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HOUSE BILL 10-1181

BY REPRESENTATIVE(S) Todd, Vigil;
also SENATOR(S) Bacon, Boyd.

CONCERNING ADJUSTMENTS TO THE ADMINISTRATION OF THE DEPARTMENT
OF PERSONNEL, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 24-30-202 (20.1), Colorado Revised Statutes, is amended to read:

24-30-202. Procedures - vouchers and warrants - rules - penalties. (20.1) The controller, or the controller's designee, is hereby authorized, upon written request made to the controller, to allow any state department, institution, or agency to draw upon its appropriation a sum set by fiscal rule promulgated by the controller, which fiscal rule may not authorize a sum in excess of two thousand five hundred dollars, and considered appropriate for the circumstances, to be used for the payment of incidental expenses. Items of postage, express, telegrams, and other incidental expenses may be paid from such moneys. At the end of each month, or as often as is practicable, the department, institution, or agency making such incidental expenditures shall submit a voucher to the controller covering the total amount of such expenditures and shall submit a list of all

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

such expenditures, together with proper receipts, if any, and the controller shall draw the controller's warrant against the proper appropriation to cover all items of expenditures which the controller approves. The controller is also authorized, upon the request of any state department, institution, or agency, to allow a reasonable advance of moneys to employees and officials for authorized travel on official state business not to exceed an amount set by fiscal rule promulgated by the controller. ~~which fiscal rule may not authorize a sum in excess of one thousand five hundred dollars.~~

SECTION 2. 24-30-202.4 (2), (8) (a), and (8) (b), Colorado Revised Statutes, are amended to read:

24-30-202.4. Collection of debts due the state - controller's duties - creation of debt collection fund - definitions. (2) Except for those debts under the jurisdiction of the department of revenue referred to in section 24-35-108 (1) (a), under the jurisdiction of the judicial department referred to in section 16-11-101.6, C.R.S., and under the jurisdiction of the department of labor and employment related to overpayment of unemployment insurance benefits and delinquent taxes referred to in section 8-79-102, C.R.S., all state agencies shall refer to the state controller debts due the state that the agency has been unable to collect within thirty days after such debts have become past due, together with the data and information necessary for the controller to institute collection procedures. Debts are not subject to referral pursuant to this subsection (2) if payment arrangements have been made and payments due in accordance with the terms of the arrangements are not delinquent. The controller may grant a waiver to the requirement that a state agency refer debts within such thirty-day period based upon a documented request and justification provided by a state agency, pursuant to rules promulgated by the department of personnel under article 4 of this title. A waiver may include but shall not be limited to extended periods to collect delinquent debts. For accounts where no waiver to assignment has been granted, the controller shall use all state collection capabilities to collect that debt, including, but not limited to, the certification of that debt to the department of revenue for offset of that debt against any tax refund due the debtor under the provisions of subparagraph (II) of paragraph (a) of subsection (3) of this section. No later than one hundred ~~twenty~~ EIGHTY days after receipt by the controller, the controller or the controller's designee shall legally assign all debts that are not claims in process of collection to private counsel or private collection agencies that appear on the list of private counsel or private collection

agencies. For the purposes of this section, "claims in process of collection" means any debts on which payments are being made, on which payments have been promised, on which suit has been brought, or any other debts as defined in rules promulgated by the department of personnel pursuant to article 4 of this title. The private counsel or private collection agencies included in the list of private counsel or private collection agencies shall be selected through competition pursuant to the provisions of the "Procurement Code", articles 101 to 112 of this title. Criteria for selection of the private counsel or private collection agencies shall be developed by the executive director of the department of personnel in consultation with the controller, affected state agencies, and the private collection community. In addition, a state-supported institution of higher education may utilize the provisions of section 23-5-113, C.R.S., for the collection of any loan or other outstanding obligation owed to such institution.

(8) (a) The department of personnel may add a collection fee to the amount of a debt's principal and ACCRUING interest referred to the state controller pursuant to this section except where other specific statutory authority, requirements under federal programs, or written agreement with the debtor provide otherwise. The department shall determine upon annual review the amount of the collection fee, which shall approximate the reasonable costs incurred by the controller in collecting debts. The collection fee may include a fee to recover the collection costs incurred by either the controller, private counsel, or private collection agencies, but in no case shall the aggregate fee for the controller or private collection agencies exceed twenty-one percent and in no case shall the aggregate fee for private counsel exceed twenty-five percent.

(b) The debtor shall be liable for repayment of the total amount of a debt due to the state, including the collection fee PLUS ALLOWABLE FEES AND COSTS PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (8) AND THE DELINQUENCY CHARGE PURSUANT TO SECTION 24-79.5-102. ANY COURT-ORDERED AWARD THAT IS INSUFFICIENT TO COVER THE TOTAL AMOUNT OUTSTANDING SHALL BE APPLIED FIRST TO THE PRINCIPAL AMOUNT OWED, THEN TO COURT COSTS, THEN TO ATTORNEY FEES, THEN TO INTEREST, AND THEN TO ANY DELINQUENCY CHARGE.

