

CHAPTER 392

GOVERNMENT - STATE

SENATE BILL 04-257

BY SENATOR(S) Owen, Andrews, and Phillips;
also REPRESENTATIVE(S) Young, Marshall, and Paccione.

AN ACT

CONCERNING MODIFICATIONS TO THE RETIREMENT PLANS FOR PUBLIC EMPLOYEES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 23-21-508 (3) (b), Colorado Revised Statutes, is amended to read:

23-21-508. Retirement benefits - rights of former state employees - PERA membership. (3) (b) If the amount of reserves on deposit in the state ~~and school~~ division trust fund of PERA to provide such benefits and health care, as calculated by the actuary, exceeds the amount of reserves required pursuant to paragraph (a) of this subsection (3), then the excess amount shall be paid to a retirement trust established by the authority as further provided in this subsection (3). Such payment shall be made if the actuarial report certifies that the payment will not have an adverse impact on the actuarial soundness of the state ~~and school~~ division trust fund or the PERA health care TRUST fund. If the actuary determines, in accordance with accepted actuarial principles, that the payment provided by this paragraph (b) will have an adverse impact on the actuarial soundness of these funds, the payment shall not be permitted.

SECTION 2. 24-51-101 (18), Colorado Revised Statutes, is amended to read:

24-51-101. Definitions. As used in this article, unless the context otherwise requires:

(18) "Division" means the state, ~~and school division, municipal division~~ SCHOOL, LOCAL GOVERNMENT, or judicial division, each of which is identified by a separate trust fund, amortization period, and membership.

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

SECTION 3. 24-51-201 (2), Colorado Revised Statutes, is amended to read:

24-51-201. Public employees' retirement association - creation. (2) The public employees' retirement association, created pursuant to the provisions of subsection (1) of this section, shall consist of the following divisions:

- (a) The state ~~and school~~ division;
- (a.5) THE SCHOOL DIVISION;
- (b) (Deleted by amendment, L. 97, p. 771, § 5, effective July 1, 1997.)
- (c) The ~~municipal~~ LOCAL GOVERNMENT division; and
- (d) The judicial division.

SECTION 4. 24-51-203 (1), Colorado Revised Statutes, is amended to read:

24-51-203. Board - composition and election. (1) The board shall consist of the following trustees: The state auditor and the state treasurer; four members ~~who are employees of employers designated as state employers by rule of the board and who are~~ OF THE STATE DIVISION elected by the members of ~~the state and school~~ THAT division, ~~employed by employers so designated as state employers;~~ at least one of whom shall be an employee of a state institution of higher education and at least one of whom shall not be an employee of a state institution of higher education; five members ~~who are employees of employers designated as school employers by rule of the board and who are~~ OF THE SCHOOL DIVISION elected by the members of ~~the state and school~~ THAT division; ~~employed by employers so designated as school employers;~~ two members of the ~~municipal~~ LOCAL GOVERNMENT division elected by the members of that division; one member of the judicial division elected by the members of that division; and two retirees, one of whom shall be elected by those members who have retired from the ~~municipal~~ LOCAL GOVERNMENT division, the judicial division, or from the ~~state and school~~ division ~~whose employer was a state employer as designated by rule of the board~~ and one of whom shall be elected by those members who have retired from the ~~municipal~~ LOCAL GOVERNMENT division, the judicial division, or the ~~state and school~~ division; ~~whose employer was a school employer as designated by rule of the board;~~ except that both retiree trustees cannot have retired from the ~~municipal division or the judicial division or, if retired from the state and school division, both retiree trustees cannot have retired from the same category of~~ employer SAME DIVISION.

SECTION 5. 24-51-205 (1), Colorado Revised Statutes, is amended to read:

24-51-205. General authority of the board. (1) The board shall have the authority to determine membership status within the state, school, ~~municipal~~ LOCAL GOVERNMENT, and judicial divisions; exemptions from membership; eligibility for benefits, life insurance, health care, and the voluntary investment program; and service credit and salary to be used in calculations pursuant to the provisions of this article. Such decisions by the board may be appealed through the administrative review procedures set forth in the board rules. Such final decision by the board shall be subject only to review by proper court action.

SECTION 6. 24-51-208 (1) (a) and (1) (c) and the introductory portion to 24-51-208 (2), Colorado Revised Statutes, are amended, and the said 24-51-208 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-51-208. Allocation of moneys. (1) The moneys of the association shall be divided into several trust funds, including, but not limited to:

(a) The state ~~and school~~ division trust fund, which consists of contributions, payments, and interest paid by members and employers of the state ~~and school~~ division, in addition to a proportional share of investment income earned thereon;

(a.5) THE SCHOOL DIVISION TRUST FUND, WHICH CONSISTS OF CONTRIBUTIONS, PAYMENTS, AND INTEREST PAID BY MEMBERS AND EMPLOYERS OF THE SCHOOL DIVISION, IN ADDITION TO A PROPORTIONAL SHARE OF INVESTMENT INCOME EARNED THEREON;

(c) The ~~municipal~~ LOCAL GOVERNMENT division trust fund, which consists of contributions, payments, and interest paid by members and employers of the ~~municipal~~ LOCAL GOVERNMENT division, in addition to a proportional share of investment income earned thereon;

(2) Within each of the state ~~and school~~ division, ~~municipal~~ SCHOOL DIVISION, LOCAL GOVERNMENT division, and judicial division trust funds, the following reserves shall exist:

SECTION 7. 24-51-211, Colorado Revised Statutes, is amended to read:

24-51-211. Amortization of liabilities. An amortization period for each of the state ~~and school~~ division, ~~municipal~~ SCHOOL DIVISION, LOCAL GOVERNMENT division, and judicial division trust funds shall be calculated separately. A maximum amortization period of forty years shall be deemed actuarially sound. Upon recommendation of the board, and with the advice of the actuary, the employer or member contribution rates for the plan may be adjusted by the general assembly when indicated by actuarial experience.

SECTION 8. 24-51-212, Colorado Revised Statutes, is amended to read:

24-51-212. Funds not subject to legal process. Except for federal tax liens on distributions payable by the association, and 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, and except 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 from the association in compliance with a properly executed court order approving a written agreement entered into pursuant to section 14-10-113 (6), C.R.S., none of the moneys, trust funds, reserves, accounts, contributions pursuant to parts 4, ~~and~~ 5, AND 15 of this article, or benefits referred to in this article shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, bankruptcy proceedings, or other legal process. Member contributions are subject to garnishment resulting from a judgment taken for arrearages for child support or for child support debt only if the membership has

terminated and the member is not vested.

SECTION 9. 24-51-305 (2), Colorado Revised Statutes, is amended to read:

24-51-305. District attorneys. (2) On behalf of a district attorney, the state of Colorado shall contribute eighty percent of the employer contributions and the county shall contribute twenty percent of the employer contributions based on the rate for the state ~~and school~~ division set forth in section 24-51-401 (1.7). One hundred percent of member contributions shall be paid from the salary of such district attorney.

