

RECOMMENDATIONS FOR 2006

**POLICE OFFICERS' AND FIREFIGHTERS'
PENSION REFORM COMMISSION**

**Report to the
Colorado General Assembly**

**Research Publication No. 549
December 2005**

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December 2005

To Members of the Sixty-fifth General Assembly:

Submitted herewith is the final report of the Police Officers' and Firefighters' Pension Reform Commission. This commission was created pursuant to Section 31-31-1001, C.R.S. The purpose of the commission is to oversee legislation relating to the funding of police and fire pensions and the benefit designs of such plans.

At its meeting on November 15, 2005, the Legislative Council reviewed the report of this commission. A motion to forward this report and the bills therein for consideration in the 2006 session was approved.

Respectfully submitted,

/s/ Senator Joan Fitz-Gerald
Chairman

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www.state.co.us/gov_dir/leg_dir/lcsstaff/2005/05interim.htm

RECOMMENDED BILLS AND FISCAL NOTES

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POLICE OFFICERS' AND FIREFIGHTERS' PENSION REFORM COMMISSION

Members of the Commission

Representative Michael Cerbo Chair	Senator Lois Tochtrop Vice-Chair
Representative Bill Berens	Senator Lewis H. Entz
Representative Gary Lindstrom	Senator Dan Grossman
Representative Larry Liston	Senator Jack Taylor
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STATUTORY AUTHORITY AND RESPONSIBILITIES

The Fire and Police Pension Association (FPPA) was established in 1980 and administers a statewide multiple employer public employee retirement system providing defined benefit plan coverage as well as death and disability coverage for police officers and firefighters throughout the state of Colorado. Pursuant to Section 31-31-1001, C.R.S., the Police Officers' and Firefighters' Pension Reform Commission has the responsibility to study and develop proposed legislation relating to funding police officers' and firefighters' pensions in this state and the benefit designs of such pension plans. The statute directs the commission to study, review, and propose legislation regarding the following, among other subjects:

- normal retirement age and compulsory retirement;
- payment of benefits prior to normal retirement age;
- service requirements for eligibility;
- rate of accrual of benefits;
- disability benefits;
- survivors' benefits;
- vesting of benefits;
- employee contributions;
- post-retirement increases;
- creation of an administrative board;
- creation of a consolidated statewide system;
- distribution of state funds;
- coordination of benefits with other programs; or
- the volunteer firefighter pension system.

COMMISSION ACTIVITIES

The commission met once during the 2005 interim and heard testimony from staff and representatives of the Fire and Police Pension Association (FPPA). The commission received an historical overview of the association including summaries of each type of plan available to members, and an explanation of the funding methods for each plan. Association staff provided updated information regarding the association's investment programs and explained the asset allocation and fund performance of FPPA plans. The FPPA currently controls in excess of \$2.88 billion in assets. A representative of the FPPA provided an overview of three bills that were considered by the FPPA Board of Directors and recommended to the commission for introduction. The bills create new retirement options for certain FPPA members, ensure compliance with federal regulations, and simplify financial reporting requirements of the FPPA.

Improved Social Security Supplemental Plan

The FPPA has an existing social security supplemental plan that is currently used by a few municipal employers in Colorado whose employees participate in social security. These employers joined FPPA's social security supplemental plan as a way to augment the future retirement benefits that their employees will receive from social security. The existing plan has a very small enrollment, only about 60 members are currently enrolled, relative to the more than 11,000 FPPA members participating in all FPPA plans.

The structure of the existing social security supplemental plan links an employee's future retirement benefit to the retiree's future social security benefit. The FPPA believes that this structure makes it difficult to predict what benefits an employee will receive at retirement to supplement his or her social security income. Bill A replaces the existing social security supplemental plan with a social security supplemental plan offering more predictable benefits.

Under the proposed replacement plan, a participant would contribute one-half of the normal contribution rates to the FPPA Statewide Defined Benefit Plan, and would receive one-half of the normal benefit at retirement. The plan would no longer be tied to the employee's social security benefit. Participants in FPPA's Statewide Defined Benefit Plan currently contribute 8 percent of their salary, and the employer contributes 8 percent for a total contribution of 16 percent of salary. Participants in the new social security supplemental plan would contribute 4 percent of their salary, and the employer would contribute 4 percent. The predictable nature of benefits under the new social security plan (relative to the old plan) will facilitate decision making on the part of local government employers that are considering joining the plan.

Participation in the proposed plan would be completely voluntary for local governments. It is expected that some Colorado counties will use the new social security supplemental plan to improve retirement benefits for law enforcement officers employed by county sheriff's departments.

According to the FPPA, the new plan will be simpler and less expensive to administer. Members enrolled in the existing social security supplemental plan would receive a combination of benefits at retirement, a portion from the old plan and a portion from the new plan. Contribution rates and benefits under the new plan would be unaffected by any future changes that might be made to Social Security. Any additional police officer and firefighter retirement benefit costs to local governments will be optional since participation in the new social security supplemental plan by local governments is voluntary under the bill.

Structure of Trust Funds and Investment Funds in the Administration of FPPA Assets

Historically, funds that have been held by the FPPA were invested by the FPPA. However, over time options have been created which permit FPPA members to make choices regarding the investment of accounts which are held by the FPPA. Most of the monies held by the FPPA are still invested by the FPPA, however a portion (about 5 percent) are "self-directed assets" — funds which are invested by the individual members. The FPPA proposes to modify the structure of its trust funds to simplify and clarify reporting and administration of its plans, including these self-directed assets. This would ensure that all of the FPPA's statewide plans are in compliance with IRS codes. The structure change has no impact on FPPA member benefits.

Bill B makes the statutory amendments that are necessary to align the FPPA defined benefit system with current IRS requirements and separates assets under the FPPA's control into trust funds and investment funds in order to simplify financial reporting.

Partial Entry Into the Fire and Police Pension Association Defined Benefit System by members of Money Purchase Plans

Some FPPA employers have opted to participate in money purchase pension plans for their employees in lieu of coverage under the FPPA Statewide Defined Benefit Plan. A money purchase plan is a defined contribution pension plan that maintains individual employee accounts. Under a money purchase plan, contribution rates are fixed and are calculated as a percentage of the employee's compensation. Benefit levels are determined by the amount of money available in the account at retirement.

Some Colorado local governments with firefighters and police who currently participate in money purchase plans have expressed an interest in joining the FPPA's Statewide Defined Benefit Plan or the Statewide "Hybrid Plan." The Statewide Hybrid Plan offers both defined benefit and money purchase components.

Current law permits members of local plans to affiliate with the FPPA upon the affirmative vote of 65 percent of the members of the local plan. However, situations have occurred in which a significant part of the membership of a local plan wishes to affiliate with the FPPA, but this number falls short of 65 percent.

Bill C changes the terms upon which individuals are allowed to affiliate with the FPPA. It allows local governments that employ firefighters and police officers, and currently provide a local plan for their retirement, to offer individual firefighters and police officers the option to affiliate with the FPPA or to remain with their local retirement plan. The bill maximizes the retirement choices available to current firefighters and police officers.

Under the bill, local governments offering this option to their police officers and firefighters would have to agree to continue their local plan in the future for those who choose to remain with the local plan. All firefighters and police officers hired by that local government in the future would be required to affiliate with the FPPA Statewide Defined Benefit Plan or Statewide Hybrid Plan. The FPPA believes that the bill will create options for FPPA employers, accommodating the individual circumstances of each employer.

Bill C does not require a vote of those participating in a local plan for a local government employer to offer this choice to its police officers and firefighters. Under the bill, each police officer or firefighter would have the individual choice of a defined benefit plan, a defined contribution plan, a hybrid plan, or staying in their current local plan. The bill will not affect state government revenue or expenditures. Any additional police officer and firefighter retirement benefit costs to local governments will be optional since participation in the FPPA Statewide Defined Benefit Plan or Statewide Hybrid Plan by local governments is voluntary under the bill.

RESOURCE MATERIALS

The resource materials listed below were provided to the commission during the course of the meetings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver, (303- 866-2055). Meeting summaries and materials developed by Legislative Council Staff are also available on our web site at:

www.state.co.us/gov_dir/leg_dir/lcsstaff/2005/05interim.htm

Meeting Summaries

Topics Discussed

October 13, 2005

Historical overview, membership information,
investment performance

Memoranda and Reports

Annual Update to the State of Colorado Pension Reform Commission, prepared by the Fire and Police Pension Association of Colorado, October 13, 2005.

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

Bill A

DRAFT

LLS NO. 06-0130.01 Nicole Hoffman

HOUSE BILL

HOUSE SPONSORSHIP

Lindstrom, Berens, Cerbo, McCluskey, McGihon, Ragsdale, Riesberg, and Vigil

SENATE SPONSORSHIP

Grossman, Entz, Taylor, and Tochtrop

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A SOCIAL SECURITY SUPPLEMENTAL**
102 **PLAN BY THE BOARD OF DIRECTORS OF THE FIRE AND POLICE**
103 **PENSION ASSOCIATION THAT WILL ALLOW EMPLOYERS THAT**
104 **COVER EMPLOYEES UNDER THE FEDERAL "SOCIAL SECURITY**
105 **ACT" TO PROVIDE A DEFINED BENEFIT RETIREMENT PLAN TO**
106 **EMPLOYEES.**

Bill Summary

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

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.

Police Officers' and Firefighters' Pension Reform Commission. For any employer that covers, under the federal "Social Security Act", employees who provide law enforcement or fire protection and that elects to affiliate with the fire and police pension association (association) for coverage under the statewide death and disability plan, specifies that the election of coverage under such plan is irrevocable.

Permits the board of directors of the association (board) to terminate the affiliation of an employer that has affiliated with the statewide defined benefit plan and to require the affiliated employer to participate in the supplemental social security plan created by the board. Specifies that the board shall provide notice to the employer and the members of the statewide defined benefit plan before the change in affiliation occurs.

Allows any employer that covers, under the federal "Social Security Act", employees who provide law enforcement or fire protection to elect coverage under the social security supplemental plan created by the board by filing a resolution with the board. Specifies that election of coverage under such plan is irrevocable. Specifies the requirements for approval of an employer's resolution to be covered under such plan.

Authorizes the board to develop, maintain, and amend a social security supplemental plan document that offers a defined benefit and that covers the employees of the employers that have elected coverage under the social security supplemental plan. Specifies how employer and employee contributions to the plan shall be made. Specifies that employees covered under the plan are eligible for individual separate retirement accounts.

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

2 **SECTION 1.** 31-31-405 (1), Colorado Revised Statutes, is
3 amended to read:

4 **31-31-405. Separate retirement account - creation -**
5 **allocation.** (1) For accounting purposes only, the stabilization reserve
6 account created by section 31-31-301 (3) (a) (II) shall consist of
7 individual separate retirement accounts established in the name of each
8 member covered by the statewide defined benefit plan established by this
9 part 4, except such members as are covered on a supplemental basis
10 pursuant to section 31-31-704. MEMBERS COVERED ON A SUPPLEMENTAL
11 BASIS PURSUANT TO SECTION 31-31-704.5 SHALL BE ELIGIBLE FOR

1 INDIVIDUAL SEPARATE RETIREMENT ACCOUNTS.

2 **SECTION 2.** 31-31-704 (2), Colorado Revised Statutes, is
3 amended, and the said 31-31-704 is further amended BY THE
4 ADDITION OF A NEW SUBSECTION, to read:

5 **31-31-704. Optional affiliation by social security employers.**

6 (2) The board shall establish rules as to the procedure for affiliation
7 pursuant to this section. An employer eligible for such affiliation may
8 request of the board, prior to filing a resolution of affiliation, an estimate
9 of the contribution rate necessary to comply with the contribution
10 requirements established by this article. ELECTION OF COVERAGE UNDER
11 THE DEATH AND DISABILITY PLAN SHALL BE IRREVOCABLE.

12 (9) THE BOARD MAY TERMINATE THE AFFILIATION OF AN
13 EMPLOYER WITH THE STATEWIDE DEFINED BENEFIT PLAN PURSUANT TO
14 THIS SECTION AND REQUIRE THE AFFILIATED EMPLOYER TO PARTICIPATE
15 IN THE SOCIAL SECURITY SUPPLEMENTAL PLAN ESTABLISHED PURSUANT
16 SECTION 31-31-704.6. THE BOARD SHALL PROVIDE WRITTEN NOTICE OF
17 THE CHANGE IN AFFILIATION TO THE EMPLOYER AND TO MEMBERS AT
18 LEAST ONE HUNDREDEIGHTY DAYS PRIOR TO THE CHANGE IN AFFILIATION.

19 **SECTION 3.** Part 7 of article 31 of title 31, Colorado Revised
20 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
21 SECTIONS to read:

22 **31-31-704.5. Entry into the social security supplemental plan.**

23 (1) (a) NOTWITHSTANDING THE EXEMPTION PROVIDED IN SECTION
24 31-31-401 (1) (a), ANY EMPLOYER THAT COVERS MEMBERS UNDER THE
25 FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, OR ANY COUNTY THAT
26 COVERS SALARIED EMPLOYEES UNDER THE FEDERAL "SOCIAL SECURITY
27 ACT", AS AMENDED, WHOSE DUTIES ARE DIRECTLY INVOLVED WITH THE
28 PROVISION OF LAW ENFORCEMENT OR FIRE PROTECTION AS CERTIFIED BY

1 THE COUNTY MAY ELECT COVERAGE UNDER THE SOCIAL SECURITY
2 SUPPLEMENTAL PLAN ESTABLISHED PURSUANT TO SECTION 31-31-704.6 BY
3 FILING A RESOLUTION OF AFFILIATION WITH THE BOARD PURSUANT TO
4 SUBSECTION (2) OF THIS SECTION. ELECTION OF COVERAGE UNDER THE
5 PLAN SHALL BE IRREVOCABLE.

6 (b) FOR PURPOSES OF ADMINISTERING TO COUNTIES AFFILIATED
7 PURSUANT TO THIS SECTION, ANY COUNTY ELECTING TO AFFILIATE SHALL
8 BE INCLUDED IN THE DEFINITION OF "EMPLOYER", AS DEFINED IN SECTION
9 31-31-102 (3), AND ANY COVERED EMPLOYEE OF SUCH COUNTY SHALL BE
10 INCLUDED IN THE DEFINITION OF "MEMBER", AS DEFINED IN SECTION
11 31-31-102 (4).

12 (2) THE EMPLOYER'S RESOLUTION APPLYING FOR COVERAGE
13 UNDER THE SOCIAL SECURITY SUPPLEMENTAL PLAN SHALL BE ADOPTED BY
14 THE GOVERNING BODY OF THE EMPLOYER AND SHALL STATE THE
15 EMPLOYER'S INTENT TO COVER ITS MEMBERS UNDER THE PLAN.

16 (3) ANY APPLICATION FOR COVERAGE UNDER THE SOCIAL
17 SECURITY SUPPLEMENTAL PLAN SHALL BE APPROVED BY AT LEAST
18 SIXTY-FIVE PERCENT OF ALL ACTIVE MEMBERS EMPLOYED BY THE
19 EMPLOYER AT THE TIME OF THE APPLICATION.

20 (4) THE BOARD SHALL PROMULGATE RULES RELATING TO
21 STANDARDS FOR DISCLOSURE OF ALL RAMIFICATIONS AND PROCEDURES
22 FOR OBTAINING MEMBER APPROVAL PURSUANT TO SUBSECTION (3) OF THIS
23 SECTION. THE BOARD SHALL ALSO PROMULGATE RULES RELATING TO
24 STANDARDS FOR GRANTING AN EMPLOYER'S APPLICATION FOR
25 PARTICIPATION IN THE SOCIAL SECURITY SUPPLEMENTAL PLAN AND FOR
26 THE SUBMISSION OF INFORMATION TO THE BOARD BY THE EMPLOYER. THE
27 RULES SHALL CONTAIN A PROVISION SPECIFYING THAT AN EMPLOYER THAT
28 OPTS TO PARTICIPATE IN THE PLAN SHALL NOT BE PERMITTED TO OPT OUT

1 OF THE PLAN AT ANY LATER DATE.

2 (5) AN APPLICATION FOR COVERAGE UNDER THE SOCIAL SECURITY
3 SUPPLEMENTAL PLAN FILED BY AN EMPLOYER SHALL INCLUDE THE
4 EMPLOYER'S CERTIFICATION TO THE BOARD:

5 (a) THAT ALL ACTIVE FIRE AND LAW ENFORCEMENT EMPLOYEES
6 AS CERTIFIED BY THE EMPLOYER WILL BECOME PARTICIPANTS IN THE
7 SOCIAL SECURITY SUPPLEMENTAL PLAN AND THE ELECTION TO
8 PARTICIPATE IN THE PLAN IS IRREVOCABLE; AND

9 (b) THAT THE EMPLOYER AGREES TO PARTICIPATE IN THE SOCIAL
10 SECURITY SUPPLEMENTAL PLAN AND TO BE BOUND BY THE TERMS OF THE
11 PLAN AND THE DECISIONS AND ACTIONS OF THE BOARD WITH RESPECT TO
12 THE PLAN.

13 **31-31-704.6. Social security supplemental plan - creation -**
14 **management.** (1) THE BOARD IS AUTHORIZED TO DEVELOP, MAINTAIN,
15 AND AMEND A SOCIAL SECURITY SUPPLEMENTAL PLAN DOCUMENT, AS A
16 COMPONENT OF THE DEFINED BENEFIT SYSTEM, THAT OFFERS A DEFINED
17 BENEFIT AND THAT IS INTENDED TO COMPLY WITH THE QUALIFICATION
18 REQUIREMENTS SPECIFIED IN SECTION 401 OF THE FEDERAL "INTERNAL
19 REVENUE CODE OF 1986", AS AMENDED, THAT ARE APPLICABLE TO
20 GOVERNMENTAL PLANS. THE PLAN SHALL COVER THE MEMBERS OF THOSE
21 EMPLOYERS THAT HAVE ELECTED COVERAGE UNDER THE PLAN PURSUANT
22 TO SECTION 31-31-704.5.

23 (2) (a) CONTRIBUTIONS AND EARNINGS OF THE SOCIAL SECURITY
24 SUPPLEMENTAL PLAN SHALL BE HELD IN TRUST AS PART OF THE DEFINED
25 BENEFIT SYSTEM TRUST FUND.

26 (b) THE SOCIAL SECURITY SUPPLEMENTAL PLAN DOCUMENT
27 CREATED BY THE BOARD PURSUANT TO SUBSECTION (1) OF THIS SECTION
28 SHALL GOVERN THE ACCRUAL OF SERVICE CREDIT, VESTING, THE BENEFITS

1 TO BE OFFERED BASED ON AGE AND SERVICE, THE ESTABLISHMENT AND
2 PAYMENT OF CONTRIBUTIONS, THE ALLOCATION OF CONTRIBUTIONS
3 TOWARDS FUNDING THE DEFINED BENEFIT, AMENDMENT OF THE PLAN, AND
4 SUCH OTHER MATTERS AS MAY BE NECESSARY TO THE BOARD'S
5 ADMINISTRATION AND MANAGEMENT OF THE PLAN.

6 (3) UPON THE EFFECTIVE DATE OF COVERAGE UNDER THE SOCIAL
7 SECURITY SUPPLEMENTAL PLAN, EACH MEMBER COVERED BY THE PLAN
8 SHALL PAY FOUR PERCENT OF HIS OR HER SALARY PAID INTO THE FUND.
9 THE PAYMENT SHALL BE MADE BY THE EMPLOYER BY DEDUCTION FROM
10 THE SALARY PAID TO THE MEMBER. FOR EACH MEMBER, THE EMPLOYER
11 SHALL PAY FOUR PERCENT OF THE SALARY PAID TO THE MEMBER INTO THE
12 DEFINED BENEFIT PLAN TRUST FUND. PAYMENTS ARE DUE NO LATER THAN
13 TEN DAYS FOLLOWING THE DATE OF PAYMENT OF SALARY TO THE MEMBER,
14 UNLESS THE SALARY IS PAID MORE THAN ONCE MONTHLY, IN WHICH EVENT
15 THE PAYMENTS ARE DUE NO LATER THAN THE TENTH DAY OF THE MONTH
16 FOLLOWING THE MONTH THE SALARY IS PAID TO THE MEMBER. AN
17 INTEREST CHARGE OF ONE-HALF OF ONE PERCENT PER MONTH SHALL BE
18 LEVIED AGAINST ANY UNPAID AMOUNT AND ADDED TO THE EMPLOYER
19 PAYMENTS REQUIRED PURSUANT TO THIS SECTION.

20 (4) EACH EMPLOYER SHALL PAY THE EMPLOYEE CONTRIBUTIONS
21 REQUIRED FOR ALL SALARIES, AND THE CONTRIBUTIONS SO PAID SHALL BE
22 TREATED AS EMPLOYER CONTRIBUTIONS PURSUANT TO SECTION 414 (h) (2)
23 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, IN
24 DETERMINING TAX TREATMENT UNDER THE CODE. THE EMPLOYER SHALL
25 PAY THE EMPLOYEE CONTRIBUTIONS DIRECTLY TO THE RETIREMENT
26 ASSOCIATION, INSTEAD OF PAYING THE AMOUNTS TO EMPLOYEES, AND THE
27 CONTRIBUTIONS SHALL BE PAID FROM THE SAME FUNDS THAT ARE USED IN
28 PAYING SALARIES TO THE EMPLOYEES. THE CONTRIBUTIONS, ALTHOUGH

1 DESIGNATED AS EMPLOYEE CONTRIBUTIONS, SHALL BE PAID BY THE
2 EMPLOYER IN LIEU OF CONTRIBUTIONS BY EMPLOYEES. EMPLOYEES MAY
3 NOT ELECT TO CHOOSE TO RECEIVE THE CONTRIBUTIONS DIRECTLY
4 INSTEAD OF HAVING THEM PAID BY THE EMPLOYER TO THE PENSION PLAN.
5 EMPLOYEE CONTRIBUTIONS SO PAID SHALL BE TREATED FOR ALL PURPOSES
6 OF THIS ARTICLE, OTHER THAN FEDERAL TAX, IN THE SAME MANNER AS
7 EMPLOYEE CONTRIBUTIONS MADE BEFORE THE DATE PAID. PAYMENT
8 SHALL BE MADE BY ONE VOUCHER FOR THE AGGREGATE AMOUNT
9 DEDUCTED AND SHALL BE MADE NO LATER THAN THE TENTH DAY AFTER
10 THE END OF EACH PAY PERIOD.

11 (5) BENEFITS PAYABLE UNDER THE SOCIAL SECURITY
12 SUPPLEMENTAL PLAN SHALL BE EQUIVALENT TO ONE HALF OF THE
13 BENEFITS PAID UNDER THE STATEWIDE DEFINED BENEFIT PLAN.

14 **SECTION 4. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.

DRAFT

Bill A

Colorado Legislative Council Staff

STATUTORY PUBLIC ENTITY and LOCAL
CONDITIONAL FISCAL IMPACT

Drafting Number: LLS 06-0130
Prime Sponsor(s): Rep. Lindstrom
Sen. Grossman

Date: December 17, 2005
Bill Status: Police Officers' and Firefighters'
Pension Reform Commission
Fiscal Analyst: Chris Ward (303-866-5834)

TITLE: CONCERNING THE CREATION OF A SOCIAL SECURITY SUPPLEMENTAL PLAN BY THE BOARD OF DIRECTORS OF THE FIRE AND POLICE PENSION ASSOCIATION THAT WILL ALLOW EMPLOYERS THAT COVER EMPLOYEES UNDER THE FEDERAL "SOCIAL SECURITY ACT" TO PROVIDE A DEFINED BENEFIT RETIREMENT PLAN TO EMPLOYEES.

Fiscal Impact Summary	FY 2005/2006	FY 2006/2007
State Revenues General Fund		
State Expenditures General Fund		
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: Upon signature of the Governor.		
Appropriation Summary for FY 2005/2006: None required		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

This bill authorizes the Fire and Police Pension Association (FPPA) to implement a new Social Security Supplemental Plan for FPPA-affiliated departments that also participate in Social Security.

Fire and Police Pension Association Impact

The bill authorizes the FPPA to establish a new supplemental retirement plan for firefighters and police officers in departments that participate in Social Security. The FPPA already operates a similar plan, although contribution rates for the existing plan can fluctuate annually. The new plan is based on the 2006 rates for the existing plan: four percent each for employers and employees, or one-half of the normal contribution rates for FPPA's defined benefit plan. Participants would be

eligible for one-half of the normal FPPA retirement benefits. The cost of implementing the new plan, mainly staff time, would be paid from the FPPA's existing operating budget.

Local Government Impact

The bill allows for the establishment of a new FPPA retirement benefit for police officers and firefighters in departments that also participate in Social Security. Participation in the new program is voluntary. Departments that choose to participate will be responsible for paying the employer portion of any costs for covered employees.

Departments Contacted

Fire and Police Pension Association

Labor and Employment

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

Bill B

DRAFT

LLS NO. 06-0131.01 Gregg Fraser

HOUSE BILL

HOUSE SPONSORSHIP

Riesberg, Berens, Cerbo, Lindstrom, McCluskey, McGihon, Ragsdale, and Vigil

SENATE SPONSORSHIP

Williams, Entz, Taylor, and Tochtrop

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE STRUCTURE OF TRUST FUNDS AND INVESTMENT**
102 **FUNDS IN THE ADMINISTRATION OF ASSETS FOR THE BENEFIT OF**
103 **FIREFIGHTERS AND POLICE OFFICERS.**

Bill Summary

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

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.

DRAFT

Police Officers' and Firefighters' Pension Reform Commission. Specifies that moneys held in a volunteer firefighter pension fund are held in trust for the exclusive use and benefit of members and other beneficiaries.

Provides an exception for certain plans or funds to allow the use or diversion of the corpus or income of the fund for assignments and writs of garnishment relating to child support.

Establishes a defined benefit system consisting of specified plans administered by the board of the fire and police pension association (board). Specifies that the board may create plan documents for the plans within the defined benefit system in conformance with the statutory provisions for each plan. Relocates provisions requiring the defined benefit system and certain plans within the system to meet specified internal revenue code qualification requirements.

Creates the defined benefit system trust fund and specifies the property and assets that constitute the fund. Specifies that all assets held in connection with the defined benefit system shall be held in trust for the exclusive benefit of members and beneficiaries under the plans. Provides that the board is the trustee of the trust fund. Establishes certain accounts and subaccounts within the trust fund with specified requirements.

Changes the name of the fire and police members' benefit fund to the fire and police members' benefit investment fund, and modifies the assets and accounts within the fund. Relocates existing provisions governing specified accounts and subaccounts.

Creates the fire and police members' self-directed investment fund, consisting of the portion of the assets that are designated for self-direction by the member of specified plans.

Relocates and modifies provisions governing the control over the investment of moneys in specified funds, investment alternatives, disbursements from funds, allocation of earnings and losses, standards of conduct for providers of investment products, audit requirements, and other administrative duties and functions related to the funds.

Modifies the names of specified existing funds to include the term trust in the name of the funds.

Creates the old hire plan members' benefit trust fund consisting of the assets of the old hire plans administered and managed by the board. Requires the board to keep an accurate account of each individual old hire

plan. Specifies that annual state contributions provided to fund the supplemental unfunded liability in state assisted plans be transferred to the fund rather than the fire and police members' benefit fund.

Establishes the disability and death benefits trust fund for contributions for death and disability benefits. Specifies that the assets of the fund shall be invested in the fire and police members' benefit investment fund.

Makes conforming amendments.

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

2 **SECTION 1.** 31-30-1111 (2), Colorado Revised Statutes, is
3 amended to read:

4 **31-30-1111. Contribution to fund.** (2) Fund moneys are HELD
5 IN TRUST for the EXCLUSIVE use and benefit of the fire department
6 members and retired fire department members and their surviving
7 spouses, dependent children, dependent parents, and other beneficiaries
8 in accordance with this part 11.

9 **SECTION 2.** 31-30-1133 (2) (b), Colorado Revised Statutes, is
10 amended to read:

11 **31-30-1133. Qualification requirements - internal revenue**
12 **code.** (2) Any volunteer firefighter pension plan established by this part
13 11 to provide retirement benefits for volunteer firefighters shall satisfy
14 the qualification requirements specified in section 401 of the internal
15 revenue code, as applicable to governmental plans. In order to meet those
16 requirements, such plans are subject to the following provisions,
17 notwithstanding any other provision of this part 11:

18 (b) No part of the corpus or income of the pension plan may be
19 used for or diverted to any purpose other than that of providing benefits
20 to participants and their beneficiaries and defraying reasonable expenses

1 of administering the pension plan, EXCEPT FOR AN ASSIGNMENT FOR CHILD
2 SUPPORT PURPOSES AS PROVIDED IN SECTIONS 14-10-118 (1) AND
3 14-14-107, C.R.S., AS THEY EXISTED PRIOR TO JULY 1, 1996, AND EXCEPT
4 FOR INCOME ASSIGNMENTS FOR CHILD SUPPORT PURPOSES PURSUANT TO
5 SECTION 14-14-111.5, C.R.S., AND A WRIT OF GARNISHMENT THAT IS THE
6 RESULT OF A JUDGMENT TAKEN FOR ARREARAGES FOR CHILD SUPPORT OR
7 FOR CHILD SUPPORT DEBT.

8 **SECTION 3.** 31-30.5-209 (1) and (2), Colorado Revised
9 Statutes, are amended to read:

10 **31-30.5-209. Idle funds.** (1) If the governing body of a
11 municipality, by resolution, finds that no person named in this article is,
12 and no such person can become, eligible for payment of a benefit from
13 the municipality's police officers' old hire pension fund established
14 pursuant to section 31-30.5-201 (2), it may authorize use of the money in
15 the fund to make contributions to the ~~fire and police members' benefit~~
16 DEFINED BENEFIT SYSTEM TRUST fund pursuant to section 31-31-402 (2),
17 to make contributions to a police benefit fund established pursuant to
18 section 31-31-601 (1) (b), or to make contributions under the federal
19 social security laws if the municipality's police officers are covered by the
20 social security laws. To the extent that money in the fund exceeds three
21 times the present yearly employer contribution to any of the preceding
22 benefit funds on behalf of the municipality's current police officers, such
23 excess may be used for any law-enforcement-related purpose. If the
24 municipality does not employ any police officer, the governing body may
25 authorize use of the money in the fund for any law-enforcement-related
26 purpose. In addition, any money in the fund that is attributable to
27 contributions by the municipality and to interest on such contributions
28 may be used for any police-related purpose and, if no such police-related

1 need exists, then for any purpose as decided by the governing body of the
2 municipality. For the purposes of this subsection (1), contracting with the
3 county or county sheriff for law enforcement service shall not be
4 considered employment of a police officer.

5 (2) If the governing body of a municipality, fire protection
6 district, or county improvement district, by resolution, finds that no
7 person named in this article is, and no such person can become, eligible
8 for payment of a benefit from the employer's firefighters' old hire pension
9 fund, it may authorize use of the money in the fund to make contributions
10 to the ~~fire and police members' benefit~~ DEFINED BENEFIT SYSTEM TRUST
11 fund pursuant to section 31-31-402 (2) or to make contributions under the
12 federal social security laws if the employer's firefighters are covered by
13 the social security laws. In addition, any money in the fund that is
14 attributable to contributions by the municipality or district and to interest
15 on such contributions may be used for any fire-related purpose and, if no
16 such fire-related need exists, for any purpose as decided by the governing
17 body of the municipality or district.

18 **SECTION 4.** 31-30.5-212 (2), Colorado Revised Statutes, is
19 amended to read:

20 **31-30.5-212. Qualification requirements - internal revenue**
21 **code.** (2) The old hire pension funds established by this article shall be
22 held in trust for the benefit of old hire members and other persons entitled
23 to benefits. No part of the corpus or income of the pension fund shall be
24 used for or diverted to purposes other than for the exclusive benefit of old
25 hire members or other persons entitled to benefits from the pension fund
26 and for expenses incident to operation of the pension fund. No person
27 shall have any interest in or right to any part of the corpus or earnings of

1 the pension trust except as expressly provided, INCLUDING ASSIGNMENTS
2 FOR CHILD SUPPORT PURPOSES AS PROVIDED FOR IN SECTIONS 14-10-118
3 (1) AND 14-14-107, C.R.S., AS THEY EXISTED PRIOR TO JULY 1, 1996,
4 INCOME ASSIGNMENTS FOR CHILD SUPPORT PURPOSES PURSUANT TO
5 SECTION 14-14-111.5, C.R.S., WRITS OF GARNISHMENT THAT ARE THE
6 RESULT OF A JUDGMENT TAKEN FOR ARREARAGES FOR CHILD SUPPORT OR
7 FOR CHILD SUPPORT DEBT, AND PAYMENTS MADE IN COMPLIANCE WITH A
8 PROPERLY EXECUTED COURT ORDER APPROVING A WRITTEN AGREEMENT
9 ENTERED INTO PURSUANT TO SECTION 14-10-113 (6), C.R.S.

10 **SECTION 5.** 31-30.5-304 (3.5), Colorado Revised Statutes, is
11 amended to read:

12 **31-30.5-304. Limitation on existing funds - procedures.**

13 (3.5) No later than September 1, 1995, the board of directors of the fire
14 and police pension association shall certify to the state auditor, the
15 legislative audit committee and the joint budget committee of the general
16 assembly, and the state treasurer the amount of state contribution
17 necessary to fund the supplemental unfunded liability in each
18 state-assisted policemen's or firefighters' pension plan attributable to the
19 reduction of the state's contribution for the year 1987. On September 30,
20 1995, the state treasurer shall transfer the amount certified from the
21 general fund to the OLD HIRE PLAN MEMBERS' BENEFIT TRUST fund created
22 by ~~section 31-31-301~~ SECTION 31-31-701 (6), and from such amount the
23 board shall distribute to each state-assisted policemen's or firefighters'
24 pension plan the amount necessary to eliminate the supplemental
25 unfunded liability in each plan; except that the amount transferred by the
26 state treasurer pursuant to this subsection (3.5) shall not exceed
27 twenty-five million five hundred thousand dollars.

1 **SECTION 6.** 31-30.5-306 (1) (b) (II), Colorado Revised
2 Statutes, is amended to read:

3 **31-30.5-306. Actuarial studies.** (1) (b) (II) By September 30,
4 2001, and by September 30 of each year thereafter, until September 30,
5 2002, and by April 30, 2006, and by April 30 of each year thereafter, until
6 April 30, 2012, or until all state-assisted old hire pension plans are fully
7 funded, whichever comes first, an updated actuarial study shall be filed
8 with the fire and police pension association. For the 2003-04 fiscal year
9 and each fiscal year thereafter for which an actuarial study is filed, the
10 actuarial study shall include a determination of the amount of the
11 unfunded liability that may accrue as a result of the suspension of the
12 state contribution of the ~~fire and police members' benefit~~ OLD HIRE PLAN
13 MEMBERS' BENEFIT TRUST fund pursuant to section 31-30.5-307 (5) (a).

14 **SECTION 7.** 31-30.5-307 (2), (5) (a), (5) (b), and (6), Colorado
15 Revised Statutes, are amended to read:

16 **31-30.5-307. State contribution.** (2) On September 30, 1995,
17 and on September 30 of each year thereafter through 2002 and on April
18 30, 2006, and on April 30 of each year thereafter through 2012, the state
19 treasurer shall transfer from the proceeds of the tax imposed by section
20 10-3-209, C.R.S., to the OLD HIRE PLAN MEMBERS' BENEFIT TRUST fund
21 created by ~~section 31-31-301~~ SECTION 31-31-701 (6), an amount equal to
22 twenty-six million six hundred thousand dollars minus the amount
23 transferred under section 31-30-1112 (2) (g) (I). Such annual transfer to
24 the fund under this subsection (2) shall cease when the requirements of
25 paragraph (c) of subsection (1) of this section have been met, and the
26 final annual transfer may be in an amount less than the amount prescribed
27 by this subsection (2) as determined from the total amount of unfunded

1 accrued liability of employers. Moneys in said fund shall not revert to the
2 general fund but shall be continuously available for the purposes provided
3 in this part 3 and part 11 of article 30 of this title.

4 (5) (a) Notwithstanding any other provision of law, the state
5 treasurer shall not transfer moneys to the ~~fire and police members' benefit~~
6 OLD HIRE PLAN MEMBERS' BENEFIT TRUST fund pursuant to subsection (2)
7 of this section on September 30, 2003, September 30, 2004, or September
8 30, 2005. The state treasurer shall resume such transfers beginning on
9 April 30, 2006, and shall make a transfer every April 30 thereafter until
10 2012 pursuant to subsection (2) of this section or until all state-assisted
11 old hire pension plans are fully funded, whichever comes first.

12 (b) Notwithstanding any other provision of law, the state shall
13 transfer to the ~~fire and police members' benefit~~ OLD HIRE PLAN MEMBERS'
14 BENEFIT TRUST fund any amount of unfunded liability accrued as a result
15 of the suspension of the state contribution to the fund pursuant to
16 paragraph (a) of this subsection (5) as determined in the actuarial study
17 filed with the fire and police pension association pursuant to section
18 31-30.5-306 (1) (b) (II). Such transfers may occur at any time until April
19 30, 2012.

20 (6) If voters statewide approve a ballot issue submitted by a joint
21 resolution of the general assembly as specified in section 24-115-110 (1)
22 (a), C.R.S., that authorizes the state to issue notes, as defined in section
23 24-115-103 (8), C.R.S., and to credit note proceeds to the fire and police
24 members' benefit INVESTMENT fund created by section 31-31-301, the
25 state obligation specified by this section shall be satisfied to the extent of
26 the actuarial equivalency of the proceeds from the notes.

27 **SECTION 8.** 31-31-202 (1) (a) (I), (1) (e), and (1) (h), Colorado

1 Revised Statutes, are amended to read:

2 **31-31-202. Powers and duties of the board.** (1) The board
3 shall:

4 (a) Establish standards for determining the actuarial soundness
5 of:

6 (I) The pension plans in the DEFINED BENEFIT SYSTEM AND THE
7 AFFILIATED OLD HIRE PLANS AND THE AFFILIATED EXEMPT PLANS WITH
8 ASSETS IN THE fire and police members' benefit INVESTMENT fund, in
9 accordance with ~~section 31-31-301~~ SECTION 31-31-301 (1); and

10 (e) Administer or provide for the administration and, in
11 accordance with the provisions of ~~section 31-31-302 (1)~~ SECTIONS
12 31-31-302 (1) AND 31-31-303, the investment of the fire and police
13 members' benefit INVESTMENT fund AND THE FIRE AND POLICE MEMBERS'
14 SELF-DIRECTED INVESTMENT FUND;

15 (h) Provide for disbursements from the fire and police members'
16 benefit INVESTMENT fund created by ~~section 31-31-301~~ SECTION
17 31-31-301 (1) AND FROM THE FIRE AND POLICE MEMBERS' SELF-DIRECTED
18 INVESTMENT FUND CREATED BY SECTION 31-31-301 (4). Such
19 disbursements shall be made only for payment of the expenses of the
20 association, payment of refunds to members, payment of survivor,
21 disability, or retirement benefits, or for purposes of investment.

22 **SECTION 9.** 31-31-203, Colorado Revised Statutes, is amended
23 to read:

24 **31-31-203. Fund not subject to levy.** Except for assignments
25 for child support purposes as provided for in sections 14-10-118 (1) and
26 14-14-107, C.R.S., as they existed prior to July 1, 1996, for income
27 assignments for child support purposes pursuant to section 14-14-111.5,

1 C.R.S., for writs of garnishment that are the result of a judgment taken for
2 arrearages for child support or for child support debt, for payments made
3 in compliance with a properly executed court order approving a written
4 agreement entered into pursuant to section 14-10-113 (6), C.R.S., and for
5 restitution that is required to be paid for the theft, embezzlement,
6 misappropriation, or wrongful conversion of public property or in the
7 event of a judgment for a willful and intentional violation of fiduciary
8 duties pursuant to this article where the offender or a related party
9 received direct financial gain, no portion of the funds created pursuant to
10 ~~sections 31-31-301, 31-31-502, and 31-31-703~~ SECTIONS 31-31-204 (4),
11 31-31-502, 31-31-701 (6), 31-31-703, 31-31-706 (1), 31-31-813 (1), AND
12 31-31-901(3), before or after their order for distribution by the board to
13 the persons entitled thereto, shall be held, seized, taken, subjected to,
14 detained, or levied on by virtue of any attachment, execution, injunction,
15 writ, interlocutory or other order or decree, or process or proceeding
16 whatsoever issued out of or by any court of this state for the payment or
17 satisfaction, in whole or in part, of any debt, damage, claim, demand, or
18 judgment against the fire and police pension association or employers that
19 belong to such association or the beneficiary of such funds. The funds
20 shall be held and distributed for the purpose of this article and for no
21 other purpose whatsoever.

22 **SECTION 10.** Part 2 of article 31 of title 31, Colorado Revised
23 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
24 read:

25 **31-31-204. Defined benefit system.** (1) THERE SHALL BE A
26 DEFINED BENEFIT SYSTEM THAT SHALL CONSIST OF THE FOLLOWING PLANS:

27 (a) THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED

1 PURSUANT TO PART 4 OF THIS ARTICLE;

2 (b) THE STATEWIDE HYBRID PLAN ESTABLISHED PURSUANT TO
3 PART 11 OF THIS ARTICLE;

4 (c) ANY EXEMPT PLAN THAT IS INCORPORATED INTO THE DEFINED
5 BENEFIT SYSTEM, PURSUANT TO AN AGREEMENT ESTABLISHED UNDER
6 SECTION 31-31-706 (2);

7 (d) ANY HEALTH CARE BENEFIT PLAN ESTABLISHED IN
8 ASSOCIATION WITH THE INCLUDED PLANS; AND

9 (e) ANY OTHER PLAN AUTHORIZED TO BE INCORPORATED INTO
10 THE STATEWIDE DEFINED BENEFIT SYSTEM.

11 (2) THE BOARD MAY CREATE PLAN DOCUMENTS FOR THE PLANS
12 WITHIN THE DEFINED BENEFIT SYSTEM THAT SHALL BE IN SUBSTANTIAL
13 CONFORMANCE WITH THE STATUTORY PROVISIONS FOR EACH PLAN AND
14 THAT MAY INCLUDE MODIFICATIONS AND PLAN AMENDMENTS AS
15 AUTHORIZED UNDER LAW.

16 (3) **Qualification requirements - internal revenue code.**

17 (a) AS USED IN THIS SECTION, "INTERNAL REVENUE CODE" MEANS THE
18 FEDERAL "INTERNAL REVENUE CODE OF 1954", AS IN EFFECT ON
19 SEPTEMBER 1, 1974, IF PERMITTED WITH RESPECT TO GOVERNMENTAL
20 PLANS, OR, TO THE EXTENT NOT INCONSISTENT WITH THE FEDERAL
21 "INTERNAL REVENUE CODE OF 1954", AS IN EFFECT ON SEPTEMBER 1,
22 1974, "INTERNAL REVENUE CODE" MEANS THE FEDERAL "INTERNAL
23 REVENUE CODE OF 1986", AS AMENDED AND IN EFFECT ON JANUARY 1,
24 1989.

25 (b) THE DEFINED BENEFIT SYSTEM AND EACH OF THE PLANS
26 ESTABLISHED BY PART 2, 4, 7, OR 11 OF THIS ARTICLE INCLUDED WITHIN
27 THE SYSTEM SHALL SATISFY THE QUALIFICATION REQUIREMENTS SPECIFIED

1 IN SECTION 401 OF THE INTERNAL REVENUE CODE, AS APPLICABLE TO
2 GOVERNMENTAL PLANS. IN ORDER TO MEET THOSE REQUIREMENTS, THE
3 STATEWIDE DEFINED BENEFIT PLAN IS SUBJECT TO THE FOLLOWING
4 PROVISIONS, NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE:

5 (I) THE BOARD SHALL DISTRIBUTE THE CORPUS AND INCOME OF
6 THE PENSION PLAN TO MEMBERS AND THEIR BENEFICIARIES IN
7 ACCORDANCE WITH THIS ARTICLE AND THE PLAN DOCUMENTS AND RULES
8 ADOPTED BY THE BOARD.

9 (II) NO PART OF THE CORPUS OR INCOME OF THE PENSION PLAN
10 MAY BE USED FOR OR DIVERTED TO ANY PURPOSE OTHER THAN THAT OF
11 PROVIDING BENEFITS TO PARTICIPANTS AND THEIR BENEFICIARIES,
12 INCLUDING ASSIGNMENTS FOR CHILD SUPPORT PURPOSES AS PROVIDED FOR
13 IN SECTIONS 14-10-118 (1) AND 14-14-107, C.R.S., AS THEY EXISTED
14 PRIOR TO JULY 1, 1996, INCOME ASSIGNMENTS FOR CHILD SUPPORT
15 PURPOSES PURSUANT TO SECTION 14-14-111.5, C.R.S., WRITS OF
16 GARNISHMENT THAT ARE THE RESULT OF A JUDGMENT TAKEN FOR
17 ARREARAGES FOR CHILD SUPPORT OR FOR CHILD SUPPORT DEBT, AND
18 PAYMENTS MADE IN COMPLIANCE WITH A PROPERLY EXECUTED COURT
19 ORDER APPROVING A WRITTEN AGREEMENT ENTERED INTO PURSUANT TO
20 SECTION 14-10-113 (6), C.R.S., AND DEFRAYING REASONABLE EXPENSES
21 OF ADMINISTERING THE PLAN.

22 (III) FORFEITURES ARISING FROM SEVERANCE OF EMPLOYMENT,
23 DEATH, OR ANY OTHER REASON SHALL NOT BE APPLIED TO INCREASE THE
24 BENEFITS ANY MEMBER WOULD OTHERWISE RECEIVE UNDER THIS ARTICLE.

25 (IV) IF THE PENSION PLAN IS TERMINATED, OR IF ALL
26 CONTRIBUTIONS TO THE PENSION PLAN ARE PERMANENTLY DISCONTINUED,
27 THE RIGHTS OF EACH AFFECTED MEMBER TO THE BENEFITS ACCRUED AT

1 THE DATE OF THE TERMINATION OR DISCONTINUANCE, TO THE EXTENT
2 THEN FUNDED, ARE NONFORFEITABLE.

3 (V) ALL BENEFITS PAID FROM THE PENSION PLAN SHALL BE
4 DISTRIBUTED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 401
5 (a) (9) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS
6 PROMULGATED UNDER THAT SECTION. IN ORDER TO MEET THOSE
7 REQUIREMENTS, THE PENSION PLAN IS SUBJECT TO THE FOLLOWING
8 PROVISIONS:

9 (A) THE LIFE EXPECTANCY OF A MEMBER, THE MEMBER'S SPOUSE,
10 OR THE MEMBER'S BENEFICIARY SHALL NOT BE RECALCULATED AFTER THE
11 INITIAL DETERMINATION FOR PURPOSES OF DETERMINING BENEFITS.

12 (B) IF A MEMBER DIES BEFORE THE DISTRIBUTION OF THE
13 MEMBER'S BENEFITS HAS BEGUN, DISTRIBUTIONS TO BENEFICIARIES SHALL
14 BEGIN NO LATER THAN DECEMBER 31 OF THE CALENDAR YEAR
15 IMMEDIATELY FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER
16 DIED.

17 (C) THE AMOUNT OF AN ANNUITY PAID TO A MEMBER'S
18 BENEFICIARY MAY NOT EXCEED THE MAXIMUM DETERMINED UNDER THE
19 INCIDENTAL DEATH BENEFIT REQUIREMENT OF THE INTERNAL REVENUE
20 CODE.

21 (VI) BENEFITS PAID UNDER THE DEFINED BENEFIT SYSTEM
22 ESTABLISHED BY THIS PART 2 MAY NOT EXCEED THE LIMITATIONS
23 SPECIFIED BY SECTION 415 OF THE INTERNAL REVENUE CODE.

24 (VII) THE COMPENSATION TAKEN INTO ACCOUNT UNDER THIS
25 PART 2 MAY NOT EXCEED THE APPLICABLE AMOUNT UNDER SECTION 401
26 (a) (17) OF THE INTERNAL REVENUE CODE.

27 (VIII) ANY DISTRIBUTEES WHO IS ENTITLED TO AN ELIGIBLE

1 ROLLOVER DISTRIBUTION, AS DEFINED IN SECTION 402 (c) (4) OF THE
2 INTERNAL REVENUE CODE, FROM THE STATEWIDE PENSION PLAN ON AND
3 AFTER JANUARY 1, 1993, MAY ELECT TO HAVE THE PORTION OF SUCH
4 DISTRIBUTION THAT WOULD OTHERWISE BE INCLUDED IN THE GROSS
5 INCOME OF THE DISTRIBUTEES FOR FEDERAL INCOME TAX PURPOSES
6 TRANSFERRED DIRECTLY TO AN ELIGIBLE RETIREMENT PLAN, AS DEFINED
7 IN SECTION 402 (c) (8) (B) OF THE INTERNAL REVENUE CODE, DESIGNATED
8 BY THE DISTRIBUTEES.

9 (IX) UPON ATTAINING THE ELIGIBILITY REQUIREMENTS FOR A
10 BENEFIT, A MEMBER SHALL BE FULLY VESTED IN THE BENEFITS SUCH
11 MEMBER HAS ACCRUED.

12 (4) **Trust fund.** (a) THERE IS HEREBY CREATED THE DEFINED
13 BENEFIT SYSTEM TRUST FUND. ALL ASSETS HELD IN CONNECTION WITH
14 THE DEFINED BENEFIT SYSTEM, INCLUDING ALL CONTRIBUTIONS TO THE
15 PLANS IN THE SYSTEM, ALL PROPERTY AND RIGHTS ACQUIRED OR
16 PURCHASED WITH SUCH AMOUNTS, AND ALL INCOME ATTRIBUTABLE TO
17 SUCH AMOUNTS, PROPERTY, OR RIGHTS, SHALL BE HELD IN TRUST FOR THE
18 EXCLUSIVE BENEFIT OF MEMBERS AND THEIR DESIGNATED BENEFICIARIES
19 UNDER THE PLANS. SUCH ASSETS SHALL CONSTITUTE THE TRUST FUND.
20 NO PART OF THE ASSETS AND INCOME OF THE TRUST FUND SHALL BE USED
21 FOR, OR DIVERTED TO, PURPOSES OTHER THAN FOR THE EXCLUSIVE
22 BENEFIT OF MEMBERS AND THEIR DESIGNATED BENEFICIARIES AND FOR
23 DEFRAYING REASONABLE EXPENSES OF THE SYSTEM.

24 (b) ALL AMOUNTS OF COMPENSATION CONTRIBUTED PURSUANT
25 TO THE PLANS, ALL PROPERTY AND RIGHTS ACQUIRED OR PURCHASED WITH
26 SUCH AMOUNTS, AND ALL INCOME ATTRIBUTABLE TO SUCH AMOUNTS,
27 PROPERTY, OR RIGHTS HELD AS PART OF THE DEFINED BENEFIT SYSTEM,

1 INCLUDING MEMBER CONTRIBUTIONS, EMPLOYER CONTRIBUTIONS, ANY
2 STATE CONTRIBUTIONS, FEES COLLECTED, GIFTS RECEIVED, UNCLAIMED
3 DEPOSITS, AND INVESTMENT INCOME, SHALL BE TRANSFERRED TO THE
4 BOARD TO BE HELD, MANAGED, INVESTED, AND DISTRIBUTED AS PART OF
5 THE TRUST FUND IN ACCORDANCE WITH THE PROVISIONS OF THE
6 DOCUMENTS GOVERNING THE SYSTEM. ALL CONTRIBUTIONS TO THE PLANS
7 SHALL BE TRANSFERRED BY THE EMPLOYERS TO THE TRUST FUND. ALL
8 BENEFITS UNDER THE PLANS SHALL BE DISTRIBUTED SOLELY FROM THE
9 TRUST FUND PURSUANT TO THE DOCUMENTS GOVERNING THE SYSTEM.

10 (c) THE BOARD IS THE TRUSTEE OF THE DEFINED BENEFIT SYSTEM
11 TRUST FUND.

12 (d) THE FOLLOWING ACCOUNTS SHALL BE ESTABLISHED WITHIN
13 THE TRUST FUND:

14 (I) A NEW HIRE BENEFITS ACCOUNT FOR THE STATEWIDE DEFINED
15 BENEFIT PLAN, INTO WHICH CONTRIBUTIONS SHALL BE DEPOSITED. THE
16 BENEFITS PROVIDED BY THE STATEWIDE DEFINED BENEFIT PLAN SHALL BE
17 PAID FROM SUCH ACCOUNT.

18 (II) ACCOUNTS FOR THE STATEWIDE HYBRID PLAN AS MAY BE
19 REQUIRED UNDER THE STATEWIDE HYBRID PLAN DOCUMENT;

20 (III) ACCOUNTS FOR EXEMPT PLANS INCORPORATED INTO THE
21 STATEWIDE DEFINED BENEFIT PLAN AS MAY BE REQUIRED UNDER THE PLAN
22 DOCUMENTS; AND

23 (IV) ACCOUNTS FOR HEALTH CARE BENEFIT PLANS AS MAY BE
24 REQUIRED UNDER THE HEALTH CARE PLAN DOCUMENTS.

25 **SECTION 11.** 31-31-301, Colorado Revised Statutes, is
26 amended to read:

27 **31-31-301. Investment funds - creation.** (1) (a) There is

1 hereby created the fire and police members' benefit INVESTMENT fund,
2 which shall consist of THE PORTION OF THE assets THAT ARE DESIGNATED
3 FOR INVESTMENT BY THE BOARD of the following ~~fire and police benefit~~
4 ~~plans: including member contributions, employer contributions, any state~~
5 ~~contributions, fees collected, gifts received, unclaimed deposits, and~~
6 ~~investment income:~~

7 (I) The ~~statewide~~ defined benefit ~~plan~~ SYSTEM established in ~~part~~
8 ~~4~~ PART 2 of this article;

9 (II) Old hire police and fire pension plans established in article
10 30.5 of this title, which are affiliated with the association pursuant to part
11 7 of this article;

12 (III) Exempt plans established pursuant to part 8 of article 30.5
13 of this title, which are affiliated with the association pursuant to part 7 of
14 this article;

15 (IV) Volunteer firefighter pension plans, which are affiliated
16 with the association pursuant to part 7 of this article; and

17 (V) The statewide ~~health care defined benefit~~ DEATH AND
18 DISABILITY plan established in ~~section 31-31-904~~ PART 8 OF THIS ARTICLE.

19 (b) The board shall keep an accurate account of ~~each~~ THE ASSETS
20 OF EACH PLAN DEPOSITED IN THE INVESTMENT fund and shall disburse
21 moneys in accordance with the provisions of this article AND THE
22 APPLICABLE PLAN DOCUMENT.

23 (2) ~~There shall be established in the fund a disability and death~~
24 ~~benefits account into which contributions for death and disability benefits,~~
25 ~~including state contributions made pursuant to section 31-31-811, shall~~
26 ~~be deposited. The benefits provided by part 8 of this article, together with~~
27 ~~the expenses of administering such part, shall be paid from such account.~~

1 ~~(3) (a) There shall be established in the fund a new hire benefits~~
2 ~~account, into which contributions made pursuant to section 31-31-402~~
3 ~~shall be deposited. The benefits provided by the statewide defined benefit~~
4 ~~plan established in part 4 of this article, together with the expenses of~~
5 ~~administering the plan, shall be paid from such account.~~

6 ~~(b) Within the new hire benefits account, there shall be~~
7 ~~established two subaccounts:~~

8 ~~(I) An actuarial account, into which that portion of the new hire~~
9 ~~benefits account necessary to fund benefit liabilities accrued under~~
10 ~~sections 31-31-403 and 31-31-404 (2), as determined by the 1987~~
11 ~~actuarial study, shall be deposited;~~

12 ~~(II) A stabilization reserve account, into which the remainder in~~
13 ~~the new hire benefits account, after allocation pursuant to subparagraph~~
14 ~~(I) of this paragraph (b), may be deposited.~~

15 ~~(c) In each year after 1987, the board may allocate additional~~
16 ~~deposits to the new hire benefits account between the actuarial account~~
17 ~~and the stabilization reserve account based upon the actuarial study for~~
18 ~~the previous year. If in any year the total amount of additional deposits~~
19 ~~to the new hire benefits account is not sufficient to meet the benefit~~
20 ~~liabilities funded by the actuarial account, then such additional amount as~~
21 ~~may be necessary to fund the increase shall be transferred from the~~
22 ~~stabilization reserve account to the actuarial account. If in any year the~~
23 ~~total amount of additional deposits to the new hire benefits account~~
24 ~~exceeds the amount required to meet any increase in the benefit liabilities~~
25 ~~funded by the actuarial account, the board, in its sole discretion, may~~
26 ~~allocate all or any part of such excess to the stabilization reserve account.~~
27 ~~Any excess allocated to the stabilization reserve account in any year shall~~

1 ~~be allocated from that portion of deposits to the new hire benefits account~~
2 ~~constituting employer contributions to the statewide defined benefit plan~~
3 ~~established by part 4 of this article.~~

4 ~~(d) Repealed.~~

5 (4) (a) THERE IS HEREBY CREATED THE FIRE AND POLICE
6 MEMBERS' SELF-DIRECTED INVESTMENT FUND, WHICH SHALL CONSIST OF
7 THE PORTION OF THE ASSETS THAT ARE DESIGNATED FOR SELF-DIRECTION
8 BY THE MEMBER OF THE FOLLOWING PLANS:

9 (I) THE DEFINED BENEFIT SYSTEM ESTABLISHED IN PART 2 OF THIS
10 ARTICLE;

11 (II) OLD HIRE POLICE AND FIRE PENSION PLANS ESTABLISHED IN
12 ARTICLE 30.5 OF THIS TITLE, WHICH ARE AFFILIATED WITH THE
13 ASSOCIATION PURSUANT TO PART 7 OF THIS ARTICLE;

14 (III) THE FIRE AND POLICE MEMBERS' STATEWIDE MONEY
15 PURCHASE PLAN ESTABLISHED IN PART 5 OF THIS ARTICLE;

16 (IV) THE AFFILIATED FIRE AND POLICE MEMBERS' MONEY
17 PURCHASE PLANS ESTABLISHED IN PART 7 OF THIS ARTICLE;

18 (V) THE FIRE AND POLICE MEMBERS' DEFERRED COMPENSATION
19 PLANS ESTABLISHED IN PART 9 OF THIS ARTICLE; AND

20 (VI) THE AFFILIATED EXEMPT PLANS WHICH ARE AFFILIATED WITH
21 THE ASSOCIATION PURSUANT TO PART 7 OF THIS ARTICLE.

22 (b) THE BOARD SHALL KEEP AN ACCURATE ACCOUNT OF THE
23 ASSETS OF EACH PLAN DEPOSITED IN THE INVESTMENT FUND AND SHALL
24 DISBURSE MONEYS IN ACCORDANCE WITH THE PROVISIONS OF THIS
25 ARTICLE AND THE APPLICABLE PLAN DOCUMENT.

26 **SECTION 12.** 31-31-302 (1) (a), Colorado Revised Statutes, is
27 amended to read:

1 **31-31-302. Fund - management - investment - definitions.**

2 (1) (a) The board shall be the trustee of the FIRE AND POLICE MEMBERS'
3 BENEFIT INVESTMENT fund and shall have full and unrestricted
4 discretionary power and authority to invest and reinvest such portions of
5 the fund as in its judgment may not be immediately required for the
6 payment of refunds or benefits. In exercising its discretionary authority
7 with respect to the management and investment of fund assets, the board
8 shall be governed by the standard and other provisions for trustees set
9 forth in the "Colorado Uniform Prudent Investor Act", article 1.1 of title
10 15, C.R.S.

11 **SECTION 13.** Part 3 of article 31 of title 31, Colorado Revised
12 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
13 read:

14 **31-31-303. Fire and police members' self-directed investment**

15 **fund - management - investment.** (1) THE BOARD SHALL BE THE
16 TRUSTEE OF THE FIRE AND POLICE MEMBERS' SELF-DIRECTED INVESTMENT
17 FUND SUBJECT TO THE MEMBERS' ALLOCATION OF MONEYS IN THEIR
18 ACCOUNTS TO THE ALTERNATIVES OFFERED BY THE BOARD. A MEMBER
19 WHO EXERCISES CONTROL OVER THE PLAN ASSETS IN THE MEMBERS'
20 ACCOUNT SHALL NOT BE DEEMED TO BE A FIDUCIARY BY REASON OF SUCH
21 EXERCISE OF CONTROL, AND THE BOARD SHALL NOT BE LIABLE FOR ANY
22 LOSS THAT RESULTS FROM SUCH EXERCISE OF CONTROL.

23 (2) THE BOARD SHALL DESIGNATE ONE OR MORE FINANCIAL
24 INSTITUTIONS AS CUSTODIANS OF THE FIRE AND POLICE MEMBERS'
25 SELF-DIRECTED INVESTMENT FUND. ALL MONEYS PAID OR TRANSMITTED
26 TO THE CUSTODIAN SHALL BE CREDITED TO APPROPRIATE ACCOUNTS IN
27 THE FUND, AND THE CUSTODIAN SHALL MAINTAIN A CURRENT INVENTORY

1 OF ALL INVESTMENTS OF THE FUND.

2 (3) DISBURSEMENTS FROM THE FIRE AND POLICE MEMBERS'
3 SELF-DIRECTED INVESTMENT FUND SHALL BE MADE, SUBJECT TO THE
4 APPROVAL OF THE BOARD, ONLY FOR PAYMENT OF THE EXPENSES OF THE
5 ASSOCIATION IN CONNECTION WITH THE ADMINISTRATION OF THE FUND,
6 REFUNDS TO THE MEMBERS, BENEFITS, AND INVESTMENT PURPOSES.

7 (4) (a) THE BOARD MAY ALLOW A MEMBER TO EXERCISE CONTROL
8 OF THE INVESTMENT OF PART OR ALL OF THE MEMBER'S ACCRUED BENEFIT
9 UNDER THE MEMBER'S PLAN. IN ALLOWING A MEMBER TO EXERCISE SUCH
10 CONTROL, THE BOARD SHALL:

11 (I) SELECT AT LEAST THREE INVESTMENT ALTERNATIVES, EACH
12 OF WHICH IS DIVERSIFIED IN ITSELF, THAT ALLOW THE MEMBER A BROAD
13 RANGE OF INVESTMENTS AND A MEANINGFUL CHOICE BETWEEN RISK AND
14 RETURN IN THE INVESTMENT OF THE MEMBER'S ACCRUED BENEFIT;

15 (II) ALLOW THE MEMBER TO CHANGE INVESTMENTS AT LEAST
16 ONCE EACH CALENDAR QUARTER; AND

17 (III) PROVIDE THE MEMBER WITH INFORMATION DESCRIBING THE
18 INVESTMENT ALTERNATIVES, THE NATURE, INVESTMENT PERFORMANCE,
19 FEES, AND EXPENSES OF INVESTMENT ALTERNATIVES, AND OTHER
20 INFORMATION TO ENABLE A MEMBER TO MAKE INFORMED INVESTMENT
21 DECISIONS.

22 (b) THE BOARD SHALL ADOPT RULES GOVERNING THE
23 CALCULATION AND ALLOCATION OF EARNINGS AND LOSSES UNDER THE
24 VARIOUS INVESTMENT ALTERNATIVES THAT IT MAY OFFER, THE TRANSFER
25 OF ASSETS BETWEEN FUNDS UNDER EACH ALTERNATIVE, THE ALLOCATION
26 OF A MEMBER'S ACCOUNT BETWEEN INVESTMENT ALTERNATIVES, AND
27 SUCH OTHER MATTERS AS MAY BE NECESSARY TO ITS ADMINISTRATION

1 AND MANAGEMENT OF THE FIRE AND POLICE MEMBERS' SELF-DIRECTED
2 INVESTMENT FUND CREATED PURSUANT TO THIS SECTION.

3 (5) ANY PROVIDER OF INVESTMENT PRODUCTS THAT CONTRACTS
4 WITH THE BOARD SHALL BE HELD TO THE STANDARD OF CONDUCT SET
5 FORTH IN PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION WITH
6 RESPECT TO THOSE FUNCTIONS OVER WHICH THE PROVIDER HAS
7 SUBSTANTIAL DISCRETION. THE BOARD IS AUTHORIZED TO TAKE SUCH
8 STEPS, INCLUDING BUT NOT LIMITED TO MAKING CONTRACT AMENDMENTS,
9 AS ARE REQUIRED TO ACCOMPLISH THE PROVISIONS OF THIS SUBSECTION
10 (5).

11 (6) THE BOARD SHALL SUBMIT AN ANNUAL AUDIT OF THE FIRE
12 AND POLICE MEMBERS' SELF-DIRECTED INVESTMENT FUND TO THE
13 GENERAL ASSEMBLY AND THE ANNUAL AUDIT OF THE FUND TO EACH
14 EMPLOYER. EACH EMPLOYER SHALL MAKE THE AUDIT AVAILABLE FOR
15 REVIEW BY ITS MEMBERS.

16 **SECTION 14.** 31-31-402 (1), (2), and (3), Colorado Revised
17 Statutes, are amended, and the said 31-31-402 is further amended BY
18 THE ADDITION OF A NEW SUBSECTION, to read:

19 **31-31-402. Employer and member contributions.** (1) On and
20 after January 1, 1980, until the board is able to determine a contribution
21 rate from the first annual actuarial valuation, every member covered
22 under the statewide defined benefit plan established by this part 4 shall
23 pay into the ~~fire and police members' benefit~~ DEFINED BENEFIT SYSTEM
24 TRUST fund eight percent of salary paid. The payment shall be made by
25 the employer by deduction from the salary paid such member. Each
26 employer shall pick up the employee contributions required for all salaries
27 paid after July 1, 1985, and the contributions so picked up shall be treated

1 as employer contributions pursuant to section 414 (h) (2) of the federal
2 "Internal Revenue Code of 1986", as amended, in determining tax
3 treatment under such code. The employer shall pay these employee
4 contributions directly to the retirement association, instead of paying such
5 amounts to employees, and such contributions shall be paid from the same
6 funds that are used in paying salaries to the employees. Such
7 contributions, although designated as employee contributions, shall be
8 paid by the employer in lieu of contributions by employees. Employees
9 may not elect to choose to receive such contributions directly instead of
10 having them paid by the employer to the pension plan. Employee
11 contributions so picked up shall be treated for all purposes of this article,
12 other than federal tax, in the same manner as employee contributions
13 made before the date picked up. Payment shall be made by one voucher
14 for the aggregate amount deducted and shall be made no later than the
15 tenth day after the end of each pay period. All such payments shall be
16 credited to the ~~fire and police members' benefit~~ DEFINED BENEFIT SYSTEM
17 TRUST fund.

18 (2) On and after January 1, 1980, until the board is able to
19 determine a contribution rate from the first annual actuarial valuation,
20 every employer employing members who are covered by the statewide
21 defined benefit plan established by this part 4 shall pay into the ~~fire and~~
22 ~~police members' benefit~~ DEFINED BENEFIT SYSTEM TRUST fund eight
23 percent of the salary paid to such member, and such payment shall be
24 made no later than the tenth day after the end of each pay period. All
25 such payments shall be credited to the ~~fire and police members' benefit~~
26 DEFINED BENEFIT SYSTEM TRUST fund.

27 (3) The general assembly declares that the rates of employee and

1 employer contributions shall be adequate to fund benefit liabilities
2 accrued under the statewide defined benefit plan established by this part
3 4, and to this end, the board shall submit an annual actuarial valuation
4 report to the state auditor, the legislative audit committee, and the joint
5 budget committee of the general assembly, together with any
6 recommendations concerning such liabilities as accrued. Amortization of
7 such liability over a forty-year period shall be deemed adequate to
8 maintain actuarial stability. If the actual financial experience of the new
9 hire benefits account in the ~~fire and police members'~~ DEFINED benefit
10 SYSTEM TRUST fund is found to be more or less favorable than the
11 assumed experience during the two-year period from January 1, 1980, and
12 each biennium thereafter, adjustments may be made by the board in the
13 employee and employer contributions as may be deemed feasible and
14 advisable so long as employer contributions are at least equal to employee
15 contributions.

16 (5) (a) THERE SHALL BE ESTABLISHED IN THE DEFINED BENEFIT
17 SYSTEM TRUST FUND A NEW HIRE BENEFITS ACCOUNT INTO WHICH
18 CONTRIBUTIONS MADE PURSUANT TO THIS SECTION SHALL BE DEPOSITED.
19 THE BENEFITS PROVIDED BY THE STATEWIDE DEFINED BENEFIT PLAN
20 ESTABLISHED IN PART 4 OF THIS ARTICLE, TOGETHER WITH THE EXPENSES
21 OF ADMINISTERING THE PLAN, SHALL BE PAID FROM SUCH ACCOUNT.

22 (b) DEFINED BENEFIT ASSETS OF THE STATEWIDE DEFINED
23 BENEFIT PLAN SHALL BE ADMINISTERED WITHIN THE FIRE AND POLICE
24 MEMBERS' BENEFIT INVESTMENT FUND AND ASSETS OF THE OF THE PLAN
25 DESIGNATED FOR SELF DIRECTION SHALL BE ADMINISTERED WITHIN THE
26 FIRE AND POLICE MEMBERS' SELF-DIRECTED INVESTMENT FUND.

27 **SECTION 15.** 31-31-403 (2) (a) (II) and (2) (b), Colorado

1 Revised Statutes, are amended to read:

2 **31-31-403. Normal retirement - statewide defined benefit**
3 **plan.** (2) (a) If in any year the board determines pursuant to this part 4
4 that the cost of the benefits described in paragraph (b) of subsection (1)
5 of this section, excluding the benefit described in section 31-31-405, may
6 not be fully funded on an actuarially sound basis without necessitating an
7 increase in the eight percent employer and eight percent member
8 contribution made pursuant to section 31-31-402, the board shall not
9 increase such employer or member contributions unless:

10 (II) The board has transferred all funds in the stabilization
11 reserve account to the actuarial account as required by ~~section 31-31-301~~
12 ~~(3) (b) and (3) (c)~~ SECTION 31-31-405 (1) AND (2), except such funds as
13 are attributable to the separate retirement account of any member who has
14 terminated service after at least five years of credited service.

15 (b) Nothing in this subsection (2) shall be construed to prohibit
16 the board from utilizing the provisions of ~~section 31-31-301 (3)~~ SECTION
17 31-31-405 to provide the benefit described in ~~section 31-31-405~~ SAID
18 SECTION in any subsequent year when the total amount of additional
19 deposits to the new hire benefits account exceeds the amount needed to
20 meet the benefit liabilities funded by the actuarial account pursuant to
21 ~~section 31-31-301 (3)~~ SECTION 31-31-405.

22 **SECTION 16.** 31-31-405, Colorado Revised Statutes, is
23 amended to read:

24 **31-31-405. Stabilization reserve account and separate**
25 **retirement account - creation - allocation.** (1) WITHIN THE NEW HIRE
26 BENEFITS ACCOUNT, CREATED PURSUANT TO SECTION 31-31-402 (5),
27 THERE SHALL BE ESTABLISHED TWO SUBACCOUNTS:

1 (a) AN ACTUARIAL ACCOUNT, INTO WHICH THAT PORTION OF THE
2 NEW HIRE BENEFITS ACCOUNT NECESSARY TO FUND BENEFIT LIABILITIES
3 ACCRUED UNDER SECTIONS 31-31-403 AND 31-31-404 (2), AS DETERMINED
4 BY THE 1987 ACTUARIAL STUDY, SHALL BE DEPOSITED;

5 (b) A STABILIZATION RESERVE ACCOUNT, INTO WHICH THE
6 REMAINDER IN THE NEW HIRE BENEFITS ACCOUNT, AFTER ALLOCATION
7 PURSUANT TO SUBPARAGRAPH (a) OF THIS SUBSECTION (1), MAY BE
8 DEPOSITED.

9 (2) IN EACH YEAR AFTER 1987, THE BOARD MAY ALLOCATE
10 ADDITIONAL DEPOSITS TO THE NEW HIRE BENEFITS ACCOUNT BETWEEN THE
11 ACTUARIAL ACCOUNT AND THE STABILIZATION RESERVE ACCOUNT BASED
12 UPON THE ACTUARIAL STUDY FOR THE PREVIOUS YEAR. IF IN ANY YEAR
13 THE TOTAL AMOUNT OF ADDITIONAL DEPOSITS TO THE NEW HIRE BENEFITS
14 ACCOUNT IS NOT SUFFICIENT TO MEET THE BENEFIT LIABILITIES FUNDED BY
15 THE ACTUARIAL ACCOUNT, THEN SUCH ADDITIONAL AMOUNT AS MAY BE
16 NECESSARY TO FUND THE INCREASE SHALL BE TRANSFERRED FROM THE
17 STABILIZATION RESERVE ACCOUNT TO THE ACTUARIAL ACCOUNT. IF IN
18 ANY YEAR THE TOTAL AMOUNT OF ADDITIONAL DEPOSITS TO THE NEW HIRE
19 BENEFITS ACCOUNT EXCEEDS THE AMOUNT REQUIRED TO MEET ANY
20 INCREASE IN THE BENEFIT LIABILITIES FUNDED BY THE ACTUARIAL
21 ACCOUNT, THE BOARD, IN ITS SOLE DISCRETION, MAY ALLOCATE ALL OR
22 ANY PART OF SUCH EXCESS TO THE STABILIZATION RESERVE ACCOUNT.
23 ANY EXCESS ALLOCATED TO THE STABILIZATION RESERVE ACCOUNT IN
24 ANY YEAR SHALL BE ALLOCATED FROM THAT PORTION OF DEPOSITS TO THE
25 NEW HIRE BENEFITS ACCOUNT CONSTITUTING EMPLOYER CONTRIBUTIONS
26 TO THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED BY THIS PART 4.

27 ~~(1)~~ (3) For accounting purposes only, the stabilization reserve

1 account created by ~~section 31-31-301 (3) (a) (H)~~ SUBSECTION (1) OF THIS
2 SECTION shall consist of individual separate retirement accounts
3 established in the name of each member covered by the statewide defined
4 benefit plan established by this part 4, except such members as are
5 covered on a supplemental basis pursuant to section 31-31-704.

6 ~~(2)~~ (4) Such amount as may be allocated to the stabilization
7 reserve account pursuant to ~~section 31-31-301 (3) (b)~~ SUBSECTION (1) OF
8 THIS SECTION shall be further allocated to each member's separate
9 retirement account based upon the difference between a member's
10 employer and employee contributions to the new hire benefits account for
11 each payroll period and the proportionate amount of such contributions
12 that is allocated to the actuarial account pursuant to ~~section 31-31-301 (3)~~
13 ~~(b)~~ SUBSECTION (1) OF THIS SECTION.

14 ~~(3)~~ (5) Earnings accruing on the amount allocated to the
15 member's separate retirement account shall be allocated at least monthly
16 on a time-weighted basis as determined by the board until the account is
17 exhausted.

18 ~~(4)~~ (6) Any amount allocated to a member's separate retirement
19 account shall be subject to reduction prior to the time a member has
20 terminated service in the event that additional amounts must be
21 transferred to the actuarial account as set forth in ~~section 31-31-301 (3)~~
22 ~~(b) and (3) (c)~~ SUBSECTIONS (1) AND (2) OF THIS SECTION. Reductions in
23 a member's separate retirement account pursuant to this ~~subsection (4)~~
24 SUBSECTION (6) shall be made on a pro rata basis in the proportion that
25 the balance in a member's separate retirement account bears to the total
26 balance of all members' separate retirement accounts.

27 **SECTION 17. Repeal.** 31-31-409, Colorado Revised Statutes,

1 is repealed as follows:

2 **31-31-409. Qualification requirements - internal revenue**

3 **code.** ~~(1) As used in this section, "internal revenue code" means the~~
4 ~~federal "Internal Revenue Code of 1954", as in effect on September 1,~~
5 ~~1974, if permitted with respect to governmental plans, or, to the extent~~
6 ~~not inconsistent with the federal "Internal Revenue Code of 1954", as in~~
7 ~~effect on September 1, 1974, "internal revenue code" means the federal~~
8 ~~"Internal Revenue Code of 1986", as amended and in effect on January~~
9 ~~1, 1989.~~

10 ~~(2) The statewide defined benefit plan established by this part 4~~
11 ~~to provide retirement benefits for members hired on or after April 8,~~
12 ~~1978, shall satisfy the qualification requirements specified in section 401~~
13 ~~of the internal revenue code, as applicable to governmental plans. In order~~
14 ~~to meet those requirements, the statewide defined benefit plan is subject~~
15 ~~to the following provisions, notwithstanding any other provision of this~~
16 ~~part 4:~~

17 ~~(a) The board shall distribute the corpus and income of the~~
18 ~~pension plan to members and their beneficiaries in accordance with this~~
19 ~~part 4 and the rules adopted by the board.~~

20 ~~(b) No part of the corpus or income of the pension plan may be~~
21 ~~used for or diverted to any purpose other than that of providing benefits~~
22 ~~to participants and their beneficiaries and defraying reasonable expenses~~
23 ~~of administering the plan.~~

24 ~~(c) Forfeitures arising from severance of employment, death, or~~
25 ~~any other reason may not be applied to increase the benefits any member~~
26 ~~would otherwise receive under this part 4.~~

27 ~~(d) If the pension plan is terminated, or if all contributions to the~~

1 ~~pension plan are permanently discontinued, the rights of each affected~~
2 ~~member to the benefits accrued at the date of the termination or~~
3 ~~discontinuance, to the extent then funded, are nonforfeitable.~~

4 ~~(e) All benefits paid from the pension plan shall be distributed in~~
5 ~~accordance with the requirements of section 401 (a) (9) of the internal~~
6 ~~revenue code and the regulations promulgated under that section. In~~
7 ~~order to meet those requirements, the pension plan is subject to the~~
8 ~~following provisions:~~

9 ~~(I) The life expectancy of a member, the member's spouse, or the~~
10 ~~member's beneficiary shall not be recalculated after the initial~~
11 ~~determination, for purposes of determining benefits.~~

12 ~~(II) If a member dies before the distribution of the member's~~
13 ~~benefits has begun, distributions to beneficiaries must begin no later than~~
14 ~~December 31 of the calendar year immediately following the calendar~~
15 ~~year in which the member died.~~

16 ~~(III) The amount of an annuity paid to a member's beneficiary~~
17 ~~may not exceed the maximum determined under the incidental death~~
18 ~~benefit requirement of the internal revenue code.~~

19 ~~(f) (Deleted by amendment, L. 98, p. 25, § 4, effective March 16,~~
20 ~~1998.)~~

21 ~~(g) Benefits paid under the statewide defined benefit plan~~
22 ~~established by this part 4 may not exceed the limitations specified by~~
23 ~~section 415 of the internal revenue code, including the special rule under~~
24 ~~section 415 (b) (10) of the internal revenue code.~~

25 ~~(h) The compensation taken into account under this part 4 may~~
26 ~~not exceed the applicable amount under section 401 (a) (17) of the~~
27 ~~internal revenue code.~~

1 ~~(i) (Deleted by amendment, L. 98, p. 25, § 4, effective March 16,~~
2 ~~1998.)~~

3 ~~(j) Any distributee who is entitled to an eligible rollover~~
4 ~~distribution, as defined in section 402 (c) (4) of the internal revenue code,~~
5 ~~from the statewide pension plan on and after January 1, 1993, may elect~~
6 ~~to have the portion of such distribution that would otherwise be included~~
7 ~~in the gross income of the distributee for federal income tax purposes~~
8 ~~transferred directly to an eligible retirement plan, as defined in section~~
9 ~~402 (c) (8) (B) of the internal revenue code, designated by the distributee.~~

10 ~~(k) Upon attaining the eligibility requirements for a benefit, a~~
11 ~~member shall be fully vested in the benefits such member has accrued.~~

12 **SECTION 18.** 31-31-501 (5) (b), Colorado Revised Statutes, is
13 amended to read:

14 **31-31-501. Withdrawal into statewide money purchase plan.**

15 (5) (b) In the event that the amount of the reserves on deposit in the new
16 hire benefits account, as calculated by the actuary, for the employer
17 making application for withdrawal, exceeds the amount of reserves
18 required pursuant to the provisions of subsection (4) of this section, such
19 excess amount and the amount required for the transfer of member
20 contributions as provided in subsection (6) of this section shall be
21 transferred to the fire and police members' statewide money purchase plan
22 benefit TRUST fund on the effective date of withdrawal. Allocation of
23 such amounts to individual member accounts under the statewide money
24 purchase plan shall be made as set forth in section 31-31-502.

25 **SECTION 19.** 31-31-502 (1), (2) (a), and (2) (c), Colorado
26 Revised Statutes, are amended to read:

27 **31-31-502. Statewide money purchase plan - creation -**

1 **management.** (1) The board shall develop, maintain, and amend a
2 statewide money purchase plan document that is intended to comply with
3 the qualification requirements specified in section 401 of the internal
4 revenue code, as applicable to governmental plans. As used in this
5 subsection (1), "internal revenue code" shall have that meaning set forth
6 in ~~section 31-31-409 (1)~~ SECTION 31-31-204 (3). The plan shall cover the
7 members of those employers that have withdrawn from the statewide
8 defined benefit plan pursuant to section 31-31-501.

9 (2) (a) There is hereby created the fire and police members'
10 statewide money purchase plan benefit TRUST fund, which shall consist
11 of moneys of employers that have withdrawn from the statewide defined
12 benefit plan pursuant to section 31-31-501, including member and
13 employer contributions and such amounts as are transferred pursuant to
14 section 31-31-501. The board shall keep an accurate account of the fund
15 and of each member's separate account in the fund. ~~The board may allow~~
16 ~~a member to exercise control of the investment of part or all of the~~
17 ~~member's accrued benefit under the plan. In allowing a member to~~
18 ~~exercise such control, the board shall:~~

19 ~~(I) Select at least three investment alternatives, each of which is~~
20 ~~diversified in itself, that allow the member a broad range of investments~~
21 ~~and a meaningful choice between risk and return in the investment of the~~
22 ~~member's accrued benefit;~~

23 ~~(II) Allow the member to change investments at least once each~~
24 ~~calendar quarter; and~~

25 ~~(III) Provide the member with information describing the~~
26 ~~investment alternatives, the nature, investment performance, fees, and~~
27 ~~expenses of investment alternatives, and other information to enable a~~

1 ~~member to make informed investment decisions.~~

2 ~~(IV) (Deleted by amendment, L. 97, p. 13, § 4, effective March~~
3 ~~13, 1997.)~~

4 (c) In its administration, investment, and management of the FIRE
5 AND POLICE MEMBERS' STATEWIDE MONEY PURCHASE PLAN BENEFIT TRUST
6 fund, the board shall be subject to the ~~same provisions applicable to its~~
7 ~~administration, investment, and management of the fire and police~~
8 ~~members' money purchase plan benefit fund as set forth in section~~
9 ~~31-31-703 (2) to (7) OF SECTION 31-31-303.~~

10 **SECTION 20.** 31-31-701 (3), Colorado Revised Statutes, is
11 amended, and the said 31-31-701 is further amended BY THE
12 ADDITION OF A NEW SUBSECTION, to read:

13 **31-31-701. Affiliation by old hire pension plans.** (3) On the
14 effective date of affiliation pursuant to this section, the assets of the old
15 hire pension plan shall be transferred to the TRUST fund created by ~~section~~
16 ~~31-31-301(2)~~ SUBSECTION (6) OF THIS SECTION. Such transfer shall be at
17 the market value of such assets at the close of business on date of
18 affiliation. Upon affiliation and the transfer of assets to the fund, benefits
19 due pursuant to the old hire plan shall be paid by the association.

20 (6) THERE IS HEREBY CREATED THE OLD HIRE PLAN MEMBERS'
21 BENEFIT TRUST FUND THAT SHALL CONSIST OF THE ASSETS OF OLD HIRE
22 PLANS ADMINISTERED AND MANAGED BY THE BOARD PURSUANT TO THIS
23 SECTION. THE BOARD SHALL KEEP AN ACCURATE ACCOUNT OF EACH SUCH
24 INDIVIDUAL OLD HIRE PLAN.

25 **SECTION 21.** 31-31-703, Colorado Revised Statutes, is
26 amended to read:

27 **31-31-703. Money purchase plan benefit fund - creation -**

1 **management.** (1) ~~(a)~~ There is hereby created the fire and police
2 members' money purchase plan benefit TRUST fund that shall consist of
3 the assets of money purchase ~~plan funds~~ PLANS administered and
4 managed by the board pursuant to section 31-31-702. The board shall
5 keep an accurate account of each such individual fund. In addition, the
6 board shall keep an accurate account of each member's separate account
7 in any such individual fund. ~~The board may allow a member to exercise~~
8 ~~control of the investment of part or all of the member's accrued benefit~~
9 ~~under the member's plan. In allowing a member to exercise such control,~~
10 ~~the board shall:~~

11 ~~(I) Select at least three investment alternatives, each of which is~~
12 ~~diversified in itself, that allow the member a broad range of investments~~
13 ~~and a meaningful choice between risk and return in the investment of the~~
14 ~~member's accrued benefit;~~

15 ~~(II) Allow the member to change investments at least once each~~
16 ~~calendar quarter; and~~

17 ~~(III) Provide the member with information describing the~~
18 ~~investment alternatives, the nature, investment performance, fees, and~~
19 ~~expenses of investment alternatives, and other information to enable a~~
20 ~~member to make informed investment decisions.~~

21 ~~(IV) (Deleted by amendment, L. 97, p. 15, § 6, effective March~~
22 ~~13, 1997.)~~

23 ~~(b) The board shall adopt rules governing the calculation and~~
24 ~~allocation of earnings and losses under the various investment alternatives~~
25 ~~that it may offer, the transfer of assets between funds under each~~
26 ~~alternative, the allocation of a member's account between investment~~
27 ~~alternatives, and such other matters as may be necessary to its~~

1 ~~administration and management of the fund created pursuant to this~~
2 ~~section.~~

3 ~~(2) The board shall be the trustee of the fire and police members'~~
4 ~~money purchase plan benefit fund subject to the members' allocation of~~
5 ~~moneys in their accounts to the alternatives offered by the board. A~~
6 ~~member who exercises control over the plan assets in the member's~~
7 ~~account shall not be deemed to be a fiduciary by reason of such exercise~~
8 ~~of control, and the board shall not be liable for any loss that results from~~
9 ~~such exercise of control. In exercising its discretionary authority with~~
10 ~~respect to the investment and management of the fund assets that are~~
11 ~~allocated to the fire and police members' benefit fund created pursuant to~~
12 ~~section 31-31-301 (1) (a), the board shall be governed by the standard and~~
13 ~~other provisions for trustees set forth in the "Colorado Uniform Prudent~~
14 ~~Investor Act", article 1.1 of title 15, C.R.S.~~

15 ~~(3) The board shall designate one or more financial institutions~~
16 ~~as custodians of the fund. All moneys paid or transmitted to the custodian~~
17 ~~shall be credited to appropriate accounts in the fund, and the custodian~~
18 ~~shall maintain a current inventory of all investments of the fund.~~

19 ~~(4) Disbursements from the fund shall be made, subject to the~~
20 ~~approval of the board, only for payment of the expenses of the association~~
21 ~~in connection with the administration of the fund, refunds to the~~
22 ~~members, benefits, and investment purposes.~~

23 ~~(5) (Deleted by amendment, L. 97, p. 15, § 6, effective March 13,~~
24 ~~1997).~~

25 ~~(6) All transactions involving the purchase and sale of~~
26 ~~investments authorized in this section shall be effected on behalf of the~~
27 ~~association. To facilitate sale and exchange transactions, securities~~

1 ~~belonging to the association may be registered in the name of nominees~~
2 ~~in the discretion of the board and in accordance with standard business~~
3 ~~practices. All such nominees shall be bonded in such amounts as may be~~
4 ~~determined to be advisable by the board. Nothing in this subsection (6)~~
5 ~~shall preclude the board or its authorized agents from forming a~~
6 ~~corporation described in section 501 (c) (2) and (c) (25) of the federal~~
7 ~~"Internal Revenue Code of 1986", 26 U.S.C. sec. 501 (c) (2) and (c) (25),~~
8 ~~as amended, with respect to the ownership of investments in real property.~~

9 (7) (2) The board shall submit an annual audit of the fund to the
10 general assembly and to each employer that has affiliated its money
11 purchase plan fund pursuant to section 31-31-702. Each employer shall
12 make the audit and study available for review by its members.

13 **SECTION 22.** 31-31-706 (2) (a) and (2) (b), Colorado Revised
14 Statutes, are amended to read:

15 **31-31-706. Affiliation by exempt defined benefit pension**
16 **plans.**

17 (2) (a) As an alternative to affiliation for investment management
18 pursuant to subsection (1) of this section, at the request of any local
19 employer having an exempt defined benefit pension plan, the board is
20 authorized to make an agreement with the employer's governing body to
21 incorporate the exempt defined benefit pension plan into the statewide
22 defined benefit plan SYSTEM. The incorporation shall be under terms and
23 conditions that are mutually agreeable to the employer's governing body
24 and the board and as may be required to maintain the qualified status of
25 the plan under the federal "Internal Revenue Code of 1986", as amended.

26 (b) Prior to the implementation of an agreement of incorporation
27 pursuant to paragraph (a) of this subsection (2), the board shall find that

1 the incorporation is not projected to have an adverse actuarial impact on
2 existing members of the ~~statewide~~ defined benefit ~~plan~~ SYSTEM. The
3 board and the employer's governing body are authorized to take all
4 actions necessary to accomplish the agreement and to maintain the
5 qualified status of the formerly exempt defined benefit pension plan after
6 incorporation into the ~~statewide~~ defined benefit ~~plan~~ SYSTEM.
7 Notwithstanding any other requirement, an exempt defined benefit
8 pension plan may be incorporated into the ~~statewide~~ defined benefit ~~plan~~
9 SYSTEM without the approval of the members of the exempt plan or the
10 statewide plan.

11 **SECTION 23.** 31-31-811 (1), Colorado Revised Statutes, is
12 amended to read:

13 **31-31-811. State funding of death and disability.** (1) Every
14 employer in this state, except those employers covering their employees
15 under social security and those described in section 31-31-802 (2) (b) and
16 (2) (c) who have not elected to be subject to the provisions of this part 8,
17 shall be governed by the provisions of this section. For members who die
18 or are disabled on or after January 1, 1980, the death and disability
19 benefits provided to any member pursuant to this part 8 shall be paid for
20 by state moneys transferred to the FIRE AND POLICE MEMBERS' BENEFIT
21 INVESTMENT fund created by section 31-31-301 (1) (a), subject to the
22 limitations imposed by this section. Moneys in the ~~account~~ DISABILITY
23 AND DEATH BENEFITS TRUST FUND created by ~~section 31-31-301 (2)~~
24 SECTION 31-31-813 shall not be used for any purpose other than the
25 payment of the death and disability benefits established by this part 8.

26 **SECTION 24.** Part 8 of article 31 of title 31, Colorado Revised
27 Statutes, is amended BY THE ADDITION OF A NEW SECTION to

1 read:

2 **31-31-813. Statewide death and disability trust fund - created.**

3 (1) THERE IS HEREBY CREATED A DISABILITY AND DEATH BENEFITS TRUST
4 FUND INTO WHICH CONTRIBUTIONS FOR DEATH AND DISABILITY BENEFITS,
5 INCLUDING STATE CONTRIBUTIONS MADE PURSUANT TO SECTION
6 31-31-811, SHALL BE DEPOSITED. THE BENEFITS PROVIDED BY THIS PART
7 8, TOGETHER WITH THE EXPENSES OF ADMINISTERING SAID PART, SHALL BE
8 PAID FROM THE FUND.

9 (2) THE ASSETS OF THE DISABILITY AND DEATH BENEFITS TRUST
10 FUND SHALL BE INVESTED IN THE FIRE AND POLICE MEMBERS' BENEFIT
11 INVESTMENT FUND.

12 **SECTION 25.** 31-31-901, Colorado Revised Statutes, is
13 amended to read:

14 **31-31-901. Deferred compensation plan - definitions.**

15 (1) Upon the request of any employer, the board may administer and
16 amend or provide for the administration and amendment of any deferred
17 compensation plan adopted by such employer for members or other
18 employees who provide direct support to the employer's public safety
19 department.

20 (2) In order to assist employers in establishing a deferred
21 compensation plan, the board may develop, maintain, and amend a master
22 deferred compensation plan document that is intended to comply with the
23 provisions of section 457 of the "Internal Revenue Code of 1986", 26
24 U.S.C. sec. 457, as amended. Any employer may adopt such master plan
25 for its participants with the assistance of the board; however, such
26 employer shall be responsible for ensuring that such master plan is in
27 compliance with applicable law. Participation by nonmember employees

1 shall be subject to the requirements and limitations of said section 457 of
2 the "Internal Revenue Code of 1986", and the regulations promulgated
3 under section 457.

4 (3) There is hereby created the fire and police members' deferred
5 compensation TRUST fund, which shall consist of the assets of deferred
6 compensation plans administered by the board pursuant to the provisions
7 of this section. The board shall be the trustee of the TRUST fund and shall
8 keep a separate account of the assets of each deferred compensation plan
9 held within the TRUST fund. The assets of each deferred compensation
10 plan shall be held for the exclusive purpose of providing benefits to
11 participants and beneficiaries and defraying reasonable expenses of the
12 plan and any trust established to hold the assets of the plan. ~~The board
13 shall allow each participant to exercise control over the investment of the
14 participant's assets in a plan. In allowing a participant to exercise such
15 control, the board shall:~~ THE BOARD SHALL ALLOW INVESTMENT OF THE
16 TRUST FUND THROUGH THE FIRE AND POLICE MEMBERS' SELF-DIRECTED
17 INVESTMENT FUND PURSUANT TO SECTION 31-31-301 (4).

18 ~~(a) Select at least three investment alternatives, each of which is
19 diversified in itself, that allow the participant a broad range of
20 investments and a meaningful choice between investment risk and return
21 in the investment of the member's assets;~~

22 ~~(b) Allow the participant to change investments at least once
23 each calendar quarter; and~~

24 ~~(c) Provide the participant with information describing the
25 investment alternatives, the nature of such alternatives, investment
26 performance, fees and expenses of investment alternatives, and other
27 information to enable the participant to make informed investment~~

1 decisions.

2 ~~(4) In its administration of deferred compensation plans pursuant~~
3 ~~to the provisions of this section, the board shall act in accordance with the~~
4 ~~provisions of this article.~~

5 ~~(5) Any provider of investment products that contracts with the~~
6 ~~board shall be held to the standard of conduct set forth in subsection (3)~~
7 ~~of this section with respect to those functions over which the provider has~~
8 ~~substantial discretion. The board is authorized to take such steps,~~
9 ~~including but not limited to, making contract amendments, as are required~~
10 ~~to accomplish the provisions of this subsection (5).~~

11 ~~(6) The directors of the board shall not engage in any activities~~
12 ~~that might result in a conflict of interest with the function of the board as~~
13 ~~administrator of any deferred compensation plan or with the role of the~~
14 ~~board as trustee of the fund created in section 31-31-301.~~

15 ~~(7)~~ (4) The expenses incurred by the board in the administration
16 of each deferred compensation plan shall be paid from the assets of such
17 plan being held in the fire and police members' deferred compensation
18 fund pursuant to the provisions of subsection (3) of this section. Such
19 expenses shall not be paid for by the fire and police pension association.

20 ~~(8)~~ (5) For the purposes of this section, unless the context
21 otherwise requires:

22 (a) "Deferred compensation" means that income that a participant
23 may legally defer pursuant to current rulings of the internal revenue
24 service and that, while invested under a deferred compensation plan
25 adopted pursuant to this section, is exempt from federal income taxes on
26 both the employer's contribution and all interest, dividends, and capital
27 gains until the ultimate distribution to the participant.

1 (b) "Participant" means:

2 (I) A member employed by an employer who has requested the
3 board, pursuant to subsection (1) of this section, to administer and amend
4 or provide for the administration and amendment of any deferred
5 compensation plan adopted by the employer; or

6 (II) An employee who provides direct support to the public safety
7 department of an employer who has requested the board, pursuant to
8 subsection (1) of this section, to administer and amend or provide for the
9 administration and amendment of any deferred compensation plan
10 adopted by the employer.

11 **SECTION 26.** 31-31-904 (4) and (6) (b), Colorado Revised
12 Statutes, are amended to read:

13 **31-31-904. Statewide health care defined benefit plan -**
14 **definitions.** (4) Contributions to the statewide health care defined
15 benefit plan shall be the responsibility of the eligible members, unless an
16 eligible member's employer elects to pay all or a portion of his or her
17 contribution. All of the contributions shall be credited to the ~~fire and~~
18 ~~police members' benefit~~ DEFINED BENEFIT SYSTEM TRUST fund.

19 (6) As used in this section, unless the context otherwise requires:

20 (b) "Internal revenue code" shall have the same meaning as
21 provided in ~~section 31-31-409 (1)~~ SECTION 31-31-204 (3).

22 **SECTION 27.** 31-31-1102 (1), (2), (3), and (4) (a), Colorado
23 Revised Statutes, are amended to read:

24 **31-31-1102. Statewide hybrid plan - creation - management.**

25 (1) The board is authorized to develop, maintain, and amend a statewide
26 hybrid plan document THAT IS A COMPONENT OF THE DEFINED BENEFIT
27 SYSTEM AND that offers a combination of defined benefit and defined

1 contribution benefits and that is intended to comply with the qualification
2 requirements specified in section 401 of the federal "Internal Revenue
3 Code of 1986", as amended, that are applicable to governmental plans.
4 The plan shall cover the members of those employers that have elected
5 coverage under the plan pursuant to section 31-31-1101.

6 (2) (a) There is hereby created the fire and police members'
7 statewide hybrid plan benefit ~~fund~~ ACCOUNT THAT SHALL BE A
8 COMPONENT OF THE DEFINED BENEFIT SYSTEM TRUST FUND AND that shall
9 consist of moneys of employers that have elected coverage pursuant to
10 section 31-31-1101, including member and employer contributions and
11 such amounts as may be transferred pursuant to section 31-31-1101. The
12 board shall keep an accurate account of the fund, each member's separate
13 account in the fund, and each member's service credit earned under the
14 statewide hybrid plan. ~~The board may allow a member to exercise control~~
15 ~~of the investment of part of the member's accrued benefit under the plan.~~
16 ~~In allowing a member to exercise such control, the board shall:~~

17 ~~(I) Select at least three investment alternatives, each of which is~~
18 ~~diversified in itself, that allow the member a broad range of investments~~
19 ~~and a meaningful choice between risk and return in the investment of the~~
20 ~~member's accrued benefit;~~

21 ~~(II) Allow the member to change investments at least once each~~
22 ~~calendar quarter; and~~

23 ~~(III) Provide the member with information describing the~~
24 ~~investment alternatives, the nature, investment performance, fees, and~~
25 ~~expenses of investment alternatives, and other information to enable a~~
26 ~~member to make informed investment decisions.~~

27 (b) The statewide hybrid plan document created by the board

1 pursuant to subsection (1) of this section shall govern the accrual of
2 service credit, vesting, the benefits to be offered based on age and service,
3 the allocation of contributions towards funding the defined benefit and
4 the defined contribution, the calculation and allocation of earnings and
5 losses under the various investment alternatives which the board may
6 offer, the transfer of assets between funds under each investment
7 alternative, the allocation of a member's account between investment
8 alternatives, and such other matters as may be necessary to the board's
9 administration and management of the statewide hybrid plan benefit fund
10 created pursuant to this section.

11 (c) DEFINED BENEFIT ASSETS OF THE STATEWIDE HYBRID PLAN
12 SHALL BE ADMINISTERED WITHIN THE FIRE AND POLICE MEMBERS' BENEFIT
13 INVESTMENT FUND, AND SELF-DIRECTED ASSETS OF THE PLAN SHALL BE
14 ADMINISTERED WITHIN THE FIRE AND POLICE MEMBERS' SELF-DIRECTED
15 INVESTMENT FUND. In its administration, investment, and management
16 of the defined contribution assets ~~within~~ OF the statewide hybrid plan
17 ~~benefit fund~~, the board shall be subject to the same provisions applicable
18 ~~to its administration, investment, and management of the fire and police~~
19 ~~members' money purchase plan benefit fund as set forth in section~~
20 ~~31-31-703 (2) to (7).~~ In its administration, investment, and management
21 ~~of the defined benefit assets within the statewide hybrid plan benefit fund,~~
22 ~~the board shall be subject to the same provisions applicable to its~~
23 ~~administration of the fire and police member's benefit fund as set forth in~~
24 ~~section 31-31-302~~ OF SECTION 31-31-303.

25 (3) Each member's member and employer contributions
26 transferred to the statewide hybrid plan ~~benefit fund~~ pursuant to section
27 31-31-1101 shall be allocated to the member's separate account within the

1 ~~fund~~ PLAN.

2 (4) (a) Except as provided in paragraph (b) of this subsection (4),
3 upon the effective date of coverage under the statewide hybrid plan, each
4 member covered by the plan shall pay into the DEFINED BENEFIT SYSTEM
5 TRUST fund eight percent of salary paid. The payment shall be made by
6 the employer by deduction from the salary paid to such member. Except
7 as provided in paragraph (b) of this subsection (4), for each such member,
8 the employer shall pay into the ~~statewide hybrid plan benefit~~ DEFINED
9 BENEFIT SYSTEM TRUST fund eight percent of the salary paid to such
10 member. Payments are due no later than ten days following the date of
11 payment of salary to the member, unless the salary is paid more than once
12 monthly, in which event such payments are due no later than the tenth day
13 of the month following the month the salary is paid to the member. An
14 interest charge of one-half of one percent per month shall be levied
15 against any unpaid amount and added to the employer payments required
16 pursuant to this section.

17 **SECTION 28. Applicability.** Section 5 of this act shall apply
18 to transfers made on or after the effective date of this act.

19 **SECTION 29. Safety clause.** The general assembly hereby
20 finds, determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.

DRAFT

Bill B

Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 06-0131

Date: December 13, 2005

Prime Sponsor(s): Rep. Riesberg
Sen. Williams

Bill Status: Police Officers' and Firefighters'
Pension Reform Commission

Fiscal Analyst: Chris Ward (303-866-5834)

TITLE: CONCERNING THE STRUCTURE OF TRUST FUNDS AND INVESTMENT FUNDS
IN THE ADMINISTRATION OF ASSETS FOR THE BENEFIT OF FIREFIGHTERS AND
POLICE OFFICERS.

Summary of Assessment

The bill makes several changes to align the Fire and Police Pension Association (FPPA) defined benefit system with current Internal Revenue Service requirements. It also separates assets under FPPA's control into trust funds and investment funds in order to simplify financial reporting. It will not affect state or local government revenues or expenditures and is not expected to significantly affect the FPPA. In the long term, changing the structure of funds held by FPPA to simplify and clarify the accounting and reporting of such funds may potentially save staff time, although this impact is expected to be minimal. As such, the bill is assessed as having no fiscal impact.

The bill would take effect upon signature of the Governor.

Departments Contacted

Fire and Police Pension Association

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

Bill C

DRAFT

LLS NO. 06-0243.01 Ed DeCecco

SENATE BILL

SENATE SPONSORSHIP

Tochtrop, Entz, Taylor, and Williams

HOUSE SPONSORSHIP

McGihon, Berens, Cerbo, McCluskey, Ragsdale, and Vigil

Senate Committees

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE PARTIAL ENTRY INTO THE FIRE AND POLICE PENSION**
102 **ASSOCIATION DEFINED BENEFIT SYSTEM BY MEMBERS OF**
103 **MONEY PURCHASE PLANS WHERE ALL FUTURE ELIGIBLE**
104 **EMPLOYEES ARE REQUIRED TO PARTICIPATE IN THE DEFINED**
105 **BENEFIT SYSTEM.**

Bill Summary

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

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.

DRAFT

Police Officers' and Firefighters' Pension Reform Commission. Allows an employer to apply to the board of directors of the fire and police pension association for coverage under the statewide hybrid plan or statewide defined benefit plan (defined benefit system) for some, but not all, of the members of a local money purchase plan or the statewide money purchase plan. Creates this partial entry procedure as an alternative to the existing procedure for entry into the defined benefit system of the members of a local money purchase plan or the statewide money purchase plan, which requires approval by 65% of all active members employed by an employer. Under the partial entry procedure, establishes that the active members of a local money purchase plan or the statewide money purchase plan that choose to be part of the defined benefit system will be covered under the defined benefit system, as well as all future eligible employees. In the case of entry that is approved by 65% of all active members employed by an employer, clarifies that all future employees hired after the effective date of coverage under the defined benefit system will become participants in the defined benefit system. Makes conforming changes to the application certification process for employers and to the authority of the board to promulgate rules.

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

2 **SECTION 1.** 31-31-1101 (1), (2), (3), (4), (5) (c), and (6) (a),
3 Colorado Revised Statutes, are amended, and the said 31-31-1101 is
4 further amended BY THE ADDITION OF A NEW SUBSECTION, to
5 read:

6 **31-31-1101. Entry into the statewide hybrid plan.** (1) Any
7 employer who has established a local money purchase plan pursuant to
8 part 6 of this article or article 30.5 of this title or has withdrawn into the
9 statewide money purchase plan pursuant to part 5 of this article may apply
10 to the board to cover SOME OR ALL OF the existing members of its money

1 purchase plan under the statewide hybrid plan established pursuant to
2 section 31-31-1102. An application may be initiated by filing with the
3 board a resolution adopted by the employer pursuant to subsection (2) of
4 this section no less than six months prior to the proposed effective date
5 of coverage under the statewide hybrid plan, unless a shorter waiting
6 period is approved by the board.

7 (2) The employer's resolution applying for coverage under the
8 statewide hybrid plan shall be adopted by the governing body of the
9 employer and shall state the employer's intent to cover UNDER THE
10 STATEWIDE HYBRID PLAN SOME OR ALL OF THE CURRENT members of its
11 money purchase plan ~~under the statewide hybrid plan~~ AND ALL OF THE
12 EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE DATE OF COVERAGE
13 UNDER THE STATEWIDE HYBRID PLAN THAT MEET THE DEFINITION OF A
14 MEMBER, AS DEFINED IN SECTION 31-31-102 (4).

15 (3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3.5) OF THIS
16 SECTION, any application for coverage under the statewide hybrid plan
17 shall be approved by at least sixty-five percent of all active members
18 employed by the employer who are participating in the money purchase
19 plan at the time of the application.

20 (3.5) IN LIEU OF AN ELECTION TO OBTAIN THE APPROVAL BY AT
21 LEAST SIXTY-FIVE PERCENT OF ALL ACTIVE MEMBERS AS REQUIRED BY
22 SUBSECTION (3) OF THIS SECTION, THE EMPLOYER MAY OFFER EACH
23 ACTIVE LOCAL PLAN MEMBER THE OPTION TO DISCONTINUE PARTICIPATION
24 IN THE LOCAL MONEY PURCHASE PLAN AND TO PARTICIPATE IN THE
25 STATEWIDE HYBRID PLAN. THE OFFER SHALL BE A ONE-TIME EVENT AND
26 SHALL BE EXTENDED TO ALL ACTIVE LOCAL PLAN MEMBERS EMPLOYED BY
27 THE EMPLOYER AT THE TIME OF THE OFFER. ACTIVE LOCAL PLAN

1 MEMBERS THAT CHOOSE TO DISCONTINUE PARTICIPATION IN THE LOCAL
2 MONEY PURCHASE PLAN AND TO PARTICIPATE IN THE STATEWIDE HYBRID
3 PLAN AND ALL OF THE EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE
4 DATE OF COVERAGE UNDER THE STATEWIDE HYBRID PLAN THAT MEET THE
5 DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4), SHALL
6 BE INCLUDED IN THE EMPLOYER'S APPLICATION FOR COVERAGE UNDER THE
7 STATEWIDE HYBRID PLAN.

8 (4) The board shall promulgate rules relating to standards for
9 disclosure of all ramifications and procedures for obtaining member
10 approval pursuant to subsection (3) of this section OR FOR ALLOWING
11 ACTIVE MEMBERS TO JOIN THE STATEWIDE HYBRID PLAN PURSUANT TO
12 SUBSECTION (3.5) OF THIS SECTION. The board shall also promulgate rules
13 relating to standards for granting an employer's application for
14 participation in the statewide hybrid plan and for the submission of
15 information to the board by the employer. Such rules shall contain a
16 provision specifying that an employer that opts to participate in the
17 statewide hybrid plan shall not be permitted to opt out of such plan at any
18 later date.

19 (5) An application for coverage under the statewide hybrid plan
20 filed by an employer who administers a local money purchase plan shall
21 include the employer's certification to the board:

22 (c) That all active fire and police participants in the local money
23 purchase plan AND ALL EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE
24 DATE OF COVERAGE UNDER THE STATEWIDE HYBRID PLAN THAT MEET THE
25 DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4), will
26 become participants in the statewide hybrid plan, EXCEPT AS MAY BE
27 ALLOWED IN SUBSECTION (3.5) OF THIS SECTION;

1 (6) An application for coverage under the statewide hybrid plan
2 filed by an employer who participates in the statewide money purchase
3 plan shall include the employer's certification to the board that:

4 (a) All active fire and police participants in the statewide money
5 purchase plan AND ALL EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE
6 DATE OF COVERAGE UNDER THE STATEWIDE HYBRID PLAN THAT MEET THE
7 DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4), will
8 become participants in the statewide hybrid plan, EXCEPT AS MAY BE
9 ALLOWED IN SUBSECTION (3.5) OF THIS SECTION;

10 **SECTION 2.** 31-31-1103 (1) (a), (1) (b), (1) (c), (1) (d), (1) (e)
11 (III), and (1) (f) (I), Colorado Revised Statutes, are amended, and the said
12 31-31-1103 (1) is further amended BY THE ADDITION OF A NEW
13 PARAGRAPH, to read:

14 **31-31-1103. Entry into the statewide defined benefit plan.**

15 (1) (a) Any employer who has established a local money purchase plan
16 pursuant to part 6 of this article or article 30.5 of this title or has
17 withdrawn into the statewide money purchase plan pursuant to part 5 of
18 this article may apply to the board to cover SOME OR ALL OF the members
19 of its money purchase plan and its future members under the statewide
20 defined benefit plan pursuant to part 4 of this article. An application may
21 be initiated by filing with the board a resolution adopted by the employer
22 pursuant to paragraph (b) of this subsection (1) no less than six months
23 prior to the proposed effective date of coverage under the statewide
24 defined benefit plan, unless a shorter waiting period is approved by the
25 board.

26 (b) The employer's resolution applying for coverage under the
27 statewide defined benefit plan shall be adopted by the governing body of

1 the employer and shall state the employer's intent to cover UNDER THE
2 STATEWIDE DEFINED BENEFIT PLAN SOME OR ALL OF the members of its
3 money purchase plan ~~under the statewide defined benefit plan~~ AND
4 EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE DATE OF COVERAGE
5 UNDER THE STATEWIDE DEFINED BENEFIT PLAN THAT MEET THE
6 DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4).

7 (c) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (c.5) OF THIS
8 SUBSECTION (1), any application for coverage under the statewide defined
9 benefit plan shall be approved by at least sixty-five percent of all active
10 members employed by the employer who are participating in the money
11 purchase plan at the time of the application.

12 (c.5) IN LIEU OF AN ELECTION TO OBTAIN THE APPROVAL BY AT
13 LEAST SIXTY-FIVE PERCENT OF ALL ACTIVE MEMBERS AS REQUIRED BY
14 PARAGRAPH (c) OF THIS SUBSECTION (1), THE EMPLOYER MAY GIVE EACH
15 ACTIVE LOCAL PLAN MEMBER THE OPTION TO DISCONTINUE PARTICIPATION
16 IN THE LOCAL MONEY PURCHASE PLAN AND TO PARTICIPATE IN THE
17 STATEWIDE DEFINED BENEFIT PLAN. THE OFFER SHALL BE A ONE-TIME
18 EVENT AND SHALL BE EXTENDED TO ALL ACTIVE LOCAL PLAN MEMBERS
19 EMPLOYED BY THE EMPLOYER AT THE TIME OF THE OFFER. ACTIVE LOCAL
20 PLAN MEMBERS THAT CHOOSE TO DISCONTINUE PARTICIPATION IN THE
21 LOCAL MONEY PURCHASE PLAN AND TO PARTICIPATE IN THE STATEWIDE
22 DEFINED BENEFIT PLAN AND ALL OF THE EMPLOYEES HIRED ON OR AFTER
23 THE EFFECTIVE DATE OF COVERAGE UNDER THE STATEWIDE DEFINED
24 BENEFIT PLAN THAT MEET THE DEFINITION OF A MEMBER, AS DEFINED IN
25 SECTION 31-31-102 (4), SHALL BE INCLUDED IN THE EMPLOYER'S
26 APPLICATION FOR COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT
27 PLAN.

1 (d) The board shall promulgate rules relating to standards for
2 disclosure of all ramifications and procedures for obtaining the member
3 approval described in paragraph (c) of this subsection (1) OR FOR
4 ALLOWING ACTIVE MEMBERS TO CHANGE PLANS PURSUANT TO PARAGRAPH
5 (c.5) OF THIS SUBSECTION (1). The board shall also promulgate rules
6 relating to standards for granting an employer's application for
7 participation in the statewide defined benefit plan and for the submission
8 of information to the board by the employer.

9 (e) An application for coverage under the statewide defined
10 benefit plan filed by an employer who administers a local money purchase
11 plan shall include the employer's certification to the board that:

12 (III) All active fire and police participants in the local money
13 purchase plan AND ALL EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE
14 DATE OF COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT PLAN WHO
15 MEET THE DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102
16 (4), will become participants in the statewide defined benefit plan,
17 EXCEPT AS MAY BE ALLOWED IN PARAGRAPH (c.5) OF THIS SUBSECTION (1);

18 (f) An application for coverage under the statewide defined
19 benefit plan filed by an employer who participates in the statewide money
20 purchase plan shall include the employer's certification to the board that:

21 (I) All active fire and police participants in the statewide money
22 purchase plan AND ALL EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE
23 DATE OF COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT PLAN WHO
24 MEET THE DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102
25 (4), will become participants in the statewide defined benefit plan,
26 EXCEPT AS MAY BE ALLOWED UNDER PARAGRAPH (c.5) OF THIS
27 SUBSECTION (1);

1 **SECTION 3. Effective date.** This act shall take effect at 12:01
2 a.m. on the day following the expiration of the ninety-day period after
3 final adjournment of the general assembly that is allowed for submitting
4 a referendum petition pursuant to article V, section 1 (3) of the state
5 constitution (August 9, 2006, if adjournment sine die is on May 10,
6 2006); except that, if a referendum petition is filed against this act or an
7 item, section, or part of this act within such period, then the act, item,
8 section, or part, if approved by the people, shall take effect on the date of
9 the official declaration of the vote thereon by proclamation of the
10 governor.

DRAFT

Bill C

Colorado Legislative Council Staff

**LOCAL
CONDITIONAL FISCAL IMPACT**

No State General Fund Impact

Drafting Number: LLS 06-0243
Prime Sponsor(s): Sen. Tochtrop
Rep. McGihon

Date: December 15, 2005
Bill Status: Police Officers' and Firefighters'
Pension Reform Commission
Fiscal Analyst: Chris Ward (303-866-5834)

TITLE: CONCERNING THE PARTIAL ENTRY INTO THE FIRE AND POLICE PENSION ASSOCIATION DEFINED BENEFIT SYSTEM BY MEMBERS OF MONEY PURCHASE PLANS WHERE ALL FUTURE ELIGIBLE EMPLOYEES ARE REQUIRED TO PARTICIPATE IN THE DEFINED BENEFIT SYSTEM.

Fiscal Impact Summary	FY 2006/2007	FY 2007/2008
State Revenues General Fund		
State Expenditures General Fund		
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: August 9, 2006, unless a referendum petition is filed.		
Appropriation Summary for FY 2006/2007: None required		
Local Government Impact: See Local Government Impact section		

Summary of Legislation

Under current law, an application to join the Fire and Police Pension Association (FPPA) statewide defined benefit plan or statewide hybrid plan must include all active members who participate in the local money purchase plan and must be approved by at least 65 percent of the employer's active members. This bill establishes an alternative to allow partial entry into an FPPA plan. Under a partial entry, all employees hired after the FPPA coverage becomes effective will also become participants in the FPPA system.

Local Government Impact

The bill allows firefighters and police officers who participate in a local money purchase plan to join the FPPA defined benefit plan or hybrid plan or to remain in the local plan, without affecting all other existing employees. Any additional police officer and firefighter retirement benefit costs

to local governments will be optional since participation in the FPPA plans under the bill is voluntary.

Fire and Police Pension Association Impact

It is anticipated that the new partial entry option can be implemented by the FPPA within existing resources. As such, the bill will not affect expenditures of the state or the FPPA.

State Appropriations

No new state appropriations are required to implement the bill.

Departments Contacted

Fire and Police Pension Association