

CHAPTER 259

GOVERNMENT - STATE

SENATE BILL 06-235

BY SENATOR(S) Sandoval, Bacon, Fitz-Gerald, Shaffer, Tupa, Williams, Boyd, Gordon, and Tochtrop;
also REPRESENTATIVE(S) Marshall, Buescher, Benefield, Berens, Borodkin, Butcher, Carroll T., Cloer, Coleman, Crane,
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Romanoff, Schultheis, Stafford, Sullivan, Todd, Vigil, Welker, White, and Witwer.

AN ACT**CONCERNING PUBLIC EMPLOYEES' RETIREMENT BENEFIT PLANS.**

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

SECTION 1. 24-51-101 (25) (b), Colorado Revised Statutes, is amended to read:

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

(25) (b) (I) In calculating highest average salary pursuant to subparagraph (I) of paragraph (a) of this subsection (25), FOR A MEMBER WHO WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006, AND WHO HAS AN EFFECTIVE DATE OF RETIREMENT BEFORE JANUARY 1, 2009, if any annual salary used in said calculation was associated with service credit earned during the last three years of membership, each annual salary increase shall be limited to fifteen percent. This limitation shall not apply to salary decreases.

(II) In calculating highest average salary pursuant to subparagraph (I) of paragraph (a) of this subsection (25), FOR A MEMBER WHO WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006, AND WHO HAS AN EFFECTIVE DATE OF RETIREMENT BEFORE JANUARY 1, 2009, if all annual salaries used in said calculation were associated with service credit earned prior to the last three years of membership, no fifteen percent limit shall be applied to the salary differences.

(III) IN CALCULATING HIGHEST AVERAGE SALARY FOR A MEMBER WHO WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006, AND WHO HAS AN EFFECTIVE DATE OF RETIREMENT ON OR AFTER JANUARY 1, 2009, THE ASSOCIATION

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

SHALL DETERMINE THE HIGHEST ANNUAL SALARIES ASSOCIATED WITH FOUR PERIODS OF TWELVE CONSECUTIVE MONTHS OF SERVICE CREDIT. THE LOWEST OF SUCH ANNUAL SALARIES SHALL BE THE BASE SALARY. THE FIRST ANNUAL SALARY TO BE USED IN THE HIGHEST AVERAGE SALARY CALCULATION SHALL BE THE ACTUAL SALARY REPORTED UP TO ONE HUNDRED FIFTEEN PERCENT OF THE BASE SALARY. THE SECOND ANNUAL SALARY TO BE USED IN THE HIGHEST AVERAGE SALARY CALCULATION SHALL BE THE ACTUAL SALARY REPORTED UP TO ONE HUNDRED FIFTEEN PERCENT OF THE FIRST ANNUAL SALARY USED IN THE HIGHEST AVERAGE SALARY CALCULATION. THE THIRD ANNUAL SALARY TO BE USED IN THE HIGHEST AVERAGE SALARY CALCULATION SHALL BE THE ACTUAL SALARY REPORTED UP TO ONE HUNDRED FIFTEEN PERCENT OF THE SECOND ANNUAL SALARY USED IN THE HIGHEST AVERAGE SALARY CALCULATION.

(IV) IN CALCULATING HIGHEST AVERAGE SALARY FOR A MEMBER WHO WAS NOT A MEMBER, INACTIVE MEMBER OR RETIREE ON DECEMBER 31, 2006, THE ASSOCIATION SHALL DETERMINE THE HIGHEST ANNUAL SALARIES ASSOCIATED WITH FOUR PERIODS OF TWELVE CONSECUTIVE MONTHS OF SERVICE CREDIT. THE LOWEST OF SUCH ANNUAL SALARIES SHALL BE THE BASE SALARY. THE FIRST ANNUAL SALARY TO BE USED IN THE HIGHEST AVERAGE SALARY CALCULATION SHALL BE THE ACTUAL SALARY REPORTED UP TO ONE HUNDRED EIGHT PERCENT OF THE BASE SALARY. THE SECOND ANNUAL SALARY TO BE USED IN THE HIGHEST AVERAGE SALARY CALCULATION SHALL BE THE ACTUAL SALARY REPORTED UP TO ONE HUNDRED EIGHT PERCENT OF THE FIRST ANNUAL SALARY USED IN THE HIGHEST AVERAGE SALARY CALCULATION. THE THIRD ANNUAL SALARY TO BE USED IN THE HIGHEST AVERAGE SALARY CALCULATION SHALL BE THE ACTUAL SALARY REPORTED UP TO ONE HUNDRED EIGHT PERCENT OF THE SECOND ANNUAL SALARY USED IN THE HIGHEST AVERAGE SALARY CALCULATION.

SECTION 2. 24-51-203, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

24-51-203. Board - composition and election. (1) THE BOARD SHALL CONSIST OF THE FOLLOWING FIFTEEN TRUSTEES:

(a) THE STATE TREASURER;

(b) FOUR MEMBERS OF THE STATE DIVISION ELECTED BY THE MEMBERS OF THAT DIVISION, AT LEAST ONE OF WHOM SHALL BE AN EMPLOYEE OF A STATE INSTITUTION OF HIGHER EDUCATION AND AT LEAST ONE OF WHOM SHALL NOT BE AN EMPLOYEE OF A STATE INSTITUTION OF HIGHER EDUCATION UNTIL, ON OR AFTER JANUARY 1, 2007, ONE OF THOSE TRUSTEE POSITIONS, UNLESS IT IS THE SOLE POSITION HELD BY AN EMPLOYEE OF A STATE INSTITUTION OF HIGHER EDUCATION, IS VACATED AND THEREAFTER THERE SHALL BE THREE MEMBERS OF THE STATE DIVISION ELECTED BY THE MEMBERS OF THAT DIVISION, AT LEAST ONE OF WHOM SHALL BE AN EMPLOYEE OF A STATE INSTITUTION OF HIGHER EDUCATION AND AT LEAST ONE OF WHOM SHALL NOT BE AN EMPLOYEE OF A STATE INSTITUTION OF HIGHER EDUCATION;

(c) FIVE MEMBERS OF THE SCHOOL DIVISION ELECTED BY THE MEMBERS OF THAT DIVISION UNTIL, ON OR AFTER JANUARY 1, 2007, ONE OF THOSE TRUSTEE POSITIONS IS VACATED AND THEREAFTER THERE SHALL BE FOUR MEMBERS OF THE SCHOOL DIVISION ELECTED BY THE MEMBERS OF THAT DIVISION;

(d) TWO MEMBERS OF THE LOCAL GOVERNMENT DIVISION ELECTED BY THE MEMBERS OF THAT DIVISION UNTIL, ON OR AFTER JANUARY 1, 2007, ONE OF THOSE TRUSTEE POSITIONS IS VACATED AND THEREAFTER THERE SHALL BE ONE MEMBER OF THE LOCAL GOVERNMENT DIVISION ELECTED BY THE MEMBERS OF THAT DIVISION;

(e) ONE MEMBER OF THE JUDICIAL DIVISION ELECTED BY THE MEMBERS OF THAT DIVISION;

(f) TWO RETIREES, ONE OF WHOM SHALL BE ELECTED BY THOSE MEMBERS WHO HAVE RETIRED FROM THE LOCAL GOVERNMENT DIVISION, THE JUDICIAL DIVISION, OR FROM THE STATE DIVISION AND ONE OF WHOM SHALL BE ELECTED BY THOSE MEMBERS WHO HAVE RETIRED FROM THE LOCAL GOVERNMENT DIVISION, THE JUDICIAL DIVISION, OR THE SCHOOL DIVISION; EXCEPT THAT BOTH RETIREE TRUSTEES CANNOT HAVE RETIRED FROM THE SAME DIVISION; AND

(g) THREE TRUSTEES APPOINTED BY THE GOVERNOR AND CONFIRMED BY THE SENATE WHO SHALL NOT BE MEMBERS, INACTIVE MEMBERS, OR RETIREES OF THE ASSOCIATION AND WHO SHALL HAVE SIGNIFICANT EXPERIENCE AND COMPETENCE IN INVESTMENT MANAGEMENT, FINANCE, BANKING, ECONOMICS, ACCOUNTING, PENSION ADMINISTRATION, OR ACTUARIAL ANALYSIS. OF THE THREE TRUSTEES APPOINTED BY THE GOVERNOR, NO MORE THAN TWO SHALL BE FROM THE SAME POLITICAL PARTY.

(2) THE BOARD SHALL SET THE TIME AND MANNER FOR THE ELECTIONS OF TRUSTEES REPRESENTING MEMBERS AND RETIREES. ELECTED TRUSTEES MAY BE REELECTED TO THE BOARD FOR AN UNLIMITED NUMBER OF TERMS BUT, EXCEPT FOR THE STATE TREASURER, NO TERM FOR ANY TRUSTEE SHALL EXCEED FOUR YEARS.

(3) THE TERM FOR EACH OF THE INITIAL THREE APPOINTED TRUSTEES SHALL BE DETERMINED BY THE GOVERNOR AND SHALL BE STAGGERED WITH A ONE-YEAR TERM, A TWO-YEAR TERM, AND A THREE-YEAR TERM WITH NO TRUSTEE ASSIGNED THE SAME TERM LENGTH. AFTER EACH OF THE INITIAL TERMS CONCLUDE, THE TERM FOR APPOINTED TRUSTEES SHALL BE FOUR YEARS. APPOINTED TRUSTEES MAY BE REAPPOINTED TO THE BOARD FOR AN UNLIMITED NUMBER OF TERMS.

(4) WHEN A VACANCY OCCURS ON THE BOARD AMONG THE ELECTED TRUSTEES, THE PERSON WHO RECEIVED THE NEXT HIGHEST NUMBER OF VOTES IN THE MOST RECENT ELECTION OF TRUSTEES SHALL BE APPOINTED TO SERVE AS TRUSTEE UNTIL THE NEXT ELECTION OF TRUSTEES. IF THE PERSON WHO RECEIVED THE NEXT HIGHEST NUMBER OF VOTES IS UNWILLING TO SERVE AS A TRUSTEE OR IF THE TRUSTEE WHO CREATED THE ABSENCE RAN UNOPPOSED, THE BOARD SHALL APPOINT A TRUSTEE. IN EITHER CASE, THE APPOINTED TRUSTEE SHALL BE FROM THE SAME DIVISION AS THE TRUSTEE WHOSE ABSENCE CREATED THE VACANCY.

(5) WHEN A VACANCY OCCURS AMONG THE THREE APPOINTED TRUSTEES, THE GOVERNOR SHALL APPOINT, WITH CONSENT OF THE SENATE, A NEW TRUSTEE WITH THE EXPERIENCE AND COMPETENCE SPECIFIED IN PARAGRAPH (g) OF SUBSECTION (1) OF THIS SECTION TO SERVE THE REMAINDER OF ANY UNEXPIRED TERM. SUCH APPOINTEE MAY SERVE ON A TEMPORARY BASIS IF THE GENERAL ASSEMBLY IS NOT IN SESSION WHEN HE OR SHE IS APPOINTED UNTIL THE GENERAL ASSEMBLY IS IN SESSION AND THE SENATE IS ABLE TO CONSENT TO SUCH APPOINTMENT.

(6) THE ELECTED TRUSTEES SHALL SERVE WITHOUT COMPENSATION BUT SHALL BE REIMBURSED BY THE ASSOCIATION FOR ANY NECESSARY EXPENSES INCURRED IN THE CONDUCT OF THEIR OFFICIAL DUTIES AND SHALL SUFFER NO LOSS OF SALARY FROM AN EMPLOYER FOR SERVICE ON THE BOARD.

(7) THE APPOINTED TRUSTEES SHALL BE COMPENSATED BY THE ASSOCIATION FOR THEIR SERVICE ON THE BOARD.

(8) 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 ARTICLE OR WHO HAS BEEN CONVICTED OF A FELONY OR ANY CRIME INVOLVING THE MISAPPROPRIATION OF FUNDS.

SECTION 3. 24-51-208 (2) (d) and (2) (f), Colorado Revised Statutes, are amended, and the said 24-51-208 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-208. Allocation of moneys. (2) Within each of the state division, school division, local government division, and judicial division trust funds, the following reserves shall exist:

(d) ~~Deferred retirement benefits reserve;~~

(f) ~~Deferred survivor benefits reserve.~~

(2.5) WITHIN EACH OF THE STATE DIVISION, SCHOOL DIVISION, LOCAL GOVERNMENT DIVISION, AND JUDICIAL DIVISION TRUST FUNDS, AN ANNUAL INCREASE RESERVE SHALL EXIST ON AND AFTER JANUARY 1, 2007.

SECTION 4. 24-51-211, Colorado Revised Statutes, is amended to read:

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

SECTION 5. 24-51-310 (1) (b), Colorado Revised Statutes, is amended to read:

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

(b) University of Colorado president, chancellors, deans, other professionals exempt from the state personnel system, and faculty whose retirement program as determined by the board of regents is provided by social security and the university's qualified retirement plan UNLESS ANY SUCH EMPLOYEE IS AN ELIGIBLE EMPLOYEE AS DEFINED IN SECTION 24-51-1502 (2) (a); except that persons covered by the plan shall remain members.

SECTION 6. 24-51-401 (1.7) (a) and (1.8), Colorado Revised Statutes, are amended to read:

24-51-401. Employer and member contributions. (1.7) (a) Employers shall deliver a contribution report and the full amount of employer and member contributions to the association within five days after the date members and retirees are paid. Except as provided in ~~subsections (1.8) and (7)~~ SUBSECTION (7) of this section and sections 22-64-220 (4) (j), C.R.S., and 24-51-408.5, such contributions shall be based upon the rates for the appropriate division as set forth in the following table multiplied by the salary, as defined in section 24-51-101 (42), paid to members and retirees for the payroll period:

**TABLE A
CONTRIBUTION RATES**

Division	Membership	Employer Rate	Member Rate
State	All Members	10.15%	8.0%
	Except State Troopers	12.85%	10.0%
School	All Members		
	1/1/2006 through 12/31/2012	10.15%	8.0%
	1/1/2013 and thereafter	10.55%	8.0%
Local Government	All Members	10.0%	8.0%
Judicial	All Members	13.66%	8.0%

~~(1.8) If the actuarial value of assets exceeds one hundred ten percent of the actuarial accrued liabilities in any division, as determined by the association's actuary, the division shall be considered overfunded, and employer contribution rates shall be reduced as provided in section 24-51-408.5 (5).~~

SECTION 7. 24-51-402 (3) (a), (3) (b) (I), and (3) (b) (II) (A), Colorado Revised Statutes, are amended to read:

24-51-402. Unpaid contributions for any member - legislative declaration. (3) If an employer fails to provide membership in the association to an individual so entitled pursuant to the provisions of this article or fails to provide the required level of employer contributions for an individual pursuant to the provisions of this article, the following payment shall be made to the association:

(a) If the individual is not a member or inactive member at the time the association first notifies the employer of its claim for unpaid contributions, the employer shall pay the unpaid employer contributions on behalf of the individual for the period contributions should have been made at the contribution rate

applicable during such period, PLUS THE AMORTIZATION EQUALIZATION DISBURSEMENT IN EFFECT PURSUANT TO SECTION 24-51-411 FOR THE PERIOD CONTRIBUTIONS SHOULD HAVE BEEN MADE, plus interest on such employer contributions AND THE AMORTIZATION EQUALIZATION DISBURSEMENT at the applicable actuarial investment assumption rate, as such interest rate is from time to time adjusted, until such contributions are paid. If an employer pays contributions pursuant to this paragraph (a) on behalf of an individual who was not a member or inactive member when the association first notifies the employer and such individual subsequently becomes a member AND COMPLETES ONE YEAR OF EARNED SERVICE CREDIT, the member may purchase service credit for the appropriate time period pursuant to the requirements of section 24-51-503 BY PAYING THE UNPAID MEMBER CONTRIBUTIONS FOR THE PERIOD FOR WHICH CONTRIBUTIONS SHOULD HAVE BEEN MADE AT THE CONTRIBUTION RATE APPLICABLE DURING SUCH PERIOD, PLUS INTEREST ON SUCH MEMBER CONTRIBUTIONS AT THE APPLICABLE ACTUARIAL INVESTMENT ASSUMPTION RATE, AS SUCH INTEREST RATE IS FROM TIME TO TIME ADJUSTED, UNTIL SUCH CONTRIBUTIONS ARE PAID.

(b) (I) If the individual is a member or inactive member at the time the association first notifies the employer of its claim for unpaid contributions, the payment equals the lesser of the following amounts:

(A) For a member, the cost to purchase the appropriate amount of service credit at the rate established pursuant to section 24-51-505, PLUS THE AMORTIZATION EQUALIZATION DISBURSEMENT IN EFFECT PURSUANT TO SECTION 24-51-411 FOR THE PERIOD CONTRIBUTIONS SHOULD HAVE BEEN MADE; and, for an inactive member, the cost to purchase the appropriate amount of service credit at the rate established pursuant to section 24-51-505, based upon the salary at the date of last employment, PLUS THE AMORTIZATION EQUALIZATION DISBURSEMENT THAT SHOULD HAVE BEEN MADE, plus interest at the applicable actuarial investment assumption rate, as such interest rate is from time to time adjusted, from the date of last employment until the date contributions are paid; or

(B) The unpaid employer and member contributions AND AMORTIZATION EQUALIZATION DISBURSEMENT for the period contributions should have been made, plus interest on such employer and member contributions AND THE AMORTIZATION EQUALIZATION DISBURSEMENT at the applicable actuarial investment assumption rate, as such interest rate is from time to time adjusted, until such contributions are paid.

(II) The amounts paid to the association shall be allocated and collected in the following order until the full amount that is owed under subparagraph (I) of this paragraph (b) is reached:

(A) The employer shall first pay the unpaid employer contributions AND AMORTIZATION EQUALIZATION DISBURSEMENT on behalf of the member or inactive member for the period contributions should have been made, plus interest on such employer contributions AND AMORTIZATION EQUALIZATION DISBURSEMENT at the applicable actuarial investment assumption rate, as such interest rate is from time to time adjusted, until such contributions are paid;

SECTION 8. 24-51-405, Colorado Revised Statutes, is amended BY THE

ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

24-51-405. Refund of the member contribution account. (8) AN INDIVIDUAL WHO REFUNDED HIS OR HER MEMBER CONTRIBUTION ACCOUNT PURSUANT TO THIS SECTION AND AGAIN COMMENCES MEMBERSHIP ON OR AFTER JULY 1, 2005, BUT BEFORE JANUARY 1, 2007, WHETHER OR NOT THE INDIVIDUAL PURCHASES ALL OR PART OF THE PERIOD ASSOCIATED WITH THE REFUNDED MEMBER CONTRIBUTION ACCOUNT, SHALL HAVE NO RIGHTS ASSOCIATED WITH MEMBERSHIP PRIOR TO JULY 1, 2005, EXCEPT AS MANDATED BY FEDERAL LAW, AND SUCH INDIVIDUAL SHALL NOT BE CONSIDERED TO HAVE BEEN A MEMBER, INACTIVE MEMBER OR RETIREE ON JUNE 31, 2005.

(9) AN INDIVIDUAL WHO REFUNDED HIS OR HER MEMBER CONTRIBUTION ACCOUNT PURSUANT TO THIS SECTION AND AGAIN COMMENCES MEMBERSHIP ON OR AFTER JANUARY 1, 2007, WHETHER OR NOT THE INDIVIDUAL PURCHASES ALL OR PART OF THE PERIOD ASSOCIATED WITH THE REFUNDED MEMBER CONTRIBUTION ACCOUNT, SHALL NOT HAVE ANY RIGHTS ASSOCIATED WITH MEMBERSHIP PRIOR TO JANUARY 1, 2007, EXCEPT AS MANDATED BY FEDERAL LAW, AND SUCH INDIVIDUAL SHALL NOT BE CONSIDERED TO HAVE BEEN A MEMBER, INACTIVE MEMBER OR RETIREE ON DECEMBER 31, 2006.

SECTION 9. 24-51-411, Colorado Revised Statutes, is amended to read:

24-51-411. Amortization equalization disbursement - repeal. (1) Beginning January 1, 2006, each employer shall deliver to the association an amortization equalization disbursement AND, BEGINNING JANUARY 1, 2008, A SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT pursuant to the same procedures specified for employer contributions in section 24-51-401 (1.7). ~~The disbursement shall be subject to available appropriation as determined by the general assembly. Any such appropriation shall be identified in a separate line item for each department of state government.~~

(2) For the calendar year beginning January 1, 2006, the amortization equalization disbursement shall be one-half of one percent of the employer's total payroll. The amortization equalization payment shall increase by one-half of one percent of total payroll on January 1, 2007, and shall increase by four-tenths of one percent of total payroll at the start of each of the calendar years following 2007 through 2012. ~~except as provided by subsection (3) of this section.~~ For purposes of this section, the employer's total payroll shall be calculated by applying the definition of salary, pursuant to section 24-51-101 (42), to the payroll for all employees working for the employer who are members of the association, or who were eligible to elect to become members of the association on or after January 1, 2006, including any amounts paid in connection with the employment of a retiree by an employer pursuant to ~~part 11 of this article~~ SECTION 24-51-1101 (2).

(3) ~~The total of the amortization equalization disbursement shall not exceed three percent of the employer's total payroll for any calendar year. In the event that the association's actuary determines that the amortization period of the liabilities in the division is in compliance with section 24-51-211, then the amount of the amortization equalization disbursement for that division shall be reduced for the following calendar year to the percentage of total payroll needed to meet the~~

~~standard in section 24-51-211:~~

(3.2) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2008, THE SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT SHALL BE ONE-HALF OF ONE PERCENT OF THE EMPLOYER'S TOTAL PAYROLL. THE SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT SHALL INCREASE BY ONE-HALF OF ONE PERCENT OF TOTAL PAYROLL ON JANUARY 1 OF EACH YEAR FOLLOWING 2008 THROUGH 2013. FOR PURPOSES OF THIS SECTION, THE EMPLOYER'S TOTAL PAYROLL SHALL BE CALCULATED BY APPLYING THE DEFINITION OF SALARY, PURSUANT TO SECTION 24-51-101 (42), TO THE PAYROLL FOR ALL EMPLOYEES WORKING FOR THE EMPLOYER WHO ARE MEMBERS OF THE ASSOCIATION, OR WHO WERE ELIGIBLE TO ELECT TO BECOME MEMBERS OF THE ASSOCIATION ON OR AFTER JANUARY 1, 2006, INCLUDING ANY AMOUNTS PAID IN CONNECTION WITH THE EMPLOYMENT OF A RETIREE BY AN EMPLOYER PURSUANT TO SECTION 24-51-1101 (2).

(3.5) THE AMORTIZATION EQUALIZATION DISBURSEMENT AND THE SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS BY ALL DIVISIONS SHALL CONTINUE UNTIL ADJUSTED PURSUANT TO THIS SUBSECTION (3.5). WHEN THE ACTUARIAL FUNDED RATIO OF A PARTICULAR DIVISION OF THE ASSOCIATION IS ONE HUNDRED PERCENT AS DETERMINED IN THE ANNUAL ACTUARIAL STUDY OF THE ASSOCIATION, THE ACTUARY SHALL DETERMINE THE AMOUNT BY WHICH THE AMORTIZATION EQUALIZATION DISBURSEMENT AND SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT CAN BE REDUCED, IN EQUAL PARTS, FOR THAT PARTICULAR DIVISION AND STILL MAINTAIN THE ACTUARIAL FUNDED RATIO OF THAT DIVISION AT ONE HUNDRED PERCENT. THE AMORTIZATION EQUALIZATION DISBURSEMENT AND SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT SHALL BE REDUCED FOR THAT DIVISION IN THE AMOUNTS DETERMINED BY THE ACTUARY EFFECTIVE JANUARY 1 OF THE FOLLOWING YEAR. AT SUCH TIME AS A DIVISION IS DETERMINED IN THE ANNUAL ACTUARIAL VALUATION TO HAVE REACHED A THIRTY-YEAR OR LESS AMORTIZATION PERIOD OF ITS UNFUNDED LIABILITIES, THE BOARD SHALL CAUSE TO BE CONDUCTED AN ACTUARIAL STUDY TO ASSESS THE AMORTIZATION EQUALIZATION DISBURSEMENT AND THE SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT AND THE BOARD MAY MAKE APPROPRIATE RECOMMENDATIONS TO THE GENERAL ASSEMBLY.

(3.7) FOR STATE EMPLOYERS IN THE STATE DIVISION, FOR THE 2007-08 STATE FISCAL YEAR AND FOR EACH FISCAL YEAR THROUGH THE 2012-13 STATE FISCAL YEAR, FROM THE AMOUNT OF CHANGES TO STATE EMPLOYEES' SALARIES AND ANY ADJUSTMENTS TO THE ANNUAL GENERAL APPROPRIATION ACT PURSUANT TO SECTION 24-50-104, AN AMOUNT EQUAL TO ONE-HALF OF ONE PERCENT OF TOTAL SALARY SHALL BE DEDUCTED AND SUCH AMOUNT SHALL BE UTILIZED BY THE EMPLOYER TO FUND THE SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT. FOR THE SCHOOL, LOCAL GOVERNMENT, AND JUDICIAL DIVISIONS, AND THE REMAINING EMPLOYERS IN THE STATE DIVISION WHO ARE NOT STATE EMPLOYERS, THE SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT SHALL, TO THE EXTENT PERMITTED BY LAW, BE FUNDED BY ALLOCATION OF FUNDS OTHERWISE AVAILABLE FOR USE AS EMPLOYEE COMPENSATION INCREASES PRIOR TO AWARD AS SALARY OR OTHER COMPENSATION TO EMPLOYEES.

(4) Any reduction in the amortization equalization disbursement AND IN THE SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT pursuant to

~~subsection (3)~~ SUBSECTION (3.5) of this section shall be irrevocable. If the ~~entire disbursement becomes~~ DISBURSEMENTS BECOME no longer necessary pursuant to ~~subsection (3)~~ SUBSECTION (3.5) of this section, then the association shall notify the revisor of statutes to repeal this section. MONEYS MADE AVAILABLE DUE TO ANY REDUCTION IN THE SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT PURSUANT TO SUBSECTION (3.5) OF THIS SECTION SHALL, TO THE EXTENT PERMITTED BY LAW, BE ALLOCATED TO EMPLOYEE COMPENSATION INCREASES TO THE EXTENT SUCH SOURCE WAS ORIGINALLY USED BY AN EMPLOYER TO FUND THE SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT.

(5) This section is repealed, effective upon receipt by the revisor of statutes of a notice pursuant to subsection (4) of this section.

SECTION 10. 24-51-502, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-502. Purchased service credit. (3) SERVICE CREDIT PURCHASED PURSUANT TO THIS PART 5 BY MEMBERS WHO WERE MEMBERS, INACTIVE MEMBERS, OR RETIREES ON DECEMBER 31, 2006, SHALL BE SUBJECT TO THE BENEFIT PROVISIONS IN EFFECT FOR THE EXISTING MEMBER CONTRIBUTION ACCOUNT. SERVICE CREDIT PURCHASED PURSUANT TO THIS PART 5 BY MEMBERS WHO WERE NOT MEMBERS, INACTIVE MEMBERS, OR RETIREES ON DECEMBER 31, 2006, SHALL BE SUBJECT TO THE BENEFIT PROVISIONS IN EFFECT FOR SUCH MEMBER AT THE TIME OF THE INITIATION OF PAYMENT OF THE PURCHASE.

SECTION 11. 24-51-503 (2), Colorado Revised Statutes, is amended, and the said 24-51-503 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-503. Purchase of service credit relating to a refunded member contribution account. (2) FOR MEMBERS WHO WERE MEMBERS, INACTIVE MEMBERS, OR RETIREES ON DECEMBER 31, 2006, the cost to purchase the forfeited service credit shall be the amount refunded plus interest accrued from the date of refund to completion of purchase.

(4) FOR MEMBERS WHO WERE NOT MEMBERS, INACTIVE MEMBERS, OR RETIREES ON DECEMBER 31, 2006, THE COST TO PURCHASE THE FORFEITED SERVICE CREDIT SHALL BE THE AMOUNT REFUNDED, PLUS INTEREST ACCRUED FROM THE DATE OF REFUND TO COMPLETION OF PURCHASE, PLUS AN AMOUNT EQUAL TO ONE PERCENT OF THE MEMBER'S HIGHEST AVERAGE SALARY FOR EACH MONTH OR PARTIAL MONTH OF SERVICE CREDIT TO BE PURCHASED. THE HIGHEST AVERAGE SALARY SHALL BE CALCULATED EITHER BASED ON THE SALARY CURRENTLY REFLECTED IN THE MEMBER ACCOUNT OR BY ASSUMING THE MEMBER'S ACCOUNT HAS BEEN CREDITED WITH THE SERVICE CREDIT AND SALARY ASSOCIATED WITH THE FORFEITED SERVICE CREDIT WHICH IS THE SUBJECT OF THE PURCHASE, WHICHEVER IS HIGHER. THE ONE PERCENT OF HIGHEST AVERAGE SALARY FOR EACH MONTH OR PARTIAL MONTH OF SERVICE CREDIT PURCHASED SHALL BE ALLOCATED TO THE ANNUAL INCREASE RESERVE PURSUANT TO PART 10 OF THIS ARTICLE.

SECTION 12. 24-51-505 (3) and (7), Colorado Revised Statutes, are amended to read:

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

(3) The cost to purchase service credit for noncovered employment shall be determined by the board AND SHALL BE SUFFICIENT TO PAY THE ACTUARIAL LIABILITY ASSOCIATED WITH THE PURCHASE.

(7) A portion of the amount paid by a member to purchase service credit related to noncovered employment shall be transferred to the 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 ~~one-tenth~~ TWO-ONE HUNDREDTHS percent of 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).

SECTION 13. 24-51-602 (1) (a.5) and (1) (c), Colorado Revised Statutes, are amended, and the said 24-51-602 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

24-51-602. Service retirement eligibility. (1) (a.5) Notwithstanding paragraph (a) of this subsection (1), any person except a state trooper who ~~becomes a member on or after July 1, 2005, and was not a member, inactive member, or a retiree on July 1, 2005~~ WAS NOT A MEMBER, INACTIVE MEMBER, OR RETIREE ON JUNE 30, 2005, BUT WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006, shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603 (1) (a), (2), and (3) if the member has met the age and service credit requirements stated in the following table:

**TABLE B.05
SERVICE RETIREMENT ELIGIBILITY**

Age Requirement (years)	Service Credit Requirement (years)
Any age	35
55	30
60	20
65	5

(a.7) NOTWITHSTANDING PARAGRAPHS (a) AND (a.5) OF THIS SUBSECTION (1), ANY PERSON EXCEPT A STATE TROOPER WHO WAS NOT A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006, SHALL, UPON WRITTEN APPLICATION AND APPROVAL OF THE BOARD, RECEIVE SERVICE RETIREMENT BENEFITS PURSUANT TO THE BENEFIT FORMULA SET FORTH IN SECTION 24-51-603 (1) (a), (2), AND (3), IF THE MEMBER HAS MET THE AGE AND SERVICE CREDIT REQUIREMENTS STATED IN THE FOLLOWING TABLE:

**TABLE B.07
SERVICE RETIREMENT ELIGIBILITY**

AGE REQUIREMENT (YEARS)	SERVICE CREDIT REQUIREMENT (YEARS)
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ANY AGE	35
55	30
60	25
65	5

(c) MEMBERS WHO WERE MEMBERS, INACTIVE MEMBERS, OR RETIREES ON DECEMBER 31, 2006, AND WHO ARE FIFTY-FIVE YEARS OF AGE OR OLDER SHALL, UPON WRITTEN APPLICATION AND APPROVAL OF THE BOARD, RECEIVE SERVICE RETIREMENT BENEFITS PURSUANT TO THE BENEFIT FORMULA SET FORTH IN SECTION 24-51-603, WITHOUT REDUCTION PURSUANT TO SECTION 24-51-604, IF THEY HAVE AT LEAST FIVE YEARS OF SERVICE CREDIT AND IF THE NUMBER OF YEARS OF THEIR AGE PLUS THE NUMBER OF YEARS OF THEIR SERVICE CREDIT EQUALS EIGHTY YEARS OR MORE.

(d) MEMBERS WHO WERE NOT MEMBERS, INACTIVE MEMBERS OR RETIREES ON DECEMBER 31, 2006, AND WHO ARE FIFTY-FIVE YEARS OF AGE OR OLDER SHALL, UPON WRITTEN APPLICATION AND APPROVAL OF THE BOARD, RECEIVE SERVICE RETIREMENT BENEFITS PURSUANT TO THE BENEFIT FORMULA SET FORTH IN SECTION 24-51-603, WITHOUT REDUCTION PURSUANT TO SECTION 24-51-604, IF THEY HAVE AT LEAST FIVE YEARS OF SERVICE CREDIT AND IF THE NUMBER OF YEARS OF THEIR AGE PLUS THE NUMBER OF YEARS OF THEIR SERVICE CREDIT EQUALS EIGHTY-FIVE YEARS OR MORE.

SECTION 14. 24-51-605 (1)(b), Colorado Revised Statutes, is amended to read:

24-51-605. Benefit formula for reduced service retirement. (1) (b) On and after July 1, 1998, for a member who is not a state trooper and who retires upon reaching fifty-five years of age or older but before reaching sixty years of age, a reduced service retirement benefit shall be the option 1 benefit for service retirement, as calculated according to the formula set forth in section 24-51-603, reduced by:

(I) Three percent for each year and a proportional percentage for each fraction of a year from the effective date of reduced service retirement to the date the member would have REACHED SIXTY YEARS OF AGE, OR THE DATE THE MEMBER WOULD HAVE become eligible for a service retirement pursuant to the provisions of section 24-51-602 (1), IF EARLIER THAN SIXTY YEARS OF AGE; AND

(II) FOUR PERCENT FOR EACH YEAR AND A PROPORTIONAL PERCENTAGE FOR EACH FRACTION OF A YEAR FROM THE DATE THE MEMBER REACHES SIXTY YEARS OF AGE TO THE DATE THE MEMBER WOULD HAVE BECOME ELIGIBLE FOR A SERVICE RETIREMENT PURSUANT TO THE PROVISIONS OF SECTION 24-51-602 (1), IF ON SUCH DATE THE MEMBER WOULD HAVE BEEN OLDER THAN SIXTY YEARS OF AGE.

SECTION 15. 24-51-606 (1), Colorado Revised Statutes, is amended, and the said 24-51-606 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-606. Vested inactive member rights. (1) Any member WHO WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006, who has earned at least five years of service credit and who terminates membership and does not elect to receive a refund pursuant to the provisions of section 24-51-405 shall be

eligible for a benefit to become effective upon reaching the age specified in table B in section 24-51-602 for a service retirement or in table C in section 24-51-604 for a reduced service retirement.

(1.5) ANY MEMBER WHO WAS NOT A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006, WHO HAS EARNED AT LEAST FIVE YEARS OF SERVICE CREDIT AND WHO TERMINATES MEMBERSHIP AND DOES NOT ELECT TO RECEIVE A REFUND PURSUANT TO THE PROVISIONS OF SECTION 24-51-405 SHALL BE ELIGIBLE FOR A BENEFIT TO BECOME EFFECTIVE UPON WRITTEN APPLICATION AND APPROVAL BY THE BOARD AND UPON REACHING THE AGE SPECIFIED IN TABLE B.05, B.07, OR B.1 OF SECTION 24-51-602, AS APPLICABLE, FOR A SERVICE RETIREMENT OR IN TABLE C OF SECTION 24-51-604 FOR A REDUCED SERVICE RETIREMENT. NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION (1.5), FOR SUCH A MEMBER WHO APPLIES FOR RETIREMENT WITHIN NINETY DAYS AFTER THE MEMBER ATTAINS AGE AND SERVICE ELIGIBILITY, THE EFFECTIVE DATE OF RETIREMENT SHALL BE THE DATE THE MEMBER ATTAINS SUCH AGE AND SERVICE ELIGIBILITY.

SECTION 16. 24-51-606.5, Colorado Revised Statutes, is amended to read:

24-51-606.5. Indexation of benefits for vested inactive members. A vested inactive member WHO WAS A MEMBER OR INACTIVE MEMBER ON DECEMBER 31, 2006, who has at least twenty-five years of service credit prior to terminating membership shall be eligible, upon retirement, for a benefit, as calculated pursuant to the provisions of section 24-51-603 or 24-51-605, which has been increased by the annual increase specified in sections 24-51-1001 to 24-51-1003, from the date of termination of membership or July 1, 1993, whichever is later, to the effective date of retirement.

SECTION 17. Part 6 of article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-51-615. Distribution of benefits. DISTRIBUTION OF BENEFITS FROM EACH DIVISION TRUST FUND SHALL BE MADE IN ACCORDANCE WITH SECTION 401(a) (9) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, INCLUDING THE INCIDENTAL DEATH BENEFIT REQUIREMENT IN SECTION 401 (a) (9) (G), AND THE APPLICABLE TREASURY REGULATIONS AND INTERNAL REVENUE SERVICE RULINGS AND OTHER INTERPRETATIONS ISSUED THEREUNDER, INCLUDING TREASURY REGULATIONS SECTIONS 1.401 (a) (9)-2 TO 1.401 (a) (9)-9. THE PROVISIONS OF THIS SECTION SHALL OVERRIDE ANY DISTRIBUTION OPTIONS THAT ARE INCONSISTENT WITH SECTION 401 (a) (9) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, TO THE EXTENT THAT THOSE DISTRIBUTION OPTIONS ARE NOT GRANDFATHERED UNDER TREASURY REGULATIONS SECTION 1.401 (a) (9)-6.

SECTION 18. 24-51-803 (1), Colorado Revised Statutes, is amended to read:

24-51-803. Determination of option 2 or 3 benefits. (1) For service retirement, the calculation of benefits payable pursuant to option 2 or 3, as set forth in section 24-51-801, shall be actuarially determined as of the date the retiree ~~first became~~ **eligible** ATTAINED THE AGE AND SERVICE REQUIREMENTS for service retirement regardless of the effective date of such retirement.

SECTION 19. 24-51-1001 (1), Colorado Revised Statutes, is amended, and the said 24-51-1001 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-1001. Types of benefit increases. (1) FOR BENEFIT RECIPIENTS WHOSE BENEFITS ARE BASED ON THE ACCOUNT OF A MEMBER WHO WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006, annual increases in retirement benefits and survivor benefits shall occur on March 1 if said benefits have been paid for at least three months preceding March 1. Such increases in benefits shall be calculated in accordance with the provisions of sections 24-51-1002 and 24-51-1003 and shall be paid from the division trust funds.

(3) FOR BENEFIT RECIPIENTS WHOSE BENEFITS ARE BASED ON THE ACCOUNT OF A MEMBER WHO WAS NOT A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006, ANNUAL INCREASES IN RETIREMENT BENEFITS AND SURVIVOR BENEFITS, IF ANY, SHALL BE EFFECTIVE WITH THE JULY BENEFIT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-51-1009 AND SHALL BE PAID FROM THE RETIREMENT BENEFITS RESERVE OR THE SURVIVOR BENEFITS RESERVE, AS APPROPRIATE, SO LONG AS THE FOLLOWING REQUIREMENTS ARE SATISFIED:

(a) THE BENEFITS HAVE BEEN PAID TO THE BENEFIT RECIPIENT FOR THE FULL PRECEDING CALENDAR YEAR; AND

(b) THE RETIREE RETIRED WITH A SERVICE RETIREMENT BENEFIT PURSUANT TO SECTION 24-51-602, OR RETIRED WITH A REDUCED SERVICE RETIREMENT BENEFIT PURSUANT TO SECTION 24-51-604 BUT HAS, AS OF JANUARY 1, ATTAINED THE AGE AND SERVICE CREDIT YEARS THAT WHEN COMBINED TOTAL AT LEAST EIGHTY-FIVE YEARS, OR RETIRED WITH A REDUCED SERVICE RETIREMENT BENEFIT PURSUANT TO SECTION 24-51-604 BUT HAS, AS OF JANUARY 1, ATTAINED THE AGE OF SIXTY. NO MINIMUM AGE OR SERVICE CREDIT REQUIREMENT SHALL APPLY TO DISABILITY RETIREES OR SURVIVOR BENEFIT RECIPIENTS.

SECTION 20. 24-51-1002 (1), (1) (a.5) (I), and (1) (a.5) (II), Colorado Revised Statutes, are amended, and the said 24-51-1002 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-1002. Annual percentages to be used. (1) FOR BENEFIT RECIPIENTS WHOSE BENEFITS ARE BASED ON THE ACCOUNT OF A MEMBER WHO WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006, the cumulative increase applied to benefits paid shall be recalculated annually as of March 1 and shall be the total percent derived by multiplying three and one-half percent, compounded annually, times the number of years such benefit has been effective after March 1, 2000. Benefits for vested inactive members with at least twenty-five years of service credit and benefits for survivors of deceased vested inactive members who had at least twenty-five years of service credit shall be increased by the annual increase specified in sections 24-51-1001 to 24-51-1003 under prior law from the date of termination of membership or July 1, 1993, whichever is later, to March 1, 2000, or the date benefits commence, whichever is earlier.

(a.5) (I) Notwithstanding subsection (1) of this section, the increase applied to benefits of persons ~~who become members on or after July 1, 2005, and were not~~

~~members, inactive members, or retirees on July 1, 2005,~~ WHOSE BENEFITS ARE BASED ON THE ACCOUNT OF A MEMBER WHO WAS NOT A MEMBER, INACTIVE MEMBER, OR RETIREE ON JUNE 30, 2005, BUT WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006, shall be the lesser of three percent or the actual increase, as calculated by the United States department of labor, in the national consumer price index for urban wage earners and clerical workers during the calendar year preceding the increase in the benefit. The increase applied to such benefits shall be recalculated annually as of March 1, and shall be the compounded annual percentage of the annual increases applied to such benefits. If the benefit has not been paid during all twelve months of the calendar year preceding March 1, then the annual increase shall be prorated.

(II) Benefits for vested inactive members WHO WERE NOT MEMBERS, INACTIVE MEMBERS, OR RETIREES ON JUNE 30, 2005, BUT WERE MEMBERS, INACTIVE MEMBERS, OR RETIREES ON DECEMBER 31, 2006, with at least twenty-five years of service credit, ~~who become members on or after July 1, 2005, and were not members, inactive members, or retirees on July 1, 2005,~~ as well as benefits for survivors of such deceased vested inactive members who had at least twenty-five years of service credit shall be increased by the annual increase specified in sections 24-51-1001 and 24-51-1003 and subparagraph (I) of this paragraph (a.5), from the date of termination of membership to the date benefits commence.

(3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION AND OF PARAGRAPH (a.5) OF SUBSECTION (1) OF THIS SECTION, THE INCREASE, IF ANY, APPLIED TO THE BENEFITS OF PERSONS WHOSE BENEFITS ARE BASED ON THE ACCOUNT OF A MEMBER WHO WAS NOT A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006, WILL BE CALCULATED AND PAID IN ACCORDANCE WITH SECTION 24-51-1009.

SECTION 21. Part 10 of article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

24-51-1009. Annual increase reserve - creation. (1) EACH YEAR PRIOR TO THE EFFECTIVE DATE OF AN ANNUAL INCREASE, THE BOARD SHALL DETERMINE THE AMOUNT OF THE ANNUAL INCREASE TO BE PAID, IF ANY. IN NO EVENT SHALL THE BOARD AWARD AN ANNUAL INCREASE TO ANY DIVISION THAT EXCEEDS THE AMOUNT PROVIDED FOR IN THIS SECTION.

(2) THE MAXIMUM ANNUAL INCREASE THAT MAY BE AWARDED BY THE BOARD PURSUANT TO SECTION 24-51-1001 (3), SHALL BE DETERMINED BASED ON ANNUAL ACTUARIAL VALUATIONS OF THE ANNUAL INCREASE RESERVE OF EACH DIVISION. EACH YEAR AFTER THE BOARD DETERMINES THE ANNUAL INCREASE AMOUNT, AND PRIOR TO ITS EFFECTIVE DATE, A SUM EQUAL TO THE NET PRESENT VALUE OF THE TOTAL ACTUARIAL COST OF PAYING THE ANNUAL INCREASE TO ALL ELIGIBLE RECIPIENTS SHALL BE REALLOCATED FROM THE ANNUAL INCREASE RESERVES OF EACH DIVISION TO THE RETIREMENT BENEFITS RESERVE OR THE SURVIVOR BENEFITS RESERVE, AS APPROPRIATE. ALL ANNUAL INCREASE PAYMENTS SHALL BE MADE FROM THE RESERVES USED FOR MONTHLY BENEFIT PAYMENTS AND NO ANNUAL INCREASE PAYMENTS SHALL BE MADE FROM THE ANNUAL INCREASE RESERVE.

(3) THE ANNUAL INCREASE RESERVE OF EACH DIVISION SHALL CONTAIN THE

ALLOCATIONS SPECIFIED IN THIS SUBSECTION (3). SUCH AMOUNTS SHALL BE RETAINED IN THE ANNUAL INCREASE RESERVE OF EACH DIVISION UNTIL REMOVED FROM THAT RESERVE PURSUANT TO THIS SECTION. THE ALLOCATIONS SHALL BE AS FOLLOWS:

(a) A PORTION OF THE EMPLOYER CONTRIBUTION SPECIFIED IN SECTION 24-51-401 (1.7) (a) EQUAL TO ONE PERCENT OF THE SALARIES OF MEMBERS WHO WERE NOT MEMBERS, INACTIVE MEMBERS, OR RETIREES ON DECEMBER 31, 2006;

(b) A SUM RECEIVED IN CONNECTION WITH PURCHASED SERVICE CREDIT PURSUANT TO 24-51-503 (3), SPECIFIED AS ANNUAL INCREASE ALLOCATION; AND

(c) A PROPORTIONAL SHARE OF THE INVESTMENT INCOME EARNED ON THE AMOUNTS SPECIFIED IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (3).

(4) AN ACTUARIAL VALUATION SHALL BE CONDUCTED EACH YEAR FOR THE ANNUAL INCREASE RESERVE OF EACH DIVISION, FOR THE PURPOSES OF THIS SECTION. THE ACTUARIAL VALUATION SHALL INCLUDE A DETERMINATION OF THE TOTAL MARKET VALUE OF THE ASSETS IN THE RESERVE AND A CALCULATION OF THE NET PRESENT VALUE OF THE ACTUARIAL LIABILITIES ASSOCIATED WITH PROVIDING EACH OF THE ANNUAL INCREASES DESCRIBED IN PARAGRAPHS (a), (b), AND (c) OF THIS SUBSECTION (4). THE MAXIMUM ANNUAL INCREASE AWARDED BY THE BOARD SHALL BE THE LESSER OF THE FOLLOWING CALCULATIONS:

(a) A PERMANENT INCREASE EQUAL TO THREE PERCENT OF CURRENT BENEFITS PAYABLE TO BENEFIT RECIPIENTS THEN ELIGIBLE FOR AN ANNUAL INCREASE IN ACCORDANCE WITH SECTION 24-51-1001 (3);

(b) A PERMANENT INCREASE OF CURRENT BENEFITS PAYABLE TO BENEFIT RECIPIENTS THEN ELIGIBLE FOR AN ANNUAL INCREASE IN ACCORDANCE WITH SECTION 24-51-1001 (3) THAT IS EQUAL TO THE ACTUAL INCREASE, AS CALCULATED BY THE UNITED STATES DEPARTMENT OF LABOR, IN THE NATIONAL CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS FOR THE YEAR ASSOCIATED WITH THE ACTUARIAL VALUATION OF THE ANNUAL INCREASE RESERVE; OR

(c) A PERMANENT INCREASE OF CURRENT BENEFITS PAYABLE TO BENEFIT RECIPIENTS THEN ELIGIBLE FOR AN ANNUAL INCREASE IN ACCORDANCE WITH SECTION 24-51-1001 (3) THAT WILL EXHAUST TEN PERCENT OF THE YEAR END BALANCE AT MARKET VALUE OF THE ANNUAL INCREASE RESERVE.

(5) NO CALCULATION MADE PURSUANT TO THIS SECTION SHALL CAUSE A REDUCTION IN CURRENT BENEFITS OF ELIGIBLE BENEFIT RECIPIENTS.

24-51-1010. Increase in benefits - actuarial assessment required. (1) BEFORE INCREASING BENEFITS PROVIDED BY THE ASSOCIATION, THE GENERAL ASSEMBLY SHALL CAUSE TO BE CONDUCTED PURSUANT TO SUBSECTION (2) OF THIS SECTION AN ACTUARIAL ASSESSMENT TO ENSURE THAT THE INCREASES IN BENEFITS WOULD NOT CAUSE THE ACTUARIAL VALUE OF ASSETS OF THE ASSOCIATION TO DECLINE BELOW NINETY PERCENT OF THE ACTUARIAL ACCRUED LIABILITIES OF THE ASSOCIATION.

(2) UPON DIRECTION FROM THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL SHALL CONTRACT WITH A PRIVATE PERSON TO CONDUCT AN ACTUARIAL ASSESSMENT OF THE ASSOCIATION. THE ASSESSMENT SHALL BE CONDUCTED TO DETERMINE WHETHER AND TO WHAT EXTENT AN INCREASE IN THE BENEFITS PROVIDED BY THE ASSOCIATION WOULD CAUSE THE ACTUARIAL VALUE OF THE ASSETS OF THE ASSOCIATION TO DECLINE BELOW NINETY PERCENT OF THE ACTUARIAL ACCRUED LIABILITIES OF THE ASSOCIATION. THE ASSESSMENT SHALL BE COMPLETED AND A FINAL REPORT OF ITS FINDINGS AND CONCLUSIONS SHALL BE SUBMITTED TO THE GENERAL ASSEMBLY AS SOON AS PRACTICABLE. THE PERSON CONDUCTING THE ACTUARIAL ASSESSMENT OF THE ASSOCIATION AND SUCH PERSON'S EMPLOYEES SHALL, DURING THE TERM OF THE CONTRACT, HAVE ACCESS TO ANY NECESSARY DOCUMENTS AND INFORMATION IN THE CUSTODY OF THE ASSOCIATION.

SECTION 22. 24-51-1101 (2), Colorado Revised Statutes, is amended to read:

24-51-1101. Employment after service retirement. (2) Salary from the employment, ~~described in subsection (1) of this section~~ ENGAGEMENT, RETENTION, OR OTHER USE OF A SERVICE RETIREE IN AN INDIVIDUAL CAPACITY OR OF ANY ENTITY OWNED OR OPERATED BY A SERVICE RETIREE OR AFFILIATED PARTY BY AN EMPLOYER TO PERFORM ANY SERVICE AS AN EMPLOYEE, CONTRACT EMPLOYEE, CONSULTANT, INDEPENDENT CONTRACTOR, OR THROUGH ANY OTHER ARRANGEMENT, shall be subject to employer contributions but shall not be subject to member contributions except as provided in section 24-51-1103. Salary from employment by a retiree who is serving in a state elected official's position shall not be subject to employer contributions.

SECTION 23. 24-51-1102 (4), Colorado Revised Statutes, is amended to read:

24-51-1102. Reduction of a service retirement benefit - disclosure of service agreements by employers - definitions. (4) For purposes of ~~this part~~ ~~++~~ SUBSECTIONS (1) AND (2) OF THIS SECTION, "employment" ~~of a retiree by an employer" means engagement, hiring, retention, or other use of a service retiree in an individual capacity or of any entity owned or operated by a service retiree or affiliated party by an employer to perform any service as an employee, contract employee, consultant, independent contractor, or through any other arrangement~~ SHALL BE DETERMINED BY THE ASSOCIATION CONSISTENT WITH THE INTERNAL REVENUE SERVICE'S GUIDANCE IN REVENUE RULING 87-41, 1987 - 1 C.B. 296, AS REVISED FROM TIME TO TIME.

SECTION 24. 24-51-1502, Colorado Revised Statutes, is amended to read:

24-51-1502. New state employees - election - definitions. (1) Any eligible employee pursuant to paragraph (a) of subsection (2) of this section shall elect, within sixty days of commencing employment, either to become a member of the association or to participate in a defined contribution plan established pursuant to part 2 of article 52 of this title OR, FOR ELIGIBLE EMPLOYEES OF ANY STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7) AND ANY INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO, A DEFINED CONTRIBUTION PLAN ESTABLISHED FOR SUCH EMPLOYEE BY SUCH COLLEGE, UNIVERSITY, OR INSTITUTION. If an employee does not make such election

within the sixty-day period, the employee shall become a member of the association.

(2) (a) For purposes of this part 15, "eligible employee" means an employee of an employer as defined in section 24-52-202 (5), OTHER THAN A STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7) AND ANY INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO, who is hired on or after January 1, 2006, and who, if not commencing employment in a state elected official's position, has not been a member of the association or an active participant in a defined contribution plan established pursuant to part 2 of article 52 of this title during the twelve months prior to the date that he or she commences employment. EFFECTIVE JANUARY 1, 2008, "ELIGIBLE EMPLOYEE" SHALL ALSO INCLUDE AN EMPLOYEE OF A STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7) AND ANY INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO WHO IS HIRED ON OR AFTER JANUARY 1, 2008, AND WHO HAS NOT BEEN A MEMBER OF THE ASSOCIATION OR AN ACTIVE PARTICIPANT IN A DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO PART 2 OF ARTICLE 52 OF THIS TITLE OR ACTIVE PARTICIPANT IN A DEFINED CONTRIBUTION PLAN ESTABLISHED BY SUCH COLLEGE, UNIVERSITY, OR INSTITUTION DURING THE TWELVE MONTHS PRIOR TO THE DATE THAT HE OR SHE COMMENCES EMPLOYMENT. "Eligible employee" includes a retiree of the association who is serving in a state elected official's position, but does not include any other retiree of the association or a retiree of the association who has suspended benefits.

(b) An employee who is covered by a defined contribution plan pursuant to article 54.6 of this title or who is an employee of ~~any state college or university as defined in section 24-54.5-102 (7), any institution under the control of the board of regents of the university of Colorado, or an institution governed pursuant to part 5 of article 21 of title 23, C.R.S.,~~ shall not be eligible to make the election pursuant to subsection (1) of this section.

SECTION 25. 24-51-1503, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-1503. Defined contribution plan option. (3) (a) AN ELIGIBLE EMPLOYEE WHO IS A MEMBER, INACTIVE MEMBER, OR RETIREE OF THE DEFINED BENEFIT PLAN ON DECEMBER 31, 2006, AND ELECTS TO PARTICIPATE IN OR IS AUTOMATICALLY ENROLLED IN THE ASSOCIATION'S DEFINED BENEFIT PLAN, OR WHO MAKES AN ELECTION PURSUANT TO SECTION 24-51-1506 (1) TO BECOME A MEMBER OF THE ASSOCIATION'S DEFINED BENEFIT PLAN, SHALL BE SUBJECT TO THE BENEFIT PROVISIONS IN EFFECT FOR THE EXISTING MEMBER CONTRIBUTION ACCOUNT.

(b) AN ELIGIBLE EMPLOYEE WHO ELECTS TO PARTICIPATE IN THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN AND IS NOT A MEMBER, INACTIVE MEMBER, OR RETIREE OF THE DEFINED BENEFIT PLAN ON DECEMBER 31, 2005, AND SUBSEQUENTLY BECOMES A MEMBER OF THE ASSOCIATION'S DEFINED BENEFIT PLAN SHALL BE SUBJECT TO THE BENEFIT PROVISIONS IN EFFECT AT THE TIME THE EMPLOYEE BECOMES A MEMBER OF THE ASSOCIATION'S DEFINED BENEFIT PLAN. ANY SERVICE CREDIT PURCHASED FOR THE PERIOD OF EMPLOYMENT COVERED BY THE DEFINED CONTRIBUTION PLAN SHALL BE SUBJECT TO THE BENEFIT PROVISIONS IN EFFECT FOR SUCH MEMBER AT THE TIME OF THE COMMENCEMENT OF THE

PURCHASE.

SECTION 26. Part 15 of article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-51-1511. Limitation on actions by eligible employees. ADMINISTRATIVE ACTIONS OR CIVIL ACTIONS BROUGHT BY EMPLOYEES TO DISPUTE THE ELECTION FOR PARTICIPATION OR FAILURE TO ELECT PARTICIPATION IN THE ASSOCIATION'S DEFINED BENEFIT PLAN, THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN, OR THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO PART 2 OF ARTICLE 52 OF THIS TITLE SHALL COMMENCE WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE ELECTION OR WITHIN ONE HUNDRED EIGHTY DAYS OF THE LAST DAY ON WHICH THE EMPLOYEE MAY MAKE AN ELECTION TO PARTICIPATE IN SUCH PLAN PURSUANT TO THIS ARTICLE AND ARTICLE 52 OF THIS TITLE, WHICHEVER IS EARLIER, AND NOT THEREAFTER.

SECTION 27. 24-52-202 (3) and (5), Colorado Revised Statutes, are amended to read:

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

(3) "Eligible employee" means a member of the general assembly, the governor, the lieutenant governor, the attorney general, the chief deputy attorney general, the solicitor general, the secretary of state, the deputy secretary of state, the state treasurer, the deputy state treasurer, a district attorney, an assistant district attorney, a chief deputy district attorney, a deputy district attorney, or other employee of a district attorney, a member of the public utilities commission, an executive director of a department of state appointed by the governor, an employee of the senate or the house of representatives, a nonclassified employee of the office of the governor, and any employee who commences employment with an employer, OTHER THAN A STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7) AND ANY INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO, on or after January 1, 2006, and who, if not commencing employment in a state elected official's position, has not been a member of the association's defined benefit plan or defined contribution plan during the twelve months prior to the date that he or she commenced employment, for whom a defined contribution plan has been established pursuant to the provisions of this part 2. EFFECTIVE JANUARY 1, 2008, "ELIGIBLE EMPLOYEE" SHALL ALSO INCLUDE ANY EMPLOYEE WHO COMMENCES EMPLOYMENT WITH A STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7) AND ANY INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO ON OR AFTER JANUARY 1, 2008, AND WHO HAS NOT BEEN A MEMBER OF THE ASSOCIATION'S DEFINED BENEFIT PLAN OR DEFINED CONTRIBUTION PLAN OR AN ACTIVE PARTICIPANT IN A DEFINED CONTRIBUTION PLAN ESTABLISHED BY SUCH COLLEGE, UNIVERSITY, OR INSTITUTION DURING THE TWELVE MONTHS PRIOR TO THE DATE THAT HE OR SHE COMMENCED EMPLOYMENT, FOR WHOM A DEFINED CONTRIBUTION PLAN HAS BEEN ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS PART 2. "Eligible employee" includes a retiree of the association who is serving in a state elected official's position, but does not include any other retiree of the association or a retiree of the association who has suspended benefits.

(5) "Employer" means the state, the general assembly, the office of a district attorney in a judicial district, and any state department that employs an eligible employee AND ANY STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7) AND ANY INSTITUTION UNDER CONTROL OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO. "Employer" shall not include ~~any state college or university as defined in section 24-54.5-102 (7), any institution under the control of the board of regents of the university of Colorado, or an institution governed pursuant to part 5 of article 21 of title 23, C.R.S.~~

SECTION 28. 24-52-205 (2.5) (a), Colorado Revised Statutes, is amended to read:

24-52-205. Participation. (2.5) (a) Notwithstanding the provisions of paragraph (b) of this subsection (2.5), any employee who becomes an eligible employee on or after January 1, 2006, shall make an irrevocable written election within sixty days of commencing employment in such position to participate in the association or in a defined contribution plan in which the employee is eligible to participate pursuant to the provisions of this part 2 OR, FOR ELIGIBLE EMPLOYEES OF A STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7) AND ANY INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO, A DEFINED CONTRIBUTION PLAN ESTABLISHED FOR SUCH EMPLOYEES BY SUCH COLLEGE, UNIVERSITY, OR INSTITUTION. In the absence of such written election, such person shall be a member of the association.

SECTION 29. Part 2 of article 52 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-52-209. Limitation of actions by eligible employees. ADMINISTRATIVE ACTIONS OR CIVIL ACTIONS BROUGHT BY EMPLOYEES TO DISPUTE THE ELECTION FOR PARTICIPATION OR FAILURE TO ELECT PARTICIPATION IN THE ASSOCIATION'S DEFINED BENEFIT PLAN, THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN, OR THE DEFINED CONTRIBUTION PLAN CREATED PURSUANT TO THIS PART 2 SHALL COMMENCE WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE ELECTION OR WITHIN ONE HUNDRED EIGHTY DAYS OF THE LAST DAY ON WHICH THE EMPLOYEE MAY MAKE AN ELECTION TO PARTICIPATE IN SUCH PLANS PURSUANT TO THIS ARTICLE AND ARTICLE 51 OF THIS TITLE , WHICHEVER IS EARLIER, AND NOT THEREAFTER.

SECTION 30. 24-54.5-105 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-54.5-105. Participation. (2) (b.5) NOTWITHSTANDING PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (2), ANY ELIGIBLE EMPLOYEE WHO IS INITIALLY APPOINTED TO AN ELIGIBLE POSITION ON OR AFTER THE LATER OF JANUARY 1, 2008, OR THE EFFECTIVE DATE OF THE ESTABLISHMENT OF ONE OR MORE OPTIONAL RETIREMENT PLANS AT SUCH ELIGIBLE EMPLOYEE'S EMPLOYER INSTITUTION SHALL ELECT, WITHIN THIRTY DAYS AFTER SUCH APPOINTMENT, EITHER:

(I) TO JOIN THE ASSOCIATION OR THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO PART 2 OF ARTICLE 52 OF THIS TITLE IN ACCORDANCE WITH THE PROVISIONS OF THE LAWS APPLICABLE THERETO; OR

(II) TO PARTICIPATE IN AN OPTIONAL RETIREMENT PLAN ESTABLISHED BY THE ELIGIBLE EMPLOYEE'S EMPLOYING INSTITUTION PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

SECTION 31. 24-54.5-106 (2), Colorado Revised Statutes, is amended, and the said 24-54.5-106 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-54.5-106. Public employees' retirement association - ineligibility. (2) ~~Any eligible employee who participates in an optional retirement plan established for such eligible employee's employing institution shall be ineligible for membership in the association so long as such eligible employee is employed in any eligible position by a state college or university.~~ In the event an optional retirement plan participant accepts a government position for which an optional retirement plan is not available, such participant shall cease participation in the optional retirement plan at the time of termination of employment in an eligible position and shall begin participation in the association to the extent that participation in the association is otherwise required by law.

(3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, ELIGIBLE EMPLOYEES OF STATE COLLEGES AND UNIVERSITIES WHO ARE INITIALLY APPOINTED TO AN ELIGIBLE POSITION ON OR AFTER JANUARY 1, 2008, FOR WHICH NO OPTIONAL RETIREMENT PLAN HAS BEEN ESTABLISHED SHALL PARTICIPATE IN PLANS AS PROVIDED IN PART 15 OF ARTICLE 51 OR PART 2 OF ARTICLE 52 OF THIS TITLE.

SECTION 32. Effective date. This act shall take effect upon passage; except that section 2 of this act shall take effect on January 1, 2007, and sections 5, 24, 27, 28, 30, and 31 of this act shall take effect on January 1, 2008.

SECTION 33. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 25, 2006