SECTION 10. 24-51-305.5 (3), Colorado Revised Statutes, is amended to read:

24-51-305.5. Employees of district attorneys. (3) An assistant district attorney, chief deputy district attorney, deputy district attorney, or other employee of a district attorney who becomes a member of the association shall be a member of the state ~~category of the state and school~~ division. The judicial district employing such member shall be designated as a state employer that has affiliated with the association pursuant to section 24-51-309.

SECTION 11. 24-51-310 (1) (j), 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:

(j) Employees of employers assigned to the ~~municipal~~ LOCAL GOVERNMENT division of the association whose positions were covered only under social security for such employment as of November 5, 1990, and employees in similar positions created later by such employers;

SECTION 12. 24-51-313 (1), Colorado Revised Statutes, is amended to read:

24-51-313. Termination of affiliation - employer assigned to local government division - requirements. (1) Any political subdivision within the state of Colorado or any public agency created by such a political subdivision ~~which~~ THAT is an employer affiliated with the association pursuant to the provisions of section 24-51-309 and ~~which~~ THAT is assigned to the ~~municipal~~ LOCAL GOVERNMENT division may make application to the board to terminate the affiliation of ~~such~~ THE employer with the association. ~~Said~~ THE application shall be made by submitting to the board an ordinance or resolution ~~which~~ THAT has been adopted by the governing body of ~~such~~ THE employer and ~~which~~ THAT has been approved by at least sixty-five percent of the employees of ~~such~~ THE employer who are members. Such employee members of ~~such~~ THE employer shall be notified in writing of the provisions of section 24-51-321 prior to a vote on an ordinance or resolution to terminate the affiliation of ~~such~~ THE employer with the association.

SECTION 13. 24-51-315 (1), Colorado Revised Statutes, is amended to read:

24-51-315. Termination of affiliation - reserves requirement. (1) The board shall determine the amount of reserves required as of the effective date of termination of affiliation to maintain current benefits payable by the association to benefit recipients and to preserve the vested rights of inactive members. ~~Said~~ THE amount

of reserves shall be determined by the board utilizing certified actuarial reports prepared by the actuary. ~~Such~~ THE actuarial report shall also certify that the termination of affiliation shall not have an adverse financial impact on the actuarial soundness of the ~~municipal~~ LOCAL GOVERNMENT division trust fund. If the actuary determines, in accordance with accepted actuarial principles, that the termination of affiliation shall have an adverse financial impact on the actuarial soundness of the ~~municipal~~ LOCAL GOVERNMENT division trust fund, the applicant shall not be permitted to terminate affiliation.

SECTION 14. 24-51-316 (1) and (2), Colorado Revised Statutes, are amended to read:

24-51-316. Inadequate reserves - excess reserves - nonpayment. (1) In the event that the amount of the reserves required pursuant to the provisions of section 24-51-315 exceeds the amount of the employer's share of the employer contribution reserve in the ~~municipal~~ LOCAL GOVERNMENT division trust fund as calculated by the actuary, then the employer shall make an additional payment as of the effective date of termination of affiliation in an amount equal to the difference between the amount of reserves required and the amount of reserves on deposit.

(2) In the event that the amount of the reserves on deposit in the ~~municipal~~ LOCAL GOVERNMENT division trust fund as calculated by the actuary for the employer requesting termination of affiliation exceeds the amount of reserves required pursuant to the provisions of section 24-51-315, such excess amount and the amount required for the transfer of member contributions as provided in section 24-51-317 shall be transferred by a direct trustee-to-trustee transfer to the alternate pension plan or system required by section 24-51-319 as of the effective date of termination of affiliation.

SECTION 15. 24-51-320 (3), Colorado Revised Statutes, is amended to read:

24-51-320. Reaffiliation of a public entity. (3) The board shall not approve any application for reaffiliation with the association if such reaffiliation will have an adverse financial impact on the actuarial soundness of the ~~municipal~~ LOCAL GOVERNMENT division trust fund.

SECTION 16. 24-51-401 (1.7) and (2), Colorado Revised Statutes, are amended, and the said 24-51-401 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-401. Employer and member contributions. (1.7) (a) Employers designated as state employers by rule of the board shall forward to the association by the tenth calendar day of each month SHALL DELIVER a monthly contribution report and the full amount of employer and member contributions ~~Employers designated as school employers by rule of the board and municipal division employers shall forward to the association, by the date established by rule of the board, a monthly contribution report and the full amount of employer and member contributions~~ TO THE ASSOCIATION WITHIN FIVE DAYS AFTER THE DATE MEMBERS AND RETIREES ARE PAID. Except as provided in ~~subsection (7)~~ SUBSECTIONS (1.8) AND (7) of this section ~~section 24-51-408.5 (6), and section 22-64-220 (4) (j), C.R.S. AND SECTIONS 22-64-220 (4) (j) AND 24-51-408.5,~~ such contributions shall be based upon the rates

for the appropriate division as set forth in the following table multiplied by the ~~total~~ gross salary, AS DEFINED IN SECTION 24-51-101 (42), paid to members AND RETIREES for the ~~preceding month~~ PAYROLL PERIOD:

**TABLE A
CONTRIBUTION RATES**

Division	Membership	Employer Rate	Member Rate
State and School	All Members	10.4% 10.15%	8.0%
	Except State Troopers	13.1% 12.85%	10.0%
Municipal	All Members	10.0%	8.0%
Judicial	All Members	14.0% 13.66%	8.0%

(b) CONTRIBUTIONS SHALL BE CALCULATED USING THE CONTRIBUTION RATES THAT WERE IN EFFECT ON THE LAST DAY OF THE PAYROLL PERIOD.

(c) CONTRIBUTIONS FOR SALARY PAYMENTS MADE TO A MEMBER FOR UNINTENTIONAL NONRECURRING ADJUSTMENTS OR CORRECTIONS THAT ARE PAID SEPARATE FROM ONE OF THE EMPLOYER'S REGULAR PAYROLL CYCLES MAY BE REPORTED AND PAID TO THE ASSOCIATION WITH THE EMPLOYER'S NEXT REGULAR PAYROLL CYCLE.

(d) IF AN EMPLOYER MAKES PAYMENT TO THE ASSOCIATION THROUGH AN AUTOMATED CLEARING HOUSE DEBIT TRANSACTION, PAYMENT WILL BE CONSIDERED RECEIVED ON TIME IF VALID AND EXECUTABLE AUTOMATED CLEARING HOUSE INSTRUCTIONS ARE RECEIVED BY THE ASSOCIATION BY THE DATE SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1.7).

(1.8) IF THE ACTUARIAL VALUE OF ASSETS EXCEEDS ONE HUNDRED TEN PERCENT OF THE ACTUARIAL ACCRUED LIABILITIES IN ANY DIVISION, AS DETERMINED BY THE ASSOCIATION'S ACTUARY, THE DIVISION SHALL BE CONSIDERED OVERFUNDED, AND EMPLOYER CONTRIBUTION RATES SHALL BE REDUCED AS PROVIDED IN SECTION 24-51-408.5 (5).

(2) Along with such contributions, the employer shall ~~forward~~ DELIVER to the association by the date established in subsection (1.7) of this section a ~~monthly~~ contribution report containing any member information required by the board to properly credit money to the employer contribution reserve and the member contribution accounts in the member contribution reserve.

