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HOUSE BILL 13-1230

BY REPRESENTATIVE(S) Williams and Pabon, Buckner, Court, Hulinghorst, Melton, Pettersen, Salazar, Duran, Exum, Foote, Ginal, Hamner, Kagan, Labuda, Lebsock, Lee, Levy, May, Mitsch Bush, Moreno, Peniston, Primavera, Rosenthal, Ryden, Schafer, Vigil, Young;
also SENATOR(S) Guzman, Aguilar, Carroll, Giron, Harvey, Heath, Hodge, Jahn, Jones, Kefalas, Kerr, King, Newell, Nicholson, Schwartz, Steadman, Tochtrop, Todd, Ulibarri, Morse.

CONCERNING COMPENSATION FOR PERSONS WHO ARE EXONERATED OF THEIR
CRIMES AFTER A PERIOD OF INCARCERATION, AND, IN CONNECTION
THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that an innocent person who has been wrongly convicted of a felony, or wrongly adjudicated a juvenile delinquent for the commission of an offense that would be a felony if committed by a person eighteen years of age or older, and subsequently incarcerated:

- (a) Has been uniquely victimized;
- (b) Has distinct problems reentering society;

(c) Has difficulty achieving legal redress due to a variety of substantive and technical obstacles in the law; and

(d) Should have an available means of redress beyond the existing tort remedies to seek compensation for damages.

(2) Therefore, the general assembly declares that such a person shall receive certain compensation, including but not limited to monetary compensation, from the state as described in this act.

SECTION 2. In Colorado Revised Statutes, **add** article 65 to title 13 as follows:

ARTICLE 65
Compensation for Certain Exonerated Persons

13-65-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) (a) "ACTUAL INNOCENCE" MEANS A FINDING BY CLEAR AND CONVINCING EVIDENCE BY A DISTRICT COURT PURSUANT TO SECTION 13-65-102 THAT A PERSON IS ACTUALLY INNOCENT OF A CRIME SUCH THAT:

(I) HIS OR HER CONVICTION WAS THE RESULT OF A MISCARRIAGE OF JUSTICE;

(II) HE OR SHE PRESENTED RELIABLE EVIDENCE THAT HE OR SHE WAS FACTUALLY INNOCENT OF ANY PARTICIPATION IN THE CRIME AT ISSUE;

(III) HE OR SHE DID NOT SOLICIT, PURSUANT TO 18-2-301, C.R.S., THE COMMISSION OF THE CRIME AT ISSUE OR ANY CRIME FACTUALLY RELATED TO THE CRIME AT ISSUE;

(IV) HE OR SHE DID NOT CONSPIRE, PURSUANT TO 18-2-202, C.R.S., TO COMMIT THE CRIME AT ISSUE OR ANY CRIME FACTUALLY RELATED TO THE CRIME AT ISSUE;

(V) HE OR SHE DID NOT ACT AS A COMPLICITOR, PURSUANT TO 18-1-603, C.R.S., IN THE COMMISSION OF THE CRIME AT ISSUE OR ANY CRIME FACTUALLY RELATED TO THE CRIME AT ISSUE;

(VI) HE OR SHE DID NOT ACT AS AN ACCESSORY, PURSUANT TO 18-8-105, C.R.S., IN THE COMMISSION OF THE CRIME AT ISSUE OR ANY CRIME FACTUALLY RELATED TO THE CRIME AT ISSUE; AND

(VII) HE OR SHE DID NOT ATTEMPT TO COMMIT, PURSUANT TO 18-2-101, C.R.S., THE CRIME AT ISSUE OR ANY CRIME FACTUALLY RELATED TO THE CRIME AT ISSUE.

(b) A COURT MAY NOT REACH A FINDING OF ACTUAL INNOCENCE PURSUANT TO THIS SECTION MERELY:

(I) BECAUSE THE COURT FINDS THE EVIDENCE LEGALLY INSUFFICIENT TO SUPPORT THE PETITIONER'S CONVICTION;

(II) BECAUSE THE COURT REVERSED OR VACATED THE PETITIONER'S CONVICTION BECAUSE OF A LEGAL ERROR UNRELATED TO THE PETITIONER'S ACTUAL INNOCENCE OR BECAUSE OF UNCORROBORATED WITNESS RECANTATION ALONE; OR

(III) ON THE BASIS OF UNCORROBORATED WITNESS RECANTATION ALONE.

(c) AS USED IN THIS SUBSECTION (1), "RELIABLE EVIDENCE" MAY INCLUDE BUT IS NOT LIMITED TO EXCULPATORY SCIENTIFIC EVIDENCE, TRUSTWORTHY EYEWITNESS ACCOUNTS, AND CRITICAL PHYSICAL EVIDENCE.

(2) "CUSTODIAL CHILD" MEANS ANY INDIVIDUAL:

(a) WHO WAS CONCEIVED OR ADOPTED PRIOR TO THE DATE UPON WHICH THE EXONERATED PERSON WAS INCARCERATED FOR THE ACT OR OFFENSE THAT SERVED AS THE BASIS FOR HIS OR HER CONVICTION, WHICH CONVICTION AND INCARCERATION IS THE SUBJECT OF HIS OR HER PETITION;

(b) WHOSE PRINCIPAL RESIDENCE IS THE HOME OF AN EXONERATED PERSON;

(c) WHO RECEIVES MORE THAN HALF OF HIS OR HER FINANCIAL SUPPORT FROM THE EXONERATED PERSON EACH YEAR; AND

(d) WHO IS EITHER:

(I) LESS THAN NINETEEN YEARS OF AGE AT THE END OF THE CURRENT YEAR; OR

(II) LESS THAN TWENTY-FOUR YEARS OF AGE AT THE END OF THE CURRENT YEAR AND A FULL-TIME STUDENT.

(3) "EXONERATED PERSON" MEANS A PERSON WHO HAS BEEN DETERMINED BY A DISTRICT COURT PURSUANT TO SECTION 13-65-102 TO BE ACTUALLY INNOCENT.

(4) "IMMEDIATE FAMILY MEMBER" MEANS A SPOUSE, A PARENT, A CHILD, A GRANDPARENT, OR A SIBLING OF A DECEASED PERSON WHO WOULD BE ELIGIBLE FOR RELIEF PURSUANT TO SECTION 13-65-102 IF HE OR SHE WERE ALIVE. THE PROVISIONS OF ARTICLE 11 OF TITLE 15, C.R.S., SHALL GOVERN WHICH IMMEDIATE FAMILY MEMBER OR MEMBERS HAVE PROPER STANDING TO ACT AS A PETITIONER.

