

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 12-0671.02 Ed DeCecco x4216

HOUSE BILL 12-1321

HOUSE SPONSORSHIP

Ferrandino and Vaad,

SENATE SPONSORSHIP

Johnston and King K.,

House Committees

State, Veterans, & Military Affairs

Senate Committees

State, Veterans & Military Affairs
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE STATE PERSONNEL SYSTEM, AND, IN CONNECTION**
102 **THEREWITH, ENACTING THE "MODERNIZATION OF THE STATE**
103 **PERSONNEL SYSTEM ACT".**

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 state personnel system (system) is established in the state constitution. The following changes are contingent upon the voters approving an amendment to the constitutional provisions related to the system in 2012:

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.*

SENATE
Am ended 2nd Reading
April 12, 2012

HOUSE
Am ended 3rd Reading
March 21, 2012

HOUSE
Am ended 2nd Reading
March 20, 2012

- ! **Merit principles.** The bill makes changes to reflect that appointments and promotions will be based on a comparative analysis of candidates based on objective criteria instead of competitive tests of competence. **Section 9** of the bill requires the state personnel director (director) to develop evaluation and examination procedures, describes a comparative analysis and its acceptable forms, and makes conforming amendments related to the change.
- ! **Exemptions. Section 12** of the bill requires the director to establish procedures to approve the exemption of an employee from the state personnel system pursuant to the newly created constitutional exemptions.
- ! **Rule of 6. Section 9** of the bill makes changes to reflect that the number of persons eligible for appointment within the system is increased from the 3 highest persons on the eligible list to the 6 highest.
- ! **State personnel board. Section 5** makes conforming amendments to reflect the constitutional changes related to the state personnel board and eliminates language that duplicates constitutional language.
- ! **Temporary employment. Section 10** of the bill reflects the new constitutional limit on the length of temporary employment and establishes a 4-month waiting period between temporary appointments for the same position.

For persons within the state personnel system, the bill replaces the performance awards with merit pay. **Section 6** of the bill establishes the following features of the merit pay system:

- ! The purpose of the merit pay system is to provide salary increases for employees in the state personnel system based on performance evaluations and salary positions within the appropriate salary range;
- ! The initial system must include quartiles for the salary range distribution and 3 performance categories, but the director may change the number of distribution zones or performance categories based on a biennial review;
- ! The director shall establish one or more priority groups of employees that have priority to receive merit pay based on available moneys;
- ! An institution of higher education is permitted to enact its own merit pay system;
- ! Merit pay is subject to available appropriations;
- ! The general assembly is required to appropriate any moneys for merit pay in the personal services line item;
- ! The director must include information about merit pay in the annual compensation report and recommendations; and

! The state employee reserve fund is created with separate accounts for each principal department. If a department does not expend all of the moneys in its operating or personal services line item appropriation, the treasurer is required to transfer an amount equal to the unused appropriation to the department's account. Moneys in a department's account are continuously appropriated to the department to be used for merit pay, but the director of the office of state planning and budgeting must approve such use.

In addition, **section 8** of the bill requires each department to include the costs of merit pay as part of the costs of personal services in the annual departmental budget requests. Conforming amendments related to merit pay are included in **sections 4, 7, and 13** of the bill.

Section 11 of the bill makes the following changes related to persons in the system who are separated from state service due to lack of work, lack of funds, or reorganization:

! Bumping rights, which allow a separated employee to take the job from a person with less seniority, are limited to those persons who, as of January 1, 2013, are within 5 years of being eligible for full retirement;

! The director is required to establish by rule procedures for the separation and demotion of certified employees who do not have bumping rights, which procedures give consideration to performance evaluations and seniority;

! All departments are required to consider placing an employee who would otherwise be separated into a funded, vacant position for which the employee is qualified; and

! The director is required to create a layoff plan that may be used by a department to provide postemployment compensation or other benefits to a separated employee, which may include a hiring preference, health benefits, educational training, and severance pay.

Section 3 of the bill establishes an exception for the postemployment compensation authorized by the layoff plan established by the director from the current prohibition on such compensation to any government-supported official or employee.

The changes related to merit pay, bumping rights, and severance awards are not contingent on the voters approving an amendment to the state constitution.

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

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

1 cited as the "Modernization of the State Personnel System Act".

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

4 (a) It is essential for the state to be able to recruit, retain, and
5 reward a qualified state work force in order to compete for and employ
6 top talent and provide the highest quality of service to the people of
7 Colorado;

8 (b) In order to attract a qualified state work force, it is necessary
9 to modernize and create flexibility in a rigid personnel system that has not
10 seen significant change in over forty years; and

11 (c) In an effort to reward our veterans for their commitment to this
12 country and to our state, Colorado veterans should be given preference
13 within the state personnel system after their military service.

14 (2) The general assembly further finds and declares that, within
15 the state personnel system:

16 (a) Since the establishment of a pay-for-performance system a
17 decade ago, the state has failed to adequately compensate state employees
18 for the work they perform;

19 (b) Today, more than half of all state employees are at the bottom
20 of their salary range, and there is an urgent need to restructure the pay
21 system;

22 (c) The goal of the state's pay system should be to move deserving
23 employees through a salary range that is comparable to the equivalent
24 private-sector range, with the cumulative result of individual
25 employee movement being a work force that is concentrated at the
26 mid-point of employee salary ranges with smaller groups of employees
27 at the bottom and top of the ranges;

1 (d) In times of fiscal strain, the state of Colorado should use
2 performance, position in salary range, and longevity of service to
3 determine which groups of employees are most in need of salary range
4 movement;

5 (e) Through prioritization, the state can advance employees most
6 acutely in need of salary range movement even when resources are
7 scarce; and

8 (f) The state can provide an incentive for employees to achieve
9 efficiencies and savings from appropriated amounts, which currently
10 revert back to their original fund, by transferring that amount to a reserve
11 fund, which can be used to help supplement the funds available to provide
12 merit pay for the employees.

13 (3) Therefore, it is in the best interests of the state to make the
14 significant changes to the state personnel system included in this act and
15 House Concurrent Resolution 12-1001 in order to better recruit, retain,
16 and reward qualified state employees and to bring our state work force
17 into the twenty-first century.

