SENATE BILL 21-087

CONCERNING AGRICULTURAL WORKERS' RIGHTS, AND, IN CONNECTION THEREWITH, 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://leg.colorado.gov.)

The bill:

- Removes the exemption of agricultural employers and employees from the Colorado "Labor Peace Act" and authorizes agricultural employees to organize and join labor unions; engage in protected, concerted activity; and engage in collective bargaining;
Removes the exemption of agricultural labor from state and local minimum wage laws;
Requires the director of the division of labor standards and statistics to promulgate rules to establish the overtime pay of agricultural employees for hours worked in excess of 40 hours per week or 12 hours in one day;
Grants agricultural employees meal breaks and rest periods throughout each work period, consistent with protections for other employees;
Requires agricultural employers to provide agricultural employees with access and transportation to key service providers;
Authorizes agricultural employees to have visitors at employer-provided housing without interference from other persons;
Requires agricultural employers to provide overwork and health protections to agricultural employees;
Prohibits the use of the short-handled or long-handled hoe for agricultural labor except in specific circumstances;
During a public health emergency, requires an agricultural employer to provide extra protections and increased safety precautions for agricultural employees;
Creates the agricultural work advisory committee to study and analyze agricultural wages and working conditions; and
Creates rights, remedies, and enforcement actions for aggrieved agricultural employees, whistleblowers, relators, and key service providers.

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

SECTION 1. In Colorado Revised Statutes, add 8-2-206 as follows:

8-2-206. Agricultural employers - agricultural employees - violations - penalties - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADVERSE ACTION" MEANS A DEMOTION, REASSIGNMENT TO A LOWER-RANKED POSITION OR TO A POSITION WITH A LOWER LEVEL OF COMPENSATION, DECREASE IN COMPENSATION LEVEL, DENIAL OF
PROMOTION, OR TERMINATION OF EMPLOYMENT; OR OTHER DECISION FOR
EMPLOYMENT PURPOSES THAT ADVERSELY AFFECTS AN AGRICULTURAL
EMPLOYEE.

(b) "AGRICULTURAL EMPLOYEE" MEANS A PERSON EMPLOYED BY
AN AGRICULTURAL EMPLOYER.

(c) "AGRICULTURAL EMPLOYER” HAS THE SAME MEANING SET
FORTH IN SECTION 8-3-104 (1).

(d) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

(e) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND
STATISTICS IN THE DEPARTMENT OF LABOR AND EMPLOYMENT.

(2) THE RIGHTS, REMEDIES, AND PENALTIES SPECIFIED IN THIS
SECTION ARE IN ADDITION TO ANY RIGHTS, REMEDIES, OR PENALTIES
AVAILABLE TO AGRICULTURAL EMPLOYEES UNDER ARTICLE 3 OR 6 OF THIS
TITLE 8, PART 2 OF ARTICLE 13.5 OF THIS TITLE 8, OR ARTICLE 14.4 OF THIS
TITLE 8.

(3) (a) AN AGRICULTURAL EMPLOYER SHALL NOT RETALIATE
AGAINST ANY PERSON, INCLUDING AN AGRICULTURAL EMPLOYEE,
ASSERTING OR SEEKING RIGHTS PROTECTED UNDER ARTICLE 3 OR 6 OF THIS
TITLE 8, PART 2 OF ARTICLE 13.5 OF THIS TITLE 8, OR ARTICLE 14.4 OF THIS
TITLE 8, INCLUDING COMPLAINING PUBLICLY OR SUPPORTING AN
AGRICULTURAL EMPLOYEE SEEKING OR ASSERTING RIGHTS, REMEDIES, OR
PENALTIES UNDER THOSE PROVISIONS OF THIS TITLE 8.

(b) THERE IS A REBUTTABLE PRESUMPTION THAT AN
AGRICULTURAL EMPLOYER THAT TAKES AN ADVERSE ACTION AGAINST AN
AGRICULTURAL EMPLOYEE WITHIN NINETY DAYS AFTER THE
AGRICULTURAL EMPLOYEE HAS ASSERTED OR SOUGHT ANY PROTECTED
RIGHTS, REMEDIES, OR PENALTIES UNDER ARTICLE 3 OR 6 OF THIS TITLE 8, 
PART 2 OF ARTICLE 13.5 OF THIS TITLE 8, OR ARTICLE 14.4 OF THIS TITLE 8 
HAS RETALIATED AGAINST THE AGRICULTURAL EMPLOYEE.

(c) AN AGRICULTURAL EMPLOYEE OR OTHER PERSON AGGRIEVED 
BY RETALIATION BY AN AGRICULTURAL EMPLOYER MAY ASSERT A CLAIM 
IN DISTRICT COURT FOR INJUNCTIVE AND EQUITABLE REMEDIES AND A 
PENALTY IN THE AMOUNT OF THE GREATER OF THE ACTUAL DAMAGES OR 
TEN THOUSAND DOLLARS FOR EACH VIOLATION.

(4) THE DIRECTOR MAY COMMENCE AN ACTION IN DISTRICT COURT 
ON BEHALF OF THE STATE OF COLORADO AGAINST AN AGRICULTURAL 
EMPLOYER THAT HAS RETALIATED AGAINST AN AGRICULTURAL EMPLOYEE 
OR OTHER PERSON IN VIOLATION OF THIS SECTION. IN THE ACTION, THE 
DIRECTOR MAY SEEK AN ORDER IMPOSING RESTITUTION, INJUNCTIVE AND 
EQUITABLE REMEDIES, AND AN APPROPRIATE PENALTY OF MORE THAN ONE 
HUNDRED DOLLARS BUT NOT MORE THAN ONE THOUSAND DOLLARS PER 
VIOLATION.

SECTION 2. In Colorado Revised Statutes, 8-3-104, amend the 
introductory portion, (1), (11), and (12); and add (1.5) as follows:

8-3-104. Definitions. As used in this article ARTICLE 3, unless the 
context otherwise requires:

(1) (a) "All-union agreement" means a contractual provision 
between an employer or group of employers and a collective bargaining 
unit representing some or all of the employees of the employer or group 
of employers providing for any type of union security and compelling an 
employee's financial support or allegiance to a labor organization. 
"All-union agreement" includes, but is not limited to, contractual
provision for a union shop, a modified union shop, an agency shop (meaning a contractual provision which provides for periodic payment of a sum in lieu of union dues but does not require union membership), a modified agency shop, a prehire agreement, maintenance of dues, or maintenance of membership. "AGRICULTURAL EMPLOYER" MEANS A PERSON THAT:

(I) REGULARLY ENGAGES THE SERVICES OF ONE OR MORE EMPLOYEES; AND

(II) IS ENGAGED IN ANY SERVICE OR ACTIVITY INCLUDED IN SECTION 203 (f) OF THE FEDERAL "FAIR LABOR STANDARDS ACT OF 1938", 29 U.S.C. SEC. 201 ET SEQ., AS AMENDED, OR ENGAGED IN "AGRICULTURAL LABOR" AS DEFINED IN SECTION 3121 (g) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

(b) THE MEANING OF "AGRICULTURAL EMPLOYER" MUST BE LIBERALLY CONSTRUED FOR THE PROTECTION OF PERSONS PROVIDING SERVICES TO AN EMPLOYER.

(1.5) "ALL-UNION AGREEMENT" MEANS A CONTRACTUAL PROVISION BETWEEN AN EMPLOYER OR GROUP OF EMPLOYERS AND A COLLECTIVE BARGAINING UNIT REPRESENTING SOME OR ALL OF THE EMPLOYEES OF THE EMPLOYER OR GROUP OF EMPLOYERS PROVIDING FOR ANY TYPE OF UNION SECURITY AND COMPPELLING AN EMPLOYEE'S FINANCIAL SUPPORT OR ALLEGIANCE TO A LABOR ORGANIZATION.

"ALL-UNION AGREEMENT" INCLUDES, BUT IS NOT LIMITED TO, CONTRACTUAL PROVISION FOR A UNION SHOP, A MODIFIED UNION SHOP, AN AGENCY SHOP (MEANING A CONTRACTUAL PROVISION THAT PROVIDES FOR PERIODIC PAYMENT OF A SUM IN LIEU OF UNION DUES BUT DOES NOT REQUIRE UNION MEMBERSHIP), A MODIFIED AGENCY SHOP, A PREHIRE
(11) (a) "Employee" includes any person: other than an independent contractor, domestic servants employed in and about private homes, and farm and ranch labor;

   (I) Working for another for hire in the state of Colorado in a nonexecutive or nonsupervisory capacity, and shall not be limited to the employees of a particular employer and shall include any individual whose work has ceased solely as a consequence of or in connection with any current labor dispute or because of any unfair labor practice on the part of an employer; and

   (b) (II) (A) Who has not refused or failed to return to work upon the final disposition of a labor dispute or a charge of an unfair labor practice by a tribunal having competent jurisdiction of the same or whose jurisdiction was accepted by the employee or his THE EMPLOYEE’S representative;

   (c) (B) Who has not been found to have committed or to have been a party to any unfair labor practice under this ARTICLE 3;

   (d) (C) Who has not obtained regular and substantially equivalent employment elsewhere; or

   (e) (D) Who has not been absent from his THE PERSON’S employment for a substantial period of time during which reasonable expectancy of settlement has ceased, except by an employer’s unlawful refusal to bargain, and whose place has been filled by another engaged in the regular manner for an indefinite or protracted period and not merely for the duration of a strike or lockout. but shall not include any individual employed in the domestic service of a family or person at his home or any individual employed by his parent or spouse or any employee who is
subject to the federal "Railway Labor Act".

(b) "EMPLOYEE" DOES NOT INCLUDE:

(I) AN INDEPENDENT CONTRACTOR;

(II) DOMESTIC SERVANTS EMPLOYED IN AND ABOUT PRIVATE HOMES;

(III) AN INDIVIDUAL EMPLOYED BY THE INDIVIDUAL'S PARENT OR SPOUSE;

(IV) AN EMPLOYEE WHO IS SUBJECT TO THE FEDERAL "RAILWAY LABOR ACT", 45 U.S.C. SEC. 151 ET SEQ., AS AMENDED; OR

(V) A PARENT, SPOUSE, OR CHILD OF AN AGRICULTURAL EMPLOYER'S IMMEDIATE FAMILY.

(f) For purposes of this subsection (11), "farm" means stock, dairy, poultry, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, orchards, and other structures used for the raising of agricultural or horticultural commodities, provided such structures are utilized for at least fifty percent of the total output produced:

(12) (a) (I) "Employer" means a person who regularly engages the services of eight or more employees, other than persons within the classes expressly exempted under the terms of subsection (11) of this section. and

(II) "EMPLOYER" includes:

(A) Any person acting on behalf of any such an employer within the scope of his THE EMPLOYER'S authority, express or implied; The term AND

(B) AN AGRICULTURAL EMPLOYER.

(b) "EMPLOYER" does not include the state or any political subdivision thereof, except where the state or any political subdivision
thereof acquires or operates a mass transportation system or any carrier by railroad, express company, or sleeping car company subject to the federal "Railway Labor Act", 45 U.S.C. sec. 151 et seq., as amended, or any labor organization or anyone acting in behalf of such organization other than when the employer is acting as an employer-in-fact.

SECTION 3. In Colorado Revised Statutes, add 8-6-101.5 as follows:

8-6-101.5. Minimum wage for agricultural workers - rest periods - overwork protections - definitions. (1) (a) On and after January 1, 2022, except as provided in subsection (1)(b) of this section, the minimum wage requirements of section 15 of article XVIII of the State Constitution, and any minimum wage laws enacted pursuant to this article 6, apply to agricultural workers.

(b) Starting January 1, 2022, the Colorado minimum wage for an agricultural worker primarily employed in the range production of livestock is five hundred fifty-three dollars and sixty cents per week. On January 1, 2023, and each January 1 thereafter, the minimum wage for agricultural workers primarily employed in the range production of livestock is adjusted annually for cost of living increases, as measured by the consumer price index used for Colorado.

(2) (a) An agricultural worker is entitled to an uninterrupted and duty-free meal period of at least a thirty-minute duration when the agricultural worker's shift exceeds five consecutive hours. The meal periods, to the extent practicable, must be at least one hour after the start, and one
HOUR BEFORE THE END, OF THE SHIFT.

(b) AN AGRICULTURAL WORKER IS ENTITLED TO AN UNINTERRUPTED AND DUTY-FREE REST PERIOD OF AT LEAST TEN MINUTES WITHIN EACH FOUR HOURS OF WORK.

(3) AS USED IN THIS SECTION:

(a) "AGRICULTURAL WORKER" HAS THE MEANING SET FORTH IN SECTION 8-13.5-201 (2).

(b) "AGRICULTURAL WORKER PRIMARILY EMPLOYED IN THE RANGE PRODUCTION OF LIVESTOCK" MEANS AN AGRICULTURAL WORKER INCLUDED IN THE EXEMPTION IN SECTION 213 (a)(6)(E) OF THE FEDERAL "FAIR LABOR STANDARDS ACT OF 1938", 29 U.S.C. SEC. 201 ET SEQ, AS AMENDED.

SECTION 4. In Colorado Revised Statutes, add 8-6-120 as follows:

8-6-120. Overtime wages for agricultural workers - rules - definition. (1) THE DIRECTOR SHALL PROMULGATE RULES TO ESTABLISH THE OVERTIME RATES OF PAY THAT AN EMPLOYER ENGAGED IN AGRICULTURAL EMPLOYMENT MUST PAY EACH EMPLOYEE FOR TIME WORKED IN EXCESS OF ANY OF THE FOLLOWING:

(a) FORTY HOURS PER WORK WEEK;

(b) TWELVE HOURS PER DAY;

(c) TWELVE CONSECUTIVE HOURS OF WORK WITHOUT REGARD TO WHETHER THE START AND END TIME FALL ON THE SAME CALENDAR DAY.

(2) AS USED IN THIS SECTION, "AGRICULTURAL EMPLOYMENT" HAS THE MEANING SET FORTH IN SECTION 8-13.5-201 (1).

SECTION 5. In Colorado Revised Statutes, add part 2 to article 13.5 of title 8 as follows:
PART 2

LABOR CONDITIONS FOR AGRICULTURAL WORKERS

8-13.5-201. Definitions. As used in this Part 2, unless the context otherwise requires:

(1) "Agricultural employment" means employment in any service or activity included in Section 203 (f) of the Federal "Fair Labor Standards Act of 1938", 29 U.S.C. sec. 201 et seq., as amended, or section 3121 (g) of the Federal "Internal Revenue Code of 1986", as amended.

(2) "Agricultural worker" or "worker" means a worker engaged in any service or activity included in Section 203 (f) of the Federal "Fair Labor Standards Act of 1938", 29 U.S.C. sec. 201 et seq., as amended, or section 3121 (g) of the Federal "Internal Revenue Code of 1986", as amended.

(3) "Department" means the Department of Labor and Employment.

(4) "Division" means the Division of Labor Standards and Statistics in the Department.

(5) "Employer" has the meaning set forth in Section 8-13.5-103 (1).

(6) "Key service provider" means a health care provider; a community health worker, including a promotora; an education provider; an attorney; a legal advocate; a government official, including a consular representative; a member of the clergy; and any other service provider to which an agricultural worker may need access.

(7) "Normal working hours" means a period determined by
THE EMPLOYER NOT TO EXCEED EIGHT HOURS WITHIN ANY TWENTY-FOUR-HOUR PERIOD. "NORMAL WORKING HOURS" DOES NOT INCLUDE SATURDAY OR SUNDAY.

(8) "OCCASIONAL OR INTERMITTENT" MEANS TWENTY PERCENT OR LESS OF AN AGRICULTURAL EMPLOYEE'S WEEKLY WORK TIME.

(9) "SHORT-HANDLED HOE" MEANS A HANDHELD TOOL WITH A FLAT BLADE AFFIXED PERPENDICULARLY TO A HANDLE THAT IS LESS THAN EIGHTEEN INCHES LONG. "SHORT-HANDLED HOE" INCLUDES A LONG-HANDED HAND TOOL THAT HAS BEEN MODIFIED TO BE USED AS A SHORT-HANDED HOE.

(10) "WHISTLEBLOWER" MEANS AN AGRICULTURAL WORKER WITH KNOWLEDGE OF AN ALLEGED VIOLATION OF THIS PART 2 OR THE AGRICULTURAL WORKER'S REPRESENTATIVE.

8-13.5-202. Agricultural workers - right of access to key service providers. (1) (a) AN EMPLOYER SHALL NOT INTERFERE WITH AN AGRICULTURAL WORKER'S REASONABLE ACCESS TO KEY SERVICE PROVIDERS OUTSIDE OF NORMAL WORKING HOURS AT ANY LOCATION, INCLUDING THE AGRICULTURAL WORKER'S EMPLOYER-PROVIDED HOUSING.

(b) AN EMPLOYER THAT PROVIDES HOUSING AND TRANSPORTATION FOR AGRICULTURAL WORKERS SHALL, AT LEAST ONE DAY PER WEEK, PROVIDE TRANSPORTATION TO THE AGRICULTURAL WORKERS TO A LOCATION WHERE THE WORKERS CAN ACCESS BASIC NECESSITIES, CONDUCT FINANCIAL TRANSACTIONS, AND MEET WITH KEY SERVICE PROVIDERS.

(2) NO PERSON OTHER THAN THE AGRICULTURAL WORKER MAY PROHIBIT, BAR, OR INTERFERE WITH, OR ATTEMPT TO PROHIBIT, BAR, OR INTERFERE WITH, THE ACCESS TO OR EGRESS FROM THE RESIDENCE OF ANY
AGRICULTURAL WORKER BY ANY PERSON, EITHER BY THE ERECTION OR
MAINTENANCE OF ANY PHYSICAL BARRIER, BY PHYSICAL FORCE OR
VIOLENCE OR BY THE THREAT OF PHYSICAL FORCE OR VIOLENCE, OR BY
ANY ORDER OR NOTICE GIVEN IN ANY MANNER.

(3) AN EMPLOYER SHALL POST NOTICE OF AN AGRICULTURAL
WORKER'S RIGHTS UNDER THIS PART 2:

(a) IN A CONSPICUOUS LOCATION ON THE EMPLOYER'S PREMISES,
INCLUDING IN THE AGRICULTURAL WORKER'S EMPLOYER-PROVIDED
HOUSING; AND

(b) IN ALL PLACES WHERE NOTICES TO EMPLOYEES, INCLUDING
AGRICULTURAL WORKERS, ARE CUSTOMARILY POSTED; AND

(c) ELECTRONICALLY, INCLUDING BY E-MAIL AND ON AN INTRANET
OR INTERNET SITE, IF THE EMPLOYER CUSTOMARILY COMMUNICATES WITH
AGRICULTURAL WORKERS BY THESE MEANS.

8-13.5-203. Extreme overwork protections - heat stress
training - short-handled hoe prohibited. (1) (a) AN EMPLOYER SHALL
PROVIDE EACH AGRICULTURAL WORKER WITH ACCESS TO AT LEAST ONE
QUART OF __ FRESH, COOL WATER PER HOUR OF WORK FOR THE DURATION
OF THE WORKER'S SHIFT. THE ACCESS TO WATER MUST BE AS CLOSE TO THE
WORK SITE AS PRACTICABLE.

(b) AN EMPLOYER SHALL PROVIDE EACH AGRICULTURAL WORKER
WITH AN AREA OF OPEN-AIR SHADE THAT IS LARGE ENOUGH FOR WORKERS
TO BE SEATED DURING BREAK PERIODS WITHOUT TOUCHING EACH OTHER.

(c) WHEN THE OUTSIDE TEMPERATURE REACHES NINETY DEGREES
OR HIGHER, AN EMPLOYER SHALL PROVIDE EACH AGRICULTURAL WORKER
WHO IS WORKING OUTSIDE WITH A PAID TEN-MINUTE REST PERIOD FOR
EVERY TWO HOURS OF WORK.
(2) An employer shall provide training to agricultural workers concerning signs of heat stress and encourage workers to monitor themselves for any warning signs of heat stress. The employer shall encourage agricultural workers to drink water, take breaks as needed, and avoid heat stress or overexertion.

(3) (a) Using a short-handled hoe is prohibited in agricultural employment for weeding and thinning in a stooped, kneeling, or squatting position.

(b) The performance of weeding and thinning by hand or with a short-handled tool, other than a short-handled hoe, in a stooped, kneeling, or squatting position is strongly disfavored unless there is no suitable long-handled tool or other alternative means of performing the work that is suitable and appropriate to both the production of the agricultural or horticultural commodity and the scale of the operation. Nothing in this subsection (3) is construed to allow the use of the short-handled hoe.

(c) This section does not prohibit:

(I) occasional or intermittent hand weeding or hand thinning in a stooped, kneeling, or squatting position that is incidental to a non-hand-weeding operation; or

(II) seeding, planting, transplanting, or harvesting by hand or with a hand tool.

(4) An employer shall provide agricultural workers engaged in hand weeding and hand thinning an additional five minute rest period, which, insofar as is practicable, must be in
THE MIDDLE OF EACH WORK PERIOD. THE AUTHORIZED REST PERIOD MUST
BE BASED ON THE TOTAL HOURS WORKED DAILY AT THE RATE OF FIFTEEN
MINUTES NET REST TIME PER FOUR HOURS OF WORK, OR A MAJOR FRACTION
THEREOF. THE EMPLOYER SHALL COUNT THE AUTHORIZED REST PERIOD AS
HOURS WORKED AND NOT DEDUCT THE REST PERIOD FROM THE
AGRICULTURAL WORKER’S WAGES.

(5) AN EMPLOYER SHALL PROVIDE GLOVES AND KNEE PADS, AS
NECESSARY, TO EACH AGRICULTURAL WORKER ENGAGING IN HAND
WEEDING, HAND THINNING, OR HAND HOT-CAPPING.

8-13.5-204. Enforcement - penalties - relief - rules. (1) An
AGGRIEVED AGRICULTURAL WORKER, A WHISTLEBLOWER, OR A KEY
SERVICE PROVIDER WHO WAS UNABLE TO ACCESS AN AGRICULTURAL
WORKER DUE TO A VIOLATION OF THIS PART 2 MAY COMMENCE AN ACTION
IN DISTRICT COURT AGAINST AN EMPLOYER FOR A VIOLATION OF THIS PART
2.

(2) A COURT MAY:

(a) ORDER INJUNCTIVE RELIEF TO ENJOIN THE CONTINUANCE OF
THE VIOLATION OF THIS PART 2;

(b) AWARD THE PLAINTIFF ACTUAL DAMAGES OR TEN THOUSAND
DOLLARS, WHICHERVER IS GREATER; AND

(c) AWARD THE PLAINTIFF ATTORNEY FEES.

(3) AN AGGRIEVED AGRICULTURAL WORKER OR WHISTLEBLOWER
IS ENTITLED TO ALL RIGHTS, REMEDIES, AND PENALTIES AFFORDED UNDER
SECTION 8-2-206.

8-13.5-205. Agricultural work advisory committee - creation
- report - repeal. (1) ON OR BEFORE SEPTEMBER 1, 2021, THE EXECUTIVE
DIRECTOR OF THE DEPARTMENT SHALL ESTABLISH THE AGRICULTURAL
WORK ADVISORY COMMITTEE, REFERRED TO IN THIS SECTION AS THE "ADVISORY COMMITTEE". THE ADVISORY COMMITTEE CONSISTS OF NINE MEMBERS AS FOLLOWS:

(a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL APPOINT:

(I) TWO MEMBERS WHO HAVE WORKED AS AGRICULTURAL WORKERS; AND

(II) TWO MEMBERS WHO ARE ADVOCATES OF WORKERS' RIGHTS;

(b) THE COMMISSIONER OF AGRICULTURE SHALL APPOINT:

(I) THREE MEMBERS WHO REPRESENT AGRICULTURAL EMPLOYERS;

AND

(II) TWO REPRESENTATIVES FROM THE MIGRANT FARM WORKER DIVISION OF COLORADO LEGAL SERVICES, OR ITS SUCCESSOR ORGANIZATION.

(2) (a) THE INITIAL TERMS OF ONE AGRICULTURAL WORKER, ONE ADVOCATE OF WORKERS' RIGHTS, TWO AGRICULTURAL EMPLOYERS, AND ONE REPRESENTATIVE FROM THE MIGRANT FARM WORKER DIVISION OF COLORADO LEGAL SERVICES IS TWO YEARS. THE INITIAL TERMS OF THE REMAINING MEMBERS IS THREE YEARS. THEREAFTER, THE TERMS OF THE MEMBERS ARE THREE YEARS.

(b) IF A MEMBER FAILS TO COMPLETE THE MEMBER'S TERM, THE APPOINTING AUTHORITY SHALL APPOINT A NEW MEMBER TO COMPLETE THE REMAINDER OF THE TERM.

(c) MEMBERS SHALL SERVE WITHOUT COMPENSATION FOR THEIR SERVICE; EXCEPT THAT MEMBERS MAY RECEIVE A PER DIEM AS ESTABLISHED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT AND REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES.
INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

(3) (a) THE ADVISORY COMMITTEE SHALL GATHER AND ANALYZE DATA AND OTHER INFORMATION REGARDING THE WAGES AND WORKING CONDITIONS OF AGRICULTURAL WORKERS AND REPORT ITS FINDINGS AND ANY LEGISLATIVE RECOMMENDATIONS TO THE GENERAL ASSEMBLY.


(4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2031. BEFORE THE REPEAL, THE ADVISORY COMMITTEE IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

SECTION 6. In Colorado Revised Statutes, 2-3-1203, add (22) as follows:

2-3-1203. Sunset review of advisory committees - legislative
declaration - definition - repeal. (22) (a) The following statutory authorizations for the designated advisory committees will repeal on September 1, 2031:

(i) The agricultural work advisory committee created in section 8-13.5-205.

(b) This subsection (22) is repealed, effective September 1, 2033.

SECTION 7. In Colorado Revised Statutes, 8-14.4-101, amend (1), (3)(c), and (3)(d); and add (1.5) and (3)(e) as follows:

8-14.4-101. Definitions. As used in this article 14.4, unless the context otherwise requires:

(1) "Department" means the department of labor and employment "AGRICULTURAL EMPLOYMENT" has the meaning set forth in section 8-13.5-201 (1).

(1.5) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND EMPLOYMENT.

(3) "Principal" means:

(c) The state of Colorado, local governments, and political subdivisions of the state as defined in section 1-7.5-103 (6); and

(d) An entity that contracts with five or more independent contractors in the state each year; AND

(e) A person or entity engaged in agricultural employment.

SECTION 8. In Colorado Revised Statutes, add 8-14.4-109 as follows:

8-14.4-109. Agricultural employers - responsibilities during public health emergency - worker safety protections. (1) During a
PUBLIC HEALTH EMERGENCY, in addition to the other protections and rights afforded to workers, a principal engaged in agricultural employment shall:

(a) provide each worker living in employer-provided housing with:

(I) at least one hundred square feet of sleeping quarters per worker and one hundred twenty feet of space per worker in areas used for combined purposes such as meal preparation and eating; and

(II) screened windows that open to the outside or living space that has an air filtration system;

(b) routinely inspect employer-provided housing to ensure compliance with guidelines issued by the Department of Public Health and Environment applicable to a public health emergency and any applicable executive orders issued by the Governor during a disaster emergency declared pursuant to section 24-33.5-704 (4);

(c) provide training to workers concerning safety precautions and protections during a public health emergency;

and

(d) provide informational and educational materials through posters and pamphlets written in English and Spanish and any other relevant languages in employer-provided housing, work sites, and other places where the principal usually posts information for the workers that:

(I) lists the contact information for the Migrant Farm Worker Division of Colorado Legal Services, or its successor
ORGANIZATION, WHERE A WORKER MAY RECEIVE FREE AND CONFIDENTIAL
LEGAL SERVICES; AND

(II) INFORMS THE WORKERS REGARDING FEDERAL AND STATE
GUIDANCE CONCERNING A PUBLIC HEALTH EMERGENCY.

SECTION 9. In Colorado Revised Statutes, 8-3-108, amend
(1)(c)(II)(A) and (1)(c)(II)(B) as follows:

8-3-108. What are unfair labor practices. (1) It is an unfair
labor practice for an employer, individually or in concert with others, to:

(c) (II) (A) Any agreement as defined in section 8-3-104 (1)(1.5) between an employer and a labor organization in existence on June 29, 1977, which has not been voted upon by the employees covered by it may, by written mutual agreement of such employer and labor organization, be ratified and upon such ratification shall be filed with the director. Any agreement as defined in section 8-3-104 (1)(1.5) between an employer and a labor organization in existence on June 29, 1977, which has not been ratified and filed, as provided in this subparagraph (II) subsection (1)(c)(II), shall not be legal, valid, or enforceable during the remaining term of that labor contract unless and until either the employer, the labor organization, or at least twenty percent of the employees covered by such agreement file a petition upon forms provided by the division, demanding an election submitting the question of the all-union agreement to the employees covered by such agreement and said agreement is approved by the affirmative vote of at least a majority of all the employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater, by secret ballot in favor of such all-union agreement in an election provided for in this paragraph (c) subsection (1)(c) conducted under the supervision of the director.
(B) Upon filing of such instrument of ratification with the director, the director shall certify that such agreement complies with the provisions of section 8-3-104(1.5) notwithstanding the absence of any other election requirements of this article, and by virtue of such ratification and certification, such agreement shall be deemed legal, valid, and enforceable to the extent permitted under the provisions of this article, subject to the provisions of subparagraph (D) of this subsection (1)(c)(II)(D) of this section.

SECTION 10. In Colorado Revised Statutes, amend 8-13.5-101 as follows:

8-13.5-101. Short title. This article shall be known and may be cited as THE SHORT TITLE OF THIS PART 1 IS the "Workplace Accommodations for Nursing Mothers Act".

SECTION 11. In Colorado Revised Statutes, 8-13.5-102, amend (2) as follows:

8-13.5-102. Legislative declaration. (2) The general assembly further declares that the purpose of this article is for the state of Colorado to become involved in the national movement to recognize the medical importance of breastfeeding, within the scope of complete pediatric care, and to encourage removal of boundaries placed on nursing mothers in the workplace.

SECTION 12. In Colorado Revised Statutes, 8-13.5-103, amend the introductory portion as follows:

8-13.5-103. Definitions. As used in this article, unless the context otherwise requires:

SECTION 13. In Colorado Revised Statutes, amend 44-10-105 as follows:
44-10-105. Marijuana employee designation. An employee of a licensee is not an agricultural worker unless the employee is a farm laborer as described in section 8-3-104 (11) at a farm, plantation, ranch, nursery, range, greenhouse, orchard, or other structure used for the raising of agricultural or horticultural commodities, as long as the structure is utilized for at least fifty percent of the total output produced.

SECTION 14. Appropriation. (1) For the 2021-22 state fiscal year, $409,949 is appropriated to the department of labor and employment. This appropriation is from the employment support fund created in section 8-77-109 (1)(b)(I), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) $371,667 for use by the division of labor standards and statistics for program costs related to labor standards, which amount is based on an assumption that the division will require an additional 4.4 FTE; and

(b) $38,282 for the purchase of legal services.

(2) For the 2021-22 state fiscal year, $38,282 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of labor and employment under subsection (1)(b) of this section and is based on an assumption that the department of law will require an additional 0.2 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of labor and employment.

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