(5) "INCARCERATION" MEANS A PERSON'S CUSTODY IN A COUNTY JAIL OR A CORRECTIONAL FACILITY WHILE HE OR SHE SERVES A SENTENCE ISSUED PURSUANT TO A FELONY CONVICTION IN THIS STATE OR PURSUANT TO THE PERSON'S ADJUDICATION AS A JUVENILE DELINQUENT FOR THE COMMISSION OF ONE OR MORE OFFENSES THAT WOULD BE FELONIES IF COMMITTED BY A PERSON EIGHTEEN YEARS OF AGE OR OLDER. FOR THE PURPOSES OF THIS SECTION, "INCARCERATION" INCLUDES PLACEMENT AS A JUVENILE TO THE CUSTODY OF THE STATE DEPARTMENT OF HUMAN SERVICES OR A COUNTY DEPARTMENT OF SOCIAL SERVICES PURSUANT TO SUCH AN ADJUDICATION.

(6) "PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE" MEANS A PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE THAT HAS BEEN APPROVED BY THE UNITED STATES TRUSTEE'S OFFICE PURSUANT TO 11 U.S.C. SEC. 111.

(7) "PETITION" MEANS A PETITION FOR COMPENSATION BASED ON ACTUAL INNOCENCE FILED PURSUANT TO THE PROVISIONS OF SECTION 13-65-102.

(8) "PETITIONER" MEANS A PERSON WHO PETITIONS FOR RELIEF PURSUANT TO SECTION 13-65-102. "PETITIONER" INCLUDES THE IMMEDIATE FAMILY MEMBERS OF A DECEASED PERSON WHO WOULD BE ELIGIBLE FOR RELIEF PURSUANT TO SECTION 13-65-102 IF HE OR SHE WERE ALIVE.

(9) "QUALIFIED HEALTH PLAN" MEANS A HEALTH PLAN THAT SATISFIES THE DEFINITION OF A QUALIFIED HEALTH PLAN SET FORTH IN THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT", P.L. 111-148, 42 U.S.C. 18021 (a) (1).

(10) "STATE'S DUTY OF MONETARY COMPENSATION" MEANS THE TOTAL AMOUNT OF MONETARY COMPENSATION OWED BY THE STATE TO AN EXONERATED PERSON.

13-65-102. Process for petitioning for compensation - eligibility to petition - actual innocence required - jurisdiction.

(1) (a) NOTWITHSTANDING THE PROVISIONS OF ARTICLE 10 OF TITLE 24, C.R.S., A PERSON WHO HAS BEEN CONVICTED OF A FELONY IN THIS STATE AND SENTENCED TO A TERM OF INCARCERATION AS A RESULT OF THAT CONVICTION AND HAS SERVED ALL OR PART OF SUCH SENTENCE, OR AN IMMEDIATE FAMILY MEMBER OF SUCH PERSON, MAY BE ELIGIBLE FOR COMPENSATION AS SET FORTH IN THIS ARTICLE UPON A FINDING THAT THE PERSON WAS ACTUALLY INNOCENT OF THE CRIME FOR WHICH HE OR SHE WAS CONVICTED.

(b) A PETITION FOR COMPENSATION BASED ON ACTUAL INNOCENCE FILED PURSUANT TO THIS SECTION IS A CIVIL CLAIM FOR RELIEF.

(2) A PETITION MAY BE FILED PURSUANT TO THIS SECTION ONLY:

(a) WHEN NO FURTHER CRIMINAL PROSECUTION OF THE PETITIONER FOR THE CRIMES CHARGED, OR FOR CRIMES ARISING FROM THE SAME CRIMINAL EPISODE IN THE CASE THAT IS THE SUBJECT OF THE PETITION, HAS BEEN INITIATED BY THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL AND SUBSEQUENT TO ONE OF THE FOLLOWING:

(I) A COURT VACATING OR REVERSING ALL CONVICTIONS IN THE CASE BASED ON REASONS OTHER THAN LEGAL INSUFFICIENCY OF EVIDENCE OR LEGAL ERROR UNRELATED TO THE PETITIONER'S ACTUAL INNOCENCE AND FOLLOWING AN ORDER OF DISMISSAL OF ALL CHARGES; OR

(II) A COURT VACATING OR REVERSING ALL CONVICTIONS IN THE CASE BASED ON REASONS OTHER THAN LEGAL INSUFFICIENCY OF EVIDENCE OR LEGAL ERROR UNRELATED TO THE PETITIONER'S ACTUAL INNOCENCE AND FOLLOWING AN ACQUITTAL OF ALL CHARGES AFTER RETRIAL; AND

(b) EITHER:

(I) IF THE CONDITIONS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2) ARE MET ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, NOT MORE THAN TWO YEARS AFTER SAID CONDITIONS ARE MET; OR

(II) IF THE CONDITIONS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2) ARE MET BEFORE THE EFFECTIVE DATE OF THIS SECTION, NOT MORE THAN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION.

(3) THE DISTRICT COURT SHALL NOT DECLARE A PERSON TO BE ACTUALLY INNOCENT UNLESS, BASED ON EVIDENCE SUPPORTING THE PETITIONER'S ALLEGATION OF INNOCENCE, INCLUDING BUT NOT LIMITED TO AN ANALYSIS OF THE PERSON'S DNA PROFILE, THE COURT DETERMINES THAT:

(a) THE PERSON COMMITTED NEITHER THE ACT OR OFFENSE THAT SERVED AS THE BASIS FOR THE CONVICTION AND INCARCERATION THAT IS THE SUBJECT OF THE PETITION, NOR ANY LESSER INCLUDED OFFENSE THEREOF; AND

(b) THE PERSON MEETS THE DEFINITION OF ACTUAL INNOCENCE IN SECTION 13-65-101 (1).

(4)(a) A PETITIONER IS NOT ELIGIBLE FOR COMPENSATION PURSUANT TO THIS ARTICLE IF:

(I) HE OR SHE DOES NOT MEET THE DEFINITION OF ACTUAL INNOCENCE IN SECTION 13-65-101 (1);

(II) HE OR SHE COMMITTED OR SUBORNED PERJURY DURING ANY PROCEEDINGS RELATED TO THE CASE THAT IS THE SUBJECT OF THE CLAIM; OR

(III) TO AVOID PROSECUTION IN ANOTHER CASE FOR WHICH THE PETITIONER HAS NOT BEEN DETERMINED TO BE ACTUALLY INNOCENT, HE OR SHE PLED GUILTY IN THE CASE THAT SERVED AS THE BASIS FOR THE CONVICTION AND INCARCERATION THAT IS THE SUBJECT OF THE PETITION.

(b) NOTWITHSTANDING SUBPARAGRAPHS (I) TO (III) OF PARAGRAPH (a) OF THIS SUBSECTION (4), CONDUCT DESCRIBED IN SAID SUBPARAGRAPHS

SHALL NOT INCLUDE A CONFESSION OR AN ADMISSION THAT WAS LATER DETERMINED BY A COURT OF COMPETENT JURISDICTION, OR BY STIPULATION OF THE PARTIES, TO BE FALSE OR COERCED BY ANY GOVERNMENTAL AGENT.

(5) (a) A PETITIONER SHALL FILE HIS OR HER PETITION IN THE DISTRICT COURT IN THE COUNTY IN WHICH THE CASE ORIGINATED, TO THE DISTRICT COURT JUDGE WHO PRESIDED OVER THE ORIGINAL PROCEEDING IF SUCH JUDGE IS AVAILABLE; EXCEPT THAT, IF EITHER PARTY OBJECTS TO SUCH JUDGE PRESIDING OVER THIS CIVIL CLAIM FOR RELIEF, THEN ANOTHER DISTRICT JUDGE OF THE DISTRICT COURT SHALL PRESIDE OVER THE MATTER.

(b) THE PETITION SHALL NAME THE STATE OF COLORADO AS THE RESPONDENT. THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEY OF THE JUDICIAL DISTRICT IN WHICH THE CASE ORIGINATED SHALL EACH HAVE A SEPARATE AND CONCURRENT AUTHORITY TO INTERVENE AS PARTIES TO A PETITION, AND A COPY OF THE PETITION SHALL BE SERVED ON THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEY.

(c) A PETITION SHALL CONTAIN A RECITATION OF FACTS NECESSARY TO AN UNDERSTANDING OF THE PETITIONER'S CLAIM OF ACTUAL INNOCENCE. THE PETITION MAY BE SUPPORTED BY DNA EVIDENCE, IF APPLICABLE, EXPERT OPINION, PREVIOUSLY UNKNOWN OR UNAVAILABLE EVIDENCE, AND THE EXISTING COURT RECORD. THE PETITIONER SHALL ATTACH TO THE PETITION:

(I) A COPY OF ANY EXPERT REPORT RELIED UPON BY THE PETITIONER TO SUPPORT HIS OR HER CLAIM OF ACTUAL INNOCENCE;

(II) ANY DOCUMENTATION SUPPORTING THE RECITATION OF FACTS IN THE CLAIM;

(III) A RECORD FROM THE COUNTY JAIL, STATE CORRECTIONAL FACILITY, OR OTHER STATE FACILITY DOCUMENTING THE AMOUNT OF TIME THAT THE PETITIONER WAS INCARCERATED; AND

(IV) A SWORN AFFIDAVIT OF THE PETITIONER ASSERTING HIS OR HER ACTUAL INNOCENCE AS DEFINED IN SECTION 13-65-101 (1).

(d) UPON RECEIPT OF A PETITION, THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEY SHALL EACH HAVE SIXTY DAYS TO FILE A RESPONSE IN

THE DISTRICT COURT. A JOINT RESPONSE MAY BE FILED. THE COURT MAY GRANT THE RESPONDING PARTY, FOR GOOD CAUSE SHOWN, NO MORE THAN ONE EXTENSION OF TIME, NOT EXCEEDING FORTY-FIVE DAYS, IN WHICH TO FILE A RESPONSE. THE RESPONSE SHALL CONTAIN A STATEMENT THAT:

(I) BASED UPON THE PETITION AND VERIFIABLE AND SUBSTANTIAL EVIDENCE OF ACTUAL INNOCENCE, NO FURTHER CRIMINAL PROSECUTION OF THE PETITIONER FOR THE CRIMES CHARGED CAN OR WILL BE INITIATED BY THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL, THAT NO QUESTIONS OF FACT REMAIN AS TO THE PETITIONER'S ACTUAL INNOCENCE, AND THAT THE PETITIONER IS ELIGIBLE TO SEEK COMPENSATION UNDER THE PROVISIONS OF THIS SECTION; OR

(II) THE RESPONDING PARTY CONTESTS THE NATURE, SIGNIFICANCE, OR EFFECT OF THE EVIDENCE OF ACTUAL INNOCENCE, THE FACTS RELATED TO THE PETITIONER'S ALLEGED WRONGFUL CONVICTION, OR WHETHER THE PETITIONER IS ELIGIBLE TO SEEK COMPENSATION UNDER THE PROVISIONS OF THIS SECTION. THE RESPONSE SHALL INCLUDE A RECITATION OF FACTS NECESSARY TO AN UNDERSTANDING AS TO WHY THE PETITION IS BEING CONTESTED.

(e) IF THE RESPONDING PARTY CONTESTS THE ACTUAL INNOCENCE OF THE PETITIONER, THE DISTRICT COURT MAY ORDER THAT THE RESPONDING PARTY BE ALLOWED TO RETEST ANY EVIDENCE AT ISSUE IN THE CLAIM IF SUCH EVIDENCE REMAINS TO BE TESTED AND TESTING SUCH EVIDENCE WILL NOT CONSUME THE REMAINDER OF THE SAMPLE.

(f) (I) IF A PETITION IS CONTESTED, THE PETITIONER SHALL ENSURE THAT THE DISTRICT COURT HAS, OR HAS AVAILABLE, THE TRANSCRIPT FROM THE ORIGINAL TRIAL IF THE PETITIONER WAS CONVICTED AT TRIAL, THE POST-CONVICTION MOTION OR APPEAL THAT RESULTED IN A DISMISSAL OF THE CASE THAT IS THE SUBJECT OF THE PETITION AND THE TRANSCRIPT OF ANY HEARINGS ASSOCIATED WITH SUCH MOTION OR APPEAL; AND ANY OTHER PLEADINGS OR TRANSCRIPTS FROM PROCEEDINGS THAT THE PETITIONER SEEKS THE DISTRICT COURT TO CONSIDER.

(II) THE DISTRICT COURT SHALL USE ANY TRANSCRIPTS THAT ARE WITHIN THE COURT RECORDS FOR THE JUDICIAL DISTRICT OF ANY PROCEEDING INVOLVING THE CASE THAT IS THE SUBJECT OF THE PETITION THAT THE PETITIONER OR THE RESPONDENT WANTS THE DISTRICT COURT TO

CONSIDER.

(g) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE COLORADO RULES OF CIVIL PROCEDURE SHALL APPLY TO PETITIONS FILED PURSUANT TO THIS SECTION. THE DISTRICT COURT MAY CONSIDER ANY RELEVANT EVIDENCE REGARDLESS OF WHETHER IT WAS ADMISSIBLE IN, OR EXCLUDED FROM, THE CRIMINAL TRIAL IN WHICH THE PETITIONER WAS CONVICTED. NO EVIDENCE SHALL BE EXCLUDED ON GROUNDS THAT IT WAS SEIZED OR OBTAINED IN VIOLATION OF THE UNITED STATES CONSTITUTION OR THE STATE CONSTITUTION. THE DISTRICT COURT MAY CONSIDER THE ONGOING INVESTIGATION AND PROSECUTION OF ANY OTHER INDIVIDUAL FOR THE CRIMES COMMITTED WHEN DETERMINING THE TIMING AND SCOPE OF THE HEARING IF THE CLAIM IS UNCONTESTED OR THE TRIAL IF THE CLAIM IS CONTESTED.

(6) AS SOON AS PRACTICABLE GIVEN THE UNIQUE CIRCUMSTANCES OF CLAIMS FILED PURSUANT TO THIS SECTION, THE DISTRICT COURT SHALL ACT AS FOLLOWS:

(a) UPON RECEIPT OF AN UNCONTESTED RESPONSE TO A PETITION, THE DISTRICT COURT SHALL ISSUE A FINAL ORDER ON THE PETITION, FINDING THAT THE PETITIONER IS ACTUALLY INNOCENT. IF THE DISTRICT COURT ISSUES A FINAL ORDER PURSUANT TO THIS PARAGRAPH (a), THE DISTRICT COURT SHALL INCLUDE DIRECTIONS TO THE STATE COURT ADMINISTRATOR TO ACT AS DESCRIBED IN SECTION 13-3-114.

(b) UPON RECEIPT OF A RESPONSE CONTESTING THE PETITIONER'S DECLARATION OF ACTUAL INNOCENCE OR HIS OR HER ELIGIBILITY FOR COMPENSATION REGARDLESS OF PETITIONER'S CLAIM OF ACTUAL INNOCENCE, OR BOTH, THE DISTRICT COURT SHALL SET THE MATTER FOR A TRIAL TO THE DISTRICT COURT OR, AT THE WRITTEN ELECTION OF EITHER PARTY, TO A TRIAL TO A JURY OF SIX, AT WHICH TRIAL THE BURDEN SHALL BE ON THE PETITIONER TO SHOW BY CLEAR AND CONVINCING EVIDENCE THAT HE OR SHE IS ACTUALLY INNOCENT OF ALL CRIMES THAT ARE THE SUBJECT OF THE PETITION, AND THAT HE OR SHE IS ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO THIS ARTICLE. A TRIAL TO A JURY OF SIX MUST RESULT IN A UNANIMOUS VERDICT. FOLLOWING A TRIAL TO THE DISTRICT COURT, THE COURT SHALL ISSUE A FINAL ORDER ON THE PETITION, WHICH ORDER SHALL INCLUDE FINDINGS OF FACT AS TO WHETHER THE PETITIONER HAS ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE THAT HE OR SHE IS

ACTUALLY INNOCENT AND WHETHER THE PETITIONER IS ELIGIBLE FOR COMPENSATION UNDER THIS ARTICLE. IF THE COURT FINDS THAT THE PETITIONER IS ACTUALLY INNOCENT AND ELIGIBLE FOR COMPENSATION PURSUANT TO THIS ARTICLE, THE DISTRICT COURT SHALL ISSUE A FINAL ORDER AWARDING THE PETITIONER COMPENSATION PURSUANT TO SECTION 13-65-103. UPON A FINDING BY A JURY OF ACTUAL INNOCENCE, THE DISTRICT COURT SHALL ALSO ISSUE AN ORDER AWARDING THE PETITIONER COMPENSATION PURSUANT TO SECTION 13-65-103.

(7) (a) EITHER PARTY HAS A RIGHT TO AN APPEAL.

(b) IF THE PETITIONER APPEALS THE AMOUNT OF COMPENSATION AWARDED, THE STATE COURT ADMINISTRATOR SHALL NOT DELAY IN PAYING THE PETITIONER PURSUANT TO THE DIRECTIONS OF THE DISTRICT COURT WHILE THE APPEAL IS PENDING.

(c) IF THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY APPEALS THE OUTCOME OF THE TRIAL DESCRIBED IN SUBSECTION (6) OF THIS SECTION, THE STATE COURT ADMINISTRATOR SHALL NOT DELAY IN PAYING THE PETITIONER PURSUANT TO THE DIRECTIONS OF THE DISTRICT COURT WHILE THE APPEAL IS PENDING.

(d) IN THE EVENT THAT THE ATTORNEY GENERAL OR DISTRICT ATTORNEY PREVAILS IN AN APPEAL, THE COURT MAY TAKE SUCH ACTION AS IS NECESSARY TO RECOVER THE AMOUNT OF ANY COMPENSATION AWARDED TO THE PETITIONER PURSUANT TO SECTION 13-65-103.

13-65-103. Compensation for certain exonerated persons - monetary compensation - financial literacy training - penalty for lack of a qualified health plan - expungement of records - damages awarded in civil actions. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A DISTRICT COURT SHALL DIRECT THE STATE COURT ADMINISTRATOR TO COMPENSATE AN EXONERATED PERSON, OR AN IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON, WHO IS DETERMINED BY A DISTRICT COURT PURSUANT TO SECTION 13-65-102 TO BE ACTUALLY INNOCENT AND ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO THIS ARTICLE.

(2) A DISTRICT COURT THAT DIRECTS THE STATE COURT ADMINISTRATOR TO COMPENSATE AN EXONERATED PERSON OR AN IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON PURSUANT TO THIS

SECTION SHALL REDUCE THE DIRECTIONS TO WRITING AND INCLUDE WITHIN THE DIRECTIONS:

(a) THE EXONERATED PERSON'S NAME;

(b) THE DATE UPON WHICH THE ORDER IS ISSUED;

(c) THE FELONY OR FELONIES, IF ANY, OF WHICH THE EXONERATED PERSON HAS BEEN EXONERATED AND EACH CONVICTION OR ADJUDICATION OF THE EXONERATED PERSON, IF ANY, THAT HAS BEEN VACATED OR REVERSED;

(d) THE DATE UPON WHICH THE EXONERATED PERSON WAS CONVICTED OR ADJUDICATED AND THE DATES DURING WHICH THE EXONERATED PERSON WAS INCARCERATED AS A RESULT OF SUCH CONVICTION OR ADJUDICATION;

(e) A STATEMENT THAT THE EXONERATED PERSON, OR THE IMMEDIATE FAMILY MEMBER OF THE EXONERATED PERSON, IS ENTITLED TO COMPENSATION FROM THE STATE, WHICH COMPENSATION SHALL INCLUDE:

(I) AN AWARD OF MONETARY COMPENSATION, AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION;

(II) TUITION WAIVERS AT STATE INSTITUTIONS OF HIGHER EDUCATION FOR THE EXONERATED PERSON AND FOR ANY CHILDREN AND CUSTODIAL CHILDREN OF HIS OR HERS WHO WERE CONCEIVED OR LEGALLY ADOPTED BEFORE THE EXONERATED PERSON WAS INCARCERATED OR PLACED IN STATE CUSTODY FOR THE OFFENSE OF WHICH HE OR SHE HAS BEEN EXONERATED, AS DESCRIBED IN SECTION 23-1-132, C.R.S.; EXCEPT THAT:

(A) NO OTHER IMMEDIATE FAMILY MEMBERS OF THE EXONERATED PERSON SHALL BE ELIGIBLE FOR SUCH TUITION WAIVERS; AND

(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NEITHER AN EXONERATED PERSON NOR A CHILD OR CUSTODIAL CHILD OF AN EXONERATED PERSON SHALL BE ELIGIBLE FOR A TUITION WAIVER PURSUANT TO THIS SUBPARAGRAPH (II) UNLESS THE EXONERATED PERSON WAS WRONGFULLY INCARCERATED FOR AT LEAST THREE YEARS.

(III) COMPENSATION FOR CHILD SUPPORT PAYMENTS OWED BY THE EXONERATED PERSON THAT BECAME DUE DURING HIS OR HER INCARCERATION OR PLACEMENT IN STATE CUSTODY, AND INTEREST ON CHILD SUPPORT ARREARAGES THAT ACCRUED DURING HIS OR HER INCARCERATION OR PLACEMENT IN STATE CUSTODY BUT WHICH HAVE NOT BEEN PAID;

(IV) REASONABLE ATTORNEY FEES FOR BRINGING A CLAIM UNDER THIS SECTION; AND

(V) THE AMOUNT OF ANY FINE, PENALTY, COURT COSTS, OR RESTITUTION IMPOSED UPON AND PAID BY THE EXONERATED PERSON AS A RESULT OF HIS OR HER WRONGFUL CONVICTION OR ADJUDICATION. THIS SUBPARAGRAPH (V) SHALL NOT BE INTERPRETED TO REQUIRE THE REIMBURSEMENT OF RESTITUTION PAYMENTS BY ANY PARTY TO WHOM THE EXONERATED PERSON MADE RESTITUTION PAYMENTS AS A RESULT OF HIS OR HER WRONGFUL CONVICTION OR ADJUDICATION.

(f) A STATEMENT NOTIFYING THE PERSON AND THE STATE COURT ADMINISTRATOR THAT, PURSUANT TO SECTION 24-30-209 (4), C.R.S., THE EXONERATED PERSON IS REQUIRED TO COMPLETE A PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE BEFORE THE STATE COURT ADMINISTRATOR MAY ISSUE TO THE EXONERATED PERSON MORE THAN ONE ANNUAL PAYMENT OF MONETARY COMPENSATION.

(g) A STATEMENT NOTIFYING THE EXONERATED PERSON AND THE STATE COURT ADMINISTRATOR THAT, PURSUANT TO SECTION 13-3-114, IN EACH YEAR IN WHICH AN EXONERATED PERSON RECEIVES ANY ANNUAL PAYMENT FROM THE STATE COURT ADMINISTRATOR, THE EXONERATED PERSON'S ANNUAL PAYMENT SHALL BE REDUCED BY TEN THOUSAND DOLLARS IF THE EXONERATED PERSON FAILS TO PRESENT TO THE STATE COURT ADMINISTRATOR A POLICY OR CERTIFICATE SHOWING THAT THE EXONERATED PERSON HAS PURCHASED OR OTHERWISE ACQUIRED A QUALIFIED HEALTH PLAN FOR HIMSELF OR HERSELF AND HIS OR HER DEPENDENTS THAT IS VALID FOR AT LEAST SIX MONTHS.

(3)(a) EXCEPT AS LIMITED BY THE PROVISIONS OF THIS ARTICLE, AN EXONERATED PERSON SHALL RECEIVE MONETARY COMPENSATION IN AN AMOUNT OF SEVENTY THOUSAND DOLLARS FOR EACH YEAR THAT HE OR SHE WAS INCARCERATED FOR THE FELONY OF WHICH HE OR SHE HAS BEEN EXONERATED. IN ADDITION TO THIS AMOUNT, AN EXONERATED PERSON

SHALL RECEIVE COMPENSATION IN AN AMOUNT OF:

(I) FIFTY THOUSAND DOLLARS FOR EACH YEAR THAT HE OR SHE WAS INCARCERATED AND SENTENCED TO EXECUTION PURSUANT TO PART 12 OF ARTICLE 1.3 OF TITLE 18, C.R.S.; AND

(II) TWENTY-FIVE THOUSAND DOLLARS FOR EACH YEAR THAT HE OR SHE SERVED ON PAROLE, ON PROBATION, OR AS A REGISTERED SEX OFFENDER AFTER A PERIOD OF INCARCERATION AS A RESULT OF THE FELONY OF WHICH HE OR SHE HAS BEEN EXONERATED AND NOT FOR ANY OTHER CRIMINAL OFFENSE.

(b) EXCEPT AS LIMITED BY THE PROVISIONS OF THIS ARTICLE, IN ADDITION TO THE AMOUNT DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3), AN EXONERATED PERSON SHALL RECEIVE COMPENSATION IN A PRORATED AMOUNT THAT IS PROPORTIONATE TO THE LENGTH OF:

(I) EACH PARTIAL YEAR THAT HE OR SHE WAS INCARCERATED OR PLACED IN STATE CUSTODY;

(II) EACH PARTIAL YEAR THAT HE OR SHE WAS INCARCERATED AND SENTENCED TO EXECUTION PURSUANT TO PART 12 OF ARTICLE 1.3 OF TITLE 18, C.R.S.; AND

(III) EACH PARTIAL YEAR THAT HE OR SHE SERVED ON PAROLE, ON PROBATION, OR AS A REGISTERED SEX OFFENDER AFTER A PERIOD OF INCARCERATION AS A RESULT OF THE FELONY OF WHICH HE OR SHE HAS BEEN EXONERATED AND NOT FOR ANY OTHER CRIMINAL OFFENSE.

(4) A COURT THAT DIRECTS THE STATE COURT ADMINISTRATOR TO COMPENSATE AN EXONERATED PERSON OR AN IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON SHALL SUBMIT COPIES OF THE DIRECTIONS TO:

(a) THE EXONERATED PERSON OR IMMEDIATE FAMILY MEMBER OF THE EXONERATED PERSON;

(b) THE STATE COURT ADMINISTRATOR;

(c) THE ATTORNEY GENERAL;

(d) THE DISTRICT ATTORNEY OF THE JUDICIAL DISTRICT IN WHICH THE CASE ORIGINATED;

(e) THE STATE DEPARTMENT OF CORRECTIONS;

(f) THE STATE DEPARTMENT OF LABOR AND EMPLOYMENT;

(g) THE STATE DEPARTMENT OF REVENUE; AND

(h) THE COLORADO COMMISSION ON HIGHER EDUCATION.

(5) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, A COURT SHALL NOT DIRECT THE STATE COURT ADMINISTRATOR TO COMPENSATE ANY EXONERATED PERSON OR IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON FOR ANY PERIOD OF INCARCERATION DURING WHICH THE PERSON WAS CONCURRENTLY SERVING A SENTENCE FOR AN OFFENSE OF WHICH HE OR SHE HAS NOT BEEN EXONERATED.

(6) THE AMOUNT OF MONETARY COMPENSATION AWARDED TO AN EXONERATED PERSON PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT TO:

(a) ANY CAP APPLICABLE TO PRIVATE PARTIES IN CIVIL LAWSUITS; OR

(b) ANY STATE INCOME TAX, EXCEPT AS TO THOSE PORTIONS OF THE JUDGMENT AWARDED AS ATTORNEYS' FEES FOR BRINGING A CLAIM UNDER THIS SECTION AS DESCRIBED IN SECTION 39-22-104 (4) (q), C.R.S.

(7) (a) A COURT THAT DIRECTS THE STATE COURT ADMINISTRATOR TO COMPENSATE AN EXONERATED PERSON OR AN IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON SHALL ORDER ALL RECORDS RELATING TO THE EXONERATED PERSON'S WRONGFUL CONVICTION OR ADJUDICATION TO BE EXPUNGED AS IF SUCH EVENTS HAD NEVER TAKEN PLACE AND SUCH RECORDS HAD NEVER EXISTED. THE COURT SHALL DIRECT SUCH AN EXPUNGEMENT ORDER TO EVERY PERSON OR AGENCY THAT MAY HAVE CUSTODY OF ANY PART OF ANY RECORDS RELATING TO THE EXONERATED PERSON'S WRONGFUL CONVICTION OR ADJUDICATION.

(b) IF A COURT ISSUES AN EXPUNGEMENT ORDER PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (7), A COURT, LAW ENFORCEMENT

AGENCY, OR OTHER STATE AGENCY THAT MAINTAINS RECORDS RELATING TO THE EXONERATED PERSON'S WRONGFUL CONVICTION OR ADJUDICATION SHALL PHYSICALLY SEAL SUCH RECORDS AND THEREAFTER TREAT THE RECORDS AS CONFIDENTIAL. RECORDS THAT HAVE BEEN SEALED PURSUANT TO THIS SUBSECTION (7) SHALL BE MADE AVAILABLE TO A COURT OR A LAW ENFORCEMENT AGENCY, INCLUDING BUT NOT LIMITED TO A DISTRICT ATTORNEY'S OFFICE OR THE ATTORNEY GENERAL, UPON A SHOWING OF GOOD CAUSE.

(8) (a) A COURT THAT DIRECTS THE STATE COURT ADMINISTRATOR TO COMPENSATE AN EXONERATED PERSON OR AN IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON SHALL REDUCE THE EXONERATED PERSON'S AWARD OF MONETARY COMPENSATION, AS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (8), IF, PRIOR TO THE ISSUANCE OF THE AWARD:

(I) THE EXONERATED PERSON PREVAILS IN OR SETTLES A CIVIL ACTION AGAINST THE STATE OR AGAINST ANY OTHER GOVERNMENT BODY IN A CIVIL ACTION CONCERNING THE SAME ACTS THAT ARE THE BASES FOR THE PETITION FOR COMPENSATION; AND

(II) THE JUDGMENT RENDERED IN THE CIVIL ACTION OR THE SETTLEMENT OF THE CIVIL ACTION INCLUDES AN AWARD OF MONETARY DAMAGES TO THE EXONERATED PERSON.

(b) UNDER THE CIRCUMSTANCES DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (8), THE COURT SHALL REDUCE AN EXONERATED PERSON'S AWARD OF MONETARY COMPENSATION BY AN AMOUNT THAT IS EQUAL TO THE AMOUNT OF MONETARY DAMAGES THAT THE EXONERATED PERSON IS AWARDED AND COLLECTS IN THE CIVIL ACTION; EXCEPT THAT A COURT SHALL NOT OFFSET ANY AMOUNT EXCEEDING THE TOTAL AMOUNT OF MONETARY COMPENSATION AWARDED TO THE EXONERATED PERSON PURSUANT TO THIS SECTION.

(9) (a) EXCEPT WHEN PROCURED BY FRAUD, A COURT'S FINDING THAT A PERSON IS ACTUALLY INNOCENT AND ELIGIBLE FOR COMPENSATION PURSUANT TO THIS ARTICLE SHALL BE DEEMED A FINAL AND CONCLUSIVE DISPOSITION OF THE MATTER OF THE EXONERATED PERSON'S WRONGFUL INCARCERATION OR PLACEMENT IN STATE CUSTODY.

(b) A COURT'S FINDING THAT A PERSON IS ACTUALLY INNOCENT AND ELIGIBLE FOR COMPENSATION PURSUANT TO THIS ARTICLE SHALL NOT BE INTERPRETED TO LIMIT THE PERSON'S ABILITY TO PURSUE AN ACTION FOR DAMAGES AGAINST AN ENTITY THAT IS NOT AN EMPLOYEE, AGENT, OR AGENCY OF THE STATE GOVERNMENT.

SECTION 3. In Colorado Revised Statutes, **add** 13-3-114 as follows:

13-3-114. State court administrator - compensation for exonerated persons - definitions - annual payments - child support payments - financial literacy training - qualified health plan - damages awarded in civil actions - reimbursement to the state. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ANNUAL PAYMENT" MEANS A PAYMENT OF MONETARY COMPENSATION MADE BY THE STATE COURT ADMINISTRATOR OR HIS OR HER DESIGNEE TO AN EXONERATED PERSON PURSUANT TO THIS SECTION. AN ANNUAL PAYMENT SHALL BE IN THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS, WHICH AMOUNT SHALL BE ADJUSTED ANNUALLY BY THE STATE AUDITOR TO ACCOUNT FOR INFLATION; EXCEPT THAT:

(I) IF THE REMAINING AMOUNT OF THE STATE'S DUTY OF MONETARY COMPENSATION OWED TO THE EXONERATED PERSON IS LESS THAN ONE HUNDRED THOUSAND DOLLARS, THE AMOUNT OF THE ANNUAL PAYMENT SHALL BE EQUAL TO THE REMAINING AMOUNT; AND

(II) THE AMOUNT OF AN ANNUAL PAYMENT MAY BE REDUCED AS DESCRIBED IN SUBSECTION (5) OF THIS SECTION.

(b) "EXONERATED PERSON" MEANS A PERSON WHO HAS BEEN DETERMINED BY A DISTRICT COURT PURSUANT TO SECTION 13-65-102 TO BE ACTUALLY INNOCENT, AS DEFINED IN SECTION 13-65-101 (1).

(c) "INCARCERATION" MEANS A PERSON'S CUSTODY IN A COUNTY JAIL OR A CORRECTIONAL FACILITY WHILE HE OR SHE SERVES A SENTENCE ISSUED PURSUANT TO THE PERSON'S CONVICTION OF A FELONY OR PURSUANT TO THE PERSON'S ADJUDICATION AS A JUVENILE DELINQUENT FOR THE COMMISSION OF ONE OR MORE OFFENSES THAT WOULD BE FELONIES IF COMMITTED BY A PERSON EIGHTEEN YEARS OF AGE OR OLDER. FOR THE PURPOSES OF THIS

SECTION, "INCARCERATION" INCLUDES PLACEMENT AS A JUVENILE TO THE CUSTODY OF THE STATE DEPARTMENT OF HUMAN SERVICES OR A COUNTY DEPARTMENT OF SOCIAL SERVICES.

(d) "PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE" MEANS A PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE THAT HAS BEEN APPROVED BY THE UNITED STATES TRUSTEE'S OFFICE PURSUANT TO 11 U.S.C. SEC. 111.

(e) "STATE'S DUTY OF MONETARY COMPENSATION" MEANS THE TOTAL AMOUNT OF MONETARY COMPENSATION OWED BY THE STATE TO AN EXONERATED PERSON.

(2) NOT MORE THAN FOURTEEN DAYS AFTER THE STATE COURT ADMINISTRATOR RECEIVES DIRECTIONS FROM A DISTRICT COURT PURSUANT TO SECTION 13-65-103 TO COMPENSATE AN EXONERATED PERSON, THE STATE COURT ADMINISTRATOR SHALL:

(a) ISSUE AN ANNUAL PAYMENT TO THE EXONERATED PERSON. ANNUALLY THEREAFTER, ON OR BEFORE THE DATE THAT SUCH PAYMENT WAS MADE, UNTIL THE STATE'S DUTY OF MONETARY COMPENSATION IS SATISFIED, THE STATE COURT ADMINISTRATOR OR HIS OR HER DESIGNEE SHALL ISSUE AN ANNUAL PAYMENT TO THE EXONERATED PERSON.

(b) PAY ON THE EXONERATED PERSON'S BEHALF ANY AMOUNT OF COMPENSATION FOR CHILD SUPPORT PAYMENTS OWED BY THE EXONERATED PERSON THAT BECAME DUE DURING HIS OR HER INCARCERATION, OR ANY AMOUNT OF INTEREST ON CHILD SUPPORT ARREARAGES THAT ACCRUED DURING HIS OR HER INCARCERATION BUT WHICH HAVE NOT BEEN PAID, AS DESCRIBED IN SECTION 13-65-103 (2) (e) (III), C.R.S. THE STATE COURT ADMINISTRATOR, OR HIS OR HER DESIGNEE, SHALL MAKE SUCH PAYMENT IN A LUMP SUM TO THE APPROPRIATE COUNTY DEPARTMENT OF SOCIAL SERVICES OR OTHER AGENCY RESPONSIBLE FOR RECEIVING SUCH PAYMENTS NOT MORE THAN THIRTY DAYS AFTER THE STATE COURT ADMINISTRATOR RECEIVES DIRECTIONS FROM A DISTRICT COURT TO COMPENSATE AN EXONERATED PERSON PURSUANT TO SECTION 13-65-103.

(c) PAY ON THE EXONERATED PERSON'S BEHALF THE AMOUNT OF REASONABLE ATTORNEY FEES AWARDED TO THE EXONERATED PERSON PURSUANT TO SECTION 13-65-103 (2) (e) (IV), C.R.S.

(3) THE AMOUNT OF ANY PAYMENT MADE TO, OR ON BEHALF OF, AN EXONERATED PERSON PURSUANT TO THIS SECTION SHALL BE DEDUCTED FROM THE STATE'S DUTY OF MONETARY COMPENSATION TO THE EXONERATED PERSON.

(4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, AFTER THE STATE COURT ADMINISTRATOR HAS ISSUED ONE ANNUAL PAYMENT TO AN EXONERATED PERSON, THE STATE COURT ADMINISTRATOR SHALL NOT ISSUE ANOTHER ANNUAL PAYMENT TO THE EXONERATED PERSON UNTIL THE EXONERATED PERSON HAS COMPLETED A PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE.

(5) IN EACH YEAR IN WHICH THE STATE COURT ADMINISTRATOR ISSUES AN ANNUAL PAYMENT TO AN EXONERATED PERSON, THE PERSON'S ANNUAL PAYMENT SHALL BE REDUCED BY TEN THOUSAND DOLLARS IF THE PERSON FAILS TO PRESENT TO THE STATE COURT ADMINISTRATOR A POLICY OR CERTIFICATE SHOWING THAT THE PERSON HAS PURCHASED OR OTHERWISE ACQUIRED A QUALIFIED HEALTH PLAN FOR HIMSELF OR HERSELF AND HIS OR HER DEPENDENTS THAT IS VALID FOR AT LEAST SIX MONTHS. SUCH AMOUNT SHALL BE DEDUCTED FROM THE STATE'S DUTY OF MONETARY COMPENSATION TO THE EXONERATED PERSON AS IF SUCH AMOUNT HAD BEEN ISSUED TO THE EXONERATED PERSON.

(6) (a) AN EXONERATED PERSON WHO RECEIVES MONETARY COMPENSATION PURSUANT TO THIS SECTION SHALL REIMBURSE THE STATE FOR THE TOTAL AMOUNT OF ANNUAL PAYMENTS MADE TO THE EXONERATED PERSON PURSUANT TO THIS SECTION IF:

(I) THE EXONERATED PERSON PREVAILS IN OR SETTLES A CIVIL ACTION AGAINST THE STATE OR AGAINST ANY OTHER GOVERNMENT BODY IN A CIVIL ACTION CONCERNING THE SAME ACTS THAT ARE THE BASES FOR THE PETITION FOR COMPENSATION; AND

(II) THE JUDGMENT RENDERED IN THE CIVIL ACTION OR THE SETTLEMENT OF THE CIVIL ACTION INCLUDES AN AWARD OF MONETARY DAMAGES TO THE EXONERATED PERSON.

(b) FOR THE PURPOSES OF PARAGRAPH (a) OF THIS SUBSECTION (6), IN ANY PROCEEDING THAT SATISFIES THE DESCRIPTION SET FORTH IN SAID PARAGRAPH (a), UPON A SATISFACTORY SHOWING BY THE STATE THAT THE

EXONERATED PERSON HAS RECEIVED MONETARY COMPENSATION PURSUANT TO THIS SECTION, THE COURT SHALL OFFSET A SUFFICIENT AMOUNT OF MONEYS FROM THE EXONERATED PERSON'S AWARD OF MONETARY DAMAGES TO REIMBURSE THE STATE FOR SUCH MONETARY COMPENSATION. THE COURT SHALL TRANSFER SUCH MONEYS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEYS TO THE GENERAL FUND.

(7) NOTWITHSTANDING ANY PROVISION OF THIS SECTION, THE STATE COURT ADMINISTRATOR SHALL NOT ISSUE AN ANNUAL PAYMENT TO AN EXONERATED PERSON IF:

(a) (I) THE EXONERATED PERSON HAS PREVAILED IN OR SETTLED A CIVIL ACTION FOR MONETARY DAMAGES AS DESCRIBED IN SUBSECTION (6) OF THIS SECTION; AND

(II) THE AMOUNT OF THE MONETARY DAMAGES AWARDED BY THE COURT IN THE CIVIL ACTION, OR STIPULATED IN THE SETTLEMENT OF THE ACTION, AND COLLECTED BY THE EXONERATED PERSON EQUALS OR EXCEEDS THE REMAINING AMOUNT OF THE STATE'S DUTY OF MONETARY COMPENSATION TO THE EXONERATED PERSON;

(b) THE EXONERATED PERSON IS CONVICTED OF A CLASS 1 OR CLASS 2 FELONY, OR OF AN OFFENSE THAT WOULD BE CONSIDERED A CLASS 1 OR CLASS 2 FELONY IN COLORADO, AFTER THE DATE UPON WHICH A COURT ISSUES AN ORDER OF COMPENSATION ON THE PERSON'S BEHALF; OR

(c) THE PERSON HAS NOT YET COMPLETED A PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE, AS REQUIRED BY SUBSECTION (4) OF THIS SECTION.

SECTION 4. In Colorado Revised Statutes, **add** 23-1-132 as follows:

23-1-132. Commission directive - tuition waivers for exonerated persons. (1) ON OR BEFORE SEPTEMBER 1, 2013, THE COMMISSION SHALL IMPLEMENT A POLICY WHEREBY, EXCEPT AS LIMITED IN THIS SECTION, EACH INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL WAIVE ALL TUITION COSTS, INCLUDING ANY MANDATORY FEES ASSOCIATED WITH ATTENDANCE AT THE INSTITUTION, FOR AN EXONERATED PERSON, AS DEFINED IN SECTION 13-65-101 (3), C.R.S., AND FOR ANY CHILD OF AN EXONERATED PERSON OR

CUSTODIAL CHILD OF AN EXONERATED PERSON, AS DEFINED IN SECTION 13-65-101 (2), C.R.S., IF:

(a) THE EXONERATED PERSON, OR THE CHILD OR CUSTODIAL CHILD OF THE EXONERATED PERSON, SATISFIES THE CRITERIA DESCRIBED IN SUBSECTION (2) OF THIS SECTION;

(b) THE EXONERATED PERSON, OR THE CHILD OR CUSTODIAL CHILD OF THE EXONERATED PERSON, SATISFIES THE ADMISSION REQUIREMENTS OF THE INSTITUTION; AND

(c) THE EXONERATED PERSON, OR THE CHILD OR CUSTODIAL CHILD OF THE EXONERATED PERSON, REMAINS IN SATISFACTORY ACADEMIC STANDING IN ACCORDANCE WITH THE ACADEMIC POLICIES OF THE INSTITUTION.

(2) TO RECEIVE A TUITION WAIVER FROM AN INSTITUTION OF HIGHER EDUCATION AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, AN EXONERATED PERSON OR CHILD OR CUSTODIAL CHILD OF AN EXONERATED PERSON SHALL APPLY TO THE INSTITUTION AND REQUEST SUCH WAIVER IN WRITING NOT LATER THAN TWO YEARS AFTER THE LATER OF THE FOLLOWING DATES:

(a) THE DATE UPON WHICH A COURT ISSUED TO THE STATE COURT ADMINISTRATOR DIRECTIONS TO COMPENSATE AN EXONERATED PERSON PURSUANT TO SECTION 13-65-103, C.R.S.; OR

(b) IN THE CASE OF A CHILD OR CUSTODIAL CHILD OF AN EXONERATED PERSON, THE DATE UPON WHICH THE CHILD GRADUATED FROM HIGH SCHOOL.

(3) THE POLICY DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL BE IMPLEMENTED BY ALL STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION, INCLUDING BUT NOT LIMITED TO ALL POSTSECONDARY INSTITUTIONS IN THE STATE SUPPORTED IN WHOLE OR IN PART BY STATE FUNDS, INCLUDING JUNIOR COLLEGES AND COMMUNITY COLLEGES, EXTENSION PROGRAMS OF THE STATE-SUPPORTED UNIVERSITIES AND COLLEGES, LOCAL DISTRICT COLLEGES, AND AREA VOCATIONAL SCHOOLS.

SECTION 5. In Colorado Revised Statutes, 39-22-104, **add** (4) (q)

as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - definitions - repeal. (4) There shall be subtracted from federal taxable income:

(q) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2013, AN AMOUNT EQUAL TO ANY AMOUNT RECEIVED AS COMPENSATION FOR AN EXONERATED PERSON PURSUANT TO SECTION 13-65-103, C.R.S., ON OR AFTER JANUARY 1, 2014, EXCEPT AS TO THOSE PORTIONS OF THE JUDGMENT AWARDED AS ATTORNEY'S FEES FOR BRINGING A CLAIM UNDER SUCH SECTION.

SECTION 6. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of higher education, for the fiscal year beginning July 1, 2013, the sum of \$1,920, or so much thereof as may be necessary, to be allocated to the college opportunity fund program for stipends for students attending state institutions. Said sum is further reappropriated to the state board for community colleges and occupational education state system community colleges for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of law, for the fiscal year beginning July 1, 2013, the sum of \$128,662 and 1.4 FTE, or so much thereof as may be necessary, to be allocated to the special prosecutions unit for the implementation of this act as follows:

- (a) \$110,896 and 1.4 FTE for personal services;
- (b) \$3,982 for travel and operating expenses; and
- (c) \$13,784 for capital outlay expenses.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the judicial department, for the fiscal year beginning July 1, 2013, the sum of \$100,000, or so much thereof as may be necessary, to

be allocated to courts administration, centrally administered programs, for the compensation for exonerated persons or immediate family members of exonerated persons as required to implement this act.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

John P. Morse
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO