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HOUSE BILL 26-1026

BY REPRESENTATIVE(S) Marshall and Hamrick, Camacho, Carter, Clifford, Goldstein, Gonzalez R., Joseph, Lieder, Lindsay, Nguyen, Phillips, Rutinel, Titone, Valdez, Bacon, Duran, Mauro, McCluskie;
also SENATOR(S) Kolker, Amabile, Cutter, Danielson, Kipp, Snyder, Coleman.

CONCERNING AN EXPANSION OF PLAN OPTIONS FOR THE PUBLIC EMPLOYEES'
RETIREMENT ASSOCIATION.

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

SECTION 1. In Colorado Revised Statutes, 24-51-101, **add** (33.3), (33.5), and (37.5) as follows:

24-51-101. Definitions.

As used in this article 51, unless the context otherwise requires and except as otherwise defined in part 17 of this article 51:

(33.3) "NONCOVERED TIME" MEANS TIME DURING WHICH A MEMBER WAS NOT EARNING SERVICE CREDIT FROM THE ASSOCIATION.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(33.5) "NONQUALIFIED SERVICE" MEANS NONCOVERED TIME THAT IS NONQUALIFIED SERVICE CREDIT PURSUANT TO SECTION 415 (n)(3)(C) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986".

(37.5) "QUALIFIED SERVICE" MEANS NONCOVERED TIME THAT IS NOT NONQUALIFIED SERVICE CREDIT PURSUANT TO SECTION 415 (n)(3)(C) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986".

SECTION 2. In Colorado Revised Statutes, 24-51-208, **amend** (1) introductory portion, (1)(f), and (1)(f.5) as follows:

24-51-208. Allocation of money.

(1) The money of the association ~~shall~~ **MUST** be divided into several trust funds, including, but not limited to:

(f) The health care trust fund, created pursuant to the provisions of section 24-51-1201 (1), which consists of a portion of the employer contributions equal to one and two one-hundredths percent of member salaries; a portion of the amount paid by members to purchase service credit relating to noncovered ~~employment~~ TIME as determined pursuant to section 24-51-505 (7); thirty percent of the amount of any reduction in the employer contribution rates as determined in section 24-51-408.5 (5) to amortize any overfunding in each division's trust fund; deductions of premium amounts from monthly benefits of participating benefit recipients; premiums paid directly to the trust fund by participating benefit recipients, members, and dependents; monthly payments made by employers on behalf of participating benefit recipients, members, and dependents; and interest; in addition to a proportional share of investment income earned thereon;

(f.5) The Denver public schools division health care trust fund, created pursuant to the provisions of section 24-51-1201 (2), which consists of a portion of the employer contributions equal to two-tenths of one percent of member salaries; a portion of the amount paid by members to purchase service credit relating to noncovered ~~employment~~ TIME as determined pursuant to section 24-51-505 (7); deductions of premium amounts from monthly benefits of participating benefit recipients; premiums paid directly to the trust fund by participating benefit recipients, members, and dependents; monthly payments made by employers on behalf of participating benefit recipients, members, and dependents; and interest;

in addition to a proportional share of investment income earned thereon;

SECTION 3. In Colorado Revised Statutes, 24-51-501, **amend** (6) as follows:

24-51-501. Earned service credit.

(6) Service credit of DPS members prior to or on December 31, 2009, ~~shall be~~ IS governed by section 24-51-1710. Beginning January 1, 2010, DPS members ~~shall~~ earn service credit pursuant to this section and ~~shall~~ MAY purchase service credit relating to a refunded member contribution account and noncovered ~~employment~~ TIME pursuant to this part 5; except that purchases by DPS members that are ongoing as of January 1, 2010, ~~shall be~~ ARE governed by section 24-51-1705.

SECTION 4. In Colorado Revised Statutes, 24-51-505, **amend** (1), (2), (3), (6), and (7) as follows:

24-51-505. Purchase of service credit relating to noncovered time.

