

**RECEIVED**

APR 21 2006

ELECTIONS/LICENSING  
SECRETARY OF STATE

*2:25 PM  
via email*

**FINAL VERSION**

RECEIVED

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION REFORM  
(Initiative No. 106 – FINAL VERSION)

APR 21 2006

ELECTIONS/LICENSING  
SECRETARY OF STATE

6:25 PM  
W. J. ...  
Email  
JWM

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

**SECTION 1.** 24-51-101 (3), (5), (9), (21), (23), (28), (29), (30), (31), and (42)

Colorado Revised Statutes, are amended, and the said 24-51-101 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**24-51-101. Definitions - 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, 2007, 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(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JANUARY 1, 2007.

(b) ON AND AFTER JANUARY 1, 2007, 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 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.

(29) "Member" means any employee of an employer defined in subsection (20) of this section who works in a position ~~which~~ THAT is subject to membership in the association and for whom contributions are made, INCLUDING EMPLOYEES GOVERNED BY SECTION 24-52-201, COLORADO REVISED STATUTES.

"Member" includes such employee during leaves of absence without pay during which the employer-employee relationship continues if the period of leave is certified to the association by the employer. "Member" does not include persons who have terminated employment or died.

(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.

(42) (a) (I) "Salary" means compensation for services rendered to an employer and, BEFORE JANUARY 1, 2007, includes: Regular salary or pay; any pay for administrative, sabbatical, annual, sick, vacation, or

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

(II) "SALARY" MEANS COMPENSATION FOR SERVICES RENDERED TO AN EMPLOYER AND, ON AND AFTER JANUARY 1, 2007, INCLUDES: REGULAR SALARY OR PAY; ANY PAY FOR ADMINISTRATIVE, SABBATICAL, ANNUAL, SICK, VACATION, OR PERSONAL LEAVE; PAY FOR COMPENSATORY TIME OR HOLIDAYS; PAYMENTS BY AN EMPLOYER FROM GRANTS; AMOUNTS DEDUCTED FROM PAY PURSUANT TO TAX-SHELTERED SAVINGS OR RETIREMENT PROGRAMS; AMOUNTS DEDUCTED FROM PAY FOR A HEALTH SAVINGS ACCOUNT AS DEFINED IN 26 U.S.C. SEC. 223, AS AMENDED, OR ANY OTHER TYPE OF RETIREMENT HEALTH SAVINGS ACCOUNT PROGRAM; AMOUNTS DEDUCTED FROM PAY FOR A CAFETERIA PLAN PURSUANT TO SECTION 125 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AMOUNTS DEDUCTED FROM PAY FOR TRANSPORTATION COSTS PURSUANT TO SECTION 132 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED; PERFORMANCE OR MERIT PAYMENTS, IF APPROVED BY THE BOARD; SPECIAL PAY FOR WORK-RELATED INJURIES PAID BY THE EMPLOYER PRIOR TO TERMINATION OF MEMBERSHIP; AND RETROACTIVE SALARY PAYMENTS PURSUANT TO COURT ORDERS, ARBITRATION AWARDS, OR LITIGATION AND GRIEVANCE SETTLEMENTS.

**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)(a) There is hereby created the public employees' retirement association, A SPECIAL PURPOSE AUTHORITY PURSUANT TO SECTION 24-77-102(15)(b)(IX), 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 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 any department, commission, board, bureau, or agency of the state EXCEPT THAT THE OFFICE OF STATE PLANNING AND BUDGETING SHALL PERFORM ADMINISTRATIVE OVERSIGHT OF THE ASSOCIATION WHICH SHALL INCLUDE, BUT IS NOT LIMITED TO, REQUIRING AN ANNUAL REPORT, INCLUDING ALL DOCUMENTS AND DISCLOSURES REGARDING THE ASSOCIATION'S PERFORMANCE, TO THE GENERAL ASSEMBLY AND THE GOVERNOR ADDRESSING HOW WELL THE ASSOCIATION IS PERFORMING ITS MISSION IN FURTHERANCE OF THE POLICY CHANGES IMPLEMENTED BY THE 2006 AMENDMENTS TO THIS ARTICLE, AND EXCEPT FOR THE ASSOCIATION MAKING AN ANNUAL PRESENTATION OF ITS BUDGET TO THE JOINT BUDGET COMMITTEE. The association is an instrumentality of the state.

(1)(b) FUNDING FOR THE ADMINISTRATIVE OVERSIGHT OF THE ASSOCIATION BY THE OFFICE OF STATE PLANNING AND BUDGETING SHALL BE APPROPRIATED BY THE GENERAL ASSEMBLY.

(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, 2007.

(2) ON JANUARY 1, 2007, 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, 2007, SHALL BE TERMINATED.

(3) ON AND AFTER JANUARY 1, 2007, 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, 2007.

**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 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:

(a) THE STATE AUDITOR; THE STATE TREASURER;

(b) THREE TRUSTEES SHALL BE APPOINTED BY THE GOVERNOR AND SHALL BE PROFESSIONALLY CREDENTIALLED OR HAVE RECOGNIZED COMPETENCE IN INVESTMENT MANAGEMENT, FINANCE, BANKING, ECONOMICS, ACCOUNTING, PENSION ADMINISTRATION, OR ACTUARIAL ANALYSIS. THE TRUSTEES APPOINTED PURSUANT TO THIS PARAGRAPH (b) SHALL NOT HOLD ANOTHER STATE OFFICE OR POSITION AND SHALL NOT BE MEMBERS OR BENEFICIARIES OF THE ASSOCIATION. OF THE THREE TRUSTEES APPOINTED BY THE GOVERNOR, ONE TRUSTEE SHALL BE A MEMBER OF THE COLORADO SOCIETY OF ACTUARIES, ONE TRUSTEE SHALL BE A MEMBER OF THE SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS WHO IS AN EXPERT IN PENSIONS, AND ONE SHALL BE A MEMBER OF THE COLORADO BAR ASSOCIATION WHO IS AN EXPERT IN THE FEDERAL "EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974", AS AMENDED. THE COLORADO SOCIETY OF ACTUARIES, THE SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS, AND THE COLORADO BAR ASSOCIATION SHALL EACH SUBMIT A LIST OF RECOMMENDED PEOPLE FROM THEIR RESPECTIVE ORGANIZATIONS TO SERVE ON THE BOARD. IN APPOINTING THE TRUSTEES FROM THE COLORADO SOCIETY OF ACTUARIES, THE SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS, AND THE COLORADO BAR ASSOCIATION, THE GOVERNOR SHALL APPOINT A PERSON FROM THE RECOMMENDATIONS OF EACH RESPECTIVE ORGANIZATION.

(c) TWO TRUSTEES SHALL BE MEMBERS OR RETIREES OF THE

DEFINED BENEFIT PLAN MANAGED BY THE BOARD AND SHALL BE ELECTED BY MEMBERS OF THE ASSOCIATION.

(d) TWO TRUSTEES SHALL BE MEMBERS OR RETIREES OF THE DEFINED CONTRIBUTION PLAN MANAGED BY THE BOARD AND SHALL BE ELECTED BY MEMBERS OF THE ASSOCIATION.

(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 PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, TWO SHALL SERVE AN INITIAL TERM OF THREE YEARS, AND ONE SHALL SERVE AN INITIAL TERM OF FOUR YEARS. OF THE TRUSTEES ELECTED BY MEMBERS OF THE ASSOCIATION, ONE TRUSTEE OF THE DEFINED BENEFIT PLAN AND ONE TRUSTEE OF THE DEFINED CONTRIBUTION PLAN SHALL EACH SERVE AN INITIAL TERM OF THREE YEARS. THE OTHER TWO TRUSTEES ELECTED BY THE MEMBERS OF THE ASSOCIATION 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 AND MAY BE APPOINTED OR ELECTED TO ANOTHER TERM, WHICH SHALL BE UNDERSTOOD AS HAVING SERVED TWO CONSECUTIVE TERMS. 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 EVERY TWO YEARS. THESE EXTERNAL AUDITS ARE IN ADDITION TO THE POSTAUDITS CONDUCTED PURSUANT TO 2-3-103 (1) COLORADO REVISED STATUTES BY THE OFFICE OF STATE AUDITOR AND SHALL BE STAGGERED SUCH THAT THE STATE AUDIT AND THE PRIVATE AUDIT DO NOT COINCIDE IN THE SAME FISCAL YEAR.

(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 AS SPECIFIED IN THIS SECTION. ~~Preference shall be given to Colorado investments consistent with sound investment policy~~

**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 MEMBER AND EMPLOYER CONTRIBUTIONS AND 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.** 24-51-216, Colorado Revised Statutes, is amended to read:

**24-51-216 Legal adviser.** (1) The attorney general shall be the legal advisor to the board AND SHALL NOT DELEGATE HIS OR HER RESPONSIBILITIES AS LEGAL ADVISOR TO THE BOARD TO ANY LEGAL ADVISOR OR IN-HOUSE COUNSEL HIRED BY THE ASSOCIATION.

(2) THE ASSOCIATION SHALL HIRE LEGAL ADVISORS TO SERVE AS IN-HOUSE COUNSEL FOR THE ASSOCIATION'S STAFF.

**SECTION 12. Repeal.** 24-51-503, Colorado Revised Statutes, is repealed.

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

**24-51-602. Service retirement eligibility.**

(1) (a.7) NOTWITHSTANDING PARAGRAPHS (a) AND (a.5) OF THIS SUBSECTION (1), ANY PERSON EXCEPT A STATE TROOPER WHO BECAME A MEMBER BEFORE JANUARY 1, 2007, BUT WHO IS LESS THAN FORTY YEARS OF AGE ON JANUARY 1, 2007, AND WHOSE RETIREMENT BENEFITS HAVE NOT VESTED ON OR BEFORE SUCH DATE SHALL, UPON WRITTEN APPLICATION AND APPROVAL OF THE BOARD, RECEIVE SERVICE RETIREMENT BENEFITS PURSUANT TO THE BENEFIT FORMULA SET FORTH IN SECTION 24-51-603 (1), (2), AND (3) IF THE MEMBER HAS MET THE AGE AND SERVICE CREDIT REQUIREMENTS STATED IN THE FOLLOWING TABLE:

**TABLE B.07**

**SERVICE RETIREMENT ELIGIBILITY**

<b>Age Requirement (years)</b>	<b>Service Credit Requirement (years)</b>
Any age	35
60	30
65	5

**SECTION 14.** 24-51-1001 (1), Colorado Revised Statutes, is amended to read:

**24-51-1001. Types of benefit increases.** (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 24-51-1009, annual increases in retirement benefits and survivor benefits shall occur on March 1 if said

benefits have been paid for at least three months preceding March 1. Such increases in benefits shall be calculated in accordance with the provisions of sections 24-51-1002 and 24-51-1003 and shall be paid from the division trust funds.

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

**24-51-1009. Increase in benefits - actuarial study required.**

(1) BEFORE INCREASING BENEFITS FOR ANY MEMBER OR RETIREE IN THE DEFINED BENEFIT PLAN, THE GENERAL ASSEMBLY SHALL CAUSE TO BE CONDUCTED PURSUANT TO SUBSECTION (2) OF THIS SECTION AN ACTUARIAL STUDY TO ENSURE THAT THE INCREASES IN BENEFITS WOULD NOT CAUSE THE ACTUARIAL VALUE OF ASSETS OF THE ASSOCIATION TO DECLINE BELOW NINETY PERCENT OF THE ACTUARIAL ACCRUED LIABILITIES OF THE ASSOCIATION.

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

**SECTION 18.** 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, 2007, 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 19. Repeal.** Part 15 of article 51 of title 24, Colorado revised Statutes, is repealed, effective January 1, 2007.

**SECTION 20.** 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, 2007, 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, 2007, 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 PAYROLL PERIOD, EACH MEMBER OF THE DEFINED CONTRIBUTION PLAN SHALL CONTRIBUTE TO HIS OR HER INDIVIDUAL ACCOUNT AN AMOUNT EQUAL

TO TWO PERCENT LESS THAN THE EMPLOYER CONTRIBUTION RATE AS DEFINED FOR THE SEVERAL DIVISIONS IN 24-51-401.

(b) BEGINNING ON JANUARY 1, 2007, CONTRIBUTIONS BY EMPLOYEES IN THE DEFINED BENEFIT PLAN 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 FOR THOSE ENROLLED IN THE DEFINED CONTRIBUTION PLAN. FOR MEMBERS STILL ENROLLED IN THE DEFINED BENEFIT PLAN, CONTRIBUTIONS SHALL BE DELIVERED PURSUANT TO THE SAME PROCEDURES SPECIFIED FOR EMPLOYER CONTRIBUTIONS IN SECTION 24-51-401 (1.7).

(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 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 OF THE SALARY PAID TO THE MEMBER OF THE DEFINED CONTRIBUTION PLAN IN THE

STATE, SCHOOL AND LOCAL GOVERNMENT DIVISIONS, AND AN AMOUNT EQUAL TO TEN PERCENT FOR STATE TROOPERS, AND AN AMOUNT EQUAL TO ELEVEN PERCENT IN THE JUDICIAL DIVISION, 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 EMPLOYER CONTRIBUTION RATES AS SPECIFIED IN 24-51-401, COLORADO REVISED STATUTES, AND THE CONTRIBUTION RATES PAID BY THE EMPLOYER INTO THE DEFINED CONTRIBUTION PLAN PURSUANT TO 24-51-1603 (1) WILL BE DIRECTED TO PAY OFF UNFUNDED LIABILITIES IN THE ASSOCIATION'S DEFINED BENEFIT PLAN. IF THE ADMINISTRATION OF THE DEFINED CONTRIBUTION PLAN CREATES SAVINGS, ANY SAVINGS WILL BE DIRECTED TOWARD PAYING THE UNFUNDED LIABILITY IN THE DEFINED BENEFIT PLAN.

(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 OF FUNDING ONE HUNDRED PERCENT OF LIABILITIES OVER A THIRTY-YEAR PERIOD, FURTHER SAVINGS MAY ACCRUE TO TAXPAYERS IN THE FORM OF LOWER EMPLOYER CONTRIBUTIONS. EMPLOYER CONTRIBUTION RATES SHALL THEN BE REDUCED TO A RATE TWO PERCENT LESS THAN THE DIVISION MEMBERSHIP EMPLOYER RATE SPECIFIED IN 24-51-401(1.7), TABLE A. 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 AS WELL AS THE EMPLOYER CONTRIBUTIONS TO THE PLAN, TOGETHER WITH ACCUMULATED INVESTMENT GAINS OR LOSSES.

**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 ALLOWS 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 21.** 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 22.** 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 23. 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 24. Effective date.**

Upon voter approval in the November 7, 2006 election, and certification by Secretary of State, amendments to Colorado Revised Statutes as outlined herein are effective January 1, 2007.