

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Joint Budget Committee Members
FROM JBC Staff
DATE March 7, 2023
SUBJECT Potential Legislation

This packet includes bill drafts and related memos for the Committee’s consideration. Each individual item has page numbers but also a packet page number to help navigate the whole document. The page numbers below refer to the packet page number.

POTENTIAL LEGISLATION

Hazardous Site Response Fund (HSRF) Transfer LLS 23-0885 (Forbes) 1

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UI Premiums Allocation Fed Law Compliance LLS 23-0852 (Magnus) 20

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
3/1/23

DRAFT

LLS NO. 23-0885.01 Zach Blaes x4348

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Hazardous Site Response Fund Transfer

A BILL FOR AN ACT

101 **CONCERNING THE TRANSFER OF MONEY FROM THE HAZARDOUS**
102 **SUBSTANCE SITE RESPONSE FUND TO THE HAZARDOUS**
103 **SUBSTANCE RESPONSE FUND.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Joint Budget Committee. The bill requires the state treasurer to transfer \$1.8 million from the hazardous substance site response fund to the hazardous substance response fund.

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-16-104.6, **amend**
3 (1)(a) as follows:

4 **25-16-104.6. Fund established - administration - revenue**
5 **sources - use.** (1) (a) There is hereby established in the state treasury the
6 hazardous substance response fund. The fund is composed of money that
7 the general assembly may choose to appropriate from the general fund,
8 money derived from the fee imposed pursuant to section 25-16-104.5, and
9 any interest derived therefrom; money recovered from responsible parties
10 pursuant to the federal act or the OPA that is not generated by the state
11 litigating as trustee for natural resources pursuant to section 25-16-104.7;
12 money recovered through litigation by the state pursuant to the federal act
13 or the OPA that is designated for future response cost; ANY MONEY
14 TRANSFERRED TO THE FUND PURSUANT TO SECTION 25-16-104.9 (2)(b);
15 and any other money derived from public or private sources that may be
16 credited to the fund. Money in the fund shall be annually appropriated by
17 the general assembly, subject to section 25-16-104, remains available for
18 the purposes of this article, and does not revert to the general fund of the
19 state at the end of any fiscal year. If the fund balance exceeds ten million
20 dollars in any state fiscal year and the fund balance is not projected to fall
21 below ten million dollars within twenty-four months, the department shall
22 evaluate the need to reduce fees to bring the balance of the fund below
23 ten million dollars, and shall present the evaluation to the commission.

24 **SECTION 2.** In Colorado Revised Statutes, 25-16-104.9, **amend**
25 (2) as follows:

26 **25-16-104.9. Hazardous substance site response fund -**
27 **creation - transfer - use - definition.** (2) (a) The hazardous substance

1 site response fund is created in the state treasury. The fund consists of any
2 ~~moneys~~ MONEY transferred pursuant to section 24-75-220 (4)(a)(III.5).
3 ~~C.R.S.~~ The general assembly may appropriate ~~moneys~~ MONEY in the fund
4 to the department for the purposes specified in section 25-16-104.

5 (b) (I) ON MAY 1, 2023, THE STATE TREASURER SHALL TRANSFER
6 ONE MILLION EIGHT HUNDRED THOUSAND DOLLARS FROM THE FUND TO
7 THE HAZARDOUS SUBSTANCE RESPONSE FUND CREATED IN SECTION
8 25-16-104.6 (1)(a).

9 (II) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE JULY 1, 2024.

10 **SECTION 3. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, or safety.

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
2/27/23

DRAFT

LLS NO. 23-0868.01 Alana Rosen x2606

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Preschool Programs Cash Fund
DEADLINES: File by: 3/7/2023

A BILL FOR AN ACT

101 **CONCERNING REPEALING THE REQUIREMENT TO TRANSFER MONEY**
102 **FROM CERTAIN FUNDS TO THE PRESCHOOL PROGRAMS CASH**
103 **FUND.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Joint Budget Committee. Current law requires the general assembly to transfer money to the preschool programs cash fund from the general fund or the state education fund in the 2023-24 and 2024-25 fiscal years. Beginning in the 2024-25 fiscal year, the amount transferred is required to increase by the rate of inflation.

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The bill repeals those requirements.

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

2 **SECTION 1.** In Colorado Revised Statutes, 26.5-4-209, **repeal**
3 (1)(b) as follows:

4 **26.5-4-209. Preschool programs cash fund - created - use.**

5 (1) (b) (I) ~~For the 2023-24 fiscal year, the general assembly shall transfer~~
6 ~~to the preschool programs cash fund from the general fund or the state~~
7 ~~education fund created in section 17 of article IX of the state constitution~~
8 ~~an amount equal to the difference between the amount of the state share~~
9 ~~of total program calculated pursuant to article 54 of title 22 for the~~
10 ~~2022-23 budget year, after application of the budget stabilization factor~~
11 ~~and after any mid-year adjustment, and the amount that the state share of~~
12 ~~total program, after application of the budget stabilization factor and after~~
13 ~~any mid-year adjustment, would be for the 2022-23 budget year if~~
14 ~~calculated without including the statewide preschool program enrollment,~~
15 ~~as defined in section 22-54-103, for the 2022-23 budget year and the~~
16 ~~number of three- and four-year-old pupils with disabilities receiving an~~
17 ~~educational program under the "Exceptional Children's Educational Act",~~
18 ~~article 20 of title 22, for the 2022-23 budget year.~~

19 ~~(II) For the 2024-25 fiscal year and for each fiscal year thereafter,~~
20 ~~the general assembly shall annually transfer to the preschool programs~~
21 ~~cash fund from the general fund or the state education fund created in~~
22 ~~section 17 of article IX of the state constitution an amount equal to the~~
23 ~~amount described in subsection (1)(b)(I) of this section increased~~
24 ~~annually, beginning in the 2024-25 fiscal year, by the rate of inflation.~~

25 **SECTION 2. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly; except
3 that, if a referendum petition is filed pursuant to section 1 (3) of article V
4 of the state constitution against this act or an item, section, or part of this
5 act within such period, then the act, item, section, or part will not take
6 effect unless approved by the people at the general election to be held in
7 November 2024 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
3/1/23

DRAFT

LLS NO. 23-0869.01 Michael Dohr x4347

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: State Agency Attorney Hourly Rate

A BILL FOR AN ACT

101 **CONCERNING THE HOURLY RATE COMPENSATION FOR ATTORNEYS**
102 **WHO CONTRACT WITH STATE AGENCIES TO PROVIDE LEGAL**
103 **REPRESENTATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

The bill creates a mechanism to set the hourly rate for attorney time for attorneys who contract with the office of alternate defense counsel, the office of the child's representative, or the office of the respondent parents' counsel. The rate for fiscal year 2023-24 is \$100 per hour. The hourly rate must be increased annually by no more than \$5 each

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year until it is at least 75% of the rate set in the federal "Criminal Justice Act Revision of 1986" for indigent representation in federal court. The hourly rate may be adjusted in subsequent fiscal years to maintain the hourly rate at or above 75% of the rate set in the federal "Criminal Justice Act Revision of 1986".

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

2 **SECTION 1.** In Colorado Revised Statutes, 21-2-105, **amend** (2)
3 as follows:

4 **21-2-105. Contracts with attorneys and investigators.**

5 (2) (a) Contracts made pursuant to this section ~~shall~~ **MUST** provide for
6 reasonable compensation and reimbursement for expenses necessarily
7 incurred, to be fixed and paid from state funds appropriated therefor. The
8 office of alternate defense counsel shall review the bills submitted for
9 reimbursement by any contract attorney or investigator and may approve
10 or deny the payment of such bills in whole or in part based on the terms
11 set forth in the contract negotiated between the alternate defense counsel
12 and the contract attorney or investigator.

13 (b) THE RATE CONTRACTED FOR ATTORNEY TIME PURSUANT TO
14 SUBSECTION (2)(a) OF THIS SECTION FOR FISCAL YEAR 2023-24 IS ONE
15 HUNDRED DOLLARS PER HOUR. THE HOURLY RATE MUST BE INCREASED
16 ANNUALLY BY NO MORE THAN FIVE DOLLARS EACH YEAR UNTIL THE
17 HOURLY RATE IS AT LEAST SEVENTY-FIVE PERCENT OF THE RATE SET
18 PURSUANT TO THE FEDERAL "CRIMINAL JUSTICE ACT REVISION OF 1986",
19 18 U.S.C. SEC. 3006A, AS AMENDED, FOR INDIGENT REPRESENTATION IN
20 FEDERAL COURT. THE HOURLY RATE MAY BE ADJUSTED IN SUBSEQUENT
21 FISCAL YEARS TO MAINTAIN THE HOURLY RATE AT OR ABOVE
22 SEVENTY-FIVE PERCENT OF THE RATE SET PURSUANT TO THE FEDERAL
23 "CRIMINAL JUSTICE ACT REVISION OF 1986", 18 U.S.C. SEC. 3006A, AS

1 AMENDED, FOR INDIGENT REPRESENTATION IN FEDERAL COURT.

2 **SECTION 2.** In Colorado Revised Statutes, 13-91-105, **add** (2)
3 as follows:

4 **13-91-105. Duties of the office of the child's representative -**
5 **guardian ad litem and counsel for youth programs.** (2) THE RATE
6 CONTRACTED FOR ATTORNEY TIME PURSUANT TO SUBSECTION (1)(a)(VI)
7 OF THIS SECTION FOR FISCAL YEAR 2023-24 IS ONE HUNDRED DOLLARS PER
8 HOUR. THE HOURLY RATE MUST BE INCREASED ANNUALLY BY NO MORE
9 THAN FIVE DOLLARS EACH YEAR UNTIL THE HOURLY RATE IS AT LEAST
10 SEVENTY-FIVE PERCENT OF THE RATE SET PURSUANT TO THE FEDERAL
11 "CRIMINAL JUSTICE ACT REVISION OF 1986", 18 U.S.C. SEC. 3006A, AS
12 AMENDED, FOR INDIGENT REPRESENTATION IN FEDERAL COURT. THE
13 HOURLY RATE MAY BE ADJUSTED IN SUBSEQUENT FISCAL YEARS TO
14 MAINTAIN THE HOURLY RATE AT OR ABOVE SEVENTY-FIVE PERCENT OF
15 THE RATE SET PURSUANT TO THE FEDERAL "CRIMINAL JUSTICE ACT
16 REVISION OF 1986", 18 U.S.C. SEC. 3006A, AS AMENDED, FOR INDIGENT
17 REPRESENTATION IN FEDERAL COURT.

18 **SECTION 3.** In Colorado Revised Statutes, 13-92-104, **add** (2)
19 as follows:

20 **13-92-104. Duties of the office of the respondent parents'**
21 **counsel.** (2) THE RATE CONTRACTED FOR ATTORNEY TIME PURSUANT TO
22 SUBSECTION (1)(b) OF THIS SECTION FOR FISCAL YEAR 2023-24 IS ONE
23 HUNDRED DOLLARS PER HOUR. THE HOURLY RATE MUST BE INCREASED
24 ANNUALLY BY NO MORE THAN FIVE DOLLARS EACH YEAR UNTIL THE
25 HOURLY RATE IS AT LEAST SEVENTY-FIVE PERCENT OF THE RATE SET
26 PURSUANT TO THE FEDERAL "CRIMINAL JUSTICE ACT REVISION OF 1986",
27 18 U.S.C. SEC. 3006A, AS AMENDED, FOR INDIGENT REPRESENTATION IN

1 FEDERAL COURT. THE HOURLY RATE MAY BE ADJUSTED IN SUBSEQUENT
2 FISCAL YEARS TO MAINTAIN THE HOURLY RATE AT OR ABOVE
3 SEVENTY-FIVE PERCENT OF THE RATE SET PURSUANT TO THE FEDERAL
4 "CRIMINAL JUSTICE ACT REVISION OF 1986", 18 U.S.C. SEC. 3006A, AS
5 AMENDED, FOR INDIGENT REPRESENTATION IN FEDERAL COURT.

6 <{*Do you want a safety clause or petition clause?*}>

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
2/24/23

DRAFT

LLS NO. 23-0818.01 Jessica Herrera x4218

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Transfer To Revenue Loss Restoration Cash Fund

A BILL FOR AN ACT

101 **CONCERNING A TRANSFER FROM THE DIGITAL INCLUSION GRANT**
102 **PROGRAM FUND TO THE REVENUE LOSS RESTORATION CASH**
103 **FUND.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Joint Budget Committee. The bill requires the state treasurer to transfer \$8 million from the digital inclusion grant program fund to the revenue loss restoration cash fund on June 1, 2023.

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Dashes through the words indicate deletions from existing law.*

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-37.5-904, **amend**
3 (2) as follows:

4 **24-37.5-904. Digital inclusion grant program - income -**
5 **eligible household reimbursement program - creation - award**
6 **criteria - digital inclusion grant program fund - definition - reporting**
7 **- repeal.** (2) (a) The digital inclusion grant program fund is hereby
8 created in the state treasury and consists of money the state received from
9 the federal coronavirus state fiscal recovery fund created in the federal
10 "American Rescue Plan Act of 2021", Pub.L. 117-2, and any money that
11 the general assembly may appropriate. Within three days after June 28,
12 2021, the state treasurer shall transfer thirty-five million dollars from the
13 economic recovery and relief cash fund created in section 24-75-228
14 (2)(a) to the fund for use by the broadband office for the purpose of
15 reviewing and awarding grants under the grant program. The money in
16 the fund is subject to appropriation by the general assembly.

17 (b) ON JUNE 1, 2023, THE STATE TREASURER SHALL TRANSFER
18 EIGHT MILLION DOLLARS FROM THE DIGITAL INCLUSION GRANT PROGRAM
19 FUND TO THE REVENUE LOSS RESTORATION CASH FUND CREATED IN
20 SECTION 24-75-227.

21 **SECTION 2. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety.

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
2/28/23

DRAFT

LLS NO. 23-0886.01 Jacob Baus x2173

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Repeal School Transformation Grant Prog Admin Cap

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE CAP ON THE AMOUNT OF MONEY THE**
102 **DEPARTMENT OF EDUCATION MAY EXPEND ON COSTS INCURRED**
103 **IN IMPLEMENTING THE SCHOOL TRANSFORMATION GRANT**
104 **PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AN**
105 **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://leg.colorado.gov/>.)

Joint Budget Committee. The bill repeals the cap on the amount of money the department of education (department) may expend on

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administrative costs for the school transformation grant program.

The bill appropriates \$115,785 from the general fund to the department for the school transformation grant program.

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

2 **SECTION 1.** In Colorado Revised Statutes, 22-13-105, **repeal** (5)
3 as follows:

4 **22-13-105. School transformation grants - application -**
5 **awards - report.** (5) ~~The department may expend up to five percent of~~
6 ~~the money annually appropriated for the program to offset the costs~~
7 ~~incurred in implementing the program.~~

8 **SECTION 2. Appropriation.** For the 2023-24 state fiscal year,
9 \$115,785 is appropriated to the department of education. This
10 appropriation is from the general fund and is based on an assumption that
11 the department will require an additional 0.9 FTE. To implement this act,
12 the department may use this appropriation for the school transformation
13 grant program.

14 **SECTION 3. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, or safety.

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
3/3/23

DRAFT

LLS NO. 23-0851.01 Josh Schultz x5486

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Amend Fund To Allow Payment Overdue Wage Claims

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF THE DIVISION OF LABOR STANDARDS AND**
102 **STATISTICS IN THE DEPARTMENT OF LABOR AND EMPLOYMENT**
103 **TO DISBURSE MONEY IN THE WAGE THEFT ENFORCEMENT FUND**
104 **TO EMPLOYEES AFTER AN EMPLOYER FAILS TO MAKE PAYMENTS**
105 **DETERMINED TO BE OWED TO THE EMPLOYEES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

The bill amends the wage theft enforcement fund (fund) to allow the division of labor standards and statistics (division) to use money in the

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fund to pay employees who are owed money from their employers due to obligations and liabilities related to the payment of wages or other compensation. If an employer fails to fulfill the order to pay an employee that results from a wage claim or an investigation within 6 months after the division issues a citation and notice of assessment to the employer or, if the employer requests a hearing, within 6 months after the hearing officer issues a decision, the bill allows the division to pay the employee, from the fund, the amount of money owed by the employer. The bill specifies that after the division pays the employee, the employee cannot recover that payment amount from the employer, the division shall continue to pursue payment from the employer, and any money recovered from the employer by the division will be credited to the fund.

The bill requires the division to promulgate rules specifying procedures for employees to request payments and criteria for the division to make determinations on employee requests.

The bill also continuously appropriates money in the fund to the division for the purpose of making payments to employees and excludes the fund from the limit on cash fund reserves.

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

2 **SECTION 1.** In Colorado Revised Statutes, 8-4-113, **amend**
3 (3)(a); and **add** (3)(c), (3)(d), and (5) as follows:

4 **8-4-113. Fines pursuant to enforcement - wage theft**
5 **enforcement fund - created - administrative lien and levy of employer**
6 **assets - definition - wage claim payments from the fund.** (3) (a) The
7 division shall transmit all fines collected for the state pursuant to this
8 section or section 8-1-114 (2), 8-1-116 (2), 8-1-117 (2), or 8-1-140 (2) to
9 the state treasurer, who shall credit the ~~same~~ MONEY to the wage theft
10 enforcement fund, which fund is created and referred to in this section as
11 the "fund". The money in the fund is ~~subject to annual appropriation by~~
12 ~~the general assembly to the division~~ MAY BE USED BY THE DIVISION TO
13 MAKE PAYMENTS TO EMPLOYEES FOR UNPAID LIABILITIES FOR WAGE LAW
14 VIOLATIONS PURSUANT TO SUBSECTION (5) OF THIS SECTION AND for the
15 DIVISION'S direct and indirect costs associated with implementing this

1 article 4.

2 (c) THE MONEY IN THE FUND IS:

3 (I) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
4 ASSEMBLY TO THE DIVISION FOR THE DIRECT AND INDIRECT COSTS
5 ASSOCIATED WITH IMPLEMENTING THIS ARTICLE 4; AND

6 (II) CONTINUOUSLY APPROPRIATED TO THE DIVISION FOR THE
7 PURPOSE OF MAKING PAYMENTS TO EMPLOYEES FOR UNPAID LIABILITIES
8 FOR WAGE LAW VIOLATIONS PURSUANT TO SUBSECTION (5) OF THIS
9 SECTION.

10 (d) THE LIMITATIONS SPECIFIED IN SECTION 24-75-402 DO NOT
11 APPLY TO THE FUND.

12 (5) (a) ON AND AFTER APRIL 1, 2024, IF AN EMPLOYER FAILS TO
13 PAY AN EMPLOYEE AN AMOUNT OF WAGES OR COMPENSATION OWED THE
14 EMPLOYEE, AS DETERMINED BY THE DIVISION PURSUANT TO SECTION
15 8-4-111 (2)(c) OR AS DECIDED BY A HEARING OFFICER PURSUANT TO
16 SECTION 8-4-111.5, WITHIN SIX MONTHS AFTER THE DIVISION'S
17 DETERMINATION, THE HEARING OFFICER'S DECISION, OR THE EXPIRATION
18 OF ANY ORDER FROM THE DIVISION, THE HEARING OFFICER, OR A COURT
19 STAYING OR POSTPONING THE EMPLOYER'S PAYMENT OBLIGATION,
20 WHICHEVER IS LATER, THE DIVISION MAY DISBURSE THE AMOUNT OF
21 WAGES OR COMPENSATION DETERMINED TO BE OWED THE EMPLOYEE,
22 SUBJECT TO AVAILABLE RESOURCES IN THE FUND AND THE DIVISION'S
23 PRIORITIZATION, FROM THE FUND TO THE EMPLOYEE.

24 (b) IF THE DIVISION DISBURSES PAYMENT TO AN EMPLOYEE FROM
25 THE FUND PURSUANT TO THIS SUBSECTION (5):

26 (I) THE EMPLOYEE MAY NOT RECOVER THAT PAYMENT AMOUNT
27 FROM THE EMPLOYER;

1 (II) THE DIVISION REPLACES THE EMPLOYEE AS THE CREDITOR OF
2 THE EMPLOYER FOR THE AMOUNT OF THE PAYMENT, THE DIVISION MAY
3 CONTINUE TO PURSUE PAYMENT FROM THE EMPLOYER PURSUANT TO
4 SECTION 8-4-111 AND THIS SECTION, AND ANY MONEY RECOVERED FROM
5 THE EMPLOYER TOWARD THE AMOUNT DISBURSED TO THE EMPLOYEE MUST
6 BE CREDITED TO THE FUND; AND

7 (III) THE DIVISION SHALL, TO THE EXTENT NECESSARY,
8 SUPPLEMENT OR AMEND ANY DOCUMENTS FILED PURSUANT TO AN
9 ADMINISTRATIVE CLAIM OR COURT ACTION REGARDING THE EMPLOYER'S
10 DEBT TO REFLECT ANY CHANGE IN THE AMOUNT AND THE CREDITOR OF
11 THE DEBT RESULTING FROM PAYMENT PURSUANT TO THIS SUBSECTION (5).

12 (c) ON OR BEFORE DECEMBER 29, 2023, THE DIVISION SHALL
13 PROMULGATE RULES SPECIFYING THE PROCEDURES AND CRITERIA FOR
14 EMPLOYEES TO SUBMIT INFORMATION AND REQUEST PAYMENT PURSUANT
15 TO THIS SUBSECTION (5), SPECIFYING THE PROCEDURES AND CRITERIA FOR
16 THE DIVISION TO REVIEW, EVALUATE, AND RESOLVE THE EMPLOYEE
17 PAYMENT REQUESTS, AND AS NECESSARY TO IMPLEMENT THIS SUBSECTION
18 (5).

19 **SECTION 2.** In Colorado Revised Statutes, 24-75-402, **add**
20 (5)(aaa) as follows:

21 **24-75-402. Cash funds - limit on uncommitted reserves -**
22 **reduction in the amount of fees - exclusions - definitions.**

23 (5) Notwithstanding any provision of this section to the contrary, the
24 following cash funds are excluded from the limitations specified in this
25 section:

26 (aaa) THE WAGE THEFT ENFORCEMENT FUND CREATED IN SECTION
27 8-4-113 (3).

1 **SECTION 3. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, or safety.

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
3/3/23

DRAFT

LLS NO. 23-0852.01 Christy Chase x2008

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Unempl Ins Premiums Allocation Fed Law Compliance

A BILL FOR AN ACT

101 **CONCERNING UNEMPLOYMENT COMPENSATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

For purposes of complying with requirements of the "Federal Unemployment Tax Act", the bill changes the collection of unemployment compensation premiums to allocate a portion of the premiums referred to as the "base rate" to the unemployment compensation fund and a portion of the premiums referred to as the "support rate" to the employment support fund, to the employment and training technology fund, and, if allowed by the federal department of labor, to the benefit recovery fund.

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Dashes through the words indicate deletions from existing law.*

The bill also changes the cap on the amount of money in the employment support fund at the end of any state fiscal year, from an amount calculated based on a portion of the employer premium plus \$17 million, to a total of \$32.5 million for the next state fiscal year, which amount is adjusted annually based on changes in average weekly earnings.

Additionally, the bill expands the authorized use of money in the Title XII repayment fund to allow the division of unemployment insurance (division) to use the money for costs associated with loans obtained to repay federal advances to the unemployment compensation fund, including interest on the loans.

Finally, the bill eliminates the requirement for employers to submit premium reports to the division and instead requires employers to submit wage reports.

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

2 **SECTION 1.** In Colorado Revised Statutes, 8-70-103, **amend**
3 (13) and (23.5); and **add** (2.5), (2.7), (7.5), (11.5), (12.3), and (24.5) as
4 follows:

5 **8-70-103. Definitions.** As used in articles 70 to 82 of this title 8,
6 unless the context otherwise requires:

7 (2.5) "BASE RATE" MEANS THE PORTION OF AN EMPLOYER'S
8 EXPERIENCE RATE THAT IS USED TO CALCULATE THE MONEY PAYMENTS
9 DUE BY THE EMPLOYER TO THE UNEMPLOYMENT COMPENSATION FUND.

10 (2.7) "BENEFIT RECOVERY FUND" MEANS THE BENEFIT RECOVERY
11 FUND CREATED IN SECTION 8-73-116 (2).

12 (7.5) "COMBINED RATE" MEANS THE SUM OF THE BASE RATE PLUS
13 THE SUPPORT RATE PLUS ANY ADDITIONAL SURCHARGES OR ASSESSMENTS
14 ON AN EMPLOYER'S PREMIUM. THE "COMBINED RATE" IS EQUAL TO THE
15 EMPLOYER RATE BASED ON THE PERCENT OF EXCESS IN THE STANDARD
16 PREMIUM RATE SCHEDULE SPECIFIED IN SECTION 8-76-102.5 (3).

17 (11.5) "EMPLOYMENT AND TRAINING TECHNOLOGY FUND" MEANS

1 THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND CREATED IN SECTION
2 8-77-109 (2)(a.9)(II)(A).

3 (12.3) "EMPLOYMENT SUPPORT FUND" MEANS THE EMPLOYMENT
4 SUPPORT FUND CREATED IN SECTION 8-77-109 (1)(b).

5 (13) "Fund" OR "UNEMPLOYMENT COMPENSATION FUND" means
6 the unemployment compensation fund, established in section 8-77-101
7 (1), to which all premiums ~~required and~~ FROM AN EMPLOYER'S BASE RATE
8 ARE PAID, from which all benefits under articles 70 to 82 of this ~~title~~ TITLE
9 8 and bonds issued under section 8-71-103 (2)(d) are paid, and from
10 which payments may be made to the Colorado housing and finance
11 authority under section 29-4-710.7. ~~C.R.S.~~

12 (23.5) "Premiums" means the money payments to the
13 unemployment compensation fund, THE EMPLOYMENT SUPPORT FUND,
14 AND THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND required by
15 articles 70 to 82 of this ~~title~~ TITLE 8.

16 (24.5) "SUPPORT RATE" MEANS THE PORTION OF AN EMPLOYER'S
17 COMBINED RATE THAT IS USED TO CALCULATE THE MONEY PAYMENTS DUE
18 BY THE EMPLOYER TO THE EMPLOYMENT SUPPORT FUND, THE BENEFIT
19 RECOVERY FUND, AND THE EMPLOYMENT AND TRAINING TECHNOLOGY
20 FUND, CALCULATED AT 0.185 PERCENT OF CHARGEABLE WAGES.

21 **SECTION 2.** In Colorado Revised Statutes, 8-76-102.5, **amend**
22 (3)(a)(II) introductory portion, (3)(h) introductory portion, and (3)(h)(I);
23 and **add** (3)(a)(III) as follows:

24 **8-76-102.5. Rates effective upon fund solvency - repeal of**
25 **prior rates - solvency surcharge - definitions - repeal.**

26 (3) (a) (II) (A) The total ~~of all~~ AMOUNT of PREMIUMS FROM an employer's
27 ~~premiums~~ BASE RATE THAT IS paid, DESIGNATED, AND DEPOSITED INTO

1 THE UNEMPLOYMENT COMPENSATION FUND ~~on his or her~~ THE EMPLOYER'S
 2 own behalf on or before thirty-one days immediately after the
 3 computation date and the total benefits that were chargeable to the
 4 employer's account and were paid before the computation date, with
 5 respect to weeks, or any established payroll period of unemployment,
 6 beginning before the computation date, is used to compute ~~his or her~~
 7 ~~premium rate~~ THE EMPLOYER'S RATES for the ~~ensuing~~ FOLLOWING
 8 calendar year. ~~except that the maximum rate for negative excess~~
 9 ~~employers that is credited to the unemployment compensation fund must~~
 10 ~~be at least 0.0613 assessed as part of each employer's premium under this~~
 11 ~~paragraph (a), and for these employers the maximum combined premium~~
 12 ~~rate must be at least 0.0628 but not greater than 0.1039.~~

13 (B) AS USED IN THE STANDARD PREMIUM RATE SCHEDULE:
 14 "Percent of excess" means the percentage resulting from dividing the
 15 excess of BASE RATE premiums paid over benefits charged by the average
 16 chargeable payroll, computed to the nearest one percent; the word "to" in
 17 the column headings, which make reference to fund balances (resources
 18 available for benefits), means "not including"; AND "reserve ratio" means
 19 the fund balance on any June 30 as a proportion of total wages reported
 20 by experience-rated employers.

21 (C) THE FOLLOWING STANDARD PREMIUM RATE SCHEDULE
 22 REFLECTS THE RATES APPLICABLE IN COMPUTING AN EMPLOYER'S
 23 COMBINED RATE PREMIUM:

24 (III) THE DIVISION SHALL SPLIT THE EMPLOYER'S COMBINED RATE,
 25 EXCLUDING ANY SOLVENCY SURCHARGES AND AS DETERMINED BASED ON
 26 THE PERCENT OF EXCESS IN THE STANDARD PREMIUM RATE SCHEDULE IN
 27 EFFECT UNDER SUBSECTION (3)(a)(II) OF THIS SECTION, INTO THE

1 FOLLOWING TWO SEPARATE RATES, ESTABLISHED BASED ON AN
2 EMPLOYER'S PERCENT OF EXCESS IN THE STANDARD PREMIUM RATE
3 SCHEDULE IN EFFECT UNDER SUBSECTION (3)(a)(II) OF THIS SECTION:

4 (A) THE BASE RATE, WHICH IS THE RATE DEDICATED TO EMPLOYER
5 PREMIUMS DEPOSITED INTO THE UNEMPLOYMENT COMPENSATION FUND;
6 AND

7 (B) THE SUPPORT RATE, WHICH IS THE RATE DEDICATED TO
8 EMPLOYER PREMIUMS DEPOSITED INTO THE EMPLOYMENT SUPPORT FUND,
9 THE BENEFIT RECOVERY FUND, AND THE EMPLOYMENT AND TRAINING
10 TECHNOLOGY FUND.

11 (h) ~~No later than January 1, 2013,~~ The division shall develop AND
12 MAINTAIN an online computer application that allows employers to review
13 and manage account information. The online computer application shall
14 include at least the following:

15 (I) A method for employers to file ~~premium~~ WAGE reports and
16 make premium payments;

17 **SECTION 3.** In Colorado Revised Statutes, 8-77-103, **amend**
18 (3)(c) as follows:

19 **8-77-103. Advances from federal unemployment trust fund -**
20 **Title XII repayment fund.** (3) (c) Money in the fund is continuously
21 appropriated to the division to repay federal advances received pursuant
22 to this section, ANY COSTS ASSOCIATED WITH PRIVATE BORROWING
23 PURSUANT TO SECTION 8-71-103, and any interest owing on ~~such~~ FEDERAL
24 advances OR BONDS.

25 **SECTION 4.** In Colorado Revised Statutes, 8-77-109, **amend**
26 (1)(b), (2)(a), and (2)(a.9)(II)(A); **repeal** (5); and **add** (6) as follows:

27 **8-77-109. Employment support fund - employment and**

1 **training technology fund - created - uses - repeal.** (1) (b) There is
2 hereby established the employment support fund. This fund consists of
3 ~~the first 0.00145~~ 78.38 PERCENT OF THE SUPPORT RATE assessed
4 ANNUALLY as part of each employer's premium ~~under section 8-76-102.5~~
5 ~~(3)(a)~~ PAID AND DEDICATED TO THE EMPLOYMENT SUPPORT FUND IN
6 ACCORDANCE WITH SECTION 8-76-102.5 (3)(a)(III).

7 (2) (a) (I) (A) EXCEPT AS SET FORTH IN SUBSECTION (2)(a)(II) OF
8 THIS SECTION AND EXCEPT AS PROVIDED IN SUBSECTION (2)(a)(I)(B) OF
9 THIS SECTION, the state treasurer shall credit the money collected pursuant
10 to this section to the employment support fund created in subsection (1)
11 of this section. ~~except that,~~

12 (B) To the extent allowed by the United States department of
13 labor employment training administration, the state treasurer shall credit
14 ~~.00035~~ 18.92 PERCENT of each employer's ~~premium under section~~
15 ~~8-76-102.5 (3)(a)~~ ANNUAL SUPPORT RATE DETERMINED PURSUANT TO
16 SECTION 8-76-102.5 (3)(a)(III) to the benefit recovery fund, ~~created in~~
17 ~~section 8-73-116~~, up to a maximum of fifteen million dollars each year.

18 (II) (A) At the end of the ~~state fiscal year 2023-24~~ STATE FISCAL
19 YEAR, THE STATE TREASURER SHALL CREDIT any money ~~in the~~
20 ~~employment support fund~~ COLLECTED PURSUANT TO THIS SECTION that
21 ~~exceeds the total of a .0011 assessed as part of each employer's premium~~
22 ~~plus seventeen million~~ WOULD CAUSE THE BALANCE IN THE EMPLOYMENT
23 SUPPORT FUND TO EXCEED THIRTY-TWO MILLION FIVE HUNDRED
24 THOUSAND dollars ~~shall be transferred by the state treasurer to the~~
25 unemployment compensation fund. ~~created in section 8-77-101 (1).~~

26 (B) AT THE END OF THE 2024-25 STATE FISCAL YEAR AND EACH
27 STATE FISCAL YEAR THEREAFTER, THE LIMIT ON THE AMOUNT OF MONEY

1 IN THE EMPLOYMENT SUPPORT FUND SPECIFIED IN SUBSECTION
2 (2)(a)(II)(A) OF THIS SECTION SHALL BE ADJUSTED BASED ON THE CHANGE
3 IN AVERAGE WEEKLY EARNINGS, AS DETERMINED IN ACCORDANCE WITH
4 SECTION 8-73-102 (1), IN THE IMMEDIATELY PRECEDING STATE FISCAL
5 YEAR, AND THE STATE TREASURER SHALL CREDIT ANY AMOUNT THAT
6 EXCEEDS THE AMOUNT SPECIFIED IN SUBSECTION (2)(a)(II)(A) OF THIS
7 SECTION, AS ADJUSTED PURSUANT TO THIS SUBSECTION (2)(a)(II)(B), TO
8 THE UNEMPLOYMENT COMPENSATION FUND.

9 (C) ANY AMOUNT CREDITED TO THE UNEMPLOYMENT
10 COMPENSATION FUND PURSUANT TO THIS SUBSECTION (2)(a)(II) IS NOT
11 INCLUDED IN THE CALCULATION OF AN EMPLOYER'S ANNUAL EXPERIENCE
12 RATE.

13 (III) The general assembly shall appropriate the money in the
14 employment support fund annually to the department of labor and
15 employment:

16 ~~(H)~~ (A) To be used to offset funding deficits for program
17 administration, including information technology initiatives, under the
18 provisions of articles 70 to 83 of this ~~title~~ TITLE 8 and to further support
19 programs to strengthen unemployment fund solvency; and

20 ~~(H)~~ ~~(A)~~ (B) To fund labor standards, labor relations, and the
21 Colorado works grievance procedure under the provisions of articles 1 to
22 6, 9, 10, 12, and 13 of this ~~title~~ TITLE 8 and section 26-2-716 (3)(b).

23 ~~C.R.S.~~

24 ~~(B)~~ ~~(Deleted by amendment, L. 2003, p. 2181, § 1, effective June~~
25 ~~3, 2003.)~~

26 ~~(C)~~ ~~Repealed.~~

27 (a.9) (II) (A) The employment and training technology fund,

1 referred to in this subsection (2)(a.9) as the "fund", is created in the state
2 treasury. Notwithstanding any provision of this subsection (2) to the
3 contrary, on and after April 27, 2021, ~~0.0004 assessed against~~ THE STATE
4 TREASURER SHALL CREDIT 21.62 PERCENT OF each employer's premium
5 ~~under section 8-76-102.5 (3)(a) shall be credited~~ ANNUAL SUPPORT RATE
6 UNDER SECTION 8-76-102.5 (3)(a)(III) to the employment and training
7 technology fund. On and after April 27, 2021, and on or before June 30,
8 2023, if cumulative revenue to the employment and training technology
9 fund equals thirty-one million dollars, less any money transferred to the
10 unemployment compensation fund, no additional money shall be credited
11 to the employment and training technology fund but instead shall be
12 allocated to the unemployment compensation fund. On and after July 1,
13 2023, any amount collected in a fiscal year in excess of seven million
14 dollars under this subsection (2)(a.9)(II) shall be credited TO THE FUND
15 AND THEN TRANSFERRED to the unemployment compensation fund.
16 Money in the fund shall be used for employment and training automation
17 initiatives established by the director of the division. Money in the fund
18 is subject to annual appropriation by the general assembly for the
19 purposes of this subsection (2)(a.9) and shall not revert to the general
20 fund or any other fund at the end of any fiscal year. The money in the
21 fund is exempt from section 24-75-402. At any time, the money in the
22 employment and training technology fund may be appropriated by the
23 general assembly to the unemployment compensation fund or allocated
24 to the unemployment compensation fund at the discretion of the executive
25 director of the department of labor and employment.

26 (5) ~~The department shall conduct a study with the United States~~
27 ~~department of labor and any relevant stakeholders to evaluate the~~

1 ~~employment support fund and determine what steps may be necessary to~~
2 ~~ensure the fund conforms with federal law. The department shall report~~
3 ~~the findings of the study to the house committee on business affairs and~~
4 ~~labor and the senate committee on business, labor, and technology by~~
5 ~~December 15, 2022.~~

6 (6) (a) THE PORTION OF EACH EMPLOYER'S SUPPORT RATE THAT
7 THE EMPLOYER PAID AND THAT IS DEDICATED TO THE EMPLOYMENT
8 SUPPORT FUND PURSUANT TO SECTION 8-76-102.5 (3)(a)(III), TO THE
9 BENEFIT RECOVERY FUND PURSUANT TO SECTION 8-73-116, AND TO THE
10 EMPLOYMENT AND TRAINING TECHNOLOGY FUND PURSUANT TO
11 SUBSECTION (2)(a.9)(II)(A) OF THIS SECTION:

12 (I) IS NOT INCLUDED IN THE CALCULATION OF THE EMPLOYER'S
13 ANNUAL EXPERIENCE RATE AND CREDIT UNDER THE "FEDERAL
14 UNEMPLOYMENT TAX ACT", 26 U.S.C. SEC. 3301 ET SEQ.; AND

15 (II) MUST BE IMMEDIATELY DEPOSITED, UPON PAYMENT, INTO A
16 SEPARATE ACCOUNT, UNRELATED TO THE UNEMPLOYMENT COMPENSATION
17 FUND.

18 (b) ANY MONEY TRANSFERRED FROM THE EMPLOYMENT SUPPORT
19 FUND, THE BENEFIT RECOVERY FUND, OR THE EMPLOYMENT AND TRAINING
20 TECHNOLOGY FUND TO THE UNEMPLOYMENT COMPENSATION FUND
21 PURSUANT TO THIS SECTION IS NOT USED IN CALCULATING THE
22 EMPLOYER'S EXPERIENCE RATE OR PERCENT OF EXCESS.

23 **SECTION 5.** In Colorado Revised Statutes, 8-79-104, **amend**
24 (1)(a)(II)(A) and (1)(d) as follows:

25 **8-79-104. Failure to file true report - penalty.** (1) (a) (II) (A) It
26 is the responsibility of each employer subject to articles 70 to 82 of this
27 ~~title~~ TITLE 8 to file true and accurate reports, whether or not premiums or

1 surcharges are due, and to pay all premiums and surcharges when due.
2 Whenever an employer fails to furnish ~~premium~~ WAGE reports required
3 by the division by the due date, the division shall assess against the
4 employer a penalty of fifty dollars for each occurrence; except that an
5 "employer newly subject" as defined by section 8-76-102.5 (4) shall be
6 assessed a penalty of ten dollars for each occurrence during the first four
7 quarters of coverage. Each subsequent quarter in which the employer
8 continues the failure to file the WAGE reports shall be considered a
9 separate occurrence. Penalties collected by the division pursuant to this
10 ~~sub-subparagraph (A)~~ SUBSECTION (1)(a)(II)(A) shall be paid into the
11 unemployment revenue fund.

12 (d) Any penalty imposed pursuant to this subsection (1) shall be
13 waived if good cause is shown for failing to pay the premiums or
14 surcharges or to make ~~premium~~ WAGE reports, as prescribed by rule of the
15 division. Penalties under this subsection (1) that are unpaid on the date on
16 which they are due shall bear interest at the same rate and in the same
17 manner as unpaid premiums and surcharges under articles 70 to 82 of this
18 ~~title~~ TITLE 8. The provisions of section 13-80-108 (9) ~~C.R.S.~~, shall be
19 used for determining when an offense is committed for the purposes of
20 this subsection (1).

21 **SECTION 6. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety.