

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 10-0425.01 Nicole Myers

HOUSE BILL 10-1181

HOUSE SPONSORSHIP

Todd,

SENATE SPONSORSHIP

Bacon,

House Committees

State, Veterans, & Military Affairs
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ADJUSTMENTS TO THE ADMINISTRATION OF THE**
102 **DEPARTMENT OF PERSONNEL, AND MAKING AN APPROPRIATION**
103 **THEREFOR.**

Bill Summary

(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 bill makes the following changes to the administration of the department of personnel (department):

! **Section 1.** Most state agencies are required to refer uncollected debts to the state controller. Under current

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.*

law, any claims that the state controller has not processed within 120 days are referred to private counsel or a private collections agency. Debtors are more likely to settle their debts with the state controller than with a private entity because it costs less; however, the controller is unable to process all claims within 120 days. Section 1 of the bill extends the processing period to 180 days.

! When a debt is litigated and the state prevails, a debtor may be responsible for paying fees and costs in addition to the total debt amount. The court often reduces the total amount of the award, but does not specify which outstanding debts must be paid first. Section 1 also specifies which outstanding debts must be paid first if the court-ordered award is insufficient to cover the total amount outstanding.

! **Section 2.** Currently, there are different public notice procedures for state agencies and institutions of higher education depending on the estimated dollar amounts of certain contracts. Section 2 of the bill makes the projects that require notice based on the estimated contract costs and the notice procedures the same for state agencies and institutions of higher education.

! **Section 3.** This section of the bill increases the deductible for claims for loss or damage to state property from \$1,000 to \$5,000.

! **Section 4.** This section of the bill eliminates the existing requirement that the state personnel director (director) provide postaudit reviews of the operation and management of the state personnel system by the heads of principal departments and presidents of colleges and universities and instead authorizes the director to conduct a review of such operation and management in the director's discretion. Section 4 also clarifies that the appointing authority for a principal department is specified in the state constitution.

! **Sections 5 and 10.** These sections of the bill clarify that the administrator of the state personnel board, not the director, shall maintain the records of the board.

! **Section 6.** This section repeals the provision establishing the total compensation advisory council. The council was established to advise the director on policy matters related to the total compensation program.

! **Sections 7, 8, and 9.** Current law establishes a 90-day period for the director to review certain complaints and appeals filed by state employees. Sections 7, 8, and 9 of

the bill require the tolling of the 90-day period only if an employee who has filed a complaint with the director also files a complaint with the state personnel board or the Colorado civil rights division in the department of regulatory agencies.

! **Sections 11 and 13.** Both of these sections contain a conforming amendment in connection with the elimination of the total compensation advisory council in section 6 of the bill.

! **Section 12.** Pursuant to current law, the director is required to provide to the legislative committee of reference a financial impact statement regarding the impact of proposed insurance coverage mandates on state and state employee contributions to health plans. Section 12 eliminates this requirement, as the same information is provided through the fiscal note process.

! **Section 14.** Currently, the executive director of the department of personnel does not have the authority to charge fees to state agencies that need to access documents from the state archives. Section 14 of the bill authorizes the executive director to charge and collect fees from state agencies for the direct and indirect costs of retrieving and researching information from the state archives.

! **Section 15.** The bill directs the department to establish a procurement card program for all state agencies and institutions of higher education. The bill specifies that any revenues generated from the procurement card program shall be deposited in the general fund and allocated to state agencies and institutions of higher education in proportion to their statewide procurement card expenditures.

! **Section 16.** The procurement code currently allows a state agency to suspend a person from consideration for award of contracts until after the trial of the suspended person if a criminal charge has been issued. The bill allows a suspension to remain in effect until after the trial when the 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.

! **Sections 17 to 24.** The prior reorganization of the department left statutory references to the division of accounts and controls. Sections 17 to 24 of the bill change this reference to the office of the state controller.

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

3 **24-30-202. Procedures - vouchers and warrants - rules -**
4 **penalties.** (20.1) The controller, or the controller's designee, is hereby
5 authorized, upon written request made to the controller, to allow any state
6 department, institution, or agency to draw upon its appropriation a sum
7 set by fiscal rule promulgated by the controller, which fiscal rule may not
8 authorize a sum in excess of two thousand five hundred dollars, and
9 considered appropriate for the circumstances, to be used for the payment
10 of incidental expenses. Items of postage, express, telegrams, and other
11 incidental expenses may be paid from such moneys. At the end of each
12 month, or as often as is practicable, the department, institution, or agency
13 making such incidental expenditures shall submit a voucher to the
14 controller covering the total amount of such expenditures and shall submit
15 a list of all such expenditures, together with proper receipts, if any, and
16 the controller shall draw the controller's warrant against the proper
17 appropriation to cover all items of expenditures which the controller
18 approves. The controller is also authorized, upon the request of any state
19 department, institution, or agency, to allow a reasonable advance of
20 moneys to employees and officials for authorized travel on official state
21 business not to exceed an amount set by fiscal rule promulgated by the
22 controller. ~~which fiscal rule may not authorize a sum in excess of one~~
23 ~~thousand five hundred dollars.~~

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

26 **24-30-202.4. Collection of debts due the state - controller's**
27 **duties - creation of debt collection fund - definitions.** (2) Except for

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

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

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

1 percent.

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

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

12 **24-30-1102. Definitions.** As used in this part 11, unless the
13 context otherwise requires:

14 (5) "State agency" means this state or any department, board,
15 bureau, commission, institution, or other agency of the state; ~~including~~
16 ~~institutions of higher education but~~ EXCEPT THAT "STATE AGENCY" shall
17 not include ANY STATE INSTITUTION OF HIGHER EDUCATION OR the state
18 board of stock INSPECTION commissioners, created pursuant to section
19 35-41-101, C.R.S.

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

22 **24-30-1104. Central services functions of the department -**
23 **definitions.** (1) Within the counties of Adams, Arapahoe, Boulder,
24 Douglas, Pueblo, El Paso, and Jefferson, the city and county of
25 Broomfield, and the city and county of Denver, and within any other areas
26 in the state of Colorado where central services are offered, the department
27 of personnel shall perform the following functions for the executive

1 branch of the state of Colorado, its departments, institutions, and
2 agencies, under the direction of the executive director:

3 (m) OFFER SERVICES TO ANY STATE INSTITUTION OF HIGHER
4 EDUCATION THAT CHOOSES TO PURCHASE SUCH SERVICES, PROVIDED THAT
5 THE DEPARTMENT OF PERSONNEL IS ABLE TO OFFER SUCH SERVICES
6 WITHOUT EXPANDING ITS CURRENT OPERATIONS.

7 **SECTION 5.** 24-30-1104 (1), Colorado Revised Statutes, is
8 amended BY THE ADDITION OF A NEW SUBSECTION to read:

9 **24-30-1104. Central services functions of the department -**
10 **definitions.** (1.5) THE DEPARTMENT OF PERSONNEL SHALL ESTABLISH A
11 RULE PROVIDING FOR A WAIVER TO A STATE AGENCY OF SUBSECTION (1)
12 OF THIS SECTION WHEN THE STATE AGENCY CAN PROCURE THE SERVICES
13 DESCRIBED IN THIS PART 11 AT A NET COST SAVINGS TO THE STATE.

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

16 **24-30-1108. Revolving fund - service charges - pricing policy.**
17 (1) There is hereby created a department of personnel revolving fund for
18 use in acquiring such materials, supplies, labor, and overhead as are
19 required. MONEYS COLLECTED AND DEPOSITED IN THE FUND SHALL BE
20 FROM STATE AND LOCAL GOVERNMENT USER FEES AND FROM REBATES,
21 INCLUDING, BUT NOT LIMITED TO, REBATES FROM CAR RENTALS, TRAVEL
22 AGENCIES, LODGING, AND TRAVEL CARDS. The fund shall be under the
23 direction of the executive director.

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

26 **24-30-1303. Department of personnel - responsibilities.**
27 (5) (d) UPON APPLICATION BY ANY STATE AGENCY THAT DEMONSTRATES

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

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

12 **24-30-1405. Public notice.** When professional services are
13 required to be contracted for, public notice shall be given by the state
14 agency if the basic construction cost of the project is estimated by the
15 state agency to be more than ~~five hundred thousand dollars or if the fee~~
16 ~~for the professional services is estimated to exceed fifty thousand dollars;~~
17 ~~except that, for projects under the supervision of the department of~~
18 ~~transportation or for contracts with a state institution of higher education,~~
19 ~~public notice shall be given by the department or institution if the basic~~
20 ~~transportation-related construction cost or the basic construction cost of~~
21 ~~the project is estimated by the department or institution to be more than~~
22 one million dollars or if the fee for professional ~~engineering or surveying~~
23 services is estimated to exceed one hundred thousand dollars. The public
24 notice shall be given at least fifteen days prior to the selection of the three
25 or more most highly qualified persons by the principal representative
26 pursuant to section 24-30-1403 (2), and, except for projects under the
27 supervision of the department of transportation, the public notice shall be

1 given no later than eight weeks after the date on which the appropriation
2 for the project becomes law. The public notice shall be given by
3 publication at least two times in one or more daily newspapers of general
4 circulation in this state; except that, for contracts with a state institution
5 of higher education, public notice shall be given by publication at least
6 once in one or more daily newspapers of general circulation in this state.

7 [REDACTED] [REDACTED] The public notice shall contain a general description of the
8 proposed project and shall indicate the procedure by which interested
9 persons may apply for consideration for the contract.

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

12 **24-30-1510.5. Self-insured property fund - creation -**
13 **authorized and unauthorized payments - executive director**
14 **authorized to make payments.** (3) Expenditures shall be made out of
15 the self-insured property fund in accordance with subsection (1) of this
16 section only for the following purposes:

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

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

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

24 **24-50-101. Short title - legislative declaration - terminology.**
25 (3) (d) The heads of principal departments and presidents of colleges and
26 universities shall be responsible and accountable for the actual operation
27 and management of the state personnel system for their respective

1 departments, colleges, or universities. Such operation and management
2 shall be in accordance with RULES AND directives promulgated by OF the
3 state personnel director who shall provide postaudit review MAY
4 CONDUCT A REVIEW of such operation and management. Presidents of
5 colleges and universities shall be the appointing authorities for employees
6 of their respective institutions. THE APPOINTING AUTHORITY FOR A
7 PRINCIPAL DEPARTMENT IS SPECIFIED IN SECTION 13 (7) OF ARTICLE XII OF
8 THE STATE CONSTITUTION.

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

11 **24-50-103. State personnel board.** (7) The board may authorize
12 administrative law judges, who shall be lawyers with at least five years'
13 experience, to conduct hearings on any matter within the jurisdiction of
14 the board upon terms and conditions determined by the board and subject
15 to the provisions of article 4 of this title. The board shall employ such
16 personnel as may be necessary for the performance of its duties, including
17 an administrator who shall serve as secretary to the board. ~~with such~~ THE
18 ADMINISTRATOR SHALL MAINTAIN FULL RECORDS OF THE PROCEEDINGS OF
19 THE BOARD AND SHALL BE RESPONSIBLE FOR ANY OTHER duties as the
20 board may assign. Funds for these purposes shall be appropriated by the
21 general assembly.

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

24 **24-50-104. Job evaluation and compensation.** (3) ~~Total~~
25 ~~compensation advisory council.~~ (a) ~~A total compensation advisory~~
26 ~~council is hereby established pursuant to this subsection (3) to advise the~~
27 ~~state personnel director on policy matters related to the total~~

1 compensation program. The total compensation advisory council shall
2 consist of ten members, who shall serve without compensation, as
3 follows:

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

6 ~~(III) The insurance commissioner or the insurance commissioner's
7 designee;~~

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

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

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

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

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

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

25 ~~(a.5) The terms of the members of the general assembly appointed
26 by the speaker of the house of representatives and the president of the
27 senate pursuant to subparagraphs (V) and (VI) of paragraph (a) of this~~

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

18 (b) No more than two employees shall be appointed from one
19 department or institution of higher education. No employee, as defined
20 in section 24-50-603 (7), shall be denied the right to be appointed to and
21 serve on the total compensation advisory council. Nothing in this
22 subsection (3) shall preclude any person, organization, or group from
23 submitting a list of potential appointees to any person making
24 appointments to the council pursuant to paragraph (a) of this subsection
25 (3).

26 (c) Nothing in this subsection (3) shall affect the total
27 compensation advisory council existing as of June 1, 2003, or the terms

1 of the members serving on the council as of June 1, 2003.

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

6 **24-50-104. Job evaluation and compensation.** (4) **Annual**
7 **compensation process.** (a) The purpose of the annual compensation
8 process is to determine any necessary adjustments to state employee
9 salaries, state contributions for group benefit plans, and performance
10 awards. The annual compensation survey, based on an analysis of
11 surveys by public or private organizations, including surveys by the state
12 personnel director, shall include a fair sample of public and private sector
13 employers and jobs, including areas outside the Denver metropolitan area.
14 In order to establish confidence in the selection of surveys, the state
15 personnel director shall meet and confer in good faith with management
16 and state employee representatives. ~~and the total compensation advisory~~
17 ~~council.~~

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

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

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

20 (III) WHEN AN EMPLOYEE WHO HAS FILED AN APPEAL WITH THE
21 STATE PERSONNEL DIRECTOR PURSUANT TO SUBPARAGRAPH (II) OF THIS
22 PARAGRAPH (b) ALSO FILES AN APPEAL WITH THE STATE PERSONNEL
23 BOARD PURSUANT TO SECTION 24-50-123 OR THE COLORADO CIVIL RIGHTS
24 DIVISION PURSUANT TO SECTION 24-50-125.3, THE NINETY-DAY PERIOD
25 SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) SHALL BE
26 TOLLED UNTIL THERE IS A FINAL AGENCY ACTION BY THE BOARD ONLY IF
27 THE APPEAL FILED WITH THE BOARD OR THE CIVIL RIGHTS DIVISION ARISES

1 OUT OF THE SAME INCIDENT AS THE APPEAL FILED WITH THE DIRECTOR, IS
2 FILED BEFORE THE EXPIRATION OF THE NINETY-DAY PERIOD, AND IS FILED
3 BEFORE THE DIRECTOR HAS ISSUED A WRITTEN DECISION.

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

7 **24-50-104.5. Compliance with federal laws.** (2) The state
8 personnel director may establish an internal review process of alleged
9 violations of such federal laws. Such a review shall be conducted in
10 summary fashion on the basis of written material. EXCEPT AS OTHERWISE
11 PROVIDED IN SUBSECTION (3) OF THIS SECTION, the state personnel director
12 shall issue a written decision within ninety days after receipt of the
13 written complaint. Any aggrieved party may also seek judicial review as
14 specified by the applicable law.

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

26 **SECTION 15.** 24-50-112.5 (4) (b) and (4) (c), Colorado Revised
27 Statutes, are amended, and the said 24-50-112.5 (4) is further amended

1 BY THE ADDITION OF A NEW PARAGRAPH, to read:

2 **24-50-112.5. Selection system.** (4) **Appeals.** (b) The state
3 personnel director may convene an advisory panel of qualified human
4 resource selection professionals, with one member selected by the
5 aggrieved person, to assist the director in making a decision. EXCEPT AS
6 OTHERWISE PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (4), the
7 director shall issue a written decision within ninety days after receipt of
8 a timely appeal. The selection and examination process action may be
9 overturned only if the director finds the action to have been arbitrary,
10 capricious, or contrary to rule or law. If the director fails to issue a
11 decision within said ninety-day period, the original examination and
12 outcome shall be final. A written decision on any appeal filed pursuant
13 to this subsection (4) or the outcome of an appeal resulting from the
14 failure to issue such a decision shall be subject to judicial review pursuant
15 to section 24-4-106.

16 (c) The state personnel director shall establish a process for timely
17 resolving appeals within the ninety-day period and criteria for advisory
18 panel selection and service. THE PROCESS FOR RESOLVING APPEALS SHALL
19 SPECIFY THAT IF AN EMPLOYEE WHO HAS FILED AN APPEAL WITH THE
20 STATE PERSONNEL DIRECTOR ALSO FILES AN APPEAL WITH THE STATE
21 PERSONNEL BOARD PURSUANT TO SECTION 24-50-123 OR THE COLORADO
22 CIVIL RIGHTS DIVISION PURSUANT TO SECTION 24-50-125.3, ONLY IF THE
23 APPEAL FILED WITH THE BOARD OR THE CIVIL RIGHTS DIVISION ARISES OUT
24 OF THE SAME INCIDENT AS THE APPEAL FILED WITH THE DIRECTOR, AND IF
25 THE APPEAL IS FILED BEFORE THE EXPIRATION OF THE NINETY-DAY PERIOD
26 AND BEFORE THE DIRECTOR HAS ISSUED A WRITTEN DECISION, THE
27 NINETY-DAY PERIOD SHALL BE TOLLED UNTIL THERE IS A FINAL AGENCY

1 ACTION BY THE BOARD. The board shall establish rules for certification
2 of a person to a position when an appeal is pending relative to the
3 selection and examination process for that position.

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

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

17 **24-50-127. Employee records - release of location information**
18 **concerning individuals with outstanding felony arrest warrants -**
19 **state personnel director's duties.** (1) The state personnel director shall
20 maintain ~~full records of the proceedings of the board,~~ the examination
21 record of every candidate and the employment record of every employee.
22 In addition, the state personnel director shall establish and maintain a
23 personnel data inventory of all employees in the personnel system, which
24 inventory shall contain such items as education, training, skills, and other
25 pertinent data. The state personnel director shall make available such
26 data to department heads for the most efficient utilization of the state's
27 manpower.

1 **SECTION 17. Repeal.** 24-50-603 (4), Colorado Revised
2 Statutes, is repealed as follows:

3 **24-50-603. Definitions.** As used in this part 6, unless the context
4 otherwise requires:

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

7 **SECTION 18.** 24-50-605 (1) (f), Colorado Revised Statutes, is
8 amended to read:

9 **24-50-605. Group benefit plans - specifications - contracts.**

10 (1) (f) The specifications drawn by the director for any group benefit
11 plans shall include the mandated coverages required by section
12 10-16-104, C.R.S. ~~The director shall provide to the legislative committee~~
13 ~~of reference a financial impact statement for any proposed mandated~~
14 ~~coverage that relates to either the state's share of the employee benefit~~
15 ~~premium or the state employee's share of the premium.~~

16 **SECTION 19. Repeal.** 24-50-612 (2), Colorado Revised
17 Statutes, is repealed as follows:

18 **24-50-612. Administrative duties.** (2) ~~The council shall make~~
19 ~~recommendations to the director on all aspects of the group benefit plans~~
20 ~~and policies proposed as provided pursuant to this part 6.~~

21 **SECTION 20.** 24-80-102 (10), Colorado Revised Statutes, is
22 amended to read:

23 **24-80-102. State archives and public records - personnel -**

24 **duties - cash fund - rules.** (10) The executive director of the department
25 of personnel shall establish by rule any fees as are necessary to pay for the
26 direct and indirect costs of responding to requests for information AND
27 RESEARCH from ~~nonstate~~ STATE agencies ~~including requests that are~~

1 ~~processed through other state agencies~~ AND THE GENERAL PUBLIC. All
2 fees collected shall be transmitted to the state treasurer, who shall credit
3 the same to the state archives and public records cash fund, which fund
4 is hereby created. The moneys in the fund shall be subject to annual
5 appropriation by the general assembly for the direct and indirect costs of
6 responding to requests for information AND RESEARCH from ~~nonstate~~
7 ~~STATE agencies including requests that are processed through other state~~
8 ~~agencies~~ AND THE GENERAL PUBLIC. All interest derived from the deposit
9 and investment of moneys in the fund shall be credited to the fund. Any
10 unexpended and unencumbered moneys remaining in the fund at the end
11 of a fiscal year shall remain in the fund and shall not be credited or
12 transferred to the general fund or any other fund. ~~In no event shall the~~
13 ~~executive director charge any fee to any public entity to produce~~
14 ~~information that the public entity is required by law to file with the state~~
15 ~~archives.~~

16 **SECTION 21.** 24-92-102 (8) (b), Colorado Revised Statutes, is
17 amended to read:

18 **24-92-102. Definitions.** As used in this article, unless the context
19 otherwise requires:

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

27 **SECTION 22.** Part 2 of article 102 of title 24, Colorado Revised

1 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
2 read:

3 **24-102-207. Statewide procurement card agreement.** (1) THE
4 DEPARTMENT SHALL ESTABLISH A STATEWIDE PROCUREMENT CARD
5 PROGRAM. ALL STATE AGENCIES AND INSTITUTIONS OF HIGHER
6 EDUCATION THAT UTILIZE A PROCUREMENT CARD SHALL PARTICIPATE IN
7 THE STATEWIDE PROGRAM. FOR PURPOSES OF THIS SECTION,
8 "GOVERNMENTAL BODY" SHALL HAVE THE SAME MEANING AS SET FORTH
9 IN SECTION 24-101-301 (10); EXCEPT THAT, FOR PURPOSES OF THIS
10 SECTION, "GOVERNMENTAL BODY" SHALL ALSO INCLUDE ELECTED
11 OFFICIALS, THE GOVERNING BOARD OF EACH INSTITUTION OF HIGHER
12 EDUCATION, AND THE COLORADO COMMISSION ON HIGHER EDUCATION.

13 (2) STATE AGENCIES OR INSTITUTIONS OF HIGHER EDUCATION NOT
14 SUBJECT TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF THIS
15 TITLE, OR THE FISCAL RULES ARE SUBJECT TO THIS SECTION.

16 (3) THE STATEWIDE PROCUREMENT CARD SHALL BE CONSIDERED
17 AN ALTERNATE METHOD OF PAYMENT AND SHALL NOT BE CONSIDERED A
18 COMMITMENT VOUCHER REQUIRED BY SECTION 24-30-202 (1). ANY
19 REVENUES RESULTING FROM THE PROCUREMENT CARD PROGRAM SHALL BE
20 DEPOSITED AS CASH REVENUE IN THE GENERAL FUND AND SHALL BE
21 SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY.
22 UNLESS OTHERWISE DIRECTED BY THE GENERAL ASSEMBLY, THE STATE
23 CONTROLLER SHALL MAKE ADJUSTMENTS EQUIVALENT TO SUCH REVENUES
24 IN THE FORM OF A REDUCTION OF ADMINISTRATIVE COSTS ALLOCATED TO
25 STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION ON A BASIS
26 PROPORTIONAL TO EACH STATE AGENCY'S OR INSTITUTION OF HIGHER
27 EDUCATION'S CONTRIBUTION TO STATEWIDE PROCUREMENT CARD

1 EXPENDITURES, AS DETERMINED BY THE STATE CONTROLLER, TO ENSURE
2 THAT THE FEDERAL GOVERNMENT RECEIVES ITS SHARE OF PROCUREMENT
3 CARD REVENUES AS REQUIRED BY FEDERAL REGULATIONS. FOR PURPOSES
4 OF THIS SUBSECTION (3) THE TERM "ALLOCATED" DOES NOT MEAN AN
5 APPROPRIATION OR CASH TRANSFER TO ANY STATE AGENCY OR
6 INSTITUTION OF HIGHER EDUCATION, BUT REFERS TO AN INTERNAL
7 PROCESS WITHIN THE OFFICE OF THE STATE CONTROLLER.

8 **SECTION 23.** 24-109-105 (1) (b), Colorado Revised Statutes, is
9 amended to read:

10 **24-109-105. Debarment and suspension.** (1) (b) The head of a
11 purchasing agency or a designee, after consultation with the using agency
12 and the attorney general, shall have authority to suspend a person from
13 consideration for award of contracts if there is probable cause to believe
14 that such person has engaged in activities that may lead to debarment.
15 The suspension shall not be for a period exceeding three months.
16 However, if a criminal indictment CHARGE has been issued for an offense
17 which THAT would be a cause for debarment under subsection (2) of this
18 section, the suspension shall, at the request of the attorney general, remain
19 in effect until after the trial of the suspended person. IF A PERSON IS
20 SUSPENDED BECAUSE A CRIMINAL CHARGE HAS BEEN ISSUED AGAINST AN
21 OFFICER, DIRECTOR, PARTNER, MANAGER, KEY EMPLOYEE, OR OTHER
22 PRINCIPAL OF THE SUSPENDED PERSON, THE SUSPENSION MAY REMAIN IN
23 EFFECT UNTIL AFTER THE TRIAL OF THE OFFICER, DIRECTOR, PARTNER,
24 MANAGER, KEY EMPLOYEE, OR OTHER PRINCIPAL OR UNTIL AFTER THE
25 CHARGES AGAINST SUCH OFFICER, DIRECTOR, PARTNER, MANAGER, KEY
26 EMPLOYEE, OR OTHER PRINCIPAL HAVE BEEN DISMISSED.

27 **SECTION 24.** 24-16-107, Colorado Revised Statutes, is amended

1 to read:

2 **24-16-107. Audit.** If any agency of government is alleged to be
3 in violation of or in material noncompliance with this article or the rules
4 and regulations promulgated by the ~~division of accounts and controls~~
5 OFFICE OF THE STATE CONTROLLER, the legislative audit committee shall
6 be advised, in writing, of the activities alleged to be in violation or
7 noncompliance. The legislative audit committee shall give notice to the
8 agency, which shall have ten days to respond to such allegation. If the
9 said committee thereafter determines that there is a reasonable probability
10 of a violation or material noncompliance, the committee shall take
11 appropriate action and may direct the state auditor to conduct an audit and
12 review of the records being kept by such agency. If the state auditor
13 determines that the agency has violated or has not complied or is not
14 complying with this article or the rules and regulations, a written report
15 shall be issued to the agency detailing the areas of violation or
16 noncompliance and curative recommendations. The agency shall
17 implement the recommendations of the state auditor within a time period
18 set by him not to exceed six months.

19 **SECTION 25.** 24-30-202 (1), Colorado Revised Statutes, is
20 amended to read:

21 **24-30-202. Procedures - vouchers and warrants - rules -**
22 **penalties.** (1) No disbursements shall be made in payment of any
23 liability incurred on behalf of the state, other than from petty cash or by
24 any alternative means of payment approved by fiscal rule promulgated by
25 the controller, unless there has been previously filed with the ~~division of~~
26 ~~accounts and control~~ OFFICE OF THE STATE CONTROLLER a commitment
27 voucher. The commitment voucher may be in the form of an advice of

1 employment, a purchase order, a copy of a contract, or a travel
2 authorization or in other form appropriate to the type of transaction as
3 prescribed by the controller. Any state contract involving the payment of
4 money by the state shall contain a clause providing that the contract shall
5 not be deemed valid until it has been approved by the controller or such
6 assistant as he may designate. Such contracts entered into on or after July
7 1, 1997, shall also contain a clause notifying the other party to the
8 contract of the controller's authority to withhold debts owed to state
9 agencies under the vendor offset intercept system pursuant to section
10 24-30-202.4 (3.5) (a) (I) and the types of debts that are subject to
11 withholding under said system. The form and content of and procedures
12 for filing such vouchers shall be prescribed by the fiscal rules
13 promulgated by the controller.

14 **SECTION 26.** 24-36-103 (2), Colorado Revised Statutes, is
15 amended to read:

16 **24-36-103. All state moneys to be transmitted to department.**

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

1 rules adopted by the controller.

2 **SECTION 27.** 24-36-105 (2), Colorado Revised Statutes, is
3 amended to read:

4 **24-36-105. Accounts to be kept - daily report.** (2) As of the
5 close of business each day, a report of the amount of all receipts and
6 disbursements during said day shall be furnished to the ~~division of~~
7 ~~accounts and control~~ OFFICE OF THE STATE CONTROLLER; except that the
8 receipts and disbursements shall not be reported by category as to the
9 several funds created by law and the accounts within such funds.

10 **SECTION 28.** 24-36-106 (1), Colorado Revised Statutes, is
11 amended to read:

12 **24-36-106. Record of warrants - order of payment - paid**
13 **warrants - validation.** (1) The treasury department shall maintain a list
14 of all warrants drawn upon the state treasurer by the ~~division of accounts~~
15 ~~and control~~ OFFICE OF THE STATE CONTROLLER and of those warrants
16 issued and outstanding. Such lists shall be open during regular business
17 hours for the inspection and examination of every person desiring to
18 inspect or examine the same.

19 **SECTION 29.** 24-53-105 (4) (b), Colorado Revised Statutes, is
20 amended to read:

21 **24-53-105. Contribution fund.** (4) (b) All such payments shall
22 be made upon vouchers submitted to the ~~division of accounts and control~~
23 OFFICE OF THE STATE CONTROLLER and by warrants drawn upon the state
24 treasurer in the manner prescribed by law.

25 **SECTION 30.** 24-75-202 (2), Colorado Revised Statutes, is
26 amended to read:

27 **24-75-202. Imprest cash accounts.** (2) Under procedures

1 prescribed by the controller, such department, institution, or agency may
2 pay out of said imprest cash account, locally, such operating expense
3 items as would be allowable if submitted on a regular voucher. The
4 aggregate amount of such payments shall be submitted to the ~~division of~~
5 ~~accounts and control~~ OFFICE OF THE STATE CONTROLLER, monthly or more
6 often, on a voucher signed by the fiscal officer of such department,
7 institution, or agency or by some person authorized to act for him, and
8 upon approval of the same, a warrant in said amount shall be drawn upon
9 the state treasurer for replenishment of said imprest cash account.

10 **SECTION 31.** 43-1-113 (8) (a), Colorado Revised Statutes, is
11 amended to read:

12 **43-1-113. Funds - budgets - fiscal year - reports and**
13 **publications - repeal.** (8) (a) The department, out of moneys in the state
14 highway fund budgeted therefor by the transportation commission and
15 within the total expenditures prescribed by the general assembly for the
16 fiscal year pursuant to section 43-1-112.5, shall reimburse other agencies
17 of state government for the costs incurred by such state agencies in
18 providing necessary services in support of the department and the
19 administration of the highway funds of the state. Such state agencies
20 include, but are not necessarily limited to, the ~~division of accounts and~~
21 ~~control~~ OFFICE OF THE STATE CONTROLLER in the department of personnel,
22 the office of state planning and budgeting, the department of personnel,
23 the department of revenue, and the department of the treasury. For any
24 fiscal year, the amount paid to any such state agency shall be the amount
25 indicated in the general appropriation act as the recovery of indirect costs
26 by such state agency out of the state highway fund. The amount so
27 indicated in the general appropriation act for the recovery of indirect costs

1 by any state agency pursuant to this subsection (8) may exceed the actual
2 indirect cost incurred by such agency, but the total of all such statewide
3 indirect cost recoveries indicated in the general appropriation act shall not
4 exceed the total indirect costs reasonably expected to be incurred by all
5 state agencies in providing necessary services in support of the
6 department and the administration of the highway funds of the state.
7 Payments made pursuant to this subsection (8) shall not be subject to the
8 limitations on appropriations and statutory distributions from the highway
9 users tax fund contained in section 43-4-201 (3).

10 **SECTION 32. Appropriation - adjustments to the 2010 long**

11 **bill.** For the implementation of this act, appropriations made in the
12 annual general appropriation act, to the department of personnel and
13 administration, for the fiscal year beginning July 1, 2010, shall be
14 adjusted as follows:

15 (a) The appropriation from the general fund for the executive
16 director's office, statewide special purpose, Colorado state archives,
17 personal services, is decreased by six thousand eight hundred two dollars
18 (\$6,802).

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

25 (c) The appropriation from the debt collection fund created in
26 section 24-30-202.4 (3) (e), Colorado Revised Statutes, for the division
27 of accounts and control - controller, collections services, private

1 collection agency fees is decreased by ninety-four thousand eight hundred
2 sixty-four dollars (\$94,864) cash funds.

3 **SECTION 33. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.