

As Passed by the Senate

126th General Assembly
Regular Session
2005-2006

Am. S. B. No. 81

Senators Armbruster, Hottinger, Spada, Austria, Gardner, Goodman, Harris

—

A BILL

To amend sections 4141.01, 4141.11, 4141.131, 1
4141.24, 4141.242, 4141.25, 4141.26, 4141.28, 2
4141.282, 4141.283, 4141.29, 4141.301, 4141.31, 3
4141.312, and 4141.99, to enact sections 4141.292 4
and 4141.48, and to repeal section 4141.311 of the 5
Revised Code to conform state law to federal 6
requirements in the establishment of civil and 7
criminal penalties for manipulating payroll and 8
business transfer information to obtain lower 9
contribution rates and in the treatment of Indian 10
tribes as employers, to establish a state disaster 11
unemployment benefit payment to pay the first week 12
of an individual's unemployment caused by a major 13
disaster, to make changes involving the appeal 14
process for claims under the unemployment 15
compensation law, and to make various changes in 16
the administration of the unemployment 17
compensation law. 18

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

Section 1. That sections 4141.01, 4141.11, 4141.131, 4141.24, 19
4141.242, 4141.25, 4141.26, 4141.28, 4141.282, 4141.283, 4141.29, 20
4141.301, 4141.31, 4141.312, and 4141.99 be amended and sections 21

4141.292 and 4141.48 of the Revised Code be enacted to read as 22
follows: 23

Sec. 4141.01. As used in this chapter, unless the context 24
otherwise requires: 25

(A)(1) "Employer" means the state, its instrumentalities, its 26
political subdivisions and their instrumentalities, Indian tribes, 27
and any individual or type of organization including any 28
partnership, limited liability company, association, trust, 29
estate, joint-stock company, insurance company, or corporation, 30
whether domestic or foreign, or the receiver, trustee in 31
bankruptcy, trustee, or the successor thereof, or the legal 32
representative of a deceased person who subsequent to December 31, 33
1971, or in the case of political subdivisions or their 34
instrumentalities, subsequent to December 31, 1973: 35

(a) Had in employment at least one individual, or in the case 36
of a nonprofit organization, subsequent to December 31, 1973, had 37
not less than four individuals in employment for some portion of a 38
day in each of twenty different calendar weeks, in either the 39
current or the preceding calendar year whether or not the same 40
individual was in employment in each such day; or 41

(b) Except for a nonprofit organization, had paid for service 42
in employment wages of fifteen hundred dollars or more in any 43
calendar quarter in either the current or preceding calendar year; 44
or 45

(c) Had paid, subsequent to December 31, 1977, for employment 46
in domestic service in a local college club, or local chapter of a 47
college fraternity or sorority, cash remuneration of one thousand 48
dollars or more in any calendar quarter in the current calendar 49
year or the preceding calendar year, or had paid subsequent to 50
December 31, 1977, for employment in domestic service in a private 51
home cash remuneration of one thousand dollars in any calendar 52

quarter in the current calendar year or the preceding calendar
year:

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

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

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

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

(ii) Had at least ten individuals in employment in
agricultural labor, not including agricultural workers who are
aliens admitted to the United States to perform agricultural labor
pursuant to sections ~~214(e)~~ 1184(c) and ~~101(a)(15)(H)~~
1101(a)(15)(H) of the "Immigration and Nationality Act," 66 Stat.
163, 189, 8 U.S.C.A. 1101(a)(15)(H)(ii)(a), 1184(c), for some
portion of a day in each of the twenty different calendar weeks,
in either the current or preceding calendar year whether or not
the same individual was in employment in each day; or

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

(i) For which, within either the current or preceding
calendar year, service, except for domestic service in a private
home not covered under division (A)(1)(c) of this section, is or

was performed with respect to which such employer is liable for 83
any federal tax against which credit may be taken for 84
contributions required to be paid into a state unemployment fund; 85

(ii) Which, as a condition for approval of this chapter for 86
full tax credit against the tax imposed by the "Federal 87
Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, is 88
required, pursuant to such act to be an employer under this 89
chapter; or 90

(iii) Who became an employer by election under division 91
(A)(4) or (5) of this section and for the duration of such 92
election; or 93

(f) In the case of the state, its instrumentalities, its 94
political subdivisions, and their instrumentalities, and Indian 95
tribes, had in employment, as defined in ~~division~~ divisions 96
(B)(2)(a) and (B)(2)(1) of this section, at least one individual; 97

(g) For the purposes of division (A)(1)(a) of this section, 98
if any week includes both the thirty-first day of December and the 99
first day of January, the days of that week before the first day 100
of January shall be considered one calendar week and the days 101
beginning the first day of January another week. 102

(2) Each individual employed to perform or to assist in 103
performing the work of any agent or employee of an employer is 104
employed by such employer for all the purposes of this chapter, 105
whether such individual was hired or paid directly by such 106
employer or by such agent or employee, provided the employer had 107
actual or constructive knowledge of the work. All individuals 108
performing services for an employer of any person in this state 109
who maintains two or more establishments within this state are 110
employed by a single employer for the purposes of this chapter. 111

(3) An employer subject to this chapter within any calendar 112
year is subject to this chapter during the whole of such year and 113

during the next succeeding calendar year. 114

(4) An employer not otherwise subject to this chapter who 115
files with the director of job and family services a written 116
election to become an employer subject to this chapter for not 117
less than two calendar years shall, with the written approval of 118
such election by the director, become an employer subject to this 119
chapter to the same extent as all other employers as of the date 120
stated in such approval, and shall cease to be subject to this 121
chapter as of the first day of January of any calendar year 122
subsequent to such two calendar years only if at least thirty days 123
prior to such first day of January the employer has filed with the 124
director a written notice to that effect. 125

(5) Any employer for whom services that do not constitute 126
employment are performed may file with the director a written 127
election that all such services performed by individuals in the 128
employer's employ in one or more distinct establishments or places 129
of business shall be deemed to constitute employment for all the 130
purposes of this chapter, for not less than two calendar years. 131
Upon written approval of the election by the director, such 132
services shall be deemed to constitute employment subject to this 133
chapter from and after the date stated in such approval. Such 134
services shall cease to be employment subject to this chapter as 135
of the first day of January of any calendar year subsequent to 136
such two calendar years only if at least thirty days prior to such 137
first day of January such employer has filed with the director a 138
written notice to that effect. 139

(B)(1) "Employment" means service performed by an individual 140
for remuneration under any contract of hire, written or oral, 141
express or implied, including service performed in interstate 142
commerce and service performed by an officer of a corporation, 143
without regard to whether such service is executive, managerial, 144
or manual in nature, and without regard to whether such officer is 145

a stockholder or a member of the board of directors of the
corporation, unless it is shown to the satisfaction of the
director that such individual has been and will continue to be
free from direction or control over the performance of such
service, both under a contract of service and in fact. The
director shall adopt rules to define "direction or control."

(2) "Employment" includes:

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

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

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

(d) Agricultural labor performed after December 31, 1977, for
a farm operator or a crew leader, as provided in division

(A)(1)(d) of this section; 177

(e) Service not covered under division (B)(1) of this section 178
which is performed after December 31, 1971: 179

(i) As an agent-driver or commission-driver engaged in 180
distributing meat products, vegetable products, fruit products, 181
bakery products, beverages other than milk, laundry, or 182
dry-cleaning services, for the individual's employer or principal; 183

(ii) As a traveling or city salesperson, other than as an 184
agent-driver or commission-driver, engaged on a full-time basis in 185
the solicitation on behalf of and in the transmission to the 186
salesperson's employer or principal except for sideline sales 187
activities on behalf of some other person of orders from 188
wholesalers, retailers, contractors, or operators of hotels, 189
restaurants, or other similar establishments for merchandise for 190
resale, or supplies for use in their business operations, provided 191
that for the purposes of division (B)(2)(e)(ii) of this section, 192
the services shall be deemed employment if the contract of service 193
contemplates that substantially all of the services are to be 194
performed personally by the individual and that the individual 195
does not have a substantial investment in facilities used in 196
connection with the performance of the services other than in 197
facilities for transportation, and the services are not in the 198
nature of a single transaction that is not a part of a continuing 199
relationship with the person for whom the services are performed. 200

(f) An individual's entire service performed within or both 201
within and without the state if: 202

(i) The service is localized in this state. 203

(ii) The service is not localized in any state, but some of 204
the service is performed in this state and either the base of 205
operations, or if there is no base of operations then the place 206
from which such service is directed or controlled, is in this 207

state or the base of operations or place from which such service 208
is directed or controlled is not in any state in which some part 209
of the service is performed but the individual's residence is in 210
this state. 211

(g) Service not covered under division (B)(2)(f)(ii) of this 212
section and performed entirely without this state, with respect to 213
no part of which contributions are required and paid under an 214
unemployment compensation law of any other state, the Virgin 215
Islands, Canada, or of the United States, if the individual 216
performing such service is a resident of this state and the 217
director approves the election of the employer for whom such 218
services are performed; or, if the individual is not a resident of 219
this state but the place from which the service is directed or 220
controlled is in this state, the entire services of such 221
individual shall be deemed to be employment subject to this 222
chapter, provided service is deemed to be localized within this 223
state if the service is performed entirely within this state or if 224
the service is performed both within and without this state but 225
the service performed without this state is incidental to the 226
individual's service within the state, for example, is temporary 227
or transitory in nature or consists of isolated transactions; 228

(h) Service of an individual who is a citizen of the United 229
States, performed outside the United States except in Canada after 230
December 31, 1971, or the Virgin Islands, after December 31, 1971, 231
and before the first day of January of the year following that in 232
which the United States secretary of labor approves the Virgin 233
Islands law for the first time, in the employ of an American 234
employer, other than service which is "employment" under divisions 235
(B)(2)(f) and (g) of this section or similar provisions of another 236
state's law, if: 237

(i) The employer's principal place of business in the United 238
States is located in this state; 239

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

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

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

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

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

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

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

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

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

(v) The employer hires, supervises, or pays the wages of the individual performing services;

(vi) A continuing relationship between the employer and the individual performing services exists which contemplates continuing or recurring work, even if not full-time work;

(vii) The employer requires the individual to perform services during established hours;

(viii) The employer requires that the individual performing services be devoted on a full-time basis to the business of the employer;

(ix) The employer requires the individual to perform services on the employer's premises;

(x) The employer requires the individual performing services	302
to follow the order of work established by the employer;	303
(xi) The employer requires the individual performing services	304
to make oral or written reports of progress;	305
(xii) The employer makes payment to the individual for	306
services on a regular basis, such as hourly, weekly, or monthly;	307
(xiii) The employer pays expenses for the individual	308
performing services;	309
(xiv) The employer furnishes the tools and materials for use	310
by the individual to perform services;	311
(xv) The individual performing services has not invested in	312
the facilities used to perform services;	313
(xvi) The individual performing services does not realize a	314
profit or suffer a loss as a result of the performance of the	315
services;	316
(xvii) The individual performing services is not performing	317
services for more than two employers simultaneously;	318
(xviii) The individual performing services does not make the	319
services available to the general public;	320
(xix) The employer has a right to discharge the individual	321
performing services;	322
(xx) The individual performing services has the right to end	323
the individual's relationship with the employer without incurring	324
liability pursuant to an employment contract or agreement.	325
<u>(1) Service performed by an individual in the employ of an</u>	326
<u>Indian tribe as defined by section 4(e) of the "Indian</u>	327
<u>Self-Determination and Education Assistance Act," 88 Stat. 2204</u>	328
<u>(1975), 25 U.S.C.A. 450b(e), including any subdivision,</u>	329
<u>subsidiary, or business enterprise wholly owned by an Indian tribe</u>	330

provided that the service is excluded from employment as defined 331
in the "Federal Unemployment Tax Act," 53 Stat. 183, (1939), 26 332
U.S.C.A. 3301 and 3306(c)(7) and is not excluded under division 333
(B)(3) of this section. 334

(3) "Employment" does not include the following services if 335
they are found not subject to the "Federal Unemployment Tax Act," 336
84 Stat. 713 (1970), 26 U.S.C.A. 3301 to 3311, and if the services 337
are not required to be included under division (B)(2)(j) of this 338
section: 339

(a) Service performed after December 31, 1977, in 340
agricultural labor, except as provided in division (A)(1)(d) of 341
this section; 342

(b) Domestic service performed after December 31, 1977, in a 343
private home, local college club, or local chapter of a college 344
fraternity or sorority except as provided in division (A)(1)(c) of 345
this section; 346

(c) Service performed after December 31, 1977, for this state 347
or a political subdivision as described in division (B)(2)(a) of 348
this section when performed: 349

(i) As a publicly elected official; 350

(ii) As a member of a legislative body, or a member of the 351
judiciary; 352

(iii) As a military member of the Ohio national guard; 353

(iv) As an employee, not in the classified service as defined 354
in section 124.11 of the Revised Code, serving on a temporary 355
basis in case of fire, storm, snow, earthquake, flood, or similar 356
emergency; 357

(v) In a position which, under or pursuant to law, is 358
designated as a major nontenured policymaking or advisory 359
position, not in the classified service of the state, or a 360

361 policymaking or advisory position the performance of the duties of
362 which ordinarily does not require more than eight hours per week.

363 (d) In the employ of any governmental unit or instrumentality
364 of the United States;

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

366 (i) Service in the employ of an educational institution or
367 institution of higher education, including those operated by the
368 state or a political subdivision, if such service is performed by
369 a student who is enrolled and is regularly attending classes at
370 the educational institution or institution of higher education; or

371 (ii) By an individual who is enrolled at a nonprofit or
372 public educational institution which normally maintains a regular
373 faculty and curriculum and normally has a regularly organized body
374 of students in attendance at the place where its educational
375 activities are carried on as a student in a full-time program,
376 taken for credit at the institution, which combines academic
377 instruction with work experience, if the service is an integral
378 part of the program, and the institution has so certified to the
379 employer, provided that this subdivision shall not apply to
380 service performed in a program established for or on behalf of an
381 employer or group of employers;

382 (f) Service performed by an individual in the employ of the
383 individual's son, daughter, or spouse and service performed by a
384 child under the age of eighteen in the employ of the child's
385 father or mother;

386 (g) Service performed for one or more principals by an
387 individual who is compensated on a commission basis, who in the
388 performance of the work is master of the individual's own time and
389 efforts, and whose remuneration is wholly dependent on the amount
390 of effort the individual chooses to expend, and which service is
391 not subject to the "Federal Unemployment Tax Act," 53 Stat. 183

(1939), 26 U.S.C.A. 3301 to 3311. Service performed after December 31, 1971: 392
393

(i) By an individual for an employer as an insurance agent or 394
as an insurance solicitor, if all this service is performed for 395
remuneration solely by way of commission; 396

(ii) As a home worker performing work, according to 397
specifications furnished by the employer for whom the services are 398
performed, on materials or goods furnished by such employer which 399
are required to be returned to the employer or to a person 400
designated for that purpose. 401

(h) Service performed after December 31, 1971: 402

(i) In the employ of a church or convention or association of 403
churches, or in an organization which is operated primarily for 404
religious purposes and which is operated, supervised, controlled, 405
or principally supported by a church or convention or association 406
of churches; 407

(ii) By a duly ordained, commissioned, or licensed minister 408
of a church in the exercise of the individual's ministry or by a 409
member of a religious order in the exercise of duties required by 410
such order; or 411

(iii) In a facility conducted for the purpose of carrying out 412
a program of rehabilitation for individuals whose earning capacity 413
is impaired by age or physical or mental deficiency or injury, or 414
providing remunerative work for individuals who because of their 415
impaired physical or mental capacity cannot be readily absorbed in 416
the competitive labor market, by an individual receiving such 417
rehabilitation or remunerative work; 418

(i) Service performed after June 30, 1939, with respect to 419
which unemployment compensation is payable under the "Railroad 420
Unemployment Insurance Act," 52 Stat. 1094 (1938), 45 U.S.C. 351; 421

(j) Service performed by an individual in the employ of any 422
organization exempt from income tax under section 501 of the 423
"Internal Revenue Code of 1954," if the remuneration for such 424
service does not exceed fifty dollars in any calendar quarter, or 425
if such service is in connection with the collection of dues or 426
premiums for a fraternal beneficial society, order, or association 427
and is performed away from the home office or is ritualistic 428
service in connection with any such society, order, or 429
association; 430

(k) Casual labor not in the course of an employer's trade or 431
business; incidental service performed by an officer, appraiser, 432
or member of a finance committee of a bank, building and loan 433
association, savings and loan association, or savings association 434
when the remuneration for such incidental service exclusive of the 435
amount paid or allotted for directors' fees does not exceed sixty 436
dollars per calendar quarter is casual labor; 437

(l) Service performed in the employ of a voluntary employees' 438
beneficial association providing for the payment of life, 439
sickness, accident, or other benefits to the members of such 440
association or their dependents or their designated beneficiaries, 441
if admission to a membership in such association is limited to 442
individuals who are officers or employees of a municipal or public 443
corporation, of a political subdivision of the state, or of the 444
United States and no part of the net earnings of such association 445
inures, other than through such payments, to the benefit of any 446
private shareholder or individual; 447

(m) Service performed by an individual in the employ of a 448
foreign government, including service as a consular or other 449
officer or employee or of a nondiplomatic representative; 450

(n) Service performed in the employ of an instrumentality 451
wholly owned by a foreign government if the service is of a 452

character similar to that performed in foreign countries by 453
employees of the United States or of an instrumentality thereof 454
and if the director finds that the secretary of state of the 455
United States has certified to the secretary of the treasury of 456
the United States that the foreign government, with respect to 457
whose instrumentality exemption is claimed, grants an equivalent 458
exemption with respect to similar service performed in the foreign 459
country by employees of the United States and of instrumentalities 460
thereof; 461

(o) Service with respect to which unemployment compensation 462
is payable under an unemployment compensation system established 463
by an act of congress; 464

(p) Service performed as a student nurse in the employ of a 465
hospital or a nurses' training school by an individual who is 466
enrolled and is regularly attending classes in a nurses' training 467
school chartered or approved pursuant to state law, and service 468
performed as an intern in the employ of a hospital by an 469
individual who has completed a four years' course in a medical 470
school chartered or approved pursuant to state law; 471

(q) Service performed by an individual under the age of 472
eighteen in the delivery or distribution of newspapers or shopping 473
news, not including delivery or distribution to any point for 474
subsequent delivery or distribution; 475

(r) Service performed in the employ of the United States or 476
an instrumentality of the United States immune under the 477
Constitution of the United States from the contributions imposed 478
by this chapter, except that to the extent that congress permits 479
states to require any instrumentalities of the United States to 480
make payments into an unemployment fund under a state unemployment 481
compensation act, this chapter shall be applicable to such 482
instrumentalities and to services performed for such 483

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

(s) Service performed by an individual as a member of a band
or orchestra, provided such service does not represent the
principal occupation of such individual, and which service is not
subject to or required to be covered for full tax credit against
the tax imposed by the "Federal Unemployment Tax Act," 53 Stat.
183 (1939), 26 U.S.C.A. 3301 to 3311. ~~Service performed after
December 31, 1971, for a nonprofit organization, this state or its
instrumentalities, or a political subdivision or its
instrumentalities, as part of an unemployment work relief or
work training program assisted or financed in whole or in part by
any federal agency or an agency of a state or political
subdivision thereof, by an individual receiving the work relief or
work training.~~

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

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

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

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

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

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

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

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

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

(z) Service performed for an Indian tribe as described in 546
division (B)(2)(1) of this section when performed in any of the 547
following manners: 548

(i) As a publicly elected official; 549

(ii) As a member of an Indian tribal council; 550

(iii) As a member of a legislative or judiciary body; 551

(iv) In a position which, pursuant to Indian tribal law, is 552
designated as a major nontenured policymaking or advisory 553
position, or a policymaking or advisory position where the 554
performance of the duties ordinarily does not require more than 555
eight hours of time per week; 556

(v) As an employee serving on a temporary basis in the case 557
of a fire, storm, snow, earthquake, flood, or similar emergency. 558

(aa) Service performed after December 31, 1971, for a 559
nonprofit organization, this state or its instrumentalities, a 560
political subdivision or its instrumentalities, or an Indian tribe 561
as part of an unemployment work-relief or work-training program 562
assisted or financed in whole or in part by any federal agency or 563
an agency of a state or political subdivision, thereof, by an 564
individual receiving the work-relief or work-training. 565

(4) If the services performed during one half or more of any 566
pay period by an employee for the person employing that employee 567
constitute employment, all the services of such employee for such 568
period shall be deemed to be employment; but if the services 569
performed during more than one half of any such pay period by an 570
employee for the person employing that employee do not constitute 571
employment, then none of the services of such employee for such 572
period shall be deemed to be employment. As used in division 573
(B)(4) of this section, "pay period" means a period, of not more 574
than thirty-one consecutive days, for which payment of 575

remuneration is ordinarily made to the employee by the person 576
employing that employee. Division (B)(4) of this section does not 577
apply to services performed in a pay period by an employee for the 578
person employing that employee, if any of such service is excepted 579
by division (B)(3)(o) of this section. 580

(C) "Benefits" means money payments payable to an individual 581
who has established benefit rights, as provided in this chapter, 582
for loss of remuneration due to the individual's unemployment. 583

(D) "Benefit rights" means the weekly benefit amount and the 584
maximum benefit amount that may become payable to an individual 585
within the individual's benefit year as determined by the 586
director. 587

(E) "Claim for benefits" means a claim for waiting period or 588
benefits for a designated week. 589

(F) "Additional claim" means the first claim for benefits 590
filed following any separation from employment during a benefit 591
year; "continued claim" means any claim other than the first claim 592
for benefits and other than an additional claim. 593

(G)(1) "Wages" means remuneration paid to an employee by each 594
of the employee's employers with respect to employment; except 595
that wages shall not include that part of remuneration paid during 596
any calendar year to an individual by an employer or such 597
employer's predecessor in interest in the same business or 598
enterprise, which in any calendar year is in excess of eight 599
thousand two hundred fifty dollars on and after January 1, 1992; 600
eight thousand five hundred dollars on and after January 1, 1993; 601
eight thousand seven hundred fifty dollars on and after January 1, 602
1994; and nine thousand dollars on and after January 1, 1995. 603
Remuneration in excess of such amounts shall be deemed wages 604
subject to contribution to the same extent that such remuneration 605
is defined as wages under the "Federal Unemployment Tax Act," 84 606

Stat. 714 (1970), 26 U.S.C.A. 3301 to 3311, as amended. The
remuneration paid an employee by an employer with respect to
employment in another state, upon which contributions were
required and paid by such employer under the unemployment
compensation act of such other state, shall be included as a part
of remuneration in computing the amount specified in this
division.

