

January 27, 2006

TO: Kirk Mlinek, Director
Colorado Legislative Council Staff
Room 029
State Capitol Building
Denver, CO 80203
P: 303.866.3521
F: 303.866.3855
Lcs.ga@state.co.us

**BALLOT PROPOSAL FOR THE STATEWIDE GENERAL ELECTION
NOVEMBER 7, 2006**

Proponents:
Barry Poulson, Ph.D.
492 Utica Avenue
Boulder, CO 80304
Poulson@colorado.edu
303.444.1710

Christine Q. Burt
2181 S. Columbine St.
Denver, CO 80210
cqburt@att.net
303.722.9958

PERA REFORM

Be it enacted by the People of the State of Colorado:

SECTION 1. 24-51-101 (3), (5), (9), (21), (23), (28), (30), and (31), Colorado Revised Statutes, are amended, and the said 24-51-101 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

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

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

(9) "Board" means:

(a) (I) PRIOR TO JANUARY 1, 2008, the board of trustees created pursuant to the provisions of section 24-51-202 which THAT has such duties and powers authorized by this article for the management of the association.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JANUARY 1, 2008.

(b) ON AND AFTER JANUARY 1, 2008, THE BOARD OF TRUSTEES CREATED PURSUANT TO THE PROVISIONS OF SECTION 24-51-203.5 THAT HAS SUCH DUTIES AND POWERS AUTHORIZED BY THIS ARTICLE FOR THE MANAGEMENT OF THE ASSOCIATION.

(13.3) "DEFINED BENEFIT PLAN" MEANS THE DEFINED BENEFIT PLAN ADMINISTERED PURSUANT TO PARTS 4 TO 11 OF THIS ARTICLE.

(13.7) "DEFINED CONTRIBUTION PLAN" MEANS THE DEFINED CONTRIBUTION PLAN CREATED AND ADMINISTERED PURSUANT TO PART 16 OF THIS ARTICLE.

(21) "Employer contribution" means the money paid by an employer to the association pursuant to the provisions of section 24-51-401 (1.7) AND PURSUANT TO THE PROVISIONS OF PART 16 OF THIS ARTICLE for all member salaries paid and other required employer contributions made pursuant to the provisions of section 24-51-402.

(23) "Fund" means the total assets of the association, which are credited to the various trust funds established and invested by the association FOR PURPOSES OF THE DEFINED BENEFIT PLAN pursuant to the provisions of this article.

(28) "Interest" means:

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

(b) The applicable actuarial investment assumption rate 6 compounded annually for any interest charged to an employer pursuant to the provisions of this article; and;

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

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

(30) "Member contribution" means the money paid to the association which equals a percentage of the member's salary as determined pursuant to the provisions of section 24-51-401 (1.7) OR PURSUANT TO THE PROVISIONS OF PART 16 OF THIS ARTICLE.

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

SECTION 2. 24-51-201 (1) and the introductory portion to 24-51-201 (2), Colorado Revised Statutes, are amended to read: **24-51-201. Public employees' retirement association – creation -termination.** (1) There is hereby created the public employees' retirement association, for the purpose of providing the benefits and programs specified in this article, which shall be a body corporate with the right to sue and be sued and the

right to hold property for its use and purposes. Notwithstanding IN ADDITION TO the applicability of sections 2-3-103, 24-4-103, 24-6-202, and 24-6-402, C.R.S., as provided for in this article, the association shall not be subject to administrative direction by THE STATE TREASURER AND any department, commission, board, bureau, or agency of the state AS DETERMINED BY THE STATE TREASURER.

The association is an instrumentality of the state.

(2) The DEFINED BENEFIT PLAN OF THE public employees' retirement association, created pursuant to the provisions of subsection (1) of this section, shall consist of the following divisions:

SECTION 3. 24-51-202, Colorado Revised Statutes, is amended to read:

24-51-202. Board of trustees - creation - termination - repeal.

(1) (a) There is hereby created the board of trustees of the association, which shall have the responsibilities, duties, and authorities as set forth in this article.

(b) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JANUARY 1, 13 2008.

(2) ON JANUARY 1, 2008, THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION SHALL BE ABOLISHED AND THE TERMS OF THE MEMBERS OF THE BOARD SERVING AS SUCH IMMEDIATELY PRIOR TO JANUARY 1, 2008, SHALL BE TERMINATED.

(3) ON AND AFTER JANUARY 1, 2008, ANY REFERENCE TO THE "BOARD" IN THIS ARTICLE SHALL BE A REFERENCE TO THE ASSOCIATION BOARD, CREATED IN SECTION 24-51-203.5.

SECTION 4. 24-51-203, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-203. Board - composition and election - repeal. (6) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2008.

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

24-51-203.5. Public employees' retirement association board

- creation - appointment. (1) THERE IS HEREBY CREATED IN THE OFFICE OF THE STATE TREASURER THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION BOARD, WHICH SHALL HAVE THE RESPONSIBILITIES, DUTIES, AND AUTHORITIES AS SET FORTH IN THIS ARTICLE.

(2) THE BOARD SHALL CONSIST OF NINE TRUSTEES, INCLUDING THE STATE AUDITOR, THE STATE TREASURER, AND SEVEN TRUSTEES APPOINTED BY THE GOVERNOR WHO ARE PROFESSIONALLY CREDENTIALLED OR HAVE RECOGNIZED COMPETENCE IN INVESTMENT MANAGEMENT, FINANCE, BANKING, ECONOMICS, ACCOUNTING, PENSION ADMINISTRATION, OR ACTUARIAL ANALYSIS. THE GOVERNOR SHALL APPOINT THE TRUSTEES AS FOLLOWS:

(a) TWO TRUSTEES SHALL BE MEMBERS OF THE GENERAL PUBLIC. THE TRUSTEES APPOINTED PURSUANT TO THIS PARAGRAPH (a) SHALL NOT HOLD ANOTHER STATE OFFICE OR POSITION AND SHALL NOT BE MEMBERS OR BENEFICIARIES OF THE ASSOCIATION.

- (b) ONE TRUSTEE SHALL BE EMPLOYED AS A FINANCE OFFICER FOR A POLITICAL SUBDIVISION THAT IS A MEMBER OF THE ASSOCIATION.
- (c) TWO TRUSTEES SHALL BE MEMBERS OR RETIREES OF THE DEFINED BENEFIT PLAN MANAGED BY THE BOARD.
- (d) TWO TRUSTEES SHALL BE MEMBERS OR RETIREES OF THE DEFINED CONTRIBUTION PLAN MANAGED BY THE BOARD.
- (3) THE TRUSTEES, OTHER THAN THE STATE AUDITOR AND THE STATE TREASURER, SHALL SERVE FOR STAGGERED TERMS OF FOUR YEARS; EXCEPT THAT, OF THE FIRST TRUSTEES APPOINTED BY THE GOVERNOR PURSUANT TO PARAGRAPHS (a) TO (d) OF SUBSECTION (2) OF THIS SECTION, TWO SHALL SERVE AN INITIAL TERM OF TWO YEARS, TWO SHALL SERVE AN INITIAL TERM OF THREE YEARS, AND THREE SHALL SERVE AN INITIAL TERM OF FOUR YEARS. AT THE TIME OF THE APPOINTMENTS, THE GOVERNOR SHALL DESIGNATE WHICH TRUSTEES SERVE WHICH INITIAL TERMS. A TRUSTEE OF THE BOARD MAY SERVE NO MORE THAN TWO CONSECUTIVE TERMS.
- (4) THE GOVERNOR MAY, BY WRITTEN NOTICE TO THE TRUSTEE, REMOVE AN APPOINTED TRUSTEE FOR CAUSE. AFTER AN APPOINTED TRUSTEE RECEIVES WRITTEN NOTICE OF REMOVAL, THE TRUSTEE SHALL NOT PARTICIPATE IN BOARD BUSINESS AND SHALL NOT BE COUNTED FOR PURPOSES OF ESTABLISHING A QUORUM.
- (5) A VACANCY ON THE BOARD SHALL BE PROMPTLY FILLED. A PERSON FILLING A VACANCY HOLDS OFFICE FOR THE BALANCE OF THE UNEXPIRED TERM OF THE PERSON'S PREDECESSOR. A VACANCY ON THE BOARD SHALL NOT IMPAIR THE AUTHORITY OF A QUORUM OF THE BOARD TO EXERCISE ALL THE POWERS AND PERFORM ALL THE DUTIES OF THE BOARD.
- (6) FIVE TRUSTEES SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS AND THE EXERCISE OF THE POWERS AND DUTIES OF THE BOARD. A TRUSTEE SHALL NOT DESIGNATE ANOTHER PERSON TO SERVE ON THE BOARD IN HIS OR HER ABSENCE.
- (7) THE TRUSTEES OF THE BOARD SHALL BE COMPENSATED ONE HUNDRED DOLLARS PER DIEM. IN ADDITION TO PER DIEM COMPENSATION, THE TRUSTEES SHALL BE REIMBURSED BY THE ASSOCIATION FOR ANY NECESSARY EXPENSES INCURRED IN THE CONDUCT OF THEIR OFFICIAL DUTIES AND SHALL SUFFER NO LOSS OF SALARY FROM AN EMPLOYER FOR SERVICE ON THE BOARD.
- (8) THE BOARD SHALL PROVIDE ANNUAL TRAINING TO ITS TRUSTEES ON THE DUTIES AND POWERS OF A FIDUCIARY OF A STATE FUND AND OTHER TRAINING AS NECESSARY TO KEEP THE TRUSTEES EDUCATED ABOUT PENSION MANAGEMENT AND INVESTMENT.

24-51-203.7. Initial report from the board. WITHIN ONE HUNDRED TWENTY DAYS OF THE BEGINNING OF THE FIRST TERM OF THE INITIAL TRUSTEES OF THE BOARD, THE BOARD SHALL PROVIDE THE GENERAL ASSEMBLY

WITH A PRELIMINARY ASSESSMENT OF THE FINANCIAL STATUS OF THE ASSOCIATION, INCLUDING THE DEFINED BENEFIT PLAN, AND PRELIMINARY RECOMMENDATIONS FOR IMPROVING THE FINANCIAL STABILITY OF THE ASSOCIATION.

SECTION 6. 24-51-204, Colorado Revised Statutes, is amended

BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

24-51-204. Duties of the board. (6.5) THE BOARD SHALL CONTRACT FOR AN INDEPENDENT FINANCIAL AND PERFORMANCE AUDIT OF ALL FINANCIAL TRANSACTIONS AND ACCOUNTS KEPT BY OR FOR THE ASSOCIATION BY A PRIVATE AUDITOR AT LEAST ONCE EVERY TWO YEARS. TO THE EXTENT PRACTICABLE, THE AUDITS CONDUCTED PURSUANT TO THIS SUBSECTION (6.5) MAY BE STAGGERED WITH THE AUDITS CONDUCTED PURSUANT TO SUBSECTION (6) OF THIS SECTION.

(11) THE BOARD SHALL DETERMINE THE APPROPRIATE INVESTMENT OBJECTIVES FOR THE DEFINED BENEFIT PLAN ESTABLISHED PURSUANT TO THIS ARTICLE. AFTER REVIEWING RECOMMENDATIONS FROM TWO FINANCIAL INSTITUTIONS, THE BOARD SHALL ADOPT INVESTMENT POLICIES FOR EACH OF THE FUNDS ENTRUSTED TO THE BOARD.

SECTION 7. 24-51-205 (1), Colorado Revised Statutes, is amended to read:

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

SECTION 8. 24-51-206 (1), Colorado Revised Statutes, is amended to read:

24-51-206. Investments - defined benefit plan. (1) The board shall have complete control and authority to invest the funds of the association Preference shall be given to Colorado investments consistent with sound investment policy AS SPECIFIED IN THIS SECTION.

SECTION 9. 24-51-211, Colorado Revised Statutes, is amended to read:

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

SECTION 10. Part 2 of article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

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

SECTION 11. Repeal. 24-51-503, Colorado Revised Statutes, is repealed as follows:

24-51-503. Purchase of service credit relating to a refunded member contribution account. (1) Except as otherwise provided in section 24-51-318, the service credit forfeited with a refund pursuant to the provisions of section 24-51-405 may be purchased upon the former member's resumption of membership and after completion of one year of earned service credit by such member.
(2) The cost to purchase the forfeited service credit shall be the amount refunded plus interest accrued from the date of refund to completion of purchase.
(3) Repealed.

SECTION 12. 24-51-1501, Colorado Revised Statutes, is amended to read:

24-51-1501. Defined contribution retirement plan - establishment - creation of fund.
(1) The board is hereby authorized to establish and administer a defined contribution retirement plan for eligible state employees as provided in this part 15. The board shall establish the terms and conditions of the defined contribution plan offered to eligible state employees. The assets of the plan shall be held in a separate trust fund of the association created for such purpose.
(2) THE DEFINED CONTRIBUTION PLAN CREATED PURSUANT TO SUBSECTION (1) OF THIS SECTION AND ADMINISTERED PURSUANT TO THIS PART 15 SHALL EXIST FROM JANUARY 1, 2006, THROUGH DECEMBER 31, 2007. ANY EMPLOYEE WHO IS A MEMBER OF THE DEFINED CONTRIBUTION PLAN CREATED PURSUANT TO THIS PART 15 ON JANUARY 1, 2008, SHALL AUTOMATICALLY BECOME A MEMBER OF THE DEFINED CONTRIBUTION PLAN CREATED IN PART 16 OF THIS ARTICLE, AND SUCH MEMBER'S MEMBERSHIP IN THE DEFINED CONTRIBUTION PLAN SHALL BE GOVERNED BY THE PROVISIONS OF PART 16 OF THIS ARTICLE.

SECTION 13. Article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 16 DEFINED CONTRIBUTION PLAN

24-51-1601. Defined contribution plan - applicability.

(1) THERE IS HEREBY ESTABLISHED A DEFINED CONTRIBUTION PLAN FOR EMPLOYEES WHO ARE HIRED BY AN EMPLOYER ON OR AFTER JANUARY 1,

2008, FOR EMPLOYEES WHO WERE MEMBERS OF THE DEFINED CONTRIBUTION PLAN ESTABLISHED IN PART 15 OF THIS ARTICLE, AND FOR EMPLOYEES WHO ARE MEMBERS OF THE DEFINED BENEFIT PLAN WHO ARE ELIGIBLE TO BECOME MEMBERS OF THE DEFINED CONTRIBUTION PLAN AND ELECT TO BECOME MEMBERS OF THE DEFINED CONTRIBUTION PLAN.

(2) ANY EMPLOYEE FIRST HIRED ON OR AFTER JANUARY 1, 2008, SHALL BECOME A MEMBER OF THE DEFINED CONTRIBUTION PLAN AND SHALL NOT HAVE THE OPTION TO BECOME A MEMBER OF THE DEFINED BENEFIT PLAN.

24-51-1602. Employee contributions. (1) (a) EACH MEMBER OF THE DEFINED CONTRIBUTION PLAN SHALL CONTRIBUTE TO HIS OR HER INDIVIDUAL ACCOUNT AN AMOUNT EQUAL TO EIGHT PERCENT, OR ANY OTHER AMOUNT DETERMINED BY THE BOARD, OF THE SALARY PAID TO THE PARTICIPANT FOR THE PAYROLL PERIOD.

(b) BEGINNING ON JANUARY 1, 2009, THE EMPLOYEE CONTRIBUTION SHALL BE INCREASED BY ONE-HALF OF ONE PERCENT OF THE EMPLOYEE'S SALARY AND SHALL INCREASE BY AN ADDITIONAL ONE-HALF OF ONE PERCENT OF THE EMPLOYEE'S SALARY EVERY YEAR THEREAFTER UNTIL THE EMPLOYEE CONTRIBUTION IS AN AMOUNT EQUAL TO THE EMPLOYER CONTRIBUTION. IN THE EVENT THAT INCREASING THE EMPLOYEE CONTRIBUTION BY AN ADDITIONAL ONE-HALF OF ONE PERCENT OF THE EMPLOYEE'S SALARY WOULD CAUSE THE EMPLOYEE CONTRIBUTION TO BE AN AMOUNT THAT EXCEEDS THE EMPLOYER CONTRIBUTION, THE PERCENTAGE OF THE INCREASE IN THE EMPLOYEE CONTRIBUTION FOR THAT YEAR SHALL BE REDUCED TO THE PERCENTAGE OF THE EMPLOYEE'S SALARY NECESSARY TO MAKE THE EMPLOYEE CONTRIBUTION AN AMOUNT EQUAL TO THE EMPLOYER CONTRIBUTION.

(2) THE EMPLOYER SHALL DEDUCT THE MEMBER'S CONTRIBUTION FROM THE MEMBER'S SALARY EACH PAYROLL PERIOD, AND THE CONTRIBUTION SHALL BE CREDITED BY THE ASSOCIATION TO THE MEMBER'S INDIVIDUAL ACCOUNT.

(3) SUBJECT TO THE LIMITATIONS SPECIFIED IN SECTION 24-51-1604, A MEMBER OF THE DEFINED CONTRIBUTION PLAN MAY ELECT TO MAKE ADDITIONAL CONTRIBUTIONS TO THE MEMBER'S INDIVIDUAL ACCOUNT.

(4) ALL EMPLOYEE CONTRIBUTIONS DEDUCTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE ASSOCIATION FOR DEPOSIT IN THE MEMBER'S INDIVIDUAL ACCOUNT WITHIN FIVE DAYS AFTER THE DATE THAT THE MEMBER IS PAID.

24-51-1603. Employer contributions. (1) AN EMPLOYER SHALL CONTRIBUTE AN AMOUNT EQUAL TO EIGHT PERCENT, OR ANY OTHER AMOUNT DETERMINED BY THE BOARD, OF THE SALARY PAID TO THE

MEMBER OF THE DEFINED CONTRIBUTION PLAN FOR EACH PAY PERIOD INTO EACH MEMBER'S INDIVIDUAL ACCOUNT.

(2) ALL EMPLOYEE CONTRIBUTIONS DEDUCTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE ASSOCIATION FOR DEPOSIT IN THE MEMBER'S INDIVIDUAL ACCOUNT WITHIN FIVE DAYS AFTER THE DATE THAT THE MEMBER IS PAID.

(3) THE DIFFERENCE BETWEEN THE CURRENT EMPLOYER CONTRIBUTION RATES AND THE 8 PERCENT MATCHING CONTRIBUTION RATES PAID BY THE EMPLOYER INTO THE NEW DEFINED CONTRIBUTION PLAN WILL BE EARMARKED TO PAY OFF UNFUNDED LIABILITIES. THE DEFINED CONTRIBUTION PLAN WILL BE MORE EFFICIENT TO ADMINISTER THAN THE EXISTING DEFINED BENEFIT PLAN, AND THESE SAVINGS SHALL ALSO BE EARMARKED TO REPAY UNFUNDED LIABILITIES. THESE SAVINGS SHALL BE USED TO REPAY UNFUNDED LIABILITIES WITHOUT ANY INCREASE IN EMPLOYER CONTRIBUTION RATES OR TAXES.

(4) WHEN THE NEW PENSION PLAN HAS ELIMINATED UNFUNDED LIABILITIES AND IS FULLY FUNDED SO AS TO MEET THE FEDERAL GUIDELINES FOR STATE PENSION PLANS, FURTHER SAVINGS MAY ACCRUE TO TAXPAYERS IN THE FORM OF LOWER EMPLOYER CONTRIBUTIONS. EMPLOYER CONTRIBUTION RATES SHALL THEN BE REDUCED TO THE 8 PERCENT MATCHING CONTRIBUTION INTO THE DEFINED CONTRIBUTION PLAN. EMPLOYER CONTRIBUTIONS SHALL BE CAPPED AT THIS RATE.

24-51-1604. Limitation on contributions. NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 16, THE ANNUAL ADDITIONS TO EACH MEMBER'S INDIVIDUAL ACCOUNT IN THE DEFINED CONTRIBUTION PLAN MAY NOT EXCEED THE AMOUNT PERMITTED UNDER FEDERAL LAW AT ANY TIME. IF THE AMOUNT OF A MEMBER'S DEFINED CONTRIBUTION PLAN CONTRIBUTIONS EXCEEDS SUCH LIMITATION, THE BOARD OR THE EXECUTIVE DIRECTOR SHALL TAKE THE NECESSARY REMEDIAL ACTION TO CORRECT THE EXCESS CONTRIBUTION.

24-51-1605. Rollover contributions and distributions. A MEMBER OF THE DEFINED CONTRIBUTION PLAN MAY ELECT, AT A TIME AND IN A MANNER DETERMINED BY THE BOARD, TO HAVE ALL OR PART OF AN ELIGIBLE DIRECT ROLLOVER DISTRIBUTION PAID DIRECTLY INTO THE MEMBER'S INDIVIDUAL ACCOUNT. A ROLLOVER CONTRIBUTION SHALL NOT BE CONSIDERED A PURCHASE OF SERVICE CREDIT FOR PURPOSES OF DETERMINING THE MEMBER'S YEARS OF SERVICE.

24-51-1606. Vesting. (1) MEMBERS IN THE DEFINED CONTRIBUTION PLAN SHALL BE IMMEDIATELY AND FULLY VESTED IN THEIR OWN CONTRIBUTIONS TO THE PLAN, TOGETHER WITH ACCUMULATED INVESTMENT GAINS OR LOSSES.

(2) MEMBERS IN THE DEFINED CONTRIBUTION PLAN SHALL BE VESTED IN EMPLOYER CONTRIBUTIONS TO THE PLAN, TOGETHER WITH

ACCUMULATED INVESTMENT GAINS OR LOSSES ON THE VESTED PORTION AS FOLLOWS:

- (a) TWENTY-FIVE PERCENT AFTER TWO YEARS IN THE ASSOCIATION;
 - (b) FIFTY PERCENT AFTER THREE YEARS IN THE ASSOCIATION;
 - (c) SEVENTY-FIVE PERCENT AFTER FOUR YEARS IN THE ASSOCIATION;
- AND
- (d) ONE HUNDRED PERCENT AFTER FIVE YEARS IN THE ASSOCIATION.

24-51-1607. Investments. (1) THE ASSOCIATION SHALL ALLOW A MEMBER OF THE DEFINED CONTRIBUTION PLAN TO EXERCISE CONTROL OF THE INVESTMENT OF THE MEMBER'S INDIVIDUAL ACCOUNT UNDER THE PLAN, SUBJECT TO THE FOLLOWING PROVISIONS:

- (a) THE BOARD SHALL SELECT AT LEAST FIVE INVESTMENT ALTERNATIVES, SUBJECT TO THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION, THAT ALLOW A MEMBER OF THE DEFINED CONTRIBUTION PLAN A MEANINGFUL CHOICE BETWEEN RISK AND RETURN IN THE INVESTMENT OF THE MEMBER'S ACCOUNT.
- (b) THE ASSOCIATION SHALL ALLOW THE MEMBER TO CHANGE INVESTMENTS REGULARLY.
- (c) THE ASSOCIATION SHALL PROVIDE THE MEMBER WITH THE INFORMATION DESCRIBING THE INVESTMENT ALTERNATIVES, INCLUDING INFORMATION ON THE NATURE, INVESTMENT PERFORMANCE, FEES, AND EXPENSES OF THE INVESTMENT ALTERNATIVES.

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

- (a) THE SUITABILITY OF SUCH RIGHTS AND BENEFITS TO THE NEEDS AND INTERESTS OF EMPLOYEES WHO PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN AND TO THE INTERESTS OF THE STATE GOVERNMENT IN THE EMPLOYMENT AND RETENTION OF ELIGIBLE EMPLOYEES;
- (b) THE ABILITY OF THE DESIGNATED COMPANIES TO PROVIDE THE INVESTMENT PRODUCTS;
- (c) THE EFFICACY OF SUCH CONTRACTS IN THE RECRUITMENT AND RETENTION OF QUALIFIED PUBLIC OFFICIALS AND EMPLOYEES;
- (d) THE ABILITY OF THE DESIGNATED COMPANIES TO PROVIDE HIGH QUALITY INFORMATION AND ADVICE ON INVESTMENT PRODUCTS AND ASSET ALLOCATIONS; AND
- (e) THE FEES AND COSTS OF THE INVESTMENT PRODUCTS.

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

24-51-1608. Distribution - election - options determined by retirement board.

(1) THE BOARD SHALL DETERMINE THE DISTRIBUTION OPTIONS BY WHICH A MEMBER OF THE DEFINED CONTRIBUTION PLAN MAY ELECT TO RECEIVE THE DISTRIBUTION OF HIS OR HER INDIVIDUAL ACCOUNT. THE

DISTRIBUTION OPTIONS SHALL INCLUDE, AT A MINIMUM, A ONE-TIME LUMP SUM PAYMENT OPTION, A PERIODIC LUMP SUM PAYMENT OPTION, A PERIOD CERTAIN ANNUITY OPTION, A LIFE ANNUITY WITH PERIOD CERTAIN PAYMENT OPTION, AND A JOINT AND SURVIVOR PAYMENT OPTION.

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

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

24-51-1609. Rights of members of the defined contribution

plan. (1) A MEMBER OF THE DEFINED CONTRIBUTION PLAN SHALL NOT BE CONSIDERED A MEMBER OR A RETIREE FOR THE PURPOSES OF PARTS 4 TO 11 OF THIS ARTICLE, NOR SHALL HIS OR HER SURVIVORS OR BENEFICIARIES BE CONSIDERED BENEFIT RECIPIENTS.

(2) A MEMBER OF THE DEFINED CONTRIBUTION PLAN MAY PARTICIPATE IN OPTIONAL LIFE INSURANCE, LONG-TERM CARE INSURANCE, AND THE VOLUNTARY INVESTMENT PROGRAM, AS PROVIDED IN THIS ARTICLE.

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

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

24-51-1610. Report to members. ON A QUARTERLY BASIS, THE BOARD SHALL REPORT TO MEMBERS WHO PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN. THE REPORT SHALL INCLUDE A STATEMENT OF ACCOUNT BALANCES, A REVIEW OF ACCOUNT TRANSACTIONS, AND THE AMOUNT OF ADMINISTRATIVE FEES CHARGED TO THE MEMBERS DURING THE QUARTER.

24-51-1611. Election to terminate membership in defined benefit plan - participation in defined contribution plan.

(1) AN ACTIVE MEMBER OF THE DEFINED BENEFIT PLAN IS ELIGIBLE TO PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THIS PART 16 IF THAT MEMBER IS NOT ELIGIBLE FOR A SERVICE RETIREMENT BENEFIT OR A REDUCED SERVICE RETIREMENT BENEFIT UNDER THE DEFINED BENEFIT PLAN PURSUANT TO SECTIONS 24-51-602 AND 24-51-604, RESPECTIVELY. PARTICIPATION IN THE DEFINED CONTRIBUTION PLAN SHALL BE IN LIEU OF PARTICIPATION IN THE DEFINED BENEFIT PLAN.

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

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

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

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

(5) FOR ANY MEMBER OF THE DEFINED BENEFIT PLAN WHO BECOMES A MEMBER OF THE DEFINED CONTRIBUTION PLAN, THE BOARD SHALL TRANSFER OR CAUSE TO BE TRANSFERRED THE APPROPRIATE AMOUNTS TO THE DESIGNATED INDIVIDUAL ACCOUNT. THE BOARD SHALL ESTABLISH TRANSFER PROCEDURES, BUT THE ACTUAL TRANSFER MAY NOT BE LATER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THE MEMBER'S PARTICIPATION IN THE DEFINED CONTRIBUTION PLAN UNLESS THE MAJOR FINANCIAL MARKETS FOR SECURITIES AVAILABLE FOR A TRANSFER ARE SERIOUSLY DISRUPTED BY AN UNFORESEEN EVENT THAT ALSO CAUSES THE SUSPENSION OF TRADING ON ANY NATIONAL SECURITIES EXCHANGE IN THE COUNTRY WHERE THE SECURITIES WERE ISSUED. IN THAT EVENT, THE THIRTY-DAY PERIOD OF TIME MAY BE EXTENDED BY A RESOLUTION OF THE BOARD. TRANSFERS ARE NOT COMMISSIONABLE OR SUBJECT TO OTHER FEES AND MAY BE IN THE FORM OF SECURITIES OR CASH AS DETERMINED BY THE BOARD. SECURITIES SHALL BE VALUED AS OF THE DATE OF RECEIPT IN THE ACCOUNT.

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

(7) BEFORE ACCEPTING AN ELECTION TO PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN, THE BOARD OR THE DESIGNEE OF THE

BOARD SHALL PROVIDE THE EMPLOYEE ELECTING TO PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN WITH INFORMATION, INCLUDING CALCULATIONS TO ILLUSTRATE THE EFFECT OF MOVING THE EMPLOYEE'S RETIREMENT PLAN FROM THE DEFINED BENEFIT PLAN TO THE DEFINED CONTRIBUTION PLAN AS WELL AS OTHER INFORMATION TO CLEARLY INFORM THE EMPLOYEE OF THE POTENTIAL CONSEQUENCES OF THE EMPLOYEE'S ELECTION.

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

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

(10) IF THE BOARD RECEIVES NOTIFICATION FROM THE UNITED STATES DEPARTMENT OF THE TREASURY OR THE FEDERAL INTERNAL REVENUE SERVICE, THAT THIS SECTION OR A PORTION OF THIS SECTION WILL CAUSE ALL OR A PORTION OF THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THIS PART 16 TO BE DISQUALIFIED FOR TAX PURPOSES UNDER THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, THE PORTION THAT WILL CAUSE THE DISQUALIFICATION SHALL NOT APPLY, AND THE BOARD SHALL NOTIFY THE GENERAL ASSEMBLY.

SECTION 14. 24-51-318, Colorado Revised Statutes, is amended to read:

24-51-318. Purchase of forfeited service credit. The provisions of section 24-51-503 which relate to the purchase of service credit forfeited by the refund of member contributions shall not apply to the Members who are employees of an employer, which THAT has terminated its affiliation with the association Such MAY PURCHASE service credit forfeited by such THE termination of affiliation may be purchased pursuant to the provisions of section 24-51-505.

SECTION 15. 24-51-402 (3) (a), Colorado Revised Statutes, is amended to read:

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

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

assumption rate, as such interest rate is from time to time adjusted, until such contributions are paid. If an employer pays contributions pursuant to this paragraph (a) on behalf of an individual who was not a member or inactive member when the association first notifies the employer and such individual subsequently becomes a member, the member may purchase service credit for the appropriate time period pursuant to the requirements of section 24-51-503.

SECTION 16. Repeal. 38-13-117 (3) (b), Colorado Revised Statutes, is repealed as follows:

38-13-117. Filing of claim with administrator. (3) (b) The administrator shall pay or deliver to the public employees' retirement association the amount necessary to purchase service credit pursuant to section 24-51-503, C.R.S., if the owner of an account left inactive or an unclaimed member refund described in section 38-13-108.5 (1) requests restoration of service credit which was forfeited when funds were transferred to the abandoned property fund.

SECTION 17. Effective date. (1) (a) Sections 2, 5, 6, and 13 of this act shall take effect January 1, 2008.