

**As Reported by the Senate Primary and Secondary Education
Committee**

134th General Assembly

**Regular Session
2021-2022**

Sub. S. B. No. 306

Senator Brenner

A BILL

To amend sections 3307.01 and 3309.01 and to enact 1
section 3301.28 of the Revised Code to establish 2
a tutoring and remedial instruction program and 3
to make an appropriation. 4

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

Section 1. That sections 3307.01 and 3309.01 be amended 5
and section 3301.28 of the Revised Code be enacted to read as 6
follows: 7

Sec. 3301.28. (A) As used in this section: 8

(1) "Coordinating service center" means the educational 9
service center of central Ohio or its successor organization. 10

(2) "Public school" means a school building operated by a 11
school district or other public school, as defined in section 12
3301.0711 of the Revised Code, or a building operated by an 13
educational service center. 14

(B) The superintendent of public instruction shall 15
establish a program to provide tutoring and remedial education 16
services in reading and English language arts, mathematics, 17

science, and social studies to students at public and chartered 18
nonpublic schools that elect to participate in the program. 19
Tutors shall not be considered employees of the public or 20
chartered nonpublic school in which they provide tutoring 21
services. Rather, the tutors shall be either employed or engaged 22
as a volunteer by the coordinating service center. The 23
coordinating service center shall be responsible for 24
compensating each individual it employs as a tutor using funds 25
transferred from the school at which the individual works as a 26
tutor. The coordinating service center may coordinate placement 27
of tutors with the sixteen regional educational service centers, 28
selected under division (C)(4) of this section, and other 29
service centers as determined necessary by the coordinating 30
service center. 31

Individuals who wish to participate in the program as 32
tutors shall submit an application to the coordinating service 33
center. Not later than sixty days after the effective date of 34
this section, the coordinating service center shall establish 35
application procedures for individuals who wish to participate 36
in the program as tutors. 37

To be eligible to participate as a tutor under the 38
program, an individual shall be either of the following: 39

(1) A retired teacher or substitute teacher, regardless of 40
whether the teacher holds a valid educator license, certificate, 41
or permit issued under Chapter 3319. or section 3301.071 of the 42
Revised Code, provided that the teacher has not had an educator 43
license, certificate, or permit denied, suspended, or revoked by 44
the state board of education under section 3319.31 of the 45
Revised Code or entered into a consent agreement pursuant to 46
division (E) of section 3319.311 of the Revised Code; 47

(2) An individual, not described in division (A) (1) of 48
this section, who is determined to be eligible by the 49
coordinating service center in accordance with standards 50
established by the state superintendent. 51

(C) The state superintendent, with assistance from 52
participating educational service centers, and in consultation 53
with public and chartered nonpublic schools, shall administer 54
and implement the program as follows: 55

(1) Not later than sixty days after the effective date of 56
this section, the state superintendent shall establish standards 57
for determining the eligibility of tutors under division (B) (2) 58
of this section. 59

(2) Not later than sixty days after the effective date of 60
this section, the coordinating service center, in consultation 61
with the state superintendent, shall create a training course 62
for tutors described in division (B) of this section who do not 63
hold valid educator licenses, certificates, or permits issued 64
under Chapter 3319. or section 3301.071 of the Revised Code. The 65
coordinating service center and state superintendent may 66
establish additional training requirements for tutors who 67
provide tutoring services to students with special needs or 68
students with an individualized education program, as that term 69
is defined in section 3323.01 of the Revised Code. In addition, 70
the coordinating service center and state superintendent may 71
continue to provide training to tutors after their placement in 72
schools. 73

(3) The department of education shall serve as the fiscal 74
agent for the program. The department shall provide for 75
administrative and implementation costs, costs of developing the 76
training course described in division (C) (2) of this section, 77

and provide technical assistance at the request of the 78
coordinating service center. 79

The department shall not compensate tutors under the 80
program. 81

The department shall not charge any registration fee to 82
individuals who wish to participate in the program as tutors. 83

(4) Educational service centers from each educational 84
regional service system described in section 3312.02 of the 85
Revised Code may select one educational service center to 86
administer the training program for their region in conjunction 87
with the coordinating service center. The educational service 88
center selected for each region may cooperate with individual 89
educational service centers to implement the training program. 90

(5) Each educational service center may coordinate the 91
placement of tutors at the participating public and chartered 92
nonpublic schools within its service territory. 93

(6) The coordinating service center shall require an 94
individual employed or engaged as a volunteer as a tutor under 95
this section to apply for and receive a registration from the 96
department. 97

As a condition of registration under this section, an 98
individual shall be subject to a criminal records check as 99
prescribed by section 3319.39 or 3319.391 of the Revised Code, 100
as appropriate. The individual shall request the criminal 101
records check through the coordinating service center and shall 102
submit the criminal records check to the department of education 103
in a manner determined by the department. The department shall 104
use the information submitted to enroll the individual in the 105
retained applicant fingerprint database, established under 106

section 109.5721 of the Revised Code, in the same manner as any 107
teacher licensed under sections 3319.22 to 3319.31 of the 108
Revised Code. 109

If the department receives notification of the arrest or 110
conviction of an individual registered under division (C)(6) of 111
this section, the department shall promptly notify the 112
coordinating service center and may take any action authorized 113
under sections 3319.31 and 3319.311 of the Revised Code that the 114
department considers appropriate. The department shall not 115
accept the application of any individual under this section if 116
the department learns that the individual has pleaded guilty to, 117
has been found guilty by a jury or court of, or has been 118
convicted of any of the offenses listed in division (C) of 119
section 3319.31 of the Revised Code. 120

The department shall reimburse the coordinating service 121
center for both of the following: 122

(a) Any costs incurred by the coordinating service center 123
when assisting with the registration of tutors with the 124
department; 125

(b) The cost of the criminal records check required under 126
this section. 127

(7) Participation by public and chartered nonpublic 128
schools is voluntary. Public and chartered nonpublic schools 129
that wish to participate in the tutoring and remedial education 130
program shall notify the coordinating service center of their 131
intention to do so. 132

Each participating school shall have the ultimate 133
authority over how best to incorporate tutors into the school 134
setting, but such determinations shall be made in cooperation 135

with the educational service center. Program activities may take 136
place before, during, or after school as well as during breaks 137
from school such as weekends, holidays, or summer vacation. 138
Program activities may take place on an online platform or in 139
person, including on school premises, at community-based youth 140
development organizations, or in another public location the 141
school's governing body and educational service center determine 142
to be appropriate. 143

A participating school shall provide necessary materials, 144
space, and equipment for tutors placed in the school. A 145
participating school shall transfer funds to the coordinating 146
service center to assist the service center in making payments 147
to tutors placed in the school and paying the cost of other 148
benefits for the tutors. The state superintendent, in 149
consultation with the chancellor of higher education, shall 150
create a list of benefits which a participant may receive. 151

Participating schools shall use their own funds to pay 152
costs incurred from participating in the program. 153

(D) Upon the completion of each of the 2022-2023, 2023- 154
2024, and 2024-2025 school years, the department shall conduct a 155
review of the program's effectiveness in providing tutoring and 156
remedial education to students. Based on each of those reviews, 157
the department shall issue a report of its findings. The report 158
also shall include the number of participating public and 159
chartered nonpublic schools, tutors, and students, as well as 160
whether tutoring in a particular school was provided on an 161
online platform or in-person. The department may request and 162
collect data from public or chartered nonpublic schools and from 163
educational service centers for the report. The department 164
shall, in accordance with section 101.68 of the Revised Code, 165

<u>submit those reports to the general assembly, as follows:</u>	166
<u>(1) The report for the 2022-2023 school year shall be</u>	167
<u>submitted not later than September 30, 2023.</u>	168
<u>(2) The report for the 2023-2024 school year shall be</u>	169
<u>submitted not later than September 30, 2024.</u>	170
<u>(3) The report for the 2024-2025 school year shall be</u>	171
<u>submitted not later than September 30, 2025.</u>	172
<u>(E) Nothing in this section shall be construed as</u>	173
<u>prohibiting a public or chartered nonpublic school from</u>	174
<u>contracting or partnering with another entity to provide</u>	175
<u>tutoring services to the school's students.</u>	176
Sec. 3307.01. As used in this chapter:	177
(A) "Employer" means the board of education, school	178
district, governing authority of any community school	179
established under Chapter 3314. of the Revised Code, a science,	180
technology, engineering, and mathematics school established	181
under Chapter 3326. of the Revised Code, college, university,	182
institution, or other agency within the state by which a teacher	183
is employed and paid.	184
(B) (1) "Teacher" means all of the following:	185
(a) Any person paid from public funds and employed in the	186
public schools of the state under any type of contract described	187
in section 3311.77 or 3319.08 of the Revised Code in a position	188
for which the person is required to have a license or	189
registration issued pursuant to sections 3319.22 to 3319.31 of	190
the Revised Code;	191
(b) Except as provided in division (B) (2) (b) or (c) of	192
this section, any person employed as a teacher or faculty member	193

in a community school or a science, technology, engineering, and 194
mathematics school pursuant to Chapter 3314. or 3326. of the 195
Revised Code; 196

(c) Any person having a license or registration issued 197
pursuant to sections 3319.22 to 3319.31 of the Revised Code and 198
employed in a public school in this state in an educational 199
position, as determined by the state board of education, under 200
programs provided for by federal acts or regulations and 201
financed in whole or in part from federal funds, but for which 202
no licensure requirements for the position can be made under the 203
provisions of such federal acts or regulations; 204

(d) Any other teacher or faculty member employed in any 205
school, college, university, institution, or other agency wholly 206
controlled and managed, and supported in whole or in part, by 207
the state or any political subdivision thereof, including 208
Central state university, Cleveland state university, and the 209
university of Toledo; 210

(e) The educational employees of the department of 211
education, as determined by the state superintendent of public 212
instruction; 213

(f) Any person having a registration issued pursuant to 214
section 3301.28 of the Revised Code and employed as a tutor by 215
the coordinating service center as defined in that section. 216

In all cases of doubt, the state teachers retirement board 217
shall determine whether any person is a teacher, and its 218
decision shall be final. 219

(2) "Teacher" does not include any of the following: 220

(a) Any eligible employee of a public institution of 221
higher education, as defined in section 3305.01 of the Revised 222

Code, who elects to participate in an alternative retirement	223
plan established under Chapter 3305. of the Revised Code;	224
(b) Any person employed by a community school operator, as	225
defined in section 3314.02 of the Revised Code, if on or before	226
February 1, 2016, the school's operator was withholding and	227
paying employee and employer taxes pursuant to 26 U.S.C. 3101(a)	228
and 3111(a) for persons employed in the school as teachers,	229
unless the person had contributing service in a community school	230
in the state within one year prior to the later of February 1,	231
2016, or the date on which the operator for the first time	232
withholds and pays employee and employer taxes pursuant to 26	233
U.S.C. 3101(a) and 3111(a) for that person;	234
(c) Any person who would otherwise be a teacher under	235
division (B) (2) (b) of this section who terminates employment	236
with a community school operator and has no contributing service	237
in a community school in the state for a period of at least one	238
year from the date of termination of employment.	239
(C) "Member" means any person included in the membership	240
of the state teachers retirement system, which shall consist of	241
all teachers and contributors as defined in divisions (B) and	242
(D) of this section and all disability benefit recipients, as	243
defined in section 3307.50 of the Revised Code. However, for	244
purposes of this chapter, the following persons shall not be	245
considered members:	246
(1) A student, intern, or resident who is not a member	247
while employed part-time by a school, college, or university at	248
which the student, intern, or resident is regularly attending	249
classes;	250
(2) A person denied membership pursuant to section 3307.24	251

