

CHAPTER 194

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**GOVERNMENT - STATE**

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HOUSE BILL 98-1312

BY REPRESENTATIVES Piffner and Sullivan;  
also SENATOR Blickensderfer.

**AN ACT**

CONCERNING THE STATE EMPLOYEE COMPENSATION LAW, AND, IN CONNECTION THEREWITH,  
RESTRUCTURING THE PROVISIONS CONCERNING STATE EMPLOYEE JOB EVALUATION AND  
COMPENSATION.

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

**SECTION 1.** 24-50-104, Colorado Revised Statutes, is REPEALED AND  
REENACTED, WITH AMENDMENTS, to read:

**24-50-104. Job evaluation and compensation.** (1) **Total compensation philosophy.** (a) (I) IT IS THE POLICY OF THE STATE, IN RECRUITING AND RETAINING A QUALIFIED AND COMPETENT WORK FORCE, TO PROVIDE PREVAILING TOTAL COMPENSATION TO OFFICERS AND EMPLOYEES IN THE STATE PERSONNEL SYSTEM.

(II) FOR PURPOSES OF THIS PARAGRAPH (a), "PREVAILING TOTAL COMPENSATION" MEANS THE SALARY, BENEFITS, INCLUDING RETIREMENT BENEFITS, AND PREMIUM PAY PRACTICES COMPARABLE TO THOSE FOUND BY THE STATE PERSONNEL DIRECTOR IN SIMILAR KINDS OF EMPLOYMENT IN APPROPRIATE MARKETS OF PUBLIC AND PRIVATE EMPLOYMENT. TO DETERMINE COMPARABLE RATES FOR SALARIES, BENEFITS, INCLUDING RETIREMENT BENEFITS, AND PREMIUM PAY PRACTICES PREVAILING IN OTHER PLACES OF PUBLIC AND PRIVATE EMPLOYMENT, THE STATE PERSONNEL DIRECTOR SHALL ANNUALLY UTILIZE THE RESULTS OF APPROPRIATE SALARY AND BENEFITS SURVEYS CONDUCTED BY PUBLIC OR PRIVATE ORGANIZATIONS AND OTHER SUPPLEMENTAL SALARY OR BENEFIT SURVEYS AS DEEMED NECESSARY BY THE DIRECTOR TO DETERMINE AND MAINTAIN COMPARABLE TOTAL COMPENSATION FOR THE WORK FORCE.

(b) THE STATE PERSONNEL DIRECTOR SHALL USE A SYSTEMATIC APPROACH TO OBJECTIVELY DETERMINE CLASSES OF POSITIONS AND THE UNIFORM ALIGNMENT OF

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

CLASSES AND OCCUPATIONAL GROUPS FOR ALL JOBS IN THE STATE PERSONNEL SYSTEM. THE STATE PERSONNEL DIRECTOR SHALL CONDUCT TIMELY, ONGOING, AND TECHNICALLY SOUND EVALUATION AND ANALYSES OF JOBS IN ORDER TO GROUP SIMILAR DUTIES AND RESPONSIBILITIES INTO CLEARLY DISTINGUISHED CLASSES AND OCCUPATIONAL GROUPS THAT RELATE TO THE COMPENSATION STRUCTURE THROUGH THE ASSIGNMENT OF APPROPRIATE PAY GRADES. IF THE STATE PERSONNEL DIRECTOR PROPOSES OR THE DEPARTMENT OF PERSONNEL RECOMMENDS ANY CHANGES TO CLASSES OR OCCUPATIONAL GROUPS OR TO THE PAY GRADES FOR SUCH CLASSES OR GROUPS AS A RESULT OF THE EVALUATION AND ANALYSES REQUIRED UNDER THIS PARAGRAPH (b), THE DIRECTOR SHALL NOTIFY ALL AFFECTED EMPLOYEES AND EMPLOYEE ORGANIZATIONS OF SUCH CHANGES. UPON REQUEST OF ANY AFFECTED EMPLOYEE OR EMPLOYEE ORGANIZATION, THE STATE PERSONNEL DIRECTOR SHALL MEET AND CONFER IN GOOD FAITH WITH SUCH EMPLOYEE OR ORGANIZATION REGARDING THE PROPOSED OR RECOMMENDED CHANGES PRIOR TO FINALIZING AND IMPLEMENTING ANY SUCH CHANGE.