18 **SECTION 3.** In Colorado Revised Statutes, 24-19-108, **amend**
19 (1) (b) and (1) (c); and **add** (1) (d) as follows:

20 **24-19-108. Exceptions.** (1) The provisions of this article shall not
21 apply to the following:

22 (b) Any tenured or tenure track faculty member whose primary job
23 assignment is teaching, research, or both teaching and research and who
24 is employed at a state institution of higher education or any specialty track
25 faculty member whose primary job assignment is clinical care and who
26 is employed at a state institution of higher education; ~~or~~

27 (c) Any employee employed by a unit of local government whose

1 governing body is directly elected by the electors of such local
2 government; OR

3 (d) ANY CERTIFIED EMPLOYEE WHO IS SEPARATED FROM STATE
4 SERVICE DUE TO LACK OF WORK, LACK OF FUNDS, OR REORGANIZATION
5 AND WHO RECEIVES POSTEMPLOYMENT COMPENSATION OR OTHER
6 BENEFITS AUTHORIZED BY A LAYOFF PLAN ESTABLISHED BY THE STATE
7 PERSONNEL DIRECTOR PURSUANT TO SECTION 24-50-124 (1) (d) (I).

8 **SECTION 4.** In Colorado Revised Statutes, 24-38-103, **amend**
9 (1.5) as follows:

10 **24-38-103. Agency authority and incentives for budget**
11 **savings.** (1.5) Beginning with the 2004-05 fiscal year, an agency that
12 achieves cost savings, as an alternative to the transfer authorized pursuant
13 to subsection (1) of this section, may transfer fifty percent of the amount
14 of the cost savings from one item of appropriation made to the agency in
15 the general appropriation act or any supplemental appropriation act to the
16 item for personal services in the appropriation made to the same agency
17 for the purpose of paying performance-based ~~bonuses~~ AWARDS to
18 employees of the agency. The ~~bonus~~ AWARD shall be awarded in the fiscal
19 year in which the cost savings are achieved and shall be made consistent
20 with the performance REVIEW DONE IN ACCORDANCE WITH THE MERIT PAY
21 system identified in section 24-50-104 (1) (c.7). Prior to the end of the
22 state fiscal year in which a transfer is made pursuant to this subsection
23 (1.5), an agency shall submit written notice to the joint budget committee,
24 the office of state planning and budgeting, and the state controller of the
25 amount of the cost savings achieved by the agency during the state fiscal
26 year.

27 **SECTION 5.** In Colorado Revised Statutes, 24-50-103, **amend**

1 (1), (3) (a), and (5) as follows:

2 **24-50-103. State personnel board.** (1) THE STATE PERSONNEL
3 BOARD, REFERRED TO IN THIS ARTICLE AS THE "BOARD", IS CREATED
4 pursuant to the provisions of section 14 of article XII of the state
5 constitution. ~~there is hereby created the state personnel board, referred to~~
6 ~~in this article as the "board", which shall consist~~ THE BOARD CONSISTS of
7 five members to be selected in the manner provided in THE STATE
8 CONSTITUTION AND this section. ~~Three members of the board shall be~~
9 ~~appointed by the governor, with the consent of the senate, and two~~
10 ~~members of the board shall be elected by persons certified to classes and~~
11 ~~positions in the state personnel system in the manner prescribed by~~
12 ~~subsection (3) of this section. Each member of the board shall be a~~
13 ~~qualified elector of the state but shall not be otherwise an officer or~~
14 ~~employee of the state or of any state employee organization. The terms of~~
15 ~~office of members of the board shall be five years; except that of the~~
16 ~~members appointed by the governor to take office on July 1, 1971, one~~
17 ~~shall be appointed for a one-year term, one shall be appointed for a~~
18 ~~two-year term, and one shall be appointed for a three-year term, and of~~
19 ~~the members elected to take office on July 1, 1971, one shall be elected~~
20 ~~for a four-year term, and one shall be elected for a five-year term.~~
21 ~~Members of the board may succeed themselves in office.~~

22 (3) (a) In the year ~~1975~~ 2015 and every ~~fifth~~ THIRD year thereafter
23 and in the year ~~1976~~ 2016 and every ~~fifth~~ THIRD year thereafter, an
24 election shall be held for a member of the board in the manner provided
25 in this subsection (3).

26 (5) ~~Any~~ A member of the board may be removed by the governor
27 for willful misconduct in office, for willful failure or inability to perform

1 ~~his duties, including, but not limited to, failure to attend three consecutive~~
2 ~~regular board meetings, for final conviction of a felony or of any other~~
3 ~~offense involving moral turpitude, or by reason of permanent disability~~
4 ~~interfering with the performance of his duties. Removal shall be subject~~
5 ~~to judicial review~~ IN ACCORDANCE WITH SECTION 14 (2) OF ARTICLE XII
6 OF THE STATE CONSTITUTION.

7 **SECTION 6.** In Colorado Revised Statutes, 24-50-104, **amend**
8 (1) (a) (I), (1) (a) (II), (1) (c) (I), (1) (c) (II) introductory portion, (1) (c)
9 (II) (D), (1) (c) (II) (F), (1) (c) (IV), (1) (c.5) (V), (1) (c.7), (4) (a), (4) (b)
10 (I), and (4) (c); **repeal** (1) (c) (II) (E) and (1) (c) (II) (G); and **add** (1) (c)
11 (I.1), (1) (c) (I.2), (1) (c) (I.3), (1) (c) (I.5), (1) (c) (I.7), (1) (c) (I.9), and
12 (1) (j) as follows:

13 **24-50-104. Job evaluation and compensation - state employee**
14 **reserve fund - created - definitions.** (1) **Total compensation**
15 **philosophy.** (a) (I) It is the policy of the state to provide prevailing total
16 compensation to officers and employees in the state personnel system to
17 ensure the recruitment, motivation, and retention of a qualified and
18 competent work force. For purposes of this section, "total compensation"
19 includes, but is not limited to, salary, group benefit plans, retirement
20 benefits, ~~performance awards~~ MERIT PAY, incentives, premium pay
21 practices, and leave. For purposes of this section, "group benefit plans"
22 means group benefit coverages as described in section 24-50-603 (9).

23 (II) The state personnel director shall establish technically and
24 professionally sound survey methodologies to assess prevailing total
25 compensation practices, levels, and costs. Except as provided in
26 subparagraph (III) of this paragraph (a), for purposes of this paragraph
27 (a), to determine and maintain salaries, state contributions for group

1 benefit plans, and ~~performance awards~~ MERIT PAY that are comparable to
2 public and private employment, the state personnel director shall annually
3 review the results of appropriate surveys by public or private
4 organizations, including surveys by the state personnel director. Any
5 surveys provided on a confidential basis shall not be revealed except to
6 the state auditor's office and the private firm conducting the audit required
7 in paragraph (b) of subsection (4) of this section. The state personnel
8 director shall adopt appropriate procedures to determine and maintain
9 other elements of total compensation, including the payment of incentive
10 awards to employees in the state personnel system. The state personnel
11 director's review and determination of total compensation practices shall
12 not be subject to appeal except as otherwise authorized by law or state
13 personnel director procedures.

14 (c) (I) ~~Based on a system of performance management and~~
15 ~~evaluation,~~ The state personnel director shall ~~adopt procedures for~~
16 ESTABLISH A MERIT PAY SYSTEM IN ORDER TO PROVIDE periodic salary
17 increases for employees in the state personnel system. ~~based on~~
18 ~~performance~~ THE PURPOSE OF THE MERIT PAY SYSTEM IS TO PROVIDE
19 SALARY INCREASES FOR EMPLOYEES BASED ON PERFORMANCE
20 EVALUATIONS AND SALARY PLACEMENT WITHIN THE APPROPRIATE SALARY
21 RANGE. THE STATE PERSONNEL DIRECTOR SHALL DEVELOP THE MERIT PAY
22 SYSTEM SO THAT A MERIT PAY INCREASE IS BASED ON THE RELATIONSHIP
23 OF PERFORMANCE RATING DISTRIBUTION AND SALARY RANGE
24 DISTRIBUTION. THE MERIT PAY SYSTEM MUST INCLUDE THE FOLLOWING
25 CHARACTERISTICS:

26 (A) SALARY RANGE IS DIVIDED INTO QUARTILES, EXCEPT AS SET
27 FORTH IN SUBPARAGRAPH (I.1) OF THIS PARAGRAPH (c);

1 (B) THE LOWEST QUARTILE OR DISTRIBUTION ZONE IN RELATION
2 TO THE MIDPOINT HAS THE HIGHEST RATE OF MERIT PAY, AND THE RATE
3 FOR EACH SUCCESSIVE QUARTILE OR DISTRIBUTION ZONE IS LESS THAN THE
4 PRECEDING QUARTILE OR DISTRIBUTION ZONE, EXCEPT AS PROVIDED IN
5 SUB-SUBPARAGRAPH (E) OF THIS SUBPARAGRAPH (I);

6 (C) PERFORMANCE EVALUATIONS ARE DIVIDED INTO THREE
7 PERFORMANCE CATEGORIES, EXCEPT AS SET FORTH IN SUBPARAGRAPH (I.1)
8 OF THIS PARAGRAPH (c);

9 (D) THE HIGHEST PERFORMANCE CATEGORY HAS THE HIGHEST
10 RATE OF MERIT PAY, AND THE RATE FOR EACH LOWER PERFORMANCE
11 CATEGORY IS LESS THAN THE PRECEDING CATEGORY, EXCEPT AS PROVIDED
12 IN SUB-SUBPARAGRAPH (E) OF THIS SUBPARAGRAPH (I); AND

13 (E) EMPLOYEES WHO RECEIVE AN UNSATISFACTORY PERFORMANCE
14 EVALUATION ARE NOT ELIGIBLE FOR MERIT PAY.

15 (I.1) ON OR AFTER SEPTEMBER 1, 2015, THE STATE PERSONNEL
16 DIRECTOR SHALL REVIEW THE EFFECTIVENESS OF THE USE OF QUARTILES
17 FOR SALARY RANGE AND THREE PERFORMANCE CATEGORIES IN THE MERIT
18 PAY SYSTEM. BASED ON THE REVIEW, THE STATE PERSONNEL DIRECTOR
19 MAY ADJUST THE NUMBER OF DISTRIBUTION ZONES OR PERFORMANCE
20 CATEGORIES TO BE USED IN THE SYSTEM. THEREAFTER, THE STATE
21 PERSONNEL DIRECTOR SHALL CONDUCT A BIENNIAL REVIEW OF THE
22 DISTRIBUTION ZONES AND PERFORMANCE CATEGORIES AND MAY ADJUST
23 THE NUMBER OF DISTRIBUTION ZONES OR PERFORMANCE CATEGORIES
24 BASED ON THE REVIEW. THE MINIMUM NUMBER OF DISTRIBUTION ZONES
25 THE STATE PERSONNEL DIRECTOR MAY ESTABLISH IS THREE, AND THE
26 MAXIMUM NUMBER IS SIX.

27 (I.2) IF A STATE DEPARTMENT OR INSTITUTION OF HIGHER

1 EDUCATION HAS A PERFORMANCE REVIEW SYSTEM THAT HAS A DIFFERENT
2 NUMBER OF PERFORMANCE CATEGORIES THAN THE NUMBER USED BY THE
3 STATE PERSONNEL DIRECTOR IN THE MERIT PAY SYSTEM, THE STATE
4 PERSONNEL DIRECTOR SHALL ESTABLISH A METHOD FOR CONVERTING THE
5 DEPARTMENTAL OR INSTITUTIONAL CATEGORIES INTO THE CATEGORIES
6 USED IN THE MERIT PAY SYSTEM.

7 (I.3) BASED ON PROFESSIONALLY SOUND SURVEY
8 METHODOLOGIES, THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH
9 ANNUALLY ONE OR MORE PRIORITY GROUPS OF EMPLOYEES THAT HAVE
10 PRIORITY TO RECEIVE MERIT PAY BASED ON AVAILABLE MONEYS. THE
11 PRIORITY GROUPS MUST BE BASED ON LENGTH OF SERVICE, RELATION TO
12 THE SALARY RANGE MIDPOINT, PERFORMANCE, RECRUITMENT, RETENTION
13 NEEDS, AND OTHER FACTORS ESTABLISHED BY THE DIRECTOR. THE
14 AMOUNT OF MERIT PAY THAT AN EMPLOYEE IN THE STATE PERSONNEL
15 SYSTEM MAY RECEIVE DEPENDS FIRST ON THE EMPLOYEE'S PRIORITY
16 GROUP AND THEN ON THE AMOUNT OF MERIT PAY, IF ANY, ASSOCIATED
17 WITH THE EMPLOYEE'S PERFORMANCE CATEGORY AND SALARY RANGE.

18 (I.5) (A) EXCEPT AS SET FORTH IN SUB-SUBPARAGRAPH (B) OF THIS
19 SUBPARAGRAPH (I.5), THE MERIT PAY SYSTEM APPLIES UNIFORMLY ACROSS
20 STATE DEPARTMENTS AND INSTITUTIONS OF HIGHER EDUCATION SUBJECT
21 TO THE PROVISIONS OF SUBPARAGRAPH (I.9) OF THIS PARAGRAPH (c). FOR
22 EACH STATE FISCAL YEAR THE STATE PERSONNEL DIRECTOR SHALL
23 DETERMINE THE APPROPRIATE MERIT PAY RATES THAT APPLY TO ALL
24 STATE DEPARTMENTS AND INSTITUTIONS AND THE PRIORITY GROUP OR
25 GROUPS THAT RECEIVE MERIT PAY.

26 (B) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
27 CONTRARY, AN INSTITUTION OF HIGHER EDUCATION MAY ENACT ITS OWN

1 MERIT PAY SYSTEM, SO LONG AS THE SYSTEM IS CONSISTENT WITH THE
2 PROVISIONS OF THIS SUBSECTION (1).

3 (I.7) AN EMPLOYEE WHO IS AT OR ABOVE THE MAXIMUM AMOUNT
4 FOR HIS OR HER SALARY RANGE IS NOT ELIGIBLE FOR A MERIT PAY SALARY
5 INCREASE, BUT IS ELIGIBLE FOR A MERIT PAY PAYMENT THAT IS NONBASE
6 BUILDING.

7 (I.9) MERIT PAY IS SUBJECT TO AVAILABLE APPROPRIATIONS.
8 EXCEPT AS SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH (j) OF THIS
9 SUBSECTION (1), THE GENERAL ASSEMBLY SHALL APPROPRIATE ANY
10 MONEYS FOR MERIT PAY IN THE ANNUAL GENERAL APPROPRIATION ACT
11 IN SUITABLE PERSONAL SERVICES LINE ITEMS OR OTHER LINE ITEMS THAT
12 INCLUDE SALARY APPROPRIATIONS.

13 (II) IN ADDITION TO ANY OTHER REQUIREMENTS SET FORTH IN THIS
14 PARAGRAPH (c), the department of personnel shall develop ~~guidelines and~~
15 ~~coordinate a performance~~ THE MERIT PAY system pursuant to the
16 ~~provisions of subparagraph (f) of this paragraph (c)~~ SO that IT:

17 (D) Emphasizes planning, management, and evaluation of
18 employee performance; AND

19 (E) ~~Includes uniform and consistent guidelines for all state~~
20 ~~departments and institutions of higher education;~~

21 (F) Prohibits a forced distribution of performance ratings. ~~and~~

22 (G) ~~Authorizes individual and group performance awards.~~

23 (IV) ~~The state personnel director may authorize state departments~~
24 ~~and institutions of higher education to establish a program for the~~
25 ~~particular state department or institution~~ EACH STATE DEPARTMENT AND
26 INSTITUTION OF HIGHER EDUCATION SHALL ENSURE THAT IT HAS A
27 PERFORMANCE REVIEW SYSTEM THAT CAN BE USED to implement ~~the~~

1 ~~performance~~ A MERIT PAY system. ~~prepared by the department of~~
2 ~~personnel in accordance with the provisions of this paragraph (c).~~ The
3 state personnel director shall encourage state departments and institutions
4 of higher education to implement performance evaluations of employees
5 that are as objective as possible and that, as soon as possible and
6 wherever feasible, include an assessment from multiple sources of each
7 employee's performance. Such sources shall include, where applicable,
8 the employee's self-assessment; the employee's superiors, subordinates,
9 AND peers; and any other applicable sources of an employee's
10 performance. The state personnel director shall adopt procedures to
11 establish a process to resolve employee disputes related to performance
12 evaluations that do not result in corrective or disciplinary action against
13 the employee. Each program established by a state department or
14 institution of higher education pursuant to this subparagraph (IV) shall be
15 subject to the director's approval. ~~Except as provided in paragraph (d) of~~
16 ~~subsection (5) of this section, salaries may be increased or left unchanged~~
17 ~~subject to available appropriations for the performance system; except~~
18 ~~that no annual increase shall be guaranteed.~~

19 (c.5) (V) The state personnel director shall monitor compliance
20 with the requirements of this paragraph (c.5) and paragraph (c) of this
21 subsection (1) and shall annually report the director's findings pertaining
22 to the prior fiscal year no later than January 1 of the following fiscal year
23 to the joint budget committee of the general assembly. The report shall
24 include, by department or institution, the number of supervisors who were
25 suspended or demoted, the percentage of all supervisors who complied
26 with the requirements of this paragraph (c.5), ~~the total amount of dollars~~
27 ~~appropriated for performance awards,~~ the total amount of such dollars

1 that were awarded to employees for ~~performance awards, and~~ MERIT PAY,
2 the total amount of those dollars awarded for each PRIORITY GROUP AND
3 EACH SALARY RANGE AND performance category, ANY REVERSION
4 AMOUNTS THAT WERE TRANSFERRED FOR THE PRIOR STATE FISCAL YEAR
5 PURSUANT TO _____ SUBPARAGRAPH (IV) OF PARAGRAPH (j) OF THIS
6 SUBSECTION (1), THE LINE ITEM APPROPRIATION RELATED TO EACH
7 REVERSION AMOUNT, AND THE BALANCE IN THE DEPARTMENT'S ACCOUNT
8 WITHIN THE STATE EMPLOYEE RESERVE FUND AS OF THE DATE OF THE
9 REPORT.

10 (c.7) In addition to the periodic salary increases authorized by
11 paragraph (c) of this subsection (1), the performance REVIEW COMPONENT
12 OF THE MERIT PAY system established pursuant to subparagraph ~~(H)~~ or
13 (IV) of paragraph (c) of this subsection (1) shall be used for the purpose
14 of determining eligibility for a performance-based ~~bonus~~ AWARD
15 permitted pursuant to section 24-38-103 (1.5). The ~~bonus~~ AWARD shall be
16 in addition to any other compensation authorized by law, and it shall not
17 affect the compensation that the employee is entitled to receive in
18 subsequent years.

19 (j) (I) AS USED IN THIS PARAGRAPH (j), UNLESS THE CONTEXT
20 OTHERWISE REQUIRES:

21 (A) "DEPARTMENT" MEANS A PRINCIPAL DEPARTMENT OF THE
22 EXECUTIVE BRANCH OF STATE GOVERNMENT SPECIFIED IN SECTION
23 24-1-110.

24 (B) "ELIGIBLE DEPARTMENT" MEANS A DEPARTMENT THAT
25 RECEIVED AN APPROPRIATION FOR WHICH THERE IS A REVERSION AMOUNT.

26 (C) "FUND" MEANS THE STATE EMPLOYEE RESERVE FUND CREATED
27 IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (j).

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(D) "PERSONAL SERVICES-RELATED LINE ITEM" MEANS A LINE ITEM ENTITLED "PERSONAL SERVICES", "GROUP HEALTH, LIFE, AND DENTAL INSURANCE", "SHORT-TERM DISABILITY INSURANCE", "AMORTIZATION EQUALIZATION DISBURSEMENTS", "SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENTS", "SALARY SURVEY", OR "SHIFT DIFFERENTIAL".

(E) "QUALIFYING CASH FUND" MEANS A CASH FUND FOR WHICH THERE IS EXPRESS AUTHORIZATION FOR A REVERSION PURSUANT TO THIS PARAGRAPH (j) FROM THE CASH FUND TO THE STATE EMPLOYEE RESERVE FUND.