(2) Notwithstanding division (G)(1) of this section, if, as
of the computation date for any calendar year, the director
determines that the level of the unemployment compensation fund is
sixty per cent or more below the minimum safe level as defined in
section 4141.25 of the Revised Code, then, effective the first day
of January of the following calendar year, wages subject to this
chapter shall not include that part of remuneration paid during
any calendar year to an individual by an employer or such
employer's predecessor in interest in the same business or
enterprise which is in excess of nine thousand dollars. The
increase in the dollar amount of wages subject to this chapter
under this division shall remain in effect from the date of the
director's determination pursuant to division (G)(2) of this
section and thereafter notwithstanding the fact that the level in
the fund may subsequently become less than sixty per cent below
the minimum safe level.

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

The reasonable cash value of compensation paid in any medium 639
other than cash shall be estimated and determined in accordance 640
with rules prescribed by the director, provided that 641
"remuneration" does not include: 642

(a) Payments as provided in divisions (b)(2) to (b)(16) of 643
section 3306 of the "Federal Unemployment Tax Act," 84 Stat. 713, 644
26 U.S.C.A. 3301 to 3311, as amended; 645

(b) The payment by an employer, without deduction from the 646
remuneration of the individual in the employer's employ, of the 647
tax imposed upon an individual in the employer's employ under 648
section 3101 of the "Internal Revenue Code of 1954," with respect 649
to services performed after October 1, 1941. 650

(2) "Cash remuneration" means all remuneration paid in cash, 651
including commissions and bonuses, but not including the cash 652
value of all compensation in any medium other than cash. 653

(I) "Interested party" means the director and any party to 654
whom notice of a determination of an application for benefit 655
rights or a claim for benefits is required to be given under 656
section 4141.28 of the Revised Code. 657

(J) "Annual payroll" means the total amount of wages subject 658
to contributions during a twelve-month period ending with the last 659
day of the second calendar quarter of any calendar year. 660

(K) "Average annual payroll" means the average of the last 661
three annual payrolls of an employer, provided that if, as of any 662
computation date, the employer has had less than three annual 663
payrolls in such three-year period, such average shall be based on 664
the annual payrolls which the employer has had as of such date. 665

(L)(1) "Contributions" means the money payments to the state 666
unemployment compensation fund required of employers by section 667
4141.25 of the Revised Code and of the state and any of its 668

political subdivisions electing to pay contributions under section 669
4141.242 of the Revised Code. Employers paying contributions shall 670
be described as "contributory employers." 671

(2) "Payments in lieu of contributions" means the money 672
payments to the state unemployment compensation fund required of 673
reimbursing employers under sections 4141.241 and 4141.242 of the 674
Revised Code. 675

(M) An individual is "totally unemployed" in any week during 676
which the individual performs no services and with respect to such 677
week no remuneration is payable to the individual. 678

(N) An individual is "partially unemployed" in any week if, 679
due to involuntary loss of work, the total remuneration payable to 680
the individual for such week is less than the individual's weekly 681
benefit amount. 682

(O) "Week" means the calendar week ending at midnight 683
Saturday unless an equivalent week of seven consecutive calendar 684
days is prescribed by the director. 685

(1) "Qualifying week" means any calendar week in an 686
individual's base period with respect to which the individual 687
earns or is paid remuneration in employment subject to this 688
chapter. A calendar week with respect to which an individual earns 689
remuneration but for which payment was not made within the base 690
period, when necessary to qualify for benefit rights, may be 691
considered to be a qualifying week. The number of qualifying weeks 692
which may be established in a calendar quarter shall not exceed 693
the number of calendar weeks in the quarter. 694

(2) "Average weekly wage" means the amount obtained by 695
dividing an individual's total remuneration for all qualifying 696
weeks during the base period by the number of such qualifying 697
weeks, provided that if the computation results in an amount that 698
is not a multiple of one dollar, such amount shall be rounded to 699

the next lower multiple of one dollar. 700

(P) "Weekly benefit amount" means the amount of benefits an 701
individual would be entitled to receive for one week of total 702
unemployment. 703

(Q)(1) "Base period" means the first four of the last five 704
completed calendar quarters immediately preceding the first day of 705
an individual's benefit year, except as provided in division 706
(Q)(2) of this section. 707

(2) If an individual does not have sufficient qualifying 708
weeks and wages in the base period to qualify for benefit rights, 709
the individual's base period shall be the four most recently 710
completed calendar quarters preceding the first day of the 711
individual's benefit year. Such base period shall be known as the 712
"alternate base period." If information as to weeks and wages for 713
the most recent quarter of the alternate base period is not 714
available to the director from the regular quarterly reports of 715
wage information, which are systematically accessible, the 716
director may, consistent with the provisions of section 4141.28 of 717
the Revised Code, base the determination of eligibility for 718
benefits on the affidavit of the claimant with respect to weeks 719
and wages for that calendar quarter. The claimant shall furnish 720
payroll documentation, where available, in support of the 721
affidavit. The determination based upon the alternate base period 722
as it relates to the claimant's benefit rights, shall be amended 723
when the quarterly report of wage information from the employer is 724
timely received and that information causes a change in the 725
determination. As provided in division (B) of section 4141.28 of 726
the Revised Code, any benefits paid and charged to an employer's 727
account, based upon a claimant's affidavit, shall be adjusted 728
effective as of the beginning of the claimant's benefit year. No 729
calendar quarter in a base period or alternate base period shall 730
be used to establish a subsequent benefit year. 731

(3) The "base period" of a combined wage claim, as described 732
in division (H) of section 4141.43 of the Revised Code, shall be 733
the base period prescribed by the law of the state in which the 734
claim is allowed. 735

(4) For purposes of determining the weeks that comprise a 736
completed calendar quarter under this division, only those weeks 737
ending at midnight Saturday within the calendar quarter shall be 738
utilized. 739

(R)(1) "Benefit year" with respect to an individual means the 740
fifty-two week period beginning with the first day of that week 741
with respect to which the individual first files a valid 742
application for determination of benefit rights, and thereafter 743
the fifty-two week period beginning with the first day of that 744
week with respect to which the individual next files a valid 745
application for determination of benefit rights after the 746
termination of the individual's last preceding benefit year, 747
except that the application shall not be considered valid unless 748
the individual has had employment in six weeks that is subject to 749
this chapter or the unemployment compensation act of another 750
state, or the United States, and has, since the beginning of the 751
individual's previous benefit year, in the employment earned three 752
times the average weekly wage determined for the previous benefit 753
year. The "benefit year" of a combined wage claim, as described in 754
division (H) of section 4141.43 of the Revised Code, shall be the 755
benefit year prescribed by the law of the state in which the claim 756
is allowed. Any application for determination of benefit rights 757
made in accordance with section 4141.28 of the Revised Code is 758
valid if the individual filing such application is unemployed, has 759
been employed by an employer or employers subject to this chapter 760
in at least twenty qualifying weeks within the individual's base 761
period, and has earned or been paid remuneration at an average 762
weekly wage of not less than twenty-seven and one-half per cent of 763

the statewide average weekly wage for such weeks. For purposes of
determining whether an individual has had sufficient employment
since the beginning of the individual's previous benefit year to
file a valid application, "employment" means the performance of
services for which remuneration is payable.

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

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

(4) As used in this division, an individual is "unemployed"
if, with respect to the calendar week in which such application is
filed, the individual is "partially unemployed" or "totally
unemployed" as defined in this section or if, prior to filing the

application, the individual was separated from the individual's 796
most recent work for any reason which terminated the individual's 797
employee-employer relationship, or was laid off indefinitely or 798
for a definite period of seven or more days. 799

(S) "Calendar quarter" means the period of three consecutive 800
calendar months ending on the thirty-first day of March, the 801
thirtieth day of June, the thirtieth day of September, and the 802
thirty-first day of December, or the equivalent thereof as the 803
director prescribes by rule. 804

(T) "Computation date" means the first day of the third 805
calendar quarter of any calendar year. 806

(U) "Contribution period" means the calendar year beginning 807
on the first day of January of any year. 808

(V) "Agricultural labor," for the purpose of this division, 809
means any service performed prior to January 1, 1972, which was 810
agricultural labor as defined in this division prior to that date, 811
and service performed after December 31, 1971: 812

(1) On a farm, in the employ of any person, in connection 813
with cultivating the soil, or in connection with raising or 814
harvesting any agricultural or horticultural commodity, including 815
the raising, shearing, feeding, caring for, training, and 816
management of livestock, bees, poultry, and fur-bearing animals 817
and wildlife; 818

(2) In the employ of the owner or tenant or other operator of 819
a farm in connection with the operation, management, conservation, 820
improvement, or maintenance of such farm and its tools and 821
equipment, or in salvaging timber or clearing land of brush and 822
other debris left by hurricane, if the major part of such service 823
is performed on a farm; 824

(3) In connection with the production or harvesting of any 825

commodity defined as an agricultural commodity in section 15 (g) 826
of the "Agricultural Marketing Act," 46 Stat. 1550 (1931), 12 827
U.S.C. 1141j, as amended, or in connection with the ginning of 828
cotton, or in connection with the operation or maintenance of 829
ditches, canals, reservoirs, or waterways, not owned or operated 830
for profit, used exclusively for supplying and storing water for 831
farming purposes; 832

(4) In the employ of the operator of a farm in handling, 833
planting, drying, packing, packaging, processing, freezing, 834
grading, storing, or delivering to storage or to market or to a 835
carrier for transportation to market, in its unmanufactured state, 836
any agricultural or horticultural commodity, but only if the 837
operator produced more than one half of the commodity with respect 838
to which such service is performed; 839

(5) In the employ of a group of operators of farms, or a 840
cooperative organization of which the operators are members, in 841
the performance of service described in division (V)(4) of this 842
section, but only if the operators produced more than one-half of 843
the commodity with respect to which the service is performed; 844

(6) Divisions (V)(4) and (5) of this section shall not be 845
deemed to be applicable with respect to service performed: 846

(a) In connection with commercial canning or commercial 847
freezing or in connection with any agricultural or horticultural 848
commodity after its delivery to a terminal market for distribution 849
for consumption; or 850

(b) On a farm operated for profit if the service is not in 851
the course of the employer's trade or business. 852

As used in division (V) of this section, "farm" includes 853
stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, 854
plantations, ranches, nurseries, ranges, greenhouses, or other 855
similar structures used primarily for the raising of agricultural 856

or horticultural commodities and orchards. 857

(W) "Hospital" means an institution which has been registered 858
or licensed by the Ohio department of health as a hospital. 859

(X) "Nonprofit organization" means an organization, or group 860
of organizations, described in section 501(c)(3) of the "Internal 861
Revenue Code of 1954," and exempt from income tax under section 862
501(a) of that code. 863

(Y) "Institution of higher education" means a public or 864
nonprofit educational institution, including an educational 865
institution operated by an Indian tribe, which: 866

(1) Admits as regular students only individuals having a 867
certificate of graduation from a high school, or the recognized 868
equivalent; 869

(2) Is legally authorized in this state or by the Indian 870
tribe to provide a program of education beyond high school; and 871

(3) Provides an educational program for which it awards a 872
bachelor's or higher degree, or provides a program which is 873
acceptable for full credit toward such a degree, a program of 874
post-graduate or post-doctoral studies, or a program of training 875
to prepare students for gainful employment in a recognized 876
occupation. 877

For the purposes of this division, all colleges and 878
universities in this state are institutions of higher education. 879

(Z) For the purposes of this chapter, "states" includes the 880
District of Columbia, the Commonwealth of Puerto Rico, and the 881
Virgin Islands. 882

(AA) "Alien" means, for the purposes of division (A)(1)(d) of 883
this section, an individual who is an alien admitted to the United 884
States to perform service in agricultural labor pursuant to 885
sections 214 (c) and 101 (a)(15)(H) of the "Immigration and 886

Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101. 887

(BB)(1) "Crew leader" means an individual who furnishes 888
individuals to perform agricultural labor for any other employer 889
or farm operator, and: 890

(a) Pays, either on the individual's own behalf or on behalf 891
of the other employer or farm operator, the individuals so 892
furnished by the individual for the service in agricultural labor 893
performed by them; 894

(b) Has not entered into a written agreement with the other 895
employer or farm operator under which the agricultural worker is 896
designated as in the employ of the other employer or farm 897
operator. 898

(2) For the purposes of this chapter, any individual who is a 899
member of a crew furnished by a crew leader to perform service in 900
agricultural labor for any other employer or farm operator shall 901
be treated as an employee of the crew leader if: 902

(a) The crew leader holds a valid certificate of registration 903
under the "Farm Labor Contractor Registration Act of 1963," 90
Stat. 2668, 7 U.S.C. 2041; or 904
905

(b) Substantially all the members of the crew operate or 906
maintain tractors, mechanized harvesting or crop-dusting 907
equipment, or any other mechanized equipment, which is provided by 908
the crew leader; and 909

(c) If the individual is not in the employment of the other 910
employer or farm operator within the meaning of division (B)(1) of 911
this section. 912

(3) For the purposes of this division, any individual who is 913
furnished by a crew leader to perform service in agricultural 914
labor for any other employer or farm operator and who is not 915
treated as in the employment of the crew leader under division 916

(BB)(2) of this section shall be treated as the employee of the
other employer or farm operator and not of the crew leader. The
other employer or farm operator shall be treated as having paid
cash remuneration to the individual in an amount equal to the
amount of cash remuneration paid to the individual by the crew
leader, either on the crew leader's own behalf or on behalf of the
other employer or farm operator, for the service in agricultural
labor performed for the other employer or farm operator.

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

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

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

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

Sec. 4141.11. There is hereby created in the state treasury
the unemployment compensation special administrative fund. The
fund shall consist of all interest collected on delinquent
contributions pursuant to this chapter, all fines and forfeitures
collected under this chapter, and all court costs and interest
paid or collected in connection with the repayment of fraudulently

obtained benefits pursuant to section 4141.35 of the Revised Code. 947
All interest earned on the money in the fund shall be retained in 948
the fund and shall not be credited or transferred to any other 949
fund or account, except as provided in division (B) of this 950
section. All moneys which are deposited or paid into this fund may 951
be used by: 952

(A) The director of job and family services with the approval 953
of the unemployment compensation advisory council whenever it 954
appears that such use is necessary for: 955

(1) The proper administration of this chapter and no federal 956
funds are available for the specific purpose for which the 957
expenditure is to be made, provided the moneys are not substituted 958
for appropriations from federal funds, which in the absence of 959
such moneys would be available; 960

(2) The proper administration of this chapter for which 961
purpose appropriations from federal funds have been requested and 962
approved but not received, provided the fund would be reimbursed 963
upon receipt of the federal appropriation; 964

(3) To the extent possible, the repayment to the unemployment 965
compensation administration fund of moneys found by the proper 966
agency of the United States to have been lost or expended for 967
purposes other than, or an amount in excess of, those found 968
necessary by the proper agency of the United States for the 969
administration of this chapter. 970

(B) The director or the director's deputy whenever it appears 971
that such use is necessary for the payment of refunds or 972
adjustments of interest, fines, forfeitures, or court costs 973
erroneously collected and paid into this fund pursuant to this 974
chapter. 975

(C) The director, to pay state disaster unemployment benefits 976
pursuant to section 4141.292 of the Revised Code. The director 977

need not have prior approval from the council to make these 978
payments. 979

(D) The director, to pay any costs attributable to the 980
director that are associated with the sale of real property under 981
section 4141.131 of the Revised Code. The director need not have 982
prior approval from the council to make these payments. 983

Whenever the balance in the unemployment compensation special 984
administrative fund is considered to be excessive by the council, 985
the director shall request the director of budget and management 986
to transfer to the unemployment compensation fund the amount 987
considered to be excessive. Any balance in the unemployment 988
compensation special administrative fund shall not lapse at any 989
time, but shall be continuously available to the director of jobs 990
and family services or to the council for expenditures consistent 991
with this chapter. 992

Sec. 4141.131. (A) The director of job and family services 993
may enter into contracts for the sale of real property no longer 994
needed by the director for the operations of the director under 995
this title. Any costs attributable to the director that are 996
associated with the sale of real property under this section shall 997
be paid out of the unemployment compensation special 998
administrative fund established pursuant to section 4141.11 of the 999
Revised Code. The director shall submit a report summarizing the 1000
use of that fund for the purpose of this section at least annually 1001
to the unemployment compensation advisory council as prescribed by 1002
the council. 1003

(B)(1) Earnest moneys from the sale of real property pursuant 1004
to division (A) of this section shall be deposited into the 1005
department of job and family services building consolidation fund, 1006
which is hereby created in the state treasury. The balance of the 1007
purchase price shall be deposited into the department of job and 1008

family services building enhancement fund, which is hereby created 1009
in the state treasury. The building enhancement fund shall retain 1010
its own interest. Upon completion of the sale and the request of 1011
the director, the treasurer of state shall transfer the earnest 1012
moneys in the building consolidation fund into the building 1013
enhancement fund. The director shall use the interest earned on 1014
the moneys in the building enhancement fund only in accordance 1015
with division (C) of this section. 1016

(2) The director shall deposit sufficient moneys from the 1017
sale of real property pursuant to division (A) of this section 1018
into the unemployment compensation special administrative fund to 1019
reimburse the fund for all costs associated with the sale of that 1020
real property. 1021

(C) The director shall use the moneys in the building 1022
enhancement fund from the sale of real property pursuant to 1023
division (A) of this section, less the costs of the sale as 1024
specified in division (B)(2) of this section, in accordance with 1025
the provisions and requirements of the "Social Security Act," 49 1026
Stat. 626 (1935), 52 U.S.C. 502(a) and 1103(c)(2), and the 1027
instructions of the United States department of labor, to improve 1028
buildings owned by or under the control of the director. If the 1029
director determines that there are no buildings for which money in 1030
the building enhancement fund may be used, the money shall be 1031
returned to the United States department of labor. 1032

(D) The auditor of state, with the assistance of the attorney 1033
general, shall prepare a deed to the real property being sold upon 1034
notice from the director that a contract for the sale of that 1035
property has been executed in accordance with this section. The 1036
deed shall state the consideration and any conditions placed upon 1037
the sale. The deed shall be executed by the governor in the name 1038
of the state, countersigned by the secretary of state, sealed with 1039
the great seal of the state, presented in the office of the 1040

auditor of state for recording, and delivered to the buyer upon 1041
payment of the balance of the purchase price. 1042

The buyer shall present the deed for recording in the county 1043
recorder's office of the county in which the real property is 1044
located. 1045

Sec. 4141.24. (A)(1) The director of job and family services 1046
shall maintain a separate account for each employer and, except as 1047
otherwise provided in division (B) of section 4141.25 of the 1048
Revised Code respecting mutualized contributions, shall credit 1049
such employer's account with all the contributions, or payments in 1050
lieu of contributions, which the employer has paid on the 1051
employer's own behalf. 1052

(2) If, as of the computation date, a contributory employer's 1053
account shows a negative balance computed as provided in division 1054
(A)(3) of section 4141.25 of the Revised Code, less any 1055
contributions due and unpaid on such date, which negative balance 1056
is in excess of the limitations imposed by divisions (A)(2)(a), 1057
(b), and (c) of this section and if the employer's account is 1058
otherwise eligible for the transfer, then before the employer's 1059
contribution rate is computed for the next succeeding contribution 1060
period, an amount equal to the amount of the excess eligible for 1061
transfer shall be permanently transferred from the account of such 1062
employer and charged to the mutualized account provided in 1063
division (B) of section 4141.25 of the Revised Code. 1064

(a) If as of any computation date, a contributory employer's 1065
account shows a negative balance in excess of ten per cent of the 1066
employer's average annual payroll, then before the employer's 1067
contribution rate is computed for the next succeeding contribution 1068
period, an amount equal to the amount of the excess shall be 1069
transferred from the account as provided in this division. No 1070
contributory employer's account may have any excess transferred 1071

pursuant to division (A)(2)(a) of this section, unless the
employer's account has shown a positive balance for at least two
consecutive computation dates prior to the computation date with
respect to which the transfer is proposed. Each time a transfer is
made pursuant to division (A)(2)(a) of this section, the
employer's account is ineligible for any additional transfers
under that division, until the account shows a positive balance
for at least two consecutive computation dates subsequent to the
computation date of which the most recent transfer occurs pursuant
to division (A)(2)(a), (b), or (c) of this section.

(b) If at the next computation date after the computation
date at which a transfer from the account occurs pursuant to
division (A)(2)(a) of this section, a contributory employer's
account shows a negative balance in excess of fifteen per cent of
the employer's average annual payroll, then before the employer's
contribution rate is computed for the next succeeding contribution
period an amount equal to the amount of the excess shall be
permanently transferred from the account as provided in this
division.

(c) If at the next computation date subsequent to the
computation date at which a transfer from a contributory
employer's account occurs pursuant to division (A)(2)(b) of this
section, the employer's account shows a negative balance in excess
of twenty per cent of the employer's average annual payroll, then
before the employer's contribution rate is computed for the next
succeeding contribution period, an amount equal to the amount of
the excess shall be permanently transferred from the account as
provided in this division.

(d) If no transfer occurs pursuant to division (A)(2)(b) or
(c) of this section, the employer's account is ineligible for any
additional transfers under division (A)(2) of this section until
the account requalifies for a transfer pursuant to division

(A)(2)(a) of this section. 1104

(B) Any employer may make voluntary payments in addition to 1105
the contributions required under this chapter, in accordance with 1106
rules established by the director. Such payments shall be included 1107
in the employer's account as of the computation date, provided 1108
they are received by the director by the thirty-first day of 1109
December following such computation date. Such voluntary payment, 1110
when accepted from an employer, will not be refunded in whole or 1111
in part. In determining whether an employer's account has a 1112
positive balance on two consecutive computation dates and is 1113
eligible for transfers under division (A)(2) of this section, the 1114
director shall exclude any voluntary payments made subsequent to 1115
the last transfer made under division (A)(2) of this section. 1116

(C) All contributions to the fund shall be pooled and 1117
available to pay benefits to any individual entitled to benefits 1118
irrespective of the source of such contributions. 1119

(D)(1) For the purposes of this section and sections 4141.241 1120
and 4141.242 of the Revised Code, an employer's account shall be 1121
charged only for benefits based on remuneration paid by such 1122
employer. Benefits paid to an eligible individual shall be charged 1123
against the account of each employer within the claimant's base 1124
period in the proportion to which wages attributable to each 1125
employer of the claimant bears to the claimant's total base period 1126
wages. Charges to the account of a base period employer with whom 1127
the claimant is employed part-time at the time the claimant's 1128
application for a determination of benefits rights is filed shall 1129
be charged to the mutualized account when all of the following 1130
conditions are met: 1131

(a) The claimant also worked part-time for the employer 1132
during the base period of the claim. 1133

(b) The claimant is unemployed due to loss of other 1134

employment. 1135

(c) The employer is not a reimbursing employer under section 1136
4141.241 or 4141.242 of the Revised Code. 1137

(2) Notwithstanding division (D)(1) of this section, charges 1138
to the account of any employer, including any reimbursing 1139
employer, shall be charged to the mutualized account if it finally 1140
is determined by a court on appeal that the employer's account is 1141
not chargeable for the benefits. 1142

(3) Any benefits paid to a claimant under section 4141.28 of 1143
the Revised Code prior to a final determination of the claimant's 1144
right to the benefits shall be charged to the employer's account 1145
as provided in division (D)(1) of this section, provided that if 1146
there is no final determination of the claim by the subsequent 1147
thirtieth day of June, the employer's account shall be credited 1148
with the total amount of benefits that has been paid prior to that 1149
date, based on the determination that has not become final. The 1150
total amount credited to the employer's account shall be charged 1151
to a suspense account, which shall be maintained as a separate 1152
bookkeeping account and administered as a part of this section, 1153
and shall not be used in determining the account balance of the 1154
employer for the purpose of computing the employer's contribution 1155
rate under section 4141.25 of the Revised Code. 1156

If it is finally determined that the claimant is entitled to 1157
all or a part of the benefits in dispute, the suspense account 1158
shall be credited and the appropriate employer's account charged 1159
with the benefits. If it is finally determined that the claimant 1160
is not entitled to all or any portion of the benefits in dispute, 1161
the benefits shall be credited to the suspense account and a 1162
corresponding charge made to the mutualized account established in 1163
division (B) of section 4141.25 of the Revised Code, provided 1164
that, except as otherwise provided in this section, if benefits 1165

are chargeable to an employer or group of employers who is 1166
required or elects to make payments to the fund in lieu of 1167
contributions under section 4141.241 of the Revised Code, the 1168
benefits shall be charged to the employer's account in the manner 1169
provided in division (D)(1) of this section and division (B) of 1170
section 4141.241 of the Revised Code, and no part of the benefits 1171
may be charged to the suspense account provided in this division. 1172

To the extent that benefits that have been paid to a claimant 1173
and charged to the employer's account are found not to be due the 1174
claimant and are recovered by the director as provided in section 1175
4141.35 of the Revised Code, they shall be credited to the 1176
employer's account. 1177

(4) The director shall notify each employer at least once 1178
each month of the benefits charged to the employer's account since 1179
the last preceding notice; except that for the purposes of 1180
sections 4141.241 and 4141.242 of the Revised Code which provides 1181
the billing of employers on a payment in lieu of a contribution 1182
basis, the director may prescribe a quarterly or less frequent 1183
notice of benefits charged to the employer's account. Such notice 1184
will show a summary of the amount of benefits paid which were 1185
charged to the employer's account. This notice shall not be deemed 1186
a determination of the claimant's eligibility for benefits. Any 1187
employer so notified, however, may file within fifteen days after 1188
the mailing date of the notice, an exception to charges appearing 1189
on the notice on the grounds that such charges are not in 1190
accordance with this section. The director shall promptly examine 1191
the exception to such charges and shall notify the employer of the 1192
director's decision thereon, which decision shall become final 1193
unless appealed to the unemployment compensation review commission 1194
in the manner provided in section 4141.26 of the Revised Code. For 1195
the purposes of this division, an exception is considered timely 1196
filed when it has been received as provided in division (D)(1) of 1197

section 4141.281 of the Revised Code. 1198

(E) The director shall terminate and close the account of any 1199
contributory employer who has been subject to this chapter if the 1200
enterprise for which the account was established is no longer in 1201
operation and it has had no payroll and its account has not been 1202
chargeable with benefits for a period of five consecutive years. 1203
The amount of any positive balance, computed as provided in 1204
division (A)(3) of section 4141.25 of the Revised Code, in an 1205
account closed and terminated as provided in this section shall be 1206
credited to the mutualized account as provided in division 1207
(B)(2)(b) of section 4141.25 of the Revised Code. The amount of 1208
any negative balance, computed as provided in division (A)(3) of 1209
section 4141.25 of the Revised Code, in an account closed and 1210
terminated as provided in this section shall be charged to the 1211
mutualized account as provided in division (B)(1)(b) of section 1212
4141.25 of the Revised Code. The amount of any positive balance or 1213
negative balance, credited or charged to the mutualized account 1214
after the termination and closing of an employer's account, shall 1215
not thereafter be considered in determining the contribution rate 1216
of such employer. The closing of an employer's account as provided 1217
in this division shall not relieve such employer from liability 1218
for any unpaid contributions or payment in lieu of contributions 1219
which are due for periods prior to such closing. 1220

If the director finds that a contributory employer's business 1221
is closed solely because of the entrance of one or more of the 1222
owners, officers, or partners, or the majority stockholder, into 1223
the armed forces of the United States, or any of its allies, or of 1224
the United Nations after July 1, 1950, such employer's account 1225
shall not be terminated and if the business is resumed within two 1226
years after the discharge or release of such persons from active 1227
duty in the armed forces, the employer's experience shall be 1228
deemed to have been continuous throughout such period. The reserve 1229

ratio of any such employer shall be the total contributions paid 1230
by such employer minus all benefits, including benefits paid to 1231
any individual during the period such employer was in the armed 1232
forces, based upon wages paid by the employer prior to the 1233
employer's entrance into the armed forces divided by the average 1234
of the employer's annual payrolls for the three most recent years 1235
during the whole of which the employer has been in business. 1236

(F) If an employer transfers ~~the employer's business or~~ 1237
~~otherwise reorganizes such business,~~ all of its trade or business 1238
to another employer or person, the acquiring employer or person 1239
shall be the successor in interest to the transferring employer 1240
and shall assume the resources and liabilities of such 1241
transferring employer's account, and continue the payment of all 1242
contributions, or payments in lieu of contributions, due under 1243
this chapter. ~~If~~ 1244

If an employer or person acquires substantially all ~~of the~~ 1245
~~assets in a trade or business of another employer,~~ or a clearly 1246
segregable and identifiable portion of an employer's ~~enterprise,~~ 1247
~~and immediately after the acquisition employs in the employer's~~ 1248
trade or business ~~substantially the same individuals who~~ 1249
~~immediately prior to the acquisition were employed in the trade or~~ 1250
~~business or in the separate unit of such trade or business of such~~ 1251
~~predecessor employer,~~ then, upon the director's approval of a 1252
properly completed application ~~to the director signed by the~~ 1253
~~predecessor employer and the acquiring employer for successorship,~~ 1254
the employer or person acquiring ~~such enterprise is~~ the trade or 1255
business, or portion thereof, shall be the successor in interest. 1256
~~In the case of a transfer of a portion of an employer's~~ 1257
~~enterprise, only that part of the experience with unemployment~~ 1258
~~compensation and payrolls that is directly attributable to the~~ 1259
~~segregated and identifiable part shall be transferred and used in~~ 1260
~~computing the contribution rate of the successor employer on the~~ 1261

~~next computation date.~~ The director by rule may prescribe 1262
procedures for effecting transfers of experience as provided for 1263
in this section. 1264

~~(G) For the purposes of this section, two or more employers~~ 1265
~~who are parties to or the subject of a merger, consolidation, or~~ 1266
~~other form of reorganization effecting a change in legal identity~~ 1267
~~or form are deemed to be a single~~ Notwithstanding sections 1268
4141.09, 4141.23, 4141.24, 4141.241, 4141.242, 4141.25, 4141.26, 1269
and 4141.27 of the Revised Code, both of the following apply 1270
regarding assignment of rates and transfers of experience: 1271

~~(1) If an employer if the director finds that immediately~~ 1272
~~after such change the employing enterprises of the predecessor~~ 1273
~~employers are continued solely through a single~~ transfers its 1274
trade or business, or a portion thereof, to another employer ~~as~~ 1275
~~successor thereto, and immediately after such change such~~ 1276
~~successor is owned or controlled by and, at the time of the~~ 1277
transfer, both employers are under substantially the same 1278
~~interests as the predecessor employers, and the successor has~~ 1279
~~assumed liability for all contributions required of the~~ 1280
~~predecessor employers, and the consideration of such two or more~~ 1281
~~employers as a single employer for the purposes of this section~~ 1282
~~would not be inequitable~~ common ownership, management, or control, 1283
then the unemployment experience attributable to the transferred 1284
trade or business, or portion thereof, shall be transferred to the 1285
employer to whom the business is so transferred. The director 1286
shall recalculate the rates of both employers and those rates 1287
shall be effective immediately upon the date of the transfer of 1288
the trade or business. 1289

~~(2) Whenever a person is not an employer under this chapter~~ 1290
~~at the time the person acquires the trade or business of an~~ 1291
~~employer, the unemployment experience of the acquired trade or~~ 1292
~~business shall not be transferred to the person if the director~~ 1293

finds that the person acquired the trade or business solely or 1294
primarily for the purpose of obtaining a lower rate of 1295
contributions. Instead, that person shall be assigned the 1296
applicable new employer rate under division (A)(1) of section 1297
4141.25 of the Revised Code. 1298

(H) The director shall establish procedures to identify the 1299
transfer or acquisition of a trade or business for purposes of 1300
this section and shall adopt rules prescribing procedures for 1301
effecting transfers of experience as described in this section. 1302

(I) No rate of contribution less than two and seven-tenths 1303
per cent shall be permitted a contributory employer succeeding to 1304
the experience of another contributory employer pursuant to this 1305
section for any period subsequent to such succession, except in 1306
accordance with rules prescribed by the director, which rules 1307
shall be consistent with federal requirements for additional 1308
credit allowance in section 3303 of the "Internal Revenue Code of 1309
1954" and consistent with this chapter, except that such rules may 1310
establish a computation date for any such period different from 1311
the computation date generally prescribed by this chapter, and may 1312
define "calendar year" as meaning a twelve-consecutive-month 1313
period ending on the same day of the year as that on which such 1314
computation date occurs. 1315

~~(I)~~(J) The director may prescribe rules for the 1316
establishment, maintenance, and dissolution of common contribution 1317
rates for two or more contributory employers, and in accordance 1318
with such rules and upon application by two or more employers 1319
shall establish such common rate to be computed by merging the 1320
several contribution rate factors of such employers for the 1321
purpose of establishing a common contribution rate applicable to 1322
all such employers. 1323

Sec. 4141.242. (A) On or after January 1, 1978, the state, 1324

its instrumentalities, its political subdivisions and their 1325
instrumentalities, and any subdivision thereof as defined in 1326
division (H) of this section and described in this section as 1327
public entities, and Indian tribes as defined by section 4(e) of 1328
the "Indian Self-Determination and Education Assistance Act," 88 1329
Stat. 2204 (1975), 25 U.S.C.A. 450b(e), shall pay to the director 1330
of job and family services for deposit in the unemployment 1331
compensation fund an amount in lieu of contributions equal to the 1332
full amount of regular benefits, and the amount of extended 1333
benefits chargeable under the terms of section 4141.301 of the 1334
Revised Code, from that fund that is attributable to service in 1335
the employ of the public entity or Indian tribe, under the same 1336
terms and conditions as required of nonprofit organizations 1337
electing reimbursing status under section 4141.241 of the Revised 1338
Code; unless the public entity or Indian tribe elects to pay 1339
contributions under section 4141.25 of the Revised Code, under the 1340
following conditions: 1341

(1) Any public entity or Indian tribe may elect, after 1342
December 31, 1977, to become liable for contribution payments, as 1343
set forth in section 4141.25 of the Revised Code, for a period of 1344
not less than two calendar years by filing with the director a 1345
written notice of its election. 1346

(2) The effective date of the election to pay contributions 1347
shall be the first day of the first calendar quarter after the 1348
election is approved by the director and which is at least thirty 1349
days after the election notice was received. 1350

(B) No surety bond shall be required of any reimbursing 1351
public entity or Indian tribe, as is required of nonprofit 1352
organizations under division (C) of section 4141.241 of the 1353
Revised Code. Any public entity or Indian tribe, either 1354
reimbursing or contributory, shall, if it becomes delinquent in 1355
the payment of reimbursements, contributions, forfeiture, or 1356

interest, be subject to the same terms and the same collection 1357
procedures as are set forth for reimbursing employers under 1358
division (B) of section 4141.241 of the Revised Code; and as set 1359
forth for contributory employers under this chapter except as 1360
provided under division (D) of this section. 1361

(C) The state of Ohio account and the accounts and 1362
subaccounts of its instrumentalities, as defined in divisions 1363
(H)(1)(a) and (b) of this section, shall be administered by the 1364
director of administrative services, in coordination with the 1365
director of job and family services in accordance with the terms 1366
and conditions of this chapter, regarding the determination and 1367
payment of benefits attributable to service with the state or its 1368
instrumentalities. In this capacity, the director of 1369
administrative services shall maintain any necessary accounts and 1370
subaccounts for the various agencies and departments of the state 1371
and, through the director of budget and management, apportion 1372
among the various state entities, and collect, the costs of 1373
unemployment benefits, as billed by the director of job and family 1374
services, except that any of the individual agencies and 1375
departments for which such accounts and subaccounts are maintained 1376
may, with the concurrence of the director of administrative 1377
services and the director of job and family services, be 1378
designated to receive billings directly from the director of job 1379
and family services and make payment in response to such billings 1380
directly to the director of job and family services. Any moneys 1381
paid directly under this division and collected by the director of 1382
administrative services shall be forwarded to the director of job 1383
and family services for deposit in the fund established by 1384
division (A) of section 4141.09 of the Revised Code, and shall be 1385
credited to the accounts of the state and its instrumentalities. 1386

(D) The accounts of the various local subdivisions, ~~and~~ their 1387
instrumentalities, and Indian tribes shall be administered by 1388

appropriate officials, as designated to the director of job and 1389
family services when the accounts are established. 1390

(E) Two or more reimbursing public entities or Indian tribes 1391
may file a joint application to the director of job and family 1392
services for the establishment of a group account, for the purpose 1393
of sharing the cost of benefits attributable to service with the 1394
public entities or Indian tribes, under the conditions provided 1395
for nonprofit organizations under division (D) of section 4141.241 1396
of the Revised Code. 1397

(F) Two or more public entities or Indian tribes that have 1398
elected to pay contributions may apply for a common rate under 1399
division ~~(I)~~(J) of section 4141.24 of the Revised Code. Clear 1400
authority, resolution, or ordinance for combining must be 1401
presented with the application requesting the common rate status. 1402
Applications must be filed by the first day of October of any 1403
year, to be effective for the following calendar year. 1404

(G) A public entity or Indian tribe, either reimbursing or 1405
one electing to pay contributions, shall be liable for the full 1406
amount of any regular benefits paid that are attributable to 1407
service in the employ of the public entity or Indian tribe during 1408
the base period of a benefit claim, and any extended benefits paid 1409
based on service as provided in divisions (G)(1)(b) and (1)(c) of 1410
section 4141.301 of the Revised Code. Where a public entity or 1411
Indian tribe has changed from a reimbursing status to a 1412
contributory status, during the base period of the benefit claim, 1413
then the benefit charges attributable to service with the 1414
reimbursement account shall be charged to the reimbursement 1415
account; and, the charges attributable to the contributory account 1416
shall be charged to that account. The same rule shall be 1417
applicable to situations where a contributory public entity or 1418
Indian tribe has changed to a reimbursing status during the base 1419
period of a benefit claim. 1420

(H)(1) For the purposes of establishing employer status and 1421
accounts for the state and its instrumentalities, its political 1422
subdivisions and their instrumentalities, a separate account shall 1423
be established and maintained for: 1424

(a) The state, including therein the legislative and 1425
executive branches, as defined in Articles II and III of the Ohio 1426
Constitution, and the Ohio supreme court; 1427

(b) Each separate instrumentality of the state; 1428

(c) Each political subdivision of the state, including 1429
therein the legislative, executive, and judicial functions 1430
performed for the subdivision; 1431

(d) Each separate instrumentality of the political 1432
subdivision; 1433

(e) Any jointly owned instrumentality of more than one of the 1434
public entities described in this division, or any jointly owned 1435
instrumentality of any such public entities and one or more other 1436
states or political subdivisions thereof. 1437

(2) For the purposes of this chapter, the separate accounts, 1438
established by this division, shall be described as "public entity 1439
accounts." 1440

(I) An Indian tribe may elect to make payments in lieu of 1441
contributions as allowed with respect to governmental entities 1442
under this section. An Indian tribe may make a separate election 1443
for itself and each subdivision, subsidiary, or business 1444
enterprise wholly owned by the Indian tribe. The director shall 1445
immediately notify the United States internal revenue service and 1446
the United States department of labor if an Indian tribe fails to 1447
make payments required under this section and fails to pay any 1448
forfeitures, interest, or penalties due within ninety days of 1449
receiving a delinquency notice in accordance with rules prescribed 1450

by the director. 1451

(J) The director of job and family services, in accordance 1452
with any rules that the director may prescribe, shall notify each 1453
public entity and Indian tribe of any determination which the 1454
director may make of its status as an employer and of the 1455
effective date of any election which it makes and of any 1456
termination of the election. Any determinations are subject to 1457
reconsideration, appeal, and review in accordance with sections 1458
4141.26 and 4141.28 of the Revised Code. 1459

Sec. 4141.25. (A) The director of job and family services 1460
shall determine as of each computation date the contribution rate 1461
of each contributing employer subject to this chapter for the next 1462
succeeding contribution period. The director shall determine a 1463
standard rate of contribution or an experience rate for each 1464
contributing employer. Once a rate of contribution has been 1465
established under this section for a contribution period, except 1466
as provided in division (D) of section 4141.26 of the Revised 1467
Code, that rate shall remain effective throughout such 1468
contribution period. The rate of contribution shall be determined 1469
in accordance with the following requirements: 1470

(1) An employer whose experience does not meet the terms of 1471
division (A)(2) of this section shall be assigned a standard rate 1472
of contribution. Effective for contribution periods beginning on 1473
and after January 1, 1998, an employer's standard rate of 1474
contribution shall be a rate of two and seven-tenths per cent, 1475
except that the rate for employers engaged in the construction 1476
industry shall be the average contribution rate computed for the 1477
construction industry or a rate of two and seven-tenths per cent, 1478
whichever is greater. The standard rate set forth in this division 1479
shall be applicable to a nonprofit organization whose election to 1480
make payments in lieu of contributions is voluntarily terminated 1481

or canceled by the director under section 4141.241 of the Revised
Code, and thereafter pays contributions as required by this
section. If such nonprofit organization had been a contributory
employer prior to its election to make payments in lieu of
contributions, then any prior balance in the contributory account
shall become part of the reactivated account.

