

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

REENGROSSED

This Version Includes All Amendments
Adopted in the House of Introduction

LLS NO. 15-0178.02 Jason Gelender x4330

HOUSE BILL 15-1388

HOUSE SPONSORSHIP

Pabon and Rankin,

SENATE SPONSORSHIP

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.

HOUSE
3rd Reading Unamended
May 1, 2015

HOUSE
Amended 2nd Reading
April 30, 2015

(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 
6 (5) THE COSTS OF ISSUANCE OF EACH SERIES OF BONDS INCLUDED
7 IN THE CERTIFICATES DELIVERED BY THE GOVERNOR AND THE STATE
8 TREASURER PURSUANT TO SUBSECTION (4) OF THIS SECTION MUST INCLUDE
9 THE PAYMENT OF THE REASONABLE COSTS INCURRED BY THE AUTHORITY,
10 THE ASSOCIATION, THE GOVERNOR, AND THE STATE TREASURER IN
11 CONNECTION WITH THE ISSUANCE OF THE SERIES OF BONDS. THE TERMS OF
12 THE TRUST INDENTURE OR OTHER INSTRUMENT GOVERNING EACH SERIES
13 OF BONDS AND THE CONTRACT WITH THE ASSOCIATION ENTERED INTO IN
14 CONNECTION WITH THE ISSUANCE OF EACH SERIES OF BONDS INCLUDED IN
15 THE CERTIFICATION BY THE GOVERNOR AND THE STATE TREASURER
16 PURSUANT TO SUBSECTION (4) OF THIS SECTION MUST INCLUDE THE
17 PAYMENT OF THE REASONABLE COSTS TO BE INCURRED BY THE
18 AUTHORITY, THE ASSOCIATION, THE GOVERNOR, AND THE STATE
19 TREASURER IN CONNECTION WITH THE ADMINISTRATION OF THE SERIES OF
20 BONDS.

21 (6) THE CERTIFICATES DELIVERED BY THE GOVERNOR AND THE
22 STATE TREASURER PURSUANT TO SUBSECTION (4) OF THIS SECTION WITH
23 RESPECT TO A SERIES OF BONDS MAY BE UPDATED BY THE GOVERNOR AND
24 THE STATE TREASURER FROM TIME TO TIME UP TO AND INCLUDING THE
25 TIME THE SERIES OF BONDS IS ISSUED.

26 (7) IF THE GOVERNOR, THE STATE TREASURER, AND THE ATTORNEY
27 GENERAL DELIVER THE CERTIFICATES DESCRIBED IN SUBSECTION (4) OF

1 THIS SECTION WITH RESPECT TO A SERIES OF BONDS, THE AUTHORITY IS
2 AUTHORIZED TO ISSUE THE BONDS AND TO TAKE ALL OTHER ACTIONS
3 REASONABLY REQUESTED BY THE GOVERNOR AND THE STATE TREASURER
4 TO CAUSE THE BONDS TO BE ISSUED IN ACCORDANCE WITH THE
5 CERTIFICATES.

6 (8) THE SCHEDULED PRINCIPAL, INTEREST, AND MANDATORY
7 REDEMPTION PAYMENTS PAYABLE IN ANY FISCAL YEAR ON ALL BONDS, NET
8 OF THE AMOUNT THAT THE STATE TREASURER ESTIMATES WILL BE
9 PAYABLE FROM THE STATE DIVISION SPECIAL FUND AND THE SCHOOL
10 DIVISION SPECIAL FUND DURING THE FISCAL YEAR TO PAY THE
11 REASONABLE COSTS OF THE ASSOCIATION, THE GOVERNOR, THE STATE
12 TREASURER, THE AUTHORITY, AND THE TRUSTEE FOR THE OWNERS FOR
13 ADMINISTERING THE BONDS AND TO ESTABLISH OR REPLENISH
14 REASONABLE RESERVES FOR THE BONDS, DETERMINED AS OF THE DATE
15 EACH SERIES OF BONDS IS ISSUED, SHALL NOT EXCEED AN AMOUNT THAT
16 RESULTS IN A COVERAGE RATIO FOR EACH FISCAL YEAR OF REVENUE TO
17 PRINCIPAL, INTEREST, AND MANDATORY REDEMPTION PAYMENTS PAYABLE
18 IN ANY FISCAL YEAR OF LESS THAN ONE HUNDRED THIRTY PERCENT IN THE
19 FISCAL YEAR IN WHICH THE SERIES OF BONDS IS ISSUED AND IN EACH OF
20 THE THREE IMMEDIATELY SUCCEEDING FISCAL YEARS AND ONE HUNDRED
21 FIFTY PERCENT IN EACH FISCAL YEAR THEREAFTER. FOR THE PURPOSE OF
22 CALCULATING EITHER COVERAGE RATIO, "REVENUE" MEANS THE
23 AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS AND
24 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS
25 PAYABLE TO THE ASSOCIATION BY EMPLOYERS IN THE STATE DIVISION AND
26 SCHOOL DIVISION DURING THE APPLICABLE FISCAL YEAR, AS PROJECTED IN
27 THE MOST RECENT ACTUARIAL VALUATION OF THE ASSOCIATION.

1 COMPLIANCE WITH THIS SUBSECTION (8) SHALL BE DETERMINED BY THE
2 STATE TREASURER BASED ON THE ADVICE OF THE FINANCIAL ADVISOR FOR
3 THE BONDS IN CONNECTION WITH THE ISSUANCE OF EACH SERIES OF BONDS
4 AND SHALL BE INCLUDED IN THE CERTIFICATE DELIVERED BY THE
5 GOVERNOR AND THE STATE TREASURER PURSUANT TO
6 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (c) OF
7 SUBSECTION (4) OF THIS SECTION.

8 (9) THE AUTHORITY, THE ASSOCIATION, THE GOVERNOR, THE
9 STATE TREASURER, STATE DIVISION EMPLOYERS, AND SCHOOL DIVISION
10 EMPLOYERS MAY ENTER INTO CONTRACTS WITH ANY PERSON THAT THEY
11 DEEM NECESSARY OR APPROPRIATE IN CONNECTION WITH BONDS, THE
12 CONTRACT BETWEEN THE AUTHORITY AND THE ASSOCIATION, OR ANY
13 OTHER TRANSACTION OR ACTIVITY RELATED TO THE EXERCISE OF THEIR
14 POWERS OR DUTIES UNDER THIS SECTION, SECTION 24-51-201.1, C.R.S., OR
15 ANY OTHER PROVISION OF LAW THAT RELATES TO THE IMPLEMENTATION
16 OF SAID SECTIONS.

