

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 91**

**Representatives Boggs, Boyd**

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

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**A BILL**

To amend sections 4117.10 and 5747.01 and to enact 1  
sections 4143.01, 4143.02, 4143.03, 4143.04, 2  
4143.05, 4143.06, 4143.07, 4143.08, 4143.09, 3  
4143.10, 4143.11, 4143.12, 4143.13, 4143.14, and 4  
4143.99 of the Revised Code to establish family 5  
and medical leave insurance benefits. 6

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

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

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

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

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

(a) Civil rights; 30

(b) Affirmative action; 31

(c) Unemployment compensation; 32

(d) Workers' compensation; 33

(e) The retirement of public employees; 34

(f) Residency requirements; 35

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The office of collective bargaining shall: 146

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Revised Code may withdraw from coverage. 304

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

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

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

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

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

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

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

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

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

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

eighty hours during the individual's base period; 331

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Equitable relief as may be appropriate. 518

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

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

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

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

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

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

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

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

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

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

(d) The individual received benefits to which the individual was not entitled due to a mistake or a clerical error. 561  
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(2) The director may waive a repayment or part of a repayment in division (B) (1) of this section if the director decides the recovery is against equity and good conscience. 564  
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**Sec. 4143.10.** (A) There is hereby created the family and medical leave insurance fund, which shall be in the custody of the treasurer of state but shall not be a part of the state treasury. All premiums and contributions received under this section and any other moneys collected pursuant to this chapter shall be deposited into the fund. The treasurer of state shall invest any portion of the fund not needed for immediate use in the same manner as, and subject to all applicable laws regarding the investment of, state funds. Any investment earnings of the fund shall be credited to the fund. The treasurer of state shall disburse money from the fund on order of the director of job and family services or a designee of the director. 567  
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(B) (1) Except as provided in division (B) (2) of section 4143.06 of the Revised Code or division (B) (2) or (D) (2) of this section, every employer paying any wages to an employee shall deduct and withhold from such wages for each payroll period a premium computed in accordance with rules adopted by the director under section 4143.02 of the Revised Code. The employer shall deduct and withhold the premium on the date that the employer directly, indirectly, or constructively pays wages to, or credits wages to the benefit of, the employee. 579  
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(2) An employer may elect to pay contributions into the fund on behalf of an employee. The employer shall follow the procedures prescribed by the director under section 4143.02 of 588  
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the Revised Code to establish the employer's obligation to pay 591  
contributions to the fund. 592

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

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

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

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

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

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

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

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

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

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

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

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

(3) That the individual may elect to have federal income tax deducted and withheld from the individual's payment of benefits in the amount authorized under the Internal Revenue Code; 649  
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(4) That the individual may change a previously elected federal withholding status as authorized under the Internal Revenue Code. 653  
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(B) The director shall follow all procedures prescribed by the internal revenue service when deducting, withholding, and remitting federal income tax. 656  
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**Sec. 4143.12.** (A) Except as provided in division (B) of this section, any information contained in the files and records of an individual in the possession of the director of job and family services under this chapter is confidential and is not a public record under section 149.43 of the Revised Code. 659  
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(B) The following individuals may have access to the files and records of an individual under this chapter: 664  
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(1) A public employee in the performance of the public employee's official duties; 666  
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(2) The individual or a person authorized by the individual, with an authorization form signed by the individual; 668  
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(3) An employer or the employer's duly authorized representative, in connection with a pending claim of an individual employed by the employer; 670  
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(4) An individual who is assisting the director of job and family services on any matter regarding the administration of this chapter, at the director's request. 673  
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**Sec. 4143.13.** (A) Not later than March 1, 2023, and every 676



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

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

(2) Actual program participation; 686

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

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

(5) Premium rates; 690

(6) Fund balances; 691

(7) Outreach efforts. 692

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

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

(1) Eligibility requirements; 703

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

entity in which the taxpayer has a direct or indirect ownership interest. 938  
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(iii) Subject to division (A) (20) (a) (v) of this section, 940  
for taxable years beginning in 2012 or thereafter, if the 941  
increase in income taxes withheld by the taxpayer is equal to or 942  
greater than ten per cent of income taxes withheld by the 943  
taxpayer during the taxpayer's immediately preceding taxable 944  
year, "two-thirds" shall be substituted for "five-sixths" for 945  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 946

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Deduct, to the extent not otherwise deducted or 1048  
excluded in computing federal or Ohio adjusted gross income for 1049  
the taxable year, the amount the taxpayer received during the 1050  
taxable year as a death benefit paid by the adjutant general 1051  
under section 5919.33 of the Revised Code. 1052

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

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

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

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

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

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

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

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

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

(28) Deduct, to the extent not otherwise deducted or 1110  
excluded in computing federal or Ohio adjusted gross income for 1111  
the taxable year, the amount the taxpayer received as a veterans 1112  
bonus during the taxable year from the Ohio department of 1113  
veterans services as authorized by Section 2r of Article VIII, 1114

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



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

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

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

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

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

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

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

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

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

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

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

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

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

in any fiduciary capacity for any individual, trust, or estate.	1202
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	1203 1204
(G) "Individual" means any natural person.	1205
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	1206 1207
(I) "Resident" means any of the following, provided that division (I) (3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:	1208 1209 1210
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	1211 1212
(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section.	1213 1214 1215 1216
(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.	1217 1218 1219
For the purposes of division (I) (3) of this section:	1220
(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:	1221 1222 1223 1224 1225 1226
(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only	1227 1228

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

part of a trust residing in this state. 1347

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The trust's modified business income;

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Section 2.** That existing sections 4117.10 and 5747.01 of the Revised Code are hereby repealed. 1785  
1786

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

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

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

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