As used in division (A) of this section, "the average
contribution rate computed for the construction industry" means
the most recent annual average rate attributable to the
construction industry as prescribed by the director.

(2) A contributing employer subject to this chapter shall
qualify for an experience rate only if there have been four
consecutive quarters, ending on the thirtieth day of June
immediately prior to the computation date, throughout which the
employer's account was chargeable with benefits. Upon meeting the
qualifying requirements provided in division (A)(2) of this
section, the director shall calculate the total credits to each
employer's account consisting of the contributions other than
mutualized contributions including all contributions paid prior to
the computation date for all past periods plus:

(a) The contributions owing on the computation date that are
paid within thirty days after the computation date, and credited
to the employer's account;

(b) All voluntary contributions paid by an employer pursuant
to division (B) of section 4141.24 of the Revised Code.

(3) The director also shall determine the benefits which are
chargeable to each employer's account and which were paid prior to
the computation date with respect to weeks of unemployment ending
prior to the computation date. The director then shall determine
the positive or negative balance of each employer's account by
calculating the excess of such contributions and interest over the

benefits chargeable, or the excess of such benefits over such
contributions and interest. Any resulting negative balance then
shall be subject to adjustment as provided in division (A)(2) of
section 4141.24 of the Revised Code after which the positive or
negative balance shall be expressed in terms of a percentage of
the employer's average annual payroll. If the total standing to
the credit of an employer's account exceeds the total charges, as
provided in this division, the employer has a positive balance and
if such charges exceed such credits the employer has a negative
balance. Each employer's contribution rate shall then be
determined in accordance with the following schedule:

Contribution Rate Schedule

If, as of the computation date the contribution rate balance of an employer's account as a percentage of the employer's average annual payroll is	The employer's contribution rate for the next succeeding contribution period shall be	
(a) A negative balance of:		
20.0% or more	6.5%	1531
19.0% but less than 20.0%	6.4%	1532
17.0% but less than 19.0%	6.3%	1533
15.0% but less than 17.0%	6.2%	1534
13.0% but less than 15.0%	6.1%	1535
11.0% but less than 13.0%	6.0%	1536
9.0% but less than 11.0%	5.9%	1537
5.0% but less than 9.0%	5.7%	1538
4.0% but less than 5.0%	5.5%	1539
3.0% but less than 4.0%	5.3%	1540
2.0% but less than 3.0%	5.1%	1541
1.0% but less than 2.0%	4.9%	1542
more than 0.0% but less than 1.0%	4.8%	1543
(b) A 0.0% or a positive		1544

balance of less than 1.0%	4.7%	1545
(c) A positive balance of:		1546
1.0% or more, but less than 1.5%	4.6%	1547
1.5% or more, but less than 2.0%	4.5%	1548
2.0% or more, but less than 2.5%	4.3%	1549
2.5% or more, but less than 3.0%	4.0%	1550
3.0% or more, but less than 3.5%	3.8%	1551
3.5% or more, but less than 4.0%	3.5%	1552
4.0% or more, but less than 4.5%	3.3%	1553
4.5% or more, but less than 5.0%	3.0%	1554
5.0% or more, but less than 5.5%	2.8%	1555
5.5% or more, but less than 6.0%	2.5%	1556
6.0% or more, but less than 6.5%	2.2%	1557
6.5% or more, but less than 7.0%	2.0%	1558
7.0% or more, but less than 7.5%	1.8%	1559
7.5% or more, but less than 8.0%	1.6%	1560
8.0% or more, but less than 8.5%	1.4%	1561
8.5% or more, but less than 9.0%	1.3%	1562
9.0% or more, but less than 9.5%	1.1%	1563
9.5% or more, but less than	1.0%	1564
10.0%		
10.0% or more, but less than	.9%	1565
10.5%		
10.5% or more, but less than	.7%	1566
11.0%		
11.0% or more, but less than	.6%	1567
11.5%		
11.5% or more, but less than	.5%	1568
12.0%		
12.0% or more, but less than	.4%	1569
12.5%		
12.5% or more, but less than	.3%	1570
13.0%		

13.0% or more, but less than	.2%	1571
14.0%		
14.0% or more	.1%	1572

(d) The contribution rates shall be as specified in divisions 1573
(a), (b), and (c) of the contribution rate schedule except that 1574
notwithstanding the amendments made to division (a) of the 1575
contribution rate schedule in this section, if, as of the 1576
computation date: for 1991, the negative balance is 5.0% or more, 1577
the contribution rate shall be 5.7%; for 1992, if the negative 1578
balance is 11.0% or more, the contribution rate shall be 6.0%; and 1579
for 1993, if the negative balance is 17.0% or more, the 1580
contribution rate shall be 6.3%. Thereafter, the contribution 1581
rates shall be as specified in the contribution rate schedule. 1582

(B)(1) The director shall establish and maintain a separate 1583
account to be known as the "mutualized account." As of each 1584
computation date there shall be charged to this account: 1585

(a) As provided in division (A)(2) of section 4141.24 of the 1586
Revised Code, an amount equal to the sum of that portion of the 1587
negative balances of employer accounts which exceeds the 1588
applicable limitations as such balances are computed under 1589
division (A) of this section as of such date; 1590

(b) An amount equal to the sum of the negative balances 1591
remaining in employer accounts which have been closed during the 1592
year immediately preceding such computation date pursuant to 1593
division (E) of section 4141.24 of the Revised Code; 1594

(c) An amount equal to the sum of all benefits improperly 1595
paid preceding such computation date which are not recovered but 1596
which are not charged to an employer's account, or which after 1597
being charged, are credited back to an employer's account; 1598

(d) An amount equal to the sum of any other benefits paid 1599
preceding such computation date which, under this chapter, are not 1600

chargeable to an employer's account; 1601

(e) An amount equal to the sum of any refunds made during the 1602
year immediately preceding such computation date of erroneously 1603
collected mutualized contributions required by this division which 1604
were previously credited to this account; 1605

(f) An amount equal to the sum of any repayments made to the 1606
federal government during the year immediately preceding such 1607
computation date of amounts which may have been advanced by it to 1608
the unemployment compensation fund under section 1201 of the 1609
"Social Security Act," 49 Stat. 648 (1935), 42 U.S.C. 301; 1610

(g) Any amounts appropriated by the general assembly out of 1611
funds paid by the federal government, under section 903 of the 1612
"Social Security Act," to the account of this state in the federal 1613
unemployment trust fund. 1614

(2) As of every computation date there shall be credited to 1615
the mutualized account provided for in this division: 1616

(a) The proceeds of the mutualized contributions as provided 1617
in this division; 1618

(b) Any positive balances remaining in employer accounts 1619
which are closed as provided in division (E) of section 4141.24 of 1620
the Revised Code; 1621

(c) Any benefits improperly paid which are recovered but 1622
which cannot be credited to an employer's account; 1623

(d) All amounts which may be paid by the federal government 1624
under section 903 of the "Social Security Act" to the account of 1625
this state in the federal unemployment trust fund; 1626

(e) Amounts advanced by the federal government to the account 1627
of this state in the federal unemployment trust fund under section 1628
1201 of the "Social Security Act" to the extent such advances have 1629
been repaid to or recovered by the federal government; 1630

(f) Interest credited to the Ohio unemployment trust fund as 1631
deposited with the secretary of the treasury of the United States. 1632

(3) Annually, as of the computation date, the director shall 1633
determine the total credits and charges made to the mutualized 1634
account during the preceding twelve months and the overall 1635
condition of the account. The director shall issue an annual 1636
statement containing this information and such other information 1637
as the director deems pertinent, including a report that the sum 1638
of the balances in the mutualized account, employers' accounts, 1639
and any subsidiary accounts equal the balance in the state's 1640
unemployment trust fund maintained under section 904 of the 1641
"Social Security Act." 1642

(4) As used in this division: 1643

(a) "Fund as of the computation date" means as of any 1644
computation date, the aggregate amount of the unemployment 1645
compensation fund, including all contributions owing on the 1646
computation date that are paid within thirty days thereafter, all 1647
payments in lieu of contributions that are paid within sixty days 1648
after the computation date, all reimbursements of the federal 1649
share of extended benefits described in section 4141.301 of the 1650
Revised Code that are owing on the computation date, and all 1651
interest earned by the fund and received on or before the 1652
computation date from the federal government. 1653

(b) "Minimum safe level" means an amount equal to two 1654
standard deviations above the average of the adjusted annual 1655
average unemployment compensation benefit payment from 1970 to the 1656
most recent calendar year prior to the computation date, as 1657
determined by the director pursuant to division (B)(4)(b) of this 1658
section. To determine the adjusted annual payment of unemployment 1659
compensation benefits, the director first shall multiply the 1660
number of weeks compensated during each calendar year beginning 1661

with 1970 by the most recent annual average weekly unemployment 1662
compensation benefit payment and then compute the average and 1663
standard deviation of the resultant products. 1664

(c) "Annual average weekly unemployment compensation benefit 1665
payment" means the amount resulting from dividing the unemployment 1666
compensation benefits paid from the benefit account maintained 1667
within the unemployment compensation fund pursuant to section 1668
4141.09 of the Revised Code, by the number of weeks compensated 1669
during the same time period. 1670

(5) If, as of any computation date, the charges to the 1671
mutualized account during the entire period subsequent to the 1672
computation date, July 1, 1966, made in accordance with division 1673
(B)(1) of this section, exceed the credits to such account 1674
including mutualized contributions during such period, made in 1675
accordance with division (B)(2) of this section, the amount of 1676
such excess charges shall be recovered during the next 1677
contribution period. To recover such amount, the director shall 1678
compute the percentage ratio of such excess charges to the average 1679
annual payroll of all employers eligible for an experience rate 1680
under division (A) of this section. The percentage so determined 1681
shall be computed to the nearest tenth of one per cent and shall 1682
be an additional contribution rate to be applied to the wages paid 1683
by each employer whose rate is computed under the provisions of 1684
division (A) of this section in the contribution period next 1685
following such computation date, but such percentage shall not 1686
exceed five-tenths of one per cent; however, when there are any 1687
excess charges in the mutualized account, as computed in this 1688
division, then the mutualized contribution rate shall not be less 1689
than one-tenth of one per cent. 1690

(6) If the fund as of the computation date is above or below 1691
minimum safe level, the contribution rates provided for in each 1692
classification in division (A)(3) of this section for the next 1693

contribution period shall be adjusted as follows: 1694

(a) If the fund is thirty per cent or more above minimum safe 1695
level, the contribution rates provided in division (A)(3) of this 1696
section shall be decreased two-tenths of one per cent. 1697

(b) If the fund is more than fifteen per cent but less than 1698
thirty per cent above minimum safe level, the contribution rates 1699
provided in division (A)(3) of this section shall be decreased 1700
one-tenth of one per cent. 1701

(c) If the fund is more than fifteen per cent but less than 1702
thirty per cent below minimum safe level, the contribution rates 1703
of all employers shall be increased twenty-five one-thousandths of 1704
one per cent plus a per cent increase calculated and rounded 1705
pursuant to division (B)(6)(g) of this section. 1706

(d) If the fund is more than thirty per cent but less than 1707
forty-five per cent below minimum safe level, the contribution 1708
rates of all employers shall be increased seventy-five 1709
one-thousandths of one per cent plus a per cent increase 1710
calculated and rounded pursuant to division (B)(6)(g) of this 1711
section. 1712

(e) If the fund is more than forty-five per cent but less 1713
than sixty per cent below minimum safe level, the contribution 1714
rates of all employers shall be increased one-eighth of one per 1715
cent plus a per cent increase calculated and rounded pursuant to 1716
division (B)(6)(g) of this section. 1717

(f) If the fund is sixty per cent or more below minimum safe 1718
level, the contribution rates of all employers shall be increased 1719
two-tenths of one per cent plus a per cent increase calculated and 1720
rounded pursuant to division (B)(6)(g) of this section. 1721

(g) The additional per cent increase in contribution rates 1722
required by divisions (B)(6)(c), (d), (e), and (f) of this section 1723

that is payable by each individual employer shall be calculated in 1724
the following manner. The flat rate increase required by a 1725
particular division shall be multiplied by three and the product 1726
divided by the average experienced-rated contribution rate for all 1727
employers as determined by the director for the most recent 1728
calendar year. The resulting quotient shall be multiplied by an 1729
individual employer's contribution rate determined pursuant to 1730
division (A)(3) of this section. The resulting product shall be 1731
rounded to the nearest tenth of one per cent, added to the flat 1732
rate increase required by division (B)(6)(c), (d), (e), or (f) of 1733
this section, as appropriate, and the total shall be rounded to 1734
the nearest tenth of one per cent. As used in division (B)(6)(g) 1735
of this section, the "average experienced-rated contribution rate" 1736
means the most recent annual average contribution rate reported by 1737
the director contained in report RS 203.2 less the mutualized and 1738
minimum safe level contribution rates included in such rate. 1739

(h) If any of the increased contribution rates of division 1740
(B)(6)(c), (d), (e), or (f) of this section are imposed, the rate 1741
shall remain in effect for the calendar year in which it is 1742
imposed and for each calendar year thereafter until the director 1743
determines as of the computation date for calendar year 1991 and 1744
as of the computation date for any calendar year thereafter 1745
pursuant to this section, that the level of the unemployment 1746
compensation fund equals or exceeds the minimum safe level as 1747
defined in division (B)(4)(b) of this section. Nothing in division 1748
(B)(6)(h) of this section shall be construed as restricting the 1749
imposition of the increased contribution rates provided in 1750
divisions (B)(6)(c), (d), (e), and (f) of this section if the fund 1751
falls below the percentage of the minimum safe level as specified 1752
in those divisions. 1753

(7) The additional contributions required by division (B)(5) 1754
of this section shall be credited to the mutualized account. The 1755

additional contributions required by division (B)(6) of this 1756
section shall be credited fifty per cent to individual employer 1757
accounts and fifty per cent to the mutualized account. 1758

(C) If an employer makes a payment of contributions which is 1759
less than the full amount required by ~~divisions (A) and (B) of~~ 1760
this section and sections 4141.23, 4141.24, 4141.241, 4141.242, 1761
4141.25, 4141.26, and 4141.27 of the Revised Code, such partial 1762
payment shall be applied first against the mutualized 1763
contributions required under ~~division (B) of this section,~~ 1764
~~including the additional contributions required under division~~ 1765
~~(B)(6) of this section~~ chapter. Any remaining partial payment 1766
shall be credited to the employer's individual account. 1767

(D) Whenever there are any increases in contributions 1768
resulting from an increase in wages subject to contributions as 1769
defined in division (G) of section 4141.01 of the Revised Code, or 1770
from an increase in the mutualized rate of contributions provided 1771
in division (B) of this section, or from a revision of the 1772
contribution rate schedule provided in division (A) of this 1773
section, except for that portion of the increase attributable to a 1774
change in the positive or negative balance in an employer's 1775
account, which increases become effective after a contract for the 1776
construction of real property, as defined in section 5701.02 of 1777
the Revised Code, has been entered into, the contractee upon 1778
written notice by a prime contractor shall reimburse the 1779
contractor for all increased contributions paid by the prime 1780
contractor or by subcontractors upon wages for services performed 1781
under the contract. Upon reimbursement by the contractee to the 1782
prime contractor, the prime contractor shall reimburse each 1783
subcontractor for the increased contributions. 1784

(E) Effective only for the contribution period beginning on 1785
January 1, 1996, and ending on December 31, 1996, mutualized 1786
contributions collected or received by the director pursuant to 1787

division (B)(5) of this section and amounts credited to the 1788
mutualized account pursuant to division (B)(7) of this section 1789
shall be deposited into or credited to the unemployment 1790
compensation benefit reserve fund that is created under division 1791
(F) of this section, except that amounts collected, received, or 1792
credited in excess of two hundred million dollars shall be 1793
deposited into or credited to the unemployment trust fund 1794
established pursuant to section 4141.09 of the Revised Code. 1795

(F) The state unemployment compensation benefit reserve fund 1796
is hereby created as a trust fund in the custody of the treasurer 1797
of state and shall not be part of the state treasury. The fund 1798
shall consist of all moneys collected or received as mutualized 1799
contributions pursuant to division (B)(5) of this section and 1800
amounts credited to the mutualized account pursuant to division 1801
(B)(7) of this section as provided by division (E) of this 1802
section. All moneys in the fund shall be used solely to pay 1803
unemployment compensation benefits in the event that funds are no 1804
longer available for that purpose from the unemployment trust fund 1805
established pursuant to section 4141.09 of the Revised Code. 1806

(G) The balance in the unemployment compensation benefit 1807
reserve fund remaining at the end of the contribution period 1808
beginning January 1, 2000, and any mutualized contribution amounts 1809
for the contribution period beginning on January 1, 1996, that may 1810
be received after December 31, 2000, shall be deposited into the 1811
unemployment trust fund established pursuant to section 4141.09 of 1812
the Revised Code. Income earned on moneys in the state 1813
unemployment compensation benefit reserve fund shall be available 1814
for use by the director only for the purposes described in 1815
division (I) of this section, and shall not be used for any other 1816
purpose. 1817

(H) The unemployment compensation benefit reserve fund 1818
balance shall be added to the unemployment trust fund balance in 1819

determining the minimum safe level tax to be imposed pursuant to 1820
division (B) of this section and shall be included in the 1821
mutualized account balance for the purpose of determining the 1822
mutualized contribution rate pursuant to division (B)(5) of this 1823
section. 1824

(I) All income earned on moneys in the unemployment 1825
compensation benefit reserve fund from the investment of the fund 1826
by the treasurer of state shall accrue to the department of job 1827
and family services automation administration fund, which is 1828
hereby established in the state treasury. Moneys within the 1829
automation administration fund shall be used to meet the costs 1830
related to automation of the department and the administrative 1831
costs related to collecting and accounting for unemployment 1832
compensation benefit reserve fund revenue. Any funds remaining in 1833
the automation administration fund upon completion of the 1834
department's automation projects that are funded by that fund 1835
shall be deposited into the unemployment trust fund established 1836
pursuant to section 4141.09 of the Revised Code. 1837

