

As Introduced

132nd General Assembly

Regular Session

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S. B. No. 261

Senator Tavares

Cosponsors: Senators Lehner, Thomas, Skindell, Yuko, Williams, Schiavoni

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 to provide 6
paid leave to allow an individual to address the 7
individual's own serious health condition, to 8
care for a family member, or to bond with a new 9
child and to exempt those benefits from personal 10
income tax. 11

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

Section 1. That sections 4117.10 and 5747.01 be amended 12
and sections 4143.01, 4143.02, 4143.03, 4143.04, 4143.05, 13
4143.06, 4143.07, 4143.08, 4143.09, 4143.10, 4143.11, 4143.12, 14
4143.13, 4143.14, and 4143.99 of the Revised Code be enacted to 15
read as follows: 16

Sec. 4117.10. (A) An agreement between a public employer 17
and an exclusive representative entered into pursuant to this 18

chapter governs the wages, hours, and terms and conditions of 19
public employment covered by the agreement. If the agreement 20
provides for a final and binding arbitration of grievances, 21
public employers, employees, and employee organizations are 22
subject solely to that grievance procedure and the state 23
personnel board of review or civil service commissions have no 24
jurisdiction to receive and determine any appeals relating to 25
matters that were the subject of a final and binding grievance 26
procedure. Where no agreement exists or where an agreement makes 27
no specification about a matter, the public employer and public 28
employees are subject to all applicable state or local laws or 29
ordinances pertaining to the wages, hours, and terms and 30
conditions of employment for public employees. All of the 31
following prevail over conflicting provisions of agreements 32
between employee organizations and public employers: 33

(1) Laws pertaining to any of the following subjects: 34

(a) Civil rights; 35

(b) Affirmative action; 36

(c) Unemployment compensation; 37

(d) Workers' compensation; 38

(e) The retirement of public employees; 39

(f) Residency requirements; 40

(g) The minimum educational requirements contained in the 41
Revised Code pertaining to public education including the 42
requirement of a certificate by the fiscal officer of a school 43
district pursuant to section 5705.41 of the Revised Code; 44

(h) The provisions of division (A) of section 124.34 of 45
the Revised Code governing the disciplining of officers and 46

employees who have been convicted of a felony;	47
(i) The minimum standards promulgated by the state board	48
of education pursuant to division (D) of section 3301.07 of the	49
Revised Code.	50
(2) The law pertaining to the leave of absence and	51
compensation provided under section 5923.05 of the Revised Code,	52
if the terms of the agreement contain benefits which are less	53
than those contained in that section or the agreement contains	54
no such terms and the public authority is the state or any	55
agency, authority, commission, or board of the state or if the	56
public authority is another entity listed in division (B) of	57
section 4117.01 of the Revised Code that elects to provide leave	58
of absence and compensation as provided in section 5923.05 of	59
the Revised Code;	60
(3) The law pertaining to the leave established under	61
section 5906.02 of the Revised Code, if the terms of the	62
agreement contain benefits that are less than those contained in	63
section 5906.02 of the Revised Code;	64
(4) The law pertaining to excess benefits prohibited under	65
section 3345.311 of the Revised Code with respect to an	66
agreement between an employee organization and a public employer	67
entered into on or after the effective date of this amendment	68
<u>September 29, 2015;</u>	69
<u>(5) The law pertaining to family and medical leave</u>	70
<u>insurance benefits provided under Chapter 4143. of the Revised</u>	71
<u>Code, if the terms of the agreement contain benefits less than</u>	72
<u>those contained in that chapter.</u>	73
Except for sections 306.08, 306.12, 306.35, and 4981.22 of	74
the Revised Code and arrangements entered into thereunder, and	75

section 4981.21 of the Revised Code as necessary to comply with 76
section 13(c) of the "Urban Mass Transportation Act of 1964," 87
Stat. 295, 49 U.S.C.A. 1609(c), as amended, and arrangements 78
entered into thereunder, this chapter prevails over any and all 79
other conflicting laws, resolutions, provisions, present or 80
future, except as otherwise specified in this chapter or as 81
otherwise specified by the general assembly. Nothing in this 82
section prohibits or shall be construed to invalidate the 83
provisions of an agreement establishing supplemental workers' 84
compensation ~~or~~, unemployment compensation, or family and 85
medical leave insurance benefits or exceeding minimum 86
requirements contained in the Revised Code pertaining to public 87
education or the minimum standards promulgated by the state 88
board of education pursuant to division (D) of section 3301.07 89
of the Revised Code. 90

(B) The public employer shall submit a request for funds 91
necessary to implement an agreement and for approval of any 92
other matter requiring the approval of the appropriate 93
legislative body to the legislative body within fourteen days of 94
the date on which the parties finalize the agreement, unless 95
otherwise specified, but if the appropriate legislative body is 96
not in session at the time, then within fourteen days after it 97
convenes. The legislative body must approve or reject the 98
submission as a whole, and the submission is deemed approved if 99
the legislative body fails to act within thirty days after the 100
public employer submits the agreement. The parties may specify 101
that those provisions of the agreement not requiring action by a 102
legislative body are effective and operative in accordance with 103
the terms of the agreement, provided there has been compliance 104
with division (C) of this section. If the legislative body 105
rejects the submission of the public employer, either party may 106

reopen all or part of the entire agreement. 107

As used in this section, "legislative body" includes the 108
governing board of a municipal corporation, school district, 109
college or university, village, township, or board of county 110
commissioners or any other body that has authority to approve 111
the budget of their public jurisdiction and, with regard to the 112
state, "legislative body" means the controlling board. 113

(C) The chief executive officer, or the chief executive 114
officer's representative, of each municipal corporation, the 115
designated representative of the board of education of each 116
school district, college or university, or any other body that 117
has authority to approve the budget of their public 118
jurisdiction, the designated representative of the board of 119
county commissioners and of each elected officeholder of the 120
county whose employees are covered by the collective 121
negotiations, and the designated representative of the village 122
or the board of township trustees of each township is 123
responsible for negotiations in the collective bargaining 124
process; except that the legislative body may accept or reject a 125
proposed collective bargaining agreement. When the matters about 126
which there is agreement are reduced to writing and approved by 127
the employee organization and the legislative body, the 128
agreement is binding upon the legislative body, the employer, 129
and the employee organization and employees covered by the 130
agreement. 131

(D) There is hereby established an office of collective 132
bargaining in the department of administrative services for the 133
purpose of negotiating with and entering into written agreements 134
between state agencies, departments, boards, and commissions and 135
the exclusive representative on matters of wages, hours, terms 136

and other conditions of employment and the continuation, 137
modification, or deletion of an existing provision of a 138
collective bargaining agreement. Nothing in any provision of law 139
to the contrary shall be interpreted as excluding the bureau of 140
workers' compensation and the industrial commission from the 141
preceding sentence. This office shall not negotiate on behalf of 142
other statewide elected officials or boards of trustees of state 143
institutions of higher education who shall be considered as 144
separate public employers for the purposes of this chapter; 145
however, the office may negotiate on behalf of these officials 146
or trustees where authorized by the officials or trustees. The 147
staff of the office of collective bargaining are in the 148
unclassified service. The director of administrative services 149
shall fix the compensation of the staff. 150

The office of collective bargaining shall: 151

(1) Assist the director in formulating management's 152
philosophy for public collective bargaining as well as planning 153
bargaining strategies; 154

(2) Conduct negotiations with the exclusive 155
representatives of each employee organization; 156

(3) Coordinate the state's resources in all mediation, 157
fact-finding, and arbitration cases as well as in all labor 158
disputes; 159

(4) Conduct systematic reviews of collective bargaining 160
agreements for the purpose of contract negotiations; 161

(5) Coordinate the systematic compilation of data by all 162
agencies that is required for negotiating purposes; 163

(6) Prepare and submit an annual report and other reports 164
as requested to the governor and the general assembly on the 165

implementation of this chapter and its impact upon state 166
government. 167

Sec. 4143.01. As used in this chapter: 168

(A) "Average weekly wage" means the amount obtained by 169
dividing an employee's total wages for all qualifying weeks 170
during the employee's base period by the number of qualifying 171
weeks in the employee's base period. 172

(B) (1) "Base period" means the first four of the last five 173
completed calendar quarters immediately preceding the first day 174
of an individual's twelve-month period, except as provided in 175
division (B) (2) of this section. 176

(2) If an individual does not have sufficient qualifying 177
weeks and wages in the base period to be eligible for family and 178
medical leave insurance benefits, the individual's base period 179
shall be the four most recently completed calendar quarters 180
preceding the first day of the individual's twelve-month period. 181
Such base period shall be known as the "alternate base period." 182
No calendar quarter in a base period or alternate base period 183
shall be used to establish a subsequent benefit year. 184

(3) For purposes of determining the weeks that comprise a 185
completed calendar quarter under this division, only those weeks 186
ending at midnight Saturday within the calendar quarter shall be 187
utilized. 188

(C) "Child" means a biological, adopted, or foster son or 189
daughter, a stepson or stepdaughter, a legal ward, or a son or 190
daughter of a person standing in loco parentis. 191

(D) "Contributions" means the money payments to the family 192
and medical leave insurance fund made by employers under section 193
4143.10 of the Revised Code. 194

(E) "Eligible individual" means an individual who 195
satisfies the requirements of section 4143.03 of the Revised 196
Code to receive family and medical leave insurance benefits. 197

(F) "Employee" and "employer" have the same meanings as in 198
section 4113.51 of the Revised Code. 199

(G) "Family and medical leave insurance benefits" means 200
money payments payable to an individual who has established 201
benefit rights under this chapter. 202

(H) "Family member" means a person for whom an employee 203
may take Family and Medical Leave Act leave, and includes a 204
child, parent, or spouse. 205

(I) "Family and Medical Leave Act" means the "Family and 206
Medical Leave Act of 1993," 107 Stat. 6, 29 U.S.C. 2601, as 207
amended. 208

(J) "Family and Medical Leave Act leave" means leave taken 209
from work and all other benefits authorized under the Family and 210
Medical Leave Act. 211

(K) "Health care professional" means any of the following: 212

(1) A dentist or dental hygienist licensed under Chapter 213
4715. of the Revised Code; 214

(2) A registered nurse, clinical nurse specialist, 215
certified nurse-midwife, or licensed practical nurse licensed or 216
certified under Chapter 4723. of the Revised Code; 217

(3) A person licensed under Chapter 4729. of the Revised 218
Code to practice as a pharmacist; 219

(4) A person authorized under Chapter 4730. of the Revised 220
Code to practice as a physician assistant; 221

<u>(5) A person authorized under Chapter 4731. of the Revised</u>	222
<u>Code to practice medicine and surgery, osteopathic medicine and</u>	223
<u>surgery, or podiatry;</u>	224
<u>(6) A psychologist licensed under Chapter 4732. of the</u>	225
<u>Revised Code;</u>	226
<u>(7) A speech-language pathologist or audiologist licensed</u>	227
<u>under Chapter 4753. of the Revised Code;</u>	228
<u>(8) An occupational therapist, physical therapist,</u>	229
<u>physical therapist assistant, or athletic trainer licensed under</u>	230
<u>Chapter 4755. of the Revised Code;</u>	231
<u>(9) A professional clinical counselor, professional</u>	232
<u>counselor, independent social worker, or social worker licensed</u>	233
<u>under Chapter 4757. of the Revised Code;</u>	234
<u>(10) A dietician licensed under Chapter 4759. of the</u>	235
<u>Revised Code.</u>	236
<u>(L) "Internal Revenue Code" has the same meaning as in</u>	237
<u>section 5747.01 of the Revised Code.</u>	238
<u>(M) "Parent" means a biological, foster, or adoptive</u>	239
<u>parent, stepparent, legal guardian, or other person who stood in</u>	240
<u>loco parentis to a person when the person was a child.</u>	241
<u>(N) "Qualifying week" means any calendar week in an</u>	242
<u>individual's base period with respect to which the individual</u>	243
<u>earns or is paid wages. A calendar week with respect to which an</u>	244
<u>individual earns wages but for which payment was not made within</u>	245
<u>the base period, when necessary to qualify for family and</u>	246
<u>medical leave insurance benefits, may be considered to be a</u>	247
<u>qualifying week. The number of qualifying weeks that may be</u>	248
<u>established in a calendar quarter shall not exceed the number of</u>	249

<u>calendar weeks in the quarter.</u>	250
<u>(O) "Serious health condition" means an illness, injury,</u>	251
<u>impairment, or physical or mental condition that involves</u>	252
<u>inpatient care in a hospital, hospice, or residential health</u>	253
<u>care facility, or continuing treatment or continuing supervision</u>	254
<u>by a health care professional.</u>	255
<u>(P) "Statewide average weekly wage" means the amount</u>	256
<u>calculated by the director of job and family services in</u>	257
<u>accordance with division (B) (3) of section 4141.30 of the</u>	258
<u>Revised Code.</u>	259
<u>(Q) "Twelve-month period" with respect to any individual,</u>	260
<u>means the three hundred sixty-five consecutive days that begin</u>	261
<u>with the first day an individual establishes a claim for family</u>	262
<u>and medical leave insurance benefits.</u>	263
<u>(R) "Wages" means all remuneration payable to an employee</u>	264
<u>for personal services performed for an employer, including</u>	265
<u>commissions and bonuses, and the reasonable cash value of all</u>	266
<u>remuneration payable to an employee in any medium other than</u>	267
<u>cash.</u>	268
<u>(S) "Weekly benefit amount" means the amount provided in</u>	269
<u>section 4143.05 of the Revised Code.</u>	270
<u>(T) "Yearly earnings" means the total wages an individual</u>	271
<u>earns for the calendar year.</u>	272
<u>Sec. 4143.02. (A) There is hereby created the family and</u>	273
<u>medical leave insurance program. The director of job and family</u>	274
<u>services shall administer and enforce the program in accordance</u>	275
<u>with this chapter and shall adopt rules in accordance with</u>	276
<u>Chapter 119. of the Revised Code to establish all of the</u>	277
<u>following with respect to the program:</u>	278

<u>(1) Procedures for an individual to follow to allow the individual to file a claim for family and medical leave insurance benefits under section 4143.03 of the Revised Code;</u>	279
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	281
<u>(2) The form an individual shall use to apply for family and medical leave insurance benefits;</u>	282
	283
<u>(3) A sliding scale for determining the amount of the premium each employee shall contribute to the program based on the employee's yearly earnings;</u>	284
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	286
<u>(4) The manner and schedule by which an employer shall remit premiums to the director as prescribed by section 4143.10 of the Revised Code;</u>	287
	288
	289
<u>(5) A maximum annual premium an employee shall contribute to the family and medical leave insurance fund created in section 4143.10 of the Revised Code;</u>	290
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	292
<u>(6) Procedures to adjust the amounts of the premiums each year to ensure the actuarial soundness of the fund created in section 4143.10 of the Revised Code;</u>	293
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	295
<u>(7) Procedures for an employer to follow to allow the employer to make contributions on behalf of an employee to the family and medical leave insurance fund under section 4143.10 of the Revised Code;</u>	296
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<u>(8) Procedures for an individual to follow to allow the individual to elect to opt out of participating in the program under section 4143.06 of the Revised Code;</u>	300
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	302
<u>(9) The form an individual shall use to elect to opt out of participating in the program;</u>	303
	304
<u>(10) Procedures to recover a payment of benefits made to an individual in excess of the benefits the individual is</u>	305
	306

entitled to receive under section 4143.09 of the Revised Code; 307

(11) The time periods during which an independent 308
contractor who has elected coverage under section 4143.08 of the 309
Revised Code may withdraw from coverage. 310

(B) The director may adopt additional rules the director 311
considers necessary to administer and enforce the program and 312
this chapter. 313

Sec. 4143.03. (A) An individual may receive family and 314
medical leave insurance benefits for any of the following 315
reasons: 316

(1) The individual has a serious health condition that 317
makes the individual unable to perform the functions of one or 318
more of the individual's jobs. 319

(2) The individual is caring for a new child during the 320
first year after the birth or adoption of the child or the 321
placement of the child through foster care. 322

(3) The individual is caring for a family member who has a 323
serious health condition. 324

(4) The individual is taking any other leave from work 325
authorized by the Family and Medical Leave Act. 326

(B) (1) To be eligible to receive benefits, an individual 327
shall do all of the following: 328

(a) File a claim for benefits in accordance with rules 329
adopted by the director of job and family services under section 330
4143.02 of the Revised Code; 331

(b) Consent to the release of information that is 332
considered confidential under section 4143.12 of the Revised 333

<u>Code;</u>	334
<u>(c) Demonstrate that the individual has been employed by</u>	335
<u>and worked for one or more employers for at least six hundred</u>	336
<u>eighty hours during the individual's base period;</u>	337
<u>(d) Demonstrate that the individual's employer has</u>	338
<u>withheld and remitted premiums or made contributions to the</u>	339
<u>family and medical leave insurance program for at least one</u>	340
<u>year;</u>	341
<u>(e) Attest in the claim for benefits that the individual</u>	342
<u>notified the individual's employer in writing of the</u>	343
<u>individual's intent to take leave for one of the reasons listed</u>	344
<u>in division (A) of this section.</u>	345
<u>(2) The director shall require an individual filing a</u>	346
<u>claim for benefits under this section to provide both of the</u>	347
<u>following:</u>	348
<u>(a) An attestation that the individual is not receiving</u>	349
<u>benefits under Chapter 4121., 4123., 4127., 4131., or 4141. of</u>	350
<u>the Revised Code in an amount that would exceed the individual's</u>	351
<u>wages, as determined by the director, when combined with the</u>	352
<u>benefits available to the individual under this chapter;</u>	353
<u>(b) A certification from a health care professional</u>	354
<u>supporting the individual's claim that the individual or a</u>	355
<u>family member of the individual has a serious health condition.</u>	356
<u>(C) (1) The director shall notify an employer within five</u>	357
<u>business days after an individual files a claim for benefits</u>	358
<u>under this section that the claim has been filed.</u>	359
<u>(2) The director shall notify an individual within five</u>	360
<u>business days after the individual files a claim for benefits</u>	361

under this section that the premiums or contributions due under 362
section 4143.10 of the Revised Code have not been paid as 363
described in division (B) of that section. 364

(D) An individual who meets the requirements of division 365
(B) of this section may receive family and medical leave 366
insurance benefits regardless of whether the individual is 367
currently employed or is working at a different job while taking 368
leave. 369

(E) No claim for benefits or an individual's eligibility 370
to receive benefits under this section shall be invalidated for 371
any of the following reasons: 372

(1) A failure to file a claim for benefits; 373

(2) A failure to furnish notice of the intent to take 374
leave to an employer; 375

(3) A failure to submit an attestation or certification 376
required by division (B) (2) of this section. 377

(F) An individual whose claim for benefits is denied by 378
the director may appeal the decision to the director within 379
twenty-one calendar days after the written determination was 380
sent to the individual. Within twenty-one days after the receipt 381
of the appeal, the director shall issue a determination. A 382
determination made under this division is final and may be 383
appealed pursuant to section 119.12 of the Revised Code. 384

Sec. 4143.04. (A) (1) An eligible individual shall serve a 385
seven-day waiting period before benefits become payable. The 386
waiting period applies only once in a twelve-month period, 387
regardless of how often the individual takes leave during the 388
twelve-month period. 389

(2) An eligible individual who takes ten or more days of 390
leave in a twelve-month period shall receive benefits for the 391
waiting period described in division (A) (1) of this section. The 392
amount of benefits an individual receives shall be reduced by 393
the amount of any compensation the individual received from the 394
individual's employer during the waiting period. 395

(B) (1) An eligible individual may receive benefits for a 396
maximum of two weeks before the date on which the individual 397
files a claim for benefits, notifies the individual's employer 398
of the intent to take leave, or provides the director of job and 399
family services with the attestation and certification required 400
in division (B) of section 4143.03 of the Revised Code. 401

(2) The director may grant an eligible individual benefits 402
beyond those in division (B) (1) of this section upon the 403
individual's demonstrating that the individual filed a claim, 404
notified the individual's employer, or provided an attestation 405
and certification as soon as was practicable. 406

Sec. 4143.05. (A) (1) The director of job and family 407
services shall determine the weekly benefit amount an eligible 408
individual may receive, subject to division (B) of this section, 409
as follows: 410

(a) For an eligible individual whose yearly earnings are 411
twenty per cent or less of the statewide average weekly wage, 412
the weekly benefit amount shall be equal to ninety-five per cent 413
of the individual's average weekly wage. 414

(b) For an eligible individual whose yearly earnings are 415
more than twenty per cent but not more than thirty per cent of 416
the statewide average weekly wage, the weekly benefit amount 417
shall be equal to ninety per cent of the individual's average 418

weekly wage. 419

(c) For an eligible individual whose yearly earnings are 420
more than thirty per cent but not more than fifty per cent of 421
the statewide average weekly wage, the weekly benefit amount 422
shall be equal to eighty-five per cent of the individual's 423
average weekly wage. 424

(d) For an eligible individual whose yearly earnings are 425
more than fifty per cent of the statewide average weekly wage, 426
the weekly benefit amount shall be equal to sixty-six per cent 427
of the individual's average weekly wage. 428

(2) The maximum weekly benefit amount an eligible 429
individual may receive under this section is one thousand 430
dollars per week. 431

(3) Beginning on January 1, 2021, and every year 432
thereafter, the director shall adjust the maximum weekly benefit 433
amount to reflect changes in the consumer price index or its 434
successor index for all urban consumers in the midwest region 435
for all items as calculated by the federal government for the 436
previous calendar year. 437

(B) The director shall calculate an eligible individual's 438
weekly benefit amount under division (A) of this section based 439
on the individual's average weekly wage earned from the job from 440
which the individual is taking leave. If the individual is able 441
to continue working at a different job while taking leave, the 442
director shall not consider the individual's average weekly wage 443
from the other job when calculating the individual's weekly 444
benefit amount. 445

(C) (1) The director shall make the first payment of 446
benefits to an eligible individual within fourteen calendar days 447

after the individual files a claim for benefits under section 448
4143.03 of the Revised Code. 449

(2) The director shall make subsequent payments to an 450
eligible individual biweekly after the first payment under 451
division (C) (1) of this section. 452

(D) An eligible individual may receive a maximum of twelve 453
weeks of benefits payable during a twelve-month period. Benefits 454
are not payable for a period of less than eight consecutive 455
hours of leave taken during one work week. 456

Sec. 4143.06. (A) (1) A period of leave taken by an 457
eligible individual under this chapter runs concurrently with 458
any leave taken under the Family and Medical Leave Act. 459

(2) An employer may require that any leave taken under 460
this chapter be taken concurrently with leave allowed under the 461
terms of disability or family care leave under a collective 462
bargaining agreement or employer policy. The employer shall 463
provide employees with a written notice of this requirement. 464

(B) (1) An employer shall comply with a collective 465
bargaining agreement or employer policy that provides employees 466
with greater leave than that provided by the Family and Medical 467
Leave Act. 468

(2) An employee who is covered by an employer policy 469
described in division (B) (1) of this section may elect not to 470
participate in the family and medical leave insurance program by 471
filing an election to opt out in accordance with rules adopted 472
by the director of job and family services under section 4143.02 473
of the Revised Code. 474

(C) No collective bargaining agreement or employer policy 475
shall diminish an individual's rights to benefits under this 476

<u>chapter.</u>	477
<u>(D) Any agreement by an individual to waive the</u>	478
<u>individual's rights under this chapter is void as against public</u>	479
<u>policy. This division does not apply to an individual who elects</u>	480
<u>to opt out of participating in the program under division (B) (2)</u>	481
<u>of this section.</u>	482
<u>Sec. 4143.07.</u> (A) <u>An eligible individual who serves a</u>	483
<u>waiting period described in section 4143.04 of the Revised Code</u>	484
<u>or takes a period of leave under this chapter shall be restored</u>	485
<u>to the individual's position of employment with the individual's</u>	486
<u>employer before taking leave, or to an equivalent position with</u>	487
<u>equivalent benefits, pay, status, and other terms and conditions</u>	488
<u>of employment.</u>	489
<u>(B) No employer shall discharge, demote, discriminate, or</u>	490
<u>take an adverse employment action against an employee at any</u>	491
<u>time for any of the following reasons:</u>	492
<u>(1) The employee filed a claim or received benefits under</u>	493
<u>this chapter.</u>	494
<u>(2) The employee communicated to the employer the</u>	495
<u>employee's intent to file a claim for benefits, a complaint, or</u>	496
<u>an appeal under this chapter.</u>	497
<u>(3) The employee testified, agreed to testify, or</u>	498
<u>otherwise assisted in a proceeding under this chapter.</u>	499
<u>(C) The director of job and family services, after a</u>	500
<u>notice and hearing conducted under Chapter 119. of the Revised</u>	501
<u>Code, may assess a civil penalty against an employer who</u>	502
<u>violates this section of up to three thousand dollars per</u>	503
<u>violation. If the employer fails to pay the civil penalty</u>	504
<u>assessed by the director under this division, the director shall</u>	505

forward to the attorney general the name of the employer and the 506
amount of the civil penalty for the purpose of collecting that 507
civil penalty. In addition to the civil penalty assessed under 508
this division, the employer shall pay any fee assessed by the 509
attorney general for collection of the civil penalty. Any civil 510
penalty collected for a violation shall be deposited into the 511
family and medical leave insurance fund created in section 512
4143.10 of the Revised Code. 513

(D) (1) An aggrieved employee may bring a civil action in a 514
court of competent jurisdiction against an employer who the 515
employee believes violated this section. If the court finds that 516
a violation has occurred, the employer shall be liable to the 517
aggrieved employee for any of the following: 518

(a) Damages in the amount of lost wages, salary, benefits, 519
or other compensation; 520

(b) Damages for any actual monetary losses sustained by 521
the employee; 522

(c) Interest on damages calculated at the prevailing rate; 523

(d) Equitable relief as may be appropriate. 524

(2) An employer may be liable for liquidated damages in an 525
amount equal to those described in division (D) (1) (a) or (b) of 526
this section if the employer cannot prove that a violation of 527
this section was unintentional and made in good faith. 528

Sec. 4143.08. (A) An independent contractor may elect 529
coverage under this chapter for an initial period of a minimum 530
of three years. An independent contractor shall file a notice of 531
election of coverage in writing with the director of job and 532
family services. The election is effective on the date the 533
notice is filed. 534

(B) An independent contractor may elect continuing 535
coverage under this chapter for a period of a minimum of one 536
year immediately following another period of coverage by filing 537
a notice for election of coverage as described in division (A) 538
of this section at least thirty days before the prior election 539
period expires. 540

(C) An independent contractor may withdraw from coverage 541
by filing a written notice with the director within thirty days 542
before the end of a period of coverage or during a period the 543
director has designated by rule under section 4143.02 of the 544
Revised Code. The withdrawal is effective thirty days after the 545
notice is filed. 546

Sec. 4143.09. (A) No individual shall receive family and 547
medical leave insurance benefits for one year after the 548
individual willfully makes a false statement or misrepresents or 549
willfully fails to report a material fact in connection with a 550
claim for benefits under this chapter. 551

(B) (1) The director of job and family services may seek 552
repayment of benefits that are paid to an individual in excess 553
of the benefits the individual is entitled to receive for any of 554
the following reasons: 555

(a) The individual willfully made a false statement or 556
misrepresented or willfully failed to report a material fact in 557
connection with a claim for benefits. 558

(b) The individual received benefits to which the 559
individual is subsequently determined to not be entitled as a 560
result of a decision of an appeal under division (F) of section 561
4143.03 of the Revised Code. 562

(c) The individual failed to demonstrate that the 563

individual took the actions listed in division (B) (2) of section 564
4143.04 of the Revised Code to remain eligible for benefits 565
granted under that division. 566

(d) The individual received benefits to which the 567
individual was not entitled due to a mistake or a clerical 568
error. 569

(2) The director may waive a repayment or part of a 570
repayment in division (B) (1) of this section if the director 571
decides the recovery is against equity and good conscience. 572

Sec. 4143.10. (A) There is hereby created the family and 573
medical leave insurance fund, which shall be in the custody of 574
the treasurer of state but shall not be a part of the state 575
treasury. All premiums and contributions received under this 576
section and any other moneys collected pursuant to this chapter 577
shall be deposited into the fund. The treasurer of state shall 578
invest any portion of the fund not needed for immediate use in 579
the same manner as, and subject to all applicable laws regarding 580
the investment of, state funds. Any investment earnings of the 581
fund shall be credited to the fund. The treasurer of state shall 582
disburse money from the fund on order of the director of job and 583
family services or a designee of the director. 584

(B) (1) Except as provided in division (B) (2) of section 585
4143.06 of the Revised Code or division (B) (2) or (D) (2) of this 586
section, every employer paying any wages to an employee shall 587
deduct and withhold from such wages for each payroll period a 588
premium computed in accordance with rules adopted by the 589
director under section 4143.02 of the Revised Code. The employer 590
shall deduct and withhold the premium on the date that the 591
employer directly, indirectly, or constructively pays wages to, 592
or credits wages to the benefit of, the employee. 593

(2) An employer may elect to pay contributions into the 594
fund on behalf of an employee. The employer shall follow the 595
procedures prescribed by the director under section 4143.02 of 596
the Revised Code to establish the employer's obligation to pay 597
contributions to the fund. 598

(C) (1) The failure of an employer to withhold premiums as 599
required by this section does not relieve an employee from the 600
liability for the premium unless the employer paid the 601
contribution under division (B) (2) of this section. The failure 602
of an employer to remit the premium as required by section 603
4143.02 of the Revised Code does not relieve an employee from 604
liability for the premium if the director ascertains that the 605
employee colluded with the employer with respect to the failure 606
to remit the premium. 607

(2) If an employer fails to deduct and withhold premiums 608
as required, and thereafter the premium is paid, the premium so 609
required to be deducted and withheld shall not be collected from 610
the employer, but the employer is not relieved from liability 611
for penalties otherwise applicable in respect to the failure to 612
deduct and withhold the premium. 613

(3) The failure of an employer to make contributions as 614
permitted by this section does not relieve an employee for the 615
liability for the premium that would otherwise be due if the 616
employer had not elected to pay contributions. 617

(D) (1) To ensure that premiums imposed by this section are 618
deducted and withheld as provided, each employee shall furnish 619
the employer with sufficient and correct information to enable 620
the employer to withhold the premium. The employee shall provide 621
additional or corrected information whenever information 622
previously provided to the employer becomes insufficient or 623

incorrect. 624

(2) If the employee fails to comply with the requirements 625
of division (D) (1) of this section, the employer is not required 626
to withhold and pay the premium and is not subject to any 627
penalties otherwise applicable for failing to deduct and 628
withhold such premiums. 629

