

As Re-Referred by the House Rules and Reference Committee

133rd General Assembly

Regular Session

2019-2020

Sub. S. B. No. 52

Senator Gavarone

Cosponsors: Senators Coley, Antonio, Burke, Craig, Fedor, Hoagland, Hottinger, Huffman, M., Huffman, S., Kunze, Lehner, Maharath, Manning, Obhof, O'Brien, Peterson, Rulli, Sykes, Terhar, Uecker, Wilson Representatives Green, Arndt, Jones

A BILL

To amend sections 3505.21, 5502.11, 5923.01, 1
5923.02, 5923.03, 5923.12, 5923.37, and 5924.01 2
and to enact sections 111.09, 3505.331, 5922.01, 3
5922.02, 5922.03, 5922.04, 5922.05, 5922.06, 4
5922.07, and 5922.08 of the Revised Code to 5
create the civilian cyber security reserve 6
forces, to make the Secretary of State a member 7
of the Homeland Security Advisory Council, to 8
require the Secretary of State to appoint a 9
chief information security officer, to require 10
the boards of elections to audit election 11
results, and to make an appropriation. 12

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

Section 1. That sections 3505.21, 5502.011, 5923.01, 13
5923.02, 5923.03, 5923.12, 5923.37, and 5924.01 be amended and 14
sections 111.09, 3505.331, 5922.01, 5922.02, 5922.03, 5922.04, 15
5922.05, 5922.06, 5922.07, and 5922.08 of the Revised Code be 16
enacted to read as follows: 17

Sec. 111.09. The secretary of state shall appoint a chief information security officer to advise the secretary of state on matters of information security and to perform other duties as assigned by the secretary of state. 18
19
20
21

Sec. 3505.21. (A) As used in this section, 22

(1) ~~"during~~ During the casting of the ballots" includes any of the following: 23
24

~~(1)~~ (a) Any time during which a board of elections permits an elector to vote an absent voter's ballot in person at the office of the board; 25
26
27

~~(2)~~ (b) Any time ballots may be cast in a precinct polling place on the day of an election; 28
29

~~(3)~~ (c) Any time during which a board of elections processes absent voter's ballots before the time for counting those ballots. 30
31
32

(2) "During the counting of the ballots" includes any time during which the election officials count and tally ballots, make the official canvass of election returns, or conduct an audit of the official results of an election. 33
34
35
36

(B) At any primary, special, or general election, any political party supporting candidates to be voted upon at such election and any group of five or more candidates may appoint to the board of elections or to any of the precincts in the county or city one person, a qualified elector, who shall serve as observer for such party or such candidates during the casting of the ballots and during the counting of the ballots; provided that separate observers may be appointed to serve during the casting and during the counting of the ballots. No candidate, no uniformed peace officer as defined by section 2935.01 of the 37
38
39
40
41
42
43
44
45
46

Revised Code, no uniformed state highway patrol trooper, no 47
uniformed member of any fire department, no uniformed member of 48
the armed services, no uniformed member of the organized 49
militia, no person wearing any other uniform, and no person 50
carrying a firearm or other deadly weapon shall serve as an 51
observer, nor shall any candidate be represented by more than 52
one observer at any one precinct or at the board of elections 53
except that a candidate who is a member of a party controlling 54
committee, as defined in section 3517.03 of the Revised Code, 55
may serve as an observer. 56

(C) Any political party or group of candidates appointing 57
observers shall notify the board of elections of the names and 58
addresses of its appointees and the precincts at which they 59
shall serve or that they will serve at the board of elections. 60
Notification of observers appointed to serve on the day of an 61
election shall take place not less than eleven days before the 62
day of the election on forms prescribed by the secretary of 63
state and may be amended by filing an amendment with the board 64
of elections at any time until four p.m. of the day before the 65
election. Notification of observers appointed to serve at the 66
office of the board during the time absent voter's ballots may 67
be cast in person or during the time in which the board 68
processes absent voter's ballots before the time for counting 69
those ballots shall take place not less than eleven days before 70
absent voter's ballots are required to be ready for use pursuant 71
to section 3509.01 of the Revised Code on forms prescribed by 72
the secretary of state and may be amended by filing an amendment 73
with the board of elections at any time until four p.m. of the 74
day before the observer is appointed to serve. The observer 75
serving on behalf of a political party shall be appointed in 76
writing by the chairperson and secretary of the respective 77

controlling party committee. Observers serving for any five or 78
more candidates shall have their certificates signed by those 79
candidates. Observers appointed to a precinct may file their 80
certificates of appointment with the voting location manager of 81
the precinct at the meeting on the evening prior to the 82
election, or with the voting location manager of the precinct on 83
the day of the election. Observers appointed to the office of 84
the board to observe the casting of absent voter's ballots in 85
person prior to the day of the election or the processing of 86
absent voter's ballots before the time for counting those 87
ballots may file their certificates with the director of the 88
board of elections the day before or on the day that the 89
observers are scheduled to serve at the office of the board. 90

Upon the filing of a certificate, the person named as 91
observer in the certificate shall be permitted to be in and 92
about the applicable polling place during the casting of the 93
ballots and shall be permitted to watch every proceeding of the 94
precinct election officials from the time of the opening until 95
the closing of the polls. The observer also may inspect the 96
counting of all ballots in the polling place or board of 97
elections from the time of the closing of the polls until the 98
counting is completed and the final returns are certified and 99
signed. Observers appointed to serve at the board of elections 100
on the day of an election under this section may observe at the 101
board of elections and may observe at any precinct in the 102
county. The precinct election officials shall protect such 103
observers in all of the rights and privileges granted to them by 104
Title XXXV of the Revised Code. 105

(D) No persons other than the precinct election officials, 106
the observers, a police officer, other persons who are detailed 107
to any precinct on request of the board of elections, or the 108

secretary of state or the secretary of state's legal 109
representative shall be admitted to the polling place, or any 110
room in which a board of elections is counting ballots, after 111
the closing of the polls until the counting, certifying, and 112
signing of the final returns of each election have been 113
completed. 114

(E) Not later than four p.m. of the twentieth day prior to 115
an election at which questions are to be submitted to a vote of 116
the people, any committee that in good faith advocates or 117
opposes a measure may file a petition with the board of any 118
county asking that the petitioners be recognized as the 119
committee entitled to appoint observers to the count at the 120
election. If more than one committee alleging themselves to 121
advocate or oppose the same measure file such a petition, the 122
board shall decide and announce by registered mail to each 123
committee not less than twelve days immediately preceding the 124
election which committee is recognized as being entitled to 125
appoint observers. The decision shall not be final, but any 126
aggrieved party may institute mandamus proceedings in the court 127
of common pleas of the county in which the board has 128
jurisdiction to compel the precinct election officials to accept 129
the appointees of such aggrieved party. Any such recognized 130
committee may appoint an observer to the count in each precinct. 131
Committees appointing observers shall notify the board of 132
elections of the names and addresses of its appointees and the 133
precincts at which they shall serve. Notification shall take 134
place not less than eleven days before the election on forms 135
prescribed by the secretary of state and may be amended by 136
filing an amendment with the board of elections at any time 137
until four p.m. on the day before the election. A person so 138
appointed shall file the person's certificate of appointment 139

with the voting location manager in the precinct in which the 140
person has been appointed to serve. Observers shall file their 141
certificates before the polls are closed. In no case shall more 142
than six observers be appointed for any one election in any one 143
precinct. If more than three questions are to be voted on, the 144
committees which have appointed observers may agree upon not to 145
exceed six observers, and the precinct election officials shall 146
appoint such observers. If such committees fail to agree, the 147
precinct election officials shall appoint six observers from the 148
appointees so certified, in such manner that each side of the 149
several questions shall be represented. 150

(F) No person shall serve as an observer at any precinct 151
or at the board of elections unless the board of elections of 152
the county in which such observer is to serve has first been 153
notified of the name, address, and location at which such 154
observer is to serve. Notification to the board of elections 155
shall be given by the political party, group of candidates, or 156
committee appointing such observer as prescribed in this 157
section. No such observers shall receive any compensation from 158
the county, municipal corporation, or township, and they shall 159
take the following oath, to be administered by one of the 160
precinct election officials: 161

