

CHAPTER 44

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 99-1040

BY REPRESENTATIVES Gotlieb, Chavez, Clarke, Coleman, Lawrence, Mace, Miller, and Tate;
also SENATORS Wham and Pascoe.

AN ACT

CONCERNING BENEFIT RETIREMENT SYSTEMS FOR SCHOOL DISTRICTS.

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

SECTION 1. Article 64 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 2
SCHOOL DISTRICT RETIREMENT PLANS

22-64-201. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACTUARIAL VALUATION" MEANS THE DETERMINATION, AS OF A VALUATION DATE, OF THE NORMAL COST, ACTUARIAL ACCRUED LIABILITY, ACTUARIAL VALUE OF ASSETS, AND RELATED ACTUARIAL PRESENT VALUES OF THE PLAN.

(2) "ACTUARY" OR "ACTUARIES" MEANS THE PROFESSIONAL CONSULTANTS RETAINED BY THE BOARD OF TRUSTEES TO REVIEW STATISTICS AND MAKE PERIODIC EVALUATIONS OF THE FINANCES NEEDED FOR THE PAYMENT OF FUTURE RETIREMENT BENEFITS, SURVIVOR BENEFITS, AND DEFERRED BENEFITS.

(3) "ADMINISTRATOR" MEANS THE PERSON APPOINTED, IN ACCORDANCE WITH SECTION 22-64-205 (4), TO DIRECT AND ADMINISTER THE ASSOCIATION, REGARDLESS OF THE TITLE GIVEN TO SUCH PERSON BY THE BOARD OF TRUSTEES.

(4) "AMORTIZATION PERIOD" MEANS THE NUMBER OF YEARS THAT IS REQUIRED TO GRADUALLY EXTINGUISH THE UNFUNDED ACTUARIAL ACCRUED LIABILITIES OF THE

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

PLAN IF FUTURE ACTUARIAL EXPERIENCE EXACTLY MATCHES THE ASSUMPTIONS SET BY THE BOARD OF TRUSTEES.

(5) "ASSOCIATION" MEANS AN EMPLOYEES' RETIREMENT ASSOCIATION CREATED PURSUANT TO THE PROVISIONS OF SECTION 22-64-203.

(6) "BENEFICIARY" MEANS A PERSON, OTHER THAN THE PARTICIPANT, WHO IS DESIGNATED BY A PARTICIPANT OR BY THE PLAN TO RECEIVE A BENEFIT UNDER THE PLAN.

(7) "BOARD OF TRUSTEES" MEANS THE BOARD OF TRUSTEES CREATED PURSUANT TO THE PROVISIONS OF SECTION 22-64-204 THAT HAS THE DUTIES AND POWERS AUTHORIZED BY THIS PART 2 FOR THE MANAGEMENT OF THE ASSOCIATION.

(8) "CARRYOVER EMPLOYEE" MEANS AN EMPLOYEE WHO IS EMPLOYED BY A SCHOOL DISTRICT:

(a) AT THE TIME SUCH SCHOOL DISTRICT ESTABLISHES A BENEFIT RETIREMENT SYSTEM PURSUANT TO THIS PART 2 AND WHO, AT SUCH TIME, BECOMES EMPLOYED BY THE ASSOCIATION; OR

(b) AT SUCH TIME AS AN EXISTING BENEFIT RETIREMENT SYSTEM BECOMES SUBJECT TO THIS PART 2 AND WHO, AT SUCH TIME BECOMES EMPLOYED BY THE ASSOCIATION.

(9) "CONTRIBUTIONS" MEANS THE TOTAL OF EMPLOYER AND MEMBER CONTRIBUTIONS PAID OR PAYABLE TO THE ASSOCIATION.

(10) "EMPLOYER" MEANS THE SCHOOL DISTRICT WHOSE BOARD OF EDUCATION ESTABLISHES A BENEFIT RETIREMENT SYSTEM PURSUANT TO SECTION 22-64-202 AND SHALL ALSO INCLUDE ANY OTHER ENTITY EMPLOYING ANY MEMBER OF THE ASSOCIATION IN ACCORDANCE WITH THE PROVISIONS OF SECTION 22-64-202 (2).

(11) "EMPLOYER CONTRIBUTION" MEANS THE MONEY PAID OR PAYABLE BY AN EMPLOYER TO THE ASSOCIATION PURSUANT TO THE PROVISIONS OF SECTION 22-64-218 FOR ALL MEMBER COMPENSATION PAID AND FOR WHICH CONTRIBUTION IS REQUIRED IN ACCORDANCE WITH THE PLAN, TOGETHER WITH ANY OTHER REQUIRED EMPLOYER CONTRIBUTIONS.

(12) "FIDUCIARY" MEANS A PERSON WHO:

(a) EXERCISES ANY DISCRETIONARY AUTHORITY TO MANAGE THE ASSOCIATION;

(b) EXERCISES ANY AUTHORITY TO INVEST OR MANAGE ASSETS OF THE ASSOCIATION;

(c) PROVIDES INVESTMENT ADVICE FOR A FEE OR OTHER DIRECT OR INDIRECT COMPENSATION WITH RESPECT TO ASSETS OF AN ASSOCIATION OR HAS ANY AUTHORITY OR RESPONSIBILITY TO DO SO; OR

(d) IS A MEMBER OF THE BOARD OF TRUSTEES, BUT ONLY WHILE ACTING AS SUCH.

(13) "FUND" MEANS THE TOTAL ASSETS OF THE ASSOCIATION THAT ARE CREDITED TO THE TRUST FUNDS ESTABLISHED, MANAGED, AND INVESTED BY THE ASSOCIATION PURSUANT TO THE PROVISIONS OF THIS PART 2.

(14) "MEMBER" MEANS ANY EMPLOYEE OF AN EMPLOYER DEFINED IN SUBSECTION (10) OF THIS SECTION WHO WORKS IN A POSITION THAT IS SUBJECT TO MEMBERSHIP IN THE ASSOCIATION AND FOR WHOM CONTRIBUTIONS ARE TO BE MADE, IN ACCORDANCE WITH PLAN PROVISIONS.

(15) "MEMBER CONTRIBUTION" MEANS THE MONEY PAID TO THE ASSOCIATION THAT EQUALS A PERCENTAGE OF THE MEMBER'S COMPENSATION, AS DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF THE PLAN.

(16) "PARTICIPANT" MEANS AN INDIVIDUAL WHO IS OR HAS BEEN A MEMBER OF THE ASSOCIATION AND WHO IS OR MAY BECOME ELIGIBLE TO RECEIVE OR IS CURRENTLY RECEIVING A BENEFIT FROM THE ASSOCIATION OR WHOSE BENEFICIARIES ARE OR MAY BECOME ELIGIBLE TO RECEIVE A BENEFIT. THE TERM DOES NOT INCLUDE AN INDIVIDUAL WHO IS NO LONGER A MEMBER AND HAS NOT ACCRUED ANY NONFORFEITABLE BENEFITS UNDER THE PLAN.

(17) "PLAN" MEANS THE PLAN DOCUMENT REFERRED TO IN SECTION 22-64-203 (1) THAT PROVIDES FOR THE BENEFITS TO BE FURNISHED AND FOR THE ORGANIZATION AND ADMINISTRATION OF THE ASSOCIATION, IN ACCORDANCE WITH THIS PART 2.

(18) "RETIREE" MEANS A PERSON WHO IS RECEIVING A SERVICE OR DISABILITY RETIREMENT BENEFIT FROM THE ASSOCIATION.

(19) "RETIREMENT PROGRAM" MEANS A PROGRAM OF RIGHTS AND OBLIGATIONS THAT A BOARD OF EDUCATION ESTABLISHES AND MAINTAINS IN ACCORDANCE WITH THIS PART 2 TO PROVIDE BENEFITS TO ITS EMPLOYEES AND BENEFICIARIES AND FOR OTHER MEMBERS AND BENEFICIARIES AS PERMITTED IN SECTIONS 22-64-202 AND 22-64-203.

22-64-202. Board of education may establish benefit retirement system.

(1) ANY BOARD OF EDUCATION MAY ESTABLISH A COMPREHENSIVE BENEFIT RETIREMENT SYSTEM FOR ITS EMPLOYEES AND BENEFICIARIES AND FOR OTHER PERMITTED MEMBERS AND BENEFICIARIES IN ACCORDANCE WITH THE PROVISIONS OF THIS PART 2. A BENEFIT RETIREMENT SYSTEM MAY INCLUDE MORE THAN ONE RETIREMENT OR RETIREMENT-RELATED PROGRAM.

(2) PERMITTED MEMBERS SHALL INCLUDE EMPLOYEES OF THE SCHOOL DISTRICT CREATING THE BENEFIT RETIREMENT SYSTEM, EMPLOYEES OF THE ASSOCIATION, AND EMPLOYEES OF A CHARTER SCHOOL WITHIN SUCH SCHOOL DISTRICT, IN ACCORDANCE WITH SECTION 22-30.5-111 (3).

(3) WITHOUT LIMITING ANY OTHER POWER SET FORTH IN THIS SECTION, THE BOARD OF EDUCATION MAY ALSO PROVIDE FOR THE PAYMENT OF THE FOLLOWING BENEFITS, IN ACCORDANCE WITH APPLICABLE PROVISIONS OF THE PLAN:

(a) DEFERRED BENEFITS TO MEMBERS WHO HAVE BEEN EMPLOYED AND SEVER EMPLOYMENT PRIOR TO RETIREMENT BUT WHO DO NOT WITHDRAW THEIR

ACCUMULATED CONTRIBUTIONS PREVIOUSLY MADE UNDER SUCH SYSTEM PROVIDING THAT, NOTWITHSTANDING SUCH SEVERANCE OF EMPLOYMENT, SUCH MEMBERS MAY BECOME ELIGIBLE TO RECEIVE SUCH DEFERRED BENEFITS UPON ATTAINMENT OF THE REQUIRED RETIREMENT AGE UNDER THE PLAN;

(b) PAYMENT OF BENEFITS UPON THE DEATH OF ANY MEMBER;

(c) PAYMENT OF BENEFITS TO A MEMBER WHO HAS BECOME PERMANENTLY INCAPACITATED FROM PERFORMING HIS OR HER DUTIES WITH HIS OR HER EMPLOYER.

(4) WITHOUT LIMITING ANY OTHER POWER SET FORTH IN THIS SECTION, THE BOARD OF EDUCATION MAY AUTHORIZE THE BOARD OF TRUSTEES TO CREATE OR ADMINISTER OTHER TYPES OF RETIREMENT OR RETIREMENT-RELATED PROGRAMS, INCLUDING, BUT NOT LIMITED TO, PROGRAMS PROVIDING HEALTH CARE BENEFITS. THE PROVISIONS FOR SUCH AUTHORIZATION, THE DETAILS OF SUCH PROGRAMS AUTHORIZED, AND THE FUNDING THEREOF SHALL BE AGREED UPON BETWEEN THE BOARD OF EDUCATION AND THE BOARD OF TRUSTEES AND SHALL BE REFLECTED APPROPRIATELY IN THE PLAN OR A SUPPLEMENT TO THE PLAN.

22-64-203. Retirement association - creation. (1) ANY RETIREMENT SYSTEM CREATED PURSUANT TO THIS PART 2 SHALL BE APPROPRIATELY TITLED AND SHALL CONSTITUTE A RETIREMENT ASSOCIATION FOR THE EMPLOYEES OF THE PARTICULAR SCHOOL DISTRICT INVOLVED AND THEIR BENEFICIARIES AND FOR OTHER PERMITTED MEMBERS AND BENEFICIARIES OF THE SYSTEM FOR THE PURPOSE OF PROVIDING THE BENEFITS AND PROGRAMS SPECIFIED IN THIS PART 2. THE ASSOCIATION SHALL BE A BODY CORPORATE WITH THE RIGHTS TO SUE AND BE SUED AND THE RIGHT TO HOLD PROPERTY FOR ITS USE AND PURPOSES. THE ASSOCIATION SHALL BE AN INSTRUMENTALITY OF THE SCHOOL DISTRICT CREATING THE RETIREMENT SYSTEM. THE BOARD OF EDUCATION SHALL, SUBJECT TO THE PROVISIONS OF THIS PART 2, PROVIDE FOR THE BENEFITS TO BE FURNISHED AND FOR THE ORGANIZATION AND ADMINISTRATION OF THE ASSOCIATION IN A PLAN DOCUMENT. THE ASSOCIATION SHALL BE SUBJECT TO THE DIRECTION OF SUCH BOARD OF EDUCATION ONLY TO THE EXTENT AND IN THE MANNER EXPRESSLY PROVIDED IN THIS PART 2.

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2), ALL ASSETS OF AN ASSOCIATION SHALL BE HELD IN TRUST. THE BOARD OF TRUSTEES HAS THE EXCLUSIVE AUTHORITY TO INVEST AND MANAGE SUCH ASSETS, PAY BENEFITS, AND OTHERWISE ADMINISTER THE ASSOCIATION IN ACCORDANCE WITH THIS PART 2. IF AN INSURER ISSUES A GUARANTEED BENEFIT POLICY TO AN ASSOCIATION, ASSETS OF THE ASSOCIATION INCLUDE THE POLICY BUT NOT ASSETS OF THE INSURER. IF AN ASSOCIATION INVESTS IN A SECURITY ISSUED BY AN INVESTMENT COMPANY REGISTERED UNDER THE "INVESTMENT COMPANY ACT OF 1940", 15 U.S.C. SEC. 80a-1 ET SEQ., THE ASSETS OF THE ASSOCIATION SHALL INCLUDE THE SECURITY, BUT NOT THE ASSETS OF THE INVESTMENT COMPANY.

(3) WHERE A BOARD OF EDUCATION HAS PREVIOUSLY CREATED A BENEFIT RETIREMENT SYSTEM PURSUANT TO THE PROVISIONS OF SECTION 22-64-105 (1) THAT EXISTS AS OF THE EFFECTIVE DATE OF THIS PART 2:

(a) SUCH EXISTING BENEFIT RETIREMENT SYSTEM, UPON THE EFFECTIVE DATE OF THIS PART 2, SHALL BECOME SUBJECT TO THE PROVISIONS OF THIS PART 2. THE

ASSOCIATION CREATED IN ACCORDANCE WITH THIS SECTION, IN ALL RESPECTS, SHALL BE AND BECOME THE SUCCESSOR TO SUCH EXISTING BENEFIT RETIREMENT SYSTEM ON SUCH EFFECTIVE DATE AND SHALL CONTINUE TO ADMINISTER SUCH BENEFIT RETIREMENT SYSTEM IN THE MANNER AND IN ACCORDANCE WITH THE PROVISIONS OF THIS PART 2.

(b) THE SEPARATE EXISTENCE OF SUCH EXISTING BENEFIT RETIREMENT SYSTEM SHALL CEASE.

(c) THE TITLE TO ALL REAL ESTATE AND OTHER ASSETS OF EVERY KIND OWNED BY SUCH EXISTING BENEFIT RETIREMENT SYSTEM SHALL BE TRANSFERRED TO AND VESTED IN THE ASSOCIATION WITHOUT REVERSION OR IMPAIRMENT. SUCH TRANSFER TO AND VESTING IN THE ASSOCIATION SHALL BE DEEMED TO OCCUR BY OPERATION OF LAW AND NO FURTHER CONSENT OR APPROVAL SHALL BE REQUIRED IN CONNECTION WITH ANY SUCH TRANSFER AND VESTING, PROVIDED THAT THE BOARD OF EDUCATION AND THE BOARD OF TRUSTEES MAY TAKE SUCH ACTION AS MAY BE REASONABLE AND NECESSARY TO EVIDENCE SUCH TRANSFER AND VESTING.

(d) THE ASSOCIATION SHALL SUCCEED TO ALL CONTRACTUAL RIGHTS AND CONTRACTUAL OBLIGATIONS AND OTHER OBLIGATIONS AND LIABILITIES OF SUCH EXISTING BENEFIT RETIREMENT SYSTEM.

(e) ANY PROCEEDING PENDING BY OR AGAINST AN EXISTING BENEFIT RETIREMENT SYSTEM MAY BE CONTINUED AS IF THE SUCCESSION DID NOT OCCUR OR THE ASSOCIATION MAY BE SUBSTITUTED IN THE PROCEEDING FOR THE EXISTING BENEFIT RETIREMENT SYSTEM WHOSE EXISTENCE CONTINUES UNDER THE ADMINISTRATION OF THE ASSOCIATION AS PROVIDED IN THIS PART 2.

(f) THE ASSOCIATION SHALL CONTINUE TO FURNISH THE BENEFITS PROVIDED BY THE EXISTING BENEFIT RETIREMENT SYSTEM PENDING ANY CHANGES MADE BY THE BOARD OF EDUCATION IN THE PLAN IN ACCORDANCE WITH THIS PART 2 AND OTHER APPLICABLE LAW.

(g) NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, THE BOARD OF EDUCATION AND THE BOARD OF TRUSTEES MAY TAKE SUCH ACTION AS MAY BE REASONABLE AND NECESSARY TO EVIDENCE THE SUCCESSION REQUIRED AND OTHER MATTERS PROVIDED FOR IN THIS SUBSECTION (3).

(h) A SCHOOL DISTRICT SHALL HAVE THE POWER TO PROVIDE THAT CARRYOVER EMPLOYEES SHALL CONTINUE TO BE ENTITLED TO RECEIVE EMPLOYEE FRINGE BENEFITS FROM THE SCHOOL DISTRICT WHERE THEY WERE EMPLOYED. SUCH FRINGE BENEFITS SHALL BE THE FRINGE BENEFITS THAT SUCH PERSONS WOULD HAVE BEEN ENTITLED TO RECEIVE HAD THEY REMAINED EMPLOYEES OF THE SCHOOL DISTRICT WHERE THEY WERE EMPLOYED PRIOR TO BECOMING EMPLOYED BY THE ASSOCIATION UNTIL THEIR RESPECTIVE RETIREMENTS, DEATHS, RESIGNATIONS, OR OTHER TERMINATIONS OF EMPLOYMENT. FRINGE BENEFITS ACCRUED BY CARRYOVER EMPLOYEES PRIOR TO THE TIME A SCHOOL DISTRICT ESTABLISHES A BENEFIT RETIREMENT SYSTEM PURSUANT TO THIS PART 2 OR PRIOR TO THE TIME AN EXISTING BENEFIT RETIREMENT SYSTEM BECOMES SUBJECT TO THIS PART 2 SHALL BE THE RESPONSIBILITY OF SUCH SCHOOL DISTRICT. FRINGE BENEFITS ACCRUED AFTER SUCH TIME SHALL BE THE RESPONSIBILITY OF THE ASSOCIATION. THE METHOD BY WHICH

ANY SUCH PROVISIONS FOR FRINGE BENEFITS SHALL BE MADE AND IMPLEMENTED AND THE FUNDING THEREOF SHALL BE DETERMINED BY THE BOARD OF EDUCATION OF SUCH SCHOOL DISTRICT AFTER CONSULTATION WITH THE ASSOCIATION'S BOARD OF TRUSTEES AND SHALL BE DOCUMENTED APPROPRIATELY. THE FUNDING OF SUCH PROVISIONS FOR FRINGE BENEFITS BY THE SCHOOL DISTRICT INVOLVED SHALL NOT BE DEEMED TO BE IN VIOLATION OF SECTION 22-64-205 (1) (a), ANY OTHER PROVISION OF THIS PART 2, OR ANY OTHER STATUTORY PROVISION APPLICABLE TO SCHOOL DISTRICTS. THE PROVISIONS OF THIS PARAGRAPH (h) SHALL NOT APPLY TO PENSION OR OTHER BENEFITS PROVIDED TO PARTICIPANTS UNDER THE PLAN, AND THE PLAN SHALL MAKE APPROPRIATE PROVISION FOR CARRYOVER EMPLOYEES AS CONTINUING PARTICIPANTS IN THE PLAN.

22-64-204. Board of trustees - composition and selection. (1) SUBJECT TO THE PROVISIONS OF SUBSECTION (5) OF THIS SECTION, THE BOARD OF TRUSTEES SHALL CONSIST OF THE FOLLOWING ELEVEN PERSONS:

- (a) TWO MEMBERS APPOINTED BY THE BOARD OF EDUCATION;
- (b) TWO RETIREES FROM THE ASSOCIATION ELECTED BY THE RETIRED MEMBERS OF THE ASSOCIATION;
- (c) SIX ACTIVE MEMBERS OF THE ASSOCIATION ELECTED BY THE ACTIVE MEMBERS IN SUCH MANNER AS TO BE REPRESENTATIVE OF THE VARIOUS EMPLOYEE JOB CLASSIFICATIONS OF THE SCHOOL DISTRICT; AND
- (d) ONE MEMBER HAVING DEMONSTRATED EXPERTISE IN PENSION ADMINISTRATION OR IN INVESTMENT MATTERS AND APPOINTED BY THE OTHER MEMBERS OF THE BOARD OF TRUSTEES.

(2) A MEMBER APPOINTED PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY, BUT NEED NOT, BE A MEMBER OF THE BOARD OF EDUCATION.

(3) THE BOARD OF EDUCATION SHALL PROVIDE FOR STAGGERING THE TERMS OF TRUSTEES ON A NEWLY-CREATED BOARD OF TRUSTEES SO THAT THE FIRST TERM FOR FIVE OF THE TRUSTEES INITIALLY ELECTED OR APPOINTED SHALL BE TWO YEARS. ALL OTHER TERMS SHALL BE FOR FOUR YEARS. TRUSTEES MAY BE REELECTED OR REAPPOINTED TO THE BOARD FOR AN UNLIMITED NUMBER OF TERMS, BUT NO SINGLE TERM FOR ANY TRUSTEE SHALL EXCEED FOUR YEARS.

(4) WHEN A VACANCY OCCURS ON THE BOARD OF TRUSTEES, SUCH VACANCY SHALL BE FILLED FOR THE REMAINDER OF THE TERM INVOLVED IN ACCORDANCE WITH THE PERTINENT PROVISIONS OF THE PLAN.

(5) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (3) OF THIS SECTION, WHERE A BOARD OF EDUCATION HAS PREVIOUSLY CREATED A RETIREMENT SYSTEM PURSUANT TO THE PROVISIONS OF SECTION 22-64-105 (1) AND WHERE SUCH A SYSTEM PROVIDES FOR A BOARD OF MANAGERS PURSUANT TO THE PROVISIONS OF SECTION 22-64-106, THE BOARD OF EDUCATION SHALL PROVIDE IN THE PLAN FOR A TRANSITIONAL BOARD OF TRUSTEES OF THE ASSOCIATION THAT WILL INCLUDE THOSE MEMBERS OF SUCH EXISTING BOARD OF MANAGERS WITHIN THE ELECTION CATEGORIES DESIGNATED IN SUBSECTION (1) OF THIS SECTION FOR ELECTION BY MEMBERS OR

RETIRED MEMBERS OF THE SYSTEM UNTIL THE RESPECTIVE TERMS OF SUCH MEMBERS OF THE EXISTING BOARD OF MANAGERS EXPIRE. AS THE TERMS OF SUCH PERSONS EXPIRE OR AS SUCH PERSONS RESIGN OR OTHERWISE VACATE SUCH POSITIONS, THE BOARD OF TRUSTEES SHALL BECOME CONSTITUTED AS PROVIDED IN SUBSECTION (1) OF THIS SECTION.

(6) THE TRUSTEES SHALL SERVE WITHOUT COMPENSATION BUT SHALL BE REIMBURSED BY THE ASSOCIATION FOR ANY NECESSARY EXPENSES INCURRED IN THE CONDUCT OF THEIR OFFICIAL DUTIES. A MEMBER OF THE ASSOCIATION SHALL SUFFER NO LOSS OF SALARY FOR SERVICE ON THE BOARD AND SHALL BE GRANTED RELEASE TIME TO PERFORM HIS OR HER OBLIGATIONS AS A TRUSTEE.

(7) NO PERSON CAN BE OR CAN CONTINUE TO BE A TRUSTEE OF THE BOARD WHO HAS BEEN ADJUDICATED OF HAVING VIOLATED ANY PROVISIONS OF THIS PART 2, WHO HAS BEEN CONVICTED OF ANY FELONY, OR WHO HAS BEEN CONVICTED OF ANY CRIME INVOLVING THE MISAPPROPRIATION OF FUNDS, WHETHER OR NOT SUCH FUNDS WERE FUNDS OF THE ASSOCIATION.

(8) A PERSON APPOINTED TO THE BOARD OF TRUSTEES BY THE BOARD OF EDUCATION OR BY THE BOARD OF TRUSTEES MAY BE REMOVED AT ANY TIME BY THE BODY WHICH MADE THE APPOINTMENT, WITH OR WITHOUT CAUSE. IN SUCH EVENT, THE BODY THAT MADE THE APPOINTMENT SHALL APPOINT A REPLACEMENT FOR THE BALANCE OF THE TERM OF THE PERSON SO REMOVED.

22-64-205. Powers and duties of the board of trustees. (1) THE TRUSTEES SHALL ELECT FROM AMONG THEMSELVES A CHAIRPERSON AND SUCH OTHER OFFICERS AS MAY BE NECESSARY FOR THE BOARD TO CARRY OUT ITS DUTIES AND RESPONSIBILITIES.

(2) THE BOARD OF TRUSTEES SHALL SET THE TIME AND PLACE FOR MEETINGS, SHALL CONDUCT THOSE MEETINGS IN ACCORDANCE WITH APPLICABLE LAW, PLAN PROVISIONS, AND WITH BYLAWS ADOPTED BY THE BOARD OF TRUSTEES, AND SHALL MAINTAIN A RECORD OF ITS PROCEEDINGS. THE BOARD OF TRUSTEES MAY HOLD DISCUSSIONS IN EXECUTIVE SESSIONS THAT SHALL BE CLOSED TO THE PUBLIC, TO THE EXTENT PERMITTED BY APPLICABLE LAW AND BY THE BYLAWS ADOPTED BY THE BOARD OF TRUSTEES.

(3) NO VOTE OF THE BOARD OF TRUSTEES SHALL TAKE PLACE WITHOUT A QUORUM PRESENT. THE QUORUM REQUIREMENT SHALL BE AS FIXED IN THE BYLAWS OF THE BOARD OF TRUSTEES BUT SHALL NOT BE LESS THAN A MAJORITY OF THE NUMBER OF AUTHORIZED TRUSTEES, AS ENUMERATED IN SECTION 22-64-204.

(4) THE BOARD OF TRUSTEES SHALL APPOINT AND SET THE COMPENSATION FOR AN ADMINISTRATOR TO DIRECT AND ADMINISTER THE ASSOCIATION.

(5) THE BOARD OF TRUSTEES SHALL ADOPT AND PROMULGATE RULES FOR THE ADMINISTRATION OF THE ASSOCIATION AND TO SPECIFY THE FACTORS TO BE USED IN ACTUARIAL DETERMINATIONS OR CALCULATIONS REQUIRED BY THIS PART 2. ALL RULES SHALL BE CONSISTENT WITH THE PROVISIONS OF THIS PART 2 AND OTHER APPLICABLE PROVISIONS OF LAW AND WITH THE PERTINENT PROVISIONS OF THE PLAN.

(6) THE BOARD OF TRUSTEES SHALL SUBMIT TO FINANCIAL AND PERFORMANCE AUDITS OF ALL FINANCIAL TRANSACTIONS AND ACCOUNTS KEPT BY OR FOR THE ASSOCIATION IN A MANNER CONSISTENT WITH REQUIREMENTS SET FORTH IN THE PLAN.

(7) THE BOARD OF TRUSTEES OR ITS DESIGNATED AGENT SHALL SUBMIT AN ANNUAL ACTUARIAL VALUATION REPORT TO THE BOARD OF EDUCATION TOGETHER WITH ANY RECOMMENDATIONS CONCERNING LIABILITIES THAT HAVE ACCRUED.

(8) THE BOARD OF TRUSTEES OR ITS DESIGNATED AGENT SHALL PREPARE AND TRANSMIT, ANNUALLY, A REPORT TO THE BOARD OF EDUCATION REGARDING THE POLICIES, FINANCIAL CONDITION, AND ADMINISTRATION OF THE ASSOCIATION.

(9) THE BOARD OF TRUSTEES SHALL OBTAIN, AND THE ASSOCIATION SHALL PAY FOR, INSURANCE, OR THE BOARD OF TRUSTEES SHALL SELF-INSURE AGAINST LIABILITY WHICH ARISES OUT OF, OR IN ACCORDANCE WITH, THE PERFORMANCE OF ANY DUTIES BY ANY TRUSTEE OR EMPLOYEE OF THE ASSOCIATION.

(10) THE BOARD OF TRUSTEES SHALL PERFORM ALL DUTIES IMPOSED ON IT BY LAW. THE BOARD OF TRUSTEES SHALL FURTHER PERFORM ALL DUTIES IMPOSED ON IT BY THE PLAN INsofar AS THE PLAN IS CONSISTENT WITH THIS PART 2 AND APPLICABLE LAW. THE BOARD SHALL NOT BE LIABLE FOR ACTIONS OF PARTICIPANTS WHO DO NOT COMPLY WITH COURT ORDERS.

(11) IN ADDITION TO OTHER POWERS CONFERRED BY THIS PART 2 AND APPLICABLE LAW, THE BOARD OF TRUSTEES SHALL HAVE EXCLUSIVE AUTHORITY, CONSISTENT WITH ITS DUTIES UNDER THIS PART 2, TO:

(a) ESTABLISH AN ADMINISTRATIVE BUDGET, TO BE FUNDED BY ASSETS OF THE ASSOCIATION, SUFFICIENT TO PERFORM THE DUTIES OF THE BOARD OF TRUSTEES;

(b) DRAW UPON THE ASSETS OF THE ASSOCIATION TO FUND THE BUDGET AS APPROPRIATE AND REASONABLE;

(c) OBTAIN BY EMPLOYMENT OR CONTRACT THE SERVICES NECESSARY TO EXERCISE ITS POWERS AND PERFORM ITS DUTIES, INCLUDING ACTUARIAL, AUDITING, CUSTODIAL, INVESTMENT, AND LEGAL SERVICES; AND

(d) PROCURE AND DISPOSE OF THE GOODS AND PROPERTY NECESSARY TO EXERCISE ITS POWERS AND PERFORM ITS DUTIES.

(12) IN EXERCISING ITS EXCLUSIVE AUTHORITY UNDER THIS SECTION, THE BOARD OF TRUSTEES IS SUBJECT TO THE FIDUCIARY DUTIES OF THIS PART 2 BUT NOT TO CIVIL SERVICE, PERSONNEL, PROCUREMENT, OR SIMILAR GENERAL LAWS RELATING TO THE SUBJECTS OF THIS SECTION. NOTHING IN THIS SUBSECTION (12), IN THIS PART 2, OR IN ANY OTHER STATUTORY PROVISION APPLICABLE TO SCHOOL DISTRICTS SHALL PREVENT THE ASSOCIATION AND THE SCHOOL DISTRICT INVOLVED FROM UTILIZING THE SAME PROGRAMS AND PROVIDERS TO PROVIDE FRINGE BENEFITS FOR EMPLOYEES OF SUCH SCHOOL DISTRICT AND OF SUCH ASSOCIATION IF THE BOARD OF EDUCATION OF SUCH SCHOOL DISTRICT AND THE BOARD OF TRUSTEES OF THE ASSOCIATION DETERMINE THAT TO DO SO WOULD BE BENEFICIAL. THE METHOD BY WHICH ANY SUCH PROVISIONS SHALL BE IMPLEMENTED SHALL BE DETERMINED BY AGREEMENT

BETWEEN THE SCHOOL DISTRICT AND THE ASSOCIATION AND SHALL BE DOCUMENTED APPROPRIATELY.

22-64-206. General authority of the board of trustees. (1) THE BOARD OF TRUSTEES, IN ACCORDANCE WITH THE PROVISIONS OF THIS PART 2 AND OF THE PLAN, SHALL HAVE THE AUTHORITY TO DETERMINE MEMBERSHIP STATUS, EXEMPTIONS FROM MEMBERSHIP, ELIGIBILITY FOR BENEFITS AND SERVICE CREDIT, AND SALARY TO BE USED IN BENEFIT CALCULATIONS. SUCH DECISIONS BY THE BOARD OF TRUSTEES MAY BE APPEALED THROUGH REVIEW PROCEDURES TO BE SET FORTH IN THE PLAN. A FINAL DECISION BY THE BOARD OF TRUSTEES SHALL BE SUBJECT ONLY TO REVIEW BY PROPER COURT ACTION AND SHALL NOT BE REVERSED UNLESS FOUND TO BE ARBITRARY, CAPRICIOUS, OR IN CLEAR VIOLATION OF THE TERMS OF THE PLAN.

(2) THE BOARD OF TRUSTEES IS AUTHORIZED TO ACCEPT ON BEHALF OF THE ASSOCIATION ANY MONEYS OR PROPERTIES RECEIVED IN THE FORM OF DONATIONS, GIFTS, APPROPRIATIONS, BEQUESTS, FORFEITURES, OR ANY OTHER FORM, OR INCOME DERIVED THEREFROM.

(3) THE BOARD OF TRUSTEES IS AUTHORIZED TO RECOVER, THROUGH LEGAL PROCESS OR OFFSET, ANY AMOUNT PAID AS BENEFITS, REFUNDS, OR OTHER TYPES OF PAYMENTS TO WHICH THE RECIPIENT IS NOT ENTITLED, WITH INTEREST, PLUS ATTORNEY FEES AND COSTS ASSOCIATED WITH SUCH RECOVERY. IF IT IS DETERMINED THAT THE RECIPIENT WAS ENTITLED TO THE AMOUNT PAID, THE RECIPIENT SHALL BE ENTITLED TO THE ATTORNEY FEES THAT HE OR SHE INCURRED, REASONABLY AND NECESSARILY, IN DEFENDING THE LEGAL ACTION OR OFFSET INITIATED BY THE BOARD OF TRUSTEES.

(4) THE BOARD OF TRUSTEES IS AUTHORIZED TO SETTLE OR COMPROMISE ANY DISPUTE ON BEHALF OF THE ASSOCIATION. THE BOARD OF TRUSTEES MAY CONSIDER RELEVANT FACTORS REGARDING ANY DISPUTE, INCLUDING, BUT NOT LIMITED TO, THE COST OF LITIGATION, THE LIKELIHOOD OF SUCCESS ON THE MERITS, THE COST OF DELAY IN RESOLVING THE DISPUTE, AND THE ACTUARIAL IMPACT ON THE FUND, IN DETERMINING WHETHER TO SETTLE OR COMPROMISE THE DISPUTE.

(5) THE BOARD OF TRUSTEES IS AUTHORIZED TO USE AND HOLD PROPERTY IN A NOMINEE PARTNERSHIP OR OTHER APPROPRIATE NOMINEE ENTITY COMPOSED OF TRUSTEES OR EMPLOYEES OF THE ASSOCIATION, DESIGNATED BY THE BOARD OF TRUSTEES THROUGH APPROPRIATE RESOLUTION, TO FACILITATE INVESTMENT, SALE, AND EXCHANGE TRANSACTIONS. THE PARTNERS OF THE NOMINEE ENTITY OR ANALOGOUS PERSONS IN ANOTHER NOMINEE ENTITY SHALL BE INSURED PURSUANT TO THE PROVISIONS OF SECTION 22-64-205 (9).

(6) (a) THE BOARD OF TRUSTEES MAY DELEGATE CERTAIN OF ITS RESPONSIBILITIES, DUTIES, AND AUTHORITIES AS SET FORTH IN THIS PART 2 TO THE ADMINISTRATOR OF THE ASSOCIATION OR TO DESIGNATED AGENTS OF THE ASSOCIATION IN ACCORDANCE WITH THE FURTHER PROVISIONS OF THIS SUBSECTION (6). THE ADMINISTRATOR MAY DELEGATE CERTAIN OF HIS OR HER RESPONSIBILITIES, DUTIES, AND AUTHORITIES AS SET FORTH IN THIS PART 2 TO EMPLOYEES OR DESIGNATED AGENTS OF THE ASSOCIATION IN ACCORDANCE WITH CRITERIA ADOPTED BY THE BOARD OF TRUSTEES AND IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBSECTION (6).

(b) (I) SUBJECT TO THE PROVISIONS OF THIS PARAGRAPH (b), THE ADMINISTRATOR MAY CORRECT AN ADMINISTRATIVE ERROR MADE BY THE BOARD OF TRUSTEES, THE ADMINISTRATOR, OR THE EMPLOYEES OF THE ASSOCIATION AND MAY MAKE ANY APPROPRIATE CORRECTING ADJUSTMENTS UPON RECEIVING WRITTEN DOCUMENTATION THAT THE ERROR WAS AN ADMINISTRATIVE ERROR OF THE ASSOCIATION AND THAT THE ERROR WAS NOT CAUSED OR CONTRIBUTED TO IN WHOLE OR IN PART BY THE MEMBER, RETIREE, OR OTHER PERSON ELIGIBLE TO RECEIVE PAYMENTS FROM THE ASSOCIATION.

(II) THE ADMINISTRATOR SHALL FILE SUCH REPORTS WITH THE BOARD OF TRUSTEES SETTING FORTH THE ADMINISTRATIVE ERRORS CORRECTED PURSUANT TO THIS PARAGRAPH (b) AS THE BOARD OF TRUSTEES MAY REQUIRE. SUCH CORRECTIONS SHALL BE SUBJECT TO REVIEW BY THE BOARD OF TRUSTEES AFTER WHICH IT MAY TAKE ANY ACTION IT DEEMS APPROPRIATE WITH REGARD TO SUCH ERRORS.

(c) THE BOARD OF TRUSTEES MAY DELEGATE FUNCTIONS THAT A PRUDENT TRUSTEE ACTING IN A LIKE CAPACITY AND FAMILIAR WITH THOSE MATTERS COULD PROPERLY DELEGATE UNDER THE CIRCUMSTANCES. IN SO DOING, THE BOARD SHALL EXERCISE REASONABLE CARE, SKILL, AND CAUTION IN:

(I) SELECTING AN AGENT;

(II) ESTABLISHING THE SCOPE AND TERMS OF THE DELEGATION, CONSISTENT WITH THE PURPOSES AND TERMS OF THE BENEFIT RETIREMENT SYSTEM; AND

(III) PERIODICALLY REVIEWING THE AGENT'S PERFORMANCE AND COMPLIANCE WITH THE TERMS OF THE DELEGATION.

(d) IN PERFORMING A DELEGATED FUNCTION, AN AGENT OWES A DUTY TO THE ASSOCIATION AND TO ITS MEMBERS AND BENEFICIARIES TO COMPLY WITH THE TERMS OF THE DELEGATION AND, IF A FIDUCIARY, TO COMPLY WITH THE DUTIES IMPOSED BY APPLICABLE LAW ON SUCH A FIDUCIARY.

(e) IF THE BOARD OF TRUSTEES OR THE ADMINISTRATOR COMPLIES WITH THIS SUBSECTION (6), THE BOARD OR ADMINISTRATOR, AS THE CASE MAY BE, SHALL NOT BE LIABLE TO THE ASSOCIATION OR TO ITS MEMBERS OR BENEFICIARIES FOR THE DECISIONS OR ACTIONS OF THE AGENT TO WHOM A FUNCTION WAS DELEGATED.

22-64-207. Investments. (1) THE BOARD OF TRUSTEES SHALL HAVE COMPLETE CONTROL AND AUTHORITY TO INVEST THE FUNDS OF THE ASSOCIATION AND SHALL MANAGE AND INVEST SAID FUNDS PURSUANT TO THE STANDARD AND PROVISIONS FOR TRUSTEES SET FORTH IN THE "COLORADO UNIFORM PRUDENT INVESTOR ACT", ARTICLE 1.1 OF TITLE 15, C.R.S., PROVIDED THAT IF THERE SHOULD BE ANY CONFLICT BETWEEN THE PROVISIONS OF SAID "COLORADO UNIFORM PRUDENT INVESTOR ACT" AND THIS PART 2, THE LATTER SHALL CONTROL.

(2) IN INVESTING AND MANAGING ASSETS OF THE ASSOCIATION PURSUANT TO THIS SECTION, THE BOARD OF TRUSTEES SHALL:

(a) CONSIDER, AMONG OTHER CIRCUMSTANCES:

(I) GENERAL ECONOMIC CONDITIONS;

(II) THE POSSIBLE EFFECT OF INFLATION OR DEFLATION;

(III) THE ROLE THAT EACH INVESTMENT OR COURSE OF ACTION PLAYS WITHIN THE OVERALL PORTFOLIO OF THE ASSOCIATION;

(IV) THE EXPECTED TOTAL RETURN FROM INCOME AND THE APPRECIATION OF CAPITAL;

(V) THE ADEQUACY OF FUNDING FOR THE PLAN BASED ON REASONABLE ACTUARIAL FACTORS;

(b) DIVERSIFY THE INVESTMENTS OF THE ASSOCIATION UNLESS THE BOARD OF TRUSTEES REASONABLY DETERMINES THAT, BECAUSE OF SPECIAL CIRCUMSTANCES, IT IS CLEARLY PRUDENT NOT TO DO SO;

(c) MAKE A REASONABLE EFFORT TO VERIFY FACTS RELEVANT TO THE INVESTMENT AND MANAGEMENT OF ASSETS OF THE ASSOCIATION.

(3) THE BOARD OF TRUSTEES SHALL ADOPT A STATEMENT OF INVESTMENT OBJECTIVES AND POLICIES FOR THE ASSOCIATION. THE STATEMENT SHALL INCLUDE THE DESIRED RATE OF RETURN ON ASSETS OVERALL, THE DESIRED RATES OF RETURN AND ACCEPTABLE LEVELS OF RISK FOR EACH ASSET CLASS, ASSET-ALLOCATION GOALS, GUIDELINES FOR THE DELEGATION OF AUTHORITY, AND INFORMATION ON THE TYPES OF REPORTS TO BE USED TO EVALUATE INVESTMENT PERFORMANCE. AT LEAST ANNUALLY, THE BOARD OF TRUSTEES SHALL REVIEW THE STATEMENT AND UPON SUCH REVIEW CHANGE OR REAFFIRM SUCH STATEMENT.

22-64-208. Standard of conduct. (1) THE TRUSTEES OF THE BOARD OF TRUSTEES SHALL BE HELD TO THE STANDARD OF CONDUCT OF A FIDUCIARY SPECIFIED IN SUBSECTION (2) OF THIS SECTION IN THE DISCHARGE OF THEIR FUNCTIONS. THEIR FUNCTIONS SHALL INCLUDE ANY DUTY, OBLIGATION, POWER, AUTHORITY, RESPONSIBILITY, RIGHT, PRIVILEGE, ACTIVITY, OR PROGRAM IN CONNECTION WITH THE ASSOCIATION SPECIFIED IN THIS PART 2.

(2) (a) A TRUSTEE OR OTHER FIDUCIARY SHALL DISCHARGE DUTIES WITH RESPECT TO THE ASSOCIATION:

(I) SOLELY IN THE INTEREST OF THE PARTICIPANTS AND BENEFICIARIES;

(II) FOR THE EXCLUSIVE PURPOSE OF PROVIDING BENEFITS TO PARTICIPANTS AND BENEFICIARIES AND PAYING REASONABLE EXPENSES OF ADMINISTERING THE ASSOCIATION;

(III) WITH THE CARE, SKILL, AND CAUTION UNDER THE CIRCUMSTANCES THEN PREVAILING THAT A PRUDENT PERSON ACTING IN A LIKE CAPACITY AND FAMILIAR WITH THOSE MATTERS WOULD USE IN THE CONDUCT OF AN ACTIVITY OF LIKE CHARACTER AND PURPOSE;

(IV) IMPARTIALLY, TAKING INTO ACCOUNT ANY DIFFERING INTERESTS OF

PARTICIPANTS AND BENEFICIARIES;

(V) INCURRING ONLY COSTS THAT ARE APPROPRIATE AND REASONABLE; AND

(VI) IN ACCORDANCE WITH A GOOD-FAITH INTERPRETATION OF THE LAW GOVERNING THE BENEFIT RETIREMENT SYSTEM.

(b) NOTWITHSTANDING THE PROVISIONS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (2), THE MERE SETTLEMENT OR COMPROMISE OF ANY DISPUTE BY THE BOARD OF TRUSTEES PURSUANT TO THE AUTHORITY GRANTED UNDER SECTION 22-64-206 (4) SHALL NOT, OF ITSELF, CONSTITUTE EVIDENCE OF A VIOLATION OF THE FIDUCIARY DUTIES OF ANY TRUSTEE.

(3) (a) COMPLIANCE BY A TRUSTEE OR OTHER FIDUCIARY WITH THIS PART 2 MUST BE DETERMINED IN LIGHT OF THE FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF THE TRUSTEE'S OR FIDUCIARY'S DECISION OR ACTION AND NOT BY HINDSIGHT.

(b) A TRUSTEE'S INVESTMENT AND MANAGEMENT DECISIONS MUST BE EVALUATED NOT IN ISOLATION BUT IN THE CONTEXT OF THE TRUST PORTFOLIO AS A WHOLE AND AS A PART OF AN OVERALL INVESTMENT STRATEGY HAVING RISK AND RETURN OBJECTIVES REASONABLY SUITED TO THE ASSOCIATION.

(c) UPON TERMINATION OF A RETIREMENT PROGRAM, THE BOARD OF TRUSTEES MAY RETURN TO A PARTICIPATING EMPLOYER ANY ASSETS OF THE PROGRAM REMAINING AFTER ALL LIABILITIES OF THE PROGRAM TO PARTICIPANTS AND BENEFICIARIES HAVE BEEN SATISFIED.

(4) THE MEMBERS OF THE BOARD OF TRUSTEES SHALL NOT ENGAGE IN ANY ACTIVITIES THAT MIGHT RESULT IN A CONFLICT OF INTEREST WITH THEIR FUNCTIONS AS FIDUCIARIES FOR THE ASSOCIATION.

(5) THE MEMBERS OF THE BOARD OF TRUSTEES, THE ADMINISTRATOR, AND ANY EMPLOYEE OF THE ASSOCIATION WHO IS IN A FIDUCIARY POSITION SHALL BE SUBJECT TO AND SHALL MAKE FINANCIAL DISCLOSURES PURSUANT TO ANY APPLICABLE PROVISIONS OF LAW OR OF THE PLAN.

(6) ANY PERSON WHO IS IN A FIDUCIARY POSITION WITH THE ASSOCIATION AND WHO IS ADJUDICATED OF VIOLATING ANY PROVISION OF THIS PART 2 SHALL BE PERSONALLY LIABLE TO PAY TO THE ASSOCIATION AN AMOUNT EQUAL TO THE SUM OF ANY LOSSES RESULTING FROM SUCH VIOLATION AS WELL AS ANY PROFITS MADE BY THE FIDUCIARY THROUGH USE OF ASSETS OF THE ASSOCIATION BY THE FIDUCIARY, AND SUCH FIDUCIARY SHALL BE SUBJECT TO SUCH EQUITABLE OR REMEDIAL RELIEF AS THE COURT DEEMS APPROPRIATE, INCLUDING REMOVAL. THE COURT MAY ENJOIN ANY ACT OR PRACTICE WHICH VIOLATES ANY PROVISION OF THIS PART 2.

22-64-209. Disbursements. DISBURSEMENTS FROM THE ASSOCIATION'S TRUST FUNDS SHALL BE SUBJECT TO THE APPROVAL OF THE BOARD OF TRUSTEES AND SHALL BE MADE ONLY FOR THE BENEFITS, INVESTMENTS, REFUNDS, AND EXPENSES OF THE ASSOCIATION.

22-64-210. Membership - voluntary or required contributions. (1) A BOARD

OF EDUCATION, IN ACCORDANCE WITH FEDERAL TAX LAWS RELATING TO THE QUALIFIED STATUS OF THE PLAN, IS AUTHORIZED TO DETERMINE:

(a) THE EXTENT TO WHICH MEMBERSHIP IN AN ASSOCIATION IS REQUIRED OR VOLUNTARY FOR EMPLOYEES THEN EMPLOYED, FOR FUTURE EMPLOYEES, OR FOR BOTH; AND

(b) THE AMOUNT OR RATE OF CONTRIBUTIONS OF MEMBERS OF THE ASSOCIATION.

22-64-211. Employment after retirement. (1) IF A RETIREE RECEIVING ANY PENSION OR RETIREMENT BENEFIT PAYMENTS UNDER THE PROVISIONS OF THIS PART 2 IS REEMPLOYED AFTER RETIREMENT BY A PARTICIPATING EMPLOYER, THE RETIREE MAY RECEIVE A SALARY OR OTHER COMPENSATION WITHOUT REDUCTION IN THE PENSION OR RETIREMENT BENEFIT PAYMENTS IF:

(a) EMPLOYMENT FOR FULL DAYS AND HALF DAYS DOES NOT EXCEED ONE HUNDRED TEN FULL DAYS DURING THE CALENDAR YEAR;

(b) HOURLY EMPLOYMENT DOES NOT EXCEED SEVEN HUNDRED TWENTY HOURS DURING THE CALENDAR YEAR; AND

(c) EMPLOYMENT CONSISTING OF A COMBINATION OF FULL-DAY, HALF-DAY, AND HOURLY EMPLOYMENT DOES NOT EXCEED ONE HUNDRED TEN FULL DAYS PER CALENDAR YEAR.

(2) FOR PURPOSES OF THIS SECTION, A HALF DAY CONSISTS OF FOUR HOURS AND A FULL DAY CONSISTS OF EIGHT HOURS.

(3) IF SAID RETIREE IS EMPLOYED BY SAID EMPLOYER FOR A PERIOD OF TIME THAT EXCEEDS THE LIMITATIONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE AMOUNT OF PENSION OR RETIREMENT BENEFIT PAYMENTS DUE THE RETIREE SHALL BE REDUCED BY AN AMOUNT EQUAL TO THE COMPENSATION ATTRIBUTABLE TO THE PERIOD THAT EXCEEDS THE LIMITATIONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION. ANY REDUCTION OF PENSION OR RETIREMENT BENEFIT PAYMENTS PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (3) THAT EXCEEDS ONE HUNDRED PERCENT OF THE PENSION OR RETIREMENT BENEFIT PAYMENTS DUE THE RETIREE SHALL BE CARRIED FORWARD TO REDUCE THE AMOUNT OF FUTURE PENSION OR RETIREMENT BENEFIT PAYMENTS. THE ASSOCIATION PAYING SUCH PENSION OR RETIREMENT BENEFIT PAYMENTS MAY TAKE SUCH ACTION AS MAY BE NECESSARY OR CONVENIENT TO PROCESS AND ENFORCE ANY REDUCTION REQUIRED PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (3).

22-64-212. Funds not subject to process. EXCEPT FOR ASSIGNMENTS FOR CHILD SUPPORT PURPOSES AS PROVIDED FOR IN SECTIONS 14-10-118 (1) AND 14-14-107, C.R.S., AS THEY EXISTED PRIOR TO JULY 1, 1996, FOR INCOME ASSIGNMENTS FOR CHILD SUPPORT PURPOSES PURSUANT TO SECTION 14-14-111.5, C.R.S., FOR WRITS OF GARNISHMENT THAT ARE THE RESULT OF A JUDGMENT TAKEN FOR ARREARAGES FOR CHILD SUPPORT OR FOR CHILD SUPPORT DEBT, AND FOR PAYMENTS MADE IN COMPLIANCE WITH A PROPERLY EXECUTED COURT ORDER APPROVING A WRITTEN AGREEMENT ENTERED INTO PURSUANT TO SECTION 14-10-113 (6), C.R.S., NONE OF THE MONEYS, PAYMENTS, OR OTHER BENEFITS MENTIONED IN THIS PART 2 SHALL BE

ASSIGNABLE EITHER IN LAW OR IN EQUITY NOR BE SUBJECT TO EXECUTION, LEVY, ATTACHMENT, GARNISHMENT, OR OTHER LEGAL PROCESS.

22-64-213. Insurance, banking laws not to apply. NONE OF THE LAWS OF THIS STATE REGULATING INSURANCE, INSURANCE COMPANIES, OR BANKING INSTITUTIONS SHALL APPLY TO ANY ASSOCIATION ESTABLISHED OR PROVIDED IN ACCORDANCE WITH THIS PART 2 OR ANY OF ITS TRUST FUNDS.

22-64-214. Liability of member of board of education. NO MEMBER OF ANY BOARD OF EDUCATION PROVIDING A BENEFIT RETIREMENT SYSTEM SHALL BE LIABLE FOR ANY INVESTMENT LOSS OF SUCH SYSTEM, IN THE ABSENCE OF ACTUAL FRAUD BY SUCH MEMBER THAT CAUSES OR SUBSTANTIALLY CONTRIBUTES TO SUCH LOSS. IF, HOWEVER, A MEMBER OF A BOARD OF EDUCATION SERVES AS A MEMBER OF AN ASSOCIATION'S BOARD OF TRUSTEES, SUCH PERSON SHALL BE SUBJECT TO THE STANDARD OF CONDUCT PROVIDED IN SECTION 22-64-208 FOR TRUSTEES WHILE SO SERVING.

22-64-215. Amortization of liabilities. (1) AN AMORTIZATION PERIOD FOR ACCRUED LIABILITIES OF THE ASSOCIATION SHALL BE PROVIDED IN THE PLAN. A MAXIMUM AMORTIZATION PERIOD NOT TO EXCEED THIRTY YEARS SHALL BE DEEMED ACTUARIALLY SOUND. AFTER HAVING RECEIVED AND CONSIDERED A RECOMMENDATION OF THE BOARD OF TRUSTEES, AND WITH THE ADVICE OF THE ACTUARY, THE EMPLOYER OR MEMBER CONTRIBUTION RATES MAY BE ADJUSTED BY THE BOARD OF EDUCATION, IN ITS DISCRETION, WHEN INDICATED BY ACTUARIAL EXPERIENCE, AND IN ACCORDANCE WITH APPLICABLE LAW. IF THE BOARD OF TRUSTEES DOES NOT PROVIDE A RECOMMENDATION OR DOES NOT RESPOND WITHIN A REASONABLE TIME TO A REQUEST FROM THE BOARD OF EDUCATION FOR A RECOMMENDATION, THE BOARD OF EDUCATION MAY PROCEED BASED UPON SUCH ACTUARIAL AND OTHER ADVICE AND INFORMATION REASONABLY AVAILABLE TO IT IN THE CIRCUMSTANCES.

(2) IF AN EMPLOYER PARTICIPATING IN A BENEFIT RETIREMENT SYSTEM CREATED OR EXISTING PURSUANT TO THIS PART 2 SHALL BECOME REQUIRED BY LAW TO PROVIDE RETIREMENT OR OTHER ANALOGOUS BENEFITS TO MEMBERS THROUGH A FEDERALLY-MANDATED SYSTEM, THE BENEFITS PROVIDED TO MEMBERS AT THE EMPLOYER'S EXPENSE PURSUANT TO SUCH FEDERALLY-MANDATED SYSTEM MAY BE CONSIDERED IMPROVEMENTS IN THE BENEFIT RETIREMENT SYSTEM IN THE MANNER AND TO THE EXTENT CONSTITUTIONALLY PERMISSIBLE TO TAKE INTO ACCOUNT THE ADDITIONAL BENEFITS THEREBY PROVIDED TO THE PARTICIPANTS AND BENEFICIARIES OF SUCH RETIREMENT SYSTEM.

22-64-216. Confidentiality. (1) RECORDS OF MEMBERS, FORMER MEMBERS, INACTIVE MEMBERS, AND BENEFIT RECIPIENTS AND THEIR DEPENDENTS THAT SPECIFICALLY IDENTIFY FINANCIAL INFORMATION OF SUCH PERSONS SHALL BE KEPT CONFIDENTIAL BY THE ASSOCIATION.

(2) MEDICAL RECORDS OF MEMBERS, FORMER MEMBERS, INACTIVE MEMBERS, AND BENEFIT RECIPIENTS AND THEIR DEPENDENTS THAT SPECIFICALLY IDENTIFY THE MEDICAL OR PSYCHOLOGICAL STATE OF SUCH PERSONS SHALL BE KEPT CONFIDENTIAL BY THE ASSOCIATION.

(3) A BOARD OF TRUSTEES MAY DELIBERATE ABOUT OR MAKE TENTATIVE OR FINAL DECISIONS ON INVESTMENTS OR OTHER FINANCIAL MATTERS IN EXECUTIVE SESSION IF DISCLOSURE OF THE DELIBERATIONS OR DECISIONS WOULD JEOPARDIZE THE ABILITY TO IMPLEMENT A DECISION OR TO ACHIEVE INVESTMENT OBJECTIVES. AN ASSOCIATION RECORD THAT DISCLOSES DELIBERATIONS ABOUT OR A TENTATIVE OR FINAL DECISION ON INVESTMENTS OR OTHER FINANCIAL MATTERS IS NOT A PUBLIC RECORD TO THE EXTENT THAT ITS DISCLOSURE WOULD JEOPARDIZE THE ABILITY TO IMPLEMENT A DECISION OR TO ACHIEVE INVESTMENT OBJECTIVES.

(4) NOTHING IN THIS SECTION IS INTENDED TO REPEAL OR AFFECT THE PROVISIONS OF SECTION 22-32-103 (2).

22-64-217. Termination. IF THE ASSOCIATION IS TERMINATED OR PARTIALLY TERMINATED FOR ANY REASON, THE RIGHTS OF ALL MEMBERS, FORMER MEMBERS, AND BENEFICIARIES AFFECTED THEREBY TO BENEFITS ACCRUED AND FUNDED TO THE DATE OF TERMINATION SHALL BECOME NONFORFEITABLE.

22-64-218. Employer and member contributions - pickup of employee contributions. (1) EMPLOYERS SHALL FORWARD TO THE ASSOCIATION, BY THE DATE ESTABLISHED BY RULE OF THE BOARD OF TRUSTEES, A MONTHLY CONTRIBUTION REPORT AND THE FULL AMOUNT OF EMPLOYER AND MEMBER CONTRIBUTIONS. SUCH CONTRIBUTIONS SHALL BE BASED UPON THE RATES PROVIDED IN THE PLAN OR CALCULATED IN ACCORDANCE WITH THE APPROPRIATE PLAN PROVISIONS. THIS PROVISION SHALL NOT PREVENT A PARTICIPATING EMPLOYER FROM PREPAYING OR PREFUNDING ITS CONTRIBUTIONS TO THE EXTENT THAT IT DETERMINES TO DO SO.

(2) ALONG WITH SUCH CONTRIBUTIONS, EACH EMPLOYER SHALL FORWARD TO THE ASSOCIATION, BY THE DATE ESTABLISHED IN SUBSECTION (1) OF THIS SECTION, A MONTHLY CONTRIBUTION REPORT CONTAINING ANY MEMBER INFORMATION REQUIRED BY THE BOARD OF TRUSTEES TO PROPERLY CREDIT MONEY TO THE APPROPRIATE RESERVES.

(3) EACH EMPLOYER MAY BE ASSESSED BY THE ASSOCIATION, PURSUANT TO RULES ADOPTED BY THE BOARD OF TRUSTEES, INTEREST ON THE CONTRIBUTIONS IF EITHER CONTRIBUTIONS OR MEMBER INFORMATION IS NOT SUBMITTED BY THE DATE ESTABLISHED IN SUBSECTION (1) OF THIS SECTION.

(4) ANY ASSOCIATION MAY, BY APPROPRIATE PROVISIONS, PROVIDE FOR THE PICKUP OF EMPLOYEE CONTRIBUTIONS BASED UPON COMPENSATION PAID TO EMPLOYEES, AND THE CONTRIBUTIONS SO PICKED UP SHALL BE TREATED AS EMPLOYER CONTRIBUTIONS PURSUANT TO SECTION 414 (h) (2) OF THE "INTERNAL REVENUE CODE OF 1986", AS AMENDED, IN DETERMINING TAX TREATMENT UNDER SUCH CODE. EMPLOYEE CONTRIBUTIONS SO PICKED UP SHALL BE TREATED FOR ALL PURPOSES OF THIS PART 2, OTHER THAN FEDERAL TAX, IN THE SAME MANNER AS EMPLOYEE CONTRIBUTIONS MADE PRIOR TO THE DATE OF THE PICKUP.

22-64-219. Severability. IF ANY PROVISION OF THIS PART 2 OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THE ACT WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THE ACT ARE SEVERABLE.

SECTION 2. Article 64 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-64-122. Provisions superseded by part 2. SECTIONS 22-64-105 TO 22-64-115 SHALL BE SUPERSEDED BY THE PROVISIONS OF PART 2 OF THIS ARTICLE ON AND AFTER THE EFFECTIVE DATE OF SUCH PART 2, EXCEPT THAT SUCH SECTIONS SHALL REMAIN EFFECTIVE AS TO MATTERS AND TRANSACTIONS THAT HAVE OCCURRED PRIOR TO THE EFFECTIVE DATE OF SUCH PART 2.

SECTION 3. Effective date. This act shall take effect on January 1, 2000.

SECTION 4. 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: March 24, 1999