

An Act

HOUSE BILL 20-1153

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also SENATOR(S) Garcia and Pettersen, Bridges, Danielson, Donovan, Fenberg, Fields, Foote, Ginal, Gonzales, Lee, Moreno, Rodriguez, Story, Todd, Williams A., Winter, Zenzinger, Hansen.

CONCERNING THE RELATIONSHIP BETWEEN STATE EMPLOYEES AND THE STATE AS THEIR EMPLOYER, AND, IN CONNECTION THEREWITH, CREATING THE "COLORADO PARTNERSHIP FOR QUALITY JOBS AND SERVICES ACT", AND MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that the "Colorado Partnership for Quality Jobs and Services Act" is intended to create formal labor-management partnerships between state employees and the executive branch of state

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

government.

(2) The general assembly further finds and declares that:

(a) It is crucial that state employees understand that they are valued partners in the work of the state. To that end, state employees should be able to enter into a dialogue, through a collective voice, about wages, hours, and terms and conditions of employment.

(b) The state and its employees have a shared commitment to delivering excellent services and customer satisfaction, and to serve all Colorado residents with an exemplary degree of professionalism across state government. This act is designed to ensure that state management and state employees, through chosen representatives, jointly work to promote cooperative relationships with the shared goal of providing the best possible services to the taxpayers and residents of the state.

SECTION 2. In Colorado Revised Statutes, **add** part 11 to article 50 of title 24 as follows:

PART 11
COLORADO PARTNERSHIP FOR
QUALITY JOBS AND SERVICES ACT

24-50-1101. Short title. THE SHORT TITLE OF THIS PART 11 IS THE "COLORADO PARTNERSHIP FOR QUALITY JOBS AND SERVICES ACT".

24-50-1102. Definitions. AS USED IN THIS PART 11, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CERTIFIED EMPLOYEE ORGANIZATION" MEANS AN EMPLOYEE ORGANIZATION THAT HAS BEEN CERTIFIED AS THE REPRESENTATIVE OF COVERED EMPLOYEES IN A PARTNERSHIP UNIT PURSUANT TO SECTION 24-50-1106.

(2) "CONFIDENTIAL EMPLOYEE" MEANS A PERSON WHO IS REQUIRED TO DEVELOP OR PRESENT MANAGEMENT POSITIONS WITH RESPECT TO EMPLOYER-EMPLOYEE RELATIONS, WHOSE DUTIES NORMALLY REQUIRE ACCESS TO CONFIDENTIAL INFORMATION CONTRIBUTING SIGNIFICANTLY TO THE DEVELOPMENT OF SUCH MANAGEMENT POSITIONS, OR WHO IS EMPLOYED

BY THE DEPARTMENT OF LAW AND WHOSE DUTIES ARE TO PROVIDE DIRECT SUPPORT TO ASSISTANT ATTORNEYS GENERAL IN THE APPLICATION, INTERPRETATION, OR ENFORCEMENT OF THIS PART 11.

(3) "COVERED EMPLOYEE" MEANS AN EMPLOYEE WHO IS EMPLOYED IN THE PERSONNEL SYSTEM OF THE STATE ESTABLISHED IN SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION, UNLESS THE INDIVIDUAL FALLS INTO ANY OF THE FOLLOWING CATEGORIES:

(a) CONFIDENTIAL EMPLOYEES;

(b) MANAGERIAL EMPLOYEES;

(c) EXECUTIVE EMPLOYEES;

(d) THE DIRECTOR, THE DIRECTOR OF THE DIVISION OF LABOR STANDARDS AND STATISTICS, THE GOVERNOR'S DESIGNEE, AND EMPLOYEES WORKING WITH EITHER DIRECTOR TO IMPLEMENT THIS PART 11;

(e) ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS;

(f) STATE TROOPERS;

(g) EMPLOYEES OF THE LEGISLATIVE BRANCH; OR

(h) TEMPORARY APPOINTEES AS DESCRIBED IN SECTION 24-50-114.

(4) "DECERTIFICATION ELECTION" MEANS AN ELECTION CONDUCTED BY THE DIVISION WHEN THE PARTNERSHIP UNIT IS ALREADY REPRESENTED BY A CERTIFIED EMPLOYEE ORGANIZATION, TO DETERMINE BY A MAJORITY OF THE VOTES CAST WHETHER THE COVERED EMPLOYEES WANT TO BE REPRESENTED BY A DIFFERENT EMPLOYEE ORGANIZATION OR BY NO EMPLOYEE ORGANIZATION AT ALL.

(5) "DIRECTOR" MEANS THE STATE PERSONNEL DIRECTOR ESTABLISHED IN SECTION 14 OF ARTICLE XII OF THE STATE CONSTITUTION, OR HIS OR HER DESIGNEE.

(6) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND STATISTICS WITHIN THE DEPARTMENT OF LABOR AND EMPLOYMENT.

(7) "EMPLOYEE ORGANIZATION" MEANS A NONPROFIT ORGANIZATION THAT ENGAGES WITH THE STATE AS AN EMPLOYER CONCERNING WAGES, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT AND THAT REPRESENTS OR SEEKS TO REPRESENT COVERED EMPLOYEES IN A PARTNERSHIP UNIT AS DESCRIBED IN SECTION 24-50-1105.

(8) "EXECUTIVE EMPLOYEE" MEANS AN EMPLOYEE:

(a) WHOSE PRIMARY DUTY IS MANAGEMENT OF THE ENTITY IN WHICH THE EMPLOYEE IS EMPLOYED OR OF A CUSTOMARILY RECOGNIZED DEPARTMENT OR SUBDIVISION THEREOF;

(b) WHO CUSTOMARILY AND REGULARLY DIRECTS THE WORK OF TWO OR MORE OTHER EMPLOYEES; AND

(c) WHO HAS THE AUTHORITY TO HIRE OR FIRE OTHER EMPLOYEES OR WHOSE SUGGESTIONS AND RECOMMENDATIONS AS TO THE HIRING, FIRING, ADVANCEMENT, PROMOTION, OR ANY OTHER CHANGE OF STATUS OF OTHER EMPLOYEES ARE GIVEN PARTICULAR WEIGHT.

(9) "GOVERNOR'S DESIGNEE" MEANS THE PERSON OR PERSONS THE GOVERNOR DESIGNATES, IN WRITING, AS THE INDIVIDUAL OR INDIVIDUALS WHO WILL REPRESENT THE STATE IN THE EXERCISE OF THE STATE'S RESPONSIBILITIES UNDER THIS PART 11.

(10) "MANAGERIAL EMPLOYEE" MEANS ANY EMPLOYEE HAVING SIGNIFICANT RESPONSIBILITIES FOR FORMULATING AGENCY OR DEPARTMENTAL POLICIES AND PROGRAMS OR ADMINISTERING AN AGENCY OR DEPARTMENT.

(11) "NEW EMPLOYEE ORIENTATION" MEANS THE ONBOARDING PROCESS OF A NEWLY HIRED COVERED EMPLOYEE, WHETHER IN PERSON, ONLINE, OR THROUGH OTHER MEANS OR MEDIUMS, IN WHICH COVERED EMPLOYEES ARE ADVISED OF THEIR EMPLOYMENT STATUS, RIGHTS, BENEFITS, DUTIES AND RESPONSIBILITIES, OR ANY OTHER EMPLOYMENT-RELATED MATTERS.

(12) "PARTNERSHIP AGREEMENT" MEANS AN AGREEMENT ESTABLISHED PURSUANT TO SECTION 24-50-1112 BETWEEN THE STATE AND A CERTIFIED EMPLOYEE ORGANIZATION.

(13) "PARTNERSHIP AGREEMENT GRIEVANCE" MEANS A DISPUTE CONCERNING THE INTERPRETATION, APPLICATION, OR ENFORCEMENT OF ANY PROVISION OF A PARTNERSHIP AGREEMENT.

(14) "PETITION" MEANS A DOCUMENT SIGNED BY A COVERED EMPLOYEE IN WHICH THE COVERED EMPLOYEE EXPRESSES THE DESIRE TO BE REPRESENTED BY AN EMPLOYEE ORGANIZATION. A "PETITION" INCLUDES INDIVIDUAL PETITIONS OR PETITION CARDS WITH A SINGLE COVERED EMPLOYEE'S SIGNATURE, OR MEMBERSHIP FORMS OR CARDS SHOWING THAT A COVERED EMPLOYEE HAS JOINED AN EMPLOYEE ORGANIZATION.

(15) "REPRESENTATION ELECTION" MEANS AN ELECTION CONDUCTED BY THE DIVISION WHEN THE PARTNERSHIP UNIT IS NOT REPRESENTED BY A CERTIFIED EMPLOYEE ORGANIZATION, TO DETERMINE BY A MAJORITY OF THE VOTES CAST WHETHER THE COVERED EMPLOYEES WISH TO BE REPRESENTED BY AN EMPLOYEE ORGANIZATION.

(16) "STATE" MEANS THE STATE OF COLORADO, INCLUDING ITS AGENCIES, DIVISIONS, AND DEPARTMENTS.

24-50-1103. Duties and responsibilities of the division - rules.

(1) THE DIVISION SHALL ENFORCE THIS PART 11 AND SHALL PROMULGATE RULES AND CONDUCT RULE-MAKING HEARINGS IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE 24 AS MAY BE NECESSARY FOR THE ENFORCEMENT OF THIS PART 11. THE DIVISION SHALL PROMULGATE SUCH RULES WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE EFFECTIVE DATE OF THIS PART 11.

(2) THE DIVISION HAS THE AUTHORITY TO ADJUDICATE UNFAIR LABOR PRACTICE CHARGES AND ISSUE DECISIONS PURSUANT TO ARTICLE 3 OF TITLE 8.

(3) THE DIVISION HAS THE AUTHORITY TO CONDUCT ELECTIONS PURSUANT TO SECTION 24-50-1106.

24-50-1104. Duties and responsibilities of the director - rules.

THE DIRECTOR SHALL PROMULGATE RULES IN CONNECTION WITH ANY RESPONSIBILITY DESIGNATED TO THE DIRECTOR UNDER THIS PART 11 AND CONDUCT RULE-MAKING HEARINGS IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE 24.

24-50-1105. Partnership units. (1) THERE IS A SINGLE PARTNERSHIP UNIT COMPOSED OF ALL COVERED EMPLOYEES.

(2) COVERED EMPLOYEES WHO ARE REPRESENTED BY A CERTIFIED EMPLOYEE ORGANIZATION PURSUANT TO EXECUTIVE ORDER D 028 07 ON THE EFFECTIVE DATE OF THIS PART 11 SHALL CONTINUE TO BE REPRESENTED BY THE EXISTING CERTIFIED EMPLOYEE ORGANIZATION. ALL PARTNERSHIP UNITS OF COVERED EMPLOYEES ESTABLISHED PURSUANT TO EXECUTIVE ORDER D 028 07 SHALL BE MERGED INTO THE STATEWIDE PARTNERSHIP UNIT.

(3) ANY FUTURE REPRESENTATION OR DECERTIFICATION ELECTIONS SHALL BE AT THE LEVEL OF THE SINGLE STATEWIDE UNIT.

(4) MATTERS SET FORTH IN SECTION 24-50-1112 (3)(a) SHALL BE BARGAINED AT THE STATEWIDE LEVEL.

(5) MATTERS SET FORTH IN SECTION 24-50-1112 (3)(b) SHALL BE BARGAINED AT THE AGENCY OR DEPARTMENT LEVEL BUT, UPON MUTUAL AGREEMENT, MAY BE BARGAINED AT THE STATEWIDE LEVEL.

24-50-1106. Covered employees' choice of certified employee organization - rules. (1) THE DIVISION SHALL RECOGNIZE AS VALID THE CERTIFIED STATUS OF THE EMPLOYEE ORGANIZATION PREVIOUSLY CERTIFIED PURSUANT TO EXECUTIVE ORDER D 028 07 AND SHALL CONSIDER SUCH ORGANIZATION THE CERTIFIED EMPLOYEE ORGANIZATION FOR ALL PURPOSES UNDER THIS PART 11 UNLESS DECERTIFIED.

(2) (a) IN THE EVENT THERE IS NO CERTIFIED EMPLOYEE ORGANIZATION, ANY EMPLOYEE ORGANIZATION MAY FILE A PETITION WITH THE DIVISION REQUESTING THAT IT HOLD A REPRESENTATION ELECTION TO ALLOW COVERED EMPLOYEES IN AN UNREPRESENTED PARTNERSHIP UNIT TO ELECT AN EMPLOYEE ORGANIZATION TO SERVE AS THE CERTIFIED EMPLOYEE ORGANIZATION. AN EMPLOYEE ORGANIZATION REQUESTING THAT THE DIVISION HOLD AN ELECTION SHALL SUBMIT A PETITION TO THE DIVISION, SIGNED BY AT LEAST THIRTY PERCENT OF THE COVERED EMPLOYEES IN A PARTNERSHIP UNIT.

(b) THE DIVISION SHALL CERTIFY AS THE CERTIFIED EMPLOYEE ORGANIZATION THE EMPLOYEE ORGANIZATION THAT RECEIVES THE MAJORITY OF VOTES CAST BY THE COVERED EMPLOYEES.

(c) THE DIVISION SHALL NOT HOLD A REPRESENTATION ELECTION:

(I) WITHIN THE TWENTY-FOUR-MONTH PERIOD IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THIS PART 11; OR

(II) IF AN ELECTION OR RUNOFF ELECTION HAS BEEN CONDUCTED WITHIN THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE PROPOSED ELECTION.

(3)(a) A COVERED EMPLOYEE OR AN EMPLOYEE ORGANIZATION MAY INITIATE A DECERTIFICATION ELECTION OF A CERTIFIED EMPLOYEE ORGANIZATION BY SUBMITTING A PETITION SIGNED BY AT LEAST THIRTY PERCENT OF THE COVERED EMPLOYEES REQUESTING A DECERTIFICATION ELECTION.

(b) WHEN THERE IS A PARTNERSHIP AGREEMENT IN EFFECT, A COVERED EMPLOYEE OR EMPLOYEE ORGANIZATION MUST SUBMIT A REQUEST FOR A DECERTIFICATION ELECTION TO THE DIVISION NO EARLIER THAN ONE HUNDRED TWENTY CALENDAR DAYS AND NO LATER THAN NINETY CALENDAR DAYS BEFORE THE EXPIRATION OF THE PARTNERSHIP AGREEMENT, OR AFTER THE EXPIRATION OF THE FOURTH YEAR OF A PARTNERSHIP AGREEMENT WITH A TERM OF MORE THAN FOUR YEARS. IF ONE YEAR AFTER EXPIRATION OF A PARTNERSHIP AGREEMENT, A NEW PARTNERSHIP AGREEMENT IS NOT RATIFIED, THEN A NEW DECERTIFICATION ELECTION WINDOW OPENS BUT THEN CLOSES AT RATIFICATION.

(c) WHEN AN EMPLOYEE ORGANIZATION HAS BEEN CERTIFIED BUT NO PARTNERSHIP AGREEMENT IS IN EFFECT, THE DIVISION SHALL NOT ACCEPT A REQUEST FOR A DECERTIFICATION ELECTION EARLIER THAN TWO YEARS FROM THE DATE OF THE CERTIFICATION OR THE EFFECTIVE DATE OF THIS PART 11, WHICHEVER IS LATER.

(4) A CERTIFIED EMPLOYEE ORGANIZATION OR THE STATE MAY FILE A PETITION WITH THE DIRECTOR TO RESOLVE DISPUTES ABOUT WHETHER CERTAIN EMPLOYEES ARE APPROPRIATELY CLASSIFIED AS COVERED EMPLOYEES. APPEALS OF THE DIRECTOR'S DECISION SHALL BE BROUGHT TO THE DIVISION FOR ADJUDICATION. ANY CHALLENGES TO THE EXEMPTION OF AN EMPLOYEE FROM THE STATE PERSONNEL SYSTEM UNDER ARTICLE XII, SECTION 13 OF THE STATE CONSTITUTION MAY BE FILED ONLY WITH THE STATE PERSONNEL BOARD.

24-50-1107. Rights of covered employees. (1) COVERED EMPLOYEES SHALL HAVE THE RIGHT TO SELF-ORGANIZATION; TO FORM, JOIN, OR ASSIST AN EMPLOYEE ORGANIZATION; TO ENGAGE IN THE PARTNERSHIP PROCESS AND THE FORMATION OF A PARTNERSHIP AGREEMENT COLLECTIVELY THROUGH REPRESENTATIVES OF THEIR OWN CHOOSING; TO ENGAGE IN OTHER CONCERTED ACTIVITIES FOR THE PURPOSE OF THE PARTNERSHIP PROCESS OR OTHER MUTUAL AID OR PROTECTION; AND SHALL ALSO HAVE THE RIGHT TO REFRAIN FROM ANY OR ALL SUCH ACTIVITIES, WITHOUT INTERFERENCE, RESTRAINT, OR COERCION BY THE STATE OR EMPLOYEE ORGANIZATION.

(2) COVERED EMPLOYEES HAVE THE RIGHT TO COMMUNICATE WITH ONE ANOTHER AND WITH EMPLOYEE ORGANIZATION REPRESENTATIVES CONCERNING ORGANIZATION, REPRESENTATION, WORKPLACE ISSUES, THE PARTNERSHIP PROCESS, AND THE BUSINESS AND PROGRAMS OF CERTIFIED EMPLOYEE ORGANIZATIONS BY MEANS OF E-MAIL SYSTEMS, TEXTS, OTHER ELECTRONIC COMMUNICATIONS, TELEPHONE, PAPER DOCUMENTS, AND OTHER MEANS OF COMMUNICATION SUBJECT TO REASONABLE RESTRICTIONS.

(3)(a) WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS PART 11, THE STATE SHALL COMPLETE A ONE-TIME NOTIFICATION PROCESS TO INFORM EACH COVERED EMPLOYEE OF THE OPTION TO DIRECT THE STATE NOT TO PROVIDE A CERTIFIED EMPLOYEE ORGANIZATION THE COVERED EMPLOYEE'S HOME ADDRESS, HOME AND PERSONAL CELLULAR PHONE NUMBERS, AND PERSONAL E-MAIL ADDRESS.

(b) THE STATE SHALL INFORM NEW EMPLOYEES, WITHIN THIRTY DAYS OF THEIR START DATE, OF THE OPTION TO OPT OUT PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION.

(c) AT ANY TIME, A COVERED EMPLOYEE MAY DIRECT THE STATE TO NOT PROVIDE THE EMPLOYEE'S HOME ADDRESS, HOME AND PERSONAL CELLULAR PHONE NUMBERS, AND PERSONAL E-MAIL ADDRESS. A COVERED EMPLOYEE MAY RESCIND SUCH REQUEST AT ANY TIME.

(d) ANY COMMUNICATION BY THE STATE PURSUANT TO THIS SUBSECTION (3) SHALL BE SUBJECT TO THE REQUIREMENTS OF SECTION 24-50-1111 (7)(a) AND SHALL BE NEUTRAL WITH RESPECT TO THE EMPLOYEE'S EXERCISE OF THIS OPTION.

(4) THE INTERFERENCE WITH THE RIGHTS AS STATED IN THIS SECTION BY THE STATE OR CERTIFIED EMPLOYEE ORGANIZATION CONSTITUTES AN UNFAIR LABOR PRACTICE SUBJECT TO REVIEW PURSUANT TO SECTION 24-50-1113 (3).

24-50-1108. Rights of certified employee organizations. THE CERTIFIED EMPLOYEE ORGANIZATION SHALL HAVE REASONABLE ACCESS TO COVERED EMPLOYEES AT WORK, THROUGH ELECTRONIC COMMUNICATION AND OTHER MEANS. REASONABLE ACCESS SHALL BE DETERMINED THROUGH THE PARTNERSHIP AGREEMENT PROCESS PURSUANT TO SECTION 24-50-1112. THE CERTIFIED EMPLOYEE ORGANIZATION IS THE ONLY EMPLOYEE ORGANIZATION THAT HAS THE RIGHT TO SUCH ACCESS EXCEPT TO THE EXTENT ACCESS IS PROVIDED TO THE GENERAL PUBLIC.

24-50-1109. Duties of the certified employee organization. (1) IN PERFORMING ITS DUTIES UNDER THIS PART 11, THE CERTIFIED EMPLOYEE ORGANIZATION SHALL REPRESENT THE INTERESTS OF ALL COVERED EMPLOYEES WITHOUT DISCRIMINATION OR REGARD TO MEMBERSHIP IN THE CERTIFIED EMPLOYEE ORGANIZATION, AND SHALL NEGOTIATE PARTNERSHIP AGREEMENTS THAT APPLY EQUALLY TO ALL COVERED EMPLOYEES REGARDLESS OF MEMBERSHIP STATUS IN THE CERTIFIED EMPLOYEE ORGANIZATION. THIS DOES NOT LIMIT THE STATE AND THE CERTIFIED EMPLOYEE ORGANIZATION FROM HAVING A PARTNERSHIP AGREEMENT THAT ALSO COVERS DEPARTMENT OR AGENCY SPECIFIC ISSUES.

(2) THE CERTIFIED EMPLOYEE ORGANIZATION IS NOT REQUIRED TO REPRESENT COVERED EMPLOYEES IN PERSONNEL ACTIONS PURSUANT TO SECTION 13 (8) OF ARTICLE XII OF THE STATE CONSTITUTION AND SECTIONS 24-50-123, 24-50-124, 24-50-125, AND 24-50-125.3 BEFORE THE STATE PERSONNEL BOARD OR IN ANY OTHER PROCEEDING NOT CREATED BY A PARTNERSHIP AGREEMENT NEGOTIATED PURSUANT TO THIS PART 11.

(3) (a) A CERTIFIED EMPLOYEE ORGANIZATION SHALL NOT THREATEN, FACILITATE, SUPPORT, OR CAUSE A STATE EMPLOYEE:

(I) STRIKE;

(II) WORK STOPPAGE;

(III) WORK SLOWDOWN;

(IV) GROUP SICK OUT; OR

(V) ACTION THAT DISRUPTS, ON A WIDESPREAD BASIS, THE DAY-TO-DAY FUNCTIONING OF THE STATE OR ANY OF ITS AGENCIES OR DEPARTMENTS.

(b) ANY CONTROVERSY CONCERNING AN ACTIVITY PROHIBITED BY SUBSECTION (3)(a) OF THIS SECTION MAY BE SUBMITTED TO THE DIVISION PURSUANT TO SECTION 24-50-1113. UPON FINDING THAT THE CERTIFIED EMPLOYEE ORGANIZATION HAS VIOLATED SUBSECTION (3)(a) OF THIS SECTION, THE DIVISION SHALL AWARD ANY APPROPRIATE RELIEF, INCLUDING BUT NOT LIMITED TO SANCTIONS, FINES, OR DECERTIFICATION. IF DECERTIFIED BY THE DIVISION, AN EMPLOYEE ORGANIZATION MAY BEGIN THE CERTIFICATION PROCESS IN SECTION 24-50-1106 (2) AFTER ONE YEAR FROM THE DATE OF DECERTIFICATION.

(c) NOTHING IN THIS SUBSECTION (3) PROHIBITS THE CERTIFIED EMPLOYEE ORGANIZATION FROM ENGAGING IN OTHER CONCERTED ACTIVITIES FOR THE PURPOSE OF THE PARTNERSHIP PROCESS OF OTHER MUTUAL AID OR PROTECTION, WITHOUT INTERFERENCE, RESTRAINT, OR COERCION BY THE STATE.

(4) IT SHALL CONSTITUTE AN UNFAIR LABOR PRACTICE SUBJECT TO REVIEW PURSUANT TO SECTION 24-50-1113 (3) FOR THE CERTIFIED EMPLOYEE ORGANIZATION TO ENGAGE IN THE ACTIVITIES PROHIBITED BY THIS SECTION, OR TO FAIL TO DISCHARGE ITS DUTIES UNDER THIS SECTION.

(5) COVERED EMPLOYEES WHO ARE FOUND TO HAVE ENGAGED IN PROHIBITED CONDUCT DESCRIBED IN THIS SECTION MAY BE SUBJECT TO DISCIPLINARY ACTION UP TO AND INCLUDING TERMINATION.

24-50-1110. Executive and management rights. (1) NOTHING IN THIS PART 11 IMPAIRS THE ABILITY OF THE STATE TO:

(a) EXERCISE ANY RIGHT OR RESPONSIBILITY RESERVED TO AN APPOINTING AUTHORITY, THE DIRECTOR, OR THE STATE PERSONNEL BOARD PURSUANT TO THE STATE PERSONNEL SYSTEM AS DESCRIBED IN SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION AND PART 1 OF THIS ARTICLE

50 AND RULES OR PROCEDURES PROMULGATED BY THE STATE PERSONNEL BOARD OR THE DIRECTOR PURSUANT TO SECTION 24-50-101 (3)(c);

(b) DETERMINE AND CARRY OUT ANY MISSION, INITIATIVE, TASK FORCE, AGENDA, POLICY, OR PROGRAM OF ANY DEPARTMENT, DIVISION, OFFICE, OR OTHER SUBDIVISION OF THE STATE;

(c) ESTABLISH AND OVERSEE BUDGET, FINANCES, AND ACCOUNTING;

(d) DETERMINE UTILIZATION OF TECHNOLOGY;

(e) NEGOTIATE WITH, PROCURE, AND ADMINISTER CONTRACTS THAT THE STATE HAS LAWFUL AUTHORITY TO ENTER;

(f) MAKE, AMEND AND ENFORCE, OR REVOKE REASONABLE PERSONAL CONDUCT RULES; OR

(g) TAKE SUCH ACTIONS AS MAY BE NECESSARY TO CARRY OUT ANY GOVERNMENT FUNCTION DURING AN EMERGENCY.

(2) NOTHING IN THIS PART 11 OR IN ANY PARTNERSHIP AGREEMENT MAY RESTRICT, DUPLICATE, OR USURP ANY RESPONSIBILITY OF OR POWER GRANTED TO THE GOVERNOR, THE DIRECTOR, OR STATE PERSONNEL BOARD BY THE STATE CONSTITUTION OR THE COLORADO REVISED STATUTES.

(3) NOTHING IN THIS PART 11 SHALL PREVENT THE STATE FROM CONVENING, OR ENGAGING IN DISCUSSIONS WITH ANY STATE EMPLOYEE OR GROUP OF STATE EMPLOYEES TO ACCOMPLISH ANY OF THE MATTERS LISTED IN THIS SECTION.

24-50-1111. Duties of the state. (1) THE STATE SHALL MAKE PAYROLL DEDUCTIONS FOR MEMBERSHIP DUES AND OTHER PAYMENTS THAT COVERED EMPLOYEES AUTHORIZE TO BE MADE TO THE CERTIFIED EMPLOYEE ORGANIZATION AND RELATED ENTITIES. THE CERTIFIED EMPLOYEE ORGANIZATION AND RELATED ENTITIES SHALL BE THE ONLY EMPLOYEE ORGANIZATION FOR WHICH THE STATE SHALL MAKE PAYROLL DEDUCTIONS FROM COVERED EMPLOYEES.

(2) THE STATE SHALL HONOR THE TERMS OF COVERED EMPLOYEES' AUTHORIZATIONS FOR PAYROLL DEDUCTIONS MADE IN ANY FORM THAT

SATISFIES THE REQUIREMENTS OF THE "UNIFORM ELECTRONIC TRANSACTIONS ACT", ARTICLE 71.3 OF THIS TITLE 24, INCLUDING WITHOUT LIMITATION ELECTRONIC AUTHORIZATIONS, INCLUDING VOICE AUTHORIZATIONS, THAT MEET THE REQUIREMENTS OF AN ELECTRONIC SIGNATURE AS DEFINED IN SECTION 24-71.3-102 (8). COVERED EMPLOYEES' REQUESTS TO CANCEL OR CHANGE AUTHORIZATIONS FOR PAYROLL DEDUCTIONS SHALL BE DIRECTED TO THE CERTIFIED EMPLOYEE ORGANIZATION RATHER THAN TO THE STATE. THE CERTIFIED EMPLOYEE ORGANIZATION SHALL BE RESPONSIBLE FOR PROCESSING THESE REQUESTS IN ACCORDANCE WITH THE TERMS OF THE AUTHORIZATION. AN AUTHORIZATION FOR A PAYROLL DEDUCTION MAY NOT BE IRREVOCABLE FOR A PERIOD OF MORE THAN ONE YEAR. A CERTIFIED EMPLOYEE ORGANIZATION THAT CERTIFIES THAT IT HAS AND WILL MAINTAIN INDIVIDUAL COVERED EMPLOYEE AUTHORIZATIONS IS NOT REQUIRED TO PROVIDE A COPY OF AN INDIVIDUAL AUTHORIZATION TO THE STATE UNLESS A DISPUTE ARISES ABOUT THE EXISTENCE OR TERMS OF THAT AUTHORIZATION. THE CERTIFIED EMPLOYEE ORGANIZATION SHALL INDEMNIFY THE STATE FOR ANY CLAIMS MADE BY THE COVERED EMPLOYEE FOR DEDUCTIONS MADE IN RELIANCE ON THAT INFORMATION.

(3) (a) EACH MONTH THE DEPARTMENT OF PERSONNEL SHALL, UNLESS PROHIBITED BY LAW, PROVIDE TO A CERTIFIED EMPLOYEE ORGANIZATION THE FOLLOWING INFORMATION FOR EACH COVERED EMPLOYEE:

(I) NAME, EMPLOYEE IDENTIFICATION NUMBER, DEPARTMENT, JOB CLASS, JOB TITLE, WORK TELEPHONE NUMBER, WORK E-MAIL ADDRESS, WORK LOCATION, SALARY, AND DATE OF HIRE, AS CONTAINED IN THE STATEWIDE SYSTEM OF RECORD; AND

(II) HOME ADDRESS, HOME AND PERSONAL CELLULAR PHONE NUMBERS, AND PERSONAL E-MAIL ADDRESS UNLESS DIRECTED BY THE COVERED EMPLOYEE NOT TO PROVIDE THE SAME PURSUANT TO SECTION 24-50-1107 (3).

(b) IF THE INFORMATION IS NOT CONTAINED IN THE STATEWIDE SYSTEM OF RECORD, THE DEPARTMENT OF PERSONNEL SHALL PROVIDE THE EMPLOYEE ORGANIZATION NOTICE AND WILL HAVE NO OBLIGATION TO PROVIDE THE INFORMATION UNTIL IT IS CONTAINED IN THE STATEWIDE SYSTEM OF RECORD.

(c) A CERTIFIED EMPLOYEE ORGANIZATION SHALL TREAT THE INFORMATION IT RECEIVES UNDER THIS SUBSECTION (3) AS CONFIDENTIAL AND MAY NOT RELEASE THE INFORMATION TO ANY THIRD PARTY EXCEPT FOR THE PURPOSE OF CARRYING OUT THE CERTIFIED EMPLOYEE ORGANIZATION'S DUTIES UNDER THIS TITLE 24 AND COMMUNICATING WITH COVERED EMPLOYEES.

(d) RECORDS CREATED IN COMPLYING WITH THIS SUBSECTION (3) AND CONTAINING A COVERED EMPLOYEE'S PERSONAL HOME ADDRESS, HOME AND PERSONAL CELLULAR PHONE NUMBER, AND PERSONAL E-MAIL ADDRESS SHALL BE EXEMPT FROM THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE 24.

(4) WITHIN THIRTY DAYS OF A COVERED EMPLOYEE BEING HIRED, THE STATE SHALL ALLOW THE CERTIFIED EMPLOYEE ORGANIZATION TO MEET WITH THAT COVERED EMPLOYEE DURING WORK TIME AS DETERMINED BY SUBSECTION (5)(c) OF THIS SECTION.

(5) (a) THE STATE MUST PROVIDE THE CERTIFIED EMPLOYEE ORGANIZATION ACCESS TO ITS NEW EMPLOYEE ORIENTATIONS ON PAID TIME FOR NEWLY HIRED COVERED EMPLOYEES.

(b) THE STATE MUST PROVIDE THE CERTIFIED EMPLOYEE ORGANIZATION AT LEAST TEN DAYS NOTICE IN ADVANCE OF A NEW EMPLOYEE ORIENTATION; EXCEPT THAT A SHORTER NOTICE MAY BE PROVIDED WHERE THERE IS AN URGENT NEED CRITICAL TO THE STATE'S OPERATIONS THAT WAS NOT REASONABLY FORESEEABLE.

(c) THE STATE AND THE CERTIFIED EMPLOYEE ORGANIZATION SHALL DETERMINE THE STRUCTURE, TIME, AND MANNER OF THE EMPLOYEE ORGANIZATION'S ACCESS THROUGH THE PARTNERSHIP AGREEMENT PROCESS SET FORTH IN SECTION 24-50-1112.

(6) AFTER THE STATE AND THE CERTIFIED EMPLOYEE ORGANIZATION REACH A PARTNERSHIP AGREEMENT, THE INITIAL OR SUPPLEMENTAL BUDGET REQUEST FROM THE GOVERNOR TO THE GENERAL ASSEMBLY SHALL INCLUDE SUFFICIENT APPROPRIATIONS TO IMPLEMENT THE TERMS OF THE AGREEMENT REQUIRING THE EXPENDITURE OF MONEY. THE PROVISIONS OF A PARTNERSHIP AGREEMENT THAT REQUIRE THE EXPENDITURE OF MONEY SHALL BE CONTINGENT UPON THE AVAILABILITY OF MONEY AND THE

SPECIFIC APPROPRIATION OF MONEY BY THE GENERAL ASSEMBLY. IF THE GENERAL ASSEMBLY REJECTS ANY PART OF THE REQUEST, OR WHILE ACCEPTING THE REQUEST TAKES ANY ACTION WHICH WOULD RESULT IN A MODIFICATION OF THE TERMS OF THE COST ITEM SUBMITTED TO IT, EITHER PARTY MAY REOPEN NEGOTIATIONS CONCERNING ECONOMIC ISSUES.

(7) THE STATE AND ITS DESIGNEES AND AGENTS, INCLUDING THE GOVERNOR'S DESIGNEE, THE EXECUTIVE DIRECTORS OF STATE AGENCIES, AND OTHER STATE OFFICIALS CHARGED WITH ADMINISTERING PARTNERSHIP AGREEMENTS, SHALL ENGAGE IN GOOD FAITH IN ALL ASPECTS OF THE PARTNERSHIP PROCESS. THE STATE AND ITS DESIGNEES AND AGENTS SHALL NOT:

(a) TAKE ANY ACTION OR MAKE ANY STATEMENT IN FAVOR OF OR IN OPPOSITION TO A COVERED EMPLOYEE'S DECISION TO PARTICIPATE IN, SELECT, OR JOIN AN EMPLOYEE ORGANIZATION, OR TO REFRAIN FROM THESE ACTIVITIES; EXCEPT THAT THE STATE MAY RESPOND TO QUESTIONS FROM A COVERED EMPLOYEE PERTAINING TO THE COVERED EMPLOYEE'S EMPLOYMENT OR ANY MATTER DESCRIBED IN THIS PART 11, PROVIDED THAT SUCH RESPONSE IS NEUTRAL TOWARD PARTICIPATION, SELECTION, AND MEMBERSHIP IN AN EMPLOYEE ORGANIZATION;

(b) EXPEND PUBLIC MONEY OR RESOURCES FOR A NEGATIVE CAMPAIGN AGAINST AN EMPLOYEE ORGANIZATION OR PROVIDE ASSISTANCE TO ANY INDIVIDUAL OR GROUP TO ENGAGE IN SUCH A CAMPAIGN. IT IS NOT A VIOLATION OF THIS SECTION FOR THE STATE TO RESPOND TO ANY REQUESTS PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE 24, OR TO EXERCISE ANY OTHER OBLIGATION REQUIRED BY LAW.

(c) INTERFERE WITH, RESTRAIN, OR COERCE COVERED EMPLOYEES FROM EXERCISING THE RIGHTS GRANTED BY THIS PART 11; EXCEPT THAT THIS SUBSECTION (7)(c) DOES NOT IMPAIR THE RIGHT OF A CERTIFIED EMPLOYEE ORGANIZATION TO PRESCRIBE ITS OWN RULES WITH RESPECT TO RECRUITING AND MAINTAINING ITS MEMBERSHIP SUBJECT TO SECTION 24-50-1109 (3)(a);

(d) DISCHARGE OR DISCRIMINATE AGAINST ANY COVERED EMPLOYEE BECAUSE THE EMPLOYEE FILED AN AFFIDAVIT, OR GAVE ANY INFORMATION OR TESTIMONY UNDER THIS PART 11, OR BECAUSE THE EMPLOYEE FORMED, JOINED, OR CHOSE TO BE REPRESENTED BY ANY EMPLOYEE ORGANIZATION,

OR REFRAINED FROM ANY SUCH ACTIVITIES;

(e) REFUSE TO PARTICIPATE IN THE PARTNERSHIP PROCESS SET FORTH IN SECTION 24-50-1112, ONCE A CERTIFIED EMPLOYEE ORGANIZATION IS CERTIFIED; OR

(f) REFUSE TO PARTICIPATE IN THE PARTNERSHIP DISPUTE RESOLUTION PROCESS.

(8) IT SHALL CONSTITUTE AN UNFAIR LABOR PRACTICE SUBJECT TO REVIEW PURSUANT TO SECTION 24-50-1113 (3) FOR THE STATE TO ENGAGE IN THE ACTIVITIES PROHIBITED UNDER THIS SECTION, OR TO FAIL TO DISCHARGE ITS DUTIES UNDER THIS SECTION. THE GOVERNOR SHALL NOT BE SUBJECT TO AN UNFAIR LABOR PRACTICE CHARGE.

24-50-1112. Partnership agreements. (1) WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS PART 11, IF AN EMPLOYEE ORGANIZATION IS ALREADY CERTIFIED, OR WITHIN SIXTY DAYS AFTER AN EMPLOYEE ORGANIZATION HAS BEEN CERTIFIED PURSUANT TO A REPRESENTATION ELECTION, OR NO LATER THAN APRIL 15 OF THE YEAR PRECEDING THE EXPIRATION OF A PARTNERSHIP AGREEMENT, THE STATE SHALL BEGIN MEETINGS TO DISCUSS AND COOPERATIVELY DRAFT A MUTUALLY AGREED UPON WRITTEN PARTNERSHIP AGREEMENT TO BE BINDING ON THE STATE, THE CERTIFIED EMPLOYEE ORGANIZATION, AND COVERED EMPLOYEES WHEN RATIFIED BY THE CERTIFIED EMPLOYEE ORGANIZATION AND APPROVED BY THE GOVERNOR. SUBJECT TO SECTION 24-50-1110, BOTH THE CERTIFIED EMPLOYEE ORGANIZATION AND THE STATE SHALL BARGAIN IN GOOD FAITH TO REACH AGREEMENT ON WAGES, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT FOR ALL COVERED EMPLOYEES. NEITHER THE CERTIFIED EMPLOYEE ORGANIZATION NOR THE STATE SHALL BE REQUIRED TO AGREE TO A PROPOSAL OR TO MAKE A CONCESSION. DISPUTES SHALL BE RESOLVED PURSUANT TO SECTION 24-50-1113.

(2) THE PARTIES SHALL BARGAIN OVER WAGES, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT. ALL OTHER SUBJECTS ARE PERMISSIVE AND MAY BE ADDRESSED DURING BARGAINING UPON MUTUAL AGREEMENT OF THE PARTIES. A PARTNERSHIP AGREEMENT MAY NOT INCLUDE A REQUIREMENT OR AGREEMENT THAT THE EXECUTIVE BRANCH OR ANY DEPARTMENT NEGOTIATE WITH RESPECT TO THE STATUTORY FUNCTION OF

ANY DEPARTMENT OR AGENCY OR MATTERS RELATED TO THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION.

(3) (a) ECONOMIC ISSUES, MATTERS IMPACTING ALL COVERED EMPLOYEES, MATTERS THAT NECESSITATE STATEWIDE UNIFORMITY PURSUANT TO THE STATE CONSTITUTION, THE COLORADO REVISED STATUTES, OR ADMINISTRATIVE RULE, SHALL BE NEGOTIATED BETWEEN THE CERTIFIED EMPLOYEE ORGANIZATION AND THE GOVERNOR'S DESIGNEE. THE GOVERNOR'S DESIGNEE MAY CONSULT WITH THE EXECUTIVE DIRECTOR CHARGED WITH ADMINISTERING THE ISSUES SUBJECT TO STATEWIDE BARGAINING.

(b) MATTERS IMPACTING COVERED EMPLOYEES IN A SINGLE DEPARTMENT OR AGENCY OR SUBDIVISION THEREOF SHALL BE NEGOTIATED BY THE CERTIFIED EMPLOYEE ORGANIZATION AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR AGENCY OR THE EXECUTIVE DIRECTOR'S DESIGNEE. ANY AGREEMENTS MADE AT THE DEPARTMENT OR AGENCY LEVEL SHALL BE INCORPORATED INTO THE PARTNERSHIP AGREEMENT. THE CERTIFIED EMPLOYEE ORGANIZATION AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR AGENCY MAY CHOOSE TO BRING DEPARTMENT OR AGENCY MATTERS TO STATEWIDE BARGAINING UPON MUTUAL AGREEMENT.

(4) A PARTNERSHIP AGREEMENT SHALL PROVIDE FOR A PARTNERSHIP AGREEMENT GRIEVANCE PROCEDURE CULMINATING IN FINAL AND BINDING ARBITRATION TO RESOLVE DISPUTES OVER THE INTERPRETATION, APPLICATION, AND ENFORCEMENT OF ANY PROVISION OF THE PARTNERSHIP AGREEMENT.

(5) A PARTNERSHIP AGREEMENT THAT IS EXECUTED BY THE STATE AND THE CERTIFIED EMPLOYEE ORGANIZATION IS ENFORCEABLE AND BINDING ON THE STATE, THE CERTIFIED EMPLOYEE ORGANIZATION, AND COVERED EMPLOYEES COVERED BY THE AGREEMENT. IN THE EVENT OF CONFLICT BETWEEN THE PROVISIONS OF A PARTNERSHIP AGREEMENT AND STATE LAWS OR RULES IN EFFECT AS OF THE INITIAL PARTNERSHIP AGREEMENT, STATE LAWS AND RULES CONTROL.

(6) MEETINGS AND DISCUSSIONS HELD PURSUANT TO THIS SECTION AND THE PARTNERSHIP AGREEMENT GRIEVANCE AND ARBITRATION PROCESS SPECIFIED IN SUBSECTION (4) OF THIS SECTION AND THE DISPUTE RESOLUTION PROCESS SPECIFIED IN SECTION 24-50-1113 ARE NOT MEETINGS AS DEFINED

IN SECTION 24-6-402.

(7) EXCEPT FOR A PARTNERSHIP AGREEMENT SUBMITTED FOR RATIFICATION, ALL DOCUMENTS, PROPOSALS, AND DRAFT AND TENTATIVE AGREEMENTS DRAFTED OR EXCHANGED PURSUANT TO THE PROCESS ESTABLISHED IN THIS SECTION ARE PRIVILEGED AND NOT SUBJECT TO DISCLOSURE PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE 24. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A CERTIFIED EMPLOYEE ORGANIZATION OR THE STATE FROM PRESENTING SUCH MATERIALS IN ANY PARTNERSHIP AGREEMENT GRIEVANCE OR ARBITRATION PROCESS PURSUANT TO SUBSECTION (4) OF THIS SECTION OR THE DISPUTE RESOLUTION PROCESS SPECIFIED IN SECTION 24-50-1113.

24-50-1113. Dispute resolution. (1) IF DISPUTES ARISE DURING THE FORMATION OF A PARTNERSHIP AGREEMENT, THE CERTIFIED EMPLOYEE ORGANIZATION AND THE STATE, TO ENCOURAGE A TRUE COOPERATIVE PARTNERSHIP, SHALL ENGAGE IN THE DISPUTE RESOLUTION PROCESS ESTABLISHED IN THIS SECTION OR AN ALTERNATIVE PROCEDURE ESTABLISHED BY MUTUAL AGREEMENT. ALL DEADLINES MAY BE EXTENDED PURSUANT TO MUTUAL AGREEMENT OF THE PARTIES.

(2) (a) IF THE CERTIFIED EMPLOYEE ORGANIZATION AND THE STATE CANNOT REACH AGREEMENT WITHIN NINETY CALENDAR DAYS AFTER COMMENCING MEETINGS TO DRAFT A PARTNERSHIP AGREEMENT, EITHER PARTY MAY REQUEST THAT THE MATTERS ON WHICH THE PARTIES CANNOT REACH AGREEMENT BE SENT TO MEDIATION WITH A MUTUALLY AGREED UPON MEDIATOR. THE MEDIATOR SHALL BE SELECTED FROM A LIST OF FIVE CANDIDATES PROVIDED BY A RESPECTED, NATIONAL, NOT-FOR-PROFIT ENTITY THAT PROVIDES ALTERNATIVE DISPUTE RESOLUTION SERVICES.

(b) IF THE PARTIES DO NOT REACH AN AGREEMENT ON OUTSTANDING ISSUES WITHIN THIRTY CALENDAR DAYS AFTER COMMENCING MEDIATION, THE MEDIATOR SHALL ISSUE A RECOMMENDATION ON ALL OF THE OUTSTANDING ISSUES. THE MEDIATOR SHALL ISSUE THE RECOMMENDATION WITHIN FIFTEEN CALENDAR DAYS OF THE END OF THE THIRTY-DAY MEDIATION PERIOD. THE MEDIATOR'S RECOMMENDATION SHALL BE SHARED WITH BOTH PARTIES AND EITHER PARTY MAY SHARE IT WITH OTHERS OR MAKE IT PUBLIC.

(c) If, AFTER MEDIATION, THE PARTIES DO NOT REACH AGREEMENT ON ALL ISSUES, THEY MAY ENTER INTO A PARTNERSHIP AGREEMENT ON THE ISSUES ON WHICH THEY HAVE REACHED AGREEMENT.

(d) THE COST OF THE MEDIATOR PURSUANT TO THIS SECTION SHALL BE SHARED EQUALLY BY THE CERTIFIED EMPLOYEE ORGANIZATION AND THE STATE.

(e) WITH THE EXCEPTION OF THE RECOMMENDATION OF THE MEDIATOR, ALL DOCUMENTS, PROPOSALS, AND DRAFT AND TENTATIVE AGREEMENTS, DRAFTED OR EXCHANGED PURSUANT TO THE PROCESS ESTABLISHED IN THIS SECTION, ARE PRIVILEGED AND NOT SUBJECT TO DISCLOSURE PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE 24.

(3) ANY CONTROVERSY CONCERNING UNFAIR LABOR PRACTICES OF THE STATE OR CERTIFIED EMPLOYEE ORGANIZATION MAY BE SUBMITTED TO THE DIVISION BY THE STATE, CERTIFIED EMPLOYEE ORGANIZATION, OR AFFECTED EMPLOYEE IN A MANNER AND WITH THE EFFECT PROVIDED IN ARTICLE 3 OF TITLE 8 AND RULES PROMULGATED THEREUNDER; EXCEPT THAT NOTHING IN THIS PART 11 PREVENTS THE PURSUIT OF EQUITABLE OR LEGAL RELIEF IN COURTS OF COMPETENT JURISDICTION. A CLAIMANT IS NOT REQUIRED TO EXHAUST ADMINISTRATIVE REMEDIES.

24-50-1114. Maintenance of the partnership relationship. AN EXISTING PARTNERSHIP AGREEMENT SHALL CONTINUE IN FULL FORCE AND EFFECT UNTIL IT IS REPLACED BY A SUBSEQUENT PARTNERSHIP AGREEMENT.

24-50-1115. Judicial review. (1) THE CERTIFIED EMPLOYEE ORGANIZATION OR THE STATE MAY SEEK JUDICIAL REVIEW OF THE DIVISION'S DECISIONS OR ORDERS ON CLASSIFICATION OF COVERED EMPLOYEES UNDER SECTION 24-50-1106 (4); REPRESENTATION OR DECERTIFICATION PETITIONS UNDER SECTION 24-50-1106; DIVISION DECISIONS ON UNFAIR LABOR PRACTICE CHARGES UNDER SECTION 24-50-1113 (3); OR RULES OR REGULATIONS ISSUED BY THE DIVISION UNDER THIS PART 11, IN THE MANNER AND WITH THE EFFECT PROVIDED IN THE "STATE ADMINISTRATIVE PROCEDURES ACT", ARTICLE 4 OF THIS TITLE 24, AND RULES PROMULGATED THEREUNDER.

(2)(a) THE CERTIFIED EMPLOYEE ORGANIZATION OR THE STATE MAY

SEEK JUDICIAL REVIEW OF AN ARBITRATOR'S DECISION ON A PARTNERSHIP AGREEMENT GRIEVANCE PURSUANT TO SECTION 24-50-1112 (4) IN A DISTRICT COURT IN THE CITY AND COUNTY OF DENVER.

(b) THE ARBITRATOR'S DECISION SHALL BE ENFORCED AND THE PARTIES SHALL COMPLY WITH THE DECISION AND AWARD UNLESS THE DISTRICT COURT CONCLUDES THAT:

(I) THE DECISION AND AWARD WAS PROCURED BY CORRUPTION, FRAUD, OR UNDUE MEANS;

(II) THE ARBITRATOR EXCEEDED HIS OR HER AUTHORITY;

(III) THE DECISION AND AWARD DID NOT DRAW ITS ESSENCE FROM THE PARTNERSHIP AGREEMENT; OR

(IV) THE DECISION AND AWARD VIOLATED PUBLIC POLICY, THAT THE ARBITRATOR ENGAGED IN MANIFEST DISREGARD OF THE LAW, OR THAT THE ARBITRATION DENIED THE PARTIES A FUNDAMENTALLY FAIR HEARING.

24-50-1116. Construction of other laws. IF ANY PROVISION OF THIS PART 11 IS INCONSISTENT WITH THE PROVISIONS OF ANY OTHER PREVIOUSLY ENACTED LAW OR RULE, THE PROVISIONS OF THIS PART 11 CONTROL; EXCEPT THAT THE PROVISIONS OF THIS PART 11 DO NOT CONTROL OVER ARTICLE 51 OF THIS TITLE 24. NOTHING IN THIS PART 11 DEPRIVES THE DIRECTOR OR STATE PERSONNEL BOARD OF ANY CONSTITUTIONALLY REQUIRED AUTHORITY.

24-50-1117. Implementation and administration - costs. COSTS ASSOCIATED WITH THE IMPLEMENTATION OR ADMINISTRATION OF THIS PART 11 DURING THE 2020-21 AND 2020-22 STATE FISCAL YEARS SHALL BE PAID FROM THE COVID HEROES COLLABORATION FUND, CREATED IN SECTION 24-50-104 (1)(k). FOR THE 2022-23 STATE FISCAL YEAR AND EACH STATE FISCAL YEAR THEREAFTER, SUCH COSTS SHALL BE PAID FROM THE GENERAL FUND, SUBJECT TO AVAILABLE APPROPRIATION.

SECTION 3. In Colorado Revised Statutes, 24-50-104, **amend** (1)(j)(II)(A), (1)(j)(III)(A), (1)(j)(IV), and (5)(c); **repeal** (1)(j)(VI); and **add** (1)(j)(III)(D) and (1)(k) as follows:

24-50-104. Job evaluation and compensation - state employee reserve fund - created - definitions - repeal. (1) **Total compensation philosophy.** (j) (II) (A) The state employee reserve fund is hereby created in the state treasury, ~~Within the fund there is an account dedicated to each department. A department's account~~ WHICH consists of ~~moneys~~ MONEY transferred pursuant to ~~subparagraph (IV) of this paragraph (j) and any transfers directed by the governor pursuant to subparagraph (VI) of this paragraph (j).~~ ~~Moneys within a department's account are continuously appropriated to such department~~ SUBSECTION (1)(j)(IV) OF THIS SECTION. MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED for the purpose of providing merit pay to ~~certified~~ employees as provided in this subsection (1). ~~A department may not expend any moneys from its account without the approval of the director of the office of state planning and budgeting. NO MONEY FROM THE FUND SHALL BE EXPENDED WITHOUT THE APPROVAL OF THE DIRECTOR OF THE OFFICE OF STATE PLANNING AND BUDGETING.~~

(III) (A) Any money in the fund not expended as provided in subsection (1)(j)(II) of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of money in ~~a department's account~~ THE FUND shall be credited to the ~~same account~~ FUND. Except as set forth in subsection (1)(j)(III)(B) of this section, any unexpended and unencumbered money remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(D) ON THE EFFECTIVE DATE OF THIS SUBSECTION (1)(j)(III)(D) THE STATE TREASURER SHALL TRANSFER SEVEN MILLION DOLLARS FROM THE FUND TO THE COVID HEROES COLLABORATION FUND CREATED IN SUBSECTION (1)(k) OF THIS SECTION.

(IV) On the date the state controller publishes the comprehensive annual financial report of the state, the state controller and state treasurer shall transfer an amount of ~~moneys~~ MONEY equal to a reversion amount from the general fund or a qualifying cash fund to the state employee reserve fund. ~~to be allocated to the eligible department's account.~~

(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.~~

(k) THE COVID HEROES COLLABORATION FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY TRANSFERRED TO THE FUND PURSUANT TO SECTION 24-50-104 (1)(j)(III)(D) AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND. SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, APPLICABLE STATE AGENCIES MAY EXPEND MONEY FROM THE FUND FOR THE PURPOSES OF THE "COLORADO PARTNERSHIP FOR QUALITY JOBS AND SERVICES ACT", CREATED IN PART 11 OF THIS ARTICLE 50.

(5) **Pay plans.** (c) ~~The senior executive service is limited to one hundred twenty-five positions.~~ The state personnel director shall establish criteria for inclusion in the senior executive service and shall review each nominated position before it is placed in the pay plan for the senior executive service. The head of the department or agency or state auditor for employees of the state auditor's office shall make appointments to the senior executive service based on competitive selection and is responsible for the management of the employees in such plan. Any person in the senior executive service has no right to any position within the state.

SECTION 4. In Colorado Revised Statutes, 24-50-125, **add** (1.5) as follows:

24-50-125. Disciplinary proceedings - appeals - hearings - procedure - definitions. (1.5) (a) IN CONSIDERING ANY DISCIPLINARY ACTION PURSUANT TO THIS SECTION AGAINST AN EMPLOYEE WHO IS CERTIFIED TO ANY CLASS OR POSITION IN THE STATE PERSONNEL SYSTEM FOR ENGAGING IN VIOLENT BEHAVIOR OR A THREAT OF VIOLENT BEHAVIOR AGAINST ANOTHER PERSON WHILE ON DUTY, THE APPOINTING AUTHORITY SHALL GIVE PREDOMINANT WEIGHT TO THE SAFETY OF THE OTHER PERSON OVER THE INTERESTS OF THE EMPLOYEE. FOR PURPOSES OF THIS SUBSECTION (1.5), "VIOLENT BEHAVIOR" MEANS ANY ACT OR THREAT OF PHYSICAL, VERBAL, OR PSYCHOLOGICAL AGGRESSION OR THE DESTRUCTION OR ABUSE

OF PROPERTY BY ANY INDIVIDUAL. A THREAT MAY INCLUDE A VEILED, CONDITIONAL, OR DIRECT THREAT IN VERBAL, WRITTEN, ELECTRONIC, OR GESTURAL FORM, RESULTING IN INTIMIDATION, HARASSMENT, HARM, OR ENDANGERMENT TO THE SAFETY OF ANOTHER PERSON OR PROPERTY.

(b) IF THE APPOINTING AUTHORITY FINDS THAT THE EMPLOYEE HAS ENGAGED IN VIOLENT BEHAVIOR OR A THREAT OF VIOLENT BEHAVIOR AGAINST ANOTHER PERSON, THE APPOINTING AUTHORITY MAY TAKE SUCH DISCIPLINARY ACTION AS THE APPOINTING AUTHORITY DEEMS APPROPRIATE, UP TO AND INCLUDING TERMINATION, TAKING INTO CONSIDERATION THE HARM OR RISK OF HARM TO THE PERSON CREATED BY THE EMPLOYEE'S ACTIONS. NOTHING IN THIS SUBSECTION (1.5)(b) AFFECTS THE CONSTITUTIONAL OR STATUTORY DUE PROCESS RIGHTS AFFORDED TO AN EMPLOYEE WHO IS CERTIFIED TO ANY CLASS OR POSITION IN THE STATE PERSONNEL SYSTEM.

(c) THIS SUBSECTION (1.5) APPLIES REGARDLESS OF WHETHER THE EMPLOYEE HAS BEEN CHARGED WITH OR CONVICTED OF A CRIME.

SECTION 5. In Colorado Revised Statutes, 24-72-202, **add** (6)(b)(XIV) as follows:

24-72-202. Definitions. As used in this part 2, unless the context otherwise requires:

(6) (b) "Public records" does not include:

(XIV) PURSUANT TO THE "COLORADO PARTNERSHIP FOR QUALITY JOBS AND SERVICES ACT", PART 11 OF ARTICLE 50 OF THIS TITLE 24, RECORDS CREATED IN COMPLIANCE WITH THE REQUIREMENTS OF A STATE EMPLOYEE PARTNERSHIP AGREEMENT AS SPECIFIED IN SECTION 24-50-1111 (3)(d) AND DOCUMENTS CREATED IN CONNECTION WITH THE DISPUTE RESOLUTION PROCESS FOR AN EMPLOYEE PARTNERSHIP AGREEMENT AS SPECIFIED IN SECTION 24-50-1113 (2)(e).

SECTION 6. In Colorado Revised Statutes, 24-101-401, **repeal** (2)(b) as follows:

24-101-401. Public access to procurement information - repeal.
(2) (b) (i) ~~Each agreement entered into by a governmental body with a~~

~~certified employee organization for state employees under executive order D-028-07, or any similar successor executive order with respect to the existence of a certified employee organization for state employees, shall specify that the agreement is open to public inspection as provided in sections 24-72-203 and 24-72-204.~~

~~(II) If executive order D-028-07, or any similar successor executive order with respect to the existence of a certified employee organization for state employees, is rescinded or altered by the governor in any way to create a situation where a certified employee organization for state employees no longer represents state employees, the governor shall provide written notice of this fact to the revisor of statutes.~~

~~(III) This paragraph (b) is repealed, effective upon the receipt by the revisor of statutes of the written notice under subparagraph (II) of this paragraph (b).~~

SECTION 7. Appropriation. (1) For the 2020-21 state fiscal year, \$879,159 is appropriated to the department of personnel. This appropriation is from the COVID heroes collaboration fund created in section 24-50-104 (1)(k). To implement this act, the department may use this appropriation as follows:

(a) \$457,649 for use by the division of human resources for personal services related to labor relations services, which amount is based on an assumption that the division will require an additional 4.5 FTE;

(b) \$37,750 for use by the division of human resources for operating expenses related to labor relations services; and

(c) \$383,760 for the purchase of legal services.

(2) For the 2020-21 state fiscal year, \$412,584 is appropriated to the department of labor and employment. This appropriation is from the COVID heroes collaboration fund created in section 24-50-104 (1)(k). To implement this act, the department may use this appropriation as follows:

(a) \$389,558 for use by the division of labor standards and statistics for program costs related to labor standards, which amount is based on an assumption that the program will require an additional 4.4 FTE;

(b) \$23,026 for the purchase of legal services.

(3) For the 2020-21 state fiscal year, \$197,445 is appropriated to the department of law. This appropriation is from the COVID heroes collaboration fund created in section 24-50-104 (1)(k) and is based on an assumption that the department will require an additional 1.1 FTE. To implement this act, the department may use this appropriation for the provision of legal services.

(4) For the 2020-21 state fiscal year, \$112,931 is appropriated to the office of the governor. This appropriation is from the COVID heroes collaboration fund created in section 24-50-104 (1)(k). To implement this act, the office may use this appropriation as follows:

(a) \$101,994 for use by the governor's office for administration of the governor's office and residence, which amount is based on an assumption that the office will require an additional 0.9 FTE;

(b) \$10,937 for the purchase of legal services.

(5) For the 2020-21 state fiscal year, \$118,646 is appropriated to the department of corrections. This appropriation is from the COVID heroes collaboration fund created in section 24-50-104 (1)(k). To implement this act, the department may use this appropriation for the purchase of legal services.

(6) For the 2020-21 state fiscal year, \$96,132 is appropriated to the department of human services. This appropriation is from the COVID heroes collaboration fund created in section 24-50-104 (1)(k). To implement this act, the department may use this appropriation for the purchase of legal services.

(7) For the 2020-21 state fiscal year, \$52,980 is appropriated to the department of transportation. This appropriation is from the state highway fund created in section 43-1-219, C.R.S. To implement this act, the department may use this appropriation for the purchase of legal services.

(8) For the 2020-21 state fiscal year, \$26,479 is appropriated to the department of revenue. This appropriation is from the COVID heroes collaboration fund created in section 24-50-104 (1)(k). To implement this

act, the department may use this appropriation for the purchase of legal services.

(9) For the 2020-21 state fiscal year, \$25,904 is appropriated to the department of natural resources. This appropriation is from the COVID heroes collaboration fund created in section 24-50-104 (1)(k). To implement this act, the department may use this appropriation for the purchase of legal services.

(10) For the 2020-21 state fiscal year, \$18,996 is appropriated to the department of public safety. This appropriation is from the COVID heroes collaboration fund created in section 24-50-104 (1)(k). To implement this act, the department may use this appropriation for the purchase of legal services.

(11) For the 2020-21 state fiscal year, \$383,760 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of personnel under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 2.0 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of personnel.

(12) For the 2020-21 state fiscal year, \$23,026 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of labor and employment under subsection (2)(b) of this section and is based on an assumption that the department of law will require an additional 0.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of labor and employment.

(13) For the 2020-21 state fiscal year, \$10,937 is appropriated to the department of law. This appropriation is from reappropriated funds received from the office of the governor under subsection (3)(b) of this section and is based on an assumption that the department of law will require an additional 0.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the office of the governor.

(14) For the 2020-21 state fiscal year, \$118,646 is appropriated to the department of law. This appropriation is from reappropriated funds

received from the department of corrections under subsection (4) of this section and is based on an assumption that the department of law will require an additional 0.6 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of corrections.

(15) For the 2020-21 state fiscal year, \$96,132 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of human services under subsection (5) of this section and is based on an assumption that the department of law will require an additional 0.5 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of human services.

(16) For the 2020-21 state fiscal year, \$52,980 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of transportation under subsection (6) of this section and is based on an assumption that the department of law will require an additional 0.3 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of transportation.

(17) For the 2020-21 state fiscal year, \$26,479 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of revenue under subsection (7) of this section and is based on an assumption that the department of law will require an additional 0.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of revenue.

(18) For the 2020-21 state fiscal year, \$25,904 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of natural resources under subsection (8) of this section and is based on an assumption that the department of law will require an additional 0.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of natural resources.

(19) For the 2020-21 state fiscal year, \$18,996 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of public safety under subsection (9) of this section

and is based on an assumption that the department of law will require an additional 0.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of public safety.

(20) For the 2020-21 state fiscal year, \$197,445 is appropriated to the department of law. This appropriation is from reappropriated funds received from various departments and is based on an assumption that the department of law will require an additional 1.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services to various departments.

SECTION 8. Safety clause. The general assembly hereby finds,

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



KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Leroy M. Garcia
PRESIDENT OF
THE SENATE

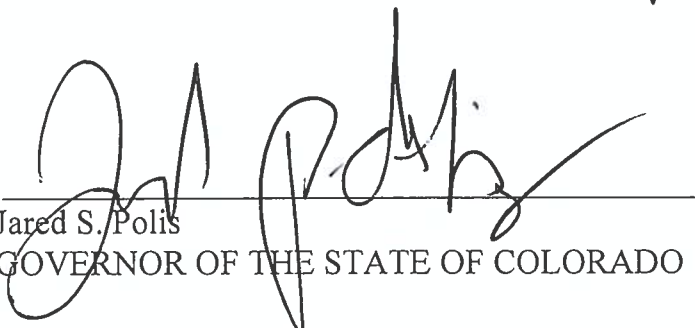


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED 6/16/20 1:44 PM
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO