

**PUBLIC EMPLOYEE DEFINED
CONTRIBUTION AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel R. Liljenquist

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending employer defined contributions for certain employees in the Public Employees' Noncontributory Retirement System.

Highlighted Provisions:

This bill:

- ▶ suspends, for the period of July 1, 2009 through June 30, 2010 only, the 1.5% employer defined contribution made on behalf of those employees in the Public Employees' Noncontributory Retirement System;
- ▶ provides that certain employees who elected to move from the contributory retirement system to the noncontributory retirement system and who have remained in that system are not subject to the suspension of payments; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **49-13-303**, as renumbered and amended by Laws of Utah 2002, Chapter 250



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

31 Section 1. Section **49-13-303** is amended to read:

32 **49-13-303. Supplemental benefit established -- Defined contribution plan options**
33 **-- Contribution by employer and employee -- Immediate vesting of contributions -- Plans**
34 **to be separate -- Tax-qualified status of plans -- Temporary contribution suspension.**

35 (1) (a) [~~Participating~~] Except as provided under Subsection (8), participating employers
36 in Level A under Section 49-13-301, which are participating educational institutions or
37 participating employers whose activities are associated with participating educational
38 institutions, shall make a nonelective contribution on behalf of each of its regular full-time
39 employees who are members of this system an amount equal to at least 1.5% of the member's
40 compensation to a defined contribution plan qualified under Section 401(k) of the Internal
41 Revenue Code which is selected by the regular full-time employee and which is sponsored by
42 the board, by that Level A employer, or by a group of similar Level A employers, and which
43 has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

44 (b) [~~All~~] Except as provided under Subsection (8), all other Level A participating
45 employers under Section 49-13-301 shall make a nonelective contribution on behalf of each of
46 its regular full-time employees who are members of this system an amount equal to at least
47 1.5% of the member's compensation to the defined contribution plan qualified under Section
48 401(k) of the Internal Revenue Code which is sponsored by the board.

49 (c) The member or participating employer may make additional payments to either the
50 qualified 401(k) plan which receives the 1.5% employer contribution described in this
51 Subsection (1), or to any other defined contribution plan qualified under Section 401(k) of the
52 Internal Revenue Code which is selected by the member and sponsored by the board, that Level
53 A employer, or a group of similar Level A employers, and which has been grandfathered under
54 Section 1116 of the Federal Tax Reform Act of 1986.

55 (2) (a) Participating employers in Level B under Section 49-13-301 may make
56 nonelective contributions on behalf of each of its regular full-time employees who are members
57 of this system to the 401(k) defined contribution plan sponsored by the board or to a qualified
58 plan sponsored by the participating employer which has been grandfathered under Section

59 1116 of the Federal Tax Reform Act of 1986.

60 (b) The member may also make voluntary deferrals to the same 401(k) plan which the
61 member selected to receive the employer contribution described in Subsection (2)(a).

62 (3) Each qualified defined contribution 401(k) plan is separate and distinct from any
63 other qualified defined contribution 401(k) plan for all purposes, including purposes of
64 fiduciary liability and plan administration.

65 (4) A member may not make voluntary deferrals to any other qualified 401(k) plan
66 sponsored by a state or local government.

67 (5) The total amount contributed by the participating employer and the member under
68 Subsection (1) or (2) vests to the member's benefit immediately and is nonforfeitable.

69 (6) The board may request from any other qualified 401(k) plan under Subsection (1)
70 or (2) any relevant information pertaining to the maintenance of its tax qualification under the
71 Internal Revenue Code.

72 (7) The board may take any action which in its judgment is necessary to maintain the
73 tax-qualified status of its 401(k) defined contribution plan under federal law.

74 (8) (a) Notwithstanding any other provision of this section, for the period that starts
75 with the beginning of the pay period which starting date falls most closely to July 1, 2009 and
76 ending at the end of the pay period which end date falls most closely to June 30, 2010, the
77 participating employer contribution to a qualified defined contribution plan under Subsections
78 (1)(a) and (b) is suspended for an active member, except for an active member:

79 (i) who made the election to move to the Public Employees' Noncontributory
80 Retirement System under Subsection 49-13-205(1), (2), (3), or (4); and

81 (ii) who has continuously accrued service credit under the Public Employees'
82 Noncontributory Retirement System since electing to move to the system as described under
83 Subsection (8)(a)(i).

84 (b) Participating employers shall determine which employees shall receive the
85 participating employer contributions under Subsections (1)(a) and (b) for the period described
86 in Subsection (8)(a) and shall make the appropriate contributions to the office.

Legislative Review Note
as of 2-19-09 1:32 PM

Office of Legislative Research and General Counsel

S.B. 195 - Public Employee Defined Contribution Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill would yield a one-time savings of approximately \$32,230,000 from various funds as shown in the table. Of that savings, \$28,644,700 is in the General and Education funds.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund, One-Time	\$0	(\$2,705,900)	\$0	\$0	\$0	\$0
General Fund Restricted	\$0	(\$495,600)	\$0	\$0	\$0	\$0
Education Fund, One-Time	\$0	(\$25,938,800)	\$0	\$0	\$0	\$0
Transportation Fund, One-time	\$0	(\$655,200)	\$0	\$0	\$0	\$0
Transportation Fund Restricted	\$0	(\$120,400)	\$0	\$0	\$0	\$0
Federal Funds	\$0	(\$1,590,200)	\$0	\$0	\$0	\$0
Federal Mineral Lease	\$0	(\$19,700)	\$0	\$0	\$0	\$0
Dedicated Credits	\$0	(\$423,400)	\$0	\$0	\$0	\$0
Trust Funds	\$0	(\$193,700)	\$0	\$0	\$0	\$0
Transfers	\$0	(\$87,100)	\$0	\$0	\$0	\$0
Total	\$0	(\$32,230,000)	\$0	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments. Some individuals may be impacted due to this change the proposed statute.