

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 491

Representatives Boyd, Russo

Cosponsors: Representatives Miranda, Kelly, Brent, Weinstein, Skindell, Lepore-Hagan, Lightbody, Smith, K., Boggs, Sobecki, O'Brien, Miller, A., Robinson, Crossman, Galonski, Sykes, West, Humphrey, Jarrells, Sheehy, Ingram, Miller, J., Howse, Blackshear, Smith, M., Leland, Upchurch, Brown, Sweeney, Liston, Hicks-Hudson

A BILL

To amend sections 124.387, 4117.10, 5747.01, and 5747.10 and to enact sections 4113.86, 4143.01, 4143.02, 4143.03, 4143.04, 4143.05, 4143.06, 4143.07, 4143.08, 4143.09, 4143.10, 4143.11, 4143.12, 4143.13, 4143.14, 4143.15, and 4143.99 of the Revised Code to establish family and medical leave insurance benefits and to require employers to provide an employee with paid bereavement leave on a stillbirth or death of a child.

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

Section 1. That sections 124.387, 4117.10, 5747.01, and 5747.10 be amended and sections 4113.86, 4143.01, 4143.02, 4143.03, 4143.04, 4143.05, 4143.06, 4143.07, 4143.08, 4143.09, 4143.10, 4143.11, 4143.12, 4143.13, 4143.14, 4143.15, and 4143.99 of the Revised Code be enacted to read as follows:

Sec. 124.387. (A) As used in this section, "stillbirth" 16
has the same meaning as in section 4143.01 of the Revised Code. 17

(B) Each full-time permanent and part-time permanent 18
employee whose salary or wage is paid directly by warrant of the 19
director of budget and management shall be granted three days of 20
bereavement leave with pay upon the death of a member of the 21
employee's immediate family. Compensation for bereavement leave 22
shall be equal to the employee's base rate of pay. 23

(C) An employee may receive an additional ten days of 24
bereavement leave with pay on the stillbirth of a child or death 25
of a child who is less than twenty-one years of age. The 26
employee must notify the employee's employer in writing of the 27
employee's intent to take bereavement leave within sixty days 28
after the stillbirth or death. An employer shall comply with a 29
collective bargaining agreement that provides employees with 30
greater leave than that provided by this division. 31

Sec. 4113.86. (A) As used in this section, "stillbirth" 32
has the same meaning as in section 4143.01 of the Revised Code. 33

(B) Notwithstanding section 4113.85 of the Revised Code, 34
an employer shall grant an employee ten days of bereavement 35
leave with pay on the stillbirth of a child or the death of a 36
child who is less than twenty-one years of age. The employee 37
must notify the employee's employer in writing of the employee's 38
intent to take bereavement leave within sixty days after the 39
stillbirth or death. 40

(C) An employer shall comply with a collective bargaining 41
agreement that provides employees with greater leave than that 42
provided by this section. 43

Sec. 4117.10. (A) An agreement between a public employer 44

and an exclusive representative entered into pursuant to this 45
chapter governs the wages, hours, and terms and conditions of 46
public employment covered by the agreement. If the agreement 47
provides for a final and binding arbitration of grievances, 48
public employers, employees, and employee organizations are 49
subject solely to that grievance procedure and the state 50
personnel board of review or civil service commissions have no 51
jurisdiction to receive and determine any appeals relating to 52
matters that were the subject of a final and binding grievance 53
procedure. Where no agreement exists or where an agreement makes 54
no specification about a matter, the public employer and public 55
employees are subject to all applicable state or local laws or 56
ordinances pertaining to the wages, hours, and terms and 57
conditions of employment for public employees. All of the 58
following prevail over conflicting provisions of agreements 59
between employee organizations and public employers: 60

(1) Laws pertaining to any of the following subjects: 61

(a) Civil rights; 62

(b) Affirmative action; 63

(c) Unemployment compensation; 64

(d) Workers' compensation; 65

(e) The retirement of public employees; 66

(f) Residency requirements; 67

(g) The minimum educational requirements contained in the 68
Revised Code pertaining to public education including the 69
requirement of a certificate by the fiscal officer of a school 70
district pursuant to section 5705.41 of the Revised Code; 71

(h) The provisions of division (A) of section 124.34 of 72

the Revised Code governing the disciplining of officers and 73
employees who have been convicted of a felony; 74

(i) The minimum standards promulgated by the state board 75
of education pursuant to division (D) of section 3301.07 of the 76
Revised Code. 77

(2) The law pertaining to the leave of absence and 78
compensation provided under section 5923.05 of the Revised Code, 79
if the terms of the agreement contain benefits which are less 80
than those contained in that section or the agreement contains 81
no such terms and the public authority is the state or any 82
agency, authority, commission, or board of the state or if the 83
public authority is another entity listed in division (B) of 84
section 4117.01 of the Revised Code that elects to provide leave 85
of absence and compensation as provided in section 5923.05 of 86
the Revised Code; 87

(3) The law pertaining to the leave established under 88
section 5906.02 of the Revised Code, if the terms of the 89
agreement contain benefits that are less than those contained in 90
section 5906.02 of the Revised Code; 91

(4) The law pertaining to excess benefits prohibited under 92
section 3345.311 of the Revised Code with respect to an 93
agreement between an employee organization and a public employer 94
entered into on or after ~~the effective date of this amendment~~ 95
September 29, 2015; 96

(5) The law pertaining to family and medical leave 97
insurance benefits provided under Chapter 4143. of the Revised 98
Code, if the terms of the agreement contain benefits less than 99
those contained in that chapter. 100

Except for sections 306.08, 306.12, 306.35, and 4981.22 of 101

the Revised Code and arrangements entered into thereunder, and 102
section 4981.21 of the Revised Code as necessary to comply with 103
section 13(c) of the "Urban Mass Transportation Act of 1964," 87 104
Stat. 295, 49 U.S.C.A. 1609(c), as amended, and arrangements 105
entered into thereunder, this chapter prevails over any and all 106
other conflicting laws, resolutions, provisions, present or 107
future, except as otherwise specified in this chapter or as 108
otherwise specified by the general assembly. Nothing in this 109
section prohibits or shall be construed to invalidate the 110
provisions of an agreement establishing supplemental workers' 111
compensation ~~or~~, unemployment compensation, or family and 112
medical leave insurance benefits or exceeding minimum 113
requirements contained in the Revised Code pertaining to public 114
education or the minimum standards promulgated by the state 115
board of education pursuant to division (D) of section 3301.07 116
of the Revised Code. 117

(B) The public employer shall submit a request for funds 118
necessary to implement an agreement and for approval of any 119
other matter requiring the approval of the appropriate 120
legislative body to the legislative body within fourteen days of 121
the date on which the parties finalize the agreement, unless 122
otherwise specified, but if the appropriate legislative body is 123
not in session at the time, then within fourteen days after it 124
convenes. The legislative body must approve or reject the 125
submission as a whole, and the submission is deemed approved if 126
the legislative body fails to act within thirty days after the 127
public employer submits the agreement. The parties may specify 128
that those provisions of the agreement not requiring action by a 129
legislative body are effective and operative in accordance with 130
the terms of the agreement, provided there has been compliance 131
with division (C) of this section. If the legislative body 132

rejects the submission of the public employer, either party may 133
reopen all or part of the entire agreement. 134

As used in this section, "legislative body" includes the 135
governing board of a municipal corporation, school district, 136
college or university, village, township, or board of county 137
commissioners or any other body that has authority to approve 138
the budget of their public jurisdiction and, with regard to the 139
state, "legislative body" means the controlling board. 140

(C) The chief executive officer, or the chief executive 141
officer's representative, of each municipal corporation, the 142
designated representative of the board of education of each 143
school district, college or university, or any other body that 144
has authority to approve the budget of their public 145
jurisdiction, the designated representative of the board of 146
county commissioners and of each elected officeholder of the 147
county whose employees are covered by the collective 148
negotiations, and the designated representative of the village 149
or the board of township trustees of each township is 150
responsible for negotiations in the collective bargaining 151
process; except that the legislative body may accept or reject a 152
proposed collective bargaining agreement. When the matters about 153
which there is agreement are reduced to writing and approved by 154
the employee organization and the legislative body, the 155
agreement is binding upon the legislative body, the employer, 156
and the employee organization and employees covered by the 157
agreement. 158

(D) There is hereby established an office of collective 159
bargaining in the department of administrative services for the 160
purpose of negotiating with and entering into written agreements 161
between state agencies, departments, boards, and commissions and 162

the exclusive representative on matters of wages, hours, terms 163
and other conditions of employment and the continuation, 164
modification, or deletion of an existing provision of a 165
collective bargaining agreement. Nothing in any provision of law 166
to the contrary shall be interpreted as excluding the bureau of 167
workers' compensation and the industrial commission from the 168
preceding sentence. This office shall not negotiate on behalf of 169
other statewide elected officials or boards of trustees of state 170
institutions of higher education who shall be considered as 171
separate public employers for the purposes of this chapter; 172
however, the office may negotiate on behalf of these officials 173
or trustees where authorized by the officials or trustees. The 174
staff of the office of collective bargaining are in the 175
unclassified service. The director of administrative services 176
shall fix the compensation of the staff. 177

The office of collective bargaining shall: 178

(1) Assist the director in formulating management's 179
philosophy for public collective bargaining as well as planning 180
bargaining strategies; 181

(2) Conduct negotiations with the exclusive 182
representatives of each employee organization; 183

(3) Coordinate the state's resources in all mediation, 184
fact-finding, and arbitration cases as well as in all labor 185
disputes; 186

(4) Conduct systematic reviews of collective bargaining 187
agreements for the purpose of contract negotiations; 188

(5) Coordinate the systematic compilation of data by all 189
agencies that is required for negotiating purposes; 190

(6) Prepare and submit an annual report and other reports 191

as requested to the governor and the general assembly on the 192
implementation of this chapter and its impact upon state 193
government. 194

Sec. 4143.01. As used in this chapter: 195

(A) "Armed forces" means the armed forces of the United 196
States, including the army, navy, air force, marine corps, space 197
force, coast guard, or any reserve components of those forces. 198

(B) "Average weekly wage" means the amount obtained by 199
dividing an employee's total wages for all qualifying weeks 200
during the employee's base period by the number of qualifying 201
weeks in the employee's base period. 202

(C) (1) "Base period" means the first four of the last five 203
completed calendar quarters immediately preceding the first day 204
of an individual's twelve-month period, except as provided in 205
division (C) (2) of this section. 206

(2) If an individual does not have sufficient qualifying 207
weeks and wages in the base period to be eligible for family and 208
medical leave insurance benefits, the individual's base period 209
shall be the four most recently completed calendar quarters 210
preceding the first day of the individual's twelve-month period. 211
Such base period shall be known as the "alternate base period." 212
No calendar quarter in a base period or alternate base period 213
shall be used to establish a subsequent benefit year. 214

(3) For purposes of determining the weeks that comprise a 215
completed calendar quarter under this division, only those weeks 216
ending at midnight Saturday within the calendar quarter shall be 217
utilized. 218

(D) "Child" means any of the following: 219

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| <u>(1) A biological, adopted, or foster child, a stepchild,</u> | 220 |
| <u>or a legal ward of an employee;</u> | 221 |
| <u>(2) A child of an employee's domestic partner;</u> | 222 |
| <u>(3) A minor child to whom an employee stands in loco</u> | 223 |
| <u>parentis;</u> | 224 |
| <u>(4) An individual to whom the employee stood in loco</u> | 225 |
| <u>parentis when the individual was a minor child.</u> | 226 |
| <u>(E) "Contributions" means the money payments to the family</u> | 227 |
| <u>and medical leave insurance fund made by employers under section</u> | 228 |
| <u>4143.11 of the Revised Code.</u> | 229 |
| <u>(F) "Covered active duty" means both of the following:</u> | 230 |
| <u>(1) For a regular member of the armed forces, duty during</u> | 231 |
| <u>deployment to a foreign country;</u> | 232 |
| <u>(2) For a member of a reserve component of the armed</u> | 233 |
| <u>forces, duty during deployment to a foreign country under a call</u> | 234 |
| <u>or order to active duty in support of a contingency operation</u> | 235 |
| <u>during a war or national emergency declared by the president of</u> | 236 |
| <u>the United States or congress of the United States.</u> | 237 |
| <u>(G) "Covered service member" means a current member of the</u> | 238 |
| <u>armed forces or the national guard of any state who is</u> | 239 |
| <u>undergoing medical treatment, recuperation, or therapy or is on</u> | 240 |
| <u>the temporary disability retired list for a serious injury or</u> | 241 |
| <u>illness that the member incurred in the line of duty on active</u> | 242 |
| <u>duty or that existed before the beginning of the member's active</u> | 243 |
| <u>duty and was aggravated by service in the line of duty on active</u> | 244 |
| <u>duty and that may render the member medically unfit to perform</u> | 245 |
| <u>the member's duties.</u> | 246 |
| <u>(H) "Covered veteran" means a veteran to whom both of the</u> | 247 |

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| <u>following apply:</u> | 248 |
| <u>(1) The veteran is undergoing medical treatment,</u> | 249 |
| <u>recuperation, or therapy for a serious injury or illness that</u> | 250 |
| <u>the veteran incurred in the line of duty on active duty or that</u> | 251 |
| <u>existed before the beginning of the veteran's active duty and</u> | 252 |
| <u>was aggravated by service in the line of duty on active duty,</u> | 253 |
| <u>regardless of when the injury or illness manifested itself.</u> | 254 |
| <u>(2) The veteran was a member of the armed forces or the</u> | 255 |
| <u>national guard of any state at any time during the five-year</u> | 256 |
| <u>period before the date on which the veteran begins receiving</u> | 257 |
| <u>medical treatment, recuperation, or therapy under division (H)</u> | 258 |
| <u>(1) of this section.</u> | 259 |
| <u>(I) "Domestic partner" means an individual, regardless of</u> | 260 |
| <u>sex, who is in a committed personal relationship for six months</u> | 261 |
| <u>or longer with one other individual to whom the first individual</u> | 262 |
| <u>is not related by blood or marriage and to whom the individual</u> | 263 |
| <u>can demonstrate financial interdependence and shares a regular</u> | 264 |
| <u>and permanent residence.</u> | 265 |
| <u>(J) "Eligible individual" means an individual who</u> | 266 |
| <u>satisfies the requirements of section 4143.03 of the Revised</u> | 267 |
| <u>Code to receive family and medical leave insurance benefits.</u> | 268 |
| <u>(K) "Employee" means any person who performs a service for</u> | 269 |
| <u>wages or other remuneration for an employer.</u> | 270 |
| <u>(L) "Employer" means any person who has one or more</u> | 271 |
| <u>employees, and includes an agent of an employer, the state or</u> | 272 |
| <u>any agency or instrumentality of the state, and any municipal</u> | 273 |
| <u>corporation, county, township, school district, or other</u> | 274 |
| <u>political subdivision or any agency or instrumentality thereof.</u> | 275 |
| <u>(M) "Family and medical leave insurance benefits" means</u> | 276 |

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| <u>money payments payable to an individual who has established</u> | 277 |
| <u>benefit rights under this chapter.</u> | 278 |
| <u>(N) "Family member" means a person for whom an employee</u> | 279 |
| <u>may take leave under this chapter, and includes all of the</u> | 280 |
| <u>following:</u> | 281 |
| <u>(1) A child;</u> | 282 |
| <u>(2) A parent;</u> | 283 |
| <u>(3) A spouse or domestic partner;</u> | 284 |
| <u>(4) A grandparent of the employee or the employee's spouse</u> | 285 |
| <u>or domestic partner, including a grandparent with the prefix</u> | 286 |
| <u>"great," "great-great," or "great-great-great";</u> | 287 |
| <u>(5) A grandchild of the employee or the employee's spouse</u> | 288 |
| <u>or domestic partner, including a grandchild with the prefix</u> | 289 |
| <u>"great," "great-great," or "great-great-great";</u> | 290 |
| <u>(6) A biological, foster, or adoptive sibling or a</u> | 291 |
| <u>stepsibling of the employee or the employee's spouse or domestic</u> | 292 |
| <u>partner;</u> | 293 |
| <u>(7) Any other person, regardless of blood or legal</u> | 294 |
| <u>relationship, with whom the employee has a significant personal</u> | 295 |
| <u>bond that is or is like a family relationship.</u> | 296 |
| <u>(O) "Family and Medical Leave Act" means the "Family and</u> | 297 |
| <u>Medical Leave Act of 1993," 29 U.S.C. 2601 et seq.</u> | 298 |
| <u>(P) "Health care professional" means any of the following:</u> | 299 |
| <u>(1) A dentist or dental hygienist licensed under Chapter</u> | 300 |
| <u>4715. of the Revised Code;</u> | 301 |
| <u>(2) A registered nurse, clinical nurse specialist,</u> | 302 |
| <u>certified nurse-midwife, or licensed practical nurse licensed or</u> | 303 |

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| <u>certified under Chapter 4723. of the Revised Code;</u> | 304 |
| <u>(3) A person licensed under Chapter 4729. of the Revised Code to practice as a pharmacist;</u> | 305 306 |
| <u>(4) A person authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;</u> | 307 308 |
| <u>(5) A person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;</u> | 309 310 311 |
| <u>(6) A psychologist licensed under Chapter 4732. of the Revised Code;</u> | 312 313 |
| <u>(7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;</u> | 314 315 |
| <u>(8) An occupational therapist, physical therapist, physical therapist assistant, or athletic trainer licensed under Chapter 4755. of the Revised Code;</u> | 316 317 318 |
| <u>(9) A professional clinical counselor, professional counselor, independent social worker, or social worker licensed under Chapter 4757. of the Revised Code;</u> | 319 320 321 |
| <u>(10) A dietician licensed under Chapter 4759. of the Revised Code.</u> | 322 323 |
| <u>(Q) "Internal Revenue Code" has the same meaning as in section 5747.01 of the Revised Code.</u> | 324 325 |
| <u>(R) "Miscarriage" means the natural or accidental termination of a pregnancy and the expulsion of the fetus.</u> | 326 327 |
| <u>(S) "Parent" means both of the following:</u> | 328 |
| <u>(1) A biological, foster, or adoptive parent, a stepparent, or a legal guardian of an employee or the employee's</u> | 329 330 |

spouse or domestic partner; 331

(2) A person who stood in loco parentis to an employee or 332
the employee's spouse or domestic partner when the employee, 333
spouse, or domestic partner was a minor child. 334

(T) "Qualifying exigency" means a financial, legal, 335
logistical, or other issue that arises when an individual's 336
family member is on covered active duty or has been notified of 337
an impending call or order to covered active duty. 338

(U) "Qualifying week" means any calendar week in an 339
individual's base period with respect to which the individual 340
earns or is paid wages. A calendar week with respect to which an 341
individual earns wages but for which payment was not made within 342
the base period, when necessary to qualify for family and 343
medical leave insurance benefits, may be considered to be a 344
qualifying week. The number of qualifying weeks that may be 345
established in a calendar quarter shall not exceed the number of 346
calendar weeks in the quarter. 347

(V) "Serious health condition" means an illness, injury, 348
impairment, or physical or mental condition that involves 349
inpatient care in a hospital, hospice, or residential health 350
care facility, or continuing treatment or continuing supervision 351
by a health care professional. 352

(W) "Serious injury or illness" means both of the 353
following: 354

(1) An injury or illness that was incurred by a member of 355
the armed forces or the national guard of any state in the line 356
of duty while the member was on active duty or that existed 357
before the beginning of the member's active duty and was 358
aggravated by service in the line of duty on active duty in the 359

armed forces and that may render the member medically unfit to 360
perform the member's duties; 361

(2) An injury or illness that was incurred by a veteran in 362
the line of duty on active duty while the veteran was a member 363
of the armed forces or the national guard of any state or that 364
existed before the beginning of the veteran's active duty and 365
was aggravated by service in the line of duty on active duty in 366
the armed forces, regardless of whether the injury or illness 367
manifested before or after the member became a veteran. 368

(X) "Statewide average weekly wage" means the amount 369
calculated by the director of job and family services in 370
accordance with division (B) (3) of section 4141.30 of the 371
Revised Code. 372

(Y) "Stillbirth" means death before the complete expulsion 373
or extraction from its mother of a product of human conception 374
of at least twenty weeks of gestation, which after such 375
expulsion or extraction does not breathe or show any other 376
evidence of life such as beating of the heart, pulsation of the 377
umbilical cord, or definite movement of voluntary muscles. 378

(Z) "Twelve-month period" with respect to any individual, 379
means the three hundred sixty-five consecutive days that begin 380
with the first day an individual establishes a claim for family 381
and medical leave insurance benefits. 382

(AA) "Veteran" has the same meaning as in section 5903.01 383
of the Revised Code. 384

(BB) "Wages" means all remuneration payable to an employee 385
for personal services performed for an employer, including 386
commissions and bonuses, and the reasonable cash value of all 387
remuneration payable to an employee in any medium other than 388

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| <u>cash.</u> | 389 |
| <u>(CC) "Weekly benefit amount" means the amount provided in section 4143.06 of the Revised Code.</u> | 390 391 |
| <u>(DD) "Yearly earnings" means the total wages an individual earns for the calendar year.</u> | 392 393 |
| <u>Sec. 4143.02. (A) The family and medical leave insurance program is created. The director of job and family services shall administer and enforce the program in accordance with this chapter and shall adopt rules in accordance with Chapter 119. of the Revised Code to establish all of the following with respect to the program:</u> | 394 395 396 397 398 399 |
| <u>(1) Procedures for an individual to follow to allow the individual to file a claim for family and medical leave insurance benefits under section 4143.03 of the Revised Code;</u> | 400 401 402 |
| <u>(2) The form an individual shall use to apply for family and medical leave insurance benefits;</u> | 403 404 |
| <u>(3) A sliding scale for determining the amount of the premium each employee shall contribute to the program based on the employee's yearly earnings;</u> | 405 406 407 |
| <u>(4) The manner and schedule by which an employer shall remit premiums to the director as prescribed by section 4143.11 of the Revised Code;</u> | 408 409 410 |
| <u>(5) A maximum annual premium an employee shall contribute to the family and medical leave insurance fund created in section 4143.11 of the Revised Code;</u> | 411 412 413 |
| <u>(6) Procedures to adjust the amounts of the premiums each year to ensure the actuarial soundness of the fund created in section 4143.11 of the Revised Code;</u> | 414 415 416 |

(7) Procedures for an employer to follow to allow the employer to make contributions on behalf of an employee to the family and medical leave insurance fund under section 4143.11 of the Revised Code; 417
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(8) Procedures for an individual to follow to allow the individual to elect to opt out of participating in the program under section 4143.07 of the Revised Code; 421
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(9) The form an individual shall use to elect to opt out of participating in the program; 424
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(10) Procedures to recover a payment of benefits made to an individual in excess of the benefits the individual is entitled to receive under section 4143.10 of the Revised Code; 426
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(11) The time periods during which an independent contractor who has elected coverage under section 4143.09 of the Revised Code may withdraw from coverage. 429
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(B) The director may adopt additional rules the director considers necessary to administer and enforce the program and this chapter. 432
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Sec. 4143.03. (A) An individual may receive family and medical leave insurance benefits for any of the following reasons: 435
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(1) The individual has a serious health condition that makes the individual unable to perform the functions of one or more of the individual's jobs. 438
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(2) The individual is caring for a new child during the first year after the birth or adoption of the child or the placement of the child through foster care. 441
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(3) The individual is caring for a family member who has a 444

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| <u>serious health condition.</u> | 445 |
| <u>(4) The individual or the individual's spouse or domestic partner has experienced a miscarriage during the third trimester of pregnancy or the stillbirth of a child;</u> | 446 447 448 |
| <u>(5) The individual is addressing a qualifying exigency described in section 4143.04 of the Revised Code;</u> | 449 450 |
| <u>(6) The individual is caring for a family member who is a covered service member or veteran;</u> | 451 452 |
| <u>(7) The individual is taking any other leave from work authorized by the Family and Medical Leave Act.</u> | 453 454 |
| <u>(B) (1) To be eligible to receive benefits, an individual shall do all of the following:</u> | 455 456 |
| <u>(a) File a claim for benefits in accordance with rules adopted by the director of job and family services under section 4143.02 of the Revised Code;</u> | 457 458 459 |
| <u>(b) Consent to the release of information that is considered confidential under section 4143.13 of the Revised Code;</u> | 460 461 462 |
| <u>(c) Demonstrate that the individual has been employed by and worked for one or more employers for at least six hundred eighty hours during the individual's base period;</u> | 463 464 465 |
| <u>(d) Demonstrate that the individual's employer has withheld and remitted premiums or made contributions to the family and medical leave insurance program for at least one year;</u> | 466 467 468 469 |
| <u>(e) Attest in the claim for benefits that the individual notified the individual's employer in writing of the</u> | 470 471 |

individual's intent to take leave for one of the reasons listed 472
in division (A) of this section. 473

(2) The director shall require an individual filing a 474
claim for benefits under this section to provide all of the 475
following, as applicable: 476

(a) An attestation that the individual is not receiving 477
benefits under Chapter 4121., 4123., 4127., 4131., or 4141. of 478
the Revised Code in an amount that would exceed the individual's 479
wages, as determined by the director, when combined with the 480
benefits available to the individual under this chapter; 481

(b) A certification from a health care professional 482
supporting the individual's claim that the individual or a 483
family member of the individual has a serious health condition 484
or serious injury or illness; 485

(c) A certification from the applicable branch of the 486
armed forces supporting the individual's claim that a family 487
member of the individual is on covered active duty or has been 488
called or ordered to covered active duty status. 489

(C) (1) The director shall notify an employer within five 490
business days after an individual files a claim for benefits 491
under this section that the claim has been filed. 492

(2) The director shall notify an individual within five 493
business days after the individual files a claim for benefits 494
under this section that the premiums or contributions due under 495
section 4143.11 of the Revised Code have not been paid as 496
described in division (B) of that section. 497

(D) An individual who meets the requirements of division 498
(B) of this section may receive family and medical leave 499
insurance benefits regardless of whether the individual is 500

currently employed or is working at a different job while taking 501
leave. 502

(E) No claim for benefits or an individual's eligibility 503
to receive benefits under this section shall be invalidated for 504
any of the following reasons: 505

(1) A failure to file a claim for benefits; 506

(2) A failure to furnish notice of the intent to take 507
leave to an employer; 508

(3) A failure to submit an attestation or certification 509
required by division (B) (2) of this section. 510

(F) An individual whose claim for benefits is denied by 511
the director may appeal the decision to the director within 512
twenty-one calendar days after the written determination was 513
sent to the individual. Within twenty-one days after the receipt 514
of the appeal, the director shall issue a determination. A 515
determination made under this division is final and may be 516
appealed pursuant to section 119.12 of the Revised Code. 517

Sec. 4143.04. An individual who has filed a claim for 518
family and medical leave insurance benefits under section 519
4143.03 of the Revised Code to address a qualifying exigency may 520
take leave for any of the following reasons: 521

(A) If the family member receives an impending call or 522
order to covered active duty seven or fewer days before the date 523
of deployment, to address an issue arising from the family 524
member's deployment during that period; 525

(B) To attend any official ceremony, program, or event 526
sponsored by the military that is related to the family member's 527
covered active duty or call to covered active duty status; 528

(C) To attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or American red cross that are related to the family member's covered active duty or call to covered active duty status; 529
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(D) To provide or arrange for child care for the family member's child or the child of the family member's domestic partner, including enrolling or transferring the child to a new school or daycare facility and attending meetings with staff at the school or daycare facility, if the family member's covered active duty or call to covered active duty status requires a change in the child's care arrangement; 534
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(E) To provide or arrange for care for the family member's parent who is incapable of self-care, including admitting or transferring the parent to a new care facility and attending meetings with staff at the care facility, if the family member's covered active duty or call to covered active duty status requires a change in the parent's care arrangement; 541
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(F) To make or update financial and legal arrangements to address the family member's absence while on covered active duty or call to covered active duty status; 547
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(G) To act as the family member's representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the family member is on covered active duty or call to covered active duty status, and for a period of ninety days following the termination of the family member's covered active duty status; 550
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(H) To attend counseling provided by someone other than a 557

health care professional, for the individual, family member, 558
family member's child, or the child of the family member's 559
domestic partner, if the need for counseling arises from the 560
family member's covered active duty or call to covered active 561
duty status; 562

(I) To spend up to fifteen days with the family member 563
while the family member is on short-term, temporary, rest and 564
recuperation leave during the family member's deployment; 565

(J) To attend arrival ceremonies, reintegration briefings 566
and events, and any other official ceremony or program sponsored 567
by the military for a period of ninety days following the 568
termination of the family member's covered active duty status; 569

(K) To address issues that arise from the death of the 570
family member while on covered active duty status; 571

(L) To address any other issue arising out of the family 572
member's covered active duty or call to covered active duty 573
status that the individual and the individual's employer agree 574
is a qualifying exigency. 575

Sec. 4143.05. (A) (1) An eligible individual shall serve a 576
five-day waiting period before family and medical leave 577
insurance benefits become payable. The waiting period applies 578
only once in a twelve-month period, regardless of how often the 579
individual takes leave during the twelve-month period. 580

(2) An eligible individual who takes ten or more days of 581
leave in a twelve-month period shall receive benefits for the 582
waiting period described in division (A) (1) of this section. The 583
amount of benefits an individual receives shall be reduced by 584
the amount of any compensation the individual received from the 585
individual's employer during the waiting period. 586

(B) (1) An eligible individual may receive benefits for a 587
maximum of two weeks before the date on which the individual 588
files a claim for benefits, notifies the individual's employer 589
of the intent to take leave, or provides the director of job and 590
family services with the attestation and certification required 591
in division (B) of section 4143.03 of the Revised Code. 592

(2) The director may grant an eligible individual benefits 593
beyond those in division (B) (1) of this section on the 594
individual's demonstrating that the individual filed a claim, 595
notified the individual's employer, or provided an attestation 596
and certification as soon as was practicable. 597

Sec. 4143.06. (A) (1) The director of job and family 598
services shall determine the weekly benefit amount an eligible 599
individual may receive, subject to division (B) of this section, 600
as follows: 601

(a) For an eligible individual whose yearly earnings are 602
twenty per cent or less of the statewide average weekly wage, 603
the weekly benefit amount shall be equal to ninety-five per cent 604
of the individual's average weekly wage. 605

(b) For an eligible individual whose yearly earnings are 606
more than twenty per cent but not more than thirty per cent of 607
the statewide average weekly wage, the weekly benefit amount 608
shall be equal to ninety per cent of the individual's average 609
weekly wage. 610

(c) For an eligible individual whose yearly earnings are 611
more than thirty per cent but not more than fifty per cent of 612
the statewide average weekly wage, the weekly benefit amount 613
shall be equal to eighty-five per cent of the individual's 614
average weekly wage. 615

(d) For an eligible individual whose yearly earnings are 616
more than fifty per cent of the statewide average weekly wage, 617
the weekly benefit amount shall be equal to sixty-six per cent 618
of the individual's average weekly wage. 619

(2) The maximum weekly benefit amount an eligible 620
individual may receive under this section is one thousand 621
dollars per week. 622

(3) Beginning on July 1, 2024, and every year thereafter, 623
the director shall adjust the maximum weekly benefit amount to 624
reflect changes in the consumer price index or its successor 625
index for all urban consumers in the midwest region for all 626
items as calculated by the federal government for the previous 627
calendar year. 628

(B) The director shall calculate an eligible individual's 629
weekly benefit amount under division (A) of this section based 630
on the individual's average weekly wage earned from the job from 631
which the individual is taking leave. If the individual is able 632
to continue working at a different job while taking leave, the 633
director shall not consider the individual's average weekly wage 634
from the other job when calculating the individual's weekly 635
benefit amount. 636

(C) (1) The director shall make the first payment of family 637
and medical leave insurance benefits to an eligible individual 638
within fourteen calendar days after the individual files a claim 639
for benefits under section 4143.03 of the Revised Code. 640

(2) The director shall make subsequent payments to an 641
eligible individual biweekly after the first payment under 642
division (C) (1) of this section. 643

(D) (1) Except as provided in division (D) (2) of this 644

section, an eligible individual may receive a maximum of twelve 645
weeks of benefits payable during a twelve-month period. If the 646
individual is taking leave to care for a family member who is a 647
covered service member or veteran, the individual may only 648
receive benefits for that family member during a single twelve- 649
month period but may take leave in a different twelve-month 650
period to care for a different family member or if the same 651
family member suffers a subsequent serious injury or illness. 652

(2) An eligible individual may receive an additional two 653
weeks of benefits payable during a twelve-month period for the 654
individual's serious health condition related to the 655
individual's pregnancy, stillbirth, or miscarriage, for a 656
maximum of fourteen weeks of benefits payable during a twelve- 657
month period. 658

(E) Benefits under division (D) of this section are not 659
payable for a period of less than eight consecutive hours of 660
leave taken during one work week. 661

Sec. 4143.07. (A) (1) A period of leave taken by an 662
eligible individual under this chapter runs concurrently with 663
any leave taken under the Family and Medical Leave Act. 664

(2) An employer may require that any leave taken under 665
this chapter be taken concurrently with leave allowed under the 666
terms of disability or family care leave under a collective 667
bargaining agreement or employer policy. The employer shall 668
provide employees with a written notice of this requirement. 669

(B) (1) An employer shall comply with a collective 670
bargaining agreement or employer policy that provides employees 671
with greater leave than that provided by the Family and Medical 672
Leave Act. 673

(2) An employee who is covered by an employer policy described in division (B) (1) of this section may elect not to participate in the family and medical leave insurance program by filing an election to opt out in accordance with rules adopted by the director of job and family services under section 4143.02 of the Revised Code. 674
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(C) No collective bargaining agreement or employer policy shall diminish an individual's rights to benefits under this chapter. 680
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(D) Any agreement by an individual to waive the individual's rights under this chapter is void as against public policy. This division does not apply to an individual who elects to opt out of participating in the program under division (B) (2) of this section. 683
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Sec. 4143.08. (A) An eligible individual who serves a waiting period described in section 4143.05 of the Revised Code or takes a period of leave under this chapter shall be restored to the individual's position of employment with the individual's employer before taking leave, or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment. 688
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(B) No employer shall discharge, demote, discriminate, or take an adverse employment action against an employee at any time for any of the following reasons: 695
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(1) The employee filed a claim or received benefits under this chapter. 698
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(2) The employee communicated to the employer the employee's intent to file a claim for benefits, a complaint, or an appeal under this chapter. 700
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(3) The employee testified, agreed to testify, or otherwise assisted in a proceeding under this chapter. 703
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(C) No employer shall consider a period of leave an eligible individual takes under this chapter as an absence for which the employer may discipline, discharge, demote, suspend, or take an adverse employment action against the employee under the employer's attendance policy. 705
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(D) The director of job and family services, after a notice and hearing conducted under Chapter 119. of the Revised Code, may assess a civil penalty against an employer who violates this section of up to three thousand dollars per violation. If the employer fails to pay the civil penalty assessed by the director under this division, the director shall forward to the attorney general the name of the employer and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to the civil penalty assessed under this division, the employer shall pay any fee assessed by the attorney general for collection of the civil penalty. Any civil penalty collected for a violation shall be deposited into the family and medical leave insurance fund created in section 4143.11 of the Revised Code. 710
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(E) (1) An aggrieved employee may bring a civil action in a court of competent jurisdiction against an employer who the employee believes violated this section. If the court finds that a violation has occurred, the employer shall be liable to the aggrieved employee for any of the following: 724
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(a) Damages in the amount of lost wages, salary, benefits, or other compensation; 729
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(b) Damages for any actual monetary losses sustained by 731

the employee; 732

(c) Interest on damages calculated at the prevailing rate; 733

(d) Equitable relief as may be appropriate. 734

(2) An employer may be liable for liquidated damages in an 735
amount equal to those described in division (E)(1)(a) or (b) of 736
this section if the employer cannot prove that a violation of 737
this section was unintentional and made in good faith. 738

Sec. 4143.09. (A) An independent contractor may elect 739
coverage under this chapter for an initial period of a minimum 740
of three years. An independent contractor shall file a notice of 741
election of coverage in writing with the director of job and 742
family services. The election is effective on the date the 743
notice is filed. 744

(B) An independent contractor may elect continuing 745
coverage under this chapter for a period of a minimum of one 746
year immediately following another period of coverage by filing 747
a notice for election of coverage as described in division (A) 748
of this section at least thirty days before the prior election 749
period expires. 750

(C) An independent contractor may withdraw from coverage 751
by filing a written notice with the director within thirty days 752
before the end of a period of coverage or during a period the 753
director has designated by rule under section 4143.02 of the 754
Revised Code. The withdrawal is effective thirty days after the 755
notice is filed. 756

Sec. 4143.10. (A) No individual shall receive family and 757
medical leave insurance benefits for one year after the 758
individual willfully makes a false statement or misrepresents or 759
willfully fails to report a material fact in connection with a 760

claim for benefits under this chapter. 761

(B) (1) The director of job and family services may seek 762
repayment of benefits that are paid to an individual in excess 763
of the benefits the individual is entitled to receive for any of 764
the following reasons: 765

(a) The individual willfully made a false statement or 766
misrepresented or willfully failed to report a material fact in 767
connection with a claim for benefits. 768

(b) The individual received benefits to which the 769
individual is subsequently determined to not be entitled as a 770
result of a decision of an appeal under division (F) of section 771
4143.03 of the Revised Code. 772

(c) The individual failed to demonstrate that the 773
individual took the actions listed in division (B) (2) of section 774
4143.05 of the Revised Code to remain eligible for benefits 775
granted under that division. 776

(d) The individual received benefits to which the 777
individual was not entitled due to a mistake or a clerical 778
error. 779

(2) The director may waive a repayment or part of a 780
repayment in division (B) (1) of this section if the director 781
decides the recovery is against equity and good conscience. 782

Sec. 4143.11. (A) The family and medical leave insurance 783
fund is created, which shall be in the custody of the treasurer 784
of state but shall not be a part of the state treasury. All 785
premiums and contributions received under this section and any 786
other moneys collected pursuant to this chapter shall be 787
deposited into the fund. The treasurer of state shall invest any 788
portion of the fund not needed for immediate use in the same 789

manner as, and subject to all applicable laws regarding the 790
investment of, state funds. Any investment earnings of the fund 791
shall be credited to the fund. The treasurer of state shall 792
disburse money from the fund on order of the director of job and 793
family services or a designee of the director. 794

(B) (1) Except as provided in division (B) (2) of section 795
4143.07 of the Revised Code or division (B) (2) or (D) (2) of this 796
section, every employer paying any wages to an employee shall 797
deduct and withhold from such wages for each payroll period a 798
premium computed in accordance with rules adopted by the 799
director under section 4143.02 of the Revised Code. The employer 800
shall deduct and withhold the premium on the date that the 801
employer directly, indirectly, or constructively pays wages to, 802
or credits wages to the benefit of, the employee. 803

(2) An employer may elect to pay contributions into the 804
fund on behalf of an employee. The employer shall follow the 805
procedures prescribed by the director under section 4143.02 of 806
the Revised Code to establish the employer's obligation to pay 807
contributions to the fund. 808

(C) (1) The failure of an employer to withhold premiums as 809
required by this section does not relieve an employee from the 810
liability for the premium unless the employer paid the 811
contribution under division (B) (2) of this section. The failure 812
of an employer to remit the premium as required by section 813
4143.02 of the Revised Code does not relieve an employee from 814
liability for the premium if the director ascertains that the 815
employee colluded with the employer with respect to the failure 816
to remit the premium. 817

(2) If an employer fails to deduct and withhold premiums 818
as required, and thereafter the premium is paid, the premium so 819

required to be deducted and withheld shall not be collected from 820
the employer, but the employer is not relieved from liability 821
for penalties otherwise applicable in respect to the failure to 822
deduct and withhold the premium. 823

(3) The failure of an employer to make contributions as 824
permitted by this section does not relieve an employee for the 825
liability for the premium that would otherwise be due if the 826
employer had not elected to pay contributions. 827

(D) (1) To ensure that premiums imposed by this section are 828
deducted and withheld as provided, each employee shall furnish 829
the employer with sufficient and correct information to enable 830
the employer to withhold the premium. The employee shall provide 831
additional or corrected information whenever information 832
previously provided to the employer becomes insufficient or 833
incorrect. 834

(2) If the employee fails to comply with the requirements 835
of division (D) (1) of this section, the employer is not required 836
to withhold and pay the premium and is not subject to any 837
penalties otherwise applicable for failing to deduct and 838
withhold such premiums. 839

(E) An employee who elects to opt out of participating in 840
the family and medical leave insurance program under division 841
(B) (2) of section 4143.07 of the Revised Code is not liable for 842
any premium or contribution to the fund under this chapter. 843

(F) (1) The director may apply for and accept gifts, 844
grants, donations, and available federal funding to pay for the 845
costs to establish the family and medical leave insurance 846
program created under section 4143.02 of the Revised Code. The 847
director shall transmit any gifts, grants, donations, or federal 848

funding the director receives to the treasurer of state for 849
deposit in the fund. 850

(2) The director may request an appropriation to cover the 851
costs to establish the program, if the director does not receive 852
adequate funding under division (F) (1) of this section. 853

Sec. 4143.12. (A) If the internal revenue service 854
determines benefits under this chapter are subject to federal 855
income tax, the director of job and family services shall inform 856
an individual for whom the director approved a claim for 857
benefits under section 4143.03 of the Revised Code, before 858
making the first benefit payment, of each of the following: 859

(1) That the internal revenue service has determined that 860
benefits are subject to federal income tax; 861

(2) The requirement for the individual to make estimated 862
tax payments on the basis of those benefits as required by the 863
Internal Revenue Code; 864

(3) That the individual may elect to have federal income 865
tax deducted and withheld from the individual's payment of 866
benefits in the amount authorized under the Internal Revenue 867
Code; 868

(4) That the individual may change a previously elected 869
federal withholding status as authorized under the Internal 870
Revenue Code. 871

(B) The director shall follow all procedures prescribed by 872
the internal revenue service when deducting, withholding, and 873
remitting federal income tax. 874

Sec. 4143.13. (A) Except as provided in division (B) of 875
this section, any information contained in the files and records 876

of an individual in the possession of the director of job and 877
family services under this chapter is confidential and is not a 878
public record under section 149.43 of the Revised Code. 879

(B) The following individuals may have access to the files 880
and records of an individual under this chapter: 881

(1) A public employee in the performance of the public 882
employee's official duties; 883

(2) The individual or a person authorized by the 884
individual, with an authorization form signed by the individual; 885

(3) An employer or the employer's duly authorized 886
representative, in connection with a pending claim of an 887
individual employed by the employer; 888

(4) An individual who is assisting the director of job and 889
family services on any matter regarding the administration of 890
this chapter, at the director's request. 891

Sec. 4143.14. (A) Not later than July 1, 2023, and every 892
year thereafter, the director of job and family services shall 893
submit a report to the standing committees of the house of 894
representatives and the senate that are principally responsible 895
for commerce and labor policy and the standing committees of the 896
house of representatives and the senate that are principally 897
responsible for health and human services policy. The report 898
shall contain all of the following information: 899

(1) Projected family and medical leave insurance program 900
participation; 901

(2) Actual program participation; 902

(3) Demographic information of participants, including 903
gender, race, and ethnicity; 904

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| <u>(4) Purpose and duration of leave taken by participants;</u> | 905 |
| <u>(5) Premium rates;</u> | 906 |
| <u>(6) Fund balances;</u> | 907 |
| <u>(7) Outreach efforts.</u> | 908 |
| <u>(B) The director shall make the report available to the public by posting the report on the internet web site maintained by the department of job and family services.</u> | 909 910 911 |
| <u>Sec. 4143.15. (A) The director of job and family services shall develop and implement an outreach program to educate the public about the family and medical leave insurance program created under section 4143.02 of the Revised Code and the availability of family and medical leave insurance benefits for individuals under this chapter. The outreach program shall explain all of the following information about the program:</u> | 912 913 914 915 916 917 918 |
| <u>(1) Eligibility requirements;</u> | 919 |
| <u>(2) The claims process;</u> | 920 |
| <u>(3) Weekly benefit amounts and maximum benefits payable;</u> | 921 |
| <u>(4) Notice and certification requirements;</u> | 922 |
| <u>(5) Reinstatement and nondiscrimination rights;</u> | 923 |
| <u>(6) Confidentiality of records;</u> | 924 |
| <u>(7) The relationship between employment protection, leave from employment, and benefits under this chapter and other laws, collective bargaining agreements, and employer policies;</u> | 925 926 927 |
| <u>(8) Other information the director considers necessary.</u> | 928 |
| <u>(B) The director shall develop a program notice containing the information listed in division (A) of this section. Each</u> | 929 930 |

employer shall post the program notice in a prominent location 931
in the employer's workplace and inform employees of the program. 932

Sec. 4143.99. Whoever recklessly violates section 4143.11 933
of the Revised Code by failing to remit premiums withheld from 934
an employee is guilty of a felony of the fifth degree. 935

Sec. 5747.01. Except as otherwise expressly provided or 936
clearly appearing from the context, any term used in this 937
chapter that is not otherwise defined in this section has the 938
same meaning as when used in a comparable context in the laws of 939
the United States relating to federal income taxes or if not 940
used in a comparable context in those laws, has the same meaning 941
as in section 5733.40 of the Revised Code. Any reference in this 942
chapter to the Internal Revenue Code includes other laws of the 943
United States relating to federal income taxes. 944

As used in this chapter: 945

(A) "Adjusted gross income" or "Ohio adjusted gross 946
income" means federal adjusted gross income, as defined and used 947
in the Internal Revenue Code, adjusted as provided in this 948
section: 949

(1) Add interest or dividends on obligations or securities 950
of any state or of any political subdivision or authority of any 951
state, other than this state and its subdivisions and 952
authorities. 953

(2) Add interest or dividends on obligations of any 954
authority, commission, instrumentality, territory, or possession 955
of the United States to the extent that the interest or 956
dividends are exempt from federal income taxes but not from 957
state income taxes. 958

(3) Deduct interest or dividends on obligations of the 959

United States and its territories and possessions or of any 960
authority, commission, or instrumentality of the United States 961
to the extent that the interest or dividends are included in 962
federal adjusted gross income but exempt from state income taxes 963
under the laws of the United States. 964

(4) Deduct disability and survivor's benefits to the 965
extent included in federal adjusted gross income. 966

(5) Deduct benefits under Title II of the Social Security 967
Act and tier 1 railroad retirement benefits to the extent 968
included in federal adjusted gross income under section 86 of 969
the Internal Revenue Code. 970

(6) Deduct the amount of wages and salaries, if any, not 971
otherwise allowable as a deduction but that would have been 972
allowable as a deduction in computing federal adjusted gross 973
income for the taxable year, had the targeted jobs credit 974
allowed and determined under sections 38, 51, and 52 of the 975
Internal Revenue Code not been in effect. 976

(7) Deduct any interest or interest equivalent on public 977
obligations and purchase obligations to the extent that the 978
interest or interest equivalent is included in federal adjusted 979
gross income. 980

(8) Add any loss or deduct any gain resulting from the 981
sale, exchange, or other disposition of public obligations to 982
the extent that the loss has been deducted or the gain has been 983
included in computing federal adjusted gross income. 984

(9) Deduct or add amounts, as provided under section 985
5747.70 of the Revised Code, related to contributions to 986
variable college savings program accounts made or tuition units 987
purchased pursuant to Chapter 3334. of the Revised Code. 988

(10) (a) Deduct, to the extent not otherwise allowable as a 989
deduction or exclusion in computing federal or Ohio adjusted 990
gross income for the taxable year, the amount the taxpayer paid 991
during the taxable year for medical care insurance and qualified 992
long-term care insurance for the taxpayer, the taxpayer's 993
spouse, and dependents. No deduction for medical care insurance 994
under division (A) (10) (a) of this section shall be allowed 995
either to any taxpayer who is eligible to participate in any 996
subsidized health plan maintained by any employer of the 997
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 998
entitled to, or on application would be entitled to, benefits 999
under part A of Title XVIII of the "Social Security Act," 49 1000
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 1001
division (A) (10) (a) of this section, "subsidized health plan" 1002
means a health plan for which the employer pays any portion of 1003
the plan's cost. The deduction allowed under division (A) (10) (a) 1004
of this section shall be the net of any related premium refunds, 1005
related premium reimbursements, or related insurance premium 1006
dividends received during the taxable year. 1007

(b) Deduct, to the extent not otherwise deducted or 1008
excluded in computing federal or Ohio adjusted gross income 1009
during the taxable year, the amount the taxpayer paid during the 1010
taxable year, not compensated for by any insurance or otherwise, 1011
for medical care of the taxpayer, the taxpayer's spouse, and 1012
dependents, to the extent the expenses exceed seven and one-half 1013
per cent of the taxpayer's federal adjusted gross income. 1014

(c) For purposes of division (A) (10) of this section, 1015
"medical care" has the meaning given in section 213 of the 1016
Internal Revenue Code, subject to the special rules, 1017
limitations, and exclusions set forth therein, and "qualified 1018
long-term care" has the same meaning given in section 7702B(c) 1019

of the Internal Revenue Code. Solely for purposes of division 1020
(A) (10) (a) of this section, "dependent" includes a person who 1021
otherwise would be a "qualifying relative" and thus a 1022
"dependent" under section 152 of the Internal Revenue Code but 1023
for the fact that the person fails to meet the income and 1024
support limitations under section 152(d) (1) (B) and (C) of the 1025
Internal Revenue Code. 1026

(11) (a) Deduct any amount included in federal adjusted 1027
gross income solely because the amount represents a 1028
reimbursement or refund of expenses that in any year the 1029
taxpayer had deducted as an itemized deduction pursuant to 1030
section 63 of the Internal Revenue Code and applicable United 1031
States department of the treasury regulations. The deduction 1032
otherwise allowed under division (A) (11) (a) of this section 1033
shall be reduced to the extent the reimbursement is attributable 1034
to an amount the taxpayer deducted under this section in any 1035
taxable year. 1036

(b) Add any amount not otherwise included in Ohio adjusted 1037
gross income for any taxable year to the extent that the amount 1038
is attributable to the recovery during the taxable year of any 1039
amount deducted or excluded in computing federal or Ohio 1040
adjusted gross income in any taxable year. 1041

(12) Deduct any portion of the deduction described in 1042
section 1341(a) (2) of the Internal Revenue Code, for repaying 1043
previously reported income received under a claim of right, that 1044
meets both of the following requirements: 1045

(a) It is allowable for repayment of an item that was 1046
included in the taxpayer's adjusted gross income for a prior 1047
taxable year and did not qualify for a credit under division (A) 1048
or (B) of section 5747.05 of the Revised Code for that year; 1049

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year. 1050
1051

(13) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A) (13) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income. 1052
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(14) (a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code; 1059
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(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. 1065
1066
1067

(15) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following: 1068
1069
1070

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code; 1071
1072
1073
1074

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code. 1075
1076
1077

(16) Deduct the amount contributed by the taxpayer to an 1078

individual development account program established by a county 1079
department of job and family services pursuant to sections 1080
329.11 to 329.14 of the Revised Code for the purpose of matching 1081
funds deposited by program participants. On request of the tax 1082
commissioner, the taxpayer shall provide any information that, 1083
in the tax commissioner's opinion, is necessary to establish the 1084
amount deducted under division (A)(16) of this section. 1085

(17)(a)(i) Subject to divisions (A)(17)(a)(iii), (iv), and 1086
(v) of this section, add five-sixths of the amount of 1087
depreciation expense allowed by subsection (k) of section 168 of 1088
the Internal Revenue Code, including the taxpayer's 1089
proportionate or distributive share of the amount of 1090
depreciation expense allowed by that subsection to a pass- 1091
through entity in which the taxpayer has a direct or indirect 1092
ownership interest. 1093

(ii) Subject to divisions (A)(17)(a)(iii), (iv), and (v) 1094
of this section, add five-sixths of the amount of qualifying 1095
section 179 depreciation expense, including the taxpayer's 1096
proportionate or distributive share of the amount of qualifying 1097
section 179 depreciation expense allowed to any pass-through 1098
entity in which the taxpayer has a direct or indirect ownership 1099
interest. 1100

(iii) Subject to division (A)(17)(a)(v) of this section, 1101
for taxable years beginning in 2012 or thereafter, if the 1102
increase in income taxes withheld by the taxpayer is equal to or 1103
greater than ten per cent of income taxes withheld by the 1104
taxpayer during the taxpayer's immediately preceding taxable 1105
year, "two-thirds" shall be substituted for "five-sixths" for 1106
the purpose of divisions (A)(17)(a)(i) and (ii) of this section. 1107

(iv) Subject to division (A)(17)(a)(v) of this section, 1108

for taxable years beginning in 2012 or thereafter, a taxpayer is 1109
not required to add an amount under division (A) (17) of this 1110
section if the increase in income taxes withheld by the taxpayer 1111
and by any pass-through entity in which the taxpayer has a 1112
direct or indirect ownership interest is equal to or greater 1113
than the sum of (I) the amount of qualifying section 179 1114
depreciation expense and (II) the amount of depreciation expense 1115
allowed to the taxpayer by subsection (k) of section 168 of the 1116
Internal Revenue Code, and including the taxpayer's 1117
proportionate or distributive shares of such amounts allowed to 1118
any such pass-through entities. 1119

(v) If a taxpayer directly or indirectly incurs a net 1120
operating loss for the taxable year for federal income tax 1121
purposes, to the extent such loss resulted from depreciation 1122
expense allowed by subsection (k) of section 168 of the Internal 1123
Revenue Code and by qualifying section 179 depreciation expense, 1124
"the entire" shall be substituted for "five-sixths of the" for 1125
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 1126

The tax commissioner, under procedures established by the 1127
commissioner, may waive the add-backs related to a pass-through 1128
entity if the taxpayer owns, directly or indirectly, less than 1129
five per cent of the pass-through entity. 1130

(b) Nothing in division (A) (17) of this section shall be 1131
construed to adjust or modify the adjusted basis of any asset. 1132

(c) To the extent the add-back required under division (A) 1133
(17) (a) of this section is attributable to property generating 1134
nonbusiness income or loss allocated under section 5747.20 of 1135
the Revised Code, the add-back shall be situated to the same 1136
location as the nonbusiness income or loss generated by the 1137
property for the purpose of determining the credit under 1138

division (A) of section 5747.05 of the Revised Code. Otherwise, 1139
the add-back shall be apportioned, subject to one or more of the 1140
four alternative methods of apportionment enumerated in section 1141
5747.21 of the Revised Code. 1142

(d) For the purposes of division (A) (17) (a) (v) of this 1143
section, net operating loss carryback and carryforward shall not 1144
include the allowance of any net operating loss deduction 1145
carryback or carryforward to the taxable year to the extent such 1146
loss resulted from depreciation allowed by section 168(k) of the 1147
Internal Revenue Code and by the qualifying section 179 1148
depreciation expense amount. 1149

(e) For the purposes of divisions (A) (17) and (18) of this 1150
section: 1151

(i) "Income taxes withheld" means the total amount 1152
withheld and remitted under sections 5747.06 and 5747.07 of the 1153
Revised Code by an employer during the employer's taxable year. 1154

(ii) "Increase in income taxes withheld" means the amount 1155
by which the amount of income taxes withheld by an employer 1156
during the employer's current taxable year exceeds the amount of 1157
income taxes withheld by that employer during the employer's 1158
immediately preceding taxable year. 1159

(iii) "Qualifying section 179 depreciation expense" means 1160
the difference between (I) the amount of depreciation expense 1161
directly or indirectly allowed to a taxpayer under section 179 1162
of the Internal Revised Code, and (II) the amount of 1163
depreciation expense directly or indirectly allowed to the 1164
taxpayer under section 179 of the Internal Revenue Code as that 1165
section existed on December 31, 2002. 1166

(18) (a) If the taxpayer was required to add an amount 1167

under division (A) (17) (a) of this section for a taxable year, 1168
deduct one of the following: 1169

(i) One-fifth of the amount so added for each of the five 1170
succeeding taxable years if the amount so added was five-sixths 1171
of qualifying section 179 depreciation expense or depreciation 1172
expense allowed by subsection (k) of section 168 of the Internal 1173
Revenue Code; 1174

(ii) One-half of the amount so added for each of the two 1175
succeeding taxable years if the amount so added was two-thirds 1176
of such depreciation expense; 1177

(iii) One-sixth of the amount so added for each of the six 1178
succeeding taxable years if the entire amount of such 1179
depreciation expense was so added. 1180

(b) If the amount deducted under division (A) (18) (a) of 1181
this section is attributable to an add-back allocated under 1182
division (A) (17) (c) of this section, the amount deducted shall 1183
be situated to the same location. Otherwise, the add-back shall 1184
be apportioned using the apportionment factors for the taxable 1185
year in which the deduction is taken, subject to one or more of 1186
the four alternative methods of apportionment enumerated in 1187
section 5747.21 of the Revised Code. 1188

(c) No deduction is available under division (A) (18) (a) of 1189
this section with regard to any depreciation allowed by section 1190
168(k) of the Internal Revenue Code and by the qualifying 1191
section 179 depreciation expense amount to the extent that such 1192
depreciation results in or increases a federal net operating 1193
loss carryback or carryforward. If no such deduction is 1194
available for a taxable year, the taxpayer may carry forward the 1195
amount not deducted in such taxable year to the next taxable 1196

year and add that amount to any deduction otherwise available 1197
under division (A) (18) (a) of this section for that next taxable 1198
year. The carryforward of amounts not so deducted shall continue 1199
until the entire addition required by division (A) (17) (a) of 1200
this section has been deducted. 1201

(19) Deduct, to the extent not otherwise deducted or 1202
excluded in computing federal or Ohio adjusted gross income for 1203
the taxable year, the amount the taxpayer received during the 1204
taxable year as reimbursement for life insurance premiums under 1205
section 5919.31 of the Revised Code. 1206

(20) Deduct, to the extent not otherwise deducted or 1207
excluded in computing federal or Ohio adjusted gross income for 1208
the taxable year, the amount the taxpayer received during the 1209
taxable year as a death benefit paid by the adjutant general 1210
under section 5919.33 of the Revised Code. 1211

(21) Deduct, to the extent included in federal adjusted 1212
gross income and not otherwise allowable as a deduction or 1213
exclusion in computing federal or Ohio adjusted gross income for 1214
the taxable year, military pay and allowances received by the 1215
taxpayer during the taxable year for active duty service in the 1216
United States army, air force, navy, marine corps, or coast 1217
guard or reserve components thereof or the national guard. The 1218
deduction may not be claimed for military pay and allowances 1219
received by the taxpayer while the taxpayer is stationed in this 1220
state. 1221

(22) Deduct, to the extent not otherwise allowable as a 1222
deduction or exclusion in computing federal or Ohio adjusted 1223
gross income for the taxable year and not otherwise compensated 1224
for by any other source, the amount of qualified organ donation 1225
expenses incurred by the taxpayer during the taxable year, not 1226

to exceed ten thousand dollars. A taxpayer may deduct qualified 1227
organ donation expenses only once for all taxable years 1228
beginning with taxable years beginning in 2007. 1229

For the purposes of division (A)(22) of this section: 1230

(a) "Human organ" means all or any portion of a human 1231
liver, pancreas, kidney, intestine, or lung, and any portion of 1232
human bone marrow. 1233

(b) "Qualified organ donation expenses" means travel 1234
expenses, lodging expenses, and wages and salary forgone by a 1235
taxpayer in connection with the taxpayer's donation, while 1236
living, of one or more of the taxpayer's human organs to another 1237
human being. 1238

(23) Deduct, to the extent not otherwise deducted or 1239
excluded in computing federal or Ohio adjusted gross income for 1240
the taxable year, amounts received by the taxpayer as retired 1241
personnel pay for service in the uniformed services or reserve 1242
components thereof, or the national guard, or received by the 1243
surviving spouse or former spouse of such a taxpayer under the 1244
survivor benefit plan on account of such a taxpayer's death. If 1245
the taxpayer receives income on account of retirement paid under 1246
the federal civil service retirement system or federal employees 1247
retirement system, or under any successor retirement program 1248
enacted by the congress of the United States that is established 1249
and maintained for retired employees of the United States 1250
government, and such retirement income is based, in whole or in 1251
part, on credit for the taxpayer's uniformed service, the 1252
deduction allowed under this division shall include only that 1253
portion of such retirement income that is attributable to the 1254
taxpayer's uniformed service, to the extent that portion of such 1255
retirement income is otherwise included in federal adjusted 1256

gross income and is not otherwise deducted under this section. 1257
Any amount deducted under division (A) (23) of this section is 1258
not included in a taxpayer's adjusted gross income for the 1259
purposes of section 5747.055 of the Revised Code. No amount may 1260
be deducted under division (A) (23) of this section on the basis 1261
of which a credit was claimed under section 5747.055 of the 1262
Revised Code. 1263

(24) Deduct, to the extent not otherwise deducted or 1264
excluded in computing federal or Ohio adjusted gross income for 1265
the taxable year, the amount the taxpayer received during the 1266
taxable year from the military injury relief fund created in 1267
section 5902.05 of the Revised Code. 1268

(25) Deduct, to the extent not otherwise deducted or 1269
excluded in computing federal or Ohio adjusted gross income for 1270
the taxable year, the amount the taxpayer received as a veterans 1271
bonus during the taxable year from the Ohio department of 1272
veterans services as authorized by Section 2r of Article VIII, 1273
Ohio Constitution. 1274

(26) Deduct, to the extent not otherwise deducted or 1275
excluded in computing federal or Ohio adjusted gross income for 1276
the taxable year, any income derived from a transfer agreement 1277
or from the enterprise transferred under that agreement under 1278
section 4313.02 of the Revised Code. 1279

(27) Deduct, to the extent not otherwise deducted or 1280
excluded in computing federal or Ohio adjusted gross income for 1281
the taxable year, Ohio college opportunity or federal Pell grant 1282
amounts received by the taxpayer or the taxpayer's spouse or 1283
dependent pursuant to section 3333.122 of the Revised Code or 20 1284
U.S.C. 1070a, et seq., and used to pay room or board furnished 1285
by the educational institution for which the grant was awarded 1286

at the institution's facilities, including meal plans 1287
administered by the institution. For the purposes of this 1288
division, receipt of a grant includes the distribution of a 1289
grant directly to an educational institution and the crediting 1290
of the grant to the enrollee's account with the institution. 1291

(28) Deduct from the portion of an individual's federal 1292
adjusted gross income that is business income, to the extent not 1293
otherwise deducted or excluded in computing federal adjusted 1294
gross income for the taxable year, one hundred twenty-five 1295
thousand dollars for each spouse if spouses file separate 1296
returns under section 5747.08 of the Revised Code or two hundred 1297
fifty thousand dollars for all other individuals. 1298

(29) Deduct, as provided under section 5747.78 of the 1299
Revised Code, contributions to ABLE savings accounts made in 1300
accordance with sections 113.50 to 113.56 of the Revised Code. 1301

(30) (a) Deduct, to the extent not otherwise deducted or 1302
excluded in computing federal or Ohio adjusted gross income 1303
during the taxable year, all of the following: 1304

(i) Compensation paid to a qualifying employee described 1305
in division (A) (14) (a) of section 5703.94 of the Revised Code to 1306
the extent such compensation is for disaster work conducted in 1307
this state during a disaster response period pursuant to a 1308
qualifying solicitation received by the employee's employer; 1309

(ii) Compensation paid to a qualifying employee described 1310
in division (A) (14) (b) of section 5703.94 of the Revised Code to 1311
the extent such compensation is for disaster work conducted in 1312
this state by the employee during the disaster response period 1313
on critical infrastructure owned or used by the employee's 1314
employer; 1315

(iii) Income received by an out-of-state disaster business 1316
for disaster work conducted in this state during a disaster 1317
response period, or, if the out-of-state disaster business is a 1318
pass-through entity, a taxpayer's distributive share of the 1319
pass-through entity's income from the business conducting 1320
disaster work in this state during a disaster response period, 1321
if, in either case, the disaster work is conducted pursuant to a 1322
qualifying solicitation received by the business. 1323

(b) All terms used in division (A) (30) of this section 1324
have the same meanings as in section 5703.94 of the Revised 1325
Code. 1326

(31) For a taxpayer who is a qualifying Ohio educator, 1327
deduct, to the extent not otherwise deducted or excluded in 1328
computing federal or Ohio adjusted gross income for the taxable 1329
year, the lesser of two hundred fifty dollars or the amount of 1330
expenses described in subsections (a) (2) (D) (i) and (ii) of 1331
section 62 of the Internal Revenue Code paid or incurred by the 1332
taxpayer during the taxpayer's taxable year in excess of the 1333
amount the taxpayer is authorized to deduct for that taxable 1334
year under subsection (a) (2) (D) of that section. 1335

~~(34)~~ (32) Deduct, to the extent not otherwise deducted or 1336
excluded in computing federal or Ohio adjusted gross income for 1337
the taxable year, amounts received by the taxpayer as a 1338
disability severance payment, computed under 10 U.S.C. 1212, 1339
following discharge or release under honorable conditions from 1340
the armed forces, as defined by 10 U.S.C. 101. 1341

(33) Deduct benefits under Chapter 4143. of the Revised 1342
Code to the extent included in federal adjusted gross income. 1343

(B) "Business income" means income, including gain or 1344

loss, arising from transactions, activities, and sources in the 1345
regular course of a trade or business and includes income, gain, 1346
or loss from real property, tangible property, and intangible 1347
property if the acquisition, rental, management, and disposition 1348
of the property constitute integral parts of the regular course 1349
of a trade or business operation. "Business income" includes 1350
income, including gain or loss, from a partial or complete 1351
liquidation of a business, including, but not limited to, gain 1352
or loss from the sale or other disposition of goodwill. 1353

(C) "Nonbusiness income" means all income other than 1354
business income and may include, but is not limited to, 1355
compensation, rents and royalties from real or tangible personal 1356
property, capital gains, interest, dividends and distributions, 1357
patent or copyright royalties, or lottery winnings, prizes, and 1358
awards. 1359

(D) "Compensation" means any form of remuneration paid to 1360
an employee for personal services. 1361

(E) "Fiduciary" means a guardian, trustee, executor, 1362
administrator, receiver, conservator, or any other person acting 1363
in any fiduciary capacity for any individual, trust, or estate. 1364

(F) "Fiscal year" means an accounting period of twelve 1365
months ending on the last day of any month other than December. 1366

(G) "Individual" means any natural person. 1367

(H) "Internal Revenue Code" means the "Internal Revenue 1368
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 1369

(I) "Resident" means any of the following: 1370

(1) An individual who is domiciled in this state, subject 1371
to section 5747.24 of the Revised Code; 1372

(2) The estate of a decedent who at the time of death was 1373
domiciled in this state. The domicile tests of section 5747.24 1374
of the Revised Code are not controlling for purposes of division 1375
(I) (2) of this section. 1376

(3) A trust that, in whole or part, resides in this state. 1377
If only part of a trust resides in this state, the trust is a 1378
resident only with respect to that part. 1379

For the purposes of division (I) (3) of this section: 1380

(a) A trust resides in this state for the trust's current 1381
taxable year to the extent, as described in division (I) (3) (d) 1382
of this section, that the trust consists directly or indirectly, 1383
in whole or in part, of assets, net of any related liabilities, 1384
that were transferred, or caused to be transferred, directly or 1385
indirectly, to the trust by any of the following: 1386

(i) A person, a court, or a governmental entity or 1387
instrumentality on account of the death of a decedent, but only 1388
if the trust is described in division (I) (3) (e) (i) or (ii) of 1389
this section; 1390

(ii) A person who was domiciled in this state for the 1391
purposes of this chapter when the person directly or indirectly 1392
transferred assets to an irrevocable trust, but only if at least 1393
one of the trust's qualifying beneficiaries is domiciled in this 1394
state for the purposes of this chapter during all or some 1395
portion of the trust's current taxable year; 1396

(iii) A person who was domiciled in this state for the 1397
purposes of this chapter when the trust document or instrument 1398
or part of the trust document or instrument became irrevocable, 1399
but only if at least one of the trust's qualifying beneficiaries 1400
is a resident domiciled in this state for the purposes of this 1401

chapter during all or some portion of the trust's current 1402
taxable year. If a trust document or instrument became 1403
irrevocable upon the death of a person who at the time of death 1404
was domiciled in this state for purposes of this chapter, that 1405
person is a person described in division (I) (3) (a) (iii) of this 1406
section. 1407

(b) A trust is irrevocable to the extent that the 1408
transferor is not considered to be the owner of the net assets 1409
of the trust under sections 671 to 678 of the Internal Revenue 1410
Code. 1411

(c) With respect to a trust other than a charitable lead 1412
trust, "qualifying beneficiary" has the same meaning as 1413
"potential current beneficiary" as defined in section 1361(e) (2) 1414
of the Internal Revenue Code, and with respect to a charitable 1415
lead trust "qualifying beneficiary" is any current, future, or 1416
contingent beneficiary, but with respect to any trust 1417
"qualifying beneficiary" excludes a person or a governmental 1418
entity or instrumentality to any of which a contribution would 1419
qualify for the charitable deduction under section 170 of the 1420
Internal Revenue Code. 1421

(d) For the purposes of division (I) (3) (a) of this 1422
section, the extent to which a trust consists directly or 1423
indirectly, in whole or in part, of assets, net of any related 1424
liabilities, that were transferred directly or indirectly, in 1425
whole or part, to the trust by any of the sources enumerated in 1426
that division shall be ascertained by multiplying the fair 1427
market value of the trust's assets, net of related liabilities, 1428
by the qualifying ratio, which shall be computed as follows: 1429

(i) The first time the trust receives assets, the 1430
numerator of the qualifying ratio is the fair market value of 1431

those assets at that time, net of any related liabilities, from 1432
sources enumerated in division (I) (3) (a) of this section. The 1433
denominator of the qualifying ratio is the fair market value of 1434
all the trust's assets at that time, net of any related 1435
liabilities. 1436

(ii) Each subsequent time the trust receives assets, a 1437
revised qualifying ratio shall be computed. The numerator of the 1438
revised qualifying ratio is the sum of (1) the fair market value 1439
of the trust's assets immediately prior to the subsequent 1440
transfer, net of any related liabilities, multiplied by the 1441
qualifying ratio last computed without regard to the subsequent 1442
transfer, and (2) the fair market value of the subsequently 1443
transferred assets at the time transferred, net of any related 1444
liabilities, from sources enumerated in division (I) (3) (a) of 1445
this section. The denominator of the revised qualifying ratio is 1446
the fair market value of all the trust's assets immediately 1447
after the subsequent transfer, net of any related liabilities. 1448

(iii) Whether a transfer to the trust is by or from any of 1449
the sources enumerated in division (I) (3) (a) of this section 1450
shall be ascertained without regard to the domicile of the 1451
trust's beneficiaries. 1452

(e) For the purposes of division (I) (3) (a) (i) of this 1453
section: 1454

(i) A trust is described in division (I) (3) (e) (i) of this 1455
section if the trust is a testamentary trust and the testator of 1456
that testamentary trust was domiciled in this state at the time 1457
of the testator's death for purposes of the taxes levied under 1458
Chapter 5731. of the Revised Code. 1459

(ii) A trust is described in division (I) (3) (e) (ii) of 1460

this section if the transfer is a qualifying transfer described 1461
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1462
trust is an irrevocable inter vivos trust, and at least one of 1463
the trust's qualifying beneficiaries is domiciled in this state 1464
for purposes of this chapter during all or some portion of the 1465
trust's current taxable year. 1466

(f) For the purposes of division (I) (3) (e) (ii) of this 1467
section, a "qualifying transfer" is a transfer of assets, net of 1468
any related liabilities, directly or indirectly to a trust, if 1469
the transfer is described in any of the following: 1470

(i) The transfer is made to a trust, created by the 1471
decedent before the decedent's death and while the decedent was 1472
domiciled in this state for the purposes of this chapter, and, 1473
prior to the death of the decedent, the trust became irrevocable 1474
while the decedent was domiciled in this state for the purposes 1475
of this chapter. 1476

(ii) The transfer is made to a trust to which the 1477
decedent, prior to the decedent's death, had directly or 1478
indirectly transferred assets, net of any related liabilities, 1479
while the decedent was domiciled in this state for the purposes 1480
of this chapter, and prior to the death of the decedent the 1481
trust became irrevocable while the decedent was domiciled in 1482
this state for the purposes of this chapter. 1483

(iii) The transfer is made on account of a contractual 1484
relationship existing directly or indirectly between the 1485
transferor and either the decedent or the estate of the decedent 1486
at any time prior to the date of the decedent's death, and the 1487
decedent was domiciled in this state at the time of death for 1488
purposes of the taxes levied under Chapter 5731. of the Revised 1489
Code. 1490

(iv) The transfer is made to a trust on account of a 1491
contractual relationship existing directly or indirectly between 1492
the transferor and another person who at the time of the 1493
decedent's death was domiciled in this state for purposes of 1494
this chapter. 1495

(v) The transfer is made to a trust on account of the will 1496
of a testator who was domiciled in this state at the time of the 1497
testator's death for purposes of the taxes levied under Chapter 1498
5731. of the Revised Code. 1499

(vi) The transfer is made to a trust created by or caused 1500
to be created by a court, and the trust was directly or 1501
indirectly created in connection with or as a result of the 1502
death of an individual who, for purposes of the taxes levied 1503
under Chapter 5731. of the Revised Code, was domiciled in this 1504
state at the time of the individual's death. 1505

(g) The tax commissioner may adopt rules to ascertain the 1506
part of a trust residing in this state. 1507

(J) "Nonresident" means an individual or estate that is 1508
not a resident. An individual who is a resident for only part of 1509
a taxable year is a nonresident for the remainder of that 1510
taxable year. 1511

(K) "Pass-through entity" has the same meaning as in 1512
section 5733.04 of the Revised Code. 1513

(L) "Return" means the notifications and reports required 1514
to be filed pursuant to this chapter for the purpose of 1515
reporting the tax due and includes declarations of estimated tax 1516
when so required. 1517

(M) "Taxable year" means the calendar year or the 1518
taxpayer's fiscal year ending during the calendar year, or 1519

fractional part thereof, upon which the adjusted gross income is 1520
calculated pursuant to this chapter. 1521

(N) "Taxpayer" means any person subject to the tax imposed 1522
by section 5747.02 of the Revised Code or any pass-through 1523
entity that makes the election under division (D) of section 1524
5747.08 of the Revised Code. 1525

(O) "Dependents" means one of the following: 1526

(1) For taxable years beginning on or after January 1, 1527
2018, and before January 1, 2026, dependents as defined in the 1528
Internal Revenue Code; 1529

(2) For all other taxable years, dependents as defined in 1530
the Internal Revenue Code and as claimed in the taxpayer's 1531
federal income tax return for the taxable year or which the 1532
taxpayer would have been permitted to claim had the taxpayer 1533
filed a federal income tax return. 1534

(P) "Principal county of employment" means, in the case of 1535
a nonresident, the county within the state in which a taxpayer 1536
performs services for an employer or, if those services are 1537
performed in more than one county, the county in which the major 1538
portion of the services are performed. 1539

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1540
Code: 1541

(1) "Subdivision" means any county, municipal corporation, 1542
park district, or township. 1543

(2) "Essential local government purposes" includes all 1544
functions that any subdivision is required by general law to 1545
exercise, including like functions that are exercised under a 1546
charter adopted pursuant to the Ohio Constitution. 1547

(R) "Overpayment" means any amount already paid that 1548
exceeds the figure determined to be the correct amount of the 1549
tax. 1550

(S) "Taxable income" or "Ohio taxable income" applies only 1551
to estates and trusts, and means federal taxable income, as 1552
defined and used in the Internal Revenue Code, adjusted as 1553
follows: 1554

(1) Add interest or dividends, net of ordinary, necessary, 1555
and reasonable expenses not deducted in computing federal 1556
taxable income, on obligations or securities of any state or of 1557
any political subdivision or authority of any state, other than 1558
this state and its subdivisions and authorities, but only to the 1559
extent that such net amount is not otherwise includible in Ohio 1560
taxable income and is described in either division (S) (1) (a) or 1561
(b) of this section: 1562

(a) The net amount is not attributable to the S portion of 1563
an electing small business trust and has not been distributed to 1564
beneficiaries for the taxable year; 1565

(b) The net amount is attributable to the S portion of an 1566
electing small business trust for the taxable year. 1567

(2) Add interest or dividends, net of ordinary, necessary, 1568
and reasonable expenses not deducted in computing federal 1569
taxable income, on obligations of any authority, commission, 1570
instrumentality, territory, or possession of the United States 1571
to the extent that the interest or dividends are exempt from 1572
federal income taxes but not from state income taxes, but only 1573
to the extent that such net amount is not otherwise includible 1574
in Ohio taxable income and is described in either division (S) 1575
(1) (a) or (b) of this section; 1576

(3) Add the amount of personal exemption allowed to the 1577
estate pursuant to section 642(b) of the Internal Revenue Code; 1578

(4) Deduct interest or dividends, net of related expenses 1579
deducted in computing federal taxable income, on obligations of 1580
the United States and its territories and possessions or of any 1581
authority, commission, or instrumentality of the United States 1582
to the extent that the interest or dividends are exempt from 1583
state taxes under the laws of the United States, but only to the 1584
extent that such amount is included in federal taxable income 1585
and is described in either division (S) (1) (a) or (b) of this 1586
section; 1587

(5) Deduct the amount of wages and salaries, if any, not 1588
otherwise allowable as a deduction but that would have been 1589
allowable as a deduction in computing federal taxable income for 1590
the taxable year, had the targeted jobs credit allowed under 1591
sections 38, 51, and 52 of the Internal Revenue Code not been in 1592
effect, but only to the extent such amount relates either to 1593
income included in federal taxable income for the taxable year 1594
or to income of the S portion of an electing small business 1595
trust for the taxable year; 1596

(6) Deduct any interest or interest equivalent, net of 1597
related expenses deducted in computing federal taxable income, 1598
on public obligations and purchase obligations, but only to the 1599
extent that such net amount relates either to income included in 1600
federal taxable income for the taxable year or to income of the 1601
S portion of an electing small business trust for the taxable 1602
year; 1603

(7) Add any loss or deduct any gain resulting from sale, 1604
exchange, or other disposition of public obligations to the 1605
extent that such loss has been deducted or such gain has been 1606

included in computing either federal taxable income or income of 1607
the S portion of an electing small business trust for the 1608
taxable year; 1609

(8) Except in the case of the final return of an estate, 1610
add any amount deducted by the taxpayer on both its Ohio estate 1611
tax return pursuant to section 5731.14 of the Revised Code, and 1612
on its federal income tax return in determining federal taxable 1613
income; 1614

(9) (a) Deduct any amount included in federal taxable 1615
income solely because the amount represents a reimbursement or 1616
refund of expenses that in a previous year the decedent had 1617
deducted as an itemized deduction pursuant to section 63 of the 1618
Internal Revenue Code and applicable treasury regulations. The 1619
deduction otherwise allowed under division (S) (9) (a) of this 1620
section shall be reduced to the extent the reimbursement is 1621
attributable to an amount the taxpayer or decedent deducted 1622
under this section in any taxable year. 1623

(b) Add any amount not otherwise included in Ohio taxable 1624
income for any taxable year to the extent that the amount is 1625
attributable to the recovery during the taxable year of any 1626
amount deducted or excluded in computing federal or Ohio taxable 1627
income in any taxable year, but only to the extent such amount 1628
has not been distributed to beneficiaries for the taxable year. 1629

(10) Deduct any portion of the deduction described in 1630
section 1341(a) (2) of the Internal Revenue Code, for repaying 1631
previously reported income received under a claim of right, that 1632
meets both of the following requirements: 1633

(a) It is allowable for repayment of an item that was 1634
included in the taxpayer's taxable income or the decedent's 1635

adjusted gross income for a prior taxable year and did not 1636
qualify for a credit under division (A) or (B) of section 1637
5747.05 of the Revised Code for that year. 1638

(b) It does not otherwise reduce the taxpayer's taxable 1639
income or the decedent's adjusted gross income for the current 1640
or any other taxable year. 1641

(11) Add any amount claimed as a credit under section 1642
5747.059 of the Revised Code to the extent that the amount 1643
satisfies either of the following: 1644

(a) The amount was deducted or excluded from the 1645
computation of the taxpayer's federal taxable income as required 1646
to be reported for the taxpayer's taxable year under the 1647
Internal Revenue Code; 1648

(b) The amount resulted in a reduction in the taxpayer's 1649
federal taxable income as required to be reported for any of the 1650
taxpayer's taxable years under the Internal Revenue Code. 1651

(12) Deduct any amount, net of related expenses deducted 1652
in computing federal taxable income, that a trust is required to 1653
report as farm income on its federal income tax return, but only 1654
if the assets of the trust include at least ten acres of land 1655
satisfying the definition of "land devoted exclusively to 1656
agricultural use" under section 5713.30 of the Revised Code, 1657
regardless of whether the land is valued for tax purposes as 1658
such land under sections 5713.30 to 5713.38 of the Revised Code. 1659
If the trust is a pass-through entity investor, section 5747.231 1660
of the Revised Code applies in ascertaining if the trust is 1661
eligible to claim the deduction provided by division (S)(12) of 1662
this section in connection with the pass-through entity's farm 1663
income. 1664

Except for farm income attributable to the S portion of an 1665
electing small business trust, the deduction provided by 1666
division (S) (12) of this section is allowed only to the extent 1667
that the trust has not distributed such farm income. 1668

(13) Add the net amount of income described in section 1669
641(c) of the Internal Revenue Code to the extent that amount is 1670
not included in federal taxable income. 1671

(14) Add or deduct the amount the taxpayer would be 1672
required to add or deduct under division (A) (17) or (18) of this 1673
section if the taxpayer's Ohio taxable income were computed in 1674
the same manner as an individual's Ohio adjusted gross income is 1675
computed under this section. 1676

(T) "School district income" and "school district income 1677
tax" have the same meanings as in section 5748.01 of the Revised 1678
Code. 1679

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1680
(7) of this section, "public obligations," "purchase 1681
obligations," and "interest or interest equivalent" have the 1682
same meanings as in section 5709.76 of the Revised Code. 1683

(V) "Limited liability company" means any limited 1684
liability company formed under Chapter 1705. or 1706. of the 1685
Revised Code or under the laws of any other state. 1686

(W) "Pass-through entity investor" means any person who, 1687
during any portion of a taxable year of a pass-through entity, 1688
is a partner, member, shareholder, or equity investor in that 1689
pass-through entity. 1690

(X) "Banking day" has the same meaning as in section 1691
1304.01 of the Revised Code. 1692

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| (Y) "Month" means a calendar month. | 1693 |
| (Z) "Quarter" means the first three months, the second | 1694 |
| three months, the third three months, or the last three months | 1695 |
| of the taxpayer's taxable year. | 1696 |
| (AA) (1) "Modified business income" means the business | 1697 |
| income included in a trust's Ohio taxable income after such | 1698 |
| taxable income is first reduced by the qualifying trust amount, | 1699 |
| if any. | 1700 |
| (2) "Qualifying trust amount" of a trust means capital | 1701 |
| gains and losses from the sale, exchange, or other disposition | 1702 |
| of equity or ownership interests in, or debt obligations of, a | 1703 |
| qualifying investee to the extent included in the trust's Ohio | 1704 |
| taxable income, but only if the following requirements are | 1705 |
| satisfied: | 1706 |
| (a) The book value of the qualifying investee's physical | 1707 |
| assets in this state and everywhere, as of the last day of the | 1708 |
| qualifying investee's fiscal or calendar year ending immediately | 1709 |
| prior to the date on which the trust recognizes the gain or | 1710 |
| loss, is available to the trust. | 1711 |
| (b) The requirements of section 5747.011 of the Revised | 1712 |
| Code are satisfied for the trust's taxable year in which the | 1713 |
| trust recognizes the gain or loss. | 1714 |
| Any gain or loss that is not a qualifying trust amount is | 1715 |
| modified business income, qualifying investment income, or | 1716 |
| modified nonbusiness income, as the case may be. | 1717 |
| (3) "Modified nonbusiness income" means a trust's Ohio | 1718 |
| taxable income other than modified business income, other than | 1719 |
| the qualifying trust amount, and other than qualifying | 1720 |
| investment income, as defined in section 5747.012 of the Revised | 1721 |

Code, to the extent such qualifying investment income is not 1722
otherwise part of modified business income. 1723

(4) "Modified Ohio taxable income" applies only to trusts, 1724
and means the sum of the amounts described in divisions (AA) (4) 1725
(a) to (c) of this section: 1726

(a) The fraction, calculated under section 5747.013, and 1727
applying section 5747.231 of the Revised Code, multiplied by the 1728
sum of the following amounts: 1729

(i) The trust's modified business income; 1730

(ii) The trust's qualifying investment income, as defined 1731
in section 5747.012 of the Revised Code, but only to the extent 1732
the qualifying investment income does not otherwise constitute 1733
modified business income and does not otherwise constitute a 1734
qualifying trust amount. 1735

(b) The qualifying trust amount multiplied by a fraction, 1736
the numerator of which is the sum of the book value of the 1737
qualifying investee's physical assets in this state on the last 1738
day of the qualifying investee's fiscal or calendar year ending 1739
immediately prior to the day on which the trust recognizes the 1740
qualifying trust amount, and the denominator of which is the sum 1741
of the book value of the qualifying investee's total physical 1742
assets everywhere on the last day of the qualifying investee's 1743
fiscal or calendar year ending immediately prior to the day on 1744
which the trust recognizes the qualifying trust amount. If, for 1745
a taxable year, the trust recognizes a qualifying trust amount 1746
with respect to more than one qualifying investee, the amount 1747
described in division (AA) (4) (b) of this section shall equal the 1748
sum of the products so computed for each such qualifying 1749
investee. 1750

(c) (i) With respect to a trust or portion of a trust that 1751
is a resident as ascertained in accordance with division (I) (3) 1752
(d) of this section, its modified nonbusiness income. 1753

(ii) With respect to a trust or portion of a trust that is 1754
not a resident as ascertained in accordance with division (I) (3) 1755
(d) of this section, the amount of its modified nonbusiness 1756
income satisfying the descriptions in divisions (B) (2) to (5) of 1757
section 5747.20 of the Revised Code, except as otherwise 1758
provided in division (AA) (4) (c) (ii) of this section. With 1759
respect to a trust or portion of a trust that is not a resident 1760
as ascertained in accordance with division (I) (3) (d) of this 1761
section, the trust's portion of modified nonbusiness income 1762
recognized from the sale, exchange, or other disposition of a 1763
debt interest in or equity interest in a section 5747.212 1764
entity, as defined in section 5747.212 of the Revised Code, 1765
without regard to division (A) of that section, shall not be 1766
allocated to this state in accordance with section 5747.20 of 1767
the Revised Code but shall be apportioned to this state in 1768
accordance with division (B) of section 5747.212 of the Revised 1769
Code without regard to division (A) of that section. 1770

If the allocation and apportionment of a trust's income 1771
under divisions (AA) (4) (a) and (c) of this section do not fairly 1772
represent the modified Ohio taxable income of the trust in this 1773
state, the alternative methods described in division (C) of 1774
section 5747.21 of the Revised Code may be applied in the manner 1775
and to the same extent provided in that section. 1776

(5) (a) Except as set forth in division (AA) (5) (b) of this 1777
section, "qualifying investee" means a person in which a trust 1778
has an equity or ownership interest, or a person or unit of 1779
government the debt obligations of either of which are owned by 1780

a trust. For the purposes of division (AA) (2) (a) of this section 1781
and for the purpose of computing the fraction described in 1782
division (AA) (4) (b) of this section, all of the following apply: 1783

(i) If the qualifying investee is a member of a qualifying 1784
controlled group on the last day of the qualifying investee's 1785
fiscal or calendar year ending immediately prior to the date on 1786
which the trust recognizes the gain or loss, then "qualifying 1787
investee" includes all persons in the qualifying controlled 1788
group on such last day. 1789

(ii) If the qualifying investee, or if the qualifying 1790
investee and any members of the qualifying controlled group of 1791
which the qualifying investee is a member on the last day of the 1792
qualifying investee's fiscal or calendar year ending immediately 1793
prior to the date on which the trust recognizes the gain or 1794
loss, separately or cumulatively own, directly or indirectly, on 1795
the last day of the qualifying investee's fiscal or calendar 1796
year ending immediately prior to the date on which the trust 1797
recognizes the qualifying trust amount, more than fifty per cent 1798
of the equity of a pass-through entity, then the qualifying 1799
investee and the other members are deemed to own the 1800
proportionate share of the pass-through entity's physical assets 1801
which the pass-through entity directly or indirectly owns on the 1802
last day of the pass-through entity's calendar or fiscal year 1803
ending within or with the last day of the qualifying investee's 1804
fiscal or calendar year ending immediately prior to the date on 1805
which the trust recognizes the qualifying trust amount. 1806

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1807
section, "upper level pass-through entity" means a pass-through 1808
entity directly or indirectly owning any equity of another pass- 1809
through entity, and "lower level pass-through entity" means that 1810

other pass-through entity. 1811

An upper level pass-through entity, whether or not it is 1812
also a qualifying investee, is deemed to own, on the last day of 1813
the upper level pass-through entity's calendar or fiscal year, 1814
the proportionate share of the lower level pass-through entity's 1815
physical assets that the lower level pass-through entity 1816
directly or indirectly owns on the last day of the lower level 1817
pass-through entity's calendar or fiscal year ending within or 1818
with the last day of the upper level pass-through entity's 1819
fiscal or calendar year. If the upper level pass-through entity 1820
directly and indirectly owns less than fifty per cent of the 1821
equity of the lower level pass-through entity on each day of the 1822
upper level pass-through entity's calendar or fiscal year in 1823
which or with which ends the calendar or fiscal year of the 1824
lower level pass-through entity and if, based upon clear and 1825
convincing evidence, complete information about the location and 1826
cost of the physical assets of the lower pass-through entity is 1827
not available to the upper level pass-through entity, then 1828
solely for purposes of ascertaining if a gain or loss 1829
constitutes a qualifying trust amount, the upper level pass- 1830
through entity shall be deemed as owning no equity of the lower 1831
level pass-through entity for each day during the upper level 1832
pass-through entity's calendar or fiscal year in which or with 1833
which ends the lower level pass-through entity's calendar or 1834
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1835
shall be construed to provide for any deduction or exclusion in 1836
computing any trust's Ohio taxable income. 1837

(b) With respect to a trust that is not a resident for the 1838
taxable year and with respect to a part of a trust that is not a 1839
resident for the taxable year, "qualifying investee" for that 1840
taxable year does not include a C corporation if both of the 1841

following apply: 1842

(i) During the taxable year the trust or part of the trust 1843
recognizes a gain or loss from the sale, exchange, or other 1844
disposition of equity or ownership interests in, or debt 1845
obligations of, the C corporation. 1846

(ii) Such gain or loss constitutes nonbusiness income. 1847

(6) "Available" means information is such that a person is 1848
able to learn of the information by the due date plus 1849
extensions, if any, for filing the return for the taxable year 1850
in which the trust recognizes the gain or loss. 1851

(BB) "Qualifying controlled group" has the same meaning as 1852
in section 5733.04 of the Revised Code. 1853

(CC) "Related member" has the same meaning as in section 1854
5733.042 of the Revised Code. 1855

(DD) (1) For the purposes of division (DD) of this section: 1856

(a) "Qualifying person" means any person other than a 1857
qualifying corporation. 1858

(b) "Qualifying corporation" means any person classified 1859
for federal income tax purposes as an association taxable as a 1860
corporation, except either of the following: 1861

(i) A corporation that has made an election under 1862
subchapter S, chapter one, subtitle A, of the Internal Revenue 1863
Code for its taxable year ending within, or on the last day of, 1864
the investor's taxable year; 1865

(ii) A subsidiary that is wholly owned by any corporation 1866
that has made an election under subchapter S, chapter one, 1867
subtitle A of the Internal Revenue Code for its taxable year 1868

ending within, or on the last day of, the investor's taxable 1869
year. 1870

(2) For the purposes of this chapter, unless expressly 1871
stated otherwise, no qualifying person indirectly owns any asset 1872
directly or indirectly owned by any qualifying corporation. 1873

(EE) For purposes of this chapter and Chapter 5751. of the 1874
Revised Code: 1875

(1) "Trust" does not include a qualified pre-income tax 1876
trust. 1877

(2) A "qualified pre-income tax trust" is any pre-income 1878
tax trust that makes a qualifying pre-income tax trust election 1879
as described in division (EE) (3) of this section. 1880

(3) A "qualifying pre-income tax trust election" is an 1881
election by a pre-income tax trust to subject to the tax imposed 1882
by section 5751.02 of the Revised Code the pre-income tax trust 1883
and all pass-through entities of which the trust owns or 1884
controls, directly, indirectly, or constructively through 1885
related interests, five per cent or more of the ownership or 1886
equity interests. The trustee shall notify the tax commissioner 1887
in writing of the election on or before April 15, 2006. The 1888
election, if timely made, shall be effective on and after 1889
January 1, 2006, and shall apply for all tax periods and tax 1890
years until revoked by the trustee of the trust. 1891

(4) A "pre-income tax trust" is a trust that satisfies all 1892
of the following requirements: 1893

(a) The document or instrument creating the trust was 1894
executed by the grantor before January 1, 1972; 1895

(b) The trust became irrevocable upon the creation of the 1896

| | |
|---|--|
| trust; and | 1897 |
| (c) The grantor was domiciled in this state at the time the trust was created. | 1898 1899 |
| (FF) "Uniformed services" has the same meaning as in 10 U.S.C. 101. | 1900 1901 |
| (GG) "Taxable business income" means the amount by which an individual's business income that is included in federal adjusted gross income exceeds the amount of business income the individual is authorized to deduct under division (A) (31) of this section for the taxable year. | 1902 1903 1904 1905 1906 |
| (HH) "Employer" does not include a franchisor with respect to the franchisor's relationship with a franchisee or an employee of a franchisee, unless the franchisor agrees to assume that role in writing or a court of competent jurisdiction determines that the franchisor exercises a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademark, brand, or both. For purposes of this division, "franchisor" and "franchisee" have the same meanings as in 16 C.F.R. 436.1. | 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916 |
| (II) "Modified adjusted gross income" means Ohio adjusted gross income plus any amount deducted under division (A) (28) of this section for the taxable year. | 1917 1918 1919 |
| (JJ) "Qualifying Ohio educator" means an individual who, for a taxable year, qualifies as an eligible educator, as that term is defined in section 62 of the Internal Revenue Code, and who holds a certificate, license, or permit described in Chapter 3319. or section 3301.071 of the Revised Code. | 1920 1921 1922 1923 1924 |
| Sec. 5747.10. (A) As used in this section: | 1925 |

(1) "Audited partnership" means a partnership subject to an examination by the internal revenue service pursuant to subchapter C, chapter 63, subtitle F of the Internal Revenue Code resulting in a federal adjustment.

(2) (a) "Direct investor" means a partner or other investor that holds a direct interest in a pass-through entity.

(b) "Indirect investor" means a partner or other investor that holds an interest in a pass-through entity that itself holds an interest, directly or through another indirect partner or other investor, in a pass-through entity.

(3) "Exempt partner" means a partner that is neither a pass-through entity nor a person subject to the tax imposed by section 5747.02 of the Revised Code.

(4) "Federal adjustment" means a change to an item or amount required to be determined under the Internal Revenue Code that directly or indirectly affects a taxpayer's aggregate tax liability under section 5747.02 or Chapter 5748. of the Revised Code and that results from an action or examination by the internal revenue service, or from the filing of an amended federal tax return, a claim for a federal tax refund, or an administrative adjustment request filed by a partnership under section 6227 of the Internal Revenue Code.

(5) "Federal adjustments return" means the form or other document prescribed by the tax commissioner for use by a taxpayer in reporting final federal adjustments.

(6) "State partnership representative" means either of the following:

(a) The person who served as the partnership's representative for federal income tax purposes, pursuant to

section 6223(a) of the Internal Revenue Code, during the 1955
corresponding federal partnership audit; 1956

(b) The person designated, on a form prescribed by the tax 1957
commissioner, to serve as the partnership's representative 1958
during the state partnership audit. The commissioner may 1959
establish reasonable qualifications and procedures for a person 1960
to be designated as a state partnership representative under 1961
this division. 1962

(7) A federal adjustment is "final" or "agreed to or 1963
finally determined for federal income tax purposes" on any of 1964
the following: 1965

(a) The day after which the period for appeal of a federal 1966
assessment has expired; 1967

(b) The date on a refund check issued by the internal 1968
revenue service; or 1969

(c) For agreements required to be signed by the internal 1970
revenue service and the taxpayer or audited partnership, the 1971
date on which the last party signed the agreement. 1972

(B) (1) If any of the facts, figures, computations, or 1973
attachments required in a taxpayer's annual return to determine 1974
the tax charged by this chapter or Chapter 5748. of the Revised 1975
Code must be altered as the result of a final federal 1976
adjustment, and the federal adjustment is not required to be 1977
reported under division (C) of this section, the taxpayer shall 1978
file an amended return with the tax commissioner in such form as 1979
the commissioner requires. The amended return shall be filed not 1980
later than ninety days after the federal adjustment has been 1981
agreed to or finally determined for federal income tax purposes. 1982

(2) "One hundred eighty" shall be substituted for "ninety" 1983

in divisions (B) (1) and (E) (1) of this section if, for any 1984
taxable year, the final federal adjustment results from taxes 1985
paid by the taxpayer on an amount described in division ~~(A) (34)~~ 1986
(A) (32) of section 5747.01 of the Revised Code. 1987

(C) Except for adjustments required to be reported for 1988
federal purposes pursuant to section 6225(a) (2) of the Internal 1989
Revenue Code and adjustments that are taken into account on a 1990
federal amended return or similar report filed pursuant to 1991
section 6225(c) (2) of the Internal Revenue Code, partnerships 1992
and partners shall report final federal adjustments and make 1993
payments as required under division (C) of this section. 1994

(1) With respect to an action required or permitted to be 1995
taken by a partnership under this section, and any petition for 1996
reassessment or appeal to the board of tax appeals or any court 1997
with respect to such an action, the state partnership 1998
representative shall have the sole authority to act on behalf of 1999
the audited partnership, and the partnership's direct and 2000
indirect investors shall be bound by those actions. 2001

(2) Unless an audited partnership makes the election under 2002
division (C) (3) of this section: 2003

(a) The audited partnership, through its state partnership 2004
representative, shall do all of the following within ninety days 2005
after the federal adjustment is final: 2006

(i) File a federal adjustments return with the tax 2007
commissioner, including a copy of the notifications provided 2008
under division (C) (2) (a) (ii) of this section; 2009

(ii) Notify each of its direct investors, on a form 2010
prescribed by the commissioner, of the investor's distributive 2011
share of the final federal adjustments; 2012

(iii) File an amended tax return on behalf of its nonresident direct investors and pay any additional tax that would have been due under sections 5733.41 and 5747.41, or division (D) of section 5747.08, of the Revised Code with respect to those direct investors had the final federal adjustments been reported properly on the original filing.

(b) Each direct investor that is subject to the tax imposed by section 5747.02 of the Revised Code shall file an original or amended tax return to include the investor's distributive share of the adjustments reported to the direct investor under division (C)(2)(a) of this section, and pay any additional tax due, within ninety days after the audited partnership files its federal adjustments return with the commissioner.

(c)(i) Each direct and indirect investor of an audited partnership that is a pass-through entity and all investors in such a pass-through entity that are subject to the filing and payment requirements of Chapters 5733. and 5747. of the Revised Code are subject to the reporting and payment requirements of division (C)(2) or, upon a timely election, division (C)(3) of this section.

(ii) Such direct and indirect investors shall make the required returns and payments within ninety days after the deadline for filing and furnishing statements under section 6226(b)(4) of the Internal Revenue Code and applicable treasury regulations.

(3) If an audited partnership makes the election under this division, the audited partnership, through its state partnership representative, shall do all of the following within ninety days after all federal adjustments are final:

(a) File a federal adjustments return with the tax commissioner indicating the partnership has made the election under division (C) (3) of this section;

(b) Pay the amount of combined additional tax due under division (D) (2) of this section, calculated by multiplying the highest rate of tax set forth in section 5747.02 of the Revised Code by the sum of the following:

(i) The distributive shares of the final federal adjustments that are allocable or apportionable to this state of each investor who is a nonresident taxpayer or pass-through entity;

(ii) The distributive share of the final federal adjustments for each investor who is a resident taxpayer.

(c) Notify each of its direct investors, on a form prescribed by the commissioner, of the investor's distributive share of the final federal adjustments and the amount paid on their behalf pursuant to division (C) (3) (b) of this section.

(4) (a) A direct investor of an audited partnership is not required to file an amended return or pay tax otherwise due under section 5747.02 of the Revised Code if the audited partnership properly reports and pays the tax under division (C) (3) of this section.

(b) (i) Nothing in division (C) of this section precludes a direct or indirect investor in the audited partnership from filing a return to report the investor's share of the final federal adjustments. Such an investor who files a return and reports the income related to the final federal adjustments is entitled to a refundable credit for taxes paid by the audited partnership under division (C) (3) (b) of this section. The credit

shall be computed and claimed in the same manner as the credit 2072
allowed under division (I) of section 5747.08 of the Revised 2073
Code. 2074

(ii) Notwithstanding division (C) (4) (b) (i) of this 2075
section, an exempt partner, whether a direct or indirect 2076
investor, may file an application for refund of its 2077
proportionate share of the amounts erroneously paid by the 2078
audited partnership pursuant to division (C) (3) (b) of this 2079
section on the exempt partner's behalf. 2080

(5) Upon request by an audited partnership, the tax 2081
commissioner may agree, in writing, to allow an alternative 2082
method of reporting and payment than required by ~~divisions~~ 2083
division (C) (2) or (3) of this section. The request must be 2084
submitted to the commissioner in writing before the applicable 2085
deadline for filing a return under division (C) (2) (a) or (3) of 2086
this section. The commissioner's decision on whether to enter 2087
into an agreement under this division is not subject to further 2088
administrative review or appeal. 2089

(6) Nothing in division (C) of this section precludes 2090
either of the following: 2091

(a) A resident taxpayer from filing a return to claim the 2092
credit under division (B) of section 5747.05 or division (D) (2) 2093
of section 5747.02 of the Revised Code based upon any amounts 2094
paid by the audited partnership on such investor's behalf to 2095
another state. 2096

(b) The tax commissioner from issuing an assessment under 2097
this chapter against any direct or indirect investor for taxes 2098
due from the investor if an audited partnership, or direct and 2099
indirect investor of an audited partnership that is a pass- 2100

through entity, fails to timely file any return or remit any 2101
payment required by this section or underreports income or 2102
underpays tax on behalf of an indirect investor who is a 2103
resident taxpayer. 2104

(D) In the case of an underpayment, and unless otherwise 2105
agreed to in writing by the tax commissioner: 2106

(1) The taxpayer's amended return shall be accompanied by 2107
payment of any combined additional tax due together with 2108
interest thereon. An amended return required by this section is 2109
a return subject to assessment under section 5747.13 of the 2110
Revised Code for the purpose of assessing any additional tax due 2111
under this section, together with any applicable penalty and 2112
interest. It shall not reopen those facts, figures, 2113
computations, or attachments from a previously filed return no 2114
longer subject to assessment that are not affected, either 2115
directly or indirectly, by the final federal adjustment to the 2116
taxpayer's federal income tax return. 2117

(2) The audited partnership's federal adjustments return 2118
shall be accompanied by payment of any combined additional tax 2119
due together with interest thereon. The federal adjustments 2120
return required by this section is a return subject to 2121
assessment under section 5747.13 of the Revised Code for the 2122
purpose of assessing any additional tax due under this section, 2123
together with any applicable penalty and interest. It shall not 2124
reopen those facts, figures, computations, or attachments from a 2125
previously filed return no longer subject to assessment that are 2126
not affected, either directly or indirectly, by the final 2127
federal adjustment. 2128

(3) The tax commissioner may accept estimated payments of 2129
the tax arising from pending federal adjustments before the date 2130

for filing a federal adjustments return. The commissioner may 2131
adopt rules for the payment of such estimated taxes. 2132

(E) In the case of an overpayment, and unless otherwise 2133
agreed to in writing by the tax commissioner: 2134

(1) A taxpayer may file an application for refund under 2135
this division within the ninety-day period prescribed for filing 2136
the amended return even if it is filed beyond the period 2137
prescribed in section 5747.11 of the Revised Code if it 2138
otherwise conforms to the requirements of such section. An 2139
application filed under this division shall claim refund of 2140
overpayments resulting from alterations to only those facts, 2141
figures, computations, or attachments required in the taxpayer's 2142
annual return that are affected, either directly or indirectly, 2143
by the final federal adjustment to the taxpayer's federal income 2144
tax return unless it is also filed within the time prescribed in 2145
section 5747.11 of the Revised Code. It shall not reopen those 2146
facts, figures, computations, or attachments that are not 2147
affected, either directly or indirectly, by the adjustment to 2148
the taxpayer's federal income tax return. 2149

(2) (a) Except as otherwise provided in division (E) (2) (b) 2150
of this section, an audited partnership may file an application 2151
for a refund under this division within the ninety-day period 2152
prescribed for filing the federal adjustments return, even if it 2153
is filed beyond the period prescribed by section 5747.11 of the 2154
Revised Code, if it otherwise conforms to the requirements of 2155
that section. An application filed under this division may claim 2156
a refund of overpayments resulting only from final federal 2157
adjustments unless it is also filed within the time prescribed 2158
by section 5747.11 of the Revised Code. It shall not reopen 2159
those facts, figures, computations, or attachments that are not 2160

affected, either directly or indirectly, by the federal 2161
adjustment. 2162

(b) An audited partnership may not file an application for 2163
refund under division (E) of this section based on final federal 2164
adjustments described in section 6225(a)(2) of the Internal 2165
Revenue Code. 2166

(3) Any refund granted to a pass-through entity filing an 2167
application for refund under division (E) of this section shall 2168
be reduced by amounts previously claimed as a credit under 2169
section 5747.059 or division (I) of section 5747.08 of the 2170
Revised Code by the pass-through entity's direct or indirect 2171
investors. 2172

(F) Excluding the deadline in division (C)(2)(c)(ii) of 2173
this section, an audited partnership, or a direct or indirect 2174
investor of an audited partnership that is a pass-through 2175
entity, may automatically extend the deadline for reporting, 2176
payments, and refunds under this section by sixty days if the 2177
entity has ten thousand or more direct investors and notifies 2178
the commissioner of such extension, in writing, before the 2179
unextended deadline. 2180

Section 2. That existing sections 124.387, 4117.10, 2181
5747.01, and 5747.10 of the Revised Code are hereby repealed. 2182

Section 3. Section 1 of this act, except for section 2183
4143.03 and division (A) of section 4143.11 of the Revised Code, 2184
takes effect July 1, 2022. Section 4143.03 of the Revised Code, 2185
as enacted by this act, takes effect January 1, 2024. Division 2186
(A) of section 4143.11 of the Revised Code, as enacted by this 2187
act, takes effect on the effective date of this section. 2188

Section 4. Employers shall begin to deduct and withhold 2189

premiums from the wages of employees or pay contributions as 2190
described in divisions (B), (C), and (D) of section 4143.11 of 2191
the Revised Code, as enacted by this act, on January 1, 2023. 2192

Section 5. Section 124.387 of the Revised Code, as amended 2193
by this act, and sections 4113.86 and 4143.07 of the Revised 2194
Code, as enacted by this act, apply to collective bargaining 2195
agreements that are entered into or renewed, or employer 2196
policies that are adopted or revised, on or after the effective 2197
date of this section. 2198

Section 6. (A) Not later than July 1, 2022, the Director 2199
of Job and Family Services shall complete an actuarial 2200
evaluation before establishing the Family and Medical Leave 2201
Insurance Program under Chapter 4143. of the Revised Code, as 2202
enacted by this act. The actuarial evaluation shall determine 2203
all of the following: 2204

(1) The premium amounts required under section 4143.11 of 2205
the Revised Code, as enacted by this act, necessary to 2206
sufficiently fund the Program; 2207

(2) The balance necessary to ensure the actuarial 2208
soundness of the Family and Medical Leave Insurance Fund created 2209
by section 4143.11 of the Revised Code, as enacted by this act; 2210

(3) The administrative and technology costs necessary to 2211
establish and operate the Program; 2212

(4) The financial feasibility and cost-effectiveness of 2213
contracting with one or more external vendors to provide benefit 2214
eligibility determinations and claims management for the 2215
Program. 2216

(B) The Director may apply for and accept gifts, grants, 2217
donations, and any available federal funding to conduct the 2218

actuarial evaluation in division (A) of this section. The 2219
Director shall transmit any gifts, grants, donations, or federal 2220
funding to the Treasurer of State for deposit in the Family and 2221
Medical Leave Insurance Fund created by section 4143.11 of the 2222
Revised Code, as enacted by this act. 2223

(C) Notwithstanding the deadline in division (A) of this 2224
section, the Director shall not conduct the actuarial evaluation 2225
unless the Director receives sufficient funds to cover the costs 2226
to perform the evaluation. 2227

Section 7. Section 5747.01 of the Revised Code is 2228
presented in this act as a composite of the section as amended 2229
by H.B. 18, H.B. 197, S.B. 26, and S.B. 276 all of the 133rd 2230
General Assembly. The General Assembly, applying the principle 2231
stated in division (B) of section 1.52 of the Revised Code that 2232
amendments are to be harmonized if reasonably capable of 2233
simultaneous operation, finds that the composite is the 2234
resulting version of the section in effect prior to the 2235
effective date of the section as presented in this act. 2236