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Veterans Affairs Committee**

**122nd General Assembly**

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**Sub. S. B. No. 130**

**Senators Watts, White, Schafrath, Blessing, Gardner, Latell, Gillmor**

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**A B I L L**

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| To amend sections 111.15, 124.11, 141.02, 145.01,  | 1  |
| 145.30, 718.01, 1751.54, 3319.13, 3319.14,         | 2  |
| 3923.381, 3923.382, 4117.01, 4141.01, 4506.02,     | 3  |
| 4911.04, 5101.312, 5903.01, 5903.99, 5911.011,     | 4  |
| 5911.03, 5911.04, 5911.08, 5913.01, 5913.02,       | 5  |
| 5913.021, 5913.03, 5913.04, 5913.05, 5913.051,     | 6  |
| 5913.06, 5913.07, 5913.08, 5913.09, 5913.10,       | 7  |
| 5913.17, 5919.01, 5919.02, 5919.04, 5919.071,      | 8  |
| 5919.09, 5919.12, 5919.13, 5919.14, 5919.15,       | 9  |
| 5919.16, 5919.17, 5919.22, 5919.25, 5919.28,       | 10 |
| 5919.29, 5919.30, 5919.32, 5919.33, 5920.10,       | 11 |
| 5921.09, 5923.01, 5923.02, 5923.03, 5923.05,       | 12 |
| 5923.09, 5923.10, 5923.21, 5923.28, and 5924.15,   | 13 |
| to enact new sections 124.29 and 5903.02 and       | 14 |
| section 5919.35, and to repeal sections 124.28,    | 15 |
| 124.29, 5903.02, 5903.03, 5903.04, 5903.05,        | 16 |
| 5903.09, 5913.013, 5913.11, 5917.01, 5917.02,      | 17 |
| 5917.03, 5917.04, 5917.05, 5917.06, 5917.99,       | 18 |
| 5919.20, 5923.051, and 5923.35 of the Revised Code | 19 |
| to exempt more clearly Reserve and Ohio National   | 20 |
| Guard pay and allowances from municipal taxation;  | 21 |
| to give statutory effect to the federal exemption  | 22 |
| for military vehicles from the state Commercial    | 23 |
| Driver's License Law; to conform more closely to   | 24 |

federal regulations state law governing the Ohio 25  
National Guard and the state military; to repeal 26  
the state Military Census Law; to make other 27  
changes in the law governing the Ohio military; 28  
and to declare an emergency. 29

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

**Section 1.** That sections 111.15, 124.11, 141.02, 145.01, 30  
145.30, 718.01, 1751.54, 3319.13, 3319.14, 3923.381, 3923.382, 31  
4117.01, 4141.01, 4506.02, 4911.04, 5101.312, 5903.01, 5903.99, 32  
5911.011, 5911.03, 5911.04, 5911.08, 5913.01, 5913.02, 5913.021, 33  
5913.03, 5913.04, 5913.05, 5913.051, 5913.06, 5913.07, 5913.08, 34  
5913.09, 5913.10, 5913.17, 5919.01, 5919.02, 5919.04, 5919.071, 35  
5919.09, 5919.12, 5919.13, 5919.14, 5919.15, 5919.16, 5919.17, 36  
5919.22, 5919.25, 5919.28, 5919.29, 5919.30, 5919.32, 5919.33, 37  
5920.10, 5921.09, 5923.01, 5923.02, 5923.03, 5923.05, 5923.09, 38  
5923.10, 5923.21, 5923.28, and 5924.15 be amended and that new 39  
sections 124.29 and 5903.02 and section 5919.35 of the Revised 40  
Code be enacted to read as follows: 41

**Sec. 111.15.** (A) As used in this section: 42

(1) "Rule" includes any rule, regulation, bylaw, or standard 43  
having a general and uniform operation adopted by an agency under 44  
the authority of the laws governing the agency; any appendix to a 45  
rule; and any internal management rule. "Rule" does not include 46  
any guideline adopted pursuant to section 3301.0714 of the Revised 47  
Code, any order respecting the duties of employees, any finding, 48  
any determination of a question of law or fact in a matter 49  
presented to an agency, or any rule promulgated pursuant to 50  
Chapter 119., section 4141.14, division (C)(1) or (2) of section 51  
5117.02, or section 5703.14 of the Revised Code. "Rule" includes 52

any amendment or rescission of a rule. 53

(2) "Agency" means any governmental entity of the state and 54  
includes, but is not limited to, any board, department, division, 55  
commission, bureau, society, council, institution, state college 56  
or university, community college district, technical college 57  
district, or state community college. "Agency" does not include 58  
the general assembly, the adjutant general's department, or any 59  
court. 60

(3) "Internal management rule" means any rule, regulation, 61  
bylaw, or standard governing the day-to-day staff procedures and 62  
operations within an agency. 63

(4) "Substantive revision" has the same meaning as in 64  
division (J) of section 119.01 of the Revised Code. 65

(B)(1) Any rule, other than a rule of an emergency nature, 66  
adopted by any agency pursuant to this section shall be effective 67  
on the tenth day after the day on which the rule in final form and 68  
in compliance with division (B)(3) of this section is filed as 69  
follows: 70

(a) Two certified copies of the rule shall be filed with both 71  
the secretary of state and the director of the legislative service 72  
commission; 73

(b) Two certified copies of the rule shall be filed with the 74  
joint committee on agency rule review. Division (B)(1)(b) of this 75  
section does not apply to any rule to which division (D) of this 76  
section does not apply. 77

An agency that adopts or amends a rule that is subject to 78  
division (D) of this section shall assign a review date to the 79  
rule that is not later than five years after its effective date. 80  
If no review date is assigned to a rule, or if a review date 81  
assigned to a rule exceeds the five-year maximum, the review date 82

for the rule is five years after its effective date. A rule with a  
review date is subject to review under section 119.032 of the  
Revised Code. This paragraph does not apply to a rule of a state  
college or university, community college district, technical  
college district, or state community college.

If all copies are not filed on the same day, the rule shall  
be effective on the tenth day after the day on which the latest  
filing is made. If an agency in adopting a rule designates an  
effective date that is later than the effective date provided for  
by division (B)(1) of this section, the rule if filed as required  
by such division shall become effective on the later date  
designated by the agency.

Any rule that is required to be filed under division (B)(1)  
of this section is also subject to division (D) of this section if  
not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or  
(8) of this section.

(2) A rule of an emergency nature necessary for the immediate  
preservation of the public peace, health, or safety shall state  
the reasons for the necessity. Copies of the emergency rule, in  
final form and in compliance with division (B)(3) of this section,  
shall be filed as follows: two certified copies of the emergency  
rule shall be filed with both the secretary of state and the  
director of the legislative service commission, and one certified  
copy of the emergency rule shall be filed with the joint committee  
on agency rule review. The emergency rule is effective immediately  
upon the latest filing, except that if the agency in adopting the  
emergency rule designates an effective date, or date and time of  
day, that is later than the effective date and time provided for  
by division (B)(2) of this section, the emergency rule if filed as  
required by such division shall become effective at the later  
date, or later date and time of day, designated by the agency.

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An emergency rule becomes invalid at the end of the ninetieth day it is in effect. Prior to that date, the agency may file the emergency rule as a nonemergency rule in compliance with division (B)(1) of this section. The agency may not refile the emergency rule in compliance with division (B)(2) of this section so that, upon the emergency rule becoming invalid under such division, the emergency rule will continue in effect without interruption for another ninety-day period.

(3) An agency shall file a rule under division (B)(1) or (2) of this section in compliance with the following standards and procedures:

(a) The rule shall be numbered in accordance with the numbering system devised by the director for the Ohio administrative code.

(b) The rule shall be prepared and submitted in compliance with the rules of the legislative service commission.

(c) The rule shall clearly state the date on which it is to be effective and the date on which it will expire, if known.

(d) Each rule that amends or rescinds another rule shall clearly refer to the rule that is amended or rescinded. Each amendment shall fully restate the rule as amended.

If the director of the legislative service commission or the director's designee gives an agency written notice pursuant to section 103.05 of the Revised Code that a rule filed by the agency is not in compliance with the rules of the legislative service commission, the agency shall within thirty days after receipt of the notice conform the rule to the rules of the commission as directed in the notice.

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) of this section shall be recorded by the secretary of state and

the director under the title of the agency adopting the rule and  
shall be numbered according to the numbering system devised by the  
director. The secretary of state and the director shall preserve  
the rules in an accessible manner. Each such rule shall be a  
public record open to public inspection and may be lent to any law  
publishing company that wishes to reproduce it.

(D) At least sixty days before a board, commission,  
department, division, or bureau of the government of the state  
files a rule under division (B)(1) of this section, it shall file  
two copies of the full text of the proposed rule with the joint  
committee on agency rule review, and the proposed rule shall be  
subject to legislative review and invalidation under division (I)  
of section 119.03 of the Revised Code. If a state board,  
commission, department, division, or bureau makes a substantive  
revision in a proposed rule after it is filed with the joint  
committee, the state board, commission, department, division, or  
bureau shall promptly file two copies of the full text of the  
proposed rule in its revised form with the joint committee. The  
latest version of a proposed rule as filed with the joint  
committee supersedes each earlier version of the text of the same  
proposed rule. Except as provided in division (F) of this section,  
a state board, commission, department, division, or bureau shall  
attach one copy of the rule summary and fiscal analysis prepared  
under section 121.24 or 127.18 of the Revised Code, or both, to  
each copy of a proposed rule, and to each copy of a proposed rule  
in revised form, that is filed under this division.

This division does not apply to any of the following:

(1) A proposed rule of an emergency nature;

(2) A rule proposed under section 1121.05, 1121.06, 1155.18,  
1733.412, 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 4123.411,

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| 4123.44, or 4123.442 of the Revised Code;                          | 176 |
| (3) A rule proposed by an agency other than a board,               | 177 |
| commission, department, division, or bureau of the government of   | 178 |
| the state;   | 179 |
| (4) A proposed internal management rule of a board,                | 180 |
| commission, department, division, or bureau of the government of   | 181 |
| the state;   | 182 |
| (5) A rule proposed by the Ohio student aid commission, that       | 183 |
| complies with a federal law or rule, so long as the proposed rule  | 184 |
| contains both of the following:                                    | 185 |
| (a) A statement that it is proposed for the purpose of             | 186 |
| complying with a federal law or rule;                              | 187 |
| (b) A citation to the federal law or rule that requires            | 188 |
| compliance.  | 189 |
| (6) Any proposed rule that must be adopted verbatim by an          | 190 |
| agency pursuant to federal law or rule, to become effective within | 191 |
| sixty days of adoption, in order to continue the operation of a    | 192 |
| federally reimbursed program in this state, so long as the         | 193 |
| proposed rule contains both of the following:                      | 194 |
| (a) A statement that it is proposed for the purpose of             | 195 |
| complying with a federal law or rule;                              | 196 |
| (b) A citation to the federal law or rule that requires            | 197 |
| verbatim compliance.   | 198 |
| (7) An initial rule proposed by the director of health to          | 199 |
| impose safety standards, quality-of-care standards, and            | 200 |
| quality-of-care data reporting requirements with respect to a      | 201 |
| health service specified in section 3702.11 of the Revised Code,   | 202 |
| or an initial rule proposed by the director to impose quality      | 203 |
| standards on a facility listed in division (A)(4) of section       | 204 |
| 3702.30 of the Revised Code, if section 3702.12 of the Revised     | 205 |

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| Code requires that the rule be adopted under this section;   | 206   |
| (8) A rule of the state lottery commission pertaining to instant game rules.   | 207<br>208  |
| (E) Whenever a state board, commission, department, division, or bureau files a proposed rule or a proposed rule in revised form under division (D) of this section, it shall also file one copy of the full text of the same proposed rule or proposed rule in revised form with the secretary of state and two copies thereof with the director of the legislative service commission. Except as provided in division (F) of this section, a state board, commission, department, division, or bureau shall attach a copy of the rule summary and fiscal analysis prepared under section 121.24 or 127.18 of the Revised Code, or both, to each copy of a proposed rule or proposed rule in revised form that is filed with the secretary of state or the director of the legislative service commission.                    | 209<br>210<br>211<br>212<br>213<br>214<br>215<br>216<br>217<br>218<br>219<br>220<br>221 |
| (F) Except as otherwise provided in this division, the auditor of state or the auditor of state's designee is not required to attach a rule summary and fiscal analysis to any copy of a proposed rule, or proposed rule in revised form, that the auditor of state proposes under section 117.12, 117.19, 117.38, or 117.43 of the Revised Code and files under division (D) or (E) of this section. If, however, the auditor of state or the designee prepares a rule summary and fiscal analysis of the original version of such a proposed rule for purposes of complying with section 121.24 of the Revised Code, the auditor of state or designee shall attach a copy of the rule summary and fiscal analysis to each copy of the original version of the proposed rule filed under division (D) or (E) of this section. | 222<br>223<br>224<br>225<br>226<br>227<br>228<br>229<br>230<br>231<br>232<br>233<br>234 |
| <b>Sec. 124.11.</b> The civil service of the state and the several counties, cities, civil service townships, city health districts,   | 235<br>236  |

general health districts, and city school districts thereof shall 237  
be divided into the unclassified service and the classified 238  
service. 239

(A) The unclassified service shall comprise the following 240  
positions, which shall not be included in the classified service, 241  
and which shall be exempt from all examinations required by this 242  
chapter: 243

(1) All officers elected by popular vote or persons appointed 244  
to fill vacancies in such offices; 245

(2) All election officers as defined in section 3501.01 of 246  
the Revised Code; 247

(3) The members of all boards and commissions, and heads of 248  
principal departments, boards, and commissions appointed by the 249  
governor or by and with the governor's consent; and the members of 250  
all boards and commissions and all heads of departments appointed 251  
by the mayor, or, if there is no mayor, such other similar chief 252  
appointing authority of any city or city school district; except 253  
as otherwise provided in division (A)(17) or (C) of this section, 254  
this chapter does not exempt the chiefs of police departments and 255  
chiefs of fire departments of cities or civil service townships 256  
from the competitive classified service; 257

(4) The members of county or district licensing boards or 258  
commissions and boards of revision, and deputy county auditors; 259

(5) All officers and employees elected or appointed by either 260  
or both branches of the general assembly, and such employees of 261  
the city legislative authority as are engaged in legislative 262  
duties; 263

(6) All commissioned, warrant, and noncommissioned officers 264  
and enlisted persons in the ~~military service of the state~~ Ohio 265  
organized militia, including military appointees in the ~~office of~~ 266

~~the adjutant general~~ general's department; 267

(7)(a) All presidents, business managers, administrative 268  
officers, superintendents, assistant superintendents, principals, 269  
deans, assistant deans, instructors, teachers, and such employees 270  
as are engaged in educational or research duties connected with 271  
the public school system, colleges, and universities, as 272  
determined by the governing body of the public school system, 273  
colleges, and universities; 274

(b) The library staff of any library in the state supported 275  
wholly or in part at public expense. 276

(8) Four clerical and administrative support employees for 277  
each of the elective state officers; and three clerical and 278  
administrative support employees for other elective officers and 279  
each of the principal appointive executive officers, boards, or 280  
commissions, except for civil service commissions, that are 281  
authorized to appoint such clerical and administrative support 282  
employees; 283

(9) The deputies and assistants of state agencies authorized 284  
to act for and on behalf of the agency, or holding a fiduciary or 285  
administrative relation to that agency and those persons employed 286  
by and directly responsible to elected county officials or a 287  
county administrator and holding a fiduciary or administrative 288  
relationship to such elected county officials or county 289  
administrator, and the employees of such county officials whose 290  
fitness would be impracticable to determine by competitive 291  
examination, provided that division (A)(9) of this section shall 292  
not affect those persons in county employment in the classified 293  
service as of September 19, 1961. Nothing in division (A)(9) of 294  
this section applies to any position in a county department of 295  
human services created pursuant to sections 329.01 to 329.10 of 296  
the Revised Code. 297

(10) Bailiffs, constables, official stenographers, and 298  
commissioners of courts of record, deputies of clerks of the 299  
courts of common pleas who supervise, or who handle public moneys 300  
or secured documents, and such officers and employees of courts of 301  
record and such deputies of clerks of the courts of common pleas 302  
as the director of administrative services finds it impracticable 303  
to determine their fitness by competitive examination; 304

(11) Assistants to the attorney general, special counsel 305  
appointed or employed by the attorney general, assistants to 306  
county prosecuting attorneys, and assistants to city directors of 307  
law; 308

(12) Such teachers and employees in the agricultural 309  
experiment stations; such students in normal schools, colleges, 310  
and universities of the state who are employed by the state or a 311  
political subdivision of the state in student or intern 312  
classifications; and such unskilled labor positions as the 313  
director of administrative services or any municipal civil service 314  
commission may find it impracticable to include in the competitive 315  
classified service; provided such exemptions shall be by order of 316  
the commission or the director, duly entered on the record of the 317  
commission or the director with the reasons for each such 318  
exemption; 319

(13) Any physician or dentist who is a full-time employee of 320  
the department of mental health or the department of mental 321  
retardation and developmental disabilities or of an institution 322  
under the jurisdiction of either department; and physicians who 323  
are in residency programs at the institutions; 324

(14) Up to twenty positions at each institution under the 325  
jurisdiction of the department of mental health or the department 326  
of mental retardation and developmental disabilities that the 327  
department director determines to be primarily administrative or 328

managerial; and up to fifteen positions in any division of either 329  
department, excluding administrative assistants to the director 330  
and division chiefs, which are within the immediate staff of a 331  
division chief and which the director determines to be primarily 332  
and distinctively administrative and managerial; 333

(15) Noncitizens of the United States employed by the state, 334  
or its counties or cities, as physicians or nurses who are duly 335  
licensed to practice their respective professions under the laws 336  
of Ohio, or medical assistants, in mental, tuberculosis, or 337  
chronic disease hospitals, or institutions; 338

(16) Employees of the governor's office; 339

(17) Fire chiefs and chiefs of police in civil service 340  
townships appointed by boards of township trustees under section 341  
505.38 or 505.49 of the Revised Code; 342

(18) Executive directors, deputy directors, and program 343  
directors employed by boards of alcohol, drug addiction, and 344  
mental health services under Chapter 340. of the Revised Code, and 345  
secretaries of the executive directors, deputy directors, and 346  
program directors; 347

(19) Superintendents, and management employees as defined in 348  
section 5126.20 of the Revised Code, of county boards of mental 349  
retardation and developmental disabilities; 350

(20) Physicians, nurses, and other employees of a county 351  
hospital who are appointed pursuant to sections 339.03 and 339.06 352  
of the Revised Code; 353

(21) The executive director of the state medical board, who 354  
is appointed pursuant to division (B) of section 4731.05 of the 355  
Revised Code; 356

(22) County directors of human services as provided in 357  
section 329.02 of the Revised Code and administrators appointed 358

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| under section 329.021 of the Revised Code;  | 359   |
| (23) A director of economic development who is hired pursuant to division (A) of section 307.07 of the Revised Code;  | 360<br>361  |
| (24) Chiefs of construction and compliance, of operations and maintenance, and of licensing and certification in the division of industrial compliance in the department of commerce;   | 362<br>363<br>364   |
| (25) The executive director of a county transit system appointed under division (A) of section 306.04 of the Revised Code;  | 365<br>366<br>367   |
| (26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, bureau of employment services, bureau of workers' compensation, industrial commission, state lottery commission, and public utilities commission of Ohio that the head of that administrative department or of that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay range 44 of salary schedule E-2 in section 124.152 of the Revised Code. The authority to establish positions in the unclassified service under division (A)(26) of this section is in addition to and does not limit any other authority that an administrative department or state agency has under the Revised Code to establish positions, appoint employees, or set compensation. | 368<br>369<br>370<br>371<br>372<br>373<br>374<br>375<br>376<br>377<br>378<br>379<br>380<br>381<br>382<br>383<br>384<br>385<br>386 |
| (27) Employees of the department of agriculture employed under section 901.09 of the Revised Code;  | 387<br>388  |
| (28) For cities, counties, civil service townships, city  | 389   |

health districts, general health districts, and city school 390  
districts, the deputies and assistants of elective or principal 391  
executive officers authorized to act for and in the place of their 392  
principals or holding a fiduciary relation to their principals. 393

(B) The classified service shall comprise all persons in the 394  
employ of the state and the several counties, cities, city health 395  
districts, general health districts, and city school districts 396  
thereof, not specifically included in the unclassified service. 397  
Upon the creation by the board of trustees of a civil service 398  
township civil service commission, the classified service shall 399  
also comprise, except as otherwise provided in division (A)(17) or 400  
(C) of this section, all persons in the employ of civil service 401  
township police or fire departments having ten or more full-time 402  
paid employees. The classified service consists of two classes, 403  
which shall be designated as the competitive class and the 404  
unskilled labor class. 405

(1) The competitive class shall include all positions and 406  
employments in the state and the counties, cities, city health 407  
districts, general health districts, and city school districts 408  
thereof, and upon the creation by the board of trustees of a civil 409  
service township of a township civil service commission all 410  
positions in civil service township police or fire departments 411  
having ten or more full-time paid employees, for which it is 412  
practicable to determine the merit and fitness of applicants by 413  
competitive examinations. Appointments shall be made to, or 414  
employment shall be given in, all positions in the competitive 415  
class that are not filled by promotion, reinstatement, transfer, 416  
or reduction, as provided in this chapter, and the rules of the 417  
director of administrative services, by appointment from those 418  
certified to the appointing officer in accordance with this 419  
chapter. 420

(2) The unskilled labor class shall include ordinary 421

unskilled laborers. Vacancies in the labor class shall be filled 422  
by appointment from lists of applicants registered by the 423  
director. The director or the commission ~~shall~~, by rule, shall 424  
require an applicant for registration in the labor class to 425  
furnish such evidence or take such tests as the director considers 426  
proper with respect to age, residence, physical condition, ability 427  
to labor, honesty, sobriety, industry, capacity, and experience in 428  
the work or employment for which ~~he~~ the applicant applies. 429  
Laborers who fulfill the requirements shall be placed on the 430  
eligible list for the kind of labor or employment sought, and 431  
preference shall be given in employment in accordance with the 432  
rating received from such evidence or in such tests. Upon the 433  
request of an appointing officer, stating the kind of labor 434  
needed, the pay and probable length of employment, and the number 435  
to be employed, the director shall certify from the highest on the 436  
list double the number to be employed; from this number the 437  
appointing officer shall appoint the number actually needed for 438  
the particular work. If more than one applicant receives the same 439  
rating, priority in time of application shall determine the order 440  
in which their names shall be certified for appointment. 441

(C) A municipal or civil service township civil service 442  
commission may place volunteer ~~fire fighters~~ firefighters who are 443  
paid on a fee-for-service basis in either the classified or the 444  
unclassified civil service. 445

**Sec. 124.29.** Any person who, at the time of holding an office 446  
or position in the public service, enters the uniformed services, 447  
as defined in section 5903.01 Of the Revised Code, is entitled to 448  
reinstatement in accordance with the "Uniformed Services 449  
Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 450  
38 U.S.C.A. 4301 to 4333. 451

The director of administrative services shall adopt rules in 452  
accordance with Chapter 119. Of the Revised Code for the 453

implementation of this section.

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**Sec. 141.02.** (A) The salaries of the adjutant general, the assistant adjutant general for army, the assistant adjutant general for air, and the assistant quartermaster general shall be paid according to divisions (B) and (H) of section 124.15 of the Revised Code.

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(B) The adjutant general, the assistant adjutant general for army, the assistant adjutant general for air, and the assistant quartermaster general shall receive the pay and basic allowances for quarters and for subsistence of their rank according to the pay at the time prescribed for the armed forces of the United States, except that the assistant adjutant general for air shall not receive flying pay.

