

As Introduced

**125th General Assembly
Regular Session
2003-2004**

S. B. No. 92

Senators Nein, Armbruster, Carey

A B I L L

To amend sections 3121.898, 3121.899, 4141.01, 1
4141.281, and 4141.29 of the Revised Code, and to 2
amend Section 3 of S.B. 99 of the 124th General 3
Assembly to modify limitations on the use of new 4
hire reports under the Child Support Law, to 5
change unemployment compensation eligibility 6
requirements when unemployment is caused by a 7
major disaster, to modify the authority of 8
reviewing courts with respect to unemployment 9
compensation appeals, and to delay the 10
implementation of specified unemployment 11
compensation application requirements for a year. 12

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

Section 1. That sections 3121.898, 3121.899, 4141.01, 13
4141.281, and 4141.29 of the Revised Code be amended to read as 14
follows: 15

Sec. 3121.898. The department of job and family services 16
shall use the new hire reports it receives ~~to~~ for any of the 17
following purposes set forth in 42 U.S.C. 653a, as amended, 18
including: 19

(A) To locate individuals for the purposes of establishing 20

paternity; and for establishing, modifying, and enforcing child 21
support orders being administered by child support enforcement 22
agencies in this state; ~~and to detect fraud in any program~~ 23
~~administered by the department.~~ 24

(B) To verify eligibility for any of the following programs: 25

(1) Any Title IV-A program as defined in section 5101.80 of 26
the Revised Code; 27

(2) The medicaid program authorized by Chapter 5111. of the 28
Revised Code; 29

(3) The unemployment compensation program authorized by 30
Chapter 4141. of the Revised Code; 31

(4) The food stamp program authorized by section 5101.54 of 32
the Revised Code; 33

(5) Any other program authorized in 42 U.S.C. 1320b-7(b), as 34
amended. 35

(C) The administration of the employment security program 36
under the director of job and family services and the 37
administration of the workers' compensation system pursuant to 38
Chapters 4121., 4123., 4127., and 4131. of the Revised Code. 39

Sec. 3121.899. (A) The new hire reports filed with the 40
department of job and family services pursuant to section 3121.891 41
of the Revised Code shall not be considered public records for 42
purposes of section 149.43 of the Revised Code. The director of 43
job and family services may adopt rules under section 3125.51 of 44
the Revised Code governing access to, and use and disclosure of, 45
information contained in the new hire reports. ~~The~~ 46

(B) The department of job and family services may disclose 47
information in the new hire reports to all of the following: 48

(1) Any child support enforcement agency and any agent of the 49

~~department or under contract with a child support enforcement 50
agency that is under contract with the department for the purposes 51
listed in division (A) of section 3121.898 of the Revised Code- 52
The department may submit to the bureau of workers' compensation a 53
copy of any new hire report it receives; 54~~

(2) Any county department of job and family services and any 55
agent under contract with a county department of job and family 56
services for the purposes listed in division (B) of section 57
3121.898 of the Revised Code; 58

(3) Employees of the department of job and family services 59
and any agent under contract with the department of job and family 60
services for the purposes listed in divisions (B) and (C) of 61
section 3121.898 of the Revised Code; 62

(4) The administrator of workers' compensation for the 63
purpose of administering the workers' compensation system pursuant 64
to Chapters 4121., 4123., 4127., and 4131. of the Revised Code. 65

Sec. 4141.01. As used in this chapter, unless the context 66
otherwise requires: 67

(A)(1) "Employer" means the state, its instrumentalities, its 68
political subdivisions and their instrumentalities, and any 69
individual or type of organization including any partnership, 70
limited liability company, association, trust, estate, joint-stock 71
company, insurance company, or corporation, whether domestic or 72
foreign, or the receiver, trustee in bankruptcy, trustee, or the 73
successor thereof, or the legal representative of a deceased 74
person who subsequent to December 31, 1971, or in the case of 75
political subdivisions or their instrumentalities, subsequent to 76
December 31, 1973: 77

(a) Had in employment at least one individual, or in the case 78
of a nonprofit organization, subsequent to December 31, 1973, had 79

not less than four individuals in employment for some portion of a 80
day in each of twenty different calendar weeks, in either the 81
current or the preceding calendar year whether or not the same 82
individual was in employment in each such day; or 83

(b) Except for a nonprofit organization, had paid for service 84
in employment wages of fifteen hundred dollars or more in any 85
calendar quarter in either the current or preceding calendar year; 86
or 87

(c) Had paid, subsequent to December 31, 1977, for employment 88
in domestic service in a local college club, or local chapter of a 89
college fraternity or sorority, cash remuneration of one thousand 90
dollars or more in any calendar quarter in the current calendar 91
year or the preceding calendar year, or had paid subsequent to 92
December 31, 1977, for employment in domestic service in a private 93
home cash remuneration of one thousand dollars in any calendar 94
quarter in the current calendar year or the preceding calendar 95
year: 96

(i) For the purposes of divisions (A)(1)(a) and (b) of this 97
section, there shall not be taken into account any wages paid to, 98
or employment of, an individual performing domestic service as 99
described in this division. 100

(ii) An employer under this division shall not be an employer 101
with respect to wages paid for any services other than domestic 102
service unless the employer is also found to be an employer under 103
division (A)(1)(a), (b), or (d) of this section. 104

(d) As a farm operator or a crew leader subsequent to 105
December 31, 1977, had in employment individuals in agricultural 106
labor; and 107

(i) During any calendar quarter in the current calendar year 108
or the preceding calendar year, paid cash remuneration of twenty 109
thousand dollars or more for the agricultural labor; or 110

(ii) Had at least ten individuals in employment in 111
agricultural labor, not including agricultural workers who are 112
aliens admitted to the United States to perform agricultural labor 113
pursuant to sections 214(e) and 101(a)(15)(H) of the "Immigration 114
and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 115
1101(a)(15)(H)(ii)(a), for some portion of a day in each of the 116
twenty different calendar weeks, in either the current or 117
preceding calendar year whether or not the same individual was in 118
employment in each day; or 119

(e) Is not otherwise an employer as defined under division 120
(A)(1)(a) or (b) of this section; and 121

(i) For which, within either the current or preceding 122
calendar year, service, except for domestic service in a private 123
home not covered under division (A)(1)(c) of this section, is or 124
was performed with respect to which such employer is liable for 125
any federal tax against which credit may be taken for 126
contributions required to be paid into a state unemployment fund; 127

(ii) Which, as a condition for approval of this chapter for 128
full tax credit against the tax imposed by the "Federal 129
Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, is 130
required, pursuant to such act to be an employer under this 131
chapter; or 132

(iii) Who became an employer by election under division 133
(A)(4) or (5) of this section and for the duration of such 134
election; or 135

(f) In the case of the state, its instrumentalities, its 136
political subdivisions, and their instrumentalities, had in 137
employment, as defined in division (B)(2)(a) of this section, at 138
least one individual; 139

(g) For the purposes of division (A)(1)(a) of this section, 140
if any week includes both the thirty-first day of December and the 141

first day of January, the days of that week before the first day 142
of January shall be considered one calendar week and the days 143
beginning the first day of January another week. 144

(2) Each individual employed to perform or to assist in 145
performing the work of any agent or employee of an employer is 146
employed by such employer for all the purposes of this chapter, 147
whether such individual was hired or paid directly by such 148
employer or by such agent or employee, provided the employer had 149
actual or constructive knowledge of the work. All individuals 150
performing services for an employer of any person in this state 151
who maintains two or more establishments within this state are 152
employed by a single employer for the purposes of this chapter. 153

(3) An employer subject to this chapter within any calendar 154
year is subject to this chapter during the whole of such year and 155
during the next succeeding calendar year. 156

(4) An employer not otherwise subject to this chapter who 157
files with the director of job and family services a written 158
election to become an employer subject to this chapter for not 159
less than two calendar years shall, with the written approval of 160
such election by the director, become an employer subject to this 161
chapter to the same extent as all other employers as of the date 162
stated in such approval, and shall cease to be subject to this 163
chapter as of the first day of January of any calendar year 164
subsequent to such two calendar years only if at least thirty days 165
prior to such first day of January the employer has filed with the 166
director a written notice to that effect. 167

(5) Any employer for whom services that do not constitute 168
employment are performed may file with the director a written 169
election that all such services performed by individuals in the 170
employer's employ in one or more distinct establishments or places 171
of business shall be deemed to constitute employment for all the 172
purposes of this chapter, for not less than two calendar years. 173

Upon written approval of the election by the director, such 174
services shall be deemed to constitute employment subject to this 175
chapter from and after the date stated in such approval. Such 176
services shall cease to be employment subject to this chapter as 177
of the first day of January of any calendar year subsequent to 178
such two calendar years only if at least thirty days prior to such 179
first day of January such employer has filed with the director a 180
written notice to that effect. 181

(B)(1) "Employment" means service performed by an individual 182
for remuneration under any contract of hire, written or oral, 183
express or implied, including service performed in interstate 184
commerce and service performed by an officer of a corporation, 185
without regard to whether such service is executive, managerial, 186
or manual in nature, and without regard to whether such officer is 187
a stockholder or a member of the board of directors of the 188
corporation, unless it is shown to the satisfaction of the 189
director that such individual has been and will continue to be 190
free from direction or control over the performance of such 191
service, both under a contract of service and in fact. The 192
director shall adopt rules to define "direction or control." 193

(2) "Employment" includes: 194

(a) Service performed after December 31, 1977, by an 195
individual in the employ of the state or any of its 196
instrumentalities, or any political subdivision thereof or any of 197
its instrumentalities or any instrumentality of more than one of 198
the foregoing or any instrumentality of any of the foregoing and 199
one or more other states or political subdivisions and without 200
regard to divisions (A)(1)(a) and (b) of this section, provided 201
that such service is excluded from employment as defined in the 202
"Federal Unemployment Tax Act," 53 Stat. 183, 26 U.S.C.A. 3301, 203
3306(c)(7) and is not excluded under division (B)(3) of this 204
section; or the services of employees covered by voluntary 205

election, as provided under divisions (A)(4) and (5) of this section; 206
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(b) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization which is excluded from the term "employment" as defined in the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, solely by reason of section 26 U.S.C.A. 3306(c)(8) of that act and is not excluded under division (B)(3) of this section; 208
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(c) Domestic service performed after December 31, 1977, for an employer, as provided in division (A)(1)(c) of this section; 215
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(d) Agricultural labor performed after December 31, 1977, for a farm operator or a crew leader, as provided in division (A)(1)(d) of this section; 217
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(e) Service not covered under division (B)(1) of this section which is performed after December 31, 1971: 220
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(i) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, laundry, or dry-cleaning services, for the individual's employer or principal; 222
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(ii) As a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged on a full-time basis in the solicitation on behalf of and in the transmission to the salesperson's employer or principal except for sideline sales activities on behalf of some other person of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale, or supplies for use in their business operations, provided that for the purposes of ~~this~~ division (B)(2)(e)(ii) of this section, the services shall be deemed employment if the contract of service contemplates that substantially all of the services are 226
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to be performed personally by the individual and that the 237
individual does not have a substantial investment in facilities 238
used in connection with the performance of the services other than 239
in facilities for transportation, and the services are not in the 240
nature of a single transaction that is not a part of a continuing 241
relationship with the person for whom the services are performed. 242

(f) An individual's entire service performed within or both 243
within and without the state if: 244

(i) The service is localized in this state. 245

(ii) The service is not localized in any state, but some of 246
the service is performed in this state and either the base of 247
operations, or if there is no base of operations then the place 248
from which such service is directed or controlled, is in this 249
state or the base of operations or place from which such service 250
is directed or controlled is not in any state in which some part 251
of the service is performed but the individual's residence is in 252
this state. 253

(g) Service not covered under division (B)(2)(f)(ii) of this 254
section and performed entirely without this state, with respect to 255
no part of which contributions are required and paid under an 256
unemployment compensation law of any other state, the Virgin 257
Islands, Canada, or of the United States, if the individual 258
performing such service is a resident of this state and the 259
director approves the election of the employer for whom such 260
services are performed; or, if the individual is not a resident of 261
this state but the place from which the service is directed or 262
controlled is in this state, the entire services of such 263
individual shall be deemed to be employment subject to this 264
chapter, provided service is deemed to be localized within this 265
state if the service is performed entirely within this state or if 266
the service is performed both within and without this state but 267
the service performed without this state is incidental to the 268

individual's service within the state, for example, is temporary 269
or transitory in nature or consists of isolated transactions; 270

(h) Service of an individual who is a citizen of the United 271
States, performed outside the United States except in Canada after 272
December 31, 1971, or the Virgin Islands, after December 31, 1971, 273
and before the first day of January of the year following that in 274
which the United States secretary of labor approves the Virgin 275
Islands law for the first time, in the employ of an American 276
employer, other than service which is "employment" under divisions 277
(B)(2)(f) and (g) of this section or similar provisions of another 278
state's law, if: 279

(i) The employer's principal place of business in the United 280
States is located in this state; 281

(ii) The employer has no place of business in the United 282
States, but the employer is an individual who is a resident of 283
this state; or the employer is a corporation which is organized 284
under the laws of this state, or the employer is a partnership or 285
a trust and the number of partners or trustees who are residents 286
of this state is greater than the number who are residents of any 287
other state; or 288

(iii) None of the criteria of divisions (B)(2)(f)(i) and (ii) 289
of this section is met but the employer has elected coverage in 290
this state or the employer having failed to elect coverage in any 291
state, the individual has filed a claim for benefits, based on 292
such service, under this chapter. 293

(i) For the purposes of division (B)(2)(h) of this section, 294
the term "American employer" means an employer who is an 295
individual who is a resident of the United States; or a 296
partnership, if two-thirds or more of the partners are residents 297
of the United States; or a trust, if all of the trustees are 298
residents of the United States; or a corporation organized under 299

the laws of the United States or of any state, provided the term 300
"United States" includes the states, the District of Columbia, the 301
Commonwealth of Puerto Rico, and the Virgin Islands. 302

(j) Notwithstanding any other provisions of divisions (B)(1) 303
and (2) of this section, service, except for domestic service in a 304
private home not covered under division (A)(1)(c) of this section, 305
with respect to which a tax is required to be paid under any 306
federal law imposing a tax against which credit may be taken for 307
contributions required to be paid into a state unemployment fund, 308
or service, except for domestic service in a private home not 309
covered under division (A)(1)(c) of this section, which, as a 310
condition for full tax credit against the tax imposed by the 311
"Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 312
3311, is required to be covered under this chapter. 313

(k) Construction services performed by any individual under a 314
construction contract, as defined in section 4141.39 of the 315
Revised Code, if the director determines that the employer for 316
whom services are performed has the right to direct or control the 317
performance of the services and that the individuals who perform 318
the services receive remuneration for the services performed. The 319
director shall presume that the employer for whom services are 320
performed has the right to direct or control the performance of 321
the services if ten or more of the following criteria apply: 322

(i) The employer directs or controls the manner or method by 323
which instructions are given to the individual performing 324
services; 325

(ii) The employer requires particular training for the 326
individual performing services; 327

(iii) Services performed by the individual are integrated 328
into the regular functioning of the employer; 329

(iv) The employer requires that services be provided by a 330

particular individual;	331
(v) The employer hires, supervises, or pays the wages of the individual performing services;	332 333
(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;	334 335 336
(vii) The employer requires the individual to perform services during established hours;	337 338
(viii) The employer requires that the individual performing services be devoted on a full-time basis to the business of the employer;	339 340 341
(ix) The employer requires the individual to perform services on the employer's premises;	342 343
(x) The employer requires the individual performing services to follow the order of work established by the employer;	344 345
(xi) The employer requires the individual performing services to make oral or written reports of progress;	346 347
(xii) The employer makes payment to the individual for services on a regular basis, such as hourly, weekly, or monthly;	348 349
(xiii) The employer pays expenses for the individual performing services;	350 351
(xiv) The employer furnishes the tools and materials for use by the individual to perform services;	352 353
(xv) The individual performing services has not invested in the facilities used to perform services;	354 355
(xvi) The individual performing services does not realize a profit or suffer a loss as a result of the performance of the services;	356 357 358
(xvii) The individual performing services is not performing	359

services for more than two employers simultaneously; 360

(xviii) The individual performing services does not make the 361
services available to the general public; 362

(xix) The employer has a right to discharge the individual 363
performing services; 364

(xx) The individual performing services has the right to end 365
the individual's relationship with the employer without incurring 366
liability pursuant to an employment contract or agreement. 367

(3) "Employment" does not include the following services if 368
they are found not subject to the "Federal Unemployment Tax Act," 369
84 Stat. 713 (1970), 26 U.S.C.A. 3301 to 3311, and if the services 370
are not required to be included under division (B)(2)(j) of this 371
section: 372

(a) Service performed after December 31, 1977, in 373
agricultural labor, except as provided in division (A)(1)(d) of 374
this section; 375

(b) Domestic service performed after December 31, 1977, in a 376
private home, local college club, or local chapter of a college 377
fraternity or sorority except as provided in division (A)(1)(c) of 378
this section; 379

(c) Service performed after December 31, 1977, for this state 380
or a political subdivision as described in division (B)(2)(a) of 381
this section when performed: 382

(i) As a publicly elected official; 383

(ii) As a member of a legislative body, or a member of the 384
judiciary; 385

(iii) As a military member of the Ohio national guard; 386

(iv) As an employee, not in the classified service as defined 387
in section 124.11 of the Revised Code, serving on a temporary 388
basis in case of fire, storm, snow, earthquake, flood, or similar 389

emergency;	390
(v) In a position which, under or pursuant to law, is	391
designated as a major nontenured policymaking or advisory	392
position, not in the classified service of the state, or a	393
policymaking or advisory position the performance of the duties of	394
which ordinarily does not require more than eight hours per week.	395
(d) In the employ of any governmental unit or instrumentality	396
of the United States;	397
(e) Service performed after December 31, 1971:	398
(i) Service in the employ of an educational institution or	399
institution of higher education, including those operated by the	400
state or a political subdivision, if such service is performed by	401
a student who is enrolled and is regularly attending classes at	402
the educational institution or institution of higher education; or	403
(ii) By an individual who is enrolled at a nonprofit or	404
public educational institution which normally maintains a regular	405
faculty and curriculum and normally has a regularly organized body	406
of students in attendance at the place where its educational	407
activities are carried on as a student in a full-time program,	408
taken for credit at the institution, which combines academic	409
instruction with work experience, if the service is an integral	410
part of the program, and the institution has so certified to the	411
employer, provided that this subdivision shall not apply to	412
service performed in a program established for or on behalf of an	413
employer or group of employers;	414
(f) Service performed by an individual in the employ of the	415
individual's son, daughter, or spouse and service performed by a	416
child under the age of eighteen in the employ of the child's	417
father or mother;	418
(g) Service performed for one or more principals by an	419
individual who is compensated on a commission basis, who in the	420

performance of the work is master of the individual's own time and 421
efforts, and whose remuneration is wholly dependent on the amount 422
of effort the individual chooses to expend, and which service is 423
not subject to the "Federal Unemployment Tax Act," 53 Stat. 183 424
(1939), 26 U.S.C.A. 3301 to 3311. Service performed after December 425
31, 1971: 426

(i) By an individual for an employer as an insurance agent or 427
as an insurance solicitor, if all this service is performed for 428
remuneration solely by way of commission; 429

(ii) As a home worker performing work, according to 430
specifications furnished by the employer for whom the services are 431
performed, on materials or goods furnished by such employer which 432
are required to be returned to the employer or to a person 433
designated for that purpose. 434

(h) Service performed after December 31, 1971: 435

(i) In the employ of a church or convention or association of 436
churches, or in an organization which is operated primarily for 437
religious purposes and which is operated, supervised, controlled, 438
or principally supported by a church or convention or association 439
of churches; 440

(ii) By a duly ordained, commissioned, or licensed minister 441
of a church in the exercise of the individual's ministry or by a 442
member of a religious order in the exercise of duties required by 443
such order; or 444

(iii) In a facility conducted for the purpose of carrying out 445
a program of rehabilitation for individuals whose earning capacity 446
is impaired by age or physical or mental deficiency or injury, or 447
providing remunerative work for individuals who because of their 448
impaired physical or mental capacity cannot be readily absorbed in 449
the competitive labor market, by an individual receiving such 450
rehabilitation or remunerative work; 451

(i) Service performed after June 30, 1939, with respect to 452
which unemployment compensation is payable under the "Railroad 453
Unemployment Insurance Act," 52 Stat. 1094 (1938), 45 U.S.C. 351; 454

(j) Service performed by an individual in the employ of any 455
organization exempt from income tax under section 501 of the 456
"Internal Revenue Code of 1954," if the remuneration for such 457
service does not exceed fifty dollars in any calendar quarter, or 458
if such service is in connection with the collection of dues or 459
premiums for a fraternal beneficial society, order, or association 460
and is performed away from the home office or is ritualistic 461
service in connection with any such society, order, or 462
association; 463

(k) Casual labor not in the course of an employer's trade or 464
business; incidental service performed by an officer, appraiser, 465
or member of a finance committee of a bank, building and loan 466
association, savings and loan association, or savings association 467
when the remuneration for such incidental service exclusive of the 468
amount paid or allotted for directors' fees does not exceed sixty 469
dollars per calendar quarter is casual labor; 470

(l) Service performed in the employ of a voluntary employees' 471
beneficial association providing for the payment of life, 472
sickness, accident, or other benefits to the members of such 473
association or their dependents or their designated beneficiaries, 474
if admission to a membership in such association is limited to 475
individuals who are officers or employees of a municipal or public 476
corporation, of a political subdivision of the state, or of the 477
United States and no part of the net earnings of such association 478
inures, other than through such payments, to the benefit of any 479
private shareholder or individual; 480

(m) Service performed by an individual in the employ of a 481
foreign government, including service as a consular or other 482

officer or employee or of a nondiplomatic representative;	483
(n) Service performed in the employ of an instrumentality	484
wholly owned by a foreign government if the service is of a	485
character similar to that performed in foreign countries by	486
employees of the United States or of an instrumentality thereof	487
and if the director finds that the secretary of state of the	488
United States has certified to the secretary of the treasury of	489
the United States that the foreign government, with respect to	490
whose instrumentality exemption is claimed, grants an equivalent	491
exemption with respect to similar service performed in the foreign	492
country by employees of the United States and of instrumentalities	493
thereof;	494
(o) Service with respect to which unemployment compensation	495
is payable under an unemployment compensation system established	496
by an act of congress;	497
(p) Service performed as a student nurse in the employ of a	498
hospital or a nurses' training school by an individual who is	499
enrolled and is regularly attending classes in a nurses' training	500
school chartered or approved pursuant to state law, and service	501
performed as an intern in the employ of a hospital by an	502
individual who has completed a four years' course in a medical	503
school chartered or approved pursuant to state law;	504
(q) Service performed by an individual under the age of	505
eighteen in the delivery or distribution of newspapers or shopping	506
news, not including delivery or distribution to any point for	507
subsequent delivery or distribution;	508
(r) Service performed in the employ of the United States or	509
an instrumentality of the United States immune under the	510
constitution <u>Constitution</u> of the United States from the	511
contributions imposed by this chapter, except that to the extent	512
that congress permits states to require any instrumentalities of	513

the United States to make payments into an unemployment fund under 514
a state unemployment compensation act, this chapter shall be 515
applicable to such instrumentalities and to services performed for 516
such instrumentalities in the same manner, to the same extent, and 517
on the same terms as to all other employers, individuals, and 518
services, provided that if this state is not certified for any 519
year by the proper agency of the United States under section 3304 520
of the "Internal Revenue Code of 1954," the payments required of 521
such instrumentalities with respect to such year shall be refunded 522
by the director from the fund in the same manner and within the 523
same period as is provided in division (E) of section 4141.09 of 524
the Revised Code with respect to contributions erroneously 525
collected; 526

(s) Service performed by an individual as a member of a band 527
or orchestra, provided such service does not represent the 528
principal occupation of such individual, and which service is not 529
subject to or required to be covered for full tax credit against 530
the tax imposed by the "Federal Unemployment Tax Act," 53 Stat. 531
183 (1939), 26 U.S.C.A. 3301 to 3311. Service performed after 532
December 31, 1971, for a nonprofit organization, this state or its 533
instrumentalities, or a political subdivision or its 534
instrumentalities, as part of an unemployment work-relief or 535
work-training program assisted or financed in whole or in part by 536
any federal agency or an agency of a state or political 537
subdivision thereof, by an individual receiving the work-relief or 538
work-training. 539

(t) Service performed in the employ of a day camp whose 540
camping season does not exceed twelve weeks in any calendar year, 541
and which service is not subject to the "Federal Unemployment Tax 542
Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. Service 543
performed after December 31, 1971: 544

(i) In the employ of a hospital, if the service is performed 545

by a patient of the hospital, as defined in division (W) of this section; 546
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(ii) For a prison or other correctional institution by an inmate of the prison or correctional institution; 548
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(iii) Service performed after December 31, 1977, by an inmate of a custodial institution operated by the state, a political subdivision, or a nonprofit organization. 550
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(u) Service that is performed by a nonresident alien individual for the period the individual temporarily is present in the United States as a nonimmigrant under division (F), (J), (M), or (Q) of section 101(a)(15) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101, as amended, that is excluded under section 3306(c)(19) of the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. 553
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(v) Notwithstanding any other provisions of division (B)(3) of this section, services that are excluded under divisions (B)(3)(g), (j), (k), and (l) of this section shall not be excluded from employment when performed for a nonprofit organization, as defined in division (X) of this section, or for this state or its instrumentalities, or for a political subdivision or its instrumentalities; 560
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(w) Service that is performed by an individual working as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars; 567
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(x) Service performed for an elementary or secondary school that is operated primarily for religious purposes, that is described in subsection 501(c)(3) and exempt from federal income taxation under subsection 501(a) of the Internal Revenue Code, 26 U.S.C.A. 501; 572
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(y) Service performed by a person committed to a penal institution. 577
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(4) If the services performed during one half or more of any pay period by an employee for the person employing that employee constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one half of any such pay period by an employee for the person employing that employee do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in division (B)(4) of this section, "pay period" means a period, of not more than thirty-one consecutive days, for which payment of remuneration is ordinarily made to the employee by the person employing that employee. Division (B)(4) of this section does not apply to services performed in a pay period by an employee for the person employing that employee, if any of such service is excepted by division (B)(3)(o) of this section. 579
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(C) "Benefits" means money payments payable to an individual who has established benefit rights, as provided in this chapter, for loss of remuneration due to the individual's unemployment. 594
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(D) "Benefit rights" means the weekly benefit amount and the maximum benefit amount that may become payable to an individual within the individual's benefit year as determined by the director. 597
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(E) "Claim for benefits" means a claim for waiting period or benefits for a designated week. 601
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(F) "Additional claim" means the first claim for benefits filed following any separation from employment during a benefit year; "continued claim" means any claim other than the first claim for benefits and other than an additional claim. 603
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(G)(1) "Wages" means remuneration paid to an employee by each 607

of the employee's employers with respect to employment; except 608
that wages shall not include that part of remuneration paid during 609
any calendar year to an individual by an employer or such 610
employer's predecessor in interest in the same business or 611
enterprise, which in any calendar year is in excess of eight 612
thousand two hundred fifty dollars on and after January 1, 1992; 613
eight thousand five hundred dollars on and after January 1, 1993; 614
eight thousand seven hundred fifty dollars on and after January 1, 615
1994; and nine thousand dollars on and after January 1, 1995. 616
Remuneration in excess of such amounts shall be deemed wages 617
subject to contribution to the same extent that such remuneration 618
is defined as wages under the "Federal Unemployment Tax Act," 84 619
Stat. 714 (1970), 26 U.S.C.A. 3301 to 3311, as amended. The 620
remuneration paid an employee by an employer with respect to 621
employment in another state, upon which contributions were 622
required and paid by such employer under the unemployment 623
compensation act of such other state, shall be included as a part 624
of remuneration in computing the amount specified in this 625
division. 626

(2) Notwithstanding division (G)(1) of this section, if, as 627
of the computation date for any calendar year, the director 628
determines that the level of the unemployment compensation fund is 629
sixty per cent or more below the minimum safe level as defined in 630
section 4141.25 of the Revised Code, then, effective the first day 631
of January of the following calendar year, wages subject to this 632
chapter shall not include that part of remuneration paid during 633
any calendar year to an individual by an employer or such 634
employer's predecessor in interest in the same business or 635
enterprise which is in excess of nine thousand dollars. The 636
increase in the dollar amount of wages subject to this chapter 637
under this division shall remain in effect from the date of the 638
director's determination pursuant to division (G)(2) of this 639
section and thereafter notwithstanding the fact that the level in 640

the fund may subsequently become less than sixty per cent below 641
the minimum safe level. 642

