

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0462.02 Bob Lackner x4350

HOUSE BILL 12-1113

HOUSE SPONSORSHIP

Lee,

SENATE SPONSORSHIP

(None),

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF CERTAIN PROCUREMENT
102 PREFERENCES TO BE APPLIED IN THE STATE PROCUREMENT
103 PROCESS.

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>.)

Preference where contract to be performed by mostly Colorado residents. On and after July 1, 2012, if a state agency (agency) or governmental body (body) issues an invitation for bids or a request for proposals for a construction contract for a public project (construction

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.

contract) or for a services contract that is, in either case, worth more than \$500,000, the agency or body must grant a 3% preference to the bidder or offeror (contractor) if the contractor certifies that at least 90% of the employees who will perform the requirements of the contract are Colorado residents. With respect to a construction contract, an agency or body must also grant a contractor who receives the 3% preference:

- ! An additional 1% preference if the contractor certifies that it offers health care and retirement benefits to the employees who will perform the contract requirements; and
- ! An additional 1% preference if the contractor certifies that the employees who will perform the contract requirements have access to a federally qualified apprenticeship training program.

With respect to a services contract, an agency or body must also grant a contractor who receives the 3% preference an additional 2% preference if the contractor certifies that it offers health care benefits and retirement benefits to the employees who will perform the requirements of the contract.

An agency or body may not allow any of the preferences to a noncompliant contractor, and the contractor may not use the preference to satisfy a minimum requirement of a contract. A contractor that seeks a preference for a bid or offer must certify its eligibility for the preference to the agency or body that issued the invitation for bids or request for proposals. The agency or body may rely on the certification but may also require the contractor to submit substantiating documentation or other information needed to verify the contractor's eligibility for the preference.

The executive director of the department of personnel (department) must promulgate rules for the administration of each preference, including processes for a contractor to certify and an agency or body to verify the contractor's eligibility for the preference.

Veterans' preference. When a contract for supplies or services is to be awarded through competitive sealed bidding or through competitive sealed best value bidding, the bill requires an amount equal to 2.5% of the bid price to be subtracted from the bid of each bidder that is a veteran or a veteran business. When a contract for supplies, services, or professional services is to be awarded through a request for competitive sealed proposals, the bill requires that one of the evaluation factors stated in the request is whether the offeror is a veteran or a veteran business. The relative weight assigned to the offeror's status as a veteran or as a veteran business is 2.5%.

The bill defines "veteran" to mean a person who is a resident of the state of Colorado, who was separated under honorable conditions, and who, other than for training purposes, served in any branch of the armed forces of the United States, including, without limitation, service in the armed forces reserve or National Guard, and "veteran business" to mean

a continuing independent, for-profit business located in the state in which one or more veterans hold an ownership interest of at least 51%.

The bill requires any person that requests a veterans' preference to complete an application for the purpose of certifying the person's status as a veteran or a veteran business. Upon the satisfaction of the department of personnel (department) that the person is entitled to the preference, the department is required to issue the person a distinctive identification number that, when submitted as part of a bid, offer, or other purchasing documents, entitles the person to the preference.

Any person who has obtained the necessary certification is required to notify the department within 30 days after the occurrence of any event that affects the person's ability to qualify as a veteran business, including, without limitation, a change in the ownership of the business.

If the department determines that a person that received a preference no longer satisfies the requirements applicable to a veteran business at any time during the pendency of the contract, the executive director of the department (executive director) may reject the bid or offer submitted by the person or assess a civil penalty against the person.

The department is required to revoke the certification of a veteran business for a period of not less than 12 months upon making a determination that the business has failed to notify the department of a change in the status of the business. During the 12-month revocation period, a veteran business whose certification has been revoked may submit a bid or offer on a state contract but is not eligible for the preference. The bill specifies the manner in which certification may be restored after the completion of the revocation period.

The bill specifies penalties that are applicable if the department determines that a person has made a material misrepresentation or otherwise committed a fraudulent act in obtaining a veterans' preference. Any person against whom the department has imposed a sanction may apply to the executive director for a review of the decision.

The executive director or the executive director's designee has the authority to promulgate rules to implement the veterans' preference.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-92-102, **amend**

3 (6) as follows:

4 **24-92-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (6) "Low responsible bidder" means any contractor who has bid

1 in compliance with the invitation to bid and within the requirements of
2 the plans and specifications for a public project, who is the low bidder
3 AFTER ANY PREFERENCES ALLOWED PURSUANT TO THIS ARTICLE HAVE
4 BEEN APPLIED, and who has furnished bonds or their equivalent as
5 required by law.

6 **SECTION 2.** In Colorado Revised Statutes, **add** 24-92-103.5 as
7 follows:

8 **24-92-103.5. Preferences for contractors that employ Colorado**
9 **residents - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

11 (a) "APPRENTICESHIP TRAINING PROGRAM" MEANS A PROGRAM
12 THAT IS REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR,
13 OFFICE OF APPRENTICESHIP AND TRAINING.

14 (b) "COLORADO RESIDENT" MEANS AN INDIVIDUAL WHOSE
15 DOMICILE IS IN COLORADO.

16 (c) "DOMICILE" MEANS AN INDIVIDUAL'S TRUE, FIXED, AND
17 PERMANENT HOME AND PLACE OF HABITATION. IT IS THE PLACE WHERE HE
18 OR SHE INTENDS TO REMAIN AND TO WHICH HE OR SHE EXPECTS TO RETURN
19 WHEN HE OR SHE LEAVES WITHOUT INTENDING TO ESTABLISH A NEW
20 DOMICILE ELSEWHERE.

21 (d) "HEALTH CARE BENEFITS" MEANS A HEALTH CARE PLAN
22 PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT CONFORMS TO ALL
23 REQUIREMENTS OF FEDERAL LAW AND REGULATIONS INCLUDING, BUT NOT
24 LIMITED TO, THE "PATIENT PROTECTION AND AFFORDABLE CARE ACT",
25 PUB.L. 111-148, AS AMENDED BY THE "HEALTH CARE AND EDUCATION
26 RECONCILIATION ACT OF 2010", PUB.L. 111-152, AND AS MAY BE
27 FURTHER AMENDED, AND ITS IMPLEMENTING REGULATIONS.

1 (e) "RETIREMENT BENEFITS" MEANS A PENSION PLAN OR OTHER
2 RETIREMENT PLAN PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT
3 CONFORMS TO ALL REQUIREMENTS OF FEDERAL LAW AND REGULATIONS,
4 INCLUDING, BUT NOT LIMITED TO, THE "EMPLOYEE RETIREMENT INCOME
5 SECURITY ACT OF 1974", PUB.L. 93-406, AS AMENDED, AND ITS
6 IMPLEMENTING REGULATIONS, AND THAT DOES NOT REQUIRE A GREATER
7 MONETARY CONTRIBUTION FROM AN EMPLOYEE THAN IT DOES FROM THE
8 EMPLOYER.

9 (2) AN AGENCY OF GOVERNMENT THAT ISSUES AN INVITATION FOR
10 BIDS ON OR AFTER JULY 1, 2012, FOR A CONSTRUCTION CONTRACT FOR A
11 PUBLIC PROJECT FOR WHICH APPROPRIATION OR EXPENDITURE OF MONEYS
12 IS REASONABLY EXPECTED TO EXCEED FIVE HUNDRED THOUSAND DOLLARS
13 IN THE AGGREGATE SHALL PROVIDE ONE OR MORE PREFERENCES TO A
14 CONTRACTOR THAT RESPONDS TO THE INVITATION FOR BIDS AS FOLLOWS:

15 (a) THE AGENCY SHALL SUBTRACT AN AMOUNT EQUAL TO THREE
16 PERCENT OF THE BID PRICE FROM THE BID OF EACH CONTRACTOR THAT
17 CERTIFIES THAT AT LEAST NINETY PERCENT OF THE EMPLOYEES WHO WILL
18 PERFORM THE REQUIREMENTS OF THE CONTRACT ARE COLORADO
19 RESIDENTS;

20 (b) FOR A CONTRACTOR THAT IS ALLOWED A PREFERENCE
21 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE AGENCY
22 SHALL SUBTRACT AN ADDITIONAL AMOUNT EQUAL TO ONE PERCENT OF
23 THE BID PRICE FROM THE CONTRACTOR'S BID IF THE CONTRACTOR
24 CERTIFIES THAT IT OFFERS HEALTH CARE BENEFITS AND RETIREMENT
25 BENEFITS TO ALL OF THE EMPLOYEES WHO WILL PERFORM THE
26 REQUIREMENTS OF THE CONTRACT; AND

27 (c) FOR A CONTRACTOR THAT IS ALLOWED A PREFERENCE

1 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE AGENCY
2 SHALL SUBTRACT AN ADDITIONAL AMOUNT EQUAL TO ONE PERCENT OF
3 THE BID PRICE FROM THE CONTRACTOR'S BID IF THE CONTRACTOR
4 CERTIFIES THAT THE EMPLOYEES WHO WILL PERFORM THE REQUIREMENTS
5 OF THE CONTRACT HAVE ACCESS TO AN APPRENTICESHIP TRAINING
6 PROGRAM.

7 (3) A NONCOMPLIANT BIDDER IS NOT ELIGIBLE FOR THE
8 PREFERENCES ALLOWED PURSUANT TO SUBSECTION (2) OF THIS SECTION.
9 A CONTRACTOR MAY NOT USE SAID PREFERENCES TO SATISFY ANY
10 APPLICABLE MINIMUM REQUIREMENTS OF A CONTRACT.

11 (4) A CONTRACTOR THAT SEEKS TO HAVE A PREFERENCE SPECIFIED
12 IN SUBSECTION (2) OF THIS SECTION ALLOWED FOR A BID SHALL CERTIFY
13 ITS ELIGIBILITY FOR THE PREFERENCE TO THE AGENCY OF GOVERNMENT
14 THAT ISSUED THE INVITATION FOR BIDS. THE AGENCY MAY RELY ON THE
15 CERTIFICATION BUT MAY ALSO REQUIRE THE CONTRACTOR TO SUBMIT
16 SUBSTANTIATING DOCUMENTATION OR OTHER INFORMATION THAT WILL
17 ENABLE THE AGENCY TO VERIFY THAT THE CONTRACTOR IS ELIGIBLE FOR
18 THE PREFERENCE.

19 (5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL
20 SHALL PROMULGATE RULES FOR THE ADMINISTRATION OF THIS SECTION,
21 INCLUDING A PROCESS FOR A CONTRACTOR TO CERTIFY ITS ELIGIBILITY FOR
22 A PREFERENCE ALLOWED PURSUANT TO SUBSECTION (2) OF THIS SECTION
23 AND A PROCESS BY WHICH AN AGENCY OF GOVERNMENT MAY VERIFY SUCH
24 A CERTIFICATION. THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES
25 PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE
26 4 OF THIS TITLE.

27 **SECTION 3.** In Colorado Revised Statutes, 24-93-106, **amend**

1 (4) as follows:

2 **24-93-106. Requests for proposals - evaluation and award of**
3 **integrated project delivery contracts.** (4) After obtaining and
4 evaluating proposals according to the criteria and procedures set forth in
5 the request for proposals in accordance with the requirements specified
6 in subsection (1) of this section AND AFTER APPLYING ANY PREFERENCE
7 ALLOWED PURSUANT TO SECTION 24-93-109, an agency may accept the
8 proposal that, in its estimation, represents the best value to the agency.
9 Acceptance of a proposal shall be by written notice to the participating
10 entity that submitted the accepted proposal.

11 **SECTION 4.** In Colorado Revised Statutes, **add** 24-93-109 as
12 follows:

13 **24-93-109. Preferences for participating entities that employ**
14 **Colorado residents - definitions.** (1) AS USED IN THIS SECTION, UNLESS
15 THE CONTEXT OTHERWISE REQUIRES:

16 (a) "APPRENTICESHIP TRAINING PROGRAM" MEANS A PROGRAM
17 THAT IS REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR,
18 OFFICE OF APPRENTICESHIP AND TRAINING.

19 (b) "COLORADO RESIDENT" MEANS AN INDIVIDUAL WHOSE
20 DOMICILE IS IN COLORADO.

21 (c) "DOMICILE" MEANS AN INDIVIDUAL'S TRUE, FIXED, AND
22 PERMANENT HOME AND PLACE OF HABITATION. IT IS THE PLACE WHERE HE
23 OR SHE INTENDS TO REMAIN AND TO WHICH HE OR SHE EXPECTS TO RETURN
24 WHEN HE OR SHE LEAVES WITHOUT INTENDING TO ESTABLISH A NEW
25 DOMICILE ELSEWHERE.

26 (d) "HEALTH CARE BENEFITS" MEANS A HEALTH CARE PLAN
27 PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT CONFORMS TO ALL

1 REQUIREMENTS OF FEDERAL LAW AND REGULATIONS INCLUDING, BUT NOT
2 LIMITED TO, THE "PATIENT PROTECTION AND AFFORDABLE CARE ACT",
3 PUB.L. 111-148, AS AMENDED BY THE "HEALTH CARE AND EDUCATION
4 RECONCILIATION ACT OF 2010", PUB.L. 111-152, AND AS MAY BE
5 FURTHER AMENDED, AND ITS IMPLEMENTING REGULATIONS.

6 (e) "RETIREMENT BENEFITS" MEANS A PENSION PLAN OR OTHER
7 RETIREMENT PLAN PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT
8 CONFORMS TO ALL REQUIREMENTS OF FEDERAL LAW AND REGULATIONS,
9 INCLUDING, BUT NOT LIMITED TO, THE "EMPLOYEE RETIREMENT INCOME
10 SECURITY ACT OF 1974", PUB.L. 93-406, AS AMENDED, AND ITS
11 IMPLEMENTING REGULATIONS, AND THAT DOES NOT REQUIRE A GREATER
12 MONETARY CONTRIBUTION FROM THE EMPLOYEE THAN IT DOES FROM THE
13 EMPLOYER.

14 (2) AN AGENCY THAT ISSUES A REQUEST FOR PROPOSALS ON OR
15 AFTER JULY 1, 2012, FOR AN IPD CONTRACT FOR A PUBLIC PROJECT FOR
16 WHICH APPROPRIATION OR EXPENDITURE OF MONEYS IS REASONABLY
17 EXPECTED TO EXCEED FIVE HUNDRED THOUSAND DOLLARS IN THE
18 AGGREGATE SHALL PROVIDE ONE OR MORE PREFERENCES TO A
19 PARTICIPATING ENTITY THAT RESPONDS TO THE REQUEST FOR PROPOSALS
20 AS FOLLOWS:

21 (a) THE AGENCY SHALL ASSIGN A RELATIVE WEIGHT OF THREE
22 PERCENT TO A PARTICIPATING ENTITY THAT CERTIFIES THAT AT LEAST
23 NINETY PERCENT OF THE EMPLOYEES WHO WILL PERFORM THE
24 REQUIREMENTS OF THE CONTRACT ARE COLORADO RESIDENTS;

25 (b) FOR A PARTICIPATING ENTITY THAT IS ALLOWED A PREFERENCE
26 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE AGENCY
27 SHALL ASSIGN A RELATIVE WEIGHT OF AN ADDITIONAL ONE PERCENT TO

1 THE PARTICIPATING ENTITY IF THE PARTICIPATING ENTITY CERTIFIES THAT
2 IT OFFERS HEALTH CARE BENEFITS AND RETIREMENT BENEFITS TO ALL OF
3 THE EMPLOYEES WHO WILL PERFORM THE REQUIREMENTS OF THE
4 CONTRACT; AND

5 (c) FOR A PARTICIPATING ENTITY THAT IS ALLOWED A PREFERENCE
6 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE AGENCY
7 SHALL ASSIGN A RELATIVE WEIGHT OF AN ADDITIONAL ONE PERCENT TO
8 THE PARTICIPATING ENTITY IF THE PARTICIPATING ENTITY CERTIFIES THAT
9 THE EMPLOYEES WHO WILL PERFORM THE REQUIREMENTS OF THE
10 CONTRACT HAVE ACCESS TO AN APPRENTICESHIP TRAINING PROGRAM.

11 (3) A NONCOMPLIANT PARTICIPATING ENTITY IS NOT ELIGIBLE FOR
12 THE PREFERENCES ALLOWED PURSUANT TO SUBSECTION (2) OF THIS
13 SECTION. A PARTICIPATING ENTITY MAY NOT USE SAID PREFERENCES TO
14 SATISFY ANY APPLICABLE MINIMUM REQUIREMENTS OF A CONTRACT.

15 (4) A PARTICIPATING ENTITY THAT SEEKS TO HAVE A PREFERENCE
16 SPECIFIED IN SUBSECTION (2) OF THIS SECTION ALLOWED FOR A BID SHALL
17 CERTIFY ITS ELIGIBILITY FOR THE PREFERENCE TO THE AGENCY THAT
18 ISSUED THE REQUEST FOR PROPOSALS. THE AGENCY MAY RELY ON THE
19 CERTIFICATION BUT MAY ALSO REQUIRE THE PARTICIPATING ENTITY TO
20 SUBMIT SUBSTANTIATING DOCUMENTATION OR OTHER INFORMATION THAT
21 WILL ENABLE THE AGENCY TO VERIFY THAT THE PARTICIPATING ENTITY IS
22 ELIGIBLE FOR THE PREFERENCE.

23 (5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL
24 SHALL PROMULGATE RULES FOR THE ADMINISTRATION OF THIS SECTION,
25 INCLUDING A PROCESS FOR A PARTICIPATING ENTITY TO CERTIFY ITS
26 ELIGIBILITY FOR A PREFERENCE ALLOWED PURSUANT TO SUBSECTION (2)
27 OF THIS SECTION AND A PROCESS BY WHICH AN AGENCY OF GOVERNMENT

1 MAY VERIFY SUCH A CERTIFICATION. THE EXECUTIVE DIRECTOR SHALL
2 PROMULGATE RULES PURSUANT TO THE "STATE ADMINISTRATIVE
3 PROCEDURE ACT", ARTICLE 4 OF THIS TITLE.

4 **SECTION 5.** In Colorado Revised Statutes, 24-103-101, **amend**
5 (3) as follows:

6 **24-103-101. Definitions.** As used in this article, unless the context
7 otherwise requires:

8 (3) "Low responsible bidder" means any person who has bid in
9 compliance with the invitation to bid and within the requirements of the
10 plans and specifications for a public contract who is the low bidder AFTER
11 ANY PREFERENCES ALLOWED PURSUANT TO THIS ARTICLE HAVE BEEN
12 APPLIED and who has furnished bonds or their equivalent if required by
13 law.

14 **SECTION 6.** In Colorado Revised Statutes, **add** 24-103-210 and
15 24-103-211 as follows:

16 **24-103-210. Preferences for persons that employ Colorado**
17 **residents - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
18 CONTEXT OTHERWISE REQUIRES:

19 (a) "COLORADO RESIDENT" MEANS AN INDIVIDUAL WHOSE
20 DOMICILE IS IN COLORADO.

21 (b) "DOMICILE" MEANS AN INDIVIDUAL'S TRUE, FIXED, AND
22 PERMANENT HOME AND PLACE OF HABITATION. IT IS THE PLACE WHERE HE
23 OR SHE INTENDS TO REMAIN AND TO WHICH HE OR SHE EXPECTS TO RETURN
24 WHEN HE OR SHE LEAVES WITHOUT INTENDING TO ESTABLISH A NEW
25 DOMICILE ELSEWHERE.

26 (c) "HEALTH CARE BENEFITS" MEANS A HEALTH CARE PLAN
27 PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT CONFORMS TO ALL

1 REQUIREMENTS OF FEDERAL LAW AND REGULATIONS INCLUDING, BUT NOT
2 LIMITED TO, THE "PATIENT PROTECTION AND AFFORDABLE CARE ACT",
3 PUB.L. 111-148, AS AMENDED BY THE "HEALTH CARE AND EDUCATION
4 RECONCILIATION ACT OF 2010", PUB.L. 111-152, AND AS MAY BE
5 FURTHER AMENDED, AND ITS IMPLEMENTING REGULATIONS.

6 (d) "RETIREMENT BENEFITS" MEANS A PENSION PLAN OR OTHER
7 RETIREMENT PLAN PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT
8 CONFORMS TO ALL REQUIREMENTS OF FEDERAL LAW AND REGULATIONS,
9 INCLUDING, BUT NOT LIMITED TO, THE "EMPLOYEE RETIREMENT INCOME
10 SECURITY ACT OF 1974", PUB.L. 93-406, AS AMENDED, AND ITS
11 IMPLEMENTING REGULATIONS, AND THAT DOES NOT REQUIRE A GREATER
12 MONETARY CONTRIBUTION FROM THE EMPLOYEE THAN IT DOES FROM THE
13 EMPLOYER.

14 (2) A GOVERNMENTAL BODY THAT ISSUES AN INVITATION FOR BIDS
15 FOR A SERVICES CONTRACT ON OR AFTER JULY 1, 2012, FOR WHICH
16 APPROPRIATION OR EXPENDITURE OF MONEYS IS REASONABLY EXPECTED
17 TO EXCEED FIVE HUNDRED THOUSAND DOLLARS IN THE AGGREGATE SHALL
18 PROVIDE ONE OR MORE PREFERENCES TO A PERSON THAT RESPONDS TO THE
19 INVITATION FOR BIDS AS FOLLOWS:

20 (a) THE GOVERNMENTAL BODY SHALL SUBTRACT THREE PERCENT
21 OF THE BID PRICE FROM THE BID OF EACH PERSON THAT CERTIFIES THAT AT
22 LEAST NINETY PERCENT OF THE EMPLOYEES WHO WILL PERFORM THE
23 REQUIREMENTS OF THE CONTRACT ARE COLORADO RESIDENTS; AND

24 (b) FOR A PERSON THAT IS ALLOWED A PREFERENCE PURSUANT TO
25 PARAGRAPH (a) OF THIS SUBSECTION (2), THE GOVERNMENTAL BODY
26 SHALL SUBTRACT AN ADDITIONAL AMOUNT EQUAL TO TWO PERCENT OF
27 THE BID PRICE FROM THE PERSON'S BID IF THE PERSON CERTIFIES THAT IT

1 OFFERS HEALTH CARE BENEFITS AND RETIREMENT BENEFITS TO ALL OF THE
2 EMPLOYEES WHO WILL PERFORM THE REQUIREMENTS OF THE CONTRACT.

3 (3) A GOVERNMENTAL BODY THAT ISSUES A REQUEST FOR
4 PROPOSALS FOR A SERVICES CONTRACT ON OR AFTER JULY 1, 2012, FOR
5 WHICH APPROPRIATION OR EXPENDITURE OF MONEYS IS REASONABLY
6 EXPECTED TO EXCEED FIVE HUNDRED THOUSAND DOLLARS IN THE
7 AGGREGATE SHALL PROVIDE ONE OR MORE PREFERENCES TO A PERSON
8 THAT RESPONDS TO THE REQUEST FOR PROPOSALS AS FOLLOWS:

9 (a) THE GOVERNMENTAL BODY SHALL ASSIGN A RELATIVE WEIGHT
10 OF THREE PERCENT TO A PERSON THAT CERTIFIES THAT AT LEAST NINETY
11 PERCENT OF THE EMPLOYEES WHO WILL PERFORM THE REQUIREMENTS OF
12 THE CONTRACT ARE COLORADO RESIDENTS; AND

13 (b) FOR A PERSON THAT IS ALLOWED A PREFERENCE PURSUANT TO
14 PARAGRAPH (a) OF THIS SUBSECTION (3), THE GOVERNMENTAL BODY
15 SHALL ASSIGN A RELATIVE WEIGHT OF AN ADDITIONAL TWO PERCENT TO
16 THE PERSON IF THE PERSON CERTIFIES THAT IT OFFERS HEALTH CARE
17 BENEFITS AND RETIREMENT BENEFITS TO ALL OF THE EMPLOYEES WHO
18 WILL PERFORM THE REQUIREMENTS OF THE CONTRACT.

19 (4) A NONCOMPLIANT BIDDER OR OFFEROR IS NOT ELIGIBLE FOR
20 THE PREFERENCES ALLOWED PURSUANT TO SUBSECTIONS (2) AND (3) OF
21 THIS SECTION. A BIDDER OR OFFEROR MAY NOT USE SAID PREFERENCES TO
22 SATISFY ANY APPLICABLE MINIMUM REQUIREMENTS OF A CONTRACT.

23 (5) A PERSON THAT SEEKS TO HAVE A PREFERENCE SPECIFIED IN
24 SUBSECTION (2) OR (3) OF THIS SECTION ALLOWED FOR A BID OR OFFER
25 SHALL CERTIFY ITS ELIGIBILITY FOR THE PREFERENCE TO THE
26 GOVERNMENTAL BODY. THE GOVERNMENTAL BODY MAY RELY ON THE
27 CERTIFICATION BUT MAY ALSO REQUIRE THE PERSON TO SUBMIT

1 SUBSTANTIATING DOCUMENTATION OR OTHER INFORMATION THAT THE
2 GOVERNMENTAL BODY NEEDS TO VERIFY THAT THE PERSON IS ELIGIBLE
3 FOR THE PREFERENCE.

4 (6) THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES FOR THE
5 ADMINISTRATION OF THIS SECTION, INCLUDING A PROCESS FOR A PERSON
6 TO CERTIFY ITS ELIGIBILITY FOR A PREFERENCE ALLOWED PURSUANT TO
7 SUBSECTION (2) OR (3) OF THIS SECTION AND A PROCESS BY WHICH A
8 GOVERNMENTAL BODY MAY VERIFY SUCH A CERTIFICATION. THE
9 EXECUTIVE DIRECTOR SHALL PROMULGATE RULES PURSUANT TO THE
10 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF THIS TITLE.

11 **24-103-211. Veterans' preference - definitions.** (1) AS USED IN
12 THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

13 (a) "VETERAN" MEANS A PERSON WHO IS A RESIDENT OF THE STATE
14 OF COLORADO, WHO WAS SEPARATED UNDER HONORABLE CONDITIONS,
15 AND WHO, OTHER THAN FOR TRAINING PURPOSES, SERVED IN ANY BRANCH
16 OF THE ARMED FORCES OF THE UNITED STATES, INCLUDING, WITHOUT
17 LIMITATION, SERVICE IN THE ARMED FORCES RESERVE OR NATIONAL
18 GUARD.

19 (b) "VETERAN BUSINESS" MEANS A CONTINUING INDEPENDENT,
20 FOR-PROFIT BUSINESS LOCATED IN THE STATE IN WHICH ONE OR MORE
21 VETERANS HOLD AN OWNERSHIP INTEREST OF AT LEAST FIFTY-ONE
22 PERCENT.

23 (2) WHEN A CONTRACT FOR SUPPLIES OR SERVICES IS TO BE
24 AWARDED THROUGH COMPETITIVE SEALED BIDDING PURSUANT TO SECTION
25 24-103-202 OR THROUGH COMPETITIVE SEALED BEST VALUE BIDDING
26 PURSUANT TO SECTION 24-103-202.3, AN AMOUNT EQUAL TO TWO AND
27 ONE-HALF PERCENT OF THE BID PRICE SHALL BE SUBTRACTED FROM THE

1 BID OF EACH BIDDER THAT IS A VETERAN OR A VETERAN BUSINESS.

2 (3) WHEN A CONTRACT FOR SUPPLIES, SERVICES, OR PROFESSIONAL
3 SERVICES IS TO BE AWARDED THROUGH A REQUEST FOR COMPETITIVE
4 SEALED PROPOSALS PURSUANT TO SECTION 24-103-203, ONE OF THE
5 EVALUATION FACTORS STATED IN THE REQUEST SHALL BE WHETHER THE
6 OFFEROR IS A VETERAN OR A VETERAN BUSINESS. THE RELATIVE WEIGHT
7 ASSIGNED TO THE OFFEROR'S STATUS AS A VETERAN OR AS A VETERAN
8 BUSINESS SHALL BE TWO AND ONE-HALF PERCENT.

9 (4) (a) ANY PERSON THAT REQUESTS THE PREFERENCE MADE
10 AVAILABLE BY THIS SECTION FOR A VETERAN OR A VETERAN BUSINESS
11 SHALL COMPLETE AN APPLICATION ON A FORM PREPARED BY THE
12 DEPARTMENT FOR THE PURPOSE OF REQUESTING CERTIFICATION OF THE
13 PERSON'S STATUS AS A VETERAN OR A VETERAN BUSINESS. THE PERSON
14 SHALL SUBMIT THE FORM TO THE DEPARTMENT PRIOR TO THE AWARDING
15 OF ANY CONTRACT TO THE PERSON IN WHICH THE PERSON DESIRES TO BE
16 GIVEN A PREFERENCE UNDER SUBSECTION (2) OR (3) OF THIS SECTION.
17 UPON THE DEPARTMENT'S SATISFACTION THAT THE PERSON IS ENTITLED
18 TO THE PREFERENCE, THE DEPARTMENT SHALL ISSUE THE PERSON A
19 DISTINCTIVE IDENTIFICATION NUMBER THAT SHALL BE VALID UNTIL IT MAY
20 BE REVOKED IN ACCORDANCE WITH PARAGRAPH (c) OF THIS SUBSECTION
21 (4) AND WHICH, WHEN SUBMITTED AS PART OF A BID, OFFER, OR OTHER
22 PURCHASING DOCUMENTS, ENTITLES THE PERSON TO THE PREFERENCE
23 UNDER SUBSECTION (2) OR (3) OF THIS SECTION. THE DEPARTMENT MAY
24 REQUIRE THE APPLICANT TO PROVIDE SUCH ADDITIONAL DOCUMENTATION
25 AS WILL SATISFY THE DEPARTMENT THAT THE APPLICANT IS A VETERAN OR
26 A VETERAN BUSINESS.

27 (b) ANY PERSON WHO HAS OBTAINED CERTIFICATION UNDER

1 PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL NOTIFY THE DEPARTMENT
2 WITHIN THIRTY DAYS AFTER THE OCCURRENCE OF ANY EVENT THAT
3 AFFECTS THE PERSON'S ABILITY TO SATISFY THE REQUIREMENTS OF
4 PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, INCLUDING, WITHOUT
5 LIMITATION, A CHANGE IN THE OWNERSHIP OF THE BUSINESS.

6 (c) (I) IF THE DEPARTMENT DETERMINES THAT A PERSON THAT
7 RECEIVED A PREFERENCE UNDER SUBSECTION (2) OR (3) OF THIS SECTION
8 NO LONGER SATISFIES THE REQUIREMENTS OF PARAGRAPH (b) OF
9 SUBSECTION (1) OF THIS SECTION AT ANY TIME DURING THE PENDENCY OF
10 A CONTRACT FOR WHICH THE PREFERENCE WAS OBTAINED, THE EXECUTIVE
11 DIRECTOR MAY REJECT THE BID OR OFFER SUBMITTED BY THE PERSON OR
12 ASSESS A CIVIL PENALTY AGAINST THE PERSON IN AN AMOUNT THAT DOES
13 NOT EXCEED FIVE PERCENT OF THE PERSON'S BID OR OFFER ON THE
14 CONTRACT.

15 (II) THE DEPARTMENT SHALL REVOKE THE CERTIFICATION OF A
16 VETERAN BUSINESS FOR A PERIOD OF NOT LESS THAN TWELVE MONTHS
17 UPON MAKING A DETERMINATION THAT THE BUSINESS HAS VIOLATED THE
18 REQUIREMENTS OF PARAGRAPH (b) OF THIS SUBSECTION (4). DURING THE
19 TWELVE-MONTH REVOCATION PERIOD, A VETERAN BUSINESS WHOSE
20 CERTIFICATION HAS BEEN REVOKED MAY SUBMIT A BID OR OFFER ON A
21 STATE CONTRACT BUT IS NOT ELIGIBLE FOR THE PREFERENCE MADE
22 AVAILABLE UNDER SUBSECTION (2) OR (3) OF THIS SECTION.

23 (III) A VETERAN BUSINESS WHOSE CERTIFICATION HAS BEEN
24 REVOKED IN ACCORDANCE WITH THE PROVISIONS OF SUBPARAGRAPH (II)
25 OF THIS PARAGRAPH (c) MAY APPLY FOR CERTIFICATION AT THE
26 CONCLUSION OF THE TWELVE-MONTH REVOCATION PERIOD BY COMPLYING
27 WITH THE REQUIREMENTS APPLICABLE TO THE INITIAL CERTIFICATION.

1 (d) (I) IF THE DEPARTMENT DETERMINES THAT A PERSON HAS
2 MADE A MATERIAL MISREPRESENTATION OR OTHERWISE COMMITTED A
3 FRAUDULENT ACT IN OBTAINING THE PREFERENCE CREATED IN SUBSECTION
4 (2) OR (3) OF THIS SECTION, THE PERSON SHALL THEREAFTER BE
5 PERMANENTLY PROHIBITED FROM:

6 (A) OBTAINING OR RECEIVING THE PREFERENCE CREATED IN
7 SUBSECTION (2) OR (3) OF THIS SECTION; OR

8 (B) SUBMITTING A BID OR OFFER IN CONNECTION WITH A STATE
9 CONTRACT.

10 (II) ANY PERSON AGAINST WHOM THE DEPARTMENT HAS IMPOSED
11 A SANCTION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) MAY
12 APPLY TO THE EXECUTIVE DIRECTOR FOR A REVIEW OF THE DECISION
13 IMPOSING SAID SANCTION IN ACCORDANCE WITH REVIEW PROCEDURES
14 PROMULGATED BY THE DEPARTMENT.

15 (5) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S
16 DESIGNEE MAY PROMULGATE SUCH RULES AS IN THE JUDGMENT OF THE
17 EXECUTIVE DIRECTOR ARE NECESSARY TO ACHIEVE THE EFFECTIVE
18 IMPLEMENTATION OF THIS SECTION. SUCH RULES SHALL BE PROMULGATED
19 IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",
20 ARTICLE 4 OF THIS TITLE.

21 **SECTION 7. Effective date - applicability.** This act takes effect
22 July 1, 2012, and applies to invitations for bids or requests for proposals
23 issued on or after said date.

24 **SECTION 8. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.