COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 524, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10.3-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 12. Public Employees' Defined Contribution Plan

Sec. 1. (a) This chapter applies to an individual who, on or after the effective date of the plan:

(1) becomes for the first time a full-time employee of the state (as defined in IC 5-10.3-7-1(d)) in a covered position; and

(2) makes the election described in section 20 of this chapter to become a member of the plan.

(b) This chapter does not apply to an individual who:

(1) before the effective date of the plan, is or was a member (as defined in IC 5-10.3-1-5) of the fund; or

(2) on or after the effective date of the plan, does not elect to participate in the plan.

Sec. 2. As used in this chapter, "account" means the plan account established for a member under section 21(b) of this chapter.

Sec. 3. As used in this chapter, "annuity savings account" means the annuity savings account maintained under IC 5-10.2-2-2(a)(1).

Sec. 4. As used in this chapter, "board" has the meaning set forth in IC 5-10.3-1-1.

Sec. 5. As used in this chapter, "compensation" has the meaning set forth in IC 5-10.2-3-2(a).

Sec. 6. As used in this chapter, "dies in the line of duty" has the meaning set forth in IC 5-10-11-2.

Sec. 7. As used in this chapter, "effective date" means the first day of the month that is six (6) months after the month in which the Internal Revenue Service issues an approval of the plan.

Sec. 8. As used in this chapter, "employer" means the state.

Sec. 9. As used in this chapter, "employer contribution subaccount" means the subaccount in a member's plan account established under section 21(b)(2) of this chapter.

Sec. 10. As used in this chapter, "fund" has the meaning set forth in IC 5-10.3-1-3.

Sec. 11. As used in this chapter, "Internal Revenue Code" has the meaning set forth in IC 5-10.2-1-3.5.

Sec. 12. As used in this chapter, "member" means an individual who has elected to participate in the plan.

Sec. 13. As used in this chapter, "member contribution subaccount" means the subaccount in a member's plan account established under section 21(b)(1) of this chapter.

Sec. 14. As used in this chapter, "normal retirement age" for a member means the member is at least sixty-two (62) years of age, if the member has participated in the plan for at least ten (10) years.

Sec. 15. As used in this chapter, "plan" refers to the public employees' defined contribution plan established by section 18 of this chapter.

Sec. 16. As used in this chapter, "years of participation" means all periods of participation in the plan in a covered position, plus any additional service for which this chapter provides years of participation credit.

Sec. 17. Except as otherwise provided in this chapter or by federal law, and subject to the board obtaining the approval of the Internal Revenue Service as described in section 18(b) of this chapter, the provisions of IC 5-10.3 that apply to the annuity savings account apply to an account established under this chapter.

Sec. 18. (a) The public employees' defined contribution plan is established for the purpose of providing amounts funded by an employer and a member for the use of the member or the member's beneficiaries or survivors after the member's retirement.

(b) The board shall adopt provisions to implement the plan established under subsection (a) as follows:

(1) The board shall initially offer the plan using the annuity savings account, subject to obtaining the approval of the Internal Revenue Service in a manner satisfactory to the board to preserve the qualified status of the plan and the fund. The plan as provided under this subdivision is a component within the fund.

(2) If the approval of the Internal Revenue Service to offer the plan using the annuity savings account cannot be obtained in a manner satisfactory to the board, the board shall offer the plan as a separate fund under Section 401(a) or another applicable section of the Internal Revenue Code.

(c) The board shall administer the plan.

(d) The board may adopt a plan document that it considers appropriate or necessary to administer the plan.

Sec. 19. The board may request from the Internal Revenue Service any rulings or determination letters that the board considers necessary or appropriate in order to implement or administer the plan.

Sec. 20. (a) An individual who, on or after the effective date of the plan, becomes for the first time a full-time employee of the state (as defined in IC 5-10.3-7-1(d)) in a covered position may elect to become a member of the plan. An election under this section:

(1) must be made in writing;

(2) must be filed with the board, on a form prescribed by the board; and

(3) is irrevocable.

(b) An individual who does not elect to become a member of the plan becomes a member (as defined in IC 5-10.3-1-5) of the fund.

Sec. 21. (a) The plan consists of the following:

(1) Each member's contributions to the plan under section 23 of this chapter.

(2) Contributions made by an employer to the plan on behalf of each member under section 24 of this chapter.

(3) Rollovers to the plan by a member under section 30 of this chapter.

(4) All earnings on investments or deposits of the plan.

(5) All contributions or payments to the plan made in the manner provided by the general assembly.

(b) The plan shall establish an account for each member. A member's account consists of two (2) subaccounts credited individually as follows:

(1) The member contribution subaccount consists of:

(A) the member's contributions to the plan under section 23 of this chapter; and

(B) the net earnings on the contributions described in clause (A) as determined under section 22 of this chapter.

(2) The employer contribution subaccount consists of:

(A) the employer's contributions made on behalf of the member to the plan under section 24 of this chapter; and

(B) the earnings on the contributions described in clause (A) as determined under section 22 of this chapter.

The board may combine the two subaccounts established under this subsection into a single account, if the board determines that a single account is administratively appropriate and permissible under applicable law.

(c) If a member makes rollover contributions under section 30 of this chapter, the plan shall establish a rollover account as a separate subaccount within the member's account.

Sec. 22. (a) Subject to the board obtaining the approval of the Internal Revenue Service as described in section 18(b) of this chapter, the board shall establish the alternative investment programs (as described by IC 5-10.2-2-3 and IC 5-10.2-2-4) within the annuity savings account as the initial alternative investment programs for the plan, except that the board shall maintain at least

one (1) alternative investment program that is a stable value fund. If the board considers it necessary or appropriate, the board may establish different or additional alternative investment programs for the plan. However, the guaranteed fund (as defined in IC 5-10.2-2-3) shall not be offered as an investment option under the plan.

(b) The requirements and rules that apply to the alternative investment programs within the annuity savings account are the initial requirements and rules that apply to the alternative investment programs within the plan, including the following:

(1) The board's investment guidelines and limits for the alternative investment programs.

(2) A member's selection of and changes to the member's investment options.

(3) The valuation of a member's account.

(4) The allocation and payment of administrative expenses for the alternative investment programs.

(c) If the board considers it necessary or appropriate, the board may establish different or additional requirements and rules that apply to the alternative investment programs within the plan.

(d) The board shall determine the appropriate administrative fees to be charged to the member accounts.

Sec. 23. (a) Each member's contribution to the plan is equal to three percent (3%) of the member's compensation. The state shall pay the member's contribution on behalf of each member of the plan each year.

(b) Member contributions will be credited to the member's account as specified in IC 5-10.2-3.

(c) Although designated as employee contributions, the contributions made under subsection (a) are picked up and paid by the state as the employer in lieu of the contributions being paid by the employee in accordance with section 414(h)(2) of the Internal Revenue Code. A member may not receive any amounts paid by the state under this section directly instead of having the amounts paid to the plan.

Sec. 24. (a) The board shall determine the employer's contribution to the plan each year.

(b) The employer's contribution rate for the plan is equal to the

employer's normal contribution rate for the fund as determined by the board under IC 5-10.2-2-11(a)(2). The employer's contribution rate for the plan may not include any amount that is attributable to the rate necessary for the state to amortize the state's unfunded accrued liability of the fund as determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

(c) The state's minimum contribution under this section is equal to three percent (3%) of the compensation of all members of the plan.

Sec. 25. (a) Member contributions and net earnings on the member contributions in the member contribution subaccount belong to the member at all times and do not belong to the state.

(b) A member is vested in the employer contribution subaccount in accordance with the following schedule:

Years of participation in the plan	Vested percentage of employer contributions and earnings
1	20%
2	40%
3	60%
4	80%
5	100%

For purposes of vesting in the employer contribution subaccount, a member's partial years of participation in the plan may not be counted.

(c) The amount that a member may withdraw from the member's account is limited to the vested portion of the account.

(d) A member who attains normal retirement age is fully vested in all amounts in the member's account.

(e) If a member separates from service with the state before the member is fully vested in the employer contribution subaccount, the amount in the employer contribution subaccount that is not vested is forfeited as of the date of the member separates from service.

(f) Amounts forfeited under subsection (e) must be used to reduce the state's unfunded accrued liability of the fund as determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

(g) A member may not earn creditable service (as defined in IC 5-10.2-3-1(a)) under the plan.

Sec. 26. (a) Subject to the provisions of the Internal Revenue Code applicable to qualified plan distributions, a member who terminates service in a covered position is entitled to withdraw amounts in the member's account to the extent the member is vested in the account. A member must make a required withdrawal from the member's account not later than the required beginning date under the Internal Revenue Code.

(b) The member may elect to have withdrawals paid as:

(1) a lump sum;

(2) a direct rollover to another eligible retirement plan; or

(3) if the member has attained normal retirement age, as a monthly annuity in accordance with the rules of the board.

(c) The board may establish a minimum account balance or a minimum monthly payment amount in order for a member to select the monthly annuity option. The board shall establish the forms of annuity by rule, in consultation with the board's actuary. The board shall give members information about these forms of payment and any information required by federal law to accompany such distributions.

(d) Unless otherwise required by federal or state law, the requirements and rules that apply to the distribution of the annuity savings account apply to distributions from a member's account.

Sec. 27. (a) If a member dies:

(1) while in service in a position covered by the plan but not in the line of duty; or

(2) after terminating service in a position covered by the plan but before withdrawing the member's account;

to the extent that the member is vested, the member's account shall be paid to the beneficiary or beneficiaries designated by the member on a form prescribed by the board. The amount paid shall be valued as provided in IC 5-10.2-2-3 and IC 5-10.2-2-4. The board shall invest the total amount in the member's account in the stable value fund not later than thirty (30) days after receiving

notification of a member's death.

(b) If there is no properly designated beneficiary, or if no beneficiary survives the member, the member's account shall be paid to:

(1) the surviving spouse of the member;

(2) if there is not a surviving spouse, the surviving dependent or dependents of the member in equal shares; or

(3) if there is not a surviving spouse or dependent, the member's estate.

(c) The beneficiary or beneficiaries designated under subsection (a) or a survivor determined under subsection (b) may elect to have the member's account paid as:

(1) a lump sum;

(2) a direct rollover to another eligible retirement plan; or

(3) a monthly annuity in accordance with rules of the board. A monthly annuity is an option only on or after the beneficiary or survivor attains sixty-two (62) years of age. The board shall establish the forms of annuity by rule, in consultation with the board's actuary. Further, the board may establish a minimum account balance that is required in order for a beneficiary or survivor to select the monthly annuity option.

(d) If a member dies in the line of duty while in service in a covered position, the designated beneficiary or beneficiaries or the surviving spouse or dependents, as applicable, are entitled to payment of the member's account as provided in this section. In addition, if the member was not fully vested in the employer contribution subaccount, the account is deemed to be fully vested for purposes of withdrawal under this section.

Sec. 28. (a) The general assembly shall appropriate for each biennium the amount required to pay the contributions specified in sections 23 and 24 of this chapter.

(b) The amounts appropriated under this section shall be credited to the plan in the same manner as the state's employer contributions are credited to the fund.

Sec. 29. (a) All assets in the plan are exempt from levy, sale, garnishment, attachment, or other legal process.

(b) A member, beneficiary, or survivor may not assign any payment under this chapter except for the following:

(1) Premiums on a life, hospitalization, surgical, or medical group insurance plan maintained in part by a state agency.

(2) Dues to an association that proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the retired members in the plan.

Sec. 30. (a) To the extent permitted by the Internal Revenue Code and the applicable regulations and guidance, the plan may accept, on behalf of any member who is employed in a covered position, a rollover distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(b) Any amounts rolled over under subsection (a) must be accounted for in a "rollover account" that is separate from the member's account in the plan. The member shall be fully vested in the member's rollover account.

(c) A member may direct the investment of the member's rollover account into any alternative investment option that the board may make available to the member's rollover account under section 22 of this chapter.

(d) A member may withdraw the member's rollover account from the plan in a lump sum or direct a rollover to an eligible retirement plan at any time. Upon attainment of normal retirement age, in addition to these payment options, the member may withdraw the member's rollover account as a monthly annuity as established by the board in accordance with the annuity options that are available for the member's account in the plan. A member must make a required withdrawal from the member's account in the plan not later than the required beginning date under the Internal Revenue Code.

Sec. 31. (a) If a member becomes disabled while in a covered position, subject to any federal law limitations concerning qualified plan distributions and the member's furnishing proof of the member's qualification for Social Security disability benefits to the board, to the extent that the member is vested, the member may make a withdrawal from the member's account.

(b) The member may elect to have the withdrawal paid as:

(1) a lump sum;

(2) a direct rollover to another eligible retirement plan; or

(3) a monthly annuity in accordance with the rules of the board.

(c) The board may establish a minimum account balance or a minimum monthly payment amount in order for a member to select the monthly annuity option.

Sec. 32. (a) If a member of the plan separates from employment with the state and later returns to state employment in a position covered by the plan, the member is entitled to receive credit for the member's years of participation in the plan before the member's separation. However, any amounts forfeited by the member under section 25(e) of this chapter may not be restored to the member's account.

(b) An individual who elected under section 20 of this chapter to become a member of the plan resumes membership in the plan upon the individual's return to state employment.

(c) An individual who did not elect to become a member of the plan resumes membership in the fund.

(d) An individual who returns to state employment having had an opportunity to make an election under section 20 of this chapter during an earlier period of state employment is not entitled to a second opportunity to make an election under section 20 of this chapter.".

Page 1, line 5, delete "close" and insert "**establish a defined contribution plan for:**

(1) new employees of political subdivisions that participate in".

Page 1, line 6, after "IC 5-10.3-2-1" insert "**;**".

Page 1, line 7, after "and" begin a new line block indented and insert:

"**(2) new employees who are eligible to become members of**".

Page 1, line 8, delete "IC 5-10.4-2-1, and establish a defined contribution plan for new" and insert "**IC 5-10.4-2-1.**".

Page 1, line 9, delete "employees." and begin a new line block left beginning with "The study".

Page 1, after line 16, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE JULY 1, 2011] **(a) The legislative services agency shall prepare legislation for introduction in the 2012 regular session of the general assembly to organize and correct statutes affected by this act.**

(b) This SECTION expires June 30, 2013.".

Renumber all SECTIONS consecutively.

(Reference is to SB 524 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

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Boots **Chairperson**