(H)(1) "Remuneration" means all compensation for personal 643
services, including commissions and bonuses and the cash value of 644
all compensation in any medium other than cash, except that in the 645
case of agricultural or domestic service, "remuneration" includes 646
only cash remuneration. Gratuities customarily received by an 647
individual in the course of the individual's employment from 648
persons other than the individual's employer and which are 649
accounted for by such individual to the individual's employer are 650
taxable wages. 651

The reasonable cash value of compensation paid in any medium 652
other than cash shall be estimated and determined in accordance 653
with rules prescribed by the director, provided that 654
"remuneration" does not include: 655

(a) Payments as provided in divisions (b)(2) to (b)(16) of 656
section 3306 of the "Federal Unemployment Tax Act," 84 Stat. 713, 657
26 U.S.C.A. 3301 to 3311, as amended; 658

(b) The payment by an employer, without deduction from the 659
remuneration of the individual in the employer's employ, of the 660
tax imposed upon an individual in the employer's employ under 661
section 3101 of the "Internal Revenue Code of 1954," with respect 662
to services performed after October 1, 1941. 663

(2) "Cash remuneration" means all remuneration paid in cash, 664
including commissions and bonuses, but not including the cash 665
value of all compensation in any medium other than cash. 666

(I) "Interested party" means the director and any party to 667
whom notice of a determination of an application for benefit 668
rights or a claim for benefits is required to be given under 669
section 4141.28 of the Revised Code. 670

(J) "Annual payroll" means the total amount of wages subject 671

to contributions during a twelve-month period ending with the last 672
day of the second calendar quarter of any calendar year. 673

(K) "Average annual payroll" means the average of the last 674
three annual payrolls of an employer, provided that if, as of any 675
computation date, the employer has had less than three annual 676
payrolls in such three-year period, such average shall be based on 677
the annual payrolls which the employer has had as of such date. 678

(L)(1) "Contributions" means the money payments to the state 679
unemployment compensation fund required of employers by section 680
4141.25 of the Revised Code and of the state and any of its 681
political subdivisions electing to pay contributions under section 682
4141.242 of the Revised Code. Employers paying contributions shall 683
be described as "contributory employers." 684

(2) "Payments in lieu of contributions" means the money 685
payments to the state unemployment compensation fund required of 686
reimbursing employers under sections 4141.241 and 4141.242 of the 687
Revised Code. 688

(M) An individual is "totally unemployed" in any week during 689
which the individual performs no services and with respect to such 690
week no remuneration is payable to the individual. 691

(N) An individual is "partially unemployed" in any week if, 692
due to involuntary loss of work, the total remuneration payable to 693
the individual for such week is less than the individual's weekly 694
benefit amount. 695

(O) "Week" means the calendar week ending at midnight 696
Saturday unless an equivalent week of seven consecutive calendar 697
days is prescribed by the director. 698

(1) "Qualifying week" means any calendar week in an 699
individual's base period with respect to which the individual 700
earns or is paid remuneration in employment subject to this 701
chapter. A calendar week with respect to which an individual earns 702

remuneration but for which payment was not made within the base 703
period, when necessary to qualify for benefit rights, may be 704
considered to be a qualifying week. The number of qualifying weeks 705
which may be established in a calendar quarter shall not exceed 706
the number of calendar weeks in the quarter. 707

(2) "Average weekly wage" means the amount obtained by 708
dividing an individual's total remuneration for all qualifying 709
weeks during the base period by the number of such qualifying 710
weeks, provided that if the computation results in an amount that 711
is not a multiple of one dollar, such amount shall be rounded to 712
the next lower multiple of one dollar. 713

(P) "Weekly benefit amount" means the amount of benefits an 714
individual would be entitled to receive for one week of total 715
unemployment. 716

(Q)(1) "Base period" means the first four of the last five 717
completed calendar quarters immediately preceding the first day of 718
an individual's benefit year, except as provided in division 719
(Q)(2) of this section. 720

(2) If an individual does not have sufficient qualifying 721
weeks and wages in the base period to qualify for benefit rights, 722
the individual's base period shall be the four most recently 723
completed calendar quarters preceding the first day of the 724
individual's benefit year. Such base period shall be known as the 725
"alternate base period." If information as to weeks and wages for 726
the most recent quarter of the alternate base period is not 727
available to the director from the regular quarterly reports of 728
wage information, which are systematically accessible, the 729
director may, consistent with the provisions of section 4141.28 of 730
the Revised Code, base the determination of eligibility for 731
benefits on the affidavit of the claimant with respect to weeks 732
and wages for that calendar quarter. The claimant shall furnish 733
payroll documentation, where available, in support of the 734

affidavit. The determination based upon the alternate base period 735
as it relates to the claimant's benefit rights, shall be amended 736
when the quarterly report of wage information from the employer is 737
timely received and that information causes a change in the 738
determination. As provided in division (B) of section 4141.28 of 739
the Revised Code, any benefits paid and charged to an employer's 740
account, based upon a claimant's affidavit, shall be adjusted 741
effective as of the beginning of the claimant's benefit year. No 742
calendar quarter in a base period or alternate base period shall 743
be used to establish a subsequent benefit year. 744

(3) The "base period" of a combined wage claim, as described 745
in division (H) of section 4141.43 of the Revised Code, shall be 746
the base period prescribed by the law of the state in which the 747
claim is allowed. 748

(4) For purposes of determining the weeks that comprise a 749
completed calendar quarter under this division, only those weeks 750
ending at midnight Saturday within the calendar quarter shall be 751
utilized. 752

(R)(1) "Benefit year" with respect to an individual means the 753
fifty-two week period beginning with the first day of that week 754
with respect to which the individual first files a valid 755
application for determination of benefit rights, and thereafter 756
the fifty-two week period beginning with the first day of that 757
week with respect to which the individual next files a valid 758
application for determination of benefit rights after the 759
termination of the individual's last preceding benefit year, 760
except that the application shall not be considered valid unless 761
the individual has had employment in six weeks that is subject to 762
this chapter or the unemployment compensation act of another 763
state, or the United States, and has, since the beginning of the 764
individual's previous benefit year, in the employment earned three 765
times the average weekly wage determined for the previous benefit 766

year. The "benefit year" of a combined wage claim, as described in 767
division (H) of section 4141.43 of the Revised Code, shall be the 768
benefit year prescribed by the law of the state in which the claim 769
is allowed. Any application for determination of benefit rights 770
made in accordance with section 4141.28 of the Revised Code is 771
valid if the individual filing such application is unemployed, has 772
been employed by an employer or employers subject to this chapter 773
in at least twenty qualifying weeks within the individual's base 774
period, and has earned or been paid remuneration at an average 775
weekly wage of not less than twenty-seven and one-half per cent of 776
the statewide average weekly wage for such weeks. For purposes of 777
determining whether an individual has had sufficient employment 778
since the beginning of the individual's previous benefit year to 779
file a valid application, "employment" means the performance of 780
services for which remuneration is payable. 781

(2) Effective for benefit years beginning on and after 782
December ~~28, 2003~~ 26, 2004, any application for determination of 783
benefit rights made in accordance with section 4141.28 of the 784
Revised Code is valid if the individual satisfies the criteria 785
described in division (R)(1) of this section, and if the reason 786
for the individual's separation from employment is not 787
disqualifying pursuant to division (D)(2) of section 4141.29 or 788
section 4141.291 of the Revised Code. A disqualification imposed 789
pursuant to division (D)(2) of section 4141.29 or section 4141.291 790
of the Revised Code must be removed as provided in those sections 791
as a requirement of establishing a valid application for benefit 792
years beginning on and after December ~~28, 2003~~ 26, 2004. 793

(3) The statewide average weekly wage shall be calculated by 794
the director once a year based on the twelve-month period ending 795
the thirtieth day of June, as set forth in division (B)(3) of 796
section 4141.30 of the Revised Code, rounded down to the nearest 797
dollar. Increases or decreases in the amount of remuneration 798

required to have been earned or paid in order for individuals to 799
have filed valid applications shall become effective on Sunday of 800
the calendar week in which the first day of January occurs that 801
follows the twelve-month period ending the thirtieth day of June 802
upon which the calculation of the statewide average weekly wage 803
was based. 804

(4) As used in this division, an individual is "unemployed" 805
if, with respect to the calendar week in which such application is 806
filed, the individual is "partially unemployed" or "totally 807
unemployed" as defined in this section or if, prior to filing the 808
application, the individual was separated from the individual's 809
most recent work for any reason which terminated the individual's 810
employee-employer relationship, or was laid off indefinitely or 811
for a definite period of seven or more days. 812

(S) "Calendar quarter" means the period of three consecutive 813
calendar months ending on the thirty-first day of March, the 814
thirtieth day of June, the thirtieth day of September, and the 815
thirty-first day of December, or the equivalent thereof as the 816
director prescribes by rule. 817

(T) "Computation date" means the first day of the third 818
calendar quarter of any calendar year. 819

(U) "Contribution period" means the calendar year beginning 820
on the first day of January of any year. 821

(V) "Agricultural labor," for the purpose of this division, 822
means any service performed prior to January 1, 1972, which was 823
agricultural labor as defined in this division prior to that date, 824
and service performed after December 31, 1971: 825

(1) On a farm, in the employ of any person, in connection 826
with cultivating the soil, or in connection with raising or 827
harvesting any agricultural or horticultural commodity, including 828
the raising, shearing, feeding, caring for, training, and 829

management of livestock, bees, poultry, and fur-bearing animals 830
and wildlife; 831

(2) In the employ of the owner or tenant or other operator of 832
a farm in connection with the operation, management, conservation, 833
improvement, or maintenance of such farm and its tools and 834
equipment, or in salvaging timber or clearing land of brush and 835
other debris left by hurricane, if the major part of such service 836
is performed on a farm; 837

(3) In connection with the production or harvesting of any 838
commodity defined as an agricultural commodity in section 15 (g) 839
of the "Agricultural Marketing Act," 46 Stat. 1550 (1931), 12 840
U.S.C. 1141j, as amended, or in connection with the ginning of 841
cotton, or in connection with the operation or maintenance of 842
ditches, canals, reservoirs, or waterways, not owned or operated 843
for profit, used exclusively for supplying and storing water for 844
farming purposes; 845

(4) In the employ of the operator of a farm in handling, 846
planting, drying, packing, packaging, processing, freezing, 847
grading, storing, or delivering to storage or to market or to a 848
carrier for transportation to market, in its unmanufactured state, 849
any agricultural or horticultural commodity, but only if the 850
operator produced more than one half of the commodity with respect 851
to which such service is performed; 852

(5) In the employ of a group of operators of farms, or a 853
cooperative organization of which the operators are members, in 854
the performance of service described in division (V)(4) of this 855
section, but only if the operators produced more than one-half of 856
the commodity with respect to which the service is performed; 857

(6) Divisions (V)(4) and (5) of this section shall not be 858
deemed to be applicable with respect to service performed: 859

(a) In connection with commercial canning or commercial 860

freezing or in connection with any agricultural or horticultural 861
commodity after its delivery to a terminal market for distribution 862
for consumption; or 863

(b) On a farm operated for profit if the service is not in 864
the course of the employer's trade or business. 865

As used in division (V) of this section, "farm" includes 866
stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, 867
plantations, ranches, nurseries, ranges, greenhouses, or other 868
similar structures used primarily for the raising of agricultural 869
or horticultural commodities and orchards. 870

(W) "Hospital" means an institution which has been registered 871
or licensed by the Ohio department of health as a hospital. 872

(X) "Nonprofit organization" means an organization, or group 873
of organizations, described in section 501(c)(3) of the "Internal 874
Revenue Code of 1954," and exempt from income tax under section 875
501(a) of that code. 876

(Y) "Institution of higher education" means a public or 877
nonprofit educational institution which: 878

(1) Admits as regular students only individuals having a 879
certificate of graduation from a high school, or the recognized 880
equivalent; 881

(2) Is legally authorized in this state to provide a program 882
of education beyond high school; and 883

(3) Provides an educational program for which it awards a 884
bachelor's or higher degree, or provides a program which is 885
acceptable for full credit toward such a degree, a program of 886
post-graduate or post-doctoral studies, or a program of training 887
to prepare students for gainful employment in a recognized 888
occupation. 889

For the purposes of this division, all colleges and 890

universities in this state are institutions of higher education. 891

(Z) For the purposes of this chapter, "states" includes the 892
District of Columbia, the Commonwealth of Puerto Rico, and the 893
Virgin Islands. 894

(AA) "Alien" means, for the purposes of division (A)(1)(d) of 895
this section, an individual who is an alien admitted to the United 896
States to perform service in agricultural labor pursuant to 897
sections 214 (c) and 101 (a)(15)(H) of the "Immigration and 898
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101. 899

(BB)(1) "Crew leader" means an individual who furnishes 900
individuals to perform agricultural labor for any other employer 901
or farm operator, and: 902

(a) Pays, either on the individual's own behalf or on behalf 903
of the other employer or farm operator, the individuals so 904
furnished by the individual for the service in agricultural labor 905
performed by them; 906

(b) Has not entered into a written agreement with the other 907
employer or farm operator under which the agricultural worker is 908
designated as in the employ of the other employer or farm 909
operator. 910

(2) For the purposes of this chapter, any individual who is a 911
member of a crew furnished by a crew leader to perform service in 912
agricultural labor for any other employer or farm operator shall 913
be treated as an employee of the crew leader if: 914

(a) The crew leader holds a valid certificate of registration 915
under the "Farm Labor Contractor Registration Act of 1963," 90 916
Stat. 2668, 7 U.S.C. 2041; or 917

(b) Substantially all the members of the crew operate or 918
maintain tractors, mechanized harvesting or crop-dusting 919
equipment, or any other mechanized equipment, which is provided by 920

the crew leader; and 921

(c) If the individual is not in the employment of the other 922
employer or farm operator within the meaning of division (B)(1) of 923
this section. 924

(3) For the purposes of this division, any individual who is 925
furnished by a crew leader to perform service in agricultural 926
labor for any other employer or farm operator and who is not 927
treated as in the employment of the crew leader under division 928
(BB)(2) of this section shall be treated as the employee of the 929
other employer or farm operator and not of the crew leader. The 930
other employer or farm operator shall be treated as having paid 931
cash remuneration to the individual in an amount equal to the 932
amount of cash remuneration paid to the individual by the crew 933
leader, either on the crew leader's own behalf or on behalf of the 934
other employer or farm operator, for the service in agricultural 935
labor performed for the other employer or farm operator. 936

(CC) "Educational institution" means an institution other 937
than an institution of higher education as defined in division (Y) 938
of this section which: 939

(1) Offers participants, trainees, or students an organized 940
course of study or training designed to transfer to them 941
knowledge, skills, information, doctrines, attitudes, or abilities 942
from, by, or under the guidance of an instructor or teacher; and 943

(2) Is approved, chartered, or issued a permit to operate as 944
a school by the state board of education or other government 945
agency that is authorized within the state to approve, charter, or 946
issue a permit for the operation of a school. 947

For the purposes of this division, the courses of study or 948
training which the institution offers may be academic, technical, 949
trade, or preparation for gainful employment in a recognized 950
occupation. 951

officer level and the review level. Unless otherwise provided in 981
this chapter, initial hearings involving claims for compensation 982
and other unemployment compensation issues are conducted at the 983
hearing officer level by hearing officers appointed by the 984
commission. Hearings at the review level are conducted by hearing 985
officers appointed by the commission, by members of the commission 986
acting either individually or collectively, and by members of the 987
commission and hearing officers acting jointly. In all hearings 988
conducted at the review level, the commission shall designate the 989
hearing officer or officers who are to conduct the hearing. When 990
the term "hearing officer" is used in reference to hearings 991
conducted at the review level, the term includes members of the 992
commission. All decisions issued at the review level are issued by 993
the commission. 994

Provisions contained in the remainder of this paragraph apply 995
to hearings at both the hearing officer level and the review 996
level. The principles of due process in administrative hearings 997
shall be applied to all hearings conducted under the authority of 998
the commission. In conducting hearings, all hearing officers shall 999
control the conduct of the hearing, exclude irrelevant or 1000
cumulative evidence, and give weight to the kind of evidence on 1001
which reasonably prudent persons are accustomed to rely in the 1002
conduct of serious affairs. Hearing officers have an affirmative 1003
duty to question parties and witnesses in order to ascertain the 1004
relevant facts and to fully and fairly develop the record. Hearing 1005
officers are not bound by common law or statutory rules of 1006
evidence or by technical or formal rules of procedure. No person 1007
shall impose upon the claimant or the employer any burden of proof 1008
as is required in a court of law. The proceedings at hearings 1009
shall be recorded by mechanical means or otherwise as may be 1010
prescribed by the commission. In the absence of further 1011
proceedings, the record need not be transcribed. After considering 1012
all of the evidence, a hearing officer shall issue a written 1013

decision that sets forth the facts as the hearing officer finds 1014
them to be, cites the applicable law, and gives the reasoning for 1015
the decision. 1016

(3) HEARING OFFICER LEVEL 1017

When an appeal is transferred to the commission by the 1018
director, the commission shall notify all interested parties of 1019
the time and place of the hearing and assign the appeal for a 1020
hearing by a hearing officer. The hearings shall be de novo, 1021
except that the director's file pertaining to a case shall be 1022
included in the record to be considered. 1023

Following a hearing, the hearing officer shall affirm, 1024
modify, or reverse the determination of the director in the manner 1025
that appears just and proper. The hearing officer's written 1026
decision shall be sent to all interested parties. The decision 1027
shall state the right of an interested party to request a review 1028
by the commission. 1029

A request for review shall be filed within twenty-one days 1030
after the decision was sent to the party, or within an extended 1031
period as provided under division (D)(9) of this section. The 1032
hearing officer's decision shall become final unless a request for 1033
review is filed and allowed or the commission removes the appeal 1034
to itself within twenty-one days after the hearing officer's 1035
decision is sent. 1036

(4) REVIEW LEVEL 1037

At the review level, the commission may affirm, modify, or 1038
reverse previous determinations by the director or at the hearing 1039
officer level. At the review level, the commission may affirm, 1040
modify, or reverse a hearing officer's decision or remand the 1041
decision to the hearing officer level for further hearing. The 1042
commission shall consider an appeal at the review level under the 1043
following circumstances: when an appeal is required to be heard 1044

initially at the review level under this chapter; when the 1045
commission on its own motion removes an appeal to itself within 1046
twenty-one days after the hearing officer's decision is sent; when 1047
the assigned hearing officer refers an appeal to the commission 1048
before the hearing officer's decision is sent; or when an 1049
interested party files a request for review with the commission 1050
within twenty-one days after the hearing officer's decision is 1051
sent. 1052

(5) COMMISSION EXAMINATION 1053

The commission shall consider a request for review by an 1054
interested party, including the reasons for the request. The 1055
commission may adopt rules prescribing the methods for requesting 1056
a review. The commission may allow or disallow the request for 1057
review. The disallowance of a request for review constitutes a 1058
final decision by the commission. 1059

(6) REVIEW PROCEDURE 1060

If the commission allows a request for review, the commission 1061
shall notify all interested parties of that fact and provide a 1062
reasonable period of time, as the commission defines by rule, in 1063
which interested parties may file a response. After that period of 1064
time, the commission, based on the record before it, may do one of 1065
the following: affirm the decision of the hearing officer; provide 1066
for the appeal to be heard or reheard at the hearing officer or 1067
review level; provide for the appeal to be heard at the review 1068
level as a potential precedential decision; or provide for the 1069
decision to be rewritten without further hearing at the review 1070
level. When a further hearing is provided or the decision is 1071
rewritten, the commission may affirm, modify, or reverse the 1072
previous decision. 1073

(7) NOTICES 1074

The commission shall send written notice to all interested 1075

parties when it orders an appeal to be heard or reheard. The 1076
notice shall include the reasons for the hearing or rehearing. 1077

(8) PRECEDENTIAL 1078

An appeal the commission identifies as potentially 1079
precedential shall be heard at the review level. In the notice for 1080
that type of hearing, the commission shall notify the director, 1081
all interested parties, and any other parties, as the commission 1082
determines appropriate, that the appeal is designated as 1083
potentially precedential. After the hearing, parties shall be 1084
given the opportunity to submit briefs on the issue or issues 1085
involved. The commission may designate a decision as precedential 1086
after issuing the decision or at any point in the appeal process, 1087
even if the commission does not initially identify the appeal as 1088
potentially precedential. 1089

(9) MASS APPEALS 1090

When the commission determines that it has five appeals 1091
pending that have common facts or common issues, the commission 1092
may transfer the appeals to the review level on its own motion to 1093
be heard as a mass appeal, including appeals from claimants 1094
separated due to a labor dispute, on the condition that there are 1095
fewer than twenty-five claimants involved. 1096

To facilitate a mass hearing, the commission may allow an 1097
authorized agent to accept notice of hearing on behalf of 1098
claimants. An authorized agent may waive this notice of hearing 1099
and also the sending of decisions to individual claimants 1100
represented by the agent. 1101

(D) SPECIAL PROVISIONS 1102

(1) TIMELINESS OF APPEALS 1103

The date of the mailing provided by the director or the 1104
commission is sufficient evidence upon which to conclude that a 1105

determination, redetermination, or decision was sent to the party 1106
on that date. Appeals may be filed with the director, commission, 1107
with an employee of another state or federal agency charged with 1108
the duty of accepting claims, or with the unemployment insurance 1109
commission of Canada. Any timely written notice by an interested 1110
party indicating a desire to appeal shall be accepted. 1111

The director, commission, or authorized agent must receive 1112
the appeal within the specified appeal period in order for the 1113
appeal to be deemed timely filed, except that: if the United 1114
States postal service is used as the means of delivery, the 1115
enclosing envelope must have a postmark date or postal meter 1116
postmark that is on or before the last day of the specified appeal 1117
period; and where the postmark is illegible or missing, the appeal 1118
is timely filed if received not later than the end of the fifth 1119
calendar day following the last day of the specified appeal 1120
period. 1121

The director and the commission may adopt rules pertaining to 1122
alternate methods of filing appeals under this section. 1123

(2) WAIVER 1124

Interested parties may waive, in writing, a hearing at either 1125
the hearing officer or review level. If the parties waive a 1126
hearing, the hearing officer shall issue a decision based on the 1127
evidence of record. 1128

(3) TELEPHONE HEARINGS 1129

Hearing officers may conduct hearings at either the hearing 1130
officer or review level in person or by telephone. The commission 1131
shall adopt rules that designate the circumstances under which 1132
hearing officers may conduct a hearing by telephone or grant a 1133
party to the hearing the opportunity to object to a hearing by 1134
telephone. An interested party whose hearing would be by telephone 1135
may elect to have an in-person hearing, provided that the party 1136

agrees to have the hearing at the time and place the commission 1137
determines pursuant to rule. 1138

(4) EVENING HEARINGS 1139

Where a party requests that a hearing at either the hearing 1140
officer or review level be scheduled in the evening because the 1141
party is employed during the day, the commission shall schedule 1142
the hearing during hours that the party is not employed. If a 1143
conflict concerning a request for an evening hearing and an 1144
in-person hearing arises, the commission shall schedule the 1145
hearing by telephone during evening hours. 1146

(5) NO APPEARANCE -- APPELLANT 1147

For hearings at either the hearing officer or review level, 1148
if the appealing party fails to appear at the hearing, the hearing 1149
officer shall dismiss the appeal. The commission shall vacate the 1150
dismissal upon a showing that written notice of the hearing was 1151
not sent to that party's last known address, or good cause for the 1152
appellant's failure to appear is shown to the commission within 1153
fourteen days after the hearing date. 1154

If the commission finds that the appealing party's reason for 1155
failing to appear does not constitute good cause for failing to 1156
appear, the commission shall send written notice of that finding, 1157
and the appealing party may request a hearing to present testimony 1158
on the issue of good cause for failing to appear. The appealing 1159
party shall file a request for a hearing on the issue of good 1160
cause for failing to appear within ten days after the commission 1161
sends written notice indicating a finding of no good cause for 1162
failing to appear. 1163

(6) NO APPEARANCE -- APPELLEE 1164

For hearings at either the hearing officer or review level, 1165
if the appellee fails to appear at the hearing, the hearing 1166
officer shall proceed with the hearing and shall issue a decision 1167

based on the evidence of record. The commission shall vacate the 1168
decision upon a showing that written notice of the hearing was not 1169
sent to the appellee's last known address, or good cause for the 1170
appellee's failure to appear is shown to the commission within 1171
fourteen days after the hearing date. 1172

(7) AGENT 1173

Any appeal or request for review may be executed on behalf of 1174
any party or any group of claimants by an agent. 1175

(8) COLLATERAL ESTOPPEL 1176

No finding of fact or law, decision, or order of the 1177
director, hearing officer, ~~or~~ the commission, or a reviewing court 1178
under this section or section 4141.28 of the Revised Code shall be 1179
given collateral estoppel or res judicata effect in any separate 1180
or subsequent judicial, administrative, or arbitration proceeding, 1181
other than a proceeding arising under this chapter. 1182

(9) EXTENSION OF APPEAL PERIODS 1183

The time for filing an appeal or a request for review under 1184
this section or a court appeal under section 4141.282 of the 1185
Revised Code shall be extended in the manner described in the 1186
following four sentences. When the last day of an appeal period is 1187
a Saturday, Sunday, or legal holiday, the appeal period is 1188
extended to the next work day after the Saturday, Sunday, or legal 1189
holiday. When an interested party provides certified medical 1190
evidence stating that the interested party's physical condition or 1191
mental capacity prevented the interested party from filing an 1192
appeal or request for review under this section within the 1193
appropriate twenty-one-day period, the appeal period is extended 1194
to twenty-one days after the end of the physical or mental 1195
condition, and the appeal or request for review is considered 1196
timely filed if filed within that extended period. When an 1197
interested party provides evidence, which evidence may consist of 1198

testimony from the interested party, that is sufficient to 1199
establish that the party did not actually receive the 1200
determination or decision within the applicable appeal period 1201
under this section, and the director or the commission finds that 1202
the interested party did not actually receive the determination or 1203
decision within the applicable appeal period, then the appeal 1204
period is extended to twenty-one days after the interested party 1205
actually receives the determination or decision. When an 1206
interested party provides evidence, which evidence may consist of 1207
testimony from the interested party, that is sufficient to 1208
establish that the party did not actually receive a decision 1209
within the thirty-day appeal period provided in section 4141.282 1210
of the Revised Code, and a court of common pleas finds that the 1211
interested party did not actually receive the decision within that 1212
thirty-day appeal period, then the appeal period is extended to 1213
thirty days after the interested party actually receives the 1214
decision. 1215

Sec. 4141.29. Each eligible individual shall receive benefits 1216
as compensation for loss of remuneration due to involuntary total 1217
or partial unemployment in the amounts and subject to the 1218
conditions stipulated in this chapter. 1219

(A) No individual is entitled to a waiting period or benefits 1220
for any week unless the individual: 1221

(1) Has filed a valid application for determination of 1222
benefit rights in accordance with section 4141.28 of the Revised 1223
Code; 1224

(2) Has made a claim for benefits in accordance with section 1225
4141.28 of the Revised Code; 1226

(3) Has registered at an employment office or other 1227
registration place maintained or designated by the director of job 1228
and family services. Registration shall be made in accordance with 1229

the time limits, frequency, and manner prescribed by the director. 1230

(4)(a)(i) Is able to work and available for suitable work 1231
and, except as provided in division (A)(4)(a)(ii) of this section, 1232
is actively seeking suitable work either in a locality in which 1233
the individual has earned wages subject to this chapter during the 1234
individual's base period, or if the individual leaves that 1235
locality, then in a locality where suitable work normally is 1236
performed. 1237

(ii) The director may waive the requirement that a claimant 1238
be actively seeking work when the director finds that ~~an~~ either of 1239
the following is true: 1240

(I) The individual's unemployment is directly attributable to 1241
a major disaster declared by the president of the United States 1242
pursuant to the "Disaster Relief Act of 1974," 88 Stat. 143, 42 1243
U.S.C. 5121, and the employer's operation was adversely affected 1244
by the disaster, requests a waiver; 1245

(II) The individual has been laid off and the employer who 1246
laid the individual off has notified the director within ten days 1247
after the layoff, that work is expected to be available for the 1248
individual within a specified number of days not to exceed 1249
forty-five calendar days following the last day the individual 1250
worked. In the event the individual is not recalled within the 1251
specified period, this waiver shall cease to be operative with 1252
respect to that layoff. 1253

(b) The individual shall be instructed as to the efforts that 1254
the individual must make in the search for suitable work, except 1255
where the active search for work requirement has been waived under 1256
division (A)(4)(a) of this section, and shall keep a record of 1257
where and when the individual has sought work in complying with 1258
those instructions and, upon request, shall produce that record 1259
for examination by the director. 1260

(c) An individual who is attending a training course approved 1261
by the director meets the requirement of this division, if 1262
attendance was recommended by the director and the individual is 1263
regularly attending the course and is making satisfactory 1264
progress. An individual also meets the requirements of this 1265
division if the individual is participating and advancing in a 1266
training program, as defined in division (P) of section 5709.61 of 1267
the Revised Code, and if an enterprise, defined in division (B) of 1268
section 5709.61 of the Revised Code, is paying all or part of the 1269
cost of the individual's participation in the training program 1270
with the intention of hiring the individual for employment as a 1271
new employee, as defined in division (L) of section 5709.61 of the 1272
Revised Code, for at least ninety days after the individual's 1273
completion of the training program. 1274

(d) An individual who becomes unemployed while attending a 1275
regularly established school and whose base period qualifying 1276
weeks were earned in whole or in part while attending that school, 1277
meets the availability and active search for work requirements of 1278
division (A)(4)(a) of this section if the individual regularly 1279
attends the school during weeks with respect to which the 1280
individual claims unemployment benefits and makes self available 1281
on any shift of hours for suitable employment with the 1282
individual's most recent employer or any other employer in the 1283
individual's base period, or for any other suitable employment to 1284
which the individual is directed, under this chapter. 1285

(e) The director shall adopt any rules that the director 1286
deems necessary for the administration of division (A)(4) of this 1287
section. 1288

(f) Notwithstanding any other provisions of this section, no 1289
otherwise eligible individual shall be denied benefits for any 1290
week because the individual is in training approved under section 1291
236(a)(1) of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 1292

2296, nor shall that individual be denied benefits by reason of 1293
leaving work to enter such training, provided the work left is not 1294
suitable employment, or because of the application to any week in 1295
training of provisions in this chapter, or any applicable federal 1296
unemployment compensation law, relating to availability for work, 1297
active search for work, or refusal to accept work. 1298

For the purposes of division (A)(4)(f) of this section, 1299
"suitable employment" means with respect to an individual, work of 1300
a substantially equal or higher skill level than the individual's 1301
past adversely affected employment, as defined for the purposes of 1302
the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, and 1303
wages for such work at not less than eighty per cent of the 1304
individual's average weekly wage as determined for the purposes of 1305
that federal act. 1306

(5) Is unable to obtain suitable work. An individual who is 1307
provided temporary work assignments by the individual's employer 1308
under agreed terms and conditions of employment, and who is 1309
required pursuant to those terms and conditions to inquire with 1310
the individual's employer for available work assignments upon the 1311
conclusion of each work assignment, is not considered unable to 1312
obtain suitable employment if suitable work assignments are 1313
available with the employer but the individual fails to contact 1314
the employer to inquire about work assignments. 1315

(6) Participates in reemployment services, such as job search 1316
assistance services, if the individual has been determined to be 1317
likely to exhaust benefits under this chapter, including 1318
compensation payable pursuant to 5 U.S.C.A. Chapter 85, other than 1319
extended compensation, and needs reemployment services pursuant to 1320
the profiling system established by the director under division 1321
(K) of this section, unless the director determines that: 1322

(a) The individual has completed such services; or 1323

(b) There is justifiable cause for the claimant's failure to participate in such services. 1324
1325

(B) An individual suffering total or partial unemployment is 1326
eligible for benefits for unemployment occurring subsequent to a 1327
waiting period of one week and no benefits shall be payable during 1328
this required waiting period, ~~but no~~ except when the unemployment 1329
during this waiting period is directly attributable to a major 1330
disaster declared by the president of the United States pursuant 1331
to the "Disaster Relief Act of 1974," 88 Stat. 143, 42 U.S.C. 1332
5121. Not more than one week of waiting period shall be required 1333
of any ~~such~~ individual in any benefit year in order to establish 1334
the individual's eligibility for total or partial unemployment 1335
benefits. 1336

(C) The waiting period for total or partial unemployment 1337
shall commence on the first day of the first week with respect to 1338
which the individual first files a claim for benefits at an 1339
employment office or other place of registration maintained or 1340
designated by the director or on the first day of the first week 1341
with respect to which the individual has otherwise filed a claim 1342
for benefits in accordance with the rules of the department of job 1343
and family services, provided such claim is allowed by the 1344
director. 1345

(D) Notwithstanding division (A) of this section, no 1346
individual may serve a waiting period or be paid benefits under 1347
the following conditions: 1348

(1) For any week with respect to which the director finds 1349
that: 1350

(a) The individual's unemployment was due to a labor dispute 1351
other than a lockout at any factory, establishment, or other 1352
premises located in this or any other state and owned or operated 1353
by the employer by which the individual is or was last employed; 1354

and for so long as the individual's unemployment is due to such 1355
labor dispute. No individual shall be disqualified under this 1356
provision if either of the following applies: 1357

(i) The individual's employment was with such employer at any 1358
factory, establishment, or premises located in this state, owned 1359
or operated by such employer, other than the factory, 1360
establishment, or premises at which the labor dispute exists, if 1361
it is shown that the individual is not financing, participating 1362
in, or directly interested in such labor dispute; 1363

(ii) The individual's employment was with an employer not 1364
involved in the labor dispute but whose place of business was 1365
located within the same premises as the employer engaged in the 1366
dispute, unless the individual's employer is a wholly owned 1367
subsidiary of the employer engaged in the dispute, or unless the 1368
individual actively participates in or voluntarily stops work 1369
because of such dispute. If it is established that the claimant 1370
was laid off for an indefinite period and not recalled to work 1371
prior to the dispute, or was separated by the employer prior to 1372
the dispute for reasons other than the labor dispute, or that the 1373
individual obtained a bona fide job with another employer while 1374
the dispute was still in progress, such labor dispute shall not 1375
render the employee ineligible for benefits. 1376

(b) The individual has been given a disciplinary layoff for 1377
misconduct in connection with the individual's work. 1378

(2) For the duration of the individual's unemployment if the 1379
director finds that: 1380

(a) The individual quit work without just cause or has been 1381
discharged for just cause in connection with the individual's 1382
work, provided division (D)(2) of this section does not apply to 1383
the separation of a person under any of the following 1384
circumstances: 1385

(i) Separation from employment for the purpose of entering the armed forces of the United States if the individual makes application to enter, or is inducted into the armed forces within thirty days after such separation;

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

(iii) The individual has left employment to accept a recall from a prior employer or, except as provided in division (D)(2)(a)(iv) of this section, to accept other employment as provided under section 4141.291 of the Revised Code, or left or was separated from employment that was concurrent employment at the time of the most recent separation or within six weeks prior to the most recent separation where the remuneration, hours, or other conditions of such concurrent employment were substantially less favorable than the individual's most recent employment and where such employment, if offered as new work, would be considered not suitable under the provisions of divisions (E) and (F) of this section. Any benefits that would otherwise be chargeable to the account of the employer from whom an individual has left employment or was separated from employment that was concurrent employment under conditions described in division (D)(2)(a)(iii) of this section, shall instead be charged to the mutualized account created by division (B) of section 4141.25 of the Revised Code, except that any benefits chargeable to the account of a reimbursing employer under division (D)(2)(a)(iii) of this section shall be charged to the account of the reimbursing employer and not to the mutualized account, except as provided in division (D)(2) of section 4141.24 of the Revised Code.

(iv) When an individual has been issued a definite layoff

date by the individual's employer and before the layoff date, the 1418
individual quits to accept other employment, the provisions of 1419
division (D)(2)(a)(iii) of this section apply and no 1420
disqualification shall be imposed under division (D) of this 1421
section. However, if the individual fails to meet the employment 1422
and earnings requirements of division (A)(2) of section 4141.291 1423
of the Revised Code, then the individual, pursuant to division 1424
(A)(5) of this section, shall be ineligible for benefits for any 1425
week of unemployment that occurs prior to the layoff date. 1426

(b) The individual has refused without good cause to accept 1427
an offer of suitable work when made by an employer either in 1428
person or to the individual's last known address, or has refused 1429
or failed to investigate a referral to suitable work when directed 1430
to do so by a local employment office of this state or another 1431
state, provided that this division shall not cause a 1432
disqualification for a waiting week or benefits under the 1433
following circumstances: 1434

(i) When work is offered by the individual's employer and the 1435
individual is not required to accept the offer pursuant to the 1436
terms of the labor-management contract or agreement; or 1437

(ii) When the individual is attending a vocational training 1438
course pursuant to division (A)(4) of this section except, in the 1439
event of a refusal to accept an offer of suitable work or a 1440
refusal or failure to investigate a referral, benefits thereafter 1441
paid to such individual shall not be charged to the account of any 1442
employer and, except as provided in division (B)(1)(b) of section 1443
4141.241 of the Revised Code, shall be charged to the mutualized 1444
account as provided in division (B) of section 4141.25 of the 1445
Revised Code. 1446

(c) Such individual quit work to marry or because of marital, 1447
parental, filial, or other domestic obligations. 1448

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

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

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

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

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

(1) As a condition of being so employed the individual would be required to join a company union, or to resign from or refrain from joining any bona fide labor organization, or would be denied

the right to retain membership in and observe the lawful rules of 1480
any such organization. 1481

(2) The position offered is vacant due directly to a strike, 1482
lockout, or other labor dispute. 1483

(3) The work is at an unreasonable distance from the 1484
individual's residence, having regard to the character of the work 1485
the individual has been accustomed to do, and travel to the place 1486
of work involves expenses substantially greater than that required 1487
for the individual's former work, unless the expense is provided 1488
for. 1489

(4) The remuneration, hours, or other conditions of the work 1490
offered are substantially less favorable to the individual than 1491
those prevailing for similar work in the locality. 1492

(F) Subject to the special exceptions contained in division 1493
(A)(4)(f) of this section and section 4141.301 of the Revised 1494
Code, in determining whether any work is suitable for a claimant 1495
in the administration of this chapter, the director, in addition 1496
to the determination required under division (E) of this section, 1497
shall consider the degree of risk to the claimant's health, 1498
safety, and morals, the individual's physical fitness for the 1499
work, the individual's prior training and experience, the length 1500
of the individual's unemployment, the distance of the available 1501
work from the individual's residence, and the individual's 1502
prospects for obtaining local work. 1503

(G) The "duration of unemployment" as used in this section 1504
means the full period of unemployment next ensuing after a 1505
separation from any base period or subsequent work and until an 1506
individual has become reemployed in employment subject to this 1507
chapter, or the unemployment compensation act of another state, or 1508
of the United States, and until such individual has worked six 1509
weeks and for those weeks has earned or been paid remuneration 1510

equal to six times an average weekly wage of not less than: 1511
eighty-five dollars and ten cents per week beginning on June 26, 1512
1990; and beginning on and after January 1, 1992, twenty-seven and 1513
one-half per cent of the statewide average weekly wage as computed 1514
each first day of January under division (B)(3) of section 4141.30 1515
of the Revised Code, rounded down to the nearest dollar, except 1516
for purposes of division (D)(2)(c) of this section, such term 1517
means the full period of unemployment next ensuing after a 1518
separation from such work and until such individual has become 1519
reemployed subject to the terms set forth above, and has earned 1520
wages equal to one-half of the individual's average weekly wage or 1521
sixty dollars, whichever is less. 1522

(H) If a claimant is disqualified under division (D)(2)(a), 1523
(c), or (e) of this section or found to be qualified under the 1524
exceptions provided in division (D)(2)(a)(i), (iii), or (iv) of 1525
this section or division (A)(2) of section 4141.291 of the Revised 1526
Code, then benefits that may become payable to such claimant, 1527
which are chargeable to the account of the employer from whom the 1528
individual was separated under such conditions, shall be charged 1529
to the mutualized account provided in section 4141.25 of the 1530
Revised Code, provided that no charge shall be made to the 1531
mutualized account for benefits chargeable to a reimbursing 1532
employer, except as provided in division (D)(2) of section 4141.24 1533
of the Revised Code. In the case of a reimbursing employer, the 1534
director shall refund or credit to the account of the reimbursing 1535
employer any over-paid benefits that are recovered under division 1536
(B) of section 4141.35 of the Revised Code. 1537

(I)(1) Benefits based on service in employment as provided in 1538
divisions (B)(2)(a) and (b) of section 4141.01 of the Revised Code 1539
shall be payable in the same amount, on the same terms, and 1540
subject to the same conditions as benefits payable on the basis of 1541
other service subject to this chapter; except that after December 1542

31, 1977: 1543

(a) Benefits based on service in an instructional, research, 1544
or principal administrative capacity in an institution of higher 1545
education, as defined in division (Y) of section 4141.01 of the 1546
Revised Code; or for an educational institution as defined in 1547
division (CC) of section 4141.01 of the Revised Code, shall not be 1548
paid to any individual for any week of unemployment that begins 1549
during the period between two successive academic years or terms, 1550
or during a similar period between two regular but not successive 1551
terms or during a period of paid sabbatical leave provided for in 1552
the individual's contract, if the individual performs such 1553
services in the first of those academic years or terms and has a 1554
contract or a reasonable assurance that the individual will 1555
perform services in any such capacity for any such institution in 1556
the second of those academic years or terms. 1557

(b) Benefits based on service for an educational institution 1558
or an institution of higher education in other than an 1559
instructional, research, or principal administrative capacity, 1560
shall not be paid to any individual for any week of unemployment 1561
which begins during the period between two successive academic 1562
years or terms of the employing educational institution or 1563
institution of higher education, provided the individual performed 1564
those services for the educational institution or institution of 1565
higher education during the first such academic year or term and, 1566
there is a reasonable assurance that such individual will perform 1567
those services for any educational institution or institution of 1568
higher education in the second of such academic years or terms. 1569

If compensation is denied to any individual for any week 1570
under division (I)(1)(b) of this section and the individual was 1571
not offered an opportunity to perform those services for an 1572
institution of higher education or for an educational institution 1573
for the second of such academic years or terms, the individual is 1574

entitled to a retroactive payment of compensation for each week 1575
for which the individual timely filed a claim for compensation and 1576
for which compensation was denied solely by reason of division 1577
(I)(1)(b) of this section. An application for retroactive benefits 1578
shall be timely filed if received by the director or the 1579
director's deputy within or prior to the end of the fourth full 1580
calendar week after the end of the period for which benefits were 1581
denied because of reasonable assurance of employment. The 1582
provision for the payment of retroactive benefits under division 1583
(I)(1)(b) of this section is applicable to weeks of unemployment 1584
beginning on and after November 18, 1983. The provisions under 1585
division (I)(1)(b) of this section shall be retroactive to 1586
September 5, 1982, only if, as a condition for full tax credit 1587
against the tax imposed by the "Federal Unemployment Tax Act," 53 1588
Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311, the United States 1589
secretary of labor determines that retroactivity is required by 1590
federal law. 1591

(c) With respect to weeks of unemployment beginning after 1592
December 31, 1977, benefits shall be denied to any individual for 1593
any week which commences during an established and customary 1594
vacation period or holiday recess, if the individual performs any 1595
services described in divisions (I)(1)(a) and (b) of this section 1596
in the period immediately before the vacation period or holiday 1597
recess, and there is a reasonable assurance that the individual 1598
will perform any such services in the period immediately following 1599
the vacation period or holiday recess. 1600

(d) With respect to any services described in division 1601
(I)(1)(a), (b), or (c) of this section, benefits payable on the 1602
basis of services in any such capacity shall be denied as 1603
specified in division (I)(1)(a), (b), or (c) of this section to 1604
any individual who performs such services in an educational 1605
institution or institution of higher education while in the employ 1606

of an educational service agency. For this purpose, the term 1607
"educational service agency" means a governmental agency or 1608
governmental entity that is established and operated exclusively 1609
for the purpose of providing services to one or more educational 1610
institutions or one or more institutions of higher education. 1611

(e) Any individual employed by a public school district or a 1612
county board of mental retardation shall be notified by the 1613
thirtieth day of April each year if the individual is not to be 1614
reemployed the following academic year. 1615

(2) No disqualification will be imposed, between academic 1616
years or terms or during a vacation period or holiday recess under 1617
this division, unless the director or the director's deputy has 1618
received a statement in writing from the educational institution 1619
or institution of higher education that the claimant has a 1620
contract for, or a reasonable assurance of, reemployment for the 1621
ensuing academic year or term. 1622

(3) If an individual has employment with an educational 1623
institution or an institution of higher education and employment 1624
with a noneducational employer, during the base period of the 1625
individual's benefit year, then the individual may become eligible 1626
for benefits during the between-term, or vacation or holiday 1627
recess, disqualification period, based on employment performed for 1628
the noneducational employer, provided that the employment is 1629
sufficient to qualify the individual for benefit rights separately 1630
from the benefit rights based on school employment. The weekly 1631
benefit amount and maximum benefits payable during a 1632
disqualification period shall be computed based solely on the 1633
nonschool employment. 1634

(J) Benefits shall not be paid on the basis of employment 1635
performed by an alien, unless the alien had been lawfully admitted 1636
to the United States for permanent residence at the time the 1637
services were performed, was lawfully present for purposes of 1638

performing the services, or was otherwise permanently residing in 1639
the United States under color of law at the time the services were 1640
performed, under section 212(d)(5) of the "Immigration and 1641
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101: 1642

(1) Any data or information required of individuals applying 1643
for benefits to determine whether benefits are not payable to them 1644
because of their alien status shall be uniformly required from all 1645
applicants for benefits. 1646

(2) In the case of an individual whose application for 1647
benefits would otherwise be approved, no determination that 1648
benefits to the individual are not payable because of the 1649
individual's alien status shall be made except upon a 1650
preponderance of the evidence that the individual had not, in 1651
fact, been lawfully admitted to the United States. 1652

(K) The director shall establish and utilize a system of 1653
profiling all new claimants under this chapter that: 1654

(1) Identifies which claimants will be likely to exhaust 1655
regular compensation and will need job search assistance services 1656
to make a successful transition to new employment; 1657

(2) Refers claimants identified pursuant to division (K)(1) 1658
of this section to reemployment services, such as job search 1659
assistance services, available under any state or federal law; 1660

(3) Collects follow-up information relating to the services 1661
received by such claimants and the employment outcomes for such 1662
claimant's subsequent to receiving such services and utilizes such 1663
information in making identifications pursuant to division (K)(1) 1664
of this section; and 1665

(4) Meets such other requirements as the United States 1666
secretary of labor determines are appropriate. 1667

Section 2. That existing sections 3121.898, 3121.899, 1668

4141.01, 4141.281, and 4141.29 of the Revised Code are hereby 1669
repealed. 1670

Section 3. That Section 3 of S.B. 99 of the 124th General 1671
Assembly be amended to read as follows: 1672

Sec. 3. Notwithstanding division (R)(2) of section 4141.01 of 1673
the Revised Code as amended by ~~this act~~ S.B. 99 of the 124th 1674
General Assembly, the Director of Job and Family Services may 1675
specify that the provisions of that division are applicable for 1676
the determination of benefit rights involving benefit years 1677
beginning on or before December ~~28, 2003~~ 26, 2004, if the Director 1678
determines that the technological systems necessary to effect the 1679
purposes of that division are operational and sufficiently 1680
adequate to assure no interruption in the discharge of the duties 1681
of the Director and the Department of Job and Family Services 1682
under Chapter 4141. of the Revised Code. 1683

Section 4. That existing Section 3 of S.B. 99 of the 124th 1684
General Assembly is hereby repealed. 1685