

CHAPTER 243

GOVERNMENT - STATE

HOUSE BILL 98-1191

BY REPRESENTATIVES Owen, Epps, and George;
also SENATORS Rizzuto, J. Johnson, Lamborn, Mutzebaugh, Reeves, Tebedo, and Wells.

AN ACT

CONCERNING THE ESTABLISHMENT OF DEFINED CONTRIBUTION PLANS FOR SPECIFIED PUBLIC EMPLOYEES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-51-310 (1) (k), Colorado Revised Statutes, is amended to read:

24-51-310. Persons not eligible for membership. (1) Persons not eligible for membership in the association include:

(k) Participants in an optional retirement plan organized pursuant to the provisions of article 54.5 OR A DEFINED CONTRIBUTION PLAN ORGANIZED PURSUANT TO THE PROVISIONS OF ARTICLE 54.7 of this title to the extent required by the provisions of section 24-54.5-106 OR SECTION 24-54.7-106; except that persons who do not participate in such optional retirement OR DEFINED CONTRIBUTION plans shall remain members of the association;

SECTION 2. 24-51-602 (1) (a), Colorado Revised Statutes, is amended to read:

24-51-602. Service retirement eligibility. (1) (a) Members, except state troopers, who have met the age and service credit requirements stated in the following table shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603 (1) (a), (2), and (3):

TABLE B
SERVICE RETIREMENT ELIGIBILITY

Age Requirement	Service Credit Requirement
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Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(years) Any Age	(years) 35
55 50	30
60	20
65	5

SECTION 3. 24-51-605 (1) and (3) (b), Colorado Revised Statutes, are amended to read:

24-51-605. Benefit formula for reduced service retirement. (1) (a) On and after July 1, 1987 1998, FOR A MEMBER WHO IS A STATE TROOPER AND WHO RETIRES UPON REACHING FIFTY YEARS OF AGE OR OLDER BUT BEFORE REACHING SIXTY YEARS OF AGE, a reduced service retirement benefit shall be the option 1 benefit for service retirement, as calculated according to the formula set forth in section 24-51-603, reduced by ~~four~~ THREE percent for each year and a proportional percentage for each fraction of a year from the effective date of reduced service retirement to the date ~~he~~ THE MEMBER would have become eligible for a service retirement pursuant to the provisions of section 24-51-602 (1).

(b) ON AND AFTER JULY 1, 1998, FOR A MEMBER WHO IS NOT A STATE TROOPER AND WHO RETIRES UPON REACHING FIFTY-FIVE YEARS OF AGE OR OLDER BUT BEFORE REACHING SIXTY YEARS OF AGE, A REDUCED SERVICE RETIREMENT BENEFIT SHALL BE THE OPTION 1 BENEFIT FOR SERVICE RETIREMENT, AS CALCULATED ACCORDING TO THE FORMULA SET FORTH IN SECTION 24-51-603, REDUCED BY THREE PERCENT FOR EACH YEAR AND A PROPORTIONAL PERCENTAGE FOR EACH FRACTION OF A YEAR FROM THE EFFECTIVE DATE OF REDUCED SERVICE RETIREMENT TO THE DATE THE MEMBER WOULD HAVE BECOME ELIGIBLE FOR A SERVICE RETIREMENT PURSUANT TO THE PROVISIONS OF SECTION 24-51-602 (1).

(c) ON AND AFTER JULY 1, 1998, FOR A MEMBER WHO IS NOT A STATE TROOPER AND WHO RETIRES UPON REACHING SIXTY YEARS OF AGE OR OLDER BUT BEFORE REACHING SIXTY-FIVE YEARS OF AGE, A REDUCED SERVICE RETIREMENT BENEFIT SHALL BE THE OPTION 1 BENEFIT FOR SERVICE RETIREMENT, AS CALCULATED ACCORDING TO THE FORMULA SET FORTH IN SECTION 24-51-603, REDUCED BY FOUR PERCENT FOR EACH YEAR AND A PROPORTIONAL PERCENTAGE FOR EACH FRACTION OF A YEAR FROM THE EFFECTIVE DATE OF REDUCED SERVICE RETIREMENT TO THE DATE THE MEMBER WOULD HAVE BECOME ELIGIBLE FOR A SERVICE RETIREMENT PURSUANT TO THE PROVISIONS OF SECTION 24-51-602 (1).

(3) Notwithstanding the provisions of subsection (1) of this section, on and after July 1, 1993, for a member who is not a state trooper and who retires upon reaching fifty years of age or older but before reaching fifty-five years of age, a reduced service retirement benefit shall be the option 1 benefit for service retirement, as calculated according to the formula set forth in section 24-51-603, reduced by:

(b) ~~Four~~ THREE percent for each year and a proportional percentage for each fraction of a year from the date the member reaches fifty-five years of age to the date

the member would have become eligible for a service retirement pursuant to the provisions of section 24-51-602 (1), if on such date the member would have been older than fifty-five years of age.

SECTION 4. Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 54.7
Public Officials and Employees
Defined Contribution Plans

24-54.7-101. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS ESSENTIAL FOR THE STATE GOVERNMENT TO BE ABLE TO ATTRACT AND RETAIN THE MOST QUALIFIED ELECTED OFFICIALS AND EMPLOYEES IN ORDER TO PRESERVE AND ENHANCE THE ABILITY OF THE STATE TO PROVIDE THE HIGHEST QUALITY SERVICE TO THE PEOPLE OF COLORADO. ACCORDINGLY, IN ORDER TO ATTRACT AND RETAIN SUCH OFFICIALS AND EMPLOYEES, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS IMPERATIVE THAT THE STATE GOVERNMENT SHOULD HAVE THE MAXIMUM FLEXIBILITY TO PROVIDE ALTERNATIVE DEFINED CONTRIBUTION PLANS.

24-54.7-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ASSOCIATION" MEANS THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION ESTABLISHED PURSUANT TO SECTION 24-51-201.

(2) "COMMITTEE" MEANS THE STATE DEFINED CONTRIBUTION RETIREMENT COMMITTEE CREATED IN SECTION 24-54.7-103.

(3) "DEFINED CONTRIBUTION PLAN" MEANS A PLAN OR PLANS ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS ARTICLE FOR THE BENEFIT OF ELIGIBLE EMPLOYEES.

(4) "ELIGIBLE EMPLOYEE" MEANS A MEMBER OF THE GENERAL ASSEMBLY, THE GOVERNOR, THE LIEUTENANT GOVERNOR, THE ATTORNEY GENERAL, THE CHIEF DEPUTY ATTORNEY GENERAL, THE SOLICITOR GENERAL, THE SECRETARY OF STATE, THE DEPUTY SECRETARY OF STATE, THE STATE TREASURER, THE DEPUTY STATE TREASURER, A MEMBER OF THE PUBLIC UTILITIES COMMISSION, AN EXECUTIVE DIRECTOR OF A DEPARTMENT OF STATE APPOINTED BY THE GOVERNOR, AN EMPLOYEE OF THE SENATE OR THE HOUSE OF REPRESENTATIVES, AND A NONCLASSIFIED EMPLOYEE OF THE OFFICE OF THE GOVERNOR FOR WHOM A DEFINED CONTRIBUTION PLAN HAS BEEN ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

(5) "ELIGIBLE POSITION" MEANS A POSITION WITH AN EMPLOYER FOR WHICH A DEFINED CONTRIBUTION PLAN IS AVAILABLE PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

(6) "EMPLOYER" MEANS THE STATE, THE GENERAL ASSEMBLY, AND ANY STATE DEPARTMENT THAT EMPLOYS AN ELIGIBLE EMPLOYEE.

24-54.7-103. Defined contribution retirement committee - creation - establishment of defined contribution plans. (1) (a) THERE IS HEREBY CREATED THE STATE DEFINED CONTRIBUTION RETIREMENT COMMITTEE CONSISTING OF THE FOLLOWING FIVE MEMBERS: THE DIRECTOR OF THE OFFICE OF PLANNING AND BUDGETING; THE DIRECTOR OF THE LEGISLATIVE COUNCIL; THE LIEUTENANT GOVERNOR; ONE MEMBER OF THE HOUSE OF REPRESENTATIVES APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; AND ONE MEMBER OF THE SENATE APPOINTED BY THE PRESIDENT OF THE SENATE. EACH MEMBER SHALL SERVE ON THE COMMITTEE FOR THE DURATION OF THE MEMBER'S ELECTED OR APPOINTED TERM OF OFFICE.

(b) THE COMMITTEE SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF IT WERE TRANSFERRED TO THE DEPARTMENT OF PERSONNEL BY A **TYPE 1** TRANSFER, AS SUCH TRANSFER IS DEFINED BY THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF THIS TITLE.

(c) THE COMMITTEE SHALL BE CONSIDERED A PUBLIC ENTITY FOR PURPOSES OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF THIS TITLE, AND SHALL BE INCLUDED IN THE COVERAGE PROVIDED BY THE RISK MANAGEMENT FUND PURSUANT TO THE PROVISIONS OF SECTION 24-30-1510.

(d) THE COMMITTEE MAY OBTAIN INSURANCE OR SHALL SELF-INSURE AGAINST LIABILITY WHICH MAY ARISE OUT OF, OR IS IN CONNECTION WITH, THE PERFORMANCE OF DUTIES BY ANY MEMBER OF THE COMMITTEE.

(2) THE COMMITTEE SHALL HAVE THE AUTHORITY TO ESTABLISH AND ADMINISTER ONE OR MORE DEFINED CONTRIBUTION PLANS PURSUANT TO THE PROVISIONS OF THIS ARTICLE. THE COMMITTEE SHALL ESTABLISH AT LEAST ONE SUCH PLAN ON OR BEFORE JANUARY 1, 1999. THE DEPARTMENT OF PERSONNEL SHALL PROVIDE NECESSARY ADMINISTRATIVE SUPPORT TO THE COMMITTEE IN CONNECTION WITH THE ESTABLISHMENT AND OPERATION OF ANY DEFINED CONTRIBUTION PLAN ESTABLISHED BY THE COMMITTEE.

24-54.7-104. Requirements for defined contribution plans - contributions and purchases of contracts. (1) THE COMMITTEE SHALL ESTABLISH THE TERMS AND CONDITIONS OF ANY DEFINED CONTRIBUTION PLAN ESTABLISHED BY THE COMMITTEE PURSUANT TO SECTION 24-54.7-103. BENEFITS UNDER ANY DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THIS ARTICLE MAY BE PROVIDED THROUGH ANNUITY CONTRACTS, CERTIFICATES, OR A COMBINATION OF ANNUITY CONTRACTS AND CERTIFICATES OR SIMILAR INSTRUMENTS AND CONTRACTS AND MAY BE FIXED OR VARIABLE IN NATURE. ANY SUCH DEFINED CONTRIBUTION PLAN MAY PROVIDE RETIREMENT AND DEATH BENEFITS.

(2) THE COMMITTEE SHALL, FOR EACH DEFINED CONTRIBUTION PLAN ESTABLISHED BY THE COMMITTEE:

(a) PROVIDE FOR THE ADMINISTRATION OF SUCH DEFINED CONTRIBUTION PLAN; AND

(b) DESIGNATE FROM TIME TO TIME THE COMPANIES FROM WHICH CONTRACTS FOR SUCH DEFINED CONTRIBUTION PLANS SHALL BE PURCHASED. IN DESIGNATING SUCH

COMPANIES, THE COMMITTEE SHALL TAKE INTO CONSIDERATION:

(I) THE NATURE AND EXTENT OF THE RIGHTS AND BENEFITS SUCH CONTRACTS WILL PROVIDE TO THE ELIGIBLE EMPLOYEES ELECTING TO PARTICIPATE IN SUCH DEFINED CONTRIBUTION PLANS AND FOR THE BENEFICIARIES OF SUCH ELIGIBLE EMPLOYEES;

(II) THE RELATION OF SUCH RIGHTS AND BENEFITS TO THE AMOUNT OF CONTRIBUTIONS TO BE MADE;

(III) THE SUITABILITY OF SUCH RIGHTS AND BENEFITS TO THE NEEDS AND INTERESTS OF ELIGIBLE EMPLOYEES ELECTING TO PARTICIPATE IN SUCH DEFINED CONTRIBUTION PLANS AND TO THE INTERESTS OF THE STATE GOVERNMENT IN THE EMPLOYMENT AND RETENTION OF ELIGIBLE EMPLOYEES;

(IV) THE ABILITY OF THE DESIGNATED COMPANIES TO PROVIDE THE REQUIRED RIGHTS AND BENEFITS UNDER THE CONTRACT OR CONTRACTS FOR SUCH DEFINED CONTRIBUTION PLANS; AND

(V) THE EFFICACY OF SUCH CONTRACTS IN THE RECRUITMENT AND RETENTION OF QUALIFIED PUBLIC OFFICIALS AND EMPLOYEES.

(c) NO FEWER THAN THREE SEPARATE AND DISTINCT PROVIDERS OF INVESTMENT PRODUCTS SHALL BE SELECTED FOR EACH DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THIS ARTICLE. PROVIDERS SHALL SERVICE THEIR ACCOUNTS OR PAY A FEE TO THE COMMITTEE FOR PLANS ESTABLISHED PURSUANT TO THIS ARTICLE SO THAT THE COMMITTEE MAY SERVICE THE ACCOUNTS. IN ADDITION, PROVIDERS SHALL PAY FEES TO PROVIDE FOR THE ACTUAL COSTS OF ADMINISTRATION OF THE DEFINED CONTRIBUTION PLAN. ALL FEES COLLECTED PURSUANT TO THIS PARAGRAPH (c) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE DEFINED CONTRIBUTION PLAN ADMINISTRATION FUND, WHICH FUND IS HEREBY CREATED. THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS FROM SUCH FUND FOR THE DIRECT AND INDIRECT COSTS OF ADMINISTRATION OF ANY PLAN ESTABLISHED UNDER THIS ARTICLE. ALL INVESTMENT PRODUCTS PROVIDED BY A DEFINED CONTRIBUTION PLAN MUST BE PORTABLE.

24-54.7-105. Employer and employee contributions. RATES FOR EMPLOYER AND EMPLOYEE CONTRIBUTIONS TO A DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THIS ARTICLE SHALL BE THE SAME AS THE RATES THAT WOULD BE PAYABLE BY SUCH EMPLOYER AND EMPLOYEE TO THE ASSOCIATION FOR THE STATE DIVISION PURSUANT TO SECTION 24-51-401.

24-54.7-106. Participation. (1) ONLY ELIGIBLE EMPLOYEES OF AN EMPLOYER FOR WHICH A DEFINED CONTRIBUTION PLAN IS OFFERED MAY ELECT TO PARTICIPATE IN A DEFINED CONTRIBUTION PLAN.

(2) (a) ANY ELIGIBLE EMPLOYEE WHO IS NEITHER A MEMBER NOR AN INACTIVE MEMBER OF THE ASSOCIATION AND WHO IS INITIALLY APPOINTED TO AN ELIGIBLE POSITION ON OR AFTER THE EFFECTIVE DATE OF THE ESTABLISHMENT OF A DEFINED CONTRIBUTION PLAN AT SUCH ELIGIBLE EMPLOYEE'S EMPLOYING ENTITY SHALL MAKE A ONE-TIME IRREVOCABLE WRITTEN ELECTION WITHIN SIXTY DAYS OF COMMENCING EMPLOYMENT IN SUCH POSITION TO PARTICIPATE IN THE ASSOCIATION OR IN A DEFINED

CONTRIBUTION PLAN IN WHICH THE EMPLOYEE IS ELIGIBLE TO PARTICIPATE PURSUANT TO THE PROVISIONS OF THIS ARTICLE. IN THE ABSENCE OF SUCH WRITTEN ELECTION, SUCH PERSON SHALL BE A MEMBER OF THE ASSOCIATION.

(b) ANY ELIGIBLE EMPLOYEE WHO IS A MEMBER OR INACTIVE MEMBER OF THE ASSOCIATION AT THE TIME SUCH EMPLOYEE IS INITIALLY APPOINTED TO OR INITIALLY HOLDS AN ELIGIBLE POSITION MAY, AS LONG AS SUCH EMPLOYEE REMAINS EMPLOYED IN SUCH POSITION, MAKE A ONE-TIME IRREVOCABLE WRITTEN ELECTION DURING THE MONTHS OF JANUARY AND FEBRUARY OF EACH YEAR TO PARTICIPATE IN A DEFINED CONTRIBUTION PLAN IN WHICH THE EMPLOYEE IS ELIGIBLE TO PARTICIPATE PURSUANT TO THE PROVISIONS OF THIS ARTICLE. IN THE ABSENCE OF SUCH WRITTEN ELECTION, SUCH PERSON SHALL BE A MEMBER OF THE ASSOCIATION.

(c) ANY ELIGIBLE EMPLOYEE WHO ELECTS TO PARTICIPATE IN A DEFINED CONTRIBUTION PLAN PURSUANT TO THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (2) SHALL SPECIFY ONE OF THE FOLLOWING OPTIONS:

(I) TO TERMINATE FUTURE ASSOCIATION CONTRIBUTIONS BEGINNING ON THE DATE OF ELECTION WHILE MAINTAINING RIGHTS AS PROVIDED BY THE LAWS APPLICABLE TO THE ASSOCIATION RELATIVE TO ANY CONTRIBUTIONS OR BENEFITS ACCRUED PRIOR TO SUCH ELECTION; OR

(II) TO TERMINATE MEMBERSHIP IN THE ASSOCIATION AND TO REQUIRE PAYMENT BY THE ASSOCIATION OF ALL MEMBER CONTRIBUTIONS, ACCRUED INTEREST ON SUCH CONTRIBUTIONS, AND MATCHING EMPLOYER CONTRIBUTIONS AS PROVIDED BY THE LAWS APPLICABLE TO THE ASSOCIATION TO THE DEFINED CONTRIBUTION PLAN IN WHICH THE EMPLOYEE HAS ELECTED TO PARTICIPATE. SUCH ELECTION SHALL CONSTITUTE A WAIVER OF ALL RIGHTS AND BENEFITS PROVIDED BY THE ASSOCIATION EXCEPT AS OTHERWISE PROVIDED BY THE PROVISIONS OF THIS ARTICLE. WITHIN NINETY DAYS AFTER RECEIPT OF NOTICE OF AN ELECTION TO TERMINATE MEMBERSHIP PURSUANT TO THE PROVISIONS OF THIS SUBPARAGRAPH (II), THE ASSOCIATION SHALL PAY TO THE DEFINED CONTRIBUTION PLAN IN WHICH THE EMPLOYEE HAS ELECTED TO PARTICIPATE, ON BEHALF OF THE ELIGIBLE EMPLOYEE, AN AMOUNT EQUAL TO THE EMPLOYEE'S MEMBER CONTRIBUTIONS PLUS ACCRUED INTEREST CALCULATED PURSUANT TO SECTION 24-51-407 AND MATCHING EMPLOYER CONTRIBUTIONS PAID PURSUANT TO SECTION 24-51-408.

(3) ANY ELECTION TO PARTICIPATE IN A DEFINED CONTRIBUTION PLAN PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL BE IN WRITING AND SHALL BE FILED WITH THE ASSOCIATION AND WITH SUCH ELIGIBLE EMPLOYEE'S EMPLOYER IN THE MANNER IN WHICH SUCH EMPLOYER PRESCRIBES.

(4) ANY ELECTION BY AN ELIGIBLE EMPLOYEE TO PARTICIPATE IN A DEFINED CONTRIBUTION PLAN OF AN EMPLOYING ENTITY SHALL BE IRREVOCABLE AND SHALL BE ACCOMPANIED BY AN APPROPRIATE APPLICATION, WHERE REQUIRED, FOR THE ISSUANCE OF A CONTRACT OR CONTRACTS UNDER SUCH DEFINED CONTRIBUTION PLAN.

24-54.7-107. Public employees' retirement association - ineligibility.

(1) ELIGIBLE EMPLOYEES OF EMPLOYERS WHO DO NOT ELECT TO PARTICIPATE IN A DEFINED CONTRIBUTION PLAN IN WHICH THE EMPLOYEES ARE ELIGIBLE TO PARTICIPATE SHALL PARTICIPATE IN THE ASSOCIATION.

(2) ANY ELIGIBLE EMPLOYEE WHO PARTICIPATES IN A DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THIS ARTICLE SHALL BE INELIGIBLE FOR MEMBERSHIP IN THE ASSOCIATION SO LONG AS SUCH ELIGIBLE EMPLOYEE IS EMPLOYED IN ANY ELIGIBLE POSITION.

24-54.7-108. Moneys not subject to legal process. EXCEPT FOR ASSIGNMENTS FOR CHILD SUPPORT PURPOSES AS PROVIDED FOR IN SECTIONS 14-10-118 (1) AND 14-14-107, C.R.S., AS THEY EXISTED PRIOR TO JULY 1, 1996, FOR INCOME ASSIGNMENTS FOR CHILD SUPPORT PURPOSES PURSUANT TO SECTION 14-14-111.5, C.R.S., FOR WRITS OF GARNISHMENT THAT ARE THE RESULT OF A JUDGMENT TAKEN FOR ARREARAGES FOR CHILD SUPPORT OR FOR CHILD SUPPORT DEBT, AND FOR PAYMENTS MADE IN COMPLIANCE WITH A PROPERLY EXECUTED COURT ORDER APPROVING A WRITTEN AGREEMENT ENTERED INTO PURSUANT TO SECTION 14-10-113 (6), C.R.S., NO ANNUITY CONTRACT OR CERTIFICATE PURCHASED UNDER A DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL BE ASSIGNABLE EITHER IN LAW OR IN EQUITY OR BE SUBJECT TO EXECUTION, LEVY, ATTACHMENT, GARNISHMENT, OR ANY OTHER LEGAL PROCESS.

SECTION 5. 13-54-104 (1) (b) (II) (B), Colorado Revised Statutes, is amended to read:

13-54-104. Restrictions on garnishment and levy under execution or attachment. (1) As used in this section, unless the context otherwise requires:

(b) (II) For the purposes of writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, "earnings" also means:

(B) Any pension or retirement benefits or payments, including but not limited to those paid pursuant to article 64 of title 22, C.R.S., articles 51, 54, 54.5, and 54.6, AND 54.7 of title 24, C.R.S., and article 30 of title 31, C.R.S., and section 35-65-402 (2), C.R.S.;

SECTION 6. 13-54.5-101 (2) (b) (II), Colorado Revised Statutes, is amended to read:

13-54.5-101. Definitions. As used in this article, unless the context otherwise requires:

(2) (b) For the purposes of writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, "earnings" also means:

(II) Any pension or retirement benefits or payments, including but not limited to those paid pursuant to article 64 of title 22, C.R.S., articles 51, 54, 54.5, and 54.6, AND 54.7 of title 24, C.R.S., and article 30 of title 31, C.R.S., and section 35-65-402 (2), C.R.S.;

SECTION 7. 14-10-115 (7) (a) (I) (A), Colorado Revised Statutes, is amended to read:

14-10-115. Child support - guidelines - schedule of basic child support obligations. (7) **Determination of income.** (a) For the purposes of the guideline specified in subsections (3) to (14) of this section, "income" means actual gross income of a parent, if employed to full capacity, or potential income, if unemployed or underemployed. Gross income of each parent shall be determined according to the following guidelines:

(I) (A) "Gross income" includes income from any source and includes, but is not limited to, income from salaries; wages, including tips declared by the individual for purposes of reporting to the federal internal revenue service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater; commissions; payments received as an independent contractor for labor or services; bonuses; dividends; severance pay; pensions and retirement benefits, including but not limited to those paid pursuant to article 64 of title 22, C.R.S., articles 51, 54, 54.5, and 54.6, AND 54.7 of title 24, C.R.S., article 30 of title 31, C.R.S., and section 35-65-402 (2), C.R.S.; royalties; rents; interest; trust income; annuities; capital gains; any moneys drawn by a self-employed individual for personal use; social security benefits, including social security benefits actually received by a parent as a result of the disability of that parent or as the result of the death of the minor child's stepparent, but not including social security benefits received by a minor child or on behalf of a minor child as a result of the death or disability of a stepparent of the child; workers' compensation benefits; unemployment insurance benefits; disability insurance benefits; funds held in or payable from any health, accident, disability, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages; monetary gifts; monetary prizes, excluding lottery winnings not required by the rules of the Colorado lottery commission to be paid only at the lottery office; taxable distributions from general partnerships, limited partnerships, closely held corporations, or limited liability companies; and alimony or maintenance received. "Gross income" does not include child support payments received.

SECTION 8. 14-14-102 (9), Colorado Revised Statutes, is amended to read:

14-14-102. Definitions. As used in this article, unless the context otherwise requires:

(9) "Wages" means income to an obligor in any form, including, but not limited to, actual gross income; compensation paid or payable for personal services, whether denominated as wages; earnings from an employer; salaries; payment to an independent contractor for labor or services; commissions; tips declared by the individual for purposes of reporting to the federal internal revenue service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater; rents; bonuses; severance pay; retirement benefits and pensions, including, but not limited to, those paid pursuant to article 64 of title 22, C.R.S., articles 51, 54, 54.5, and 54.6, AND 54.7 of title 24, C.R.S., article 30 of title 31, C.R.S., and section 35-65-402 (2), C.R.S.; workers' compensation benefits; social security benefits, including social security benefits actually received by a parent as a result of the disability of that parent or as the result of the death of the minor child's stepparent, but not including social security benefits received by a minor child or on behalf of a minor child as a result of the death or disability of a stepparent of the child; disability benefits; dividends; royalties; trust account

distributions; any moneys drawn by a self-employed individual for personal use; funds held in or payable from any health, accident, disability, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages; monetary gifts; monetary prizes, excluding lottery winnings not required by the rules of the Colorado lottery commission to be paid only at the lottery office; taxable distributions from general partnerships, limited partnerships, closely held corporations, or limited liability companies; interest; trust income; annuities; payments received from a third party to cover the health care cost of the child but which payments have not been applied to cover the child's health care costs; state tax refunds; and capital gains. "Wages", for the purposes of child support enforcement, may also include unemployment compensation benefits, but only subject to the provisions and requirements of section 8-73-102 (5), C.R.S.

SECTION 9. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of moneys to be received from providers of investment products for defined contribution plans pursuant to section 24-54.7-104 (2) (c), Colorado Revised Statutes, to the department of personnel, for the fiscal year beginning July 1, 1998, the sum of twenty thousand one hundred forty dollars (\$20,140), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 1998, the sum of eight thousand six hundred forty dollars (\$8,640) and 0.1 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of personnel related to the implementation of this act. Said sum shall be from cash funds exempt received from the department of personnel out of the appropriation made in subsection (1) of this section.

SECTION 10. Effective date - applicability. This act shall take effect July 1, 1998. Sections 2 and 3 of this act shall apply only to benefits that first become effective on or after July 1, 1998.

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 27, 1998