

**As Reported by the Senate Transportation, Commerce and Workforce  
Committee**

**132nd General Assembly**

**Regular Session  
2017-2018**

**Sub. H. B. No. 494**

**Representative Antani**

**Cosponsors: Representatives Brenner, Green, Greenspan, Hambley, Henne, Lang,  
Merrin, Patton, Pelanda, Reineke, Riedel, Roegner, Ryan, Schaffer, Scherer,  
Schuring, Seitz, Thompson, Wiggam, Speaker Smith**

**Senator LaRose**

---

**A BILL**

To amend sections 123.153, 1349.61, 4111.03, 1  
4111.14, 4113.15, 4113.16, 4121.01, 4123.01, 2  
4123.30, 4123.38, 4123.77, 4141.01, and 5747.01 3  
and to enact section 123.154 of the Revised Code 4  
to specify that a franchisor is not the employer 5  
of a franchisee or employee of a franchisee for 6  
purposes of the Minimum Fair Wage Standards Law, 7  
the Bimonthly Pay Law, the Workers' Compensation 8  
Law, the Unemployment Compensation Law, and the 9  
Income Tax Law and to require the Director of 10  
Administrative Services to establish the women- 11  
owned business enterprise program. 12

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

**Section 1.** That sections 123.153, 1349.61, 4111.03, 13  
4111.14, 4113.15, 4113.16, 4121.01, 4123.01, 4123.30, 4123.38, 14  
4123.77, 4141.01, and 5747.01 be amended and section 123.154 of 15

the Revised Code be enacted to read as follows: 16

**Sec. 123.153.** (A) As used in this section: 17

(1) "Minority business enterprise" has the same meaning as 18  
in section 123.151 of the Revised Code. 19

(2) "EDGE business enterprise" has the same meaning as in 20  
section 123.152 of the Revised Code. 21

(3) "Women-owned business enterprise" has the same meaning 22  
as in section 123.154 of the Revised Code. 23

(B) ~~Beginning October 1, 2009, and on~~ Not later than the 24  
first day of October in each year ~~thereafter~~, the director of 25  
administrative services shall submit a written report to the 26  
governor and to each member of the general assembly describing 27  
the progress made by state agencies in advancing the minority 28  
business enterprise program ~~and,~~ the encouraging diversity, 29  
growth, and equity program, and the women-owned business 30  
enterprise program. The report shall highlight the initiatives 31  
implemented to encourage participation of minority-owned, ~~as~~ 32  
~~well as~~ socially and economically disadvantaged, and women-owned 33  
businesses in programs funded by state money or federal money 34  
received by the state ~~for fiscal stabilization and recovery~~ 35  
~~purposes.~~ The report shall also include the total number of 36  
procurement contracts each agency has entered into with 37  
certified minority business enterprises ~~and,~~ EDGE business 38  
enterprises, and women-owned business enterprises. 39

**Sec. 123.154.** (A) As used in this section: 40

"Women-owned business enterprise" means any individual, 41  
partnership, corporation, or joint venture of any kind that is 42  
owned and controlled by women who are United States citizens and 43  
residents of this state or of a reciprocal state. 44

"Owned and controlled" means that at least fifty-one per 45  
cent of the business, including corporate stock if it is a 46  
corporation, is owned by women and that such owners have control 47  
over the day-to-day operations of the business and an interest 48  
in the capital, assets, and profits and losses of the business 49  
proportionate to their percentage of ownership. In order to 50  
qualify as a women-owned business, a business shall have been 51  
owned by such owners at least one year. 52

(B) The director of administrative services shall 53  
establish a business assistance program known as the women-owned 54  
business enterprise program and shall adopt rules in accordance 55  
with Chapter 119. of the Revised Code to administer the program 56  
that do all of the following: 57

(1) Establish procedures by which a business enterprise 58  
may apply for certification as a women-owned business 59  
enterprise; 60

(2) Establish standards to determine when a women-owned 61  
business enterprise no longer qualifies for women-owned business 62  
enterprise certification; 63

(3) Establish a system to make publicly available a list 64  
of women-owned business enterprises certified under this 65  
section; 66

(4) Establish a process to mediate complaints and to 67  
review women-owned business enterprise certification appeals; 68

(5) Implement an outreach program to educate potential 69  
participants about the women-owned business enterprise program; 70

(6) Establish a system to assist state agencies in 71  
identifying and utilizing women-owned business enterprises in 72  
their contracting processes; 73

(7) Implement a system of self-reporting by women-owned business enterprises as well as an on-site inspection process to validate the qualifications of women-owned business enterprises. 74  
75  
76

(C) Business and personal financial information and trade secrets submitted by women-owned business enterprise applicants to the director pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the director presents the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program. 77  
78  
79  
80  
81  
82  
83

(D) The director of administrative services, upon approval of the attorney general, may enter into a reciprocal agreement with the appropriate officials of one or more states, when the other state has a business assistance program or programs substantially similar to the women-owned business enterprise program of this state. The agreement shall provide that a business certified by the other state as a women-owned business enterprise, which is owned and controlled by a resident or residents of that other state, shall be considered a women-owned business enterprise in this state under this section. The agreement shall provide that a women-owned business enterprise certified under this section, which is owned and controlled by a resident or residents of this state, shall be considered certified in the other state and eligible for programs of that state that provide an advantage or benefit to such businesses. 84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98

**Sec. 1349.61.** (A) (1) Subject to division (C) of this section, no person or entity shall sell a gift card to a purchaser containing an expiration date that is less than two years after the date the gift card is issued. 99  
100  
101  
102

(2) No person or entity, within two years after a gift 103

card is issued, shall charge service charges or fees relative to 104  
that gift card, including dormancy fees, latency fees, or 105  
administrative fees, that have the effect of reducing the total 106  
amount for which the holder of the gift card may redeem the gift 107  
card. 108

(B) A gift card sold without an expiration date is valid 109  
until redeemed or replaced with a new gift card. 110

(C) Division (A) of this section does not apply to any of 111  
the following gift cards: 112

(1) A gift card that is distributed by the issuer to a 113  
consumer pursuant to an awards, loyalty, or promotional program 114  
without any money or anything of value being given in exchange 115  
for the gift card by the consumer; 116

(2) A gift card that is sold below face value at a volume 117  
discount to employers or to nonprofit and charitable 118  
organizations for fundraising purposes, if the expiration date 119  
on that gift card is not more than thirty days after the date of 120  
sale; 121

(3) A gift card that is sold by a nonprofit or charitable 122  
organization for fundraising purposes; 123

(4) A gift card that an employer gives to an employee if 124  
use of the gift card is limited to the employer's business 125  
establishment, which may include a group of merchants that are 126  
affiliated with that business establishment; 127

(5) A gift certificate issued in accordance with section 128  
1533.131 of the Revised Code that may be used to obtain hunting 129  
and fishing licenses, fur taker, special deer, and special wild 130  
turkey permits, and wetlands habitat stamps; 131

(6) A gift card that is usable with multiple, unaffiliated sellers of goods or services;	132 133
(7) A gift card that an employer issues to an employee in recognition of services performed by the employee.	134 135
(D) Whoever violates division (A) (2) of this section is liable to the holder for any amount that the redemption value of the gift card was reduced, any court costs incurred, and reasonable attorney's fees.	136 137 138 139
(E) As used in this section:	140
(1) "Gift card" means a certificate, electronic card, or other medium issued by a merchant that evidences the giving of consideration in exchange for the right to redeem the certificate, electronic card, or other medium for goods, food, services, credit, or money of at least an equal value, including any electronic card issued by a merchant with a monetary value where the issuer has received payment for the full monetary value for the future purchase or delivery of goods or services and any certificate issued by a merchant where the issuer has received payment for the full monetary face value of the certificate for the future purchase or delivery of goods and services. "Gift card" does not include a prepaid calling card used to make telephone calls.	141 142 143 144 145 146 147 148 149 150 151 152 153
(2) <del>"Employer" and "employee" have</del> <u>"Employee" has</u> the same <del>meanings meaning</del> as in section 4121.01 of the Revised Code.	154 155
(3) <u>"Employer" means every person, firm, corporation, agent, manager, representative, or other person having control or custody of any employment, place of employment, or employee.</u>	156 157 158
<b>Sec. 4111.03.</b> (A) An employer shall pay an employee for overtime at a wage rate of one and one-half times the employee's	159 160

wage rate for hours worked in excess of forty hours in one 161  
workweek, in the manner and methods provided in and subject to 162  
the exemptions of section 7 and section 13 of the "Fair Labor 163  
Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as 164  
amended. 165

Any employee employed in agriculture shall not be covered 166  
by the overtime provision of this section. 167

(B) If a county employee elects to take compensatory time 168  
off in lieu of overtime pay, for any overtime worked, 169  
compensatory time may be granted by the employee's 170  
administrative superior, on a time and one-half basis, at a time 171  
mutually convenient to the employee and the administrative 172  
superior within one hundred eighty days after the overtime is 173  
worked. 174

(C) A county appointing authority with the exception of 175  
the county department of job and family services may, by rule or 176  
resolution as is appropriate, indicate the authority's intention 177  
not to be bound by division (B) of this section, and to adopt a 178  
different policy for the calculation and payment of overtime 179  
than that established by that division. Upon adoption, the 180  
alternative overtime policy prevails. Prior to the adoption of 181  
an alternative overtime policy, a county appointing authority 182  
with the exception of the county department of job and family 183  
services shall give a written notice of the alternative policy 184  
to each employee at least ten days prior to its effective date. 185

(D) As used in this section: 186

(1) "Employ" means to suffer or to permit to work. 187

(2) "Employer" means the state of Ohio, its 188  
instrumentalities, and its political subdivisions and their 189

instrumentalities, any individual, partnership, association, 190  
corporation, business trust, or any person or group of persons, 191  
acting in the interest of an employer in relation to an 192  
employee, but does not include ~~an~~ either of the following: 193

(a) An employer whose annual gross volume of sales made 194  
for business done is less than one hundred fifty thousand 195  
dollars, exclusive of excise taxes at the retail level which are 196  
separately stated; 197

(b) A franchisor with respect to the franchisor's 198  
relationship with a franchisee or an employee of a franchisee, 199  
unless the franchisor agrees to assume that role in writing or a 200  
court of competent jurisdiction determines that the franchisor 201  
exercises a type or degree of control over the franchisee or the 202  
franchisee's employees that is not customarily exercised by a 203  
franchisor for the purpose of protecting the franchisor's 204  
trademark, brand, or both. For purposes of this division, 205  
"franchisor" and "franchisee" have the same meanings as in 16 206  
C.F.R. 436.1. 207

(3) "Employee" means any individual employed by an 208  
employer but does not include: 209

(a) Any individual employed by the United States; 210

(b) Any individual employed as a baby-sitter in the 211  
employer's home, or a live-in companion to a sick, convalescing, 212  
or elderly person whose principal duties do not include 213  
housekeeping; 214

(c) Any individual engaged in the delivery of newspapers 215  
to the consumer; 216

(d) Any individual employed as an outside salesperson 217  
compensated by commissions or employed in a bona fide executive, 218



administrative, or professional capacity as such terms are 219  
defined by the "Fair Labor Standards Act of 1938," 52 Stat. 220  
1060, 29 U.S.C.A. 201, as amended; 221

(e) Any individual who works or provides personal services 222  
of a charitable nature in a hospital or health institution for 223  
which compensation is not sought or contemplated; 224

(f) A member of a police or fire protection agency or 225  
student employed on a part-time or seasonal basis by a political 226  
subdivision of this state; 227

(g) Any individual in the employ of a camp or recreational 228  
area for children under eighteen years of age and owned and 229  
operated by a nonprofit organization or group of organizations 230  
described in Section 501(c)(3) of the "Internal Revenue Code of 231  
1954," and exempt from income tax under Section 501(a) of that 232  
code; 233

(h) Any individual employed directly by the house of 234  
representatives or directly by the senate. 235

**Sec. 4111.14.** (A) Pursuant to the general assembly's 236  
authority to establish a minimum wage under Section 34 of 237  
Article II, Ohio Constitution, this section is in implementation 238  
of Section 34a of Article II, Ohio Constitution. In implementing 239  
Section 34a of Article II, Ohio Constitution, the general 240  
assembly hereby finds that the purpose of Section 34a of Article 241  
II, Ohio Constitution, is to: 242

(1) Ensure that Ohio employees, as defined in division (B) 243  
(1) of this section, are paid the wage rate required by Section 244  
34a of Article II, Ohio Constitution; 245

(2) Ensure that covered Ohio employers maintain certain 246  
records that are directly related to the enforcement of the wage 247

rate requirements in Section 34a of Article II, Ohio	248
Constitution;	249
(3) Ensure that Ohio employees who are paid the wage rate	250
required by Section 34a of Article II, Ohio Constitution, may	251
enforce their right to receive that wage rate in the manner set	252
forth in Section 34a of Article II, Ohio Constitution; and	253
(4) Protect the privacy of Ohio employees' pay and	254
personal information specified in Section 34a of Article II,	255
Ohio Constitution, by restricting an employee's access, and	256
access by a person acting on behalf of that employee, to the	257
employee's own pay and personal information.	258
(B) In accordance with Section 34a of Article II, Ohio	259
Constitution, the terms "employer," "employee," "employ,"	260
"person," and "independent contractor" have the same meanings as	261
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29	262
U.S.C. 203, as amended. In construing the meaning of these	263
terms, due consideration and great weight shall be given to the	264
United States department of labor's and federal courts'	265
interpretations of those terms under the Fair Labor Standards	266
Act and its regulations. As used in division (B) of this	267
section:	268
(1) "Employee" means individuals employed in Ohio, but	269
does not mean individuals who are excluded from the definition	270
of "employee" under 29 U.S.C. 203(e) or individuals who are	271
exempted from the minimum wage requirements in 29 U.S.C. 213 and	272
from the definition of "employee" in this chapter.	273
(2) "Employ" and "employee" do not include any person	274
acting as a volunteer. In construing who is a volunteer,	275
"volunteer" shall have the same meaning as in sections 553.101	276

to 553.106 of Title 29 of the Code of Federal Regulations, as 277  
amended, and due consideration and great weight shall be given 278  
to the United States department of labor's and federal courts' 279  
interpretations of the term "volunteer" under the Fair Labor 280  
Standards Act and its regulations. 281

(3) "Employer" does not include a franchisor with respect 282  
to the franchisor's relationship with a franchisee or an 283  
employee of a franchisee, unless the franchisor agrees to assume 284  
that role in writing or a court of competent jurisdiction 285  
determines that the franchisor exercises a type or degree of 286  
control over the franchisee or the franchisee's employees that 287  
is not customarily exercised by a franchisor for the purpose of 288  
protecting the franchisor's trademark, brand, or both. For 289  
purposes of this division, "franchisor" and "franchisee" have 290  
the same meanings as in 16 C.F.R. 436.1. 291

(C) In accordance with Section 34a of Article II, Ohio 292  
Constitution, the state may issue licenses to employers 293  
authorizing payment of a wage below that required by Section 34a 294  
of Article II, Ohio Constitution, to individuals with mental or 295  
physical disabilities that may otherwise adversely affect their 296  
opportunity for employment. In issuing such licenses, the state 297  
shall abide by the rules adopted pursuant to section 4111.06 of 298  
the Revised Code. 299

(D) (1) In accordance with Section 34a of Article II, Ohio 300  
Constitution, individuals employed in or about the property of 301  
an employer or an individual's residence on a casual basis are 302  
not included within the coverage of Section 34a of Article II, 303  
Ohio Constitution. As used in division (D) of this section: 304

(a) "Casual basis" means employment that is irregular or 305  
intermittent and that is not performed by an individual whose 306

vocation is to be employed in or about the property of the 307  
employer or individual's residence. In construing who is 308  
employed on a "casual basis," due consideration and great weight 309  
shall be given to the United States department of labor's and 310  
federal courts' interpretations of the term "casual basis" under 311  
the Fair Labor Standards Act and its regulations. 312

(b) "An individual employed in or about the property of an 313  
employer or individual's residence" means an individual employed 314  
on a casual basis or an individual employed in or about a 315  
residence on a casual basis, respectively. 316

(2) In accordance with Section 34a of Article II, Ohio 317  
Constitution, employees of a solely family-owned and operated 318  
business who are family members of an owner are not included 319  
within the coverage of Section 34a of Article II, Ohio 320  
Constitution. As used in division (D) (2) of this section, 321  
"family member" means a parent, spouse, child, stepchild, 322  
sibling, grandparent, grandchild, or other member of an owner's 323  
immediate family. 324

(E) In accordance with Section 34a of Article II, Ohio 325  
Constitution, an employer shall at the time of hire provide an 326  
employee with the employer's name, address, telephone number, 327  
and other contact information and update such information when 328  
it changes. As used in division (E) of this section: 329

(1) "Other contact information" may include, where 330  
applicable, the address of the employer's internet site on the 331  
world wide web, the employer's electronic mail address, fax 332  
number, or the name, address, and telephone number of the 333  
employer's statutory agent. "Other contact information" does not 334  
include the name, address, telephone number, fax number, 335  
internet site address, or electronic mail address of any 336

employee, shareholder, officer, director, supervisor, manager, 337  
or other individual employed by or associated with an employer. 338

(2) "When it changes" means that the employer shall 339  
provide its employees with the change in its name, address, 340  
telephone number, or other contact information within sixty 341  
business days after the change occurs. The employer shall 342  
provide the changed information by using any of its usual 343  
methods of communicating with its employees, including, but not 344  
limited to, listing the change on the employer's internet site 345  
on the world wide web, internal computer network, or a bulletin 346  
board where it commonly posts employee communications or by 347  
insertion or inclusion with employees' paychecks or pay stubs. 348

(F) In accordance with Section 34a of Article II, Ohio 349  
Constitution, an employer shall maintain a record of the name, 350  
address, occupation, pay rate, hours worked for each day worked, 351  
and each amount paid an employee for a period of not less than 352  
three years following the last date the employee was employed by 353  
that employer. As used in division (F) of this section: 354

(1) "Address" means an employee's home address as 355  
maintained in the employer's personnel file or personnel 356  
database for that employee. 357

(2) (a) With respect to employees who are not exempt from 358  
the overtime pay requirements of the Fair Labor Standards Act or 359  
this chapter, "pay rate" means an employee's base rate of pay. 360

(b) With respect to employees who are exempt from the 361  
overtime pay requirements of the Fair Labor Standards Act or 362  
this chapter, "pay rate" means an employee's annual base salary 363  
or other rate of pay by which the particular employee qualifies 364  
for that exemption under the Fair Labor Standards Act or this 365

chapter, but does not include bonuses, stock options, 366  
incentives, deferred compensation, or any other similar form of 367  
compensation. 368