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

18 (11) AN ACTION OR PROCEEDING AT LAW OR IN EQUITY TO REVIEW
19 ANY ACTS OR PROCEEDINGS OR TO QUESTION THE VALIDITY OR ENJOIN THE
20 PERFORMANCE OF ANY ACT OR PROCEEDINGS, INCLUDING BUT NOT
21 LIMITED TO THE ISSUANCE OR PROPOSED ISSUANCE OF ANY BONDS OR THE
22 EXECUTION OR PERFORMANCE OR PROPOSED EXECUTION OR PERFORMANCE
23 OF ANY CONTRACT, OR FOR ANY OTHER RELIEF AGAINST OR FROM ANY
24 ACTS OR PROCEEDINGS DONE OR THAT MAY BE DONE UNDER THIS SECTION,
25 SECTION 24-51-201.1 OR 24-51-201.3, C.R.S., OR ANY OTHER PROVISION
26 OF LAW THAT RELATES TO BONDS OR TO CONTRACTS ENTERED INTO BY THE
27 ASSOCIATION AND THE AUTHORITY PURSUANT TO SECTION 24-51-201.1,

1 C.R.S., WHETHER BASED UPON IRREGULARITIES OR JURISDICTIONAL
2 DEFECTS, SHALL NOT BE MAINTAINED UNLESS COMMENCED WITHIN THIRTY
3 DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (11), AND IS
4 THEREAFTER PERPETUALLY BARRED, AND, IF COMMENCED WITHIN THE
5 THIRTY-DAY PERIOD, SHALL BE JOINED WITH ANY PENDING PROCEEDING
6 COMMENCED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (4) OF THIS
7 SECTION.

8 (12) THE POWERS CONFERRED BY THIS SECTION, SECTION
9 24-51-201.1 OR 24-51-201.3, C.R.S., OR ANY OTHER PROVISION OF LAW
10 THAT GRANTS POWERS RELATING TO BONDS OR TO CONTRACTS ENTERED
11 INTO BY THE ASSOCIATION AND THE AUTHORITY PURSUANT TO SECTION
12 24-51-201.1, C.R.S., ARE IN ADDITION AND SUPPLEMENTAL TO, AND NOT
13 IN SUBSTITUTION FOR, AND THE LIMITATIONS IMPOSED BY THOSE SECTIONS
14 OR OTHER PROVISIONS OF LAW DO NOT DIRECTLY OR INDIRECTLY MODIFY,
15 LIMIT, OR AFFECT, THE POWERS CONFERRED TO THE GOVERNOR, THE STATE
16 TREASURER, THE ASSOCIATION, OR THE AUTHORITY BY ANY OTHER LAW.
17 ANY PROVISION OF THIS SECTION, SECTION 24-51-201.1 OR 24-51-201.3,
18 C.R.S., OR ANY OTHER PROVISION OF LAW THAT GRANTS POWERS
19 RELATING TO BONDS OR TO CONTRACTS ENTERED INTO BY THE
20 ASSOCIATION AND THE AUTHORITY PURSUANT TO SECTION 24-51-201.1,
21 C.R.S., OR ANY OTHER PROVISION OF LAW APPLICABLE TO THE
22 ASSOCIATION, THE AUTHORITY, OR THE STATE THAT CONFLICTS WITH OR
23 IS INCONSISTENT WITH ANY OTHER STATE STATUTORY PROVISION,
24 PRINCIPLE OF COMMON LAW, OR CASE LAW SUPERSEDES THE OTHER STATE
25 STATUTORY PROVISION OR PROVISION OF COMMON LAW OR CASE LAW.

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

27 (a) BONDS ARE NOT A MULTIPLE-FISCAL YEAR DIRECT OR INDIRECT

1 DEBT OR OTHER FINANCIAL OBLIGATION FOR PURPOSES OF SECTION 20 OF
2 ARTICLE X OF THE STATE CONSTITUTION BECAUSE THE AUTHORITY IS NOT
3 A DISTRICT, AS DEFINED IN SECTION 20 (2) (b) OF ARTICLE X OF THE STATE
4 CONSTITUTION, SUBJECT TO THE REQUIREMENTS OF SAID SECTION 20 AND
5 BECAUSE:

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

9 (II) UNDER THE COLORADO SUPREME COURT'S DECISION IN
10 *CAMPBELL V. ORCHARD MESA IRRIGATION DISTRICT*, 972 P.2d 1037 (COLO.
11 1998), THE AUTHORITY IS NEITHER THE STATE NOR A LOCAL GOVERNMENT
12 AND THEREFORE IS NOT A DISTRICT, AS DEFINED IN SECTION 20 (2) (b) OF
13 ARTICLE X OF THE STATE CONSTITUTION, SUBJECT TO THE REQUIREMENTS
14 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION BECAUSE:

15 (A) THE AUTHORITY IS NOT AUTHORIZED TO LEVY GENERAL
16 TAXES.

17 (B) ALTHOUGH THE AUTHORITY IS A BODY CORPORATE AND A
18 POLITICAL SUBDIVISION OF THE STATE SERVING PUBLIC PURPOSES, IT IS
19 NOT AN AGENCY OF STATE GOVERNMENT AND IS NOT SUBJECT TO
20 ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD,
21 BUREAU, OR AGENCY OF THE STATE.

22 (C) THE GENERAL PUBLIC IS NOT ENTITLED TO VOTE FOR THE
23 MEMBERS OF THE BOARD OF THE AUTHORITY OR WITH RESPECT TO ANY
24 OTHER ACTION OF THE AUTHORITY.

25 (b) BONDS ARE NOT A DEBT BY LOAN IN ANY FORM FOR PURPOSES
26 OF SECTION 3 OF ARTICLE XI OF THE STATE CONSTITUTION BECAUSE THE
27 AUTHORITY IS NOT PART OF THE STATE FOR THE REASONS DESCRIBED IN

1 PARAGRAPH (a) OF THIS SUBSECTION (13) AND BECAUSE THE BONDS ARE
2 PAYABLE FROM A SPECIAL FUND.

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

6 **SECTION 4.** In Colorado Revised Statutes, **add 24-51-201.1 and**
7 **24-51-201.3** as follows:

8 **24-51-201.1. Contracts with Colorado housing and finance**
9 **authority - state and school division amortization equalization**
10 **disbursement and supplemental amortization equalization**
11 **disbursement special revenue funds.** (1) IF THE COLORADO HOUSING
12 AND FINANCE AUTHORITY ISSUES BONDS AS AUTHORIZED BY SECTION
13 29-4-710.8, C.R.S., THE ASSOCIATION SHALL ENTER INTO A CONTRACT
14 WITH THE AUTHORITY UNDER WHICH THE ASSOCIATION AGREES TO MAKE
15 PAYMENTS TO THE AUTHORITY FROM AND PLEDGES AS SECURITY FOR THE
16 PAYMENTS MONEYS IN THE STATE DIVISION SPECIAL FUND CREATED IN
17 SUBSECTION (2) OF THIS SECTION AND THE SCHOOL DIVISION SPECIAL FUND
18 CREATED IN SUBSECTION (3) OF THIS SECTION. THE CONTRACT MUST
19 INCLUDE THE TERMS DESCRIBED IN SUBSECTION (4) OF THIS SECTION. THE
20 ASSOCIATION'S FINANCIAL OBLIGATIONS UNDER ANY SUCH CONTRACT ARE
21 LIMITED OBLIGATIONS OF THE ASSOCIATION, PAYABLE SOLELY FROM
22 MONEYS HELD IN THE SPECIAL FUNDS THAT HAVE BEEN PLEDGED BY THE
23 ASSOCIATION FOR THE PAYMENT OF THE FINANCIAL OBLIGATIONS. THE
24 ASSOCIATION SHALL NOT BE REQUIRED TO REMIT ANY AMOUNTS TO THE
25 AUTHORITY OVER AND ABOVE THE AMOUNTS AVAILABLE IN THE SPECIAL
26 FUNDS. ANY PLEDGE BY THE ASSOCIATION PURSUANT TO THIS SUBSECTION
27 (1) IS VALID AND BINDING AND CREATES A VALID SECURITY INTEREST AND

1 LIEN ENFORCEABLE AGAINST ALL PARTIES HAVING CLAIMS AGAINST THE
2 ASSOCIATION OF ANY KIND, IRRESPECTIVE OF WHETHER THE CLAIMING
3 PARTY HAS NOTICE OF THE SECURITY INTEREST OR LIEN. A CONTRACT
4 NEED NOT BE RECORDED OR FILED TO PERFECT THE PLEDGE, SECURITY
5 INTEREST, AND LIEN.

6 (2) (a) THE STATE DIVISION AMORTIZATION EQUALIZATION
7 DISBURSEMENT AND SUPPLEMENTAL AMORTIZATION EQUALIZATION
8 DISBURSEMENT SPECIAL REVENUE FUND, REFERRED TO IN THIS SECTION AS
9 THE "STATE DIVISION SPECIAL FUND", IS HEREBY CREATED. MONEYS IN
10 THE STATE DIVISION SPECIAL FUND ARE NOT PART OF THE STATE DIVISION
11 TRUST FUND OR ANY OTHER TRUST FUND OR OTHER FUND OF THE
12 ASSOCIATION, ARE NOT PART OF THE CORPUS OR INCOME OF THE PENSION
13 PLAN OR PLANS OR PENSION TRUST OR TRUSTS OF THE ASSOCIATION, AND
14 ARE NOT AVAILABLE TO PAY BENEFITS OR FOR ANY OTHER PURPOSE NOT
15 SPECIFICALLY PERMITTED BY THIS SUBSECTION (2).

16 (b) FROM THE DATE THE ASSOCIATION ENTERS INTO A CONTRACT
17 WITH THE COLORADO HOUSING AND FINANCE AUTHORITY TO MAKE
18 PAYMENTS FROM THE STATE DIVISION SPECIAL FUND IN CONNECTION WITH
19 BONDS ISSUED BY THE AUTHORITY UNTIL ALL OBLIGATIONS OF THE
20 ASSOCIATION UNDER THE CONTRACT HAVE TERMINATED, ALL MONEYS
21 RECEIVED BY THE ASSOCIATION FROM THE AMORTIZATION EQUALIZATION
22 DISBURSEMENT PAYMENTS AND SUPPLEMENTAL AMORTIZATION
23 EQUALIZATION DISBURSEMENT PAYMENTS PAID TO THE ASSOCIATION BY
24 EMPLOYERS IN THE STATE DIVISION SHALL BE DEPOSITED INTO THE STATE
25 DIVISION SPECIAL FUND. THE ASSOCIATION MAY ESTABLISH SEPARATE
26 ACCOUNTS WITHIN THE STATE DIVISION SPECIAL FUND AS NEEDED. THE
27 ASSOCIATION SHALL INVEST MONEYS IN THE STATE DIVISION SPECIAL FUND

1 THAT ARE NOT NEEDED FOR IMMEDIATE USE IN THE TYPES OF
2 INVESTMENTS AUTHORIZED IN SECTION 24-36-113, SUBJECT TO ANY
3 LIMITATIONS SET FORTH IN THE INSTRUMENTS GOVERNING THE BONDS
4 ISSUED BY THE AUTHORITY AND ANY LIMITATIONS SET FORTH IN THE
5 CONTRACT BETWEEN THE ASSOCIATION AND THE AUTHORITY ENTERED
6 INTO IN CONNECTION WITH THE AUTHORITY'S BONDS. ALL INTEREST AND
7 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE
8 STATE DIVISION SPECIAL FUND SHALL BE CREDITED TO THE STATE DIVISION
9 SPECIAL FUND.

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

20 (3) (a) THE SCHOOL DIVISION AMORTIZATION EQUALIZATION
21 DISBURSEMENT AND SUPPLEMENTAL AMORTIZATION EQUALIZATION
22 DISBURSEMENT SPECIAL REVENUE FUND, REFERRED TO IN THIS SECTION AS
23 THE "SCHOOL DIVISION SPECIAL FUND", IS HEREBY CREATED. MONEYS IN
24 THE SCHOOL DIVISION SPECIAL FUND ARE NOT PART OF THE SCHOOL
25 DIVISION TRUST FUND OR ANY OTHER TRUST FUND OR OTHER FUND OF THE
26 ASSOCIATION, ARE NOT PART OF THE CORPUS OR INCOME OF THE PENSION
27 PLAN OR PLANS OR PENSION TRUST OR TRUSTS OF THE ASSOCIATION, AND

1 ARE NOT AVAILABLE TO PAY BENEFITS OR FOR ANY OTHER PURPOSE NOT
2 SPECIFICALLY PERMITTED BY THIS SUBSECTION (3).

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

24 (c) THE ASSOCIATION SHALL EXPEND MONEYS FROM THE SCHOOL
25 DIVISION SPECIAL FUND AS REQUIRED BY PARAGRAPH (b) OF SUBSECTION
26 (4) OF THIS SECTION. AFTER EACH EXPENDITURE OF MONEYS FROM THE
27 SCHOOL DIVISION SPECIAL FUND PURSUANT TO SAID PARAGRAPH (b), THE

1 BALANCE REMAINING IN THE SCHOOL DIVISION SPECIAL FUND SHALL BE
2 TRANSFERRED TO THE SCHOOL DIVISION TRUST FUND. MONEYS
3 TRANSFERRED TO THE SCHOOL DIVISION TRUST FUND PURSUANT TO THIS
4 PARAGRAPH (c) BECOME TRUST ASSETS AND ARE NOT AVAILABLE AND
5 MAY NOT BE USED FOR ANY OF THE PURPOSES DESCRIBED IN SAID
6 PARAGRAPH (b).

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

10 (a) THE PROCEEDS OF BONDS ISSUED BY THE COLORADO HOUSING
11 AND FINANCE AUTHORITY AS AUTHORIZED BY SECTION 29-4-710.8, C.R.S.,
12 NET OF THE PROCEEDS TO BE DEPOSITED INTO ANY RESERVE FUND OR
13 FUNDS FOR THE BONDS AND THE COSTS OF ISSUANCE OF THE BONDS AS SET
14 FORTH IN THE CERTIFICATE DELIVERED PURSUANT TO SECTION 29-4-710.8
15 (4), C.R.S., SHALL BE DELIVERED TO THE ASSOCIATION AND DEPOSITED
16 INTO THE STATE DIVISION TRUST FUND AND THE SCHOOL DIVISION TRUST
17 FUND IN PROPORTION TO EACH DIVISION'S PERCENTAGE OF THE TOTAL
18 ANNUAL CONTRIBUTIONS REMITTED TO THE ASSOCIATION BY THE STATE
19 DIVISION EMPLOYERS AND THE SCHOOL DIVISION EMPLOYERS BASED ON
20 THE MOST RECENT COMPREHENSIVE ANNUAL FINANCIAL REPORT OF THE
21 ASSOCIATION AT THE TIME THE BONDS ARE ISSUED; EXCEPT THAT, IF THE
22 AMOUNT DEPOSITED INTO EITHER THE STATE DIVISION TRUST FUND OR THE
23 SCHOOL DIVISION TRUST FUND WOULD CAUSE THE FUNDING RATIO OF THE
24 FUND, BASED ON THE ACTUARIAL VALUE OF THE ASSETS OF THE FUND, TO
25 EXCEED ONE HUNDRED PERCENT, THE AMOUNT THAT WOULD CAUSE THE
26 FUNDING RATIO OF THE FUND TO EXCEED ONE HUNDRED PERCENT SHALL
27 BE DEPOSITED INTO THE OTHER FUND. THE PROCEEDS OF BONDS THAT ARE

1 DEPOSITED INTO THE STATE DIVISION TRUST FUND AND THE SCHOOL
2 DIVISION TRUST FUND PURSUANT TO THIS PARAGRAPH (a) SHALL BE
3 INVESTED BY THE ASSOCIATION PURSUANT TO THE PROVISIONS OF SECTION
4 24-51-206.

5 (b) MONEYS SHALL BE PAID TO THE COLORADO HOUSING AND
6 FINANCE AUTHORITY FROM THE STATE DIVISION SPECIAL FUND AND THE
7 SCHOOL DIVISION SPECIAL FUND ON A MONTHLY BASIS IN AN AMOUNT
8 SUFFICIENT TO PAY ONE-FIFTH OF THE NEXT INTEREST PAYMENT ON THE
9 BONDS OCCURRING WITHIN THE NEXT SIX MONTHS AND ONE-ELEVENTH OF
10 THE NEXT PRINCIPAL OR MANDATORY REDEMPTION PAYMENT ON THE
11 BONDS OCCURRING WITHIN THE NEXT TWELVE MONTHS, THE REASONABLE
12 COSTS OF THE ASSOCIATION, THE GOVERNOR, THE STATE TREASURER, AND
13 THE AUTHORITY FOR ADMINISTERING THE BONDS, THE AMOUNT
14 NECESSARY TO ESTABLISH OR REPLENISH REASONABLE RESERVES FOR THE
15 BONDS, AND THE AMOUNT NECESSARY TO MAKE UP FOR ANY SHORTFALLS
16 IN ANY PREVIOUS MONTHLY PAYMENT. THE AMOUNTS PAYABLE TO THE
17 AUTHORITY PURSUANT TO THIS PARAGRAPH (b) SHALL BE PAID FROM THE
18 STATE DIVISION SPECIAL FUND AND THE SCHOOL DIVISION SPECIAL FUND
19 IN PROPORTION TO THE AMOUNT OF PROCEEDS OF BONDS ISSUED BY THE
20 AUTHORITY AS AUTHORIZED BY SECTION 29-4-710.8, C.R.S., MOST
21 RECENTLY DEPOSITED INTO THE STATE DIVISION TRUST FUND AND THE
22 SCHOOL DIVISION TRUST FUND PURSUANT TO PARAGRAPH (a) OF THIS
23 SUBSECTION (4). THE OBLIGATIONS TO MAKE THE PAYMENTS FROM THE
24 STATE DIVISION SPECIAL FUND AND THE SCHOOL DIVISION SPECIAL FUND
25 ARE NOT INTERDEPENDENT OR INTERCHANGEABLE. EACH PAYMENT FROM
26 THE STATE DIVISION SPECIAL FUND AND THE SCHOOL DIVISION SPECIAL
27 FUND IS AND REMAINS THE SEPARATE OBLIGATION ONLY OF THE

1 RESPECTIVE SPECIAL FUND AND IS NOT DUE OR PAYABLE FROM THE OTHER
2 SPECIAL FUND.

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

8 (d) THE CONTRACT SHALL PROVIDE THAT IF, ON THE DATE MONEY
9 IS TO BE PAID TO THE COLORADO HOUSING AND FINANCE AUTHORITY FROM
10 EITHER OF THE SPECIAL FUNDS, THE AMOUNT ON DEPOSIT IN THE SPECIAL
11 FUND IS NOT ENOUGH TO COVER THE PAYMENT BECAUSE STATE STATUTES
12 HAVE BEEN AMENDED TO REDUCE THE AMOUNT OF THE AMORTIZATION
13 EQUALIZATION DISBURSEMENT PAYMENTS AND SUPPLEMENTAL
14 AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS PAYABLE BY
15 STATE DIVISION EMPLOYERS OR SCHOOL DIVISION EMPLOYERS, THEN AN
16 EVENT OF DEFAULT HAS OCCURRED UNDER THE CONTRACT OR THE
17 INSTRUMENTS GOVERNING THE BONDS, AND THE REMEDIES FOR THE EVENT
18 OF DEFAULT DO NOT INCLUDE THE RECOVERY OF MONEYS FROM THE
19 ASSOCIATION OR FROM ANY OF THE TRUST FUNDS OR OTHER FUNDS OF THE
20 ASSOCIATION OTHER THAN THE AMOUNTS IN THE SPECIAL FUNDS THAT ARE
21 AVAILABLE FOR THAT PURPOSE AS SPECIFIED IN THIS SUBSECTION (4).

22 (5) IF THE COLORADO HOUSING AND FINANCE AUTHORITY ISSUES
23 BONDS AS AUTHORIZED BY SECTION 29-4-710.8, C.R.S., IN ADDITION TO
24 ENTERING INTO A CONTRACT WITH THE AUTHORITY AS REQUIRED BY
25 SUBSECTION (1) OF THIS SECTION, THE ASSOCIATION SHALL TAKE ALL
26 OTHER ACTIONS REASONABLY REQUESTED BY THE GOVERNOR AND THE
27 STATE TREASURER TO CAUSE THE BONDS TO BE ISSUED IN ACCORDANCE

1 WITH THE CERTIFICATIONS DESCRIBED IN SECTION 29-4-710.8 (4), C.R.S.

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

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

15 (a) A REPORT TO THE MEMBERS OF THE GENERAL ASSEMBLY THAT
16 INCLUDES, AT A MINIMUM, INFORMATION REGARDING THE INVESTMENT
17 PERFORMANCE OF THE STATE DIVISION AND THE SCHOOL DIVISION DURING
18 THE PRECEDING CALENDAR YEAR; AND

19 (b) A REPORT TO THE MEMBERS OF THE GENERAL ASSEMBLY AND
20 THE OFFICE OF STATE PLANNING AND BUDGETING THAT INCLUDES THE
21 TOTAL AMOUNT OF PROCEEDS DERIVED FROM THE ISSUANCE OF THE
22 BONDS, THE TOTAL AMOUNT APPLIED IN EACH FISCAL YEAR TO THE
23 PAYMENT OF THE BONDS, AND THE COST OF ISSUING AND ADMINISTERING
24 THE BONDS.

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

26 (a) THE OBLIGATIONS OF THE ASSOCIATION UNDER A CONTRACT
27 ENTERED INTO WITH THE COLORADO HOUSING AND FINANCE AUTHORITY

1 PURSUANT TO THIS SECTION ARE NOT A MULTIPLE-FISCAL YEAR DIRECT OR
2 INDIRECT DEBT OR FINANCIAL OBLIGATION UNDER SECTION 20 OF ARTICLE
3 X OF THE STATE CONSTITUTION BECAUSE THE ASSOCIATION IS NOT A
4 DISTRICT, AS DEFINED IN SECTION 20 (2) (b) OF ARTICLE X OF THE STATE
5 CONSTITUTION, SUBJECT TO THE REQUIREMENTS OF SAID SECTION 20 AND
6 BECAUSE:

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

10 (II) UNDER THE COLORADO SUPREME COURT'S DECISION IN
11 *CAMPBELL V. ORCHARD MESA IRRIGATION DISTRICT*, 972 P.2d 1037 (COLO.
12 1998), THE ASSOCIATION IS NEITHER THE STATE NOR A LOCAL
13 GOVERNMENT AND THEREFORE IS NOT A DISTRICT, AS DEFINED IN SECTION
14 20 (2) (b) OF ARTICLE X OF THE STATE CONSTITUTION, SUBJECT TO THE
15 REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION
16 BECAUSE:

17 (A) THE ASSOCIATION IS NOT AUTHORIZED TO LEVY GENERAL
18 TAXES.

19 (B) ALTHOUGH THE ASSOCIATION IS AN INSTRUMENTALITY OF THE
20 STATE, IT IS NOT AN AGENCY OF STATE GOVERNMENT AND IS NOT SUBJECT
21 TO ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION,
22 BOARD, BUREAU, OR AGENCY OF THE STATE.

23 (C) THE GENERAL PUBLIC IS NOT ENTITLED TO VOTE FOR THE
24 MEMBERS OF THE BOARD OF THE ASSOCIATION OR WITH RESPECT TO ANY
25 OTHER ACTION OF THE ASSOCIATION.

26 (III) CONTRIBUTIONS PAID TO THE ASSOCIATION BY EMPLOYERS
27 AND MEMBERS DO NOT AFFECT THE FACT THAT THE ASSOCIATION IS NOT

1 SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION
2 BECAUSE THE CONTRIBUTIONS ARE PAID IN EXCHANGE FOR THE REQUIRED
3 PAYMENT BY THE ASSOCIATION OF BENEFITS TO BENEFIT RECIPIENTS AND
4 THEREFORE ARE NOT GRANTS, EITHER AS DEFINED BY SECTION 24-77-102
5 (7) OR AS REFERENCED IN SECTION 20 (2) (d) OF ARTICLE X OF THE STATE
6 CONSTITUTION.

7 (b) THE OBLIGATIONS OF THE ASSOCIATION UNDER A CONTRACT
8 ENTERED INTO WITH THE COLORADO HOUSING AND FINANCE AUTHORITY
9 PURSUANT TO THIS SECTION ARE NOT A DEBT BY LOAN IN ANY FORM FOR
10 PURPOSES OF SECTION 3 OF ARTICLE XI OF THE STATE CONSTITUTION
11 BECAUSE THE ASSOCIATION IS NOT PART OF THE STATE FOR THE REASONS
12 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (8) AND BECAUSE THE
13 OBLIGATIONS ARE PAYABLE FROM A SPECIAL FUND; AND

14 (c) THE INVOLVEMENT OF THE STATE IN THE ACTIONS AUTHORIZED
15 BY THIS SECTION DOES NOT CHANGE THE FINDINGS AND DECLARATIONS
16 SET FORTH IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (8).

17 **24-51-201.3. Timely payment of certain school district**
18 **obligations to the public employees' retirement association.** (1) IF THE
19 ASSOCIATION HAS NOT RECEIVED PAYMENT OF THE AMORTIZATION
20 EQUALIZATION DISBURSEMENT PAYMENTS AND SUPPLEMENTAL
21 AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS PAYABLE TO
22 THE ASSOCIATION PURSUANT TO SECTION 24-51-411 FROM AN EMPLOYER
23 IN THE SCHOOL DIVISION OF THE ASSOCIATION, THE ASSOCIATION SHALL
24 NOTIFY THE STATE TREASURER AND THE SCHOOL DIVISION EMPLOYER BY
25 TELEPHONE, FACSIMILE, OR OTHER SIMILAR COMMUNICATION, FOLLOWED
26 BY WRITTEN VERIFICATION, OF SUCH PAYMENT STATUS. WITHIN FIVE
27 BUSINESS DAYS, THE STATE TREASURER SHALL CONTACT THE SCHOOL

1 DIVISION EMPLOYER AND DETERMINE WHETHER THE EMPLOYER WILL
2 MAKE THE PAYMENTS, TOGETHER WITH ANY INTEREST DUE ON THE
3 PAYMENTS, AND, IF SO, BY WHAT DATE.

4 (2) IF AN EMPLOYER IN THE SCHOOL DIVISION OF THE ASSOCIATION
5 FAILS TO MAKE PAYMENT WITH NECESSARY INTEREST WITHIN THIRTY
6 DAYS AFTER BEING CONTACTED BY THE STATE TREASURER PURSUANT TO
7 SUBSECTION (1) OF THIS SECTION, THE STATE TREASURER SHALL FORWARD
8 TO THE ASSOCIATION THE AMOUNT IN IMMEDIATELY AVAILABLE FUNDS
9 NECESSARY TO MAKE THE PAYMENT OF THE AMORTIZATION EQUALIZATION
10 DISBURSEMENT PAYMENTS AND SUPPLEMENTAL AMORTIZATION
11 EQUALIZATION DISBURSEMENT PAYMENTS PAYABLE TO THE ASSOCIATION
12 PURSUANT TO SECTION 24-51-411, TOGETHER WITH ANY INTEREST DUE ON
13 THE PAYMENTS. THE STATE TREASURER SHALL RECOVER THE AMOUNT
14 FORWARDED BY WITHHOLDING AMOUNTS FROM THE SCHOOL DIVISION
15 EMPLOYER'S PAYMENTS OF THE STATE'S SHARE OF THE SCHOOL DIVISION
16 EMPLOYER'S TOTAL PROGRAM RECEIVED IN ACCORDANCE WITH ARTICLE
17 54 OF TITLE 22, C.R.S., AND FROM PROPERTY TAX AND SPECIFIC
18 OWNERSHIP TAX REVENUES COLLECTED BY THE COUNTY TREASURER ON
19 BEHALF OF THE SCHOOL DIVISION EMPLOYER; EXCEPT THAT THE STATE
20 TREASURER MAY NOT RECOVER AMOUNTS FROM PROPERTY TAX REVENUES
21 THAT ARE PLEDGED TO PAY NOTES OR BONDS ISSUED BY THE SCHOOL
22 DIVISION EMPLOYER. THE TOTAL AMOUNT WITHHELD IN A MONTH FROM
23 THE STATE'S SHARE OF TOTAL PROGRAM AND THE TAX REVENUES DUE TO
24 THE SCHOOL DIVISION EMPLOYER FOR EACH OCCASION ON WHICH THE
25 TREASURER FORWARDS AN AMOUNT PURSUANT TO THIS SECTION SHALL
26 NOT EXCEED ONE-TWELFTH OF THE AMOUNT FORWARDED; EXCEPT THAT
27 THE STATE TREASURER, IN ONE OR MORE MONTHS DURING THE

1 TWELVE-MONTH WITHHOLDING PERIOD, MAY WITHHOLD MORE THAN
2 ONE-TWELFTH OF THE AMOUNT FORWARDED IF THE SCHOOL DIVISION
3 EMPLOYER IN ONE OR MORE MONTHS DURING THE TWELVE-MONTH
4 WITHHOLDING PERIOD RECEIVES TOTAL PROGRAM AND TAX REVENUES IN
5 AN AMOUNT THAT IS LESS THAN ONE-TWELFTH OF THE AMOUNT
6 FORWARDED. THE STATE TREASURER SHALL NOT WITHHOLD AMOUNTS FOR
7 MORE THAN TWELVE CONSECUTIVE MONTHS FOR EACH OCCASION ON
8 WHICH THE TREASURER FORWARDS AMOUNTS PURSUANT TO THIS SECTION.
9 THE STATE TREASURER, IN WRITING, SHALL NOTIFY THE COUNTY
10 TREASURER FOR THE SCHOOL DIVISION EMPLOYER OF THE AMOUNT OF TAX
11 REVENUES TO BE WITHHELD PURSUANT TO THIS SUBSECTION (2) AND THE
12 PERIOD OF WITHHOLDING. NOTWITHSTANDING ANY PROVISION OF THIS
13 SUBSECTION (2) TO THE CONTRARY, A SCHOOL DIVISION EMPLOYER MAY
14 ELECT TO MAKE EARLY REPAYMENT OF ALL OR ANY PORTION OF AN
15 AMOUNT FORWARDED BY THE STATE TREASURER ON BEHALF OF THE
16 SCHOOL DIVISION EMPLOYER PURSUANT TO THIS SECTION. WHEN A
17 SCHOOL DIVISION EMPLOYER FULLY REPAYS AN AMOUNT FORWARDED BY
18 THE STATE TREASURER ON BEHALF OF THE SCHOOL DIVISION EMPLOYER
19 PURSUANT TO THIS SECTION, THE STATE TREASURER, IN WRITING, SHALL
20 NOTIFY THE COUNTY TREASURER FOR THE SCHOOL DIVISION EMPLOYER TO
21 DISCONTINUE THE WITHHOLDING OF TAX REVENUES.

22 (3) THE ASSOCIATION SHALL APPLY AMOUNTS FORWARDED TO THE
23 ASSOCIATION BY THE STATE TREASURER SOLELY TO THE PAYMENT OF THE
24 AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS AND
25 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS
26 PAYABLE TO THE ASSOCIATION PURSUANT TO SECTION 24-51-411 BY THE
27 SCHOOL DIVISION EMPLOYER. THE STATE TREASURER SHALL NOTIFY THE

1 DEPARTMENT OF EDUCATION, THE CHIEF FINANCIAL OFFICER OF THE
2 SCHOOL DIVISION EMPLOYER, AND THE GENERAL ASSEMBLY OF AMOUNTS
3 WITHHELD AND PAYMENTS MADE PURSUANT TO THIS SECTION.

4 (4) THE STATE HEREBY COVENANTS WITH THE PURCHASERS AND
5 OWNERS OF BONDS ISSUED BY THE COLORADO HOUSING AND FINANCE
6 AUTHORITY AS AUTHORIZED BY SECTION 29-4-710.8, C.R.S., THAT IT WILL
7 NOT REPEAL, REVOKE, OR RESCIND THE PROVISIONS OF THIS SECTION OR
8 MODIFY OR AMEND THE SAME SO AS TO LIMIT OR IMPAIR THE RIGHTS AND
9 REMEDIES GRANTED BY THIS SECTION. NOTHING IN THIS SUBSECTION (4)
10 REQUIRES THE STATE TO CONTINUE THE PAYMENT OF STATE ASSISTANCE
11 TO ANY SCHOOL DIVISION EMPLOYER OR LIMITS OR PROHIBITS THE STATE
12 FROM REPEALING, AMENDING, OR MODIFYING ANY LAW RELATING TO THE
13 AMOUNT OF STATE ASSISTANCE TO SCHOOL DIVISION EMPLOYERS OR THE
14 MANNER OF PAYMENT OR THE TIMING THEREOF. NOTHING IN THIS SECTION
15 CREATES A DEBT OF THE STATE WITH RESPECT TO BONDS OR OTHER
16 OBLIGATIONS WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL
17 PROVISION OR CREATES ANY LIABILITY EXCEPT TO THE EXTENT PROVIDED
18 IN THIS SECTION.

19 (5) WHENEVER THIS SECTION REQUIRES THE STATE TREASURER TO
20 MAKE A PAYMENT OF AMORTIZATION EQUALIZATION DISBURSEMENT
21 PAYMENTS AND SUPPLEMENTAL AMORTIZATION EQUALIZATION
22 DISBURSEMENT PAYMENTS PAYABLE TO THE ASSOCIATION PURSUANT TO
23 SECTION 24-51-411 ON BEHALF OF A SCHOOL DIVISION EMPLOYER, THE
24 DEPARTMENT OF EDUCATION SHALL INITIATE AN AUDIT OF THE SCHOOL
25 DIVISION EMPLOYER TO DETERMINE THE REASON FOR THE NONPAYMENT
26 AND TO ASSIST THE SCHOOL DIVISION EMPLOYER, IF NECESSARY, IN
27 DEVELOPING AND IMPLEMENTING MEASURES TO ENSURE THAT FUTURE

1 PAYMENTS WILL BE MADE WHEN DUE.

2 (6) NOTHING IN THIS SECTION REQUIRES THE STATE TREASURER TO
3 MAKE ANY PAYMENT OF THE AMORTIZATION EQUALIZATION
4 DISBURSEMENT PAYMENTS AND SUPPLEMENTAL AMORTIZATION
5 EQUALIZATION DISBURSEMENT PAYMENTS PAYABLE TO THE ASSOCIATION
6 PURSUANT TO SECTION 24-51-411 ON BEHALF OF A SCHOOL DIVISION
7 EMPLOYER EXCEPT AS PROVIDED IN AND SUBJECT TO THE TERMS OF THIS
8 SECTION.

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

11 **24-51-204. Duties of the board.** (12) THE BOARD, THE
12 ASSOCIATION, THE STATE, THE GOVERNOR, THE STATE TREASURER, AND
13 THE COLORADO HOUSING AND FINANCE AUTHORITY ARE IMMUNE FROM
14 CLAIMS ARISING FROM THE ENFORCEMENT AND IMPLEMENTATION OF
15 SECTION 24-51-201.1, 24-51-201.3, OR 29-4-710.8, C.R.S., OR ANY OTHER
16 LAW THAT RELATES TO CONTRACTS ENTERED INTO BY THE ASSOCIATION
17 AND THE AUTHORITY PURSUANT TO SECTION 24-51-201.1 OR BONDS
18 ISSUED BY THE AUTHORITY AS AUTHORIZED BY SECTION 29-4-710.8,
19 C.R.S.

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

22 **24-51-205. General authority of the board.** (8) THE BOARD
23 MAY ENTER INTO CONTRACTS WITH THE COLORADO HOUSING AND
24 FINANCE AUTHORITY IN ACCORDANCE WITH SECTION 24-51-201.1.

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

27 **24-51-207. Standards of conduct.** (2) (d) NOTWITHSTANDING

1 THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2), THE BOARD'S
2 ENTRY INTO A CONTRACT WITH THE COLORADO HOUSING AND FINANCE
3 AUTHORITY PURSUANT TO SECTION 24-51-201.1 AND ANY ACTIONS THE
4 BOARD TAKES THAT ARE REASONABLE AND NECESSARY FOR THE
5 FULFILLMENT OF THE ASSOCIATION'S OBLIGATIONS UNDER THE TERMS OF
6 SUCH A CONTRACT DO NOT CONSTITUTE A BREACH OF THE BOARD'S DUTIES
7 OR STANDARDS OF CONDUCT.

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

10 **24-51-411. Amortization equalization disbursement.**

11 (8) (a) The amortization equalization disbursement and the supplemental
12 amortization equalization disbursement payments by employers in the
13 state, school, and Denver public schools divisions shall continue at the
14 rate specified in subsections (3), (3.5), (6), and (6.5) of this section until
15 adjusted pursuant to this ~~subsection (8)~~ PARAGRAPH (a). When the
16 actuarial funded ratio of the state, school, or Denver public schools
17 division of the association, based on the actuarial value of assets, is at or
18 above one hundred three percent as determined in the annual actuarial
19 study of the association, the amount of the amortization equalization
20 disbursement and supplemental amortization equalization disbursement
21 shall be reduced, in equal parts, for that particular division by one-half of
22 one percent each. If the actuarial funded ratio of the division based on the
23 actuarial value of assets reaches one hundred three percent and
24 subsequently the actuarial funded ratio of the division is below ninety
25 percent, the amortization equalization disbursement and supplemental
26 amortization equalization disbursement shall be increased by one-half of
27 one percent each; except that, at no time shall the amortization

1 equalization disbursement for the school and Denver public schools
2 divisions exceed four and one-half percent or for the state division exceed
3 five percent nor shall the supplemental amortization equalization
4 disbursement for the school and Denver public schools divisions exceed
5 five and one-half percent each or for the state division exceed five
6 percent.

7 (b) THE AMORTIZATION EQUALIZATION DISBURSEMENT RATE AND
8 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT RATE FOR
9 STATE DIVISION EMPLOYERS AND THE AMORTIZATION EQUALIZATION
10 DISBURSEMENT RATE AND SUPPLEMENTAL AMORTIZATION EQUALIZATION
11 DISBURSEMENT RATE FOR SCHOOL DIVISION EMPLOYERS SHALL NOT BE
12 REDUCED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (8) IF THE
13 REDUCTION IN RATES WOULD CAUSE THE AMOUNT OF AMORTIZATION
14 EQUALIZATION DISBURSEMENT PAYMENTS AND THE AMOUNT OF
15 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS
16 PAID BY STATE DIVISION EMPLOYERS OR SCHOOL DIVISION EMPLOYERS,
17 RESPECTIVELY, DURING THE IMMEDIATELY PRECEDING FISCAL YEAR TO
18 FALL BELOW THE AMOUNT NECESSARY TO FUND THE AMOUNTS PAYABLE
19 PURSUANT TO SECTION 24-51-201.1 (4) (b) DURING THE CURRENT FISCAL
20 YEAR OR ANY FUTURE FISCAL YEAR.

21 (c) NOTWITHSTANDING PARAGRAPHS (a) AND (b) OF THIS
22 SUBSECTION (8), IF BONDS HAVE BEEN ISSUED PURSUANT TO SECTION
23 29-4-710.8, C.R.S., SO LONG AS ANY SUCH BONDS ARE OUTSTANDING, THE
24 AMORTIZATION EQUALIZATION DISBURSEMENT RATE AND SUPPLEMENTAL
25 AMORTIZATION EQUALIZATION DISBURSEMENT RATE FOR THE STATE
26 DIVISION OR THE SCHOOL DIVISION SHALL NOT BE REDUCED PURSUANT TO
27 SAID PARAGRAPH (a) OR (b) IF THE REDUCTION IN RATE WOULD CAUSE THE

1 AMOUNT OF THE AMORTIZATION EQUALIZATION DISBURSEMENT PAYMENTS
2 AND SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT
3 PAYMENTS FOR THE DIVISION TO FALL BELOW THE MINIMUM AMOUNT
4 REQUIRED TO MEET THE APPLICABLE COVERAGE RATIO DESCRIBED IN
5 SECTION 29-4-710.8 (9), C.R.S., WITH RESPECT TO OUTSTANDING BONDS
6 OR A NEW SERIES OF BONDS.

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

9 **24-51-1010. Increase in benefits - actuarial assessment**
10 **required.** (1) Before increasing benefits provided by the association, the
11 general assembly shall cause to be conducted pursuant to subsection (2)
12 of this section an actuarial assessment to ensure that the increases in
13 benefits would not cause the actuarial value of assets of the association
14 to decline below ninety percent of the actuarial accrued liabilities of the
15 association OR, IF THE COLORADO HOUSING AND FINANCE AUTHORITY HAS
16 ISSUED BONDS AS AUTHORIZED BY SECTION 29-4-710.8, C.R.S., TO ENSURE
17 THAT, SO LONG AS THE BONDS ARE OUTSTANDING, THE INCREASES IN
18 BENEFITS ABOVE THE LEVEL THAT EXISTS ON THE EFFECTIVE DATE OF THIS
19 SUBSECTION (1), AS AMENDED, WOULD NOT CAUSE THE ACTUARIAL VALUE
20 OF ASSETS OF EITHER THE STATE DIVISION TRUST FUND OR SCHOOL
21 DIVISION TRUST FUND TO DECLINE BELOW ONE HUNDRED THIRTY PERCENT
22 OF THE RESPECTIVE FUND'S ACTUARIAL ACCRUED LIABILITIES.

23 (2) Upon direction from the president of the senate and the
24 speaker of the house of representatives, the director of research of the
25 legislative council shall contract with a private person to conduct an
26 actuarial assessment of the association. The assessment shall be
27 conducted to determine whether and to what extent an increase in the

1 benefits provided by the association would cause the actuarial value of
2 the assets of the association to decline below ninety percent of the
3 actuarial accrued liabilities of the association, OR, IF THE COLORADO
4 HOUSING AND FINANCE AUTHORITY HAS ISSUED BONDS AS AUTHORIZED BY
5 SECTION 29-4-710.8, C.R.S., TO ENSURE THAT, SO LONG AS THE BONDS
6 ARE OUTSTANDING, THE INCREASES IN BENEFITS ABOVE THE LEVEL THAT
7 EXISTS ON THE EFFECTIVE DATE OF THIS SUBSECTION (2), AS AMENDED,
8 WOULD NOT CAUSE THE ACTUARIAL VALUE OF ASSETS OF EITHER THE
9 STATE DIVISION TRUST FUND OR SCHOOL DIVISION TRUST FUND TO DECLINE
10 BELOW ONE HUNDRED THIRTY PERCENT OF THE RESPECTIVE FUND'S
11 ACTUARIAL ACCRUED LIABILITIES. The assessment shall be completed and
12 a final report of its findings and conclusions shall be submitted to the
13 general assembly as soon as practicable. The person conducting the
14 actuarial assessment of the association and ~~such~~ THE person's employees
15 shall, during the term of the contract, have access to any necessary
16 documents and information in the custody of the association.

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