

An Act

SENATE BILL 22-234

BY SENATOR(S) Hansen and Rankin, Bridges, Buckner, Donovan, Ginal, Gonzales, Hinrichsen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Priola, Rodriguez, Story, Zenzinger, Fenberg;
also REPRESENTATIVE(S) Ortiz and Snyder, Bennett, Bird, Boesenecker, Caraveo, Exum, Froelich, Gonzales-Gutierrez, Herod, Hooton, Jodeh, Kipp, Lindsay, McCluskie, Michaelson Jenet, Mullica, Roberts, Sirota, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman, Woodrow, Young.

CONCERNING UNEMPLOYMENT COMPENSATION.

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

SECTION 1. In Colorado Revised Statutes, 8-71-103, **amend** (2)(d)(I) and (2)(d)(II) as follows:

8-71-103. Organization of division - authority to issue bonds.
(2) (d) (I) Upon receiving the certifications specified in ~~subparagraphs (H) and (IV) of this paragraph (d)~~ **SUBSECTIONS (2)(d)(III) AND (2)(d)(IV) OF THIS SECTION**, the division may issue revenue bonds for the same purposes and on the same terms, and levy and apply the proceeds of bond assessments for the same purposes and in the same manner, as the Colorado housing and finance authority may issue bonds and **MAY** levy and apply the

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

proceeds of bond assessments under section 29-4-710.7, ~~C.R.S.~~, substituting references to the division for references to the authority under that section. THE STATE TREASURER MAY ADVISE THE DIVISION IN ACCORDANCE WITH SECTION 24-36-121. Bond assessments levied by the division may be used to pay revenue bonds issued by the division under this ~~paragraph (d)~~ SUBSECTION (2)(d) or revenue bonds issued by the Colorado housing and finance authority under section 29-4-710.7. ~~C.R.S.~~

(II) Any bonds issued pursuant to this ~~paragraph (d)~~ SUBSECTION (2)(d) must be executed and delivered by the director of the division and may be in the form, may be sold, and may have the same terms as provided in section 43-4-807 (1)(b) and (1)(c); ~~C.R.S.~~, may contain the provisions permitted by section 43-4-807 (1)(d); ~~C.R.S.~~, shall be legal investments for the entities described in, AND subject to the terms set forth in, section 43-4-807 (3); ~~C.R.S.~~, and shall be exempt from taxation and assessments in the state as provided in section 43-4-807 (4). ~~C.R.S.~~ The division may invest or deposit any proceeds and interest from the sale of such bonds as provided in section 43-4-807 (2). ~~C.R.S.~~ The division ~~shall have~~ HAS the power to enter into all other contracts or agreements, which contracts and agreements are not subject to the "Procurement Code", articles 101 to 112 of title 24, ~~C.R.S.~~, that are necessary or incidental to the exercise of its powers and duties under this ~~paragraph (d)~~ SUBSECTION (2)(d), including the power to engage the services of consultants, financial advisors, underwriters, bond insurers, letter of credit banks, rating agencies, and agents and other persons whose services may be required or deemed advantageous by the division, and the power to enter into interest rate exchange agreements for bonds that have been issued in accordance with this ~~paragraph (d)~~ SUBSECTION (2)(d). The amount of outstanding liability for bonds issued pursuant to this ~~paragraph (d)~~ SUBSECTION (2)(d) or section 29-4-710.7 ~~C.R.S.~~, is not taken into account for purposes of rate setting under article 76 of this ~~title~~ TITLE 8. THE AMOUNT OF OUTSTANDING LIABILITY FOR BONDS ISSUED PURSUANT TO THIS SUBSECTION (2)(d) AND FINANCIAL OBLIGATIONS UNDER SECTION 24-36-121 IS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF RATE SETTING UNDER ARTICLE 76 OF THIS TITLE 8.

SECTION 2. In Colorado Revised Statutes, 8-73-103, **amend** (1) as follows:

8-73-103. Benefits for partial unemployment. (1) ~~(a)~~ Each

eligible individual who is partially unemployed shall be paid a partial benefit. Partial benefits shall be in an amount equal to the eligible individual's weekly benefit amount for total unemployment, minus that part of wages payable to the individual with respect to the week that is in excess of ~~twenty-five~~ FIFTY percent of the individual's weekly benefit amount as computed in accordance with section 8-73-102, and the benefit payment resulting shall be computed to the next lower multiple of one dollar.

~~(b)(I) Notwithstanding subsection (1)(a) of this section, on and after July 14, 2020, and for two calendar years thereafter, partial benefits shall be in an amount equal to the eligible individual's weekly benefit amount for total unemployment, minus that part of wages payable to the individual with respect to the week that is in excess of fifty percent of the individual's weekly benefit amount as computed in accordance with section 8-73-102, and the benefit payment resulting shall be computed to the next lower multiple of one dollar.~~

~~(H) This subsection (1)(b) is repealed, effective September 1, 2022.~~

SECTION 3. In Colorado Revised Statutes, 8-73-107, **amend** (1)(d) as follows:

8-73-107. Eligibility conditions - penalty - repeal. (1) Any unemployed individual shall be eligible to receive benefits with respect to any week only if the division finds that:

(d)(I) The individual has been either totally or partially unemployed for a waiting period of one week. No benefits are payable for the waiting period. No week shall be counted as a week of unemployment for the purposes of this ~~paragraph (d)~~ SUBSECTION (1)(d):

~~(H)~~ (A) Unless it occurs within the benefit year, which includes the week with respect to which ~~he~~ THE INDIVIDUAL claims payment of benefits;

~~(H)~~ (B) If benefits have been paid with respect ~~thereto~~ TO THE WEEK;

~~(H)~~ (C) Unless the individual was eligible for benefits with respect ~~thereto~~ TO THE WEEK under THE provisions of sections 8-73-107 to 8-73-112;

~~(IV)~~ (D) Unless total wages earned for the week are less than the weekly benefit amount.

(II) THIS SUBSECTION (1)(d) WILL BE REPEALED IF THE BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND REACHES AT LEAST ONE BILLION DOLLARS. THE DIRECTOR OF THE DIVISION SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE ON WHICH THE CONDITION SPECIFIED IN THIS SUBSECTION (1)(d)(II) HAS OCCURRED BY E-MAILING THE NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US. THIS SUBSECTION (1)(d) IS REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE ON WHICH THE BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND REACHED AT LEAST ONE BILLION DOLLARS OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

SECTION 4. In Colorado Revised Statutes, **add** 8-73-115 and 8-73-116 as follows:

8-73-115. Dependent allowance - study - repeal. (1) THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL STUDY HOW TO CREATE AN ADDITIONAL ALLOWANCE, EFFECTIVE JULY 1, 2023, FOR THE DEPENDENTS OF INDIVIDUALS WHO ARE ELIGIBLE TO RECEIVE UNEMPLOYMENT COMPENSATION BENEFITS.

(2) THE STUDY MUST INCLUDE:

(a) THE PROPOSED BENEFIT AMOUNTS AND BENEFIT ADEQUACY STANDARDS;

(b) UTILIZATION ESTIMATES;

(c) AN ESTIMATION OF THE COSTS OF PROVIDING A DEPENDENT ALLOWANCE;

(d) THE POTENTIAL IMPACT OF THE DEPENDENT ALLOWANCE ON LOW-WAGE CLAIMANTS, INCLUDING THE EFFECT ON SUFFICIENT JOB SEARCHING AND HIGH-QUALITY JOB MATCHING;

(e) A SUMMARY OF THE DEPENDENT ALLOWANCES OFFERED IN OTHER STATES; AND

(f) OTHER CHALLENGES THAT UNEMPLOYED, LOW-WAGE INDIVIDUALS WOULD FACE IN SECURING NEW EMPLOYMENT WHILE MEETING BASIC NEEDS WITH THE AMOUNT OF UNEMPLOYMENT COMPENSATION THAT THE INDIVIDUAL WOULD RECEIVE WITHOUT THE DEPENDENT ALLOWANCE.

(3) NO LATER THAN JANUARY 15, 2023, THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL SUBMIT A REPORT ON THE STUDY TO THE SENATE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE AND THE HOUSE BUSINESS AFFAIRS AND LABOR COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

(4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2023.

8-73-116. Benefit recovery fund - recovery benefits - eligible individuals - third-party administrator - definitions - rules. (1) AS USED IN THIS SECTION:

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

(b) "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO, REGARDLESS OF IMMIGRATION STATUS:

(I) HAS SEPARATED FROM EMPLOYMENT THROUGH NO FAULT OF THE INDIVIDUAL DUE TO ONE OR MORE OF THE FACTORS OUTLINED IN SECTION 8-73-108 (4);

(II) RECEIVED INCOME FROM EMPLOYMENT DURING A QUALIFIED BASE PERIOD OR ALTERNATIVE BASE PERIOD AS DEFINED IN SECTION 8-70-103;

(III) ATTESTS THAT THE INDIVIDUAL IS NOT CURRENTLY RECEIVING ANY STATE-ADMINISTERED WAGE REPLACEMENT ASSISTANCE;

(IV) IS NOT ELIGIBLE FOR STATE-ADMINISTERED WAGE REPLACEMENT ASSISTANCE FOR REASONS RELATED TO THE INDIVIDUAL'S AUTHORIZATION TO WORK; AND

(V) HAS A PAY STUB OR FORM W-2 TO VERIFY THE INDIVIDUAL'S EMPLOYMENT AND WAGE WITHHOLDING.

(c) "FUND" MEANS THE BENEFIT RECOVERY FUND CREATED IN SUBSECTION (2) OF THIS SECTION.

(d) "RECOVERY BENEFITS" MEANS BENEFITS CALCULATED PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(e) "THIRD-PARTY ADMINISTRATOR" MEANS AN ENTITY WITH WHICH THE DIVISION CONTRACTS TO ADMINISTER PAYMENTS TO ELIGIBLE INDIVIDUALS FROM THE FUND PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(2) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE BENEFIT RECOVERY FUND TO PROVIDE GRANTS TO A THIRD-PARTY ADMINISTRATOR TO PROVIDE PAYMENTS TO ELIGIBLE INDIVIDUALS.

(b) THE FUND CONSISTS OF:

(I) MONEY TRANSFERRED TO THE FUND PURSUANT TO SECTION 8-77-109 (2)(a); AND

(II) GIFTS, GRANTS, AND DONATIONS RECEIVED BY THE DEPARTMENT FROM ANY OTHER PUBLIC OR PRIVATE ORGANIZATION OR ENTITY OR INDIVIDUAL AND ANY INTEREST EARNED ON SUCH GIFTS, GRANTS, AND DONATIONS.

(c) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(d) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSES OF THIS SECTION.

(e) (I) IF THE AMOUNT IN THE FUND EXCEEDS THIRTY MILLION DOLLARS, AS ADJUSTED FOR THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD OR ITS SUCCESSOR INDEX, EXCLUDING GIFTS, GRANTS, OR DONATIONS, THE STATE TREASURER SHALL TRANSFER THE MONEY IN THE FUND IN EXCESS OF THIRTY MILLION DOLLARS TO THE UNEMPLOYMENT COMPENSATION FUND CREATED IN SECTION 8-77-101 (1).

(II) THE DEPARTMENT MAY CONTINUE TO SOLICIT AND ACCEPT GIFTS, GRANTS, AND DONATIONS REGARDLESS OF THE FUND BALANCE.

(3) (a) EACH QUARTER, TO THE EXTENT ALLOWED BY THE UNITED STATES DEPARTMENT OF LABOR EMPLOYMENT TRAINING ADMINISTRATION, THE DEPARTMENT SHALL ALLOCATE THE MONEY IN THE FUND TO ONE OR MORE THIRD-PARTY ADMINISTRATORS FOR THE PURPOSE OF PROVIDING RECOVERY BENEFITS TO ELIGIBLE INDIVIDUALS. AT A MINIMUM, A THIRD-PARTY ADMINISTRATOR MUST HAVE EXPERIENCE BUILDING AND OPERATING FINANCIAL BENEFIT SYSTEMS THAT ARE PROVEN TO BE ACCESSIBLE AND RESPONSIVE TO THE TARGET POPULATION.

(b) THE DEPARTMENT SHALL DEVELOP A PROCESS FOR CONTRACTING WITH THIRD-PARTY ADMINISTRATORS TO PROVIDE RECOVERY BENEFITS TO ELIGIBLE INDIVIDUALS, AND MAY DEVELOP GUIDANCE AS NECESSARY, INCLUDING RULES SPECIFYING THE GRANT PROCESS FOR THIRD-PARTY ADMINISTRATORS. THE DEPARTMENT SHALL SELECT A THIRD-PARTY ADMINISTRATOR WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

(c) A THIRD-PARTY ADMINISTRATOR SELECTED PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION SHALL, WITHIN ONE HUNDRED DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION:

(I) PROVIDE OUTREACH TO UNEMPLOYED INDIVIDUALS WHO MAY BE ELIGIBLE FOR PAYMENTS THROUGH THE FUND;

(II) SCREEN EACH APPLICANT FOR RECOVERY BENEFITS TO DETERMINE IF THE APPLICANT IS AN ELIGIBLE INDIVIDUAL; AND

(III) PAY RECOVERY BENEFITS TO ELIGIBLE INDIVIDUALS.

(4) TO RECEIVE RECOVERY BENEFITS, AN ELIGIBLE INDIVIDUAL MUST APPLY TO A THIRD-PARTY ADMINISTRATOR WITH WHICH THE DIVISION HAS CONTRACTED.

(5) (a) A THIRD-PARTY ADMINISTRATOR SHALL PAY EACH ELIGIBLE INDIVIDUAL WHO IS TOTALLY UNEMPLOYED IN ANY WEEK, WITH RESPECT TO THAT WEEK, RECOVERY BENEFITS AT A RATE OF FIFTY-FIVE PERCENT OF THE ELIGIBLE INDIVIDUAL'S AVERAGE WEEKLY WAGE AS DETERMINED FROM

EARNINGS DATA PROVIDED TO THE THIRD-PARTY ADMINISTRATOR; EXCEPT THAT THE MAXIMUM WEEKLY PAYMENT AMOUNT MAY NOT EXCEED THE MAXIMUM WEEKLY BENEFIT AMOUNT FOR BENEFITS AS CALCULATED PURSUANT TO SECTION 8-73-102 (2).

(b) IF THE RECOVERY BENEFIT AMOUNT IS NOT AN EVEN DOLLAR AMOUNT, THE THIRD-PARTY ADMINISTRATOR SHALL ROUND THE RECOVERY BENEFIT AMOUNT TO THE NEXT LOWER FULL DOLLAR AMOUNT.

(c) AN ELIGIBLE INDIVIDUAL MAY RECEIVE RECOVERY BENEFITS FOR A MAXIMUM OF THIRTEEN WEEKS DURING THE ELIGIBLE INDIVIDUAL'S PERIOD OF UNEMPLOYMENT.

(6) IF THE FUND BALANCE IS BELOW FIVE HUNDRED THOUSAND DOLLARS, AS ADJUSTED FOR THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD OR ITS SUCCESSOR INDEX, A THIRD-PARTY ADMINISTRATOR SHALL SUSPEND PAYMENTS UNTIL THE BALANCE OF THE FUND IS EQUAL TO OR GREATER THAN FIVE HUNDRED THOUSAND DOLLARS.

(7) (a) ALL PERSONAL INFORMATION AND DOCUMENTS COLLECTED ARE CONFIDENTIAL, EXEMPT FROM DISCLOSURE UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, AND MAY BE USED OR DISCLOSED ONLY FOR PURPOSES OF THIS SECTION, EXCEPT WHERE NECESSARY TO COMPLY WITH A COURT ORDER.

(b) IN CARRYING OUT THE REQUIREMENTS OF THIS SECTION:

(I) THE DEPARTMENT AND ANY CONTRACTED THIRD-PARTY ADMINISTRATOR SHALL ESTABLISH PROCEDURES AND SAFEGUARDS AGAINST UNAUTHORIZED ACCESS TO AND USE OF PERSONAL INFORMATION COLLECTED PURSUANT TO THIS SECTION BY ANY PERSON, OTHER THAN FOR THE PURPOSE OF THIS SECTION; AND

(II) A THIRD-PARTY ADMINISTRATOR SHALL NOT DISCLOSE THAT AN INDIVIDUAL HAS APPLIED FOR OR IS A RECIPIENT OF RECOVERY BENEFITS TO ANY PERSON THAT IS NOT ADMINISTERING THE PROGRAM.

SECTION 5. In Colorado Revised Statutes, 8-74-101, **add** (4) as follows:

8-74-101. Claims for benefits - employer-provided information required. (4) AT THE TIME OF SEPARATION FROM AN EMPLOYER, THE EMPLOYER SHALL PROVIDE EACH EMPLOYEE, IN A WRITTEN FORMAT AND DISTRIBUTION METHOD, TO INCLUDE ELECTRONIC OR HARD COPY, THAT IS DETERMINED BY THE DIVISION, INFORMATION REGARDING THE AVAILABILITY OF UNEMPLOYMENT COMPENSATION BENEFITS. THE INFORMATION MUST INCLUDE:

(a) THE EMPLOYER'S NAME AND ADDRESS;

(b) THE EMPLOYEE'S NAME AND ADDRESS;

(c) THE EMPLOYEE'S IDENTIFICATION NUMBER OR THE LAST FOUR NUMBERS OF THE EMPLOYEE'S SOCIAL SECURITY NUMBER;

(d) THE EMPLOYEE'S START DATE, DATE OF LAST DAY WORKED, YEAR-TO-DATE EARNINGS, AND WAGES FOR THE LAST WEEK THE EMPLOYEE WORKED; AND

(e) THE REASON THE EMPLOYEE SEPARATED FROM THE EMPLOYER.

SECTION 6. In Colorado Revised Statutes, 8-76-102.5, **amend** (7)(c) as follows:

8-76-102.5. Rates effective upon fund solvency - repeal of prior rates - solvency surcharge - definitions - repeal. (7) (c) (I) Notwithstanding subsection (7)(a) of this section, for the calendar years 2021, ~~and~~ 2022, AND 2023, the division shall not assess a solvency surcharge on any employer.

(II) This subsection (7)(c) is repealed, effective January 1, ~~2023~~ 2024.

SECTION 7. In Colorado Revised Statutes, **add** 8-76-116 as follows:

8-76-116. Power to levy bond assessments - definition. (1) AS USED IN THIS SECTION, "FUND" MEANS THE UNEMPLOYMENT COMPENSATION FUND CREATED IN SECTION 8-77-101 (1).

(2) UPON RECEIVING THE CERTIFICATIONS SPECIFIED IN SECTION 8-71-103 (2), THE DIVISION, IN ADDITION TO THE OTHER POWERS GRANTED BY ARTICLES 70 TO 82 OF THIS TITLE 8, HAS POWER TO LEVY CERTAIN BOND ASSESSMENTS AS FOLLOWS:

(a) ALL BONDS AND NOTES ISSUED PURSUANT TO THIS SECTION ARE LIMITED OBLIGATIONS OF THE DIVISION, PAYABLE SOLELY FROM REVENUES GENERATED THROUGH THE LEVY BY THE AUTHORITY OF A BOND ASSESSMENT AGAINST EACH EMPLOYER, AS DEFINED IN SECTION 8-70-113, SUBJECT TO AN EXPERIENCE RATING UNDER ARTICLES 70 TO 82 OF THIS TITLE 8, IN AN AGGREGATE AMOUNT SUFFICIENT TO SATISFY SUBSECTION (2)(c) OF THIS SECTION OR FROM REVENUES GENERATED THROUGH THE LEVY BY THE DIVISION OF A BOND ASSESSMENT UNDER SECTION 8-71-103 (2)(d); FROM PAYMENTS FROM THE DIVISION OR MONEY APPLIED BY THE DIVISION UNDER SECTION 8-77-101 (1); FROM PROCEEDS DERIVED FROM THE SALE OF BONDS AND NOTES ISSUED UNDER THIS SECTION AND FROM THE EARNINGS ON THOSE PROCEEDS; AND FROM ALL MONEY AND SECURITIES IN ALL SPECIAL ACCOUNTS CREATED BY AND UNDER THE CONTROL OF THE DIVISION UNDER THIS SECTION. THE DIVISION SHALL COLLECT AND ADMINISTER THE BOND ASSESSMENT IN SUBSTANTIALLY THE SAME MANNER AS OTHER EMPLOYER PREMIUMS AND SURCHARGES REQUIRED UNDER ARTICLES 70 TO 82 OF THIS TITLE 8. SUBJECT TO ARTICLES 70 TO 82 OF THIS TITLE 8, THE ASSESSMENT DOES NOT APPLY TO THE COVERED EMPLOYERS OF THE STATE AND LOCAL GOVERNMENTS, TO THOSE NONPROFIT ORGANIZATIONS THAT ARE REIMBURSABLE EMPLOYERS, OR TO POLITICAL SUBDIVISIONS ELECTING THE SPECIAL RATE.

(b) THE DIVISION MAY DEPOSIT ALL OR ANY PORTION OF MONEY COLLECTED FROM ASSESSMENTS FOR PRINCIPAL-RELATED BOND REPAYMENT COSTS INTO THE FUND. THE PORTION OF THESE REVENUES DEPOSITED INTO THE FUND CONSTITUTES PART OF EACH EMPLOYER'S UNEMPLOYMENT INSURANCE CONTRIBUTIONS, AND THE DIVISION SHALL PAY AMOUNTS FROM THESE REVENUES FOR THE REPAYMENT OF THE PRINCIPAL OF BONDS ISSUED UNDER THIS SECTION OR SECTION 8-71-103 (2)(d).

(c) THE LEVY MUST BE AT A RATE OR RATES THAT, WHEN APPLIED AGAINST THE TAXABLE WAGES OF THOSE EMPLOYERS SUBJECT TO THE BOND ASSESSMENT, WILL PRODUCE AN AMOUNT SUFFICIENT TO PAY ALL COSTS ASSOCIATED WITH OR OTHERWISE RELATING TO BONDS AND NOTES ISSUED PURSUANT TO THIS SUBSECTION (2), INCLUDING THE PRINCIPAL OF, AND

INTEREST AND PREMIUM, IF ANY, ON, THE BONDS AND NOTES, THE COSTS OF BOND ISSUANCE AND ADMINISTRATION, OTHER RELATED FEES AND COSTS OF THE DIVISION, AND RESERVES THEREFOR.

(d) EMPLOYERS SHALL SUBMIT BOND ASSESSMENTS DESCRIBED IN THIS SUBSECTION (2) ASSOCIATED WITH NONPRINCIPAL-RELATED BOND REPAYMENT COSTS IN A DIFFERENT MANNER THAN THE EMPLOYER'S NORMAL PREMIUMS AND SURCHARGES PAID UNDER ARTICLES 70 TO 82 OF THIS TITLE 8, AS DETERMINED BY THE DIVISION, AND THE ASSESSMENTS ARE A LIEN UPON THE REAL AND PERSONAL PROPERTY OF AN EMPLOYER IN THE MANNER AND TO THE EXTENT SET FORTH IN SECTION 8-79-103. THE DIVISION SHALL DEPOSIT THE ASSESSMENTS INTO THE UNEMPLOYMENT BOND REPAYMENT ACCOUNT CREATED IN SECTION 8-77-103.5, AND SHALL, AFTER OFFSETTING THE DIVISION'S COSTS FOR COLLECTING AND ADMINISTERING THE BOND ASSESSMENTS, USE THIS MONEY ONLY FOR PAYMENT FROM TIME TO TIME TO ONE OR MORE SPECIAL ACCOUNTS CREATED BY AND UNDER THE CONTROL OF THE ISSUER OF THE BONDS. THE ISSUER OF THE BONDS SHALL USE ALL MONEY ACCRUING IN A SPECIAL ACCOUNT ONLY TO PAY NONPRINCIPAL-RELATED BOND REPAYMENT COSTS DESCRIBED IN SUBSECTION (2)(c) OF THIS SECTION, AND THE ISSUER OF THE BONDS SHALL PAY ANY MONEY REMAINING IN SUCH AN ACCOUNT AND NOT BE REQUIRED TO PAY NONPRINCIPAL-RELATED BOND REPAYMENT COSTS TO THE DIVISION FOR DEPOSIT IN THE FUND.

(e) EMPLOYERS SHALL SUBMIT BOND ASSESSMENTS DESCRIBED IN THIS SUBSECTION (2) ASSOCIATED WITH PRINCIPAL-RELATED BOND REPAYMENT COSTS IN THE SAME MANNER AS THE EMPLOYER'S NORMAL PREMIUMS AND SURCHARGES PAID UNDER ARTICLES 70 TO 82 OF THIS TITLE 8, AND THE ASSESSMENTS ARE A LIEN UPON THE REAL AND PERSONAL PROPERTY OF AN EMPLOYER IN THE MANNER AND TO THE EXTENT SET FORTH IN SECTION 8-79-103. THE DIVISION MAY DEPOSIT ALL OR ANY PORTION OF THE ASSESSMENTS INTO THE FUND. THE PORTION OF THE ASSESSMENTS DEPOSITED INTO THE FUND CONSTITUTE PART OF EACH EMPLOYER'S UNEMPLOYMENT INSURANCE CONTRIBUTIONS. BOND ASSESSMENTS DESCRIBED IN THIS SUBSECTION (2) ASSOCIATED WITH PRINCIPAL-RELATED BOND REPAYMENT COSTS ARE AVAILABLE FOR PAYMENT FROM TIME TO TIME TO ONE OR MORE SPECIAL ACCOUNTS CREATED BY AND UNDER THE CONTROL OF THE ISSUER OF THE BONDS. ALL MONEY ACCRUING IN A SPECIAL ACCOUNT FOR PRINCIPAL-RELATED BOND REPAYMENT COSTS CAN BE USED BY THE ISSUER OF THE BONDS ONLY TO PAY THE PRINCIPAL COSTS OF THE BONDS.

(3) THE DIVISION SHALL NOT ISSUE ITS BONDS AND NOTES UNTIL THE MONTHLY BALANCE IN THE FUND IS EQUAL TO OR LESS THAN NINE-TENTHS OF ONE PERCENT OF THE TOTAL WAGES REPORTED BY RATABLE EMPLOYERS FOR THE CALENDAR YEAR, OR THE MOST RECENT AVAILABLE FOUR CONSECUTIVE QUARTERS PRIOR TO THE LAST COMPUTATION DATE, AND THE GOVERNOR, THE STATE TREASURER, AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT HAVE EACH CERTIFIED IN WRITING TO THE DIVISION:

(a) THAT OTHER FUNDING ALTERNATIVES TO THE ISSUANCE OF BONDS AND NOTES HAVE BEEN CONSIDERED AND THAT THE ISSUANCE OF SUCH BONDS AND NOTES IS THE MOST COST-EFFECTIVE MEANS FOR THE DIVISION TO MAINTAIN ADEQUATE BALANCES IN THE FUND OR TO REPAY MONEY ADVANCED TO THE STATE PURSUANT TO 42 U.S.C. SEC. 1321;

(b) THE AMOUNT OF MONEY REQUIRED TO MAINTAIN ADEQUATE BALANCES IN THE FUND OR TO REPAY MONEY ADVANCED TO THE STATE PURSUANT TO 42 U.S.C. SEC. 1321, OR BOTH;

(c) THE AMOUNT OF BONDS AND NOTES REQUIRED FOR THE PURPOSES DESCRIBED IN SUBSECTION (2) OF THIS SECTION; AND

(d) THE BOND ASSESSMENT RATE OR RATES, OR A FORMULA OR OTHER PROCEDURE FOR DETERMINING SUCH RATE OR RATES, THAT WILL PRODUCE AN AMOUNT SUFFICIENT, TOGETHER WITH ANY OTHER MONEY AVAILABLE OR EXPECTED TO BE AVAILABLE, TO PAY ALL COSTS ASSOCIATED WITH OR OTHERWISE RELATING TO BONDS AND NOTES ISSUED PURSUANT TO SUBSECTION (2) OF THIS SECTION, INCLUDING THE PRINCIPAL OF, AND INTEREST AND PREMIUM, IF ANY, ON, THE BONDS AND NOTES, THE COSTS OF BOND ISSUANCE AND ADMINISTRATION, AND ANY OTHER RELATED FEES AND COSTS OF THE DIVISION, AND RESERVES THEREFOR.

SECTION 8. In Colorado Revised Statutes, 8-77-103, **add** (3) as follows:

8-77-103. Advances from federal unemployment trust fund - title XII repayment fund. (3) (a) THE TITLE XII REPAYMENT FUND, REFERRED TO IN THIS SUBSECTION (3) AS THE "FUND", IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY TRANSFERRED BY THE STATE TREASURER PURSUANT TO SECTION 24-75-227 (3.7) AND ANY OTHER

MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

(b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(c) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE DIVISION TO REPAY FEDERAL ADVANCES RECEIVED PURSUANT TO THIS SECTION AND ANY INTEREST OWING ON SUCH ADVANCES.

(d) THE REPAYMENT OF FEDERAL ADVANCES, AND INTEREST ON SUCH ADVANCES, IS AN ALLOWABLE USE OF THE MONEY RECEIVED BY THE STATE UNDER THE FEDERAL "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS SPECIFIED IN 31 CFR 35.6 (b)(3)(ii)(A)(10)(i) AND 31 CFR 35.6 (b)(3)(ii)(A)(10)(ii).

(e) THE DIVISION SHALL COMPLY WITH THE COMPLIANCE, REPORTING, RECORD-KEEPING, AND PROGRAM EVALUATION REQUIREMENTS ESTABLISHED BY THE OFFICE OF STATE PLANNING AND BUDGETING AND THE STATE CONTROLLER IN ACCORDANCE WITH SECTION 24-75-226 (5).

SECTION 9. In Colorado Revised Statutes, **amend** 8-77-103.5 as follows:

8-77-103.5. Issuance of unemployment revenue bonds and notes - unemployment bond repayment account - creation. (1) The executive director of the department of labor and employment is authorized to request the STATE TREASURER TO ACT AS ADVISOR TO THE DIVISION. THE DIVISION MAY ALSO REQUEST THE Colorado housing and finance authority ACT AS ISSUING MANAGER, to issue such bonds and notes as are necessary to maintain adequate balances in the unemployment compensation fund or to repay ~~moneys~~ MONEY advanced to the state from the federal unemployment trust fund, or both. Such requests shall be made in accordance with the provisions of section ~~24-36-121~~ OR 29-4-710.7. ~~C.R.S.~~

(2) There is hereby created the unemployment bond repayment account, which shall be credited with bond assessments for nonprincipal-related bond costs collected on behalf of THE DIVISION UNDER SECTION 24-36-121 OR the Colorado housing and finance authority under

section 29-4-710.7 ~~C.R.S.~~, or by the division under section 8-71-103. After the division's costs have been deducted from the bond repayment account, ~~moneys~~ MONEY in the fund shall be paid to the account or accounts maintained by THE STATE TREASURER UNDER SECTION 24-36-121 OR the Colorado housing and finance authority under section 29-4-710.7 ~~C.R.S.~~, or by the division with respect to bonds issued under section 8-71-103.

SECTION 10. In Colorado Revised Statutes, 8-77-109, **amend** (1)(b) and (2)(a) introductory portion; and **add** (5) as follows:

8-77-109. Employment support fund - employment and training technology fund - created - uses - repeal. (1) (b) There is hereby established the employment support fund. This fund consists of the first ~~0.0011~~ 0.00145 assessed as part of each employer's premium under section 8-76-102.5 (3)(a).

(2) (a) The state treasurer shall credit the ~~moneys~~ MONEY collected pursuant to this section to the employment support fund created in subsection (1) of this section; EXCEPT THAT, TO THE EXTENT ALLOWED BY THE UNITED STATES DEPARTMENT OF LABOR EMPLOYMENT TRAINING ADMINISTRATION, THE STATE TREASURER SHALL CREDIT .00035 OF EACH EMPLOYER'S PREMIUM UNDER SECTION 8-76-102.5 (3)(a) TO THE BENEFIT RECOVERY FUND CREATED IN SECTION 8-73-116, UP TO A MAXIMUM OF FIFTEEN MILLION DOLLARS EACH YEAR. AT THE END OF THE STATE FISCAL YEAR, ANY MONEY IN THE EMPLOYMENT SUPPORT FUND THAT EXCEEDS THE TOTAL OF A .0011 ASSESSED AS PART OF EACH EMPLOYER'S PREMIUM PLUS SEVENTEEN MILLION DOLLARS SHALL BE TRANSFERRED BY THE STATE TREASURER TO THE UNEMPLOYMENT COMPENSATION FUND CREATED IN SECTION 8-77-101 (1). The general assembly shall appropriate the ~~moneys~~ MONEY in the employment support fund annually to the department of labor and employment:

(5) THE DEPARTMENT SHALL CONDUCT A STUDY WITH THE UNITED STATES DEPARTMENT OF LABOR AND ANY RELEVANT STAKEHOLDERS TO EVALUATE THE EMPLOYMENT SUPPORT FUND AND DETERMINE WHAT STEPS MAY BE NECESSARY TO ENSURE THE FUND CONFORMS WITH FEDERAL LAW. THE DEPARTMENT SHALL REPORT THE FINDINGS OF THE STUDY TO THE HOUSE COMMITTEE ON BUSINESS AFFAIRS AND LABOR AND THE SENATE COMMITTEE ON BUSINESS, LABOR, AND TECHNOLOGY BY DECEMBER 15, 2022.

SECTION 11. In Colorado Revised Statutes, 8-81-101, **amend** (4)(a)(I) and (4)(a)(II); and **add** (4)(a)(I.5) and (4)(e) as follows:

8-81-101. Penalties. (4) (a) (I) Any person who has received any sum as benefits under articles 70 to 82 of this ~~title to which he~~ TITLE 8 TO WHICH THE PERSON was not entitled ~~shall~~ MAY be required to repay such amount to the division for the fund. Such sum shall be collected in the manner provided in section 8-79-102; except that the division may waive the repayment of an overpayment if the division determines such repayment to be inequitable. REPAYMENT IS INEQUITABLE WHEN:

(A) THE PERSON WHO RECEIVED THE OVERPAYMENT IS RECEIVING OR HAS RECEIVED ANY OF THE FOLLOWING PUBLIC ASSISTANCE BENEFITS IN THE TWELVE MONTHS PRIOR TO THE DIVISION PROVIDING NOTICE TO THE PERSON OF THE OVERPAYMENT: FEDERAL SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS, TEMPORARY ASSISTANCE TO NEEDY FAMILIES BENEFITS, FEDERAL SUPPLEMENTAL SECURITY INCOME, SOCIAL SECURITY DISABILITY BENEFITS RECEIVED AFTER ANY UNEMPLOYMENT INSURANCE BENEFITS WERE PAID, MEANS-TESTED LEGAL AID SERVICES; BENEFITS FROM THE LOW-INCOME ENERGY ASSISTANCE PROGRAM CREATED IN SECTION 26-2-122.5, FEDERAL OR STATE EARNED INCOME TAX CREDITS, FREE OR REDUCED-PRICE SCHOOL LUNCH BENEFITS, PUBLIC OR SUBSIDIZED HOUSING BENEFITS, MEDICAID BENEFITS UNDER THE MEDICAL ASSISTANCE PROGRAM, ARTICLES 4 TO 6 OF TITLE 25.5, OR MEDICARE BENEFITS;

(B) THE PERSON'S HOUSEHOLD INCOME, EXCLUSIVE OF PUBLIC ASSISTANCE BENEFITS, DURING THE THREE MONTHS PRIOR TO THE OVERPAYMENT DETERMINATION, WAS AT OR BELOW FOUR TIMES THE FEDERAL POVERTY GUIDELINES DETERMINED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE AUTHORITY OF 42 U.S.C. SEC. 9902 (2);

(C) THE PERSON NEEDS MUCH OF THE PERSON'S CURRENT INCOME TO MEET ORDINARY AND NECESSARY LIVING EXPENSES AND LIABILITIES, INCLUDING HOUSING, FOOD, SCHOOL LOANS, CHILD CARE, OUTSTANDING LOAN AND CREDIT CARD BALANCES, TRANSPORTATION, AND MEDICAL EXPENSES;

(D) DUE TO THE NOTICE THAT THE BENEFIT PAYMENT WOULD BE MADE OR BECAUSE OF THE INCORRECT PAYMENT THE PERSON EITHER

RELINQUISHED A VALUABLE RIGHT OR CHANGED POSITIONS FOR THE WORSE, INCLUDING IF: THE PERSON INCURRED A FINANCIAL OBLIGATION, SUCH AS A LEASE, BASED ON BENEFIT PAYMENTS THAT THE PERSON RECEIVED; THE PERSON RELIED ON THE BENEFIT PAYMENT AND TOOK OUT A LOAN, IN WHICH THE PERSON HAS ALREADY INVESTED THE BENEFIT PAYMENT RECEIVED AND REPAYMENT OF THE OVERPAYMENT WILL CAUSE THE PERSON TO DEFAULT ON THE LOAN, RESULTING IN CRIMINAL OR CIVIL ACTIONS; OR THE PERSON DECLINED OTHER FINANCIAL ASSISTANCE BECAUSE THE PERSON RECEIVED BENEFITS UNDER ARTICLES 70 TO 82 OF THIS TITLE 8 AND THOUGHT THE PERSON WOULD NOT NEED ADDITIONAL FINANCIAL ASSISTANCE FROM OTHER SOURCES;

(E) THE OVERPAYMENT WAS CAUSED, AT LEAST IN PART, BY AN ERROR BY THE DIVISION OR BY THE PERSON'S RELIANCE ON THE DIVISION'S PUBLICIZED INFORMATION OR GUIDANCE THAT WAS LATER DETERMINED TO BE ERRONEOUS; OR

(F) ANY OTHER REASON THE DIVISION FINDS SUFFICIENT TO ESTABLISH THAT REPAYMENT WOULD BE INEQUITABLE.

(I.5) THE DIVISION SHALL, TO THE EXTENT POSSIBLE, REVIEW AND WAIVE THE REPAYMENT OF AN OVERPAYMENT AT THE TIME THE OVERPAYMENT IS DETERMINED IF THE DIVISION HAS SUFFICIENT INFORMATION TO DETERMINE THAT THE REPAYMENT WOULD BE INEQUITABLE. IF THE DIVISION DOES NOT HAVE SUFFICIENT INFORMATION IN ITS POSSESSION TO MAKE SUCH A DETERMINATION, THE DIVISION SHALL NOTIFY THE PERSON OF THE RIGHT TO REQUEST A WAIVER OF THE OVERPAYMENT AND THE PROCESS FOR SUCH A REQUEST. THE DIVISION SHALL ACCEPT COPIES OF RELEVANT BILLS, RECEIPTS, AWARD LETTERS, BANK STATEMENTS, AND ALL OTHER REASONABLE FORMS OF PROOF THAT REPAYMENT WOULD BE INEQUITABLE. IF A PERSON CANNOT PROVIDE DOCUMENTATION, THE DIVISION MAY ACCEPT AS SUFFICIENT PROOF A WRITTEN STATEMENT SIGNED BY THE PERSON SEEKING TO WAIVE THE OVERPAYMENT ATTESTING TO THE FACTS AT ISSUE.

(II) If any person receives an overpayment because of ~~his or her~~ THE PERSON'S false representation or willful failure to disclose a material fact, inequity must not be a consideration in any civil, administrative, or criminal action, and the person shall pay to the division the total amount of the overpayment plus a sixty-five percent monetary penalty. Of the

monetary penalty, the division shall pay twenty-three percent into the unemployment compensation fund, created in section 8-77-101, and the remainder into the unemployment revenue fund, created in section 8-77-106. In addition, the person may be denied benefits, when otherwise eligible, for a four-week period for each one-week period in which the person filed claims for or received benefits to which ~~he or she~~ THE PERSON was not entitled. The provisions of section 13-80-108 (9) ~~C.R.S.~~, shall be used for determining when an offense is committed for the purposes of this ~~subparagraph (H)~~ SUBSECTION (4)(a)(II). FOR PURPOSES OF THIS SUBSECTION (4)(a)(II), A PERSON HAS NOT RECEIVED AN OVERPAYMENT BECAUSE OF THE PERSON'S FALSE REPRESENTATION OR WILLFUL FAILURE TO DISCLOSE A MATERIAL FACT IF: THE PERSON PROVIDED ALL INFORMATION REQUESTED BY THE DIVISION CORRECTLY, BUT THE DIVISION FAILED TO TAKE APPROPRIATE ACTION WITH THAT INFORMATION OR TOOK DELAYED ACTION WHEN DETERMINING OR REDETERMINING ELIGIBILITY; THE PERSON PROVIDED INCORRECT INFORMATION DUE TO CONFLICTING, CHANGING, OR CONFUSING INFORMATION OR INSTRUCTIONS FROM THE DIVISION; THE PERSON WAS UNABLE TO REACH THE DIVISION DESPITE THE PERSON'S BEST EFFORTS TO INQUIRE OR CLARIFY WHAT INFORMATION THE PERSON NEEDED TO PROVIDE, OR EXPERIENCED OTHER SIMILAR BARRIERS, INCLUDING THAT IT WAS THE PERSON'S FIRST TIME APPLYING FOR OR RECEIVING UNEMPLOYMENT BENEFITS, OR THE PERSON EXPERIENCED LANGUAGE, EDUCATION, OR LITERACY BARRIERS; OR THE PERSON'S EMPLOYER PROVIDED THE PERSON WITH INCORRECT OR UNTIMELY INFORMATION OR DID NOT TIMELY REPORT FACTS.

(e) THE DIVISION SHALL NOT ATTEMPT TO RECOVER AN OVERPAYMENT UNTIL THERE IS A FINAL DETERMINATION THAT THE DEBT IS IN FACT OWED AND ALL APPEALS ARE EXHAUSTED. THE DIVISION SHALL NOT ATTEMPT TO RECOVER AN OVERPAYMENT WHEN THERE IS A PENDING WAIVER APPLICATION UNTIL THERE IS A FINAL DETERMINATION THAT THE PERSON IS NOT ELIGIBLE FOR A WAIVER AND ALL APPEALS ARE EXHAUSTED.

SECTION 12. In Colorado Revised Statutes, 24-75-227, **add** (3.7) as follows:

24-75-227. Revenue loss restoration cash fund - creation - allowable uses - definitions - repeal. (3.7) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, NO LATER THAN THREE DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3.7), THE STATE

TREASURER SHALL TRANSFER SIX HUNDRED MILLION DOLLARS FROM THE REVENUE LOSS RESTORATION CASH FUND CREATED IN SUBSECTION (2) OF THIS SECTION TO THE TITLE XII REPAYMENT FUND CREATED IN SECTION 8-77-103 (3)(a).

SECTION 13. 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.

Steve Fenberg
PRESIDENT OF
THE SENATE

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO