

CHAPTER 288

GOVERNMENT - STATE

SENATE BILL 09-282

BY SENATOR(S) Sandoval and Spence, Bacon, Foster, Groff, Hudak, Veiga, Boyd;
also REPRESENTATIVE(S) Kerr A., Benefield, Court, Ferrandino, Frangas, Judd, Labuda, Levy, Massey, McCann, Merrifield,
Miklosi, Scanlan, Schafer S., Solano, Summers, Apuan, Kagan, McFadyen, Middleton, Pace, Peniston, Todd, Vigil, Carroll T.

AN ACT**CONCERNING THE MERGER OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM WITH THE
PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION.**

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

SECTION 1. The introductory portion to 24-51-101 and 24-51-101 (18), (20), (29), and (42), Colorado Revised Statutes, are amended, and the said 24-51-101 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-51-101. Definitions. As used in this article, unless the context otherwise requires AND EXCEPT AS OTHERWISE DEFINED IN PART 17 OF THIS ARTICLE:

(18) "Division" means the state, school, local government, ~~or~~ judicial, OR DENVER PUBLIC SCHOOLS division, each of which is identified by a separate trust fund, amortization period, and membership.

(18.2) "DPS" MEANS DENVER PUBLIC SCHOOLS.

(18.3) "DPS MEMBER" MEANS ANY PERSON WHO HAS AN EXISTING MEMBER ACCOUNT IN THE DPS PLAN ON DECEMBER 31, 2009, OR HAS AN EXISTING MEMBER ACCOUNT BASED ON SERVICE PERFORMED PRIOR TO JANUARY 1, 2010, FOR WHICH SUCH MEMBER RECEIVED COMPENSATION ON OR AFTER JANUARY 1, 2010.

(18.5) "DPS PLAN" MEANS THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM RETIREMENT AND BENEFIT PLAN ENACTED BY THE DENVER PUBLIC SCHOOLS BOARD OF EDUCATION PURSUANT TO SECTION 22-64-202, C.R.S., AND GOVERNED BY ARTICLE 64 OF TITLE 22 AND RELATED PLAN DOCUMENTS, AS AMENDED, FROM

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

INCEPTION TO THE REPEAL OF SAID ARTICLE. AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (18.5), THE DPS PLAN MAY BE AMENDED SOLELY FOR THE PURPOSES OF COMPLYING WITH THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND SUCH AMENDMENTS SHALL BE INCLUDED IN THE DPS PLAN.

(18.7) "DPS RETIREE" MEANS A PERSON WHO IS RECEIVING A SERVICE RETIREMENT OR DISABILITY BENEFIT FROM THE ASSOCIATION PURSUANT TO PART 17 OF THIS ARTICLE.

(20) "Employer" means the state of Colorado, the general assembly, any state department, board, commission, bureau, agency, or institution, the Colorado association of school boards, the Colorado high school activities association, the Colorado association of school executives, the fire and police pension association, the special districts association, the Colorado water resources and power development authority, the public employees' retirement association, the Colorado consortium for earth and space science education, all school districts in Colorado, ~~except, until the effective date of the merger described in sections 22-64-220 (4) (a) and 22-64-221, C.R.S., in the city and county of Denver including a charter school district,~~ and any political subdivision, city, municipality, county, housing authority, special district, library district, regional planning commission, public hospital, county or district health department, state university, state college, state junior college, or other public entity that is affiliated with the plan.

(29) "Member" means any employee of an employer defined in subsection (20) of this section who works in a position which is subject to membership in the association and for whom contributions are made. "Member" includes such employee during leaves of absence without pay during which the employer-employee relationship continues if the period of leave is certified to the association by the employer. "MEMBER" ALSO INCLUDES ANY PERSON HIRED BY AN EMPLOYER AFFILIATED WITH THE DENVER PUBLIC SCHOOLS DIVISION WHO IS NOT A DPS MEMBER, UNLESS OTHERWISE INDICATED. "Member" does not include persons who have terminated employment or died.

(34.5) "PORTABILITY" MEANS THE PROVISIONS OF SECTION 24-51-1747.

(42) (a) "Salary" means compensation for services rendered to an employer and includes: Regular salary or pay; any pay for administrative, sabbatical, annual, sick, vacation, or personal leave; pay for compensatory time or holidays; payments by an employer from grants; amounts deducted from pay pursuant to tax-sheltered savings or retirement programs; amounts deducted from pay for a health savings account as defined in 26 U.S.C. sec. 223, as amended, or any other type of retirement health savings account program; performance or merit payments, if approved by the board; special pay for work-related injuries paid by the employer prior to termination of membership; and retroactive salary payments pursuant to court orders, arbitration awards, or litigation and grievance settlements.

(b) "Salary" does not include: Commissions; compensation for unused sick leave converted at any time to cash payments; compensation for unused sick, annual, vacation, administrative, or other accumulated paid leave contributed to a health savings account as defined in 26 U.S.C. sec. 223, as amended, or a retirement health savings program; housing allowances; uniform allowances; automobile usage;

insurance premiums; dependent care assistance; reimbursement for expenses incurred; tuition or any other fringe benefits, regardless of federal taxation; bonuses for services not actually rendered, including, but not limited to, early retirement inducements, Christmas bonuses, cash awards, honorariums and severance pay, damages, except for retroactive salary payments paid pursuant to court orders or arbitration awards or litigation and grievance settlements, or payments beyond the date of a member's death.

(c) COMPENSATION RECEIVED BY DPS MEMBERS ON OR BEFORE DECEMBER 31, 2009, SHALL BE GOVERNED BY PART 17 OF THIS ARTICLE FOR PURPOSES OF DETERMINING INCLUDABLE SALARY. ON AND AFTER JANUARY 1, 2010, COMPENSATION RECEIVED BY DPS MEMBERS SHALL BE GOVERNED BY PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (42) FOR PURPOSES OF DETERMINING INCLUDABLE SALARY. ANY ADJUSTMENTS TO COMPENSATION SHALL BE GOVERNED BY THE PROVISIONS IN EFFECT FOR THE PERIOD FOR WHICH THE ADJUSTMENT APPLIED.

SECTION 2. 24-51-201 (2) (c) and (2) (d), Colorado Revised Statutes, are amended, and the said 24-51-201 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

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

(c) The local government division; ~~and~~

(d) The judicial division; AND

(e) THE DENVER PUBLIC SCHOOLS DIVISION.

SECTION 3. 24-51-203, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-203. Board - composition and election. (1.5) IN ADDITION TO THE BOARD MEMBERS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THERE SHALL BE ONE EX OFFICIO BOARD MEMBER FROM THE DENVER PUBLIC SCHOOLS DIVISION. THE FIRST TERM OF THE EX OFFICIO BOARD MEMBER APPOINTED PURSUANT TO THIS SUBSECTION (1.5) SHALL BE FROM THE EFFECTIVE DATE OF THIS SUBSECTION (1.5) UNTIL DECEMBER 31, 2009, AND THE PERSON TO SERVE SUCH TERM SHALL BE APPOINTED BY THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM BOARD OF TRUSTEES. THE SECOND TERM OF THE EX OFFICIO MEMBER SHALL BE FROM JANUARY 1, 2010, THROUGH JUNE 30, 2012, AND THE PERSON TO SERVE SUCH TERM SHALL BE APPOINTED BY THE DENVER PUBLIC SCHOOLS BOARD OF EDUCATION. THE EX OFFICIO BOARD MEMBER TO SERVE FOR THE TERM STARTING JULY 1, 2012, AND EACH TERM THEREAFTER SHALL BE ELECTED BY THE DENVER PUBLIC SCHOOLS DIVISION THROUGH A DENVER PUBLIC SCHOOLS DIVISION MEMBER ELECTION ADMINISTERED BY THE ASSOCIATION. THE DENVER PUBLIC SCHOOLS DIVISION EX OFFICIO MEMBER POSITION SHALL EXIST SO LONG AS THE DENVER PUBLIC SCHOOLS DIVISION REMAINS AS A SEPARATE DIVISION OF THE ASSOCIATION. THE DENVER PUBLIC SCHOOLS DIVISION EX OFFICIO MEMBER SHALL BE A MEMBER OR RETIREE OF THE DENVER PUBLIC SCHOOLS DIVISION AND SHALL BE TREATED LIKE ALL OTHER MEMBERS OF

THE BOARD, SUBJECT TO THE FOLLOWING:

(a) THE EX OFFICIO MEMBER MAY SIT WITH THE BOARD AND PARTICIPATE IN DISCUSSIONS OF AGENDA ITEMS, BUT SHALL NOT BE ALLOWED TO VOTE ON ANY MATTER COMING BEFORE THE BOARD OR ANY COMMITTEE OF THE BOARD, OR TO MAKE ANY MOTION REGARDING ANY MATTER BEFORE THE BOARD OR ANY COMMITTEE OF THE BOARD;

(b) THE EX OFFICIO MEMBER MAY BE REIMBURSED FOR HIS OR HER ACTUAL AND NECESSARY EXPENSES INCURRED IN THE EXECUTION OF HIS OR HER DUTIES AS AN EX OFFICIO MEMBER OF THE BOARD, SUBJECT TO THE SAME REQUIREMENTS AND RESTRICTIONS AS APPLY TO REIMBURSEMENT OF EXPENSES OF STATUTORY MEMBERS OF THE BOARD;

(c) THE EX OFFICIO MEMBER'S FIDUCIARY OBLIGATIONS AND RESPONSIBILITIES SHALL BE THE SAME AS ANY OTHER BOARD MEMBER, SHALL FLOW TO THE ENTIRE ASSOCIATION MEMBERSHIP, AND ARE NOT LIMITED TO THOSE OF THE DENVER PUBLIC SCHOOLS DIVISION;

(d) THE EX OFFICIO MEMBER SHALL BE PROVIDED THE SAME BOARD AND COMMITTEE MEETING MATERIALS AS ARE PROVIDED TO OTHER MEMBERS OF THE BOARD, INCLUDING ANY INFORMATION THAT MAY BE DEEMED CONFIDENTIAL;

(e) THE EX OFFICIO MEMBER SHALL BE ALLOWED TO PARTICIPATE IN OR ATTEND EXECUTIVE OR CLOSED SESSIONS OF THE BOARD OR OF ANY COMMITTEE OF THE BOARD SUBJECT TO ALL ASSOCIATION BOARD RULES, REGULATIONS, AND POLICIES, INCLUDING, BUT NOT LIMITED TO, CONFIDENTIALITY AND CONFLICT OF INTEREST;

(f) THE EX OFFICIO MEMBER MAY NOT BE ELECTED AS AN OFFICER OF THE BOARD;

(g) AT THE REQUEST OF THE EX OFFICIO MEMBER, THE CHAIR OF THE BOARD MAY APPOINT THE EX OFFICIO MEMBER AS AN EX OFFICIO MEMBER OF ANY STANDING COMMITTEE OF THE BOARD;

(h) THE EX OFFICIO MEMBER SHALL BE ALLOWED TO ATTEND AND PARTICIPATE IN ANY OPEN MEETING DISCUSSION AT ANY BOARD OR COMMITTEE MEETING; AND

(i) THE EX OFFICIO MEMBER SHALL OBSERVE ALL RULES, REGULATIONS, AND POLICIES APPLICABLE TO MEMBERS OF THE BOARD AND ANY OTHER CONDITIONS, RESTRICTIONS, OR REQUIREMENTS ESTABLISHED OR DIRECTED BY VOTE OF A MAJORITY OF THE MEMBERS OF THE BOARD.

SECTION 4. 24-51-204 (10), Colorado Revised Statutes, is amended, and the said 24-51-204 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-204. Duties of the board. (10) The board shall perform all duties imposed on it by law, INCLUDING BUT NOT LIMITED TO ADMINISTERING THE PROVISIONS OF THE DPS PLAN FOR QUALIFYING DPS MEMBERS. The board shall not be liable for actions of members ~~which~~ THAT do not comply with court orders.

(11) THE BOARD SHALL BE IMMUNE FROM CLAIMS ARISING FROM THE ENFORCEMENT AND IMPLEMENTATION OF LAWS REGARDING THE CONSOLIDATION OR MERGER OF RETIREMENT PLANS UNDER ITS ADMINISTRATION THAT ARE MADE A PART OF THE ASSOCIATION.

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

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

SECTION 6. 24-51-207 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-51-207. Standard of conduct. (2) (c) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2), THE CONSOLIDATION OR MERGER OF A PLAN CREATED UNDER PART 2 OF ARTICLE 64 OF TITLE 22, C.R.S., PRIOR TO ITS REPEAL IN 2010, INTO THE ASSOCIATION AND THE BOARD'S ADMINISTRATION OF THAT DIVISION FOLLOWING THE EFFECTIVE DATE OF THE MERGER SHALL NOT BE CONSIDERED A BREACH OF THE BOARD'S DUTIES OR STANDARDS OF CONDUCT. NO CLAIMS SHALL LIE AGAINST THE BOARD, ASSOCIATION, OR THE TRUSTEES ARISING FROM THE CONSOLIDATION OR MERGER OR THE SPECIFIC TERMS IMPOSED BY LAW.

SECTION 7. 24-51-208 (1) (f), the introductory portion to 24-51-208 (2), and 24-51-208 (2.5), Colorado Revised Statutes, are amended, and the said 24-51-208 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

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

(d.5) THE DENVER PUBLIC SCHOOLS DIVISION TRUST FUND, WHICH CONSISTS OF CONTRIBUTIONS, PAYMENTS, AND INTEREST PAID BY MEMBERS, DPS MEMBERS, AND EMPLOYERS OF THE DENVER PUBLIC SCHOOLS DIVISION, IN ADDITION TO THE PROPORTIONAL SHARE OF INVESTMENT INCOME EARNED THEREON AND THE ASSETS OF THE DPS PLAN TRUST FUNDS AS OF JANUARY 1, 2010;

(f) The health care trust fund, created pursuant to the provisions of ~~section 24-51-1201~~ SECTION 24-51-1201 (1), which consists of a portion of the employer contributions equal to one and two one-hundredths percent of member salaries; a portion of the amount paid by members to purchase service credit relating to noncovered employment as determined pursuant to section 24-51-505 (7); thirty percent of the amount of any reduction in the employer contribution rates as determined in section 24-51-408.5 (5) to amortize any overfunding in each division's trust fund; deductions of premium amounts from monthly benefits of participating

benefit recipients; premiums paid directly to the trust fund by participating benefit recipients, members, and dependents; monthly payments made by employers on behalf of participating benefit recipients, members, and dependents; and interest; in addition to a proportional share of investment income earned thereon;

(f.5) THE DENVER PUBLIC SCHOOLS DIVISION HEALTH CARE TRUST FUND, CREATED PURSUANT TO THE PROVISIONS OF SECTION 24-51-1201 (2), WHICH CONSISTS OF A PORTION OF THE EMPLOYER CONTRIBUTIONS EQUAL TO ONE AND TWO ONE-HUNDREDTHS PERCENT OF MEMBER SALARIES; A PORTION OF THE AMOUNT PAID BY MEMBERS TO PURCHASE SERVICE CREDIT RELATING TO NONCOVERED EMPLOYMENT AS DETERMINED PURSUANT TO SECTION 24-51-505 (7); DEDUCTIONS OF PREMIUM AMOUNTS FROM MONTHLY BENEFITS OF PARTICIPATING BENEFIT RECIPIENTS; PREMIUMS PAID DIRECTLY TO THE TRUST FUND BY PARTICIPATING BENEFIT RECIPIENTS, MEMBERS, AND DEPENDENTS; MONTHLY PAYMENTS MADE BY EMPLOYERS ON BEHALF OF PARTICIPATING BENEFIT RECIPIENTS, MEMBERS, AND DEPENDENTS; AND INTEREST; IN ADDITION TO A PROPORTIONAL SHARE OF INVESTMENT INCOME EARNED THEREON;

(2) Within each of the state division, school division, local government division, and judicial division, AND DENVER PUBLIC SCHOOLS DIVISION trust funds, the following reserves shall exist:

(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, AND WITHIN THE DENVER PUBLIC SCHOOLS DIVISION TRUST FUND, AN ANNUAL INCREASE RESERVE SHALL EXIST ON AND AFTER JANUARY 1, 2010.

SECTION 8. 24-51-208, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-208. Allocation of moneys. (4) AT THE TIME A BENEFIT IS PAID, THE ASSOCIATION SHALL TRANSFER TO THE RETIREMENT BENEFITS RESERVE OR SURVIVOR BENEFITS RESERVE OF THE DIVISION FROM WHICH THE BENEFIT IS PAID, WHICHEVER IS APPLICABLE, ONE HUNDRED PERCENT OF THE PRESENT VALUE OF THE ACTUARIALLY DETERMINED LIABILITY OF SUCH BENEFIT. EACH DIVISION IN WHICH THE ACCOUNT HAS CONTRIBUTIONS SHALL FUND ITS PROPORTIONATE SHARE OF THE BENEFIT LIABILITY BASED ON THE PERCENTAGE OF THE MEMBER CONTRIBUTION ACCOUNT BALANCE FROM THAT DIVISION AS IT RELATES TO THE TOTAL MEMBER CONTRIBUTION ACCOUNT BALANCE.

SECTION 9. 24-51-209, Colorado Revised Statutes, is amended to read:

24-51-209. Disbursements. Disbursements from the trust funds authorized in section 24-51-208 shall be subject to the approval of the board and shall be made only for the benefits, health care subsidies, investments, refunds, single payments, payments of remaining member contributions pursuant to the provisions of section 24-51-801, PAYMENTS PURSUANT TO THE PROVISIONS OF PART 17 OF THIS ARTICLE, and expenses of the association.

SECTION 10. 24-51-211, Colorado Revised Statutes, is amended to read:

24-51-211. Amortization of liabilities. (1) An amortization period for each of the state division, school division, local government division, ~~and~~ judicial division, AND DENVER PUBLIC SCHOOLS DIVISION trust funds shall be calculated separately. A maximum amortization period of 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.

(2) ON OR BEFORE NOVEMBER 1, 2009, THE BOARD SHALL SUBMIT SPECIFIC, COMPREHENSIVE RECOMMENDATIONS TO THE GENERAL ASSEMBLY REGARDING POSSIBLE METHODS TO RESPOND TO THE DECREASE IN THE VALUE OF THE ASSOCIATION'S ASSETS, INCLUDING REAL ESTATE, PRIVATE EQUITY, AND OTHER INVESTMENTS, TO DECREASE THE AMORTIZATION PERIOD OF EACH DIVISION OF THE ASSOCIATION AND TO ENSURE THAT EACH DIVISION OF THE ASSOCIATION WILL BECOME AND REMAIN FULLY FUNDED.

SECTION 11. 24-51-212, Colorado Revised Statutes, is amended to read:

24-51-212. Funds not subject to legal process. (1) Except for federal tax liens on distributions payable by the association, for Colorado tax distraints and liens pursuant to section 39-21-114, C.R.S., on distributions payable by the association, 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, for payments from the association in compliance with a properly executed court order approving a written agreement entered into pursuant to section 14-10-113 (6), C.R.S., and for restitution that is required to be paid for the theft, embezzlement, misappropriation, or wrongful conversion of public property or in the event of a judgment for a willful and intentional violation of fiduciary duties pursuant to section 24-51-207 where the offender or a related party received direct financial gain, none of the moneys, trust funds, reserves, accounts, contributions pursuant to parts 4, 5, ~~and~~ 15, AND 17 of this article, or benefits referred to in this article shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, bankruptcy proceedings, or other legal process. Member contributions are subject to garnishment resulting from a judgment taken for arrearages for child support or for child support debt, for restitution that is required to be paid for the theft, embezzlement, misappropriation, or wrongful conversion of public property or in the event of a judgment for a willful and intentional violation of fiduciary duties pursuant to section 24-51-207 where the offender or a related party received direct financial gain, only if the membership has terminated and the member is not vested.

(2) Notwithstanding the provisions of this section, upon service to the association of orders, injunctions, or warrants issued pursuant to sections 18-17-105 and 18-17-106 or section 16-3-301, C.R.S., applicable to a member contribution account based upon allegations of theft, embezzlement, misappropriation, or wrongful conversion of public property, a member who terminates membership is prohibited from receiving a refund of the member's contribution account and matching employer contributions pursuant to section 24-51-405 OR A REFUND OF MEMBER CONTRIBUTIONS PURSUANT TO PART 17 OF THIS ARTICLE, until a court order or the

issuing authority releases the member contribution account from said orders, injunctions, or warrants.

SECTION 12. 24-51-213 (1), Colorado Revised Statutes, is amended to read:

24-51-213. Confidentiality. (1) All information contained in records of members, former members, inactive members, DPS MEMBERS, DPS RETIREES, and benefit recipients and their dependents, INCLUDING THOSE FROM THE DENVER PUBLIC SCHOOLS DIVISION, shall be kept confidential by the association.

SECTION 13. 24-51-217, Colorado Revised Statutes, is amended to read:

24-51-217. Termination. If the association is terminated or partially terminated for any reason, the rights of all members and former members affected thereby to benefits accrued and funded to the date of termination shall become nonforfeitable. ANY DISTRIBUTION OF ASSETS SHALL BE CONDUCTED IN ACCORDANCE WITH REQUIREMENTS OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

SECTION 14. Repeal. 24-51-219, Colorado Revised Statutes, is repealed as follows:

~~**24-51-219. Merger of school district retirement system.** (1) The board shall be empowered to negotiate and implement a merger of a school district retirement system created pursuant to part 2 of article 64 of title 22, C.R.S., into the association in accordance with the provisions of sections 22-64-220 and 22-64-221, C.R.S.~~

~~(2) On and after the effective date of the merger described in sections 22-64-220 (4) (a) and 22-64-221, C.R.S., the board shall be authorized to administer benefits in accordance with section 22-64-220 and the written agreement described in section 22-64-220 (4) (d) and (5), including, but not limited to, administering the provisions regarding the benefit increases pursuant to section 22-64-220 (4) (c) (II); C.R.S.~~

SECTION 15. 24-51-309, Colorado Revised Statutes, is amended to read:

24-51-309. Affiliation by public entities. Except as otherwise provided in section 24-51-320, any political subdivision within the state of Colorado or any public agency created by the state or any of its political subdivisions may make application to the board to affiliate with the association. Any such entity specified in this section ~~which~~ THAT previously exempted its employees from membership in the association may, by ordinance or resolution, apply to the board to be affiliated with the association. All applications shall be subject to approval by the board, and upon approval the benefits, duties, and responsibilities of employers and members shall begin from the date of affiliation with the association. THE DENVER PUBLIC SCHOOLS DIVISION SHALL INCLUDE CHARTER SCHOOLS THAT PARTICIPATE IN THE DPS PLAN PRIOR TO JANUARY 1, 2010, AND ANY FUTURE CHARTER SCHOOLS THAT ARE APPROVED BY THE DENVER PUBLIC SCHOOLS BOARD OF EDUCATION AND THAT ENTER INTO A CHARTER CONTRACT WITH THE DENVER PUBLIC SCHOOLS BOARD OF EDUCATION ON OR AFTER JANUARY 1, 2010. THE BOARD SHALL NOT ALLOW AFFILIATION INTO THE DENVER PUBLIC SCHOOLS DIVISION OF ANY EMPLOYER NOT

APPROVED BY THE DENVER PUBLIC SCHOOLS BOARD OF EDUCATION.

SECTION 16. 24-51-401, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-401. Employer and member contributions. (1.6) FOR THE PURPOSES OF SECTIONS 24-51-401 TO 24-51-404 AND SECTIONS 24-51-405.5, 24-51-409, AND 24-51-411, THE TERM "MEMBER" SHALL INCLUDE DPS MEMBERS AND THE TERM "RETIREE" SHALL INCLUDE DPS RETIREES.

SECTION 17. 24-51-401 (1.7) (a), Colorado Revised Statutes, is amended, and the said 24-51-401 (1.7) is further amended BY THE ADDITION OF A NEW PARAGRAPH, 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 subsection (7) of this section and ~~sections 22-64-220(4)(j), C.R.S., and 24-51-408.5~~ SECTION 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%
DPS	1/1/2010 THROUGH 12/31/2012	13.75%	8.0%
	1/1/2013 AND THEREAFTER	14.15%	8.0%

(e) IN RECOGNITION OF THE EFFORT TO EQUALIZE THE FUNDED STATUS OF THE DENVER PUBLIC SCHOOLS DIVISION AND THE ASSOCIATION'S SCHOOL DIVISION AS MORE FULLY PROVIDED IN SECTION 24-51-412, BEGINNING JANUARY 1, 2015, AND EVERY FIFTH YEAR THEREAFTER, THE ASSOCIATION SHALL CALCULATE A TRUE-UP TO CONFIRM THE EQUALIZATION STATUS OF THE DENVER PUBLIC SCHOOLS DIVISION AND THE ASSOCIATION'S SCHOOL DIVISION, AND IF NECESSARY, THE BOARD SHALL RECOMMEND THAT THE GENERAL ASSEMBLY ADJUST THE DENVER PUBLIC SCHOOLS TOTAL EMPLOYER RATE TO ASSURE THE EQUALIZATION OF THE DENVER PUBLIC SCHOOLS DIVISION'S RATIO OF UNFUNDED ACTUARIAL ACCRUED LIABILITY OVER PAYROLL TO THE ASSOCIATION'S SCHOOL DIVISION'S RATIO OF UNFUNDED ACTUARIAL ACCRUED LIABILITY OVER PAYROLL AT THE END OF THE THIRTY-YEAR PERIOD. THE TRUE-UP SHALL BE BASED ON AUDITED RESULTS OF THE ASSOCIATION'S SCHOOL DIVISION'S AND THE DENVER PUBLIC SCHOOLS DIVISION'S ACTUAL UNFUNDED ACTUARIAL ACCRUED LIABILITY AND PAYROLL EXPERIENCE AT EVERY POINT OF TRUE-UP. IF THE RATIOS OF UNFUNDED ACTUARIAL ACCRUED LIABILITY OVER PAYROLL BASED ON ACTUAL EXPERIENCE ARE NOT PROJECTED TO EQUALIZE OVER THE THIRTY-YEAR PERIOD, THE BOARD SHALL RECOMMEND THAT THE DENVER PUBLIC SCHOOLS DIVISION TOTAL EMPLOYER RATE BE ADJUSTED BY THE GENERAL ASSEMBLY.

SECTION 18. 24-51-404, Colorado Revised Statutes, is amended to read:

24-51-404. Combining member contributions. Any member whose previous member contribution account has not been refunded shall be credited with such member contributions in said account upon a resumption of membership. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, MEMBERS EXERCISING PORTABILITY BETWEEN THE DENVER PUBLIC SCHOOLS DIVISION AND THE OTHER ASSOCIATION DIVISIONS SHALL BE GOVERNED BY THE PROVISIONS OF SECTION 24-51-1747.

SECTION 19. 24-51-405 (1), Colorado Revised Statutes, is amended, and the said 24-51-405 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-405. Refund of the member contribution account. (1) SUBJECT TO PORTABILITY, any member who terminates membership for any reason other than retirement or death may request a refund of all moneys credited to the member contribution account and payment of matching employer contributions if said member has not resumed membership. Upon request, a refund shall be made by the association within ninety days after the date of termination of employment covered by membership or the date the association received the refund request, whichever is later.

(10) SUBJECT TO PORTABILITY, THE AMOUNT AVAILABLE TO DPS MEMBERS IN THE EVENT OF A REFUND SHALL BE GOVERNED BY SECTION 24-51-1711.

SECTION 20. 24-51-405.5, Colorado Revised Statutes, is amended to read:

24-51-405.5. Direct rollovers. Notwithstanding any other provision of this article, effective January 1, 1993, a terminated member, or a surviving spouse, OR A NAMED BENEFICIARY may elect to have any portion of an eligible rollover

distribution paid directly to an eligible retirement plan in a direct rollover in accordance with section 401 (a) (31) of the federal "Internal Revenue Code of 1986", as amended.

SECTION 21. 24-51-407, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-407. Interest. (5) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, DPS MEMBER ACCOUNTS EXISTING AS OF DECEMBER 31, 2009, SHALL BE CREDITED INTEREST IN ACCORDANCE WITH SECTION 24-51-1702 (31) THROUGH AND INCLUDING DECEMBER 31, 2009. THEREAFTER, DENVER PUBLIC SCHOOLS DIVISION MEMBER ACCOUNTS SHALL EARN INTEREST IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION.

SECTION 22. 24-51-408, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-408. Matching employer contributions. (4) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO DPS MEMBER ACCOUNTS THAT EXIST ON DECEMBER 31, 2009, WITH REGARD TO PAST CONTRIBUTIONS OR FUTURE CONTRIBUTIONS. MEMBER ACCOUNTS IN THE DENVER PUBLIC SCHOOLS DIVISION CREATED ON OR AFTER JANUARY 1, 2010, SHALL BE GOVERNED BY THIS SECTION.

SECTION 23. 24-51-408.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-408.5. Matching employer contribution on voluntary contributions made by members to tax-deferred retirement programs. (8) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO EMPLOYERS AFFILIATED WITH THE DENVER PUBLIC SCHOOLS DIVISION OR DPS MEMBERS.

SECTION 24. 24-51-411 (2), (3.2), and (3.7), Colorado Revised Statutes, are amended to read:

24-51-411. Amortization equalization disbursement - repeal. (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. 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). BEGINNING JANUARY 1, 2010, EMPLOYERS OF THE DENVER PUBLIC SCHOOLS DIVISION SHALL PAY THE THEN-APPLICABLE ACCUMULATED RATE OF AMORTIZATION EQUALIZATION DISBURSEMENT AND THE ESCALATING RATE IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(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). BEGINNING ON JANUARY 1, 2010, EMPLOYERS OF THE DENVER PUBLIC SCHOOLS DIVISION SHALL PAY THE THEN-APPLICABLE ACCUMULATED RATE OF SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT AND THE ESCALATING RATE IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(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, AND DENVER PUBLIC SCHOOLS 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.

SECTION 25. Part 4 of article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-51-412. Denver public schools district - contributions and disbursements - legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE DENVER PUBLIC SCHOOLS HAS ONGOING PAYMENT OBLIGATIONS RELATED TO CERTAIN PENSION CERTIFICATES OF PARTICIPATION THAT WERE ISSUED IN 1997 AND 2008, REFERRED TO IN THIS SECTION AS "PCOPS";

(b) PROCEEDS OF THE PCOPS WERE CONTRIBUTED TO THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM TRUST FUND, RESULTING IN A FUNDED RATIO OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM THAT EXCEEDS THE FUNDED RATIO OF THE SCHOOL DIVISION OF THE ASSOCIATION;

(c) AS SPECIFIED IN SECTION 24-51-401, "TABLE A - CONTRIBUTION RATES", THE EMPLOYERS IN THE DENVER PUBLIC SCHOOLS DIVISION ARE SCHEDULED TO PAY A CONTRIBUTION RATE THREE AND SIX-TENTHS PERCENT HIGHER THAN EMPLOYERS IN THE SCHOOL DIVISION OF THE ASSOCIATION;

(d) IN RECOGNITION OF THE FACT THAT DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM'S FUNDED RATIO EXCEEDS THAT OF THE SCHOOL DIVISION OF THE

ASSOCIATION AS A RESULT OF THE CONTRIBUTIONS FROM THE PCOPS, THE PAYMENTS THE DENVER PUBLIC SCHOOLS MAKES IN RESPECT TO THE PCOPS PROVIDES A BASIS FOR THE USE OF AN OFFSET IN CALCULATING THE TOTAL OF ITS EMPLOYER CONTRIBUTION AND THE AMORTIZATION EQUALIZATION DISBURSEMENT AND SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT.

