

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

PREAMENDED

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

LLS NO. 20-0018.01 Nicole Myers x4326

HOUSE BILL 20-1153

HOUSE SPONSORSHIP

Esgar, Arndt, Becker, Benavidez, Bird, Buckner, Buentello, Caraveo, Coleman, Cutter, Duran, Exum, Froelich, Garnett, Gonzales-Gutierrez, Gray, Hansen, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Lontine, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman, Young

SENATE SPONSORSHIP

Garcia and Pettersen, Bridges, Danielson, Donovan, Fenberg, Fields, Foote, Ginal, Gonzales, Lee, Moreno, Rodriguez, Story, Todd, Williams A., Winter, Zenzinger

House Committees

State, Veterans, & Military Affairs
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE RELATIONSHIP BETWEEN STATE EMPLOYEES AND**
102 **THE STATE AS THEIR EMPLOYER, AND, IN CONNECTION**
103 **THEREWITH, CREATING THE "COLORADO PARTNERSHIP FOR**
104 **QUALITY JOBS 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 Services Act" to facilitate the creation of formal labor-management partnership agreements between state employees in the state personnel

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.

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 there is one partnership unit in the state that consists of all covered employees. Any partnership units established pursuant to the existing Colorado executive order that authorizes partnership agreements (executive order) will be merged into the single partnership unit created in the bill. Covered employees in a partnership unit that was created by the executive order and that are represented by an employee organization that the partnership unit chose to exclusively represent it (certified employee organization), will continue to be represented by the existing certified employee organization.

Certified employee organizations: An employee organization that wants to represent an unrepresented partnership unit may file a petition with the division of labor standards and statistics (division) in the department of labor and employment requesting that it hold an election to determine whether covered employees want to be represented by an employee organization (representation election). An employee organization requesting a representation election is required to submit a petition to the division signed by at least 30% of the covered employees in the partnership unit. The division is required to certify as the certified employee organization, the employee organization that receives the majority of votes cast by the covered employees.

The bill specifies circumstances under which the division is not allowed to hold a representation election. 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: A covered employee has the right to work with an employee organization and communicate with other covered employees to form a partnership agreement or to discuss other work-related issues. A covered employee has the right to refrain from any activities in connection with employee organizations and the partnership process. A covered employee may also opt not to have the state provide certain personal information to a certified employee organization.

Certified employee organizations have the right to reasonable access to covered employees at work, through e-mail, and through other forms of communication.

Duties of the certified employee organization: A certified employee organization is required to represent the interests of all covered employees, regardless of membership in the employee organization, in the negotiation of a partnership agreement. A certified employee organization is not required to represent covered employees in certain personnel

actions. In addition, a certified employee organization is prohibited from threatening, facilitating, supporting, or causing a strike, work stoppage, work slowdown, group sickout, or any other action that would disrupt the daily functioning of the state or any of its agencies or departments. An employee who engages in such activities may be subject to disciplinary action.

Executive and management rights: The bill specifies that nothing contained in the employee partnership process impairs the ability of the state to determine, carry out, and administer specified existing duties and rights of the state.

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;
- ! Provide specified information about every covered employee to a certified employee organization on a monthly basis;
- ! Allow a certified employee organization to meet with a newly hired covered employee;
- ! 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.

The bill specifies that not engaging in such duties constitutes an unfair labor practice that can be subject to review by the division.

Partnership agreements: A certified employee organization and the state are required to discuss and cooperatively draft mutually agreed upon written partnership agreements, which are binding on the state, the certified employee organization, and covered employees. The parties are required to bargain over wages, hours, and terms and conditions of employment. All other subjects are permissive and may be addressed by mutual agreement.

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. Meetings held to negotiate a partnership agreement and grievance and arbitration proceedings are not open meetings as defined in law. In addition, records prepared or exchanged prior to submission of a final partnership agreement are not subject to the "Colorado Open Records Act".

Dispute resolution: 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 or in a mutually agreed upon alternate procedure. The bill specifies how mediators will be selected. If the parties do not reach an agreement on outstanding issues within 30 days of commencing mediation, the mediator is required to issue a recommendation on all of the outstanding issues. Either party may make the mediator's recommendation public.

Any controversy concerning unfair labor practices of the state or a certified employee organization may be submitted to the division for review.

Judicial review: The state or the certified employee organization may seek judicial review of decisions or orders on representation or decertification petitions, unfair labor practice charges, rules or regulations issued by the division, or an arbitrator's decision.

The bill makes the following changes to the state personnel system:

- ! Eliminates the account dedicated to each department in the state employee reserve fund and requires that the money in the fund be used to provide merit pay to employees in a manner consistent with current law;
- ! Repeals the limit on the number of senior executive service employees in the state; and
- ! When considering a disciplinary action against an employee in the state personnel system for engaging in or threatening violent behavior against another person while on duty, requires the appointing authority to give predominant weight to the safety of the other person over the interests of the employee. If the appointing authority finds that the employee has engaged in or threatened violent behavior, the appointing authority is authorized to take disciplinary action as deemed appropriate by the appointing authority.

In addition, the bill modifies the "Colorado Open Records Act" to specify that records created in compliance with the requirements of a partnership agreement and documents created in connection with the dispute resolution process for a partnership agreement are not public records.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that the "Colorado Partnership for Quality Jobs
4 and Services Act" is intended to create formal labor-management

1 partnerships between state employees and the executive branch of state
2 government.

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

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

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

15 **SECTION 2.** In Colorado Revised Statutes, **add** part 11 to article
16 50 of title 24 as follows:

17 PART 11

18 COLORADO PARTNERSHIP FOR
19 QUALITY JOBS AND SERVICES ACT

20 **24-50-1101. Short title.** THE SHORT TITLE OF THIS PART 11 IS THE
21 "COLORADO PARTNERSHIP FOR QUALITY JOBS AND SERVICES ACT".

22 **24-50-1102. Definitions.** AS USED IN THIS PART 11, UNLESS THE
23 CONTEXT OTHERWISE REQUIRES:

24 (1) "CERTIFIED EMPLOYEE ORGANIZATION" MEANS AN EMPLOYEE
25 ORGANIZATION THAT HAS BEEN CERTIFIED AS THE REPRESENTATIVE OF
26 COVERED EMPLOYEES IN A PARTNERSHIP UNIT PURSUANT TO SECTION
27 24-50-1106.

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

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

11 (a) CONFIDENTIAL EMPLOYEES;

12 (b) MANAGERIAL EMPLOYEES;

13 (c) EXECUTIVE EMPLOYEES;

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

17 (e) ADMINISTRATIVE LAW JUDGES, HEARING OFFICERS, AND
18 ATTORNEYS WHOSE RESPONSIBILITIES INCLUDE PROVIDING LEGAL ADVICE;

19 (f) STATE TROOPERS;

20 (g) EMPLOYEES OF THE LEGISLATIVE BRANCH; OR

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

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

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

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

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

11 (8) "EXECUTIVE EMPLOYEE" MEANS AN EMPLOYEE:

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

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

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

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

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

1 OR DEPARTMENT.

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

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

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

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

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

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

1 **24-50-1103. Duties and responsibilities of the division - rules.**

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

8 (2) THE DIVISION HAS THE AUTHORITY TO ADJUDICATE UNFAIR
9 LABOR PRACTICE CHARGES AND ISSUE DECISIONS PURSUANT TO ARTICLE
10 3 OF TITLE 8.

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

13 **24-50-1104. Duties and responsibilities of the director - rules.**

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

18 **24-50-1105. Partnership units.** (1) THERE IS A SINGLE
19 PARTNERSHIP UNIT COMPOSED OF ALL COVERED EMPLOYEES.

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

27 (3) ANY FUTURE REPRESENTATION OR DECERTIFICATION

1 ELECTIONS SHALL BE AT THE LEVEL OF THE SINGLE STATEWIDE UNIT.

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

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

7 **24-50-1106. Covered employees' choice of certified employee**
8 **organization - rules.** (1) THE DIVISION SHALL RECOGNIZE AS VALID THE
9 CERTIFIED STATUS OF THE EMPLOYEE ORGANIZATION PREVIOUSLY
10 CERTIFIED PURSUANT TO EXECUTIVE ORDER D 028 07 AND SHALL
11 CONSIDER SUCH ORGANIZATION THE CERTIFIED EMPLOYEE ORGANIZATION
12 FOR ALL PURPOSES UNDER THIS PART 11 UNLESS DECERTIFIED.

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

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

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

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

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

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

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

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

24 (4) A CERTIFIED EMPLOYEE ORGANIZATION OR THE STATE MAY
25 FILE A PETITION WITH THE DIRECTOR TO RESOLVE DISPUTES ABOUT
26 WHETHER CERTAIN EMPLOYEES ARE APPROPRIATELY CLASSIFIED AS
27 COVERED EMPLOYEES. APPEALS OF THE DIRECTOR'S DECISION MAY BE

1 BROUGHT TO THE DIVISION FOR ADJUDICATION.

2 **24-50-1107. Rights of covered employees.** (1) COVERED
3 EMPLOYEES SHALL HAVE THE RIGHT TO SELF-ORGANIZATION; TO FORM,
4 JOIN, OR ASSIST AN EMPLOYEE ORGANIZATION; TO ENGAGE IN THE
5 PARTNERSHIP PROCESS AND THE FORMATION OF A PARTNERSHIP
6 AGREEMENT COLLECTIVELY THROUGH REPRESENTATIVES OF THEIR OWN
7 CHOOSING; TO ENGAGE IN OTHER CONCERTED ACTIVITIES FOR THE
8 PURPOSE OF THE PARTNERSHIP PROCESS OR OTHER MUTUAL AID OR
9 PROTECTION; AND SHALL ALSO HAVE THE RIGHT TO REFRAIN FROM ANY OR
10 ALL SUCH ACTIVITIES, WITHOUT INTERFERENCE, RESTRAINT, OR COERCION
11 BY THE STATE OR EMPLOYEE ORGANIZATION.

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

20 (3) (a) WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS PART
21 11, THE STATE SHALL COMPLETE A ONE-TIME NOTIFICATION PROCESS TO
22 INFORM EACH COVERED EMPLOYEE OF THE OPTION TO DIRECT THE STATE
23 NOT TO PROVIDE A CERTIFIED EMPLOYEE ORGANIZATION THE COVERED
24 EMPLOYEE'S HOME ADDRESS, HOME AND PERSONAL CELLULAR PHONE
25 NUMBERS, AND PERSONAL E-MAIL ADDRESS.

26 (b) THE STATE SHALL INFORM NEW EMPLOYEES, WITHIN THIRTY
27 DAYS OF THEIR START DATE, OF THE OPTION TO OPT OUT PURSUANT TO

1 SUBSECTION (3)(a) OF THIS SECTION.

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

6 (d) ANY COMMUNICATION BY THE STATE PURSUANT TO THIS
7 SUBSECTION (3) SHALL BE SUBJECT TO THE REQUIREMENTS OF SECTION
8 24-50-1111 (7)(a) AND SHALL BE NEUTRAL WITH RESPECT TO THE
9 EMPLOYEE'S EXERCISE OF THIS OPTION.

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

14 **24-50-1108. Rights of certified employee organizations.** THE
15 CERTIFIED EMPLOYEE ORGANIZATION SHALL HAVE REASONABLE ACCESS
16 TO COVERED EMPLOYEES AT WORK, THROUGH ELECTRONIC
17 COMMUNICATION AND OTHER MEANS. REASONABLE ACCESS SHALL BE
18 DETERMINED THROUGH THE PARTNERSHIP AGREEMENT PROCESS
19 PURSUANT TO SECTION 24-50-1112. THE CERTIFIED EMPLOYEE
20 ORGANIZATION IS THE ONLY EMPLOYEE ORGANIZATION THAT HAS THE
21 RIGHT TO SUCH ACCESS EXCEPT TO THE EXTENT ACCESS IS PROVIDED TO
22 THE GENERAL PUBLIC.

23 **24-50-1109. Duties of the certified employee organization.**

24 (1) IN PERFORMING ITS DUTIES UNDER THIS PART 11, THE CERTIFIED
25 EMPLOYEE ORGANIZATION SHALL REPRESENT THE INTERESTS OF ALL
26 COVERED EMPLOYEES WITHOUT DISCRIMINATION OR REGARD TO
27 MEMBERSHIP IN THE CERTIFIED EMPLOYEE ORGANIZATION, AND SHALL

1 NEGOTIATE PARTNERSHIP AGREEMENTS THAT APPLY EQUALLY TO ALL
2 COVERED EMPLOYEES REGARDLESS OF MEMBERSHIP STATUS IN THE
3 CERTIFIED EMPLOYEE ORGANIZATION. THIS DOES NOT LIMIT THE STATE
4 AND THE CERTIFIED EMPLOYEE ORGANIZATION FROM HAVING A
5 PARTNERSHIP AGREEMENT THAT ALSO COVERS DEPARTMENT OR AGENCY
6 SPECIFIC ISSUES.

7 (2) 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 (3) (a) A CERTIFIED EMPLOYEE ORGANIZATION SHALL NOT
14 THREATEN, FACILITATE, SUPPORT, OR CAUSE A STATE EMPLOYEE:

15 (I) STRIKE;

16 (II) WORK STOPPAGE;

17 (III) WORK SLOWDOWN;

18 (IV) GROUP SICK OUT; OR

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

22 (b) ANY CONTROVERSY CONCERNING AN ACTIVITY PROHIBITED BY
23 SUBSECTION (3)(a) OF THIS SECTION MAY BE SUBMITTED TO THE DIVISION
24 PURSUANT TO SECTION 24-50-1113. UPON FINDING THAT THE CERTIFIED
25 EMPLOYEE ORGANIZATION HAS VIOLATED SUBSECTION (3)(a) OF THIS
26 SECTION, THE DIVISION SHALL AWARD ANY APPROPRIATE RELIEF,
27 INCLUDING BUT NOT LIMITED TO SANCTIONS, FINES, OR DECERTIFICATION.

1 IF DECERTIFIED BY THE DIVISION, AN EMPLOYEE ORGANIZATION MAY
2 BEGIN THE CERTIFICATION PROCESS IN SECTION 24-50-1106 (2) AFTER ONE
3 YEAR FROM THE DATE OF DECERTIFICATION.

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

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

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

16 **24-50-1110. Executive and management rights.** (1) NOTHING
17 IN THIS PART 11 IMPAIRS THE ABILITY OF THE STATE TO:

18 (a) EXERCISE ANY RIGHT OR RESPONSIBILITY RESERVED TO AN
19 APPOINTING AUTHORITY, THE DIRECTOR, OR THE STATE PERSONNEL BOARD
20 PURSUANT TO THE STATE PERSONNEL SYSTEM AS DESCRIBED IN SECTION
21 13 OF ARTICLE XII OF THE STATE CONSTITUTION AND PART 1 OF THIS
22 ARTICLE 50 AND RULES OR PROCEDURES PROMULGATED BY THE STATE
23 PERSONNEL BOARD OR THE DIRECTOR PURSUANT TO SECTION 24-50-101
24 (3)(c);

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

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

3 (d) DETERMINE UTILIZATION OF TECHNOLOGY;

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

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

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

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

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

18 **24-50-1111. Duties of the state.** (1) THE STATE SHALL MAKE
19 PAYROLL DEDUCTIONS FOR MEMBERSHIP DUES AND OTHER PAYMENTS
20 THAT COVERED EMPLOYEES AUTHORIZE TO BE MADE TO THE CERTIFIED
21 EMPLOYEE ORGANIZATION AND RELATED ENTITIES. THE CERTIFIED
22 EMPLOYEE ORGANIZATION AND RELATED ENTITIES SHALL BE THE ONLY
23 EMPLOYEE ORGANIZATION FOR WHICH THE STATE SHALL MAKE PAYROLL
24 DEDUCTIONS FROM COVERED EMPLOYEES.

25 (2) THE STATE SHALL HONOR THE TERMS OF COVERED EMPLOYEES'
26 AUTHORIZATIONS FOR PAYROLL DEDUCTIONS MADE IN ANY FORM THAT
27 SATISFIES THE REQUIREMENTS OF THE "UNIFORM ELECTRONIC

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

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

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

27 (II) HOME ADDRESS, HOME AND PERSONAL CELLULAR PHONE

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

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

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

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

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

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

27 (b) THE STATE MUST PROVIDE THE CERTIFIED EMPLOYEE

1 ORGANIZATION AT LEAST TEN DAYS NOTICE IN ADVANCE OF A NEW
2 EMPLOYEE ORIENTATION; EXCEPT THAT A SHORTER NOTICE MAY BE
3 PROVIDED WHERE THERE IS AN URGENT NEED CRITICAL TO THE STATE'S
4 OPERATIONS THAT WAS NOT REASONABLY FORESEEABLE.

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

9 (6) AFTER THE STATE AND THE CERTIFIED EMPLOYEE
10 ORGANIZATION REACH A PARTNERSHIP AGREEMENT, THE INITIAL OR
11 SUPPLEMENTAL BUDGET REQUEST FROM THE GOVERNOR TO THE GENERAL
12 ASSEMBLY SHALL INCLUDE SUFFICIENT APPROPRIATIONS TO IMPLEMENT
13 THE TERMS OF THE AGREEMENT REQUIRING THE EXPENDITURE OF MONEY.
14 THE PROVISIONS OF A PARTNERSHIP AGREEMENT THAT REQUIRE THE
15 EXPENDITURE OF MONEY SHALL BE CONTINGENT UPON THE AVAILABILITY
16 OF MONEY AND THE SPECIFIC APPROPRIATION OF MONEY BY THE GENERAL
17 ASSEMBLY. IF THE GENERAL ASSEMBLY REJECTS ANY PART OF THE
18 REQUEST, OR WHILE ACCEPTING THE REQUEST TAKES ANY ACTION WHICH
19 WOULD RESULT IN A MODIFICATION OF THE TERMS OF THE COST ITEM
20 SUBMITTED TO IT, EITHER PARTY MAY REOPEN NEGOTIATIONS
21 CONCERNING ECONOMIC ISSUES.

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

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

16 (c) INTERFERE WITH, RESTRAIN, OR COERCE COVERED EMPLOYEES
17 FROM EXERCISING THE RIGHTS GRANTED BY THIS PART 11; EXCEPT THAT
18 THIS SUBSECTION (7)(c) DOES NOT IMPAIR THE RIGHT OF A CERTIFIED
19 EMPLOYEE ORGANIZATION TO PRESCRIBE ITS OWN RULES WITH RESPECT TO
20 RECRUITING AND MAINTAINING ITS MEMBERSHIP SUBJECT TO SECTION
21 24-50-1109 (3)(a);

22 (d) DISCHARGE OR DISCRIMINATE AGAINST ANY COVERED
23 EMPLOYEE BECAUSE THE EMPLOYEE FILED AN AFFIDAVIT, OR GAVE ANY
24 INFORMATION OR TESTIMONY UNDER THIS PART 11, OR BECAUSE THE
25 EMPLOYEE FORMED, JOINED, OR CHOSE TO BE REPRESENTED BY ANY
26 EMPLOYEE ORGANIZATION, OR REFRAINED FROM ANY SUCH ACTIVITIES;

27 (e) REFUSE TO PARTICIPATE IN THE PARTNERSHIP PROCESS SET

1 FORTH IN SECTION 24-50-1112, ONCE A CERTIFIED EMPLOYEE
2 ORGANIZATION IS CERTIFIED; OR

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

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

10 **24-50-1112. Partnership agreements.** (1) WITHIN THIRTY DAYS
11 AFTER THE EFFECTIVE DATE OF THIS PART 11, IF AN EMPLOYEE
12 ORGANIZATION IS ALREADY CERTIFIED, OR WITHIN SIXTY DAYS AFTER AN
13 EMPLOYEE ORGANIZATION HAS BEEN CERTIFIED PURSUANT TO A
14 REPRESENTATION ELECTION, OR NO LATER THAN APRIL 15 OF THE YEAR
15 PRECEDING THE EXPIRATION OF A PARTNERSHIP AGREEMENT, THE STATE
16 SHALL BEGIN MEETINGS TO DISCUSS AND COOPERATIVELY DRAFT A
17 MUTUALLY AGREED UPON WRITTEN PARTNERSHIP AGREEMENT TO BE
18 BINDING ON THE STATE, THE CERTIFIED EMPLOYEE ORGANIZATION, AND
19 COVERED EMPLOYEES WHEN RATIFIED BY THE CERTIFIED EMPLOYEE
20 ORGANIZATION AND APPROVED BY THE GOVERNOR. SUBJECT TO SECTION
21 24-50-1110, BOTH THE CERTIFIED EMPLOYEE ORGANIZATION AND THE
22 STATE SHALL BARGAIN IN GOOD FAITH TO REACH AGREEMENT ON WAGES,
23 HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT FOR ALL COVERED
24 EMPLOYEES. NEITHER THE CERTIFIED EMPLOYEE ORGANIZATION NOR THE
25 STATE SHALL BE REQUIRED TO AGREE TO A PROPOSAL OR TO MAKE A
26 CONCESSION. DISPUTES SHALL BE RESOLVED PURSUANT TO SECTION
27 24-50-1113.

1 (2) THE PARTIES SHALL BARGAIN OVER WAGES, HOURS, AND TERMS
2 AND CONDITIONS OF EMPLOYMENT. ALL OTHER SUBJECTS ARE PERMISSIVE
3 AND MAY BE ADDRESSED DURING BARGAINING UPON MUTUAL AGREEMENT
4 OF THE PARTIES. A PARTNERSHIP AGREEMENT MAY NOT INCLUDE A
5 REQUIREMENT OR AGREEMENT THAT THE EXECUTIVE BRANCH OR ANY
6 DEPARTMENT NEGOTIATE WITH RESPECT TO THE STATUTORY FUNCTION OF
7 ANY DEPARTMENT OR AGENCY OR MATTERS RELATED TO THE PUBLIC
8 EMPLOYEES' RETIREMENT ASSOCIATION.

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

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

27 (4) A PARTNERSHIP AGREEMENT SHALL PROVIDE FOR A

1 PARTNERSHIP AGREEMENT GRIEVANCE PROCEDURE CULMINATING IN FINAL
2 AND BINDING ARBITRATION TO RESOLVE DISPUTES OVER THE
3 INTERPRETATION, APPLICATION, AND ENFORCEMENT OF ANY PROVISION OF
4 THE PARTNERSHIP AGREEMENT.

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

12 (6) MEETINGS AND DISCUSSIONS HELD PURSUANT TO THIS SECTION
13 AND THE PARTNERSHIP AGREEMENT GRIEVANCE AND ARBITRATION
14 PROCESS SPECIFIED IN SUBSECTION (4) OF THIS SECTION AND THE DISPUTE
15 RESOLUTION PROCESS SPECIFIED IN SECTION 24-50-1113 ARE NOT
16 MEETINGS AS DEFINED IN SECTION 24-6-402.

17 (7) EXCEPT FOR A PARTNERSHIP AGREEMENT SUBMITTED FOR
18 RATIFICATION, ALL DOCUMENTS, PROPOSALS, AND DRAFT AND TENTATIVE
19 AGREEMENTS DRAFTED OR EXCHANGED PURSUANT TO THE PROCESS
20 ESTABLISHED IN THIS SECTION ARE PRIVILEGED AND NOT SUBJECT TO
21 DISCLOSURE PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART
22 2 OF ARTICLE 72 OF THIS TITLE 24. NOTHING IN THIS SECTION SHALL BE
23 CONSTRUED TO PREVENT A CERTIFIED EMPLOYEE ORGANIZATION OR THE
24 STATE FROM PRESENTING SUCH MATERIALS IN ANY PARTNERSHIP
25 AGREEMENT GRIEVANCE OR ARBITRATION PROCESS PURSUANT TO
26 SUBSECTION (4) OF THIS SECTION OR THE DISPUTE RESOLUTION PROCESS
27 SPECIFIED IN SECTION 24-50-1113.

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

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

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

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

27 (d) THE COST OF THE MEDIATOR PURSUANT TO THIS SECTION SHALL

1 BE SHARED EQUALLY BY THE CERTIFIED EMPLOYEE ORGANIZATION AND
2 THE STATE.

3 (e) WITH THE EXCEPTION OF THE RECOMMENDATION OF THE
4 MEDIATOR, ALL DOCUMENTS, PROPOSALS, AND DRAFT AND TENTATIVE
5 AGREEMENTS, DRAFTED OR EXCHANGED PURSUANT TO THE PROCESS
6 ESTABLISHED IN THIS SECTION, ARE PRIVILEGED AND NOT SUBJECT TO
7 DISCLOSURE PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART
8 2 OF ARTICLE 72 OF THIS TITLE 24.

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

17 **24-50-1114. Maintenance of the partnership relationship.** AN
18 EXISTING PARTNERSHIP AGREEMENT SHALL CONTINUE IN FULL FORCE AND
19 EFFECT UNTIL IT IS REPLACED BY A SUBSEQUENT PARTNERSHIP
20 AGREEMENT.

21 **24-50-1115. Judicial review.** (1) THE CERTIFIED EMPLOYEE
22 ORGANIZATION OR THE STATE MAY SEEK JUDICIAL REVIEW OF DECISIONS
23 OR ORDERS ON REPRESENTATION OR DECERTIFICATION PETITIONS UNDER
24 SECTION 24-50-1106; UNFAIR LABOR PRACTICE CHARGES UNDER SECTION
25 24-50-1113 (3); OR RULES OR REGULATIONS ISSUED BY THE DIVISION
26 UNDER THIS PART 11, IN THE MANNER AND WITH THE EFFECT PROVIDED IN
27 THE "STATE ADMINISTRATIVE PROCEDURES ACT", ARTICLE 4 OF THIS

1 TITLE 24, AND RULES PROMULGATED THEREUNDER.

2 (2) (a) THE CERTIFIED EMPLOYEE ORGANIZATION OR THE STATE
3 MAY SEEK JUDICIAL REVIEW OF AN ARBITRATOR'S DECISION ON A
4 PARTNERSHIP AGREEMENT GRIEVANCE PURSUANT TO SECTION 24-50-1112
5 (4) IN A DISTRICT COURT IN THE CITY AND COUNTY OF DENVER.

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

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

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

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

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

17 **24-50-1116. Construction of other laws.** IF ANY PROVISION OF
18 THIS PART 11 IS INCONSISTENT WITH THE PROVISIONS OF ANY OTHER
19 PREVIOUSLY ENACTED LAW OR RULE, THE PROVISIONS OF THIS PART 11
20 CONTROL; EXCEPT THAT THE PROVISIONS OF THIS PART 11 DO NOT
21 CONTROL OVER ARTICLE 51 OF THIS TITLE 24. NOTHING IN THIS PART 11
22 DEPRIVES THE DIRECTOR OR STATE PERSONNEL BOARD OF ANY
23 CONSTITUTIONALLY REQUIRED AUTHORITY.

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

27 **24-50-104. Job evaluation and compensation - state employee**

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

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

25 (IV) On the date the state controller publishes the comprehensive
26 annual financial report of the state, the state controller and state treasurer
27 shall transfer an amount of ~~moneys~~ MONEY equal to a reversion amount

1 from the general fund or a qualifying cash fund to the state employee
2 reserve fund. ~~to be allocated to the eligible department's account.~~

3 (VI) ~~In order to provide moneys to a department that is unable to~~
4 ~~generate substantial reversion amounts because of the manner in which~~
5 ~~moneys are appropriated to the department or other factors, the governor~~
6 ~~may direct the state treasurer to reallocate moneys among department~~
7 ~~accounts in the fund. The total amount reallocated pursuant to this~~
8 ~~subparagraph (VI) during a state fiscal year shall not exceed two million~~
9 ~~dollars. No other reallocation of moneys among accounts is permitted.~~

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

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

21 **24-50-125. Disciplinary proceedings - appeals - hearings -**
22 **procedure - definitions.** (1.5) (a) IN CONSIDERING ANY DISCIPLINARY
23 ACTION PURSUANT TO THIS SECTION AGAINST AN EMPLOYEE WHO IS
24 CERTIFIED TO ANY CLASS OR POSITION IN THE STATE PERSONNEL SYSTEM
25 FOR ENGAGING IN VIOLENT BEHAVIOR OR A THREAT OF VIOLENT BEHAVIOR
26 AGAINST ANOTHER PERSON WHILE ON DUTY, THE APPOINTING AUTHORITY
27 SHALL GIVE PREDOMINANT WEIGHT TO THE SAFETY OF THE OTHER PERSON

1 OVER THE INTERESTS OF THE EMPLOYEE. FOR PURPOSES OF THIS
2 SUBSECTION (1.5), "VIOLENT BEHAVIOR" MEANS ANY ACT OR THREAT OF
3 PHYSICAL, VERBAL, OR PSYCHOLOGICAL AGGRESSION OR THE
4 DESTRUCTION OR ABUSE OF PROPERTY BY ANY INDIVIDUAL. A THREAT
5 MAY INCLUDE A VEILED, CONDITIONAL, OR DIRECT THREAT IN VERBAL,
6 WRITTEN, ELECTRONIC, OR GESTURAL FORM, RESULTING IN INTIMIDATION,
7 HARASSMENT, HARM, OR ENDANGERMENT TO THE SAFETY OF ANOTHER
8 PERSON OR PROPERTY.

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

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

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

23 **24-72-202. Definitions.** As used in this part 2, unless the context
24 otherwise requires:

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

26 (XIV) PURSUANT TO THE "COLORADO PARTNERSHIP FOR QUALITY
27 JOBS AND SERVICES ACT", PART 11 OF ARTICLE 50 OF THIS TITLE 24,

1 RECORDS CREATED IN COMPLIANCE WITH THE REQUIREMENTS OF A STATE
2 EMPLOYEE PARTNERSHIP AGREEMENT AS SPECIFIED IN SECTION
3 24-50-1111 (3)(d) AND DOCUMENTS CREATED IN CONNECTION WITH THE
4 DISPUTE RESOLUTION PROCESS FOR AN EMPLOYEE PARTNERSHIP
5 AGREEMENT AS SPECIFIED IN SECTION 24-50-1113 (2)(e).

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

8 **24-101-401. Public access to procurement information -**
9 **repeal.** (2) (b) ~~(f) Each agreement entered into by a governmental body~~
10 ~~with a certified employee organization for state employees under~~
11 ~~executive order D 028 07, or any similar successor executive order with~~
12 ~~respect to the existence of a certified employee organization for state~~
13 ~~employees, shall specify that the agreement is open to public inspection~~
14 ~~as provided in sections 24-72-203 and 24-72-204.~~

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

21 ~~(HH) This paragraph (b) is repealed, effective upon the receipt by~~
22 ~~the revisor of statutes of the written notice under subparagraph (H) of this~~
23 ~~paragraph (b).~~

24 **SECTION 7. Effective date.** This act takes effect July 1, 2020.

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