

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading

LLS NO. 15-0178.02 Jason Gelender x4330

HOUSE BILL 15-1388

HOUSE SPONSORSHIP

Pabon and Rankin,

SENATE SPONSORSHIP

Holbert and Kerr,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE "SECURITIZING CONTRIBUTIONS**
102 **FOR RETIREMENT EARNINGS ACT", AND, IN CONNECTION**
103 **THEREWITH, AUTHORIZING THE COLORADO HOUSING AND**
104 **FINANCE AUTHORITY TO ISSUE PENSION OBLIGATION BONDS IN**
105 **ORDER TO MORE QUICKLY ELIMINATE UNFUNDED ACCRUED**
106 **ACTUARIAL LIABILITIES OF THE PUBLIC EMPLOYEES'**
107 **RETIREMENT ASSOCIATION SUBJECT TO A JUDICIAL**
108 **DETERMINATION OF CONSTITUTIONALITY AND THE APPROVAL**
109 **OF THE GOVERNOR AND THE STATE TREASURER AND REQUIRING**
110 **THE ASSOCIATION TO CONTRACT WITH THE AUTHORITY**
111 **REGARDING THE REPAYMENT OF ANY BONDS ISSUED.**

Bill Summary

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.

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

The state and school divisions of the public employees' retirement association (PERA) each have an unfunded accrued actuarial liability (UAAL), a shortfall in the amount of each division's assets needed, according to actuarial projections, to pay the benefits projected to be owed to each division's PERA members in the future. Current law requires state and school division employers to make amortization equalization disbursement (AED) payments and supplemental amortization equalization disbursement (SAED) payments in order to reduce and eventually eliminate the UAAL over a 30-year period.

Section 3 of the bill authorizes the Colorado housing and finance authority (CHFA) to issue bonds and cause net bond proceeds to be deposited to the PERA state and school division trust funds if:

- ! The governor and the state treasurer have obtained an unappealable court judgment, which they are required to seek, that the issuance of bonds is constitutional; and
- ! The governor and the state treasurer certify that doing so will eliminate the UAALs sooner than would otherwise be the case.

Section 4 of the bill creates state division and school division AED and SAED special revenue funds (special funds). If CHFA issues bonds:

- ! PERA must enter into a contract with CHFA under which PERA agrees to make payments to CHFA to ensure that CHFA can repay the bonds; and
- ! PERA must deposit AED and SAED payments that it receives into the special funds for the purpose of making payments to CHFA.

Section 4 of the bill also creates an "intercept" program that allows the state treasurer to make AED and SAED payments to PERA on behalf of a school division employer that fails to make such payments and to withhold monthly payments of state total program and county-collected property taxes from the school division employer to the extent necessary to cover the AED and SAED payments. The bill also generally specifies various requirements relating to the amount of bonds that may be issued and the manner of issuance and repayment.

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

2 **SECTION 1. Short title.** This act shall be known and may be

1 cited as the "Securitizing Contributions for Retirement Earnings Act".

2 **SECTION 2. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) It is committed to the goals of maintaining the current
5 employer contribution rates for, preserving this current actuarial funding
6 ratio of, and improving the future actuarial funding ratio of the state
7 division trust fund and the school division trust fund of the public
8 employees' retirement association;

9 (b) It has carefully considered various alternatives to achieve these
10 goals and has determined that the amendments to law made in this act that
11 authorize the issuance of bonds, require the inclusion of certain
12 covenants, and otherwise direct or authorize related actions represent the
13 best means of achieving these goals and are necessary, appropriate, and
14 in the best interest of the state; and

15 (c) It intends that the bonds be issued in one or more series in the
16 maximum aggregate principal amount that the governor and the state
17 treasurer determine is financially prudent under prevailing market
18 conditions within the interest rate, funding ratio, coverage ratio, time
19 period, and other parameters set forth in section 29-4-710.8 (4) and (9),
20 Colorado Revised Statutes.

21 **SECTION 3.** In Colorado Revised Statutes, **add** 29-4-710.8 as
22 follows:

23 **29-4-710.8. Powers of the board - issuance of bonds to fund**
24 **the state division trust fund and the school division trust fund of the**
25 **public employees' retirement association - definitions - legislative**
26 **declaration.** (1) UNLESS A SPECIFIC TERM IS OTHERWISE DEFINED IN THIS
27 SUBSECTION (1) OR ELSEWHERE IN THIS SECTION, DEFINITIONS OF TERMS

1 DEFINED IN SECTION 24-51-101, C.R.S., APPLY TO THIS SECTION. AS USED
2 IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

3 (a) "ASSOCIATION" MEANS THE PUBLIC EMPLOYEES' RETIREMENT
4 ASSOCIATION CREATED IN SECTION 24-51-201, C.R.S.

5 (b) "BONDS" MEANS BONDS OR NOTES ISSUED BY THE AUTHORITY
6 AS AUTHORIZED BY THIS SECTION.

7 (c) "REQUIRED COVENANTS" MEANS THE FOLLOWING COVENANTS
8 THAT MUST BE INCLUDED IN THE TERMS OF A TRUST INDENTURE OR OTHER
9 INSTRUMENT GOVERNING A SERIES OF BONDS IN ACCORDANCE WITH
10 SUBPARAGRAPH (IV) OF PARAGRAPH (c) OF SUBSECTION (4) OF THIS
11 SECTION:

12 (I) A COVENANT THAT AN IMMEDIATE EVENT OF DEFAULT UNDER
13 THE TRUST INDENTURE OR OTHER INSTRUMENT OCCURS IF SECTION
14 24-51-411, C.R.S., IS AMENDED TO LOWER THE PERCENTAGE OF THE
15 TOTAL PAYROLL OF STATE DIVISION EMPLOYERS OR SCHOOL DIVISION
16 EMPLOYERS ON WHICH THE AMORTIZATION EQUALIZATION DISBURSEMENT
17 PAYMENTS OR SUPPLEMENTAL AMORTIZATION EQUALIZATION
18 DISBURSEMENT PAYMENTS ARE CALCULATED FROM THE PERCENTAGE SET
19 FORTH IN SECTION 24-51-411, C.R.S., AS OF THE EFFECTIVE DATE OF THIS
20 SUBPARAGRAPH (I), INCLUDING INCREASES REQUIRED UNDER SAID
21 SECTION 24-51-411, C.R.S., THROUGH 2018, SUBJECT TO REDUCTIONS
22 ALLOWED UNDER SECTION 24-51-411 (8), C.R.S.; AND

23 (II) A COVENANT THAT AN IMMEDIATE EVENT OF DEFAULT UNDER
24 THE TRUST INDENTURE OR OTHER INSTRUMENT OCCURS IF SECTION
25 24-51-401 (1.7), C.R.S., IS AMENDED TO LOWER THE PERCENTAGE OF THE
26 TOTAL PAYROLL OF STATE DIVISION EMPLOYERS OR SCHOOL DIVISION
27 EMPLOYERS ON WHICH EMPLOYER CONTRIBUTIONS ARE CALCULATED

1 FROM THE PERCENTAGE SET FORTH IN SECTION 24-51-401 (1.7), C.R.S., AS
2 OF THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (II); EXCEPT THAT THE
3 LOWERING OF THE PERCENTAGE IS NOT AN EVENT OF DEFAULT IF:

4 (A) THE MOST RECENT ACTUARIAL VALUATION OF THE
5 ASSOCIATION STATES THAT THE STATE DIVISION TRUST FUND AND THE
6 SCHOOL DIVISION TRUST FUND ARE FUNDED, BASED ON THE ACTUARIAL
7 VALUE OF THE ASSETS OF THE FUNDS, AT OR ABOVE ONE HUNDRED THIRTY
8 PERCENT OF THEIR RESPECTIVE ACCRUED ACTUARIAL LIABILITY AND THE
9 LOWERED PERCENTAGE MAINTAINS THE THEN-CURRENT FUNDED RATIO OF
10 THE STATE DIVISION TRUST FUND AND THE SCHOOL DIVISION TRUST FUND;

11 OR

12 (B) THE PERCENTAGE OF THE TOTAL PAYROLL OF STATE DIVISION
13 EMPLOYERS OR SCHOOL DIVISION EMPLOYERS ON WHICH EMPLOYER
14 CONTRIBUTIONS ARE CALCULATED IS LOWERED IN CONNECTION WITH A
15 DECLARED FISCAL EMERGENCY UNDER SECTION 24-50-109.5, C.R.S., AND,
16 BY THE END OF THE FIFTH FISCAL YEAR FOLLOWING THE FISCAL YEAR IN
17 WHICH THE LOWER PERCENTAGE IS EFFECTIVE, STATE DIVISION
18 EMPLOYERS AND SCHOOL DIVISION EMPLOYERS HAVE MADE ADDITIONAL
19 EMPLOYER CONTRIBUTIONS TO THE ASSOCIATION EQUAL TO THE AMOUNT
20 OF THE REDUCTION IN EMPLOYER CONTRIBUTIONS RESULTING FROM THE
21 LOWERING OF THE PERCENTAGE PLUS EARNINGS ON THE REDUCTION IN THE
22 FISCAL YEAR IN WHICH THE LOWER PERCENTAGE IS EFFECTIVE AND IN
23 EACH FISCAL YEAR DURING THE FIVE-YEAR CURE PERIOD AT THE
24 ACTUARIAL INVESTMENT ASSUMPTION RATE USED IN THE ACTUARIAL
25 VALUATION OF THE ASSOCIATION FOR EACH SUCH FISCAL YEAR; EXCEPT
26 THAT, IF THE ADDITIONAL EMPLOYER CONTRIBUTIONS HAVE NOT BEEN
27 MADE BY THE END OF THE FIFTH FISCAL YEAR, THE EVENT OF DEFAULT IS

1 IMMEDIATELY EFFECTIVE AND THE CURE PERIOD MAY NOT BE EXTENDED
2 FOR ANY REASON.

3 (d) "SCHOOL DIVISION SPECIAL FUND" MEANS THE SCHOOL
4 DIVISION AMORTIZATION EQUALIZATION DISBURSEMENT AND
5 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT SPECIAL
6 REVENUE FUND CREATED IN SECTION 24-51-201.1 (3) (a), C.R.S.

7 (e) "SCHOOL DIVISION TRUST FUND" MEANS THE SCHOOL DIVISION
8 TRUST FUND OF THE ASSOCIATION CREATED IN SECTION 24-51-208 (1)
9 (a.5), C.R.S.

10 (f) "STATE DIVISION SPECIAL FUND" MEANS THE STATE DIVISION
11 AMORTIZATION EQUALIZATION DISBURSEMENT AND SUPPLEMENTAL
12 AMORTIZATION EQUALIZATION DISBURSEMENT SPECIAL REVENUE FUND
13 CREATED IN SECTION 24-51-201.1 (2) (a), C.R.S.

14 (g) "STATE DIVISION TRUST FUND" MEANS THE STATE DIVISION
15 TRUST FUND OF THE ASSOCIATION CREATED IN SECTION 24-51-208 (1) (a),
16 C.R.S.

17 (h) "UNFUNDED ACCRUED ACTUARIAL LIABILITY" MEANS THE
18 UNFUNDED ACCRUED ACTUARIAL LIABILITY OF THE STATE DIVISION TRUST
19 FUND, THE SCHOOL DIVISION TRUST FUND, OR BOTH, AS APPROPRIATE, OF
20 THE ASSOCIATION AS SET FORTH IN THE MOST RECENT OFFICIAL FINANCIAL
21 REPORT OF THE ASSOCIATION.

22 (2) UPON RECEIVING THE CERTIFICATIONS SPECIFIED IN
23 SUBSECTION (4) OF THIS SECTION, THE AUTHORITY, IN ADDITION TO THE
24 OTHER POWERS GRANTED BY THIS PART 7, HAS THE FOLLOWING POWERS:

25 (a) TO ISSUE ONE OR MORE SERIES OF BONDS AS PROVIDED IN THIS
26 SECTION TO FUND THE STATE DIVISION TRUST FUND AND THE SCHOOL
27 DIVISION TRUST FUND AND, IN CONNECTION WITH THAT POWER:

1 (I) TO PAY THE PRINCIPAL OF, AND INTEREST AND PREMIUM, IF
2 ANY, ON, THE BONDS, THE COSTS OF BOND ISSUANCE AND
3 ADMINISTRATION, AND ANY OTHER RELATED FEES AND COSTS OF THE
4 AUTHORITY, THE ASSOCIATION, THE GOVERNOR, AND THE STATE
5 TREASURER RELATING TO THE BONDS;

6 (II) TO ESTABLISH RESERVES FOR THE BONDS; AND

7 (III) TO MAKE DEPOSITS INTO THE STATE DIVISION TRUST FUND
8 AND THE SCHOOL DIVISION TRUST FUND AND OTHERWISE APPLY THE
9 PROCEEDS OF THE BONDS FOR ANY OF THE PURPOSES SET FORTH IN THIS
10 PARAGRAPH (a); AND

11 (b) TO ENTER INTO CONTRACTS WITH THE ASSOCIATION PURSUANT
12 TO WHICH THE ASSOCIATION AGREES TO PAY AND PLEDGES TO THE
13 AUTHORITY MONEYS IN THE STATE DIVISION SPECIAL FUND AND THE
14 SCHOOL DIVISION SPECIAL FUND TO PAY AND SECURE THE PAYMENT OF
15 BONDS.

16 (3) BONDS ARE LIMITED OBLIGATIONS OF THE AUTHORITY AND ARE
17 PAYABLE SOLELY FROM MONEYS PAID TO THE AUTHORITY BY THE
18 ASSOCIATION FROM MONEYS IN THE STATE DIVISION SPECIAL FUND AND
19 THE SCHOOL DIVISION SPECIAL FUND AND PROCEEDS DERIVED FROM THE
20 SALE OF THE BONDS, EARNINGS ON SUCH PROCEEDS, AND OTHER MONEYS
21 AND SECURITIES THAT ARE HELD BY THE AUTHORITY OR BY A TRUSTEE FOR
22 THE OWNERS OF THE BONDS, ALL TO THE EXTENT THAT SUCH MONEYS,
23 PROCEEDS, EARNINGS, AND OTHER MONEYS AND SECURITIES HAVE BEEN
24 PLEDGED BY THE AUTHORITY FOR PAYMENT OF THE BONDS. THE OWNERS
25 OR HOLDERS OF BONDS MAY NOT LOOK TO ANY OTHER REVENUES OR
26 ASSETS OF THE STATE OR THE AUTHORITY FOR THE PAYMENT OF THE
27 BONDS AND MAY NOT, UNDER ANY CIRCUMSTANCES, SEEK OR BE ENTITLED

1 TO SEEK ANY ASSETS OR REVENUES OF THE ASSOCIATION OTHER THAN
2 MONEYS IN THE STATE DIVISION SPECIAL FUND AND THE SCHOOL DIVISION
3 SPECIAL FUND THAT HAVE BEEN PLEDGED FOR THE PAYMENT OF THE
4 BONDS. NEITHER BONDS, NOR ANY CONTRACT BETWEEN THE ASSOCIATION
5 AND THE AUTHORITY, ANY OTHER CONTRACT OR AGREEMENT RELATING
6 TO OR ENTERED INTO IN CONNECTION WITH BONDS, NOR ANY OBLIGATION
7 OF THE STATE DIVISION OR A SCHOOL DIVISION EMPLOYER TO PAY THE
8 AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS AND THE
9 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS
10 TO THE ASSOCIATION CREATE AN INDEBTEDNESS OR MULTIPLE-FISCAL
11 YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF ANY
12 STATE DIVISION OR SCHOOL DIVISION EMPLOYER WITHIN THE MEANING OF
13 THE STATE CONSTITUTION OR THE LAWS OF THIS STATE CONCERNING OR
14 LIMITING THE CREATION OF INDEBTEDNESS OR MULTIPLE-FISCAL YEAR
15 DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATIONS BY THE
16 STATE OR ANY SCHOOL DISTRICT.

17 (4) THE AUTHORITY SHALL NOT ISSUE ANY SERIES OF BONDS UNTIL:

18 (a) THE GOVERNOR AND THE STATE TREASURER HAVE DELIVERED
19 TO THE AUTHORITY AND THE ASSOCIATION A WRITTEN CERTIFICATE
20 STATING THAT, BASED ON THE ACTUARIAL INVESTMENT ASSUMPTION RATE
21 AND THE OTHER ASSUMPTIONS USED IN THE MOST RECENT ACTUARIAL
22 VALUATION OF THE ASSOCIATION AND THE TERMS OF THE SERIES OF BONDS
23 AND OTHER ITEMS INCLUDED IN THE CERTIFICATION PURSUANT TO THIS
24 SUBSECTION (4), THE ISSUANCE OF THE SERIES OF BONDS SHOULD REDUCE
25 THE UNFUNDED ACCRUED ACTUARIAL LIABILITY OF THE TRUST FUND OR
26 TRUST FUNDS OF THE ASSOCIATION INTO WHICH PROCEEDS OF THE BONDS
27 ARE TO BE DEPOSITED MORE QUICKLY THAN IF THE BONDS WERE NOT

1 ISSUED. THE GOVERNOR AND THE STATE TREASURER ARE HEREBY
2 AUTHORIZED TO MAKE ALL DETERMINATIONS REQUIRED TO DELIVER AND
3 TO ACTUALLY DELIVER SUCH A CERTIFICATE.

4 (b) (I) THE ATTORNEY GENERAL HAS DELIVERED TO THE
5 AUTHORITY, THE ASSOCIATION, THE GOVERNOR, AND THE STATE
6 TREASURER A CERTIFICATE STATING THAT A COURT OF COMPETENT
7 JURISDICTION HAS ISSUED A FINAL NONAPPEALABLE ORDER TO THE EFFECT
8 THAT NEITHER BONDS NOR THE OBLIGATIONS OF THE ASSOCIATION UNDER
9 A CONTRACT ENTERED INTO PURSUANT TO SECTION 24-51-201.1, C.R.S.,
10 NOR THE INVOLVEMENT OF THE STATE OF COLORADO CREATE A DEBT BY
11 LOAN IN ANY FORM FOR PURPOSES OF SECTION 3 OF ARTICLE XI OF THE
12 STATE CONSTITUTION OR A MULTIPLE-FISCAL YEAR DIRECT OR INDIRECT
13 DEBT OR OTHER FINANCIAL OBLIGATION FOR PURPOSES OF SECTION 20 OF
14 ARTICLE X OF THE STATE CONSTITUTION.

15 (II) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

16 (A) THE CERTIFICATE REQUIREMENT SET FORTH IN SUBPARAGRAPH
17 (I) OF THIS PARAGRAPH (b) IS NECESSARY BECAUSE THE ISSUANCE OF
18 BONDS, THE OBLIGATIONS OF THE ASSOCIATION UNDER A CONTRACT
19 ENTERED INTO PURSUANT TO SECTION 24-51-201.1, C.R.S., AND THE
20 INVOLVEMENT OF THE STATE OF COLORADO RAISE IMPORTANT, CONCRETE,
21 AND IMMEDIATE ISSUES REQUIRING JUDICIAL RESOLUTION SO THAT THE
22 AUTHORITY AND THE ASSOCIATION MAY PROCEED WITH THE IMPORTANT
23 PUBLIC BUSINESS THAT THE GENERAL ASSEMBLY HAS ASSIGNED TO THEM
24 BY ENACTING THIS SECTION, SECTION 24-51-201.1, C.R.S., AND THE
25 OTHER PROVISIONS OF HOUSE BILL 15-1388, ENACTED IN 2015;

26 (B) THE JUDICIAL RESOLUTION OF THESE ISSUES INVOLVES THE
27 APPLICATION OF LEGAL STANDARDS TO TERMS THAT WILL BE ESTABLISHED

1 AND OF PUBLIC RECORD, WHICH MAKES THE ISSUES RIPE FOR JUDICIAL
2 RESOLUTION; AND

3 (C) IT IS THEREFORE NECESSARY AND APPROPRIATE TO REQUIRE
4 THE GOVERNOR AND THE STATE TREASURER TO SEEK AND STATE COURTS
5 TO CONDUCT A JUDICIAL EXAMINATION AND DETERMINATION REGARDING
6 THESE ISSUES AS SPECIFIED IN SUBPARAGRAPHS (III) AND (IV) OF THIS
7 PARAGRAPH (b).

8 (III) THE GOVERNOR AND THE STATE TREASURER SHALL FILE A
9 PETITION IN THE DISTRICT COURT IN AND FOR THE CITY AND COUNTY OF
10 DENVER PRAYING FOR A JUDICIAL EXAMINATION AND DETERMINATION
11 THAT NEITHER BONDS NOR THE OBLIGATIONS OF THE ASSOCIATION UNDER
12 A CONTRACT ENTERED INTO PURSUANT TO SECTION 24-51-201.1, C.R.S.,
13 NOR THE INVOLVEMENT OF THE STATE OF COLORADO CREATE A DEBT BY
14 LOAN IN ANY FORM FOR PURPOSES OF SECTION 3 OF ARTICLE XI OF THE
15 STATE CONSTITUTION OR A MULTIPLE-FISCAL YEAR DIRECT OR INDIRECT
16 DEBT OR OTHER FINANCIAL OBLIGATION FOR PURPOSES OF SECTION 20 OF
17 ARTICLE X OF THE STATE CONSTITUTION.

18 (IV) A JUDICIAL EXAMINATION AND DETERMINATION REQUESTED
19 AS REQUIRED BY SUBPARAGRAPH (III) OF THIS PARAGRAPH (b) IS IN THE
20 NATURE OF A PROCEEDING IN REM, AND JURISDICTION OF ALL PARTIES
21 INTERESTED MAY BE HAD BY PUBLICATION AND POSTING AS SPECIFIED IN
22 THIS SUBPARAGRAPH (IV). NOTICE OF THE FILING OF A PETITION FOR
23 JUDICIAL EXAMINATION SHALL BE GIVEN BY THE CLERK OF COURT, UNDER
24 THE SEAL THEREOF, STATING IN BRIEF OUTLINE THE CONTENTS OF THE
25 PETITION AND STATING WHERE A FULL COPY OF THE PETITION MAY BE
26 EXAMINED. THE NOTICE SHALL BE SERVED BY PUBLICATION FOR FIVE
27 CONSECUTIVE WEEKS IN A WEEKLY OR DAILY NEWSPAPER OF GENERAL

1 CIRCULATION IN EACH OF THE STATE'S PLANNING AND MANAGEMENT
2 REGIONS AS DEFINED BY THE DEPARTMENT OF LOCAL AFFAIRS. NOTICE
3 SHALL ALSO BE POSTED FOR AT LEAST FIVE CONSECUTIVE WEEKS IN THE
4 OFFICES AND ON THE WEB SITES OF THE ASSOCIATION, GOVERNOR, AND
5 TREASURER. COMPLIANCE WITH THESE PUBLICATION REQUIREMENTS
6 CONFERS JURISDICTION UPON THE DISTRICT COURT, AND A HEARING SHALL
7 BE HELD NOT LESS THAN THIRTY NOR MORE THAN FORTY DAYS AFTER THE
8 NOTICE BY PUBLICATION IS COMPLETE. THE DISTRICT COURT SHALL ISSUE
9 ITS JUDICIAL DETERMINATION WITHIN FOURTEEN DAYS AFTER THE CLOSE
10 OF THE HEARING. ANY PERSON INTERESTED IN THE ISSUES SET FORTH IN
11 THE PETITION MAY APPEAR AND ANSWER THE PETITION AT A TIME FIXED
12 BY THE DISTRICT COURT THAT IS PRIOR TO THE DATE FIXED FOR THE
13 HEARING, AND THE PETITION SHALL BE TAKEN AS CONFESSED BY ALL
14 PERSONS WHO FAIL TO APPEAR. COSTS MAY BE DIVIDED OR APPORTIONED
15 AMONG ANY CONTESTING PARTIES IN THE DISCRETION OF THE DISTRICT
16 COURT. THE COLORADO RULES OF CIVIL PROCEDURE GOVERN IN MATTERS
17 OF PLEADING AND PRACTICE WHERE NOT OTHERWISE SPECIFIED IN THIS
18 SECTION. ANY REVIEW OF THE JUDICIAL DETERMINATION OF THE DISTRICT
19 COURT SHALL PROCEED IMMEDIATELY TO THE COLORADO SUPREME COURT
20 AND SHALL BE APPLIED FOR WITHIN THIRTY DAYS AFTER THE TIME OF THE
21 RENDITION OF THE JUDICIAL DETERMINATION. THE COLORADO SUPREME
22 COURT HAS EXCLUSIVE ORIGINAL APPELLATE JURISDICTION, AND IT SHALL
23 ACCEPT SUCH AN APPLICATION FOR REVIEW, SHALL ADVANCE BRIEFING
24 AND ARGUMENT, AND SHALL RENDER A DECISION AS A MATTER OF
25 HIGHEST PRIORITY. IN THAT REGARD, THE SUPREME COURT SHALL ORDER
26 THAT THE APPELLATE RECORD BE PREPARED AND TRANSMITTED TO IT
27 WITHIN FOURTEEN DAYS OF THE NOTICE OF APPEAL; THAT THE OPENING

1 BRIEF BE FILED WITHIN THIRTY DAYS OF THE FILING OF THE RECORD ON
2 APPEAL; THAT THE ANSWER BRIEF BE FILED WITHIN THIRTY DAYS OF THE
3 OPENING BRIEF; AND THAT THE REPLY BRIEF BE FILED WITHIN FOURTEEN
4 DAYS OF THE ANSWER BRIEF. ALL OTHER PROCEDURE IS GOVERNED BY THE
5 COLORADO RULES OF APPELLATE PROCEDURE. THE COURTS SHALL
6 DISREGARD ANY ERROR, IRREGULARITY, OR OMISSION THAT DOES NOT
7 AFFECT THE SUBSTANTIAL RIGHTS OF THE PARTIES.

8 (c) WITH RESPECT TO EACH SERIES OF BONDS TO BE ISSUED, THE
9 GOVERNOR AND THE STATE TREASURER HAVE DELIVERED A WRITTEN
10 CERTIFICATE TO THE AUTHORITY AND THE ASSOCIATION THAT INCLUDES
11 DIRECTLY OR BY REFERENCE TO OTHER DOCUMENTS DELIVERED WITH THE
12 CERTIFICATE:

13 (I) CERTIFICATIONS THAT:

14 (A) THE GOVERNOR AND THE STATE TREASURER HAVE APPROVED
15 THE PRINCIPAL AMOUNT, MATURITY DATES, PRINCIPAL AMOUNT MATURING
16 ON EACH MATURITY DATE, AND INTEREST RATES FOR THE SERIES OF BONDS
17 AND THE DATE ON WHICH THE SERIES OF BONDS IS TO BE ISSUED.

18 (B) THE AGGREGATE PRINCIPAL AMOUNT OF ALL SERIES OF BONDS
19 ISSUED PURSUANT TO THIS SECTION DOES NOT EXCEED EITHER THE
20 MAXIMUM PRINCIPAL AMOUNT THAT CAN BE ISSUED IN COMPLIANCE WITH
21 THE COVERAGE RATIO REQUIREMENTS SET FORTH IN SUBSECTION (9) OF
22 THIS SECTION OR THE PRINCIPAL AMOUNT REQUIRED TO INCREASE THE
23 FUNDING RATIOS OF THE STATE DIVISION TRUST FUND AND THE SCHOOL
24 DIVISION TRUST FUND, BASED ON THE RESPECTIVE ACTUARIAL VALUES OF
25 THE ASSETS OF THE FUNDS, TO ONE HUNDRED PERCENT.

26 (C) THE FINAL MATURITY DATE OF THE SERIES OF BONDS OCCURS
27 NOT LATER THAN FORTY YEARS AFTER THE DATE THE SERIES OF BONDS IS

1 ISSUED.

2 (D) THE INTEREST RATE ON THE SERIES OF BONDS IS FIXED AND
3 THE NET EFFECTIVE INTEREST RATE OF ANY SERIES OF BONDS DOES NOT
4 EXCEED THE ACTUARIAL INVESTMENT ASSUMPTION RATE USED IN THE
5 MOST RECENT ACTUARIAL VALUATION OF THE ASSOCIATION MINUS TWO
6 HUNDRED BASIS POINTS.

7 (II) CERTIFICATION THAT THE GOVERNOR AND THE STATE
8 TREASURER HAVE APPROVED THE USE OF THE PROCEEDS OF THE SERIES OF
9 BONDS, INCLUDING, BUT NOT LIMITED TO, THE AMOUNT OF PROCEEDS TO
10 BE DEPOSITED INTO THE STATE DIVISION TRUST FUND OR SCHOOL DIVISION
11 TRUST FUND, ANY RESERVE FUND OR FUNDS FOR THE SERIES OF BONDS,
12 AND THE COSTS OF ISSUANCE OF THE SERIES OF BONDS. THE PROCEEDS OF
13 THE SERIES OF BONDS DELIVERED TO THE ASSOCIATION FOR DEPOSIT INTO
14 THE STATE DIVISION TRUST FUND AND THE SCHOOL DIVISION TRUST FUND
15 MUST BE ALLOCATED BETWEEN THE TRUST FUNDS IN ACCORDANCE WITH
16 SECTION 24-51-201.1 (4) (a), C.R.S.

17 (III) CERTIFICATION THAT THE GOVERNOR AND THE STATE
18 TREASURER HAVE APPROVED THE REDEMPTION PROVISIONS APPLICABLE
19 TO THE SERIES OF BONDS;

20 (IV) (A) CERTIFICATION THAT THE GOVERNOR AND THE STATE
21 TREASURER HAVE APPROVED THE TERMS OF THE TRUST INDENTURE OR
22 OTHER INSTRUMENT GOVERNING THE SERIES OF BONDS, WHICH MUST
23 INCLUDE THE REQUIRED COVENANTS.

24 (B) EVENTS OF DEFAULT DESCRIBED IN THE REQUIRED COVENANTS
25 REMAIN IN EFFECT AND ARE IRREVOCABLE SO LONG AS THE BONDS ARE
26 OUTSTANDING, BUT SUCH EVENTS DO NOT GIVE RISE TO ANY REMEDIES
27 AGAINST THE AUTHORITY, THE ASSOCIATION, THE GOVERNOR, THE STATE

1 TREASURER, THE STATE, STATE DIVISION EMPLOYERS, OR SCHOOL DIVISION
2 EMPLOYERS AND DO NOT ALLOW ANY OF THOSE OFFICERS OR ENTITIES TO
3 FAIL TO PERFORM ANY OF THEIR OBLIGATIONS RELATING TO THE BONDS,
4 ANY CONTRACT BETWEEN ANY OF THEM AND THE ASSOCIATION, OR ANY
5 OTHER CONTRACT OR AGREEMENT RELATING TO OR ENTERED INTO IN
6 CONNECTION WITH THE BONDS.

7 (V) CERTIFICATION THAT THE TERMS OF THE CONTRACT BETWEEN
8 THE AUTHORITY AND THE ASSOCIATION PURSUANT TO WHICH THE
9 ASSOCIATION AGREES TO PAY TO THE AUTHORITY MONEYS FROM THE
10 STATE DIVISION SPECIAL FUND CREATED IN SECTION 24-51-201.1 (2),
11 C.R.S., AND THE SCHOOL DIVISION SPECIAL FUND CREATED IN SECTION
12 24-51-201.1 (3), C.R.S., AND PLEDGES THE MONEYS TO SECURE THE
13 ASSOCIATION'S OBLIGATION TO MAKE THE PAYMENTS TO THE AUTHORITY;
14 AND

15 (VI) CERTIFICATION THAT THE GOVERNOR AND THE STATE
16 TREASURER HAVE APPROVED THE OTHER TERMS, CONDITIONS, OR
17 PROVISIONS APPLICABLE TO THE SERIES OF BONDS OR TO THE TRUST
18 INDENTURE OR OTHER INSTRUMENT, THE CONTRACT WITH THE
19 ASSOCIATION AND ANY ANCILLARY CONTRACTS RELATED TO THE SERIES
20 OF BONDS.

21 (d) WITH RESPECT TO EACH SERIES OF BONDS TO BE ISSUED, THE
22 GOVERNOR AND THE STATE TREASURER HAVE DELIVERED A WRITTEN
23 CERTIFICATE TO THE AUTHORITY AND THE ASSOCIATION DESIGNATING THE
24 UNDERWRITERS, BOND COUNSEL, DISCLOSURE COUNSEL, BOND INSURERS,
25 LETTER OF CREDIT BANKS, RATING AGENCIES, CONSULTANTS, AGENTS, AND
26 OTHER PERSONS WHOSE SERVICES MAY BE REQUIRED OR DEEMED
27 ADVANTAGEOUS BY THE GOVERNOR AND THE STATE TREASURER FOR THE

1 SERIES OF BONDS AND THE TRUSTEE FOR THE OWNERS OF THE SERIES OF
2 BONDS. EXCEPT FOR RATING AGENCIES, EACH OF THE FOREGOING MUST BE
3 SELECTED BY A COMPETITIVE PROCESS, AND DISCLOSURE COUNSEL MUST
4 BE SEPARATE AND INDEPENDENT FROM BOND COUNSEL.

5 (e) THE STATE CONTROLLER HAS DELIVERED TO THE AUTHORITY
6 A WRITTEN CERTIFICATE STATING THAT, BASED ON THE SERVICES THAT
7 THE AUTHORITY WILL PROVIDE AND THE AMOUNTS THAT THE ASSOCIATION
8 WILL PAY TO THE AUTHORITY FOR SUCH SERVICES, THE ISSUANCE OF
9 BONDS BY THE AUTHORITY WILL BE AN EXCHANGE TRANSACTION THAT IS
10 NOT REQUIRED TO BE CONSIDERED IN THE BENEFIT TO BURDEN ANALYSIS
11 OF FINANCIAL ACCOUNTABILITY FOR DETERMINATION OF COMPONENT UNIT
12 STATUS UNDER THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD
13 STATEMENTS NUMBER 14 AND 61, AND THAT, ACCORDINGLY, THE
14 AUTHORITY'S CURRENT STATUS AS RELATED PARTY AS SHOWN IN THE
15 STATE'S MOST RECENT COMPREHENSIVE ANNUAL FINANCIAL REPORT WILL
16 NOT CHANGE AND THE AUTHORITY WILL NOT BE PRESENTED AS A
17 COMPONENT UNIT OF THE STATE.

18 (5) THE COSTS OF ISSUANCE OF EACH SERIES OF BONDS INCLUDED
19 IN THE CERTIFICATES DELIVERED BY THE GOVERNOR AND THE STATE
20 TREASURER PURSUANT TO SUBSECTION (4) OF THIS SECTION MUST INCLUDE
21 THE PAYMENT OF THE REASONABLE COSTS INCURRED BY THE AUTHORITY,
22 THE ASSOCIATION, THE GOVERNOR, AND THE STATE TREASURER IN
23 CONNECTION WITH THE ISSUANCE OF THE SERIES OF BONDS. THE TERMS OF
24 THE TRUST INDENTURE OR OTHER INSTRUMENT GOVERNING EACH SERIES
25 OF BONDS AND THE CONTRACT WITH THE ASSOCIATION ENTERED INTO IN
26 CONNECTION WITH THE ISSUANCE OF EACH SERIES OF BONDS INCLUDED IN
27 THE CERTIFICATION BY THE GOVERNOR AND THE STATE TREASURER

1 PURSUANT TO SUBSECTION (4) OF THIS SECTION MUST INCLUDE THE
2 PAYMENT OF THE REASONABLE COSTS TO BE INCURRED BY THE
3 AUTHORITY, THE ASSOCIATION, THE GOVERNOR, AND THE STATE
4 TREASURER IN CONNECTION WITH THE ADMINISTRATION OF THE SERIES OF
5 BONDS.

6 (6) THE CERTIFICATES DELIVERED BY THE GOVERNOR AND THE
7 STATE TREASURER PURSUANT TO SUBSECTION (4) OF THIS SECTION WITH
8 RESPECT TO A SERIES OF BONDS MAY BE UPDATED BY THE GOVERNOR AND
9 THE STATE TREASURER FROM TIME TO TIME UP TO AND INCLUDING THE
10 TIME THE SERIES OF BONDS IS ISSUED.

11 (7) IF THE GOVERNOR, THE STATE TREASURER, THE ATTORNEY
12 GENERAL, AND THE STATE CONTROLLER DELIVER THE CERTIFICATES
13 DESCRIBED IN SUBSECTION (4) OF THIS SECTION WITH RESPECT TO A SERIES
14 OF BONDS, THE AUTHORITY IS AUTHORIZED TO ISSUE THE BONDS AND TO
15 TAKE ALL OTHER ACTIONS REASONABLY REQUESTED BY THE GOVERNOR
16 AND THE STATE TREASURER TO CAUSE THE BONDS TO BE ISSUED IN
17 ACCORDANCE WITH THE CERTIFICATES.

18 (8) THE SCHEDULED PRINCIPAL, INTEREST, AND MANDATORY
19 REDEMPTION PAYMENTS PAYABLE IN ANY FISCAL YEAR ON ALL BONDS, NET
20 OF THE AMOUNT THAT THE STATE TREASURER ESTIMATES WILL BE
21 PAYABLE FROM THE STATE DIVISION SPECIAL FUND AND THE SCHOOL
22 DIVISION SPECIAL FUND DURING THE FISCAL YEAR TO PAY THE
23 REASONABLE COSTS OF THE ASSOCIATION, THE GOVERNOR, THE STATE
24 TREASURER, THE AUTHORITY, AND THE TRUSTEE FOR THE OWNERS FOR
25 ADMINISTERING THE BONDS AND TO ESTABLISH OR REPLENISH
26 REASONABLE RESERVES FOR THE BONDS, DETERMINED AS OF THE DATE
27 EACH SERIES OF BONDS IS ISSUED, SHALL NOT EXCEED AN AMOUNT THAT

1 RESULTS IN A COVERAGE RATIO FOR EACH FISCAL YEAR OF REVENUE TO
2 PRINCIPAL, INTEREST, AND MANDATORY REDEMPTION PAYMENTS PAYABLE
3 IN ANY FISCAL YEAR OF LESS THAN ONE HUNDRED THIRTY PERCENT IN THE
4 FISCAL YEAR IN WHICH THE SERIES OF BONDS IS ISSUED AND IN EACH OF
5 THE THREE IMMEDIATELY SUCCEEDING FISCAL YEARS AND ONE HUNDRED
6 FIFTY PERCENT IN EACH FISCAL YEAR THEREAFTER. FOR THE PURPOSE OF
7 CALCULATING EITHER COVERAGE RATIO, "REVENUE" MEANS THE
8 AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS AND
9 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS
10 PAYABLE TO THE ASSOCIATION BY EMPLOYERS IN THE STATE DIVISION AND
11 SCHOOL DIVISION DURING THE APPLICABLE FISCAL YEAR, AS PROJECTED IN
12 THE MOST RECENT ACTUARIAL VALUATION OF THE ASSOCIATION.
13 COMPLIANCE WITH THIS SUBSECTION (8) SHALL BE DETERMINED BY THE
14 STATE TREASURER BASED ON THE ADVICE OF THE FINANCIAL ADVISOR FOR
15 THE BONDS IN CONNECTION WITH THE ISSUANCE OF EACH SERIES OF BONDS
16 AND SHALL BE INCLUDED IN THE CERTIFICATE DELIVERED BY THE
17 GOVERNOR AND THE STATE TREASURER PURSUANT TO
18 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (c) OF
19 SUBSECTION (4) OF THIS SECTION.

20 (9) THE AUTHORITY, THE ASSOCIATION, THE GOVERNOR, THE
21 STATE TREASURER, STATE DIVISION EMPLOYERS, AND SCHOOL DIVISION
22 EMPLOYERS MAY ENTER INTO CONTRACTS WITH ANY PERSON THAT THEY
23 DEEM NECESSARY OR APPROPRIATE IN CONNECTION WITH BONDS, THE
24 CONTRACT BETWEEN THE AUTHORITY AND THE ASSOCIATION, OR ANY
25 OTHER TRANSACTION OR ACTIVITY RELATED TO THE EXERCISE OF THEIR
26 POWERS OR DUTIES UNDER THIS SECTION, SECTION 24-51-201.1, C.R.S., OR
27 ANY OTHER PROVISION OF LAW THAT RELATES TO THE IMPLEMENTATION

1 OF SAID SECTIONS.

2 (10) NO BONDS MAY BE ISSUED AFTER DECEMBER 31, 2018.

3 (11) AN ACTION OR PROCEEDING AT LAW OR IN EQUITY TO REVIEW
4 ANY ACTS OR PROCEEDINGS OR TO QUESTION THE VALIDITY OR ENJOIN THE
5 PERFORMANCE OF ANY ACT OR PROCEEDINGS, INCLUDING BUT NOT
6 LIMITED TO THE ISSUANCE OR PROPOSED ISSUANCE OF ANY BONDS OR THE
7 EXECUTION OR PERFORMANCE OR PROPOSED EXECUTION OR PERFORMANCE
8 OF ANY CONTRACT, OR FOR ANY OTHER RELIEF AGAINST OR FROM ANY
9 ACTS OR PROCEEDINGS DONE OR THAT MAY BE DONE UNDER THIS SECTION,
10 SECTION 24-51-201.1 OR 24-51-201.3, C.R.S., OR ANY OTHER PROVISION
11 OF LAW THAT RELATES TO BONDS OR TO CONTRACTS ENTERED INTO BY THE
12 ASSOCIATION AND THE AUTHORITY PURSUANT TO SECTION 24-51-201.1,
13 C.R.S., WHETHER BASED UPON IRREGULARITIES OR JURISDICTIONAL
14 DEFECTS, SHALL NOT BE MAINTAINED UNLESS COMMENCED WITHIN THIRTY
15 DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (11), AND IS
16 THEREAFTER PERPETUALLY BARRED, AND, IF COMMENCED WITHIN THE
17 THIRTY-DAY PERIOD, SHALL BE JOINED WITH ANY PENDING PROCEEDING
18 COMMENCED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (4) OF THIS
19 SECTION.

20 (12) THE POWERS CONFERRED BY THIS SECTION, SECTION
21 24-51-201.1 OR 24-51-201.3, C.R.S., OR ANY OTHER PROVISION OF LAW
22 THAT GRANTS POWERS RELATING TO BONDS OR TO CONTRACTS ENTERED
23 INTO BY THE ASSOCIATION AND THE AUTHORITY PURSUANT TO SECTION
24 24-51-201.1, C.R.S., ARE IN ADDITION AND SUPPLEMENTAL TO, AND NOT
25 IN SUBSTITUTION FOR, AND THE LIMITATIONS IMPOSED BY THOSE SECTIONS
26 OR OTHER PROVISIONS OF LAW DO NOT DIRECTLY OR INDIRECTLY MODIFY,
27 LIMIT, OR AFFECT, THE POWERS CONFERRED TO THE GOVERNOR, THE STATE

1 TREASURER, THE ASSOCIATION, OR THE AUTHORITY BY ANY OTHER LAW.
2 ANY PROVISION OF THIS SECTION, SECTION 24-51-201.1 OR 24-51-201.3,
3 C.R.S., OR ANY OTHER PROVISION OF LAW THAT GRANTS POWERS
4 RELATING TO BONDS OR TO CONTRACTS ENTERED INTO BY THE
5 ASSOCIATION AND THE AUTHORITY PURSUANT TO SECTION 24-51-201.1,
6 C.R.S., OR ANY OTHER PROVISION OF LAW APPLICABLE TO THE
7 ASSOCIATION, THE AUTHORITY, OR THE STATE THAT CONFLICTS WITH OR
8 IS INCONSISTENT WITH ANY OTHER STATE STATUTORY PROVISION,
9 PRINCIPLE OF COMMON LAW, OR CASE LAW SUPERSEDES THE OTHER STATE
10 STATUTORY PROVISION OR PROVISION OF COMMON LAW OR CASE LAW.

11 (13) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

12 (a) BONDS ARE NOT A MULTIPLE-FISCAL YEAR DIRECT OR INDIRECT
13 DEBT OR OTHER FINANCIAL OBLIGATION FOR PURPOSES OF SECTION 20 OF
14 ARTICLE X OF THE STATE CONSTITUTION BECAUSE THE AUTHORITY IS NOT
15 A DISTRICT, AS DEFINED IN SECTION 20 (2) (b) OF ARTICLE X OF THE STATE
16 CONSTITUTION, SUBJECT TO THE REQUIREMENTS OF SAID SECTION 20 AND
17 BECAUSE:

18 (I) THE AUTHORITY IS A SPECIAL PURPOSE AUTHORITY, AS DEFINED
19 IN SECTION 24-77-102 (15), C.R.S., AND IS THEREFORE NOT PART OF THE
20 STATE, AS DEFINED IN SECTION 24-77-102 (16), C.R.S.;

21 (II) UNDER THE COLORADO SUPREME COURT'S DECISION IN
22 *CAMPBELL V. ORCHARD MESA IRRIGATION DISTRICT*, 972 P.2d 1037 (COLO.
23 1998), THE AUTHORITY IS NEITHER THE STATE NOR A LOCAL GOVERNMENT
24 AND THEREFORE IS NOT A DISTRICT, AS DEFINED IN SECTION 20 (2) (b) OF
25 ARTICLE X OF THE STATE CONSTITUTION, SUBJECT TO THE REQUIREMENTS
26 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION BECAUSE:

27 (A) THE AUTHORITY IS NOT AUTHORIZED TO LEVY GENERAL

1 TAXES.

2 (B) ALTHOUGH THE AUTHORITY IS A BODY CORPORATE AND A
3 POLITICAL SUBDIVISION OF THE STATE SERVING PUBLIC PURPOSES, IT IS
4 NOT AN AGENCY OF STATE GOVERNMENT AND IS NOT SUBJECT TO
5 ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD,
6 BUREAU, OR AGENCY OF THE STATE.

7 (C) THE GENERAL PUBLIC IS NOT ENTITLED TO VOTE FOR THE
8 MEMBERS OF THE BOARD OF THE AUTHORITY OR WITH RESPECT TO ANY
9 OTHER ACTION OF THE AUTHORITY.

10 (b) BONDS ARE NOT A DEBT BY LOAN IN ANY FORM FOR PURPOSES
11 OF SECTION 3 OF ARTICLE XI OF THE STATE CONSTITUTION BECAUSE THE
12 AUTHORITY IS NOT PART OF THE STATE FOR THE REASONS DESCRIBED IN
13 PARAGRAPH (a) OF THIS SUBSECTION (13) AND BECAUSE THE BONDS ARE
14 PAYABLE FROM A SPECIAL FUND.

15 (c) THE INVOLVEMENT OF THE STATE IN THE ACTIONS AUTHORIZED
16 BY THIS SECTION DOES NOT CHANGE THE FINDINGS AND DECLARATIONS
17 SET FORTH IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (13).

18 **SECTION 4.** In Colorado Revised Statutes, **add 24-51-201.1 and**
19 **24-51-201.3** as follows:

20 **24-51-201.1. Contracts with Colorado housing and finance**
21 **authority - state and school division amortization equalization**
22 **disbursement and supplemental amortization equalization**
23 **disbursement special revenue funds.** (1) IF THE COLORADO HOUSING
24 AND FINANCE AUTHORITY ISSUES BONDS AS AUTHORIZED BY SECTION
25 29-4-710.8, C.R.S., THE ASSOCIATION SHALL ENTER INTO A CONTRACT
26 WITH THE AUTHORITY UNDER WHICH THE ASSOCIATION AGREES TO MAKE
27 PAYMENTS TO THE AUTHORITY FROM AND PLEDGES AS SECURITY FOR THE

1 PAYMENTS MONEYS IN THE STATE DIVISION SPECIAL FUND CREATED IN
2 SUBSECTION (2) OF THIS SECTION AND THE SCHOOL DIVISION SPECIAL FUND
3 CREATED IN SUBSECTION (3) OF THIS SECTION. THE CONTRACT MUST
4 INCLUDE THE TERMS DESCRIBED IN SUBSECTION (4) OF THIS SECTION. THE
5 ASSOCIATION'S FINANCIAL OBLIGATIONS UNDER ANY SUCH CONTRACT ARE
6 LIMITED OBLIGATIONS OF THE ASSOCIATION, PAYABLE SOLELY FROM
7 MONEYS HELD IN THE SPECIAL FUNDS THAT HAVE BEEN PLEDGED BY THE
8 ASSOCIATION FOR THE PAYMENT OF THE FINANCIAL OBLIGATIONS. THE
9 ASSOCIATION SHALL NOT BE REQUIRED TO REMIT ANY AMOUNTS TO THE
10 AUTHORITY OVER AND ABOVE THE AMOUNTS AVAILABLE IN THE SPECIAL
11 FUNDS. ANY PLEDGE BY THE ASSOCIATION PURSUANT TO THIS SUBSECTION
12 (1) IS VALID AND BINDING AND CREATES A VALID SECURITY INTEREST AND
13 LIEN ENFORCEABLE AGAINST ALL PARTIES HAVING CLAIMS AGAINST THE
14 ASSOCIATION OF ANY KIND, IRRESPECTIVE OF WHETHER THE CLAIMING
15 PARTY HAS NOTICE OF THE SECURITY INTEREST OR LIEN. A CONTRACT
16 NEED NOT BE RECORDED OR FILED TO PERFECT THE PLEDGE, SECURITY
17 INTEREST, AND LIEN.

18 (2) (a) THE STATE DIVISION AMORTIZATION EQUALIZATION
19 DISBURSEMENT AND SUPPLEMENTAL AMORTIZATION EQUALIZATION
20 DISBURSEMENT SPECIAL REVENUE FUND, REFERRED TO IN THIS SECTION AS
21 THE "STATE DIVISION SPECIAL FUND", IS HEREBY CREATED. MONEYS IN
22 THE STATE DIVISION SPECIAL FUND ARE NOT PART OF THE STATE DIVISION
23 TRUST FUND OR ANY OTHER TRUST FUND OR OTHER FUND OF THE
24 ASSOCIATION, ARE NOT PART OF THE CORPUS OR INCOME OF THE PENSION
25 PLAN OR PLANS OR PENSION TRUST OR TRUSTS OF THE ASSOCIATION, AND
26 ARE NOT AVAILABLE TO PAY BENEFITS OR FOR ANY OTHER PURPOSE NOT
27 SPECIFICALLY PERMITTED BY THIS SUBSECTION (2).

1 (b) FROM THE DATE THE ASSOCIATION ENTERS INTO A CONTRACT
2 WITH THE COLORADO HOUSING AND FINANCE AUTHORITY TO MAKE
3 PAYMENTS FROM THE STATE DIVISION SPECIAL FUND IN CONNECTION WITH
4 BONDS ISSUED BY THE AUTHORITY UNTIL ALL OBLIGATIONS OF THE
5 ASSOCIATION UNDER THE CONTRACT HAVE TERMINATED, ALL MONEYS
6 RECEIVED BY THE ASSOCIATION FROM THE AMORTIZATION EQUALIZATION
7 DISBURSEMENT PAYMENTS AND SUPPLEMENTAL AMORTIZATION
8 EQUALIZATION DISBURSEMENT PAYMENTS PAID TO THE ASSOCIATION BY
9 EMPLOYERS IN THE STATE DIVISION SHALL BE DEPOSITED INTO THE STATE
10 DIVISION SPECIAL FUND. THE ASSOCIATION MAY ESTABLISH SEPARATE
11 ACCOUNTS WITHIN THE STATE DIVISION SPECIAL FUND AS NEEDED. THE
12 ASSOCIATION SHALL INVEST MONEYS IN THE STATE DIVISION SPECIAL FUND
13 THAT ARE NOT NEEDED FOR IMMEDIATE USE IN THE TYPES OF
14 INVESTMENTS AUTHORIZED IN SECTION 24-36-113, SUBJECT TO ANY
15 LIMITATIONS SET FORTH IN THE INSTRUMENTS GOVERNING THE BONDS
16 ISSUED BY THE AUTHORITY AND ANY LIMITATIONS SET FORTH IN THE
17 CONTRACT BETWEEN THE ASSOCIATION AND THE AUTHORITY ENTERED
18 INTO IN CONNECTION WITH THE AUTHORITY'S BONDS. ALL INTEREST AND
19 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE
20 STATE DIVISION SPECIAL FUND SHALL BE CREDITED TO THE STATE DIVISION
21 SPECIAL FUND.

22 (c) THE ASSOCIATION SHALL EXPEND MONEYS FROM THE STATE
23 DIVISION SPECIAL FUND AS REQUIRED BY PARAGRAPH (b) OF SUBSECTION
24 (4) OF THIS SECTION. AFTER EACH EXPENDITURE OF MONEYS FROM THE
25 STATE DIVISION SPECIAL FUND PURSUANT TO SAID PARAGRAPH (b), THE
26 BALANCE REMAINING IN THE STATE DIVISION SPECIAL FUND SHALL BE
27 TRANSFERRED TO THE STATE DIVISION TRUST FUND. MONEYS

1 TRANSFERRED TO THE STATE DIVISION TRUST FUND PURSUANT TO THIS
2 PARAGRAPH (c) BECOME TRUST ASSETS AND ARE NOT AVAILABLE AND
3 MAY NOT BE USED FOR ANY OF THE PURPOSES DESCRIBED IN SAID
4 PARAGRAPH (b).

5 (3) (a) THE SCHOOL DIVISION AMORTIZATION EQUALIZATION
6 DISBURSEMENT AND SUPPLEMENTAL AMORTIZATION EQUALIZATION
7 DISBURSEMENT SPECIAL REVENUE FUND, REFERRED TO IN THIS SECTION AS
8 THE "SCHOOL DIVISION SPECIAL FUND", IS HEREBY CREATED. MONEYS IN
9 THE SCHOOL DIVISION SPECIAL FUND ARE NOT PART OF THE SCHOOL
10 DIVISION TRUST FUND OR ANY OTHER TRUST FUND OR OTHER FUND OF THE
11 ASSOCIATION, ARE NOT PART OF THE CORPUS OR INCOME OF THE PENSION
12 PLAN OR PLANS OR PENSION TRUST OR TRUSTS OF THE ASSOCIATION, AND
13 ARE NOT AVAILABLE TO PAY BENEFITS OR FOR ANY OTHER PURPOSE NOT
14 SPECIFICALLY PERMITTED BY THIS SUBSECTION (3).

15 (b) FROM THE DATE THE ASSOCIATION ENTERS INTO A CONTRACT
16 WITH THE COLORADO HOUSING AND FINANCE AUTHORITY TO MAKE
17 PAYMENTS FROM THE SCHOOL DIVISION SPECIAL FUND IN CONNECTION
18 WITH BONDS ISSUED BY THE AUTHORITY UNTIL ALL OBLIGATIONS OF THE
19 ASSOCIATION UNDER THE CONTRACT HAVE TERMINATED, ALL MONEYS
20 RECEIVED BY THE ASSOCIATION FROM THE AMORTIZATION EQUALIZATION
21 DISBURSEMENT PAYMENTS AND SUPPLEMENTAL AMORTIZATION
22 EQUALIZATION DISBURSEMENT PAYMENTS PAID TO THE ASSOCIATION BY
23 EMPLOYERS IN THE SCHOOL DIVISION SHALL BE DEPOSITED INTO THE
24 SCHOOL DIVISION SPECIAL FUND. THE ASSOCIATION MAY ESTABLISH
25 SEPARATE ACCOUNTS WITHIN THE SCHOOL DIVISION SPECIAL FUND AS
26 NEEDED. THE ASSOCIATION SHALL INVEST MONEYS IN THE SCHOOL
27 DIVISION SPECIAL FUND THAT ARE NOT NEEDED FOR IMMEDIATE USE IN THE

1 TYPES OF INVESTMENTS AUTHORIZED IN SECTION 24-36-113, SUBJECT TO
2 ANY LIMITATIONS SET FORTH IN THE INSTRUMENTS GOVERNING THE BONDS
3 ISSUED BY THE AUTHORITY AND ANY LIMITATIONS SET FORTH IN THE
4 CONTRACT BETWEEN THE ASSOCIATION AND THE AUTHORITY ENTERED
5 INTO IN CONNECTION WITH THE AUTHORITY'S BONDS. ALL INTEREST AND
6 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE
7 SCHOOL DIVISION SPECIAL FUND SHALL BE CREDITED TO THE SCHOOL
8 DIVISION SPECIAL FUND.

9 (c) THE ASSOCIATION SHALL EXPEND MONEYS FROM THE SCHOOL
10 DIVISION SPECIAL FUND AS REQUIRED BY PARAGRAPH (b) OF SUBSECTION
11 (4) OF THIS SECTION. AFTER EACH EXPENDITURE OF MONEYS FROM THE
12 SCHOOL DIVISION SPECIAL FUND PURSUANT TO SAID PARAGRAPH (b), THE
13 BALANCE REMAINING IN THE SCHOOL DIVISION SPECIAL FUND SHALL BE
14 TRANSFERRED TO THE SCHOOL DIVISION TRUST FUND. MONEYS
15 TRANSFERRED TO THE SCHOOL DIVISION TRUST FUND PURSUANT TO THIS
16 PARAGRAPH (c) BECOME TRUST ASSETS AND ARE NOT AVAILABLE AND
17 MAY NOT BE USED FOR ANY OF THE PURPOSES DESCRIBED IN SAID
18 PARAGRAPH (b).

19 (4) A CONTRACT ENTERED INTO BY THE ASSOCIATION AND THE
20 COLORADO HOUSING AND FINANCE AUTHORITY PURSUANT TO SUBSECTION
21 (1) OF THIS SECTION MUST INCLUDE THE FOLLOWING TERMS:

22 (a) THE PROCEEDS OF BONDS ISSUED BY THE COLORADO HOUSING
23 AND FINANCE AUTHORITY AS AUTHORIZED BY SECTION 29-4-710.8, C.R.S.,
24 NET OF THE PROCEEDS TO BE DEPOSITED INTO ANY RESERVE FUND OR
25 FUNDS FOR THE BONDS AND THE COSTS OF ISSUANCE OF THE BONDS AS SET
26 FORTH IN THE CERTIFICATE DELIVERED PURSUANT TO SECTION 29-4-710.8
27 (4), C.R.S., SHALL BE DELIVERED TO THE ASSOCIATION AND DEPOSITED

1 INTO THE STATE DIVISION TRUST FUND AND THE SCHOOL DIVISION TRUST
2 FUND IN PROPORTION TO EACH DIVISION'S PERCENTAGE OF THE TOTAL
3 ANNUAL CONTRIBUTIONS REMITTED TO THE ASSOCIATION BY THE STATE
4 DIVISION EMPLOYERS AND THE SCHOOL DIVISION EMPLOYERS BASED ON
5 THE MOST RECENT COMPREHENSIVE ANNUAL FINANCIAL REPORT OF THE
6 ASSOCIATION AT THE TIME THE BONDS ARE ISSUED; EXCEPT THAT, IF THE
7 AMOUNT DEPOSITED INTO EITHER THE STATE DIVISION TRUST FUND OR THE
8 SCHOOL DIVISION TRUST FUND WOULD CAUSE THE FUNDING RATIO OF THE
9 FUND, BASED ON THE ACTUARIAL VALUE OF THE ASSETS OF THE FUND, TO
10 EXCEED ONE HUNDRED PERCENT, THE AMOUNT THAT WOULD CAUSE THE
11 FUNDING RATIO OF THE FUND TO EXCEED ONE HUNDRED PERCENT SHALL
12 BE DEPOSITED INTO THE OTHER FUND. THE PROCEEDS OF BONDS THAT ARE
13 DEPOSITED INTO THE STATE DIVISION TRUST FUND AND THE SCHOOL
14 DIVISION TRUST FUND PURSUANT TO THIS PARAGRAPH (a) SHALL BE
15 INVESTED BY THE ASSOCIATION PURSUANT TO THE PROVISIONS OF SECTION
16 24-51-206.

17 (b) MONEYS SHALL BE PAID TO THE COLORADO HOUSING AND
18 FINANCE AUTHORITY FROM THE STATE DIVISION SPECIAL FUND AND THE
19 SCHOOL DIVISION SPECIAL FUND ON A MONTHLY BASIS IN AN AMOUNT
20 SUFFICIENT TO PAY ONE-FIFTH OF THE NEXT INTEREST PAYMENT ON THE
21 BONDS OCCURRING WITHIN THE NEXT SIX MONTHS AND ONE-ELEVENTH OF
22 THE NEXT PRINCIPAL OR MANDATORY REDEMPTION PAYMENT ON THE
23 BONDS OCCURRING WITHIN THE NEXT TWELVE MONTHS, THE REASONABLE
24 COSTS OF THE ASSOCIATION, THE GOVERNOR, THE STATE TREASURER, AND
25 THE AUTHORITY FOR ADMINISTERING THE BONDS, THE AMOUNT
26 NECESSARY TO ESTABLISH OR REPLENISH REASONABLE RESERVES FOR THE
27 BONDS, AND THE AMOUNT NECESSARY TO MAKE UP FOR ANY SHORTFALLS

1 IN ANY PREVIOUS MONTHLY PAYMENT. THE AMOUNTS PAYABLE TO THE
2 AUTHORITY PURSUANT TO THIS PARAGRAPH (b) SHALL BE PAID FROM THE
3 STATE DIVISION SPECIAL FUND AND THE SCHOOL DIVISION SPECIAL FUND
4 IN PROPORTION TO THE AMOUNT OF PROCEEDS OF BONDS ISSUED BY THE
5 AUTHORITY AS AUTHORIZED BY SECTION 29-4-710.8, C.R.S., MOST
6 RECENTLY DEPOSITED INTO THE STATE DIVISION TRUST FUND AND THE
7 SCHOOL DIVISION TRUST FUND PURSUANT TO PARAGRAPH (a) OF THIS
8 SUBSECTION (4). THE OBLIGATIONS TO MAKE THE PAYMENTS FROM THE
9 STATE DIVISION SPECIAL FUND AND THE SCHOOL DIVISION SPECIAL FUND
10 ARE NOT INTERDEPENDENT OR INTERCHANGEABLE. EACH PAYMENT FROM
11 THE STATE DIVISION SPECIAL FUND AND THE SCHOOL DIVISION SPECIAL
12 FUND IS AND REMAINS THE SEPARATE OBLIGATION ONLY OF THE
13 RESPECTIVE SPECIAL FUND AND IS NOT DUE OR PAYABLE FROM THE OTHER
14 SPECIAL FUND.

15 (c) IF THE AMOUNT ON DEPOSIT IN EITHER OF THE SPECIAL FUNDS
16 IS NOT ENOUGH TO COVER AMOUNTS PAYABLE FROM THE SPECIAL FUND IN
17 ANY MONTH PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), THE
18 ASSOCIATION IS NOT REQUIRED TO REMIT ANY ADDITIONAL AMOUNTS TO
19 THE COLORADO HOUSING AND FINANCE AUTHORITY FOR THAT MONTH.

20 (d) THE CONTRACT SHALL PROVIDE THAT IF, ON THE DATE MONEY
21 IS TO BE PAID TO THE COLORADO HOUSING AND FINANCE AUTHORITY FROM
22 EITHER OF THE SPECIAL FUNDS, THE AMOUNT ON DEPOSIT IN THE SPECIAL
23 FUND IS NOT ENOUGH TO COVER THE PAYMENT BECAUSE STATE STATUTES
24 HAVE BEEN AMENDED TO REDUCE THE AMOUNT OF THE AMORTIZATION
25 EQUALIZATION DISBURSEMENT PAYMENTS AND SUPPLEMENTAL
26 AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS PAYABLE BY
27 STATE DIVISION EMPLOYERS OR SCHOOL DIVISION EMPLOYERS, THEN AN

1 EVENT OF DEFAULT HAS OCCURRED UNDER THE CONTRACT OR THE
2 INSTRUMENTS GOVERNING THE BONDS, AND THE REMEDIES FOR THE EVENT
3 OF DEFAULT DO NOT INCLUDE THE RECOVERY OF MONEYS FROM THE
4 ASSOCIATION OR FROM ANY OF THE TRUST FUNDS OR OTHER FUNDS OF THE
5 ASSOCIATION OTHER THAN THE AMOUNTS IN THE SPECIAL FUNDS THAT ARE
6 AVAILABLE FOR THAT PURPOSE AS SPECIFIED IN THIS SUBSECTION (4).

7 (5) IF THE COLORADO HOUSING AND FINANCE AUTHORITY ISSUES
8 BONDS AS AUTHORIZED BY SECTION 29-4-710.8, C.R.S., IN ADDITION TO
9 ENTERING INTO A CONTRACT WITH THE AUTHORITY AS REQUIRED BY
10 SUBSECTION (1) OF THIS SECTION, THE ASSOCIATION SHALL TAKE ALL
11 OTHER ACTIONS REASONABLY REQUESTED BY THE GOVERNOR AND THE
12 STATE TREASURER TO CAUSE THE BONDS TO BE ISSUED IN ACCORDANCE
13 WITH THE CERTIFICATIONS DESCRIBED IN SECTION 29-4-710.8 (4), C.R.S.

14 (6) THE ASSOCIATION SHALL COOPERATE WITH THE GOVERNOR
15 AND THE STATE TREASURER BEFORE ANY BONDS ARE ISSUED BY THE
16 COLORADO HOUSING AND FINANCE AUTHORITY AS AUTHORIZED BY
17 SECTION 29-4-710.8, C.R.S., TO PROVIDE THE GOVERNOR AND THE STATE
18 TREASURER AN UNDERSTANDING OF THE ASSOCIATION'S INVESTMENT
19 STRATEGY FOR THE BOND PROCEEDS SO THAT THE GOVERNOR AND THE
20 STATE TREASURER CAN DETERMINE WHETHER OR NOT THE BONDS SHOULD
21 BE ISSUED UNDER CURRENT MARKET CONDITIONS.

22 (7) IF THE COLORADO HOUSING AND FINANCE AUTHORITY ISSUES
23 BONDS AS AUTHORIZED BY SECTION 29-4-710.8, C.R.S., NO LATER THAN
24 JULY 15, 2016, AND NO LATER THAN JULY 15 OF EACH YEAR THEREAFTER
25 SO LONG AS THE BONDS ARE OUTSTANDING, THE ASSOCIATION SHALL
26 SUBMIT:

27 (a) A REPORT TO THE MEMBERS OF THE GENERAL ASSEMBLY THAT

1 INCLUDES, AT A MINIMUM, INFORMATION REGARDING THE INVESTMENT
2 PERFORMANCE OF THE STATE DIVISION AND THE SCHOOL DIVISION DURING
3 THE PRECEDING CALENDAR YEAR; AND

4 (b) A REPORT TO THE MEMBERS OF THE GENERAL ASSEMBLY AND
5 THE OFFICE OF STATE PLANNING AND BUDGETING THAT INCLUDES THE
6 TOTAL AMOUNT OF PROCEEDS DERIVED FROM THE ISSUANCE OF THE
7 BONDS, THE TOTAL AMOUNT APPLIED IN EACH FISCAL YEAR TO THE
8 PAYMENT OF THE BONDS, AND THE COST OF ISSUING AND ADMINISTERING
9 THE BONDS.

10 (8) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

11 (a) THE OBLIGATIONS OF THE ASSOCIATION UNDER A CONTRACT
12 ENTERED INTO WITH THE COLORADO HOUSING AND FINANCE AUTHORITY
13 PURSUANT TO THIS SECTION ARE NOT A MULTIPLE-FISCAL YEAR DIRECT OR
14 INDIRECT DEBT OR FINANCIAL OBLIGATION UNDER SECTION 20 OF ARTICLE
15 X OF THE STATE CONSTITUTION BECAUSE THE ASSOCIATION IS NOT A
16 DISTRICT, AS DEFINED IN SECTION 20 (2) (b) OF ARTICLE X OF THE STATE
17 CONSTITUTION, SUBJECT TO THE REQUIREMENTS OF SAID SECTION 20 AND
18 BECAUSE:

19 (I) THE ASSOCIATION IS A SPECIAL PURPOSE AUTHORITY AS
20 DEFINED IN SECTION 24-77-102 (15) AND IS THEREFORE NOT PART OF THE
21 STATE, AS DEFINED IN SECTION 24-77-102 (16).

22 (II) UNDER THE COLORADO SUPREME COURT'S DECISION IN
23 *CAMPBELL V. ORCHARD MESA IRRIGATION DISTRICT*, 972 P.2d 1037 (COLO.
24 1998), THE ASSOCIATION IS NEITHER THE STATE NOR A LOCAL
25 GOVERNMENT AND THEREFORE IS NOT A DISTRICT, AS DEFINED IN SECTION
26 20 (2) (b) OF ARTICLE X OF THE STATE CONSTITUTION, SUBJECT TO THE
27 REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION

1 BECAUSE:

2 (A) THE ASSOCIATION IS NOT AUTHORIZED TO LEVY GENERAL
3 TAXES.

4 (B) ALTHOUGH THE ASSOCIATION IS AN INSTRUMENTALITY OF THE
5 STATE, IT IS NOT AN AGENCY OF STATE GOVERNMENT AND IS NOT SUBJECT
6 TO ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION,
7 BOARD, BUREAU, OR AGENCY OF THE STATE.

8 (C) THE GENERAL PUBLIC IS NOT ENTITLED TO VOTE FOR THE
9 MEMBERS OF THE BOARD OF THE ASSOCIATION OR WITH RESPECT TO ANY
10 OTHER ACTION OF THE ASSOCIATION.

11 (III) CONTRIBUTIONS PAID TO THE ASSOCIATION BY EMPLOYERS
12 AND MEMBERS DO NOT AFFECT THE FACT THAT THE ASSOCIATION IS NOT
13 SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION
14 BECAUSE THE CONTRIBUTIONS ARE PAID IN EXCHANGE FOR THE REQUIRED
15 PAYMENT BY THE ASSOCIATION OF BENEFITS TO BENEFIT RECIPIENTS AND
16 THEREFORE ARE NOT GRANTS, EITHER AS DEFINED BY SECTION 24-77-102
17 (7) OR AS REFERENCED IN SECTION 20 (2) (d) OF ARTICLE X OF THE STATE
18 CONSTITUTION.

19 (b) THE OBLIGATIONS OF THE ASSOCIATION UNDER A CONTRACT
20 ENTERED INTO WITH THE COLORADO HOUSING AND FINANCE AUTHORITY
21 PURSUANT TO THIS SECTION ARE NOT A DEBT BY LOAN IN ANY FORM FOR
22 PURPOSES OF SECTION 3 OF ARTICLE XI OF THE STATE CONSTITUTION
23 BECAUSE THE ASSOCIATION IS NOT PART OF THE STATE FOR THE REASONS
24 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (8) AND BECAUSE THE
25 OBLIGATIONS ARE PAYABLE FROM A SPECIAL FUND; AND

26 (c) THE INVOLVEMENT OF THE STATE IN THE ACTIONS AUTHORIZED
27 BY THIS SECTION DOES NOT CHANGE THE FINDINGS AND DECLARATIONS

1 SET FORTH IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (8).

2 **24-51-201.3. Timely payment of certain school district**
3 **obligations to the public employees' retirement association.** (1) IF THE
4 ASSOCIATION HAS NOT RECEIVED PAYMENT OF THE AMORTIZATION
5 EQUALIZATION DISBURSEMENT PAYMENTS AND SUPPLEMENTAL
6 AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS PAYABLE TO
7 THE ASSOCIATION PURSUANT TO SECTION 24-51-411 FROM AN EMPLOYER
8 IN THE SCHOOL DIVISION OF THE ASSOCIATION, THE ASSOCIATION SHALL
9 NOTIFY THE STATE TREASURER AND THE SCHOOL DIVISION EMPLOYER BY
10 TELEPHONE, FACSIMILE, OR OTHER SIMILAR COMMUNICATION, FOLLOWED
11 BY WRITTEN VERIFICATION, OF SUCH PAYMENT STATUS. WITHIN FIVE
12 BUSINESS DAYS, THE STATE TREASURER SHALL CONTACT THE SCHOOL
13 DIVISION EMPLOYER AND DETERMINE WHETHER THE EMPLOYER WILL
14 MAKE THE PAYMENTS, TOGETHER WITH ANY INTEREST DUE ON THE
15 PAYMENTS, AND, IF SO, BY WHAT DATE.

16 (2) IF AN EMPLOYER IN THE SCHOOL DIVISION OF THE ASSOCIATION
17 FAILS TO MAKE PAYMENT WITH NECESSARY INTEREST WITHIN THIRTY
18 DAYS AFTER BEING CONTACTED BY THE STATE TREASURER PURSUANT TO
19 SUBSECTION (1) OF THIS SECTION, THE STATE TREASURER SHALL FORWARD
20 TO THE ASSOCIATION THE AMOUNT IN IMMEDIATELY AVAILABLE FUNDS
21 NECESSARY TO MAKE THE PAYMENT OF THE AMORTIZATION EQUALIZATION
22 DISBURSEMENT PAYMENTS AND SUPPLEMENTAL AMORTIZATION
23 EQUALIZATION DISBURSEMENT PAYMENTS PAYABLE TO THE ASSOCIATION
24 PURSUANT TO SECTION 24-51-411, TOGETHER WITH ANY INTEREST DUE ON
25 THE PAYMENTS. THE STATE TREASURER SHALL RECOVER THE AMOUNT
26 FORWARDED BY WITHHOLDING AMOUNTS FROM THE SCHOOL DIVISION
27 EMPLOYER'S PAYMENTS OF THE STATE'S SHARE OF THE SCHOOL DIVISION

1 EMPLOYER'S TOTAL PROGRAM RECEIVED IN ACCORDANCE WITH ARTICLE
2 54 OF TITLE 22, C.R.S., AND FROM PROPERTY TAX AND SPECIFIC
3 OWNERSHIP TAX REVENUES COLLECTED BY THE COUNTY TREASURER ON
4 BEHALF OF THE SCHOOL DIVISION EMPLOYER; EXCEPT THAT THE STATE
5 TREASURER MAY NOT RECOVER AMOUNTS FROM PROPERTY TAX REVENUES
6 THAT ARE PLEDGED TO PAY NOTES OR BONDS ISSUED BY THE SCHOOL
7 DIVISION EMPLOYER. THE TOTAL AMOUNT WITHHELD IN A MONTH FROM
8 THE STATE'S SHARE OF TOTAL PROGRAM AND THE TAX REVENUES DUE TO
9 THE SCHOOL DIVISION EMPLOYER FOR EACH OCCASION ON WHICH THE
10 TREASURER FORWARDS AN AMOUNT PURSUANT TO THIS SECTION SHALL
11 NOT EXCEED ONE-TWELFTH OF THE AMOUNT FORWARDED; EXCEPT THAT
12 THE STATE TREASURER, IN ONE OR MORE MONTHS DURING THE
13 TWELVE-MONTH WITHHOLDING PERIOD, MAY WITHHOLD MORE THAN
14 ONE-TWELFTH OF THE AMOUNT FORWARDED IF THE SCHOOL DIVISION
15 EMPLOYER IN ONE OR MORE MONTHS DURING THE TWELVE-MONTH
16 WITHHOLDING PERIOD RECEIVES TOTAL PROGRAM AND TAX REVENUES IN
17 AN AMOUNT THAT IS LESS THAN ONE-TWELFTH OF THE AMOUNT
18 FORWARDED. THE STATE TREASURER SHALL NOT WITHHOLD AMOUNTS FOR
19 MORE THAN TWELVE CONSECUTIVE MONTHS FOR EACH OCCASION ON
20 WHICH THE TREASURER FORWARDS AMOUNTS PURSUANT TO THIS SECTION.
21 THE STATE TREASURER, IN WRITING, SHALL NOTIFY THE COUNTY
22 TREASURER FOR THE SCHOOL DIVISION EMPLOYER OF THE AMOUNT OF TAX
23 REVENUES TO BE WITHHELD PURSUANT TO THIS SUBSECTION (2) AND THE
24 PERIOD OF WITHHOLDING. NOTWITHSTANDING ANY PROVISION OF THIS
25 SUBSECTION (2) TO THE CONTRARY, A SCHOOL DIVISION EMPLOYER MAY
26 ELECT TO MAKE EARLY REPAYMENT OF ALL OR ANY PORTION OF AN
27 AMOUNT FORWARDED BY THE STATE TREASURER ON BEHALF OF THE

1 SCHOOL DIVISION EMPLOYER PURSUANT TO THIS SECTION. WHEN A
2 SCHOOL DIVISION EMPLOYER FULLY REPAYS AN AMOUNT FORWARDED BY
3 THE STATE TREASURER ON BEHALF OF THE SCHOOL DIVISION EMPLOYER
4 PURSUANT TO THIS SECTION, THE STATE TREASURER, IN WRITING, SHALL
5 NOTIFY THE COUNTY TREASURER FOR THE SCHOOL DIVISION EMPLOYER TO
6 DISCONTINUE THE WITHHOLDING OF TAX REVENUES.

7 (3) THE ASSOCIATION SHALL APPLY AMOUNTS FORWARDED TO THE
8 ASSOCIATION BY THE STATE TREASURER SOLELY TO THE PAYMENT OF THE
9 AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS AND
10 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS
11 PAYABLE TO THE ASSOCIATION PURSUANT TO SECTION 24-51-411 BY THE
12 SCHOOL DIVISION EMPLOYER. THE STATE TREASURER SHALL NOTIFY THE
13 DEPARTMENT OF EDUCATION, THE CHIEF FINANCIAL OFFICER OF THE
14 SCHOOL DIVISION EMPLOYER, AND THE GENERAL ASSEMBLY OF AMOUNTS
15 WITHHELD AND PAYMENTS MADE PURSUANT TO THIS SECTION.

16 (4) THE STATE HEREBY COVENANTS WITH THE PURCHASERS AND
17 OWNERS OF BONDS ISSUED BY THE COLORADO HOUSING AND FINANCE
18 AUTHORITY AS AUTHORIZED BY SECTION 29-4-710.8, C.R.S., THAT IT WILL
19 NOT REPEAL, REVOKE, OR RESCIND THE PROVISIONS OF THIS SECTION OR
20 MODIFY OR AMEND THE SAME SO AS TO LIMIT OR IMPAIR THE RIGHTS AND
21 REMEDIES GRANTED BY THIS SECTION. NOTHING IN THIS SUBSECTION (4)
22 REQUIRES THE STATE TO CONTINUE THE PAYMENT OF STATE ASSISTANCE
23 TO ANY SCHOOL DIVISION EMPLOYER OR LIMITS OR PROHIBITS THE STATE
24 FROM REPEALING, AMENDING, OR MODIFYING ANY LAW RELATING TO THE
25 AMOUNT OF STATE ASSISTANCE TO SCHOOL DIVISION EMPLOYERS OR THE
26 MANNER OF PAYMENT OR THE TIMING THEREOF. NOTHING IN THIS SECTION
27 CREATES A DEBT OF THE STATE WITH RESPECT TO BONDS OR OTHER

1 OBLIGATIONS WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL
2 PROVISION OR CREATES ANY LIABILITY EXCEPT TO THE EXTENT PROVIDED
3 IN THIS SECTION.

4 (5) WHENEVER THIS SECTION REQUIRES THE STATE TREASURER TO
5 MAKE A PAYMENT OF AMORTIZATION EQUALIZATION DISBURSEMENT
6 PAYMENTS AND SUPPLEMENTAL AMORTIZATION EQUALIZATION
7 DISBURSEMENT PAYMENTS PAYABLE TO THE ASSOCIATION PURSUANT TO
8 SECTION 24-51-411 ON BEHALF OF A SCHOOL DIVISION EMPLOYER, THE
9 DEPARTMENT OF EDUCATION SHALL INITIATE AN AUDIT OF THE SCHOOL
10 DIVISION EMPLOYER TO DETERMINE THE REASON FOR THE NONPAYMENT
11 AND TO ASSIST THE SCHOOL DIVISION EMPLOYER, IF NECESSARY, IN
12 DEVELOPING AND IMPLEMENTING MEASURES TO ENSURE THAT FUTURE
13 PAYMENTS WILL BE MADE WHEN DUE.

14 (6) NOTHING IN THIS SECTION REQUIRES THE STATE TREASURER TO
15 MAKE ANY PAYMENT OF THE AMORTIZATION EQUALIZATION
16 DISBURSEMENT PAYMENTS AND SUPPLEMENTAL AMORTIZATION
17 EQUALIZATION DISBURSEMENT PAYMENTS PAYABLE TO THE ASSOCIATION
18 PURSUANT TO SECTION 24-51-411 ON BEHALF OF A SCHOOL DIVISION
19 EMPLOYER EXCEPT AS PROVIDED IN AND SUBJECT TO THE TERMS OF THIS
20 SECTION.

21 **SECTION 5.** In Colorado Revised Statutes, 24-51-204, **add** (12)
22 as follows:

23 **24-51-204. Duties of the board.** (12) THE BOARD, THE
24 ASSOCIATION, THE STATE, THE GOVERNOR, THE STATE TREASURER, AND
25 THE COLORADO HOUSING AND FINANCE AUTHORITY ARE IMMUNE FROM
26 CLAIMS ARISING FROM THE ENFORCEMENT AND IMPLEMENTATION OF
27 SECTION 24-51-201.1, 24-51-201.3, OR 29-4-710.8, C.R.S., OR ANY OTHER

1 LAW THAT RELATES TO CONTRACTS ENTERED INTO BY THE ASSOCIATION
2 AND THE AUTHORITY PURSUANT TO SECTION 24-51-201.1 OR BONDS
3 ISSUED BY THE AUTHORITY AS AUTHORIZED BY SECTION 29-4-710.8,
4 C.R.S.

5 **SECTION 6.** In Colorado Revised Statutes, 24-51-205, **add** (8)
6 as follows:

7 **24-51-205. General authority of the board.** (8) THE BOARD
8 MAY ENTER INTO CONTRACTS WITH THE COLORADO HOUSING AND
9 FINANCE AUTHORITY IN ACCORDANCE WITH SECTION 24-51-201.1.

10 **SECTION 7.** In Colorado Revised Statutes, 24-51-207, **add** (2)
11 (d) as follows:

12 **24-51-207. Standards of conduct.** (2) (d) NOTWITHSTANDING
13 THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2), THE BOARD'S
14 ENTRY INTO A CONTRACT WITH THE COLORADO HOUSING AND FINANCE
15 AUTHORITY PURSUANT TO SECTION 24-51-201.1 AND ANY ACTIONS THE
16 BOARD TAKES THAT ARE REASONABLE AND NECESSARY FOR THE
17 FULFILLMENT OF THE ASSOCIATION'S OBLIGATIONS UNDER THE TERMS OF
18 SUCH A CONTRACT DO NOT CONSTITUTE A BREACH OF THE BOARD'S DUTIES
19 OR STANDARDS OF CONDUCT.

20 **SECTION 8.** In Colorado Revised Statutes, 24-51-411, **amend**
21 (8) as follows:

22 **24-51-411. Amortization equalization disbursement.**
23 (8) (a) The amortization equalization disbursement and the supplemental
24 amortization equalization disbursement payments by employers in the
25 state, school, and Denver public schools divisions shall continue at the
26 rate specified in subsections (3), (3.5), (6), and (6.5) of this section until
27 adjusted pursuant to this ~~subsection (8)~~ PARAGRAPH (a). When the

1 actuarial funded ratio of the state, school, or Denver public schools
2 division of the association, based on the actuarial value of assets, is at or
3 above one hundred three percent as determined in the annual actuarial
4 study of the association, the amount of the amortization equalization
5 disbursement and supplemental amortization equalization disbursement
6 shall be reduced, in equal parts, for that particular division by one-half of
7 one percent each. If the actuarial funded ratio of the division based on the
8 actuarial value of assets reaches one hundred three percent and
9 subsequently the actuarial funded ratio of the division is below ninety
10 percent, the amortization equalization disbursement and supplemental
11 amortization equalization disbursement shall be increased by one-half of
12 one percent each; except that, at no time shall the amortization
13 equalization disbursement for the school and Denver public schools
14 divisions exceed four and one-half percent or for the state division exceed
15 five percent nor shall the supplemental amortization equalization
16 disbursement for the school and Denver public schools divisions exceed
17 five and one-half percent each or for the state division exceed five
18 percent.

19 (b) THE AMORTIZATION EQUALIZATION DISBURSEMENT RATE AND
20 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT RATE FOR
21 STATE DIVISION EMPLOYERS AND THE AMORTIZATION EQUALIZATION
22 DISBURSEMENT RATE AND SUPPLEMENTAL AMORTIZATION EQUALIZATION
23 DISBURSEMENT RATE FOR SCHOOL DIVISION EMPLOYERS SHALL NOT BE
24 REDUCED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (8) IF THE
25 REDUCTION IN RATES WOULD CAUSE THE AMOUNT OF AMORTIZATION
26 EQUALIZATION DISBURSEMENT PAYMENTS AND THE AMOUNT OF
27 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS

1 PAID BY STATE DIVISION EMPLOYERS OR SCHOOL DIVISION EMPLOYERS,
2 RESPECTIVELY, DURING THE IMMEDIATELY PRECEDING FISCAL YEAR TO
3 FALL BELOW THE AMOUNT NECESSARY TO FUND THE AMOUNTS PAYABLE
4 PURSUANT TO SECTION 24-51-201.1 (4) (b) DURING THE CURRENT FISCAL
5 YEAR OR ANY FUTURE FISCAL YEAR.

6 (c) NOTWITHSTANDING PARAGRAPHS (a) AND (b) OF THIS
7 SUBSECTION (8), IF BONDS HAVE BEEN ISSUED PURSUANT TO SECTION
8 29-4-710.8, C.R.S., SO LONG AS ANY SUCH BONDS ARE OUTSTANDING, THE
9 AMORTIZATION EQUALIZATION DISBURSEMENT RATE AND SUPPLEMENTAL
10 AMORTIZATION EQUALIZATION DISBURSEMENT RATE FOR THE STATE
11 DIVISION OR THE SCHOOL DIVISION SHALL NOT BE REDUCED PURSUANT TO
12 SAID PARAGRAPH (a) OR (b) IF THE REDUCTION IN RATE WOULD CAUSE THE
13 AMOUNT OF THE AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS
14 AND SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT
15 PAYMENTS FOR THE DIVISION TO FALL BELOW THE MINIMUM AMOUNT
16 REQUIRED TO MEET THE APPLICABLE COVERAGE RATIO DESCRIBED IN
17 SECTION 29-4-710.8 (9), C.R.S., WITH RESPECT TO OUTSTANDING BONDS
18 OR A NEW SERIES OF BONDS.

19 **SECTION 9.** In Colorado Revised Statutes, **amend** 24-51-1010
20 as follows:

21 **24-51-1010. Increase in benefits - actuarial assessment**
22 **required.** (1) Before increasing benefits provided by the association, the
23 general assembly shall cause to be conducted pursuant to subsection (2)
24 of this section an actuarial assessment to ensure that the increases in
25 benefits would not cause the actuarial value of assets of the association
26 to decline below ninety percent of the actuarial accrued liabilities of the
27 association OR, IF THE COLORADO HOUSING AND FINANCE AUTHORITY HAS

1 ISSUED BONDS AS AUTHORIZED BY SECTION 29-4-710.8, C.R.S., TO ENSURE
2 THAT, SO LONG AS THE BONDS ARE OUTSTANDING, THE INCREASES IN
3 BENEFITS ABOVE THE LEVEL THAT EXISTS ON THE EFFECTIVE DATE OF THIS
4 SUBSECTION (1), AS AMENDED, WOULD NOT CAUSE THE ACTUARIAL VALUE
5 OF ASSETS OF EITHER THE STATE DIVISION TRUST FUND OR SCHOOL
6 DIVISION TRUST FUND TO DECLINE BELOW ONE HUNDRED THIRTY PERCENT
7 OF THE RESPECTIVE FUND'S ACTUARIAL ACCRUED LIABILITIES.

8 (2) Upon direction from the president of the senate and the
9 speaker of the house of representatives, the director of research of the
10 legislative council shall contract with a private person to conduct an
11 actuarial assessment of the association. The assessment shall be
12 conducted to determine whether and to what extent an increase in the
13 benefits provided by the association would cause the actuarial value of
14 the assets of the association to decline below ninety percent of the
15 actuarial accrued liabilities of the association, OR, IF THE COLORADO
16 HOUSING AND FINANCE AUTHORITY HAS ISSUED BONDS AS AUTHORIZED BY
17 SECTION 29-4-710.8, C.R.S., TO ENSURE THAT, SO LONG AS THE BONDS
18 ARE OUTSTANDING, THE INCREASES IN BENEFITS ABOVE THE LEVEL THAT
19 EXISTS ON THE EFFECTIVE DATE OF THIS SUBSECTION (2), AS AMENDED,
20 WOULD NOT CAUSE THE ACTUARIAL VALUE OF ASSETS OF EITHER THE
21 STATE DIVISION TRUST FUND OR SCHOOL DIVISION TRUST FUND TO DECLINE
22 BELOW ONE HUNDRED THIRTY PERCENT OF THE RESPECTIVE FUND'S
23 ACTUARIAL ACCRUED LIABILITIES. The assessment shall be completed and
24 a final report of its findings and conclusions shall be submitted to the
25 general assembly as soon as practicable. The person conducting the
26 actuarial assessment of the association and ~~such~~ THE person's employees
27 shall, during the term of the contract, have access to any necessary

1 documents and information in the custody of the association.

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