

H. B. No. 78
As Introduced

_____ moved to amend as follows:

In line 1 of the title, after "sections" insert "3307.01,"; delete "and"; after "3307.07" insert ", and 3309.01" 1
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In line 3 of the title, after "Retirement" insert "System"; delete "elections" and insert "member eligibility"; after "and" insert "system" 3
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In line 4 of the title, delete "requirements" and insert "for student teachers who are employed as substitute teachers" 5
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In line 5, after "sections" insert "3307.01,"; delete "and"; after "3307.07" insert ", and 3309.01" 7
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After line 6, insert: 9

"Sec. 3307.01. As used in this chapter: 10

(A) "Employer" means the board of education, school district, governing authority of any community school established under Chapter 3314. of the Revised Code, a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, college, university, institution, or other agency within the state by which a teacher 11
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is employed and paid. 17

(B) (1) "Teacher" means all of the following: 18

(a) Any person paid from public funds and employed in the 19
public schools of the state under any type of contract described 20
in section 3311.77 or 3319.08 of the Revised Code in a position 21
for which the person is required to have a license or 22
registration issued pursuant to sections 3319.22 to 3319.31 of 23
the Revised Code; 24

(b) Except as provided in division (B) (2) (b) or (c) of 25
this section, any person employed as a teacher or faculty member 26
in a community school or a science, technology, engineering, and 27
mathematics school pursuant to Chapter 3314. or 3326. of the 28
Revised Code; 29

(c) Any person having a license or registration issued 30
pursuant to sections 3319.22 to 3319.31 of the Revised Code and 31
employed in a public school in this state in an educational 32
position, as determined by the department of education and 33
workforce, under programs provided for by federal acts or 34
regulations and financed in whole or in part from federal funds, 35
but for which no licensure requirements for the position can be 36
made under the provisions of such federal acts or regulations; 37

(d) Any other teacher or faculty member employed in any 38
school, college, university, institution, or other agency wholly 39
controlled and managed, and supported in whole or in part, by 40
the state or any political subdivision thereof, including 41
Central state university, Cleveland state university, and the 42
university of Toledo; 43

(e) The educational employees of the state board of 44
education, as determined by the state superintendent of public 45

instruction, and the educational employees of the department of 46
education and workforce, as determined by the director of 47
education and workforce; 48

(f) Any person having a registration issued pursuant to 49
section 3301.28 of the Revised Code and employed as a tutor by 50
the coordinating service center as defined in that section; 51

(g) Any person having a license issued pursuant to Chapter 52
4732. of the Revised Code and employed as a school psychologist 53
in a public school; 54

(h) Any person having a pre-service teacher permit issued 55
pursuant to section 3319.0812 of the Revised Code and employed 56
as a substitute teacher by a school district or school. 57

In all cases of doubt, the state teachers retirement board 58
shall determine whether any person is a teacher, and its 59
decision shall be final. 60

(2) "Teacher" does not include any of the following: 61

(a) Any eligible employee of a public institution of 62
higher education, as defined in section 3305.01 of the Revised 63
Code, who elects to participate in an alternative retirement 64
plan established under Chapter 3305. of the Revised Code; 65

(b) Any person employed by a community school operator, as 66
defined in section 3314.02 of the Revised Code, if on or before 67
February 1, 2016, the school's operator was withholding and 68
paying employee and employer taxes pursuant to 26 U.S.C. 3101(a) 69
and 3111(a) for persons employed in the school as teachers, 70
unless the person had contributing service in a community school 71
in the state within one year prior to the later of February 1, 72
2016, or the date on which the operator for the first time 73

withholds and pays employee and employer taxes pursuant to 26	74
U.S.C. 3101(a) and 3111(a) for that person;	75
(c) Any person who would otherwise be a teacher under	76
division (B) (2) (b) of this section who terminates employment	77
with a community school operator and has no contributing service	78
in a community school in the state for a period of at least one	79
year from the date of termination of employment.	80
(C) "Member" means any person included in the membership	81
of the state teachers retirement system, which shall consist of	82
all teachers and contributors as defined in divisions (B) and	83
(D) of this section and all disability benefit recipients, as	84
defined in section 3307.50 of the Revised Code. However, for	85
purposes of this chapter, the following persons shall not be	86
considered members:	87
(1) A student, intern, or resident who is not a member	88
while employed part-time by a school, college, or university at	89
which the student, intern, or resident is regularly attending	90
classes;	91
(2) A person denied membership pursuant to section 3307.24	92
of the Revised Code;	93
(3) An other system retirant, as defined in section	94
3307.35 of the Revised Code, or a superannuate;	95
(4) An individual employed in a program established	96
pursuant to the "Job Training Partnership Act," 96 Stat. 1322	97
(1982), 29 U.S.C.A. 1501;	98
(5) The surviving spouse of a member or retirant if the	99
surviving spouse's only connection to the retirement system is	100
an account in an STRS defined contribution plan.	101

(D) "Contributor" means any person who has an account in the teachers' savings fund or defined contribution fund, except that "contributor" does not mean a member or retirant's surviving spouse with an account in an STRS defined contribution plan.

(E) "Beneficiary" means any person eligible to receive, or in receipt of, a retirement allowance or other benefit provided by this chapter.

(F) "Year" means the year beginning the first day of July and ending with the thirtieth day of June next following, except that for the purpose of determining final average salary under the plan described in sections 3307.50 to 3307.79 of the Revised Code, "year" may mean the contract year.

(G) "Local district pension system" means any school teachers pension fund created in any school district of the state in accordance with the laws of the state prior to September 1, 1920.

(H) "Employer contribution" means the amount paid by an employer, as determined by the employer rate, including the normal and deficiency rates, contributions, and funds wherever used in this chapter.

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

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

(1) A member of the American academy of actuaries;	131
(2) A firm, partnership, or corporation of which at least one person is a member of the American academy of actuaries.	132 133
(K) "Fiduciary" means a person who does any of the following:	134 135
(1) Exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets;	136 137 138
(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;	139 140
(3) Has any discretionary authority or responsibility in the administration of the system.	141 142
(L) (1) (a) Except as provided in this division, "compensation" means all salary, wages, and other earnings paid to a teacher by reason of the teacher's employment, including compensation paid pursuant to a supplemental contract. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the teachers' savings fund or defined contribution fund under section 3307.26 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes.	143 144 145 146 147 148 149 150 151 152
(b) Except as provided in division (L) (1) (c) of this section, "compensation" includes amounts paid by an employer as a retroactive payment of earnings, damages, or back pay pursuant to a court order, court-adopted settlement agreement, or other settlement agreement if the retirement system receives both of the following:	153 154 155 156 157 158

(i) Teacher and employer contributions under sections 3307.26 and 3307.28 of the Revised Code, plus interest compounded annually at a rate determined by the state teachers retirement board, for each year or portion of a year for which amounts are paid under the order or agreement;	159 160 161 162 163
(ii) Teacher and employer contributions under sections 3307.26 and 3307.28 of the Revised Code, plus interest compounded annually at a rate determined by the board, for each year or portion of a year not subject to division (L) (1) (b) (i) of this section for which the board determines the teacher was improperly paid, regardless of the teacher's ability to recover on such amounts improperly paid.	164 165 166 167 168 169 170
(c) If any portion of an amount paid by an employer as a retroactive payment of earnings, damages, or back pay is for an amount, benefit, or payment described in division (L) (2) of this section, that portion of the amount is not compensation under this section.	171 172 173 174 175
(2) Compensation does not include any of the following:	176
(a) Payments for accrued but unused sick leave or personal leave, including payments made under a plan established pursuant to section 124.39 of the Revised Code or any other plan established by the employer;	177 178 179 180
(b) Payments made for accrued but unused vacation leave, including payments made pursuant to section 124.13 of the Revised Code or a plan established by the employer;	181 182 183
(c) Payments made for vacation pay covering concurrent periods for which other salary, compensation, or benefits under this chapter or Chapter 145. or 3309. of the Revised Code are paid;	184 185 186 187

(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 teacher or the teacher's family, or amounts paid by the employer to the teacher in lieu of providing the insurance;	188 189 190 191 192
(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;	193 194 195 196 197 198
(f) Payments made by the employer in exchange for a member's waiver of a right to receive any payment, amount, or benefit described in division (L) (2) of this section;	199 200 201
(g) Payments by the employer for services not actually rendered;	202 203
(h) Any amount paid by the employer as a retroactive increase in salary, wages, or other earnings, unless the increase is one of the following:	204 205 206
(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;	207 208 209 210 211 212 213
(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	214 215 216

section 3319.22 of the Revised Code that is paid in accordance 217
with uniform criteria applicable to all members employed by the 218
board in positions requiring the licenses; 219

(iii) A retroactive increase paid to a member employed by 220
a school district board of education as a superintendent that is 221
also paid as described in division (L) (2) (h) (i) of this section; 222

(iv) A retroactive increase paid to a member employed by 223
an employer other than a school district board of education in 224
accordance with uniform criteria applicable to all members 225
employed by the employer. 226

(i) Payments made to or on behalf of a teacher that are in 227
excess of the annual compensation that may be taken into account 228
by the retirement system under division (a) (17) of section 401 229
of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 230
U.S.C.A. 401(a) (17), as amended. For a teacher who first 231
establishes membership before July 1, 1996, the annual 232
compensation that may be taken into account by the retirement 233
system shall be determined under division (d) (3) of section 234
13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. 235
L. No. 103-66, 107 Stat. 472. 236

(j) Payments made under division (B), (C), or (E) of 237
section 5923.05 of the Revised Code, Section 4 of Substitute 238
Senate Bill No. 3 of the 119th general assembly, Section 3 of 239
Amended Substitute Senate Bill No. 164 of the 124th general 240
assembly, or Amended Substitute House Bill No. 405 of the 124th 241
general assembly; 242

(k) Anything of value received by the teacher that is 243
based on or attributable to retirement or an agreement to 244
retire. 245

(3) The retirement board shall determine both of the	246
following:	247
(a) Whether particular forms of earnings are included in	248
any of the categories enumerated in this division;	249
(b) Whether any form of earnings not enumerated in this	250
division is to be included in compensation.	251
Decisions of the board made under this division shall be	252
final.	253
(M) "Superannuate" means both of the following:	254
(1) A former teacher receiving from the system a	255
retirement allowance under section 3307.58 or 3307.59 of the	256
Revised Code;	257
(2) A former teacher receiving a benefit from the system	258
under a plan established under section 3307.81 of the Revised	259
Code, except that "superannuate" does not include a former	260
teacher who is receiving a benefit based on disability under a	261
plan established under section 3307.81 of the Revised Code.	262
For purposes of sections 3307.35 and 3307.353 of the	263
Revised Code, "superannuate" also means a former teacher	264
receiving from the system a combined service retirement benefit	265
paid in accordance with section 3307.57 of the Revised Code,	266
regardless of which retirement system is paying the benefit.	267
(N) "STRS defined benefit plan" means the plan described	268
in sections 3307.50 to 3307.79 of the Revised Code.	269
(O) "STRS defined contribution plan" means the plans	270
established under section 3307.81 of the Revised Code and	271
includes the STRS combined plan under that section.	272

(P) "Faculty" means the teaching staff of a university, 273
college, or school, including any academic administrators." 274

After line 178, insert: 275

"Sec. 3309.01. As used in this chapter: 276

(A) "Employer" or "public employer" means boards of 277
education, school districts, joint vocational districts, 278
governing authorities of community schools established under 279
Chapter 3314. of the Revised Code, a science, technology, 280
engineering, and mathematics school established under Chapter 281
3326. of the Revised Code, educational institutions, technical 282
colleges, state, municipal, and community colleges, community 283
college branches, universities, university branches, other 284
educational institutions, or other agencies within the state by 285
which an employee is employed and paid, including any 286
organization using federal funds, provided the federal funds are 287
disbursed by an employer as determined by the above. In all 288
cases of doubt, the school employees retirement board shall 289
determine whether any employer is an employer as defined in this 290
chapter, and its decision shall be final. 291

(B) "Employee" means all of the following: 292

(1) Any person employed by a public employer in a position 293
for which the person is not required to have a registration, 294
certificate, or license issued pursuant to section 3301.28 or 295
sections 3319.22 to 3319.31 of the Revised Code or a permit 296
issued under section 3319.0812 of the Revised Code; 297

(2) Any person who performs a service common to the normal 298
daily operation of an educational unit even though the person is 299
employed and paid by one who has contracted with an employer to 300
perform the service, and the contracting board or educational 301

unit shall be the employer for the purposes of administering the 302
provisions of this chapter; 303

(3) Any person, not a faculty member, employed in any 304
school or college or other institution wholly controlled and 305
managed, and wholly or partly supported by the state or any 306
political subdivision thereof, the board of trustees, or other 307
managing body of which shall accept the requirements and 308
obligations of this chapter. 309

In all cases of doubt, the school employees retirement 310
board shall determine whether any person is an employee, as 311
defined in this division, and its decision is final. 312

(C) "Prior service" means all service rendered prior to 313
September 1, 1937: 314

(1) As an employee as defined in division (B) of this 315
section; 316

(2) As an employee in a capacity covered by the public 317
employees retirement system or the state teachers retirement 318
system; 319

(3) As an employee of an institution in another state, 320
service credit for which was procured by a member under the 321
provisions of section 3309.31 of the Revised Code. 322

Prior service, for service as an employee in a capacity 323
covered by the public employees retirement system or the state 324
teachers retirement system, shall be granted a member under 325
qualifications identical to the laws and rules applicable to 326
service credit in those systems. 327

Prior service shall not be granted any member for service 328
rendered in a capacity covered by the public employees 329

retirement system, the state teachers retirement system, and 330
this system in the event the service credit has, in the 331
respective systems, been received, waived by exemption, or 332
forfeited by withdrawal of contributions, except as provided in 333
this chapter. 334

If a member who has been granted prior service should, 335
subsequent to September 16, 1957, and before retirement, 336
establish three years of contributing service in the public 337
employees retirement system, or one year in the state teachers 338
retirement system, then the prior service granted shall become, 339
at retirement, the liability of the other system, if the prior 340
service or employment was in a capacity that is covered by that 341
system. 342

The provisions of this division shall not cancel any prior 343
service granted a member by the school employees retirement 344
board prior to August 1, 1959. 345

(D) "Total service," "total service credit," or "Ohio 346
service credit" means all contributing service of a member of 347
the school employees retirement system, and all prior service, 348
computed as provided in this chapter, and all service 349
established pursuant to sections 3309.31, 3309.311, and 3309.33 350
of the Revised Code. In addition, "total service" includes any 351
period, not in excess of three years, during which a member was 352
out of service and receiving benefits from the state insurance 353
fund, provided the injury or incapacitation was the direct 354
result of school employment. 355

(E) "Member" means any employee, except an SERS retirant 356
or other system retirant as defined in section 3309.341 of the 357
Revised Code, who has established membership in the school 358
employees retirement system. "Member" includes a disability 359

benefit recipient. 360

(F) "Contributor" means any person who has an account in 361
the employees' savings fund. When used in the sections listed in 362
division (B) of section 3309.82 of the Revised Code, 363
"contributor" includes any person participating in a plan 364
established under section 3309.81 of the Revised Code. 365

(G) "Retirant" means any former member who retired and is 366
receiving a retirement allowance under section 3309.36 or 367
3309.381 or former section 3309.38 of the Revised Code. 368

(H) "Beneficiary" or "beneficiaries" means the estate or a 369
person or persons who, as the result of the death of a 370
contributor or retirant, qualifies for or is receiving some 371
right or benefit under this chapter. 372

(I) "Interest," as specified in division (E) of section 373
3309.60 of the Revised Code, means interest at the rates for the 374
respective funds and accounts as the school employees retirement 375
board may determine from time to time. 376

(J) "Accumulated contributions" means the sum of all 377
amounts credited to a contributor's account in the employees' 378
savings fund together with any regular interest credited thereon 379
at the rates approved by the retirement board prior to 380
retirement. 381

(K) "Final average salary" means the sum of the annual 382
compensation for the three highest years of compensation for 383
which contributions were made by the member, divided by three. 384
If the member has a partial year of contributing service in the 385
year in which the member terminates employment and the partial 386
year is at a rate of compensation that is higher than the rate 387
of compensation for any one of the highest three years of annual 388

earnings, the board shall substitute the compensation earned for 389
the partial year for the compensation earned for a similar 390
fractional portion in the lowest of the three high years of 391
annual compensation before dividing by three. If a member has 392
less than three years of contributing membership, the final 393
average salary shall be the total compensation divided by the 394
total number of years, including any fraction of a year, of 395
contributing service. 396

(L) "Annuity" means payments for life derived from 397
contributions made by a contributor and paid from the annuity 398
and pension reserve fund as provided in this chapter. All 399
annuities shall be paid in twelve equal monthly installments. 400

(M) (1) "Pension" means annual payments for life derived 401
from appropriations made by an employer and paid from the 402
employers' trust fund or the annuity and pension reserve fund. 403
All pensions shall be paid in twelve equal monthly installments. 404

(2) "Disability retirement" means retirement as provided 405
in section 3309.40 of the Revised Code. 406

(N) "Retirement allowance" means the pension plus the 407
annuity. 408

(O) (1) "Benefit" means a payment, other than a retirement 409
allowance or the annuity paid under section 3309.344 of the 410
Revised Code, payable from the accumulated contributions of the 411
member or the employer, or both, under this chapter and includes 412
a disability allowance or disability benefit. 413

(2) "Disability allowance" means an allowance paid on 414
account of disability under section 3309.401 of the Revised 415
Code. 416

(3) "Disability benefit" means a benefit paid as 417
disability retirement under section 3309.40 of the Revised Code, 418
as a disability allowance under section 3309.401 of the Revised 419
Code, or as a disability benefit under section 3309.35 of the 420
Revised Code. 421

(P) "Annuity reserve" means the present value, computed 422
upon the basis of mortality tables adopted by the school 423
employees retirement board, of all payments to be made on 424
account of any annuity, or benefit in lieu of any annuity, 425
granted to a retirant. 426

(Q) "Pension reserve" means the present value, computed 427
upon the basis of mortality tables adopted by the school 428
employees retirement board, of all payments to be made on 429
account of any pension, or benefit in lieu of any pension, 430
granted to a retirant or a beneficiary. 431

(R) "Year" means the year beginning the first day of July 432
and ending with the thirtieth day of June next following. 433

(S) "Local district pension system" means any school 434
employees' pension fund created in any school district of the 435
state prior to September 1, 1937. 436

(T) "Employer contribution" means the amount paid by an 437
employer as determined under section 3309.49 of the Revised 438
Code. 439

(U) "Fiduciary" means a person who does any of the 440
following: 441

(1) Exercises any discretionary authority or control with 442
respect to the management of the system, or with respect to the 443
management or disposition of its assets; 444

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system; 445
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(3) Has any discretionary authority or responsibility in the administration of the system. 447
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(V) (1) Except as otherwise provided in this division, "compensation" means all salary, wages, and other earnings paid to a contributor by reason of employment. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the employees' savings fund under section 3309.47 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes. 449
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(2) Compensation does not include any of the following: 457

(a) Payments for accrued but unused sick leave or personal leave, including payments made under a plan established pursuant to section 124.39 of the Revised Code or any other plan established by the employer; 458
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(b) Payments made for accrued but unused vacation leave, including payments made pursuant to section 124.13 of the Revised Code or a plan established by the employer; 462
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(c) Payments made for vacation pay covering concurrent periods for which other salary or compensation is also paid or during which benefits are paid under this chapter; 465
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(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 468
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insurance;	473
(e) Incidental benefits, including lodging, food, laundry,	474
parking, or services furnished by the employer, use of the	475
employer's property or equipment, and reimbursement for job-	476
related expenses authorized by the employer, including moving	477
and travel expenses and expenses related to professional	478
development;	479
(f) Payments made to or on behalf of a contributor that	480
are in excess of the annual compensation that may be taken into	481
account by the retirement system under division (a) (17) of	482
section 401 of the "Internal Revenue Code of 1986," 100 Stat.	483
2085, 26 U.S.C.A. 401(a) (17), as amended. For a contributor who	484
first establishes membership before July 1, 1996, the annual	485
compensation that may be taken into account by the retirement	486
system shall be determined under division (d) (3) of section	487
13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub.	488
L. No. 103-66, 107 Stat. 472;	489
(g) Payments made under division (B), (C), or (E) of	490
section 5923.05 of the Revised Code, Section 4 of Substitute	491
Senate Bill No. 3 of the 119th general assembly, Section 3 of	492
Amended Substitute Senate Bill No. 164 of the 124th general	493
assembly, or Amended Substitute House Bill No. 405 of the 124th	494
general assembly;	495
(h) Anything of value received by the contributor that is	496
based on or attributable to retirement or an agreement to	497
retire, except that payments made on or before January 1, 1989,	498
that are based on or attributable to an agreement to retire	499
shall be included in compensation if both of the following	500
apply:	501

(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986.	502 503
(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability from the payments.	504 505 506
(3) The retirement board shall determine by rule whether any form of earnings not enumerated in this division is to be included in compensation, and its decision shall be final.	507 508 509
(W) "Disability benefit recipient" means a member who is receiving a disability benefit.	510 511
(X) "Actuary" means an individual who satisfies all of the following requirements:	512 513
(1) Is a member of the American academy of actuaries;	514
(2) Is an associate or fellow of the society of actuaries;	515
(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans."	516 517
In line 179, after "sections" insert "3307.01,"; delete "and"	518
In line 180, after "3307.07" insert ", and 3309.01"	519
After line 184, insert:	520
"Section 4. The version of section 3307.01 of the Revised Code that is scheduled to take effect December 29, 2023, is presented in this act as a composite of the section as amended by both H.B. 33 of the 135th General Assembly and S.B. 131 of the 134th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the	521 522 523 524 525 526 527 528

resulting version of the section in effect prior to the 529
effective date of the section as presented in this act." 530

The motion was _____ agreed to.

SYNOPSIS 531

Student teacher membership in STRS 532

R.C. 3307.01 and 3309.01 533

Includes, as members of the State Teachers Retirement 534
System, student teachers who hold a pre-service teacher permit 535
and are employed as substitute teachers, and excludes them from 536
School Employees Retirement System membership. 537