(J) The director shall prepare and submit monthly reports to 1838
the unemployment compensation advisory commission with respect to 1839
the status of efforts to collect and account for unemployment 1840
compensation benefit reserve fund revenue and the costs related to 1841
collecting and accounting for that revenue. The director shall 1842
obtain approval from the unemployment compensation advisory 1843
commission for expenditure of funds from the department of job and 1844
family services automation administration fund. Funds may be 1845
approved for expenditure for purposes set forth in division (I) of 1846
this section only to the extent that federal or other funds are 1847
not available. 1848

Sec. 4141.26. (A) As soon as practicable after the first day 1849
of September but not later than the first day of December of each 1850

year, the director of job and family services shall notify each 1851
employer of the employer's contribution rate as determined for the 1852
next ensuing contribution period pursuant to section 4141.25 of 1853
the Revised Code provided the employer has furnished the director, 1854
by the first day of September following the computation date, with 1855
the wage information for all past periods necessary for the 1856
computation of the contribution rate. 1857

~~(B)(1) In the case of contribution rates applicable to 1858
contribution periods beginning on or before December 31, 1992, if 1859
the employer has not furnished the necessary wage information, the 1860
employer's contribution rate for such contribution period shall be 1861
the maximum rate provided in such section, except that, if the 1862
employer files the necessary wage information by the end of the 1863
thirtieth day following the issuance of the maximum rate notice, 1864
the employer's rate then shall be computed as provided in section 1865
4141.25 of the Revised Code. 1866~~

~~(2) In the case of contribution rates applicable to 1867
contribution periods beginning on or after January 1, 1993, and 1868
before January 1, 1995, if the employer has not furnished the 1869
necessary wage information, the employer's contribution rate for 1870
such contribution period shall not be computed as provided in 1871
section 4141.25 of the Revised Code, but instead shall be assigned 1872
at the maximum rate provided in that section, with the following 1873
exceptions: 1874~~

~~(a) If the employer files the necessary wage information by 1875
December thirty first of the year immediately preceding the 1876
contribution period for which the rate is to be effective, the 1877
employer's rate then shall be computed as provided in division (A) 1878
of section 4141.25 of the Revised Code. 1879~~

~~(b) The director may waive the maximum contribution rate 1880
assigned pursuant to division (B)(2) of this section if the 1881~~

employer meets all of the following conditions within thirty days 1882
after the director mails the notice of the maximum contribution 1883
rate assigned pursuant to division (B)(2) of this section: 1884

(i) Provides to the director a written request for waiver of 1885
the maximum contribution rate, clearly demonstrating that failure 1886
to timely furnish the wage information as required by division (A) 1887
of this section was a result of circumstances beyond the control 1888
of the employer or the employer's agent, except that negligence on 1889
the part of the employer shall not be considered beyond the 1890
control of the employer or the employer's agent; 1891

(ii) Furnishes to the director all of the wage information as 1892
required by division (A) of this section and all quarterly reports 1893
due pursuant to section 4141.20 of the Revised Code; 1894

(iii) Pays in full all contributions, payments in lieu of 1895
contributions, interest, forfeiture, and fines for each quarter 1896
for which such payments are due. 1897

(3) In the case of contribution rates applicable to 1898
contribution periods beginning on or after January 1, 1995, if the 1899
If an employer has not timely furnished the necessary wage 1900
information as required by division (A) of this section, the 1901
employer's contribution rate for such contribution period shall 1902
not be computed as provided in section 4141.25 of the Revised 1903
Code, but instead the employer shall be assigned a contribution 1904
rate equal to one hundred twenty-five per cent of the maximum rate 1905
provided in that section, with the following exceptions: 1906

(a)(1) If the employer files the necessary wage information 1907
by the thirty-first day of December of the year immediately 1908
preceding the contribution period for which the rate is to be 1909
effective, the employer's rate shall be computed as provided in 1910
division (A) of section 4141.25 of the Revised Code; 1911

(b) The director may waive the contribution rate assigned 1912

~~pursuant to division (B)(3) of this section if the employer meets~~ 1913
~~all of the following conditions within thirty days after the~~ 1914
~~director mails to the employer the notice of the contribution rate~~ 1915
~~assigned pursuant to division (B)(3) of this section:~~ 1916

~~(i) Provides to the director a written request for waiver of~~ 1917
~~the contribution rate, clearly demonstrating that the failure to~~ 1918
~~timely furnish the wage information as required by division (A) of~~ 1919
~~this section was a result of circumstances beyond the control of~~ 1920
~~the employer or the employer's agent, except that negligence on~~ 1921
~~the part of the employer shall not be considered to be beyond the~~ 1922
~~control of the employer or the employer's agent;~~ 1923

~~(ii) Furnishes to the director all of the wage information as~~ 1924
~~required by division (A) of this section and all quarterly reports~~ 1925
~~due pursuant to section 4141.20 of the Revised Code;~~ 1926

~~(iii) Pays in full all contributions, payments in lieu of~~ 1927
~~contributions, interest, forfeiture, and fines for each quarter~~ 1928
~~for which such payments are due.~~ 1929

~~(e)(2)~~ The director shall revise the contribution rate of an 1930
employer who has not timely furnished the necessary wage 1931
information as required by division (A) of this section, who has 1932
been assigned a contribution rate pursuant to division (B)(3) of 1933
this section, and who does not meet the requirements of division 1934
(B)(3)(a) or (b)(1) of this section, if the employer furnishes the 1935
necessary wage information to the director within ~~thirty-six~~ 1936
eighteen months following the thirty-first day of December of the 1937
year immediately preceding the contribution period for which the 1938
rate is to be effective. The revised rate under division 1939
(B)(3)(e)(2) of this section shall be equal to one hundred twenty 1940
per cent of the contribution rate that would have resulted if the 1941
employer had timely furnished the necessary wage information under 1942
division (A) of this section. 1943

~~(4) The director shall deny an employer's request for a~~ 1944
~~waiver of the requirement that the employer's contribution rate be~~ 1945
~~the maximum rate under division (B)(2)(b) of this section, or be~~ 1946
~~the rate assigned under division (B)(3)(b) of this section, or for~~ 1947
a revision of the employer's rate as provided in division 1948
(B)~~(3)(c)~~(2) of this section if the director finds that the 1949
employer's failure to timely file the necessary wage information 1950
was due to an attempt to evade payment. 1951

~~(5) The director shall round the contribution rates the~~ 1952
director determines under ~~this~~ division (B) of this section to the 1953
nearest tenth of one per cent. 1954

(C) If, as a result of the computation pursuant to division 1955
(B) of this section, the employer's account shows a negative 1956
balance in excess of the applicable limitations, in that 1957
computation, the excess above applicable limitations shall not be 1958
transferred from the account as provided in division (A)(2) of 1959
section 4141.24 of the Revised Code. 1960

(D) The rate determined pursuant to this section and section 1961
4141.25 of the Revised Code shall become binding upon the employer 1962
unless: 1963

(1) The employer makes a voluntary contribution as provided 1964
in division (B) of section 4141.24 of the Revised Code, whereupon 1965
the director shall issue the employer a revised contribution rate 1966
notice if the contribution changes the employer's rate; or 1967

(2) Within thirty days after the mailing of notice of the 1968
employer's rate or a revision of it to the employer's last known 1969
address or, in the absence of mailing of such notice, within 1970
thirty days after the delivery of such notice, the employer files 1971
an application with the director for reconsideration of the 1972
director's determination of such rate setting forth reasons for 1973
such request. The director shall promptly examine the application 1974

for reconsideration and shall notify the employer of the 1975
director's reconsidered decision, which shall become final unless, 1976
within thirty days after the mailing of such notice by certified 1977
mail, return receipt requested, the employer files an application 1978
for review of such decision with the unemployment compensation 1979
review commission. The commission shall promptly examine the 1980
application for review of the director's decision and shall grant 1981
such employer an opportunity for a fair hearing. The proceeding at 1982
the hearing before the commission shall be recorded in the means 1983
and manner prescribed by the commission. For the purposes of this 1984
division, the review is considered timely filed when it has been 1985
received as provided in division (D)(1) of section 4141.281 of the 1986
Revised Code. 1987

The employer and the director shall be promptly notified of 1988
the commission's decision, which shall become final unless, within 1989
thirty days after the mailing of notice of it to the employer's 1990
last known address by certified mail, return receipt requested, 1991
or, in the absence of mailing, within thirty days after delivery 1992
of such notice, an appeal is taken by the employer or the director 1993
to the court of common pleas of Franklin county. Such appeal shall 1994
be taken by the employer or the director by filing a notice of 1995
appeal with the clerk of such court and with the commission. Such 1996
notice of appeal shall set forth the decision appealed and the 1997
errors in it complained of. Proof of the filing of such notice 1998
with the commission shall be filed with the clerk of such court. 1999

The commission, upon written demand filed by the appellant 2000
and within thirty days after the filing of such demand, shall file 2001
with the clerk a certified transcript of the record of the 2002
proceedings before the commission pertaining to the determination 2003
or order complained of, and the appeal shall be heard upon such 2004
record certified to the commission. In such appeal, no additional 2005
evidence shall be received by the court, but the court may order 2006

2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
2023
2024
additional evidence to be taken before the commission, and the
commission, after hearing such additional evidence, shall certify
such additional evidence to the court or it may modify its
determination and file such modified determination, together with
the transcript of the additional record, with the court. After an
appeal has been filed in the court, the commission, by petition,
may be made a party to such appeal. Such appeal shall be given
precedence over other civil cases. The court may affirm the
determination or order complained of in the appeal if it finds,
upon consideration of the entire record, that the determination or
order is supported by reliable, probative, and substantial
evidence and is in accordance with law. In the absence of such a
finding, it may reverse, vacate, or modify the determination or
order or make such other ruling as is supported by reliable,
probative, and substantial evidence and is in accordance with law.
The judgment of the court shall be final and conclusive unless
reversed, vacated, or modified on appeal. An appeal may be taken
from the decision of the court of common pleas of Franklin county.

2025
2026
2027
2028
2029
2030
2031
2032
2033
(E) The appeal provisions of division (D) of this section
apply to all other determinations and orders of the director
affecting the liability of an employer to pay contributions or the
amount of such contributions, determinations respecting
application for refunds of contributions, determinations
respecting applications for classification of employment as
seasonal under section 4141.33 of the Revised Code, and exceptions
to charges of benefits to an employer's account as provided in
division (D) of section 4141.24 of the Revised Code.

2034
2035
2036
2037
2038
(F) The validity of any general order or rule of the director
adopted pursuant to this chapter or of any final order or action
of the unemployment compensation review commission respecting any
such general order or rule may be determined by the court of
common pleas of Franklin county, and such general order, rule, or

action may be sustained or set aside by the court on an appeal to
it which may be taken by any person affected by the order, rule,
or action in the manner provided by law. Such appeal to the court
of common pleas of Franklin county shall be filed within thirty
days after the date such general order, rule, or action was
publicly released by the director or the commission. Either party
to such action may appeal from the court of common pleas of
Franklin county as in ordinary civil cases.

(G) Notwithstanding any determination made in pursuance of
sections 4141.23 to 4141.26 of the Revised Code, no individual who
files a claim for benefits shall be denied the right to a fair
hearing as provided in section 4141.281 of the Revised Code, or
the right to have a claim determined on the merits of it.

(H)(1) Notwithstanding division (D) of this section, if the
director finds that an omission or error in the director's records
or employer reporting caused the director to issue an erroneous
determination or order affecting contribution rates, the liability
of an employer to pay contributions or the amount of such
contributions, determinations respecting applications for refunds
of contributions, determinations respecting applications for
classification of seasonal status under section 4141.33 of the
Revised Code, or exceptions to charges of benefits to an
employer's account as provided in division (D) of section 4141.24
of the Revised Code, the director may issue a corrected
determination or order correcting the erroneous determination or
order, except as provided in division (H)(2) of this section.

(2) The director may not issue a corrected determination or
order correcting an erroneous determination or order if both of
the following apply:

(a) The erroneous determination or order was caused solely by
an omission or error of the director;

(b) A correction of the erroneous determination or order 2070
would adversely affect the employer or any of the employers that 2071
were parties in interest to the erroneous determination or order. 2072

A corrected determination or order issued under this division 2073
takes precedence over and renders void the erroneous determination 2074
or order and is appealable as provided in division (D) of this 2075
section. 2076

Sec. 4141.28. 2077

BENEFITS 2078

(A) FILINGS 2079

Applications for determination of benefit rights and claims 2080
for benefits shall be filed with the director of job and family 2081
services. Such applications and claims also may be filed with an 2082
employee of another state or federal agency charged with the duty 2083
of accepting applications and claims for unemployment benefits or 2084
with an employee of the unemployment insurance commission of 2085
Canada. 2086

When an unemployed individual files an application for 2087
determination of benefit rights, the director shall furnish the 2088
individual with an explanation of the individual's appeal rights. 2089
The explanation shall describe clearly the different levels of 2090
appeal and explain where and when each appeal must be filed. 2091

(B) APPLICATION FOR DETERMINATION OF BENEFIT RIGHTS 2092

In filing an application, an individual shall furnish the 2093
director with the name and address of the individual's most recent 2094
separating employer and the individual's statement of the reason 2095
for separation from the employer. The director shall promptly 2096
notify the individual's most recent separating employer of the 2097
filing and request the reason for the individual's unemployment, 2098
unless that notice is not necessary under conditions the director 2099

establishes by rule. The director may request from the individual 2100
or any employer information necessary for the determination of the 2101
individual's right to benefits. The employer shall provide the 2102
information requested within ten working days after the request is 2103
sent. If necessary to ensure prompt determination and payment of 2104
benefits, the director shall base the determination on the 2105
information that is available. 2106

An individual filing an application for determination of 2107
benefit rights shall disclose, at the time of filing, whether or 2108
not the individual owes child support obligations. 2109

(C) MASS LAYOFFS 2110

An employer who lays off or separates within any seven-day 2111
period fifty or more individuals because of lack of work shall 2112
furnish notice to the director of the dates of layoff or 2113
separation and the approximate number of individuals being laid 2114
off or separated. The notice shall be furnished at least three 2115
working days prior to the date of the first day of such layoff or 2116
separation. In addition, at the time of the layoff or separation 2117
the employer shall furnish to the individual and to the director 2118
information necessary to determine the individual's eligibility 2119
for unemployment compensation. 2120

(D) DETERMINATION OF BENEFIT RIGHTS 2121

The director shall promptly examine any application for 2122
determination of benefit rights. On the basis of the information 2123
available to the director under this chapter, the director shall 2124
determine whether or not the application is valid, and if valid, 2125
the date on which the benefit year shall commence and the weekly 2126
benefit amount. The director shall promptly notify the applicant, 2127
employers in the applicant's base period, and any other interested 2128
parties of the determination and the reasons for it. In addition, 2129
the determination issued to the claimant shall include the total 2130

amount of benefits payable. The determination issued to each 2131
chargeable base period employer shall include the total amount of 2132
benefits that may be charged to the employer's account. 2133

(E) CLAIM FOR BENEFITS 2134

The director shall examine the first claim and any additional 2135
claim for benefits. On the basis of the information available, the 2136
director shall determine whether the claimant's most recent 2137
separation and, to the extent necessary, prior separations from 2138
work, allow the claimant to qualify for benefits. Written notice 2139
of the determination granting or denying benefits shall be sent to 2140
the claimant, the most recent separating employer, and any other 2141
employer involved in the determination, except that written notice 2142
is not required to be sent to the claimant if the reason for 2143
separation is lack of work and the claim is allowed. 2144

If the director identifies an eligibility issue, the director 2145
shall send notice to the claimant of the issue identified and 2146
specify the week or weeks involved. The claimant has a minimum of 2147
five business days after the notice is sent to respond to the 2148
information included in the notice, and after the time allowed as 2149
determined by the director, the director shall make a 2150
determination. The claimant's response may include a request for a 2151
fact-finding interview when the eligibility issue is raised by an 2152
informant or source other than the claimant, or when the 2153
eligibility issue, if determined adversely, disqualifies the 2154
claimant for the duration of the claimant's period of 2155
unemployment. 2156

When the determination of a continued claim for benefits 2157
results in a disallowed claim, the director shall notify the 2158
claimant of the disallowance and the reasons for it. 2159

(F) ELIGIBILITY NOTICE 2160

Any base period or subsequent employer of a claimant who has 2161

knowledge of specific facts affecting the claimant's right to
receive benefits for any week may notify the director in writing
of those facts. The director shall prescribe a form for such
eligibility notice, but failure to use the form shall not preclude
the director's examination of any notice.

To be considered valid, an eligibility notice must: contain
in writing, a statement that identifies either a source who has
firsthand knowledge of the information or an informant who can
identify the source; provide specific and detailed information
that may potentially disqualify the claimant; provide the name and
address of the source or the informant; and appear to the director
to be reliable and credible.

An eligibility notice is timely filed if received or
postmarked prior to or within forty-five calendar days after the
end of the week with respect to which a claim for benefits is
filed by the claimant. An employer who timely files a valid
eligibility notice shall be an interested party to the claim for
benefits which is the subject of the notice.

The director shall consider the information contained in the
eligibility notice, together with other available information.
After giving the claimant notice and an opportunity to respond,
the director shall make a determination and inform the notifying
employer, the claimant, and other interested parties of the
determination.

