

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 19-0378.02 Nicole Myers x4326

HOUSE BILL 19-1273

HOUSE SPONSORSHIP

Esgar, Sirota

SENATE SPONSORSHIP

Garcia and Pettersen,

House Committees

State, Veterans, & Military Affairs
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF FORMAL LABOR-MANAGEMENT**
102 **PARTNERSHIP AGREEMENTS BETWEEN STATE EMPLOYEES IN THE**
103 **STATE PERSONNEL SYSTEM AND THE EXECUTIVE BRANCH OF**
104 **STATE GOVERNMENT, AND, IN CONNECTION THEREWITH,**
105 **CREATING THE "COLORADO PARTNERSHIP FOR QUALITY JOBS**
106 **AND SERVICES 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://leg.colorado.gov>.)

The bill creates the "Colorado Partnership for Quality Jobs and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Services Act" to facilitate the creation of formal labor-management partnership agreements between state employees in the state personnel system and the executive branch of state government. The bill specifies that certain employees in the state personnel system, due to the nature and responsibilities of their jobs, are not able to participate in partnership agreements. State employees who are allowed to participate in partnership agreements are designated covered employees.

Partnership units: The bill specifies that a partnership unit is a group of covered employees who have similar job classifications and who are in a unit for representation by a nonprofit organization that represents covered employees (employee organization). The bill creates partnership units composed of covered employees in specified occupational groups.

If a partnership unit was created pursuant to the existing Colorado executive order that authorizes partnership agreements (executive order) and the partnership unit has chosen an employee organization to exclusively represent it (certified employee organization), the partnership unit will continue to be represented by its existing certified employee organization.

Certified employee organizations: An employee organization that wants to represent an unrepresented partnership unit may file a petition with the department of labor and employment (department) requesting that it hold an election to allow covered employees in the partnership unit to elect an employee organization to represent it. The department is required to provide notice of the petition and other employee organizations may be included on the ballot in the election.

The department is required to conduct an election to determine which employee organization will be the certified employee organization of the partnership unit. The ballot must allow covered employees to vote not to be represented by an employee organization. If one employee organization receives a majority of the votes, the department is required to certify the employee organization as the certified employee organization of the partnership unit.

The bill specifies circumstances under which the department is not allowed to hold an election for a partnership unit to select a certified employee organization. The bill also specifies that a covered employee or an employee organization may initiate a process to decertify a certified employee organization for a partnership unit.

Rights of covered employees and certified employee organizations: The bill specifies that a covered employee may work with an employee organization and communicate with other covered employees to form a partnership agreement. Certified employee organizations have the right to reasonable access to areas where covered employees work to hold meetings, post notices, and provide information to covered employees.

Duties of the certified employee organization: The bill specifies

that a certified employee organization is required to represent the interests of all covered employees in the partnership unit, regardless of membership in the employee organization. The bill also specifies the process by which a covered employee may initiate a grievance regarding the interpretation of a partnership agreement. In addition, the bill prohibits a certified employee organization from engaging in a strike, work stoppage, or group sickout against the state or any of its agencies or departments.

Duties of the state: The bill specifies that the state is required to:

- ! Make payroll deductions for membership dues and other payments that covered employees authorize to be made to the certified employee organization;
- ! Notify the certified employee organization when a covered employee is hired, promoted, or transferred to a new partnership unit;
- ! Periodically provide specified information about covered employees to each certified employee organization;
- ! Allow a certified employee organization to attend orientations for new covered employees;
- ! After the state and the certified employee organization reach a partnership agreement, submit a request to the general assembly for sufficient appropriations to implement terms of the partnership agreement requiring the expenditure of money; and
- ! Engage in good faith in all aspects of the partnership process.

Partnership agreements: A certified employee organization and the state are required to discuss and draft written partnership agreements, which are binding on the state, the certified employee organization, and covered employees. Partnership agreements that govern matters impacting all covered employees in all of the represented partnership units are required to be negotiated collaboratively with all certified employee organizations; except that a certified employee organization may opt out of joint negotiations for the partnership units it represents.

A partnership agreement is required to provide a grievance procedure to resolve disputes over the interpretation, application, and enforcement of any provision of the partnership agreement. A partnership agreement is also required to continue in full force and effect until it is replaced by a subsequent partnership agreement.

If disputes arise during the formation of a partnership agreement, the certified employee organization and the state are required to engage in the dispute resolution process established by the bill.

Duties of the state personnel director: The state personnel director (director) is required to enforce certain aspects of the partnership agreement process. The director is authorized to conduct hearings to

1 SERVICES ACT" IS INTENDED TO CREATE FORMAL LABOR-MANAGEMENT
2 PARTNERSHIPS BETWEEN STATE EMPLOYEES AND THE EXECUTIVE BRANCH
3 OF STATE GOVERNMENT TO PROMOTE QUALITY JOBS AND STATE SERVICES,
4 FOSTER INNOVATION AND EFFICIENCY, AND ATTRACT AND RETAIN A
5 SKILLED, MOTIVATED WORKFORCE;

6 (b) CHANGES IN TECHNOLOGY, THE NATURE OF THE WORKFORCE,
7 AND THE DEMANDS FOR STATE SERVICES REQUIRE THE STATE TO
8 MODERNIZE THE WAY IT MANAGES ITS EMPLOYEES;

9 (c) THE STATE WORKFORCE IS AGING AND MANY EMPLOYEES WILL
10 RETIRE IN THE NEXT TEN YEARS; HOWEVER, THE STATE HAS NOT BEEN
11 ABLE TO EFFECTIVELY RECRUIT AND RETAIN YOUNGER EMPLOYEES. THE
12 HIGH TURNOVER RATE IS COSTING THE STATE MILLIONS OF DOLLARS IN
13 RECRUITMENT AND TRAINING OF NEW STAFF.

14 (d) COLORADO WOULD BENEFIT FROM A PERSONNEL SYSTEM THAT
15 VALUES BOTH WORK AND SERVICE AND OPERATES IN AN EFFICIENT AND
16 EFFECTIVE MANNER.

17 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

18 (a) IT IS CRUCIAL THAT STATE EMPLOYEES UNDERSTAND THAT
19 THEY ARE VALUED PARTNERS IN THE WORK OF THE STATE. TO THAT END,
20 STATE EMPLOYEES SHOULD BE ABLE TO ENTER INTO A DIALOGUE,
21 THROUGH A COLLECTIVE VOICE, ABOUT THE DELIVERY OF SERVICES TO THE
22 PUBLIC AND THEIR OWN COMPENSATION AND WORKING CONDITIONS.
23 EMPLOYEE WAGES, BENEFITS, AND GENERAL SATISFACTION ARE THE
24 MAJOR FACTORS INVOLVED IN BOTH RECRUITMENT AND RETENTION OF
25 QUALITY EMPLOYEES AND HAVE AN IMPACT ON HOW SERVICES ARE
26 PROVIDED. THEREFORE, THE STATE ALSO HAS A STRONG INTEREST IN
27 ENTERING INTO A COOPERATIVE PARTNERSHIP TO DISCUSS WORKPLACE

1 ISSUES AND THE IMPROVEMENT OF COMPENSATION AND WORKING
2 CONDITIONS.

3 (b) IT IS THE INTENT OF THIS PART 11 TO ADDRESS THESE
4 CONCERNS BY FORMALIZING A RELATIONSHIP BETWEEN THE STATE AS AN
5 EMPLOYER AND ITS VALUED EMPLOYEES WHILE FOSTERING QUALITY JOBS
6 AND PUBLIC SERVICES, INNOVATION, EFFICIENCY, AND ONGOING
7 LEARNING. THIS PART 11 IS DESIGNED TO ENSURE THAT STATE
8 MANAGEMENT AND STATE EMPLOYEES, THROUGH CHOSEN
9 REPRESENTATIVES, JOINTLY WORK TO PROMOTE COOPERATIVE
10 RELATIONSHIPS WITH THE SHARED GOAL OF PROVIDING THE BEST POSSIBLE
11 SERVICES TO THE TAXPAYERS AND RESIDENTS OF THE STATE. THROUGH
12 THIS PROCESS, THE STATE WILL BENEFIT FROM THE INNOVATIONS AND
13 CREATIVITY OF FRONT-LINE EMPLOYEES AND AT THE SAME TIME WILL
14 PROVIDE A MECHANISM FOR STATE EMPLOYEES TO ADVANCE AND PROSPER
15 IN THEIR WORK, EARN RESPECT FOR THEIR IDEAS AND EXPERTISE, AND
16 PARTICIPATE IN THE DECISION-MAKING PROCESS CONCERNING THE
17 QUALITY OF PUBLIC SERVICES AS WELL THEIR WAGES AND WORKING
18 CONDITIONS.

19 (c) THE STATE PERSONNEL DIRECTOR IS UNIQUELY SUITED TO
20 OVERSEE AND REGULATE THE EMPLOYEE-MANAGEMENT PARTNERSHIP
21 PROCESS, AND THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
22 HAS EXPERIENCE AND EXPERTISE AT CONDUCTING REPRESENTATION
23 ELECTIONS FOR EMPLOYEE ORGANIZATIONS.

24 **24-50-1103. Definitions.** AS USED IN THIS PART 11, UNLESS THE
25 CONTEXT OTHERWISE REQUIRES:

26 (1) "CERTIFIED EMPLOYEE ORGANIZATION" MEANS AN EMPLOYEE
27 ORGANIZATION THAT HAS BEEN CERTIFIED AS THE REPRESENTATIVE OF

1 COVERED EMPLOYEES IN A PARTNERSHIP UNIT PURSUANT TO SECTION
2 24-50-1106.

3 (2) "CONFIDENTIAL EMPLOYEE" MEANS A PERSON WHO IS
4 REQUIRED TO DEVELOP OR PRESENT MANAGEMENT POSITIONS WITH
5 RESPECT TO EMPLOYER-EMPLOYEE RELATIONS OR WHOSE DUTIES
6 NORMALLY REQUIRE ACCESS TO CONFIDENTIAL INFORMATION
7 CONTRIBUTING SIGNIFICANTLY TO THE DEVELOPMENT OF SUCH
8 MANAGEMENT POSITIONS.

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

- 13 (a) CONFIDENTIAL EMPLOYEES;
- 14 (b) MANAGERIAL EMPLOYEES;
- 15 (c) SUPERVISORY EMPLOYEES;
- 16 (d) SENIOR EXECUTIVE SERVICE EMPLOYEES;
- 17 (e) MEMBERS OF THE COLORADO NATIONAL GUARD;
- 18 (f) THE DIRECTOR OF THE DIVISION OF LABOR, THE GOVERNOR'S
19 DESIGNEE, AND THOSE EMPLOYEES WORKING WITH THE DIRECTOR OF THE
20 DIVISION OF LABOR AND THE DESIGNEE TO IMPLEMENT THIS PART 11;
- 21 (g) ADMINISTRATIVE LAW JUDGES AND ATTORNEYS WHOSE
22 RESPONSIBILITIES INCLUDE PROVIDING LEGAL ADVICE;
- 23 (h) STUDENT EMPLOYEES;
- 24 (i) INDIVIDUALS IN THE CUSTODY OF THE DEPARTMENT OF
25 CORRECTIONS OR ANY LAW ENFORCEMENT AGENCY;
- 26 (j) PATIENTS OR RESIDENTS OF A STATE INSTITUTION; OR
- 27 (k) TEMPORARY EMPLOYEES WHOSE TERM OF EMPLOYMENT IS SIX

1 MONTHS OR LESS.

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

5 (5) "EMPLOYEE ORGANIZATION" MEANS A NONPROFIT
6 ORGANIZATION THAT REPRESENTS OR SEEKS TO REPRESENT COVERED
7 EMPLOYEES IN A PARTNERSHIP UNIT.

8 (6) "GOVERNOR'S DESIGNEE" MEANS THE PERSON THE GOVERNOR
9 DESIGNATES, IN WRITING, AS THE INDIVIDUAL WHO WILL REPRESENT THE
10 STATE IN THE EXERCISE OF ALL OF THE STATE'S RESPONSIBILITIES UNDER
11 THIS ACT.

12 (7) "MANAGERIAL EMPLOYEE" MEANS ANY EMPLOYEE HAVING
13 SIGNIFICANT RESPONSIBILITIES FOR FORMULATING OR ADMINISTERING
14 AGENCY OR DEPARTMENTAL POLICIES AND PROGRAMS OR ADMINISTERING
15 AN AGENCY OR DEPARTMENT.

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

22 (9) "PARTNERSHIP AGREEMENT" MEANS AN AGREEMENT
23 ESTABLISHED PURSUANT TO SECTION 24-50-1110 BETWEEN THE STATE
24 AND A CERTIFIED EMPLOYEE ORGANIZATION.

25 (10) "PARTNERSHIP UNIT" MEANS A GROUP OF COVERED
26 EMPLOYEES WHO, BY VIRTUE OF OCCUPYING SIMILAR JOB CLASSIFICATIONS
27 IN THE PERSONNEL SYSTEM OF THE STATE, FORM A UNIT APPROPRIATE FOR

1 REPRESENTATION BY AN CERTIFIED EMPLOYEE ORGANIZATION.

2 (11) "PETITION" MEANS A DOCUMENT SIGNED BY A COVERED
3 EMPLOYEE IN WHICH THE COVERED EMPLOYEE EXPRESSES THE DESIRE TO
4 BE REPRESENTED BY AN EMPLOYEE ORGANIZATION. A PETITION SHALL
5 INCLUDE, BUT NEED NOT BE LIMITED TO, A WRITTEN PETITION WITH
6 MULTIPLE SIGNATURES, INDIVIDUAL PETITIONS OR PETITION CARDS WITH
7 A SINGLE COVERED EMPLOYEE'S SIGNATURE, OR MEMBERSHIP FORMS OR
8 CARDS SHOWING THAT A COVERED EMPLOYEE HAS JOINED AN EMPLOYEE
9 ORGANIZATION.

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

12 (13) "SUPERVISORY EMPLOYEE" MEANS AN EMPLOYEE WHO IS AN
13 APPOINTING AUTHORITY, AS DEFINED IN RULES PROMULGATED BY THE
14 DEPARTMENT OF PERSONNEL, BUT DOES NOT INCLUDE AN EMPLOYEE WHO
15 PERFORMS THE HUMAN RESOURCE FUNCTIONS OF AN APPOINTING
16 AUTHORITY BY DELEGATION, AS PERMITTED BY RULES PROMULGATED BY
17 THE DEPARTMENT OF PERSONNEL.

18 **24-50-1104. Duties and responsibilities of the director - rules.**

19 (1) THE DIRECTOR SHALL ENFORCE THIS PART 11 AND SHALL
20 PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE 24 AS
21 MAY BE NECESSARY FOR THE ENFORCEMENT OF THIS PART 11. THE
22 DIRECTOR SHALL PROMULGATE SUCH RULES WITHIN ONE HUNDRED EIGHTY
23 DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1).

24 (2) PURSUANT TO SECTION 24-4-105, THE DIRECTOR MAY
25 CONDUCT HEARINGS FOR THE PURPOSES OF:

26 (a) PROMULGATING RULES; OR

27 (b) ADJUDICATING DISPUTES AND ENFORCING SECTIONS

1 24-50-1107, 24-50-1108, AND 24-50-1109 AND THE RULES ADOPTED
2 PURSUANT TO THIS PART 11, SUBJECT TO SECTION 24-4-105 (6).

3 (3) THE DIRECTOR MAY ISSUE SUBPOENAS REQUIRING, UPON
4 REASONABLE NOTICE, THE ATTENDANCE AND TESTIMONY OF WITNESSES
5 AND THE PRODUCTION OF EVIDENCE INCLUDING BOOKS, RECORDS,
6 CORRESPONDENCE, OR DOCUMENTS RELATING TO THE MATTER IN
7 QUESTION. THE DIRECTOR MAY ADMINISTER OATHS AND AFFIRMATIONS,
8 EXAMINE WITNESSES, AND RECEIVE EVIDENCE.

9 (4) THE DIRECTOR SHALL ISSUE DECISIONS IN THE FORM OF
10 WRITTEN ORDERS AND OPINIONS.

11 (5) IF, AFTER CONDUCTING A HEARING PURSUANT TO SUBSECTION
12 (2) OF THIS SECTION, THE DIRECTOR DETERMINES THAT ANY PARTY HAS
13 VIOLATED ANY PROVISION OF THIS PART 11, THE DIRECTOR SHALL
14 DETERMINE AND IMPOSE APPROPRIATE ADMINISTRATIVE REMEDIES TO
15 ENFORCE THIS PART 11.

16 **24-50-1105. Partnership units.** (1) PARTNERSHIP UNITS
17 COMPOSED OF COVERED EMPLOYEES STATEWIDE ARE CREATED WITHIN THE
18 FOLLOWING OCCUPATIONAL GROUPS:

- 19 (a) ADMINISTRATIVE SUPPORT AND RELATED SERVICES;
20 (b) ENFORCEMENT AND PROTECTIVE SERVICES, EXCLUDING STATE
21 TROOPERS;
22 (c) FINANCIAL SERVICES;
23 (d) HEALTH CARE AND MEDICAL SERVICES;
24 (e) LABOR, TRADES, AND CRAFTS;
25 (f) PHYSICAL SCIENCE AND ENGINEERING;
26 (g) PROFESSIONAL SERVICES; AND
27 (h) STATE TROOPERS.

1 (2) A PARTNERSHIP UNIT THAT IS REPRESENTED BY A CERTIFIED
2 EMPLOYEE ORGANIZATION PURSUANT TO EXECUTIVE ORDER D 028 07 ON
3 THE EFFECTIVE DATE OF THIS PART 11 SHALL CONTINUE TO BE
4 REPRESENTED BY ITS EXISTING CERTIFIED EMPLOYEE ORGANIZATION. THE
5 SCOPE OF SUCH EXISTING PARTNERSHIP UNITS MAY BE CHANGED BY
6 MUTUAL AGREEMENT OF THE STATE PERSONNEL DIRECTOR AND THE
7 PARTNERSHIP UNIT'S CERTIFIED EMPLOYEE ORGANIZATION.

8 **24-50-1106. Covered employees' choice of certified employee**
9 **organization - rules.** (1) THE DEPARTMENT OF LABOR AND EMPLOYMENT
10 SHALL RECOGNIZE AS VALID THE CERTIFIED STATUS OF ANY EMPLOYEE
11 ORGANIZATION PREVIOUSLY CERTIFIED PURSUANT TO EXECUTIVE ORDER
12 D 028 07 AND SHALL CONSIDER SUCH ORGANIZATION THE CERTIFIED
13 EMPLOYEE ORGANIZATION FOR ALL PURPOSES UNDER THIS PART 11 UNLESS
14 THE PARTNERSHIP UNIT IS CHANGED PURSUANT TO SECTION 24-50-1105
15 (2).

16 (2) THE COVERED EMPLOYEES IN A PARTNERSHIP UNIT NOT
17 CERTIFIED UNDER SUBSECTION (1) OF THIS SECTION MAY SELECT AN
18 EMPLOYEE ORGANIZATION TO BE THE CERTIFIED EMPLOYEE ORGANIZATION
19 FOR THEIR PARTNERSHIP UNIT. COVERED EMPLOYEES IN A PARTNERSHIP
20 UNIT SHALL DETERMINE THROUGH AN ELECTION HELD PURSUANT TO
21 SUBSECTION (3) OF THIS SECTION WHETHER THE COVERED EMPLOYEES IN
22 THE PARTNERSHIP UNIT AGREE TO BE REPRESENTED BY A PARTICULAR
23 EMPLOYEE ORGANIZATION.

24 (3) (a) ANY EMPLOYEE ORGANIZATION MAY FILE A PETITION WITH
25 THE DEPARTMENT OF LABOR AND EMPLOYMENT REQUESTING THAT IT
26 HOLD AN ELECTION TO ALLOW COVERED EMPLOYEES IN AN
27 UNREPRESENTED PARTNERSHIP UNIT TO ELECT AN EMPLOYEE

1 ORGANIZATION TO SERVE AS THE CERTIFIED EMPLOYEE ORGANIZATION OF
2 THE PARTNERSHIP UNIT. AN EMPLOYEE ORGANIZATION REQUESTING THAT
3 THE DEPARTMENT HOLD AN ELECTION SHALL SUBMIT A PETITION TO THE
4 DEPARTMENT, SIGNED BY AT LEAST THIRTY PERCENT OF THE COVERED
5 EMPLOYEES IN A PARTNERSHIP UNIT. WITHIN FIVE CALENDAR DAYS OF
6 DETERMINING THAT A VALID PETITION HAS BEEN SUBMITTED AND AN
7 ELECTION IS NECESSARY, THE DEPARTMENT SHALL NOTIFY INTERESTED
8 EMPLOYEE ORGANIZATIONS AND THE GOVERNOR'S DESIGNEE OF THE
9 PENDING ELECTION PETITION. AFTER AN EMPLOYEE ORGANIZATION HAS
10 FILED A VALID PETITION REQUESTING AN ELECTION WITH THE
11 DEPARTMENT, ANY OTHER EMPLOYEE ORGANIZATION MAY FILE A PETITION
12 TO BE PLACED ON THE BALLOT. THE PETITION SHALL CONTAIN THE
13 SIGNATURES OF AT LEAST THIRTY PERCENT OF THE COVERED EMPLOYEES
14 IN THE PARTNERSHIP UNIT, AND MUST BE FILED WITH THE DEPARTMENT
15 WITHIN FIFTEEN CALENDAR DAYS OF THE NOTICE OF THE PENDING
16 ELECTION PETITION. THE DEPARTMENT SHALL PROMULGATE RULES IN
17 ACCORDANCE WITH ARTICLE 4 OF THIS TITLE 24 TO ESTABLISH HOW
18 ELECTIONS SPECIFIED IN THIS SUBSECTION (3)(a) SHALL BE CONDUCTED.

19 (b) WITHIN THIRTY CALENDAR DAYS AFTER RECEIVING THE INITIAL
20 PETITION PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, THE
21 DEPARTMENT OF LABOR AND EMPLOYMENT SHALL CONDUCT AN ELECTION
22 BY SECRET BALLOT TO DETERMINE WHICH EMPLOYEE ORGANIZATION WILL
23 BE THE CERTIFIED EMPLOYEE ORGANIZATION OF THE APPLICABLE
24 PARTNERSHIP UNIT. THE BALLOT MUST INCLUDE THE NAME OF EACH
25 EMPLOYEE ORGANIZATION THAT HAS SUBMITTED A VALID PETITION. IN
26 ADDITION, THE BALLOT MUST PROVIDE COVERED EMPLOYEES AN
27 OPPORTUNITY TO INDICATE THAT THEY DO NOT WANT TO BE REPRESENTED

1 BY AN EMPLOYEE ORGANIZATION.

2 (c) THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL CERTIFY
3 AS THE CERTIFIED EMPLOYEE ORGANIZATION THE EMPLOYEE
4 ORGANIZATION THAT RECEIVES THE MAJORITY OF VOTES CAST BY THE
5 COVERED EMPLOYEES IN THE APPLICABLE PARTNERSHIP UNIT. IN AN
6 ELECTION IN WHICH THE BALLOT CONTAINS MORE THAN TWO EMPLOYEE
7 ORGANIZATIONS AND AN OPTION NOT TO BE REPRESENTED BY AN
8 EMPLOYEE ORGANIZATION, IF NONE OF THE OPTIONS RECEIVES A MAJORITY
9 OF THE VOTES CAST, THE DEPARTMENT SHALL HOLD A RUNOFF ELECTION
10 BETWEEN THE TWO OPTIONS THAT RECEIVED THE LARGEST NUMBER OF
11 VOTES IN THE FIRST ELECTION. THE RUNOFF ELECTION SHALL BE HELD
12 WITHIN FIFTEEN CALENDAR DAYS AFTER THE INITIAL ELECTION. THE
13 DEPARTMENT SHALL CERTIFY THE EMPLOYEE ORGANIZATION THAT
14 RECEIVES THE MAJORITY OF VOTES CAST IN THE RUNOFF ELECTION AS THE
15 CERTIFIED EMPLOYEE ORGANIZATION OF ALL COVERED EMPLOYEES IN THE
16 APPLICABLE PARTNERSHIP UNIT. IF THE OPTION NOT TO BE REPRESENTED
17 RECEIVES THE MAJORITY OF VOTES CAST IN THE RUNOFF ELECTION, THE
18 DEPARTMENT SHALL NOT CERTIFY ANY EMPLOYEE ORGANIZATION AS THE
19 CERTIFIED EMPLOYEE ORGANIZATION.

20 (d) THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL NOT
21 HOLD AN ELECTION IN A PARTNERSHIP UNIT:

22 (I) WITHIN THE TWELVE-MONTH PERIOD IMMEDIATELY FOLLOWING
23 THE EFFECTIVE DATE OF THIS PART 11 IF AN EMPLOYEE ORGANIZATION IS
24 ALREADY CERTIFIED AS THE CERTIFIED EMPLOYEE ORGANIZATION OF THAT
25 UNIT PURSUANT TO EXECUTIVE ORDER D 028 07; OR

26 (II) IF AN ELECTION OR RUNOFF ELECTION HAS BEEN CONDUCTED
27 IN THAT PARTNERSHIP UNIT WITHIN THE TWELVE-MONTH PERIOD

1 IMMEDIATELY PRECEDING THE PROPOSED ELECTION.

2 (4) (a) A COVERED EMPLOYEE OR AN EMPLOYEE ORGANIZATION
3 MAY INITIATE A DECERTIFICATION OF A CERTIFIED EMPLOYEE
4 ORGANIZATION BY SUBMITTING A PETITION SIGNED BY AT LEAST THIRTY
5 PERCENT OF THE COVERED EMPLOYEES IN THE PARTNERSHIP UNIT
6 REQUESTING A DECERTIFICATION ELECTION. THE DEPARTMENT OF LABOR
7 AN EMPLOYMENT SHALL PROMULGATE RULES IN ACCORDANCE WITH
8 ARTICLE 4 OF THIS TITLE 24 TO ESTABLISH HOW DECERTIFICATION
9 ELECTIONS WILL BE HELD.

10 (b) WHEN THERE IS A PARTNERSHIP AGREEMENT IN EFFECT, A
11 COVERED EMPLOYEE OR EMPLOYEE ORGANIZATION MUST SUBMIT A
12 REQUEST FOR A DECERTIFICATION ELECTION TO THE DEPARTMENT OF
13 LABOR AND EMPLOYMENT NO EARLIER THAN NINETY CALENDAR DAYS AND
14 NO LATER THAN SIXTY CALENDAR DAYS BEFORE THE EXPIRATION OF THE
15 AGREEMENT, OR AFTER THE EXPIRATION OF THE FIFTH YEAR OF AN
16 AGREEMENT WITH A TERM OF MORE THAN FIVE YEARS.

17 (c) WHEN AN EMPLOYEE ORGANIZATION HAS BEEN CERTIFIED BUT
18 NO PARTNERSHIP AGREEMENT IS IN EFFECT, THE DEPARTMENT OF LABOR
19 AND EMPLOYMENT SHALL NOT ACCEPT A REQUEST FOR A DECERTIFICATION
20 ELECTION EARLIER THAN FIVE YEARS FROM THE DATE OF THE
21 CERTIFICATION.

22 **24-50-1107. Rights of covered employees and certified**
23 **employee organizations.** (1) A COVERED EMPLOYEE MAY FORM, JOIN, OR
24 ASSIST AN EMPLOYEE ORGANIZATION FOR THE PURPOSE OF PARTICIPATING
25 IN THE PARTNERSHIP PROCESS AND THE FORMATION OF A PARTNERSHIP
26 AGREEMENT WITHOUT INTERFERENCE, RESTRAINT, OR COERCION. A
27 COVERED EMPLOYEE ALSO MAY REFRAIN FROM ANY SUCH ACTIVITIES.

1 (2) COVERED EMPLOYEES MAY COMMUNICATE WITH ONE ANOTHER
2 AND WITH EMPLOYEE ORGANIZATION REPRESENTATIVES CONCERNING
3 ORGANIZATION, REPRESENTATION, AND WORKPLACE ISSUES BY MEANS OF
4 E-MAIL SYSTEMS, TEXTS, OTHER ELECTRONIC COMMUNICATIONS,
5 TELEPHONE, PAPER DOCUMENTS, AND OTHER MEANS OF COMMUNICATION
6 SUBJECT TO REASONABLE REGULATION.

7 (3) A CERTIFIED EMPLOYEE ORGANIZATION SHALL HAVE
8 REASONABLE ACCESS TO AREAS IN WHICH COVERED EMPLOYEES WORK, TO
9 INSTITUTIONAL FACILITIES FOR THE PURPOSE OF MEETINGS, AND TO USE
10 INSTITUTIONAL BULLETIN BOARDS, MAILBOXES, E-MAIL SYSTEMS,
11 EMPLOYER WEBSITES, AND OTHER MEANS OF COMMUNICATION, INCLUDING
12 ELECTRONIC COMMUNICATION, SUBJECT TO REASONABLE REGULATION,
13 REGARDING THE EXERCISE OF THE RIGHTS GUARANTEED BY THIS PART 11
14 OR FOR OTHER PURPOSES. THE CERTIFIED EMPLOYEE ORGANIZATION IS
15 THE ONLY EMPLOYEE ORGANIZATION THAT MAY HAVE SUCH ACCESS
16 EXCEPT TO THE EXTENT ACCESS IS PROVIDED TO THE GENERAL PUBLIC.

17 **24-50-1108. Duties of the certified employee organization.**

18 (1) IN PERFORMING ITS DUTIES UNDER THIS PART 11, A CERTIFIED
19 EMPLOYEE ORGANIZATION SHALL REPRESENT THE INTERESTS OF ALL
20 COVERED EMPLOYEES IN THE PARTNERSHIP UNIT WITHOUT
21 DISCRIMINATION OR REGARD TO MEMBERSHIP IN THE EMPLOYEE
22 ORGANIZATION, AND SHALL NEGOTIATE PARTNERSHIP AGREEMENTS THAT
23 APPLY EQUALLY TO ALL COVERED EMPLOYEES IN THE PARTNERSHIP UNIT.

24 (2) A COVERED EMPLOYEE MAY ACT INDIVIDUALLY TO INITIATE A
25 GRIEVANCE UNDER THE PARTNERSHIP AGREEMENT PURSUANT TO SECTION
26 24-50-1110(4). ANY FURTHER APPEAL OF THAT GRIEVANCE MAY BE MADE
27 ONLY BY THE CERTIFIED EMPLOYEE ORGANIZATION AT ITS DISCRETION,

1 SUBJECT TO ITS DUTIES ESTABLISHED IN THIS PART 11. IF THE CERTIFIED
2 EMPLOYEE ORGANIZATION IS NOT A PARTY TO THE RESOLUTION OF THE
3 COVERED EMPLOYEE'S GRIEVANCE, THAT RESOLUTION SHALL BE
4 CONSISTENT WITH AND SHALL NOT VIOLATE ANY PARTNERSHIP
5 AGREEMENT THEN IN EFFECT BETWEEN THE EMPLOYER AND THE CERTIFIED
6 EMPLOYEE ORGANIZATION.

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

13 (4) A CERTIFIED EMPLOYEE ORGANIZATION SHALL NOT ENGAGE IN
14 A STRIKE, WORK STOPPAGE, GROUP SICKOUT, OR WORK SLOWDOWN
15 AGAINST THE STATE OR ANY OF ITS AGENCIES OR DEPARTMENTS. COVERED
16 EMPLOYEES WHO ENGAGE IN SUCH CONDUCT MAY BE SUBJECT TO
17 DISCHARGE. IF AFTER A HEARING THE DIRECTOR FINDS THAT THE
18 CERTIFIED EMPLOYEE ORGANIZATION CAUSED COVERED EMPLOYEES IN A
19 PARTNERSHIP UNIT TO ENGAGE IN SUCH CONDUCT, THE DIRECTOR'S
20 REMEDY FOR SUCH CONDUCT MAY INCLUDE THAT THE CERTIFIED
21 EMPLOYEE ORGANIZATION BE DECERTIFIED FROM REPRESENTING THAT
22 PARTNERSHIP UNIT FOR A PERIOD OF UP TO FIVE YEARS.

23 **24-50-1109. Duties of the state.** (1) THE STATE SHALL MAKE
24 PAYROLL DEDUCTIONS FOR MEMBERSHIP DUES AND OTHER PAYMENTS
25 THAT COVERED EMPLOYEES AUTHORIZE TO BE MADE TO THE CERTIFIED
26 EMPLOYEE ORGANIZATION AND RELATED ENTITIES. THE CERTIFIED
27 EMPLOYEE ORGANIZATION AND RELATED ENTITIES SHALL BE THE ONLY

1 EMPLOYEE ORGANIZATION FOR WHICH THE STATE SHALL MAKE PAYROLL
2 DEDUCTIONS FROM COVERED EMPLOYEES IN REPRESENTED PARTNERSHIP
3 UNITS.

4 (2) THE STATE SHALL HONOR THE TERMS OF COVERED EMPLOYEES'
5 AUTHORIZATIONS FOR PAYROLL DEDUCTIONS MADE IN ANY FORM THAT
6 SATISFIES THE REQUIREMENTS OF THE "UNIFORM ELECTRONIC
7 TRANSACTIONS ACT", ARTICLE 71.3 OF THIS TITLE 24, INCLUDING
8 WITHOUT LIMITATION ELECTRONIC AUTHORIZATIONS, INCLUDING VOICE
9 AUTHORIZATIONS, THAT MEET THE REQUIREMENTS OF AN ELECTRONIC
10 SIGNATURE AS DEFINED IN SECTION 24-71.3-102 (8). COVERED
11 EMPLOYEES' REQUESTS TO CANCEL OR CHANGE AUTHORIZATIONS FOR
12 PAYROLL DEDUCTIONS SHALL BE DIRECTED TO THE CERTIFIED EMPLOYEE
13 ORGANIZATION RATHER THAN TO THE STATE OR EMPLOYER AND THE
14 CERTIFIED EMPLOYEE ORGANIZATION SHALL BE RESPONSIBLE FOR
15 PROCESSING THESE REQUESTS IN ACCORDANCE WITH THE TERMS OF THE
16 AUTHORIZATION, AS LONG AS THE AUTHORIZATION IS NOT IRREVOCABLE
17 FOR A PERIOD OF MORE THAN ONE YEAR. A CERTIFIED EMPLOYEE
18 ORGANIZATION THAT CERTIFIES THAT IT HAS AND WILL MAINTAIN
19 INDIVIDUAL COVERED EMPLOYEE AUTHORIZATIONS IS NOT REQUIRED TO
20 PROVIDE A COPY OF AN INDIVIDUAL AUTHORIZATION TO THE STATE UNLESS
21 A DISPUTE ARISES ABOUT THE EXISTENCE OF TERMS OF THAT
22 AUTHORIZATION. THE CERTIFIED EMPLOYEE ORGANIZATION SHALL
23 INDEMNIFY THE STATE FOR ANY CLAIMS MADE BY THE COVERED
24 EMPLOYEE FOR DEDUCTIONS MADE IN RELIANCE ON THAT INFORMATION.

25 (3) WITHIN THIRTY DAYS OF A COVERED EMPLOYEE FIRST BEING
26 HIRED OR REHIRED BY THE STATE OR BY THE FIRST PAY PERIOD OF THE
27 MONTH FOLLOWING HIRE OR REHIRE, OR WITHIN THIRTY DAYS OF BEING

1 PROMOTED OR TRANSFERRED TO A NEW PARTNERSHIP UNIT, THE
2 DEPARTMENT OF PERSONNEL SHALL:

3 (a) NOTIFY THE CERTIFIED EMPLOYEE ORGANIZATION THAT
4 REPRESENTS THAT PARTNERSHIP UNIT, IF ANY, OF THE COVERED
5 EMPLOYEE'S NAME, JOB TITLE, CLASSIFICATION, STATE DEPARTMENT,
6 WORK LOCATION, ALL TELEPHONE NUMBERS, E-MAIL ADDRESSES, AND
7 PHYSICAL WORK ADDRESSES ON FILE WITH THE STATE, AND HOURS OF
8 WORK. THE CERTIFIED EMPLOYEE ORGANIZATION ALONE HAS THE RIGHT
9 TO SUCH INFORMATION, AND SUCH INFORMATION SHALL NOT BE SUBJECT
10 TO DISCLOSURE THROUGH A PUBLIC RECORD REQUEST BY THIRD PARTIES.

11 (b) ALLOW THE CERTIFIED EMPLOYEE ORGANIZATION TO MEET
12 WITH THAT COVERED EMPLOYEE DURING WORK TIME, UNLESS OTHERWISE
13 SPECIFIED WITHIN A PARTNERSHIP AGREEMENT NEGOTIATED PURSUANT TO
14 THIS PART 11.

15 (4) THE DEPARTMENT OF PERSONNEL SHALL PROVIDE TO THE
16 CERTIFIED EMPLOYEE ORGANIZATION A LIST OF INFORMATION FOR ALL
17 COVERED EMPLOYEES IN A PARTNERSHIP UNIT AT LEAST EVERY ONE
18 HUNDRED TWENTY DAYS. THE LIST SHALL INCLUDE EACH COVERED
19 EMPLOYEE'S NAME, JOB TITLE, CLASSIFICATION, WORK LOCATION, ALL
20 TELEPHONE NUMBERS, E-MAIL ADDRESSES AND PHYSICAL ADDRESSES ON
21 FILE WITH THE STATE, AND HOURS OF WORK. THE CERTIFIED EMPLOYEE
22 ORGANIZATION ALONE HAS THE RIGHT TO SUCH INFORMATION, AND MAY
23 NEGOTIATE MORE FREQUENT OR DETAILED INFORMATION PURSUANT TO A
24 PARTNERSHIP AGREEMENT.

25 (5) (a) THE STATE SHALL PROVIDE THE CERTIFIED EMPLOYEE
26 ORGANIZATION ACCESS TO ITS NEW EMPLOYEE ORIENTATIONS.

27 (b) THE CERTIFIED EMPLOYEE ORGANIZATION SHALL RECEIVE NOT

1 LESS THAN TEN DAYS' NOTICE IN ADVANCE OF A NEW EMPLOYEE
2 ORIENTATION; EXCEPT THAT A SHORTER NOTICE MAY BE PROVIDED IN A
3 SPECIFIC INSTANCE WHERE THERE IS AN URGENT NEED CRITICAL TO THE
4 PUBLIC EMPLOYER'S OPERATIONS THAT WAS NOT REASONABLY
5 FORESEEABLE.

6 (c) THE STATE AND THE CERTIFIED EMPLOYEE ORGANIZATION
7 SHALL DETERMINE THE STRUCTURE, TIME, AND MANNER OF THE EMPLOYEE
8 ORGANIZATION'S ACCESS THROUGH MUTUAL AGREEMENT.

9 (d) THE DATE, TIME, AND PLACE OF NEW EMPLOYEE ORIENTATIONS
10 WILL ONLY BE PROVIDED TO COVERED EMPLOYEES, CERTIFIED EMPLOYEE
11 ORGANIZATIONS, AND VENDORS CONTRACTED FOR SERVICES PROVIDED AT
12 THE ORIENTATION.

13 (6) AFTER THE STATE AND THE CERTIFIED EMPLOYEE
14 ORGANIZATION REACH A PARTNERSHIP AGREEMENT, THE GOVERNOR
15 SHALL REQUEST FROM THE GENERAL ASSEMBLY, AS PART OF THE
16 GOVERNOR'S INITIAL OR SUPPLEMENTAL BUDGET REQUEST, SUFFICIENT
17 APPROPRIATIONS TO IMPLEMENT TERMS OF THE AGREEMENT REQUIRING
18 THE EXPENDITURE OF MONEY. THE PROVISIONS OF A PARTNERSHIP
19 AGREEMENT THAT REQUIRE THE EXPENDITURE OF MONEY SHALL BE
20 CONTINGENT UPON THE AVAILABILITY OF MONEY AND THE SPECIFIC
21 APPROPRIATION OF MONEY BY THE GENERAL ASSEMBLY.

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

1 (a) ENCOURAGE OR DISCOURAGE MEMBERSHIP IN ANY EMPLOYEE
2 ORGANIZATION OR ENCOURAGE, DISCOURAGE, OR TAKE A POSITION
3 REGARDING ANY COVERED EMPLOYEE'S CHOICE TO SELECT OR REFRAIN
4 FROM SELECTING A CERTIFIED EMPLOYEE ORGANIZATION;

5 (b) EXPEND PUBLIC MONEY OR RESOURCES FOR A NEGATIVE
6 CAMPAIGN AGAINST AN EMPLOYEE ORGANIZATION OR PROVIDE
7 ASSISTANCE TO ANY INDIVIDUAL OR GROUP TO ENGAGE IN SUCH A
8 CAMPAIGN;

9 (c) INTERFERE WITH, RESTRAIN, OR COERCE COVERED EMPLOYEES
10 FROM EXERCISING THE RIGHTS GRANTED BY THIS PART 11, PROVIDED
11 THAT:

12 (I) THIS SUBSECTION (7)(c) SHALL NOT IMPAIR THE RIGHT OF A
13 CERTIFIED EMPLOYEE ORGANIZATION TO PRESCRIBE ITS OWN RULES WITH
14 RESPECT TO RECRUITING AND MAINTAINING ITS MEMBERSHIP; AND

15 (II) THAT A CERTIFIED EMPLOYEE ORGANIZATION COMMITS A
16 VIOLATION OF ITS DUTIES SPECIFIED IN SECTION 24-50-1108 ONLY BY
17 COMMITTING INTENTIONAL MISCONDUCT IN ITS DUTIES OF
18 REPRESENTATION;

19 (d) DISCHARGE OR DISCRIMINATE AGAINST ANY COVERED
20 EMPLOYEE BECAUSE SHE OR HE FILED A PETITION, AFFIDAVIT, OR
21 COMPLAINT OR GAVE ANY INFORMATION OR TESTIMONY UNDER THIS PART
22 11, OR BECAUSE SHE OR HE FORMED, JOINED, OR CHOSE TO BE
23 REPRESENTED BY ANY EMPLOYEE ORGANIZATION;

24 (e) REFUSE TO PARTICIPATE IN THE PARTNERSHIP PROCESS ONCE
25 A CERTIFIED EMPLOYEE ORGANIZATION IS CERTIFIED; OR

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

1 **24-50-1110. Partnership agreements.** (1) WITHIN SIXTY DAYS
2 AFTER AN EMPLOYEE ORGANIZATION HAS BEEN CERTIFIED AS THE
3 CERTIFIED EMPLOYEE ORGANIZATION FOR A PARTNERSHIP UNIT PURSUANT
4 TO SECTION 24-50-1106, OR IN THE CASE WHERE AN EXISTING
5 PARTNERSHIP AGREEMENT IS IN EFFECT, AT LEAST ONE HUNDRED EIGHTY
6 DAYS PRIOR TO THE EXPIRATION OF THE EXISTING PARTNERSHIP
7 AGREEMENT, THE CERTIFIED EMPLOYEE ORGANIZATION AND THE STATE
8 SHALL BEGIN MEETINGS TO DISCUSS AND COOPERATIVELY DRAFT
9 MUTUALLY AGREED UPON WRITTEN PARTNERSHIP AGREEMENTS TO BE
10 BINDING ON THE STATE, THE CERTIFIED EMPLOYEE ORGANIZATION, AND
11 COVERED EMPLOYEES. BOTH THE CERTIFIED EMPLOYEE ORGANIZATION
12 AND THE STATE SHALL ACT IN GOOD FAITH TO REACH AGREEMENT ON ALL
13 APPROPRIATE ISSUES, INCLUDING BUT NOT LIMITED TO:

- 14 (a) IMPROVING RECRUITMENT AND RETENTION OF EMPLOYEES;
- 15 (b) COMPENSATION;
- 16 (c) BENEFITS;
- 17 (d) TERMS AND CONDITIONS OF WORK FOR COVERED EMPLOYEES;
- 18 AND
- 19 (e) METHODS FOR COVERED EMPLOYEES AND EMPLOYERS TO
- 20 PARTNER ON DELIVERY OF QUALITY PUBLIC SERVICES.

21 (2) (a) PARTNERSHIP AGREEMENTS THAT GOVERN DISCUSSIONS OF
22 MATTERS IMPACTING ALL COVERED EMPLOYEES IN ALL OF THE
23 REPRESENTED PARTNERSHIP UNITS OR THAT NECESSITATE STATEWIDE
24 UNIFORMITY PURSUANT TO THE STATE CONSTITUTION, STATE STATUTE, OR
25 ADMINISTRATIVE RULE, OR AS A PRACTICAL MATTER, INCLUDING
26 ECONOMIC ISSUES, SHALL BE NEGOTIATED ON A COLLABORATIVE BASIS
27 WITH ALL CERTIFIED EMPLOYEE ORGANIZATIONS; EXCEPT THAT A

1 CERTIFIED EMPLOYEE ORGANIZATION MAY OPT OUT OF THE JOINT
2 NEGOTIATIONS AND MAY NEGOTIATE SEPARATELY FOR ALL THE
3 PARTNERSHIP UNITS IT REPRESENTS. THE GOVERNOR'S DESIGNEE SHALL
4 CONDUCT NEGOTIATION OF SUCH A PARTNERSHIP AGREEMENT AND MAY
5 CONSULT WITH THE EXECUTIVE OFFICIALS CHARGED WITH ADMINISTERING
6 THE ISSUES SUBJECT TO THE PARTNERSHIP AGREEMENT.

7 (b) PARTNERSHIP AGREEMENTS THAT GOVERN MATTERS
8 IMPACTING COVERED EMPLOYEES IN A SINGLE DEPARTMENT OR AGENCY
9 SHALL BE NEGOTIATED BY A DESIGNEE OR NEGOTIATING TEAM SELECTED
10 BY A COALITION OF THE CERTIFIED EMPLOYEE ORGANIZATIONS
11 REPRESENTING COVERED EMPLOYEES IN THAT DEPARTMENT OR AGENCY,
12 AND THE EXECUTIVE DIRECTOR OF SUCH DEPARTMENT OR AGENCY IN
13 CONCERT WITH THE GOVERNOR'S DESIGNEE. THE STATE SHALL NEGOTIATE
14 SUCH DEPARTMENT- OR AGENCY-LEVEL AGREEMENTS AT THE REQUEST OF
15 THE CERTIFIED EMPLOYEE ORGANIZATION REPRESENTING ONE OR MORE OF
16 THE OCCUPATIONAL GROUPS IN THE DEPARTMENT OR AGENCY.

17 (3) THE PARTNERSHIP AGREEMENT FOR EACH PARTNERSHIP UNIT
18 MAY ESTABLISH ONE OR MORE EMPLOYEE-MANAGEMENT FORUMS OR
19 EMPLOYEE-MANAGEMENT COMMITTEES TO ADDRESS ISSUES THAT IMPACT
20 STATE SERVICES FOR THAT PARTNERSHIP UNIT. THE FORUMS OR
21 COMMITTEES MAY PROVIDE AN OPPORTUNITY FOR COVERED EMPLOYEES,
22 THROUGH THEIR CERTIFIED EMPLOYEE ORGANIZATION, AND MANAGEMENT
23 TO DISCUSS ISSUES REGARDING THE PROVISION OF STATE SERVICES AND
24 WORKPLACE ISSUES THAT ARISE DURING THE TERM OF THE AGREEMENT.
25 THE FORUMS OR COMMITTEES MAY ALSO PROVIDE AN OPPORTUNITY FOR
26 INFORMAL PROBLEM SOLVING AND POSITIVE DISCUSSION. IF THE STATE
27 AND THE CERTIFIED EMPLOYEE ORGANIZATIONS OF TWO OR MORE

1 PARTNERSHIP UNITS AGREE, THE FORUM MAY INCLUDE MORE THAN ONE
2 PARTNERSHIP UNIT. THE PARTIES MAY NEGOTIATE FUNDING AND
3 RESOURCES TO SUPPORT THESE FORUMS OR COMMITTEES.

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

8 (5) A PARTNERSHIP AGREEMENT THAT IS EXECUTED BY THE STATE
9 AND THE CERTIFIED EMPLOYEE ORGANIZATION IS ENFORCEABLE AND
10 BINDING ON THE STATE, REPRESENTATIVE, AND COVERED EMPLOYEES
11 COVERED BY THE AGREEMENT AND DISPUTES OVER THE INTERPRETATION,
12 APPLICATION, AND ENFORCEMENT OF ANY PROVISION OF THE PARTNERSHIP
13 AGREEMENT ARE SUBJECT TO REVIEW PURSUANT TO SUBSECTION (4) OF
14 THIS SECTION.

15 (6) NOTHING IN THIS PART 11 SHALL INTERFERE WITH THE RIGHT
16 OF A CERTIFIED EMPLOYEE ORGANIZATION TO SUBMIT ANY PARTNERSHIP
17 AGREEMENT TO THE COVERED EMPLOYEES IN THE PARTNERSHIP UNIT THAT
18 IT REPRESENTS FOR FINAL RATIFICATION.

19 (7) MEETINGS AND DISCUSSIONS HELD PURSUANT TO THIS SECTION
20 AND THE DISPUTE RESOLUTION PROCESS SPECIFIED IN SUBSECTION (4) OF
21 THIS SECTION AND IN SECTION 24-50-1111 ARE NOT MEETINGS AS DEFINED
22 IN SECTION 24-6-402.

23 (8) EXCEPT FOR A PARTNERSHIP AGREEMENT SUBMITTED FOR
24 RATIFICATION, ALL DOCUMENTS, PROPOSALS, AND DRAFT AND TENTATIVE
25 AGREEMENTS DRAFTED OR EXCHANGED PURSUANT TO THE PROCESS
26 ESTABLISHED IN THIS SECTION SHALL BE PRIVILEGED AND NOT SUBJECT TO
27 DISCLOSURE PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART

1 2 OF ARTICLE 72 OF THIS TITLE 24. NOTHING IN THIS SECTION SHALL BE
2 CONSTRUED TO PREVENT A CERTIFIED EMPLOYEE ORGANIZATION OR THE
3 STATE FROM PRESENTING SUCH MATERIALS IN ANY DISPUTE RESOLUTION
4 PROCESS PURSUANT TO SUBSECTION (4) OF THIS SECTION OR SECTION
5 24-50-1111.

6 **24-50-1111. Dispute resolution in formation of partnership**
7 **agreement.** (1) IF DISPUTES ARISE DURING THE FORMATION OF A
8 PARTNERSHIP AGREEMENT, THE CERTIFIED EMPLOYEE ORGANIZATION AND
9 THE STATE, TO ENCOURAGE A TRUE COOPERATIVE PARTNERSHIP, SHALL
10 ENGAGE IN THE DISPUTE RESOLUTION PROCESS ESTABLISHED IN THIS
11 SECTION OR AN ALTERNATIVE PROCEDURE ESTABLISHED BY MUTUAL
12 AGREEMENT. ALL DEADLINES MAY BE EXTENDED PURSUANT TO MUTUAL
13 AGREEMENT OF THE PARTIES.

14 (2) IF THE CERTIFIED EMPLOYEE ORGANIZATION AND THE STATE
15 CANNOT REACH AGREEMENT WITHIN NINETY CALENDAR DAYS AFTER
16 COMMENCING MEETINGS TO DRAFT A PARTNERSHIP AGREEMENT, EITHER
17 PARTY MAY REQUEST THAT THE MATTER BE SENT TO MEDIATION WITH A
18 MUTUALLY AGREED UPON MEDIATOR.

19 (3) (a) IF THE PARTIES DO NOT REACH AGREEMENT WITHIN THIRTY
20 CALENDAR DAYS AFTER COMMENCING MEDIATION, THE PARTIES SHALL
21 SUBMIT ALL REMAINING ISSUES IN DISPUTE FOR FINAL AND BINDING
22 ARBITRATION BEFORE AN ARBITRATOR SELECTED PURSUANT TO THIS
23 SUBSECTION (3).

24 (b) WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS PART 11,
25 THE STATE, THROUGH THE GOVERNOR OR HIS OR HER DESIGNEE, SHALL
26 CREATE A PERMANENT PANEL OF NINE QUALIFIED ARBITRATORS TO HEAR
27 DISPUTES UNDER THIS SECTION. AN ARBITRATOR IS QUALIFIED IF AT THE

1 TIME HE OR SHE IS PLACED ON THE PERMANENT PANEL, HE OR SHE IS A
2 MEMBER OF A MUTUALLY AGREED UPON, RESPECTED, NATIONAL,
3 NOT-FOR-PROFIT ENTITY THAT PROVIDES ALTERNATIVE DISPUTE
4 RESOLUTION SERVICES, IS ON THE PANEL OF A MUTUALLY AGREED UPON,
5 RESPECTED, NATIONAL, NOT-FOR-PROFIT ORGANIZATION OF LABOR
6 ARBITRATORS, OR HAS SERVED AS A NEUTRAL HEARING OFFICER IN LABOR
7 AND MANAGEMENT DISPUTES FOR AT LEAST THREE YEARS AND
8 CONDUCTED AT LEAST FIVE HEARINGS PER YEAR IN TWO OF THE THREE
9 YEARS. AT ANY TIME OTHER THAN DURING THE PERIOD BETWEEN FROM
10 WHEN AN ARBITRATOR HAS BEEN SELECTED AND ISSUES A DECISION ON
11 THE DISPUTE UNDER THIS SECTION, THE STATE MAY REMOVE A QUALIFIED
12 ARBITRATOR FROM THE PERMANENT PANEL AND REPLACE HIM OR HER
13 WITH ANOTHER QUALIFIED ARBITRATOR.

14 (c) THE SELECTION OF AN ARBITRATOR TO HEAR THE DISPUTE
15 SHALL BE DONE BY PARTIES ALTERNATELY ELIMINATING ONE NAME FROM
16 THE PERMANENT PANEL OF NINE ARBITRATORS, WITH THE CERTIFIED
17 EMPLOYEE ORGANIZATION ELIMINATING THE FIRST NAME, UNTIL ONE
18 NAME REMAINS AND THAT ARBITRATOR SHALL HEAR AND DECIDE THE
19 DISPUTE.

20 (d) THE ARBITRATOR SHALL CONSIDER THE FOLLOWING FACTORS
21 IN REACHING A DECISION ON EACH PARTICULAR OUTSTANDING
22 CONTRACTUAL PROVISION:

23 (I) THE INTERESTS AND WELFARE OF THE PUBLIC AND THE
24 FINANCIAL ABILITY OF THE STATE TO BEAR THE COSTS INVOLVED;

25 (II) THE LAWFUL AUTHORITY OF THE STATE;

26 (III) STIPULATIONS OF THE PARTIES;

27 (IV) COMPARISON OF THE COMPENSATION, BENEFITS, HOURS, AND

1 OTHER TERMS OR CONDITIONS OF EMPLOYMENT OF THE MEMBERS OF THE
2 SAME OR SIMILAR OCCUPATIONAL GROUPS IN OTHER DEPARTMENTS,
3 AGENCIES, OR GOVERNMENT ORGANIZATIONS IN COMPARABLE
4 COMMUNITIES;

5 (V) THE COST OF LIVING;

6 (VI) ANY CLAIMS OF FAILURE OF A PARTY TO BARGAIN IN GOOD
7 FAITH; AND

8 (VII) OTHER SIMILAR STANDARDS RECOGNIZED IN THE
9 RESOLUTION OF INTEREST ARBITRATION CASES. WITH REGARD TO ISSUES
10 REGARDING FUNDING THE PARTNERSHIP AGREEMENT, THE ARBITRATOR'S
11 DECISION SHALL BE SUBJECT TO APPROPRIATIONS PURSUANT TO LAW.

12 (4) THE COST OF THE MEDIATOR AND ARBITRATOR PURSUANT TO
13 THIS SECTION SHALL BE SHARED EQUALLY BY THE CERTIFIED EMPLOYEE
14 ORGANIZATION AND THE STATE.

15 (5) THE TIME LIMITATIONS IN THIS SECTION MAY BE EXTENDED BY
16 MUTUAL AGREEMENT OF THE STATE AND THE CERTIFIED EMPLOYEE
17 ORGANIZATION OR ORGANIZATIONS.

18 (6) WITH THE EXCEPTION OF THE FINAL JUDGMENT OF AN
19 ARBITRATOR, ALL DOCUMENTS, PROPOSALS, AND DRAFT AND TENTATIVE
20 AGREEMENTS, DRAFTED OR EXCHANGED PURSUANT TO THE PROCESS
21 ESTABLISHED IN THIS SECTION, SHALL BE PRIVILEGED AND NOT SUBJECT TO
22 DISCLOSURE PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART
23 2 OF ARTICLE 72 OF THIS TITLE 24.

24 (7) A PARTNERSHIP AGREEMENT RESULTING FROM AN
25 ARBITRATION AWARD PURSUANT TO THIS SECTION IS SUBJECT TO THE
26 LIMITATIONS REGARDING THE APPROPRIATION OF MONEY BY THE GENERAL
27 ASSEMBLY SPECIFIED IN SECTION 24-50-1109 (6).

1 **24-50-1112. Maintenance of the partnership relationship.** AN
2 EXISTING PARTNERSHIP AGREEMENT SHALL CONTINUE IN FULL FORCE AND
3 EFFECT UNTIL IT IS REPLACED BY A SUBSEQUENT PARTNERSHIP
4 AGREEMENT.

5 **24-50-1113. Standard of review.** (1) THE DIRECTOR MAY
6 REQUEST THAT THE DISTRICT COURT REVIEW ORDERS ISSUED BY THE
7 DIRECTOR PURSUANT TO THIS PART 11, INCLUDING THOSE FOR
8 APPROPRIATE TEMPORARY RELIEF AND RESTRAINING ORDERS. THE COURT
9 SHALL CONSIDER THE REQUEST FOR REVIEW ON THE RECORD MADE BEFORE
10 THE DIRECTOR. THE COURT SHALL UPHOLD THE ACTION OF THE DIRECTOR
11 AND TAKE APPROPRIATE ACTION TO ENFORCE THE ACTION OF THE
12 DIRECTOR UNLESS THE COURT CONCLUDES THAT THE ORDER IS:

- 13 (a) ARBITRARY, CAPRICIOUS, OR AN ABUSE OF DISCRETION;
- 14 (b) NOT SUPPORTED BY SUBSTANTIAL EVIDENCE ON THE RECORD
15 CONSIDERED AS A WHOLE; OR
- 16 (c) OTHERWISE NOT IN ACCORDANCE WITH LAW.

17 (2) A PERSON OR PARTY, INCLUDING AN EMPLOYEE ORGANIZATION
18 OR A CERTIFIED EMPLOYEE ORGANIZATION, AFFECTED BY A FINAL RULE,
19 ORDER, OR DECISION OF THE DIRECTOR ISSUED PURSUANT TO THIS PART 11
20 MAY APPEAL TO A DISTRICT COURT OF THE STATE FOR FURTHER RELIEF.
21 ALL APPEALS SHALL BE BASED ON THE RECORD MADE AT THE DIRECTOR'S
22 HEARING. ALL APPEALS TO THE COURT SHALL BE MADE WITHIN THIRTY
23 CALENDAR DAYS AFTER THE DATE OF THE FINAL RULE, ORDER, OR
24 DECISION OF THE DIRECTOR. ACTIONS TAKEN BY THE DIRECTOR SHALL BE
25 AFFIRMED UNLESS THE COURT CONCLUDES THAT THE ACTION IS:

- 26 (a) ARBITRARY, CAPRICIOUS, OR AN ABUSE OF DISCRETION;
- 27 (b) NOT SUPPORTED BY SUBSTANTIAL EVIDENCE ON THE RECORD

1 CONSIDERED AS A WHOLE; OR

2 (c) OTHERWISE NOT IN ACCORDANCE WITH LAW.

3 (3) (a) A PARTY TO A PARTNERSHIP AGREEMENT MAY SEEK
4 ENFORCEMENT OR VACATION OF AN ARBITRATOR'S DECISION ON A
5 GRIEVANCE CONCERNING THE INTERPRETATION, APPLICATION, AND
6 ENFORCEMENT OF A PARTNERSHIP AGREEMENT IN A DISTRICT COURT IN A
7 COUNTY WHERE THE ARBITRATION HEARING WAS HELD.

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

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

13 (II) THE ARBITRATOR EXCEEDED HIS OR HER AUTHORITY;

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

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

19 (4) (a) EITHER THE STATE OR A CERTIFIED EMPLOYEE
20 ORGANIZATION MAY CHALLENGE THE FINAL JUDGMENT OF AN
21 ARBITRATOR'S JUDGMENT RESOLVING A DISPUTE IN THE FORMATION OF A
22 PARTNERSHIP AGREEMENT IN A DISTRICT COURT IN A COUNTY WHERE THE
23 ARBITRATION HEARING WAS HELD.

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

27 (I) THE DECISION AND AWARD WAS PROCURED BY CORRUPTION,

1 FRAUD, OR UNDUE MEANS;

2 (II) THE ARBITRATOR EXCEEDED HIS OR HER AUTHORITY; OR

3 (III) THE DECISION AND AWARD VIOLATES PUBLIC POLICY, THAT
4 THE ARBITRATOR ENGAGED IN MANIFEST DISREGARD OF THE LAW, OR THAT
5 THE ARBITRATION DENIED THE PARTIES A FUNDAMENTALLY FAIR HEARING.

6 (c) IF THE DISTRICT COURT CONCLUDES THAT AN ARBITRATOR'S
7 JUDGMENT RESOLVING A DISPUTE IN THE FORMATION OF A PARTNERSHIP
8 AGREEMENT IS NOT ENFORCEABLE FOR ONE OF THE REASONS SPECIFIED IN
9 SUBSECTION (4)(b) OF THIS SECTION, THE COURT SHALL REMAND THE CASE
10 TO A NEWLY SELECTED ARBITRATOR FOR A NEW HEARING AND DECISION.

11 **24-50-1114. Construction of other laws.** IF ANY PROVISION OF
12 THIS PART 11 IS INCONSISTENT WITH THE PROVISIONS OF ANY OTHER
13 PREVIOUSLY ENACTED LAW OR RULE, THE PROVISIONS OF THIS PART 11
14 SHALL BE CONTROLLING; EXCEPT THAT THE PROVISIONS OF THIS PART 11
15 SHALL NOT BE CONTROLLING OVER ARTICLE 51 OF THIS TITLE 24. NOTHING
16 IN THIS PART 11 SHALL BE DEEMED TO DEPRIVE THE DIRECTOR OF ANY
17 CONSTITUTIONALLY REQUIRED AUTHORITY.

18 **SECTION 2. Effective date.** This act takes effect July 1, 2019.

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