

**As Passed by the Senate**

**136th General Assembly**

**Regular Session**

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**Am. S. B. No. 423**

**Senator Manchester**

**Cosponsors: Senators Huffman, Antonio, Cirino, Craig, Hicks-Hudson, Johnson,  
Reineke**

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To amend sections 4111.03, 4111.14, 4113.15, 1  
4121.01, 4123.01, 4141.01, and 5747.01 and to 2  
enact section 4113.87 of the Revised Code to 3  
specify that a health care worker is not the 4  
employee of a health care worker platform or 5  
health care facility for purposes of specified 6  
laws under certain circumstances. 7

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

**Section 1.** That sections 4111.03, 4111.14, 4113.15, 8  
4121.01, 4123.01, 4141.01, and 5747.01 be amended and section 9  
4113.87 of the Revised Code be enacted to read as follows: 10

**Sec. 4111.03.** (A) Except as provided in section 4111.031 11  
of the Revised Code, an employer shall pay an employee for 12  
overtime at a wage rate of one and one-half times the employee's 13  
wage rate for hours worked in excess of forty hours in one 14  
workweek, in the manner and methods provided in and subject to 15  
the exemptions of section 7 and section 13 of the "Fair Labor 16  
Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as 17  
amended, and, effective beginning on ~~the effective date of this~~ 18  
~~amendment~~ July 6, 2022, sections 2 and 4 of the "Portal to 19

Portal Act of 1947," 29 U.S.C. 252 and 254. 20

Any employee employed in agriculture shall not be covered 21  
by the overtime provision of this section. 22

A motor carrier may elect to apply the overtime provision 23  
of this section to an individual who is excluded from the 24  
provision under division (D) (3) (i) of this section. 25

(B) If a county employee or township employee elects to 26  
take compensatory time off in lieu of overtime pay, for any 27  
overtime worked, compensatory time may be granted by the 28  
employee's administrative superior, on a time and one-half 29  
basis, at a time mutually convenient to the employee and the 30  
administrative superior within one hundred eighty days after the 31  
overtime is worked. 32

(C) A township appointing authority or a county appointing 33  
authority with the exception of the county department of job and 34  
family services may, by rule or resolution as is appropriate, 35  
indicate the authority's intention not to be bound by division 36  
(B) of this section, and to adopt a different policy for the 37  
calculation and payment of overtime than that established by 38  
that division. Upon adoption, the alternative overtime policy 39  
prevails. Prior to the adoption of an alternative overtime 40  
policy, a township appointing authority or a county appointing 41  
authority with the exception of the county department of job and 42  
family services shall give a written notice of the alternative 43  
policy to each employee at least ten days prior to its effective 44  
date. 45

(D) As used in this section and section 4111.031 of the 46  
Revised Code: 47

(1) "Employ" means to suffer or to permit to work. 48

(2) "Employer" means the state of Ohio, its 49  
instrumentalities, and its political subdivisions and their 50  
instrumentalities, any individual, partnership, association, 51  
corporation, business trust, or any person or group of persons, 52  
acting in the interest of an employer in relation to an 53  
employee, but does not include either of the following: 54

(a) An employer whose annual gross volume of sales made 55  
for business done is less than one hundred fifty thousand 56  
dollars, exclusive of excise taxes at the retail level which are 57  
separately stated; 58

(b) A franchisor with respect to the franchisor's 59  
relationship with a franchisee or an employee of a franchisee, 60  
unless the franchisor agrees to assume that role in writing or a 61  
court of competent jurisdiction determines that the franchisor 62  
exercises a type or degree of control over the franchisee or the 63  
franchisee's employees that is not customarily exercised by a 64  
franchisor for the purpose of protecting the franchisor's 65  
trademark, brand, or both. For purposes of this division, 66  
"franchisor" and "franchisee" have the same meanings as in 16 67  
C.F.R. 436.1. 68

(3) "Employee" means any individual employed by an 69  
employer but does not include: 70

(a) Any individual employed by the United States; 71

(b) Any individual employed as a baby-sitter in the 72  
employer's home, or a live-in companion to a sick, convalescing, 73  
or elderly person whose principal duties do not include 74  
housekeeping; 75

(c) Any individual engaged in the delivery of newspapers 76  
to the consumer; 77

(d) Any individual employed as an outside salesperson	78
compensated by commissions or employed in a bona fide executive,	79
administrative, or professional capacity as such terms are	80
defined by the "Fair Labor Standards Act of 1938," 52 Stat.	81
1060, 29 U.S.C.A. 201, as amended;	82
(e) Any individual who works or provides personal services	83
of a charitable nature in a hospital or health institution for	84
which compensation is not sought or contemplated;	85
(f) A member of a police or fire protection agency or	86
student employed on a part-time or seasonal basis by a political	87
subdivision of this state;	88
(g) Any individual in the employ of a camp or recreational	89
area for children under eighteen years of age and owned and	90
operated by a nonprofit organization or group of organizations	91
described in Section 501(c)(3) of the "Internal Revenue Code of	92
1954," and exempt from income tax under Section 501(a) of that	93
code;	94
(h) Any individual employed directly by the house of	95
representatives or directly by the senate;	96
(i) An individual who operates a vehicle or vessel in the	97
performance of services for or on behalf of a motor carrier	98
transporting property and to whom all of the following factors	99
apply:	100
(i) The individual owns the vehicle or vessel that is used	101
in performing the services for or on behalf of the carrier, or	102
the individual leases the vehicle or vessel under a bona fide	103
lease agreement that is not a temporary replacement lease	104
agreement. For purposes of this division, a bona fide lease	105
agreement does not include an agreement between the individual	106

and the motor carrier transporting property for which, or on	107
whose behalf, the individual provides services.	108
(ii) The individual is responsible for supplying the	109
necessary personal services to operate the vehicle or vessel	110
used to provide the service.	111
(iii) The compensation paid to the individual is based on	112
factors related to work performed, including on a mileage-based	113
rate or a percentage of any schedule of rates, and not solely on	114
the basis of the hours or time expended.	115
(iv) The individual substantially controls the means and	116
manner of performing the services, in conformance with	117
regulatory requirements and specifications of the shipper.	118
(v) The individual enters into a written contract with the	119
carrier for whom the individual is performing the services that	120
describes the relationship between the individual and the	121
carrier to be that of an independent contractor and not that of	122
an employee.	123
(vi) The individual is responsible for substantially all	124
of the principal operating costs of the vehicle or vessel and	125
equipment used to provide the services, including maintenance,	126
fuel, repairs, supplies, vehicle or vessel insurance, and	127
personal expenses, except that the individual may be paid by the	128
carrier the carrier's fuel surcharge and incidental costs,	129
including tolls, permits, and lumper fees.	130
(vii) The individual is responsible for any economic loss	131
or economic gain from the arrangement with the carrier.	132
<u>(j) A health care worker, with respect to a health care</u>	133
<u>worker platform or health care facility for work booked through</u>	134
<u>a health care worker platform, in accordance with section</u>	135

<u>4113.87 of the Revised Code.</u>	136
(4) "Motor carrier" has the same meaning as in section 4923.01 of the Revised Code.	137 138
<b>Sec. 4111.14.</b> (A) Pursuant to the general assembly's authority to establish a minimum wage under Section 34 of Article II, Ohio Constitution, this section is in implementation of Section 34a of Article II, Ohio Constitution. In implementing Section 34a of Article II, Ohio Constitution, the general assembly hereby finds that the purpose of Section 34a of Article II, Ohio Constitution, is to:	139 140 141 142 143 144 145
(1) Ensure that Ohio employees, as defined in division (B) (1) of this section, are paid the wage rate required by Section 34a of Article II, Ohio Constitution;	146 147 148
(2) Ensure that covered Ohio employers maintain certain records that are directly related to the enforcement of the wage rate requirements in Section 34a of Article II, Ohio Constitution;	149 150 151 152
(3) Ensure that Ohio employees who are paid the wage rate required by Section 34a of Article II, Ohio Constitution, may enforce their right to receive that wage rate in the manner set forth in Section 34a of Article II, Ohio Constitution; and	153 154 155 156
(4) Protect the privacy of Ohio employees' pay and personal information specified in Section 34a of Article II, Ohio Constitution, by restricting an employee's access, and access by a person acting on behalf of that employee, to the employee's own pay and personal information.	157 158 159 160 161
(B) In accordance with Section 34a of Article II, Ohio Constitution, the terms "employer," "employee," "employ," "person," and "independent contractor" have the same meanings as	162 163 164

in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 165  
U.S.C. 203, as amended. In construing the meaning of these 166  
terms, due consideration and great weight shall be given to the 167  
United States department of labor's and federal courts' 168  
interpretations of those terms under the Fair Labor Standards 169  
Act and its regulations. As used in division (B) of this 170  
section: 171

(1) "Employee" means individuals employed in Ohio, but 172  
does not mean individuals who are excluded from the definition 173  
of "employee" under 29 U.S.C. 203(e) or individuals who are 174  
exempted from the minimum wage requirements in 29 U.S.C. 213 and 175  
from the definition of "employee" in this chapter. 176

(2) "Employ" and "employee" do not include any either of 177  
the following: 178

(a) Any person acting as a volunteer. In construing who is 179  
a volunteer, "volunteer" shall have the same meaning as in 180  
sections 553.101 to 553.106 of Title 29 of the Code of Federal 181  
Regulations, as amended, and due consideration and great weight 182  
shall be given to the United States department of labor's and 183  
federal courts' interpretations of the term "volunteer" under 184  
the Fair Labor Standards Act and its regulations. 185

(b) A health care worker, with respect to a health care 186  
worker platform or health care facility for work booked through 187  
a health care worker platform, in accordance with section 188  
4113.87 of the Revised Code. 189

(3) "Employer" does not include a franchisor with respect 190  
to the franchisor's relationship with a franchisee or an 191  
employee of a franchisee, unless the franchisor agrees to assume 192  
that role in writing or a court of competent jurisdiction 193

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.

(4) Subject to division (B)(5) of this section, "employee" does not include an individual who operates a vehicle or vessel in the performance of services for or on behalf of a motor carrier transporting property and to whom all of the following factors apply:

(a) The individual owns the vehicle or vessel that is used in performing the services for or on behalf of the carrier, or the individual leases the vehicle or vessel under a bona fide lease agreement that is not a temporary replacement lease agreement. For purposes of this division, a bona fide lease agreement does not include an agreement between the individual and the motor carrier transporting property for which, or on whose behalf, the individual provides services.

(b) The individual is responsible for supplying the necessary personal services to operate the vehicle or vessel used to provide the service.

(c) The compensation paid to the individual is based on factors related to work performed, including on a mileage-based rate or a percentage of any schedule of rates, and not solely on the basis of the hours or time expended.

(d) The individual substantially controls the means and manner of performing the services, in conformance with regulatory requirements and specifications of the shipper.

(e) The individual enters into a written contract with the carrier for whom the individual is performing the services that describes the relationship between the individual and the carrier to be that of an independent contractor and not that of an employee.

(f) The individual is responsible for substantially all of the principal operating costs of the vehicle or vessel and equipment used to provide the services, including maintenance, fuel, repairs, supplies, vehicle or vessel insurance, and personal expenses, except that the individual may be paid by the carrier the carrier's fuel surcharge and incidental costs, including tolls, permits, and lumper fees.

(g) The individual is responsible for any economic loss or economic gain from the arrangement with the carrier.

(5) A motor carrier may elect to consider an individual described in division (B) (4) of this section as an employee for purposes of this section.

(6) "Motor carrier" has the same meaning as in section 4923.01 of the Revised Code.

(C) In accordance with Section 34a of Article II, Ohio Constitution, the state may issue licenses to employers authorizing payment of a wage below that required by Section 34a of Article II, Ohio Constitution, to individuals with mental or physical disabilities that may otherwise adversely affect their opportunity for employment. In issuing such licenses, the state shall abide by the rules adopted pursuant to section 4111.06 of the Revised Code.

(D) (1) In accordance with Section 34a of Article II, Ohio Constitution, individuals employed in or about the property of

an employer or an individual's residence on a casual basis are 252  
not included within the coverage of Section 34a of Article II, 253  
Ohio Constitution. As used in division (D) of this section: 254

(a) "Casual basis" means employment that is irregular or 255  
intermittent and that is not performed by an individual whose 256  
vocation is to be employed in or about the property of the 257  
employer or individual's residence. In construing who is 258  
employed on a "casual basis," due consideration and great weight 259  
shall be given to the United States department of labor's and 260  
federal courts' interpretations of the term "casual basis" under 261  
the Fair Labor Standards Act and its regulations. 262

(b) "An individual employed in or about the property of an 263  
employer or individual's residence" means an individual employed 264  
on a casual basis or an individual employed in or about a 265  
residence on a casual basis, respectively. 266

(2) In accordance with Section 34a of Article II, Ohio 267  
Constitution, employees of a solely family-owned and operated 268  
business who are family members of an owner are not included 269  
within the coverage of Section 34a of Article II, Ohio 270  
Constitution. As used in division (D)(2) of this section, 271  
"family member" means a parent, spouse, child, stepchild, 272  
sibling, grandparent, grandchild, or other member of an owner's 273  
immediate family. 274

(E) In accordance with Section 34a of Article II, Ohio 275  
Constitution, an employer shall at the time of hire provide an 276  
employee with the employer's name, address, telephone number, 277  
and other contact information and update such information when 278  
it changes. As used in division (E) of this section: 279

(1) "Other contact information" may include, where 280

applicable, the address of the employer's internet site on the 281  
world wide web, the employer's electronic mail address, fax 282  
number, or the name, address, and telephone number of the 283  
employer's statutory agent. "Other contact information" does not 284  
include the name, address, telephone number, fax number, 285  
internet site address, or electronic mail address of any 286  
employee, shareholder, officer, director, supervisor, manager, 287  
or other individual employed by or associated with an employer. 288

(2) "When it changes" means that the employer shall 289  
provide its employees with the change in its name, address, 290  
telephone number, or other contact information within sixty 291  
business days after the change occurs. The employer shall 292  
provide the changed information by using any of its usual 293  
methods of communicating with its employees, including, but not 294  
limited to, listing the change on the employer's internet site 295  
on the world wide web, internal computer network, or a bulletin 296  
board where it commonly posts employee communications or by 297  
insertion or inclusion with employees' paychecks or pay stubs. 298

(F) In accordance with Section 34a of Article II, Ohio 299  
Constitution, an employer shall maintain a record of the name, 300  
address, occupation, pay rate, hours worked for each day worked, 301  
and each amount paid an employee for a period of not less than 302  
three years following the last date the employee was employed by 303  
that employer. As used in division (F) of this section: 304

(1) "Address" means an employee's home address as 305  
maintained in the employer's personnel file or personnel 306  
database for that employee. 307

(2) (a) With respect to employees who are not exempt from 308  
the overtime pay requirements of the Fair Labor Standards Act or 309  
this chapter, "pay rate" means an employee's base rate of pay. 310

(b) With respect to employees who are exempt from the 311  
overtime pay requirements of the Fair Labor Standards Act or 312  
this chapter, "pay rate" means an employee's annual base salary 313  
or other rate of pay by which the particular employee qualifies 314  
for that exemption under the Fair Labor Standards Act or this 315  
chapter, but does not include bonuses, stock options, 316  
incentives, deferred compensation, or any other similar form of 317  
compensation. 318

(3) "Record" means the name, address, occupation, pay 319  
rate, hours worked for each day worked, and each amount paid an 320  
employee in one or more documents, databases, or other paper or 321  
electronic forms of record-keeping maintained by an employer. No 322  
one particular method or form of maintaining such a record or 323  
records is required under this division. An employer is not 324  
required to create or maintain a single record containing only 325  
the employee's name, address, occupation, pay rate, hours worked 326  
for each day worked, and each amount paid an employee. An 327  
employer shall maintain a record or records from which the 328  
employee or person acting on behalf of that employee could 329  
reasonably review the information requested by the employee or 330  
person. 331

An employer is not required to maintain the records 332  
specified in division (F) (3) of this section for any period 333  
before January 1, 2007. On and after January 1, 2007, the 334  
employer shall maintain the records required by division (F) (3) 335  
of this section for three years from the date the hours were 336  
worked by the employee and for three years after the date the 337  
employee's employment ends. 338

(4) (a) Except for individuals specified in division (F) (4) 339  
(b) of this section, "hours worked for each day worked" means 340

the total amount of time worked by an employee in whatever 341  
increments the employer uses for its payroll purposes during a 342  
day worked by the employee. An employer is not required to keep 343  
a record of the time of day an employee begins and ends work on 344  
any given day. As used in division (F) (4) of this section, "day" 345  
means a fixed period of twenty-four consecutive hours during 346  
which an employee performs work for an employer. 347

(b) An employer is not required to keep records of "hours 348  
worked for each day worked" for individuals for whom the 349  
employer is not required to keep those records under the Fair 350  
Labor Standards Act and its regulations or individuals who are 351  
not subject to the overtime pay requirements specified in 352  
section 4111.03 of the Revised Code. 353

(5) "Each amount paid an employee" means the total gross 354  
wages paid to an employee for each pay period. As used in 355  
division (F) (5) of this section, "pay period" means the period 356  
of time designated by an employer to pay an employee the 357  
employee's gross wages in accordance with the employer's payroll 358  
practices under section 4113.15 of the Revised Code. 359

(G) In accordance with Section 34a of Article II, Ohio 360  
Constitution, an employer must provide such information without 361  
charge to an employee or person acting on behalf of an employee 362  
upon request. As used in division (G) of this section: 363

(1) "Such information" means the name, address, 364  
occupation, pay rate, hours worked for each day worked, and each 365  
amount paid for the specific employee who has requested that 366  
specific employee's own information and does not include the 367  
name, address, occupation, pay rate, hours worked for each day 368  
worked, or each amount paid of any other employee of the 369  
employer. "Such information" does not include hours worked for 370

each day worked by individuals for whom an employer is not 371  
required to keep that information under the Fair Labor Standards 372  
Act and its regulations or individuals who are not subject to 373  
the overtime pay requirements specified in section 4111.03 of 374  
the Revised Code. 375

(2) "Acting on behalf of an employee" means a person 376  
acting on behalf of an employee as any of the following: 377

(a) The certified or legally recognized collective 378  
bargaining representative for that employee under the applicable 379  
federal law or Chapter 4117. of the Revised Code; 380

(b) The employee's attorney; 381

(c) The employee's parent, guardian, or legal custodian. 382

A person "acting on behalf of an employee" must be 383  
specifically authorized by an employee in order to make a 384  
request for that employee's own name, address, occupation, pay 385  
rate, hours worked for each day worked, and each amount paid to 386  
that employee. 387

(3) "Provide" means that an employer shall provide the 388  
requested information within thirty business days after the date 389  
the employer receives the request, unless either of the 390  
following occurs: 391

(a) The employer and the employee or person acting on 392  
behalf of the employee agree to some alternative time period for 393  
providing the information. 394

(b) The thirty-day period would cause a hardship on the 395  
employer under the circumstances, in which case the employer 396  
must provide the requested information as soon as practicable. 397

(4) A "request" made by an employee or a person acting on 398

behalf of an employee means a request by an employee or a person 399  
acting on behalf of an employee for the employee's own 400  
information. The employer may require that the employee provide 401  
the employer with a written request that has been signed by the 402  
employee and notarized and that reasonably specifies the 403  
particular information being requested. The employer may require 404  
that the person acting on behalf of an employee provide the 405  
employer with a written request that has been signed by the 406  
employee whose information is being requested and notarized and 407  
that reasonably specifies the particular information being 408  
requested. 409

(H) In accordance with Section 34a of Article II, Ohio 410  
Constitution, an employee, person acting on behalf of one or 411  
more employees, and any other interested party may file a 412  
complaint with the state for a violation of any provision of 413  
Section 34a of Article II, Ohio Constitution, or any law or 414  
regulation implementing its provisions. Such complaint shall be 415  
promptly investigated and resolved by the state. The employee's 416  
name shall be kept confidential unless disclosure is necessary 417  
to resolution of a complaint and the employee consents to 418  
disclosure. As used in division (H) of this section: 419

(1) "Complaint" means a complaint of an alleged violation 420  
pertaining to harm suffered by the employee filing the 421  
complaint, by a person acting on behalf of one or more 422  
employees, or by an interested party. 423

(2) "Acting on behalf of one or more employees" has the 424  
same meaning as "acting on behalf of an employee" in division 425  
(G) (2) of this section. Each employee must provide a separate 426  
written and notarized authorization before the person acting on 427  
that employee's or those employees' behalf may request the name, 428

address, occupation, pay rate, hours worked for each day worked, 429  
and each amount paid for the particular employee. 430

(3) "Interested party" means a party who alleges to be 431  
injured by the alleged violation and who has standing to file a 432  
complaint under common law principles of standing. 433

(4) "Resolved by the state" means that the complaint has 434  
been resolved to the satisfaction of the state. 435

(5) "Shall be kept confidential" means that the state 436  
shall keep the name of the employee confidential as required by 437  
division (H) of this section. 438

(I) In accordance with Section 34a of Article II, Ohio 439  
Constitution, the state may on its own initiative investigate an 440  
employer's compliance with Section 34a of Article II, Ohio 441  
Constitution, and any law or regulation implementing Section 34a 442  
of Article II, Ohio Constitution. The employer shall make 443  
available to the state any records related to such investigation 444  
and other information required for enforcement of Section 34a of 445  
Article II, Ohio Constitution or any law or regulation 446  
implementing Section 34a of Article II, Ohio Constitution. The 447  
state shall investigate an employer's compliance with this 448  
section in accordance with the procedures described in section 449  
4111.04 of the Revised Code. All records and information related 450  
to investigations by the state are confidential and are not a 451  
public record subject to section 149.43 of the Revised Code. 452  
This division does not prevent the state from releasing to or 453  
exchanging with other state and federal wage and hour regulatory 454  
authorities information related to investigations. 455

(J) In accordance with Section 34a of Article II, Ohio 456  
Constitution, damages shall be calculated as an additional two 457

times the amount of the back wages and in the case of a 458  
violation of an anti-retaliation provision an amount set by the 459  
state or court sufficient to compensate the employee and deter 460  
future violations, but not less than one hundred fifty dollars 461  
for each day that the violation continued. The "not less than 462  
one hundred fifty dollar" penalty specified in division (J) of 463  
this section shall be imposed only for violations of the anti- 464  
retaliation provision in Section 34a of Article II, Ohio 465  
Constitution. 466

(K) In accordance with Section 34a of Article II, Ohio 467  
Constitution, an action for equitable and monetary relief may be 468  
brought against an employer by the attorney general and/or an 469  
employee or person acting on behalf of an employee or all 470  
similarly situated employees in any court of competent 471  
jurisdiction, including the court of common pleas of an 472  
employee's county of residence, for any violation of Section 34a 473  
of Article II, Ohio Constitution, or any law or regulation 474  
implementing its provisions within three years of the violation 475  
or of when the violation ceased if it was of a continuing 476  
nature, or within one year after notification to the employee of 477  
final disposition by the state of a complaint for the same 478  
violation, whichever is later. 479

(1) As used in division (K) of this section, 480  
"notification" means the date on which the notice was sent to 481  
the employee by the state. 482

(2) No employee shall join as a party plaintiff in any 483  
civil action that is brought under division (K) of this section 484  
by an employee, person acting on behalf of an employee, or 485  
person acting on behalf of all similarly situated employees 486  
unless that employee first gives written consent to become such 487

a party plaintiff and that consent is filed with the court in 488  
which the action is brought. 489

(3) A civil action regarding an alleged violation of this 490  
section shall be maintained only under division (K) of this 491  
section. This division does not preclude the joinder in a single 492  
civil action of an action under this division and an action 493  
under section 4111.10 of the Revised Code. 494

(4) Any agreement between an employee and employer to work 495  
for less than the wage rate specified in Section 34a of Article 496  
II, Ohio Constitution, is no defense to an action under this 497  
section. 498

(L) In accordance with Section 34a of Article II, Ohio 499  
Constitution, there shall be no exhaustion requirement, no 500  
procedural, pleading, or burden of proof requirements beyond 501  
those that apply generally to civil suits in order to maintain 502  
such action and no liability for costs or attorney's fees on an 503  
employee except upon a finding that such action was frivolous in 504  
accordance with the same standards that apply generally in civil 505  
suits. Nothing in division (L) of this section affects the right 506  
of an employer and employee to agree to submit a dispute under 507  
this section to alternative dispute resolution, including, but 508  
not limited to, arbitration, in lieu of maintaining the civil 509  
suit specified in division (K) of this section. Nothing in this 510  
division limits the state's ability to investigate or enforce 511  
this section. 512

(M) An employer who provides such information specified in 513  
Section 34a of Article II, Ohio Constitution, shall be immune 514  
from any civil liability for injury, death, or loss to person or 515  
property that otherwise might be incurred or imposed as a result 516  
of providing that information to an employee or person acting on 517

behalf of an employee in response to a request by the employee 518  
or person, and the employer shall not be subject to the 519  
provisions of Chapters 1347. and 1349. of the Revised Code to 520  
the extent that such provisions would otherwise apply. As used 521  
in division (M) of this section, "such information," "acting on 522  
behalf of an employee," and "request" have the same meanings as 523  
in division (G) of this section. 524

(N) As used in this section, "the state" means the 525  
director of commerce. 526

**Sec. 4113.15.** (A) Every employer doing business in this 527  
state shall, on or before the first day of each month, pay all 528  
its employees the wages earned by them during the first half of 529  
the preceding month ending with the fifteenth day thereof, and 530  
shall, on or before the fifteenth day of each month, pay such 531  
employees the wages earned by them during the last half of the 532  
preceding calendar month. If at any time of payment an employee 533  
is absent from the employee's regular place of labor and does 534  
not receive payment of wages through an authorized 535  
representative, such person shall be entitled to said payment at 536  
any time thereafter upon demand upon the proper paymaster at the 537  
place where such wages are usually paid and where such pay is 538  
due. This section does not prohibit the daily or weekly payment 539  
of wages. The use of a longer time lapse that is customary to a 540  
given trade, profession or occupation, or establishment of a 541  
different time lapse by written contract or by operation of law. 542

(B) Where wages remain unpaid for thirty days beyond the 543  
regularly scheduled payday or, in the case where no regularly 544  
scheduled payday is applicable, for sixty days beyond the filing 545  
by the employee of a claim or for sixty days beyond the date of 546  
the agreement, award, or other act making wages payable and no 547

contest court order or dispute of any wage claim including the 548  
assertion of a counterclaim exists accounting for nonpayment, 549  
the employer, in addition, as liquidated damages, is liable to 550  
the employee in an amount equal to six per cent of the amount of 551  
the claim still unpaid and not in contest or disputed or two 552  
hundred dollars, whichever is greater. 553

(C) In the absence of a contest, court order or dispute, 554  
an employer who is party to an agreement to pay or provide 555  
fringe benefits to an employee or to make any employee 556  
authorized deduction becomes a trustee of any funds required by 557  
such agreement to be paid to any person, organization, or 558  
governmental agency from the time that the duty to make such 559  
payment arises. No person shall, without reasonable 560  
justification or excuse for such failure, knowingly fail or 561  
refuse to pay to the appropriate person, organization, or 562  
governmental agency the amount necessary to provide the benefits 563  
or accomplish the purpose of any employee authorized deduction, 564  
within thirty days after the close of the pay period during 565  
which the employee earned or had deducted the amount of money 566  
necessary to pay for the fringe benefit or make any employee 567  
authorized deduction. A failure or refusal to pay, regardless of 568  
the number of employee pay accounts involved, constitutes one 569  
offense for the first delinquency of thirty days and a separate 570  
offense for each successive delinquency of thirty days. 571

(D) As used in this section and section 4113.16 of the 572  
Revised Code: 573

(1) "Wage" means the net amount of money payable to an 574  
employee, including any guaranteed pay or reimbursement for 575  
expenses, less any federal, state, or local taxes withheld; any 576  
deductions made pursuant to a written agreement for the purpose 577

of providing the employee with any fringe benefits; and any	578
employee authorized deduction.	579
(2) "Fringe benefits" includes but is not limited to	580
health, welfare, or retirement benefits, whether paid for	581
entirely by the employer or on the basis of a joint employer-	582
employee contribution, or vacation, separation, or holiday pay.	583
(3) "Employee authorized deduction" includes but is not	584
limited to deductions for the purpose of any of the following:	585
(a) Purchase of United States savings bonds or corporate	586
stocks or bonds;	587
(b) A charitable contribution;	588
(c) Credit union savings or other regular savings program;	589
(d) Repayment of a loan or other obligation.	590
(4) "Employer" means an individual, firm, partnership,	591
association, or corporation, but does not include a franchisor	592
with respect to the franchisor's relationship with a franchisee	593
or an employee of a franchisee, unless either of the following	594
applies:	595
(a) The franchisor agrees to assume that role in writing.	596
(b) A court of competent jurisdiction determines that the	597
franchisor exercises a type or degree of control over the	598
franchisee or the franchisee's employees that is not customarily	599
exercised by a franchisor for the purpose of protecting the	600
franchisor's trademark, brand, or both.	601
(5) "Franchisor" and "franchisee" have the same meanings	602
as in 16 C.F.R. 436.1.	603
(6) <u>"Employee" does not include a health care worker, with</u>	604

respect to a health care worker platform or health care facility 605  
for work booked through a health care worker platform, in 606  
accordance with section 4113.87 of the Revised Code. 607

**Sec. 4113.87.** (A) As used in this section: 608

(1) "Health care worker" means any health care 609  
professional or worker who provides health care or directly 610  
related services to patients through a health care worker 611  
platform, including professionals or workers who are providing a 612  
service to patients that does not require a license. 613

(2) "Health care worker platform" means any person that 614  
operates or offers an electronic platform, system, or 615  
application through which health care workers can accept one or 616  
more shifts to perform health care related services at a health 617  
care facility. 618

(3) "Health care facility" means any facility used to 619  
provide health care or related services. 620

(B) Except as provided in division (C) of this section, a 621  
health care worker is not the employee of a health care worker 622  
platform or health care facility for work booked through a 623  
health care worker platform for purposes of sections 4111.03, 624  
4111.14, 4113.15, 4121.01, 4123.01, 4141.01, and 5747.01 of the 625  
Revised Code if all of the following apply: 626

(1) The health care worker platform and health care worker 627  
agree in writing or electronically that the health care worker 628  
is an independent contractor for all work booked through the 629  
platform. 630

(2) The health care worker platform allows each health 631  
care worker to decide whether to accept a shift at a health care 632  
facility without any requirement that a health care worker 633

accepts a minimum number of shifts. 634

(3) The health care platform allows each health care worker to agree in writing or electronically to the rates offered or set by the health care facility or the health care worker platform. 635  
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(4) The health care worker may accept or reject shifts with any health care facility without being penalized by the health care worker platform. 639  
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(5) The health care worker platform does not require the health care worker to be available to accept or fulfill any particular shifts during specific hours or on specific days. 642  
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(6) The health care worker platform does not restrict the health care worker from engaging in any other occupation or business, including health care work or health care related work. 645  
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(7) The health care worker platform does not require the health care worker to use specific equipment, tools, or other supplies. 649  
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(8) The health care worker platform does not prescribe or control the means and methods for the services performed by a health care worker at a health care facility. 652  
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(9) The contract or other agreement between the health care worker and the health care worker platform may be terminated by either party with or without cause. 655  
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(10) The health care worker is responsible for the payment of all federal, state, and local taxes on the health care worker's earnings derived from all services performed for health care facilities booked through the platform. 658  
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(11) The health care worker platform does not require a health care worker to enter into a noncompete agreement with the platform. 662  
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(12) The health care worker platform does not require a health care worker or health care facility to pay any fee or compensation to the platform if a health care worker accepts an offer of employment from a health care facility. 665  
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(13) The health care worker platform does not restrict a health care worker from accepting shifts through another platform or from a health care facility that does not offer shifts on the platform, except that a health care worker platform may remove from the platform a health care worker who accepts simultaneous shifts on two different health care worker platforms. 669  
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(14) The health care worker platform maintains, or verifies that the health care worker maintains, occupational accident insurance that applies to the work of the health care worker who books work through the health care worker platform. 676  
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(15) The health care worker platform maintains, or verifies that the health care worker maintains, general liability insurance or professional liability insurance for work booked through the health care worker platform. 680  
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(C) Division (B) of this section does not apply to a health care worker's relationship with a health care facility for work booked through a health care worker platform by the health care worker if the health care worker and health care facility or its parent company have an existing employment relationship and either of the following apply: 684  
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(1) The health care worker has received compensation from 690

the health care facility or parent company that must be reported 691  
using internal revenue service form W-2 for any of the twenty- 692  
one days immediately preceding the shift. 693

(2) The health care worker books a shift at the health 694  
care facility through a health care worker platform during a 695  
period of employer-approved leave, including medical, parental, 696  
family, or military leave, whether paid or unpaid. 697

(D) A health care worker platform may advertise to the 698  
public that the platform is seeking health care workers to use 699  
the platform. 700

**Sec. 4121.01.** (A) As used in sections 4121.01 to 4121.29 701  
of the Revised Code: 702

(1) "Place of employment" means every place, whether 703  
indoors or out, or underground, and the premises appurtenant 704  
thereto, where either temporarily or permanently any industry, 705  
trade, or business is carried on, or where any process or 706  
operation, directly or indirectly related to any industry, 707  
trade, or business, is carried on and where any person is 708  
directly or indirectly employed by another for direct or 709  
indirect gain or profit, but does not include any place where 710  
persons are employed in private domestic service or agricultural 711  
pursuits which do not involve the use of mechanical power. 712

(2) "Employment" means any trade, occupation, or process 713  
of manufacture or any method of carrying on such trade, 714  
occupation, or process of manufacture in which any person may be 715  
engaged, except in such private domestic service or agricultural 716  
pursuits as do not involve the use of mechanical power. 717

(3) "Employer" means every person, firm, corporation, 718  
agent, manager, representative, or other person having control 719

or custody of any employment, place of employment, or employee. 720  
"Employer" does not include a franchisor with respect to the 721  
franchisor's relationship with a franchisee or an employee of a 722  
franchisee, unless the franchisor agrees to assume that role in 723  
writing or a court of competent jurisdiction determines that the 724  
franchisor exercises a type or degree of control over the 725  
franchisee or the franchisee's employees that is not customarily 726  
exercised by a franchisor for the purpose of protecting the 727  
franchisor's trademark, brand, or both. For purposes of this 728  
division, "franchisor" and "franchisee" have the same meanings 729  
as in 16 C.F.R. 436.1. 730

~~(4)(a)~~ (4) "Employee" means a person who may be required or 731  
directed by any employer, in consideration of direct or indirect 732  
gain or profit, to engage in any employment, or to go, or work, 733  
or be at any time in any place of employment, including a person 734  
described in division (A) (4) (b) of this section if a motor 735  
carrier elects to consider the person to be an employee. 736

~~(b)~~ "Employee" does not include ~~a~~ either of the following: 737

(a) A health care worker, with respect to a health care 738  
worker platform or health care facility for work booked through 739  
a health care worker platform, in accordance with section 740  
4113.87 of the Revised Code. 741

(b) A person who operates a vehicle or vessel in the 742  
performance of services for or on behalf of a motor carrier 743  
transporting property and to whom all of the following factors 744  
apply: 745

(i) The person owns the vehicle or vessel that is used in 746  
performing the services for or on behalf of the carrier, or the 747  
person leases the vehicle or vessel under a bona fide lease 748

agreement that is not a temporary replacement lease agreement. 749  
For purposes of this division, a bona fide lease agreement does 750  
not include an agreement between the person and the motor 751  
carrier transporting property for which, or on whose behalf, the 752  
person provides services. 753

(ii) The person is responsible for supplying the necessary 754  
personal services to operate the vehicle or vessel used to 755  
provide the service. 756

(iii) The compensation paid to the person is based on 757  
factors related to work performed, including on a mileage-based 758  
rate or a percentage of any schedule of rates, and not solely on 759  
the basis of the hours or time expended. 760

(iv) The person substantially controls the means and 761  
manner of performing the services, in conformance with 762  
regulatory requirements and specifications of the shipper. 763

(v) The person enters into a written contract with the 764  
carrier for whom the person is performing the services that 765  
describes the relationship between the person and the carrier to 766  
be that of an independent contractor and not that of an 767  
employee. 768

(vi) The person is responsible for substantially all of 769  
the principal operating costs of the vehicle or vessel and 770  
equipment used to provide the services, including maintenance, 771  
fuel, repairs, supplies, vehicle or vessel insurance, and 772  
personal expenses, except that the person may be paid by the 773  
carrier the carrier's fuel surcharge and incidental costs, 774  
including tolls, permits, and lumper fees. 775

(vii) The person is responsible for any economic loss or 776  
economic gain from the arrangement with the carrier. 777

(5) "Frequenter" means every person, other than an 778  
employee, who may go in or be in a place of employment under 779  
circumstances which render the person other than a trespasser. 780

(6) "Deputy" means any person employed by the industrial 781  
commission or the bureau of workers' compensation, designated as 782  
a deputy by the commission or the administrator of workers' 783  
compensation, who possesses special, technical, scientific, 784  
managerial, professional, or personal abilities or qualities in 785  
matters within the jurisdiction of the commission or the bureau, 786  
and who may be engaged in the performance of duties under the 787  
direction of the commission or the bureau calling for the 788  
exercise of such abilities or qualities. 789

(7) "Order" means any decision, rule, regulation, 790  
direction, requirement, or standard, or any other determination 791  
or decision that the bureau is empowered to and does make. 792

(8) "General order" means an order that applies generally 793  
throughout the state to all persons, employments, or places of 794  
employment, or all persons, employments, or places of employment 795  
of a class under the jurisdiction of the bureau. All other 796  
orders shall be considered special orders. 797

(9) "Local order" means any ordinance, order, rule, or 798  
determination of the legislative authority of any municipal 799  
corporation, or any trustees, or board or officers of any 800  
municipal corporation upon any matter over which the bureau has 801  
jurisdiction. 802

(10) "Welfare" means comfort, decency, and moral well- 803  
being. 804

(11) "Safe" or "safety," as applied to any employment or a 805  
place of employment, means such freedom from danger to the life, 806

health, safety, or welfare of employees or frequenters as the 807  
nature of the employment will reasonably permit, including 808  
requirements as to the hours of labor with relation to the 809  
health and welfare of employees. 810

(12) "Employee organization" means any labor or bona fide 811  
organization in which employees participate and that exists for 812  
the purpose, in whole or in part, of dealing with employers 813  
concerning grievances, labor disputes, wages, hours, terms, and 814  
other conditions of employment. 815

(13) "Motor carrier" has the same meaning as in section 816  
4923.01 of the Revised Code. 817

(B) As used in the Revised Code: 818

(1) "Industrial commission" means the chairperson of the 819  
three-member industrial commission created pursuant to section 820  
4121.02 of the Revised Code when the context refers to the 821  
authority vested in the chairperson as the chief executive 822  
officer of the three-member industrial commission pursuant to 823  
divisions (A), (B), (C), and (D) of section 4121.03 of the 824  
Revised Code. 825

(2) "Industrial commission" means the three-member 826  
industrial commission created pursuant to section 4121.02 of the 827  
Revised Code when the context refers to the authority vested in 828  
the three-member industrial commission pursuant to division (E) 829  
of section 4121.03 of the Revised Code. 830

(3) "Industrial commission" means the industrial 831  
commission as a state agency when the context refers to the 832  
authority vested in the industrial commission as a state agency. 833

**Sec. 4123.01.** As used in this chapter: 834

(A) (1) "Employee" means: 835

(a) Every person in the service of the state, or of any 836  
county, municipal corporation, township, or school district 837  
therein, including regular members of lawfully constituted 838  
police and fire departments of municipal corporations and 839  
townships, whether paid or volunteer, and wherever serving 840  
within the state or on temporary assignment outside thereof, and 841  
executive officers of boards of education, under any appointment 842  
or contract of hire, express or implied, oral or written, 843  
including any elected official of the state, or of any county, 844  
municipal corporation, or township, or members of boards of 845  
education. 846

As used in division (A) (1) (a) of this section, the term 847  
"employee" includes the following persons when responding to an 848  
inherently dangerous situation that calls for an immediate 849  
response on the part of the person, regardless of whether the 850  
person is within the limits of the jurisdiction of the person's 851  
regular employment or voluntary service when responding, on the 852  
condition that the person responds to the situation as the 853  
person otherwise would if the person were on duty in the 854  
person's jurisdiction: 855

(i) Off-duty peace officers. As used in division (A) (1) (a) 856  
(i) of this section, "peace officer" has the same meaning as in 857  
section 2935.01 of the Revised Code. 858

(ii) Off-duty firefighters, whether paid or volunteer, of 859  
a lawfully constituted fire department. 860

(iii) Off-duty first responders, emergency medical 861  
technicians-basic, emergency medical technicians-intermediate, 862  
or emergency medical technicians-paramedic, whether paid or 863

volunteer, of an ambulance service organization or emergency 864  
medical service organization pursuant to Chapter 4765. of the 865  
Revised Code. 866

(b) Every person in the service of any person, firm, or 867  
private corporation, including any public service corporation, 868  
that (i) employs one or more persons regularly in the same 869  
business or in or about the same establishment under any 870  
contract of hire, express or implied, oral or written, including 871  
aliens and minors, household workers who earn one hundred sixty 872  
dollars or more in cash in any calendar quarter from a single 873  
household and casual workers who earn one hundred sixty dollars 874  
or more in cash in any calendar quarter from a single employer, 875  
or (ii) is bound by any such contract of hire or by any other 876  
written contract, to pay into the state insurance fund the 877  
premiums provided by this chapter. 878

(c) Every person who performs labor or provides services 879  
pursuant to a construction contract, as defined in section 880  
4123.79 of the Revised Code, if at least ten of the following 881  
criteria apply: 882

(i) The person is required to comply with instructions 883  
from the other contracting party regarding the manner or method 884  
of performing services; 885

(ii) The person is required by the other contracting party 886  
to have particular training; 887

(iii) The person's services are integrated into the 888  
regular functioning of the other contracting party; 889

(iv) The person is required to perform the work 890  
personally; 891

(v) The person is hired, supervised, or paid by the other 892

contracting party;	893
(vi) A continuing relationship exists between the person	894
and the other contracting party that contemplates continuing or	895
recurring work even if the work is not full time;	896
(vii) The person's hours of work are established by the	897
other contracting party;	898
(viii) The person is required to devote full time to the	899
business of the other contracting party;	900
(ix) The person is required to perform the work on the	901
premises of the other contracting party;	902
(x) The person is required to follow the order of work set	903
by the other contracting party;	904
(xi) The person is required to make oral or written	905
reports of progress to the other contracting party;	906
(xii) The person is paid for services on a regular basis	907
such as hourly, weekly, or monthly;	908
(xiii) The person's expenses are paid for by the other	909
contracting party;	910
(xiv) The person's tools and materials are furnished by	911
the other contracting party;	912
(xv) The person is provided with the facilities used to	913
perform services;	914
(xvi) The person does not realize a profit or suffer a	915
loss as a result of the services provided;	916
(xvii) The person is not performing services for a number	917
of employers at the same time;	918

(xviii) The person does not make the same services available to the general public;	919 920
(xix) The other contracting party has a right to discharge the person;	921 922
(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.	923 924 925
Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or who is a self-insuring employer and who has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.	926 927 928 929 930 931 932 933 934 935 936 937 938
(d) Every person who operates a vehicle or vessel in the performance of services for or on behalf of a motor carrier transporting property, unless all of the following factors apply to the person:	939 940 941 942
(i) The person owns the vehicle or vessel that is used in performing the services for or on behalf of the carrier, or the person leases the vehicle or vessel under a bona fide lease agreement that is not a temporary replacement lease agreement. For purposes of this division, a bona fide lease agreement does	943 944 945 946 947

not include an agreement between the person and the motor 948  
carrier transporting property for which, or on whose behalf, the 949  
person provides services. 950

(ii) The person is responsible for supplying the necessary 951  
personal services to operate the vehicle or vessel used to 952  
provide the service. 953

(iii) The compensation paid to the person is based on 954  
factors related to work performed, including on a mileage-based 955  
rate or a percentage of any schedule of rates, and not solely on 956  
the basis of the hours or time expended. 957

(iv) The person substantially controls the means and 958  
manner of performing the services, in conformance with 959  
regulatory requirements and specifications of the shipper. 960

(v) The person enters into a written contract with the 961  
carrier for whom the person is performing the services that 962  
describes the relationship between the person and the carrier to 963  
be that of an independent contractor and not that of an 964  
employee. 965

(vi) The person is responsible for substantially all of 966  
the principal operating costs of the vehicle or vessel and 967  
equipment used to provide the services, including maintenance, 968  
fuel, repairs, supplies, vehicle or vessel insurance, and 969  
personal expenses, except that the person may be paid by the 970  
carrier the carrier's fuel surcharge and incidental costs, 971  
including tolls, permits, and lumper fees. 972

(vii) The person is responsible for any economic loss or 973  
economic gain from the arrangement with the carrier. 974

(2) "Employee" does not mean any of the following: 975

(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;	976 977 978
(b) Any officer of a family farm corporation;	979
(c) An individual incorporated as a corporation;	980
(d) An officer of a nonprofit corporation, as defined in section 1702.01 of the Revised Code, who volunteers the person's services as an officer;	981 982 983
(e) An individual who otherwise is an employee of an employer but who signs the waiver and affidavit specified in section 4123.15 of the Revised Code on the condition that the administrator has granted a waiver and exception to the individual's employer under section 4123.15 of the Revised Code;	984 985 986 987 988
(f) (i) A qualifying employee described in division (A) (14) (a) of section 5703.94 of the Revised Code when the qualifying employee is performing disaster work in this state during a disaster response period pursuant to a qualifying solicitation received by the employee's employer;	989 990 991 992 993
(ii) A qualifying employee described in division (A) (14) (b) of section 5703.94 of the Revised Code when the qualifying employee is performing disaster work in this state during a disaster response period on critical infrastructure owned or used by the employee's employer;	994 995 996 997 998
(iii) As used in division (A) (2) (f) of this section, "critical infrastructure," "disaster response period," "disaster work," and "qualifying employee" have the same meanings as in section 5703.94 of the Revised Code.	999 1000 1001 1002
<u>(g) A health care worker, with respect to a health care</u>	1003

worker platform or health care facility for work booked through 1004  
a health care worker platform, in accordance with section 1005  
4113.87 of the Revised Code. 1006

Any employer may elect to include as an "employee" within 1007  
this chapter, any person excluded from the definition of 1008  
"employee" pursuant to division (A)(1)(d) or (A)(2)(a), (b), 1009  
(c), or (e) of this section in accordance with rules adopted by 1010  
the administrator, with the advice and consent of the bureau of 1011  
workers' compensation board of directors. If an employer is a 1012  
partnership, sole proprietorship, individual incorporated as a 1013  
corporation, or family farm corporation, such employer may elect 1014  
to include as an "employee" within this chapter, any member of 1015  
such partnership, the owner of the sole proprietorship, the 1016  
individual incorporated as a corporation, or the officers of the 1017  
family farm corporation. Nothing in this section shall prohibit 1018  
a partner, sole proprietor, or any person excluded from the 1019  
definition of "employee" pursuant to division (A)(2)(a), (b), 1020  
(c), or (e) of this section from electing to be included as an 1021  
"employee" under this chapter in accordance with rules adopted 1022  
by the administrator, with the advice and consent of the board. 1023

In the event of an election, the employer or person 1024  
electing coverage shall serve upon the bureau of workers' 1025  
compensation written notice naming the person to be covered and 1026  
include the person's remuneration for premium purposes in all 1027  
future payroll reports. No partner, sole proprietor, or person 1028  
excluded from the definition of "employee" pursuant to division 1029  
(A)(1)(d) or (A)(2)(a), (b), (c), or (e) of this section, shall 1030  
receive benefits or compensation under this chapter until the 1031  
bureau receives written notice of the election permitted by this 1032  
section. 1033

For informational purposes only, the bureau shall 1034  
prescribe such language as it considers appropriate, on such of 1035  
its forms as it considers appropriate, to advise employers of 1036  
their right to elect to include as an "employee" within this 1037  
chapter a sole proprietor, any member of a partnership, or a 1038  
person excluded from the definition of "employee" under division 1039  
(A) (1) (d) or (A) (2) (a), (b), (c), or (e) of this section, that 1040  
they should check any health and disability insurance policy, or 1041  
other form of health and disability plan or contract, presently 1042  
covering them, or the purchase of which they may be considering, 1043  
to determine whether such policy, plan, or contract excludes 1044  
benefits for illness or injury that they might have elected to 1045  
have covered by workers' compensation. 1046

(B) (1) "Employer" means: 1047

(a) The state, including state hospitals, each county, 1048  
municipal corporation, township, school district, and hospital 1049  
owned by a political subdivision or subdivisions other than the 1050  
state; 1051

(b) Every person, firm, professional employer 1052  
organization, alternate employer organization, and private 1053  
corporation, including any public service corporation, that (i) 1054  
has in service one or more employees or shared employees 1055  
regularly in the same business or in or about the same 1056  
establishment under any contract of hire, express or implied, 1057  
oral or written, or (ii) is bound by any such contract of hire 1058  
or by any other written contract, to pay into the insurance fund 1059  
the premiums provided by this chapter. 1060

All such employers are subject to this chapter. Any member 1061  
of a firm or association, who regularly performs manual labor in 1062  
or about a mine, factory, or other establishment, including a 1063

household establishment, shall be considered an employee in 1064  
determining whether such person, firm, or private corporation, 1065  
or public service corporation, has in its service, one or more 1066  
employees and the employer shall report the income derived from 1067  
such labor to the bureau as part of the payroll of such 1068  
employer, and such member shall thereupon be entitled to all the 1069  
benefits of an employee. 1070

(2) "Employer" does not include a franchisor with respect 1071  
to the franchisor's relationship with a franchisee or an 1072  
employee of a franchisee, unless the franchisor agrees to assume 1073  
that role in writing or a court of competent jurisdiction 1074  
determines that the franchisor exercises a type or degree of 1075  
control over the franchisee or the franchisee's employees that 1076  
is not customarily exercised by a franchisor for the purpose of 1077  
protecting the franchisor's trademark, brand, or both. For 1078  
purposes of this division, "franchisor" and "franchisee" have 1079  
the same meanings as in 16 C.F.R. 436.1. 1080

(C) "Injury" includes any injury, whether caused by 1081  
external accidental means or accidental in character and result, 1082  
received in the course of, and arising out of, the injured 1083  
employee's employment. "Injury" does not include: 1084

(1) Psychiatric conditions except where the claimant's 1085  
psychiatric conditions have arisen from an injury or 1086  
occupational disease sustained by that claimant or where the 1087  
claimant's psychiatric conditions have arisen from sexual 1088  
conduct in which the claimant was forced by threat of physical 1089  
harm to engage or participate; 1090

(2) Injury or disability caused primarily by the natural 1091  
deterioration of tissue, an organ, or part of the body; 1092

(3) Injury or disability incurred in voluntary 1093  
participation in an employer-sponsored recreation or fitness 1094  
activity if the employee signs a waiver of the employee's right 1095  
to compensation or benefits under this chapter prior to engaging 1096  
in the recreation or fitness activity; 1097

(4) Injury or disability sustained by an employee who 1098  
performs the employee's duties in a work area that is located 1099  
within the employee's home and that is separate and distinct 1100  
from the location of the employer, unless all of the following 1101  
apply: 1102

(a) The employee's injury or disability arises out of the 1103  
employee's employment. 1104

(b) The employee's injury or disability was caused by a 1105  
special hazard of the employee's employment activity. 1106

(c) The employee's injury or disability is sustained in 1107  
the course of an activity undertaken by the employee for the 1108  
exclusive benefit of the employer. 1109

(5) A condition that pre-existed an injury unless that 1110  
pre-existing condition is substantially aggravated by the 1111  
injury. Such a substantial aggravation must be documented by 1112  
objective diagnostic findings, objective clinical findings, or 1113  
objective test results. Subjective complaints may be evidence of 1114  
such a substantial aggravation. However, subjective complaints 1115  
without objective diagnostic findings, objective clinical 1116  
findings, or objective test results are insufficient to 1117  
substantiate a substantial aggravation. 1118

(D) "Child" includes a posthumous child and a child 1119  
legally adopted prior to the injury. 1120

(E) "Family farm corporation" means a corporation founded 1121

for the purpose of farming agricultural land in which the 1122  
majority of the voting stock is held by and the majority of the 1123  
stockholders are persons or the spouse of persons related to 1124  
each other within the fourth degree of kinship, according to the 1125  
rules of the civil law, and at least one of the related persons 1126  
is residing on or actively operating the farm, and none of whose 1127  
stockholders are a corporation. A family farm corporation does 1128  
not cease to qualify under this division where, by reason of any 1129  
devise, bequest, or the operation of the laws of descent or 1130  
distribution, the ownership of shares of voting stock is 1131  
transferred to another person, as long as that person is within 1132  
the degree of kinship stipulated in this division. 1133

(F) "Occupational disease" means a disease contracted in 1134  
the course of employment, which by its causes and the 1135  
characteristics of its manifestation or the condition of the 1136  
employment results in a hazard which distinguishes the 1137  
employment in character from employment generally, and the 1138  
employment creates a risk of contracting the disease in greater 1139  
degree and in a different manner from the public in general. 1140

(G) "Self-insuring employer" means an employer who is 1141  
granted the privilege of paying compensation and benefits 1142  
directly under section 4123.35 of the Revised Code, including a 1143  
board of county commissioners for the sole purpose of 1144  
constructing a sports facility as defined in section 307.696 of 1145  
the Revised Code, provided that the electors of the county in 1146  
which the sports facility is to be built have approved 1147  
construction of a sports facility by ballot election no later 1148  
than November 6, 1997. 1149

(H) "Private employer" means an employer as defined in 1150  
division (B) (1) (b) of this section. 1151

(I) "Professional employer organization" has the same meaning as in section 4125.01 of the Revised Code. 1152  
1153

(J) "Public employer" means an employer as defined in division (B) (1) (a) of this section. 1154  
1155

(K) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of gender; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse. 1156  
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(L) "Other-states' insurer" means an insurance company that is authorized to provide workers' compensation insurance coverage in any of the states that permit employers to obtain insurance for workers' compensation claims through insurance companies. 1163  
1164  
1165  
1166  
1167

(M) "Other-states' coverage" means both of the following: 1168

(1) Insurance coverage secured by an eligible employer for workers' compensation claims of employees who are in employment relationships localized in a state other than this state or those employees' dependents; 1169  
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1171  
1172

(2) Insurance coverage secured by an eligible employer for workers' compensation claims that arise in a state other than this state where an employer elects to obtain coverage through either the administrator or an other-states' insurer. 1173  
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(N) "Limited other-states coverage" means insurance coverage provided by the administrator to an eligible employer for workers' compensation claims of employees who are in an employment relationship localized in this state but are 1177  
1178  
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1180

temporarily working in a state other than this state, or those 1181  
employees' dependents. 1182

(O) "Motor carrier" has the same meaning as in section 1183  
4923.01 of the Revised Code. 1184

(P) "Alternate employer organization" has the same meaning 1185  
as in section 4133.01 of the Revised Code. 1186

**Sec. 4141.01.** As used in this chapter, unless the context 1187  
otherwise requires: 1188

(A) (1) "Employer" means any of the following, provided the 1189  
individual or entity is subject to this chapter under section 1190  
4141.011 of the Revised Code: any state, its instrumentalities, 1191  
its political subdivisions and their instrumentalities, Indian 1192  
tribes, and any individual or type of organization including any 1193  
partnership, limited liability company, association, trust, 1194  
estate, joint-stock company, insurance company, or corporation, 1195  
whether domestic or foreign, or the receiver, trustee in 1196  
bankruptcy, trustee, or the successor thereof, or the legal 1197  
representative of a deceased person. 1198

(2) Each individual employed to perform or to assist in 1199  
performing the work of any agent or employee of an employer is 1200  
employed by such employer for all the purposes of this chapter, 1201  
whether such individual was hired or paid directly by such 1202  
employer or by such agent or employee, provided the employer had 1203  
actual or constructive knowledge of the work. All individuals 1204  
performing services for an employer of any person in this state 1205  
who maintains two or more establishments within this state are 1206  
employed by a single employer for the purposes of this chapter. 1207

(B) (1) "Employment" means service performed by an 1208  
individual for remuneration under any contract of hire, written 1209

or oral, express or implied, including service performed in 1210  
interstate commerce and service performed by an officer of a 1211  
corporation, without regard to whether such service is 1212  
executive, managerial, or manual in nature, and without regard 1213  
to whether such officer is a stockholder or a member of the 1214  
board of directors of the corporation, unless it is shown to the 1215  
satisfaction of the director that such individual has been and 1216  
will continue to be free from direction or control over the 1217  
performance of such service, both under a contract of service 1218  
and in fact. The director of job and family services shall adopt 1219  
rules to define "direction or control." 1220

(2) "Employment" includes: 1221

(a) Service performed after December 31, 1977, by an 1222  
individual in the employ of the state or any of its 1223  
instrumentalities, or any political subdivision thereof or any 1224  
of its instrumentalities or any instrumentality of more than one 1225  
of the foregoing or any instrumentality of any of the foregoing 1226  
and one or more other states or political subdivisions and 1227  
without regard to division (A) of section 4141.011 of the 1228  
Revised Code, provided that such service is excluded from 1229  
employment as defined in the "Federal Unemployment Tax Act," 53 1230  
Stat. 183, 26 U.S.C.A. 3301, 3306(c)(7) and is not excluded 1231  
under division (B)(3) of this section; or the services of 1232  
employees covered by voluntary election, as provided under 1233  
divisions (H) and (I) of section 4141.011 of the Revised Code; 1234

(b) Service performed after December 31, 1971, by an 1235  
individual in the employ of a religious, charitable, 1236  
educational, or other organization which is excluded from the 1237  
term "employment" as defined in the "Federal Unemployment Tax 1238  
Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, solely by reason 1239

of section 26 U.S.C.A. 3306(c) (8) of that act and is not 1240  
excluded under division (B) (3) of this section; 1241

(c) Domestic service performed after December 31, 1977, 1242  
for an employer, as provided in division (C) of section 4141.011 1243  
of the Revised Code; 1244

(d) Agricultural labor performed after December 31, 1977, 1245  
for a farm operator or a crew leader, as provided in division 1246  
(D) of section 4141.011 of the Revised Code; 1247

(e) Subject to division (B) (2) (m) of this section, service 1248  
not covered under division (B) (1) of this section which is 1249  
performed after December 31, 1971: 1250

(i) As an agent-driver or commission-driver engaged in 1251  
distributing meat products, vegetable products, fruit products, 1252  
bakery products, beverages other than milk, laundry, or dry- 1253  
cleaning services, for the individual's employer or principal; 1254

(ii) As a traveling or city salesperson, other than as an 1255  
agent-driver or commission-driver, engaged on a full-time basis 1256  
in the solicitation on behalf of and in the transmission to the 1257  
salesperson's employer or principal except for sideline sales 1258  
activities on behalf of some other person of orders from 1259  
wholesalers, retailers, contractors, or operators of hotels, 1260  
restaurants, or other similar establishments for merchandise for 1261  
resale, or supplies for use in their business operations, 1262  
provided that for the purposes of division (B) (2) (e) (ii) of this 1263  
section, the services shall be deemed employment if the contract 1264  
of service contemplates that substantially all of the services 1265  
are to be performed personally by the individual and that the 1266  
individual does not have a substantial investment in facilities 1267  
used in connection with the performance of the services other 1268

than in facilities for transportation, and the services are not 1269  
in the nature of a single transaction that is not a part of a 1270  
continuing relationship with the person for whom the services 1271  
are performed. 1272

(f) An individual's entire service performed within or 1273  
both within and without the state if: 1274

(i) The service is localized in this state. 1275

(ii) The service is not localized in any state, but some 1276  
of the service is performed in this state and either the base of 1277  
operations, or if there is no base of operations then the place 1278  
from which such service is directed or controlled, is in this 1279  
state or the base of operations or place from which such service 1280  
is directed or controlled is not in any state in which some part 1281  
of the service is performed but the individual's residence is in 1282  
this state. 1283

(g) Service not covered under division (B) (2) (f) (ii) of 1284  
this section and performed entirely without this state, with 1285  
respect to no part of which contributions are required and paid 1286  
under an unemployment compensation law of any other state, the 1287  
Virgin Islands, Canada, or of the United States, if the 1288  
individual performing such service is a resident of this state 1289  
and the director approves the election of the employer for whom 1290  
such services are performed; or, if the individual is not a 1291  
resident of this state but the place from which the service is 1292  
directed or controlled is in this state, the entire services of 1293  
such individual shall be deemed to be employment subject to this 1294  
chapter, provided service is deemed to be localized within this 1295  
state if the service is performed entirely within this state or 1296  
if the service is performed both within and without this state 1297  
but the service performed without this state is incidental to 1298

the individual's service within the state, for example, is 1299  
temporary or transitory in nature or consists of isolated 1300  
transactions; 1301

(h) Service of an individual who is a citizen of the 1302  
United States, performed outside the United States except in 1303  
Canada after December 31, 1971, or the Virgin Islands, after 1304  
December 31, 1971, and before the first day of January of the 1305  
year following that in which the United States secretary of 1306  
labor approves the Virgin Islands law for the first time, in the 1307  
employ of an American employer, other than service which is 1308  
"employment" under divisions (B) (2) (f) and (g) of this section 1309  
or similar provisions of another state's law, if: 1310

(i) The employer's principal place of business in the 1311  
United States is located in this state; 1312

(ii) The employer has no place of business in the United 1313  
States, but the employer is an individual who is a resident of 1314  
this state; or the employer is a corporation which is organized 1315  
under the laws of this state, or the employer is a partnership 1316  
or a trust and the number of partners or trustees who are 1317  
residents of this state is greater than the number who are 1318  
residents of any other state; or 1319

(iii) None of the criteria of divisions (B) (2) (f) (i) and 1320  
(ii) of this section is met but the employer has elected 1321  
coverage in this state or the employer having failed to elect 1322  
coverage in any state, the individual has filed a claim for 1323  
benefits, based on such service, under this chapter. 1324

(i) For the purposes of division (B) (2) (h) of this 1325  
section, the term "American employer" means an employer who is 1326  
an individual who is a resident of the United States; or a 1327

partnership, if two-thirds or more of the partners are residents 1328  
of the United States; or a trust, if all of the trustees are 1329  
residents of the United States; or a corporation organized under 1330  
the laws of the United States or of any state, provided the term 1331  
"United States" includes the states, the District of Columbia, 1332  
the Commonwealth of Puerto Rico, and the Virgin Islands. 1333

(j) Notwithstanding any other provisions of divisions (B) 1334  
(1) and (2) of this section, service, except for domestic 1335  
service in a private home not covered under division (C) of 1336  
section 4141.011 of the Revised Code, with respect to which a 1337  
tax is required to be paid under any federal law imposing a tax 1338  
against which credit may be taken for contributions required to 1339  
be paid into a state unemployment fund, or service, except for 1340  
domestic service in a private home not covered under division 1341  
(C) of section 4141.011 of the Revised Code, which, as a 1342  
condition for full tax credit against the tax imposed by the 1343  
"Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 1344  
to 3311, is required to be covered under this chapter. 1345

(k) Construction services performed by any individual 1346  
under a construction contract, as defined in section 4141.39 of 1347  
the Revised Code, if the director determines that the employer 1348  
for whom services are performed has the right to direct or 1349  
control the performance of the services and that the individuals 1350  
who perform the services receive remuneration for the services 1351  
performed. The director shall presume that the employer for whom 1352  
services are performed has the right to direct or control the 1353  
performance of the services if ten or more of the following 1354  
criteria apply: 1355

(i) The employer directs or controls the manner or method 1356  
by which instructions are given to the individual performing 1357

services;	1358
(ii) The employer requires particular training for the individual performing services;	1359 1360
(iii) Services performed by the individual are integrated into the regular functioning of the employer;	1361 1362
(iv) The employer requires that services be provided by a particular individual;	1363 1364
(v) The employer hires, supervises, or pays the wages of the individual performing services;	1365 1366
(vi) A continuing relationship between the employer and the individual performing services exists which contemplates continuing or recurring work, even if not full-time work;	1367 1368 1369
(vii) The employer requires the individual to perform services during established hours;	1370 1371
(viii) The employer requires that the individual performing services be devoted on a full-time basis to the business of the employer;	1372 1373 1374
(ix) The employer requires the individual to perform services on the employer's premises;	1375 1376
(x) The employer requires the individual performing services to follow the order of work established by the employer;	1377 1378 1379
(xi) The employer requires the individual performing services to make oral or written reports of progress;	1380 1381
(xii) The employer makes payment to the individual for services on a regular basis, such as hourly, weekly, or monthly;	1382 1383
(xiii) The employer pays expenses for the individual	1384

performing services;	1385
(xiv) The employer furnishes the tools and materials for use by the individual to perform services;	1386 1387
(xv) The individual performing services has not invested in the facilities used to perform services;	1388 1389
(xvi) The individual performing services does not realize a profit or suffer a loss as a result of the performance of the services;	1390 1391 1392
(xvii) The individual performing services is not performing services for more than two employers simultaneously;	1393 1394
(xviii) The individual performing services does not make the services available to the general public;	1395 1396
(xix) The employer has a right to discharge the individual performing services;	1397 1398
(xx) The individual performing services has the right to end the individual's relationship with the employer without incurring liability pursuant to an employment contract or agreement.	1399 1400 1401 1402
(1) Service performed by an individual in the employ of an Indian tribe as defined by section 4(e) of the "Indian Self-Determination and Education Assistance Act," 88 Stat. 2204 (1975), 25 U.S.C.A. 450b(e), including any subdivision, subsidiary, or business enterprise wholly owned by an Indian tribe provided that the service is excluded from employment as defined in the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 and 3306(c)(7) and is not excluded under division (B)(3) of this section.	1403 1404 1405 1406 1407 1408 1409 1410 1411
(m) Service performed by an individual for or on behalf of	1412

a motor carrier transporting property as an operator of a 1413  
vehicle or vessel, unless all of the following factors apply to 1414  
the individual and the motor carrier has not elected to consider 1415  
the individual's service as employment: 1416

(i) The individual owns the vehicle or vessel that is used 1417  
in performing the services for or on behalf of the carrier, or 1418  
the individual leases the vehicle or vessel under a bona fide 1419  
lease agreement that is not a temporary replacement lease 1420  
agreement. For purposes of this division, a bona fide lease 1421  
agreement does not include an agreement between the individual 1422  
and the motor carrier transporting property for which, or on 1423  
whose behalf, the individual provides services. 1424

(ii) The individual is responsible for supplying the 1425  
necessary personal services to operate the vehicle or vessel 1426  
used to provide the service. 1427

(iii) The compensation paid to the individual is based on 1428  
factors related to work performed, including on a mileage-based 1429  
rate or a percentage of any schedule of rates, and not solely on 1430  
the basis of the hours or time expended. 1431

(iv) The individual substantially controls the means and 1432  
manner of performing the services, in conformance with 1433  
regulatory requirements and specifications of the shipper. 1434

(v) The individual enters into a written contract with the 1435  
carrier for whom the individual is performing the services that 1436  
describes the relationship between the individual and the 1437  
carrier to be that of an independent contractor and not that of 1438  
an employee. 1439

(vi) The individual is responsible for substantially all 1440  
of the principal operating costs of the vehicle or vessel and 1441

equipment used to provide the services, including maintenance, 1442  
fuel, repairs, supplies, vehicle or vessel insurance, and 1443  
personal expenses, except that the individual may be paid by the 1444  
carrier the carrier's fuel surcharge and incidental costs, 1445  
including tolls, permits, and lumper fees. 1446

(vii) The individual is responsible for any economic loss 1447  
or economic gain from the arrangement with the carrier. 1448

(viii) The individual is not performing services described 1449  
in 26 U.S.C. 3306(c) (7) or (8). 1450

(3) "Employment" does not include the following services 1451  
if they are found not subject to the "Federal Unemployment Tax 1452  
Act," 84 Stat. 713 (1970), 26 U.S.C.A. 3301 to 3311, and if the 1453  
services are not required to be included under division (B) (2) 1454  
(j) of this section: 1455

(a) Service performed after December 31, 1977, in 1456  
agricultural labor, except as provided in division (D) of 1457  
section 4141.011 of the Revised Code; 1458

(b) Domestic service performed after December 31, 1977, in 1459  
a private home, local college club, or local chapter of a 1460  
college fraternity or sorority except as provided in division 1461  
(C) of section 4141.011 of the Revised Code; 1462

(c) Service performed after December 31, 1977, for this 1463  
state or a political subdivision as described in division (B) (2) 1464  
(a) of this section when performed: 1465

(i) As a publicly elected official; 1466

(ii) As a member of a legislative body, or a member of the 1467  
judiciary; 1468

(iii) As a military member of the Ohio national guard; 1469

(iv) As an employee, not in the classified service as 1470  
defined in section 124.11 of the Revised Code, serving on a 1471  
temporary basis in case of fire, storm, snow, earthquake, flood, 1472  
or similar emergency; 1473

(v) In a position which, under or pursuant to law, is 1474  
designated as a major nontenured policymaking or advisory 1475  
position, not in the classified service of the state, or a 1476  
policymaking or advisory position the performance of the duties 1477  
of which ordinarily does not require more than eight hours per 1478  
week. 1479

(d) In the employ of any governmental unit or 1480  
instrumentality of the United States; 1481

(e) Service performed after December 31, 1971: 1482

(i) Service in the employ of an educational institution or 1483  
institution of higher education, including those operated by the 1484  
state or a political subdivision, if such service is performed 1485  
by a student who is enrolled and is regularly attending classes 1486  
at the educational institution or institution of higher 1487  
education; or 1488

(ii) By an individual who is enrolled at a nonprofit or 1489  
public educational institution which normally maintains a 1490  
regular faculty and curriculum and normally has a regularly 1491  
organized body of students in attendance at the place where its 1492  
educational activities are carried on as a student in a full- 1493  
time program, taken for credit at the institution, which 1494  
combines academic instruction with work experience, if the 1495  
service is an integral part of the program, and the institution 1496  
has so certified to the employer, provided that this subdivision 1497  
shall not apply to service performed in a program established 1498

for or on behalf of an employer or group of employers.	1499
(f) Service performed by an individual in the employ of	1500
the individual's son, daughter, or spouse and service performed	1501
by a child under the age of eighteen in the employ of the	1502
child's father or mother;	1503
(g) Service performed for one or more principals by an	1504
individual who is compensated on a commission basis, who in the	1505
performance of the work is master of the individual's own time	1506
and efforts, and whose remuneration is wholly dependent on the	1507
amount of effort the individual chooses to expend, and which	1508
service is not subject to the "Federal Unemployment Tax Act," 53	1509
Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. Service performed	1510
after December 31, 1971:	1511
(i) By an individual for an employer as an insurance agent	1512
or as an insurance solicitor, if all this service is performed	1513
for remuneration solely by way of commission;	1514
(ii) As a home worker performing work, according to	1515
specifications furnished by the employer for whom the services	1516
are performed, on materials or goods furnished by such employer	1517
which are required to be returned to the employer or to a person	1518
designated for that purpose.	1519
(h) Service performed after December 31, 1971:	1520
(i) In the employ of a church or convention or association	1521
of churches, or in an organization which is operated primarily	1522
for religious purposes and which is operated, supervised,	1523
controlled, or principally supported by a church or convention	1524
or association of churches;	1525
(ii) By a duly ordained, commissioned, or licensed	1526
minister of a church in the exercise of the individual's	1527

ministry or by a member of a religious order in the exercise of 1528  
duties required by such order; or 1529

(iii) In a facility conducted for the purpose of carrying 1530  
out a program of rehabilitation for individuals whose earning 1531  
capacity is impaired by age or physical or mental disability or 1532  
injury, or providing remunerative work for individuals who 1533  
because of their impaired physical or mental capacity cannot be 1534  
readily absorbed in the competitive labor market, by an 1535  
individual receiving such rehabilitation or remunerative work. 1536

(i) Service performed after June 30, 1939, with respect to 1537  
which unemployment compensation is payable under the "Railroad 1538  
Unemployment Insurance Act," 52 Stat. 1094 (1938), 45 U.S.C. 1539  
351; 1540

(j) Service performed by an individual in the employ of 1541  
any organization exempt from income tax under section 501 of the 1542  
"Internal Revenue Code of 1954," if the remuneration for such 1543  
service does not exceed fifty dollars in any calendar quarter, 1544  
or if such service is in connection with the collection of dues 1545  
or premiums for a fraternal beneficial society, order, or 1546  
association and is performed away from the home office or is 1547  
ritualistic service in connection with any such society, order, 1548  
or association; 1549

(k) Casual labor not in the course of an employer's trade 1550  
or business; incidental service performed by an officer, 1551  
appraiser, or member of a finance committee of a bank, building 1552  
and loan association, savings and loan association, or savings 1553  
association when the remuneration for such incidental service 1554  
exclusive of the amount paid or allotted for directors' fees 1555  
does not exceed sixty dollars per calendar quarter is casual 1556  
labor; 1557

(l) Service performed in the employ of a voluntary 1558  
employees' beneficial association providing for the payment of 1559  
life, sickness, accident, or other benefits to the members of 1560  
such association or their dependents or their designated 1561  
beneficiaries, if admission to a membership in such association 1562  
is limited to individuals who are officers or employees of a 1563  
municipal or public corporation, of a political subdivision of 1564  
the state, or of the United States and no part of the net 1565  
earnings of such association inures, other than through such 1566  
payments, to the benefit of any private shareholder or 1567  
individual; 1568

(m) Service performed by an individual in the employ of a 1569  
foreign government, including service as a consular or other 1570  
officer or employee or of a nondiplomatic representative; 1571

(n) Service performed in the employ of an instrumentality 1572  
wholly owned by a foreign government if the service is of a 1573  
character similar to that performed in foreign countries by 1574  
employees of the United States or of an instrumentality thereof 1575  
and if the director finds that the secretary of state of the 1576  
United States has certified to the secretary of the treasury of 1577  
the United States that the foreign government, with respect to 1578  
whose instrumentality exemption is claimed, grants an equivalent 1579  
exemption with respect to similar service performed in the 1580  
foreign country by employees of the United States and of 1581  
instrumentalities thereof; 1582

(o) Service with respect to which unemployment 1583  
compensation is payable under an unemployment compensation 1584  
system established by an act of congress; 1585

(p) Service performed as a student nurse in the employ of 1586  
a hospital or a nurses' training school by an individual who is 1587

enrolled and is regularly attending classes in a nurses' 1588  
training school chartered or approved pursuant to state law, and 1589  
service performed as an intern in the employ of a hospital by an 1590  
individual who has completed a four years' course in a medical 1591  
school chartered or approved pursuant to state law; 1592

(q) Service performed by an individual under the age of 1593  
eighteen in the delivery or distribution of newspapers or 1594  
shopping news, not including delivery or distribution to any 1595  
point for subsequent delivery or distribution; 1596

(r) Service performed in the employ of the United States 1597  
or an instrumentality of the United States immune under the 1598  
Constitution of the United States from the contributions imposed 1599  
by this chapter, except that to the extent that congress permits 1600  
states to require any instrumentalities of the United States to 1601  
make payments into an unemployment fund under a state 1602  
unemployment compensation act, this chapter shall be applicable 1603  
to such instrumentalities and to services performed for such 1604  
instrumentalities in the same manner, to the same extent, and on 1605  
the same terms as to all other employers, individuals, and 1606  
services, provided that if this state is not certified for any 1607  
year by the proper agency of the United States under section 1608  
3304 of the "Internal Revenue Code of 1954," the payments 1609  
required of such instrumentalities with respect to such year 1610  
shall be refunded by the director from the fund in the same 1611  
manner and within the same period as is provided in division (E) 1612  
of section 4141.09 of the Revised Code with respect to 1613  
contributions erroneously collected; 1614

(s) Service performed by an individual as a member of a 1615  
band or orchestra, provided such service does not represent the 1616  
principal occupation of such individual, and which service is 1617

not subject to or required to be covered for full tax credit 1618  
against the tax imposed by the "Federal Unemployment Tax Act," 1619  
53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. 1620

(t) Service performed in the employ of a day camp whose 1621  
camping season does not exceed twelve weeks in any calendar 1622  
year, and which service is not subject to the "Federal 1623  
Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 1624  
3311. Service performed after December 31, 1971: 1625

(i) In the employ of a hospital, if the service is 1626  
performed by a patient of the hospital, as defined in division 1627  
(W) of this section; 1628

(ii) For a prison or other correctional institution by an 1629  
inmate of the prison or correctional institution; 1630

(iii) Service performed after December 31, 1977, by an 1631  
inmate of a custodial institution operated by the state, a 1632  
political subdivision, or a nonprofit organization. 1633

(u) Service that is performed by a nonresident alien 1634  
individual for the period the individual temporarily is present 1635  
in the United States as a nonimmigrant under division (F), (J), 1636  
(M), or (Q) of section 101(a)(15) of the "Immigration and 1637  
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101, as amended, 1638  
that is excluded under section 3306(c)(19) of the "Federal 1639  
Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 1640  
3311. 1641

(v) Notwithstanding any other provisions of division (B) 1642  
(3) of this section, services that are excluded under divisions 1643  
(B)(3)(g), (j), (k), and (l) of this section shall not be 1644  
excluded from employment when performed for a nonprofit 1645  
organization, as defined in division (X) of this section, or for 1646

this state or its instrumentalities, or for a political 1647  
subdivision or its instrumentalities or for Indian tribes; 1648

(w) Service that is performed by an individual working as 1649  
an election official or election worker if the amount of 1650  
remuneration received by the individual during the calendar year 1651  
for services as an election official or election worker is less 1652  
than one thousand dollars; 1653

(x) Service performed for an elementary or secondary 1654  
school that is operated primarily for religious purposes, that 1655  
is described in subsection 501(c)(3) and exempt from federal 1656  
income taxation under subsection 501(a) of the Internal Revenue 1657  
Code, 26 U.S.C.A. 501; 1658

(y) Service performed by a person committed to a penal 1659  
institution. 1660

(z) Service performed for an Indian tribe as described in 1661  
division (B)(2)(1) of this section when performed in any of the 1662  
following manners: 1663

(i) As a publicly elected official; 1664

(ii) As a member of an Indian tribal council; 1665

(iii) As a member of a legislative or judiciary body; 1666

(iv) In a position which, pursuant to Indian tribal law, 1667  
is designated as a major nontenured policymaking or advisory 1668  
position, or a policymaking or advisory position where the 1669  
performance of the duties ordinarily does not require more than 1670  
eight hours of time per week; 1671

(v) As an employee serving on a temporary basis in the 1672  
case of a fire, storm, snow, earthquake, flood, or similar 1673  
emergency. 1674

(aa) Service performed after December 31, 1971, for a nonprofit organization, this state or its instrumentalities, a political subdivision or its instrumentalities, or an Indian tribe as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision, thereof, by an individual receiving the work-relief or work-training.

(bb) Participation in a learn to earn program as defined in section 4141.293 of the Revised Code.

(4) If the services performed during one half or more of any pay period by an employee for the person employing that employee constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one half of any such pay period by an employee for the person employing that employee do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in division (B) (4) of this section, "pay period" means a period, of not more than thirty-one consecutive days, for which payment of remuneration is ordinarily made to the employee by the person employing that employee. Division (B) (4) of this section does not apply to services performed in a pay period by an employee for the person employing that employee, if any of such service is excepted by division (B) (3) (o) of this section.

(5) "Employment" does not include service performed by a health care worker, with respect to a health care worker platform or health care facility for work booked through a health care worker platform, in accordance with section 4113.87 of the Revised Code.

(C) "Benefits" means money payments payable to an individual who has established benefit rights, as provided in this chapter, for loss of remuneration due to the individual's unemployment.

(D) "Benefit rights" means the weekly benefit amount and the maximum benefit amount that may become payable to an individual within the individual's benefit year as determined by the director.

(E) "Claim for benefits" means a claim for waiting period or benefits for a designated week.

(F) "Additional claim" means the first claim for benefits filed following any separation from employment during a benefit year; "continued claim" means any claim other than the first claim for benefits and other than an additional claim.

(G) "Wages" means remuneration paid to an employee by each of the employee's employers with respect to employment; except that wages shall not include that part of remuneration paid during any calendar year to an individual by an employer or such employer's predecessor in interest in the same business or enterprise, which in any calendar year is in excess of nine thousand dollars on and after January 1, 1995; nine thousand five hundred dollars on and after January 1, 2018; and nine thousand dollars on and after January 1, 2020. Remuneration in excess of such amounts shall be deemed wages subject to contribution to the same extent that such remuneration is defined as wages under the "Federal Unemployment Tax Act," 84 Stat. 714 (1970), 26 U.S.C.A. 3301 to 3311, as amended. The remuneration paid an employee by an employer with respect to employment in another state, upon which contributions were required and paid by such employer under the unemployment

compensation act of such other state, shall be included as a 1735  
part of remuneration in computing the amount specified in this 1736  
division. 1737

(H) (1) "Remuneration" means all compensation for personal 1738  
services, including commissions and bonuses and the cash value 1739  
of all compensation in any medium other than cash, except that 1740  
in the case of agricultural or domestic service, "remuneration" 1741  
includes only cash remuneration. Gratuities customarily received 1742  
by an individual in the course of the individual's employment 1743  
from persons other than the individual's employer and which are 1744  
accounted for by such individual to the individual's employer 1745  
are taxable wages. 1746

The reasonable cash value of compensation paid in any 1747  
medium other than cash shall be estimated and determined in 1748  
accordance with rules prescribed by the director, provided that 1749  
"remuneration" does not include: 1750

(a) Payments as provided in divisions (b) (2) to (b) (20) of 1751  
section 3306 of the "Federal Unemployment Tax Act," 84 Stat. 1752  
713, 26 U.S.C.A. 3301 to 3311, as amended; 1753

(b) The payment by an employer, without deduction from the 1754  
remuneration of the individual in the employer's employ, of the 1755  
tax imposed upon an individual in the employer's employ under 1756  
section 3101 of the "Internal Revenue Code of 1954," with 1757  
respect to services performed after October 1, 1941. 1758

(2) "Cash remuneration" means all remuneration paid in 1759  
cash, including commissions and bonuses, but not including the 1760  
cash value of all compensation in any medium other than cash. 1761

(I) "Interested party" means the director and any party to 1762  
whom notice of a determination of an application for benefit 1763

rights or a claim for benefits is required to be given under 1764  
section 4141.28 of the Revised Code. 1765

(J) "Annual payroll" means the total amount of wages 1766  
subject to contributions during a twelve-month period ending 1767  
with the last day of the second calendar quarter of any calendar 1768  
year. 1769

(K) "Average annual payroll" means the average of the last 1770  
three annual payrolls of an employer, provided that if, as of 1771  
any computation date, the employer has had less than three 1772  
annual payrolls in such three-year period, such average shall be 1773  
based on the annual payrolls which the employer has had as of 1774  
such date. 1775

(L) (1) "Contributions" means the money payments to the 1776  
state unemployment compensation fund required of employers by 1777  
section 4141.25 of the Revised Code and of the state and any of 1778  
its political subdivisions electing to pay contributions under 1779  
section 4141.242 of the Revised Code. Employers paying 1780  
contributions shall be described as "contributory employers." 1781

(2) "Payments in lieu of contributions" means the money 1782  
payments to the state unemployment compensation fund required of 1783  
reimbursing employers under sections 4141.241 and 4141.242 of 1784  
the Revised Code. 1785

(M) An individual is "totally unemployed" in any week 1786  
during which the individual performs no services and with 1787  
respect to such week no remuneration is payable to the 1788  
individual. 1789

(N) An individual is "partially unemployed" in any week 1790  
if, due to involuntary loss of work, the total remuneration 1791  
payable to the individual for such week is less than the 1792

individual's weekly benefit amount. 1793

(O) "Week" means the calendar week ending at midnight 1794  
Saturday unless an equivalent week of seven consecutive calendar 1795  
days is prescribed by the director. 1796

(1) "Qualifying week" means any calendar week in an 1797  
individual's base period with respect to which the individual 1798  
earns or is paid remuneration in employment subject to this 1799  
chapter. A calendar week with respect to which an individual 1800  
earns remuneration but for which payment was not made within the 1801  
base period, when necessary to qualify for benefit rights, may 1802  
be considered to be a qualifying week. The number of qualifying 1803  
weeks which may be established in a calendar quarter shall not 1804  
exceed the number of calendar weeks in the quarter. 1805

(2) "Average weekly wage" means the amount obtained by 1806  
dividing an individual's total remuneration for all qualifying 1807  
weeks during the base period by the number of such qualifying 1808  
weeks, provided that if the computation results in an amount 1809  
that is not a multiple of one dollar, such amount shall be 1810  
rounded to the next lower multiple of one dollar. 1811

(P) "Weekly benefit amount" means the amount of benefits 1812  
an individual would be entitled to receive for one week of total 1813  
unemployment. 1814

(Q) (1) "Base period" means the first four of the last five 1815  
completed calendar quarters immediately preceding the first day 1816  
of an individual's benefit year, except as provided in division 1817  
(Q) (2) of this section. 1818

(2) If an individual does not have sufficient qualifying 1819  
weeks and wages in the base period to qualify for benefit 1820  
rights, the individual's base period shall be the four most 1821

recently completed calendar quarters preceding the first day of 1822  
the individual's benefit year. Such base period shall be known 1823  
as the "alternate base period." If information as to weeks and 1824  
wages for the most recent quarter of the alternate base period 1825  
is not available to the director from the regular quarterly 1826  
reports of wage information, which are systematically 1827  
accessible, the director may, consistent with the provisions of 1828  
section 4141.28 of the Revised Code, base the determination of 1829  
eligibility for benefits on the affidavit of the claimant with 1830  
respect to weeks and wages for that calendar quarter. The 1831  
claimant shall furnish payroll documentation, where available, 1832  
in support of the affidavit. The determination based upon the 1833  
alternate base period as it relates to the claimant's benefit 1834  
rights, shall be amended when the quarterly report of wage 1835  
information from the employer is timely received and that 1836  
information causes a change in the determination. As provided in 1837  
division (B) of section 4141.28 of the Revised Code, any 1838  
benefits paid and charged to an employer's account, based upon a 1839  
claimant's affidavit, shall be adjusted effective as of the 1840  
beginning of the claimant's benefit year. No calendar quarter in 1841  
a base period or alternate base period shall be used to 1842  
establish a subsequent benefit year. 1843

(3) The "base period" of a combined wage claim, as 1844  
described in division (H) of section 4141.43 of the Revised 1845  
Code, shall be the base period prescribed by the law of the 1846  
state in which the claim is allowed. 1847

(4) For purposes of determining the weeks that comprise a 1848  
completed calendar quarter under this division, only those weeks 1849  
ending at midnight Saturday within the calendar quarter shall be 1850  
utilized. 1851

(R) (1) "Benefit year" with respect to an individual means 1852  
the fifty-two week period beginning with the first day of that 1853  
week with respect to which the individual first files a valid 1854  
application for determination of benefit rights, and thereafter 1855  
the fifty-two week period beginning with the first day of that 1856  
week with respect to which the individual next files a valid 1857  
application for determination of benefit rights after the 1858  
termination of the individual's last preceding benefit year, 1859  
except that the application shall not be considered valid unless 1860  
the individual has had employment in six weeks that is subject 1861  
to this chapter or the unemployment compensation act of another 1862  
state, or the United States, and has, since the beginning of the 1863  
individual's previous benefit year, in the employment earned 1864  
three times the average weekly wage determined for the previous 1865  
benefit year. The "benefit year" of a combined wage claim, as 1866  
described in division (H) of section 4141.43 of the Revised 1867  
Code, shall be the benefit year prescribed by the law of the 1868  
state in which the claim is allowed. Any application for 1869  
determination of benefit rights made in accordance with section 1870  
4141.28 of the Revised Code is valid if the individual filing 1871  
such application is unemployed, has been employed by an employer 1872  
or employers subject to this chapter in at least twenty 1873  
qualifying weeks within the individual's base period, and has 1874  
earned or been paid remuneration at an average weekly wage of 1875  
not less than twenty-seven and one-half per cent of the 1876  
statewide average weekly wage for such weeks. For purposes of 1877  
determining whether an individual has had sufficient employment 1878  
since the beginning of the individual's previous benefit year to 1879  
file a valid application, "employment" means the performance of 1880  
services for which remuneration is payable. 1881

(2) Effective for benefit years beginning on and after 1882

December 26, 2004, but before July 1, 2022, any application for 1883  
determination of benefit rights made in accordance with section 1884  
4141.28 of the Revised Code is valid if the individual satisfies 1885  
the criteria described in division (R) (1) of this section, and 1886  
if the reason for the individual's separation from employment is 1887  
not disqualifying pursuant to division (D) (2) of section 4141.29 1888  
or section 4141.291 of the Revised Code. A disqualification 1889  
imposed pursuant to division (D) (2) of section 4141.29 or 1890  
section 4141.291 of the Revised Code must be removed as provided 1891  
in those sections as a requirement of establishing a valid 1892  
application for benefit years beginning on and after December 1893  
26, 2004, but before July 1, 2022. Effective for benefit years 1894  
beginning on and after July 1, 2022, any application for 1895  
determination of benefit rights made in accordance with section 1896  
4141.28 of the Revised Code is valid if the individual satisfies 1897  
the criteria described in division (R) (1) of this section. A 1898  
disqualification imposed pursuant to division (D) (2) of section 1899  
4141.29 or section 4141.291 of the Revised Code does not affect 1900  
the validity of an application. 1901

(3) The statewide average weekly wage shall be calculated 1902  
by the director once a year based on the twelve-month period 1903  
ending the thirtieth day of June, as set forth in division (B) 1904  
(3) of section 4141.30 of the Revised Code, rounded down to the 1905  
nearest dollar. Increases or decreases in the amount of 1906  
remuneration required to have been earned or paid in order for 1907  
individuals to have filed valid applications shall become 1908  
effective on Sunday of the calendar week in which the first day 1909  
of January occurs that follows the twelve-month period ending 1910  
the thirtieth day of June upon which the calculation of the 1911  
statewide average weekly wage was based. 1912

(4) As used in this division, an individual is 1913

"unemployed" if, with respect to the calendar week in which such application is filed, the individual is "partially unemployed" or "totally unemployed" as defined in this section or if, prior to filing the application, the individual was separated from the individual's most recent work for any reason which terminated the individual's employee-employer relationship, or was laid off indefinitely or for a definite period of seven or more days.

(S) "Calendar quarter" means the period of three consecutive calendar months ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December, or the equivalent thereof as the director prescribes by rule.

(T) "Computation date" means the first day of the third calendar quarter of any calendar year.

(U) "Contribution period" means the calendar year beginning on the first day of January of any year.

(V) "Agricultural labor," for the purpose of this division, means any service performed prior to January 1, 1972, which was agricultural labor as defined in this division prior to that date, and service performed after December 31, 1971:

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(2) In the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its

tools and equipment, or in salvaging timber or clearing land of brush and other debris left by hurricane, if the major part of such service is performed on a farm; 1943  
1944  
1945

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the "Agricultural Marketing Act," 46 Stat. 1550 (1931), 12 U.S.C. 1141j, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes; 1946  
1947  
1948  
1949  
1950  
1951  
1952  
1953

(4) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if the operator produced more than one half of the commodity with respect to which such service is performed; 1954  
1955  
1956  
1957  
1958  
1959  
1960

(5) In the employ of a group of operators of farms, or a cooperative organization of which the operators are members, in the performance of service described in division (V) (4) of this section, but only if the operators produced more than one-half of the commodity with respect to which the service is performed; 1961  
1962  
1963  
1964  
1965

(6) Divisions (V) (4) and (5) of this section shall not be deemed to be applicable with respect to service performed: 1966  
1967

(a) In connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or 1968  
1969  
1970  
1971

(b) On a farm operated for profit if the service is not in the course of the employer's trade or business.	1972 1973
As used in division (V) of this section, "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.	1974 1975 1976 1977 1978
(W) "Hospital" means an institution which has been registered or licensed by the Ohio department of health as a hospital.	1979 1980 1981
(X) "Nonprofit organization" means an organization, or group of organizations, described in section 501(c)(3) of the "Internal Revenue Code of 1954," and exempt from income tax under section 501(a) of that code.	1982 1983 1984 1985
(Y) "Institution of higher education" means a public or nonprofit educational institution, including an educational institution operated by an Indian tribe, which:	1986 1987 1988
(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent;	1989 1990 1991
(2) Is legally authorized in this state or by the Indian tribe to provide a program of education beyond high school; and	1992 1993
(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation.	1994 1995 1996 1997 1998 1999

For the purposes of this division, all colleges and universities in this state are institutions of higher education. 2000  
2001

(Z) For the purposes of this chapter, "states" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. 2002  
2003  
2004

(AA) "Alien" means, for the purposes of division (D) of section 4141.011 of the Revised Code, an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214 (c) and 101 (a) (15) (H) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101. 2005  
2006  
2007  
2008  
2009  
2010

(BB) (1) "Crew leader" means an individual who furnishes individuals to perform agricultural labor for any other employer or farm operator, and: 2011  
2012  
2013

(a) Pays, either on the individual's own behalf or on behalf of the other employer or farm operator, the individuals so furnished by the individual for the service in agricultural labor performed by them; 2014  
2015  
2016  
2017

(b) Has not entered into a written agreement with the other employer or farm operator under which the agricultural worker is designated as in the employ of the other employer or farm operator. 2018  
2019  
2020  
2021

(2) For the purposes of this chapter, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other employer or farm operator shall be treated as an employee of the crew leader if: 2022  
2023  
2024  
2025

(a) The crew leader holds a valid certificate of registration under the "Farm Labor Contractor Registration Act of 1963," 90 Stat. 2668, 7 U.S.C. 2041; or 2026  
2027  
2028

(b) Substantially all the members of the crew operate or 2029  
maintain tractors, mechanized harvesting or crop-dusting 2030  
equipment, or any other mechanized equipment, which is provided 2031  
by the crew leader; and 2032

(c) If the individual is not in the employment of the 2033  
other employer or farm operator within the meaning of division 2034  
(B) (1) of this section. 2035

(3) For the purposes of this division, any individual who 2036  
is furnished by a crew leader to perform service in agricultural 2037  
labor for any other employer or farm operator and who is not 2038  
treated as in the employment of the crew leader under division 2039  
(BB) (2) of this section shall be treated as the employee of the 2040  
other employer or farm operator and not of the crew leader. The 2041  
other employer or farm operator shall be treated as having paid 2042  
cash remuneration to the individual in an amount equal to the 2043  
amount of cash remuneration paid to the individual by the crew 2044  
leader, either on the crew leader's own behalf or on behalf of 2045  
the other employer or farm operator, for the service in 2046  
agricultural labor performed for the other employer or farm 2047  
operator. 2048

(CC) "Educational institution" means an institution other 2049  
than an institution of higher education as defined in division 2050  
(Y) of this section, including an educational institution 2051  
operated by an Indian tribe, which: 2052

(1) Offers participants, trainees, or students an 2053  
organized course of study or training designed to transfer to 2054  
them knowledge, skills, information, doctrines, attitudes, or 2055  
abilities from, by, or under the guidance of an instructor or 2056  
teacher; and 2057

(2) Is approved, chartered, or issued a permit to operate 2058  
as a school by the director of education and workforce, other 2059  
government agency, or Indian tribe that is authorized within the 2060  
state to approve, charter, or issue a permit for the operation 2061  
of a school. 2062

For the purposes of this division, the courses of study or 2063  
training which the institution offers may be academic, 2064  
technical, trade, or preparation for gainful employment in a 2065  
recognized occupation. 2066

(DD) "Cost savings day" means any unpaid day off from work 2067  
in which employees continue to accrue employee benefits which 2068  
have a determinable value including, but not limited to, 2069  
vacation, pension contribution, sick time, and life and health 2070  
insurance. 2071

(EE) "Motor carrier" has the same meaning as in section 2072  
4923.01 of the Revised Code. 2073

**Sec. 5747.01.** Except as otherwise expressly provided or 2074  
clearly appearing from the context, any term used in this 2075  
chapter that is not otherwise defined in this section has the 2076  
same meaning as when used in a comparable context in the laws of 2077  
the United States relating to federal income taxes or if not 2078  
used in a comparable context in those laws, has the same meaning 2079  
as in section 5733.40 of the Revised Code. Any reference in this 2080  
chapter to the Internal Revenue Code includes other laws of the 2081  
United States relating to federal income taxes. 2082

As used in this chapter: 2083

(A) "Adjusted gross income" or "Ohio adjusted gross 2084  
income" means federal adjusted gross income, as defined and used 2085  
in the Internal Revenue Code, adjusted as provided in this 2086

section:	2087
(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.	2088 2089 2090 2091
(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.	2092 2093 2094 2095 2096
(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.	2097 2098 2099 2100 2101 2102
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	2103 2104
(5) Deduct the following, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income:	2105 2106 2107
(a) Benefits under Title II of the Social Security Act and tier 1 railroad retirement;	2108 2109
(b) Railroad retirement benefits, other than tier 1 railroad retirement benefits, to the extent such amounts are exempt from state taxation under federal law.	2110 2111 2112
(6) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been	2113 2114

allowable as a deduction in computing federal adjusted gross 2115  
income for the taxable year, had the work opportunity tax credit 2116  
allowed and determined under sections 38, 51, and 52 of the 2117  
Internal Revenue Code not been in effect. 2118

(7) Deduct any interest or interest equivalent on public 2119  
obligations and purchase obligations to the extent that the 2120  
interest or interest equivalent is included in federal adjusted 2121  
gross income. 2122

(8) Add any loss or deduct any gain resulting from the 2123  
sale, exchange, or other disposition of public obligations to 2124  
the extent that the loss has been deducted or the gain has been 2125  
included in computing federal adjusted gross income. 2126

(9) Deduct or add amounts, as provided under section 2127  
5747.70 of the Revised Code, related to contributions made to or 2128  
tuition units purchased under a qualified tuition program 2129  
established pursuant to section 529 of the Internal Revenue 2130  
Code. 2131

(10) (a) Deduct, to the extent not otherwise allowable as a 2132  
deduction or exclusion in computing federal or Ohio adjusted 2133  
gross income for the taxable year, the amount the taxpayer paid 2134  
during the taxable year for medical care insurance and qualified 2135  
long-term care insurance for the taxpayer, the taxpayer's 2136  
spouse, and dependents. No deduction for medical care insurance 2137  
under division (A) (10) (a) of this section shall be allowed 2138  
either to any taxpayer who is eligible to participate in any 2139  
subsidized health plan maintained by any employer of the 2140  
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 2141  
entitled to, or on application would be entitled to, benefits 2142  
under part A of Title XVIII of the "Social Security Act," 49 2143  
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 2144

division (A)(10)(a) of this section, "subsidized health plan" 2145  
means a health plan for which the employer pays any portion of 2146  
the plan's cost. The deduction allowed under division (A)(10)(a) 2147  
of this section shall be the net of any related premium refunds, 2148  
related premium reimbursements, or related insurance premium 2149  
dividends received during the taxable year. 2150

(b) Deduct, to the extent not otherwise deducted or 2151  
excluded in computing federal or Ohio adjusted gross income 2152  
during the taxable year, the amount the taxpayer paid during the 2153  
taxable year, not compensated for by any insurance or otherwise, 2154  
for medical care of the taxpayer, the taxpayer's spouse, and 2155  
dependents, to the extent the expenses exceed seven and one-half 2156  
per cent of the taxpayer's federal adjusted gross income. 2157

(c) For purposes of division (A)(10) of this section, 2158  
"medical care" has the meaning given in section 213 of the 2159  
Internal Revenue Code, subject to the special rules, 2160  
limitations, and exclusions set forth therein, and "qualified 2161  
long-term care" has the same meaning given in section 7702B(c) 2162  
of the Internal Revenue Code. Solely for purposes of division 2163  
(A)(10)(a) of this section, "dependent" includes a person who 2164  
otherwise would be a "qualifying relative" and thus a 2165  
"dependent" under section 152 of the Internal Revenue Code but 2166  
for the fact that the person fails to meet the income and 2167  
support limitations under section 152(d)(1)(B) and (C) of the 2168  
Internal Revenue Code. 2169

(11)(a) Deduct any amount included in federal adjusted 2170  
gross income solely because the amount represents a 2171  
reimbursement or refund of expenses that in any year the 2172  
taxpayer had deducted as an itemized deduction pursuant to 2173  
section 63 of the Internal Revenue Code and applicable United 2174

States department of the treasury regulations. The deduction 2175  
otherwise allowed under division (A) (11) (a) of this section 2176  
shall be reduced to the extent the reimbursement is attributable 2177  
to an amount the taxpayer deducted under this section in any 2178  
taxable year. 2179

(b) Add any amount not otherwise included in Ohio adjusted 2180  
gross income for any taxable year to the extent that the amount 2181  
is attributable to the recovery during the taxable year of any 2182  
amount deducted or excluded in computing federal or Ohio 2183  
adjusted gross income in any taxable year. 2184

(12) Deduct any portion of the deduction described in 2185  
section 1341(a) (2) of the Internal Revenue Code, for repaying 2186  
previously reported income received under a claim of right, that 2187  
meets both of the following requirements: 2188

(a) It is allowable for repayment of an item that was 2189  
included in the taxpayer's adjusted gross income for a prior 2190  
taxable year and did not qualify for a credit under division (A) 2191  
or (B) of section 5747.05 of the Revised Code for that year; 2192

(b) It does not otherwise reduce the taxpayer's adjusted 2193  
gross income for the current or any other taxable year. 2194

(13) Deduct an amount equal to the deposits made to, and 2195  
net investment earnings of, a medical savings account during the 2196  
taxable year, in accordance with section 3924.66 of the Revised 2197  
Code. The deduction allowed by division (A) (13) of this section 2198  
does not apply to medical savings account deposits and earnings 2199  
otherwise deducted or excluded for the current or any other 2200  
taxable year from the taxpayer's federal adjusted gross income. 2201

(14) (a) Add an amount equal to the funds withdrawn from a 2202  
medical savings account during the taxable year, and the net 2203

investment earnings on those funds, when the funds withdrawn 2204  
were used for any purpose other than to reimburse an account 2205  
holder for, or to pay, eligible medical expenses, in accordance 2206  
with section 3924.66 of the Revised Code; 2207

(b) Add the amounts distributed from a medical savings 2208  
account under division (A) (2) of section 3924.68 of the Revised 2209  
Code during the taxable year. 2210

(15) Add any amount claimed as a credit under section 2211  
5747.059 of the Revised Code to the extent that such amount 2212  
satisfies either of the following: 2213

(a) The amount was deducted or excluded from the 2214  
computation of the taxpayer's federal adjusted gross income as 2215  
required to be reported for the taxpayer's taxable year under 2216  
the Internal Revenue Code; 2217

(b) The amount resulted in a reduction of the taxpayer's 2218  
federal adjusted gross income as required to be reported for any 2219  
of the taxpayer's taxable years under the Internal Revenue Code. 2220

(16) Deduct the amount contributed by the taxpayer to an 2221  
individual development account program established by a county 2222  
department of job and family services pursuant to sections 2223  
329.11 to 329.14 of the Revised Code for the purpose of matching 2224  
funds deposited by program participants. On request of the tax 2225  
commissioner, the taxpayer shall provide any information that, 2226  
in the tax commissioner's opinion, is necessary to establish the 2227  
amount deducted under division (A) (16) of this section. 2228

(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and 2229  
(v) of this section, add five-sixths of the amount of 2230  
depreciation expense allowed by subsection (k) of section 168 of 2231  
the Internal Revenue Code, including the taxpayer's 2232

proportionate or distributive share of the amount of 2233  
depreciation expense allowed by that subsection to a pass- 2234  
through entity in which the taxpayer has a direct or indirect 2235  
ownership interest. 2236

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 2237  
of this section, add five-sixths of the amount of qualifying 2238  
section 179 depreciation expense, including the taxpayer's 2239  
proportionate or distributive share of the amount of qualifying 2240  
section 179 depreciation expense allowed to any pass-through 2241  
entity in which the taxpayer has a direct or indirect ownership 2242  
interest. 2243

(iii) Subject to division (A) (17) (a) (v) of this section, 2244  
for taxable years beginning in 2012 or thereafter, if the 2245  
increase in income taxes withheld by the taxpayer is equal to or 2246  
greater than ten per cent of income taxes withheld by the 2247  
taxpayer during the taxpayer's immediately preceding taxable 2248  
year, "two-thirds" shall be substituted for "five-sixths" for 2249  
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 2250

(iv) Subject to division (A) (17) (a) (v) of this section, 2251  
for taxable years beginning in 2012 or thereafter, a taxpayer is 2252  
not required to add an amount under division (A) (17) of this 2253  
section if the increase in income taxes withheld by the taxpayer 2254  
and by any pass-through entity in which the taxpayer has a 2255  
direct or indirect ownership interest is equal to or greater 2256  
than the sum of (I) the amount of qualifying section 179 2257  
depreciation expense and (II) the amount of depreciation expense 2258  
allowed to the taxpayer by subsection (k) of section 168 of the 2259  
Internal Revenue Code, and including the taxpayer's 2260  
proportionate or distributive shares of such amounts allowed to 2261  
any such pass-through entities. 2262

(v) If a taxpayer directly or indirectly incurs a net 2263  
operating loss for the taxable year for federal income tax 2264  
purposes, to the extent such loss resulted from depreciation 2265  
expense allowed by subsection (k) of section 168 of the Internal 2266  
Revenue Code and by qualifying section 179 depreciation expense, 2267  
"the entire" shall be substituted for "five-sixths of the" for 2268  
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 2269

The tax commissioner, under procedures established by the 2270  
commissioner, may waive the add-backs related to a pass-through 2271  
entity if the taxpayer owns, directly or indirectly, less than 2272  
five per cent of the pass-through entity. 2273

(b) Nothing in division (A) (17) of this section shall be 2274  
construed to adjust or modify the adjusted basis of any asset. 2275

(c) To the extent the add-back required under division (A) 2276  
(17) (a) of this section is attributable to property generating 2277  
nonbusiness income or loss allocated under section 5747.20 of 2278  
the Revised Code, the add-back shall be situated to the same 2279  
location as the nonbusiness income or loss generated by the 2280  
property for the purpose of determining the credit under 2281  
division (A) of section 5747.05 of the Revised Code. Otherwise, 2282  
the add-back shall be apportioned, subject to one or more of the 2283  
four alternative methods of apportionment enumerated in section 2284  
5747.21 of the Revised Code. 2285

(d) For the purposes of division (A) (17) (a) (v) of this 2286  
section, net operating loss carryback and carryforward shall not 2287  
include the allowance of any net operating loss deduction 2288  
carryback or carryforward to the taxable year to the extent such 2289  
loss resulted from depreciation allowed by section 168(k) of the 2290  
Internal Revenue Code and by the qualifying section 179 2291  
depreciation expense amount. 2292

(e) For the purposes of divisions (A) (17) and (18) of this section:	2293 2294
(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.	2295 2296 2297
(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.	2298 2299 2300 2301 2302
(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.	2303 2304 2305 2306 2307 2308 2309
(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:	2310 2311 2312
(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;	2313 2314 2315 2316 2317
(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;	2318 2319 2320
(iii) One-sixth of the amount so added for each of the six	2321

succeeding taxable years if the entire amount of such 2322  
depreciation expense was so added. 2323

(b) If the amount deducted under division (A) (18) (a) of 2324  
this section is attributable to an add-back allocated under 2325  
division (A) (17) (c) of this section, the amount deducted shall 2326  
be situated to the same location. Otherwise, the deduction shall 2327  
be apportioned using the apportionment factors for the taxable 2328  
year in which the deduction is taken, subject to one or more of 2329  
the four alternative methods of apportionment enumerated in 2330  
section 5747.21 of the Revised Code. 2331

(c) No deduction is available under division (A) (18) (a) of 2332  
this section with regard to any depreciation allowed by section 2333  
168(k) of the Internal Revenue Code and by the qualifying 2334  
section 179 depreciation expense amount to the extent that such 2335  
depreciation results in or increases a federal net operating 2336  
loss carryback or carryforward. If no such deduction is 2337  
available for a taxable year, the taxpayer may carry forward the 2338  
amount not deducted in such taxable year to the next taxable 2339  
year and add that amount to any deduction otherwise available 2340  
under division (A) (18) (a) of this section for that next taxable 2341  
year. The carryforward of amounts not so deducted shall continue 2342  
until the entire addition required by division (A) (17) (a) of 2343  
this section has been deducted. 2344

(19) Deduct, to the extent not otherwise deducted or 2345  
excluded in computing federal or Ohio adjusted gross income for 2346  
the taxable year, the amount the taxpayer received during the 2347  
taxable year as reimbursement for life insurance premiums under 2348  
section 5919.31 of the Revised Code. 2349

(20) Deduct, to the extent not otherwise deducted or 2350  
excluded in computing federal or Ohio adjusted gross income for 2351

the taxable year, the amount the taxpayer received during the 2352  
taxable year as a death benefit paid by the adjutant general 2353  
under section 5919.33 of the Revised Code. 2354

(21) Deduct, to the extent included in federal adjusted 2355  
gross income and not otherwise allowable as a deduction or 2356  
exclusion in computing federal or Ohio adjusted gross income for 2357  
the taxable year, military pay and allowances received by the 2358  
taxpayer during the taxable year for active duty service in the 2359  
armed forces of the United States, as defined in section 5907.01 2360  
of the Revised Code, or reserve components thereof or the 2361  
national guard. The deduction may not be claimed for military 2362  
pay and allowances received by the taxpayer while the taxpayer 2363  
is stationed in this state. 2364

(22) Deduct, to the extent not otherwise allowable as a 2365  
deduction or exclusion in computing federal or Ohio adjusted 2366  
gross income for the taxable year and not otherwise compensated 2367  
for by any other source, the amount of qualified organ donation 2368  
expenses incurred by the taxpayer during the taxable year, not 2369  
to exceed ten thousand dollars. A taxpayer may deduct qualified 2370  
organ donation expenses only once for all taxable years 2371  
beginning with taxable years beginning in 2007. 2372

For the purposes of division (A) (22) of this section: 2373

(a) "Human organ" means all or any portion of a human 2374  
liver, pancreas, kidney, intestine, or lung, and any portion of 2375  
human bone marrow. 2376

(b) "Qualified organ donation expenses" means travel 2377  
expenses, lodging expenses, and wages and salary forgone by a 2378  
taxpayer in connection with the taxpayer's donation, while 2379  
living, of one or more of the taxpayer's human organs to another 2380

human being. 2381

(23) Deduct, to the extent not otherwise deducted or 2382  
excluded in computing federal or Ohio adjusted gross income for 2383  
the taxable year, amounts received by the taxpayer as retired 2384  
personnel pay for service in the uniformed services or reserve 2385  
components thereof, or the national guard, or received by the 2386  
surviving spouse or former spouse of such a taxpayer under the 2387  
survivor benefit plan on account of such a taxpayer's death. If 2388  
the taxpayer receives income on account of retirement paid under 2389  
the federal civil service retirement system or federal employees 2390  
retirement system, or under any successor retirement program 2391  
enacted by the congress of the United States that is established 2392  
and maintained for retired employees of the United States 2393  
government, and such retirement income is based, in whole or in 2394  
part, on credit for the taxpayer's uniformed service, the 2395  
deduction allowed under this division shall include only that 2396  
portion of such retirement income that is attributable to the 2397  
taxpayer's uniformed service, to the extent that portion of such 2398  
retirement income is otherwise included in federal adjusted 2399  
gross income and is not otherwise deducted under this section. 2400  
Any amount deducted under division (A) (23) of this section is 2401  
not included in a taxpayer's adjusted gross income for the 2402  
purposes of section 5747.055 of the Revised Code. No amount may 2403  
be deducted under division (A) (23) of this section on the basis 2404  
of which a credit was claimed under section 5747.055 of the 2405  
Revised Code. 2406

(24) Deduct, to the extent not otherwise deducted or 2407  
excluded in computing federal or Ohio adjusted gross income for 2408  
the taxable year, the amount the taxpayer received during the 2409  
taxable year from the military injury relief fund created in 2410  
section 5902.05 of the Revised Code. 2411

(25) Deduct, to the extent not otherwise deducted or 2412  
excluded in computing federal or Ohio adjusted gross income for 2413  
the taxable year, the amount the taxpayer received as a veterans 2414  
bonus during the taxable year from the Ohio department of 2415  
veterans services as authorized by Section 2r of Article VIII, 2416  
Ohio Constitution. 2417

(26) Deduct, to the extent not otherwise deducted or 2418  
excluded in computing federal or Ohio adjusted gross income for 2419  
the taxable year, any income derived from a transfer agreement 2420  
or from the enterprise transferred under that agreement under 2421  
section 4313.02 of the Revised Code. 2422

(27) Deduct, to the extent not otherwise deducted or 2423  
excluded in computing federal or Ohio adjusted gross income for 2424  
the taxable year, Ohio college opportunity or federal Pell grant 2425  
amounts received by the taxpayer or the taxpayer's spouse or 2426  
dependent pursuant to section 3333.122 of the Revised Code or 20 2427  
U.S.C. 1070a, et seq., and used to pay room or board furnished 2428  
by the educational institution for which the grant was awarded 2429  
at the institution's facilities, including meal plans 2430  
administered by the institution. For the purposes of this 2431  
division, receipt of a grant includes the distribution of a 2432  
grant directly to an educational institution and the crediting 2433  
of the grant to the enrollee's account with the institution. 2434

(28) Deduct from the portion of an individual's federal 2435  
adjusted gross income that is business income, to the extent not 2436  
otherwise deducted or excluded in computing federal adjusted 2437  
gross income for the taxable year, one hundred twenty-five 2438  
thousand dollars for each spouse if spouses file separate 2439  
returns under section 5747.08 of the Revised Code or two hundred 2440  
fifty thousand dollars for all other individuals. 2441

(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 2471  
computing federal or Ohio adjusted gross income for the taxable 2472  
year, the lesser of three hundred dollars or the amount of 2473  
expenses described in subsections (a) (2) (D) (i) and (ii) of 2474  
section 62 of the Internal Revenue Code paid or incurred by the 2475  
taxpayer during the taxpayer's taxable year in excess of the 2476  
amount the taxpayer is authorized to deduct for that taxable 2477  
year under subsection (a) (2) (D) of that section. 2478

(32) Deduct, to the extent not otherwise deducted or 2479  
excluded in computing federal or Ohio adjusted gross income for 2480  
the taxable year, amounts received by the taxpayer as a 2481  
disability severance payment, computed under 10 U.S.C. 1212, 2482  
following discharge or release under honorable conditions from 2483  
the armed forces of the United States, as defined in section 2484  
5907.01 of the Revised Code. 2485

(33) Deduct, to the extent not otherwise deducted or 2486  
excluded in computing federal adjusted gross income or Ohio 2487  
adjusted gross income, amounts not subject to tax due to an 2488  
agreement entered into under division (A) (2) of section 5747.05 2489  
of the Revised Code. 2490

(34) Deduct amounts as provided under section 5747.79 of 2491  
the Revised Code related to the taxpayer's qualifying capital 2492  
gains and deductible payroll. 2493

To the extent a qualifying capital gain described under 2494  
division (A) (34) of this section is business income, the 2495  
taxpayer shall deduct those gains under this division before 2496  
deducting any such gains under division (A) (28) of this section. 2497

(35) (a) For taxable years beginning in or after 2026, 2498  
deduct, to the extent not otherwise deducted or excluded in 2499

computing federal or Ohio adjusted gross income for the taxable	2500
year:	2501
(i) One hundred per cent of the capital gain received by	2502
the taxpayer in the taxable year from a qualifying interest in	2503
an Ohio venture capital operating company attributable to the	2504
company's investments in Ohio businesses during the period for	2505
which the company was an Ohio venture operating company; and	2506
(ii) Fifty per cent of the capital gain received by the	2507
taxpayer in the taxable year from a qualifying interest in an	2508
Ohio venture capital operating company attributable to the	2509
company's investments in all other businesses during the period	2510
for which the company was an Ohio venture operating company.	2511
(b) Add amounts previously deducted by the taxpayer under	2512
division (A) (35) (a) of this section if the director of	2513
development certifies to the tax commissioner that the	2514
requirements for the deduction were not met.	2515
(c) All terms used in division (A) (35) of this section	2516
have the same meanings as in section 122.851 of the Revised	2517
Code.	2518
(d) To the extent a capital gain described in division (A)	2519
(35) (a) of this section is business income, the taxpayer shall	2520
apply that division before applying division (A) (28) of this	2521
section.	2522
(36) Add, to the extent not otherwise included in	2523
computing federal or Ohio adjusted gross income for any taxable	2524
year, the taxpayer's proportionate share of the amount of the	2525
tax levied under section 5747.38 of the Revised Code and paid by	2526
an electing pass-through entity for the taxable year.	2527
Notwithstanding any provision of the Revised Code to the	2528

contrary, the portion of the addition required by division (A) 2529  
(36) of this section related to the apportioned business income 2530  
of the pass-through entity shall be considered business income 2531  
under division (B) of this section. Such addition is eligible 2532  
for the deduction in division (A) (28) of this section, subject 2533  
to the applicable dollar limitations, and the tax rate 2534  
prescribed by division (A) (4) (a) of section 5747.02 of the 2535  
Revised Code. The taxpayer shall provide, upon request of the 2536  
tax commissioner, any documentation necessary to verify the 2537  
portion of the addition that is business income under this 2538  
division. 2539

(37) Deduct, to the extent not otherwise deducted or 2540  
excluded in computing federal or Ohio adjusted gross income for 2541  
the taxable year, amounts delivered to a qualifying institution 2542  
pursuant to section 3333.128 of the Revised Code for the benefit 2543  
of the taxpayer or the taxpayer's spouse or dependent. 2544

(38) Deduct, to the extent not otherwise deducted or 2545  
excluded in computing federal or Ohio adjusted gross income for 2546  
the taxable year, amounts received under the Ohio adoption grant 2547  
program pursuant to section 5180.451 of the Revised Code. 2548

(39) Deduct, to the extent included in federal adjusted 2549  
gross income, income attributable to amounts provided to a 2550  
taxpayer for any of the purposes for which an exclusion would 2551  
have been authorized under section 139 of the Internal Revenue 2552  
Code if the train derailment near the city of East Palestine on 2553  
February 3, 2023, had been a qualified disaster pursuant to that 2554  
section, or to compensate for lost business resulting from that 2555  
derailment, if such amounts are provided by any of the 2556  
following: 2557

(a) A federal, state, or local government agency; 2558

(b) A railroad company, as that term is defined in section 2559  
5727.01 of the Revised Code; 2560

(c) Any subsidiary, insurer, or agent of a railroad 2561  
company or any related person. 2562

Notwithstanding any provision to the contrary, the 2563  
derailment is not required to meet the definition of a 2564  
"qualified disaster" pursuant to section 139 of the Internal 2565  
Revenue Code to qualify for the deduction under this section. 2566

(40) Deduct, to the extent included in federal adjusted 2567  
gross income, income attributable to loan repayments on behalf 2568  
of the taxpayer under the rural practice incentive program under 2569  
section 3333.135 of the Revised Code. 2570

(41) Add any income taxes deducted in computing federal or 2571  
Ohio adjusted gross income to the extent the income taxes were 2572  
derived from income subject to a tax levied in another state or 2573  
the District of Columbia when such tax was enacted for purposes 2574  
of complying with internal revenue service notice 2020-75. 2575

Notwithstanding any provision of the Revised Code to the 2576  
contrary, the portion of the addition required by division (A) 2577  
(41) of this section related to the apportioned business income 2578  
of the pass-through entity shall be considered business income 2579  
under division (B) of this section. Such addition is eligible 2580  
for the deduction in division (A) (28) of this section, subject 2581  
to the applicable dollar limitations, and the tax rate 2582  
prescribed by division (A) (4) (a) of section 5747.02 of the 2583  
Revised Code. The taxpayer shall provide, upon request of the 2584  
tax commissioner, any documentation necessary to verify the 2585  
portion of the addition that is business income under this 2586  
division. 2587

(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. 2588  
2589  
2590

(43) If the taxpayer is the account owner of a 2591  
homeownership savings account, upon withdrawal or transfer of 2592  
funds from the account, or closure of the account containing 2593  
funds that are not used for eligible expenses, add the amount of 2594  
such funds not used for an eligible expense. The addition 2595  
required under this division shall not exceed the sum of the 2596  
amounts deducted by the taxpayer for such account under division 2597  
(A) (42) of this section in any taxable year and the amount of 2598  
any funds deposited in the account by a contributor other than 2599  
the account owner. As used in division (A) (43) of this section, 2600  
"homeownership savings account," "contributor," "account owner," 2601  
and "eligible expenses" have the same meanings as in section 2602  
5747.85 of the Revised Code. 2603

(44) Deduct, to the extent not otherwise deducted or 2604  
excluded in computing federal or Ohio adjusted gross income 2605  
during the taxable year, up to seven hundred fifty dollars of 2606  
contributions the taxpayer makes to a pregnancy resource center 2607  
that meets the criteria in division (B) of section 5180.71 of 2608  
the Revised Code. 2609

(B) "Business income" means income, including gain or 2610  
loss, arising from transactions, activities, and sources in the 2611  
regular course of a trade or business and includes income, gain, 2612  
or loss from real property, tangible property, and intangible 2613  
property if the acquisition, rental, management, and disposition 2614  
of the property constitute integral parts of the regular course 2615  
of a trade or business operation. "Business income" includes 2616  
income, including gain or loss, from a partial or complete 2617

liquidation of a business, including, but not limited to, gain 2618  
or loss from the sale or other disposition of goodwill or the 2619  
sale of an equity or ownership interest in a business. 2620

As used in this division, the "sale of an equity or 2621  
ownership interest in a business" means sales to which either or 2622  
both of the following apply: 2623

(1) The sale is treated for federal income tax purposes as 2624  
the sale of assets. 2625

(2) The seller materially participated, as described in 2626  
C.F.R. 1.469-5T, in the activities of the business during the 2627  
taxable year in which the sale occurs or during any of the five 2628  
preceding taxable years. 2629

(C) "Nonbusiness income" means all income other than 2630  
business income and may include, but is not limited to, 2631  
compensation, rents and royalties from real or tangible personal 2632  
property, capital gains, interest, dividends and distributions, 2633  
patent or copyright royalties, or lottery winnings, prizes, and 2634  
awards. 2635

(D) "Compensation" means any form of remuneration paid to 2636  
an employee for personal services. 2637

(E) "Fiduciary" means a guardian, trustee, executor, 2638  
administrator, receiver, conservator, or any other person acting 2639  
in any fiduciary capacity for any individual, trust, or estate. 2640

(F) "Fiscal year" means an accounting period of twelve 2641  
months ending on the last day of any month other than December. 2642

(G) "Individual" means any natural person. 2643

(H) "Internal Revenue Code" means the "Internal Revenue 2644  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 2645

(I) "Resident" means any of the following:	2646
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	2647 2648
(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.	2649 2650 2651 2652
(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.	2653 2654 2655
For the purposes of division (I) (3) of this section:	2656
(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:	2657 2658 2659 2660 2661 2662
(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;	2663 2664 2665 2666
(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;	2667 2668 2669 2670 2671 2672
(iii) A person who was domiciled in this state for the	2673

purposes of this chapter when the trust document or instrument 2674  
or part of the trust document or instrument became irrevocable, 2675  
but only if at least one of the trust's qualifying beneficiaries 2676  
is a resident domiciled in this state for the purposes of this 2677  
chapter during all or some portion of the trust's current 2678  
taxable year. If a trust document or instrument became 2679  
irrevocable upon the death of a person who at the time of death 2680  
was domiciled in this state for purposes of this chapter, that 2681  
person is a person described in division (I) (3) (a) (iii) of this 2682  
section. 2683

(b) A trust is irrevocable to the extent that the 2684  
transferor is not considered to be the owner of the net assets 2685  
of the trust under sections 671 to 678 of the Internal Revenue 2686  
Code. 2687

(c) With respect to a trust other than a charitable lead 2688  
trust, "qualifying beneficiary" has the same meaning as 2689  
"potential current beneficiary" as defined in section 1361(e) (2) 2690  
of the Internal Revenue Code, and with respect to a charitable 2691  
lead trust "qualifying beneficiary" is any current, future, or 2692  
contingent beneficiary, but with respect to any trust 2693  
"qualifying beneficiary" excludes a person or a governmental 2694  
entity or instrumentality to any of which a contribution would 2695  
qualify for the charitable deduction under section 170 of the 2696  
Internal Revenue Code. 2697

(d) For the purposes of division (I) (3) (a) of this 2698  
section, the extent to which a trust consists directly or 2699  
indirectly, in whole or in part, of assets, net of any related 2700  
liabilities, that were transferred directly or indirectly, in 2701  
whole or part, to the trust by any of the sources enumerated in 2702  
that division shall be ascertained by multiplying the fair 2703

market value of the trust's assets, net of related liabilities, 2704  
by the qualifying ratio, which shall be computed as follows: 2705

(i) The first time the trust receives assets, the 2706  
numerator of the qualifying ratio is the fair market value of 2707  
those assets at that time, net of any related liabilities, from 2708  
sources enumerated in division (I) (3) (a) of this section. The 2709  
denominator of the qualifying ratio is the fair market value of 2710  
all the trust's assets at that time, net of any related 2711  
liabilities. 2712

(ii) Each subsequent time the trust receives assets, a 2713  
revised qualifying ratio shall be computed. The numerator of the 2714  
revised qualifying ratio is the sum of (1) the fair market value 2715  
of the trust's assets immediately prior to the subsequent 2716  
transfer, net of any related liabilities, multiplied by the 2717  
qualifying ratio last computed without regard to the subsequent 2718  
transfer, and (2) the fair market value of the subsequently 2719  
transferred assets at the time transferred, net of any related 2720  
liabilities, from sources enumerated in division (I) (3) (a) of 2721  
this section. The denominator of the revised qualifying ratio is 2722  
the fair market value of all the trust's assets immediately 2723  
after the subsequent transfer, net of any related liabilities. 2724

(iii) Whether a transfer to the trust is by or from any of 2725  
the sources enumerated in division (I) (3) (a) of this section 2726  
shall be ascertained without regard to the domicile of the 2727  
trust's beneficiaries. 2728

(e) For the purposes of division (I) (3) (a) (i) of this 2729  
section: 2730

(i) A trust is described in division (I) (3) (e) (i) of this 2731  
section if the trust is a testamentary trust and the testator of 2732

that testamentary trust was domiciled in this state at the time 2733  
of the testator's death for purposes of the taxes levied under 2734  
Chapter 5731. of the Revised Code. 2735

(ii) A trust is described in division (I)(3)(e)(ii) of 2736  
this section if the transfer is a qualifying transfer described 2737  
in any of divisions (I)(3)(f)(i) to (vi) of this section, the 2738  
trust is an irrevocable inter vivos trust, and at least one of 2739  
the trust's qualifying beneficiaries is domiciled in this state 2740  
for purposes of this chapter during all or some portion of the 2741  
trust's current taxable year. 2742

(f) For the purposes of division (I)(3)(e)(ii) of this 2743  
section, a "qualifying transfer" is a transfer of assets, net of 2744  
any related liabilities, directly or indirectly to a trust, if 2745  
the transfer is described in any of the following: 2746

(i) The transfer is made to a trust, created by the 2747  
decedent before the decedent's death and while the decedent was 2748  
domiciled in this state for the purposes of this chapter, and, 2749  
prior to the death of the decedent, the trust became irrevocable 2750  
while the decedent was domiciled in this state for the purposes 2751  
of this chapter. 2752

(ii) The transfer is made to a trust to which the 2753  
decedent, prior to the decedent's death, had directly or 2754  
indirectly transferred assets, net of any related liabilities, 2755  
while the decedent was domiciled in this state for the purposes 2756  
of this chapter, and prior to the death of the decedent the 2757  
trust became irrevocable while the decedent was domiciled in 2758  
this state for the purposes of this chapter. 2759

(iii) The transfer is made on account of a contractual 2760  
relationship existing directly or indirectly between the 2761

transferor and either the decedent or the estate of the decedent 2762  
at any time prior to the date of the decedent's death, and the 2763  
decedent was domiciled in this state at the time of death for 2764  
purposes of the taxes levied under Chapter 5731. of the Revised 2765  
Code. 2766

(iv) The transfer is made to a trust on account of a 2767  
contractual relationship existing directly or indirectly between 2768  
the transferor and another person who at the time of the 2769  
decedent's death was domiciled in this state for purposes of 2770  
this chapter. 2771

(v) The transfer is made to a trust on account of the will 2772  
of a testator who was domiciled in this state at the time of the 2773  
testator's death for purposes of the taxes levied under Chapter 2774  
5731. of the Revised Code. 2775

(vi) The transfer is made to a trust created by or caused 2776  
to be created by a court, and the trust was directly or 2777  
indirectly created in connection with or as a result of the 2778  
death of an individual who, for purposes of the taxes levied 2779  
under Chapter 5731. of the Revised Code, was domiciled in this 2780  
state at the time of the individual's death. 2781

(g) The tax commissioner may adopt rules to ascertain the 2782  
part of a trust residing in this state. 2783

(J) "Nonresident" means an individual or estate that is 2784  
not a resident. An individual who is a resident for only part of 2785  
a taxable year is a nonresident for the remainder of that 2786  
taxable year. 2787

(K) "Pass-through entity" has the same meaning as in 2788  
section 5733.04 of the Revised Code. 2789

(L) "Return" means the notifications and reports required 2790

to be filed pursuant to this chapter for the purpose of 2791  
reporting the tax due and includes declarations of estimated tax 2792  
when so required. 2793

(M) "Taxable year" means the calendar year or the 2794  
taxpayer's fiscal year ending during the calendar year, or 2795  
fractional part thereof, upon which the adjusted gross income is 2796  
calculated pursuant to this chapter. 2797

(N) "Taxpayer" means any person subject to the tax imposed 2798  
by section 5747.02 of the Revised Code or any pass-through 2799  
entity that makes the election under division (D) of section 2800  
5747.08 of the Revised Code. 2801

(O) "Dependents" means dependents as defined in the 2802  
Internal Revenue Code. 2803

(P) "Principal county of employment" means, in the case of 2804  
a nonresident, the county within the state in which a taxpayer 2805  
performs services for an employer or, if those services are 2806  
performed in more than one county, the county in which the major 2807  
portion of the services are performed. 2808

(Q) As used in sections 5747.50 to 5747.55 of the Revised 2809  
Code: 2810

(1) "Subdivision" means any county, municipal corporation, 2811  
park district, or township. 2812

(2) "Essential local government purposes" includes all 2813  
functions that any subdivision is required by general law to 2814  
exercise, including like functions that are exercised under a 2815  
charter adopted pursuant to the Ohio Constitution. 2816

(R) "Overpayment" means any amount already paid that 2817  
exceeds the figure determined to be the correct amount of the 2818

tax.	2819
(S) "Taxable income" or "Ohio taxable income" applies only	2820
to estates and trusts, and means federal taxable income, as	2821
defined and used in the Internal Revenue Code, adjusted as	2822
follows:	2823
(1) Add interest or dividends, net of ordinary, necessary,	2824
and reasonable expenses not deducted in computing federal	2825
taxable income, on obligations or securities of any state or of	2826
any political subdivision or authority of any state, other than	2827
this state and its subdivisions and authorities, but only to the	2828
extent that such net amount is not otherwise includible in Ohio	2829
taxable income and is described in either division (S) (1) (a) or	2830
(b) of this section:	2831
(a) The net amount is not attributable to the S portion of	2832
an electing small business trust and has not been distributed to	2833
beneficiaries for the taxable year;	2834
(b) The net amount is attributable to the S portion of an	2835
electing small business trust for the taxable year.	2836
(2) Add interest or dividends, net of ordinary, necessary,	2837
and reasonable expenses not deducted in computing federal	2838
taxable income, on obligations of any authority, commission,	2839
instrumentality, territory, or possession of the United States	2840
to the extent that the interest or dividends are exempt from	2841
federal income taxes but not from state income taxes, but only	2842
to the extent that such net amount is not otherwise includible	2843
in Ohio taxable income and is described in either division (S)	2844
(1) (a) or (b) of this section;	2845
(3) Add the amount of personal exemption allowed to the	2846
estate pursuant to section 642(b) of the Internal Revenue Code;	2847

(4) Deduct interest or dividends, net of related expenses 2848  
deducted in computing federal taxable income, on obligations of 2849  
the United States and its territories and possessions or of any 2850  
authority, commission, or instrumentality of the United States 2851  
to the extent that the interest or dividends are exempt from 2852  
state taxes under the laws of the United States, but only to the 2853  
extent that such amount is included in federal taxable income 2854  
and is described in either division (S) (1) (a) or (b) of this 2855  
section; 2856

(5) Deduct the amount of wages and salaries, if any, not 2857  
otherwise allowable as a deduction but that would have been 2858  
allowable as a deduction in computing federal taxable income for 2859  
the taxable year, had the work opportunity tax credit allowed 2860  
under sections 38, 51, and 52 of the Internal Revenue Code not 2861  
been in effect, but only to the extent such amount relates 2862  
either to income included in federal taxable income for the 2863  
taxable year or to income of the S portion of an electing small 2864  
business trust for the taxable year; 2865

(6) Deduct any interest or interest equivalent, net of 2866  
related expenses deducted in computing federal taxable income, 2867  
on public obligations and purchase obligations, but only to the 2868  
extent that such net amount relates either to income included in 2869  
federal taxable income for the taxable year or to income of the 2870  
S portion of an electing small business trust for the taxable 2871  
year; 2872

(7) Add any loss or deduct any gain resulting from sale, 2873  
exchange, or other disposition of public obligations to the 2874  
extent that such loss has been deducted or such gain has been 2875  
included in computing either federal taxable income or income of 2876  
the S portion of an electing small business trust for the 2877

taxable year;	2878
(8) Except in the case of the final return of an estate,	2879
add any amount deducted by the taxpayer on both its Ohio estate	2880
tax return pursuant to section 5731.14 of the Revised Code, and	2881
on its federal income tax return in determining federal taxable	2882
income;	2883
(9) (a) Deduct any amount included in federal taxable	2884
income solely because the amount represents a reimbursement or	2885
refund of expenses that in a previous year the decedent had	2886
deducted as an itemized deduction pursuant to section 63 of the	2887
Internal Revenue Code and applicable treasury regulations. The	2888
deduction otherwise allowed under division (S) (9) (a) of this	2889
section shall be reduced to the extent the reimbursement is	2890
attributable to an amount the taxpayer or decedent deducted	2891
under this section in any taxable year.	2892
(b) Add any amount not otherwise included in Ohio taxable	2893
income for any taxable year to the extent that the amount is	2894
attributable to the recovery during the taxable year of any	2895
amount deducted or excluded in computing federal or Ohio taxable	2896
income in any taxable year, but only to the extent such amount	2897
has not been distributed to beneficiaries for the taxable year.	2898
(10) Deduct any portion of the deduction described in	2899
section 1341(a) (2) of the Internal Revenue Code, for repaying	2900
previously reported income received under a claim of right, that	2901
meets both of the following requirements:	2902
(a) It is allowable for repayment of an item that was	2903
included in the taxpayer's taxable income or the decedent's	2904
adjusted gross income for a prior taxable year and did not	2905
qualify for a credit under division (A) or (B) of section	2906

5747.05 of the Revised Code for that year. 2907

(b) It does not otherwise reduce the taxpayer's taxable 2908  
income or the decedent's adjusted gross income for the current 2909  
or any other taxable year. 2910

(11) Add any amount claimed as a credit under section 2911  
5747.059 of the Revised Code to the extent that the amount 2912  
satisfies either of the following: 2913

(a) The amount was deducted or excluded from the 2914  
computation of the taxpayer's federal taxable income as required 2915  
to be reported for the taxpayer's taxable year under the 2916  
Internal Revenue Code; 2917

(b) The amount resulted in a reduction in the taxpayer's 2918  
federal taxable income as required to be reported for any of the 2919  
taxpayer's taxable years under the Internal Revenue Code. 2920

(12) Deduct any amount, net of related expenses deducted 2921  
in computing federal taxable income, that a trust is required to 2922  
report as farm income on its federal income tax return, but only 2923  
if the assets of the trust include at least ten acres of land 2924  
satisfying the definition of "land devoted exclusively to 2925  
agricultural use" under section 5713.30 of the Revised Code, 2926  
regardless of whether the land is valued for tax purposes as 2927  
such land under sections 5713.30 to 5713.38 of the Revised Code. 2928  
If the trust is a pass-through entity investor, section 5747.231 2929  
of the Revised Code applies in ascertaining if the trust is 2930  
eligible to claim the deduction provided by division (S)(12) of 2931  
this section in connection with the pass-through entity's farm 2932  
income. 2933

Except for farm income attributable to the S portion of an 2934  
electing small business trust, the deduction provided by 2935

division (S) (12) of this section is allowed only to the extent	2936
that the trust has not distributed such farm income.	2937
(13) Add the net amount of income described in section	2938
641(c) of the Internal Revenue Code to the extent that amount is	2939
not included in federal taxable income.	2940
(14) Add or deduct the amount the taxpayer would be	2941
required to add or deduct under division (A) (17) or (18) of this	2942
section if the taxpayer's Ohio taxable income was computed in	2943
the same manner as an individual's Ohio adjusted gross income is	2944
computed under this section.	2945
(15) Add, to the extent not otherwise included in	2946
computing taxable income or Ohio taxable income for any taxable	2947
year, the taxpayer's proportionate share of the amount of the	2948
tax levied under section 5747.38 of the Revised Code and paid by	2949
an electing pass-through entity for the taxable year.	2950
(16) Add any income taxes deducted in computing federal	2951
taxable income or Ohio taxable income to the extent the income	2952
taxes were derived from income subject to a tax levied in	2953
another state or the District of Columbia when such tax was	2954
enacted for purposes of complying with internal revenue service	2955
notice 2020-75.	2956
(T) "School district income" and "school district income	2957
tax" have the same meanings as in section 5748.01 of the Revised	2958
Code.	2959
(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S)	2960
(7) of this section, "public obligations," "purchase	2961
obligations," and "interest or interest equivalent" have the	2962
same meanings as in section 5709.76 of the Revised Code.	2963
(V) "Limited liability company" means any limited	2964

liability company formed under former Chapter 1705. of the 2965  
Revised Code as that chapter existed prior to February 11, 2022, 2966  
Chapter 1706. of the Revised Code, or the laws of any other 2967  
state. 2968

(W) "Pass-through entity investor" means any person who, 2969  
during any portion of a taxable year of a pass-through entity, 2970  
is a partner, member, shareholder, or equity investor in that 2971  
pass-through entity. 2972

(X) "Banking day" has the same meaning as in section 2973  
1304.01 of the Revised Code. 2974

(Y) "Month" means a calendar month. 2975

(Z) "Quarter" means the first three months, the second 2976  
three months, the third three months, or the last three months 2977  
of the taxpayer's taxable year. 2978

(AA) (1) "Modified business income" means the business 2979  
income included in a trust's Ohio taxable income after such 2980  
taxable income is first reduced by the qualifying trust amount, 2981  
if any. 2982

(2) "Qualifying trust amount" of a trust means capital 2983  
gains and losses from the sale, exchange, or other disposition 2984  
of equity or ownership interests in, or debt obligations of, a 2985  
qualifying investee to the extent included in the trust's Ohio 2986  
taxable income, but only if the following requirements are 2987  
satisfied: 2988

(a) The book value of the qualifying investee's physical 2989  
assets in this state and everywhere, as of the last day of the 2990  
qualifying investee's fiscal or calendar year ending immediately 2991  
prior to the date on which the trust recognizes the gain or 2992  
loss, is available to the trust. 2993

(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 3023  
of the book value of the qualifying investee's total physical 3024  
assets everywhere on the last day of the qualifying investee's 3025  
fiscal or calendar year ending immediately prior to the day on 3026  
which the trust recognizes the qualifying trust amount. If, for 3027  
a taxable year, the trust recognizes a qualifying trust amount 3028  
with respect to more than one qualifying investee, the amount 3029  
described in division (AA) (4) (b) of this section shall equal the 3030  
sum of the products so computed for each such qualifying 3031  
investee. 3032

(c) (i) With respect to a trust or portion of a trust that 3033  
is a resident as ascertained in accordance with division (I) (3) 3034  
(d) of this section, its modified nonbusiness income. 3035

(ii) With respect to a trust or portion of a trust that is 3036  
not a resident as ascertained in accordance with division (I) (3) 3037  
(d) of this section, the amount of its modified nonbusiness 3038  
income satisfying the descriptions in divisions (B) (2) to (5) of 3039  
section 5747.20 of the Revised Code, except as otherwise 3040  
provided in division (AA) (4) (c) (ii) of this section. With 3041  
respect to a trust or portion of a trust that is not a resident 3042  
as ascertained in accordance with division (I) (3) (d) of this 3043  
section, the trust's portion of modified nonbusiness income 3044  
recognized from the sale, exchange, or other disposition of a 3045  
debt interest in or equity interest in a section 5747.212 3046  
entity, as defined in section 5747.212 of the Revised Code, 3047  
without regard to division (A) of that section, shall not be 3048  
allocated to this state in accordance with section 5747.20 of 3049  
the Revised Code but shall be apportioned to this state in 3050  
accordance with division (B) of section 5747.212 of the Revised 3051  
Code without regard to division (A) of that section. 3052

If the allocation and apportionment of a trust's income 3053  
under divisions (AA) (4) (a) and (c) of this section do not fairly 3054  
represent the modified Ohio taxable income of the trust in this 3055  
state, the alternative methods described in division (C) of 3056  
section 5747.21 of the Revised Code may be applied in the manner 3057  
and to the same extent provided in that section. 3058

(5) (a) Except as set forth in division (AA) (5) (b) of this 3059  
section, "qualifying investee" means a person in which a trust 3060  
has an equity or ownership interest, or a person or unit of 3061  
government the debt obligations of either of which are owned by 3062  
a trust. For the purposes of division (AA) (2) (a) of this section 3063  
and for the purpose of computing the fraction described in 3064  
division (AA) (4) (b) of this section, all of the following apply: 3065

(i) If the qualifying investee is a member of a qualifying 3066  
controlled group on the last day of the qualifying investee's 3067  
fiscal or calendar year ending immediately prior to the date on 3068  
which the trust recognizes the gain or loss, then "qualifying 3069  
investee" includes all persons in the qualifying controlled 3070  
group on such last day. 3071

(ii) If the qualifying investee, or if the qualifying 3072  
investee and any members of the qualifying controlled group of 3073  
which the qualifying investee is a member on the last day of the 3074  
qualifying investee's fiscal or calendar year ending immediately 3075  
prior to the date on which the trust recognizes the gain or 3076  
loss, separately or cumulatively own, directly or indirectly, on 3077  
the last day of the qualifying investee's fiscal or calendar 3078  
year ending immediately prior to the date on which the trust 3079  
recognizes the qualifying trust amount, more than fifty per cent 3080  
of the equity of a pass-through entity, then the qualifying 3081  
investee and the other members are deemed to own the 3082

proportionate share of the pass-through entity's physical assets 3083  
which the pass-through entity directly or indirectly owns on the 3084  
last day of the pass-through entity's calendar or fiscal year 3085  
ending within or with the last day of the qualifying investee's 3086  
fiscal or calendar year ending immediately prior to the date on 3087  
which the trust recognizes the qualifying trust amount. 3088

(iii) For the purposes of division (AA) (5) (a) (iii) of this 3089  
section, "upper level pass-through entity" means a pass-through 3090  
entity directly or indirectly owning any equity of another pass- 3091  
through entity, and "lower level pass-through entity" means that 3092  
other pass-through entity. 3093

An upper level pass-through entity, whether or not it is 3094  
also a qualifying investee, is deemed to own, on the last day of 3095  
the upper level pass-through entity's calendar or fiscal year, 3096  
the proportionate share of the lower level pass-through entity's 3097  
physical assets that the lower level pass-through entity 3098  
directly or indirectly owns on the last day of the lower level 3099  
pass-through entity's calendar or fiscal year ending within or 3100  
with the last day of the upper level pass-through entity's 3101  
fiscal or calendar year. If the upper level pass-through entity 3102  
directly and indirectly owns less than fifty per cent of the 3103  
equity of the lower level pass-through entity on each day of the 3104  
upper level pass-through entity's calendar or fiscal year in 3105  
which or with which ends the calendar or fiscal year of the 3106  
lower level pass-through entity and if, based upon clear and 3107  
convincing evidence, complete information about the location and 3108  
cost of the physical assets of the lower pass-through entity is 3109  
not available to the upper level pass-through entity, then 3110  
solely for purposes of ascertaining if a gain or loss 3111  
constitutes a qualifying trust amount, the upper level pass- 3112  
through entity shall be deemed as owning no equity of the lower 3113

level pass-through entity for each day during the upper level 3114  
pass-through entity's calendar or fiscal year in which or with 3115  
which ends the lower level pass-through entity's calendar or 3116  
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 3117  
shall be construed to provide for any deduction or exclusion in 3118  
computing any trust's Ohio taxable income. 3119

(b) With respect to a trust that is not a resident for the 3120  
taxable year and with respect to a part of a trust that is not a 3121  
resident for the taxable year, "qualifying investee" for that 3122  
taxable year does not include a C corporation if both of the 3123  
following apply: 3124

(i) During the taxable year the trust or part of the trust 3125  
recognizes a gain or loss from the sale, exchange, or other 3126  
disposition of equity or ownership interests in, or debt 3127  
obligations of, the C corporation. 3128

(ii) Such gain or loss constitutes nonbusiness income. 3129

(6) "Available" means information is such that a person is 3130  
able to learn of the information by the due date plus 3131  
extensions, if any, for filing the return for the taxable year 3132  
in which the trust recognizes the gain or loss. 3133

(BB) "Qualifying controlled group" has the same meaning as 3134  
in section 5733.04 of the Revised Code. 3135

(CC) "Related member" has the same meaning as in section 3136  
5733.042 of the Revised Code. 3137

(DD) (1) For the purposes of division (DD) of this section: 3138

(a) "Qualifying person" means any person other than a 3139  
qualifying corporation. 3140

(b) "Qualifying corporation" means any person classified 3141

for federal income tax purposes as an association taxable as a 3142  
corporation, except either of the following: 3143

(i) A corporation that has made an election under 3144  
subchapter S, chapter one, subtitle A, of the Internal Revenue 3145  
Code for its taxable year ending within, or on the last day of, 3146  
the investor's taxable year; 3147

(ii) A subsidiary that is wholly owned by any corporation 3148  
that has made an election under subchapter S, chapter one, 3149  
subtitle A of the Internal Revenue Code for its taxable year 3150  
ending within, or on the last day of, the investor's taxable 3151  
year. 3152

(2) For the purposes of this chapter, unless expressly 3153  
stated otherwise, no qualifying person indirectly owns any asset 3154  
directly or indirectly owned by any qualifying corporation. 3155

(EE) For purposes of this chapter and Chapter 5751. of the 3156  
Revised Code: 3157

(1) "Trust" does not include a qualified pre-income tax 3158  
trust. 3159

(2) A "qualified pre-income tax trust" is any pre-income 3160  
tax trust that makes a qualifying pre-income tax trust election 3161  
as described in division (EE)(3) of this section. 3162

(3) A "qualifying pre-income tax trust election" is an 3163  
election by a pre-income tax trust to subject to the tax imposed 3164  
by section 5751.02 of the Revised Code the pre-income tax trust 3165  
and all pass-through entities of which the trust owns or 3166  
controls, directly, indirectly, or constructively through 3167  
related interests, five per cent or more of the ownership or 3168  
equity interests. The trustee shall notify the tax commissioner 3169  
in writing of the election on or before April 15, 2006. The 3170

election, if timely made, shall be effective on and after 3171  
January 1, 2006, and shall apply for all tax periods and tax 3172  
years until revoked by the trustee of the trust. 3173

(4) A "pre-income tax trust" is a trust that satisfies all 3174  
of the following requirements: 3175

(a) The document or instrument creating the trust was 3176  
executed by the grantor before January 1, 1972; 3177

(b) The trust became irrevocable upon the creation of the 3178  
trust; and 3179

(c) The grantor was domiciled in this state at the time 3180  
the trust was created. 3181

(FF) "Uniformed services" means all of the following: 3182

(1) "Armed forces of the United States" as defined in 3183  
section 5907.01 of the Revised Code; 3184

(2) The commissioned corps of the national oceanic and 3185  
atmospheric administration; 3186

(3) The commissioned corps of the public health service. 3187

(GG) "Taxable business income" means the amount by which 3188  
an individual's business income that is included in federal 3189  
adjusted gross income exceeds the amount of business income the 3190  
individual is authorized to deduct under division (A) (28) of 3191  
this section for the taxable year. 3192

(HH) "Employer" does not include a franchisor with respect 3193  
to the franchisor's relationship with a franchisee or an 3194  
employee of a franchisee, unless the franchisor agrees to assume 3195  
that role in writing or a court of competent jurisdiction 3196  
determines that the franchisor exercises a type or degree of 3197

control over the franchisee or the franchisee's employees that 3198  
is not customarily exercised by a franchisor for the purpose of 3199  
protecting the franchisor's trademark, brand, or both. For 3200  
purposes of this division, "franchisor" and "franchisee" have 3201  
the same meanings as in 16 C.F.R. 436.1. 3202

(II) "Modified adjusted gross income" means Ohio adjusted 3203  
gross income plus any amount deducted under divisions (A) (28) 3204  
and (34) of this section for the taxable year. 3205

(JJ) "Qualifying Ohio educator" means an individual who, 3206  
for a taxable year, qualifies as an eligible educator, as that 3207  
term is defined in section 62 of the Internal Revenue Code, and 3208  
who holds a certificate, license, or permit described in Chapter 3209  
3319. or section 3301.071 of the Revised Code. 3210

(KK) "Professional employer organization," "professional 3211  
employer organization agreement," and "professional employer 3212  
organization reporting entity" have the same meanings as in 3213  
section 4125.01 of the Revised Code. 3214

(LL) "Alternate employer organization" and "alternate 3215  
employer organization agreement" have the same meanings as in 3216  
section 4133.01 of the Revised Code. 3217

(MM) "Casino gaming" has the same meaning as in section 3218  
3772.01 of the Revised Code, "lottery sports gaming" has the 3219  
same meaning as in section 3770.23 of the Revised Code, "sports 3220  
gaming" has the same meaning as in section 3775.01 of the 3221  
Revised Code, and "video lottery terminal" has the same meaning 3222  
as in section 3770.21 of the Revised Code. 3223

(NN) "Employee" does not include a health care worker, 3224  
with respect to a health care worker platform or health care 3225  
facility for work booked through a health care worker platform, 3226

in accordance with section 4113.87 of the Revised Code. 3227

**Section 2.** That existing sections 4111.03, 4111.14, 3228  
4113.15, 4121.01, 4123.01, 4141.01, and 5747.01 of the Revised 3229  
Code are hereby repealed. 3230