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~~These salaries shall be paid according to the schedule established in division (B) of section 124.15 of the Revised Code.~~

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**Sec. 145.01.** As used in this chapter:

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(A) "Public employee" means:

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(1) Any person holding an office, not elective, under the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in this division, or employed and paid in whole or in part by the state or any of the authorities named in this division in any capacity not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the

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| Revised Code.  | 484   |
| (2) A person who is a member of the public employees retirement system who continues to perform the same or similar duties under the direction of a contractor who has contracted to take over what before the date of the contract was a publicly operated function. The governmental unit with which the contract has been made shall be deemed the employer for the purposes of administering this chapter.                             | 485<br>486<br>487<br>488<br>489<br>490<br>491 |
| (3) Any person who is an employee of a public employer, notwithstanding that the person's compensation for that employment is derived from funds of a person or entity other than the employer. Credit for such service shall be included as total service credit, provided that the employee makes the payments required by this chapter, and the employer makes the payments required by sections 145.48 and 145.51 of the Revised Code. | 492<br>493<br>494<br>495<br>496<br>497<br>498 |
| (4) Any civilian employees of the national guard <del>and the air national guard</del> employed in or with a unit of the Ohio national guard <del>or the Ohio air national guard</del> , except those employed by the national guard bureau, shall be considered employees of the adjutant general of the state for the purpose of this chapter, although the employees may be paid by federal funds.                                      | 499<br>500<br>501<br>502<br>503<br>504        |
| In all cases of doubt, the public employees retirement board shall determine whether any person is a public employee, and its decision is final.   | 505<br>506<br>507                             |
| (B) "Member" means any public employee, other than a public employee excluded or exempted from membership in the retirement system by section 145.03, 145.031, 145.032, 145.033, 145.034, 145.035, or 145.38 of the Revised Code. "Member" includes a PERS retirant who becomes a member under division (C)(2) of section 145.38 of the Revised Code. "Member" also includes a disability benefit recipient.                               | 508<br>509<br>510<br>511<br>512<br>513<br>514 |

(C) "Head of the department" means the elective or appointive 515  
head of the several executive, judicial, and administrative 516  
departments, institutions, boards, and commissions of the state 517  
and local government as the same are created and defined by the 518  
laws of this state or, in case of a charter government, by that 519  
charter. 520

(D) "Employer" or "public employer" means the state or any 521  
county, township, municipal corporation, park district, 522  
conservancy district, sanitary district, health district, 523  
metropolitan housing authority, state retirement board, Ohio 524  
historical society, public library, county law library, union 525  
cemetery, joint hospital, institutional commissary, state medical 526  
college, state university, or board, bureau, commission, council, 527  
committee, authority, or administrative body as the same are, or 528  
have been, created by action of the general assembly or by the 529  
legislative authority of any of the units of local government 530  
named in this division not covered by section 3307.01 or 3309.01 531  
of the Revised Code. In addition, "employer" means the employer of 532  
any public employee. 533

(E) "Prior service" means all service as a public employee 534  
rendered before January 1, 1935, and all service as an employee of 535  
any employer who comes within the state teachers retirement system 536  
or of the school employees retirement system or of any other 537  
retirement system established under the laws of this state 538  
rendered prior to January 1, 1935, provided that if the employee 539  
claiming the service was employed in any capacity covered by that 540  
other system after that other system was established, credit for 541  
the service may be allowed by the public employees retirement 542  
system only when the employee has made payment, to be computed on 543  
the salary earned from the date of appointment to the date 544  
membership was established in the public employees retirement 545  
system, at the rate in effect at the time of payment, and the 546

employer has made payment of the corresponding full liability as 547  
provided by section 145.44 of the Revised Code. "Prior service" 548  
also means all service credited for active duty with the armed 549  
forces of the United States as provided in section 145.30 of the 550  
Revised Code. 551

If an employee who has been granted prior service credit by 552  
the public employees retirement system for service rendered prior 553  
to January 1, 1935, as an employee of a board of education 554  
establishes, before retirement, one year or more of contributing 555  
service in the state teachers retirement system or school 556  
employees retirement system, then the prior service ceases to be 557  
the liability of this system. 558

If the board determines that a position of any member in any 559  
calendar year prior to January 1, 1935, was a part-time position, 560  
the board shall determine what fractional part of a year's credit 561  
shall be allowed by the following formula: 562

(1) When the member has been either elected or appointed to 563  
an office the term of which was two or more years and for which an 564  
annual salary is established, the fractional part of the year's 565  
credit shall be computed as follows: 566

First, when the member's annual salary is one thousand 567  
dollars or less, the service credit for each such calendar year 568  
shall be forty per cent of a year. 569

Second, for each full one hundred dollars of annual salary 570  
above one thousand dollars, the member's service credit for each 571  
such calendar year shall be increased by two and one-half per 572  
cent. 573

(2) When the member is paid on a per diem basis, the service 574  
credit for any single year of the service shall be determined by 575  
using the number of days of service for which the compensation was 576  
received in any such year as a numerator and using two hundred 577

fifty days as a denominator.

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(3) When the member is paid on an hourly basis, the service credit for any single year of the service shall be determined by using the number of hours of service for which the compensation was received in any such year as a numerator and using two thousand hours as a denominator.

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(F) "Contributor" means any person who has an account in the employees' savings fund created by section 145.23 of the Revised Code.

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(G) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a member, contributor, or retirant, qualify for or are receiving some right or benefit under this chapter.

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(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's prior service credit; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. In addition, "total service credit" includes any period, not in excess of three years, during which a member was out of service and receiving benefits under Chapters 4121. and 4123. of the Revised Code. For the exclusive purpose of satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

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(2) "One and one-half years of contributing service credit," 609  
as used in division (B) of section 145.45 of the Revised Code, 610  
also means eighteen or more calendar months of employment by a 611  
municipal corporation that formerly operated its own retirement 612  
plan for its employees or a part of its employees, provided that 613  
all employees of that municipal retirement plan who have eighteen 614  
or more months of such employment, upon establishing membership in 615  
the public employees retirement system, shall make a payment of 616  
the contributions they would have paid had they been members of 617  
this system for the eighteen months of employment preceding the 618  
date membership was established. When that payment has been made 619  
by all such employee-members, a corresponding payment shall be 620  
paid into the employers' accumulation fund by that municipal 621  
corporation as the employer of the employees. 622

(3) Where a member also is a member of the state teachers 623  
retirement system or the school employees retirement system, or 624  
both, except in cases of retirement on a combined basis pursuant 625  
to section 145.37 of the Revised Code, service credit for any 626  
period shall be credited on the basis of the ratio that 627  
contributions to the public employees retirement system bears to 628  
total contributions in all state retirement systems. 629

(4) Not more than one year of credit may be given for any 630  
period of twelve months. 631

(5) "Ohio service credit" means credit for service that was 632  
rendered to the state or any of its political subdivisions or any 633  
employer as defined in division (D) of this section. 634

(I) "Regular or current interest" means interest at any rates 635  
for the respective funds and accounts as the public employees 636  
retirement board may determine from time to time, except as 637  
follows: 638

(1) Subsequent to December 31, 1958, the retirement board 639

shall discontinue the annual crediting of current interest to the  
individual accounts of contributors. The noncrediting of current  
interest shall not affect the rate of interest at retirement  
guaranteed under this division.

(2) The rate of interest credited on a contributor's  
contributions at retirement shall be four per cent per annum,  
compounded annually, to and including December 31, 1955; three per  
cent per annum, compounded annually, from January 1, 1956, to and  
including December 31, 1963; three and one-quarter per cent per  
annum, compounded annually, from January 1, 1964, to and including  
December 31, 1969; and thereafter four per cent per annum,  
compounded annually.

In determining the reserve value for the purpose of computing  
the amount of the contributor's annuity, the rate of interest used  
in the annuity values shall be four per cent per annum, compounded  
annually, for contributors retiring before October 1, 1956, and  
after December 31, 1969; three per cent per annum, compounded  
annually, for contributors retiring between October 1, 1956, and  
December 31, 1963; and three and one-quarter per cent per annum,  
compounded annually, for contributors retiring from January 1,  
1964, to December 31, 1969. Interest on contributions from  
contributors within any one calendar year shall begin on the first  
day of the calendar year next following and shall be computed at  
the end of each calendar year, except in the case of a contributor  
who retires before the end of the year.

(J) "Accumulated contributions" means the sum of all amounts  
credited to a contributor's individual account in the employees'  
savings fund together with any current interest thereon, but does  
not include the interest adjustment at retirement.

(K)(1) "Final average salary" means the quotient obtained by  
dividing by three the sum of the three full calendar years of

contributing service in which the member's earnable salary was 671  
highest, except that if the member has a partial year of 672  
contributing service in the year the member's employment 673  
terminates and the member's earnable salary for the partial year 674  
is higher than for any comparable period in the three years, the 675  
member's earnable salary for the partial year shall be substituted 676  
for the member's earnable salary for the comparable period during 677  
the three years in which the member's earnable salary was lowest. 678

(2) If a member has less than three years of contributing 679  
service, the member's final average salary shall be the member's 680  
total earnable salary divided by the total number of years, 681  
including any fraction of a year, of the member's contributing 682  
service. 683

(3) For the purpose of calculating benefits payable to a 684  
member qualifying for service credit under division (Z) of this 685  
section, "final average salary" means the total earnable salary on 686  
which contributions were made divided by the total number of years 687  
during which contributions were made, including any fraction of a 688  
year. If contributions were made for less than twelve months, 689  
"final average salary" means the member's total earnable salary. 690

(L) "Annuity" means payments for life derived from 691  
contributions made by a contributor and paid from the annuity and 692  
pension reserve fund as provided in this chapter. All annuities 693  
shall be paid in twelve equal monthly installments. 694

(M) "Annuity reserve" means the present value, computed upon 695  
the basis of the mortality and other tables adopted by the board, 696  
of all payments to be made on account of any annuity, or benefit 697  
in lieu of any annuity, granted to a retirant as provided in this 698  
chapter. 699

(N)(1) "Disability retirement" means retirement as provided 700  
in section 145.36 of the Revised Code. 701

(2) "Disability allowance" means an allowance paid on account of disability under section 145.361 of the Revised Code. 702  
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(3) "Disability benefit" means a benefit paid as disability retirement under section 145.36 of the Revised Code, as a disability allowance under section 145.361 of the Revised Code, or as a disability benefit under section 145.37 of the Revised Code. 704  
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(4) "Disability benefit recipient" means a member who is receiving a disability benefit. 708  
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(O) "Age and service retirement" means retirement as provided in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of the Revised Code. 710  
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(P) "Pensions" means annual payments for life derived from contributions made by the employer that at the time of retirement are credited into the annuity and pension reserve fund from the employers' accumulation fund and paid from the annuity and pension reserve fund as provided in this chapter. All pensions shall be paid in twelve equal monthly installments. 713  
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(Q) "Retirement allowance" means the pension plus that portion of the benefit derived from contributions made by the member. 719  
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(R)(1) Except as otherwise provided in this division, "earnable salary" means all salary, wages, and other earnings paid to a contributor by reason of employment in a position covered by the retirement system. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the employees' savings fund under section 145.47 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes. "Earnable salary" includes the following: 722  
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(a) Payments made by the employer in lieu of salary, wages, 732  
or other earnings for sick leave, personal leave, or vacation used 733  
by the contributor; 734

(b) Payments made by the employer for the conversion of sick 735  
leave, personal leave, and vacation leave accrued but not used if 736  
the payment is made during the year in which the leave is accrued, 737  
except that payments made pursuant to section 124.383 or 124.386 738  
of the Revised Code are not earnable salary; 739

(c) Allowances paid by the employer for full maintenance, 740  
consisting of housing, laundry, and meals, as certified to the 741  
retirement board by the employer or the head of the department 742  
that employs the contributor; 743

(d) Fees and commissions paid under section 507.09 of the 744  
Revised Code; 745

(e) Payments that are made under a disability leave program 746  
sponsored by the employer and for which the employer is required 747  
by section 145.296 of the Revised Code to make periodic employer 748  
and employee contributions; 749

(f) Amounts included pursuant to divisions (K)(3) and (Y) of 750  
this section. 751

(2) "Earnable salary" does not include any of the following: 752

(a) Fees and commissions, other than those paid under section 753  
507.09 of the Revised Code, paid as sole compensation for personal 754  
services and fees and commissions for special services over and 755  
above services for which the contributor receives a salary; 756  
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(b) Amounts paid by the employer to provide life insurance, 758  
sickness, accident, endowment, health, medical, hospital, dental, 759  
or surgical coverage, or other insurance for the contributor or 760  
the contributor's family, or amounts paid by the employer to the 761

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| contributor in lieu of providing the insurance;                    | 762 |
| (c) Incidental benefits, including lodging, food, laundry,         | 763 |
| parking, or services furnished by the employer, or use of the      | 764 |
| employer's property or equipment, or amounts paid by the employer  | 765 |
| to the contributor in lieu of providing the incidental benefits;   | 766 |
| (d) Reimbursement for job-related expenses authorized by the       | 767 |
| employer, including moving and travel expenses and expenses        | 768 |
| related to professional development;                               | 769 |
| (e) Payments for accrued but unused sick leave, personal           | 770 |
| leave, or vacation that are made at any time other than in the     | 771 |
| year in which the sick leave, personal leave, or vacation was      | 772 |
| accrued;   | 773 |
| (f) Payments made to or on behalf of a contributor that are        | 774 |
| in excess of the annual compensation that may be taken into        | 775 |
| account by the retirement system under division (a)(17) of section | 776 |
| 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26     | 777 |
| U.S.C.A. 401(a)(17), as amended;                                   | 778 |
| (g) Payments made under division (B) or (D) of section             | 779 |
| 5923.05 of the Revised Code or Section 4 of Substitute Senate Bill | 780 |
| No. 3 of the 119th general assembly;                               | 781 |
| (h) Anything of value received by the contributor that is          | 782 |
| based on or attributable to retirement or an agreement to retire,  | 783 |
| except that payments made on or before January 1, 1989, that are   | 784 |
| based on or attributable to an agreement to retire shall be        | 785 |
| included in earnable salary if both of the following apply:        | 786 |
| (i) The payments are made in accordance with contract              | 787 |
| provisions that were in effect prior to January 1, 1986;           | 788 |
| (ii) The employer pays the retirement system an amount             | 789 |
| specified by the retirement board equal to the additional          | 790 |
| liability resulting from the payments.                             | 791 |

(3) The retirement board shall determine by rule whether any 792  
compensation not enumerated in this division is earnable salary, 793  
and its decision shall be final. 794

(S) "Pension reserve" means the present value, computed upon 795  
the basis of the mortality and other tables adopted by the board, 796  
of all payments to be made on account of any retirement allowance 797  
or benefit in lieu of any retirement allowance, granted to a 798  
member or beneficiary under this chapter. 799

(T)(1) "Contributing service" means all service credited to a 800  
member of the system since January 1, 1935, for which 801  
contributions are made as required by sections 145.47, 145.48, and 802  
145.483 of the Revised Code. In any year subsequent to 1934, 803  
credit for any service shall be allowed by the following formula: 804

(a) For each month for which the member's earnable salary is 805  
two hundred fifty dollars or more, allow one month's credit. 806

(b) For each month for which the member's earnable salary is 807  
less than two hundred fifty dollars, allow a fraction of a month's 808  
credit. The numerator of this fraction shall be the earnable 809  
salary during the month, and the denominator shall be two hundred 810  
fifty dollars, except that if the member's annual earnable salary 811  
is less than six hundred dollars, the member's credit shall not be 812  
reduced below twenty per cent of a year for a calendar year of 813  
employment during which the member worked each month. This 814  
division shall not reduce any credit earned before January 1, 815  
1985. 816

(2) Notwithstanding division (T)(1) of this section, an 817  
elected official who prior to January 1, 1980, was granted a full 818  
year of credit for each year of service as an elected official 819  
shall be considered to have earned a full year of credit for each 820  
year of service regardless of whether the service was full-time or 821  
part-time. The public employees retirement board has no authority 822

to reduce the credit.

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(U) "State retirement board" means the public employees retirement board, the school employees retirement board, or the state teachers retirement board.

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(V) "Retirant" means any former member who retires and is receiving a monthly allowance as provided in sections 145.32, 145.33, 145.331, 145.34, and 145.46 of the Revised Code.

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(W) "Employer contribution" means the amount paid by an employer as determined by the employer rate including the normal and deficiency contribution rates.

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(X) "Public service terminates" means the last day for which a public employee is compensated for services performed for an employer or the date of the employee's death, whichever occurs first.

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(Y) When a member has been elected or appointed to an office, the term of which is two or more years, for which an annual salary is established, and in the event that the salary of the office is increased and the member is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during a term of office, the member may elect to have the amount of the member's contributions calculated upon the basis of the increased salary for the office. At the member's request, the board shall compute the total additional amount the member would have contributed, or the amount by which each of the member's contributions would have increased, had the member received the increased salary for the office the member holds. If the member elects to have the amount by which the member's contribution would have increased withheld from the member's salary, the member shall notify the employer, and the employer shall make the withholding and transmit it to the retirement system. A member who has not elected to have that amount withheld may elect at any time to make

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a payment to the retirement system equal to the additional amount 854  
the member's contribution would have increased, plus interest on 855  
that contribution, compounded annually at a rate established by 856  
the board and computed from the date on which the last 857  
contribution would have been withheld from the member's salary to 858  
the date of payment. A member may make a payment for part of the 859  
period for which the increased contribution was not withheld, in 860  
which case the interest shall be computed from the date the last 861  
contribution would have been withheld for the period for which the 862  
payment is made. Upon the payment of the increased contributions 863  
as provided in this division, the increased annual salary as 864  
provided by law for the office for the period for which the member 865  
paid increased contributions thereon shall be used in determining 866  
the member's earnable salary for the purpose of computing the 867  
member's "final average salary." 868

(Z) "Five years of service credit," for the exclusive purpose 870  
of satisfying the service credit requirements and of determining 871  
eligibility for benefits under section 145.33 of the Revised Code, 872  
means employment covered under this chapter or under a former 873  
retirement plan operated, recognized, or endorsed by the employer 874  
prior to coverage under this chapter, or under a combination of 875  
the coverage. 876

(AA) "Deputy sheriff" means any person who is commissioned 877  
and employed as a full-time peace officer by the sheriff of any 878  
county, and has been so employed since on or before December 31, 879  
1965, and whose primary duties are to preserve the peace, to 880  
protect life and property, and to enforce the laws of this state; 881  
any person who is or has been commissioned and employed as a peace 882  
officer by the sheriff of any county since January 1, 1966, and 883  
who has received a certificate attesting to the person's 884  
satisfactory completion of the peace officer training school as 885

required by section 109.77 of the Revised Code and whose primary 886  
duties are to preserve the peace, protect life and property, and 887  
enforce the laws of this state; or any person deputized by the 888  
sheriff of any county and employed pursuant to section 2301.12 of 889  
the Revised Code as a criminal bailiff or court constable who has 890  
received a certificate attesting to the person's satisfactory 891  
completion of the peace officer training school as required by 892  
section 109.77 of the Revised Code and whose primary duties are to 893  
preserve the peace, protect life and property, and enforce the 894  
laws of this state. 895

(BB) "Township constable or police officer in a township 896  
police department or district" means any person who is 897  
commissioned and employed as a full-time peace officer pursuant to 898  
Chapter 505. or 509. of the Revised Code, who has received a 899  
certificate attesting to the person's satisfactory completion of 900  
the peace officer training school as required by section 109.77 of 901  
the Revised Code, and whose primary duties are to preserve the 902  
peace, protect life and property, and enforce the laws of this 903  
state. 904

(CC) "Drug agent" means any person who is either of the 905  
following: 906

(1) Employed full-time as a narcotics agent by a county 907  
narcotics agency created pursuant to section 307.15 of the Revised 908  
Code and has received a certificate attesting to the satisfactory 909  
completion of the peace officer training school as required by 910  
section 109.77 of the Revised Code; 911

(2) Employed full-time as an undercover drug agent as defined 912  
in section 109.79 of the Revised Code and is in compliance with 913  
section 109.77 of the Revised Code. 914

(DD) "Liquor control investigator" means a full-time employee 915  
of the department of public safety who is engaged in the 916

enforcement of Chapters 4301. and 4303. of the Revised Code and is 917  
in compliance with section 109.77 of the Revised Code. 918

(EE) "Park officer" means a full-time employee of the 919  
department of natural resources who is designated a park officer 920  
under section 1541.10 of the Revised Code and is in compliance 921  
with section 109.77 of the Revised Code. 922

(FF) "Forest officer" means a full-time employee of the 923  
department of natural resources who is designated a forest officer 924  
under section 1503.29 of the Revised Code and is in compliance 925  
with section 109.77 of the Revised Code. 926

(GG) "Wildlife officer" means a full-time employee of the 927  
department of natural resources who is designated a wildlife 928  
officer under section 1531.13 of the Revised Code and is in 929  
compliance with section 109.77 of the Revised Code. 930

(HH) "State watercraft officer" means a full-time employee of 931  
the department of natural resources who is designated a state 932  
watercraft officer under section 1547.521 of the Revised Code and 933  
is in compliance with section 109.77 of the Revised Code. 934

(II) "Park district police officer" means a full-time 935  
employee of a park district who is designated pursuant to section 936  
511.232 or 1545.13 of the Revised Code and is in compliance with 937  
section 109.77 of the Revised Code. 938

(JJ) "Conservancy district officer" means a full-time 939  
employee of a conservancy district who is designated pursuant to 940  
section 6101.75 of the Revised Code and is in compliance with 941  
section 109.77 of the Revised Code. 942

(KK) "Municipal police officer" means a member of the 943  
organized police department of a municipal corporation who is 944  
employed full-time, is in compliance with section 109.77 of the 945  
Revised Code, and is not a member of the police and firemen's 946

disability and pension fund.

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(LL) "Ohio veterans' home police officer" means any person  
who is employed at the Ohio veterans' home as a police officer  
pursuant to section 5907.02 of the Revised Code and is in  
compliance with section 109.77 of the Revised Code.

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(MM) "Special police officer for a mental health institution"  
means any person who is designated as such pursuant to section  
5119.14 of the Revised Code and is in compliance with section  
109.77 of the Revised Code.

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(NN) "Special police officer for an institution for the  
mentally retarded and developmentally disabled" means any person  
who is designated as such pursuant to section 5123.13 of the  
Revised Code and is in compliance with section 109.77 of the  
Revised Code.

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(OO) "State university law enforcement officer" means any  
person who is employed full-time as a state university law  
enforcement officer pursuant to section 3345.04 of the Revised  
Code and who is in compliance with section 109.77 of the Revised  
Code.

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(PP) "Hamilton county municipal court bailiff" means a person  
appointed by the clerk of courts of the Hamilton county municipal  
court under division (A)(3) of section 1901.32 of the Revised Code  
who is employed full-time as a bailiff or deputy bailiff, who has  
received a certificate attesting to the person's satisfactory  
completion of the peace officer training school as required by  
division (C) of section 109.77 of the Revised Code, and whose  
primary duties are to preserve the peace, to protect life and  
property, and to enforce the laws of this state.

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(QQ) Notwithstanding section 2901.01 of the Revised Code,  
"law enforcement officer" means a sheriff, deputy sheriff,  
township constable or police officer in a township police

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department or district, drug agent, liquor control investigator, 978  
park officer, forest officer, wildlife officer, state watercraft 979  
officer, park district police officer, conservancy district 980  
officer, Ohio veterans' home police officer, special police 981  
officer for a mental health institution, special police officer 982  
for an institution for the mentally retarded and developmentally 983  
disabled, state university law enforcement officer, Hamilton 984  
county municipal court bailiff, or municipal police officer. 985

(RR) "Fiduciary" means a person who does any of the 986  
following: 987

(1) Exercises any discretionary authority or control with 988  
respect to the management of the system or with respect to the 989  
management or disposition of its assets; 990

(2) Renders investment advice for a fee, direct or indirect, 991  
with respect to money or property of the system; 992

(3) Has any discretionary authority or responsibility in the 993  
administration of the system. 994

(SS) "Actuary" means an individual who satisfies all of the 995  
following requirements: 996

(1) Is a member of the American academy of actuaries; 997

(2) Is an associate or fellow of the society of actuaries; 998

(3) Has a minimum of five years' experience in providing 999  
actuarial services to public retirement plans. 1000

**Sec. 145.30.** (A) As used in this section and section 145.301 1001  
of the Revised Code: 1002

(1) "Armed forces" of the United States includes the 1003  
following: 1004

(a) Army, navy, air force, marine corps, coast guard, 1005  
auxiliary corps as established by congress, red cross nurse 1006

serving with the army, navy, air force, or hospital service of the  
United States, army nurse corps, navy nurse corps, full-time  
service with the American red cross in a combat zone, and such  
other service as may be designated by congress as included  
therein;

(b) Personnel of the Ohio national guard, ~~the Ohio military  
reserve, the Ohio naval militia,~~ and the reserve components of any  
of the armed forces enumerated in division (A)(1) of this section  
who are called to active duty pursuant to an executive order  
issued by the president of the United States or an act of  
congress;

(c) Persons on whom United States merchant marine veteran  
status has been conferred for service aboard oceangoing merchant  
ships in service to the United States during World War II.

(2) "State retirement system" means any of the following: the  
police and firemen's disability and pension fund, public employees  
retirement system, school employees retirement system, state  
highway patrol retirement system, or the state teachers retirement  
system.

(B) Upon ~~re-employment~~ reemployment in the public service and  
completion of one year of service credit as covered by a state  
retirement system or the Cincinnati retirement system, within two  
years after ~~an honorable discharge~~ service in the uniformed  
services that is terminated in a manner other than as described in  
section 4304 of Title 38 of the United States Code, "Uniformed  
Services Employment and Reemployment Rights Act of 1994," 108  
Stat. 3149, 38 U.S.C.A. 4304, and presentation of ~~an honorable~~  
~~discharge or certificate of~~ documentation of the service and  
subject to rules adopted by the retirement board, any member of  
the public employees retirement system who was a member with not  
less than one year of payroll deductions before entering active

duty with the armed forces and maintained membership in the public 1038  
employees retirement system as provided by section 145.41 of the 1039  
Revised Code, and who was or is out of active service as a public 1040  
employee by reason of having become a member of the armed forces 1041  
of the United States on active duty or service shall have such 1042  
military service, not in excess of ten years, considered as the 1043  
equivalent of prior service. ~~Military Uniformed~~ service as 1044  
established by ~~an honorable discharge or certificate~~ documentation 1045  
of the service, not in excess of ten years, shall also be 1046  
considered prior service for a person who was a public employee 1047  
and who has acquired service credit for five years prior to, and 1048  
within the one year preceding, the date of entering on active duty 1049  
in the armed forces of the United States if such person was 1050  
~~re-employed~~ reemployed in the public service within one year after 1051  
~~an honorable discharge from the armed forces and established a~~ 1052  
~~total service credit, as defined in division (H) of section 145.01~~ 1053  
~~of the Revised Code~~ service in the uniformed services that is 1054  
terminated in a manner other than as described in section 4304 of 1055  
Title 38 of the United States Code, "Uniformed Services Employment 1056  
and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 1057  
4304, of twenty years exclusive of credit for ~~military~~ uniformed 1058  
service. This division shall not serve to cancel any military 1059  
service credit earned or granted prior to November 1, 1965. 1060

(C) A member of the public employees retirement system is 1061  
ineligible to receive service credit under this section for any 1062  
year of military service credit used in the calculation of any 1063  
retirement benefit currently being paid to the member or payable 1064  
in the future under any other retirement program, except social 1065  
security, or used to obtain service credit pursuant to section 1066  
145.301 or 145.302 of the Revised Code. At the time such credit is 1067  
requested, the member shall certify on a form supplied by the 1068  
retirement board that the member does and will conform to this 1069  
requirement. This division does not cancel any military service 1070

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| credit earned prior to March 15, 1979.   | 1071   |
| <b>Sec. 718.01.</b> (A) As used in this chapter:   | 1072   |
| (1) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.  | 1073<br>1074   |
| (2) "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.  | 1075<br>1076   |
| (3) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.  | 1077<br>1078   |
| (4) "Intangible income" means income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Revised Code.  | 1079<br>1080<br>1081<br>1082<br>1083<br>1084   |
| (B) No municipal corporation with respect to that income which it may tax shall tax such income at other than a uniform rate.  | 1085<br>1086<br>1087   |
| (C) No municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal corporation shall file with the board of elections at least seventy-five days before the day of the election a copy of the ordinance together with a resolution specifying the date the election is to be held and directing the board of elections to conduct the election. The ballot shall be in the following form: "Shall the Ordinance providing for a ... per cent levy on income for (Brief description of the purpose of the proposed levy) be passed? | 1088<br>1089<br>1090<br>1091<br>1092<br>1093<br>1094<br>1095<br>1096<br>1097<br>1098<br>1099<br>1100 |

FOR THE INCOME TAX 1101

AGAINST THE INCOME TAX" 1102

In the event of an affirmative vote, the proceeds of the levy 1103  
may be used only for the specified purpose. 1104

(D) No municipal corporation shall exempt from such tax, 1105  
compensation for personal services of individuals over eighteen 1106  
years of age or the net profit from a business or profession. 1107

(E) Nothing in this section shall prevent a municipal 1108  
corporation from permitting lawful deductions as prescribed by 1109  
ordinance. If a taxpayer's taxable income includes income against 1110  
which the taxpayer has taken a deduction for federal income tax 1111  
purposes as reportable on the taxpayer's form 2106, and against 1112  
which a like deduction has not been allowed by the municipal 1113  
corporation, the municipal corporation shall deduct from the 1114  
taxpayer's taxable income an amount equal to the deduction shown 1115  
on such form allowable against such income, to the extent not 1116  
otherwise so allowed as a deduction by the municipal corporation. 1117  
In the case of a taxpayer who has a net profit from a business or 1118  
profession that is operated as a sole proprietorship, no municipal 1119  
corporation may tax or use as the base for determining the amount 1120  
of the net profit that shall be considered as having a taxable 1121  
situs in the municipal corporation, a greater amount than the net 1122  
profit reported by the taxpayer on schedule C filed in reference 1123  
to the year in question as taxable income from such sole 1124  
proprietorship, except as otherwise specifically provided by 1125  
ordinance or regulation. 1126

(F) No municipal corporation shall tax any of the following: 1127

(1) The military pay or allowances of members of the armed 1128  
forces of the United States and of members of their reserve 1129  
components, including the Ohio national guard; 1130

(2) The income of religious, fraternal, charitable, 1131  
scientific, literary, or educational institutions to the extent 1132  
that such income is derived from tax\_exempt real estate, 1133  
tax\_exempt tangible or intangible property, or tax\_exempt 1134  
activities; 1135

(3) Except as otherwise provided in division (G) of this 1136  
section, intangible income; 1137

(4) Compensation paid under section 3501.28 or 3501.36 of the 1138  
Revised Code to a person serving as a precinct election official, 1139  
to the extent that such compensation does not exceed one thousand 1140  
dollars annually. Such compensation in excess of one thousand 1141  
dollars may be subjected to taxation by a municipal corporation. A 1142  
municipal corporation shall not require the payer of such 1143  
compensation to withhold any tax from that compensation. 1144

(5) Compensation paid to an employee of a transit authority, 1145  
regional transit authority, or regional transit commission created 1146  
under Chapter 306. of the Revised Code for operating a transit bus 1147  
or other motor vehicle for the authority or commission in or 1148  
through the municipal corporation, unless the bus or vehicle is 1149  
operated on a regularly scheduled route, the operator is subject 1150  
to such a tax by reason of residence or domicile in the municipal 1151  
corporation, or the headquarters of the authority or commission is 1152  
located within the municipal corporation. 1153

(G) Any municipal corporation that taxes any type of 1154  
intangible income on March 29, 1988, pursuant to Section 3 of 1155  
Amended Substitute Senate Bill No. 238 of the 116th ~~General~~ 1156  
~~Assembly~~ general assembly, may continue to tax that type of income 1157  
after 1988 if a majority of the electors of the municipal 1158  
corporation voting on the question of whether to permit the 1159  
taxation of that type of intangible income after 1988 vote in 1160  
favor thereof at an election held on November 8, 1988. 1161

(H) Nothing in this section or section 718.02 of the Revised Code, shall authorize the levy of any tax on income which a municipal corporation is not authorized to levy under existing laws or shall require a municipal corporation to allow a deduction from taxable income for losses incurred from a sole proprietorship or partnership.

**Sec. 1751.54.** (A) As used in this section: 1168

(1) "Eligible person" means any person who, at the time a reservist is called or ordered to active duty, is covered under a group contract and is either of the following: 1169  
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(a) An employee who is a reservist called or ordered to active duty; 1172  
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(b) The spouse or a dependent child of an employee described in division (A)(1)(a) of this section. 1174  
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(2) "Group contract" includes any group health insuring corporation contract that satisfies all of the following: 1176  
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(a) The contract is delivered, issued for delivery, or renewed in this state on or after the effective date of this section. 1178  
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(b) The contract covers employees for health care services, including basic health care services. 1181  
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(c) The contract is in effect and covers an eligible person at the time a reservist is called or ordered to active duty. 1183  
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(3) "Reservist" means a member of a reserve component of the armed forces of the United States. "Reservist" includes a member of the Ohio national guard ~~and the Ohio air national guard.~~ 1185  
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(B) Every group contract shall provide that any eligible person may continue the coverage under the contract for a period of eighteen months after the date on which the coverage would 1188  
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otherwise terminate because the reservist is called or ordered to  
active duty. 1191  
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(C)(1) An eligible person may extend the eighteen-month 1193  
period of continuation of coverage to a thirty-six-month period of 1194  
continuation of coverage, if any of the following occurs during 1195  
the eighteen-month period: 1196

(a) The death of the reservist; 1197

(b) The divorce or separation of a reservist from the 1198  
reservist's spouse; 1199

(c) The cessation of dependency of a child pursuant to the 1200  
terms of the contract. 1201

(2) The thirty-six-month period of continuation of coverage 1202  
is deemed to begin on the date on which the coverage would 1203  
otherwise terminate because the reservist is called or ordered to 1204  
active duty. 1205

(3) The employer may begin the thirty-six-month period on the 1206  
date of any occurrence described in division (C)(1) of this 1207  
section. 1208

(D) All of the following apply to any continuation of 1209  
coverage, or the extension of any continuation of coverage, 1210  
provided under division (B) or (C) of this section: 1211

(1) The continuation of coverage shall provide the same 1212  
benefits as those provided to any similarly situated eligible 1213  
person who is covered under the same group contract and an 1214  
employee who has not been called or ordered to active duty. 1215

(2) An employer shall notify each employee of the right of 1216  
continuation of coverage at the time of employment. At the time 1217  
the reservist is called or ordered to active duty, the employer 1218  
shall notify each eligible person of the requirements for the 1219  
continuation of coverage. 1220

(3) Each certificate of coverage issued by a health insuring corporation to an employee under the group contract shall include a notice of the eligible person's right of continuation of coverage.

(4) An eligible person shall file a written election of continuation of coverage with the employer and pay the employer the first contribution required under division (D)(5) of this section. The written election and payment must be received by the employer no later than thirty-one days after the date on which the eligible person's coverage would otherwise terminate. If the employer notifies the eligible person of the right of continuation of coverage after the date on which the eligible person's coverage would otherwise terminate, the written election and payment must be received by the employer no later than thirty-one days after the date of the notification.

(5)(a) Except as provided in division (D)(5)(b) or (c) of this section, the eligible person shall pay to the employer, on a monthly basis and in advance, the amount of contribution required by the employer. The amount shall not exceed one hundred two per cent of the group rate for the coverage being continued under the group contract on the due date of each payment.

(b) The employer may pay a portion or all of the eligible person's contribution.

(c) A reservist called or ordered to active duty for less than thirty-one days shall not be required to pay more than the eligible person's contribution, if any, for the coverage.

(E) The eligible person's right to any continuation of coverage, or the extension of any continuation of coverage, provided under division (B) or (C) of this section ceases on the date on which any of the following occurs:

(1) The eligible person, whether as an employee or otherwise,

becomes covered by another group contract or other group health  
plan or arrangement that does not contain any exclusion or  
limitation with respect to any preexisting condition of that  
eligible person. For purposes of division (E)(1) of this section,  
a group contract or other group health plan or arrangement does  
not include the civilian health and medical program of the  
uniformed services as defined in Public Law 99-661, 100 Stat. 3898  
(1986), 10 U.S.C.A. 1072.

(2) The period of either eighteen months provided under  
division (B) of this section or thirty-six months provided under  
division (C) of this section expires.

(3) The eligible person fails to make a timely payment of a  
required contribution, in which case the coverage ceases at the  
end of the period of coverage for which contributions were made.

(4) The group contract, or participation under the group  
contract, is terminated, unless the employer, in accordance with  
division (F) of this section, replaces the coverage with similar  
coverage under another group contract or other group health plan  
or arrangement.

(F) If the employer replaces the group contract with similar  
coverage as described in division (E)(4) of this section, both of  
the following apply:

(1) The eligible person is covered under the replacement  
coverage for the balance of the period that the person would have  
remained covered under the terminated coverage if it had not been  
terminated.

(2) The level of benefits under the replacement coverage is  
the same as the level of benefits provided to any similarly  
situated eligible person who is covered under the group contract  
and an employee who has not been called or ordered to active duty.

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| (G) Upon the reservist's release from active duty and the          | 1282 |
| reservist's return to employment for the employer by whom the      | 1283 |
| reservist was employed at the time the reservist was called or     | 1284 |
| ordered to active duty, both of the following apply:               | 1285 |
| (1) Every eligible person is entitled, without any waiting         | 1286 |
| period, to coverage under the employer's group contract that is in | 1287 |
| effect at the time of the reservist's return to employment.        | 1288 |
| (2) Every eligible person is entitled to all benefits under        | 1289 |
| the group contract described in division (G)(1) of this section    | 1290 |
| from the date of the original coverage under the contract.         | 1291 |
| (H)(1) No health insuring corporation shall fail to provide        | 1292 |
| for a continuation of coverage, or an extension of a continuation  | 1293 |
| of coverage, in a group contract as required by and in accordance  | 1294 |
| with the terms and conditions set forth under this section.        | 1295 |
| (2) No health insuring corporation shall fail to issue a           | 1296 |
| certificate of coverage in compliance with division (D)(3) of this | 1297 |
| section.   | 1298 |
| (3) No employer shall fail to provide an employee or eligible      | 1299 |
| person with notice of the right to a continuation of coverage      | 1300 |
| under a group contract in accordance with division (D)(2) of this  | 1301 |
| section.   | 1302 |
| (I) Whoever violates division (H)(1), (2), or (3) of this          | 1303 |
| section is deemed to have engaged in an unfair and deceptive act   | 1304 |
| or practice in the business of insurance under sections 3901.19 to | 1305 |
| 3901.26 of the Revised Code.                                       | 1306 |
| (J) This section does not apply to any group contract that is      | 1307 |
| subject to section 5923.051 of the Revised Code.                   | 1308 |
| (K) This section does not apply to any group contract              | 1309 |
| offering only supplemental health care services or specialty       | 1310 |
| health care services.  | 1311 |

Sec. 3319.13. Upon the written request of a teacher, or a 1312  
regular nonteaching school employee, a board of education may 1313  
grant a leave of absence for a period of not more than two 1314  
consecutive school years for educational ~~or~~, professional, or 1315  
other purposes, and shall grant such leave where illness or other 1316  
disability is the reason for the request. Upon subsequent request, 1317  
such leave may be renewed by the board. Without request, a board 1318  
may grant similar leave of absence and renewals thereof to any 1319  
teacher or regular nonteaching school employee because of physical 1320  
or mental disability, but such teacher may have a hearing on such 1321  
unrequested leave of absence or its renewals in accordance with 1322  
section 3319.16 of the Revised Code, and such nonteaching school 1323  
employee may have a hearing on such unrequested leave of absence 1324  
or its renewals in accordance with division (C) of section 1325  
3319.081 of the Revised Code. Upon the return to service of a 1326  
teacher or a nonteaching school employee at the expiration of a 1327  
leave of absence, ~~he~~ the teacher or nonteaching school employee 1328  
shall resume the contract status ~~which he~~ that the teacher or 1329  
nonteaching school employee held prior to ~~such~~ the leave of 1330  
absence. Any teacher who leaves a teaching position ~~to serve for~~ 1331  
service in the ~~armed~~ uniformed services ~~or the auxiliaries thereof~~ 1332  
~~organized to prosecute World War II, upon returning honorably~~ 1333  
~~discharged~~ and who returns from ~~such~~ service in the uniformed 1334  
services that is terminated in a manner other than as described in 1335  
section 4304 of Title 38 of the United States Code, "Uniformed 1336  
Services Employment and Reemployment Rights Act of 1994," 108 1337  
Stat. 3149, 38 U.S.C.A. 4304, shall resume the contract status 1338  
held prior to entering ~~military service~~ the uniformed services, 1339  
subject to passing a physical examination. Such contract status 1340  
shall be resumed at the first of the school semester or the 1341  
beginning of the school year following return from the ~~armed~~ 1342  
uniformed services. For purposes of this section and section 1343

3319.14 Of the Revised Code, "~~Armed~~ uniformed services" ~~has and~~ 1344  
"service in the uniformed services" have the same ~~meaning~~ meanings 1345  
as defined in section ~~124.29~~ 5903.01 of the Revised Code. 1346

Upon the return of a nonteaching school employee from a leave 1347  
of absence, the board may terminate the employment of a person 1348  
hired exclusively for the purpose of replacing the returning 1349  
employee while ~~he~~ the returning employee was on leave. If, after 1350  
the return of a nonteaching employee from leave, the person 1351  
employed exclusively for the purpose of replacing an employee 1352  
while ~~he~~ the employee was on leave is continued in employment as a 1353  
regular nonteaching school employee or if ~~he~~ the person is hired 1354  
by the board as a regular nonteaching school employee within a 1355  
year after ~~his~~ employment as a replacement is terminated, ~~he~~ the 1356  
person shall, for purposes of section 3319.081 of the Revised 1357  
Code, receive credit for ~~his~~ the person's length of service with 1358  
the school district during such replacement period in the 1359  
following manner: 1360

(A) If employed as a replacement for less than twelve months, 1361  
~~he~~ the person shall be employed under a contract valid for a 1362  
period equal to twelve months less the number of months employed 1363  
as a replacement. At the end of such contract period, if the 1364  
person is reemployed it shall be under a two-year contract. 1365  
Subsequent reemployment shall be pursuant to division (B) of 1366  
section 3319.081 of the Revised Code. 1367

(B) If employed as a replacement for twelve months or more 1368  
but less than twenty-four months, ~~he~~ the person shall be employed 1369  
under a contract valid for a period equal to twenty-four months 1370  
less the number of months employed as a replacement. Subsequent 1371  
reemployment shall be pursuant to division (B) of section 3319.081 1372  
of the Revised Code. 1373

(C) If employed as a replacement for more than twenty-four 1374

months, ~~he~~ the person shall be employed pursuant to division (B) 1375  
of section 3319.081 of the Revised Code. 1376

For purposes of this section, employment during any part of a 1377  
month shall count as employment during the entire month. 1378

**Sec. 3319.14.** Any teacher who has left, or leaves, a teaching 1379  
position, by resignation or otherwise, and within forty school 1380  
days thereafter entered, or enters, the ~~armed~~ uniformed services 1381  
~~of the United States or the auxiliaries thereof, or such other~~ 1382  
~~services as are specified in section 124.29 of the Revised Code,~~ 1383  
and ~~who has returned, or returns, from such~~ whose service with a 1384  
discharge is terminated in a manner other than dishonorable as 1385  
described in section 4304 of Title 38 of the United States Code, 1386  
"Uniformed Services Employment and Reemployment Rights Act of 1387  
1994," 108 Stat. 3149, 38 U.S.C.A. 4304, shall be reemployed by 1388  
the board of education of the district in which ~~he~~ the teacher 1389  
held such teaching position, under the same type of contract as 1390  
that which ~~he~~ the teacher last held in such district, if the 1391  
teacher, ~~within ninety days after such discharge,~~ applies to the 1392  
board of education for reemployment in accordance with the 1393  
"Uniformed Services Employment and Reemployment Rights Act of 1394  
1994," 108 Stat. 3149, 38 U.S.C.A. 4312. Upon such application, 1395  
the teacher shall be ~~re-employed~~ reemployed at the first of the 1396  
next school semester, if the application is made not less than 1397  
thirty days prior to the first of the next school semester, in 1398  
which case the teacher shall be ~~re-employed~~ reemployed the first 1399  
of the following school semester, unless the board of education 1400  
waives the requirement for the thirty-day period. 1401

For the purposes of seniority and placement on the salary 1402  
schedule, years of absence ~~in the performing~~ service ~~of~~ in the 1403  
~~armed~~ uniformed services ~~of the United States or the auxiliaries~~ 1404  
~~thereof,~~ shall be counted as though teaching service had been 1405

performed during such time. 1406

The board of education of the district in which such teacher 1407  
was employed and is ~~re-employed~~ reemployed under this section may 1408  
suspend the contract of the teacher whose services become 1409  
unnecessary by reason of the return of a teacher from service in 1410  
the ~~armed~~ uniformed services ~~or auxiliaries thereof~~, in accordance 1411  
with section 3319.17 of the Revised Code. 1412

**Sec. 3923.381.** (A) As used in this section: 1413

(1) "Eligible person" means any person who, at the time a 1414  
reservist is called or ordered to active duty, is covered under a 1415  
group policy and is either of the following: 1416

(a) An employee who is a reservist called or ordered to 1417  
active duty; 1418

(b) The spouse or a dependent child of an employee described 1419  
in division (A)(1)(a) of this section. 1420

(2) "Group policy" includes any group sickness and accident 1421  
insurance policy that satisfies all of the following: 1422

(a) The policy is delivered, issued for delivery, or renewed 1423  
in this state on or after ~~the effective date of this section~~ APRIL 1424  
17, 1991. 1425

(b) The policy covers employees for hospital, surgical, or 1426  
major medical insurance on an expense incurred or service basis, 1427  
other than for specified diseases or accidental injuries only. 1428

(c) The policy is in effect and covers an eligible person at 1429  
the time a reservist is called or ordered to active duty. 1430

(3) "Reservist" means a member of a reserve component of the 1431  
armed forces of the United States. "Reservist" includes a member 1432  
of the Ohio national guard ~~and the Ohio air national guard~~. 1433

(B) Every group policy shall provide that any eligible person 1434

may continue the coverage under the policy for a period of 1435  
eighteen months after the date on which the coverage would 1436  
otherwise terminate because the reservist is called or ordered to 1437  
active duty. 1438

(C)(1) An eligible person may extend the eighteen-month 1439  
period of continuation of coverage to a thirty-six-month period of 1440  
continuation of coverage, if any of the following occurs during 1441  
the eighteen-month period: 1442

(a) The death of the reservist; 1443

(b) The divorce or separation of a reservist from the 1444  
reservist's spouse; 1445

(c) The cessation of dependency of a child pursuant to the 1446  
terms of the policy. 1447

(2) The thirty-six-month period of continuation of coverage 1448  
is deemed to begin on the date on which the coverage would 1449  
otherwise terminate because the reservist is called or ordered to 1450  
active duty. 1451

(3) The employer may begin the thirty-six-month period on the 1452  
date of any occurrence described in division (C)(1) of this 1453  
section. 1454

(D) All of the following apply to any continuation of 1455  
coverage, or the extension of any continuation of coverage, 1456  
provided under division (B) or (C) of this section: 1457

(1) The continuation of coverage shall provide the same 1458  
benefits as those provided to any similarly situated eligible 1459  
person who is covered under the same group policy and an employee 1460  
who has not been called or ordered to active duty. 1461

(2) An employer shall notify each employee of the right of 1462  
continuation of coverage at the time of employment. At the time 1463  
the reservist is called or ordered to active duty, the employer 1464

shall notify each eligible person of the requirements for the 1465  
continuation of coverage. 1466

(3) Each certificate of coverage issued by an insurer to an 1467  
employee under the group policy shall include a notice of the 1468  
eligible person's right of continuation of coverage. 1469

(4) An eligible person shall file a written election of 1470  
continuation of coverage with the employer and pay the employer 1471  
the first contribution required under division (D)(5) of this 1472  
section. The written election and payment must be received by the 1473  
employer no later than thirty-one days after the date on which the 1474  
eligible person's coverage would otherwise terminate. If the 1475  
employer notifies the eligible person of the right of continuation 1476  
of coverage after the date on which the eligible person's coverage 1477  
would otherwise terminate, the written election and payment must 1478  
be received by the employer no later than thirty-one days after 1479  
the date of the notification. 1480

(5)(a) Except as provided in division (D)(5)(b) or (c) of 1481  
this section, the eligible person shall pay to the employer, on a 1482  
monthly basis and in advance, the amount of contribution required 1483  
by the employer. The amount shall not exceed one hundred two per 1484  
cent of the group rate for the coverage being continued under the 1485  
group policy on the due date of each payment. 1486

(b) The employer may pay a portion or all of the eligible 1487  
person's contribution. 1488

(c) A reservist called or ordered to active duty for less 1489  
than thirty-one days shall not be required to pay more than the 1490  
eligible person's contribution, if any, for the coverage. 1491

(E) The eligible person's right to any continuation of 1492  
coverage, or the extension of any continuation of coverage, 1493  
provided under division (B) or (C) of this section ceases on the 1494  
date on which any of the following occurs: 1495

(1) The eligible person, whether as an employee or otherwise, 1496  
enrolls in another group policy or other group health plan or 1497  
arrangement that does not contain any exclusion or limitation with 1498  
respect to any preexisting condition of that eligible person. For 1499  
purposes of division (E)(1) of this section, a group policy or 1500  
other group health plan or arrangement does not include the 1501  
civilian health and medical program of the uniformed services as 1502  
defined in Public Law 99-661, 100 Stat. 3898 (1986), 10 U.S.C.A. 1503  
1072. 1504

(2) The period of either eighteen months provided under 1505  
division (B) of this section or thirty-six months provided under 1506  
division (C) of this section expires. 1507

(3) The eligible person fails to make a timely payment of a 1508  
required contribution, in which case the coverage ceases at the 1509  
end of the period of coverage for which contributions were made. 1510

(4) The group policy, or participation under the group 1511  
policy, is terminated, unless the employer, in accordance with 1512  
division (F) of this section, replaces the coverage with similar 1513  
coverage under another group policy or other group health plan or 1514  
arrangement. 1515

(F) If the employer replaces the group policy with similar 1516  
coverage as described in division (E)(4) of this section, both of 1517  
the following apply: 1518

(1) The eligible person is covered under the replacement 1519  
coverage for the balance of the period that ~~he~~ the eligible person 1520  
would have remained covered under the terminated coverage if it 1521  
had not been terminated. 1522

(2) The level of benefits under the replacement coverage is 1523  
the same as the level of benefits provided to any similarly 1524  
situated eligible person who is covered under the group policy and 1525  
an employee who has not been called or ordered to active duty. 1526

(G) Upon the reservist's release from active duty and his 1527  
return to employment for the employer by whom he the reservist was 1528  
employed at the time ~~he was~~ of being called or ordered to active 1529  
duty, both of the following apply: 1530

(1) Every eligible person is entitled, without any waiting 1531  
period, to coverage under the employer's group policy that is in 1532  
effect at the time of the reservist's return to employment. 1533

(2) Every eligible person is entitled to all benefits under 1534  
the group policy described in division (G)(1) of this section from 1535  
the date of the original coverage under the policy. 1536

(H)(1) No insurer shall fail to provide for a continuation of 1537  
coverage, or an extension of a continuation of coverage, in a 1538  
group policy as required by and in accordance with the terms and 1539  
conditions set forth under this section. 1540

(2) No insurer shall fail to issue a certificate of coverage 1541  
in compliance with division (D)(3) of this section. 1542

(3) No employer shall fail to provide an employee or eligible 1543  
person with notice of the right to a continuation of coverage 1544  
under a group policy in accordance with division (D)(2) of this 1545  
section. 1546

(I) Whoever violates division (H)(1), (2), or (3) of this 1547  
section is deemed to have engaged in an unfair and deceptive act 1548  
or practice in the business of insurance under sections 3901.19 to 1549  
3901.26 of the Revised Code. 1550

~~(J) This section does not apply to any group policy that is 1551  
subject to section 5923.051 of the Revised Code. 1552~~

**Sec. 3923.382.** (A) As used in this section: 1553

(1) "Eligible person" means any person who, at the time a 1554  
reservist is called or ordered to active duty, is covered under a 1555

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| group plan and is either of the following:   | 1556                                 |
| (a) An employee who is a reservist called or ordered to active duty;   | 1557<br>1558                         |
| (b) The spouse or a dependent child of an employee described in division (A)(1)(a) of this section.  | 1559<br>1560                         |
| (2) "Group plan" includes any private or public employer self-insurance plan that satisfies all of the following:  | 1561<br>1562                         |
| (a) The plan is established or modified in this state on or after April 17, 1991.  | 1563<br>1564                         |
| (b) The plan provides, or provides payment for, health benefits for employees resident in this state other than through an insurer or health insuring corporation.   | 1565<br>1566<br>1567                 |
| (c) The plan is in effect and covers an eligible person at the time a reservist is called or ordered to active duty.   | 1568<br>1569                         |
| (3) "Group rate" means the average monthly cost per employee, over a period of at least twelve months of the operation of a group plan, that would represent a group insurance rate if the same coverage had been provided under a group sickness and accident insurance policy. | 1570<br>1571<br>1572<br>1573<br>1574 |
| (4) "Reservist" means a member of a reserve component of the armed forces of the United States. "Reservist" includes a member of the Ohio national guard <del>and the Ohio air national guard.</del>   | 1575<br>1576<br>1577                 |
| (B) Every group plan shall provide that any eligible person may continue the coverage under the plan for a period of eighteen months after the date on which the coverage would otherwise terminate because the reservist is called or ordered to active duty.                   | 1578<br>1579<br>1580<br>1581<br>1582 |
| (C)(1) An eligible person may extend the eighteen-month period of continuation of coverage to a thirty-six-month period of continuation of coverage, if any of the following occurs during   | 1583<br>1584<br>1585                 |

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| the eighteen-month period:   | 1586                                 |
| (a) The death of the reservist;  | 1587                                 |
| (b) The divorce or separation of a reservist from the<br>reservist's spouse;   | 1588<br>1589                         |
| (c) The cessation of dependency of a child pursuant to the<br>terms of the plan.   | 1590<br>1591                         |
| (2) The thirty-six-month period of continuation of coverage<br>is deemed to begin on the date on which the coverage would<br>otherwise terminate because the reservist is called or ordered to<br>active duty.   | 1592<br>1593<br>1594<br>1595         |
| (3) The employer may begin the thirty-six-month period on the<br>date of any occurrence described in division (C)(1) of this<br>section.   | 1596<br>1597<br>1598                 |
| (D) All of the following apply to any continuation of<br>coverage, or the extension of any continuation of coverage,<br>provided under division (B) or (C) of this section:  | 1599<br>1600<br>1601                 |
| (1) The continuation of coverage shall provide the same<br>benefits as those provided to any similarly situated eligible<br>person who is covered under the same group plan and an employee<br>who has not been called or ordered to active duty.  | 1602<br>1603<br>1604<br>1605         |
| (2) An employer shall notify each employee of the right of<br>continuation of coverage at the time of employment. At the time<br>the reservist is called or ordered to active duty, the employer<br>shall notify each eligible person of the requirements for the<br>continuation of coverage. | 1606<br>1607<br>1608<br>1609<br>1610 |
| (3) Each certificate or other evidence of coverage issued by<br>an employer to an employee under the group plan shall include a<br>notice of the eligible person's right of continuation of coverage.  | 1611<br>1612<br>1613                 |
| (4) An eligible person shall file a written election of<br>continuation of coverage with the employer and pay the employer   | 1614<br>1615                         |

the first contribution required under division (D)(5) of this  
section. The written election and payment must be received by the  
employer no later than thirty-one days after the date on which the  
eligible person's coverage would otherwise terminate. If the  
employer notifies the eligible person of the right of continuation  
of coverage after the date on which the eligible person's coverage  
would otherwise terminate, the written election and payment must  
be received by the employer no later than thirty-one days after  
the date of the notification.

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(5)(a) Except as provided in division (D)(5)(b) or (c) of  
this section, the eligible person shall pay to the employer, on a  
monthly basis and in advance, the amount of contribution required  
by the employer. The amount shall not exceed one hundred two per  
cent of the group rate for the coverage being continued under the  
group plan on the due date of each payment.

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(b) The employer may pay a portion or all of the eligible  
person's contribution.

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(c) A reservist called or ordered to active duty for less  
than thirty-one days shall not be required to pay more than the  
eligible person's contribution if any, for the coverage.

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(E) The eligible person's right to any continuation of  
coverage, or the extension of any continuation of coverage,  
provided under division (B) or (C) of this section ceases on the  
date on which any of the following occurs:

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(1) The eligible person, whether as an employee or otherwise,  
enrolls in another group plan or other group health plan or  
arrangement that does not contain any exclusion or limitation with  
respect to any preexisting condition of that eligible person. For  
purposes of division (E)(1) of this section, a group plan or other  
group health plan or arrangement does not include the civilian  
health and medical program of the uniformed services as defined in

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| Public Law 99-661, 100 Stat. 3898 (1986), 10 U.S.C.A. 1072.        | 1647 |
|  | 1648 |
| (2) The period of either eighteen months provided under            | 1649 |
| division (B) of this section or thirty-six months provided under   | 1650 |
| division (C) of this section expires.                              | 1651 |
| (3) The eligible person fails to make a timely payment of a        | 1652 |
| required contribution, in which case the coverage ceases at the    | 1653 |
| end of the period of coverage for which contributions were made.   | 1654 |
| (4) The group plan, or participation under the group plan, is      | 1655 |
| terminated, unless the employer, in accordance with division (F)   | 1656 |
| of this section, replaces the coverage with similar coverage under | 1657 |
| another group plan or other group health plan or arrangement.      | 1658 |
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| (F) If the employer replaces the group plan with similar           | 1660 |
| coverage as described in division (E)(4) of this section, both of  | 1661 |
| the following apply:   | 1662 |
| (1) The eligible person is covered under the replacement           | 1663 |
| coverage for the balance of the period that the person would have  | 1664 |
| remained covered under the terminated coverage if it had not been  | 1665 |
| terminated.  | 1666 |
| (2) The level of benefits under the replacement coverage is        | 1667 |
| the same as the level of benefits provided to any similarly        | 1668 |
| situated eligible person who is covered under the group plan and   | 1669 |
| an employee who has not been called or ordered to active duty.     | 1670 |
| (G) Upon the reservist's release from active duty and the          | 1671 |
| reservist's return to employment for the employer by whom the      | 1672 |
| reservist was employed at the time the reservist was called or     | 1673 |
| ordered to active duty, both of the following apply:               | 1674 |
| (1) Every eligible person is entitled, without any waiting         | 1675 |
| period, to coverage under the employer's group plan that is in     | 1676 |

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| effect at the time of the reservist's return to employment.  | 1677                         |
| (2) Every eligible person is entitled to all benefits under the group plan described in division (G)(1) of this section from the date of the original coverage under the plan.   | 1678<br>1679<br>1680         |
| (H)(1) No employer shall fail to provide for a continuation of coverage, or an extension of a continuation of coverage, in a group plan as required by and in accordance with the terms and conditions set forth under this section. | 1681<br>1682<br>1683<br>1684 |
| (2) No employer shall fail to issue a certificate or other evidence of coverage in compliance with division (D)(3) of this section.  | 1685<br>1686<br>1687         |
| (3) No employer shall fail to provide an employee or eligible person with notice of the right to a continuation of coverage under a group plan in accordance with division (D)(2) of this section.                                   | 1688<br>1689<br>1690<br>1691 |
| (I) Whoever violates division (H)(1), (2), or (3) of this section is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code.           | 1692<br>1693<br>1694<br>1695 |
| (J) This section does not apply to a group plan <del>under either of the following circumstances:</del>  | 1696<br>1697                 |
| <del>(1) The group plan is subject to section 5923.051 of the Revised Code.</del>  | 1698<br>1699                 |
| <del>(2) The application of this section <u>that</u> is superseded, preempted, prohibited, or otherwise precluded by federal law.</del>  | 1700<br>1701                 |
| <b>Sec. 4117.01.</b> As used in this chapter:  | 1702                         |
| (A) "Person," in addition to those included in division (C) of section 1.59 of the Revised Code, includes employee organizations, public employees, and public employers.  | 1703<br>1704<br>1705         |

(B) "Public employer" means the state or any political subdivision of the state located entirely within the state, including, without limitation, any municipal corporation with a population of at least five thousand according to the most recent federal decennial census; county; township with a population of at least five thousand in the unincorporated area of the township according to the most recent federal decennial census; school district; state institution of higher learning; public or special district; state agency, authority, commission, or board; or other branch of public employment.

(C) "Public employee" means any person holding a position by appointment or employment in the service of a public employer, including any person working pursuant to a contract between a public employer and a private employer and over whom the national labor relations board has declined jurisdiction on the basis that the involved employees are employees of a public employer, except:

(1) Persons holding elective office;

(2) Employees of the general assembly and employees of any other legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;

(3) Employees on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the executive functions of the governor or the chief executive;

(4) Persons who are members of the Ohio organized militia, while ~~on active duty~~ training or performing duty under section 5919.29 or 5923.12 Of the Revised Code;

(5) Employees of the state employment relations board;

(6) Confidential employees;

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| (7) Management level employees;  | 1736   |
| (8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;  | 1737<br>1738<br>1739                         |
| (9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;  | 1740<br>1741<br>1742                         |
| (10) Supervisors;  | 1743   |
| (11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;   | 1744<br>1745<br>1746<br>1747<br>1748         |
| (12) Employees of county boards of election;   | 1749   |
| (13) Seasonal and casual employees as determined by the state employment relations board;  | 1750<br>1751                                 |
| (14) Part-time faculty members of an institution of higher education;  | 1752<br>1753                                 |
| (15) Employees of the state personnel board of review;   | 1754   |
| (16) Employees of the board of directors of the Ohio low-level radioactive waste facility development authority created in section 3747.05 of the Revised Code;  | 1755<br>1756<br>1757                         |
| (17) Participants of the subsidized employment program established under section 5101.82 of the Revised Code or the work experience program established under section 5101.83 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer. | 1758<br>1759<br>1760<br>1761<br>1762<br>1763 |
| (D) "Employee organization" means any labor or bona fide   | 1764   |

organization in which public employees participate and that exists 1765  
for the purpose, in whole or in part, of dealing with public 1766  
employers concerning grievances, labor disputes, wages, hours, 1767  
terms, and other conditions of employment. 1768

(E) "Exclusive representative" means the employee 1769  
organization certified or recognized as an exclusive 1770  
representative under section 4117.05 of the Revised Code. 1771

(F) "Supervisor" means any individual who has authority, in 1772  
the interest of the public employer, to hire, transfer, suspend, 1773  
lay off, recall, promote, discharge, assign, reward, or discipline 1774  
other public employees; to responsibly direct them; to adjust 1775  
their grievances; or to effectively recommend such action, if the 1776  
exercise of that authority is not of a merely routine or clerical 1777  
nature, but requires the use of independent judgment, provided 1778  
that: 1779

(1) Employees of school districts who are department ~~chairmen~~ 1780  
chairpersons or consulting teachers shall not be deemed 1781  
supervisors; 1782

(2) With respect to members of a police or fire department, 1783  
no person shall be deemed a supervisor except the chief of the 1784  
department or those individuals who, in the absence of the chief, 1785  
are authorized to exercise the authority and perform the duties of 1786  
the chief of the department. Where prior to June 1, 1982, a public 1787  
employer pursuant to a judicial decision, rendered in litigation 1788  
to which the public employer was a party, has declined to engage 1789  
in collective bargaining with members of a police or fire 1790  
department on the basis that those members are supervisors, those 1791  
members of a police or fire department do not have the rights 1792  
specified in this chapter for the purposes of future collective 1793  
bargaining. The state employment relations board shall decide all 1794  
disputes concerning the application of division (F)(2) of this 1795

section. 1796

(3) With respect to faculty members of a state institution of 1797  
higher education, heads of departments or divisions are 1798  
supervisors; however, no other faculty member or group of faculty 1799  
members is a supervisor solely because the faculty member or group 1800  
of faculty members participate in decisions with respect to 1801  
courses, curriculum, personnel, or other matters of academic 1802  
policy; 1803

(4) No teacher as defined in section 3319.09 of the Revised 1804  
Code shall be designated as a supervisor or a management level 1805  
employee unless the teacher is employed under a contract governed 1806  
by section 3319.01, 3319.011, or 3319.02 of the Revised Code and 1807  
is assigned to a position for which a license deemed to be for 1808  
administrators under state board rules is required pursuant to 1809  
section 3319.22 of the Revised Code. 1810

(G) "To bargain collectively" means to perform the mutual 1811  
obligation of the public employer, by its representatives, and the 1812  
representatives of its employees to negotiate in good faith at 1813  
reasonable times and places with respect to wages, hours, terms, 1814  
and other conditions of employment and the continuation, 1815  
modification, or deletion of an existing provision of a collective 1816  
bargaining agreement, with the intention of reaching an agreement, 1817  
or to resolve questions arising under the agreement. "To bargain 1818  
collectively" includes executing a written contract incorporating 1819  
the terms of any agreement reached. The obligation to bargain 1820  
collectively does not mean that either party is compelled to agree 1821  
to a proposal nor does it require the making of a concession. 1822

(H) "Strike" means continuous concerted action in failing to 1823  
report to duty; willful absence from one's position; or stoppage 1824  
of work in whole from the full, faithful, and proper performance 1825  
of the duties of employment, for the purpose of inducing, 1826

influencing, or coercing a change in wages, hours, terms, and 1827  
other conditions of employment. "Strike" does not include a 1828  
stoppage of work by employees in good faith because of dangerous 1829  
or unhealthful working conditions at the place of employment that 1830  
are abnormal to the place of employment. 1831

(I) "Unauthorized strike" includes, but is not limited to, 1832  
concerted action during the term or extended term of a collective 1833  
bargaining agreement or during the pendency of the settlement 1834  
procedures set forth in section 4117.14 of the Revised Code in 1835  
failing to report to duty; willful absence from one's position; 1836  
stoppage of work; slowdown, or abstinence in whole or in part from 1837  
the full, faithful, and proper performance of the duties of 1838  
employment for the purpose of inducing, influencing, or coercing a 1839  
change in wages, hours, terms, and other conditions of employment. 1840  
"Unauthorized strike" includes any such action, absence, stoppage, 1841  
slowdown, or abstinence when done partially or intermittently, 1842  
whether during or after the expiration of the term or extended 1843  
term of a collective bargaining agreement or during or after the 1844  
pendency of the settlement procedures set forth in section 4117.14 1845  
of the Revised Code. 1846

(J) "Professional employee" means any employee engaged in 1847  
work that is predominantly intellectual, involving the consistent 1848  
exercise of discretion and judgment in its performance and 1849  
requiring knowledge of an advanced type in a field of science or 1850  
learning customarily acquired by a prolonged course in an 1851  
institution of higher learning or a hospital, as distinguished 1852  
from a general academic education or from an apprenticeship; or an 1853  
employee who has completed the courses of specialized intellectual 1854  
instruction and is performing related work under the supervision 1855  
of a professional person to become qualified as a professional 1856  
employee. 1857

(K) "Confidential employee" means any employee who works in 1858

the personnel offices of a public employer and deals with 1859  
information to be used by the public employer in collective 1860  
bargaining; or any employee who works in a close continuing 1861  
relationship with public officers or representatives directly 1862  
participating in collective bargaining on behalf of the employer. 1863

(L) "Management level employee" means an individual who 1864  
formulates policy on behalf of the public employer, who 1865  
responsibly directs the implementation of policy, or who may 1866  
reasonably be required on behalf of the public employer to assist 1867  
in the preparation for the conduct of collective negotiations, 1868  
administer collectively negotiated agreements, or have a major 1869  
role in personnel administration. Assistant superintendents, 1870  
principals, and assistant principals whose employment is governed 1871  
by section 3319.02 of the Revised Code are management level 1872  
employees. With respect to members of a faculty of a state 1873  
institution of higher education, no person is a management level 1874  
employee because of the person's involvement in the formulation or 1875  
implementation of academic or institution policy. 1876

(M) "Wages" means hourly rates of pay, salaries, or other 1877  
forms of compensation for services rendered. 1878

(N) "Member of a police department" means a person who is in 1879  
the employ of a police department of a municipal corporation as a 1880  
full-time regular police officer as the result of an appointment 1881  
from a duly established civil service eligibility list or under 1882  
section 737.15 or 737.16 of the Revised Code, a full-time deputy 1883  
sheriff appointed under section 311.04 of the Revised Code, a 1884  
township constable appointed under section 509.01 of the Revised 1885  
Code, or a member of a township police district police department 1886  
appointed under section 505.49 of the Revised Code. 1887

(O) "Members of the state highway patrol" means highway 1888  
patrol troopers and radio operators appointed under section 1889

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| 5503.01 of the Revised Code.   | 1890 |
| (P) "Member of a fire department" means a person who is in                 | 1891 |
| the employ of a fire department of a municipal corporation or a            | 1892 |
| township as a fire cadet, full-time regular <del>fire fighter</del>        | 1893 |
| <u>firefighter</u> , or promoted rank as the result of an appointment from | 1894 |
| a duly established civil service eligibility list or under section         | 1895 |
| 505.38, 709.012, or 737.22 of the Revised Code.                            | 1896 |
| (Q) "Day" means calendar day.  | 1897 |
| <b>Sec. 4141.01.</b> As used in this chapter, unless the context           | 1898 |
| otherwise requires:  | 1899 |
| (A)(1) "Employer" means the state, its instrumentalities, its              | 1900 |
| political subdivisions and their instrumentalities, and any                | 1901 |
| individual or type of organization including any partnership,              | 1902 |
| association, trust, estate, joint-stock company, insurance                 | 1903 |
| company, or corporation, whether domestic or foreign, or the               | 1904 |
| receiver, trustee in bankruptcy, trustee, or the successor                 | 1905 |
| thereof, or the legal representative of a deceased person who              | 1906 |
| subsequent to December 31, 1971, or in the case of political               | 1907 |
| subdivisions or their instrumentalities, subsequent to December            | 1908 |
| 31, 1973:  | 1909 |
| (a) Had in employment at least one individual, or in the case              | 1910 |
| of a nonprofit organization, subsequent to December 31, 1973, had          | 1911 |
| not less than four individuals in employment for some portion of a         | 1912 |
| day in each of twenty different calendar weeks, in either the              | 1913 |
| current or the preceding calendar year whether or not the same             | 1914 |
| individual was in employment in each such day; or                          | 1915 |
| (b) Except for a nonprofit organization, had paid for service              | 1916 |
| in employment wages of fifteen hundred dollars or more in any              | 1917 |
| calendar quarter in either the current or preceding calendar year;         | 1918 |
| or   | 1919 |

(c) Had paid, subsequent to December 31, 1977, for employment 1920  
in domestic service in a local college club, or local chapter of a 1921  
college fraternity or sorority, cash remuneration of one thousand 1922  
dollars or more in any calendar quarter in the current calendar 1923  
year or the preceding calendar year, or had paid subsequent to 1924  
December 31, 1977, for employment in domestic service in a private 1925  
home cash remuneration of one thousand dollars in any calendar 1926  
quarter in the current calendar year or the preceding calendar 1927  
year: 1928

(i) For the purposes of divisions (A)(1)(a) and (b) of this 1929  
section, there shall not be taken into account any wages paid to, 1930  
or employment of, an individual performing domestic service as 1931  
described in this division. 1932

(ii) An employer under this division shall not be an employer 1933  
with respect to wages paid for any services other than domestic 1934  
service unless the employer is also found to be an employer under 1935  
division (A)(1)(a), (b), or (d) of this section. 1936

(d) As a farm operator or a crew leader subsequent to 1937  
December 31, 1977, had in employment individuals in agricultural 1938  
labor; and 1939

(i) During any calendar quarter in the current calendar year 1940  
or the preceding calendar year, paid cash remuneration of twenty 1941  
thousand dollars or more for the agricultural labor; or 1942

(ii) Had at least ten individuals in employment in 1943  
agricultural labor, not including such labor when performed before 1944  
January 1, 1980, by an alien, for some portion of a day in each of 1945  
the twenty different calendar weeks, in either the current or 1946  
preceding calendar year whether or not the same individual was in 1947  
employment in each day; or 1948

(e) Is not otherwise an employer as defined under division 1949  
(A)(1)(a) or (b) of this section; and 1950

(i) For which, within either the current or preceding 1951  
calendar year, service, except for domestic service in a private 1952  
home not covered under division (A)(1)(c) of this section, is or 1953  
was performed with respect to which such employer is liable for 1954  
any federal tax against which credit may be taken for 1955  
contributions required to be paid into a state unemployment fund; 1956

(ii) Which, as a condition for approval of this chapter for 1957  
full tax credit against the tax imposed by the "Federal 1958  
Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301, is 1959  
required, pursuant to such act to be an employer under this 1960  
chapter; or 1961

(iii) Who became an employer by election under division 1962  
(A)(4) or (5) of this section and for the duration of such 1963  
election; or 1964

(f) In the case of the state, its instrumentalities, its 1965  
political subdivisions, and their instrumentalities, had in 1966  
employment, as defined in division (B)(2)(a) of this section, at 1967  
least one individual; 1968

(g) For the purposes of division (A)(1)(a) of this section, 1969  
if any week includes both the thirty-first day of December and the 1970  
first day of January, the days of that week before the first day 1971  
of January shall be considered one calendar week and the days 1972  
beginning the first day of January another week. 1973

(2) Each individual employed to perform or to assist in 1974  
performing the work of any agent or employee of an employer is 1975  
employed by such employer for all the purposes of this chapter, 1976  
whether such individual was hired or paid directly by such 1977  
employer or by such agent or employee, provided the employer had 1978  
actual or constructive knowledge of the work. All individuals 1979  
performing services for an employer of any person in this state 1980  
who maintains two or more establishments within this state are 1981

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| employed by a single employer for the purposes of this chapter.   | 1982   |
| (3) An employer subject to this chapter within any calendar year is subject to this chapter during the whole of such year and during the next succeeding calendar year.   | 1983<br>1984<br>1985   |
| (4) An employer not otherwise subject to this chapter who files with the administrator of the bureau of employment services a written election to become an employer subject to this chapter for not less than two calendar years shall, with the written approval of such election by the administrator, become an employer subject to this chapter to the same extent as all other employers as of the date stated in such approval, and shall cease to be subject to this chapter as of the first day of January of any calendar year subsequent to such two calendar years only if at least thirty days prior to such first day of January the employer has filed with the administrator a written notice to that effect.   | 1986<br>1987<br>1988<br>1989<br>1990<br>1991<br>1992<br>1993<br>1994<br>1995<br>1996                         |
| (5) Any employer for whom services that do not constitute employment are performed may file with the administrator a written election that all such services performed by individuals in the employer's employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this chapter, for not less than two calendar years. Upon written approval of the election by the administrator, such services shall be deemed to constitute employment subject to this chapter from and after the date stated in such approval. Such services shall cease to be employment subject to this chapter as of the first day of January of any calendar year subsequent to such two calendar years only if at least thirty days prior to such first day of January such employer has filed with the administrator a written notice to that effect. | 1997<br>1998<br>1999<br>2000<br>2001<br>2002<br>2003<br>2004<br>2005<br>2006<br>2007<br>2008<br>2009<br>2010 |
| (B)(1) "Employment" means:  | 2011   |
| (a) Service performed for wages under any contract of hire,   | 2012   |

written or oral, express or implied, including service performed 2013  
in interstate commerce and service performed by an officer of a 2014  
corporation, without regard to whether such service is executive, 2015  
managerial, or manual in nature, and without regard to whether 2016  
such officer is a stockholder or a member of the board of 2017  
directors of the corporation; 2018

(b) Services performed by an individual for remuneration 2019  
unless it is shown to the satisfaction of the administrator that 2020  
such individual: 2021

(i) Has been and will continue to be free from control or 2022  
direction over the performance of such service, both under a 2023  
contract of service and in fact; 2024

(ii) That such service is outside the usual course of the 2025  
business for which service is performed; and 2026

(iii) That such individual is customarily engaged in an 2027  
independently established trade, occupation, profession, or 2028  
business. 2029

(2) "Employment" includes: 2030

(a) Service performed after December 31, 1977, by an 2031  
individual in the employ of the state or any of its 2032  
instrumentalities, or any political subdivision thereof or any of 2033  
its instrumentalities or any instrumentality of more than one of 2034  
the foregoing or any instrumentality of any of the foregoing and 2035  
one or more other states or political subdivisions and without 2036  
regard to divisions (A)(1)(a) and (b) of this section, provided 2037  
that such service is excluded from employment as defined in the 2038  
"Federal Unemployment Tax Act," 53 Stat. 183, 26 U.S.C.A. 2039  
3306(c)(7) and is not excluded under division (B)(3) of this 2040  
section; or the services of employees covered by voluntary 2041  
election, as provided under divisions (A)(4) and (5) of this 2042  
section; 2043

(b) Service performed after December 31, 1971, by an 2044  
individual in the employ of a religious, charitable, educational, 2045  
or other organization which is excluded from the term "employment" 2046  
as defined in the "Federal Unemployment Tax Act," 84 Stat. 713, 26 2047  
U.S.C.A. 3301, solely by reason of section 26 U.S.C.A. 3306(c)(8) 2048  
of that act and is not excluded under division (B)(3) of this 2049  
section; 2050

(c) Domestic service performed after December 31, 1977, for 2051  
an employer, as provided in division (A)(1)(c) of this section; 2052

(d) Agricultural labor performed after December 31, 1977, for 2053  
a farm operator or a crew leader, as provided in division 2054  
(A)(1)(d) of this section; 2055

(e) Service not covered under division (B)(1)(b) of this 2056  
section which is performed after December 31, 1971: 2057

(i) As an agent-driver or commission-driver engaged in 2058  
distributing meat products, vegetable products, fruit products, 2059  
bakery products, beverages other than milk, laundry, or 2060  
dry-cleaning services, for the individual's employer or principal; 2061

(ii) As a traveling or city salesperson, other than as an 2062  
agent-driver or commission-driver, engaged on a full-time basis in 2063  
the solicitation on behalf of and in the transmission to the 2064  
salesperson's employer or principal except for sideline sales 2065  
activities on behalf of some other person of orders from 2066  
wholesalers, retailers, contractors, or operators of hotels, 2067  
restaurants, or other similar establishments for merchandise for 2068  
resale, or supplies for use in their business operations, provided 2069  
that for the purposes of this division (B)(2)(e)(ii) of this 2070  
section, the services shall be deemed employment if the contract 2071  
of service contemplates that substantially all of the services are 2072  
to be performed personally by the individual and that the 2073  
individual does not have a substantial investment in facilities 2074

used in connection with the performance of the services other than 2075  
in facilities for transportation, and the services are not in the 2076  
nature of a single transaction that is not a part of a continuing 2077  
relationship with the person for whom the services are performed. 2078

(f) An individual's entire service performed within or both 2079  
within and without the state if: 2080

(i) The service is localized in this state. 2081

(ii) The service is not localized in any state, but some of 2082  
the service is performed in this state and either the base of 2083  
operations, or if there is no base of operations then the place 2084  
from which such service is directed or controlled, is in this 2085  
state or the base of operations or place from which such service 2086  
is directed or controlled is not in any state in which some part 2087  
of the service is performed but the individual's residence is in 2088  
this state. 2089

(g) Service not covered under division (B)(2)(f)(ii) of this 2090  
section and performed entirely without this state, with respect to 2091  
no part of which contributions are required and paid under an 2092  
unemployment compensation law of any other state, the Virgin 2093  
Islands, Canada, or of the United States, if the individual 2094  
performing such service is a resident of this state and the 2095  
administrator of the bureau of employment services approves the 2096  
election of the employer for whom such services are performed; or, 2097  
if the individual is not a resident of this state but the place 2098  
from which the service is directed or controlled is in this state, 2099  
the entire services of such individual shall be deemed to be 2100  
employment subject to this chapter, provided service is deemed to 2101  
be localized within this state if the service is performed 2102  
entirely within this state or if the service is performed both 2103  
within and without this state but the service performed without 2104  
this state is incidental to the individual's service within the 2105

state, for example, is temporary or transitory in nature or  
consists of isolated transactions;

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

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

(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, 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 administrator 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 administrator 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;

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| (iv) The employer requires that services be provided by a particular individual;   | 2168<br>2169         |
| (v) The employer hires, supervises, or pays the wages of the individual performing services;   | 2170<br>2171         |
| (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; | 2172<br>2173<br>2174 |
| (vii) The employer requires the individual to perform services during established hours;   | 2175<br>2176         |
| (viii) The employer requires that the individual performing services be devoted on a full-time basis to the business of the employer;  | 2177<br>2178<br>2179 |
| (ix) The employer requires the individual to perform services on the employer's premises;  | 2180<br>2181         |
| (x) The employer requires the individual performing services to follow the order of work established by the employer;  | 2182<br>2183         |
| (xi) The employer requires the individual performing services to make oral or written reports of progress;   | 2184<br>2185         |
| (xii) The employer makes payment to the individual for services on a regular basis, such as hourly, weekly, or monthly;  | 2186<br>2187         |
| (xiii) The employer pays expenses for the individual performing services;  | 2188<br>2189         |
| (xiv) The employer furnishes the tools and materials for use by the individual to perform services;  | 2190<br>2191         |
| (xv) The individual performing services has not invested in the facilities used to perform services;   | 2192<br>2193         |
| (xvi) The individual performing services does not realize a profit or suffer a loss as a result of the performance of the services;  | 2194<br>2195<br>2196 |

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| (xvii) The individual performing services is not performing services for more than two employers simultaneously;   | 2197<br>2198                 |
| (xviii) The individual performing services does not make the services available to the general public;   | 2199<br>2200                 |
| (xix) The employer has a right to discharge the individual performing services;  | 2201<br>2202                 |
| (xx) The individual performing services has the right to end the individual's relationship with the employer without incurring liability pursuant to an employment contract or agreement.  | 2203<br>2204<br>2205         |
| (3) "Employment" does not include the following services if they are found not subject to the "Federal Unemployment Tax Act," 84 Stat. 713 (1970), 26 U.S.C.A. 3301, and if the services are not required to be included under division (B)(2)(j) of this section: | 2206<br>2207<br>2208<br>2209 |
| (a) Service performed after December 31, 1977, in agricultural labor, except as provided in division (A)(1)(d) of this section;  | 2210<br>2211<br>2212         |
| (b) Domestic service performed after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority except as provided in division (A)(1)(c) of this section;  | 2213<br>2214<br>2215<br>2216 |
| (c) Service performed after December 31, 1977, for this state or a political subdivision as described in division (B)(2) (a) of this section when performed:   | 2217<br>2218<br>2219         |
| (i) As a publicly elected official;  | 2220                         |
| (ii) As a member of a legislative body, or a member of the judiciary;  | 2221<br>2222                 |
| (iii) As a military member of the state national guard <del>or air national guard</del> ;  | 2223<br>2224                 |
| (iv) As an employee, not in the classified service as defined  | 2225                         |

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| in section 124.11 of the Revised Code, serving on a temporary      | 2226 |
| basis in case of fire, storm, snow, earthquake, flood, or similar  | 2227 |
| emergency;   | 2228 |
| (v) In a position which, under or pursuant to law, is              | 2229 |
| designated as a major nontenured policymaking or advisory          | 2230 |
| position, not in the classified service of the state, or a         | 2231 |
| policymaking or advisory position the performance of the duties of | 2232 |
| which ordinarily does not require more than eight hours per week.  | 2233 |
| (d) In the employ of any governmental unit or instrumentality      | 2234 |
| of the United States;  | 2235 |
| (e) Service performed after December 31, 1971:                     | 2236 |
| (i) Service in the employ of an educational institution or         | 2237 |
| institution of higher education, including those operated by the   | 2238 |
| state or a political subdivision, if such service is performed by  | 2239 |
| a student who is enrolled and is regularly attending classes at    | 2240 |
| the educational institution or institution of higher education; or | 2241 |
| (ii) By an individual who is enrolled at a nonprofit or            | 2242 |
| public educational institution which normally maintains a regular  | 2243 |
| faculty and curriculum and normally has a regularly organized body | 2244 |
| of students in attendance at the place where its educational       | 2245 |
| activities are carried on as a student in a full-time program,     | 2246 |
| taken for credit at the institution, which combines academic       | 2247 |
| instruction with work experience, if the service is an integral    | 2248 |
| part of the program, and the institution has so certified to the   | 2249 |
| employer, provided that this subdivision shall not apply to        | 2250 |
| service performed in a program established for or on behalf of an  | 2251 |
| employer or group of employers;                                    | 2252 |
| (f) Service performed by an individual in the employ of the        | 2253 |
| individual's son, daughter, or spouse and service performed by a   | 2254 |
| child under the age of eighteen in the employ of the child's       | 2255 |
| father or mother;  | 2256 |

(g) Service performed for one or more principals by an 2257  
individual who is compensated on a commission basis, who in the 2258  
performance of the work is master of the individual's own time and 2259  
efforts, and whose remuneration is wholly dependent on the amount 2260  
of effort the individual chooses to expend, and which service is 2261  
not subject to the "Federal Unemployment Tax Act," 53 Stat. 183 2262  
(1939), 26 U.S.C.A. 3301. Service performed after December 31, 2263  
1971: 2264

(i) By an individual for an employer as an insurance agent or 2265  
as an insurance solicitor, if all this service is performed for 2266  
remuneration solely by way of commission; 2267

(ii) As a home worker performing work, according to 2268  
specifications furnished by the employer for whom the services are 2269  
performed, on materials or goods furnished by such employer which 2270  
are required to be returned to the employer or to a person 2271  
designated for that purpose. 2272

(h) Service performed after December 31, 1971: 2273

(i) In the employ of a church or convention or association of 2274  
churches, or in an organization which is operated primarily for 2275  
religious purposes and which is operated, supervised, controlled, 2276  
or principally supported by a church or convention or association 2277  
of churches; 2278

(ii) By a duly ordained, commissioned, or licensed minister 2279  
of a church in the exercise of the individual's ministry or by a 2280  
member of a religious order in the exercise of duties required by 2281  
such order; or 2282

(iii) In a facility conducted for the purpose of carrying out 2283  
a program of rehabilitation for individuals whose earning capacity 2284  
is impaired by age or physical or mental deficiency or injury, or 2285  
providing remunerative work for individuals who because of their 2286  
impaired physical or mental capacity cannot be readily absorbed in 2287

the competitive labor market, by an individual receiving such 2288  
rehabilitation or remunerative work; 2289

(i) Service performed after June 30, 1939, with respect to 2290  
which unemployment compensation is payable under the "Railroad 2291  
Unemployment Insurance Act," 52 Stat. 1094 (1938), 45 U.S.C. 351; 2292

(j) Service performed by an individual in the employ of any 2293  
organization exempt from income tax under section 501 of the 2294  
"Internal Revenue Code of 1954," if the remuneration for such 2295  
service does not exceed fifty dollars in any calendar quarter, or 2296  
if such service is in connection with the collection of dues or 2297  
premiums for a fraternal beneficial society, order, or association 2298  
and is performed away from the home office or is ritualistic 2299  
service in connection with any such society, order, or 2300  
association; 2301

(k) Casual labor not in the course of an employer's trade or 2302  
business; incidental service performed by an officer, appraiser, 2303  
or member of a finance committee of a bank, building and loan 2304  
association, savings and loan association, or savings association 2305  
when the remuneration for such incidental service exclusive of the 2306  
amount paid or allotted for directors' fees does not exceed sixty 2307  
dollars per calendar quarter is casual labor; 2308

(l) Service performed in the employ of a voluntary employees' 2309  
beneficial association providing for the payment of life, 2310  
sickness, accident, or other benefits to the members of such 2311  
association or their dependents or their designated beneficiaries, 2312  
if admission to a membership in such association is limited to 2313  
individuals who are officers or employees of a municipal or public 2314  
corporation, of a political subdivision of the state, or of the 2315  
United States and no part of the net earnings of such association 2316  
inures, other than through such payments, to the benefit of any 2317  
private shareholder or individual; 2318

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| (m) Service performed by an individual in the employ of a foreign government, including service as a consular or other officer or employee or of a nondiplomatic representative;   | 2319<br>2320<br>2321   |
| (n) Service performed in the employ of an instrumentality wholly owned by a foreign government if the service is of a character similar to that performed in foreign countries by employees of the United States or of an instrumentality thereof and if the administrator finds that the secretary of state of the United States has certified to the secretary of the treasury of the United States that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States and of instrumentalities thereof; | 2322<br>2323<br>2324<br>2325<br>2326<br>2327<br>2328<br>2329<br>2330<br>2331<br>2332 |
| (o) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;  | 2333<br>2334<br>2335   |
| (p) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law, and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;  | 2336<br>2337<br>2338<br>2339<br>2340<br>2341<br>2342                                 |
| (q) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;  | 2343<br>2344<br>2345<br>2346   |
| (r) Service performed in the employ of the United States or an instrumentality of the United States immune under the constitution of the United States from the contributions imposed  | 2347<br>2348<br>2349   |

by this chapter, except that to the extent that congress permits 2350  
states to require any instrumentalities of the United States to 2351  
make payments into an unemployment fund under a state unemployment 2352  
compensation act, this chapter shall be applicable to such 2353  
instrumentalities and to services performed for such 2354  
instrumentalities in the same manner, to the same extent, and on 2355  
the same terms as to all other employers, individuals, and 2356  
services, provided that if this state is not certified for any 2357  
year by the proper agency of the United States under section 3304 2358  
of the "Internal Revenue Code of 1954," the payments required of 2359  
such instrumentalities with respect to such year shall be refunded 2360  
by the administrator from the fund in the same manner and within 2361  
the same period as is provided in division (E) of section 4141.09 2362  
of the Revised Code with respect to contributions erroneously 2363  
collected; 2364

(s) Service performed by an individual as a member of a band 2365  
or orchestra, provided such service does not represent the 2366  
principal occupation of such individual, and which service is not 2367  
subject to or required to be covered for full tax credit against 2368  
the tax imposed by the "Federal Unemployment Tax Act," 53 Stat. 2369  
183 (1939), 26 U.S.C.A. 3301. Service performed after December 31, 2370  
1971, for a nonprofit organization, this state or its 2371  
instrumentalities, or a political subdivision or its 2372  
instrumentalities, as part of an unemployment work-relief or 2373  
work-training program assisted or financed in whole or in part by 2374  
any federal agency or an agency of a state or political 2375  
subdivision thereof, by an individual receiving the work-relief or 2376  
work-training. 2377

(t) Service performed in the employ of a day camp whose 2378  
camping season does not exceed twelve weeks in any calendar year, 2379  
and which service is not subject to the "Federal Unemployment Tax 2380  
Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301. Service performed 2381

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| after December 31, 1971:   | 2382 |
| (i) In the employ of a hospital, if the service is performed       | 2383 |
| by a patient of the hospital, as defined in division (W) of this   | 2384 |
| section;   | 2385 |
| (ii) For a prison or other correctional institution by an          | 2386 |
| inmate of the prison or correctional institution;                  | 2387 |
| (iii) Service performed after December 31, 1977, by an inmate      | 2388 |
| of a custodial institution operated by the state, a political      | 2389 |
| subdivision, or a nonprofit organization.                          | 2390 |
| (u) Notwithstanding any other provisions of division (B)(3)        | 2391 |
| of this section, services which are excluded under divisions       | 2392 |
| (B)(3)(g), (j), (k), and (l) of this section, shall not be         | 2393 |
| excluded from employment when performed for a nonprofit            | 2394 |
| organization, as defined in division (X) of this section or for    | 2395 |
| this state or its instrumentalities, or for a political            | 2396 |
| subdivision or its instrumentalities.                              | 2397 |
| (4) If the services performed during one half or more of any       | 2398 |
| pay period by an employee for the person employing that employee   | 2399 |
| constitute employment, all the services of such employee for such  | 2400 |
| period shall be deemed to be employment; but if the services       | 2401 |
| performed during more than one half of any such pay period by an   | 2402 |
| employee for the person employing that employee do not constitute  | 2403 |
| employment, then none of the services of such employee for such    | 2404 |
| period shall be deemed to be employment. As used in division       | 2405 |
| (B)(4) of this section, "pay period" means a period, of not more   | 2406 |
| than thirty-one consecutive days, for which payment of             | 2407 |
| remuneration is ordinarily made to the employee by the person      | 2408 |
| employing that employee. Division (B)(4) of this section does not  | 2409 |
| apply to services performed in a pay period by an employee for the | 2410 |
| person employing that employee, if any of such service is excepted | 2411 |
| by division (B)(3)(o) of this section.                             | 2412 |

(C) "Benefits" means money payments payable to an individual 2413  
who has established benefit rights, as provided in this chapter, 2414  
for loss of remuneration due to the individual's unemployment. 2415

(D) "Benefit rights" means the weekly benefit amount and the 2416  
maximum benefit amount that may become payable to an individual 2417  
within the individual's benefit year as determined by the 2418  
administrator or the administrator's deputy. 2419

(E) "Claim for benefits" means a claim for waiting period or 2420  
benefits for a designated week. 2421

(F) "Additional claim" means the first claim for benefits 2422  
filed following any separation from employment during a benefit 2423  
year; "continued claim" means any claim other than the first claim 2424  
for benefits and other than an additional claim. 2425

(G)(1) "Wages" means remuneration paid to an employee by each 2426  
of the employee's employers with respect to employment; except 2427  
that wages shall not include that part of remuneration paid during 2428  
any calendar year to an individual by an employer or such 2429  
employer's predecessor in interest in the same business or 2430  
enterprise, which in any calendar year is in excess of eight 2431  
thousand two hundred fifty dollars on and after January 1, 1992; 2432  
eight thousand five hundred dollars on and after January 1, 1993; 2433  
eight thousand seven hundred fifty dollars on and after January 1, 2434  
1994; and nine thousand dollars on and after January 1, 1995. 2435  
Remuneration in excess of such amounts shall be deemed wages 2436  
subject to contribution to the same extent that such remuneration 2437  
is defined as wages under the "Federal Unemployment Compensation 2438  
Tax Act," 84 Stat. 714 (1970), 26 U.S.C.A. 3301, as amended. The 2439  
remuneration paid an employee by an employer with respect to 2440  
employment in another state, upon which contributions were 2441  
required and paid by such employer under the unemployment 2442  
compensation act of such other state, shall be included as a part 2443

of remuneration in computing the amount specified in this  
division.

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(2) Notwithstanding division (G)(1) of this section, if, as  
of the computation date for any calendar year, the administrator  
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  
administrator'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.

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(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.

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

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(a) Payments as provided in divisions (b)(2) to (b)(16) of 2475  
section 3306 of the "Federal Unemployment Tax Act," 84 Stat. 713, 2476  
26 U.S.C.A. 3301, as amended; 2477

(b) The payment by an employer, without deduction from the 2478  
remuneration of the individual in the employer's employ, of the 2479  
tax imposed upon an individual in the employer's employ under 2480  
section 3101 of the "Internal Revenue Code of 1954," with respect 2481  
to services performed after October 1, 1941. 2482

(2) "Cash remuneration" means all remuneration paid in cash, 2483  
including commissions and bonuses, but not including the cash 2484  
value of all compensation in any medium other than cash. 2485

(I) "Interested party" means the administrator and any party 2486  
to whom notice of a determination of an application for benefit 2487  
rights or a claim for benefits is required to be given under 2488  
section 4141.28 of the Revised Code. 2489

(J) "Annual payroll" means the total amount of wages subject 2490  
to contributions during a twelve-month period ending with the last 2491  
day of the second calendar quarter of any calendar year. 2492

(K) "Average annual payroll" means the average of the last 2493  
three annual payrolls of an employer, provided that if, as of any 2494  
computation date, the employer has had less than three annual 2495  
payrolls in such three-year period, such average shall be based on 2496  
the annual payrolls which the employer has had as of such date. 2497

(L)(1) "Contributions" means the money payments to the state 2498  
unemployment compensation fund required of employers by section 2499  
4141.25 of the Revised Code and of the state and any of its 2500  
political subdivisions electing to pay contributions under section 2501  
4141.242 of the Revised Code. Employers paying contributions shall 2502  
be described as "contributory employers." 2503

(2) "Payments in lieu of contributions" means the money 2504

payments to the state unemployment compensation fund required of 2505  
reimbursing employers under sections 4141.241 and 4141.242 of the 2506  
Revised Code. 2507

(M) An individual is "totally unemployed" in any week during 2508  
which the individual performs no services and with respect to such 2509  
week no remuneration is payable to the individual. 2510

(N) An individual is "partially unemployed" in any week if, 2511  
due to involuntary loss of work, the total remuneration payable to 2512  
the individual for such week is less than the individual's weekly 2513  
benefit amount. 2514

(O) "Week" means the calendar week ending at midnight 2515  
Saturday unless an equivalent week of seven consecutive calendar 2516  
days is prescribed by the administrator. 2517

(1) "Qualifying week" means any calendar week in an 2518  
individual's base period with respect to which the individual 2519  
earns or is paid remuneration in employment subject to this 2520  
chapter. A calendar week with respect to which an individual earns 2521  
remuneration but for which payment was not made within the base 2522  
period may, when necessary to qualify for benefit rights, be 2523  
considered to be a qualifying week. The number of qualifying weeks 2524  
which may be established in a calendar quarter shall not exceed 2525  
the number of calendar weeks in the quarter. 2526

(2) "Average weekly wage" means the amount obtained by 2527  
dividing an individual's total remuneration for all qualifying 2528  
weeks during the base period by the number of such qualifying 2529  
weeks, provided that if the computation results in an amount which 2530  
is not a multiple of one dollar, such amount shall be rounded to 2531  
the next lower multiple of one dollar. 2532

(P) "Weekly benefit amount" means the amount of benefits an 2533  
individual would be entitled to receive for one week of total 2534  
unemployment. 2535

(Q)(1) "Base period" means the first four of the last five 2536  
completed calendar quarters immediately preceding the first day of 2537  
an individual's benefit year, except as provided in division 2538  
(Q)(2) of this section. 2539

(2) If an individual does not have sufficient qualifying 2540  
weeks and wages in the base period to qualify for benefit rights, 2541  
~~his~~ the individual's base period shall be the four most recently 2542  
completed calendar quarters preceding the first day of the 2543  
individual's benefit year. Such base period shall be known as the 2544  
"alternate base period." If information as to weeks and wages for 2545  
the most recent quarter of the alternate base period is not 2546  
available to the administrator from the regular quarterly reports 2547  
of wage information, which are systematically accessible, the 2548  
administrator may, consistent with the provisions of section 2549  
4141.28 of the Revised Code, base the determination of eligibility 2550  
for benefits on the affidavit of the claimant with respect to 2551  
weeks and wages for that calendar quarter. The claimant shall 2552  
furnish payroll documentation, where available, in support of the 2553  
affidavit. The determination based upon the alternate base period 2554  
as it relates to the claimant's benefit rights, shall be amended 2555  
when the quarterly report of wage information from the employer is 2556  
timely received and that information causes a change in the 2557  
determination. As provided in division (B)(1)(b) of section 2558  
4141.28 of the Revised Code, any benefits paid and charged to an 2559  
employer's account, based upon a claimant's affidavit, shall be 2560  
adjusted effective as of the beginning of the claimant's benefit 2561  
year. No calendar quarter in a base period or alternate base 2562  
period shall be used to establish a subsequent benefit year. 2563

(3) The "base period" of a combined wage claim, as described 2564  
in division (H) of section 4141.43 of the Revised Code, shall be 2565  
the base period prescribed by the law of the state in which the 2566  
claim is allowed. 2567

(R) "Benefit year" with respect to an individual means the 2568  
fifty-two week period beginning with the first day of that week 2569  
with respect to which the individual first files a valid 2570  
application for determination of benefit rights, and thereafter 2571  
the fifty-two week period beginning with the first day of that 2572  
week with respect to which the individual next files a valid 2573  
application for determination of benefit rights after the 2574  
termination of the individual's last preceding benefit year, 2575  
except that the application shall not be considered valid unless 2576  
the individual has had employment in six weeks that is subject to 2577  
this chapter or the unemployment compensation act of another 2578  
state, or the United States, and has, since the beginning of the 2579  
individual's previous benefit year, in the employment earned three 2580  
times the average weekly wage determined for the previous benefit 2581  
year. The "benefit year" of a combined wage claim, as described in 2582  
division (H) of section 4141.43 of the Revised Code, shall be the 2583  
benefit year prescribed by the law of the state in which the claim 2584  
is allowed. Any application for determination of benefit rights 2585  
made in accordance with section 4141.28 of the Revised Code is 2586  
valid if the individual filing such application is unemployed, has 2587  
been employed by an employer or employers subject to this chapter, 2588  
in at least twenty qualifying weeks within the individual's base 2589  
period, and in such weeks has earned or been paid remuneration at 2590  
an average weekly wage, beginning on and after January 1, 1992, of 2591  
not less than twenty-seven and one-half per cent of the statewide 2592  
average weekly wage. The statewide average weekly wage shall be 2593  
calculated by the administrator once a year based on the 2594  
twelve-month period ending the thirtieth day of June, as set forth 2595  
in division (B)(3) of section 4141.30 of the Revised Code, rounded 2596  
down to the nearest dollar. Increases or decreases in the amount 2597  
of remuneration required to have been earned or paid in order for 2598  
individuals to have filed valid applications shall become 2599  
effective on Sunday of the calendar week in which the first day of 2600

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.

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

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

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

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

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

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

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

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

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

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

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

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

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| for consumption; or  | 2662 |
| (b) On a farm operated for profit if the service is not in         | 2663 |
| the course of the employer's trade or business.                    | 2664 |
| As used in division (V) of this section, "farm" includes           | 2665 |
| stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, | 2666 |
| plantations, ranches, nurseries, ranges, greenhouses, or other     | 2667 |
| similar structures used primarily for the raising of agricultural  | 2668 |
| or horticultural commodities and orchards.                         | 2669 |
| (W) "Hospital" means an institution which has been registered      | 2670 |
| or licensed by the Ohio department of health as a hospital.        | 2671 |
|  | 2672 |
| (X) "Nonprofit organization" means an organization, or group       | 2673 |
| of organizations, described in section 501(c)(3) of the "Internal  | 2674 |
| Revenue Code of 1954," and exempt from income tax under section    | 2675 |
| 501(a) of that code.   | 2676 |
| (Y) "Institution of higher education" means a public or            | 2677 |
| nonprofit educational institution which:                           | 2678 |
| (1) Admits as regular students only individuals having a           | 2679 |
| certificate of graduation from a high school, or the recognized    | 2680 |
| equivalent;  | 2681 |
| (2) Is legally authorized in this state to provide a program       | 2682 |
| of education beyond high school; and                               | 2683 |
| (3) Provides an educational program for which it awards a          | 2684 |
| bachelor's or higher degree, or provides a program which is        | 2685 |
| acceptable for full credit toward such a degree, a program of      | 2686 |
| post-graduate or post-doctoral studies, or a program of training   | 2687 |
| to prepare students for gainful employment in a recognized         | 2688 |
| occupation.  | 2689 |
| For the purposes of this division, all colleges and                | 2690 |
| universities in this state are institutions of higher education.   | 2691 |

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

(AA) "Alien" means, for the purposes of division (A)(1)(d) of this section, an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214 (c) and 101 (a)(15)(H) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101.

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

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

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

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

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

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

(c) If the individual is not in the employment of the other 2722  
employer or farm operator within the meaning of division (B)(1) of 2723  
this section. 2724

(3) For the purposes of this division, any individual who is 2725  
furnished by a crew leader to perform service in agricultural 2726  
labor for any other employer or farm operator and who is not 2727  
treated as in the employment of the crew leader under division 2728  
(BB)(2) of this section shall be treated as the employee of the 2729  
other employer or farm operator and not of the crew leader. The 2730  
other employer or farm operator shall be treated as having paid 2731  
cash remuneration to the individual in an amount equal to the 2732  
amount of cash remuneration paid to the individual by the crew 2733  
leader, either on the crew leader's own behalf or on behalf of the 2734  
other employer or farm operator, for the service in agricultural 2735  
labor performed for the other employer or farm operator. 2736

(CC) "Educational institution" means an institution other 2737  
than an institution of higher education as defined in division (Y) 2738  
of this section which: 2739

(1) Offers participants, trainees, or students an organized 2740  
course of study or training designed to transfer to them 2741  
knowledge, skills, information, doctrines, attitudes, or abilities 2742  
from, by, or under the guidance of an instructor or teacher; and 2743

(2) Is approved, chartered, or issued a permit to operate as 2744  
a school by the state board of education or other government 2745  
agency that is authorized within the state to approve, charter, or 2746  
issue a permit for the operation of a school. 2747

For the purposes of this division, the courses of study or 2748  
training which the institution offers may be academic, technical, 2749  
trade, or preparation for gainful employment in a recognized 2750  
occupation. 2751

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| Sec. 4506.02. (A) Nothing in this chapter applies to any                            | 2752 |
| person when engaged in the operation of any of the following:                       | 2753 |
| (1) A farm truck;   | 2754 |
| (2) Fire equipment for a fire department, volunteer or                              | 2755 |
| nonvolunteer fire company, fire district, or joint fire district;                   | 2756 |
| (3) A public safety vehicle used to provide transportation or                       | 2757 |
| emergency medical service for ill or injured persons;                               | 2758 |
| (4) A recreational vehicle;   | 2759 |
| (5) A commercial motor vehicle within the boundaries of an                          | 2760 |
| eligible unit of local government, if the person is employed by                     | 2761 |
| the eligible unit of local government and is operating the                          | 2762 |
| commercial motor vehicle for the purpose of removing snow or ice                    | 2763 |
| from a roadway by plowing, sanding, or salting, but only if either                  | 2764 |
| the employee who holds a commercial driver's license issued under                   | 2765 |
| this chapter and ordinarily operates a commercial motor vehicle                     | 2766 |
| for these purposes is unable to operate the vehicle, or the                         | 2767 |
| employing eligible unit of local government determines that a snow                  | 2768 |
| or ice emergency exists that requires additional assistance;                        | 2769 |
| (6) <u>A vehicle owned by the department of defense and operated</u>                | 2770 |
| <u>by any member or uniformed employee of the armed forces of the</u>               | 2771 |
| <u>United States or their reserve components, including the Ohio</u>                | 2772 |
| <u>national guard. This exception does not apply to United States</u>               | 2773 |
| <u>reserve technicians.</u>   | 2774 |
| Nothing contained in division (A)(5) of this section shall be                       | 2775 |
| construed as <del>pre-empting</del> <u>preempting</u> or superseding any law, rule, | 2776 |
| or regulation of this state concerning the safe operation of                        | 2777 |
| commercial motor vehicles.  | 2778 |
| (B) As used in this section:  | 2779 |
| (1) "Eligible unit of local government" means a village,                            | 2780 |

township, or county that has a population of not more than three 2781  
thousand persons according to the most recent federal census. 2782

(2) "Farm truck" means a truck controlled and operated by a 2783  
farmer for use in the transportation to or from a farm, for a 2784  
distance of no more than one hundred fifty miles, of products of 2785  
the farm, including livestock and its products, poultry and its 2786  
products, floricultural and horticultural products, and in the 2787  
transportation to the farm, from a distance of no more than one 2788  
hundred fifty miles, of supplies for the farm, including tile, 2789  
fence, and every other thing or commodity used in agricultural, 2790  
floricultural, horticultural, livestock, and poultry production, 2791  
and livestock, poultry, and other animals and things used for 2792  
breeding, feeding, or other purposes connected with the operation 2793  
of the farm, when the truck is operated in accordance with this 2794  
division and is not used in the operations of a motor 2795  
transportation company or private motor carrier. 2796

(3) "Public safety vehicle" has the same meaning as in 2797  
divisions (E)(1) and (3) of section 4511.01 of the Revised Code. 2798

(4) "Recreational vehicle" includes every vehicle that is 2799  
defined as a recreational vehicle in section 4501.01 of the 2800  
Revised Code and is used exclusively for purposes other than 2801  
engaging in business for profit. 2802

**Sec. 4911.04.** The consumers' counsel shall be a resident of 2803  
this state and during ~~his~~ the counsel's term of office shall not 2804  
hold any other office of either trust or profit under the 2805  
government of the United States, this state, or any political 2806  
subdivision of this state, except that this section shall not be 2807  
construed to preclude the consumers' counsel from serving as a 2808  
member of the reserve of the armed forces of the United States, 2809  
the Ohio national guard, ~~the air national guard,~~ or the naval 2810  
militia. The counsel shall not engage in any other occupation or 2811

business, but shall devote ~~his entire~~ full time to the duties of 2812  
~~his~~ the office of consumers' counsel. 2813

**Sec. 5101.312.** (A) As used in this section: 2814

(1) "Child support order" has the same meaning as in section 2815  
2301.373 of the Revised Code. 2816

(2) "Employer" means any employer with twenty-five or more 2817  
employees other than an executive agency of the United States, 2818  
except "employer" also means an employer with fewer than 2819  
twenty-five employees if the employer's business is one of the 2820  
following: 2821

(a) Eating and drinking place; 2822

(b) General building contractor; 2823

(c) Construction--special trade contractor; 2824

(d) Motor freight transportation and warehousing; 2825

(e) Automotive dealer or gasoline service station; 2826

(f) Automotive repair, services, and parking. 2827

(3) "Obligor" means a person required to pay support under a 2828  
child support order. 2829

(B) Effective January 1, 1996, an employer shall report in 2830  
writing to the department of human services the hiring, rehiring, 2831  
or return to work as an employee of a person who resides, works, 2832  
or will be assigned to work in this state to whom the employer 2833  
anticipates paying compensation. 2834

(C) An employer shall include all of the following in each 2835  
report: 2836

(1) The employee's name, address, and social security number; 2837

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(2) The employer's name, address, and identification number. 2839

(D) An employer may make a report by submitting a copy of the 2840  
United States internal revenue service form W-4 (employee's 2841  
withholding allowance certificate) for the employee, a form 2842  
provided by the department, or any other hiring document or data 2843  
storage device or mechanism the department authorizes. An employer 2844  
may make the report by mail, fax, or other means the department 2845  
authorizes. If an employer makes a report by mail, the date of 2846  
making the report is the postmark date if the report is mailed in 2847  
the United States with first class postage and is addressed as the 2848  
department authorizes. An employer shall make the report not later 2849  
than thirty days after the date on which the employer hires or 2850  
rehires an employee or the employee returns to work. 2851

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(E) The department shall use the reports it receives pursuant 2853  
to this section to locate obligors under child support orders 2854  
being administered by child support enforcement agencies in this 2855  
state and to detect fraud in any program administered by the 2856  
department. The department may submit to the bureau of workers' 2857  
compensation or the bureau of employment services a copy of any 2858  
report it receives from an employer pursuant to this section. The 2859  
department shall adopt rules in accordance with Chapter 119. of 2860  
the Revised Code to implement this section. In adopting the rules, 2861  
the department shall work with the bureau of employment services 2862  
for the purpose of identifying the industries listed in division 2863  
(A)(2) of this section by using the Standard Industrial 2864  
Classification codes established in the standard industrial 2865  
classification manual, 1987, published by the executive office of 2866  
the president, office of management and budget. 2867

(F) An employer who fails to make a report required by this 2868  
section shall be required by the department of human services to 2869  
pay a fee of twenty-five dollars for each failure to make a 2870

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| report.  | 2871 |
| <b>Sec. 5903.01.</b> As used in <del>section</del> <u>sections</u> 5903.01 <del>to 5903.05</del> | 2872 |
| <u>and 5903.02</u> of the Revised Code:  | 2873 |
| (A) "Permanent public employee" means any person holding a                                       | 2874 |
| position in public employment that requires working a regular                                    | 2875 |
| schedule of twenty-six consecutive <del>bi-weekly</del> <u>biweekly</u> pay periods,             | 2876 |
| or any other regular schedule of comparable consecutive pay                                      | 2877 |
| periods, which is not limited to a specific season or duration.                                  | 2878 |
| "Permanent public employee" does not include student help;                                       | 2879 |
| intermittent, seasonal, or external interim employees; or  | 2880 |
| individuals covered by personal services contracts.  | 2881 |
| (B) "Public employment" means employment by the state, or any                                    | 2882 |
| county, municipal corporation, or other civil or political                                       | 2883 |
| subdivision, including any department or agency thereof.   | 2884 |
| (C) "Public employer" means any government, department, or                                       | 2885 |
| agency mentioned in division (B) of this section.  | 2886 |
| (D) "Position" means employment, full-time, part-time,   | 2887 |
| probationary, or otherwise, held at the time of entrance into                                    | 2888 |
| <del>military duty</del> <u>the uniformed services</u> , but does not include                    | 2889 |
| temporary or casual employment or an office filled by election.                                  | 2890 |
| (E) <del>"Military duty" means training and service performed by a</del>                         | 2891 |
| <del>member of the Ohio national guard, Ohio military reserve, or Ohio</del>                     | 2892 |
| <del>naval militia, or by an inductee, enlistee, reservist, or any</del>                         | 2893 |
| <del>entrant into a reserve component of the armed forces of the United</del>                    | 2894 |
| <del>States, and time spent in reporting for and returning from such</del>                       | 2895 |
| <del>service and training, or if a rejection occurs, from the place of</del>                     | 2896 |
| <del>reporting therefor</del> <u>Permanent private employee" means any person</u>                | 2897 |
| <u>holding a position with a private employer.</u>   | 2898 |
| (F) <u>"Private employer" means any person, institution,</u>                                     | 2899 |
| <u>organization, or other entity that is not a public employer and</u>                           | 2900 |

that pays salary or wages for work performed or that has control 2901  
over employment opportunities. 2902

(G) "Service in the uniformed services" means the performance 2903  
of duty, on a voluntary or involuntary basis, in a uniformed 2904  
service, under competent authority, and includes active duty, 2905  
active duty for training, initial active duty for training, 2906  
inactive duty for training, full-time national guard duty, and 2907  
performance of duty or training by a member of the Ohio organized 2908  
militia pursuant to Chapter 5923. of the Revised Code. "Service in 2909  
the uniformed services" includes also the period of time for which 2910  
a person is absent from a position of public or private employment 2911  
for the purpose of an examination to determine the fitness of the 2912  
person to perform any duty described in this division. 2913

(H) "Uniformed services" means the armed forces, the Ohio 2915  
organized militia when engaged in active duty for training, 2916  
inactive duty training, or full-time national guard duty, the 2917  
commissioned corps of the public health service, and any other 2918  
category of persons designated by the president of the United 2919  
States in time of war or emergency. 2920

**Sec. 5903.02.** (A) The determination of reinstatement and 2921  
reemployment rights of permanent public employees and permanent 2922  
private employees in the uniformed services shall be made in 2923  
accordance with the "Uniformed Services Employment and 2924  
Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 2925  
4301, et. seq. 2926

(B) The director of administrative services shall adopt rules 2927  
for the implementation of this chapter. 2928

**Sec. 5903.99.** Whoever violates sections 5903.01 to 5903.05 2929  
and 5903.02 of the Revised Code may be fined not more than one 2930  
thousand dollars or imprisoned not more than six months, or both. 2931

Sec. 5911.011. ~~The adjutant general is the~~ (A) As director of 2932  
state armories. ~~He shall provide,~~ the adjutant general may 2933  
acquire, design, construct, expand, rehabilitate, and convert 2934  
grounds, armories, airfields, and other ~~buildings,~~ and facilities 2935  
for the ~~purpose~~ purposes of developing, training, and operating 2936  
units of the Ohio national guard and for the safekeeping of arms, 2937  
clothing, equipment, and other state or federal military property 2938  
issued to the Ohio national guard, or state property issued to the 2939  
Ohio military reserve, ~~or the Ohio naval militia,~~ and. 2940

(B) In acquiring grounds, armories, airfields, and other 2941  
facilities for the purposes described in division (A) of this 2942  
section, the adjutant general may purchase, lease property for any 2943  
~~period of time not exceeding~~ term up to ninety-nine years, subject 2944  
to the availability of state funds or federal funds obtained under 2945  
an agreement by which the United States contributes to the cost of 2946  
leasing the grounds, armory, airfield, or other facility, or the 2947  
adjutant general may build suitable buildings, airfields, and 2948  
facilities for ~~such those~~ purposes ~~when, in his judgment, it is~~ 2949  
~~for the best interest of the state to do so.~~ He shall 2950

(C) The adjutant general may provide for the leasing, 2951  
management, care, and maintenance of ~~such those~~ grounds, armories, 2952  
airfields, ~~buildings,~~ and other facilities and may prescribe ~~such~~ 2953  
any rules for the management, ~~government,~~ and guidance of the 2954  
organizations and units occupying them ~~as~~ that are necessary ~~and~~ 2955  
~~desirable.~~ When promulgating ~~such those~~ rules, the adjutant 2956  
general need not comply with Chapter ~~111.~~ or 119. of the Revised 2957  
Code. 2958

Sec. 5911.03. (A) The adjutant general may receive gifts of 2959  
land, money, or other property for the purpose of aiding in the 2960  
acquisition of grounds and airfields, or the purchase, building, 2961

furnishing, or maintaining of an armory, ~~building~~ airfield, or 2962  
other facility for military purposes. All 2963

(B) All lands ~~so~~ acquired under this section shall be deeded 2964  
to the state, and all property received under this section from 2965  
any source shall become the property of this state, except as may 2966  
be provided in an agreement by which the United States contributes 2967  
to the cost of acquiring, designing, or constructing the grounds, 2968  
armory, airfield, or other facility used for developing, training, 2969  
and operating units of the national guard. 2970

Sec. 5911.04 The adjutant general shall be governed in the 2971  
construction of armories, other ~~buildings~~, facilities, and 2972  
airfields for military purposes by sections 153.01 to 153.20 and 2973  
153.50 to 153.60 of the Revised Code. 2974

**Sec. 5911.08.** The (A) Except as allowed under a permit issued 2975  
under Chapter 4303. of the Revised Code, the sale of beer or 2976  
intoxicating liquor in an armory, ~~building~~, airfield, or other 2977  
facility used for training and for the safekeeping of arms, 2978  
clothing, equipment, and other military property belonging to the 2979  
Ohio ~~national guard, the Ohio military reserve, or the Ohio naval~~ 2980  
organized militia provided for by section 5911.011 of the Revised 2981  
Code is prohibited ~~and any.~~ 2982

(B) Any person guilty of violating such prohibition division 2983  
(A) of this section shall be punished as a court martial directs 2984  
provided in Chapter 4303. of the Revised Code. 2985

**Sec. 5913.01.** (A) The adjutant general shall be chief of 2986  
staff to is the ~~commander in chief and~~ administrative head of the 2987  
Ohio organized militia. He The adjutant general shall be: 2988

(1) Be provided offices ~~in Columbus~~ and shall keep them open 2989  
during usual business hours. ~~He shall have;~~ 2990

(2) have and maintain custody of all military records, 2991  
correspondence, and other ~~military~~ documents. ~~He shall superintend~~ 2992  
of the Ohio organized militia; 2993

(3) superintend the preparation of all returns and reports 2994  
required by the United States from the state on military matters. ~~He shall keep;~~ 2995  
~~He shall keep;~~ 2996

(4) keep a roster of all officers of the ~~military forces of~~ 2997  
~~the state~~ Ohio organized militia, including retired officers. ~~He~~ 2998  
~~shall, whenever;~~ 2999

(5) whenever necessary, cause the military ~~code,~~ provisions 3000  
of the Revised Code and the orders, regulations, pamphlets, 3001  
circulars, and memorandums of the adjutant general's department to 3002  
be printed and distributed to the ~~commissioned officers and~~ 3003  
organizations of the Ohio organized militia. ~~He shall prepare;~~ 3004

(6) prepare and issue all necessary ~~books, blanks, and~~ 3005  
~~notices. He shall~~ Ohio organized militia forms and attest to all 3006  
commissions issued to ~~military~~ officers. ~~He shall have~~ of the 3007  
Ohio organized militia; 3008

(7) have a seal, and all copies of orders, records, and 3009  
papers in ~~his~~ the adjutant general's office certified and 3010  
authenticated ~~under said~~ with that seal shall be competent 3011  
evidence in like manner as if the originals were produced. All 3012  
orders issued from ~~his~~ the adjutant general's office shall ~~be~~ 3013  
~~authenticated with said~~ bear a duplicate of the seal. 3014

~~He shall keep~~ (8) Keep and preserve the arms, ordnance, 3015  
equipment, and all other military property belonging to the state 3016  
or issued to the state by the federal government and ~~he shall make~~ 3017  
~~and~~ issue ~~such~~ any regulations ~~as are~~ necessary to keep, preserve, 3018  
and repair ~~such~~ the property as ~~in his opinion~~ conditions demand. 3019  
~~He shall issue such military;~~ 3020

(9) Issue adjutant general's property to the units of the 3021  
Ohio organized militia as the necessity of the service or 3022  
organizational or allowance tables requires. He shall submit; 3023

(10) submit an annual report to the governor at such time as 3024  
the governor requires of the transaction of ~~his~~ the adjutant 3025  
general's department, setting forth the strength and condition of 3026  
the Ohio organized militia and ~~such~~ other matters ~~as he deems~~ 3027  
~~important. He~~ that the adjutant general chooses; 3028

(11) Command the state area command of the Ohio national 3029  
guard. 3030

(B) The adjutant general shall issue and distribute all 3031  
orders issued in the name of the governor as the commander in 3032  
chief of the Ohio organized militia and perform such the duties as 3033  
that the commander in chief governor directs and such other duties 3034  
as are prescribed by law. 3035

(C) The adjutant general may enter into cooperative 3036  
agreements, contractual arrangements, or agreements for the 3037  
acceptance of grants with the United States or any agency or 3038  
department of the United States, other states, any department or 3039  
political subdivision of this state, or any person or body 3040  
politic, to accomplish the purposes of the adjutant general's 3041  
department. The adjutant general shall cooperate with, and not 3042  
infringe upon, the rights of other state departments, divisions, 3043  
boards, commissions, and agencies, political subdivisions, and 3044  
other public officials and public and private agencies when the 3045  
interests of the adjutant general's department and those other 3046  
entities overlap. 3047

The funds made available by the United States for the 3048  
exclusive use of the department shall be expended only by the 3049  
department and only for the purposes for which the federal funds 3050  
were appropriated. In accepting federal funds, the department 3051

agrees to abide by the terms and conditions of the grant or 3052  
cooperative agreement and further agrees to expend the federal 3053  
funds in accordance with the laws and regulations of the United 3054  
States. 3055

**Sec. 5913.02.** (A) The military staff of the governor ~~shall~~ 3056  
may consist of ~~an~~ any of the following: 3057

(1) An adjutant general ~~of~~ in the grade of major general, 3058  
~~upon whom~~ who shall ~~devolve~~ perform the duties of quartermaster 3059  
general; ~~an~~ 3060

(2) An assistant adjutant general for army ~~of~~ in the grade of 3061  
~~brigadier~~ major general; ~~an~~ 3062

(3) an assistant adjutant general for air ~~of~~ in the grade of 3063  
~~brigadier~~ major general; ~~an~~ 3064

(4) an assistant quartermaster general ~~of~~ in the grade of 3065  
colonel; ~~all of whom~~ or any retired officer who has appropriate 3066  
qualifications for the position, as determined by the adjutant 3067  
general and the governor. 3068

All persons named in divisions (A)(1) to (4) of this section 3069  
shall be appointed by the governor and shall hold office during 3070  
~~his~~ the governor's pleasure. ~~The~~ 3071

(B) The governor's military staff also shall ~~also~~ include 3072  
four aides-de-camp, who shall be appointed by the governor and 3073  
hold office during ~~his~~ the governor's pleasure. 3074

**Sec. 5913.021.** (A) The adjutant general at the time of 3075  
appointment shall be a federally recognized officer ~~of~~ in the Ohio 3076  
national guard ~~of~~ in the grade of colonel or above, ~~the~~. 3077

(B) The assistant adjutant general for army at the time of 3078  
appointment shall be a federally recognized officer ~~of~~ in the Ohio 3079  
army national guard ~~of~~ in the grade of ~~lieutenant~~ colonel or 3080

above, ~~the.~~ 3081

(C) The assistant adjutant general for air at the time of 3082  
appointment shall be A federally recognized ~~rated~~ officer ~~of~~ in 3083  
the Ohio air national guard ~~of~~ in the grade of ~~lieutenant~~ colonel 3084  
or above, ~~and the.~~ 3085

(D) The assistant quartermaster general at the time of 3086  
appointment shall be a federally recognized officer ~~of~~ in the Ohio 3087  
army national guard ~~of~~ in the grade of ~~major~~ lieutenant colonel or 3088  
above, or any retired officer who has appropriate qualifications 3089  
for the position, as determined by the adjutant general and the 3090  
governor. ~~The~~ 3091

(E) The adjutant general, the assistant adjutant general for 3092  
~~the~~ army, the assistant adjutant general for air, and the 3093  
assistant quartermaster general at the time of appointment shall 3094  
each have not less than ten years' commissioned service in the 3095  
armed forces of the United States, not less than five years of 3096  
~~such~~ that service being in the Ohio national guard, and shall at 3097  
all times during their tenure of office be federally recognized 3098  
officers of the Ohio national guard. 3099

(F) The provisions of this section relative to federal 3100  
recognition shall be suspended during any period of emergency when 3101  
the majority of the units of the Ohio national guard are in the 3102  
federal service, ~~in which.~~ In that event, ~~retired~~ officers of the 3103  
Ohio national guard shall be eligible to serve as adjutant 3104  
general, assistant adjutant general for army, assistant adjutant 3105  
general for air, and assistant quartermaster general for the 3106  
duration of such emergency or until a majority of the units of the 3107  
Ohio national guard are released from federal service. 3108

**Sec. 5913.03.** The adjutant general shall give bond in the sum 3109  
of thirty thousand dollars to the state conditioned upon the 3110  
faithful performance of ~~his~~ the adjutant general's official 3111

duties; the assistant adjutant general for army and the assistant 3112  
adjutant general for air shall give ~~like bonds~~ bond in the sum of 3113  
ten thousand dollars; and the assistant quartermaster general 3114  
shall give ~~a like~~ bond in the sum of twenty thousand dollars. If a 3115  
surety bond is given, the premiums shall be paid out of funds 3116  
appropriated ~~therefor~~ for the surety bond. ~~Said These~~ bonds shall 3117  
be filed in the office of the secretary of state. All other bonds 3118  
given by the various officers of the Ohio organized militia shall 3119  
be filed and recorded in the office of the adjutant general. 3120

**Sec. 5913.04.** The governor's aides-de-camp shall be detailed 3121  
from the commissioned officers of the Ohio national guard in 3122  
active service ~~from those of a grade below that of colonel~~. ~~Such~~ 3123  
This detail shall not add to the grade of the officer so 3124  
appointed. The officers detailed as aides-de-camp shall not be 3125  
relieved from duty with their respective organizations, but shall 3126  
perform all duties ~~pertaining thereto, except when on duty as~~ 3127  
aides-de-camp under orders of the governor as an exception to 3128  
their usual duties. 3129

**Sec. 5913.05.** (A) The assistant adjutants general shall serve 3130  
in the office of the adjutant general, and aid ~~him~~ the adjutant 3131  
general by performing ~~such the~~ duties ~~as that~~ the adjutant general 3132  
assigns them. ~~In~~ 3133

(B) In the absence or disability of the adjutant general, the 3134  
senior assistant adjutant general shall perform the duties of the 3135  
adjutant general. ~~In~~ 3136

(C) In the absence or disability of the adjutant general and 3137  
the senior assistant adjutant general, the junior assistant 3138  
adjutant general shall perform the duties of the adjutant general. 3139

**Sec. 5913.051.** To supplement the military staff of the 3140

governor, the adjutant general ~~shall~~ may appoint an assistant to 3141  
the state area commander for readiness and training for army. This 3142  
assistant shall be a brigadier general and shall ~~serve in the~~ 3143  
~~office of aid~~ the adjutant general ~~and aid him and the state area~~ 3144  
~~commander~~ by performing ~~such~~ duties as that the adjutant general 3145  
assigns in the areas of readiness, training, and mobilization. 3146  
This assistant shall not be a full-time state employee, but shall 3147  
serve in ~~his~~ that capacity only during federally recognized 3148  
training, special duty periods, or mobilization periods, and shall 3149  
at the time of ~~his~~ appointment be ~~of~~ in the rank of colonel or 3150  
above but otherwise meet the qualifications established in section 3151  
5913.021 of the Revised Code. 3152

**Sec. 5913.06.** (A) The assistant quartermaster general, under 3153  
direction of the adjutant general as quartermaster general, shall 3154  
have charge of all state military property and property of the 3155  
adjutant general's department belonging to the state. ~~The~~ 3156

(B) ~~The~~ assistant quartermaster general shall keep an 3157  
accurate account ~~thereof~~ of state military property and property 3158  
of the adjutant general's department and ~~shall make such returns~~ 3159  
~~and prepare~~ reports as the adjutant general directs. He 3160

(C) ~~The assistant quartermaster general~~ shall perform ~~such~~ 3161  
other duties ~~as are assigned to him~~ by the adjutant general. ~~In~~ 3162

(D) In the absence or disability of the adjutant general, and 3163  
the assistant adjutants general, the assistant quartermaster 3164  
general shall perform the duties of the adjutant general. 3165

**Sec. 5913.07.** (A) Any person who has served as a member of 3166  
the Ohio organized militia ~~of Ohio~~ or of the armed forces of the 3167  
United States, or both, for a period of ~~three~~ twenty years, ~~one~~ 3168  
~~year~~ eight years of which ~~has~~ have been served as a commissioned 3169  
officer of the Ohio ~~state guard, the Ohio state naval~~ organized 3170

militia, ~~or the Ohio military reserve may, at his own~~ the person's 3171  
request and upon approval of the adjutant general, may be placed 3172  
upon the ~~reserve~~ retired list, which shall be kept in the office 3173  
of the adjutant general. ~~Such~~ 3174

(B) Retired officers shall receive no compensation from the 3175  
state for their services except as provided in this section, but 3176  
~~shall be permitted~~ may on all occasions of ceremony ~~to~~ wear the 3177  
uniform of their rank. ~~The commander in chief~~ 3178

(C) The adjutant general may assign or detail ~~such~~ retired 3179  
officers upon duty and when so assigned or detailed, they shall 3180  
receive the same pay and allowances as officers on the active list 3181  
of the element of the Ohio organized militia assigned, detailed, 3182  
or employed under like condition. 3183

**Sec. 5913.08.** The adjutant general ~~shall have~~ has general 3184  
direction over ~~the state arsenal, state camp grounds, and other~~ 3185  
military and other adjutant general's department property ~~of~~ 3186  
belonging to the state. ~~He shall~~ The adjutant general may employ 3187  
~~such labor thereat~~ employees as ~~the governor deems the necessities~~ 3188  
~~and best interests of the state require~~ necessary to carry out the 3189  
duties of the adjutant general's department. 3190

**Sec. 5913.09.** (A) The adjutant general ~~shall be~~ is the 3191  
custodian of all military and other adjutant general's department 3192  
property, both real and personal, belonging to the state. 3193

~~He~~ (B) The adjutant general may make ~~such~~ changes and 3194  
improvements ~~in such~~ to military and other adjutant general's 3195  
department property as the needs of the state and federal 3196  
government and the exigencies of the service require. All 3197  
improvements made upon ~~such~~ that property belonging to the state, 3198  
from moneys received either all or in part from the state or 3199  
federal government, or both, become the property of the state, 3200

except as may be provided in an agreement and corresponding 3201  
regulations by which the United States contributes to the cost of 3202  
an improvement. The 3203

(C)(1) In accordance with applicable state and federal law 3204  
and regulations, the adjutant general may, with the approval of 3205  
the governor, may acquire by purchase lease, license, or rent 3206  
military otherwise, real and personal property of necessary for 3207  
the state upon such terms and under such conditions as purposes of 3208  
the adjutant general considers appropriate and proper department. 3209  
Except 3210

(2) In accordance with applicable state and federal law and 3211  
regulations, the adjutant general, with the approval of the 3212  
attorney general, may enter into contracts for the construction, 3213  
repair, renovation, maintenance, and operation of military or 3214  
other adjutant general's department property. 3215

(3) In accordance with applicable state and federal law and 3216  
regulations, the adjutant general, with the approval of the 3217  
governor, may lease or exchange all or part of any military or 3218  
other adjutant general's department property or grant easements or 3219  
licenses, if the lease, exchange, easement, or license is 3220  
advantageous to the state. 3221

(4) All real property of the adjutant general's department 3222  
shall be sold in accordance with section 5911.10 Of the Revised 3223  
Code. 3224

(D) Except as otherwise provided in this section, all 3225  
receipts income from any military or other adjutant general's 3226  
department property of the state, not made a portion of the 3227  
company, troop, battery, detachment, squadron, or other 3228  
organization funds by regulations, shall be credited to the funds 3229  
for the operation and maintenance of the Ohio national guard, Ohio 3230  
naval organized militia, or the Ohio military reserve, as the 3231

adjutant general directs, in accordance with applicable state and 3232  
federal law and regulations and the agreements by which the United 3233  
States contributes to the cost of operation and maintenance of the 3234  
Ohio national guard. ~~All income received from seasonal rental~~ 3235  
~~units and recreational facilities at Camp Perry shall be paid into~~ 3236  
~~the state treasury to the credit of the Camp Perry clubhouse and~~ 3237  
~~rental activities fund, which is hereby created.~~ 3238

**Sec. 5913.10.** (A) The adjutant general may prescribe and 3239  
enforce ~~rules and police~~ regulations for the ~~range and ground~~ 3240  
property referred to in section 5913.09 of the Revised Code, as ~~he~~ 3241  
the adjutant general deems necessary for protection and safety. 3242

(B) In prescribing regulations under division (A) of this 3243  
section, the adjutant general need not comply with Chapter 111. or 3244  
119. of the Revised Code. 3245

**Sec. 5913.17.** No person shall enter an encampment of the Ohio 3246  
organized militia, ~~or a camp or cantonment of any military~~ 3247  
~~organization of the United States,~~ when forbidden to do so, or, 3248  
having been permitted to enter ~~therein~~ the encampment, ~~shall~~ 3249  
~~conduct himself~~ behave in a disorderly manner or shall resist a 3250  
sentry or guard acting under orders to prevent ~~such~~ that entry or 3251  
disorderly conduct. 3252

**Sec. 5919.01.** (A) The Ohio national guard ~~shall consist~~ 3253  
consists of ~~such~~ those organizations and units ~~as~~ that are, under 3254  
the laws of the United States and the regulations promulgated ~~in~~ 3255  
~~pursuance thereof~~ under them, prescribed as the portion of the 3256  
army or air national guard of the United States ~~apportioned~~ 3257  
located and assigned to organized within this state ~~in accordance~~ 3258  
~~with troop basis~~ according to the locations, branches, 3259  
organizations, and allotments approved by the governor of ~~Ohio~~ 3260  
this state. 3261

(B) The organizations and units of the Ohio national guard 3262  
shall conform to and be organized ~~in accordance with~~ according to 3263  
the organizational or allowance tables ~~of organizations as~~ 3264  
prescribed by the department of ~~defense~~ the army or air force and 3265  
by the national guard bureau for the national guard. In case of an 3266  
emergency or imminent danger ~~thereof~~ of an emergency, the 3267  
governor, as commander in chief, may increase the ~~organized~~ 3268  
~~military forces of the state in accordance with~~ size of the Ohio 3269  
national guard according to the existing ~~rules and~~ regulations 3270  
governing the armed forces of the United States, as the exigency 3271  
of the occasion requires; ~~and such.~~ Any organization and increase 3272  
may be made either pursuant to, or in advance of, any call or 3273  
order made by the president of the United States. 3274

**Sec. 5919.02.** (A) All commissioned and warrant officers of 3275  
the Ohio national guard shall be appointed by the governor as 3276  
commander in chief, ~~upon the recommendation of the commanding~~ 3277  
~~officers of the organizations to which such officers are to be~~ 3278  
~~assigned for duty,~~ and shall be commissioned or warranted 3279  
according to grade ~~in~~ under the regulations of the department, 3280  
~~corps, arm, or service in which they are appointed~~ of the army or 3281  
air force and the national guard bureau. ~~No~~ 3282

(B) No officer shall be commissioned or warranted until ~~he~~ 3283  
the officer has successfully passed tests as to ~~his~~ physical, 3284  
moral, and professional fitness as prescribed by regulations 3285  
promulgated under federal law for federal recognition as ~~an~~ a 3286  
commissioned or warrant officer. 3287

(C) General officers ~~of the line~~ shall be appointed from the 3288  
federally recognized eligible commissioned officers of the army or 3289  
air national guard of this state or of another component of the 3290  
armed forces of the United States, who ~~shall~~ have served at least 3291  
fifteen years as a commissioned officer in the army or air 3292

national guard or in another component of the armed forces of the 3293  
United States, or both. ~~At least ten years of such service shall~~ 3294  
~~have been with troops.~~ 3295

**Sec. 5919.04.** ~~(A)~~ The governor adjutant general may issue 3296  
~~such~~ regulations and other publications governing the appointment 3297  
of officers in the Ohio national guard and ~~such~~ all other matters 3298  
~~pertaining to the Ohio national guard~~ as are necessary to conform 3299  
to the requirements made or authorized by congress for 3300  
participation in federal appropriations for the national guard. 3301

(B) In issuing regulations and other publications under 3302  
division (A) of this section, the adjutant general need not comply 3303  
with Chapter 111. or 119. Of the Revised Code. 3304

**Sec. 5919.071.** Any person, commissioned or warranted as an 3305  
officer in the Ohio national guard, shall hold ~~his~~ the commission 3306  
or warrant during the period of ~~his~~ the person's federal 3307  
recognition. The termination or withdrawal by the department of 3308  
~~defense~~ the army or air force of the federal recognition of any 3309  
commissioned or warrant officer in the army or air national guard 3310  
of the United States shall terminate ~~his~~ the person's commission 3311  
or warrant in the Ohio national guard. 3312

**Sec. 5919.09.** ~~Original enlistments~~ Enlistments in the Ohio 3313  
national guard ~~and all subsequent enlistments~~ shall be for the 3314  
period prescribed by act of congress and publications of the 3315  
department of the army or air force and national guard bureau. 3316

**Sec. 5919.12.** ~~An~~ A commissioned or warrant officer of the 3317  
Ohio national guard may be honorably discharged by the governor as 3318  
commander in chief upon ~~tender of his~~ the officer's resignation, 3319  
in conformity with the requirements of the department of ~~defense~~ 3320  
the army or air force and the national guard bureau, provided he 3321

~~but the officer~~ shall not be discharged until ~~he~~ the officer has 3322  
accounted for all state and United States property and all public 3323  
moneys for which ~~he~~ the officer is responsible. 3324

**Sec. 5919.13.** (A) Any commissioned ~~or warrant~~ officer who has 3325  
served as a member of the Ohio national guard for a period of ~~ten~~ 3326  
~~twenty~~ years, ~~five~~ eight of which have been as a commissioned ~~or~~ 3327  
~~warrant~~ officer, may at ~~his own~~ the officer's request, and shall 3328  
upon termination of ~~his~~ the officer's federal recognition, be 3329  
placed upon the retired list, which shall be kept in the office of 3330  
the adjutant general. ~~Officer so retired~~ 3331

(B) ~~Retired officers~~ shall receive no compensation ~~from the~~ 3332  
~~state~~ for their services except as provided in this section, but 3333  
~~shall be permitted~~ may on all occasions of ceremony ~~to~~ wear the 3334  
uniform of ~~the grade upon which retired~~ their rank. ~~The commander~~ 3335  
~~in chief~~ 3336

(C) ~~The adjutant general~~ may detail ~~officers so~~ a retired 3337  
~~upon~~ officer to duty other than in the command of troops, ~~and when~~ 3338  
~~so detailed, they~~ consistent with federal publications. A retired 3339  
officer then shall receive ~~like~~ pay and allowances as ~~officers on~~ 3340  
~~the active list detailed or employed under like conditions~~ 3341  
prescribed under the department of defense pay manual. 3342

**Sec. 5919.14.** (A) At any time the moral character, capacity, 3343  
and general fitness for ~~services,~~ service of any Ohio national 3344  
guard officer may be determined by ~~an efficiency~~ A board of ~~three~~ 3345  
~~commissioned~~ officers, ~~appointed by the governor, who shall be~~ 3346  
~~senior in rank, if practicable, to the officer whose fitness for~~ 3347  
~~service is under investigation, and if the finding of such board~~ 3348  
~~is unfavorable to such officer and is approved by the governor, he~~ 3349  
~~the officer shall be discharged~~ which shall be convened and 3350  
proceed according to publications of the department of the army or 3351

air force and the national guard bureau. 3352

(B) A board of officers convened under division (A) of this 3353  
section is not a public body subject to section 121.22 of the 3354  
Revised Code. 3355

~~Sec. 5919.15. There shall be organized a national guard~~ 3356  
~~reserve which shall consist of such organizations, officers, and~~ 3357  
~~enlisted men, as the president of the United States prescribes.~~ 3358  
~~Officers~~ commissioned officers, warrant officers, and enlisted men 3359  
personnel of the Ohio national guard may be transferred to the 3360  
inactive national guard reserve under ~~such~~ regulations ~~as that~~ the 3361  
~~president~~ national guard bureau prescribes. 3362

~~Sec. 5919.16. Commissions of (A) Commissioned and warrant~~ 3363  
~~officers of~~ in the Ohio national guard shall be ~~vacated~~ discharged 3364  
by the adjutant general upon either of the following: 3365

(1) The officer's resignation, by termination; 3366

(2) Approval of a board's recommendation for withdrawal of 3367  
federal recognition by the ~~department of defense, absence~~ chief of 3368  
the national guard bureau. 3369

(B) An officer also may be discharged under any of the 3370  
following circumstances: 3371

(1) Pursuant to other federal regulations; 3372

(2) If absent without leave for three months, upon 3373  
recommendation of an efficiency board, ~~pursuant;~~ 3374

(3) Pursuant to sentence by court-martial, ~~or if such;~~ 3375

(4) If the officer has been convicted of ~~an infamous~~ a crime 3376  
classified as a felony as described in division (D) or (E) of 3377  
section 2901.02 of the Revised Code. 3378

Sec. 5919.17. (A) An enlisted ~~man~~ person discharged from 3379  
service in the Ohio national guard shall receive a discharge, in 3380  
writing, in ~~such~~ the form and with ~~such classification as is~~ the 3381  
characterization prescribed ~~for~~ by the ~~regular~~ army or air force. 3382  
In time of peace, discharges may be given ~~prior to~~ before the 3383  
expiration of terms of enlistment, under prescribed regulations, 3384  
subject to ~~the~~ any restrictions ~~of the national defense act~~ 3385  
contained in publications of the department of the army or air 3386  
force and the national guard bureau. 3387

(B) On termination of an emergency in which ~~the officers and~~ 3388  
~~enlisted men~~ personnel of the Ohio national guard have been called 3389  
or ~~drafted~~ ordered into federal service by the president of the 3390  
United States, ~~in accordance with~~ according to the laws of the 3391  
United States, ~~such called or drafted officers and enlisted men~~ 3392  
those persons shall continue to serve in the Ohio national guard 3393  
until the dates upon which their ~~commissions or enlistments~~ 3394  
service obligations entered into ~~prior to~~ before the call or ~~draft~~ 3395  
order into the federal service would have expired if 3396  
uninterrupted. 3397

Sec. 5919.22. No ~~officer or~~ enlisted ~~man~~ person may be 3398  
discharged from the Ohio national guard except as provided ~~in~~ 3399  
~~section 5919.01 to 5919.25, inclusive, of the Revised Code; nor~~ 3400  
~~shall any officer be demoted for any cause except upon his written~~ 3401  
~~consent; nor shall the enlistment of any eligible citizen or alien~~ 3402  
~~who has declared his intention to become a citizen be denied,~~ 3403  
~~except as provided in such sections~~ by publications of the 3404  
department of the army or air force and the national guard bureau. 3405

Sec. 5919.25. The Ohio national guard ~~shall~~, as far as 3406  
practicable, shall be uniformed, armed, and equipped with the same 3407  
type of uniforms, arms, and equipment as is provided for the ~~armed~~ 3408

~~forces of the United States air force or army.~~ 3409

**Sec. 5919.28.** The system of tactics, field exercises, and 3410  
training for ~~the armed forces of~~ the United States army or air 3411  
force shall be the system of tactics, field exercises, and 3412  
training for the Ohio national guard. 3413

Sec. 5919.29. (A) The governor as commander in chief may 3414  
order individuals and units of the Ohio national guard to perform 3415  
any training or duty authorized under the "Act of August 10, 3416  
1956," 70A Stat. 596, 32 U.S.C.A. ~~101-716~~ 101 TO 716, and under 3417  
regulations prescribed by the president of the United States, the 3418  
secretary of defense, the secretary of the army, the secretary of 3419  
the air force, or the chief of the national guard bureau. 3420

(B) When ordered by the governor to perform training or duty 3421  
under this section or section 5923.12 of the Revised Code, members 3422  
of the Ohio national guard shall have the protections afforded to 3423  
persons on federal active duty by "The Soldiers and Sailors Civil 3424  
Relief Act of 1940," 54 Stat. 1178, 50 App. U.S.C.A. 501-548 and 3425  
560-591, and by the "Uniformed Services Employment and 3426  
Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4301 3427  
to 4333. 3428

**Sec. 5919.30.** ~~There shall be an annual inspection~~ (A) 3429  
Inspection of each organization and unit units of the Ohio 3430  
national guard shall be conducted under ~~such rules and~~ regulations 3431  
as are prescribed under ~~the National Defense Act~~ by the ~~president~~ 3432  
~~of the United States or~~ secretary of defense the army or secretary 3433  
of the air force and the chief of the national guard bureau. ~~The~~ 3434

(B) The adjutant general or an officer acting under ~~his~~ the 3435  
adjutant general's authority may make ~~such~~ other inspections ~~as~~ 3436  
~~are~~ considered necessary by the adjutant general. 3437

~~Sec. 5919.32. While on duty under the authority of the~~ 3438  
~~department of defense of the United States, and in going to and~~ 3439  
~~returning therefrom, officers and enlisted men of the Ohio~~ 3440  
~~national guard shall receive such pay and allowances as are~~ 3441  
~~allowed by the department of defense. For attendance at armory~~ 3442  
~~drill satisfactorily performing inactive duty for training, annual~~ 3443  
~~training, and active duty for special work, officers and enlisted~~ 3444  
~~men personnel~~ of the Ohio national guard shall receive such pay 3445  
and allowances as are from the United States authorized and 3446  
allowed by the department of defense pay manual, subject to such 3447  
~~rules and regulations as may be promulgated by~~ under it. 3448

**Sec. 5919.33.** Upon certification of availability of funds by 3449  
the director of budget and management, the adjutant general shall 3450  
pay a death benefit of twenty thousand dollars from the 3451  
appropriations for operating expenses, to the beneficiary or 3452  
beneficiaries of any member of the Ohio national guard who dies 3453  
while performing state active duty under orders issued by 3454  
~~competent authority. Provided such~~ the adjutant general on behalf 3455  
of the governor, if the beneficiary or beneficiaries has or have 3456  
been so designated in a written statement as prescribed by the 3457  
adjutant general. 3458

Sec. 5919.35. (A) The stockage, accountability, issuance, and 3459  
dispensing of any drug, as defined in section 4729.02 of the 3460  
Revised Code, that is issued to any unit or member of the Ohio 3461  
national guard is governed exclusively by regulations or other 3462  
directives prescribed by the United States army or air force and 3463  
the national guard bureau. Ohio national guard units and personnel 3464  
are not subject to Chapter 4729. or 3715. of the Revised Code or 3465  
other statutes or regulations in conflict with military 3466  
regulations or other directives when acting in furtherance of 3467  
their official duties. 3468

(B) This section applies despite the order of Ohio national guard units or personnel to state active duty under section 5923.22 of the Revised Code or the fact that accountable officers or employees of the Ohio national guard are employed in a civilian status. 3469  
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**Sec. 5920.10.** Whenever the Ohio military reserve or any part thereof is ordered out for active service by the governor, the Ohio code of military justice shall be in full force in respect to such forces. ~~Every officer and enlisted man of such forces shall, during his service therein, be exempt from service upon any posse comitatus and from jury duty.~~ 3474  
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**Sec. 5921.09.** The Ohio naval militia shall be organized, governed, drilled, and instructed in accordance with the regulations and customs provided for the navy of the United States, and Chapter 5924. of the Revised Code, together with the orders of the governor. ~~Every commissioned officer, warrant officer, and enlisted member, when ordered out for active service by the governor, shall during his service therein, be exempt from service upon any posse comitatus and from jury duty.~~ 3480  
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**Sec. 5923.01.** (A) The Ohio organized militia of the state shall consist consists of all able-bodied citizens of the state who are not permanently handicapped, as handicapped is defined in section 4112.01 of the Revised Code, who are more than seventeen years of age, and not more than sixty-seven years, of age except unless exempted as provided in section 5923.03 5923.02 of the Revised Code. The militia shall be divided into four classes, and who are members of one of the following: 3488  
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~~(A)~~(1) The Ohio national guard; 3496

~~(B)~~(2) The Ohio naval militia; 3497

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|--|------|
| <del>(C)(3) The Ohio military reserve;</del>                                 | 3498 |
| <del>(D) The unorganized militia.</del>                                      | 3499 |
| <u>(B) The Ohio national guard, including both the Ohio air</u>              | 3500 |
| <u>national guard and the Ohio army national guard, the Ohio naval</u>       | 3501 |
| <u>militia, and the Ohio military reserve shall be are known</u>             | 3502 |
| <u>collectively as the Ohio organized militia.</u>                           | 3503 |
| <del>"Military forces" includes the (C) The Ohio national guard,</del>       | 3504 |
| <del>the Ohio naval militia, and the Ohio military reserve, and the</del>    | 3505 |
| <del>unorganized militia.</del>  | 3506 |
| <del>"National Defense Act," means an act of congress, entitled</del>        | 3507 |
| <del>"An act for making further and more effectual provision for the</del>   | 3508 |
| <del>national defense and for other purposes," approved by the</del>         | 3509 |
| <del>president, June 3, 1916, and all acts amendatory thereof and</del>      | 3510 |
| <del>supplementary thereto are known collectively as the state defense</del> | 3511 |
| <del>forces.</del>   | 3512 |
| <u>(D) No troops shall be maintained in time of peace other than</u>         | 3513 |
| <u>as authorized and prescribed under the "National Defense Act Act</u>      | 3514 |
| <u>of August 10, 1956," 70A Stat. 596, 32 U.S.C.A. 101 to 716." Such</u>     | 3515 |
| <u>This limitation does not affect the right of the state to the use</u>     | 3516 |
| <u>of the its organized militia within its borders in time of peace</u>      | 3517 |
| <u>as prescribed in by the military laws of this state. This section</u>     | 3518 |
| <u>does not prevent the organization and maintenance of police.</u>          | 3519 |
|  | 3520 |
| <u>Sec. 5923.02. The (A) The following persons, if subject to</u>            | 3521 |
| <u>duty in the Ohio organized militia, may be exempted by the</u>            | 3522 |
| <u>adjutant general from duty on request:</u>                                | 3523 |
| <u>(1) The vice-president of the United States;</u>                          | 3524 |
| <u>(2) The officers, judicial and executive, of the departments</u>          | 3525 |
| <u>of the state and of the United States, and the members of the</u>         | 3526 |
| <u>general assembly, without regard to age, shall be exempt from duty</u>    | 3527 |

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|---|--|
| in the Ohio militia, and all persons who;   | 3528   |
| (3) <u>Members of the armed forces of the United States or their reserve components;</u>  | 3529<br>3530   |
| (4) <u>Customhouse clerks;</u>  | 3531   |
| (5) <u>Employees of the United States postal service;</u>   | 3532   |
| (6) <u>Workers employed in armories, arsenals, or naval shipyards of the United States;</u>   | 3533<br>3534   |
| (7) <u>Pilots on the navigable waters of the United States;</u>   | 3535   |
| (8) <u>Mariners licensed by the United States.</u>  | 3536   |
| (B) <u>Any person because of religious belief or other moral conviction held as a matter of conscience may claim exemption from military Ohio organized militia service, when the conscientious holding of such belief by such person is established under such regulations as the governor prescribes, shall be exempted from military service in a combatant capacity; but no person so exempted shall be exempt from military service in any capacity that the governor declares to be noncombatant.</u>   | 3537<br>3538<br>3539<br>3540<br>3541<br>3542<br>3543<br>3544                 |
| <b>Sec. 5923.03.</b> (A) <u>The Ohio national guard and the Ohio naval militia shall consist consists of the members of the Ohio organized militia regularly who are enlisted therein, transferred or assigned thereto under the laws and regulations of the United States, and of the officers and warrant officers regularly commissioned and, or warranted therein or assigned thereto, in the Ohio national guard, all as shall be prescribed by publications of the department of defense the army or air force and the national guard bureau for the national guard and the naval militia as prescribed by Chapter 5919. of the Revised Code. The</u> | 3545<br>3546<br>3547<br>3548<br>3549<br>3550<br>3551<br>3552<br>3553<br>3554 |
| (B) <u>The Ohio military reserve shall consist consists of the members of the Ohio organized militia who are more than seventeen years of age and regularly enlisted therein, and of officers</u>   | 3555<br>3556<br>3557   |

~~between the ages of eighteen and sixty seven years regularly,~~ 3558  
~~commissioned therein or assigned thereto, or warranted in the Ohio~~ 3559  
~~military reserve as prescribed by Chapter 5920. of Revised Code.~~ 3560

(C) The Ohio naval militia consists of the members of the 3561  
Ohio organized militia who are enlisted, commissioned, or 3562  
warranted in the Ohio naval militia as prescribed by Chapter 5921. 3563  
Of the Revised Code. 3564

**Sec. 5923.05.** (A)(1) Permanent public employees, as defined 3565  
in section 5903.01 of the Revised Code, who are members of the 3566  
Ohio ~~national guard, the Ohio military reserve, the Ohio naval~~ 3567  
organized militia, or members of other reserve components of the 3568  
armed forces of the United States, including the Ohio national 3569  
guard, are entitled to leave of absence from their respective 3570  
duties positions without loss of pay for ~~such~~ the time as they are 3571  
performing ~~military duty~~ service in the uniformed services, as 3572  
defined in section 5903.01 of the Revised Code for periods ~~not to~~ 3573  
~~exceed twenty two eight hour work days or one hundred seventy six~~ 3574  
~~hours in any one calendar year~~ of up to one month, for each 3575  
calendar year in which ~~military duty is performed~~ they are 3576  
performing service in the uniformed services. 3577

(2) As used in this section, "calendar year" means the year 3578  
beginning on the first day of January and ending on the last day 3579  
of December, and "month" means twenty-two eight-hour work days or 3580  
one hundred seventy-six hours within one calendar year. 3581

(B) Except as otherwise provided in division (C) of this 3582  
section, any permanent public employee who is entitled to the 3583  
leave provided under division (A) of this section and who is 3584  
called or ordered to ~~military duty~~ the uniformed services for a 3585  
~~period in excess of twenty two eight hour work days or one hundred~~ 3586  
~~seventy six hours in any one calendar year~~ longer than a month, 3587  
for each calendar year in which ~~military duty is~~ the employee 3588

performed service in the uniformed services, because of an 3589  
executive order issued by the president of the United States or an 3590  
act of congress is entitled, during the period designated in the 3591  
order or act, to a leave of absence and to be paid, during each 3592  
~~month of that~~ monthly pay period of that leave of absence, the 3593  
lesser of the following: 3594

(1) The difference between ~~his~~ the permanent public 3595  
employee's gross monthly wage or salary as an officer or permanent 3596  
public employee and the sum of ~~his~~ the permanent public employee's 3597  
gross ~~military~~ uniformed pay and allowances received that month; 3598

(2) Five hundred dollars. 3599

(C) No permanent public employee shall receive payments under 3600  
division (B) of this section if the sum of ~~his~~ the permanent 3601  
public employee's gross ~~military~~ uniformed pay and allowances 3602  
received in a ~~month~~ pay period exceeds ~~his~~ the employee's gross 3603  
monthly wage or salary as a permanent public employee for that 3604  
period or if the permanent public employee is receiving ~~his~~ pay 3605  
~~pursuant to~~ under division (A) of this section. 3606

(D) Any political subdivision of the state, as defined in 3607  
section 2744.01 of the Revised Code, may elect to pay any of its 3608  
permanent public employees who are entitled to the leave provided 3609  
under division (A) of this section and who are called or ordered 3610  
to ~~military duty~~ the uniformed services for a ~~period in excess of~~ 3611  
~~twenty two eight hour work days or one hundred seventy six hours~~ 3612  
~~in any one calendar year~~ longer than one month, for each calendar 3613  
year in which ~~military duty is~~ the employee performed service in 3614  
the uniformed services, because of an executive order issued by 3615  
the president or an act of congress, such payments, in addition to 3616  
those payments required by division (B) of this section, as may be 3617  
authorized by the legislative authority of the political 3618  
subdivision. 3619

(E) Each permanent public employee who is entitled to leave 3620  
provided under division (A) of this section shall submit to ~~his~~ 3621  
the permanent public employee's appointing authority the published 3622  
order authorizing the ~~military duty~~ call or order to the uniformed 3623  
services or a written statement from the appropriate military 3624  
commander authorizing ~~such duty~~ that service, prior to being 3625  
credited with such leave. 3626

(F) Any permanent public employee of a political subdivision 3627  
whose employment is governed by a collective bargaining agreement 3628  
with provision for ~~military leave~~ the performance of service in 3629  
the uniformed services shall abide by the terms of that collective 3630  
bargaining agreement with respect to ~~military leave~~ the 3631  
performance of such service, except that no collective bargaining 3632  
agreement may afford fewer rights and benefits than are conferred 3633  
under this section. 3634

**Sec. 5923.09.** Each enlisted ~~man~~ member and each commissioned 3635  
or warrant officer of the Ohio military reserve ~~shall~~ or Ohio 3636  
naval militia, if funds are appropriated for this purpose by the 3637  
general assembly, may be paid at rates to be prescribed ~~from time~~ 3638  
~~to time~~ by the ~~governor as commander in chief~~ adjutant general but 3639  
not exceeding one-thirtieth of the monthly base pay of ~~his~~ the 3640  
member's or officer's grade, as is provided for enlisted ~~men~~ 3641  
members or commissioned or warrant officers of the armed forces of 3642  
the United States under the department of defense pay manual, for 3643  
each authorized regular drill attended, to be paid ~~quarterly~~ 3644  
monthly. 3645

**Sec. 5923.10.** (A) If any enlisted ~~man~~ member in the Ohio 3646  
~~national guard, Ohio naval~~ organized militia, ~~or the Ohio military~~ 3647  
~~reserve~~ willfully, maliciously, purposely, or through carelessness 3648  
or neglect, permits any of the arms, equipment, or other property 3649

issued to ~~him~~ the enlisted member belonging to the state or the 3650  
United States, to become lost, damaged, or destroyed, the 3651  
commanding officer of ~~his~~ the enlisted member's company, troop, 3652  
battery, detachment, or other organization shall charge the value 3653  
of the ~~same~~ lost, damaged, or destroyed arms, equipment, or other 3654  
property against any pay due ~~him~~ the enlisted member under ~~such~~ 3655  
rules ~~applicable thereto~~ as prescribed by the department of 3656  
defense or the ~~governor~~ adjutant general. 3657

~~All~~ (B) All property of the United States issued to a unit or 3658  
member of the Ohio national guard shall be accounted and recouped 3659  
for as provided by the regulations prescribed by the army or the 3660  
air force and the national guard bureau, as appropriate and as 3661  
supplemented by the adjutant general. 3662

(C) Notwithstanding any contrary provisions of Chapter 2716. 3663  
of the Revised Code, all allowances and pay provided for officers 3664  
and enlisted ~~men~~ members of the Ohio organized militia shall be 3665  
~~applied~~ subject to the payment of any shortage of or injury to 3666  
state or United States property or funds for which ~~such~~ those 3667  
officers or enlisted ~~men~~ members are responsible or accountable. 3668

**Sec. 5923.21.** (A) The Ohio organized militia may be called by 3669  
the governor by proclamation to aid the civil authorities to do 3670  
any of the following: 3671

(1) Execute the laws of this state; 3672

(2) Suppress insurrection; 3673

(3) Repel invasion; 3674

(4) Act in the event of a disaster, as defined in section 3675  
5502.21 of the Revised Code, within the state; 3676

(5) Promote the health, safety, and welfare of the citizens 3677  
of this state. 3678

(B) ~~In all cases, the organized militia shall be called to~~ 3679  
~~state active duty before the unorganized militia.~~ 3680

~~(C)~~ The governor's proclamation under division (A) of this 3681  
section shall specify the statutory basis of the call. 3682

**Sec. 5923.28.** ~~The (A) Except as provided in division (B) of~~ 3683  
~~this section, the~~ military laws of this state shall conform to all 3684  
laws of and regulations ~~of~~ promulgated by the United States 3685  
affecting the same subject and anything to the contrary ~~shall be~~ 3686  
is void so long as if the subject matter has been acted on by the 3687  
~~United States~~ army, air force, or national guard bureau. 3688

(B) All matters relating to the organization, discipline, and 3689  
government of the ~~military~~ state defense forces, not otherwise 3690  
provided by the laws of this state or the rules ~~and regulations~~ 3691  
promulgated ~~thereunder~~ under those laws, shall be decided by the 3692  
custom, regulations, and usage of the armed forces of the United 3693  
States. 3694

**Sec. 5924.15.** Under such regulations as the governor may 3695  
prescribe, and under such additional regulations as may be 3696  
prescribed by the adjutant general of Ohio, limitations may be 3697  
placed on the powers granted by this section with respect to the 3698  
kind and amount of punishment authorized, the categories of 3699  
commanding officers and warrant officers exercising command 3700  
authorized to exercise those powers, the applicability of this 3701  
section to an accused who demands trial by court-martial, and the 3702  
kinds of courts-martial to which the case may be referred upon 3703  
such a demand. However, except in the case of a member attached 3704  
to, or embarked in a vessel, punishment may not be imposed upon 3705  
any person subject to this code under this section if such person 3706  
has, before the imposition of such punishment, demanded trial by 3707  
court-martial in lieu of such punishment. Under similar 3708

regulations, rules may be prescribed with respect to the 3709  
suspension of punishments authorized hereunder. Subject to the 3710  
foregoing, any commanding officer, and for the purposes of this 3711  
section the adjutant general of Ohio, may, in addition to or in 3712  
lieu of admonition or reprimand, impose one or more of the 3713  
following disciplinary punishments for minor offenses without the 3714  
intervention of a court-martial: 3715

(A) Upon officers of ~~his~~ the commanding officer's command: 3716

(1) Restriction to certain specified limits, with or without 3717  
suspension from duty, for not more than thirty consecutive days; 3718

(2) If imposed by the governor, the adjutant general, the 3719  
commanding officer of a force of the organized militia, or the 3720  
commanding general of a division; 3721

(a) Arrest in quarters for not more than thirty consecutive 3722  
days; 3723

(b) Fine or forfeiture of not more than one-half of one 3724  
month's pay per month for two months, or the sum of one hundred 3725  
fifty dollars, whichever is greater; 3726

(c) Restriction to certain specified limits, with or without 3727  
suspension from duty, for not more than sixty consecutive days; 3728

(d) Detention of not more than one-half of one month's pay 3729  
per month for three months, or the sum of two hundred twenty-five 3730  
dollars, whichever is greater; 3731

(B) Upon other military personnel of ~~his~~ the commanding 3732  
officer's command: 3733

(1) If imposed upon a person attached to or embarked in a 3734  
vessel, confinement on bread and water or diminished rations for 3735  
not more than three consecutive days; 3736

(2) Correctional custody for not more than seven consecutive 3737

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|--|--------------------------------------|
| days;  | 3738                                 |
| (3) Fine or forfeiture of not more than seven days' pay, or<br>the sum of twenty-five dollars, whichever is greater;   | 3739<br>3740                         |
| (4) Reduction to the next inferior pay grade, if the grade<br>from which demoted is within the promotion authority of the<br>officer imposing the reduction or any officer subordinate to the<br>one who imposes the reduction;  | 3741<br>3742<br>3743<br>3744         |
| (5) Extra duties, including fatigue or other duties, for not<br>more than fourteen consecutive days;   | 3745<br>3746                         |
| (6) Restriction to certain specified limits, with or without<br>suspension from duty, for not more than fourteen consecutive days;   | 3747<br>3748                         |
| (7) Detention of not more than fourteen days' pay, or the sum<br>of fifty dollars, whichever is greater;   | 3749<br>3750                         |
| (8) If imposed by an officer of the grade of major or<br>lieutenant commander, or above;   | 3751<br>3752                         |
| (a) The punishment authorized under division (B)(1) of this<br>section;  | 3753<br>3754                         |
| (b) Correctional custody for not more than thirty consecutive<br>days;   | 3755<br>3756                         |
| (c) Fine or forfeiture of not more than one-half of one<br>month's pay per month for two months, or the sum of fifty dollars,<br>whichever is greater;   | 3757<br>3758<br>3759                 |
| (d) Reduction to the lowest or any intermediate pay grade, if<br>the grade from which demoted is within the promotion authority of<br>the officer imposing the reduction or any officer subordinate to<br>the one who imposes the reduction, but an enlisted member in pay<br>grade above E-4 may not be reduced more than two pay grades; | 3760<br>3761<br>3762<br>3763<br>3764 |
| (e) Extra duties, including fatigue or other duties, for not<br>more than forty-five consecutive days;   | 3765<br>3766                         |

(f) Restriction to certain specified limits, with or without 3767  
suspension from duty, for not more than sixty consecutive days; 3768

(g) Detention of not more than one-half of one month's pay 3769  
per month for three months, or the sum of seventy-five dollars, 3770  
whichever is greater. 3771

Detention of pay shall be for a stated period of not more 3772  
than one year, but if the offender's term of service expires 3773  
earlier, the detention shall terminate upon that expiration. No 3774  
two or more of the punishments of arrest in quarters, confinement 3775  
on bread and water or diminished rations, correctional custody, 3776  
extra duties, and restriction may be combined to run consecutively 3777  
in the maximum amount imposable for each. Whenever any of those 3778  
punishments are combined to run consecutively, there must be an 3779  
apportionment. In addition, forfeiture of pay may not be combined 3780  
with detention of pay without an apportionment. For the purposes 3781  
of this section "correctional custody" is the physical restraint 3782  
of a person during duty or nonduty hours and may include extra 3783  
duties, fatigue duties, or hard labor. If practicable, 3784  
correctional custody will not be served in immediate association 3785  
with persons awaiting trial or held in confinement pursuant to 3786  
trial by court-martial or civilian court. 3787

(C) An officer in charge may impose upon enlisted members 3788  
assigned to the unit of which ~~he~~ the officer is in charge such of 3789  
the punishments authorized under divisions (B)(1) to (B)(7) of 3790  
this section, as the governor or adjutant general may specifically 3791  
prescribe by regulation. 3792

(D) The officer who imposes the punishment authorized in 3793  
divisions (A) or (B) of this section, or ~~his~~ the officer's 3794  
successor in command, may, at any time, suspend probationally any 3795  
part or amount of the unexecuted punishment imposed and may 3796  
suspend probationally a reduction in grade or a forfeiture imposed 3797

under divisions (A) or (B) of this section, whether or not 3798  
executed. In addition, ~~he~~ the officer who imposed the punishment 3799  
may, at any time, remit or mitigate any part or amount of the 3800  
unexecuted punishment imposed and may set aside in whole or in 3801  
part the punishment, whether executed or unexecuted, and restore 3802  
all rights, privileges, and property affected. ~~He~~ The officer who 3803  
imposed the punishment may also mitigate reduction in grade to 3804  
forfeiture or detention of pay. When mitigating: 3805

(1) Arrest in quarters to restriction; 3806

(2) Confinement on bread and water or diminished rations to 3807  
correctional custody; 3808

(3) Correctional custody or confinement on bread and water or 3809  
diminished rations to extra duties or restriction, or both; or 3810

(4) Extra duties to restriction; 3811

the mitigated punishment shall not be for a greater period than 3812  
the punishment mitigated. When mitigating forfeiture of pay to 3813  
detention of pay, the amount of the detention shall not be greater 3814  
than the amount of the forfeiture. When mitigating reduction in 3815  
grade to forfeiture or detention of pay, the amount of the 3816  
forfeiture or detention shall not be greater than the amount that 3817  
could have been imposed initially under this section by the 3818  
officer who imposed the punishment mitigated. 3819

(E) A person punished under this section who considers ~~his~~ 3820  
the punishment unjust or disproportionate to the offense may, 3821  
through the proper channel, appeal to the next superior authority. 3822  
The appeal shall be promptly forwarded and decided, but the person 3823  
punished may in the meantime be required to undergo the punishment 3824  
adjudged. The superior authority may exercise the same powers with 3825  
respect to the punishment imposed as may be exercised under 3826  
division (D) of this section by the officer who imposed the 3827  
punishment. Before acting on an appeal from a punishment of: 3828

|  |              |
|--|--------------|
| (1) Arrest in quarters for more than seven days;                                       | 3829         |
| (2) Correctional custody for more than seven days;                                     | 3830         |
| (3) Forfeiture of more than seven days' pay;   | 3831         |
| (4) Reduction of one or more pay grades from the fourth or a<br>higher pay grade;      | 3832<br>3833 |
| (5) Extra duties for more than fourteen days;  | 3834         |
| (6) Restriction for more than fourteen days; or  | 3835         |
| (7) Detention of more than fourteen days' pay;   | 3836         |
| the authority who is to act on the appeal shall refer the case to                      | 3837         |
| a judge advocate of the Ohio <del>army</del> national guard <del>or the Ohio air</del> | 3838         |
| <del>national guard</del> , or a law specialist of the Ohio naval militia for          | 3839         |
| consideration and advice, and may so refer the case upon appeal                        | 3840         |
| from any punishment imposed under divisions (A) or (B) of this                         | 3841         |
| section.   | 3842         |
| (F) The imposition and enforcement of disciplinary punishment                          | 3843         |
| under this section for any act or omission is not a bar to trial                       | 3844         |
| by court-martial for a serious crime or offense growing out of the                     | 3845         |
| same act or omission, and not properly punishable under this                           | 3846         |
| section; but the fact that a disciplinary punishment has been                          | 3847         |
| enforced may be shown by the accused upon trial, and when so shown                     | 3848         |
| shall be considered in determining the measure of punishment to be                     | 3849         |
| adjudged in the event of a finding of guilty.  | 3850         |
| (G) The governor or the adjutant general may, by regulation,                           | 3851         |
| prescribe the form of records to be kept of proceedings under this                     | 3852         |
| section and may also prescribe that certain categories of those                        | 3853         |
| proceedings shall be in writing.   | 3854         |
| (H) The punishments imposed pursuant to this section, except                           | 3855         |
| fine and forfeiture of pay, shall not extend beyond the                                | 3856         |
| termination of the duty status of the individual punished.                             | 3857         |

**Section 2.** That existing sections 111.15, 124.11, 141.02, 3858  
145.01, 145.30, 718.01, 1751.54, 3319.13, 3319.14, 3923.381, 3859  
3923.382, 4117.01, 4141.01, 4506.02, 4911.04, 5101.312, 5903.01, 3860  
5903.99, 5911.011, 5911.03, 5911.04, 5911.08, 5913.01, 5913.02, 3861  
5913.021, 5913.03, 5913.04, 5913.05, 5913.051, 5913.06, 5913.07, 3862  
5913.08, 5913.09, 5913.10, 5913.17, 5919.01, 5919.02, 5919.04, 3863  
5919.071, 5919.09, 5919.12, 5919.13, 5919.14, 5919.15, 5919.16, 3864  
5919.17, 5919.22, 5919.25, 5919.28, 5919.29, 5919.30, 5919.32, 3865  
5919.33, 5920.10, 5921.09, 5923.01, 5923.02, 5923.03, 5923.05, 3866  
5923.09, 5923.10, 5923.21, 5923.28, and 5924.15 and sections 3867  
124.28, 124.29, 5903.02, 5903.03, 5903.04, 5903.05, 5903.09, 3868  
5913.013, 5913.11, 5917.01, 5917.02, 5917.03, 5917.04, 5917.05, 3869  
5917.06, 5917.99, 5919.20, 5923.051, and 5923.35 of the Revised 3870  
Code are hereby repealed. 3871

**Section 3.** This act is hereby declared to be an emergency 3872  
measure necessary for the immediate preservation of the public 3873  
peace, health, and safety. The reason for such necessity is that 3874  
immediate action is crucial to enable the Adjutant General's 3875  
Department to capitalize on time-sensitive federal actions 3876  
scheduled for September 30, 1997. Therefore, this act shall go 3877  
into immediate effect. 3878