As Introduced

136th General Assembly
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H. B. No. 869

Representatives Russo, Brennan

To amend section 5747.01 and to enact sections 4143.01, 4143.02, 4143.03, 4143.04, 4143.05, 4143.06, 4143.07, 4143.08, 4143.09, 4143.10, 4143.11, 4143.12, 4143.13, 4143.14, 4143.15, 4143.16, 4143.17, and 4143.18 of the Revised Code to establish family and medical leave insurance benefits.

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

Section 1. That section 5747.01 be amended and sections 4143.01, 4143.02, 4143.03, 4143.04, 4143.05, 4143.06, 4143.07, 4143.08, 4143.09, 4143.10, 4143.11, 4143.12, 4143.13, 4143.14, 4143.15, 4143.16, 4143.17, and 4143.18 of the Revised Code be enacted to read as follows:

Sec. 4143.01. As used in this chapter:

(A) "Armed forces" means the armed forces of the United States, including the army, navy, air force, marine corps, space force, coast guard, or any reserve components of those forces.

(B) "Application year" with respect to any individual, means the twelve-month period that begins on the Sunday of the calendar week in which the individual files an application for family and medical leave insurance benefits.

(C) "Average weekly wage" means the sum of an employee's wages for all qualifying weeks during the calendar quarter with the highest wages in the employee's base period, divided by thirteen.

(D)(1) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's application year, except as provided in division (D)(2) of this section.

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

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

(E) "Child" means any of the following:

(1) A biological, adopted, or foster child, a stepchild, or a legal ward of an employee;

(2) A child of an employee's domestic partner;

(3) A minor child to whom an employee stands in loco parentis;

(4) An individual to whom the employee stood in loco parentis when the individual was a minor child.

(F) "Covered active duty" means both of the following:

(1) For a regular member of the armed forces, duty during deployment to a foreign country;

(2) For a member of a reserve component of the armed forces, duty during deployment to a foreign country under a call or order to active duty in support of a contingency operation during a war or national emergency declared by the president of the United States or congress of the United States.

(G) "Covered service member" means a current member of the armed forces or the national guard of any state who is undergoing medical treatment, recuperation, or therapy or is on the temporary disability retired list for a serious injury or illness that the member incurred in the line of duty on active duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty and that may render the member medically unfit to perform the member's duties.

(H) "Covered veteran" means a veteran to whom both of the following apply:

(1) The veteran is undergoing medical treatment, recuperation, or therapy for a serious injury or illness that the veteran incurred in the line of duty on active duty or that existed before the beginning of the veteran's active duty and was aggravated by service in the line of duty on active duty, regardless of when the injury or illness manifested itself.

(2) The veteran was a member of the armed forces or the national guard of any state at any time during the five-year period before the date on which the veteran begins receiving medical treatment, recuperation, or therapy under division (H)

(1) of this section.

(I) "Domestic partner" means an individual, regardless of sex, who is in a committed personal relationship, including a marriage, civil union, or other committed relationship that is granted legal recognition, with one other individual to whom the first individual can demonstrate financial interdependence and that both individuals share responsibility for a significant measure of the other individual's welfare.

(J) "Eligible individual" means an individual who satisfies the requirements of section 4143.03 of the Revised Code to receive family and medical leave insurance benefits.

(K) "Employee" means any person who performs a service for wages or other remuneration for an employer. "Employee" does not include a person performing services in or about the property of an employer on a casual basis or for a family business if the person is a family member of an owner of the business.

(L) "Employer" means any person who has one or more employees, and includes an agent of an employer, the state or any agency or instrumentality of the state, and any municipal corporation, county, township, school district, or other political subdivision or any agency or instrumentality thereof.

(M) "Family and medical leave insurance benefits" means money payments payable to an individual who has established benefit rights under this chapter.

(N) "Family member" means any of the following:

(1) A child;

(2) A parent;

(3) A domestic partner;

(4) A biological, foster, or adoptive grandparent or a step-grandparent of the employee or the employee's domestic partner;

(5) A biological, foster, or adoptive grandchild or a step-grandchild of the employee or the employee's domestic partner;

(6) A biological, foster, or adoptive sibling or a stepsibling of the employee or the employee's domestic partner;

(7) Any other individual, regardless of blood or legal relationship, with whom the employee has a significant personal bond that is or is like a family relationship.

(O) "Family and Medical Leave Act" means the "Family and Medical Leave Act of 1993," 29 U.S.C. 2601, et seq.

(P) "Health care professional" means any of the following:

(1) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code or in another state;

(2) A registered nurse, clinical nurse specialist, certified nurse-midwife, or licensed practical nurse licensed or certified under Chapter 4723. of the Revised Code or in another state;

(3) An individual licensed under Chapter 4729. of the Revised Code or in another state to practice as a pharmacist;

(4) An individual authorized under Chapter 4730. of the Revised Code or in another state to practice as a physician assistant;

(5) An individual authorized under Chapter 4731. of the Revised Code or in another state to practice medicine and

surgery, osteopathic medicine and surgery, or podiatry;

(6) A psychologist licensed under Chapter 4732. of the Revised Code or in another state;

(7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code or in another state;

(8) An occupational therapist, physical therapist, physical therapist assistant, or athletic trainer licensed under Chapter 4755. of the Revised Code or in another state;

(9) A professional clinical counselor, professional counselor, independent social worker, or social worker licensed under Chapter 4757. of the Revised Code or in another state;

(10) A dietitian licensed under Chapter 4759. of the Revised Code or in another state.

(Q) "Internal Revenue Code" has the same meaning as in section 5747.01 of the Revised Code.

(R) "Military member" means an individual's family member who is on covered active duty or has been notified of an impending call or order to covered active duty and for whom the individual may take leave to address a qualifying exigency.

(S) "Miscarriage" means the natural or accidental termination of a pregnancy and the expulsion of the fetus.

(T) "Parent" means both of the following:

(1) A biological, foster, or adoptive parent, a stepparent, or a legal guardian of an employee or the employee's domestic partner;

(2) A person who stood in loco parentis to an employee or the employee's domestic partner when the employee or domestic

partner was a minor child.

(U) "Qualifying exigency" means a financial, legal, logistical, or other issue that arises when a military member is on covered active duty or has been notified of an impending call or order to covered active duty.

(V) "Qualifying week" means any calendar week in an individual's base period with respect to which the individual earns or is paid wages. A calendar week with respect to which an individual earns wages but for which payment was not made within the base period, when necessary to qualify for family and medical leave insurance benefits, may be considered to be a qualifying week. The number of qualifying weeks that may be established in a calendar quarter shall not exceed the number of calendar weeks in the quarter.

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

(X) "Serious injury or illness" means both of the following:

(1) An injury or illness that was incurred by a member of the armed forces or the national guard of any state in the line of duty while the member was on active duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the armed forces and that may render the member medically unfit to perform the member's duties;

(2) An injury or illness that was incurred by a veteran in

the line of duty on active duty while the veteran was a member of the armed forces or the national guard of any state or that existed before the beginning of the veteran's active duty and was aggravated by service in the line of duty on active duty in the armed forces, regardless of whether the injury or illness manifested before or after the member became a veteran.

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

(Z) "Stillbirth" means death before the complete expulsion or extraction from its mother of a product of human conception of at least twenty weeks of gestation, which after such expulsion or extraction does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(AA) "Veteran" has the same meaning as in section 5903.01 of the Revised Code.

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

(CC) "Weekly benefit amount" means the amount provided in section 4143.06 of the Revised Code.

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

Sec. 4143.02. (A) The family and medical leave insurance program is created. The director of job and family services

shall administer and enforce the program in accordance with this chapter and shall adopt rules in accordance with Chapter 119. of the Revised Code to establish all of the following with respect to the program:

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

(2) The form an individual shall use to apply for family and medical leave insurance benefits in English, Spanish, and any other language spoken by three per cent or more of the state's population;

(3) The manner and schedule by which an employer shall remit premiums to the director as prescribed by section 4143.14 of the Revised Code;

(4) Procedures for an individual to request a modification of an approved claim for family and medical leave insurance benefits;

(5) Procedures for an individual to follow to submit a weekly claim to demonstrate the individual's eligibility to continue receiving family and medical leave insurance benefits;

(6) Requirements for the coordination of an eligible individual's family and medical leave insurance benefits with any benefits the individual receives under section 4123.56 or 4123.58 of the Revised Code for the purpose of calculating the individual's weekly benefit amount under section 4143.06 of the Revised Code;

(7) Procedures for an employer to follow to receive a reimbursement of an advance payment made to an employee of family and medical leave insurance benefits under section

4143.07 of the Revised Code;

(8) The time periods during which an independent contractor, sole proprietor, partner, or joint venturer who has elected coverage under section 4143.10 of the Revised Code may withdraw from coverage;

(9) Requirements for an employer to provide or post the program notice for employees that are in addition to the requirements specified in section 4143.18 of the Revised Code.

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

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

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

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

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

(4) The individual or the individual's domestic partner has experienced a miscarriage during the third trimester of pregnancy or the stillbirth of a child.

(5) The individual is addressing a qualifying exigency

described in section 4143.04 of the Revised Code.

(6) The individual is caring for a family member who is a covered service member or veteran.

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

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

(2) Consent to the release of information that is considered confidential under section 4143.16 of the Revised Code;

(3) Demonstrate that the individual has been employed by and worked for one or more employers and earned wages of at least two thousand five hundred dollars during the individual's base period;

(4) Demonstrate that the individual's employer withheld and remitted premiums to the family and medical leave insurance program while the individual was employed by the employer;

(5) Attest in the claim for benefits that the individual notified the individual's employer in writing of the individual's intent to take leave for one of the reasons listed in division (A) of this section as soon as practicable and the individual's proposed schedule for taking leave;

(6) If the individual is unemployed at the time the individual files a claim for benefits, demonstrate that the individual has been separated from employment for not more than twenty-six weeks at the time the individual files the claim;

(7) Provide a certification under section 4143.05 of the

Revised Code as applicable.

(C) An employer shall not require the individual to provide more than thirty days of notice under division (B)(5) of this section before the individual's leave begins if the need for leave is foreseeable.

(D)(1) An individual shall file a claim for benefits under this section not more than sixty days before the date the individual anticipates beginning the period of leave or within ninety days of the date the individual's period of leave began. The director may waive the ninety-day filing period for good cause.

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

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

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

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

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

(3) A failure to submit an attestation or certification required by division (B)(5) and (7) of this section;

(4) The employer's failure to withhold and remit premiums

as required under section 4143.14 of the Revised Code.

(G)(1) An individual whose claim for benefits is denied by the director may appeal the decision to the director within ninety calendar days after the written determination is sent to the individual. Within twenty-one days after the receipt of the appeal, the director shall issue a determination. A determination made under this division is final and may be appealed pursuant to section 119.12 of the Revised Code.

(2) An employer shall not be a party to an appeal under division (G)(1) of this section.

Sec. 4143.04. An individual who has filed a claim for family and medical leave insurance benefits under section 4143.03 of the Revised Code to address a qualifying exigency may take leave for any of the following reasons:

(A) If the military member receives an impending call or order to covered active duty seven or fewer days before the date of deployment, to address an issue arising from the military member's deployment during that period;

(B) To attend any official ceremony, program, or event sponsored by the military that is related to the military member's covered active duty or call to covered active duty status;

(C) To attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or American red cross that are related to the military member's covered active duty or call to covered active duty status;

(D) To provide or arrange for child care for the military member's child, including enrolling or transferring the child to

a new school or daycare facility and attending meetings with staff at the school or daycare facility, if the military member's covered active duty or call to covered active duty status requires a change in the child's care arrangement;

(E) To provide or arrange for care for the military member's family member who is incapable of self-care, including admitting or transferring the family member to a new care facility and attending meetings with staff at the care facility, if the military member's covered active duty or call to covered active duty status requires a change in the family member's care arrangement;

(F) To provide care for the military member's family member who is incapable of self-care during an emergency or other urgent situation where the family member requires immediate care, if the military member's covered active duty or call to covered active duty status requires the individual to provide care for the family member;

(G) To make or update financial and legal arrangements to address the military member's absence while on covered active duty or call to covered active duty status;

(H) To act as the military member's representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the military member is on covered active duty or call to covered active duty status, and for a period of ninety days following the termination of the military member's covered active duty status;

(I) To attend counseling provided by someone other than a health care professional, for the individual, military member,

or military member's child, if the need for counseling arises from the military member's covered active duty or call to covered active duty status;

(J) To spend time with the military member while the military member is on short-term, temporary, rest and recuperation leave during the military member's deployment;

(K) To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military following the termination of the military member's covered active duty status;

(L) To address issues that arise from the death of the military member while on covered active duty status.

Sec. 4143.05. (A) The director of job and family services shall require an individual filing a claim for benefits under section 4143.03 of the Revised Code to provide a certification of the individual's need for leave. The director shall accept the following types of certification:

(1) For an individual taking leave to care for a family member who has a serious health condition or serious injury or illness, documentation from a health care professional that states when the serious health condition or serious injury or illness began and its expected duration, that the individual is needed to provide care for the family member, and appropriate medical information supporting the individual's claim;

(2) For an individual taking leave for the individual's own serious health condition, documentation from a health care professional that states when the serious health condition began, its expected duration, and appropriate medical information supporting the individual's claim;

(3) For an individual taking leave to care for a new child after the birth or adoption of the child or the placement of the child through foster care or to prepare for the adoption or placement of the child through foster care, any of the following as applicable:

(a) A birth certificate;

(b) Documentation from a health care professional stating the date of birth of the child;

(c) Documentation from a health care professional, agency as defined in section 3107.01 of the Revised Code, or other individual, as determined by the director, stating the date of adoption or anticipated adoption of the child;

(d) Documentation from a health care professional, foster care agency, or other individual, as determined by the director, stating the date of the placement or anticipated placement of the child through foster care;

(e) An affadavit of the individual acknowledging parentage.

(4) For an individual taking leave to address a qualifying exigency, a copy of the military member's call or order to active duty or other documentation from the applicable branch of the armed forces supporting the individual's claim.

(B) The director shall accept any alternative certification under division (A) of this section that the director determines is sufficient to demonstrate the individual's need for leave under this chapter.

(C)(1) A health care professional shall provide a certification under division (A)(1) or (2) of this section at no

cost to an individual within seven calendar days of the individual's request for the certification.

(2) Nothing in this section requires a health care professional to issue a certification for an individual or a family member of the individual who has a serious health condition or serious injury or illness if the health care professional is not providing treatment or supervision to the individual or family member.

Sec. 4143.06. (A) An eligible individual shall receive a weekly benefit amount that is equal to eighty-five per cent of the individual's average weekly wage, except that the maximum weekly benefit amount an eligible individual may receive under this section is an amount equal to ninety per cent of the statewide average weekly wage. The individual's weekly benefit amount shall be proportional to the number of hours the individual works at the job from which the individual is taking leave.

(B) The director of job and family services shall reduce an eligible individual's weekly benefit amount by the amount of either of the following:

(1) Any benefits the individual is receiving under Chapter 4141. of the Revised Code;

(2) Any benefits the individual is receiving under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, other than benefits payable under section 4123.57 of the Revised Code in accordance with rules adopted by the director under section 4143.02 of the Revised Code.

(C)(1) The director shall calculate an eligible individual's weekly benefit amount under division (A) of this

section based on the individual's average weekly wage earned from the job from which the individual is taking leave or, if the individual is unemployed at the time of the claim, the individual's average weekly wage during the individual's base period. If the individual is able to continue working at a different job while taking leave, the director shall not consider the individual's average weekly wage from the other job when calculating the individual's weekly benefit amount.

(2) The director shall calculate an eligible individual's weekly benefit amount under division (A) of this section on a prorated basis if the individual is taking leave in separate blocks of time on an intermittent schedule or by reducing the time the individual works each work day or work week.

(D)(1) The director shall make the first payment of family and medical leave insurance benefits to an eligible individual within fourteen calendar days after the date the director approves the individual's claim for benefits.

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

(E)(1) Except as provided in division (E)(2) of this section, an eligible individual may receive a maximum of eighteen weeks of benefits payable during an application year. If the individual is taking leave to care for a family member who is a covered service member or veteran, the individual may only receive benefits for that family member during a single application year but may take leave in a different application year to care for a different family member or if the same family member suffers a subsequent serious injury or illness.

(2) An eligible individual may only receive fourteen weeks of benefits during an application year for any one reason for which the individual may receive benefits under division (A) of section 4143.03 of the Revised Code. The individual may receive an additional two weeks of benefits payable during an application year for the individual's serious health condition related to the individual's pregnancy, stillbirth, or miscarriage, for a maximum of sixteen weeks of benefits payable for that reason during the application year.

(F) Benefits under division (E) of this section are not payable for a period of less than four consecutive hours of leave taken during one work week.

Sec. 4143.07. (A) An employer may make an advance payment of family and medical leave insurance benefits to an eligible individual. The director of job and family services shall reimburse the employer for the amount of an advance payment of benefits if the employer files an application with the director in accordance with rules adopted by the director under section 4143.02 of the Revised Code. The director shall not approve an application that the director receives after the date the director has made a payment to the individual for which the employer is seeking a reimbursement.

(B) The amount of a reimbursement shall not be greater than the amount the individual is entitled to receive under section 4143.06 of the Revised Code.

Sec. 4143.08. (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.

(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.

(3) An employee may utilize available sick leave, vacation leave, or other paid leave in order to supplement the employee's weekly benefit amount under section 4143.06 of the Revised Code during the leave period, in an amount sufficient to give the employee up to one hundred per cent of the employee's average weekly wage for time on leave. No employer shall require an employee to utilize sick leave, vacation leave, or other paid leave under this division during a period of leave under this chapter.

(B) An employer shall comply with a collective bargaining agreement or employer contract entered into or renewed, or an employment policy adopted or revised, on or after the effective date of this section that provides employees with greater leave than that provided under this chapter.

(C) No collective bargaining agreement or employer contract entered into or renewed, or employer policy adopted or revised, on or after the effective date of this section shall diminish an individual's rights to benefits under this chapter.

(D) Notwithstanding any provision to the contrary in division (A) of section 4117.10 of the Revised Code, no agreement between employee organizations and public employers entered into on or after the effective date of this section shall diminish an individual's rights to benefits under this chapter.

(E) Any agreement by an individual to waive the

individual's rights under this chapter is void as against public policy.

Sec. 4143.09. (A)(1) An eligible individual who takes a period of leave under this chapter shall be restored to the individual's position of employment with the individual's employer before taking leave, or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.

(2) An employer shall maintain an employee's health insurance benefits during the period of leave on the same conditions as those benefits would have been provided if the employee had been continuously employed during the entire period of leave.

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

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

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

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

(C) No employer shall consider a period of leave an eligible individual takes under this chapter as an absence for which the employer may discipline, discharge, demote, suspend, or take an adverse employment action against the employee under the employer's attendance policy.

(D) An employee who believes that an employer has violated this section may file a complaint with the director of job and family services within twenty-four months after the alleged violation has occurred. The director shall process and investigate any complaints the director receives to determine whether it is probable that an employer has violated this section. If the director determines that it is probable that the employer violated this section after providing notice and an opportunity for a hearing under Chapter 119. of the Revised Code, the director may take either of the following actions:

(1) Order the employer to do any of the following:

(a) Provide the employee with the requested leave;

(b) Reinstate the employee to the employee's position of employment;

(c) Pay the employee for up to two years of back pay, including interest at the prevailing rate;

(d) Pay the employee for liquidated damages in an amount equal to the payment under division (D)(3) of this section;

(e) Any other action the director determines appropriate.

(2) Assess a penalty against the employer of up to one thousand dollars per violation. Any penalty collected for a violation shall be deposited into the family and medical leave insurance fund created in section 4143.13 of the Revised Code.

(E)(1) An aggrieved employee may bring a civil action in a court of competent jurisdiction against an employer who the employee believes violated this section. If the employee filed a complaint under division (D) of this section, the employee must bring a civil action within twenty-four months after the

director has made a determination on the employee's complaint.

(2) If the court finds that a violation of this section has occurred, the employer shall be liable to the aggrieved employee for any of the following:

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

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

(c) Liquidated damages in an amount equal to those described in division (E)(1)(a) or (b) of this section;

(d) Court costs and reasonable attorney fees;

(e) Equitable relief as may be appropriate.

Sec. 4143.10. (A) An independent contractor, sole proprietor, partner, or joint venturer may elect coverage under this chapter for an initial period of a minimum of three years. An independent contractor, sole proprietor, partner, or joint venturer shall file a notice of election of coverage in writing with the director of job and family services. The election is effective on the date the notice is filed.

(B) An independent contractor, sole proprietor, partner, or joint venturer may elect continuing coverage under this chapter immediately following the initial period of coverage under division (A) of this section by filing a notice for election of coverage as described in that division at least thirty days before the initial election period expires.

(C) An independent contractor, sole proprietor, partner, or joint venturer may withdraw from coverage by filing a written notice with the director within thirty days before the end of

the initial period of coverage or during a period the director has designated by rule under section 4143.02 of the Revised Code. The withdrawal is effective thirty days after the notice is filed.

Sec. 4143.11. (A) An employer may apply to the director of job and family services for approval to individually provide family and medical leave insurance benefits under this chapter directly to eligible employees. The director shall grant approval to an employer that demonstrates, to the director's satisfaction, all of the following:

(1) That the employer will provide benefits that are equal to or greater than the benefits provided in section 4143.06 of the Revised Code;

(2) That the employer will promptly meet all obligations under this chapter;

(3) If the employer will provide benefits through an insurer, proof that the insurer is authorized to provide insurance in this state and a copy of the policy.

(B) An employer that submits an application under division (A) of this section to provide benefits through self-insurance shall file a good and sufficient surety executed by the employer as principal and by a surety company as surety in the amount determined by the director.

(C) The director shall terminate an employer's approval to provide benefits under this section for failing to do any of the following:

(1) Pay benefits to an eligible individual;

(2) Pay benefits in a timely manner;

(3) If the employer is required to file a surety under division (B) of this section, maintain the surety;

(4) Submit any report that the director requires the employer to submit;

(5) Comply with any other requirement of this chapter or rules adopted by the director under section 4143.02 of the Revised Code.

(D) An individual whose claim for benefits is denied by the individual's employer may appeal the decision to the director as described in division (F)(1) of section 4143.03 of the Revised Code.

(E) An employee who believes an employer approved to provide benefits under this section has violated section 4143.09 of the Revised Code may file a complaint or bring a civil action as described in that section.

(F) For each calendar year, the director shall determine the costs to the family and medical leave insurance program created under section 4143.02 of the Revised Code for employers to provide benefits under this section. Each employer shall reimburse the director for its share of the costs, as determined by the director. The reimbursement shall be deposited into the family and medical leave insurance fund.

Sec. 4143.12. (A) No individual shall receive family and medical leave insurance benefits for one year after the individual willfully makes a false statement or misrepresents or willfully fails to report a material fact in connection with a claim for benefits under this chapter.

(B)(1) The director of job and family services may seek repayment of benefits that are paid to an individual in excess

of the benefits the individual is entitled to receive for any of the following reasons:

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

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

(c) The individual received benefits to which the individual was not entitled due to a mistake or a clerical error.

(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.

Sec. 4143.13. The family and medical leave insurance fund is created, 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 chapter and any other money 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.

Sec. 4143.14. (A) The director of job and family services shall establish a premium rate for the purpose of determining

premiums under this section as follows:

(1) Not later than October 31, 2027, a premium rate the director determines to assure the solvency of the family and medical leave insurance fund created by section 4143.13 of the Revised Code based on sound actuarial principles.

(2) Beginning with calendar year 2031, the director shall annually determine the premium rate not later than the thirty-first day of October for the subsequent calendar year. The premium rate shall be an amount necessary to ensure the solvency of the fund. The amount necessary for solvency is an amount equal to the difference between the assets in the fund as of the thirtieth day of June of the previous calendar year and the sum of both of the following:

(a) An amount equal to one hundred fifty per cent of the benefits paid under this chapter during the previous calendar year;

(b) The amount of the administrative costs used to administer those benefits during the previous calendar year.

(B) Except as provided in section 4143.11 of the Revised Code, beginning January 1, 2028, every employer paying any wages to an employee shall deduct and withhold from such wages for each payroll period a premium determined by applying fifty per cent of the premium rate calculated under division (A) of this section to such wages. 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. The employer shall remit the premium in accordance with rules adopted under section 4143.02 of the Revised Code.

(C) In addition to the employee premium under division (B) of this section, an employer with fifteen or more employees shall remit a premium equal to the amount determined under that division for each of the employer's employees directly to the director in accordance with rules adopted under section 4143.02 of the Revised Code. An employer with less than fifteen employees shall not be required to remit a premium under this division. The number of employees an employer has for purposes of this division shall be determined on the first day of January of each calendar year.

(D) An independent contractor, sole proprietor, partner, or joint venturer who elects coverage under section 4143.10 of the Revised Code shall remit premiums directly to the director in accordance with rules adopted under section 4143.02 of the Revised Code. The premium shall be determined by applying fifty per cent of the premium rate calculated under division (A) of this section to the individual's wages.

(E) An employer that fails or refuses to remit premiums as required by this section shall be assessed a penalty by the director equal to the sum of one per cent of the employer's annual payroll for each year the employer failed or refused to remit premiums and the amount of benefits paid to any of the employer's employees for whom the employer failed or refused to remit premiums. Beginning with calendar year 2029, the director shall adjust the amount of the penalty not later than the thirty-first day of October for the subsequent calendar year.

Sec. 4143.15. (A) If the internal revenue service determines benefits under this chapter are subject to federal income tax, the director of job and family services shall inform an individual for whom the director approved a claim for

benefits under section 4143.03 of the Revised Code, before making the first benefit payment, of each of the following:

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

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

(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;

(4) That the individual may change a previously elected federal withholding status as authorized under the Internal Revenue Code.

(B) The director shall follow all procedures prescribed by the internal revenue service when deducting, withholding, and remitting federal income tax.

Sec. 4143.16. (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.

(B) The following individuals may have access to the files and records of an individual under this chapter:

(1) A public employee in the performance of the public employee's official duties;

(2) The individual or a person authorized by the individual, with an authorization form signed by the individual;

(3) An employer or the employer's duly authorized representative, in connection with a pending claim of an individual employed by the employer;

(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.

Sec. 4143.17. (A) Not later than April 1, 2030, and every year thereafter, the director of job and family services shall submit a report to the general assembly. The director shall include all of the following information in the report for the preceding calendar year:

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

(2) Actual program participation;

(3) Demographic information of applicants for family and medical leave insurance benefits, including age, gender, race, ethnicity, sexual orientation, primary or preferred language, residential zip code, occupation, average weekly wage, and characteristics of the applicant's employment;

(4) Demographic information described in division (A)(3) of this section of participants in the program;

(5) Processing time frames for the director to approve or deny initial claims for benefits filed by individuals under section 4143.03 of the Revised Code;

(6) For any claim denied by the director, the reason for the denial;

(7) Total number of appeals filed by individuals under division (F) of section 4143.03 of the Revised Code and the

decision of those appeals;

(8) Average time frame from an individual filing a claim for benefits to the individual receiving the first payment of benefits;

(9) Purpose and duration of leave taken by participants, including the category of family member that a participant took leave to care for;

(10) Average weekly benefit amount paid to participants;

(11) Premium rates;

(12) Current and projected fund balances;

(13) Outreach efforts.

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

Sec. 4143.18. (A) Not later than July 1, 2027, the director of job and family services shall develop and implement a public education program to educate employees and employers about the family and medical leave insurance program created under section 4143.02 of the Revised Code and the availability of family and medical leave insurance benefits for individuals under this chapter. The public education program shall explain all of the following information about the program:

(1) An individual's right to benefits under this chapter and the terms under which an individual may receive benefits;

(2) The claims process;

(3) Weekly benefit amounts and maximum benefits payable;

(4) Reinstatement and nondiscrimination rights and an

individual's right to file a complaint against an employer that violates those rights.

(B) The director may use up to five per cent of the funds available on the first day of January of each year in the family and medical leave insurance fund created in section 4143.13 of the Revised Code to implement the public education program developed under division (A) of this section during that calendar year.

(C) The director shall develop a program notice in English, Spanish, and any other language spoken by more than three per cent of the state's population, containing the information listed in division (A) of this section.

(D)(1) Each employer shall do all of the following:

(a) Provide a copy of the program notice to each of the employer's employees on hiring and every year thereafter;

(b) Provide a copy of the program notice to an employee when the employee notifies the employer of the employee's intent to take leave under this chapter or take leave for any of the reasons in division (A) of section 4143.03 of the Revised Code;

(c) Post the program notice in a prominent location in the employer's workplace or on the internet in a manner that is accessible to the employer's employees;

(d) Provide a copy of or post the program notice in accordance with any additional requirements in rules adopted by the director under section 4143.02 of the Revised Code.

(2) The employer shall provide the program notice in English, the language the employer uses in communication with an employee, or any other language spoken by at least five per cent

of the employer's employees.

(E) An employer that fails to provide the program notice as required by division (D) of this section shall be assessed a two hundred fifty dollar penalty per employee for each day the employer fails to provide the notice. Any penalty collected under this division shall be deposited into the family and medical leave insurance fund created in section 4143.13 of the Revised Code.

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.

As used in this chapter:

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

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

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or

dividends are exempt from federal income taxes but not from state income taxes.

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

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

(5) Deduct the following, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income:

(a) Benefits under Title II of the Social Security Act and tier 1 railroad retirement;

(b) Railroad retirement benefits, other than tier 1 railroad retirement benefits, to the extent such amounts are exempt from state taxation under federal law.

(6) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the work opportunity tax credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

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

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

(9) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions made to or tuition units purchased under a qualified tuition program established pursuant to section 529 of the Internal Revenue Code.

(10)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(10)(a) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(10)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(10)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income

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

(c) For purposes of division (A)(10) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702B(c) of the Internal Revenue Code. Solely for purposes of division (A)(10)(a) of this section, "dependent" includes a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(11)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(11)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

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

amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

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

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

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

(13) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(13) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

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

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

(15) Add any amount claimed as a credit under section

5747.059 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.

(16) 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)(16) of this section.

(17)(a)(i) Subject to divisions (A)(17)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Subject to divisions (A)(17)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of qualifying section 179 depreciation expense, including the taxpayer's proportionate or distributive share of the amount of qualifying

section 179 depreciation expense allowed to any pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(iii) Subject to division (A)(17)(a)(v) of this section, for taxable years beginning in 2012 or thereafter, if the increase in income taxes withheld by the taxpayer is equal to or greater than ten per cent of income taxes withheld by the taxpayer during the taxpayer's immediately preceding taxable year, "two-thirds" shall be substituted for "five-sixths" for the purpose of divisions (A)(17)(a)(i) and (ii) of this section.

(iv) Subject to division (A)(17)(a)(v) of this section, for taxable years beginning in 2012 or thereafter, a taxpayer is not required to add an amount under division (A)(17) of this section if the increase in income taxes withheld by the taxpayer and by any pass-through entity in which the taxpayer has a direct or indirect ownership interest is equal to or greater than the sum of (I) the amount of qualifying section 179 depreciation expense and (II) the amount of depreciation expense allowed to the taxpayer by subsection (k) of section 168 of the Internal Revenue Code, and including the taxpayer's proportionate or distributive shares of such amounts allowed to any such pass-through entities.

(v) If a taxpayer directly or indirectly incurs a net operating loss for the taxable year for federal income tax purposes, to the extent such loss resulted from depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code and by qualifying section 179 depreciation expense, "the entire" shall be substituted for "five-sixths of the" for the purpose of divisions (A)(17)(a)(i) and (ii) of this section.

The tax commissioner, under procedures established by the

commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(17) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(17)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situsued to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A)(17)(a)(v) of this section, net operating loss carryback and carryforward shall not include the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(e) For the purposes of divisions (A)(17) and (18) of this section:

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

(ii) "Increase in income taxes withheld" means the amount by which the amount of income taxes withheld by an employer

during the employer's current taxable year exceeds the amount of income taxes withheld by that employer during the employer's immediately preceding taxable year.

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

(18)(a) If the taxpayer was required to add an amount under division (A)(17)(a) of this section for a taxable year, deduct one of the following:

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

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

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

(b) If the amount deducted under division (A)(18)(a) of this section is attributable to an add-back allocated under division (A)(17)(c) of this section, the amount deducted shall be situsued to the same location. Otherwise, the deduction shall be apportioned using the apportionment factors for the taxable

year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(18)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A)(18)(a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A)(17)(a) of this section has been deducted.

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

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

(21) Deduct, to the extent included in federal adjusted gross income and not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, military pay and allowances received by the

taxpayer during the taxable year for active duty service in the armed forces of the United States, as defined in section 5907.01 of the Revised Code, or reserve components thereof or the national guard. The deduction may not be claimed for military pay and allowances received by the taxpayer while the taxpayer is stationed in this state.

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

For the purposes of division (A)(22) of this section:

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

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

(23) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as retired personnel pay for service in the uniformed services or reserve components thereof, or the national guard, or received by the surviving spouse or former spouse of such a taxpayer under the

survivor benefit plan on account of such a taxpayer's death. If the taxpayer receives income on account of retirement paid under the federal civil service retirement system or federal employees retirement system, or under any successor retirement program enacted by the congress of the United States that is established and maintained for retired employees of the United States government, and such retirement income is based, in whole or in part, on credit for the taxpayer's uniformed service, the deduction allowed under this division shall include only that portion of such retirement income that is attributable to the taxpayer's uniformed service, to the extent that portion of such retirement income is otherwise included in federal adjusted gross income and is not otherwise deducted under this section. Any amount deducted under division (A)(23) of this section is not included in a taxpayer's adjusted gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A)(23) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

(b) All terms used in division (A)(30) of this section have the same meanings as in section 5703.94 of the Revised Code.

(31) For a taxpayer who is a qualifying Ohio educator, deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the lesser of three hundred dollars or the amount of expenses described in subsections (a)(2)(D)(i) and (ii) of section 62 of the Internal Revenue Code paid or incurred by the taxpayer during the taxpayer's taxable year in excess of the amount the taxpayer is authorized to deduct for that taxable

year under subsection (a)(2)(D) of that section.

(32) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as a disability severance payment, computed under 10 U.S.C. 1212, following discharge or release under honorable conditions from the armed forces of the United States, as defined in section 5907.01 of the Revised Code.

(33) Deduct, to the extent not otherwise deducted or excluded in computing federal adjusted gross income or Ohio adjusted gross income, amounts not subject to tax due to an agreement entered into under division (A)(2) of section 5747.05 of the Revised Code.

(34) Deduct amounts as provided under section 5747.79 of the Revised Code related to the taxpayer's qualifying capital gains and deductible payroll.

To the extent a qualifying capital gain described under division (A)(34) of this section is business income, the taxpayer shall deduct those gains under this division before deducting any such gains under division (A)(28) of this section.

(35)(a) For taxable years beginning in or after 2026, deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year:

(i) One hundred per cent of the capital gain received by the taxpayer in the taxable year from a qualifying interest in an Ohio venture capital operating company attributable to the company's investments in Ohio businesses during the period for which the company was an Ohio venture operating company; and

(ii) Fifty per cent of the capital gain received by the taxpayer in the taxable year from a qualifying interest in an Ohio venture capital operating company attributable to the company's investments in all other businesses during the period for which the company was an Ohio venture operating company.

(b) Add amounts previously deducted by the taxpayer under division (A)(35)(a) of this section if the director of development certifies to the tax commissioner that the requirements for the deduction were not met.

(c) All terms used in division (A)(35) of this section have the same meanings as in section 122.851 of the Revised Code.

(d) To the extent a capital gain described in division (A)(35)(a) of this section is business income, the taxpayer shall apply that division before applying division (A)(28) of this section.

(36) Add, to the extent not otherwise included in computing federal or Ohio adjusted gross income for any taxable year, the taxpayer's proportionate share of the amount of the tax levied under section 5747.38 of the Revised Code and paid by an electing pass-through entity for the taxable year.

Notwithstanding any provision of the Revised Code to the contrary, the portion of the addition required by division (A)(36) of this section related to the apportioned business income of the pass-through entity shall be considered business income under division (B) of this section. Such addition is eligible for the deduction in division (A)(28) of this section, subject to the applicable dollar limitations, and the tax rate prescribed by division (A)(4)(a) of section 5747.02 of the

Revised Code. The taxpayer shall provide, upon request of the tax commissioner, any documentation necessary to verify the portion of the addition that is business income under this division.

(37) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts delivered to a qualifying institution pursuant to section 3333.128 of the Revised Code for the benefit of the taxpayer or the taxpayer's spouse or dependent.

(38) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received under the Ohio adoption grant program pursuant to section 5180.451 of the Revised Code.

(39) Deduct, to the extent included in federal adjusted gross income, income attributable to amounts provided to a taxpayer for any of the purposes for which an exclusion would have been authorized under section 139 of the Internal Revenue Code if the train derailment near the city of East Palestine on February 3, 2023, had been a qualified disaster pursuant to that section, or to compensate for lost business resulting from that derailment, if such amounts are provided by any of the following:

(a) A federal, state, or local government agency;

(b) A railroad company, as that term is defined in section 5727.01 of the Revised Code;

(c) Any subsidiary, insurer, or agent of a railroad company or any related person.

Notwithstanding any provision to the contrary, the derailment is not required to meet the definition of a

"qualified disaster" pursuant to section 139 of the Internal Revenue Code to qualify for the deduction under this section.

(40) Deduct, to the extent included in federal adjusted gross income, income attributable to loan repayments on behalf of the taxpayer under the rural practice incentive program under section 3333.135 of the Revised Code.

(41) Add any income taxes deducted in computing federal or Ohio adjusted gross income to the extent the income taxes were derived from income subject to a tax levied in another state or the District of Columbia when such tax was enacted for purposes of complying with internal revenue service notice 2020-75.

Notwithstanding any provision of the Revised Code to the contrary, the portion of the addition required by division (A)(41) of this section related to the apportioned business income of the pass-through entity shall be considered business income under division (B) of this section. Such addition is eligible for the deduction in division (A)(28) of this section, subject to the applicable dollar limitations, and the tax rate prescribed by division (A)(4)(a) of section 5747.02 of the Revised Code. The taxpayer shall provide, upon request of the tax commissioner, any documentation necessary to verify the portion of the addition that is business income under this division.

(42) Deduct amounts contributed to a homeownership savings account and calculated pursuant to divisions (B) and (C) of section 5747.85 of the Revised Code.

(43) If the taxpayer is the account owner of a homeownership savings account, upon withdrawal or transfer of funds from the account, or closure of the account containing

funds that are not used for eligible expenses, add the amount of such funds not used for an eligible expense. The addition required under this division shall not exceed the sum of the amounts deducted by the taxpayer for such account under division (A)(42) of this section in any taxable year and the amount of any funds deposited in the account by a contributor other than the account owner. As used in division (A)(43) of this section, "homeownership savings account," "contributor," "account owner," and "eligible expenses" have the same meanings as in section 5747.85 of the Revised Code.

(44) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, up to seven hundred fifty dollars of contributions the taxpayer makes to a pregnancy resource center that meets the criteria in division (B) of section 5180.71 of the Revised Code.

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

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill or the sale of an equity or ownership interest in a business.

As used in this division, the "sale of an equity or

ownership interest in a business" means sales to which either or both of the following apply:

(1) The sale is treated for federal income tax purposes as the sale of assets.

(2) The seller materially participated, as described in 26 C.F.R. 1.469-5T, in the activities of the business during the taxable year in which the sale occurs or during any of the five preceding taxable years.

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

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

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

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

(G) "Individual" means any natural person.

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

(I) "Resident" means any of the following:

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

(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.

(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.

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

(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:

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

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

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this

chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section.

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

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

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

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of

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

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

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

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

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

(ii) A trust is described in division (I)(3)(e)(ii) of

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

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

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

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

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

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

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

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

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

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

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

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

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or

fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

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

(O) "Dependents" means dependents as defined in the Internal Revenue Code.

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

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

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

(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.

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

(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:

(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:

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

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

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

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

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from

state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

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

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

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

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

income;

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

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

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

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

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

(11) Add any amount claimed as a credit under section

5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

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

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

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

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income.

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

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(17) or (18) of this section if the taxpayer's Ohio taxable income was computed in the same manner as an individual's Ohio adjusted gross income is computed under this section.

(15) Add, to the extent not otherwise included in computing taxable income or Ohio taxable income for any taxable year, the taxpayer's proportionate share of the amount of the tax levied under section 5747.38 of the Revised Code and paid by an electing pass-through entity for the taxable year.

(16) Add any income taxes deducted in computing federal taxable income or Ohio taxable income to the extent the income taxes were derived from income subject to a tax levied in another state or the District of Columbia when such tax was enacted for purposes of complying with internal revenue service notice 2020-75.

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

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

(V) "Limited liability company" means any limited liability company formed under former Chapter 1705. of the Revised Code as that chapter existed prior to February 11, 2022, Chapter 1706. of the Revised Code, or the laws of any other state.

(W) "Pass-through entity investor" means any person who,

during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

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

(Y) "Month" means a calendar month.

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

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

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

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

(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 (AA)(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 of the book value of the qualifying investee's total physical assets everywhere 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. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (AA)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

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

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code, except as otherwise provided in division (AA)(4)(c)(ii) of this section. With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the trust's portion of modified nonbusiness income recognized from the sale, exchange, or other disposition of a debt interest in or equity interest in a section 5747.212 entity, as defined in section 5747.212 of the Revised Code, without regard to division (A) of that section, shall not be allocated to this state in accordance with section 5747.20 of the Revised Code but shall be apportioned to this state in accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section.

If the allocation and apportionment of a trust's income under divisions (AA)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of

section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

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

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

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

fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

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

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (AA)(5)(a)(iii) of this section

shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

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

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

(ii) Such gain or loss constitutes nonbusiness income.

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

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

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

(DD)(1) For the purposes of division (DD) of this section:

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

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

(EE) 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 (EE)(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 January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.

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

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

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

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

(FF) "Uniformed services" means all of the following:

(1) "Armed forces of the United States" as defined in section 5907.01 of the Revised Code;

(2) The commissioned corps of the national oceanic and atmospheric administration;

(3) The commissioned corps of the public health service.

(GG) "Taxable business income" means the amount by which an individual's business income that is included in federal adjusted gross income exceeds the amount of business income the individual is authorized to deduct under division (A)(28) of this section for the taxable year.

(HH) "Employer" does not include a franchisor with respect to the franchisor's relationship with a franchisee or an employee of a franchisee, unless the franchisor agrees to assume that role in writing or a court of competent jurisdiction determines that the franchisor exercises a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademark, brand, or both. For purposes of this division, "franchisor" and "franchisee" have

the same meanings as in 16 C.F.R. 436.1.

(II) "Modified adjusted gross income" means Ohio adjusted gross income plus any amount deducted under divisions (A)(28) and (34) of this section for the taxable year.

(JJ) "Qualifying Ohio educator" means an individual who, for a taxable year, qualifies as an eligible educator, as that term is defined in section 62 of the Internal Revenue Code, and who holds a certificate, license, or permit described in Chapter 3319. or section 3301.071 of the Revised Code.

(KK) "Professional employer organization," "professional employer organization agreement," and "professional employer organization reporting entity" have the same meanings as in section 4125.01 of the Revised Code.

(LL) "Alternate employer organization" and "alternate employer organization agreement" have the same meanings as in section 4133.01 of the Revised Code.

(MM) "Casino gaming" has the same meaning as in section 3772.01 of the Revised Code, "lottery sports gaming" has the same meaning as in section 3770.23 of the Revised Code, "sports gaming" has the same meaning as in section 3775.01 of the Revised Code, and "video lottery terminal" has the same meaning as in section 3770.21 of the Revised Code.

Section 2. That existing section 5747.01 of the Revised Code is hereby repealed.

Section 3. Section 1 of this act, except for sections 4143.03 and 4143.13 of the Revised Code, takes effect twelve months after the effective date of this section.

Section 4143.03 of the Revised Code, as enacted by this

act, takes effect January 1, 2029.

Section 4143.13 of the Revised Code, as enacted by this act, takes effect on the effective date of this section.