

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0083.01 Nicole Myers

HOUSE BILL 10-1207

HOUSE SPONSORSHIP

Lambert, Kerr J.

SENATE SPONSORSHIP

King K., Lundberg

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MODIFICATIONS TO THE PUBLIC EMPLOYEES'
102 RETIREMENT ASSOCIATION.

Bill Summary

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

The bill makes changes to the public employees' retirement association (PERA) as specified below.

Highest average salary. Currently, a PERA member's highest average salary (HAS) is based on an average of the highest annual salaries associated with 3 periods of 12 consecutive months of service

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

with a base year. Current law also imposes either an 8% or 15% cap on the amount of salary increase from one year to the next that will be counted toward the HAS calculation, depending on whether a person was a member, inactive member, or retiree on certain dates. For all members who are not yet eligible to draw a full or reduced service retirement benefit on January 1, 2011, the bill changes the current HAS calculation to a 5-year HAS with a base year and imposes a 5% cap on the amount of salary increase from one year to the next that will be counted toward the HAS calculation.

Report by the state treasurer. The bill requires the state treasurer to submit a report to the general assembly regarding the overall financial standing of PERA on an annual basis, or more frequently than annually when the treasurer determines that the financial standing of the association is unsound.

Actuarial necessity. Currently, statute does not define under what conditions an actuarial necessity exists. The bill states that an actuarial necessity exists when the defined benefit plan is not actuarially sound and that, in the event of an actuarial necessity, the general assembly may modify the benefits allowed to certain members in the defined benefit plan of PERA.

Rate of return on investments. The bill requires the board to assume an annual rate of return on all investments made with PERA funds that is based on the average of the actual rate of return for the 3 previous calendar years.

Employer and member contribution rates. The bill changes the employer and member contribution rates for employers and members in the PERA defined benefit plan beginning on January 1, 2011. For all employers and members, the contribution shall be an amount equal to 10% of the member's salary.

Eliminate the amortization equalization disbursement (AED). The AED is a contribution made by each PERA employer, in addition to the employer contribution, that was enacted by the general assembly as a means of improving the funded ratio of the retirement plans administered by PERA. The AED began in the 2006 calendar year and was 0.5% of each PERA employer's total payroll. The AED increased by 0.5% for the 2007 calendar year. For employers in all divisions of PERA, current law requires the AED to increase by an additional 0.4% in the 2008 through 2012 calendar years for a total AED equal to 3% of the employer's total payroll. The bill eliminates the AED for employers in all divisions of PERA beginning in the 2011 calendar year.

Eliminate the supplemental amortization equalization disbursement (SAED). The SAED is a contribution made by each PERA employer but is funded from moneys that would otherwise be used by the employer for employees' annual raises. The SAED is in addition to the employer and employee contributions and the AED. Like the AED,

it was enacted by the general assembly as a means of improving the funded ratio of the retirement plans administered by PERA. The SAED began in the 2008 calendar year and was 0.5% of each PERA employer's total payroll. For employers in all divisions of PERA, current law requires the SAED to increase by an additional 0.5% in the 2009 through the 2013 calendar years for a total SAED equal to 3% of the employer's total payroll. The bill eliminates the SAED for employers in all divisions of PERA beginning in the 2011 calendar year.

Adjustment of contribution rates by the general assembly.

Currently, contribution rates set in statute are not typically adjusted on an annual basis. The bill requires the general assembly to review the PERA employer and employee contribution rates when the actuarial funded ratio of a particular division of PERA is at or above 90% and to determine the amount, if any, by which such contributions can be reduced for that particular division and still maintain the actuarial funded ratio of that division at or above 90%. The general assembly is required to review the contribution rates again if the actuarial funded ratio of the division reaches 90% and subsequently falls below 90%.

Purchase of service credit. Currently, under certain circumstances, PERA members are allowed to purchase service credit for years of service that are not currently counted toward their years of service. The bill prohibits all purchases of service credit on and after January 1, 2011.

Rule of 95. A member is currently required to have 30 years of service and to have reached the age of 50 or 55, depending on when the employee began employment with a PERA employer, to retire with a full retirement benefit. This is commonly known as the rule of 80 or the rule of 85, respectively. The bill creates a new rule of 95 by requiring members, other than state troopers, who did not have 5 years of service credit on the effective date of the bill to have 30 years of service and to have reached the age of 65 to retire with a full retirement benefit.

Cost of living adjustment (COLA). Currently, the annual COLA for benefit recipients is either 3.5% or the lesser of 3% or inflation, depending on when the member began membership in PERA. The bill reduces the COLA to the lesser of 2% or inflation for all current and future retirees, regardless of when they began membership in PERA. In addition, the bill requires benefit recipients whose effective date of retirement is on or after January 1, 2011, to receive benefits for at least the full preceding calendar year before the benefit is adjusted with the COLA.

When the actuarial funded ratio of any division of PERA is at or above 90%, the bill allows the general assembly to restore or adjust the COLA for only benefit recipients whose benefits are based on the account of a member who was in the division with an actuarial funded ratio at or above 90%. The bill allows the general assembly to annually adjust the

COLA for benefit recipients from any division with an actuarial funded ratio of 90% or more and specifies that such adjustment shall be based on the rate of inflation.

Defined contribution plan. PERA currently offers a defined contribution plan and specifies the conditions under which a member may opt into the defined contribution plan in lieu of participating in the defined benefit plan. The bill eliminates the existing defined contribution plan administered by PERA and specifies that all employees who are members of the existing defined contribution plan shall become members of a newly established defined contribution plan (new DC plan). The bill establishes the new DC plan for public employees and requires that an employee first hired on or after January 1, 2011, shall become a member of the new DC plan and shall not have the option to become a member of the defined benefit plan. Employees who are members of the defined benefit plan and who are not entitled to full or partial retirement benefits are allowed to make an irrevocable election to participate in the new DC plan. In connection with the new DC plan, the bill:

- ! Specifies the amount of employee and employer contributions that shall be made to the individual account of an employee who is a member of the new DC plan;
- ! Specifies the vesting requirements for members of the new DC plan;
- ! Allows each member of the new DC plan to exercise control of the investment of the member's account under the new DC plan;
- ! Directs the board to select investment alternatives for the members of the new DC plan that provide a choice between risk and return in the investment;
- ! Specifies that the new DC plan shall offer at least one alternative to allow members to invest in tangible precious metals or commodities;
- ! Specifies that PERA and employers shall not be responsible for any financial losses experienced by members in the new DC plan;
- ! Directs the board to establish distribution options for members in the new DC plan;
- ! Specifies the rights of members in the new DC plan;
- ! Requires that a retiree who returns to work shall become a member of the new DC plan for any service after retirement;
- ! Requires that a member or DPS member who is a member of the defined benefit plan but then begins employment with a new PERA employer on or after January 1, 2011, shall become a member of the new DC plan, regardless of whether the new and previous employers are in the same

division of PERA.

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

2 **SECTION 1.** 24-51-101 (3), (5), (21), (23), (28), (30), and (31),
3 Colorado Revised Statutes, are amended, and the said 24-51-101 is
4 further amended BY THE ADDITION OF A NEW SUBSECTION, to
5 read:

6 **24-51-101. Definitions.** As used in this article, unless the context
7 otherwise requires and except as otherwise defined in part 17 of this
8 article:

9 (3) "Actuarial valuation" means the determination, as of a
10 valuation date, of the normal cost, actuarial accrued liability, actuarial
11 value of assets, and related actuarial present values of the DEFINED
12 BENEFIT plan.

13 (5) "Amortization period" means the number of years ~~which~~ THAT
14 is required to gradually extinguish the unfunded actuarial accrued
15 liabilities of the DEFINED BENEFIT plan if future actuarial experience
16 exactly matches the assumptions set by the board.

17 (13.7) "DEFINED BENEFIT PLAN" MEANS THE DEFINED BENEFIT
18 PLAN CREATED AND ADMINISTERED PURSUANT TO PARTS 4 TO 11 AND
19 PART 17 OF THIS ARTICLE.

20 (21) "Employer contribution" means the money paid by an
21 employer to the association pursuant to the provisions of section
22 24-51-401 (1.7) AND PURSUANT TO THE PROVISIONS OF PART 18 OF THIS
23 ARTICLE for all member salaries paid and other required employer
24 contributions made pursuant to the provisions of section 24-51-402.

25 (23) "Fund" means the total assets of the association ~~which~~ THAT

1 are credited to the various trust funds established and invested by the
2 association FOR PURPOSES OF THE DEFINED BENEFIT PLAN pursuant to the
3 provisions of this article.

4 (28) "Interest" means:

5 (a) The actuarial investment assumption rate compounded
6 annually for any interest charged to a member or benefit recipient
7 pursuant to the provisions of this article;

8 (b) The applicable actuarial investment assumption rate
9 compounded annually for any interest charged to an employer pursuant
10 to the provisions of this article; ~~and~~

11 (c) The rate established by the board for each calendar year
12 pursuant to the provisions of section 24-51-407 for interest on member
13 contributions; AND

14 (d) THE RATE ESTABLISHED BY THE BOARD FOR EACH CALENDAR
15 YEAR PURSUANT TO THE PROVISIONS OF PART 18 OF THIS ARTICLE FOR
16 INTEREST ON MEMBER CONTRIBUTIONS TO THE DEFINED CONTRIBUTION
17 PLAN.

18 (30) "Member contribution" means the money paid to the
19 association ~~which~~ THAT equals a percentage of the member's salary as
20 determined pursuant to the provisions of section 24-51-401 (1.7) OR
21 PURSUANT TO THE PROVISIONS OF PART 18 OF THIS ARTICLE.

22 (31) "Member contribution account" means an account maintained
23 for each member IN THE DEFINED BENEFIT PLAN in the member
24 contribution reserve to which member contributions, interest on member
25 contributions, payments in lieu of member contributions, and payments
26 and interest made for purchases of service credit are credited.

27 **SECTION 2.** 24-51-101 (25) (b), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

2 **24-51-101. Definitions.** As used in this article, unless the context
3 otherwise requires and except as otherwise defined in part 17 of this
4 article:

5 (25) (b) (V) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
6 PARAGRAPH (b), IN CALCULATING HIGHEST AVERAGE SALARY FOR A
7 MEMBER OR INACTIVE MEMBER NOT ELIGIBLE FOR SERVICE OR REDUCED
8 SERVICE RETIREMENT ON JANUARY 1, 2011, THE ASSOCIATION SHALL
9 DETERMINE THE HIGHEST ANNUAL SALARIES ASSOCIATED WITH SIX
10 PERIODS OF TWELVE CONSECUTIVE MONTHS OF SERVICE CREDIT. THE
11 LOWEST OF SUCH ANNUAL SALARIES SHALL BE THE BASE SALARY. THE
12 FIRST ANNUAL SALARY TO BE USED IN THE HIGHEST AVERAGE SALARY
13 CALCULATION SHALL BE THE ACTUAL SALARY REPORTED UP TO ONE
14 HUNDRED FIVE PERCENT OF THE BASE SALARY. THE SECOND ANNUAL
15 SALARY TO BE USED IN THE HIGHEST AVERAGE SALARY CALCULATION
16 SHALL BE THE ACTUAL SALARY REPORTED UP TO ONE HUNDRED FIVE
17 PERCENT OF THE FIRST ANNUAL SALARY USED IN THE HIGHEST AVERAGE
18 SALARY CALCULATION. THE THIRD ANNUAL SALARY TO BE USED IN THE
19 HIGHEST AVERAGE SALARY CALCULATION SHALL BE THE ACTUAL SALARY
20 REPORTED UP TO ONE HUNDRED FIVE PERCENT OF THE SECOND ANNUAL
21 SALARY USED IN THE HIGHEST AVERAGE SALARY CALCULATION. THE
22 FOURTH ANNUAL SALARY TO BE USED IN THE HIGHEST AVERAGE SALARY
23 CALCULATION SHALL BE THE ACTUAL SALARY REPORTED UP TO ONE
24 HUNDRED FIVE PERCENT OF THE THIRD ANNUAL SALARY USED IN THE
25 HIGHEST AVERAGE SALARY CALCULATION. THE FIFTH ANNUAL SALARY TO
26 BE USED IN THE HIGHEST AVERAGE SALARY CALCULATION SHALL BE THE
27 ACTUAL SALARY REPORTED UP TO ONE HUNDRED FIVE PERCENT OF THE

1 FOURTH ANNUAL SALARY USED IN THE HIGHEST AVERAGE SALARY
2 CALCULATION. THIS SUBPARAGRAPH (V) SHALL NOT APPLY TO MEMBERS
3 OF THE JUDICIAL DIVISION.

4 **SECTION 3.** Part 2 of article 51 of title 24, Colorado Revised
5 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
6 SECTIONS to read:

7 **24-51-203.6. State treasurer - report.** ON OR BEFORE MARCH 1,
8 2011, AND ON OR BEFORE MARCH 1 OF EACH YEAR THEREAFTER, THE
9 STATE TREASURER SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY
10 REGARDING THE OVERALL FINANCIAL STANDING OF THE ASSOCIATION AND
11 EACH DIVISION OF THE ASSOCIATION SEPARATELY. IN ADDITION, THE
12 STATE TREASURER SHALL REPORT TO THE GENERAL ASSEMBLY AT ANY
13 TIME WHEN THE STATE TREASURER DETERMINES THAT THE FINANCIAL
14 STANDING OF THE ASSOCIATION IS UNSOUND.

15 **24-51-211.5. Actuarial necessity.** AN ACTUARIAL NECESSITY
16 SHALL EXIST FOR THE ASSOCIATION WHEN THE DEFINED BENEFIT PLAN IS
17 NOT ACTUARIALLY SOUND PURSUANT TO SECTION 24-51-211. IN THE
18 EVENT OF AN ACTUARIAL NECESSITY, THE GENERAL ASSEMBLY MAY
19 MODIFY BY BILL THE BENEFITS ALLOWED TO MEMBERS OF THE DEFINED
20 BENEFIT PLAN, SO LONG AS THE BENEFITS OF MEMBERS WHO ARE ELIGIBLE
21 FOR A SERVICE RETIREMENT BENEFIT OR A REDUCED SERVICE RETIREMENT
22 BENEFIT PURSUANT TO SECTIONS 24-51-602 AND 24-51-604,
23 RESPECTIVELY, ARE NOT MODIFIED.

24 **SECTION 4.** 24-51-206, Colorado Revised Statutes, is amended
25 BY THE ADDITION OF A NEW SUBSECTION to read:

26 **24-51-206. Investments.** (4) THE BOARD SHALL ASSUME AN
27 ANNUAL RATE OF RETURN ON ALL INVESTMENTS MADE WITH THE FUNDS

1 OF THE ASSOCIATION THAT IS BASED ON THE AVERAGE OF THE ACTUAL
2 RATE OF RETURN FOR EACH OF THE PREVIOUS THREE CALENDAR YEARS.

3 **SECTION 5.** The introductory portion to 24-51-401 (1.7) (a),
4 Colorado Revised Statutes, is amended, and the said 24-51-401 (1.7) is
5 further amended BY THE ADDITION OF A NEW PARAGRAPH, to
6 read:

7 **24-51-401. Employer and member contributions.**

8 (1.7) (a) PRIOR TO JANUARY 1, 2011, employers shall deliver a
9 contribution report and the full amount of employer and member
10 contributions to the association within five days after the date members
11 and retirees are paid. Except as provided in subsection (7) of this section
12 and section 24-51-408.5, such contributions shall be based upon the rates
13 for the appropriate division as set forth in the following table multiplied
14 by the salary, as defined in section 24-51-101 (42), paid to members and
15 retirees for the payroll period:

16 (f) (I) BEGINNING ON JANUARY 1, 2011, EMPLOYERS SHALL
17 DELIVER A CONTRIBUTION REPORT AND THE FULL AMOUNT OF EMPLOYER
18 AND MEMBER CONTRIBUTIONS TO THE ASSOCIATION WITHIN FIVE DAYS
19 AFTER THE DATE MEMBERS AND RETIREES ARE PAID. EXCEPT AS PROVIDED
20 IN SUBSECTION (7) OF THIS SECTION AND SECTION 24-51-408.5, SUCH
21 CONTRIBUTIONS SHALL BE BASED UPON THE RATES FOR THE APPROPRIATE
22 DIVISION AS SET FORTH IN THE FOLLOWING TABLE MULTIPLIED BY THE
23 SALARY, AS DEFINED IN SECTION 24-51-101 (42), PAID TO MEMBERS AND
24 RETIREES FOR THE PAYROLL PERIOD:

25 **TABLE A.5**

26 **CONTRIBUTION RATES**

27 **DIVISION MEMBERSHIP EMPLOYER RATE MEMBER RATE**

1	STATE	ALL MEMBERS	10.0%	10.0%
2		EXCEPT		
3		STATE TROOPERS	10.0%	10.0%
4	SCHOOL	ALL MEMBERS		
5		1/1/2011 THROUGH		
6		12/31/2012	10.0%	10.0%
7		1/1/2013 AND		
8		THEREAFTER	10.0%	10.0%
9	LOCAL			
10	GOVERNMENT	ALL MEMBERS	10.0%	10.0%
11	JUDICIAL	ALL MEMBERS	10.0%	10.0%
12	DPS	1/1/2011 THROUGH		
13		12/31/2012	10.0%	10.0%
14		1/1/2013 AND		
15		THEREAFTER	10.0%	10.0%

16 (II) ANY FUTURE INCREASE TO THE EMPLOYER CONTRIBUTION
17 SHALL BE MATCHED BY A CORRESPONDING INCREASE TO THE MEMBER
18 CONTRIBUTION. ANY FUTURE INCREASE TO THE MEMBER CONTRIBUTION
19 SHALL BE MATCHED BY A CORRESPONDING INCREASE TO THE EMPLOYER
20 CONTRIBUTION.

21 **SECTION 6.** 24-51-411 (2), (3.2), (3.7), (4), and (5), Colorado
22 Revised Statutes, are amended, and the said 24-51-411 is further amended
23 BY THE ADDITION OF A NEW SUBSECTION, to read:

24 **24-51-411. Amortization equalization disbursement - repeal.**
25 (2) For the calendar year beginning January 1, 2006, the amortization
26 equalization disbursement shall be one-half of one percent of the
27 employer's total payroll. The amortization equalization payment shall

1 increase by one-half of one percent of total payroll on January 1, 2007,
2 and shall increase by four-tenths of one percent of total payroll at the start
3 of each of the calendar years following 2007 ~~through 2012~~ THROUGH
4 2010. For purposes of this section, the employer's total payroll shall be
5 calculated by applying the definition of salary, pursuant to section
6 24-51-101 (42), to the payroll for all employees working for the employer
7 who are members of the association, or who were eligible to elect to
8 become members of the association on or after January 1, 2006, including
9 any amounts paid in connection with the employment of a retiree by an
10 employer pursuant to section 24-51-1101 (2). Beginning January 1, 2010,
11 employers of the Denver public schools division shall pay the
12 then-applicable accumulated rate of amortization equalization
13 disbursement. ~~and the escalating rate in accordance with the provisions~~
14 ~~of this section.~~

15 (3.2) For the calendar year beginning January 1, 2008, the
16 supplemental amortization equalization disbursement shall be one-half of
17 one percent of the employer's total payroll. The supplemental
18 amortization equalization disbursement shall increase by one-half of one
19 percent of total payroll on January 1 of each year following 2008 ~~through~~
20 ~~2013~~ THROUGH 2010. For purposes of this section, the employer's total
21 payroll shall be calculated by applying the definition of salary, pursuant
22 to section 24-51-101 (42), to the payroll for all employees working for the
23 employer who are members of the association, or who were eligible to
24 elect to become members of the association on or after January 1, 2006,
25 including any amounts paid in connection with the employment of a
26 retiree by an employer pursuant to section 24-51-1101 (2). Beginning on
27 January 1, 2010, employers of the Denver public schools division shall

1 pay the then-applicable accumulated rate of supplemental amortization
2 equalization disbursement. ~~and the escalating rate in accordance with the~~
3 ~~provisions of this section.~~

4 (3.7) For state employers in the state division, for the 2007-08
5 state fiscal year and for each fiscal year ~~through the 2012-13~~ THROUGH
6 THE 2010-11 state fiscal year, from the amount of changes to state
7 employees' salaries and any adjustments to the annual general
8 appropriation act pursuant to section 24-50-104, an amount equal to
9 one-half of one percent of total salary shall be deducted and such amount
10 shall be utilized by the employer to fund the supplemental amortization
11 equalization disbursement. For the school, local government, judicial, and
12 Denver public schools divisions, and the remaining employers in the state
13 division who are not state employers, the supplemental amortization
14 equalization disbursement shall, to the extent permitted by law, be funded
15 by allocation of funds otherwise available for use as employee
16 compensation increases prior to award as salary or other compensation to
17 employees.

18 (4) Any reduction in the amortization equalization disbursement
19 and in the supplemental amortization equalization disbursement pursuant
20 to subsection (3.5) of this section shall be irrevocable. ~~If the~~
21 ~~disbursements become no longer necessary pursuant to subsection (3.5)~~
22 ~~of this section, then the association shall notify the revisor of statutes to~~
23 ~~repeal this section.~~ Moneys made available due to any reduction in the
24 supplemental amortization equalization disbursement pursuant to
25 subsection (3.5) of this section shall, to the extent permitted by law, be
26 allocated to employee compensation increases to the extent such source
27 was originally used by an employer to fund the supplemental amortization

1 equalization disbursement.

2 (4.5) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION,
3 EMPLOYERS SHALL NOT PAY ANY AMOUNT OF THE AMORTIZATION
4 EQUALIZATION DISBURSEMENT OR THE SUPPLEMENTAL AMORTIZATION
5 EQUALIZATION DISBURSEMENT BEGINNING ON JANUARY 1, 2011.

6 (5) This section is repealed, effective ~~upon receipt by the revisor~~
7 ~~of statutes of a notice pursuant to subsection (4) of this section~~ JANUARY
8 1, 2012.

9 **SECTION 7.** Part 4 of article 51 of title 24, Colorado Revised
10 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
11 read:

12 **24-51-413. Contribution rates - adjustment by general**
13 **assembly.** WHEN THE ACTUARIAL FUNDED RATIO OF A PARTICULAR
14 DIVISION OF THE ASSOCIATION, BASED ON THE ACTUARIAL VALUE OF
15 ASSETS, IS AT OR ABOVE NINETY PERCENT AS DETERMINED IN THE ANNUAL
16 ACTUARIAL STUDY OF THE ASSOCIATION, THE GENERAL ASSEMBLY SHALL
17 REVIEW THE CONTRIBUTION RATES TO THE ASSOCIATION REQUIRED
18 PURSUANT TO THIS ARTICLE AND SHALL DETERMINE THE AMOUNT, IF ANY,
19 BY WHICH SUCH CONTRIBUTIONS CAN BE REDUCED FOR THAT PARTICULAR
20 DIVISION AND STILL MAINTAIN THE ACTUARIAL FUNDED RATIO OF THAT
21 DIVISION AT OR ABOVE NINETY PERCENT. IF THE ACTUARIAL FUNDED
22 RATIO OF THE DIVISION BASED ON THE ACTUARIAL VALUE OF ASSETS
23 REACHES NINETY PERCENT AND SUBSEQUENTLY THE ACTUARIAL FUNDED
24 RATIO OF THE DIVISION IS BELOW NINETY PERCENT, THE GENERAL
25 ASSEMBLY SHALL AGAIN REVIEW THE CONTRIBUTION RATES REQUIRED
26 PURSUANT TO THIS ARTICLE AND DETERMINE THE AMOUNT BY WHICH SUCH
27 CONTRIBUTIONS SHALL BE INCREASED FOR THAT PARTICULAR DIVISION TO

1 RESTORE THE ACTUARIAL FUNDED RATIO OF THAT DIVISION AT OR ABOVE
2 NINETY PERCENT.

3 **SECTION 8.** 24-51-502 (1), Colorado Revised Statutes, is
4 amended to read:

5 **24-51-502. Purchased service credit.** (1) A member may
6 qualify earlier for service retirement, reduced service retirement, or
7 increased benefits through the purchase of additional service credit. THE
8 PURCHASE OF ADDITIONAL SERVICE CREDIT SHALL BE ALLOWED PRIOR TO
9 JANUARY 1, 2011. ON AND AFTER JANUARY 1, 2011, A MEMBER SHALL
10 NOT HAVE THE OPTION TO PURCHASE SERVICE CREDIT UNDER ANY
11 CIRCUMSTANCE.

12 **SECTION 9.** 24-51-503 (1), Colorado Revised Statutes, is
13 amended to read:

14 **24-51-503. Purchase of service credit relating to a refunded**
15 **member contribution account.** (1) Except as otherwise provided in
16 section 24-51-318, the service credit forfeited with a refund pursuant to
17 the provisions of section 24-51-405 may be purchased upon the former
18 member's resumption of membership and after completion of one year of
19 earned service credit by such member, SO LONG AS SUCH SERVICE CREDIT
20 IS PURCHASED PRIOR TO JANUARY 1, 2011. ON AND AFTER JANUARY 1,
21 2011, THE SERVICE CREDIT FORFEITED WITH A REFUND SHALL NOT BE
22 PURCHASED BY THE FORMER MEMBER UNDER ANY CIRCUMSTANCE.

23 **SECTION 10.** 24-51-504 (1), Colorado Revised Statutes, is
24 amended to read:

25 **24-51-504. Purchase of service credit relating to a paid**
26 **sabbatical leave.** (1) The portion of service credit not earned during a
27 paid sabbatical leave granted after July 1, 1966, may be purchased if the

1 member makes member contributions on the difference between the
2 partial salary paid and the salary ~~which~~ THAT would have been paid if the
3 paid sabbatical leave had not been taken; EXCEPT THAT SERVICE CREDIT
4 NOT EARNED DURING A PAID SABBATICAL LEAVE SHALL NOT BE
5 PURCHASED ON OR AFTER JANUARY 1, 2011, UNDER ANY CIRCUMSTANCE.

6 **SECTION 11.** The introductory portion to 24-51-505 (1) and
7 24-51-505 (2) (a), Colorado Revised Statutes, are amended, and the said
8 24-51-505 (2) is further amended BY THE ADDITION OF A NEW
9 PARAGRAPH, to read:

10 **24-51-505. Purchase of service credit relating to noncovered**
11 **employment.** (1) Service credit may be purchased for any period of
12 previous employment with any public or private employer in the United
13 States, its territories, or any foreign country SO LONG AS THE SERVICE
14 CREDIT IS PURCHASED PRIOR TO JANUARY 1, 2011. SERVICE CREDIT FOR
15 PREVIOUS EMPLOYMENT SHALL NOT BE PURCHASED ON OR AFTER JANUARY
16 1, 2011, UNDER ANY CIRCUMSTANCE. PRIOR TO JANUARY 1, 2011, THE
17 PURCHASE OF SERVICE CREDIT SHALL BE subject to the following
18 conditions:

19 (2) (a) Except as otherwise provided in ~~paragraph (b)~~
20 PARAGRAPHS (b) AND (e) of this subsection (2), one year of service credit
21 may be purchased for each year of noncovered employment determined
22 pursuant to the provisions of section 24-51-501 (2) to (4) applicable to
23 earned service credit.

24 (e) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
25 SUBSECTION (2), SERVICE CREDIT SHALL NOT BE PURCHASED ON OR AFTER
26 JANUARY 1, 2011, UNDER ANY CIRCUMSTANCE.

27 **SECTION 12.** 24-51-506 (1), Colorado Revised Statutes, is

1 amended to read:

2 **24-51-506. Payments for purchased service credit.** (1) PRIOR
3 TO JANUARY 1, 2011, service credit purchases may be made by a
4 lump-sum payment, by installment payments, by a trustee-to-trustee
5 transfer or a direct rollover of an eligible rollover distribution from a plan
6 described in section 402 (c) (8) (B) (iii) to (vi) of the federal "Internal
7 Revenue Code of 1986", as amended, including but not limited to the
8 voluntary investment program established pursuant to part 14 of this
9 article and the deferred compensation plan established pursuant to part 16
10 of this article, or by a rollover of a distribution from an individual
11 retirement account or annuity described in section 408 (a) or 408 (b) of
12 such code that is eligible to be rolled over and would otherwise be
13 included in gross income. Service credit purchases shall be initiated and
14 payment received in full during membership. SERVICE CREDIT SHALL NOT
15 BE PURCHASED ON OR AFTER JANUARY 1, 2011, UNDER ANY
16 CIRCUMSTANCE.

17 **SECTION 13.** 24-51-602 (1), Colorado Revised Statutes, is
18 amended BY THE ADDITION OF A NEW INTRODUCTORY
19 PORTION to read:

20 **24-51-602. Service retirement eligibility.** (1) FOR MEMBERS
21 AND INACTIVE MEMBERS WHO HAVE AT LEAST FIVE YEARS OF SERVICE
22 CREDIT AS OF JANUARY 1, 2011, THE FOLLOWING PROVISIONS SHALL
23 APPLY:

24 **SECTION 14.** 24-51-602, Colorado Revised Statutes, is amended
25 BY THE ADDITION OF A NEW SUBSECTION to read:

26 **24-51-602. Service retirement eligibility.** (1.5) FOR MEMBERS,
27 DPS MEMBERS, AND INACTIVE MEMBERS WHO DID NOT HAVE AT LEAST

1 FIVE YEARS OF SERVICE CREDIT AS OF JANUARY 1, 2011, BUT WHO WERE
2 MEMBERS, DPS MEMBERS, OR INACTIVE MEMBERS ON OR BEFORE
3 JANUARY 1, 2011, THE FOLLOWING PROVISIONS SHALL APPLY:

4 (a) MEMBERS AND DPS MEMBERS, EXCEPT STATE TROOPERS, WHO
5 HAVE MET THE AGE AND SERVICE CREDIT REQUIREMENTS STATED IN THE
6 FOLLOWING TABLE SHALL, UPON WRITTEN APPLICATION AND APPROVAL OF
7 THE BOARD, RECEIVE SERVICE RETIREMENT BENEFITS PURSUANT TO THE
8 BENEFIT FORMULA SET FORTH IN SECTION 24-51-603:

9 **TABLE B.2**

10 **SERVICE RETIREMENT ELIGIBILITY**

11 AGE REQUIREMENT	12 SERVICE CREDIT REQUIREMENT
13 (YEARS)	14 (YEARS)
15 65	16 30

17 (b) MEMBERS WHO ARE SIXTY-FIVE YEARS OF AGE OR OLDER
18 SHALL, UPON WRITTEN APPLICATION AND APPROVAL OF THE BOARD,
19 RECEIVE SERVICE RETIREMENT BENEFITS PURSUANT TO THE BENEFIT
20 FORMULA SET FORTH IN SECTION 24-51-603 WITHOUT REDUCTION
21 PURSUANT TO SECTION 24-51-604 IF THEY HAVE AT LEAST FIVE YEARS OF
22 SERVICE CREDIT AND IF THE NUMBER OF YEARS OF THEIR AGE PLUS THE
23 NUMBER OF YEARS OF THEIR SERVICE CREDIT EQUALS NINETY-FIVE YEARS
24 OR MORE.

25 **SECTION 15.** 24-51-1001 (1) and (3) (b), Colorado Revised
26 Statutes, are amended, and the said 24-51-1001 (3) is further amended
27 BY THE ADDITION OF A NEW PARAGRAPH, to read:

28 **24-51-1001. Types of benefit increases.** (1) For benefit
29 recipients whose benefits are based on the account of a member who was
30 a member, inactive member, or retiree on December 31, 2006, OR FOR

1 RECIPIENTS WHOSE BENEFITS ARE BASED ON THE ACCOUNT OF A DPS
2 MEMBER OR DPS RETIREE, annual increases in retirement benefits and
3 survivor benefits, IF APPLICABLE, shall ~~occur on March 1 if said benefits~~
4 ~~have been paid for at least three months preceding March 1~~ BE EFFECTIVE
5 WITH THE MARCH BENEFIT. Such increases in benefits, IF APPLICABLE,
6 shall be calculated in accordance with the provisions of sections
7 24-51-1002 and 24-51-1003 and shall be paid from the ~~division trust~~
8 ~~funds~~. RETIREMENT BENEFITS RESERVE OR THE SURVIVOR BENEFITS
9 RESERVE, AS APPROPRIATE, SO LONG AS BENEFITS HAVE BEEN PAID TO THE
10 BENEFIT RECIPIENT FOR THE FULL PRECEDING CALENDAR YEAR.

11 (3) For benefit recipients whose benefits are based on the account
12 of a member who was not a member, inactive member, or retiree on
13 December 31, 2006, annual increases in retirement benefits and survivor
14 benefits, if any, shall be effective with the July benefit in accordance with
15 the provisions of section 24-51-1009 and shall be paid from the
16 retirement benefits reserve or the survivor benefits reserve, as
17 appropriate, so long as the following requirements are satisfied:

18 (b) SUBJECT TO PARAGRAPH (c) OF THIS SUBSECTION (3), the
19 retiree retired with a service retirement benefit pursuant to section
20 24-51-602, or retired with a reduced service retirement benefit pursuant
21 to section 24-51-604 but has, as of January 1, attained the age and service
22 credit years that, when combined, total at least eighty-five years, or retired
23 with a reduced service retirement benefit pursuant to section 24-51-604
24 but has, as of January 1, attained the age of sixty. No minimum age or
25 service credit requirement shall apply to disability retirees or survivor
26 benefit recipients.