SECTION 17. 24-51-401 (1.7) (a), Colorado Revised Statutes, is amended to read:

24-51-401. Employer and member contributions. (1.7) (a) Employers designated as state employers by rule of the board shall forward to the association by

~~the tenth calendar day of each month SHALL DELIVER a monthly contribution report and the full amount of employer and member contributions Employers designated as school employers by rule of the board and municipal division employers shall forward to the association, by the date established by rule of the board, a monthly contribution report and the full amount of employer and member contributions TO THE ASSOCIATION WITHIN FIVE DAYS AFTER THE DATE MEMBERS AND RETIREES ARE PAID. Except as provided in subsection (7) SUBSECTIONS (1.8) AND (7) of this section section 24-51-408.5 (6), and section 22-64-220 (4) (j), C.R.S. AND SECTIONS 22-64-220 (4) (j) AND 24-51-408.5, such contributions shall be based upon the rates for the appropriate division as set forth in the following table multiplied by the total gross salary, AS DEFINED IN SECTION 24-51-101 (42), paid to members AND RETIREES for the preceding month PAYROLL PERIOD:~~

**TABLE A
CONTRIBUTION RATES**

Division	Membership	Employer Rate	Member Rate
State and School	All Members	10.4% 10.15%	8.0%
	Except State Troopers	13.1% 12.85%	10.0%
SCHOOL	ALL MEMBERS		
	1/1/2006 THROUGH 12/31/2012	10.15%	8.0%
	1/1/2013 AND THEREAFTER	10.55%	8.0%
Municipal LOCAL GOVERNMENT	All Members	10.0%	8.0%
Judicial	All Members	14.0% 13.66%	8.0%

SECTION 18. 24-51-408 (3), Colorado Revised Statutes, is amended to read:

24-51-408. Matching employer contributions. (3) Notwithstanding subsections (1) and (2) of this section, for members of the ~~municipal~~ LOCAL GOVERNMENT division and for payments made to survivors or beneficiaries of such members who die before retirement, the amount of matching employer contributions shall be eighty percent of the amount that would be paid to members, survivors, or beneficiaries in divisions of the association other than the ~~municipal~~ LOCAL GOVERNMENT division if the municipal division members had the same contribution history and age as the members of the other divisions. Notwithstanding any other provision of this subsection (3) to the contrary, the amount of matching employer contributions for members of the ~~municipal~~ LOCAL GOVERNMENT division shall be as provided in subsections (1) and (2) of this section effective on July 1 of any year in which the most recent determination of the association's actuary specifies that such contributions for the ~~municipal~~ LOCAL GOVERNMENT division will not cause the amortization period in such division to exceed thirty years.

SECTION 19. 24-51-408.5 (1), (5), (6) (a), (6) (a.5), (6) (b), and (7), Colorado Revised Statutes, are amended to read:

24-51-408.5. Matching employer contribution on voluntary contributions made by members to tax-deferred retirement programs. (1) For any member who makes a voluntary contribution to any eligible tax-deferred retirement program, the employer shall make a matching contribution on such voluntary contribution to the eligible tax-deferred retirement program subject to the provisions of this section. A MEMBER OF THE DEFINED CONTRIBUTION PLAN PURSUANT TO PART 15 OF THIS ARTICLE SHALL NOT BE ELIGIBLE FOR MATCHING CONTRIBUTIONS UNDER THIS SECTION ON VOLUNTARY CONTRIBUTIONS MADE FROM SALARY EARNED AS A MEMBER OF THE DEFINED CONTRIBUTION PLAN.

(5) If the actuarial value of assets exceeds ONE HUNDRED TEN PERCENT OF the actuarial accrued liabilities in any division, as determined by the association's actuary, the division shall be considered overfunded by the amount of the difference. If a division is overfunded, the association's actuary shall determine not later than September 1 of each year the reduction in the employer contribution rates specified in section 24-51-401(1.7) necessary to amortize the overfunding IN EXCESS OF ONE HUNDRED TEN PERCENT UP TO ONE HUNDRED FIFTEEN PERCENT OF ACTUARIAL ACCRUED LIABILITIES over a period of ~~ten~~ THIRTY years. THE AMOUNT OF ANY OVERFUNDING IN EXCESS OF ONE HUNDRED FIFTEEN PERCENT OF ACTUARIAL ACCRUED LIABILITIES SHALL BE AMORTIZED OVER A PERIOD OF TWENTY YEARS. THE CALCULATION OF THE AMOUNT FOR ANY FISCAL YEAR OF ANY DECREASE IN THE EMPLOYER CONTRIBUTION RATES DUE TO OVERFUNDING SHALL BE DETERMINED USING THE ACTUARY'S CALCULATION FROM THE PRECEDING SEPTEMBER 1.

(6) (a) IF A DIVISION'S TRUST FUND IS DETERMINED TO BE OVERFUNDED PURSUANT TO SUBSECTION (5) OF THIS SECTION, THEN commencing with the fiscal year that begins ~~July 1, 2001~~ FOLLOWING THE ACTUARY'S CALCULATION FROM THE PRECEDING SEPTEMBER 1, the employer contribution rate specified in section 24-51-401 (1.7) for state ~~and school~~ division employers, SCHOOL DIVISION EMPLOYERS, LOCAL GOVERNMENT DIVISION EMPLOYERS, and for judicial division employers shall be reduced to amortize any overfunding in the respective division's trust fund by twenty percent of the amount of any reduction in the employer contribution rates as determined in accordance with subsection (5) of this section. ~~but in any case such reduction shall be at least one-half of one percent of salary for the fiscal year that commences July 1, 2001, and at least one-fourth of one percent of salary for fiscal years that commence on or after July 1, 2002.~~ The calculation of the amount of any reduction in the employer contribution rates due to overfunding shall be determined using the actuary's calculation from the preceding September 1. ~~In no event shall the total reduction in any division's employer contribution rate pursuant to this paragraph (a) change by more than one percent of salary from one year to the following year.~~

(a.5) ~~The employer contribution rate for the municipal division for any calendar year shall be reduced to amortize any overfunding in the municipal division trust fund by twenty percent of the amount of any reduction in the employer contribution rates as determined in accordance with subsection (5) of this section. The calculation of the amount of any reduction in the employer contribution rates shall be determined using the actuary's calculation from the preceding September 1. For municipal division employers with a fiscal year that begins later than January 1, the calculation~~

~~of the amount of any reduction in the employer contribution rate shall take effect at the start of the employer's fiscal year.~~

(b) Each employer shall subtract from their regular ~~monthly~~ contribution to the association an amount equal to the amount that the employer paid as matching contributions on members' voluntary contributions to eligible tax-deferred retirement programs pursuant to this section.

(7) Employers shall pay a matching contribution on a member's voluntary contribution directly to the eligible tax-deferred retirement program or programs to which the member contributes. Employers shall submit a ~~monthly~~ report to the association concerning payments made pursuant to this subsection (7). The report shall include the amount of the voluntary contributions and matching EMPLOYER contributions and the programs to which the contributions were paid.

SECTION 20. Part 4 of article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-51-411. Amortization equalization disbursement - repeal. (1) BEGINNING JANUARY 1, 2006, EACH EMPLOYER SHALL DELIVER TO THE ASSOCIATION AN AMORTIZATION EQUALIZATION DISBURSEMENT PURSUANT TO THE SAME PROCEDURES SPECIFIED FOR EMPLOYER CONTRIBUTIONS IN SECTION 24-51-401 (1.7). THE DISBURSEMENT SHALL BE SUBJECT TO AVAILABLE APPROPRIATION AS DETERMINED BY THE GENERAL ASSEMBLY. ANY SUCH APPROPRIATION SHALL BE IDENTIFIED IN A SEPARATE LINE ITEM FOR EACH DEPARTMENT OF STATE GOVERNMENT.

(2) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2006, THE AMORTIZATION EQUALIZATION DISBURSEMENT SHALL BE ONE-HALF OF ONE PERCENT OF THE EMPLOYER'S TOTAL PAYROLL. THE AMORTIZATION EQUALIZATION PAYMENT SHALL INCREASE BY ONE-HALF OF ONE PERCENT OF TOTAL PAYROLL ON JANUARY 1, 2007, AND SHALL INCREASE BY FOUR-TENTHS OF ONE PERCENT OF TOTAL PAYROLL AT THE START OF EACH OF THE CALENDAR YEARS FOLLOWING 2007 THROUGH 2012, EXCEPT AS PROVIDED BY SUBSECTION (3) OF THIS SECTION. FOR PURPOSES OF THIS SECTION, THE EMPLOYER'S TOTAL PAYROLL SHALL BE CALCULATED BY APPLYING THE DEFINITION OF SALARY, PURSUANT TO SECTION 24-51-101 (42), TO THE PAYROLL FOR ALL EMPLOYEES WORKING FOR THE EMPLOYER WHO ARE MEMBERS OF THE ASSOCIATION OR WHO WERE ELIGIBLE TO ELECT TO BECOME MEMBERS OF THE ASSOCIATION ON OR AFTER JANUARY 1, 2006.

(3) THE TOTAL OF THE AMORTIZATION EQUALIZATION DISBURSEMENT SHALL NOT EXCEED THREE PERCENT OF THE EMPLOYER'S TOTAL PAYROLL FOR ANY CALENDAR YEAR. IN THE EVENT THAT THE ASSOCIATION'S ACTUARY DETERMINES THAT THE AMORTIZATION PERIOD OF THE LIABILITIES IN THE DIVISION IS IN COMPLIANCE WITH SECTION 24-51-211, THEN THE AMOUNT OF THE AMORTIZATION EQUALIZATION DISBURSEMENT FOR THAT DIVISION SHALL BE REDUCED FOR THE FOLLOWING CALENDAR YEAR TO THE PERCENTAGE OF TOTAL PAYROLL NEEDED TO MEET THE STANDARD IN SECTION 24-51-211.

(4) ANY REDUCTION IN THE AMORTIZATION EQUALIZATION DISBURSEMENT PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL BE IRREVOCABLE. IF THE ENTIRE DISBURSEMENT BECOMES NO LONGER NECESSARY PURSUANT TO SUBSECTION

(3) OF THIS SECTION, THEN THE ASSOCIATION SHALL NOTIFY THE REVISOR OF STATUTES TO REPEAL THIS SECTION.

(5) THIS SECTION IS REPEALED, EFFECTIVE UPON RECEIPT BY THE REVISOR OF STATUTES OF A NOTICE PURSUANT TO SUBSECTION (4) OF THIS SECTION.

SECTION 21. 24-51-1101 (2) and (3), Colorado Revised Statutes, are amended to read:

24-51-1101. Employment after service retirement - repeal. (2) Salary from the employment described in subsection (1) of this section shall ~~not~~ be subject to employer ~~and~~ CONTRIBUTIONS BUT SHALL NOT BE SUBJECT TO member contributions except as provided in section 24-51-1103.

(3) Any service retiree employed pursuant to this section shall not be eligible for disability retirement and survivor benefits during the employment period in which ~~no~~ MEMBER contributions are NOT being made pursuant to the provisions of this section.

SECTION 22. 24-51-1402 (4), Colorado Revised Statutes, is amended to read:

24-51-1402. Contributions to the voluntary investment program. (4) The employer shall ~~forward~~ DELIVER all voluntary contributions to the SERVICE PROVIDER DESIGNATED BY THE association ~~by the date specified in rules adopted by the board~~ WITHIN FIVE DAYS AFTER THE DATE THAT THE MEMBERS ARE PAID AND CONSISTENT WITH THE PROVISIONS OF SECTION 24-51-401 (1.7) (c) AND (1.7) (d).

SECTION 23. Article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 15
DEFINED CONTRIBUTION RETIREMENT PLANS

24-51-1501. Defined contribution retirement plan - establishment - creation of fund. THE BOARD IS HEREBY AUTHORIZED TO ESTABLISH AND ADMINISTER A DEFINED CONTRIBUTION RETIREMENT PLAN FOR ELIGIBLE STATE EMPLOYEES AS PROVIDED IN THIS PART 15. THE BOARD SHALL ESTABLISH THE TERMS AND CONDITIONS OF THE DEFINED CONTRIBUTION PLAN OFFERED TO ELIGIBLE STATE EMPLOYEES. THE ASSETS OF THE PLAN SHALL BE HELD IN A SEPARATE TRUST FUND OF THE ASSOCIATION CREATED FOR SUCH PURPOSE.

24-51-1502. New state employees - election - definitions. (1) ANY ELIGIBLE EMPLOYEE OF STATE GOVERNMENT PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, SHALL ELECT, WITHIN SIXTY DAYS OF COMMENCING EMPLOYMENT, EITHER TO BECOME A MEMBER OF THE ASSOCIATION OR TO PARTICIPATE IN A DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO PART 2 OF ARTICLE 52 OF THIS TITLE. IF AN EMPLOYEE DOES NOT MAKE SUCH ELECTION WITHIN THE SIXTY-DAY PERIOD, THE EMPLOYEE SHALL BECOME A MEMBER OF THE ASSOCIATION.

(2) (a) FOR PURPOSES OF THIS PART 15, "ELIGIBLE EMPLOYEE" MEANS AN EMPLOYEE OF STATE GOVERNMENT WHO IS HIRED ON OR AFTER JANUARY 1, 2006, AND HAS NOT BEEN A MEMBER OR RETIREE OF THE ASSOCIATION OR AN ACTIVE

PARTICIPANT IN A DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO PART 2 OF ARTICLE 52 OF THIS TITLE DURING THE TWELVE MONTHS PRIOR TO THE DATE THAT HE OR SHE COMMENCES EMPLOYMENT.

(b) AN EMPLOYEE WHO IS COVERED BY A DEFINED CONTRIBUTION PLAN PURSUANT TO ARTICLE 54.6 OF THIS TITLE OR WHO IS AN EMPLOYEE OF ANY STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7), ANY INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO, OR AN INSTITUTION GOVERNED PURSUANT TO PART 5 OF ARTICLE 21 OF TITLE 23, C.R.S., SHALL NOT BE ELIGIBLE TO MAKE THE ELECTION PURSUANT TO SUBSECTION (1) OF THIS SECTION.

24-51-1503. Defined contribution plan option. (1) AN ELIGIBLE EMPLOYEE WHO BECOMES A MEMBER OF THE ASSOCIATION SHALL BE COVERED BY THE ASSOCIATION'S DEFINED BENEFIT PLAN WITH CONTRIBUTIONS AND BENEFITS AS SPECIFIED IN PARTS 4 TO 12 OF THIS ARTICLE, UNLESS THE MEMBER ELECTS TO PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN OF THE ASSOCIATION IN ACCORDANCE WITH THIS PART 15 IN LIEU OF SUCH DEFINED BENEFIT PLAN WITHIN SIXTY DAYS OF COMMENCING EMPLOYMENT.

(2) A MEMBER OF THE DEFINED CONTRIBUTION PLAN PURSUANT TO THIS PART 15 SHALL BE ELIGIBLE TO CONTINUE SUCH PARTICIPATION UPON COMMENCING EMPLOYMENT IN A DIFFERENT STATE POSITION FOR WHICH THE DEFINED CONTRIBUTION PLAN IS NOT AVAILABLE PURSUANT TO THIS PART 15. SUCH EMPLOYEE SHALL MAKE A ONE-TIME IRREVOCABLE ELECTION WITHIN SIXTY DAYS OF COMMENCING SUCH EMPLOYMENT TO PARTICIPATE IN A PLAN FOR WHICH THE EMPLOYEE IS ELIGIBLE OR TO CONTINUE PARTICIPATING IN THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN. NOTWITHSTANDING SECTION 24-51-1506 (1), THE EMPLOYEE SHALL HAVE NO FURTHER OPTION AFTER THE IRREVOCABLE ELECTION TO BECOME A MEMBER OF THE ASSOCIATION'S DEFINED BENEFIT PLAN.

24-51-1504. Investments. (1) THE PLAN SHALL ALLOW A MEMBER OF THE DEFINED CONTRIBUTION PLAN TO EXERCISE CONTROL OF THE INVESTMENT OF THE MEMBER'S ACCOUNT UNDER THE PLAN, SUBJECT TO THE FOLLOWING PROVISIONS:

(a) THE BOARD SHALL SELECT AT LEAST FIVE INVESTMENT ALTERNATIVES THAT ALLOW A MEMBER A MEANINGFUL CHOICE BETWEEN RISK AND RETURN IN THE INVESTMENT OF THE MEMBER'S ACCOUNT.

(b) THE PLAN SHALL ALLOW THE MEMBER TO CHANGE INVESTMENTS REGULARLY.

(c) THE PLAN SHALL PROVIDE THE MEMBER WITH THE INFORMATION DESCRIBING THE INVESTMENT ALTERNATIVES, INCLUDING INFORMATION ON THE NATURE, INVESTMENT PERFORMANCE, FEES, AND EXPENSES OF THE INVESTMENT ALTERNATIVES.

(2) THE ASSOCIATION AND EMPLOYERS SHALL NOT HAVE THE RESPONSIBILITY TO PAY FOR ANY FINANCIAL LOSSES EXPERIENCED BY MEMBERS OF THE DEFINED CONTRIBUTION PLAN.

24-51-1505. Contributions - vesting. (1) CONTRIBUTION RATES TO THE DEFINED

CONTRIBUTION PLAN BY THE STATE AND BY MEMBERS OF THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THIS PART 15 SHALL BE THE SAME AS THE RATES THAT WOULD BE PAYABLE BY THE STATE AND THE MEMBER PURSUANT TO SECTION 24-51-401.

(2) THE STATE EMPLOYER SHALL DELIVER ALL CONTRIBUTIONS TO THE SERVICE PROVIDER DESIGNATED BY THE ASSOCIATION WITHIN FIVE DAYS AFTER THE DATE MEMBERS ARE PAID AND CONSISTENT WITH THE PROVISIONS OF SECTION 24-51-401(1.7) (b) TO (1.7) (d).

(3) MEMBERS OF THE DEFINED CONTRIBUTION PLAN SHALL BE IMMEDIATELY AND FULLY VESTED IN THEIR OWN CONTRIBUTIONS TO THE PLAN, TOGETHER WITH ACCUMULATED INVESTMENT GAINS OR LOSSES. MEMBERS SHALL BE IMMEDIATELY VESTED IN FIFTY PERCENT OF THE STATE'S CONTRIBUTION TO THE PLAN, TOGETHER WITH ACCUMULATED INVESTMENT GAINS OR LOSSES ON THAT VESTED PORTION. FOR EACH FULL YEAR OF MEMBERSHIP IN THE DEFINED CONTRIBUTION PLAN, THE VESTING PERCENTAGE SHALL INCREASE BY TEN PERCENT. THE VESTING PERCENTAGE IN THE STATE'S CONTRIBUTION, WITH ACCUMULATED EARNINGS OR LOSSES, SHALL BE ONE HUNDRED PERCENT FOR ALL MEMBERS WITH FIVE OR MORE YEARS OF MEMBERSHIP IN THE DEFINED CONTRIBUTION PLAN.

24-51-1506. Additional choices within first five years. (1) AN ELIGIBLE EMPLOYEE WHO IS A MEMBER OF THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN MAY ELECT, AT ANY TIME DURING THE SECOND TO FIFTH YEAR OF MEMBERSHIP IN THE PLAN, TO TERMINATE MEMBERSHIP IN THE PLAN AND TO BECOME A MEMBER OF THE ASSOCIATION'S DEFINED BENEFIT PLAN WITH BENEFITS AND CONTRIBUTION RATES SPECIFIED IN PARTS 4 TO 12 OF THIS ARTICLE. SUCH ELECTION SHALL BE IRREVOCABLE.

(2) A MEMBER WHO ELECTS TO JOIN THE DEFINED BENEFIT PLAN PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY, UPON MEETING THE REQUIREMENTS OF SECTION 24-51-505, PURCHASE SERVICE CREDIT FOR THE PERIOD OF EMPLOYMENT COVERED BY THE DEFINED CONTRIBUTION PLAN. THE COST TO PURCHASE SUCH SERVICE SHALL BE THE SAME AS THE COST DETERMINED BY THE BOARD FOR THE PURCHASE OF NONCOVERED EMPLOYMENT. THE MEMBER MAY ELECT TO HAVE ANY PORTION OF THE MEMBER'S ACCOUNT PAID FROM THE DEFINED CONTRIBUTION PLAN TO THE DEFINED BENEFIT PLAN TO FACILITATE THE PURCHASE OF SERVICE CREDIT THROUGH A DIRECT ROLLOVER IN ACCORDANCE WITH SECTION 401 (a) (31) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED. THE MEMBER MAY NOT BE VESTED IN THE DEFINED CONTRIBUTION PLAN UPON PURCHASING SERVICE CREDIT FOR EMPLOYMENT THAT WAS COVERED BY THE DEFINED CONTRIBUTION PLAN.

(3) (a) THE BOARD, IN ITS SOLE DISCRETION, MAY PROVIDE OPTIONAL COVERAGE FOR DISABILITY, SURVIVOR, AND RETIREE HEALTH CARE BENEFITS TO MEMBERS OF THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN.

(b) THE BOARD, IN ITS SOLE DISCRETION AND WITH THE APPROVAL OF THE STATE DEFERRED COMPENSATION COMMITTEE, MAY PROVIDE ANY OPTIONAL COVERAGE OFFERED TO MEMBERS OF THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) TO ANY PARTICIPANT IN THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO PART 2 OF ARTICLE 52 OF

THIS TITLE.

(4) AN ELIGIBLE EMPLOYEE WHO IS A MEMBER OF THE ASSOCIATION'S DEFINED BENEFIT PLAN MAY ELECT, AT ANY TIME DURING THE SECOND TO FIFTH YEAR OF MEMBERSHIP IN THE PLAN, TO TERMINATE MEMBERSHIP IN THE PLAN AND TO BECOME A MEMBER OF THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN CREATED PURSUANT TO THIS PART 15. SUCH ELECTION SHALL BE IRREVOCABLE.

24-51-1507. Transfer or rollover into plan. THE DEFINED CONTRIBUTION PLAN MAY ACCEPT A DIRECT ROLLOVER OR A MEMBER ROLLOVER INTO THE MEMBER'S DEFINED CONTRIBUTION PLAN ACCOUNT, TO THE EXTENT PERMITTED BY FEDERAL LAW AND AUTHORIZED BY THE DEFINED CONTRIBUTION PLAN.

24-51-1508. Distribution options. THE DEFINED CONTRIBUTION PLAN SHALL INCLUDE OPTIONS FOR THE DISTRIBUTION OF THE DEFINED CONTRIBUTION ACCOUNT, INCLUDING PAYMENT IN A LUMP SUM AND PAYMENT AS A LIFETIME ANNUITY. THE STATE AND OTHER EMPLOYERS SHALL NOT HAVE LIABILITY FOR ANY OF THE PAYMENTS.

24-51-1509. Rights of defined contribution plan members. (1) A DEFINED CONTRIBUTION PLAN MEMBER SHALL NOT BE CONSIDERED A MEMBER OR A RETIREE FOR THE PURPOSE OF PARTS 4 TO 12 OF THIS ARTICLE, NOR SHALL HIS OR HER SURVIVORS OR BENEFICIARIES BE CONSIDERED BENEFIT RECIPIENTS.

(2) A DEFINED CONTRIBUTION PLAN MEMBER MAY PARTICIPATE IN OPTIONAL LIFE INSURANCE, LONG-TERM CARE INSURANCE, AND THE VOLUNTARY INVESTMENT PROGRAM, AS PROVIDED IN THIS ARTICLE.

(3) A MEMBER OF THE DEFINED CONTRIBUTION PLAN SHALL BE ELIGIBLE TO ENROLL IN THE HEALTH CARE PROGRAM AS A BENEFIT RECIPIENT PURSUANT TO SECTION 24-51-1204 (1) (a) ONLY IF THE MEMBER ELECTS THE LIFETIME ANNUITY DISTRIBUTION OPTION. ANY PREMIUM SUBSIDY PAID SHALL BE BASED ON THE YEARS OF SERVICE CREDIT IN THE DEFINED BENEFIT PLAN.

(4) A MEMBER OF THE DEFINED CONTRIBUTION PLAN WHO HAS REACHED THE AGE AT WHICH A DISTRIBUTION WOULD NOT BE SUBJECT TO A PENALTY PURSUANT TO THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND WHO RETURNS TO EMPLOYMENT SHALL BE SUBJECT TO THE PROVISIONS OF PART 11 OF THIS ARTICLE CONCERNING EMPLOYMENT AFTER RETIREMENT.

(5) (a) THE BOARD, IN ITS SOLE DISCRETION AND WITH THE APPROVAL OF THE STATE DEFERRED COMPENSATION COMMITTEE, MAY OFFER ANY PARTICIPANT IN THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO PART 2 OF ARTICLE 52 OF THIS TITLE THE OPTION TO ENROLL IN THE HEALTH CARE PROGRAM PROVIDED PURSUANT TO PART 12 OF THIS ARTICLE AS IF THE PARTICIPANT WERE A BENEFIT RECIPIENT PURSUANT TO THIS PART 15.

(b) THE BOARD, IN ITS SOLE DISCRETION AND WITH THE APPROVAL OF THE STATE DEFERRED COMPENSATION COMMITTEE, MAY OFFER ANY OPTIONAL LIFE INSURANCE OR LONG-TERM CARE INSURANCE OFFERED PURSUANT TO THIS SECTION TO ANY PARTICIPANT IN THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO PART

2 OF ARTICLE 52 OF THIS TITLE.

24-51-1510. Report to members. ON A QUARTERLY BASIS, THE BOARD SHALL REPORT TO MEMBERS WHO PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN. THE REPORT SHALL INCLUDE A STATEMENT OF ACCOUNT BALANCES, A REVIEW OF ACCOUNT TRANSACTIONS, AND THE AMOUNT OF ADMINISTRATIVE FEES CHARGED TO THE MEMBERS DURING THE QUARTER.

SECTION 24. 24-52-201, Colorado Revised Statutes, is amended to read:

24-52-201. 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 ~~These plans are offered~~ as an alternative to participation in the public employees' retirement association for term limited public officials and other employees expressly ~~permitted to opt out of the~~ association's defined benefit plan.

SECTION 25. 24-52-202 (3) and (5), Colorado Revised Statutes, are amended, and the said 24-52-202 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-52-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1.5) "BUNDLED PROVIDER" MEANS A PRIVATE SECTOR COMPANY THAT OFFERS PARTICIPANTS A FULL RANGE OF INDIVIDUALLY ALLOCATED INVESTMENT PRODUCTS WITHIN A CONTRACT OR ACCOUNT MEETING THE REQUIREMENTS OF SECTION 401 (a) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, INCLUDING PRODUCTS OR ARRANGEMENTS DESCRIBED IN SECTIONS 401 (f) AND 403 (a) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, OR SUCCESSOR PROVISIONS COMBINED WITH A FULL RANGE OF ADMINISTRATIVE AND CUSTOMER SERVICES, INCLUDING, BUT NOT LIMITED TO, ACCOUNTING AND ADMINISTRATION OF INDIVIDUAL PARTICIPANT BENEFITS AND CONTRIBUTIONS; INDIVIDUAL PARTICIPANT RECORD KEEPING; ASSET PURCHASE, CONTROL, AND SAFEKEEPING; DIRECT EXECUTION OF THE PARTICIPANT'S INSTRUCTIONS AS TO ASSET AND CONTRIBUTION ALLOCATION; CALCULATION OF DAILY NET ASSET VALUES; DIRECT ACCESS TO PARTICIPANT ACCOUNT INFORMATION; PERIODIC REPORTING TO PARTICIPANTS, AT LEAST QUARTERLY, ON ACCOUNT BALANCES AND TRANSACTIONS; BROAD DISTRIBUTION OPTIONS; AND DIRECT ASSET ALLOCATION AND RETIREMENT COUNSELING AND EDUCATION.

(3) "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 district attorney, an assistant district attorney, a chief deputy district attorney, a deputy district attorney, or other employee of a district attorney, 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, ANY EMPLOYEE WHO COMMENCES EMPLOYMENT WITH AN EMPLOYER ON OR AFTER JANUARY 1, 2006, AND HAS NOT BEEN A MEMBER OR RETIREE OF THE ASSOCIATION OR AN ACTIVE PARTICIPANT IN A DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THIS PART 2 DURING THE TWELVE MONTHS PRIOR TO THE DATE THAT HE OR SHE COMMENCED EMPLOYMENT, 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 part 2.

(5) "Employer" means the state, the general assembly, and any state department that employs an eligible employee. "EMPLOYER" SHALL NOT INCLUDE ANY STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7), ANY INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO, OR AN INSTITUTION GOVERNED PURSUANT TO PART 5 OF ARTICLE 21 OF TITLE 23, C.R.S.

SECTION 26. 24-52-203 (1) and (2), the introductory portion to 24-52-203 (3), and 24-52-203 (3) (c), (3) (d), and (5) (a), Colorado Revised Statutes, are amended, and the said 24-52-203 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-52-203. Establishment and administration of defined contribution plans.

(1) The committee shall have the authority to establish and administer ~~one or more~~ A defined contribution ~~plans~~ PLAN pursuant to the provisions of this part 2. The committee shall maintain ~~at least one~~ such plan on and after July 1, 2002. The department of personnel shall provide necessary administrative support to the committee in connection with the establishment and administration of ~~any~~ A defined contribution plan established or administered by the committee.

(2) The committee shall establish the terms and conditions of ~~any~~ THE defined contribution plan established by the committee pursuant to this part 2 ~~Any such~~ AND SUBJECT TO THE CONDITIONS SPECIFIED IN THIS PART 2. THE defined contribution plan may provide retirement and death benefits.

(3) The committee, for ~~each~~ THE defined contribution plan established or administered by the committee pursuant to this part 2:

(c) Shall select ~~more than one~~ THREE separate and distinct ~~provider~~ BUNDLED PROVIDERS of investment products for ~~each~~ THE defined contribution plan established pursuant to this part 2. ~~and~~ NO OTHER INVESTMENT PRODUCTS OR EDUCATIONAL OR ADMINISTRATIVE SERVICES SHALL BE OFFERED UNDER THE DEFINED CONTRIBUTION PLAN OTHER THAN THOSE OFFERED BY THE BUNDLED PROVIDERS. THE BUNDLED PROVIDERS SHALL BE OFFERED TO ALL ELIGIBLE EMPLOYEES EFFECTIVE JULY 1, 2005.

(d) ~~May assess each participant a fee for administering the defined contribution plan that shall be automatically deducted and that shall not exceed one percent of the participating employee's assets in the state defined contribution plan. All fees collected pursuant to this paragraph (d) 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 part 2. All investment income derived from moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. Any fees or other moneys in excess of expenditures shall be used to reduce defined contribution plan participants' annual fees in subsequent years. In addition to assessing all or a portion of a fee pursuant to this paragraph (d), the committee may contract with a vendor to pay all or a portion of the vendor's costs and reimburse the state for any or a portion of any costs of administering the defined contribution plan.~~

(3.5) THE COMMITTEE SHALL HAVE THE AUTHORITY TO LIMIT THE NUMBER OF FUNDS OFFERED BY EACH BUNDLED PROVIDER IN THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THIS PART 2. THE LIMIT SHALL PROVIDE A REASONABLE RANGE OF INVESTMENT CHOICES.

(5) The committee, in its discretion and consistent with any applicable federal laws and regulations:

~~(a) May allow employees eligible to participate in a deferred compensation plan established pursuant to part 1 of this article and employees eligible to participate in a defined contribution plan pursuant to this part 2 to invest in the same investment products or in separate investment products;~~

(7) THE COMMITTEE AND EMPLOYERS SHALL NOT HAVE THE RESPONSIBILITY TO PAY FOR ANY FINANCIAL LOSSES EXPERIENCED BY MEMBERS OF THE DEFINED CONTRIBUTION PLAN.

(8) ON OR AFTER JANUARY 1, 2006, THE COMMITTEE, IN ITS SOLE DISCRETION, MAY PROVIDE OPTIONAL COVERAGE FOR DISABILITY, SURVIVOR, RETIREE HEALTH CARE, LIFE INSURANCE, AND LONG-TERM CARE BENEFITS TO PLAN PARTICIPANTS. THE COMMITTEE MAY CHOOSE TO PERMIT PLAN PARTICIPANTS TO PARTICIPATE IN ANY BENEFIT THAT THE ASSOCIATION MAY OFFER PURSUANT TO SECTION 24-51-1506 (3) OR 24-51-1509 (3), AND ANY OPTIONAL LIFE INSURANCE OR LONG-TERM CARE INSURANCE THAT THE ASSOCIATION MAY OFFER PURSUANT TO SECTION 24-51-1509 (2). IF THE ASSOCIATION OFFERS AND THE COMMITTEE CHOOSES SUCH BENEFITS, THE ASSOCIATION SHALL MAKE ANY SUCH CHOSEN BENEFITS AVAILABLE TO PLAN PARTICIPANTS ON THE SAME COST, BENEFIT, AND ADMINISTRATIVE BASIS AS AVAILABLE TO MEMBERS OF THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN.

(9) (a) THE DEPARTMENT OF PERSONNEL MAY ASSESS EACH PROVIDER A FEE FOR THE ACTUAL AND REASONABLE COSTS OF ADMINISTERING THE DEFINED CONTRIBUTION PLAN, INCLUDING THE COST OF A CONSULTANT TO ASSIST IN THE EVALUATION OF INVESTMENT PRODUCTS. EACH PROVIDER SHALL BE ASSESSED AN EQUAL FEE TO COVER THE COSTS OF THE DEPARTMENT.

(b) ALL FEES COLLECTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (9) 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 THE FUND FOR THE DIRECT AND INDIRECT COSTS OF ADMINISTRATION OF ANY PLAN ESTABLISHED UNDER THIS PART 2. ALL INVESTMENT INCOME DERIVED FROM MONEYS

IN THE FUND SHALL BE CREDITED TO THE FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND SHALL REMAIN THEREIN AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ANY FEES OR OTHER MONEYS IN EXCESS OF EXPENDITURES SHALL BE USED TO REDUCE DEFINED CONTRIBUTION PLAN PROVIDERS' ANNUAL FEES IN SUBSEQUENT YEARS.

(c) A PROVIDER MAY HAVE AN EXPENSE CHARGE FOR ITS OFFERED INVESTMENT PRODUCTS AND MAY CHARGE ITS PARTICIPANTS A SEPARATE ADMINISTRATIVE FEE TO INCORPORATE THE ADMINISTRATIVE FEES APPLIED BY THE DEPARTMENT OF PERSONNEL AS APPROVED BY THE COMMITTEE. ANY SEPARATE ADMINISTRATIVE FEE SHALL BE SEPARATED, TOTALED, AND DISCLOSED TO THE PARTICIPANTS IN A QUARTERLY STATEMENT.

(10) THE DEPARTMENT OF PERSONNEL MAY WORK WITH THE PROVIDERS AND THE ASSOCIATION TO ASSEMBLE AND DISTRIBUTE MATERIALS TO EDUCATE NEW EMPLOYEES REGARDING THE DIFFERENT OPTIONS OFFERED BY THE DEFINED CONTRIBUTION PLAN CREATED PURSUANT TO THIS PART 2 AND THE ASSOCIATION'S PLANS OFFERED PURSUANT TO ARTICLE 51 OF THIS TITLE. FIFTY PERCENT OF THE COSTS INCURRED IN ASSEMBLING AND DISTRIBUTING SUCH EDUCATIONAL MATERIALS SHALL BE PAID BY THE ASSOCIATION AND FIFTY PERCENT OF SUCH COSTS SHALL BE PAID BY THE DEPARTMENT.

(11) A DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THIS PART 2 SHALL NOT USE A THIRD PARTY ADMINISTRATOR.

SECTION 27. 24-52-203 (3) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS to read:

24-52-203. Establishment and administration of defined contribution plans.

(3) The committee, for each defined contribution plan established or administered by the committee pursuant to this part 2:

(b) Shall designate from time to time the companies from which investment products shall be purchased. In designating such companies, the committee shall take into consideration:

(IV) THE ABILITY OF THE DESIGNATED COMPANIES TO PROVIDE HIGH QUALITY INFORMATION AND ADVICE ON INVESTMENT PRODUCTS AND ASSET ALLOCATIONS; AND

(V) THE FEES AND COST OF THE INVESTMENT PRODUCTS.

SECTION 28. 24-52-205 (1), (2) (a), and (2) (b), the introductory portion to 24-52-205 (2) (c), and 24-52-205 (2) (c) (II) and (4), Colorado Revised Statutes, are amended, and the said 24-52-205 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-52-205. Participation. (1) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), only eligible employees of an employer for which a defined contribution plan is offered PURSUANT TO THIS PART 2 may elect to participate in a defined contribution plan established or administered pursuant to this

part 2.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1), ANY ELIGIBLE EMPLOYEE WHO PARTICIPATES IN THE DEFINED CONTRIBUTION PLAN PURSUANT TO THIS PART 2 SHALL BE ELIGIBLE TO CONTINUE SUCH PARTICIPATION UPON COMMENCING EMPLOYMENT IN A DIFFERENT STATE POSITION FOR WHICH THE DEFINED CONTRIBUTION PLAN IS NOT AVAILABLE PURSUANT TO THIS PART 2. SUCH EMPLOYEE SHALL MAKE A ONE-TIME IRREVOCABLE ELECTION WITHIN SIXTY DAYS OF COMMENCING SUCH EMPLOYMENT TO PARTICIPATE IN A PLAN FOR WHICH THE EMPLOYEE IS ELIGIBLE OR TO CONTINUE PARTICIPATING IN THE DEFINED CONTRIBUTION PLAN.

(2) (a) Any EMPLOYEE WHO BECOMES AN eligible employee BEFORE JANUARY 1, 2006, 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 written election within ~~thirty~~ 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 part 2. In the absence of such written election, such person shall be a member of the association.

(b) Any EMPLOYEE WHO IS AN eligible employee BEFORE JANUARY 1, 2006, AND who is a member or inactive member of the association may, as long as such employee is employed in an eligible position, make a written election during the month of January of any year to participate in ~~a~~ THE defined contribution plan in which the employee is eligible to participate pursuant to the provisions of this part 2. In the absence of such written election, such person shall be a member of the association.

(c) Any EMPLOYEE WHO WAS AN eligible employee BEFORE JANUARY 1, 2006, AND 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:

(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~~ PROVIDER WITH 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 part 2. 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~~ PROVIDER WITH 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.

(2.5) ANY EMPLOYEE WHO BECOMES AN ELIGIBLE EMPLOYEE ON OR AFTER JANUARY 1, 2006, SHALL MAKE AN 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 PART 2. IN THE ABSENCE OF SUCH WRITTEN ELECTION, SUCH PERSON SHALL BE A MEMBER OF THE ASSOCIATION.

(4) Any election by an eligible employee to participate in a defined contribution plan ~~of an employing entity~~ PURSUANT TO THIS PART 2 shall be accompanied by an appropriate application, where required, designating the PROVIDER AND THE investment product or products selected by the eligible employee for investment under the defined contribution plan.

SECTION 29. 24-52-206 (2), Colorado Revised Statutes, is amended to read:

24-52-206. Public employees' retirement association. (2) (a) Any eligible employee WHO BECOMES AN ELIGIBLE EMPLOYEE BEFORE JANUARY 1, 2006, AND who participates in a defined contribution plan established pursuant to this part 2 may terminate future contributions to such plan and instead participate in the association by making a written election during the month of January of any year. Any such election to participate in the association shall be in writing and shall be filed with the association and with such eligible employee's employer.

(b) Any eligible employee who terminates participation in the defined contribution plan PURSUANT TO THE PROVISIONS OF THIS PART 2 and becomes a member of the association may, upon meeting the requirements of section 24-51-505, purchase service credit for the period of employment during which the employee was a participant in a defined contribution plan pursuant to this part 2. The cost to purchase such service shall be the full actuarial cost as determined by the actuary of the association but not less than the cost charged for other purchases of noncovered employment pursuant to section 24-51-505 (3). SUBJECT TO CONTRACTUAL PROVISIONS, the employee may elect to have any portion of the employee's account paid from the defined contribution plan to the association to facilitate the purchase of service credit through a direct rollover in accordance with section 401 (a) (31) of the federal "Internal Revenue Code of 1986", as amended. The employee may not be vested in the defined contribution plan upon purchasing service credit for employment that was covered by the defined contribution plan.

SECTION 30. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of the defined contribution plan administration fund created in section 24-52-203 (9) (b), Colorado Revised Statutes, to the department of personnel, for the fiscal year beginning July 1, 2004, the sum of one hundred seventeen thousand eight hundred ninety-one dollars (\$117,891), or so much thereof as may be necessary, to be allocated as follows:

(a) Ten thousand four hundred seventy-one dollars (\$10,471) to the executive office for legal services.

(b) Ninety-two thousand seven hundred sixty-one dollars (\$92,761) to the division of human resources, employee benefits services, for personal services.

(c) Four thousand six hundred fifty-nine dollars (\$4,659) to the division of human resources, employee benefits services, for operating expenses.

(d) Ten thousand dollars (\$10,000) to the division of human resources, employee benefits services, for defined contribution plans.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 2004, the sum of five thousand four hundred seventy-one dollars (\$5,471), 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. Such 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 31. Effective date. Section 30 of this act shall take effect July 1, 2004, sections 16, 21, 22, and 24 to 29 of this act shall take effect July 1, 2005, and sections 1 to 15, 17 to 20, and 23 shall take effect January 1, 2006.

SECTION 32. 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: June 4, 2004