SECTION 3. 24-30-1102 (5), Colorado Revised Statutes, is amended to read:

24-30-1102. Definitions. As used in this part 11, unless the context otherwise requires:

(5) "State agency" means this state or any department, board, bureau, commission, institution, or other agency of the state; ~~including institutions of higher education but~~ EXCEPT THAT "STATE AGENCY" shall not include ANY STATE INSTITUTION OF HIGHER EDUCATION OR the state board of stock INSPECTION commissioners, created pursuant to section 35-41-101, C.R.S.

SECTION 4. 24-30-1104 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-30-1104. Central services functions of the department - definitions. (1) Within the counties of Adams, Arapahoe, Boulder, Douglas, Pueblo, El Paso, and Jefferson, the city and county of Broomfield, and the city and county of Denver, and within any other areas in the state of Colorado where central services are offered, the department of personnel shall perform the following functions for the executive branch of the state of Colorado, its departments, institutions, and agencies, under the direction of the executive director:

(m) OFFER SERVICES TO ANY STATE INSTITUTION OF HIGHER EDUCATION THAT CHOOSES TO PURCHASE SUCH SERVICES. WHEN AN INSTITUTION OF HIGHER EDUCATION INTENDS TO PURCHASE A SERVICE PROVIDED BY THE DEPARTMENT, THE INSTITUTION SHALL INCLUDE THE DEPARTMENT IN ANY SOLICITATION OR VENDOR QUALIFICATION PROCESS FOR THE SERVICE. WHENEVER PRACTICABLE, INSTITUTIONS OF HIGHER EDUCATION SHALL SEEK PARTNERSHIPS WITH THE DEPARTMENT FOR THE PURPOSE OF PROCURING SERVICES AT A COST SAVINGS TO THE INSTITUTION AND THE STATE.

SECTION 5. 24-30-1104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-30-1104. Central services functions of the department - definitions. (1.5) THE DEPARTMENT OF PERSONNEL SHALL ESTABLISH A RULE PROVIDING FOR A WAIVER TO A STATE AGENCY OF SUBSECTION (1) OF THIS SECTION WHEN THE STATE AGENCY CAN PROCURE THE SERVICES DESCRIBED IN THIS PART 11 AT A NET COST SAVINGS TO THE STATE.

SECTION 6. 24-30-1108 (1), Colorado Revised Statutes, is amended to read:

24-30-1108. Revolving fund - service charges - pricing policy.

(1) There is hereby created a department of personnel revolving fund for use in acquiring such materials, supplies, labor, and overhead as are required. MONEYS COLLECTED AND DEPOSITED IN THE FUND SHALL BE FROM STATE AND LOCAL GOVERNMENT USER FEES AND FROM REBATES, INCLUDING, BUT NOT LIMITED TO, REBATES FROM CAR RENTALS, TRAVEL AGENCIES, LODGING, AND TRAVEL CARDS. The fund shall be under the direction of the executive director.

SECTION 7. 24-30-1303 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-30-1303. Department of personnel - responsibilities.

(5) (d) UPON APPLICATION BY ANY STATE AGENCY THAT DEMONSTRATES INTERNAL EXPERTISE RELATED TO THE LEASING AND ACQUISITION OF COMMERCIAL REAL PROPERTY, THE DEPARTMENT MAY DELEGATE AN INDIVIDUAL EMPLOYED BY THE STATE AGENCY TO ACT ON BEHALF OF THE DEPARTMENT IN THE PERFORMANCE OF THE RESPONSIBILITIES AND FUNCTIONS DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION. THE DELEGATION AUTHORIZED PURSUANT TO THIS PARAGRAPH (d) MAY INCLUDE, WITH THE CONSENT OF THE DEPARTMENT, THE AUTHORITY TO WAIVE THE USE OF THE DEPARTMENT-APPROVED REAL ESTATE LEASE FORM OR REAL ESTATE LEASE AMENDMENT FORM.

SECTION 8. 24-30-1405, Colorado Revised Statutes, is amended to read:

24-30-1405. Public notice. When professional services are required to be contracted for, public notice shall be given by the state agency if the basic construction cost of the project is estimated by the state agency to be more than ~~five hundred thousand dollars~~ or if the fee for the professional services is estimated to exceed fifty thousand dollars; except that, for projects under the supervision of the department of transportation or for contracts with a state institution of higher education, public notice shall be given by the department or institution if the ~~basic transportation-related construction cost or the basic construction cost of the project~~ is estimated by the department or institution to be more than one million dollars or if the

fee for professional ~~engineering or surveying~~ services is estimated to exceed one hundred thousand dollars. The public notice shall be given at least fifteen days prior to the selection of the three or more most highly qualified persons by the principal representative pursuant to section 24-30-1403 (2), and, except for projects under the supervision of the department of transportation, the public notice shall be given no later than eight weeks after the date on which the appropriation for the project becomes law. The public notice shall be given by publication ~~at least two times in one or more daily newspapers of general circulation in this state; except that, for contracts with a state institution of higher education, public notice shall be given by publication~~ at least once in one or more daily newspapers of general circulation in this state. The public notice shall contain a general description of the proposed project and shall indicate the procedure by which interested persons may apply for consideration for the contract.