(2) DUE TO THE CIRCUMSTANCES SPECIFIED IN SUBSECTION (1) OF THIS SECTION, CONTRIBUTIONS REQUIRED TO BE MADE BY EMPLOYERS IN THE DENVER PUBLIC SCHOOLS DIVISION PURSUANT TO SECTION 24-51-401 (1.7) (a) AND DISBURSEMENTS REQUIRED TO BE MADE PURSUANT TO SECTION 24-51-411 SHALL BE REDUCED BY AN AMOUNT IN EACH YEAR EQUAL TO THE OBLIGATIONS OF THE DENVER PUBLIC SCHOOLS WITH RESPECT TO OUTSTANDING PCOPS, OR ANY OBLIGATIONS INCURRED TO REFINANCE THE PCOPS, AT A FIXED EFFECTIVE ANNUAL INTEREST RATE OF EIGHT AND ONE-HALF PERCENT AND WITH PRINCIPAL MATURITIES AS THEY EXIST ON THE EFFECTIVE DATE OF THIS SECTION OR ON THE DATE OF ISSUANCE OF ANY OBLIGATIONS TO REFINANCE THE PCOPS, RECOGNIZING THAT IT IS NOT THE INTENTION TO INCREASE SUBSTANTIALLY THE OFFSET BY ACCELERATING PRINCIPAL MATURITIES THROUGH REFINANCING. THE ANNUAL OFFSET MAY BE APPLIED BY THE DENVER PUBLIC SCHOOLS IN INSTALLMENTS AS IT DETERMINES SO LONG AS THERE ARE SUFFICIENT MONTHLY CONTRIBUTIONS TO FUND THE DPS HEALTH CARE TRUST FUND AND THE ANNUAL INCREASE RESERVE REQUIRED PURSUANT TO SECTION 24-51-1009, TAKING INTO ACCOUNT THE TRUE-UP PROVISIONS IN SECTION 24-51-401, AND THE CALCULATION OF THE OFFSET SHALL BE INCLUDED IN THE CONTRIBUTION REPORTS REQUIRED BY SECTION 24-51-401 (1.7) (a). SINCE, AS STATED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, THE FUNDED RATIO OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM TRUST FUND PRESENTLY EXCEEDS THAT OF THE SCHOOL DIVISION OF THE ASSOCIATION, THE ANTICIPATED EQUALIZATION OF THE FUNDED RATIOS OVER A THIRTY-YEAR PERIOD OF THE TWO DIVISIONS PROVIDED IN SECTION 24-51-401 (2) MAY NECESSARILY RESULT IN A DECLINE IN THE FUNDED RATIO OF THE DENVER PUBLIC SCHOOLS DIVISION TRUST FUND. DENVER PUBLIC SCHOOLS SHALL ANNUALLY SUBMIT TO THE ASSOCIATION AUDITED FINANCIAL STATEMENTS SHOWING THE ACTUAL DEBT SERVICE EXPERIENCE RELATED TO THE PCOPS.

(3) PURSUANT TO SECTION 24-51-1701, THE BOARD OF THE ASSOCIATION PRESENTLY INTENDS TO PRESENT RECOMMENDATIONS TO THE GENERAL ASSEMBLY CONCERNING THE ASSOCIATION'S DEFINED BENEFIT PLANS, INCLUDING THE SCHOOL DIVISION AND THE DENVER PUBLIC SCHOOLS DIVISION, TO ATTEMPT TO ASSURE SECURITY AND SUSTAINABILITY OF THE PLANS. NOTHING CONTAINED IN THESE FINDINGS AND DECLARATIONS OR ELSEWHERE IN THIS ARTICLE IS INTENDED TO RESTRICT THE POWERS OF THE GENERAL ASSEMBLY TO FIX AND ADJUST THE LEVEL OF CONTRIBUTIONS OR DISBURSEMENTS REQUIRED OF EMPLOYERS HEREAFTER.

(4) (a) UNDER NO CIRCUMSTANCE SHALL ANY DEBT OBLIGATIONS OF THE DENVER PUBLIC SCHOOLS BECOME OBLIGATIONS OF THE ASSOCIATION, ANY OTHER EMPLOYER AFFILIATED WITH THE ASSOCIATION, OR THE STATE. IN ADDITION, UNDER NO CIRCUMSTANCE SHALL ANY OBLIGATIONS OF THE ASSOCIATION UNDER A DEBT INSTRUMENT ISSUED BY THE ASSOCIATION BECOME OBLIGATIONS OF THE DENVER PUBLIC SCHOOLS.

(b) NOTHING IN THIS SUBSECTION (4) SHALL LIMIT THE APPLICATION OF ANY OF

THE FOLLOWING PROVISIONS TO DENVER PUBLIC SCHOOLS, ANY CHARTER SCHOOL THAT IS CHARTERED BY DENVER PUBLIC SCHOOLS, OR ANY CHARTER SCHOOL THAT SERVES STUDENTS OF DENVER PUBLIC SCHOOLS: SECTION 22-41-110, C.R.S., RELATING TO TIMELY PAYMENT OF SCHOOL DISTRICT OBLIGATIONS; SECTION 22-30.5-406, C.R.S., RELATING TO DIRECT PAYMENT OF CHARTER SCHOOL BONDS; SECTION 22-30.5-408, C.R.S., RELATING TO THE REPLENISHMENT OF CHARTER SCHOOL DEBT SERVICE RESERVE FUNDS; OR ANY OTHER PROGRAM THAT IS AVAILABLE TO SCHOOL DISTRICTS OR CHARTER SCHOOLS THAT MEET THE CONDITIONS SET FORTH IN STATE LAW.

SECTION 26. 24-51-501, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-501. Earned service credit. (6) SERVICE CREDIT OF DPS MEMBERS PRIOR TO OR ON DECEMBER 31, 2009, SHALL BE GOVERNED BY SECTION 24-51-1710. BEGINNING JANUARY 1, 2010, DPS MEMBERS SHALL EARN SERVICE CREDIT PURSUANT TO THIS SECTION AND SHALL PURCHASE SERVICE CREDIT RELATING TO A REFUNDED MEMBER CONTRIBUTION ACCOUNT AND NONCOVERED EMPLOYMENT PURSUANT TO THIS PART 5; EXCEPT THAT PURCHASES BY DPS MEMBERS THAT ARE ONGOING AS OF JANUARY 1, 2010, SHALL BE GOVERNED BY SECTION 24-51-1705.

SECTION 27. 24-51-503 (2) and (4), Colorado Revised Statutes, are amended 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, AND FOR DPS MEMBERS, 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. THIS SUBSECTION (4) SHALL NOT APPLY TO DPS MEMBERS.

SECTION 28. 24-51-507, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-507. Uniformed service credit. (4) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO DPS MEMBERS.

SECTION 29. 24-51-509, Colorado Revised Statutes, is amended to read:

24-51-509. Combining service credit. Service credit earned by a member during the most recent period of membership shall be combined with the service credit associated with the existing member contribution account of such member. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, MEMBERS EXERCISING PORTABILITY BETWEEN THE DENVER PUBLIC SCHOOLS DIVISION AND OTHER ASSOCIATION DIVISIONS ARE GOVERNED BY THE PROVISIONS OF SECTION 24-51-1747.

SECTION 30. 24-51-602 (4), Colorado Revised Statutes, is amended, and the said 24-51-602 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-602. Service retirement eligibility. (4) Paragraph (a) of subsection (1) of this section shall apply to persons who:

~~(a) On the day before the effective date of the merger were members of the school district retirement system created pursuant to part 2 of article 64 of title 22, C.R.S.; and~~

~~(b) Become members of the association because of the merger described in sections 22-64-220 (4) (a) and 22-64-221, C.R.S.~~

(5) RETIREMENT BENEFITS OF DPS MEMBERS SHALL BE GOVERNED BY THE PROVISIONS OF SECTIONS 24-51-1713 TO 24-51-1726 AND 24-51-1747.

SECTION 31. 24-51-610, Colorado Revised Statutes, is amended to read:

24-51-610. Division from which a member retires. The division in which the retiree had membership immediately preceding the date of retirement shall be the division FROM which ~~determines the eligibility and benefits for such retiree~~ THE MEMBER RETIRES.

SECTION 32. 24-51-612, Colorado Revised Statutes, is amended to read:

24-51-612. Required benefit commencement date. (1) Payment of retirement benefits, for vested inactive members AND DEFERRED DPS MEMBERS who are eligible to receive retirement benefits and who have not applied for such pursuant to the provisions of section 24-51-602, shall commence no later than April 1 of the calendar year following the calendar year in which the vested inactive member OR DEFERRED DPS MEMBER attains seventy and one-half years of age.

(2) Payment of retirement benefits, for ~~those~~ members AND DPS MEMBERS who are eligible to receive retirement benefits and who have not applied for such pursuant to the provisions of section 24-51-602, and who continue membership after attaining seventy and one-half years of age, shall commence on the effective date of retirement.

SECTION 33. 24-51-701, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-701. Eligibility to apply for short-term disability program payments and disability retirement. (4) APPLICATIONS FOR DISABILITY FOR DPS MEMBERS

FILED ON OR BEFORE DECEMBER 31, 2009, SHALL BE GOVERNED BY THE DISABILITY PROVISIONS OF SECTION 24-51-1734, AND ON OR AFTER JANUARY 1, 2010, DISABILITY SHALL BE GOVERNED BY THE PROVISIONS OF THIS PART 7. PERSONS RECEIVING DISABILITY BENEFITS UNDER THE DPS PLAN AS OF DECEMBER 31, 2009, SHALL CONTINUE TO RECEIVE SUCH BENEFITS IN ACCORDANCE WITH THE DPS PLAN.

SECTION 34. 24-51-708, Colorado Revised Statutes, is amended to read:

24-51-708. Division from which a disabled member retires. The division in which the retiree had membership immediately preceding the date of retirement shall be the division ~~that determines the eligibility and benefits for such retiree~~ FROM WHICH THE MEMBER RETIRES.

SECTION 35. 24-51-801, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-801. Benefit options. (4) BENEFITS CALCULATED PURSUANT TO PART 17 OF THIS ARTICLE SHALL BE SUBJECT TO THE BENEFIT PAYMENT OPTIONS PROVIDED IN SECTIONS 24-51-1716 TO 24-51-1725.

SECTION 36. 24-51-902, Colorado Revised Statutes, is amended to read:

24-51-902. Modification of named beneficiaries. A named beneficiary may be added, deleted, or changed by a member or inactive member, INCLUDING MEMBERS FROM THE DENVER PUBLIC SCHOOLS DIVISION, upon written notice to the association.

SECTION 37. 24-51-903, Colorado Revised Statutes, is amended to read:

24-51-903. Distribution to named beneficiaries. All named beneficiaries, if more than one, who survive the deceased member or deceased inactive member, INCLUDING MEMBERS FROM THE DENVER PUBLIC SCHOOLS DIVISION, shall share equally in a single payment.

SECTION 38. 24-51-904, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-904. Survivor benefits - eligibility - "member" defined. (3) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS PART 9, UNLESS OTHERWISE INDICATED, SURVIVOR PAYMENTS OF DPS MEMBERS SHALL BE GOVERNED BY SECTIONS 24-51-1735 TO 24-51-1746. PURSUANT TO THE PORTABILITY PROVISIONS OF PART 17 OF THIS ARTICLE, ANY FROZEN ACCOUNTS SHALL BE TREATED AS INACTIVE AND GOVERNED BY THE SURVIVOR PROVISIONS APPLICABLE TO THE FROZEN ACCOUNT.

SECTION 39. Repeal. 24-51-914, Colorado Revised Statutes, is repealed as follows:

24-51-914. Reciprocal survivor benefits agreement. ~~Pursuant to the provisions of the reciprocal survivor benefit agreement between the association and the Denver public school employees' retirement system, certain former employees of the Denver~~

~~public school district may participate in survivor benefit coverage provided by the association pursuant to the provisions of this part 9.~~

SECTION 40. 24-51-1001, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-1001. Types of benefit increases. (4) BENEFITS THAT ARE CALCULATED PURSUANT TO PART 17 OF THIS ARTICLE SHALL BE GOVERNED BY THE BENEFIT INCREASE PROVISIONS OF SUCH PART 17.

SECTION 41. Repeal. 24-51-1002 (3) (c) (III), Colorado Revised Statutes, is repealed as follows:

24-51-1002. Annual percentages to be used. (3) (c) Subsection (1) of this section shall apply to persons who:

~~(III) Become members of the association because of the merger described in sections 22-64-220 (4) (a) and 22-64-221, C.R.S.~~

SECTION 42. The introductory portion to 24-51-1101 (1), Colorado Revised Statutes, is amended, and the said 24-51-1101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-1101. Employment after service retirement. (1) Except as otherwise provided in subsection (1.5) or (1.7) of this section or ~~section 22-64-220 (4) (h), C.R.S.~~ PART 17 OF THIS ARTICLE, a service retiree from any division may be employed by an employer, whether or not in a position subject to membership, and receive a salary without reduction in benefits if the service retiree has not worked for any employer, as defined in section 24-51-101 (20), during the month of the effective date of retirement, and if:

(4) THE PROVISIONS OF THIS PART 11 SHALL GOVERN EMPLOYMENT AFTER SERVICE RETIREMENT EXCEPT TO THE EXTENT THAT SPECIFIC PROVISIONS REGARDING PORTABILITY AND THE EFFECT OF PORTABILITY ARE PROVIDED IN PART 17 OF THIS ARTICLE.

SECTION 43. 24-51-1102 (1), Colorado Revised Statutes, is amended to read:

24-51-1102. Reduction of a service retirement benefit - disclosure of service agreements by employers - definitions. (1) Except as otherwise provided in ~~section 22-64-220 (4) (h), C.R.S.~~ PART 17 OF THIS ARTICLE, employment of a retiree by an employer, whether or not in a position subject to membership, that exceeds the daily or hourly calendar year limits stated in section 24-51-1101 (1) shall result in a reduction of the benefit of such retiree by five percent per day for any part of a day that exceeds said limits. Any reduction of benefits pursuant to the provisions of this subsection (1) that exceeds one hundred percent of the benefit shall be carried forward to reduce future months' benefits.

SECTION 44. 24-51-1103 (1), Colorado Revised Statutes, is amended to read:

24-51-1103. Contributions for a retiree who returns to membership - benefit

calculation upon subsequent retirement - survivor benefit rights - disability retirement benefits. (1) Except as otherwise provided in ~~section 22-64-220 (4) (h), C.R.S.~~ SECTION 24-51-1747, a retiree who returns to work in a position that is subject to membership may voluntarily suspend the service retirement benefits or the reduced service retirement benefits and resume membership. Upon such suspension, employer and member contributions are required to be made pursuant to the provisions of part 4 of this article. Any additional service credit accumulated and any increase in the highest average salary of such person shall be reflected in the benefit calculation upon subsequent termination of membership only after one year of service credit has been earned.

SECTION 45. 24-51-1201, Colorado Revised Statutes, is amended to read:

24-51-1201. Health care trust fund. (1) There is hereby created a health care trust fund to provide, FOR THE STATE, SCHOOL, LOCAL GOVERNMENT, AND JUDICIAL DIVISIONS, a premium subsidy for health care to benefit recipients choosing to enroll in the health care program and for A PROPORTIONATE PORTION OF THE expenses of the program.

(2) THERE IS HEREBY CREATED A HEALTH CARE TRUST FUND TO PROVIDE, FOR THE DENVER PUBLIC SCHOOLS DIVISION, A PREMIUM SUBSIDY FOR HEALTH CARE TO BENEFIT RECIPIENTS CHOOSING TO ENROLL IN THE HEALTH CARE PROGRAM AND FOR A PROPORTIONATE PORTION OF THE EXPENSES OF THE PROGRAM. THE BOARD OF EDUCATION OF THE DENVER PUBLIC SCHOOLS SHALL BY TRUSTEE-TO-TRUSTEE TRANSFER PLACE WITHIN THE HEALTH CARE TRUST FUND FOR THE DENVER PUBLIC SCHOOLS DIVISION THE BALANCE OF THE DENVER PUBLIC SCHOOLS RETIREE HEALTH BENEFIT TRUST HELD BY THE BOARD OF EDUCATION ON JANUARY 1, 2010.

SECTION 46. 24-51-1202 (1) (a), Colorado Revised Statutes, is amended, and the said 24-51-1202 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-1202. Health care program - design. (1) (a) The board shall design a group health care program for retirees, members, DPS MEMBERS, DPS RETIREES, and their dependents, with or without full medicare coverage provided by the federal "Health Insurance for the Aged Act", 42 U.S.C. sec. 1395, as amended. This program shall provide health care benefits and a level of reimbursement for health care expenses which are consistent with prevailing community practices and other governmental health care systems, protection from catastrophic financial loss, and current and long-term fiscal soundness of the trust fund as determined by the board.

(5) DPS RETIREES MAY ENROLL IN THE ASSOCIATION'S HEALTH CARE PROGRAM SUBJECT TO THE PROVISIONS OF THIS PART 12.

SECTION 47. 24-51-1204, Colorado Revised Statutes, is amended to read:

24-51-1204. Health care program - eligibility. (1) The following persons are eligible to enroll in the health care program:

(a) All benefit recipients, INCLUDING THOSE FROM THE DENVER PUBLIC SCHOOLS DIVISION, and their dependents, including any dependent as defined in section

10-16-102 (14), C.R.S.; any unmarried children who are not natural or adopted children of the benefit recipient but who reside full time with the benefit recipient, are dependents of the benefit recipient for federal income tax purposes, and meet the age requirements of section 10-16-102 (14), C.R.S.; and any qualified children as defined in the rules adopted by the board;

(b) A surviving spouse of a retiree who elected option 1 OR A DPS RETIREE WHO ELECTED A SINGLE LIFE ANNUITY PURSUANT TO PART 17 OF THIS ARTICLE, if such spouse was covered by the health care program at the time of the death of the retiree;

(c) A divorced spouse of a retiree OR OF A DPS RETIREE if such spouse was enrolled in the health care program at the time of the divorce from the retiree;

(d) The guardian of a child receiving survivor benefits while the child is enrolled in the health care program;

(e) A member OR A DPS MEMBER while receiving short-term disability program payments pursuant to part 7 of this article; and

(f) A member OR A DPS MEMBER whose employer has elected to provide coverage through the health care program and such member's dependents.

SECTION 48. 24-51-1205 (2), Colorado Revised Statutes, is amended to read:

24-51-1205. Enrollment. (2) Any benefit recipient, ~~or member~~ INCLUDING THOSE FROM THE DENVER PUBLIC SCHOOLS DIVISION, A MEMBER, OR A DPS MEMBER enrolled in the health care program who has a change in dependents may, within thirty days after such change, add the dependents to be enrolled in the health care program.

SECTION 49. 24-51-1206 (1) and the introductory portion to 24-51-1206 (2), Colorado Revised Statutes, are amended, and the said 24-51-1206 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-1206. Premium subsidy. (1) THE PROVISIONS OF THIS SECTION SHALL APPLY TO THE HEALTH CARE TRUST FUND FOR THE SCHOOL, STATE, LOCAL GOVERNMENT, AND JUDICIAL DIVISIONS. After July 1, 1987, the general assembly shall consider the recommendation of the board and shall approve the premium subsidy ~~which~~ THAT shall be paid monthly from the health care fund for benefit recipients enrolled in the health care program. The premium subsidy shall be set without regard to the division from which the retiree retired. No premium subsidy shall be paid for persons enrolled in the health care program who are not benefit recipients.

(2) Except as otherwise provided in this section, AND UNLESS OTHERWISE DETERMINED BY THE BOARD THROUGH RULE-MAKING PURSUANT TO SECTION 24-51-204 (5), on and after July 1, 2000, the premium subsidy shall be:

(6) ANY MEMBER OR DPS MEMBER WHO DOES NOT HAVE A MEMBER CONTRIBUTION ACCOUNT ON DECEMBER 31, 2009, MUST EARN TEN YEARS OF

SERVICE CREDIT WITH AN AFFILIATED EMPLOYER OTHER THAN AN EMPLOYER WITHIN THE DENVER PUBLIC SCHOOLS DIVISION IN ORDER TO QUALIFY, OR FOR ANY BENEFIT RECIPIENT WHOSE BENEFITS ARE BASED UPON SUCH MEMBERS TO QUALIFY, FOR THE PREMIUM SUBSIDY SPECIFIED IN SUBSECTION (4) OF THIS SECTION. THE SERVICE CREDIT USED IN SAID CALCULATION OF THE AMOUNT OF THE PREMIUM SUBSIDY SPECIFIED IN SUBSECTION (4) OF THIS SECTION FOR DISABILITY RETIREES OR THEIR COBENEFICIARIES SHALL BE THE SAME SERVICE CREDIT USED IN SAID CALCULATION OF THE DISABILITY RETIREMENT BENEFIT PURSUANT TO THE PROVISIONS OF SECTION 24-51-704.

SECTION 50. Part 12 of article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

24-51-1206.5. Health care trust fund subsidy funding. (1) THE AMOUNT OF THE PREMIUM SUBSIDY FUNDED BY EACH HEALTH CARE TRUST FUND ESTABLISHED IN SECTION 24-51-1201 SHALL BE BASED ON THE PERCENTAGE OF THE MEMBER CONTRIBUTION ACCOUNT BALANCE FROM EACH DIVISION AS IT RELATES TO THE TOTAL MEMBER CONTRIBUTION ACCOUNT BALANCE FROM WHICH THE BENEFIT IS PAID.

(2) A PERSON WHO RECEIVES MULTIPLE BENEFITS SHALL ONLY RECEIVE ONE PREMIUM SUBSIDY.

24-51-1206.7. Denver public schools division premium subsidy. (1) THE PROVISIONS OF THIS SECTION APPLY TO THE DPS HEALTH CARE TRUST FUND. AFTER JANUARY 1, 2010, THE GENERAL ASSEMBLY SHALL CONSIDER THE RECOMMENDATION OF THE BOARD AND SHALL APPROVE BY RESOLUTION THE PREMIUM SUBSIDY TO BE PAID MONTHLY FROM THE DENVER PUBLIC SCHOOLS HEALTH CARE TRUST FUND FOR SUBSIDY RECIPIENTS OF THE DENVER PUBLIC SCHOOLS DIVISION ENROLLED IN THE HEALTH CARE PROGRAM. NO PREMIUM SUBSIDY SHALL BE PAID FOR PERSONS ENROLLED IN THE HEALTH CARE PROGRAM WHO ARE NOT BENEFIT RECIPIENTS. IT IS THE INTENT OF THIS SECTION NOT TO CAUSE AN INCREASE OR DECREASE IN HEALTH CARE SUBSIDIES BY DPS.

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AND UNLESS OTHERWISE DETERMINED BY THE BOARD THROUGH RULE-MAKING PURSUANT TO SECTION 24-51-204 (5), ON AND AFTER JANUARY 1, 2010, THE PREMIUM SUBSIDY FOR BENEFIT RECIPIENTS OF THE DENVER PUBLIC SCHOOLS DIVISION SHALL BE:

(a) TWO HUNDRED THIRTY DOLLARS PER MONTH FOR SUBSIDY RECIPIENTS WHO ARE NOT ENTITLED TO MEDICARE HOSPITAL INSURANCE BENEFITS PROVIDED BY THE FEDERAL "HEALTH INSURANCE FOR THE AGED ACT", 42 U.S.C. SEC. 1395, AS AMENDED; AND

(b) ONE HUNDRED FIFTEEN DOLLARS PER MONTH FOR SUBSIDY RECIPIENTS WHO ARE ENTITLED TO MEDICARE HOSPITAL INSURANCE BENEFITS PROVIDED BY THE FEDERAL "HEALTH INSURANCE FOR THE AGED ACT", 42 U.S.C. SEC. 1395, AS AMENDED.

(3) FOR SUBSIDY RECIPIENTS WHOSE BENEFITS ARE BASED UPON LESS THAN TWENTY YEARS OF SERVICE CREDIT, THE PREMIUM SUBSIDY SHALL BE REDUCED BY

FIVE PERCENT FOR EACH YEAR OF SERVICE CREDIT LESS THAN TWENTY YEARS. THE SERVICE CREDIT USED IN SAID CALCULATION OF THE AMOUNT OF THE PREMIUM SUBSIDY FOR DISABILITY RETIREES SHALL BE THE SAME SERVICE CREDIT USED IN THE CALCULATION OF THE DISABILITY RETIREMENT BENEFIT PURSUANT TO THE PROVISIONS OF SECTION 24-51-704. ANY PORTION OF A YEAR EQUAL TO OR EXCEEDING SIX MONTHS SHALL BE CONSIDERED A FULL YEAR FOR PURPOSES OF THE CALCULATIONS SPECIFIED IN THIS SUBSECTION (3).

(4) IF THE AMOUNT OF THE PREMIUM FOR THE HEALTH CARE OF A SUBSIDY RECIPIENT IS LESS THAN THE AMOUNT OF THE PREMIUM SUBSIDY AS DETERMINED PURSUANT TO THE PROVISIONS OF THIS SECTION, THE BOARD SHALL PAY THE AMOUNT OF THE HEALTH CARE PREMIUM.

(5) (a) SERVICE CREDIT ACCRUED BY DPS MEMBERS AND MEMBERS OF THE DENVER PUBLIC SCHOOLS DIVISION ON AND AFTER JANUARY 1, 2010, SHALL APPLY TOWARD THE CALCULATION OF THE PREMIUM SUBSIDY AS PROVIDED IN SUBSECTION (3) OF THIS SECTION. SERVICE CREDIT ACCRUED UNDER THE DPS PLAN BY DPS MEMBERS PRIOR TO JANUARY 1, 2010, SHALL APPLY TOWARD THE CALCULATION OF THE PREMIUM SUBSIDY AS PROVIDED IN SUBSECTION (3) OF THIS SECTION ONLY IF THE SERVICE CREDIT WAS ACCRUED WHILE EMPLOYED BY A DENVER PUBLIC SCHOOLS AND IF AT LEAST ONE OF THE FOLLOWING APPLIES:

(I) THE DPS MEMBER WAS PARTICIPATING IN THE DENVER PUBLIC SCHOOLS RETIREE HEALTH BENEFIT TRUST AS OF DECEMBER 31, 2009; OR

(II) THE DPS MEMBER WAS A DEFERRED DPS MEMBER AS OF DECEMBER 31, 2009.

(b) SUBJECT TO THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (5), SERVICE CREDIT SHALL BE GRANTED FOR AN APPROVED LEAVE OF ABSENCE ANY TIME DURING A MEMBER'S EMPLOYMENT WITH DENVER PUBLIC SCHOOLS PRIOR TO DECEMBER 31, 2009, TO SERVE AT A CHARTER SCHOOL, AS DEFINED IN SECTION 24-51-1702 (10), FOR NO LONGER THAN A THREE-YEAR PERIOD, PROVIDED THAT WRITTEN CERTIFICATION OF ELIGIBILITY UNDER THIS PARAGRAPH (b) IS PROVIDED TO THE ASSOCIATION BY DENVER PUBLIC SCHOOLS. SERVICE CREDIT PROVIDED FOR IN THIS PARAGRAPH (b) SHALL APPLY ONLY TO THE CALCULATION OF A SUBSIDY PAYABLE FROM THE DPS DIVISION HEALTH CARE TRUST FUND.

SECTION 51. 24-51-1208, Colorado Revised Statutes, is amended to read:

24-51-1208. Long-term care insurance. The board is authorized to identify and designate one or more insurance providers to offer long-term care insurance to members, ~~or retirees, or both~~ DPS MEMBERS, RETIREES, DPS RETIREES, OR ALL. Long-term care insurance offered pursuant to this section shall be funded solely through premium payments by members or retirees electing to contract for such insurance.

SECTION 52. 24-51-1301, Colorado Revised Statutes, is amended to read:

24-51-1301. Plan sponsored group life insurance. The board may offer group life insurance coverage through any life insurance company qualified to do business

in Colorado or may self-fund such coverage. Life insurance coverage shall be available to members AND DPS MEMBERS who voluntarily subscribe. Notwithstanding the provisions of section 10-7-201, C.R.S., the board shall determine the terms and conditions of coverage and may negotiate or discontinue said coverage at any time the board determines such action to be in the best interest of the members. Members OR DPS MEMBERS who have elected group life insurance coverage shall be notified sixty days prior to any change in coverage or discontinuance.

SECTION 53. 24-51-1302 (2), (2.5), and (3), Colorado Revised Statutes, are amended to read:

24-51-1302. Premiums for group life insurance. (2) Continuation of life insurance coverage after retirement is available to any retiree FROM ANY DIVISION who, prior to retirement, authorizes life insurance premiums to be deducted from monthly benefit payments.

(2.5) Life insurance coverage after termination of membership may continue for any inactive member who continues to pay life insurance premiums and does not receive a refund pursuant to the provisions of section 24-51-405 OR PART 17 OF THIS ARTICLE.

(3) Life insurance provided pursuant to the provisions of this part 13 may be assigned by members, inactive members, or retirees, INCLUDING THOSE OF THE DENVER PUBLIC SCHOOLS DIVISION.

SECTION 54. 24-51-1303, Colorado Revised Statutes, is amended to read:

24-51-1303. Life insurance beneficiary. Unless a member, DPS MEMBER, inactive member, DEFERRED DPS MEMBER, retiree, DPS RETIREE, or a court decree names a different beneficiary for life insurance purposes, the named beneficiary shall be the beneficiary of such life insurance.

SECTION 55. 24-51-1401 (2), Colorado Revised Statutes, is amended, and the said 24-51-1401 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-1401. Voluntary investment program established and fund created. (2) The voluntary investment program shall be available to all members, ~~and~~ DPS MEMBERS, retirees, AND DPS RETIREES, and shall be in addition to any other retirement or tax-deferred compensation system established by the state or its political subdivisions.

(4) FOR PURPOSES OF THIS PART 14, MEMBERS AND RETIREES SHALL INCLUDE DPS MEMBERS AND DPS RETIREES.

SECTION 56. Article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 17
DENVER PUBLIC SCHOOLS DIVISION

24-51-1701. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IT IS IN THE BEST INTERESTS OF THE PEOPLE OF THIS STATE TO ADMINISTER THE DENVER PUBLIC SCHOOLS PENSION SYSTEM WITHIN THE STATE UNDER THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION.

(b) THE COMBINATION OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM AS A SEPARATE DIVISION OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION WILL RECOGNIZE THE DISTINCTIVE CHARACTERISTICS OF THAT SYSTEM AND ITS FUNDING OVER SIXTY-THREE YEARS, AND WILL ALSO FACILITATE THE GENERAL ASSEMBLY'S ANTICIPATED ASSESSMENT OF THE CONTRIBUTION AND BENEFIT STRUCTURE OF THE ASSOCIATION'S DEFINED BENEFIT PLANS TO MAINTAIN THE PERPETUAL SUSTAINABILITY OF SUCH PLANS BASED ON THE RECOMMENDATIONS FROM THE BOARD OF TRUSTEES OF THE ASSOCIATION IN 2010.

(c) THE STATE'S SEVENTY-SEVEN-YEAR INVESTMENT IN THE DEFINED BENEFIT PLANS FOR COLORADO PUBLIC SERVANTS HAS SERVED THE STATE INVALUABLY. THE ASSOCIATION HAS PROVIDED POSITIVE INVESTMENT RETURNS ON FUNDS THAT, WHEN DISTRIBUTED AS BENEFITS, REMAIN SUBSTANTIALLY WITHIN COLORADO AND FOSTERS A PROFESSIONAL AND EFFECTIVE GOVERNMENTAL SERVICE SYSTEM. THESE FEATURES STRENGTHEN THE PROVISION OF GOVERNMENT SERVICES FOR ALL CITIZENS OF THE STATE IN WAYS THAT NO OTHER RETIREMENT SYSTEM COULD, AFFECTING THE PUBLIC SAFETY AND GENERAL WELFARE OF THE STATE FOR THE BETTER.

(d) THE CURRENT SEPARATION OF PENSION PLANS AND PROVISIONS BETWEEN DENVER PUBLIC SCHOOLS EMPLOYEES AND THE EMPLOYEES OF ALL THE OTHER SCHOOL DISTRICTS IN THE STATE CREATES ARTIFICIAL BARRIERS FOR EMPLOYEES TO RELOCATE BETWEEN THE SYSTEMS. THEREFORE, THIS SEPARATION HINDERS COMPETITIVE FORCES FOR THE PLACEMENT OF TEACHERS AND OTHER EMPLOYEES AT THEIR POTENTIAL OPTIMUM EMPLOYMENT LOCATION, PREVENTING THE MAXIMIZATION OF EMPLOYEE VALUE FOR ALL SCHOOL DISTRICTS AND CITIZENS WITHIN THE STATE.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE PURPOSE OF THIS PART 17 IS TO COMBINE THE TWO SYSTEMS WITH THE INTENT OF FACILITATING THE PERPETUAL FUTURE MAINTENANCE, SECURITY, AND SUSTAINABILITY OF THE DEFINED BENEFIT PLANS WITHIN THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION. GIVEN THE SPECIAL SERVICES AND BENEFITS RENDERED BY COLORADO'S PUBLIC SERVANTS TO THE CITIZENS OF THE STATE, IT IS THE PROVINCE, RIGHT, AND OBLIGATION OF THE STATE TO CARE FOR THE MEMBERS AND THE DEPENDENTS AND SURVIVORS OF ITS PUBLIC SERVANTS WHO ARE ENTITLED TO RETIREMENT BENEFITS DUE TO LENGTH OF SERVICE OR AGE OR BECAUSE THEY HAVE BEEN INJURED OR DISABLED IN SERVICE.

24-51-1702. Definitions. AS USED IN THIS PART 17, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACCREDITED SERVICE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 24-51-1704.

(2) "ACTIVE SERVICE", AS USED IN DETERMINING ELIGIBILITY TO RECEIVE BENEFITS, AS CONTRASTED WITH DETERMINATION OF THE AMOUNT THEREOF, MEANS ALL PERIODS OF SERVICE THAT QUALIFY AS ACCREDITED SERVICE. ADDITIONALLY, FOR EMPLOYEES APPOINTED OR REAPPOINTED ON OR AFTER DECEMBER 1, 1945, A MAXIMUM OF TEN YEARS OF CIVILIAN SERVICE, OF A SIMILAR KIND, IN A TAX-SUPPORTED INSTITUTION OTHER THAN THE DISTRICT, REFERRED TO IN THIS SUBSECTION (2) AS "OUTSIDE SERVICE", MAY COUNT AS ACTIVE SERVICE; PROVIDED THAT ANY SERVICE PURCHASED TOGETHER WITH ANY SUCH OUTSIDE SERVICE SHALL NOT EXCEED A MAXIMUM OF TEN YEARS IN CALCULATING ACTIVE SERVICE. NO PART OF SAID OUTSIDE SERVICE SHALL APPLY IF EARNED WHILE ON LEAVE FROM THE DISTRICT. WHENEVER THE TERM "ACTIVE SERVICE" IS USED WITH REFERENCE TO CIVILIAN SERVICE OF A SIMILAR KIND OF A REGULAR OR CASUAL EMPLOYEE WITH ANY TAX-SUPPORTED INSTITUTION OTHER THAN THE DISTRICT, SAID ACTIVE SERVICE SHALL BE DETERMINED IN A MANNER CONSISTENT WITH THE DEFINITION OF ACTIVE SERVICE WITH THE DISTRICT. PERIODS OF SERVICE IN A CHARTER SCHOOL SHALL COUNT AS ACTIVE SERVICE PROVIDED THAT SUCH SERVICE IS ALSO COUNTED AS ACCREDITED SERVICE. EFFECTIVE JANUARY 1, 1996, ALL SERVICE PERFORMED WITH THE DISTRICT OR WITH A CHARTER SCHOOL AND THAT MEETS THE DEFINITION OF ACCREDITED SERVICE SHALL BE TREATED AS IF IT WERE CIVILIAN SERVICE IN A TAX-SUPPORTED INSTITUTION OTHER THAN THE DISTRICT, AS PROVIDED IN THIS SUBSECTION (2), IF IT IS NOT COUNTED AS ACCREDITED SERVICE.

(3) "ANNUAL COMPENSATION" MEANS THE ESTABLISHED CONTRACTUAL SALARY RATE FOR A REGULAR EMPLOYEE ON AN ANNUAL BASIS FOR REGULARLY ASSIGNED SERVICES, BEFORE ANY DEDUCTIONS. SPECIAL STIPENDS AND EXTRA PAY FOR ADDITIONAL ASSIGNMENTS NOT ON THE BASIS OF THE REGULAR ESTABLISHED CONTRACTUAL SALARY RATE SHALL NOT BE DEEMED A PART OF ANNUAL COMPENSATION. FOR COMPENSATION RECEIVED ON AND AFTER JANUARY 1, 2010, ANNUAL COMPENSATION SHALL BE GOVERNED BY SECTION 24-51-101 (42) FOR PURPOSES OF DETERMINING BENEFITS UNDER THIS PART 17.

(4) "ANNUITY" MEANS THAT PORTION OF THE BENEFIT ATTRIBUTABLE TO FUNDS PROVIDED BY NORMAL OR ARREARAGE CONTRIBUTIONS OR BOTH MADE BY A CONTRIBUTING OR AFFILIATE MEMBER.

(5) "ATTAINED AGE" MEANS THE AGE ATTAINED UPON A PARTICULAR BIRTHDAY.

(6) "BASIC RETIREMENT ALLOWANCE" MEANS TOTAL RETIREMENT ALLOWANCE EXCLUDING THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT.

(7) "BOARD OF EDUCATION" MEANS THE BOARD OF EDUCATION OF DENVER PUBLIC SCHOOLS.

(8) "CAREER AVERAGE SALARY" MEANS THE AVERAGE OF THE APPLICABLE REGULAR ANNUAL SALARY RATES FOR THE ENTIRE TIME OF ACCREDITED SERVICE FOR REGULAR EMPLOYEES.

(9) "CASUAL EMPLOYEE" MEANS ANY PART-TIME OR TEMPORARY EMPLOYEE OF THE DISTRICT OR OF A CHARTER SCHOOL WHO RECEIVED OR RECEIVES PAYMENT IN THE FORM OF WAGES OR SALARY FROM THE DISTRICT OR CHARTER SCHOOL. PAYMENT OF FEES FOR CONTRACTED SERVICES TO AN INDEPENDENT CONTRACTOR

SHALL NOT BE CONSIDERED SALARY OR WAGES. ANY EMPLOYEE WHO IS A REGULAR EMPLOYEE SHALL NOT AT THE SAME TIME BE A CASUAL EMPLOYEE.

(10) "CHARTER SCHOOLS" MEANS SCHOOLS CREATED PURSUANT TO THE "CHARTER SCHOOLS ACT", PART 1 OF ARTICLE 30.5 OF TITLE 22, C.R.S., THAT ARE A PART OF THE DENVER PUBLIC SCHOOLS AND THAT ARE ACCOUNTABLE TO THE BOARD OF EDUCATION AS COMPLYING WITH THE PURPOSES AND REQUIREMENTS OF SAID ACT.

(11) "CONSUMER PRICE INDEX" OR "CPI" MEANS THE INDEX, CALCULATED BY THE UNITED STATES DEPARTMENT OF LABOR, THE NATIONAL CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS.

(12) "CONTRIBUTING SERVICE" MEANS THAT PORTION OF SERVICE FOR WHICH AN EMPLOYEE HAS PAID THE NORMAL CONTRIBUTION, INCLUDING ANY REGULAR INTEREST THAT WOULD HAVE BEEN CREDITED UPON SAID CONTRIBUTION PRIOR TO THE PAYMENT THEREOF BY THE MEMBER, TOGETHER WITH AN AMOUNT EQUAL TO THE PENSION ASSESSMENT, IF APPLICABLE, THAT WOULD HAVE BEEN PAYABLE DURING SUCH SERVICE.

(13) "COVERED EMPLOYMENT" MEANS THE EMPLOYMENT OF ANY REGULAR OR CASUAL EMPLOYEE WHO IS COMPENSATED BY WAGES OR SALARY PAID BY THE DISTRICT OR BY A CHARTER SCHOOL APPROVED BY THE DISTRICT. "NONCOVERED EMPLOYMENT" MEANS EMPLOYMENT OUTSIDE OF THE DISTRICT OR OUTSIDE OF A CHARTER SCHOOL APPROVED BY THE DISTRICT. SERVICE IN THE ARMED FORCES OF THE UNITED STATES IS INCLUDED IN "NONCOVERED EMPLOYMENT".

(14) "DISTRICT" MEANS SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER AND STATE OF COLORADO AND IS USED SYNONYMOUSLY WITH THE TERM "DENVER PUBLIC SCHOOLS". UNLESS EXPLICITLY STATED OTHERWISE IN THE TEXT, THE TERM "DISTRICT" ALSO INCLUDES THOSE SCHOOLS THAT ARE PART OF THE DENVER PUBLIC SCHOOLS AND THAT ARE ACCOUNTABLE TO THE BOARD OF EDUCATION AS CHARTER SCHOOLS AND SHALL ALSO INCLUDE THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM. FOR CLARITY OR EMPHASIS, THERE ARE REFERENCES IN CERTAIN SECTIONS TO BOTH THE DISTRICT AND A CHARTER SCHOOL. THE LACK OF SUCH A DUAL REFERENCE SHALL NOT, HOWEVER, BE INTERPRETED TO CHANGE THE FOREGOING DEFINITION AS TO ANY OTHER SECTIONS.

(15) "EARNED SERVICE" MEANS SERVICE EQUAL TO THE GREATER OF A MEMBER'S ACTIVE OR ACCREDITED SERVICE ON JANUARY 1, 2004, CALCULATED IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THIS PLAN AS IT EXISTED IMMEDIATELY PRIOR TO JANUARY 1, 2004. FOLLOWING DECEMBER 31, 2003, A MEMBER'S EARNED SERVICE SHALL BE USED IN LIEU OF ACTIVE OR ACCREDITED SERVICE IN DETERMINING BOTH THE ELIGIBILITY FOR AND THE AMOUNT OF RETIREMENT BENEFITS UNDER THE DPS PLAN. ON AND AFTER JANUARY 1, 2010, EARNED SERVICE SHALL BE GOVERNED BY SECTION 24-51-501.

(16) "EMPLOYEE CONTRIBUTION" MEANS ANY FUNDS, OTHER THAN THE PENSION ASSESSMENT, PAYABLE AND PAID HEREUNDER BY A CONTRIBUTING OR AFFILIATE MEMBER. THE FOLLOWING ADDITIONAL TERMS ARE APPLICABLE TO THE TERM "EMPLOYEE CONTRIBUTION":

(a) "ACCUMULATED CONTRIBUTIONS" MEANS THE BALANCE IN A MEMBER'S ACCOUNT OF NORMAL ARREARAGE OR ADDITIONAL CONTRIBUTIONS AND REGULAR INTEREST CREDITS THEREON. THE PENSION ASSESSMENT IS NOT A PART OF ACCUMULATED CONTRIBUTIONS.

(b) "ARREARAGE CONTRIBUTION" MEANS ANY CONTRIBUTION IN EXCESS OF THE NORMAL CONTRIBUTION THAT IS REQUIRED OF AND PAID BY CONTRIBUTING OR AFFILIATE MEMBERS.

(c) "NORMAL CONTRIBUTION" MEANS THE REQUIRED PAYMENT BY A CONTRIBUTING OR AFFILIATE MEMBER OF A PORTION OF COMPENSATION INTO THE SYSTEM RETIREMENT TRUST FUND.

(17) "HIGHEST AVERAGE SALARY" MEANS THE AVERAGE MONTHLY COMPENSATION OF THE THIRTY-SIX MONTHS OF ACCREDITED SERVICE HAVING THE HIGHEST RATES, MULTIPLIED BY TWELVE, OR THE "CAREER AVERAGE SALARY", WHICHEVER IS GREATER, AND SHALL BE APPLIED TO BENEFITS, EXCEPT FOR BENEFITS UNDER SECTIONS 24-51-1727 TO 24-51-1731, ATTRIBUTABLE TO RETIREMENT OR DEATH ON OR AFTER JULY 1, 1994. FOR BENEFITS UNDER SECTIONS 24-51-1727 TO 24-51-1731, "HIGHEST AVERAGE SALARY" APPLIES TO CASES WHERE TERMINATION OF SERVICE OCCURS ON OR AFTER JULY 1, 1994.

(18) "JOB SHARING" MEANS THE OCCUPATION OF A SINGLE STAFF POSITION BY TWO EMPLOYEES WHO RECEIVE ANNUAL COMPENSATION ON THE ACTIVE PAYROLL OF THE DISTRICT, WITH EACH ASSIGNMENT BEING HALF-TIME FOR THE ENTIRE CONTRACTUAL WORK YEAR. JOB SHARING SHALL ALSO MEAN THE OCCUPATION OF A LESS-THAN-FULL-TIME BUT GREATER-THAN-HALF-TIME POSITION BY ONE EMPLOYEE WHO RECEIVES ANNUAL COMPENSATION ON THE ACTIVE PAYROLL OF THE DISTRICT AND WHO HAS NO OTHER ASSIGNMENT WITH THE DISTRICT. JOB SHARING SHALL NOT INCLUDE THE OCCUPATION OF A POSITION BY A PERSON WHO IS A CASUAL EMPLOYEE.

(19) "MEMBERSHIP" MEANS THE RELATIONSHIP A REGULAR OR CASUAL EMPLOYEE HAS IN THE DPS PLAN AND SHALL CONSIST OF THE FOLLOWING:

(a) "AFFILIATE MEMBER" MEANS ANY CASUAL EMPLOYEE WHO, PURSUANT TO THE PROVISIONS OF THIS PLAN, HAS APPLIED FOR AFFILIATE MEMBERSHIP AND WHOSE APPLICATION HAS BEEN ACCEPTED. "AFFILIATE MEMBER" INCLUDES ANY CASUAL EMPLOYEE OF A CHARTER SCHOOL OR OF THE RETIREMENT SYSTEM WHO APPLIES FOR AFFILIATE MEMBERSHIP AND WHOSE APPLICATION IS ACCEPTED.

(b) "ANNUITANT" MEANS A PERSON WHO IS RECEIVING A RETIREMENT ALLOWANCE.

(c) "BENEFICIARY" MEANS A PERSON WHO HAS RECEIVED, RECEIVES, OR IS DESIGNATED TO RECEIVE BENEFITS ACCRUING AS A RESULT OF AN EMPLOYEE'S MEMBERSHIP.

(d) "CONTRIBUTING MEMBER" MEANS A REGULAR EMPLOYEE OF THE DISTRICT ON DECEMBER 1, 1945, AND ANY EMPLOYEE HIRED AS A REGULAR EMPLOYEE ON OR AFTER SAID DATE, EXCEPT AN EMPLOYEE WHO, PURSUANT TO THE PLAN ADOPTED BY THE BOARD OF EDUCATION ON NOVEMBER 19, 1945, ELECTED ASSOCIATE

MEMBERSHIP AND HAS NOT SUBSEQUENTLY BECOME A CONTRIBUTING MEMBER AS PERMITTED UNDER THE PLAN. THE TERM "CONTRIBUTING MEMBER" INCLUDES A REGULAR EMPLOYEE OF A CHARTER SCHOOL AND A REGULAR EMPLOYEE OF THE SYSTEM.

(e) "DEFERRED MEMBER" MEANS A FORMER EMPLOYEE OF THE DISTRICT WHO:

(I) IS NOT AN ANNUITANT WHO, ON OR BEFORE DECEMBER 31, 2008, TERMINATED EMPLOYMENT WITH THE DISTRICT AND WHO HAS ON FILE AN ELECTION AND DECLARATION OF INTENT TO APPLY FOR A DEFERRED RETIREMENT ALLOWANCE; OR

(II) ON OR AFTER JANUARY 1, 2009, TERMINATED EMPLOYMENT WITH THE DISTRICT AND HAS NOT REQUESTED A REFUND OF SUCH MEMBER'S ACCUMULATED CONTRIBUTIONS.

(20) "MONEY PURCHASE MONTHLY ANNUITY" MEANS THE MONTHLY ANNUITY THAT IS THE ACTUARIAL EQUIVALENT OF A LUMP SUM AMOUNT.

(21) "MONTHLY COMPENSATION" MEANS ANNUAL COMPENSATION DIVIDED BY TWELVE.

(22) "MONTHLY CREDITING METHOD" MEANS THE WAY IN WHICH EARNINGS ON MEMBER ACCOUNTS ARE CALCULATED AND CREDITED AT THE END OF A CALENDAR MONTH BASED UPON THE ACCUMULATED CONTRIBUTIONS IN THE MEMBER'S ACCOUNT AT THE BEGINNING OF THAT MONTH PURSUANT TO PROVISIONS OF THE DPS PLAN.

(23) "NONQUALIFIED SERVICE" MEANS ANY NONCOVERED EMPLOYMENT THAT DOES NOT INCLUDE:

(a) SERVICE AS AN EMPLOYEE OF THE UNITED STATES GOVERNMENT, ANY STATE OR POLITICAL SUBDIVISION THEREOF, OR ANY AGENCY OR INSTRUMENTALITY OF ANY OF THE FOREGOING;

(b) SERVICE AS AN EMPLOYEE OF A PUBLIC, PRIVATE, OR SECTARIAN ELEMENTARY OR SECONDARY SCHOOL;

(c) SERVICE AS AN EMPLOYEE OF AN ASSOCIATION OF EMPLOYEES WHO ARE DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (23); OR

(d) SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

(24) "NORMAL RETIREMENT AGE" MEANS THE ATTAINMENT OF AGE SIXTY-FIVE.

(25) "OUTSIDE SERVICE" MEANS CIVILIAN SERVICE OF A SIMILAR KIND, IN A TAX-SUPPORTED INSTITUTION OTHER THAN THE DISTRICT. SUBSTANTIATION OF OUTSIDE SERVICE MUST BE INITIATED AS OF JULY 1, 2009, OR IT CANNOT BE APPLIED TO EARNED SERVICE FOR PURPOSES OF MEETING REGULAR RETIREMENT ELIGIBILITY, PURSUANT TO THE PROVISIONS OF THIS PART 17 REGARDING EARNED SERVICE. SUBSTANTIATION OF SUCH SERVICE MUST BE COMPLETED ON OR PRIOR TO DECEMBER 31, 2009.

(26) "PENSION" MEANS THE PORTION OF THE BENEFIT ATTRIBUTABLE TO FUNDS PROVIDED BY THE DISTRICT.

(27) "PERMANENTLY INCAPACITATED" MEANS AN INCAPACITATING CONDITION THAT IS DEMONSTRABLY PERMANENT AND PREVENTS THE EMPLOYEE FROM PERFORMING ASSIGNED DUTIES SUBJECT TO ACCOMMODATION REQUIRED IN ACCORDANCE WITH APPLICABLE LAW OR REASONABLY IMPOSED BY THE DISTRICT. THIS SUBSECTION (27) APPLIES ONLY FOR PURPOSES OF DETERMINING ELIGIBILITY FOR DISABILITY BENEFITS FOR APPLICATIONS FILED UNDER THE DPS PLAN PRIOR TO JANUARY 1, 2010.

(28) "PERMITTED ABSENCE" MEANS ANY AUTHORIZED AND UNPAID ABSENCE, OTHER THAN SEVERANCE OF EMPLOYMENT; EXCEPT THAT NO ABSENCE IN EXCESS OF THIRTY CONSECUTIVE CALENDAR DAYS SHALL BE DEEMED PERMITTED UNLESS THE AUTHORIZATION THEREFOR SHALL BE IN WRITING, SIGNED BY AN APPROPRIATE ADMINISTRATIVE OFFICIAL OR BY AUTHORIZATION OF THE DISTRICT. REGARDLESS OF ANY TIME FACTOR, NO ABSENCE CONTINUED AFTER WRITTEN NOTICE TO RETURN SHALL BE DEEMED A PERMITTED ABSENCE.

(29) "PRIMARY PERCENTAGE" SHALL BE THE PRODUCT OBTAINED BY MULTIPLYING THE UNIT BENEFIT PERCENTAGE FACTOR BY THE TOTAL NUMBER OF YEARS AND MONTHS OF ACCREDITED SERVICE. MONTHS SHALL BE EXPRESSED AS FRACTION WITH THE NUMBER OF MONTHS AS THE NUMERATOR AND TWELVE AS THE DENOMINATOR. THE PRIMARY PERCENTAGE SHALL BE ROUNDED TO THE NEAREST ONE-HUNDREDTH OF A PERCENT. MULTIPLYING THE PRIMARY PERCENTAGE BY THE HIGHEST AVERAGE SALARY AS DEFINED IN SUBSECTION (17) OF THIS SECTION OR CAREER AVERAGE SALARY, WHICHEVER IS APPLICABLE, RESULTS IN THE ANNUAL RETIREMENT ALLOWANCE EXPRESSED AS A SINGLE LIFE ANNUITY AND KNOWN AS OPTION A.

(30) "REGULAR EMPLOYEE" MEANS ANY EMPLOYEE WHO RECEIVES ANNUAL COMPENSATION ON THE ACTIVE PAYROLL OF THE DISTRICT AND WHOSE EMPLOYMENT BY THE DISTRICT REPRESENTS THE EMPLOYEE'S PRINCIPAL GAINFUL OCCUPATION AND REQUIRES SO SUBSTANTIAL A PORTION OF TIME THAT IT IS IMPRACTICAL TO FOLLOW ANY OTHER SUBSTANTIALLY GAINFUL OCCUPATION. ABSENCE OF A REGULAR EMPLOYEE ON A PERMITTED ABSENCE SHALL NOT CHANGE THE EMPLOYEE'S STATUS AS A REGULAR EMPLOYEE. ANY EMPLOYEE WHO IS A CASUAL EMPLOYEE SHALL NOT AT THE SAME TIME BE A REGULAR EMPLOYEE.

(31) "REGULAR INTEREST" MEANS, ON AND AFTER JANUARY 1, 2010, THE RATE SET BY THE ASSOCIATION'S BOARD AS PROVIDED IN SECTION 24-51-407 (4) AND AS MAY BE PERIODICALLY ADJUSTED. ON OR BEFORE DECEMBER 31, 2009, "REGULAR INTEREST" MEANS THE RATES SPECIFIED IN THE DPS PLAN DOCUMENT.

(32) "RESERVE" MEANS THE PRESENT VALUE OF PAYMENTS TO BE MADE ON ACCOUNT OF ANY BENEFIT PROVIDED IN THIS PLAN AND COMPUTED UPON THE BASIS OF SUCH MORTALITY TABLES AND INTEREST ASSUMPTIONS AS MAY, FROM TIME TO TIME, BE APPROVED.

(33) "RESERVE FOR EMPLOYEES TO BE RETIRED" MEANS THE RESERVE THAT IS PART OF THE SYSTEM RETIREMENT TRUST FUND AND IDENTIFIES THE AMOUNT OF

MONEYS SET ASIDE TO PROVIDE FOR THE BASIC BENEFITS THAT ARE ANTICIPATED TO BE PAYABLE TO CURRENTLY ACTIVE MEMBERS OR TO THOSE MEMBERS WHO HAVE ALREADY ELECTED DEFERRED RETIREMENT BENEFITS BUT WHO, BECAUSE OF AGE, ARE NOT YET ACTUALLY RECEIVING SUCH BENEFITS.

(34) "RETIREMENT ALLOWANCE" OR "TOTAL RETIREMENT ALLOWANCE" MEANS THE TOTAL OF PENSION, ANNUITY, AND ALL POSTRETIREMENT INCREASES.

(35) "RETIREMENT PLAN" MEANS THE RETIREMENT AND BENEFIT PLAN CONTAINED IN THIS PART 17.

(36) "SUPPLEMENT" OR "SPECIAL SUPPLEMENT" MEANS POSTRETIREMENT INCREASES IN TOTAL RETIREMENT ALLOWANCE TO CERTAIN QUALIFIED ANNUITANTS AND BENEFICIARIES.

(37) "TAX-SUPPORTED INSTITUTION" MEANS A GOVERNMENTAL ENTITY OR AGENCY THAT EITHER HAS THE POWER TO LEVY TAXES OR THAT RECEIVES GOVERNMENTAL APPROPRIATIONS AS SUCH AN ENTITY OR AGENCY.

(38) "TOTAL TEMPORARY DISABILITY" MEANS ABSENCE FROM WORK AND TEMPORARY INABILITY TO PERFORM ASSIGNED DUTIES AS A RESULT OF PERSONAL INJURY INCURRED IN THE SCOPE AND COURSE OF EMPLOYMENT AS DETERMINED BY THE DISTRICT.

(39) "UNIT BENEFIT PERCENTAGE FACTOR" MEANS THE PERCENTAGE USED AS THE FACTOR FOR ONE YEAR OF ACCREDITED SERVICE. THE UNIT BENEFIT PERCENTAGE FACTOR SHALL BE ONE AND TWO-THIRDS PERCENT FROM JULY 1, 1962, TO JANUARY 1, 1980. THE UNIT BENEFIT PERCENTAGE FACTOR SHALL BE ONE AND SEVENTY-FIVE ONE-HUNDREDTHS PERCENT EFFECTIVE JANUARY 1, 1980; ONE AND NINETY ONE-HUNDREDTHS PERCENT EFFECTIVE JANUARY 1, 1981; TWO PERCENT EFFECTIVE JANUARY 1, 1982; TWO AND SEVEN ONE-HUNDREDTHS PERCENT EFFECTIVE JANUARY 1, 1988; TWO AND TWENTY-FIVE ONE-HUNDREDTHS PERCENT EFFECTIVE JULY 1, 1998; AND TWO AND ONE-HALF PERCENT EFFECTIVE JANUARY 1, 2001. THE UNIT BENEFIT PERCENTAGE APPLICABLE TO A DEFERRED RETIREMENT SHALL BE THAT IN EFFECT ON THE ACTUAL DATE ON WHICH THE EMPLOYMENT OF SUCH MEMBER BY THE DISTRICT FINALLY TERMINATED. IN ALL OTHER RETIREMENTS, THE UNIT BENEFIT PERCENTAGE FACTOR SHALL BE THAT IN EFFECT ON THE EFFECTIVE DATE OF SUCH RETIREMENT.

24-51-1703. Denver public schools division - consolidation. (1) THE DPS PLAN SHALL CONTINUE TO GOVERN THE BENEFITS AND PROGRAMS SPECIFIED IN SUCH PLAN THROUGH DECEMBER 31, 2009. ON JANUARY 1, 2010, THE DPS PLAN SHALL BE SUPERSEDED BY THE PROVISIONS OF THIS ARTICLE EXCEPT TO THE EXTENT THAT IT IS NECESSARY TO REFER TO THE DPS PLAN FOR THE CORRECTION OF ERRORS AND AS IT MAY BE INCORPORATED BY REFERENCE IN THIS ARTICLE.

(2) ON JANUARY 1, 2010, ALL THE ASSETS, LIABILITIES, AND OBLIGATIONS OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM SHALL BECOME THE ASSETS, LIABILITIES, AND OBLIGATIONS OF THE DENVER PUBLIC SCHOOLS DIVISION OF THE ASSOCIATION WITHOUT ANY FURTHER ACT OR DOCUMENT OF TRANSFER.

(3) ON JANUARY 1, 2010, NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION, THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM OR THE ASSOCIATION, OR BOTH, MAY TAKE SUCH ACTIONS AND EXECUTE SUCH CERTIFICATIONS OR OTHER INSTRUMENTS AS MAY BE CONVENIENT TO EVIDENCE THE CONSUMMATION OF THE MERGER OF THE TWO SYSTEMS, ITS EFFECTIVE DATE, AND THE ASSETS OR ANY PARTICULAR ASSET TRANSFERRED. ANY SUCH CERTIFICATION OR OTHER INSTRUMENT PURPORTEDLY EXECUTED BY AN AUTHORIZED OFFICER OF EITHER SYSTEM AND BEARING THE SEAL OF SUCH SYSTEM SHALL BE PRIMA FACIE EVIDENCE OF ALL MATTERS STATED IN THE CERTIFICATION OR INSTRUMENT AND MAY BE RELIED UPON BY ANY THIRD PARTY, WITHOUT FURTHER INQUIRY, INCLUDING, WITHOUT LIMITATION, ANY PUBLIC TRUSTEE OR OTHER PUBLIC OFFICIAL OF THIS OR ANY OTHER STATE OR LOCAL GOVERNMENT. IF ANY CERTIFICATION OR OTHER INSTRUMENT IS RECORDED IN THE APPROPRIATE REAL ESTATE RECORDS IN THIS OR ANY OTHER STATE OR LOCAL GOVERNMENT, A COPY OF THE CERTIFICATION OR INSTRUMENT, WHEN DULY CERTIFIED BY THE CUSTODIAN OF THE REAL ESTATE RECORDS TO BE A TRUE COPY OF THE RECORDED ORIGINAL, SHALL HAVE THE SAME EFFECT AS THE ORIGINAL.

(4) THE VALUE OF ASSETS TRANSFERRED AS OF JANUARY 1, 2010, AS REFLECTED IN THE AUDITED FINANCIAL REPORT EFFECTIVE DECEMBER 31, 2009, SHALL DETERMINE THE INITIAL ASSET VALUE IN THE DENVER PUBLIC SCHOOLS DIVISION TRUST FUND FOR PURPOSES OF THE INITIAL AND FUTURE VALUATIONS AND THE PROPORTIONATE SHARE OF THE TOTAL ASSETS OF THE ASSOCIATION ATTRIBUTABLE TO THE DENVER PUBLIC SCHOOLS DIVISION. IN THE EVENT THAT THE AUDITED VALUE IS ADJUDICATED BY A COURT OF COMPETENT JURISDICTION TO BE IN ERROR SUCH THAT THE TRUE VALUE ON THE DATE OF TRANSFER WAS DIFFERENT THAN REFLECTED IN THE AUDITED FINANCIALS, AN ADJUSTMENT SHALL BE MADE TO THE INITIAL ASSET VALUE OF THE DENVER PUBLIC SCHOOLS DIVISION AND APPROPRIATE ADJUSTMENTS MADE TO THE PROPORTIONATE SHARE OF INVESTMENT RETURNS AND EXPENSES OF THE ASSOCIATION ATTRIBUTED TO THE DENVER PUBLIC SCHOOLS DIVISION. NO ADJUSTMENT TO THE STARTING ASSET VALUE OF THE DENVER PUBLIC SCHOOLS DIVISION SHALL RESULT FROM A CHANGE IN VALUE AFTER JANUARY 1, 2010, OF THE ASSETS TRANSFERRED. FOR PURPOSES OF THIS SUBSECTION (4), THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM REAL ESTATE AND PRIVATE EQUITY HOLDINGS SHALL BE VALUED AND AUDITED AS OF DECEMBER 31, 2009, AND THE DIRECTLY OWNED REAL ESTATE OF THE ASSOCIATION SHALL BE APPRAISED FOR EVALUATION AS OF DECEMBER 31, 2009.

(5) (a) PRIOR LEGISLATIVE ATTEMPTS TO ACCOMPLISH THE MERGER OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM INTO THE SCHOOL DIVISION OF THE COLORADO PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION WITH AGREEMENT AMONG THE THREE PARTIES HAVE PROVEN UNSUCCESSFUL NOTWITHSTANDING SUBSTANTIAL EXPENDITURES OF TIME AND MONEY BY THE PARTIES. THE REASONS FOR SUCH LACK OF SUCCESS INCLUDE THE METHODOLOGY INVOLVED IN THE DETERMINATION AND ALLOCATION OF THE COSTS OF A MERGER IN ORDER TO AVOID ANY SUBSIDY TO EITHER MERGING PARTY AS A RESULT OF THE MERGER. TO AVOID THESE PROBLEMS AND TO OBTAIN THE PUBLIC POLICY BENEFITS OF A MERGER, THIS SECTION MANDATES THE MERGER WITHOUT ANY REQUIREMENT OF AGREEMENT AMONG THE PARTIES AND IMPLEMENTS IT THROUGH THE CREATION OF A SEPARATE DIVISION WITHIN THE ASSOCIATION. NOTWITHSTANDING SUCH MANDATE, THE SUCCESSFUL INTEGRATION OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM

INTO THE ASSOCIATION WHILE MAINTAINING A CONTINUING HIGH LEVEL OF SERVICE TO THE MEMBERS AND BENEFICIARIES OF BOTH SYSTEMS HAS REQUIRED AND WILL CONTINUE TO REQUIRE THE COOPERATION AND BEST EFFORTS OF THE GOVERNING BODIES AND STAFFS OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM, THE ASSOCIATION, AND THE DENVER PUBLIC SCHOOLS. IN THE COURSE OF THE MERGER, THE PARTIES SHALL OBSERVE THE FIDUCIARY DUTIES AND LEGAL OBLIGATIONS INCIDENT TO THEIR RESPECTIVE OFFICES, POSITIONS, AND EMPLOYMENTS, WHICH DUTIES AND OBLIGATIONS MAY NOT ALWAYS BE ENTIRELY CLEAR OR EASILY ACCOMPLISHED. THEREFORE, TO SECURE THE PUBLIC POLICY OBJECTIVES INCIDENT TO THE MERGER AND ITS SUCCESSFUL IMPLEMENTATION IN THE MOST EFFICIENT WAY FEASIBLE, SO LONG AS SUCH GOVERNING BODIES AND STAFFS ACT OR HAVE ACTED IN GOOD FAITH AND IN ACCORDANCE WITH A GOOD FAITH INTERPRETATION OF THE REQUIREMENTS OF THIS SECTION AND OTHER APPLICABLE LAW, THEY SHALL BE DEEMED TO HAVE FULFILLED THEIR FIDUCIARY DUTIES AND OTHER LEGAL OBLIGATIONS. IN ADDITION, SUCH GOVERNING BODIES AND STAFFS SHALL HAVE NO PERSONAL LIABILITY FOR THEIR ACTS OR OMISSIONS INCIDENT TO THE IMPLEMENTATION OF THE MERGER, INCLUDING ALL ACTIVITIES REASONABLY RELATED THERETO. ANY PERSON WHO CONTENDS OTHERWISE SHALL BEAR THE BURDEN OF PROVING THAT ANY ACT OR OMISSION CHALLENGED DOES NOT MEET THE REQUIREMENTS OF GOOD FAITH.

(b) IT IS THE INTENT OF THIS PART 17 TO ACHIEVE THE MANDATED MERGER AND TO FACILITATE ITS IMPLEMENTATION, THEREBY PROVIDING PORTABILITY OF THE BENEFITS OF THE MEMBERS OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM AND THE ASSOCIATION. IN ADDITION, THIS PART 17 IS INTENDED TO PURSUE EFFICIENCIES IN THE ADMINISTRATION OF THE BENEFITS OF MEMBERS AND BENEFICIARIES OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM AND IN THE INVESTMENT OF MONEYS BEING TRANSFERRED TO THE ASSOCIATION AND LATER ACCRUING TO IT THROUGH EMPLOYER AND EMPLOYEE CONTRIBUTIONS, ALL IN ACCORD WITH CHANGING CONDITIONS. THE PROVISIONS OF THIS PART 17 AND THE BENEFIT PROVISIONS FOR MEMBERS AND BENEFICIARIES TO BE PROVIDED FOLLOWING THE MERGER SHALL BE INTERPRETED AND ADMINISTERED TO ATTEMPT TO FURTHER THOSE OBJECTIVES, AND IF PURSUED REASONABLY AND IN GOOD FAITH SHALL BE DEEMED TO COMPLY WITH APPLICABLE LEGAL AND FIDUCIARY REQUIREMENTS. ANY PERSON WHO CONTENDS OTHERWISE SHALL BEAR THE BURDEN OF PROVING THAT ANY ACT OR OMISSION CHALLENGED DOES NOT MEET ALL LEGAL REQUIREMENTS APPLICABLE IN THE CIRCUMSTANCES.

(c) ON JANUARY 1, 2010, THE SEPARATE EXISTENCE OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM SHALL CEASE AND THE TERMS OF ITS TRUSTEES SHALL EXPIRE. IN ADDITION, THE EMPLOYMENT OF ITS EMPLOYEES SHALL CEASE, SUBJECT TO SECTION 24-51-1748, PROVIDING FOR THEIR EMPLOYMENT BY THE ASSOCIATION. ANY CLAIMS AGAINST SUCH TRUSTEES, FORMER TRUSTEES, EMPLOYEES, OR FORMER EMPLOYEES IN THEIR RESPECTIVE CAPACITIES SHALL BE COMMENCED WITHIN SUCH PERIODS OF LIMITATION AND SHALL BE SUBJECT TO SUCH OTHER PROVISIONS AS MAY BE PROVIDED BY LAW, BUT IN NO CASE SHALL SUCH AN ACTION BE BROUGHT MORE THAN TWO YEARS AFTER JANUARY 1, 2010. ANY CLAIMS RELATING TO THE MERGER AND MADE AGAINST THE TRUSTEES, FORMER TRUSTEES, EMPLOYEES, OR FORMER EMPLOYEES OF THE ASSOCIATION IN THEIR RESPECTIVE CAPACITIES, AND ANY CLAIMS RELATING TO THE MERGER AND MADE AGAINST MEMBERS OR FORMER MEMBERS OF THE BOARD OF EDUCATION OR EMPLOYEES OR

FORMER EMPLOYEES OF THE SCHOOL DISTRICT IN THEIR RESPECTIVE CAPACITIES SHALL BE COMMENCED WITHIN SUCH PERIODS OF LIMITATION AND SHALL BE SUBJECT TO SUCH OTHER PROVISIONS AS MAY BE PROVIDED BY LAW, BUT IN NO CASE SHALL SUCH AN ACTION BE BROUGHT MORE THAN TWO YEARS AFTER JANUARY 1, 2010.

24-51-1704. Service credit. (1) "ACCREDITED SERVICE", AS USED IN THE DETERMINATION OF BENEFITS, ALLOWED OR ALLOWABLE, SHALL INCLUDE THE FOLLOWING:

(a) SUBJECT TO THE EXPRESS LIMITATIONS IN THIS SECTION, ALL PERIODS OF EMPLOYMENT WITH THE DISTRICT OR WITH A CHARTER SCHOOL AS A REGULAR EMPLOYEE FOR WHICH THE EMPLOYEE RECEIVED OR RECEIVES PAYMENTS IN ACCORDANCE WITH ANNUAL COMPENSATION.

(b) ALL PERIODS OF EMPLOYMENT WITH THE DISTRICT OR WITH A CHARTER SCHOOL AS A CASUAL EMPLOYEE PRIOR TO THE EFFECTIVE DATE OF RETIREMENT FOR WHICH THE EMPLOYEE RECEIVED OR RECEIVES WAGES OR SALARY FROM THE DISTRICT, PROVIDED THAT NO PERIOD OF EMPLOYMENT AS A CASUAL EMPLOYEE SHALL BE COUNTED AS ACCREDITED SERVICE IF SUCH EMPLOYEE DURING SUCH PERIOD IS ALSO A REGULAR EMPLOYEE.

(c) LEAVES OF ABSENCE OR PERMITTED ABSENCES COMMENCING PRIOR TO JULY 1, 1962, AS GOVERNED BY THE DPS PLAN DOCUMENT.

(d) LEAVES OF ABSENCE OR PERMITTED ABSENCES COMMENCING ON OR AFTER JULY 1, 1962, UNDER THE FOLLOWING CONDITIONS:

(I) A LEAVE OF ABSENCE FOR SERVICE IN THE UNITED STATES ARMED FORCES, STUDY, TRAVEL, OR RESEARCH SHALL COUNT AS ACCREDITED SERVICE IF THE ENTIRE PERIOD OF SAID LEAVE QUALIFIES AS CONTRIBUTING SERVICE.

(II) IF SAID LEAVE IS A SABBATICAL LEAVE OR A LEAVE FOR RESTORATION OF HEALTH ON A HALF-SALARY BASIS AND IF THE NORMAL CONTRIBUTION IS BASED ON THE FULL ANNUAL COMPENSATION OF THE MEMBER AND THE LEAVE QUALIFIES AS CONTRIBUTING SERVICE, THEN THE ENTIRE PERIOD OF SUCH LEAVE SHALL COUNT AS ACCREDITED SERVICE. IF, HOWEVER, THE NORMAL CONTRIBUTION IS BASED ONLY ON A FRACTION OF THE ANNUAL COMPENSATION, THEN SAID FRACTION SHALL BE MULTIPLIED BY THE TOTAL PERIOD OF SUCH LEAVE TO DETERMINE THE PORTION OF THE LEAVE THAT SHALL COUNT AS ACCREDITED SERVICE.

(III) (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBPARAGRAPH (III), AN ABSENCE DUE TO A TEMPORARY TOTAL DISABILITY COMPENSABLE IN ACCORDANCE WITH THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, C.R.S., SHALL BE DEEMED ACCREDITED SERVICE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (A).

(B) THE PORTION OF AN ABSENCE DUE TO A TEMPORARY TOTAL DISABILITY FOR WHICH THE EMPLOYEE IS COMPENSATED BY THE DISTRICT IN ACCORDANCE WITH ITS POLICIES PERTAINING THERETO FROM TIME TO TIME SHALL BE CONSIDERED ACCREDITED SERVICE. IF, HOWEVER, THE NORMAL CONTRIBUTION IS BASED ONLY ON A FRACTION OF THE ANNUAL COMPENSATION, THEN THE FRACTION SHALL BE

MULTIPLIED BY THE TOTAL PERIOD OF SUCH LEAVE TO DETERMINE THE PORTION OF THE LEAVE THAT SHALL COUNT AS ACCREDITED SERVICE.

(C) THE PORTION OF AN ABSENCE DUE TO A TEMPORARY TOTAL DISABILITY FOR WHICH THE EMPLOYEE IS NOT COMPENSATED IN THE MANNER PROVIDED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (III) BUT FOR WHICH THE EMPLOYEE RECEIVES WORKERS' COMPENSATION SHALL BE CONSIDERED ACCREDITED SERVICE ONLY IF QUALIFIED AS SUCH WITHIN THE EARLIER OF TWO YEARS AFTER THE EMPLOYEE'S RETURN TO WORK FULL TIME OR THIRTY DAYS PRIOR TO THE EFFECTIVE DATE OF THE EMPLOYEE'S RETIREMENT. SUCH QUALIFICATION SHALL BE ACCOMPLISHED BY PAYMENT INTO THE DPS PLAN OF AN AMOUNT EQUAL TO THE NORMAL CONTRIBUTIONS AND PENSION ASSESSMENTS, TOGETHER WITH INTEREST AS CALCULATED, AND WITHIN THE TIME LIMITS DETERMINED BY THE ASSOCIATION BOARD AND COMPUTED AS OF THE DATE THE AGREEMENT TO PAY IS MADE, FOR THE PORTION OF THE ABSENCE COVERED BY THIS SUB-SUBPARAGRAPH (C) IN ACCORDANCE WITH SUBPARAGRAPH (VI) OF THIS PARAGRAPH (d).

(D) THIS SUBPARAGRAPH (III) SHALL BECOME EFFECTIVE ON JANUARY 1, 1986, AND SHALL APPLY TO ABSENCES COVERED BY ITS TERMS THAT BEGIN ON OR AFTER THAT DATE.

(IV) NO PORTION OF A PERIOD OF ABSENCE FOR ILLNESS WHERE SAID PERIOD EXCEEDS FIFTEEN CONSECUTIVE WORKING DAYS, FOR WHICH PERIOD NO PAYMENTS IN ACCORDANCE WITH THE EMPLOYEE'S ANNUAL COMPENSATION WERE MADE, SHALL COUNT AS ACCREDITED SERVICE.

(V) ANY OTHER TYPE OF PERMITTED ABSENCE NOT SPECIFIED IN THIS SECTION MAY NOT BE COUNTED AS ACCREDITED SERVICE UNLESS THE BOARD OF EDUCATION, AT THE TIME SUCH PERMITTED ABSENCE IS AUTHORIZED, SPECIFIES THAT THE TIME SPENT ON SUCH PERMITTED ABSENCE SHALL BE COUNTED AS ACCREDITED SERVICE FOR PURPOSES OF THIS RETIREMENT PLAN, SUBJECT TO THE REQUIREMENT THAT THE ENTIRE PERIOD OF SAID ABSENCE SHALL QUALIFY AS CONTRIBUTING SERVICE. NOTWITHSTANDING THIS SUBPARAGRAPH (V), ANY SUCH ABSENCE WHICH IS LESS THAN SIXTEEN CONSECUTIVE WORKING DAYS SHALL BE COUNTED AS ACCREDITED SERVICE.

(VI) THE NORMAL CONTRIBUTION FOR ALL PERMITTED ABSENCES OTHER THAN THOSE COMPENSATED IN ANY WAY BY THE DISTRICT SHALL BE BASED UPON THE ANNUAL COMPENSATION IN EFFECT IMMEDIATELY PRIOR TO THE DATE OF COMMENCEMENT OF SUCH ABSENCE.

(VII) SERVICE ACCRUAL FOR ALL PERMITTED ABSENCES SHALL BE CONSISTENT WITH SERVICE ACCRUALS THAT WERE ALLOWED UNDER THIS RETIREMENT PLAN IMMEDIATELY PRECEDING THE PERMITTED ABSENCE. THIS SHALL INCLUDE, WITHOUT LIMITATION, THE RETIREMENT PLAN AND ASSOCIATED RULE DEFINITIONS AND PROVISIONS APPLICABLE TO SERVICE ACCRUAL FOR JOB-SHARING ASSIGNMENTS AS OF ANY GIVEN DATE.

(e) LEAVES OF ABSENCES OR PERMITTED ABSENCE COMMENCING ON OR AFTER JANUARY 1, 1980, WHICH CAN QUALIFY AS ACCREDITED SERVICE IN ACCORDANCE WITH THIS SUBSECTION (1), MUST BE QUALIFIED AS CONTRIBUTING SERVICE WITHIN

TWO YEARS FROM THE DATE THE EMPLOYEE RETURNS TO WORK. ON AND AFTER JANUARY 1, 1998, LEAVES OF ABSENCE THAT ARE QUALIFIED AS CONTRIBUTING SERVICE SHALL BE QUALIFIED IN ACCORDANCE WITH PROVISIONS OF THE DPS PLAN DOCUMENT.

(f) A PERSON EMPLOYED IN A JOB-SHARING ASSIGNMENT SHALL RECEIVE EARNED SERVICE ACCRUALS APPROPRIATE TO REDUCE SUCH SERVICE TO ITS EQUIVALENT IN FULL-TIME SERVICE.

(g) A LEAVE OF ABSENCE GRANTED TO AN EMPLOYEE TO ALLOW THAT EMPLOYEE TO WORK IN A CHARTER SCHOOL SHALL NOT COUNT AS ACCREDITED SERVICE UNLESS THE PERIOD OF TIME SPENT IN CHARTER SCHOOL EMPLOYMENT IS COVERED AS CONTRIBUTING OR AFFILIATE MEMBERSHIP, IN WHICH CASE THE SERVICE SHALL BE COVERED PURSUANT TO THE REQUIREMENTS OF SUCH MEMBERSHIP.

24-51-1705. Purchase of service credit relating to a refunded member contribution account and noncovered employment. PURCHASES RELATED TO REEMPLOYMENT AND NONCOVERED EMPLOYMENT FOR WHICH PAYMENTS ARE NOT COMPLETE PRIOR TO JANUARY 1, 2010, SHALL BE GOVERNED BY THE DPS PLAN DOCUMENT. ON JANUARY 1, 2010, SERVICE CREDIT SHALL BE CREDITED TO THE MEMBER ACCOUNTS TO THE EXTENT OF PAYMENTS RECEIVED, A NEW SERVICE CREDIT PURCHASE AGREEMENT SHALL BE ISSUED BY THE ASSOCIATION USING THE PREVIOUSLY EXISTING LUMP-SUM OR INSTALLMENT PAYMENT AMOUNT, AND FUTURE PAYMENTS AND SERVICE ACCRUALS SHALL BE GOVERNED BY PART 5.

24-51-1706. Accreditation of casual employment and qualifiable leave. ACCREDITATION OF CASUAL EMPLOYMENT AND QUALIFIABLE PERIODS OF LEAVE AS DESCRIBED IN SECTION 24-51-1704 FOR WHICH PAYMENTS ARE NOT COMPLETE PRIOR TO JANUARY 1, 2010, SHALL BE GOVERNED BY THE DPS PLAN DOCUMENT. ON JANUARY 1, 2010, SUCH SERVICE SHALL BE CREDITED TO THE MEMBER ACCOUNTS TO THE EXTENT OF PAYMENTS RECEIVED, AND A NEW PURCHASE AGREEMENT SHALL BE ISSUED BY THE ASSOCIATION USING THE PREVIOUSLY EXISTING LUMP-SUM OR INSTALLMENT PAYMENT AMOUNT, AND FUTURE PAYMENTS AND SERVICE ACCRUALS SHALL BE GOVERNED BY PART 5 OF THIS ARTICLE. AFTER JANUARY 1, 2010, ACCREDITATION OF CASUAL EMPLOYMENT AND QUALIFIABLE LEAVES AS PROVIDED IN THIS PART 17 SHALL NOT BE PERMITTED.

24-51-1707. Affiliate membership. A CASUAL EMPLOYEE WHO HAS BEEN APPROVED OR HAS APPLIED, AND IS ULTIMATELY APPROVED, FOR STATUS AS AN AFFILIATE MEMBER AS OF DECEMBER 31, 2009, SHALL REMAIN AN AFFILIATE MEMBER AND THE BENEFITS PROVIDED FOR PURSUANT TO THE DPS PLAN DOCUMENT SHALL GOVERN AT THE TIME OF RETIREMENT, UNLESS SUCH STATUS IS REVOKED PURSUANT TO THE DPS PLAN DOCUMENT. ANY APPLICANT FOR AFFILIATE MEMBER STATUS SHALL COMPLETE PAYMENTS IN ACCORDANCE WITH THE DPS PLAN DOCUMENT OR BE SUBJECT TO REVOCATION OF AFFILIATE MEMBER STATUS. ON OR AFTER JANUARY 1, 2010, FURTHER APPLICATIONS FOR AFFILIATE MEMBERSHIP SHALL NOT BE PERMITTED, AND ALL ELIGIBLE BENEFITS PAYABLE TO THE EXISTING AFFILIATE MEMBERS SHALL BE BASED ON THE HIGHEST AVERAGE SALARY, AS DEFINED IN SECTION 24-51-1702 (17), AND BENEFIT DESCRIPTIONS, AS DETAILED IN SECTIONS 24-51-1715, 24-51-1729, AND 24-51-1734 TO 24-51-1746.

24-51-1708. Unclaimed moneys. ANY MONEYS DUE UNDER THIS PART 17 TO EMPLOYEES WHO HAVE RESIGNED, BEEN DISMISSED, OR DIED PRIOR TO RETIREMENT, AND THAT HAVE BEEN UNCLAIMED FOR A PERIOD OF THREE YEARS SHALL BE FORFEITED AND CREDITED TO THE DENVER PUBLIC SCHOOLS DIVISION.

24-51-1709. Arrearages. ARREARAGE CONTRIBUTIONS ALLOWED PURSUANT TO THIS PART 17 THAT REQUIRE EMPLOYER CONTRIBUTIONS, AS WELL AS EMPLOYEE CONTRIBUTIONS, SHALL BE THE OBLIGATION OF AND SHALL BE PAID BY THE MEMBER'S DENVER PUBLIC SCHOOLS DIVISION EMPLOYER AT THE TIME THE PAYMENT OBLIGATION WAS INITIATED EVEN IF THE SERVICE SO QUALIFIED WAS RENDERED DURING A PERIOD OF EMPLOYMENT WITH A DIFFERENT DENVER PUBLIC SCHOOLS DIVISION EMPLOYER.

24-51-1710. Earned service. (1) EFFECTIVE ON JANUARY 1, 2004, EACH ACTIVE MEMBER OF THE SYSTEM SHALL BE CREDITED WITH EARNED SERVICE. SUBJECT TO THE FURTHER PROVISIONS OF THIS SECTION, EARNED SERVICE SHALL BE EQUAL TO THE GREATER OF A MEMBER'S ACTIVE OR ACCREDITED SERVICE ON JANUARY 1, 2004, CALCULATED IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THIS RETIREMENT PLAN AS IT EXISTED IMMEDIATELY PRIOR TO JANUARY 1, 2004. FOLLOWING DECEMBER 31, 2003, A MEMBER'S EARNED SERVICE SHALL BE USED IN LIEU OF ACTIVE OR ACCREDITED SERVICE IN DETERMINING BOTH THE ELIGIBILITY FOR AND THE AMOUNT OF RETIREMENT BENEFITS UNDER THIS RETIREMENT PLAN.

(2) ON AND AFTER JANUARY 1, 2010, IN MAKING CALCULATIONS OF EARNED SERVICE, ACTIVE SERVICE SHALL NOT INCLUDE OUTSIDE SERVICE, BUT OUTSIDE SERVICE SUBSTANTIATED ON OR BEFORE DECEMBER 31, 2009, MAY BE ADDED TO EARNED SERVICE IN DETERMINING A MEMBER'S ELIGIBILITY TO RETIRE FOR SUPERANNUATION WITH AN UNREDUCED BENEFIT AT AGE FIFTY-FIVE OR OLDER AND WITH AT LEAST TWENTY-FIVE YEARS OF SERVICE, IN ACCORDANCE WITH SECTIONS 24-51-1715 AND 24-51-1734, PROVIDED THAT OUTSIDE SERVICE TAKEN TOGETHER WITH SERVICE PURCHASED UNDER SECTIONS 24-51-1705 AND 24-51-1706 MAY NOT EXCEED TEN YEARS IN DETERMINING SUCH ELIGIBILITY TO RETIRE. THIS SUBSECTION (2) ONLY APPLIES TO DPS MEMBERS WHO RETIRE FROM THE DENVER PUBLIC SCHOOLS DIVISION WITHOUT EXERCISING PORTABILITY AND DPS MEMBERS WHO RETIRE A FROZEN SEGMENT OF SERVICE IN THE DENVER PUBLIC SCHOOLS DIVISION THAT INCLUDES OUTSIDE SERVICE.

(3) ON AND AFTER JANUARY 1, 2004, EARNED SERVICE SHALL BE CALCULATED IN THE SAME MANNER PROVIDED IN THE DPS PLAN DOCUMENT FOR CALCULATING ACTIVE SERVICE PRIOR TO JANUARY 1, 2004, EXCEPT FOR CASUAL EMPLOYMENT, WHICH SHALL BE CALCULATED IN ACCORDANCE WITH THE PROVISIONS OF THE DPS PLAN DOCUMENT; EXCEPT THAT EARNED SERVICE SHALL NOT INCLUDE OUTSIDE SERVICE.

(4) IN THE CASE OF A PERSON WHO IS AN EMPLOYEE OF THE DISTRICT ON JANUARY 1, 2004, AND THEREAFTER QUALIFIES AS A DEFERRED MEMBER IN ACCORDANCE WITH THE DPS PLAN DOCUMENT AND LATER APPLIES FOR BENEFITS UNDER THIS PART 17, THE CONVERSION TO EARNED SERVICE SHALL BE ACCOMPLISHED IN THE MANNER PROVIDED IN THIS PART 17, AND BENEFITS SHALL BE CALCULATED ACCORDINGLY.

(5) IN THE CASE OF A PERSON WHO, ON JANUARY 1, 2004, HAS EITHER QUALIFIED

FOR DISABILITY RETIREMENT OR HAS APPLIED FOR DISABILITY RETIREMENT AND IS THEREAFTER DETERMINED TO BE ENTITLED TO SUCH DISABILITY RETIREMENT, THE RECOMPUTATION OF RETIREMENT BENEFITS IN ACCORDANCE WITH THE DPS PLAN DOCUMENT SHALL BE ACCOMPLISHED UTILIZING EARNED SERVICE CALCULATED PURSUANT TO THE PROVISIONS OF THIS SECTION.

(6) ON AND AFTER JANUARY 1, 2004, THIS SECTION SHALL, IN ACCORDANCE WITH ITS TERMS, AMEND AND SUPERSEDE ALL PRIOR PROVISIONS OF THIS RETIREMENT PLAN IN CONFLICT WITH SUCH TERMS.

24-51-1711. Contributions - refunds. (1) Refund upon termination. UPON TERMINATION OF EMPLOYMENT, A CONTRIBUTING MEMBER OR AFFILIATE MEMBER, SUBJECT TO THE PORTABILITY PROVISIONS OF SECTION 24-51-1747, SHALL BE ENTITLED TO A REFUND OF THE TOTAL ACCUMULATED CONTRIBUTION BALANCE AS OF THE DATE OF SUCH TERMINATION REFUND.

(2) **Request for refund for deferred members.** SUBJECT TO THE PROVISIONS OF PORTABILITY IN SECTION 24-51-1747, A DEFERRED MEMBER ACCOUNT SHALL BE AVAILABLE FOR REFUND UNLESS A RETIREMENT BENEFIT HAS COMMENCED. THE AMOUNT OF THE REFUND OF SUCH DEFERRED ACCOUNT SHALL INCLUDE ANY ACCUMULATED CONTRIBUTION BALANCE OR INTEREST AS OF DECEMBER 31, 2009, AND INTEREST ACCUMULATED THEREAFTER, WHICH SHALL BE IN ACCORDANCE WITH SECTION 24-51-407 (5). THE ACCUMULATION OF CONTRIBUTIONS OR INTEREST IN THE DEFERRED ACCOUNT PRIOR TO DECEMBER 31, 2009, SHALL BE GOVERNED BY THE DPS PLAN DOCUMENT.

24-51-1712. Application for retirement benefits. NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 17, APPLICATION FOR AND PROCESSING OF RETIREMENT APPLICATIONS SHALL BE GOVERNED BY THE RULES AND PROCEDURES ADOPTED BY THE ASSOCIATION'S BOARD. PURSUANT TO THE PROVISIONS OF THIS PART 17 REGARDING PORTABILITY, REFERENCES IN THIS PART 17 TO SERVICE WITH THE DISTRICT SHALL BE DEEMED TO INCLUDE SERVICE WITH ALL EMPLOYERS AFFILIATED WITH THE ASSOCIATION.

24-51-1713. Eligibility - retirements without actuarial reduction. (1) WHENEVER A CONTRIBUTING MEMBER OR AFFILIATE MEMBER PURSUANT TO THE DPS PLAN HAS COMPLETED A PERIOD OF TWENTY-FIVE YEARS OF ACTIVE SERVICE, OF WHICH NOT LESS THAN FIFTEEN YEARS SHALL HAVE BEEN WITH THE DISTRICT, AND HAS ATTAINED THE AGE OF FIFTY-FIVE YEARS WHILE IN THE SERVICE OF THE DISTRICT, SAID MEMBER SHALL BE ELIGIBLE FOR RETIREMENT FOR SUPERANNUATION. SUCH RETIREMENT SHALL BE MADE UPON DUE APPLICATION AND SUBJECT TO SUCH RULES AS MAY BE PRESCRIBED BY THE ASSOCIATION.

(2) WHENEVER A CONTRIBUTING MEMBER OR AFFILIATE MEMBER OF THE DPS PLAN HAS COMPLETED A PERIOD OF FIVE YEARS OF ACTIVE SERVICE AND HAS ATTAINED THE AGE OF SIXTY-FIVE WHILE IN THE SERVICE OF THE DISTRICT, SAID MEMBER SHALL BE ELIGIBLE FOR RETIREMENT FOR SUPERANNUATION. SUCH RETIREMENT SHALL BE MADE UPON DUE APPLICATION AND SUBJECT TO SUCH RULES AS MAY BE PRESCRIBED BY THE BOARD OF TRUSTEES.

(3) WHENEVER A CONTRIBUTING MEMBER OR AFFILIATE MEMBER PURSUANT TO

THE DPS PLAN HAS COMPLETED A PERIOD OF THIRTY YEARS OF ACTIVE SERVICE WITH THE DISTRICT AND HAS ATTAINED THE AGE OF FIFTY YEARS WHILE IN THE SERVICE OF THE DISTRICT, SAID MEMBER SHALL BE ELIGIBLE FOR RETIREMENT FOR SUPERANNUATION. SUCH RETIREMENT SHALL BE MADE UPON DUE APPLICATION AND SUBJECT TO SUCH RULES AS MAY BE PRESCRIBED BY THE ASSOCIATION.

24-51-1714. Eligibility - retirements requiring actuarial reduction.

(1) WHENEVER A CONTRIBUTING MEMBER OR AFFILIATE MEMBER PURSUANT TO THE DPS PLAN HAS COMPLETED A PERIOD OF TWENTY-FIVE YEARS OF ACTIVE SERVICE WITH THE DISTRICT BUT HAS NOT ATTAINED THE AGE OF FIFTY-FIVE YEARS, SAID MEMBER SHALL BE ELIGIBLE FOR RETIREMENT FOR SUPERANNUATION BUT WITH REDUCED BENEFITS IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF SECTION 24-51-1715. ANY SUCH RETIREMENT SHALL BE VOLUNTARY AND REFLECT THE CHOICE OF THE MEMBER.

(2) WHENEVER A CONTRIBUTING MEMBER OR AFFILIATE MEMBER PURSUANT TO THE DPS PLAN HAS COMPLETED A PERIOD OF FIFTEEN YEARS OF ACTIVE SERVICE WITH THE DISTRICT AND HAS ATTAINED THE AGE OF FIFTY-FIVE YEARS WHILE IN THE SERVICE OF THE DISTRICT, SAID MEMBER SHALL BE ELIGIBLE FOR RETIREMENT FOR SUPERANNUATION BUT WITH REDUCED BENEFITS IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF SECTION 24-51-1715. ANY SUCH RETIREMENT SHALL BE VOLUNTARY AND REFLECT THE CHOICE OF THE CONTRIBUTING MEMBER.

(3) WHENEVER A CONTRIBUTING MEMBER OR AFFILIATE MEMBER PURSUANT TO THE DPS PLAN HAS COMPLETED A PERIOD OF THIRTY YEARS OF ACTIVE SERVICE WITH THE DISTRICT BUT HAS NOT ATTAINED THE AGE OF FIFTY YEARS, SAID CONTRIBUTING MEMBER SHALL NEVERTHELESS BE ELIGIBLE FOR RETIREMENT FOR SUPERANNUATION BUT WITH REDUCED BENEFITS IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF SECTION 24-51-1715. ANY SUCH RETIREMENT SHALL BE VOLUNTARY AND REFLECT THE CHOICE OF THE MEMBER.

24-51-1715. Benefits. (1) THE ANNUAL SUPERANNUATION RETIREMENT ALLOWANCE SHALL BE DETERMINED IN THE FOLLOWING MANNER:

(a) SUBJECT TO THE PROVISIONS OF PARAGRAPH (c) OF THIS SUBSECTION (1) PERTAINING TO CERTAIN MEMBERS APPOINTED OR REAPPOINTED ON OR AFTER JULY 1, 2005, AND FOR PERSONS WHO BECOME AFFILIATE MEMBERS ON OR AFTER JULY 1, 2005, THE FOLLOWING CALCULATIONS SHALL APPLY:

(I) IF SAID MEMBER SHALL RETIRE PURSUANT TO SECTION 24-51-1713, THE HIGHEST AVERAGE SALARY AS DEFINED IN SECTION 24-51-1702 (17) SHALL BE MULTIPLIED BY THE PRIMARY PERCENTAGE WHICH SHALL DETERMINE THE ANNUAL RETIREMENT ALLOWANCE EXPRESSED AS A SINGLE LIFE ANNUITY AND KNOWN AS OPTION A.

(II) IF, HOWEVER, SAID MEMBER SHALL RETIRE PURSUANT TO SECTION 24-51-1714 (1), AND IF THE MEMBER HAS ATTAINED A MINIMUM AGE OF FIFTY YEARS, THE ANNUAL RETIREMENT ALLOWANCE, CALCULATED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), SHALL BE REDUCED BY THE LESSER OF FOUR PERCENT FOR EACH YEAR THAT FIFTY-FIVE EXCEEDS SAID MEMBER'S ATTAINED AGE OR FOUR PERCENT FOR EACH YEAR THAT THIRTY EXCEEDS SAID MEMBER'S NUMBER OF YEARS

OF ACTIVE SERVICE WITH THE DISTRICT, IN EITHER CASE PRORATED FOR A PARTIAL YEAR.

(III) IF SAID MEMBER SHALL RETIRE PURSUANT TO SECTION 24-51-1714 (1), AND IF THE MEMBER IS YOUNGER THAN AGE FIFTY, THE ANNUAL RETIREMENT ALLOWANCE, CALCULATED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), SHALL BE REDUCED BY THE GREATER OF FOUR PERCENT FOR EACH YEAR THAT FIFTY EXCEEDS SAID MEMBER'S ATTAINED AGE OR PERCENT FOR EACH YEAR THAT THIRTY EXCEEDS SAID MEMBER'S NUMBER OF YEARS OF ACTIVE SERVICE WITH THE DISTRICT, IN EITHER CASE PRORATED FOR A PARTIAL YEAR.

(IV) IF SAID MEMBER SHALL RETIRE PURSUANT TO SECTION 24-51-1714 (2), THE ANNUAL RETIREMENT ALLOWANCE, CALCULATED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), SHALL BE REDUCED BY THE LESSER OF FOUR PERCENT FOR EACH YEAR THAT TWENTY-FIVE EXCEEDS SAID MEMBER'S NUMBER OF YEARS OF ACTIVE SERVICE WITH THE DISTRICT OR FOUR PERCENT FOR EACH YEAR THAT SIXTY-FIVE EXCEEDS SAID MEMBER'S AGE, IN EITHER CASE PRORATED FOR A PARTIAL YEAR.

(V) IF SAID MEMBER SHALL RETIRE PURSUANT TO SECTION 24-51-1714 (3), THE ANNUAL RETIREMENT ALLOWANCE, CALCULATED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), SHALL BE REDUCED BY FOUR PERCENT FOR EACH YEAR THAT FIFTY EXCEEDS SAID MEMBER'S AGE.

(b) IF A REDUCTION PERCENTAGE IS APPLICABLE, PRIOR TO CALCULATION OF THE REDUCED RETIREMENT ALLOWANCE, THE ANNUITY PORTION SHALL BE DETERMINED AND SUBTRACTED FROM THE RETIREMENT ALLOWANCE IN ORDER TO DETERMINE THE PENSION PORTION, USING THE TERMS OF SECTION 24-51-1726, IF APPLICABLE, AND THEN THE REDUCED RETIREMENT ALLOWANCE SHALL BE DETERMINED BY APPLICATION OF THE APPROPRIATE REDUCTION. THE ANNUITY PORTION OF SAID ALLOWANCE, AS DETERMINED PRIOR TO THE REDUCTION, SHALL BE SUBTRACTED FROM THE REDUCED RETIREMENT ALLOWANCE IN ORDER TO DETERMINE THE PENSION PORTION, IF ANY, THAT MAY BE APPLICABLE. IN NO EVENT SHALL ANY REDUCED RETIREMENT ALLOWANCE BE LESS THAN THE ANNUITY PORTION OF SAID ALLOWANCE AS DETERMINED PRIOR TO THE REDUCTION PERCENTAGE. SAID ANNUAL RETIREMENT ALLOWANCE SHALL BE PAYABLE ON A MONTHLY BASIS AND SHALL CONTINUE FOR SO LONG AS SAID MEMBER SHALL LIVE OR SO LONG AS MAY BE PROVIDED UNDER ANY OPTION AVAILABLE TO AND ELECTED BY SUCH MEMBER PURSUANT TO THE PROVISIONS OF THIS RETIREMENT PLAN. PAYMENT SHALL BE MADE AT THE END OF THE CALENDAR MONTH FOR ANY RETIREMENT ALLOWANCE ATTRIBUTABLE TO SAID MONTH, AND UPON THE DEATH OF SAID MEMBER PAYMENT SHALL BE ALLOWED FOR THAT PORTION OF THE CALENDAR MONTH IN WHICH DEATH OCCURS UP TO AND INCLUDING THE DATE OF DEATH.

(c) IN MAKING THE CALCULATION OF THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT FOR A MEMBER WHO INITIALLY WAS APPOINTED OR WHO BECAME AN AFFILIATE MEMBER ON OR AFTER JULY 1, 2005, THE REDUCTION PERCENTAGE PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE CHANGED IN EACH INSTANCE FROM FOUR PERCENT TO SIX PERCENT. THIS PARAGRAPH (c) SHALL NOT APPLY TO A MEMBER WHOSE CONTRIBUTING OR AFFILIATE MEMBERSHIP BEGAN ON OR BEFORE JUNE 30, 2005, AND WHOSE ACCUMULATED CONTRIBUTION BALANCE

REMAINS CONTINUOUSLY ON DEPOSIT IN THE DENVER PUBLIC SCHOOLS DIVISION THROUGH THE EFFECTIVE DATE OF SUCH MEMBER'S RETIREMENT.

24-51-1716. Optional forms of allowance. ANY CONTRIBUTING MEMBER OR AFFILIATE MEMBER WHOSE EFFECTIVE DATE OF RETIREMENT IS ON OR AFTER DECEMBER 31, 2004, MAY ELECT TO RECEIVE A SUPERANNUATION RETIREMENT ALLOWANCE IN ACCORDANCE WITH ANY OF THE OPTIONS HEREINAFTER STATED. OPTION A SHALL BE DEEMED A BASIC OPTION AND THE AMOUNT OF THE ANNUAL RETIREMENT ALLOWANCE PAYABLE UNDER SUCH OPTION AS DETERMINED UNDER THE PROVISIONS OF SECTION 24-51-1715 SHALL BE THE AMOUNT THAT SHALL BE DULY ADJUSTED IN COMPUTING PAYMENTS TO BE MADE UNDER OPTIONS OTHER THAN OPTION A. PRIOR TO APPLICATION FOR RETIREMENT, ANY SUCH ELECTION MAY BE CHANGED OR REVOKED, BUT WHEN A MEMBER FILES APPLICATION FOR RETIREMENT AND ELECTS AN OPTION, SUCH OPTION MAY NOT THEREAFTER BE CHANGED OR REVOKED, EXCEPT WHERE THE DESIGNATED CO-ANNUITANT UNDER OPTION P2 OR OPTION P3 PREDECEASES THE MEMBER PRIOR TO THE EFFECTIVE DATE OF RETIREMENT, PURSUANT TO SECTION 24-51-1723 OR 24-51-1724, WHICHEVER IS APPLICABLE. THIS SHALL NOT PRECLUDE THE MEMBER'S RIGHT TO HAVE THE OPTION ELECTED BECOME EFFECTIVE AS OF THE DATE OF RETIREMENT. IN ADDITION TO THE PROVISIONS OF THIS SECTION, IN ANY DISSOLUTION OF MARRIAGE ACTION IN ANY DISTRICT COURT OF THE STATE OF COLORADO, THE COURT SHALL HAVE JURISDICTION TO ORDER OR ALLOW AN ANNUITANT WHO IS A PETITIONER OR RESPONDENT IN SUCH ACTION, AND WHO SELECTED AN OPTION P2 OR P3 AT THE TIME OF RETIREMENT DESIGNATING THE ANNUITANT'S SPOUSE AS THE CO-ANNUITANT, TO REVOKE THE CO-ANNUITANT DESIGNATION AND FOR AN OPTION A BENEFIT TO BECOME PAYABLE THEREAFTER TO THE ANNUITANT. THE OPTION A BENEFIT SHALL BE THE ORIGINAL OPTION A AMOUNT CALCULATED AS OF THE ANNUITANT'S EFFECTIVE DATE OF RETIREMENT INCREASED BY ANY INCREASES IN THE BASIC RETIREMENT ALLOWANCE GRANTED IN ACCORDANCE WITH THE PROVISIONS OF THE DPS PLAN DOCUMENT AND SECTION 24-51-1732 SUBSEQUENT TO THE ANNUITANT'S EFFECTIVE DATE OF RETIREMENT. IF NO OPTION IS ELECTED BY A MEMBER AT OR PRIOR TO THE TIME OF APPLICATION FOR RETIREMENT, SUCH MEMBER SHALL BE CONSIDERED TO HAVE AUTOMATICALLY ELECTED TO RECEIVE THE APPLICABLE BENEFIT UNDER OPTION A.

24-51-1717. Option A. OPTION A IS A SINGLE LIFE ANNUITY, WHICH IS DEFINED AS A SPECIFIED SUM OF MONEY PAYABLE MONTHLY TO AN ANNUITANT FROM THE TIME OF RETIREMENT UNTIL THE DEATH OF SAID ANNUITANT, WITHOUT REFUND OF ANY KIND TO THE ESTATE OF THE DECEASED ANNUITANT OR ANYONE CLAIMING BY OR THROUGH THE ANNUITANT. THE MONTHLY RETIREMENT ALLOWANCE UNDER OPTION A SHALL BE CALCULATED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-51-1715. FOR RETIREMENTS HAVING EFFECTIVE DATES ON OR AFTER DECEMBER 31, 2004, OPTION A SHALL BE REVISED TO PROVIDE THAT IF, UPON THE DEATH OF THE ANNUITANT, THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THAT HAS BEEN PAID TO THE ANNUITANT DOES NOT EXCEED THE AMOUNT OF THE MEMBER'S ACCUMULATED CONTRIBUTIONS, THEN THE DIFFERENCE BETWEEN SAID ACCUMULATED CONTRIBUTIONS AND THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE PAID TO SUCH ANNUITANT SHALL BE PAID TO THE NAMED BENEFICIARY OF THE ANNUITANT OR, IF NO NAMED BENEFICIARY EXISTS, TO THE ESTATE OF THE ANNUITANT. THE MONTHLY RETIREMENT ALLOWANCE UNDER THE REVISED OPTION SHALL BE CALCULATED IN ACCORDANCE WITH THE PROVISIONS OF SECTION

24-51-1715.

24-51-1718. Option B. (1) OPTION B IS AN INSTALLMENT REFUND ANNUITY, WHICH IS DEFINED AS A SMALLER SUM OF MONEY THAN THE AMOUNT THAT WOULD BE PAYABLE UNDER OPTION A BUT THAT IS THE ACTUARIAL EQUIVALENT THEREOF, AS PROVIDED IN THIS RETIREMENT PLAN, PAYABLE MONTHLY TO AN ANNUITANT FROM THE TIME OF RETIREMENT UNTIL DEATH, WITH THE ADDITIONAL PROVISION THAT IF SAID ANNUITANT DIES BEFORE RECEIVING AN AMOUNT EQUAL TO THE TOTAL RESERVE CREDITED TO SAID ANNUITANT, SAID PAYMENTS SHALL BE CONTINUED TO BENEFICIARIES DESIGNATED BY SAID ANNUITANT UNTIL THE TOTAL AMOUNT OF THE PAYMENTS MADE TO SUCH ANNUITANT AND TO BENEFICIARIES OF SAID ANNUITANT IS EQUAL TO THE TOTAL AMOUNT OF RESERVE ALLOCATED TO THE PAYMENT OF SAID ANNUITANT'S RETIREMENT ALLOWANCE.

(2) IF A DECEASED MEMBER'S ESTATE IS THE BENEFICIARY, PAYMENT IN ONE SUM OF THE COMMUTED VALUE OF THE RETIREMENT ALLOWANCE SHALL BE MADE TO THE MEMBER'S ESTATE. THE RATE OF INTEREST USED IN DETERMINING THE COMMUTED VALUE SHALL BE THE ACTUARIAL INVESTMENT ASSUMPTION RATE OF THE ASSOCIATION ON THE DATE OF DEATH OF THE MEMBER.

(3) IN THE EVENT OF THE DEATH OF A RETIRED DECEASED MEMBER'S BENEFICIARY WHO IS RECEIVING MONTHLY BENEFITS UNDER OPTION B, A PAYMENT IN ONE SUM OF THE COMMUTED VALUE OF THE REMAINING MONTHLY PAYMENTS SHALL BE MADE TO THE ESTATE OF THE DECEASED BENEFICIARY. THE RATE OF INTEREST USED IN DETERMINING THE COMMUTED VALUE SHALL BE THE ACTUARIAL INVESTMENT ASSUMPTION RATE OF THE ASSOCIATION ON THE DATE OF DEATH OF THE BENEFICIARY.

24-51-1719. Option C. ANY CONTRIBUTING MEMBER OR AFFILIATE MEMBER CHOOSING OR HAVING CHOSEN OPTION C THROUGH DECEMBER 31, 2009, WILL BE GOVERNED BY THE DPS PLAN DOCUMENT. AS OF JANUARY 1, 2010, OPTION C WILL NO LONGER BE A PERMISSIBLE PAYMENT CHOICE.

24-51-1720. Option D. ANY CONTRIBUTING MEMBER OR AFFILIATE MEMBER CHOOSING OR HAVING CHOSEN OPTION D THROUGH DECEMBER 31, 2009, WILL BE GOVERNED BY THE DPS PLAN DOCUMENT. AS OF JANUARY 1, 2010, OPTION D WILL NO LONGER BE A PERMISSIBLE PAYMENT CHOICE.

24-51-1721. Option E. ANY CONTRIBUTING MEMBER OR AFFILIATE MEMBER CHOOSING OR HAVING CHOSEN OPTION E THROUGH DECEMBER 31, 2009, WILL BE GOVERNED BY THE DPS PLAN DOCUMENT. AS OF JANUARY 1, 2010, OPTION E WILL NO LONGER BE A PERMISSIBLE PAYMENT CHOICE.

24-51-1722. Additional optional forms of allowance beginning December 31, 2004. IN ADDITION TO THE OPTIONS PROVIDED IN SECTIONS 24-51-1717 AND 24-51-1721, ANY CONTRIBUTING MEMBER OR AFFILIATE MEMBER WHOSE EFFECTIVE DATE OF RETIREMENT IS ON OR AFTER DECEMBER 31, 2004, MAY ELECT TO RECEIVE A SUPERANNUATION RETIREMENT ALLOWANCE IN ACCORDANCE WITH ANY OF THE OPTIONS PROVIDED IN SECTIONS 24-51-1723 AND 24-51-1724. OPTION A SHALL BE DEEMED A BASIC OPTION UNDER THIS SECTION, AND THE AMOUNT OF THE ANNUAL RETIREMENT ALLOWANCE PAYABLE THEREUNDER, AS DETERMINED UNDER THE

PROVISIONS OF SECTION 24-51-1715, SHALL BE THE AMOUNT THAT SHALL BE DULY ADJUSTED IN COMPUTING PAYMENTS TO BE MADE UNDER OPTIONS P2 AND P3. PRIOR TO APPLICATION FOR RETIREMENT, ANY SUCH ELECTION MAY BE CHANGED OR REVOKED, BUT WHEN A MEMBER FILES APPLICATION FOR RETIREMENT AND ELECTS AN OPTION, SUCH OPTION MAY NOT THEREAFTER BE CHANGED OR REVOKED EXCEPT AS PROVIDED IN THIS PART 17.

24-51-1723. Option P2. (1) OPTION P2 IS A MODIFIED JOINT SURVIVORSHIP ANNUITY, WHICH IS DEFINED AS A SOMEWHAT SMALLER SUM OF MONEY THAN THE AMOUNT THAT WOULD BE PAYABLE UNDER OPTION A BUT THAT IS THE ACTUARIAL EQUIVALENT THEREOF, AS CALCULATED UNDER THIS RETIREMENT PLAN, PAYABLE MONTHLY TO AN ANNUITANT FROM THE TIME OF RETIREMENT UNTIL THE DEATH OF SAID ANNUITANT, AND, THEREAFTER AN AMOUNT EQUAL TO ONE-HALF OF THE MONTHLY AMOUNT PAID TO THE ANNUITANT IS PAYABLE MONTHLY TO THE ANNUITANT'S DESIGNATED CO-ANNUITANT UNTIL THE DEATH OF THAT PERSON. THE DESIGNATION OF THE CO-ANNUITANT SHALL BE EFFECTIVE UPON THE EFFECTIVE DATE OF THE MEMBER'S RETIREMENT AND MAY NOT SUBSEQUENTLY BE CHANGED EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION. UPON THE DEATH OF THE CO-ANNUITANT PRIOR TO THE DEATH OF THE ANNUITANT, THE BENEFIT PAYABLE TO THE ANNUITANT THEREAFTER SHALL BE THE ORIGINAL OPTION A AMOUNT INCREASED BY ANY INCREASES IN THE BASIC RETIREMENT ALLOWANCE GRANTED IN ACCORDANCE WITH THE PROVISIONS OF THE DPS PLAN DOCUMENT AND SECTION 24-51-1732 SUBSEQUENT TO THE ANNUITANT'S EFFECTIVE DATE OF RETIREMENT. IN ADDITION TO DESIGNATING A CO-ANNUITANT, THE MEMBER SHALL DESIGNATE A BENEFICIARY AND SHALL HAVE THE EXCLUSIVE RIGHT TO CHANGE SUCH DESIGNATION OF BENEFICIARY AT ANY TIME PRIOR TO THE ANNUITANT'S DEATH. IF, UPON THE DEATH OF BOTH THE ANNUITANT AND THE CO-ANNUITANT, THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THAT HAS BEEN PAID TO THEM DOES NOT EXCEED THE MEMBER'S ACCUMULATED CONTRIBUTIONS, THEN THE DIFFERENCE BETWEEN SAID ACCUMULATED CONTRIBUTIONS AND THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE PAID TO SUCH ANNUITANT AND CO-ANNUITANT SHALL BE PAID TO THE NAMED BENEFICIARY OF THE ANNUITANT, OR, IF NO NAMED BENEFICIARY EXISTS, TO THE ESTATE OF THE CO-ANNUITANT.

(2) IN CASE OF THE DEATH OF THE DESIGNATED CO-ANNUITANT UNDER OPTION P2 AFTER THE DATE OF APPLICATION FOR RETIREMENT AND BEFORE THE EFFECTIVE DATE OF RETIREMENT, THE MEMBER MAY MAKE A CHANGE OF OPTION OR DESIGNATE A NEW CO-ANNUITANT WITHIN THIRTY DAYS AFTER THE DEATH OF THE PREVIOUSLY DESIGNATED CO-ANNUITANT AND SUBJECT TO THE APPROPRIATE RECALCULATION OF THE RETIREMENT ALLOWANCE.

24-51-1724. Option P3. (1) OPTION P3 IS A JOINT SURVIVORSHIP ANNUITY, WHICH IS DEFINED AS A SOMEWHAT SMALLER SUM OF MONEY THAN THE AMOUNT THAT WOULD BE PAYABLE UNDER OPTION A BUT THAT IS THE ACTUARIAL EQUIVALENT THEREOF, AS CALCULATED UNDER THIS RETIREMENT PLAN, PAYABLE MONTHLY TO AN ANNUITANT FROM THE TIME OF RETIREMENT UNTIL THE DEATH OF SAID ANNUITANT AND THEREAFTER TO THE ANNUITANT'S DESIGNATED SPOUSE OR ANY ONE INDIVIDUAL, SO LONG AS SAID DESIGNATED SPOUSE OR INDIVIDUAL SHALL LIVE, PROVIDED, HOWEVER, THAT IF THE CO-ANNUITANT IS NOT A DESIGNATED SPOUSE, THE CALCULATION OF THE PAYMENTS TO THE ANNUITANT AND CO-ANNUITANT WILL BE MADE IN ACCORDANCE WITH THE FURTHER PROVISIONS OF

SUBSECTION (2) OF THIS SECTION. THE DESIGNATION OF THE CO-ANNUITANT SHALL BE EFFECTIVE UPON THE EFFECTIVE DATE OF THE MEMBER'S RETIREMENT AND MAY NOT SUBSEQUENTLY BE CHANGED EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION. UPON THE DEATH OF THE CO-ANNUITANT PRIOR TO THE DEATH OF THE ANNUITANT, THE BENEFIT PAYABLE TO THE ANNUITANT THEREAFTER SHALL BE THE ORIGINAL OPTION A AMOUNT INCREASED BY ANY INCREASES IN THE BASIC RETIREMENT ALLOWANCE GRANTED IN ACCORDANCE WITH THE PROVISIONS OF THE DPS PLAN DOCUMENT AND SECTION 24-51-1732 SUBSEQUENT TO THE ANNUITANT'S EFFECTIVE DATE OF RETIREMENT. IN ADDITION TO DESIGNATING A CO-ANNUITANT, THE MEMBER SHALL DESIGNATE A BENEFICIARY AND SHALL HAVE THE EXCLUSIVE RIGHT TO CHANGE SUCH DESIGNATION OF BENEFICIARY AT ANY TIME PRIOR TO THE ANNUITANT'S DEATH. IF, UPON THE DEATH OF BOTH THE ANNUITANT AND THE CO-ANNUITANT, THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THAT HAS BEEN PAID TO THEM DOES NOT EXCEED THE MEMBER'S ACCUMULATED CONTRIBUTIONS, THEN THE DIFFERENCE BETWEEN SAID ACCUMULATED CONTRIBUTIONS AND THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE PAID TO SUCH ANNUITANT AND CO-ANNUITANT SHALL BE PAID TO THE NAMED BENEFICIARY OF THE ANNUITANT OR, IF NO SUCH NAMED BENEFICIARY EXISTS, TO THE ESTATE OF THE CO-ANNUITANT.

(2) IF THE DESIGNATED CO-ANNUITANT IS NOT THE ANNUITANT'S DESIGNATED SPOUSE OR A FORMER SPOUSE OF THE ANNUITANT UNDER THE CIRCUMSTANCES STATED IN SUBSECTION (3) OF THIS SECTION, THE CO-ANNUITANT'S BENEFIT SHALL BE CALCULATED IN ACCORDANCE WITH THE TREASURY REGULATIONS UNDER SECTION 401(a)(9) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, BUT, AS SO CALCULATED, THE BENEFITS TO THE ANNUITANT, THE CO-ANNUITANT, AND ANY BENEFICIARY OR TO THE ESTATE OF THE CO-ANNUITANT, AS PROVIDED FOR IN OPTION P3, SHALL BE THE ACTUARIAL EQUIVALENT OF THE AMOUNT THAT WOULD BE PAYABLE UNDER OPTION A AS CALCULATED UNDER THIS RETIREMENT PLAN.

(3) IF THE DESIGNATED CO-ANNUITANT IS A FORMER SPOUSE, AND IF PURSUANT TO A PROPERLY EXECUTED AND FILED AGREEMENT UNDER SECTION 14-10-113, C.R.S., THE DESIGNATED CO-ANNUITANT MAY, UPON THE PRIOR DEATH OF THE ANNUITANT, AND FOR THE LIFE OF THE CO-ANNUITANT, RECEIVE A MONTHLY PAYMENT EQUAL TO THAT OTHERWISE PAYABLE TO THE ANNUITANT.

(4) IN CASE OF THE DEATH OF THE DESIGNATED CO-ANNUITANT UNDER OPTION P3 AFTER THE DATE OF APPLICATION FOR RETIREMENT AND BEFORE THE EFFECTIVE DATE OF RETIREMENT, THE MEMBER MAY MAKE A CHANGE OF OPTION OR DESIGNATE A NEW CO-ANNUITANT WITHIN THIRTY DAYS AFTER THE DEATH OF THE PREVIOUSLY DESIGNATED CO-ANNUITANT AND SUBJECT TO THE APPROPRIATE RECALCULATION OF THE RETIREMENT ALLOWANCE.

24-51-1725. Determination of option P2 or P3 benefits. FOR REDUCED SUPERANNUATION RETIREMENTS AND DISABILITY RECALCULATIONS, FOR MEMBERS WHO RETIRE WITH AN EFFECTIVE DATE OF RETIREMENT ON OR AFTER DECEMBER 31, 2004, THE CALCULATION OF BENEFITS PAYABLE PURSUANT TO OPTION P2 OR P3, AS SET FORTH IN SECTIONS 24-51-1723 AND 24-51-1724, SHALL BE ACTUARIALY DETERMINED AS OF THE EFFECTIVE DATE OF RETIREMENT OR, IN THE CASE OF A RECALCULATION PURSUANT TO THE DPS PLAN DOCUMENT FOR A MEMBER RETIRED FOR DISABILITY, THE APPLICABLE RECALCULATION DATE.

24-51-1726. Minimum benefits - contributing members and affiliate members. (1) THE MINIMUM MONTHLY PENSION PORTION OF THE RETIREMENT ALLOWANCE UNDER AN OPTION A SETTLEMENT SHALL BE THE GREATER OF:

(a) SUCH PENSION AMOUNT PAYABLE AS A PART OF THE RETIREMENT ALLOWANCE COMPUTED UNDER THE PROVISIONS OF SECTION 24-51-1715 IN THE CASE OF A MEMBER RETIRING FOR SUPERANNUATION.

(b) THE MINIMUM BENEFITS IN EFFECT ON OR AFTER JANUARY 1, 1974, AND PRIOR TO JANUARY 1, 1985, AS GOVERNED BY THE DPS PLAN DOCUMENT.

(c) EFFECTIVE JANUARY 1, 1985, THE SUM OF FIFTEEN DOLLARS, MULTIPLIED BY THE NUMBER OF WHOLE YEARS OF ACCREDITED SERVICE PLUS ADDITIONAL WHOLE MONTHS EXPRESSED AS A FRACTION OF A YEAR OF ACCREDITED SERVICE BUT IN NO EVENT IN EXCESS OF THE TOTAL SUM OF ONE HUNDRED FIFTY DOLLARS, PLUS THE SUM OF TWENTY DOLLARS MULTIPLIED BY THE NUMBER OF WHOLE YEARS OF ACCREDITED SERVICE IN EXCESS OF TEN YEARS PLUS ADDITIONAL WHOLE MONTHS EXPRESSED AS A FRACTION OF A YEAR OF ACCREDITED SERVICE. THESE MINIMUM BENEFITS SHALL NOT APPLY TO RETIREMENTS PREVIOUS TO JANUARY 1, 1985.

(d) THE MINIMUM MONTHLY PENSION PORTION OF THE RETIREMENT ALLOWANCE UNDER OPTIONS OTHER THAN OPTION A SHALL BE COMPUTED BY TAKING SUCH MINIMUM AMOUNT AS ESTABLISHED UNDER AN OPTION A SETTLEMENT AND MAKING THE APPROPRIATE REDUCTION TO REFLECT THE ADDITIONAL ACTUARIAL FACTORS INVOLVED UNDER SUCH OTHER OPTION PURSUANT TO THE APPLICABLE TABLES THEN IN USE.

24-51-1727. Eligibility for deferred members. (1) BENEFITS SHALL BE PAYABLE UNDER THIS SECTION AND SECTIONS 24-51-1728 TO 24-51-1731 IF THE FOLLOWING CONDITIONS ARE MET:

(a) THE EMPLOYEE MUST BE AN AFFILIATE MEMBER OR CONTRIBUTING MEMBER WHO HAS COMPLETED A PERIOD OF NOT LESS THAN FIVE YEARS OF ACTIVE SERVICE WITH THE DISTRICT. ANY CONTRIBUTING MEMBER OR AFFILIATE MEMBER WHO TERMINATED EMPLOYMENT PRIOR TO JANUARY 1, 1997, SHALL BE GOVERNED BY THE DPS PLAN DOCUMENT.

(b) SUCH MEMBER IS NOT ELIGIBLE TO RECEIVE AND HAS NOT RECEIVED, BY VIRTUE OF DISTRICT EMPLOYMENT, PAYMENT OF ANY OTHER BENEFITS UNDER THIS RETIREMENT PLAN. A REFUND OF ACCUMULATED CONTRIBUTIONS IS NOT DEEMED A BENEFIT WITHIN THE MEANING OF THIS SECTION.

(c) THE EMPLOYMENT OF SUCH MEMBER WITH THE DISTRICT, EITHER REGULAR OR CASUAL, HAS BEEN TERMINATED AND THERE HAS NOT BEEN A WITHDRAWAL OF THE MEMBER'S ACCUMULATED CONTRIBUTIONS. IN THE CASE OF A MEMBER WHOSE EMPLOYMENT HAS TERMINATED AND WHO WITHDREW SUCH CONTRIBUTIONS BUT THEREAFTER ACCEPTED REEMPLOYMENT WITH THE DISTRICT, SUCH PROHIBITION AGAINST WITHDRAWAL SHALL REFER TO ANY NORMAL, ARREARAGE, OR ADDITIONAL CONTRIBUTIONS THEREAFTER MADE BY SUCH EMPLOYEE.

(d) WITHIN ONE YEAR FOLLOWING AN EFFECTIVE DATE OF TERMINATION OF

EMPLOYMENT FALLING ON OR BEFORE DECEMBER 31, 2008, SUCH MEMBER MUST FILE AN ELECTION AND DECLARATION OF INTENT TO APPLY FOR A DEFERRED RETIREMENT ALLOWANCE. SUCH ELECTION AND DECLARATION SHALL BE MADE IN THE MANNER AND FORM AS PRESCRIBED.

(e) IF A MEMBER'S EFFECTIVE DATE OF TERMINATION OF EMPLOYMENT FALLS ON OR AFTER JANUARY 1, 2009, SUCH MEMBER IS AUTOMATICALLY DEEMED A DEFERRED MEMBER AND IS ELIGIBLE TO APPLY FOR A DEFERRED RETIREMENT ALLOWANCE UPON MEETING THE REQUIREMENTS FOR COMMENCEMENT OF A DEFERRED RETIREMENT ALLOWANCE.

24-51-1728. Accredited service - deferred members. IN COMPUTING THE AMOUNT OF ANY DEFERRED RETIREMENT ALLOWANCE BECOMING DUE TO SUCH MEMBER UPON FINAL TERMINATION OF EMPLOYMENT, SUCH MEMBER MUST, AT THE TIME OF THE EFFECTIVE DATE OF TERMINATION OF SERVICE, HAVE A CREDIT OF ACCUMULATED CONTRIBUTIONS IN SUCH AMOUNT AS WOULD HAVE BEEN TO SUCH MEMBER'S CREDIT IF SUCH MEMBER HAD COMPLIED IN FULL WITH THE REQUIREMENTS OF SECTIONS 24-51-1705 AND 24-51-1707 AS SUCH REQUIREMENTS MAY APPLY. IN THE EVENT SAID MEMBER FAILS TO COMPLY WITH SUCH REQUIREMENTS, AS APPLICABLE, THEN THE ACCREDITED SERVICE OF SUCH MEMBER, SUBSEQUENT TO DECEMBER 1, 1945, SHALL BE CREDITED IN THE SAME RATIO THAT ACCUMULATED CONTRIBUTIONS, AT THE TIME OF TERMINATION OF SERVICE, BEAR TO SUCH MEMBER'S CREDIT IF SUCH MEMBER HAD COMPLIED IN FULL WITH THE REQUIREMENTS OF SECTIONS 24-51-1705 AND 24-51-1707 AS SUCH REQUIREMENTS MAY APPLY. IF THE PROVISIONS OF SECTION 24-51-1706 APPLY TO SUCH MEMBER APPLYING FOR A DEFERRED RETIREMENT ALLOWANCE, THEN NO PORTION OF SERVICE SUBJECT TO SAID PROVISIONS SHALL BE COUNTED AS ACCREDITED SERVICE UNLESS, AT THE TIME OF TERMINATION OF SERVICE, SAID MEMBER COMPLETED PAYMENT OF THE TOTAL AMOUNTS REQUIRED BY SAID SECTION 24-51-1706. IF SUCH TOTAL AMOUNT AS REQUIRED BY SECTION 24-51-1706 IS NOT SO PAID WITHIN SUCH TIME, ANY INCOMPLETE AMOUNT PAID IN PURSUANT TO SECTION 24-51-1706 SHALL BE REFUNDED, WITHOUT INCREASE OF ANY KIND TO SUCH MEMBER, UNDER SUCH RULES AND REGULATIONS AS THE ASSOCIATION MAY PROVIDE.

24-51-1729. Benefits - deferred members. (1) IN THE EVENT THE EMPLOYMENT OF SUCH MEMBER WITH THE DISTRICT TERMINATES ON OR AFTER JULY 1, 1962, THE DEFERRED RETIREMENT ALLOWANCE, SUBJECT TO THE LIMITATIONS SET FORTH IN SECTION 24-51-1731, SHALL BE COMPUTED IN THE FOLLOWING MANNER AND PAID UNDER THE FOLLOWING CONDITIONS:

(a) THE AMOUNT OF THE DEFERRED RETIREMENT ALLOWANCE UNDER OPTION A SHALL BE DETERMINED IN THE SAME MANNER AND SUBJECT TO THE SAME CONDITIONS AS IS SET FORTH IN SECTION 24-51-1715, IF THE MEMBER WAS A CONTRIBUTING MEMBER OR AFFILIATE MEMBER AT THE TIME THAT EMPLOYMENT WAS TERMINATED, WITH THE FOLLOWING LIMITATIONS:

(I) ACCREDITED SERVICE SHALL BE DETERMINED TO THE ACTUAL DATE ON WHICH EMPLOYMENT OF SUCH MEMBER FINALLY TERMINATED.

(II) FOR CONTRIBUTING MEMBERS AND AFFILIATE MEMBERS, HIGHEST AVERAGE SALARY AS DEFINED IN SECTION 24-51-1702 (17) SHALL BE DETERMINED OVER THE

PERIOD TO THE ACTUAL DATE ON WHICH EMPLOYMENT OF SUCH MEMBER FINALLY TERMINATED.

(III) THE AGE FACTOR FOR SUCH MEMBER THAT IS EMPLOYED IN CALCULATING SUCH DEFERRED RETIREMENT ALLOWANCE SHALL BE THAT OF ATTAINED AGE OF FIFTY-FIVE FOR EMPLOYEES HAVING TWENTY-FIVE OR MORE YEARS OF ACTIVE SERVICE, AND THAT OF ATTAINED AGE OF SIXTY-FIVE FOR EMPLOYEES HAVING LESS THAN TWENTY-FIVE YEARS OF ACTIVE SERVICE. IF, HOWEVER, A MEMBER ATTAINS THIRTY OR MORE YEARS OF ACTIVE SERVICE WITH THE DISTRICT ON OR AFTER JANUARY 1, 2001, THE AGE FACTOR FOR SUCH MEMBER THAT IS EMPLOYED IN CALCULATING THE DEFERRED RETIREMENT ALLOWANCE SHALL BE THAT OF ATTAINED AGE FIFTY.

(IV) THE UNIT BENEFIT PERCENTAGE SHALL BE IN ACCORDANCE WITH SECTION 24-51-1702 (39).

(V) IN MAKING THE CALCULATION OF THE DEFERRED RETIREMENT ALLOWANCE FOR ONE QUALIFIED FOR DEFERRED BENEFITS, THE PROVISIONS OF SECTION 24-51-1715 (1) (c) CHANGING THE REDUCTION PERCENTAGE FROM FOUR PERCENT TO SIX PERCENT FOR CERTAIN RETIREMENTS AND SECTION 24-51-1732 BASING THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT ON 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, BUT IN NO CASE LESS THAN ZERO, SHALL NOT APPLY IF THE RETIREE TERMINATED EMPLOYMENT ON OR BEFORE JUNE 30, 2005.

(b) SAID MEMBER MUST APPLY TO THE ASSOCIATION FOR A DEFERRED RETIREMENT ALLOWANCE IN THE MANNER AND FORM AS MAY BE PRESCRIBED IN SECTION 24-51-1712. SUCH APPLICATION MAY NOT BE FILED SOONER THAN SIXTY DAYS BEFORE THE EFFECTIVE DATE OF THE MEMBER'S DEFERRED RETIREMENT ALLOWANCE. NO DEFERRED RETIREMENT ALLOWANCE SHALL BE PAYABLE TO ANY OTHERWISE ELIGIBLE MEMBER UNLESS PROPER APPLICATION IS RECEIVED WITHIN THE THREE-YEAR PERIOD FOLLOWING THE EARLIEST POSSIBLE EFFECTIVE DATE OF SUCH AN ALLOWANCE.

(2) ON OR AFTER JANUARY 1, 1998, THE EFFECTIVE DATE OF THE DEFERRED RETIREMENT ALLOWANCE SHALL BE THIRTY DAYS AFTER THE DATE PROPER APPLICATION FOR SUCH ALLOWANCE IS RECEIVED, BUT IN NO EVENT BEFORE THE ATTAINMENT OF AGE FIFTY-FIVE BY A MEMBER WHO HAS AT LEAST TWENTY-FIVE YEARS OF ACTIVE SERVICE, OR AGE SIXTY-FIVE, IF SUCH MEMBER HAS LESS THAN TWENTY-FIVE YEARS OF ACTIVE SERVICE. IF, HOWEVER, A MEMBER ATTAINS THIRTY OR MORE YEARS OF ACTIVE SERVICE WITH THE DISTRICT ON OR AFTER JANUARY 1, 2001, THE EFFECTIVE DATE OF THE DEFERRED RETIREMENT ALLOWANCE SHALL BE THIRTY DAYS AFTER THE DATE PROPER APPLICATION FOR SUCH ALLOWANCE IS RECEIVED, BUT IN NO EVENT BEFORE THE ATTAINMENT OF AGE FIFTY. THE FIRST MONTHLY INSTALLMENT OF SAID ALLOWANCE SHALL BE PAYABLE AT THE END OF THE MONTH IN WHICH SUCH EFFECTIVE DATE FALLS. NO PAYMENT SHALL BE MADE FOR ANY PERIOD PRIOR TO SUCH EFFECTIVE DATE.

(3) THE DEFERRED RETIREMENT ALLOWANCE SHALL BE PAYABLE UNDER ANY OF

THE OPTIONS PROVIDED IN SECTIONS 24-51-1717 TO 24-51-1724, AS ELECTED BY SUCH MEMBER AT THE TIME OF APPLICATION FOR A DEFERRED RETIREMENT ALLOWANCE, AND SHALL BE CALCULATED AS PROVIDED THEREIN, SUBJECT TO THE FURTHER PROVISIONS OF THIS SECTION. THE AGE FACTOR EMPLOYED IN CALCULATING SUCH DEFERRED RETIREMENT ALLOWANCE SHALL BE THAT OF ATTAINED AGE SIXTY-FIVE AS TO SUCH MEMBER, AND UNDER ANY OPTION INVOLVING A CO-ANNUITANT THE AGE OF SUCH CO-ANNUITANT AT SAID ATTAINED AGE OF SIXTY-FIVE OF SUCH MEMBER; EXCEPT THAT, FOR ANNUITANTS ELIGIBLE FOR BENEFITS AT AGE FIFTY OR AGE FIFTY-FIVE, AS APPLICABLE, THE AGE FACTOR EMPLOYED IN CALCULATIONS SHALL BE THAT OF ATTAINED AGE FIFTY OR AGE FIFTY-FIVE, AS APPLICABLE, AS TO SUCH MEMBER AND UNDER ANY OPTION INVOLVING A CO-ANNUITANT THE AGE OF SUCH CO-ANNUITANT AT SAID ATTAINED AGE OF FIFTY OR AGE FIFTY-FIVE, AS APPLICABLE, OF SUCH MEMBER.

(4) IN THE CASE OF A DEFERRED RETIREMENT ALLOWANCE PAYABLE AFTER DECEMBER 31, 1973, AND PRIOR TO JANUARY 1, 1985, THE MINIMUM MONTHLY PENSION ATTRIBUTABLE UNDER AN OPTION A SETTLEMENT SHALL BE GOVERNED BY THE DPS PLAN DOCUMENT.

(5) IN THE EVENT THE EMPLOYMENT OF A MEMBER WITH THE DISTRICT TERMINATES ON OR AFTER JANUARY 1, 1985, THE MINIMUM MONTHLY PENSION PORTION OF THE RETIREMENT ALLOWANCE UNDER AN OPTION A SETTLEMENT SHALL BE THE GREATER OF:

(a) SUCH PENSION AMOUNT PAYABLE AS A PART OF THE RETIREMENT ALLOWANCE COMPUTED UNDER THE PROVISIONS OF SECTION 24-51-1729;

(b) THE SUM OF FIFTEEN DOLLARS, MULTIPLIED BY THE NUMBER OF WHOLE YEARS OF ACCREDITED SERVICE PLUS ADDITIONAL WHOLE MONTHS EXPRESSED AS A FRACTION OF A YEAR OF ACCREDITED SERVICE BUT IN NO EVENT IN EXCESS OF THE TOTAL SUM OF ONE HUNDRED FIFTY DOLLARS, PLUS THE SUM OF TWENTY DOLLARS MULTIPLIED BY THE NUMBER OF WHOLE YEARS OF ACCREDITED SERVICE IN EXCESS OF TEN YEARS PLUS ADDITIONAL WHOLE MONTHS EXPRESSED AS A FRACTION OF A YEAR OF ACCREDITED SERVICE.

(6) (a) IN THE EVENT THE EMPLOYMENT OF A MEMBER WITH THE DISTRICT TERMINATES ON OR AFTER JANUARY 1, 2001, AT THE TIME SAID MEMBER BECOMES ELIGIBLE TO RECEIVE BENEFIT PAYMENTS IN ACCORDANCE WITH THIS SECTION, THE MEMBER SHALL HAVE THE FOLLOWING ADDITIONAL OPTIONS:

(I) A PAYMENT EQUAL TO TWO HUNDRED PERCENT OF THE DEFERRED MEMBER'S THEN-ACCUMULATED CONTRIBUTIONS CALCULATED WITHOUT REFERENCE TO AMOUNTS CONTRIBUTED FOR PURCHASE OF PERIODS OF NONCOVERED EMPLOYMENT SERVICE CREDIT AND INTEREST CREDITS ON AMOUNTS SO CONTRIBUTED; OR

(II) A RETIREMENT ALLOWANCE EQUAL TO THE SUM OF THE AMOUNT DETERMINED IN PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION PLUS A MONEY PURCHASE MONTHLY ANNUITY THAT IS THE ACTUARIAL EQUIVALENT OF TWO HUNDRED PERCENT OF THE DEFERRED MEMBER'S ACCUMULATED CONTRIBUTIONS AT THE TIME THE MEMBER BECOMES ELIGIBLE TO RECEIVE BENEFIT PAYMENTS CALCULATED WITHOUT REFERENCE TO AMOUNTS CONTRIBUTED FOR PURCHASE OF

PERIODS OF NONCOVERED EMPLOYMENT SERVICE CREDIT AND INTEREST CREDITS ON AMOUNTS SO CONTRIBUTED. THE DETERMINATION OF THE MONEY PURCHASE MONTHLY ANNUITY SHALL INCORPORATE THE PROVISIONS OF SECTION 24-51-1732 AND UTILIZE THE ASSUMPTIONS OF THE ASSOCIATION.

(b) THE MINIMUM MONTHLY PENSION PORTION OF THE RETIREMENT ALLOWANCE UNDER OPTIONS OTHER THAN OPTION A SHALL BE COMPUTED BY TAKING SUCH MINIMUM AMOUNT AS ESTABLISHED UNDER AN OPTION A SETTLEMENT AND MAKING APPROPRIATE REDUCTION THEREIN TO REFLECT THE ADDITIONAL ACTUARIAL FACTORS INVOLVED UNDER SUCH OTHER OPTION PURSUANT TO THE APPLICABLE TABLES THEN IN USE.

24-51-1730. Deferred member death. IN CASE ANY DEFERRED MEMBER, AS DEFINED UNDER SECTION 24-51-1702 (19) (e), DIES WHILE SUCH MEMBERSHIP STATUS REMAINS IN FORCE BUT BEFORE THE EFFECTIVE DATE OF THE DEFERRED RETIREMENT ALLOWANCE, THE AMOUNT OF THE ACCUMULATED CONTRIBUTION BALANCE AT THE TIME OF DEATH SHALL BE PAID TO THE DESIGNATED BENEFICIARY OF RECORD OR TO THE MEMBER'S ESTATE.

24-51-1731. Benefits for deferred members determined upon date of termination. SUBJECT TO THE PROVISIONS OF THIS SECTION, IN THE EVENT OF REEMPLOYMENT, ALL RIGHTS AND PRIVILEGES INCIDENT TO A DEFERRED RETIREMENT ALLOWANCE SHALL BE AND REMAIN AS PROVIDED UNDER THE RETIREMENT PLAN AND ITS PERTINENT POLICIES AND RULES AND REGULATIONS IN EFFECT AT THE TIME OF SUCH TERMINATION OF EMPLOYMENT. IF SUCH EMPLOYEE WHOSE EMPLOYMENT HAS BEEN TERMINATED IS REEMPLOYED BY THE DISTRICT AND THEREAFTER REMAINS CONTINUOUSLY IN THE EMPLOY OF THE DISTRICT FOR A SUFFICIENT PERIOD TO ESTABLISH A FULL YEAR OF ACCREDITED SERVICE, THEN ANY RIGHTS WITH RESPECT TO A DEFERRED RETIREMENT ALLOWANCE SHALL BE DETERMINED BY THE PROVISIONS OF SECTIONS 24-51-1727 TO 24-51-1730 IN EFFECT ON THE DATE OF SUCH SUBSEQUENT TERMINATION OF EMPLOYMENT.

24-51-1732. Benefit increases - annual retirement allowance adjustment - contributing members - affiliate members - deferred members - survivors (2001 and 2005). (1) MONTHLY RETIREMENT AND SURVIVOR BENEFIT PAYMENTS, INCLUDING THE INCREASES DETERMINED UNDER THE PROVISIONS OF THE DPS PLAN DOCUMENT ATTRIBUTABLE TO RETIREMENT OR DEATH OF AN ELIGIBLE EMPLOYEE OF THE DISTRICT WHO RETIRED OR DIED AFTER DECEMBER 1, 1945, SHALL BE INCREASED AS FOLLOWS:

(a) (I) SUBJECT TO SECTION 24-51-1747 (13), EFFECTIVE ON JANUARY 1 OF EVERY YEAR, BEGINNING JANUARY 1, 2001, THE RETIREMENT ALLOWANCE OR SURVIVOR BENEFIT PAYMENT PAYABLE ON DECEMBER 31 OF THE PRECEDING YEAR SHALL BE INCREASED BY THREE AND ONE-QUARTER PERCENT, PROVIDED, HOWEVER, THAT INCREASES FOR CONTRIBUTING MEMBERS INITIALLY APPOINTED ON OR AFTER JULY 1, 2005, AND FOR PERSONS WHO BECOME AFFILIATE MEMBERS ON OR AFTER JULY 1, 2005, OR FOR BENEFITS DERIVED THROUGH SUCH MEMBERS, SHALL BE CALCULATED AND SHALL BE EFFECTIVE AS FOLLOWS:

(A) THE INCREASE SHALL BE BASED ON 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, BUT IN NO CASE LESS THAN ZERO;

(B) THE RESULTING PERCENTAGE SHALL BE PRORATED, FOR THE INITIAL INCREASE ONLY, BASED ON THE NUMBER OF MONTHS AND FRACTIONAL MONTHS THAT THE ANNUITANT WAS RETIRED OR RECEIVING SURVIVOR BENEFITS BY MARCH 1 OF THE YEAR FOLLOWING THE YEAR OF RETIREMENT OR THE DATE SURVIVOR BENEFITS INITIALLY BECAME PAYABLE; AND

(C) THE INCREASE SHALL BE EFFECTIVE ON MARCH 1 OF EACH YEAR FOLLOWING THE YEAR IN WHICH THE EFFECTIVE DATE OF RETIREMENT FALLS OR THE YEAR IN WHICH SURVIVOR BENEFITS BECOME PAYABLE.

(II) THE INCREASE LAST STATED SHALL NOT APPLY TO A MEMBER, OR FOR BENEFITS DERIVED THROUGH SUCH MEMBER, WHOSE CONTRIBUTING OR AFFILIATE MEMBERSHIP BEGAN ON OR BEFORE JUNE 30, 2005, AND WHOSE ACCUMULATED CONTRIBUTION BALANCE REMAINS CONTINUOUSLY ON DEPOSIT IN THE DENVER PUBLIC SCHOOLS DIVISION THROUGH THE EFFECTIVE DATE OF SUCH MEMBER'S RETIREMENT.

(b) ADJUSTED PAYMENTS BASED ON SURVIVOR BENEFITS THAT ARE SUSPENDED BY REASON OF THE BENEFICIARY NOT HAVING ATTAINED THE MINIMUM AGE REQUIREMENTS PROVIDED IN SECTIONS 24-51-1738 TO 24-51-1740 OR PURSUANT TO THE PROVISIONS OF THE DPS PLAN DOCUMENT SHALL NOT CONTINUE TO ACCUMULATE OR ACCRUE DURING SUCH PERIOD OF SUSPENSION.

(2) UPON ATTAINMENT OF THE MINIMUM AGE REQUIREMENTS AND RESUMPTION OF SUCH SURVIVOR'S BENEFIT PAYMENTS OR REINSTATEMENT UNDER THE PROVISIONS OF THE DPS PLAN DOCUMENT, NO INCREASE SHALL BE MADE UNTIL SUCH RESUMED PAYMENTS HAVE BEEN PAID CONTINUOUSLY FOR AN ENTIRE CALENDAR YEAR.

(3) ANNUAL RETIREMENT ALLOWANCE ADJUSTMENTS SHALL BE PAYABLE TO RETIRED EMPLOYEES, SURVIVORS, OR BENEFICIARIES MEETING THE ABOVE REQUIREMENTS WHO ARE ELIGIBLE TO RECEIVE MONTHLY BENEFITS UNDER THE PROVISIONS OF THE DPS PLAN DOCUMENT.

(4) NO INCREASE SHALL BE PAYABLE INCIDENT TO ANY RETIREMENT OR SURVIVOR BENEFITS BECOMING PAYABLE TO ANY LEGAL ENTITY OTHER THAN AN INDIVIDUAL PERSON, TO A PERSONAL REPRESENTATIVE OR OTHER PERSON ACTING IN AN ANALOGOUS REPRESENTATIVE CAPACITY. THIS SUBSECTION (4) SHALL NOT PRECLUDE PAYMENT OF SUCH INCREASE TO THE GUARDIAN OR CONSERVATOR OF A PERSON OTHERWISE ENTITLED THERETO.

(5) ADJUSTED PAYMENTS BASED ON BENEFITS THAT ARE SUSPENDED BY REASON OF THE ANNUITANT'S HAVING RETURNED TO SERVICE WITH THE DISTRICT AS A REGULAR EMPLOYEE SHALL NOT CONTINUE TO ACCUMULATE OR ACCRUE DURING SUCH PERIOD OF SUSPENSION. UPON REINSTATEMENT OF THE RETIREMENT ALLOWANCE PAYMENTS, NO INCREASE SHALL BE MADE UNTIL SUCH RESUMED PAYMENTS HAVE BEEN PAID CONTINUOUSLY FOR AN ENTIRE CALENDAR YEAR.

(6) ANNUITANTS WHO ARE REEMPLOYED BY THE DISTRICT ON OR BEFORE DECEMBER 31, 2009, SHALL UNTIL TERMINATION OF SUCH EMPLOYMENT BE SUBJECT TO THE DPS PLAN DOCUMENT PROVISIONS RELATED TO THE REEMPLOYMENT OF AN ANNUITANT. ANY SUBSEQUENT EMPLOYMENT SHALL BE GOVERNED BY PART 11 OF THIS ARTICLE.

24-51-1733. Domestic relations order. AGREEMENTS ENTERED INTO PURSUANT TO SECTION 14-10-113 (6), C.R.S., ON OR BEFORE DECEMBER 31, 2009, SHALL BE SUBJECT TO THE PROVISIONS OF THE DPS PLAN DOCUMENT, AND AGREEMENTS ENTERED INTO ON AND AFTER JANUARY 1, 2010, PURSUANT TO SECTION 14-10-113 (6), C.R.S., SHALL BE SUBJECT TO THE PROVISIONS OF THE RULES AND REGULATIONS OF THE ASSOCIATION.

24-51-1734. Disability retirement. APPLICATIONS FOR DISABILITY FOR DPS MEMBERS FILED ON OR BEFORE DECEMBER 31, 2009, SHALL BE GOVERNED BY THE DISABILITY PROVISIONS OF THE DPS PLAN DOCUMENT, AND ON OR AFTER JANUARY 1, 2010, DISABILITY SHALL BE GOVERNED BY THE PROVISIONS OF PART 7 OF THIS ARTICLE. PERSONS RECEIVING DISABILITY BENEFITS UNDER THE DPS PLAN AS OF DECEMBER 31, 2009, SHALL CONTINUE TO RECEIVE SUCH BENEFITS IN ACCORDANCE WITH THE DPS PLAN. THE ASSOCIATION BOARD SHALL ADMINISTER THE PROVISIONS OF THE DPS PLAN REGARDING DISCONTINUANCE OR REDUCTION OF DISABILITY BENEFITS PAID UNDER THE DPS PLAN.

24-51-1735. Survivor benefits - refund. (1) THE DETERMINATION OF DEATH AND SURVIVOR BENEFITS FOR DPS MEMBERS SHALL BE GOVERNED BY THIS SECTION. PURSUANT TO THE PROVISIONS OF THIS PART 17 REGARDING PORTABILITY, REFERENCES IN THIS SECTION TO SERVICE WITH THE DISTRICT SHALL BE DEEMED TO INCLUDE SERVICE WITH ALL EMPLOYERS AFFILIATED WITH THE ASSOCIATION.

(2) IN CASE OF DEATH OF ANY AFFILIATE OR CONTRIBUTING MEMBER PRIOR TO RETIREMENT, THE TOTAL ACCUMULATED CONTRIBUTION BALANCE AT THE TIME OF DEATH SHALL BE PAYABLE IN ONE LUMP SUM TO THE DESIGNATED BENEFICIARY, IF APPLICABLE, OR TO THE MEMBER'S ESTATE, UNLESS ONE OR MORE OF THE FOLLOWING CIRCUMSTANCES EXIST:

(a) SAID MEMBER MEETS THE DEFINITION OF DEFERRED MEMBER UNDER SECTION 24-51-1702 (19) (e) AT THE TIME OF DEATH, IN WHICH CASE SECTION 24-51-1730 SHALL APPLY.

(b) THE DESIGNATED BENEFICIARY OR BENEFICIARIES OF SAID MEMBER SHALL ELECT, PURSUANT TO THE PROVISIONS OF SECTIONS 24-51-1736 TO 24-51-1746, TO HAVE THE PROVISIONS OF SAID SECTIONS 24-51-1736 TO 24-51-1746 APPLIED IN LIEU OF THE REFUND ABOVE MENTIONED.

24-51-1736. Eligibility for survivor benefits. (1) NO BENEFITS SHALL BE PAYABLE UNDER SECTIONS 24-51-1736 TO 24-51-1746 UNLESS ALL OF THE FOLLOWING CONDITIONS ARE MET:

(a) AT THE TIME OF DEATH THE DECEASED MEMBER WAS A CONTRIBUTING MEMBER, OR A CONTRIBUTING MEMBER WHO RETIRED FOR DISABILITY ON OR AFTER JULY 1, 1962, AND WHO WOULD NOT BE PRECLUDED PURSUANT TO THE DPS PLAN

DOCUMENT FROM RIGHTS FOR SURVIVOR BENEFITS.

(b) THE DECEASED CONTRIBUTING MEMBER WAS A REGULAR EMPLOYEE IN THE ACTIVE SERVICE OF THE DISTRICT CONTINUOUSLY FOR THE FIVE-YEAR PERIOD PRIOR TO SAID MEMBER'S DEATH, SAID FIVE-YEAR PERIOD HAVING BEEN CONTRIBUTING SERVICE, EXCEPT:

(I) ABSENCE ON SABBATICAL LEAVE OR ON A LEAVE FOR RESTORATION OF HEALTH ON A HALF-SALARY BASIS FOR PERIODS DURING WHICH CONTRIBUTIONS ARE PAID SHALL BE DEEMED CONTINUOUS EMPLOYMENT WITHIN THE MEANING OF SECTIONS 24-51-1736 TO 24-51-1746 AND INCLUDED IN THE REQUIRED FIVE-YEAR PERIOD. TIME ABSENT FROM EMPLOYMENT BECAUSE OF LEAVE OTHER THAN SABBATICAL LEAVE OR A LEAVE FOR RESTORATION OF HEALTH ON A HALF-SALARY BASIS AND TIME ABSENT FROM EMPLOYMENT BECAUSE OF A PERMITTED ABSENCE NOT CONSTITUTING A TERMINATION OF REGULAR EMPLOYMENT SHALL BE DISREGARDED AND FOR THE PURPOSES OF SECTIONS 24-51-1736 TO 24-51-1746 SHALL NOT BE DEEMED EITHER AN INTERRUPTION OF SERVICE OR INCLUDED IN THE REQUIRED FIVE-YEAR PERIOD.

(II) IF THE DECEASED MEMBER WAS RETIRED FOR DISABILITY ON OR AFTER JULY 1, 1962, AND WAS A CONTRIBUTING MEMBER UPON THE EFFECTIVE DATE OF DISABILITY RETIREMENT, THE REQUIREMENT OF FIVE YEARS OF SERVICE PRIOR TO DEATH SHALL BE WAIVED.

24-51-1737. Eligible beneficiaries. (1) PAYMENTS UNDER SECTIONS 24-51-1736 TO 24-51-1746 ARE LIMITED TO:

(a) (I) A CHILD, INCLUDING AN ADOPTED CHILD, OF THE DECEASED MEMBER, SO LONG AS THE CHILD IS LIVING, UNDER THE AGE OF EIGHTEEN YEARS, AND UNMARRIED; PROVIDED, HOWEVER, THAT WHERE AN ELIGIBLE MEMBER DIES ON OR AFTER JANUARY 1, 1988, THE DEFINITION OF AN ELIGIBLE CHILD SHALL INCLUDE:

(A) AN UNMARRIED CHILD UNDER THE AGE OF TWENTY-THREE YEARS WHO IS ENROLLED ON A FULL-TIME BASIS, WITHIN FOUR MONTHS OF THE MEMBER'S DEATH, IN A DULY ACCREDITED SCHOOL; OR

(B) AN UNMARRIED CHILD, REGARDLESS OF AGE, WHO IS FOUND TO BE SO MENTALLY OR PHYSICALLY INCAPACITATED THAT SUCH PERSON IS FINANCIALLY DEPENDENT UPON THE MEMBER PURSUANT TO THE TEST OF FINANCIAL DEPENDENCY ESTABLISHED FOR A SURVIVING PARENT IN PARAGRAPH (d) OF THIS SUBSECTION (1).

(II) ADOPTIONS INVOLVING AN OTHERWISE ELIGIBLE CHILD AND OCCURRING SUBSEQUENT TO THE DEATH OF THE MEMBER SHALL TERMINATE THE ELIGIBILITY OF SUCH A CHILD, UNLESS SUCH ADOPTION IS BY THE UNREMARIED SURVIVING SPOUSE OF THE MEMBER, AND IN SUCH A CASE ELIGIBILITY OF THE CHILD SHALL BE TERMINATED BY A SUBSEQUENT REMARRIAGE OF SAID SURVIVING SPOUSE.

(b) THE SURVIVING WIDOW OR WIDOWER OF THE DECEASED MEMBER WHO HAS NOT REMARRIED AND HAS IN HER OR HIS CARE A CHILD ELIGIBLE TO RECEIVE BENEFITS AS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (1). IF BENEFITS ARE PAYABLE UNDER SAID PARAGRAPH (a) OR THIS PARAGRAPH (b), THE DPS PLAN

DOCUMENT SHALL GOVERN ANY AMOUNTS DUE TO ANY UNREMARIED WIDOW OR WIDOWER.

(c) THE SURVIVING WIDOW OR WIDOWER WHO HAS NOT REMARRIED, PROVIDED THAT NO BENEFITS ARE PAYABLE OR IF PAYABLE HAVE CEASED TO ANY BENEFICIARY QUALIFIED UNDER PARAGRAPH (a) OR (b) OF THIS SUBSECTION (1).

(d) A DEPENDENT PARENT OF THE DECEASED MEMBER WHO HAS NOT REMARRIED SINCE SUCH MEMBER'S DEATH, SO LONG AS SUCH PARENT IS LIVING; PROVIDED, SAID PARENT SHALL BE ELIGIBLE ONLY IF THERE ARE NO BENEFICIARIES QUALIFIED UNDER PARAGRAPH (a), (b), OR (c) OF THIS SUBSECTION (1) AT THE TIME OF THE MEMBER'S DEATH. DEPENDENCE OF A SURVIVING PARENT MUST BE ESTABLISHED BY A SHOWING TO THE ASSOCIATION BEYOND REASONABLE DOUBT THAT SUCH PARENT WAS DEPENDENT UPON THE DECEASED MEMBER FOR NOT LESS THAN ONE-HALF OF THE PARENT'S SUPPORT AND ACTUALLY RECEIVED SUCH SUPPORT FROM THE DECEASED MEMBER DURING THE SIX-MONTH PERIOD PRIOR TO THE DEATH OF SUCH MEMBER.

(2) EFFECTIVE FOR SURVIVING SPOUSES OF MEMBERS WHO DIE ON OR AFTER JANUARY 1, 1984, ELIGIBILITY FOR BENEFICIARIES AS DESCRIBED IN PARAGRAPHS (a), (b), AND (c) OF SUBSECTION (1) OF THIS SECTION WILL NOT BE FORFEITED BY REMARRIAGE.

24-51-1738. Survivors of members who died between 1974 and 1984. BENEFITS PAYABLE TO SURVIVORS OF DECEASED ELIGIBLE MEMBERS WHO DIE ON OR AFTER JANUARY 1, 1974, AND PRIOR TO JANUARY 1, 1984, SUBJECT TO THE LIMITATIONS PROVIDED IN SECTIONS 24-51-1736 TO 24-51-1746, SHALL BE GOVERNED BY THE DPS PLAN DOCUMENT.

24-51-1739. Survivors of members who died between 1984 and 1988. BENEFITS PAYABLE TO SURVIVORS OF DECEASED ELIGIBLE MEMBERS WHO DIE ON OR AFTER JANUARY 1, 1984, AND PRIOR TO JANUARY 1, 1988, SUBJECT TO THE LIMITATIONS PROVIDED IN SECTIONS 24-51-1736 TO 24-51-1746, SHALL BE GOVERNED BY THE DPS PLAN DOCUMENT.

24-51-1740. Survivors of members who die in 1988 or later. (1) BENEFITS PAYABLE TO SURVIVORS OF DECEASED ELIGIBLE MEMBERS WHO DIE ON OR AFTER JANUARY 1, 1988, SUBJECT TO THE LIMITATIONS PROVIDED IN SECTIONS 24-51-1736 TO 24-51-1746, SHALL BE AS FOLLOWS:

(a) TO EACH BENEFICIARY UNDER SECTION 24-51-1737 (1) (A), A MONTHLY AMOUNT EQUAL TO THE GREATER OF TEN PERCENT OF HIGHEST AVERAGE SALARY AS DEFINED IN SECTION 24-51-1702 (17), OR ONE HUNDRED SIXTY DOLLARS PRORATED, IF THERE ARE FOUR OR MORE ELIGIBLE BENEFICIARIES SO LONG AS SUCH CONDITION CONTINUES AND IS REQUIRED IN ORDER NOT TO EXCEED A MAXIMUM TOTAL ALLOWANCE OF THE GREATER OF THIRTY PERCENT OF HIGHEST AVERAGE SALARY AS DEFINED IN SECTION 24-51-1702 (17), OR FOUR HUNDRED EIGHTY DOLLARS;

(b) TO THE SURVIVING SPOUSE OF THE DECEASED MEMBER, AS DEFINED IN SECTION 24-51-1737 (1) (b), SO LONG AS LIVING, AND HAVING IN HIS OR HER CARE A CHILD ELIGIBLE TO RECEIVE BENEFITS AS PROVIDED IN PARAGRAPH (a) OF THIS

SUBSECTION (1), CALCULATED AS FOLLOWS:

(I) WHERE THE DECEASED MEMBER HAD LESS THAN FIFTEEN YEARS OF ACCREDITED SERVICE, THE DIFFERENCE, IF ANY, BETWEEN THE AMOUNTS PAYABLE TO BENEFICIARIES UNDER PARAGRAPH (a) OF THIS SUBSECTION (1) AND THE GREATER OF THIRTY PERCENT OF HIGHEST AVERAGE SALARY AS DEFINED IN SECTION 24-51-1702 (17), OR FOUR HUNDRED EIGHTY DOLLARS;

(II) WHERE THE DECEASED MEMBER HAD MORE THAN FIFTEEN YEARS OF ACCREDITED SERVICE, THE DIFFERENCE, IF ANY, BETWEEN THE AMOUNTS PAYABLE TO BENEFICIARIES UNDER PARAGRAPH (a) OF THIS SUBSECTION (1) AND THE GREATER OF FOUR HUNDRED EIGHTY DOLLARS OR FORTY PERCENT OF HIGHEST AVERAGE SALARY AS DEFINED IN SECTION 24-51-1702 (17), WHICH PERCENTAGE SHALL BE INCREASED BY TWO PERCENT OF HIGHEST AVERAGE SALARY AS DEFINED IN SECTION 24-51-1702 (17), FOR EACH WHOLE YEAR, AND MONTH PRORATED AS A PORTION OF A YEAR, OF ACCREDITED SERVICE IN EXCESS OF TWENTY-FIVE;

(c) TO A BENEFICIARY UNDER SECTION 24-51-1737 (1) (c), WHO HAS ATTAINED AGE SIXTY AND WHO IS THE SURVIVOR OF A DECEASED MEMBER WHO HAD LESS THAN FIFTEEN YEARS OF ACCREDITED SERVICE, THE LESSER OF THIRTY PERCENT OF HIGHEST AVERAGE SALARY AS DEFINED IN SECTION 24-51-1702 (17), OR FOUR HUNDRED EIGHTY DOLLARS. SO LONG AS BENEFITS, IF ANY, ARE PAYABLE UNDER PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (1), ONLY THE EXCESS, IF ANY, OF THE BENEFIT PROVIDED UNDER THIS PARAGRAPH (c) SHALL BE PAYABLE IN ADDITION THERETO, BUT IF NO BENEFITS ARE PAYABLE UNDER SAID SECTION 24-51-1740 (1) (a) AND 24-51-1740 (1) (b), OR, IF PAYABLE, SUCH AMOUNTS HAVE BEEN TERMINATED, THEN THE FULL AMOUNT OF THE BENEFIT PAYMENT PROVIDED BY THIS SUBSECTION (3) SHALL BE PAYABLE.

(d) TO A BENEFICIARY UNDER SECTION 24-51-1737 (1) (c) WHO HAS ATTAINED AGE FIFTY AND WHO IS THE SURVIVOR OF A DECEASED MEMBER WHO HAD FIFTEEN OR MORE YEARS OF ACCREDITED SERVICE, A MONTHLY AMOUNT OF FOUR HUNDRED EIGHTY DOLLARS OR, IF GREATER, THIRTY PERCENT OF HIGHEST AVERAGE SALARY AS DEFINED IN SECTION 24-51-1702 (17), INCREASED BY ONE PERCENT OF HIGHEST AVERAGE SALARY, AS DEFINED IN SECTION 24-51-1702 (17), FOR EACH WHOLE YEAR, AND MONTH PRORATED AS A PORTION OF A YEAR, OF ACCREDITED SERVICE IN EXCESS OF FIFTEEN. SO LONG AS BENEFITS, IF ANY, ARE PAYABLE UNDER SECTION 24-51-1740 (1) (a) AND (1) (b), ONLY THE EXCESS, IF ANY, OF THE BENEFIT PROVIDED UNDER THIS PARAGRAPH (d) SHALL BE PAYABLE IN ADDITION THERETO, BUT IF NO BENEFITS ARE PAYABLE UNDER SAID SECTION 24-51-1740 (1) (a) AND (1) (b), OR, IF PAYABLE SUCH AMOUNTS HAVE TERMINATED, THEN THE FULL AMOUNT OF THE BENEFIT PAYMENT PROVIDED BY THIS PARAGRAPH (d) SHALL BE PAYABLE.

(e) TO EACH BENEFICIARY UNDER SECTION 24-51-1737 (1) (d), A MONTHLY AMOUNT EQUAL TO THE GREATER OF TEN PERCENT OF THE DECEASED MEMBER'S HIGHEST AVERAGE SALARY AS DEFINED IN SECTION 24-51-1702 (17), OR TWO HUNDRED FORTY DOLLARS.

24-51-1741. Effective date of survivor benefits. ON OR AFTER JANUARY 1, 1998, IF SURVIVOR BENEFITS ARE PAYABLE UNDER SECTIONS 24-51-1736 TO 24-51-1746 SUCH BENEFITS SHALL BE DEEMED TO ACCRUE AS OF THE FIRST DAY

FOLLOWING THE DEATH OF THE MEMBER OR THE FIRST DAY WHEN THE FIRST BENEFICIARY BECOMES ELIGIBLE, WHICHEVER IS LATER, AND SHALL BE COMPUTED AND PAYABLE FROM THAT DATE ACCORDINGLY.

24-51-1742. Election by designated beneficiary. IF THE DECEASED MEMBER HAD DESIGNATED A BENEFICIARY, OTHER THAN THE MEMBER'S ESTATE, TO RECEIVE THE REFUND OF THE ACCUMULATED CONTRIBUTION BALANCE, NO SURVIVOR'S BENEFITS SHALL BE SUBJECT TO CLAIM UNDER SECTIONS 24-51-1736 TO 24-51-1746 UNLESS SUCH DESIGNATED BENEFICIARY OR BENEFICIARIES THEN ENTITLED TO RECEIVE SUCH REFUND, BY WRITTEN NOTIFICATION DELIVERED WITHIN SUCH TIME AND IN SUCH FORM AS PRESCRIBED, SHALL ELECT, IN LIEU OF RECEIVING SUCH REFUND, TO HAVE THE PROVISIONS OF SECTIONS 24-51-1736 TO 24-51-1746 APPLIED. IF THERE IS MORE THAN ONE DESIGNATED BENEFICIARY THEN ENTITLED TO RECEIVE SUCH REFUND, SUCH ELECTION MUST BE JOINED IN BY ALL OF THEM. IF THE DECEASED MEMBER HAD DESIGNATED THE ESTATE AS SUCH BENEFICIARY OR IF BY OPERATION OF LAW THE ESTATE SHALL BE ENTITLED TO SUCH REFUND, THEN SUCH ELECTION MAY BE MADE BY THE DULY APPOINTED PERSONAL REPRESENTATIVE OF THE ESTATE OF SUCH DECEASED MEMBER IN LIKE TIME AND IN LIKE MANNER AS MAY BE PRESCRIBED BY THE BOARD BY GENERAL RULE AS SPECIFIED IN THIS SECTION. IF, HOWEVER, SUCH DECEASED MEMBER WAS QUALIFIED FOR RETIREMENT UNDER THE TERMS AND CONDITIONS OF SECTIONS 24-51-1713 AND 24-51-1714, THE DESIGNATED BENEFICIARY OR BENEFICIARIES SO ENTITLED TO REFUND OR BENEFITS UNDER SECTIONS 24-51-1736 TO 24-51-1746, MAY ELECT, IN LIEU OF SUCH BENEFITS, TO ALLOW BENEFITS TO BE PAID UNDER EITHER OPTION B OR OPTION P3 SUBJECT TO THE APPLICABLE SECTIONS THEREOF PROVIDING FOR SUPERANNUATION RETIREMENT. SUCH ELECTION SHALL BE MADE WITHIN SUCH TIME AND IN SUCH FORM AS THE BOARD MAY PRESCRIBE AND SHALL BECOME EFFECTIVE AS OF THE DAY AFTER THE DATE OF THE MEMBER'S DEATH. IF THERE IS MORE THAN ONE DESIGNATED BENEFICIARY ENTITLED TO RECEIVE SUCH BENEFITS, SUCH ELECTION MUST BE JOINED IN BY ALL OF THEM.

24-51-1743. When election becomes irrevocable. THE ELECTION DESCRIBED IN SECTION 24-51-1742 SHALL BECOME IRREVOCABLE UPON THE FIRST PAYMENT THEREUNDER OF ANY BENEFITS PROVIDED UNDER SECTIONS 24-51-1736 TO 24-51-1746 OR UNDER SECTIONS 24-51-1713 AND 24-51-1714. IF, SUBSEQUENT TO EXERCISE OF SUCH ELECTION BY THE APPROPRIATE BENEFICIARY OR BENEFICIARIES BUT PRIOR TO THE FIRST PAYMENT OF BENEFITS THEREUNDER, SUCH BENEFICIARY OR BENEFICIARIES DESIRE TO REVOKE SUCH EARLIER ELECTION, SUCH PERSON OR PERSONS SHALL BE PERMITTED TO DO SO AND SHALL THEREUPON BE ELIGIBLE TO RECEIVE A REFUND PAID UNDER THE TERMS AND CONDITIONS SET FORTH IN SECTION 24-51-1735, AND SUCH REVOKING BENEFICIARY OR BENEFICIARIES SHALL THEREAFTER HAVE NO RIGHTS TO ANY BENEFITS OF ANY KIND, INCIDENT TO THE DEATH OF SUCH MEMBER, OTHER THAN SAID REFUND. IF THE ELECTION HAS BEEN MADE TO RECEIVE BENEFITS HEREUNDER AND THERE IS ONLY ONE BENEFICIARY AND SUCH BENEFICIARY SHALL DIE BEFORE ANY PAYMENT OF SUCH BENEFITS IS MADE, A REFUND OF SUCH DECEASED MEMBER'S ACCUMULATED CONTRIBUTIONS, COMPUTED AS OF THE DATE OF DEATH, SHALL BE MADE TO THE ESTATE OF SUCH DECEASED BENEFICIARY. IF THERE SHALL BE MORE THAN ONE BENEFICIARY BUT ALL OF THEM SHALL HAVE DIED BEFORE ANY PAYMENT OF SUCH BENEFITS IS MADE, SUCH REFUND SHALL BE MADE TO THE ESTATE OF THE LAST SURVIVOR OF SAID SEVERAL BENEFICIARIES.

24-51-1744. Fund transfer. UPON THE EFFECTIVE DATE OF BENEFITS UNDER SECTIONS 24-51-1736 TO 24-51-1746, THE ACCUMULATED CONTRIBUTIONS OF SAID DECEASED MEMBER AT THE TIME OF DEATH SHALL BE TRANSFERRED TO AND MERGED WITH THAT PORTION OF THE DENVER PUBLIC SCHOOLS DIVISION TRUST FUND SET ASIDE AS A RESERVE TO PROVIDE SUCH BENEFITS.

24-51-1745. Payment in good faith. ANY PAYMENTS OF SUCH SURVIVOR'S BENEFITS MADE TO ANY PERSON WHO IS AN ELIGIBLE SURVIVOR OF THE DECEASED MEMBER AND ENTITLED THERETO SHALL, TO THE EXTENT OF SUCH PAYMENTS ACTUALLY MADE, BE AND CONSTITUTE A COMPLETE RELEASE AND ACQUITTANCE TO THE SYSTEM UNDER THIS RETIREMENT PLAN. SUCH RELEASE SHALL NOT BE DEEMED TO PRECLUDE THE RIGHT OF ANOTHER CLAIMANT OR AN ADVERSE CLAIMANT OF SUCH SURVIVOR'S BENEFITS FROM ESTABLISHING A RIGHT TO FUTURE PAYMENTS.

24-51-1746. Waive appointment of guardian. IN THE PAYMENT OF SURVIVOR BENEFITS HEREUNDER, THE ASSOCIATION MAY, FROM TIME TO TIME, AUTHORIZE AND APPROVE PAYMENTS DIRECTLY TO A MINOR OR THE PARENT CARING FOR SUCH MINOR WITHOUT REQUIRING THE APPOINTMENT OF A DULY CONSTITUTED GUARDIAN FOR SUCH MINOR. LIKEWISE, THE ASSOCIATION MAY WAIVE THE APPOINTMENT OF A CONSERVATOR FOR A BENEFICIARY DEEMED MENTALLY INCOMPETENT OR OTHERWISE UNABLE BY REASON OF AGE OR ILLNESS TO ACT WITHOUT ASSISTANCE, AND MAY, FROM TIME TO TIME, AUTHORIZE AND APPROVE SUCH PAYMENTS TO THE PERSON OR INSTITUTION HAVING CARE OF SUCH BENEFICIARY. THE RECEIPT OF THE PERSON OR INSTITUTION SO RECEIVING SUCH PAYMENTS SHALL BE A COMPLETE RELEASE AND ACQUITTANCE UNDER THIS RETIREMENT PLAN WITH RESPECT TO SUCH PAYMENTS IN ALL RESPECTS AS IF SUCH PAYMENTS HAD BEEN MADE TO A DULY CONSTITUTED GUARDIAN OR CONSERVATOR.

24-51-1747. Portability between the Denver public schools division and the other four divisions within the association. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DPS ACTIVE MEMBER" MEANS A PERSON, AS DEFINED IN SUBSECTION (2) OF THIS SECTION, WHO AS OF DECEMBER 31, 2009, IS AN EMPLOYEE OF THE DENVER PUBLIC SCHOOL DISTRICT, THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM, OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, AND IS A MEMBER OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM. ACTIVE MEMBERS INCLUDE EMPLOYEES, OTHER THAN PART-TIME OR HOURLY EMPLOYEES, ON LEAVE OF ABSENCE FROM THE DENVER PUBLIC SCHOOL DISTRICT, THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM, OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL ON DECEMBER 31, 2009.

(b) "DPS INACTIVE MEMBER" MEANS A PERSON, AS DEFINED IN SUBSECTION (3) OF THIS SECTION, WHO AS OF DECEMBER 31, 2009, HAS A MEMBER ACCOUNT BALANCE AT THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM, IS NOT EMPLOYED BY THE DENVER PUBLIC SCHOOL DISTRICT, THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM, OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, AND IS NOT RECEIVING BENEFITS FROM THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM.

(c) "DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM" MEANS THE DENVER PUBLIC

SCHOOL DISTRICT RETIREMENT SYSTEM THAT WILL BECOME THE DENVER PUBLIC SCHOOLS DIVISION WITHIN THE ASSOCIATION.

(d) "FREEZE" OR "FROZEN" MEANS CESSATION OF THE COLLECTION OF CONTRIBUTIONS AND THE GRANTING OF BENEFIT OR SERVICE ACCRUALS. HOWEVER, INTEREST WILL CONTINUE TO ACCRUE ON FROZEN ACCOUNTS AT THE APPLICABLE INTEREST RATE.

(e) "NONRETIREMENT PLAN CHOICE AFFILIATE EMPLOYER" MEANS ANY EMPLOYER, OTHER THAN THE STATE OR THE COMMUNITY COLLEGES, AFFILIATED WITH THE ASSOCIATION.

(f) "ONE-TIME IRREVOCABLE CHOICE" REFERS TO THE CHOICE OF EITHER THE BENEFITS AS SPECIFIED IN THIS PART 17 OR THE BENEFITS UNDER THE PERA BENEFIT STRUCTURE. THE CHOICE PERIOD SHALL BE A SIXTY-CALENDAR-DAY CHOICE PERIOD. UNLESS OTHERWISE SPECIFIED, THE SIXTY-DAY CHOICE PERIOD SHALL BEGIN ON THE DATE THE ASSOCIATION RECEIVES THE FIRST CONTRIBUTIONS FROM THE AFFILIATED EMPLOYER. IF AN INDIVIDUAL IS ELIGIBLE TO MAKE A ONE-TIME IRREVOCABLE CHOICE AND FAILS TO MAKE THE CHOICE WITHIN THE CHOICE PERIOD, HE OR SHE WILL BE AUTOMATICALLY ENROLLED IN THE BENEFIT STRUCTURE WITH WHICH THE INDIVIDUAL HAS ACCRUED THE MOST SERVICE CREDIT AT THE BEGINNING OF THE CHOICE PERIOD. IF THE INDIVIDUAL FAILS TO MAKE A CHOICE AND HAS SERVICE CREDIT IN BOTH BENEFIT STRUCTURES AND THE AMOUNT OF SERVICE CREDIT IN BOTH STRUCTURES IS EQUAL, THEN HE OR SHE WILL BE AUTOMATICALLY ENROLLED IN THE BENEFIT STRUCTURE WITH THE MOST RECENT CONTRIBUTION PRIOR TO THE FIRST DAY OF THE CHOICE PERIOD. CONTRIBUTIONS RECEIVED PRIOR TO A CHOICE BEING MADE WILL BE APPLIED TO THE PERA BENEFIT STRUCTURE. UPON A CHOICE BEING MADE WITHIN THE SIXTY-DAY PERIOD, THESE CONTRIBUTIONS WILL BE APPLIED TO THE APPLICABLE DIVISION AND THE APPLICABLE BENEFIT STRUCTURE WITHIN THAT DIVISION. WHILE THE CHOICE IS PENDING, THE INDIVIDUAL SHALL NOT BE ALLOWED A REFUND OR TO RETIRE.

(g) "PARTIES" MEANS THE ASSOCIATION, THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM, AND THE DENVER PUBLIC SCHOOL DISTRICT.

(h) "PERA BENEFIT STRUCTURE" MEANS THE BENEFITS PROVIDED IN THIS ARTICLE, EXCEPT FOR THE BENEFITS PROVIDED FOR IN PART 15 OF THIS ARTICLE UNLESS OTHERWISE INDICATED, AND EXCEPT FOR THE BENEFITS PROVIDED FOR IN THIS PART 17.

(i) "RETIREMENT PLAN CHOICE AFFILIATED EMPLOYER" MEANS THE STATE OR THE COMMUNITY COLLEGES OF THE STATE.

(j) "DENVER PUBLIC SCHOOL DISTRICT" MEANS THE SCHOOL DISTRICT SPONSORING THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM.

(k) "DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL" MEANS A CHARTER SCHOOL THAT WAS APPROVED BEFORE JANUARY 1, 2010, BY THE DENVER PUBLIC SCHOOL DISTRICT BOARD OF EDUCATION AND THAT HAS EMPLOYEES PARTICIPATING IN THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM BEFORE JANUARY 1, 2010, AND THAT IS CERTIFIED AS A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL

AT THE TIME OF MERGER. "DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL" ALSO MEANS A CHARTER SCHOOL APPROVED BY THE DENVER PUBLIC SCHOOL BOARD OF EDUCATION ON OR AFTER JANUARY 1, 2010. A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL IS CONSIDERED AN EMPLOYER WITHIN THE DENVER PUBLIC SCHOOLS DIVISION.

(I) "DENVER PUBLIC SCHOOLS DIVISION" REFERS TO THE SEPARATE DIVISION CREATED WITHIN THE ASSOCIATION THAT WILL CONSIST SOLELY OF THE DENVER PUBLIC SCHOOL DISTRICT AND DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOLS AND HAVE A SEPARATE BENEFIT STRUCTURE FROM THE OTHER DIVISIONS WITHIN THE ASSOCIATION. THE BENEFIT STRUCTURE FOR THE DENVER PUBLIC SCHOOL DISTRICT DIVISION SHALL BE GOVERNED BY THE DPS PLAN DOCUMENT AND THIS PART 17, WHERE APPLICABLE.

(2) (a) (I) A PERSON WHO IS NOT RETIRED AND IS A DPS ACTIVE MEMBER ON JANUARY 1, 2010, WITH EITHER AN INACTIVE ACCOUNT WITH THE ASSOCIATION OR NO ACCOUNT WITH THE ASSOCIATION WHO CONTINUES HIS OR HER EMPLOYMENT WITH AN EMPLOYER WITHIN THE DENVER PUBLIC SCHOOLS DIVISION ON AND AFTER JANUARY 1, 2010, SHALL CONTINUE TO ACCRUE A BENEFIT UNDER THE SCHOOL DISTRICT DIVISION BENEFIT STRUCTURE AS SET FORTH IN THIS PART 17. EMPLOYMENT WITH ANY NONRETIREMENT PLAN CHOICE ELIGIBLE EMPLOYER AFFILIATED WITH THE ASSOCIATION OTHER THAN THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL ON AND AFTER JANUARY 1, 2010, EITHER CONCURRENT OR NOT CONCURRENT, SHALL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THIS CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND DECIDES TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, SHALL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(II) A PERSON WHO IS NOT RETIRED AND IS A DPS ACTIVE MEMBER ON JANUARY 1, 2010, WITH EITHER AN INACTIVE ACCOUNT WITH THE ASSOCIATION OR NO ACCOUNT WITH THE ASSOCIATION WHO CONTINUES HIS OR HER EMPLOYMENT WITH AN EMPLOYER WITHIN THE DENVER PUBLIC SCHOOLS DIVISION ON AND AFTER JANUARY 1, 2010, SHALL CONTINUE TO ACCRUE A BENEFIT UNDER THE DENVER PUBLIC SCHOOLS BENEFIT STRUCTURE AS SET FORTH IN THIS PART 17. EMPLOYMENT WITH ANY RETIREMENT PLAN CHOICE EMPLOYER AFFILIATED WITH THE ASSOCIATION ON AND AFTER JANUARY 1, 2010, WITHOUT A TWELVE-MONTH BREAK IN SERVICE, SHALL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND DECIDES TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(III) A PERSON WHO IS NOT RETIRED AND IS A DPS ACTIVE MEMBER ON JANUARY 1, 2010, WITH EITHER AN INACTIVE ACCOUNT WITH THE ASSOCIATION OR NO ACCOUNT WITH THE ASSOCIATION WHO CONTINUES HIS OR HER EMPLOYMENT WITH

AN EMPLOYER WITHIN THE DENVER PUBLIC SCHOOLS DIVISION ON AND AFTER JANUARY 1, 2010, SHALL CONTINUE TO ACCRUE A BENEFIT UNDER THE BENEFIT STRUCTURE AS SET FORTH IN THIS PART 17. IF THE INDIVIDUAL IS EMPLOYED WITH ANY EMPLOYER THAT IS UNDER THE OPTIONAL RETIREMENT PLAN CHOICE PURSUANT TO ARTICLE 54.5 OF THIS TITLE, IN AN OPTIONAL RETIREMENT PLAN CHOICE POSITION, HE OR SHE WILL HAVE THE CHOICE AS PROVIDED IN ARTICLE 54.5 OF THIS TITLE. FOR PURPOSES OF DETERMINING OPTIONAL RETIREMENT PLAN CHOICE ELIGIBILITY, SERVICE CREDIT WITHIN THE BENEFIT STRUCTURE AS SET FORTH IN THIS PART 17 AND SERVICE CREDIT WITH THE ASSOCIATION WILL BE COMBINED. IF THE INDIVIDUAL CHOOSES TO PARTICIPATE IN THE DEFINED BENEFIT PLAN, IT WILL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE SIXTY-DAY CHOICE PERIOD SHALL BEGIN UPON THE DATE THE ASSOCIATION IS NOTIFIED OF THE SELECTION OF THE DEFINED BENEFIT PLAN. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(IV) A PERSON WHO IS NOT RETIRED AND IS A DPS ACTIVE MEMBER ON JANUARY 1, 2010, WITH EITHER AN INACTIVE ACCOUNT WITH THE ASSOCIATION OR NO ACCOUNT WITH THE ASSOCIATION WHO CONTINUES HIS OR HER EMPLOYMENT WITH AN EMPLOYER WITHIN THE DENVER PUBLIC SCHOOLS DIVISION ON AND AFTER JANUARY 1, 2010, SHALL CONTINUE TO ACCRUE A BENEFIT UNDER THE BENEFIT STRUCTURE AS SET FORTH IN THIS PART 17. IF THE INDIVIDUAL IS EMPLOYED AT THE UNIVERSITY OF COLORADO IN A POSITION DEFINED AS ELIGIBLE FOR THE UNIVERSITY RETIREMENT PLAN, HE OR SHE WILL HAVE THE CHOICE AS PROVIDED IN SECTION 23-20-139, C.R.S. FOR PURPOSES OF DETERMINING UNIVERSITY RETIREMENT PLAN CHOICE ELIGIBILITY, SERVICE CREDIT WITHIN THE BENEFIT STRUCTURE AS SET FORTH IN THIS PART 17 AND SERVICE CREDIT WITH THE ASSOCIATION WILL BE COMBINED. IF THE INDIVIDUAL CHOOSES TO PARTICIPATE IN THE DEFINED BENEFIT PLAN, IT WILL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE SIXTY-DAY CHOICE PERIOD SHALL BEGIN UPON THE DATE THE ASSOCIATION IS NOTIFIED OF THE SELECTION OF THE DEFINED BENEFIT PLAN. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(b) (I) A DPS ACTIVE MEMBER ON JANUARY 1, 2010, WITH EITHER AN INACTIVE ACCOUNT WITH THE ASSOCIATION OR NO ACCOUNT WITH THE ASSOCIATION WHO TERMINATES EMPLOYMENT WITH HIS OR HER EMPLOYER AND BECOMES INACTIVE AND IS LATER REEMPLOYED BY ANY NONRETIREMENT PLAN CHOICE AFFILIATED EMPLOYER OF THE ASSOCIATION, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT AND A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER,

INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(II) A DPS ACTIVE MEMBER ON JANUARY 1, 2010, WITH EITHER AN INACTIVE ACCOUNT WITH THE ASSOCIATION OR NO ACCOUNT WITH THE ASSOCIATION WHO TERMINATES EMPLOYMENT WITH HIS OR HER EMPLOYER AND BECOMES INACTIVE AND IS LATER REEMPLOYED BY ANY RETIREMENT PLAN CHOICE AFFILIATED EMPLOYER OF THE ASSOCIATION WITHIN TWELVE MONTHS OF THE DATE OF TERMINATION WILL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(III) A DPS ACTIVE MEMBER ON JANUARY 1, 2010, WITH EITHER AN INACTIVE ACCOUNT WITH THE ASSOCIATION OR NO ACCOUNT WITH THE ASSOCIATION WHO TERMINATES EMPLOYMENT WITH HIS OR HER EMPLOYER AND BECOMES INACTIVE AND IS LATER REEMPLOYED BY ANY RETIREMENT PLAN CHOICE AFFILIATED EMPLOYER OF THE ASSOCIATION AFTER A TWELVE-MONTH BREAK IN SERVICE WILL HAVE A RETIREMENT PLAN CHOICE PURSUANT TO SECTION 24-51-1503 (1). IF THE INDIVIDUAL CHOOSES TO PARTICIPATE IN THE DEFINED BENEFIT PLAN, IT WILL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE SIXTY-DAY CHOICE PERIOD SHALL BEGIN UPON THE DATE THE ASSOCIATION IS NOTIFIED OF THE SELECTION OF THE DEFINED BENEFIT PLAN. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME. IF THE INDIVIDUAL CHOOSES TO PARTICIPATE IN THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN, THE INDIVIDUAL MAY EITHER ELECT TO MAINTAIN HIS OR HER INACTIVE ACCOUNT OR DIRECT THAT HIS OR HER MEMBER ACCOUNT BE TRANSFERRED TO THE DEFINED CONTRIBUTION ACCOUNT; PROVIDED THAT AFTER-TAX CONTRIBUTIONS SHALL BE TRANSFERRED TO AN AFTER-TAX ACCOUNT IN THE ASSOCIATION'S 401(k) ACCOUNT. IF AN INDIVIDUAL ELECTS TO TRANSFER HIS OR HER ACCOUNT PURSUANT TO THIS SUBPARAGRAPH (III), THE ASSOCIATION SHALL TRANSFER SUCH ACCOUNT WITHIN NINETY DAYS AFTER THE EMPLOYEE'S ELECTION BECOMES EFFECTIVE.

(IV) A DPS ACTIVE MEMBER ON JANUARY 1, 2010, WITH EITHER AN INACTIVE ACCOUNT WITH THE ASSOCIATION OR NO ACCOUNT WITH THE ASSOCIATION WHO TERMINATES EMPLOYMENT WITH HIS OR HER EMPLOYER AND BECOMES INACTIVE AND IS LATER REEMPLOYED BY ANY EMPLOYER THAT IS UNDER THE OPTIONAL RETIREMENT PLAN CHOICE PURSUANT TO ARTICLE 54.5 OF THIS TITLE, IN AN OPTIONAL RETIREMENT PLAN CHOICE POSITION, WILL HAVE THE CHOICE AS PROVIDED IN ARTICLE 54.5 OF THIS TITLE. FOR PURPOSES OF DETERMINING OPTIONAL RETIREMENT PLAN CHOICE ELIGIBILITY, SERVICE CREDIT WITHIN THE BENEFIT STRUCTURE AS SET FORTH IN THIS PART 17 AND SERVICE CREDIT WITHIN THE PERA

BENEFIT STRUCTURE WILL BE COMBINED. IF THE INDIVIDUAL CHOOSES TO PARTICIPATE IN THE DEFINED BENEFIT PLAN, IT WILL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE SIXTY-DAY CHOICE PERIOD SHALL BEGIN UPON THE DATE THE ASSOCIATION IS NOTIFIED OF THE SELECTION OF THE DEFINED BENEFIT PLAN. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(V) A DPS ACTIVE MEMBER ON JANUARY 1, 2010, WITH EITHER AN INACTIVE ACCOUNT WITH THE ASSOCIATION OR NO ACCOUNT WITH THE ASSOCIATION WHO TERMINATES EMPLOYMENT WITH HIS OR HER EMPLOYER AND BECOMES INACTIVE AND IS LATER REEMPLOYED AT THE UNIVERSITY OF COLORADO IN A POSITION DEFINED AS ELIGIBLE FOR THE UNIVERSITY RETIREMENT PLAN SHALL HAVE THE CHOICE AS PROVIDED IN SECTION 23-20-139, C.R.S. FOR PURPOSES OF DETERMINING UNIVERSITY RETIREMENT PLAN CHOICE ELIGIBILITY, SERVICE CREDIT WITHIN THE BENEFIT STRUCTURE AS SET FORTH IN THIS PART 17 AND SERVICE CREDIT WITHIN THE PERA BENEFIT STRUCTURE WILL BE COMBINED. IF THE INDIVIDUAL CHOOSES TO PARTICIPATE IN THE DEFINED BENEFIT PLAN, IT WILL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE SIXTY-DAY CHOICE PERIOD SHALL BEGIN UPON THE DATE THE ASSOCIATION IS NOTIFIED OF THE SELECTION OF THE DEFINED BENEFIT PLAN. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(c) A DPS ACTIVE MEMBER WHO IS ALSO A MEMBER OF THE ASSOCIATION PURSUANT TO SECTION 24-51-101 (29) ON JANUARY 1, 2010, WILL IMMEDIATELY BE GIVEN A ONE-TIME IRREVOCABLE CHOICE. THE SIXTY-DAY CHOICE PERIOD WILL BEGIN ON JANUARY 1, 2010. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH AN AFFILIATED EMPLOYER OF THE ASSOCIATION, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(3) (a) (I) A PERSON WHO IS NOT RETIRED AND IS A DPS INACTIVE MEMBER ON JANUARY 1, 2010, WHO IS SUBSEQUENTLY EMPLOYED BY ANY NONRETIREMENT PLAN CHOICE AFFILIATED EMPLOYER OF THE ASSOCIATION, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT AND A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER

THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(II) A PERSON WHO IS NOT RETIRED AND IS A DPS INACTIVE MEMBER ON JANUARY 1, 2010, WHO IS SUBSEQUENTLY EMPLOYED BY ANY RETIREMENT PLAN CHOICE AFFILIATED EMPLOYER OF THE ASSOCIATION WITHIN TWELVE MONTHS OF THE DATE OF TERMINATION WILL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(III) A PERSON WHO IS NOT RETIRED AND IS A DPS INACTIVE MEMBER ON JANUARY 1, 2010, WHO IS SUBSEQUENTLY EMPLOYED BY ANY RETIREMENT PLAN CHOICE AFFILIATED EMPLOYER OF THE ASSOCIATION AFTER A TWELVE-MONTH BREAK IN SERVICE WILL HAVE A RETIREMENT PLAN CHOICE PURSUANT TO SECTION 24-51-1503 (1). IF THE INDIVIDUAL CHOOSES TO PARTICIPATE IN THE DEFINED BENEFIT PLAN, IT WILL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE SIXTY-DAY CHOICE PERIOD SHALL BEGIN UPON THE DATE THE ASSOCIATION IS NOTIFIED OF THE SELECTION OF THE DEFINED BENEFIT PLAN. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE BENEFIT STRUCTURE OF THE ASSOCIATION IN EFFECT AT THAT TIME. IF THE INDIVIDUAL CHOOSES TO PARTICIPATE IN THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN, THE INDIVIDUAL MAY EITHER ELECT TO MAINTAIN HIS OR HER INACTIVE ACCOUNT OR DIRECT THAT HIS OR HER MEMBER ACCOUNT BE TRANSFERRED TO THE DEFINED CONTRIBUTION ACCOUNT; PROVIDED THAT AFTER-TAX CONTRIBUTIONS SHALL BE TRANSFERRED TO AN AFTER-TAX ACCOUNT IN THE ASSOCIATION'S 401(k) ACCOUNT. IF AN INDIVIDUAL ELECTS TO TRANSFER HIS OR HER ACCOUNT PURSUANT TO THIS SUBPARAGRAPH (III), THE ASSOCIATION WILL TRANSFER SUCH ACCOUNT WITHIN NINETY DAYS AFTER THE EMPLOYEE'S ELECTION BECOMES EFFECTIVE.

(IV) A PERSON WHO IS NOT RETIRED AND IS A DPS INACTIVE MEMBER ON JANUARY 1, 2010, WHO IS SUBSEQUENTLY EMPLOYED BY ANY EMPLOYER THAT IS UNDER THE OPTIONAL RETIREMENT PLAN CHOICE PURSUANT TO ARTICLE 54.5 OF THIS TITLE IN AN OPTIONAL RETIREMENT PLAN CHOICE POSITION WILL HAVE THE CHOICE AS PROVIDED IN ARTICLE 54.5 OF THIS TITLE. FOR PURPOSES OF DETERMINING OPTIONAL RETIREMENT PLAN CHOICE ELIGIBILITY, SERVICE CREDIT WITHIN THE BENEFIT STRUCTURE AS SET FORTH IN THIS PART 17 AND SERVICE CREDIT WITHIN THE PERA BENEFIT STRUCTURE WILL BE COMBINED. IF THE INDIVIDUAL CHOOSES TO PARTICIPATE IN THE DEFINED BENEFIT PLAN, IT WILL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE SIXTY-DAY CHOICE PERIOD SHALL BEGIN UPON THE DATE THE ASSOCIATION IS NOTIFIED OF THE SELECTION OF THE DEFINED BENEFIT PLAN. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC

SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(V) A PERSON WHO IS NOT RETIRED AND IS A DPS INACTIVE MEMBER ON JANUARY 1, 2010, WITH EITHER AN INACTIVE ACCOUNT WITH THE ASSOCIATION OR NO ACCOUNT WITH THE ASSOCIATION WHO IS SUBSEQUENTLY EMPLOYED AT THE UNIVERSITY OF COLORADO IN A POSITION DEFINED AS ELIGIBLE FOR THE UNIVERSITY RETIREMENT PLAN WILL HAVE THE CHOICE AS PROVIDED IN SECTION 23-20-139, C.R.S. FOR PURPOSES OF DETERMINING UNIVERSITY RETIREMENT PLAN CHOICE ELIGIBILITY, SERVICE CREDIT WITHIN THE BENEFIT STRUCTURE AS SET FORTH IN THIS PART 17 AND SERVICE CREDIT WITHIN THE PERA BENEFIT STRUCTURE WILL BE COMBINED. IF THE INDIVIDUAL CHOOSES TO PARTICIPATE IN THE DEFINED BENEFIT PLAN, IT WILL TRIGGER A ONE-TIME IRREVOCABLE CHOICE. THE SIXTY-DAY CHOICE PERIOD SHALL BEGIN UPON THE DATE THE ASSOCIATION IS NOTIFIED OF THE SELECTION OF THE DEFINED BENEFIT PLAN. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH ANY ASSOCIATION AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(b) A PERSON WHO IS NOT RETIRED AND IS A DPS INACTIVE MEMBER ON JANUARY 1, 2010, WHO IS ALSO AN ACTIVE MEMBER OF THE ASSOCIATION PURSUANT TO SECTION 24-51-101 (29) ON JANUARY 1, 2010, WILL IMMEDIATELY BE GIVEN A ONE-TIME IRREVOCABLE CHOICE. THE SIXTY-DAY CHOICE PERIOD WILL BEGIN ON JANUARY 1, 2010. THE CHOICE SHALL FREEZE THE ACCOUNT NOT CHOSEN. IF THE INDIVIDUAL BECOMES AN INACTIVE MEMBER AND ELECTS TO TAKE A REFUND, HE OR SHE SHALL REFUND ALL MEMBER ACCOUNTS. ANY SUBSEQUENT EMPLOYMENT AFTER A REFUND WITH AN AFFILIATED EMPLOYER OF THE ASSOCIATION, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, WILL BE UNDER THE PERA BENEFIT STRUCTURE IN EFFECT AT THAT TIME.

(c) A DPS INACTIVE MEMBER WHO IS ALSO AN INACTIVE MEMBER OF THE ASSOCIATION WHO DOES NOT MAKE A ONE-TIME IRREVOCABLE CHOICE AND SUBSEQUENTLY RETIRES FROM EITHER BENEFIT STRUCTURE SHALL CHOOSE AT TIME OF RETIREMENT WHICH OF THE TWO BENEFITS TO ACCRUE UPON RETURNING TO EMPLOYMENT WITH ANY AFFILIATED EMPLOYER.

(4) NOTWITHSTANDING SUBSECTIONS (1), (2), AND (3) OF THIS SECTION, ANY EMPLOYMENT WITH A DENVER PUBLIC SCHOOLS DIVISION EMPLOYER PRIOR TO JANUARY 1, 2010, IS CONSIDERED EMPLOYMENT WITH THE ASSOCIATION FOR PURPOSES OF THE ELIGIBILITY FOR RETIREMENT PLAN CHOICE AS SPECIFIED IN PART 15 OF THIS ARTICLE.

(5) ANY INDIVIDUAL HIRED BY THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL ON OR AFTER JANUARY 1, 2010, WITHOUT AN EXISTING ACCOUNT IN EITHER THE BENEFIT STRUCTURE UNDER THIS PART 17 OR THE PERA BENEFIT STRUCTURE SHALL BE GOVERNED EXCLUSIVELY BY THE STATUTES AND RULES OF THE ASSOCIATION AS THEY EXIST AT THE TIME OF HIRE.

(6)(a) A PERSON WHO IS A RETIREE OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM BEFORE JANUARY 1, 2010, SHALL NOT BE SUBJECT TO A BENEFIT REDUCTION DUE TO POSTRETIREMENT EMPLOYMENT WITH AN AFFILIATED EMPLOYER OF THE ASSOCIATION EXISTING BEFORE JANUARY 1, 2010, AS LONG AS THE RETIREE CONTINUES TO BE EMPLOYED BY THAT SAME EMPLOYER. A RETIREE SO SITUATED SHALL BE ENTITLED TO A SECOND AND ENTIRELY SEPARATE RETIREMENT COVERAGE SEGMENT UNDER THE PERA BENEFIT STRUCTURE.

(b)(I) A RETIREE OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM WITH NO MEMBER CONTRIBUTION ACCOUNT WITH THE ASSOCIATION ON JANUARY 1, 2010, WHO RETURNS TO WORK FOR ANY AFFILIATED EMPLOYER OF THE ASSOCIATION, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND RULES OF THE ASSOCIATION GOVERNING EMPLOYMENT AFTER SERVICE RETIREMENT. THE RETIREE MAY SUSPEND AND ADD A SEPARATE BENEFIT SEGMENT TO HIS OR HER DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM BENEFIT. THE RETIREE SHALL NOT BE ENTITLED TO ACCRUE A BENEFIT UNDER THE PERA BENEFIT STRUCTURE.

(II) AN INDIVIDUAL WHO RETIRES UNDER THE BENEFIT STRUCTURE PROVIDED IN THIS PART 17 AFTER JANUARY 1, 2010, WHO DID NOT MAKE A ONE-TIME IRREVOCABLE CHOICE AND RETURNS TO WORK FOR ANY AFFILIATED EMPLOYER OF THE ASSOCIATION, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND RULES OF THE ASSOCIATION GOVERNING EMPLOYMENT AFTER SERVICE RETIREMENT. THE INDIVIDUAL MAY SUSPEND AND ADD A SEPARATE BENEFIT SEGMENT TO HIS OR HER DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM BENEFIT. THE INDIVIDUAL SHALL NOT BE ENTITLED TO ACCRUE A BENEFIT UNDER THE PERA BENEFIT STRUCTURE.

(c) A RETIREE OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM WITH AN INACTIVE ACCOUNT IN THE ASSOCIATION ON JANUARY 1, 2010, WHO IS EMPLOYED BY AN AFFILIATED EMPLOYER OF THE ASSOCIATION, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND RULES OF THE ASSOCIATION GOVERNING EMPLOYMENT AFTER SERVICE RETIREMENT. IF THE RETIREE CHOOSES TO SUSPEND HIS OR HER BENEFIT, HE OR SHE MUST MAKE A ONE-TIME IRREVOCABLE CHOICE WITHIN SIXTY DAYS FROM THE DATE OF SUSPENSION TO EITHER ADD TO HIS OR HER INACTIVE ACCOUNT UNDER THE BENEFIT STRUCTURE FOR THAT ACCOUNT OR ADD A SEPARATE BENEFIT SEGMENT TO HIS OR HER DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM BENEFIT. THE RETIREE SHALL NOT BE REQUIRED TO SUSPEND HIS OR HER RETIREMENT BENEFIT BUT WILL NOT BE ABLE TO ADD TO THE INACTIVE ACCOUNT OR ADD A SEPARATE SEGMENT TO THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM BENEFIT UNLESS THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM BENEFIT IS SUSPENDED. IF THE INACTIVE ACCOUNT IS CHOSEN, THE RETIREE WILL BE PERMANENTLY INELIGIBLE TO ADD A SEPARATE SEGMENT TO THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM BENEFIT. IF ADDING A SEPARATE SEGMENT TO THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM BENEFIT IS CHOSEN, THE RETIREE WILL BE PERMANENTLY INELIGIBLE TO ADD TO THE INACTIVE ACCOUNT.

(d) A DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM RETIREE SHALL BE

CONSIDERED A RETIREE OF THE ASSOCIATION FOR PURPOSES OF PART 15 OF THIS ARTICLE AND ARTICLE 54.5 OF THIS TITLE. A DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM RETIREE SHALL ALSO BE CONSIDERED A RETIREE OF THE ASSOCIATION WHEN EMPLOYED BY THE UNIVERSITY OF COLORADO AFTER JANUARY 1, 2010.

(e) A RETIREE OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM BEFORE JANUARY 1, 2010, WHO IS AN ACTIVE MEMBER OF THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN SHALL NOT BE SUBJECT TO A BENEFIT REDUCTION DUE TO POSTRETIREMENT EMPLOYMENT WITH HIS OR HER EMPLOYER AS LONG AS THE RETIREE CONTINUES TO BE EMPLOYED BY THAT SAME EMPLOYER. THE RETIREE SHALL BE ENTITLED TO CONTINUE TO CONTRIBUTE TO THE DEFINED CONTRIBUTION PLAN. IF THE RETIREE BEGINS EMPLOYMENT WITH ANOTHER NONRETIREMENT PLAN CHOICE EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, THE RETIREE WILL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND RULES OF THE ASSOCIATION GOVERNING EMPLOYMENT AFTER SERVICE RETIREMENT. IF THE RETIREE CHOOSES TO SUSPEND HIS OR HER BENEFIT, HE OR SHE MUST ADD A SEPARATE BENEFIT SEGMENT TO HIS OR HER BENEFIT AS SET FORTH IN THIS PART 17. THE RETIREE SHALL NOT BE REQUIRED TO SUSPEND HIS OR HER RETIREMENT BENEFIT, BUT WILL NOT BE ABLE TO ADD A SEPARATE SEGMENT TO THE BENEFIT AS SET FORTH IN THIS PART 17 UNLESS THE BENEFIT IS SUSPENDED.

(f) A RETIREE OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM BEFORE JANUARY 1, 2010, WHO IS AN ACTIVE MEMBER OF THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN SHALL NOT BE SUBJECT TO A BENEFIT REDUCTION DUE TO POSTRETIREMENT EMPLOYMENT WITH HIS OR HER EMPLOYER AS LONG AS THE RETIREE CONTINUES TO BE EMPLOYED BY THAT SAME EMPLOYER. THE RETIREE SHALL BE ENTITLED TO CONTINUE TO CONTRIBUTE TO THE DEFINED CONTRIBUTION PLAN. IF THE RETIREE BEGINS EMPLOYMENT WITH ANOTHER RETIREMENT PLAN CHOICE EMPLOYER WITHOUT A TWELVE-MONTH BREAK IN SERVICE, THE RETIREE SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND RULES OF THE ASSOCIATION GOVERNING EMPLOYMENT AFTER SERVICE RETIREMENT. IF THE RETIREE CHOOSES TO SUSPEND HIS OR HER BENEFIT WITHIN TWELVE MONTHS FROM THE DATE OF EMPLOYMENT, HE OR SHE SHALL BE PLACED INTO THE DEFINED CONTRIBUTION PLAN AND WILL CONTINUE TO BUILD ON HIS OR HER DEFINED CONTRIBUTION ACCOUNT. IF THE RETIREE CHOOSES TO SUSPEND AFTER TWELVE MONTHS, HE OR SHE WILL BUILD ANOTHER SEGMENT ONTO THE BENEFIT AS SET FORTH IN THIS PART 17.

(g) AN ASSOCIATION RETIREE WHO IS ALSO A DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM RETIREE ON JANUARY 1, 2010, AND WHO IS SUBSEQUENTLY EMPLOYED BY AN AFFILIATED EMPLOYER OF THE ASSOCIATION, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND RULES OF THE ASSOCIATION GOVERNING EMPLOYMENT AFTER SERVICE RETIREMENT WITH REGARD TO BOTH BENEFITS. IF THE RETIREE DOES NOT SUSPEND THE BENEFITS AND WORKS BEYOND THE STATUTORY LIMITS, BOTH RETIREMENT BENEFITS SHALL BE OFFSET BY FIVE PERCENT PER DAY FOR EVERY DAY WORKED BEYOND THE LIMIT. IF THE RETIREE CHOOSES TO SUSPEND THE BENEFITS, HE OR SHE SHALL SUSPEND BOTH BENEFITS AND SHALL MAKE A ONE-TIME IRREVOCABLE CHOICE WITHIN SIXTY DAYS FROM THE DATE OF SUSPENSION TO EITHER ADD TO HIS OR HER ASSOCIATION ACCOUNT UNDER THE

BENEFIT STRUCTURE FOR THAT ACCOUNT OR ADD A SEPARATE BENEFIT SEGMENT TO HIS OR HER BENEFIT AS SET FORTH IN THIS PART 17. THE RETIREE SHALL NOT BE REQUIRED TO SUSPEND HIS OR HER RETIREMENT BENEFITS BUT WILL NOT BE ABLE TO ADD TO EITHER ACCOUNT UNLESS THE BENEFITS ARE SUSPENDED. IF THE ASSOCIATION ACCOUNT IS CHOSEN, THE RETIREE PERMANENTLY FORFEITS THE ABILITY TO ADD A SEPARATE SEGMENT TO THE BENEFIT UNDER THIS PART 17. IF THE BENEFIT UNDER THIS PART 17 IS CHOSEN, THE RETIREE PERMANENTLY FORFEITS THE ABILITY TO ADD TO THE ASSOCIATION ACCOUNT.

(7) (a) A PERSON WHO IS A RETIREE OF THE ASSOCIATION AND A DPS ACTIVE MEMBER BEFORE JANUARY 1, 2010, SHALL NOT BE SUBJECT TO A BENEFIT REDUCTION DUE TO POSTRETIREMENT EMPLOYMENT WITH THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL AS LONG AS THE RETIREE CONTINUES TO BE EMPLOYED BY THE SAME EMPLOYER. A RETIREE SO SITUATED SHALL BE ENTITLED TO A SECOND AND ENTIRELY SEPARATE RETIREMENT COVERAGE SEGMENT UNDER THE BENEFIT STRUCTURE AS SET FORTH IN THIS PART 17. IF SUCH A RETIREE TERMINATES EMPLOYMENT WITH THAT EMPLOYER, THE RETIREE SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND RULES OF THE ASSOCIATION GOVERNING EMPLOYMENT AFTER SERVICE RETIREMENT IF REEMPLOYED BY ANY AFFILIATED EMPLOYER. IF THE RETIREE CHOOSES TO SUSPEND HIS OR HER BENEFIT, THE RETIREE SHALL MAKE A CHOICE WITHIN SIXTY DAYS FROM THE DATE OF SUSPENSION TO EITHER ADD TO HIS OR HER ACCOUNT UNDER THE PERA BENEFIT STRUCTURE FOR THAT ACCOUNT OR ADD TO HIS OR HER ACCOUNT AS SET FORTH IN THIS PART 17. THE RETIREE SHALL NOT BE REQUIRED TO SUSPEND HIS OR HER RETIREMENT BENEFIT, BUT WILL NOT BE ABLE TO ADD TO THE BENEFIT OR ADD TO THE ACCOUNT UNDER THIS PART 17 UNLESS THE RETIREMENT BENEFIT IS SUSPENDED. IF THE ASSOCIATION ACCOUNT IS CHOSEN, THE RETIREE PERMANENTLY FORFEITS THE ABILITY TO ADD TO THE ACCOUNT UNDER THIS PART 17. IF THE ACCOUNT UNDER THIS PART 17 IS CHOSEN, THE RETIREE PERMANENTLY FORFEITS THE ABILITY TO ADD TO THE ASSOCIATION ACCOUNT. IF THE RETIREE DOES NOT SUSPEND THE ASSOCIATION BENEFIT, THE SEPARATE SEGMENT OF COVERAGE WILL BECOME AN INACTIVE ACCOUNT.

(II) A RETIREE OF THE ASSOCIATION WITH NO MEMBER ACCOUNT IN THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM ON JANUARY 1, 2010, WHO IS EMPLOYED BY THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL AFTER JANUARY 1, 2010, SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND RULES OF THE ASSOCIATION GOVERNING EMPLOYMENT AFTER SERVICE RETIREMENT.

(III) A RETIREE OF THE ASSOCIATION WITH AN INACTIVE ACCOUNT WITH THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM ON JANUARY 1, 2010, WHO IS EMPLOYED BY ANY AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, BEGINNING ON OR AFTER JANUARY 1, 2010, SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND RULES OF THE ASSOCIATION GOVERNING EMPLOYMENT AFTER SERVICE RETIREMENT. IF THE RETIREE CHOOSES TO SUSPEND HIS OR HER BENEFIT, HE OR SHE SHALL MAKE A ONE-TIME IRREVOCABLE CHOICE WITHIN SIXTY DAYS FROM THE DATE OF SUSPENSION TO EITHER ADD TO HIS OR HER ACCOUNT WITH THE ASSOCIATION UNDER THE BENEFIT STRUCTURE FOR THAT ACCOUNT OR ADD TO THE ACCOUNT AS SET FORTH IN THIS PART 17. THE RETIREE SHALL NOT BE REQUIRED TO SUSPEND HIS

OR HER RETIREMENT BENEFIT, BUT WILL NOT BE ABLE TO ADD TO EITHER ACCOUNT UNLESS THE RETIREMENT BENEFIT IS SUSPENDED. IF THE ASSOCIATION ACCOUNT IS CHOSEN, THE RETIREE PERMANENTLY FORFEITS THE ABILITY TO ADD TO THE ACCOUNT UNDER THIS PART 17. IF THE ACCOUNT UNDER THIS PART 17 IS CHOSEN, THE RETIREE PERMANENTLY FORFEITS THE ABILITY TO ADD TO THE ASSOCIATION ACCOUNT.

(8) AN INDIVIDUAL MAY REINSTATE TIME WITHIN THE BENEFIT STRUCTURE THAT HE OR SHE IS IN AS LONG AS THE TIME IS NOT CONCURRENT WITH THE TIME, EITHER EARNED OR PURCHASED, IN THE OTHER BENEFIT STRUCTURE. THE COST TO REINSTATE THE TIME SHALL BE THE COST REQUIRED BY THE ASSOCIATION'S STATUTES AND RULES. AN INDIVIDUAL MAY PURCHASE, AT THE ACTUARIAL COST ACCORDING TO THE ASSOCIATION'S STATUTES AND RULES, TIME THAT HAS BEEN PREVIOUSLY REFUNDED IN THE OTHER BENEFIT STRUCTURE AS LONG AS THE TIME IS NOT CONCURRENT WITH TIME, EITHER EARNED OR PURCHASED, IN THE OTHER BENEFIT STRUCTURE. THE LIMITS ON THE AMOUNT OF SERVICE CREDIT AN INDIVIDUAL MAY PURCHASE SET FORTH IN THIS ARTICLE SHALL APPLY TO MEMBERS UNDER THE BENEFIT STRUCTURE IN THIS PART 17.

(9) (a) A DISABILITY APPLICATION SUBMITTED TO THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2010, SHALL BE PROCESSED IN ACCORDANCE WITH THIS PART 17.

(b) ANY DISABILITY APPLICATION SUBMITTED TO THE ASSOCIATION ON OR AFTER JANUARY 1, 2010, SHALL BE PROCESSED IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AND RULES OF THE ASSOCIATION.

(c) AN INDIVIDUAL SHALL NOT BE ELIGIBLE FOR DISABILITY BENEFITS BASED ON AN ACCOUNT THAT IS FROZEN.

(10) A FROZEN ACCOUNT SHALL BE CONSIDERED AN INACTIVE ACCOUNT FOR PURPOSES OF SURVIVOR BENEFIT ELIGIBILITY.

(11) ANY TIME AN INDIVIDUAL CONTINUES TO ACCRUE A BENEFIT UNDER THIS PART 17 WHILE EMPLOYED BY AN ASSOCIATION AFFILIATED EMPLOYER OTHER THAN THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL, THE INDIVIDUAL'S SALARY FOR PENSION PURPOSES SHALL BE GOVERNED BY THE ASSOCIATION'S DEFINITION OF SALARY. ON AND AFTER JANUARY 1, 2010, INDIVIDUALS IN THE DENVER PUBLIC SCHOOLS DIVISION SHALL EARN SERVICE CREDIT BASED ON THE ASSOCIATION'S ACCRUAL RATE OF ONE MONTH OF SERVICE EARNED IF THE MEMBER RECEIVES EIGHTY TIMES FEDERAL MINIMUM WAGE IN ONE MONTH WHILE EMPLOYED BY A PERA AFFILIATED EMPLOYER, INCLUDING THE DENVER PUBLIC SCHOOL DISTRICT OR A DENVER PUBLIC SCHOOL DISTRICT CHARTER SCHOOL.

(12) A RETIREE OR A BENEFICIARY RECEIVING A BENEFIT FROM THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM, A DISABILITY RETIREE OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM WHO APPLIED FOR A DISABILITY RETIREMENT BENEFIT PRIOR TO JANUARY 1, 2010, AND A SURVIVOR BENEFIT RECIPIENT BASED ON AN ACCOUNT OF A PERSON WHO DIED PRIOR TO JANUARY 1, 2010, SHALL HAVE HIS OR HER BENEFITS PAID IN ACCORDANCE WITH THE BENEFIT STRUCTURE AS SET FORTH

IN THIS PART 17. FOR ADMINISTRATIVE CONVENIENCE, ANNUAL BENEFIT ADJUSTMENTS FOR SUCH INDIVIDUALS MAY BE SCHEDULED SO THAT THE ADJUSTMENTS COINCIDE WITH THE DATES ON WHICH BENEFIT ADJUSTMENTS ARE EFFECTIVE UNDER THE RULES OF THE ASSOCIATION. WITHIN THE FIRST CALENDAR YEAR FOLLOWING THE EFFECTIVE MERGER DATE, IT SHALL NOT BE THE INTENTION OF THE ASSOCIATION TO DENY AN ANTICIPATED ANNUAL INCREASE OR TO GRANT AN ADDITIONAL INCREASE TO ANY ANNUITANT, BENEFICIARY, OR SURVIVOR, AS DEFINED IN SECTION 24-51-1702, BUT RATHER THAT THE ASSOCIATION WILL ADMINISTER AN APPROPRIATE ANNUAL INCREASE CONSIDERING ANY DIFFERENCES BETWEEN THE ADMINISTRATIVE PROCEDURES UNDER THE DPS PLAN AND THE ASSOCIATION IN RELATION TO THE TIMING OF THE PAYMENT OF SUCH INCREASE.

(13) THE FUNDING OF A BENEFIT BASED ON AN ACCOUNT THAT HAS CONTRIBUTIONS FROM THE DENVER PUBLIC SCHOOLS DIVISION SHALL BE FUNDED IN THE SAME MANNER AS THE ASSOCIATION FUNDS THE BENEFIT BASED ON AN ACCOUNT THAT HAS CONTRIBUTIONS IN ANY ONE OF THE OTHER FOUR DIVISIONS AS PROVIDED IN SECTION 24-51-208 (4).

24-51-1748. Staff members of the Denver public schools retirement system.

(1) EACH STAFF MEMBER EMPLOYED BY THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM ON THE DATE OF THE MERGER SHALL BE HIRED AS AN EMPLOYEE-AT-WILL OF THE ASSOCIATION AT A SALARY NOT LESS THAN THE ANNUAL SALARY RECEIVED FROM THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM AS OF THE MERGER DATE, AND THE STAFF MEMBER'S EMPLOYMENT THEREAFTER SHALL BE GOVERNED BY THE POLICIES, RULES, AND STATUTES APPLICABLE TO THE EMPLOYEES OF THE ASSOCIATION; EXCEPT THAT SUCH STAFF MEMBERS MAY ACCRUE RETIREMENT BENEFITS IN ACCORDANCE WITH THE RULES OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM AS THEY EXISTED ON THE DAY PRECEDING THE EFFECTIVE DATE OF THE MERGER. AS OF THE EFFECTIVE DATE OF THE MERGER, DENVER PUBLIC SCHOOLS OR THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM SHALL BE RESPONSIBLE FOR THE PAYMENT TO THE ASSOCIATION OF ANY ACCRUED EMPLOYMENT BENEFITS OTHER THAN BENEFITS PROVIDED FOR UNDER THE ASSOCIATION OWED TO EACH EMPLOYEE OF THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM.

(2) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-51-1206.7 (5), SERVICE CREDIT OF STAFF MEMBERS DESCRIBED IN SUBSECTION (1) OF THIS SECTION PRIOR TO JANUARY 1, 2010, THAT WAS ACCRUED WITH THE DENVER PUBLIC SCHOOLS AND THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM SHALL APPLY TOWARD THE CALCULATION OF THE PREMIUM SUBSIDY AS PROVIDED IN SECTION 24-51-1206.7.

SECTION 57. 13-54-104 (1) (b) (II) (B), Colorado Revised Statutes, is amended to read:

13-54-104. Restrictions on garnishment and levy under execution or attachment. (1) As used in this section, unless the context otherwise requires:

(b) (II) For the purposes of writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, for restitution for the theft, embezzlement, misappropriation, or wrongful conversion of public property, or in the event of a judgment for a willful and intentional violation of fiduciary

duties to a public pension plan where the offender or a related party received direct financial gain, "earnings" also means:

(B) Any pension or retirement benefits or payments, including but not limited to those paid pursuant to ~~article 64 of title 22, C.R.S.~~, articles 51, 52, 54, 54.5, and 54.6 of title 24, C.R.S., and articles 30.5 and 31 of title 31, C.R.S.;

SECTION 58. 13-54.5-101 (2) (b) (II), Colorado Revised Statutes, is amended to read:

13-54.5-101. Definitions. As used in this article, unless the context otherwise requires:

(2) (b) For the purposes of writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, for restitution for the theft, embezzlement, misappropriation, or wrongful conversion of public property, or in the event of a judgment for a willful and intentional violation of fiduciary duties to a public pension plan where the offender or a related party received direct financial gain, "earnings" also means:

(II) Any pension or retirement benefits or payments, including but not limited to those paid pursuant to ~~article 64 of title 22, C.R.S.~~, articles 51, 52, 54, 54.5, and 54.6 of title 24, C.R.S., and articles 30.5 and 31 of title 31, C.R.S.;

SECTION 59. 14-10-115 (5) (a) (I) (H), Colorado Revised Statutes, is amended to read:

14-10-115. Child support guidelines - purpose - definitions - determination of income - schedule of basic child support obligations - adjustments to basic child support - additional guidelines - child support commission.

(5) **Determination of income.** (a) For the purposes of the child support guidelines and schedule of basic child support obligations specified in this section, the gross income of each parent shall be determined according to the following guidelines:

(I) "Gross income" includes income from any source, except as otherwise provided in subparagraph (II) of this paragraph (a), and includes, but is not limited to:

(H) Pensions and retirement benefits, including but not limited to those paid pursuant to ~~article 64 of title 22, C.R.S.~~, articles 51, 54, 54.5, and 54.6 of title 24, C.R.S., and article 30 of title 31, C.R.S.;

SECTION 60. 14-14-102 (9), Colorado Revised Statutes, is amended to read:

14-14-102. Definitions. As used in this article, unless the context otherwise requires:

(9) "Wages" means income to an obligor in any form, including, but not limited to, actual gross income; compensation paid or payable for personal services, whether denominated as wages; earnings from an employer; salaries; payment to an independent contractor for labor or services; commissions; tips declared by the

individual for purposes of reporting to the federal internal revenue service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater; rents; bonuses; severance pay; retirement benefits and pensions, including, but not limited to, those paid pursuant to ~~article 64 of title 22, C.R.S.~~, articles 51, 54, 54.5, 54.6, and 54.7 of title 24, C.R.S., and article 30 of title 31, C.R.S.; workers' compensation benefits; social security benefits, including social security benefits actually received by a parent as a result of the disability of that parent or as the result of the death of the minor child's stepparent, but not including social security benefits received by a minor child or on behalf of a minor child as a result of the death or disability of a stepparent of the child; disability benefits; dividends; royalties; trust account distributions; any moneys drawn by a self-employed individual for personal use; funds held in or payable from any health, accident, disability, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages; monetary gifts; monetary prizes, excluding lottery winnings not required by the rules of the Colorado lottery commission to be paid only at the lottery office; taxable distributions from general partnerships, limited partnerships, closely held corporations, or limited liability companies; interest; trust income; annuities; payments received from a third party to cover the health care cost of the child but which payments have not been applied to cover the child's health care costs; state tax refunds; and capital gains. "Wages", for the purposes of child support enforcement, may also include unemployment compensation benefits, but only subject to the provisions and requirements of section 8-73-102 (5), C.R.S.

SECTION 61. The introductory portion to 15-1-1102 (5), Colorado Revised Statutes, is amended to read:

15-1-1102. Definitions. As used in this part 11, unless the context otherwise requires:

(5) "Institutional fund" means a fund held by an institution exclusively for charitable purposes. The term does not include funds held by the public employees' retirement association created by article 51 of title 24, C.R.S., ~~or funds held by a school district retirement system established pursuant to part 2 of article 64 of title 22, C.R.S.~~, or:

SECTION 62. 24-51-1002 (3) (c) (I) and (3) (c) (II), Colorado Revised Statutes, are amended to read:

24-51-1002. Annual percentages to be used. (3) (c) Subsection (1) of this section shall apply to persons who:

(I) Were hired on or before June 30, 2005, by an employer participating in a school district retirement system created pursuant to part 2 of article 64 of title 22, C.R.S., PRIOR TO ITS REPEAL IN 2010;

(II) On the day before the effective date of the merger, were members of the school district retirement system created pursuant to part 2 of article 64 of title 22, C.R.S., PRIOR TO ITS REPEAL IN 2010; and

SECTION 63. 24-54.8-102 (14), Colorado Revised Statutes, is amended to read:

24-54.8-102. Definitions. (14) "Public fund" means the state treasurer, the board of directors of the public employees' retirement association created in article 51 of this title, the state deferred compensation committee created pursuant to article 52 of this title, the Colorado county officials and employees retirement association created pursuant to article 54 of this title, the board of directors of the fire and police pension association created in article 31 of title 31, C.R.S., AND the board of directors of the regional transportation district created in article 9 of title 32, C.R.S. ~~and the board of trustees of the Denver public school retirement system created pursuant to part 2 of article 64 of title 22, C.R.S.~~

SECTION 64. 22-45-112 (3), Colorado Revised Statutes, is amended to read:

22-45-112. Sale of assets. (3) The proceeds, less the costs, of the sale of lands, buildings, or lands and buildings that are sold by a school district may be applied, in the discretion of the board of education, to pension liabilities of the district or to make payments to the public employees' retirement association of Colorado or ~~others in connection with the merger of the retirement system of the school district into the association pursuant to section 22-64-220~~ TO THE REFINANCING OF ANY TRANSACTION ENTERED INTO FOR SUCH PURPOSES. Notwithstanding any other provision of law, any such proceeds that are held in a separate account to secure the school district's obligation to make payments to the association ~~or others in connection with such merger~~ may be invested by the district in any investment in which moneys of the association may be invested. ~~If the proceeds so invested and earnings thereon are in excess of the amounts payable to the association or others in connection with the merger, the excess shall be deposited in the general fund of the school district and shall be used to pay the school district's employer contribution to the association after the merger.~~

SECTION 65. Repeal. Article 64 of title 22, Colorado Revised Statutes, is repealed.

SECTION 66. Effective date. This act shall take effect January 1, 2010; except that the following sections of the act shall take effect upon passage: Section 24-51-101 (18.2), (18.3), (18.5), and (18.7), Colorado Revised Statutes, as contained in section 1 of this act; section 24-51-203 (1.5), Colorado Revised Statutes, as contained in section 3 of this act; section 24-51-204 (10) and (11), Colorado Revised Statutes, as contained in section 4 of this act; section 24-51-207 (2) (c), Colorado Revised Statutes, as contained in section 6 of this act; section 24-51-405.5, Colorado Revised Statutes, as contained in section 20 of this act; sections 24-51-1701, 24-51-1703, and 24-51-1748, Colorado Revised Statutes, as contained in section 56 of this act; and sections 66 and 67 of this act.

SECTION 67. 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 21, 2009