

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

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 09-0538.01 Kristen Forrestal

**SENATE BILL 09-076**

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**SENATE SPONSORSHIP**

**Heath,** Schwartz

**HOUSE SPONSORSHIP**

**Court,**

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**Senate Committees**

Business, Labor and Technology  
Finance  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE APPROPRIATION OF EMPLOYER TAX SURCHARGE**  
102              **MONEYS TO THE EMPLOYMENT AND TRAINING TECHNOLOGY**  
103              **FUND FOR USE BY THE DIVISION OF EMPLOYMENT AND TRAINING**  
104              **WITHIN THE DEPARTMENT OF LABOR AND EMPLOYMENT.**

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**Bill Summary**

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

Beginning July 1, 2009, through December 31, 2016, allocates 20% of the employer surcharge tax to the newly created employment and training technology fund for employment and training automation initiatives. Decreases from 50% to 30% the amount allocated to the

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.*

SENATE  
Amended 2nd Reading  
February 24, 2009

unemployment compensation fund. Allows the executive director of the department of labor and employment to allocate moneys back to the unemployment compensation fund if the moneys in the fund fall below \$25 million.

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

2 **SECTION 1.** 8-76-102 (4) (a), (4) (b), and (4) (d), Colorado  
3 Revised Statutes, are amended to read:

4 **8-76-102. Rate of tax - surcharge.** (4) (a) ~~Based on the amount~~  
5 ~~of benefits paid and not chargeable to any active employer account prior~~  
6 ~~to each July 1, beginning July 1, 1983, the division shall annually~~  
7 ~~establish a tax, rounded to the nearest one-tenth of one percent. The total~~  
8 ~~amount of benefits not effectively charged shall be divided by the total~~  
9 ~~taxable payroll estimated to be paid by all employers in the ensuing~~  
10 ~~calendar year. The resulting percentage, rounded to the nearest one-tenth~~  
11 ~~of one percent, with fifty percent allocated to the unemployment~~  
12 ~~compensation fund and fifty percent allocated to the employment support~~  
13 ~~fund created under the provisions of section 8-77-109, shall be the~~  
14 ~~surcharge tax rate beginning July 1, 1999. The surcharge tax rate shall~~  
15 ~~then be added to the employer's standard or computed tax rate with eighty~~  
16 ~~percent of the surcharge tax revenues considered as revenues for purposes~~  
17 ~~of calculating the tax surcharge pursuant to this paragraph (a). This tax~~  
18 ~~rate added to the employer tax rate shall also be identified separately on~~  
19 ~~the employer tax rate notice as the tax surcharge for benefits not~~  
20 ~~effectively charged. The combined rate shall be the employer's tax rate~~  
21 ~~for the ensuing calendar year. The division shall use the four quarters~~  
22 ~~most recently available for benefits not effectively charged prior to the~~  
23 ~~computation date used for determinations under section 8-76-103. Since~~

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

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

19 (d) Effective calendar year 2000, the provisions of paragraph (a)  
20 of this subsection (4) regarding annual computation of the surcharge tax  
21 rate shall no longer apply and 2009, the annual surcharge tax rate shall be  
22 established at 0.22 percent, with fifty THIRTY percent of the surcharge tax  
23 rate allocated to the general UNEMPLOYMENT COMPENSATION fund  
24 CREATED IN SECTION 8-77-101, and fifty percent of the surcharge tax rate  
25 allocated to the employment support fund created under the provisions of  
26 section 8-77-109, except that, beginning July 1, 2004, the amount  
27 allocated to the general fund shall be allocated to the unemployment

1 ~~compensation fund~~ AND TWENTY PERCENT OF THE SURCHARGE  
2 ALLOCATED TO THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND  
3 CREATED IN SECTION 8-77-109. EFFECTIVE JANUARY 1, 2017, FIFTY  
4 PERCENT OF THE SURCHARGE TAX RATE SHALL BE ALLOCATED TO THE  
5 UNEMPLOYMENT COMPENSATION FUND AND FIFTY PERCENT OF THE  
6 SURCHARGE TAX RATE SHALL BE ALLOCATED TO THE EMPLOYMENT  
7 SUPPORT FUND. The surcharge tax rate shall then be added to the  
8 employer's standard or computed tax rate. This tax rate added to the  
9 employer tax rate shall also be identified separately on the employer tax  
10 rate notice as the tax surcharge for benefits not effectively charged. The  
11 combined rate shall be the employer's tax rate for the ensuing calendar  
12 year. The surcharge established by this subsection (4) shall not be  
13 assessed against any employer whose benefit-charge account balance is  
14 zero; except that, if the employer is still being rated under the provisions  
15 of section 8-76-103 (3) (a), such employer is subject to the surcharge tax  
16 rate.

17 **SECTION 2.** 8-77-109 (1), Colorado Revised Statutes, is  
18 amended to read:

19 **8-77-109. Employment support fund - employment and**  
20 **training technology fund - created - uses.** (1) There is hereby  
21 established the employment support fund, which shall be credited with  
22 fifty percent of the surcharge tax established by section ~~8-76-102 (4) (a)~~  
23 8-76-102 (4) (d) beginning July 1, 1999.

24 **SECTION 3.** 8-77-109 (2), Colorado Revised Statutes, is  
25 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26 **8-77-109. Employment support fund - employment and**  
27 **training technology fund - created - uses.** (2) (a.9) NOTWITHSTANDING

1 ANY PROVISION OF THIS SUBSECTION (2) TO THE CONTRARY, BEGINNING  
2 JULY 1, 2009, THROUGH DECEMBER 31, 2016, TWENTY PERCENT OF THE  
3 SURCHARGE TAX ESTABLISHED BY SECTION 8-76-102 (4) SHALL BE  
4 CREDITED TO THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND,  
5 WHICH IS HEREBY CREATED IN THE STATE TREASURY. MONEYS IN THE  
6 EMPLOYMENT AND TRAINING TECHNOLOGY FUND SHALL BE USED FOR  
7 EMPLOYMENT AND TRAINING AUTOMATION INITIATIVES ESTABLISHED BY  
8 THE DIRECTOR OF THE DIVISION. MONEYS IN THE EMPLOYMENT AND  
9 TRAINING TECHNOLOGY FUND SHALL BE SUBJECT TO ANNUAL  
10 APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE IMPLEMENTATION  
11 OF THIS PARAGRAPH (a.9) AND SHALL NOT REVERT TO THE GENERAL FUND  
12 OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR. THE MONEYS IN  
13 THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND SHALL BE EXEMPT  
14 FROM SECTION 24-75-402, C.R.S. IF THE BALANCE OF THE  
15 UNEMPLOYMENT COMPENSATION FUND, CREATED IN SECTION 8-77-101,  
16 FALLS BELOW TWENTY-FIVE MILLION DOLLARS, THE MONEYS IN THE  
17 EMPLOYMENT AND TRAINING TECHNOLOGY FUND SHALL BE ALLOCATED TO  
18 THE UNEMPLOYMENT COMPENSATION FUND. AT ANY OTHER TIME, THE  
19 MONEYS IN THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND MAY BE  
20 ALLOCATED TO THE UNEMPLOYMENT COMPENSATION FUND AT THE  
21 DISCRETION OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR  
22 AND EMPLOYMENT.

23 **SECTION 4. Effective date.** This act shall take effect July 1,  
24 2009.

25 **SECTION 5. Safety clause.** The general assembly hereby finds,  
26 determines, and declares that this act is necessary for the immediate  
27 preservation of the public peace, health, and safety.