

CHAPTER 195

LABOR AND INDUSTRY

HOUSE BILL 00-1056

BY REPRESENTATIVES Spradley, Coleman, Hoppe, and Spence;
also SENATOR Teck.

AN ACT

CONCERNING AN INCREASE IN THE ALLOCATION OF MONEYS INTO THE UNEMPLOYMENT REVENUE FUND, AND
MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 8-77-102 (3), Colorado Revised Statutes, is amended to read:

8-77-102. Collection and transmittal of receipts - clearing account - refunds - transfers. (3) As instructed by the division, the state treasurer shall transfer from the clearing account to the employment security administration fund all amounts received pursuant to the provisions of section 8-72-110 (5). ~~and~~ All interest collected BY THE DIVISION pursuant to the provisions of section 8-79-101, ALL PENALTIES COLLECTED BY THE DIVISION PURSUANT TO SECTIONS 8-79-104 (1) (a) AND (1) (c) AND 8-81-101 (4) (a) (II), AND ALL INVESTIGATIVE COSTS COLLECTED BY THE DIVISION PURSUANT TO SECTION 8-81-101 (4) (a) (III) shall be paid into the unemployment revenue fund.

SECTION 2. 8-77-106 (1), (2), and (5), Colorado Revised Statutes, are amended to read:

8-77-106. Unemployment revenue fund. (1) There is hereby created the unemployment revenue fund, to which shall be credited all interest collected by the division on delinquent taxes pursuant to the provisions of section 8-79-101, ALL PENALTIES COLLECTED BY THE DIVISION PURSUANT TO SECTIONS 8-79-104 (1) (a) AND (1) (c) AND 8-81-101 (4) (a) (II), ALL REMAINING MONEYS IN THE FEDERAL ADVANCE INTEREST REPAYMENT FUND AFTER ALL KNOWN INTEREST CHARGES AND ASSOCIATED ADMINISTRATIVE COSTS PURSUANT TO SECTION 8-77-103 HAVE BEEN PAID PURSUANT TO SECTION 8-77-108 (3), AND ALL INVESTIGATIVE COSTS COLLECTED BY THE DIVISION PURSUANT TO SECTION 8-81-101 (4) (a) (III).

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

(2) All moneys accruing to the UNEMPLOYMENT REVENUE fund in any manner whatsoever shall be maintained in a separate account by the state treasurer and shall be annually appropriated by the general assembly to the division for the purpose of enforcing compliance with the "Colorado Employment Security Act". Moneys in the UNEMPLOYMENT REVENUE fund shall first be used to make refunds of interest erroneously collected under the provisions of section 8-79-101.

(5) Prior to the beginning of any fiscal year in which the department requests an allocation diversion from the UNEMPLOYMENT REVENUE fund, the joint budget committee in conjunction with the state auditor shall certify that the department has met the goals and time lines established in the work plans submitted the previous year. No additional money shall be appropriated until all such prior conditions of the work plan are satisfied.

SECTION 3. 8-79-104 (1) (a) and (1) (c), Colorado Revised Statutes, are amended to read:

8-79-104. Failure to file true report - penalty. (1) (a) It is the responsibility of each employer subject to the provisions of articles 70 to 82 of this title to file true and accurate reports whether or not taxes are due and to pay all taxes when due. Whenever an employer fails to furnish tax reports required by the division by the due date, such employer shall be assessed a penalty of fifty dollars for each such occurrence; except that an "employer newly subject" as defined by section 8-76-103 (3) (a) (IV) shall be assessed a penalty of ten dollars for each such occurrence during the first four quarters of coverage. Each subsequent quarter in which the employer continues the failure to file such reports shall be considered a separate occurrence. PENALTIES COLLECTED BY THE DIVISION PURSUANT TO THIS PARAGRAPH (a) SHALL BE PAID INTO THE UNEMPLOYMENT REVENUE FUND.

(c) An employer who is delinquent in paying taxes on the computation date shall have a penalty assessed by the division. The amount of the penalty shall be the amount of delinquent taxes; except that the penalty shall not exceed an amount equal to one percent of the employer's taxable wages paid which were subject to unemployment insurance in the preceding calendar year and, further, the amount of the penalty for an employer who was not subject to the provisions of articles 70 to 82 of this title in the preceding calendar year shall be the amount of delinquent taxes. Such penalty shall be in addition to any payments and interest due under articles 70 to 82 of this title. The penalty shall be payable in four quarterly installments during the current calendar year and shall be remitted to the division with the employer's quarterly report. PENALTIES COLLECTED BY THE DIVISION PURSUANT TO THIS PARAGRAPH (c) SHALL BE PAID INTO THE UNEMPLOYMENT REVENUE FUND.

SECTION 4. 8-81-101 (4) (a) (II), Colorado Revised Statutes, is amended, and the said 8-81-101 (4) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

8-81-101. Penalties. (4) (a) (II) If any person receives any such overpayment because of his OR HER false representation or willful failure to disclose a material fact, inequitability shall not be a consideration IN ANY CIVIL, ADMINISTRATIVE, OR CRIMINAL ACTION, and the person shall be required to pay the total amount of the

overpayment, WHICH SHALL BE PAID INTO THE UNEMPLOYMENT TRUST FUND, plus a penalty of fifty percent of such overpayment, ~~to the division for~~ WHICH SHALL BE PAID INTO the UNEMPLOYMENT REVENUE fund. In addition, such person may be denied benefits, when otherwise eligible, for a four-week period for each one-week period in which ~~he~~ SUCH PERSON filed claims for or received benefits to which he OR SHE 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 (II).

(III) ALL INVESTIGATIVE COSTS AWARDED BY THE COURT AND COLLECTED BY THE DIVISION IN CONNECTION WITH THE CONVICTION, IN ANY CRIMINAL ACTION, OF A PERSON WHO HAS RECEIVED ANY OVERPAYMENT BECAUSE OF HIS OR HER FALSE REPRESENTATION OR WILLFUL FAILURE TO DISCLOSE A MATERIAL FACT SHALL BE PAID INTO THE UNEMPLOYMENT REVENUE FUND.

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the department of labor and employment, unemployment insurance fraud program, for the fiscal year beginning July 1, 2000, the sum of four hundred thirty-seven thousand four hundred three dollars (\$437,403) and 8.0 FTE, or so much thereof as may be necessary, for the provision of unemployment insurance fraud program services to the department of labor and employment related to the implementation of this act. Said sum shall be cash funds from the unemployment revenue fund.

SECTION 6. Effective date - applicability. This act shall take effect July 1, 2000, and shall apply to moneys collected by the division of employment and training on or after said date.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 24, 2000