"You do solemnly swear that you will faithfully and 162
impartially discharge the duties as an official observer, 163
assigned by law; that you will not cause any delay to persons 164
offering to vote; and that you will not disclose or communicate 165
to any person how any elector has voted at such election." 166

Sec. 3505.331. (A) After declaring the official results of 167
a general election or of a primary election held in an even- 168
numbered year, as described in section 3505.33 of the Revised 169

Code, the board of elections shall audit those results in 170
accordance with this section. Except as otherwise provided in 171
this division, the board shall begin the audit not earlier than 172
six days after it declares the official results and shall 173
complete the audit not later than the twenty-first day after it 174
declares the official results. If the board conducts a recount, 175
the board shall begin the audit immediately after the board 176
certifies the results of the recount and shall complete the 177
audit not later than the fourteenth day after it certifies the 178
results of the recount. 179

(B) The board shall conduct the audit in accordance with 180
procedures prescribed by the secretary of state, which shall 181
include all of the following: 182

(1) (a) Except as otherwise provided in division (B) (1) (b) 183
of this section, a requirement that the board audit not less 184
than three contested races, questions, or issues, as directed by 185
the secretary of state. If fewer than three contested races, 186
questions, or issues appear on the ballot at the election, then 187
the board shall audit every contested race, question, and issue. 188
In any election, every contested race, question, or issue shall 189
be eligible to be audited. 190

(b) If the board ordered a countywide recount of the 191
results of a race, question, or issue under section 3515.011 of 192
the Revised Code, the recount shall be considered an audit for 193
purposes of meeting the requirement that the board audit not 194
less than three contested races, questions, or issues. 195

(2) A requirement that every ballot that was included in 196
the canvass of the election returns be eligible to be audited, 197
including regular ballots cast on the day of the election, 198
absent voter's ballots, and provisional ballots. 199

(3) Either a provision allowing the board to choose one of 200
the following protocols to use in conducting the audit or a 201
provision requiring the board to use a protocol selected by the 202
secretary of state from the following protocols in conducting 203
the audit: 204

(a) A risk-limiting audit protocol, which shall use 205
statistical methods to limit to acceptable levels the risk of 206
certifying an incorrect outcome for a particular race, question, 207
or issue. The protocol shall require bipartisan teams of 208
election officials to physically examine and hand count randomly 209
sampled ballots and to continue the hand counting until the 210
results of the hand count provide sufficiently strong evidence 211
that a hand count of all of the ballots would confirm the 212
election result declared under section 3505.33 of the Revised 213
Code or until all of the ballots have been hand counted, 214
whichever occurs first. 215

(b) (i) A percentage-based audit protocol, which shall 216
require bipartisan teams of election officials to physically 217
examine and hand count a number of randomly sampled ballots 218
equal to a given percentage of the total number of ballots cast 219
in the county at that election, as prescribed by the secretary 220
of state. After the election officials complete the initial 221
audit, the board shall calculate, as a percentage, the accuracy 222
rate of each audited race, question, or issue by dividing the 223
sum of any discrepancies for the race, question, or issue 224
discovered during the audit by the total number of ballots 225
audited for the race, question, or issue and subtracting the 226
resulting number from one. 227

(ii) If the accuracy rate for an audited race, question, 228
or issue is less than the acceptable accuracy rate prescribed by 229

the secretary of state, the board shall escalate the audit of 230
that race, question, or issue by requiring bipartisan teams of 231
election officials to physically examine and hand count a second 232
set of randomly sampled ballots equal to a given percentage of 233
the total number of ballots cast in the county at that election, 234
as prescribed by the secretary of state. The second set of 235
ballots shall not include any ballots that were included in the 236
first set of audited ballots. After the election officials have 237
counted the second set of ballots, the board shall calculate the 238
combined accuracy rate for both audited sets of ballots for that 239
race, question, or issue. 240

(c) Another audit protocol approved by the secretary of 241
state. 242

(C) The board shall give public notice of the times and 243
places for preparing for and conducting the audit in accordance 244
with section 121.22 of the Revised Code. At all times while the 245
board prepares for and conducts the audit, the board shall 246
permit observers appointed under section 3505.21 of the Revised 247
Code. 248

No person other than a member of the board or a designated 249
employee of the board shall be permitted to handle a ballot. 250

(D) (1) Not later than five days after completing the 251
audit, the board shall certify the results of the audit to the 252
secretary of state in the form and by the method prescribed by 253
the secretary of state. The secretary of state shall make the 254
results of the audit available to the public on the secretary of 255
state's official web site. 256

(2) If the board conducted a percentage-based audit and 257
was required to escalate the audit of a race, question, or issue 258

under division (B) (3) (b) (ii) of this section, and the combined 259
accuracy rate for that race, question, or issue is less than the 260
acceptable combined accuracy rate prescribed by the secretary of 261
state, the secretary of state may require the board to order 262
bipartisan teams of election officials to physically examine and 263
hand count all ballots cast for that race, question, or issue. 264
The requirements of division (C) of this section apply to any 265
full hand count conducted under this division. 266

(3) If the results of the completed audit or the results 267
of any full hand count ordered under division (D) (2) of this 268
section indicate that the canvass or the previously declared 269
official election results must be amended, the board promptly 270
shall amend the canvass or issue an amended declaration of the 271
official results, as applicable. 272

(E) As used in this section: 273

(1) "Ballot" means either a paper ballot or the relevant 274
entry on a voter verified paper audit trail. 275

(2) "Voter verified paper audit trail" has the same 276
meaning as in section 3506.01 of the Revised Code. 277

Sec. 5502.011. (A) As used in this section, "department of 278
public safety" and "department" include all divisions within the 279
department of public safety. 280

(B) The director of public safety is the chief executive 281
and administrative officer of the department. The director may 282
establish policies governing the department, the performance of 283
its employees and officers, the conduct of its business, and the 284
custody, use, and preservation of departmental records, papers, 285
books, documents, and property. The director also may authorize 286
and approve investigations to be conducted by any of the 287

department's divisions. Whenever the Revised Code imposes a duty 288
upon or requires an action of the department, the director may 289
perform the action or duty in the name of the department or 290
direct such performance to be performed by the director's 291
designee. 292

(C) In addition to any other duties enumerated in the 293
Revised Code, the director or the director's designee shall do 294
all of the following: 295

(1) Administer and direct the performance of the duties of 296
the department; 297

(2) Pursuant to Chapter 119. of the Revised Code, approve, 298
adopt, and prescribe such forms and rules as are necessary to 299
carry out the duties of the department; 300

(3) On behalf of the department and in addition to any 301
authority the Revised Code otherwise grants to the department, 302
have the authority and responsibility for approving and entering 303
into contracts, agreements, and other business arrangements; 304

(4) Make appointments for the department as needed to 305
comply with requirements of the Revised Code; 306

(5) Approve employment actions of the department, 307
including appointments, promotions, discipline, investigations, 308
and terminations; 309

(6) Accept, hold, and use, for the benefit of the 310
department, any gift, donation, bequest, or devise, and may 311
agree to and perform all conditions of the gift, donation, 312
bequest, or devise, that are not contrary to law; 313

(7) Apply for, allocate, disburse, and account for grants 314
made available under federal law or from other federal, state, 315

or private sources;	316
(8) Develop a list of disqualifying offenses for licensure as a private investigator or a security guard provider pursuant to sections 4749.03, 4749.04, 4749.10, and 4776.10 of the Revised Code;	317 318 319 320
(9) Do all other acts necessary or desirable to carry out this chapter.	321 322
(D) (1) The director of public safety may assess a reasonable fee, plus the amount of any charge or fee passed on from a financial institution, on a drawer or indorser for each of the following:	323 324 325 326
(a) A check, draft, or money order that is returned or dishonored;	327 328
(b) An automatic bank transfer that is declined, due to insufficient funds or for any other reason;	329 330
(c) Any financial transaction device that is returned or dishonored for any reason.	331 332
(2) The director shall deposit any fee collected under this division in an appropriate fund as determined by the director based on the tax, fee, or fine being paid.	333 334 335
(3) As used in this division, "financial transaction device" has the same meaning as in section 113.40 of the Revised Code.	336 337 338
(E) <u>(1)</u> The director shall establish a homeland security advisory council to advise the director on homeland security, including homeland security funding efforts. The	339 340 341
<u>(2)</u> The advisory council shall include, but not be limited	342

to, state consist of the following members, who shall serve 343
without compensation: 344

(a) The secretary of state; 345

(b) State and local government officials, appointed by the 346
director, who have homeland security or emergency management 347
responsibilities and who represent first responders. The 348
director shall appoint the; 349

(c) Any other members of the council, who shall serve 350
without compensation appointed by the director. 351

Sec. 5922.01. The governor shall organize and maintain 352
within this state, on a reserve basis, civilian cyber security 353
reserve forces capable of being expanded and trained to educate 354
and protect state, county, and local government entities, 355
critical infrastructure, including election systems, businesses, 356
and citizens of this state from cyber attacks. In the case of an 357
emergency proclaimed by the governor, or caused by illicit 358
actors or imminent danger, the governor, as commander-in-chief, 359
shall expand the reserve as the exigency of the occasion 360
requires. 361

The reserve shall be a part of the Ohio organized militia 362
under the adjutant general's department. The reserve shall be 363
known as the Ohio cyber reserve. The adjutant general shall 364
establish and may revise, in accordance with section 5923.12 of 365
the Revised Code, the rates of pay for reserve members when 366
called to state active duty. While performing any drill or 367
training, reserve members shall serve in an unpaid volunteer 368
status. When called to state active duty by the governor, 369
reserve members shall function as civilian members of the Ohio 370
organized militia. 371

Sec. 5922.02. The governor may adopt rules consistent with 372
the provisions of law governing the membership, organization, 373
administration, equipment, and maintenance of the Ohio cyber 374
reserve. A copy of the rules shall be available to the public in 375
the adjutant general's office. 376

Sec. 5922.03. The governor may requisition from the United 377
States department of defense, for the use of the Ohio cyber 378
reserve, equipment that may be in the possession and can be 379
furnished by the department, and make available to the reserve 380
the facilities of state armories and equipment and other state 381
premises and property that may be available. 382

Sec. 5922.04. Sections 5922.02 to 5922.08 of the Revised 383
Code do not authorize the Ohio cyber reserve, or any part 384
thereof, to be called or ordered into the military service of 385
the United States. The reserve may become a civilian component 386
of the Ohio national guard. 387

Sec. 5922.05. No person shall be accepted into the Ohio 388
cyber reserve who is not a United States national or a lawful 389
permanent resident, or who has been expelled or dishonorably 390
discharged from the armed forces as defined in section 5903.01 391
of the Revised Code. Applicants shall be subject to an 392
appropriate background check, in accordance with rules adopted 393
by the governor and adjutant general, before admittance into the 394
reserve. 395

Notwithstanding any other provision of the Revised Code, 396
no person shall be disqualified from acceptance into the Ohio 397
cyber reserve on the basis that the person is an employee of the 398
state or a political subdivision of the state, or an employee or 399
proprietor of a private entity that conducts business with the 400
state or a political subdivision of the state. 401

Sec. 5922.06. Whenever the Ohio cyber 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 with respect to those forces. 402
403
404
405

Sec. 5922.07. The governor may accept the resignation of any Ohio cyber reserve member at any time. Reserve members serve at the pleasure of the governor and may be removed from the reserve in accordance with rules adopted under section 5922.02 of the Revised Code. 406
407
408
409
410

The governor may require reimbursement for training, equipment, and uniforms if an Ohio cyber reserve member does not serve the full term of the member's membership agreement and the inability to serve out the term of the membership agreement was not due to disability or a similar disabling medical condition. 411
412
413
414
415

Sec. 5922.08. The governor, as commander-in-chief of the Ohio organized militia, may order individuals or units of the Ohio cyber reserve to state active duty to protect state, county, and local government entities and critical infrastructure, including election systems, or for training as the governor determines necessary. The governor, upon the request of a business or citizen, also may order individuals or units of the Ohio cyber reserve to state active duty to protect that business or citizen. 416
417
418
419
420
421
422
423
424

When ordered by the governor to perform duty or training under this section or section 5923.21 of the Revised Code, members of the Ohio cyber reserve shall have the same protections afforded by the "Servicemembers Civil Relief Act," Pub. L. No. 108-189, 50 U.S.C. 3901-4043, and by the "Uniformed Services Employment and Reemployment Rights Act," 108 Stat. 3149, 38 U.S.C. 4301-4333. 425
426
427
428
429
430
431

Sec. 5923.01. (A) The Ohio organized militia consists of 432
all ~~citizens of the state who are not permanently handicapped,~~ 433
~~as handicapped is defined in section 4112.01 of the Revised~~ 434
~~Code, who are more than seventeen years, and not more than~~ 435
~~sixty seven years, of age unless exempted as provided in section~~ 436
~~5923.02 of the Revised Code, and persons who are members of one~~ 437
of the following: 438

(1) The Ohio national guard; 439

(2) The Ohio naval militia; 440

(3) The Ohio military reserve; 441

(4) The Ohio cyber reserve. 442

(B) The Ohio national guard, including both the Ohio air 443
national guard and the Ohio army national guard, the Ohio naval 444
militia, ~~and~~ the Ohio military reserve, and the Ohio cyber 445
reserve are known collectively as the Ohio organized militia. 446

(C) The Ohio naval militia and the Ohio military reserve 447
are known collectively as the state defense forces. 448

(D) The unorganized militia consists of ~~those~~ all citizens 449
of the state ~~as described in division (A) of this section who to~~ 450
whom all of the following apply: 451

(1) They are not members of the Ohio organized militia; 452

(2) They are more than seventeen years of age and not more 453
than sixty-seven years of age; 454

(3) They are not exempt from service under section 5923.02 455
of the Revised Code. 456

(E) No troops shall be maintained in time of peace other 457
than as authorized and prescribed under the "Act of August 10," 458

1956," 70A Stat. 596, 32 U.S.C.A. 101 to 716. This limitation 459
does not affect the right of the state to the use of its 460
organized militia within its borders in time of peace as 461
prescribed by the laws of this state. This section does not 462
prevent the organization and maintenance of police. 463

Sec. 5923.02. ~~(A)~~—The following persons, if subject to 464
duty in the Ohio organized or unorganized militia, may be 465
exempted by the adjutant general from duty on request: 466

~~(1)~~ ~~(A)~~ The vice-president of the United States; 467

~~(2)~~ ~~(B)~~ The officers, judicial and executive, of the 468
departments of the state and of the United States, and the 469
members of the general assembly, without regard to age; 470

~~(3)~~ ~~(C)~~ Members of the armed forces of the United States 471
or their reserve components; 472

~~(4)~~ ~~(D)~~ Customhouse clerks; 473

~~(5)~~ ~~(E)~~ Employees of the United States postal service; 474

~~(6)~~ ~~(F)~~ Workers employed in armories, arsenals, or naval 475
shipyards of the United States; 476

~~(7)~~ ~~(G)~~ Pilots on the navigable waters of the United 477
States; 478

~~(8)~~ ~~(H)~~ Mariners licensed by the United States; 479

~~(B)~~ ~~(I)~~ Any person who claims exemption from service 480
because of religious belief or other moral conviction held as a 481
matter of conscience ~~may claim exemption from Ohio organized-~~ 482
~~militia service;~~ 483

(J) Any person who is unable to serve because of a 484
disability, as that term is defined in section 4112.01 of the 485

<u>Revised Code.</u>	486
Sec. 5923.03. (A) The Ohio national guard consists of the	487
members of the Ohio organized militia who are enlisted,	488
commissioned, or warranted in the Ohio national guard, all as	489
prescribed by publications of the department of the army or air	490
force and the national guard bureau for the national guard as	491
prescribed by Chapter 5919. of the Revised Code.	492
(B) The Ohio military reserve consists of the members of	493
the Ohio organized militia who are enlisted, commissioned, or	494
warranted in the Ohio military reserve as prescribed by Chapter	495
5920. of Revised Code.	496
(C) The Ohio naval militia consists of the members of the	497
Ohio organized militia who are enlisted, commissioned, or	498
warranted in the Ohio naval militia as prescribed by Chapter	499
5921. of the Revised Code.	500
<u>(D) The Ohio cyber reserve consists of the members of the</u>	501
<u>Ohio organized militia who are civilian volunteers under Chapter</u>	502
<u>5922. of the Revised Code.</u>	503
Sec. 5923.12. When ordered to state active duty by the	504
governor, for which duty federal basic pay and allowances are	505
not authorized, members of the organized militia of Ohio shall	506
receive the same pay and allowances for each day's service as is	507
provided for commissioned officers, warrant officers,	508
noncommissioned officers, and enlisted personnel of like grade	509
and longevity in the armed forces of the United States, together	510
with the necessary transportation, housing, and subsistence	511
allowances as prescribed by the United States department of	512
defense pay manual, or an amount not less than seventy-five	513
dollars per day as base pay for each day's duty performed,	514

whichever is greater. 515

Notwithstanding any other provision of law, Ohio cyber 516
reserve members shall receive a rate of pay determined and 517
provided by rule by the adjutant general, in the name of the 518
governor. The rule shall establish a rate of pay commensurate 519
with those specified in pay schedules established by the 520
director of administrative services for information technology 521
employees of the state who have comparable training, experience, 522
and professional qualifications. 523

When ordered by the governor to perform training or duty 524
under this section or section 5919.29 of the Revised Code, 525
members of the Ohio national guard shall have the protections 526
afforded to persons on federal active duty by "The 527
Servicemembers Civil Relief Act," 117 Stat. 2835, 50 U.S.C.A. 528
App. 501. 529

Sec. 5923.37. (A) No member of the organized militia 530
ordered to state active duty shall be liable in negligence for 531
any act performed within the scope of ~~his military~~ the member's 532
duties. Any action alleging that such a militia member's conduct 533
was outside the scope of ~~his~~ the member's employment, was 534
malicious, was in bad faith, or was wanton or reckless shall 535
first be filed against the state in the court of claims under 536
section 2743.02 of the Revised Code. 537

(B) Any member of the organized militia rendering medical, 538
nursing, or dental care, or assisting in rendering such care, 539
after being ordered to state active duty shall be deemed an 540
officer or employee of the state under section 109.36 of the 541
Revised Code. 542

(C) Any member of the organized militia ordered to state 543

active duty under section 5923.22 of the ~~revised~~ Revised Code or 544
ordered to duty under section 5919.29 of the Revised Code who is 545
qualified to perform on federal active duty under Title 10, 546
United States Code, in a particular profession, discipline, or 547
skill as a health care provider shall be exempt from the 548
statutes, regulations, and licensing requirements otherwise in 549
force under the laws of this state, with respect to ~~his~~ the 550
member's profession, specialty, or skill at such times as ~~he~~ the 551
member is serving in any military status, duly authorized under 552
the laws of this state or of the United States, or both, and is 553
performing ~~his~~ the member's profession, specialty, or skill 554
under regulations prescribed by the executive authority of the 555
United States or of this state, and is functioning within the 556
scope of ~~his~~ the member's employment. 557

Sec. 5924.01. As used in Chapter 5924. of the Revised Code 558
unless the context otherwise requires: 559

(A) "Organized militia" means the Ohio national guard, the 560
Ohio naval militia, ~~and~~ the Ohio military reserve, and the Ohio 561
cyber reserve. 562

(B) "Officer" means commissioned or warrant officer. 563

(C) "Commissioned officer" includes a commissioned warrant 564
officer. 565

(D) "Commanding officer" includes only commissioned or 566
warrant officers in command of a unit. 567

(E) "Superior commissioned officer" means a commissioned 568
officer superior in rank or command. 569

(F) "Enlisted member" means a person in an enlisted grade. 570

(G) "Grade" means a step or degree, in a graduated scale 571

of office or military rank, that is established and designated	572
as a grade by law or regulation.	573
(H) "Rank" means the order of precedence among members of	574
the armed forces.	575
(I) "State active duty" means full-time duty in the active	576
military service of the state under a proclamation of the	577
governor issued pursuant to authority vested in the governor by	578
law, and while going to and returning from such duty.	579
(J) "Duty status other than state active duty" means any	580
other types of duty and while going to and returning from such	581
duty.	582
(K) "Military court" means a court-martial, a court of	583
inquiry, or a provost court.	584
(L) "Military judge" means an official of a general or	585
special court-martial who is a commissioned officer, who has	586
been duly certified to be qualified for duty as a military judge	587
by the state judge advocate, and who has been properly detailed	588
in accordance with section 5924.26 of the Revised Code.	589
(M) "Law specialist" means a commissioned officer of the	590
organized naval militia of the state designated for special	591
duty.	592
(N) "Legal officer" means any commissioned officer of the	593
organized naval militia of the state designated to perform legal	594
duties for a command.	595
(O) "State judge advocate" means the commissioned officer	596
responsible for supervising the administration of military	597
justice in the organized militia.	598
(P) "Accuser" means a person who reports an offense	599

subject to trial by court-martial and who signs and swears to 600
charges, any person who directs that charges nominally be signed 601
and sworn to by another, or any other person who has an interest 602
other than an official interest in the prosecution of the 603
accused. 604

(Q) "Military" refers to any or all of the armed forces. 605

(R) "Convening authority" includes, in addition to the 606
person who convened the court, a commissioned officer commanding 607
for the time being, or a successor in command. 608

(S) "May" is used in a permissive sense. The words "no 609
person may" mean that no person is required, 610
authorized, or permitted to do the act prescribed. 611

(T) "Shall" is used in an imperative sense. 612

(U) "Code" means the Ohio code of military justice, as set 613
forth in Chapter 5924. of the Revised Code. 614

(V) "Trial counsel" means the prosecuting attorney in a 615
general or special court-martial. 616

(W) "Detention facility" means any place that is owned or 617
operated by a municipal corporation, by a county, or by one or 618
more municipal corporations, counties, or both and that is used 619
for the confinement of persons charged with or convicted of any 620
crime in this state or another state or under the laws of the 621
United States. 622

(X) "Examiner" has the same meaning as in division (A) (2) 623
(a) of section 2945.37 of the Revised Code. 624

(Y) "Nonsecured status," "unsupervised, off-grounds 625
movement," "trial visit," "conditional release," and "licensed 626
clinical psychologist" have the same meanings as in section 627

2945.37 of the Revised Code. 628

Section 2. That existing sections 3505.21, 5502.011, 629
5923.01, 5923.02, 5923.03, 5923.12, 5923.37, and 5924.01 of the 630
Revised Code are hereby repealed. 631

Section 3. All items in this section are hereby 632
appropriated as designated out of any moneys in the state 633
treasury to the credit of the designated fund. For all 634
appropriations made in this act, those in the first column are 635
for fiscal year 2018 and those in the second column are for 636
fiscal year 2019. The appropriations made in this act are in 637
addition to any other appropriations made for the FY 2018-FY 638
2019 biennium. 639

ADJ ADJUTANT GENERAL 640

General Revenue Fund 641

GRF 745503 Ohio Cyber Reserve	\$0	\$100,000	642
-------------------------------	-----	-----------	-----

TOTAL GRF General Revenue Fund	\$0	\$100,000	643
--------------------------------	-----	-----------	-----

TOTAL ALL BUDGET FUND GROUPS	\$0	\$100,000	644
------------------------------	-----	-----------	-----

OHIO CYBER RESERVE 645

The foregoing appropriation item 745503, Ohio Cyber 646
Reserve, shall be used to pay the costs incurred by the Adjutant 647
General's Department to operate the Ohio Cyber Reserve in 648
accordance with section 5922.01 of the Revised Code. 649

Section 4. All items in this section are hereby 650
appropriated as designated out of any moneys in the state 651
treasury to the credit of the designated fund. For all 652
appropriations made in this act, those in the first column are 653
for fiscal year 2020 and those in the second column are for 654
fiscal year 2021. The appropriations made in this act are in 655

appropriations act of the 133rd General Assembly that are
generally applicable to such appropriations.

684

685