(F) "REVERSION AMOUNT" MEANS THE FINAL, ADJUSTED AMOUNT OF STATE MONEYS APPROPRIATED FROM THE GENERAL FUND OR A QUALIFYING CASH FUND FOR A STATE FISCAL YEAR IN A PERSONAL SERVICES-RELATED LINE ITEM, A LINE ITEM ENTITLED "OPERATING EXPENSES", OR ANY SUCCESSOR LINE ITEM DESIGNATED BY THE JOINT BUDGET COMMITTEE FOR THE SAME PURPOSES IN THE ANNUAL GENERAL APPROPRIATION ACT TO A DEPARTMENT THAT IS UNEXPENDED AND UNENCUMBERED AS OF THE DATE THE STATE CONTROLLER PUBLISHES THE COMPREHENSIVE ANNUAL FINANCIAL REPORT OF THE STATE FOR THE STATE FISCAL YEAR. THE JOINT BUDGET COMMITTEE SHALL NOTIFY THE STATE CONTROLLER AND STATE TREASURER OF A SUCCESSOR LINE ITEM FROM WHICH THERE MAY BE A REVERSION AMOUNT. THERE IS NO "REVERSION AMOUNT" RELATED TO ANY LINE ITEM THAT MONEYS ARE TRANSFERRED FROM OR TO PURSUANT TO SECTION 24-75-108.

(II) THE STATE EMPLOYEE RESERVE FUND IS HEREBY CREATED IN THE STATE TREASURY. WITHIN THE FUND THERE IS AN ACCOUNT

1 DEDICATED TO EACH _____ DEPARTMENT. A DEPARTMENT'S ACCOUNT
2 CONSISTS OF MONEYS TRANSFERRED _____ PURSUANT TO SUBPARAGRAPH
3 (IV) OF THIS PARAGRAPH (j) AND ANY TRANSFERS DIRECTED BY THE
4 GOVERNOR PURSUANT TO SUBPARAGRAPH (VI) OF THIS PARAGRAPH (j).
5 MONEYS WITHIN A DEPARTMENT'S ACCOUNT ARE CONTINUOUSLY
6 APPROPRIATED TO SUCH DEPARTMENT FOR THE PURPOSE OF PROVIDING
7 MERIT PAY TO CERTIFIED EMPLOYEES AS PROVIDED IN THIS SUBSECTION
8 (1). A DEPARTMENT MAY NOT EXPEND ANY MONEYS FROM ITS ACCOUNT
9 WITHOUT THE APPROVAL OF THE DIRECTOR OF THE OFFICE OF STATE
10 PLANNING AND BUDGETING.

11 (III) ANY MONEYS IN THE FUND NOT EXPENDED AS PROVIDED IN
12 SUBPARAGRAPH (II) OF THIS PARAGRAPH (j) MAY BE INVESTED BY THE
13 STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME
14 DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN A
15 DEPARTMENT'S ACCOUNT SHALL BE CREDITED TO THE SAME ACCOUNT.
16 ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND
17 AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT
18 BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

19 (IV) ON THE DATE THE STATE CONTROLLER PUBLISHES THE
20 COMPREHENSIVE ANNUAL FINANCIAL REPORT OF THE STATE, THE STATE
21 CONTROLLER AND STATE TREASURER SHALL TRANSFER AN AMOUNT OF
22 MONEYS EQUAL TO A REVERSION AMOUNT FROM THE GENERAL FUND OR
23 A QUALIFYING CASH FUND TO THE STATE EMPLOYEE RESERVE FUND TO BE
24 ALLOCATED TO THE ELIGIBLE DEPARTMENT'S ACCOUNT.

25 (V) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
26 CONTRARY, THE STATE TREASURER SHALL NOT TRANSFER ANY MONEYS
27 FROM A QUALIFYING FUND IF:

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(A) THE REVERSION IS REQUIRED PURSUANT TO SECTION 24-37.5-112 (2); OR

(B) THERE ARE INSUFFICIENT MONEYS IN THE FUND FOR THE FULL TRANSFER. IN SUCH CASE, THE STATE TREASURER SHALL TRANSFER AS MUCH AS IS AVAILABLE.

(VI) IN ORDER TO PROVIDE MONEYS TO A DEPARTMENT THAT IS UNABLE TO GENERATE SUBSTANTIAL REVERSION AMOUNTS BECAUSE OF THE MANNER IN WHICH MONEYS ARE APPROPRIATED TO THE DEPARTMENT OR OTHER FACTORS, THE GOVERNOR MAY DIRECT THE STATE TREASURER TO REALLOCATE MONEYS AMONG DEPARTMENT ACCOUNTS IN THE FUND. THE TOTAL AMOUNT REALLOCATED PURSUANT TO THIS SUBPARAGRAPH (VI) DURING A STATE FISCAL YEAR SHALL NOT EXCEED TWO MILLION DOLLARS. NO OTHER REALLOCATION OF MONEYS AMONG ACCOUNTS IS PERMITTED.

(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~~ MERIT PAY. 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.

(b) (I) The state personnel director shall prepare an annual compensation report based on the analysis of surveys conducted pursuant

1 to paragraph (a) of this subsection (4). The purpose of the annual
2 compensation report shall be to reflect all adjustments necessary to
3 maintain the salary structure, state contributions for group benefit plans,
4 and ~~performance awards~~ MERIT PAY for the upcoming fiscal year. FOR
5 THE MERIT PAY COMPONENT, THE STATE PERSONNEL DIRECTOR SHALL
6 INCLUDE A DESCRIPTION OF THE AMOUNT NECESSARY FOR MERIT PAY FOR
7 ALL ELIGIBLE STATE EMPLOYEES, AS WELL AS THE AMOUNT NECESSARY
8 FOR EACH PRIORITY GROUP OF STATE EMPLOYEES. THE STATE PERSONNEL
9 DIRECTOR SHALL ALSO INCLUDE A DETAILED ANALYSIS OF SALARY RANGES
10 FOR ALL EMPLOYEES IN THE STATE PERSONNEL SYSTEM AND HOW
11 EMPLOYEES' SALARIES ARE DISTRIBUTED WITHIN THESE RANGES. EACH
12 DEPARTMENT MAY PROVIDE THE STATE PERSONNEL DIRECTOR WITH A
13 RECOMMENDATION REGARDING THE AMOUNT OF MONEYS THAT SHOULD
14 BE APPROPRIATED TO THE DEPARTMENT FOR MERIT PAY FOR THE
15 UPCOMING FISCAL YEAR. THE STATE PERSONNEL DIRECTOR SHALL
16 ESTABLISH DEADLINES FOR THE RECOMMENDATIONS AND SHALL INCLUDE
17 A SUMMARY OF ALL THE RECOMMENDATIONS HE OR SHE RECEIVES IN THE
18 ANNUAL COMPENSATION REPORT. The state auditor is responsible for
19 contracting with a private firm to conduct a performance audit of the
20 procedures and application of data, including any survey conducted by the
21 state personnel director. ~~Beginning January 1, 2003, such audits shall be~~
22 ~~conducted every two years, and Beginning January 1, 2005, the audits~~
23 shall be conducted every four years. A report shall be submitted to the
24 governor and the general assembly by the June 30 immediately following
25 the completion of the audit.

26 (c) By August 1, 2003, and by August 1 of each year thereafter,
27 the state personnel director shall submit the annual compensation report

1 and recommendations and estimated costs for state employee
2 compensation for the next fiscal year, covering salaries, state
3 contributions for group benefit plans, and ~~performance awards~~ MERIT
4 PAY, to the governor and the joint budget committee of the general
5 assembly. The recommendations shall reflect a consideration of the
6 results of the annual compensation survey, fiscal constraints, the ability
7 to recruit and retain state employees, appropriate adjustments with respect
8 to state employee compensation, and those costs resulting from
9 implementation of section 24-50-110 (1) (a). The recommendations for
10 state contributions for group benefit plans shall specify the annual group
11 benefit plan year established pursuant to section 24-50-604 (1) (m). The
12 annual compensation report shall include the results of the surveys of
13 public or private employers and jobs for prevailing total compensation
14 and the reasons for any deviation from prevailing total compensation in
15 the recommendations submitted to the governor and the joint budget
16 committee. The state personnel director shall also publish such report.
17 THIS PARAGRAPH (c) IS EXEMPT FROM THE PROVISIONS OF SECTION
18 24-1-136 (11), AND THE PERIODIC REPORTING REQUIREMENTS OF THIS
19 SECTION ARE EFFECTIVE UNTIL CHANGED BY THE GENERAL ASSEMBLY
20 ACTING BY BILL.

21 **SECTION 7.** In Colorado Revised Statutes, 24-50-109.5, **amend**
22 (2) as follows:

23 **24-50-109.5. Fiscal emergencies - emergency orders.** (2) With
24 the advice and assistance of the state personnel director, the governor
25 shall take such actions as necessary to be utilized by each principal
26 department and each institution of higher education to reduce state
27 personnel expenditures in the event of a fiscal emergency. Such actions

1 shall include, but need not be limited to, separations, voluntary furloughs,
2 mandatory furloughs, suspension of increases in salary and state
3 contributions for group benefit plans, suspension of ~~performance awards~~
4 MERIT PAY, job-sharing, hiring freezes, forced reallocation of vacant
5 positions, or a combination thereof. Any suspension of salary increases
6 OR increases in state contributions for group benefit plans or ~~performance~~
7 ~~awards~~ shall apply statewide to all employees in the state personnel
8 system. If mandatory furloughs are utilized in any principal department
9 or institution of higher education, such furloughs shall be implemented
10 by each appointing authority so that all employees under such authority,
11 regardless of status, position, or level of employment, are furloughed for
12 the same length of time, consistent with section 24-2-103 (2). Employees
13 of the following agencies and employees with duties as described shall
14 not be subject to mandatory furlough: The Colorado state patrol,
15 correctional officers, police officers, employees of the department of
16 human services providing hands-on care, and employees providing
17 hands-on nursing care.

18 **SECTION 8.** In Colorado Revised Statutes, 24-50-110, **amend**
19 (1) (b) as follows:

20 **24-50-110. Budget control - personal services.** (1) In order to
21 provide controls and proper identification of personal services costs
22 necessary to carry out the policy of the state regarding compensation of
23 state employees, the following administrative and fiscal procedures shall
24 apply:

25 (b) In their annual budget requests, the heads of all principal
26 departments of state government shall set forth separately the projected
27 costs of personal services arising from anticipated classification reviews,

1 promotions, and other increases in compensation or bonuses for
2 employees in their departments. THE COSTS OF PERSONAL SERVICES SHALL
3 INCLUDE ANY MERIT PAY.

4 **SECTION 9.** In Colorado Revised Statutes, 24-50-112.5, **amend**
5 (1), (2) (b), (3), (4) (a), (4) (b), and (4) (c); and **add** (4) (e) as follows:

6 **24-50-112.5. Selection system.** (1) (a) The state personnel
7 director shall establish procedures and directives necessary to implement
8 a merit-based statewide selection system to be used uniformly by all
9 principal departments. Such procedures and directives shall include, but
10 are not limited to, procedures for acceptance of applications, job
11 qualification standards for candidates, extension of eligible lists,
12 CONSISTENT EVALUATION AND EXAMINATION PROCEDURES FOR
13 EQUIVALENT JOB CLASSIFICATIONS, and ~~examination~~ development and
14 administration standards FOR THE COMPARATIVE ANALYSIS PROCESS.

15 (b) Appointments and promotions to positions shall be based on
16 ~~job-related knowledge, skills, abilities, competencies, behaviors, and~~
17 ~~quality of performance as demonstrated by~~ A fair and open ~~competitive~~
18 ~~examinations~~ COMPARATIVE ANALYSIS OF CANDIDATES BASED ON
19 OBJECTIVE CRITERIA. Selections shall be made without regard to race,
20 color, creed, religion, national origin, ancestry, age, sexual orientation,
21 marital status, or political affiliation and without regard to sex or
22 disability except as otherwise provided by law.

23 (2) **Employment lists.** (b) Candidates ~~receiving a final passing~~
24 ~~score at the completion of the examination process~~ shall be placed on an
25 eligible list and ranked BASED ON THE COMPARATIVE ANALYSIS. Qualified
26 candidates shall receive veterans' preference as prescribed by section 15
27 of article XII of the state constitution. The person to be appointed to any

1 position under the state personnel system shall be one of the ~~three~~ SIX
2 persons ranking highest on the eligible list or such lesser number as
3 qualify. ~~The duration of an eligible list shall be six months but may be~~
4 ~~extended by the state personnel director.~~

5 (3) **Comparative analysis of candidates.** (a) ~~Examinations~~ EACH
6 APPOINTING AUTHORITY shall ~~be based on~~ DEVELOP THE COMPARATIVE
7 ANALYSIS OF CANDIDATES BASED ON OBJECTIVE CRITERIA TO BE USED BY
8 THE APPOINTING AUTHORITY. A COMPARATIVE ANALYSIS MUST BE A
9 PROFESSIONALLY ACCEPTED STANDARD THAT COMPARES specific
10 job-related knowledge, skills, abilities, behaviors, and other
11 competencies. ~~Examinations shall be conducted as needed.~~ A
12 COMPARATIVE ANALYSIS MAY INCLUDE, BUT IS NOT LIMITED TO, A
13 WRITTEN EXAMINATION, ORAL BOARD, OR SEARCH COMMITTEE. Only
14 qualified applicants shall be included in ~~the examination~~ A COMPARATIVE
15 ANALYSIS process. Applicants shall not be rejected solely because they do
16 not have the education required, except where education is a prerequisite
17 for a profession or is required by law. Where education is not a
18 prerequisite or is not required by law, an applicant's experience shall be
19 considered.

20 (b) Promotional examinations COMPARATIVE ANALYSIS shall be
21 limited to qualified employees, including persons on reemployment lists.
22 Performance evaluations may be utilized as part of a promotional
23 examination COMPARATIVE ANALYSIS plan.

24 (4) **Appeals.** (a) Any person directly affected by the selection and
25 ~~examination~~ COMPARATIVE ANALYSIS process action may file a written
26 appeal with the state personnel director. The appeal must be filed within
27 ten days after the administration of the ~~examination~~ COMPARATIVE

1 ANALYSIS. The director or a designee of the director shall review the
2 appeal in summary fashion on the basis of written material submitted in
3 connection with such appeal, which may be supplemented by oral
4 argument at the discretion of the director or designee.

5 (b) The state personnel director may convene an advisory panel
6 of qualified human resource selection professionals, with one member
7 selected by the aggrieved person, to assist the director in making a
8 decision. Except as otherwise provided in paragraph (d) of this subsection
9 (4), the director shall issue a written decision within ninety days after
10 receipt of a timely appeal. The selection and examination COMPARATIVE
11 ANALYSIS process action may be overturned only if the director finds the
12 action to have been arbitrary, capricious, or contrary to rule or law. If the
13 director fails to issue a decision within said ninety-day period, the original
14 examination COMPARATIVE ANALYSIS and outcome shall be final. A
15 written decision on any appeal filed pursuant to this subsection (4) or the
16 outcome of an appeal resulting from the failure to issue such a decision
17 shall be subject to judicial review pursuant to section 24-4-106, UNLESS
18 THE MATTER IS APPEALED TO THE STATE PERSONNEL BOARD PURSUANT TO
19 PARAGRAPH (e) OF THIS SUBSECTION (4).

20 (c) The state personnel director shall establish a process for timely
21 resolving appeals within the ninety-day period and criteria for advisory
22 panel selection and service. The process for resolving appeals shall
23 specify that if an employee who has filed an appeal with the state
24 personnel director also files an appeal with the state personnel board
25 pursuant to section 24-50-123 or the Colorado civil rights division
26 pursuant to section 24-50-125.3, only if the appeal filed with the board or
27 the civil rights division arises out of the same incident as the appeal filed

1 with the director, and if the appeal is filed before the expiration of the
2 ninety-day period and before the director has issued a written decision,
3 the ninety-day period shall be tolled until there is a final agency action by
4 the board. The board shall establish rules for certification of a person to
5 a position when an appeal is pending relative to the selection and
6 examination COMPARATIVE ANALYSIS process for that position.

7 (e) AFTER THE STATE PERSONNEL DIRECTOR'S FINAL DECISION
8 PURSUANT TO THIS SUBSECTION (4), ANY PERSON DIRECTLY AFFECTED BY
9 THE ___ COMPARATIVE ANALYSIS PROCESS MAY FILE A WRITTEN APPEAL
10 WITH THE STATE PERSONNEL BOARD. THE PETITION MUST BE FILED WITHIN
11 TEN DAYS AFTER THE STATE PERSONNEL DIRECTOR'S FINAL DECISION HAS
12 BEEN RECEIVED BY THE AFFECTED PERSON. THE BOARD MAY GRANT THE
13 PETITION ONLY WHEN IT APPEARS THAT THE DECISION OF THE APPOINTING
14 AUTHORITY VIOLATES THE ___ COMPARATIVE ANALYSIS STANDARDS SET
15 FORTH IN THIS SECTION, IN ANY OTHER PROVISION OF LAW, OR IN ANY
16 RULES OR PROCEDURES RELATING TO THE ___ COMPARATIVE ANALYSIS
17 PROCESS. THE BOARD SHALL REVIEW AND SUMMARILY GRANT OR DENY A
18 PETITION WITHIN ONE HUNDRED TWENTY DAYS OF RECEIPT OF THE
19 PETITION. ANY PETITION GRANTED SHALL BE DETERMINED IN
20 ACCORDANCE WITH SECTION 24-50-125.4.

21 **SECTION 10.** In Colorado Revised Statutes, 24-50-114, **amend**
22 (1) and (2) as follows:

23 **24-50-114. Temporary appointments - term - tenure.**

24 (1) Pending the availability of an eligible list determined by the state
25 personnel director to be appropriate for a class, the appointing authority,
26 with the prior approval of the state personnel director, may fill a vacancy
27 for a permanent position by temporary appointment of a qualified,

1 certified employee in accordance with the promotional policy established
2 by the board. In the absence of such an eligible employee, temporary
3 appointments of qualified persons may be made from without the state
4 personnel system. ~~Such temporary appointments~~ A TEMPORARY
5 APPOINTMENT shall not exceed ~~six~~ NINE months in length, except for
6 personal services contracts as permitted by part 5 of this article. AN
7 APPOINTING AUTHORITY MUST WAIT AT LEAST FOUR MONTHS BETWEEN
8 TEMPORARY APPOINTMENTS FOR THE SAME POSITION THAT ARE MADE
9 PURSUANT TO THIS SUBSECTION (1). If the vacancy is for a permanent
10 position, an eligible list shall be established within the ~~six-month~~
11 NINE-MONTH period following the TEMPORARY appointment.

12 (2) The state personnel director may, by rule, authorize principal
13 department heads and presidents of colleges and universities to employ
14 persons from outside the state personnel system on a temporary basis
15 while an eligible list is being provided or in emergency or seasonable
16 situations nonpermanent in nature, but in each case the period of
17 employment shall not exceed ~~six~~ NINE months, except for personal
18 services contracts as permitted by part 5 of this article.

19 **SECTION 11.** In Colorado Revised Statutes, **amend** 24-50-124
20 as follows:

21 **24-50-124. Reduction of employees - definition.** (1) (a) When
22 certified employees WHO, AS OF JANUARY 1, 2013, ARE WITHIN FIVE
23 YEARS FROM BEING ELIGIBLE FOR FULL RETIREMENT PURSUANT TO
24 SECTION 24-51-602 (1) (a) are separated from state service, ~~due to lack of~~
25 ~~work, lack of funds, or reorganization,~~ they shall be separated or demoted
26 according to procedures established by rule. Such ~~procedure~~ PROCEDURES
27 shall require that consideration be given to performance evaluations of

1 the employees and seniority within the total state service. Such employees
2 shall have retention rights throughout the principal department in which
3 they are employed unless the head of the department requests, and the
4 board approves, in advance, limitation of retention rights to major
5 divisions, institutions, or colleges within the principal department.

6 (b) THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH
7 PROCEDURES, BY RULE, FOR THE SEPARATION OR DEMOTION OF ANY
8 CERTIFIED EMPLOYEES NOT COVERED BY PARAGRAPH (a) OF THIS
9 SUBSECTION (1) FROM STATE SERVICE DUE TO LACK OF WORK, LACK OF
10 FUNDS, OR REORGANIZATION. SUCH PROCEDURES SHALL REQUIRE THAT
11 CONSIDERATION BE GIVEN TO PERFORMANCE EVALUATIONS OF AN
12 EMPLOYEE AND SENIORITY WITHIN THE TOTAL STATE SERVICE.

13 (c) THE APPOINTING AUTHORITIES FROM ALL DEPARTMENTS SHALL
14 CONSIDER PLACING A CERTIFIED EMPLOYEE WHO HAS BEEN IDENTIFIED
15 PURSUANT TO THE PROCEDURES ESTABLISHED PURSUANT TO PARAGRAPH
16 (b) OF THIS SUBSECTION (1) AS A PERSON TO BE SEPARATED FROM STATE
17 SERVICE INTO A FUNDED, VACANT POSITION FOR WHICH THE EMPLOYEE IS
18 QUALIFIED. THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH BY RULE
19 PROCEDURES FOR SUCH PLACEMENTS.

20 (d) (I) THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH BY
21 RULE A LAYOFF PLAN THAT MAY BE USED BY A DEPARTMENT TO PROVIDE
22 POSTEMPLOYMENT COMPENSATION OR OTHER BENEFITS FOR CERTIFIED
23 EMPLOYEES SEPARATED FROM STATE SERVICE. THE PLAN MAY INCLUDE,
24 BUT IS NOT LIMITED TO, A HIRING PREFERENCE, PAYMENT TOWARDS THE
25 CONTINUATION OF HEALTH BENEFITS FOR A SPECIFIED TIME AFTER
26 SEPARATION, TUITION OR EDUCATIONAL TRAINING VOUCHERS, SEVERANCE
27 PAY, OR PLACEMENT ON A DEPARTMENTAL REEMPLOYMENT LIST.

1 (II) THE POSTEMPLOYMENT COMPENSATION OR OTHER BENEFITS
2 MAY BE OFFERED THROUGH A SEPARATION AGREEMENT.

3 (III) IN NO CASE SHALL THE TOTAL VALUE OF THE
4 POSTEMPLOYMENT COMPENSATION AND OTHER BENEFITS AUTHORIZED
5 PURSUANT TO THIS PARAGRAPH (d) EXCEED AN AMOUNT EQUAL TO ONE
6 WEEK OF AN EMPLOYEE'S SALARY FOR EVERY YEAR OF HIS OR HER
7 SERVICE, UP TO A MAXIMUM OF EIGHTEEN WEEKS OF THE EMPLOYEE'S
8 SALARY.

9 (IV) A CERTIFIED EMPLOYEE IS NOT ENTITLED TO RECEIVE ANY
10 POSTEMPLOYMENT COMPENSATION OR OTHER BENEFITS PURSUANT TO THIS
11 PARAGRAPH (d).

12 (2) A certified employee who is separated FROM STATE SERVICE
13 shall be placed on a departmental reemployment list for a period of not
14 less than one year, UNLESS THE EMPLOYEE WAIVES THE RIGHT TO BE SO
15 PLACED AS PART OF A SEPARATION AGREEMENT.

16 (3) AS USED IN THIS SECTION, "SEPARATED FROM STATE SERVICE"
17 MEANS SEPARATED FROM STATE SERVICE DUE TO LACK OF WORK, LACK OF
18 FUNDS, OR REORGANIZATION.

19 **SECTION 12.** In Colorado Revised Statutes, 24-50-135, **add** (4)
20 as follows:

21 **24-50-135. Exemptions from personnel system.** (4) THE STATE
22 PERSONNEL DIRECTOR SHALL ESTABLISH PROCEDURES TO APPROVE THE
23 EXEMPTION OF AN EMPLOYEE FROM THE STATE PERSONNEL SYSTEM
24 PURSUANT TO SECTION 13 (2) (a) (XI) AND (2) (a) (XII) OF ARTICLE XII OF
25 THE STATE CONSTITUTION.

26 **SECTION 13.** In Colorado Revised Statutes, 24-75-112, **amend**
27 (1) (b) as follows:

1 **24-75-112. Annual general appropriation act - headnote**
2 **definitions - general provisions - footnotes.** (1) As used in the annual
3 general appropriation act, the following definitions and general provisions
4 shall apply for the headnote terms preceding and specifying the purpose
5 of certain line items of appropriation:

6 (b) "Centralized appropriation" means the appropriation of funds
7 to an executive director of a department or a central administrative
8 program intended for subsequent allocation and expenditure at and among
9 a department's divisions, programs, agencies, or long bill groups in order
10 to reflect the amount of such resources actually used in each program or
11 division. Such centralized appropriations may include salary survey,
12 ~~performance-based~~ MERIT pay or anniversary increases, senior executive
13 service, shift differential, group health and life insurance, capital outlay,
14 ADP capital outlay, information technology asset maintenance, legal
15 services, purchase of services from computer center, multiuse network
16 payments, vehicle lease payments, leased space, lease purchase, payment
17 to risk management and property funds, short-term disability insurance,
18 utilities, communications services payments, amortization equalization
19 disbursements, supplemental amortization equalization disbursements,
20 administrative law judge services, and centralized ADP. As provided in
21 paragraph (1) of this subsection (1), capital outlay is included within the
22 appropriation for "operating expenses".

23 **SECTION 14. Act subject to petition - effective date -**
24 **contingent on House Concurrent Resolution 12-1001.** (1) Except as
25 set forth in subsection (2) of this section, this act takes effect September
26 1, 2012; except that, if a referendum petition is filed pursuant to section
27 1 (3) of article V of the state constitution against this act or an item,

1 section, or part of this act subject to the provisions of this subsection (1)
2 within the ninety-day period after final adjournment of the general
3 assembly, then the item, section, or part subject to the provisions of this
4 subsection (1) will not take effect unless approved by the people at the
5 general election to be held in November 2012 and, in such case, will take
6 effect on the date of the official declaration of the vote thereon by the
7 governor.

8 (2) Sections 5, 9, 10, and 12 of this act take effect only if House
9 Concurrent Resolution 12-1001 is approved by the people at the next
10 general election and becomes law, and, in such case, such sections of this
11 act take effect on the date of the official declaration of the vote thereon
12 by the governor; except that, if a referendum petition is filed pursuant to
13 section 1 (3) of article V of the state constitution against section 5, 9, 10,
14 or 12 of this act within such period, then such section or any item, section,
15 or part thereof will not take effect unless approved by the people at the
16 general election to be held in November 2012.