27 (c) FOR MEMBERS WITH LESS THAN FIVE YEARS OF SERVICE CREDIT

1 AS OF JANUARY 1, 2011, THE RETIREE RETIRED WITH A SERVICE
2 RETIREMENT BENEFIT PURSUANT TO SECTION 24-51-602 OR RETIRED WITH
3 A REDUCED SERVICE RETIREMENT BENEFIT PURSUANT TO SECTION
4 24-51-604 BUT HAS, AS OF JANUARY 1, ATTAINED THE AGE AND SERVICE
5 CREDIT YEARS THAT, WHEN COMBINED, TOTAL AT LEAST NINETY-FIVE
6 YEARS, OR RETIRED WITH A REDUCED SERVICE RETIREMENT BENEFIT
7 PURSUANT TO SECTION 24-51-604 BUT HAS, AS OF JANUARY 1, ATTAINED
8 THE AGE OF SIXTY-FIVE. NO MINIMUM AGE OR SERVICE CREDIT
9 REQUIREMENT SHALL APPLY TO DISABILITY RETIREES OR SURVIVOR
10 BENEFIT RECIPIENTS.

11 **SECTION 16.** 24-51-1002 (1), (3), and (4), Colorado Revised
12 Statutes, are amended to read:

13 **24-51-1002. Annual percentages to be used.** (1) For benefit
14 recipients whose benefits are based on the account of a member who was
15 a member, inactive member, or retiree on December 31, 2006, OR FOR
16 BENEFIT RECIPIENTS WHOSE BENEFITS ARE BASED ON THE ACCOUNT OF A
17 DPS MEMBER OR DPS RETIREE, the cumulative increase applied to
18 benefits paid shall be recalculated annually as of March 1 and shall be the
19 ~~total percent derived by multiplying three and one-half percent,~~
20 ~~compounded annually, times the number of years such benefit has been~~
21 ~~effective after March 1, 2000. Benefits for vested inactive members with~~
22 ~~at least twenty-five years of service credit and benefits for survivors of~~
23 ~~deceased vested inactive members who had at least twenty-five years of~~
24 ~~service credit shall be increased by the annual increase specified in~~
25 ~~sections 24-51-1001 to 24-51-1003 under prior law from the date of~~
26 ~~termination of membership or July 1, 1993, whichever is later, to March~~
27 ~~1, 2000, or the date benefits commence, whichever is earlier~~ LESSER OF

1 TWO PERCENT OR THE AVERAGE OF THE ANNUAL INCREASES DETERMINED
2 FOR EACH MONTH, TO THE NEAREST ONE-TENTH OF A PERCENT, AS
3 CALCULATED BY THE UNITED STATES DEPARTMENT OF LABOR, IN THE
4 NATIONAL CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND
5 CLERICAL WORKERS DURING THE CALENDAR YEAR PRECEDING THE
6 INCREASE IN THE BENEFIT. THIS SUBSECTION (1) SHALL APPLY TO ALL
7 BENEFITS, REGARDLESS OF WHETHER THE MEMBERSHIP ACCOUNT ON
8 WHICH THE BENEFITS ARE BASED IS PART OF THE STATE, SCHOOL, LOCAL
9 GOVERNMENT, JUDICIAL, OR DENVER PUBLIC SCHOOLS DIVISION, UNTIL
10 THE ACTUARIAL FUNDED RATIO OF THE APPLICABLE DIVISION, BASED ON
11 THE ACTUARIAL VALUE OF ASSETS, IS AT OR ABOVE NINETY PERCENT AS
12 DETERMINED BY THE ANNUAL ACTUARIAL STUDY OF THE ASSOCIATION, AT
13 WHICH TIME THE ANNUAL INCREASE APPLIED TO BENEFITS MAY BE
14 MODIFIED PURSUANT TO SECTION 24-51-1009.5.

15 (a) ~~(Deleted by amendment, L. 2000, p. 782, § 7, effective March~~
16 ~~1, 2001.)~~

17 ~~(a.5) Repealed.~~

18 (b) ~~(Deleted by amendment, L. 2000, p. 782, § 7, effective March~~
19 ~~1, 2001.)~~

20 (3) ~~(a) Notwithstanding subsection (1) of this section, the increase~~
21 ~~applied to benefits of persons whose benefits are based on the account of~~
22 ~~a member who was not a member, inactive member, or retiree on June 30,~~
23 ~~2005, but was a member, inactive member, or retiree on December 31,~~
24 ~~2006, shall be the lesser of three percent or the actual increase, as~~
25 ~~calculated by the United States department of labor, in the national~~
26 ~~consumer price index for urban wage earners and clerical workers during~~
27 ~~the calendar year preceding the increase in the benefit. The increase~~

1 applied to such benefits shall be recalculated annually as of March 1, and
2 shall be the compounded annual percentage of the annual increases
3 applied to such benefits. If the benefit has not been paid during all twelve
4 months of the calendar year preceding March 1, then the annual increase
5 shall be prorated.

6 (b) ~~Benefits for vested inactive members who were not members,~~
7 ~~inactive members, or retirees on June 30, 2005, but were members,~~
8 ~~inactive members, or retirees on December 31, 2006, with at least~~
9 ~~twenty-five years of service credit, as well as benefits for survivors of~~
10 ~~such deceased vested inactive members who had at least twenty-five years~~
11 ~~of service credit shall be increased by the annual increase specified in~~
12 ~~sections 24-51-1001 and 24-51-1003 and paragraph (a) of this subsection~~
13 ~~(3), from the date of termination of membership to the date benefits~~
14 ~~commence.~~

15 (c) Subsection (1) of this section shall apply to persons who:

16 (I) ~~Were hired on or before June 30, 2005, by an employer~~
17 ~~participating in a school district retirement system created pursuant to part~~
18 ~~2 of article 64 of title 22, C.R.S., prior to its repeal in 2010;~~

19 (II) ~~On the day before the effective date of the merger, were~~
20 ~~members of the school district retirement system created pursuant to part~~
21 ~~2 of article 64 of title 22, C.R.S., prior to its repeal in 2010; and~~

22 (III) ~~Repealed.~~

23 (4) Notwithstanding the provisions of ~~subsections (1) and (3)~~
24 ~~SUBSECTION (1) of this section, the increase, if any, applied to the benefits~~
25 ~~of persons whose benefits are based on the account of a member who was~~
26 ~~not a member, inactive member, or retiree on December 31, 2006, will be~~
27 ~~calculated and paid in accordance with section 24-51-1009.~~

1 **SECTION 17.** The introductory portion to 24-51-1009 (4) and
2 24-51-1009 (4) (a), Colorado Revised Statutes, are amended to read:

3 **24-51-1009. Annual increase reserve - creation.** (4) An
4 actuarial valuation shall be conducted each year for the annual increase
5 reserve of each division for the purposes of this section. The actuarial
6 valuation shall include a determination of the total market value of the
7 assets in the reserve and a calculation of the net present value of the
8 actuarial liabilities associated with providing each of the annual increases
9 described in paragraphs (a), (b), and (c) of this subsection (4). SUBJECT
10 TO SECTION 24-51-1009.5, the maximum annual increase awarded by the
11 board shall be the lesser of the following calculations:

12 (a) A permanent increase equal to ~~three~~ TWO percent of current
13 benefits payable to benefit recipients then eligible for an annual increase
14 in accordance with section 24-51-1001 (3);

15 **SECTION 18.** Part 10 of article 51 of title 24, Colorado Revised
16 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
17 read:

18 **24-51-1009.5. Annual increase amount changes.** WHEN THE
19 ACTUARIAL FUNDED RATIO OF ANY DIVISION OF THE ASSOCIATION, BASED
20 ON THE ACTUARIAL VALUE OF ASSETS, IS AT OR ABOVE NINETY PERCENT
21 AS DETERMINED IN THE ANNUAL ACTUARIAL STUDY OF THE ASSOCIATION,
22 THE GENERAL ASSEMBLY MAY, ACTING BY BILL, RESTORE OR ADJUST THE
23 ANNUAL INCREASE AMOUNT ONLY FOR BENEFIT RECIPIENTS WHOSE
24 BENEFITS ARE BASED ON THE ACCOUNT OF A MEMBER WHO WAS IN THE
25 DIVISION WITH AN ACTUARIAL FUNDED RATIO AT OR ABOVE NINETY
26 PERCENT. THE GENERAL ASSEMBLY MAY ANNUALLY ADJUST THE ANNUAL
27 INCREASE AMOUNT FOR BENEFIT RECIPIENTS FROM ANY DIVISION WITH AN

1 ACTUARIAL FUNDED RATIO, BASED ON THE ACTUARIAL VALUE OF THE
2 ASSETS, OF NINETY PERCENT OR MORE, BUT SUCH ADJUSTMENT SHALL BE
3 MADE IN ACCORDANCE WITH THE AVERAGE OF THE ANNUAL INCREASES
4 DETERMINED FOR EACH MONTH, TO THE NEAREST ONE-TENTH OF ONE
5 PERCENT, AS CALCULATED BY THE UNITED STATES DEPARTMENT OF
6 LABOR, IN THE NATIONAL CONSUMER PRICE INDEX FOR URBAN WAGE
7 EARNERS AND CLERICAL WORKERS, DURING THE CALENDAR YEAR
8 PRECEDING THE INCREASE IN THE BENEFIT.

9 **SECTION 19.** 24-51-1501 (1), Colorado Revised Statutes, is
10 amended to read:

11 **24-51-1501. Defined contribution retirement plan -**
12 **establishment - creation of fund.** (1) The board is hereby authorized
13 to establish and administer a defined contribution RETIREMENT plan for
14 eligible state employees as provided in this part 15. The board shall
15 establish the terms and conditions of the association's defined
16 contribution plan offered to eligible state employees. The assets of the
17 plan shall be held in a separate trust fund of the association created for
18 such purpose. THE DEFINED CONTRIBUTION PLAN CREATED PURSUANT TO
19 THIS SECTION AND ADMINISTERED PURSUANT TO THIS PART 15 SHALL EXIST
20 FROM JANUARY 1, 2006, THROUGH DECEMBER 31, 2010. ANY EMPLOYEE
21 WHO IS A MEMBER OF THE DEFINED CONTRIBUTION PLAN CREATED
22 PURSUANT TO THIS PART 15 ON JANUARY 1, 2011, SHALL AUTOMATICALLY
23 BECOME A MEMBER OF THE DEFINED CONTRIBUTION PLAN CREATED IN
24 PART 18 OF THIS ARTICLE, AND SUCH MEMBER'S MEMBERSHIP IN THE
25 DEFINED CONTRIBUTION PLAN SHALL BE GOVERNED BY THE PROVISIONS OF
26 SAID PART 18.

27 **SECTION 20.** Article 51 of title 24, Colorado Revised Statutes,

1 is amended BY THE ADDITION OF A NEW PART to read:

2

PART 18

3

DEFINED CONTRIBUTION PLAN

4

24-51-1801. Defined contribution plan - applicability. (1) THE

5

BOARD IS HEREBY REQUIRED TO ESTABLISH A DEFINED CONTRIBUTION

6

PLAN FOR EMPLOYEES WHO ARE HIRED BY AN EMPLOYER ON OR AFTER

7

JANUARY 1, 2011, FOR EMPLOYEES WHO WERE MEMBERS, PRIOR TO

8

JANUARY 1, 2011, OF THE DEFINED CONTRIBUTION PLAN ESTABLISHED IN

9

PART 15 OF THIS ARTICLE, FOR EMPLOYEES WHO ARE MEMBERS OF THE

10

DEFINED BENEFIT PLAN WHO ARE ELIGIBLE TO BECOME MEMBERS OF THE

11

DEFINED CONTRIBUTION PLAN ESTABLISHED IN THIS PART 18 AND ELECT

12

TO BECOME MEMBERS OF THE DEFINED CONTRIBUTION PLAN, AND FOR

13

MEMBERS WHO ARE MEMBERS OF THE DEFINED BENEFIT PLAN AND ARE

14

REQUIRED TO BECOME MEMBERS OF THE DEFINED CONTRIBUTION PLAN

15

PURSUANT TO SECTION 24-51-1810.

16

(2) ANY EMPLOYEE FIRST HIRED ON OR AFTER JANUARY 1, 2011,

17

SHALL BECOME A MEMBER OF THE DEFINED CONTRIBUTION PLAN AND

18

SHALL NOT HAVE THE OPTION TO BECOME A MEMBER OF THE DEFINED

19

BENEFIT PLAN.

20

(3) FOR PURPOSES OF THIS PART 18, "DEFINED CONTRIBUTION

21

PLAN" MEANS THE DEFINED CONTRIBUTION PLAN ESTABLISHED IN THIS

22

PART 18.

23

24-51-1802. Contributions - vesting. (1) CONTRIBUTION RATES

24

TO THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN BY THE EMPLOYER

25

AND BY MEMBERS OF THE DEFINED CONTRIBUTION PLAN ESTABLISHED

26

PURSUANT TO THIS PART 18 SHALL BE AS SPECIFIED IN THIS SUBSECTION

27

(1). THE EMPLOYER CONTRIBUTION SHALL BE TEN PERCENT OF SALARY

1 PAID TO MEMBERS FOR THE PAYROLL PERIOD, AND THE MEMBER
2 CONTRIBUTION SHALL BE TEN PERCENT OF SALARY PAID TO MEMBERS FOR
3 THE PAYROLL PERIOD; EXCEPT THAT A MEMBER MAY OPT, AT ANY TIME, TO
4 DECREASE BOTH THE EMPLOYER AND MEMBER CONTRIBUTIONS TO EITHER
5 EIGHT PERCENT OR NINE PERCENT OF SALARY PAID TO THE MEMBER FOR
6 THE PAYROLL PERIOD. THE ASSOCIATION SHALL DETERMINE A METHOD BY
7 WHICH A MEMBER SHALL NOTIFY THE ASSOCIATION AND THE EMPLOYER IF
8 THE MEMBER OPTS TO DECREASE BOTH THE EMPLOYER AND MEMBER
9 CONTRIBUTIONS PURSUANT TO THIS SUBSECTION (1).

10 (2) CONSISTENT WITH THE PROVISIONS OF SECTION 24-51-401 (1.7)
11 (b), (1.7) (c), AND (1.7) (d), THE EMPLOYER SHALL DELIVER ALL
12 CONTRIBUTIONS TO THE DEFINED CONTRIBUTION PLAN TRUST FUND VIA
13 THE SERVICE PROVIDER DESIGNATED BY THE ASSOCIATION WITHIN FIVE
14 DAYS AFTER THE DATE ON WHICH MEMBERS ARE PAID.

15 (3) MEMBERS OF THE ASSOCIATION'S DEFINED CONTRIBUTION PLAN
16 SHALL BE IMMEDIATELY AND FULLY VESTED IN THEIR OWN
17 CONTRIBUTIONS TO THE PLAN, TOGETHER WITH ACCUMULATED
18 INVESTMENT GAINS OR LOSSES. MEMBERS SHALL BE IMMEDIATELY
19 VESTED IN FIFTY PERCENT OF THE EMPLOYER'S CONTRIBUTION TO THE
20 PLAN, TOGETHER WITH ACCUMULATED INVESTMENT GAINS OR LOSSES ON
21 THAT VESTED PORTION. FOR EACH FULL YEAR OF MEMBERSHIP IN THE
22 DEFINED CONTRIBUTION PLAN, THE VESTING PERCENTAGE SHALL INCREASE
23 BY TEN PERCENT. THE VESTING PERCENTAGE IN THE EMPLOYER'S
24 CONTRIBUTION, WITH ACCUMULATED EARNINGS OR LOSSES, SHALL BE ONE
25 HUNDRED PERCENT FOR ALL MEMBERS WITH FIVE OR MORE YEARS OF
26 MEMBERSHIP IN THE DEFINED CONTRIBUTION PLAN. IF AN INDIVIDUAL
27 BECOMES A MEMBER OF THE DEFINED CONTRIBUTION PLAN WITHOUT AN

1 EXISTING ACCOUNT BALANCE OR AFTER A TWELVE-MONTH BREAK IN
2 SERVICE, THE INDIVIDUAL SHALL BEGIN A NEW VESTING SCHEDULE WITH
3 REGARD TO FUTURE EMPLOYER CONTRIBUTIONS IN ACCORDANCE WITH
4 THIS SUBSECTION (3).

5 **24-51-1803. Limitation on contributions.** NOTWITHSTANDING
6 ANY OTHER PROVISION OF THIS PART 18, THE ANNUAL ADDITIONS TO EACH
7 MEMBER'S INDIVIDUAL ACCOUNT IN THE DEFINED CONTRIBUTION PLAN
8 MAY NOT EXCEED THE AMOUNT PERMITTED UNDER FEDERAL LAW AT ANY
9 TIME. IF THE AMOUNT OF A MEMBER'S DEFINED CONTRIBUTION PLAN
10 CONTRIBUTIONS EXCEEDS SUCH LIMITATION, THE BOARD OR THE
11 EXECUTIVE DIRECTOR OF THE ASSOCIATION SHALL TAKE THE NECESSARY
12 REMEDIAL ACTION TO CORRECT THE EXCESS CONTRIBUTION.

13 **24-51-1804. Rollover contributions and distributions.** A
14 MEMBER OF THE DEFINED CONTRIBUTION PLAN MAY ELECT, AT A TIME AND
15 IN A MANNER DETERMINED BY THE BOARD, TO HAVE ALL OR PART OF AN
16 ELIGIBLE DIRECT ROLLOVER DISTRIBUTION PAID DIRECTLY INTO THE
17 MEMBER'S INDIVIDUAL ACCOUNT. A ROLLOVER CONTRIBUTION SHALL NOT
18 BE CONSIDERED A PURCHASE OF SERVICE CREDIT FOR PURPOSES OF
19 DETERMINING THE MEMBER'S YEARS OF SERVICE.

20 **24-51-1805. Investments.** (1) THE ASSOCIATION SHALL ALLOW
21 A MEMBER OF THE DEFINED CONTRIBUTION PLAN TO EXERCISE CONTROL
22 OF THE INVESTMENT OF THE MEMBER'S INDIVIDUAL ACCOUNT UNDER THE
23 PLAN, SUBJECT TO THE FOLLOWING PROVISIONS:

24 (a) THE BOARD SHALL SELECT AT LEAST FIVE INVESTMENT
25 ALTERNATIVES, SUBJECT TO THE PROVISIONS OF SUBSECTION (2) OF THIS
26 SECTION, THAT ALLOW A MEMBER OF THE DEFINED CONTRIBUTION PLAN A
27 MEANINGFUL CHOICE BETWEEN RISK AND RETURN IN THE INVESTMENT OF

1 THE MEMBER'S ACCOUNT.

2 (b) THE ASSOCIATION SHALL ALLOW THE MEMBER TO CHANGE
3 INVESTMENTS REGULARLY.

4 (c) THE ASSOCIATION SHALL PROVIDE THE MEMBER WITH THE
5 INFORMATION DESCRIBING THE INVESTMENT ALTERNATIVES, INCLUDING
6 INFORMATION ON THE NATURE, INVESTMENT PERFORMANCE, FEES, AND
7 EXPENSES OF THE INVESTMENT ALTERNATIVES.

8 (d) THE ASSOCIATION SHALL PROVIDE AT LEAST ONE INVESTMENT
9 ALTERNATIVE THAT ALLOWS A MEMBER OF THE DEFINED CONTRIBUTION
10 PLAN TO INVEST UP TO FIFTY PERCENT OF HIS OR HER PORTFOLIO IN
11 TANGIBLE PRECIOUS METALS OR COMMODITIES AND TO MAINTAIN THOSE
12 INVESTMENTS EVEN IF THE FUTURE VALUE OF THE INVESTMENTS EXCEEDS
13 FIFTY PERCENT OF THE MEMBER'S PORTFOLIO.

14 (2) THE BOARD SHALL DESIGNATE FROM TIME TO TIME THE
15 COMPANIES FROM WHICH INVESTMENT PRODUCTS SHALL BE PURCHASED.
16 IN DESIGNATING SUCH COMPANIES, THE BOARD SHALL TAKE INTO
17 CONSIDERATION:

18 (a) THE SUITABILITY OF SUCH RIGHTS AND BENEFITS TO THE NEEDS
19 AND INTERESTS OF EMPLOYEES WHO PARTICIPATE IN THE DEFINED
20 CONTRIBUTION PLAN AND TO THE INTERESTS OF THE STATE GOVERNMENT
21 IN THE EMPLOYMENT AND RETENTION OF ELIGIBLE EMPLOYEES;

22 (b) THE ABILITY OF THE DESIGNATED COMPANIES TO PROVIDE THE
23 INVESTMENT PRODUCTS;

24 (c) THE EFFICACY OF SUCH CONTRACTS IN THE RECRUITMENT AND
25 RETENTION OF QUALIFIED PUBLIC OFFICIALS AND EMPLOYEES;

26 (d) THE ABILITY OF THE DESIGNATED COMPANIES TO PROVIDE HIGH
27 QUALITY INFORMATION AND ADVICE ON INVESTMENT PRODUCTS AND

1 ASSET ALLOCATIONS; AND

2 (e) THE FEES AND COSTS OF THE INVESTMENT PRODUCTS.

3 (3) THE ASSOCIATION AND EMPLOYERS SHALL NOT BE
4 RESPONSIBLE OR LIABLE FOR ANY FINANCIAL LOSSES EXPERIENCED BY
5 MEMBERS OF THE DEFINED CONTRIBUTION PLAN.

6 **24-51-1806. Distribution - election - options determined by**
7 **retirement board.** (1) THE BOARD SHALL DETERMINE THE DISTRIBUTION
8 OPTIONS BY WHICH A MEMBER OF THE DEFINED CONTRIBUTION PLAN MAY
9 ELECT TO RECEIVE THE DISTRIBUTION OF HIS OR HER INDIVIDUAL
10 ACCOUNT. THE DISTRIBUTION OPTIONS SHALL INCLUDE, AT A MINIMUM,
11 A ONE-TIME LUMP SUM PAYMENT OPTION, A PERIODIC LUMP SUM PAYMENT
12 OPTION, A PERIOD CERTAIN ANNUITY OPTION, A LIFE ANNUITY WITH PERIOD
13 CERTAIN PAYMENT OPTION, AND A JOINT AND SURVIVOR PAYMENT OPTION.

14 (2) A MEMBER OF THE DEFINED CONTRIBUTION PLAN SHALL BE
15 ELIGIBLE TO ELECT DISTRIBUTION OF THE MEMBER'S ACCOUNT AFTER
16 TERMINATION OF EMPLOYMENT. THE DISTRIBUTION OF ALL OR A PORTION
17 OF A MEMBER'S ACCOUNT SHALL OCCUR WITHIN A PERIOD DETERMINED BY
18 THE BOARD.

19 (3) IF A MEMBER DIES BEFORE BENEFITS COMMENCE, THE
20 MEMBER'S BENEFICIARY SHALL BE IMMEDIATELY ELIGIBLE TO ELECT A
21 DISTRIBUTION OPTION OF THE MEMBER'S INDIVIDUAL ACCOUNT.

22 **24-51-1807. Rights of members of the defined contribution**
23 **plan.** (1) A MEMBER OF THE DEFINED CONTRIBUTION PLAN SHALL NOT BE
24 CONSIDERED A MEMBER OR A RETIREE FOR THE PURPOSES OF PARTS 4 TO
25 11 OF THIS ARTICLE, NOR SHALL HIS OR HER SURVIVORS OR BENEFICIARIES
26 BE CONSIDERED BENEFIT RECIPIENTS.

27 (2) A MEMBER OF THE DEFINED CONTRIBUTION PLAN MAY

1 PARTICIPATE IN OPTIONAL LIFE INSURANCE, LONG-TERM CARE INSURANCE,
2 AND THE VOLUNTARY INVESTMENT PROGRAM, AS PROVIDED IN THIS
3 ARTICLE.

4 (3) A MEMBER OF THE DEFINED CONTRIBUTION PLAN SHALL BE
5 ELIGIBLE TO ENROLL IN THE HEALTH CARE PROGRAM AS A BENEFIT
6 RECIPIENT PURSUANT TO SECTION 24-51-1204 (1) (a) ONLY IF THE MEMBER
7 ELECTS A LIFETIME ANNUITY DISTRIBUTION OPTION.

8 (4) A MEMBER OF THE DEFINED CONTRIBUTION PLAN WHO HAS
9 REACHED THE AGE AT WHICH A DISTRIBUTION WOULD NOT BE SUBJECT TO
10 A PENALTY PURSUANT TO THE FEDERAL "INTERNAL REVENUE CODE OF
11 1986", AS AMENDED, AND WHO RETURNS TO EMPLOYMENT SHALL NOT BE
12 SUBJECT TO THE PROVISIONS OF PART 11 OF THIS ARTICLE CONCERNING
13 EMPLOYMENT AFTER RETIREMENT.

14 **24-51-1808. Report to members.** ON A QUARTERLY BASIS, THE
15 BOARD SHALL REPORT TO MEMBERS WHO PARTICIPATE IN THE DEFINED
16 CONTRIBUTION PLAN. THE REPORT SHALL INCLUDE A STATEMENT OF
17 ACCOUNT BALANCES, A REVIEW OF ACCOUNT TRANSACTIONS, AND THE
18 AMOUNT OF ADMINISTRATIVE FEES CHARGED TO THE MEMBERS DURING
19 THE QUARTER.

20 **24-51-1809. Election to terminate membership in defined**
21 **benefit plan - participation in defined contribution plan.** (1) A
22 MEMBER OF THE DEFINED BENEFIT PLAN IS ELIGIBLE TO PARTICIPATE IN
23 THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THIS PART
24 18 IF THAT MEMBER IS NOT ELIGIBLE FOR A SERVICE RETIREMENT BENEFIT
25 OR A REDUCED SERVICE RETIREMENT BENEFIT UNDER THE DEFINED
26 BENEFIT PLAN PURSUANT TO SECTIONS 24-51-602 AND 24-51-604,
27 RESPECTIVELY. PARTICIPATION IN THE DEFINED CONTRIBUTION PLAN

1 SHALL BE IN LIEU OF PARTICIPATION IN THE DEFINED BENEFIT PLAN.

2 (2) A MEMBER OF THE DEFINED BENEFIT PLAN WHO IS ELIGIBLE TO
3 RECEIVE A SERVICE RETIREMENT BENEFIT OR A REDUCED SERVICE
4 RETIREMENT BENEFIT UNDER THE DEFINED BENEFIT PLAN PURSUANT TO
5 SECTIONS 24-51-602 AND 24-51-604, RESPECTIVELY, IS NOT ELIGIBLE TO
6 TRANSFER INTO THE DEFINED CONTRIBUTION PLAN PURSUANT TO THIS
7 SECTION.

8 (3) (a) FOR EACH MEMBER OF THE DEFINED BENEFIT PLAN WHO
9 ELECTS TO PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN, THE
10 EMPLOYEE CONTRIBUTION ACCOUNT BALANCE HELD IN TRUST FOR THE
11 MEMBER UNDER THE DEFINED BENEFIT PLAN SHALL BE TRANSFERRED TO
12 AN INDIVIDUAL ACCOUNT ESTABLISHED FOR THE MEMBER IN THE DEFINED
13 CONTRIBUTION PLAN.

14 (b) EACH MEMBER OF THE DEFINED BENEFIT PLAN WHO ELECTS TO
15 PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN SHALL ALSO HAVE THE
16 AMOUNT OF THE MATCHING EMPLOYER CONTRIBUTION THAT THE MEMBER
17 WOULD BE PAID PURSUANT TO SECTION 24-51-408 (2) TRANSFERRED INTO
18 THE INDIVIDUAL ACCOUNT ESTABLISHED FOR THE MEMBER.

19 (4) UPON A TRANSFER PURSUANT TO THIS SECTION, ALL YEARS OF
20 SERVICE PREVIOUSLY EARNED UNDER THE DEFINED BENEFIT PLAN SHALL
21 BE NULLIFIED FOR PURPOSES OF ENTITLEMENT TO A FUTURE BENEFIT
22 UNDER THE DEFINED BENEFIT PLAN BUT SHALL BE CREDITED FOR PURPOSES
23 OF ELIGIBILITY TO ELECT MEDICAL BENEFITS PURSUANT TO PART 12 OF
24 THIS ARTICLE.

25 (5) FOR ANY MEMBER OF THE DEFINED BENEFIT PLAN WHO
26 BECOMES A MEMBER OF THE DEFINED CONTRIBUTION PLAN, THE BOARD
27 SHALL TRANSFER OR CAUSE TO BE TRANSFERRED THE APPROPRIATE

1 AMOUNTS TO THE DESIGNATED INDIVIDUAL ACCOUNT. THE BOARD SHALL
2 ESTABLISH TRANSFER PROCEDURES, BUT THE ACTUAL TRANSFER MAY NOT
3 BE LATER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THE
4 MEMBER'S PARTICIPATION IN THE DEFINED CONTRIBUTION PLAN UNLESS
5 THE MAJOR FINANCIAL MARKETS FOR SECURITIES AVAILABLE FOR A
6 TRANSFER ARE SERIOUSLY DISRUPTED BY AN UNFORESEEN EVENT THAT
7 ALSO CAUSES THE SUSPENSION OF TRADING ON ANY NATIONAL SECURITIES
8 EXCHANGE IN THE COUNTRY WHERE THE SECURITIES WERE ISSUED. IN
9 THAT EVENT, THE THIRTY-DAY PERIOD MAY BE EXTENDED BY A
10 RESOLUTION OF THE BOARD. TRANSFERS ARE NOT COMMISSIONABLE OR
11 SUBJECT TO OTHER FEES AND MAY BE IN THE FORM OF SECURITIES OR CASH
12 AS DETERMINED BY THE BOARD. SECURITIES SHALL BE VALUED AS OF THE
13 DATE OF RECEIPT IN THE ACCOUNT.

14 (6) THE ELECTION TO PARTICIPATE IN THE DEFINED CONTRIBUTION
15 PLAN SHALL BE MADE IN WRITING ON FORMS AND IN THE MANNER
16 PRESCRIBED BY THE BOARD.

17 (7) BEFORE ACCEPTING AN ELECTION TO PARTICIPATE IN THE
18 DEFINED CONTRIBUTION PLAN, THE BOARD OR THE DESIGNEE OF THE
19 BOARD SHALL PROVIDE THE EMPLOYEE ELECTING TO PARTICIPATE IN THE
20 DEFINED CONTRIBUTION PLAN WITH INFORMATION, INCLUDING
21 CALCULATIONS TO ILLUSTRATE THE EFFECT OF MOVING THE EMPLOYEE'S
22 RETIREMENT PLAN FROM THE DEFINED BENEFIT PLAN TO THE DEFINED
23 CONTRIBUTION PLAN AS WELL AS OTHER INFORMATION TO CLEARLY
24 INFORM THE EMPLOYEE OF THE POTENTIAL CONSEQUENCES OF THE
25 EMPLOYEE'S ELECTION.

26 (8) AN ELECTION MADE PURSUANT TO THIS SECTION TO
27 PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN IS IRREVOCABLE.

1 (9) UPON MAKING THE ELECTION PURSUANT TO THIS SECTION, THE
2 EMPLOYEE SHALL BE ENROLLED AS A MEMBER OF THE DEFINED
3 CONTRIBUTION PLAN, AND THE EMPLOYEE'S PARTICIPATION IN THE
4 DEFINED BENEFIT PLAN SHALL TERMINATE. THE EMPLOYEE'S ENROLLMENT
5 IN THE DEFINED CONTRIBUTION PLAN SHALL BE EFFECTIVE THE FIRST DAY
6 OF THE MONTH AFTER THE BOARD RECEIVES THE COMPLETED ENROLLMENT
7 FORMS.

8 (10) IF THE BOARD RECEIVES NOTIFICATION FROM THE UNITED
9 STATES DEPARTMENT OF THE TREASURY OR THE FEDERAL INTERNAL
10 REVENUE SERVICE THAT THIS SECTION OR A PORTION OF THIS SECTION
11 WILL CAUSE ALL OR A PORTION OF THE DEFINED CONTRIBUTION PLAN
12 ESTABLISHED PURSUANT TO THIS PART 18 TO BE DISQUALIFIED FOR TAX
13 PURPOSES UNDER THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
14 AMENDED, THE PORTION THAT WILL CAUSE THE DISQUALIFICATION SHALL
15 NOT APPLY, AND THE BOARD SHALL NOTIFY THE GENERAL ASSEMBLY.

16 **24-51-1810. Return to service - change in employer - change**
17 **in division - participation in defined contribution required.** (1) A
18 RETIREE OR DPS RETIREE WHO, ON OR AFTER JANUARY 1, 2011, SUSPENDS
19 HIS OR HER SERVICE RETIREMENT OR REDUCED SERVICE RETIREMENT
20 BENEFIT SHALL NOT ADD ANY SERVICE CREDIT TO HIS OR HER DEFINED
21 BENEFIT CONTRIBUTION ACCOUNT UPON RETURNING TO EMPLOYMENT
22 WITH AN ASSOCIATION EMPLOYER. UPON RETURNING TO EMPLOYMENT,
23 THE RETIREE SHALL PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN IN
24 LIEU OF ADDING SERVICE CREDIT TO THE MEMBERS ACCOUNT IN THE
25 DEFINED BENEFIT PLAN.

26 (2) IF A MEMBER OR DPS MEMBER WHO IS A PARTICIPANT IN THE
27 DEFINED BENEFIT PLAN BEGINS EMPLOYMENT WITH A NEW ASSOCIATION

1 EMPLOYER ON OR AFTER JANUARY 1, 2011, REGARDLESS OF WHETHER THE
2 EMPLOYER IS IN THE SAME DIVISION OF THE ASSOCIATION AS THE MEMBER
3 OR DPS MEMBER'S PREVIOUS EMPLOYER, THE MEMBER OR DPS MEMBER
4 SHALL BECOME A MEMBER OF THE DEFINED CONTRIBUTION PLAN BUT MAY
5 MAINTAIN HIS OR HER MEMBER ACCOUNT AND YEARS OF SERVICE IN THE
6 DEFINED BENEFIT PLAN.

7 **SECTION 21. Specified effective date.** This act shall take effect
8 January 1, 2011, except that sections 14 to 17, 21, and 22 of this act shall
9 take effect upon passage.

10 **SECTION 22. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.