

**As Passed by the House**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Am. 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, Carfagna, Hambley, Baldrige, Blair, Blessing, Brown, Callender, Carruthers, Clites, Cross, Crossman, Cupp, Edwards, Galonski, Ghanbari, Ginter, Greenspan, Grendell, Hicks-Hudson, Holmes, A., Hoops, Ingram, Lanese, Lang, Leland, Lepore-Hagan, Lightbody, Manning, D., Manning, G., McClain, Miller, J., Miranda, O'Brien, Patterson, Perales, Plummer, Richardson, Riedel, Robinson, Roemer, Rogers, Romanchuk, Ryan, Seitz, Sheehy, Smith, K., Smith, T., Sobecki, Stoltzfus, Upchurch, Weinstein, West**

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**A BILL**

To amend sections 3505.21, 5502.011, 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 18  
information security officer to advise the secretary of state on 19  
matters of information security and to perform other duties as 20  
assigned by the secretary of state. 21

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

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

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

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

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

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

(B) At any primary, special, or general election, any 37  
political party supporting candidates to be voted upon at such 38  
election and any group of five or more candidates may appoint to 39  
the board of elections or to any of the precincts in the county 40

or city one person, a qualified elector, who shall serve as 41  
observer for such party or such candidates during the casting of 42  
the ballots and during the counting of the ballots; provided 43  
that separate observers may be appointed to serve during the 44  
casting and during the counting of the ballots. No candidate, no 45  
uniformed peace officer as defined by section 2935.01 of the 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) The secretary of state shall, in accordance with 273  
directives issued by the secretary of state, reimburse boards of 274  
elections for costs incurred to conduct an audit under this 275  
section. 276

(F) As used in this section: 277

(1) "Ballot" means either a paper ballot or the relevant 278  
entry on a voter verified paper audit trail. 279

(2) "Voter verified paper audit trail" has the same 280  
meaning as in section 3506.01 of the Revised Code. 281

**Sec. 5502.011.** (A) As used in this section, "department of 282

public safety" and "department" include all divisions within the 283  
department of public safety. 284

(B) The director of public safety is the chief executive 285  
and administrative officer of the department. The director may 286  
establish policies governing the department, the performance of 287  
its employees and officers, the conduct of its business, and the 288  
custody, use, and preservation of departmental records, papers, 289  
books, documents, and property. The director also may authorize 290  
and approve investigations to be conducted by any of the 291  
department's divisions. Whenever the Revised Code imposes a duty 292  
upon or requires an action of the department, the director may 293  
perform the action or duty in the name of the department or 294  
direct such performance to be performed by the director's 295  
designee. 296

(C) In addition to any other duties enumerated in the 297  
Revised Code, the director or the director's designee shall do 298  
all of the following: 299

(1) Administer and direct the performance of the duties of 300  
the department; 301

(2) Pursuant to Chapter 119. of the Revised Code, approve, 302  
adopt, and prescribe such forms and rules as are necessary to 303  
carry out the duties of the department; 304

(3) On behalf of the department and in addition to any 305  
authority the Revised Code otherwise grants to the department, 306  
have the authority and responsibility for approving and entering 307  
into contracts, agreements, and other business arrangements; 308

(4) Make appointments for the department as needed to 309  
comply with requirements of the Revised Code; 310

(5) Approve employment actions of the department, 311

including appointments, promotions, discipline, investigations, 312  
and terminations; 313

(6) Accept, hold, and use, for the benefit of the 314  
department, any gift, donation, bequest, or devise, and may 315  
agree to and perform all conditions of the gift, donation, 316  
bequest, or devise, that are not contrary to law; 317

(7) Apply for, allocate, disburse, and account for grants 318  
made available under federal law or from other federal, state, 319  
or private sources; 320

(8) Develop a list of disqualifying offenses for licensure 321  
as a private investigator or a security guard provider pursuant 322  
to sections 4749.03, 4749.04, 4749.10, and 4776.10 of the 323  
Revised Code; 324

(9) Do all other acts necessary or desirable to carry out 325  
this chapter. 326

(D) (1) The director of public safety may assess a 327  
reasonable fee, plus the amount of any charge or fee passed on 328  
from a financial institution, on a drawer or indorser for each 329  
of the following: 330

(a) A check, draft, or money order that is returned or 331  
dishonored; 332

(b) An automatic bank transfer that is declined, due to 333  
insufficient funds or for any other reason; 334

(c) Any financial transaction device that is returned or 335  
dishonored for any reason. 336

(2) The director shall deposit any fee collected under 337  
this division in an appropriate fund as determined by the 338  
director based on the tax, fee, or fine being paid. 339

(3) As used in this division, "financial transaction  
device" has the same meaning as in section 113.40 of the Revised  
Code.

(E) (1) The director shall establish a homeland security  
advisory council to advise the director on homeland security,  
including homeland security funding efforts. ~~The~~

(2) The advisory council shall include, but not be limited  
to, state consist of the following members, who shall serve  
without compensation:

(a) The secretary of state;

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

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

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

The reserve shall be a part of the Ohio organized militia  
under the adjutant general's department. The reserve shall be  
known as the Ohio cyber reserve. The adjutant general shall

establish and may revise, in accordance with section 5923.12 of 369  
the Revised Code, the rates of pay for reserve members when 370  
called to state active duty. While performing any drill or 371  
training, reserve members shall serve in an unpaid volunteer 372  
status. When called to state active duty by the governor, 373  
reserve members shall function as civilian members of the Ohio 374  
organized militia. 375

Sec. 5922.02. The governor may adopt rules consistent with 376  
the provisions of law governing the membership, organization, 377  
administration, equipment, and maintenance of the Ohio cyber 378  
reserve. A copy of the rules shall be available to the public in 379  
the adjutant general's office. 380

Sec. 5922.03. The governor may requisition from the United 381  
States department of defense, for the use of the Ohio cyber 382  
reserve, equipment that may be in the possession and can be 383  
furnished by the department, and make available to the reserve 384  
the facilities of state armories and equipment and other state 385  
premises and property that may be available. 386

Sec. 5922.04. Sections 5922.02 to 5922.08 of the Revised 387  
Code do not authorize the Ohio cyber reserve, or any part 388  
thereof, to be called or ordered into the military service of 389  
the United States. The reserve may become a civilian component 390  
of the Ohio national guard. 391

Sec. 5922.05. No person shall be accepted into the Ohio 392  
cyber reserve who is not a United States national or a lawful 393  
permanent resident, or who has been expelled or dishonorably 394  
discharged from the armed forces as defined in section 5903.01 395  
of the Revised Code. Applicants shall be subject to an 396  
appropriate background check, in accordance with rules adopted 397  
by the governor and adjutant general, before admittance into the 398

reserve. 399

Notwithstanding any other provision of the Revised Code, 400  
no person shall be disqualified from acceptance into the Ohio 401  
cyber reserve on the basis that the person is an employee of the 402  
state or a political subdivision of the state, or an employee or 403  
proprietor of a private entity that conducts business with the 404  
state or a political subdivision of the state. 405

Sec. 5922.06. Whenever the Ohio cyber reserve, or any part 406  
thereof, is ordered out for active service by the governor, the 407  
Ohio code of military justice shall be in full force with 408  
respect to those forces. 409

Sec. 5922.07. The governor may accept the resignation of 410  
any Ohio cyber reserve member at any time. Reserve members serve 411  
at the pleasure of the governor and may be removed from the 412  
reserve in accordance with rules adopted under section 5922.02 413  
of the Revised Code. 414

The governor may require reimbursement for training, 415  
equipment, and uniforms if an Ohio cyber reserve member does not 416  
serve the full term of the member's membership agreement and the 417  
inability to serve out the term of the membership agreement was 418  
not due to disability or a similar disabling medical condition. 419

Sec. 5922.08. The governor, as commander-in-chief of the 420  
Ohio organized militia, may order individuals or units of the 421  
Ohio cyber reserve to state active duty to protect state, 422  
county, and local government entities and critical 423  
infrastructure, including election systems, or for training as 424  
the governor determines necessary. The governor, upon the 425  
request of a business or citizen, also may order individuals or 426  
units of the Ohio cyber reserve to state active duty to protect 427

that business or citizen.

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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.

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**Sec. 5923.01.** (A) The Ohio organized militia consists of  
~~all 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, and not more than~~  
~~sixty-seven years, of age unless exempted as provided in section~~  
~~5923.02 of the Revised Code, and persons~~ who are members of one  
of the following:

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(1) The Ohio national guard;

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(2) The Ohio naval militia;

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(3) The Ohio military reserve;

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(4) The Ohio cyber reserve.

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

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

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

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(1) They are not members of the Ohio organized militia; 456

(2) They are more than seventeen years of age and not more 457  
than sixty-seven years of age; 458

(3) They are not exempt from service under section 5923.02 459  
of the Revised Code. 460

(E) No troops shall be maintained in time of peace other 461  
than as authorized and prescribed under the "Act of August 10, 462  
1956," 70A Stat. 596, 32 U.S.C.A. 101 to 716. This limitation 463  
does not affect the right of the state to the use of its 464  
organized militia within its borders in time of peace as 465  
prescribed by the laws of this state. This section does not 466  
prevent the organization and maintenance of police. 467

**Sec. 5923.02.** ~~(A)~~—The following persons, if subject to 468  
duty in the Ohio organized or unorganized militia, may be 469  
exempted by the adjutant general from duty on request: 470

~~(1)~~—(A) The vice-president of the United States; 471

~~(2)~~—(B) The officers, judicial and executive, of the 472  
departments of the state and of the United States, and the 473  
members of the general assembly, without regard to age; 474

~~(3)~~—(C) Members of the armed forces of the United States 475  
or their reserve components; 476

~~(4)~~—(D) Customhouse clerks; 477

~~(5)~~—(E) Employees of the United States postal service; 478

~~(6)~~—(F) Workers employed in armories, arsenals, or naval 479  
shipyards of the United States; 480

~~(7)~~—(G) Pilots on the navigable waters of the United 481  
States; 482

~~(8)-(H)~~ Mariners licensed by the United States; 483

~~(B)-(I)~~ Any person who claims exemption from service 484  
because of religious belief or other moral conviction held as a 485  
matter of conscience ~~may claim exemption from Ohio organized~~ 486  
~~militia service;~~ 487

(J) Any person who is unable to serve because of a 488  
disability, as that term is defined in section 4112.01 of the 489  
Revised Code. 490

**Sec. 5923.03.** (A) The Ohio national guard consists of the 491  
members of the Ohio organized militia who are enlisted, 492  
commissioned, or warranted in the Ohio national guard, all as 493  
prescribed by publications of the department of the army or air 494  
force and the national guard bureau for the national guard as 495  
prescribed by Chapter 5919. of the Revised Code. 496

(B) The Ohio military reserve consists of the members of 497  
the Ohio organized militia who are enlisted, commissioned, or 498  
warranted in the Ohio military reserve as prescribed by Chapter 499  
5920. of Revised Code. 500

(C) The Ohio naval militia consists of the members of the 501  
Ohio organized militia who are enlisted, commissioned, or 502  
warranted in the Ohio naval militia as prescribed by Chapter 503  
5921. of the Revised Code. 504

(D) The Ohio cyber reserve consists of the members of the 505  
Ohio organized militia who are civilian volunteers under Chapter 506  
5922. of the Revised Code. 507

**Sec. 5923.12.** When ordered to state active duty by the 508  
governor, for which duty federal basic pay and allowances are 509  
not authorized, members of the organized militia of Ohio shall 510  
receive the same pay and allowances for each day's service as is 511

provided for commissioned officers, warrant officers, 512  
noncommissioned officers, and enlisted personnel of like grade 513  
and longevity in the armed forces of the United States, together 514  
with the necessary transportation, housing, and subsistence 515  
allowances as prescribed by the United States department of 516  
defense pay manual, or an amount not less than seventy-five 517  
dollars per day as base pay for each day's duty performed, 518  
whichever is greater. 519

Notwithstanding any other provision of law, Ohio cyber 520  
reserve members shall receive a rate of pay determined and 521  
provided by rule by the adjutant general, in the name of the 522  
governor. The rule shall establish a rate of pay commensurate 523  
with those specified in pay schedules established by the 524  
director of administrative services for information technology 525  
employees of the state who have comparable training, experience, 526  
and professional qualifications. 527

When ordered by the governor to perform training or duty 528  
under this section or section 5919.29 of the Revised Code, 529  
members of the Ohio national guard shall have the protections 530  
afforded to persons on federal active duty by "The 531  
Servicemembers Civil Relief Act," 117 Stat. 2835, 50 U.S.C.A. 532  
App. 501. 533

**Sec. 5923.37.** (A) No member of the organized militia 534  
ordered to state active duty shall be liable in negligence for 535  
any act performed within the scope of ~~his military~~ the member's 536  
duties. Any action alleging that such a militia member's conduct 537  
was outside the scope of ~~his~~ the member's employment, was 538  
malicious, was in bad faith, or was wanton or reckless shall 539  
first be filed against the state in the court of claims under 540  
section 2743.02 of the Revised Code. 541

(B) Any member of the organized militia rendering medical, 542  
nursing, or dental care, or assisting in rendering such care, 543  
after being ordered to state active duty shall be deemed an 544  
officer or employee of the state under section 109.36 of the 545  
Revised Code. 546

(C) Any member of the organized militia ordered to state 547  
active duty under section 5923.22 of the ~~revised~~ Revised Code or 548  
ordered to duty under section 5919.29 of the Revised Code who is 549  
qualified to perform on federal active duty under Title 10, 550  
United States Code, in a particular profession, discipline, or 551  
skill as a health care provider shall be exempt from the 552  
statutes, regulations, and licensing requirements otherwise in 553  
force under the laws of this state, with respect to ~~his~~ the 554  
member's profession, specialty, or skill at such times as ~~he~~ the 555  
member is serving in any military status, duly authorized under 556  
the laws of this state or of the United States, or both, and is 557  
performing ~~his~~ the member's profession, specialty, or skill 558  
under regulations prescribed by the executive authority of the 559  
United States or of this state, and is functioning within the 560  
scope of ~~his~~ the member's employment. 561

**Sec. 5924.01.** As used in Chapter 5924. of the Revised Code 562  
unless the context otherwise requires: 563

(A) "Organized militia" means the Ohio national guard, the 564  
Ohio naval militia, ~~and the Ohio military reserve,~~ and the Ohio 565  
cyber reserve. 566

(B) "Officer" means commissioned or warrant officer. 567

(C) "Commissioned officer" includes a commissioned warrant 568  
officer. 569

(D) "Commanding officer" includes only commissioned or 570

warrant officers in command of a unit. 571

(E) "Superior commissioned officer" means a commissioned 572  
officer superior in rank or command. 573

(F) "Enlisted member" means a person in an enlisted grade. 574

(G) "Grade" means a step or degree, in a graduated scale 575  
of office or military rank, that is established and designated 576  
as a grade by law or regulation. 577

(H) "Rank" means the order of precedence among members of 578  
the armed forces. 579

(I) "State active duty" means full-time duty in the active 580  
military service of the state under a proclamation of the 581  
governor issued pursuant to authority vested in the governor by 582  
law, and while going to and returning from such duty. 583

(J) "Duty status other than state active duty" means any 584  
other types of duty and while going to and returning from such 585  
duty. 586

(K) "Military court" means a court-martial, a court of 587  
inquiry, or a provost court. 588

(L) "Military judge" means an official of a general or 589  
special court-martial who is a commissioned officer, who has 590  
been duly certified to be qualified for duty as a military judge 591  
by the state judge advocate, and who has been properly detailed 592  
in accordance with section 5924.26 of the Revised Code. 593

(M) "Law specialist" means a commissioned officer of the 594  
organized naval militia of the state designated for special 595  
duty. 596

(N) "Legal officer" means any commissioned officer of the 597

organized naval militia of the state designated to perform legal 598  
duties for a command. 599

(O) "State judge advocate" means the commissioned officer 600  
responsible for supervising the administration of military 601  
justice in the organized militia. 602

(P) "Accuser" means a person who reports an offense 603  
subject to trial by court-martial and who signs and swears to 604  
charges, any person who directs that charges nominally be signed 605  
and sworn to by another, or any other person who has an interest 606  
other than an official interest in the prosecution of the 607  
accused. 608

(Q) "Military" refers to any or all of the armed forces. 609

(R) "Convening authority" includes, in addition to the 610  
person who convened the court, a commissioned officer commanding 611  
for the time being, or a successor in command. 612

(S) "May" is used in a permissive sense. The words "no 613  
person may ....." mean that no person is required, 614  
authorized, or permitted to do the act prescribed. 615

(T) "Shall" is used in an imperative sense. 616

(U) "Code" means the Ohio code of military justice, as set 617  
forth in Chapter 5924. of the Revised Code. 618

(V) "Trial counsel" means the prosecuting attorney in a 619  
general or special court-martial. 620

(W) "Detention facility" means any place that is owned or 621  
operated by a municipal corporation, by a county, or by one or 622  
more municipal corporations, counties, or both and that is used 623  
for the confinement of persons charged with or convicted of any 624  
crime in this state or another state or under the laws of the 625

United States. 626

(X) "Examiner" has the same meaning as in division (A) (2) 627  
(a) of section 2945.37 of the Revised Code. 628

(Y) "Nonsecured status," "unsupervised, off-grounds 629  
movement," "trial visit," "conditional release," and "licensed 630  
clinical psychologist" have the same meanings as in section 631  
2945.37 of the Revised Code. 632

**Section 2.** That existing sections 3505.21, 5502.011, 633  
5923.01, 5923.02, 5923.03, 5923.12, 5923.37, and 5924.01 of the 634  
Revised Code are hereby repealed. 635

**Section 3.** All items in this section are hereby 636  
appropriated as designated out of any moneys in the state 637  
treasury to the credit of the designated fund. For all 638  
appropriations made in this act, those in the first column are 639  
for fiscal year 2020 and those in the second column are for 640  
fiscal year 2021. The appropriations made in this act are in 641  
addition to any other appropriations made for the FY 2020-FY 642  
2021 biennium. 643

ADJ ADJUTANT GENERAL 644

General Revenue Fund 645

GRF 745503 Ohio Cyber Reserve	\$100,000	\$550,000	646
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TOTAL GRF General Revenue Fund	\$100,000	\$550,000	647
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TOTAL ALL BUDGET FUND GROUPS	\$100,000	\$550,000	648
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OHIO CYBER RESERVE 649

The foregoing appropriation item 745503, Ohio Cyber 650  
Reserve, shall be used to pay the costs incurred by the Adjutant 651  
General's Department to operate the Ohio Cyber Reserve in 652

accordance with section 5922.01 of the Revised Code. 653

SOS SECRETARY OF STATE 654

General Revenue Fund 655

GRF 050321 Operating Expenses	\$	75,000	\$	75,000	656
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TOTAL GRF General Revenue Fund	\$	75,000	\$	75,000	657
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TOTAL ALL BUDGET FUND GROUPS	\$	75,000	\$	75,000	658
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ELECTION AUDIT REIMBURSEMENT 659

Of the foregoing appropriation item 050321, Operating 660  
Expenses, up to \$75,000 shall be used in each fiscal year to 661  
reimburse counties, in a manner prescribed by the Secretary of 662  
State, for the costs of performing election audits in accordance 663  
with section 3505.331 of the Revised Code. 664

**Section 4.** Within the limits set forth in this act, the 665  
Director of Budget and Management shall establish accounts 666  
indicating the source and amount of funds for each appropriation 667  
made in this act, and shall determine the form and manner in 668  
which appropriation accounts shall be maintained. Expenditures 669  
from appropriations contained in Section 3 of this act shall be 670  
accounted for as though made in the main operating 671  
appropriations act of the 133rd General Assembly. 672

The appropriations made in Section 3 of this act are 673  
subject to all provisions of the main operating appropriations 674  
act of the 133rd General Assembly that are generally applicable 675  
to such appropriations. 676