

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 06-1119.01 Nicole Hoffman

SENATE BILL 06-235

SENATE SPONSORSHIP

Sandoval,

HOUSE SPONSORSHIP

Marshall, and Buescher

Senate Committees
State, Veterans & Military Affairs

House Committees
Finance

A BILL FOR AN ACT

101 **CONCERNING PUBLIC EMPLOYEES' RETIREMENT BENEFIT PLANS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Limits the permissible 15% increase in the calculation for highest average salary for current members of the public employees' retirement association (PERA) who retire after January 1, 2009.

For members hired on or after January 1, 2007, provides a limit of 8% for salary increases that may be included in the calculation of highest average salary.

Beginning January 1, 2007, adds to the PERA board (board) 5 trustees who are not members of PERA who are appointed by the governor with the consent of the senate and who have experience and

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.

HOUSE
Amended 3rd Reading
May 5, 2006

HOUSE
Amended 2nd Reading
May 4, 2006

SENATE
3rd Reading Unamended
April 28, 2006

SENATE
Amended 2nd Reading
April 27, 2006

expertise in investment management, finance, banking, economics, accounting, pension administration, or actuarial analysis and removes the state auditor as an ex officio trustee of the board.

Within each of the state, school, local government, and judicial divisions of PERA, creates an annual increase reserve.

Reduces the maximum amortization period that is considered actuarially sound for each of the PERA trust funds from 40 to 30 years.

Requires that employers who fail to provide membership in PERA pay the amortization equalization disbursement that was in effect at the time membership should have been provided.

Provides a supplemental amortization equalization disbursement of .5% beginning July 1, 2007, and increasing each year at .5% until 2012 for a total of 3% to be funded, to the extent permitted by law, by an allocation of funds otherwise available for use as employee compensation increases prior to award as salary or other compensation to employees.

Specifies that a member who refunds a PERA member account and later recommences membership shall be subject to the provisions regarding benefits, contribution rates, and related provisions that are in effect when the member recommences membership.

Specifies that a member who purchases service credit shall be subject to the provisions regarding benefits, contribution rates, and related provisions in PERA that are in effect at the time the member initiates payment of the purchase.

Specifies that the cost to purchase forfeited service credit for members hired on or after January 1, 2007, shall be the refunded amount plus interest plus one percent of the member's highest average salary for each month or partial month of service credit. The one percent shall be allocated to the annual increase reserve.

Codifies the board's determination that the cost to purchase noncovered service shall be sufficient to pay the actuarial liability associated with the purchase.

For members hired on or after January 1, 2007, who have less than 35 years of service credit, specifies that a member may retire when the member's age and total years of service equal 85, so long as the member is at least 55 years of age.

Of the amount paid by a member to purchase service credit for noncovered employment, decreases the amount that is transferred to the health care trust fund on the effective date of the member's retirement to 1.02% of the member's highest average salary at the time of the purchase of service credit.

Specifies that members hired on or after January 1, 2007, who are inactive members may receive a retirement benefit effective upon written application and approval by the board and upon reaching the requisite age and service credit.

Incorporates federal requirements on minimum required

distributions pursuant to the federal internal revenue code.

Specifies that if an annual increase in retirement benefits occurs for members hired on or after January 1, 2007, it shall occur on July 31 and shall be paid from the division trust fund so long as the benefits have been paid to the benefit recipient for the full preceding calendar year and the retiree is older than 60 years of age as of December 31 of the preceding calendar year.

States that a portion of the employer contribution for members hired on or after January 1, 2007, shall be allocated to the annual increase reserve to be used only to fund annual increases in benefits for those members. Allows an annual increase in benefits only if 10% of the amount in the annual increase reserve is sufficient to fund the net present value of the actuarial liability associated with the lower of a 3% increase or an increase equal to the change in the CPI.

Defines the nature of the employment relationship between a retiree of PERA and an employer for purposes of determining the employer contributions and amortization equalization disbursement paid by an employer for employing retirees.

Defines the nature of the employment relationship between a retiree of PERA and an employer for purposes of determining any reduction in service retirement benefits for employment after service retirement pursuant to IRS guidelines regarding independent contractors.

States that an eligible employee who commences employment on or after January 1, 2007, who has an existing member account with PERA, and who initially elects to participate in the defined benefit plan or transfers into the defined benefit plan from the defined contribution plan shall continue membership in the defined benefit plan at the benefit level in which such membership account exists.

States that an eligible employee who commences employment on or after January 1, 2006, who does not have an existing member account, and who elects to transfer into the defined benefit plan from the defined contribution plan, shall participate in the defined benefit plan at the benefit level existing when the employee begins participation in the defined benefit plan.

Provides a time limitation for employees to bring actions based on their election or failure to elect between the defined contribution plans and the defined benefit plan.

Defines terms. Makes conforming amendments.

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

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

1 **24-51-101. Definitions.** As used in this article, unless the context
2 otherwise requires:

3 (25) (b) (I) In calculating highest average salary pursuant to
4 subparagraph (I) of paragraph (a) of this subsection (25), FOR A MEMBER
5 WHO WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31,
6 2006, AND WHO HAS AN EFFECTIVE DATE OF RETIREMENT BEFORE
7 JANUARY 1, 2009, if any annual salary used in said calculation was
8 associated with service credit earned during the last three years of
9 membership, each annual salary increase shall be limited to fifteen
10 percent. This limitation shall not apply to salary decreases.

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

18 (III) IN CALCULATING HIGHEST AVERAGE SALARY FOR A MEMBER
19 WHO WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31,
20 2006, AND WHO HAS AN EFFECTIVE DATE OF RETIREMENT ON OR AFTER
21 JANUARY 1, 2009, THE ASSOCIATION SHALL DETERMINE THE HIGHEST
22 ANNUAL SALARIES ASSOCIATED WITH FOUR PERIODS OF TWELVE
23 CONSECUTIVE MONTHS OF SERVICE CREDIT. THE LOWEST OF SUCH
24 ANNUAL SALARIES SHALL BE THE BASE SALARY. THE FIRST ANNUAL
25 SALARY TO BE USED IN THE HIGHEST AVERAGE SALARY CALCULATION
26 SHALL BE THE ACTUAL SALARY REPORTED UP TO ONE HUNDRED FIFTEEN
27 PERCENT OF THE BASE SALARY. THE SECOND ANNUAL SALARY TO BE USED

1 IN THE HIGHEST AVERAGE SALARY CALCULATION SHALL BE THE ACTUAL
2 SALARY REPORTED UP TO ONE HUNDRED FIFTEEN PERCENT OF THE FIRST
3 ANNUAL SALARY USED IN THE HIGHEST AVERAGE SALARY CALCULATION.
4 THE THIRD ANNUAL SALARY TO BE USED IN THE HIGHEST AVERAGE
5 SALARY CALCULATION SHALL BE THE ACTUAL SALARY REPORTED UP TO
6 ONE HUNDRED FIFTEEN PERCENT OF THE SECOND ANNUAL SALARY USED
7 IN THE HIGHEST AVERAGE SALARY CALCULATION.

8 (IV) IN CALCULATING HIGHEST AVERAGE SALARY FOR A MEMBER
9 WHO WAS NOT A MEMBER, INACTIVE MEMBER OR RETIREE ON DECEMBER
10 31, 2006, THE ASSOCIATION SHALL DETERMINE THE HIGHEST ANNUAL
11 SALARIES ASSOCIATED WITH FOUR PERIODS OF TWELVE CONSECUTIVE
12 MONTHS OF SERVICE CREDIT. THE LOWEST OF SUCH ANNUAL SALARIES
13 SHALL BE THE BASE SALARY. THE FIRST ANNUAL SALARY TO BE USED IN
14 THE HIGHEST AVERAGE SALARY CALCULATION SHALL BE THE ACTUAL
15 SALARY REPORTED UP TO ONE HUNDRED EIGHT PERCENT OF THE BASE
16 SALARY. THE SECOND ANNUAL SALARY TO BE USED IN THE HIGHEST
17 AVERAGE SALARY CALCULATION SHALL BE THE ACTUAL SALARY
18 REPORTED UP TO ONE HUNDRED EIGHT PERCENT OF THE FIRST ANNUAL
19 SALARY USED IN THE HIGHEST AVERAGE SALARY CALCULATION. THE
20 THIRD ANNUAL SALARY TO BE USED IN THE HIGHEST AVERAGE SALARY
21 CALCULATION SHALL BE THE ACTUAL SALARY REPORTED UP TO ONE
22 HUNDRED EIGHT PERCENT OF THE SECOND ANNUAL SALARY USED IN THE
23 HIGHEST AVERAGE SALARY CALCULATION.

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

26 **24-51-203. Board - composition and election.** (1) THE BOARD
27 SHALL CONSIST OF THE FOLLOWING FIFTEEN TRUSTEES:

1 (a) THE STATE TREASURER;

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

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

19 (d) TWO MEMBERS OF THE LOCAL GOVERNMENT DIVISION ELECTED
20 BY THE MEMBERS OF THAT DIVISION UNTIL, ON OR AFTER JANUARY 1,
21 2007, ONE OF THOSE TRUSTEE POSITIONS IS VACATED AND THEREAFTER
22 THERE SHALL BE ONE MEMBER OF THE LOCAL GOVERNMENT DIVISION
23 ELECTED BY THE MEMBERS OF THAT DIVISION;

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

26 (f) TWO RETIREES, ONE OF WHOM SHALL BE ELECTED BY THOSE
27 MEMBERS WHO HAVE RETIRED FROM THE LOCAL GOVERNMENT DIVISION,

1 THE JUDICIAL DIVISION, OR FROM THE STATE DIVISION AND ONE OF WHOM
2 SHALL BE ELECTED BY THOSE MEMBERS WHO HAVE RETIRED FROM THE
3 LOCAL GOVERNMENT DIVISION, THE JUDICIAL DIVISION, OR THE SCHOOL
4 DIVISION; EXCEPT THAT BOTH RETIREE TRUSTEES CANNOT HAVE RETIRED
5 FROM THE SAME DIVISION; AND

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

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

19 (3) THE TERM FOR EACH OF THE INITIAL THREE APPOINTED
20 TRUSTEES SHALL BE DETERMINED BY THE GOVERNOR AND SHALL BE
21 STAGGERED WITH A ONE-YEAR TERM, A TWO-YEAR TERM, AND A
22 THREE-YEAR TERM WITH NO TRUSTEE ASSIGNED THE SAME TERM LENGTH.

23 AFTER EACH OF THE INITIAL TERMS CONCLUDE, THE TERM FOR
24 APPOINTED TRUSTEES SHALL BE FOUR YEARS. APPOINTED TRUSTEES MAY
25 BE REAPPOINTED TO THE BOARD FOR AN UNLIMITED NUMBER OF TERMS.

26 (4) WHEN A VACANCY OCCURS ON THE BOARD AMONG THE
27 ELECTED TRUSTEES, THE PERSON WHO RECEIVED THE NEXT HIGHEST

1 NUMBER OF VOTES IN THE MOST RECENT ELECTION OF TRUSTEES SHALL BE
2 APPOINTED TO SERVE AS TRUSTEE UNTIL THE NEXT ELECTION OF
3 TRUSTEES. IF THE PERSON WHO RECEIVED THE NEXT HIGHEST NUMBER OF
4 VOTES IS UNWILLING TO SERVE AS A TRUSTEE OR IF THE TRUSTEE WHO
5 CREATED THE ABSENCE RAN UNOPPOSED, THE BOARD SHALL APPOINT A
6 TRUSTEE. IN EITHER CASE, THE APPOINTED TRUSTEE SHALL BE FROM THE
7 SAME DIVISION AS THE TRUSTEE WHOSE ABSENCE CREATED THE VACANCY.

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

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

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

23 (8) NO PERSON CAN BE OR CAN CONTINUE TO BE A TRUSTEE OF THE
24 BOARD WHO HAS BEEN ADJUDICATED OF HAVING VIOLATED ANY
25 PROVISIONS OF THIS ARTICLE OR WHO HAS BEEN CONVICTED OF A FELONY
26 OR ANY CRIME INVOLVING THE MISAPPROPRIATION OF FUNDS.

27

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

4 **24-51-208. Allocation of moneys.** (2) Within each of the state
5 division, school division, local government division, and judicial division
6 trust funds, the following reserves shall exist:

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

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

9 (2.5) WITHIN EACH OF THE STATE DIVISION, SCHOOL DIVISION,
10 LOCAL GOVERNMENT DIVISION, AND JUDICIAL DIVISION TRUST FUNDS, AN
11 ANNUAL INCREASE RESERVE SHALL EXIST ON AND AFTER JANUARY 1,
12 2007.

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

15 **24-51-211. Amortization of liabilities.** An amortization period
16 for each of the state division, school division, local government division,
17 and judicial division trust funds shall be calculated separately. A
18 maximum amortization period of ~~forty~~ THIRTY years shall be deemed
19 actuarially sound. Upon recommendation of the board, and with the
20 advice of the actuary, the employer or member contribution rates for the
21 plan may be adjusted by the general assembly when indicated by actuarial
22 experience.

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

25 **24-51-310. Persons not eligible for membership.** (1) Persons
26 not eligible for membership in the association include:

27 (b) University of Colorado president, chancellors, deans, other

1 professionals exempt from the state personnel system, and faculty whose
 2 retirement program as determined by the board of regents is provided by
 3 social security and the university's qualified retirement plan UNLESS ANY
 4 SUCH EMPLOYEE IS AN ELIGIBLE EMPLOYEE AS DEFINED IN SECTION
 5 24-51-1502 (2) (a); except that persons covered by the plan shall remain
 6 members.

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

9 **24-51-401. Employer and member contributions.**

10 (1.7) (a) Employers shall deliver a contribution report and the full
 11 amount of employer and member contributions to the association within
 12 five days after the date members and retirees are paid. Except as
 13 provided in ~~subsections (1.8) and (7)~~ SUBSECTION (7) of this section and
 14 sections 22-64-220 (4) (j), C.R.S., and 24-51-408.5, such contributions
 15 shall be based upon the rates for the appropriate division as set forth in
 16 the following table multiplied by the salary, as defined in section
 17 24-51-101 (42), paid to members and retirees for the payroll period:

18 **TABLE A**

19 **CONTRIBUTION RATES**

20	Division	Membership	Employer Rate	Member Rate
21	State	All Members	10.15%	8.0%
22		Except		
23		State Troopers	12.85%	10.0%
24	School	All Members		
25		1/1/2006 through		
26		12/31/2012	10.15%	8.0%
27		1/1/2013 and		

1		thereafter	10.55%	8.0%
2	Local			
3	Government	All Members	10.0%	8.0%
4	Judicial	All Members	13.66%	8.0%

5 (1.8) ~~If the actuarial value of assets exceeds one hundred ten~~
6 ~~percent of the actuarial accrued liabilities in any division, as determined~~
7 ~~by the association's actuary, the division shall be considered overfunded,~~
8 ~~and employer contribution rates shall be reduced as provided in section~~
9 ~~24-51-408.5 (5).~~

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

12 **24-51-402. Unpaid contributions for any member - legislative**
13 **declaration.** (3) If an employer fails to provide membership in the
14 association to an individual so entitled pursuant to the provisions of this
15 article or fails to provide the required level of employer contributions for
16 an individual pursuant to the provisions of this article, the following
17 payment shall be made to the association:

18 (a) If the individual is not a member or inactive member at the
19 time the association first notifies the employer of its claim for unpaid
20 contributions, the employer shall pay the unpaid employer contributions
21 on behalf of the individual for the period contributions should have been
22 made at the contribution rate applicable during such period, PLUS THE
23 AMORTIZATION EQUALIZATION DISBURSEMENT IN EFFECT PURSUANT TO
24 SECTION 24-51-411 FOR THE PERIOD CONTRIBUTIONS SHOULD HAVE BEEN
25 MADE, plus interest on such employer contributions AND THE
26 AMORTIZATION EQUALIZATION DISBURSEMENT at the applicable actuarial
27 investment assumption rate, as such interest rate is from time to time

1 adjusted, until such contributions are paid. If an employer pays
2 contributions pursuant to this paragraph (a) on behalf of an individual
3 who was not a member or inactive member when the association first
4 notifies the employer and such individual subsequently becomes a
5 member AND COMPLETES ONE YEAR OF EARNED SERVICE CREDIT, the
6 member may purchase service credit for the appropriate ~~time~~ period
7 ~~pursuant to the requirements of section 24-51-503~~ BY PAYING THE UNPAID
8 MEMBER CONTRIBUTIONS FOR THE PERIOD FOR WHICH CONTRIBUTIONS
9 SHOULD HAVE BEEN MADE AT THE CONTRIBUTION RATE APPLICABLE
10 DURING SUCH PERIOD, PLUS INTEREST ON SUCH MEMBER CONTRIBUTIONS
11 AT THE APPLICABLE ACTUARIAL INVESTMENT ASSUMPTION RATE, AS SUCH
12 INTEREST RATE IS FROM TIME TO TIME ADJUSTED, UNTIL SUCH
13 CONTRIBUTIONS ARE PAID.

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

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

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

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

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

17 **SECTION 8.** 24-51-405, Colorado Revised Statutes, is amended
18 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
19 read:

20 **24-51-405. Refund of the member contribution account.**

21 (8) AN INDIVIDUAL WHO REFUNDED HIS OR HER MEMBER CONTRIBUTION
22 ACCOUNT PURSUANT TO THIS SECTION AND AGAIN COMMENCES
23 MEMBERSHIP ON OR AFTER JULY 1, 2005, BUT BEFORE JANUARY 1, 2007,
24 WHETHER OR NOT THE INDIVIDUAL PURCHASES ALL OR PART OF THE
25 PERIOD ASSOCIATED WITH THE REFUNDED MEMBER CONTRIBUTION
26 ACCOUNT, SHALL HAVE NO RIGHTS ASSOCIATED WITH MEMBERSHIP PRIOR
27 TO JULY 1, 2005, EXCEPT AS MANDATED BY FEDERAL LAW, AND SUCH

1 INDIVIDUAL SHALL NOT BE CONSIDERED TO HAVE BEEN A MEMBER,
2 INACTIVE MEMBER OR RETIREE ON JUNE 31, 2005.

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

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

14 **24-51-411. Amortization equalization disbursement - repeal.**

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

23 (2) For the calendar year beginning January 1, 2006, the
24 amortization equalization disbursement shall be one-half of one percent
25 of the employer's total payroll. The amortization equalization payment
26 shall increase by one-half of one percent of total payroll on January 1,
27 2007, and shall increase by four-tenths of one percent of total payroll at

1 the start of each of the calendar years following 2007 through 2012.
2 ~~except as provided by subsection (3) of this section.~~ For purposes of this
3 section, the employer's total payroll shall be calculated by applying the
4 definition of salary, pursuant to section 24-51-101 (42), to the payroll for
5 all employees working for the employer who are members of the
6 association, or who were eligible to elect to become members of the
7 association on or after January 1, 2006, including any amounts paid in
8 connection with the employment of a retiree by an employer pursuant to
9 ~~part 11 of this article~~ SECTION 24-51-1101 (2).

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

18 (3.2) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2008, THE
19 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT SHALL BE
20 ONE-HALF OF ONE PERCENT OF THE EMPLOYER'S TOTAL PAYROLL. THE
21 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT SHALL
22 INCREASE BY ONE-HALF OF ONE PERCENT OF TOTAL PAYROLL ON JANUARY
23 1 OF EACH YEAR FOLLOWING 2008 THROUGH 2013. FOR PURPOSES OF THIS
24 SECTION, THE EMPLOYER'S TOTAL PAYROLL SHALL BE CALCULATED BY
25 APPLYING THE DEFINITION OF SALARY, PURSUANT TO SECTION 24-51-101
26 (42), TO THE PAYROLL FOR ALL EMPLOYEES WORKING FOR THE EMPLOYER
27 WHO ARE MEMBERS OF THE ASSOCIATION, OR WHO WERE ELIGIBLE TO

1 ELECT TO BECOME MEMBERS OF THE ASSOCIATION ON OR AFTER JANUARY
2 1, 2006, INCLUDING ANY AMOUNTS PAID IN CONNECTION WITH THE
3 EMPLOYMENT OF A RETIREE BY AN EMPLOYER PURSUANT TO SECTION
4 24-51-1101 (2).

5 (3.5) THE AMORTIZATION EQUALIZATION DISBURSEMENT AND THE
6 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS
7 BY ALL DIVISIONS SHALL CONTINUE UNTIL ADJUSTED PURSUANT TO THIS
8 SUBSECTION (3.5). WHEN THE ACTUARIAL FUNDED RATIO OF A
9 PARTICULAR DIVISION OF THE ASSOCIATION IS ONE HUNDRED PERCENT AS
10 DETERMINED IN THE ANNUAL ACTUARIAL STUDY OF THE ASSOCIATION, THE
11 ACTUARY SHALL DETERMINE THE AMOUNT BY WHICH THE AMORTIZATION
12 EQUALIZATION DISBURSEMENT AND SUPPLEMENTAL AMORTIZATION
13 EQUALIZATION DISBURSEMENT CAN BE REDUCED, IN EQUAL PARTS, FOR
14 THAT PARTICULAR DIVISION AND STILL MAINTAIN THE ACTUARIAL FUNDED
15 RATIO OF THAT DIVISION AT ONE HUNDRED PERCENT. THE AMORTIZATION
16 EQUALIZATION DISBURSEMENT AND SUPPLEMENTAL AMORTIZATION
17 EQUALIZATION DISBURSEMENT SHALL BE REDUCED FOR THAT DIVISION IN
18 THE AMOUNTS DETERMINED BY THE ACTUARY EFFECTIVE JANUARY 1 OF
19 THE FOLLOWING YEAR. AT SUCH TIME AS A DIVISION IS DETERMINED IN
20 THE ANNUAL ACTUARIAL VALUATION TO HAVE REACHED A THIRTY-YEAR
21 OR LESS AMORTIZATION PERIOD OF ITS UNFUNDED LIABILITIES, THE BOARD
22 SHALL CAUSE TO BE CONDUCTED AN ACTUARIAL STUDY TO ASSESS THE
23 AMORTIZATION EQUALIZATION DISBURSEMENT AND THE SUPPLEMENTAL
24 AMORTIZATION EQUALIZATION DISBURSEMENT AND THE BOARD MAY
25 MAKE APPROPRIATE RECOMMENDATIONS TO THE GENERAL ASSEMBLY.

26 (3.7) FOR STATE EMPLOYERS IN THE STATE DIVISION, FOR THE
27 2007-08 STATE FISCAL YEAR AND FOR EACH FISCAL YEAR THROUGH THE

1 2012-13 STATE FISCAL YEAR, FROM THE AMOUNT OF CHANGES TO STATE
2 EMPLOYEES' SALARIES AND ANY ADJUSTMENTS TO THE ANNUAL GENERAL
3 APPROPRIATION ACT PURSUANT TO SECTION 24-50-104, AN AMOUNT
4 EQUAL TO ONE-HALF OF ONE PERCENT OF TOTAL SALARY SHALL BE
5 DEDUCTED AND SUCH AMOUNT SHALL BE UTILIZED BY THE EMPLOYER TO
6 FUND THE SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT.
7 FOR THE SCHOOL, LOCAL GOVERNMENT, AND JUDICIAL DIVISIONS, AND THE
8 REMAINING EMPLOYERS IN THE STATE DIVISION WHO ARE NOT STATE
9 EMPLOYERS, THE SUPPLEMENTAL AMORTIZATION EQUALIZATION
10 DISBURSEMENT SHALL, TO THE EXTENT PERMITTED BY LAW, BE FUNDED BY
11 ALLOCATION OF FUNDS OTHERWISE AVAILABLE FOR USE AS EMPLOYEE
12 COMPENSATION INCREASES PRIOR TO AWARD AS SALARY OR OTHER
13 COMPENSATION TO EMPLOYEES.

14 (4) Any reduction in the amortization equalization disbursement
15 AND IN THE SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT
16 pursuant to ~~subsection (3)~~ SUBSECTION (3.5) of this section shall be
17 irrevocable. If the ~~entire disbursement becomes~~ DISBURSEMENTS BECOME
18 no longer necessary pursuant to ~~subsection (3)~~ SUBSECTION (3.5) of this
19 section, then the association shall notify the revisor of statutes to repeal
20 this section. MONEYS MADE AVAILABLE DUE TO ANY REDUCTION IN THE
21 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT PURSUANT
22 TO SUBSECTION (3.5) OF THIS SECTION SHALL, TO THE EXTENT PERMITTED
23 BY LAW, BE ALLOCATED TO EMPLOYEE COMPENSATION INCREASES TO THE
24 EXTENT SUCH SOURCE WAS ORIGINALLY USED BY AN EMPLOYER TO FUND
25 THE SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT.

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

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

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

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

15 **24-51-503. Purchase of service credit relating to a refunded**
16 **member contribution account.** (2) FOR MEMBERS WHO WERE
17 MEMBERS, INACTIVE MEMBERS, OR RETIREES ON DECEMBER 31, 2006, the
18 cost to purchase the forfeited service credit shall be the amount refunded
19 plus interest accrued from the date of refund to completion of purchase.

20 (4) FOR MEMBERS WHO WERE NOT MEMBERS, INACTIVE MEMBERS,
21 OR RETIREES ON DECEMBER 31, 2006, THE COST TO PURCHASE THE
22 FORFEITED SERVICE CREDIT SHALL BE THE AMOUNT REFUNDED, PLUS
23 INTEREST ACCRUED FROM THE DATE OF REFUND TO COMPLETION OF
24 PURCHASE, PLUS AN AMOUNT EQUAL TO ONE PERCENT OF THE MEMBER'S
25 HIGHEST AVERAGE SALARY FOR EACH MONTH OR PARTIAL MONTH OF
26 SERVICE CREDIT TO BE PURCHASED. THE HIGHEST AVERAGE SALARY
27 SHALL BE CALCULATED EITHER BASED ON THE SALARY CURRENTLY

1 REFLECTED IN THE MEMBER ACCOUNT OR BY ASSUMING THE MEMBER'S
2 ACCOUNT HAS BEEN CREDITED WITH THE SERVICE CREDIT AND SALARY
3 ASSOCIATED WITH THE FORFEITED SERVICE CREDIT WHICH IS THE SUBJECT
4 OF THE PURCHASE, WHICHEVER IS HIGHER. THE ONE PERCENT OF HIGHEST
5 AVERAGE SALARY FOR EACH MONTH OR PARTIAL MONTH OF SERVICE
6 CREDIT PURCHASED SHALL BE ALLOCATED TO THE ANNUAL INCREASE
7 RESERVE PURSUANT TO PART 10 OF THIS ARTICLE.

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

10 **24-51-505. Purchase of service credit relating to noncovered**
11 **employment.** (3) The cost to purchase service credit for noncovered
12 employment shall be determined by the board AND SHALL BE SUFFICIENT
13 TO PAY THE ACTUARIAL LIABILITY ASSOCIATED WITH THE PURCHASE.

14 (7) A portion of the amount paid by a member to purchase service
15 credit related to noncovered employment shall be transferred to the health
16 care trust fund on the effective date of the member's retirement or, in case
17 of death prior to retirement, on the effective date of the survivor benefit.
18 The amount transferred shall be one and ~~one-tenth~~ TWO-ONE
19 HUNDREDTHS percent of the member's highest average salary at the time
20 of the purchase, with interest at the rate specified in section 24-51-101
21 (28) (a).

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

26 **24-51-602. Service retirement eligibility.**
27 (1) (a.5) Notwithstanding paragraph (a) of this subsection (1), any person

1		REQUIREMENT
2	(YEARS)	(YEARS)
3	ANY AGE	35
4	55	30
5	60	25
6	65	5

7 (c) Members WHO WERE MEMBERS, INACTIVE MEMBERS, OR
8 RETIREES ON DECEMBER 31, 2006, AND who are fifty-five years of age or
9 older shall, upon written application and approval of the board, receive
10 service retirement benefits pursuant to the benefit formula set forth in
11 section 24-51-603, without reduction pursuant to section 24-51-604, if
12 they have at least five years of service credit and if the number of years
13 of their age plus the number of years of their service credit equals eighty
14 years or more.

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

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

26 **24-51-605. Benefit formula for reduced service retirement.**

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

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

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

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

21 **24-51-606. Vested inactive member rights.** (1) Any member
22 WHO WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31,
23 2006, who has earned at least five years of service credit and who
24 terminates membership and does not elect to receive a refund pursuant to
25 the provisions of section 24-51-405 shall be eligible for a benefit to
26 become effective upon reaching the age specified in table B in section
27 24-51-602 for a service retirement or in table C in section 24-51-604 for

1 a reduced service retirement.

2 (1.5) ANY MEMBER WHO WAS NOT A MEMBER, INACTIVE MEMBER,
3 OR RETIREE ON DECEMBER 31, 2006, WHO HAS EARNED AT LEAST FIVE
4 YEARS OF SERVICE CREDIT AND WHO TERMINATES MEMBERSHIP AND DOES
5 NOT ELECT TO RECEIVE A REFUND PURSUANT TO THE PROVISIONS OF
6 SECTION 24-51-405 SHALL BE ELIGIBLE FOR A BENEFIT TO BECOME
7 EFFECTIVE UPON WRITTEN APPLICATION AND APPROVAL BY THE BOARD
8 AND UPON REACHING THE AGE SPECIFIED IN TABLE B.05, B.07, OR B.1 OF
9 SECTION 24-51-602, AS APPLICABLE, FOR A SERVICE RETIREMENT OR IN
10 TABLE C OF SECTION 24-51-604 FOR A REDUCED SERVICE RETIREMENT.
11 NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION (1.5), FOR SUCH
12 A MEMBER WHO APPLIES FOR RETIREMENT WITHIN NINETY DAYS AFTER
13 THE MEMBER ATTAINS AGE AND SERVICE ELIGIBILITY, THE EFFECTIVE DATE
14 OF RETIREMENT SHALL BE THE DATE THE MEMBER ATTAINS SUCH AGE AND
15 SERVICE ELIGIBILITY.

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

18 **24-51-606.5. Indexation of benefits for vested inactive**
19 **members.** A vested inactive member WHO WAS A MEMBER OR INACTIVE
20 MEMBER ON DECEMBER 31, 2006, who has at least twenty-five years of
21 service credit prior to terminating membership shall be eligible, upon
22 retirement, for a benefit, as calculated pursuant to the provisions of
23 section 24-51-603 or 24-51-605, which has been increased by the annual
24 increase specified in sections 24-51-1001 to 24-51-1003, from the date of
25 termination of membership or July 1, 1993, whichever is later, to the
26 effective date of retirement.

27 **SECTION 17.** Part 6 of article 51 of title 24, Colorado Revised

1 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
2 read:

3 **24-51-615. Distribution of benefits.** DISTRIBUTION OF BENEFITS
4 FROM EACH DIVISION TRUST FUND SHALL BE MADE IN ACCORDANCE WITH
5 SECTION 401(a) (9) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986",
6 AS AMENDED, INCLUDING THE INCIDENTAL DEATH BENEFIT REQUIREMENT
7 IN SECTION 401 (a) (9) (G), AND THE APPLICABLE TREASURY REGULATIONS
8 AND INTERNAL REVENUE SERVICE RULINGS AND OTHER INTERPRETATIONS
9 ISSUED THEREUNDER, INCLUDING TREASURY REGULATIONS SECTIONS
10 1.401 (a) (9)-2 TO 1.401 (a) (9)-9. THE PROVISIONS OF THIS SECTION SHALL
11 OVERRIDE ANY DISTRIBUTION OPTIONS THAT ARE INCONSISTENT WITH
12 SECTION 401 (a) (9) OF THE FEDERAL "INTERNAL REVENUE CODE OF
13 1986", AS AMENDED, TO THE EXTENT THAT THOSE DISTRIBUTION OPTIONS
14 ARE NOT GRANDFATHERED UNDER TREASURY REGULATIONS SECTION
15 1.401 (a) (9)-6.

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

18 **24-51-803. Determination of option 2 or 3 benefits.** (1) For
19 service retirement, the calculation of benefits payable pursuant to option
20 2 or 3, as set forth in section 24-51-801, shall be actuarially determined
21 as of the date the retiree ~~first became eligible~~ ATTAINED THE AGE AND
22 SERVICE REQUIREMENTS for service retirement regardless of the effective
23 date of such retirement.

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

27 **24-51-1001. Types of benefit increases.** (1) FOR BENEFIT

1 RECIPIENTS WHOSE BENEFITS ARE BASED ON THE ACCOUNT OF A MEMBER
2 WHO WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31,
3 2006, annual increases in retirement benefits and survivor benefits shall
4 occur on March 1 if said benefits have been paid for at least three months
5 preceding March 1. Such increases in benefits shall be calculated in
6 accordance with the provisions of sections 24-51-1002 and 24-51-1003
7 and shall be paid from the division trust funds.

8 (3) FOR BENEFIT RECIPIENTS WHOSE BENEFITS ARE BASED ON THE
9 ACCOUNT OF A MEMBER WHO WAS NOT A MEMBER, INACTIVE MEMBER, OR
10 RETIREE ON DECEMBER 31, 2006, ANNUAL INCREASES IN RETIREMENT
11 BENEFITS AND SURVIVOR BENEFITS, IF ANY, SHALL BE EFFECTIVE WITH THE
12 JULY BENEFIT IN ACCORDANCE WITH THE PROVISIONS OF SECTION
13 24-51-1009 AND SHALL BE PAID FROM THE RETIREMENT BENEFITS
14 RESERVE OR THE SURVIVOR BENEFITS RESERVE, AS APPROPRIATE, SO LONG
15 AS THE FOLLOWING REQUIREMENTS ARE SATISFIED:

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

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

27 **SECTION 20.** 24-51-1002 (1), (1) (a.5) (I), and (1) (a.5) (II),

1 Colorado Revised Statutes, are amended, and the said 24-51-1002 is
2 further amended BY THE ADDITION OF A NEW SUBSECTION, to
3 read:

4 **24-51-1002. Annual percentages to be used.** (1) FOR BENEFIT
5 RECIPIENTS WHOSE BENEFITS ARE BASED ON THE ACCOUNT OF A MEMBER
6 WHO WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31,
7 2006, the cumulative increase applied to benefits paid shall be
8 recalculated annually as of March 1 and shall be the total percent derived
9 by multiplying three and one-half percent, compounded annually, times
10 the number of years such benefit has been effective after March 1, 2000.
11 Benefits for vested inactive members with at least twenty-five years of
12 service credit and benefits for survivors of deceased vested inactive
13 members who had at least twenty-five years of service credit shall be
14 increased by the annual increase specified in sections 24-51-1001 to
15 24-51-1003 under prior law from the date of termination of membership
16 or July 1, 1993, whichever is later, to March 1, 2000, or the date benefits
17 commence, whichever is earlier.

18 (a.5) (I) Notwithstanding subsection (1) of this section, the
19 increase applied to benefits of persons ~~who become members on or after~~
20 ~~July 1, 2005, and were not members, inactive members, or retirees on July~~
21 ~~1, 2005,~~ WHOSE BENEFITS ARE BASED ON THE ACCOUNT OF A MEMBER
22 WHO WAS NOT A MEMBER, INACTIVE MEMBER, OR RETIREE ON JUNE 30,
23 2005, BUT WAS A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER
24 31, 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 (II) Benefits for vested inactive members WHO WERE NOT
7 MEMBERS, INACTIVE MEMBERS, OR RETIREES ON JUNE 30, 2005, BUT WERE
8 MEMBERS, INACTIVE MEMBERS, OR RETIREES ON DECEMBER 31, 2006, with
9 at least twenty-five years of service credit, ~~who become members on or~~
10 ~~after July 1, 2005, and were not members, inactive members, or retirees~~
11 ~~on July 1, 2005~~, as well as benefits for survivors of such deceased vested
12 inactive members who had at least twenty-five years of service credit
13 shall be increased by the annual increase specified in sections 24-51-1001
14 and 24-51-1003 and subparagraph (I) of this paragraph (a.5), from the
15 date of termination of membership to the date benefits commence.

16 (3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF
17 THIS SECTION AND OF PARAGRAPH (a.5) OF SUBSECTION (1) OF THIS
18 SECTION, THE INCREASE, IF ANY, APPLIED TO THE BENEFITS OF PERSONS
19 WHOSE BENEFITS ARE BASED ON THE ACCOUNT OF A MEMBER WHO WAS
20 NOT A MEMBER, INACTIVE MEMBER, OR RETIREE ON DECEMBER 31, 2006,
21 WILL BE CALCULATED AND PAID IN ACCORDANCE WITH SECTION
22 24-51-1009.

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

26 **24-51-1009. Annual increase reserve - creation.** (1) EACH
27 YEAR PRIOR TO THE EFFECTIVE DATE OF AN ANNUAL INCREASE, THE BOARD

1 SHALL DETERMINE THE AMOUNT OF THE ANNUAL INCREASE TO BE PAID, IF
2 ANY. IN NO EVENT SHALL THE BOARD AWARD AN ANNUAL INCREASE TO
3 ANY DIVISION THAT EXCEEDS THE AMOUNT PROVIDED FOR IN THIS
4 SECTION.

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

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

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

27 (b) A SUM RECEIVED IN CONNECTION WITH PURCHASED SERVICE

1 CREDIT PURSUANT TO 24-51-503 (3), SPECIFIED AS ANNUAL INCREASE
2 ALLOCATION; AND

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

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

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

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

25 (c) A PERMANENT INCREASE OF CURRENT BENEFITS PAYABLE TO
26 BENEFIT RECIPIENTS THEN ELIGIBLE FOR AN ANNUAL INCREASE IN
27 ACCORDANCE WITH SECTION 24-51-1001 (3) THAT WILL EXHAUST TEN

1 PERCENT OF THE YEAR END BALANCE AT MARKET VALUE OF THE ANNUAL
2 INCREASE RESERVE.

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

6 **24-51-1010. Increase in benefits - actuarial assessment**
7 **required.** (1) BEFORE INCREASING BENEFITS PROVIDED BY THE
8 ASSOCIATION, THE GENERAL ASSEMBLY SHALL CAUSE TO BE CONDUCTED
9 PURSUANT TO SUBSECTION (2) OF THIS SECTION AN ACTUARIAL
10 ASSESSMENT TO ENSURE THAT THE INCREASES IN BENEFITS WOULD NOT
11 CAUSE THE ACTUARIAL VALUE OF ASSETS OF THE ASSOCIATION TO DECLINE
12 BELOW NINETY PERCENT OF THE ACTUARIAL ACCRUED LIABILITIES OF THE
13 ASSOCIATION.

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

1 AND INFORMATION IN THE CUSTODY OF THE ASSOCIATION.

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

4 **24-51-1101. Employment after service retirement.** (2) Salary
5 from the employment, ~~described in subsection (1) of this section~~
6 ENGAGEMENT, RETENTION, OR OTHER USE OF A SERVICE RETIREE IN AN
7 INDIVIDUAL CAPACITY OR OF ANY ENTITY OWNED OR OPERATED BY A
8 SERVICE RETIREE OR AFFILIATED PARTY BY AN EMPLOYER TO PERFORM
9 ANY SERVICE AS AN EMPLOYEE, CONTRACT EMPLOYEE, CONSULTANT,
10 INDEPENDENT CONTRACTOR, OR THROUGH ANY OTHER ARRANGEMENT,
11 shall be subject to employer contributions but shall not be subject to
12 member contributions except as provided in section 24-51-1103. Salary
13 from employment by a retiree who is serving in a state elected official's
14 position shall not be subject to employer contributions.

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

17 **24-51-1102. Reduction of a service retirement benefit -**
18 **disclosure of service agreements by employers - definitions.** (4) For
19 purposes of ~~this part~~ ~~11~~ SUBSECTIONS (1) AND (2) OF THIS SECTION,
20 "employment" ~~of a retiree by an employer~~ means engagement, hiring,
21 retention, ~~or other use of a service retiree in an individual capacity or of~~
22 ~~any entity owned or operated by a service retiree or affiliated party by an~~
23 ~~employer to perform any service as an employee, contract employee,~~
24 ~~consultant, independent contractor, or through any other arrangement~~
25 SHALL BE DETERMINED BY THE ASSOCIATION CONSISTENT WITH THE
26 INTERNAL REVENUE SERVICE'S GUIDANCE IN REVENUE RULING 87-41, 1987
27 - 1 C.B. 296, AS REVISED FROM TIME TO TIME.

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

3 **24-51-1502. New state employees - election - definitions.**

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

15 (2) (a) For purposes of this part 15, "eligible employee" means an
16 employee of an employer as defined in section 24-52-202 (5), OTHER
17 THAN A STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION
18 24-54.5-102 (7) AND ANY INSTITUTION UNDER THE CONTROL OF THE
19 BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO, who is hired on
20 or after January 1, 2006, and who, if not commencing employment in a
21 state elected official's position, has not been a member of the association
22 or an active participant in a defined contribution plan established pursuant
23 to part 2 of article 52 of this title during the twelve months prior to the
24 date that he or she commences employment. EFFECTIVE JANUARY 1,
25 2008, "ELIGIBLE EMPLOYEE" SHALL ALSO INCLUDE AN EMPLOYEE OF A
26 STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7)
27 AND ANY INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS

1 OF THE UNIVERSITY OF COLORADO WHO IS HIRED ON OR AFTER JANUARY
2 1, 2008, AND WHO HAS NOT BEEN A MEMBER OF THE ASSOCIATION OR AN
3 ACTIVE PARTICIPANT IN A DEFINED CONTRIBUTION PLAN ESTABLISHED
4 PURSUANT TO PART 2 OF ARTICLE 52 OF THIS TITLE OR ACTIVE
5 PARTICIPANT IN A DEFINED CONTRIBUTION PLAN ESTABLISHED BY SUCH
6 COLLEGE, UNIVERSITY, OR INSTITUTION DURING THE TWELVE MONTHS
7 PRIOR TO THE DATE THAT HE OR SHE COMMENCES EMPLOYMENT. "Eligible
8 employee" includes a retiree of the association who is serving in a state
9 elected official's position, but does not include any other retiree of the
10 association or a retiree of the association who has suspended benefits.

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

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

20 **24-51-1503. Defined contribution plan option.** (3) (a) AN
21 ELIGIBLE EMPLOYEE WHO IS A MEMBER, INACTIVE MEMBER, OR RETIREE OF
22 THE DEFINED BENEFIT PLAN ON DECEMBER 31, 2006, AND ELECTS TO
23 PARTICIPATE IN OR IS AUTOMATICALLY ENROLLED IN THE ASSOCIATION'S
24 DEFINED BENEFIT PLAN, OR WHO MAKES AN ELECTION PURSUANT TO
25 SECTION 24-51-1506 (1) TO BECOME A MEMBER OF THE ASSOCIATION'S
26 DEFINED BENEFIT PLAN, SHALL BE SUBJECT TO THE BENEFIT PROVISIONS IN
27 EFFECT FOR THE EXISTING MEMBER CONTRIBUTION ACCOUNT.

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

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

15 **24-51-1511. Limitation on actions by eligible employees.**
16 ADMINISTRATIVE ACTIONS OR CIVIL ACTIONS BROUGHT BY EMPLOYEES TO
17 DISPUTE THE ELECTION FOR PARTICIPATION OR FAILURE TO ELECT
18 PARTICIPATION IN THE ASSOCIATION'S DEFINED BENEFIT PLAN, THE
19 ASSOCIATION'S DEFINED CONTRIBUTION PLAN, OR THE DEFINED
20 CONTRIBUTION PLAN ESTABLISHED PURSUANT TO PART 2 OF ARTICLE 52 OF
21 THIS TITLE SHALL COMMENCE WITHIN ONE HUNDRED EIGHTY DAYS AFTER
22 THE ELECTION OR WITHIN ONE HUNDRED EIGHTY DAYS OF THE LAST DAY
23 ON WHICH THE EMPLOYEE MAY MAKE AN ELECTION TO PARTICIPATE IN
24 SUCH PLAN PURSUANT TO THIS ARTICLE AND ARTICLE 52 OF THIS TITLE,
25 WHICHEVER IS EARLIER, AND NOT THEREAFTER.

26 ==
27 **SECTION 27.** 24-52-202 (3) and (5), Colorado Revised Statutes,

1 are amended to read:

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

4 (3) "Eligible employee" means a member of the general assembly,
5 the governor, the lieutenant governor, the attorney general, the chief
6 deputy attorney general, the solicitor general, the secretary of state, the
7 deputy secretary of state, the state treasurer, the deputy state treasurer, a
8 district attorney, an assistant district attorney, a chief deputy district
9 attorney, a deputy district attorney, or other employee of a district
10 attorney, a member of the public utilities commission, an executive
11 director of a department of state appointed by the governor, an employee
12 of the senate or the house of representatives, a nonclassified employee of
13 the office of the governor, and any employee who commences
14 employment with an employer, OTHER THAN A STATE COLLEGE OR
15 UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7) AND ANY
16 INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS OF THE
17 UNIVERSITY OF COLORADO, on or after January 1, 2006, and who, if not
18 commencing employment in a state elected official's position, has not
19 been a member of the association's defined benefit plan or defined
20 contribution plan during the twelve months prior to the date that he or she
21 commenced employment, for whom a defined contribution plan has been
22 established pursuant to the provisions of this part 2. EFFECTIVE JANUARY
23 1, 2008, "ELIGIBLE EMPLOYEE" SHALL ALSO INCLUDE ANY EMPLOYEE WHO
24 COMMENCES EMPLOYMENT WITH A STATE COLLEGE OR UNIVERSITY AS
25 DEFINED IN SECTION 24-54.5-102 (7) AND ANY INSTITUTION UNDER THE
26 CONTROL OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO
27 ON OR AFTER JANUARY 1, 2008, AND WHO HAS NOT BEEN A MEMBER OF

1 THE ASSOCIATION'S DEFINED BENEFIT PLAN OR DEFINED CONTRIBUTION
2 PLAN OR AN ACTIVE PARTICIPANT IN A DEFINED CONTRIBUTION PLAN
3 ESTABLISHED BY SUCH COLLEGE, UNIVERSITY, OR INSTITUTION DURING
4 THE TWELVE MONTHS PRIOR TO THE DATE THAT HE OR SHE COMMENCED
5 EMPLOYMENT, FOR WHOM A DEFINED CONTRIBUTION PLAN HAS BEEN
6 ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS PART 2. "Eligible
7 employee" includes a retiree of the association who is serving in a state
8 elected official's position, but does not include any other retiree of the
9 association or a retiree of the association who has suspended benefits.

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

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

21 **24-52-205. Participation.** (2.5) (a) Notwithstanding the
22 provisions of paragraph (b) of this subsection (2.5), any employee who
23 becomes an eligible employee on or after January 1, 2006, shall make an
24 irrevocable written election within sixty days of commencing employment
25 in such position to participate in the association or in a defined
26 contribution plan in which the employee is eligible to participate pursuant
27 to the provisions of this part 2 OR, FOR ELIGIBLE EMPLOYEES OF A STATE

1 COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7) AND ANY
2 INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS OF THE
3 UNIVERSITY OF COLORADO, A DEFINED CONTRIBUTION PLAN ESTABLISHED
4 FOR SUCH EMPLOYEES BY SUCH COLLEGE, UNIVERSITY, OR INSTITUTION.
5 In the absence of such written election, such person shall be a member of
6 the association.

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

10 **24-52-209. Limitation of actions by eligible**
11 **employees.** ADMINISTRATIVE ACTIONS OR CIVIL ACTIONS BROUGHT BY
12 EMPLOYEES TO DISPUTE THE ELECTION FOR PARTICIPATION OR FAILURE TO
13 ELECT PARTICIPATION IN THE ASSOCIATION'S DEFINED BENEFIT PLAN, THE
14 ASSOCIATION'S DEFINED CONTRIBUTION PLAN, OR THE DEFINED
15 CONTRIBUTION PLAN CREATED PURSUANT TO THIS PART 2 SHALL
16 COMMENCE WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE ELECTION OR
17 WITHIN ONE HUNDRED EIGHTY DAYS OF THE LAST DAY ON WHICH THE
18 EMPLOYEE MAY MAKE AN ELECTION TO PARTICIPATE IN SUCH PLANS
19 PURSUANT TO THIS ARTICLE AND ARTICLE 51 OF THIS TITLE , WHICHEVER
20 IS EARLIER, AND NOT THEREAFTER.

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

23 **24-54.5-105. Participation.** (2) (b.5) NOTWITHSTANDING
24 PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (2), ANY ELIGIBLE
25 EMPLOYEE WHO IS INITIALLY APPOINTED TO AN ELIGIBLE POSITION ON OR
26 AFTER THE LATER OF JANUARY 1, 2008, OR THE EFFECTIVE DATE OF THE
27 ESTABLISHMENT OF ONE OR MORE OPTIONAL RETIREMENT PLANS AT SUCH

1 ELIGIBLE EMPLOYEE'S EMPLOYER INSTITUTION SHALL ELECT, WITHIN
2 THIRTY DAYS AFTER SUCH APPOINTMENT, EITHER:

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

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

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

13 **24-54.5-106. Public employees' retirement association -**
14 **ineligibility.** (2) ~~Any eligible employee who participates in an optional~~
15 ~~retirement plan established for such eligible employee's employing~~
16 ~~institution shall be ineligible for membership in the association so long~~
17 ~~as such eligible employee is employed in any eligible position by a state~~
18 ~~college or university.~~ In the event an optional retirement plan participant
19 accepts a government position for which an optional retirement plan is
20 not available, such participant shall cease participation in the optional
21 retirement plan at the time of termination of employment in an eligible
22 position and shall begin participation in the association to the extent that
23 participation in the association is otherwise required by law.

24 (3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF
25 THIS SECTION, ELIGIBLE EMPLOYEES OF STATE COLLEGES AND
26 UNIVERSITIES WHO ARE INITIALLY APPOINTED TO AN ELIGIBLE POSITION ON
27 OR AFTER JANUARY 1, 2008, FOR WHICH NO OPTIONAL RETIREMENT PLAN

1 HAS BEEN ESTABLISHED SHALL PARTICIPATE IN PLANS AS PROVIDED IN
2 PART 15 OF ARTICLE 51 OR PART 2 OF ARTICLE 52 OF THIS TITLE.

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

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