(G) CORRECTED DETERMINATION

If the director finds within the fifty-two calendar weeks
beginning with the Sunday of the week during which an application
for benefit rights was filed or within the benefit year that a
determination made by the director was erroneous due to an error
in an employer's report or any typographical or clerical error in
the director's determination, or as shown by correct remuneration

information received by the director, the director shall issue a 2193
corrected determination to all interested parties. The corrected 2194
determination shall take precedence over and void the prior 2195
determination of the director. The director shall not issue a 2196
corrected determination when the commission or a court has 2197
jurisdiction with respect to that determination. 2198

(H) EFFECT OF COMMISSION DECISIONS 2199

In making determinations, the director shall follow decisions 2200
of the unemployment compensation review commission which have 2201
become final with respect to claimants similarly situated. 2202

(I) PROMPT PAYMENTS 2203

If benefits are allowed by the director, a hearing officer, 2204
the commission, or a court, the director shall pay benefits 2205
promptly, notwithstanding any further appeal, provided that if 2206
benefits are denied on appeal, of which the parties have notice 2207
and an opportunity to be heard, the director shall withhold 2208
payment of benefits pending a decision on any further appeal. 2209

Sec. 4141.282. 2210

APPEAL TO COURT 2211

(A) THIRTY-DAY DEADLINE FOR APPEAL 2212

Any interested party, within thirty days after written notice 2213
of the final decision of the unemployment compensation review 2214
commission was sent to all interested parties, may appeal the 2215
decision of the commission to the court of common pleas. 2216

(B) WHERE TO FILE THE APPEAL 2217

An appellant shall file the appeal with the court of common 2218
pleas of the county where the appellant, if an employee, is a 2219
resident or was last employed or, if an employer, is a resident or 2220
has a principal place of business in this state. If an appellant 2221
is not a resident of or last employed in a county in this state or 2222

does not have a principal place of business in this state, then an 2223
appellant shall file the appeal with the court of common pleas of 2224
Franklin county. 2225

(C) PERFECTING THE APPEAL 2226

The timely filing of the notice of appeal shall be the only 2227
act required to perfect the appeal and vest jurisdiction in the 2228
court. The notice of appeal shall identify the decision appealed 2229
from. 2230

(D) INTERESTED PARTIES 2231

The commission shall provide on its final decision the names 2232
and addresses of all interested parties. The appellant shall name 2233
all interested parties as appellees in the notice of appeal. The 2234
director of job and family services is always an interested party 2235
and shall be named as an appellee in the notice of appeal. 2236

(E) SERVICE OF THE NOTICE OF APPEAL 2237

Upon filing the notice of appeal with the clerk of the court, 2238
the clerk shall serve a copy of the notice of appeal upon all 2239
appellees, including the director. 2240

(F) DUTIES OF THE COMMISSION 2241

The (1) Except as specified in division (F)(2) of this 2242
section, the commission, within forty-five days after a notice of 2243
appeal is filed or within an extended period ordered by the court, 2244
shall file with the clerk a certified transcript of the record of 2245
the proceedings at issue before the commission. The commission 2246
also shall provide a copy of the transcript to the appellant's 2247
attorney or to the appellant, if the appellant is not represented 2248
by counsel, and to any appellee who requests a copy. 2249

(2) If the commission cannot file the certified transcript of 2250
the record of proceedings within forty-five days after a notice of 2251
appeal is filed, or within an extended period ordered by the 2252

court, then the court shall remand the matter to the commission 2253
for additional proceedings in order to complete the record on 2254
appeal. The additional proceedings may include a new hearing 2255
before the commission or a designated hearing officer. 2256

(G) COURT BRIEFING SCHEDULES 2257

The court shall provide for the filing of briefs by the 2258
parties, whether by local rule, scheduling order, or otherwise. 2259

(H) REVIEW BY THE COURT OF COMMON PLEAS 2260

The court shall hear the appeal ~~upon receipt of~~ on the 2261
certified record provided by the commission. If the court finds 2262
that the decision of the commission was unlawful, unreasonable, or 2263
against the manifest weight of the evidence, it shall reverse, 2264
vacate, or modify the decision, or remand the matter to the 2265
commission. Otherwise, the court shall affirm the decision of the 2266
commission. 2267

(I) FAILURE TO FILE APPEAL WITHIN THIRTY DAYS 2268

If an appeal is filed after the thirty-day appeal period, the 2269
court of common pleas shall conduct a hearing to determine whether 2270
the appeal was timely filed under division (D)(9) of section 2271
4141.281 of the Revised Code. At the hearing, additional evidence 2272
may be introduced and oral arguments may be presented regarding 2273
the timeliness of the filing of the appeal. 2274

If the court of common pleas determines that the appeal was 2275
filed within the time allowed, the court shall after that make its 2276
decision on the merits of the appeal. The determination on 2277
timeliness by the court of common pleas may be appealed to the 2278
court of appeals as in civil cases, and such appeal shall be 2279
consolidated with any appeal from the decision by the court of 2280
common pleas on the merits of the appeal. 2281

Sec. 4141.283. (A) Whenever the director of job and family 2282

services has reason to believe that the unemployment of 2283
twenty-five or more individuals relates to a labor dispute, the 2284
director, within five calendar days after their claims are filed, 2285
shall schedule a hearing concerning the reason for unemployment. 2286
Notice of the hearing shall be sent to all interested parties, 2287
including the duly authorized representative of the parties. The 2288
hearing date shall be scheduled so as to provide at least ten 2289
days' prior notice of the time and date of the hearing. A similar 2290
hearing, in such cases, may be scheduled when there is a dispute 2291
as to the duration or ending date of the labor dispute. 2292

(B) The director shall appoint a hearing officer to conduct 2293
the hearing of the case under division (A) of this section. The 2294
hearing officer is not bound by common law or statutory rules of 2295
evidence or by technical or formal rules of procedure, but shall 2296
take any steps that are reasonable and necessary to obtain the 2297
facts and determine whether the claimants are entitled to benefits 2298
under the law. The failure of any interested party to appear at 2299
the hearing shall not preclude a decision based upon all the facts 2300
available to the hearing officer. The proceeding at the hearing 2301
shall be recorded by mechanical means or by other means prescribed 2302
by the director. The record need not be transcribed unless an 2303
application for appeal is filed on the decision and the 2304
chairperson of the unemployment compensation review commission 2305
requests a transcript of the hearing within fourteen days after 2306
the application for appeal is received by the commission. The 2307
director shall prescribe rules concerning the conduct of the 2308
hearings and all related matters and appoint an attorney to direct 2309
the operation of this function. 2310

(C) The director shall issue the hearing officer's decisions 2311
and reasons therefor on the case within ten calendar days after 2312
the hearing. The hearing officer's decision issued by the director 2313
is final unless an application for appeal is filed with the 2314

commission within twenty-one days after the decision was mailed to
all interested parties. The director, within the twenty-one-day
appeal period, may remove and vacate the decision and issue a
revised determination and appeal date.

2315
2316
2317
2318

(D) Upon receipt of the application for appeal, the full
commission shall review the director's decision, and then schedule
a further hearing on the case, disallow the application without
further hearing, or modify or reverse the director's decision. The
commission shall review the director's decision within fourteen
days after receipt of the decision or the receipt of a transcript
requested under division (B) of this section, whichever is later.

2319
2320
2321
2322
2323
2324
2325

(1) When a further hearing is granted, the commission shall
make the director's decision and record of the case, as certified
by the director, a part of the record and shall consider the
director's decision and record in arriving at a decision on the
case. The commission's decision affirming, modifying, or reversing
the director's decision, following the further appeal, shall be
mailed to all interested parties within fourteen days after the
hearing.

2326
2327
2328
2329
2330
2331
2332
2333

(2) A decision to disallow a further appeal or to modify or
reverse the director's decision shall be mailed to all interested
parties within fourteen days after the commission makes the
decision. A disallowance is deemed an affirmation of the
director's decision.

2334
2335
2336
2337
2338

(3) The time limits specified in this section may be extended
by agreement of all interested parties or for cause beyond the
control of the director or the commission.

2339
2340
2341

(E) Except as otherwise specified in this division, an
appeal of the commission's decision issued under division (D) of
this section may be taken to the court of common pleas as provided
in section 4141.282 of the Revised Code. Notwithstanding division

2342
2343
2344
2345

(B) of section 4141.282 of the Revised Code: 2346

(1) If the operations of an employer involved in a labor 2347
dispute under this section are located in only one county, then 2348
appeal of the commission's decision under division (D) of this 2349
section shall be taken to the court of common pleas of the county 2350
where the employer's operations are located. 2351

(2) If the operations of an employer involved in a labor 2352
dispute under this section are located in more than one county, 2353
then appeal of the commission's decision under division (D) of 2354
this section shall be taken to the court of common pleas of the 2355
county where the largest number of the claimants worked for the 2356
employer. 2357

(F) A labor dispute decision involving fewer than twenty-five 2358
individuals shall be determined under section 4141.28 of the 2359
Revised Code, and the commission shall determine any appeal from 2360
the decision pursuant to section 4141.281 of the Revised Code and 2361
within the time limits provided in division (D) of this section. 2362

Sec. 4141.29. Each eligible individual shall receive benefits 2363
as compensation for loss of remuneration due to involuntary total 2364
or partial unemployment in the amounts and subject to the 2365
conditions stipulated in this chapter. 2366

(A) No individual is entitled to a waiting period or benefits 2367
for any week unless the individual: 2368

(1) Has filed a valid application for determination of 2369
benefit rights in accordance with section 4141.28 of the Revised 2370
Code; 2371

(2) Has made a claim for benefits in accordance with section 2372
4141.28 of the Revised Code; 2373

(3) Has registered at an employment office or other 2374
registration place maintained or designated by the director of job 2375

and family services. Registration shall be made in accordance with 2376
the time limits, frequency, and manner prescribed by the director. 2377

(4)(a)(i) Is able to work and available for suitable work 2378
and, except as provided in division (A)(4)(a)(ii) of this section, 2379
is actively seeking suitable work either in a locality in which 2380
the individual has earned wages subject to this chapter during the 2381
individual's base period, or if the individual leaves that 2382
locality, then in a locality where suitable work normally is 2383
performed. 2384

(ii) The director may waive the requirement that a claimant 2385
be actively seeking work when the director finds that ~~either of~~ 2386
the ~~following is true:~~ 2387

~~(I) The individual's unemployment is directly attributable to 2388
a major disaster declared by the president of the United States 2389
pursuant to the "Disaster Relief Act of 1974," 88 Stat. 143, 42 2390
U.S.C. 5121, and the employer whose operation was adversely 2391
affected by the disaster, requests a waiver from the director for 2392
the individual to be exempt from the requirement to actively seek 2393
suitable work;~~ 2394

~~(II) The individual has been laid off and the employer who 2395
laid the individual off has notified the director within ten days 2396
after the layoff, that work is expected to be available for the 2397
individual within a specified number of days not to exceed 2398
forty-five calendar days following the last day the individual 2399
worked. In the event the individual is not recalled within the 2400
specified period, this waiver shall cease to be operative with 2401
respect to that layoff. 2402~~

(b) The individual shall be instructed as to the efforts that 2403
the individual must make in the search for suitable work, except 2404
where the active search for work requirement has been waived under 2405
division (A)(4)(a) of this section, and shall keep a record of 2406

where and when the individual has sought work in complying with 2407
those instructions and, upon request, shall produce that record 2408
for examination by the director. 2409

(c) An individual who is attending a training course approved 2410
by the director meets the requirement of this division, if 2411
attendance was recommended by the director and the individual is 2412
regularly attending the course and is making satisfactory 2413
progress. An individual also meets the requirements of this 2414
division if the individual is participating and advancing in a 2415
training program, as defined in division (P) of section 5709.61 of 2416
the Revised Code, and if an enterprise, defined in division (B) of 2417
section 5709.61 of the Revised Code, is paying all or part of the 2418
cost of the individual's participation in the training program 2419
with the intention of hiring the individual for employment as a 2420
new employee, as defined in division (L) of section 5709.61 of the 2421
Revised Code, for at least ninety days after the individual's 2422
completion of the training program. 2423

(d) An individual who becomes unemployed while attending a 2424
regularly established school and whose base period qualifying 2425
weeks were earned in whole or in part while attending that school, 2426
meets the availability and active search for work requirements of 2427
division (A)(4)(a) of this section if the individual regularly 2428
attends the school during weeks with respect to which the 2429
individual claims unemployment benefits and makes self available 2430
on any shift of hours for suitable employment with the 2431
individual's most recent employer or any other employer in the 2432
individual's base period, or for any other suitable employment to 2433
which the individual is directed, under this chapter. 2434

(e) The director shall adopt any rules that the director 2435
deems necessary for the administration of division (A)(4) of this 2436
section. 2437

(f) Notwithstanding any other provisions of this section, no
otherwise eligible individual shall be denied benefits for any
week because the individual is in training approved under section
236(a)(1) of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A.
2296, nor shall that individual be denied benefits by reason of
leaving work to enter such training, provided the work left is not
suitable employment, or because of the application to any week in
training of provisions in this chapter, or any applicable federal
unemployment compensation law, relating to availability for work,
active search for work, or refusal to accept work.

For the purposes of division (A)(4)(f) of this section,
"suitable employment" means with respect to an individual, work of
a substantially equal or higher skill level than the individual's
past adversely affected employment, as defined for the purposes of
the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, and
wages for such work at not less than eighty per cent of the
individual's average weekly wage as determined for the purposes of
that federal act.

(5) Is unable to obtain suitable work. An individual who is
provided temporary work assignments by the individual's employer
under agreed terms and conditions of employment, and who is
required pursuant to those terms and conditions to inquire with
the individual's employer for available work assignments upon the
conclusion of each work assignment, is not considered unable to
obtain suitable employment if suitable work assignments are
available with the employer but the individual fails to contact
the employer to inquire about work assignments.

(6) Participates in reemployment services, such as job search
assistance services, if the individual has been determined to be
likely to exhaust benefits under this chapter, including
compensation payable pursuant to 5 U.S.C.A. Chapter 85, other than
extended compensation, and needs reemployment services pursuant to

the profiling system established by the director under division 2470
(K) of this section, unless the director determines that: 2471

(a) The individual has completed such services; or 2472

(b) There is justifiable cause for the claimant's failure to 2473
participate in such services. 2474

(B) An individual suffering total or partial unemployment is 2475
eligible for benefits for unemployment occurring subsequent to a 2476
waiting period of one week and no benefits shall be payable during 2477
this required waiting period, ~~except when the unemployment during~~ 2478
~~this waiting period is directly attributable to a major disaster~~ 2479
~~declared by the president of the United States pursuant to the~~ 2480
~~"Disaster Relief Act of 1974," 88 Stat. 143, 42 U.S.C. 5121.~~ 2481
Not 2482
more than one week of waiting period shall be required of any 2483
individual in any benefit year in order to establish the 2484
individual's eligibility for total or partial unemployment 2485
benefits.

(C) The waiting period for total or partial unemployment 2486
shall commence on the first day of the first week with respect to 2487
which the individual first files a claim for benefits at an 2488
employment office or other place of registration maintained or 2489
designated by the director or on the first day of the first week 2490
with respect to which the individual has otherwise filed a claim 2491
for benefits in accordance with the rules of the department of job 2492
and family services, provided such claim is allowed by the 2493
director. 2494

(D) Notwithstanding division (A) of this section, no 2495
individual may serve a waiting period or be paid benefits under 2496
the following conditions: 2497

(1) For any week with respect to which the director finds 2498
that: 2499

(a) The individual's unemployment was due to a labor dispute 2500
other than a lockout at any factory, establishment, or other 2501
premises located in this or any other state and owned or operated 2502
by the employer by which the individual is or was last employed; 2503
and for so long as the individual's unemployment is due to such 2504
labor dispute. No individual shall be disqualified under this 2505
provision if either of the following applies: 2506

(i) The individual's employment was with such employer at any 2507
factory, establishment, or premises located in this state, owned 2508
or operated by such employer, other than the factory, 2509
establishment, or premises at which the labor dispute exists, if 2510
it is shown that the individual is not financing, participating 2511
in, or directly interested in such labor dispute; 2512

(ii) The individual's employment was with an employer not 2513
involved in the labor dispute but whose place of business was 2514
located within the same premises as the employer engaged in the 2515
dispute, unless the individual's employer is a wholly owned 2516
subsidiary of the employer engaged in the dispute, or unless the 2517
individual actively participates in or voluntarily stops work 2518
because of such dispute. If it is established that the claimant 2519
was laid off for an indefinite period and not recalled to work 2520
prior to the dispute, or was separated by the employer prior to 2521
the dispute for reasons other than the labor dispute, or that the 2522
individual obtained a bona fide job with another employer while 2523
the dispute was still in progress, such labor dispute shall not 2524
render the employee ineligible for benefits. 2525

(b) The individual has been given a disciplinary layoff for 2526
misconduct in connection with the individual's work. 2527

(2) For the duration of the individual's unemployment if the 2528
director finds that: 2529

(a) The individual quit work without just cause or has been 2530

discharged for just cause in connection with the individual's 2531
work, provided division (D)(2) of this section does not apply to 2532
the separation of a person under any of the following 2533
circumstances: 2534

(i) Separation from employment for the purpose of entering 2535
the armed forces of the United States if the individual ~~makes~~ 2536
~~application to enter, or~~ is inducted into the armed forces within 2537
thirty one of the following periods: 2538

(I) Thirty days after such separation; 2539

(II) One hundred eighty days after separation if the 2540
individual's date of induction is delayed solely at the discretion 2541
of the armed forces. 2542

(ii) Separation from employment pursuant to a 2543
labor-management contract or agreement, or pursuant to an 2544
established employer plan, program, or policy, which permits the 2545
employee, because of lack of work, to accept a separation from 2546
employment; 2547

(iii) The individual has left employment to accept a recall 2548
from a prior employer or, except as provided in division 2549
(D)(2)(a)(iv) of this section, to accept other employment as 2550
provided under section 4141.291 of the Revised Code, or left or 2551
was separated from employment that was concurrent employment at 2552
the time of the most recent separation or within six weeks prior 2553
to the most recent separation where the remuneration, hours, or 2554
other conditions of such concurrent employment were substantially 2555
less favorable than the individual's most recent employment and 2556
where such employment, if offered as new work, would be considered 2557
not suitable under the provisions of divisions (E) and (F) of this 2558
section. Any benefits that would otherwise be chargeable to the 2559
account of the employer from whom an individual has left 2560
employment or was separated from employment that was concurrent 2561

employment under conditions described in division (D)(2)(a)(iii) 2562
of this section, shall instead be charged to the mutualized 2563
account created by division (B) of section 4141.25 of the Revised 2564
Code, except that any benefits chargeable to the account of a 2565
reimbursing employer under division (D)(2)(a)(iii) of this section 2566
shall be charged to the account of the reimbursing employer and 2567
not to the mutualized account, except as provided in division 2568
(D)(2) of section 4141.24 of the Revised Code. 2569

(iv) When an individual has been issued a definite layoff 2570
date by the individual's employer and before the layoff date, the 2571
individual quits to accept other employment, the provisions of 2572
division (D)(2)(a)(iii) of this section apply and no 2573
disqualification shall be imposed under division (D) of this 2574
section. However, if the individual fails to meet the employment 2575
and earnings requirements of division (A)(2) of section 4141.291 2576
of the Revised Code, then the individual, pursuant to division 2577
(A)(5) of this section, shall be ineligible for benefits for any 2578
week of unemployment that occurs prior to the layoff date. 2579

(b) The individual has refused without good cause to accept 2580
an offer of suitable work when made by an employer either in 2581
person or to the individual's last known address, or has refused 2582
or failed to investigate a referral to suitable work when directed 2583
to do so by a local employment office of this state or another 2584
state, provided that this division shall not cause a 2585
disqualification for a waiting week or benefits under the 2586
following circumstances: 2587

(i) When work is offered by the individual's employer and the 2588
individual is not required to accept the offer pursuant to the 2589
terms of the labor-management contract or agreement; or 2590

(ii) When the individual is attending a ~~vocational~~ training 2591
course pursuant to division (A)(4) of this section except, in the 2592

event of a refusal to accept an offer of suitable work or a 2593
refusal or failure to investigate a referral, benefits thereafter 2594
paid to such individual shall not be charged to the account of any 2595
employer and, except as provided in division (B)(1)(b) of section 2596
4141.241 of the Revised Code, shall be charged to the mutualized 2597
account as provided in division (B) of section 4141.25 of the 2598
Revised Code. 2599

(c) Such individual quit work to marry or because of marital, 2600
parental, filial, or other domestic obligations. 2601

~~(d) The individual has knowingly made a false statement or 2602
representation or knowingly failed to report any material fact 2603
with the object of obtaining benefits to which the individual is 2604
not entitled. 2605~~

~~(e)~~ The individual became unemployed by reason of commitment 2606
to any correctional institution. 2607

~~(f)~~(e) The individual became unemployed because of dishonesty 2608
in connection with the individual's most recent or any base period 2609
work. Remuneration earned in such work shall be excluded from the 2610
individual's total base period remuneration and qualifying weeks 2611
that otherwise would be credited to the individual for such work 2612
in the individual's base period shall not be credited for the 2613
purpose of determining the total benefits to which the individual 2614
is eligible and the weekly benefit amount to be paid under section 2615
4141.30 of the Revised Code. Such excluded remuneration and 2616
noncredited qualifying weeks shall be excluded from the 2617
calculation of the maximum amount to be charged, under division 2618
(D) of section 4141.24 and section 4141.33 of the Revised Code, 2619
against the accounts of the individual's base period employers. In 2620
addition, no benefits shall thereafter be paid to the individual 2621
based upon such excluded remuneration or noncredited qualifying 2622
weeks. 2623

For purposes of division (D)(2)~~(f)~~(e) of this section, 2624
"dishonesty" means the commission of substantive theft, fraud, or 2625
deceitful acts. 2626

(E) No individual otherwise qualified to receive benefits 2627
shall lose the right to benefits by reason of a refusal to accept 2628
new work if: 2629

(1) As a condition of being so employed the individual would 2630
be required to join a company union, or to resign from or refrain 2631
from joining any bona fide labor organization, or would be denied 2632
the right to retain membership in and observe the lawful rules of 2633
any such organization. 2634

(2) The position offered is vacant due directly to a strike, 2635
lockout, or other labor dispute. 2636

(3) The work is at an unreasonable distance from the 2637
individual's residence, having regard to the character of the work 2638
the individual has been accustomed to do, and travel to the place 2639
of work involves expenses substantially greater than that required 2640
for the individual's former work, unless the expense is provided 2641
for. 2642

(4) The remuneration, hours, or other conditions of the work 2643
offered are substantially less favorable to the individual than 2644
those prevailing for similar work in the locality. 2645

(F) Subject to the special exceptions contained in division 2646
(A)(4)(f) of this section and section 4141.301 of the Revised 2647
Code, in determining whether any work is suitable for a claimant 2648
in the administration of this chapter, the director, in addition 2649
to the determination required under division (E) of this section, 2650
shall consider the degree of risk to the claimant's health, 2651
safety, and morals, the individual's physical fitness for the 2652
work, the individual's prior training and experience, the length 2653
of the individual's unemployment, the distance of the available 2654

work from the individual's residence, and the individual's 2655
prospects for obtaining local work. 2656

(G) The "duration of unemployment" as used in this section 2657
means the full period of unemployment next ensuing after a 2658
separation from any base period or subsequent work and until an 2659
individual has become reemployed in employment subject to this 2660
chapter, or the unemployment compensation act of another state, or 2661
of the United States, and until such individual has worked six 2662
weeks and for those weeks has earned or been paid remuneration 2663
equal to six times an average weekly wage of not less than: 2664
eighty-five dollars and ten cents per week beginning on June 26, 2665
1990; and beginning on and after January 1, 1992, twenty-seven and 2666
one-half per cent of the statewide average weekly wage as computed 2667
each first day of January under division (B)(3) of section 4141.30 2668
of the Revised Code, rounded down to the nearest dollar, except 2669
for purposes of division (D)(2)(c) of this section, such term 2670
means the full period of unemployment next ensuing after a 2671
separation from such work and until such individual has become 2672
reemployed subject to the terms set forth above, and has earned 2673
wages equal to one-half of the individual's average weekly wage or 2674
sixty dollars, whichever is less. 2675

(H) If a claimant is disqualified under division (D)(2)(a), 2676
(c), or ~~(e)~~(d) of this section or found to be qualified under the 2677
exceptions provided in division (D)(2)(a)(i), (iii), or (iv) of 2678
this section or division (A)(2) of section 4141.291 of the Revised 2679
Code, then benefits that may become payable to such claimant, 2680
which are chargeable to the account of the employer from whom the 2681
individual was separated under such conditions, shall be charged 2682
to the mutualized account provided in section 4141.25 of the 2683
Revised Code, provided that no charge shall be made to the 2684
mutualized account for benefits chargeable to a reimbursing 2685
employer, except as provided in division (D)(2) of section 4141.24 2686

of the Revised Code. In the case of a reimbursing employer, the 2687
director shall refund or credit to the account of the reimbursing 2688
employer any over-paid benefits that are recovered under division 2689
(B) of section 4141.35 of the Revised Code. Amounts chargeable to 2690
other states, the United States, or Canada that are subject to 2691
agreements and arrangements that are established pursuant to 2692
section 4141.43 of the Revised Code shall be credited or 2693
reimbursed according to the agreements and arrangements to which 2694
the chargeable amounts are subject. 2695

(I)(1) Benefits based on service in employment as provided in 2696
divisions (B)(2)(a) and (b) of section 4141.01 of the Revised Code 2697
shall be payable in the same amount, on the same terms, and 2698
subject to the same conditions as benefits payable on the basis of 2699
other service subject to this chapter; except that after December 2700
31, 1977: 2701

(a) Benefits based on service in an instructional, research, 2702
or principal administrative capacity in an institution of higher 2703
education, as defined in division (Y) of section 4141.01 of the 2704
Revised Code; or for an educational institution as defined in 2705
division (CC) of section 4141.01 of the Revised Code, shall not be 2706
paid to any individual for any week of unemployment that begins 2707
during the period between two successive academic years or terms, 2708
or during a similar period between two regular but not successive 2709
terms or during a period of paid sabbatical leave provided for in 2710
the individual's contract, if the individual performs such 2711
services in the first of those academic years or terms and has a 2712
contract or a reasonable assurance that the individual will 2713
perform services in any such capacity for any such institution in 2714
the second of those academic years or terms. 2715

(b) Benefits based on service for an educational institution 2716
or an institution of higher education in other than an 2717
instructional, research, or principal administrative capacity, 2718

shall not be paid to any individual for any week of unemployment 2719
which begins during the period between two successive academic 2720
years or terms of the employing educational institution or 2721
institution of higher education, provided the individual performed 2722
those services for the educational institution or institution of 2723
higher education during the first such academic year or term and, 2724
there is a reasonable assurance that such individual will perform 2725
those services for any educational institution or institution of 2726
higher education in the second of such academic years or terms. 2727

If compensation is denied to any individual for any week 2728
under division (I)(1)(b) of this section and the individual was 2729
not offered an opportunity to perform those services for an 2730
institution of higher education or for an educational institution 2731
for the second of such academic years or terms, the individual is 2732
entitled to a retroactive payment of compensation for each week 2733
for which the individual timely filed a claim for compensation and 2734
for which compensation was denied solely by reason of division 2735
(I)(1)(b) of this section. An application for retroactive benefits 2736
shall be timely filed if received by the director or the 2737
director's deputy within or prior to the end of the fourth full 2738
calendar week after the end of the period for which benefits were 2739
denied because of reasonable assurance of employment. The 2740
provision for the payment of retroactive benefits under division 2741
(I)(1)(b) of this section is applicable to weeks of unemployment 2742
beginning on and after November 18, 1983. The provisions under 2743
division (I)(1)(b) of this section shall be retroactive to 2744
September 5, 1982, only if, as a condition for full tax credit 2745
against the tax imposed by the "Federal Unemployment Tax Act," 53 2746
Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311, the United States 2747
secretary of labor determines that retroactivity is required by 2748
federal law. 2749

(c) With respect to weeks of unemployment beginning after 2750

December 31, 1977, benefits shall be denied to any individual for 2751
any week which commences during an established and customary 2752
vacation period or holiday recess, if the individual performs any 2753
services described in divisions (I)(1)(a) and (b) of this section 2754
in the period immediately before the vacation period or holiday 2755
recess, and there is a reasonable assurance that the individual 2756
will perform any such services in the period immediately following 2757
the vacation period or holiday recess. 2758

(d) With respect to any services described in division 2759
(I)(1)(a), (b), or (c) of this section, benefits payable on the 2760
basis of services in any such capacity shall be denied as 2761
specified in division (I)(1)(a), (b), or (c) of this section to 2762
any individual who performs such services in an educational 2763
institution or institution of higher education while in the employ 2764
of an educational service agency. For this purpose, the term 2765
"educational service agency" means a governmental agency or 2766
governmental entity that is established and operated exclusively 2767
for the purpose of providing services to one or more educational 2768
institutions or one or more institutions of higher education. 2769

(e) Any individual employed by a public school district or a 2770
county board of mental retardation shall be notified by the 2771
thirtieth day of April each year if the individual is not to be 2772
reemployed the following academic year. 2773

(2) No disqualification will be imposed, between academic 2774
years or terms or during a vacation period or holiday recess under 2775
this division, unless the director or the director's deputy has 2776
received a statement in writing from the educational institution 2777
or institution of higher education that the claimant has a 2778
contract for, or a reasonable assurance of, reemployment for the 2779
ensuing academic year or term. 2780

(3) If an individual has employment with an educational 2781

institution or an institution of higher education and employment 2782
with a noneducational employer, during the base period of the 2783
individual's benefit year, then the individual may become eligible 2784
for benefits during the between-term, or vacation or holiday 2785
recess, disqualification period, based on employment performed for 2786
the noneducational employer, provided that the employment is 2787
sufficient to qualify the individual for benefit rights separately 2788
from the benefit rights based on school employment. The weekly 2789
benefit amount and maximum benefits payable during a 2790
disqualification period shall be computed based solely on the 2791
nonschool employment. 2792

(J) Benefits shall not be paid on the basis of employment 2793
performed by an alien, unless the alien had been lawfully admitted 2794
to the United States for permanent residence at the time the 2795
services were performed, was lawfully present for purposes of 2796
performing the services, or was otherwise permanently residing in 2797
the United States under color of law at the time the services were 2798
performed, under section 212(d)(5) of the "Immigration and 2799
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101: 2800

(1) Any data or information required of individuals applying 2801
for benefits to determine whether benefits are not payable to them 2802
because of their alien status shall be uniformly required from all 2803
applicants for benefits. 2804

(2) In the case of an individual whose application for 2805
benefits would otherwise be approved, no determination that 2806
benefits to the individual are not payable because of the 2807
individual's alien status shall be made except upon a 2808
preponderance of the evidence that the individual had not, in 2809
fact, been lawfully admitted to the United States. 2810

(K) The director shall establish and utilize a system of 2811
profiling all new claimants under this chapter that: 2812

(1) Identifies which claimants will be likely to exhaust 2813
regular compensation and will need job search assistance services 2814
to make a successful transition to new employment; 2815

(2) Refers claimants identified pursuant to division (K)(1) 2816
of this section to reemployment services, such as job search 2817
assistance services, available under any state or federal law; 2818

(3) Collects follow-up information relating to the services 2819
received by such claimants and the employment outcomes for such 2820
claimant's subsequent to receiving such services and utilizes such 2821
information in making identifications pursuant to division (K)(1) 2822
of this section; and 2823

(4) Meets such other requirements as the United States 2824
secretary of labor determines are appropriate. 2825

Sec. 4141.292. An individual suffering total or partial 2826
unemployment directly attributable to a major disaster declared by 2827
the president of the United States pursuant to the "Disaster 2828
Relief Act of 1974," 88 Stat. 143, 42 U.S.C. 5121, who is not 2829
eligible to be paid unemployment compensation benefits under this 2830
chapter or any other state or federal unemployment compensation 2831
law for the first week of the individual's unemployment caused by 2832
the disaster is eligible to be paid a state disaster unemployment 2833
benefit payment for that week. 2834

The director shall compute the state disaster unemployment 2835
benefit payment as if the individual was otherwise qualified and 2836
claiming weekly unemployment compensation benefits under this 2837
chapter. The director shall pay the state disaster unemployment 2838
benefit payment from the unemployment compensation special 2839
administrative fund created in section 4141.11 of the Revised 2840
Code. The director shall maintain appropriate records of payments 2841
made under this section and shall submit those records at least 2842

annually to the unemployment compensation advisory council as 2843
prescribed by the council. 2844

Sec. 4141.301. (A) As used in this section, unless the 2845
context clearly requires otherwise: 2846

(1) "Extended benefit period" means a period which: 2847

(a) Begins with the third week after a week for which there 2848
is a state "on" indicator; and 2849

(b) Ends with either of the following weeks, whichever occurs 2850
later: 2851

(i) The third week after the first week for which there is a 2852
state "off" indicator; or 2853

(ii) The thirteenth consecutive week of such period. 2854

Except, that no extended benefit period may begin by reason 2855
of a state "on" indicator before the fourteenth week following the 2856
end of a prior extended benefit period which was in effect with 2857
respect to this state. 2858

(2) There is a "state 'on' indicator" for this state for a 2859
week if the director of job and family services determines, in 2860
accordance with the regulations of the United States secretary of 2861
labor, that for the period consisting of such week and the 2862
immediately preceding twelve weeks, the rate of insured 2863
unemployment, not seasonally adjusted, under Chapter 4141. of the 2864
Revised Code: 2865

(a) Equalled or exceeded one hundred twenty per cent of the 2866
average of such rates for the corresponding thirteen-week period 2867
ending in each of the preceding two calendar years, and for weeks 2868
beginning before September 25, 1982, equalled or exceeded four per 2869
cent and for weeks beginning after September 25, 1982, equalled or 2870
exceeded five per cent; 2871

(b) For weeks of unemployment beginning after December 31, 2872
1977, and before September 25, 1982, such rate of insured 2873
unemployment: 2874

(i) Met the criteria set forth in division (A)(2)(a) of this 2875
section; or 2876

(ii) Equaled or exceeded five per cent. 2877

(c) For weeks of unemployment beginning after September 25, 2878
1982, such rate of insured unemployment: 2879

(i) Met the criteria set forth in division (A)(2)(a) of this 2880
section; or 2881

(ii) Equaled or exceeded six per cent. 2882

(3) A "state 'off' indicator" exists for the state for a week 2883
if the director determines, in accordance with the regulations of 2884
the United States secretary of labor, that for the period 2885
consisting of such week and the immediately preceding twelve 2886
weeks, the rate of insured unemployment, not seasonally adjusted, 2887
under Chapter 4141. of the Revised Code: 2888

(a) Was less than one hundred twenty per cent of the average 2889
of such rates for the corresponding thirteen-week period ending in 2890
each of the preceding two calendar years, or for weeks beginning 2891
before September 25, 1982, was less than four per cent and for 2892
weeks beginning after September 25, 1982, was less than five per 2893
cent; 2894

(b) For weeks of unemployment beginning after December 31, 2895
1977 and before September 25, 1982, such rate of insured 2896
unemployment: 2897

(i) Was less than five per cent; and 2898

(ii) Met the criteria set forth in division (A)(3)(a) of this 2899
section. 2900

(c) For weeks of unemployment beginning after September 25, 2901
1982, such rate of insured unemployment: 2902

(i) Was less than six per cent; and 2903

(ii) Met the criteria set forth in division (A)(3)(a) of this 2904
section. 2905

(4) "Rate of insured unemployment," for purposes of divisions 2906
(A)(2) and (3) of this section, means the percentage derived by 2907
dividing: 2908

(a) The average weekly number of individuals filing claims 2909
for regular compensation in this state for weeks of unemployment 2910
with respect to the most recent thirteen-consecutive-week period, 2911
as determined by the director on the basis of the director's 2912
reports to the United States secretary of labor, by 2913

(b) The average monthly employment covered under Chapter 2914
4141. of the Revised Code, for the first four of the most recent 2915
six completed calendar quarters ending before the end of such 2916
thirteen-week period. 2917

(5) "Regular benefits" means benefits payable to an 2918
individual, as defined in division (C) of section 4141.01 of the 2919
Revised Code, or under any other state law, including dependents' 2920
allowance and benefits payable to federal civilian employees and 2921
to ex-servicepersons pursuant to the "Act of September 6, 1966," 2922
80 Stat. 585, 5 U.S.C.A. 8501, other than extended benefits, and 2923
additional benefits as defined in division (A)(10) of this 2924
section. 2925

(6) "Extended benefits" means benefits, including benefits 2926
payable to federal civilian employees and to ex-servicepersons 2927
pursuant to the "Act of September 6, 1966," 80 Stat. 585, 5 2928
U.S.C.A. 8501, and additional benefits, payable to an individual 2929
under the provisions of this section for weeks of unemployment in 2930

the individual's eligibility period. 2931

(7) "Eligibility period" of an individual means the period 2932
consisting of the weeks in the individual's benefit year which 2933
begin in an extended benefit period and, if the individual's 2934
benefit year ends within the extended benefit period, any weeks 2935
thereafter which begin in the period. 2936

(8) "Exhaustee" means an individual who, with respect to any 2937
week of unemployment in the individual's eligibility period: 2938

(a) Has received prior to the week, all of the regular 2939
benefits that were available to the individual under Chapter 4141. 2940
of the Revised Code, or any other state law, including dependents' 2941
allowance and benefits payable to federal civilian employees and 2942
ex-servicepersons under the "Act of September 6, 1966," 80 Stat. 2943
585, 5 U.S.C.A. 8501, in the individual's current benefit year 2944
that includes the week; 2945

(b) Has received, prior to the week, all of the regular 2946
benefits that were available to the individual under this chapter 2947
or any other state law, including dependents' allowances and 2948
regular benefits available to federal civilian employees and 2949
ex-servicepersons under the "Act of September 6, 1966," 80 Stat. 2950
585, 5 U.S.C.A. 8501, in the individual's current benefit year 2951
that includes the week, after the cancellation of some or all of 2952
the individual's wage credits or the total or partial reduction of 2953
the individual's right to regular benefits, provided that, for the 2954
purposes of divisions (A)(8)(a) and (8)(b) of this section, an 2955
individual shall be deemed to have received in the individual's 2956
current benefit year all of the regular benefits that were either 2957
payable or available to the individual even though: 2958

(i) As a result of a pending appeal with respect to wages or 2959
employment, or both, that were not included in the original 2960
monetary determination with respect to the individual's current 2961

benefit year, the individual may subsequently be determined to be 2962
entitled to more regular benefits, or 2963

(ii) By reason of section 4141.33 of the Revised Code, or the 2964
seasonal employment provisions of another state law, the 2965
individual is not entitled to regular benefits with respect to the 2966
week of unemployment, although the individual may be entitled to 2967
regular benefits with respect to future weeks of unemployment in 2968
either the next season or off season in the individual's current 2969
benefit year, and the individual is otherwise an "exhaustee" 2970
within the meaning of this section with respect to the right to 2971
regular benefits under state law seasonal employment provisions 2972
during either the season or off season in which that week of 2973
unemployment occurs, or 2974

(iii) Having established a benefit year, no regular benefits 2975
are payable to the individual during the year because the 2976
individual's wage credits were cancelled or the individual's right 2977
to regular benefits was totally reduced as the result of the 2978
application of a disqualification; or 2979

(c) The individual's benefit year having expired prior to the 2980
week, has no, or insufficient, wages or weeks of employment on the 2981
basis of which the individual could establish in any state a new 2982
benefit year that would include the week, or having established a 2983
new benefit year that includes the week, the individual is 2984
precluded from receiving regular benefits by reason of a state law 2985
which meets the requirements of section 3304 (a)(7) of the 2986
"Federal Unemployment Tax Act," 53 Stat. 183, 26 U.S.C.A. 3301 to 2987
3311; and 2988

(i) Has no right for the week to unemployment benefits or 2989
allowances, as the case may be, under the Railroad Unemployment 2990
Insurance Act, the Trade Act of 1974, and other federal laws as 2991
are specified in regulations issued by the United States secretary 2992

of labor; and 2993

(ii) Has not received and is not seeking for the week 2994
unemployment benefits under the unemployment compensation law of 2995
the Virgin Islands, prior to the day after that on which the 2996
secretary of labor approves the unemployment compensation law of 2997
the Virgin Islands, or of Canada; or if the individual is seeking 2998
benefits and the appropriate agency finally determines that the 2999
individual is not entitled to benefits under the law for the week. 3000

(9) "State law" means the unemployment insurance law of any 3001
state, approved by the United States secretary of labor under 3002
section 3304 of the Internal Revenue Code of 1954. 3003

(10) "Additional benefits" means benefits totally financed by 3004
a state and payable to exhaustees by reason of high unemployment 3005
or by reason of other special factors under the provisions of any 3006
state law. 3007

(B) Except when the result would be inconsistent with the 3008
other provisions of this section, as provided in the regulations 3009
of the director, the provisions of Chapter 4141. of the Revised 3010
Code, which apply to claims for, or the payment of, regular 3011
benefits, shall apply to claims for, and the payment of, extended 3012
benefits. 3013

(C) Any individual shall be eligible to receive extended 3014
benefits with respect to any week of unemployment in the 3015
individual's eligibility period only if the director finds that, 3016
with respect to such week: 3017

(1) The individual is an "exhaustee" as defined in division 3018
(A)(8) of this section; and 3019

(2) The individual has satisfied the requirements of Chapter 3020
4141. of the Revised Code, for the receipt of regular benefits 3021
that are applicable to individuals claiming extended benefits, 3022

including not being subject to a disqualification for the receipt 3023
of benefits. 3024

(D) The weekly extended benefit amount payable to an 3025
individual for a week of total unemployment in the individual's 3026
eligibility period shall be the same as the weekly benefit amount 3027
payable to the individual during the individual's applicable 3028
benefit year. 3029

(E) The total extended benefit amount payable to any eligible 3030
individual with respect to the individual's applicable benefit 3031
year shall be the lesser of the following amounts: 3032

(1) Fifty per cent of the total amount of regular benefits, 3033
including dependents' allowances which were payable to the 3034
individual under Chapter 4141. of the Revised Code, in the 3035
individual's applicable benefit year; 3036

(2) Thirteen times the individual's weekly benefit amount, 3037
including dependents' allowances, which was payable to the 3038
individual under Chapter 4141. of the Revised Code, for a week of 3039
total unemployment in the applicable benefit year; provided, that 3040
in making the computation under divisions (E)(1) and (2) of this 3041
section, any amount which is not a multiple of one dollar shall be 3042
rounded to the next lower multiple of one dollar. 3043

(F)(1) Except as provided in division (F)(2) of this section, 3044
an individual eligible for extended benefits pursuant to an 3045
interstate claim filed in any state under the interstate benefit 3046
payment plan shall not be paid extended benefits for any week in 3047
which an extended benefit period is not in effect in such state. 3048

(2) Division (F)(1) of this section does not apply with 3049
respect to the first two weeks for which extended compensation is 3050
payable to an individual, as determined without regard to this 3051
division, pursuant to an interstate claim filed under the 3052
interstate benefit payment plan from the total extended benefit 3053

amount payable to that individual in the individual's applicable 3054
benefit year. 3055

(3) Notwithstanding any other provisions of this section, if 3056
the benefit year of any individual ends within an extended benefit 3057
period, the remaining balance of extended benefits that the 3058
individual would, but for this section, be entitled to receive in 3059
that extended benefit period, with respect to weeks of 3060
unemployment beginning after the end of the benefit year, shall be 3061
reduced, but not below zero, by the product of the number of weeks 3062
for which the individual received any amounts as trade 3063
readjustment allowances within that benefit year, multiplied by 3064
the individual's weekly benefit amount for extended benefits. 3065

(G)(1) Whenever an extended benefit period is to become 3066
effective in this state, as a result of a state "on" indicator, or 3067
an extended benefit period is to be terminated in this state as a 3068
result of a state "off" indicator, the director shall make an 3069
appropriate public announcement. 3070

(2) Computations required by division (A)(4) of this section 3071
shall be made by the director, in accordance with the regulations 3072
prescribed by the United States secretary of labor. 3073

(H)(1)(a) The director shall promptly examine any application 3074
for extended benefits filed and, under this section, determine 3075
whether the application is to be allowed or disallowed and, if 3076
allowed, the weekly and total extended benefits payable and the 3077
effective date of the application. The claimant, the claimant's 3078
most recent employer, and any other employer in the base period of 3079
the claim upon which the extended benefits are based, and who was 3080
chargeable for regular benefits based on such claim, shall be 3081
notified of such determination. 3082

(b) The determination issued to the most recent or other base 3083
period employer shall include the total amount of extended 3084

benefits that may be charged to the employer's account. Such 3085
potential charge amount shall be an amount equal to one-fourth of 3086
the regular benefits chargeable to the employer's account on the 3087
regular claim upon which extended benefits are based except that, 3088
effective January 1, 1979, the potential charge amount to the 3089
state and its instrumentalities ~~and~~, its political subdivisions 3090
and their instrumentalities, and Indian tribes shall be an amount 3091
equal to one-half of the regular benefits chargeable to their 3092
accounts on such claim. If regular benefits were chargeable to the 3093
mutualized account, in lieu of an employer's account, then the 3094
extended benefits which are based on such prior mutualized 3095
benefits shall also be charged to the mutualized account. 3096

(c) As extended benefits are paid to eligible individuals: 3097

(i) One-half of such benefits will be charged to an extended 3098
benefit account to which reimbursement payments of one-half of 3099
extended benefits, received from the federal government as 3100
described in division (J) of this section, will be credited; and 3101

(ii) One-half of the extended benefits shall be charged to 3102
the accounts of base period employers and the mutualized account 3103
in the same proportion as was provided for on the regular claim; 3104
or 3105

(iii) The full amount of extended benefits shall be charged 3106
to the accounts of the state and its instrumentalities, ~~and~~ its 3107
political subdivisions and their instrumentalities, and Indian 3108
tribes. Employers making payments in lieu of contributions shall 3109
be charged in accordance with division (B)(1) of section 4141.241 3110
of the Revised Code. 3111

(d) If the application for extended benefits is disallowed, a 3112
determination shall be issued to the claimant, which determination 3113
shall set forth the reasons for the disallowance. Determinations 3114
issued under this division, whether allowed or disallowed, shall 3115

be subject to reconsideration and appeal in accordance with 3116
section 4141.281 of the Revised Code. 3117

(2) Any additional or continued claims, as described in 3118
division (F) of section 4141.01 of the Revised Code, filed by an 3119
individual at the beginning of, or during, the individual's 3120
extended benefit period shall be determined under division (E) of 3121
section 4141.28 of the Revised Code, and such determination shall 3122
be subject to reconsideration and appeal in accordance with 3123
section 4141.281 of the Revised Code. 3124

(I) Notwithstanding division (B) of this section, payment of 3125
extended benefits under this section shall not be made to any 3126
individual for any week of unemployment in the individual's 3127
eligibility period during which the individual fails to accept any 3128
offer of suitable work, as defined in division (I)(2) of this 3129
section, or fails to apply for any suitable work to which the 3130
individual was referred by the director, or fails to actively 3131
engage in seeking work, as prescribed in division (I)(4) of this 3132
section. 3133

(1) If any individual is ineligible for extended benefits for 3134
any week by reason of a failure described in this division, the 3135
individual shall be ineligible to receive extended benefits 3136
beginning with the week in which the failure occurred and 3137
continuing until the individual has been employed during each of 3138
four subsequent weeks and the total remuneration earned by the 3139
individual for this employment is equal to or more than four times 3140
the individual's weekly extended benefit amount, and has met all 3141
other eligibility requirements of this section, in order to 3142
establish entitlement to extended benefits. 3143

(2) For purposes of this section, the term "suitable work" 3144
means, with respect to an individual, any work which is within the 3145
individual's capabilities, provided that with respect to the 3146

position all of the following requirements are met: 3147

(a) It offers the individual gross average weekly 3148
remuneration of more than the sum of: 3149

(i) The individual's extended weekly benefit amount; and 3150

(ii) The amount of supplemental unemployment compensation 3151
benefits, as defined in section 501(c)(17)(D) of the "Internal 3152
Revenue Code of 1954," 80 Stat. 1515, 26 U.S.C.A. 501, payable to 3153
the individual for the week of unemployment. 3154

(b) It pays equal to or more than the higher of: 3155

(i) The minimum wage provided by section 6(a)(1) of the "Fair 3156
Labor Standards Act of 1938," 91 Stat. 1245, 29 U.S.C.A. 206, 3157
without regard to any exemption; or 3158

(ii) Any applicable state or local minimum wage. 3159

(c) It is offered to the individual in writing or is listed 3160
with the employment office maintained or designated by the 3161
director. 3162

(3) Extended benefits shall not be denied under this division 3163
to any individual for any week by reason of a failure to accept an 3164
offer of, or apply for suitable work if either of the following 3165
conditions apply: 3166

(a) The failure would not result in a denial of benefits to a 3167
regular benefit claimant under section 4141.29 of the Revised Code 3168
to the extent that section 4141.29 of the Revised Code is not 3169
inconsistent with division (I)(2) of this section; 3170

(b) The individual furnishes evidence satisfactory to the 3171
director that the individual's prospects for obtaining work in the 3172
individual's customary occupation within a reasonably short period 3173
are good. If the evidence is deemed satisfactory, the 3174
determination as to whether any work is suitable work with respect 3175
to this individual and whether the individual is ineligible or 3176

disqualified shall be based upon the meaning of "suitable work" 3177
and other provisions in section 4141.29 of the Revised Code. 3178

(4) For purposes of this section, an individual shall be 3179
treated as actively engaged in seeking work during any week if: 3180

(a) The individual has engaged in a systematic and sustained 3181
effort to obtain work during that week; and 3182

(b) The individual provides tangible evidence to the director 3183
that the individual has engaged in the effort during that week. 3184

(5) The director shall refer applicants for extended benefits 3185
to job openings that meet the requirements of divisions (E) and 3186
(F) of section 4141.29 of the Revised Code, and in the case of 3187
applicants whose prospects are determined not to be good under 3188
division (I)(3)(b) of this section to any suitable work which 3189
meets the criteria in divisions (I)(2) and (3)(a) of this section. 3190

(6) Individuals denied extended or regular benefits under 3191
division (D)(1)(b) of section 4141.29 of the Revised Code because 3192
of being given a disciplinary layoff for misconduct must, after 3193
the date of disqualification, work the length of time and earn the 3194
amount of remuneration specified in division (I)(1) of this 3195
section, and meet all other eligibility requirements of this 3196
section, in order to establish entitlement to extended benefits. 3197

(J) All payments of extended benefits made pursuant to this 3198
section shall be paid out of the unemployment compensation fund, 3199
provided by section 4141.09 of the Revised Code, and all payments 3200
of the federal share of extended benefits that are received as 3201
reimbursements under section 204 of the "Federal-State Extended 3202
Unemployment Compensation Act of 1970," 84 Stat. 696, 26 U.S.C.A. 3203
3306, shall be deposited in such unemployment compensation fund 3204
and shall be credited to the extended benefit account established 3205
by division (G) of this section. Any refund of extended benefits, 3206
because of prior overpayment of such benefits, may be made from 3207

the unemployment compensation fund. 3208

(K) In the administration of the provisions of this section 3209
which are enacted to conform with the requirements of the 3210
"Federal-State Extended Unemployment Compensation Act of 1970," 84 3211
Stat. 696, 26 U.S.C.A. 3306, the director shall take such action 3212
consistent with state law, as may be necessary: 3213

(1) To ensure that the provisions are so interpreted and 3214
applied as to meet the requirements of the federal act as 3215
interpreted by the United States department of labor; and 3216

(2) To secure to this state the full reimbursement of the 3217
federal share of extended benefits paid under this section that 3218
are reimbursable under the federal act. 3219

Sec. 4141.31. (A) Benefits otherwise payable for any week 3220
shall be reduced by the amount of remuneration or other payments a 3221
claimant receives with respect to such week as follows: 3222

(1) Remuneration in lieu of notice; 3223

(2) Compensation for wage loss under division (B) of section 3224
4123.56 of the Revised Code or ~~temporary partial disability~~ a 3225
similar provision under the workers' compensation law of any state 3226
or ~~under a similar law of~~ the United States; 3227

(3) ~~Except as provided in section 4141.312 of the Revised~~ 3228
~~Code, payments~~ Payments in the form of retirement, or pension 3229
allowances ~~under a plan wholly financed by an employer which~~ 3230
~~payments are paid either directly by the employer, or indirectly~~ 3231
~~through a trust, annuity, insurance fund, or under an insurance~~ 3232
~~contract whether payable upon retirement, termination, or~~ 3233
~~separation from employment, provided that if the claimant has~~ 3234
~~twenty six weeks or more of employment with a subsequent employer~~ 3235
~~or employers who are not paying the claimant a pension or~~ 3236
~~retirement allowance, then such pension or retirement payments~~ 3237

~~shall not reduce the benefits payable for the week, and provided~~ 3238
~~further that no benefits shall thereafter be charged to the~~ 3239
~~account of the employer who is paying the pension, but instead~~ 3240
~~such benefits shall be charged to the mutualized account except as~~ 3241
~~provided in division (B)(1)(b) of section 4141.241 of the Revised~~ 3242
~~Code if the claimant's separation from the employer was~~ 3243
~~disqualifying under division (D)(2)(a) of section 4141.29 of the~~ 3244
~~Revised Code as provided under section 4141.312 of the Revised~~ 3245
Code; 3246

(4) Remuneration in the form of separation or termination pay 3247
paid to an employee at the time of the employee's separation from 3248
employment; 3249

(5) Vacation pay or allowance payable under the terms of a 3250
labor-management contract or agreement, or other contract of hire, 3251
which payments are allocated to designated weeks. 3252

If payments under this division are paid with respect to a 3253
month then the amount of remuneration deemed to be received with 3254
respect to any week during such month shall be computed by 3255
multiplying such monthly amount by twelve and dividing the product 3256
by fifty-two. If there is no designation of the period with 3257
respect to which payments to an individual are made under this 3258
section then an amount equal to such individual's normal weekly 3259
wage shall be attributed to and deemed paid with respect to the 3260
first and each succeeding week following the individual's 3261
separation or termination from the employment of the employer 3262
making the payment until such amount so paid is exhausted. 3263

If benefits for any week, when reduced as provided in this 3264
division, result in an amount not a multiple of one dollar, such 3265
benefits shall be rounded to the next lower multiple of one 3266
dollar. 3267

Any payment allocated by the employer or the director of job 3268

and family services to weeks under division (A)(1), (4), or (5) of 3269
this section shall be deemed to be remuneration for the purposes 3270
of establishing a qualifying week and a benefit year under 3271
divisions (O)(1) and (R) of section 4141.01 of the Revised Code. 3272

(B) Benefits payable for any week shall not be reduced by the 3273
amount of remuneration a claimant receives with respect to such 3274
week in the form of drill or reserve pay received by a member of 3275
the Ohio national guard or the armed forces reserve for attendance 3276
at a regularly scheduled drill or meeting. 3277

(C) No benefits shall be paid for any week with respect to 3278
which or a part of which an individual has received or is seeking 3279
unemployment benefits under an unemployment compensation law of 3280
any other state or of the United States, provided the 3281
disqualifications shall not apply if the appropriate agency of 3282
such other state or of the United States finally determines that 3283
an individual is not entitled to such unemployment benefits. A law 3284
of the United States providing any payment of any type and in any 3285
amounts for periods of unemployment due to lack of work shall be 3286
considered an unemployment compensation law of the United States. 3287

(D) Notwithstanding any other provision in this chapter, 3288
benefits otherwise payable shall not be reduced by payments that 3289
were made to an individual on or after August 1, 1991, pursuant to 3290
"The National Defense Authorization Act for Fiscal Years 1992 and 3291
1993," Public Law 102-190, 105 Stat. 1394, 1396, 10 U.S.C.A. 3292
1174a, 1175, in the form of voluntary separation incentive 3293
payments and special separation pay. 3294

~~Sec. 4141.312. Notwithstanding sections 4141.31 and 4141.311 3295~~
~~of the Revised Code, and to the extent that the following 3296~~
~~provisions are required as a condition for full tax credit against 3297~~
~~the tax imposed by the "Federal Unemployment Tax Act of 1976," 84 3298~~
~~Stat. 713, 26 U.S.C.A. 3301 to 3311, then the following conditions 3299~~

~~shall apply:~~ 3300

(A) The amount of benefits payable to a claimant for any week 3301
with respect to which the claimant is receiving a governmental or 3302
other pension, retirement or retired pay, annuity or any other 3303
similar periodic payment which is based on the previous work of 3304
the individual, ~~shall, to the extent required by such federal act,~~ 3305
be reduced by an amount equal to the amount of the pension, 3306
retirement or retired pay, annuity or other payment which is 3307
reasonably attributable to that week, except that the requirements 3308
for this division shall apply to any pension, retirement or 3309
retired pay, annuity, or other similar periodic payment only if 3310
both of the following apply: 3311

(1) The payment is under a plan maintained or contributed to 3312
by a base period employer or chargeable employer. 3313

(2) In the case of a payment under a plan not made under the 3314
"Social Security Act," 42 U.S.C. 401 et. seq., or the "Railroad 3315
Retirement Act of 1974," 45 U.S.C. 231 et. seq., or the 3316
corresponding provisions of prior law, services performed for such 3317
employer by the individual after the beginning of the base period, 3318
or remuneration for such services, affect eligibility for, or 3319
increase the amount of, such pension, retirement or retired pay, 3320
annuity, or similar payment. 3321

(B) The amount of any disability pension, allowance, or 3322
payment paid to former members of the armed forces of the United 3323
States which is based on the nature and extent of the disability 3324
rather than a prior period of employment or service, shall not 3325
reduce or be deducted from the weekly benefits payable. 3326

Sec. 4141.48. (A) No person shall acquire the trade or 3327
business of an employer, or a portion thereof, solely or primarily 3328
for the purpose of obtaining a lower rate of contributions under 3329
sections 4141.09, 4141.23, 4141.24, 4141.241, 4141.242, 4141.25, 3330

4141.26, and 4141.27 of the Revised Code.

3331

(B) In determining whether the trade or business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the director shall use objective factors that may include all of the following:

3332

3333

3334

3335

(1) The cost of acquiring the trade or business;

3336

(2) Whether the person continued the trade or business of the acquired trade or business;

3337

3338

(3) If the trade or business was continued, how long the trade or business was continued;

3339

3340

(4) Whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to the acquisition.

3341

3342

3343

(C) If a person knowingly violates, attempts to violate, or advises another person in a way that results in a violation of division (A) of this section or any other provision of this chapter related to determining the assignment of a contribution rate, the person is subject to the following penalties:

3344

3345

3346

3347

3348

(1) If the person is an employer, the director shall assign the employer the highest maximum rate or penalty rate assignable under this chapter for the rate year during which the violation or attempted violation occurred and the three rate years immediately following that rate year, except that, if the person's business is already at the highest rate for any of those years, or if the amount of increase in the person's rate would be less than two per cent for that year, then an additional penalty rate of contributions of two per cent of taxable wages shall be imposed for that year.

3349

3350

3351

3352

3353

3354

3355

3356

3357

3358

(2) If the person is not an employer, the director shall assess a fine of five thousand dollars.

3359

3360

(D) The director shall deposit any fine collected under 3361
division (C)(2) of this section into the special administrative 3362
fund established under section 4141.11 of the Revised Code. 3363

(E) The director shall credit fifty per cent of amounts paid 3364
to the director under rates determined pursuant to division (C)(1) 3365
of this section to the individual employer's account and fifty per 3366
cent to the mutualized account established pursuant to division 3367
(B) of section 4141.25 of the Revised Code. 3368

(F) The director shall round the contribution rates the 3369
director determines under division (C)(1) of this section to the 3370
nearest tenth of one per cent. 3371

(G) For purposes of this section: 3372

(1) "Knowingly" means having actual knowledge of or acting 3373
with deliberate ignorance or reckless disregard for the 3374
prohibition involved. 3375

(2) "Person" has the same meaning as under "The Internal 3376
Revenue Code of 1986," 100 Stat. 2138, 26 U.S.C. 7701. 3377

(3) "Trade or business" includes the employer's workforce. 3378

(4) "Violates or attempts to violate" includes, but is not 3379
limited to, intent to evade, misrepresentation, or willful 3380
nondisclosure. 3381

Sec. 4141.99. (A) Whoever violates section 4141.07 of the 3382
Revised Code is guilty of a misdemeanor of the first degree. 3383

(B) Whoever violates section 4141.22 of the Revised Code 3384
shall be fined not less than one hundred nor more than one 3385
thousand dollars, or imprisoned not more than one year, or both. 3386

(C) Whoever violates section 4141.38 of the Revised Code 3387
shall be fined not more than five hundred dollars. 3388

(D) Whoever violates section 4141.40 of the Revised Code 3389

shall be fined not more than five hundred dollars for a first 3390
offense; for each subsequent offense such person shall be fined 3391
not less than twenty-five nor more than one thousand dollars. 3392

(E) Whoever violates section 4141.046 of the Revised Code is 3393
guilty of a misdemeanor of the third degree for a first offense; 3394
for each subsequent offense the person is guilty of a misdemeanor 3395
of the first degree. 3396

(F) Whoever knowingly transfers employees of a trade or 3397
business or advises another person to transfer employees in 3398
violation of division (A) of section 4141.48 of the Revised Code 3399
is guilty of unemployment tax evasion. In addition to the 3400
penalties imposed in division (C) of section 4141.48 of the 3401
Revised Code, if the tax avoided by the trade or business is less 3402
than ten thousand dollars, the violation is a misdemeanor of the 3403
first degree under section 2929.24 of the Revised Code. If the tax 3404
avoided is ten thousand dollars or more, the violation is a felony 3405
under section 2929.14 of the Revised Code, with increased criminal 3406
penalties as follows: 3407

(1) If the tax avoided by the business is ten thousand 3408
dollars or more but less than fifty thousand dollars, the 3409
violation is a felony of the fifth degree. 3410

(2) If the tax avoided is fifty thousand dollars or more but 3411
less than one hundred thousand dollars, the violation is a felony 3412
of the fourth degree. 3413

(3) If the tax avoided is one hundred thousand dollars or 3414
more, the violation is a felony of the third degree. 3415

(G) For purposes of division (F) of this section, 3416
"knowingly," "person," "trade or business," and "violates or 3417
attempts to violate" have the same meanings as in section 4141.48 3418
of the Revised Code. 3419

Section 2. That existing sections 4141.01, 4141.11, 4141.131, 3420
4141.24, 4141.242, 4141.25, 4141.26, 4141.28, 4141.282, 4141.283, 3421
4141.29, 4141.301, 4141.31, 4141.312, and 4141.99 and section 3422
4141.311 of the Revised Code are hereby repealed. 3423

Section 3. Notwithstanding division (B)(2) of section 4141.26 3424
of the Revised Code as amended by this act, for rate years prior 3425
to 2006, the director shall revise the contribution rate of any 3426
employer who has not timely furnished the necessary wage 3427
information as required by division (A) of that section, who has 3428
been assigned a contribution rate pursuant to division (B) of that 3429
section, and who does not meet the requirements of division (B)(1) 3430
of that section, if the employer furnishes the necessary wage 3431
information to the director within thirty-six months following the 3432
thirty-first day of December of the year immediately preceding the 3433
contribution period for which the rate is to be effective. The 3434
revised rate under this section shall be equal to one hundred 3435
twenty per cent of the contribution rate that would have resulted 3436
if the employer had timely furnished the necessary wage 3437
information under division (A) of that section. 3438