SECTION 9. 24-30-1510.5 (3) (a) (IV), Colorado Revised Statutes, is amended to read:

24-30-1510.5. Self-insured property fund - creation - authorized and unauthorized payments - executive director authorized to make payments. (3) Expenditures shall be made out of the self-insured property fund in accordance with subsection (1) of this section only for the following purposes:

(a) To pay claims for loss or damage to state property subject to the following conditions:

(IV) The principal state department shall pay a ~~one-thousand-dollar~~ FIVE-THOUSAND-DOLLAR deductible for each occurrence;

SECTION 10. 24-50-101 (3) (d), Colorado Revised Statutes, is amended to read:

24-50-101. Short title - legislative declaration - terminology. (3) (d) The heads of principal departments and presidents of colleges and universities shall be responsible and accountable for the actual operation and management of the state personnel system for their respective departments, colleges, or universities. Such operation and management shall be in accordance with RULES AND directives promulgated by OF the state personnel director who ~~shall provide postaudit review~~ MAY CONDUCT

A REVIEW of such operation and management. Presidents of colleges and universities shall be the appointing authorities for employees of their respective institutions. THE APPOINTING AUTHORITY FOR A PRINCIPAL DEPARTMENT IS SPECIFIED IN SECTION 13 (7) OF ARTICLE XII OF THE STATE CONSTITUTION.

SECTION 11. 24-50-103 (7), Colorado Revised Statutes, is amended to read:

24-50-103. State personnel board. (7) The board may authorize administrative law judges, who shall be lawyers with at least five years' experience, to conduct hearings on any matter within the jurisdiction of the board upon terms and conditions determined by the board and subject to the provisions of article 4 of this title. The board shall employ such personnel as may be necessary for the performance of its duties, including an administrator who shall serve as secretary to the board. ~~with such~~ THE ADMINISTRATOR SHALL MAINTAIN FULL RECORDS OF THE PROCEEDINGS OF THE BOARD AND SHALL BE RESPONSIBLE FOR ANY OTHER duties as the board may assign. Funds for these purposes shall be appropriated by the general assembly.

SECTION 12. Repeal. 24-50-104 (3), Colorado Revised Statutes, is repealed as follows:

24-50-104. Job evaluation and compensation. (3) ~~**Total compensation advisory council.** (a) A total compensation advisory council is hereby established pursuant to this subsection (3) to advise the state personnel director on policy matters related to the total compensation program. The total compensation advisory council shall consist of ten members, who shall serve without compensation, as follows:~~

~~(I) and (H) (Deleted by amendment, L. 2003, p. 1926, § 1, effective May 22, 2003.)~~

~~(HH) The insurance commissioner or the insurance commissioner's designee;~~

~~(IV) A private sector total compensation specialist appointed by the state personnel director;~~

~~(V) A member of the senate appointed by the president of the senate;~~

~~(VI) A member of the house of representatives appointed by the speaker of the house of representatives;~~

~~(VII) (Deleted by amendment, L. 2003, p. 1926, § 1, effective May 22, 2003.)~~

~~(VIII) One member appointed by the president of the senate, one member appointed by the minority leader of the senate, and two members appointed by the speaker of the house of representatives. The members appointed pursuant to this subparagraph (VIII) shall be employees, as defined in section 24-50-603 (7), and shall serve three-year terms.~~

~~(IX) Two members appointed by the state personnel director who shall serve three-year terms. One of the members appointed pursuant to this subparagraph (IX) shall be an employee, as defined in section 24-50-603 (7).~~

~~(a.5) The terms of the members of the general assembly appointed by the speaker of the house of representatives and the president of the senate pursuant to subparagraphs (V) and (VI) of paragraph (a) of this subsection (3) who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the speaker and the president shall appoint or reappoint members of the general assembly in the same manner as provided in subparagraphs (V) and (VI) of paragraph (a) of this subsection (3). Thereafter, the terms of members of the general assembly appointed or reappointed by the speaker and the president shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the speaker and the president shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. A member of the general assembly appointed or reappointed by the speaker or the president shall serve at the pleasure of the appointing authority and shall continue in office until the member's successor is appointed.~~

~~(b) No more than two employees shall be appointed from one department or institution of higher education. No employee, as defined in section 24-50-603 (7), shall be denied the right to be appointed to and serve on the total compensation advisory council. Nothing in this subsection (3) shall preclude any person, organization, or group from submitting a list of potential appointees to any person making appointments to the council pursuant to paragraph (a) of this subsection (3).~~

~~(c) Nothing in this subsection (3) shall affect the total compensation advisory council existing as of June 1, 2003, or the terms of the members serving on the council as of June 1, 2003.~~

SECTION 13. 24-50-104 (4) (a), (4) (d) (IV), and (6) (b) (II), Colorado Revised Statutes, are amended, and the said 24-50-104 (6) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

24-50-104. Job evaluation and compensation. (4) **Annual compensation process.** (a) The purpose of the annual compensation process is to determine any necessary adjustments to state employee salaries, state contributions for group benefit plans, and performance awards. The annual compensation survey, based on an analysis of surveys by public or private organizations, including surveys by the state personnel director, shall include a fair sample of public and private sector employers and jobs, including areas outside the Denver metropolitan area. In order to establish confidence in the selection of surveys, the state personnel director shall meet and confer in good faith with management and state employee representatives. ~~and the total compensation advisory council.~~

~~(d) (IV) The state personnel director, in preparing the annual compensation report and submitting recommendations and estimated costs for state employee compensation for the next fiscal year, pursuant to paragraphs (b) and (c) of this subsection (4), and in implementing any changes to state employee compensation shall ensure that for the 2003-04 fiscal year no state employee receive the recommended changes in employee salaries in the annual compensation recommendations for changes to salaries and any adjustments to the recommended changes made by the general assembly in the annual general appropriation act.~~

(6) **Job evaluation.** (b) (II) Any employee directly affected by the

allocation of the employee's position to a class in a lower pay grade under subparagraph (I) of this paragraph (b) may file a written appeal with the state personnel director within ten days after receiving the notice of allocation of positions. The state personnel director, or the director's designee, shall review the appeal in summary fashion on the basis of written material that may be supplemented by oral argument at the sole discretion of the director or designee. At the director's discretion, an advisory panel of qualified job evaluators may be convened to assist the director in making a decision. EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (b), the director shall issue a written decision within ninety calendar days after the receipt of a timely appeal. If the director does not issue a decision within ninety calendar days after receipt of a timely appeal, the original allocation decision shall be final. An allocation decision may be overturned only if the director finds it to have been arbitrary, capricious, or contrary to rule or law. The state personnel director shall establish a process for timely resolving appeals within the ninety-day period and the criteria for selection of and method of service upon an advisory panel. Any decision shall be subject to judicial review pursuant to section 24-4-106.

(III) WHEN AN EMPLOYEE WHO HAS FILED AN APPEAL WITH THE STATE PERSONNEL DIRECTOR PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) ALSO FILES AN APPEAL WITH THE STATE PERSONNEL BOARD PURSUANT TO SECTION 24-50-123 OR THE COLORADO CIVIL RIGHTS DIVISION PURSUANT TO SECTION 24-50-125.3, THE NINETY-DAY PERIOD SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) SHALL BE TOLLED UNTIL THERE IS A FINAL AGENCY ACTION BY THE BOARD ONLY IF THE APPEAL FILED WITH THE BOARD OR THE CIVIL RIGHTS DIVISION ARISES OUT OF THE SAME INCIDENT AS THE APPEAL FILED WITH THE DIRECTOR, IS FILED BEFORE THE EXPIRATION OF THE NINETY-DAY PERIOD, AND IS FILED BEFORE THE DIRECTOR HAS ISSUED A WRITTEN DECISION.

SECTION 14. 24-50-104.5 (2), Colorado Revised Statutes, is amended, and the said 24-50-104.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-50-104.5. Compliance with federal laws. (2) The state personnel director may establish an internal review process of alleged violations of such federal laws. Such a review shall be conducted in summary fashion on the basis of written material. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION, the state personnel director

shall issue a written decision within ninety days after receipt of the written complaint. Any aggrieved party may also seek judicial review as specified by the applicable law.

(3) WHEN AN EMPLOYEE WHO HAS SOUGHT A REVIEW WITH THE STATE PERSONNEL DIRECTOR PURSUANT TO SUBSECTION (2) OF THIS SECTION ALSO FILES AN APPEAL WITH THE STATE PERSONNEL BOARD PURSUANT TO SECTION 24-50-123 OR THE COLORADO CIVIL RIGHTS DIVISION PURSUANT TO SECTION 24-50-125.3, THE NINETY-DAY PERIOD SPECIFIED IN SUBSECTION (2) OF THIS SECTION SHALL BE TOLLED UNTIL THERE IS A FINAL AGENCY ACTION BY THE BOARD ONLY IF THE APPEAL FILED WITH THE BOARD OR THE CIVIL RIGHTS DIVISION ARISES OUT OF THE SAME INCIDENT AS THE REVIEW SOUGHT WITH THE DIRECTOR, IS FILED BEFORE THE EXPIRATION OF THE NINETY-DAY PERIOD, AND IS FILED BEFORE THE DIRECTOR HAS ISSUED A WRITTEN DECISION.

SECTION 15. 24-50-112.5 (4) (b) and (4) (c), Colorado Revised Statutes, are amended, and the said 24-50-112.5 (4) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-50-112.5. Selection system. (4) **Appeals.** (b) The state personnel director may convene an advisory panel of qualified human resource selection professionals, with one member selected by the aggrieved person, to assist the director in making a decision. EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (4), the director shall issue a written decision within ninety days after receipt of a timely appeal. The selection and examination process action may be overturned only if the director finds the action to have been arbitrary, capricious, or contrary to rule or law. If the director fails to issue a decision within said ninety-day period, the original examination and outcome shall be final. A written decision on any appeal filed pursuant to this subsection (4) or the outcome of an appeal resulting from the failure to issue such a decision shall be subject to judicial review pursuant to section 24-4-106.

(c) The state personnel director shall establish a process for timely resolving appeals within the ninety-day period and criteria for advisory panel selection and service. THE PROCESS FOR RESOLVING APPEALS SHALL SPECIFY THAT IF AN EMPLOYEE WHO HAS FILED AN APPEAL WITH THE STATE PERSONNEL DIRECTOR ALSO FILES AN APPEAL WITH THE STATE PERSONNEL BOARD PURSUANT TO SECTION 24-50-123 OR THE COLORADO CIVIL RIGHTS

DIVISION PURSUANT TO SECTION 24-50-125.3, ONLY IF THE APPEAL FILED WITH THE BOARD OR THE CIVIL RIGHTS DIVISION ARISES OUT OF THE SAME INCIDENT AS THE APPEAL FILED WITH THE DIRECTOR, AND IF THE APPEAL IS FILED BEFORE THE EXPIRATION OF THE NINETY-DAY PERIOD AND BEFORE THE DIRECTOR HAS ISSUED A WRITTEN DECISION, THE NINETY-DAY PERIOD SHALL BE TOLLED UNTIL THERE IS A FINAL AGENCY ACTION BY THE BOARD. The board shall establish rules for certification of a person to a position when an appeal is pending relative to the selection and examination process for that position.

(d) WHEN AN EMPLOYEE WHO HAS FILED AN APPEAL WITH THE STATE PERSONNEL DIRECTOR PURSUANT TO THIS SUBSECTION (4) ALSO FILES AN APPEAL WITH THE STATE PERSONNEL BOARD PURSUANT TO SECTION 24-50-123 OR THE COLORADO CIVIL RIGHTS DIVISION PURSUANT TO SECTION 24-50-125.3, THE NINETY-DAY PERIOD SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (4) SHALL BE TOLLED UNTIL THERE IS A FINAL AGENCY ACTION BY THE BOARD ONLY IF THE APPEAL FILED WITH THE BOARD OR THE CIVIL RIGHTS DIVISION ARISES OUT OF THE SAME INCIDENT AS THE APPEAL FILED WITH THE DIRECTOR, IS FILED BEFORE THE EXPIRATION OF THE NINETY-DAY PERIOD, AND IS FILED BEFORE THE DIRECTOR HAS ISSUED A WRITTEN DECISION.

SECTION 16. 24-50-127 (1), Colorado Revised Statutes, is amended to read:

24-50-127. Employee records - release of location information concerning individuals with outstanding felony arrest warrants - state personnel director's duties. (1) The state personnel director shall maintain ~~full records of the proceedings of the board,~~ the examination record of every candidate and the employment record of every employee. In addition, the state personnel director shall establish and maintain a personnel data inventory of all employees in the personnel system, which inventory shall contain such items as education, training, skills, and other pertinent data. The state personnel director shall make available such data to department heads for the most efficient utilization of the state's manpower.

SECTION 17. 24-50-135 (2) (a) and (2) (b), Colorado Revised Statutes, are amended to read:

24-50-135. Exemptions from personnel system. (2) (a) The president of each educational institution or a person designated by the president shall determine which administrative positions in that institution are exempt from the state personnel system under subsection (1) of this section, subject to an appeal to the board. ~~and subject to postaudit review by the state personnel director.~~

(b) The executive director of the Colorado commission on higher education shall determine which administrative positions in the department of higher education other than administrative positions in educational institutions are exempt from the state personnel system under subsection (1) of this section, subject to an appeal to the board. ~~and subject to postaudit review by the state personnel director.~~

SECTION 18. Repeal. 24-50-603 (4), Colorado Revised Statutes, is repealed as follows:

24-50-603. Definitions. As used in this part 6, unless the context otherwise requires:

(4) ~~"Council" means the total compensation advisory council established pursuant to section 24-50-104 (3).~~

SECTION 19. 24-50-605 (1) (f), Colorado Revised Statutes, is amended to read:

24-50-605. Group benefit plans - specifications - contracts. (1) (f) The specifications drawn by the director for any group benefit plans shall include the mandated coverages required by section 10-16-104, C.R.S. ~~The director shall provide to the legislative committee of reference a financial impact statement for any proposed mandated coverage that relates to either the state's share of the employee benefit premium or the state employee's share of the premium.~~

SECTION 20. Repeal. 24-50-612 (2), Colorado Revised Statutes, is repealed as follows:

24-50-612. Administrative duties. (2) ~~The council shall make recommendations to the director on all aspects of the group benefit plans and policies proposed as provided pursuant to this part 6.~~

SECTION 21. 24-80-102 (10), Colorado Revised Statutes, is amended to read:

24-80-102. State archives and public records - personnel - duties - cash fund - rules. (10) The executive director of the department of personnel shall establish by rule any fees as are necessary to pay for the direct and indirect costs of responding to requests for information AND RESEARCH from ~~nonstate~~ STATE agencies ~~including requests that are processed through other state agencies~~ AND THE GENERAL PUBLIC. All fees collected shall be transmitted to the state treasurer, who shall credit the same to the state archives and public records cash fund, which fund is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of responding to requests for information AND RESEARCH from ~~nonstate~~ STATE agencies ~~including requests that are processed through other state agencies~~ AND THE GENERAL PUBLIC. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund. ~~In no event shall the executive director charge any fee to any public entity to produce information that the public entity is required by law to file with the state archives.~~

SECTION 22. 24-92-102 (8) (b), Colorado Revised Statutes, is amended to read:

24-92-102. Definitions. As used in this article, unless the context otherwise requires:

(8) (b) Except as provided in paragraph (c) of this subsection (8), "public project" does not include any project for which appropriation or expenditure of ~~funds~~ MONEYS may be reasonably expected not to exceed ~~one~~ FIVE hundred fifty thousand dollars in the aggregate for any fiscal year. Nothing in this paragraph (b) shall affect the requirements for the delivery of bonds or security pursuant to sections 24-105-202, 38-26-105, and 38-26-106, C.R.S.

SECTION 23. Part 2 of article 102 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-102-207. Statewide procurement card agreement. (1) THE DEPARTMENT SHALL ESTABLISH A STATEWIDE PROCUREMENT CARD PROGRAM. ALL GOVERNMENTAL BODIES THAT UTILIZE A PROCUREMENT CARD SHALL PARTICIPATE IN THE STATEWIDE PROGRAM. FOR PURPOSES OF THIS SECTION, "GOVERNMENTAL BODY" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 24-101-301 (10); EXCEPT THAT, FOR PURPOSES OF THIS SECTION, "GOVERNMENTAL BODY" SHALL ALSO INCLUDE ELECTED OFFICIALS.

(2) GOVERNMENTAL BODIES THAT ARE NOT SUBJECT TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF THIS TITLE, OR THE FISCAL RULES ARE SUBJECT TO THIS SECTION; EXCEPT THAT, ON AND AFTER DECEMBER 1, 2010, THIS SECTION SHALL NOT APPLY TO AN INSTITUTION OF HIGHER EDUCATION THAT HAS ELECTED TO BE EXCLUDED FROM THE MEANING OF "GOVERNMENTAL BODY" PURSUANT TO SECTION 24-101-301 (10) (a).

(3) THE STATEWIDE PROCUREMENT CARD SHALL BE CONSIDERED AN ALTERNATE METHOD OF PAYMENT AND SHALL NOT BE CONSIDERED A COMMITMENT VOUCHER REQUIRED BY SECTION 24-30-202 (1). ANY REVENUES RESULTING FROM THE PROCUREMENT CARD PROGRAM SHALL BE DEPOSITED AS CASH REVENUE IN THE GENERAL FUND AND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY. UNLESS OTHERWISE DIRECTED BY THE GENERAL ASSEMBLY, THE STATE CONTROLLER SHALL MAKE ADJUSTMENTS EQUIVALENT TO SUCH REVENUES IN THE FORM OF A REDUCTION OF ADMINISTRATIVE COSTS ALLOCATED TO GOVERNMENTAL BODIES ON A BASIS PROPORTIONAL TO EACH GOVERNMENTAL BODY'S CONTRIBUTION TO STATEWIDE PROCUREMENT CARD EXPENDITURES, AS DETERMINED BY THE STATE CONTROLLER, TO ENSURE THAT THE FEDERAL GOVERNMENT RECEIVES ITS SHARE OF PROCUREMENT CARD REVENUES AS REQUIRED BY FEDERAL REGULATIONS AND TO ENSURE THAT THE INDIRECT OBLIGATIONS ARE FUNDED. INSTITUTIONS OF HIGHER EDUCATION THAT ELECT TO BE EXCLUDED FROM THE MEANING OF "GOVERNMENTAL BODY" PURSUANT TO SECTION 24-101-301 (10) (a) SHALL TRANSFER MONEYS TO THE DEPARTMENT OF HIGHER EDUCATION OR THE COLORADO COMMISSION ON HIGHER EDUCATION TO THE EXTENT REQUIRED TO PAY INDIRECT COST ASSESSMENTS, AS DEFINED IN SECTION 24-75-112 (1) (f). FOR PURPOSES OF THIS SUBSECTION (3) THE TERM "ALLOCATED" DOES NOT MEAN AN APPROPRIATION OR CASH TRANSFER TO ANY GOVERNMENTAL BODY, BUT REFERS TO AN INTERNAL PROCESS WITHIN THE OFFICE OF THE STATE

CONTROLLER.

SECTION 24. 24-109-105 (1) (b), Colorado Revised Statutes, is amended to read:

24-109-105. Debarment and suspension. (1) (b) The head of a purchasing agency or a designee, after consultation with the using agency and the attorney general, shall have authority to suspend a person from consideration for award of contracts if there is probable cause to believe that such person has engaged in activities that may lead to debarment. The suspension shall not be for a period exceeding three months. However, if a criminal ~~indictment~~ CHARGE has been issued for an offense ~~which~~ THAT would be a cause for debarment under subsection (2) of this section, the suspension shall, at the request of the attorney general, remain in effect until after the trial of the suspended person. IF A PERSON IS SUSPENDED BECAUSE A CRIMINAL CHARGE HAS BEEN ISSUED AGAINST AN OFFICER, DIRECTOR, PARTNER, MANAGER, KEY EMPLOYEE, OR OTHER PRINCIPAL OF THE SUSPENDED PERSON, THE SUSPENSION MAY REMAIN IN EFFECT UNTIL AFTER THE TRIAL OF THE OFFICER, DIRECTOR, PARTNER, MANAGER, KEY EMPLOYEE, OR OTHER PRINCIPAL OR UNTIL AFTER THE CHARGES AGAINST SUCH OFFICER, DIRECTOR, PARTNER, MANAGER, KEY EMPLOYEE, OR OTHER PRINCIPAL HAVE BEEN DISMISSED.

SECTION 25. 24-16-107, Colorado Revised Statutes, is amended to read:

24-16-107. Audit. If any agency of government is alleged to be in violation of or in material noncompliance with this article or the rules and regulations promulgated by the ~~division of accounts and controls~~ OFFICE OF THE STATE CONTROLLER, the legislative audit committee shall be advised, in writing, of the activities alleged to be in violation or noncompliance. The legislative audit committee shall give notice to the agency, which shall have ten days to respond to such allegation. If the said committee thereafter determines that there is a reasonable probability of a violation or material noncompliance, the committee shall take appropriate action and may direct the state auditor to conduct an audit and review of the records being kept by such agency. If the state auditor determines that the agency has violated or has not complied or is not complying with this article or the rules and regulations, a written report shall be issued to the agency detailing the areas of violation or noncompliance and curative recommendations. The agency

shall implement the recommendations of the state auditor within a time period set by him not to exceed six months.

SECTION 26. 24-30-202 (1), Colorado Revised Statutes, is amended to read:

24-30-202. Procedures - vouchers and warrants - rules - penalties. (1) No disbursements shall be made in payment of any liability incurred on behalf of the state, other than from petty cash or by any alternative means of payment approved by fiscal rule promulgated by the controller, unless there has been previously filed with the ~~division of accounts and control~~ OFFICE OF THE STATE CONTROLLER a commitment voucher. The commitment voucher may be in the form of an advice of employment, a purchase order, a copy of a contract, or a travel authorization or in other form appropriate to the type of transaction as prescribed by the controller. Any state contract involving the payment of money by the state shall contain a clause providing that the contract shall not be deemed valid until it has been approved by the controller or such assistant as he may designate. Such contracts entered into on or after July 1, 1997, shall also contain a clause notifying the other party to the contract of the controller's authority to withhold debts owed to state agencies under the vendor offset intercept system pursuant to section 24-30-202.4 (3.5) (a) (I) and the types of debts that are subject to withholding under said system. The form and content of and procedures for filing such vouchers shall be prescribed by the fiscal rules promulgated by the controller.

SECTION 27. 24-36-103 (2), Colorado Revised Statutes, is amended to read:

24-36-103. All state moneys to be transmitted to department. (2) Where a department, institution, or agency collects or receives moneys of a trust or quasi-trust nature, or moneys derived from the operation of a business-type enterprise, or moneys in which the interest, share, or proportion of the state has not yet been determined, such department, institution, or agency may, upon application to the ~~division of accounts and control~~ OFFICE OF THE STATE CONTROLLER and upon the written approval of the controller and the state treasurer, deposit such moneys in any depository authorized in section 24-75-603, under the same conditions as required in articles 10.5 and 47 of title 11, C.R.S., with respect to the deposit of other state moneys. Such department, institution, or agency shall file such reports

as shall be required by fiscal rules adopted by the controller.

SECTION 28. 24-36-105 (2), Colorado Revised Statutes, is amended to read:

24-36-105. Accounts to be kept - daily report. (2) As of the close of business each day, a report of the amount of all receipts and disbursements during said day shall be furnished to the ~~division of accounts and control~~ OFFICE OF THE STATE CONTROLLER; except that the receipts and disbursements shall not be reported by category as to the several funds created by law and the accounts within such funds.

SECTION 29. 24-36-106 (1), Colorado Revised Statutes, is amended to read:

24-36-106. Record of warrants - order of payment - paid warrants - validation. (1) The treasury department shall maintain a list of all warrants drawn upon the state treasurer by the ~~division of accounts and control~~ OFFICE OF THE STATE CONTROLLER and of those warrants issued and outstanding. Such lists shall be open during regular business hours for the inspection and examination of every person desiring to inspect or examine the same.

SECTION 30. 24-53-105 (4) (b), Colorado Revised Statutes, is amended to read:

24-53-105. Contribution fund. (4) (b) All such payments shall be made upon vouchers submitted to the ~~division of accounts and control~~ OFFICE OF THE STATE CONTROLLER and by warrants drawn upon the state treasurer in the manner prescribed by law.

SECTION 31. 24-75-202 (2), Colorado Revised Statutes, is amended to read:

24-75-202. Imprest cash accounts. (2) Under procedures prescribed by the controller, such department, institution, or agency may pay out of said imprest cash account, locally, such operating expense items as would be allowable if submitted on a regular voucher. The aggregate amount of such payments shall be submitted to the ~~division of accounts and control~~ OFFICE OF THE STATE CONTROLLER, monthly or more often, on a

voucher signed by the fiscal officer of such department, institution, or agency or by some person authorized to act for him, and upon approval of the same, a warrant in said amount shall be drawn upon the state treasurer for replenishment of said imprest cash account.

SECTION 32. 43-1-113 (8) (a), Colorado Revised Statutes, is amended to read:

43-1-113. Funds - budgets - fiscal year - reports and publications - repeal. (8) (a) The department, out of moneys in the state highway fund budgeted therefor by the transportation commission and within the total expenditures prescribed by the general assembly for the fiscal year pursuant to section 43-1-112.5, shall reimburse other agencies of state government for the costs incurred by such state agencies in providing necessary services in support of the department and the administration of the highway funds of the state. Such state agencies include, but are not necessarily limited to, the ~~division of accounts and control~~ OFFICE OF THE STATE CONTROLLER in the department of personnel, the office of state planning and budgeting, the department of personnel, the department of revenue, and the department of the treasury. For any fiscal year, the amount paid to any such state agency shall be the amount indicated in the general appropriation act as the recovery of indirect costs by such state agency out of the state highway fund. The amount so indicated in the general appropriation act for the recovery of indirect costs by any state agency pursuant to this subsection (8) may exceed the actual indirect cost incurred by such agency, but the total of all such statewide indirect cost recoveries indicated in the general appropriation act shall not exceed the total indirect costs reasonably expected to be incurred by all state agencies in providing necessary services in support of the department and the administration of the highway funds of the state. Payments made pursuant to this subsection (8) shall not be subject to the limitations on appropriations and statutory distributions from the highway users tax fund contained in section 43-4-201 (3).

SECTION 33. 24-51-216, Colorado Revised Statutes, is amended to read:

24-51-216. Legal adviser. The attorney general shall be the legal adviser to the board UPON REQUEST OF THE BOARD, AND THE BOARD SHALL HAVE THE AUTHORITY TO SELECT AND RETAIN LEGAL COUNSEL IN THE BOARD'S DISCRETION.

SECTION 34. Appropriation - adjustments to the 2010 long bill.

(1) For the implementation of this act, appropriations made in the annual general appropriation act, to the department of personnel and administration, for the fiscal year beginning July 1, 2010, shall be adjusted as follows:

(a) The appropriation from the general fund for the executive director's office, statewide special purpose, Colorado state archives, personal services, is decreased by six thousand eight hundred two dollars (\$6,802).

(b) The appropriation to the department of personnel and administration, executive director's office, statewide special purpose, Colorado state archives, personal services, is increased by six thousand eight hundred two dollars (\$6,802) cash funds from the state archives and public records cash fund, created in section 24-80-102 (10), Colorado Revised Statutes.

(c) The appropriation from the debt collection fund created in section 24-30-202.4 (3) (e), Colorado Revised Statutes, for the division of accounts and control - controller, collections services, private collection agency fees is decreased by ninety-four thousand eight hundred sixty-four dollars (\$94,864) cash funds.

(d) The appropriation to the department of personnel and administration, division of accounts and control - controller, office of the state controller, for personal services, is decreased by four hundred sixty-four thousand three hundred sixty-three dollars (\$464,363) cash funds. Said sum shall be from rebates received from the procurement card program.

(e) The appropriation to the department of personnel and administration, division of accounts and control - controller, office of the state controller, for personal services, is increased by four hundred sixty-four thousand three hundred sixty-three dollars (\$464,363) reappropriated funds. Said sum shall be from a supplemental transfer from higher education institutions in the department of higher education.

SECTION 35. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO