

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0312.01 Nicole Myers x4326

HOUSE BILL 20-1044

HOUSE SPONSORSHIP

Bird and Garnett, Melton

SENATE SPONSORSHIP

Garcia and Ginal, Court, Danielson

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE PENSION PLANS ADMINISTERED**
102 **BY THE FIRE AND POLICE PENSION ASSOCIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Pension Review Commission. The bill modifies various plans administered by the fire and police pension association (FPPA).

The bill modifies the **old-hire pension plans** as follows:

State-assisted old hire plans. There are 26 state-assisted old hire police officers' and firefighters' pension plans with 5 or fewer retirees or beneficiaries who are still receiving benefits. Current law states that the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

amount of annual local government contributions to those plans is an amount that will amortize the unfunded liabilities of the plan over a period not to exceed 20 years or the average remaining life expectancy of the pension fund's members. **Section 1** of the bill modifies the method by which the contribution is calculated to more precisely set contribution requirements as the plans' liabilities decrease. The bill allows the FPPA board of directors (board) to consider the following when determining the contribution amount: Stabilizing the amount of the annual required contributions over time; keeping the funded ratio of the pension fund from declining; and reducing or eliminating contributions as may be prudent based on actuarial experience.

The bill modifies the **statewide defined benefit plan** as follows:

Increase in employee and employer contributions. Current statute specifies that all members covered under the statewide defined benefit plan administered by the FPPA contribute 8% of their salary to the FPPA on a monthly basis. In addition, every employer employing members who are covered by the statewide defined benefit plan administered by the FPPA contributes 8% of the salary paid to such members to the FPPA on a monthly basis.

In 2014, the members and employers of the statewide defined benefit plan authorized a 4% increase in the member contribution rate to be implemented over 8 years with an increase of .5% per year for a total employee contribution rate of 12% of salary. The first .5% increase in the member contribution rate occurred in 2015 and the member contribution rate will continue to increase by .5% each year thereafter through 2022. **Sections 2, 3, and 4** of the bill codify the increases in the member contribution rates that are already in effect and make required conforming amendments.

Sections 2, 3, and 4 of the bill increases the employer contribution rate by 4%, to be implemented over 8 years with an increase of .5% a year for a total employer contribution rate of 12% of salary. The bill requires the first .5% increase in the employer contribution rate to occur in 2021, and requires an additional .5% increase each year thereafter through 2028.

Retirement eligibility. Currently, a member of the statewide defined benefit plan may retire with a full retirement benefit if the member has completed at least 25 years of service and is at least 55 years old. A member of the statewide defined benefit plan is eligible for an early retirement with a reduced benefit if the member has either completed at least 30 years of service or is at least 50 years old. **Section 2** of the bill would allow a member of the statewide defined benefit plan to retire with an unreduced retirement benefit if the member is at least 50 years old and has a combined age and years of service that is equal to at least 80.

To cover the cost of the new full retirement benefit eligibility, **section 2** of the bill increases the employer contribution rate, in addition

to all other increases in the employer contribution rate, by 1% of base salary to be implemented over 2 years. In 2021, the bill requires the employer contribution rate to increase by .5% of base salary and in 2022, requires the employer contribution rate to increase by an additional .5% of base salary. The implementation of the increase may be deferred while other increases are being implemented.

Conforming amendment to current plan. Originally, the pension benefit for members of the statewide defined benefit plan was capped at 50% of a member's highest average salary, even when the member earned more than 25 years of service credit. In the 1990s, the cap was eliminated by an amendment to the plan approved by election of the members and employers. **Sections 3 and 4** of the bill eliminate the cap to conform to the current plan benefits.

Stabilization reserve account. When the statewide defined benefit plan was initially established, the revenue generated from the 8% member contribution rate and the 8% employer contribution rate was more than necessary to pay the normal costs of the defined benefit plan. Any money in excess of what was necessary to pay the normal costs of the plan was deposited into the stabilization reserve account. The stabilization reserve account consists of separate retirement accounts and upon retirement, members who have satisfied the vesting requirements of the plan are eligible for distributions from the account.

Since the stabilization reserve account was established, benefits allowed under the statewide defined benefit plan have increased to the extent that all of the revenue generated from the member and employer contributions are required to pay the normal costs of the plan and money is no longer deposited into the stabilization reserve account. **Sections 3, 5, and 6** of the bill change the nature of the separate retirement accounts in the stabilization reserve account to defined contribution accounts, subject to self direction by the member. In addition, the bill requires the board to transfer the balances of the separate retirement accounts in the stabilization reserve account to defined contribution accounts by a specified date.

Authorization to increase employer contribution rate. Current law authorizes the board to increase the member contribution rate for members in the statewide defined benefit plan. **Section 7** of the bill authorizes the board to increase the member and employer contribution rates in equal amounts above the rates established pursuant to law or eliminate an increase in the member and employer contribution rates if certain specified conditions are satisfied, including approval by members and employers at an election proposing such increase or decrease.

Continuing rate of contribution. Pursuant to current law, any county that does not cover, under the federal "Social Security Act", salaried employees whose duties are directly involved with the provision of law enforcement or fire protection may elect coverage under the

statewide defined benefit plan and the statewide death and disability plan. **Section 9** of the bill specifies that the board may determine a continuing rate of contribution for all members who are active on the effective date of coverage to fund benefits to ensure that the affiliating employers' coverage does not have an adverse financial impact on the actuarial soundness of the plan.

Employers that have withdrawn from the statewide defined benefit plan but later reenter the plan are required to pay a continuing rate of contribution for all members who are active on the effective date of coverage. The continuing rate of contribution is a contribution in addition to the member and employer contribution and accounts for increased costs associated with members employed by employers who reenter the plan. The board established the continuing rate of contribution pursuant to law; however, the rate set by the board was higher than necessary to pay the costs of benefits for impacted members and current law does not authorize the board to decrease the rate. **Section 12** of the bill authorizes the board to decrease the continuing rate of contribution when it determines that the rate is higher than what is necessary to pay the costs of the benefits of members who are employees of employers who rejoined the plan.

The bill modifies the **death and disability plan** as follows:

Costs of death and disability benefits. For members hired on or after January 1, 1997, and who are eligible for death and disability coverage provided by the FPPA, current law requires a contribution to the death and disability account not to exceed 2.4% of the members salary; except that the board is authorized to increase the contribution rate every 2 years by .1%. The current rate is 2.8% of salary. **Sections 8, 10, and 11** of the bill increase the maximum contribution rate in 2021 to 3% of salary and authorizes the board to increase the contribution every year by up to .2% of the member's salary.

For members hired before January 1, 1997, the state previously paid the costs for those members' participation in the death and disability plan. In the mid 1990s, the general assembly determined that the costs associated with death and disability benefits should be covered by local governments. The general assembly made a lump-sum payment to cover the costs of participation in the death and disability plan for members hired before January 1, 1997, and implemented the system described above to cover the costs of death and disability benefits for members hired thereafter. The FPPA recently determined that the amount of the lump-sum payment from the state was insufficient to cover the death and disability benefits for members hired before January 1, 1997. **Section 11** of the bill requires the general assembly to make an additional lump-sum payment to the FPPA to fund the unfunded liabilities of the death and disability benefits for those members.

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

2 **SECTION 1.** In Colorado Revised Statutes, 31-30.5-304, **amend**
3 (2)(a); and **repeal** (4) and (11) as follows:

4 **31-30.5-304. Limitation on existing funds - procedures.**

5 (2) (a) Annual contributions to state-assisted old hire police officers' and
6 firefighters' pension funds shall be made in ~~an~~ AT LEAST THE amount ~~that~~
7 ~~is equal to or greater than the sum of the actuarially determined amount~~
8 ~~required to amortize the unfunded accrued liabilities of such plan~~
9 DETERMINED BY THE POLICY SET BY THE BOARD OF THE FIRE AND POLICE
10 PENSION ASSOCIATION THAT BALANCES THE FOLLOWING CONSIDERATIONS:
11 STABILIZATION OF THE AMOUNT OF THE ANNUAL REQUIRED
12 CONTRIBUTIONS OVER TIME; KEEPING THE FUNDED RATIO OF THE PENSION
13 FUND FROM DECLINING; AND REDUCING OR ELIMINATING CONTRIBUTIONS
14 AS MAY BE PRUDENT BASED ON ACTUARIAL EXPERIENCE. THE UNFUNDED
15 ACCRUED LIABILITIES OF THE PLAN MAY BE AMORTIZED over a period not
16 to exceed the lesser of twenty years or the number of years equal to the
17 average remaining life expectancy of the pension fund's members. ~~plus~~
18 ~~the current service cost attributable to active members.~~

19 (4) ~~A governing body providing a state-assisted old hire pension~~
20 ~~plan that is required to contribute an amount in 2014 that is less than the~~
21 ~~contribution required by subsection (2) of this section beginning in 2015~~
22 ~~and that determines that the minimum annual rate of municipal, fire~~
23 ~~protection district, or county improvement district contributions provided~~
24 ~~in subsection (2) of this section would place an undue hardship on the~~
25 ~~taxpayers of such municipality, fire protection district, or county~~
26 ~~improvement district may adopt a resolution to that effect. Any~~

1 ~~municipality, fire protection district, or county improvement district that~~
2 ~~has adopted such resolution may make an annual contribution in the year~~
3 ~~2015, in an amount that is not less than the amount that the municipality,~~
4 ~~fire protection district, or county improvement district is required to~~
5 ~~contribute in 2014. Beginning in 2016, such municipality, fire protection~~
6 ~~district, or county improvement district shall make the full amount of the~~
7 ~~annual contribution required by subsection (2) of this section.~~

8 (11) ~~Notwithstanding any other provision of law to the contrary,~~
9 ~~an assessment against any employee of any fire or police department to~~
10 ~~which this article applies may be in an amount not to exceed ten percent~~
11 ~~of the employee's monthly salary. Said amount shall be deducted and~~
12 ~~withheld from the monthly pay of each such employee so assessed and~~
13 ~~placed to the credit of said employee's pension fund in the same manner~~
14 ~~as provided by this article; except that in no case shall employer~~
15 ~~contributions be less than employee contributions.~~

16 **SECTION 2.** In Colorado Revised Statutes, 31-31-402, **amend**
17 (1), (2), and (3) as follows:

18 **31-31-402. Employer and member contributions.** (1) ~~On and~~
19 ~~after January 1, 1980, until the board is able to determine a contribution~~
20 ~~rate from the first annual actuarial valuation, Every member covered~~
21 ~~under the statewide defined benefit plan established by this part 4 shall~~
22 ~~pay into the defined benefit system trust fund eight percent of salary paid~~
23 ~~or such higher member contribution rate established pursuant to section~~
24 ~~31-31-408 (1.5)(a) OR (1.6)(a). THE MEMBER CONTRIBUTION RATE SHALL~~
25 ~~INCREASE BY FOUR PERCENT TO BE IMPLEMENTED THROUGH EIGHT~~
26 ~~ANNUAL INCREASES AS FOLLOWS: BEGINNING IN 2015, AND EACH YEAR~~
27 ~~THEREAFTER THROUGH 2022, THE MEMBER CONTRIBUTION RATE SHALL~~

1 INCREASE BY AN ADDITIONAL ONE-HALF OF ONE PERCENT OF BASE SALARY
2 UNTIL THE TOTAL MEMBER CONTRIBUTION RATE, INCLUDING THE
3 CUMULATIVE CONTRIBUTION RATE INCREASES, IS TWELVE PERCENT OF
4 BASE SALARY. The payment shall be made by the employer by deduction
5 from the salary paid such member. Each employer shall pick up the
6 member contributions required for all salaries paid after July 1, 1985, and
7 the contributions so picked up shall be treated as employer contributions
8 pursuant to section 414 (h)(2) of the federal "Internal Revenue Code of
9 1986", as amended, in determining tax treatment under such code. The
10 employer shall pay these member contributions directly to the retirement
11 association, instead of paying such amounts to members, and such
12 contributions shall be paid from the same funds that are used in paying
13 salaries to the members. Such contributions, although designated as
14 member contributions, shall be paid by the employer in lieu of
15 contributions by members. Members may not elect to choose to receive
16 such contributions directly instead of having them paid by the employer
17 to the pension plan. Member contributions so picked up shall be treated
18 for all purposes of this article **3I**, other than federal tax, in the same
19 manner as member contributions made before the date picked up.
20 Payment shall be made by one voucher for the aggregate amount
21 deducted and shall be made no later than ten days following the date of
22 payment of salary to the member. All such payments shall be credited to
23 the defined benefit system trust fund.

24 (2) (a) ~~On and after January 1, 1980, until the board is able to~~
25 ~~determine a contribution rate from the first annual actuarial valuation,~~
26 Every employer employing members who are covered by the statewide
27 defined benefit plan established by this part 4 shall pay into the defined

1 benefit system trust fund eight percent of the salary paid to such member
2 OR SUCH HIGHER EMPLOYER CONTRIBUTION RATE ESTABLISHED PURSUANT
3 TO SECTION 31-31-408 (1.6)(a), and such payment shall be made no later
4 than ten days following the date of payment of salary to the member. THE
5 EMPLOYER CONTRIBUTION RATE SHALL INCREASE BY FOUR PERCENT TO BE
6 IMPLEMENTED THROUGH EIGHT ANNUAL INCREASES AS FOLLOWS:
7 BEGINNING IN 2021, AND EACH YEAR THEREAFTER THROUGH 2028, THE
8 EMPLOYER CONTRIBUTION RATE SHALL INCREASE BY AN ADDITIONAL
9 ONE-HALF OF ONE PERCENT OF BASE SALARY UNTIL THE TOTAL EMPLOYER
10 CONTRIBUTION RATE, INCLUDING THE CUMULATIVE CONTRIBUTION RATE
11 INCREASES, IS TWELVE PERCENT OF BASE SALARY. All such payments shall
12 be credited to the defined benefit system trust fund.

13 (b) IN ADDITION TO THE RATE ESTABLISHED IN SUBSECTION (2)(a)
14 OF THIS SECTION, THE EMPLOYER CONTRIBUTION RATE SHALL BE
15 INCREASED BY ONE PERCENT OF BASE SALARY TO BE IMPLEMENTED AS
16 FOLLOWS: BEGINNING IN 2021, AND CONTINUING THROUGH 2022, OR
17 BEGINNING IN A SUBSEQUENT YEAR IN THE EVENT ANOTHER EMPLOYER
18 CONTRIBUTION RATE INCREASE IS UNDER IMPLEMENTATION, THE
19 EMPLOYER CONTRIBUTION RATE SHALL INCREASE BY AN ADDITIONAL
20 ONE-HALF OF ONE PERCENT OF BASE SALARY IN EACH YEAR FOR A TOTAL
21 OF A ONE PERCENT INCREASE IN ORDER TO PAY FOR THE COST OF THE
22 BENEFIT ESTABLISHED IN SECTION 31-31-403 (4)(b).

23 (3) The general assembly declares that the rates of member and
24 employer contributions shall be adequate to fund benefit liabilities
25 accrued under the statewide defined benefit plan established by this part
26 4, and to this end, the board shall submit an annual actuarial valuation
27 report to the state auditor, the legislative audit committee, and the joint

1 budget committee of the general assembly, together with any
2 recommendations concerning such liabilities as accrued. Amortization of
3 such liability over a forty-year period shall be deemed adequate to
4 maintain actuarial stability. If the actual financial experience of the new
5 hire benefits account in the defined benefit system trust fund is found to
6 be more or less favorable than the assumed experience during the
7 two-year period from January 1, 1980, and each biennium thereafter,
8 adjustments may be made by the board in the member and employer
9 contributions as may be deemed feasible and advisable so long as the
10 employer contribution rate ADJUSTMENT is ~~at least~~ equal to the member
11 contribution rate ADJUSTMENT. If the member contribution rate has been
12 increased pursuant to section 31-31-408 (1.5)(a), the requirement that the
13 employer contribution rate be at least equal to the member contribution
14 rate shall not apply, but in such circumstance, any increase to the
15 employer contribution rate shall be at least equal to the increase in the
16 member contribution rate and any decrease in the member contribution
17 rate shall be at least equal to the decrease in the employer contribution
18 rate.

19 **SECTION 3.** In Colorado Revised Statutes, 31-31-403, **amend**
20 (1), (2)(a), and (4) as follows:

21 **31-31-403. Normal retirement - statewide defined benefit plan.**

22 (1) (a) Any member covered by the statewide defined benefit plan who
23 has completed at least twenty-five years of active service and has attained
24 the age of fifty-five years shall be eligible for a normal retirement pension
25 subject to adjustment pursuant to ~~paragraph (b) of this subsection (1)~~
26 SUBSECTION (1)(b) OF THIS SECTION. The annual normal retirement
27 pension shall be two percent of the average of the member's highest three

1 years' base salary multiplied by the member's years of service. ~~not to~~
2 ~~exceed twenty-five.~~

3 (b) The board shall determine after each annual actuarial valuation
4 if the cost of all benefits established by this part 4 for members covered
5 under this section and the cost of a normal retirement pension beginning
6 at age fifty-five for members then eligible may be fully funded on an
7 actuarially sound basis without necessitating an increase in the ~~eight~~
8 ~~percent~~ employer and ~~eight percent~~ member contributions made pursuant
9 to section 31-31-402 or such higher member contribution rate established
10 pursuant to section 31-31-408 (1.5)(a). If the board cannot so determine,
11 it shall order that the normal retirement pension commence such number
12 of months as are actuarially supportable, from one to sixty, after age
13 fifty-five for members who have completed at least twenty-five years of
14 active service and are otherwise eligible in accordance with the board's
15 determination. The determination of the board shall be conclusive in the
16 absence of fraud. A pension commenced after age fifty-five pursuant to
17 this ~~paragraph (b)~~ SUBSECTION (1)(b) shall not be subject to annual
18 review. If a court determines that this ~~paragraph (b)~~ SUBSECTION (1)(b)
19 is invalid, the age of retirement to be eligible for any normal retirement
20 benefit shall be age sixty except for persons receiving a benefit at the time
21 of the court's decision.

22 (2) (a) If in any year the board determines pursuant to this part 4
23 that the cost of the benefits described in ~~paragraph (b) of subsection (1)~~
24 SUBSECTION (1)(b) of this section ~~excluding the benefit described in~~
25 ~~section 31-31-405~~, may not be fully funded on an actuarially sound basis
26 without necessitating an increase in the ~~eight percent~~ employer and ~~eight~~
27 ~~percent~~ member contribution made pursuant to section 31-31-402 or such

1 higher member contribution rate established pursuant to section
2 31-31-408 (1.5)(a), the board shall not increase such employer or member
3 contributions unless:

4 (I) The board has terminated ~~the benefit~~ GRANTING ADDITIONAL
5 BENEFITS described in section 31-31-405. ~~and~~

6 (II) ~~The board has transferred all funds in the stabilization reserve~~
7 ~~account to the actuarial account as required by section 31-31-405 (1) and~~
8 ~~(2), except such funds as are attributable to the separate retirement~~
9 ~~account of any member who has terminated service after at least five~~
10 ~~years of credited service.~~

11 (4) (a) Any member covered by the statewide defined benefit plan
12 who has completed at least thirty years of active service or has attained
13 the age of fifty years and who is not receiving benefits pursuant to section
14 31-31-803 may elect to retire from active service and shall be eligible for
15 an early retirement pension. The annual early retirement pension for a
16 member shall be the benefit, as determined by the board, that the member
17 would have received at normal retirement reduced on an actuarial
18 equivalent basis to reflect the early receipt of the benefit.

19 (b) BEGINNING JANUARY 1, 2021, ANY MEMBER COVERED BY THE
20 STATEWIDE DEFINED BENEFIT PLAN WHO HAS ATTAINED THE AGE OF FIFTY
21 YEARS, WHOSE COMBINED AGE AND YEARS OF ACCRUED SERVICE IS EQUAL
22 TO AT LEAST EIGHTY AND WHO IS NOT RECEIVING THE BENEFITS PURSUANT
23 TO SECTION 31-31-803 SHALL BE ELIGIBLE FOR AN UNREDUCED NORMAL
24 RETIREMENT PENSION.

25 (c) IF THE BOARD ADJUSTS THE AGE OF ELIGIBILITY PURSUANT TO
26 SUBSECTION (1)(b) OF THIS SECTION, IT SHALL ALSO ADJUST THE AGE OF
27 ELIGIBILITY FOR BENEFITS UNDER SUBSECTIONS (4)(a) AND (4)(b) OF THIS

1 SECTION IN A LIKE MANNER.

2 **SECTION 4.** In Colorado Revised Statutes, 31-31-404, **amend**
3 (2) as follows:

4 **31-31-404. Return or transfer of contributions - vested**
5 **retirement.** (2) (a) In lieu of having the member's contributions returned
6 as provided in ~~paragraph (a) of subsection (1)~~ SUBSECTION (1)(a) of this
7 section, a member who has at least five years of credited service may
8 leave the contributions with the fund. When the inactive member attains
9 age fifty-five, the member shall be eligible to receive an annual vested
10 benefit equal to two percent of the member's average highest three years'
11 salary multiplied by years ~~not to exceed twenty-five~~, of active service.
12 Any such member shall be eligible to receive the applicable vested benefit
13 as provided in this section or to make an election for a reduced pension
14 in the manner provided in section 31-31-403 (5). All the provisions of
15 section 31-31-403 (5) shall apply to the member; except that the benefits
16 used to calculate the reduced benefits shall be the vested benefit provided
17 to the member under this section rather than the retirement benefit
18 provided in section 31-31-403. The member may not elect one of the
19 options earlier than sixty days prior to the commencement of vested
20 benefit payments. In the event that an inactive member who is eligible for
21 vested benefits dies prior to the commencement of the member's benefit
22 payments, the fire and police pension association shall refund the inactive
23 member's contributions to the member's estate, and no vested benefits
24 shall be payable to the inactive member's survivors or beneficiaries.

25 (b) The board shall determine after each annual actuarial valuation
26 if the cost of all benefits established by this part 4 for members covered
27 under section 31-31-403 and the cost of vested benefits beginning at age

1 fifty-five for members then eligible may be fully funded on an actuarially
2 sound basis without necessitating an increase in the ~~eight percent~~
3 employer and ~~eight percent~~ member contributions made pursuant to
4 section 31-31-402 or such higher member contribution rate established
5 pursuant to section 31-31-408 (1.5)(a). If the board cannot so determine,
6 it shall order that the vested benefits commence such number of months
7 as are actuarially supportable, from one to one hundred twenty, after age
8 fifty-five for eligible members in accordance with the board's
9 determination. The determination of the board shall be conclusive in the
10 absence of fraud. A vested benefit commenced before age fifty-five
11 pursuant to this ~~paragraph (b)~~ SUBSECTION (2)(b) shall not be subject to
12 annual review. If a court determines that this ~~paragraph (b)~~ SUBSECTION
13 (2)(b) is invalid, the age to be eligible for a vested benefit shall be age
14 sixty-five except for persons receiving a benefit at the time of the court's
15 decision.

16 **SECTION 5.** In Colorado Revised Statutes, 31-31-405, **amend**
17 (2), (3), (5), and (6) as follows:

18 **31-31-405. Stabilization reserve account and separate**
19 **retirement account - creation - allocation.** (2) In each year after ~~1987~~
20 **2021**, the board may allocate additional deposits to the new hire benefits
21 account between the actuarial account and the stabilization reserve
22 account based upon the actuarial study for the previous year. ~~If in any~~
23 ~~year the total amount of additional deposits to the new hire benefits~~
24 ~~account is not sufficient to meet the benefit liabilities funded by the~~
25 ~~actuarial account, then such additional amount as may be necessary to~~
26 ~~fund the increase shall be transferred from the stabilization reserve~~
27 ~~account to the actuarial account.~~ If in any year the total amount of

1 additional deposits to the new hire benefits account exceeds the amount
2 required to meet any increase in the benefit liabilities funded by the
3 actuarial account, the board, in its sole discretion, may allocate all or any
4 part of such excess to the stabilization reserve account. ~~Any excess~~
5 ~~allocated to the stabilization reserve account in any year shall be allocated~~
6 ~~from that portion of deposits to the new hire benefits account constituting~~
7 ~~employer contributions to the statewide defined benefit plan established~~
8 ~~by this part 4.~~

9 (3) ~~For accounting purposes only,~~ The stabilization reserve
10 account created by subsection (1) of this section shall consist of
11 individual separate retirement accounts established in the name of each
12 member covered by the statewide defined benefit plan established by this
13 part 4. ~~except such members as are covered on a supplemental basis~~
14 ~~pursuant to section 31-31-704.~~ FUNDS ALLOCATED TO THE SEPARATE
15 RETIREMENT ACCOUNTS SHALL BE IN THE NATURE OF A DEFINED
16 CONTRIBUTION ACCOUNT AND SUBJECT TO SELF DIRECTION BY THE
17 MEMBER. THE BOARD SHALL TRANSFER THE BALANCES OF THE
18 PREDECESSOR SEPARATE RETIREMENT ACCOUNTS CONTAINED WITHIN THE
19 MEMBERS BENEFIT INVESTMENT FUND TO DEFINED CONTRIBUTION
20 ACCOUNTS ON OR ABOUT JANUARY 1, 2021. Members covered on a
21 supplemental basis pursuant to section 31-31-704.5 shall be eligible for
22 individual separate retirement accounts.

23 (5) Earnings ~~accruing~~ OR LOSSES on the amount allocated to the
24 member's separate retirement account WHILE INVESTED AS PART OF THE
25 MEMBER'S BENEFIT INVESTMENT FUND shall be allocated at least monthly
26 on a time-weighted basis as determined by the board until the account is
27 exhausted. EARNINGS OR LOSSES ON THE AMOUNT ALLOCATED TO THE

1 MEMBER'S SEPARATE RETIREMENT ACCOUNT WHILE INVESTED AS PART OF
2 THE MEMBERS SELF-DIRECTED INVESTMENT FUND SHALL BE ALLOCATED
3 AS DETERMINED BY THE RECORD KEEPER.

4 (6) Any amount allocated to a member's separate retirement
5 account shall be subject to ~~reduction prior to the time a member has~~
6 ~~terminated service in the event that additional amounts must be~~
7 ~~transferred to the actuarial account as set forth in subsections (1) and (2)~~
8 ~~of this section. Reductions in a member's separate retirement account~~
9 ~~pursuant to this subsection (6) shall be made on a pro rata basis in the~~
10 ~~proportion that the balance in a member's separate retirement account~~
11 ~~bears to the total balance of all members' separate retirement accounts~~
12 THE VESTING AND DISTRIBUTION REQUIREMENTS UNDER THE PLAN.

13 **SECTION 6.** In Colorado Revised Statutes, 31-31-406, **amend**
14 (4) and (7); and **repeal** (6) as follows:

15 **31-31-406. Separate retirement accounts - administration.**

16 (4) A member may elect to ~~commence payment~~ TAKE A DISTRIBUTION of
17 the amount in the member's separate retirement account at any time after
18 the member terminates service ~~but in no event later than the~~
19 ~~commencement of the member's retirement benefits under section~~
20 ~~31-31-403 or 31-31-404 (2). A member will continue to accrue earnings~~
21 ~~on the amount in the member's separate retirement account until such time~~
22 ~~as the account is exhausted~~ AND IN ACCORDANCE WITH THE RULES
23 ADOPTED BY THE BOARD. MEMBERS TERMINATING SERVICE AND ELECTING
24 A DISTRIBUTION OR PARTIAL DISTRIBUTION ARE NO LONGER ELIGIBLE TO
25 ELECT A REFUND OF CONTRIBUTIONS.

26 (6) ~~If a member terminates service with less than five years of~~
27 ~~credited service and does not elect a refund of accumulated contributions,~~

1 ~~the amount in the member's separate retirement account shall not be~~
2 ~~forfeited but shall continue to be subject to the earnings and reduction~~
3 ~~provisions of section 31-31-405, and, upon the member's return to active~~
4 ~~service with an employer covering its members under the normal~~
5 ~~retirement provisions of this part 4, the member shall be credited with any~~
6 ~~amount which has accrued in the member's separate retirement account.~~

7 (7) The balance in a member's separate retirement account, the
8 member's accumulated contributions to the account, and the earnings on
9 the account shall be paid to the member's estate if the member:

- 10 (a) Dies while in active service; AND
- 11 (b) ~~Has more than five years of credited service;~~
- 12 (c) Does not leave a surviving spouse, dependent child, or
13 designated beneficiary. ~~and~~
- 14 (d) ~~Is not eligible for the normal retirement pension described in~~
15 ~~section 31-31-403 at the time of death.~~

16 **SECTION 7.** In Colorado Revised Statutes, 31-31-408, **add** (1.6)
17 as follows:

18 **31-31-408. Modification of state plan by the board.**

19 (1.6) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 4, THE
20 BOARD MAY INCREASE THE MEMBER CONTRIBUTION RATE ABOVE THE
21 RATE ESTABLISHED PURSUANT TO SECTION 31-31-402 WITH RESPECT TO
22 THE MEMBERS AND EMPLOYERS OF THE STATEWIDE DEFINED BENEFIT PLAN
23 IF:

- 24 (I) THE RATE OF INCREASE IS EQUAL FOR THE MEMBER AND THE
25 EMPLOYER;
- 26 (II) THE INCREASE DOES NOT ADVERSELY AFFECT THE PLAN'S
27 STATUS AS A QUALIFIED PLAN PURSUANT TO THE FEDERAL "INTERNAL

1 REVENUE CODE OF 1986", AS AMENDED;

2 (III) THE INCREASE IS APPROVED BY SIXTY-FIVE PERCENT OF THE
3 ACTIVE MEMBERS OF THE PLAN WHO VOTE IN THE ELECTION PROPOSING AN
4 INCREASE IN THE MEMBER CONTRIBUTION RATE; AND

5 (IV) THE INCREASE IS APPROVED BY MORE THAN FIFTY PERCENT
6 OF THE EMPLOYERS HAVING ACTIVE MEMBERS COVERED BY THE PLAN WHO
7 VOTE IN THE ELECTION PROPOSING AN INCREASE IN THE MEMBER
8 CONTRIBUTION RATE, EACH EMPLOYER TO BE ASSIGNED ONE VOTE; EXCEPT
9 THAT EMPLOYERS HAVING BOTH ACTIVE POLICE AND FIRE MEMBERS IN THE
10 PLAN SHALL BE ASSIGNED TWO VOTES.

11 (b) THE INCREASE IN THE MEMBER CONTRIBUTION RATE
12 ESTABLISHED PURSUANT TO SUBSECTION (1.6)(a) OF THIS SECTION SHALL
13 BE PAID FROM A MEMBER'S SALARY AND OTHERWISE BE TREATED IN THE
14 SAME MANNER SPECIFIED IN SECTION 31-31-402 (1) FOR OTHER MEMBER
15 CONTRIBUTIONS FOR PURPOSES OF THE FEDERAL "INTERNAL REVENUE
16 CODE OF 1986", AS AMENDED.

17 (c) THE BOARD MAY ELIMINATE AN INCREASE IN THE MEMBER AND
18 EMPLOYER CONTRIBUTION RATE ESTABLISHED PURSUANT TO SUBSECTION
19 (1.6)(a) OF THIS SECTION, SO LONG AS THE REQUIREMENTS FOR AN
20 INCREASE SET FORTH IN SUBSECTION (1.6)(a) OF THIS SECTION ARE MET.

21 **SECTION 8.** In Colorado Revised Statutes, **amend** 31-31-704.7
22 as follows:

23 **31-31-704.7. Participation in statewide death and disability**
24 **plan.** (1) Any employer participating in the social security supplemental
25 plan created pursuant to section 31-31-704.6 may ~~also~~ NOT elect coverage
26 under the statewide death and disability plan. ~~by filing with the board a~~
27 ~~resolution to that effect from the governing body of such employer.~~

1 (2) ~~Any social security employer that offers coverage under the~~
2 ~~statewide death and disability plan must also participate in the social~~
3 ~~security supplemental retirement plan created pursuant to section~~
4 ~~31-31-704.6. Coverage under the statewide death and disability plan for~~
5 ~~any social security employer not participating in the social security~~
6 ~~supplemental retirement plan may be terminated by the board on or after~~
7 ~~January 1, 2017.~~

8 **SECTION 9.** In Colorado Revised Statutes, **amend** 31-31-708 as
9 follows:

10 **31-31-708. Optional affiliation by county sheriff.** Any county
11 that does not cover, under the federal "Social Security Act", as amended,
12 salaried employees whose duties are directly involved with the provision
13 of law enforcement or fire protection as certified by the county may elect
14 coverage under the statewide defined benefit plan established in part 4 of
15 this article **31** and the statewide death and disability plan established in
16 part 8 of this article **31** by filing a resolution of affiliation with the board.
17 Election of coverage under the plan is irrevocable. SUCH PARTICIPATION
18 SHALL BE AS PROVIDED BY RULES ADOPTED BY THE BOARD. THE BOARD
19 MAY DETERMINE A CONTINUING RATE OF CONTRIBUTION FOR ALL
20 MEMBERS WHO ARE ACTIVE ON THE EFFECTIVE DATE OF COVERAGE TO
21 FUND BENEFITS AS MAY BE NECESSARY TO ENSURE THAT THE AFFILIATING
22 EMPLOYERS' COVERAGE SHALL NOT HAVE AN ADVERSE FINANCIAL IMPACT
23 ON THE ACTUARIAL SOUNDNESS OF THE PLAN.

24 **SECTION 10.** In Colorado Revised Statutes, 31-31-802, **amend**
25 (1)(c) and (2) as follows:

26 **31-31-802. Coverage.** (1) Except as provided in section
27 31-31-803, any member hired before, on, or after April 7, 1978, is eligible

1 for the benefits provided by this part 8, with the exception of the
2 following:

3 (c) Members whose employer had established a money purchase
4 plan on or before December 1, 1978, in accordance with the provisions
5 of part 8 of article 30.5 of this title 31. ~~except that members of a police or~~
6 ~~fire department of any such employer may elect, with the approval of~~
7 ~~sixty-five percent of all active members employed by the department who~~
8 ~~vote in the election proposing the coverage and with the consent of the~~
9 ~~members' employer, to be covered by the provisions of this part 8, but any~~
10 ~~member hired on or after the date determined by the board to be the~~
11 ~~effective date of affiliation for coverage under this part 8 shall be covered~~
12 ~~under said part and shall have no right of election. Upon election of such~~
13 ~~coverage, members shall complete a statewide standard health history~~
14 ~~form pursuant to section 31-31-810 (1)(c) and, for purposes of this part~~
15 ~~8, shall be considered as if first employed as of the date the election is~~
16 ~~effective. The board shall establish procedures for obtaining the required~~
17 ~~member and employer approval for coverage under this part 8. Once a~~
18 ~~member has elected the coverage of this part 8, the member's election~~
19 ~~shall be irrevocable. No employer that elects coverage on or after July 1,~~
20 ~~1996, under this part 8 pursuant to this subsection (1)(c) shall be~~
21 ~~permitted to withdraw from such coverage pursuant to subsection (2) of~~
22 ~~this section.~~

23 (2) (a) ~~Any employer may withdraw the active members of its~~
24 ~~police or fire department from coverage under the disability and survivor~~
25 ~~benefit provisions of this part 8 in order to establish its own exempt~~
26 ~~disability and survivor benefit program. Such withdrawal must be~~
27 ~~approved by at least sixty-five percent of all active members employed by~~

1 the department, but if the members do not so approve, the employer may
2 request approval of the withdrawal by the board. The board shall approve
3 the request only if the proposed alternative program will provide
4 disability and survivor benefits which are at least the actuarial equivalent
5 of benefits provided under this part 8, as determined by an actuary
6 appointed by the board. In making its determination, the actuary shall
7 follow the association's standards for actuarial equivalency and shall
8 include a review of the income tax consequences of the benefits offered.
9 The cost of an actuarial review shall be paid by the employer and the
10 employer will provide the information requested by the actuary. In the
11 event the employer proposes the use of a private insurance company to
12 provide the alternative program, the company shall have a minimum
13 rating from a recognized rating agency as prescribed by rules of the
14 board. DEPARTMENTS PARTICIPATING IN A PLAN ESTABLISHED PURSUANT
15 TO PART 4, 5, OR 11 OF THIS TITLE 31 AND NOT PARTICIPATING IN THE PLAN
16 FOR DISABILITY AND SURVIVOR BENEFITS UNDER THIS PART 8 MAY BE
17 COVERED BY THE PROVISIONS OF THIS PART 8 IN ACCORDANCE WITH THE
18 TERMS, CONDITIONS, AND PROCEDURES ESTABLISHED BY THE BOARD.

19 (b) ~~An employer requesting to withdraw as provided in this~~
20 ~~subsection (2) must file a resolution of intent to withdraw with the board~~
21 ~~no later than December 31, 1999.~~ No withdrawal FROM COVERAGE UNDER
22 THE DISABILITY AND SURVIVOR BENEFITS PROVISIONS OF THIS PART 8 will
23 be permitted to take effect after December 31, 2001.

24 (c) ~~An employer that withdraws pursuant to this subsection (2)~~
25 ~~shall establish and maintain a locally financed alternative disability and~~
26 ~~survivor benefit plan. Except for the one time payment specified in~~
27 ~~paragraph (e) of this subsection (2), the state shall not have any financial~~

1 or other responsibility for a plan that has been withdrawn pursuant to this
2 subsection (2).

3 (d) ~~The board shall promulgate rules relating to the standards for~~
4 ~~disclosure of all ramifications of and procedures for obtaining the~~
5 ~~member approval of withdrawal provided for in paragraph (a) of this~~
6 ~~subsection (2).~~

7 (e) ~~Within sixty days of the effective date of a withdrawal under~~
8 ~~this subsection (2), the association shall pay to the withdrawn employer~~
9 ~~its actuarially determined proportionate share of the state contribution~~
10 ~~made by the state treasurer on January 31, 1997, for funding of death and~~
11 ~~disability benefits pursuant to section 31-31-811 (3). The board shall~~
12 ~~promulgate rules for determining the calculation of a withdrawn~~
13 ~~employer's actuarially determined proportionate share of the state~~
14 ~~contribution. Such rules shall consider the number of members hired prior~~
15 ~~to January 1, 1997, who are being withdrawn, the number of members~~
16 ~~hired prior to January 1, 1997, who continue to be covered for death and~~
17 ~~disability benefits under this part 8, including those members and~~
18 ~~survivors already receiving benefits, and the cost of covering the~~
19 ~~withdrawn employer's members for the period prior to the withdrawal.~~
20 ~~Any money paid to a withdrawn employer pursuant to this paragraph (e)~~
21 ~~shall be applied to the funding of that employer's exempt disability and~~
22 ~~survivor benefit program created pursuant to paragraph (a) of this~~
23 ~~subsection (2).~~

24 (f) Once an employer has withdrawn under this subsection (2),
25 reentry into the disability and survivor benefit plan provided by this part
26 8 shall be permitted only once, in accordance with TERMS, CONDITIONS,
27 AND procedures established by the board.

1 **SECTION 11.** In Colorado Revised Statutes, 31-31-811, **amend**
2 (2) and (4); and **repeal** (3) as follows:

3 **31-31-811. Funding of death and disability benefits.**

4 (2) (a) The board shall submit an annual actuarial valuation report DATED
5 JANUARY 1 OF THE YEAR IN WHICH THE REPORT IS SUBMITTED, regarding
6 the benefit liabilities accrued under this part 8 to the state auditor, the
7 legislative audit committee, and the joint budget committee of the general
8 assembly, together with any recommendations concerning such liabilities
9 as accrued.

10 ~~(b) (f) In addition to the actuarial valuation report required by~~
11 ~~paragraph (a) of this subsection (2), the board shall submit an annual~~
12 ~~actuarial valuation report regarding the disability and survivor benefit~~
13 ~~plan established by this part 8 to the state auditor, the legislative audit~~
14 ~~committee, and the joint budget committee of the general assembly. No~~
15 ~~later than January 1 of each year, commencing January 1, 1993, and~~
16 ~~continuing through January 1, 1996, the board shall certify the amount of~~
17 ~~the state contribution to be made pursuant to subsection (3) of this section~~
18 ~~based on the latest actuarial valuation report regarding the disability and~~
19 ~~survivor benefit plan. In order to effectuate any transfer of funds required~~
20 ~~by section 31-31-802 (2)(c), the actuarial valuation report regarding the~~
21 ~~disability and survivor benefit plan shall include, at least through the year~~
22 ~~2005, members who have withdrawn from the plan pursuant to section~~
23 ~~31-31-802 (2).~~

24 ~~(H) Following the submittal of the annual actuarial valuation~~
25 ~~report dated January 1, 1995, and continuing through the submittal of the~~
26 ~~report dated January 1, 1999, the board shall submit biennial actuarial~~
27 ~~valuation reports for the purposes described in subsection (4) of this~~

1 section:

2 (HH) (A) ~~By September 30, 2001, and by each September 30~~
3 ~~thereafter, the board shall submit an annual actuarial valuation report~~
4 ~~dated January 1 of the year in which the report is submitted for the~~
5 ~~purposes described in subsection (4) of this section.~~

6 (B) ~~The general assembly reviewed the reporting requirements to~~
7 ~~the general assembly in sub-subparagraph (A) of this subparagraph (HH)~~
8 ~~during the 2008 regular session and continued the requirements.~~

9 (3) ~~On the first day of each month of each fiscal year commencing~~
10 ~~July 1, 1993, the state treasurer shall transfer one-twelfth of the amount~~
11 ~~certified by the board for that fiscal year for state funding of death and~~
12 ~~disability benefits pursuant to subsection (2) of this section, which~~
13 ~~amount shall in no case exceed seven million five hundred thousand~~
14 ~~dollars for such fiscal year, to the fund created by section 31-31-301~~
15 ~~(1)(a) for allocation to the death and disability account in the fund; except~~
16 ~~that no such transfer shall be made after December 31, 1996. On January~~
17 ~~31, 1997, the state treasurer shall transfer thirty-nine million dollars for~~
18 ~~state funding of death and disability benefits pursuant to this subsection~~
19 ~~(3) for members hired before January 1, 1997, to the fund created by~~
20 ~~section 31-31-301 (1)(a) for allocation to the death and disability account~~
21 ~~in the fund. No transfer of any amounts shall be made after January 31,~~
22 ~~1997, for state funding of death and disability benefits. Moneys in the~~
23 ~~fund created by section 31-31-301 (1)(a) shall not revert to the general~~
24 ~~fund but shall be continuously available for the purposes provided in this~~
25 ~~part 8.~~

26 (4) For each member hired on or after January 1, 1997, who is
27 eligible for the death and disability coverage provided by this part 8, a

1 contribution shall be made to the death and disability account in the fund
2 for the ~~years 1997 and 1998~~ YEAR 2021 in an amount not greater than ~~two~~
3 ~~and four tenths~~ THREE percent of the member's salary. Thereafter, the
4 board, based on an annual actuarial valuation, may adjust the contribution
5 rate every ~~two years~~ YEAR, but in no event may the adjustment for any
6 ~~two-year~~ ONE-YEAR period exceed ~~one-tenth~~ TWO-TENTHS of one percent
7 of the member's salary. Any employer and any local pension board or
8 authority shall provide such information as may be required by the board
9 in order to complete the annual actuarial valuations. The actuary
10 appointed by the board may utilize either the entry age-normal cost
11 method or the aggregate cost method for purposes of the study required
12 by this subsection (4). Any unfunded accrued liability shall be funded
13 over a period not to exceed thirty years. The actuarial study shall not
14 include any consideration of a cost of living adjustment to benefits
15 awarded to members who are occupationally disabled. Payments shall be
16 made by the employer and are due no later than ten days following the
17 date of payment of salary to the member. The payments required by this
18 section are subject to interest if not submitted when due. Any decision
19 regarding whether the contribution required by this subsection (4) shall
20 be assessed against the employer or the member, or shall in some manner
21 be assessed jointly against the employer and the member, will be made at
22 the local level utilizing the usual process for determining employee
23 benefits. If it is not already part of the usual process for determining
24 employee benefits, the employer shall confer with the employees or their
25 representative prior to making a determination on how the contribution
26 will be assessed.

27



1 **SECTION 12.** In Colorado Revised Statutes, 31-31-1101, **amend**
2 (7) as follows:

3 **31-31-1101. Entry into the fire and police pension association**
4 **defined benefit system.** (7) The board shall determine a continuing
5 uniform rate of contribution for all members who are active on the
6 effective date of coverage to fund the benefits payable by the fire and
7 police pension association under the statewide defined benefit plan. The
8 continuing rate of contribution shall be determined by the board utilizing
9 certified actuarial reports prepared by the actuary for the plan. Any
10 actuarial report shall also certify, in accordance with accepted actuarial
11 principals, that the employers' coverage shall not have an adverse
12 financial impact on the actuarial soundness of the plan. Continuing
13 contributions for each member who is active on the effective date of
14 coverage shall be made at the rate established on said date until the
15 member's retirement or termination; EXCEPT THAT THE BOARD MAY
16 LOWER THE CONTINUING RATE OF CONTRIBUTION IN THE EVENT IT FINDS
17 THAT THE ORIGINAL CONTINUING RATE OF CONTRIBUTION IS IN EXCESS OF
18 WHAT IS REQUIRED TO PAY THE COST OF BENEFITS BASED ON THE ADVICE
19 OF THE ACTUARY. The board may periodically adjust the rate prior to the
20 election of coverage by an employer based on certified actuarial reports
21 prepared by the actuary for the plan.

22 **SECTION 13. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly (August
25 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
26 referendum petition is filed pursuant to section 1 (3) of article V of the
27 state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part will not take effect
2 unless approved by the people at the general election to be held in
3 November 2020 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.