(3) "Record" means the name, address, occupation, pay 369  
rate, hours worked for each day worked, and each amount paid an 370  
employee in one or more documents, databases, or other paper or 371  
electronic forms of record-keeping maintained by an employer. No 372  
one particular method or form of maintaining such a record or 373  
records is required under this division. An employer is not 374  
required to create or maintain a single record containing only 375  
the employee's name, address, occupation, pay rate, hours worked 376  
for each day worked, and each amount paid an employee. An 377  
employer shall maintain a record or records from which the 378  
employee or person acting on behalf of that employee could 379  
reasonably review the information requested by the employee or 380  
person. 381

An employer is not required to maintain the records 382  
specified in division (F) (3) of this section for any period 383  
before January 1, 2007. On and after January 1, 2007, the 384  
employer shall maintain the records required by division (F) (3) 385  
of this section for three years from the date the hours were 386  
worked by the employee and for three years after the date the 387  
employee's employment ends. 388

(4) (a) Except for individuals specified in division (F) (4) 389  
(b) of this section, "hours worked for each day worked" means 390  
the total amount of time worked by an employee in whatever 391  
increments the employer uses for its payroll purposes during a 392  
day worked by the employee. An employer is not required to keep 393  
a record of the time of day an employee begins and ends work on 394  
any given day. As used in division (F) (4) of this section, "day" 395

means a fixed period of twenty-four consecutive hours during 396  
which an employee performs work for an employer. 397

(b) An employer is not required to keep records of "hours 398  
worked for each day worked" for individuals for whom the 399  
employer is not required to keep those records under the Fair 400  
Labor Standards Act and its regulations or individuals who are 401  
not subject to the overtime pay requirements specified in 402  
section 4111.03 of the Revised Code. 403

(5) "Each amount paid an employee" means the total gross 404  
wages paid to an employee for each pay period. As used in 405  
division (F) (5) of this section, "pay period" means the period 406  
of time designated by an employer to pay an employee the 407  
employee's gross wages in accordance with the employer's payroll 408  
practices under section 4113.15 of the Revised Code. 409

(G) In accordance with Section 34a of Article II, Ohio 410  
Constitution, an employer must provide such information without 411  
charge to an employee or person acting on behalf of an employee 412  
upon request. As used in division (G) of this section: 413

(1) "Such information" means the name, address, 414  
occupation, pay rate, hours worked for each day worked, and each 415  
amount paid for the specific employee who has requested that 416  
specific employee's own information and does not include the 417  
name, address, occupation, pay rate, hours worked for each day 418  
worked, or each amount paid of any other employee of the 419  
employer. "Such information" does not include hours worked for 420  
each day worked by individuals for whom an employer is not 421  
required to keep that information under the Fair Labor Standards 422  
Act and its regulations or individuals who are not subject to 423  
the overtime pay requirements specified in section 4111.03 of 424  
the Revised Code. 425

(2) "Acting on behalf of an employee" means a person	426
acting on behalf of an employee as any of the following:	427
(a) The certified or legally recognized collective	428
bargaining representative for that employee under the applicable	429
federal law or Chapter 4117. of the Revised Code;	430
(b) The employee's attorney;	431
(c) The employee's parent, guardian, or legal custodian.	432
A person "acting on behalf of an employee" must be	433
specifically authorized by an employee in order to make a	434
request for that employee's own name, address, occupation, pay	435
rate, hours worked for each day worked, and each amount paid to	436
that employee.	437
(3) "Provide" means that an employer shall provide the	438
requested information within thirty business days after the date	439
the employer receives the request, unless either of the	440
following occurs:	441
(a) The employer and the employee or person acting on	442
behalf of the employee agree to some alternative time period for	443
providing the information.	444
(b) The thirty-day period would cause a hardship on the	445
employer under the circumstances, in which case the employer	446
must provide the requested information as soon as practicable.	447
(4) A "request" made by an employee or a person acting on	448
behalf of an employee means a request by an employee or a person	449
acting on behalf of an employee for the employee's own	450
information. The employer may require that the employee provide	451
the employer with a written request that has been signed by the	452
employee and notarized and that reasonably specifies the	453



particular information being requested. The employer may require 454  
that the person acting on behalf of an employee provide the 455  
employer with a written request that has been signed by the 456  
employee whose information is being requested and notarized and 457  
that reasonably specifies the particular information being 458  
requested. 459

(H) In accordance with Section 34a of Article II, Ohio 460  
Constitution, an employee, person acting on behalf of one or 461  
more employees, and any other interested party may file a 462  
complaint with the state for a violation of any provision of 463  
Section 34a of Article II, Ohio Constitution, or any law or 464  
regulation implementing its provisions. Such complaint shall be 465  
promptly investigated and resolved by the state. The employee's 466  
name shall be kept confidential unless disclosure is necessary 467  
to resolution of a complaint and the employee consents to 468  
disclosure. As used in division (H) of this section: 469

(1) "Complaint" means a complaint of an alleged violation 470  
pertaining to harm suffered by the employee filing the 471  
complaint, by a person acting on behalf of one or more 472  
employees, or by an interested party. 473

(2) "Acting on behalf of one or more employees" has the 474  
same meaning as "acting on behalf of an employee" in division 475  
(G) (2) of this section. Each employee must provide a separate 476  
written and notarized authorization before the person acting on 477  
that employee's or those employees' behalf may request the name, 478  
address, occupation, pay rate, hours worked for each day worked, 479  
and each amount paid for the particular employee. 480

(3) "Interested party" means a party who alleges to be 481  
injured by the alleged violation and who has standing to file a 482  
complaint under common law principles of standing. 483

(4) "Resolved by the state" means that the complaint has 484  
been resolved to the satisfaction of the state. 485

(5) "Shall be kept confidential" means that the state 486  
shall keep the name of the employee confidential as required by 487  
division (H) of this section. 488

(I) In accordance with Section 34a of Article II, Ohio 489  
Constitution, the state may on its own initiative investigate an 490  
employer's compliance with Section 34a of Article II, Ohio 491  
Constitution, and any law or regulation implementing Section 34a 492  
of Article II, Ohio Constitution. The employer shall make 493  
available to the state any records related to such investigation 494  
and other information required for enforcement of Section 34a of 495  
Article II, Ohio Constitution or any law or regulation 496  
implementing Section 34a of Article II, Ohio Constitution. The 497  
state shall investigate an employer's compliance with this 498  
section in accordance with the procedures described in section 499  
4111.04 of the Revised Code. All records and information related 500  
to investigations by the state are confidential and are not a 501  
public record subject to section 149.43 of the Revised Code. 502  
This division does not prevent the state from releasing to or 503  
exchanging with other state and federal wage and hour regulatory 504  
authorities information related to investigations. 505

(J) In accordance with Section 34a of Article II, Ohio 506  
Constitution, damages shall be calculated as an additional two 507  
times the amount of the back wages and in the case of a 508  
violation of an anti-retaliation provision an amount set by the 509  
state or court sufficient to compensate the employee and deter 510  
future violations, but not less than one hundred fifty dollars 511  
for each day that the violation continued. The "not less than 512  
one hundred fifty dollar" penalty specified in division (J) of 513

this section shall be imposed only for violations of the anti- 514  
retaliation provision in Section 34a of Article II, Ohio 515  
Constitution. 516

(K) In accordance with Section 34a of Article II, Ohio 517  
Constitution, an action for equitable and monetary relief may be 518  
brought against an employer by the attorney general and/or an 519  
employee or person acting on behalf of an employee or all 520  
similarly situated employees in any court of competent 521  
jurisdiction, including the court of common pleas of an 522  
employee's county of residence, for any violation of Section 34a 523  
of Article II, Ohio Constitution, or any law or regulation 524  
implementing its provisions within three years of the violation 525  
or of when the violation ceased if it was of a continuing 526  
nature, or within one year after notification to the employee of 527  
final disposition by the state of a complaint for the same 528  
violation, whichever is later. 529

(1) As used in division (K) of this section, 530  
"notification" means the date on which the notice was sent to 531  
the employee by the state. 532

(2) No employee shall join as a party plaintiff in any 533  
civil action that is brought under division (K) of this section 534  
by an employee, person acting on behalf of an employee, or 535  
person acting on behalf of all similarly situated employees 536  
unless that employee first gives written consent to become such 537  
a party plaintiff and that consent is filed with the court in 538  
which the action is brought. 539

(3) A civil action regarding an alleged violation of this 540  
section shall be maintained only under division (K) of this 541  
section. This division does not preclude the joinder in a single 542  
civil action of an action under this division and an action 543

under section 4111.10 of the Revised Code. 544

(4) Any agreement between an employee and employer to work 545  
for less than the wage rate specified in Section 34a of Article 546  
II, Ohio Constitution, is no defense to an action under this 547  
section. 548

(L) In accordance with Section 34a of Article II, Ohio 549  
Constitution, there shall be no exhaustion requirement, no 550  
procedural, pleading, or burden of proof requirements beyond 551  
those that apply generally to civil suits in order to maintain 552  
such action and no liability for costs or attorney's fees on an 553  
employee except upon a finding that such action was frivolous in 554  
accordance with the same standards that apply generally in civil 555  
suits. Nothing in division (L) of this section affects the right 556  
of an employer and employee to agree to submit a dispute under 557  
this section to alternative dispute resolution, including, but 558  
not limited to, arbitration, in lieu of maintaining the civil 559  
suit specified in division (K) of this section. Nothing in this 560  
division limits the state's ability to investigate or enforce 561  
this section. 562

(M) An employer who provides such information specified in 563  
Section 34a of Article II, Ohio Constitution, shall be immune 564  
from any civil liability for injury, death, or loss to person or 565  
property that otherwise might be incurred or imposed as a result 566  
of providing that information to an employee or person acting on 567  
behalf of an employee in response to a request by the employee 568  
or person, and the employer shall not be subject to the 569  
provisions of Chapters 1347. and 1349. of the Revised Code to 570  
the extent that such provisions would otherwise apply. As used 571  
in division (M) of this section, "such information," "acting on 572  
behalf of an employee," and "request" have the same meanings as 573

in division (G) of this section. 574

(N) As used in this section, "the state" means the 575  
director of commerce. 576

**Sec. 4113.15.** (A) Every ~~individual, firm, partnership,~~ 577  
~~association, or corporation~~ employer doing business in this 578  
state shall, on or before the first day of each month, pay all 579  
its employees the wages earned by them during the first half of 580  
the preceding month ending with the fifteenth day thereof, and 581  
shall, on or before the fifteenth day of each month, pay such 582  
employees the wages earned by them during the last half of the 583  
preceding calendar month. If at any time of payment an employee 584  
is absent from ~~his~~ the employee's regular place of labor and 585  
does not receive ~~his~~ payment of wages through an authorized 586  
representative, such person shall be entitled to said payment at 587  
any time thereafter upon demand upon the proper paymaster at the 588  
place where such wages are usually paid and where such pay is 589  
due. This section does not prohibit the daily or weekly payment 590  
of wages. The use of a longer time lapse that is customary to a 591  
given trade, profession or occupation, or establishment of a 592  
different time lapse by written contract or by operation of law. 593

(B) Where wages remain unpaid for thirty days beyond the 594  
regularly scheduled payday or, in the case where no regularly 595  
scheduled payday is applicable, for sixty days beyond the filing 596  
by the employee of a claim or for sixty days beyond the date of 597  
the agreement, award, or other act making wages payable and no 598  
contest court order or dispute of any wage claim including the 599  
assertion of a counterclaim exists accounting for nonpayment, 600  
the employer, in addition, as liquidated damages, is liable to 601  
the employee in an amount equal to six per cent of the amount of 602  
the claim still unpaid and not in contest or disputed or two 603

hundred dollars, whichever is greater. 604

(C) In the absence of a contest, court order or dispute, 605  
an employer who is party to an agreement to pay or provide 606  
fringe benefits to an employee or to make any employee 607  
authorized deduction becomes a trustee of any funds required by 608  
such agreement to be paid to any person, organization, or 609  
governmental agency from the time that the duty to make such 610  
payment arises. No person shall, without reasonable 611  
justification or excuse for such failure, knowingly fail or 612  
refuse to pay to the appropriate person, organization, or 613  
governmental agency the amount necessary to provide the benefits 614  
or accomplish the purpose of any employee authorized deduction, 615  
within thirty days after the close of the pay period during 616  
which the employee earned or had deducted the amount of money 617  
necessary to pay for the fringe benefit or make any employee 618  
authorized deduction. A failure or refusal to pay, regardless of 619  
the number of employee pay accounts involved, constitutes one 620  
offense for the first delinquency of thirty days and a separate 621  
offense for each successive delinquency of thirty days. 622

(D) As used in this section and section 4113.16 of the 623  
Revised Code: 624

(1) "Wage" means the net amount of money payable to an 625  
employee, including any guaranteed pay or reimbursement for 626  
expenses, less any federal, state, or local taxes withheld; any 627  
deductions made pursuant to a written agreement for the purpose 628  
of providing the employee with any fringe benefits; and any 629  
employee authorized deduction. 630

(2) "Fringe benefits" includes but is not limited to 631  
health, welfare, or retirement benefits, whether paid for 632  
entirely by the employer or on the basis of a joint employer- 633

employee contribution, or vacation, separation, or holiday pay. 634

(3) "Employee authorized deduction" includes but is not 635  
limited to deductions for the purpose of any of the following: 636

(a) ~~purchase~~ Purchase of United States savings bonds or 637  
corporate stocks or bonds ~~;~~ 638

(b) ~~a~~ A charitable contribution ~~;~~ 639

(c) ~~credit~~ Credit union savings or other regular savings 640  
program, ~~or~~ ~~;~~ 641

(d) ~~repayment~~ Repayment of a loan or other obligation. 642

(4) "Employer" means an individual, firm, partnership, 643  
association, or corporation, but does not include a franchisor 644  
with respect to the franchisor's relationship with a franchisee 645  
or an employee of a franchisee, unless either of the following 646  
applies: 647

(a) The franchisor agrees to assume that role in writing. 648

(b) A court of competent jurisdiction determines that the 649  
franchisor exercises a type or degree of control over the 650  
franchisee or the franchisee's employees that is not customarily 651  
exercised by a franchisor for the purpose of protecting the 652  
franchisor's trademark, brand, or both. 653

(5) "Franchisor" and "franchisee" have the same meanings 654  
as in 16 C.F.R. 436.1. 655

**Sec. 4113.16.** No ~~corporation, contractor, person, or~~ 656  
~~partnership~~ employer subject to section 4113.15 of the Revised 657  
Code shall, by a special contract with an employee or by other 658  
means, exempt itself the employer from this section and section 659  
4113.15 of the Revised Code, and no assignments of future wages, 660

payable semimonthly under such sections are valid except as 661  
provided in section 1321.32 of the Revised Code. 662

**Sec. 4121.01.** (A) As used in sections 4121.01 to 4121.29 663  
of the Revised Code: 664

(1) "Place of employment" means every place, whether 665  
indoors or out, or underground, and the premises appurtenant 666  
thereto, where either temporarily or permanently any industry, 667  
trade, or business is carried on, or where any process or 668  
operation, directly or indirectly related to any industry, 669  
trade, or business, is carried on and where any person is 670  
directly or indirectly employed by another for direct or 671  
indirect gain or profit, but does not include any place where 672  
persons are employed in private domestic service or agricultural 673  
pursuits which do not involve the use of mechanical power. 674

(2) "Employment" means any trade, occupation, or process 675  
of manufacture or any method of carrying on such trade, 676  
occupation, or process of manufacture in which any person may be 677  
engaged, except in such private domestic service or agricultural 678  
pursuits as do not involve the use of mechanical power. 679

(3) "Employer" means every person, firm, corporation, 680  
agent, manager, representative, or other person having control 681  
or custody of any employment, place of employment, or employee. 682  
"Employer" does not include a franchisor with respect to the 683  
franchisor's relationship with a franchisee or an employee of a 684  
franchisee, unless the franchisor agrees to assume that role in 685  
writing or a court of competent jurisdiction determines that the 686  
franchisor exercises a type or degree of control over the 687  
franchisee or the franchisee's employees that is not customarily 688  
exercised by a franchisor for the purpose of protecting the 689  
franchisor's trademark, brand, or both. For purposes of this 690



division, "franchisor" and "franchisee" have the same meanings 691  
as in 16 C.F.R. 436.1. 692

(4) "Employee" means every person who may be required or 693  
directed by any employer, in consideration of direct or indirect 694  
gain or profit, to engage in any employment, or to go, or work, 695  
or be at any time in any place of employment. 696

(5) "Frequenter" means every person, other than an 697  
employee, who may go in or be in a place of employment under 698  
circumstances which render the person other than a trespasser. 699

(6) "Deputy" means any person employed by the industrial 700  
commission or the bureau of workers' compensation, designated as 701  
a deputy by the commission or the administrator of workers' 702  
compensation, who possesses special, technical, scientific, 703  
managerial, professional, or personal abilities or qualities in 704  
matters within the jurisdiction of the commission or the bureau, 705  
and who may be engaged in the performance of duties under the 706  
direction of the commission or the bureau calling for the 707  
exercise of such abilities or qualities. 708

(7) "Order" means any decision, rule, regulation, 709  
direction, requirement, or standard, or any other determination 710  
or decision that the bureau is empowered to and does make. 711

(8) "General order" means an order that applies generally 712  
throughout the state to all persons, employments, or places of 713  
employment, or all persons, employments, or places of employment 714  
of a class under the jurisdiction of the bureau. All other 715  
orders shall be considered special orders. 716

(9) "Local order" means any ordinance, order, rule, or 717  
determination of the legislative authority of any municipal 718  
corporation, or any trustees, or board or officers of any 719

municipal corporation upon any matter over which the bureau has 720  
jurisdiction. 721

(10) "Welfare" means comfort, decency, and moral well- 722  
being. 723

(11) "Safe" or "safety," as applied to any employment or a 724  
place of employment, means such freedom from danger to the life, 725  
health, safety, or welfare of employees or frequenters as the 726  
nature of the employment will reasonably permit, including 727  
requirements as to the hours of labor with relation to the 728  
health and welfare of employees. 729

(12) "Employee organization" means any labor or bona fide 730  
organization in which employees participate and that exists for 731  
the purpose, in whole or in part, of dealing with employers 732  
concerning grievances, labor disputes, wages, hours, terms, and 733  
other conditions of employment. 734

(B) As used in the Revised Code: 735

(1) "Industrial commission" means the chairperson of the 736  
three-member industrial commission created pursuant to section 737  
4121.02 of the Revised Code when the context refers to the 738  
authority vested in the chairperson as the chief executive 739  
officer of the three-member industrial commission pursuant to 740  
divisions (A), (B), (C), and (D) of section 4121.03 of the 741  
Revised Code. 742

(2) "Industrial commission" means the three-member 743  
industrial commission created pursuant to section 4121.02 of the 744  
Revised Code when the context refers to the authority vested in 745  
the three-member industrial commission pursuant to division (E) 746  
of section 4121.03 of the Revised Code. 747

(3) "Industrial commission" means the industrial 748

commission as a state agency when the context refers to the 749  
authority vested in the industrial commission as a state agency. 750

**Sec. 4123.01.** As used in this chapter: 751

(A) (1) "Employee" means: 752

(a) Every person in the service of the state, or of any 753  
county, municipal corporation, township, or school district 754  
therein, including regular members of lawfully constituted 755  
police and fire departments of municipal corporations and 756  
townships, whether paid or volunteer, and wherever serving 757  
within the state or on temporary assignment outside thereof, and 758  
executive officers of boards of education, under any appointment 759  
or contract of hire, express or implied, oral or written, 760  
including any elected official of the state, or of any county, 761  
municipal corporation, or township, or members of boards of 762  
education. 763

As used in division (A) (1) (a) of this section, the term 764  
"employee" includes the following persons when responding to an 765  
inherently dangerous situation that calls for an immediate 766  
response on the part of the person, regardless of whether the 767  
person is within the limits of the jurisdiction of the person's 768  
regular employment or voluntary service when responding, on the 769  
condition that the person responds to the situation as the 770  
person otherwise would if the person were on duty in the 771  
person's jurisdiction: 772

(i) Off-duty peace officers. As used in division (A) (1) (a) 773  
(i) of this section, "peace officer" has the same meaning as in 774  
section 2935.01 of the Revised Code. 775

(ii) Off-duty firefighters, whether paid or volunteer, of 776  
a lawfully constituted fire department. 777

(iii) Off-duty first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, or emergency medical technicians-paramedic, whether paid or volunteer, of an ambulance service organization or emergency medical service organization pursuant to Chapter 4765. of the Revised Code. 778  
779  
780  
781  
782  
783

(b) Every person in the service of any person, firm, or private corporation, including any public service corporation, that (i) employs one or more persons regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens and minors, household workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single household and casual workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single employer, or (ii) is bound by any such contract of hire or by any other written contract, to pay into the state insurance fund the premiums provided by this chapter. 784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795

(c) Every person who performs labor or provides services pursuant to a construction contract, as defined in section 4123.79 of the Revised Code, if at least ten of the following criteria apply: 796  
797  
798  
799

(i) The person is required to comply with instructions from the other contracting party regarding the manner or method of performing services; 800  
801  
802

(ii) The person is required by the other contracting party to have particular training; 803  
804

(iii) The person's services are integrated into the regular functioning of the other contracting party; 805  
806

(iv) The person is required to perform the work personally;	807 808
(v) The person is hired, supervised, or paid by the other contracting party;	809 810
(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;	811 812 813
(vii) The person's hours of work are established by the other contracting party;	814 815
(viii) The person is required to devote full time to the business of the other contracting party;	816 817
(ix) The person is required to perform the work on the premises of the other contracting party;	818 819
(x) The person is required to follow the order of work set by the other contracting party;	820 821
(xi) The person is required to make oral or written reports of progress to the other contracting party;	822 823
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	824 825
(xiii) The person's expenses are paid for by the other contracting party;	826 827
(xiv) The person's tools and materials are furnished by the other contracting party;	828 829
(xv) The person is provided with the facilities used to perform services;	830 831
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	832 833

(xvii) The person is not performing services for a number	834
of employers at the same time;	835
(xviii) The person does not make the same services	836
available to the general public;	837
(xix) The other contracting party has a right to discharge	838
the person;	839
(xx) The person has the right to end the relationship with	840
the other contracting party without incurring liability pursuant	841
to an employment contract or agreement.	842
Every person in the service of any independent contractor	843
or subcontractor who has failed to pay into the state insurance	844
fund the amount of premium determined and fixed by the	845
administrator of workers' compensation for the person's	846
employment or occupation or who is a self-insuring employer and	847
who has failed to pay compensation and benefits directly to the	848
employer's injured and to the dependents of the employer's	849
killed employees as required by section 4123.35 of the Revised	850
Code, shall be considered as the employee of the person who has	851
entered into a contract, whether written or verbal, with such	852
independent contractor unless such employees or their legal	853
representatives or beneficiaries elect, after injury or death,	854
to regard such independent contractor as the employer.	855
(2) "Employee" does not mean any of the following:	856
(a) A duly ordained, commissioned, or licensed minister or	857
assistant or associate minister of a church in the exercise of	858
ministry;	859
(b) Any officer of a family farm corporation;	860
(c) An individual incorporated as a corporation;	861

(d) An officer of a nonprofit corporation, as defined in 862  
section 1702.01 of the Revised Code, who volunteers the person's 863  
services as ~~a~~an officer; 864

(e) An individual who otherwise is an employee of an 865  
employer but who signs the waiver and affidavit specified in 866  
section 4123.15 of the Revised Code on the condition that the 867  
administrator has granted a waiver and exception to the 868  
individual's employer under section 4123.15 of the Revised Code; 869

(f) (i) A qualifying employee described in division (A) (14) 870  
(a) of section 5703.94 of the Revised Code when the qualifying 871  
employee is performing disaster work in this state during a 872  
disaster response period pursuant to a qualifying solicitation 873  
received by the employee's employer; 874

(ii) A qualifying employee described in division (A) (14) 875  
(b) of section 5703.94 of the Revised Code when the qualifying 876  
employee is performing disaster work in this state during a 877  
disaster response period on critical infrastructure owned or 878  
used by the employee's employer; 879

(iii) As used in division (A) (2) (f) of this section, 880  
"critical infrastructure," "disaster response period," "disaster 881  
work," and "qualifying employee" have the same meanings as in 882  
section 5703.94 of the Revised Code. 883

Any employer may elect to include as an "employee" within 884  
this chapter, any person excluded from the definition of 885  
"employee" pursuant to division (A) (2) (a), (b), (c), or (e) of 886  
this section in accordance with rules adopted by the 887  
administrator, with the advice and consent of the bureau of 888  
workers' compensation board of directors. If an employer is a 889  
partnership, sole proprietorship, individual incorporated as a 890

corporation, or family farm corporation, such employer may elect 891  
to include as an "employee" within this chapter, any member of 892  
such partnership, the owner of the sole proprietorship, the 893  
individual incorporated as a corporation, or the officers of the 894  
family farm corporation. Nothing in this section shall prohibit 895  
a partner, sole proprietor, or any person excluded from the 896  
definition of "employee" pursuant to division (A) (2) (a), (b), 897  
(c), or (e) of this section from electing to be included as an 898  
"employee" under this chapter in accordance with rules adopted 899  
by the administrator, with the advice and consent of the board. 900

In the event of an election, the employer or person 901  
electing coverage shall serve upon the bureau of workers' 902  
compensation written notice naming the person to be covered and 903  
include the person's remuneration for premium purposes in all 904  
future payroll reports. No partner, sole proprietor, or person 905  
excluded from the definition of "employee" pursuant to division 906  
(A) (2) (a), (b), (c), or (e) of this section, shall receive 907  
benefits or compensation under this chapter until the bureau 908  
receives written notice of the election permitted by this 909  
section. 910

For informational purposes only, the bureau shall 911  
prescribe such language as it considers appropriate, on such of 912  
its forms as it considers appropriate, to advise employers of 913  
their right to elect to include as an "employee" within this 914  
chapter a sole proprietor, any member of a partnership, or a 915  
person excluded from the definition of "employee" under division 916  
(A) (2) (a), (b), (c), or (e) of this section, that they should 917  
check any health and disability insurance policy, or other form 918  
of health and disability plan or contract, presently covering 919  
them, or the purchase of which they may be considering, to 920  
determine whether such policy, plan, or contract excludes 921



benefits for illness or injury that they might have elected to 922  
have covered by workers' compensation. 923

(B) (1) "Employer" means: 924

~~(1)~~ (a) The state, including state hospitals, each county, 925  
municipal corporation, township, school district, and hospital 926  
owned by a political subdivision or subdivisions other than the 927  
state; 928

~~(2)~~ (b) Every person, firm, professional employer 929  
organization, and private corporation, including any public 930  
service corporation, that ~~(a)~~ (i) has in service one or more 931  
employees or shared employees regularly in the same business or 932  
in or about the same establishment under any contract of hire, 933  
express or implied, oral or written, or ~~(b)~~ (ii) is bound by any 934  
such contract of hire or by any other written contract, to pay 935  
into the insurance fund the premiums provided by this chapter. 936

All such employers are subject to this chapter. Any member 937  
of a firm or association, who regularly performs manual labor in 938  
or about a mine, factory, or other establishment, including a 939  
household establishment, shall be considered an employee in 940  
determining whether such person, firm, or private corporation, 941  
or public service corporation, has in its service, one or more 942  
employees and the employer shall report the income derived from 943  
such labor to the bureau as part of the payroll of such 944  
employer, and such member shall thereupon be entitled to all the 945  
benefits of an employee. 946

(2) "Employer" does not include a franchisor with respect 947  
to the franchisor's relationship with a franchisee or an 948  
employee of a franchisee, unless the franchisor agrees to assume 949  
that role in writing or a court of competent jurisdiction 950

determines that the franchisor exercises a type or degree of 951  
control over the franchisee or the franchisee's employees that 952  
is not customarily exercised by a franchisor for the purpose of 953  
protecting the franchisor's trademark, brand, or both. For 954  
purposes of this division, "franchisor" and "franchisee" have 955  
the same meanings as in 16 C.F.R. 436.1. 956

(C) "Injury" includes any injury, whether caused by 957  
external accidental means or accidental in character and result, 958  
received in the course of, and arising out of, the injured 959  
employee's employment. "Injury" does not include: 960

(1) Psychiatric conditions except where the claimant's 961  
psychiatric conditions have arisen from an injury or 962  
occupational disease sustained by that claimant or where the 963  
claimant's psychiatric conditions have arisen from sexual 964  
conduct in which the claimant was forced by threat of physical 965  
harm to engage or participate; 966

(2) Injury or disability caused primarily by the natural 967  
deterioration of tissue, an organ, or part of the body; 968

(3) Injury or disability incurred in voluntary 969  
participation in an employer-sponsored recreation or fitness 970  
activity if the employee signs a waiver of the employee's right 971  
to compensation or benefits under this chapter prior to engaging 972  
in the recreation or fitness activity; 973

(4) A condition that pre-existed an injury unless that 974  
pre-existing condition is substantially aggravated by the 975  
injury. Such a substantial aggravation must be documented by 976  
objective diagnostic findings, objective clinical findings, or 977  
objective test results. Subjective complaints may be evidence of 978  
such a substantial aggravation. However, subjective complaints 979

without objective diagnostic findings, objective clinical 980  
findings, or objective test results are insufficient to 981  
substantiate a substantial aggravation. 982

(D) "Child" includes a posthumous child and a child 983  
legally adopted prior to the injury. 984

(E) "Family farm corporation" means a corporation founded 985  
for the purpose of farming agricultural land in which the 986  
majority of the voting stock is held by and the majority of the 987  
stockholders are persons or the spouse of persons related to 988  
each other within the fourth degree of kinship, according to the 989  
rules of the civil law, and at least one of the related persons 990  
is residing on or actively operating the farm, and none of whose 991  
stockholders are a corporation. A family farm corporation does 992  
not cease to qualify under this division where, by reason of any 993  
devise, bequest, or the operation of the laws of descent or 994  
distribution, the ownership of shares of voting stock is 995  
transferred to another person, as long as that person is within 996  
the degree of kinship stipulated in this division. 997

(F) "Occupational disease" means a disease contracted in 998  
the course of employment, which by its causes and the 999  
characteristics of its manifestation or the condition of the 1000  
employment results in a hazard which distinguishes the 1001  
employment in character from employment generally, and the 1002  
employment creates a risk of contracting the disease in greater 1003  
degree and in a different manner from the public in general. 1004

(G) "Self-insuring employer" means an employer who is 1005  
granted the privilege of paying compensation and benefits 1006  
directly under section 4123.35 of the Revised Code, including a 1007  
board of county commissioners for the sole purpose of 1008  
constructing a sports facility as defined in section 307.696 of 1009

the Revised Code, provided that the electors of the county in 1010  
which the sports facility is to be built have approved 1011  
construction of a sports facility by ballot election no later 1012  
than November 6, 1997. 1013

(H) "Private employer" means an employer as defined in 1014  
division (B) ~~(2)~~ (1) (b) of this section. 1015

(I) "Professional employer organization" has the same 1016  
meaning as in section 4125.01 of the Revised Code. 1017

(J) "Public employer" means an employer as defined in 1018  
division (B) (1) (a) of this section. 1019

(K) "Sexual conduct" means vaginal intercourse between a 1020  
male and female; anal intercourse, fellatio, and cunnilingus 1021  
between persons regardless of gender; and, without privilege to 1022  
do so, the insertion, however slight, of any part of the body or 1023  
any instrument, apparatus, or other object into the vaginal or 1024  
anal cavity of another. Penetration, however slight, is 1025  
sufficient to complete vaginal or anal intercourse. 1026

(L) "Other-states' insurer" means an insurance company 1027  
that is authorized to provide workers' compensation insurance 1028  
coverage in any of the states that permit employers to obtain 1029  
insurance for workers' compensation claims through insurance 1030  
companies. 1031

(M) "Other-states' coverage" means both of the following: 1032

(1) Insurance coverage secured by an eligible employer for 1033  
workers' compensation claims of employees who are in employment 1034  
relationships localized in a state other than this state or 1035  
those employees' dependents; 1036

(2) Insurance coverage secured by an eligible employer for 1037

workers' compensation claims that arise in a state other than 1038  
this state where an employer elects to obtain coverage through 1039  
either the administrator or an other-states' insurer. 1040

(N) "Limited other-states coverage" means insurance 1041  
coverage provided by the administrator to an eligible employer 1042  
for workers' compensation claims of employees who are in an 1043  
employment relationship localized in this state but are 1044  
temporarily working in a state other than this state, or those 1045  
employees' dependents. 1046

**Sec. 4123.30.** Money contributed by ~~the public~~ employers 1047  
~~mentioned in division (B) (1) of section 4123.01 of the Revised~~ 1048  
~~Code~~ constitutes the "public fund" and the money contributed by 1049  
~~private employers mentioned in division (B) (2) of such section~~ 1050  
constitutes the "private fund." Each such fund shall be 1051  
collected, distributed, and its solvency maintained without 1052  
regard to or reliance upon the other. Whenever in this chapter 1053  
reference is made to the state insurance fund, the reference is 1054  
to such two separate funds but such two separate funds and the 1055  
net premiums contributed thereto by employers after adjustments 1056  
and dividends, except for the amount thereof which is set aside 1057  
for the investigation and prevention of industrial accidents and 1058  
diseases pursuant to Section 35 of Article II, Ohio 1059  
Constitution, any amounts set aside for actuarial services 1060  
authorized or required by sections 4123.44 and 4123.47 of the 1061  
Revised Code, and any amounts set aside to reinsure the 1062  
liability of the respective insurance funds for the following 1063  
payments, constitute a trust fund for the benefit of employers 1064  
and employees mentioned in sections 4123.01, 4123.03, and 1065  
4123.73 of the Revised Code for the payment of compensation, 1066  
medical services, examinations, recommendations and 1067  
determinations, nursing and hospital services, medicine, 1068

rehabilitation, death benefits, funeral expenses, and like 1069  
benefits for loss sustained on account of injury, disease, or 1070  
death provided for by this chapter, and for no other purpose. 1071  
This section does not prevent the deposit or investment of all 1072  
such moneys intermingled for such purpose but such funds shall 1073  
be separate and distinct for all other purposes, and the rights 1074  
and duties created in this chapter shall be construed to have 1075  
been made with respect to two separate funds and so as to 1076  
maintain and continue such funds separately except for deposit 1077  
or investment. Disbursements shall not be made on account of 1078  
injury, disease, or death of employees of employers who 1079  
contribute to one of such funds unless the moneys to the credit 1080  
of such fund are sufficient therefor and no such disbursements 1081  
shall be made for moneys or credits paid or credited to the 1082  
other fund. 1083

**Sec. 4123.38.** Every public employer ~~mentioned in division~~ 1084  
~~(B) (1) of section 4123.01 of the Revised Code,~~ except for boards 1085  
of county hospital trustees that are self-insurers under section 1086  
4123.35 of the Revised Code, shall contribute to the public 1087  
insurance fund the amount of money determined by the 1088  
administrator of workers' compensation, and the manner of 1089  
determining contributions and the classifications of employers 1090  
is as provided in sections 4123.39 to 4123.41 and 4123.48 of the 1091  
Revised Code. 1092

**Sec. 4123.77.** ~~Employers mentioned in division (B) (2) of~~ 1093  
~~section 4123.01 of the Revised Code,~~ Private employers who fail 1094  
to comply with section 4123.35 of the Revised Code are not 1095  
entitled to the benefits of sections 4123.01 to 4123.94, 1096  
inclusive, of the Revised Code, during the period of such 1097  
noncompliance, but are liable to their employees for damages 1098  
suffered by reason of personal injuries sustained in the course 1099

of employment caused by the wrongful act, neglect, or default of 1100  
the employer, or any of the employer's officers, agents, or 1101  
employees, and also to the personal representatives of such 1102  
employees where death results from such injuries, and in such 1103  
action the defendant shall not avail ~~himself or itself~~ self of 1104  
the following common law defenses: 1105

(A) The defense of the fellow servant rule; 1106

(B) The defense of the assumption of risk; 1107

(C) The defense of contributory negligence. 1108

Such employers are subject to sections 4123.37 and 4123.75 1109  
of the Revised Code. 1110

**Sec. 4141.01.** As used in this chapter, unless the context 1111  
otherwise requires: 1112

(A) (1) "Employer" means the state, its instrumentalities, 1113  
its political subdivisions and their instrumentalities, Indian 1114  
tribes, and any individual or type of organization including any 1115  
partnership, limited liability company, association, trust, 1116  
estate, joint-stock company, insurance company, or corporation, 1117  
whether domestic or foreign, or the receiver, trustee in 1118  
bankruptcy, trustee, or the successor thereof, or the legal 1119  
representative of a deceased person who subsequent to December 1120  
31, 1971, or in the case of political subdivisions or their 1121  
instrumentalities, subsequent to December 31, 1973: 1122

(a) Had in employment at least one individual, or in the 1123  
case of a nonprofit organization, subsequent to December 31, 1124  
1973, had not less than four individuals in employment for some 1125  
portion of a day in each of twenty different calendar weeks, in 1126  
either the current or the preceding calendar year whether or not 1127  
the same individual was in employment in each such day; or 1128

(b) Except for a nonprofit organization, had paid for 1129  
service in employment wages of fifteen hundred dollars or more 1130  
in any calendar quarter in either the current or preceding 1131  
calendar year; or 1132

(c) Had paid, subsequent to December 31, 1977, for 1133  
employment in domestic service in a local college club, or local 1134  
chapter of a college fraternity or sorority, cash remuneration 1135  
of one thousand dollars or more in any calendar quarter in the 1136  
current calendar year or the preceding calendar year, or had 1137  
paid subsequent to December 31, 1977, for employment in domestic 1138  
service in a private home cash remuneration of one thousand 1139  
dollars in any calendar quarter in the current calendar year or 1140  
the preceding calendar year: 1141

(i) For the purposes of divisions (A) (1) (a) and (b) of 1142  
this section, there shall not be taken into account any wages 1143  
paid to, or employment of, an individual performing domestic 1144  
service as described in this division. 1145

(ii) An employer under this division shall not be an 1146  
employer with respect to wages paid for any services other than 1147  
domestic service unless the employer is also found to be an 1148  
employer under division (A) (1) (a), (b), or (d) of this section. 1149

(d) As a farm operator or a crew leader subsequent to 1150  
December 31, 1977, had in employment individuals in agricultural 1151  
labor; and 1152

(i) During any calendar quarter in the current calendar 1153  
year or the preceding calendar year, paid cash remuneration of 1154  
twenty thousand dollars or more for the agricultural labor; or 1155

(ii) Had at least ten individuals in employment in 1156  
agricultural labor, not including agricultural workers who are 1157



aliens admitted to the United States to perform agricultural 1158  
labor pursuant to sections 1184(c) and 1101(a)(15)(H) of the 1159  
"Immigration and Nationality Act," 66 Stat. 163, 189, 8 U.S.C.A. 1160  
1101(a)(15)(H)(ii)(a), 1184(c), for some portion of a day in 1161  
each of the twenty different calendar weeks, in either the 1162  
current or preceding calendar year whether or not the same 1163  
individual was in employment in each day; or 1164

(e) Is not otherwise an employer as defined under division 1165  
(A)(1)(a) or (b) of this section; and 1166

(i) For which, within either the current or preceding 1167  
calendar year, service, except for domestic service in a private 1168  
home not covered under division (A)(1)(c) of this section, is or 1169  
was performed with respect to which such employer is liable for 1170  
any federal tax against which credit may be taken for 1171  
contributions required to be paid into a state unemployment 1172  
fund; 1173

(ii) Which, as a condition for approval of this chapter 1174  
for full tax credit against the tax imposed by the "Federal 1175  
Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, 1176  
is required, pursuant to such act to be an employer under this 1177  
chapter; or 1178

(iii) Who became an employer by election under division 1179  
(A)(4) or (5) of this section and for the duration of such 1180  
election; or 1181

(f) In the case of the state, its instrumentalities, its 1182  
political subdivisions, and their instrumentalities, and Indian 1183  
tribes, had in employment, as defined in divisions (B)(2)(a) and 1184  
(B)(2)(1) of this section, at least one individual; 1185

(g) For the purposes of division (A)(1)(a) of this 1186

section, if any week includes both the thirty-first day of 1187  
December and the first day of January, the days of that week 1188  
before the first day of January shall be considered one calendar 1189  
week and the days beginning the first day of January another 1190  
week. 1191

(2) Each individual employed to perform or to assist in 1192  
performing the work of any agent or employee of an employer is 1193  
employed by such employer for all the purposes of this chapter, 1194  
whether such individual was hired or paid directly by such 1195  
employer or by such agent or employee, provided the employer had 1196  
actual or constructive knowledge of the work. All individuals 1197  
performing services for an employer of any person in this state 1198  
who maintains two or more establishments within this state are 1199  
employed by a single employer for the purposes of this chapter. 1200

(3) An employer subject to this chapter within any 1201  
calendar year is subject to this chapter during the whole of 1202  
such year and during the next succeeding calendar year. 1203

(4) An employer not otherwise subject to this chapter who 1204  
files with the director of job and family services a written 1205  
election to become an employer subject to this chapter for not 1206  
less than two calendar years shall, with the written approval of 1207  
such election by the director, become an employer subject to 1208  
this chapter to the same extent as all other employers as of the 1209  
date stated in such approval, and shall cease to be subject to 1210  
this chapter as of the first day of January of any calendar year 1211  
subsequent to such two calendar years only if at least thirty 1212  
days prior to such first day of January the employer has filed 1213  
with the director a written notice to that effect. 1214

(5) Any employer for whom services that do not constitute 1215  
employment are performed may file with the director a written 1216

election that all such services performed by individuals in the 1217  
employer's employ in one or more distinct establishments or 1218  
places of business shall be deemed to constitute employment for 1219  
all the purposes of this chapter, for not less than two calendar 1220  
years. Upon written approval of the election by the director, 1221  
such services shall be deemed to constitute employment subject 1222  
to this chapter from and after the date stated in such approval. 1223  
Such services shall cease to be employment subject to this 1224  
chapter as of the first day of January of any calendar year 1225  
subsequent to such two calendar years only if at least thirty 1226  
days prior to such first day of January such employer has filed 1227  
with the director a written notice to that effect. 1228

(6) "Employer" does not include a franchisor with respect 1229  
to the franchisor's relationship with a franchisee or an 1230  
employee of a franchisee, unless the franchisor agrees to assume 1231  
that role in writing or a court of competent jurisdiction 1232  
determines that the franchisor exercises a type or degree of 1233  
control over the franchisee or the franchisee's employees that 1234  
is not customarily exercised by a franchisor for the purpose of 1235  
protecting the franchisor's trademark, brand, or both. For 1236  
purposes of this division, "franchisor" and "franchisee" have 1237  
the same meanings as in 16 C.F.R. 436.1. 1238

(B) (1) "Employment" means service performed by an 1239  
individual for remuneration under any contract of hire, written 1240  
or oral, express or implied, including service performed in 1241  
interstate commerce and service performed by an officer of a 1242  
corporation, without regard to whether such service is 1243  
executive, managerial, or manual in nature, and without regard 1244  
to whether such officer is a stockholder or a member of the 1245  
board of directors of the corporation, unless it is shown to the 1246  
satisfaction of the director that such individual has been and 1247

will continue to be free from direction or control over the 1248  
performance of such service, both under a contract of service 1249  
and in fact. The director shall adopt rules to define "direction 1250  
or control." 1251

(2) "Employment" includes: 1252

(a) Service performed after December 31, 1977, by an 1253  
individual in the employ of the state or any of its 1254  
instrumentalities, or any political subdivision thereof or any 1255  
of its instrumentalities or any instrumentality of more than one 1256  
of the foregoing or any instrumentality of any of the foregoing 1257  
and one or more other states or political subdivisions and 1258  
without regard to divisions (A) (1) (a) and (b) of this section, 1259  
provided that such service is excluded from employment as 1260  
defined in the "Federal Unemployment Tax Act," 53 Stat. 183, 26 1261  
U.S.C.A. 3301, 3306(c) (7) and is not excluded under division (B) 1262  
(3) of this section; or the services of employees covered by 1263  
voluntary election, as provided under divisions (A) (4) and (5) 1264  
of this section; 1265

(b) Service performed after December 31, 1971, by an 1266  
individual in the employ of a religious, charitable, 1267  
educational, or other organization which is excluded from the 1268  
term "employment" as defined in the "Federal Unemployment Tax 1269  
Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, solely by reason 1270  
of section 26 U.S.C.A. 3306(c) (8) of that act and is not 1271  
excluded under division (B) (3) of this section; 1272

(c) Domestic service performed after December 31, 1977, 1273  
for an employer, as provided in division (A) (1) (c) of this 1274  
section; 1275

(d) Agricultural labor performed after December 31, 1977, 1276

for a farm operator or a crew leader, as provided in division	1277
(A) (1) (d) of this section;	1278
(e) Service not covered under division (B) (1) of this	1279
section which is performed after December 31, 1971:	1280
(i) As an agent-driver or commission-driver engaged in	1281
distributing meat products, vegetable products, fruit products,	1282
bakery products, beverages other than milk, laundry, or dry-	1283
cleaning services, for the individual's employer or principal;	1284
(ii) As a traveling or city salesperson, other than as an	1285
agent-driver or commission-driver, engaged on a full-time basis	1286
in the solicitation on behalf of and in the transmission to the	1287
salesperson's employer or principal except for sideline sales	1288
activities on behalf of some other person of orders from	1289
wholesalers, retailers, contractors, or operators of hotels,	1290
restaurants, or other similar establishments for merchandise for	1291
resale, or supplies for use in their business operations,	1292
provided that for the purposes of division (B) (2) (e) (ii) of this	1293
section, the services shall be deemed employment if the contract	1294
of service contemplates that substantially all of the services	1295
are to be performed personally by the individual and that the	1296
individual does not have a substantial investment in facilities	1297
used in connection with the performance of the services other	1298
than in facilities for transportation, and the services are not	1299
in the nature of a single transaction that is not a part of a	1300
continuing relationship with the person for whom the services	1301
are performed.	1302
(f) An individual's entire service performed within or	1303
both within and without the state if:	1304
(i) The service is localized in this state.	1305

(ii) The service is not localized in any state, but some 1306  
of the service is performed in this state and either the base of 1307  
operations, or if there is no base of operations then the place 1308  
from which such service is directed or controlled, is in this 1309  
state or the base of operations or place from which such service 1310  
is directed or controlled is not in any state in which some part 1311  
of the service is performed but the individual's residence is in 1312  
this state. 1313

(g) Service not covered under division (B) (2) (f) (ii) of 1314  
this section and performed entirely without this state, with 1315  
respect to no part of which contributions are required and paid 1316  
under an unemployment compensation law of any other state, the 1317  
Virgin Islands, Canada, or of the United States, if the 1318  
individual performing such service is a resident of this state 1319  
and the director approves the election of the employer for whom 1320  
such services are performed; or, if the individual is not a 1321  
resident of this state but the place from which the service is 1322  
directed or controlled is in this state, the entire services of 1323  
such individual shall be deemed to be employment subject to this 1324  
chapter, provided service is deemed to be localized within this 1325  
state if the service is performed entirely within this state or 1326  
if the service is performed both within and without this state 1327  
but the service performed without this state is incidental to 1328  
the individual's service within the state, for example, is 1329  
temporary or transitory in nature or consists of isolated 1330  
transactions; 1331

(h) Service of an individual who is a citizen of the 1332  
United States, performed outside the United States except in 1333  
Canada after December 31, 1971, or the Virgin Islands, after 1334  
December 31, 1971, and before the first day of January of the 1335  
year following that in which the United States secretary of 1336

labor approves the Virgin Islands law for the first time, in the 1337  
employ of an American employer, other than service which is 1338  
"employment" under divisions (B) (2) (f) and (g) of this section 1339  
or similar provisions of another state's law, if: 1340

(i) The employer's principal place of business in the 1341  
United States is located in this state; 1342

(ii) The employer has no place of business in the United 1343  
States, but the employer is an individual who is a resident of 1344  
this state; or the employer is a corporation which is organized 1345  
under the laws of this state, or the employer is a partnership 1346  
or a trust and the number of partners or trustees who are 1347  
residents of this state is greater than the number who are 1348  
residents of any other state; or 1349

(iii) None of the criteria of divisions (B) (2) (f) (i) and 1350  
(ii) of this section is met but the employer has elected 1351  
coverage in this state or the employer having failed to elect 1352  
coverage in any state, the individual has filed a claim for 1353  
benefits, based on such service, under this chapter. 1354

(i) For the purposes of division (B) (2) (h) of this 1355  
section, the term "American employer" means an employer who is 1356  
an individual who is a resident of the United States; or a 1357  
partnership, if two-thirds or more of the partners are residents 1358  
of the United States; or a trust, if all of the trustees are 1359  
residents of the United States; or a corporation organized under 1360  
the laws of the United States or of any state, provided the term 1361  
"United States" includes the states, the District of Columbia, 1362  
the Commonwealth of Puerto Rico, and the Virgin Islands. 1363

(j) Notwithstanding any other provisions of divisions (B) 1364  
(1) and (2) of this section, service, except for domestic 1365

service in a private home not covered under division (A) (1) (c) 1366  
of this section, with respect to which a tax is required to be 1367  
paid under any federal law imposing a tax against which credit 1368  
may be taken for contributions required to be paid into a state 1369  
unemployment fund, or service, except for domestic service in a 1370  
private home not covered under division (A) (1) (c) of this 1371  
section, which, as a condition for full tax credit against the 1372  
tax imposed by the "Federal Unemployment Tax Act," 84 Stat. 713, 1373  
26 U.S.C.A. 3301 to 3311, is required to be covered under this 1374  
chapter. 1375

(k) Construction services performed by any individual 1376  
under a construction contract, as defined in section 4141.39 of 1377  
the Revised Code, if the director determines that the employer 1378  
for whom services are performed has the right to direct or 1379  
control the performance of the services and that the individuals 1380  
who perform the services receive remuneration for the services 1381  
performed. The director shall presume that the employer for whom 1382  
services are performed has the right to direct or control the 1383  
performance of the services if ten or more of the following 1384  
criteria apply: 1385

(i) The employer directs or controls the manner or method 1386  
by which instructions are given to the individual performing 1387  
services; 1388

(ii) The employer requires particular training for the 1389  
individual performing services; 1390

(iii) Services performed by the individual are integrated 1391  
into the regular functioning of the employer; 1392

(iv) The employer requires that services be provided by a 1393  
particular individual; 1394



(v) The employer hires, supervises, or pays the wages of the individual performing services;	1395 1396
(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;	1397 1398 1399
(vii) The employer requires the individual to perform services during established hours;	1400 1401
(viii) The employer requires that the individual performing services be devoted on a full-time basis to the business of the employer;	1402 1403 1404
(ix) The employer requires the individual to perform services on the employer's premises;	1405 1406
(x) The employer requires the individual performing services to follow the order of work established by the employer;	1407 1408 1409
(xi) The employer requires the individual performing services to make oral or written reports of progress;	1410 1411
(xii) The employer makes payment to the individual for services on a regular basis, such as hourly, weekly, or monthly;	1412 1413
(xiii) The employer pays expenses for the individual performing services;	1414 1415
(xiv) The employer furnishes the tools and materials for use by the individual to perform services;	1416 1417
(xv) The individual performing services has not invested in the facilities used to perform services;	1418 1419
(xvi) The individual performing services does not realize a profit or suffer a loss as a result of the performance of the	1420 1421

services;	1422
(xvii) The individual performing services is not	1423
performing services for more than two employers simultaneously;	1424
(xviii) The individual performing services does not make	1425
the services available to the general public;	1426
(xix) The employer has a right to discharge the individual	1427
performing services;	1428
(xx) The individual performing services has the right to	1429
end the individual's relationship with the employer without	1430
incurring liability pursuant to an employment contract or	1431
agreement.	1432
(1) Service performed by an individual in the employ of an	1433
Indian tribe as defined by section 4(e) of the "Indian Self-	1434
Determination and Education Assistance Act," 88 Stat. 2204	1435
(1975), 25 U.S.C.A. 450b(e), including any subdivision,	1436
subsidiary, or business enterprise wholly owned by an Indian	1437
tribe provided that the service is excluded from employment as	1438
defined in the "Federal Unemployment Tax Act," 53 Stat. 183	1439
(1939), 26 U.S.C.A. 3301 and 3306(c)(7) and is not excluded	1440
under division (B)(3) of this section.	1441
(3) "Employment" does not include the following services	1442
if they are found not subject to the "Federal Unemployment Tax	1443
Act," 84 Stat. 713 (1970), 26 U.S.C.A. 3301 to 3311, and if the	1444
services are not required to be included under division (B)(2)	1445
(j) of this section:	1446
(a) Service performed after December 31, 1977, in	1447
agricultural labor, except as provided in division (A)(1)(d) of	1448
this section;	1449

(b) Domestic service performed after December 31, 1977, in	1450
a private home, local college club, or local chapter of a	1451
college fraternity or sorority except as provided in division	1452
(A) (1) (c) of this section;	1453
(c) Service performed after December 31, 1977, for this	1454
state or a political subdivision as described in division (B) (2)	1455
(a) of this section when performed:	1456
(i) As a publicly elected official;	1457
(ii) As a member of a legislative body, or a member of the	1458
judiciary;	1459
(iii) As a military member of the Ohio national guard;	1460
(iv) As an employee, not in the classified service as	1461
defined in section 124.11 of the Revised Code, serving on a	1462
temporary basis in case of fire, storm, snow, earthquake, flood,	1463
or similar emergency;	1464
(v) In a position which, under or pursuant to law, is	1465
designated as a major nontenured policymaking or advisory	1466
position, not in the classified service of the state, or a	1467
policymaking or advisory position the performance of the duties	1468
of which ordinarily does not require more than eight hours per	1469
week.	1470
(d) In the employ of any governmental unit or	1471
instrumentality of the United States;	1472
(e) Service performed after December 31, 1971:	1473
(i) Service in the employ of an educational institution or	1474
institution of higher education, including those operated by the	1475
state or a political subdivision, if such service is performed	1476
by a student who is enrolled and is regularly attending classes	1477

at the educational institution or institution of higher 1478  
education; or 1479

(ii) By an individual who is enrolled at a nonprofit or 1480  
public educational institution which normally maintains a 1481  
regular faculty and curriculum and normally has a regularly 1482  
organized body of students in attendance at the place where its 1483  
educational activities are carried on as a student in a full- 1484  
time program, taken for credit at the institution, which 1485  
combines academic instruction with work experience, if the 1486  
service is an integral part of the program, and the institution 1487  
has so certified to the employer, provided that this subdivision 1488  
shall not apply to service performed in a program established 1489  
for or on behalf of an employer or group of employers. 1490

(f) Service performed by an individual in the employ of 1491  
the individual's son, daughter, or spouse and service performed 1492  
by a child under the age of eighteen in the employ of the 1493  
child's father or mother; 1494

(g) Service performed for one or more principals by an 1495  
individual who is compensated on a commission basis, who in the 1496  
performance of the work is master of the individual's own time 1497  
and efforts, and whose remuneration is wholly dependent on the 1498  
amount of effort the individual chooses to expend, and which 1499  
service is not subject to the "Federal Unemployment Tax Act," 53 1500  
Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. Service performed 1501  
after December 31, 1971: 1502

(i) By an individual for an employer as an insurance agent 1503  
or as an insurance solicitor, if all this service is performed 1504  
for remuneration solely by way of commission; 1505

(ii) As a home worker performing work, according to 1506

specifications furnished by the employer for whom the services 1507  
are performed, on materials or goods furnished by such employer 1508  
which are required to be returned to the employer or to a person 1509  
designated for that purpose. 1510

(h) Service performed after December 31, 1971: 1511

(i) In the employ of a church or convention or association 1512  
of churches, or in an organization which is operated primarily 1513  
for religious purposes and which is operated, supervised, 1514  
controlled, or principally supported by a church or convention 1515  
or association of churches; 1516

(ii) By a duly ordained, commissioned, or licensed 1517  
minister of a church in the exercise of the individual's 1518  
ministry or by a member of a religious order in the exercise of 1519  
duties required by such order; or 1520

(iii) In a facility conducted for the purpose of carrying 1521  
out a program of rehabilitation for individuals whose earning 1522  
capacity is impaired by age or physical or mental deficiency or 1523  
injury, or providing remunerative work for individuals who 1524  
because of their impaired physical or mental capacity cannot be 1525  
readily absorbed in the competitive labor market, by an 1526  
individual receiving such rehabilitation or remunerative work. 1527

(i) Service performed after June 30, 1939, with respect to 1528  
which unemployment compensation is payable under the "Railroad 1529  
Unemployment Insurance Act," 52 Stat. 1094 (1938), 45 U.S.C. 1530  
351; 1531

(j) Service performed by an individual in the employ of 1532  
any organization exempt from income tax under section 501 of the 1533  
"Internal Revenue Code of 1954," if the remuneration for such 1534  
service does not exceed fifty dollars in any calendar quarter, 1535

or if such service is in connection with the collection of dues 1536  
or premiums for a fraternal beneficial society, order, or 1537  
association and is performed away from the home office or is 1538  
ritualistic service in connection with any such society, order, 1539  
or association; 1540

(k) Casual labor not in the course of an employer's trade 1541  
or business; incidental service performed by an officer, 1542  
appraiser, or member of a finance committee of a bank, building 1543  
and loan association, savings and loan association, or savings 1544  
association when the remuneration for such incidental service 1545  
exclusive of the amount paid or allotted for directors' fees 1546  
does not exceed sixty dollars per calendar quarter is casual 1547  
labor; 1548

(l) Service performed in the employ of a voluntary 1549  
employees' beneficial association providing for the payment of 1550  
life, sickness, accident, or other benefits to the members of 1551  
such association or their dependents or their designated 1552  
beneficiaries, if admission to a membership in such association 1553  
is limited to individuals who are officers or employees of a 1554  
municipal or public corporation, of a political subdivision of 1555  
the state, or of the United States and no part of the net 1556  
earnings of such association inures, other than through such 1557  
payments, to the benefit of any private shareholder or 1558  
individual; 1559

(m) Service performed by an individual in the employ of a 1560  
foreign government, including service as a consular or other 1561  
officer or employee or of a nondiplomatic representative; 1562

(n) Service performed in the employ of an instrumentality 1563  
wholly owned by a foreign government if the service is of a 1564  
character similar to that performed in foreign countries by 1565

employees of the United States or of an instrumentality thereof 1566  
and if the director finds that the secretary of state of the 1567  
United States has certified to the secretary of the treasury of 1568  
the United States that the foreign government, with respect to 1569  
whose instrumentality exemption is claimed, grants an equivalent 1570  
exemption with respect to similar service performed in the 1571  
foreign country by employees of the United States and of 1572  
instrumentalities thereof; 1573

(o) Service with respect to which unemployment 1574  
compensation is payable under an unemployment compensation 1575  
system established by an act of congress; 1576

(p) Service performed as a student nurse in the employ of 1577  
a hospital or a nurses' training school by an individual who is 1578  
enrolled and is regularly attending classes in a nurses' 1579  
training school chartered or approved pursuant to state law, and 1580  
service performed as an intern in the employ of a hospital by an 1581  
individual who has completed a four years' course in a medical 1582  
school chartered or approved pursuant to state law; 1583

(q) Service performed by an individual under the age of 1584  
eighteen in the delivery or distribution of newspapers or 1585  
shopping news, not including delivery or distribution to any 1586  
point for subsequent delivery or distribution; 1587

(r) Service performed in the employ of the United States 1588  
or an instrumentality of the United States immune under the 1589  
Constitution of the United States from the contributions imposed 1590  
by this chapter, except that to the extent that congress permits 1591  
states to require any instrumentalities of the United States to 1592  
make payments into an unemployment fund under a state 1593  
unemployment compensation act, this chapter shall be applicable 1594  
to such instrumentalities and to services performed for such 1595

instrumentalities in the same manner, to the same extent, and on 1596  
the same terms as to all other employers, individuals, and 1597  
services, provided that if this state is not certified for any 1598  
year by the proper agency of the United States under section 1599  
3304 of the "Internal Revenue Code of 1954," the payments 1600  
required of such instrumentalities with respect to such year 1601  
shall be refunded by the director from the fund in the same 1602  
manner and within the same period as is provided in division (E) 1603  
of section 4141.09 of the Revised Code with respect to 1604  
contributions erroneously collected; 1605

(s) Service performed by an individual as a member of a 1606  
band or orchestra, provided such service does not represent the 1607  
principal occupation of such individual, and which service is 1608  
not subject to or required to be covered for full tax credit 1609  
against the tax imposed by the "Federal Unemployment Tax Act," 1610  
53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. 1611

(t) Service performed in the employ of a day camp whose 1612  
camping season does not exceed twelve weeks in any calendar 1613  
year, and which service is not subject to the "Federal 1614  
Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 1615  
3311. Service performed after December 31, 1971: 1616

(i) In the employ of a hospital, if the service is 1617  
performed by a patient of the hospital, as defined in division 1618  
(W) of this section; 1619

(ii) For a prison or other correctional institution by an 1620  
inmate of the prison or correctional institution; 1621

(iii) Service performed after December 31, 1977, by an 1622  
inmate of a custodial institution operated by the state, a 1623  
political subdivision, or a nonprofit organization. 1624



(u) Service that is performed by a nonresident alien 1625  
individual for the period the individual temporarily is present 1626  
in the United States as a nonimmigrant under division (F), (J), 1627  
(M), or (Q) of section 101(a)(15) of the "Immigration and 1628  
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101, as amended, 1629  
that is excluded under section 3306(c)(19) of the "Federal 1630  
Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 1631  
3311. 1632

(v) Notwithstanding any other provisions of division (B) 1633  
(3) of this section, services that are excluded under divisions 1634  
(B)(3)(g), (j), (k), and (l) of this section shall not be 1635  
excluded from employment when performed for a nonprofit 1636  
organization, as defined in division (X) of this section, or for 1637  
this state or its instrumentalities, or for a political 1638  
subdivision or its instrumentalities or for Indian tribes; 1639

(w) Service that is performed by an individual working as 1640  
an election official or election worker if the amount of 1641  
remuneration received by the individual during the calendar year 1642  
for services as an election official or election worker is less 1643  
than one thousand dollars; 1644

(x) Service performed for an elementary or secondary 1645  
school that is operated primarily for religious purposes, that 1646  
is described in subsection 501(c)(3) and exempt from federal 1647  
income taxation under subsection 501(a) of the Internal Revenue 1648  
Code, 26 U.S.C.A. 501; 1649

(y) Service performed by a person committed to a penal 1650  
institution. 1651

(z) Service performed for an Indian tribe as described in 1652  
division (B)(2)(1) of this section when performed in any of the 1653

following manners: 1654

(i) As a publicly elected official; 1655

(ii) As a member of an Indian tribal council; 1656

(iii) As a member of a legislative or judiciary body; 1657

(iv) In a position which, pursuant to Indian tribal law, 1658  
is designated as a major nontenured policymaking or advisory 1659  
position, or a policymaking or advisory position where the 1660  
performance of the duties ordinarily does not require more than 1661  
eight hours of time per week; 1662

(v) As an employee serving on a temporary basis in the 1663  
case of a fire, storm, snow, earthquake, flood, or similar 1664  
emergency. 1665

(aa) Service performed after December 31, 1971, for a 1666  
nonprofit organization, this state or its instrumentalities, a 1667  
political subdivision or its instrumentalities, or an Indian 1668  
tribe as part of an unemployment work-relief or work-training 1669  
program assisted or financed in whole or in part by any federal 1670  
agency or an agency of a state or political subdivision, 1671  
thereof, by an individual receiving the work-relief or work- 1672  
training. 1673

(bb) Participation in a learn to earn program as defined 1674  
in section 4141.293 of the Revised Code. 1675

(4) If the services performed during one half or more of 1676  
any pay period by an employee for the person employing that 1677  
employee constitute employment, all the services of such 1678  
employee for such period shall be deemed to be employment; but 1679  
if the services performed during more than one half of any such 1680  
pay period by an employee for the person employing that employee 1681

do not constitute employment, then none of the services of such 1682  
employee for such period shall be deemed to be employment. As 1683  
used in division (B) (4) of this section, "pay period" means a 1684  
period, of not more than thirty-one consecutive days, for which 1685  
payment of remuneration is ordinarily made to the employee by 1686  
the person employing that employee. Division (B) (4) of this 1687  
section does not apply to services performed in a pay period by 1688  
an employee for the person employing that employee, if any of 1689  
such service is excepted by division (B) (3) (o) of this section. 1690

(C) "Benefits" means money payments payable to an 1691  
individual who has established benefit rights, as provided in 1692  
this chapter, for loss of remuneration due to the individual's 1693  
unemployment. 1694

(D) "Benefit rights" means the weekly benefit amount and 1695  
the maximum benefit amount that may become payable to an 1696  
individual within the individual's benefit year as determined by 1697  
the director. 1698

(E) "Claim for benefits" means a claim for waiting period 1699  
or benefits for a designated week. 1700

(F) "Additional claim" means the first claim for benefits 1701  
filed following any separation from employment during a benefit 1702  
year; "continued claim" means any claim other than the first 1703  
claim for benefits and other than an additional claim. 1704

(G) "Wages" means remuneration paid to an employee by each 1705  
of the employee's employers with respect to employment; except 1706  
that wages shall not include that part of remuneration paid 1707  
during any calendar year to an individual by an employer or such 1708  
employer's predecessor in interest in the same business or 1709  
enterprise, which in any calendar year is in excess of nine 1710

thousand dollars on and after January 1, 1995; nine thousand 1711  
five hundred dollars on and after January 1, 2018; and nine 1712  
thousand dollars on and after January 1, 2020. Remuneration in 1713  
excess of such amounts shall be deemed wages subject to 1714  
contribution to the same extent that such remuneration is 1715  
defined as wages under the "Federal Unemployment Tax Act," 84 1716  
Stat. 714 (1970), 26 U.S.C.A. 3301 to 3311, as amended. The 1717  
remuneration paid an employee by an employer with respect to 1718  
employment in another state, upon which contributions were 1719  
required and paid by such employer under the unemployment 1720  
compensation act of such other state, shall be included as a 1721  
part of remuneration in computing the amount specified in this 1722  
division. 1723

(H) (1) "Remuneration" means all compensation for personal 1724  
services, including commissions and bonuses and the cash value 1725  
of all compensation in any medium other than cash, except that 1726  
in the case of agricultural or domestic service, "remuneration" 1727  
includes only cash remuneration. Gratuities customarily received 1728  
by an individual in the course of the individual's employment 1729  
from persons other than the individual's employer and which are 1730  
accounted for by such individual to the individual's employer 1731  
are taxable wages. 1732

The reasonable cash value of compensation paid in any 1733  
medium other than cash shall be estimated and determined in 1734  
accordance with rules prescribed by the director, provided that 1735  
"remuneration" does not include: 1736

(a) Payments as provided in divisions (b) (2) to (b) (20) of 1737  
section 3306 of the "Federal Unemployment Tax Act," 84 Stat. 1738  
713, 26 U.S.C.A. 3301 to 3311, as amended; 1739

(b) The payment by an employer, without deduction from the 1740

remuneration of the individual in the employer's employ, of the 1741  
tax imposed upon an individual in the employer's employ under 1742  
section 3101 of the "Internal Revenue Code of 1954," with 1743  
respect to services performed after October 1, 1941. 1744

(2) "Cash remuneration" means all remuneration paid in 1745  
cash, including commissions and bonuses, but not including the 1746  
cash value of all compensation in any medium other than cash. 1747

(I) "Interested party" means the director and any party to 1748  
whom notice of a determination of an application for benefit 1749  
rights or a claim for benefits is required to be given under 1750  
section 4141.28 of the Revised Code. 1751

(J) "Annual payroll" means the total amount of wages 1752  
subject to contributions during a twelve-month period ending 1753  
with the last day of the second calendar quarter of any calendar 1754  
year. 1755

(K) "Average annual payroll" means the average of the last 1756  
three annual payrolls of an employer, provided that if, as of 1757  
any computation date, the employer has had less than three 1758  
annual payrolls in such three-year period, such average shall be 1759  
based on the annual payrolls which the employer has had as of 1760  
such date. 1761

(L) (1) "Contributions" means the money payments to the 1762  
state unemployment compensation fund required of employers by 1763  
section 4141.25 of the Revised Code and of the state and any of 1764  
its political subdivisions electing to pay contributions under 1765  
section 4141.242 of the Revised Code. Employers paying 1766  
contributions shall be described as "contributory employers." 1767

(2) "Payments in lieu of contributions" means the money 1768  
payments to the state unemployment compensation fund required of 1769

reimbursing employers under sections 4141.241 and 4141.242 of 1770  
the Revised Code. 1771

(M) An individual is "totally unemployed" in any week 1772  
during which the individual performs no services and with 1773  
respect to such week no remuneration is payable to the 1774  
individual. 1775

(N) An individual is "partially unemployed" in any week 1776  
if, due to involuntary loss of work, the total remuneration 1777  
payable to the individual for such week is less than the 1778  
individual's weekly benefit amount. 1779

(O) "Week" means the calendar week ending at midnight 1780  
Saturday unless an equivalent week of seven consecutive calendar 1781  
days is prescribed by the director. 1782

(1) "Qualifying week" means any calendar week in an 1783  
individual's base period with respect to which the individual 1784  
earns or is paid remuneration in employment subject to this 1785  
chapter. A calendar week with respect to which an individual 1786  
earns remuneration but for which payment was not made within the 1787  
base period, when necessary to qualify for benefit rights, may 1788  
be considered to be a qualifying week. The number of qualifying 1789  
weeks which may be established in a calendar quarter shall not 1790  
exceed the number of calendar weeks in the quarter. 1791

(2) "Average weekly wage" means the amount obtained by 1792  
dividing an individual's total remuneration for all qualifying 1793  
weeks during the base period by the number of such qualifying 1794  
weeks, provided that if the computation results in an amount 1795  
that is not a multiple of one dollar, such amount shall be 1796  
rounded to the next lower multiple of one dollar. 1797

(P) "Weekly benefit amount" means the amount of benefits 1798

an individual would be entitled to receive for one week of total unemployment. 1799  
1800

(Q) (1) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except as provided in division (Q) (2) of this section. 1801  
1802  
1803  
1804

(2) If an individual does not have sufficient qualifying weeks and wages in the base period to qualify for benefit rights, the individual's base period shall be the four most recently completed calendar quarters preceding the first day of the individual's benefit year. Such base period shall be known as the "alternate base period." If information as to weeks and wages for the most recent quarter of the alternate base period is not available to the director from the regular quarterly reports of wage information, which are systematically accessible, the director may, consistent with the provisions of section 4141.28 of the Revised Code, base the determination of eligibility for benefits on the affidavit of the claimant with respect to weeks and wages for that calendar quarter. The claimant shall furnish payroll documentation, where available, in support of the affidavit. The determination based upon the alternate base period as it relates to the claimant's benefit rights, shall be amended when the quarterly report of wage information from the employer is timely received and that information causes a change in the determination. As provided in division (B) of section 4141.28 of the Revised Code, any benefits paid and charged to an employer's account, based upon a claimant's affidavit, shall be adjusted effective as of the beginning of the claimant's benefit year. No calendar quarter in a base period or alternate base period shall be used to establish a subsequent benefit year. 1805  
1806  
1807  
1808  
1809  
1810  
1811  
1812  
1813  
1814  
1815  
1816  
1817  
1818  
1819  
1820  
1821  
1822  
1823  
1824  
1825  
1826  
1827  
1828  
1829

(3) The "base period" of a combined wage claim, as 1830  
described in division (H) of section 4141.43 of the Revised 1831  
Code, shall be the base period prescribed by the law of the 1832  
state in which the claim is allowed. 1833

(4) For purposes of determining the weeks that comprise a 1834  
completed calendar quarter under this division, only those weeks 1835  
ending at midnight Saturday within the calendar quarter shall be 1836  
utilized. 1837

(R) (1) "Benefit year" with respect to an individual means 1838  
the fifty-two week period beginning with the first day of that 1839  
week with respect to which the individual first files a valid 1840  
application for determination of benefit rights, and thereafter 1841  
the fifty-two week period beginning with the first day of that 1842  
week with respect to which the individual next files a valid 1843  
application for determination of benefit rights after the 1844  
termination of the individual's last preceding benefit year, 1845  
except that the application shall not be considered valid unless 1846  
the individual has had employment in six weeks that is subject 1847  
to this chapter or the unemployment compensation act of another 1848  
state, or the United States, and has, since the beginning of the 1849  
individual's previous benefit year, in the employment earned 1850  
three times the average weekly wage determined for the previous 1851  
benefit year. The "benefit year" of a combined wage claim, as 1852  
described in division (H) of section 4141.43 of the Revised 1853  
Code, shall be the benefit year prescribed by the law of the 1854  
state in which the claim is allowed. Any application for 1855  
determination of benefit rights made in accordance with section 1856  
4141.28 of the Revised Code is valid if the individual filing 1857  
such application is unemployed, has been employed by an employer 1858  
or employers subject to this chapter in at least twenty 1859  
qualifying weeks within the individual's base period, and has 1860



earned or been paid remuneration at an average weekly wage of 1861  
not less than twenty-seven and one-half per cent of the 1862  
statewide average weekly wage for such weeks. For purposes of 1863  
determining whether an individual has had sufficient employment 1864  
since the beginning of the individual's previous benefit year to 1865  
file a valid application, "employment" means the performance of 1866  
services for which remuneration is payable. 1867

(2) Effective for benefit years beginning on and after 1868  
December 26, 2004, any application for determination of benefit 1869  
rights made in accordance with section 4141.28 of the Revised 1870  
Code is valid if the individual satisfies the criteria described 1871  
in division (R) (1) of this section, and if the reason for the 1872  
individual's separation from employment is not disqualifying 1873  
pursuant to division (D) (2) of section 4141.29 or section 1874  
4141.291 of the Revised Code. A disqualification imposed 1875  
pursuant to division (D) (2) of section 4141.29 or section 1876  
4141.291 of the Revised Code must be removed as provided in 1877  
those sections as a requirement of establishing a valid 1878  
application for benefit years beginning on and after December 1879  
26, 2004. 1880

(3) The statewide average weekly wage shall be calculated 1881  
by the director once a year based on the twelve-month period 1882  
ending the thirtieth day of June, as set forth in division (B) 1883  
(3) of section 4141.30 of the Revised Code, rounded down to the 1884  
nearest dollar. Increases or decreases in the amount of 1885  
remuneration required to have been earned or paid in order for 1886  
individuals to have filed valid applications shall become 1887  
effective on Sunday of the calendar week in which the first day 1888  
of January occurs that follows the twelve-month period ending 1889  
the thirtieth day of June upon which the calculation of the 1890  
statewide average weekly wage was based. 1891

(4) As used in this division, an individual is 1892  
"unemployed" if, with respect to the calendar week in which such 1893  
application is filed, the individual is "partially unemployed" 1894  
or "totally unemployed" as defined in this section or if, prior 1895  
to filing the application, the individual was separated from the 1896  
individual's most recent work for any reason which terminated 1897  
the individual's employee-employer relationship, or was laid off 1898  
indefinitely or for a definite period of seven or more days. 1899

(S) "Calendar quarter" means the period of three 1900  
consecutive calendar months ending on the thirty-first day of 1901  
March, the thirtieth day of June, the thirtieth day of 1902  
September, and the thirty-first day of December, or the 1903  
equivalent thereof as the director prescribes by rule. 1904

(T) "Computation date" means the first day of the third 1905  
calendar quarter of any calendar year. 1906

(U) "Contribution period" means the calendar year 1907  
beginning on the first day of January of any year. 1908

(V) "Agricultural labor," for the purpose of this 1909  
division, means any service performed prior to January 1, 1972, 1910  
which was agricultural labor as defined in this division prior 1911  
to that date, and service performed after December 31, 1971: 1912

(1) On a farm, in the employ of any person, in connection 1913  
with cultivating the soil, or in connection with raising or 1914  
harvesting any agricultural or horticultural commodity, 1915  
including the raising, shearing, feeding, caring for, training, 1916  
and management of livestock, bees, poultry, and fur-bearing 1917  
animals and wildlife; 1918

(2) In the employ of the owner or tenant or other operator 1919  
of a farm in connection with the operation, management, 1920

conservation, improvement, or maintenance of such farm and its 1921  
tools and equipment, or in salvaging timber or clearing land of 1922  
brush and other debris left by hurricane, if the major part of 1923  
such service is performed on a farm; 1924

(3) In connection with the production or harvesting of any 1925  
commodity defined as an agricultural commodity in section 15 (g) 1926  
of the "Agricultural Marketing Act," 46 Stat. 1550 (1931), 12 1927  
U.S.C. 1141j, as amended, or in connection with the ginning of 1928  
cotton, or in connection with the operation or maintenance of 1929  
ditches, canals, reservoirs, or waterways, not owned or operated 1930  
for profit, used exclusively for supplying and storing water for 1931  
farming purposes; 1932

(4) In the employ of the operator of a farm in handling, 1933  
planting, drying, packing, packaging, processing, freezing, 1934  
grading, storing, or delivering to storage or to market or to a 1935  
carrier for transportation to market, in its unmanufactured 1936  
state, any agricultural or horticultural commodity, but only if 1937  
the operator produced more than one half of the commodity with 1938  
respect to which such service is performed; 1939

(5) In the employ of a group of operators of farms, or a 1940  
cooperative organization of which the operators are members, in 1941  
the performance of service described in division (V) (4) of this 1942  
section, but only if the operators produced more than one-half 1943  
of the commodity with respect to which the service is performed; 1944

(6) Divisions (V) (4) and (5) of this section shall not be 1945  
deemed to be applicable with respect to service performed: 1946

(a) In connection with commercial canning or commercial 1947  
freezing or in connection with any agricultural or horticultural 1948  
commodity after its delivery to a terminal market for 1949

distribution for consumption; or	1950
(b) On a farm operated for profit if the service is not in the course of the employer's trade or business.	1951 1952
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.	1953 1954 1955 1956 1957
(W) "Hospital" means an institution which has been registered or licensed by the Ohio department of health as a hospital.	1958 1959 1960
(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.	1961 1962 1963 1964
(Y) "Institution of higher education" means a public or nonprofit educational institution, including an educational institution operated by an Indian tribe, which:	1965 1966 1967
(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent;	1968 1969 1970
(2) Is legally authorized in this state or by the Indian tribe to provide a program of education beyond high school; and	1971 1972
(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	1973 1974 1975 1976 1977

occupation.	1978
For the purposes of this division, all colleges and	1979
universities in this state are institutions of higher education.	1980
(Z) For the purposes of this chapter, "states" includes	1981
the District of Columbia, the Commonwealth of Puerto Rico, and	1982
the Virgin Islands.	1983
(AA) "Alien" means, for the purposes of division (A) (1) (d)	1984
of this section, an individual who is an alien admitted to the	1985
United States to perform service in agricultural labor pursuant	1986
to sections 214 (c) and 101 (a) (15) (H) of the "Immigration and	1987
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101.	1988
(BB) (1) "Crew leader" means an individual who furnishes	1989
individuals to perform agricultural labor for any other employer	1990
or farm operator, and:	1991
(a) Pays, either on the individual's own behalf or on	1992
behalf of the other employer or farm operator, the individuals	1993
so furnished by the individual for the service in agricultural	1994
labor performed by them;	1995
(b) Has not entered into a written agreement with the	1996
other employer or farm operator under which the agricultural	1997
worker is designated as in the employ of the other employer or	1998
farm operator.	1999
(2) For the purposes of this chapter, any individual who	2000
is a member of a crew furnished by a crew leader to perform	2001
service in agricultural labor for any other employer or farm	2002
operator shall be treated as an employee of the crew leader if:	2003
(a) The crew leader holds a valid certificate of	2004
registration under the "Farm Labor Contractor Registration Act	2005

of 1963," 90 Stat. 2668, 7 U.S.C. 2041; or 2006

(b) Substantially all the members of the crew operate or 2007  
maintain tractors, mechanized harvesting or crop-dusting 2008  
equipment, or any other mechanized equipment, which is provided 2009  
by the crew leader; and 2010

(c) If the individual is not in the employment of the 2011  
other employer or farm operator within the meaning of division 2012  
(B)(1) of this section. 2013

(3) For the purposes of this division, any individual who 2014  
is furnished by a crew leader to perform service in agricultural 2015  
labor for any other employer or farm operator and who is not 2016  
treated as in the employment of the crew leader under division 2017  
(BB)(2) of this section shall be treated as the employee of the 2018  
other employer or farm operator and not of the crew leader. The 2019  
other employer or farm operator shall be treated as having paid 2020  
cash remuneration to the individual in an amount equal to the 2021  
amount of cash remuneration paid to the individual by the crew 2022  
leader, either on the crew leader's own behalf or on behalf of 2023  
the other employer or farm operator, for the service in 2024  
agricultural labor performed for the other employer or farm 2025  
operator. 2026

(CC) "Educational institution" means an institution other 2027  
than an institution of higher education as defined in division 2028  
(Y) of this section, including an educational institution 2029  
operated by an Indian tribe, which: 2030

(1) Offers participants, trainees, or students an 2031  
organized course of study or training designed to transfer to 2032  
them knowledge, skills, information, doctrines, attitudes, or 2033  
abilities from, by, or under the guidance of an instructor or 2034

teacher; and 2035

(2) Is approved, chartered, or issued a permit to operate 2036  
as a school by the state board of education, other government 2037  
agency, or Indian tribe that is authorized within the state to 2038  
approve, charter, or issue a permit for the operation of a 2039  
school. 2040

For the purposes of this division, the courses of study or 2041  
training which the institution offers may be academic, 2042  
technical, trade, or preparation for gainful employment in a 2043  
recognized occupation. 2044

(DD) "Cost savings day" means any unpaid day off from work 2045  
in which employees continue to accrue employee benefits which 2046  
have a determinable value including, but not limited to, 2047  
vacation, pension contribution, sick time, and life and health 2048  
insurance. 2049

**Sec. 5747.01.** Except as otherwise expressly provided or 2050  
clearly appearing from the context, any term used in this 2051  
chapter that is not otherwise defined in this section has the 2052  
same meaning as when used in a comparable context in the laws of 2053  
the United States relating to federal income taxes or if not 2054  
used in a comparable context in those laws, has the same meaning 2055  
as in section 5733.40 of the Revised Code. Any reference in this 2056  
chapter to the Internal Revenue Code includes other laws of the 2057  
United States relating to federal income taxes. 2058

As used in this chapter: 2059

(A) "Adjusted gross income" or "Ohio adjusted gross 2060  
income" means federal adjusted gross income, as defined and used 2061  
in the Internal Revenue Code, adjusted as provided in this 2062  
section: 2063

(1) Add interest or dividends on obligations or securities	2064
of any state or of any political subdivision or authority of any	2065
state, other than this state and its subdivisions and	2066
authorities.	2067
(2) Add interest or dividends on obligations of any	2068
authority, commission, instrumentality, territory, or possession	2069
of the United States to the extent that the interest or	2070
dividends are exempt from federal income taxes but not from	2071
state income taxes.	2072
(3) Deduct interest or dividends on obligations of the	2073
United States and its territories and possessions or of any	2074
authority, commission, or instrumentality of the United States	2075
to the extent that the interest or dividends are included in	2076
federal adjusted gross income but exempt from state income taxes	2077
under the laws of the United States.	2078
(4) Deduct disability and survivor's benefits to the	2079
extent included in federal adjusted gross income.	2080
(5) Deduct benefits under Title II of the Social Security	2081
Act and tier 1 railroad retirement benefits to the extent	2082
included in federal adjusted gross income under section 86 of	2083
the Internal Revenue Code.	2084
(6) In the case of a taxpayer who is a beneficiary of a	2085
trust that makes an accumulation distribution as defined in	2086
section 665 of the Internal Revenue Code, add, for the	2087
beneficiary's taxable years beginning before 2002, the portion,	2088
if any, of such distribution that does not exceed the	2089
undistributed net income of the trust for the three taxable	2090
years preceding the taxable year in which the distribution is	2091
made to the extent that the portion was not included in the	2092



trust's taxable income for any of the trust's taxable years 2093  
beginning in 2002 or thereafter. "Undistributed net income of a 2094  
trust" means the taxable income of the trust increased by (a) (i) 2095  
the additions to adjusted gross income required under division 2096  
(A) of this section and (ii) the personal exemptions allowed to 2097  
the trust pursuant to section 642(b) of the Internal Revenue 2098  
Code, and decreased by (b) (i) the deductions to adjusted gross 2099  
income required under division (A) of this section, (ii) the 2100  
amount of federal income taxes attributable to such income, and 2101  
(iii) the amount of taxable income that has been included in the 2102  
adjusted gross income of a beneficiary by reason of a prior 2103  
accumulation distribution. Any undistributed net income included 2104  
in the adjusted gross income of a beneficiary shall reduce the 2105  
undistributed net income of the trust commencing with the 2106  
earliest years of the accumulation period. 2107

(7) Deduct the amount of wages and salaries, if any, not 2108  
otherwise allowable as a deduction but that would have been 2109  
allowable as a deduction in computing federal adjusted gross 2110  
income for the taxable year, had the targeted jobs credit 2111  
allowed and determined under sections 38, 51, and 52 of the 2112  
Internal Revenue Code not been in effect. 2113

(8) Deduct any interest or interest equivalent on public 2114  
obligations and purchase obligations to the extent that the 2115  
interest or interest equivalent is included in federal adjusted 2116  
gross income. 2117

(9) Add any loss or deduct any gain resulting from the 2118  
sale, exchange, or other disposition of public obligations to 2119  
the extent that the loss has been deducted or the gain has been 2120  
included in computing federal adjusted gross income. 2121

(10) Deduct or add amounts, as provided under section 2122

5747.70 of the Revised Code, related to contributions to 2123  
variable college savings program accounts made or tuition units 2124  
purchased pursuant to Chapter 3334. of the Revised Code. 2125

(11) (a) Deduct, to the extent not otherwise allowable as a 2126  
deduction or exclusion in computing federal or Ohio adjusted 2127  
gross income for the taxable year, the amount the taxpayer paid 2128  
during the taxable year for medical care insurance and qualified 2129  
long-term care insurance for the taxpayer, the taxpayer's 2130  
spouse, and dependents. No deduction for medical care insurance 2131  
under division (A) (11) of this section shall be allowed either 2132  
to any taxpayer who is eligible to participate in any subsidized 2133  
health plan maintained by any employer of the taxpayer or of the 2134  
taxpayer's spouse, or to any taxpayer who is entitled to, or on 2135  
application would be entitled to, benefits under part A of Title 2136  
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 2137  
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 2138  
of this section, "subsidized health plan" means a health plan 2139  
for which the employer pays any portion of the plan's cost. The 2140  
deduction allowed under division (A) (11) (a) of this section 2141  
shall be the net of any related premium refunds, related premium 2142  
reimbursements, or related insurance premium dividends received 2143  
during the taxable year. 2144

(b) Deduct, to the extent not otherwise deducted or 2145  
excluded in computing federal or Ohio adjusted gross income 2146  
during the taxable year, the amount the taxpayer paid during the 2147  
taxable year, not compensated for by any insurance or otherwise, 2148  
for medical care of the taxpayer, the taxpayer's spouse, and 2149  
dependents, to the extent the expenses exceed seven and one-half 2150  
per cent of the taxpayer's federal adjusted gross income. 2151

(c) Deduct, to the extent not otherwise deducted or 2152

excluded in computing federal or Ohio adjusted gross income, any 2153  
amount included in federal adjusted gross income under section 2154  
105 or not excluded under section 106 of the Internal Revenue 2155  
Code solely because it relates to an accident and health plan 2156  
for a person who otherwise would be a "qualifying relative" and 2157  
thus a "dependent" under section 152 of the Internal Revenue 2158  
Code but for the fact that the person fails to meet the income 2159  
and support limitations under section 152(d)(1)(B) and (C) of 2160  
the Internal Revenue Code. 2161

(d) For purposes of division (A)(11) of this section, 2162  
"medical care" has the meaning given in section 213 of the 2163  
Internal Revenue Code, subject to the special rules, 2164  
limitations, and exclusions set forth therein, and "qualified 2165  
long-term care" has the same meaning given in section 7702B(c) 2166  
of the Internal Revenue Code. Solely for purposes of divisions 2167  
(A)(11)(a) and (c) of this section, "dependent" includes a 2168  
person who otherwise would be a "qualifying relative" and thus a 2169  
"dependent" under section 152 of the Internal Revenue Code but 2170  
for the fact that the person fails to meet the income and 2171  
support limitations under section 152(d)(1)(B) and (C) of the 2172  
Internal Revenue Code. 2173

(12)(a) Deduct any amount included in federal adjusted 2174  
gross income solely because the amount represents a 2175  
reimbursement or refund of expenses that in any year the 2176  
taxpayer had deducted as an itemized deduction pursuant to 2177  
section 63 of the Internal Revenue Code and applicable United 2178  
States department of the treasury regulations. The deduction 2179  
otherwise allowed under division (A)(12)(a) of this section 2180  
shall be reduced to the extent the reimbursement is attributable 2181  
to an amount the taxpayer deducted under this section in any 2182  
taxable year. 2183

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

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

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

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

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

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

(b) Add the amounts distributed from a medical savings

account under division (A) (2) of section 3924.68 of the Revised Code during the taxable year. 2213  
2214

(16) Add any amount claimed as a credit under section 2215  
5747.059 or 5747.65 of the Revised Code to the extent that such 2216  
amount satisfies either of the following: 2217

(a) The amount was deducted or excluded from the 2218  
computation of the taxpayer's federal adjusted gross income as 2219  
required to be reported for the taxpayer's taxable year under 2220  
the Internal Revenue Code; 2221

(b) The amount resulted in a reduction of the taxpayer's 2222  
federal adjusted gross income as required to be reported for any 2223  
of the taxpayer's taxable years under the Internal Revenue Code. 2224

(17) Deduct the amount contributed by the taxpayer to an 2225  
individual development account program established by a county 2226  
department of job and family services pursuant to sections 2227  
329.11 to 329.14 of the Revised Code for the purpose of matching 2228  
funds deposited by program participants. On request of the tax 2229  
commissioner, the taxpayer shall provide any information that, 2230  
in the tax commissioner's opinion, is necessary to establish the 2231  
amount deducted under division (A) (17) of this section. 2232

(18) Beginning in taxable year 2001 but not for any 2233  
taxable year beginning after December 31, 2005, if the taxpayer 2234  
is married and files a joint return and the combined federal 2235  
adjusted gross income of the taxpayer and the taxpayer's spouse 2236  
for the taxable year does not exceed one hundred thousand 2237  
dollars, or if the taxpayer is single and has a federal adjusted 2238  
gross income for the taxable year not exceeding fifty thousand 2239  
dollars, deduct amounts paid during the taxable year for 2240  
qualified tuition and fees paid to an eligible institution for 2241

the taxpayer, the taxpayer's spouse, or any dependent of the 2242  
taxpayer, who is a resident of this state and is enrolled in or 2243  
attending a program that culminates in a degree or diploma at an 2244  
eligible institution. The deduction may be claimed only to the 2245  
extent that qualified tuition and fees are not otherwise 2246  
deducted or excluded for any taxable year from federal or Ohio 2247  
adjusted gross income. The deduction may not be claimed for 2248  
educational expenses for which the taxpayer claims a credit 2249  
under section 5747.27 of the Revised Code. 2250

(19) Add any reimbursement received during the taxable 2251  
year of any amount the taxpayer deducted under division (A) (18) 2252  
of this section in any previous taxable year to the extent the 2253  
amount is not otherwise included in Ohio adjusted gross income. 2254

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 2255  
(v) of this section, add five-sixths of the amount of 2256  
depreciation expense allowed by subsection (k) of section 168 of 2257  
the Internal Revenue Code, including the taxpayer's 2258  
proportionate or distributive share of the amount of 2259  
depreciation expense allowed by that subsection to a pass- 2260  
through entity in which the taxpayer has a direct or indirect 2261  
ownership interest. 2262

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 2263  
of this section, add five-sixths of the amount of qualifying 2264  
section 179 depreciation expense, including the taxpayer's 2265  
proportionate or distributive share of the amount of qualifying 2266  
section 179 depreciation expense allowed to any pass-through 2267  
entity in which the taxpayer has a direct or indirect ownership 2268  
interest. 2269

(iii) Subject to division (A) (20) (a) (v) of this section, 2270  
for taxable years beginning in 2012 or thereafter, if the 2271

increase in income taxes withheld by the taxpayer is equal to or 2272  
greater than ten per cent of income taxes withheld by the 2273  
taxpayer during the taxpayer's immediately preceding taxable 2274  
year, "two-thirds" shall be substituted for "five-sixths" for 2275  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 2276

(iv) Subject to division (A) (20) (a) (v) of this section, 2277  
for taxable years beginning in 2012 or thereafter, a taxpayer is 2278  
not required to add an amount under division (A) (20) of this 2279  
section if the increase in income taxes withheld by the taxpayer 2280  
and by any pass-through entity in which the taxpayer has a 2281  
direct or indirect ownership interest is equal to or greater 2282  
than the sum of (I) the amount of qualifying section 179 2283  
depreciation expense and (II) the amount of depreciation expense 2284  
allowed to the taxpayer by subsection (k) of section 168 of the 2285  
Internal Revenue Code, and including the taxpayer's 2286  
proportionate or distributive shares of such amounts allowed to 2287  
any such pass-through entities. 2288

(v) If a taxpayer directly or indirectly incurs a net 2289  
operating loss for the taxable year for federal income tax 2290  
purposes, to the extent such loss resulted from depreciation 2291  
expense allowed by subsection (k) of section 168 of the Internal 2292  
Revenue Code and by qualifying section 179 depreciation expense, 2293  
"the entire" shall be substituted for "five-sixths of the" for 2294  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 2295

The tax commissioner, under procedures established by the 2296  
commissioner, may waive the add-backs related to a pass-through 2297  
entity if the taxpayer owns, directly or indirectly, less than 2298  
five per cent of the pass-through entity. 2299

(b) Nothing in division (A) (20) of this section shall be 2300  
construed to adjust or modify the adjusted basis of any asset. 2301

(c) To the extent the add-back required under division (A) 2302  
(20)(a) of this section is attributable to property generating 2303  
nonbusiness income or loss allocated under section 5747.20 of 2304  
the Revised Code, the add-back shall be situated to the same 2305  
location as the nonbusiness income or loss generated by the 2306  
property for the purpose of determining the credit under 2307  
division (A) of section 5747.05 of the Revised Code. Otherwise, 2308  
the add-back shall be apportioned, subject to one or more of the 2309  
four alternative methods of apportionment enumerated in section 2310  
5747.21 of the Revised Code. 2311

(d) For the purposes of division (A)(20)(a)(v) of this 2312  
section, net operating loss carryback and carryforward shall not 2313  
include the allowance of any net operating loss deduction 2314  
carryback or carryforward to the taxable year to the extent such 2315  
loss resulted from depreciation allowed by section 168(k) of the 2316  
Internal Revenue Code and by the qualifying section 179 2317  
depreciation expense amount. 2318

(e) For the purposes of divisions (A)(20) and (21) of this 2319  
section: 2320

(i) "Income taxes withheld" means the total amount 2321  
withheld and remitted under sections 5747.06 and 5747.07 of the 2322  
Revised Code by an employer during the employer's taxable year. 2323

(ii) "Increase in income taxes withheld" means the amount 2324  
by which the amount of income taxes withheld by an employer 2325  
during the employer's current taxable year exceeds the amount of 2326  
income taxes withheld by that employer during the employer's 2327  
immediately preceding taxable year. 2328

(iii) "Qualifying section 179 depreciation expense" means 2329  
the difference between (I) the amount of depreciation expense 2330



directly or indirectly allowed to a taxpayer under section 179 2331  
of the Internal Revised Code, and (II) the amount of 2332  
depreciation expense directly or indirectly allowed to the 2333  
taxpayer under section 179 of the Internal Revenue Code as that 2334  
section existed on December 31, 2002. 2335

(21) (a) If the taxpayer was required to add an amount 2336  
under division (A) (20) (a) of this section for a taxable year, 2337  
deduct one of the following: 2338

(i) One-fifth of the amount so added for each of the five 2339  
succeeding taxable years if the amount so added was five-sixths 2340  
of qualifying section 179 depreciation expense or depreciation 2341  
expense allowed by subsection (k) of section 168 of the Internal 2342  
Revenue Code; 2343

(ii) One-half of the amount so added for each of the two 2344  
succeeding taxable years if the amount so added was two-thirds 2345  
of such depreciation expense; 2346

(iii) One-sixth of the amount so added for each of the six 2347  
succeeding taxable years if the entire amount of such 2348  
depreciation expense was so added. 2349

(b) If the amount deducted under division (A) (21) (a) of 2350  
this section is attributable to an add-back allocated under 2351  
division (A) (20) (c) of this section, the amount deducted shall 2352  
be situated to the same location. Otherwise, the add-back shall 2353  
be apportioned using the apportionment factors for the taxable 2354  
year in which the deduction is taken, subject to one or more of 2355  
the four alternative methods of apportionment enumerated in 2356  
section 5747.21 of the Revised Code. 2357

(c) No deduction is available under division (A) (21) (a) of 2358  
this section with regard to any depreciation allowed by section 2359

168(k) of the Internal Revenue Code and by the qualifying 2360  
section 179 depreciation expense amount to the extent that such 2361  
depreciation results in or increases a federal net operating 2362  
loss carryback or carryforward. If no such deduction is 2363  
available for a taxable year, the taxpayer may carry forward the 2364  
amount not deducted in such taxable year to the next taxable 2365  
year and add that amount to any deduction otherwise available 2366  
under division (A) (21) (a) of this section for that next taxable 2367  
year. The carryforward of amounts not so deducted shall continue 2368  
until the entire addition required by division (A) (20) (a) of 2369  
this section has been deducted. 2370

(d) No refund shall be allowed as a result of adjustments 2371  
made by division (A) (21) of this section. 2372

(22) Deduct, to the extent not otherwise deducted or 2373  
excluded in computing federal or Ohio adjusted gross income for 2374  
the taxable year, the amount the taxpayer received during the 2375  
taxable year as reimbursement for life insurance premiums under 2376  
section 5919.31 of the Revised Code. 2377

(23) Deduct, to the extent not otherwise deducted or 2378  
excluded in computing federal or Ohio adjusted gross income for 2379  
the taxable year, the amount the taxpayer received during the 2380  
taxable year as a death benefit paid by the adjutant general 2381  
under section 5919.33 of the Revised Code. 2382

(24) Deduct, to the extent included in federal adjusted 2383  
gross income and not otherwise allowable as a deduction or 2384  
exclusion in computing federal or Ohio adjusted gross income for 2385  
the taxable year, military pay and allowances received by the 2386  
taxpayer during the taxable year for active duty service in the 2387  
United States army, air force, navy, marine corps, or coast 2388  
guard or reserve components thereof or the national guard. The 2389

deduction may not be claimed for military pay and allowances 2390  
received by the taxpayer while the taxpayer is stationed in this 2391  
state. 2392

(25) Deduct, to the extent not otherwise allowable as a 2393  
deduction or exclusion in computing federal or Ohio adjusted 2394  
gross income for the taxable year and not otherwise compensated 2395  
for by any other source, the amount of qualified organ donation 2396  
expenses incurred by the taxpayer during the taxable year, not 2397  
to exceed ten thousand dollars. A taxpayer may deduct qualified 2398  
organ donation expenses only once for all taxable years 2399  
beginning with taxable years beginning in 2007. 2400

For the purposes of division (A) (25) of this section: 2401

(a) "Human organ" means all or any portion of a human 2402  
liver, pancreas, kidney, intestine, or lung, and any portion of 2403  
human bone marrow. 2404

(b) "Qualified organ donation expenses" means travel 2405  
expenses, lodging expenses, and wages and salary forgone by a 2406  
taxpayer in connection with the taxpayer's donation, while 2407  
living, of one or more of the taxpayer's human organs to another 2408  
human being. 2409

(26) Deduct, to the extent not otherwise deducted or 2410  
excluded in computing federal or Ohio adjusted gross income for 2411  
the taxable year, amounts received by the taxpayer as retired 2412  
personnel pay for service in the uniformed services or reserve 2413  
components thereof, or the national guard, or received by the 2414  
surviving spouse or former spouse of such a taxpayer under the 2415  
survivor benefit plan on account of such a taxpayer's death. If 2416  
the taxpayer receives income on account of retirement paid under 2417  
the federal civil service retirement system or federal employees 2418

retirement system, or under any successor retirement program 2419  
enacted by the congress of the United States that is established 2420  
and maintained for retired employees of the United States 2421  
government, and such retirement income is based, in whole or in 2422  
part, on credit for the taxpayer's uniformed service, the 2423  
deduction allowed under this division shall include only that 2424  
portion of such retirement income that is attributable to the 2425  
taxpayer's uniformed service, to the extent that portion of such 2426  
retirement income is otherwise included in federal adjusted 2427  
gross income and is not otherwise deducted under this section. 2428  
Any amount deducted under division (A) (26) of this section is 2429  
not included in a taxpayer's adjusted gross income for the 2430  
purposes of section 5747.055 of the Revised Code. No amount may 2431  
be deducted under division (A) (26) of this section on the basis 2432  
of which a credit was claimed under section 5747.055 of the 2433  
Revised Code. 2434

(27) Deduct, to the extent not otherwise deducted or 2435  
excluded in computing federal or Ohio adjusted gross income for 2436  
the taxable year, the amount the taxpayer received during the 2437  
taxable year from the military injury relief fund created in 2438  
section 5902.05 of the Revised Code. 2439

(28) Deduct, to the extent not otherwise deducted or 2440  
excluded in computing federal or Ohio adjusted gross income for 2441  
the taxable year, the amount the taxpayer received as a veterans 2442  
bonus during the taxable year from the Ohio department of 2443  
veterans services as authorized by Section 2r of Article VIII, 2444  
Ohio Constitution. 2445

(29) Deduct, to the extent not otherwise deducted or 2446  
excluded in computing federal or Ohio adjusted gross income for 2447  
the taxable year, any income derived from a transfer agreement 2448

or from the enterprise transferred under that agreement under 2449  
section 4313.02 of the Revised Code. 2450

(30) Deduct, to the extent not otherwise deducted or 2451  
excluded in computing federal or Ohio adjusted gross income for 2452  
the taxable year, Ohio college opportunity or federal Pell grant 2453  
amounts received by the taxpayer or the taxpayer's spouse or 2454  
dependent pursuant to section 3333.122 of the Revised Code or 20 2455  
U.S.C. 1070a, et seq., and used to pay room or board furnished 2456  
by the educational institution for which the grant was awarded 2457  
at the institution's facilities, including meal plans 2458  
administered by the institution. For the purposes of this 2459  
division, receipt of a grant includes the distribution of a 2460  
grant directly to an educational institution and the crediting 2461  
of the grant to the enrollee's account with the institution. 2462

(31) (a) For taxable years beginning in 2015, deduct from 2463  
the portion of an individual's adjusted gross income that is 2464  
business income, to the extent not otherwise deducted or 2465  
excluded in computing federal or Ohio adjusted gross income for 2466  
the taxable year, the lesser of the following amounts: 2467

(i) Seventy-five per cent of the individual's business 2468  
income; 2469

(ii) Ninety-three thousand seven hundred fifty dollars for 2470  
each spouse if spouses file separate returns under section 2471  
5747.08 of the Revised Code or one hundred eighty-seven thousand 2472  
five hundred dollars for all other individuals. 2473

(b) For taxable years beginning in 2016 or thereafter, 2474  
deduct from the portion of an individual's adjusted gross income 2475  
that is business income, to the extent not otherwise deducted or 2476  
excluded in computing federal adjusted gross income for the 2477

taxable year, one hundred twenty-five thousand dollars for each spouse if spouses file separate returns under section 5747.08 of the Revised Code or two hundred fifty thousand dollars for all other individuals.

(32) 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.

(33) (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) (33) of this section 2507  
have the same meanings as in section 5703.94 of the Revised 2508  
Code. 2509

(B) "Business income" means income, including gain or 2510  
loss, arising from transactions, activities, and sources in the 2511  
regular course of a trade or business and includes income, gain, 2512  
or loss from real property, tangible property, and intangible 2513  
property if the acquisition, rental, management, and disposition 2514  
of the property constitute integral parts of the regular course 2515  
of a trade or business operation. "Business income" includes 2516  
income, including gain or loss, from a partial or complete 2517  
liquidation of a business, including, but not limited to, gain 2518  
or loss from the sale or other disposition of goodwill. 2519

(C) "Nonbusiness income" means all income other than 2520  
business income and may include, but is not limited to, 2521  
compensation, rents and royalties from real or tangible personal 2522  
property, capital gains, interest, dividends and distributions, 2523  
patent or copyright royalties, or lottery winnings, prizes, and 2524  
awards. 2525

(D) "Compensation" means any form of remuneration paid to 2526  
an employee for personal services. 2527

(E) "Fiduciary" means a guardian, trustee, executor, 2528  
administrator, receiver, conservator, or any other person acting 2529  
in any fiduciary capacity for any individual, trust, or estate. 2530

(F) "Fiscal year" means an accounting period of twelve 2531  
months ending on the last day of any month other than December. 2532

(G) "Individual" means any natural person. 2533

(H) "Internal Revenue Code" means the "Internal Revenue 2534  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 2535

(I) "Resident" means any of the following, provided that 2536  
division (I) (3) of this section applies only to taxable years of 2537  
a trust beginning in 2002 or thereafter: 2538

(1) An individual who is domiciled in this state, subject 2539  
to section 5747.24 of the Revised Code; 2540

(2) The estate of a decedent who at the time of death was 2541  
domiciled in this state. The domicile tests of section 5747.24 2542  
of the Revised Code are not controlling for purposes of division 2543  
(I) (2) of this section. 2544

(3) A trust that, in whole or part, resides in this state. 2545  
If only part of a trust resides in this state, the trust is a 2546  
resident only with respect to that part. 2547

For the purposes of division (I) (3) of this section: 2548

(a) A trust resides in this state for the trust's current 2549  
taxable year to the extent, as described in division (I) (3) (d) 2550  
of this section, that the trust consists directly or indirectly, 2551  
in whole or in part, of assets, net of any related liabilities, 2552  
that were transferred, or caused to be transferred, directly or 2553  
indirectly, to the trust by any of the following: 2554

(i) A person, a court, or a governmental entity or 2555  
instrumentality on account of the death of a decedent, but only 2556  
if the trust is described in division (I) (3) (e) (i) or (ii) of 2557  
this section; 2558

(ii) A person who was domiciled in this state for the 2559  
purposes of this chapter when the person directly or indirectly 2560  
transferred assets to an irrevocable trust, but only if at least 2561  
one of the trust's qualifying beneficiaries is domiciled in this 2562  
state for the purposes of this chapter during all or some 2563  
portion of the trust's current taxable year; 2564



(iii) A person who was domiciled in this state for the 2565  
purposes of this chapter when the trust document or instrument 2566  
or part of the trust document or instrument became irrevocable, 2567  
but only if at least one of the trust's qualifying beneficiaries 2568  
is a resident domiciled in this state for the purposes of this 2569  
chapter during all or some portion of the trust's current 2570  
taxable year. If a trust document or instrument became 2571  
irrevocable upon the death of a person who at the time of death 2572  
was domiciled in this state for purposes of this chapter, that 2573  
person is a person described in division (I) (3) (a) (iii) of this 2574  
section. 2575

(b) A trust is irrevocable to the extent that the 2576  
transferor is not considered to be the owner of the net assets 2577  
of the trust under sections 671 to 678 of the Internal Revenue 2578  
Code. 2579

(c) With respect to a trust other than a charitable lead 2580  
trust, "qualifying beneficiary" has the same meaning as 2581  
"potential current beneficiary" as defined in section 1361(e) (2) 2582  
of the Internal Revenue Code, and with respect to a charitable 2583  
lead trust "qualifying beneficiary" is any current, future, or 2584  
contingent beneficiary, but with respect to any trust 2585  
"qualifying beneficiary" excludes a person or a governmental 2586  
entity or instrumentality to any of which a contribution would 2587  
qualify for the charitable deduction under section 170 of the 2588  
Internal Revenue Code. 2589

(d) For the purposes of division (I) (3) (a) of this 2590  
section, the extent to which a trust consists directly or 2591  
indirectly, in whole or in part, of assets, net of any related 2592  
liabilities, that were transferred directly or indirectly, in 2593  
whole or part, to the trust by any of the sources enumerated in 2594

that division shall be ascertained by multiplying the fair 2595  
market value of the trust's assets, net of related liabilities, 2596  
by the qualifying ratio, which shall be computed as follows: 2597

(i) The first time the trust receives assets, the 2598  
numerator of the qualifying ratio is the fair market value of 2599  
those assets at that time, net of any related liabilities, from 2600  
sources enumerated in division (I) (3) (a) of this section. The 2601  
denominator of the qualifying ratio is the fair market value of 2602  
all the trust's assets at that time, net of any related 2603  
liabilities. 2604

(ii) Each subsequent time the trust receives assets, a 2605  
revised qualifying ratio shall be computed. The numerator of the 2606  
revised qualifying ratio is the sum of (1) the fair market value 2607  
of the trust's assets immediately prior to the subsequent 2608  
transfer, net of any related liabilities, multiplied by the 2609  
qualifying ratio last computed without regard to the subsequent 2610  
transfer, and (2) the fair market value of the subsequently 2611  
transferred assets at the time transferred, net of any related 2612  
liabilities, from sources enumerated in division (I) (3) (a) of 2613  
this section. The denominator of the revised qualifying ratio is 2614  
the fair market value of all the trust's assets immediately 2615  
after the subsequent transfer, net of any related liabilities. 2616

(iii) Whether a transfer to the trust is by or from any of 2617  
the sources enumerated in division (I) (3) (a) of this section 2618  
shall be ascertained without regard to the domicile of the 2619  
trust's beneficiaries. 2620

(e) For the purposes of division (I) (3) (a) (i) of this 2621  
section: 2622

(i) A trust is described in division (I) (3) (e) (i) of this 2623

section if the trust is a testamentary trust and the testator of 2624  
that testamentary trust was domiciled in this state at the time 2625  
of the testator's death for purposes of the taxes levied under 2626  
Chapter 5731. of the Revised Code. 2627

(ii) A trust is described in division (I)(3)(e)(ii) of 2628  
this section if the transfer is a qualifying transfer described 2629  
in any of divisions (I)(3)(f)(i) to (vi) of this section, the 2630  
trust is an irrevocable inter vivos trust, and at least one of 2631  
the trust's qualifying beneficiaries is domiciled in this state 2632  
for purposes of this chapter during all or some portion of the 2633  
trust's current taxable year. 2634

(f) For the purposes of division (I)(3)(e)(ii) of this 2635  
section, a "qualifying transfer" is a transfer of assets, net of 2636  
any related liabilities, directly or indirectly to a trust, if 2637  
the transfer is described in any of the following: 2638

(i) The transfer is made to a trust, created by the 2639  
decedent before the decedent's death and while the decedent was 2640  
domiciled in this state for the purposes of this chapter, and, 2641  
prior to the death of the decedent, the trust became irrevocable 2642  
while the decedent was domiciled in this state for the purposes 2643  
of this chapter. 2644

(ii) The transfer is made to a trust to which the 2645  
decedent, prior to the decedent's death, had directly or 2646  
indirectly transferred assets, net of any related liabilities, 2647  
while the decedent was domiciled in this state for the purposes 2648  
of this chapter, and prior to the death of the decedent the 2649  
trust became irrevocable while the decedent was domiciled in 2650  
this state for the purposes of this chapter. 2651

(iii) The transfer is made on account of a contractual 2652

relationship existing directly or indirectly between the 2653  
transferor and either the decedent or the estate of the decedent 2654  
at any time prior to the date of the decedent's death, and the 2655  
decedent was domiciled in this state at the time of death for 2656  
purposes of the taxes levied under Chapter 5731. of the Revised 2657  
Code. 2658

(iv) The transfer is made to a trust on account of a 2659  
contractual relationship existing directly or indirectly between 2660  
the transferor and another person who at the time of the 2661  
decedent's death was domiciled in this state for purposes of 2662  
this chapter. 2663

(v) The transfer is made to a trust on account of the will 2664  
of a testator who was domiciled in this state at the time of the 2665  
testator's death for purposes of the taxes levied under Chapter 2666  
5731. of the Revised Code. 2667

(vi) The transfer is made to a trust created by or caused 2668  
to be created by a court, and the trust was directly or 2669  
indirectly created in connection with or as a result of the 2670  
death of an individual who, for purposes of the taxes levied 2671  
under Chapter 5731. of the Revised Code, was domiciled in this 2672  
state at the time of the individual's death. 2673

(g) The tax commissioner may adopt rules to ascertain the 2674  
part of a trust residing in this state. 2675

(J) "Nonresident" means an individual or estate that is 2676  
not a resident. An individual who is a resident for only part of 2677  
a taxable year is a nonresident for the remainder of that 2678  
taxable year. 2679

(K) "Pass-through entity" has the same meaning as in 2680  
section 5733.04 of the Revised Code. 2681

(L) "Return" means the notifications and reports required 2682  
to be filed pursuant to this chapter for the purpose of 2683  
reporting the tax due and includes declarations of estimated tax 2684  
when so required. 2685

(M) "Taxable year" means the calendar year or the 2686  
taxpayer's fiscal year ending during the calendar year, or 2687  
fractional part thereof, upon which the adjusted gross income is 2688  
calculated pursuant to this chapter. 2689

(N) "Taxpayer" means any person subject to the tax imposed 2690  
by section 5747.02 of the Revised Code or any pass-through 2691  
entity that makes the election under division (D) of section 2692  
5747.08 of the Revised Code. 2693

(O) "Dependents" means dependents as defined in the 2694  
Internal Revenue Code and as claimed in the taxpayer's federal 2695  
income tax return for the taxable year or which the taxpayer 2696  
would have been permitted to claim had the taxpayer filed a 2697  
federal income tax return. 2698

(P) "Principal county of employment" means, in the case of 2699  
a nonresident, the county within the state in which a taxpayer 2700  
performs services for an employer or, if those services are 2701  
performed in more than one county, the county in which the major 2702  
portion of the services are performed. 2703

(Q) As used in sections 5747.50 to 5747.55 of the Revised 2704  
Code: 2705

(1) "Subdivision" means any county, municipal corporation, 2706  
park district, or township. 2707

(2) "Essential local government purposes" includes all 2708  
functions that any subdivision is required by general law to 2709  
exercise, including like functions that are exercised under a 2710

charter adopted pursuant to the Ohio Constitution. 2711

(R) "Overpayment" means any amount already paid that 2712  
exceeds the figure determined to be the correct amount of the 2713  
tax. 2714

(S) "Taxable income" or "Ohio taxable income" applies only 2715  
to estates and trusts, and means federal taxable income, as 2716  
defined and used in the Internal Revenue Code, adjusted as 2717  
follows: 2718

(1) Add interest or dividends, net of ordinary, necessary, 2719  
and reasonable expenses not deducted in computing federal 2720  
taxable income, on obligations or securities of any state or of 2721  
any political subdivision or authority of any state, other than 2722  
this state and its subdivisions and authorities, but only to the 2723  
extent that such net amount is not otherwise includible in Ohio 2724  
taxable income and is described in either division (S) (1) (a) or 2725  
(b) of this section: 2726

(a) The net amount is not attributable to the S portion of 2727  
an electing small business trust and has not been distributed to 2728  
beneficiaries for the taxable year; 2729

(b) The net amount is attributable to the S portion of an 2730  
electing small business trust for the taxable year. 2731

(2) Add interest or dividends, net of ordinary, necessary, 2732  
and reasonable expenses not deducted in computing federal 2733  
taxable income, on obligations of any authority, commission, 2734  
instrumentality, territory, or possession of the United States 2735  
to the extent that the interest or dividends are exempt from 2736  
federal income taxes but not from state income taxes, but only 2737  
to the extent that such net amount is not otherwise includible 2738  
in Ohio taxable income and is described in either division (S) 2739

(1) (a) or (b) of this section;	2740
(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;	2741 2742
(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S) (1) (a) or (b) of this section;	2743 2744 2745 2746 2747 2748 2749 2750 2751
(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;	2752 2753 2754 2755 2756 2757 2758 2759 2760
(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;	2761 2762 2763 2764 2765 2766 2767
(7) Add any loss or deduct any gain resulting from sale,	2768

exchange, or other disposition of public obligations to the 2769  
extent that such loss has been deducted or such gain has been 2770  
included in computing either federal taxable income or income of 2771  
the S portion of an electing small business trust for the 2772  
taxable year; 2773

(8) Except in the case of the final return of an estate, 2774  
add any amount deducted by the taxpayer on both its Ohio estate 2775  
tax return pursuant to section 5731.14 of the Revised Code, and 2776  
on its federal income tax return in determining federal taxable 2777  
income; 2778

(9) (a) Deduct any amount included in federal taxable 2779  
income solely because the amount represents a reimbursement or 2780  
refund of expenses that in a previous year the decedent had 2781  
deducted as an itemized deduction pursuant to section 63 of the 2782  
Internal Revenue Code and applicable treasury regulations. The 2783  
deduction otherwise allowed under division (S) (9) (a) of this 2784  
section shall be reduced to the extent the reimbursement is 2785  
attributable to an amount the taxpayer or decedent deducted 2786  
under this section in any taxable year. 2787

(b) Add any amount not otherwise included in Ohio taxable 2788  
income for any taxable year to the extent that the amount is 2789  
attributable to the recovery during the taxable year of any 2790  
amount deducted or excluded in computing federal or Ohio taxable 2791  
income in any taxable year, but only to the extent such amount 2792  
has not been distributed to beneficiaries for the taxable year. 2793

(10) Deduct any portion of the deduction described in 2794  
section 1341(a) (2) of the Internal Revenue Code, for repaying 2795  
previously reported income received under a claim of right, that 2796  
meets both of the following requirements: 2797



(a) It is allowable for repayment of an item that was 2798  
included in the taxpayer's taxable income or the decedent's 2799  
adjusted gross income for a prior taxable year and did not 2800  
qualify for a credit under division (A) or (B) of section 2801  
5747.05 of the Revised Code for that year. 2802

(b) It does not otherwise reduce the taxpayer's taxable 2803  
income or the decedent's adjusted gross income for the current 2804  
or any other taxable year. 2805

(11) Add any amount claimed as a credit under section 2806  
5747.059 or 5747.65 of the Revised Code to the extent that the 2807  
amount satisfies either of the following: 2808

(a) The amount was deducted or excluded from the 2809  
computation of the taxpayer's federal taxable income as required 2810  
to be reported for the taxpayer's taxable year under the 2811  
Internal Revenue Code; 2812

(b) The amount resulted in a reduction in the taxpayer's 2813  
federal taxable income as required to be reported for any of the 2814  
taxpayer's taxable years under the Internal Revenue Code. 2815

(12) Deduct any amount, net of related expenses deducted 2816  
in computing federal taxable income, that a trust is required to 2817  
report as farm income on its federal income tax return, but only 2818  
if the assets of the trust include at least ten acres of land 2819  
satisfying the definition of "land devoted exclusively to 2820  
agricultural use" under section 5713.30 of the Revised Code, 2821  
regardless of whether the land is valued for tax purposes as 2822  
such land under sections 5713.30 to 5713.38 of the Revised Code. 2823  
If the trust is a pass-through entity investor, section 5747.231 2824  
of the Revised Code applies in ascertaining if the trust is 2825  
eligible to claim the deduction provided by division (S)(12) of 2826

this section in connection with the pass-through entity's farm	2827
income.	2828
Except for farm income attributable to the S portion of an	2829
electing small business trust, the deduction provided by	2830
division (S) (12) of this section is allowed only to the extent	2831
that the trust has not distributed such farm income. Division	2832
(S) (12) of this section applies only to taxable years of a trust	2833
beginning in 2002 or thereafter.	2834
(13) Add the net amount of income described in section	2835
641(c) of the Internal Revenue Code to the extent that amount is	2836
not included in federal taxable income.	2837
(14) Add or deduct the amount the taxpayer would be	2838
required to add or deduct under division (A) (20) or (21) of this	2839
section if the taxpayer's Ohio taxable income were computed in	2840
the same manner as an individual's Ohio adjusted gross income is	2841
computed under this section. In the case of a trust, division	2842
(S) (14) of this section applies only to any of the trust's	2843
taxable years beginning in 2002 or thereafter.	2844
(T) "School district income" and "school district income	2845
tax" have the same meanings as in section 5748.01 of the Revised	2846
Code.	2847
(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S)	2848
(7) of this section, "public obligations," "purchase	2849
obligations," and "interest or interest equivalent" have the	2850
same meanings as in section 5709.76 of the Revised Code.	2851
(V) "Limited liability company" means any limited	2852
liability company formed under Chapter 1705. of the Revised Code	2853
or under the laws of any other state.	2854
(W) "Pass-through entity investor" means any person who,	2855

during any portion of a taxable year of a pass-through entity, 2856  
is a partner, member, shareholder, or equity investor in that 2857  
pass-through entity. 2858

(X) "Banking day" has the same meaning as in section 2859  
1304.01 of the Revised Code. 2860

(Y) "Month" means a calendar month. 2861

(Z) "Quarter" means the first three months, the second 2862  
three months, the third three months, or the last three months 2863  
of the taxpayer's taxable year. 2864

(AA) (1) "Eligible institution" means a state university or 2865  
state institution of higher education as defined in section 2866  
3345.011 of the Revised Code, or a private, nonprofit college, 2867  
university, or other post-secondary institution located in this 2868  
state that possesses a certificate of authorization issued by 2869  
the chancellor of higher education pursuant to Chapter 1713. of 2870  
the Revised Code or a certificate of registration issued by the 2871  
state board of career colleges and schools under Chapter 3332. 2872  
of the Revised Code. 2873

(2) "Qualified tuition and fees" means tuition and fees 2874  
imposed by an eligible institution as a condition of enrollment 2875  
or attendance, not exceeding two thousand five hundred dollars 2876  
in each of the individual's first two years of post-secondary 2877  
education. If the individual is a part-time student, "qualified 2878  
tuition and fees" includes tuition and fees paid for the 2879  
academic equivalent of the first two years of post-secondary 2880  
education during a maximum of five taxable years, not exceeding 2881  
a total of five thousand dollars. "Qualified tuition and fees" 2882  
does not include: 2883

(a) Expenses for any course or activity involving sports, 2884

games, or hobbies unless the course or activity is part of the individual's degree or diploma program;	2885
	2886
(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;	2887
	2888
	2889
(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.	2890
	2891
	2892
(BB) (1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.	2893
	2894
	2895
	2896
(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:	2897
	2898
	2899
	2900
	2901
	2902
(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.	2903
	2904
	2905
	2906
	2907
(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.	2908
	2909
	2910
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.	2911
	2912
	2913

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

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

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

(i) The trust's modified business income;

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

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

with respect to more than one qualifying investee, the amount 2943  
described in division (BB) (4) (b) of this section shall equal the 2944  
sum of the products so computed for each such qualifying 2945  
investee. 2946

(c) (i) With respect to a trust or portion of a trust that 2947  
is a resident as ascertained in accordance with division (I) (3) 2948  
(d) of this section, its modified nonbusiness income. 2949

(ii) With respect to a trust or portion of a trust that is 2950  
not a resident as ascertained in accordance with division (I) (3) 2951  
(d) of this section, the amount of its modified nonbusiness 2952  
income satisfying the descriptions in divisions (B) (2) to (5) of 2953  
section 5747.20 of the Revised Code, except as otherwise 2954  
provided in division (BB) (4) (c) (ii) of this section. With 2955  
respect to a trust or portion of a trust that is not a resident 2956  
as ascertained in accordance with division (I) (3) (d) of this 2957  
section, the trust's portion of modified nonbusiness income 2958  
recognized from the sale, exchange, or other disposition of a 2959  
debt interest in or equity interest in a section 5747.212 2960  
entity, as defined in section 5747.212 of the Revised Code, 2961  
without regard to division (A) of that section, shall not be 2962  
allocated to this state in accordance with section 5747.20 of 2963  
the Revised Code but shall be apportioned to this state in 2964  
accordance with division (B) of section 5747.212 of the Revised 2965  
Code without regard to division (A) of that section. 2966

If the allocation and apportionment of a trust's income 2967  
under divisions (BB) (4) (a) and (c) of this section do not fairly 2968  
represent the modified Ohio taxable income of the trust in this 2969  
state, the alternative methods described in division (C) of 2970  
section 5747.21 of the Revised Code may be applied in the manner 2971  
and to the same extent provided in that section. 2972

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

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

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

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

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



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

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

(ii) Such gain or loss constitutes nonbusiness income.

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

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

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

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

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

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

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

(ii) A subsidiary that is wholly owned by any corporation 3062  
that has made an election under subchapter S, chapter one, 3063  
subtitle A of the Internal Revenue Code for its taxable year 3064  
ending within, or on the last day of, the investor's taxable 3065  
year. 3066

(2) For the purposes of this chapter, unless expressly 3067  
stated otherwise, no qualifying person indirectly owns any asset 3068  
directly or indirectly owned by any qualifying corporation. 3069

(FF) For purposes of this chapter and Chapter 5751. of the 3070  
Revised Code: 3071

(1) "Trust" does not include a qualified pre-income tax 3072  
trust. 3073

(2) A "qualified pre-income tax trust" is any pre-income 3074  
tax trust that makes a qualifying pre-income tax trust election 3075  
as described in division (FF)(3) of this section. 3076

(3) A "qualifying pre-income tax trust election" is an 3077  
election by a pre-income tax trust to subject to the tax imposed 3078  
by section 5751.02 of the Revised Code the pre-income tax trust 3079  
and all pass-through entities of which the trust owns or 3080  
controls, directly, indirectly, or constructively through 3081  
related interests, five per cent or more of the ownership or 3082  
equity interests. The trustee shall notify the tax commissioner 3083  
in writing of the election on or before April 15, 2006. The 3084  
election, if timely made, shall be effective on and after 3085  
January 1, 2006, and shall apply for all tax periods and tax 3086  
years until revoked by the trustee of the trust. 3087

(4) A "pre-income tax trust" is a trust that satisfies all 3088  
of the following requirements: 3089

(a) The document or instrument creating the trust was 3090

executed by the grantor before January 1, 1972; 3091

(b) The trust became irrevocable upon the creation of the 3092  
trust; and 3093

(c) The grantor was domiciled in this state at the time 3094  
the trust was created. 3095

(GG) "Uniformed services" has the same meaning as in 10 3096  
U.S.C. 101. 3097

(HH) "Taxable business income" means the amount by which 3098  
an individual's business income that is included in federal 3099  
adjusted gross income exceeds the amount of business income the 3100  
individual is authorized to deduct under division (A) (31) of 3101  
this section for the taxable year. 3102

(II) "Employer" does not include a franchisor with respect 3103  
to the franchisor's relationship with a franchisee or an 3104  
employee of a franchisee, unless the franchisor agrees to assume 3105  
that role in writing or a court of competent jurisdiction 3106  
determines that the franchisor exercises a type or degree of 3107  
control over the franchisee or the franchisee's employees that 3108  
is not customarily exercised by a franchisor for the purpose of 3109  
protecting the franchisor's trademark, brand, or both. For 3110  
purposes of this division, "franchisor" and "franchisee" have 3111  
the same meanings as in 16 C.F.R. 436.1. 3112

**Section 2.** That existing sections 123.153, 1349.61, 3113  
4111.03, 4111.14, 4113.15, 4113.16, 4121.01, 4123.01, 4123.30, 3114  
4123.38, 4123.77, 4141.01, and 5747.01 of the Revised Code are 3115  
hereby repealed. 3116

**Section 3.** Section 4111.03 of the Revised Code is 3117  
presented in this act as a composite of the section as amended 3118  
by both Sub. H.B. 187 and Am. Sub. H.B. 690 of the 126th General 3119

Assembly. The General Assembly, applying the principle stated in 3120  
division (B) of section 1.52 of the Revised Code that amendments 3121  
are to be harmonized if reasonably capable of simultaneous 3122  
operation, finds that the composite is the resulting version of 3123  
the section in effect prior to the effective date of the section 3124  
as presented in this act. 3125