## H.B. 233

## TEACHER SALARY SUPPLEMENT REVISIONS

HOUSE COMMITTEE AMENDMENTS

AMENDMENT 2 FEBRUARY 8, 2018 4:47 PM

Representative Eric K. Hutchings proposes the following amendments:

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1. Page 1, Lines 13 through 16:
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            This bill:
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               ₹ removes the teacher salary supplement from compensation calculations for
 15
      retirement purposes; }
 16
                  defines terms:
 Page 2, Lines 30 through 34:
      AMENDS:
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 31
              { 49-12-102, as last amended by Laws of Utah 2017, Chapter 325
            49-13-102, as last amended by Laws of Utah 2017, Chapter 325
 32
            49-22-102, as last amended by Laws of Utah 2017, Chapter 325
 33
 34
            53F-2-504, as renumbered and amended by Laws of Utah 2018, Chapter 2
 Page 2, Line 36 through Page 13, Line 378:
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      Be it enacted by the Legislature of the state of Utah:
             Section 1. Section 49-12-102 is amended to read:
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              49-12-102. Definitions.
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             As used in this chapter:
             (1) "Benefits normally provided":
40
             (a) means a benefit offered by an employer, including:
41
             (i) a leave benefit of any kind;
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             (ii) insurance coverage of any kind if the employer pays some or all of the premium for
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      the coverage;
              (iii) employer contributions to a health savings account, health reimbursement account,
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      health reimbursement arrangement, or medical expense reimbursement plan; and
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              (iv) a retirement benefit of any kind if the employer pays some or all of the cost of the
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      benefit: and
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49
             (b) does not include:
             (i) a payment for social security;
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             (ii) workers' compensation insurance;
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             (iii) unemployment insurance;
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**53** 

(iv) a payment for Medicare;

54	(v) a payment or insurance required by federal or state law that is similar to a payment
55	or insurance listed in Subsection (1)(b)(i), (ii), (iii), or (iv);
56	(vi) any other benefit that state or federal law requires an employer to provide an
<b>57</b>	employee who would not otherwise be eligible to receive the benefit; or
58	(vii) any benefit that an employer provides an employee in order to avoid a penalty or
<b>59</b>	tax under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health
60	Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal
61	regulations, including a penalty imposed by Internal Revenue Code, Section 4980H.
62	(2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total
63	amount of payments made by a participating employer to a member of this system for services
64	rendered to the participating employer, including:
65	(i) bonuses;
66	(ii) cost-of-living adjustments;
67	(iii) other payments currently includable in gross income and that are subject to social
68	security deductions, including any payments in excess of the maximum amount subject to
69	deduction under social security law;
70	(iv) amounts that the member authorizes to be deducted or reduced for salary deferral
71	or other benefits authorized by federal law; and
<b>72</b>	(v) member contributions.
73	(b) "Compensation" for purposes of this chapter may not exceed the amount allowed
74	under Internal Revenue Code, Section 401(a)(17).
<b>75</b>	(c) "Compensation" does not include:
<b>76</b>	(i) the monetary value of remuneration paid in kind, including a residence or use of
77	equipment;
<b>78</b>	(ii) the cost of any employment benefits paid for by the participating employer;
<b>79</b>	(iii) compensation paid to a temporary employee, an exempt employee, or an employee
80	otherwise ineligible for service credit;
81	(iv) any payments upon termination, including accumulated vacation, sick leave
82	payments, severance payments, compensatory time payments, or any other special payments;
83	(v) any allowances or payments to a member for costs or expenses paid by the
84	participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
85	housing costs, insurance costs, equipment costs, and dependent care costs; or
86	(vi) a teacher salary supplement described in Section 53F-2-504 or bonus described in
87	Section [53A-17a-173] 53F-2-513.
88	(d) The executive director may determine if a payment not listed under this Subsection
89	(2) falls within the definition of compensation.
90	(3) "Final average salary" means the amount calculated by averaging the highest five
91	years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), (d),
92	and (e).
93	(a) Except as provided in Subsection (3)(b), the percentage increase in annual

94	compensation in any one of the years used may not exceed the previous year's compensation by
95	more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
96	of the dollar during the previous year, as measured by a United States Bureau of Labor
<b>97</b>	Statistics Consumer Price Index average as determined by the board.
98	(b) In cases where the participating employer provides acceptable documentation to the
99	office, the limitation in Subsection (3)(a) may be exceeded if:
100	(i) the member has transferred from another agency; or
101	(ii) the member has been promoted to a new position.
102	(c) If the member retires more than six months from the date of termination of
103	employment, the member is considered to have been in service at the member's last rate of pay
104	from the date of the termination of employment to the effective date of retirement for purposes
105	of computing the member's final average salary only.
106	(d) If the member has less than five years of service credit in this system, final average
107	salary means the average annual compensation paid to the member during the full period of
108	service credit.
109	(e) The annual compensation used to calculate final average salary shall be based on:
110	(i) a calendar year for a member employed by a participating employer that is not an
111	educational institution; or
112	(ii) a contract year for a member employed by an educational institution.
113	(4) "Participating employer" means an employer which meets the participation
114	requirements of Sections 49-12-201 and 49-12-202.
115	(5) (a) "Regular full-time employee" means an employee whose term of employment
116	for a participating employer contemplates continued employment during a fiscal or calendar
117	year and whose employment normally requires an average of 20 hours or more per week,
118	except as modified by the board, and who receives benefits normally provided by the
119	participating employer.
120	(b) "Regular full-time employee" includes:
121	(i) a teacher whose term of employment for a participating employer contemplates
122	continued employment during a school year and who teaches half-time or more;
123	(ii) a classified school employee:
124	(A) who is hired before July 1, 2013; and
125	(B) whose employment normally requires an average of 20 hours per week or more for
126	a participating employer, regardless of benefits provided;
127	(iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as
128	of January 1, 1990, as provided in Section 49-12-407;
129	(iv) a faculty member or employee of an institution of higher education who is
130	considered full-time by that institution of higher education; and
131	(v) an individual who otherwise meets the definition of this Subsection (5) who
132	performs services for a participating employer through a professional employer organization or
133	similar arrangement.

134	(c) "Regular full-time employee" does not include a classified school employee:
135	(i) (A) who is hired on or after July 1, 2013; and
136	(B) who does not receive benefits normally provided by the participating employer
137	even if the employment normally requires an average of 20 hours per week or more for a
138	participating employer;
139	(ii) (A) who is hired before July 1, 2013;
140	(B) who did not qualify as a regular full-time employee before July 1, 2013;
141	(C) who does not receive benefits normally provided by the participating employer;
142	and and
143	(D) whose employment hours are increased on or after July 1, 2013, to require an
144	average of 20 hours per week or more for a participating employer; or
145	(iii) who is a person working on a contract:
146	(A) for the purposes of vocational rehabilitation and the employment and training of
147	people with significant disabilities; and
148	(B) that has been set aside from procurement requirements by the state pursuant to
149	Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.
<b>150</b>	(6) "System" means the Public Employees' Contributory Retirement System created
151	under this chapter.
152	(7) "Years of service credit" means:
153	(a) a period consisting of 12 full months as determined by the board;
154	(b) a period determined by the board, whether consecutive or not, during which a
155	regular full-time employee performed services for a participating employer, including any time
<b>156</b>	the regular full-time employee was absent on a paid leave of absence granted by a participating
<b>157</b>	employer or was absent in the service of the United States government on military duty as
158	provided by this chapter; or
159	(c) the regular school year consisting of not less than eight months of full-time service
160	for a regular full-time employee of an educational institution.
161	Section 2. Section 49-13-102 is amended to read:
<b>162</b>	49-13-102. Definitions.
163	As used in this chapter:
164	(1) "Benefits normally provided" has the same meaning as defined in Section
165	<del>49-12-102.</del>
166	(2) (a) Except as provided in Subsection (2)(c), "compensation" means the total
<b>167</b>	amount of payments made by a participating employer to a member of this system for services
168	rendered to the participating employer, including:
169	<del>(i) bonuses;</del>
170	(ii) cost-of-living adjustments;
171	(iii) other payments currently includable in gross income and that are subject to social
172	security deductions, including any payments in excess of the maximum amount subject to
173	deduction under social security law; and

174	(iv) amounts that the member authorizes to be deducted or reduced for salary deferral
175	or other benefits authorized by federal law.
176	(b) "Compensation" for purposes of this chapter may not exceed the amount allowed
177	under Internal Revenue Code, Section 401(a)(17).
178	(c) "Compensation" does not include:
179	(i) the monetary value of remuneration paid in kind, including a residence or use of
180	equipment;
181	(ii) the cost of any employment benefits paid for by the participating employer;
182	(iii) compensation paid to a temporary employee, an exempt employee, or an employee
183	otherwise ineligible for service credit;
184	(iv) any payments upon termination, including accumulated vacation, sick leave
185	payments, severance payments, compensatory time payments, or any other special payments;
186	(v) any allowances or payments to a member for costs or expenses paid by the
187	participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
188	housing costs, insurance costs, equipment costs, and dependent care costs; or
189	(vi) a teacher salary supplement described in Section 53F-2-504 or bonus described in
190	<del>Section [53A-17a-173] 53F-2-513.</del>
191	(d) The executive director may determine if a payment not listed under this Subsection
192	(2) falls within the definition of compensation.
193	(3) "Final average salary" means the amount calculated by averaging the highest three
194	years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and
195	<del>(d).</del>
196	(a) Except as provided in Subsection (3)(b), the percentage increase in annual
<b>197</b>	compensation in any one of the years used may not exceed the previous year's compensation by
198	more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
199	of the dollar during the previous year, as measured by a United States Bureau of Labor
200	Statistics Consumer Price Index average as determined by the board.
201	(b) In cases where the participating employer provides acceptable documentation to the
202	office, the limitation in Subsection (3)(a) may be exceeded if:
203	(i) the member has transferred from another agency; or
204	(ii) the member has been promoted to a new position.
205	(c) If the member retires more than six months from the date of termination of
206	employment and for purposes of computing the member's final average salary only, the
207	member is considered to have been in service at the member's last rate of pay from the date of
208	the termination of employment to the effective date of retirement.
209	(d) The annual compensation used to calculate final average salary shall be based on:
210	(i) a calendar year for a member employed by a participating employer that is not an
211	educational institution; or
212	(ii) a contract year for a member employed by an educational institution.
213	(4) "Participating employer" means an employer which meets the participation

214	requirements of Sections 49-13-201 and 49-13-202.
215	(5) (a) "Regular full-time employee" means an employee whose term of employment
216	for a participating employer contemplates continued employment during a fiscal or calendar
217	year and whose employment normally requires an average of 20 hours or more per week,
218	except as modified by the board, and who receives benefits normally provided by the
219	participating employer.
220	(b) "Regular full-time employee" includes:
221	(i) a teacher whose term of employment for a participating employer contemplates
222	continued employment during a school year and who teaches half time or more;
223	(ii) a classified school employee:
224	(A) who is hired before July 1, 2013; and
225	(B) whose employment normally requires an average of 20 hours per week or more for
226	a participating employer, regardless of benefits provided;
227	(iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as
228	of January 1, 1990, as provided in Section 49-13-407;
229	(iv) a faculty member or employee of an institution of higher education who is
230	considered full time by that institution of higher education; and
231	(v) an individual who otherwise meets the definition of this Subsection (5) who
232	performs services for a participating employer through a professional employer organization or
233	similar arrangement.
234	(c) "Regular full-time employee" does not include a classified school employee:
235	(i) (A) who is hired on or after July 1, 2013; and
<b>236</b>	(B) who does not receive benefits normally provided by the participating employer
237	even if the employment normally requires an average of 20 hours per week or more for a
238	participating employer;
239	(ii) (A) who is hired before July 1, 2013;
240	(B) who did not qualify as a regular full-time employee before July 1, 2013;
241	(C) who does not receive benefits normally provided by the participating employer;
242	and and
243	(D) whose employment hours are increased on or after July 1, 2013, to require an
244	average of 20 hours per week or more for a participating employer; or
245	(iii) who is a person working on a contract:
<b>246</b>	(A) for the purposes of vocational rehabilitation and the employment and training of
247	people with significant disabilities; and
248	(B) that has been set aside from procurement requirements by the state pursuant to
249	Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.
<b>250</b>	(6) "System" means the Public Employees' Noncontributory Retirement System.
251	(7) "Years of service credit" means:
252	(a) a period consisting of 12 full months as determined by the board;
253	(b) a period determined by the board, whether consecutive or not, during which a

**254** regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating **255 256** employer or was absent in the service of the United States government on military duty as provided by this chapter; or 257 (c) the regular school year consisting of not less than eight months of full-time service 258 for a regular full-time employee of an educational institution. 259 **260** Section 3. Section 49-22-102 is amended to read: 49-22-102. **Definitions.** 261 **262** As used in this chapter: 263 (1) "Benefits normally provided" has the same meaning as defined in Section **264** <del>49-12-102.</del> **265** (2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total 266 amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including: **267 268** (i) bonuses; (ii) cost-of-living adjustments; 269 **270** (iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to 271 deduction under social security law; 272 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral 273 or other benefits authorized by federal law; and 274 275 (v) member contributions. 276 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17). 277 (c) "Compensation" does not include: **278** (i) the monetary value of remuneration paid in kind, including a residence or use of 279 equipment; 280 **281** (ii) the cost of any employment benefits paid for by the participating employer; **282** (iii) compensation paid to a temporary employee or an employee otherwise ineligible 283 for service credit; (iv) any payments upon termination, including accumulated vacation, sick leave 284 285 payments, severance payments, compensatory time payments, or any other special payments; 286 (v) any allowances or payments to a member for costs or expenses paid by the **287** participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs; or 288 289 (vi) a teacher salary supplement described in Section 53F-2-504 or bonus described in 290 Section [53A-17a-173] 53F-2-513. 291 (d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation. 292 293 (3) "Corresponding Tier I system" means the system or plan that would have covered

294	the member if the member had initially entered employment before July 1, 2011.
295	(4) "Final average salary" means the amount calculated by averaging the highest five
296	years of annual compensation preceding retirement subject to Subsections (4)(a), (b), (c), (d),
297	and (e).
298	(a) Except as provided in Subsection (4)(b), the percentage increase in annual
299	compensation in any one of the years used may not exceed the previous year's compensation by
300	more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
301	of the dollar during the previous year, as measured by a United States Bureau of Labor
302	Statistics Consumer Price Index average as determined by the board.
303	(b) In cases where the participating employer provides acceptable documentation to the
304	office, the limitation in Subsection (4)(a) may be exceeded if:
305	(i) the member has transferred from another agency; or
306	(ii) the member has been promoted to a new position.
307	(c) If the member retires more than six months from the date of termination of
308	employment, the member is considered to have been in service at the member's last rate of pay
309	from the date of the termination of employment to the effective date of retirement for purposes
310	of computing the member's final average salary only.
311	(d) If the member has less than five years of service credit in this system, final average
312	salary means the average annual compensation paid to the member during the full period of
313	service credit.
314	(e) The annual compensation used to calculate final average salary shall be based on:
315	(i) a calendar year for a member employed by a participating employer that is not an
316	educational institution; or
317	(ii) a contract year for a member employed by an educational institution.
318	(5) "Participating employer" means an employer which meets the participation
319	requirements of:
320	<del>(a) Sections 49-12-201 and 49-12-202;</del>
321	(b) Sections 49-13-201 and 49-13-202;
322	(c) Section 49-19-201; or
323	(d) Section 49-22-201 or 49-22-202.
324	(6) (a) "Regular full-time employee" means an employee whose term of employment
325	for a participating employer contemplates continued employment during a fiscal or calendar
326	year and whose employment normally requires an average of 20 hours or more per week,
327	except as modified by the board, and who receives benefits normally provided by the
328	participating employer.
329	(b) "Regular full-time employee" includes:
330	(i) a teacher whose term of employment for a participating employer contemplates
331	continued employment during a school year and who teaches half time or more;
332	(ii) a classified school employee:
333	(A) who is hired before July 1, 2013; and
333	(A) who is three detore July 1, 2013, and

334	(B) whose employment normally requires an average of 20 hours per week or more for
335	a participating employer, regardless of benefits provided;
336	(iii) an appointive officer whose appointed position is full time as certified by the
337	participating employer;
338	(iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the
339	attorney general, and a state legislator;
340	(v) an elected official not included under Subsection (6)(b)(iv) whose elected position
341	is full time as certified by the participating employer;
342	(vi) a faculty member or employee of an institution of higher education who is
343	considered full time by that institution of higher education; and
344	(vii) an individual who otherwise meets the definition of this Subsection (6) who
345	performs services for a participating employer through a professional employer organization or
346	similar arrangement.
347	(c) "Regular full-time employee" does not include:
348	(i) a firefighter service employee as defined in Section 49-23-102;
349	(ii) a public safety service employee as defined in Section 49-23-102;
350	(iii) a classified school employee:
351	(A) who is hired on or after July 1, 2013; and
352	(B) who does not receive benefits normally provided by the participating employer
353	even if the employment normally requires an average of 20 hours per week or more for a
354	participating employer;
355	(iv) a classified school employee:
356	(A) who is hired before July 1, 2013;
<b>357</b>	(B) who did not qualify as a regular full-time employee before July 1, 2013;
358	(C) who does not receive benefits normally provided by the participating employer;
359	and
<b>360</b>	(D) whose employment hours are increased on or after July 1, 2013, to require an
<b>361</b>	average of 20 hours per week or more for a participating employer; or
362	(E) who is a person working on a contract:
363	(I) for the purposes of vocational rehabilitation and the employment and training of
364	people with significant disabilities; and
365	(II) that has been set aside from procurement requirements by the state pursuant to
366	Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.
367	(7) "System" means the New Public Employees' Tier H Contributory Retirement
368	System created under this chapter.
369	(8) "Years of service credit" means:
<b>370</b>	(a) a period consisting of 12 full months as determined by the board;
<b>371</b>	(b) a period determined by the board, whether consecutive or not, during which a
<b>372</b>	regular full-time employee performed services for a participating employer, including any time
<b>373</b>	the regular full-time employee was absent on a paid leave of absence granted by a participating

374	employer or was absent in the service of the United States government on military duty as
375	provided by this chapter; or
<b>376</b>	(c) the regular school year consisting of not less than eight months of full-time service
<b>377</b>	for a regular full-time employee of an educational institution.
378	Section 4. Section 53F-2-504 is amended to read:
Pa	ge 15, Lines 450 through 458:
450	(b) Money appropriated for the Teacher Salary Supplement Program shall include
451	money for the following employer-paid benefits:
452	(i) { <u>except as provided in Subsection (2)(e),</u> } retirement;
453	(ii) workers' compensation;
454	(iii) Social Security; and
455	(iv) Medicare.
456	{ (c) A salary supplement awarded on or after July 1, 2018, is not included in an eligible
<b>457</b>	teacher's compensation as defined in Section 49-12-102, 49-13-102, or 49-22-102.
458	(3) (a) [(i)] The annual salary supplement for an eligible teacher who is assigned full
Pa	ge 19, Lines 559 through 560:
559	teacher.
560	(b) {+} The {+} {-Except as provided in Subsection (2)(c), the } salary supplement is

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part of the