

**PUBLIC SAFETY RETIREMENT FOR DISPATCHERS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kraig Powell**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill allows certified dispatchers to be covered in the public safety retirement systems.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ requires the state to cover its certified dispatchers under the public safety retirement systems;
- ▶ authorizes other participating employers to elect to cover their certified dispatchers under the public safety retirement systems; and
- ▶ makes technical corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

[49-14-102](#), as last amended by Laws of Utah 2013, Chapter 40

[49-14-201](#), as last amended by Laws of Utah 2014, Chapter 15

[49-15-102](#), as last amended by Laws of Utah 2013, Chapter 40

[49-15-201](#), as last amended by Laws of Utah 2014, Chapter 15

[49-23-102](#), as last amended by Laws of Utah 2013, Chapter 40

30 [49-23-201](#), as last amended by Laws of Utah 2014, Chapter 15

31 [49-23-503](#), as last amended by Laws of Utah 2014, Chapter 15

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33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **49-14-102** is amended to read:

35 **49-14-102. Definitions.**

36 As used in this chapter:

37 (1) (a) "Compensation" means the total amount of payments that are includable in  
38 gross income which are received by a public safety service employee as base income for the  
39 regularly scheduled work period. The participating employer shall establish the regularly  
40 scheduled work period. Base income shall be determined prior to the deduction of member  
41 contributions or any amounts the public safety service employee authorizes to be deducted for  
42 salary deferral or other benefits authorized by federal law.

43 (b) "Compensation" includes performance-based bonuses and cost-of-living  
44 adjustments.

45 (c) "Compensation" does not include:

46 (i) overtime;

47 (ii) sick pay incentives;

48 (iii) retirement pay incentives;

49 (iv) the monetary value of remuneration paid in kind, including a residence, use of  
50 equipment or uniform, travel, or similar payments;

51 (v) a lump-sum payment or special payments covering accumulated leave; and

52 (vi) all contributions made by a participating employer under this system or under any  
53 other employee benefit system or plan maintained by a participating employer for the benefit of  
54 a member or participant.

55 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed  
56 under Internal Revenue Code Section 401(a)(17).

57 (2) "Dispatcher" means the same as that term is defined in Section [53-6-102](#).

58           ~~[(2)]~~ (3) "Final average salary" means the amount computed by averaging the highest  
59 three years of annual compensation preceding retirement~~;~~ subject to Subsections ~~[(2)]~~ (3)(a)  
60 and (b).

61           (a) Except as provided in Subsection ~~[(2)]~~ (3)(b), the percentage increase in annual  
62 compensation in any one of the years used may not exceed the previous year's compensation by  
63 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
64 of the dollar during the previous year, as measured by a United States Bureau of Labor  
65 Statistics Consumer Price Index average as determined by the board.

66           (b) In cases where the participating employer provides acceptable documentation to the  
67 office, the limitation in Subsection ~~[(2)]~~ (3)(a) may be exceeded if:

- 68           (i) the public safety service employee has transferred from another agency; or
- 69           (ii) the public safety service employee has been promoted to a new position.

70           ~~[(3)]~~ (4) (a) "Line-of-duty death" means a death resulting from:

- 71           (i) external force, violence, or disease occasioned by an act of duty as a public safety  
72 service employee; or
- 73           (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous  
74 training or another strenuous activity required as an act of duty as a public safety service  
75 employee.

76           (b) "Line-of-duty death" does not include a death that:

- 77           (i) occurs during an activity that is required as an act of duty as a public safety service  
78 employee if the activity is not a strenuous activity, including an activity that is clerical,  
79 administrative, or of a nonmanual nature;
- 80           (ii) occurs during the commission of a crime committed by the employee;
- 81           (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or  
82 nonprescribed, contributes to the employee's death; or
- 83           (iv) occurs in a manner other than as described in Subsection ~~[(3)]~~ (4)(a).

84           ~~[(4)]~~ (5) "Participating employer" means an employer which meets the participation  
85 requirements of Section [49-14-201](#).

86           ~~[(5)]~~ (6) (a) "Public safety service" means employment normally requiring an average  
87 of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

88           (i) law enforcement officer in accordance with Section 53-13-103;  
89           (ii) correctional officer in accordance with Section 53-13-104;  
90           (iii) special function officer approved in accordance with Sections 49-14-201 and  
91 53-13-105; ~~[and]~~

92           ~~(iv)~~ (iv) dispatcher who is certified in accordance with Section 53-6-303; or  
93           ~~[(iv)]~~ (v) full-time member of the Board of Pardons and Parole created under Section  
94 77-27-2.

95           (b) Except as provided under ~~[Subsection (5)]~~ Subsections (6)(a)(iv) and (v), "public  
96 safety service" also requires that in the course of employment the employee's life or personal  
97 safety is at risk.

98           (c) Except for the minimum hour requirement, ~~Subsections~~~~[(5)]~~ (6)(a) and (b) do not  
99 apply to any person who was eligible for service credit in this system before January 1, 1984.

100           ~~[(6)]~~ (7) "Public safety service employee" means an employee of a participating  
101 employer who performs public safety service under this chapter.

102           ~~[(7)]~~ (8) (a) "Strenuous activity" means engagement involving a difficult, stressful, or  
103 vigorous fire suppression, rescue, hazardous material response, emergency medical service,  
104 physical law enforcement, prison security, disaster relief, or other emergency response activity.

105           (b) "Strenuous activity" includes participating in a participating employer sanctioned  
106 and funded training exercise that involves difficult, stressful, or vigorous physical activity.

107           ~~[(8)]~~ (9) "System" means the Public Safety Contributory Retirement System created  
108 under this chapter.

109           ~~[(9)]~~ (10) "Years of service credit" means the number of periods, each to consist of 12  
110 full months as determined by the board, whether consecutive or not, during which a public  
111 safety service employee was employed by a participating employer, including time the public  
112 safety service employee was absent in the service of the United States government on military  
113 duty.

114 Section 2. Section **49-14-201** is amended to read:

115 **49-14-201. System membership -- Eligibility.**

116 (1) Except as provided in Section **49-15-201**, a public safety service employee of a  
117 participating employer participating in this system is eligible for service credit in this system at  
118 the earliest of:

119 (a) July 1, 1969, if the public safety service employee was employed by the  
120 participating employer on July 1, 1969, and the participating employer was participating in this  
121 system on that date;

122 (b) the date the participating employer begins participating in this system if the public  
123 safety service employee was employed by the participating employer on that date; or

124 (c) the date the public safety service employee is employed by the participating  
125 employer and is eligible to perform public safety service, except that a public safety service  
126 employee initially entering employment with a participating employer on or after July 1, 2011,  
127 who does not have service credit accrued before July 1, 2011, in a Tier I system or plan  
128 administered by the board, may not participate in this system.

129 (2) (a) (i) A participating employer that has public safety service and firefighter service  
130 employees that require cross-training and duty shall enroll those dual purpose employees in the  
131 system in which the greatest amount of time is actually worked.

132 (ii) The employees shall either be full-time public safety service or full-time firefighter  
133 service employees of the participating employer.

134 (b) (i) Prior to transferring a dual purpose employee from one system to another, the  
135 participating employer shall receive written permission from the office.

136 (ii) The office may request documentation to verify the appropriateness of the transfer.

137 (3) The board may combine or segregate the actuarial experience of participating  
138 employers in this system for the purpose of setting contribution rates.

139 (4) (a) (i) Each participating employer participating in this system shall annually  
140 submit to the office a schedule indicating the positions to be covered under this system in  
141 accordance with this chapter.

142 (ii) The office may require documentation to justify the inclusion of any position under  
143 this system.

144 (b) If there is a dispute between the office and a participating employer or employee  
145 over any position to be covered, the disputed position shall be submitted to the Peace Officer  
146 Standards and Training Council established under Section 53-6-106 for determination.

147 (c) (i) The Peace Officer Standards and Training Council's authority to decide  
148 eligibility for public safety service credit is limited to claims for coverage under this system for  
149 time periods after July 1, 1989.

150 (ii) A decision of the Peace Officer Standards and Training Council may not be applied  
151 to service credit earned in another system prior to July 1, 1989.

152 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer  
153 Standards and Training Council granting a position coverage under this system may only be  
154 applied prospectively from the date of that decision.

155 (iv) A decision of the Peace Officer Standards and Training Council granting a position  
156 coverage under this system may be applied retroactively only if:

157 (A) the participating employer covered other similarly situated positions under this  
158 system during the time period in question; and

159 (B) the position otherwise meets all eligibility requirements for receiving service credit  
160 in this system during the period for which service credit is to be granted.

161 (5) The Peace Officer Standards and Training Council may use a subcommittee to  
162 provide a recommendation to the council in determining disputes between the office and a  
163 participating employer or employee over a position to be covered under this system.

164 (6) The Peace Officer Standards and Training Council shall comply with Title 63G,  
165 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

166 (7) A public safety employee who is transferred or promoted to an administration  
167 position not covered by this system shall continue to earn public safety service credit in this  
168 system as long as the employee remains employed in the same department.

169 (8) Any employee who is reassigned to the Department of Technology Services or to

170 the Department of Human Resource Management, and who was a member of this system, shall  
171 be entitled to remain a member of this system.

172 (9) (a) To determine that a position is covered under this system, the office and, if a  
173 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the  
174 position requires the employee to:

- 175 (i) except for a dispatcher, place the employee's life or personal safety at risk; and
- 176 (ii) complete training as provided in Section [53-6-303](#), [53-13-103](#), [53-13-104](#), or  
177 [53-13-105](#).

178 (b) If a position satisfies the requirements of Subsection (9)(a), the office and the Peace  
179 Officer Standards and Training Council shall consider whether or not the position requires the  
180 employee to:

- 181 (i) perform duties that consist primarily of actively preventing or detecting crime and  
182 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
- 183 (ii) perform duties that consist primarily of providing community protection; and
- 184 (iii) respond to situations involving threats to public safety and make emergency  
185 decisions affecting the lives and health of others.

186 (10) If a subcommittee is used to recommend the determination of disputes to the  
187 Peace Officer Standards and Training Council, the subcommittee shall comply with the  
188 requirements of Subsection (9) in making its recommendation.

189 (11) A final order of the Peace Officer Standards and Training Council regarding a  
190 dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative  
191 Procedures Act.

192 (12) Except as provided under Subsection (13), if a participating employer's public  
193 safety service employees are not covered by this system or under Chapter 15, Public Safety  
194 Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees  
195 who may otherwise qualify for membership in this system shall, at the discretion of the  
196 participating employer, remain in their current retirement system.

197 (13) (a) A public safety service employee employed by an airport police department,

198 which elects to cover its public safety service employees under the Public Safety  
199 Noncontributory Retirement System under Subsection (12), may elect to remain in the public  
200 safety service employee's current retirement system.

201 (b) The public safety service employee's election to remain in the current retirement  
202 system under Subsection (13)(a):

203 (i) shall be made at the time the employer elects to move its public safety service  
204 employees to a public safety retirement system;

205 (ii) documented by written notice to the participating employer; and

206 (iii) is irrevocable.

207 (14) (a) Subject to Subsection (15), beginning July 1, 2015, a public safety service  
208 employee who is a dispatcher employed by:

209 (i) the state shall be eligible for service credit in this system; and

210 (ii) a participating employer other than the state shall be eligible for service credit in  
211 this system if the dispatcher's participating employer elects to cover its dispatchers under this  
212 system.

213 (b) A participating employer's election to cover its dispatchers under this system under  
214 Subsection (14)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the  
215 governing body of the participating employer in accordance with rules made by the office.

216 (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution  
217 of a participating employer under Subsection (14)(b), is not eligible for service credit in this  
218 system.

219 ~~[(14)]~~ (15) Notwithstanding any other provision of this section, a person initially  
220 entering employment with a participating employer on or after July 1, 2011, who does not have  
221 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,  
222 may not participate in this system.

223 Section 3. Section **49-15-102** is amended to read:

224 **49-15-102. Definitions.**

225 As used in this chapter:



226 (1) (a) "Compensation" means the total amount of payments that are includable in  
227 gross income received by a public safety service employee as base income for the regularly  
228 scheduled work period. The participating employer shall establish the regularly scheduled  
229 work period. Base income shall be determined prior to the deduction of any amounts the  
230 public safety service employee authorizes to be deducted for salary deferral or other benefits  
231 authorized by federal law.

232 (b) "Compensation" includes performance-based bonuses and cost-of-living  
233 adjustments.

234 (c) "Compensation" does not include:

235 (i) overtime;

236 (ii) sick pay incentives;

237 (iii) retirement pay incentives;

238 (iv) the monetary value of remuneration paid in kind, as in a residence, use of  
239 equipment or uniform, travel, or similar payments;

240 (v) a lump-sum payment or special payment covering accumulated leave; and

241 (vi) all contributions made by a participating employer under this system or under any  
242 other employee benefit system or plan maintained by a participating employer for the benefit of  
243 a member or participant.

244 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed  
245 under Internal Revenue Code Section 401(a)(17).

246 (2) "Dispatcher" means the same as that term is defined in Section [53-6-102](#).

247 ~~[(2)]~~ (3) "Final average salary" means the amount computed by averaging the highest  
248 three years of annual compensation preceding retirement subject to Subsections ~~[(2)]~~ (3)(a) and  
249 (b).

250 (a) Except as provided in Subsection ~~[(2)]~~ (3)(b), the percentage increase in annual  
251 compensation in any one of the years used may not exceed the previous year's compensation by  
252 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
253 of the dollar during the previous year, as measured by a United States Bureau of Labor

254 Statistics Consumer Price Index average as determined by the board.

255 (b) In cases where the participating employer provides acceptable documentation to the  
256 office, the limitation in Subsection [~~(2)~~] (3)(a) may be exceeded if:

257 (i) the public safety service employee has transferred from another agency; or

258 (ii) the public safety service employee has been promoted to a new position.

259 [~~(3)~~] (4) (a) "Line-of-duty death" means a death resulting from:

260 (i) external force, violence, or disease occasioned by an act of duty as a public safety  
261 service employee; or

262 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous  
263 training or another strenuous activity required as an act of duty as a public safety service  
264 employee.

265 (b) "Line-of-duty death" does not include a death that:

266 (i) occurs during an activity that is required as an act of duty as a public safety service  
267 employee if the activity is not a strenuous activity, including an activity that is clerical,  
268 administrative, or of a nonmanual nature;

269 (ii) occurs during the commission of a crime committed by the employee;

270 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or  
271 nonprescribed, contributes to the employee's death; or

272 (iv) occurs in a manner other than as described in Subsection [~~(3)~~] (4)(a).

273 [~~(4)~~] (5) "Participating employer" means an employer which meets the participation  
274 requirements of Section 49-15-201.

275 [~~(5)~~] (6) (a) "Public safety service" means employment normally requiring an average  
276 of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

277 (i) law enforcement officer in accordance with Section 53-13-103;

278 (ii) correctional officer in accordance with Section 53-13-104;

279 (iii) special function officer approved in accordance with Sections 49-15-201 and  
280 53-13-105; ~~and~~

281 (iv) dispatcher who is certified in accordance with Section 53-6-303; or

282           ~~[(iv)]~~ (v) full-time member of the Board of Pardons and Parole created under Section  
283 ~~77-27-2.~~

284           (b) Except as provided under ~~[Subsection (5)]~~ Subsections (6)(a)(iv) and (v), "public  
285 safety service" also requires that in the course of employment the employee's life or personal  
286 safety is at risk.

287           ~~[(6)]~~ (7) "Public safety service employee" means an employee of a participating  
288 employer who performs public safety service under this chapter.

289           ~~[(7)]~~ (8) (a) "Strenuous activity" means engagement involving a difficult, stressful, or  
290 vigorous fire suppression, rescue, hazardous material response, emergency medical service,  
291 physical law enforcement, prison security, disaster relief, or other emergency response activity.

292           (b) "Strenuous activity" includes participating in a participating employer sanctioned  
293 and funded training exercise that involves difficult, stressful, or vigorous physical activity.

294           ~~[(8)]~~ (9) "System" means the Public Safety Noncontributory Retirement System created  
295 under this chapter.

296           ~~[(9)]~~ (10) "Years of service credit" means the number of periods, each to consist of 12  
297 full months as determined by the board, whether consecutive or not, during which a public  
298 safety service employee was employed by a participating employer, including time the public  
299 safety service employee was absent in the service of the United States government on military  
300 duty.

301           Section 4. Section **49-15-201** is amended to read:

302           **49-15-201. System membership -- Eligibility.**

303           (1) (a) A public safety service employee employed by the state after July 1, 1989, but  
304 before July 1, 2011, is eligible for service credit in this system.

305           (b) A public safety service employee employed by the state prior to July 1, 1989, may  
306 either elect to receive service credit in this system or continue to receive service credit under  
307 the system established under Chapter 14, Public Safety Contributory Retirement Act, by  
308 following the procedures established by the board under this chapter.

309           (2) (a) Public safety service employees of a participating employer other than the state

310 that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement  
311 System shall be eligible only for service credit in that system.

312 (b) (i) A participating employer other than the state that elected on or before July 1,  
313 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety  
314 service employee to elect to participate in either this system or the Public Safety Contributory  
315 Retirement System.

316 (ii) Except as expressly allowed by this title, the election of the public safety service  
317 employee is final and may not be changed.

318 (c) A public safety service employee hired by a participating employer other than the  
319 state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

320 (d) A public safety service employee of a participating employer other than the state  
321 who began participation in this system after July 1, 1989, but before July 1, 2011, is only  
322 eligible for service credit in this system.

323 (e) A person initially entering employment with a participating employer on or after  
324 July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system  
325 or plan administered by the board, may not participate in this system.

326 (3) (a) (i) A participating employer that has public safety service and firefighter service  
327 employees that require cross-training and duty shall enroll those dual purpose employees in the  
328 system in which the greatest amount of time is actually worked.

329 (ii) The employees shall either be full-time public safety service or full-time firefighter  
330 service employees of the participating employer.

331 (b) (i) Prior to transferring a dual purpose employee from one system to another, the  
332 participating employer shall receive written permission from the office.

333 (ii) The office may request documentation to verify the appropriateness of the transfer.

334 (4) The board may combine or segregate the actuarial experience of participating  
335 employers in this system for the purpose of setting contribution rates.

336 (5) (a) (i) Each participating employer participating in this system shall annually  
337 submit to the office a schedule indicating the positions to be covered under this system in

338 accordance with this chapter.

339 (ii) The office may require documentation to justify the inclusion of any position under  
340 this system.

341 (b) If there is a dispute between the office and a participating employer or employee  
342 over any position to be covered, the disputed position shall be submitted to the Peace Officer  
343 Standards and Training Council established under Section 53-6-106 for determination.

344 (c) (i) The Peace Officer Standards and Training Council's authority to decide  
345 eligibility for public safety service credit is limited to claims for coverage under this system for  
346 time periods after July 1, 1989.

347 (ii) A decision of the Peace Officer Standards and Training Council may not be applied  
348 to service credit earned in another system prior to July 1, 1989.

349 (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer  
350 Standards and Training Council granting a position coverage under this system may only be  
351 applied prospectively from the date of that decision.

352 (iv) A decision of the Peace Officer Standards and Training Council granting a position  
353 coverage under this system may be applied retroactively only if:

354 (A) the participating employer covered other similarly situated positions under this  
355 system during the time period in question; and

356 (B) the position otherwise meets all eligibility requirements for receiving service credit  
357 in this system during the period for which service credit is to be granted.

358 (6) The Peace Officer Standards and Training Council may use a subcommittee to  
359 provide a recommendation to the council in determining disputes between the office and a  
360 participating employer or employee over a position to be covered under this system.

361 (7) The Peace Officer Standards and Training Council shall comply with Title 63G,  
362 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

363 (8) A public safety service employee who is transferred or promoted to an  
364 administration position not covered by this system shall continue to earn public safety service  
365 credit in this system as long as the employee remains employed in the same department.

366 (9) Any employee who is reassigned to the Department of Technology Services or to  
367 the Department of Human Resource Management, and who was a member in this system, shall  
368 be entitled to remain a member in this system.

369 (10) (a) To determine that a position is covered under this system, the office and, if a  
370 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the  
371 position requires the employee to:

372 (i) except for a dispatcher, place the employee's life or personal safety at risk; and

373 (ii) complete training as provided in Section [53-6-303](#), [53-13-103](#), [53-13-104](#), or  
374 [53-13-105](#).

375 (b) If a position satisfies the requirements of Subsection (10)(a), the office and Peace  
376 Officer Standards and Training Council shall consider whether the position requires the  
377 employee to:

378 (i) perform duties that consist primarily of actively preventing or detecting crime and  
379 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

380 (ii) perform duties that consist primarily of providing community protection; and

381 (iii) respond to situations involving threats to public safety and make emergency  
382 decisions affecting the lives and health of others.

383 (11) If a subcommittee is used to recommend the determination of disputes to the  
384 Peace Officer Standards and Training Council, the subcommittee shall comply with the  
385 requirements of Subsection (10) in making its recommendation.

386 (12) A final order of the Peace Officer Standards and Training Council regarding a  
387 dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative  
388 Procedures Act.

389 (13) Except as provided under Subsection (14), if a participating employer's public  
390 safety service employees are not covered by this system or under Chapter 14, Public Safety  
391 Contributory Retirement Act, as of January 1, 1998, those public safety service employees who  
392 may otherwise qualify for membership in this system shall, at the discretion of the participating  
393 employer, remain in their current retirement system.

394 (14) (a) A public safety service employee employed by an airport police department,  
395 which elects to cover its public safety service employees under the Public Safety  
396 Noncontributory Retirement System under Subsection (13), may elect to remain in the public  
397 safety service employee's current retirement system.

398 (b) The public safety service employee's election to remain in the current retirement  
399 system under Subsection (14)(a):

400 (i) shall be made at the time the employer elects to move its public safety service  
401 employees to a public safety retirement system;

402 (ii) documented by written notice to the participating employer; and

403 (iii) is irrevocable.

404 (15) (a) Subject to Subsection (16), beginning July 1, 2015, a public safety service  
405 employee who is a dispatcher employed by:

406 (i) the state shall be eligible for service credit in this system; and

407 (ii) a participating employer other than the state shall be eligible for service credit in  
408 this system if the dispatcher's participating employer elects to cover its dispatchers under this  
409 system.

410 (b) A participating employer's election to cover its dispatchers under this system under  
411 Subsection (15)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the  
412 governing body of the participating employer in accordance with rules made by the office.

413 (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution  
414 of a participating employer under Subsection (15)(b), is not eligible for service credit in this  
415 system.

416 ~~[(15)]~~ (16) Notwithstanding any other provision of this section, a person initially  
417 entering employment with a participating employer on or after July 1, 2011, who does not have  
418 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,  
419 may not participate in this system.

420 Section 5. Section **49-23-102** is amended to read:

421 **49-23-102. Definitions.**

422 As used in this chapter:

423 (1) (a) "Compensation" means the total amount of payments that are includable in  
424 gross income received by a public safety service employee or a firefighter service employee as  
425 base income for the regularly scheduled work period. The participating employer shall  
426 establish the regularly scheduled work period. Base income shall be determined prior to the  
427 deduction of any amounts the public safety service employee or firefighter service employee  
428 authorizes to be deducted for salary deferral or other benefits authorized by federal law.

429 (b) "Compensation" includes performance-based bonuses and cost-of-living  
430 adjustments.

431 (c) "Compensation" does not include:

432 (i) overtime;

433 (ii) sick pay incentives;

434 (iii) retirement pay incentives;

435 (iv) the monetary value of remuneration paid in kind, as in a residence, use of  
436 equipment or uniform, travel, or similar payments;

437 (v) a lump-sum payment or special payment covering accumulated leave; and

438 (vi) all contributions made by a participating employer under this system or under any  
439 other employee benefit system or plan maintained by a participating employer for the benefit of  
440 a member or participant.

441 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed  
442 under Internal Revenue Code Section 401(a)(17).

443 (2) "Corresponding Tier I system" means the system or plan that would have covered  
444 the member if the member had initially entered employment before July 1, 2011.

445 (3) "Dispatcher" means the same as that term is defined in Section [53-6-102](#).

446 ~~[(3)]~~ (4) "Final average salary" means the amount computed by averaging the highest  
447 five years of annual compensation preceding retirement subject to Subsections ~~[(3)]~~ (4)(a), (b),  
448 (c), and (d).

449 (a) Except as provided in Subsection ~~[(3)]~~ (4)(b), the percentage increase in annual



450 compensation in any one of the years used may not exceed the previous year's compensation by  
451 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
452 of the dollar during the previous year, as measured by a United States Bureau of Labor  
453 Statistics Consumer Price Index average as determined by the board.

454 (b) In cases where the participating employer provides acceptable documentation to the  
455 office, the limitation in Subsection [~~(3)~~] (4)(a) may be exceeded if:

456 (i) the member has transferred from another agency; or

457 (ii) the member has been promoted to a new position.

458 (c) If the member retires more than six months from the date of termination of  
459 employment, the member is considered to have been in service at the member's last rate of pay  
460 from the date of the termination of employment to the effective date of retirement for purposes  
461 of computing the member's final average salary only.

462 (d) If the member has less than five years of service credit in this system, final average  
463 salary means the average annual compensation paid to the member during the full period of  
464 service credit.

465 [~~(4)~~] (5) "Firefighter service" means employment normally requiring an average of  
466 2,080 hours of regularly scheduled employment per year rendered by a member who is a  
467 firefighter service employee trained in firefighter techniques and assigned to a position of  
468 hazardous duty with a regularly constituted fire department, but does not include secretarial  
469 staff or other similar employees.

470 [~~(5)~~] (6) "Firefighter service employee" means an employee of a participating employer  
471 who provides firefighter service under this chapter. An employee of a regularly constituted fire  
472 department who does not perform firefighter service is not a firefighter service employee.

473 [~~(6)~~] (7) (a) "Line-of-duty death" means a death resulting from:

474 (i) external force, violence, or disease occasioned by an act of duty as a public safety  
475 service or firefighter service employee; or

476 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous  
477 training or another strenuous activity required as an act of duty as a public safety service or

478 firefighter service employee.

479 (b) "Line-of-duty death" does not include a death that:

480 (i) occurs during an activity that is required as an act of duty as a public safety service  
481 or firefighter service employee if the activity is not a strenuous activity, including an activity  
482 that is clerical, administrative, or of a nonmanual nature;

483 (ii) occurs during the commission of a crime committed by the employee;

484 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or  
485 nonprescribed, contributes to the employee's death; or

486 (iv) occurs in a manner other than as described in Subsection ~~[(6)]~~ (7)(a).

487 ~~[(7)]~~ (8) "Participating employer" means an employer which meets the participation  
488 requirements of:

489 (a) Sections 49-14-201 and 49-14-202;

490 (b) Sections 49-15-201 and 49-15-202;

491 (c) Sections 49-16-201 and 49-16-202; or

492 (d) Sections 49-23-201 and 49-23-202.

493 ~~[(8)]~~ (9) (a) "Public safety service" means employment normally requiring an average  
494 of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

495 (i) law enforcement officer in accordance with Section 53-13-103;

496 (ii) correctional officer in accordance with Section 53-13-104;

497 (iii) special function officer approved in accordance with Sections 49-15-201 and  
498 53-13-105; ~~[and]~~

499 (iv) dispatcher who is certified in accordance with Section 53-6-303; and

500 ~~[(iv)]~~ (v) full-time member of the Board of Pardons and Parole created under Section  
501 77-27-2.

502 (b) Except as provided under ~~[Subsection (8)]~~ Subsections (9)(a)(iv) and (v), "public  
503 safety service" also requires that in the course of employment the employee's life or personal  
504 safety is at risk.

505 ~~[(9)]~~ (10) "Public safety service employee" means an employee of a participating

506 employer who performs public safety service under this chapter.

507       ~~[(10)]~~ (11) (a) "Strenuous activity" means engagement involving a difficult, stressful,  
508 or vigorous fire suppression, rescue, hazardous material response, emergency medical service,  
509 physical law enforcement, prison security, disaster relief, or other emergency response activity.

510       (b) "Strenuous activity" includes participating in a participating employer sanctioned  
511 and funded training exercise that involves difficult, stressful, or vigorous physical activity.

512       ~~[(11)]~~ (12) "System" means the New Public Safety and Firefighter Tier II Contributory  
513 Retirement System created under this chapter.

514       ~~[(12)]~~ (13) (a) "Volunteer firefighter" means any individual that is not regularly  
515 employed as a firefighter service employee, but who:

- 516       (i) has been trained in firefighter techniques and skills;
- 517       (ii) continues to receive regular firefighter training; and
- 518       (iii) is on the rolls of a legally organized volunteer fire department which provides  
519 ongoing training and serves a political subdivision of the state.

520       (b) An individual that volunteers assistance but does not meet the requirements of  
521 Subsection ~~[(12)]~~ (13)(a) is not a volunteer firefighter for purposes of this chapter.

522       ~~[(13)]~~ (14) "Years of service credit" means:

- 523       (a) a period, consisting of 12 full months as determined by the board; or
- 524       (b) a period determined by the board, whether consecutive or not, during which a  
525 regular full-time employee performed services for a participating employer, including any time  
526 the regular full-time employee was absent on a paid leave of absence granted by a participating  
527 employer or was absent in the service of the United States government on military duty as  
528 provided by this chapter.

529       Section 6. Section **49-23-201** is amended to read:

530       **49-23-201. System membership -- Eligibility.**

531       (1) Beginning July 1, 2011, a participating employer that employs public safety service  
532 employees or firefighter service employees shall participate in this system.

533       (2) (a) A public safety service employee or a firefighter service employee initially

534 entering employment with a participating employer on or after July 1, 2011, who does not have  
535 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,  
536 is eligible:

537 (i) as a member for service credit and defined contributions under the Tier II hybrid  
538 retirement system established by Part 3, Tier II Hybrid Retirement System; or

539 (ii) as a participant for defined contributions under the Tier II defined contributions  
540 plan established by Part 4, Tier II Defined Contribution Plan.

541 (b) A public safety service employee or a firefighter service employee initially entering  
542 employment with a participating employer on or after July 1, 2011, shall:

543 (i) make an election to participate in the system created under this chapter within 30  
544 days from the date of eligibility for accrual of benefits:

545 (A) as a member for service credit and defined contributions under the Tier II hybrid  
546 retirement system established by Part 3, Tier II Hybrid Retirement System; or

547 (B) as a participant for defined contributions under the Tier II defined contribution plan  
548 established by Part 4, Tier II Defined Contribution Plan; and

549 (ii) electronically submit to the office notification of the member's election under  
550 Subsection (2)(b)(i) in a manner approved by the office.

551 (c) An election made by a public safety service employee or firefighter service  
552 employee initially entering employment with a participating employer under this Subsection (2)  
553 is irrevocable beginning one year from the date of eligibility for accrual of benefits.

554 (d) If no election is made under Subsection (2)(b)(i), the public safety service employee  
555 or firefighter service employee shall become a member eligible for service credit and defined  
556 contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid  
557 Retirement System.

558 (3) (a) Beginning July 1, 2015, a public safety service employee who is a dispatcher  
559 employed by:

560 (i) the state shall be eligible for service credit in this system; and

561 (ii) a participating employer other than the state shall be eligible for service credit in

562 this system if the dispatcher's participating employer elects to cover its dispatchers under this  
563 system.

564 (b) A participating employer's election to cover its dispatchers under this system under  
565 Subsection (3)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the  
566 governing body of the participating employer in accordance with rules made by the office.

567 (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution  
568 of a participating employer under Subsection (3)(b), is not eligible for service credit in this  
569 system.

570 Section 7. Section **49-23-503** is amended to read:

571 **49-23-503. Death of active member in line of duty -- Payment of benefits.**

572 If an active member of this system dies, benefits are payable as follows:

573 (1) If the death is classified by the office as a line-of-duty death, benefits are payable as  
574 follows:

575 (a) If the member has accrued less than 20 years of public safety service or firefighter  
576 service credit, the spouse at the time of death shall receive a lump sum of \$1,000 and an  
577 allowance equal to 30% of the member's final average monthly salary.

578 (b) If the member has accrued 20 or more years of public safety service or firefighter  
579 service credit, the member shall be considered to have retired with an Option One allowance  
580 calculated without an actuarial reduction under Section **49-23-304** and the spouse at the time of  
581 death shall receive the allowance that would have been payable to the member.

582 (2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this  
583 section if the death results from external force, violence, or disease directly resulting from  
584 firefighter service.

585 (b) The lowest monthly compensation of firefighters of a city of the first class in this  
586 state at the time of death shall be considered to be the final average monthly salary of a  
587 volunteer firefighter for purposes of computing these benefits.

588 (c) Each volunteer fire department shall maintain a current roll of all volunteer  
589 firefighters which meet the requirements of Subsection **49-23-102**~~(12)~~**(13)** to determine the

590 eligibility for this benefit.

591 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are  
592 payable under this section and the spouse at the time of death is not eligible for benefits under  
593 Section 49-23-502.

594 (b) If the death is not classified as a line-of-duty death by the office, benefits are  
595 payable in accordance with Section 49-23-502.

596 (4) (a) A spouse who qualifies for a monthly benefit under this section shall apply in  
597 writing to the office.

598 (b) The allowance shall begin on the first day of the month following the month in  
599 which the:

600 (i) member or participant died, if the application is received by the office within 90  
601 days of the date of death of the member or participant; or

602 (ii) application is received by the office, if the application is received by the office  
603 more than 90 days after the date of death of the member or participant.

604 Section 8. **Effective date.**

605 This bill takes effect on July 1, 2015.