

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 12-0416.01 Jason Gelender x4330

**SENATE BILL 12-001**

**SENATE SPONSORSHIP**

**Hudak**, Bacon, Boyd, Foster, Heath, Shaffer B., Steadman

**HOUSE SPONSORSHIP**

**Duran and Ryden**,

**Senate Committees**

Local Government  
Appropriations

**House Committees**

**A BILL FOR AN ACT**

101 **CONCERNING CONTRACTING PREFERENCES FOR PERSONS WHO**  
102 **EMPLOY AT LEAST A SPECIFIED PERCENTAGE OF COLORADO**  
103 **RESIDENTS TO PERFORM THE REQUIREMENTS OF A**  
104 **GOVERNMENT CONTRACT, AND, IN CONNECTION THEREWITH,**  
105 **MAKING AN APPROPRIATION.**

**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://www.leg.state.co.us/billsummaries>.)*

On and after July 1, 2012, if a state agency (agency) or

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

SENATE  
3rd Reading Unamended  
April 11, 2012

SENATE  
Amended 2nd Reading  
April 10, 2012

governmental body (body) issues an invitation for bids or a request for proposals for a construction contract for a public project (construction contract) or for a services contract that is, in either case, worth more than \$1 million, the agency or body must grant a 3% preference to the bidder or offeror (contractor) if the contractor certifies that at least 90% of the employees who will perform the requirements of the contract are Colorado residents. With respect to a construction contract, an agency or body must also grant a contractor who receives the 3% preference:

- ! An additional 1% preference if the contractor certifies that it offers health care and retirement benefits to the employees who will perform the contract requirements; and
- ! An additional 1% preference if the contractor certifies that the employees who will perform the contract requirements have access to a federally qualified apprenticeship training program.

With respect to a services contract, an agency or body must also grant a contractor who receives the 3% preference an additional 2% preference if the contractor certifies that it offers health care benefits and retirement benefits to the employees who will perform the requirements of the contract.

An agency or body may not allow any of the preferences to a noncompliant contractor, and the contractor may not use the preference to satisfy a minimum requirement of a contract. A contractor that seeks a preference for a bid or offer must certify its eligibility for the preference to the agency or body that issued the invitation for bids or request for proposals. The agency or body may rely on the certification but may also require the contractor to submit substantiating documentation or other information needed to verify the contractor's eligibility for the preference.

The executive director of the department of personnel must promulgate rules for the administration of each preference, including processes for a contractor to certify and an agency or body to verify the contractor's eligibility for the preference.

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

2           **SECTION 1. Short title.** This act shall be known and may be  
3 cited as the "Hiring Coloradans First Act".

4           **SECTION 2.** In Colorado Revised Statutes, 24-92-102, **amend**  
5 (6) as follows:

6           **24-92-102. Definitions.** As used in this article, unless the context  
7 otherwise requires:

1           (6) "Low responsible bidder" means any contractor who has bid  
2 in compliance with the invitation to bid and within the requirements of  
3 the plans and specifications for a public project, who is the low bidder  
4 AFTER ANY PREFERENCES ALLOWED PURSUANT TO THIS ARTICLE HAVE  
5 BEEN APPLIED, and who has furnished bonds or their equivalent as  
6 required by law.

7           **SECTION 3.** In Colorado Revised Statutes, **add** 24-92-103.5 as  
8 follows:

9           **24-92-103.5. Preferences for contractors that employ Colorado**  
10 **residents - definitions.** (1) FOR PURPOSES OF THIS SECTION:

11           (a) "APPRENTICESHIP TRAINING PROGRAM" MEANS A PROGRAM  
12 THAT IS REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR,  
13 OFFICE OF APPRENTICESHIP AND TRAINING.

14           (b) "COLORADO RESIDENT" MEANS AN INDIVIDUAL WHOSE  
15 DOMICILE IS IN COLORADO.

16           (c) "DOMICILE" MEANS AN INDIVIDUAL'S TRUE, FIXED, AND  
17 PERMANENT HOME AND PLACE OF HABITATION. IT IS THE PLACE WHERE HE  
18 OR SHE INTENDS TO REMAIN AND TO WHICH HE OR SHE EXPECTS TO RETURN  
19 WHEN HE OR SHE LEAVES WITHOUT INTENDING TO ESTABLISH A NEW  
20 DOMICILE ELSEWHERE.

21           (d) "HEALTH CARE BENEFITS" MEANS A HEALTH CARE PLAN  
22 PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT CONFORMS TO ALL  
23 REQUIREMENTS OF FEDERAL LAW AND REGULATIONS INCLUDING, BUT NOT  
24 LIMITED TO, THE "PATIENT PROTECTION AND AFFORDABLE CARE ACT",  
25 PUB.L. 111-148, AS AMENDED BY THE "HEALTH CARE AND EDUCATION  
26 RECONCILIATION ACT OF 2010", PUB.L. 111-152, AND AS MAY BE  
27 FURTHER AMENDED, AND ITS IMPLEMENTING REGULATIONS.

1 (e) "RETIREMENT BENEFITS" MEANS A PENSION PLAN OR OTHER  
2 RETIREMENT PLAN PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT  
3 CONFORMS TO ALL REQUIREMENTS OF FEDERAL LAW AND REGULATIONS,  
4 INCLUDING, BUT NOT LIMITED TO, THE "EMPLOYEE RETIREMENT INCOME  
5 SECURITY ACT OF 1974", PUB.L. 93-406, AS AMENDED, AND ITS  
6 IMPLEMENTING REGULATIONS, AND THAT DOES NOT REQUIRE A GREATER  
7 MONETARY CONTRIBUTION FROM AN EMPLOYEE THAN IT DOES FROM THE  
8 EMPLOYER.

9 (2) AN AGENCY OF GOVERNMENT THAT ISSUES AN INVITATION FOR  
10 BIDS ON OR AFTER JULY 1, 2012, FOR A CONSTRUCTION CONTRACT FOR A  
11 PUBLIC PROJECT FOR WHICH APPROPRIATION OR EXPENDITURE OF MONEYS  
12 IS REASONABLY EXPECTED TO EXCEED ONE MILLION DOLLARS IN THE  
13 AGGREGATE SHALL PROVIDE ONE OR MORE PREFERENCES TO A  
14 CONTRACTOR THAT RESPONDS TO THE INVITATION FOR BIDS AS FOLLOWS:

15 (a) THE AGENCY SHALL SUBTRACT AN AMOUNT EQUAL TO THREE  
16 PERCENT OF THE BID PRICE FROM THE BID OF EACH CONTRACTOR THAT  
17 CERTIFIES THAT AT LEAST NINETY PERCENT OF THE EMPLOYEES WHO WILL  
18 PERFORM THE REQUIREMENTS OF THE CONTRACT ARE COLORADO  
19 RESIDENTS;

20 (b) FOR A CONTRACTOR THAT IS ALLOWED A PREFERENCE  
21 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE AGENCY  
22 SHALL SUBTRACT AN ADDITIONAL AMOUNT EQUAL TO ONE PERCENT OF  
23 THE BID PRICE FROM THE CONTRACTOR'S BID IF THE CONTRACTOR  
24 CERTIFIES THAT IT OFFERS HEALTH CARE BENEFITS AND RETIREMENT  
25 BENEFITS TO ALL OF THE EMPLOYEES WHO WILL PERFORM THE  
26 REQUIREMENTS OF THE CONTRACT; AND

27 (c) FOR A CONTRACTOR THAT IS ALLOWED A PREFERENCE

1 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE AGENCY  
2 SHALL SUBTRACT AN ADDITIONAL AMOUNT EQUAL TO ONE PERCENT OF  
3 THE BID PRICE FROM THE CONTRACTOR'S BID IF THE CONTRACTOR  
4 CERTIFIES THAT THE EMPLOYEES WHO WILL PERFORM THE REQUIREMENTS  
5 OF THE CONTRACT HAVE ACCESS TO AN APPRENTICESHIP TRAINING  
6 PROGRAM.

7 (3) A NONCOMPLIANT BIDDER IS NOT ELIGIBLE FOR THE  
8 PREFERENCES ALLOWED PURSUANT TO SUBSECTION (2) OF THIS SECTION.  
9 A CONTRACTOR MAY NOT USE SAID PREFERENCES TO SATISFY ANY  
10 APPLICABLE MINIMUM REQUIREMENTS OF A CONTRACT.

11 (4) A CONTRACTOR THAT SEEKS TO HAVE A PREFERENCE SPECIFIED  
12 IN SUBSECTION (2) OF THIS SECTION ALLOWED FOR A BID SHALL CERTIFY  
13 ITS ELIGIBILITY FOR THE PREFERENCE TO THE AGENCY OF GOVERNMENT  
14 THAT ISSUED THE INVITATION FOR BIDS. THE AGENCY MAY RELY ON THE  
15 CERTIFICATION BUT MAY ALSO REQUIRE THE CONTRACTOR TO SUBMIT  
16 SUBSTANTIATING DOCUMENTATION OR OTHER INFORMATION THAT WILL  
17 ENABLE THE AGENCY TO VERIFY THAT THE CONTRACTOR IS ELIGIBLE FOR  
18 THE PREFERENCE.

19 (5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL  
20 SHALL PROMULGATE RULES FOR THE ADMINISTRATION OF THIS SECTION,  
21 INCLUDING A PROCESS FOR A CONTRACTOR TO CERTIFY ITS ELIGIBILITY FOR  
22 A PREFERENCE ALLOWED PURSUANT TO SUBSECTION (2) OF THIS SECTION  
23 AND A PROCESS BY WHICH AN AGENCY OF GOVERNMENT MAY VERIFY SUCH  
24 A CERTIFICATION. THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES  
25 PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE  
26 4 OF THIS TITLE.

27 (6) IF THE PROCUREMENT OFFICER DETERMINES THAT COMPLIANCE

1 WITH THIS SECTION WILL CAUSE DENIAL OF FEDERAL MONEYS OR  
2 PRECLUDE THE ABILITY TO ACCESS FEDERAL MONEYS THAT WOULD  
3 OTHERWISE BE AVAILABLE OR WILL OTHERWISE BE INCONSISTENT WITH  
4 FEDERAL LAW, THIS SECTION SHALL BE SUSPENDED, BUT ONLY TO THE  
5 EXTENT NECESSARY TO PREVENT DENIAL OF THE MONEYS OR TO  
6 ELIMINATE THE INCONSISTENCY WITH FEDERAL LAW.

7 (7) IF THE REQUIREMENTS OF THIS SECTION RESULT IN INCREASED  
8 COSTS FOR BUILDING HIGHER EDUCATION FACILITIES, SUCH COSTS SHALL  
9 NOT BE PASSED ON TO STUDENTS THROUGH INCREASED TUITION OR FEES.

10 **SECTION 4.** In Colorado Revised Statutes, 24-93-106, **amend**  
11 (4) as follows:

12 **24-93-106. Requests for proposals - evaluation and award of**  
13 **integrated project delivery contracts.** (4) After obtaining and  
14 evaluating proposals according to the criteria and procedures set forth in  
15 the request for proposals in accordance with the requirements specified  
16 in subsection (1) of this section AND AFTER APPLYING ANY PREFERENCE  
17 ALLOWED PURSUANT TO SECTION 24-93-109, an agency may accept the  
18 proposal that, in its estimation, represents the best value to the agency.  
19 Acceptance of a proposal shall be by written notice to the participating  
20 entity that submitted the accepted proposal.

21 **SECTION 5.** In Colorado Revised Statutes, **add** 24-93-109 as  
22 follows:

23 **24-93-109. Preferences for participating entities that employ**  
24 **Colorado residents - definitions.** (1) FOR PURPOSES OF THIS SECTION:

25         
26 (a) "COLORADO RESIDENT" MEANS AN INDIVIDUAL WHOSE  
27 DOMICILE IS IN COLORADO.

1           **(b)** "DOMICILE" MEANS AN INDIVIDUAL'S TRUE, FIXED, AND  
2 PERMANENT HOME AND PLACE OF HABITATION. IT IS THE PLACE WHERE HE  
3 OR SHE INTENDS TO REMAIN AND TO WHICH HE OR SHE EXPECTS TO RETURN  
4 WHEN HE OR SHE LEAVES WITHOUT INTENDING TO ESTABLISH A NEW  
5 DOMICILE ELSEWHERE.

6           **(c)** "HEALTH CARE BENEFITS" MEANS A HEALTH CARE PLAN  
7 PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT CONFORMS TO ALL  
8 REQUIREMENTS OF FEDERAL LAW AND REGULATIONS INCLUDING, BUT NOT  
9 LIMITED TO, THE "PATIENT PROTECTION AND AFFORDABLE CARE ACT",  
10 PUB.L. 111-148, AS AMENDED BY THE "HEALTH CARE AND EDUCATION  
11 RECONCILIATION ACT OF 2010", PUB.L. 111-152, AND AS MAY BE  
12 FURTHER AMENDED, AND ITS IMPLEMENTING REGULATIONS.

13           **(d)** "RETIREMENT BENEFITS" MEANS A PENSION PLAN OR OTHER  
14 RETIREMENT PLAN PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT  
15 CONFORMS TO ALL REQUIREMENTS OF FEDERAL LAW AND REGULATIONS,  
16 INCLUDING, BUT NOT LIMITED TO, THE "EMPLOYEE RETIREMENT INCOME  
17 SECURITY ACT OF 1974", PUB.L. 93-406, AS AMENDED, AND ITS  
18 IMPLEMENTING REGULATIONS, AND THAT DOES NOT REQUIRE A GREATER  
19 MONETARY CONTRIBUTION FROM THE EMPLOYEE THAN IT DOES FROM THE  
20 EMPLOYER.

21           (2) AN AGENCY THAT ISSUES A REQUEST FOR PROPOSALS ON OR  
22 AFTER JULY 1, 2012, FOR AN IPD CONTRACT FOR A PUBLIC PROJECT FOR  
23 WHICH APPROPRIATION OR EXPENDITURE OF MONEYS IS REASONABLY  
24 EXPECTED TO EXCEED ONE MILLION DOLLARS IN THE AGGREGATE SHALL  
25 PROVIDE ONE OR MORE PREFERENCES TO A PARTICIPATING ENTITY THAT  
26 RESPONDS TO THE REQUEST FOR PROPOSALS AS FOLLOWS:

27           (a) THE AGENCY SHALL ASSIGN A RELATIVE WEIGHT OF THREE

1 PERCENT TO A PARTICIPATING ENTITY THAT CERTIFIES THAT AT LEAST  
2 NINETY PERCENT OF THE EMPLOYEES WHO WILL PERFORM THE  
3 REQUIREMENTS OF THE CONTRACT ARE COLORADO RESIDENTS; AND

4 (b) FOR A PARTICIPATING ENTITY THAT IS ALLOWED A PREFERENCE  
5 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE AGENCY  
6 SHALL ASSIGN A RELATIVE WEIGHT OF AN ADDITIONAL TWO PERCENT TO  
7 THE PARTICIPATING ENTITY IF THE PARTICIPATING ENTITY CERTIFIES THAT  
8 IT OFFERS HEALTH CARE BENEFITS AND RETIREMENT BENEFITS TO ALL OF  
9 THE EMPLOYEES WHO WILL PERFORM THE REQUIREMENTS OF THE  
10 CONTRACT.

11 ==  
12 (3) A NONCOMPLIANT PARTICIPATING ENTITY IS NOT ELIGIBLE FOR  
13 THE PREFERENCES ALLOWED PURSUANT TO SUBSECTION (2) OF THIS  
14 SECTION. A PARTICIPATING ENTITY MAY NOT USE SAID PREFERENCES TO  
15 SATISFY ANY APPLICABLE MINIMUM REQUIREMENTS OF A CONTRACT.

16 (4) A PARTICIPATING ENTITY THAT SEEKS TO HAVE A PREFERENCE  
17 SPECIFIED IN SUBSECTION (2) OF THIS SECTION ALLOWED FOR A BID SHALL  
18 CERTIFY ITS ELIGIBILITY FOR THE PREFERENCE TO THE AGENCY THAT  
19 ISSUED THE REQUEST FOR PROPOSALS. THE AGENCY MAY RELY ON THE  
20 CERTIFICATION BUT MAY ALSO REQUIRE THE PARTICIPATING ENTITY TO  
21 SUBMIT SUBSTANTIATING DOCUMENTATION OR OTHER INFORMATION THAT  
22 WILL ENABLE THE AGENCY TO VERIFY THAT THE PARTICIPATING ENTITY IS  
23 ELIGIBLE FOR THE PREFERENCE.

24 (5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL  
25 SHALL PROMULGATE RULES FOR THE ADMINISTRATION OF THIS SECTION,  
26 INCLUDING A PROCESS FOR A PARTICIPATING ENTITY TO CERTIFY ITS  
27 ELIGIBILITY FOR A PREFERENCE ALLOWED PURSUANT TO SUBSECTION (2)



1 OF THIS SECTION AND A PROCESS BY WHICH AN AGENCY OF GOVERNMENT  
2 MAY VERIFY SUCH A CERTIFICATION. THE EXECUTIVE DIRECTOR SHALL  
3 PROMULGATE RULES PURSUANT TO THE "STATE ADMINISTRATIVE  
4 PROCEDURE ACT", ARTICLE 4 OF THIS TITLE.

5 (6) IF THE PROCUREMENT OFFICER DETERMINES THAT COMPLIANCE  
6 WITH THIS SECTION WILL CAUSE DENIAL OF FEDERAL MONEYS OR  
7 PRECLUDE THE ABILITY TO ACCESS FEDERAL MONEYS THAT WOULD  
8 OTHERWISE BE AVAILABLE OR WILL OTHERWISE BE INCONSISTENT WITH  
9 FEDERAL LAW, THIS SECTION SHALL BE SUSPENDED, BUT ONLY TO THE  
10 EXTENT NECESSARY TO PREVENT DENIAL OF THE MONEYS OR TO  
11 ELIMINATE THE INCONSISTENCY WITH FEDERAL LAW.

12 (7) IF THE REQUIREMENTS OF THIS SECTION RESULT IN INCREASED  
13 COSTS FOR BUILDING HIGHER EDUCATION FACILITIES, SUCH COSTS SHALL  
14 NOT BE PASSED ON TO STUDENTS THROUGH INCREASED TUITION OR FEES.

15 **SECTION 6.** In Colorado Revised Statutes, 24-103-101, **amend**  
16 (3) as follows:

17 **24-103-101. Definitions.** As used in this article, unless the context  
18 otherwise requires:

19 (3) "Low responsible bidder" means any person who has bid in  
20 compliance with the invitation to bid and within the requirements of the  
21 plans and specifications for a public contract who is the low bidder AFTER  
22 ANY PREFERENCES ALLOWED PURSUANT TO THIS ARTICLE HAVE BEEN  
23 APPLIED and who has furnished bonds or their equivalent if required by  
24 law.

25 **SECTION 7.** In Colorado Revised Statutes, **add** 24-103-210 as  
26 follows:

27 **24-103-210. Preferences for persons that employ Colorado**

1 **residents - definitions.** (1) FOR PURPOSES OF THIS SECTION:

2 (a) "COLORADO RESIDENT" MEANS AN INDIVIDUAL WHOSE  
3 DOMICILE IS IN COLORADO.

4 (b) "DOMICILE" MEANS AN INDIVIDUAL'S TRUE, FIXED, AND  
5 PERMANENT HOME AND PLACE OF HABITATION. IT IS THE PLACE WHERE HE  
6 OR SHE INTENDS TO REMAIN AND TO WHICH HE OR SHE EXPECTS TO RETURN  
7 WHEN HE OR SHE LEAVES WITHOUT INTENDING TO ESTABLISH A NEW  
8 DOMICILE ELSEWHERE.

9 (c) "HEALTH CARE BENEFITS" MEANS A HEALTH CARE PLAN  
10 PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT CONFORMS TO ALL  
11 REQUIREMENTS OF FEDERAL LAW AND REGULATIONS INCLUDING, BUT NOT  
12 LIMITED TO, THE "PATIENT PROTECTION AND AFFORDABLE CARE ACT",  
13 PUB.L. 111-148, AS AMENDED BY THE "HEALTH CARE AND EDUCATION  
14 RECONCILIATION ACT OF 2010", PUB.L. 111-152, AND AS MAY BE  
15 FURTHER AMENDED, AND ITS IMPLEMENTING REGULATIONS.

16 (d) "RETIREMENT BENEFITS" MEANS A PENSION PLAN OR OTHER  
17 RETIREMENT PLAN PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT  
18 CONFORMS TO ALL REQUIREMENTS OF FEDERAL LAW AND REGULATIONS,  
19 INCLUDING, BUT NOT LIMITED TO, THE "EMPLOYEE RETIREMENT INCOME  
20 SECURITY ACT OF 1974", PUB.L. 93-406, AS AMENDED, AND ITS  
21 IMPLEMENTING REGULATIONS, AND THAT DOES NOT REQUIRE A GREATER  
22 MONETARY CONTRIBUTION FROM THE EMPLOYEE THAN IT DOES FROM THE  
23 EMPLOYER.

24 (2) A GOVERNMENTAL BODY THAT ISSUES AN INVITATION FOR BIDS  
25 FOR A SERVICES CONTRACT ON OR AFTER JULY 1, 2012, FOR WHICH  
26 APPROPRIATION OR EXPENDITURE OF MONEYS IS REASONABLY EXPECTED  
27 TO EXCEED ONE MILLION DOLLARS IN THE AGGREGATE SHALL PROVIDE ONE

1 OR MORE PREFERENCES TO A PERSON THAT RESPONDS TO THE INVITATION  
2 FOR BIDS AS FOLLOWS:

3 (a) THE GOVERNMENTAL BODY SHALL SUBTRACT THREE PERCENT  
4 OF THE BID PRICE FROM THE BID OF EACH PERSON THAT CERTIFIES THAT AT  
5 LEAST NINETY PERCENT OF THE EMPLOYEES WHO WILL PERFORM THE  
6 REQUIREMENTS OF THE CONTRACT ARE COLORADO RESIDENTS; AND

7 (b) FOR A PERSON THAT IS ALLOWED A PREFERENCE PURSUANT TO  
8 PARAGRAPH (a) OF THIS SUBSECTION (2), THE GOVERNMENTAL BODY  
9 SHALL SUBTRACT AN ADDITIONAL AMOUNT EQUAL TO TWO PERCENT OF  
10 THE BID PRICE FROM THE PERSON'S BID IF THE PERSON CERTIFIES THAT IT  
11 OFFERS HEALTH CARE BENEFITS AND RETIREMENT BENEFITS TO ALL OF THE  
12 EMPLOYEES WHO WILL PERFORM THE REQUIREMENTS OF THE CONTRACT.

13 (3) A GOVERNMENTAL BODY THAT ISSUES A REQUEST FOR  
14 PROPOSALS FOR A SERVICES CONTRACT ON OR AFTER JULY 1, 2012, FOR  
15 WHICH APPROPRIATION OR EXPENDITURE OF MONEYS IS REASONABLY  
16 EXPECTED TO EXCEED ONE MILLION DOLLARS IN THE AGGREGATE SHALL  
17 PROVIDE ONE OR MORE PREFERENCES TO A PERSON THAT RESPONDS TO THE  
18 REQUEST FOR PROPOSALS AS FOLLOWS:

19 (a) THE GOVERNMENTAL BODY SHALL ASSIGN A RELATIVE WEIGHT  
20 OF THREE PERCENT TO A PERSON THAT CERTIFIES THAT AT LEAST NINETY  
21 PERCENT OF THE EMPLOYEES WHO WILL PERFORM THE REQUIREMENTS OF  
22 THE CONTRACT ARE COLORADO RESIDENTS; AND

23 (b) FOR A PERSON THAT IS ALLOWED A PREFERENCE PURSUANT TO  
24 PARAGRAPH (a) OF THIS SUBSECTION (3), THE GOVERNMENTAL BODY  
25 SHALL ASSIGN A RELATIVE WEIGHT OF AN ADDITIONAL TWO PERCENT TO  
26 THE PERSON IF THE PERSON CERTIFIES THAT IT OFFERS HEALTH CARE  
27 BENEFITS AND RETIREMENT BENEFITS TO ALL OF THE EMPLOYEES WHO

1 WILL PERFORM THE REQUIREMENTS OF THE CONTRACT.

2 (4) A NONCOMPLIANT BIDDER OR OFFEROR IS NOT ELIGIBLE FOR  
3 THE PREFERENCES ALLOWED PURSUANT TO SUBSECTIONS (2) AND (3) OF  
4 THIS SECTION. A BIDDER OR OFFEROR MAY NOT USE SAID PREFERENCES TO  
5 SATISFY ANY APPLICABLE MINIMUM REQUIREMENTS OF A CONTRACT.

6 (5) A PERSON THAT SEEKS TO HAVE A PREFERENCE SPECIFIED IN  
7 SUBSECTION (2) OR (3) OF THIS SECTION ALLOWED FOR A BID OR OFFER  
8 SHALL CERTIFY ITS ELIGIBILITY FOR THE PREFERENCE TO THE  
9 GOVERNMENTAL BODY. THE GOVERNMENTAL BODY MAY RELY ON THE  
10 CERTIFICATION BUT MAY ALSO REQUIRE THE PERSON TO SUBMIT  
11 SUBSTANTIATING DOCUMENTATION OR OTHER INFORMATION THAT THE  
12 GOVERNMENTAL BODY NEEDS TO VERIFY THAT THE PERSON IS ELIGIBLE  
13 FOR THE PREFERENCE.

14 (6) THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES FOR THE  
15 ADMINISTRATION OF THIS SECTION, INCLUDING A PROCESS FOR A PERSON  
16 TO CERTIFY ITS ELIGIBILITY FOR A PREFERENCE ALLOWED PURSUANT TO  
17 SUBSECTION (2) OR (3) OF THIS SECTION AND A PROCESS BY WHICH A  
18 GOVERNMENTAL BODY MAY VERIFY SUCH A CERTIFICATION. THE  
19 EXECUTIVE DIRECTOR SHALL PROMULGATE RULES PURSUANT TO THE  
20 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF THIS TITLE.

21 (7) IF THE PROCUREMENT OFFICER DETERMINES THAT COMPLIANCE  
22 WITH THIS SECTION WILL CAUSE DENIAL OF FEDERAL MONEYS OR  
23 PRECLUDE THE ABILITY TO ACCESS FEDERAL MONEYS THAT WOULD  
24 OTHERWISE BE AVAILABLE OR WILL OTHERWISE BE INCONSISTENT WITH  
25 FEDERAL LAW, THIS SECTION SHALL BE SUSPENDED, BUT ONLY TO THE  
26 EXTENT NECESSARY TO PREVENT DENIAL OF THE MONEYS OR TO  
27 ELIMINATE THE INCONSISTENCY WITH FEDERAL LAW.

1           (8) IF THE REQUIREMENTS OF THIS SECTION RESULT IN INCREASED  
2           COSTS FOR BUILDING HIGHER EDUCATION FACILITIES, SUCH COSTS SHALL  
3           NOT BE PASSED ON TO STUDENTS THROUGH INCREASED TUITION OR FEES.

4           **SECTION 8. Appropriation.** In addition to any other  
5           appropriation, there is hereby appropriated, out of any moneys in the  
6           general fund not otherwise appropriated, to the department of personnel,  
7           for the fiscal year beginning July 1, 2012, the sum of \$62,767 and 0.9  
8           FTE, or so much thereof as may be necessary, for allocation to the state  
9           purchasing office in the division of accounts and control – controller for  
10           the promulgation of procurement rules related to the implementation of  
11           this act.

12           **SECTION 9. Safety clause.** The general assembly hereby finds,  
13           determines, and declares that this act is necessary for the immediate  
14           preservation of the public peace, health, and safety.