

## CHAPTER 212

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**LABOR AND INDUSTRY**


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**HOUSE BILL 11-1288**

BY REPRESENTATIVE(S) Liston and Pabon, DelGrosso, Gardner D., Holbert, McNulty, Miklosi, Pace, Peniston, Priola, Soper, Swalm, Swerdfeger, Tyler, Williams A., Wilson, Brown, Casso, Duran, Fields, Fischer, Hullinghorst, Jones, Kefalas, Labuda, Lee, Schafer S., Todd, Vigil;  
also SENATOR(S) Morse, Aguilar, Shaffer B., Tochtrop, Jahn, Harvey, Giron, Newell, Nicholson, Steadman.

**AN ACT**

**CONCERNING UNEMPLOYMENT INSURANCE SOLVENCY REFORM, AND, IN CONNECTION THEREWITH, ENACTING MEASURES TO ENHANCE THE SOLVENCY OF THE UNEMPLOYMENT COMPENSATION FUND, AND MAKING AN APPROPRIATION.**

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

**SECTION 1.** 8-70-103 (6.5), Colorado Revised Statutes, is amended to read:

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

(6.5) "Chargeable wages" means those wages paid TO an individual employee during a calendar year on which the employer of that employee is required to pay premiums as provided by article 76 of this title, including all wages subject to a tax under federal law, which imposes a tax against which credit may be taken for premiums required to be paid into a state unemployment fund. For each calendar year, ~~the chargeable wage~~ WAGES is the first ten thousand dollars paid TO an individual; EXCEPT THAT, EFFECTIVE JANUARY 1, 2012, CHARGEABLE WAGES FOR EACH CALENDAR YEAR IS THE FIRST ELEVEN THOUSAND DOLLARS PAID TO AN INDIVIDUAL AND AFTER RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE UNDER SECTION 8-76-102.5 (1) INDICATING THAT THE FUND BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND ON ANY JUNE 30 IS EQUAL TO OR GREATER THAN ZERO DOLLARS, AND ALL ADVANCES IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN TITLE XII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HAVE BEEN REPAID, CHARGEABLE WAGES FOR THE FOLLOWING CALENDAR YEAR IS THE FIRST ELEVEN THOUSAND DOLLARS PAID TO AN INDIVIDUAL, ADJUSTED BY THE CHANGE IN THE AVERAGE WEEKLY EARNINGS PRESCRIBED IN SECTION 8-73-102,

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

ROUNDED TO THE NEAREST ONE HUNDRED DOLLARS. AS USED IN ARTICLES 70 TO 82 OF THIS TITLE, CHARGEABLE WAGES PAID INCLUDES CHARGEABLE WAGES CONSTRUCTIVELY PAID AS WELL AS CHARGEABLE WAGES ACTUALLY PAID.

**SECTION 2.** 8-72-101 (3), Colorado Revised Statutes, is amended to read:

**8-72-101. Duties and powers of division.** (3) (a) Whenever any event occurs that may have a material effect on the adequacy of the fund, whether to increase costs or decrease revenues or otherwise, the division shall promptly analyze ~~such~~ THE potential effect and provide ~~such~~ THE analysis to the governor and the general assembly. For purposes of this subsection (3), "event" ~~shall include but not be limited to~~ INCLUDES proposed federal or state legislation and administrative or judicial adjudications.

(b) THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL UPDATE THE GENERAL ASSEMBLY ANNUALLY ON THE STATUS OF THE FUND DURING THE HEARING CONDUCTED PURSUANT TO SECTION 2-7-203, C.R.S. BY AUGUST 31, 2012, AND BY EACH AUGUST 31 THEREAFTER, THE DIVISION SHALL REPORT TO THE JOINT BUDGET COMMITTEE, THE ECONOMIC AND BUSINESS DEVELOPMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR THEIR SUCCESSOR COMMITTEES, REGARDING THE STATUS OF THE FUND. THE REPORT SHALL INCLUDE AT LEAST THE FOLLOWING FROM THE PRIOR CALENDAR YEAR:

(I) TOTAL FUND REVENUES AND EXPENDITURES;

(II) THE HIGHEST AND LOWEST TRUST FUND BALANCE FROM THE PRIOR CALENDAR YEAR AND A COMPARISON OF THOSE BALANCES TO THE FOLLOWING THREE SOLVENCY MEASURES: THE RESERVE RATIO, THE HIGH-COST MULTIPLE, AND THE AVERAGE HIGH-COST MULTIPLE;

(III) AN ANALYSIS OF THE RESPONSIVENESS OF THE FUNDING MECHANISM TO CHANGES IN ECONOMIC CONDITIONS, BOTH POSITIVE AND NEGATIVE;

(IV) AN ANALYSIS OF ANY MATERIAL CONCERNS IDENTIFIED BY THE DIVISION IN FUND SOLVENCY, REVENUE, AND EXPENDITURES;

(V) AN ANALYSIS OF THE IMPACT OF TOTAL PREMIUMS ASSESSED TO EMPLOYERS BY EMPLOYER SIZE AND EMPLOYER EXPERIENCE;

(VI) THE TOTAL AMOUNT OF OVERPAYMENTS PAID TO CLAIMANTS AND THE TOTAL AMOUNT OF OVERPAYMENTS RECOVERED; AND

(VII) AN ANALYSIS OF MEASURES TAKEN BY THE DIVISION TO REDUCE THE TOTAL NUMBER AND AMOUNT OF OVERPAYMENTS AND FRAUDULENT PAYMENTS.

**SECTION 3.** 8-72-109 (6), Colorado Revised Statutes, is amended to read:

**8-72-109. State-federal cooperation.** (6) (a) The division may afford reasonable cooperation with every agency of the United States charged with the administration of any law providing for payment of benefits arising out of

unemployment. In so doing, the division may use its personnel and equipment and accept and use federal funds and make payments therefrom, but in so doing it is not required to neglect or to carry on with less efficiency its own program, and the state of Colorado and its employees shall be free from liability except in case of gross negligence or attempt to defraud the United States.

(b) THE DIRECTOR OF THE DIVISION IS AUTHORIZED TO ENTER INTO AGREEMENTS WITH EVERY AGENCY OF THE UNITED STATES CHARGED WITH ADMINISTRATION OF INCOME OR WAGE VERIFICATION FOR THE PURPOSE OF EXCHANGING INFORMATION AMONG AGENCIES AS A METHOD OF CONTROLLING THE OVERPAYMENT OF UNEMPLOYMENT BENEFITS.

**SECTION 4.** 8-76-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**8-76-102. Rate of premiums - surcharge - repeal.** (6) THIS SECTION IS REPEALED, EFFECTIVE UPON RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE UNDER SECTION 8-76-102.5(1) INDICATING THAT THE FUND BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND ON ANY JUNE 30 IS EQUAL TO OR GREATER THAN ZERO DOLLARS, AND ALL ADVANCES IN ACCORDANCE WITH TITLE XII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HAVE BEEN REPAID.

**SECTION 5.** Article 76 of title 8, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**8-76-102.5. Rates effective upon fund solvency - repeal of prior rates - solvency surcharge - definitions.** (1) ON EACH AUGUST 31, THE EXECUTIVE DIRECTOR SHALL FILE A WRITTEN REPORT WITH THE GENERAL ASSEMBLY, THE GOVERNOR, AND THE LEGISLATIVE AUDIT COMMITTEE INDICATING THE BALANCE IN THE UNEMPLOYMENT COMPENSATION FUND. WHEN THE WRITTEN REPORT INDICATES THAT THE FUND BALANCE ON ANY JUNE 30 IS EQUAL TO OR GREATER THAN ZERO DOLLARS, AND ALL ADVANCES IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN TITLE XII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HAVE BEEN REPAID, THE EXECUTIVE DIRECTOR SHALL ALSO REPORT THESE FACTS IN WRITING TO THE REVISOR OF STATUTES. UPON RECEIPT BY THE REVISOR OF STATUTES OF THE WRITTEN REPORT, THE FOLLOWING PROVISIONS ARE REPEALED, EFFECTIVE DECEMBER 31 OF THE CALENDAR YEAR OF THE WRITTEN REPORT TO THE REVISOR OF STATUTES, AND THEREAFTER THIS SECTION GOVERNS THE PAYMENT OF PREMIUMS:

(a) SECTION 8-76-102; AND

(b) SECTION 8-76-103.

(2) EFFECTIVE JANUARY 1 OF THE CALENDAR YEAR AFTER THE CALENDAR YEAR OF THE REPEAL OF THE PROVISIONS UNDER SUBSECTION (1) OF THIS SECTION, EACH EMPLOYER SHALL PAY PREMIUMS IN THE MANNER PRESCRIBED BY THIS SECTION.

(3) (a) (I) EACH EMPLOYER'S RATE FOR THE TWELVE MONTHS COMMENCING JANUARY 1 OF ANY CALENDAR YEAR SHALL BE DETERMINED ON THE BASIS OF THE EMPLOYER'S RECORD PRIOR TO THE COMPUTATION DATE FOR THE YEAR. THE COMPUTATION DATE FOR ANY CALENDAR YEAR IS JULY 1 OF THE YEAR PRECEDING

THE CALENDAR YEAR FOR WHICH THE RATE IS COMPUTED.

(II) THE TOTAL OF ALL OF AN EMPLOYER'S PREMIUMS PAID ON HIS OR HER OWN BEHALF ON OR BEFORE THIRTY-ONE DAYS IMMEDIATELY AFTER THE COMPUTATION DATE AND THE TOTAL BENEFITS THAT WERE CHARGEABLE TO THE EMPLOYER'S ACCOUNT AND WERE PAID BEFORE THE COMPUTATION DATE, WITH RESPECT TO WEEKS, OR ANY ESTABLISHED PAYROLL PERIOD OF UNEMPLOYMENT, BEGINNING BEFORE THE COMPUTATION DATE, SHALL BE USED TO COMPUTE HIS OR HER PREMIUM RATE FOR THE ENSUING CALENDAR YEAR; EXCEPT THAT THE MAXIMUM RATE FOR NEGATIVE EXCESS EMPLOYERS THAT IS CREDITED TO THE UNEMPLOYMENT COMPENSATION FUND SHALL BE AT LEAST 0.0613 ASSESSED AS PART OF EACH EMPLOYER'S PREMIUM UNDER THIS PARAGRAPH (a), AND FOR THESE EMPLOYERS THE MAXIMUM COMBINED PREMIUM RATE SHALL BE AT LEAST 0.0628 BUT NOT GREATER THAN 0.1039. "PERCENT OF EXCESS" MEANS THE PERCENTAGE RESULTING FROM DIVIDING THE EXCESS OF PREMIUMS PAID OVER BENEFITS CHARGED BY THE AVERAGE CHARGEABLE PAYROLL, COMPUTED TO THE NEAREST ONE PERCENT. THE WORD "TO" IN THE COLUMN HEADINGS, WHICH MAKE REFERENCE TO FUND BALANCES (RESOURCES AVAILABLE FOR BENEFITS), MEANS "NOT INCLUDING". "RESERVE RATIO" MEANS THE FUND BALANCE ON ANY JUNE 30 AS A PROPORTION OF TOTAL WAGES REPORTED BY EXPERIENCE-RATED EMPLOYERS.

## STANDARD PREMIUM RATE SCHEDULE

RESERVE RATIO	RESERVE RATIO	RESERVE RATIO	RESERVE RATIO	RESERVE RATIO	RESERVE RATIO	RESERVE RATIO	RESERVE RATIO
0.014 OR GREATER	0.011 TO 0.014	0.008 TO 0.011	0.006 TO 0.008	0.004 TO 0.006	0.000 TO 0.004	0.000 TO DEFICIT	

**ELIGIBLE  
EMPLOYERS PERCENT OF EXCESS**

+20 OR MORE	0.0051	0.0056	0.0058	0.0062	0.0066	0.0071	0.0075
+18 TO +19	0.0057	0.0062	0.0064	0.0069	0.0073	0.0078	0.0082
+16 TO +17	0.0058	0.0063	0.0065	0.0070	0.0074	0.0079	0.0084
+14 TO +15	0.0061	0.0067	0.0069	0.0075	0.0080	0.0086	0.0091
+12 TO +13	0.0066	0.0072	0.0075	0.0082	0.0088	0.0095	0.0101
+10 TO +11	0.0075	0.0083	0.0087	0.0094	0.0102	0.0110	0.0118
+8 TO +9	0.0095	0.0105	0.0110	0.0120	0.0130	0.0140	0.0150
+6 TO +7	0.0116	0.0129	0.0135	0.0148	0.0160	0.0173	0.0186
+4 TO +5	0.0138	0.0154	0.0161	0.0177	0.0192	0.0207	0.0223
+2 TO +3	0.0193	0.0214	0.0225	0.0247	0.0269	0.0291	0.0313
+0 TO +1	0.0271	0.0302	0.0317	0.0348	0.0379	0.0410	0.0441
UNRATED	0.0296	0.0326	0.0342	0.0373	0.0403	0.0434	0.0465
-0 TO -1	0.0346	0.0386	0.0406	0.0447	0.0487	0.0527	0.0568
-2 TO -3	0.0368	0.0412	0.0433	0.0476	0.0519	0.0562	0.0606
-4 TO -5	0.0391	0.0437	0.0460	0.0506	0.0552	0.0598	0.0644
-6 TO -7	0.0414	0.0462	0.0487	0.0535	0.0584	0.0633	0.0682
-8 TO -9	0.0436	0.0488	0.0514	0.0565	0.0617	0.0668	0.0720
-10 TO -11	0.0459	0.0513	0.0540	0.0595	0.0649	0.0703	0.0758
-12 TO -13	0.0481	0.0539	0.0567	0.0624	0.0681	0.0738	0.0796

| <b>RESERVE RATIO</b> |
|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| 0.014 OR<br>GREATER  | 0.011 TO<br>0.014    | 0.008 TO<br>0.011    | 0.006 TO<br>0.008    | 0.004 TO<br>0.006    | 0.000 TO<br>0.004    | 0.000 TO<br>DEFICIT  |

**ELIGIBLE  
EMPLOYERS PERCENT OF EXCESS**

-14 TO -15	0.0504	0.0564	0.0594	0.0654	0.0714	0.0774	0.0834
-16 TO -17	0.0527	0.0589	0.0621	0.0683	0.0746	0.0809	0.0872
-18 TO -19	0.0549	0.0615	0.0648	0.0713	0.0779	0.0844	0.0910
-20 TO -21	0.0572	0.0640	0.0674	0.0743	0.0811	0.0879	0.0948
-22 TO -23	0.0594	0.0666	0.0701	0.0772	0.0843	0.0914	0.0986
-24 TO -25	0.0617	0.0690	0.0727	0.0801	0.0875	0.0949	0.1023
MORE THAN -25	0.0628	0.0703	0.0740	0.0815	0.0890	0.0964	0.1039

(b) ONLY THOSE WAGES PAID FOR COVERED EMPLOYMENT THAT OCCURRED BEFORE THE COMPUTATION DATE AND WERE REPORTED TO THE DIVISION ON OR BEFORE THIRTY-ONE DAYS IMMEDIATELY FOLLOWING THE COMPUTATION DATE WILL BE USED TO DETERMINE THE EXPERIENCE RATE EFFECTIVE FOR THE NEXT CALENDAR YEAR.

(c) WHENEVER AN EMPLOYER SUBJECT TO ARTICLES 70 TO 82 OF THIS TITLE ACQUIRES, BEFORE THE COMPUTATION DATE AND PURSUANT TO SECTION 8-76-104, ALL OR A SEGREGABLE PORTION OF THE ORGANIZATION, TRADE, AND BUSINESS OR SUBSTANTIALLY ALL OF THE ASSETS OF AN EMPLOYER WHO WAS SUBJECT TO ARTICLES 70 TO 82 OF THIS TITLE AT THE TIME OF THE ACQUISITION, AND THE SUCCESSOR SUBMITTED IN WRITING THAT THE SUCCESSOR MET THE CONDITIONS SET FORTH IN SECTION 8-76-104, A TOTAL OR PARTIAL TRANSFER OF THE EXPERIENCE RATING RECORD OF THE PREDECESSOR EMPLOYER SHALL BE MADE AS PROVIDED IN SECTION 8-76-104. NO MERGER OF THE ACCOUNTS FOR EXPERIENCE RATING PURPOSES WILL BE MADE FOR THE RATE EFFECTIVE THE NEXT CALENDAR YEAR UNLESS THE INFORMATION IS SUBMITTED TO THE DIVISION ON OR BEFORE SIXTY DAYS FOLLOWING THE COMPUTATION DATE.

(d) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, AN EMPLOYER, AT ANY TIME BEFORE MARCH 15 OF ANY YEAR, MAY PAY VOLUNTARY PREMIUMS IN ADDITION TO THE PREMIUMS AND SURCHARGES PROVIDED UNDER ARTICLES 70 TO 82 OF THIS TITLE. VOLUNTARY PREMIUMS SHALL ALLOW FOR A REDUCTION OF THE EMPLOYER'S EXPERIENCE RATE AND SHALL BE CREDITED TO THE EMPLOYER'S ACCOUNT AND BE USED IN DETERMINING THE EMPLOYER'S RATE FOR THE CURRENT CALENDAR YEAR AND SUBSEQUENT CALENDAR YEARS; EXCEPT THAT, IF AN EMPLOYER IS DELINQUENT IN THE PAYMENT OF ANY PREMIUMS OR SURCHARGES DUE, THE VOLUNTARY PREMIUM PAYMENTS SHALL BE REDUCED BY THE TOTAL AMOUNT OF DELINQUENT PREMIUMS AND SURCHARGES BEFORE SUCH COMPUTATION IS MADE. NO VOLUNTARY PREMIUMS PAID PURSUANT TO THIS PARAGRAPH (d) SHALL BE REFUNDED OR APPLIED TO FUTURE PREMIUM LIABILITY.

(e) AS USED IN SECTIONS 8-76-101 TO 8-76-104, FOR THE PURPOSE OF COMPUTING THE PREMIUM RATE OF ANY EMPLOYER, THE TERM "ANNUAL PAYROLL" MEANS THE TOTAL AMOUNT OF WAGES FOR EMPLOYMENT PAID BY AN EMPLOYER DURING THE TWELVE-MONTH PERIOD ENDING ON JUNE 30. THE TERM "AVERAGE CHARGEABLE PAYROLL" MEANS THE AVERAGE OF THE CHARGEABLE PAYROLLS FOR THE LAST THREE FISCAL YEARS ENDING ON JUNE 30. FOR ANY EMPLOYER WHO HAS NOT REPORTED PAYROLLS TO THE DIVISION FOR THIRTY-SIX CONSECUTIVE MONTHS ENDING ON JUNE 30, THE DIVISION SHALL COMPUTE THE AVERAGE CHARGEABLE PAYROLL BY DIVIDING THE TOTAL CHARGEABLE PAYROLLS OF THE EMPLOYER DURING THE THREE FISCAL YEARS ENDING ON JUNE 30 BY THE TOTAL MONTHS DURING WHICH SUCH WAGES WERE PAID AND MULTIPLYING THE AMOUNT SO DETERMINED BY TWELVE.

(f) AN EMPLOYER SHALL HAVE SIXTY CALENDAR DAYS AFTER THE MAILING DATE OR THE TRANSMISSION DATE AS RECORDED BY THE DIVISION OF A QUARTERLY STATEMENT OF BENEFITS CHARGED TO THE EMPLOYER'S ACCOUNT IN WHICH TO FILE A WRITTEN APPLICATION FOR A REVIEW AND DETERMINATION OF BENEFIT CHARGES. THE APPLICATION MUST SPECIFY IN DETAIL THE GROUNDS UPON WHICH THE EMPLOYER RELIES AND MAY BE FILED IN PERSON, BY MAIL, OR BY ELECTRONIC

MEANS IN ACCORDANCE WITH SUCH RULES AS THE DIRECTOR OF THE DIVISION MAY PROMULGATE. THE DIVISION SHALL INVESTIGATE THE MATTERS SPECIFIED AND SHALL GIVE THE EMPLOYER NOTICE OF ITS REDETERMINATION BY MAIL OR BY ELECTRONIC MEANS. IF THE EMPLOYER FAILS TO ACT WITHIN THE PRESCRIBED TIME, BENEFITS CHARGED TO THE ACCOUNT SHALL BE DEEMED CORRECT AND FINAL. APPEAL FROM THE REDETERMINATION DECISION MAY BE MADE PURSUANT TO SECTION 8-76-113 (2).

(g) BY DECEMBER 1 OF EACH YEAR, OR AS SOON AS PRACTICABLE, THE DIVISION SHALL NOTIFY EACH EMPLOYER OF THE EMPLOYER'S PREMIUM RATE AS DETERMINED FOR THE NEXT CALENDAR YEAR PURSUANT TO SECTIONS 8-76-101 TO 8-76-104. THE NOTIFICATION SHALL INCLUDE THE AMOUNT DETERMINED AS THE EMPLOYER'S AVERAGE ANNUAL PAYROLL, THE TOTAL OF ALL THE EMPLOYER'S PREMIUMS PAID ON HIS OR HER OWN BEHALF AND CREDITED TO HIS OR HER ACCOUNT FOR ALL PAST YEARS, AND THE TOTAL BENEFITS CHARGED TO THE EMPLOYER'S ACCOUNT FOR ALL SUCH YEARS.

(h) NO LATER THAN JANUARY 1, 2013, THE DIVISION SHALL DEVELOP AN ON-LINE COMPUTER APPLICATION THAT ALLOWS EMPLOYERS TO REVIEW AND MANAGE ACCOUNT INFORMATION. THE ON-LINE COMPUTER APPLICATION SHALL INCLUDE AT LEAST THE FOLLOWING:

(I) A METHOD FOR EMPLOYERS TO FILE PREMIUM REPORTS AND MAKE PREMIUM PAYMENTS;

(II) A METHOD FOR EMPLOYERS TO REVIEW ACCOUNT BALANCES, CHARGING HISTORY, PREMIUM RATES, AND ACCOUNT STATUS;

(III) A METHOD FOR EMPLOYERS TO CHANGE THE PHYSICAL ADDRESS OF AN ACCOUNT, REINSTATE AN ACCOUNT, AND CLOSE AN ACCOUNT; AND

(IV) A METHOD FOR EMPLOYERS TO RECEIVE AND RETURN DIVISION FORMS AND CORRESPONDENCE.

(i) WHENEVER THERE HAS BEEN A PERIOD OF FIVE CONSECUTIVE CALENDAR YEARS DURING WHICH THERE WERE NO CHARGEABLE WAGES PAID FOR SERVICES CONSIDERED EMPLOYMENT UNDER ARTICLES 70 TO 82 OF THIS TITLE, ANY BALANCE SHOWN IN THE EMPLOYER'S ACCOUNT WILL NOT BE TRANSFERRED NOR BE USED FOR PREMIUM RATING PURPOSES IF THE EMPLOYER AGAIN BECOMES LIABLE UNDER ARTICLES 70 TO 82 OF THIS TITLE.

(4) (a) NEW EMPLOYERS PAY THE SAME PREMIUMS AS UNRATED EMPLOYERS AS PRESCRIBED IN SUBSECTION (3) OF THIS SECTION, UNLESS THERE HAVE BEEN TWELVE CONSECUTIVE CALENDAR MONTHS IMMEDIATELY PRECEDING THE COMPUTATION DATE DURING WHICH AN EMPLOYER'S ACCOUNT HAS BEEN CHARGEABLE WITH BENEFIT PAYMENTS.

(b) AN EMPLOYER THAT ELECTS REIMBURSEMENT UNDER SECTIONS 8-76-108 TO 8-76-110 IS EXEMPT FROM THIS SECTION.

(c) AN "EMPLOYER NEWLY SUBJECT", AS USED IN THIS ARTICLE, MEANS AN

EMPLOYER WHO HAS NEVER, AT ANY TIME, BEEN AN EMPLOYER UNDER ANY PROVISION OF ARTICLES 70 TO 82 OF THIS TITLE, AN EMPLOYER WHO HAS LOST HIS OR HER PRIOR EXPERIENCE UNDER SUBSECTION (3) OF THIS SECTION, OR AN EMPLOYER WHO, UNDER SECTION 8-76-110 (2) (e), TERMINATES HIS OR HER ELECTION TO MAKE PAYMENTS IN LIEU OF PREMIUMS OR WHOSE ELECTION TO MAKE PAYMENTS IN LIEU OF PREMIUMS HAS BEEN TERMINATED BY THE DIVISION UNDER THE AUTHORITY OF SECTION 8-76-110 (4) (e) OR (4) (f).

(5) (a) THOSE EMPLOYERS NEWLY SUBJECT TO ARTICLES 70 TO 82 OF THIS TITLE AND ASSIGNED THE THREE-DIGIT NORTH AMERICAN INDUSTRY CLASSIFICATION CODE 236, 237, OR 238 FOR THE CONSTRUCTION INDUSTRY MUST PAY THE SAME PREMIUMS AS UNRATED EMPLOYERS AS PRESCRIBED IN SUBSECTION (3) OF THIS SECTION, AT THE ACTUAL EXPERIENCE RATE, AT A RATE EQUAL TO THE AVERAGE ACTUAL EXPERIENCE RATE, OR AT A RATE EQUAL TO THE AVERAGE INDUSTRY PREMIUM RATE AS DETERMINED BY THE DIVISION, WHICHEVER IS GREATER, UNLESS THERE HAVE BEEN THIRTY-SIX CONSECUTIVE CALENDAR MONTHS IMMEDIATELY PRECEDING THE COMPUTATION DATE.

(b) FOR PURPOSES OF THIS SUBSECTION (5), ASSIGNMENT BY THE DIVISION OF EMPLOYMENT AND TRAINING OF INDUSTRIAL CLASSIFICATIONS TO EMPLOYERS PURSUANT TO THIS SUBSECTION (5) MUST BE IN ACCORDANCE WITH PROCEDURES AND GUIDELINES OF THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR AND BE THE APPROPRIATE THREE-DIGIT SUBSECTOR LEVEL FOUND IN THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM MANUAL ISSUED BY THE OFFICE OF MANAGEMENT AND BUDGET.

(c) FOR PURPOSES OF THIS SUBSECTION (5), "AVERAGE INDUSTRY PREMIUM RATE" MEANS THE AVERAGE PREMIUM RATE OF ALL EMPLOYERS ASSIGNED THE SAME THREE-DIGIT NORTH AMERICAN INDUSTRY CLASSIFICATION CODE PURSUANT TO THIS SUBSECTION (5). THE RATE IS COMPUTED ANNUALLY BY THE DIVISION USING THE LATEST DATA AS OF THE COMPUTATION DATE.

(6) (a) A POLITICAL SUBDIVISION OR ITS INSTRUMENTALITY THAT HAS ELECTED TO BECOME A PREMIUM-PAYING EMPLOYER WILL HAVE ITS ACCOUNT CHARGED WITH THE FULL AMOUNT OF ALL REGULAR AND EXTENDED BENEFITS THAT ARE ATTRIBUTABLE TO SERVICE IN ITS EMPLOY.

(b) (I) THE PREMIUM RATE FOR POLITICAL SUBDIVISIONS OR THEIR INSTRUMENTALITIES WILL BE EXAMINED ANNUALLY IN CONJUNCTION WITH THE EMPLOYER'S BENEFIT EXPERIENCE AND MAY BE ADJUSTED ON A YEAR-BY-YEAR BASIS AS PRESCRIBED BY SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION.

(II) THE DIVISION MUST NOTIFY ALL POLITICAL SUBDIVISIONS OR THEIR INSTRUMENTALITIES, AS DEFINED IN PARAGRAPH (a) OF THIS SUBSECTION (6), OF THE PREMIUM RATE NO LATER THAN JANUARY 1 OF THE YEAR FOR WHICH THE RATE APPLIES.

(7) (a) A SOLVENCY SURCHARGE WILL BE ASSESSED WHEN THE FUND BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND ON ANY JUNE 30 IS EQUAL TO OR LESS THAN 0.005 MULTIPLIED BY THE TOTAL WAGES REPORTED BY

EXPERIENCE-RATED EMPLOYERS FOR THE PREVIOUS CALENDAR YEAR, OR FOR THE MOST RECENT AVAILABLE FOUR CONSECUTIVE QUARTERS BEFORE THE LAST COMPUTATION DATE. THE SOLVENCY SURCHARGE WILL BE ASSESSED ON ALL EXPERIENCE-RATED EMPLOYERS BEGINNING WITH THE NEXT CALENDAR YEAR, AND THE SOLVENCY SURCHARGE IS ADDED TO THE EMPLOYER'S PREMIUM RATE. THE SOLVENCY SURCHARGE RATE ADDED TO THE EMPLOYER'S PREMIUM RATE WILL ALSO BE IDENTIFIED SEPARATELY ON THE EMPLOYER'S PREMIUM RATE NOTICE AS THE SOLVENCY SURCHARGE. THE SOLVENCY SURCHARGE REMAINS IN EFFECT UNTIL THE JUNE 30 FUND BALANCE IN THE UNEMPLOYMENT COMPENSATION FUND IS EQUAL TO OR GREATER THAN 0.007 MULTIPLIED BY THE TOTAL WAGES REPORTED BY EXPERIENCE-RATED EMPLOYERS FOR THE CALENDAR YEAR, OR FOR THE MOST RECENT AVAILABLE FOUR CONSECUTIVE QUARTERS:

<b>ELIGIBLE EMPLOYERS PERCENT OF EXCESS</b>	<b>SOLVENCY SURCHARGE</b>
+20 OR MORE	0.00100
+18 TO +19	0.00150
+16 TO +17	0.00150
+14 TO +15	0.00150
+12 TO +13	0.00150
+10 TO +11	0.00175
+8 TO +9	0.00275
+6 TO +7	0.00375
+4 TO +5	0.00475
+2 TO +3	0.00725
+0 TO +1	0.01100
UNRATED	0.01350
-0 TO -1	0.01425
-2 TO -3	0.01525
-4 TO -5	0.01625
-6 TO -7	0.01725
-8 TO -9	0.01825
-10 TO -11	0.01925
-12 TO -13	0.02025
-14 TO -15	0.02125
-16 TO -17	0.02225
-18 TO -19	0.02325
-20 TO -21	0.02425
-22 TO -23	0.02525
-24 TO -25	0.02625
MORE THAN -25	0.02700

(b) THE SOLVENCY SURCHARGE SHALL NOT BE ASSESSED AGAINST:

(I) THE COVERED EMPLOYERS OF STATE AND LOCAL GOVERNMENTS;

(II) NONPROFIT ORGANIZATIONS THAT ARE REIMBURSING EMPLOYERS; OR

(III) POLITICAL SUBDIVISIONS ELECTING THE SPECIAL RATE.

(8) (a) SUBJECT TO THE CONDITIONS STATED IN PARAGRAPH (b) OF THIS SUBSECTION (8), AN EMPLOYER IS ELIGIBLE FOR A PREMIUM CREDIT, AS DETERMINED BY THE DIVISION, OF A PROPORTIONATE AMOUNT OF THE EXCESS OF THE AMOUNT SPECIFIED IN SUBPARAGRAPH (IV) OF PARAGRAPH (b) OF THIS SUBSECTION (8). EACH EMPLOYER THAT QUALIFIES FOR THE PREMIUM CREDIT RECEIVES A SHARE OF THE TOTAL AVAILABLE PREMIUM CREDIT EQUAL TO HIS OR HER PROPORTIONATE SHARE OF THE TOTAL CHARGEABLE WAGES PAID BY QUALIFYING EMPLOYERS.

(b) AN EMPLOYER DOES NOT RECEIVE PREMIUM CREDIT UNDER THIS SUBSECTION (8) UNLESS ALL OF THE FOLLOWING CONDITIONS ARE MET:

(I) AS OF THE MOST RECENT COMPUTATION DATE, THE EMPLOYER HAS FILED ALL REQUIRED REPORTS AND PAID ALL PREMIUMS AND SURCHARGES DUE UNDER ARTICLES 70 TO 82 OF THIS TITLE;

(II) THE EMPLOYER IS NOT A NEGATIVE EXCESS EMPLOYER UNDER THE TABLE IN SUBSECTION (3) OF THIS SECTION;

(III) THE EMPLOYER HAS NOT ELECTED TO MAKE REIMBURSEMENT PAYMENTS IN LIEU OF PREMIUMS; AND

(IV) AS OF THE COMPUTATION DATE IMMEDIATELY PRECEDING THE CALENDAR YEAR FOR WHICH THE PREMIUM CREDIT IS TO BE TAKEN, THE UNEXPENDED AND UNENCUMBERED SURPLUS BALANCE IN THE UNEMPLOYMENT COMPENSATION FUND CREATED IN SECTION 8-77-101 (1) EXCEEDED ONE AND SIX-TENTHS PERCENT OF TOTAL WAGES REPORTED BY EXPERIENCE-RATED EMPLOYERS. AMOUNTS IN EXCESS OF ONE AND SIX-TENTHS PERCENT OF TOTAL COVERED WAGES ARE CONSIDERED AVAILABLE FOR DISBURSEMENT AS PART OF THE PREMIUM CREDIT.

(9) ANY PREMIUM CREDIT REMAINING TO AN EMPLOYER AFTER THE FIRST YEAR IN WHICH THE PREMIUM CREDIT IS APPLIED IS AVAILABLE TO THE EMPLOYER IN SUBSEQUENT CALENDAR YEARS.

(10) AS USED IN SUBSECTIONS (8) AND (9) OF THIS SECTION, "PREMIUM CREDIT" MEANS THE DOLLAR AMOUNT DISCOUNT AVAILABLE TO ELIGIBLE EMPLOYERS UNDER THE CONDITIONS SET FORTH IN PARAGRAPH (b) OF SUBSECTION (8) OF THIS SECTION TO BE APPLIED AGAINST PREMIUMS DUE IN ANY GIVEN CALENDAR YEAR. FOR PURPOSES OF COMPUTING AN EMPLOYER'S FUTURE RATE, ANY PREMIUM CREDIT CLAIMED BY AN EMPLOYER UNDER SUBSECTION (8) OF THIS SECTION IS DISREGARDED, AND THE PREMIUM THAT WOULD OTHERWISE BE DUE IS DEEMED PAID.

(11) (a) THE DIVISION SHALL MAINTAIN A SEPARATE ACCOUNT FOR EACH EMPLOYER AND SHALL CREDIT THE EMPLOYER'S ACCOUNT WITH ALL PREMIUMS AND SURCHARGES PAID ON THE EMPLOYER'S BEHALF. NOTHING IN ARTICLES 70 TO 82 OF THIS TITLE SHALL BE CONSTRUED TO GRANT ANY EMPLOYER OR INDIVIDUALS IN THE EMPLOYER'S SERVICE PRIOR CLAIMS OR RIGHTS TO THE AMOUNTS PAID BY THE EMPLOYER INTO THE FUND, EITHER ON THE EMPLOYER'S BEHALF OR ON BEHALF OF SUCH INDIVIDUALS. BENEFITS PAID TO AN ELIGIBLE INDIVIDUAL SHALL BE CHARGED, IN THE AMOUNT PROVIDED IN THIS SECTION, AGAINST THE ACCOUNTS OF HIS OR HER

EMPLOYERS IN THE BASE PERIOD IN THE INVERSE CHRONOLOGICAL ORDER IN WHICH THE EMPLOYMENT OF THE INDIVIDUAL OCCURRED. BENEFITS PAID TO A SEASONAL WORKER DURING THE NORMAL SEASONAL PERIODS SHALL BE CHARGED AGAINST THE ACCOUNT OF HIS OR HER MOST RECENT SEASONAL EMPLOYERS IN THE CORRESPONDING NORMAL SEASONAL PERIOD OF HIS OR HER BASE PERIOD IN THE INVERSE CHRONOLOGICAL ORDER IN WHICH THE SEASONAL EMPLOYMENT OF THE INDIVIDUAL OCCURRED AND PRIOR TO THE CHARGING OF BENEFITS BASED ON NONSEASONAL EMPLOYMENT.

(b) THE MAXIMUM AMOUNT CHARGED AGAINST THE EXPERIENCE RATING ACCOUNT OF ANY EMPLOYER PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (11) MAY NOT EXCEED ONE-THIRD OF THE WAGES PAID TO AN INDIVIDUAL BY THE EMPLOYER FOR INSURED WORK DURING THE INDIVIDUAL'S BASE PERIOD, BUT NOT MORE PER COMPLETED CALENDAR QUARTER OR PORTION THEREOF THAN ONE-THIRD OF THE MAXIMUM WAGE CREDITS AS COMPUTED IN SECTION 8-73-104. NOTHING IN SECTIONS 8-76-101 TO 8-76-104 SHALL BE CONSTRUED TO LIMIT BENEFITS PAYABLE PURSUANT TO SECTIONS 8-73-101 TO 8-73-106. NOTWITHSTANDING SECTION 8-73-108 OR ANY ADMINISTRATIVE PRACTICE THAT RESULTS IN FUND CHARGING, A REIMBURSING EMPLOYER SHALL BEAR THE COST OF ALL BENEFITS PAID TO ITS FORMER EMPLOYEES, WITH THE EXCEPTION OF BENEFIT OVERPAYMENTS. THE DIRECTOR OF THE DIVISION, BY GENERAL RULES, SHALL PRESCRIBE THE MANNER IN WHICH BENEFITS SHALL BE CHARGED AGAINST THE ACCOUNTS OF SEVERAL EMPLOYERS FOR WHOM AN INDIVIDUAL PERFORMED EMPLOYMENT AT THE SAME TIME.

(c) IF, BY REASON OF FRAUD, MISTAKE, OR CLERICAL ERROR, AN INDIVIDUAL RECEIVES BENEFITS IN EXCESS OF THOSE TO WHICH HE OR SHE IS ENTITLED AND THE EMPLOYER'S ACCOUNT IS CHARGED, THE EMPLOYER'S ACCOUNT SHALL BE CREDITED AN AMOUNT EQUAL TO THE BENEFITS ERRONEOUSLY CHARGED TO THE ACCOUNT.

**SECTION 6.** 8-76-103 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**8-76-103. Future rates based on benefit experience - definitions - repeal.** (1) (d) IF, BY REASON OF FRAUD, MISTAKE, OR CLERICAL ERROR, AN INDIVIDUAL RECEIVES BENEFITS IN EXCESS OF THOSE TO WHICH HE OR SHE IS ENTITLED AND THE EMPLOYER'S ACCOUNT IS CHARGED, THE EMPLOYER'S ACCOUNT SHALL BE CREDITED AN AMOUNT EQUAL TO THE BENEFITS ERRONEOUSLY CHARGED TO THE ACCOUNT.

**SECTION 7.** 8-76-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**8-76-103. Future rates based on benefit experience - definitions - repeal.** (8) THIS SECTION IS REPEALED, EFFECTIVE UPON RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE UNDER SECTION 8-76-102.5 (1) INDICATING THAT THE FUND BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND ON ANY JUNE 30 IS EQUAL TO OR GREATER THAN ZERO DOLLARS, AND ALL ADVANCES IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN TITLE XII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HAVE BEEN REPAID.

**SECTION 8.** Article 76 of title 8, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**8-76-103.5. Transitional provisions - combined premium rate for 2012 - repeal.** (1) FOR CALENDAR YEAR 2012, THE INCREMENTAL INCREASE IN THE SOLVENCY SURCHARGE ESTABLISHED IN SECTION 8-76-102 WILL BE APPLIED, AND AN AMOUNT EQUAL TO THE AMOUNT OF THE INCREASE IN THE SURCHARGE WILL BE SUBTRACTED FROM THE COMPUTATION ON THE EXPERIENCE-RATED EMPLOYER'S RATE FOR THE CALENDAR YEAR 2012.

(2) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2014.

**SECTION 9.** 8-70-114 (2) (g) (III) (A), Colorado Revised Statutes, is amended, and the said 8-70-114 (2) (g) (III) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH, to read:

**8-70-114. Employing unit - definitions - rules - employee leasing company certification fund - repeal.** (2) (g) (III) Each employee leasing company shall annually certify and provide evidence to the department that it meets one of the following criteria to provide securitization of unemployment premiums:

(A) Execute and file a surety bond or deposit with the division money or a letter of credit equivalent to fifty percent of the average annual amount of unemployment premium assessed within the previous calendar year for all covered employees regardless of the election made pursuant to subparagraph (VII) of paragraph (b) of this subsection (2). For a new employee leasing company, the initial bond amount will be the standard premium rate, as determined pursuant to section 8-76-103, multiplied by fifty percent of the estimated projected chargeable payroll for the current calendar year as estimated by the employee leasing company. THIS SUB-SUBPARAGRAPH (A) IS REPEALED, EFFECTIVE UPON RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE UNDER SECTION 8-76-102.5 (1) INDICATING THAT THE FUND BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND ON ANY JUNE 30 IS EQUAL TO OR GREATER THAN ZERO DOLLARS, AND ALL ADVANCES IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN TITLE XII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HAVE BEEN REPAID.

(A.5) ON AND AFTER THE REPEAL OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III), EXECUTE AND FILE A SURETY BOND OR DEPOSIT WITH THE DIVISION MONEY OR A LETTER OF CREDIT EQUIVALENT TO FIFTY PERCENT OF THE AVERAGE ANNUAL AMOUNT OF UNEMPLOYMENT PREMIUM ASSESSED WITHIN THE PREVIOUS CALENDAR YEAR FOR ALL COVERED EMPLOYEES REGARDLESS OF THE ELECTION MADE PURSUANT TO SUBPARAGRAPH (VII) OF PARAGRAPH (b) OF THIS SUBSECTION (2). FOR A NEW EMPLOYEE LEASING COMPANY, THE INITIAL BOND AMOUNT IS THE UNRATED PREMIUM RATE, AS DETERMINED PURSUANT TO SECTION 8-76-102.5, MULTIPLIED BY FIFTY PERCENT OF THE ESTIMATED PROJECTED CHARGEABLE PAYROLL FOR THE CURRENT CALENDAR YEAR AS ESTIMATED BY THE EMPLOYEE LEASING COMPANY.

**SECTION 10.** 8-72-110 (2), Colorado Revised Statutes, is amended to read:

**8-72-110. Reciprocal interstate agreements - repeal.** (2) (a) (I) The division is authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby wages for insured work paid in another state or by the federal government ~~shall be~~ ARE deemed to be wages for insured work under articles 70 to 82 of this title; and wages for insured work paid under ~~the provisions of~~ articles 70 to 82 of this title ~~shall be~~ ARE deemed to be wages on the basis of which unemployment insurance is payable under such law of another state or of the federal government. No such arrangement shall be entered into unless it contains provision for reimbursement to the fund for ~~such of~~ the benefits paid under articles 70 to 82 of this title on the basis of ~~such~~ THE wages and provision for reimbursement from the fund for ~~such~~ THE benefits paid under such other law on the basis of wages for insured work as the division finds will be fair and reasonable to all affected interests. Reimbursements paid from the fund pursuant to this section shall be deemed to be benefits for the purposes of articles 70 to 82 of this title; except that no charge shall be made to a premium-paying employer's account under sections 8-76-101 to 8-76-104. With the exception of benefit overpayments, such noncharging shall not apply to reimbursing employer accounts that will be charged in accordance with section 8-76-103 in the same amount and to the same extent as if the reimbursement to another state had been benefits based solely on wages paid by an employer covered by articles 70 to 82 of this title.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE UPON RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE UNDER SECTION 8-76-102.5 (1) INDICATING THAT THE FUND BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND ON ANY JUNE 30 IS EQUAL TO OR GREATER THAN ZERO DOLLARS, AND ALL ADVANCES IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN TITLE XII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HAVE BEEN REPAID.

(b) (I) THE DIVISION MAY ENTER INTO RECIPROCAL ARRANGEMENTS WITH APPROPRIATE AND DULY AUTHORIZED AGENCIES OF OTHER STATES OR OF THE FEDERAL GOVERNMENT, OR BOTH, WHEREBY WAGES FOR INSURED WORK PAID IN ANOTHER STATE OR BY THE FEDERAL GOVERNMENT ARE DEEMED TO BE WAGES FOR INSURED WORK UNDER ARTICLES 70 TO 82 OF THIS TITLE; AND WAGES FOR INSURED WORK PAID UNDER ARTICLES 70 TO 82 OF THIS TITLE ARE DEEMED TO BE WAGES ON THE BASIS OF WHICH UNEMPLOYMENT INSURANCE IS PAYABLE UNDER A CORRESPONDING LAW OF ANOTHER STATE OR OF THE FEDERAL GOVERNMENT. NO SUCH ARRANGEMENT MAY BE ENTERED INTO UNLESS IT CONTAINS PROVISION FOR REIMBURSEMENT TO THE FUND FOR THE BENEFITS PAID UNDER ARTICLES 70 TO 82 OF THIS TITLE ON THE BASIS OF THE WAGES AND PROVISION FOR REIMBURSEMENT FROM THE FUND FOR THE BENEFITS PAID UNDER SUCH OTHER LAW ON THE BASIS OF WAGES FOR INSURED WORK AS THE DIVISION FINDS WILL BE FAIR AND REASONABLE TO ALL AFFECTED INTERESTS. REIMBURSEMENTS PAID FROM THE FUND PURSUANT TO THIS SECTION ARE DEEMED TO BE BENEFITS FOR THE PURPOSES OF ARTICLES 70 TO 82 OF THIS TITLE; EXCEPT THAT NO CHARGE MAY BE MADE TO A PREMIUM-PAYING EMPLOYER'S ACCOUNT UNDER SECTIONS 8-76-101 TO 8-76-104. WITH THE EXCEPTION OF BENEFIT OVERPAYMENTS, THE NONCHARGING SHALL NOT APPLY TO REIMBURSING EMPLOYER ACCOUNTS THAT WILL BE CHARGED IN ACCORDANCE WITH SECTION 8-76-102.5 IN THE SAME AMOUNT AND TO THE SAME EXTENT AS IF THE REIMBURSEMENT TO ANOTHER STATE HAD BEEN BENEFITS BASED SOLELY ON WAGES PAID BY AN EMPLOYER COVERED BY ARTICLES 70 TO 82 OF THIS TITLE.

(II) THIS PARAGRAPH (b) IS EFFECTIVE ON AND AFTER THE REPEAL OF PARAGRAPH (a) OF THIS SUBSECTION (2).

**SECTION 11.** 8-73-104 (2), Colorado Revised Statutes, is amended to read:

**8-73-104. Duration of benefits - repeal.** (2) (a) (I) Notwithstanding other provisions of this section, or section 8-76-103 (1) (a), benefits based upon regular part-time employment may not be charged to the experience rating account of the regular part-time employer until the claimant has become separated from ~~such~~ THE regular part-time employment and then only for those weeks of unemployment ~~which~~ THAT occur after said separation.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE UPON RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE UNDER SECTION 8-76-102.5 (1) INDICATING THAT THE FUND BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND ON ANY JUNE 30 IS EQUAL TO OR GREATER THAN ZERO DOLLARS, AND ALL ADVANCES IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN TITLE XII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HAVE BEEN REPAID.

(b) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR OF SECTION 8-76-102.5 (11) (a), BENEFITS BASED UPON REGULAR PART-TIME EMPLOYMENT MAY NOT BE CHARGED TO THE EXPERIENCE RATING ACCOUNT OF THE REGULAR PART-TIME EMPLOYER UNTIL THE CLAIMANT HAS BECOME SEPARATED FROM THE REGULAR PART-TIME EMPLOYMENT, AND THEN ONLY FOR THOSE WEEKS OF UNEMPLOYMENT THAT OCCUR AFTER THE SEPARATION.

(II) THIS PARAGRAPH (b) IS EFFECTIVE ON AND AFTER THE REPEAL OF PARAGRAPH (a) OF THIS SUBSECTION (2).

**SECTION 12.** 8-75-203 (1), Colorado Revised Statutes, is amended to read:

**8-75-203. Work share program - work share plan - eligibility of employer - approval - denial - repeal.** (1) (a) (I) The director shall establish a voluntary work share program for the purpose of allowing the payment of unemployment compensation benefits to employees whose wages and hours have been reduced. In order to participate in the work share program, an employer shall submit a work share plan in writing to the director for approval. If the employer is subject to a collective bargaining agreement, the collective bargaining unit must agree in writing to the work share plan prior to implementation. An employer that is a negative excess employer pursuant to section 8-76-103 (3) (b) is not eligible to participate in the work share program.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE UPON RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE UNDER SECTION 8-76-102.5 (1) INDICATING THAT THE FUND BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND ON ANY JUNE 30 IS EQUAL TO OR GREATER THAN ZERO DOLLARS, AND ALL ADVANCES IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN TITLE XII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HAVE BEEN REPAID.

(b) (I) THE DIRECTOR SHALL ESTABLISH A VOLUNTARY WORK SHARE PROGRAM FOR THE PURPOSE OF ALLOWING THE PAYMENT OF UNEMPLOYMENT COMPENSATION BENEFITS TO EMPLOYEES WHOSE WAGES AND HOURS HAVE BEEN REDUCED. IN ORDER TO PARTICIPATE IN THE WORK SHARE PROGRAM, AN EMPLOYER SHALL SUBMIT A WORK SHARE PLAN IN WRITING TO THE DIRECTOR FOR APPROVAL. IF THE EMPLOYER IS SUBJECT TO A COLLECTIVE BARGAINING AGREEMENT, THE COLLECTIVE BARGAINING UNIT MUST AGREE IN WRITING TO THE WORK SHARE PLAN PRIOR TO IMPLEMENTATION. AN EMPLOYER THAT IS A NEGATIVE EXCESS EMPLOYER PURSUANT TO SECTION 8-76-102.5 (3) IS NOT ELIGIBLE TO PARTICIPATE IN THE WORK SHARE PROGRAM.

(II) THIS PARAGRAPH (b) IS EFFECTIVE ON AND AFTER THE REPEAL OF PARAGRAPH (a) OF THIS SUBSECTION (1).

**SECTION 13.** 8-76-104 (1) (c), Colorado Revised Statutes, is amended to read:

**8-76-104. Transfer of experience - assignment of rates - definitions - repeal.** (1) (c) (I) (A) If, at the time of transfer, a person who is not an employer under this section acquires the trade or business of an employer and the division finds that the successor acquired the trade or business solely or primarily for the purpose of obtaining a lower rate of contributions, the unemployment experience of the predecessor employer shall not be transferred to the successor and the division shall assign the successor the applicable new employer rate determined pursuant to section 8-76-103 (3).

(B) THIS SUBPARAGRAPH (I) IS REPEALED, EFFECTIVE UPON RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE UNDER SECTION 8-76-102.5 (1) INDICATING THAT THE FUND BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND ON ANY JUNE 30 IS EQUAL TO OR GREATER THAN ZERO DOLLARS, AND ALL ADVANCES IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN TITLE XII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HAVE BEEN REPAID.

(II) (A) IF, AT THE TIME OF TRANSFER, A PERSON WHO IS NOT AN EMPLOYER UNDER THIS SECTION ACQUIRES THE TRADE OR BUSINESS OF AN EMPLOYER AND THE DIVISION FINDS THAT THE SUCCESSOR ACQUIRED THE TRADE OR BUSINESS SOLELY OR PRIMARILY FOR THE PURPOSE OF OBTAINING A LOWER RATE OF CONTRIBUTIONS, THE UNEMPLOYMENT EXPERIENCE OF THE PREDECESSOR EMPLOYER SHALL NOT BE TRANSFERRED TO THE SUCCESSOR AND THE DIVISION SHALL ASSIGN THE SUCCESSOR THE APPLICABLE NEW EMPLOYER RATE DETERMINED PURSUANT TO SECTION 8-76-102.5 (4).

(B) THIS SUBPARAGRAPH (II) IS EFFECTIVE ON AND AFTER THE REPEAL OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c).

**SECTION 14.** 8-77-109 (1) and (2) (a.9), Colorado Revised Statutes, are amended to read:

**8-77-109. Employment support fund - employment and training technology fund - created - uses - repeal.** (1) (a) (I) There is hereby established the employment support fund which shall be credited with fifty percent of the

premium surcharge established by section 8-76-102 (4) (d) beginning July 1, 1999. The employment support fund shall not be included in or administered by the enterprise established pursuant to section 8-71-103 (2).

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE UPON RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE UNDER SECTION 8-76-102.5 (1) INDICATING THAT THE FUND BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND ON ANY JUNE 30 IS EQUAL TO OR GREATER THAN ZERO DOLLARS, AND ALL ADVANCES IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN TITLE XII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HAVE BEEN REPAID.

(b) (I) THERE IS HEREBY ESTABLISHED THE EMPLOYMENT SUPPORT FUND. THIS FUND CONSISTS OF THE FIRST 0.0011 ASSESSED AS PART OF EACH EMPLOYER'S PREMIUM UNDER SECTION 8-76-102.5 (3) (a) OR THE AMOUNT EXPENDED FROM THE EMPLOYMENT SUPPORT FUND IN THE YEAR PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH (b), ADJUSTED BY THE SAME PERCENTAGE CHANGE PRESCRIBED IN SECTION 8-70-103 (6.5), WHICHEVER IS LESS. THE DIVISION MUST TRANSFER TO THE UNEMPLOYMENT COMPENSATION FUND AMOUNTS IN EXCESS OF THE AMOUNT EXPENDED FROM THE EMPLOYMENT SUPPORT FUND IN THE YEAR PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH (b), ADJUSTED EACH YEAR BY THE SAME PERCENTAGE CHANGE PRESCRIBED IN SECTION 8-70-103 (6.5). THE EMPLOYMENT SUPPORT FUND SHALL NOT BE INCLUDED IN OR ADMINISTERED BY THE ENTERPRISE ESTABLISHED PURSUANT TO SECTION 8-71-103 (2).

(II) THIS PARAGRAPH (b) IS EFFECTIVE ON AND AFTER THE REPEAL OF PARAGRAPH (a) OF THIS SUBSECTION (1).

(2) (a.9) (I) (A) Notwithstanding any provision of this subsection (2) to the contrary, beginning July 1, 2009, through December 31, 2016, twenty percent of the premium surcharge established by section 8-76-102 (4) shall be credited to the employment and training technology fund, which is hereby created in the state treasury. Moneys in the employment and training technology fund shall be used for employment and training automation initiatives established by the director of the division. Moneys in the employment and training technology fund ~~shall be~~ ARE subject to annual appropriation by the general assembly for the implementation of this paragraph (a.9) and shall not revert to the general fund or any other fund at the end of any fiscal year. The moneys in the employment and training technology fund ~~shall be~~ ARE exempt from section 24-75-402, C.R.S. If the balance of the unemployment compensation fund created in section 8-77-101 falls below twenty-five million dollars, the moneys in the employment and training technology fund shall be allocated to the unemployment compensation fund. At any other time, the moneys in the employment and training technology fund may be allocated to the unemployment compensation fund at the discretion of the executive director of the department of labor and employment.

(B) THIS SUBPARAGRAPH (I) IS REPEALED, EFFECTIVE UPON RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE UNDER SECTION 8-76-102.5 (1) INDICATING THAT THE FUND BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND ON ANY JUNE 30 IS EQUAL TO OR GREATER THAN ZERO DOLLARS, AND ALL ADVANCES IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN TITLE XII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HAVE BEEN REPAID.

(II) (A) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (2) TO THE CONTRARY, ON AND AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (II), 0.0004 ASSESSED AGAINST EACH EMPLOYER'S PREMIUM UNDER SECTION 8-76-102.5 (3) (a) OR TEN MILLION DOLLARS OF ALL REVENUE COLLECTED ANNUALLY UNDER SECTION 8-76-102.5 (3) (a), WHICHEVER IS LESS, SHALL BE CREDITED TO THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND, ALSO REFERRED TO IN THIS PARAGRAPH (a.9) AS THE "FUND", WHICH IS HEREBY CREATED IN THE STATE TREASURY. ANY AMOUNT COLLECTED IN EXCESS OF TEN MILLION DOLLARS UNDER THIS SUBPARAGRAPH (II) SHALL BE CREDITED TO THE UNEMPLOYMENT COMPENSATION FUND. MONEYS IN THE FUND SHALL BE USED FOR EMPLOYMENT AND TRAINING AUTOMATION INITIATIVES ESTABLISHED BY THE DIRECTOR OF THE DIVISION. MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE PURPOSES OF THIS PARAGRAPH (a.9) AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR. THE MONEYS IN THE FUND ARE EXEMPT FROM SECTION 24-75-402, C.R.S. IF THE BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND CREATED IN SECTION 8-77-101 FALLS BELOW ONE HUNDRED MILLION DOLLARS, THE MONEYS IN THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND SHALL BE ALLOCATED TO THE UNEMPLOYMENT COMPENSATION FUND. ONCE CUMULATIVE REVENUE TO THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND EQUALS ONE HUNDRED MILLION DOLLARS, LESS ANY MONEYS TRANSFERRED TO THE UNEMPLOYMENT COMPENSATION FUND, NO ADDITIONAL MONEYS SHALL BE CREDITED TO THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND BUT INSTEAD SHALL BE ALLOCATED TO THE UNEMPLOYMENT COMPENSATION FUND. AT ANY OTHER TIME, THE MONEYS IN THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND MAY BE ALLOCATED TO THE UNEMPLOYMENT COMPENSATION FUND AT THE DISCRETION OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT.

(B) THIS SUBPARAGRAPH (II) IS EFFECTIVE ON AND AFTER THE REPEAL OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a.9).

**SECTION 15.** 8-79-104 (1) (a), Colorado Revised Statutes, is amended to read:

**8-79-104. Failure to file true report - penalty - repeal.** (1) (a) (I) (A) It is the responsibility of each employer subject to ~~the provisions of~~ articles 70 to 82 of this title to file true and accurate reports whether or not premiums or surcharges are due and to pay all premiums and surcharges when due. Whenever an employer fails to furnish premium reports required by the division by the due date, the employer shall be assessed a penalty of fifty dollars for each occurrence; except that an "employer newly subject" as defined by section 8-76-103 (3) (a) (IV) shall be assessed a penalty of ten dollars for each such occurrence during the first four quarters of coverage. Each subsequent quarter in which the employer continues the failure to file ~~such~~ THE reports ~~shall be~~ IS considered a separate occurrence. Penalties collected by the division pursuant to this paragraph (a) shall be paid into the unemployment revenue fund.

(B) THIS SUBPARAGRAPH (I) IS REPEALED, EFFECTIVE UPON RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE UNDER SECTION 8-76-102.5 (1) INDICATING THAT THE FUND BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND ON ANY JUNE 30 IS EQUAL TO OR GREATER THAN ZERO DOLLARS, AND ALL

ADVANCES IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN TITLE XII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HAVE BEEN REPAID.

(II) (A) IT IS THE RESPONSIBILITY OF EACH EMPLOYER SUBJECT TO ARTICLES 70 TO 82 OF THIS TITLE TO FILE TRUE AND ACCURATE REPORTS, WHETHER OR NOT PREMIUMS OR SURCHARGES ARE DUE, AND TO PAY ALL PREMIUMS AND SURCHARGES WHEN DUE. WHENEVER AN EMPLOYER FAILS TO FURNISH PREMIUM REPORTS REQUIRED BY THE DIVISION BY THE DUE DATE, THE DIVISION SHALL ASSESS AGAINST THE EMPLOYER A PENALTY OF FIFTY DOLLARS FOR EACH OCCURRENCE; EXCEPT THAT AN "EMPLOYER NEWLY SUBJECT" AS DEFINED BY SECTION 8-76-102.5 (4) SHALL BE ASSESSED A PENALTY OF TEN DOLLARS FOR EACH OCCURRENCE DURING THE FIRST FOUR QUARTERS OF COVERAGE. EACH SUBSEQUENT QUARTER IN WHICH THE EMPLOYER CONTINUES THE FAILURE TO FILE THE REPORTS SHALL BE CONSIDERED A SEPARATE OCCURRENCE. PENALTIES COLLECTED BY THE DIVISION PURSUANT TO THIS SUB-PARAGRAPH (A) SHALL BE PAID INTO THE UNEMPLOYMENT REVENUE FUND.

(B) THIS SUBPARAGRAPH (II) IS EFFECTIVE ON AND AFTER THE REPEAL OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

**SECTION 16.** 8-81-101 (4) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**8-81-101. Penalties.** (4) (a) (IV) THE PENALTIES ASSOCIATED WITH AN OVERPAYMENT PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) SHALL BE MADE KNOWN TO INDIVIDUALS UPON FILING AN UNEMPLOYMENT CLAIM AS DEFINED IN SECTION 8-70-112.

**SECTION 17.** 8-81-101 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**8-81-101. Penalties.** (4) (d) UPON FINAL DETERMINATION PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (4), REPAYMENT OF AN OVERPAYMENT THAT IS A RESULT OF THE INDIVIDUAL'S FALSE REPRESENTATION OR WILLFUL FAILURE TO DISCLOSE A MATERIAL FACT PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL BE MADE WITHIN THIRTY DAYS.

**SECTION 18. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the employment support fund created in section 8-77-109 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of labor and employment, for allocation to the division of employment and training, for unemployment insurance programs, for the fiscal year beginning July 1, 2011, the sum of sixty-two thousand nine hundred dollars (\$62,900) cash funds, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 19. Effective date.** This act shall take effect July 1, 2011.

**SECTION 20. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 26, 2011