

CHAPTER 341

LABOR AND INDUSTRY

HOUSE BILL 02-1135

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also SENATOR(S) Windels, Anderson, Entz, Hanna, May, and Nichol.

AN ACT**CONCERNING THE COLORADO COMPENSATION INSURANCE AUTHORITY.**

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

SECTION 1. 8-45-101, Colorado Revised Statutes, is amended to read:

8-45-101. Pinnacol Assurance - creation - powers and duties. (1) There is hereby created ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, which shall be ~~a body corporate and~~ a political subdivision of the state ~~The authority~~ AND SHALL OPERATE AS A DOMESTIC MUTUAL INSURANCE COMPANY EXCEPT AS OTHERWISE PROVIDED BY LAW. PINNACOL ASSURANCE shall not be an agency of state government, nor shall it be subject to administrative direction by any state agency except as provided in this article, and except for the purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S. PINNACOL ASSURANCE SHALL NOT BE DISSOLVED EXCEPT BY THE GENERAL ASSEMBLY. SECTION 10-12-411, C.R.S., SHALL NOT APPLY TO PINNACOL ASSURANCE.

(2) (a) ~~Effective July 1, 1989;~~ The powers of ~~the authority~~ PINNACOL ASSURANCE shall be vested in the board of directors of ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, which shall have ~~seven~~ NINE members. The members of the board shall be appointed by the governor with the consent of the senate. Of the ~~seven~~ NINE members, four shall be employers whose liability under articles 40 to 47 of this title is insured by ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE with one of such employers to be a farmer or rancher. ~~Two~~ THREE of the ~~seven~~ NINE members shall be employees of employers whose liability under articles 40 to 47 of this title is insured by ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE. One of the ~~seven~~ NINE members shall be experienced in the management and operation of insurance

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

companies as defined in section 10-1-102 (4), C.R.S. Such member shall not concurrently serve as an owner, a shareholder, an officer, an employee, an agent of, or in any other capacity with any business which competes with the Colorado compensation insurance authority. ~~Of the employer members appointed to the board, the employer member who is a farmer or rancher shall be appointed for a term expiring January 1, 1993, one employer member shall be appointed for a term expiring January 1, 1992, one employer member shall be appointed for a term expiring January 1, 1991, and one employer member shall be appointed for a term expiring January 1, 1990. One of the employee members shall be appointed for a term expiring January 1, 1991, and the other employee member shall be appointed for a term expiring January 1, 1993. The member experienced in the management and operation of insurance companies shall be appointed for a term expiring January 1, 1992.~~ Thereafter, PINNACOL ASSURANCE. ONE OF THE NINE MEMBERS SHALL BE EXPERIENCED IN FINANCE OR INVESTMENTS, BUT SHALL NOT BE AN EMPLOYER WHOSE LIABILITY UNDER ARTICLES 40 TO 47 OF THIS TITLE IS INSURED BY PINNACOL ASSURANCE. The term of office for each such member shall be five years. The initial appointees may serve on a temporary basis if the senate is not in session when they are appointed until the senate is in session and is able to confirm such appointments. Vacancies on the board shall be filled by appointment of the governor for the remainder of any unexpired terms. The board shall elect a chairman annually from its membership.

(b) ~~The six members of the board who were serving as of January 1, 1989~~ 2002, shall continue to serve ~~until July 1, 1989. On or before July 1, 1989, the governor shall appoint, with the consent of the senate, seven persons who meet the qualifications specified in paragraph (a) of this subsection (2) to serve as the members of the board effective July 1, 1989~~ UNTIL THE COMPLETION OF EACH MEMBER'S TERM. NEW MEMBERS OF THE BOARD SHALL BE APPOINTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2).

(c) THE BOARD SHALL HAVE THE POWERS, RIGHTS, AND DUTIES OF THE BOARD OF DIRECTORS OF A DOMESTIC MUTUAL INSURANCE COMPANY, EXCEPT AS OTHERWISE PROVIDED BY LAW.

(3) ~~Members of the board except for the executive director of the department of labor and employment, shall be compensated one hundred forty dollars per diem plus their actual and necessary expenses. Per diem compensation, not to exceed thirty days in any calendar year, shall be paid only when the board is transacting official business. Such per diem shall be paid out of the Colorado compensation insurance authority fund upon vouchers drawn by the manager in the same manner as the normal operating expenses of such fund are paid.~~

(4) On and after July 1, ~~1987~~ 2002, the powers, duties, and functions formerly exercised by the ~~state~~ COLORADO compensation insurance ~~fund~~ AUTHORITY may be exercised by the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE.

(5) The board shall:

(a) (I) ~~Appoint the manager of the Colorado compensation insurance authority fund~~ CHIEF EXECUTIVE OFFICER OF PINNACOL ASSURANCE who shall serve under contract and appoint, hire, or delegate the authority to hire such other staff as may be

necessary to carry out the duties of ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE.

(II) IF AN EXECUTIVE OFFICER OF PINNACOL ASSURANCE IS APPOINTED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) AND SUCH EXECUTIVE OFFICER APPOINTS, HIRES, OR DELEGATES DUTIES TO ANY OTHER STAFF NECESSARY TO CARRY OUT THE DUTIES OF PINNACOL ASSURANCE, AND THE EXECUTIVE OFFICER OR OTHER STAFF RECEIVES TOTAL COMPENSATION, INCLUDING BONUSES OR DEFERRED COMPENSATION, IN AN AMOUNT EQUAL TO OR GREATER THAN ONE HUNDRED FIFTY THOUSAND DOLLARS ANNUALLY, SUCH COMPENSATION INFORMATION SHALL BE A PUBLIC RECORD.

(b) Develop and approve an annual budget;

(c) Establish general policies and procedures for the operation and administration of ~~the Colorado compensation insurance authority fund and matters in connection therewith~~ PINNACOL ASSURANCE;

(d) ~~Promulgate reasonable rules and regulations pertaining to the operation of the Colorado compensation insurance authority fund;~~

(e) Promulgate ~~rules~~ POLICIES AND PROCEDURES that establish the basis by which employer premiums payable to ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE are determined. The board may establish different rates for employers who meet the requirements established by the board for any classification after complying with the requirements of part 4 of article 4 of title 10, C.R.S., so long as those rates are not excessive, inadequate, or unfairly discriminatory.

~~(e.5)~~ (f) Offer to provide workers' compensation insurance and employer's liability insurance covering any liability of Colorado employers on account of personal injuries sustained by, or the death of, any employee. ~~The board~~ NOTHING IN THIS ARTICLE SHALL BE INTERPRETED TO PERMIT PINNACOL ASSURANCE TO PROVIDE ANY OTHER TYPE OF INSURANCE OR TO PROVIDE INSURANCE TO EMPLOYERS THAT ARE NOT COLORADO EMPLOYERS. PINNACOL ASSURANCE shall not refuse to insure any Colorado employer or cancel any insurance policy due to the risk of loss OR AMOUNT OF PREMIUM, except as otherwise provided in this title.

~~(f)~~ (g) Review and streamline administrative procedures;

~~(g)~~ (h) Oversee the operations and make necessary personnel changes;

~~(h)~~ (i) Review the investigative procedures and implement changes to expedite investigations;

~~(i)~~ (j) Review and recommend legislation pertaining to workers' compensation in articles 40 to 47 of this title and to clarify legal concepts related thereto;

~~(j)~~ (k) Review the method of calculation of the experience modification factor with the object of providing maximum incentives for job safety; ~~and submit recommendations to the board for consideration in setting and approving rates;~~ and

~~(4)~~ (1) Establish general policies and procedures by rule and regulation concerning medical care cost containment practices under articles 40 to 47 of this title.

(6) Article 4 of title 24, C.R.S., shall not apply to the promulgation of any policies OR procedures and rules and regulations authorized by subsection (5) of this section.

~~(7) (a) The board is authorized to contract with the department of labor and employment through the state personnel board pursuant to section 13 (4) of article XII of the state constitution for personnel to provide administrative support services, including, but not limited to, data processing. The board may also contract with the private sector.~~

~~(b) The board is authorized to contract with the department of labor and employment or the department of personnel for information processing and administrative support services other than personnel for carrying out the functions authorized in this article.~~

~~(8) The board may expend reasonable amounts for the rent of quarters furnished by the department of labor and employment or from private sources for use in the administration of the Colorado compensation insurance authority fund.~~

~~(8.5)~~ (7) The Colorado compensation insurance authority PINNACOL ASSURANCE may sell services, including but not limited to medical bill processing, which THAT are developed pursuant to its powers under this article.

~~(9) (8) Any person who was an employee of the division of the state compensation insurance fund on July 1, 1987, may elect on or after July 1, 1987, but before July 1, 1992, either to become an employee of the Colorado compensation insurance authority or to continue to remain an employee of the department of labor and employment. If such person elects to become an employee of the authority, such person shall be exempt from the state personnel system, and, if a member of the public employees' retirement association, such person may continue membership in the association with all attendant rights and duties. All other employees of the authority EMPLOYEES OF PINNACOL ASSURANCE shall be exempt from the state personnel system but shall, by acceptance of employment, be subject to the provisions of article 51 of title 24, C.R.S. The authority PINNACOL ASSURANCE shall provide for the deduction of employer and employee contributions from salary and for payment to the association of such deductions and for any other payments which THAT would be due from a state employer.~~

~~(10) Any person who was an employee of the division of the state compensation insurance fund on July 1, 1987, and who does not become an employee of the Colorado compensation insurance authority before July 1, 1992, shall continue to be within the state personnel system and shall continue to be an employee of the department of labor and employment if permitted under rules of the state personnel board. However, any employee who continues to perform duties or fulfill responsibilities for the benefit of the authority shall become an employee of the authority if that employee accepts a promotion, voluntary demotion, or transfer for purposes of a change of duties performed for the benefit of the authority. In such case, such person shall be exempt from the state personnel system, and, if such person is a member of the public employees' retirement association, such person may~~

~~continue membership in the association with all attendant rights and duties. The authority shall provide for the deduction of employer and employee contributions from salary and for payment to the association of such deductions and for any other payments which would be due from a state employer.~~

~~(H)~~ (9) Notwithstanding any provision of law to the contrary, the claim files of injured employees, the policy files of employers, and all business records relating to the determination of rates that are not required to be disclosed by any other insurance company shall not be subject to the provisions of part 2 of article 72 of title 24, C.R.S.

~~(I)~~ (10) With respect to meetings of ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, matters relating to the claim files of injured employees and policy files of employers shall not be subject to the provisions of part 4 of article 6 of title 24, C.R.S.

~~(J)~~ (11) ~~The Colorado compensation insurance authority~~ PINNACOL ASSURANCE may enter into cooperative arrangements with any public or private entity for the purpose of carrying out its powers, duties, and functions. Nothing in this section shall require or be interpreted to require an employer to provide health insurance coverage for its employees.

(12) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, UPON THE ATTAINMENT OF A REASONABLE SURPLUS AS SET FORTH IN SECTION 8-45-111, THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S., SHALL NOT APPLY TO PINNACOL ASSURANCE.

(13) ANY MEMBER OF THE BOARD WHO OWNS AT LEAST TEN PERCENT OF AN ENTITY THAT ENTERS INTO A CONTRACT WITH PINNACOL ASSURANCE SHALL DISCLOSE THE BOARD MEMBER'S OWNERSHIP INTEREST IN THE ENTITY. THIS DISCLOSURE SHALL BE A PUBLIC RECORD.

SECTION 2. 8-45-102, Colorado Revised Statutes, is amended to read:

8-45-102. Pinnacol Assurance fund created - control of fund. (1) There is hereby created in the state treasury a fund, to be known as the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund, for the benefit of injured and the dependents of killed employees, which shall be administered in accordance with the provisions of this article by the board. Such administration shall be without liability on the part of the state, beyond the amount of said fund, constituted as provided in this article. THE STATE SHALL HAVE NO LIABILITY FOR THE SOLVENCY OR FINANCIAL CONDITION OF THE FUND.

(2) The ~~manager~~ CHIEF EXECUTIVE OFFICER is vested with full power and jurisdiction over the administration of ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE and may appoint such subordinate officers as may be necessary for the efficient operation of ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE and may do and perform all things, whether specifically designated in this article or in addition thereto, ~~which~~ THAT are necessary or convenient in the exercise of any power or jurisdiction over ~~said fund~~ PINNACOL ASSURANCE in the administration thereof under the provisions of this article as fully

and completely as the head of a private insurance company might or could do, subject, however, to all the provisions of this article AND OTHER APPLICABLE LAW.

(3) Control of all moneys in the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund shall be transferred to the board, which shall administer the fund and use such moneys for the purposes of this article.

(4) The ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund shall be a continuing fund and shall consist of all premiums received and paid into said fund for compensation insurance, all property and securities acquired by and through the use of moneys belonging to said fund, and all interest earned upon moneys belonging to said fund and deposited or invested. ~~as provided in section 8-45-120.~~ Said fund shall be applicable to the payment of the salaries of the employees of the fund and to its other operating expenses and to the payment of losses sustained or liabilities incurred under the contracts or policies of insurance issued by ~~said Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE in accordance with the provisions of articles 40 to 47 of this title. All moneys in the fund previously known as the state COLORADO compensation insurance AUTHORITY fund shall be transferred into the ~~Colorado compensation insurance authority fund on July 1, 1987~~ PINNACOL ASSURANCE FUND ON JULY 1, 2002.

(5) The moneys in the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund shall be continuously available for the purposes of this article and shall not be transferred to or revert to the general fund of the state at the end of any fiscal year. ALL REVENUES, MONEYS, AND ASSETS OF PINNACOL ASSURANCE BELONG SOLELY TO PINNACOL ASSURANCE. THE STATE OF COLORADO HAS NO CLAIM TO NOR ANY INTEREST IN SUCH REVENUES, MONEYS, AND ASSETS AND SHALL NOT BORROW, APPROPRIATE, OR DIRECT PAYMENTS FROM SUCH REVENUES, MONEYS, AND ASSETS FOR ANY PURPOSE.

SECTION 3. 8-45-103, Colorado Revised Statutes, is amended to read:

8-45-103. Board to fix rates - chief executive officer to administer rates - sue and be sued - contracts - care of injured. (1) The board shall have full power and it is its duty to fix and determine the rates to be charged by ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE for compensation insurance.

(2) The ~~manager~~ CHIEF EXECUTIVE OFFICER shall manage and conduct all business and affairs in relation to the rates to be charged by ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE for compensation insurance which shall be conducted in the name of ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, and in that name, without any other name, title, or authority, the ~~manager~~ CHIEF EXECUTIVE OFFICER may:

(a) (I) Sue and be sued in all the courts of this state, or of any other state, or of the United States, and in actions arising out of any act, deed, matter, or thing made, omitted, entered into, done, or suffered in connection with ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE and the administration, management, or conduct of the business or affairs relating thereto; and the ~~manager~~ CHIEF EXECUTIVE OFFICER shall be authorized to employ counsel to represent ~~the fund~~

PINNACOL ASSURANCE in any action.

(II) Nothing in this paragraph (a) shall be construed to waive any provisions of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., nor shall it be construed to waive immunity of the state of Colorado from suit in federal court, guaranteed by the eleventh amendment to the constitution of the United States.

~~(b) Make and enter into contracts of insurance with employers as provided in this article, and such other contracts or obligations relating to the Colorado compensation insurance authority fund as are authorized or permitted under the provisions of articles 40 to 47 of this title; but the manager~~ THE CHIEF EXECUTIVE OFFICER shall not, nor shall any officer or employee of ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, or entities or parties with whom it contracts for services, be personally liable in a private capacity for or on account of any act done or omitted or contract or other obligation entered into or undertaken in an official capacity in good faith and without intent to defraud in connection with the administration, management, or conduct of ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE, its business, or other affairs relating thereto.

~~(c) Contract with physicians, surgeons, and hospitals for medical and surgical treatment, services and supplies, crutches and apparatus, and the care and nursing of injured persons entitled to benefits from said fund, and may contract for medical, surgical, hospital, and nursing services and supplies in excess of the amount and period otherwise limited in this article, if said manager may determine that the contracting of such extra medical, surgical, hospital, and nursing services and supplies might tend to reduce the period of disability for which said fund would be liable for the payment and compensation.~~

SECTION 4. Repeal. 8-45-104, Colorado Revised Statutes, is repealed as follows:

~~**8-45-104. Blanks furnished by state.** The board shall prepare and furnish to employers at the expense of the fund all such blanks as may be necessary to carry out the terms and provisions of articles 40 to 47 of this title in connection with operation and maintenance of the Colorado compensation insurance authority fund.~~

SECTION 5. 8-45-105, Colorado Revised Statutes, is amended to read:

8-45-105. Places of employment classified - amount of premiums. (1) The board may classify the places of employment of employers insured ~~under the Colorado compensation insurance authority fund~~ BY PINNACOL ASSURANCE into classes in accordance with the nature of the business in which they are engaged and the probable hazard or risk of injury to their employees. It shall determine the amount of the premiums ~~which~~ THAT such employers shall pay to ~~said Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE, and may prescribe in what manner such premiums shall be paid, and may change the amount thereof both in respect to any or all of such employers as circumstances may require, and the condition of their respective plants, establishments, or places of work in respect to the safety of their employees may justify. All such premiums shall be levied on a basis that shall be fair, equitable, and just as among such employers.

~~(2) In classifying the places of employment of an employer insured under the Colorado compensation insurance authority fund as provided in subsection (1) of this section, if the performance of a particular task or operation by an employee or by employees is unusual or incidental to the overall operation of the employer, such performance shall not materially change the classification to a higher risk classification. If the employer receives a gross income of less than seven thousand five hundred dollars as a result of the performance of a particular task or operation that is secondary to the overall operation of the employer or if the percentage of time that an employee spends performing a particular task or operation constitutes five percent or less of the total overall hourly work performed annually by such employee, it shall be deemed to be unusual or incidental for the purposes of this subsection (2).~~

SECTION 6. 8-45-106 (1), Colorado Revised Statutes, is amended to read:

8-45-106. Insurance at cost - board may impose surcharges. (1) It is the duty of the board, in the exercise of the powers and discretion conferred upon it by articles 40 to 47 of this title, ultimately to fix and maintain, for each class of occupation, the lowest possible rates of premium consistent with the maintenance of a solvent ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund, and the creation and maintenance of a reasonable surplus after the payment of legitimate claims for injury and death, that may be authorized to be paid from the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund for the benefit of injured and dependents of killed employees.

SECTION 7. 8-45-107, Colorado Revised Statutes, is amended to read:

8-45-107. Basis of rates - reserve - surplus. ~~(1) Such rates shall take no account of the extent to which the employees in any particular establishment have or have not persons dependent upon them for support; nor of whether such employees have dependents who are nonresidents of the United States; nor of whether such employees are married or single; nor the age of any such employees.~~

~~(2)~~ (1) The rates ~~so made~~ shall be ~~that~~ THE percentage of the payroll of any employer ~~which~~ THAT, on the average, shall produce a sufficient sum to:

(a) Carry all claims to maturity such that the rates shall be based upon the reserve and not upon the assessment plan;

(b) Produce a reasonable surplus as provided in articles 40 to 47 of this title, ~~and to cover the catastrophe hazard, and to insure~~ ENSURE the payment to employees and their dependents of the compensation provided in said articles.

~~(3)~~ (2) In determining the amount of reserve to be laid aside to meet deferred payments according to awards, such reserve ~~shall~~ MAY be ascertained by finding the present worth of such deferred medical and indemnity payments calculated at a rate of interest not higher than six percent per annum and such calculations of disability indemnity benefits shall be made according to a table of mortality not lower than the American experience table of mortality and, in the discretion of the board, by such other and further methods as will result in the establishment of adequate reserves.

(3) THE AMOUNTS RAISED FOR THE PINNACOL ASSURANCE FUND SHALL

ULTIMATELY BECOME NEITHER MORE NOR LESS THAN NECESSARY TO MAKE THE FUND SELF-SUPPORTING, WHICH INCLUDES THE ATTAINMENT AND MAINTENANCE OF AN ADEQUATE SURPLUS AS DETERMINED IN ACCORDANCE WITH SECTION 8-45-111, AND THE PREMIUMS OR RATES LEVIED FOR SUCH PURPOSE SHALL BE SUBJECT TO READJUSTMENT FROM TIME TO TIME BY THE BOARD AS MAY BECOME NECESSARY.

SECTION 8. Repeal. 8-45-109, Colorado Revised Statutes, is repealed as follows:

~~**8-45-109. Rate schedules posted.** The board shall cause to be prepared proper schedules showing the classification, rates, and regulations which shall be effective at such time as it may order. Said classification, rates, and regulations shall be published by posting a copy thereof on the bulletin board in the offices of the Colorado compensation insurance authority.~~

SECTION 9. Repeal. 8-45-110, Colorado Revised Statutes, is repealed as follows:

~~**8-45-110. Board to keep accounts - readjustment by board of rates.** The board shall keep an accurate account of the money paid in premiums by each of the several classes of occupations or industries and the disbursements on account of injuries and death of employees thereof. It shall also keep an account of the money received from each individual employer and the amount disbursed from the Colorado compensation insurance authority fund on account of injuries and death of the employees of such employer. The Colorado compensation insurance authority fund, including such portions of said fund as may be derived from premiums paid by the state and its political subdivisions, shall be one fund indivisible. It is the intention that the amounts raised for such Colorado compensation insurance authority fund shall ultimately become neither more nor less than to make said fund self-supporting, and the premiums or rates levied for such purpose shall be subject to readjustment from time to time by the board as may become necessary.~~

SECTION 10. 8-45-111, Colorado Revised Statutes, is amended to read:

8-45-111. Portions of premiums paid carried to surplus. The board shall set aside such proportion as it may deem necessary of the earned premiums paid into the Colorado compensation insurance authority PINNACOL ASSURANCE fund, as a contribution to the surplus of the fund. No later than January 1, 2001, the board shall submit a plan for approval by the commissioner of insurance for the attainment of a reasonable surplus as determined in accordance with section 10-3-201, C.R.S., or, such surplus as approved by the commissioner of insurance.

SECTION 11. 8-45-112, Colorado Revised Statutes, is amended to read:

8-45-112. Amendment of rates - distribution to policyholders. The board may amend at any time the rates for any class. No contract of insurance between the Colorado compensation insurance authority PINNACOL ASSURANCE and any employer shall be in effect until a policy or binder has been actually issued by the board and the premium therefor paid as and when required by this article. ~~After the inspection of the premises of any employer, or after considering the experience of such employer, the manager may quote with respect to such employer's risk a rate higher~~

~~or lower than that indicated by the manual issued by the board as applicable to the employer's risk. Any such decision of the manager shall be subject to review by the board.~~ Not less often than once a year the ~~manager~~ CHIEF EXECUTIVE OFFICER shall tabulate the earned premiums paid by policyholders of ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE. Should the experience of the PINNACOL ASSURANCE fund show a credit balance and after payment of all amounts ~~which~~ THAT have fallen due because of operating expenses, injury, or death, and after setting aside proper reserves, the board shall distribute such credit balance to the policyholders who have a balance to their credit in proportion to the premium paid and losses incurred by each such policyholder during the preceding insurance period. In the event any such policyholder fails to renew a policy ~~in the Colorado compensation insurance authority fund~~ WITH PINNACOL ASSURANCE for the period following the period in which said dividends were earned, said policyholder shall be entitled to said credit dividend if such policy is terminated in good standing. In the event an employer actually discontinues business, said employer's policy shall be cancelled, and the dividend, if any, when ascertained, shall be returned to the employer.

SECTION 12. 8-45-113, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

8-45-113. New policies issued - when. PINNACOL ASSURANCE SHALL NOT BE REQUIRED TO ISSUE A NEW POLICY OF INSURANCE TO AN EMPLOYER UNTIL ALL MONEYS DUE PINNACOL ASSURANCE HAVE BEEN PAID, ALL PREMIUMS HAVE BEEN PAID ON ALL CANCELLED POLICIES, AND THE EMPLOYER HAS COMPLIED WITH ALL PROVISIONS OF SUCH CANCELLED POLICIES.

SECTION 13. Repeal. 8-45-114, Colorado Revised Statutes, is repealed as follows:

8-45-114. Adjustment of premiums. ~~In the event the amount of premium collected by the fund from any employer at the beginning of any policy period, as ascertained and calculated by using the estimated expenditure of wages for the period of time covered by such premium payments as a basis, shall differ from the earned premium based upon the actual wage expenditure for such policy period, an adjustment of the amount of such premium shall be made at the end of such policy period and the actual amount of such premium shall be determined in accordance with the amount of actual expenditure of wages for such period. In the event such actual wage expenditure for such period is less than the amount on which such estimated premium was collected, then such employer shall be entitled to have the amount of the difference in premium repaid or credited on succeeding premium payments. If the earned premium, where ascertained, exceeds in amount the premium so paid by such employer at the beginning of each such policy period, such employer, upon being advised of the true amount of such premium due, shall forthwith pay to said Colorado compensation insurance authority fund an amount equal to the difference between the amount actually found to be due and the amount so paid by the employer at the beginning of said policy period.~~

SECTION 14. Repeal. 8-45-115, Colorado Revised Statutes, is repealed as follows:

8-45-115. Determination of premium - payment in advance - deductibles.

~~(1) Each employer insured in the Colorado compensation insurance authority fund shall pay into the Colorado compensation insurance authority fund in advance the amount of premium determined and assessed against such employer for the ensuing period. The amount of the premium to be paid by such employer shall be determined in accordance with section 8-44-114. Payment shall be made within the time fixed by this article.~~

~~(2) Any employer of farm and ranch labor or any officer of an agricultural corporation insured in the Colorado compensation insurance authority fund may agree as a condition of the employer's policy to pay a certain amount not to exceed one thousand dollars per claim toward the total amount of any claim payable under articles 40 to 47 of this title. The amount of premium to be paid by an employer who agrees to pay such a deductible shall be reduced based upon such deductible and shall be determined by the manager in accordance with the rules and rates made and published by the board. The existence of a policy with a deductible or the fact of payment as a result of a deductible shall not affect the requirement of an employer to report an injury or death to the division as required in section 8-43-103 (1).~~

SECTION 15. Repeal. 8-45-116, Colorado Revised Statutes, is repealed as follows:

~~**8-45-116. Reinsurance.** The manager may secure reinsurance covering the catastrophic hazard with respect to any risks carried by the Colorado compensation insurance authority fund, and the state treasurer or the manager shall pay the premium for such reinsurance from the Colorado compensation insurance authority fund in the manner provided in section 8-45-118 for other disbursements from said fund.~~

SECTION 16. The introductory portion to 8-45-117 (1) and 8-45-117 (1) (b), (3), (4), and (5), Colorado Revised Statutes, are amended, and the said 8-45-117 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

~~**8-45-117. Regulation by commissioner of insurance.** (1) The Colorado compensation insurance authority PINNACOL ASSURANCE shall be subject to regulation by the commissioner of insurance as provided in:~~

~~(b) Part 4 of article 4 of title 10, C.R.S., pertaining to rate regulation; however, if the PURE PREMIUM rates used by the Colorado compensation insurance authority PINNACOL ASSURANCE are the national council on compensation insurance rates previously approved by the commissioner of insurance, the Colorado compensation insurance authority PINNACOL ASSURANCE may use different PURE PREMIUM rates for employers who meet the requirements established by the board of directors after complying with the requirements of part 4 of article 4 of title 10, C.R.S., concerning type II insurers;~~

~~(3) Nothing in this section shall be construed to subject the Colorado compensation insurance authority PINNACOL ASSURANCE to any premium tax assessed pursuant to title 10, C.R.S.~~

~~(4) The cost of examinations performed in accordance with section 8-45-121 (4)~~

shall be billed by the commissioner to ~~the authority~~ PINNACOL ASSURANCE at prevailing hourly rates based upon time records kept by the commissioner. Any such payment received by the commissioner is hereby appropriated to the division of insurance in addition to any other funds appropriated for its normal operation.

(5) At such time as a reasonable surplus of the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund is reached pursuant to section 8-45-111 or when ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE fails to comply with the plan to attain a reasonable surplus as set forth in section 8-45-111, ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE shall be subject to regulation by the commissioner of insurance as provided in section 10-1-205 (7) and part 4 of article 3 of title 10, C.R.S., to the extent consistent with the provisions of this article.

(6) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 8-45-102(1) AND 8-45-118, UPON THE ATTAINMENT OF A REASONABLE SURPLUS AS SET FORTH IN SECTION 8-45-111 AND VERIFIED BY AUDIT AND EXAMINATION PERFORMED IN ACCORDANCE WITH SECTION 8-45-121, ALL OF THE MONEYS IN THE PINNACOL ASSURANCE FUND SHALL BE TRANSFERRED OUT OF THE STATE TREASURY AND INTO THE CUSTODY OF THE BOARD OF PINNACOL ASSURANCE. THE BOARD SHALL THEREAFTER CONTROL THE INVESTMENT OF THE FUND PURSUANT TO THE REQUIREMENTS SET FORTH IN PART 2 OF ARTICLE 3 OF TITLE 10, C.R.S.

(7) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 8-45-102(1) AND 8-45-118, UPON THE TRANSFER OF THE MONEYS IN THE PINNACOL ASSURANCE FUND IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION, THE BOARD OF PINNACOL ASSURANCE SHALL MAKE ALL DISBURSEMENTS, AND SUCH DISBURSEMENTS SHALL NOT BE MADE UPON STATE WARRANTS.

(8) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 8-45-102(1) AND 8-45-119, UPON THE TRANSFER OF THE MONEYS IN THE PINNACOL ASSURANCE FUND IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION, THE STATE TREASURER SHALL NOT BE REQUIRED TO GIVE ANY BOND AS CUSTODIAN OF THE PINNACOL ASSURANCE FUND.

(9) AFTER THE TRANSFER OF THE MONEYS IN THE PINNACOL ASSURANCE FUND IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION, IF THE COMMISSIONER OF INSURANCE PLACES PINNACOL ASSURANCE UNDER DIRECT SUPERVISION PURSUANT TO THE PROVISIONS OF SECTION 10-3-405, C.R.S., THE MONEYS IN THE PINNACOL ASSURANCE FUND MAY BE TRANSFERRED BACK TO THE CUSTODY OF THE STATE TREASURY PURSUANT TO SECTIONS 8-45-102(1), 8-45-118, AND 8-45-119 AND THE STATE TREASURER SHALL CONTROL THE INVESTMENT OF THE FUND PURSUANT TO SECTION 8-45-120. THE TRANSFER OF FUNDS SHALL BE UNDER SUCH CONDITIONS AND WITHIN SUCH TIME PERIOD AS THE STATE TREASURER AND THE COMMISSIONER OF INSURANCE DEEM APPROPRIATE.

(10) PINNACOL ASSURANCE SHALL NOT ACQUIRE OR CONTROL ANY OTHER INSURER.

SECTION 17. 8-45-118, Colorado Revised Statutes, is amended to read:

8-45-118. Treasurer custodian of fund - disbursements. (1) The state treasurer shall be the custodian of the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund, and all disbursements therefrom shall be paid either by the state treasurer upon warrants drawn in accordance with law upon vouchers issued by the board upon order of the ~~manager~~ CHIEF EXECUTIVE OFFICER, or by or under the direction of the ~~manager~~ CHIEF EXECUTIVE OFFICER in such other manner as the state treasurer may approve. In every case occurring in which a warrant has been drawn in accordance with law against the state treasurer upon vouchers issued by the board for payment of any sum of money from the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund, or when another form of payment has been made from such fund by or under the direction of the ~~manager~~ CHIEF EXECUTIVE OFFICER, and the time within which said warrant or other form of payment shall be presented for payment in order to be valid has not been stamped, printed, or written across the face thereof, or otherwise specified, and a period of six months has elapsed since the issuance of such warrant or other form of payment, during which no person entitled thereto, or the proceeds thereof, has presented the same to the state treasurer for payment, or appeared to claim the funds so authorized to be paid from the hands of the state treasurer or the ~~manager~~ CHIEF EXECUTIVE OFFICER, such warrant or other form of payment may in the discretion of the ~~manager~~ CHIEF EXECUTIVE OFFICER be posted for cancellation, and thereafter cancelled and set aside.

(2) In every such case in which it is proposed to cancel any such warrant, the ~~manager~~ CHIEF EXECUTIVE OFFICER shall cause a notice to be drawn in duplicate, with a description of said warrant containing the amount, number, date of issuance, and name of payee, and shall cause one copy of said notice to be posted in a conspicuous place ~~which~~ THAT is open to the public in the office of said board and one copy to be delivered to the state treasurer. If, at the end of one month after the posting of such notice and the delivery of a copy to the state treasurer, such warrant is not presented for payment and no person entitled to the proceeds thereof appears to claim the funds so authorized to be paid in said warrant, said warrant may be cancelled as provided in this section.

(3) The state treasurer shall, ~~thereupon~~, upon the request of the ~~manager~~ CHIEF EXECUTIVE OFFICER, transfer any such funds held to the credit of or for the payment of such warrant back to the credit of the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund. If at any time thereafter application shall be made for the reissuance of such warrant, the same may be reissued, if the claim ~~which~~ THAT it represents appears to be valid and still outstanding. Such reissued warrant shall be made payable from the moneys on deposit in the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund and shall be made payable to the person entitled to the proceeds thereof.

(4) EXCEPT AS PROVIDED IN SECTION 8-45-117, the powers and discretion granted in this section to the ~~manager~~ CHIEF EXECUTIVE OFFICER and the state treasurer shall obtain in all cases relating to the warrants or other forms of payment drawn on the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund, anything to the contrary in any statute notwithstanding.

SECTION 18. 8-45-119 (1), Colorado Revised Statutes, is amended to read:

8-45-119. State treasurer to give separate bond as custodian. (1) The state

treasurer shall give a separate and additional bond in such amount as may be fixed by the board with sureties to be approved by the governor, conditioned for the faithful performance of the state treasurer's duties as custodian of the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund, and as custodian of all the bonds, warrants, investments, and moneys of, or belonging to, said ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund, subject to all provisions of law governing bonds of the state treasurer. The premium on said bond shall be paid out of the earnings of the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund.

SECTION 19. 8-45-120 (1) and (2), Colorado Revised Statutes, are amended to read:

8-45-120. State treasurer to invest funds. (1) Except as provided in subsection (2) of this section, the state treasurer, after consulting with the board of directors or the board's designated committee as to the overall direction of the portfolio, shall invest any portion of the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund, including its surplus or reserves, which is not needed for immediate use. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. Such moneys may also be invested in common and preferred stock in the same manner as a domestic insurance company pursuant to 10-3-226, C.R.S. The state treasurer shall determine the appropriate percentage of the fund, not to exceed one hundred percent of the surplus, to be invested in common and preferred stock and the appropriate level of risk for such investments. The state treasurer may make such investments in the form of mutual funds and may contract with private professional fund managers and employ portfolio managers.

(2) Subject to approval by the board, the ~~manager~~ CHIEF EXECUTIVE OFFICER may convey title to the real property known as the 950 Broadway Building, located at 950 Broadway, Denver, Colorado, and the adjoining property to the south, situated and known as lots six through eighteen, block one, first addition to Arlington Heights, and may also authorize and direct the state treasurer to invest a portion of the funds in the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund for the purchase of real property, to house, contain, and maintain the offices and operational facilities of the ~~authority~~ PINNACOL ASSURANCE as may be deemed necessary to accommodate its immediate and reasonably anticipated future needs. The ~~manager~~ CHIEF EXECUTIVE OFFICER is authorized to purchase such real property, buildings, and improvements thereon. Title to such real property, buildings, and improvements thereon shall vest in the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE, and such assets shall be a part of the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund. The ~~manager~~ CHIEF EXECUTIVE OFFICER may lease or rent space not needed for the immediate requirements of the ~~authority~~ PINNACOL ASSURANCE in such real property to other public agencies or private businesses. Moneys received from such rental or lease of space and moneys appropriated by the general assembly for rental or lease of space in such real property shall be deposited with the state treasurer for credit to the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund. The ~~manager~~ CHIEF EXECUTIVE OFFICER shall not sell or otherwise dispose of any property, buildings, or improvements thereon so acquired, without consent of the board, and the moneys received from such sale or disposition shall be credited to the account of the ~~Colorado~~

~~compensation insurance authority PINNACOL ASSURANCE fund. Expenses for administration, operation, and maintenance of such real property, buildings, and improvements thereon shall be paid by the state treasurer upon the direction and authorization of the manager, out of the funds of the Colorado compensation insurance authority fund, in an amount not to exceed the moneys received from such rental or lease of space and moneys authorized by the board. The executive director of the department of labor and employment shall transfer any interest in the real property known as the 950 Broadway Building, located at 950 Broadway, Denver, Colorado, and the adjoining property to the south, situated and known as lots six through eighteen, block one, first addition to Arlington Heights, to the Colorado compensation insurance authority.~~

SECTION 20. 8-45-121, Colorado Revised Statutes, is amended to read:

8-45-121. Visitation of fund by commissioner of insurance - annual audit - examination. (1) ~~The Colorado compensation insurance authority fund PINNACOL ASSURANCE~~ shall be open to visitation by the commissioner of insurance at all reasonable times, and the commissioner of insurance shall require from the ~~manager~~ CHIEF EXECUTIVE OFFICER reports as to the condition of ~~such fund~~ PINNACOL ASSURANCE, as required by law to be made by other insurance carriers doing business in this state insofar as applicable to ~~said fund~~ PINNACOL ASSURANCE.

(2) An annual audit of said fund shall be made by an auditor or firm of auditors, having the necessary specialized knowledge and experience, retained by the state auditor with the consultation and advice of the ~~manager~~ CHIEF EXECUTIVE OFFICER and the commissioner of insurance. The cost of such audit and examination shall be borne by the fund.

(3) ~~The executive director of the department of labor and employment, with the consultation and advice of the manager and the commissioner of insurance, shall employ a qualified actuary or retain the services of a firm of actuaries of recognized standing who shall be free of any interest conflicting with the interests of the fund.~~

(4) At least once every three years, the commissioner of insurance shall conduct an examination of said fund, such examination to be conducted in the same manner as an examination of a private insurance carrier. With respect to such examination, the provisions of section 10-1-204, C.R.S., shall be applicable. The commissioner of insurance shall transmit a copy of the commissioner's examination to the governor, the state auditor, the general assembly, the executive director of the department of labor and employment, and the ~~manager~~ CHIEF EXECUTIVE OFFICER.

SECTION 21. 8-45-123, Colorado Revised Statutes, is amended to read:

8-45-123. Change of names - direction to revisor. The revisor of statutes is authorized to change all references to the ~~state~~ COLORADO compensation insurance authority in the "Workers' Compensation Act of Colorado" and everywhere else a reference is contained in the Colorado Revised Statutes to ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE and to change all references to the ~~state~~ COLORADO compensation insurance authority fund in the "Workers' Compensation Act of Colorado" and everywhere else a reference is contained in the Colorado Revised Statutes to the ~~Colorado compensation insurance authority~~ PINNACOL

ASSURANCE fund.

SECTION 22. Repeal. 8-1-146 (1), Colorado Revised Statutes, is repealed as follows:

8-1-146. Effect of transfer of powers, duties, and functions. (1) ~~The division of labor and the division of the state compensation insurance fund to which powers, duties, and functions of the commission are transferred shall be the successors in every way, with respect to such powers, duties, and functions, except as otherwise provided in this article. Every act performed in the exercise of such powers, duties, and functions by the division of labor or the division of the state compensation insurance fund shall be deemed to have the same force and effect as if performed by the commission prior to July 1, 1969. Whenever the commission is referred to or designated by any law, contract, insurance policy, bond, or other document, such reference or designation shall be deemed to apply to the division of labor or the division of the state compensation insurance fund or, on and after July 1, 1987, the board of the Colorado compensation insurance authority fund, as the case may be, in which the powers, duties, and functions of the commission are vested by this article.~~

SECTION 23. 8-1-147 (1), Colorado Revised Statutes, is amended to read:

8-1-147. Actions, suits, or proceedings not to abate by reorganization - maintenance by or against successors. (1) No suit, action, or other proceeding, judicial or administrative, lawfully commenced by or against the commission or by or against any officer or member of the commission in his OR HER official capacity or in relation to the discharge of his OR HER official duties shall abate by this article. The court may allow the suit, action, or other proceeding to be maintained by or against the division of labor ~~the division of the state compensation insurance fund, or the board of the Colorado compensation insurance authority fund, as the case may be,~~ or any officer affected.

SECTION 24. 8-1-149 (1), Colorado Revised Statutes, is amended to read:

8-1-149. Transfer of officers, employees, and property. (1) On July 1, 1969, such officers and employees who were engaged prior to said date in the performance of powers, duties, and functions of the commission and who, in the opinion of the executive director of the department of labor and employment and the governor, shall be necessary to perform the powers, duties, and functions of the division of labor ~~or the division of the state compensation insurance fund~~ shall become officers and employees of the division of labor ~~or the division of the state compensation insurance fund, as the case may be,~~ and shall retain all rights to the state personnel system and retirement benefits under the laws of the state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions of personnel in the state personnel system shall be made and processed in accordance with state personnel system laws and rules and regulations. ~~On July 1, 1987, the provisions of section 8-45-101 (7) and (8) concerning the transfer of employees in the division of the state compensation insurance fund applied.~~

SECTION 25. 8-14.5-104 (1) and (3), Colorado Revised Statutes, are amended to read:

8-14.5-104. Creation of board. (1) There is hereby created in the division the workers' compensation cost containment board, to be composed of seven members: The commissioner of insurance, the ~~manager~~ CHIEF EXECUTIVE OFFICER of ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, and five members appointed by the governor and confirmed by the senate. Appointed members of the board shall be chosen among the following: Employers or their designated representatives engaged in businesses having workers' compensation insurance rates in the upper five percent of the rate schedule, actuaries or executives with risk management experience in the insurance industry, or employers who have demonstrated good risk management experience with respect to their workers' compensation insurance.

(3) The appointed members of the board shall serve for terms of three years and may be reappointed; except that, of the members first appointed, two shall serve for terms of three years; two shall serve for terms of two years, and one shall serve for a term of one year. The ~~manager~~ CHIEF EXECUTIVE OFFICER of ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE and the commissioner of insurance shall serve continuously.

SECTION 26. The introductory portion to 8-14.5-107.5 (1) and 8-14.5-107.5 (1) (a), (1) (b), and (2) (b), Colorado Revised Statutes, are amended to read:

8-14.5-107.5. Workplace safety programs - study by commissioner. (1) The commissioner shall undertake a full study of current workplace safety, risk management, and cost containment programs offered by insurers, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, a review and analysis of the various incentives used by insurers to obtain policyholder participation, including any premium adjustment programs in use, and shall evaluate other possible programs and incentives that could be used by insurers to expand workplace safety programs and reward policyholder participation. The commissioner shall consult with the Colorado department of labor and employment in conducting the study. Such study, review and analysis, and evaluation shall include but not be limited to the following:

(a) Whether or not by a date certain, all insurers including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE issuing workers' compensation insurance policies in this state shall offer all insureds in the ten most populous counties a managed care plan featuring a designated medical provider;

(b) Whether or not by a date certain, if it is in the best interest of employers and employees, all insurers including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE issuing workers' compensation insurance policies in this state shall offer to all or some selected classes of insureds some type of basic workplace safety program;

(2) (b) Insurers shall make all necessary information and records pertaining to workplace safety programs of such insurers available to the commissioner in carrying out the study required by subsection (1) of this section. The reasonable costs of such study shall be borne by insurers, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, as determined by the commissioner based on the total cost of such study.

SECTION 27. 8-40-201 (3) and (11), Colorado Revised Statutes, are amended, and the said 8-40-201 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

8-40-201. Definitions - repeal. As used in articles 40 to 47 of this title, unless the context otherwise requires:

(3) "Board" means the board of directors of ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE.

(3.5) "CHIEF EXECUTIVE OFFICER" MEANS THE CHIEF EXECUTIVE OFFICER OF PINNACOL ASSURANCE.

(11) ~~"Manager" means the manager of the Colorado compensation insurance authority fund appointed by the board of directors of said authority.~~

SECTION 28. 8-40-301 (6), Colorado Revised Statutes, is amended to read:

8-40-301. Scope of term "employee". (6) Any person working as a driver with a common carrier or contract carrier as described in this section shall be eligible for and shall be offered workers' compensation insurance coverage by ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE or similar coverage consistent with the requirements set forth in section 40-11.5-102 (5), C.R.S.

SECTION 29. 8-41-203 (1) and (2), Colorado Revised Statutes, are amended to read:

8-41-203. Negligence of stranger - election of remedies - subrogation - actions - compromise. (1) If any employee entitled to compensation under articles 40 to 47 of this title is injured or killed by the negligence or wrong of another not in the same employ, such injured employee or, in case of death, such employee's dependents, before filing any claim under this article, shall elect in writing whether to take compensation under said articles or to pursue a remedy against the other person. Such election shall be evidenced in such manner as the director may by rule ~~or regulation~~ prescribe. If such injured employee or, in case of death, such employee's dependents elect to take compensation under said articles, the payment of compensation shall operate as and be an assignment of the cause of action against such other person to ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, THE medical disaster insurance fund, THE major medical insurance fund, or THE subsequent injury fund, if compensation is payable from said funds, and otherwise to the person, association, corporation, or insurance carrier liable for the payment of such compensation. Said insurance carrier shall not be entitled to recover any sum in excess of the amount of compensation for which said carrier is liable under said articles to the injured employee, but to that extent said carrier shall be subrogated to the rights of the injured employee against said third party causing the injury. If the injured employee elects to proceed against such other person, ~~the Colorado compensation insurance authority fund~~ THEN PINNACOL ASSURANCE, THE medical disaster insurance fund, THE major medical insurance fund, THE subsequent injury fund, OR SUCH OTHER person, association, corporation, or insurance carrier, as the case may be, shall contribute only the deficiency, if any, between the amount of the recovery against such other person actually collected and the compensation

provided by said articles in such case. The right of subrogation provided by this section shall apply to and include all compensation and all medical, hospital, dental, funeral, and other benefits and expenses to which the employee or the employee's dependents are entitled under the provisions of said articles, including parts 2 and 3 of article 46 of this title, or for which the employee's employer or insurance carrier is liable or has assumed liability. Nothing in this section shall be construed as limiting in any way the right of the injured employee to elect to take compensation under articles 40 to 47 of this title and also proceed against the third party causing the injury to recover any damages in excess of the subrogation rights described in this section.

(2) Such a cause of action assigned to ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE may be prosecuted or compromised by it. A compromise of any such cause of action by the employee or the employee's dependents at an amount less than the compensation provided for by articles 40 to 47 of this title shall be made only with the written approval of the ~~manager~~ CHIEF EXECUTIVE OFFICER of ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE, if the deficiency of compensation would be payable from the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund, and otherwise with the written approval of the person, association, corporation, or insurance carrier liable to pay the same.

SECTION 30. 8-43-304 (2), Colorado Revised Statutes, is amended to read:

8-43-304. Violations - penalty - offset for benefits obtained through fraud.

(2) An insurer or self-insured employer may take a credit or offset of previously paid workers' compensation benefits or payments against any further workers' compensation benefits or payments due a worker when the worker admits to having obtained the previously paid benefits or payments through fraud, or a civil judgment or criminal conviction is entered against the worker for having obtained the previously paid benefits through fraud. Benefits or payments obtained through fraud by a worker shall not be included in any data used for ratemaking or individual employer rating or dividend calculations by any insurer or by ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE.

SECTION 31. 8-43-307 (1), Colorado Revised Statutes, is amended to read:

8-43-307. Appeals to the court of appeals. (1) The final order of the director or the panel shall constitute the final order of the division. Any person in interest, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, being dissatisfied with any final order of the division, may commence an action in the court of appeals against the industrial claim appeals office as defendant to modify or vacate any such order on the grounds set forth in section 8-43-308.

SECTION 32. 8-43-401 (1), Colorado Revised Statutes, is amended to read:

8-43-401. Attorney general, district attorney, or attorney of division to act for director or office - penalties for failure of insurer to pay benefits. (1) Upon the request of the director or the industrial claim appeals office, the attorney general or the district attorney of any district or any attorney-at-law in the regular employ of the division shall institute and prosecute the necessary actions or proceedings for the

enforcement of any of the provisions of articles 40 to 47 of this title, or any award or order of the director, an administrative law judge, or the industrial claim appeals office, or for the recovery of any money due ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE, or any penalty provided in said articles, and shall defend in like manner all suits, actions, or proceedings brought against the director, an administrative law judge, or the industrial claim appeals office.

SECTION 33. 8-44-101 (1) (a), Colorado Revised Statutes, is amended to read:

8-44-101. Insurance requirements. (1) Any employer subject to the provisions of articles 40 to 47 of this title shall secure compensation for all employees in one or more of the following ways, which shall be deemed to be compliance with the insurance requirements of said articles:

(a) By insuring and keeping insured the payment of such compensation in the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund;

SECTION 34. 8-44-102, Colorado Revised Statutes, is amended to read:

8-44-102. Contract for insurance subject to workers' compensation act. Every contract for the insurance of compensation and benefits as provided in articles 40 to 47 of this title or against liability therefor shall be made subject to all the provisions of said articles, and all provisions in such contract for insurance inconsistent with the provisions of said articles shall be void. Any contract of insurance issued under said articles by any insurance carrier, including stock and mutual corporations and ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, may include and cover any liability of the employer on account of personal injuries sustained by or death resulting therefrom to any employee as such. No insurance carrier, except ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, shall write any policy of insurance covering the liability under said articles of any employer doing business within the state of Colorado except on a form that has been previously filed with and approved by the commissioner of insurance, nor shall there be attached to said policy or contract of insurance any endorsement, rider, letter, or other document affecting such contract unless the same has been filed with and the form thereof approved by the commissioner of insurance. The commissioner of insurance shall from time to time approve and prescribe a standard or universal form, as nearly as possible, for every contract or policy of insurance, endorsement, rider, letter, or other document affecting such contract for use in insuring the compensation provided for in said articles.

SECTION 35. 8-44-103, Colorado Revised Statutes, is amended to read:

8-44-103. Insurers to file system of rating - approval. Every insurance carrier authorized to transact business in this state, except ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, which insures employers against liability for compensation under the provisions of articles 40 to 47 of this title, shall file with the commissioner of insurance its classification of risks, any premiums relating thereto, and any subsequent proposed classification of risks and premiums, together with all rates and any systems of rating.

SECTION 36. 8-44-104, Colorado Revised Statutes, is amended to read:

8-44-104. Cutting rates - rebates - penalty. Every insurance carrier, except ~~the Colorado compensation insurance authority~~ ~~which~~ PINNACOL ASSURANCE, THAT writes compensation insurance shall write insurance at the rates filed with the commissioner of insurance. The cutting of rates, rebating, or any other method whereby, directly or indirectly, any employer is given the benefit of or obtains a rate lower than that approved by the commissioner of insurance is prohibited. The commissioner of insurance may suspend the license of any insurance carrier, agent, or broker who violates any provision of this section. Also, any insurance carrier, any employer, or any officer, agent, or employee thereof who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars for each such violation.

SECTION 37. 8-44-108 (1), Colorado Revised Statutes, is amended to read:

8-44-108. Repayments for misclassifications. (1) Every insurance carrier authorized to transact business in this state, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, which insures employers against liability for compensation under the provisions of articles 40 to 47 of this title, is authorized to charge and collect any amount of money ~~which~~ THAT should have been included in premiums paid by an insured but were not included in such premiums as a result of job misclassification. Upon written request by the employer, the issue of whether a job misclassification occurred shall be determined in writing by the insurance company. The employer's request shall be made within thirty working days after the anniversary date of the policy or the date of receipt by the employer of notice of a change in job classification. The insurance company's determination shall be made within thirty days after receipt of the employer's written request. An employer may appeal any determination of an insurance company made pursuant to this subsection (1) to the workers' compensation classification appeals board, pursuant to section 8-55-102. If it is determined that a job misclassification occurred and that such misclassification was caused by the failure of the insured to provide accurate or complete data in order to determine the proper classification as requested by the insurance carrier, the repayment may be collected during the term of the contract for such insurance plus an additional reasonable time not to exceed twelve months.

SECTION 38. 8-44-109, Colorado Revised Statutes, is amended to read:

8-44-109. Notice of change in rate by classification - notice of policyholder's right to appeal classifications - notice of availability of medical case management services. (1) Any insurance carrier authorized to transact business in this state, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, which insures employers against liability for compensation under the provisions of articles 40 to 47 of this title, shall supply information regarding a change in the rate by classification to any insured employer, if such employer has requested that such information be supplied. Such information shall be supplied within thirty days following release of such information to such insurer by the authorized rating organization and following approval of such rate change by the division of insurance. As soon as reasonably possible after the division of insurance's approval of a change in rate by classification, the authorized rating organization shall disseminate notice of such approval and change in rate.

(2) Every insurance carrier authorized to transact business in Colorado, including

~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, which insures employers against liability for compensation under the provisions of articles 40 to 47 of this title, shall clearly and conspicuously inform policyholders of their rights to appeal employee classification designations, the procedures to be used for such an appeal, and the types of medical case management that the carrier has available to employees to promote medical cost containment.

SECTION 39. 8-44-110, Colorado Revised Statutes, is amended to read:

8-44-110. Notice of cancellation. Every insurance carrier authorized to transact business in this state, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, which insures employers against liability for compensation under the provisions of articles 40 to 47 of this title, shall notify the division, any employer insured by the carrier or the authority, and any agent or representative of such employer, if applicable, by certified mail of any cancellation of such employer's insurance coverage. Such notice shall be sent at least thirty days prior to the effective date of the cancellation of the insurance. However, if the cancellation is based on one or more of the following reasons, then such notice may be sent less than thirty days prior to the effective date of the cancellation of the insurance: Fraud, material misrepresentation, nonpayment of premium, or any other reason approved by the commissioner of insurance.

SECTION 40. 8-44-111 (1.5), (3), and (4), Colorado Revised Statutes, are amended to read:

8-44-111. Workers' compensation insurance - deductibles. (1.5) Whenever any insurer, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE created in section 8-45-101, issues a workers' compensation policy in this state, and annually thereafter, the insurer must issue a policy including the deductible provision if requested by the insured employer; except that the commissioner shall promulgate rules establishing criteria to allow the insurer to deny a deductible policy to an employer based on financial inability to reimburse the insurer for the deductible plan selected.

(3) The deductible amounts paid by any employer under the provisions of this section shall be excluded from consideration by insurance carriers authorized to transact business in Colorado, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, which insure employers against liability for compensation under the provisions of articles 40 to 47 of this title, in establishing the modification factors based upon experience used by such insurance carriers to determine premiums.

(4) Every insurance carrier authorized to transact business in Colorado, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, which insures employers against liability for compensation under the provisions of articles 40 to 47 of this title, shall clearly and conspicuously inform policyholders of the availability of the deductible option specified in subsection (1) of this section.

SECTION 41. 8-44-112 (1) (a) and (3), Colorado Revised Statutes, are amended to read:

8-44-112. Surcharge on workers' compensation insurance premiums - workers' compensation cash fund. (1) (a) Notwithstanding the provisions of sections 10-3-209 (1) (c) and 10-6-128 (3), C.R.S., for the purpose of offsetting the direct and indirect costs of the administration of the workers' compensation system, every person, partnership, association, and corporation, whether organized under the laws of this state or of any other state or country, every mutual company or association, every captive insurance company, and every other insurance carrier, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, insuring employers in this state against liability for personal injury to their employees or death caused thereby under the provisions of the "Workers' Compensation Act of Colorado" shall, as provided in this section, pay a surcharge upon the premiums received, whether in cash or not, in this state, or on account of business done in this state, for such insurance in this state, at a rate established by the director by rule, which surcharge shall be reviewed and adjusted annually based upon appropriations made for the direct and indirect costs of the administration of the workers' compensation system, as provided in subsection (7) of this section. Such insurance carriers shall be credited with all cancelled or returned premiums actually refunded during the year of such insurance.

(3) Every employer acting as a self-insurer under the provisions of the "Workers' Compensation Act of Colorado" shall, under oath, report to the division of workers' compensation the business payroll in such form as may be prescribed by the director and at the times in this section provided for premium reports by insurance companies in subsection (2) of this section. The division shall assess against such payroll a surcharge for the purposes of this section ascertained as provided in subsection (2) of this section on the basic premiums chargeable against the same or most similar industry or business taken from the manual insurance rates, including any discount or experience modification allowed, chargeable by the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund, and, upon receipt of notice from the division of workers' compensation of the surcharge so assessed, every such self-insurer shall, within thirty days ~~of~~ AFTER the receipt of such notice, pay to the division of workers' compensation the surcharge so assessed.

SECTION 42. 8-44-113 (1) (a), Colorado Revised Statutes, is amended to read:

8-44-113. Data from insurance carriers and self-insured employers related to workers' compensation - studies related to workers' compensation system. (1) (a) The director shall work with the commissioner of insurance, who shall promulgate rules for the purpose of collecting data and statistics regarding the workers' compensation system of Colorado and insurance companies covering such risk. ~~These regulations shall be promulgated no later than December 31, 1991.~~ The regulations shall provide for the collection of statistics from licensed insurance carriers and ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE concerning the costs of providing benefits pursuant to articles 40 to 47 of this title. The data collected pursuant to this paragraph (a) shall be for the confidential use of the commissioner and employees of the division of insurance. Any person who releases confidential data obtained under this paragraph (a) commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

SECTION 43. 8-44-115 (3), Colorado Revised Statutes, is amended to read:

8-44-115. Calculation of premium - motor vehicle accidents. (3) This section applies to all insurers, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE created in section 8-45-101, offering workers' compensation insurance under articles 40 to 47 of this title. The provisions of this section shall be disclosed to all policyholders annually.

SECTION 44. 8-46-102 (2) (a) and (2) (c), Colorado Revised Statutes, are amended to read:

8-46-102. Funding for subsequent injury fund and major medical insurance fund. (2) (a) (I) Notwithstanding the provisions of sections 10-3-209 (1) (c) and 10-6-128 (3), C.R.S., for the purpose of funding the financial liabilities of the subsequent injury fund pursuant to this section and of the major medical insurance fund pursuant to section 8-46-202, every person, partnership, association, and corporation, whether organized under the laws of this state or of any other state or country, every mutual company or association, every captive insurance company, and every other insurance carrier, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, insuring employers in this state against liability for personal injury to their employees or death caused thereby under the provisions of articles 40 to 47 of this title shall, as provided in this subsection (2), be levied a tax upon the premiums received in this state, whether or not in cash, or on account of business done in this state for such insurance in this state at a rate not to exceed three and one-quarter percent until the balance in either or both funds exceeds the estimated actuarial present value of future claim payments for which such fund is liable, after which time said surcharge shall be reduced or eliminated, as the case may be, as determined by the director in accordance with subsection (3) of this section. Such insurance carriers shall be credited with all cancelled or returned premiums actually refunded during the year of such insurance.

(II) In addition to the tax paid pursuant to subparagraph (I) of this paragraph (a), on and after July 1, 1992, until the subsequent injury fund assessment made in January, 1995, notwithstanding the provisions of sections 10-3-209 (1) (c) and 10-6-128 (3), C.R.S., for the purpose of repaying advances to the subsequent injury fund from the general fund in the amount of seven hundred thousand dollars in February, 1992, and three million dollars in March, 1992, to be repaid in four equal installments over a period not to exceed thirty months, with interest at a rate not to exceed three percent per annum, every person, partnership, association, and corporation, whether organized under the laws of this state or of any other state or country, every mutual company or association, every captive insurance company, and every other insurance carrier, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, insuring employers in this state against liability for personal injury to their employees or death caused thereby under the provisions of articles 40 to 47 of this title shall, as provided in this subsection (2), pay a subsequent injury fund solvency surcharge upon the premiums received in this state, whether or not in cash, or on account of business done in this state for such insurance in this state at a rate not to exceed twenty-three one-hundredths of one percent. Such insurance carriers shall be credited with all cancelled or returned premiums actually refunded during the year of such insurance.

(c) Every employer acting as a self-insurer under the provisions of articles 40 to 47 of this title shall, under oath, report to the division the employer's payroll in such

form as may be prescribed by the director and at the times specified for premium reports by insurance companies in paragraph (b) of this subsection (2). The division shall assess against such payroll a tax for the purposes of paragraph (b) of this subsection (2) on the basic premiums chargeable against the same or most similar industry or business taken from the manual insurance rates, including any discount or experience modification allowed, chargeable by ~~the Colorado compensation insurance authority~~ fund PINNACOL ASSURANCE, and, upon receipt of notice from the division of the tax so assessed, every such self-insurer shall, within thirty days ~~of~~ AFTER the receipt of such notice, pay to the division the tax so assessed.

SECTION 45. 8-47-111 (2), Colorado Revised Statutes, is amended to read:

8-47-111. Division efforts to ensure employer compliance with workers' compensation coverage requirements - legislative declaration. (2) In order to implement the declaration in subsection (1) of this section, the division shall develop ~~by January 1, 1995,~~ a procedure for verifying whether or not all employers doing business in the state of Colorado comply with the requirements of article 44 of this title. This procedure shall include, but is not limited to, cross-referencing employer records of the division of employment and training and the division of workers' compensation. Upon identifying employers that are not in compliance with article 44 of this title, the division, with the assistance and cooperation of the attorney general, shall use all available means under articles 40 to 47 of this title to ensure compliance. Every insurance carrier authorized to transact business in this state, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, which insures employers against liability for compensation under the provisions of articles 40 to 47 of this title, shall furnish the division, upon request, all information required by it to accomplish the purposes of this section.

SECTION 46. The introductory portion to 8-55-101 (1) and 8-55-101 (1) (a), (1) (c), (2), and (3), Colorado Revised Statutes, are amended to read:

8-55-101. Workers' compensation classification appeals board - creation. (1) There is hereby created, in the division of insurance in the department of regulatory agencies, the workers' compensation classification appeals board. The board shall hear grievances brought by employers against insurers and ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE concerning the calculation of experience modification factors and classification assignment decisions. The board shall consist of five voting members, each of whom shall be knowledgeable about workers' compensation classification and experience modification factors, and one nonvoting member, as follows:

(a) Two members shall be either salaried employees of an insurance company that issues workers' compensation insurance policies in this state or representatives of ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE. Such two members shall not both represent ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE or the same insurance company. In addition, one person shall be selected to serve as an alternate member to represent the interests of the insurance industry or ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE. The alternate shall represent such interests in the event the primary member recuses himself or herself.

(c) Three members shall represent private employers. Each private employer member shall be knowledgeable with respect to workers' compensation insurance, rules, and classifications, and shall be familiar with the business environment and community in this state. No private employer member shall be an employee of an insurance company, insurance broker, insurance agent, law firm, actuary, ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, or any association of such entities or persons. All private employer board memberships shall be held in the name of an individual. At least one private employer member shall represent the construction industry.

(2) The private employer members and the members representing insurers and ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE shall be appointed by the commissioner of insurance. The workers' compensation rating organization representative shall be appointed by the chief executive officer of such organization or by another officer designated to make such appointment. The commissioner may solicit a list of nominees from any interested party before making such appointments. The commissioner shall immediately notify the workers' compensation rating organization concerning the identity of any appointees.

(3) Each member shall serve a ONE three-year term, ~~except that the terms of the initial members shall be determined as follows~~ AND, IN ADDITION:

(a) ~~The members who represent the workers' compensation rating organization, the insurance industry, and the Colorado compensation insurance authority shall serve three-year terms each, and of the three private employer members, one shall serve for a three-year term, one shall serve for a two-year term, and one shall serve for a one-year term.~~

(b) A private employer member or member representing the insurance industry or ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE may serve a second consecutive three-year term; AND

(c) The member representing the workers' compensation rating organization may be reappointed without limitation.

SECTION 47. 8-55-102, Colorado Revised Statutes, is amended to read:

8-55-102. Right to appeal - notice of appeal procedures. An employer may appeal to the workers' compensation classification appeals board any issue concerning the calculation of experience modification factors and classification assignment decisions under the workers' compensation laws of this state, by filing written notice with said board within thirty days after the employer has exhausted all appeal review procedures provided by the insurance company. Every insurance carrier authorized to transact business in this state, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, shall provide employers with a written copy or summary of their appeal procedures, together with a written notice of the availability of an appeal under this article, at the beginning of each policy year and when notice is provided to the employer of a change in experience modification factors or job classification.

SECTION 48. The introductory portion to 8-55-104 (1) and 8-55-104 (2) and (3),

Colorado Revised Statutes, are amended to read:

8-55-104. Review of board decisions. (1) A decision of the board shall be final and not subject to appeal unless the employer, insurance company, or ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE provides written notice to the office of the commissioner of insurance, who shall determine whether a job misclassification occurred, as required pursuant to section 8-44-108. An employer may hold disputed premium amounts in abeyance from the date an appeal is filed pursuant to section 8-55-102 until the later of:

(2) Each employer, insurance company, or ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, as the case may be, shall be advised of ~~his or her~~ THE right to appeal to the office of the commissioner of insurance.

(3) An employer, insurance company, or ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE shall provide written notice of an appeal to the commissioner of insurance within thirty days after the date of the board's decision. The commissioner shall review any decision of the board properly appealed pursuant to this section and shall provide a written decision within thirty days after the request for such review.

SECTION 49. 10-4-1002 (2), Colorado Revised Statutes, is amended to read:

10-4-1002. Definitions. As used in this part 10, unless the context otherwise requires:

(2) "Insurer" means any insurer and any person licensed or regulated under this title and ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE.

SECTION 50. 10-4-1303 (1), Colorado Revised Statutes, is amended to read:

10-4-1303. Temporary joint underwriting association. (1) A nonprofit temporary joint underwriting association is hereby created, consisting of all insurance carriers authorized to transact business in this state, including ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, that insures employers against liability for compensation under the provisions of articles 40 to 47 of title 8, C.R.S., who shall constitute the members thereof. Every such insurer shall participate in the association as a condition of its authority to continue to make contracts of such kind of insurance in this state.

SECTION 51. 10-4-1304 (1), Colorado Revised Statutes, is amended to read:

10-4-1304. Board of directors - authority. (1) The association shall be governed by a board of six directors, to be appointed by the commissioner. ~~within thirty days after May 23, 1995.~~ Such directors shall be individuals employed full-time in the business of writing workers' compensation insurance in Colorado, at least one shall be employed by ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, at least one shall be actively engaged in operations in a small underground mine, and at least one shall be actively engaged in operations in a large underground mine. The board shall elect a chairperson from among its members.

SECTION 52. 14-14-102 (4.3), Colorado Revised Statutes, is amended to read:

14-14-102. Definitions. As used in this article, unless the context otherwise requires:

(4.3) "Employer", for purposes of income withholding pursuant to section 14-5-501, includes any person, company, OR corporation, ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, or other insurance carrier paying any type of workers' compensation benefits pursuant to articles 40 to 47 of title 8, C.R.S.

SECTION 53. Repeal. 24-30-903 (4), Colorado Revised Statutes, is repealed as follows:

24-30-903. Duties and responsibilities. (4) ~~The executive director of the department of personnel may enter into contracts with the board of directors of the Colorado compensation insurance authority to provide information and administrative support services other than personnel for carrying out the functions authorized in article 45 of title 8, C.R.S.~~

SECTION 54. 24-30-1510 (5), Colorado Revised Statutes, is amended to read:

24-30-1510. Risk management fund - creation - authorized and unauthorized payments. (5) As of July 1, 2000, ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE created pursuant to section 8-45-101, C.R.S., is no longer included within, or part of, the risk management fund created pursuant to this section and the department of personnel assumes no responsibility and bears no financial obligation for the defense of, or liability for, any claims or lawsuits asserted against ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE.

SECTION 55. 24-30-1510.7 (5) (a) (I) and (5) (b), Colorado Revised Statutes, are amended to read:

24-30-1510.7. Workers' compensation for state employees. (5) (a) (I) Notwithstanding section 8-44-105, C.R.S., if the state elects to self-insure workers' compensation claims as authorized in this section or to insure for such claims through an entity other than ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, created in section 8-45-101, C.R.S., on and after the effective date of such election, the state shall be directly and primarily liable for all liabilities due on all workers' compensation claims after such election ~~which~~ THAT arise on and after the beginning date of the initial policy period in the annually renewable memorandum of agreement containing a premium payment plan in effect between the state and ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE.

(b) (I) Funding of the liability obligations assumed by the state from ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE pursuant to paragraph (a) of this subsection (5) beyond a current fiscal year is contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

(II) Nothing in this paragraph (b) shall be construed to relieve the state of any liability obligation if the state elects to self-insure or insure through an entity other than ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE pursuant

to paragraph (a) of this subsection (5).

SECTION 56. Repeal. 24-30-1603 (2), Colorado Revised Statutes, is repealed as follows:

24-30-1603. Functions of the GGCC. (2) ~~The GGCC may enter into contracts with the board of directors of the Colorado compensation insurance authority to provide information and administrative support services other than personnel for carrying out the functions authorized in article 45 of title 8, C.R.S.~~

SECTION 57. 24-32-2207, Colorado Revised Statutes, is amended to read:

24-32-2207. Benefits depend on reserve. After all ~~money~~ ~~so~~ ~~MONEYS~~ appropriated ~~is~~ ARE expended or set aside in bookkeeping reserves for the payment or furnishing of compensation and benefits and reimbursing ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE for its services, the payment or furnishing of compensation and benefits for an injury to a civil defense worker or such civil defense worker's dependents is dependent upon there having been a reserve set up for the payment or furnishing of compensation and benefits to such civil defense worker or such civil defense worker's dependents for that injury, and liability is limited to the amount of the reserve. The excess in a reserve for the payment or furnishing of compensation and benefits or for reimbursing ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE for its services may be transferred to reserves of other civil defense workers for the payment or furnishing of compensation and benefits and reimbursing ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund or may be used to set up reserves for other civil defense workers.

SECTION 58. 24-32-2209, Colorado Revised Statutes, is amended to read:

24-32-2209. Agreement for disposition of claims. The office of emergency management and ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE shall enter into an agreement requiring ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, as adjusting agent, to adjust and dispose of claims and furnish compensation to civil defense workers and their dependents. The agreement shall authorize ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE to make all expenditures, including payments to claimants for compensation or for the adjustment or settlement of claims. Nothing in this part 22 shall be construed to mean that ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE or its officers or agents have the final decision with respect to the compensability of any case or the amount of compensation or benefits due. Any civil defense worker or such civil defense worker's dependents shall have the same right to hearings before the division of labor in the department of labor and employment and its referees and to appeal from awards of said division and referees to the industrial claim appeals panel and to the courts as is provided in the hearing and review procedures of the "Workers' Compensation Act of Colorado" found in article 43 of title 8, C.R.S., subject to the limitations prescribed in this part 22.

SECTION 59. 24-32-2210, Colorado Revised Statutes, is amended to read:

24-32-2210. Reimbursement of fund. The agreement shall provide that ~~the~~

~~Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE shall be reimbursed for the expenditures made as adjusting agent and for the cost of services rendered, which reimbursement shall be made out of ~~money~~ MONEYS appropriated for the purpose of furnishing compensation to civil defense workers. The reimbursement for cost of services rendered shall not exceed twelve and one-half percent of the total expenditures for medical and dental treatment and disability and death payments made by ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE in the adjustment of claims arising under this part 22. The agreement shall provide for the setting up of bookkeeping reserves in order that provisions may be made for the reimbursement of ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE and that liability for the payment or furnishing of compensation may be determined. The agreement shall also provide that ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE shall be notified promptly by the office of emergency management when a local organization for civil defense is certified as an accredited local organization for civil defense and when the certification is revoked.

SECTION 60. 24-32-2212, Colorado Revised Statutes, is amended to read:

24-32-2212. Other provisions of agreement. The agreement may also contain any other provision not inconsistent with this part 22 deemed necessary by the office of emergency management and ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE for the furnishing of compensation to civil defense workers and their dependents in accordance with the provisions of this part 22 and the serving by ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE as adjusting agent. The agreement may be modified by action of the office of emergency management and ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE.

SECTION 61. 24-32-2213, Colorado Revised Statutes, is amended to read:

24-32-2213. Power of recovery - use of recovered amounts. ~~The Colorado compensation insurance authority~~ PINNACOL ASSURANCE may, in its own name or in the name of the office of emergency management, or both, do any and all things necessary to recover on behalf of the office of emergency management any and all amounts ~~which~~ THAT an employer or insurance carrier might recover under the provisions of section 8-41-203, C.R.S. All amounts so recovered shall be used for the furnishing of compensation benefits, and the agreement shall provide for the reimbursing of the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund for ~~expense~~ EXPENSES incurred in recovering such amounts and the manner in which such amounts shall be applied to the furnishing of compensation.

SECTION 62. 24-32-2215, Colorado Revised Statutes, is amended to read:

24-32-2215. State medical aid denied, when. If, in addition to monetary assistance, benefits, or other temporary or permanent relief, the United States government or any agent thereof furnishes medical, surgical, or hospital treatment or any combination thereof to an injured civil defense worker, such civil defense worker has no right to receive similar medical, surgical, or hospital treatment as provided in this part 22; except that ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE, as adjusting agent of the office of emergency management, may furnish

medical, surgical, or hospital treatment as part of the compensation provided under the provisions of this part 22.

SECTION 63. 24-32-2216, Colorado Revised Statutes, is amended to read:

24-32-2216. Medical benefits as part of compensation. If, in addition to monetary assistance, benefits, or other temporary or permanent relief, the United States government or any agent thereof will reimburse a civil defense worker or such civil defense worker's dependents for medical, surgical, or hospital treatment or any combination thereof furnished to such injured civil defense worker, the civil defense worker has no right to receive similar medical, surgical, or hospital treatment as provided in this part 22; ~~but the Colorado compensation insurance authority~~ EXCEPT THAT PINNACOL ASSURANCE, as adjusting agent of the office of emergency management, may furnish medical, surgical, or hospital treatment as part of the compensation provided under the provisions of this part 22 and apply to the United States government or its agent for the reimbursement ~~which~~ THAT will be made to the civil defense worker or such civil defense worker's dependents. As a condition to the furnishing of such medical, surgical, or hospital treatment, ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE shall require the civil defense worker and such civil defense worker's dependents to assign to the state of Colorado, for the purpose of reimbursing for any medical, surgical, or hospital treatment furnished or to be furnished by the state, any privilege or right ~~such~~ THE civil defense worker or such civil defense worker's dependents may have to reimbursement from the United States government or any agent thereof.

SECTION 64. 24-32-2221, Colorado Revised Statutes, is amended to read:

24-32-2221. Transfer of moneys. Not less often than once each ninety days, the treasurer of the state of Colorado upon the written request of ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE shall transfer to the account of ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE from the sum appropriated by the general assembly for the payment of claims ~~which~~ THAT may arise under this part 22 such sum as may be required to reimburse ~~the Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE in full for any sum theretofore paid by ~~said Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE on any claims arising under the provisions of this part 22, together with any expense incurred by ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE in adjusting same as provided in this part 22, and such amount as may be estimated by ~~said Colorado compensation insurance authority fund~~ PINNACOL ASSURANCE as being necessary to carry said claims to maturity and ~~insure~~ ENSURE the full payment thereof. The requests of ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE from time to time for the transfer of moneys as provided in this section shall cite this part 22 as authority for such transfer and shall be made upon such form as the treasurer of the state of Colorado and the controller may prescribe or, in the absence of the prescribing of special forms, upon a voucher citing this part 22 as authority.

SECTION 65. 24-75-205, Colorado Revised Statutes, is amended to read:

24-75-205. Insurance and retirement reserves. The insurance and retirement reserves of this state shall comprise the ~~Colorado compensation insurance authority~~

PINNACOL ASSURANCE fund, the unemployment compensation fund on deposit with the treasurer of the United States, the unemployment compensation fund clearing account, the funds of the public employees' retirement association, and such other funds of the same or similar character as may be created after April 9, 1941; and all moneys expended for any purpose by said funds shall be expended in accordance with the provisions of the respective laws creating said funds and relating thereto. Nothing in this part 2 shall be construed to repeal, alter, or impair the method of administering said funds as provided by law.

SECTION 66. 24-75-903 (2), Colorado Revised Statutes, is amended to read:

24-75-903. Definitions. As used in this part 9, unless the context otherwise requires:

(2) "Fund" means any fund or group of accounts to which state moneys are credited, including, but not limited to: The general fund, the highway users tax fund, the ~~Colorado compensation insurance authority~~ PINNACOL ASSURANCE fund, the Colorado water conservation board construction fund, the central services revolving fund, the correctional industries account, the capital construction fund, the severance tax trust fund, and the higher education fund.

SECTION 67. 24-77-102 (15) (a) and (15) (b) (IV), Colorado Revised Statutes, are amended to read:

24-77-102. Definitions. As used in this article, unless the context otherwise requires:

(15) (a) "Special purpose authority" means any entity ~~which~~ THAT is created pursuant to state law to serve a valid public purpose, which is either a political subdivision of the state or an instrumentality of the state, which is not an agency of the state, and which is not subject to administrative direction by any department, commission, bureau, or agency of the state.

(b) "Special purpose authority" includes, but is not limited to:

(IV) ~~The Colorado compensation insurance authority~~ PINNACOL ASSURANCE created pursuant to section 8-45-101, C.R.S.;

SECTION 68. 26-13-122 (5), Colorado Revised Statutes, is amended to read:

26-13-122. Administrative lien and attachment. (5) For purposes of this section, "insurance company" includes ~~the Colorado compensation insurance authority~~ PINNACOL ASSURANCE.

SECTION 69. Effective date. This act shall take effect July 1, 2002.

SECTION 70. 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: June 7, 2002