(1) A MEMBER MAY PURCHASE service credit ~~may be purchased~~ for any period of previous employment with any public or private employer in the United States, its territories, or any foreign country NONCOVERED TIME subject to the following conditions:

(a) ~~If the service credit to be purchased is for noncovered employment with an employer affiliated with the association, the member must have~~ A MEMBER MAY PURCHASE SERVICE CREDIT FOR QUALIFIED SERVICE IF THE MEMBER:

(I) HAS AT LEAST one year of earned service credit with the association at the time of the purchase; ~~If the service credit to be purchased is for previous employment with a nonaffiliated employer, the member must have one year of earned service credit with the association at the time of the purchase; except that, if the previous employment for which the service credit is to be purchased is nonqualified service, as defined in section 415 (n)(3)(C) of the federal "Internal Revenue Code of 1986", as amended, and the member first became a member of the association on or after January 1, 1999, the member must have five years of earned service credit with the~~

~~association at the time of the purchase.~~ AND

(II) PROVIDES THE ASSOCIATION WITH DOCUMENTATION OF THE DATES OF EMPLOYMENT AND A RECORD OF SALARY RECEIVED.

(a.3) A MEMBER WHO BECAME A MEMBER OF THE ASSOCIATION BEFORE JANUARY 1, 1999, MAY PURCHASE SERVICE CREDIT FOR NONQUALIFIED SERVICE IF THE MEMBER HAS AT LEAST ONE YEAR OF EARNED SERVICE CREDIT WITH THE ASSOCIATION AT THE TIME OF THE PURCHASE.

(a.5) A MEMBER WHO BECAME A MEMBER OF THE ASSOCIATION ON OR AFTER JANUARY 1, 1999, MAY PURCHASE SERVICE CREDIT FOR NONQUALIFIED SERVICE IF THE MEMBER HAS AT LEAST FIVE YEARS OF EARNED SERVICE CREDIT WITH THE ASSOCIATION AT THE TIME OF THE PURCHASE.

(a.7) A MEMBER MAY NOT PURCHASE SERVICE CREDIT FOR NONCOVERED TIME DURING WHICH THE MEMBER WAS NOT EMPLOYED AND WAS UNDER TWENTY-ONE YEARS OLD. A MEMBER MAY PURCHASE SERVICE CREDIT FOR NONCOVERED TIME DURING WHICH THE MEMBER WAS EMPLOYED AND WAS UNDER TWENTY-ONE YEARS OLD IF THE MEMBER PROVIDES THE ASSOCIATION WITH DOCUMENTATION OF THE DATES OF EMPLOYMENT AND A RECORD OF SALARY RECEIVED.

~~(b) The member must provide documentation of the dates of employment and a record of salary received.~~

~~(c) The~~ A member must provide certification from any retirement program covering ~~such~~ THE MEMBER'S employment that the service credit to be purchased ~~has not vested with that program~~, DOES NOT CAUSE A MEMBER TO RECEIVE A RETIREMENT BENEFIT FOR THE SAME SERVICE UNDER MORE THAN ONE PLAN, except to the extent otherwise required by federal law.

(2) (a) Except as otherwise provided in ~~paragraph (b) of this subsection~~ (2) THIS SUBSECTION (2), one year of service credit may be purchased for each year of noncovered ~~employment~~ TIME. ANY SERVICE CREDIT PURCHASED FOR NONCOVERED TIME DURING WHICH A MEMBER WAS EMPLOYED MUST BE determined pursuant to the provisions of section 24-51-501 (2) to (4) applicable to earned service credit.

(b) ~~Members~~ A MEMBER who first became ~~members~~ A MEMBER on or after January 1, 1999, may purchase no more than five years of service credit for noncovered ~~TIME employment~~ that is nonqualified service. ~~as defined in section 415 (n)(3)(C) of the federal "Internal Revenue Code of 1986", as amended~~

(c) ~~Members~~ A MEMBER who ~~initiate~~ INITIATES a purchase on or after November 1, 2003, may not purchase service credit that would cause the total years of noncovered ~~service~~ TIME purchased during their membership to exceed ten years. This limit shall not apply to ~~members~~ A MEMBER who ~~provide~~ PROVIDED all required documentation of previous service to the association by October 31, 2003, together with application to purchase the service if the purchase is successfully completed pursuant to the service credit purchase agreement resulting from ~~said~~ THE application.

(d) ~~Members~~ A MEMBER employed by a public entity affiliated with the association pursuant to section 24-51-309 may purchase service credit for years employed by the entity without limit, if the purchase is completed before the member terminates employment with the entity, and any such purchase for years employed by the entity in excess of ten years is completed or installment payments initiated within three years after the date the employer affiliates with the association or November 1, 2006, whichever is later, UNLESS OTHERWISE RESTRICTED UNDER FEDERAL LAW.

(3) The cost to purchase service credit for noncovered ~~employment~~ TIME shall be determined by the board and shall be sufficient to pay the actuarial liability associated with the purchase.

(6) Service credit purchased pursuant to the provisions of this section for periods of ~~nonmembership shall~~ NONCOVERED TIME MUST not be credited toward the earned service credit requirement for disability retirement benefits OR SHORT-TERM DISABILITY PROGRAM PAYMENTS as provided for in part 7 of this ~~article~~ ARTICLE 51 or TOWARD the earned service credit requirement for survivor benefit coverage as provided for in part 9 of this ~~article~~ ARTICLE 51.

(7) A portion of the amount paid by a member to purchase service credit related to noncovered ~~employment shall~~ TIME MUST be ~~transferred~~ ALLOCATED to the APPLICABLE health care trust fund. ~~on the effective date of the member's retirement or, in case of death prior to retirement, on the~~

~~effective date of the survivor benefit~~ The amount transferred shall be one and two one-hundredths percent of ALLOCATED TO THE APPLICABLE HEALTH CARE TRUST FUND MUST BE THE SAME PERCENTAGE OF THE MEMBER'S SALARY PAID BY THE EMPLOYER CONTRIBUTION SPECIFIED IN SECTION 24-51-208 (1)(f) OR (1)(f.5), DETERMINED USING the member's highest average salary at the time of the purchase. ~~with interest at the rate specified in section 24-51-101(28)(a)~~ ANY REFUND PURSUANT TO SECTION 24-51-506 (3) OR (4) WILL BE PAID FROM THE MEMBER'S APPLICABLE DIVISION TRUST FUND AND WILL NOT BE PAID FROM THE HEALTH CARE TRUST FUND.

SECTION 5. In Colorado Revised Statutes, 24-51-1401, **amend** (2) and (4); and **repeal** (3) as follows:

24-51-1401. Voluntary investment program established and fund created - definitions.

(2) The voluntary investment program ~~shall~~ ESTABLISHED PURSUANT TO THIS SECTION MUST:

(a) Be available to all ~~members DPS members, retirees, and DPS retirees; and shall~~ EMPLOYEES OF AN EMPLOYER;

(b) Be in addition to any other retirement or tax-deferred compensation system established by the state or its political subdivisions;
AND

(c) INCLUDE OPTIONS FOR AN EMPLOYEE OF AN EMPLOYER TO MAKE TAX-DEFERRED VOLUNTARY CONTRIBUTIONS AND ROTH VOLUNTARY CONTRIBUTIONS TO THE VOLUNTARY INVESTMENT PROGRAM.

(3) ~~The board is hereby authorized to offer participation in the voluntary investment program to all employees of employers that are affiliated with the association, regardless of whether those employees are members or retirees.~~

(4) For purposes of this part 14, ~~members and retirees shall include DPS members and DPS retirees~~ THE TERM "MEMBER" INCLUDES A DPS MEMBER AND THE TERM "RETIREE" INCLUDES A DPS RETIREE.

SECTION 6. In Colorado Revised Statutes, 24-51-1402, **amend**

(1), (3), and (4); and **repeal** (2) as follows:

24-51-1402. Contributions to the voluntary investment program.

(1) An ~~eligible~~ employee pursuant to ~~section 24-51-1401~~ OF AN EMPLOYER may participate in the voluntary investment program authorized in section 24-51-1401 by authorizing ~~his or her~~ THEIR employer as ~~defined in section 24-51-101(20)~~; to contribute an amount by payroll deduction in lieu of receiving such amount as salary or pay. The amount of such contribution ~~by a participant shall be~~ IS subject to any limitations established by federal law. ~~These voluntary contributions, in addition to investment earnings, shall be exempt from federal and state income taxes until the ultimate distribution of such contributions has been made to the participant, member, former member, or beneficiary.~~

(2) ~~The board may, at its discretion, allow participants in the voluntary investment program to elect to make after-tax voluntary contributions to the voluntary investment program by payroll deduction. Investment earnings on such contributions are exempt from federal and state income taxes until the ultimate distribution of such contributions has been made to the participant, member, former member, or beneficiary.~~

(3) All voluntary contributions by a participating member ~~shall~~ OR RETIREE MUST be included in the salary of ~~such member~~ THE MEMBER OR RETIREE for the purpose of calculating member, WORKING RETIREE, and employer contributions pursuant to the provisions of section 24-51-401. ~~The member contribution provisions of section 24-51-401 and the matching employer contribution provisions of section 24-51-408.5 shall not apply to any voluntary contribution made by a retiree.~~

(4) The employer shall deliver all voluntary contributions to the VOLUNTARY INVESTMENT PROGRAM VIA THE ASSOCIATION, OR THE service provider designated by the association, IF APPLICABLE, within five days after the date that the participants are paid and consistent with the provisions of section 24-51-401 (1.7)(c) and (1.7)(d).

SECTION 7. In Colorado Revised Statutes, 24-51-1506, **amend** (2) as follows:

24-51-1506. Additional choices within first five years.

(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~~ IS the same as the cost determined by the board for the purchase of noncovered ~~employment~~ TIME. 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.

SECTION 8. In Colorado Revised Statutes, **amend** 24-51-1602 as follows:

24-51-1602. Affiliation with the deferred compensation plan.

~~(1) An employee is not eligible to participate in the deferred compensation plan authorized in section 24-51-1601 unless his or her employer is affiliated with such plan.~~

~~(2) An EACH employer as defined in section 24-51-101 (20), may SHALL affiliate with the deferred compensation plan. by making application to the association. All applications shall be subject to approval by the association. Upon affiliation, employees of the employer are eligible to begin deferring salary to the deferred compensation plan.~~

(2.5) THE DEFERRED COMPENSATION PLAN ESTABLISHED PURSUANT TO SECTION 24-51-1601 MUST:

(a) BE IN ADDITION TO ANY OTHER RETIREMENT OR TAX-DEFERRED COMPENSATION SYSTEM ESTABLISHED BY THE STATE OR ITS POLITICAL SUBDIVISIONS; AND

(b) INCLUDE OPTIONS FOR AN EMPLOYEE TO MAKE PRE-TAX VOLUNTARY CONTRIBUTIONS AND ROTH VOLUNTARY CONTRIBUTIONS TO THE DEFERRED COMPENSATION PLAN.

(3) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, all

employers that are affiliated with the deferred compensation plan prior to July 1, 2009, including entities that are not affiliated employers of the association, ~~as employer is defined in section 24-51-101 (20), shall remain affiliated and shall not have to apply to the association pursuant to subsection (2) of this section~~ WITH THE DEFERRED COMPENSATION PLAN.

(4) Any employee who is employed by an entity that is affiliated with the deferred compensation plan ~~shall be~~ IS entitled to participate in the plan regardless of whether that ~~individual~~ EMPLOYEE is a member or retiree of the association.

SECTION 9. In Colorado Revised Statutes, **amend** 24-51-1603 as follows:

24-51-1603. Contributions to the deferred compensation plan.

(1) An employee of an employer affiliated with the deferred compensation plan pursuant to section 24-51-1602 ~~(2) or (3)~~ may participate in the deferred compensation plan authorized in section 24-51-1601 by electing with ~~his or her~~ THEIR employer to defer receipt of salary by specifying an amount contributed by payroll deduction. The amount of such deferral by the employee ~~shall be~~ IS subject to any limitations established by federal law. ~~The amount deferred, including investment earnings, shall be exempt from federal and state income taxes until the ultimate distribution of such contributions has been made to the participant, former participant, or beneficiary.~~

(2) All voluntary deferrals by a participating member ~~shall~~ OR RETIREE MUST be included in the salary of ~~such member~~ THE MEMBER OR RETIREE in accordance with section 24-51-101 (42) for the purpose of calculating member, WORKING RETIREE, and employer contributions pursuant to the provisions of section 24-51-401. ~~The member contribution provisions of section 24-51-401 shall not apply to any deferral made by a retiree.~~

(3) Consistent with the provisions of section 24-51-401 (1.7)(c) and (1.7)(d), ~~the~~ AN employer shall deliver all deferred compensation contributions to the trust fund via THE ASSOCIATION OR the service provider designated by the association, if applicable, within five days after the date the employees are paid.

SECTION 10. Act subject to petition - effective date. This act takes effect January 1, 2027; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect January 1, 2027, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO