representative of the board of 114
county commissioners and of each elected officeholder of the 115
county whose employees are covered by the collective 116
negotiations, and the designated representative of the village 117
or the board of township trustees of each township is 118
responsible for negotiations in the collective bargaining 119
process; except that the legislative body may accept or reject a 120
proposed collective bargaining agreement. When the matters about 121
which there is agreement are reduced to writing and approved by 122
the employee organization and the legislative body, the 123
agreement is binding upon the legislative body, the employer, 124
and the employee organization and employees covered by the 125
agreement. 126

(D) There is hereby established an office of collective 127
bargaining in the department of administrative services for the 128
purpose of negotiating with and entering into written agreements 129
between state agencies, departments, boards, and commissions and 130
the exclusive representative on matters of wages, hours, terms 131
and other conditions of employment and the continuation, 132
modification, or deletion of an existing provision of a 133
collective bargaining agreement. Nothing in any provision of law 134

to the contrary shall be interpreted as excluding the bureau of 135
workers' compensation and the industrial commission from the 136
preceding sentence. This office shall not negotiate on behalf of 137
other statewide elected officials or boards of trustees of state 138
institutions of higher education who shall be considered as 139
separate public employers for the purposes of this chapter; 140
however, the office may negotiate on behalf of these officials 141
or trustees where authorized by the officials or trustees. The 142
staff of the office of collective bargaining are in the 143
unclassified service. The director of administrative services 144
shall fix the compensation of the staff. 145

The office of collective bargaining shall: 146

(1) Assist the director in formulating management's 147
philosophy for public collective bargaining as well as planning 148
bargaining strategies; 149

(2) Conduct negotiations with the exclusive 150
representatives of each employee organization; 151

(3) Coordinate the state's resources in all mediation, 152
fact-finding, and arbitration cases as well as in all labor 153
disputes; 154

(4) Conduct systematic reviews of collective bargaining 155
agreements for the purpose of contract negotiations; 156

(5) Coordinate the systematic compilation of data by all 157
agencies that is required for negotiating purposes; 158

(6) Prepare and submit an annual report and other reports 159
as requested to the governor and the general assembly on the 160
implementation of this chapter and its impact upon state 161
government. 162

<u>Sec. 4143.01. As used in this chapter:</u>	163
<u>(A) "Average weekly wage" means the amount obtained by</u>	164
<u>dividing an employee's total wages for all qualifying weeks</u>	165
<u>during the employee's base period by the number of qualifying</u>	166
<u>weeks in the employee's base period.</u>	167
<u>(B) (1) "Base period" means the first four of the last five</u>	168
<u>completed calendar quarters immediately preceding the first day</u>	169
<u>of an individual's twelve-month period, except as provided in</u>	170
<u>division (B) (2) of this section.</u>	171
<u>(2) If an individual does not have sufficient qualifying</u>	172
<u>weeks and wages in the base period to be eligible for family and</u>	173
<u>medical leave insurance benefits, the individual's base period</u>	174
<u>shall be the four most recently completed calendar quarters</u>	175
<u>preceding the first day of the individual's twelve-month period.</u>	176
<u>Such base period shall be known as the "alternate base period."</u>	177
<u>No calendar quarter in a base period or alternate base period</u>	178
<u>shall be used to establish a subsequent benefit year.</u>	179
<u>(3) For purposes of determining the weeks that comprise a</u>	180
<u>completed calendar quarter under this division, only those weeks</u>	181
<u>ending at midnight Saturday within the calendar quarter shall be</u>	182
<u>utilized.</u>	183
<u>(C) "Child" means a biological, adopted, or foster son or</u>	184
<u>daughter, a stepson or stepdaughter, a legal ward, or a son or</u>	185
<u>daughter of a person standing in loco parentis.</u>	186
<u>(D) "Contributions" means the money payments to the family</u>	187
<u>and medical leave insurance fund made by employers under section</u>	188
<u>4143.10 of the Revised Code.</u>	189
<u>(E) "Eligible individual" means an individual who</u>	190
<u>satisfies the requirements of section 4143.03 of the Revised</u>	191

<u>Code to receive family and medical leave insurance benefits.</u>	192
<u>(F) "Employee" and "employer" have the same meanings as in section 4113.51 of the Revised Code.</u>	193
<u>(G) "Family and medical leave insurance benefits" means money payments payable to an individual who has established benefit rights under this chapter.</u>	195
<u>(H) "Family member" means a person for whom an employee may take Family and Medical Leave Act leave, and includes a child, parent, or spouse.</u>	198
<u>(I) "Family and Medical Leave Act" means the "Family and Medical Leave Act of 1993," 29 U.S.C. 2601 et seq.</u>	201
<u>(J) "Family and Medical Leave Act leave" means leave taken from work and all other benefits authorized under the Family and Medical Leave Act.</u>	203
<u>(K) "Health care professional" means any of the following:</u>	206
<u>(1) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;</u>	207
<u>(2) A registered nurse, clinical nurse specialist, certified nurse-midwife, or licensed practical nurse licensed or certified under Chapter 4723. of the Revised Code;</u>	209
<u>(3) A person licensed under Chapter 4729. of the Revised Code to practice as a pharmacist;</u>	212
<u>(4) A person authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;</u>	214
<u>(5) A person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;</u>	216
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<u>(6) A psychologist licensed under Chapter 4732. of the</u>	219
<u>Revised Code;</u>	220
<u>(7) A speech-language pathologist or audiologist licensed</u>	221
<u>under Chapter 4753. of the Revised Code;</u>	222
<u>(8) An occupational therapist, physical therapist,</u>	223
<u>physical therapist assistant, or athletic trainer licensed under</u>	224
<u>Chapter 4755. of the Revised Code;</u>	225
<u>(9) A professional clinical counselor, professional</u>	226
<u>counselor, independent social worker, or social worker licensed</u>	227
<u>under Chapter 4757. of the Revised Code;</u>	228
<u>(10) A dietician licensed under Chapter 4759. of the</u>	229
<u>Revised Code.</u>	230
<u>(L) "Internal Revenue Code" has the same meaning as in</u>	231
<u>section 5747.01 of the Revised Code.</u>	232
<u>(M) "Parent" means a biological, foster, or adoptive</u>	233
<u>parent, stepparent, legal guardian, or other person who stood in</u>	234
<u>loco parentis to a person when the person was a child.</u>	235
<u>(N) "Qualifying week" means any calendar week in an</u>	236
<u>individual's base period with respect to which the individual</u>	237
<u>earns or is paid wages. A calendar week with respect to which an</u>	238
<u>individual earns wages but for which payment was not made within</u>	239
<u>the base period, when necessary to qualify for family and</u>	240
<u>medical leave insurance benefits, may be considered to be a</u>	241
<u>qualifying week. The number of qualifying weeks that may be</u>	242
<u>established in a calendar quarter shall not exceed the number of</u>	243
<u>calendar weeks in the quarter.</u>	244
<u>(O) "Serious health condition" means an illness, injury,</u>	245
<u>impairment, or physical or mental condition that involves</u>	246

inpatient care in a hospital, hospice, or residential health 247
care facility, or continuing treatment or continuing supervision 248
by a health care professional. 249

(P) "Statewide average weekly wage" means the amount 250
calculated by the director of job and family services in 251
accordance with division (B) (3) of section 4141.30 of the 252
Revised Code. 253

(Q) "Twelve-month period" with respect to any individual, 254
means the three hundred sixty-five consecutive days that begin 255
with the first day an individual establishes a claim for family 256
and medical leave insurance benefits. 257

(R) "Wages" means all remuneration payable to an employee 258
for personal services performed for an employer, including 259
commissions and bonuses, and the reasonable cash value of all 260
remuneration payable to an employee in any medium other than 261
cash. 262

(S) "Weekly benefit amount" means the amount provided in 263
section 4143.05 of the Revised Code. 264

(T) "Yearly earnings" means the total wages an individual 265
earns for the calendar year. 266

Sec. 4143.02. (A) There is hereby created the family and 267
medical leave insurance program. The director of job and family 268
services shall administer and enforce the program in accordance 269
with this chapter and shall adopt rules in accordance with 270
Chapter 119. of the Revised Code to establish all of the 271
following with respect to the program: 272

(1) Procedures for an individual to follow to allow the 273
individual to file a claim for family and medical leave 274
insurance benefits under section 4143.03 of the Revised Code; 275

<u>(2) The form an individual shall use to apply for family</u>	276
<u>and medical leave insurance benefits;</u>	277
<u>(3) A sliding scale for determining the amount of the</u>	278
<u>premium each employee shall contribute to the program based on</u>	279
<u>the employee's yearly earnings;</u>	280
<u>(4) The manner and schedule by which an employer shall</u>	281
<u>remit premiums to the director as prescribed by section 4143.10</u>	282
<u>of the Revised Code;</u>	283
<u>(5) A maximum annual premium an employee shall contribute</u>	284
<u>to the family and medical leave insurance fund created in</u>	285
<u>section 4143.10 of the Revised Code;</u>	286
<u>(6) Procedures to adjust the amounts of the premiums each</u>	287
<u>year to ensure the actuarial soundness of the fund created in</u>	288
<u>section 4143.10 of the Revised Code;</u>	289
<u>(7) Procedures for an employer to follow to allow the</u>	290
<u>employer to make contributions on behalf of an employee to the</u>	291
<u>family and medical leave insurance fund under section 4143.10 of</u>	292
<u>the Revised Code;</u>	293
<u>(8) Procedures for an individual to follow to allow the</u>	294
<u>individual to elect to opt out of participating in the program</u>	295
<u>under section 4143.06 of the Revised Code;</u>	296
<u>(9) The form an individual shall use to elect to opt out</u>	297
<u>of participating in the program;</u>	298
<u>(10) Procedures to recover a payment of benefits made to</u>	299
<u>an individual in excess of the benefits the individual is</u>	300
<u>entitled to receive under section 4143.09 of the Revised Code;</u>	301
<u>(11) The time periods during which an independent</u>	302
<u>contractor who has elected coverage under section 4143.08 of the</u>	303

Revised Code may withdraw from coverage. 304

(B) The director may adopt additional rules the director 305
considers necessary to administer and enforce the program and 306
this chapter. 307

Sec. 4143.03. (A) An individual may receive family and 308
medical leave insurance benefits for any of the following 309
reasons: 310

(1) The individual has a serious health condition that 311
makes the individual unable to perform the functions of one or 312
more of the individual's jobs. 313

(2) The individual is caring for a new child during the 314
first year after the birth or adoption of the child or the 315
placement of the child through foster care. 316

(3) The individual is caring for a family member who has a 317
serious health condition. 318

(4) The individual is taking any other leave from work 319
authorized by the Family and Medical Leave Act. 320

(B) (1) To be eligible to receive benefits, an individual 321
shall do all of the following: 322

(a) File a claim for benefits in accordance with rules 323
adopted by the director of job and family services under section 324
4143.02 of the Revised Code; 325

(b) Consent to the release of information that is 326
considered confidential under section 4143.12 of the Revised 327
Code; 328

(c) Demonstrate that the individual has been employed by 329
and worked for one or more employers for at least six hundred 330

eighty hours during the individual's base period; 331

(d) Demonstrate that the individual's employer has 332
withheld and remitted premiums or made contributions to the 333
family and medical leave insurance program for at least one 334
year; 335

(e) Attest in the claim for benefits that the individual 336
notified the individual's employer in writing of the 337
individual's intent to take leave for one of the reasons listed 338
in division (A) of this section. 339

(2) The director shall require an individual filing a 340
claim for benefits under this section to provide both of the 341
following: 342

(a) An attestation that the individual is not receiving 343
benefits under Chapter 4121., 4123., 4127., 4131., or 4141. of 344
the Revised Code in an amount that would exceed the individual's 345
wages, as determined by the director, when combined with the 346
benefits available to the individual under this chapter; 347

(b) A certification from a health care professional 348
supporting the individual's claim that the individual or a 349
family member of the individual has a serious health condition. 350

(C) (1) The director shall notify an employer within five 351
business days after an individual files a claim for benefits 352
under this section that the claim has been filed. 353

(2) The director shall notify an individual within five 354
business days after the individual files a claim for benefits 355
under this section that the premiums or contributions due under 356
section 4143.10 of the Revised Code have not been paid as 357
described in division (B) of that section. 358

(D) An individual who meets the requirements of division 359
(B) of this section may receive family and medical leave 360
insurance benefits regardless of whether the individual is 361
currently employed or is working at a different job while taking 362
leave. 363

(E) No claim for benefits or an individual's eligibility 364
to receive benefits under this section shall be invalidated for 365
any of the following reasons: 366

(1) A failure to file a claim for benefits; 367

(2) A failure to furnish notice of the intent to take 368
leave to an employer; 369

(3) A failure to submit an attestation or certification 370
required by division (B)(2) of this section. 371

(F) An individual whose claim for benefits is denied by 372
the director may appeal the decision to the director within 373
twenty-one calendar days after the written determination was 374
sent to the individual. Within twenty-one days after the receipt 375
of the appeal, the director shall issue a determination. A 376
determination made under this division is final and may be 377
appealed pursuant to section 119.12 of the Revised Code. 378

Sec. 4143.04. (A) (1) An eligible individual shall serve a 379
seven-day waiting period before family and medical leave 380
insurance benefits become payable. The waiting period applies 381
only once in a twelve-month period, regardless of how often the 382
individual takes leave during the twelve-month period. 383

(2) An eligible individual who takes ten or more days of 384
leave in a twelve-month period shall receive benefits for the 385
waiting period described in division (A) (1) of this section. The 386
amount of benefits an individual receives shall be reduced by 387

the amount of any compensation the individual received from the 388
individual's employer during the waiting period. 389

(B) (1) An eligible individual may receive benefits for a 390
maximum of two weeks before the date on which the individual 391
files a claim for benefits, notifies the individual's employer 392
of the intent to take leave, or provides the director of job and 393
family services with the attestation and certification required 394
in division (B) of section 4143.03 of the Revised Code. 395

(2) The director may grant an eligible individual benefits 396
beyond those in division (B) (1) of this section upon the 397
individual's demonstrating that the individual filed a claim, 398
notified the individual's employer, or provided an attestation 399
and certification as soon as was practicable. 400

Sec. 4143.05. (A) (1) The director of job and family 401
services shall determine the weekly benefit amount an eligible 402
individual may receive, subject to division (B) of this section, 403
as follows: 404

(a) For an eligible individual whose yearly earnings are 405
twenty per cent or less of the statewide average weekly wage, 406
the weekly benefit amount shall be equal to ninety-five per cent 407
of the individual's average weekly wage. 408

(b) For an eligible individual whose yearly earnings are 409
more than twenty per cent but not more than thirty per cent of 410
the statewide average weekly wage, the weekly benefit amount 411
shall be equal to ninety per cent of the individual's average 412
weekly wage. 413

(c) For an eligible individual whose yearly earnings are 414
more than thirty per cent but not more than fifty per cent of 415
the statewide average weekly wage, the weekly benefit amount 416

shall be equal to eighty-five per cent of the individual's 417
average weekly wage. 418

(d) For an eligible individual whose yearly earnings are 419
more than fifty per cent of the statewide average weekly wage, 420
the weekly benefit amount shall be equal to sixty-six per cent 421
of the individual's average weekly wage. 422

(2) The maximum weekly benefit amount an eligible 423
individual may receive under this section is one thousand 424
dollars per week. 425

(3) Beginning on January 1, 2024, and every year 426
thereafter, the director shall adjust the maximum weekly benefit 427
amount to reflect changes in the consumer price index or its 428
successor index for all urban consumers in the midwest region 429
for all items as calculated by the federal government for the 430
previous calendar year. 431

(B) The director shall calculate an eligible individual's 432
weekly benefit amount under division (A) of this section based 433
on the individual's average weekly wage earned from the job from 434
which the individual is taking leave. If the individual is able 435
to continue working at a different job while taking leave, the 436
director shall not consider the individual's average weekly wage 437
from the other job when calculating the individual's weekly 438
benefit amount. 439

(C) (1) The director shall make the first payment of family 440
and medical leave insurance benefits to an eligible individual 441
within fourteen calendar days after the individual files a claim 442
for benefits under section 4143.03 of the Revised Code. 443

(2) The director shall make subsequent payments to an 444
eligible individual biweekly after the first payment under 445

division (C) (1) of this section. 446

(D) An eligible individual may receive a maximum of twelve weeks of benefits payable during a twelve-month period. Benefits are not payable for a period of less than eight consecutive hours of leave taken during one work week. 447
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Sec. 4143.06. (A) (1) A period of leave taken by an eligible individual under this chapter runs concurrently with any leave taken under the Family and Medical Leave Act. 451
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(2) An employer may require that any leave taken under this chapter be taken concurrently with leave allowed under the terms of disability or family care leave under a collective bargaining agreement or employer policy. The employer shall provide employees with a written notice of this requirement. 454
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(B) (1) An employer shall comply with a collective bargaining agreement or employer policy that provides employees with greater leave than that provided by the Family and Medical Leave Act. 459
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(2) An employee who is covered by an employer policy described in division (B) (1) of this section may elect not to participate in the family and medical leave insurance program by filing an election to opt out in accordance with rules adopted by the director of job and family services under section 4143.02 of the Revised Code. 463
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(C) No collective bargaining agreement or employer policy shall diminish an individual's rights to benefits under this chapter. 469
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(D) Any agreement by an individual to waive the individual's rights under this chapter is void as against public policy. This division does not apply to an individual who elects 472
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to opt out of participating in the program under division (B) (2) 475
of this section. 476

Sec. 4143.07. (A) An eligible individual who serves a 477
waiting period described in section 4143.04 of the Revised Code 478
or takes a period of leave under this chapter shall be restored 479
to the individual's position of employment with the individual's 480
employer before taking leave, or to an equivalent position with 481
equivalent benefits, pay, status, and other terms and conditions 482
of employment. 483

(B) No employer shall discharge, demote, discriminate, or 484
take an adverse employment action against an employee at any 485
time for any of the following reasons: 486

(1) The employee filed a claim or received benefits under 487
this chapter. 488

(2) The employee communicated to the employer the 489
employee's intent to file a claim for benefits, a complaint, or 490
an appeal under this chapter. 491

(3) The employee testified, agreed to testify, or 492
otherwise assisted in a proceeding under this chapter. 493

(C) The director of job and family services, after a 494
notice and hearing conducted under Chapter 119. of the Revised 495
Code, may assess a civil penalty against an employer who 496
violates this section of up to three thousand dollars per 497
violation. If the employer fails to pay the civil penalty 498
assessed by the director under this division, the director shall 499
forward to the attorney general the name of the employer and the 500
amount of the civil penalty for the purpose of collecting that 501
civil penalty. In addition to the civil penalty assessed under 502
this division, the employer shall pay any fee assessed by the 503

attorney general for collection of the civil penalty. Any civil 504
penalty collected for a violation shall be deposited into the 505
family and medical leave insurance fund created in section 506
4143.10 of the Revised Code. 507

(D) (1) An aggrieved employee may bring a civil action in a 508
court of competent jurisdiction against an employer who the 509
employee believes violated this section. If the court finds that 510
a violation has occurred, the employer shall be liable to the 511
aggrieved employee for any of the following: 512

(a) Damages in the amount of lost wages, salary, benefits, 513
or other compensation; 514

(b) Damages for any actual monetary losses sustained by 515
the employee; 516

(c) Interest on damages calculated at the prevailing rate; 517

(d) Equitable relief as may be appropriate. 518

(2) An employer may be liable for liquidated damages in an 519
amount equal to those described in division (D) (1) (a) or (b) of 520
this section if the employer cannot prove that a violation of 521
this section was unintentional and made in good faith. 522

Sec. 4143.08. (A) An independent contractor may elect 523
coverage under this chapter for an initial period of a minimum 524
of three years. An independent contractor shall file a notice of 525
election of coverage in writing with the director of job and 526
family services. The election is effective on the date the 527
notice is filed. 528

(B) An independent contractor may elect continuing 529
coverage under this chapter for a period of a minimum of one 530
year immediately following another period of coverage by filing 531

a notice for election of coverage as described in division (A) 532
of this section at least thirty days before the prior election 533
period expires. 534

(C) An independent contractor may withdraw from coverage 535
by filing a written notice with the director within thirty days 536
before the end of a period of coverage or during a period the 537
director has designated by rule under section 4143.02 of the 538
Revised Code. The withdrawal is effective thirty days after the 539
notice is filed. 540

Sec. 4143.09. (A) No individual shall receive family and 541
medical leave insurance benefits for one year after the 542
individual willfully makes a false statement or misrepresents or 543
willfully fails to report a material fact in connection with a 544
claim for benefits under this chapter. 545

(B) (1) The director of job and family services may seek 546
repayment of benefits that are paid to an individual in excess 547
of the benefits the individual is entitled to receive for any of 548
the following reasons: 549

(a) The individual willfully made a false statement or 550
misrepresented or willfully failed to report a material fact in 551
connection with a claim for benefits. 552

(b) The individual received benefits to which the 553
individual is subsequently determined to not be entitled as a 554
result of a decision of an appeal under division (F) of section 555
4143.03 of the Revised Code. 556

(c) The individual failed to demonstrate that the 557
individual took the actions listed in division (B) (2) of section 558
4143.04 of the Revised Code to remain eligible for benefits 559
granted under that division. 560

(d) The individual received benefits to which the individual was not entitled due to a mistake or a clerical error. 561
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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. 564
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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. 567
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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, or credits wages to the benefit of, the employee. 579
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(2) An employer may elect to pay contributions into the fund on behalf of an employee. The employer shall follow the procedures prescribed by the director under section 4143.02 of 588
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the Revised Code to establish the employer's obligation to pay 591
contributions to the fund. 592

(C) (1) The failure of an employer to withhold premiums as 593
required by this section does not relieve an employee from the 594
liability for the premium unless the employer paid the 595
contribution under division (B) (2) of this section. The failure 596
of an employer to remit the premium as required by section 597
4143.02 of the Revised Code does not relieve an employee from 598
liability for the premium if the director ascertains that the 599
employee colluded with the employer with respect to the failure 600
to remit the premium. 601

(2) If an employer fails to deduct and withhold premiums 602
as required, and thereafter the premium is paid, the premium so 603
required to be deducted and withheld shall not be collected from 604
the employer, but the employer is not relieved from liability 605
for penalties otherwise applicable in respect to the failure to 606
deduct and withhold the premium. 607

(3) The failure of an employer to make contributions as 608
permitted by this section does not relieve an employee for the 609
liability for the premium that would otherwise be due if the 610
employer had not elected to pay contributions. 611

(D) (1) To ensure that premiums imposed by this section are 612
deducted and withheld as provided, each employee shall furnish 613
the employer with sufficient and correct information to enable 614
the employer to withhold the premium. The employee shall provide 615
additional or corrected information whenever information 616
previously provided to the employer becomes insufficient or 617
incorrect. 618

(2) If the employee fails to comply with the requirements 619

of division (D) (1) of this section, the employer is not required 620
to withhold and pay the premium and is not subject to any 621
penalties otherwise applicable for failing to deduct and 622
withhold such premiums. 623

(E) An employee who elects to opt out of participating in 624
the family and medical leave insurance program under division 625
(B) (2) of section 4143.06 of the Revised Code is not liable for 626
any premium or contribution to the fund under this chapter. 627

(F) (1) The director may apply for and accept gifts, 628
grants, donations, and available federal funding to pay for the 629
costs to establish the family and medical leave insurance 630
program created under section 4143.02 of the Revised Code. The 631
director shall transmit any gifts, grants, donations, or federal 632
funding the director receives to the treasurer of state for 633
deposit in the fund. 634

(2) The director may request an appropriation to cover the 635
costs to establish the program, if the director does not receive 636
adequate funding under division (F) (1) of this section. 637

Sec. 4143.11. (A) If the internal revenue service 638
determines benefits under this chapter are subject to federal 639
income tax, the director of job and family services shall inform 640
an individual for whom the director approved a claim for 641
benefits under section 4143.03 of the Revised Code, before 642
making the first benefit payment, of each of the following: 643

(1) That the internal revenue service has determined that 644
benefits are subject to federal income tax; 645

(2) The requirement for the individual to make estimated 646
tax payments on the basis of those benefits as required by the 647
Internal Revenue Code; 648

(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; 649
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(4) That the individual may change a previously elected federal withholding status as authorized under the Internal Revenue Code. 653
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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. 656
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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. 659
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(B) The following individuals may have access to the files and records of an individual under this chapter: 664
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(1) A public employee in the performance of the public employee's official duties; 666
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(2) The individual or a person authorized by the individual, with an authorization form signed by the individual; 668
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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; 670
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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. 673
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Sec. 4143.13. (A) Not later than March 1, 2023, and every 676

year thereafter, the director of job and family services shall 677
submit a report to the standing committees of the house of 678
representatives and the senate that are principally responsible 679
for commerce and labor policy and the standing committees of the 680
house of representatives and the senate that are principally 681
responsible for health and human services policy. The report 682
shall contain all of the following information: 683

(1) Projected family and medical leave insurance program 684
participation; 685

(2) Actual program participation; 686

(3) Demographic information of participants, including 687
gender, race, and ethnicity; 688

(4) Purpose and duration of leave taken by participants; 689

(5) Premium rates; 690

(6) Fund balances; 691

(7) Outreach efforts. 692

(B) The director shall make the report available to the 693
public by posting the report on the internet web site maintained 694
by the department of job and family services. 695

Sec. 4143.14. (A) The director of job and family services 696
shall develop and implement an outreach program to educate the 697
public about the family and medical leave insurance program 698
created under section 4143.02 of the Revised Code and the 699
availability of family and medical leave insurance benefits for 700
individuals under this chapter. The outreach program shall 701
explain all of the following information about the program: 702

(1) Eligibility requirements; 703

<u>(2) The claims process;</u>	704
<u>(3) Weekly benefit amounts and maximum benefits payable;</u>	705
<u>(4) Notice and medical certification requirements;</u>	706
<u>(5) Reinstatement and nondiscrimination rights;</u>	707
<u>(6) Confidentiality of records;</u>	708
<u>(7) The relationship between employment protection, leave from employment, and benefits under this chapter and other laws, collective bargaining agreements, and employer policies;</u>	709 710 711
<u>(8) Other information the director considers necessary.</u>	712
<u>(B) The director shall develop a program notice containing the information listed in division (A) of this section. Each employer shall post the program notice in a prominent location in the employer's workplace and inform employees of the program.</u>	713 714 715 716
<u>Sec. 4143.99. Whoever recklessly violates section 4143.10 of the Revised Code by failing to remit premiums withheld from an employee is guilty of a felony of the fifth degree.</u>	717 718 719
<u>Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.</u>	720 721 722 723 724 725 726 727 728
As used in this chapter:	729
(A) "Adjusted gross income" or "Ohio adjusted gross	730

income" means federal adjusted gross income, as defined and used 731
in the Internal Revenue Code, adjusted as provided in this 732
section: 733

(1) Add interest or dividends on obligations or securities 734
of any state or of any political subdivision or authority of any 735
state, other than this state and its subdivisions and 736
authorities. 737

(2) Add interest or dividends on obligations of any 738
authority, commission, instrumentality, territory, or possession 739
of the United States to the extent that the interest or 740
dividends are exempt from federal income taxes but not from 741
state income taxes. 742

(3) Deduct interest or dividends on obligations of the 743
United States and its territories and possessions or of any 744
authority, commission, or instrumentality of the United States 745
to the extent that the interest or dividends are included in 746
federal adjusted gross income but exempt from state income taxes 747
under the laws of the United States. 748

(4) Deduct disability and survivor's benefits to the 749
extent included in federal adjusted gross income. 750

(5) Deduct benefits under Title II of the Social Security 751
Act and tier 1 railroad retirement benefits to the extent 752
included in federal adjusted gross income under section 86 of 753
the Internal Revenue Code. 754

(6) In the case of a taxpayer who is a beneficiary of a 755
trust that makes an accumulation distribution as defined in 756
section 665 of the Internal Revenue Code, add, for the 757
beneficiary's taxable years beginning before 2002, the portion, 758
if any, of such distribution that does not exceed the 759

undistributed net income of the trust for the three taxable 760
years preceding the taxable year in which the distribution is 761
made to the extent that the portion was not included in the 762
trust's taxable income for any of the trust's taxable years 763
beginning in 2002 or thereafter. "Undistributed net income of a 764
trust" means the taxable income of the trust increased by (a) (i) 765
the additions to adjusted gross income required under division 766
(A) of this section and (ii) the personal exemptions allowed to 767
the trust pursuant to section 642(b) of the Internal Revenue 768
Code, and decreased by (b) (i) the deductions to adjusted gross 769
income required under division (A) of this section, (ii) the 770
amount of federal income taxes attributable to such income, and 771
(iii) the amount of taxable income that has been included in the 772
adjusted gross income of a beneficiary by reason of a prior 773
accumulation distribution. Any undistributed net income included 774
in the adjusted gross income of a beneficiary shall reduce the 775
undistributed net income of the trust commencing with the 776
earliest years of the accumulation period. 777

(7) Deduct the amount of wages and salaries, if any, not 778
otherwise allowable as a deduction but that would have been 779
allowable as a deduction in computing federal adjusted gross 780
income for the taxable year, had the targeted jobs credit 781
allowed and determined under sections 38, 51, and 52 of the 782
Internal Revenue Code not been in effect. 783

(8) Deduct any interest or interest equivalent on public 784
obligations and purchase obligations to the extent that the 785
interest or interest equivalent is included in federal adjusted 786
gross income. 787

(9) Add any loss or deduct any gain resulting from the 788
sale, exchange, or other disposition of public obligations to 789

the extent that the loss has been deducted or the gain has been 790
included in computing federal adjusted gross income. 791

(10) Deduct or add amounts, as provided under section 792
5747.70 of the Revised Code, related to contributions to 793
variable college savings program accounts made or tuition units 794
purchased pursuant to Chapter 3334. of the Revised Code. 795

(11) (a) Deduct, to the extent not otherwise allowable as a 796
deduction or exclusion in computing federal or Ohio adjusted 797
gross income for the taxable year, the amount the taxpayer paid 798
during the taxable year for medical care insurance and qualified 799
long-term care insurance for the taxpayer, the taxpayer's 800
spouse, and dependents. No deduction for medical care insurance 801
under division (A) (11) of this section shall be allowed either 802
to any taxpayer who is eligible to participate in any subsidized 803
health plan maintained by any employer of the taxpayer or of the 804
taxpayer's spouse, or to any taxpayer who is entitled to, or on 805
application would be entitled to, benefits under part A of Title 806
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 807
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 808
of this section, "subsidized health plan" means a health plan 809
for which the employer pays any portion of the plan's cost. The 810
deduction allowed under division (A) (11) (a) of this section 811
shall be the net of any related premium refunds, related premium 812
reimbursements, or related insurance premium dividends received 813
during the taxable year. 814

(b) Deduct, to the extent not otherwise deducted or 815
excluded in computing federal or Ohio adjusted gross income 816
during the taxable year, the amount the taxpayer paid during the 817
taxable year, not compensated for by any insurance or otherwise, 818
for medical care of the taxpayer, the taxpayer's spouse, and 819

dependents, to the extent the expenses exceed seven and one-half 820
per cent of the taxpayer's federal adjusted gross income. 821

(c) Deduct, to the extent not otherwise deducted or 822
excluded in computing federal or Ohio adjusted gross income, any 823
amount included in federal adjusted gross income under section 824
105 or not excluded under section 106 of the Internal Revenue 825
Code solely because it relates to an accident and health plan 826
for a person who otherwise would be a "qualifying relative" and 827
thus a "dependent" under section 152 of the Internal Revenue 828
Code but for the fact that the person fails to meet the income 829
and support limitations under section 152(d)(1)(B) and (C) of 830
the Internal Revenue Code. 831

(d) For purposes of division (A)(11) of this section, 832
"medical care" has the meaning given in section 213 of the 833
Internal Revenue Code, subject to the special rules, 834
limitations, and exclusions set forth therein, and "qualified 835
long-term care" has the same meaning given in section 7702B(c) 836
of the Internal Revenue Code. Solely for purposes of divisions 837
(A)(11)(a) and (c) of this section, "dependent" includes a 838
person who otherwise would be a "qualifying relative" and thus a 839
"dependent" under section 152 of the Internal Revenue Code but 840
for the fact that the person fails to meet the income and 841
support limitations under section 152(d)(1)(B) and (C) of the 842
Internal Revenue Code. 843

(12)(a) Deduct any amount included in federal adjusted 844
gross income solely because the amount represents a 845
reimbursement or refund of expenses that in any year the 846
taxpayer had deducted as an itemized deduction pursuant to 847
section 63 of the Internal Revenue Code and applicable United 848
States department of the treasury regulations. The deduction 849

otherwise allowed under division (A) (12) (a) of this section 850
shall be reduced to the extent the reimbursement is attributable 851
to an amount the taxpayer deducted under this section in any 852
taxable year. 853

(b) Add any amount not otherwise included in Ohio adjusted 854
gross income for any taxable year to the extent that the amount 855
is attributable to the recovery during the taxable year of any 856
amount deducted or excluded in computing federal or Ohio 857
adjusted gross income in any taxable year. 858

(13) Deduct any portion of the deduction described in 859
section 1341(a) (2) of the Internal Revenue Code, for repaying 860
previously reported income received under a claim of right, that 861
meets both of the following requirements: 862

(a) It is allowable for repayment of an item that was 863
included in the taxpayer's adjusted gross income for a prior 864
taxable year and did not qualify for a credit under division (A) 865
or (B) of section 5747.05 of the Revised Code for that year; 866

(b) It does not otherwise reduce the taxpayer's adjusted 867
gross income for the current or any other taxable year. 868

(14) Deduct an amount equal to the deposits made to, and 869
net investment earnings of, a medical savings account during the 870
taxable year, in accordance with section 3924.66 of the Revised 871
Code. The deduction allowed by division (A) (14) of this section 872
does not apply to medical savings account deposits and earnings 873
otherwise deducted or excluded for the current or any other 874
taxable year from the taxpayer's federal adjusted gross income. 875

(15) (a) Add an amount equal to the funds withdrawn from a 876
medical savings account during the taxable year, and the net 877
investment earnings on those funds, when the funds withdrawn 878

were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

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

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

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

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

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

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

dollars, or if the taxpayer is single and has a federal adjusted 908
gross income for the taxable year not exceeding fifty thousand 909
dollars, deduct amounts paid during the taxable year for 910
qualified tuition and fees paid to an eligible institution for 911
the taxpayer, the taxpayer's spouse, or any dependent of the 912
taxpayer, who is a resident of this state and is enrolled in or 913
attending a program that culminates in a degree or diploma at an 914
eligible institution. The deduction may be claimed only to the 915
extent that qualified tuition and fees are not otherwise 916
deducted or excluded for any taxable year from federal or Ohio 917
adjusted gross income. The deduction may not be claimed for 918
educational expenses for which the taxpayer claims a credit 919
under section 5747.27 of the Revised Code. 920

(19) Add any reimbursement received during the taxable 921
year of any amount the taxpayer deducted under division (A) (18) 922
of this section in any previous taxable year to the extent the 923
amount is not otherwise included in Ohio adjusted gross income. 924

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 925
(v) of this section, add five-sixths of the amount of 926
depreciation expense allowed by subsection (k) of section 168 of 927
the Internal Revenue Code, including the taxpayer's 928
proportionate or distributive share of the amount of 929
depreciation expense allowed by that subsection to a pass- 930
through entity in which the taxpayer has a direct or indirect 931
ownership interest. 932

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 933
of this section, add five-sixths of the amount of qualifying 934
section 179 depreciation expense, including the taxpayer's 935
proportionate or distributive share of the amount of qualifying 936
section 179 depreciation expense allowed to any pass-through 937

entity in which the taxpayer has a direct or indirect ownership interest. 938
939

(iii) Subject to division (A) (20) (a) (v) of this section, 940
for taxable years beginning in 2012 or thereafter, if the 941
increase in income taxes withheld by the taxpayer is equal to or 942
greater than ten per cent of income taxes withheld by the 943
taxpayer during the taxpayer's immediately preceding taxable 944
year, "two-thirds" shall be substituted for "five-sixths" for 945
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 946

(iv) Subject to division (A) (20) (a) (v) of this section, 947
for taxable years beginning in 2012 or thereafter, a taxpayer is 948
not required to add an amount under division (A) (20) of this 949
section if the increase in income taxes withheld by the taxpayer 950
and by any pass-through entity in which the taxpayer has a 951
direct or indirect ownership interest is equal to or greater 952
than the sum of (I) the amount of qualifying section 179 953
depreciation expense and (II) the amount of depreciation expense 954
allowed to the taxpayer by subsection (k) of section 168 of the 955
Internal Revenue Code, and including the taxpayer's 956
proportionate or distributive shares of such amounts allowed to 957
any such pass-through entities. 958

(v) If a taxpayer directly or indirectly incurs a net 959
operating loss for the taxable year for federal income tax 960
purposes, to the extent such loss resulted from depreciation 961
expense allowed by subsection (k) of section 168 of the Internal 962
Revenue Code and by qualifying section 179 depreciation expense, 963
"the entire" shall be substituted for "five-sixths of the" for 964
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 965

The tax commissioner, under procedures established by the 966
commissioner, may waive the add-backs related to a pass-through 967

entity if the taxpayer owns, directly or indirectly, less than 968
five per cent of the pass-through entity. 969

(b) Nothing in division (A) (20) of this section shall be 970
construed to adjust or modify the adjusted basis of any asset. 971

(c) To the extent the add-back required under division (A) 972
(20) (a) of this section is attributable to property generating 973
nonbusiness income or loss allocated under section 5747.20 of 974
the Revised Code, the add-back shall be situated to the same 975
location as the nonbusiness income or loss generated by the 976
property for the purpose of determining the credit under 977
division (A) of section 5747.05 of the Revised Code. Otherwise, 978
the add-back shall be apportioned, subject to one or more of the 979
four alternative methods of apportionment enumerated in section 980
5747.21 of the Revised Code. 981

(d) For the purposes of division (A) (20) (a) (v) of this 982
section, net operating loss carryback and carryforward shall not 983
include the allowance of any net operating loss deduction 984
carryback or carryforward to the taxable year to the extent such 985
loss resulted from depreciation allowed by section 168(k) of the 986
Internal Revenue Code and by the qualifying section 179 987
depreciation expense amount. 988

(e) For the purposes of divisions (A) (20) and (21) of this 989
section: 990

(i) "Income taxes withheld" means the total amount 991
withheld and remitted under sections 5747.06 and 5747.07 of the 992
Revised Code by an employer during the employer's taxable year. 993

(ii) "Increase in income taxes withheld" means the amount 994
by which the amount of income taxes withheld by an employer 995
during the employer's current taxable year exceeds the amount of 996

income taxes withheld by that employer during the employer's 997
immediately preceding taxable year. 998

(iii) "Qualifying section 179 depreciation expense" means 999
the difference between (I) the amount of depreciation expense 1000
directly or indirectly allowed to a taxpayer under section 179 1001
of the Internal Revised Code, and (II) the amount of 1002
depreciation expense directly or indirectly allowed to the 1003
taxpayer under section 179 of the Internal Revenue Code as that 1004
section existed on December 31, 2002. 1005

(21) (a) If the taxpayer was required to add an amount 1006
under division (A) (20) (a) of this section for a taxable year, 1007
deduct one of the following: 1008

(i) One-fifth of the amount so added for each of the five 1009
succeeding taxable years if the amount so added was five-sixths 1010
of qualifying section 179 depreciation expense or depreciation 1011
expense allowed by subsection (k) of section 168 of the Internal 1012
Revenue Code; 1013

(ii) One-half of the amount so added for each of the two 1014
succeeding taxable years if the amount so added was two-thirds 1015
of such depreciation expense; 1016

(iii) One-sixth of the amount so added for each of the six 1017
succeeding taxable years if the entire amount of such 1018
depreciation expense was so added. 1019

(b) If the amount deducted under division (A) (21) (a) of 1020
this section is attributable to an add-back allocated under 1021
division (A) (20) (c) of this section, the amount deducted shall 1022
be situated to the same location. Otherwise, the add-back shall 1023
be apportioned using the apportionment factors for the taxable 1024
year in which the deduction is taken, subject to one or more of 1025

the four alternative methods of apportionment enumerated in 1026
section 5747.21 of the Revised Code. 1027

(c) No deduction is available under division (A) (21) (a) of 1028
this section with regard to any depreciation allowed by section 1029
168(k) of the Internal Revenue Code and by the qualifying 1030
section 179 depreciation expense amount to the extent that such 1031
depreciation results in or increases a federal net operating 1032
loss carryback or carryforward. If no such deduction is 1033
available for a taxable year, the taxpayer may carry forward the 1034
amount not deducted in such taxable year to the next taxable 1035
year and add that amount to any deduction otherwise available 1036
under division (A) (21) (a) of this section for that next taxable 1037
year. The carryforward of amounts not so deducted shall continue 1038
until the entire addition required by division (A) (20) (a) of 1039
this section has been deducted. 1040

(d) No refund shall be allowed as a result of adjustments 1041
made by division (A) (21) of this section. 1042

(22) Deduct, to the extent not otherwise deducted or 1043
excluded in computing federal or Ohio adjusted gross income for 1044
the taxable year, the amount the taxpayer received during the 1045
taxable year as reimbursement for life insurance premiums under 1046
section 5919.31 of the Revised Code. 1047

(23) 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 a death benefit paid by the adjutant general 1051
under section 5919.33 of the Revised Code. 1052

(24) Deduct, to the extent included in federal adjusted 1053
gross income and not otherwise allowable as a deduction or 1054

exclusion in computing federal or Ohio adjusted gross income for 1055
the taxable year, military pay and allowances received by the 1056
taxpayer during the taxable year for active duty service in the 1057
United States army, air force, navy, marine corps, or coast 1058
guard or reserve components thereof or the national guard. The 1059
deduction may not be claimed for military pay and allowances 1060
received by the taxpayer while the taxpayer is stationed in this 1061
state. 1062

(25) Deduct, to the extent not otherwise allowable as a 1063
deduction or exclusion in computing federal or Ohio adjusted 1064
gross income for the taxable year and not otherwise compensated 1065
for by any other source, the amount of qualified organ donation 1066
expenses incurred by the taxpayer during the taxable year, not 1067
to exceed ten thousand dollars. A taxpayer may deduct qualified 1068
organ donation expenses only once for all taxable years 1069
beginning with taxable years beginning in 2007. 1070

For the purposes of division (A) (25) of this section: 1071

(a) "Human organ" means all or any portion of a human 1072
liver, pancreas, kidney, intestine, or lung, and any portion of 1073
human bone marrow. 1074

(b) "Qualified organ donation expenses" means travel 1075
expenses, lodging expenses, and wages and salary forgone by a 1076
taxpayer in connection with the taxpayer's donation, while 1077
living, of one or more of the taxpayer's human organs to another 1078
human being. 1079

(26) Deduct, to the extent not otherwise deducted or 1080
excluded in computing federal or Ohio adjusted gross income for 1081
the taxable year, amounts received by the taxpayer as retired 1082
personnel pay for service in the uniformed services or reserve 1083

components thereof, or the national guard, or received by the 1084
surviving spouse or former spouse of such a taxpayer under the 1085
survivor benefit plan on account of such a taxpayer's death. If 1086
the taxpayer receives income on account of retirement paid under 1087
the federal civil service retirement system or federal employees 1088
retirement system, or under any successor retirement program 1089
enacted by the congress of the United States that is established 1090
and maintained for retired employees of the United States 1091
government, and such retirement income is based, in whole or in 1092
part, on credit for the taxpayer's uniformed service, the 1093
deduction allowed under this division shall include only that 1094
portion of such retirement income that is attributable to the 1095
taxpayer's uniformed service, to the extent that portion of such 1096
retirement income is otherwise included in federal adjusted 1097
gross income and is not otherwise deducted under this section. 1098
Any amount deducted under division (A) (26) of this section is 1099
not included in a taxpayer's adjusted gross income for the 1100
purposes of section 5747.055 of the Revised Code. No amount may 1101
be deducted under division (A) (26) of this section on the basis 1102
of which a credit was claimed under section 5747.055 of the 1103
Revised Code. 1104

(27) Deduct, to the extent not otherwise deducted or 1105
excluded in computing federal or Ohio adjusted gross income for 1106
the taxable year, the amount the taxpayer received during the 1107
taxable year from the military injury relief fund created in 1108
section 5902.05 of the Revised Code. 1109

(28) 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 as a veterans 1112
bonus during the taxable year from the Ohio department of 1113
veterans services as authorized by Section 2r of Article VIII, 1114

Ohio Constitution.	1115
(29) Deduct, to the extent not otherwise deducted or	1116
excluded in computing federal or Ohio adjusted gross income for	1117
the taxable year, any income derived from a transfer agreement	1118
or from the enterprise transferred under that agreement under	1119
section 4313.02 of the Revised Code.	1120
(30) Deduct, to the extent not otherwise deducted or	1121
excluded in computing federal or Ohio adjusted gross income for	1122
the taxable year, Ohio college opportunity or federal Pell grant	1123
amounts received by the taxpayer or the taxpayer's spouse or	1124
dependent pursuant to section 3333.122 of the Revised Code or 20	1125
U.S.C. 1070a, et seq., and used to pay room or board furnished	1126
by the educational institution for which the grant was awarded	1127
at the institution's facilities, including meal plans	1128
administered by the institution. For the purposes of this	1129
division, receipt of a grant includes the distribution of a	1130
grant directly to an educational institution and the crediting	1131
of the grant to the enrollee's account with the institution.	1132
(31) (a) For taxable years beginning in 2015, deduct from	1133
the portion of an individual's adjusted gross income that is	1134
business income, to the extent not otherwise deducted or	1135
excluded in computing federal or Ohio adjusted gross income for	1136
the taxable year, the lesser of the following amounts:	1137
(i) Seventy-five per cent of the individual's business	1138
income;	1139
(ii) Ninety-three thousand seven hundred fifty dollars for	1140
each spouse if spouses file separate returns under section	1141
5747.08 of the Revised Code or one hundred eighty-seven thousand	1142
five hundred dollars for all other individuals.	1143

(b) For taxable years beginning in 2016 or thereafter, 1144
deduct from the portion of an individual's adjusted gross income 1145
that is business income, to the extent not otherwise deducted or 1146
excluded in computing federal adjusted gross income for the 1147
taxable year, one hundred twenty-five thousand dollars for each 1148
spouse if spouses file separate returns under section 5747.08 of 1149
the Revised Code or two hundred fifty thousand dollars for all 1150
other individuals. 1151

(32) Deduct, as provided under section 5747.78 of the 1152
Revised Code, contributions to ABLE savings accounts made in 1153
accordance with sections 113.50 to 113.56 of the Revised Code. 1154

(33) (a) Deduct, to the extent not otherwise deducted or 1155
excluded in computing federal or Ohio adjusted gross income 1156
during the taxable year, all of the following: 1157

(i) Compensation paid to a qualifying employee described 1158
in division (A) (14) (a) of section 5703.94 of the Revised Code to 1159
the extent such compensation is for disaster work conducted in 1160
this state during a disaster response period pursuant to a 1161
qualifying solicitation received by the employee's employer; 1162

(ii) Compensation paid to a qualifying employee described 1163
in division (A) (14) (b) of section 5703.94 of the Revised Code to 1164
the extent such compensation is for disaster work conducted in 1165
this state by the employee during the disaster response period 1166
on critical infrastructure owned or used by the employee's 1167
employer; 1168

(iii) Income received by an out-of-state disaster business 1169
for disaster work conducted in this state during a disaster 1170
response period, or, if the out-of-state disaster business is a 1171
pass-through entity, a taxpayer's distributive share of the 1172

pass-through entity's income from the business conducting 1173
disaster work in this state during a disaster response period, 1174
if, in either case, the disaster work is conducted pursuant to a 1175
qualifying solicitation received by the business. 1176

(b) All terms used in division (A) (33) of this section 1177
have the same meanings as in section 5703.94 of the Revised 1178
Code. 1179

(34) Deduct benefits under Chapter 4143. of the Revised 1180
Code to the extent included in federal adjusted gross income. 1181

(B) "Business income" means income, including gain or 1182
loss, arising from transactions, activities, and sources in the 1183
regular course of a trade or business and includes income, gain, 1184
or loss from real property, tangible property, and intangible 1185
property if the acquisition, rental, management, and disposition 1186
of the property constitute integral parts of the regular course 1187
of a trade or business operation. "Business income" includes 1188
income, including gain or loss, from a partial or complete 1189
liquidation of a business, including, but not limited to, gain 1190
or loss from the sale or other disposition of goodwill. 1191

(C) "Nonbusiness income" means all income other than 1192
business income and may include, but is not limited to, 1193
compensation, rents and royalties from real or tangible personal 1194
property, capital gains, interest, dividends and distributions, 1195
patent or copyright royalties, or lottery winnings, prizes, and 1196
awards. 1197

(D) "Compensation" means any form of remuneration paid to 1198
an employee for personal services. 1199

(E) "Fiduciary" means a guardian, trustee, executor, 1200
administrator, receiver, conservator, or any other person acting 1201

in any fiduciary capacity for any individual, trust, or estate.	1202
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	1203 1204
(G) "Individual" means any natural person.	1205
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	1206 1207
(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:	1208 1209 1210
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	1211 1212
(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.	1213 1214 1215 1216
(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.	1217 1218 1219
For the purposes of division (I) (3) of this section:	1220
(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:	1221 1222 1223 1224 1225 1226
(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only	1227 1228

if the trust is described in division (I) (3) (e) (i) or (ii) of 1229
this section; 1230

(ii) A person who was domiciled in this state for the 1231
purposes of this chapter when the person directly or indirectly 1232
transferred assets to an irrevocable trust, but only if at least 1233
one of the trust's qualifying beneficiaries is domiciled in this 1234
state for the purposes of this chapter during all or some 1235
portion of the trust's current taxable year; 1236

(iii) A person who was domiciled in this state for the 1237
purposes of this chapter when the trust document or instrument 1238
or part of the trust document or instrument became irrevocable, 1239
but only if at least one of the trust's qualifying beneficiaries 1240
is a resident domiciled in this state for the purposes of this 1241
chapter during all or some portion of the trust's current 1242
taxable year. If a trust document or instrument became 1243
irrevocable upon the death of a person who at the time of death 1244
was domiciled in this state for purposes of this chapter, that 1245
person is a person described in division (I) (3) (a) (iii) of this 1246
section. 1247

(b) A trust is irrevocable to the extent that the 1248
transferor is not considered to be the owner of the net assets 1249
of the trust under sections 671 to 678 of the Internal Revenue 1250
Code. 1251

(c) With respect to a trust other than a charitable lead 1252
trust, "qualifying beneficiary" has the same meaning as 1253
"potential current beneficiary" as defined in section 1361(e) (2) 1254
of the Internal Revenue Code, and with respect to a charitable 1255
lead trust "qualifying beneficiary" is any current, future, or 1256
contingent beneficiary, but with respect to any trust 1257
"qualifying beneficiary" excludes a person or a governmental 1258

entity or instrumentality to any of which a contribution would 1259
qualify for the charitable deduction under section 170 of the 1260
Internal Revenue Code. 1261

(d) For the purposes of division (I) (3) (a) of this 1262
section, the extent to which a trust consists directly or 1263
indirectly, in whole or in part, of assets, net of any related 1264
liabilities, that were transferred directly or indirectly, in 1265
whole or part, to the trust by any of the sources enumerated in 1266
that division shall be ascertained by multiplying the fair 1267
market value of the trust's assets, net of related liabilities, 1268
by the qualifying ratio, which shall be computed as follows: 1269

(i) The first time the trust receives assets, the 1270
numerator of the qualifying ratio is the fair market value of 1271
those assets at that time, net of any related liabilities, from 1272
sources enumerated in division (I) (3) (a) of this section. The 1273
denominator of the qualifying ratio is the fair market value of 1274
all the trust's assets at that time, net of any related 1275
liabilities. 1276

(ii) Each subsequent time the trust receives assets, a 1277
revised qualifying ratio shall be computed. The numerator of the 1278
revised qualifying ratio is the sum of (1) the fair market value 1279
of the trust's assets immediately prior to the subsequent 1280
transfer, net of any related liabilities, multiplied by the 1281
qualifying ratio last computed without regard to the subsequent 1282
transfer, and (2) the fair market value of the subsequently 1283
transferred assets at the time transferred, net of any related 1284
liabilities, from sources enumerated in division (I) (3) (a) of 1285
this section. The denominator of the revised qualifying ratio is 1286
the fair market value of all the trust's assets immediately 1287
after the subsequent transfer, net of any related liabilities. 1288

(iii) Whether a transfer to the trust is by or from any of 1289
the sources enumerated in division (I) (3) (a) of this section 1290
shall be ascertained without regard to the domicile of the 1291
trust's beneficiaries. 1292

(e) For the purposes of division (I) (3) (a) (i) of this 1293
section: 1294

(i) A trust is described in division (I) (3) (e) (i) of this 1295
section if the trust is a testamentary trust and the testator of 1296
that testamentary trust was domiciled in this state at the time 1297
of the testator's death for purposes of the taxes levied under 1298
Chapter 5731. of the Revised Code. 1299

(ii) A trust is described in division (I) (3) (e) (ii) of 1300
this section if the transfer is a qualifying transfer described 1301
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1302
trust is an irrevocable inter vivos trust, and at least one of 1303
the trust's qualifying beneficiaries is domiciled in this state 1304
for purposes of this chapter during all or some portion of the 1305
trust's current taxable year. 1306

(f) For the purposes of division (I) (3) (e) (ii) of this 1307
section, a "qualifying transfer" is a transfer of assets, net of 1308
any related liabilities, directly or indirectly to a trust, if 1309
the transfer is described in any of the following: 1310

(i) The transfer is made to a trust, created by the 1311
decedent before the decedent's death and while the decedent was 1312
domiciled in this state for the purposes of this chapter, and, 1313
prior to the death of the decedent, the trust became irrevocable 1314
while the decedent was domiciled in this state for the purposes 1315
of this chapter. 1316

(ii) The transfer is made to a trust to which the 1317

decedent, prior to the decedent's death, had directly or 1318
indirectly transferred assets, net of any related liabilities, 1319
while the decedent was domiciled in this state for the purposes 1320
of this chapter, and prior to the death of the decedent the 1321
trust became irrevocable while the decedent was domiciled in 1322
this state for the purposes of this chapter. 1323

(iii) The transfer is made on account of a contractual 1324
relationship existing directly or indirectly between the 1325
transferor and either the decedent or the estate of the decedent 1326
at any time prior to the date of the decedent's death, and the 1327
decedent was domiciled in this state at the time of death for 1328
purposes of the taxes levied under Chapter 5731. of the Revised 1329
Code. 1330

(iv) The transfer is made to a trust on account of a 1331
contractual relationship existing directly or indirectly between 1332
the transferor and another person who at the time of the 1333
decedent's death was domiciled in this state for purposes of 1334
this chapter. 1335

(v) The transfer is made to a trust on account of the will 1336
of a testator who was domiciled in this state at the time of the 1337
testator's death for purposes of the taxes levied under Chapter 1338
5731. of the Revised Code. 1339

(vi) The transfer is made to a trust created by or caused 1340
to be created by a court, and the trust was directly or 1341
indirectly created in connection with or as a result of the 1342
death of an individual who, for purposes of the taxes levied 1343
under Chapter 5731. of the Revised Code, was domiciled in this 1344
state at the time of the individual's death. 1345

(g) The tax commissioner may adopt rules to ascertain the 1346

part of a trust residing in this state. 1347

(J) "Nonresident" means an individual or estate that is 1348
not a resident. An individual who is a resident for only part of 1349
a taxable year is a nonresident for the remainder of that 1350
taxable year. 1351

(K) "Pass-through entity" has the same meaning as in 1352
section 5733.04 of the Revised Code. 1353

(L) "Return" means the notifications and reports required 1354
to be filed pursuant to this chapter for the purpose of 1355
reporting the tax due and includes declarations of estimated tax 1356
when so required. 1357

(M) "Taxable year" means the calendar year or the 1358
taxpayer's fiscal year ending during the calendar year, or 1359
fractional part thereof, upon which the adjusted gross income is 1360
calculated pursuant to this chapter. 1361

(N) "Taxpayer" means any person subject to the tax imposed 1362
by section 5747.02 of the Revised Code or any pass-through 1363
entity that makes the election under division (D) of section 1364
5747.08 of the Revised Code. 1365

(O) "Dependents" means dependents as defined in the 1366
Internal Revenue Code and as claimed in the taxpayer's federal 1367
income tax return for the taxable year or which the taxpayer 1368
would have been permitted to claim had the taxpayer filed a 1369
federal income tax return. 1370

(P) "Principal county of employment" means, in the case of 1371
a nonresident, the county within the state in which a taxpayer 1372
performs services for an employer or, if those services are 1373
performed in more than one county, the county in which the major 1374
portion of the services are performed. 1375

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:	1376
	1377
(1) "Subdivision" means any county, municipal corporation, park district, or township.	1378
	1379
(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.	1380
	1381
	1382
	1383
(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.	1384
	1385
	1386
(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:	1387
	1388
	1389
	1390
(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, 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, 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:	1391
	1392
	1393
	1394
	1395
	1396
	1397
	1398
(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;	1399
	1400
	1401
(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.	1402
	1403

(2) Add interest or dividends, net of ordinary, necessary,	1404
and reasonable expenses not deducted in computing federal	1405
taxable income, on obligations of any authority, commission,	1406
instrumentality, territory, or possession of the United States	1407
to the extent that the interest or dividends are exempt from	1408
federal income taxes but not from state income taxes, but only	1409
to the extent that such net amount is not otherwise includible	1410
in Ohio taxable income and is described in either division (S)	1411
(1) (a) or (b) of this section;	1412
(3) Add the amount of personal exemption allowed to the	1413
estate pursuant to section 642(b) of the Internal Revenue Code;	1414
(4) Deduct interest or dividends, net of related expenses	1415
deducted in computing federal taxable income, on obligations of	1416
the United States and its territories and possessions or of any	1417
authority, commission, or instrumentality of the United States	1418
to the extent that the interest or dividends are exempt from	1419
state taxes under the laws of the United States, but only to the	1420
extent that such amount is included in federal taxable income	1421
and is described in either division (S) (1) (a) or (b) of this	1422
section;	1423
(5) Deduct the amount of wages and salaries, if any, not	1424
otherwise allowable as a deduction but that would have been	1425
allowable as a deduction in computing federal taxable income for	1426
the taxable year, had the targeted jobs credit allowed under	1427
sections 38, 51, and 52 of the Internal Revenue Code not been in	1428
effect, but only to the extent such amount relates either to	1429
income included in federal taxable income for the taxable year	1430
or to income of the S portion of an electing small business	1431
trust for the taxable year;	1432
(6) Deduct any interest or interest equivalent, net of	1433

related expenses deducted in computing federal taxable income, 1434
on public obligations and purchase obligations, but only to the 1435
extent that such net amount relates either to income included in 1436
federal taxable income for the taxable year or to income of the 1437
S portion of an electing small business trust for the taxable 1438
year; 1439

(7) Add any loss or deduct any gain resulting from sale, 1440
exchange, or other disposition of public obligations to the 1441
extent that such loss has been deducted or such gain has been 1442
included in computing either federal taxable income or income of 1443
the S portion of an electing small business trust for the 1444
taxable year; 1445

(8) Except in the case of the final return of an estate, 1446
add any amount deducted by the taxpayer on both its Ohio estate 1447
tax return pursuant to section 5731.14 of the Revised Code, and 1448
on its federal income tax return in determining federal taxable 1449
income; 1450

(9) (a) Deduct any amount included in federal taxable 1451
income solely because the amount represents a reimbursement or 1452
refund of expenses that in a previous year the decedent had 1453
deducted as an itemized deduction pursuant to section 63 of the 1454
Internal Revenue Code and applicable treasury regulations. The 1455
deduction otherwise allowed under division (S) (9) (a) of this 1456
section shall be reduced to the extent the reimbursement is 1457
attributable to an amount the taxpayer or decedent deducted 1458
under this section in any taxable year. 1459

(b) Add any amount not otherwise included in Ohio taxable 1460
income for any taxable year to the extent that the amount is 1461
attributable to the recovery during the taxable year of any 1462
amount deducted or excluded in computing federal or Ohio taxable 1463

income in any taxable year, but only to the extent such amount 1464
has not been distributed to beneficiaries for the taxable year. 1465

(10) Deduct any portion of the deduction described in 1466
section 1341(a)(2) of the Internal Revenue Code, for repaying 1467
previously reported income received under a claim of right, that 1468
meets both of the following requirements: 1469

(a) It is allowable for repayment of an item that was 1470
included in the taxpayer's taxable income or the decedent's 1471
adjusted gross income for a prior taxable year and did not 1472
qualify for a credit under division (A) or (B) of section 1473
5747.05 of the Revised Code for that year. 1474

(b) It does not otherwise reduce the taxpayer's taxable 1475
income or the decedent's adjusted gross income for the current 1476
or any other taxable year. 1477

(11) Add any amount claimed as a credit under section 1478
5747.059 or 5747.65 of the Revised Code to the extent that the 1479
amount satisfies either of the following: 1480

(a) The amount was deducted or excluded from the 1481
computation of the taxpayer's federal taxable income as required 1482
to be reported for the taxpayer's taxable year under the 1483
Internal Revenue Code; 1484

(b) The amount resulted in a reduction in the taxpayer's 1485
federal taxable income as required to be reported for any of the 1486
taxpayer's taxable years under the Internal Revenue Code. 1487

(12) Deduct any amount, net of related expenses deducted 1488
in computing federal taxable income, that a trust is required to 1489
report as farm income on its federal income tax return, but only 1490
if the assets of the trust include at least ten acres of land 1491
satisfying the definition of "land devoted exclusively to 1492

agricultural use" under section 5713.30 of the Revised Code, 1493
regardless of whether the land is valued for tax purposes as 1494
such land under sections 5713.30 to 5713.38 of the Revised Code. 1495
If the trust is a pass-through entity investor, section 5747.231 1496
of the Revised Code applies in ascertaining if the trust is 1497
eligible to claim the deduction provided by division (S) (12) of 1498
this section in connection with the pass-through entity's farm 1499
income. 1500

Except for farm income attributable to the S portion of an 1501
electing small business trust, the deduction provided by 1502
division (S) (12) of this section is allowed only to the extent 1503
that the trust has not distributed such farm income. Division 1504
(S) (12) of this section applies only to taxable years of a trust 1505
beginning in 2002 or thereafter. 1506

(13) Add the net amount of income described in section 1507
641(c) of the Internal Revenue Code to the extent that amount is 1508
not included in federal taxable income. 1509

(14) Add or deduct the amount the taxpayer would be 1510
required to add or deduct under division (A) (20) or (21) of this 1511
section if the taxpayer's Ohio taxable income were computed in 1512
the same manner as an individual's Ohio adjusted gross income is 1513
computed under this section. In the case of a trust, division 1514
(S) (14) of this section applies only to any of the trust's 1515
taxable years beginning in 2002 or thereafter. 1516

(T) "School district income" and "school district income 1517
tax" have the same meanings as in section 5748.01 of the Revised 1518
Code. 1519

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 1520
(7) of this section, "public obligations," "purchase 1521

obligations," and "interest or interest equivalent" have the 1522
same meanings as in section 5709.76 of the Revised Code. 1523

(V) "Limited liability company" means any limited 1524
liability company formed under Chapter 1705. of the Revised Code 1525
or under the laws of any other state. 1526

(W) "Pass-through entity investor" means any person who, 1527
during any portion of a taxable year of a pass-through entity, 1528
is a partner, member, shareholder, or equity investor in that 1529
pass-through entity. 1530

(X) "Banking day" has the same meaning as in section 1531
1304.01 of the Revised Code. 1532

(Y) "Month" means a calendar month. 1533

(Z) "Quarter" means the first three months, the second 1534
three months, the third three months, or the last three months 1535
of the taxpayer's taxable year. 1536

(AA) (1) "Eligible institution" means a state university or 1537
state institution of higher education as defined in section 1538
3345.011 of the Revised Code, or a private, nonprofit college, 1539
university, or other post-secondary institution located in this 1540
state that possesses a certificate of authorization issued by 1541
the chancellor of higher education pursuant to Chapter 1713. of 1542
the Revised Code or a certificate of registration issued by the 1543
state board of career colleges and schools under Chapter 3332. 1544
of the Revised Code. 1545

(2) "Qualified tuition and fees" means tuition and fees 1546
imposed by an eligible institution as a condition of enrollment 1547
or attendance, not exceeding two thousand five hundred dollars 1548
in each of the individual's first two years of post-secondary 1549
education. If the individual is a part-time student, "qualified 1550

tuition and fees" includes tuition and fees paid for the 1551
academic equivalent of the first two years of post-secondary 1552
education during a maximum of five taxable years, not exceeding 1553
a total of five thousand dollars. "Qualified tuition and fees" 1554
does not include: 1555

(a) Expenses for any course or activity involving sports, 1556
games, or hobbies unless the course or activity is part of the 1557
individual's degree or diploma program; 1558

(b) The cost of books, room and board, student activity 1559
fees, athletic fees, insurance expenses, or other expenses 1560
unrelated to the individual's academic course of instruction; 1561

(c) Tuition, fees, or other expenses paid or reimbursed 1562
through an employer, scholarship, grant in aid, or other 1563
educational benefit program. 1564

(BB) (1) "Modified business income" means the business 1565
income included in a trust's Ohio taxable income after such 1566
taxable income is first reduced by the qualifying trust amount, 1567
if any. 1568

(2) "Qualifying trust amount" of a trust means capital 1569
gains and losses from the sale, exchange, or other disposition 1570
of equity or ownership interests in, or debt obligations of, a 1571
qualifying investee to the extent included in the trust's Ohio 1572
taxable income, but only if the following requirements are 1573
satisfied: 1574

(a) The book value of the qualifying investee's physical 1575
assets in this state and everywhere, as of the last day of the 1576
qualifying investee's fiscal or calendar year ending immediately 1577
prior to the date on which the trust recognizes the gain or 1578
loss, is available to the trust. 1579

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

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

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

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

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

(i) The trust's modified business income;

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

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

qualifying trust amount, and the denominator of which is the sum 1609
of the book value of the qualifying investee's total physical 1610
assets everywhere on the last day of the qualifying investee's 1611
fiscal or calendar year ending immediately prior to the day on 1612
which the trust recognizes the qualifying trust amount. If, for 1613
a taxable year, the trust recognizes a qualifying trust amount 1614
with respect to more than one qualifying investee, the amount 1615
described in division (BB) (4) (b) of this section shall equal the 1616
sum of the products so computed for each such qualifying 1617
investee. 1618

(c) (i) With respect to a trust or portion of a trust that 1619
is a resident as ascertained in accordance with division (I) (3) 1620
(d) of this section, its modified nonbusiness income. 1621

(ii) With respect to a trust or portion of a trust that is 1622
not a resident as ascertained in accordance with division (I) (3) 1623
(d) of this section, the amount of its modified nonbusiness 1624
income satisfying the descriptions in divisions (B) (2) to (5) of 1625
section 5747.20 of the Revised Code, except as otherwise 1626
provided in division (BB) (4) (c) (ii) of this section. With 1627
respect to a trust or portion of a trust that is not a resident 1628
as ascertained in accordance with division (I) (3) (d) of this 1629
section, the trust's portion of modified nonbusiness income 1630
recognized from the sale, exchange, or other disposition of a 1631
debt interest in or equity interest in a section 5747.212 1632
entity, as defined in section 5747.212 of the Revised Code, 1633
without regard to division (A) of that section, shall not be 1634
allocated to this state in accordance with section 5747.20 of 1635
the Revised Code but shall be apportioned to this state in 1636
accordance with division (B) of section 5747.212 of the Revised 1637
Code without regard to division (A) of that section. 1638

If the allocation and apportionment of a trust's income 1639
under divisions (BB) (4) (a) and (c) of this section do not fairly 1640
represent the modified Ohio taxable income of the trust in this 1641
state, the alternative methods described in division (C) of 1642
section 5747.21 of the Revised Code may be applied in the manner 1643
and to the same extent provided in that section. 1644

(5) (a) Except as set forth in division (BB) (5) (b) of this 1645
section, "qualifying investee" means a person in which a trust 1646
has an equity or ownership interest, or a person or unit of 1647
government the debt obligations of either of which are owned by 1648
a trust. For the purposes of division (BB) (2) (a) of this section 1649
and for the purpose of computing the fraction described in 1650
division (BB) (4) (b) of this section, all of the following apply: 1651

(i) If the qualifying investee is a member of a qualifying 1652
controlled group on the last day of the qualifying investee's 1653
fiscal or calendar year ending immediately prior to the date on 1654
which the trust recognizes the gain or loss, then "qualifying 1655
investee" includes all persons in the qualifying controlled 1656
group on such last day. 1657

(ii) If the qualifying investee, or if the qualifying 1658
investee and any members of the qualifying controlled group of 1659
which the qualifying investee is a member on the last day of the 1660
qualifying investee's fiscal or calendar year ending immediately 1661
prior to the date on which the trust recognizes the gain or 1662
loss, separately or cumulatively own, directly or indirectly, on 1663
the last day of the qualifying investee's fiscal or calendar 1664
year ending immediately prior to the date on which the trust 1665
recognizes the qualifying trust amount, more than fifty per cent 1666
of the equity of a pass-through entity, then the qualifying 1667
investee and the other members are deemed to own the 1668

proportionate share of the pass-through entity's physical assets 1669
which the pass-through entity directly or indirectly owns on the 1670
last day of the pass-through entity's calendar or fiscal year 1671
ending within or with the last day of the qualifying investee's 1672
fiscal or calendar year ending immediately prior to the date on 1673
which the trust recognizes the qualifying trust amount. 1674

(iii) For the purposes of division (BB) (5) (a) (iii) of this 1675
section, "upper level pass-through entity" means a pass-through 1676
entity directly or indirectly owning any equity of another pass- 1677
through entity, and "lower level pass-through entity" means that 1678
other pass-through entity. 1679

An upper level pass-through entity, whether or not it is 1680
also a qualifying investee, is deemed to own, on the last day of 1681
the upper level pass-through entity's calendar or fiscal year, 1682
the proportionate share of the lower level pass-through entity's 1683
physical assets that the lower level pass-through entity 1684
directly or indirectly owns on the last day of the lower level 1685
pass-through entity's calendar or fiscal year ending within or 1686
with the last day of the upper level pass-through entity's 1687
fiscal or calendar year. If the upper level pass-through entity 1688
directly and indirectly owns less than fifty per cent of the 1689
equity of the lower level pass-through entity on each day of the 1690
upper level pass-through entity's calendar or fiscal year in 1691
which or with which ends the calendar or fiscal year of the 1692
lower level pass-through entity and if, based upon clear and 1693
convincing evidence, complete information about the location and 1694
cost of the physical assets of the lower pass-through entity is 1695
not available to the upper level pass-through entity, then 1696
solely for purposes of ascertaining if a gain or loss 1697
constitutes a qualifying trust amount, the upper level pass- 1698
through entity shall be deemed as owning no equity of the lower 1699

level pass-through entity for each day during the upper level 1700
pass-through entity's calendar or fiscal year in which or with 1701
which ends the lower level pass-through entity's calendar or 1702
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 1703
shall be construed to provide for any deduction or exclusion in 1704
computing any trust's Ohio taxable income. 1705

(b) With respect to a trust that is not a resident for the 1706
taxable year and with respect to a part of a trust that is not a 1707
resident for the taxable year, "qualifying investee" for that 1708
taxable year does not include a C corporation if both of the 1709
following apply: 1710

(i) During the taxable year the trust or part of the trust 1711
recognizes a gain or loss from the sale, exchange, or other 1712
disposition of equity or ownership interests in, or debt 1713
obligations of, the C corporation. 1714

(ii) Such gain or loss constitutes nonbusiness income. 1715

(6) "Available" means information is such that a person is 1716
able to learn of the information by the due date plus 1717
extensions, if any, for filing the return for the taxable year 1718
in which the trust recognizes the gain or loss. 1719

(CC) "Qualifying controlled group" has the same meaning as 1720
in section 5733.04 of the Revised Code. 1721

(DD) "Related member" has the same meaning as in section 1722
5733.042 of the Revised Code. 1723

(EE) (1) For the purposes of division (EE) of this section: 1724

(a) "Qualifying person" means any person other than a 1725
qualifying corporation. 1726

(b) "Qualifying corporation" means any person classified 1727

for federal income tax purposes as an association taxable as a corporation, except either of the following:

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

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

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

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

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

(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.

(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The

election, if timely made, shall be effective on and after 1757
January 1, 2006, and shall apply for all tax periods and tax 1758
years until revoked by the trustee of the trust. 1759

(4) A "pre-income tax trust" is a trust that satisfies all 1760
of the following requirements: 1761

(a) The document or instrument creating the trust was 1762
executed by the grantor before January 1, 1972; 1763

(b) The trust became irrevocable upon the creation of the 1764
trust; and 1765

(c) The grantor was domiciled in this state at the time 1766
the trust was created. 1767

(GG) "Uniformed services" has the same meaning as in 10 1768
U.S.C. 101. 1769

(HH) "Taxable business income" means the amount by which 1770
an individual's business income that is included in federal 1771
adjusted gross income exceeds the amount of business income the 1772
individual is authorized to deduct under division (A) (31) of 1773
this section for the taxable year. 1774

(II) "Employer" does not include a franchisor with respect 1775
to the franchisor's relationship with a franchisee or an 1776
employee of a franchisee, unless the franchisor agrees to assume 1777
that role in writing or a court of competent jurisdiction 1778
determines that the franchisor exercises a type or degree of 1779
control over the franchisee or the franchisee's employees that 1780
is not customarily exercised by a franchisor for the purpose of 1781
protecting the franchisor's trademark, brand, or both. For 1782
purposes of this division, "franchisor" and "franchisee" have 1783
the same meanings as in 16 C.F.R. 436.1. 1784

Section 2. That existing sections 4117.10 and 5747.01 of the Revised Code are hereby repealed. 1785
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Section 3. Section 1 of this act, except for section 4143.03 and division (A) of section 4143.10 of the Revised Code, shall take effect July 1, 2020. Section 4143.03 of the Revised Code, as enacted by this act, shall take effect July 1, 2023. Division (A) of section 4143.10 of the Revised Code, as enacted by this act, shall take effect on the effective date of this section. 1787
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Section 4. Employers shall begin to deduct and withhold premiums from the wages of employees or pay contributions as described in divisions (B), (C), and (D) of section 4143.10 of the Revised Code, as enacted by this act, on July 1, 2022. 1794
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Section 5. Section 4143.06 of the Revised Code, as enacted by this act, applies to collective bargaining agreements that are entered into or renewed, or employer policies that are adopted or revised, on or after the effective date of this act. 1798
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Section 6. (A) Not later than July 1, 2020, the Director of Job and Family Services shall complete an actuarial evaluation before establishing the Family and Medical Leave Insurance Program under Chapter 4143. of the Revised Code, as enacted by this act. The actuarial evaluation shall determine all of the following: 1802
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(1) The premium amounts required under section 4143.10 of the Revised Code, as enacted by this act, necessary to sufficiently fund the Program; 1808
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(2) The balance necessary to ensure the actuarial soundness of the Family and Medical Leave Insurance Fund created by section 4143.10 of the Revised Code, as enacted by this act; 1811
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(3) The administrative and technology costs necessary to 1814
establish and operate the Program; 1815

(4) The financial feasibility and cost-effectiveness of 1816
contracting with one or more external vendors to provide benefit 1817
eligibility determinations and claims management for the 1818
Program. 1819

(B) The Director may apply for and accept gifts, grants, 1820
donations, and any available federal funding to conduct the 1821
actuarial evaluation in division (A) of this section. The 1822
Director shall transmit any gifts, grants, donations, or federal 1823
funding to the Treasurer of State for deposit in the Family and 1824
Medical Leave Insurance Fund created by section 4143.10 of the 1825
Revised Code, as enacted by this act. 1826

(C) Notwithstanding the deadline in division (A) of this 1827
section, the Director shall not conduct the actuarial evaluation 1828
unless the Director receives sufficient funds to cover the costs 1829
to perform the evaluation. 1830