(E) An employee who elects to opt out of participating in 630
the family and medical leave insurance program under division 631
(B) (2) of section 4143.06 of the Revised Code is not liable for 632
any premium or contribution to the fund under this chapter. 633

(F) (1) The director may apply for and accept gifts, 634
grants, donations, and available federal funding to pay for the 635
costs to establish the family and medical leave insurance 636
program created under section 4143.02 of the Revised Code. The 637
director shall transmit any gifts, grants, donations, or federal 638
funding the director receives to the treasurer of state for 639
deposit in the fund. 640

(2) The director may request an appropriation to cover the 641
costs to establish the program, if the director does not receive 642
adequate funding under division (F) (1) of this section. 643

Sec. 4143.11. (A) If the internal revenue service 644
determines benefits under this chapter are subject to federal 645
income tax, the director of job and family services shall inform 646
an individual for whom the director approved a claim for 647
benefits under section 4143.03 of the Revised Code, before 648
making the first benefit payment, of each of the following: 649

(1) That the internal revenue service has determined that 650
benefits are subject to federal income tax; 651

(2) The requirement for the individual to make estimated 652

tax payments on the basis of those benefits as required by the 653
Internal Revenue Code; 654

(3) That the individual may elect to have federal income 655
tax deducted and withheld from the individual's payment of 656
benefits in the amount authorized under the Internal Revenue 657
Code; 658

(4) That the individual may change a previously elected 659
federal withholding status as authorized under the Internal 660
Revenue Code. 661

(B) The director shall follow all procedures prescribed by 662
the internal revenue service when deducting, withholding, and 663
remitting federal income tax. 664

Sec. 4143.12. (A) Except as provided in division (B) of 665
this section, any information contained in the files and records 666
of an individual in the possession of the director of job and 667
family services under this chapter is confidential and is not a 668
public record under section 149.43 of the Revised Code. 669

(B) The following individuals may have access to the files 670
and records of an individual under this chapter: 671

(1) A public employee in the performance of the public 672
employee's official duties; 673

(2) The individual or a person authorized by the 674
individual, with an authorization form signed by the individual; 675

(3) An employer or the employer's duly authorized 676
representative, in connection with a pending claim of an 677
individual employed by the employer; 678

(4) An individual who is assisting the director of job and 679
family services on any matter regarding the administration of 680

this chapter, at the director's request. 681

Sec. 4143.13. (A) Not later than March 1, 2020, and every 682
year thereafter, the director of job and family services shall 683
submit a report to the standing committees of the house of 684
representatives and the senate that are principally responsible 685
for commerce and labor policy and the standing committees of the 686
house of representatives and the senate that are principally 687
responsible for health and human services policy. The report 688
shall contain all of the following information: 689

(1) Projected program participation; 690

(2) Actual program participation; 691

(3) Demographic information of participants, including 692
gender, race, and ethnicity; 693

(4) Purpose and duration of leave taken by participants; 694

(5) Premium rates; 695

(6) Fund balances; 696

(7) Outreach efforts. 697

(B) The director shall make the report available to the 698
public by posting the report on the internet web site maintained 699
by the department of job and family services. 700

Sec. 4143.14. (A) The director of job and family services 701
shall develop and implement an outreach program to educate the 702
public about the family and medical leave insurance program 703
created under section 4143.02 of the Revised Code and the 704
availability of family and medical leave insurance benefits for 705
individuals under this chapter. The outreach program shall 706
explain all of the following information about the program: 707

<u>(1) Eligibility requirements;</u>	708
<u>(2) The claims process;</u>	709
<u>(3) Weekly benefit amounts and maximum benefits payable;</u>	710
<u>(4) Notice and medical certification requirements;</u>	711
<u>(5) Reinstatement and nondiscrimination rights;</u>	712
<u>(6) Confidentiality of records;</u>	713
<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>	714 715 716
<u>(8) Other information the director considers necessary.</u>	717
<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>	718 719 720 721
<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>	722 723 724
<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>	725 726 727 728 729 730 731 732 733
As used in this chapter:	734

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

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

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

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

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

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

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion,

if any, of such distribution that does not exceed the 764
undistributed net income of the trust for the three taxable 765
years preceding the taxable year in which the distribution is 766
made to the extent that the portion was not included in the 767
trust's taxable income for any of the trust's taxable years 768
beginning in 2002 or thereafter. "Undistributed net income of a 769
trust" means the taxable income of the trust increased by (a) (i) 770
the additions to adjusted gross income required under division 771
(A) of this section and (ii) the personal exemptions allowed to 772
the trust pursuant to section 642(b) of the Internal Revenue 773
Code, and decreased by (b) (i) the deductions to adjusted gross 774
income required under division (A) of this section, (ii) the 775
amount of federal income taxes attributable to such income, and 776
(iii) the amount of taxable income that has been included in the 777
adjusted gross income of a beneficiary by reason of a prior 778
accumulation distribution. Any undistributed net income included 779
in the adjusted gross income of a beneficiary shall reduce the 780
undistributed net income of the trust commencing with the 781
earliest years of the accumulation period. 782

(7) Deduct the amount of wages and salaries, if any, not 783
otherwise allowable as a deduction but that would have been 784
allowable as a deduction in computing federal adjusted gross 785
income for the taxable year, had the targeted jobs credit 786
allowed and determined under sections 38, 51, and 52 of the 787
Internal Revenue Code not been in effect. 788

(8) Deduct any interest or interest equivalent on public 789
obligations and purchase obligations to the extent that the 790
interest or interest equivalent is included in federal adjusted 791
gross income. 792

(9) Add any loss or deduct any gain resulting from the 793

sale, exchange, or other disposition of public obligations to 794
the extent that the loss has been deducted or the gain has been 795
included in computing federal adjusted gross income. 796

(10) Deduct or add amounts, as provided under section 797
5747.70 of the Revised Code, related to contributions to 798
variable college savings program accounts made or tuition units 799
purchased pursuant to Chapter 3334. of the Revised Code. 800

(11) (a) Deduct, to the extent not otherwise allowable as a 801
deduction or exclusion in computing federal or Ohio adjusted 802
gross income for the taxable year, the amount the taxpayer paid 803
during the taxable year for medical care insurance and qualified 804
long-term care insurance for the taxpayer, the taxpayer's 805
spouse, and dependents. No deduction for medical care insurance 806
under division (A) (11) of this section shall be allowed either 807
to any taxpayer who is eligible to participate in any subsidized 808
health plan maintained by any employer of the taxpayer or of the 809
taxpayer's spouse, or to any taxpayer who is entitled to, or on 810
application would be entitled to, benefits under part A of Title 811
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 812
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 813
of this section, "subsidized health plan" means a health plan 814
for which the employer pays any portion of the plan's cost. The 815
deduction allowed under division (A) (11) (a) of this section 816
shall be the net of any related premium refunds, related premium 817
reimbursements, or related insurance premium dividends received 818
during the taxable year. 819

(b) Deduct, to the extent not otherwise deducted or 820
excluded in computing federal or Ohio adjusted gross income 821
during the taxable year, the amount the taxpayer paid during the 822
taxable year, not compensated for by any insurance or otherwise, 823

for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

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

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

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

States department of the treasury regulations. The deduction 854
otherwise allowed under division (A) (12) (a) of this section 855
shall be reduced to the extent the reimbursement is attributable 856
to an amount the taxpayer deducted under this section in any 857
taxable year. 858

(b) Add any amount not otherwise included in Ohio adjusted 859
gross income for any taxable year to the extent that the amount 860
is attributable to the recovery during the taxable year of any 861
amount deducted or excluded in computing federal or Ohio 862
adjusted gross income in any taxable year. 863

(13) Deduct any portion of the deduction described in 864
section 1341(a) (2) of the Internal Revenue Code, for repaying 865
previously reported income received under a claim of right, that 866
meets both of the following requirements: 867

(a) It is allowable for repayment of an item that was 868
included in the taxpayer's adjusted gross income for a prior 869
taxable year and did not qualify for a credit under division (A) 870
or (B) of section 5747.05 of the Revised Code for that year; 871

(b) It does not otherwise reduce the taxpayer's adjusted 872
gross income for the current or any other taxable year. 873

(14) Deduct an amount equal to the deposits made to, and 874
net investment earnings of, a medical savings account during the 875
taxable year, in accordance with section 3924.66 of the Revised 876
Code. The deduction allowed by division (A) (14) of this section 877
does not apply to medical savings account deposits and earnings 878
otherwise deducted or excluded for the current or any other 879
taxable year from the taxpayer's federal adjusted gross income. 880

(15) (a) Add an amount equal to the funds withdrawn from a 881
medical savings account during the taxable year, and the net 882

investment earnings on those funds, when the funds withdrawn 883
were used for any purpose other than to reimburse an account 884
holder for, or to pay, eligible medical expenses, in accordance 885
with section 3924.66 of the Revised Code; 886

(b) Add the amounts distributed from a medical savings 887
account under division (A) (2) of section 3924.68 of the Revised 888
Code during the taxable year. 889

(16) Add any amount claimed as a credit under section 890
5747.059 or 5747.65 of the Revised Code to the extent that such 891
amount satisfies either of the following: 892

(a) The amount was deducted or excluded from the 893
computation of the taxpayer's federal adjusted gross income as 894
required to be reported for the taxpayer's taxable year under 895
the Internal Revenue Code; 896

(b) The amount resulted in a reduction of the taxpayer's 897
federal adjusted gross income as required to be reported for any 898
of the taxpayer's taxable years under the Internal Revenue Code. 899

(17) Deduct the amount contributed by the taxpayer to an 900
individual development account program established by a county 901
department of job and family services pursuant to sections 902
329.11 to 329.14 of the Revised Code for the purpose of matching 903
funds deposited by program participants. On request of the tax 904
commissioner, the taxpayer shall provide any information that, 905
in the tax commissioner's opinion, is necessary to establish the 906
amount deducted under division (A) (17) of this section. 907

(18) Beginning in taxable year 2001 but not for any 908
taxable year beginning after December 31, 2005, if the taxpayer 909
is married and files a joint return and the combined federal 910
adjusted gross income of the taxpayer and the taxpayer's spouse 911

for the taxable year does not exceed one hundred thousand 912
dollars, or if the taxpayer is single and has a federal adjusted 913
gross income for the taxable year not exceeding fifty thousand 914
dollars, deduct amounts paid during the taxable year for 915
qualified tuition and fees paid to an eligible institution for 916
the taxpayer, the taxpayer's spouse, or any dependent of the 917
taxpayer, who is a resident of this state and is enrolled in or 918
attending a program that culminates in a degree or diploma at an 919
eligible institution. The deduction may be claimed only to the 920
extent that qualified tuition and fees are not otherwise 921
deducted or excluded for any taxable year from federal or Ohio 922
adjusted gross income. The deduction may not be claimed for 923
educational expenses for which the taxpayer claims a credit 924
under section 5747.27 of the Revised Code. 925

(19) Add any reimbursement received during the taxable 926
year of any amount the taxpayer deducted under division (A) (18) 927
of this section in any previous taxable year to the extent the 928
amount is not otherwise included in Ohio adjusted gross income. 929

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 930
(v) of this section, add five-sixths of the amount of 931
depreciation expense allowed by subsection (k) of section 168 of 932
the Internal Revenue Code, including the taxpayer's 933
proportionate or distributive share of the amount of 934
depreciation expense allowed by that subsection to a pass- 935
through entity in which the taxpayer has a direct or indirect 936
ownership interest. 937

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 938
of this section, add five-sixths of the amount of qualifying 939
section 179 depreciation expense, including the taxpayer's 940
proportionate or distributive share of the amount of qualifying 941

section 179 depreciation expense allowed to any pass-through 942
entity in which the taxpayer has a direct or indirect ownership 943
interest. 944

(iii) Subject to division (A) (20) (a) (v) of this section, 945
for taxable years beginning in 2012 or thereafter, if the 946
increase in income taxes withheld by the taxpayer is equal to or 947
greater than ten per cent of income taxes withheld by the 948
taxpayer during the taxpayer's immediately preceding taxable 949
year, "two-thirds" shall be substituted for "five-sixths" for 950
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 951

(iv) Subject to division (A) (20) (a) (v) of this section, 952
for taxable years beginning in 2012 or thereafter, a taxpayer is 953
not required to add an amount under division (A) (20) of this 954
section if the increase in income taxes withheld by the taxpayer 955
and by any pass-through entity in which the taxpayer has a 956
direct or indirect ownership interest is equal to or greater 957
than the sum of (I) the amount of qualifying section 179 958
depreciation expense and (II) the amount of depreciation expense 959
allowed to the taxpayer by subsection (k) of section 168 of the 960
Internal Revenue Code, and including the taxpayer's 961
proportionate or distributive shares of such amounts allowed to 962
any such pass-through entities. 963

(v) If a taxpayer directly or indirectly incurs a net 964
operating loss for the taxable year for federal income tax 965
purposes, to the extent such loss resulted from depreciation 966
expense allowed by subsection (k) of section 168 of the Internal 967
Revenue Code and by qualifying section 179 depreciation expense, 968
"the entire" shall be substituted for "five-sixths of the" for 969
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 970

The tax commissioner, under procedures established by the 971

commissioner, may waive the add-backs related to a pass-through 972
entity if the taxpayer owns, directly or indirectly, less than 973
five per cent of the pass-through entity. 974

(b) Nothing in division (A) (20) of this section shall be 975
construed to adjust or modify the adjusted basis of any asset. 976

(c) To the extent the add-back required under division (A) 977
(20) (a) of this section is attributable to property generating 978
nonbusiness income or loss allocated under section 5747.20 of 979
the Revised Code, the add-back shall be situated to the same 980
location as the nonbusiness income or loss generated by the 981
property for the purpose of determining the credit under 982
division (A) of section 5747.05 of the Revised Code. Otherwise, 983
the add-back shall be apportioned, subject to one or more of the 984
four alternative methods of apportionment enumerated in section 985
5747.21 of the Revised Code. 986

(d) For the purposes of division (A) (20) (a) (v) of this 987
section, net operating loss carryback and carryforward shall not 988
include the allowance of any net operating loss deduction 989
carryback or carryforward to the taxable year to the extent such 990
loss resulted from depreciation allowed by section 168(k) of the 991
Internal Revenue Code and by the qualifying section 179 992
depreciation expense amount. 993

(e) For the purposes of divisions (A) (20) and (21) of this 994
section: 995

(i) "Income taxes withheld" means the total amount 996
withheld and remitted under sections 5747.06 and 5747.07 of the 997
Revised Code by an employer during the employer's taxable year. 998

(ii) "Increase in income taxes withheld" means the amount 999
by which the amount of income taxes withheld by an employer 1000

during the employer's current taxable year exceeds the amount of 1001
income taxes withheld by that employer during the employer's 1002
immediately preceding taxable year. 1003

(iii) "Qualifying section 179 depreciation expense" means 1004
the difference between (I) the amount of depreciation expense 1005
directly or indirectly allowed to a taxpayer under section 179 1006
of the Internal Revised Code, and (II) the amount of 1007
depreciation expense directly or indirectly allowed to the 1008
taxpayer under section 179 of the Internal Revenue Code as that 1009
section existed on December 31, 2002. 1010

(21) (a) If the taxpayer was required to add an amount 1011
under division (A) (20) (a) of this section for a taxable year, 1012
deduct one of the following: 1013

(i) One-fifth of the amount so added for each of the five 1014
succeeding taxable years if the amount so added was five-sixths 1015
of qualifying section 179 depreciation expense or depreciation 1016
expense allowed by subsection (k) of section 168 of the Internal 1017
Revenue Code; 1018

(ii) One-half of the amount so added for each of the two 1019
succeeding taxable years if the amount so added was two-thirds 1020
of such depreciation expense; 1021

(iii) One-sixth of the amount so added for each of the six 1022
succeeding taxable years if the entire amount of such 1023
depreciation expense was so added. 1024

(b) If the amount deducted under division (A) (21) (a) of 1025
this section is attributable to an add-back allocated under 1026
division (A) (20) (c) of this section, the amount deducted shall 1027
be situated to the same location. Otherwise, the add-back shall 1028
be apportioned using the apportionment factors for the taxable 1029

year in which the deduction is taken, subject to one or more of 1030
the four alternative methods of apportionment enumerated in 1031
section 5747.21 of the Revised Code. 1032

(c) No deduction is available under division (A) (21) (a) of 1033
this section with regard to any depreciation allowed by section 1034
168(k) of the Internal Revenue Code and by the qualifying 1035
section 179 depreciation expense amount to the extent that such 1036
depreciation results in or increases a federal net operating 1037
loss carryback or carryforward. If no such deduction is 1038
available for a taxable year, the taxpayer may carry forward the 1039
amount not deducted in such taxable year to the next taxable 1040
year and add that amount to any deduction otherwise available 1041
under division (A) (21) (a) of this section for that next taxable 1042
year. The carryforward of amounts not so deducted shall continue 1043
until the entire addition required by division (A) (20) (a) of 1044
this section has been deducted. 1045

(d) No refund shall be allowed as a result of adjustments 1046
made by division (A) (21) of this section. 1047

(22) 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 reimbursement for life insurance premiums under 1051
section 5919.31 of the Revised Code. 1052

(23) Deduct, to the extent not otherwise deducted or 1053
excluded in computing federal or Ohio adjusted gross income for 1054
the taxable year, the amount the taxpayer received during the 1055
taxable year as a death benefit paid by the adjutant general 1056
under section 5919.33 of the Revised Code. 1057

(24) Deduct, to the extent included in federal adjusted 1058

gross income and not otherwise allowable as a deduction or 1059
exclusion in computing federal or Ohio adjusted gross income for 1060
the taxable year, military pay and allowances received by the 1061
taxpayer during the taxable year for active duty service in the 1062
United States army, air force, navy, marine corps, or coast 1063
guard or reserve components thereof or the national guard. The 1064
deduction may not be claimed for military pay and allowances 1065
received by the taxpayer while the taxpayer is stationed in this 1066
state. 1067

(25) Deduct, to the extent not otherwise allowable as a 1068
deduction or exclusion in computing federal or Ohio adjusted 1069
gross income for the taxable year and not otherwise compensated 1070
for by any other source, the amount of qualified organ donation 1071
expenses incurred by the taxpayer during the taxable year, not 1072
to exceed ten thousand dollars. A taxpayer may deduct qualified 1073
organ donation expenses only once for all taxable years 1074
beginning with taxable years beginning in 2007. 1075

For the purposes of division (A) (25) of this section: 1076

(a) "Human organ" means all or any portion of a human 1077
liver, pancreas, kidney, intestine, or lung, and any portion of 1078
human bone marrow. 1079

(b) "Qualified organ donation expenses" means travel 1080
expenses, lodging expenses, and wages and salary forgone by a 1081
taxpayer in connection with the taxpayer's donation, while 1082
living, of one or more of the taxpayer's human organs to another 1083
human being. 1084

(26) Deduct, to the extent not otherwise deducted or 1085
excluded in computing federal or Ohio adjusted gross income for 1086
the taxable year, amounts received by the taxpayer as retired 1087

personnel pay for service in the uniformed services or reserve 1088
components thereof, or the national guard, or received by the 1089
surviving spouse or former spouse of such a taxpayer under the 1090
survivor benefit plan on account of such a taxpayer's death. If 1091
the taxpayer receives income on account of retirement paid under 1092
the federal civil service retirement system or federal employees 1093
retirement system, or under any successor retirement program 1094
enacted by the congress of the United States that is established 1095
and maintained for retired employees of the United States 1096
government, and such retirement income is based, in whole or in 1097
part, on credit for the taxpayer's uniformed service, the 1098
deduction allowed under this division shall include only that 1099
portion of such retirement income that is attributable to the 1100
taxpayer's uniformed service, to the extent that portion of such 1101
retirement income is otherwise included in federal adjusted 1102
gross income and is not otherwise deducted under this section. 1103
Any amount deducted under division (A) (26) of this section is 1104
not included in a taxpayer's adjusted gross income for the 1105
purposes of section 5747.055 of the Revised Code. No amount may 1106
be deducted under division (A) (26) of this section on the basis 1107
of which a credit was claimed under section 5747.055 of the 1108
Revised Code. 1109

(27) 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 during the 1112
taxable year from the military injury relief fund created in 1113
section 5902.05 of the Revised Code. 1114

(28) Deduct, to the extent not otherwise deducted or 1115
excluded in computing federal or Ohio adjusted gross income for 1116
the taxable year, the amount the taxpayer received as a veterans 1117
bonus during the taxable year from the Ohio department of 1118

veterans services as authorized by Section 2r of Article VIII, 1119
Ohio Constitution. 1120

(29) Deduct, to the extent not otherwise deducted or 1121
excluded in computing federal or Ohio adjusted gross income for 1122
the taxable year, any income derived from a transfer agreement 1123
or from the enterprise transferred under that agreement under 1124
section 4313.02 of the Revised Code. 1125

(30) Deduct, to the extent not otherwise deducted or 1126
excluded in computing federal or Ohio adjusted gross income for 1127
the taxable year, Ohio college opportunity or federal Pell grant 1128
amounts received by the taxpayer or the taxpayer's spouse or 1129
dependent pursuant to section 3333.122 of the Revised Code or 20 1130
U.S.C. 1070a, et seq., and used to pay room or board furnished 1131
by the educational institution for which the grant was awarded 1132
at the institution's facilities, including meal plans 1133
administered by the institution. For the purposes of this 1134
division, receipt of a grant includes the distribution of a 1135
grant directly to an educational institution and the crediting 1136
of the grant to the enrollee's account with the institution. 1137

(31) (a) For taxable years beginning in 2015, deduct from 1138
the portion of an individual's adjusted gross income that is 1139
business income, to the extent not otherwise deducted or 1140
excluded in computing federal or Ohio adjusted gross income for 1141
the taxable year, the lesser of the following amounts: 1142

(i) Seventy-five per cent of the individual's business 1143
income; 1144

(ii) Ninety-three thousand seven hundred fifty dollars for 1145
each spouse if spouses file separate returns under section 1146
5747.08 of the Revised Code or one hundred eighty-seven thousand 1147

five hundred dollars for all other individuals. 1148

(b) For taxable years beginning in 2016 or thereafter, 1149
deduct from the portion of an individual's adjusted gross income 1150
that is business income, to the extent not otherwise deducted or 1151
excluded in computing federal adjusted gross income for the 1152
taxable year, one hundred twenty-five thousand dollars for each 1153
spouse if spouses file separate returns under section 5747.08 of 1154
the Revised Code or two hundred fifty thousand dollars for all 1155
other individuals. 1156

(32) Deduct, as provided under section 5747.78 of the 1157
Revised Code, contributions to ABLE savings accounts made in 1158
accordance with sections 113.50 to 113.56 of the Revised Code. 1159

(33) Deduct benefits under Chapter 4143. of the Revised 1160
Code to the extent included in federal adjusted gross income. 1161

(B) "Business income" means income, including gain or 1162
loss, arising from transactions, activities, and sources in the 1163
regular course of a trade or business and includes income, gain, 1164
or loss from real property, tangible property, and intangible 1165
property if the acquisition, rental, management, and disposition 1166
of the property constitute integral parts of the regular course 1167
of a trade or business operation. "Business income" includes 1168
income, including gain or loss, from a partial or complete 1169
liquidation of a business, including, but not limited to, gain 1170
or loss from the sale or other disposition of goodwill. 1171

(C) "Nonbusiness income" means all income other than 1172
business income and may include, but is not limited to, 1173
compensation, rents and royalties from real or tangible personal 1174
property, capital gains, interest, dividends and distributions, 1175
patent or copyright royalties, or lottery winnings, prizes, and 1176

awards.	1177
(D) "Compensation" means any form of remuneration paid to an employee for personal services.	1178 1179
(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.	1180 1181 1182
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	1183 1184
(G) "Individual" means any natural person.	1185
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	1186 1187
(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:	1188 1189 1190
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	1191 1192
(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.	1193 1194 1195 1196
(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.	1197 1198 1199
For the purposes of division (I) (3) of this section:	1200
(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,	1201 1202 1203

in whole or in part, of assets, net of any related liabilities, 1204
that were transferred, or caused to be transferred, directly or 1205
indirectly, to the trust by any of the following: 1206

(i) A person, a court, or a governmental entity or 1207
instrumentality on account of the death of a decedent, but only 1208
if the trust is described in division (I) (3) (e) (i) or (ii) of 1209
this section; 1210

(ii) A person who was domiciled in this state for the 1211
purposes of this chapter when the person directly or indirectly 1212
transferred assets to an irrevocable trust, but only if at least 1213
one of the trust's qualifying beneficiaries is domiciled in this 1214
state for the purposes of this chapter during all or some 1215
portion of the trust's current taxable year; 1216

(iii) A person who was domiciled in this state for the 1217
purposes of this chapter when the trust document or instrument 1218
or part of the trust document or instrument became irrevocable, 1219
but only if at least one of the trust's qualifying beneficiaries 1220
is a resident domiciled in this state for the purposes of this 1221
chapter during all or some portion of the trust's current 1222
taxable year. If a trust document or instrument became 1223
irrevocable upon the death of a person who at the time of death 1224
was domiciled in this state for purposes of this chapter, that 1225
person is a person described in division (I) (3) (a) (iii) of this 1226
section. 1227

(b) A trust is irrevocable to the extent that the 1228
transferor is not considered to be the owner of the net assets 1229
of the trust under sections 671 to 678 of the Internal Revenue 1230
Code. 1231

(c) With respect to a trust other than a charitable lead 1232

trust, "qualifying beneficiary" has the same meaning as 1233
"potential current beneficiary" as defined in section 1361(e) (2) 1234
of the Internal Revenue Code, and with respect to a charitable 1235
lead trust "qualifying beneficiary" is any current, future, or 1236
contingent beneficiary, but with respect to any trust 1237
"qualifying beneficiary" excludes a person or a governmental 1238
entity or instrumentality to any of which a contribution would 1239
qualify for the charitable deduction under section 170 of the 1240
Internal Revenue Code. 1241

(d) For the purposes of division (I) (3) (a) of this 1242
section, the extent to which a trust consists directly or 1243
indirectly, in whole or in part, of assets, net of any related 1244
liabilities, that were transferred directly or indirectly, in 1245
whole or part, to the trust by any of the sources enumerated in 1246
that division shall be ascertained by multiplying the fair 1247
market value of the trust's assets, net of related liabilities, 1248
by the qualifying ratio, which shall be computed as follows: 1249

(i) The first time the trust receives assets, the 1250
numerator of the qualifying ratio is the fair market value of 1251
those assets at that time, net of any related liabilities, from 1252
sources enumerated in division (I) (3) (a) of this section. The 1253
denominator of the qualifying ratio is the fair market value of 1254
all the trust's assets at that time, net of any related 1255
liabilities. 1256

(ii) Each subsequent time the trust receives assets, a 1257
revised qualifying ratio shall be computed. The numerator of the 1258
revised qualifying ratio is the sum of (1) the fair market value 1259
of the trust's assets immediately prior to the subsequent 1260
transfer, net of any related liabilities, multiplied by the 1261
qualifying ratio last computed without regard to the subsequent 1262

transfer, and (2) the fair market value of the subsequently 1263
transferred assets at the time transferred, net of any related 1264
liabilities, from sources enumerated in division (I) (3) (a) of 1265
this section. The denominator of the revised qualifying ratio is 1266
the fair market value of all the trust's assets immediately 1267
after the subsequent transfer, net of any related liabilities. 1268

(iii) Whether a transfer to the trust is by or from any of 1269
the sources enumerated in division (I) (3) (a) of this section 1270
shall be ascertained without regard to the domicile of the 1271
trust's beneficiaries. 1272

(e) For the purposes of division (I) (3) (a) (i) of this 1273
section: 1274

(i) A trust is described in division (I) (3) (e) (i) of this 1275
section if the trust is a testamentary trust and the testator of 1276
that testamentary trust was domiciled in this state at the time 1277
of the testator's death for purposes of the taxes levied under 1278
Chapter 5731. of the Revised Code. 1279

(ii) A trust is described in division (I) (3) (e) (ii) of 1280
this section if the transfer is a qualifying transfer described 1281
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1282
trust is an irrevocable inter vivos trust, and at least one of 1283
the trust's qualifying beneficiaries is domiciled in this state 1284
for purposes of this chapter during all or some portion of the 1285
trust's current taxable year. 1286

(f) For the purposes of division (I) (3) (e) (ii) of this 1287
section, a "qualifying transfer" is a transfer of assets, net of 1288
any related liabilities, directly or indirectly to a trust, if 1289
the transfer is described in any of the following: 1290

(i) The transfer is made to a trust, created by the 1291

decedent before the decedent's death and while the decedent was 1292
domiciled in this state for the purposes of this chapter, and, 1293
prior to the death of the decedent, the trust became irrevocable 1294
while the decedent was domiciled in this state for the purposes 1295
of this chapter. 1296

(ii) The transfer is made to a trust to which the 1297
decedent, prior to the decedent's death, had directly or 1298
indirectly transferred assets, net of any related liabilities, 1299
while the decedent was domiciled in this state for the purposes 1300
of this chapter, and prior to the death of the decedent the 1301
trust became irrevocable while the decedent was domiciled in 1302
this state for the purposes of this chapter. 1303

(iii) The transfer is made on account of a contractual 1304
relationship existing directly or indirectly between the 1305
transferor and either the decedent or the estate of the decedent 1306
at any time prior to the date of the decedent's death, and the 1307
decedent was domiciled in this state at the time of death for 1308
purposes of the taxes levied under Chapter 5731. of the Revised 1309
Code. 1310

(iv) The transfer is made to a trust on account of a 1311
contractual relationship existing directly or indirectly between 1312
the transferor and another person who at the time of the 1313
decedent's death was domiciled in this state for purposes of 1314
this chapter. 1315

(v) The transfer is made to a trust on account of the will 1316
of a testator who was domiciled in this state at the time of the 1317
testator's death for purposes of the taxes levied under Chapter 1318
5731. of the Revised Code. 1319

(vi) The transfer is made to a trust created by or caused 1320

to be created by a court, and the trust was directly or 1321
indirectly created in connection with or as a result of the 1322
death of an individual who, for purposes of the taxes levied 1323
under Chapter 5731. of the Revised Code, was domiciled in this 1324
state at the time of the individual's death. 1325

(g) The tax commissioner may adopt rules to ascertain the 1326
part of a trust residing in this state. 1327

(J) "Nonresident" means an individual or estate that is 1328
not a resident. An individual who is a resident for only part of 1329
a taxable year is a nonresident for the remainder of that 1330
taxable year. 1331

(K) "Pass-through entity" has the same meaning as in 1332
section 5733.04 of the Revised Code. 1333

(L) "Return" means the notifications and reports required 1334
to be filed pursuant to this chapter for the purpose of 1335
reporting the tax due and includes declarations of estimated tax 1336
when so required. 1337

(M) "Taxable year" means the calendar year or the 1338
taxpayer's fiscal year ending during the calendar year, or 1339
fractional part thereof, upon which the adjusted gross income is 1340
calculated pursuant to this chapter. 1341

(N) "Taxpayer" means any person subject to the tax imposed 1342
by section 5747.02 of the Revised Code or any pass-through 1343
entity that makes the election under division (D) of section 1344
5747.08 of the Revised Code. 1345

(O) "Dependents" means dependents as defined in the 1346
Internal Revenue Code and as claimed in the taxpayer's federal 1347
income tax return for the taxable year or which the taxpayer 1348
would have been permitted to claim had the taxpayer filed a 1349

federal income tax return. 1350

(P) "Principal county of employment" means, in the case of 1351
a nonresident, the county within the state in which a taxpayer 1352
performs services for an employer or, if those services are 1353
performed in more than one county, the county in which the major 1354
portion of the services are performed. 1355

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1356
Code: 1357

(1) "Subdivision" means any county, municipal corporation, 1358
park district, or township. 1359

(2) "Essential local government purposes" includes all 1360
functions that any subdivision is required by general law to 1361
exercise, including like functions that are exercised under a 1362
charter adopted pursuant to the Ohio Constitution. 1363

(R) "Overpayment" means any amount already paid that 1364
exceeds the figure determined to be the correct amount of the 1365
tax. 1366

(S) "Taxable income" or "Ohio taxable income" applies only 1367
to estates and trusts, and means federal taxable income, as 1368
defined and used in the Internal Revenue Code, adjusted as 1369
follows: 1370

(1) Add interest or dividends, net of ordinary, necessary, 1371
and reasonable expenses not deducted in computing federal 1372
taxable income, on obligations or securities of any state or of 1373
any political subdivision or authority of any state, other than 1374
this state and its subdivisions and authorities, but only to the 1375
extent that such net amount is not otherwise includible in Ohio 1376
taxable income and is described in either division (S) (1) (a) or 1377
(b) of this section: 1378

(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;	1379 1380 1381
(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.	1382 1383
(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S) (1) (a) or (b) of this section;	1384 1385 1386 1387 1388 1389 1390 1391 1392
(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;	1393 1394
(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S) (1) (a) or (b) of this section;	1395 1396 1397 1398 1399 1400 1401 1402 1403
(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under	1404 1405 1406 1407

sections 38, 51, and 52 of the Internal Revenue Code not been in 1408
effect, but only to the extent such amount relates either to 1409
income included in federal taxable income for the taxable year 1410
or to income of the S portion of an electing small business 1411
trust for the taxable year; 1412

(6) Deduct any interest or interest equivalent, net of 1413
related expenses deducted in computing federal taxable income, 1414
on public obligations and purchase obligations, but only to the 1415
extent that such net amount relates either to income included in 1416
federal taxable income for the taxable year or to income of the 1417
S portion of an electing small business trust for the taxable 1418
year; 1419

(7) Add any loss or deduct any gain resulting from sale, 1420
exchange, or other disposition of public obligations to the 1421
extent that such loss has been deducted or such gain has been 1422
included in computing either federal taxable income or income of 1423
the S portion of an electing small business trust for the 1424
taxable year; 1425

(8) Except in the case of the final return of an estate, 1426
add any amount deducted by the taxpayer on both its Ohio estate 1427
tax return pursuant to section 5731.14 of the Revised Code, and 1428
on its federal income tax return in determining federal taxable 1429
income; 1430

(9) (a) Deduct any amount included in federal taxable 1431
income solely because the amount represents a reimbursement or 1432
refund of expenses that in a previous year the decedent had 1433
deducted as an itemized deduction pursuant to section 63 of the 1434
Internal Revenue Code and applicable treasury regulations. The 1435
deduction otherwise allowed under division (S) (9) (a) of this 1436
section shall be reduced to the extent the reimbursement is 1437

attributable to an amount the taxpayer or decedent deducted	1438
under this section in any taxable year.	1439
(b) Add any amount not otherwise included in Ohio taxable	1440
income for any taxable year to the extent that the amount is	1441
attributable to the recovery during the taxable year of any	1442
amount deducted or excluded in computing federal or Ohio taxable	1443
income in any taxable year, but only to the extent such amount	1444
has not been distributed to beneficiaries for the taxable year.	1445
(10) Deduct any portion of the deduction described in	1446
section 1341(a) (2) of the Internal Revenue Code, for repaying	1447
previously reported income received under a claim of right, that	1448
meets both of the following requirements:	1449
(a) It is allowable for repayment of an item that was	1450
included in the taxpayer's taxable income or the decedent's	1451
adjusted gross income for a prior taxable year and did not	1452
qualify for a credit under division (A) or (B) of section	1453
5747.05 of the Revised Code for that year.	1454
(b) It does not otherwise reduce the taxpayer's taxable	1455
income or the decedent's adjusted gross income for the current	1456
or any other taxable year.	1457
(11) Add any amount claimed as a credit under section	1458
5747.059 or 5747.65 of the Revised Code to the extent that the	1459
amount satisfies either of the following:	1460
(a) The amount was deducted or excluded from the	1461
computation of the taxpayer's federal taxable income as required	1462
to be reported for the taxpayer's taxable year under the	1463
Internal Revenue Code;	1464
(b) The amount resulted in a reduction in the taxpayer's	1465
federal taxable income as required to be reported for any of the	1466

taxpayer's taxable years under the Internal Revenue Code. 1467

(12) Deduct any amount, net of related expenses deducted 1468
in computing federal taxable income, that a trust is required to 1469
report as farm income on its federal income tax return, but only 1470
if the assets of the trust include at least ten acres of land 1471
satisfying the definition of "land devoted exclusively to 1472
agricultural use" under section 5713.30 of the Revised Code, 1473
regardless of whether the land is valued for tax purposes as 1474
such land under sections 5713.30 to 5713.38 of the Revised Code. 1475
If the trust is a pass-through entity investor, section 5747.231 1476
of the Revised Code applies in ascertaining if the trust is 1477
eligible to claim the deduction provided by division (S) (12) of 1478
this section in connection with the pass-through entity's farm 1479
income. 1480

Except for farm income attributable to the S portion of an 1481
electing small business trust, the deduction provided by 1482
division (S) (12) of this section is allowed only to the extent 1483
that the trust has not distributed such farm income. Division 1484
(S) (12) of this section applies only to taxable years of a trust 1485
beginning in 2002 or thereafter. 1486

(13) Add the net amount of income described in section 1487
641(c) of the Internal Revenue Code to the extent that amount is 1488
not included in federal taxable income. 1489

(14) Add or deduct the amount the taxpayer would be 1490
required to add or deduct under division (A) (20) or (21) of this 1491
section if the taxpayer's Ohio taxable income were computed in 1492
the same manner as an individual's Ohio adjusted gross income is 1493
computed under this section. In the case of a trust, division 1494
(S) (14) of this section applies only to any of the trust's 1495
taxable years beginning in 2002 or thereafter. 1496

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.	1497 1498 1499
(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) (7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.	1500 1501 1502 1503
(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.	1504 1505 1506
(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.	1507 1508 1509 1510
(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.	1511 1512
(Y) "Month" means a calendar month.	1513
(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.	1514 1515 1516
(AA) (1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.	1517 1518 1519 1520 1521 1522 1523 1524 1525

(2) "Qualified tuition and fees" means tuition and fees 1526
imposed by an eligible institution as a condition of enrollment 1527
or attendance, not exceeding two thousand five hundred dollars 1528
in each of the individual's first two years of post-secondary 1529
education. If the individual is a part-time student, "qualified 1530
tuition and fees" includes tuition and fees paid for the 1531
academic equivalent of the first two years of post-secondary 1532
education during a maximum of five taxable years, not exceeding 1533
a total of five thousand dollars. "Qualified tuition and fees" 1534
does not include: 1535

(a) Expenses for any course or activity involving sports, 1536
games, or hobbies unless the course or activity is part of the 1537
individual's degree or diploma program; 1538

(b) The cost of books, room and board, student activity 1539
fees, athletic fees, insurance expenses, or other expenses 1540
unrelated to the individual's academic course of instruction; 1541

(c) Tuition, fees, or other expenses paid or reimbursed 1542
through an employer, scholarship, grant in aid, or other 1543
educational benefit program. 1544

(BB) (1) "Modified business income" means the business 1545
income included in a trust's Ohio taxable income after such 1546
taxable income is first reduced by the qualifying trust amount, 1547
if any. 1548

(2) "Qualifying trust amount" of a trust means capital 1549
gains and losses from the sale, exchange, or other disposition 1550
of equity or ownership interests in, or debt obligations of, a 1551
qualifying investee to the extent included in the trust's Ohio 1552
taxable income, but only if the following requirements are 1553
satisfied: 1554

(a) The book value of the qualifying investee's physical 1555
assets in this state and everywhere, as of the last day of the 1556
qualifying investee's fiscal or calendar year ending immediately 1557
prior to the date on which the trust recognizes the gain or 1558
loss, is available to the trust. 1559

(b) The requirements of section 5747.011 of the Revised 1560
Code are satisfied for the trust's taxable year in which the 1561
trust recognizes the gain or loss. 1562

Any gain or loss that is not a qualifying trust amount is 1563
modified business income, qualifying investment income, or 1564
modified nonbusiness income, as the case may be. 1565

(3) "Modified nonbusiness income" means a trust's Ohio 1566
taxable income other than modified business income, other than 1567
the qualifying trust amount, and other than qualifying 1568
investment income, as defined in section 5747.012 of the Revised 1569
Code, to the extent such qualifying investment income is not 1570
otherwise part of modified business income. 1571

(4) "Modified Ohio taxable income" applies only to trusts, 1572
and means the sum of the amounts described in divisions (BB) (4) 1573
(a) to (c) of this section: 1574

(a) The fraction, calculated under section 5747.013, and 1575
applying section 5747.231 of the Revised Code, multiplied by the 1576
sum of the following amounts: 1577

(i) The trust's modified business income; 1578

(ii) The trust's qualifying investment income, as defined 1579
in section 5747.012 of the Revised Code, but only to the extent 1580
the qualifying investment income does not otherwise constitute 1581
modified business income and does not otherwise constitute a 1582
qualifying trust amount. 1583

(b) The qualifying trust amount multiplied by a fraction, 1584
the numerator of which is the sum of the book value of the 1585
qualifying investee's physical assets in this state on the last 1586
day of the qualifying investee's fiscal or calendar year ending 1587
immediately prior to the day on which the trust recognizes the 1588
qualifying trust amount, and the denominator of which is the sum 1589
of the book value of the qualifying investee's total physical 1590
assets everywhere on the last day of the qualifying investee's 1591
fiscal or calendar year ending immediately prior to the day on 1592
which the trust recognizes the qualifying trust amount. If, for 1593
a taxable year, the trust recognizes a qualifying trust amount 1594
with respect to more than one qualifying investee, the amount 1595
described in division (BB) (4) (b) of this section shall equal the 1596
sum of the products so computed for each such qualifying 1597
investee. 1598

(c) (i) With respect to a trust or portion of a trust that 1599
is a resident as ascertained in accordance with division (I) (3) 1600
(d) of this section, its modified nonbusiness income. 1601

(ii) With respect to a trust or portion of a trust that is 1602
not a resident as ascertained in accordance with division (I) (3) 1603
(d) of this section, the amount of its modified nonbusiness 1604
income satisfying the descriptions in divisions (B) (2) to (5) of 1605
section 5747.20 of the Revised Code, except as otherwise 1606
provided in division (BB) (4) (c) (ii) of this section. With 1607
respect to a trust or portion of a trust that is not a resident 1608
as ascertained in accordance with division (I) (3) (d) of this 1609
section, the trust's portion of modified nonbusiness income 1610
recognized from the sale, exchange, or other disposition of a 1611
debt interest in or equity interest in a section 5747.212 1612
entity, as defined in section 5747.212 of the Revised Code, 1613
without regard to division (A) of that section, shall not be 1614

allocated to this state in accordance with section 5747.20 of 1615
the Revised Code but shall be apportioned to this state in 1616
accordance with division (B) of section 5747.212 of the Revised 1617
Code without regard to division (A) of that section. 1618

If the allocation and apportionment of a trust's income 1619
under divisions (BB) (4) (a) and (c) of this section do not fairly 1620
represent the modified Ohio taxable income of the trust in this 1621
state, the alternative methods described in division (C) of 1622
section 5747.21 of the Revised Code may be applied in the manner 1623
and to the same extent provided in that section. 1624

(5) (a) Except as set forth in division (BB) (5) (b) of this 1625
section, "qualifying investee" means a person in which a trust 1626
has an equity or ownership interest, or a person or unit of 1627
government the debt obligations of either of which are owned by 1628
a trust. For the purposes of division (BB) (2) (a) of this section 1629
and for the purpose of computing the fraction described in 1630
division (BB) (4) (b) of this section, all of the following apply: 1631

(i) If the qualifying investee is a member of a qualifying 1632
controlled group on the last day of the qualifying investee's 1633
fiscal or calendar year ending immediately prior to the date on 1634
which the trust recognizes the gain or loss, then "qualifying 1635
investee" includes all persons in the qualifying controlled 1636
group on such last day. 1637

(ii) If the qualifying investee, or if the qualifying 1638
investee and any members of the qualifying controlled group of 1639
which the qualifying investee is a member on the last day of the 1640
qualifying investee's fiscal or calendar year ending immediately 1641
prior to the date on which the trust recognizes the gain or 1642
loss, separately or cumulatively own, directly or indirectly, on 1643
the last day of the qualifying investee's fiscal or calendar 1644

year ending immediately prior to the date on which the trust 1645
recognizes the qualifying trust amount, more than fifty per cent 1646
of the equity of a pass-through entity, then the qualifying 1647
investee and the other members are deemed to own the 1648
proportionate share of the pass-through entity's physical assets 1649
which the pass-through entity directly or indirectly owns on the 1650
last day of the pass-through entity's calendar or fiscal year 1651
ending within or with the last day of the qualifying investee's 1652
fiscal or calendar year ending immediately prior to the date on 1653
which the trust recognizes the qualifying trust amount. 1654

(iii) For the purposes of division (BB) (5) (a) (iii) of this 1655
section, "upper level pass-through entity" means a pass-through 1656
entity directly or indirectly owning any equity of another pass- 1657
through entity, and "lower level pass-through entity" means that 1658
other pass-through entity. 1659

An upper level pass-through entity, whether or not it is 1660
also a qualifying investee, is deemed to own, on the last day of 1661
the upper level pass-through entity's calendar or fiscal year, 1662
the proportionate share of the lower level pass-through entity's 1663
physical assets that the lower level pass-through entity 1664
directly or indirectly owns on the last day of the lower level 1665
pass-through entity's calendar or fiscal year ending within or 1666
with the last day of the upper level pass-through entity's 1667
fiscal or calendar year. If the upper level pass-through entity 1668
directly and indirectly owns less than fifty per cent of the 1669
equity of the lower level pass-through entity on each day of the 1670
upper level pass-through entity's calendar or fiscal year in 1671
which or with which ends the calendar or fiscal year of the 1672
lower level pass-through entity and if, based upon clear and 1673
convincing evidence, complete information about the location and 1674
cost of the physical assets of the lower pass-through entity is 1675

not available to the upper level pass-through entity, then 1676
solely for purposes of ascertaining if a gain or loss 1677
constitutes a qualifying trust amount, the upper level pass- 1678
through entity shall be deemed as owning no equity of the lower 1679
level pass-through entity for each day during the upper level 1680
pass-through entity's calendar or fiscal year in which or with 1681
which ends the lower level pass-through entity's calendar or 1682
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 1683
shall be construed to provide for any deduction or exclusion in 1684
computing any trust's Ohio taxable income. 1685

(b) With respect to a trust that is not a resident for the 1686
taxable year and with respect to a part of a trust that is not a 1687
resident for the taxable year, "qualifying investee" for that 1688
taxable year does not include a C corporation if both of the 1689
following apply: 1690

(i) During the taxable year the trust or part of the trust 1691
recognizes a gain or loss from the sale, exchange, or other 1692
disposition of equity or ownership interests in, or debt 1693
obligations of, the C corporation. 1694

(ii) Such gain or loss constitutes nonbusiness income. 1695

(6) "Available" means information is such that a person is 1696
able to learn of the information by the due date plus 1697
extensions, if any, for filing the return for the taxable year 1698
in which the trust recognizes the gain or loss. 1699

(CC) "Qualifying controlled group" has the same meaning as 1700
in section 5733.04 of the Revised Code. 1701

(DD) "Related member" has the same meaning as in section 1702
5733.042 of the Revised Code. 1703

(EE) (1) For the purposes of division (EE) of this section: 1704

(a) "Qualifying person" means any person other than a qualifying corporation.	1705 1706
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	1707 1708 1709
(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;	1710 1711 1712 1713
(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.	1714 1715 1716 1717 1718
(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.	1719 1720 1721
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	1722 1723
(1) "Trust" does not include a qualified pre-income tax trust.	1724 1725
(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.	1726 1727 1728
(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	1729 1730 1731 1732

controls, directly, indirectly, or constructively through 1733
related interests, five per cent or more of the ownership or 1734
equity interests. The trustee shall notify the tax commissioner 1735
in writing of the election on or before April 15, 2006. The 1736
election, if timely made, shall be effective on and after 1737
January 1, 2006, and shall apply for all tax periods and tax 1738
years until revoked by the trustee of the trust. 1739

(4) A "pre-income tax trust" is a trust that satisfies all 1740
of the following requirements: 1741

(a) The document or instrument creating the trust was 1742
executed by the grantor before January 1, 1972; 1743

(b) The trust became irrevocable upon the creation of the 1744
trust; and 1745

(c) The grantor was domiciled in this state at the time 1746
the trust was created. 1747

(GG) "Uniformed services" has the same meaning as in 10 1748
U.S.C. 101. 1749

(HH) "Taxable business income" means the amount by which 1750
an individual's business income that is included in federal 1751
adjusted gross income exceeds the amount of business income the 1752
individual is authorized to deduct under division (A) (31) of 1753
this section for the taxable year. 1754

Section 2. That existing sections 4117.10 and 5747.01 of 1755
the Revised Code are hereby repealed. 1756

Section 3. Section 1 of this act, except for section 1757
4143.03 and division (A) of section 4143.10 of the Revised Code, 1758
shall take effect December 31, 2018. Section 4143.03 of the 1759
Revised Code, as enacted by this act, shall take effect July 1, 1760

2020. Division (A) of section 4143.10 of the Revised Code, as 1761
enacted by this act, shall take effect on the effective date of 1762
this section. 1763

Section 4. Employers shall begin to deduct and withhold 1764
premiums from the wages of employees or pay contributions as 1765
described in divisions (B), (C), and (D) of section 4143.10 of 1766
the Revised Code, as enacted by this act, on July 1, 2019. 1767

Section 5. Section 4143.06 of the Revised Code, as enacted 1768
by this act, applies to collective bargaining agreements that 1769
are entered into or renewed, or employer policies that are 1770
adopted or revised, on or after the effective date of this act. 1771

Section 6. (A) Not later than December 31, 2018, the 1772
Director of Job and Family Services shall conduct an actuarial 1773
evaluation before establishing the Family and Medical Leave 1774
Insurance Program under Chapter 4143. of the Revised Code, as 1775
enacted by this act. The actuarial evaluation shall determine 1776
all of the following: 1777

(1) The premium amounts required under section 4143.10 of 1778
the Revised Code, as enacted by this act, necessary to 1779
sufficiently fund the Program; 1780

(2) The balance necessary to ensure the actuarial 1781
soundness of the Family and Medical Leave Insurance Fund created 1782
by section 4143.10 of the Revised Code, as enacted by this act; 1783

(3) The administrative and technology costs necessary to 1784
establish and operate the Program. 1785

(B) The Director may apply for and accept gifts, grants, 1786
donations, and any available federal funding to conduct the 1787
actuarial evaluation in division (A) of this section. The 1788
Director shall transmit any gifts, grants, donations, or federal 1789

funding to the Treasurer of State for deposit in the Family and 1790
Medical Leave Insurance Fund created by section 4143.10 of the 1791
Revised Code, as enacted by this act. 1792

(C) Notwithstanding the deadline in division (A) of this 1793
section, the Director shall not conduct the actuarial evaluation 1794
unless the Director receives sufficient funds to cover the costs 1795
to perform the evaluation. 1796