

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 09-1016.01 Christy Chase

HOUSE BILL 09-1363

HOUSE SPONSORSHIP

Ferrandino,

SENATE SPONSORSHIP

Veiga,

House Committees

Business Affairs and Labor

Senate Committees

Business, Labor and Technology

SENATE
3rd Reading Unam ended
May 6, 2009

SENATE
2nd Reading Unam ended
May 5, 2009

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY FOR THE UNEMPLOYMENT**
102 **COMPENSATION SECTION OF THE DIVISION OF EMPLOYMENT AND**
103 **TRAINING IN THE DEPARTMENT OF LABOR AND EMPLOYMENT TO**
104 **OPERATE AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF**
105 **ARTICLE X OF THE STATE CONSTITUTION.**

HOUSE
3rd Reading Unam ended
April 28, 2009

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Designates the unemployment compensation section (section) of the division of employment and training in the department of labor and employment as an enterprise for purposes of section 20 of article X of the

HOUSE
Am ended 2nd Reading
April 27, 2009

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

state constitution (TABOR), as long as the section retains the authority to issue revenue bonds and receives less than 10% of its total annual revenues in grants from state and local governments.

Clarifies that the section is authorized to continue its functions consistent with current law and is not to perform any functions of the employment service section of the division or under the "Colorado Work Force Investment Act".

Authorizes the section to issue revenue bonds for expenses of the section, subject to approval from both houses of the general assembly and the governor before issuance of any revenue bonds.

Requires employers to pay premiums, premium surcharges, and a solvency surcharge, when applicable, instead of taxes, in order to provide for unemployment compensation benefits for workers who become unemployed and eligible for such benefits.

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

2 **SECTION 1.** 8-71-103, Colorado Revised Statutes, is amended
3 to read:

4 **8-71-103. Organization of division.** (1) There shall be in the
5 division the unemployment compensation section and the employment
6 service section. The unemployment compensation and employment
7 service sections shall be coordinate sections of the administrative
8 organization.

9 (2) (a) THE UNEMPLOYMENT COMPENSATION SECTION OF THE
10 DIVISION SHALL CONSTITUTE AN ENTERPRISE FOR PURPOSES OF SECTION 20
11 OF ARTICLE X OF THE STATE CONSTITUTION, AS LONG AS THE
12 UNEMPLOYMENT COMPENSATION SECTION RETAINS AUTHORITY TO ISSUE
13 REVENUE BONDS AND THE SECTION RECEIVES LESS THAN TEN PERCENT OF
14 ITS TOTAL ANNUAL REVENUES IN GRANTS, AS DEFINED IN SECTION
15 24-77-102 (7), C.R.S., FROM ALL COLORADO STATE AND LOCAL
16 GOVERNMENTS COMBINED. FOR AS LONG AS IT CONSTITUTES AN
17 ENTERPRISE PURSUANT TO THIS SECTION, THE UNEMPLOYMENT

1 COMPENSATION SECTION OF THE DIVISION SHALL NOT BE SUBJECT TO
2 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

3 (b) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
4 PARAGRAPH (b), THE ENTERPRISE ESTABLISHED PURSUANT TO THIS
5 SUBSECTION (2) SHALL HAVE ALL THE POWERS AND DUTIES AUTHORIZED
6 BY ARTICLES 70 TO 82 OF THIS TITLE PERTAINING TO UNEMPLOYMENT
7 COMPENSATION. THE ENTERPRISE IS NOT AUTHORIZED TO PERFORM THOSE
8 POWERS AND DUTIES GRANTED TO THE EMPLOYMENT SERVICE SECTION OF
9 THE DIVISION PURSUANT TO SECTION 8-71-106, AND THE DEPARTMENT'S
10 POWERS AND DUTIES UNDER THE "COLORADO WORK FORCE INVESTMENT
11 ACT", PART 2 OF THIS ARTICLE.

12 (II) THE EMPLOYMENT SUPPORT FUND ESTABLISHED IN SECTION
13 8-77-109 (1) SHALL NOT BE INCLUDED IN OR ADMINISTERED BY THE
14 ENTERPRISE ESTABLISHED PURSUANT TO THIS SUBSECTION (2).

15 (c) NOTHING IN THIS SUBSECTION (2) SHALL BE CONSTRUED TO
16 LIMIT OR RESTRICT THE AUTHORITY OF THE UNEMPLOYMENT
17 COMPENSATION SECTION TO EXPEND ITS REVENUES CONSISTENT WITH THE
18 PROVISIONS OF ARTICLES 70 TO 82 OF THIS TITLE.

19 (d) SUBJECT TO APPROVAL BY THE GENERAL ASSEMBLY, EITHER BY
20 BILL OR BY JOINT RESOLUTION, AND AFTER APPROVAL BY THE GOVERNOR
21 PURSUANT TO SECTION 39 OF ARTICLE V OF THE STATE CONSTITUTION, THE
22 UNEMPLOYMENT COMPENSATION SECTION IS HEREBY AUTHORIZED TO
23 ISSUE REVENUE BONDS FOR THE EXPENSES OF THE SECTION, SECURED BY
24 ANY REVENUES OF THE SECTION.

25 **SECTION 2.** 8-70-103 (13), (17) (b), (20), (25), (26), and (27),
26 Colorado Revised Statutes, are amended, and the said 8-70-103 is further
27 amended BY THE ADDITION OF THE FOLLOWING NEW

1 SUBSECTIONS, to read:

2 **8-70-103. Definitions.** As used in articles 70 to 82 of this title,
3 unless the context otherwise requires:

4 (6.3) "CHARGEABLE PAYROLL" MEANS THE SUM OF CHARGEABLE
5 WAGES.

6 (6.5) "CHARGEABLE WAGES" MEANS THOSE WAGES PAID AN
7 INDIVIDUAL EMPLOYEE DURING A CALENDAR YEAR ON WHICH THE
8 EMPLOYER OF THAT EMPLOYEE IS REQUIRED TO PAY PREMIUMS AS
9 PROVIDED BY ARTICLE 76 OF THIS TITLE, INCLUDING ALL WAGES SUBJECT
10 TO A TAX UNDER FEDERAL LAW, WHICH IMPOSES A TAX AGAINST WHICH
11 CREDIT MAY BE TAKEN FOR PREMIUMS REQUIRED TO BE PAID INTO A STATE
12 UNEMPLOYMENT FUND. FOR EACH CALENDAR YEAR, THE CHARGEABLE
13 WAGE IS THE FIRST TEN THOUSAND DOLLARS PAID AN INDIVIDUAL.

14 (13) "Fund" means the unemployment compensation fund
15 established in section 8-77-101 (1) to which all ~~taxes~~ PREMIUMS required
16 and from which all benefits under articles 70 to 82 of this title shall be
17 paid.

18 (17) (b) "Interested party" to a ~~tax~~ PREMIUM liability determination
19 means the division and the employer whose business has been issued a
20 liability determination by the division.

21 (20) "Payments in lieu of ~~taxes~~ PREMIUMS" means the money
22 payments made into the fund by an employer pursuant to the provisions
23 of sections 8-76-108 to 8-76-110.

24 (23.5) "PREMIUMS" MEANS THE MONEY PAYMENTS TO THE
25 UNEMPLOYMENT COMPENSATION FUND REQUIRED BY ARTICLES 70 TO 82
26 OF THIS TITLE.

27 (25) "~~Taxable payroll~~" means the sum of ~~taxable wages~~.

1 (26) ~~"Taxable wages" means those wages paid an individual~~
2 ~~employee during a calendar year on which the employer of that employee~~
3 ~~is required to pay tax as provided by article 76 of this title, including all~~
4 ~~wages subject to a tax under federal law which imposes a tax against~~
5 ~~which credit may be taken for taxes required to be paid into a state~~
6 ~~unemployment fund. For the calendar year commencing January 1, 1983,~~
7 ~~the taxable wage is the first seven thousand dollars paid an individual.~~
8 ~~For the calendar years commencing January 1, 1984, 1985, and 1986, the~~
9 ~~taxable wage is the first eight thousand dollars paid an individual. For the~~
10 ~~calendar year commencing January 1, 1987, the taxable wage is the first~~
11 ~~nine thousand dollars paid an individual. For the calendar year~~
12 ~~commencing January 1, 1988, and each calendar year thereafter, the~~
13 ~~taxable wage is the first ten thousand dollars paid an individual.~~

14 (27) ~~"Taxes" means the money payments to the unemployment~~
15 ~~compensation fund required by articles 70 to 82 of this title.~~

16 **SECTION 3.** 8-70-107, Colorado Revised Statutes, is amended
17 to read:

18 **8-70-107. Disposition of funds in event of unconstitutionality.**

19 (1) Articles 70 to 74 and 76 to 81 of this title are enacted for the purpose
20 of participating in the advantages available to the state of Colorado under
21 the federal "Social Security Act", as amended. In the event that Title IX
22 of ~~said act~~ THE FEDERAL "SOCIAL SECURITY ACT" or any amendments
23 ~~thereto~~ TO THE FEDERAL ACT are amended or repealed by congress or are
24 held unconstitutional by the supreme court of the United States, with the
25 result that no portion of the ~~taxes~~ PREMIUMS required under ~~said~~ articles
26 70 TO 74 AND 76 TO 81 OF THIS TITLE may be credited against the tax
27 imposed by ~~said~~ Title IX OF THE FEDERAL "SOCIAL SECURITY ACT", the

1 division shall ~~thereupon~~ requisition from the unemployment trust fund all
2 moneys ~~therein~~ IN THE TRUST FUND standing to the credit of the state of
3 Colorado, and such moneys, together with any other moneys in the
4 unemployment compensation fund, shall be refunded to the contributors
5 proportionate to their unexpended balances in the fund.

6 (2) In the event that the provisions of articles 70 to 74 and 76 to
7 81 of this title requiring the payment of ~~taxes~~ PREMIUMS and benefits are
8 held invalid under the constitution of this state by the supreme court of
9 this state or the supreme court of the United States or are held invalid
10 under the United States constitution by the supreme court of the United
11 States or the supreme court of this state, the division shall ~~thereupon~~
12 requisition from the unemployment trust fund all moneys ~~therein~~ IN THE
13 TRUST FUND standing to the credit of the state of Colorado, and such
14 moneys, together with any other moneys in the unemployment
15 compensation fund, shall be held in custody by the state treasurer in the
16 same manner as provided in section 8-77-105 until such time as the
17 general assembly provides for the disposition ~~thereof~~ OF THE MONEYS;
18 except that the general assembly shall not dispose of ~~such~~ THE moneys
19 ~~otherwise~~ OTHER than for unemployment compensation purposes or for
20 reimbursements to the contributors under the provisions of ~~said articles~~
21 ARTICLES 70 TO 74 AND 76 TO 81 OF THIS TITLE, proportionate to their
22 unexpended balances in the fund.

23 **SECTION 4.** 8-70-113 (1) (g) and (1) (h), Colorado Revised
24 Statutes, are amended to read:

25 **8-70-113. Employer - definition.** (1) "Employer" means:

26 (g) Any employing unit ~~which~~ THAT is not defined as an employer
27 under this section but for which, within either the current or the preceding

1 calendar year, service is or was performed with respect to which such
2 employing unit is liable for any federal tax against which credit may be
3 taken for ~~taxes~~ PREMIUMS required to be paid into a state unemployment
4 fund;

5 (h) Any employing unit ~~which~~ THAT, as a condition for approval
6 of articles 70 to 82 of this title for full ~~tax~~ credit against the tax imposed
7 by the "Federal Unemployment Tax Act" FOR PREMIUMS PAID, is required,
8 pursuant to such act, to be an employer under articles 70 to 82 of this title;

9 **SECTION 5.** 8-70-114 (2) (b) (VI) and (2) (b) (VII), the
10 introductory portion to 8-70-114 (2) (g) (III), and 8-70-114 (2) (g) (III)
11 (A), (3) (a), (3) (c), (6) (c), and (6) (e), Colorado Revised Statutes, are
12 amended to read:

13 **8-70-114. Employing unit - definitions - rules - employee**
14 **leasing company certification fund.** (2) (b) Notwithstanding the
15 provisions of subsection (1) of this section, an employee leasing company
16 shall be considered an employing unit or the coemployer of a work-site
17 employer's employees if, pursuant to an employee leasing company
18 contract with the work-site employer, it has the following rights and
19 responsibilities:

20 (VI) The employee leasing company, as the employing unit or
21 co-employer, has the responsibility for payment of wages to the workers
22 pursuant to the employee leasing company contract. The employee
23 leasing company, as the employing unit or co-employer, has responsibility
24 for reporting, withholding, and paying any applicable taxes AND
25 PREMIUMS with respect to the employee's wages or payment of sponsored
26 employee benefit plans pursuant to the employee leasing company
27 contract.

1 (VII) Each employee leasing company shall pay wages and
2 collect, report, and pay all payroll-related taxes AND PREMIUMS from its
3 own accounts for all covered employees. Each employee leasing
4 company shall pay unemployment compensation insurance ~~taxes~~
5 PREMIUMS and provide, maintain, and secure all records and documents
6 required of work-site employers under the unemployment insurance laws
7 of this state for covered employees. For unemployment reporting
8 purposes, each employee leasing company is the only employing unit for
9 covered employees and shall have the responsibility for unemployment
10 compensation insurance as required of an employer pursuant to the
11 "Colorado Employment Security Act", articles 70 to 82 of this title.

12 (g) (III) Each employee leasing company shall annually certify
13 and provide evidence to the department that it meets one of the following
14 criteria to provide securitization of unemployment ~~taxes~~ PREMIUMS:

15 (A) Execute and file a surety bond or deposit with the division
16 money or a letter of credit equivalent to fifty percent of the average
17 annual amount of unemployment ~~tax~~ PREMIUM assessed within the
18 previous calendar year. For a new employee leasing company, the initial
19 bond amount will be the standard ~~tax~~ PREMIUM rate, AS DETERMINED
20 PURSUANT TO SECTION 8-76-103, multiplied by fifty percent of the
21 estimated projected ~~taxable~~ CHARGEABLE payroll for the current calendar
22 year as estimated by the employee leasing company.

23 (3) (a) The status of an employee leasing company as the
24 employing unit or a co-employer of a work-site employer's employees
25 shall be revoked by the division if such employee leasing company fails
26 to file the required reports or pay the ~~taxes~~ PREMIUMS due under the
27 provisions of articles 70 to 82 of this title. The effective date of ~~any such~~

1 A revocation shall be the first day of the quarter for which the reports and
2 ~~taxes~~ PREMIUMS are due. In the event of ~~such~~ a revocation, the work-site
3 employer shall become liable for the reports and ~~taxes~~ PREMIUMS due.

4 (c) The provisions of paragraph (a) of this subsection (3) shall not
5 apply if an employee leasing company acts as an agent for a work-site
6 employer pursuant to the provisions of subsection (1) of this section, files
7 the required reports, and pays the ~~taxes~~ PREMIUMS due under an account
8 established for the work-site employer.

9 (6) (c) **Tax or premium credits and other incentives.** For
10 purposes of determination of employment-based tax OR PREMIUM credits,
11 such as economic development, enterprise zone, development zone, and
12 other such economic incentives provided by the state or any other
13 governmental entity, work-site employees shall be deemed employees
14 solely of the work-site employer. A work-site employer shall be entitled
15 to the benefit of any tax OR PREMIUM credit, economic incentive, or other
16 benefit arising as the result of the employment of work-site employees of
17 the work-site employer. If the grant or amount of any credit, benefit, or
18 other incentive is based on number of employees, then each work-site
19 employer shall be treated as employing only those work-site employees
20 coemployed by the work-site employer. Work-site employees working
21 for other work-site employers of the employee leasing company shall not
22 be counted. Upon request by a work-site employer or an agency or
23 department of this state, each employee leasing company shall provide
24 employment information reasonably required by any agency or
25 department of this state responsible for administration of any tax OR
26 PREMIUM credit or economic incentive and necessary to support any
27 request, claim, application, or other action by a work-site employer

1 seeking the tax OR PREMIUM credit or economic incentive.

2 (e) **Taxes, premiums, fees, other assessments.** (I) A tax,
3 PREMIUM, fee, surcharge, penalty, or any other assessment on a work-site
4 employer or employee leasing company on the basis of the number of
5 employees shall be assessed:

6 (A) Against the work-site employer for the work-site employees
7 under the employee leasing company contract with the employee leasing
8 company; and

9 (B) Against the employee leasing company for the employees of
10 the employee leasing company who are not work-site employees for any
11 work-site employers in the state.

12 (II) For a tax OR PREMIUM imposed or calculated upon the basis
13 of total payroll, an employee leasing company may apply any small
14 business allowance or exemption available to the work-site employer for
15 the work-site employees for purposes of computing the tax OR PREMIUM.

16 (III) The provisions of this paragraph (e) shall not apply to the
17 reporting, withholding, and paying of taxes OR PREMIUMS pursuant to
18 subparagraphs (VI) and (VII) of paragraph (b) of subsection (2) of this
19 section.

20 **SECTION 6.** 8-70-124, Colorado Revised Statutes, is amended
21 to read:

22 **8-70-124. Employment - credit - state unemployment fund.**

23 Notwithstanding any other provisions of sections 8-70-115 to 8-70-125,
24 "employment" means services with respect to which a tax is required to
25 be paid under any federal law imposing a tax against which credit may be
26 taken for ~~taxes~~ PREMIUMS required to be paid into a state unemployment
27 fund or which, as a condition for full ~~tax~~ credit against the tax imposed

1 by the "Federal Unemployment Tax Act", is required to be covered under
2 articles 70 to 82 of this title.

3 **SECTION 7.** 8-70-130, Colorado Revised Statutes, is amended
4 to read:

5 **8-70-130. Employment does not include - instrumentalities of**
6 **United States.** "Employment" does not include services performed in the
7 employ of the United States government, a national bank or state bank
8 ~~which~~ THAT is a member of the federal reserve system, or a federal
9 savings and loan association or a state building and loan association
10 ~~which~~ THAT is a member of the federal home loan bank system, which
11 institutions were, prior to January 1, 1972, exempt from articles 70 to 82
12 of this title, or any other instrumentality of the United States exempt
13 under the constitution of the United States from the ~~taxes~~ PREMIUMS
14 imposed by articles 70 to 82 of this title; except that, to the extent that the
15 congress of the United States permits states to require any
16 instrumentalities of the United States to make payments into an
17 unemployment fund under a state unemployment compensation law, all
18 of the provisions of articles 70 to 82 of this title shall be applicable to
19 such instrumentalities and to services performed for such
20 instrumentalities in the same manner, to the same extent, and on the same
21 terms as to all other employers, employing units, individuals, and
22 services. If this state is not certified for any year by the United States
23 secretary of labor under section 3304 of the federal "Internal Revenue
24 Code of 1986", as amended, the payments required of such
25 instrumentalities with respect to such year shall be refunded by the
26 division from the fund in the same manner and within the same period as
27 is provided in section 8-79-108 with respect to ~~taxes~~ PREMIUMS

1 erroneously collected.

2 **SECTION 8.** 8-72-107 (1), Colorado Revised Statutes, is
3 amended to read:

4 **8-72-107. Records and reports - fee - violation - penalty.**

5 (1) Each employing unit shall keep true and accurate work records,
6 containing such information as the division may prescribe. Such records
7 shall be retained for a period of not less than five years and shall be open
8 to inspection and be subject to being copied by the division or its
9 authorized representatives at any reasonable time and as often as may be
10 necessary. The division or any referee may require from any employing
11 unit any sworn or unsworn reports, with respect to persons employed by
12 it, which it or the referee deems necessary for the effective administration
13 of articles 70 to 82 of this title. Information thus obtained, or obtained
14 from any individual pursuant to the administration of articles 70 to 82 of
15 this title, except to the extent necessary for the proper presentation of a
16 claim, or withholding tax OR UNEMPLOYMENT INSURANCE account
17 numbers if such numbers are obtained from the department of revenue
18 pursuant to section 39-21-113, C.R.S., shall be held confidential and shall
19 not be published or be open to public inspection (other than to public
20 employees in the performance of their public duties, to an agent of a state
21 or local child support enforcement agency pursuant to section 8-72-109
22 (9), or to an agent of the division designated as such in writing for the
23 purpose of accomplishing certain of the division's functions) in any
24 manner revealing the individual's or employing unit's identity. Any
25 interested party or such party's authorized representative, in preparation
26 for and prior to any hearing on a claim governed by articles 70 to 82 of
27 this title, shall be entitled to examine and, upon the payment of a

1 reasonable fee to the division, obtain a copy of any materials contained
2 in such records to the extent necessary for proper presentation of the
3 party's position at the hearing. Notwithstanding said provisions of this
4 subsection (1), any applicant for work shall be entitled to examine and
5 copy, or obtain a copy from the division upon payment of the costs of
6 duplication, any letters of reference or other similar documents pertaining
7 to the applicant ~~which~~ THAT are in possession of the division. Any
8 employee or member of the division or any referee who violates any
9 provision of this article is guilty of a misdemeanor and, upon conviction
10 thereof, shall be punished by a fine of not less than twenty dollars nor
11 more than two hundred dollars, or by imprisonment in the county jail for
12 not more than ninety days, or by both such fine and imprisonment.

13 **SECTION 9.** 8-72-110 (2) and (4), Colorado Revised Statutes,
14 are amended to read:

15 **8-72-110. Reciprocal interstate agreements.** (2) The division
16 is authorized to enter into reciprocal arrangements with appropriate and
17 duly authorized agencies of other states or of the federal government, or
18 both, whereby wages for insured work paid in another state or by the
19 federal government shall be deemed to be wages for insured work under
20 articles 70 to 82 of this title; and wages for insured work paid under the
21 provisions of articles 70 to 82 of this title shall be deemed to be wages on
22 the basis of which unemployment insurance is payable under such law of
23 another state or of the federal government. No such arrangement shall be
24 entered into unless it contains provision for reimbursement to the fund for
25 such of the benefits paid under articles 70 to 82 of this title on the basis
26 of such wages and provision for reimbursement from the fund for such
27 benefits paid under such other law on the basis of wages for insured work

1 as the division finds will be fair and reasonable to all affected interests.
2 Reimbursements paid from the fund pursuant to this section shall be
3 deemed to be benefits for the purposes of articles 70 to 82 of this title;
4 except that no charge shall be made to a ~~taxpaying~~ PREMIUM-PAYING
5 employer's account under sections 8-76-101 to 8-76-104. With the
6 exception of benefit overpayments, such noncharging shall not apply to
7 reimbursing employer accounts ~~which~~ THAT will be charged in
8 accordance with section 8-76-103 in the same amount and to the same
9 extent as if the reimbursement to another state had been benefits based
10 solely on wages paid by an employer covered by articles 70 to 82 of this
11 title.

12 (4) The division is further authorized to enter into arrangements
13 with the appropriate agencies of other states or of the federal government
14 for the determination, adjustment, collection, and assessment of ~~taxes~~
15 PREMIUMS by employers with respect to employment within and without
16 this state.

17 **SECTION 10.** 8-73-107 (1) (h), Colorado Revised Statutes, is
18 amended to read:

19 **8-73-107. Eligibility conditions - penalty.** (1) Any unemployed
20 individual shall be eligible to receive benefits with respect to any week
21 only if the division finds that:

22 (h) ~~He~~ THE INDIVIDUAL has furnished the division with separation
23 and other reports containing ~~such~~ THE information deemed necessary by
24 the division to determine ~~his~~ THE INDIVIDUAL'S eligibility for benefits, but
25 this provision shall not apply if ~~he~~ THE INDIVIDUAL proves to the
26 satisfaction of the division that he OR SHE had good cause for failing to
27 furnish such reports. The eligibility of any individual shall not be

1 affected by the refusal or failure of an employer to furnish reports
2 concerning separation and employment as required by articles 70 to 82 of
3 this title and the ~~regulations~~ RULES pursuant thereto, and the division shall
4 determine the eligibility of such individual upon the basis of such
5 information it may obtain; and any employer who fails or refuses to
6 furnish reports concerning separation and employment shall cease to be
7 an interested party to the separation issue directly related to
8 determinations made in accordance with section 8-73-108 (4) and (5) (e).
9 For each instance of failure to furnish the division with such reports, the
10 employer, unless good cause to the contrary is shown to the satisfaction
11 of the division, may be assessed a penalty of twenty-five dollars, which
12 shall be collected in the same manner as ~~taxes~~ PREMIUMS due under
13 articles 70 to 82 of this title.

14 **SECTION 11.** 8-76-101, Colorado Revised Statutes, is amended
15 to read:

16 **8-76-101. Payment.** (1) ~~Taxes~~ PREMIUMS shall accrue and
17 become payable by each employer for each calendar year in which ~~he~~ THE
18 EMPLOYER is subject to articles 70 to 82 of this title with respect to wages
19 for employment. The ~~taxes~~ PREMIUMS shall become due and be paid by
20 each employer to the division for the fund in accordance with ~~such~~
21 ~~regulations~~ as RULES PRESCRIBED BY the director of the division ~~may~~
22 ~~prescribe~~ and shall not be deducted, in whole or in part, from the wages
23 of individuals in ~~such~~ THE employer's employ.

24 (2) In the payment of any ~~taxes~~ PREMIUMS, a fractional part of a
25 cent shall be disregarded unless it amounts to one-half cent or more, in
26 which case it shall be increased to one cent.

27 (3) ~~On and after January 1, 2002,~~ When the quarterly amount of

1 ~~taxes~~ PREMIUMS due is less than five dollars, payment of ~~such tax~~ THE
2 PREMIUMS shall not be required.

3 **SECTION 12.** 8-76-102, Colorado Revised Statutes, is amended
4 to read:

5 **8-76-102. Rate of premiums - surcharge.** (1) Each employer
6 shall pay ~~taxes~~ PREMIUMS equal to two and seven-tenths percent of
7 ~~taxable~~ CHARGEABLE wages paid by the employer during each calendar
8 year, ~~with respect to employment occurring after June 30, 1941,~~ except
9 as may be otherwise prescribed in section 8-76-103. As used in this
10 section, "~~taxable~~ CHARGEABLE wages paid" shall include ~~taxable~~
11 CHARGEABLE wages constructively paid as well as ~~taxable~~ CHARGEABLE
12 wages actually paid.

13 (2) Each employing unit becoming an employer under the new
14 definition of employer contained in articles 70 to 82 of this title who
15 would not be an employer under the old definition for employer shall be
16 liable for ~~tax~~ PREMIUMS only on ~~taxable~~ CHARGEABLE wages paid
17 ~~subsequent to June 30, 1941,~~ with respect to employment.

18 (3) (a) ~~Notwithstanding any other provision of law to the contrary,~~
19 ~~if political subdivisions or their instrumentalities have elected singly,~~
20 ~~severally, or in toto to become taxpaying employers as permitted by~~
21 ~~section 8-76-108, such employing units shall pay taxes at the rate of~~
22 ~~three-tenths of one percent of total wages beginning with the calendar~~
23 ~~year 1978 and shall continue to pay such rate through December 31, 1979,~~
24 ~~unless sooner increased or decreased by the division based on benefit cost~~
25 ~~experience.~~ A political subdivision or its instrumentality ~~which~~ THAT has
26 elected to become a ~~taxpaying~~ PREMIUM-PAYING employer shall have its
27 account charged with the full amount of all regular and extended benefits

1 that are attributable to service in its employ.

2 (b) (I) The ~~tax~~ PREMIUM rate for political subdivisions or their
3 instrumentalities shall be examined ~~after July 1, 1978~~, ANNUALLY in
4 conjunction with ~~such~~ THE employers' benefit experience and may be
5 adjusted ~~for the calendar year 1979 and similarly adjusted for succeeding~~
6 ~~calendar years~~ on a year-by-year basis as prescribed by section 8-76-103

7 (3) (b) (I).

8 (II) The division shall notify all political subdivisions or their
9 instrumentalities, as defined in paragraph (a) of this subsection (3), of the
10 ~~tax~~ PREMIUM rate no later than January 1 of the year for which the rate
11 applies.

12 (c) Repealed.

13 (4) (a) ~~Based on the amount of benefits paid and not chargeable~~
14 ~~to any active employer account prior to each July 1, beginning July 1,~~
15 ~~1983, the division shall annually establish a tax, rounded to the nearest~~
16 ~~one-tenth of one percent. The total amount of benefits not effectively~~
17 ~~charged shall be divided by the total taxable payroll estimated to be paid~~
18 ~~by all employers in the ensuing calendar year. The resulting percentage,~~
19 ~~rounded to the nearest one-tenth of one percent, with fifty percent~~
20 ~~allocated to the unemployment compensation fund and fifty percent~~
21 ~~allocated to the employment support fund created under the provisions of~~
22 ~~section 8-77-109, shall be the surcharge tax rate beginning July 1, 1999.~~
23 ~~The surcharge tax rate shall then be added to the employer's standard or~~
24 ~~computed tax rate with eighty percent of the surcharge tax revenues~~
25 ~~considered as revenues for purposes of calculating the tax surcharge~~
26 ~~pursuant to this paragraph (a). This tax rate added to the employer tax~~
27 ~~rate shall also be identified separately on the employer tax rate notice as~~

1 ~~the tax surcharge for benefits not effectively charged. The combined rate~~
2 ~~shall be the employer's tax rate for the ensuing calendar year. The~~
3 ~~division shall use the four quarters most recently available for benefits not~~
4 ~~effectively charged prior to the computation date used for determinations~~
5 ~~under section 8-76-103. Since total taxable payroll is estimated and the~~
6 ~~tax rate rounded, any amount for the benefits not effectively charged and~~
7 ~~not fully recovered in one year shall be added to the following calendar~~
8 ~~year's identified amount. Any amount recovered over that amount shall~~
9 ~~be subtracted from the following calendar year's identified amount. The~~
10 ~~tax surcharge established by this subsection (4) shall not be assessed~~
11 ~~against any employer whose benefit-charge account balance is zero, and~~
12 ~~the estimated taxable payrolls of such employers shall not be included in~~
13 ~~the calculation of the surcharge tax rate; except that, if the employer is~~
14 ~~still being rated under the provisions of section 8-76-103 (3) (a), such~~
15 ~~employer is subject to the surcharge tax rate.~~

16 (b) Effective July 1, 1999, and until such time as employers'
17 federal unemployment taxes are returned to the state by the federal
18 government at levels sufficient to permit the effective administration of
19 ~~the provisions of~~ articles 70 to 82 of this title, fifty percent of the
20 PREMIUM surcharge tax established by ~~paragraph (a) of~~ this subsection (4)
21 shall be segregated and deposited in the employment support fund created
22 in section 8-77-109.

23 (c) Effective January 1, 1998, the ~~tax~~ PREMIUM surcharge
24 established by this subsection (4) shall not be assessed against any
25 employer whose benefit-charge account balance for the last three fiscal
26 years immediately preceding the computation date is less than one
27 hundred dollars.

1 (d) Effective calendar year 2000, ~~the provisions of paragraph (a)~~
2 ~~of this subsection (4) regarding annual computation of the surcharge tax~~
3 ~~rate shall no longer apply and the annual PREMIUM surcharge tax rate shall~~
4 be established at 0.22 percent, with fifty percent of the PREMIUM
5 surcharge ~~tax~~ rate allocated to the general fund and fifty percent of the
6 PREMIUM surcharge ~~tax~~ rate allocated to the employment support fund
7 created under the provisions of section 8-77-109; except that, beginning
8 July 1, 2004, the amount allocated to the general fund shall be allocated
9 to the unemployment compensation fund. The PREMIUM surcharge ~~tax~~
10 rate shall then be added to the employer's standard or computed ~~tax~~
11 PREMIUM rate. ~~This tax~~ THE PREMIUM SURCHARGE rate added to the
12 employer ~~tax~~ PREMIUM rate shall also be identified separately on the
13 employer ~~tax~~ PREMIUM rate notice as the ~~tax~~ PREMIUM surcharge for
14 benefits not effectively charged. The combined rate shall be the
15 employer's ~~tax~~ PREMIUM rate for the ensuing calendar year. The PREMIUM
16 surcharge established by this subsection (4) shall not be assessed against
17 any employer whose benefit-charge account balance is zero; except that,
18 if the employer is still being rated under the provisions of section
19 8-76-103 (3) (a), such employer is subject to the PREMIUM surcharge ~~tax~~
20 rate.

21 (5) (a) (I) A solvency ~~tax~~ surcharge shall be assessed when the
22 fund balance on any June 30 is equal to or less than nine-tenths of one
23 percent of the total wages reported by ratable employers for the calendar
24 year, or the most recent available four consecutive quarters prior to the
25 last computation date. The solvency ~~tax~~ surcharge shall be assessed on
26 all ratable employers beginning with the next calendar year, ~~which~~ AND
27 THE SOLVENCY SURCHARGE shall then be added to the employer's standard

1 or computed ~~tax~~ PREMIUM rate. ~~This tax~~ THE SOLVENCY SURCHARGE rate
2 added to the employer's ~~tax~~ PREMIUM rate shall also be identified
3 separately on the employer's ~~tax~~ PREMIUM rate notice as the solvency ~~tax~~
4 surcharge. The solvency ~~tax~~ surcharge shall be initially assessed and then
5 increased in the yearly increments established by paragraph (b) of this
6 subsection (5) until the June 30 fund balance is greater than the fund level
7 established by this subsection (5) but in no case shall exceed the rate
8 schedule in effect January 1, 1990.

9 (II) ~~If, on June 30, 2005, the ratio of the fund balance to the total~~
10 ~~wages reported by ratable employers equals or exceeds that ratio on June~~
11 ~~30, 2004, the incremental increase in the solvency tax surcharge~~
12 ~~established in paragraph (b) of this subsection (5) shall be applied, and an~~
13 ~~amount equal to the amount of the increase in the surcharge shall be~~
14 ~~subtracted from the computation of the rated employer's standard or~~
15 ~~computed rate for the 2006 calendar year.~~

- 16 (III) The solvency ~~tax~~ surcharge shall not be assessed against:
- 17 (A) The covered employers of state and local governments;
 - 18 (B) Nonprofit organizations that are ~~reimbursable~~ REIMBURSING
19 employers; or
 - 20 (C) Political subdivisions electing the special rate.

21 (b) **Solvency surcharge rate schedule.**

22	Percent	Solvency	January	Percent	Solvency	January
23	of	tax	1, 1990,	of	tax	1, 1990,
24	excess	surcharge	rate	excess	surcharge	rate
25		yearly	table		yearly	table
26		increment	limit		increment	limit
27			on			on

1			solvency			solvency
2			tax			tax
3	+20 or			-0	.006	.028
4	more	.000	.002	-1	.006	.029
5	+19 through			-2	.006	.030
6	+11	.001	.003	-3	.006	.031
7	+10	.001	.004	-4	.006	.032
8	+9	.001	.005	-5	.007	.033
9	+8	.001	.006	-6	.007	.034
10	+7	.001	.007	-7	.007	.035
11	+6	.002	.008	-8	.007	.036
12	+5	.002	.009	-9	.007	.037
13	+4	.002	.010	-10	.008	.038
14	+3	.003	.013	-11	.008	.039
15	+2	.003	.016	-12	.008	.040
16	+1	.004	.020	-13	.008	.041
17	+0	.005	.024	-14	.008	.042
18	Unrated	.006	.027	-15	.009	.043
19				-16	.009	.044
20				-17	.009	.045
21				-18	.009	.046
22				-19	.009	.047
23				-20	.010	.048
24				-21	.010	.049
25				-22	.010	.050
26				-23	.010	.051
27				-24	.010	.052

1	-25	.011	.053
2	more than		
3	-25	.011	.054

4 **SECTION 13.** 8-76-102 (4) (d), Colorado Revised Statutes, as
5 amended by Senate Bill 09-076, enacted at the First Regular Session of
6 the Sixty-seventh General Assembly, is amended to read:

7 **8-76-102. Rate of tax - surcharge.** (4) (d) Effective calendar
8 year 2009, the annual PREMIUM surcharge ~~tax~~ rate shall be established at
9 0.22 percent, with thirty percent of the PREMIUM surcharge ~~tax rate~~
10 allocated to the unemployment compensation fund created in section
11 8-77-101, fifty percent of the PREMIUM surcharge ~~tax rate~~ allocated to the
12 employment support fund created under section 8-77-109, and twenty
13 percent of the PREMIUM surcharge allocated to the employment and
14 training technology fund created in ~~section 8-77-109~~ SECTION 8-77-109
15 (2) (a.9). Effective January 1, 2017, fifty percent of the PREMIUM
16 surcharge ~~tax rate~~ shall be allocated to the unemployment compensation
17 fund and fifty percent of the PREMIUM surcharge ~~tax rate~~ shall be
18 allocated to the employment support fund. The PREMIUM surcharge ~~tax~~
19 rate shall then be added to the employer's standard or computed ~~tax~~
20 PREMIUM rate. ~~This tax~~ THE PREMIUM SURCHARGE rate added to the
21 employer ~~tax~~ PREMIUM rate shall also be identified separately on the
22 employer ~~tax~~ PREMIUM rate notice as the ~~tax~~ PREMIUM surcharge for
23 benefits not effectively charged. The combined rate shall be the
24 employer's ~~tax~~ PREMIUM rate for the ensuing calendar year. The PREMIUM
25 surcharge established by this subsection (4) shall not be assessed against
26 any employer whose benefit-charge account balance is zero; except that,
27 if the employer is still being rated under the provisions of section

1 8-76-103 (3) (a), such employer is subject to the PREMIUM surcharge tax
2 rate.

3 **SECTION 14.** 8-76-103 (1) (a), (3) (a) (I), (3) (a) (III) (E), (3) (a)
4 (III) (G), (3) (a) (IV), (3) (b) (II), (3) (b) (V), (3) (d), (3) (e), (5), (6), and
5 (7), Colorado Revised Statutes, are amended to read:

6 **8-76-103. Future rates based on benefit experience.**

7 (1) (a) The division shall maintain a separate account for each employer
8 and shall credit ~~his~~ THE EMPLOYER'S account with all ~~taxes~~ PREMIUMS AND
9 SURCHARGES paid on his OR HER own behalf. Nothing in articles 70 to 82
10 of this title shall be construed to grant any employer or individuals in his
11 OR HER service prior claims or rights to the amounts paid by ~~him~~ THE
12 EMPLOYER into the fund either on his OR HER own behalf or on behalf of
13 such individuals. Benefits paid to an eligible individual shall be charged,
14 in the amount provided in this section, against the accounts of his OR HER
15 employers in the base period in the inverse chronological order in which
16 the employment of such individual occurred. Benefits paid to a seasonal
17 worker during the normal seasonal periods shall be charged against the
18 account of his OR HER most recent seasonal employers in the
19 corresponding normal seasonal period of his OR HER base period in the
20 inverse chronological order in which the seasonal employment of ~~such~~
21 THE individual occurred and prior to the charging of benefits based on
22 nonseasonal employment.

23 (3) (a) (I) The standard PREMIUM rate ~~of taxes~~ shall be one and
24 seven tenths percent. Employer ~~tax~~ PREMIUM rates for employers newly
25 subject to articles 70 to 82 of this title on or after July 1, 1997, shall be
26 determined each year as of the computation date in accordance with the
27 provisions of subparagraph (II) of paragraph (b) of this subsection (3).

1 Such new employers shall pay ~~tax~~ PREMIUMS at the standard rate or at the
2 computed rate, whichever is higher, unless and until there have been
3 twelve consecutive calendar months immediately preceding the
4 computation date ~~throughout~~ DURING which an employer's account has
5 been chargeable with benefit payments.

6 (III) (E) On and after January 1, 2002, those employers newly
7 subject to articles 70 to 82 of this title and assigned the three-digit North
8 American industry classification codes 236, 237, or 238 for the
9 construction industry, unless and until there have been thirty-six
10 consecutive calendar months immediately preceding the computation
11 date, shall pay ~~taxes~~ PREMIUMS at the standard rate, at the actual
12 experience rate, or at a rate equal to the average industry ~~tax~~ PREMIUM
13 rate as determined by the division, whichever is greater.

14 (G) On and after January 1, 2002, for purposes of this subsection
15 (3), "average industry ~~tax~~ PREMIUM rate" means the average ~~tax~~ PREMIUM
16 rate of all employers assigned the same three-digit North American
17 industry classification code pursuant to sub-subparagraph (E) of this
18 subparagraph (III). ~~Such~~ THE rate shall be computed annually by the
19 division using the latest available data as of the computation date.

20 (IV) An "employer newly subject", as used in this article, means
21 an employer who has never, at any time, been an employer under any
22 provision of articles 70 to 82 of this title, ~~or~~ an employer who has lost his
23 OR HER prior experience under subsection (6) of this section, or an
24 employer who, under the provisions of section 8-76-110 (2) (e),
25 terminates his OR HER election to make payments in lieu of ~~taxes~~
26 PREMIUMS or whose election to make payments in lieu of ~~taxes~~ PREMIUMS
27 has been terminated by the division under the authority of section

1 8-76-110 (4) (e) or (4) (f).

2 (b) (II) (A) The total of all an employer's ~~taxes~~ PREMIUMS paid on
3 his OR HER own behalf on or before thirty-one days immediately after the
4 computation date and the total benefits ~~which~~ THAT were chargeable to
5 ~~his~~ THE EMPLOYER'S account and were paid before the computation date,
6 with respect to weeks, or any established payroll period of
7 unemployment, beginning prior to the computation date, shall be used to
8 compute his ~~tax~~ OR HER PREMIUM rate for the ensuing calendar year in
9 accordance with the table set forth in either sub-subparagraph (B) or (C)
10 of this subparagraph (II); except that, ~~for rate year 1984, the negative~~
11 ~~excess employer rate schedule shall be effective for a maximum of .045~~
12 ~~for employers with a negative excess of minus seventeen percent or more,~~
13 ~~and~~ for rate years 1985 and thereafter, the maximum rate for negative
14 excess employers shall be .054 as shown in the table set forth in
15 sub-subparagraph (C) of this subparagraph (II). "Percent of excess", in
16 both said tables, means the percentage resulting from dividing the excess
17 of ~~taxes~~ PREMIUMS paid over benefits charged by the average ~~taxable~~
18 CHARGEABLE payroll, computed to the nearest one percent. The word
19 "to" in the column headings, which make reference to fund balances
20 (resources available for benefits), means "not including".

1 (B)

2 **TAX PREMIUM RATE SCHEDULE - POSITIVE EXCESS EMPLOYERS**

3 **Fund Level in Millions of Dollars**

4	Percent	450	396 to	342 to	306 to	270 to	234 to	198 to	162 to	126 to	90 to	More	0
5												than	
6	of	Million	450	396	342	306	270	234	198	162	126	Zero to 90	or Deficit
7	Excess	Plus	Million	Million	Million	Million	Million	Million	Million	Million	Million	Million	
8	+20 or	.000	.000	.000	.000	.001	.002	.003	.003	.003	.003	.003	.010
9	more												
10	+19	.000	.000	.000	.001	.002	.003	.003	.003	.003	.003	.003	.010
11	+18	.000	.000	.000	.001	.002	.003	.003	.003	.003	.003	.003	.010
12	+17	.000	.000	.001	.001	.003	.003	.003	.003	.003	.003	.003	.010
13	+16	.000	.000	.001	.001	.003	.003	.003	.003	.003	.003	.004	.011
14	+15	.000	.001	.001	.001	.003	.003	.003	.003	.003	.003	.005	.012
15	+14	.000	.001	.001	.001	.003	.003	.003	.003	.003	.004	.006	.013
16	+13	.001	.001	.001	.001	.003	.003	.003	.003	.004	.005	.007	.014
17	+12	.001	.001	.001	.001	.003	.003	.003	.004	.005	.006	.008	.015
18	+11	.001	.001	.001	.001	.003	.003	.004	.005	.006	.007	.009	.016
19	+10	.001	.001	.001	.002	.003	.004	.005	.006	.007	.008	.010	.017
20	+9	.001	.001	.002	.003	.004	.005	.006	.007	.008	.009	.011	.018
21	+8	.001	.002	.003	.004	.005	.006	.007	.008	.009	.010	.012	.019
22	+7	.002	.003	.004	.005	.006	.007	.008	.009	.010	.011	.013	.020

1	+6	.002	.004	.005	.006	.007	.008	.009	.010	.011	.012	.014	.021
2	+5	.003	.005	.006	.007	.008	.009	.010	.011	.012	.013	.015	.022
3	+4	.004	.006	.007	.008	.009	.010	.011	.012	.013	.014	.016	.023
4	+3	.007	.009	.010	.011	.012	.013	.014	.015	.016	.017	.019	.024
5	+2	.011	.012	.013	.014	.015	.016	.017	.018	.019	.020	.022	.025
6	+1	.015	.016	.017	.018	.019	.020	.020	.021	.022	.023	.025	.026
7	+0	.020	.021	.022	.023	.023	.024	.024	.025	.025	.026	.027	.027
8	Unrated	.017	.017	.017	.017	.017	.017	.017	.017	.017	.017	.017	.017

9 (C)

10 **TAX PREMIUM RATE SCHEDULE - NEGATIVE EXCESS EMPLOYERS**

11 **Fund Level in Millions of Dollars**

12	Percent	450	396 to	342 to	306 to	270 to	234 to	198 to	162 to	126 to	90 to	More	0
13												than	
14	of	Million	450	396	342	306	270	234	198	162	126	Zero to 90	or Deficit
15	Excess	Plus	Million	Million	Million	Million	Million	Million	Million	Million	Million	Million	
16	-0	.028	.028	.028	.028	.028	.028	.028	.028	.028	.028	.028	.030
17	-1	.029	.029	.029	.029	.029	.029	.029	.029	.029	.029	.029	.031
18	-2	.030	.030	.030	.030	.030	.030	.030	.030	.030	.030	.030	.032
19	-3	.031	.031	.031	.031	.031	.031	.031	.031	.031	.031	.031	.033
20	-4	.032	.032	.032	.032	.032	.032	.032	.032	.032	.032	.032	.034
21	-5	.033	.033	.033	.033	.033	.033	.033	.033	.033	.033	.033	.035
22	-6	.034	.034	.034	.034	.034	.034	.034	.034	.034	.034	.034	.036

1	-7	.035	.035	.035	.035	.035	.035	.035	.035	.035	.035	.035	.037
2	-8	.036	.036	.036	.036	.036	.036	.036	.036	.036	.036	.036	.038
3	-9	.037	.037	.037	.037	.037	.037	.037	.037	.037	.037	.037	.039
4	-10	.038	.038	.038	.038	.038	.038	.038	.038	.038	.038	.038	.040
5	-11	.039	.039	.039	.039	.039	.039	.039	.039	.039	.039	.039	.041
6	-12	.040	.040	.040	.040	.040	.040	.040	.040	.040	.040	.040	.042
7	-13	.041	.041	.041	.041	.041	.041	.041	.041	.041	.041	.041	.043
8	-14	.042	.042	.042	.042	.042	.042	.042	.042	.042	.042	.042	.044
9	-15	.043	.043	.043	.043	.043	.043	.043	.043	.043	.043	.043	.045
10	-16	.044	.044	.044	.044	.044	.044	.044	.044	.044	.044	.044	.046
11	-17	.045	.045	.045	.045	.045	.045	.045	.045	.045	.045	.045	.047
12	-18	.046	.046	.046	.046	.046	.046	.046	.046	.046	.046	.046	.048
13	-19	.047	.047	.047	.047	.047	.047	.047	.047	.047	.047	.047	.049
14	-20	.048	.048	.048	.048	.048	.048	.048	.048	.048	.048	.048	.050
15	-21	.049	.049	.049	.049	.049	.049	.049	.049	.049	.049	.049	.051
16	-22	.050	.050	.050	.050	.050	.050	.050	.050	.050	.050	.050	.052
17	-23	.051	.051	.051	.051	.051	.051	.051	.051	.051	.051	.051	.053
18	-24	.052	.052	.052	.052	.052	.052	.052	.052	.052	.052	.052	.054
19	-25	.053	.053	.053	.053	.053	.053	.053	.053	.053	.053	.053	.054
20	More than	.054	.054	.054	.054	.054	.054	.054	.054	.054	.054	.054	.054
21	-25												
22													

1 (V) When the fund level on July 1 of any year reaches one and
2 six-tenths percent of the total wages, the director of the division of
3 employment and training shall recommend to legislative council a
4 proposed ~~tax~~ PREMIUM rate decrease.

5 (d) Notwithstanding any provisions to the contrary, any employer,
6 at any time prior to March 15 of any year, may pay voluntary ~~taxes~~
7 PREMIUMS in addition to the ~~taxes~~ PREMIUMS AND SURCHARGES provided
8 under articles 70 to 82 of this title. ~~which taxes~~ VOLUNTARY PREMIUMS
9 shall be credited to the employer's account and be used in determining
10 ~~said~~ THE employer's rate for the current calendar year and subsequent
11 calendar years; except that, if an employer is delinquent in the payment
12 of any ~~taxes~~ PREMIUMS OR SURCHARGES due, the voluntary ~~tax~~ PREMIUM
13 payments shall be reduced by the total amount of delinquent ~~taxes~~
14 PREMIUMS AND SURCHARGES before such computation is made. No
15 voluntary ~~taxes~~ PREMIUMS paid pursuant to this paragraph (d) shall be
16 refunded or applied to future ~~tax~~ PREMIUM liability.

17 (e) As used in sections 8-76-101 to 8-76-104, for the purpose of
18 computing the ~~tax~~ PREMIUM rate of any employer, the term "annual
19 payroll" means the total amount of wages for employment paid by an
20 employer during the twelve-month period ending on June 30. The term
21 "average ~~taxable~~ CHARGEABLE payroll" means the average of the ~~taxable~~
22 CHARGEABLE payrolls for the last three fiscal years ending on June 30.
23 For any employer who has not reported payrolls to the division for
24 thirty-six consecutive months ending on June 30, the division shall
25 compute the average ~~taxable~~ CHARGEABLE payroll by dividing the total
26 ~~taxable~~ CHARGEABLE payrolls of the employer during the three fiscal
27 years ending on June 30 by the total months during which such wages

1 were paid and multiplying the amount so determined by twelve.

2 (5) The division shall notify each employer, as nearly as possible
3 prior to the date upon which any ~~taxes~~ PREMIUMS for each calendar year
4 become due, of ~~his~~ THE EMPLOYER'S PREMIUM rate of ~~tax~~ as determined
5 for such calendar year pursuant to sections 8-76-101 to 8-76-104. The
6 notification shall include the amount determined as the employer's
7 average annual payroll, the total of all ~~his~~~~taxes~~ THE EMPLOYER'S
8 PREMIUMS paid on his OR HER own behalf and credited to his OR HER
9 account for all past years, and the total benefits charged to ~~his~~ THE
10 EMPLOYER'S account for all such years.

11 (6) Whenever there has been a period of five consecutive calendar
12 years during which there were no ~~taxable~~ CHARGEABLE wages paid for
13 services considered employment under the provisions of articles 70 to 82
14 of this title, any balance shown in the employer's account will not be
15 transferred nor be used for ~~tax~~ PREMIUM rating purposes if ~~such~~ THE
16 employer again becomes liable under articles 70 to 82 of this title.

17 (7) (a) Subject to the conditions stated in paragraph (b) of this
18 subsection (7), an employer shall be eligible for a credit of twenty percent
19 against ~~taxes~~ PREMIUMS otherwise due under section 8-76-102 (3) and
20 subsection (3) of this section. For purposes of computing an employer's
21 future rates, any ~~tax~~ credit claimed by the employer under this subsection
22 (7) shall be disregarded, and the ~~taxes~~ PREMIUMS that would otherwise
23 have been due shall be deemed paid.

24 (b) An employer shall not receive ~~tax~~ credits under this subsection
25 (7) unless all of the following conditions are met:

26 (I) As of the most recent computation date, the employer has filed
27 all required reports and paid all ~~taxes~~ PREMIUMS AND SURCHARGES due

1 under articles 70 to 82 of this title;

2 (II) The employer is not a negative excess employer assigned the
3 maximum ~~tax~~ PREMIUM rate under sub-subparagraph (C) of subparagraph
4 (II) of paragraph (b) of subsection (3) of this section;

5 (III) The employer has not elected to make reimbursement
6 payments in lieu of ~~taxes~~ PREMIUMS; and

7 (IV) As of the computation date immediately preceding the
8 calendar year for which the credit is to be taken, the unexpended and
9 unencumbered balance in the unemployment compensation fund, created
10 in section 8-77-101 (1), equaled or exceeded one and one-tenth percent
11 of the total amount of insured wages paid in Colorado during the calendar
12 year immediately preceding the computation date.

13 **SECTION 15.** 8-76-104 (1) (a), (2) (a), (3) (a), (3) (e), (3) (f), (3)
14 (h), (9), (10) (a), and (10) (c), Colorado Revised Statutes, are amended to
15 read:

16 **8-76-104. Transfer of experience - assignment of rates -**
17 **definitions.** (1) (a) An employing unit, as defined in section 8-70-113
18 (1) (f), that becomes an employer because it acquires all of the
19 organization, trade, or business or substantially all of the assets of one or
20 more employers subject to articles 70 to 82 of this title shall succeed to
21 the entire experience rating record of the predecessor employer, and the
22 entire separate account, including the actual ~~taxes~~ PREMIUMS, benefits,
23 and payroll experience of the predecessor employer, shall pass to the
24 successor for the purpose of determining the PREMIUM rate ~~of taxes~~ for
25 the successor.

26 (2) (a) Notwithstanding any other provision of sections 8-76-101
27 to 8-76-104, if the successor employer was an employer subject to articles

1 70 to 82 of this title prior to the date of acquisition and, at the time of the
2 transfer, there is no substantial common ownership, management, or
3 control of the two employers, the successor's PREMIUM rate ~~of tax~~ for the
4 remainder of the calendar year shall be the same as the successor's rate in
5 the period immediately preceding the date of acquisition.

6 (3) (a) Whenever an employer in any manner transfers a clearly
7 segregable unit of the employer's business for which the predecessor
8 employer has maintained, in such form as to be separable, continuous
9 records of wages, ~~taxes~~ PREMIUMS, and benefits paid on account of the
10 segregable unit, the predecessor employer and successor employer may
11 jointly request that the division transfer a proportionate share of ~~tax~~
12 PREMIUM, benefit, and payroll experience attributable to the unit based on
13 the ratio of the ~~taxable~~ CHARGEABLE payrolls paid during the twelve
14 calendar quarters immediately preceding the computation date of the
15 segregable unit to the total employer account prior to the notice to the
16 division of the transfer. A transfer of experience may not be made under
17 this subsection (3) unless the segregable unit has fourteen consecutive
18 quarters of payroll immediately preceding the computation date. If, at the
19 time of the transfer, there is substantially common ownership,
20 management, or control of the two employers, the unemployment
21 experience attributable to the predecessor employer shall be transferred
22 to the successor employer. The rates of both employers shall be
23 recalculated and made effective immediately upon the date of the transfer
24 of the trade or business.

25 (e) If the successor was not an employer prior to the effective date
26 of transfer and two or more segregable units are simultaneously
27 transferred to the successor by a single employer, the successor's ~~tax~~

1 PREMIUM rate shall be computed from the combined ~~tax~~ PREMIUM,
2 benefit, and payroll experience of the units.

3 (f) If the successor was not an employer prior to the effective date
4 of transfer and two or more segregable units are simultaneously
5 transferred to the successor by different employers, the successor's ~~tax~~
6 PREMIUM rate shall be the highest rate applicable to any of the units unless
7 the rates with respect to the transferred units are identical.

8 (h) Whenever a predecessor employer and a successor employer
9 jointly request that the division transfer the proportionate share of ~~tax~~
10 PREMIUM, benefit, and payroll experience attributable to a clearly
11 segregable unit to the successor employer, the predecessor employer shall
12 furnish to the division any information requested by the division for such
13 purpose.

14 (9) When any part of the predecessor employer's trade or business
15 utilizes the services of ninety percent or more of the total number of
16 employees in covered employment on the payroll for each of the four pay
17 periods immediately preceding the transfer to a successor employer, the
18 entire separate account, including the actual ~~tax~~ PREMIUM, benefit, and
19 payroll experience of the predecessor employer, shall pass to the
20 successor employer for the purpose of the rate of computation of the
21 successor.

22 (10) (a) If a person knowingly violates or attempts to violate any
23 provision of this section in order to obtain a lower contribution rate, the
24 person shall pay all owed ~~taxes~~ PREMIUMS with applicable penalties and
25 interest and may be subject to the penalties set forth in paragraph (c) of
26 this subsection (10).

27 (c) If the person who violates this section as described in

1 paragraph (a) or (b) of this subsection (10) is an employer, the division
2 may assign the employer the highest contribution rate assignable under
3 this article for the rate year during which the violation or attempted
4 violation occurred and the next three years. If, during the rate year in
5 which a violation occurs, the subject employer was assigned the highest
6 contribution rate, or the amount of the rate increase would be less than
7 two and seven-tenths percent for the rate year, the division may impose
8 a penalty contribution rate of two and seven-tenths percent of ~~taxable~~
9 CHARGEABLE wages for that rate year and the next three years. If the
10 person is not an employer, the person may be subject to a civil fine of not
11 more than five thousand dollars, which shall be deposited in the
12 unemployment revenue fund created in section 8-77-106.

13 **SECTION 16.** 8-76-108 (1) (a), (1) (c), and (1) (e), Colorado
14 Revised Statutes, are amended to read:

15 **8-76-108. Coverage by political subdivisions.** (1) (a) ~~After~~
16 ~~December 31, 1977,~~ Political subdivisions ~~shall become~~ ARE covered
17 employers if employees employed by such political subdivisions perform
18 services in employment as defined by section 8-70-119. Such political
19 subdivisions may elect to pay ~~taxes~~ PREMIUMS in lieu of reimbursements.
20 Any political subdivision ~~which~~ THAT makes reimbursement shall not be
21 liable to make such payments with respect to the benefits paid to any
22 individual whose base period wages include wages for previously
23 uncovered services as defined in section 8-70-141 (1) (d) to the extent
24 that the unemployment compensation fund is reimbursed for such benefits
25 pursuant to section 121 of Public Law 94-566.

26 (c) The amounts required to be paid in lieu of ~~taxes~~ PREMIUMS by
27 any political subdivision under this section shall be billed and payment

1 made as provided in section 8-76-110 (3) with respect to similar payments
2 by nonprofit organizations.

3 (e) Political subdivisions or their instrumentalities ~~which~~ THAT are
4 liable for payments in lieu of ~~taxes~~ PREMIUMS shall pay to the division for
5 the unemployment compensation fund ~~the amount of regular benefits plus~~
6 ~~the amount of one-half of extended benefits paid through December 31,~~
7 ~~1978,~~ and the full amount of all regular and extended benefits paid
8 ~~beginning January 1, 1979,~~ that are attributable to service in their employ.
9 Political subdivisions or their instrumentalities ~~which~~ THAT have elected
10 to pay ~~taxes~~ PREMIUMS as permitted by this section shall have their
11 accounts charged with the full amount of all regular and extended benefits
12 that are attributable to service in their employ.

13 **SECTION 17.** 8-76-109, Colorado Revised Statutes, is amended
14 to read:

15 **8-76-109. Payments in lieu of premiums by state hospitals and**
16 **state institutions of higher education.** State hospitals and state
17 institutions of higher education as defined in section 8-70-103 (14) and
18 (15) may elect to make reimbursements in lieu of ~~taxes~~ PREMIUMS as
19 provided for nonprofit organizations in section 8-76-110 (1) to (3) and
20 (5).

21 **SECTION 18.** 8-76-110 (2), (3) (a), (3) (b), (3) (f), (4), (5), and
22 (6), Colorado Revised Statutes, are amended to read:

23 **8-76-110. Financing benefits paid to employees of nonprofit**
24 **organizations. (2) Liability for premiums and election of**
25 **reimbursement.** (a) Any nonprofit organization ~~which~~ THAT, pursuant
26 to section 8-70-113 (1) (c), is or becomes subject to articles 70 to 82 of
27 this title ~~on or after January 1, 1972,~~ shall pay ~~taxes~~ PREMIUMS under the

1 provisions of section 8-76-101, unless it elects, in accordance with this
2 subsection (2), to pay to the division for the unemployment compensation
3 fund an amount equal to the amount of regular benefits and one-half of
4 the extended benefits paid, that is attributable to service in the employ of
5 such nonprofit organization, to individuals for weeks of unemployment
6 ~~which~~ THAT begin during the effective period of such election.

7 (b) ~~Any nonprofit organization which is or becomes subject to~~
8 ~~articles 70 to 82 of this title on January 1, 1972, may elect to become~~
9 ~~liable for payments in lieu of taxes for a period of not less than one~~
10 ~~taxable year beginning with January 1, 1972, if it files with the division~~
11 ~~a written notice of its election within the thirty-day period immediately~~
12 ~~following such date.~~

13 (c) Any nonprofit organization ~~which~~ THAT becomes subject to
14 articles 70 to 82 of this title ~~after January 1, 1972,~~ may elect to become
15 liable for payments in lieu of ~~taxes~~ PREMIUMS for a period of not less than
16 the ~~taxable~~ calendar year within which such subjection begins by filing
17 a written notice of its election with the division not later than thirty days
18 immediately following the date of the determination of such subjection.
19 Any nonprofit organization ~~which~~ THAT elects to make payments in lieu
20 of ~~taxes~~ PREMIUMS into the unemployment compensation fund as
21 provided in this paragraph (c) shall not be liable to make such payments
22 with respect to the benefits paid to any individual whose base period
23 wages include wages for previously uncovered services as defined in
24 section 8-70-141 (1) (d) to the extent that the unemployment
25 compensation fund is reimbursed for such benefits pursuant to section
26 121 of Public Law 94-566.

27 (d) ~~Any organization described in section 501(c)(3) of the federal~~

1 ~~"Internal Revenue Code of 1986", as amended, which is exempt from~~
2 ~~income tax under section 501 (a) of such code and which was liable under~~
3 ~~the provisions of the "Colorado Employment Security Act", articles 70 to~~
4 ~~82 of this title, prior to January 1, 1972, may elect to become liable for~~
5 ~~payments in lieu of taxes for a period of not less than eighteen calendar~~
6 ~~months beginning July 1, 1971, by filing a written notice of election with~~
7 ~~the division not later than thirty days immediately following July 1, 1971;~~
8 ~~otherwise, said employer may elect to become liable for payments in lieu~~
9 ~~of taxes for a period of not less than one calendar year beginning on or~~
10 ~~after January 1, 1972, if written notice of such election is filed with the~~
11 ~~division within thirty days after January 1, 1972.~~

12 (e) Any nonprofit organization ~~which~~ THAT makes an election in
13 accordance with paragraph ~~(b), (c) or (d)~~ of this subsection (2) will
14 continue to be liable for payments in lieu of ~~taxes~~ PREMIUMS until it files
15 with the division a written notice terminating its election not later than
16 thirty days prior to the beginning of the ~~taxable~~ CALENDAR year for which
17 such termination is first effective.

18 (f) Any nonprofit organization ~~which has been paying taxes~~ THAT
19 PAYS PREMIUMS under articles 70 to 82 of this title ~~for a period~~
20 ~~subsequent to January 1, 1972,~~ may change to a ~~reimbursable~~
21 REIMBURSING basis by filing with the division not later than thirty days
22 prior to the beginning of any ~~taxable~~ CALENDAR year a written notice of
23 election to become liable for payments in lieu of ~~taxes~~ PREMIUMS. Such
24 election shall not be terminable by the organization for that and the next
25 year. Any organization making such an election remains liable for the
26 payment of all charges to its account and all ~~taxes~~ PREMIUMS AND
27 SURCHARGES due the division, and past due ~~taxes~~ PREMIUMS AND

1 SURCHARGES are subject to all interest and penalties as provided in
2 articles 70 to 82 of this title.

3 (g) The division may for good cause extend the period within
4 which a notice of election, or a notice of termination, must be filed and
5 may permit an election to be retroactive. ~~but not with respect to benefits~~
6 ~~paid any earlier than January 1, 1970.~~

7 (h) The division, in accordance with such ~~regulations~~ RULES as it
8 may prescribe, shall notify each nonprofit organization of any
9 determination ~~which~~ THAT it may make of the status of the organization
10 as an employer and of the effective date of any election and of any
11 termination of such election.

12 (i) Notwithstanding any other provisions of articles 70 to 82 of
13 this title, any nonprofit organization ~~which~~ THAT, prior to January 1,
14 1969, paid ~~taxes~~ PREMIUMS required by articles 70 to 82 of this title and
15 ~~which~~ THAT elects, pursuant to paragraph (d) of this subsection (2) AS IT
16 EXISTED PRIOR TO ITS REPEAL IN 2009, to make payments in lieu of ~~taxes~~
17 PREMIUMS shall not be required to make any such payment on account of
18 any regular or extended benefits paid and attributable to wages paid for
19 service performed in its employ for weeks of unemployment ~~which~~ THAT
20 begin on or after the effective date of such election until the total amount
21 of such benefits equals the amount by which the ~~taxes~~ PREMIUMS paid by
22 such organization with respect to a period before such election exceed
23 benefits paid for the same period and charged to the experience rating
24 account of such organization, as of the effective date of such election.

25 (3) **Reimbursement payments.** (a) Payments in lieu of ~~taxes~~
26 PREMIUMS shall be made in accordance with the provisions of this
27 subsection (3).

1 (b) At the end of each calendar quarter, the division shall bill each
2 nonprofit organization (or group of such organizations) ~~which~~ THAT has
3 elected to make payments in lieu of ~~taxes~~ PREMIUMS for an amount equal
4 to the full amount of regular benefits plus one-half of the amount of
5 extended benefits paid during such quarter or other prescribed period that
6 is attributable to service in the employ of such organization.

7 (f) Past-due payments of amounts in lieu of ~~taxes~~ PREMIUMS shall
8 be subject to the same interest and penalties that, pursuant to sections
9 8-79-101 and 8-79-104, apply to past-due ~~taxes~~ PREMIUMS AND
10 SURCHARGES.

11 (4) **Provision of bond or other security.** (a) In the discretion of
12 the division, any nonprofit organization ~~which~~ THAT elects to become
13 liable for payments in lieu of ~~taxes~~ PREMIUMS shall be required, within
14 fifteen days after the effective date of its election, to execute and file with
15 the division a surety bond approved by the division, or it may elect
16 instead to deposit with the division money or securities. The amount of
17 such bond or deposit shall be determined in accordance with the
18 provisions of this subsection (4).

19 (b) The amount of bond or deposit required by this subsection (4)
20 shall be equal to three times the sum of the amount of regular benefits
21 plus one-half the extended benefits paid, if any, that are attributable to
22 service in the employ of the nonprofit organization during the previous
23 calendar year or the sum of said payments during the three previous
24 calendar years, whichever is the greater, but shall not exceed three and
25 six-tenths percent nor be less than one-tenth of one percent of the total
26 covered payroll of such organization for the preceding calendar year. If
27 the employer has not been subject to articles 70 to 82 of this title for a

1 sufficient period of time to acquire ~~said~~ three calendar years' experience,
2 then the bond shall be an amount computed by multiplying the total
3 covered payroll for the previous calendar year, or the equivalent thereof,
4 by two and seven-tenths percent. Any organization ~~which~~ THAT, under
5 the provisions of paragraph (i) of subsection (2) of this section, is not
6 required to make payments in lieu of ~~taxes~~ PREMIUMS will not be required
7 to file a surety bond or make a surety deposit with the division as
8 provided in this paragraph (b) until such time as said organization is
9 required to make payments in lieu of ~~taxes~~ PREMIUMS.

10 (c) Any bond deposited under this subsection (4) shall be in force
11 for a period of not less than two ~~taxable~~ CALENDAR years and shall be
12 renewed with the approval of the division, at such times as the division
13 may prescribe, but not less frequently than at two-year intervals as long
14 as the organization continues to be liable for payments in lieu of ~~taxes~~
15 PREMIUMS. The division shall require such adjustments to be made in a
16 previously filed bond as it deems appropriate. If the bond is to be
17 increased, the adjusted bond shall be filed by the organization within
18 fifteen days ~~of~~ AFTER the date notice of the required adjustment was
19 mailed or otherwise delivered to it. Failure by any organization covered
20 by such bond to pay the full amount of payments in lieu of ~~taxes~~
21 PREMIUMS when due, together with any applicable interest and penalties
22 provided for in PARAGRAPH (f) OF subsection (3) (~~f~~) of this section, shall
23 render the surety liable on said bond to the extent of the bond, as though
24 the surety were such organization.

25 (d) Any deposit of money or securities in accordance with this
26 subsection (4) shall be retained by the division in an escrow account until
27 liability under the election is terminated, at which time it shall be returned

1 to the organization, less any deductions as provided in this subsection (4).
2 The division may deduct from the money deposited under this paragraph
3 (d) by a nonprofit organization or sell the securities a nonprofit
4 organization has so deposited to the extent necessary to satisfy any due
5 and unpaid payments in lieu of ~~taxes~~ PREMIUMS and any applicable
6 interest and penalties provided for in PARAGRAPH (f) OF subsection (3) ~~(f)~~
7 of this section. The division shall require the organization, within fifteen
8 days following any deduction from a money deposit or sale of deposited
9 securities under the provisions of this paragraph (d), to deposit sufficient
10 additional money or securities to make whole the organization's deposit
11 at the prior level. Any cash remaining from the sale of such securities
12 shall be a part of the organization's escrow account. The division may,
13 at any time, review the adequacy of the deposit made by any organization.
14 If, as a result of such review, the division determines that an adjustment
15 is necessary, it shall require the organization to make AN additional
16 deposit within fifteen days ~~of~~ AFTER written notice of its determination or
17 shall return to it such portion of the deposit as it no longer considers
18 necessary, whichever action is appropriate. Disposition of income from
19 securities held in escrow shall be governed by the applicable provisions
20 of the state law.

21 (e) If any nonprofit organization fails to file a bond or make a
22 deposit, or to file a bond in an increased amount or to increase or make
23 whole the amount of a previously made deposit, as provided under this
24 subsection (4), the division may terminate ~~such~~ THE organization's
25 election to make payments in lieu of ~~taxes~~ PREMIUMS, and ~~such~~ THE
26 termination shall continue for not less than the
27 four-consecutive-calendar-quarter period beginning with the quarter in

1 which ~~such~~ THE termination becomes effective, but the division may, for
2 good cause, extend the applicable filing, deposit, or adjustment period by
3 not more than fifteen days.

4 (f) If any nonprofit organization is delinquent in making payments
5 in lieu of ~~taxes~~ PREMIUMS as required under subsection (2) of this section,
6 the division may terminate ~~such~~ THE organization's election to make
7 payments in lieu of ~~taxes~~ PREMIUMS as of the beginning of the next
8 ~~taxable~~ CALENDAR year, and ~~such~~ THE termination shall be effective for
9 that and the next ~~taxable~~ CALENDAR year.

10 (5) **Allocation of benefit costs.** (a) A political subdivision ~~which~~
11 THAT is liable for payments in lieu of ~~taxes~~ PREMIUMS shall pay to the
12 division for the unemployment compensation fund the full amount of all
13 regular and extended benefits paid that are attributable to service in the
14 employ of such employer. A nonprofit organization liable for payments
15 in lieu of ~~taxes~~ PREMIUMS shall pay to the division for the unemployment
16 compensation fund the amount of regular benefits plus the amount of
17 one-half of extended benefits paid that are attributable to service in the
18 employ of such employer. If benefits paid to an individual are based on
19 wages paid by more than one employer and one or more of such
20 employers are liable for payments in lieu of ~~taxes~~ PREMIUMS, the amount
21 payable to the fund by each employer that is liable for such payments
22 shall be determined in accordance with the provisions of paragraph (b) or
23 (c) of this subsection (5).

24 (b) If benefits paid to an individual are based on wages paid by
25 one or more employers ~~who~~ THAT are liable for payments in lieu of ~~taxes~~
26 PREMIUMS and on wages paid by one or more employers ~~who~~ THAT are
27 liable for ~~taxes~~ PREMIUMS, the amount of benefits payable by each

1 employer ~~who~~ THAT is liable for payments in lieu of ~~taxes~~ PREMIUMS shall
2 be an amount ~~which~~ THAT bears the same ratio to the total benefits paid
3 to the individual as the total base period wages paid to the individual by
4 such employer bear to the total base period wages paid to the individual
5 by all of his OR HER base period employers.

6 (c) If benefits paid to an individual are based on wages paid by
7 two or more employers ~~who~~ THAT are liable for payments in lieu of ~~taxes~~
8 PREMIUMS, the amount of benefits payable by each such employer shall
9 be an amount ~~which~~ THAT bears the same ratio to the total benefits paid
10 to the individual as the total base period wages paid to the individual by
11 such employer bear to the total base period wages paid to the individual
12 by all of his OR HER base period employers.

13 (6) **Group accounts.** Two or more employers ~~who~~ THAT are
14 liable for payments in lieu of ~~taxes~~ PREMIUMS, in accordance with the
15 provisions of subsection (2) of this section and sections 8-76-108 and
16 8-76-109, may file a joint application with the division for the
17 establishment of a group account for the purpose of sharing the cost of
18 benefits paid that are attributable to service in the employ of such
19 employers. Each ~~such~~ application shall identify and authorize a group
20 representative to act as the group's agent for the purposes of this
21 subsection (6). Upon its approval of the application, the division shall
22 establish a group account for ~~such~~ THE employers effective as of the
23 beginning of the calendar quarter in which it receives the application and
24 shall notify the group's representative of the effective date of the account.
25 ~~Such~~ THE account shall remain in effect for not less than two years and
26 thereafter until terminated at the discretion of the division or upon
27 application by the group. Upon establishment of the account, each

1 member of the group shall be liable for payments in lieu of ~~taxes~~
2 PREMIUMS with respect to each calendar quarter in the amount that bears
3 the same ratio to the total benefits paid in ~~such~~ THAT quarter that are
4 attributable to service performed in the employ of all members of the
5 group as the total wages paid for service in employment by ~~such~~ THE
6 member in ~~such~~ THAT quarter bear to the total wages paid during ~~such~~
7 THAT quarter for service performed in the employ of all members of the
8 group. The division shall prescribe ~~such regulations~~ RULES as ~~it deems~~
9 necessary with respect to applications for establishment, maintenance,
10 and termination of group accounts that are authorized by this subsection
11 (6) for addition of new members to, and withdrawal of active members
12 from, such accounts and for the determination of the amounts that are
13 payable under this subsection (6) by members of the group and the time
14 and manner of such payments.

15 **SECTION 19.** 8-76-111 (4), Colorado Revised Statutes, is
16 amended to read:

17 **8-76-111. Coverage of state employees.** (4) The amounts
18 required to be paid in lieu of ~~taxes~~ PREMIUMS by the state under this
19 section shall be billed and payment made as provided in section 8-76-110
20 (3) with respect to similar payments by nonprofit organizations.

21 **SECTION 20.** 8-76-112 (1) and (3), Colorado Revised Statutes,
22 are amended to read:

23 **8-76-112. Political subdivisions - security for collection of**
24 **premiums or reimbursable payments.** (1) In the event of default in
25 payment of ~~taxes~~ PREMIUMS OR SURCHARGES due or reimbursements of
26 benefit costs, the state treasurer, upon the request of the division, shall set
27 aside state funds otherwise payable to the political subdivision as security

1 to ~~insure~~ ENSURE payment of the funds due from the political subdivision
2 to the unemployment trust fund.

3 (3) The division may not request the state treasurer to set aside
4 funds to cover obligations of the political subdivision until at least six
5 months have elapsed since the due date for payment of the ~~tax~~ PREMIUM
6 OR SURCHARGE or reimbursable obligation.

7 **SECTION 21.** 8-76-113 (1) and (2), Colorado Revised Statutes,
8 are amended to read:

9 **8-76-113. Protest - appeal - filed by an employer.** (1) Any
10 employer who wishes to appeal a determination of liability for ~~taxes~~
11 PREMIUMS OR SURCHARGES, a determination of coverage under the
12 provisions of articles 70 to 82 of this title, or a seasonality determination
13 pursuant to section 8-73-106 may file a written notice of appeal with the
14 division in such form and manner as the director of the division may
15 prescribe by rule, including in person, by mail, or by electronic means.
16 Except as otherwise provided by this section, proceedings on appeal shall
17 be governed by the provisions of article 74 of this title. No appeal shall
18 be heard unless the notice of appeal has been received by the division
19 within twenty calendar days after the date the notice of such
20 determination is mailed or transmitted by the division to the employer in
21 accordance with such rules as the director of the division may
22 promulgate.

23 (2) Any employer who wishes to protest an assessment of ~~taxes~~
24 PREMIUMS OR SURCHARGES, a notice of PREMIUM rate, ~~of tax~~, a
25 recomputation of ~~tax~~ PREMIUM rate, or any notice of correction of any
26 matter set forth in this subsection (2) shall file a request for
27 redetermination with the division, in accordance with rules promulgated

1 by the director of the division. The division shall thereafter promptly
2 notify the employer of its redetermination decision. Any employer who
3 wishes to appeal from a redetermination decision may file a written notice
4 of appeal with the division. Except as otherwise provided by this section,
5 proceedings on appeal shall be governed by the provisions of article 74
6 of this title. No appeal shall be heard unless notice of appeal has been
7 received by the division within twenty calendar days after the date the
8 notice of such redetermination is mailed or transmitted by the division to
9 the employer in accordance with such rules as the director of the division
10 may promulgate.

11 **SECTION 22.** 8-76-115 (1), (2), (3), (4), (5) (a), (6), (7) (b), and
12 (8) (b), Colorado Revised Statutes, are amended to read:

13 **8-76-115. Coverage of Indian tribes.** (1) Indian tribes or tribal
14 units, including all subdivisions or subsidiaries of, and business
15 enterprises wholly owned by, such Indian tribes, subject to the provisions
16 of articles 70 to 82 of this title shall pay ~~taxes~~ PREMIUMS AND
17 SURCHARGES under the same terms and conditions under sections
18 8-76-101 to 8-76-103 as apply to other ~~taxpaying~~ PREMIUM-PAYING
19 employers unless an election is made, in the same manner provided in
20 section 8-76-108 (1) (d), to make payments in lieu of ~~taxes~~ PREMIUMS into
21 the unemployment compensation fund in amounts equal to the amount of
22 benefits attributable to service in the employ of the Indian tribe.

23 (2) Indian tribes shall determine if payments in lieu of ~~taxes~~
24 PREMIUMS will be elected by the tribe as a whole, by individual tribal
25 units, or by combinations of individual tribal units. Two or more
26 individual tribal units may apply with the division for the establishment
27 of a group account in the same manner and subject to the same terms as

1 set forth in section 8-76-110 (6).

2 (3) Indian tribes or tribal units electing to make payments in lieu
3 of ~~taxes~~ PREMIUMS shall be billed for the full amount of benefits
4 attributable to service in the employ of said Indian tribes or tribal units,
5 and payment shall be made with respect to said billings in the manner
6 provided in section 8-76-108 (1) (c).

7 (4) The division may require any Indian tribe or tribal unit that
8 elects to become liable for payments in lieu of ~~taxes~~ PREMIUMS to execute
9 and file with the division a surety bond or to deposit money or securities
10 in the manner provided in section 8-76-110 (4).

11 (5) (a) Failure of the Indian tribe or tribal unit to make required
12 payments pursuant to subsection (3) of this section, to pay ~~taxes~~
13 PREMIUMS pursuant to sections 8-76-101 to 8-76-103, to pay assessments
14 of interest and penalties pursuant to sections 8-79-101 and 8-79-104, or
15 to execute and file a surety bond or deposit money or other security
16 pursuant to section 8-76-110 (4) within ninety days ~~of~~ AFTER receipt of
17 a delinquency notice by the division shall cause the Indian tribe to lose
18 the option to make payments in lieu of ~~taxes~~ PREMIUMS effective with the
19 beginning of the following calendar year unless a division-approved
20 payment plan is established or payment in full is received within the ~~said~~
21 ninety-day period.

22 (6) Any Indian tribe that loses the option to make payments in lieu
23 of ~~taxes~~ PREMIUMS due to late payment or nonpayment, as described in
24 subsection (5) of this section, shall have such option reinstated effective
25 with the beginning of the following calendar year if, by March 1 of said
26 year, all contributions have been timely made and no ~~taxes~~ PREMIUMS OR
27 SURCHARGES, payments in lieu of ~~taxes~~ PREMIUMS for benefits paid,

1 penalties, or interest remain outstanding.

2 (7) (b) The division may determine that any Indian tribe that loses
3 coverage under the provisions of this subsection (7) may have services
4 performed for such tribe again included as "employment" for purposes of
5 section 8-70-125.5 if all ~~taxes~~ PREMIUMS AND SURCHARGES, payments in
6 lieu of ~~taxes~~ PREMIUMS, penalties and interest, or surety bond or payment
7 of other money or security have been paid.

8 (8) Notices of payment and reporting delinquency to Indian tribes
9 or their tribal units shall include information stating that failure to make
10 full payment within the prescribed time period:

11 (b) Shall cause the Indian tribe to lose the option to make
12 payments in lieu of ~~taxes~~ PREMIUMS; and

13 **SECTION 23.** 8-77-102 (1), Colorado Revised Statutes, is
14 amended to read:

15 **8-77-102. Collection and transmittal of receipts - clearing**
16 **account - refunds - transfers.** (1) The division or its agent shall collect
17 or receive all ~~taxes~~ PREMIUMS, SURCHARGES, payments in lieu of ~~taxes~~
18 PREMIUMS, fines, and penalties provided for in articles 70 to 82 of this
19 title, all interest on delinquent ~~taxes~~ PREMIUMS AND SURCHARGES
20 provided for in section 8-79-101, and all other moneys accruing to the
21 fund from the federal government or any other source whatsoever and
22 shall transmit all such moneys to the state treasurer, who shall cause the
23 same to be deposited in a clearing account in his OR HER name in a state
24 or national bank doing business in this state.

25 **SECTION 24.** 8-77-106 (1), Colorado Revised Statutes, is
26 amended to read:

27 **8-77-106. Unemployment revenue fund.** (1) There is hereby

1 created the unemployment revenue fund, to which shall be credited all
2 interest collected by the division on delinquent ~~taxes~~ PREMIUMS OR
3 SURCHARGES pursuant to the provisions of section 8-79-101, all penalties
4 collected by the division pursuant to sections 8-79-104 (1) (a) and (1) (c)
5 and 8-81-101 (4) (a) (II), all remaining moneys in the federal advance
6 interest repayment fund after all known interest charges and associated
7 administrative costs pursuant to section 8-77-103 have been paid pursuant
8 to section 8-77-108 (3), and all investigative costs collected by the
9 division pursuant to section 8-81-101 (4) (a) (III).

10 **SECTION 25.** 8-77-109 (1), Colorado Revised Statutes, is
11 amended to read:

12 **8-77-109. Employment support fund - created - uses.**

13 (1) There is hereby established the employment support fund which shall
14 be credited with fifty percent of the PREMIUM surcharge ~~tax~~ established
15 by section 8-76-102 (4) (~~a~~) beginning July 1, 1999. **THE EMPLOYMENT**
16 **SUPPORT FUND SHALL NOT BE INCLUDED IN OR ADMINISTERED BY THE**
17 **ENTERPRISE ESTABLISHED PURSUANT TO SECTION 8-71-103 (2).**

18 **SECTION 26.** 8-77-109 (2) (a.9), Colorado Revised Statutes, as
19 enacted by Senate Bill 09-076, enacted at the First Regular Session of the
20 Sixty-seventh General Assembly, is amended to read:

21 **8-77-109. Employment support fund - employment and**

22 **training technology fund - created - uses.** (2) (a.9) Notwithstanding
23 any provision of this subsection (2) to the contrary, beginning July 1,
24 2009, through December 31, 2016, twenty percent of the PREMIUM
25 surcharge ~~tax~~ established by section 8-76-102 (4) shall be credited to the
26 employment and training technology fund, which is hereby created in the
27 state treasury. Moneys in the employment and training technology fund

1 shall be used for employment and training automation initiatives
2 established by the director of the division. Moneys in the employment
3 and training technology fund shall be subject to annual appropriation by
4 the general assembly for the implementation of this paragraph (a.9) and
5 shall not revert to the general fund or any other fund at the end of any
6 fiscal year. The moneys in the employment and training technology fund
7 shall be exempt from section 24-75-402, C.R.S. If the balance of the
8 unemployment compensation fund, created in section 8-77-101, falls
9 below twenty-five million dollars, the moneys in the employment and
10 training technology fund shall be allocated to the unemployment
11 compensation fund. At any other time, the moneys in the employment
12 and training technology fund may be allocated to the unemployment
13 compensation fund at the discretion of the executive director of the
14 department of labor and employment.

15 **SECTION 27.** 8-79-101, Colorado Revised Statutes, is amended
16 to read:

17 **8-79-101. Interest on past-due premiums and surcharges.**
18 ~~Taxes unpaid on the date on which they are due and payable, as~~
19 ~~prescribed by the division, shall bear interest at the rate of nine percent~~
20 ~~per annum or three-fourths of one percent per month or any portion~~
21 ~~thereof on and after such date until payment plus accrued interest is~~
22 ~~received by the division. On and after October 1, 1983, taxes~~ PREMIUMS
23 OR SURCHARGES unpaid on the date on which they are due and payable,
24 as prescribed by the division, shall bear interest at the rate of eighteen
25 percent per annum or one and one-half percent per month or any portion
26 thereof on and after such date until payment plus accrued interest is
27 received by the division. Interest collected pursuant to this section shall

1 be paid into the unemployment revenue fund.

2 **SECTION 28.** 8-79-102 (1) and (3), Colorado Revised Statutes,
3 are amended to read:

4 **8-79-102. Collection of premiums and surcharges, benefit**
5 **overpayments, penalties, and interest.** (1) The division shall institute
6 such practices and procedures as it deems necessary to collect any money
7 due the division in the form of delinquent ~~taxes~~ PREMIUMS, SURCHARGES,
8 or overpaid benefits, including all penalties and interest thereon. In the
9 case of overpaid benefits, the division may, in addition to instituting
10 collection procedures, withhold subsequent benefit payments to which the
11 claimant is or becomes entitled and apply the amount withheld as an
12 offset against the overpayment. However, any amount withheld shall not
13 exceed twenty-five percent of a claimant's benefit payments except in
14 those cases where overpayments have occurred on an established current
15 claim or as a result of false representation or willful failure to disclose a
16 material fact.

17 (3) If, after due notice, any employer or claimant defaults in any
18 payment of ~~taxes~~ PREMIUMS or SURCHARGES, THE repayment of overpaid
19 benefits, or the payment of any interest or penalties thereon, the amount
20 due may be collected by civil action, which shall include the right of
21 attachment in the name of the division. Court costs shall not be charged
22 to the division, but any employer or claimant against whom judgment is
23 taken shall be ~~taxed~~ CHARGED with all costs of such action. All costs
24 collected by the division shall be paid into the registry of the court.

25 **SECTION 29.** 8-79-103, Colorado Revised Statutes, is amended
26 to read:

27 **8-79-103. Premiums, surcharges, and assessments a lien on**

1 **property.** (1) The ~~taxes~~ PREMIUMS AND SURCHARGES imposed by
2 sections 8-76-101 to 8-76-104 and any assessments imposed pursuant to
3 section 29-4-710.7, C.R.S., shall be a first and prior lien upon the real and
4 personal property of any employer subject to articles 70 to 82 of this title,
5 except as to the lien of general property taxes and except as to valid liens
6 existing at the time of the filing of the notice provided for in section
7 8-79-105, and shall take precedence over all other liens or claims of
8 whatsoever kind or nature. Any employer ~~who~~ THAT sells, assigns,
9 transfers, conveys, loses by foreclosure of a subsequent lien, or otherwise
10 disposes of ~~his~~ ITS business, or any part thereof, shall file with the
11 division such reports as the director of the division, by ~~regulation~~ RULE,
12 may prescribe within ten days after the date of any such transaction. The
13 employer's successor shall be required to withhold FROM THE PURCHASE
14 MONEY AN AMOUNT OF MONEY sufficient ~~of the purchase money~~ to cover
15 the amount of ~~said tax~~ PREMIUMS OR SURCHARGES and ~~assessment~~
16 ASSESSMENTS due and unpaid until such time as the former owner
17 produces a receipt from the division showing that ~~said taxes and~~ THE
18 PREMIUMS, SURCHARGES, OR assessments have been paid or a certificate
19 that no ~~taxes and~~ PREMIUMS, SURCHARGES, OR assessments are due. Any
20 ~~such~~ successor ~~who~~ THAT fails to comply with ~~the above provisions~~ THIS
21 SUBSECTION (1) shall be personally liable for the payment of any ~~taxes~~
22 ~~and~~ PREMIUMS, SURCHARGES, OR assessments due and unpaid.

23 (2) When the business or property of any employer is placed in
24 receivership, seized under distraint for property taxes, or assigned for the
25 benefit of creditors, all ~~taxes or~~ PREMIUMS, SURCHARGES, assessments,
26 penalties, and interest imposed by articles 70 to 82 of this title and section
27 29-4-710.7, C.R.S., shall be a prior and preferred claim against all of the

1 property of said employer, except as to the lien of general property taxes,
2 and as to valid liens existing at the time of the filing of the notice
3 provided for in section 8-79-105, and as to claims for wages of not more
4 than two hundred fifty dollars to each claimant earned within six months
5 ~~of~~ AFTER the commencement of the proceeding. No sheriff, receiver,
6 assignee, or other officer shall sell the property of any employer under
7 process or order of court in such cases without first ascertaining from the
8 division the amount of any ~~taxes~~ PREMIUMS, SURCHARGES, or assessments
9 due and payable under articles 70 to 82 of this title and section
10 29-4-710.7, C.R.S. If any ~~such taxes~~ PREMIUMS, SURCHARGES, or
11 assessments are due, owing, and unpaid, it is the duty of such sheriff,
12 receiver, assignee, or other officer to first pay the OUTSTANDING amount
13 of ~~said taxes~~ PREMIUMS, SURCHARGES, or assessments out of the proceeds
14 of ~~such~~ THE sale before making payment of any moneys to any judgment
15 creditor or other claims of whatsoever kind or nature, except the costs of
16 the proceedings. In the event of an employer's being subject to an order
17 for relief, judicially confirmed extension proposal, or composition under
18 the federal bankruptcy code of 1978, title 11 of the United States Code,
19 ~~taxes~~ PREMIUMS, SURCHARGES, or assessments then or thereafter due shall
20 be entitled to such priority as is provided in section 507 of that code for
21 taxes due the state of Colorado.

22 **SECTION 30.** 8-79-104, Colorado Revised Statutes, is amended
23 to read:

24 **8-79-104. Failure to file true report - penalty.** (1) (a) It is the
25 responsibility of each employer subject to the provisions of articles 70 to
26 82 of this title to file true and accurate reports whether or not ~~taxes~~
27 PREMIUMS OR SURCHARGES are due and to pay all ~~taxes~~ PREMIUMS AND

1 SURCHARGES when due. Whenever an employer fails to furnish ~~tax~~
2 PREMIUM reports required by the division by the due date, ~~such~~ THE
3 employer shall be assessed a penalty of fifty dollars for each ~~such~~
4 occurrence; except that an "employer newly subject" as defined by section
5 8-76-103 (3) (a) (IV) shall be assessed a penalty of ten dollars for each
6 such occurrence during the first four quarters of coverage. Each
7 subsequent quarter in which the employer continues the failure to file
8 such reports shall be considered a separate occurrence. Penalties
9 collected by the division pursuant to this paragraph (a) shall be paid into
10 the unemployment revenue fund.

11 (b) If any employer fails or neglects to make and file such reports,
12 as required by articles 70 to 82 of this title or by the ~~regulations~~ RULES of
13 the division pursuant thereto, or willfully makes a false or fraudulent
14 report, the division may make an assessment of the ~~taxes~~ PREMIUMS OR
15 SURCHARGES due from its own knowledge and from such information as
16 it can obtain through testimony or otherwise.

17 (c) An employer who is delinquent in paying ~~taxes~~ PREMIUMS OR
18 SURCHARGES on the computation date shall have a penalty assessed by the
19 division. The amount of the penalty shall be the amount of delinquent
20 ~~taxes~~ PREMIUMS OR SURCHARGES; except that the penalty shall not exceed
21 an amount equal to one percent of the employer's ~~taxable~~ CHARGEABLE
22 wages paid ~~which~~ THAT were subject to unemployment insurance in the
23 preceding calendar year. ~~and, further,~~ The amount of the penalty for an
24 employer ~~who~~ THAT was not subject to the provisions of articles 70 to 82
25 of this title in the preceding calendar year shall be the amount of
26 delinquent ~~taxes~~ PREMIUMS OR SURCHARGES. Such penalty shall be in
27 addition to any payments and interest due under articles 70 to 82 of this

1 title. The penalty shall be payable in four quarterly installments during
2 the current calendar year and shall be remitted to the division with the
3 employer's quarterly report. Penalties collected by the division pursuant
4 to this paragraph (c) shall be paid into the unemployment revenue fund.

5 (d) Any penalty imposed pursuant to this subsection (1) shall be
6 waived if good cause is shown for failing to pay the ~~taxes~~ PREMIUMS OR
7 SURCHARGES or to make ~~tax~~ PREMIUM reports, as prescribed by rule ~~or~~
8 ~~regulation~~ of the division. Penalties under this subsection (1) ~~which~~ THAT
9 are unpaid on the date on which they are due shall bear interest at the
10 same rate and in the same manner as unpaid ~~taxes~~ PREMIUMS AND
11 SURCHARGES under articles 70 to 82 of this title. The provisions of
12 section 13-80-108 (9), C.R.S., shall be used for determining when an
13 offense is committed for the purposes of this subsection (1).

14 (2) Any assessment so made and certified by the division shall be
15 prima facie good and sufficient for all legal purposes. Notice and demand
16 for ~~such taxes~~ PREMIUMS OR SURCHARGES plus any interest and penalties
17 imposed by articles 70 to 82 of this title shall be made upon ~~such~~ forms
18 as PRESCRIBED BY the division, ~~may prescribe~~, and the notice and demand
19 shall become final fourteen calendar days after the date of delivery of ~~said~~
20 THE notice and demand to the employer in person or after the date of the
21 transmittal by electronic means or by registered mail to the employer's
22 last-known address or place of business. The employer may file a request
23 for review or modification of ~~said~~ THE assessment with the division
24 within the fourteen days in the manner and form prescribed by the
25 division. The division, on the basis of evidence submitted by the
26 employer disclosing the correct amount of ~~taxes~~ PREMIUMS OR
27 SURCHARGES, may amend or otherwise modify its previous assessments.

1 **SECTION 31.** 8-79-105 (1) and (2), Colorado Revised Statutes,
2 are amended to read:

3 **8-79-105. Levy on property - sale.** (1) If any ~~taxes~~ PREMIUMS,
4 SURCHARGES, penalties, or interest imposed by articles 70 to 82 of this
5 title, as shown by reports filed by the employer or as shown by assessment
6 duly made as provided in section 8-79-104 or 8-79-107, are not paid
7 within five days after ~~the same~~ THEY are due and demand IS made
8 therefor, the division may issue a notice setting forth the name of the
9 employer, the amount of the ~~taxes~~ PREMIUMS, SURCHARGES, penalties, and
10 interest, the date of the accrual thereof, and a statement that the division
11 claims a first and prior lien therefor, except as provided in this article.
12 Such notice shall be on forms prepared by the division and shall be
13 verified by any duly qualified representative of the division and may be
14 filed or recorded in the office of the county clerk and recorder of any
15 county in the state in which the employer owns property. After such
16 notice has been filed or recorded, the division may issue a warrant under
17 its official seal directed to the sheriff of any county of the state or any
18 duly authorized agent of the division commanding him OR HER to levy
19 upon, seize, and sell such of the real and personal property of the
20 employer found within his OR HER county necessary for the payment of
21 the amount due, together with interest and penalties, as provided by law.

22 (2) It is the duty of any county clerk and recorder to whom such
23 notices are sent to file or record the same without cost. ~~Any~~ UPON THE
24 PAYMENT OF ALL PREMIUMS, SURCHARGES, PENALTIES, AND INTEREST, A
25 lien for ~~taxes~~ SUCH PREMIUMS, SURCHARGES, PENALTIES, AND INTEREST,
26 as shown upon the records of the county clerk and recorder, ~~upon the~~
27 ~~payment of all taxes, penalties, and interest covered thereby,~~ shall be

1 released by the division in the same manner as judgments are released.

2 **SECTION 32.** 8-79-107, Colorado Revised Statutes, is amended
3 to read:

4 **8-79-107. Immediate assessment - when.** If the division believes
5 that the collection of any ~~taxes~~ PREMIUMS, SURCHARGES, penalties, or
6 interest under the provisions of articles 70 to 82 of this title will be
7 jeopardized by delay, whether or not the time otherwise prescribed by
8 articles 70 to 82 of this title or any ~~regulations~~ RULES issued pursuant
9 thereto for making reports and paying such ~~taxes~~ PREMIUMS OR
10 SURCHARGES has expired, it may immediately assess such ~~taxes~~
11 PREMIUMS AND SURCHARGES, together with all penalties and interest, the
12 assessment of which is provided for by articles 70 to 82 of this title. Such
13 ~~taxes~~ PREMIUMS, SURCHARGES, penalties, and interest shall thereupon
14 become immediately due and payable, and immediate notice and demand
15 shall be made by the division for the payment thereof.

16 **SECTION 33.** 8-79-108 (1) and (3), Colorado Revised Statutes,
17 are amended to read:

18 **8-79-108. Refunds.** (1) An employing unit may file an
19 application for the refund of money paid erroneously in such form and
20 manner as the director of the division may prescribe by rule, including in
21 person, by mail, by telephone, or by electronic means. If the division
22 determines that such payment, or any portion thereof, was paid
23 erroneously, the division shall either issue to the employing unit a credit
24 memo therefor, or make a refund thereof, in either event without interest
25 thereon. Where no application is received, and the division determines
26 that ~~taxes~~ PREMIUMS OR SURCHARGES have been paid erroneously, the
27 division may, at its option, correct any erroneous payments. Any such

1 correction, if it involves less than one hundred dollars, may be by credit
2 memo. In no event may an employing unit recover money paid
3 erroneously, or otherwise, that has been paid prior to January 1 of the first
4 year of the five calendar years immediately preceding the date of the
5 filing of the application for refund. If such application for refund is
6 refused, or if no final action is taken thereon within six months, an
7 employing unit may commence an action in the district court for the city
8 and county of Denver for the collection thereof. In the event of court
9 action, no recovery of any money paid prior to January 1 of the first year
10 of the five calendar years immediately preceding the date of the filing of
11 the application shall be allowed. For like cause and for the same period,
12 a recovery, as above indicated, may be allowed on the division's own
13 initiative.

14 (3) Refunds of interest ~~which were~~ THAT WAS paid into the
15 unemployment compensation fund shall be paid from the unemployment
16 compensation fund, and refunds of interest ~~which were~~ THAT WAS paid
17 into the unemployment revenue fund shall be paid from the
18 unemployment revenue fund. All refunds of ~~taxes~~ PREMIUMS AND
19 SURCHARGES shall be made from the unemployment compensation fund.

20 **SECTION 34.** 8-80-101, Colorado Revised Statutes, is amended
21 to read:

22 **8-80-101. Waiver of rights void.** Any agreement by an
23 individual to waive, release, or commute his OR HER rights to benefits or
24 any other rights under articles 70 to 82 of this title shall be void. Any
25 agreement by any individual in the employ of any person or concern to
26 pay all or any portion of an employer's ~~taxes~~ PREMIUMS OR SURCHARGES
27 required under articles 70 to 82 of this title from the employer shall be

1 void. No employer shall directly or indirectly make, require, or accept
2 any deduction from wages to finance the employer's ~~taxes~~ PREMIUMS OR
3 SURCHARGES required from him OR HER or require or accept any waiver
4 of any rights under articles 70 to 82 of this title by any individual in his
5 OR HER employ. Any employer or officer or agent of any employer who
6 violates ~~any provision of~~ this section is guilty of a misdemeanor and,
7 upon conviction thereof, for each offense, shall be punished by a fine of
8 not less than one hundred dollars nor more than one thousand dollars, or
9 by imprisonment in the county jail for not more than six months, or by
10 both such fine and imprisonment.

11 **SECTION 35.** 8-81-101 (2), Colorado Revised Statutes, is
12 amended to read:

13 **8-81-101. Penalties.** (2) Any employing unit, or any officer or
14 agent of an employing unit, or any other person who makes a false
15 statement or representation knowing it to be false or who knowingly fails
16 to disclose a material fact either to cause an individual to receive benefits
17 to which such individual is otherwise not entitled or to defraud an
18 individual by preventing or reducing the payment of benefits to which
19 such individual would otherwise be entitled, or to avoid becoming or
20 remaining a subject employer, or to avoid or reduce any ~~tax~~ PREMIUM,
21 SURCHARGE, or other payment required from an employing unit under
22 articles 70 to 82 of this title or under the employment security law of any
23 other state, ~~or of the federal government, or of a foreign government or~~
24 any such employing unit, officer or agent, or other person who willfully
25 fails or refuses to pay any such ~~taxes~~ PREMIUMS OR SURCHARGES or make
26 any other payment, or to furnish any reports required under section
27 8-72-107, or to produce or permit the inspection or copying of records as

1 required under section 8-72-107 is guilty of a misdemeanor and, upon
2 conviction thereof, shall be punished by a fine of not less than twenty-five
3 dollars nor more than one thousand dollars, or by imprisonment in the
4 county jail for not more than six months, or by both such fine and
5 imprisonment. Each false statement or representation or failure to
6 disclose a material fact and each day such failure or refusal continues
7 shall constitute a separate offense.

8 **SECTION 36.** 29-4-710.7 (1) (b) (I) and (1) (b) (III), Colorado
9 Revised Statutes, are amended to read:

10 **29-4-710.7. Powers of the board - issuance of bonds to**
11 **maintain balances in the unemployment compensation fund.**

12 (1) Upon receiving the certifications specified in subsection (2) of this
13 section, the authority, in addition to the other powers granted by this part
14 7, shall have the following powers:

15 (b) To levy certain bond assessments as follows:

16 (I) All bonds and notes issued pursuant to this section shall be
17 limited obligations of the authority, payable solely from revenues
18 generated through the levy by the authority of a bond assessment against
19 each employer, as defined in section 8-70-113, C.R.S., subject to
20 experience rating under articles 70 to 82 of title 8, C.R.S., in an aggregate
21 amount sufficient to satisfy subparagraph (II) of this paragraph (b). The
22 division of employment and training shall collect and administer the bond
23 assessment on behalf of the authority in substantially the same manner as
24 other employer ~~taxes~~ PREMIUMS AND SURCHARGES required pursuant to
25 the provisions of articles 70 to 82 of title 8, C.R.S. Subject to the
26 provisions of articles 70 to 82 of title 8, C.R.S., the assessment shall not
27 apply to the covered employers of state and local government, to those

1 nonprofit organizations that are reimbursable employers, ~~nor~~ OR to
2 political subdivisions electing the special rate.

3 (III) All bond assessments described in this paragraph (b) shall be
4 submitted in the same manner as the employer's normal ~~taxes~~ PREMIUMS
5 AND SURCHARGES paid pursuant to the provisions of articles 70 to 82 of
6 title 8, C.R.S., shall be a lien upon the real and personal property of any
7 such employer in the manner and to the extent set forth in section
8 8-79-103, C.R.S., shall be segregated by the division of employment and
9 training in a special account under the control of the division, and shall,
10 after offsetting the division's costs for collecting and administering the
11 bond assessments, be used only for transfer from time to time to one or
12 more special accounts created by and under the control of the authority.
13 All moneys accruing in any such special account shall be used by the
14 authority only to pay the costs described in subparagraph (II) of this
15 paragraph (b), and any moneys remaining in such ~~accounts~~ ACCOUNT and
16 not required to pay such costs shall be transferred by the authority to the
17 division of employment and training for deposit in the unemployment
18 compensation fund.

19 **SECTION 37. Effective date.** (1) Except as provided in
20 subsections (2) and (3) of this section, this act shall take effect July 1,
21 2009.

22 (2) Section 8-76-102 (4) (d), Colorado Revised Statutes, as
23 amended in section 12 of this act, shall not take effect if Senate Bill
24 09-076 is enacted at the First Regular Session of the Sixty-seventh
25 General Assembly and becomes law.

26 (3) Sections 13 and 26 of this act shall take effect on July 1, 2009,
27 only if Senate Bill 09-076 is enacted at the First Regular Session of the

1 **Sixty-seventh General Assembly and becomes law.**

2 **SECTION 38. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.