of the Revised Code;	252
(3) An other system retirant, as defined in section	253
3307.35 of the Revised Code, or a superannuate;	254
(4) An individual employed in a program established	255
pursuant to the "Job Training Partnership Act," 96 Stat. 1322	256
(1982), 29 U.S.C.A. 1501;	257
(5) The surviving spouse of a member or retirant if the	258
surviving spouse's only connection to the retirement system is	259
an account in an STRS defined contribution plan.	260
(D) "Contributor" means any person who has an account in	261
the teachers' savings fund or defined contribution fund, except	262
that "contributor" does not mean a member or retirant's	263
surviving spouse with an account in an STRS defined contribution	264
plan.	265
(E) "Beneficiary" means any person eligible to receive, or	266
in receipt of, a retirement allowance or other benefit provided	267
by this chapter.	268
(F) "Year" means the year beginning the first day of July	269
and ending with the thirtieth day of June next following, except	270
that for the purpose of determining final average salary under	271
the plan described in sections 3307.50 to 3307.79 of the Revised	272
Code, "year" may mean the contract year.	273
(G) "Local district pension system" means any school	274
teachers pension fund created in any school district of the	275
state in accordance with the laws of the state prior to	276
September 1, 1920.	277
(H) "Employer contribution" means the amount paid by an	278
employer, as determined by the employer rate, including the	279

normal and deficiency rates, contributions, and funds wherever 280
used in this chapter. 281

(I) "Five years of service credit" means employment 282
covered under this chapter and employment covered under a former 283
retirement plan operated, recognized, or endorsed by a college, 284
institute, university, or political subdivision of this state 285
prior to coverage under this chapter. 286

(J) "Actuary" means an actuarial professional contracted 287
with or employed by the state teachers retirement board, who 288
shall be either of the following: 289

(1) A member of the American academy of actuaries; 290

(2) A firm, partnership, or corporation of which at least 291
one person is a member of the American academy of actuaries. 292

(K) "Fiduciary" means a person who does any of the 293
following: 294

(1) Exercises any discretionary authority or control with 295
respect to the management of the system, or with respect to the 296
management or disposition of its assets; 297

(2) Renders investment advice for a fee, direct or 298
indirect, with respect to money or property of the system; 299

(3) Has any discretionary authority or responsibility in 300
the administration of the system. 301

(L) (1) (a) Except as provided in this division, 302
"compensation" means all salary, wages, and other earnings paid 303
to a teacher by reason of the teacher's employment, including 304
compensation paid pursuant to a supplemental contract. The 305
salary, wages, and other earnings shall be determined prior to 306
determination of the amount required to be contributed to the 307

teachers' savings fund or defined contribution fund under 308
section 3307.26 of the Revised Code and without regard to 309
whether any of the salary, wages, or other earnings are treated 310
as deferred income for federal income tax purposes. 311

(b) Except as provided in division (L)(1)(c) of this 312
section, "compensation" includes amounts paid by an employer as 313
a retroactive payment of earnings, damages, or back pay pursuant 314
to a court order, court-adopted settlement agreement, or other 315
settlement agreement if the retirement system receives both of 316
the following: 317

(i) Teacher and employer contributions under sections 318
3307.26 and 3307.28 of the Revised Code, plus interest 319
compounded annually at a rate determined by the state teachers 320
retirement board, for each year or portion of a year for which 321
amounts are paid under the order or agreement; 322

(ii) Teacher and employer contributions under sections 323
3307.26 and 3307.28 of the Revised Code, plus interest 324
compounded annually at a rate determined by the board, for each 325
year or portion of a year not subject to division (L)(1)(b)(i) 326
of this section for which the board determines the teacher was 327
improperly paid, regardless of the teacher's ability to recover 328
on such amounts improperly paid. 329

(c) If any portion of an amount paid by an employer as a 330
retroactive payment of earnings, damages, or back pay is for an 331
amount, benefit, or payment described in division (L)(2) of this 332
section, that portion of the amount is not compensation under 333
this section. 334

(2) Compensation does not include any of the following: 335

(a) Payments for accrued but unused sick leave or personal 336

leave, including payments made under a plan established pursuant	337
to section 124.39 of the Revised Code or any other plan	338
established by the employer;	339
(b) Payments made for accrued but unused vacation leave,	340
including payments made pursuant to section 124.13 of the	341
Revised Code or a plan established by the employer;	342
(c) Payments made for vacation pay covering concurrent	343
periods for which other salary, compensation, or benefits under	344
this chapter or Chapter 145. or 3309. of the Revised Code are	345
paid;	346
(d) Amounts paid by the employer to provide life	347
insurance, sickness, accident, endowment, health, medical,	348
hospital, dental, or surgical coverage, or other insurance for	349
the teacher or the teacher's family, or amounts paid by the	350
employer to the teacher in lieu of providing the insurance;	351
(e) Incidental benefits, including lodging, food, laundry,	352
parking, or services furnished by the employer, use of the	353
employer's property or equipment, and reimbursement for job-	354
related expenses authorized by the employer, including moving	355
and travel expenses and expenses related to professional	356
development;	357
(f) Payments made by the employer in exchange for a	358
member's waiver of a right to receive any payment, amount, or	359
benefit described in division (L) (2) of this section;	360
(g) Payments by the employer for services not actually	361
rendered;	362
(h) Any amount paid by the employer as a retroactive	363
increase in salary, wages, or other earnings, unless the	364
increase is one of the following:	365

(i) A retroactive increase paid to a member employed by a school district board of education in a position that requires a license designated for teaching and not designated for being an administrator issued under section 3319.22 of the Revised Code that is paid in accordance with uniform criteria applicable to all members employed by the board in positions requiring the licenses;

(ii) A retroactive increase paid to a member employed by a school district board of education in a position that requires a license designated for being an administrator issued under section 3319.22 of the Revised Code that is paid in accordance with uniform criteria applicable to all members employed by the board in positions requiring the licenses;

(iii) A retroactive increase paid to a member employed by a school district board of education as a superintendent that is also paid as described in division (L) (2) (h) (i) of this section;

(iv) A retroactive increase paid to a member employed by an employer other than a school district board of education in accordance with uniform criteria applicable to all members employed by the employer.

(i) Payments made to or on behalf of a teacher that are in excess of the annual compensation that may be taken into account by the retirement system under division (a) (17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a) (17), as amended. For a teacher who first establishes membership before July 1, 1996, the annual compensation that may be taken into account by the retirement system shall be determined under division (d) (3) of section 13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. L. No. 103-66, 107 Stat. 472.

(j) Payments made under division (B), (C), or (E) of 396
section 5923.05 of the Revised Code, Section 4 of Substitute 397
Senate Bill No. 3 of the 119th general assembly, Section 3 of 398
Amended Substitute Senate Bill No. 164 of the 124th general 399
assembly, or Amended Substitute House Bill No. 405 of the 124th 400
general assembly; 401

(k) Anything of value received by the teacher that is 402
based on or attributable to retirement or an agreement to 403
retire. 404

(3) The retirement board shall determine both of the 405
following: 406

(a) Whether particular forms of earnings are included in 407
any of the categories enumerated in this division; 408

(b) Whether any form of earnings not enumerated in this 409
division is to be included in compensation. 410

Decisions of the board made under this division shall be 411
final. 412

(M) "Superannuate" means both of the following: 413

(1) A former teacher receiving from the system a 414
retirement allowance under section 3307.58 or 3307.59 of the 415
Revised Code; 416

(2) A former teacher receiving a benefit from the system 417
under a plan established under section 3307.81 of the Revised 418
Code, except that "superannuate" does not include a former 419
teacher who is receiving a benefit based on disability under a 420
plan established under section 3307.81 of the Revised Code. 421

For purposes of sections 3307.35 and 3307.353 of the 422
Revised Code, "superannuate" also means a former teacher 423

receiving from the system a combined service retirement benefit 424
paid in accordance with section 3307.57 of the Revised Code, 425
regardless of which retirement system is paying the benefit. 426

(N) "STRS defined benefit plan" means the plan described 427
in sections 3307.50 to 3307.79 of the Revised Code. 428

(O) "STRS defined contribution plan" means the plans 429
established under section 3307.81 of the Revised Code and 430
includes the STRS combined plan under that section. 431

(P) "Faculty" means the teaching staff of a university, 432
college, or school, including any academic administrators. 433

Sec. 3309.01. As used in this chapter: 434

(A) "Employer" or "public employer" means boards of 435
education, school districts, joint vocational districts, 436
governing authorities of community schools established under 437
Chapter 3314. of the Revised Code, a science, technology, 438
engineering, and mathematics school established under Chapter 439
3326. of the Revised Code, educational institutions, technical 440
colleges, state, municipal, and community colleges, community 441
college branches, universities, university branches, other 442
educational institutions, or other agencies within the state by 443
which an employee is employed and paid, including any 444
organization using federal funds, provided the federal funds are 445
disbursed by an employer as determined by the above. In all 446
cases of doubt, the school employees retirement board shall 447
determine whether any employer is an employer as defined in this 448
chapter, and its decision shall be final. 449

(B) "Employee" means all of the following: 450

(1) Any person employed by a public employer in a position 451
for which the person is not required to have a registration, 452

certificate, or license issued pursuant to section 3301.28 or 453
sections 3319.22 to 3319.31 of the Revised Code; 454

(2) Any person who performs a service common to the normal 455
daily operation of an educational unit even though the person is 456
employed and paid by one who has contracted with an employer to 457
perform the service, and the contracting board or educational 458
unit shall be the employer for the purposes of administering the 459
provisions of this chapter; 460

(3) Any person, not a faculty member, employed in any 461
school or college or other institution wholly controlled and 462
managed, and wholly or partly supported by the state or any 463
political subdivision thereof, the board of trustees, or other 464
managing body of which shall accept the requirements and 465
obligations of this chapter. 466

In all cases of doubt, the school employees retirement 467
board shall determine whether any person is an employee, as 468
defined in this division, and its decision is final. 469

(C) "Prior service" means all service rendered prior to 470
September 1, 1937: 471

(1) As an employee as defined in division (B) of this 472
section; 473

(2) As an employee in a capacity covered by the public 474
employees retirement system or the state teachers retirement 475
system; 476

(3) As an employee of an institution in another state, 477
service credit for which was procured by a member under the 478
provisions of section 3309.31 of the Revised Code. 479

Prior service, for service as an employee in a capacity 480

covered by the public employees retirement system or the state 481
teachers retirement system, shall be granted a member under 482
qualifications identical to the laws and rules applicable to 483
service credit in those systems. 484

Prior service shall not be granted any member for service 485
rendered in a capacity covered by the public employees 486
retirement system, the state teachers retirement system, and 487
this system in the event the service credit has, in the 488
respective systems, been received, waived by exemption, or 489
forfeited by withdrawal of contributions, except as provided in 490
this chapter. 491

If a member who has been granted prior service should, 492
subsequent to September 16, 1957, and before retirement, 493
establish three years of contributing service in the public 494
employees retirement system, or one year in the state teachers 495
retirement system, then the prior service granted shall become, 496
at retirement, the liability of the other system, if the prior 497
service or employment was in a capacity that is covered by that 498
system. 499

The provisions of this division shall not cancel any prior 500
service granted a member by the school employees retirement 501
board prior to August 1, 1959. 502

(D) "Total service," "total service credit," or "Ohio 503
service credit" means all contributing service of a member of 504
the school employees retirement system, and all prior service, 505
computed as provided in this chapter, and all service 506
established pursuant to sections 3309.31, 3309.311, and 3309.33 507
of the Revised Code. In addition, "total service" includes any 508
period, not in excess of three years, during which a member was 509
out of service and receiving benefits from the state insurance 510

fund, provided the injury or incapacitation was the direct 511
result of school employment. 512

(E) "Member" means any employee, except an SERS retirant 513
or other system retirant as defined in section 3309.341 of the 514
Revised Code, who has established membership in the school 515
employees retirement system. "Member" includes a disability 516
benefit recipient. 517

(F) "Contributor" means any person who has an account in 518
the employees' savings fund. When used in the sections listed in 519
division (B) of section 3309.82 of the Revised Code, 520
"contributor" includes any person participating in a plan 521
established under section 3309.81 of the Revised Code. 522

(G) "Retirant" means any former member who retired and is 523
receiving a retirement allowance under section 3309.36 or 524
3309.381 or former section 3309.38 of the Revised Code. 525

(H) "Beneficiary" or "beneficiaries" means the estate or a 526
person or persons who, as the result of the death of a 527
contributor or retirant, qualifies for or is receiving some 528
right or benefit under this chapter. 529

(I) "Interest," as specified in division (E) of section 530
3309.60 of the Revised Code, means interest at the rates for the 531
respective funds and accounts as the school employees retirement 532
board may determine from time to time. 533

(J) "Accumulated contributions" means the sum of all 534
amounts credited to a contributor's account in the employees' 535
savings fund together with any regular interest credited thereon 536
at the rates approved by the retirement board prior to 537
retirement. 538

(K) "Final average salary" means the sum of the annual 539

compensation for the three highest years of compensation for 540
which contributions were made by the member, divided by three. 541
If the member has a partial year of contributing service in the 542
year in which the member terminates employment and the partial 543
year is at a rate of compensation that is higher than the rate 544
of compensation for any one of the highest three years of annual 545
earnings, the board shall substitute the compensation earned for 546
the partial year for the compensation earned for a similar 547
fractional portion in the lowest of the three high years of 548
annual compensation before dividing by three. If a member has 549
less than three years of contributing membership, the final 550
average salary shall be the total compensation divided by the 551
total number of years, including any fraction of a year, of 552
contributing service. 553

(L) "Annuity" means payments for life derived from 554
contributions made by a contributor and paid from the annuity 555
and pension reserve fund as provided in this chapter. All 556
annuities shall be paid in twelve equal monthly installments. 557

(M) (1) "Pension" means annual payments for life derived 558
from appropriations made by an employer and paid from the 559
employers' trust fund or the annuity and pension reserve fund. 560
All pensions shall be paid in twelve equal monthly installments. 561

(2) "Disability retirement" means retirement as provided 562
in section 3309.40 of the Revised Code. 563

(N) "Retirement allowance" means the pension plus the 564
annuity. 565

(O) (1) "Benefit" means a payment, other than a retirement 566
allowance or the annuity paid under section 3309.344 of the 567
Revised Code, payable from the accumulated contributions of the 568

member or the employer, or both, under this chapter and includes	569
a disability allowance or disability benefit.	570
(2) "Disability allowance" means an allowance paid on	571
account of disability under section 3309.401 of the Revised	572
Code.	573
(3) "Disability benefit" means a benefit paid as	574
disability retirement under section 3309.40 of the Revised Code,	575
as a disability allowance under section 3309.401 of the Revised	576
Code, or as a disability benefit under section 3309.35 of the	577
Revised Code.	578
(P) "Annuity reserve" means the present value, computed	579
upon the basis of mortality tables adopted by the school	580
employees retirement board, of all payments to be made on	581
account of any annuity, or benefit in lieu of any annuity,	582
granted to a retirant.	583
(Q) "Pension reserve" means the present value, computed	584
upon the basis of mortality tables adopted by the school	585
employees retirement board, of all payments to be made on	586
account of any pension, or benefit in lieu of any pension,	587
granted to a retirant or a beneficiary.	588
(R) "Year" means the year beginning the first day of July	589
and ending with the thirtieth day of June next following.	590
(S) "Local district pension system" means any school	591
employees' pension fund created in any school district of the	592
state prior to September 1, 1937.	593
(T) "Employer contribution" means the amount paid by an	594
employer as determined under section 3309.49 of the Revised	595
Code.	596

(U) "Fiduciary" means a person who does any of the	597
following:	598
(1) Exercises any discretionary authority or control with	599
respect to the management of the system, or with respect to the	600
management or disposition of its assets;	601
(2) Renders investment advice for a fee, direct or	602
indirect, with respect to money or property of the system;	603
(3) Has any discretionary authority or responsibility in	604
the administration of the system.	605
(V) (1) Except as otherwise provided in this division,	606
"compensation" means all salary, wages, and other earnings paid	607
to a contributor by reason of employment. The salary, wages, and	608
other earnings shall be determined prior to determination of the	609
amount required to be contributed to the employees' savings fund	610
under section 3309.47 of the Revised Code and without regard to	611
whether any of the salary, wages, or other earnings are treated	612
as deferred income for federal income tax purposes.	613
(2) Compensation does not include any of the following:	614
(a) Payments for accrued but unused sick leave or personal	615
leave, including payments made under a plan established pursuant	616
to section 124.39 of the Revised Code or any other plan	617
established by the employer;	618
(b) Payments made for accrued but unused vacation leave,	619
including payments made pursuant to section 124.13 of the	620
Revised Code or a plan established by the employer;	621
(c) Payments made for vacation pay covering concurrent	622
periods for which other salary or compensation is also paid or	623
during which benefits are paid under this chapter;	624

(d) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;

(e) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, use of the employer's property or equipment, and reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a) (17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a) (17), as amended. For a contributor who first establishes membership before July 1, 1996, the annual compensation that may be taken into account by the retirement system shall be determined under division (d) (3) of section 13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. L. No. 103-66, 107 Stat. 472;

(g) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly;

(h) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to

retire, except that payments made on or before January 1, 1989, 655
that are based on or attributable to an agreement to retire 656
shall be included in compensation if both of the following 657
apply: 658

(i) The payments are made in accordance with contract 659
provisions that were in effect prior to January 1, 1986. 660

(ii) The employer pays the retirement system an amount 661
specified by the retirement board equal to the additional 662
liability from the payments. 663

(3) The retirement board shall determine by rule whether 664
any form of earnings not enumerated in this division is to be 665
included in compensation, and its decision shall be final. 666

(W) "Disability benefit recipient" means a member who is 667
receiving a disability benefit. 668

(X) "Actuary" means an individual who satisfies all of the 669
following requirements: 670

(1) Is a member of the American academy of actuaries; 671

(2) Is an associate or fellow of the society of actuaries; 672

(3) Has a minimum of five years' experience in providing 673
actuarial services to public retirement plans. 674

Section 2. That existing sections 3307.01 and 3309.01 of 675
the Revised Code are hereby repealed. 676

Section 3. All items in this act are hereby appropriated 677
as designated out of any moneys in the state treasury to the 678
credit of the designated fund. For all operating appropriations 679
made in this act, those in the first column are for fiscal year 680
2022 and those in the second column are for fiscal year 2023. 681

The operating appropriations made in this act are in addition to 682
any other operating appropriations made for the FY 2022-FY 2023 683
biennium. 684

685

	1	2	3	4	5
A	EDU DEPARTMENT OF EDUCATION				
B	Federal Fund Group				
C	3HS0	200640	Federal Coronavirus School Relief	\$2,415,201	\$0
D	TOTAL FED Federal Fund Group			\$2,415,201	\$0
E	TOTAL ALL BUDGET FUND GROUPS			\$2,415,201	\$0

(A) The foregoing appropriation item 200640, Federal 686
Coronavirus School Relief, shall be used by the Department of 687
Education for the following purposes regarding the tutoring and 688
remedial education services program established in section 689
3301.28 of the Revised Code: 690

(1) For purposes of division (C) (3) of section 3301.28 of 691
the Revised Code; 692

(2) To reimburse the coordinating service center, as 693
defined in section 3301.28 of the Revised Code, for the costs 694
described in divisions (C) (6) (a) and (b) of that section and to 695
pay costs associated with enrolling participating tutors in the 696
retained applicant fingerprint database; 697

(3) Subject to available funds, to pay incidental costs of 698

training opportunities conducted by educational service centers 699
under division (C) (4) of that section, in a manner determined by 700
the Department. 701

(B) An amount equal to the unexpended, unencumbered 702
balance of the foregoing appropriation item 200640, Federal 703
Coronavirus School Relief, at the end of fiscal year 2022 is 704
hereby reappropriated to the Department to be used for the same 705
purposes in fiscal year 2023. 706

(C) The foregoing appropriation item 200640, Federal 707
Coronavirus School Relief, shall be supported using the funds 708
for emergency needs authorized under Title II, Sec. 2001(f) (4) 709
of the federal "American Rescue Plan Act of 2021," Pub. L. No. 710
117-2. 711

Section 4. Within the limits set forth in this act, the 712
Director of Budget and Management shall establish accounts 713
indicating the source and amount of funds for each appropriation 714
made in this act, and shall determine the form and manner in 715
which appropriation accounts shall be maintained. Expenditures 716
from operating appropriations contained in this act shall be 717
accounted for as though made in H.B. 110 of the 134th General 718
Assembly. The operating appropriations made in this act are 719
subject to all provisions of H.B. 110 of the 134th General 720
Assembly that are generally applicable to such appropriations. 721