(c) THE STATE PERSONNEL DIRECTOR SHALL DEVELOP A PERFORMANCE MANAGEMENT, EVALUATION, AND REWARD SYSTEM THAT PERMITS PERIODIC SALARY INCREASES BASED ON DEMONSTRATED PERFORMANCE, WITHHOLDING SUCH INCREASES FOR LESS THAN SATISFACTORY PERFORMANCE, AND THE ESTABLISHMENT OF A JOB RATE FOR ALL CLASSES IN EACH OCCUPATIONAL GROUP, EXCEPT THE MEDICAL OCCUPATIONAL GROUP, THE SENIOR EXECUTIVE SERVICE, AND ANY GROUP WHERE JOB RATE IS INAPPLICABLE AS DETERMINED BY THE STATE PERSONNEL DIRECTOR. MOVEMENT WITHIN A PAY GRADE SHALL BE BASED ON SATISFACTORY OR BETTER PERFORMANCE. ONCE AN EMPLOYEE REACHES THE JOB RATE, WHICH SHALL BE AN AMOUNT ESTABLISHED BY THE ANNUAL TOTAL COMPENSATION SURVEY, THE EMPLOYEE SHALL BE ELIGIBLE ONLY FOR NONBASE-BUILDING PERFORMANCE AWARDS RATHER THAN BASE SALARY ADJUSTMENTS. EXCEPT AS PROVIDED IN PARAGRAPH (d) OF SUBSECTION (5) OF THIS SECTION, SALARIES MAY BE INCREASED OR LEFT UNCHANGED SUBJECT TO AVAILABLE APPROPRIATIONS FOR THE PERFORMANCE MANAGEMENT, EVALUATION, AND REWARD SYSTEM; EXCEPT THAT NO ANNUAL INCREASE SHALL BE GUARANTEED. EACH AGENCY SHALL ESTABLISH AN EFFECTIVE DATE FOR ITS PERFORMANCE AWARDS BASED ON THE AGENCY'S BUSINESS NEEDS AND AVAILABLE APPROPRIATIONS SO LONG AS THE AGENCY'S APPROPRIATION REQUESTS RELATED TO SUCH PERFORMANCE AWARDS FOR THE NEXT FISCAL YEAR ARE NO GREATER THAN THE AGENCY WOULD HAVE REQUESTED BEFORE ESTABLISHING THE EFFECTIVE DATE.

(d) THE STATE PERSONNEL DIRECTOR SHALL IMPLEMENT A PERFORMANCE-BASED PAY PLAN OVER A PERIOD OF THREE YEARS IN THREE SEPARATE PHASES BEGINNING JULY 1, 1998, AND ALL EMPLOYEES IN THE STATE PERSONNEL SYSTEM SHALL BE COVERED UNDER SUCH PLAN AS OF JULY 1, 2000. UNTIL AN EMPLOYEE BECOMES ELIGIBLE FOR THE FIRST PERFORMANCE AWARD PAYMENT, ANNIVERSARY-BASED MERIT INCREASES SHALL CONTINUE TO APPLY. THE PERFORMANCE-BASED PAY PLAN SHALL BE IMPLEMENTED AND COORDINATED BY THE DEPARTMENT OF PERSONNEL PURSUANT TO GUIDELINES DEVELOPED BY THE DEPARTMENT AND SUBJECT TO AVAILABLE APPROPRIATIONS.

(e) THE STATE PERSONNEL DIRECTOR SHALL SUSTAIN AN EMPLOYEE'S BASE SALARY IN THE EVENT SUCH EMPLOYEE'S POSITION IS PLACED IN A LOWER PAY RANGE DUE TO AN ALLOCATION OF SUCH EMPLOYEE'S POSITION, A SYSTEM MAINTENANCE STUDY OF

ALL POSITIONS IN A CLASS, A GENERAL JOB EVALUATION STUDY OF THE STATE PERSONNEL SYSTEM, OR THE ANNUAL TOTAL COMPENSATION SURVEY FOR A PERIOD NOT TO EXCEED THREE YEARS FROM THE EFFECTIVE DATE OF SUCH PLACEMENT. FOR PURPOSES OF THE ANNUAL TOTAL COMPENSATION SURVEY, THIS PARAGRAPH (e) SHALL TAKE EFFECT BEGINNING WITH THE 1999 ANNUAL TOTAL COMPENSATION SURVEY.

(f) INITIAL HIRING SHALL TYPICALLY BE AT THE MINIMUM RATE IN THE PAY GRADE. ON A SHOWING OF RECRUITING DIFFICULTY OR OTHER UNUSUAL CONDITION, THE APPOINTING AUTHORITY MAY AUTHORIZE THE APPOINTMENT OF A PERSON AT A HIGHER BASE SALARY WITHIN THE PAY GRADE NOT TO EXCEED THE JOB RATE FOR THE CLASS.

(g) BENEFITS SHALL INCLUDE INSURANCE, RETIREMENT, AND LEAVES OF ABSENCE WITH OR WITHOUT PAY AND MAY INCLUDE JURY DUTY, MILITARY DUTY, OR EDUCATIONAL LEAVES. THE STATE PERSONNEL DIRECTOR SHALL PRESCRIBE PROCEDURES FOR THE TYPES, AMOUNTS, AND CONDITIONS FOR ALL LEAVE BENEFITS THAT ARE TYPICALLY CONSISTENT WITH PREVAILING PRACTICES, SUBJECT TO THE PROVISIONS GOVERNING THE BENEFITS PROVIDED IN SUBSECTION (7) OF THIS SECTION. THE GENERAL ASSEMBLY SHALL APPROVE ANY CHANGES TO LEAVE BENEFITS GRANTED BY STATUTE BEFORE SUCH CHANGES ARE IMPLEMENTED. THE STATE PERSONNEL DIRECTOR SHALL PRESCRIBE BY PROCEDURE ANY NONSTATUTORY BENEFITS.

(h) THE STATE PERSONNEL DIRECTOR MAY, FOLLOWING CONSULTATION WITH THE STATE AUDITOR AND CONSISTENT WITH ARTICLE III AND SECTIONS 13, 14, AND 15 OF ARTICLE XII OF THE STATE CONSTITUTION, ESTABLISH SPECIAL PROCEDURES FOR CLASSIFYING THOSE EMPLOYEES OF THE STATE AUDITOR'S OFFICE WHO ARE WITHIN THE STATE PERSONNEL SYSTEM IN ORDER TO TAKE INTO CONSIDERATION THE SPECIAL SITUATIONS, CIRCUMSTANCES, AND DUTIES UNIQUE TO SUCH EMPLOYEES. SUCH SPECIAL PROCEDURES SHALL INCORPORATE THE DIRECTIVES, REQUIREMENTS, AND ELEMENTS OF SECTIONS 13, 14, AND 15 OF ARTICLE XII OF THE STATE CONSTITUTION, INCLUDING, BUT NOT LIMITED TO, THE GRADING AND COMPENSATION OF PERSONS IN THE STATE PERSONNEL SYSTEM ACCORDING TO STANDARDS OF EFFICIENT SERVICE THAT ARE THE SAME FOR ALL PERSONS HAVING LIKE DUTIES.

(i) THE STATE PERSONNEL DIRECTOR SHALL MONITOR COMPLIANCE WITH PARAGRAPH (d) OF THIS SUBSECTION (1) AND SHALL REPORT THE DIRECTOR'S FINDINGS BY JANUARY 1 OF EACH YEAR TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY. THE REPORT SHALL INCLUDE, BY AGENCY OR DEPARTMENT, THE TOTAL AMOUNT OF DOLLARS APPROPRIATED FOR PERFORMANCE AWARDS FOR THE PRIOR FISCAL YEAR, THE TOTAL AMOUNT OF THOSE APPROPRIATED DOLLARS AWARDED TO EMPLOYEES FOR PERFORMANCE AWARDS, AND THE TOTAL AMOUNT OF DOLLARS AWARDED FOR EACH PERFORMANCE CATEGORY.

(2) **Records.** TO FACILITATE THE REPORTING OF ESTIMATED COSTS REQUIRED OF THE STATE PERSONNEL DIRECTOR PURSUANT TO PARAGRAPH (c) OF SUBSECTION (4) OF THIS SECTION, THE RECORDS OF ALL POSITIONS IN THE STATE PERSONNEL SYSTEM SHALL BE CURRENT AND INCLUDED IN THE STATE PERSONNEL DATA SYSTEM BY JANUARY 1 OF EACH YEAR.

(3) **Total compensation advisory council.** (a) A TOTAL COMPENSATION ADVISORY COUNCIL IS HEREBY ESTABLISHED TO ADVISE THE STATE PERSONNEL DIRECTOR ON POLICY MATTERS RELATED TO THE TOTAL COMPENSATION PROGRAM, INCLUDING PERFORMANCE-BASED PAY AND THE CONDUCT OF SUPPLEMENTAL SALARY OR BENEFITS SURVEYS DEEMED NECESSARY BY THE DIRECTOR UNDER SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION. THE TOTAL COMPENSATION ADVISORY COUNCIL SHALL CONSIST OF ELEVEN MEMBERS, WHO SHALL SERVE WITHOUT COMPENSATION, AS FOLLOWS:

(I) THE STATE CONTROLLER OR THE STATE CONTROLLER'S DESIGNEE;

(II) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE;

(III) THE INSURANCE COMMISSIONER OR THE INSURANCE COMMISSIONER'S DESIGNEE;

(IV) A PRIVATE SECTOR TOTAL COMPENSATION SPECIALIST APPOINTED BY THE STATE PERSONNEL DIRECTOR;

(V) A MEMBER OF THE SENATE APPOINTED BY THE PRESIDENT OF THE SENATE;

(VI) A MEMBER OF THE HOUSE OF REPRESENTATIVES APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; AND

(VII) FIVE MEMBERS ELECTED BY EMPLOYEES IN THE STATE PERSONNEL SYSTEM WHO SHALL SERVE THREE-YEAR TERMS.

(b) THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH ELECTION PROCEDURES FOR THE TOTAL COMPENSATION ADVISORY COUNCIL. NO MORE THAN TWO EMPLOYEES SHALL BE ELECTED FROM ONE DEPARTMENT OR INSTITUTION OF HIGHER EDUCATION. NO EMPLOYEE, AS DEFINED IN SECTION 24-50-603 (7), SHALL BE DENIED THE RIGHT TO SEEK ELECTION TO AND SERVE ON THE TOTAL COMPENSATION ADVISORY COUNCIL.

(c) NOTHING IN THIS SUBSECTION (3) SHALL AFFECT THE TOTAL COMPENSATION ADVISORY COUNCIL EXISTING AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (3) OR THE TERMS OF THE MEMBERS SERVING ON THE COUNCIL AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (3).

(4) **Annual total compensation survey.** (a) THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH TECHNICALLY AND PROFESSIONALLY SOUND SURVEY METHODOLOGIES TO DETERMINE PREVAILING TOTAL COMPENSATION PRACTICES, LEVELS, AND COSTS. THE ANNUAL TOTAL COMPENSATION SURVEY, BASED ON AN ANALYSIS OF SURVEYS CONDUCTED BY PUBLIC OR PRIVATE ORGANIZATIONS, SHALL INCLUDE A FAIR SAMPLE OF PUBLIC AND PRIVATE SECTOR EMPLOYERS AND JOBS, INCLUDING AREAS OUTSIDE THE DENVER METROPOLITAN AREA. ANY SURVEYS PROVIDED ON A CONFIDENTIAL BASIS SHALL NOT BE REVEALED EXCEPT TO THE STATE AUDITOR'S OFFICE AND THE PRIVATE FIRM CONDUCTING THE AUDIT REQUIRED IN PARAGRAPH (b) OF THIS SUBSECTION (4). IN ORDER TO ESTABLISH CONFIDENCE IN THE UTILIZATION OF SALARY AND FRINGE BENEFITS SURVEYS, THE STATE PERSONNEL DIRECTOR SHALL MEET AND CONFER IN GOOD FAITH WITH MANAGEMENT AND

EMPLOYEE REPRESENTATIVES OF THE STATE AND THE TOTAL COMPENSATION ADVISORY COUNCIL IN THE SELECTION AND UTILIZATION OF PUBLIC OR PRIVATE SURVEYS OR SURVEYS CONDUCTED BY THE STATE PERSONNEL DIRECTOR.

(b) THE PURPOSE OF THE ANNUAL TOTAL COMPENSATION REPORT SHALL BE TO REFLECT ALL ADJUSTMENTS NECESSARY TO MAINTAIN THE TOTAL COMPENSATION STRUCTURE FOR THE UPCOMING FISCAL YEAR. THE TOTAL COMPENSATION SURVEY, INCLUDING ANY SUPPLEMENTAL SALARY OR BENEFITS SURVEY, SHALL NOT BE APPEALABLE. THE STATE AUDITOR IS RESPONSIBLE FOR CONTRACTING WITH A PRIVATE FIRM TO CONDUCT A PERFORMANCE AUDIT OF THE PROCEDURES AND APPLICATION OF DATA, INCLUDING ADJUSTMENTS TO JOB RATES. SUCH AUDITS SHALL BE CONDUCTED ANNUALLY THROUGH CALENDAR YEAR 2000 AND EVERY TWO YEARS, BEGINNING JANUARY 1, 2001, AND A REPORT SHALL BE SUBMITTED TO THE GOVERNOR AND THE GENERAL ASSEMBLY BY JUNE 30, 1999, AND EVERY OTHER YEAR THEREAFTER.

(c) THE STATE PERSONNEL DIRECTOR SHALL SUBMIT THE FINAL TOTAL COMPENSATION RECOMMENDATIONS AND ESTIMATED INCREASED COSTS, INCLUDING THOSE COSTS RESULTING FROM IMPLEMENTATION OF SECTION 24-50-110 (1) (a), TO THE GOVERNOR AND THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY BY DECEMBER 1 OF EACH YEAR AND SHALL PUBLISH SUCH REPORT. THE RECOMMENDED CHANGES TO SALARIES SHALL BE EFFECTIVE ON JULY 1 OF THE ENSUING FISCAL YEAR UNLESS THE GENERAL ASSEMBLY, ACTING BY BILL, ESTABLISHES A DIFFERENT EFFECTIVE DATE FOR THAT FISCAL YEAR OR THE GOVERNOR ORDERS OTHERWISE PURSUANT TO SECTION 24-50-109.5 AND SUCH ORDER IS ADOPTED BY THE GENERAL ASSEMBLY THROUGH A JOINT RESOLUTION DECLARING A FISCAL EMERGENCY AND APPROVED BY THE GOVERNOR IN ACCORDANCE WITH SECTION 39 OF ARTICLE V OF THE COLORADO CONSTITUTION.

**(5) Pay plans.** (a) THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH PAY PLANS AS TECHNICALLY AND PROFESSIONALLY NECESSARY AND SHALL ESTABLISH ANY PROCEDURES AND DIRECTIVES REQUIRED TO IMPLEMENT THE STATE'S PREVAILING TOTAL COMPENSATION PHILOSOPHY AS DEFINED IN SUBSECTION (1) OF THIS SECTION.

(b) NO EMPLOYEE IN ANY PAY PLAN MAY EXCEED AN ESTABLISHED MAXIMUM SALARY AMOUNT FOR SUCH PLAN, EXCEPT AS PROVIDED IN PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION. THE MAXIMUM MONTHLY SALARY FOR ANY EMPLOYEE WHOSE POSITION IS ASSIGNED TO A NONMEDICAL PAY PLAN IN EFFECT PRIOR TO JULY 1, 1991, SHALL BE CALCULATED BASED ON THE 1991 MAXIMUM OF FIVE THOUSAND SEVEN HUNDRED NINETY-FOUR DOLLARS, PLUS THE SUBSEQUENT ADJUSTMENTS MADE UNDER THIS PARAGRAPH (b) SINCE JULY 1, 1991; EXCEPT THAT CLASSES IN THE MEDICAL PAY PLAN REQUIRING LICENSURE AS A PHYSICIAN OR DENTIST SHALL BE SUBJECT TO A MAXIMUM MONTHLY SALARY CALCULATED ON THE BASIS OF THE 1991 MAXIMUM OF SEVEN THOUSAND EIGHT HUNDRED TWELVE DOLLARS, PLUS THE SUBSEQUENT ADJUSTMENTS MADE UNDER THIS PARAGRAPH (b) SINCE JULY 1, 1991. SUCH AMOUNTS SHALL BE ADJUSTED BY THE STATE PERSONNEL DIRECTOR IN ACCORDANCE WITH THE CHANGE IN THE CONSUMER PRICE INDEX FOR THE DENVER-BOULDER METROPOLITAN STATISTICAL AREA FOR THE PRECEDING CALENDAR YEAR OR THE PERCENTAGE INCREASE IN STATE GENERAL FUND APPROPRIATIONS IN RELATION TO SUCH APPROPRIATIONS FOR THE PRECEDING FISCAL YEAR, WHICHEVER IS LESS. THE MAXIMUM MONTHLY SALARY FOR THE SENIOR

EXECUTIVE SERVICE PLAN SHALL NOT EXCEED THE MAXIMUM MONTHLY SALARY OF ANY NONMEDICAL PAY PLAN BY MORE THAN TWENTY-FIVE PERCENT.

(c) THE SENIOR EXECUTIVE SERVICE SHALL BE LIMITED TO ONE HUNDRED TWENTY-FIVE POSITIONS. THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH CRITERIA FOR INCLUSION IN THE SENIOR EXECUTIVE SERVICE AND SHALL REVIEW EACH NOMINATED POSITION BEFORE IT IS PLACED IN THE PAY PLAN FOR THE SENIOR EXECUTIVE SERVICE. THE HEAD OF THE DEPARTMENT OR AGENCY OR STATE AUDITOR FOR EMPLOYEES OF THE STATE AUDITOR'S OFFICE SHALL MAKE APPOINTMENTS TO THE SENIOR EXECUTIVE SERVICE BASED ON COMPETITIVE SELECTION AND IS RESPONSIBLE FOR THE MANAGEMENT OF THE EMPLOYEES IN SUCH PLAN. ANY PERSON IN THE SENIOR EXECUTIVE SERVICE SHALL HAVE NO RIGHT TO A POSITION OUTSIDE OF THE SENIOR EXECUTIVE SERVICE.

(d) IN THE PAY PLANS FOR MEDICAL AND THE SENIOR EXECUTIVE SERVICE, THERE SHALL BE NO ANNIVERSARY-BASED MERIT INCREASES. THE SALARIES IN SUCH PAY PLANS SHALL BE BASED ON THE NEGOTIATION OF AN ANNUAL CONTRACT BETWEEN THE EMPLOYEE AND THE DEPARTMENT HEAD OR THE STATE AUDITOR, WHEN APPROPRIATE, AND THE AMOUNT OF SUCH SALARIES MAY INCREASE, DECREASE, OR REMAIN UNCHANGED FROM YEAR TO YEAR. ANY EMPLOYEE DISMISSED FOR FAILURE TO PERFORM UNDER SUCH CONTRACT MAY ONLY APPEAL DIRECTLY TO THE STATE PERSONNEL BOARD.

(6) **Job evaluation.** (a) SYSTEM MAINTENANCE STUDIES INVOLVING THE ASSIGNMENT OF CLASSES TO INCREASED PAY GRADES SHALL BE INCORPORATED INTO THE ANNUAL TOTAL COMPENSATION REQUEST REPORTED TO THE GENERAL ASSEMBLY AND SHALL BE EFFECTIVE ON JULY 1 OF EACH YEAR UNLESS OTHERWISE ORDERED BY THE GOVERNOR ACTING PURSUANT TO SECTION 24-50-109.5.

(b) (I) THE STATE PERSONNEL DIRECTOR SHALL ALLOCATE INDIVIDUAL POSITIONS TO THE PROPER CLASSES BASED ON AN OBJECTIVE EVALUATION OF THE JOB ASSIGNMENT.

(II) ANY EMPLOYEE DIRECTLY AFFECTED BY THE ALLOCATION OF THE EMPLOYEE'S POSITION TO A CLASS IN A LOWER PAY GRADE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) MAY FILE A WRITTEN APPEAL WITH THE STATE PERSONNEL DIRECTOR WITHIN TEN DAYS AFTER RECEIVING THE NOTICE OF ALLOCATION OF POSITIONS. THE STATE PERSONNEL DIRECTOR, OR THE DIRECTOR'S DESIGNEE, SHALL REVIEW THE APPEAL IN SUMMARY FASHION ON THE BASIS OF WRITTEN MATERIAL THAT MAY BE SUPPLEMENTED BY ORAL ARGUMENT AT THE SOLE DISCRETION OF THE DIRECTOR OR DESIGNEE. AT THE DIRECTOR'S DISCRETION, AN ADVISORY PANEL OF QUALIFIED JOB EVALUATORS MAY BE CONVENED TO ASSIST THE DIRECTOR IN MAKING A DECISION. THE DIRECTOR SHALL ISSUE A WRITTEN DECISION WITHIN NINETY CALENDAR DAYS AFTER THE RECEIPT OF A TIMELY APPEAL. IF THE DIRECTOR DOES NOT ISSUE A DECISION WITHIN NINETY CALENDAR DAYS AFTER RECEIPT OF A TIMELY APPEAL, THE ORIGINAL ALLOCATION DECISION SHALL BE FINAL. AN ALLOCATION DECISION MAY BE OVERTURNED ONLY IF THE DIRECTOR FINDS IT TO HAVE BEEN ARBITRARY, CAPRICIOUS, OR CONTRARY TO RULE OR LAW. THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH A PROCESS FOR TIMELY RESOLVING APPEALS WITHIN THE NINETY-DAY PERIOD AND THE CRITERIA FOR SELECTION OF AND METHOD OF SERVICE UPON AN ADVISORY PANEL. ANY DECISION SHALL BE SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTION

24-4-106.

(7) **Leaves.** (a) NO EMPLOYEE SHALL EARN MORE THAN TEN DAYS OF SICK LEAVE PER FISCAL YEAR. NO EMPLOYEE MAY RETAIN ACCUMULATED SICK LEAVE IN EXCESS OF FORTY-FIVE DAYS AT THE END OF ANY FISCAL YEAR; EXCEPT THAT ANY EMPLOYEE WHO HAD ACCUMULATED SICK LEAVE PRIOR TO JULY 1, 1988, SHALL RETAIN SUCH LEAVE AND MAY ACCUMULATE A MAXIMUM OF FORTY-FIVE ADDITIONAL DAYS. ANY EXCESS ACCUMULATION MAY BE CONVERTED TO ANNUAL LEAVE AT THE RATE OF FIVE DAYS OF SICK LEAVE TO ONE DAY OF ANNUAL LEAVE UP TO A TOTAL OF TWO DAYS PER FISCAL YEAR. A MEDICAL CERTIFICATE FORM FROM A HEALTH CARE PROVIDER SHALL BE REQUIRED FOR ABSENCES OF MORE THAN THREE FULL CONSECUTIVE WORKING DAYS, OR THE USE OF SICK LEAVE SHALL BE DENIED.

(b) THE PROCEDURES OF THE STATE PERSONNEL DIRECTOR SHALL PROVIDE THAT NO MORE THAN TWO DAYS OF PAID LEAVE PER FISCAL YEAR SHALL BE GRANTED FOR ORGAN, TISSUE, OR BONE MARROW DONATION FOR TRANSPLANTS. SUCH LEAVE MAY NOT BE ACCUMULATED.

(c) THE STATE PERSONNEL DIRECTOR MAY ESTABLISH PROCEDURES TO ALLOW THE TRANSFER OF ANNUAL LEAVE BETWEEN EMPLOYEES WHEN ONE EMPLOYEE, OR AN IMMEDIATE FAMILY MEMBER OF SUCH EMPLOYEE, EXPERIENCES A CATASTROPHIC, LIFE THREATENING HEALTH CONDITION. THE RECIPIENT OF ANY ANNUAL LEAVE SHALL HAVE A MINIMUM OF ONE YEAR OF STATE SERVICE AND EXHAUSTED ALL ACCRUED ANNUAL AND SICK LEAVE.

(d) AN EMPLOYEE CERTIFIED AS A DISASTER SERVICE VOLUNTEER OF THE AMERICAN RED CROSS MAY BE GRANTED PAID LEAVE FOR SPECIALIZED DISASTER RELIEF SERVICES. SUCH LEAVE SHALL NOT EXCEED FIVE DAYS FOR A LOCAL DISASTER OR FIFTEEN DAYS FOR A NATIONAL DISASTER IN A TWELVE-MONTH PERIOD. SUCH LEAVE MAY NOT BE ACCUMULATED. DURING THIS PERIOD OF LEAVE, AN EMPLOYEE SHALL NOT BE DEEMED TO BE AN EMPLOYEE FOR PURPOSES OF THE "WORKERS' COMPENSATION ACT OF COLORADO", AS PROVIDED IN ARTICLES 40 TO 47 OF TITLE 8, C.R.S.

(8) **Payroll.** (a) SALARIES FOR POSITIONS IN THE STATE PERSONNEL SYSTEM, EXCEPT FOR HOURLY, OVERTIME, AND SUPPLEMENTAL PURPOSES, SHALL BE PAID ON A MONTHLY BASIS AS OF THE LAST WORKING DAY OF THE MONTH; EXCEPT THAT, FOR STATE PERSONNEL EMPLOYEES IN THE DEPARTMENT OF TRANSPORTATION HIRED BEFORE THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, SALARIES FOR THE MONTH OF DECEMBER SHALL BE PAID ON THE FIRST WORKING DAY IN JANUARY, UNLESS ANY SUCH EMPLOYEE INFORMS THE CONTROLLER OF THE DEPARTMENT OF TRANSPORTATION OF THE EMPLOYEE'S DESIRE TO BE PAID IN THE SAME MANNER AS OTHER EMPLOYEES IN THE STATE PERSONNEL SYSTEM AS PROVIDED IN THIS SUBSECTION (8), IN WHICH CASE, THE EMPLOYEE SHALL BE PAID IN SUCH MANNER.

(b) MONTHLY SALARIES SHALL BE CONVERTED TO ANNUAL SALARY AS THE BASIS FOR CALCULATING AMOUNTS DUE FOR PERIODS OTHER THAN MONTHLY.

(c) THE STATE PERSONNEL DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL REGULATE, APPROVE, AND REVIEW ALL PAYROLL DEDUCTIONS OTHER THAN THOSE EXPRESSLY AUTHORIZED BY STATUTE OR STATE-SPONSORED FOR ALL STATE

EMPLOYEES. THE STATE PERSONNEL DIRECTOR MAY ASSESS A CHARGE TO THE ORGANIZATION THAT RECEIVES THE BENEFIT FROM SUCH A PAYROLL DEDUCTION TO OFFSET THE COST TO THE STATE FOR THIS SERVICE.

(d) NO PAYROLL DEDUCTION SHALL BE MADE ON BEHALF OF A STATE EMPLOYEE WITHOUT PRIOR WRITTEN AUTHORIZATION FROM THE STATE PERSONNEL DIRECTOR OR THE DIRECTOR'S DESIGNEE. THE STATE PERSONNEL DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY AUTHORIZE A PAYROLL DEDUCTION ONLY AFTER RECEIVING A WRITTEN REQUEST FOR SUCH PAYROLL DEDUCTION FROM THE EMPLOYEE, A DEPARTMENT OR AGENCY REPRESENTATIVE, OR AN ORGANIZATION.

(9) **Liability.** (a) EXCEPT FOR GROSS NEGLIGENCE OR FRAUD, NO STATE EMPLOYEE RESPONSIBLE FOR CALCULATING PAY SHALL BE IN ANY MANNER LIABLE FOR OVERPAYMENT OR UNDERPAYMENT OF SALARIES.

(b) NO EMPLOYEE WHOSE SALARY MAY BE INCREASED BY AN ALLOCATION OF THE EMPLOYEE'S POSITION TO A CLASS IN A HIGHER PAY GRADE SHALL HAVE ANY CLAIM AGAINST THE STATE UNLESS THE FINAL ALLOCATION DECISION IS MADE EFFECTIVE MORE THAN ONE YEAR FROM THE TIME THE WRITTEN ALLOCATION REQUEST WAS RECEIVED BY THE APPROPRIATE PERSONNEL OFFICE. IN SUCH CASE, THE EMPLOYEE IS ENTITLED TO THE DIFFERENCE BETWEEN THE SALARY OF THE OLD GRADE AND THE NEW SALARY FOR SUCH PERIOD OVER TWELVE MONTHS.

**SECTION 2.** Part 1 of article 50 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**24-50-104.5. Compliance with federal laws.** (1) THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH THE GENERAL CRITERIA AND PROCESSES NECESSARY FOR THE STATE PERSONNEL SYSTEM TO FULLY COMPLY WITH ALL APPLICABLE FEDERAL EMPLOYMENT LAWS. HOLIDAYS AND PERIODS OF AUTHORIZED PAID LEAVE FALLING WITHIN A REGULARLY SCHEDULED WORKWEEK SHALL BE COUNTED AS WORK TIME IN DETERMINING OVERTIME FOR EMPLOYEES PERFORMING ESSENTIAL LAW ENFORCEMENT, HIGHWAY MAINTENANCE, AND OTHER SUPPORT SERVICES DIRECTLY NECESSARY FOR THE HEALTH, SAFETY, AND WELFARE OF PATIENTS, RESIDENTS, AND INMATES OF STATE INSTITUTIONS OR STATE FACILITIES.

(2) THE STATE PERSONNEL DIRECTOR MAY ESTABLISH AN INTERNAL REVIEW PROCESS OF ALLEGED VIOLATIONS OF SUCH FEDERAL LAWS. SUCH A REVIEW SHALL BE CONDUCTED IN SUMMARY FASHION ON THE BASIS OF WRITTEN MATERIAL. THE STATE PERSONNEL DIRECTOR SHALL ISSUE A WRITTEN DECISION WITHIN NINETY DAYS AFTER RECEIPT OF THE WRITTEN COMPLAINT. ANY AGGRIEVED PARTY MAY ALSO SEEK JUDICIAL REVIEW AS SPECIFIED BY THE APPLICABLE LAW.

**SECTION 3.** 12-34-101.5, Colorado Revised Statutes, is amended to read:

**12-34-101.5. Legislative declaration.** The general assembly hereby finds and declares that the use of anatomical gifts, including the donation of organs or tissue, for the purpose of transplantation is of great interest to the well-being of the citizens of this state and may save or prolong the life or improve the health of extremely ill and dying persons. The general assembly therefore finds that it is in the best interests of the state to encourage such donations for transplants and to encourage the use of



the authorization for anatomical gifts required to be printed on the back of drivers' licenses and identification cards indicating that the signer has consented to the donation of organs or tissue and indicating, if known, the results of HLA typing for the purpose of matching such anatomical gifts for transplants. The general assembly further finds that it is beneficial to the state for employers to encourage such donations by allowing employees time off for the purpose of making such donations and, to that end, that it is necessary to direct that the state personnel board DIRECTOR, consistent with ~~section 24-50-104 (9) (c)~~ SECTION 24-50-104 (7) (b), C.R.S., adopt a ~~rule~~ PROCEDURE that provides for two days per year of paid leave for employees in the state personnel system for the purpose of donating organs, tissue, or bone marrow for a transplant.

**SECTION 4.** 24-50-109.5 (2), Colorado Revised Statutes, is amended to read:

**24-50-109.5. Fiscal emergencies - emergency orders.** (2) With the advice and assistance of the state personnel director, the governor shall take such actions as necessary to be utilized by each principal department and each institution of higher education to reduce state personnel expenditures in the event of a fiscal emergency. Such actions shall include, but need not be limited to, separations, voluntary furloughs, mandatory furloughs, suspension of salary and fringe benefit survey increases, suspension of PERFORMANCE AWARDS OR merit increases, job-sharing, hiring freezes, forced reallocation of vacant positions, or a combination thereof. Any suspension of salary and fringe benefit survey increases or suspension of PERFORMANCE AWARDS OR merit increases shall apply statewide to all employees in the state personnel system. If mandatory furloughs are utilized in any principal department or institution of higher education, such furloughs shall be implemented by each appointing authority so that all employees under such authority, regardless of status, position, or level of employment, are furloughed for the same length of time. Employees of the following agencies and employees with duties as described shall not be subject to mandatory furlough: The Colorado state patrol, correctional officers, ~~of the department of corrections~~ POLICE OFFICERS, employees of the department of human services providing hands-on care, and employees providing hands-on nursing care.

**SECTION 5.** 24-50-603 (4) and (5), Colorado Revised Statutes, are amended to read:

**24-50-603. Definitions.** As used in this part 6, unless the context otherwise requires:

(4) "Council" means the total compensation advisory council established pursuant to ~~section 24-50-104 (2) (c) (H)~~ SECTION 24-50-104 (3).

(5) "Dependent" means an employee's legal spouse; each unmarried child, including adopted children, stepchildren, and foster children, through the end of the calendar year in which the child turns nineteen years of age, for whom the employee is the major source of financial support or FOR WHOM THE EMPLOYEE is directed by court order to provide coverage; each unmarried child nineteen years of age, through the end of the calendar year in which ~~the child turns twenty-three years of age, who is~~ THAT CHILD IS NO LONGER a full-time student in an educational or vocational institution, BUT NO LONGER THAN THROUGH THE END OF THE MONTH IN WHICH THE

FULL-TIME STUDENT TURNS TWENTY-FOUR YEARS OF AGE, and for whom the employee is the major source of financial support or FOR WHOM THE EMPLOYEE is directed by court order to provide coverage; ~~and each~~ OR AN UNMARRIED CHILD OF ANY AGE who has either a physical or mental disability, as defined by the carrier, not covered under other government programs, and for whom the employee is the major source of financial support or FOR WHOM THE EMPLOYEE is directed by court order to provide coverage.

**SECTION 6.** 35-65-403 (1), Colorado Revised Statutes, is amended to read:

**35-65-403. Office of manager of the Colorado state fair authority - creation.**

(1) The office of manager of the Colorado state fair authority is hereby created. The board shall appoint a manager of the Colorado state fair authority who shall have knowledge of livestock, agriculture, horticulture, industry, recreation, education, and scientific facilities, processes, and products of the state of Colorado and who shall have experience in fair management and promotion. The manager shall serve for an indefinite term and shall not hold any other public office but shall devote his or her entire time to the service of the state in the discharge of his or her official duties. The appointment or removal of the manager shall be subject to the provisions of section 13 of article XII of the state constitution and the statutes enacted pursuant thereto. Notwithstanding any law to the contrary, the office of manager of the Colorado state fair authority shall be a position in the senior executive service for purposes of ~~section 24-50-104 (6) (c)~~ SECTION 24-50-104 (5) (c), C.R.S.

**SECTION 7. Repeal.** 24-50-106, 24-50-107, 24-50-108, 24-50-119, 24-50-120, 24-50-120.5, 24-50-143, and 24-50.3-104 (8), Colorado Revised Statutes, are repealed.

**SECTION 8. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 18, 1998