State Employee Incentive Program Recommendations to the Joint Budget Committee Pursuant to HB 04-1020 and SB 04-243

December 1, 2004

Colorado Department of Personnel & Administration

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Executive Summary

House Bill 04 -1020, enacted by the General Assembly during this recent legislative session, recognized that one method of achieving a more efficient and effective state government is "…to encourage the involvement of state employees in the development of innovative ideas that will increase the productivity and service level of state government while decreasing the costs…" A new state employee incentive program for cost savings innovations complements other incentive opportunities currently available to state employees. This program centers on rewarding innovative ideas that result in specific, identifiable cost savings to the State. The General Assembly recognized that allowing employees to share the cost savings resulting from innovations will encourage active employee participation while making state government more efficient and effective.

At the same time, Senate Bill 04-243 was enacted which amended C.R.S. § 24-38-103 to provide that, beginning with the 2004-05 fiscal year, a state agency achieving cost savings may transfer fifty percent of the amount of the cost savings to its personal services budget to pay performance-based bonuses to employees. This change provides the specific authority and mechanism for an agency to retain its portion of the achieved cost savings, providing the needed exception to the requirements of current reversion statutes. Further, the performance-based bonuses should be awarded in the fiscal year in which the cost savings are achieved. The applicable personnel rules and procedures pertaining to performance pay may be amended to ensure consistent implementation.

While HB 1020 creates the incentive for employees to pursue real cost-savings, SB 243 creates a means for agencies to return department-based cost savings to employees, through performance-based bonuses. This provides the opportunity for the taxpayer, the employee and the department or higher education institution to benefit from improvements in a manner directly tied to the actual cost savings achieved. Combining the implementation of both bills in one State Employee Incentive Program makes sense in developing the recommendations for the report required under HB 1020. Based on stakeholder input, the department may consider proposing personnel procedures on definition of terms, titling of the different incentive programs and additional reporting requirements.

Recommendations

HB 1020 amended Title 24, Article 50 by adding a new Part 8 - State Employee Incentive Program. Under C.R.S. § 24-50-803, the State Personnel Director is required to submit recommendations for implementing this program. The legislation mandates that six specific elements be included in the recommendations. The following recommendations for implementing the State Employee Incentive Program, which incorporate these six mandated elements, are respectfully submitted for your consideration:

Recommendation I. Criteria for Eligibility

- The innovative ideas or concepts must result in identifiable, extraordinary savings to the State.
- The actual achieved cost savings over a full 12-month period would be used as the base to determine the amount of funds returned to the taxpayer, retained by a department, and awarded to the employee in accordance with the formula.
- Excluded ideas under this program include those that are a result of normal, progressive business evolution or obvious solutions to mandated budget cuts; result in cost avoidance or revenue enhancement; and have an adverse cost impact on other state departments.
- Modify the definition of employee in C.R.S. § 24-50-802 to specify that excluded positions in the Department of Personnel & Administration should be those wholly responsible for control and operation of a division, those whose primary assignment includes responsibility for identifying efficiencies and cost reductions, and positions with statewide programmatic and/or budgetary authority.

Recommendation II. Formula for Cost Savings

The cost savings should be calculated to be the difference between the *anticipated* actual expenditures for the particular item(s) or activity prior to the implementation and the *actual* expenditures subsequent to the implementation for the first full 12 months.

Recommendation III. Employee Protections Against Retaliation

All employee incentive programs shall contain language that prohibits retaliation against any employee for initiating an idea or participating in this employee incentive program.

Recommendation IV. Providing Public Recognition and Financial Compensation to Employees

- Employees and the awarded ideas should be recognized through the Governor's Star Awards.
- Employees will receive an award amount calculated on the basis of up to 10 percent of the first 12 months' savings not to exceed a total amount of $2,000 to each eligible employee.
- Awards may be made in installments during the 12 months or in a lump sum payment subsequent to the 12-month period.
- To facilitate the payment of the employee awards, it is recommended that statutory language be added to clarify that roll-forwards for these purposes are authorized.

Recommendation V. Administration of Employee Incentive Program

- Departments will have maximum flexibility within the parameters established by state guidelines.
- The innovative idea or concept proposed must be approved and implemented by the department head.
- All incentive plans developed by individual departments will be sent to and retained by DHR. In the event that an incentive plan is inconsistent with State guidelines, DHR will provide guidance to the department on any appropriate revision.
- Written incentive plans developed by the departments will include a communication strategy.
- Departments will maintain information on their program for reporting purposes.
- The provisions, application, and rewards of this incentive program are not subject to any grievance or dispute procedure.

Recommendation VI. Returning Fifty Percent of Cost Savings to the Taxpayer and Retention of Fifty Percent of Cost Savings by the Department

- The cost savings to be returned to the Colorado taxpayer will occur indirectly through the application of C.R.S. § 24-75-102, which provides that unexpended funds shall revert to the general fund or, if made from a special fund, to such special fund.
- A new subsection should be added to C.R.S. § 24-50-804 (2) that allows the department to retain its savings in the same line item or to transfer such savings to another budget line item.
- It is recommended that statutory language be added to clarify that returning savings to the taxpayer and the department's retention of savings, pursuant to these mechanisms, do not apply against the statewide limits per C.R.S. § 24-75-108 (8).

Background

Governor Bill Owens signed HB 1020 into law on April 7, 2004. The law authorizes a new state employee incentive program, which aims to improve the efficiency and effectiveness of state government by rewarding state employees for innovations. HB 1020 also directs the State Personnel Director to submit recommendations for implementation of this employee incentive program to the Joint Budget Committee (see attachment A).

Prior to HB 1020, Part 8 of Article 30 of C.R.S. Title 24 established a suggestion system board with members appointed by the Governor and various members of the General Assembly. The board would review and approve any awards earned by employees, while the law also specified other facets such as award eligibility and a method for returning funds as a negative supplemental appropriation. The board was never properly constituted, the process was ineffective, and awards were rarely given. Further, there was little incentive for departments due to the negative impact on appropriations.

In July 1996, Governor Romer issued executive order D0007 96, "Incentives and Rewards for Citizen Satisfaction" (see attachment F), directing each department to develop incentive award programs, including spot awards up to $25 and other awards not to exceed $1,000. Director's Administrative Procedure P-3-21 (see attachment G) also addresses cash and non-cash incentive awards, similar to the Executive Order. Many state departments and agencies have incentive programs and use these awards today.

Recommendations Development and Rationale

To assist in developing the recommendations for the implementation of this employee incentive program, the HB 1020 State Employee Incentive Committee was established (see Attachment D). In developing the recommendations, the Committee considered materials detailing the past history of ineffective incentive programs, the current employee incentive programs that are operating successfully, and available market research of incentive programs in other states and the private sector.

HB 1020 is intended to address a specific type of incentive award to encourage state employees to develop ideas that increase the productivity and service level of state government while decreasing the costs of state government. SB 243 (see attachment B) provides another incentive for employees in achieving cost savings in the form of performance-based bonuses. These are distinctly different, though complementary, to the existing employee incentive programs. The current incentive programs operating under Executive Order D0007 96 and Director's Administrative Procedure P-3-21 focus on employee recognition and on rewarding special individual accomplishments or contributions. Under the Executive Order, these current awards cannot exceed $1000 and may include non-monetary awards as well.

The recommendations for implementing this new State Employee Incentive Program focus on rewarding those innovative ideas that result in specific cost savings to the State.

Recommendation I - Criteria for Eligibility

A. HB 1020 defines eligible and ineligible employees. Unless specifically excluded in §24-50-802 (1)(b), any employee within the state personnel system is eligible to participate in this program. Among the employees excluded are those in the Office of State Planning and Budgeting, the Office of the State Auditor, the Joint Budget Committee, the Department of Personnel & Administration, an elected official or member of the General Assembly, and executive directors, budget officers, and deputies of principal departments and presidents or their deputies of any college or university.

   In order to maximize participation and cost savings to the State, it is recommended that only certain types of positions within the Department of Personnel & Administration (DPA) be excluded. Excluded positions in DPA should be those wholly responsible for the control and operation of a division, those whose primary assignment includes responsibility for identifying efficiencies and cost reductions, and positions with statewide programmatic and/or budgetary authority.

B. An employee who makes a suggestion that is implemented must be actively employed with the State at the end of the 12-month period to be eligible to receive an award. Eligibility is not affected should an employee transfer within state government without a break in service. If the employee was eligible at the time the idea was implemented then transfers to another department before the 12-month period is up, the employee will still be eligible for the award, which will be paid by the original department realizing the cost savings.

C. For an employee to be eligible to be awarded for an idea under this program such employee must have actively participated in the creation and evolvement of the idea proposed and be identified in the documents submitted in proposing the innovative idea, prior to implementation.

D. Those innovative ideas or concepts that *are eligible for consideration* under this program are those that:

   1. Produce cost savings that are reasonably expected to be permanent and continuing.

2. Result in identifiable, specific, and quantifiable cost savings to the State that can be measured over a full 12-month period.
3. Are implemented by a department after final approval by the designated authority.

As each state department may be unique in its mission and operations, additional appropriate eligibility requirements may be established.

E. Those ideas that *are excluded* from consideration under this program are those that:

1. Are a result of obvious and progressive normal business practice (e.g., a foreseeable expectation that this idea would be implemented in a reasonable time frame as a result of evolving business or industry practice) or are obvious solutions to mandated budget cuts (e.g., abolishing vacant funded positions or reducing staff through layoff).

2. Result in cost avoidance (e.g., no or lowered increases in costs for staff, supplies, equipment) or revenue enhancement (e.g., new or increased fees for services) as the method of documenting cost savings.

3. Simply shift the cost from one state department to another.

If an innovative idea or concept would have some fiscal impact on another department but would result in substantial savings to the State, the affected departments need to coordinate the development and implementation of the idea. Any cost savings identified would be adjusted in consideration of the adverse cost impact on the other department.

Recommendation II. A Formula for Calculating and Distributing Cost Savings

Cost savings should be calculated based on the 12-month period, after implementation of the innovative idea resulting in the cost savings. The cost savings realized shall be calculated as the difference between the anticipated actual expenditures for the particular item(s) or activity prior to the implementation and the actual expenditures subsequent to the implementation for the first full 12 months.

Recommendation III. Employee Protections

All employee incentive programs shall contain language that prohibits retaliation against any employee for initiating an idea or participating in this employee incentive program.

Recommendation IV. Public Recognition and Financial Compensation to Employees

A. Recognition of employees and the ideas that are implemented under this employee incentive program should be included in the Governor's Star Awards and/or be provided in another creative and meaningful manner by the departments.

B. Upon implementation of the innovative idea and confirmation of the cost savings achieved in the first full 12 months after implementation, the complete award amount will be calculated on the basis of up to 10 percent of such first year's savings, not to exceed a total amount of $2,000 to each employee, for each idea. For example, if a group of 10 eligible employees submits an idea that results in total cost savings of $1,000,000 achieved in the first 12-month period upon implementation, the total amount available to award to all 10 employees is 10 percent of $1,000,000 or $100,000. Because the award cap is $2,000 per employee, the total amount awarded to employees would be $20,000 (10 employees times $2,000 maximum award). If 100 employees were eligible to receive an award under the same example, each employee could receive up to $1,000, since the total amount awarded could not exceed 10 percent of the total cost savings or $100,000 in this example.

C. The total award to an employee shall be calculated on the full 12 months of actual savings achieved. Awards may be made in installments during that 12-month period, based on the identified actual savings through a portion of that 12-month period, or may be made in a lump sum payment subsequent to the 12-month period at the discretion of the designated executive management in the department. Departments may request a roll-forward into the next fiscal year in order to facilitate the payout of the award. In no event may an award be added to an employee's base pay. It is recommended that statutory language be added to clarify that roll-forwards for these purposes are authorized. In no case shall an award be issued until after the idea is implemented and actual achieved cost savings are calculable.

D. For cost savings achieved under SB 243, 50 percent of the actual cost savings may be transferred to the personal services line item for that department for the purpose of paying performance-based bonuses to employees of the department in the same fiscal year in which the cost savings are achieved. The personnel rules and procedures may be amended where appropriate to enable implementation of this provision in a manner consistent with current rules and procedures governing performance pay. The designated executive management of the department will determine the amount of bonuses paid, the eligibility of employees to receive bonuses, and any other criteria regarding such bonuses, subject to any state guidelines that may govern this matter.

Recommendation V. Administration of the Employee Incentive Program

Implementation of this new employee incentive program prioritizes maximum department flexibility within the parameters established by statewide guidelines. Many of the State's departments and higher education institutions already have established structures for the administration of an incentive program and would be able to readily incorporate the administration of this new program. Further, the departments are better able to evaluate the cost savings generated by the innovative ideas submitted and will be able to move more quickly and effectively in determining the merits.

The Division of Human Resources (DHR) will issue statewide guidelines to create a framework for the incentive program's implementation and administration by the departments. The guidelines will include the following requirements:

A. Departments participating in this program are responsible for developing, implementing, and administering a formal incentive program, consistent with statewide guidelines.

B. The department's senior management (the Executive Director, President, Chancellor, or delegated authority) must provide final approval of those ideas selected for implementation and award to ensure budget oversight and the alignment of overall department policy direction regarding those decisions.

C. The provisions, application, and rewards of the department's incentive program are not subject to any grievance or dispute procedure.

D. All incentive plans developed by individual departments will be sent to and retained by DHR. In the event that an incentive plan is inconsistent with state guidelines, DHR will provide guidance on any appropriate revision.

E. A department should be required to maintain information on its employee incentive program. That information may include:
   1. A description of the innovative idea or concept implemented,
   2. The total savings achieved in the fiscal year or full twelve-month period,
   3. The total dollars awarded as incentives to employees,
   4. The total number of individuals receiving awards,
   5. The funding source of the savings,
   6. The affected Long Bill line item,
   7. Evaluation of the effectiveness of implemented ideas and awards to employees.

F. If 50 percent of achieved cost savings are transferred to the personal services budget through the application of the new subsection under SB 243, departments must submit written notice to the Joint Budget Committee, the Office of State

Planning and Budgeting, and the State Controller of the cost savings achieved during the fiscal year. This notice is to be submitted prior to the end of each fiscal year in which cost savings are achieved.

G. Departments should develop a communication strategy for using this new employee incentive program to address both internal and external concerns. Creating public, positive recognition of this program would foster wider acceptance and use of the program by state employees and appointing authorities.

H. Employees and management in departments will need to understand how this program differs from the existing incentive programs and how this program can benefit the State, the organization and the employee. DHR plans some initial communication to introduce this new employee incentive program to all of state government and recognize the legislation that made this opportunity possible.

Recommendation VI. Returning Fifty Percent of Cost Savings to the Taxpayer and Retention of Fifty Percent of Cost Savings by the Department

HB 1020 requires a mechanism for returning 50 percent of the cost savings realized by any department to the Colorado taxpayer and for allowing departments to retain 50 percent of such cost savings. Currently, there is no specific administrative means to refund these funds to the Colorado taxpayers nor for departments to retain their 50 percent of such savings. Therefore, it is recommended that these two issues be addressed as follows.

A) Currently, there is a statute in effect that requires unexpended funds to revert to the fund from which it was appropriated. C.R.S. § 24-75-102 states:

> "…any moneys unexpended or not encumbered from the appropriation to each department for any fiscal year *shall revert to the general fund or, if made from a special fund, to such special fund*"

It is recommended that statutory language be added which would provide for reversion of 50 percent of the cost savings achieved under the State Employee Incentive Program in accordance with C.R.S. § 24-75-102 and that portion be considered returned to the Colorado taxpayers as required by HB 1020. This would preserve the use of the money for programs that benefit the taxpayer while addressing the requirement of returning savings achieved under cash or federally funded programs to those specific taxpayers who provided the funds through fees, special assessments, etc.

B) To provide a means for the departments to retain its 50 percent of the cost savings, it is recommended that a new subsection under C.R.S. § 24-50-804 (2)(f) be added, which provides that the department in which the employee is employed to retain an amount equal to 50 percent of such cost savings in the same line item or transfer such savings to another budget line item. This provision is parallel, though not identical, to the mechanism provided under SB 243 that states:

> *"Beginning with the 2004-05 fiscal year, an agency that achieves cost savings…may transfer fifty percent of the amount of the cost savings from one item of appropriation made to the agency in the general appropriation act or any supplemental appropriation act to the item for personal services in the appropriation made to the same agency for the purpose of paying performance-based bonuses to employees of the agency"*

It is recommended that statutory language be added to clarify that transfers pursuant to these mechanisms do not apply against the statewide limits per C.R.S. § 24-75-108 (8).

List of Attachments

A. **HB 04-1020**

B. **SB 04-243**

C. **Copies of Statutes Referenced**

D. **State Employee Incentive Committee**

E. **Required Stakeholder Input**

F. **Executive Order D0007 96**

G. **Director's Administrative Procedure P-3-20 and P-3-21**

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 04-1020

BY REPRESENTATIVE(S) Romanoff, Plant, Boyd, Carroll, Cloer, Frangas, Hoppe, Jahn, Madden, Marshall, McFadyen, McGihon, Merrifield, Miller, Paccione, Vigil, and Williams S.;
also SENATOR(S) Teck, Reeves, Arnold, Cairns, Evans, Groff, Grossman, Hagedorn, May R., Phillips, Taylor, Tupa, and Veiga.

CONCERNING STATE EMPLOYEE INCENTIVE PROGRAMS FOR COST-SAVINGS INNOVATIONS.

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

SECTION 1. Article 50 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 8
STATE EMPLOYEE INCENTIVE PROGRAM

24-50-801. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS THE POLICY OF THIS STATE TO CONCENTRATE ON IMPROVING THE EFFICIENCY AND EFFECTIVENESS OF STATE GOVERNMENT IN ORDER TO PROVIDE BETTER SERVICE TO THE CITIZENS OF

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

THE STATE OF COLORADO, TO INCREASE STATE GOVERNMENT PRODUCTIVITY, AND TO DECREASE STATE GOVERNMENT COSTS. THE GENERAL ASSEMBLY RECOGNIZES THAT ONE METHOD OF ACHIEVING A MORE EFFICIENT AND EFFECTIVE STATE GOVERNMENT IS TO ENCOURAGE THE INVOLVEMENT OF STATE EMPLOYEES IN THE DEVELOPMENT OF INNOVATIVE IDEAS THAT WILL INCREASE THE PRODUCTIVITY AND SERVICE LEVEL OF STATE GOVERNMENT WHILE DECREASING THE COSTS OF STATE GOVERNMENT. THE GENERAL ASSEMBLY REALIZES THAT EMPLOYEE INCENTIVE PROGRAMS THAT REWARD STATE EMPLOYEES FOR INNOVATIONS BY ALLOWING THE EMPLOYEES TO SHARE THE COST SAVINGS RESULTING FROM SUCH INNOVATIONS WILL HELP ENCOURAGE EMPLOYEE INVOLVEMENT IN MAKING STATE GOVERNMENT MORE EFFICIENT AND EFFECTIVE. THE GENERAL ASSEMBLY FURTHER RECOGNIZES THAT REWARDING STATE EMPLOYEES MAY ALSO INCREASE EMPLOYEE MORALE AND ENTHUSIASM, DECREASE EMPLOYEE TURNOVER, AND IMPROVE CUSTOMER SERVICE.

24-50-802. Definitions. AS USED IN THIS PART 8, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) (a) "EMPLOYEE" MEANS ANY EMPLOYEE WITHIN THE STATE PERSONNEL SYSTEM EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1).

(b) "EMPLOYEE" DOES NOT MEAN:

(I) AN EMPLOYEE OF THE OFFICE OF STATE PLANNING AND BUDGETING, THE OFFICE OF THE STATE AUDITOR, THE JOINT BUDGET COMMITTEE, OR THE DEPARTMENT OF PERSONNEL;

(II) AN ELECTED OFFICIAL OR MEMBER OF THE GENERAL ASSEMBLY; OR

(III) THE EXECUTIVE DIRECTORS AND BUDGET OFFICERS OF PRINCIPAL DEPARTMENTS AND THEIR DEPUTIES OR THE PRESIDENTS OF ANY COLLEGE OR UNIVERSITY AND THEIR DEPUTIES.

(2) "STATE AGENCY" MEANS ANY DEPARTMENT, BOARD, BUREAU, COMMISSION, DIVISION, INSTITUTION, OR OTHER AGENCY OF THE STATE, INCLUDING INSTITUTIONS OF HIGHER EDUCATION.

24-50-803. Employee incentive program - report by state

personnel director. NO LATER THAN DECEMBER 1, 2004, THE STATE PERSONNEL DIRECTOR SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE WITH RECOMMENDATIONS FOR THE IMPLEMENTATION OF AN EMPLOYEE INCENTIVE PROGRAM IN ACCORDANCE WITH THE PROVISIONS OF THIS PART 8.

24-50-804. Development of recommendations for an employee incentive program. (1) IN DEVELOPING RECOMMENDATIONS FOR THE IMPLEMENTATION OF AN EMPLOYEE INCENTIVE PROGRAM TO BE INCLUDED IN THE REPORT TO BE SUBMITTED TO THE JOINT BUDGET COMMITTEE PURSUANT TO SECTION 24-50-803, THE STATE PERSONNEL DIRECTOR SHALL CONSULT WITH REPRESENTATIVES FROM THE STATE PERSONNEL BOARD, THE OFFICE OF STATE PLANNING AND BUDGETING, THE OFFICE OF THE STATE CONTROLLER, THE OFFICE OF THE STATE AUDITOR, AND THE FOUR LARGEST EMPLOYEE ORGANIZATIONS REPRESENTING EMPLOYEES IN THE STATE PERSONNEL SYSTEM. THE DIRECTOR SHALL ALSO SOLICIT INPUT FROM EMPLOYEES AND MANAGERS IN THE STATE PERSONNEL SYSTEM AND OTHER AFFECTED PARTIES.

(2) THE STATE PERSONNEL DIRECTOR SHALL INCLUDE THE FOLLOWING ELEMENTS IN THE RECOMMENDATIONS FOR AN EMPLOYEE INCENTIVE PROGRAM:

(a) CRITERIA FOR ELIGIBILITY FOR THE EMPLOYEE INCENTIVE PROGRAM;

(b) A FORMULA FOR CALCULATING AND DISTRIBUTING COST SAVINGS;

(c) EMPLOYEE PROTECTIONS AGAINST RETALIATION FOR INITIATING OR PARTICIPATING IN AN EMPLOYEE INCENTIVE PROGRAM;

(d) A MEANS OF PROVIDING PUBLIC RECOGNITION AND FINANCIAL COMPENSATION TO EMPLOYEES WHOSE INNOVATIONS RESULT IN COST SAVINGS TO THE STATE;

(e) A METHOD FOR THE CENTRALIZED OR DEPARTMENTAL ADMINISTRATION OF THE EMPLOYEE INCENTIVE PROGRAM; AND

(f) A MECHANISM FOR RETURNING AN AMOUNT EQUAL TO FIFTY PERCENT OF THE COST SAVINGS REALIZED BY ANY DEPARTMENT AS A RESULT

OF AN EMPLOYEE'S COST-SAVINGS INNOVATION TO THE COLORADO TAXPAYERS AND FOR ALLOWING THE DEPARTMENT IN WHICH THE EMPLOYEE IS EMPLOYED TO RETAIN AN AMOUNT EQUAL TO FIFTY PERCENT OF SUCH COST SAVINGS.

SECTION 2. Repeal. 24-1-128 (7) (j) and part 8 of article 30 of title 24, Colorado Revised Statutes, are repealed.

SECTION 3. 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.

Lola Spradley SPEAKER OF THE HOUSE OF REPRESENTATIVES	John Andrews PRESIDENT OF THE SENATE
Judith Rodrigue CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES	Mona Heustis SECRETARY OF THE SENATE

APPROVED____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 04-243

BY SENATOR(S) Andrews, Arnold, Cairns, Chlouber, Evans, Johnson S., Kester, Lamborn, Owen, Taylor, Teck, and Veiga;
also REPRESENTATIVE(S) Stengel, Cadman, Fairbank, Hall, Hoppe, Larson, Lundberg, Marshall, McCluskey, McFadyen, Miller, Mitchell, Rhodes, Schultheis, Spence, and Williams T.

CONCERNING THE CREATION OF AN INCENTIVE FOR A STATE AGENCY TO ACHIEVE COST SAVINGS BY ALLOWING THE AGENCY TO KEEP A PORTION OF THE COST SAVINGS FOR THE PURPOSE OF PAYING PERFORMANCE-BASED BONUSES TO THE EMPLOYEES OF THE AGENCY.

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

SECTION 1. 24-38-103 (1), Colorado Revised Statutes, is amended, and the said 24-38-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-38-103. Agency authority and incentives for budget savings. (1) Beginning with the 1998-99 fiscal year, any agency may implement measures that reduce the costs of delivering the agency's services and products below the amount of the agency's appropriations for a given fiscal

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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.

year. Any agency that achieves cost savings under this subsection (1) may transfer twenty percent of the amount of the cost savings from one item of appropriation made to the agency in the general appropriation act or any supplemental appropriation act to another item of appropriation made to the same agency in said act. THE FOLLOWING LIMITATIONS SHALL APPLY ONLY TO TRANSFERS MADE PURSUANT TO THIS SUBSECTION (1):

(a) ~~However,~~ In no case shall an agency use any of the amount transferred as a result of cost savings to add employment positions or for personal services.

(b) All transfers made pursuant to this subsection (1) shall be between items of appropriations made for the fiscal year in which the cost savings were achieved.

(c) Prior to expending any moneys so transferred, the agency that achieved the cost savings shall enter into a memorandum of understanding with the joint budget committee that details how the agency will spend the transferred moneys.

(d) Any moneys transferred to an agency as the result of cost savings may be spent only for reinvestment in technology or other capital projects related to the item of appropriation to which the moneys were transferred.

(1.5) BEGINNING WITH THE 2004-05 FISCAL YEAR, AN AGENCY THAT ACHIEVES COST SAVINGS, AS AN ALTERNATIVE TO THE TRANSFER AUTHORIZED PURSUANT TO SUBSECTION (1) OF THIS SECTION, MAY TRANSFER FIFTY PERCENT OF THE AMOUNT OF THE COST SAVINGS FROM ONE ITEM OF APPROPRIATION MADE TO THE AGENCY IN THE GENERAL APPROPRIATION ACT OR ANY SUPPLEMENTAL APPROPRIATION ACT TO THE ITEM FOR PERSONAL SERVICES IN THE APPROPRIATION MADE TO THE SAME AGENCY FOR THE PURPOSE OF PAYING PERFORMANCE-BASED BONUSES TO EMPLOYEES OF THE AGENCY. THE BONUS SHALL BE AWARDED IN THE FISCAL YEAR IN WHICH THE COST SAVINGS ARE ACHIEVED AND SHALL BE MADE CONSISTENT WITH THE PERFORMANCE SYSTEM IDENTIFIED IN SECTION 24-50-104 (1) (c.7). PRIOR TO THE END OF THE STATE FISCAL YEAR IN WHICH A TRANSFER IS MADE PURSUANT TO THIS SUBSECTION (1.5), AN AGENCY SHALL SUBMIT WRITTEN NOTICE TO THE JOINT BUDGET COMMITTEE, THE OFFICE OF STATE PLANNING AND BUDGETING, AND THE STATE CONTROLLER OF THE AMOUNT OF THE COST SAVINGS ACHIEVED BY THE AGENCY DURING THE STATE FISCAL YEAR.

SECTION 2. 24-50-104 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-50-104. Job evaluation and compensation - repeal. (1) **Total compensation philosophy.** (c.7) IN ADDITION TO THE PERIODIC SALARY INCREASES AUTHORIZED BY PARAGRAPH (c) OF THIS SUBSECTION (1), THE PERFORMANCE SYSTEM ESTABLISHED PURSUANT TO SUBPARAGRAPH (II) OR (IV) OF PARAGRAPH (c) OF THIS SUBSECTION (1) SHALL BE USED FOR THE PURPOSE OF DETERMINING ELIGIBILITY FOR A PERFORMANCE-BASED BONUS PERMITTED PURSUANT TO SECTION 24-38-103 (1.5). THE BONUS SHALL BE IN ADDITION TO ANY OTHER COMPENSATION AUTHORIZED BY LAW, AND IT SHALL NOT AFFECT THE COMPENSATION THAT THE EMPLOYEE IS ENTITLED TO RECEIVE IN SUBSEQUENT YEARS.

SECTION 3. 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 (August 4, 2004, if adjournment sine die is on May 5, 2004); 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.

John Andrews PRESIDENT OF THE SENATE	Lola Spradley SPEAKER OF THE HOUSE OF REPRESENTATIVES
Mona Heustis SECRETARY OF THE SENATE	Judith Rodrigue CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

APPROVED____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO

ATTACHMENT C – REFERENCED STATUTES

24-38-103. Agency authority and incentives for budget savings.

(1) Beginning with the 1998-99 fiscal year, any agency may implement measures that reduce the costs of delivering the agency's services and products below the amount of the agency's appropriations for a given fiscal year. Any agency that achieves cost savings under this subsection (1) may transfer twenty percent of the amount of the cost savings from one item of appropriation made to the agency in the general appropriation act or any supplemental appropriation act to another item of appropriation made to the same agency in said act. The following limitations shall apply only to transfers made pursuant to this subsection (1):

(a) In no case shall an agency use any of the amount transferred as a result of cost savings to add employment positions or for personal services.

(b) All transfers made pursuant to this subsection (1) shall be between items of appropriations made for the fiscal year in which the cost savings were achieved.

(c) Prior to expending any moneys so transferred, the agency that achieved the cost savings shall enter into a memorandum of understanding with the joint budget committee that details how the agency will spend the transferred moneys.

(d) Any moneys transferred to an agency as the result of cost savings may be spent only for reinvestment in technology or other capital projects related to the item of appropriation to which the moneys were transferred.

(1.5) Beginning with the 2004-05 fiscal year, an agency that achieves cost savings, as an alternative to the transfer authorized pursuant to subsection (1) of this section, may transfer fifty percent of the amount of the cost savings from one item of appropriation made to the agency in the general appropriation act or any supplemental appropriation act to the item for personal services in the appropriation made to the same agency for the purpose of paying performance-based bonuses to employees of the agency. The bonus shall be awarded in the fiscal year in which the cost savings are achieved and shall be made consistent with the performance system identified in section 24-50-104 (1) (c.7). Prior to the end of the state fiscal year in which a transfer is made pursuant to this subsection (1.5), an agency shall submit written notice to the joint budget committee, the office of state planning and budgeting, and the state controller of the amount of the cost savings achieved by the agency during the state fiscal year.

(2) The general assembly may reduce an agency's appropriations for the fiscal year following the fiscal year in which the agency achieved the cost savings by the amount of such cost savings if the general assembly determines that the agency is no longer maintaining the measures the agency used to achieve the cost savings or that such cost savings is sustainable for more than one fiscal year. Except as otherwise provided in this subsection (2), the general assembly shall not use a one-time cost savings an agency achieves in a given fiscal year to justify reducing any item of appropriation or the total amount of appropriations the agency may receive in the fiscal year following the fiscal year in which the agency achieved the cost savings. However, nothing in this subsection (2) shall affect the general assembly's authority to reduce an agency's appropriations for any reason other than cost savings.

(3) Nothing in this section shall be construed to allow an agency to avoid any power or duty required by law that otherwise applies to the agency's actions.

Source: L. 98: Entire article added, p. 1309, § 1, effective August 5. **L. 2004:** (1) amended and (1.5) added, p. 1239, § 1, effective August 4.

Editor's note: Subsections (1) and (1.5) were contained in a 2004 act that was passed without a safety clause. For further explanation concerning the effective date, see page vii of this volume.

24-75-102. Appropriations expended, when - balance.

(1) Except as otherwise provided by law, all moneys appropriated by the general assembly may be expended or encumbered, if authorized by the controller, only in the fiscal year for which appropriated. Except as otherwise provided by law, any moneys unexpended or not encumbered from the appropriation to each department for any fiscal year shall revert to the general fund or, if made from a special fund, to such special fund. Determination of such expenditures or encumbrances shall be made no later than thirty-five days after the close of the fiscal year and pursuant to the provisions of section 24-30-202 (11).

(2) and (3) Repealed.

Source: L. 49: p. 686, § 1. **CSA:** C. 153, § 23(1). **CRS 53:** § 130-1-2. **C.R.S. 1963:** § 130-1-2. **L. 81:** Entire section amended, p. 1162, § 2, effective May 29. **L. 85:** Entire section amended, p. 1723, § 1, effective July 10. **L. 94:** Entire section amended, p. 828, § 1, effective July 1, 1995. **L. 98:** Entire section amended, p. 1360, § 120, effective June 1. **L. 2000:** (3) added, p. 487, § 10, effective April 28.

Editor's note: (1) Subsection (2) provided for the repeal of subsection (2), effective September 1, 1998. (See L. 98, p. 1360.)

(2) Subsection (3) provided for the repeal of subsection (3), effective September 1, 2000. (See L. 2000, p. 486.)

ANNOTATION

Am. Jur.2d. See 63C Am. Jur.2d, Public Funds, §§ 46-51.

C.J.S. See 81A C.J.S., States, §§ 234, 235.

24-75-108. Intradepartmental transfers between appropriations - repeal.

(8) The total amount of moneys transferred between items of appropriation made to principal departments of state government and to the office of the governor pursuant to this section, other than transfers within a principal department from an operating expense item to a utilities item, from a utilities item to an operating expense item pursuant to paragraph (b) of subsection (3) of this section, or from a utilities item to a utilities item, shall not exceed two million dollars.

ATTACHMENT D – STATE EMPLOYEE INCENTIVE COMMITTEE

To assist in developing the recommendations for the implementation of this employee incentive program, the HB 1020 State Employee Incentive Committee (hereafter referred to as "Committee") was established.

The Co-Chairs were:

- Jeff Schutt, Director of the Division of Human Resources, Department of Personnel & Administration
- Jennifer Okes, Chief Financial Officer, Department of Personnel & Administration.

The members of the Committee were:

- Mark Superka, Office of State Planning and Budget;
- Sheila Aderman Squires, Department of Human Services;
- Rich Schweigert, Colorado Commission of Higher Education;
- Steve Chavez, Department of Transportation;
- Tobin Follenweider, Department of Natural Resources;
- Ron Keller, State Controllers' Office;
- Karen Schaefer, Department of Personnel & Administration;
- Travis Engelhardt, Department of Personnel & Administration;
- Mickey Crist, Department of Personnel & Administration.

A representative from State Representative Andrew Romanoff's office, Renee Sanders, and a representative from State Senator John Andrews' office, Kelley Harp, participated in the Committee meetings.

ATTACHMENT E – STAKEHOLDER INPUT

House Bill 04-1020 required the State Personnel Director to consult with various representatives in developing the recommendations for the implementation of this State Employee Incentive Program. Representatives from the Office of State Planning and Budgeting and Office of the State Controller participated on the Committee developing the recommendations. Additional representatives were contacted by email on Monday, November 8, 2004 with a copy of the draft report attached for their review and comment. Those representatives were:

- Richard Djokic, State Personnel Board
- Joanne Hill, Office of the State Auditor
- Miller Hudson, CAPE
- Mark Schwane, AFSCME
- Jo Romero, CFPE
- Darrel Waggener, PPA
- Ken Doby, President of the Colorado State Managers' Association
- Roger Cusworth, President of the Colorado State Financial Managers' Association

Input was solicited from employees by posting the report prominently on the DHR website on November 8, 2004 and requesting input.

Everyone was given two weeks to review the report and provide written input. We received written input from the representative from CFPE and from the State Auditor. All written comments were considered for inclusion in the report and are on file with the Department of Personnel, Division of Human Resources at 1313 Sherman Street, Room 122, Denver, Colorado 80203.

Email to Stakeholders

-----Original Message-----
From: Schutt, Jeff
Sent: Monday, November 08, 2004 1:58 PM
To: 'joanne.hill@state.co.us'; Djokic, Richard; 'kenneth.dobrovolny@state.co.us'; 'roger.cusworth@cusys.edu'; 'mhudson@ecape.net'; 'mschwane@msn.com'; 'jor@cfpe.org'; 'darrel.waggener@cdps.state.co.us'
Cc: Schaefer, Karen
Subject: Draft Report for Incentive Program - HB 1020 and SB 243

Dear Colleagues,

During the 2004 legislative session, two bills related to employee incentive programs were passed. HB 04-1020, proposed by Representative Romanoff, creates a state employee incentive program for cost savings innovations. SB 04-243, sponsored by Senate President Andrews, creates a means for departments to return department-based cost savings to employees through performance-based bonuses.

Under HB 04-1020, the State Personnel Director is required to submit a report to the Joint Budget committee by December 1, 2004 with recommendations for the implementation of an employee incentive program. Prior to submitting the report, the Director is required to solicit input from various stakeholders including the Office of the State Auditor, State Personnel Board, major employee associations, managers and budget officers. Thus, we request your review of the enclosed proposed report and request that you provide any input to us no later than **November 19, 2004**. Attached is a copy of the draft report.

Your written input may be sent by email to: karen.schaefer@state.co.us

If you wish to meet to discuss your input, please contact my assistant, Jacque Morley, at (303) 866-2393 to schedule a convenient time. Also, if you have any questions, please do not hesitate to call.

Thank you for your attention to this matter.

draft HB 1020 final
report 110...

DPA
Jeffrey C. Schutt, Director
Division of Human Resources
1313 Sherman Street, Room 122
Denver, Colorado 80203

(303) 866-2393
(303) 866-2021 - FAX
www.state.co.us/dpa

ATTACHMENT F – EXECUTIVE ORDER D0007 96

STATE OF COLORADO

EXECUTIVE CHAMBERS
136 State Capitol
Denver, Colorado 80203-1792
Phone (303) 866-2471

D0007 96

Roy Romer
Governor

EXECUTIVE ORDER

INCENTIVES AND REWARDS FOR CITIZEN SATISFACTION

WHEREAS, monetary and non-monetary incentives are valuable methods of rewarding innovation among state employees; and

WHEREAS, incentives can stimulate creative and exemplary contributions by employees; and

WHEREAS, it is fair and appropriate to recognize and reward the exemplary contributions of state employees; and

WHEREAS, rewarding and recognizing employees in order to motivate and retain them is in the best interest of the state of Colorado.

NOW THEREFORE, I, ROY ROMER, Governor of the State of Colorado, under the authority vested in me under the Constitution and laws of the State of Colorado, DO HEREBY ORDER THAT:

1. Each state agency develop its own incentive award program with review and assistance from the Department of Personnel/General Support Services.

2. Agencies may establish their own policies and procedures and set the amount of funding to be made available for incentives. The following elements are recommended for agency programs:

   a) Small awards up to $25 to be given on the spot by supervisors for what they deem to be exemplary service;

   b) Awards in the $100 range to be made within broad guidelines/criteria set by the agency;

   c) Awards above $100 are to be set in standardized increments with a maximum award of $1,000. The larger awards should be subject to more stringent criteria than those applied for lesser awards; and

   d) Non monetary awards should be included as well as monetary incentives.

3. Each state department shall report annually to the Personnel/General Support Services the program results and incentives rewarded.

4. Every department in Colorado state government shall submit a plan to me on how these goals are to be met by August 15, 1996.

GIVEN under my hand and the Executive Seal of the State of Colorado, this eleventh day of July, 1996.

Roy Romer
Governor

ATTACHMENT G – DIRECTOR'S ADMINISTRATIVE PROCEDURES

P-3-20. Departments are strongly encouraged to use incentive rewards. (7/1/01)

P-3-21. An appointing authority may grant an immediate cash or non-cash incentive award in recognition of special accomplishments or contributions throughout the year or to augment an annual performance salary adjustment, e.g., on-the-spot cash awards, work-life programs. The statutory salary lid does not apply to these incentive awards. Departments must develop and communicate, prior to use and on an ongoing basis, a plan outlining their award program. Such plans shall be developed with the input of employees and managers. Records on any aspect of this program must be provided to the director when requested. (5/2/04)