

House Bill 1420 Tax Fairness Act
CARES ACT
NOL Provisions
EITC
EITC Examples

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 20-1420

BY REPRESENTATIVE(S) Sirota and Gray, Benavidez, Gonzales-Gutierrez, Jaquez Lewis, Kipp, Lontine, Weissman, Woodrow, Arndt, Bird, Buckner, Buentello, Caraveo, Cutter, Duran, Esgar, Herod, Hooton, Jackson, Kennedy, Kraft-Tharp, McCluskie, Michaelson Jenet, Mullica, Singer, Snyder, Tipper, Valdez A., Valdez D.;
also SENATOR(S) Moreno and Hansen, Bridges, Danielson, Fenberg, Fields, Foote, Ginal, Gonzales, Pettersen, Story, Todd, Williams A., Winter, Garcia.

CONCERNING THE ADJUSTMENT OF CERTAIN STATE TAX EXPENDITURES IN ORDER TO ALLOCATE ADDITIONAL REVENUES TO THE STATE EDUCATION FUND, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Short title. The short title of this act is the "Tax Fairness Act".

SECTION 2. In Colorado Revised Statutes, 39-22-104, **add** (3)(l), (3)(m), (3)(n), and (3)(o) as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - legislative declaration - definitions - repeal.

(3) There shall be added to the federal taxable income:

(l) FOR INCOME TAX YEARS ENDING ON AND AFTER THE ENACTMENT OF THE MARCH 2020 "CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT", PUB. L. 116-136, REFERRED TO IN THIS SECTION AS THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND FOR INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN A TAXPAYER'S NET OPERATING LOSS DEDUCTION AS DETERMINED UNDER SECTION 172 (a) OF THE INTERNAL REVENUE CODE BEFORE THE AMENDMENTS MADE BY SECTION 2303 OF THE "CARES ACT" AND THE TAXPAYER'S NET OPERATING LOSS DEDUCTION AS DETERMINED UNDER SECTION 172 (a) OF THE INTERNAL REVENUE CODE AFTER THE AMENDMENTS MADE BY SECTION 2303 OF THE "CARES ACT".

(m) FOR INCOME TAX YEARS ENDING ON AND AFTER THE ENACTMENT OF THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND FOR INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO A TAXPAYER'S EXCESS BUSINESS LOSS AS DETERMINED UNDER SECTION 461 (l) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO THE AMENDMENTS MADE BY SECTION 2304 OF THE "CARES ACT", BUT WITH REGARD TO THE TECHNICAL AMENDMENT MADE BY SECTION 2304 (b)(2)(B) OF THE "CARES ACT".

(n) FOR INCOME TAX YEARS ENDING ON AND AFTER THE ENACTMENT OF THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND FOR INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO THE AMOUNT IN EXCESS OF THE LIMITATION ON BUSINESS INTEREST UNDER SECTION 163 (j) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO THE AMENDMENTS MADE BY SECTION 2306 OF THE "CARES ACT".

(o) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2021, BUT BEFORE JANUARY 1, 2023, AN AMOUNT EQUAL TO THE DEDUCTION ALLOWED UNDER SECTION 199A OF THE INTERNAL REVENUE CODE FOR A TAXPAYER WHO FILES A SINGLE RETURN AND WHOSE ADJUSTED GROSS INCOME IS GREATER THAN FIVE HUNDRED THOUSAND DOLLARS, AND FOR TAXPAYERS WHO FILE A JOINT RETURN AND WHOSE ADJUSTED GROSS INCOME

IS GREATER THAN ONE MILLION DOLLARS; EXCEPT THAT THIS SUBSECTION (3)(o) DOES NOT APPLY TO A TAXPAYER WHO FILES A SCHEDULE F, PROFIT OR LOSS FROM FARMING, OR SUCCESSOR FORM, AS AN ATTACHMENT TO A FEDERAL INCOME TAX RETURN.

SECTION 3. In Colorado Revised Statutes, 39-22-304, **add** (2)(i) as follows:

39-22-304. Net income of corporation - legislative declaration - definitions - repeal. (2) There shall be added to federal taxable income:

(i) FOR INCOME TAX YEARS ENDING ON AND AFTER THE ENACTMENT OF THE MARCH 2020 "CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT", PUB. L. 116-136, REFERRED TO IN THIS SECTION AS THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND FOR INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO THE AMOUNT IN EXCESS OF THE LIMITATION ON BUSINESS INTEREST UNDER SECTION 163 (j) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO THE AMENDMENTS MADE BY SECTION 2306 OF THE "CARES ACT".

SECTION 4. In Colorado Revised Statutes, 39-22-504, **amend** (1) as follows:

39-22-504. Net operating losses. (1) (a) A net operating loss deduction shall be allowed in the same manner that it is allowed under the internal revenue code except as otherwise provided in this section. The amount of the net operating loss that may be carried forward and carried back for Colorado income tax purposes shall be that portion of the federal net operating loss allocated to Colorado under this ~~article~~ ARTICLE 22 in the taxable year that the net operating loss is sustained.

(b) FOR LOSSES INCURRED AFTER DECEMBER 31, 2017, THE EIGHTY PERCENT LIMITATION SET FORTH IN SECTION 172 (a)(2) OF THE INTERNAL REVENUE CODE SHALL APPLY WITHOUT REGARD TO THE AMENDMENTS MADE IN SECTION 2303 OF THE MARCH 2020 "CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT", PUB. L. 116-136.

SECTION 5. In Colorado Revised Statutes, 39-22-123.5, **amend** (1)(h) and (2); **repeal** (3); and **add** (2.5) as follows:

39-22-123.5. Earned income tax credit - not a refund of excess state revenues - trigger - legislative declaration - definition. (1) The general assembly hereby finds and declares that:

(h) Now, therefore, it is the intent of the general assembly to establish a permanent and refundable state earned income tax credit for eligible Colorado taxpayers. ~~which is equal to ten percent of the federal earned income tax credit.~~ The intended purpose of this credit is to help individuals and families achieve greater financial security and to help Colorado's economy.

(2) (a) For an income tax year ~~specified in subsection (3) of this section~~ COMMENCING PRIOR TO JANUARY 1, 2022, a resident individual who claims an earned income tax credit on the individual's federal tax return is allowed an earned income tax credit against the taxes due under this ~~article~~ ARTICLE 22 that is equal to ten percent of the federal credit that the resident individual claimed on his or her federal tax return for the same tax year.

(b) FOR AN INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2022, A RESIDENT INDIVIDUAL WHO CLAIMS AN EARNED INCOME TAX CREDIT ON THE INDIVIDUAL'S FEDERAL TAX RETURN IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE 22 THAT IS EQUAL TO FIFTEEN PERCENT OF THE FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN FOR THE SAME TAX YEAR.

(2.5) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2021, BUT BEFORE JANUARY 1, 2022, A RESIDENT INDIVIDUAL IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE 22 THAT IS EQUAL TO TEN PERCENT OF THE FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN ALLOWED, BUT FOR THE FACT THAT THE RESIDENT INDIVIDUAL, THE RESIDENT INDIVIDUAL'S SPOUSE, OR ONE OR MORE OF THE RESIDENT INDIVIDUAL'S DEPENDENTS DO NOT HAVE A SOCIAL SECURITY NUMBER THAT IS VALID FOR EMPLOYMENT.

(b) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, A RESIDENT INDIVIDUAL IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE 22 THAT IS EQUAL TO FIFTEEN PERCENT OF THE FEDERAL CREDIT THAT THE TAXPAYER WOULD HAVE BEEN ALLOWED, BUT FOR THE FACT THAT THE RESIDENT INDIVIDUAL, THE

RESIDENT INDIVIDUAL'S SPOUSE, OR ONE OR MORE OF THE RESIDENT INDIVIDUAL'S DEPENDENTS DO NOT HAVE A SOCIAL SECURITY NUMBER THAT IS VALID FOR EMPLOYMENT.

(c) FOR PURPOSES OF THIS SUBSECTION (2.5), A "RESIDENT INDIVIDUAL" INCLUDES A TAXPAYER FILING WITH AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER.

~~(3) If a credit is allowed under section 39-22-123 for an income tax year commencing on or after January 1, 2013, the credit allowed under this section may be claimed for any income tax year beginning with the income tax year after the income tax year that the credit is allowed under section 39-22-123.~~

SECTION 6. In Colorado Revised Statutes, 24-75-220, **add** (6) as follows:

24-75-220. State education fund - transfers - surplus - legislative declaration. (6) (a) ON MARCH 1, 2021, THE STATE TREASURER SHALL TRANSFER ONE HUNDRED THIRTEEN MILLION DOLLARS FROM THE GENERAL FUND TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

(b) ON MARCH 1, 2022, THE STATE TREASURER SHALL TRANSFER TWENTY-THREE MILLION DOLLARS FROM THE GENERAL FUND TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

SECTION 7. Appropriation. (1) For the 2020-21 state fiscal year, \$49,002 is appropriated to the department of revenue. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$20,580 for use by the taxation and compliance division for personal services;

(b) \$5,922 for use by the taxpayer service division for personal services; and

(c) \$22,500 for tax administration IT system (GenTax) support.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

Filing Status Single Married filing jointly Married filing separately (MFS)
 Head of household (HOH) Qualifying widow(er) (QW)

Check only one box. If you checked the MFS box, enter the name of spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent. ▶

Your first name and middle initial EXAMPLE	Last name PERSON	Your social security number 912-35-4984
If joint return, spouse's first name and middle initial	Last name	Spouse's social security number
Home address (number and street). If you have a P.O. box, see instructions. 12354 MAIN		Apt. no.
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). ARVADA, CO 80003		Presidential Election Campaign Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. <input type="checkbox"/> You <input type="checkbox"/> Spouse
Foreign country name	Foreign province/state/county	Foreign postal code
If more than four dependents, see inst. & check here ▶ <input type="checkbox"/>		

Standard Deduction **Someone can claim:** You as a dependent Your spouse as a dependent
 Spouse itemizes on a separate return or you were a dual-status alien

Age/Blindness **You:** Were born before January 2, 1955 Are blind
Spouse: Was born before January 2, 1955 Is blind

Dependents (see instructions):		(2) Social security number	(3) Relationship to you	(4) check if qualifies for (see inst.):	
(1) First name	Last name			Child tax credit	Credit for other dependents
KIDEXAMPLE	PERSON	812-56-1616	SON	<input checked="" type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

1	Wages, salaries, tips, etc. Attach Form(s) W-2	1	
2a	Tax-exempt interest	2a	
2b	Taxable interest	2b	
3a	Qualified dividends	3a	
3b	Ordinary dividends.	3b	
4a	IRA distributions	4a	
4b	Taxable amount	4b	
c	Pensions and annuities	4c	
4d	Taxable amount	4d	
5a	Social security benefits.	5a	
5b	Taxable amount	5b	
6	Capital gain or (loss). Attach Schedule D if required. If not required, check here . . ▶ <input type="checkbox"/>	6	
7a	Other income from Schedule 1, line 9	7a	20,000
b	Add lines 1, 2b, 3b, 4b, 4d, 5b, 6, and 7a. This is your total income ▶	7b	20,000
8a	Adjustments to income from Schedule 1, line 22	8a	1,413
b	Subtract line 8a from line 7b. This is your adjusted gross income ▶	8b	18,587
9	Standard deduction or itemized deductions (from Schedule A)	9	12,200
10	Qualified business income deduction. Attach Form 8995 or Form 8995-A.	10	1,277
11a	Add lines 9 and 10	11a	13,477
b	Taxable income. Subtract line 11a from line 8b. If zero or less, enter -0-	11b	5,110

Standard Deduction

- Single or Married filing separately, \$12,200
- Married filing jointly or Qualifying widow(er), \$24,400
- Head of household, \$18,350
- If you checked any box under Standard Deduction, see instructions.

SCHEDULE C
(Form 1040 or 1040-SR)

Profit or Loss From Business

(Sole Proprietorship)

OMB No. 1545-0074

2021

Department of the Treasury
Internal Revenue Service (99)

▶ Go to www.irs.gov/ScheduleC for instructions and the latest information.
▶ Attach to Form 1040, 1040-SR, 1040-NR, or 1041; partnerships generally must file Form 1065.

Attachment
Sequence No. **09**

Name of proprietor EXAMPLE PERSON	Social security number (SSN) 912-35-4984
A Principal business or profession, including product or service (see instructions) LABPR	B Enter code from instructions ▶ 999999
C Business name. If no separate business name, leave blank.	D Employer ID number (EIN) (see instr.)

E Business address (including suite or room no.) ▶ **12354 MAIN**
City, town or post office, state, and ZIP code **ARVADA, CO 80003**

F Accounting method: (1) Cash (2) Accrual (3) Other (specify) ▶

G Did you "materially participate" in the operation of this business during 2021? If "No," see instructions for limit on losses Yes No

H If you started or acquired this business during 2021, check here. Yes No

I Did you make any payments in 2021 that would require you to file Form(s) 1099? (see instructions) If Yes No

J Yes, did you or will you file required Forms 1099? Yes No

Part I Income

1 Gross receipts or sales. See instructions for line 1 and check the box if this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked ▶ <input type="checkbox"/>	1	25,000
2 Returns and allowances	2	0
3 Subtract line 2 from line 1	3	25,000
4 Cost of goods sold (from line 42)	4	
5 Gross profit. Subtract line 4 from line 3.	5	25,000
6 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	6	
7 Gross income. Add lines 5 and 6 ▶	7	25,000

Part II Expenses. Enter expenses for business use of your home **only** on line 30.

8 Advertising	8		18 Office expense (see instructions)	18	
9 Car and truck expenses (see instructions)	9		19 Pension and profit-sharing plans	19	
10 Commissions and fees	10		20 Rent or lease (see instructions):		
11 Contract labor (see instructions)	11		a Vehicles, machinery, and equipment	20a	
12 Depletion	12		b Other business property	20b	
13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions)	13		21 Repairs and maintenance	21	
14 Employee benefit programs (other than on line 19)	14		22 Supplies (not included in Part III)	22	5,000
15 Insurance (other than health)	15		23 Taxes and licenses	23	
16 Interest (see instructions):			24 Travel and meals:		
a Mortgage (paid to banks, etc.)	16a		a Travel	24a	
b Other	16b		b Deductible meals (see instructions)	24b	
17 Legal and professional services	17		25 Utilities	25	
			26 Wages (less employment credits)	26	
			27a Other expenses (from line 48)	27a	
			b Reserved for future use	27b	

28 **Total expenses** before expenses for business use of home. Add lines 8 through 27a. ▶ **28** **5,000**

29 Tentative profit or (loss). Subtract line 28 from line 7 **29** **20,000**

30 Expenses for business use of your home. Do not report these expenses elsewhere. Attach Form 8829 unless using the simplified method (see instructions).
Simplified method filers only: enter the total square footage of: (a) your home: _____ and (b) the part of your home used for business: _____. Use the Simplified Method Worksheet in the instructions to figure the amount to enter on line 30 **30**

31 **Net profit or (loss).** Subtract line 30 from line 29.
• If a profit, enter on both **Schedule 1 (Form 1040 or 1040-SR), line 3** (or **Form 1040-NR, line 13**) and on **Schedule SE, line 2**. (If you checked the box on line 1, see instructions). Estates and trusts, enter on **Form 1041, line 3**.
• If a loss, you **must** go to line 32. **31** **20,000**

32 If you have a loss, check the box that describes your investment in this activity (see instructions).
• If you checked 32a, enter the loss on both **Schedule 1 (Form 1040 or 1040-SR), line 3**, (or **Form 1040-NR, line 13**) and on **Schedule SE, line 2**. (If you checked the box on line 1, see the line 31 instructions). Estates and trusts, enter on **Form 1041, line 3**.
• If you checked 32b, you **must** attach **Form 6198**. Your loss may be limited. **32a** All investment is at risk. **32b** Some investment is not at risk.

For Paperwork Reduction Act Notice, see the separate instructions.

Schedule C (Form 1040 or 1040-SR)

Earned Income Credit Worksheet - Form 1040 or 1040-SR, line 18a

(Keep for your records)

Name(s) as shown on return

Tax ID Number

EXAMPLE PERSON

912-35-4984

1. Enter the amount from Form 1040 or 1040-SR, line 1 plus any nontaxable combat pay elected to be included in earned income **1.** _____

2. If you received a taxable scholarship or fellowship grant that was not reported on a W-2 form, enter that amount here; plus any amounts received for work performed while an inmate in a penal institution; plus any amounts received as a pension or annuity from a nonqualified deferred compensation plan or a nongovernmental section 457 plan **2.** _____

3. Subtract line 2 from line 1 **3.** _____

4. If you were self-employed or used Schedule C or C-EZ as a statutory employee, enter the amount from Worksheet B, line 4 **4.** 18,587

5. Add lines 3 and 4 **5.** 18,587

6. Look up the amount on **line 5** above in the **EIC Table** right after Worksheet B in the instructions to find your credit. Enter the credit here. If line 6 is zero, **stop**. You **cannot** take the credit. Enter "**No**" directly to the left of Form 1040 or 1040-SR, line 18a **6.** 3,526

7. Enter your **AGI** or Form 1040 or 1040-SR, line 8b **7.** 18,587

8. **Is line 7 less than -**
 - \$8,650 if you do not have a qualifying child? (\$14,450 if married filing joint)
 - \$19,050 if you have at least one qualifying child? (\$24,850 if married filing joint) **Yes.** Go to line 9 now.
 No. Look up the amount on **line 7** above in the **EIC Table** to find your credit.
 Enter the credit here **8.** _____

9. **Earned income credit.**
 - If you checked "Yes" on line 8, enter the amount from line 6.
 - If you checked "No" on line 8, enter the **smaller** of line 6 or line 8 **9.** 3,526

For additional information on the EIC calculation see the form instructions or IRS Publication 596.

**Worksheet B
Form 1040**

Earned Income Credit (EIC) - Line 18a

(Keep for your records)

Name(s) as shown on return

Tax ID Number

EXAMPLE PERSON

912-35-4984

Use this worksheet if you answered "Yes" to Step 5, question 2.

- Complete the parts below (Parts 1 through 3) that apply to you. Then, continue to Part 4.
- If you are married filing a joint return, include your spouse's amounts, if any, with yours to figure the amounts to enter in Parts 1 through 3.

Part 1 Self-Employed, Members of the Clergy, and People With Church Employee Income Filing Schedule SE	1a. Enter the amount from Schedule SE, Section A, line 3, or Section B, line 3, whichever applies.	1a	20,000	
	b. Enter any amount from Schedule SE, Section B, line 4b, and line 5a.	+	1b	
	c. Combine lines 1a and 1b.	=	1c	20,000
	d. Enter the amount from Schedule SE, Section A, line 6, or Section B, line 13, whichever applies.	-	1d	1,413
	e. Subtract line 1d from 1c.	=	1e	18,587

Part 2 Self-Employed NOT Required To File Schedule SE <small>For example, your net earnings from self-employment were less than \$400.</small>	2. Don't include on these lines any statutory employee income, any net profit from services performed as a notary public, any amount exempt from self-employment tax as the result of the filing and approval of Form 4029 or Form 4361, or any other amounts exempt from self-employment tax.			
	a. Enter any net farm profit or (loss) from Schedule F, line 34; and from farm partnerships, Schedule K-1 (Form 1065), box 14, code A*.	2a		
	b. Enter any net profit or (loss) from Schedule C, line 31; and Schedule K-1 (Form 1065), box 14, code A (other than farming)*.	+	2b	
	c. Combine lines 2a and 2b.	=	2c	

**If you have any Schedule K-1 amounts, complete the appropriate line(s) of Schedule SE, Section A. Reduce the Schedule K-1 amounts as described in the Partner's Instructions for Schedule K-1. Enter your name and social security number on Schedule SE and attach it to your return.*

Part 3 Statutory Employees Filing Schedule C	3. Enter the amount from Schedule C, line 1, that you are filing as a statutory employee.	3	
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Part 4 All Filers Using Worksheet B	4. Combine lines 1e, 2c, and 3 This is your total self-employed income.	4	18,587
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Need more information or forms? Visit IRS.gov.



190104 11024

DR 0104 (10/07/19)
COLORADO DEPARTMENT OF REVENUE
Colorado.gov/Tax

(0013)



2021 Colorado Individual Income Tax Return

Full-Year Part-Year or Nonresident (or resident, part-year, non-resident combination) Mark if Abroad on due date - see instructions

*Must include DR 0104PN

Your Last Name		Your First Name		Middle Initial
PERSON		EXAMPLE		
Date of Birth (MM/DD/YYYY)	SSN or ITIN	Deceased <input type="checkbox"/>		
06/06/1983	912-35-4984	<input type="checkbox"/> If checked and claiming a refund, you must include the DR 0102 and death certificate with your return.		
Enter the following information from your current driver license or state identification card.		State of Issue	Last 4 characters of ID number	Date of Issuance
If Joint, Spouse's Last Name		Spouse's First Name		Middle Initial
Spouse's Date of Birth (MM/DD/YYYY)	Spouse's SSN or ITIN	Deceased <input type="checkbox"/>		
		<input type="checkbox"/> If checked and claiming a refund, you must include the DR 0102 and death certificate with your return.		
Enter the following information from your spouse's current driver license or state identification card.		State of Issue	Last 4 characters of ID number	Date of Issuance
Mailing Address			Phone Number	
12354 MAIN				
City	State	Zip Code	Foreign Country (if applicable)	
ARVADA	CO	80003		

Round To The Nearest Dollar

1. Enter Federal Taxable Income from your federal income tax form: 1040 line 11b or 1040 SR line 11b	• 1	5,110	00
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Include W-2s and 1099s with CO withholding.

Additions to Federal Taxable Income

2. State Addback, enter the state income tax deduction from your federal form 1040 or 1040 SR schedule A, line 5a (see instructions)	• 2		00
3. Other Additions, explain (see instructions)	• 3		00

Explain:



190104 21024

Name	SSN or ITIN
EXAMPLE PERSON	912-35-4984
4. Subtotal, sum of lines 1 through 3	4 5,110 00
Colorado Subtractions	
5. Subtractions from the DR 0104AD Schedule, line 20, you must submit the DR 0104AD schedule with your return.	• 5 00
6. Colorado Taxable Income, subtract line 5 from line 4	• 6 5,110 00
Tax, Prepayments and Credits: see 104 Book for full-year tax table and part-year DR 0104PN Schedule	
7. Colorado Tax from tax table or the DR 0104PN line 36, you must submit the DR 0104PN with your return if applicable.	• 7 232 00
8. Alternative Minimum Tax from the DR 0104AMT line 8, you must submit the DR 0104AMT with your return.	• 8 00
9. Recapture of prior year credits	• 9 00
10. Subtotal, sum of lines 7 through 9	10 232 00
11. Nonrefundable Credits from the DR 0104CR line 41, the sum of lines 11, 12, and 13 cannot exceed line 10, you must submit the DR 0104CR with your return.	• 11 00
12. Total Nonrefundable Enterprise Zone credits used - as calculated, or from the DR 1366 line 87, the sum of lines 11, 12, and 13 cannot exceed line 10, you must submit the DR 1366 with your return.	• 12 00
13. Strategic Capital Tax Credit from DR 1330, the sum of lines 11, 12, and 13 cannot exceed line 10, you must submit the DR 1330 with your return.	• 13 00
14. Net Income Tax, sum of lines 11, 12, and 13. Subtract that sum from line 10.	14 232 00
15. Use Tax reported on the DR 0104US schedule line 7, you must submit the DR 0104US with your return.	• 15 00
16. Net Colorado Tax, sum of lines 14 and 15	16 232 00
17. CO Income Tax Withheld from W-2s and 1099s, you must submit the W-2s and/or 1099s claiming Colorado withholding with your return.	• 17 00
18. Prior-year Estimated Tax Carryforward	• 18 00
19. Estimated Tax Payments, enter the sum of the quarterly payments remitted for this tax year	• 19 00
20. Extension Payment remitted with the DR 0158-I	• 20 00
21. Other Prepayments: <input type="checkbox"/> • DR 0104BEP <input type="checkbox"/> • DR 0108 <input type="checkbox"/> • DR 1079 • 21	00
22. Gross Conservation Easement Credit from the DR 1305G line 33, you must submit the DR 1305G with your return.	• 22 00
23. Innovative Motor Vehicle Credit from the DR 0617, you must submit each DR 0617 with your return.	• 23 00
24. Refundable Credits from the DR 0104CR line 8, you must submit the DR 0104CR with your return.	• 24 353 00
25. Subtotal, sum of lines 17 through 24	25 353 00



190104 31024

Table with 2 columns: Name (EXAMPLE PERSON) and SSN or ITIN (912-35-4984)

Table row: 26. Federal Adjusted Gross Income from your federal income tax form: 1040 line 8b, or 1040 SR line 8b. Amount: 18,587.00

Lines 27 through 32 are reserved for future use.

Table row: 33. Overpayment, if line 25 is greater than line 16 then subtract line 16 from line 25. Amount: 121.00

Table row: 34. Estimated Tax Credit Carryforward to 2021 first quarter, if any. Amount: 00.00

Lines 35 and 36 are reserved for future use. If you have an overpayment on line 37 below and would like to donate all or a portion of your overpayment to a qualified Colorado charity, include Form DR 0104CH to contribute.

Table row: 37. Refund, subtract line 34 from line 33 (see instructions). Amount: 121.00

Direct Deposit section with fields for Routing Number, Account Number, and checkboxes for Checking, Savings, and ColleagueInvest 529.

For questions regarding ColleagueInvest direct deposit or to open an account, visit ColleagueInvest.org or call 800-448-2424.

Table row: 38. Net Tax Due, subtract line 25 from line 16. Amount: 00.00

Table row: 39. Delinquent Payment Penalty (see instructions). Amount: 00.00

Table row: 40. Delinquent Payment Interest (see instructions). Amount: 00.00

Table row: 41. Estimated Tax Penalty, you must submit the DR 0204 with your return. (see instructions). Amount: 00.00

Table row: 42. Amount You Owe, sum of lines 38 through 41. Amount: 00.00

The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.



190104 41024

DR 0104 (10/07/19)
COLORADO DEPARTMENT OF REVENUE
Colorado.gov/Tax

Name		SSN or ITIN	
EXAMPLE PERSON		912-35-4984	
Third Party Designee			
Do you want to allow another person to discuss this return and any other information related to this return with the Colorado Department of Revenue? • <input type="checkbox"/> No • <input checked="" type="checkbox"/> Yes. Complete the following:			
Designee's Name		Phone Number	
• Beth MB Hancock		• 3039531454	
Sign Below Under penalties of perjury, I declare that to the best of my knowledge and belief, this return is true, correct and complete.			
Your Signature		Date (MM/DD/YY)	
		11/12/20	
Spouse's Signature. If joint return, BOTH must sign.		Date (MM/DD/YY)	
Paid Preparer's Name		Paid Preparer's Phone	
Beth MB Hancock		303-953-1454	
Paid Preparer's Address		City	State Zip
5400 W Cedar Avenue		Lakewood	CO 80226

File and pay at: Colorado.gov/RevenueOnlineIf you are filing this return **with** a check or payment, please mail the return to:COLORADO DEPARTMENT OF REVENUE
Denver, CO 80261-0006If you are filing this return **without** a check or payment, please mail the return to:COLORADO DEPARTMENT OF REVENUE
Denver, CO 80261-0005

These addresses and zip codes are exclusive to the Colorado Department of Revenue, so a street address is not required.



190104CR11024



DR 0104CR (10/15/19)
COLORADO DEPARTMENT OF REVENUE
Colorado.gov/Tax

Form 104CR

Individual Credit Schedule 2021

Taxpayer's Last Name	First Name	Middle Initial	SSN or ITIN
PERSON	EXAMPLE		912-35-4984

Use this schedule to calculate your income tax credits. For best results, visit [Colorado.gov/Tax](https://colorado.gov/tax) to research eligibility requirements and other information about these credits before following the line-by-line instructions contained below.

- Be sure to submit the required supporting documentation as indicated for each credit.
- Most e-file software and tax preparers have the ability to submit this schedule and attachments electronically. However, Revenue Online can also be used to file your return and attachments electronically. Otherwise, attach all required documents to your paper return.
- If you received any of these credits from a pass-through entity, be sure to provide the entity's name and account number and your ownership percentage where required. If credits were passed through from multiple entities, attach to your return a written statement that includes all relevant information.
- Dollar amounts shall be rounded to the nearest whole dollar. Calculate percentages to the fourth decimal place. Round to four significant digits, e.g. xxx.xxxx

Part I - Refundable Credits

1. Child Care Expenses Credit from the DR 0347, you must submit the DR 0347 with your return.	• 1	00
---	-----	----

Earned Income Tax Credit (EITC) - full or part-year Colorado residents who claim the federal EITC are allowed an earned income tax credit against their income tax. Complete the table for each qualifying child. Read the instructions in the 104 book and FYI Income 27 for additional guidance on completing this section. Only check the "Deceased" box for a qualifying child if the child was born and died in 2021 and was not assigned an SSN. You must submit a copy of the child's birth certificate, death certificate, or hospital records showing a live birth with your return.

2. Enter the amount of Earned Income calculated for your federal return.	• 2	18,587	00
--	-----	--------	----

3. The federal EITC you could have claimed if you had an SSN.	• 3	3,526	00
---	-----	-------	----

Qualifying Child's Last Name	Qualifying Child's First Name	Year of Birth	• SSN	Deceased*
PERSON	KIDEXAMPLE	2015	812561616	• <input type="checkbox"/>
				• <input type="checkbox"/>
				• <input type="checkbox"/>
				• <input type="checkbox"/>

*Check only if child was deceased before SSN was assigned in 2021, see instructions.

4. COEITC, multiply line 3 by 10% (0.10)	4	353	00
--	---	-----	----



190104CR21024

Name		SSN or ITIN	
EXAMPLE PERSON		912-35-4984	
5. Part-year residents only, multiply line 4 by the percentage on line 34 of the DR 0104PN (If the percentage exceeds 100%, use 100%).	5		00
6. Business Personal Property Credit: Use the worksheet in the 104 Book instructions to calculate. You must submit copy of the assessor's statement with your return.	6		00
7. Refundable Renewable Energy Tax Credit from line 88 of the DR 1366. You must submit the DR 1366 with your return.	7		00
8. Total Refundable Credits, add lines 1, 4 (or 5), 6, and 7. Enter the sum on the DR 0104 line 24.	8	353	00

Part II - Credit for Tax Paid to Another State

- Colorado nonresidents do not qualify for this credit.
- Part-year residents generally do not qualify for this credit.
- If you have income and/or losses from two or more states, you must separately calculate lines 10 through 16 for each state, regardless of whether any tax was paid on such income. If you do not file electronically, you must submit the DR 0104CR for each state. Then, enter "Combined" on line 9 and complete lines 10 through 16 to disclose the combined total for each line. A summary schedule is not acceptable. **The Department strongly recommends electronic filing for taxpayers with credits for more than one state. Failure to file electronically may result in delays processing your return.**

Submit a copy of the tax return for each other state when claiming this credit. The portion of the return submitted must include the adjusted gross income calculation, any disallowed federal deductions by that state, and the tax calculation for the other state.

9. Name of other state:			
10. Total of lines 7 and 8 Form 104	10		00
11. Modified Colorado adjusted gross income from sources in the other state, see FYI Income 17.	11		00
12. Total modified Colorado adjusted gross income	12		00
13. Divide line 11 by line 12. Round to four significant digits, e.g. xxx.xxxx	13		%
14. Multiply line 10 by the percentage on line 13	14		00
15. Tax liability to the other state	15		00
16. Allowable credit, the smaller of lines 14 or 15	16		00

Part III - Other Credits

Visit Colorado.gov/Tax for limitations that are specific to each credit. To report this properly, use the first column to report the total credit that is available (the amount generated this year plus any prior-year carryforward). Then, use the second column to report the amount you are using this year to offset your tax liability.

	Available Credit Column (A) •	Credit Used Column (B) •
17. Plastic recycling investment credit, you must submit required receipts with your return. • 17	00	00
• Plastic recycling net expenditures amount (fill below):		
18. Colorado Minimum Tax Credit • 18	00	00
• 2021 Federal Minimum Tax Credit (fill below):		



190104CR31024



Name		SSN or ITIN
EXAMPLE PERSON		912-35-4984
	Available Credit Column (A) •	Credit Used Column (B) •
19. Historic Property Preservation credit (per §39-22-514, C.R.S.), you must submit the certification with your return. • 19	00	00
20. Child Care Center Investment credit, you must submit a copy of your facility license and a list of depreciable tangible personal property with your return. • 20	00	00
21. Employer Child Care Facility Investment credit, you must submit a copy of your facility license and a list of depreciable tangible personal property with your return. • 21	00	00
22. School-to-Career Investment credit, you must submit a copy of the certification with your return. • 22	00	00
23. Colorado Works Program credit, you must submit a copy of the letter from the county Department of Social/Human Services with your return. • 23	00	00
24. Child Care Contribution credit, you must submit each DR 1317 with your return. • 24	00	00
25. Long-term Care Insurance credit, you must submit a year-end statement to show premiums paid with your return. See FYI Income 37. • 25	00	00
26. Aircraft Manufacturer New Employee credit, you must submit the DR 0085 and DR 0086 with your return. • 26	00	00
27. Credit for Environmental Remediation of Contaminated Land, you must submit a copy of the CDPHE certification with your return. • 27	00	00
28. Colorado Job Growth Incentive credit, you must submit certification from OEDIT with your return. • 28	00	00
29. Certified Auction Group License Fee credit, you must submit a copy of the certification with your return. • 29	00	00
30. Advanced Industry Investment credit, you must submit a copy of the certification with your return. • 30	00	00
31. Affordable Housing credit, you must submit CHFA certification with your return. • 31	00	00
32. Credit for Food Contributed to Hunger-Relief Charitable Organizations, you must submit each DR 0346 and federal schedule F with your return. • 32	00	00
33. Preservation of Historic Structures credit (per §39-22-514.5, C.R.S.) carried forward from a prior year. • 33	00	00
34. Preservation of Historic Structures credit (per §39-22-514.5, C.R.S.), you must submit the certificate from OEDIT, History Colorado, or local granting authority with your return. • 34	00	00
35. If you are claiming the Preservation of Historic Structures credit enter your credit certificate number issued by OEDIT, History Colorado, or local granting authority. • 35		
36. Rural Jump-Start Zone credit, you must submit certificate from Office of Economic Development AND the DR 0113 with your return. • 36	00	00
37. Rural & Frontier Health Care Preceptor credit, you must submit your certification with your return. • 37	00	00





190104CR41024



Name		SSN or ITIN	
EXAMPLE PERSON		912-35-4984	
	Available Credit Column (A) •	Credit Used Column (B) •	
38. Retrofitting a Residence to Increase a Residence's Visitability Credit, you must submit certificate from Division of Housing. • 38	00		00
• If you are claiming a Retrofitting a Residence to Increase a Residence's Visitability Credit, enter your credit certificate number issued by Division of Housing			
39. Credit for employer contributions to employee 529 plan, you must submit DR 0289 with your return. • 39	00		00
40. Total of column A lines 17 through 39 (exclude line 35 certificate number) 40	00		
41. Nonrefundable Credits Used, total of column B plus any amount from line 16, exclude line 35 certificate number. Also enter this amount on the DR 0104 line 11. Credit used cannot exceed credit available. 41			00



Filing Status Single Married filing jointly Married filing separately (MFS)
 Head of household (HOH) Qualifying widow(er) (QW)

Check only one box. If you checked the MFS box, enter the name of spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent. ▶

Your first name and middle initial EXAMPLE	Last name PERSON	Your social security number 912-35-4984
If joint return, spouse's first name and middle initial	Last name	Spouse's social security number
Home address (number and street). If you have a P.O. box, see instructions. 12354 MAIN		Apt. no.
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). ARVADA, CO 80003		Presidential Election Campaign Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. <input type="checkbox"/> You <input type="checkbox"/> Spouse
Foreign country name	Foreign province/state/county	Foreign postal code
If more than four dependents, see inst. & check here ▶ <input type="checkbox"/>		

Standard Deduction **Someone can claim:** You as a dependent Your spouse as a dependent
 Spouse itemizes on a separate return or you were a dual-status alien

Age/Blindness **You:** Were born before January 2, 1955 Are blind
Spouse: Was born before January 2, 1955 Is blind

Dependents (see instructions):		(2) Social security number	(3) Relationship to you	(4) check if qualifies for (see inst.):	
(1) First name	Last name			Child tax credit	Credit for other dependents
KIDEXAMPLE	PERSON	812-56-1616	SON	<input checked="" type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

1	Wages, salaries, tips, etc. Attach Form(s) W-2	1	
2a	Tax-exempt interest	2a	
2b	Taxable interest	2b	
3a	Qualified dividends	3a	
3b	Ordinary dividends.	3b	
4a	IRA distributions	4a	
4b	Taxable amount	4b	
c	Pensions and annuities	4c	
4d	Taxable amount	4d	
5a	Social security benefits	5a	
5b	Taxable amount	5b	
6	Capital gain or (loss). Attach Schedule D if required. If not required, check here . . ▶ <input type="checkbox"/>	6	
7a	Other income from Schedule 1, line 9	7a	20,000
b	Add lines 1, 2b, 3b, 4b, 4d, 5b, 6, and 7a. This is your total income ▶	7b	20,000
8a	Adjustments to income from Schedule 1, line 22	8a	1,413
b	Subtract line 8a from line 7b. This is your adjusted gross income ▶	8b	18,587
9	Standard deduction or itemized deductions (from Schedule A)	9	12,200
10	Qualified business income deduction. Attach Form 8995 or Form 8995-A.	10	1,277
11a	Add lines 9 and 10	11a	13,477
b	Taxable income. Subtract line 11a from line 8b. If zero or less, enter -0-	11b	5,110

Standard Deduction

- Single or Married filing separately, \$12,200
- Married filing jointly or Qualifying widow(er), \$24,400
- Head of household, \$18,350
- If you checked any box under Standard Deduction, see instructions.

12a	Tax (see instructions). Check if any from: 1 <input type="checkbox"/> Form(s) 8814 2 <input type="checkbox"/> Form 4972 3 <input type="checkbox"/> _____	12a	513
b	Add Schedule 2, line 3, and line 12a and enter the total ▶	12b	513
13a	Child tax credit or credit for other dependents	13a	513
b	Add Schedule 3, line 7, and line 13a and enter the total ▶	13b	513
14	Subtract line 13b from line 12b. If zero or less, enter -0-	14	0
15	Other taxes, including self-employment tax, from Schedule 2, line 10	15	2,826
16	Add lines 14 and 15. This is your total tax ▶	16	2,826
17	Federal income tax withheld from Forms W-2 and 1099	17	
18	Other payments and refundable credits:		
a	Earned income credit (EIC)	18a	
b	Additional child tax credit. Attach Schedule 8812	18b	1,400
c	American opportunity credit from Form 8863, line 8	18c	
d	Schedule 3, line 14.	18d	
e	Add lines 18a through 18d. These are your total other payments and refundable credits ▶	18e	1,400
19	Add lines 17 and 18e. These are your total payments ▶	19	1,426

● If you have a qualifying child, attach Sch. EIC.
● If you have nontaxable combat pay, see instructions.

Refund

20	If line 19 is more than line 16, subtract line 16 from line 19. This is the amount you overpaid	20	
21 a	Amount of line 20 you want refunded to you . If Form 8888 is attached, check here ▶ <input type="checkbox"/>	21a	
b	Routing number <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> ▶ c Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings		
d	Account number <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>		
22	Amount of line 20 you want applied to your 2023 estimated tax ▶	22	

Amount You Owe

23	Amount you owe. Subtract line 19 from line 16. For details on how to pay, see instructions ▶	23	1,400
24	Estimated tax penalty (see instructions) ▶	24	

Third Party Designee

Do you want to allow another person (other than your paid preparer) to discuss this return with the IRS? See instructions. Yes. Complete below. No

Designee's name ▶ Phone no. ▶ Personal identification number (PIN) ▶

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation LABORER	If the IRS sent you an Identity Protection PIN, enter it here (see inst.) <input type="text"/>
Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	If the IRS sent your spouse an Identity Protection PIN, enter it here (see inst.) <input type="text"/>
Phone no.	Email address		

Paid Preparer Use Only

Preparer's signature	Date	PTIN P00041380	Check if: <input checked="" type="checkbox"/> 3rd Party Designee <input type="checkbox"/> Self-employed
Preparer's name Beth MB Hancock	Phone no. 303-953-1454		
Firm's name ▶ B F Borgers CPA PC			
Firm's address ▶ 5400 W Cedar Avenue Lakewood, CO 80226	Firm's EIN ▶ 27-0505201		

SCHEDULE C
(Form 1040 or 1040-SR)

Profit or Loss From Business

(Sole Proprietorship)

OMB No. 1545-0074

2022

Department of the Treasury
Internal Revenue Service (99)

▶ Go to www.irs.gov/ScheduleC for instructions and the latest information.
▶ Attach to Form 1040, 1040-SR, 1040-NR, or 1041; partnerships generally must file Form 1065.

Attachment
Sequence No. **09**

Name of proprietor EXAMPLE PERSON	Social security number (SSN) 912-35-4984
A Principal business or profession, including product or service (see instructions) LABPR	B Enter code from instructions ▶ 999999
C Business name. If no separate business name, leave blank.	D Employer ID number (EIN) (see instr.)

E Business address (including suite or room no.) ▶ **12354 MAIN**
City, town or post office, state, and ZIP code **ARVADA, CO 80003**

F Accounting method: (1) Cash (2) Accrual (3) Other (specify) ▶

G Did you "materially participate" in the operation of this business during 2022? If "No," see instructions for limit on losses Yes No

H If you started or acquired this business during 2022, check here. Did Yes No

I you make any payments in 2022 that would require you to file Form(s) 1099? (see instructions) If " Yes No

J Yes," did you or will you file required Forms 1099? Yes No

Part I Income

1 Gross receipts or sales. See instructions for line 1 and check the box if this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked ▶ <input type="checkbox"/>	1	25,000
2 Returns and allowances	2	0
3 Subtract line 2 from line 1	3	25,000
4 Cost of goods sold (from line 42)	4	
5 Gross profit. Subtract line 4 from line 3.	5	25,000
6 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	6	
7 Gross income. Add lines 5 and 6 ▶	7	25,000

Part II Expenses. Enter expenses for business use of your home **only** on line 30.

8 Advertising	8		18 Office expense (see instructions)	18	
9 Car and truck expenses (see instructions)	9		19 Pension and profit-sharing plans	19	
10 Commissions and fees	10		20 Rent or lease (see instructions):		
11 Contract labor (see instructions)	11		a Vehicles, machinery, and equipment	20a	
12 Depletion	12		b Other business property	20b	
13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions)	13		21 Repairs and maintenance	21	
14 Employee benefit programs (other than on line 19)	14		22 Supplies (not included in Part III)	22	5,000
15 Insurance (other than health)	15		23 Taxes and licenses	23	
16 Interest (see instructions):			24 Travel and meals:		
a Mortgage (paid to banks, etc.)	16a		a Travel	24a	
b Other	16b		b Deductible meals (see instructions)	24b	
17 Legal and professional services	17		25 Utilities	25	
			26 Wages (less employment credits)	26	
			27a Other expenses (from line 48)	27a	
			b Reserved for future use	27b	

28 **Total expenses** before expenses for business use of home. Add lines 8 through 27a. ▶ **28** **5,000**

29 Tentative profit or (loss). Subtract line 28 from line 7 **29** **20,000**

30 Expenses for business use of your home. Do not report these expenses elsewhere. Attach Form 8829 unless using the simplified method (see instructions).
Simplified method filers only: enter the total square footage of: (a) your home: _____ and (b) the part of your home used for business: _____. Use the Simplified Method Worksheet in the instructions to figure the amount to enter on line 30 **30**

31 **Net profit or (loss).** Subtract line 30 from line 29.

- If a profit, enter on both **Schedule 1 (Form 1040 or 1040-SR), line 3** (or **Form 1040-NR, line 13**) and on **Schedule SE, line 2**. (If you checked the box on line 1, see instructions). Estates and trusts, enter on **Form 1041, line 3**.
- If a loss, you **must** go to line 32.

32 If you have a loss, check the box that describes your investment in this activity (see instructions).

- If you checked 32a, enter the loss on both **Schedule 1 (Form 1040 or 1040-SR), line 3**, (or **Form 1040-NR, line 13**) and on **Schedule SE, line 2**. (If you checked the box on line 1, see the line 31 instructions). Estates and trusts, enter on **Form 1041, line 3**.
- If you checked 32b, you **must** attach **Form 6198**. Your loss may be limited.

32a All investment is at risk.
32b Some investment is not at risk.

31 **20,000**

Earned Income Credit Worksheet - Form 1040 or 1040-SR, line 18a

(Keep for your records)

Name(s) as shown on return

Tax ID Number

EXAMPLE PERSON

912-35-4984

1. Enter the amount from Form 1040 or 1040-SR, line 1 plus any nontaxable combat pay elected to be included in earned income **1.** _____

2. If you received a taxable scholarship or fellowship grant that was not reported on a W-2 form, enter that amount here; plus any amounts received for work performed while an inmate in a penal institution; plus any amounts received as a pension or annuity from a nonqualified deferred compensation plan or a nongovernmental section 457 plan **2.** _____

3. Subtract line 2 from line 1 **3.** _____

4. If you were self-employed or used Schedule C or C-EZ as a statutory employee, enter the amount from Worksheet B, line 4 **4.** 18,587

5. Add lines 3 and 4 **5.** 18,587

6. Look up the amount on **line 5** above in the **EIC Table** right after Worksheet B in the instructions to find your credit. Enter the credit here. If line 6 is zero, **stop**. You **cannot** take the credit. Enter "**No**" directly to the left of Form 1040 or 1040-SR, line 18a **6.** 3,526

7. Enter your **AGI** or Form 1040 or 1040-SR, line 8b **7.** 18,587

8. **Is line 7 less than -**
 - \$8,650 if you do not have a qualifying child? (\$14,450 if married filing joint)
 - \$19,050 if you have at least one qualifying child? (\$24,850 if married filing joint) **Yes.** Go to line 9 now.
 No. Look up the amount on **line 7** above in the **EIC Table** to find your credit.
 Enter the credit here **8.** _____

9. **Earned income credit.**
 - If you checked "Yes" on line 8, enter the amount from line 6.
 - If you checked "No" on line 8, enter the **smaller** of line 6 or line 8 **9.** 3,526

For additional information on the EIC calculation see the form instructions or IRS Publication 596.

**Worksheet B
Form 1040**

Earned Income Credit (EIC) - Line 18a

(Keep for your records)

Name(s) as shown on return

Tax ID Number

EXAMPLE PERSON

912-35-4984

Use this worksheet if you answered "Yes" to Step 5, question 2.

- Complete the parts below (Parts 1 through 3) that apply to you. Then, continue to Part 4.
- If you are married filing a joint return, include your spouse's amounts, if any, with yours to figure the amounts to enter in Parts 1 through 3.

Part 1 Self-Employed, Members of the Clergy, and People With Church Employee Income Filing Schedule SE	1a. Enter the amount from Schedule SE, Section A, line 3, or Section B, line 3, whichever applies.	1a	20,000	
	b. Enter any amount from Schedule SE, Section B, line 4b, and line 5a.	+	1b	
	c. Combine lines 1a and 1b.	=	1c	20,000
	d. Enter the amount from Schedule SE, Section A, line 6, or Section B, line 13, whichever applies.	-	1d	1,413
	e. Subtract line 1d from 1c.	=	1e	18,587

Part 2 Self-Employed NOT Required To File Schedule SE <small>For example, your net earnings from self-employment were less than \$400.</small>	2. Don't include on these lines any statutory employee income, any net profit from services performed as a notary public, any amount exempt from self-employment tax as the result of the filing and approval of Form 4029 or Form 4361, or any other amounts exempt from self-employment tax.			
	a. Enter any net farm profit or (loss) from Schedule F, line 34; and from farm partnerships, Schedule K-1 (Form 1065), box 14, code A*.	2a		
	b. Enter any net profit or (loss) from Schedule C, line 31; and Schedule K-1 (Form 1065), box 14, code A (other than farming)*.	+	2b	
	c. Combine lines 2a and 2b.	=	2c	

**If you have any Schedule K-1 amounts, complete the appropriate line(s) of Schedule SE, Section A. Reduce the Schedule K-1 amounts as described in the Partner's Instructions for Schedule K-1. Enter your name and social security number on Schedule SE and attach it to your return.*

Part 3 Statutory Employees Filing Schedule C	3. Enter the amount from Schedule C, line 1, that you are filing as a statutory employee.	3	
---	---	---	--

Part 4 All Filers Using Worksheet B	4. Combine lines 1e, 2c, and 3 This is your total self-employed income.	4	18,587
--	--	---	--------

Need more information or forms? Visit IRS.gov.



190104 11024

DR 0104 (10/07/19)
COLORADO DEPARTMENT OF REVENUE
Colorado.gov/Tax

(0013)



2022 Colorado Individual Income Tax Return

- Full-Year Part-Year or Nonresident (or resident, part-year, non-resident combination) Mark if Abroad on due date - see instructions
- *Must include DR 0104PN

Your Last Name		Your First Name		Middle Initial
PERSON		EXAMPLE		
Date of Birth (MM/DD/YYYY)	SSN or ITIN	Deceased <input type="checkbox"/>		
06/06/1983	912-35-4984	<input type="checkbox"/> If checked and claiming a refund, you must include the DR 0102 and death certificate with your return.		
Enter the following information from your current driver license or state identification card.		State of Issue	Last 4 characters of ID number	Date of Issuance
If Joint, Spouse's Last Name		Spouse's First Name		Middle Initial
Spouse's Date of Birth (MM/DD/YYYY)	Spouse's SSN or ITIN	Deceased <input type="checkbox"/>		
		<input type="checkbox"/> If checked and claiming a refund, you must include the DR 0102 and death certificate with your return.		
Enter the following information from your spouse's current driver license or state identification card.		State of Issue	Last 4 characters of ID number	Date of Issuance
Mailing Address			Phone Number	
12354 MAIN				
City	State	Zip Code	Foreign Country (if applicable)	
ARVADA	CO	80003		

Round To The Nearest Dollar

1. Enter Federal Taxable Income from your federal income tax form: 1040 line 11b or 1040 SR line 11b • 1 5,110 00

Include W-2s and 1099s with CO withholding.

Additions to Federal Taxable Income

2. State Addback, enter the state income tax deduction from your federal form 1040 or 1040 SR schedule A, line 5a (see instructions) • 2 00

3. Other Additions, explain (see instructions) • 3 00

Explain:



190104 21024

Name	SSN or ITIN
EXAMPLE PERSON	912-35-4984
4. Subtotal, sum of lines 1 through 3	4 5,110 00
Colorado Subtractions	
5. Subtractions from the DR 0104AD Schedule, line 20, you must submit the DR 0104AD schedule with your return.	• 5 00
6. Colorado Taxable Income, subtract line 5 from line 4	• 6 5,110 00
Tax, Prepayments and Credits: see 104 Book for full-year tax table and part-year DR 0104PN Schedule	
7. Colorado Tax from tax table or the DR 0104PN line 36, you must submit the DR 0104PN with your return if applicable.	• 7 232 00
8. Alternative Minimum Tax from the DR 0104AMT line 8, you must submit the DR 0104AMT with your return.	• 8 00
9. Recapture of prior year credits	• 9 00
10. Subtotal, sum of lines 7 through 9	10 232 00
11. Nonrefundable Credits from the DR 0104CR line 41, the sum of lines 11, 12, and 13 cannot exceed line 10, you must submit the DR 0104CR with your return.	• 11 00
12. Total Nonrefundable Enterprise Zone credits used - as calculated, or from the DR 1366 line 87, the sum of lines 11, 12, and 13 cannot exceed line 10, you must submit the DR 1366 with your return.	• 12 00
13. Strategic Capital Tax Credit from DR 1330, the sum of lines 11, 12, and 13 cannot exceed line 10, you must submit the DR 1330 with your return.	• 13 00
14. Net Income Tax, sum of lines 11, 12, and 13. Subtract that sum from line 10.	14 232 00
15. Use Tax reported on the DR 0104US schedule line 7, you must submit the DR 0104US with your return.	• 15 00
16. Net Colorado Tax, sum of lines 14 and 15	16 232 00
17. CO Income Tax Withheld from W-2s and 1099s, you must submit the W-2s and/or 1099s claiming Colorado withholding with your return.	• 17 00
18. Prior-year Estimated Tax Carryforward	• 18 00
19. Estimated Tax Payments, enter the sum of the quarterly payments remitted for this tax year	• 19 00
20. Extension Payment remitted with the DR 0158-I	• 20 00
21. Other Prepayments: <input type="checkbox"/> • DR 0104BEP <input type="checkbox"/> • DR 0108 <input type="checkbox"/> • DR 1079	• 21 00
22. Gross Conservation Easement Credit from the DR 1305G line 33, you must submit the DR 1305G with your return.	• 22 00
23. Innovative Motor Vehicle Credit from the DR 0617, you must submit each DR 0617 with your return.	• 23 00
24. Refundable Credits from the DR 0104CR line 8, you must submit the DR 0104CR with your return.	• 24 529 00
25. Subtotal, sum of lines 17 through 24	25 529 00



190104 41024

DR 0104 (10/07/19)
COLORADO DEPARTMENT OF REVENUE
Colorado.gov/Tax

Name		SSN or ITIN	
EXAMPLE PERSON		912-35-4984	
Third Party Designee			
Do you want to allow another person to discuss this return and any other information related to this return with the Colorado Department of Revenue? • <input type="checkbox"/> No • <input checked="" type="checkbox"/> Yes. Complete the following:			
Designee's Name		Phone Number	
• Beth MB Hancock		• 3039531454	
Sign Below Under penalties of perjury, I declare that to the best of my knowledge and belief, this return is true, correct and complete.			
Your Signature		Date (MM/DD/YY)	
		11/12/20	
Spouse's Signature. If joint return, BOTH must sign.		Date (MM/DD/YY)	
Paid Preparer's Name		Paid Preparer's Phone	
Beth MB Hancock		303-953-1454	
Paid Preparer's Address		City	State Zip
5400 W Cedar Avenue		Lakewood	CO 80226

File and pay at: Colorado.gov/RevenueOnlineIf you are filing this return **with** a check or payment, please mail the return to:COLORADO DEPARTMENT OF REVENUE
Denver, CO 80261-0006If you are filing this return **without** a check or payment, please mail the return to:COLORADO DEPARTMENT OF REVENUE
Denver, CO 80261-0005

These addresses and zip codes are exclusive to the Colorado Department of Revenue, so a street address is not required.



190104CR11024



DR 0104CR (10/15/19)
COLORADO DEPARTMENT OF REVENUE
Colorado.gov/Tax

Form 104CR

Individual Credit Schedule 2022

Taxpayer's Last Name	First Name	Middle Initial	SSN or ITIN
PERSON	EXAMPLE		912-35-4984

Use this schedule to calculate your income tax credits. For best results, visit [Colorado.gov/Tax](https://colorado.gov/tax) to research eligibility requirements and other information about these credits before following the line-by-line instructions contained below.

- Be sure to submit the required supporting documentation as indicated for each credit.
- Most e-file software and tax preparers have the ability to submit this schedule and attachments electronically. However, Revenue Online can also be used to file your return and attachments electronically. Otherwise, attach all required documents to your paper return.
- If you received any of these credits from a pass-through entity, be sure to provide the entity's name and account number and your ownership percentage where required. If credits were passed through from multiple entities, attach to your return a written statement that includes all relevant information.
- Dollar amounts shall be rounded to the nearest whole dollar. Calculate percentages to the fourth decimal place. Round to four significant digits, e.g. xxx.xxxx

Part I - Refundable Credits

1. Child Care Expenses Credit from the DR 0347, you must submit the DR 0347 with your return.	• 1	00
--	------------	----

Earned Income Tax Credit (EITC) - full or part-year Colorado residents who claim the federal EITC are allowed an earned income tax credit against their income tax. Complete the table for each qualifying child. Read the instructions in the 104 book and FYI Income 27 for additional guidance on completing this section. Only check the "Deceased" box for a qualifying child if the child was born and died in 2022 and was not assigned an SSN. You must submit a copy of the child's birth certificate, death certificate, or hospital records showing a live birth with your return.

2. Enter the amount of Earned Income calculated for your federal return.	• 2	18,587	00
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3. The federal EITC you could have claimed if you had an SSN.	• 3	3,526	00
--	------------	-------	----

Qualifying Child's Last Name	Qualifying Child's First Name	Year of Birth	• SSN	Deceased*
PERSON	KIDEXAMPLE	2015	812561616	• <input type="checkbox"/>
				• <input type="checkbox"/>
				• <input type="checkbox"/>
				• <input type="checkbox"/>

4. COEITC, multiply line 3 by 10% (0.10)	4	529	00
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190104CR21024

Name		SSN or ITIN	
EXAMPLE PERSON		912-35-4984	
5. <i>Part-year residents only</i> , multiply line 4 by the percentage on line 34 of the DR 0104PN (If the percentage exceeds 100%, use 100%).	5		00
6. Business Personal Property Credit: Use the worksheet in the 104 Book instructions to calculate. You must submit copy of the assessor's statement with your return.	6		00
7. Refundable Renewable Energy Tax Credit from line 88 of the DR 1366. You must submit the DR 1366 with your return.	7		00
8. Total Refundable Credits, add lines 1, 4 (or 5), 6, and 7. Enter the sum on the DR 0104 line 24.	8	529	00

Part II - Credit for Tax Paid to Another State

- Colorado nonresidents do not qualify for this credit.
- Part-year residents generally do not qualify for this credit.
- If you have income and/or losses from two or more states, you must separately calculate lines 10 through 16 for each state, regardless of whether any tax was paid on such income. If you do not file electronically, you must submit the DR 0104CR for each state. Then, enter "Combined" on line 9 and complete lines 10 through 16 to disclose the combined total for each line. A summary schedule is not acceptable. **The Department strongly recommends electronic filing for taxpayers with credits for more than one state. Failure to file electronically may result in delays processing your return.**

Submit a copy of the tax return for each other state when claiming this credit. The portion of the return submitted must include the adjusted gross income calculation, any disallowed federal deductions by that state, and the tax calculation for the other state.

9. Name of other state:			
10. Total of lines 7 and 8 Form 104	10		00
11. Modified Colorado adjusted gross income from sources in the other state, see FYI Income 17.	11		00
12. Total modified Colorado adjusted gross income	12		00
13. Divide line 11 by line 12. Round to four significant digits, e.g. xxx.xxxx	13		%
14. Multiply line 10 by the percentage on line 13	14		00
15. Tax liability to the other state	15		00
16. Allowable credit , the smaller of lines 14 or 15	16		00

Part III - Other Credits

Visit *Colorado.gov/Tax* for limitations that are specific to each credit. To report this properly, use the first column to report the total credit that is available (the amount generated this year plus any prior-year carryforward). Then, use the second column to report the amount you are using this year to offset your tax liability.

	Available Credit Column (A) •	Credit Used Column (B) •
17. Plastic recycling investment credit, you must submit required receipts with your return. • 17	00	00
• Plastic recycling net expenditures amount (fill below):		
18. Colorado Minimum Tax Credit • 18	00	00
• 2022 Federal Minimum Tax Credit (fill below):		



190104CR31024



Name		SSN or ITIN	
EXAMPLE PERSON		912-35-4984	
		Available Credit Column (A) •	Credit Used Column (B) •
19. Historic Property Preservation credit (per §39-22-514, C.R.S.), you must submit the certification with your return. • 19		00	00
20. Child Care Center Investment credit, you must submit a copy of your facility license and a list of depreciable tangible personal property with your return. • 20		00	00
21. Employer Child Care Facility Investment credit, you must submit a copy of your facility license and a list of depreciable tangible personal property with your return. • 21		00	00
22. School-to-Career Investment credit, you must submit a copy of the certification with your return. • 22		00	00
23. Colorado Works Program credit, you must submit a copy of the letter from the county Department of Social/Human Services with your return. • 23		00	00
24. Child Care Contribution credit, you must submit each DR 1317 with your return. • 24		00	00
25. Long-term Care Insurance credit, you must submit a year-end statement to show premiums paid with your return. See FYI Income 37. • 25		00	00
26. Aircraft Manufacturer New Employee credit, you must submit the DR 0085 and DR 0086 with your return. • 26		00	00
27. Credit for Environmental Remediation of Contaminated Land, you must submit a copy of the CDPHE certification with your return. • 27		00	00
28. Colorado Job Growth Incentive credit, you must submit certification from OEDIT with your return. • 28		00	00
29. Certified Auction Group License Fee credit, you must submit a copy of the certification with your return. • 29		00	00
30. Advanced Industry Investment credit, you must submit a copy of the certification with your return. • 30		00	00
31. Affordable Housing credit, you must submit CHFA certification with your return. • 31		00	00
32. Credit for Food Contributed to Hunger-Relief Charitable Organizations, you must submit each DR 0346 and federal schedule F with your return. • 32		00	00
33. Preservation of Historic Structures credit (per §39-22-514.5, C.R.S.) carried forward from a prior year. • 33		00	00
34. Preservation of Historic Structures credit (per §39-22-514.5, C.R.S.), you must submit the certificate from OEDIT, History Colorado, or local granting authority with your return. • 34		00	00
35. If you are claiming the Preservation of Historic Structures credit enter your credit certificate number issued by OEDIT, History Colorado, or local granting authority. • 35			
36. Rural Jump-Start Zone credit, you must submit certificate from Office of Economic Development AND the DR 0113 with your return. • 36		00	00
37. Rural & Frontier Health Care Preceptor credit, you must submit your certification with your return. • 37		00	00





190104CR41024



Name		SSN or ITIN	
EXAMPLE PERSON		912-35-4984	
	Available Credit Column (A) •	Credit Used Column (B) •	
38. Retrofitting a Residence to Increase a Residence's Visitability Credit, you must submit certificate from Division of Housing. • 38	00		00
• If you are claiming a Retrofitting a Residence to Increase a Residence's Visitability Credit, enter your credit certificate number issued by Division of Housing			
39. Credit for employer contributions to employee 529 plan, you must submit DR 0289 with your return. • 39	00		00
40. Total of column A lines 17 through 39 (exclude line 35 certificate number) 40	00		
41. Nonrefundable Credits Used, total of column B plus any amount from line 16, exclude line 35 certificate number. Also enter this amount on the DR 0104 line 11. Credit used cannot exceed credit available. 41			00





COLORADO

Department of Revenue^(L)

Taxation Division

Nonresident Disaster Relief Worker Exemption/Subtraction

Disaster Relief Work

Disaster relief work includes repairing, renovating, installing, building, or rendering services that relate to infrastructure that has been damaged, impaired, or destroyed by a declared state disaster emergency or providing emergency medical, firefighting, law enforcement, hazardous material, search and rescue, or other emergency service related to a state declared disaster emergency. The Governor has declared a disaster emergency due to the presence of COVID-19 in Colorado.

Exemption

In the event any nonresidents perform disaster-related work in Colorado during a declared state disaster emergency, their wages for such work would be exempt from Colorado taxation. The exemption would likely be achieved in most cases without the nonresident emergency worker having to file a Colorado income tax return.

Employers should not withhold Colorado income tax from any wages paid to any nonresident for disaster-related work. The wage withholding exemption **does not apply** to any Colorado resident employees. More information can be found in the [Wage Withholding Guide \(/sites/tax/files/2019_12_WageWithholdingTaxGuide.pdf\)](/sites/tax/files/2019_12_WageWithholdingTaxGuide.pdf).

Subtraction

Nonresidents who perform disaster-related work during a declared state disaster emergency should not file a Colorado income tax return unless (1) they have other Colorado-source income or (2) Colorado income tax was withheld (erroneously) from their wages for the disaster-related work.

If Colorado income tax was withheld for the disaster-related work during a declared state disaster emergency, the nonresident worker should enter the amount of income (compensation earned) while working in Colorado on line 15 of the Subtraction from Income Schedule (DR 0104AD). This schedule should be included with the Nonresident Tax Calculation Schedule (DR 0104PN) and the Individual Income Tax Return (DR 0104) when submitting a return. Forms can be printed/downloaded from the Individual Income Tax Forms web page. Nonresidents can also file online using an [Accepted Third Party Software \(/individual-income-tax-accepted-software\)](/individual-income-tax-accepted-software).

This subtraction is only available to nonresident individuals. If you are a resident of Colorado, you are not eligible for this subtraction.

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[Collections \(/contact-the-collections-section\)](/contact-the-collections-section)

[Ask for Help \(/citizens-advocate\)](/citizens-advocate)

[Tax Newsroom \(/tax-newsroom\)](/tax-newsroom)

[Website Feedback \(/website-feedback\)](/website-feedback)

Quick Links

[COVID-19 Operational Updates \(/covid-19-updates\)](/covid-19-updates)

[Respond to an Invoice or Bill \(/collections\)](/collections)

[Taxpayer Identity Verification \(/taxpayer-identity-verification\)](/taxpayer-identity-verification)

[CDOR Homepage \(https://cdor.colorado.gov/\)](https://cdor.colorado.gov/)

[CDOR Careers \(https://www.governmentjobs.com/careers/colorado?keywords=Revenue\)](https://www.governmentjobs.com/careers/colorado?keywords=Revenue)



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Senate Bill 20-205

Colorado Paid Sick Leave

An Act

SENATE BILL 20-205

BY SENATOR(S) Fenberg and Bridges, Danielson, Fields, Foote, Ginal, Gonzales, Hansen, Lee, Moreno, Pettersen, Priola, Rodriguez, Story, Todd, Williams A., Winter, Zenzinger, Garcia;
also REPRESENTATIVE(S) Becker and Caraveo, Bird, Buckner, Buentello, Cutter, Duran, Esgar, Exum, Froelich, Garnett, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Lontine, McCluskie, Melton, Michaelson Jenet, Mullica, Singer, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman, Woodrow, Young, Arndt, Gonzales-Gutierrez, Roberts.

CONCERNING THE REQUIREMENT THAT EMPLOYERS OFFER SICK LEAVE TO THEIR EMPLOYEES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** part 4 to article 13.3 of title 8 as follows:

PART 4
HEALTHY FAMILIES AND WORKPLACES

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

8-13.3-401. Short title. THE SHORT TITLE OF THIS PART 4 IS THE "HEALTHY FAMILIES AND WORKPLACES ACT".

8-13.3-402. Definitions. AS USED IN THIS PART 4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

(2) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND STATISTICS IN THE DEPARTMENT OF LABOR AND EMPLOYMENT CREATED IN SECTION 8-1-103.

(3) "DOMESTIC ABUSE" HAS THE MEANING SET FORTH IN SECTION 13-14-101 (2).

(4) "EMPLOYEE" HAS THE MEANING SET FORTH IN SECTION 8-4-101 (5). "EMPLOYEE" DOES NOT INCLUDE AN "EMPLOYEE" AS DEFINED IN 45 U.S.C. SEC. 351 (d) WHO IS SUBJECT TO THE FEDERAL "RAILROAD UNEMPLOYMENT INSURANCE ACT", 45 U.S.C. SEC. 351 ET SEQ.

(5) (a) "EMPLOYER" HAS THE MEANING SET FORTH IN SECTION 8-4-101 (6); EXCEPT THAT THE TERM INCLUDES THE STATE AND ITS AGENCIES OR ENTITIES, COUNTIES, CITIES AND COUNTIES, MUNICIPALITIES, SCHOOL DISTRICTS, AND ANY POLITICAL SUBDIVISIONS OF THE STATE.

(b) "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT.

(6) "FAMILY MEMBER" MEANS:

(a) AN EMPLOYEE'S IMMEDIATE FAMILY MEMBER, AS DEFINED IN SECTION 2-4-401 (3.7);

(b) A CHILD TO WHOM THE EMPLOYEE STANDS IN LOCO PARENTIS OR A PERSON WHO STOOD IN LOCO PARENTIS TO THE EMPLOYEE WHEN THE EMPLOYEE WAS A MINOR; OR

(c) A PERSON FOR WHOM THE EMPLOYEE IS RESPONSIBLE FOR PROVIDING OR ARRANGING HEALTH- OR SAFETY-RELATED CARE.

(7) "HARASSMENT" HAS THE MEANING SET FORTH IN SECTION

18-9-111.

(8) (a) (I) "PAID SICK LEAVE" MEANS TIME OFF FROM WORK THAT IS:

(A) COMPENSATED AT THE SAME HOURLY RATE OR SALARY AND WITH THE SAME BENEFITS, INCLUDING HEALTH CARE BENEFITS, AS THE EMPLOYEE NORMALLY EARNS DURING HOURS WORKED; AND

(B) PROVIDED BY AN EMPLOYER TO AN EMPLOYEE FOR ONE OR MORE OF THE PURPOSES DESCRIBED IN SECTIONS 8-13.3-404 TO 8-13.3-406.

(II) AS USED IN SUBSECTION (8)(a)(I)(A) OF THIS SECTION:

(A) "SAME HOURLY RATE OR SALARY" UNDER THIS PART 4 DOES NOT INCLUDE OVERTIME, BONUSES, OR HOLIDAY PAY.

(B) FOR EMPLOYEES PAID ON A COMMISSION BASIS ONLY, "SAME HOURLY RATE OR SALARY" MEANS A RATE OF NO LESS THAN THE APPLICABLE MINIMUM WAGE.

(C) FOR EMPLOYEES PAID AN HOURLY, WEEKLY, OR MONTHLY WAGE AND ALSO PAID ON A COMMISSION BASIS, "SAME HOURLY RATE OR SALARY" MEANS THE RATE OF PAY EQUIVALENT TO THE EMPLOYEE'S HOURLY, WEEKLY, OR MONTHLY WAGE OR THE APPLICABLE MINIMUM WAGE, WHICHEVER IS GREATER.

(b) "PAID SICK LEAVE" IS "WAGES" AS DEFINED IN SECTION 8-4-101 (14).

(9) "PUBLIC HEALTH EMERGENCY" MEANS:

(a) AN ACT OF BIOTERRORISM, A PANDEMIC INFLUENZA, OR AN EPIDEMIC CAUSED BY A NOVEL AND HIGHLY FATAL INFECTIOUS AGENT, FOR WHICH:

(I) AN EMERGENCY IS DECLARED BY A FEDERAL, STATE, OR LOCAL PUBLIC HEALTH AGENCY; OR

(II) A DISASTER EMERGENCY IS DECLARED BY THE GOVERNOR; OR

(b) A HIGHLY INFECTIOUS ILLNESS OR AGENT WITH EPIDEMIC OR PANDEMIC POTENTIAL FOR WHICH A DISASTER EMERGENCY IS DECLARED BY THE GOVERNOR.

(10) "RETALIATORY PERSONNEL ACTION" MEANS:

(a) THE DENIAL OF ANY RIGHT GUARANTEED UNDER THIS PART 4; OR

(b) ANY ADVERSE ACTION AGAINST AN EMPLOYEE FOR EXERCISING ANY RIGHT GUARANTEED IN THIS PART 4, INCLUDING:

(I) ANY THREAT, DISCIPLINE, DISCHARGE, SUSPENSION, DEMOTION, REDUCTION OF HOURS, OR REPORTING OR THREATENING TO REPORT AN EMPLOYEE'S SUSPECTED CITIZENSHIP OR IMMIGRATION STATUS OR THE SUSPECTED CITIZENSHIP OR IMMIGRATION STATUS OF A FAMILY MEMBER OF THE EMPLOYEE TO A FEDERAL, STATE, OR LOCAL AGENCY; OR

(II) ANY SANCTIONS AGAINST AN EMPLOYEE WHO IS THE RECIPIENT OF PUBLIC BENEFITS FOR RIGHTS GUARANTEED UNDER THIS PART 4; OR

(III) INTERFERENCE WITH OR PUNISHMENT FOR PARTICIPATING IN OR ASSISTING, IN ANY MANNER, AN INVESTIGATION, PROCEEDING, OR HEARING UNDER THIS PART 4.

(11) "SEXUAL ASSAULT" HAS THE MEANING SET FORTH IN SECTION 18-3-402.

(12) "SUCCESSOR EMPLOYER" MEANS AN EMPLOYING UNIT, WHETHER OR NOT AN EMPLOYING UNIT AT THE TIME OF ACQUISITION, THAT BECOMES AN EMPLOYER SUBJECT TO THIS PART 4 BECAUSE IT ACQUIRES ALL OF AN ORGANIZATION, A TRADE, OR A BUSINESS OR SUBSTANTIALLY ALL OF THE ASSETS OF ONE OR MORE EMPLOYERS SUBJECT TO THIS PART 4.

(13) "YEAR" MEANS A REGULAR AND CONSECUTIVE TWELVE-MONTH PERIOD AS DETERMINED BY AN EMPLOYER; EXCEPT THAT, FOR THE PURPOSES OF SECTION 8-13.3-411, "YEAR" MEANS A CALENDAR YEAR.

8-13.3-403. Paid sick leave - accrual - carry forward to subsequent year - comparable leave provided by employer - no payment for unused leave - rules - repeal. (1) (a) ALL EMPLOYEES

WORKING IN COLORADO HAVE THE RIGHT TO PAID SICK LEAVE AS SPECIFIED IN THIS PART 4.

(b) EFFECTIVE JANUARY 1, 2021, EACH EMPLOYER WITH SIXTEEN OR MORE EMPLOYEES SHALL PROVIDE EACH EMPLOYEE PAID SICK LEAVE AS PROVIDED IN THIS SECTION. THIS SUBSECTION (1)(b) IS REPEALED, EFFECTIVE JANUARY 1, 2022.

(c) EFFECTIVE JANUARY 1, 2022, EACH EMPLOYER SHALL PROVIDE EACH EMPLOYEE PAID SICK LEAVE AS PROVIDED IN THIS SECTION.

(2) (a) EACH EMPLOYEE EARNS AT LEAST ONE HOUR OF PAID SICK LEAVE FOR EVERY THIRTY HOURS WORKED BY THE EMPLOYEE; EXCEPT THAT AN EMPLOYEE IS NOT ENTITLED UNDER THIS SECTION TO EARN OR USE MORE THAN FORTY-EIGHT HOURS OF PAID SICK LEAVE EACH YEAR, UNLESS THE EMPLOYER SELECTS A HIGHER LIMIT. AN EMPLOYER MAY SATISFY THE ACCRUAL REQUIREMENTS OF THIS SECTION BY PROVIDING THE EMPLOYEE WITH AN AMOUNT OF PAID SICK LEAVE THAT MEETS OR EXCEEDS THE REQUIREMENTS OF THIS SECTION AT THE BEGINNING OF THE YEAR. NOTHING IN THIS SECTION DISCOURAGES OR PROHIBITS AN EMPLOYER FROM PROVIDING PAID SICK LEAVE THAT ACCRUES AT A FASTER OR MORE GENEROUS RATE THAN REQUIRED BY THIS SECTION. THIS SUBSECTION (2)(a) DOES NOT LIMIT THE ABILITY OF AN EMPLOYEE TO USE PAID SICK LEAVE AS PROVIDED IN SECTION 8-13.3-405.

(b) NOTHING IN THIS PART 4 PRECLUDES AN EMPLOYER FROM PROVIDING EMPLOYEES MORE PAID SICK LEAVE THAN THE AMOUNTS SPECIFIED IN THIS SUBSECTION (2).

(c) AN EMPLOYEE WHO IS EXEMPT FROM OVERTIME REQUIRED IN SECTION 8-6-111 (4) ACCRUES PAID SICK LEAVE BASED ON THE ASSUMPTION THAT THE EMPLOYEE WORKS FORTY HOURS PER WEEK. IF THE EMPLOYEE'S NORMAL WORKWEEK CONSISTS OF FEWER THAN FORTY HOURS, THE EMPLOYEE ACCRUES PAID SICK LEAVE BASED UPON THE NUMBER OF HOURS THAT COMPRISE THE EMPLOYEE'S NORMAL WORKWEEK.

(3) (a) AN EMPLOYEE BEGINS TO ACCRUE PAID SICK LEAVE WHEN EMPLOYMENT WITH THE EMPLOYER BEGINS AND MAY USE ACCRUED PAID SICK LEAVE AS IT IS ACCRUED.

(b) UP TO FORTY-EIGHT HOURS OF PAID SICK LEAVE THAT AN EMPLOYEE ACCRUES IN A YEAR BUT DOES NOT USE CARRIES FORWARD TO, AND MAY BE USED IN, A SUBSEQUENT YEAR; EXCEPT THAT AN EMPLOYER IS NOT REQUIRED TO ALLOW THE EMPLOYEE TO USE MORE THAN FORTY-EIGHT HOURS OF PAID SICK LEAVE IN A YEAR.

(4) AN EMPLOYER THAT HAS A PAID LEAVE POLICY FOR ITS EMPLOYEES MAY SATISFY THE REQUIREMENTS OF THIS SECTION AND SECTION 8-13.3-405 AND IS NOT REQUIRED TO PROVIDE ADDITIONAL PAID SICK LEAVE TO ITS EMPLOYEES IF THE EMPLOYER:

(a) MAKES AVAILABLE TO ITS EMPLOYEES, THROUGH ITS PAID LEAVE POLICY, AN AMOUNT OF PAID LEAVE SUFFICIENT TO SATISFY SECTION 8-13.3-405 AND MEET THE ACCRUAL REQUIREMENTS OF SUBSECTION (2)(a) OF THIS SECTION; AND

(b) ALLOWS ITS EMPLOYEES TO USE THE PAID LEAVE FOR THE SAME PURPOSES AND UNDER THE SAME CONDITIONS AS THOSE APPLICABLE TO PAID SICK LEAVE UNDER THIS PART 4.

(5) (a) EXCEPT AS SPECIFIED IN SUBSECTION (5)(b) OF THIS SECTION, AND NOTWITHSTANDING SECTION 8-4-101 (14)(a)(IV), NOTHING IN THIS SECTION REQUIRES AN EMPLOYER TO PROVIDE FINANCIAL OR OTHER REIMBURSEMENT OF UNUSED PAID SICK LEAVE TO AN EMPLOYEE UPON TERMINATION, RESIGNATION, RETIREMENT, OR OTHER SEPARATION FROM EMPLOYMENT; EXCEPT THAT AN INDIVIDUAL MAY RECOVER PAID SICK LEAVE AS A REMEDY FOR A RETALIATORY PERSONNEL ACTION THAT PREVENTED THE INDIVIDUAL FROM USING PAID SICK LEAVE.

(b) IF AN EMPLOYEE SEPARATES FROM EMPLOYMENT AND IS REHIRED BY THE SAME EMPLOYER WITHIN SIX MONTHS AFTER THE SEPARATION, THE EMPLOYER SHALL REINSTATE ANY PAID SICK LEAVE THAT THE EMPLOYEE HAD ACCRUED BUT NOT USED DURING THE EMPLOYEE'S PREVIOUS EMPLOYMENT WITH THE EMPLOYER AND THAT HAD NOT BEEN CONVERTED TO MONETARY COMPENSATION TO THE EMPLOYEE AT THE TIME OF SEPARATION FROM EMPLOYMENT.

(6) AN EMPLOYER MAY LOAN PAID SICK LEAVE TO AN EMPLOYEE IN ADVANCE OF ACCRUAL OF PAID SICK LEAVE BY THE EMPLOYEE.

(7) IF AN EMPLOYEE IS TRANSFERRED TO A SEPARATE DIVISION, ENTITY, OR LOCATION BUT REMAINS EMPLOYED BY THE SAME EMPLOYER, THE EMPLOYEE IS ENTITLED TO ALL PAID SICK LEAVE ACCRUED AT THE PRIOR DIVISION, ENTITY, OR LOCATION AND IS ENTITLED TO USE ALL PAID SICK LEAVE AS PROVIDED IN THIS SECTION.

(8) IF A SUCCESSOR EMPLOYER SUCCEEDS AN ORIGINAL EMPLOYER, ALL EMPLOYEES OF THE ORIGINAL EMPLOYER WHO REMAIN EMPLOYED BY THE SUCCESSOR EMPLOYER ARE ENTITLED TO ALL PAID SICK LEAVE THAT THE EMPLOYEES ACCRUED WHEN EMPLOYED BY THE ORIGINAL EMPLOYER AND ARE ENTITLED TO USE PREVIOUSLY ACCRUED PAID SICK LEAVE AS SPECIFIED IN SECTION 8-13.3-404.

(9) THE DIVISION SHALL PROMULGATE RULES REGARDING COMPENSATION AND ACCRUAL OF PAID SICK LEAVE FOR EMPLOYEES EMPLOYED AND COMPENSATED ON A FEE-FOR-SERVICE BASIS.

8-13.3-404. Use of paid sick leave - purposes - time increments.

(1) AN EMPLOYER SHALL ALLOW AN EMPLOYEE TO USE THE EMPLOYEE'S ACCRUED PAID SICK LEAVE TO BE ABSENT FROM WORK WHEN:

(a) THE EMPLOYEE:

(I) HAS A MENTAL OR PHYSICAL ILLNESS, INJURY, OR HEALTH CONDITION THAT PREVENTS THE EMPLOYEE FROM WORKING;

(II) NEEDS TO OBTAIN A MEDICAL DIAGNOSIS, CARE, OR TREATMENT OF A MENTAL OR PHYSICAL ILLNESS, INJURY, OR HEALTH CONDITION; OR

(III) NEEDS TO OBTAIN PREVENTIVE MEDICAL CARE;

(b) THE EMPLOYEE NEEDS TO CARE FOR A FAMILY MEMBER WHO:

(I) HAS A MENTAL OR PHYSICAL ILLNESS, INJURY, OR HEALTH CONDITION;

(II) NEEDS TO OBTAIN A MEDICAL DIAGNOSIS, CARE, OR TREATMENT OF A MENTAL OR PHYSICAL ILLNESS, INJURY, OR HEALTH CONDITION; OR

(III) NEEDS TO OBTAIN PREVENTIVE MEDICAL CARE;

(c) THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER HAS BEEN THE VICTIM OF DOMESTIC ABUSE, SEXUAL ASSAULT, OR HARASSMENT AND THE USE OF LEAVE IS TO:

(I) SEEK MEDICAL ATTENTION FOR THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER TO RECOVER FROM A MENTAL OR PHYSICAL ILLNESS, INJURY, OR HEALTH CONDITION CAUSED BY THE DOMESTIC ABUSE, SEXUAL ASSAULT, OR HARASSMENT;

(II) OBTAIN SERVICES FROM A VICTIM SERVICES ORGANIZATION;

(III) OBTAIN MENTAL HEALTH OR OTHER COUNSELING;

(IV) SEEK RELOCATION DUE TO THE DOMESTIC ABUSE, SEXUAL ASSAULT, OR HARASSMENT; OR

(V) SEEK LEGAL SERVICES, INCLUDING PREPARATION FOR OR PARTICIPATION IN A CIVIL OR CRIMINAL PROCEEDING RELATING TO OR RESULTING FROM THE DOMESTIC ABUSE, SEXUAL ASSAULT, OR HARASSMENT; OR

(d) DUE TO A PUBLIC HEALTH EMERGENCY, A PUBLIC OFFICIAL HAS ORDERED CLOSURE OF:

(I) THE EMPLOYEE'S PLACE OF BUSINESS; OR

(II) THE SCHOOL OR PLACE OF CARE OF THE EMPLOYEE'S CHILD AND THE EMPLOYEE NEEDS TO BE ABSENT FROM WORK TO CARE FOR THE EMPLOYEE'S CHILD.

(2) AN EMPLOYER SHALL ALLOW AN EMPLOYEE TO USE PAID SICK LEAVE UPON THE REQUEST OF AN EMPLOYEE. THE REQUEST MAY BE MADE ORALLY, IN WRITING, ELECTRONICALLY, OR BY ANY OTHER MEANS ACCEPTABLE TO THE EMPLOYER. WHEN POSSIBLE, THE EMPLOYEE SHALL INCLUDE THE EXPECTED DURATION OF THE ABSENCE. AN EMPLOYER MAY PROVIDE A WRITTEN POLICY THAT CONTAINS REASONABLE PROCEDURES FOR THE EMPLOYEE TO PROVIDE NOTICE WHEN THE USE OF PAID SICK LEAVE TAKEN UNDER THIS SECTION IS FORESEEABLE. AN EMPLOYER SHALL NOT DENY PAID SICK LEAVE TO THE EMPLOYEE BASED ON NONCOMPLIANCE WITH SUCH A POLICY.

(3) AN EMPLOYEE MUST USE PAID SICK LEAVE IN HOURLY INCREMENTS UNLESS THE EMPLOYEE'S EMPLOYER ALLOWS PAID SICK LEAVE TO BE TAKEN IN SMALLER INCREMENTS OF TIME.

(4) AN EMPLOYER SHALL NOT REQUIRE, AS A CONDITION OF PROVIDING PAID SICK LEAVE UNDER THIS PART 4, AN EMPLOYEE WHO USES PAID SICK LEAVE TO SEARCH FOR OR FIND A REPLACEMENT WORKER TO COVER THE TIME DURING WHICH THE EMPLOYEE IS ABSENT FROM WORK.

(5) WHEN THE USE OF PAID SICK LEAVE TAKEN UNDER THIS SECTION IS FORESEEABLE, THE EMPLOYEE SHALL MAKE A GOOD-FAITH EFFORT TO PROVIDE NOTICE OF THE NEED FOR PAID SICK LEAVE TO THE EMPLOYEE'S EMPLOYER IN ADVANCE OF THE USE OF THE PAID SICK LEAVE AND SHALL MAKE A REASONABLE EFFORT TO SCHEDULE THE USE OF PAID SICK LEAVE IN A MANNER THAT DOES NOT UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER.

(6) NOTWITHSTANDING SECTION 8-13.3-405 (4)(b), FOR PAID SICK LEAVE OF FOUR OR MORE CONSECUTIVE WORK DAYS, AN EMPLOYER MAY REQUIRE REASONABLE DOCUMENTATION THAT THE PAID SICK LEAVE IS FOR A PURPOSE AUTHORIZED BY THIS PART 4.

8-13.3-405. Additional paid sick leave during a public health emergency. (1) IN ADDITION TO PAID SICK LEAVE ACCRUED UNDER SECTION 8-13.3-403, ON THE DATE A PUBLIC HEALTH EMERGENCY IS DECLARED, EACH EMPLOYER IN THE STATE SHALL SUPPLEMENT EACH EMPLOYEE'S ACCRUED PAID SICK LEAVE AS NECESSARY TO ENSURE THAT AN EMPLOYEE MAY TAKE THE FOLLOWING AMOUNTS OF PAID SICK LEAVE FOR THE PURPOSES SPECIFIED IN SUBSECTION (3) OF THIS SECTION:

(a) FOR EMPLOYEES WHO NORMALLY WORK FORTY OR MORE HOURS IN A WEEK, AT LEAST EIGHTY HOURS;

(b) FOR EMPLOYEES WHO NORMALLY WORK FEWER THAN FORTY HOURS IN A WEEK, AT LEAST THE GREATER OF EITHER THE AMOUNT OF TIME THE EMPLOYEE IS SCHEDULED TO WORK IN A FOURTEEN-DAY PERIOD OR THE AMOUNT OF TIME THE EMPLOYEE ACTUALLY WORKS ON AVERAGE IN A FOURTEEN-DAY PERIOD.

(2)(a) AN EMPLOYER MAY COUNT AN EMPLOYEE'S UNUSED ACCRUED

PAID SICK LEAVE UNDER SECTION 8-13.3-403 TOWARD THE SUPPLEMENTAL PAID SICK LEAVE REQUIRED IN SUBSECTION (1) OF THIS SECTION.

(b) AN EMPLOYEE MAY USE PAID SICK LEAVE UNDER THIS SECTION UNTIL FOUR WEEKS AFTER THE OFFICIAL TERMINATION OR SUSPENSION OF THE PUBLIC HEALTH EMERGENCY.

(3) AN EMPLOYER SHALL PROVIDE ITS EMPLOYEES THE PAID SICK LEAVE REQUIRED IN SUBSECTION (1) OF THIS SECTION FOR THE FOLLOWING ABSENCES RELATED TO A PUBLIC HEALTH EMERGENCY:

(a) AN EMPLOYEE'S NEED TO:

(I) SELF-ISOLATE AND CARE FOR ONESELF BECAUSE THE EMPLOYEE IS DIAGNOSED WITH A COMMUNICABLE ILLNESS THAT IS THE CAUSE OF A PUBLIC HEALTH EMERGENCY;

(II) SELF-ISOLATE AND CARE FOR ONESELF BECAUSE THE EMPLOYEE IS EXPERIENCING SYMPTOMS OF A COMMUNICABLE ILLNESS THAT IS THE CAUSE OF A PUBLIC HEALTH EMERGENCY;

(III) SEEK OR OBTAIN MEDICAL DIAGNOSIS, CARE, OR TREATMENT IF EXPERIENCING SYMPTOMS OF A COMMUNICABLE ILLNESS THAT IS THE CAUSE OF A PUBLIC HEALTH EMERGENCY;

(IV) SEEK PREVENTIVE CARE CONCERNING A COMMUNICABLE ILLNESS THAT IS THE CAUSE OF A PUBLIC HEALTH EMERGENCY; OR

(V) CARE FOR A FAMILY MEMBER WHO:

(A) IS SELF-ISOLATING AFTER BEING DIAGNOSED WITH A COMMUNICABLE ILLNESS THAT IS THE CAUSE OF A PUBLIC HEALTH EMERGENCY;

(B) IS SELF-ISOLATING DUE TO EXPERIENCING SYMPTOMS OF A COMMUNICABLE ILLNESS THAT IS THE CAUSE OF A PUBLIC HEALTH EMERGENCY;

(C) NEEDS MEDICAL DIAGNOSIS, CARE, OR TREATMENT IF EXPERIENCING SYMPTOMS OF A COMMUNICABLE ILLNESS THAT IS THE CAUSE

OF A PUBLIC HEALTH EMERGENCY; OR

(D) IS SEEKING PREVENTIVE CARE CONCERNING A COMMUNICABLE ILLNESS THAT IS THE CAUSE OF A PUBLIC HEALTH EMERGENCY;

(b) WITH RESPECT TO A COMMUNICABLE ILLNESS THAT IS THE CAUSE OF A PUBLIC HEALTH EMERGENCY:

(I) A LOCAL, STATE, OR FEDERAL PUBLIC OFFICIAL OR HEALTH AUTHORITY HAVING JURISDICTION OVER THE LOCATION IN WHICH THE EMPLOYEE'S PLACE OF EMPLOYMENT IS LOCATED OR THE EMPLOYEE'S EMPLOYER DETERMINES THAT THE EMPLOYEE'S PRESENCE ON THE JOB OR IN THE COMMUNITY WOULD JEOPARDIZE THE HEALTH OF OTHERS BECAUSE OF THE EMPLOYEE'S EXPOSURE TO THE COMMUNICABLE ILLNESS OR BECAUSE THE EMPLOYEE IS EXHIBITING SYMPTOMS OF THE COMMUNICABLE ILLNESS, REGARDLESS OF WHETHER THE EMPLOYEE HAS BEEN DIAGNOSED WITH THE COMMUNICABLE ILLNESS; OR

(II) CARE OF A FAMILY MEMBER AFTER A LOCAL, STATE, OR FEDERAL PUBLIC OFFICIAL OR HEALTH AUTHORITY HAVING JURISDICTION OVER THE LOCATION IN WHICH THE FAMILY MEMBER'S PLACE OF EMPLOYMENT IS LOCATED OR THE FAMILY MEMBER'S EMPLOYER DETERMINES THAT THE FAMILY MEMBER'S PRESENCE ON THE JOB OR IN THE COMMUNITY WOULD JEOPARDIZE THE HEALTH OF OTHERS BECAUSE OF THE FAMILY MEMBER'S EXPOSURE TO THE COMMUNICABLE ILLNESS OR BECAUSE THE FAMILY MEMBER IS EXHIBITING SYMPTOMS OF THE COMMUNICABLE ILLNESS, REGARDLESS OF WHETHER THE FAMILY MEMBER HAS BEEN DIAGNOSED WITH THE COMMUNICABLE ILLNESS;

(c) CARE OF A CHILD OR OTHER FAMILY MEMBER WHEN THE INDIVIDUAL'S CHILD CARE PROVIDER IS UNAVAILABLE DUE TO A PUBLIC HEALTH EMERGENCY, OR IF THE CHILD'S OR FAMILY MEMBER'S SCHOOL OR PLACE OF CARE HAS BEEN CLOSED BY A LOCAL, STATE, OR FEDERAL PUBLIC OFFICIAL OR AT THE DISCRETION OF THE SCHOOL OR PLACE OF CARE DUE TO A PUBLIC HEALTH EMERGENCY, INCLUDING IF A SCHOOL OR PLACE OF CARE IS PHYSICALLY CLOSED BUT PROVIDING INSTRUCTION REMOTELY;

(d) AN EMPLOYEE'S INABILITY TO WORK BECAUSE THE EMPLOYEE HAS A HEALTH CONDITION THAT MAY INCREASE SUSCEPTIBILITY TO OR RISK OF A COMMUNICABLE ILLNESS THAT IS THE CAUSE OF THE PUBLIC HEALTH

EMERGENCY.

(4) NOTWITHSTANDING ANY OTHER PROVISION IN THIS PART 4:

(a) AN EMPLOYEE SHALL NOTIFY THE EMPLOYEE'S EMPLOYER OF THE NEED FOR PAID SICK LEAVE UNDER THIS SECTION AS SOON AS PRACTICABLE WHEN THE NEED FOR PAID SICK LEAVE IS FORESEEABLE AND THE EMPLOYER'S PLACE OF BUSINESS HAS NOT BEEN CLOSED;

(b) DOCUMENTATION IS NOT REQUIRED TO TAKE PAID SICK LEAVE UNDER THIS SECTION; AND

(c) EMPLOYEES ARE ONLY ELIGIBLE FOR PAID SICK LEAVE IN THE AMOUNT DESCRIBED IN SUBSECTION (1) OF THIS SECTION ONCE DURING THE ENTIRETY OF A PUBLIC HEALTH EMERGENCY EVEN IF SUCH PUBLIC HEALTH EMERGENCY IS AMENDED, EXTENDED, RESTATED, OR PROLONGED.

8-13.3-406. Paid sick leave related to COVID-19. (1) EMPLOYERS IN THE STATE SHALL COMPLY WITH THE FEDERAL "EMERGENCY PAID SICK LEAVE ACT" IN THE "FAMILIES FIRST CORONAVIRUS RESPONSE ACT", PUB. L. 116-127.

(2) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION THROUGH DECEMBER 31, 2020, EACH EMPLOYER IN THE STATE, REGARDLESS OF SIZE, SHALL PROVIDE PAID SICK LEAVE IN THE AMOUNT AND FOR THE PURPOSES PROVIDED IN THE FEDERAL "EMERGENCY PAID SICK LEAVE ACT" IN THE "FAMILIES FIRST CORONAVIRUS RESPONSE ACT", PUB. L. 116-127, TO EACH EMPLOYEE WHO IS NOT COVERED UNDER THE "EMERGENCY PAID SICK LEAVE ACT".

8-13.3-407. Employee rights protected - retaliation prohibited.

(1) AN EMPLOYEE IS ENTITLED TO:

(a) USE PAID SICK LEAVE CONSISTENT WITH THIS PART 4;

(b) FILE A COMPLAINT OR INFORM ANY PERSON ABOUT AN EMPLOYER'S ALLEGED VIOLATION OF THIS PART 4;

(c) COOPERATE WITH THE DIVISION IN ITS INVESTIGATION OF AN ALLEGED VIOLATION OF THIS PART 4; AND

(d) INFORM ANY PERSON OF THE PERSON'S POTENTIAL RIGHTS UNDER THIS PART 4.

(2) (a) AN EMPLOYER SHALL NOT TAKE RETALIATORY PERSONNEL ACTION OR DISCRIMINATE AGAINST AN EMPLOYEE OR FORMER EMPLOYEE BECAUSE THE PERSON HAS EXERCISED, ATTEMPTED TO EXERCISE, OR SUPPORTED THE EXERCISE OF RIGHTS PROTECTED UNDER THIS PART 4, INCLUDING THE RIGHT TO REQUEST OR USE PAID SICK LEAVE PURSUANT TO THIS PART 4; THE RIGHT TO FILE A COMPLAINT WITH THE DIVISION OR COURT OR INFORM ANY PERSON ABOUT ANY EMPLOYER'S ALLEGED VIOLATION OF THIS PART 4; THE RIGHT TO PARTICIPATE IN AN INVESTIGATION, HEARING, OR PROCEEDING OR COOPERATE WITH OR ASSIST THE DIVISION IN ITS INVESTIGATIONS OF ALLEGED VIOLATIONS OF THIS PART 4; AND THE RIGHT TO INFORM ANY PERSON OF THE PERSON'S POTENTIAL RIGHTS UNDER THIS PART 4.

(b) IT IS UNLAWFUL FOR AN EMPLOYER TO COUNT PAID SICK LEAVE TAKEN BY AN EMPLOYEE PURSUANT TO THIS PART 4 AS AN ABSENCE THAT MAY LEAD TO OR RESULT IN DISCIPLINE, DISCHARGE, DEMOTION, SUSPENSION, OR ANY OTHER RETALIATORY PERSONNEL ACTION AGAINST THE EMPLOYEE.

(3) THE PROTECTIONS OF THIS SECTION APPLY TO ANY PERSON ACTING IN GOOD FAITH WHO ALLEGES A VIOLATION OF THIS PART 4, EVEN IF THE ALLEGATION IS DETERMINED TO BE MISTAKEN.

(4) THE DIVISION SHALL INVESTIGATE EACH CLAIM OF DENIAL OF PAID SICK LEAVE IN VIOLATION OF THIS PART 4. THE DIVISION MAY INVESTIGATE CLAIMS OF RETALIATION IN VIOLATION OF THIS PART 4.

(5) IF AN INVESTIGATION OF EMPLOYER RETALIATION OR INTERFERENCE WITH EMPLOYEE RIGHTS YIELDS A DETERMINATION THAT:

(a) RIGHTS OF MULTIPLE EMPLOYEES HAVE BEEN VIOLATED, THE VIOLATION AS TO EACH EMPLOYEE IS A SEPARATE VIOLATION FOR PURPOSES OF FINES, PENALTIES, OR OTHER REMEDIES;

(b) A VIOLATION COST AN EMPLOYEE THE EMPLOYEE'S JOB OR PAY, THE DETERMINATION MAY INCLUDE AN ORDER TO REINSTATE THE EMPLOYEE, TO PAY THE EMPLOYEE'S LOST PAY UNTIL REINSTATEMENT OR FOR A

REASONABLE PERIOD IF REINSTATEMENT IS DETERMINED NOT TO BE FEASIBLE, OR BOTH.

(6) DETERMINATIONS MADE BY THE DIVISION UNDER THIS SECTION ARE APPEALABLE PURSUANT TO SECTION 8-4-111.5 AND RULES PROMULGATED BY THE DEPARTMENT REGARDING APPEALS AND STRATEGIC ENFORCEMENT.

8-13.3-408. Notice to employees - penalty - rules. (1) EACH EMPLOYER SHALL NOTIFY ITS EMPLOYEES THAT THEY ARE ENTITLED TO PAID SICK LEAVE, PURSUANT TO RULES PROMULGATED BY THE DIVISION. THE RULES MUST REQUIRE THE NOTICE TO:

(a) SPECIFY THE AMOUNT OF PAID SICK LEAVE TO WHICH EMPLOYEES ARE ENTITLED AND THE TERMS OF ITS USE UNDER THIS PART 4; AND

(b) NOTIFY EMPLOYEES THAT EMPLOYERS CANNOT RETALIATE AGAINST AN EMPLOYEE FOR REQUESTING OR USING PAID SICK LEAVE AND THAT AN EMPLOYEE HAS THE RIGHT TO FILE A COMPLAINT OR BRING A CIVIL ACTION IF PAID SICK LEAVE IS DENIED BY THE EMPLOYER OR THE EMPLOYER RETALIATES AGAINST THE EMPLOYEE FOR EXERCISING THE EMPLOYEE'S RIGHTS UNDER THIS PART 4.

(2) AN EMPLOYER COMPLIES WITH THE NOTICE REQUIREMENTS OF THIS SECTION BY:

(a) SUPPLYING EACH EMPLOYEE WITH A WRITTEN NOTICE CONTAINING THE INFORMATION SPECIFIED IN SUBSECTION (1) OF THIS SECTION THAT IS IN ENGLISH AND IN ANY LANGUAGE THAT IS THE FIRST LANGUAGE SPOKEN BY AT LEAST FIVE PERCENT OF THE EMPLOYER'S WORKFORCE; AND

(b) DISPLAYING A POSTER CREATED PURSUANT TO SUBSECTION (3) OF THIS SECTION IN A CONSPICUOUS AND ACCESSIBLE LOCATION IN EACH ESTABLISHMENT WHERE THE EMPLOYER'S EMPLOYEES WORK THAT CONTAINS THE INFORMATION REQUIRED BY SUBSECTION (1) OF THIS SECTION IN ENGLISH AND IN ANY LANGUAGE THAT IS THE FIRST LANGUAGE SPOKEN BY AT LEAST FIVE PERCENT OF THE EMPLOYER'S WORKFORCE.

(3) THE DIVISION SHALL CREATE AND MAKE AVAILABLE TO

EMPLOYERS POSTERS AND NOTICES THAT CONTAIN THE INFORMATION REQUIRED BY SUBSECTION (1) OF THIS SECTION, AND EMPLOYERS MAY USE THE POSTERS AND NOTICES TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

(4) (a) AN EMPLOYER WHO WILLFULLY VIOLATES SUBSECTION (2)(a) OR (6) OF THIS SECTION IS SUBJECT TO A CIVIL FINE NOT TO EXCEED ONE HUNDRED DOLLARS FOR EACH SEPARATE VIOLATION.

(b) AN EMPLOYER WHO WILLFULLY VIOLATES SUBSECTION (2)(b) OF THIS SECTION IS SUBJECT TO A CIVIL FINE NOT TO EXCEED ONE HUNDRED DOLLARS.

(c) THE FINES COLLECTED UNDER THIS SUBSECTION (4) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL DEPOSIT THE FINES IN THE GENERAL FUND.

(5) IF AN EMPLOYER'S BUSINESS IS CLOSED DUE TO A PUBLIC HEALTH EMERGENCY OR A DISASTER EMERGENCY DUE TO A PUBLIC HEALTH CONCERN, THE NOTICE AND POSTING REQUIREMENTS OF THIS SECTION ARE WAIVED FOR THE PERIOD DURING WHICH THE PLACE OF BUSINESS IS CLOSED.

(6) IF AN EMPLOYER DOES NOT MAINTAIN A PHYSICAL WORKPLACE, OR AN EMPLOYEE TELEWORKS OR PERFORMS WORK THROUGH A WEB-BASED PLATFORM, THE EMPLOYER SHALL PROVIDE THE NOTICE REQUIRED IN THIS SECTION THROUGH ELECTRONIC COMMUNICATION OR A CONSPICUOUS POSTING IN THE WEB-BASED PLATFORM.

8-13.3-409. Employer records. (1) AN EMPLOYER SHALL RETAIN RECORDS FOR EACH EMPLOYEE FOR A TWO-YEAR PERIOD, DOCUMENTING HOURS WORKED, PAID SICK LEAVE ACCRUED, AND PAID SICK LEAVE USED. UPON APPROPRIATE NOTICE AND AT A MUTUALLY AGREEABLE TIME, THE EMPLOYER SHALL ALLOW THE DIVISION ACCESS TO THE RECORDS FOR PURPOSES OF MONITORING COMPLIANCE WITH THIS PART 4.

(2) IF AN ISSUE ARISES AS TO AN EMPLOYEE'S RIGHT TO PAID SICK LEAVE AND THE EMPLOYER HAS NOT MAINTAINED OR RETAINED ADEQUATE RECORDS FOR THAT EMPLOYEE OR DOES NOT ALLOW THE DIVISION REASONABLE ACCESS TO THE RECORDS, THE EMPLOYER SHALL BE PRESUMED TO HAVE VIOLATED THIS PART 4 UNLESS THE EMPLOYER DEMONSTRATES

COMPLIANCE BY A PREPONDERANCE OF THE EVIDENCE.

8-13.3-410. Authority of director - rules. THE DIRECTOR MAY COORDINATE IMPLEMENTATION AND ENFORCEMENT OF THIS PART 4 AND ADOPT RULES AS NECESSARY FOR SUCH PURPOSES.

8-13.3-411. Enforcement - judicial review of director's actions - repeal. (1) THE DIRECTOR AND THE DIVISION HAVE JURISDICTION OVER THE ENFORCEMENT OF THIS PART 4 AND MAY EXERCISE ALL POWERS GRANTED UNDER ARTICLE 1 OF THIS TITLE 8 TO ENFORCE THIS PART 4.

(2) THE DIVISION MAY ENFORCE THE REQUIREMENTS OF THIS PART 4.

(3) PURSUANT TO SECTION 8-1-130, ANY FINDINGS, AWARDS, OR ORDERS ISSUED BY THE DIRECTOR WITH RESPECT TO ENFORCEMENT OF THIS PART 4 CONSTITUTE FINAL AGENCY ACTION, AND ANY PERSON AFFECTED BY SUCH FINAL AGENCY ACTION MAY SEEK JUDICIAL REVIEW AS PROVIDED IN SECTION 24-4-106.

(4) (a) A PERSON AGGRIEVED BY A VIOLATION OF THIS PART 4 MAY COMMENCE A CIVIL ACTION IN DISTRICT COURT NO LATER THAN TWO YEARS AFTER THE VIOLATION OCCURS. A VIOLATION OF THIS PART 4 OCCURS ON EACH OCCASION THAT A PERSON IS AFFECTED BY A FAILURE TO PROVIDE PAID SICK LEAVE OR RETALIATION RELATED TO PAID SICK LEAVE.

(b) (I) BEGINNING JANUARY 1, 2021, AN EMPLOYER WITH SIXTEEN OR MORE EMPLOYEES WHO VIOLATES THIS PART 4 IS LIABLE FOR BACK PAY AND ANY OTHER RELIEF AS PROVIDED BY SECTION 8-5-104 (2)(a) AND (2)(b). THIS SUBSECTION (4)(b)(I) IS REPEALED, EFFECTIVE JANUARY 1, 2022.

(II) BEGINNING JANUARY 1, 2022, AN EMPLOYER WHO VIOLATES THIS PART 4 IS LIABLE FOR BACK PAY AND ANY OTHER RELIEF AS PROVIDED BY SECTION 8-5-104 (2)(a) AND (2)(b).

(c) IF A CIVIL ACTION IS COMMENCED UNDER THIS SECTION, ANY PARTY TO THE CIVIL ACTION MAY DEMAND A TRIAL BY JURY.

(d) BEFORE COMMENCING ANY CIVIL ACTION UNDER THIS SECTION, AN AGGRIEVED PERSON MUST, IN ACCORDANCE WITH ARTICLE 4 OF THIS

TITLE 8, SUBMIT A COMPLAINT TO THE DIVISION OR MAKE A WRITTEN DEMAND FOR COMPENSATION OR OTHER RELIEF TO THE EMPLOYER. AN EMPLOYER HAS FOURTEEN DAYS TO RESPOND AFTER RECEIVING EITHER A NOTICE FROM THE DIVISION THAT A COMPLAINT HAS BEEN FILED WITH THE DIVISION OR A WRITTEN DEMAND FROM THE AGGRIEVED PERSON FOR COMPENSATION OR OTHER RELIEF UNDER THIS PART 4.

(e) IF A PERSON AGGRIEVED BY A VIOLATION OF THIS PART 4 FILES A CIVIL ACTION TO ENFORCE A JUDGMENT MADE UNDER THIS SECTION, THE COURT SHALL WAIVE ANY FILING FEE REQUIRED UNDER ARTICLE 32 OF TITLE 13.

(f) NOTHING IN THIS SECTION PREVENTS AN AGGRIEVED PERSON FROM FILING A CHARGE WITH THE DIVISION PURSUANT TO THIS SECTION.

8-13.3-412. Confidentiality of employee information - definition.

(1) AN EMPLOYER SHALL NOT REQUIRE DISCLOSURE OF DETAILS RELATING TO DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING OR THE DETAILS OF AN EMPLOYEE'S OR AN EMPLOYEE'S FAMILY MEMBER'S HEALTH INFORMATION AS A CONDITION OF PROVIDING PAID SICK LEAVE UNDER THIS PART 4.

(2) ANY HEALTH OR SAFETY INFORMATION POSSESSED BY AN EMPLOYER REGARDING AN EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER MUST:

(a) BE MAINTAINED ON A SEPARATE FORM AND IN A SEPARATE FILE FROM OTHER PERSONNEL INFORMATION;

(b) BE TREATED AS CONFIDENTIAL MEDICAL RECORDS; AND

(c) NOT BE DISCLOSED EXCEPT TO THE AFFECTED EMPLOYEE OR WITH THE EXPRESS PERMISSION OF THE AFFECTED EMPLOYEE.

(3) AS USED IN THIS SECTION, "AFFECTED EMPLOYEE" MEANS THE EMPLOYEE:

(a) ABOUT WHOM THE HEALTH INFORMATION PERTAINS OR WHO IS THE VICTIM OF THE DOMESTIC ABUSE, SEXUAL ASSAULT, OR HARASSMENT;
OR

(b) WHOSE FAMILY MEMBER IS THE SUBJECT OF THE HEALTH INFORMATION OR IS THE VICTIM OF THE DOMESTIC ABUSE, SEXUAL ASSAULT, OR HARASSMENT.

8-13.3-413. Employers encouraged to provide more generous paid sick leave. (1) NOTHING IN THIS PART 4 DISCOURAGES OR PROHIBITS AN EMPLOYER FROM ADOPTING OR CONTINUING A PAID SICK LEAVE POLICY THAT IS MORE GENEROUS THAN THE PAID SICK LEAVE POLICY REQUIRED BY THIS PART 4.

(2) NOTHING IN THIS PART 4 DIMINISHES:

(a) THE OBLIGATION OF AN EMPLOYER TO COMPLY WITH ANY CONTRACT, COLLECTIVE BARGAINING AGREEMENT, EMPLOYMENT BENEFIT PLAN, OR OTHER AGREEMENT PROVIDING EMPLOYEES WITH A MORE GENEROUS PAID SICK LEAVE POLICY THAN THE PAID SICK LEAVE POLICY REQUIRED BY THIS PART 4; OR

(b) THE RIGHTS, PRIVILEGES, OR REMEDIES OF AN EMPLOYEE UNDER A COLLECTIVE BARGAINING OR PARTNERSHIP AGREEMENT, EMPLOYER POLICY, OR EMPLOYMENT CONTRACT.

(3) NOTHING IN THIS PART 4 DIMINISHES THE RIGHTS OF PUBLIC EMPLOYEES REGARDING PAID SICK LEAVE OR THE USE OF PAID SICK LEAVE AS PROVIDED IN SECTION 24-50-104 (7).

8-13.3-414. Other legal requirements applicable. (1) THIS PART 4 PROVIDES MINIMUM REQUIREMENTS PERTAINING TO PAID SICK LEAVE AND DOES NOT PREEMPT, LIMIT, OR OTHERWISE AFFECT THE APPLICABILITY OF ANY OTHER LAW, REGULATION, REQUIREMENT, POLICY, OR STANDARD THAT PROVIDES FOR A GREATER AMOUNT, ACCRUAL, OR USE BY EMPLOYEES OF PAID SICK LEAVE OR THAT EXTENDS OTHER PROTECTIONS TO EMPLOYEES.

(2) TO THE EXTENT ALLOWABLE AND NOT IN CONFLICT WITH FEDERAL LAW, ANY PAID SICK LEAVE PROVIDED TO AN EMPLOYEE OF A FEDERAL CONTRACTOR AS REQUIRED BY FEDERAL EXECUTIVE ORDER 13706, "ESTABLISHING PAID SICK LEAVE FOR FEDERAL CONTRACTORS", AS PUBLISHED IN 81 FED. REG. 67598 (2016), IS CONSIDERED PAID SICK LEAVE PROVIDED UNDER THIS PART 4.

8-13.3-415. Collective bargaining agreements. (1) (a) WITH AGREEMENT OF THE FUND TRUSTEES, AN EMPLOYER SIGNATORY TO A MULTIEMPLOYER COLLECTIVE BARGAINING AGREEMENT MAY FULFILL ITS OBLIGATIONS UNDER THIS PART 4 BY MAKING CONTRIBUTIONS TO A MULTIEMPLOYER PAID SICK LEAVE FUND, PLAN, OR PROGRAM BASED ON THE HOURS EACH OF ITS EMPLOYEES ACCRUES PURSUANT TO THIS PART 4 WHILE WORKING UNDER THE MULTIEMPLOYER COLLECTIVE BARGAINING AGREEMENT, IF THE FUND, PLAN, OR PROGRAM ENABLES EMPLOYEES TO COLLECT PAID SICK LEAVE FROM THE FUND, PLAN, OR PROGRAM BASED ON HOURS THEY HAVE WORKED UNDER THE MULTIEMPLOYER COLLECTIVE BARGAINING AGREEMENT AND FOR THE PURPOSES SPECIFIED UNDER THIS PART 4.

(b) EMPLOYEES WHO WORK UNDER A MULTIEMPLOYER COLLECTIVE BARGAINING AGREEMENT INTO WHICH THEIR EMPLOYERS MAKE CONTRIBUTIONS AS PROVIDED IN SUBSECTION (1)(a) OF THIS SECTION MAY COLLECT FROM THE PAID SICK LEAVE FUND, PLAN, OR PROGRAM BASED ON HOURS THEY HAVE WORKED UNDER THE MULTIEMPLOYER COLLECTIVE BARGAINING AGREEMENT AND FOR THE PURPOSES SPECIFIED UNDER THIS PART 4.

(2) THIS PART 4 DOES NOT APPLY TO EMPLOYEES COVERED BY A BONA FIDE COLLECTIVE BARGAINING AGREEMENT IN EFFECT ON THE EFFECTIVE DATE OF THIS PART 4 IF THE COLLECTIVE BARGAINING AGREEMENT PROVIDES FOR EQUIVALENT OR MORE GENEROUS PAID SICK LEAVE FOR THE EMPLOYEES COVERED BY THE COLLECTIVE BARGAINING AGREEMENT.

(3) FOR EMPLOYEES COVERED BY A BONA FIDE COLLECTIVE BARGAINING AGREEMENT THAT IS INITIALLY NEGOTIATED OR NEGOTIATED FOR THE NEXT COLLECTIVE BARGAINING AGREEMENT AFTER THE EFFECTIVE DATE OF THIS PART 4, THIS PART 4 DOES NOT APPLY TO SUCH EMPLOYEES IF THE REQUIREMENTS OF THIS PART 4 ARE EXPRESSLY WAIVED IN THE COLLECTIVE BARGAINING AGREEMENT AND THE COLLECTIVE BARGAINING AGREEMENT PROVIDES FOR EQUIVALENT OR MORE GENEROUS PAID SICK LEAVE FOR THE EMPLOYEES COVERED BY THE COLLECTIVE BARGAINING AGREEMENT.

8-13.3-416. Employer policies. AN EMPLOYER POLICY ADOPTED OR RETAINED MUST NOT DIMINISH AN EMPLOYEE'S RIGHT TO PAID SICK LEAVE

UNDER THIS PART 4. ANY AGREEMENT BY AN EMPLOYEE TO WAIVE THE EMPLOYEE'S RIGHTS UNDER THIS PART 4 IS VOID AS AGAINST PUBLIC POLICY.

8-13.3-417. Severability. IF ANY PROVISION OF THIS PART 4 OR APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS JUDGED INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS PART 4 THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS PART 4 ARE DECLARED SEVERABLE.

8-13.3-418. Employer authorized to take disciplinary action. NOTHING IN THIS PART 4 PROHIBITS AN EMPLOYER FROM TAKING DISCIPLINARY ACTION AGAINST AN EMPLOYEE WHO USES PAID SICK LEAVE PROVIDED UNDER THIS PART 4 FOR PURPOSES OTHER THAN THOSE DESCRIBED IN THIS PART 4.

SECTION 2. In Colorado Revised Statutes, 8-4-101, add (14)(a)(IV) as follows:

8-4-101. Definitions. As used in this article 4, unless the context otherwise requires:

(14) (a) "Wages" or "compensation" means:

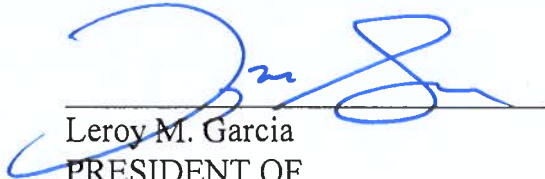
(IV) "PAID SICK LEAVE" AS PROVIDED IN PART 4 OF ARTICLE 13.3 OF THIS TITLE 8.


SECTION 3. Appropriation. For the 2020-21 state fiscal year, \$206,566 is appropriated to the department of labor and employment for use by the division of labor standards and statistics. This appropriation is from the general fund and is based on an assumption that the division will require an additional 2.7 FTE. To implement this act, the division may use this appropriation for program costs related to labor standards.


SECTION 4. Applicability. This act applies to conduct occurring on or after the effective date of this act.


SECTION 5. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.


Leroy M. Garcia
PRESIDENT OF
THE SENATE


KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES


Cindi L. Markwell
SECRETARY OF
THE SENATE


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED July 14, 2020 at 11:40 am
(Date and Time)


Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

Senate Bill 20-207

Increase in Unemployment Insurance Wage Base

An Act

SENATE BILL 20-207

BY SENATOR(S) Hansen and Winter, Bridges, Danielson, Pettersen, Fenberg, Fields, Foote, Ginal, Lee, Moreno, Story, Williams A.; also REPRESENTATIVE(S) Gray and Sullivan, Buckner, Buentello, Cutter, Duran, Esgar, Exum, Froelich, Hooton, Jackson, Jaquez Lewis, Kipp, Lontine, McLachlan, Melton, Michaelson Jenet, Mullica, Roberts, Titone, Valdez A., Valdez D., Young, Becker.

CONCERNING UNEMPLOYMENT INSURANCE.

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

SECTION 1. In Colorado Revised Statutes, 8-70-103, **amend** the introductory portion and (6.5) as follows:

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

(6.5) (a) "Chargeable wages" means those wages paid to an individual employee during a calendar year on which the employer of that employee is required to pay premiums as provided by article 76 of this ~~title~~ **TITLE** 8, including all wages subject to a tax under federal law, which imposes a tax against which credit may be taken for premiums required to

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

be paid into a state THE unemployment COMPENSATION fund. For each calendar year, chargeable wages is the first ten thousand dollars paid to an individual; except that, effective January 1, 2012, chargeable wages for each calendar year is the first eleven thousand dollars paid to an individual and except that, after January 1, 2013, chargeable wages is the first eleven thousand dollars paid to an individual, adjusted by the change in the average weekly earnings prescribed in section 8-73-102, rounded to the nearest one hundred dollars: AS FOLLOWS:

(I) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2021, THE FIRST THIRTEEN THOUSAND SIX HUNDRED DOLLARS PAID TO AN INDIVIDUAL;

(II) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2022, THE FIRST SEVENTEEN THOUSAND DOLLARS PAID TO AN INDIVIDUAL;

(III) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2023, THE FIRST TWENTY THOUSAND FOUR HUNDRED DOLLARS PAID TO AN INDIVIDUAL;

(IV) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2024, THE FIRST TWENTY-THREE THOUSAND EIGHT HUNDRED DOLLARS PAID TO AN INDIVIDUAL;

(V) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2025, THE FIRST TWENTY-SEVEN THOUSAND TWO HUNDRED DOLLARS PAID TO AN INDIVIDUAL; AND

(VI) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2026, AND EACH CALENDAR YEAR THEREAFTER, THE FIRST THIRTY THOUSAND SIX HUNDRED DOLLARS PAID TO AN INDIVIDUAL, ADJUSTED BY THE CHANGE IN THE AVERAGE WEEKLY EARNINGS PRESCRIBED IN SECTION 8-73-102, ROUNDED TO THE NEAREST ONE HUNDRED DOLLARS.

(b) As used in articles 70 to 82 of this title TITLE 8, chargeable wages paid includes chargeable wages constructively paid as well as chargeable wages actually paid.

SECTION 2. In Colorado Revised Statutes, 8-73-102, **amend** (4); and **add** (8) as follows:

8-73-102. Weekly benefit amount for total unemployment -

definitions - repeal. (4) (a) There shall be deducted from the weekly benefit amount that part of wages payable to ~~such~~ AN individual with respect to ~~such~~ A week that is in excess of twenty-five percent of the weekly benefit amount, and the weekly benefit amount resulting shall be computed to the next lower multiple of one dollar.

(b) (I) NOTWITHSTANDING SUBSECTION (4)(a) OF THIS SECTION, ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, AND FOR TWO CALENDAR YEARS THEREAFTER, THERE SHALL BE DEDUCTED FROM THE WEEKLY BENEFIT AMOUNT THAT PART OF WAGES PAYABLE TO AN INDIVIDUAL WITH RESPECT TO A WEEK THAT IS IN EXCESS OF FIFTY PERCENT OF THE WEEKLY BENEFIT AMOUNT, AND THE WEEKLY BENEFIT AMOUNT RESULTING SHALL BE COMPUTED TO THE NEXT LOWEST MULTIPLE OF ONE DOLLAR.

(II) THIS SUBSECTION (4)(b) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

(8) AS USED IN THIS SECTION:

(a) "ELECTION JUDGE" HAS THE SAME MEANING AS IN SECTION 1-6-101 (1).

(b) "WAGES" DOES NOT INCLUDE PAYMENT MADE TO AN ELECTION JUDGE FOR SERVICES; EXCEPT THAT "WAGES" INCLUDES PAYMENT MADE TO AN ELECTION JUDGE IF THE PAYMENT EXCEEDS THE MAXIMUM AMOUNT PERMISSIBLE PURSUANT TO FEDERAL LAW.

SECTION 3. In Colorado Revised Statutes, 8-73-103, **amend** (1) as follows:

8-73-103. Benefits for partial unemployment - repeal.
(1) (a) Each eligible individual who is partially unemployed shall be paid a partial benefit. Partial benefits shall be in an amount equal to the eligible individual's weekly benefit amount for total unemployment, minus that part of wages payable to ~~such~~ THE individual with respect to ~~such~~ THE week ~~which~~ THAT is in excess of twenty-five percent of ~~his~~ THE INDIVIDUAL'S weekly benefit amount as computed in accordance with section 8-73-102, and the benefit payment resulting shall be computed to the next lower multiple of one dollar.

(b) (I) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, AND FOR TWO CALENDAR YEARS THEREAFTER, PARTIAL BENEFITS SHALL BE IN AN AMOUNT EQUAL TO THE ELIGIBLE INDIVIDUAL'S WEEKLY BENEFIT AMOUNT FOR TOTAL UNEMPLOYMENT, MINUS THAT PART OF WAGES PAYABLE TO THE INDIVIDUAL WITH RESPECT TO THE WEEK THAT IS IN EXCESS OF FIFTY PERCENT OF THE INDIVIDUAL'S WEEKLY BENEFIT AMOUNT AS COMPUTED IN ACCORDANCE WITH SECTION 8-73-102, AND THE BENEFIT PAYMENT RESULTING SHALL BE COMPUTED TO THE NEXT LOWER MULTIPLE OF ONE DOLLAR.

(II) THIS SUBSECTION (1)(b) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

SECTION 4. In Colorado Revised Statutes, 8-73-108, **amend** (5)(b) introductory portion; and **add** (4)(w), (4)(x), (4)(y), (5)(b)(IV), (5)(b)(V), and (5)(b)(VI) as follows:

8-73-108. Benefit awards. (4) Full award. An individual separated from a job must be given a full award of benefits if the division determines that any of the following reasons and pertinent related conditions exist. The determination of whether or not the separation from employment must result in a full award of benefits is the responsibility of the division. The following reasons must be considered, along with any other factors that may be pertinent to such determination:

(w) SEPARATING FROM EMPLOYMENT BECAUSE THE EMPLOYER REQUIRES THE EMPLOYEE TO WORK IN AN ENVIRONMENT THAT IS NOT IN COMPLIANCE WITH:

(I) FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION GUIDELINES APPLICABLE TO THE EMPLOYER'S BUSINESS AND WORKPLACE AT THE TIME OF THE DETERMINATION;

(II) STATE AND FEDERAL LAWS, RULES, AND REGULATIONS CONCERNING DISEASE MITIGATION AND WORKPLACE SAFETY;

(III) AN EXECUTIVE ORDER ISSUED BY THE GOVERNOR REQUIRING THE EMPLOYER TO CLOSE THE BUSINESS OR MODIFY THE OPERATION OF THE BUSINESS; AND

(IV) ANY PUBLIC HEALTH ORDER ISSUED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR A LOCAL GOVERNMENT TO CLOSE THE BUSINESS OR MODIFY THE OPERATION OF THE BUSINESS;

(x) SEPARATING FROM EMPLOYMENT BECAUSE THE EMPLOYEE IS THE PRIMARY CARETAKER OF:

(I) A CHILD ENROLLED IN A SCHOOL THAT IS CLOSED DUE TO A PUBLIC HEALTH EMERGENCY; OR

(II) A FAMILY MEMBER OR HOUSEHOLD MEMBER WHO IS QUARANTINED DUE TO AN ILLNESS DURING A PUBLIC HEALTH EMERGENCY;

(y) SEPARATING FROM EMPLOYMENT BECAUSE THE EMPLOYEE IS IMMUNOCOMPROMISED AND MORE SUSCEPTIBLE TO ILLNESS OR DISEASE DURING A PUBLIC HEALTH EMERGENCY AS EVIDENCED BY THE EMPLOYEE'S HEALTH CARE PROVIDER.

(5) **Disqualification.** (b) The DIVISION SHALL CONSIDER THE refusal of suitable work or refusal of referral to suitable work at any time after the last separation from employment that occurred prior to the time of filing the initial claim ~~shall be considered~~ in determining the direct and proximate cause of the separation. In determining whether or not any work is suitable for an individual, THE DIVISION SHALL CONSIDER the degree of risk involved to ~~his~~ THE INDIVIDUAL'S health, safety, and morals, ~~his~~ THE INDIVIDUAL'S physical fitness and prior training, ~~his~~ THE INDIVIDUAL'S experience and prior earnings, ~~his~~ THE INDIVIDUAL'S length of unemployment and prospects for securing work in ~~his~~ THE INDIVIDUAL'S customary occupation, and the distance of the available local work from ~~his~~ THE INDIVIDUAL'S residence. ~~shall be considered.~~ Notwithstanding any other provisions of articles 70 to 82 of this title, ~~no~~ TITLE 8, THE DIVISION SHALL NOT DEEM work ~~shall be deemed~~ TO BE suitable and SHALL NOT DENY benefits ~~shall not be denied~~ under articles 70 to 82 of this title TITLE 8 to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(IV) THE EMPLOYER REQUIRES THE INDIVIDUAL TO WORK IN AN ENVIRONMENT THAT IS NOT IN COMPLIANCE WITH:

(A) FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION

GUIDELINES APPLICABLE TO THE EMPLOYER'S BUSINESS AND WORKPLACE AT THE TIME OF THE DETERMINATION;

(B) STATE OR FEDERAL LAWS, RULES, AND REGULATIONS CONCERNING DISEASE MITIGATION AND WORKPLACE SAFETY;

(C) AN EXECUTIVE ORDER ISSUED BY THE GOVERNOR REQUIRING THE EMPLOYER TO CLOSE THE BUSINESS OR MODIFY THE OPERATION OF THE BUSINESS; AND

(D) ANY PUBLIC HEALTH ORDER ISSUED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR A LOCAL GOVERNMENT TO CLOSE THE BUSINESS OR MODIFY THE OPERATION OF THE BUSINESS;

(V) THE INDIVIDUAL IS THE PRIMARY CARETAKER OF:

(A) A CHILD ENROLLED IN A SCHOOL THAT IS CLOSED DUE TO A PUBLIC HEALTH EMERGENCY; OR

(B) A FAMILY MEMBER OR HOUSEHOLD MEMBER WHO IS QUARANTINED DUE TO AN ILLNESS DURING A PUBLIC HEALTH EMERGENCY; OR

(VI) THE EMPLOYEE IS IMMUNOCOMPROMISED AND MORE SUSCEPTIBLE TO ILLNESS OR DISEASE DURING A PUBLIC HEALTH EMERGENCY AS EVIDENCED BY THE EMPLOYEE'S HEALTH CARE PROVIDER.

SECTION 5. In Colorado Revised Statutes, 8-74-102, amend (1) as follows:

8-74-102. Deputy's decision - rules. (1) Upon receipt of a claim, the division shall notify any other interested parties of the claim by mail or electronic means in accordance with such rules as the director of the division may promulgate. ~~Such~~ THE interested parties ~~shall~~ MUST be afforded ~~twelve~~ SEVEN calendar days after the date of ~~such~~ THE notice of the claim to present any information pertinent to the claim by mail, telephone, or electronic means in accordance with such rules as the director of the division may promulgate. ~~Such~~ THE information ~~shall~~ MUST be received by the division within ~~twelve~~ SEVEN calendar days after said date. If the ~~twelfth~~ SEVENTH calendar day falls on a weekend or a state holiday, ~~such~~ THE date

~~shall~~ MUST be moved to the first working day immediately following such weekend or holiday. The interested party may present information out of time only if good cause is shown. A deputy to be designated by the director of the division shall promptly examine all materials submitted. Whenever information submitted is not clearly adequate to substantiate a decision, the deputy shall promptly seek the necessary information. If it is necessary to obtain information by mail from any source, the information shall be received by the division no later than seven calendar days after the date of the request for information. On the basis of the deputy's review, the deputy shall determine the validity of the claim and, if valid, when payment shall commence, the amount payable, and the duration of payment. The deputy shall issue a decision in all cases, even if the claimant has insufficient qualifying wages, unless the interested employer did not receive notice of the claim, except when the separation from employment is due to a lack of work and no alleged disqualifying circumstances are indicated, or unless the claimant did not file a continued claim. The deputy's decision shall set forth findings of fact, conclusions of law, and an order. The division shall promptly provide all interested parties with copies of the deputy's decision.

SECTION 6. In Colorado Revised Statutes, 8-75-203, amend (1)(b)(I) and (2)(c) as follows:

8-75-203. Work share program - work share plan - eligibility of employer - approval - denial - rules. (1) (b) (I) The director shall establish a voluntary work share program for the purpose of allowing the payment of unemployment compensation benefits to employees whose wages and hours have been reduced. In order to participate in the work share program, an employer shall submit a work share plan in writing to the director for approval. If the employer is subject to a collective bargaining agreement, the collective bargaining unit must agree in writing to the work share plan prior to implementation. An employer that is a negative excess employer pursuant to section 8-76-102.5 (3) ~~is not~~ MAY BE eligible to participate in the work share program IN ACCORDANCE WITH RULES ADOPTED BY THE DIRECTOR CONCERNING ELIGIBILITY REQUIREMENTS.

(2) An employer must submit a work share plan to the division on forms and following procedures required by the director. The director may approve a work share plan if:

(c) The plan reduces the normal work for an employee in the

affected unit by at least ten percent and not more than ~~forty percent~~ AN AMOUNT CONSISTENT WITH RULES PROMULGATED BY THE DIRECTOR AND AUTHORIZED UNDER 26 U.S.C. SEC. 3306 (v);

SECTION 7. In Colorado Revised Statutes, 8-75-204, **amend** (1) introductory portion and (1)(b) as follows:

8-75-204. Employee eligibility for unemployment benefits under the work share plan - employee eligibility for job training. (1) Notwithstanding any other provision of this ~~title~~ TITLE 8, an employee may be eligible for unemployment compensation benefits for a particular week pursuant to this part 2 if:

(b) ~~The employee's normal weekly work hours have~~ REMUNERATION HAS been reduced by at least ten percent but not more than forty percent and ~~the employee has received a corresponding reduction in wages for that week~~ AN AMOUNT CONSISTENT WITH A REDUCTION IN HOURS RULES AS ESTABLISHED IN AN APPROVED WORK SHARE PLAN PURSUANT TO SECTION 8-75-203 (2)(c); and

SECTION 8. In Colorado Revised Statutes, 8-77-109, **amend** (1)(b); and **repeal** (2)(a.7) and (2)(a.8) as follows:

8-77-109. Employment support fund - employment and training technology fund - created - uses. (1) (b) ~~(1)~~ There is hereby established the employment support fund. This fund consists of the first 0.0011 assessed as part of each employer's premium under section 8-76-102.5 (3)(a). ~~or the amount expended from the employment support fund in the year prior to July 1, 2011, adjusted by the same percentage change prescribed in section 8-70-103 (6.5), whichever is less. The division must transfer to the unemployment compensation fund amounts in excess of the amount expended from the employment support fund in the year prior to July 1, 2011, adjusted each year by the same percentage change prescribed in section 8-70-103 (6.5). In addition, revenues to pay nonprincipal-related bond costs for bonds issued under section 29-4-710.7, C.R.S., or section 8-71-103 (2)(d) may be added to amounts assessed under this section. The division may transfer any moneys in the employment support fund to the unemployment bond repayment account created in section 8-77-103.5 to pay nonprincipal-related bond costs for bonds issued under section 29-4-710.7, C.R.S., or section 8-71-103 (2)(d). The employment support~~

~~fund is not included in or administered by the enterprise established pursuant to section 8-71-103 (2).~~

~~(H) This paragraph (b) is effective December 31, 2012.~~

~~(2) (a.7) Notwithstanding any provision of this subsection (2) to the contrary, on March 5, 2003, the state treasurer shall deduct five million four hundred thousand dollars from the employment support fund and transfer such sum to the general fund.~~

~~(a.8) Notwithstanding any provision of this subsection (2) to the contrary, on April 20, 2009, the state treasurer shall deduct five million dollars from the employment support fund and transfer such sum to the general fund.~~

SECTION 9. In Colorado Revised Statutes, 8-76-102.5, add (3)(a.5) and (7)(c) as follows:

8-76-102.5. Rates effective upon fund solvency - repeal of prior rates - solvency surcharge - definitions - repeal.
(3) (a.5) NOTWITHSTANDING SUBSECTION (3)(a) OF THIS SECTION, IF THE RESERVE RATIO IS ONE AND FOUR-TENTHS PERCENT OR GREATER ON JUNE 30 OF ANY YEAR, THE DEPARTMENT SHALL REDUCE EMPLOYER PREMIUMS UP TO FIFTEEN PERCENT FOR THE FOLLOWING CALENDAR YEAR.

(7) (c) (I) NOTWITHSTANDING SUBSECTION (7)(a) OF THIS SECTION, FOR THE CALENDAR YEARS 2021 AND 2022, THE DIVISION SHALL NOT ASSESS A SOLVENCY SURCHARGE ON ANY EMPLOYER.

(II) THIS SUBSECTION (7)(c) IS REPEALED, EFFECTIVE JANUARY 1, 2023.

SECTION 10. In Colorado Revised Statutes, add 8-77-101.5 as follows:

8-77-101.5. CARES act funds - administration - transfer - unemployment compensation fund - legislative declaration. (1) THE GENERAL ASSEMBLY FINDS THAT:

(a) ON MARCH 27, 2020, THE FEDERAL GOVERNMENT ENACTED THE

"CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT" ("CARES ACT"), PUB.L. 116-136, PURSUANT TO WHICH COLORADO RECEIVED APPROXIMATELY ONE BILLION SIX HUNDRED SEVENTY-FOUR MILLION DOLLARS FROM THE FEDERAL CORONAVIRUS RELIEF FUND TO USE FOR NECESSARY EXPENDITURES INCURRED DUE TO THE CURRENT COVID-19 PUBLIC HEALTH EMERGENCY;

(b) THE PUBLIC HEALTH EMERGENCY CAUSED BY COVID-19 CAUSED A HISTORIC INCREASE IN UNEMPLOYMENT IN THE STATE AND THIS HAS CAUSED A DRAMATIC INCREASE IN THE NUMBER OF CLAIMS FOR BENEFITS FROM THE UNEMPLOYMENT COMPENSATION FUND CREATED IN SECTION 8-77-101;

(c) AS A RESULT, IT IS ESTIMATED THAT THE UNEMPLOYMENT COMPENSATION FUND, CREATED IN SECTION 8-77-101, WILL HAVE A DEFICIT OF APPROXIMATELY TWO BILLION DOLLARS BY THE END OF FISCAL YEAR 2020-21;

(d) THESE COSTS WILL NOT BE REIMBURSED BY THE FEDERAL GOVERNMENT, NOR ARE THEY ACCOUNTED FOR IN THE BUDGET APPROVED AS OF MARCH 27, 2020;

(e) THE UNITED STATES DEPARTMENT OF TREASURY HAS STATED THAT PAYMENTS TO THE STATE UNEMPLOYMENT COMPENSATION FUND, CREATED IN SECTION 8-77-101, ARE AN ALLOWABLE USE OF THE MONEY FROM THE FEDERAL CORONAVIRUS RELIEF FUND, UNDER SECTION 42 U.S.C. SEC. 801 (d); AND

(f) THE TRANSFER OF MONEY FROM THE "CARES ACT" TO THE STATE UNEMPLOYMENT COMPENSATION FUND, CREATED IN SECTION 8-77-101, IS A NECESSARY EXPENDITURE INCURRED DUE TO THE PUBLIC HEALTH EMERGENCY WITH RESPECT TO COVID-19.

(2) IF, AS OF DECEMBER 30, 2020, THERE IS ANY UNEXPENDED MONEY THAT THE STATE RECEIVED THROUGH SECTION 42 U.S.C. SEC. 801 (d) OF THE "CARES ACT", THEN JUST PRIOR TO THE CLOSE OF BUSINESS ON DECEMBER 30, 2020, THE STATE TREASURER SHALL TRANSFER THE UNEXPENDED AMOUNT OF FEDERAL FUNDS TO THE UNEMPLOYMENT COMPENSATION FUND CREATED IN SECTION 8-77-101.

SECTION 11. In Colorado Revised Statutes, add 8-77-110 as follows:


8-77-110. Office of future of work - study - report. (1) THE OFFICE OF FUTURE OF WORK IN THE DEPARTMENT OF LABOR AND EMPLOYMENT, CREATED BY EXECUTIVE ORDER B 2019 009, SHALL, WITHIN THE SCOPE OF THE EXECUTIVE ORDER, STUDY UNEMPLOYMENT ASSISTANCE AS PART OF ITS STUDY ON THE MODERNIZATION OF WORKER BENEFITS AND PROTECTIONS.


(2) ON OR BEFORE JANUARY 15, 2021, THE OFFICE OF THE FUTURE OF WORK SHALL SUBMIT AN INITIAL REPORT AS DIRECTED BY THE EXECUTIVE ORDER TO THE GOVERNOR AND TO THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE AND THE BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES.


SECTION 12. Effective date. This act takes effect upon passage; except that section 1 of this act takes effect January 1, 2021.

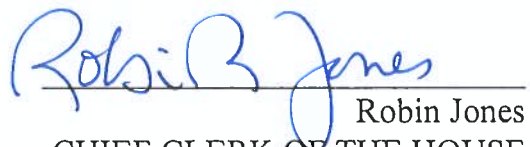
SECTION 13. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

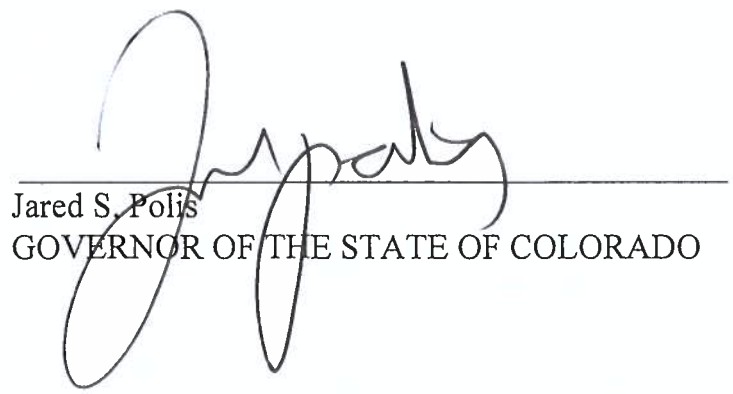

Leroy M. Garcia
PRESIDENT OF
THE SENATE


KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES


Cindi L. Markwell
SECRETARY OF
THE SENATE


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED July 14, 2020 at 11:56
(Date and Time)


Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

Proposition 116

Change in tax rate

Requires withholding on 1099

Be it enacted by the People of the State of Colorado:

RECEIVED

By Steven Ward at 2:51 pm, Apr 03, 2020

SECTION 1. In Colorado Revised Statutes, 39-22-104, **amend** (1.7) as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - legislative declaration - definitions - repeal.

(1.7) (a) Except as otherwise provided in section 39-22-627, subject to subsection (2) of this section, with respect to taxable years commencing on or after January 1, 2000, BUT BEFORE JANUARY 1, 2020, a tax of four and sixty-three one-hundredths percent is imposed on the federal taxable income, as determined pursuant to section 63 of the internal revenue code, of every individual, estate, and trust.

(b) EXCEPT AS OTHERWISE PROVIDED IN SECTION 39-22-627, SUBJECT TO SUBSECTION (2) OF THIS SECTION, WITH RESPECT TO TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2020, A TAX OF FOUR AND FIFTY-FIVE ONE-HUNDREDTHS PERCENT IS IMPOSED ON THE FEDERAL TAXABLE INCOME, AS DETERMINED PURSUANT TO SECTION 63 OF THE INTERNAL REVENUE CODE, OF EVERY INDIVIDUAL, ESTATE, AND TRUST.

SECTION 2. In Colorado Revised Statutes, 39-22-301, **amend** (1)(d)(I)(I); and **add** (1)(d)(I)(J) as follows:

39-22-301. Corporate tax imposed. (1) (d) (I) A tax is imposed upon each domestic C corporation and foreign C corporation doing business in Colorado annually in an amount of the net income of such C corporation during the year derived from sources within Colorado as set forth in the following schedule of rates:

(I) Except as otherwise provided in section 39-22-627, for income tax years commencing on or after January 1, 2000, BUT BEFORE JANUARY 1, 2020, four and sixty-three one-hundredths percent of the Colorado net income;

(J) EXCEPT AS OTHERWISE PROVIDED IN SECTION 39-22-627, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2020, FOUR AND FIFTY-FIVE ONE-HUNDREDTHS PERCENT OF THE COLORADO NET INCOME.

SECTION 3 In Colorado Revised Statutes, 39-22-604, **amend** (18)(a) introductory portion and (18)(b) as follows:

39-22-604. Withholding tax - requirement to withhold – tax lien - exemption from lien - definitions. (18) (a) Any person who makes a payment for services to any natural person that is not otherwise subject to state income tax withholding but that requires an information return, including but not limited to any payment for which internal revenue service form 1099-B, 1099-DIV, 1099-INT, 1099-MISC, 1099-OID, or 1099-PATR, the issuance of any of which allows taxpayer identification number verification through the taxpayer identification number matching program administered by the internal revenue service, or any other version of form 1099 is required, shall deduct and withhold state income tax at the rate of ~~four and sixty-three one-hundredths percent~~ SET FORTH IN SECTION 39-22-104 OR 39-22-301 if the person who performed the services:

(b) Any person other than a natural person and any natural person who in the course of conducting a trade or business as a sole proprietor makes any payment for services to a natural person that is not reported on any information return shall deduct and withhold state income tax at the rate of ~~four and sixty-three one-hundredths percent~~ SET FORTH IN SECTION 39-22-

104, unless the employer making payment has a validated taxpayer identification number from the person to whom payment is made.

SECTION 4. Effective date. THIS ACT SHALL TAKE EFFECT UPON PROCLAMATION BY THE GOVERNOR.

RECEIVED

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S. WARD

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Colorado Secretary of State

2019-2020 # 283 FINAL

Be it Enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add part 4 to article 13.3 of title 8 as follows:

8-13.3-401. Short title. THIS PART 4 SHALL BE KNOWN AND MAY BE CITED AS THE "PAID FAMILY AND MEDICAL LEAVE INSURANCE ACT".

8-13.3-402. Purposes and findings. THE PEOPLE OF THE STATE OF COLORADO HEREBY FIND AND DECLARE THAT:

(1) WORKERS IN COLORADO EXPERIENCE A VARIETY OF PERSONAL AND FAMILY CAREGIVING OBLIGATIONS, BUT IT CAN BE DIFFICULT OR IMPOSSIBLE TO ADEQUATELY RESPOND TO THOSE NEEDS WITHOUT ACCESS TO PAID LEAVE.

(2) ACCESS TO PAID FAMILY AND MEDICAL LEAVE INSURANCE HELPS EMPLOYERS IN COLORADO BY REDUCING TURNOVER, RECRUITING WORKERS, AND PROMOTING A HEALTHY BUSINESS CLIMATE, WHILE ALSO ENSURING THAT SMALLER EMPLOYERS CAN COMPETE WITH LARGER EMPLOYERS BY PROVIDING PAID LEAVE BENEFITS TO THEIR WORKERS THROUGH AN AFFORDABLE INSURANCE PROGRAM.

(3) PAID FAMILY AND MEDICAL LEAVE INSURANCE WILL ALSO PROVIDE A NECESSARY SAFETY NET FOR ALL COLORADO WORKERS WHEN THEY HAVE PERSONAL OR FAMILY CAREGIVING NEEDS, INCLUDING LOW-INCOME WORKERS LIVING PAYCHECK TO PAYCHECK WHO ARE DISPROPORTIONATELY MORE LIKELY TO LACK ACCESS TO PAID LEAVE AND LEAST ABLE TO AFFORD UNPAID LEAVE.

(4) DUE TO THE NEED TO PROVIDE PAID TIME OFF TO COLORADO WORKERS TO ADDRESS FAMILY AND MEDICAL NEEDS, SUCH AS THE ARRIVAL OF A NEW CHILD, MILITARY FAMILY NEEDS, AND A PERSONAL OR A FAMILY MEMBER'S SERIOUS HEALTH CONDITION, INCLUDING THE EFFECTS OF DOMESTIC VIOLENCE AND SEXUAL ASSAULT, IT IS NECESSARY TO CREATE A STATEWIDE PAID FAMILY AND MEDICAL LEAVE INSURANCE ENTERPRISE AND TO AUTHORIZE THE ENTERPRISE TO:

(a) COLLECT INSURANCE PREMIUMS FROM EMPLOYERS AND EMPLOYEES AT RATES REASONABLY CALCULATED TO DEFRAY THE COSTS OF PROVIDING THE PROGRAM'S LEAVE BENEFITS TO WORKERS; AND

(b) RECEIVE AND EXPEND REVENUES GENERATED BY THE PREMIUMS AND OTHER MONEYS, ISSUE REVENUE BONDS AND OTHER OBLIGATIONS, EXPEND REVENUES GENERATED BY THE PREMIUMS TO PAY FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS AND ASSOCIATED ADMINISTRATIVE AND PROGRAM COSTS, AND EXERCISE OTHER POWERS NECESSARY AND APPROPRIATE TO CARRY OUT ITS PURPOSES.

(5) THE FISCAL APPROACH OF THIS PART 4 HAS BEEN INFORMED BY THE EXPERIENCE OF OTHER STATE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAMS, MODELING BASED ON THE COLORADO WORKFORCE, AND INPUT FROM A VARIETY OF STAKEHOLDERS IN COLORADO.

(6) THE CREATION OF A STATEWIDE PAID FAMILY AND MEDICAL LEAVE INSURANCE ENTERPRISE IS IN THE PUBLIC INTEREST AND WILL PROMOTE THE HEALTH, SAFETY, AND WELFARE OF ALL COLORADANS, WHILE ALSO ENCOURAGING AN ENTREPRENEURIAL ATMOSPHERE AND ECONOMIC GROWTH.

8-13.3-403. Definitions. AS USED IN THIS PART 4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "APPLICATION YEAR" MEANS THE 12-MONTH PERIOD BEGINNING ON THE FIRST DAY OF THE CALENDAR WEEK IN WHICH AN INDIVIDUAL FILES AN APPLICATION FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS.

(2) "AVERAGE WEEKLY WAGE" MEANS ONE-THIRTEENTH OF THE WAGES PAID DURING THE QUARTER OF THE COVERED INDIVIDUAL'S BASE PERIOD, AS DEFINED IN SECTION 8-70-103 (2), OR ALTERNATIVE BASE PERIOD, AS DEFINED IN SECTION 8-70-103 (1.5), IN WHICH THE TOTAL WAGES WERE HIGHEST. FOR PURPOSES OF CALCULATING AVERAGE WEEKLY WAGE, WAGES INCLUDE, BUT ARE NOT LIMITED TO, SALARY, WAGES, TIPS, COMMISSIONS, AND OTHER COMPENSATION AS DETERMINED BY THE DIRECTOR BY RULE.

(3) "COVERED INDIVIDUAL" MEANS ANY PERSON WHO:

(a)(I) EARNED AT LEAST \$2,500 IN WAGES SUBJECT TO PREMIUMS UNDER THIS PART 4 DURING THE PERSON'S BASE PERIOD, AS DEFINED IN SECTION 8-70-103 (2), OR ALTERNATIVE BASE PERIOD, AS DEFINED IN SECTION 8-70-103 (1.5); OR

(II) ELECTS COVERAGE AND MEETS THE REQUIREMENTS OF SECTION 8-13.3-414;

(b) MEETS THE ADMINISTRATIVE REQUIREMENTS OUTLINED IN THIS PART 4 AND IN REGULATIONS; AND

(c) SUBMITS AN APPLICATION WITH A CLAIM FOR BENEFITS PURSUANT TO SECTION 8-13.3-416(6)(d).

(4) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

(5) "DIVISION" MEANS THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE CREATED IN SECTION 8-13.3-408.

(6) "DOMESTIC VIOLENCE" MEANS ANY CONDUCT THAT CONSTITUTES "DOMESTIC VIOLENCE" AS SET FORTH IN SECTION 18-6-800.3(1) OR SECTION 14-10-124 (1.3)(a) OR "DOMESTIC ABUSE" AS SET FORTH IN SECTION 13-14-101(2).

(7) "EMPLOYEE" MEANS ANY INDIVIDUAL, INCLUDING A MIGRATORY LABORER, PERFORMING LABOR OR SERVICES FOR THE BENEFIT OF ANOTHER, IRRESPECTIVE OF WHETHER THE COMMON-LAW RELATIONSHIP OF MASTER AND SERVANT EXISTS. FOR THE PURPOSES OF THIS PART 4, AN INDIVIDUAL PRIMARILY FREE FROM CONTROL AND DIRECTION IN THE PERFORMANCE OF THE LABOR OR SERVICES, BOTH UNDER THE INDIVIDUAL'S CONTRACT FOR THE PERFORMANCE OF THE LABOR OR SERVICES AND IN FACT, AND WHO IS CUSTOMARILY ENGAGED IN AN INDEPENDENT TRADE, OCCUPATION, PROFESSION, OR BUSINESS RELATED TO THE LABOR OR SERVICES PERFORMED IS NOT AN "EMPLOYEE." "EMPLOYEE" DOES NOT INCLUDE AN "EMPLOYEE" AS DEFINED BY 45 U.S.C. SECTION 351(d) WHO IS SUBJECT TO THE FEDERAL "RAILROAD UNEMPLOYMENT INSURANCE ACT," 45 U.S.C. SECTION 351 ET SEQ.

(8) (a) "EMPLOYER" MEANS ANY PERSON ENGAGED IN COMMERCE OR AN INDUSTRY OR ACTIVITY AFFECTING COMMERCE THAT:

(I) EMPLOYS AT LEAST ONE PERSON FOR EACH WORKING DAY DURING EACH OF TWENTY OR MORE CALENDAR WORKWEEKS IN THE CURRENT OR IMMEDIATELY PRECEDING CALENDAR YEAR; OR

(II) PAID WAGES OF ONE THOUSAND FIVE HUNDRED DOLLARS OR MORE DURING ANY CALENDAR QUARTER IN THE PRECEDING CALENDAR YEAR.

(b) "EMPLOYER" INCLUDES:

(I) A PERSON WHO ACTS, DIRECTLY OR INDIRECTLY, IN THE INTEREST OF AN EMPLOYER WITH REGARD TO ANY OF THE EMPLOYEES OF THE EMPLOYER;

(II) A SUCCESSOR IN INTEREST OF AN EMPLOYER THAT ACQUIRES ALL OF THE ORGANIZATION, TRADE, OR BUSINESS OR SUBSTANTIALLY ALL OF THE ASSETS OF ONE OR MORE EMPLOYERS; AND

(III) THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(c) "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT.

(9) "FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS" OR "BENEFITS" MEANS THE BENEFITS PROVIDED UNDER THE TERMS OF THIS PART 4.

(10) "FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM" OR "PROGRAM" MEANS THE PROGRAM CREATED IN SECTION 8-13.3-416.

(11) "FAMILY MEMBER" MEANS:

(a) REGARDLESS OF AGE, A BIOLOGICAL, ADOPTED OR FOSTER CHILD, STEPCHILD OR LEGAL WARD, A CHILD OF A DOMESTIC PARTNER, A CHILD TO WHOM THE COVERED INDIVIDUAL STANDS IN LOCO PARENTIS, OR A PERSON TO WHOM THE COVERED INDIVIDUAL STOOD IN LOCO PARENTIS WHEN THE PERSON WAS A MINOR;

(b) A BIOLOGICAL, ADOPTIVE OR FOSTER PARENT, STEPPARENT OR LEGAL GUARDIAN OF A COVERED INDIVIDUAL OR COVERED INDIVIDUAL'S SPOUSE OR DOMESTIC PARTNER OR A PERSON WHO STOOD IN LOCO PARENTIS WHEN THE COVERED INDIVIDUAL OR COVERED INDIVIDUAL'S SPOUSE OR DOMESTIC PARTNER WAS A MINOR CHILD;

(c) A PERSON TO WHOM THE COVERED INDIVIDUAL IS LEGALLY MARRIED UNDER THE LAWS OF ANY STATE, OR A DOMESTIC PARTNER OF A COVERED INDIVIDUAL AS DEFINED IN SECTION 24-50-603 (6.5);

(d) A GRANDPARENT, GRANDCHILD OR SIBLING (WHETHER A BIOLOGICAL, FOSTER, ADOPTIVE OR STEP RELATIONSHIP) OF THE COVERED INDIVIDUAL OR COVERED INDIVIDUAL'S SPOUSE OR DOMESTIC PARTNER; OR

(e) AS SHOWN BY THE COVERED INDIVIDUAL, ANY OTHER INDIVIDUAL WITH WHOM THE COVERED INDIVIDUAL HAS A SIGNIFICANT PERSONAL BOND THAT IS OR IS LIKE A FAMILY RELATIONSHIP, REGARDLESS OF BIOLOGICAL OR LEGAL RELATIONSHIP.

(12) "FUND" MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE FUND CREATED IN SECTION 8-13.3-418.

(13) "HEALTH CARE PROVIDER" MEANS ANY PERSON LICENSED, CERTIFIED, OR REGISTERED UNDER FEDERAL OR COLORADO LAW TO PROVIDE MEDICAL OR EMERGENCY SERVICES, INCLUDING, BUT NOT LIMITED TO, PHYSICIANS, DOCTORS, NURSES, EMERGENCY ROOM PERSONNEL, AND MIDWIVES.

(14) "LOCAL GOVERNMENT" HAS THE SAME MEANING AS SET FORTH IN SECTION 29-1-304.5(3)(b).

(15) "PAID FAMILY AND MEDICAL LEAVE" MEANS LEAVE TAKEN FROM EMPLOYMENT IN CONNECTION WITH FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 4.

(16) "QUALIFYING EXIGENCY LEAVE" MEANS LEAVE BASED ON A NEED ARISING OUT OF A COVERED INDIVIDUAL'S FAMILY MEMBER'S ACTIVE DUTY SERVICE OR NOTICE OF AN IMPENDING CALL OR ORDER TO ACTIVE DUTY IN THE ARMED FORCES, INCLUDING, BUT NOT LIMITED TO, PROVIDING FOR THE CARE OR OTHER NEEDS OF THE MILITARY MEMBER'S CHILD OR OTHER FAMILY MEMBER, MAKING FINANCIAL OR LEGAL ARRANGEMENTS FOR THE MILITARY MEMBER, ATTENDING COUNSELING, ATTENDING MILITARY EVENTS OR CEREMONIES, SPENDING TIME WITH THE MILITARY MEMBER DURING A REST AND RECUPERATION LEAVE OR FOLLOWING RETURN FROM DEPLOYMENT, OR MAKING ARRANGEMENTS FOLLOWING THE DEATH OF THE MILITARY MEMBER.

(17) "RETALIATORY PERSONNEL ACTION" MEANS DENIAL OF ANY RIGHT GUARANTEED UNDER THIS PART 4, INCLUDING, BUT NOT LIMITED TO, ANY THREAT, DISCHARGE, SUSPENSION, DEMOTION, REDUCTION OF HOURS, OR ANY OTHER ADVERSE ACTION AGAINST AN EMPLOYEE FOR THE EXERCISE OF ANY RIGHT GUARANTEED IN THIS PART 4. "RETALIATORY PERSONNEL ACTION" ALSO INCLUDES INTERFERENCE WITH OR PUNISHMENT FOR IN ANY MANNER PARTICIPATING IN OR ASSISTING AN INVESTIGATION, PROCEEDING, OR HEARING UNDER THIS PART 4.

(18) "SAFE LEAVE" MEANS ANY LEAVE BECAUSE THE COVERED INDIVIDUAL OR THE COVERED INDIVIDUAL'S FAMILY MEMBER IS THE VICTIM OF DOMESTIC VIOLENCE, THE VICTIM OF STALKING, OR THE VICTIM OF SEXUAL ASSAULT OR ABUSE. SAFE LEAVE UNDER THIS PART 4 APPLIES IF THE COVERED INDIVIDUAL IS USING THE LEAVE FROM WORK TO PROTECT THE COVERED INDIVIDUAL OR THE COVERED INDIVIDUAL'S FAMILY MEMBER BY:

(a) SEEKING A CIVIL PROTECTION ORDER TO PREVENT DOMESTIC VIOLENCE PURSUANT TO SECTIONS 13-14-104.5, 13-14-106, OR 13-14-108;

(b) OBTAINING MEDICAL CARE OR MENTAL HEALTH COUNSELING OR BOTH FOR HIMSELF OR HERSELF OR FOR HIS OR HER CHILDREN TO ADDRESS PHYSICAL OR PSYCHOLOGICAL INJURIES RESULTING FROM THE ACT OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT OR ABUSE;

(c) MAKING HIS OR HER HOME SECURE FROM THE PERPETRATOR OF THE ACT OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT OR ABUSE, OR SEEKING NEW HOUSING TO ESCAPE SAID PERPETRATOR; OR

(d) SEEKING LEGAL ASSISTANCE TO ADDRESS ISSUES ARISING FROM THE ACT OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT OR ABUSE, OR ATTENDING AND PREPARING FOR COURT-RELATED PROCEEDINGS ARISING FROM SAID ACT OR CRIME.

(19) "SERIOUS HEALTH CONDITION" IS AN ILLNESS, INJURY, IMPAIRMENT, PREGNANCY, RECOVERY FROM CHILDBIRTH, OR PHYSICAL OR MENTAL CONDITION THAT INVOLVES INPATIENT CARE IN A HOSPITAL, HOSPICE OR RESIDENTIAL MEDICAL CARE FACILITY, OR CONTINUING TREATMENT BY A HEALTH CARE PROVIDER.

(20) "SEXUAL ASSAULT OR ABUSE" MEANS ANY OFFENSE AS DESCRIBED IN SECTION 16-11.7-102 (3), OR SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402, COMMITTED BY ANY PERSON

AGAINST ANOTHER PERSON REGARDLESS OF THE RELATIONSHIP BETWEEN THE ACTOR AND THE VICTIM.

(21) "STALKING" MEANS ANY ACT AS DESCRIBED IN SECTION 18-3-602.

(22) "STATE AVERAGE WEEKLY WAGE" MEANS THE STATE AVERAGE WEEKLY WAGE DETERMINED IN ACCORDANCE WITH SECTION 8-47-106.

8-13.3-404. Eligibility. BEGINNING JANUARY 1, 2024, AN INDIVIDUAL HAS THE RIGHT TO TAKE PAID FAMILY AND MEDICAL LEAVE, AND TO RECEIVE FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS WHILE TAKING PAID FAMILY AND MEDICAL LEAVE, IF THE INDIVIDUAL:

- (1) MEETS THE DEFINITION OF "COVERED INDIVIDUAL" UNDER SECTION 8-13.3-403 (3); AND
- (2) MEETS ONE OF THE FOLLOWING REQUIREMENTS:
 - (a) BECAUSE OF BIRTH, ADOPTION OR PLACEMENT THROUGH FOSTER CARE, IS CARING FOR A NEW CHILD DURING THE FIRST YEAR AFTER THE BIRTH, ADOPTION OR PLACEMENT OF THAT CHILD;
 - (b) IS CARING FOR A FAMILY MEMBER WITH A SERIOUS HEALTH CONDITION;
 - (c) HAS A SERIOUS HEALTH CONDITION;
 - (d) BECAUSE OF ANY QUALIFYING EXIGENCY LEAVE;
 - (e) HAS A NEED FOR SAFE LEAVE.

8-13.3-405. Duration. (1) THE MAXIMUM NUMBER OF WEEKS FOR WHICH A COVERED INDIVIDUAL MAY TAKE PAID FAMILY AND MEDICAL LEAVE AND FOR WHICH FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE FOR ANY PURPOSE, OR PURPOSES IN AGGREGATE, UNDER SECTION 8-13.3-404 (2) IN AN APPLICATION YEAR IS 12 WEEKS; EXCEPT THAT BENEFITS ARE PAYABLE UP TO AN ADDITIONAL FOUR WEEKS TO A COVERED INDIVIDUAL WITH A SERIOUS HEALTH CONDITION RELATED TO PREGNANCY COMPLICATIONS OR CHILDBIRTH COMPLICATIONS.

(2) THE FIRST PAYMENT OF BENEFITS SHALL BE MADE TO AN INDIVIDUAL WITHIN TWO WEEKS AFTER THE CLAIM IS FILED, AND SUBSEQUENT PAYMENTS SHALL BE MADE EVERY TWO WEEKS THEREAFTER.

(3) A COVERED INDIVIDUAL MAY TAKE INTERMITTENT LEAVE IN INCREMENTS OF EITHER ONE HOUR OR SHORTER PERIODS IF CONSISTENT WITH THE INCREMENTS THE EMPLOYER TYPICALLY USES TO MEASURE EMPLOYEE LEAVE, EXCEPT THAT BENEFITS ARE NOT PAYABLE UNTIL THE COVERED INDIVIDUAL ACCUMULATES AT LEAST EIGHT HOURS OF FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS.

(4) THE COVERED INDIVIDUAL SHALL MAKE A REASONABLE EFFORT TO SCHEDULE PAID FAMILY AND MEDICAL LEAVE UNDER THIS PART 4 SO AS NOT TO UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER.

(5) IN ANY CASE IN WHICH THE NECESSITY FOR LEAVE UNDER THIS PART 4 IS FORESEEABLE, AN EMPLOYEE SHALL PROVIDE NOTICE TO THE INDIVIDUAL'S EMPLOYER WITH NOT LESS THAN 30 DAYS' NOTICE BEFORE THE DATE THE LEAVE IS TO BEGIN OF THE INDIVIDUAL'S INTENTION TO TAKE LEAVE UNDER THIS PART 4. IF THE NECESSITY FOR LEAVE IS NOT FORESEEABLE OR PROVIDING 30 DAYS' NOTICE IS NOT POSSIBLE, THE INDIVIDUAL SHALL PROVIDE THE NOTICE AS SOON AS PRACTICABLE.

(6) NOTHING IN THIS SECTION ENTITLES A COVERED INDIVIDUAL TO MORE LEAVE THAN REQUIRED UNDER THIS SECTION.

8-13.3-406. Amount of benefits. (1) THE AMOUNT OF FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS SHALL BE DETERMINED AS FOLLOWS:

(a) THE WEEKLY BENEFIT SHALL BE DETERMINED AS FOLLOWS:

(I) THE PORTION OF THE COVERED INDIVIDUAL'S AVERAGE WEEKLY WAGE THAT IS EQUAL TO OR LESS THAN 50 PERCENT OF THE STATE AVERAGE WEEKLY WAGE SHALL BE REPLACED AT A RATE OF 90 PERCENT; AND

(II) THE PORTION OF THE COVERED INDIVIDUAL'S AVERAGE WEEKLY WAGE THAT IS MORE THAN 50 PERCENT OF THE STATE AVERAGE WEEKLY WAGE SHALL BE REPLACED AT A RATE OF 50 PERCENT.

(b) THE MAXIMUM WEEKLY BENEFIT IS 90 PERCENT OF THE STATE AVERAGE WEEKLY WAGE, EXCEPT THAT FOR PAID FAMILY AND MEDICAL LEAVE BEGINNING BEFORE JANUARY 1, 2025, THE MAXIMUM WEEKLY BENEFIT IS 1,100 DOLLARS.

(2) THE DIVISION SHALL CALCULATE A COVERED INDIVIDUAL'S WEEKLY BENEFIT AMOUNT BASED ON THE COVERED INDIVIDUAL'S AVERAGE WEEKLY WAGE EARNED FROM THE JOB OR JOBS FROM WHICH THE COVERED INDIVIDUAL IS TAKING PAID FAMILY AND MEDICAL LEAVE, UP TO THE MAXIMUM TOTAL BENEFIT ESTABLISHED IN SECTION 8-13.3-406 (1)(b). IF A COVERED INDIVIDUAL TAKING PAID FAMILY AND MEDICAL LEAVE FROM A JOB CONTINUES WORKING AT AN ADDITIONAL JOB OR JOBS DURING THIS TIME, THE DIVISION SHALL NOT CONSIDER THE COVERED INDIVIDUAL'S AVERAGE WEEKLY WAGE EARNED FROM THE ADDITIONAL JOB OR JOBS WHEN CALCULATING THE COVERED INDIVIDUAL'S WEEKLY BENEFIT AMOUNT. A COVERED INDIVIDUAL WITH MULTIPLE JOBS MAY ELECT WHETHER TO TAKE LEAVE FROM ONE JOB OR MULTIPLE JOBS.

8-13.3-407. Premiums. (1) PAYROLL PREMIUMS SHALL BE AUTHORIZED IN ORDER TO FINANCE THE PAYMENT OF FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 4, AND ADMINISTRATION OF THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.

(2) BEGINNING ON JANUARY 1, 2023, FOR EACH EMPLOYEE, AN EMPLOYER SHALL REMIT TO THE FUND ESTABLISHED UNDER SECTION 8-13.3-418 PREMIUMS IN THE FORM AND MANNER DETERMINED BY THE DIVISION.

(3) (a) FROM JANUARY 1, 2023, THROUGH DECEMBER 31, 2024, THE PREMIUM AMOUNT IS NINE-TENTHS OF ONE PERCENT OF WAGES PER EMPLOYEE.

(b) FOR THE 2025 CALENDAR YEAR, AND EACH CALENDAR YEAR THEREAFTER, THE DIRECTOR SHALL SET THE PREMIUM BASED ON A PERCENT OF EMPLOYEE WAGES AND AT THE RATE NECESSARY TO OBTAIN A TOTAL AMOUNT OF PREMIUM CONTRIBUTIONS EQUAL TO ONE HUNDRED THIRTY-FIVE PERCENT OF THE BENEFITS PAID DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR PLUS AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE COST OF ADMINISTRATION OF THE PAYMENT OF THOSE BENEFITS DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR, LESS THE AMOUNT OF NET ASSETS REMAINING IN THE FUND AS OF DECEMBER 31 OF THE IMMEDIATELY PRECEDING CALENDAR YEAR. THE PREMIUM SHALL NOT EXCEED ONE AND TWO TENTHS OF A PERCENT OF WAGES PER EMPLOYEE. THE DIVISION SHALL PROVIDE PUBLIC NOTICE IN ADVANCE OF JANUARY FIRST OF ANY CHANGES TO THE PREMIUM.

(4) (a) A SELF-EMPLOYED INDIVIDUAL WHO ELECTS COVERAGE UNDER SECTION 8-13.3-414 SHALL PAY ONLY 50 PERCENT OF THE PREMIUM REQUIRED FOR AN EMPLOYEE BY SECTION 8-13.3-407(3) ON THAT INDIVIDUAL'S INCOME FROM SELF-EMPLOYMENT.

(b) AN EMPLOYEE OF A LOCAL GOVERNMENT WHO ELECTS COVERAGE UNDER SECTION 8-13.3-414 SHALL PAY ONLY 50 PERCENT OF THE PREMIUM REQUIRED FOR AN EMPLOYEE BY SECTION 8-13.3-407(3) ON THAT EMPLOYEE'S INCOME FROM THAT LOCAL GOVERNMENT EMPLOYMENT.

(c) AN EMPLOYEE OF A LOCAL GOVERNMENT OR A SELF-EMPLOYED PERSON WHO ELECTS COVERAGE UNDER SECTION 8-13.3-414 SHALL REMIT THE PREMIUM AMOUNT REQUIRED BY THIS SUBSECTION DIRECTLY TO THE DIVISION, IN THE FORM AND MANNER REQUIRED BY THE DIRECTOR BY RULE.

(5) AN EMPLOYER WITH 10 OR MORE EMPLOYEES MAY DEDUCT UP TO 50 PERCENT OF THE PREMIUM REQUIRED FOR AN EMPLOYEE BY SECTION 8-13.3-407 (3) FROM THAT EMPLOYEE'S WAGES AND SHALL REMIT 100 PERCENT OF THE PREMIUM REQUIRED BY SECTION 8-13.3-407(3) TO THE FUND. AN EMPLOYER WITH FEWER THAN 10 EMPLOYEES MAY DEDUCT UP TO 50 PERCENT OF THE PREMIUM REQUIRED FOR AN EMPLOYEE BY SECTION 8-13.3-407(3) FROM THAT EMPLOYEE'S WAGES AND SHALL REMIT 50 PERCENT OF THE PREMIUM REQUIRED BY SECTION 8-13.3-407(3) TO THE FUND.

(6) PREMIUMS SHALL NOT BE REQUIRED FOR EMPLOYEES' WAGES ABOVE THE CONTRIBUTION AND BENEFIT BASE LIMIT ESTABLISHED ANNUALLY BY THE FEDERAL SOCIAL SECURITY ADMINISTRATION FOR PURPOSES OF THE FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM LIMITS PURSUANT TO 42 U.S.C. SECTION 430.

(7) THE PREMIUMS COLLECTED UNDER THIS PART 4 ARE USED EXCLUSIVELY FOR THE PAYMENT OF FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS AND THE ADMINISTRATION OF THE PROGRAM. PREMIUMS ESTABLISHED UNDER THIS SECTION ARE FEES AND NOT TAXES.

(8) AN EMPLOYER WITH AN APPROVED PRIVATE PLAN UNDER SECTION 8-13.3-421 SHALL NOT BE REQUIRED TO REMIT PREMIUMS UNDER THIS SECTION TO THE FUND.

(9) NOTWITHSTANDING SECTION 8-13.3-407(2), IF A LOCAL GOVERNMENT HAS DECLINED PARTICIPATION IN THE PROGRAM IN ACCORDANCE WITH SECTION 8-13.3-422:

(a) THE LOCAL GOVERNMENT IS NOT REQUIRED TO PAY THE PREMIUMS IMPOSED IN THIS SECTION OR COLLECT PREMIUMS FROM EMPLOYEES WHO HAVE ELECTED COVERAGE PURSUANT TO SECTION 8-13.3-414; AND

(b) AN EMPLOYEE OF THE LOCAL GOVERNMENT IS NOT REQUIRED TO PAY THE PREMIUMS IMPOSED IN THIS SECTION UNLESS THE EMPLOYEE HAS ELECTED COVERAGE PURSUANT TO SECTION 8-13.3-414.

8-13.3-408. Division of family and medical leave insurance. (1) THERE IS HEREBY CREATED IN THE DEPARTMENT OF LABOR AND EMPLOYMENT THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE, THE HEAD OF WHICH IS THE DIRECTOR OF THE DIVISION.

(2)(a) THE DIVISION CONSTITUTES AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION, AS LONG AS THE DIVISION RETAINS AUTHORITY TO ISSUE REVENUE BONDS AND THE DIVISION RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUES IN GRANTS, AS DEFINED IN SECTION 24-77-102(7), FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. FOR AS LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SECTION, THE DIVISION IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION.

(b) THE ENTERPRISE ESTABLISHED PURSUANT TO THIS SECTION HAS ALL THE POWERS AND DUTIES AUTHORIZED BY THIS PART 4 PERTAINING TO FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS. THE FUND CONSTITUTES PART OF THE ENTERPRISE ESTABLISHED PURSUANT TO THIS SECTION.

(c) NOTHING IN THIS SECTION LIMITS OR RESTRICTS THE AUTHORITY OF THE DIVISION TO EXPEND ITS REVENUES CONSISTENT WITH THIS PART 4.

(d) THE DIVISION IS HEREBY AUTHORIZED TO ISSUE REVENUE BONDS FOR THE EXPENSES OF THE DIVISION, WHICH BONDS MAY BE SECURED BY ANY REVENUES OF THE DIVISION. REVENUE FROM THE BONDS ISSUED PURSUANT TO THIS SUBSECTION SHALL BE DEPOSITED INTO THE FUND.

8-13.3-409. Leave and employment protection. (1) ANY COVERED INDIVIDUAL WHO HAS BEEN EMPLOYED WITH THE COVERED INDIVIDUAL'S CURRENT EMPLOYER FOR AT LEAST 180 DAYS PRIOR TO THE COMMENCEMENT OF THE COVERED INDIVIDUAL'S PAID FAMILY AND MEDICAL LEAVE WHO EXERCISES THE COVERED INDIVIDUAL'S RIGHT TO FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS SHALL BE ENTITLED, UPON RETURN FROM THAT LEAVE, TO BE RESTORED BY THE EMPLOYER TO THE POSITION HELD BY THE COVERED INDIVIDUAL WHEN THE LEAVE COMMENCED, OR TO BE RESTORED TO AN EQUIVALENT POSITION WITH EQUIVALENT EMPLOYMENT BENEFITS, PAY AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT. NOTHING IN THIS SECTION ENTITLES ANY RESTORED EMPLOYEE TO:

(a) THE ACCRUAL OF ANY SENIORITY OR EMPLOYMENT BENEFITS DURING ANY PERIOD OF LEAVE; OR

(b) ANY RIGHT, BENEFIT, OR POSITION OF EMPLOYMENT OTHER THAN ANY RIGHT, BENEFIT, OR POSITION TO WHICH THE EMPLOYEE WOULD HAVE BEEN ENTITLED HAD THE EMPLOYEE NOT TAKEN THE LEAVE. NOTHING IN THIS SECTION RELIEVES AN EMPLOYER OF ANY OBLIGATION UNDER A COLLECTIVE BARGAINING AGREEMENT.

(2) DURING ANY PAID FAMILY AND MEDICAL LEAVE TAKEN PURSUANT TO THIS PART 4, THE EMPLOYER SHALL MAINTAIN ANY HEALTH CARE BENEFITS THE COVERED INDIVIDUAL HAD PRIOR TO TAKING SUCH LEAVE FOR THE DURATION OF THE LEAVE AS IF THE COVERED INDIVIDUAL HAD CONTINUED IN EMPLOYMENT CONTINUOUSLY FROM THE DATE THE INDIVIDUAL COMMENCED THE LEAVE UNTIL THE DATE THE FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS TERMINATE. THE COVERED INDIVIDUAL SHALL CONTINUE TO PAY THE COVERED INDIVIDUAL'S SHARE OF THE COST OF HEALTH BENEFITS AS REQUIRED PRIOR TO THE COMMENCEMENT OF THE LEAVE.

(3) IT IS UNLAWFUL FOR AN EMPLOYER OR ANY OTHER PERSON TO INTERFERE WITH, RESTRAIN, OR DENY THE EXERCISE OF, OR THE ATTEMPT TO EXERCISE, ANY RIGHT PROTECTED UNDER THIS PART 4.

(4) AN EMPLOYER, EMPLOYMENT AGENCY, EMPLOYEE ORGANIZATION OR OTHER PERSON SHALL NOT TAKE RETALIATORY PERSONNEL ACTION OR OTHERWISE DISCRIMINATE AGAINST A PERSON BECAUSE THE INDIVIDUAL EXERCISED RIGHTS PROTECTED UNDER THIS PART 4. SUCH RIGHTS INCLUDE, BUT ARE NOT LIMITED TO, THE RIGHT TO: REQUEST, FILE FOR, APPLY FOR OR USE BENEFITS PROVIDED FOR UNDER THIS PART 4; TAKE PAID FAMILY AND MEDICAL LEAVE FROM WORK UNDER THIS PART 4; COMMUNICATE TO THE EMPLOYER OR ANY OTHER PERSON OR ENTITY AN INTENT TO FILE A CLAIM, A COMPLAINT WITH THE DIVISION OR COURTS, OR AN APPEAL; TESTIFY OR ASSIST IN ANY INVESTIGATION, HEARING OR PROCEEDING UNDER THIS PART 4, AT ANY TIME, INCLUDING DURING THE PERIOD IN WHICH THE PERSON RECEIVES FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 4; INFORM ANY PERSON ABOUT ANY EMPLOYER'S ALLEGED VIOLATION OF THIS PART 4; AND INFORM ANY PERSON OF HIS OR HER RIGHTS UNDER THIS PART 4.

(5) IT IS UNLAWFUL FOR AN EMPLOYER TO COUNT PAID FAMILY AND MEDICAL LEAVE TAKEN UNDER THIS PART 4 AS AN ABSENCE THAT MAY LEAD TO OR RESULT IN DISCIPLINE, DISCHARGE, DEMOTION, SUSPENSION OR ANY OTHER ADVERSE ACTION.

(6) (a) AN AGGRIEVED INDIVIDUAL UNDER THIS SECTION MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION.

- (b) AN EMPLOYER WHO VIOLATES THIS SECTION IS SUBJECT TO THE DAMAGES AND EQUITABLE RELIEF AVAILABLE UNDER 29 U.S.C. SECTION 2617(a)(1).
- (c) EXCEPT AS PROVIDED IN SECTION 8-13.3-409 (6)(d), A CLAIM BROUGHT IN ACCORDANCE WITH THIS SECTION MUST BE FILED WITHIN TWO YEARS AFTER THE DATE OF THE LAST EVENT CONSTITUTING THE ALLEGED VIOLATION FOR WHICH THE ACTION IS BROUGHT.
- (d) IN THE CASE OF SUCH ACTION BROUGHT FOR A WILLFUL VIOLATION OF THIS SECTION, SUCH ACTION MAY BE BROUGHT WITHIN 3 YEARS OF THE DATE OF THE LAST EVENT CONSTITUTING THE ALLEGED VIOLATION FOR WHICH SUCH ACTION IS BROUGHT.
- (7) THE DIRECTOR, BY RULE, SHALL ESTABLISH A FINE STRUCTURE FOR EMPLOYERS WHO VIOLATE THIS SECTION, WITH A MAXIMUM FINE OF \$500 PER VIOLATION. THE DIRECTOR SHALL TRANSFER ANY FINES COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE FUND. THE DIRECTOR, BY RULE, SHALL ESTABLISH A PROCESS FOR THE DETERMINATION, ASSESSMENT, AND APPEAL OF FINES UNDER THIS SUBSECTION.
- (8) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE OF A LOCAL GOVERNMENT THAT HAS ELECTED COVERAGE PURSUANT TO SECTION 8-13.3-414.

8-13.3-410. Coordination of benefits. (1)(a) LEAVE TAKEN WITH WAGE REPLACEMENT UNDER THIS PART 4 THAT ALSO QUALIFIES AS LEAVE UNDER THE "FAMILY AND MEDICAL LEAVE ACT," AS AMENDED, PUB. L. 103-3, CODIFIED AT 29 U.S.C. SEC. 2601 ET. SEQ., OR PART 2 OF ARTICLE 13.3 OF TITLE 8 RUNS CONCURRENTLY WITH LEAVE TAKEN UNDER THE "FAMILY AND MEDICAL LEAVE ACT" OR PART 2 OF ARTICLE 13.3 OF TITLE 8, AS APPLICABLE.

(b) AN EMPLOYER MAY REQUIRE THAT PAYMENT MADE OR PAID FAMILY AND MEDICAL LEAVE TAKEN UNDER THIS PART 4 BE MADE OR TAKEN CONCURRENTLY OR OTHERWISE COORDINATED WITH PAYMENT MADE OR LEAVE ALLOWED UNDER THE TERMS OF A DISABILITY POLICY, INCLUDING A DISABILITY POLICY CONTAINED WITHIN AN EMPLOYMENT CONTRACT, OR A SEPARATE BANK OF TIME OFF SOLELY FOR THE PURPOSE OF PAID FAMILY AND MEDICAL LEAVE UNDER THIS PART 4, AS APPLICABLE. THE EMPLOYER SHALL GIVE ITS EMPLOYEES WRITTEN NOTICE OF THIS REQUIREMENT.

(c) NOTWITHSTANDING SECTION 8-13.3-410 (1)(b), UNDER NO CIRCUMSTANCES SHALL AN EMPLOYEE BE REQUIRED TO USE OR EXHAUST ANY ACCRUED VACATION LEAVE, SICK LEAVE, OR OTHER PAID TIME OFF PRIOR TO OR WHILE RECEIVING FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 4. HOWEVER, AN EMPLOYEE AND AN EMPLOYER MAY MUTUALLY AGREE THAT THE EMPLOYEE MAY USE ANY ACCRUED VACATION LEAVE, SICK LEAVE, OR OTHER PAID TIME OFF WHILE RECEIVING FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 4, UNLESS THE AGGREGATE AMOUNT A COVERED INDIVIDUAL WOULD RECEIVE WOULD EXCEED THE COVERED INDIVIDUAL'S AVERAGE WEEKLY WAGE. NOTHING IN THIS SUBSECTION REQUIRES AN EMPLOYEE TO RECEIVE OR USE, OR AN EMPLOYER TO PROVIDE, ADDITIONAL PAID TIME OFF AS DESCRIBED IN THIS SUBSECTION.

(2)(a) THIS PART 4 DOES NOT DIMINISH:

- (I) THE RIGHTS, PRIVILEGES, OR REMEDIES OF AN EMPLOYEE UNDER A COLLECTIVE BARGAINING AGREEMENT, EMPLOYER POLICY, OR EMPLOYMENT CONTRACT;
- (II) AN EMPLOYER'S OBLIGATION TO COMPLY WITH A COLLECTIVE BARGAINING AGREEMENT, EMPLOYER POLICY, OR EMPLOYMENT CONTRACT, AS APPLICABLE, THAT PROVIDES GREATER LEAVE THAN PROVIDED UNDER THIS PART 4; OR
- (III) ANY LAW THAT PROVIDES GREATER LEAVE THAN PROVIDED UNDER THIS PART 4.

(b) AFTER THE EFFECTIVE DATE OF THIS PART 4, AN EMPLOYER POLICY ADOPTED OR RETAINED SHALL NOT DIMINISH AN EMPLOYEE'S RIGHT TO BENEFITS UNDER THIS PART 4. ANY AGREEMENT

BY AN EMPLOYEE TO WAIVE THE EMPLOYEE'S RIGHTS UNDER THIS PART 4 IS VOID AS AGAINST PUBLIC POLICY.

(3) THE DIRECTOR SHALL DETERMINE BY RULE THE INTERACTION OF BENEFITS OR COORDINATION OF LEAVE WHEN A COVERED INDIVIDUAL IS CONCURRENTLY ELIGIBLE FOR PAID FAMILY AND MEDICAL LEAVE AND BENEFITS UNDER THIS PART 4 WITH:

- (a) LEAVE PURSUANT TO SECTION 24-34-402.7; OR
- (b) WORKERS' COMPENSATION BENEFITS UNDER ARTICLE 42 OF TITLE 8.

8-13.3-411. Notice. THE DIVISION SHALL DEVELOP A PROGRAM NOTICE THAT DETAILS THE PROGRAM REQUIREMENTS, BENEFITS, CLAIMS PROCESS, PAYROLL DEDUCTION REQUIREMENTS, THE RIGHT TO JOB PROTECTION AND BENEFITS CONTINUATION UNDER SECTION 8-13.3-409, PROTECTION AGAINST RETALIATORY PERSONNEL ACTIONS OR OTHER DISCRIMINATION, AND OTHER PERTINENT PROGRAM INFORMATION. EACH EMPLOYER SHALL POST THE PROGRAM NOTICE IN A PROMINENT LOCATION IN THE WORKPLACE AND NOTIFY ITS EMPLOYEES OF THE PROGRAM, IN WRITING, UPON HIRING AND UPON LEARNING OF AN EMPLOYEE EXPERIENCING AN EVENT THAT TRIGGERS ELIGIBILITY PURSUANT TO SECTION 8-13.3-404. THE DIVISION SHALL PROVIDE THE INFORMATION REQUIRED BY THIS SECTION IN A MANNER THAT IS CULTURALLY COMPETENT AND LINGUISTICALLY APPROPRIATE.

8-13.3-412. Appeals. (1) THE DIRECTOR SHALL ESTABLISH A SYSTEM FOR ADMINISTRATIVE REVIEW AND DETERMINATION OF CLAIMS, AND APPEAL OF SUCH DETERMINATIONS, INCLUDING DENIAL OF FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS. IN ESTABLISHING SUCH SYSTEM, THE DIRECTOR MAY UTILIZE ANY AND ALL PROCEDURES AND APPEALS MECHANISMS ESTABLISHED UNDER SECTIONS 8-4-111.5(5), 8-74-102, AND 8-74-103.

(2) JUDICIAL REVIEW OF ANY DECISION WITH RESPECT TO FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS SECTION IS PERMITTED IN A COURT OF COMPETENT JURISDICTION AFTER A COVERED INDIVIDUAL AGGRIEVED THEREBY HAS EXHAUSTED ALL ADMINISTRATIVE REMEDIES ESTABLISHED BY THE DIRECTOR. IF A COVERED INDIVIDUAL FILES A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION TO ENFORCE A JUDGMENT MADE UNDER THIS SECTION, ANY FILING FEE UNDER ARTICLE 32 OF TITLE 13 SHALL BE WAIVED.

8-13.3-413. Erroneous payments and disqualification for benefits. (1) A COVERED INDIVIDUAL IS DISQUALIFIED FROM FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS FOR ONE YEAR IF THE INDIVIDUAL IS DETERMINED BY THE DIRECTOR TO HAVE WILLFULLY MADE A FALSE STATEMENT OR MISREPRESENTATION REGARDING A MATERIAL FACT, OR WILLFULLY FAILED TO REPORT A MATERIAL FACT, TO OBTAIN BENEFITS UNDER THIS PART 4.

(2) IF FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAID ERRONEOUSLY OR AS A RESULT OF WILLFUL MISREPRESENTATION, OR IF A CLAIM FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS IS REJECTED AFTER BENEFITS ARE PAID, THE DIVISION MAY SEEK REPAYMENT OF BENEFITS FROM THE RECIPIENT. THE DIRECTOR SHALL EXERCISE HIS OR HER DISCRETION TO WAIVE, IN WHOLE OR IN PART, THE AMOUNT OF ANY SUCH PAYMENTS WHERE THE RECOVERY WOULD BE AGAINST EQUITY AND GOOD CONSCIENCE.

8-13.3-414. Elective coverage. (1) AN EMPLOYEE OF A LOCAL GOVERNMENT THAT HAS DECLINED PARTICIPATION IN THE PROGRAM PURSUANT TO SECTION 8-13.3-422 OR A SELF-EMPLOYED PERSON, INCLUDING AN INDEPENDENT CONTRACTOR, SOLE PROPRIETOR, PARTNER OR JOINT VENTURER, MAY

ELECT COVERAGE UNDER THIS PART 4 FOR AN INITIAL PERIOD OF NOT LESS THAN THREE YEARS. THE SELF-EMPLOYED PERSON OR EMPLOYEE OF A LOCAL GOVERNMENT MUST FILE A NOTICE OF ELECTION IN WRITING WITH THE DIRECTOR, AS REQUIRED BY THE DIVISION. THE ELECTION BECOMES EFFECTIVE ON THE DATE OF FILING THE NOTICE. AS A CONDITION OF ELECTION, THE SELF-EMPLOYED PERSON OR EMPLOYEE OF A LOCAL GOVERNMENT MUST AGREE TO SUPPLY ANY INFORMATION CONCERNING INCOME THAT THE DIVISION DEEMS NECESSARY.

(2) A SELF-EMPLOYED PERSON OR AN EMPLOYEE OF A LOCAL GOVERNMENT WHO HAS ELECTED COVERAGE MAY WITHDRAW FROM COVERAGE WITHIN 30 DAYS AFTER THE END OF THE THREE-YEAR PERIOD OF COVERAGE, OR AT SUCH OTHER TIMES AS THE DIRECTOR MAY PRESCRIBE BY RULE, BY FILING WRITTEN NOTICE WITH THE DIRECTOR, SUCH WITHDRAWAL TO TAKE EFFECT NOT SOONER THAN 30 DAYS AFTER FILING THE NOTICE.

8-13.3-415. Reimbursement of advance payments. (1) EXCEPT AS PROVIDED IN SECTION 8-13.3-415 (2), IF AN EMPLOYER HAS MADE ADVANCE PAYMENTS TO AN EMPLOYEE THAT ARE EQUAL TO OR GREATER THAN THE AMOUNT REQUIRED UNDER THIS PART 4, DURING ANY PERIOD OF PAID FAMILY AND MEDICAL LEAVE FOR WHICH SUCH EMPLOYEE IS ENTITLED TO THE BENEFITS PROVIDED BY THIS PART 4, THE EMPLOYER IS ENTITLED TO BE REIMBURSED BY THE FUND OUT OF ANY BENEFITS DUE OR TO BECOME DUE FOR THE EXISTING PAID FAMILY AND MEDICAL LEAVE, IF THE CLAIM FOR REIMBURSEMENT IS FILED WITH THE FUND PRIOR TO THE FUND'S PAYMENT OF THE BENEFITS TO THE EMPLOYEE.

(2) IF AN EMPLOYER THAT PROVIDES FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS THROUGH A PRIVATE PLAN APPROVED PURSUANT TO SECTION 8-13.3-421 MAKES ADVANCE PAYMENTS TO AN EMPLOYEE THAT ARE EQUAL TO OR GREATER THAN THE AMOUNT REQUIRED UNDER THIS PART 4, DURING ANY PERIOD OF PAID FAMILY AND MEDICAL LEAVE FOR WHICH SUCH EMPLOYEE IS ENTITLED TO THE BENEFITS PROVIDED BY THIS PART 4, THE ENTITY THAT ISSUED THE PRIVATE PLAN SHALL REIMBURSE THE EMPLOYER OUT OF ANY BENEFITS DUE OR TO BECOME DUE FOR THE EXISTING PAID FAMILY AND MEDICAL LEAVE, IF THE CLAIM FOR REIMBURSEMENT IS FILED WITH THE ENTITY THAT ISSUED THE PRIVATE PLAN PRIOR TO THE PRIVATE PLAN'S PAYMENT OF THE BENEFITS UNDER THE PRIVATE PLAN TO THE EMPLOYEE.

(3) THE DIRECTOR, BY RULE, SHALL ESTABLISH A PROCESS FOR REIMBURSEMENTS UNDER THIS SECTION.

8-13.3-416. Family and medical leave insurance program. (1) BY JANUARY 1, 2023, THE DIVISION SHALL ESTABLISH AND ADMINISTER A FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM AND BEGIN COLLECTING PREMIUMS AS SPECIFIED IN THIS PART 4. BY JANUARY 1, 2024, THE DIVISION SHALL START RECEIVING CLAIMS FROM AND PAYING FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS TO COVERED INDIVIDUALS.

(2) THE DIVISION SHALL ESTABLISH REASONABLE PROCEDURES AND FORMS FOR FILING CLAIMS FOR BENEFITS UNDER THIS PART 4 AND SHALL SPECIFY WHAT SUPPORTING DOCUMENTATION IS NECESSARY TO SUPPORT A CLAIM FOR BENEFITS, INCLUDING ANY DOCUMENTATION REQUIRED FROM A HEALTH CARE PROVIDER FOR PROOF OF A SERIOUS HEALTH CONDITION AND ANY DOCUMENTATION REQUIRED BY THE DIVISION WITH REGARDS TO A CLAIM FOR SAFE LEAVE.

(3) THE DIVISION SHALL NOTIFY THE EMPLOYER WITHIN FIVE BUSINESS DAYS OF A CLAIM BEING FILED PURSUANT TO THIS PART 4.

(4) THE DIVISION SHALL USE INFORMATION SHARING AND INTEGRATION TECHNOLOGY TO FACILITATE THE DISCLOSURE OF RELEVANT INFORMATION OR RECORDS SO LONG AS AN INDIVIDUAL CONSENTS TO THE DISCLOSURE AS REQUIRED UNDER STATE LAW.

(5) INFORMATION CONTAINED IN THE FILES AND RECORDS PERTAINING TO AN INDIVIDUAL UNDER THIS PART 4 ARE CONFIDENTIAL AND NOT OPEN TO PUBLIC INSPECTION, OTHER THAN TO PUBLIC EMPLOYEES IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES. HOWEVER, THE INDIVIDUAL OR AN AUTHORIZED REPRESENTATIVE OF AN INDIVIDUAL MAY REVIEW THE RECORDS OR RECEIVE SPECIFIC INFORMATION FROM THE RECORDS UPON THE PRESENTATION OF THE INDIVIDUAL'S SIGNED AUTHORIZATION.

(6) THE DIRECTOR SHALL ADOPT RULES AS NECESSARY OR AS SPECIFIED IN THIS PART 4 TO IMPLEMENT AND ADMINISTER THIS PART 4. THE DIRECTOR SHALL ADOPT RULES INCLUDING, BUT NOT LIMITED TO:

(a) CONFIDENTIALITY OF INFORMATION RELATED TO CLAIMS FILED OR APPEALS TAKEN;

(b) GUIDANCE ON THE FACTORS USED TO DETERMINE WHETHER AN INDIVIDUAL IS A COVERED INDIVIDUAL'S FAMILY MEMBER;

(c) THE FORM AND MANNER OF FILING CLAIMS FOR BENEFITS AND PROVIDING RELATED DOCUMENTATION PURSUANT TO SECTION 8-13.3-416 (2); AND

(d) THE FORM AND MANNER OF SUBMITTING AN APPLICATION WITH A CLAIM FOR BENEFITS TO THE DIVISION OR TO THE ENTITY THAT ISSUED A PRIVATE PLAN APPROVED PURSUANT TO SECTION 8-13.3-421.

(7) INITIAL RULES AND REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS PART 4 SHALL BE ADOPTED BY THE DIRECTOR AND PROMULGATED BY JANUARY 1, 2022.

8-13.3-417. Income Tax. (1) IF THE INTERNAL REVENUE SERVICE DETERMINES THAT FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 4 ARE SUBJECT TO FEDERAL INCOME TAX, THE DIVISION OR A PRIVATE PLAN APPROVED UNDER SECTION 8-13.3-421 SHALL INFORM AN INDIVIDUAL FILING A NEW CLAIM FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS, AT THE TIME OF FILING SUCH CLAIM, THAT:

(a) THE INTERNAL REVENUE SERVICE HAS DETERMINED THAT BENEFITS ARE SUBJECT TO FEDERAL INCOME TAX; AND

(b) REQUIREMENTS EXIST PERTAINING TO ESTIMATED TAX PAYMENTS.

(2) BENEFITS RECEIVED PURSUANT TO THIS PART 4 ARE NOT SUBJECT TO STATE INCOME TAX.

(3) THE DIRECTOR, IN CONSULTATION WITH THE DEPARTMENT OF REVENUE, SHALL ISSUE RULES REGARDING TAX TREATMENT AND RELATED PROCEDURES REGARDING FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS, AS WELL AS THE SHARING OF NECESSARY INFORMATION BETWEEN THE DIVISION AND THE DEPARTMENT OF REVENUE.

8-13.3-418. Family and medical leave insurance fund – establishment and investment. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE FAMILY AND MEDICAL LEAVE INSURANCE FUND. THE FUND CONSISTS OF PREMIUMS PAID PURSUANT TO SECTION 8-13.3-407 AND REVENUES FROM REVENUE BONDS ISSUED IN ACCORDANCE WITH SECTION 8-13.3-408(2)(d). MONEY IN THE FUND MAY BE USED ONLY TO PAY REVENUE BONDS; TO REIMBURSE EMPLOYERS WHO PAY FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS DIRECTLY TO EMPLOYEES IN ACCORDANCE WITH SECTION 8-13.3-415(1); AND TO PAY BENEFITS UNDER, AND TO ADMINISTER, THE PROGRAM PURSUANT TO THIS PART 4, INCLUDING TECHNOLOGY COSTS TO ADMINISTER THE PROGRAM AND OUTREACH SERVICES DEVELOPED UNDER SECTION 8-13.3-420. INTEREST EARNED ON THE

INVESTMENT OF MONEY IN THE FUND REMAINS IN THE FUND. ANY MONEY REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE FUND AND DOES NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND. STATE MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE DIVISION FOR THE PURPOSE OF THIS SECTION. THE GENERAL ASSEMBLY SHALL NOT APPROPRIATE MONEY FROM THE FUND FOR THE GENERAL EXPENSES OF THE STATE.

(2) THE DIVISION MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, AND DONATIONS, INCLUDING PROGRAM-RELATED INVESTMENTS AND COMMUNITY REINVESTMENT FUNDS, TO FINANCE THE COSTS OF ESTABLISHING AND IMPLEMENTING THE PROGRAM.

8-13.3-419. Reports. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), BEGINNING JANUARY 1, 2025, THE DIVISION SHALL SUBMIT A REPORT TO THE LEGISLATURE BY APRIL 1 OF EACH YEAR THAT INCLUDES, BUT IS NOT LIMITED TO, PROJECTED AND ACTUAL PROGRAM PARTICIPATION BY SECTION 8-13.3-404(2) PURPOSE, GENDER OF BENEFICIARY, AVERAGE WEEKLY WAGE OF BENEFICIARY, OTHER DEMOGRAPHICS OF BENEFICIARY AS DETERMINED BY THE DIVISION, PREMIUM RATES, FUND BALANCES, OUTREACH EFFORTS, AND, FOR LEAVES TAKEN UNDER SECTION 8-13.3-404(2)(b), FAMILY MEMBERS FOR WHOM LEAVE WAS TAKEN TO PROVIDE CARE.

8-13.3-420. Public education. BY JULY 1, 2022, AND FOR AS LONG AS THE PROGRAM CONTINUES, THE DIVISION SHALL DEVELOP AND IMPLEMENT OUTREACH SERVICES TO EDUCATE THE PUBLIC ABOUT THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM AND AVAILABILITY OF PAID FAMILY AND MEDICAL LEAVE AND BENEFITS UNDER THIS PART 4 FOR COVERED INDIVIDUALS. THE DIVISION SHALL PROVIDE THE INFORMATION REQUIRED BY THIS SECTION IN A MANNER THAT IS CULTURALLY COMPETENT AND LINGUISTICALLY APPROPRIATE. THE DIVISION MAY, ON ITS OWN OR THROUGH A CONTRACT WITH AN OUTSIDE VENDOR, USE A PORTION OF THE MONEY IN THE FUND TO DEVELOP, IMPLEMENT, AND ADMINISTER OUTREACH SERVICES.

8-13.3-421. Substitution of private plans. (1) EMPLOYERS MAY APPLY TO THE DIVISION FOR APPROVAL TO MEET THEIR OBLIGATIONS UNDER THIS PART 4 THROUGH A PRIVATE PLAN. IN ORDER TO BE APPROVED, A PRIVATE PLAN MUST CONFER ALL OF THE SAME RIGHTS, PROTECTIONS AND BENEFITS PROVIDED TO EMPLOYEES UNDER THIS PART 4, INCLUDING, BUT NOT LIMITED TO:

- (a) ALLOWING FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS TO BE TAKEN FOR ALL PURPOSES SPECIFIED IN SECTION 8-13.3-404(2);
- (b) PROVIDING FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS TO A COVERED INDIVIDUAL FOR ANY OF THE PURPOSES, INCLUDING MULTIPLE PURPOSES IN THE AGGREGATE, AS SET FORTH IN SECTION 8-13.3-404(2), FOR THE MAXIMUM NUMBER OF WEEKS REQUIRED IN SECTION 8-13.3-405(1) IN A BENEFIT YEAR;
- (c) ALLOWING FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS UNDER SECTION 8-13.3-404(2)(b) TO BE TAKEN TO CARE FOR ANY FAMILY MEMBER;
- (d) ALLOWING FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS UNDER SECTION 8-13.3-404(2)(c) TO BE TAKEN BY A COVERED INDIVIDUAL WITH ANY SERIOUS HEALTH CONDITION;
- (e) ALLOWING FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS UNDER SECTION 8-13.3-404(2)(e) TO BE TAKEN FOR ANY SAFE LEAVE PURPOSES;
- (f) PROVIDING A WAGE REPLACEMENT RATE FOR ALL FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS OF AT LEAST THE AMOUNT REQUIRED BY SECTION 8-13.3-406(1)(a);
- (g) PROVIDING A MAXIMUM WEEKLY BENEFIT FOR ALL FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS OF AT LEAST THE AMOUNT SPECIFIED IN SECTION 8-13.3-406(1)(b);

- (h) ALLOWING A COVERED INDIVIDUAL TO TAKE INTERMITTENT LEAVE AS AUTHORIZED BY SECTION 8-13.3-405(3);
 - (i) IMPOSING NO ADDITIONAL CONDITIONS OR RESTRICTIONS ON FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS, OR PAID FAMILY AND MEDICAL LEAVE TAKEN IN CONNECTION THEREWITH, BEYOND THOSE EXPLICITLY AUTHORIZED BY THIS PART 4 OR REGULATIONS ISSUED PURSUANT TO THIS PART 4;
 - (j) ALLOWING ANY EMPLOYEE COVERED UNDER THE PRIVATE PLAN WHO IS ELIGIBLE FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 4 TO RECEIVE BENEFITS AND TAKE PAID FAMILY AND MEDICAL LEAVE UNDER THE PRIVATE PLAN; AND
 - (k) PROVIDING THAT THE COST TO EMPLOYEES COVERED BY A PRIVATE PLAN SHALL NOT BE GREATER THAN THE COST CHARGED TO EMPLOYEES UNDER THE STATE PLAN UNDER SECTION 8-13.3-407.
- (2) IN ORDER TO BE APPROVED AS MEETING AN EMPLOYER'S OBLIGATIONS UNDER THIS PART 4, A PRIVATE PLAN MUST ALSO COMPLY WITH THE FOLLOWING PROVISIONS:
- (a) IF THE PRIVATE PLAN IS IN THE FORM OF SELF-INSURANCE, THE EMPLOYER MUST FURNISH A BOND TO THE STATE, WITH SOME SURETY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THE STATE, IN THE FORM, AMOUNT, AND MANNER REQUIRED BY THE DIVISION;
 - (b) THE PLAN MUST PROVIDE FOR ALL ELIGIBLE EMPLOYEES THROUGHOUT THEIR PERIOD OF EMPLOYMENT; AND
 - (c) IF THE PLAN IS IN THE FORM OF A THIRD PARTY THAT PROVIDES FOR INSURANCE, THE FORMS OF THE POLICY MUST BE ISSUED BY AN INSURER APPROVED BY THE STATE.
- (3) THE DIVISION SHALL WITHDRAW APPROVAL FOR A PRIVATE PLAN GRANTED UNDER SECTION 8-13.3-421(1) WHEN TERMS OR CONDITIONS OF THE PLAN HAVE BEEN VIOLATED. CAUSES FOR PLAN TERMINATION SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:
- (a) FAILURE TO PAY BENEFITS;
 - (b) FAILURE TO PAY BENEFITS TIMELY AND IN A MANNER CONSISTENT WITH THIS PART 4;
 - (c) FAILURE TO MAINTAIN AN ADEQUATE SURETY BOND UNDER SECTION 8-13.3-421(2)(a);
 - (d) MISUSE OF PRIVATE PLAN MONEY;
 - (e) FAILURE TO SUBMIT REPORTS OR COMPLY WITH OTHER COMPLIANCE REQUIREMENTS AS REQUIRED BY THE DIRECTOR BY RULE; OR
 - (f) FAILURE TO COMPLY WITH THIS PART 4 OR THE REGULATIONS PROMULGATED PURSUANT TO THIS PART 4.
- (4) AN EMPLOYEE COVERED BY A PRIVATE PLAN APPROVED UNDER THIS SECTION SHALL RETAIN ALL APPLICABLE RIGHTS UNDER SECTION 8-13.3-409.
- (5) A CONTESTED DETERMINATION OR DENIAL OF FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS BY A PRIVATE PLAN IS SUBJECT TO APPEAL BEFORE THE DIVISION AND ANY COURT OF COMPETENT JURISDICTION AS PROVIDED BY SECTION 8-13.3-412.
- (6) THE DIRECTOR, BY RULE, SHALL ESTABLISH A FINE STRUCTURE FOR EMPLOYERS AND ENTITIES OFFERING PRIVATE PLANS THAT VIOLATE THIS SECTION, WITH A MAXIMUM FINE OF \$500 PER VIOLATION. THE DIRECTOR SHALL TRANSFER ANY FINES COLLECTED PURSUANT TO THIS SUBSECTION TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND. THE DIRECTOR, BY RULE, SHALL ESTABLISH A PROCESS FOR THE DETERMINATION, ASSESSMENT, AND APPEAL OF FINES UNDER THIS SUBSECTION.
- (7) THE DIRECTOR SHALL ANNUALLY DETERMINE THE TOTAL AMOUNT EXPENDED BY THE DIVISION FOR COSTS ARISING OUT OF THE ADMINISTRATION OF PRIVATE PLANS. EACH ENTITY OFFERING A PRIVATE PLAN PURSUANT TO THIS SECTION SHALL REIMBURSE THE DIVISION FOR THE COSTS

ARISING OUT OF THE PRIVATE PLANS IN THE AMOUNT, FORM, AND MANNER DETERMINED BY THE DIRECTOR BY RULE. THE DIRECTOR SHALL TRANSFER PAYMENTS RECEIVED PURSUANT TO THIS SECTION TO THE STATE TREASURY FOR DEPOSIT IN THE FUND.

8-13.3-422. Local government employers' ability to decline participation in program - rules.

- (1) A LOCAL GOVERNMENT MAY DECLINE PARTICIPATION IN THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM IN THE FORM AND MANNER DETERMINED BY THE DIRECTOR BY RULE.
- (2) AN EMPLOYEE OF A LOCAL GOVERNMENT THAT HAS DECLINED PARTICIPATION IN THE PROGRAM IN ACCORDANCE WITH THIS SECTION MAY ELECT COVERAGE AS SPECIFIED IN SECTION 8-13.3-414.
- (3) THE DIRECTOR SHALL PROMULGATE REASONABLE RULES FOR THE IMPLEMENTATION OF THIS SECTION. AT A MINIMUM, THE RULES MUST INCLUDE:
 - (a) THE PROCESS BY WHICH A LOCAL GOVERNMENT MAY DECLINE PARTICIPATION IN THE PROGRAM;
 - (b) THE PROCESS BY WHICH A LOCAL GOVERNMENT THAT HAS PREVIOUSLY DECLINED PARTICIPATION IN THE PROGRAM MAY SUBSEQUENTLY ELECT COVERAGE IN THE PROGRAM; AND
 - (c) THE NOTICE THAT A LOCAL GOVERNMENT IS REQUIRED TO PROVIDE ITS EMPLOYEES REGARDING WHETHER THE LOCAL GOVERNMENT IS PARTICIPATING IN THE PROGRAM, THE ABILITY OF THE EMPLOYEES OF A LOCAL GOVERNMENT THAT HAS DECLINED PARTICIPATION TO ELECT COVERAGE PURSUANT TO SECTION 8-13.3-414, AND ANY OTHER NECESSARY REQUIREMENTS.

8-13.3-423. Severability. IF ANY PROVISION OF THIS PART 4 OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE REMAINDER OF PART 4 OR THE APPLICATION OF THE PROVISION TO OTHER PERSONS OR CIRCUMSTANCES IS NOT AFFECTED.

8-13.3-424. Effective date. THIS PART 4 TAKES EFFECT UPON OFFICIAL DECLARATION OF THE GOVERNOR AND IS SELF-EXECUTING.

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

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

LLS NO. 20-1329.01 Ed DeCecco x4216

HOUSE BILL 20-1427

HOUSE SPONSORSHIP

Caraveo and McCluskie, Becker, Bird, Coleman, Duran, Kennedy, Kipp, Michaelson
Jenet, Mullica, Roberts, Woodrow, Young

SENATE SPONSORSHIP

Fields and Moreno, Fenberg, Foote, Ginal, Pettersen, Story, Todd, Winter

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE TAXATION OF PRODUCTS THAT CONTAIN NICOTINE,**
102 **AND, IN CONNECTION THEREWITH, INCREMENTALLY INCREASING**
103 **THE CIGARETTE TAX AND THE TOBACCO PRODUCTS TAX;**
104 **EXPANDING BOTH OF THESE TAXES TO APPLY TO SALES TO**
105 **CONSUMERS FROM OUTSIDE OF THE STATE; CREATING AN**
106 **INVENTORY TAX THAT APPLIES WHEN THE CIGARETTE TAX**
107 **INCREASES; CREATING A MINIMUM TAX AMOUNT FOR MOIST**
108 **SNUFF TOBACCO PRODUCTS; CREATING A TAX ON NICOTINE**
109 **PRODUCTS THAT IS EQUAL TO THE TOTAL TAX ON TOBACCO**
110 **PRODUCTS; ESTABLISHING NEW RATES FOR CIGARETTES,**
111 **TOBACCO PRODUCTS, AND NICOTINE PRODUCTS THAT ARE**
112 **MODIFIED RISK TOBACCO PRODUCTS THAT ARE HALF OF THE**
113 **STATUTORY TAX; REFERRING A BALLOT ISSUE FOR PRIOR VOTER**

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

SENATE
3rd Reading Unamended
June 15, 2020

SENATE
Amended 2nd Reading
June 13, 2020

HOUSE
Amended 3rd Reading
June 12, 2020

HOUSE
Amended 2nd Reading
June 11, 2020

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill refers a ballot issue to the voters at the November 2020 general election for the following incremental tax changes beginning January 1, 2021:

- ! To increase the statutory per cigarette tax from one cent to 6.5 cents until July 1, 2024, then to 8 cents until July 1, 2027, and thereafter to 10 cents;
- ! To increase the statutory tobacco products tax from 20% of the manufacturer's list price (MLP) to 30% of MLP until July 1, 2024, then to 36% of MLP until July 1, 2027, and to 42% thereafter of MLP for tobacco products;
- ! To create a tax on nicotine products that is equal to 50% of MLP until July 1, 2024, then 56% of MLP until July 1, 2027, and thereafter 62% of MLP, which is the same tax as the total tax levied on tobacco products, including the tax from Amendment 35, with the increase; and
- ! To establish a tax rate for cigarettes, tobacco products, and nicotine products that are modified risk tobacco products approved by the United States department of health and human services that is 50% of the statutory tax rate.

The bill establishes a minimum tax for tobacco products that are moist snuff that is based on a combined minimum tax between the statutory tobacco tax and the tax imposed under Amendment 35. If voters approve the tax, then the state will have the authority to impose these taxes beginning January 1, 2021, and retain and spend the revenue as a voter-approved revenue change, and the remainder of the bill takes effect upon approval.

The cigarette and tobacco products taxes are expanded to include delivery sales made by a seller outside of the state directly to a consumer, and the delivery sellers are defined to be wholesalers or distributors. For any tax increase that takes place after January 1, 2022, an inventory tax is created on cigarettes that is imposed on all stamped cigarettes and unaffixed stamps in a wholesaler or wholesale subcontractor's possession or control at the time of a tax increase.

The bill also establishes a minimum price for cigarettes that is equal to:

- ! \$7 for a pack and \$70 for a carton until July 1, 2024; and
- ! \$7.50 for a pack and \$75 for a carton on and after July 1, 2024.

There are civil penalties imposed for any person who sells cigarettes for less than the minimum amount. As part of its annual June forecast, legislative council staff is required to include an estimate for the current state fiscal year of the additional sales tax revenue that is attributable to the minimum price requirement. On June 30 of the fiscal year, the state treasurer is required to transfer an amount equal to 73% of the estimate from the general fund to the newly created preschool programs cash fund, with the other 27% remaining in the general fund for the distribution to local governments, as required under current law.

The new nicotine products tax is modeled after the tobacco products tax. Nicotine products are products that contain nicotine and that are ingested into the body, which at this time is typically through vaping with an electronic cigarette. The excise tax is levied on the sale, use, consumption, handling, or distribution of all nicotine products in the state, and it is imposed on a distributor at the time the product is brought into the state, made here, or shipped or transported to retailers in the state, or the wholesaler or distributor makes a delivery sale. If a distributor fails to pay the tax, then any person or entity in possession of the nicotine products is liable for the tax.

To be a distributor of nicotine products, a person must have a license. The license costs \$10 per year and requires that the distributor must have a tax license and comply with all of the laws relating to the collection of the tax. Distributors are required to file quarterly returns, and the department of revenue may require electronic fund transfers of the taxes paid. Licensees are required to maintain certain records, and retailers are likewise required to maintain records about nicotine products they purchase from a licensed distributor. The department may share the names and addresses of persons who purchased nicotine products for resale with the department of public health and environment and county and district public health agencies.

To account for the fully phased-in increased taxes per cigarette, the discount percentage on cigarette stamps that a cigarette wholesaler may retain for its collection costs is reduced from 4% to .4% and the similar discount for a tobacco products distributor is reduced from 3.33% to 1.6%. A nicotine products distributor will be permitted to retain 1.1% of the taxes collected.

The revenue from the new nicotine products tax, the inventory tax, and the additional cigarette and tobacco products taxes is deposited in the old age pension fund and then credited to the general fund in accordance with the state constitution. For fiscal years prior to July 1, 2023, most of

the tax revenue will stay in the general fund, except for an amount the state treasurer transfers to the 2020 tax holding fund to offset the decreased revenue from the existing taxes that may result from the voter-approved rate increases for the tobacco tax cash fund and to reimburse local governments. Thereafter, the state treasurer will transfer an amount equal to the total tax revenue from the general fund to the 2020 tax holding fund and then transfer specified amounts to the tobacco tax cash fund, the tobacco education programs fund, and the general fund and the remainder after those amounts to the newly created preschool programs cash fund, from which the general assembly may appropriate money to a designated department to be used for an array of preschool education purposes.

The state auditor is required to annually conduct a financial audit of the use of the new tax revenue.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 4 to article
3 28 of title 39 as follows:

4 **PART 4**

5 **SUBMISSION OF BALLOT ISSUE - CIGARETTES,**
6 **TOBACCO PRODUCTS, AND NICOTINE PRODUCTS TAXES**

7 **39-28-401. Submission of ballot issue - increased tax cigarettes**
8 **and tobacco products - new tax on nicotine products - definition -**
9 **repeal.** (1) AS USED IN THIS SECTION, "BALLOT ISSUE" MEANS THE
10 QUESTION REFERRED TO VOTERS IN SUBSECTION (2) OF THIS SECTION.

11 (2) AT THE ELECTION HELD ON NOVEMBER 3, 2020, THE
12 SECRETARY OF STATE SHALL SUBMIT TO THE REGISTERED ELECTORS OF
13 THE STATE FOR THEIR APPROVAL OR REJECTION THE FOLLOWING BALLOT
14 ISSUE: "SHALL STATE TAXES BE INCREASED BY \$294,000,000 ANNUALLY
15 BY IMPOSING A TAX ON NICOTINE LIQUIDS USED IN E-CIGARETTES
16 AND OTHER VAPING PRODUCTS THAT IS EQUAL TO THE TOTAL STATE TAX
17 ON TOBACCO PRODUCTS WHEN FULLY PHASED IN, INCREMENTALLY

1 INCREASING THE TOBACCO PRODUCTS TAX BY UP TO 22% OF THE
2 MANUFACTURER'S LIST PRICE, INCREMENTALLY INCREASING THE
3 CIGARETTE TAX BY UP TO 9 CENTS PER CIGARETTE, EXPANDING THE
4 EXISTING CIGARETTE AND TOBACCO TAXES TO APPLY TO SALES TO
5 CONSUMERS FROM OUTSIDE OF THE STATE, ESTABLISHING A MINIMUM TAX
6 FOR MOIST SNUFF TOBACCO PRODUCTS, CREATING AN INVENTORY TAX
7 THAT APPLIES FOR FUTURE CIGARETTE TAX INCREASES, AND INITIALLY
8 USING THE TAX REVENUE PRIMARILY FOR PUBLIC SCHOOL FUNDING TO
9 HELP OFFSET REVENUE THAT HAS BEEN LOST AS A RESULT OF THE
10 ECONOMIC IMPACTS RELATED TO COVID-19 AND THEN FOR PROGRAMS
11 THAT REDUCE THE USE OF TOBACCO AND NICOTINE PRODUCTS, ENHANCE
12 THE VOLUNTARY COLORADO PRESCHOOL PROGRAM AND MAKE IT WIDELY
13 AVAILABLE FOR FREE, AND MAINTAIN THE FUNDING FOR PROGRAMS THAT
14 CURRENTLY RECEIVE REVENUE FROM TOBACCO TAXES, WITH THE STATE
15 KEEPING AND SPENDING ALL OF THE NEW TAX REVENUE AS A
16 VOTER-APPROVED REVENUE CHANGE?"

17 (3) FOR PURPOSES OF SECTION 1-5-407, THE BALLOT ISSUE IS A
18 PROPOSITION. SECTION 1-40-106 (3)(d) DOES NOT APPLY TO THE BALLOT
19 ISSUE.

20 (4) (a) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT
21 ISSUE VOTE "NO/AGAINST", THEN THIS SECTION IS REPEALED, EFFECTIVE
22 JULY 1, 2021.

23 (b) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT ISSUE
24 VOTE "YES/FOR", THEN THIS SUBSECTION (4) IS REPEALED, EFFECTIVE
25 JULY 1, 2021.

26 **SECTION 2.** In Colorado Revised Statutes, 39-28-101, **amend**
27 the introductory portion, (3), and (4); and **add** (1.3), (1.7), and (2.7) as

1 follows:

2 **39-28-101. Definitions.** As used in this ~~article~~ ARTICLE 28, unless
3 the context otherwise requires:

4 (1.3) "DELIVERY SALE" MEANS A SALE OF CIGARETTES TO A
5 CONSUMER IN THIS STATE WHEN:

6 (a) THE CONSUMER SUBMITS AN ORDER FOR CIGARETTES TO A
7 DELIVERY SELLER FOR SALE BY MEANS OTHER THAN AN
8 OVER-THE-COUNTER SALE ON THE DELIVERY SELLER'S PREMISES,
9 INCLUDING, BUT NOT LIMITED TO, TELEPHONE OR OTHER VOICE
10 TRANSMISSION, THE MAIL OR OTHER DELIVERY SERVICE, OR THE INTERNET
11 OR OTHER ONLINE SERVICE; AND

12 (b) THE CIGARETTES ARE DELIVERED WHEN THE SELLER IS NOT IN
13 THE PHYSICAL PRESENCE OF THE CONSUMER WHEN THE CONSUMER
14 OBTAINS POSSESSION OF THE CIGARETTES BY USE OF A COMMON CARRIER,
15 PRIVATE DELIVERY SERVICE, MAIL, OR ANY OTHER MEANS.

16 (1.7) "DELIVERY SELLER" MEANS A PERSON LOCATED OUTSIDE OF
17 THIS STATE WHO MAKES DELIVERY SALES.

18 (2.7) "MODIFIED RISK TOBACCO PRODUCT" MEANS ANY TOBACCO
19 PRODUCT FOR WHICH THE SECRETARY OF THE UNITED STATES
20 DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS ISSUED AN ORDER
21 AUTHORIZING THE PRODUCT TO BE COMMERCIALY MARKETED AS A
22 MODIFIED RISK TOBACCO PRODUCT IN ACCORDANCE WITH 21 U.S.C. SEC.
23 387k, OR ANY SUCCESSOR SECTION.

24 (3) "Sale" or "resale" includes installment, credit, and conditional
25 sales and means any exchange, barter, or transfer of title or possession,
26 or both, for a consideration to any other person, firm, partnership, limited
27 liability company, or corporation within this state. It includes:

1 (a) A gift by a person engaged in the business of selling cigarettes,
2 for advertising, as a means of evading provisions of this ~~article~~ ARTICLE
3 28 or for any other purpose whatsoever; AND

4 (b) DELIVERY SALES.

5 (4) "Wholesaler" means any person, firm, limited liability
6 company, partnership, or corporation who imports cigarettes into this
7 state for sale or resale. THE TERM ALSO INCLUDES A DELIVERY SELLER.

8 **SECTION 3.** In Colorado Revised Statutes, **amend** 39-28-103 as
9 follows:

10 **39-28-103. Tax levied.** (1) (a) PRIOR TO JANUARY 1, 2021, there
11 is levied and shall be collected and paid to the department a tax upon the
12 sale of cigarettes by wholesalers of ten mills on each cigarette.

13 (b) A TAX IS LEVIED UPON THE SALE OF CIGARETTES BY
14 WHOLESALERS, EXCLUDING CIGARETTES THAT ARE MODIFIED RISK
15 TOBACCO PRODUCTS, THAT IS EQUAL TO:

16 (I) SIX AND ONE-HALF CENTS PER CIGARETTE FOR SALES ON AND
17 AFTER JANUARY 1, 2021, BUT PRIOR TO JULY 1, 2024;

18 (II) EIGHT CENTS PER CIGARETTE FOR SALES ON AND AFTER JULY
19 1, 2024, BUT PRIOR TO JULY 1, 2027; AND

20 (III) TEN CENTS PER CIGARETTE FOR SALES ON AND AFTER JULY 1,
21 2027.

22 (c) A TAX IS LEVIED ON THE SALE OF CIGARETTES THAT ARE
23 MODIFIED RISK TOBACCO PRODUCTS THAT IS EQUAL TO:

24 (I) THREE AND ONE-QUARTER CENTS PER CIGARETTE FOR SALES ON
25 AND AFTER JANUARY 1, 2021, BUT PRIOR TO JULY 1, 2024;

26 (II) FOUR CENTS PER CIGARETTE FOR SALES ON AND AFTER JULY
27 1, 2024, BUT PRIOR TO JULY 1, 2027; AND

1 (III) FIVE CENTS PER CIGARETTE FOR SALES ON AND AFTER JULY
2 1, 2027.

3 (d) THE WHOLESALER SHALL PAY THE TAX SET FORTH IN THIS
4 SECTION TO THE DEPARTMENT, WHICH SHALL COLLECT THE TAX.

5 SECTION 4. In Colorado Revised Statutes, add 39-28-103.3 as
6 follows:

7 39-28-103.3. Inventory tax - definition. (1) AS USED IN THIS
8 SECTION, "COLORADO TAX STAMP" MEANS A STAMP THAT IS AFFIXED TO,
9 OR AN IMPRINT OR IMPRESSION BY A SUITABLE METERING MACHINE
10 APPROVED BY THE DEPARTMENT ON A PACKAGE CONTAINING CIGARETTES
11 AS EVIDENCE OF THE PAYMENT OF TAX IMPOSED BY THIS ARTICLE 28,
12 EXCLUDING THE TAX SET FORTH IN THIS SECTION.

13 (2) AFTER JANUARY 1, 2022, IN ADDITION TO ANY OTHER TAX
14 IMPOSED UNDER THIS ARTICLE 28 OR SECTION 21 OF ARTICLE X OF THE
15 STATE CONSTITUTION, THERE IS LEVIED A TAX ON CIGARETTES IN A
16 WHOLESALER'S OR WHOLESALE SUBCONTRACTOR'S POSSESSION OR
17 CONTROL THAT HAVE A COLORADO TAX STAMP THAT APPLIES ANY TIME
18 THAT THE CIGARETTE TAX IS INCREASED. THE TAX IS EQUAL TO THE
19 DIFFERENCE BETWEEN THE TAX PAID FOR THE COLORADO TAX STAMP
20 CURRENTLY AFFIXED TO A PACKAGE OF CIGARETTES AND THE TAX THAT
21 WILL BE OWED FOR THE SAME COLORADO TAX STAMP AFTER THE INCREASE
22 IN THE TAX IMPOSED PER CIGARETTE. IT IS UNLAWFUL FOR ANY PERSON
23 TO AFFIX A COLORADO TAX STAMP ON OR AFTER 12:01 A.M. ON THE DAY
24 THAT A RATE INCREASE WILL TAKE EFFECT, TO A PACKAGE OF CIGARETTES
25 THAT REFLECTS PAYMENT OF THE TAX IMPOSED PRIOR TO THE INCREASE.
26 ANY UNAFFIXED STAMPS MAY BE REDEEMED FOR CREDIT PURSUANT TO
27 SECTION 39-28-104 (3).

1 (3) (a) AFTER JANUARY 1, 2022, A WHOLESALER SHALL TAKE AN
2 INVENTORY OF ALL PACKAGES OF CIGARETTES WITH A COLORADO TAX
3 STAMP AFFIXED THERETO AND OF ALL UNAFFIXED COLORADO TAX STAMPS
4 IN THE WHOLESALER'S POSSESSION OR CONTROL AS OF 12:01 A.M. ON THE
5 DAY THAT A RATE INCREASE WILL TAKE EFFECT.

6 (b) AFTER JANUARY 1, 2022, A WHOLESALE SUBCONTRACTOR
7 SHALL TAKE AN INVENTORY OF ALL PACKAGES OF CIGARETTES WITH A
8 COLORADO TAX STAMP AFFIXED THERETO IN THE WHOLESALE
9 SUBCONTRACTOR'S POSSESSION OR CONTROL AS OF 12:01 A.M. ON THE DAY
10 THAT A RATE INCREASE WILL TAKE EFFECT.

11 (4) EVERY WHOLESALER AND WHOLESALE SUBCONTRACTOR SHALL
12 FILE A REPORT, ON A FORM CREATED BY THE DEPARTMENT, OF THE
13 INVENTORY IDENTIFIED IN ACCORDANCE WITH SUBSECTION (3) OF THIS
14 SECTION AND PAY THE TAX IMPOSED UNDER THIS SECTION FOR THE
15 INVENTORY. A WHOLESALER SHALL SEPARATELY IDENTIFY THE NUMBER
16 OF PACKAGES WITH A COLORADO TAX STAMP AND THE UNAFFIXED
17 COLORADO TAX STAMPS. THE WHOLESALER OR WHOLESALE
18 SUBCONTRACTOR SHALL REMIT THE TAX PAYMENT ON OR BEFORE THE
19 TENTH DAY OF THE MONTH FOLLOWING THE REQUIRED INVENTORY. IF
20 PAYMENT IS MADE ON OR BEFORE THE DUE DATE, THE WHOLESALER OR
21 WHOLESALE SUBCONTRACTOR MAY DEDUCT THREE PERCENT OF THE TAX
22 IMPOSED UNDER THIS SECTION, BUT, IF ANY WHOLESALER OR WHOLESALE
23 SUBCONTRACTOR IS DELINQUENT IN REMITTING SUCH PAYMENT, OTHER
24 THAN IN UNUSUAL CIRCUMSTANCES SHOWN TO THE SATISFACTION OF THE
25 EXECUTIVE DIRECTOR OF THE DEPARTMENT, THE WHOLESALER OR
26 WHOLESALE SUBCONTRACTOR SHALL NOT BE ALLOWED TO RETAIN ANY
27 AMOUNTS TO COVER THE EXPENSE IN COLLECTING AND REMITTING THE

1 TAX AND THE PENALTY IMPOSED UNDER SECTION 39-28-108 (2) APPLIES.

2 (5) THE DEPARTMENT MAY REQUIRE WHOLESALERS AND
3 WHOLESALE SUBCONTRACTORS TO USE ELECTRONIC FUNDS TRANSFERS TO
4 REMIT TAX PAYMENTS DUE UNDER THIS SECTION AND MAY REQUIRE
5 WHOLESALERS AND WHOLESALE SUBCONTRACTORS TO FILE TAX RETURNS
6 ELECTRONICALLY. THE DEPARTMENT MAY PROMULGATE RULES
7 GOVERNING ELECTRONIC PAYMENT AND FILING.

8 **SECTION 5.** In Colorado Revised Statutes, 39-28-104, **amend**
9 (1)(a) and (3) as follows:

10 **39-28-104. Evidence of payment of tax - credits - redemptions.**

11 (1) (a) (I) Payment of the taxes imposed by ~~the provisions of this article~~
12 SECTIONS 39-28-103 AND 39-28-103.5 and section 21 of article X of the
13 state constitution shall be evidenced by the affixing of stamps to, or by an
14 imprint or impression by suitable metering machines approved by the
15 department on, packages containing cigarettes. The department shall
16 procure stamps of such design and legend as it deems necessary and
17 suitable for the purpose. Except as provided in ~~paragraph (b) of this~~
18 ~~subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION, the department shall
19 sell such stamps for cash to licensed wholesalers at a discount of four
20 percent of their face value for sales occurring ~~prior to July 1, 2003, or on~~
21 ~~or after July 1, 2005, and three percent of their face value for sales~~
22 ~~occurring on or after July 1, 2003, but before July 1, 2005~~ BUT BEFORE
23 JANUARY 1, 2021, AND FOUR-TENTHS PERCENT OF THEIR FACE VALUE FOR
24 SALES OCCURRING ON AND AFTER JANUARY 1, 2021, if payment is made
25 on or before the tenth day of the month following the month in which the
26 purchase is made to cover the licensed wholesaler's expense in the
27 collection and remittance of such tax; but, if any licensed wholesaler is

1 delinquent in remitting such payment, other than in unusual circumstances
2 shown to the satisfaction of the executive director of the department, the
3 licensed wholesaler shall not be allowed to retain any amounts to cover
4 his or her expense in collecting and remitting said tax, and, in addition,
5 the penalty imposed under section 39-28-108 (2) shall apply. The
6 department shall keep accurate records of all stamps sold to each
7 wholesaler. No wholesaler shall sell or transfer any stamps purchased
8 pursuant to ~~the provisions of this article~~ ARTICLE 28.

9 (II) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY ENTER
10 INTO CONTRACTS WITH THIRD PARTIES TO ACT AS THE DEPARTMENT'S
11 AGENTS FOR THE SALE OF STAMPS AND MATTERS RELATING TO THE SALE
12 OF STAMPS.

13 (3) Credit shall be given by the department for all taxes levied
14 pursuant to ~~the provisions of this article~~ ARTICLE 28 on unsalable
15 merchandise when the department is satisfied that the same has been
16 returned to the manufacturer or has been destroyed by the wholesaler OR
17 WHEN THE STAMPS ARE UNUSABLE BECAUSE THE TAX RATE HAS CHANGED.
18 The department shall redeem any unused and uncanceled stamps
19 presented by any wholesaler within one year after the date of issue of said
20 stamps at the price paid therefor by such wholesaler.

21 **SECTION 6.** In Colorado Revised Statutes, 39-28-107, **amend**
22 (1)(b) as follows:

23 **39-28-107. Unstamped packages - tax collected - fines - subject**
24 **to confiscation - tobacco tax enforcement cash fund - creation.**

25 (1) (b) There is hereby created in the state treasury the tobacco tax
26 enforcement cash fund. The fund ~~shall consist of moneys~~ CONSISTS OF
27 MONEY deposited therein pursuant to ~~paragraph (a) of this subsection (1)~~

1 SUBSECTION (1)(a) OF THIS SECTION and ~~section 39-28.5-106(4)~~ SECTIONS
2 39-28-116(5), 39-28.5-106(4) AND 39-28.6-107(4). The ~~moneys~~ MONEY
3 in the fund ~~shall be~~ IS subject to annual appropriation by the general
4 assembly to the department for the purpose of enforcing ~~the provisions of~~
5 this ~~article~~ ARTICLE 28 and ~~article 28.5~~ ARTICLES 28.5 AND 28.6 of this
6 ~~title~~ TITLE 39. Any ~~moneys~~ MONEY not appropriated by the general
7 assembly ~~shall remain~~ REMAINS in the fund and shall not be transferred
8 or revert to the general fund at the end of any fiscal year.

9 **SECTION 7.** In Colorado Revised Statutes, 39-28-108, **amend**
10 (2)(b) as follows:

11 **39-28-108. Penalty.** (2) (b) If a person fails to pay the tax in the
12 time allowed for the discount in section 39-28-104 (1) OR 39-28-103.3,
13 a penalty equal to ten percent thereof plus one-half of one percent per
14 month from the date when due, not to exceed eighteen percent in the
15 aggregate, together with interest on such delinquent taxes at the rate
16 computed under section 39-21-110.5, shall apply.

17 **SECTION 8.** In Colorado Revised Statutes, 39-28-110, **amend**
18 (1) as follows:

19 **39-28-110. Distribution of tax collected.** (1) (a) All ~~sums of~~
20 money received and collected in payment of the tax imposed by ~~the~~
21 ~~provisions of this article~~ ARTICLE 28, except license fees received under
22 section 39-28-102 and the ~~moneys~~ MONEY collected pursuant to section
23 39-28-103.5, shall be transmitted to the state treasurer who shall distribute
24 the money as follows: Fifteen percent to the general fund and eighty-five
25 percent to the old age pension fund.

26 (b) [REDACTED] THE NET REVENUE THAT IS CREDITED TO THE OLD AGE
27 PENSION FUND CREATED IN SECTION 1 OF ARTICLE XXIV OF THE STATE

1 CONSTITUTION IN ACCORDANCE WITH SUBSECTION (1)(a) OF THIS SECTION
2 AND SECTION 2 (a) OF ARTICLE XXIV OF THE STATE CONSTITUTION IS
3 TRANSFERRED TO THE GENERAL FUND IN ACCORDANCE WITH SECTION 7 (c)
4 OF ARTICLE XXIV OF THE STATE CONSTITUTION. OF THIS MONEY OR THE
5 FIFTEEN PERCENT THAT IS DIRECTLY CREDITED TO THE GENERAL FUND,
6 THE STATE TREASURER SHALL TRANSFER AN AMOUNT EQUAL TO THE
7 TOTAL REVENUE THAT IS ATTRIBUTABLE TO THE TAX IMPOSED UNDER
8 SECTION 39-28-103.3 AND THE TAX INCREASE SET FORTH IN SECTION
9 39-28-103 ■ APPROVED BY THE VOTERS AT THE STATEWIDE ELECTION IN
10 NOVEMBER 2020 TO THE 2020 TAX HOLDING FUND CREATED IN SECTION
11 24-22-118 (1).

12 **SECTION 9.** In Colorado Revised Statutes, **add** 39-28-110.5 as
13 follows:

14 **39-28-110.5. Revenue and spending limitations.**
15 NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR
16 APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE
17 CONSTITUTION OR ANY OTHER PROVISION OF LAW, ANY REVENUE
18 GENERATED BY THE INVENTORY TAX IMPOSED UNDER SECTION
19 39-28-103.3 AND THE PER CIGARETTE TAX INCREASE SET FORTH IN
20 SECTION 39-28-103 ■ APPROVED BY THE VOTERS AT THE STATEWIDE
21 ELECTION IN NOVEMBER 2020, MAY BE COLLECTED AND SPENT AS A
22 VOTER-APPROVED REVENUE CHANGE.

23 **SECTION 10.** In Colorado Revised Statutes, **add** 39-28-116 as
24 follows:

25 **39-28-116. Minimum price for cigarettes.** (1) ON AND AFTER
26 JANUARY 1, 2021, BUT BEFORE JULY 1, 2024, NO PERSON SHALL SELL OR
27 OFFER FOR SALE CIGARETTES TO A CONSUMER FOR LESS THAN SEVEN

1 DOLLARS PER PACKAGE OF TWENTY CIGARETTES OR SEVENTY DOLLARS
2 PER CARTON OF TWO HUNDRED CIGARETTES, INCLUDING ALL APPLICABLE
3 TAXES.

4 (2) ON AND AFTER JULY 1, 2024, NO PERSON SHALL SELL OR OFFER
5 FOR SALE CIGARETTES TO A CONSUMER FOR LESS THAN SEVEN DOLLARS
6 AND FIFTY CENTS PER PACKAGE OF TWENTY CIGARETTES OR SEVENTY-FIVE
7 DOLLARS PER CARTON OF TWO HUNDRED CIGARETTES, INCLUDING ALL
8 APPLICABLE TAXES.

9 (3) A PERSON WHO VIOLATES SUBSECTION (1) OR (2) OF THIS
10 SECTION, IN ADDITION TO OTHER PENALTIES PROVIDED BY LAW, SHALL BE
11 LIABLE FOR A CIVIL PENALTY IN THE FOLLOWING AMOUNTS:

12 (a) FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION WITHIN A
13 FIVE-YEAR PERIOD;

14 (b) ONE THOUSAND DOLLARS FOR A SECOND VIOLATION WITHIN A
15 FIVE-YEAR PERIOD; AND

16 (c) ONE THOUSAND FIVE HUNDRED DOLLARS FOR A THIRD
17 VIOLATION WITHIN A FIVE-YEAR PERIOD.

18 (4) NO PERSON SHALL BE LIABLE UNDER THIS SECTION FOR MORE
19 THAN ONE VIOLATION OF THIS SECTION DURING A SINGLE DAY.

20 (5) THE DEPARTMENT OF REVENUE SHALL REMIT ANY CIVIL
21 PENALTIES RECEIVED PURSUANT TO THIS SECTION TO THE STATE
22 TREASURER FOR DEPOSIT IN THE TOBACCO TAX ENFORCEMENT CASH FUND
23 CREATED SECTION 39-28-107 (1)(b).

24 (6) IN ITS ANNUAL JUNE FORECAST, LEGISLATIVE COUNCIL STAFF
25 SHALL REPORT AN ESTIMATE FOR THE CURRENT STATE FISCAL YEAR OF THE
26 ADDITIONAL SALES TAX REVENUE THAT IS ATTRIBUTABLE TO THE
27 APPLICABLE MINIMUM PRICE SET FORTH IN THIS SECTION. ON JUNE 30 OF

1 THE FISCAL YEAR, THE STATE TREASURER SHALL TRANSFER AN AMOUNT
2 EQUAL TO SEVENTY-THREE PERCENT OF THE LEGISLATIVE COUNCIL STAFF
3 ESTIMATE FROM THE GENERAL FUND TO THE PRESCHOOL PROGRAMS CASH
4 FUND CREATED IN SECTION 24-22-118 (3)(a).

5 **SECTION 11.** In Colorado Revised Statutes, 39-28.5-101,
6 **amend** the introductory portion, (1), (2), and (4); and **add** (1.2), (1.4),
7 (3.3), and (3.7) as follows:

8 **39-28.5-101. Definitions.** As used in this ~~article~~ ARTICLE 28.5,
9 unless the context otherwise requires:

10 (1) ~~"Department" means the department of revenue~~ "DELIVERY
11 SALE" MEANS THE SALE OF TOBACCO PRODUCTS TO A CONSUMER IN THIS
12 STATE WHEN:

13 (a) THE CONSUMER SUBMITS AN ORDER FOR THE TOBACCO
14 PRODUCTS TO A DELIVERY SELLER FOR SALE BY MEANS OTHER THAN AN
15 OVER-THE-COUNTER SALE ON THE DELIVERY SELLER'S PREMISES,
16 INCLUDING, BUT NOT LIMITED TO, TELEPHONE OR OTHER VOICE
17 TRANSMISSION, THE MAIL OR OTHER DELIVERY SERVICE, OR THE INTERNET
18 OR OTHER ONLINE SERVICE; AND

19 (b) THE TOBACCO PRODUCTS ARE DELIVERED WHEN THE SELLER IS
20 NOT IN THE PHYSICAL PRESENCE OF THE CONSUMER WHEN THE CONSUMER
21 OBTAINS POSSESSION OF THE TOBACCO PRODUCTS BY USE OF A COMMON
22 CARRIER, PRIVATE DELIVERY SERVICE, MAIL, OR ANY OTHER MEANS.

23 (1.2) "DELIVERY SELLER" MEANS A PERSON LOCATED OUTSIDE OF
24 THIS STATE WHO MAKES DELIVERY SALES.

25 (1.4) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

26 (2) "Distributor" means every person who:

27 (a) First receives tobacco products in this state;

1 (b) ~~every person who~~ Sells tobacco products in this state ~~who~~ AND
2 is primarily liable for the tobacco products tax on such products;

3 (c) ~~and every person who~~ First sells or offers for sale in this state
4 tobacco products imported into this state from any other state or country;

5 OR

6 (d) IS A DELIVERY SELLER.

7 (3.3) "MODIFIED RISK TOBACCO PRODUCT" MEANS ANY TOBACCO
8 PRODUCT FOR WHICH THE SECRETARY OF THE UNITED STATES
9 DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS ISSUED AN ORDER
10 AUTHORIZING THE PRODUCT TO BE COMMERCIALY MARKETED AS A
11 MODIFIED RISK TOBACCO PRODUCT IN ACCORDANCE WITH 21 U.S.C. SEC.
12 387k, OR ANY SUCCESSOR SECTION.

13 (3.7) "MOIST SNUFF" MEANS ANY FINELY CUT, GROUND, OR
14 POWDERED TOBACCO THAT IS NOT INTENDED TO BE SMOKED BUT DOES NOT
15 INCLUDE ANY FINELY CUT, GROUND, OR POWDERED TOBACCO THAT IS
16 INTENDED TO BE PLACED IN THE NASAL CAVITY.

17 (4) "Sale" means any transfer, exchange, or barter, in any manner
18 or by any means whatsoever, for a consideration, including all sales made
19 by any person. The term includes:

20 (a) A gift by a person engaged in the business of selling tobacco
21 products, for advertising, as a means of evading the provisions of this
22 article or for any other purposes whatsoever; AND

23 (b) A DELIVERY SALE.

24 **SECTION 12.** In Colorado Revised Statutes, **repeal and reenact,**
25 **with amendments,** 39-28.5-102 as follows:

26 **39-28.5-102. Tax levied.** (1) EXCEPT AS SET FORTH IN
27 SUBSECTION (3) OF THIS SECTION, THERE IS LEVIED A TAX UPON THE SALE,

1 USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF ALL TOBACCO
2 PRODUCTS IN THIS STATE, EXCLUDING MODIFIED RISK TOBACCO PRODUCTS,
3 AT THE RATE OF:

4 (a) TWENTY PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE
5 TOBACCO PRODUCTS FOR THE TAX LEVIED PRIOR TO JANUARY 1, 2021;

6 (b) THIRTY PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE
7 TOBACCO PRODUCTS FOR THE TAX LEVIED ON AND AFTER JANUARY 1,
8 2021, BUT PRIOR TO JULY 1, 2024;

9 (c) THIRTY-SIX PERCENT OF THE MANUFACTURER'S LIST PRICE OF
10 THE TOBACCO PRODUCTS FOR THE TAX LEVIED ON AND AFTER JULY 1,
11 2024, BUT PRIOR TO JULY 1, 2027; AND

12 (d) FORTY-TWO PERCENT OF THE MANUFACTURER'S LIST PRICE OF
13 THE TOBACCO PRODUCTS FOR THE TAX LEVIED ON AND AFTER JULY 1,
14 2027.

15 (2) THERE IS LEVIED A TAX UPON THE SALE, USE, CONSUMPTION,
16 HANDLING, OR DISTRIBUTION OF MODIFIED RISK TOBACCO PRODUCTS IN
17 THIS STATE AT THE RATE OF:

18 [REDACTED]

19 (a) FIFTEEN PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE
20 MODIFIED RISK TOBACCO PRODUCTS FOR THE TAX LEVIED ON AND AFTER
21 JANUARY 1, 2021, BUT PRIOR TO JULY 1, 2024;

22 (b) EIGHTEEN PERCENT OF THE MANUFACTURER'S LIST PRICE OF
23 THE MODIFIED RISK TOBACCO PRODUCTS FOR THE TAX LEVIED ON AND
24 AFTER JULY 1, 2024, BUT PRIOR TO JULY 1, 2027; AND

25 (c) TWENTY-ONE PERCENT OF THE MANUFACTURER'S LIST PRICE OF
26 THE MODIFIED RISK TOBACCO PRODUCTS FOR THE TAX LEVIED ON AND
27 AFTER JULY 1, 2027.

1 (3) (a) IF THE TOTAL OF THE TAX IMPOSED UPON THE SALE, USE,
2 CONSUMPTION, HANDLING, OR DISTRIBUTION OF MOIST SNUFF UNDER
3 SUBSECTION (1) OF THIS SECTION AND SECTION 39-28.5-102.5 IS LESS
4 THAN THE MINIMUM MOIST SNUFF TAX SPECIFIED IN SUBSECTION (3)(b) OF
5 THIS SECTION, THEN THE TAX IMPOSED UPON THE SALE, USE,
6 CONSUMPTION, HANDLING, OR DISTRIBUTION OF MOIST SNUFF UNDER THIS
7 SECTION IS EQUAL TO THE MINIMUM MOIST SNUFF TAX MINUS THE TAX
8 IMPOSED UNDER SECTION 39-28.5-102.5.

9 (b) (I) THE MINIMUM MOIST SNUFF TAX IS EQUAL TO:

10 (A) ONE DOLLAR FORTY-EIGHT CENTS FOR EACH ONE AND
11 TWO-TENTH OUNCE CONTAINER FOR THE TAX LEVIED ON AND AFTER
12 JANUARY 1, 2021, BUT PRIOR TO JULY 1, 2024;

13 (B) ONE DOLLAR EIGHTY-FOUR CENTS FOR EACH ONE AND
14 TWO-TENTH OUNCE CONTAINER FOR THE TAX LEVIED ON AND AFTER JULY
15 1, 2024, BUT PRIOR TO JULY 1, 2027; AND

16 (C) TWO DOLLARS TWENTY-SIX CENTS FOR EACH ONE AND
17 TWO-TENTH OUNCE CONTAINER FOR THE TAX LEVIED ON AND AFTER JULY
18 1, 2027.

19 (II) THE AMOUNT SPECIFIED IN SUBSECTION (3)(b)(I) OF THIS
20 SECTION IS PROPORTIONALLY INCREASED FOR ANY CONTAINER LARGER
21 THAN ONE AND TWO-TENTHS OUNCES.

22 (4) THE TAX SET FORTH IN THIS SECTION IS COLLECTED BY THE
23 DEPARTMENT AND IS IMPOSED AT THE TIME THE DISTRIBUTOR:

24 (a) BRINGS, OR CAUSES TO BE BROUGHT, INTO THIS STATE FROM
25 WITHOUT THE STATE TOBACCO PRODUCTS FOR SALE;

26 (b) MAKES, MANUFACTURES, OR FABRICATES TOBACCO PRODUCTS
27 IN THIS STATE FOR SALE IN THIS STATE;

1 (c) SHIPS OR TRANSPORTS TOBACCO PRODUCTS TO RETAILERS IN
2 THIS STATE TO BE SOLD BY THOSE RETAILERS; OR

3 (d) MAKES A DELIVERY SALE.

4 **SECTION 13.** In Colorado Revised Statutes, 39-28.5-105,
5 **amend** (1) and (3) as follows:

6 **39-28.5-105. Books and records to be preserved.** (1) Every
7 distributor shall keep at each licensed place of business complete and
8 accurate records for that place of business, including itemized invoices of
9 tobacco products held, purchased, manufactured, brought in or caused to
10 be brought in from without the state, or shipped or transported to retailers
11 in this state, and of all sales of tobacco products made, except sales to the
12 ultimate consumer WITHIN THE STATE.

13 (3) When a licensed distributor sells tobacco products exclusively
14 to the ultimate consumer WITHIN THE STATE at the address given in the
15 license, no invoice of those sales shall be required, but itemized invoices
16 shall be made of all tobacco products transferred to other retail outlets
17 owned or controlled by that licensed distributor. All books, records, and
18 other papers and documents required by this section to be kept shall be
19 preserved for a period of at least three years after the date of the
20 documents, unless the department, in writing, authorizes their destruction
21 or disposal at an earlier date.

22 **SECTION 14.** In Colorado Revised Statutes, 39-28.5-106,
23 **amend** (2) as follows:

24 **39-28.5-106. Returns and remittance of tax - civil penalty.**
25 (2) Every distributor shall file a return with the department by the
26 twentieth day of the month following the month reported and shall
27 therewith remit the amount of tax due, less three and one-third percent of

1 any sum so remitted that consists of tax collected ~~before July 1, 2003, or~~
2 ~~on or after July 1, 2005, and less two and one-third percent of any sum so~~
3 ~~remitted that consists of tax collected on or after July 1, 2003, but before~~
4 ~~July 1, 2005~~ BUT BEFORE JANUARY 1, 2021, AND LESS ONE AND
5 SIX-TENTHS PERCENT OF ANY SUM SO REMITTED THAT CONSISTS OF TAX
6 COLLECTED ON OR AFTER JANUARY 1, 2021, to cover the distributor's
7 expense in the collection and remittance of said tax; except that no part
8 of the tax imposed pursuant to section 39-28.5-102.5 and section 21 of
9 article X of the state constitution shall be subject to the discount provided
10 for in this subsection (2). If any distributor is delinquent in remitting said
11 tax, other than in unusual circumstances shown to the satisfaction of the
12 executive director of the department, the distributor shall not be allowed
13 to retain any amounts to cover his or her expense in collecting and
14 remitting said tax, and in addition the penalty imposed under section
15 39-28.5-110 (2)(b) shall apply.

16 **SECTION 15.** In Colorado Revised Statutes, 39-28.5-107,
17 **amend** (1) as follows:

18 **39-28.5-107. When credit may be obtained for tax paid.**

19 (1) Where tobacco products, upon which the tax imposed by this ~~article~~
20 ARTICLE 28.5 has been reported and paid, are shipped or transported by
21 the distributor to retailers without the state to be sold by those retailers,
22 are shipped or transported by the distributor to a consumer without the
23 state on or after ~~September 1, 2015, but prior to September 1, 2018~~
24 JANUARY 1, 2021, or are returned to the manufacturer by the distributor
25 or destroyed by the distributor, credit of such tax may be made to the
26 distributor in accordance with regulations prescribed by the department.

27 **SECTION 16.** In Colorado Revised Statutes, 39-28.5-108,

1 **amend** (1) as follows:

2 **39-28.5-108. Distribution of tax collected.** (1) (a) All ~~sums of~~
3 money received and collected in payment of the tax imposed by ~~the~~
4 ~~provisions of this article~~ ARTICLE 28.5, except license fees received under
5 section 39-28.5-104 and the ~~moneys~~ MONEY collected pursuant to section
6 39-28.5-102.5, shall be transmitted to the state treasurer, who shall
7 distribute such money as follows: Fifteen percent to the general fund and
8 eighty-five percent to the old age pension fund.

9 (b) THE NET REVENUE THAT IS CREDITED TO THE OLD AGE
10 PENSION FUND CREATED IN SECTION 1 OF ARTICLE XXIV OF THE STATE
11 CONSTITUTION IN ACCORDANCE WITH SUBSECTION (1)(a) OF THIS SECTION
12 AND SECTION 2 (a) OF ARTICLE XXIV OF THE STATE CONSTITUTION IS
13 TRANSFERRED TO THE GENERAL FUND IN ACCORDANCE WITH SECTION 7 (c)
14 OF ARTICLE XXIV OF THE STATE CONSTITUTION. OF THIS MONEY OR THE
15 FIFTEEN PERCENT THAT IS DIRECTLY CREDITED TO THE GENERAL FUND,
16 THE STATE TREASURER SHALL TRANSFER AN AMOUNT EQUAL TO THE
17 TOTAL REVENUE THAT IS ATTRIBUTABLE TO THE TAX INCREASE SET FORTH
18 IN SECTION 39-28.5-102, APPROVED BY THE VOTERS AT THE STATEWIDE
19 ELECTION IN NOVEMBER 2020, TO THE 2020 TAX HOLDING FUND CREATED
20 IN SECTION 24-22-118 (1).

21 **SECTION 17.** In Colorado Revised Statutes, **add** 39-28.5-108.5
22 as follows:

23 **39-28.5-108.5. Revenue and spending limitations.**
24 NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR
25 APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE
26 CONSTITUTION OR ANY OTHER PROVISION OF LAW, ANY REVENUE
27 GENERATED BY THE TAX INCREASE SET FORTH IN SECTION 39-28.5-102,

1 APPROVED BY THE VOTERS AT THE STATEWIDE ELECTION IN NOVEMBER
2 2020, MAY BE COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE
3 CHANGE.

4 **SECTION 18.** In Colorado Revised Statutes, **add** article 28.6 to
5 title 39 as follows:

6 **ARTICLE 28.6**

7 **Nicotine Products Tax**

8 **39-28.6-101. Legislative declaration.** (1) THE GENERAL
9 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

- 10 (a) NICOTINE IS A HIGHLY ADDICTIVE AND TOXIC SUBSTANCE;
- 11 (b) THERE HAS BEEN A SIGNIFICANT INCREASE IN THE USE OF
12 ELECTRONIC CIGARETTES, WHICH HEAT NICOTINE, FLAVORINGS, AND
13 OTHER CHEMICALS TO CREATE AN AEROSOL THAT IS INHALED;
- 14 (c) CHILDREN IN MIDDLE SCHOOL AND HIGH SCHOOL HAVE
15 REPORTED USING ELECTRONIC CIGARETTES AT ALARMING RATES, AND
16 STUDIES HAVE LINKED ELECTRONIC CIGARETTE USE AMONG YOUTH TO
17 NICOTINE ADDICTION AND CIGARETTE SMOKING;
- 18 (d) THE LONG-TERM HEALTH RISKS OF THIS USE ARE UNKNOWN,
19 BUT ELECTRONIC CIGARETTE AEROSOL CAN CONTAIN HARMFUL AND
20 POTENTIALLY HARMFUL SUBSTANCES INCLUDING NICOTINE,
21 CANCER-CAUSING CHEMICALS, HEAVY METALS, FLAVORING CHEMICALS,
22 ULTRAFINE PARTICLES, AND VOLATILE ORGANIC COMPOUNDS;
- 23 (e) YET NICOTINE PRODUCTS ARE NOT SUBJECT TO THE SAME
24 EXCISE TAX AS CIGARETTES AND TOBACCO PRODUCTS;
- 25 (f) TAXING NICOTINE PRODUCTS AT THE WHOLESALE LEVEL WILL
26 INCREASE THE TOTAL COST, WHICH MAY SERVE AS A DETERRENT TO
27 CHILDREN AND ADOLESCENTS AND IN TURN PREVENT AND REDUCE

1 CONSUMPTION; AND

2 (g) REVENUE FROM THE TAX CAN BE USED TOWARD POSITIVE
3 OUTCOMES IN CHILDREN'S LIVES.

4 (2) THEREFORE, THE GENERAL ASSEMBLY INTENDS TO CREATE A
5 TAX ON NICOTINE PRODUCTS SO THAT THEY ARE TAXED IN THE SAME
6 MANNER AS TOBACCO PRODUCTS, INCLUDING THE LICENSING
7 REQUIREMENTS THAT FACILITATE THE COLLECTION OF THE TAX.

8 **39-28.6-102. Definitions.** AS USED IN THIS ARTICLE 28.6, UNLESS
9 THE CONTEXT OTHERWISE REQUIRES:

10 (1) "DELIVERY SALE" MEANS A SALE OF NICOTINE PRODUCTS TO A
11 CONSUMER IN THIS STATE WHEN:

12 (a) THE CONSUMER SUBMITS AN ORDER FOR THE NICOTINE
13 PRODUCTS TO A DELIVERY SELLER FOR SALE BY MEANS OTHER THAN AN
14 OVER-THE-COUNTER SALE ON THE DELIVERY SELLER'S PREMISES,
15 INCLUDING, BUT NOT LIMITED TO, TELEPHONE OR OTHER VOICE
16 TRANSMISSION, THE MAIL OR OTHER DELIVERY SERVICE, OR THE INTERNET
17 OR OTHER ONLINE SERVICE; AND

18 (b) THE NICOTINE PRODUCTS ARE DELIVERED WHEN THE SELLER IS
19 NOT IN THE PHYSICAL PRESENCE OF THE CONSUMER WHEN THE CONSUMER
20 OBTAINS POSSESSION OF THE NICOTINE PRODUCTS BY USE OF A COMMON
21 CARRIER, PRIVATE DELIVERY SERVICE, MAIL, OR ANY OTHER MEANS.

22 (2) "DELIVERY SELLER" MEANS A PERSON LOCATED OUTSIDE OF
23 THIS STATE WHO MAKES DELIVERY SALES.

24 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

25 (4) "DISTRIBUTOR" MEANS EVERY PERSON WHO:

26 (a) FIRST RECEIVES NICOTINE PRODUCTS IN THIS STATE;

27 (b) SELLS NICOTINE PRODUCTS IN THIS STATE AND IS PRIMARILY

1 LIABLE FOR THE NICOTINE PRODUCTS TAX ON THE NICOTINE PRODUCTS;

2 (c) FIRST SELLS OR OFFERS FOR SALE IN THIS STATE NICOTINE
3 PRODUCTS IMPORTED INTO THIS STATE FROM ANY OTHER STATE OR
4 COUNTRY; OR

5 (d) MAKES A DELIVERY SALE.

6 (5) "MANUFACTURER'S LIST PRICE" MEANS THE INVOICE PRICE FOR
7 WHICH A MANUFACTURER OR SUPPLIER SELLS A NICOTINE PRODUCT TO A
8 DISTRIBUTOR EXCLUSIVE OF ANY DISCOUNT OR OTHER REDUCTION.

9 (6) "MODIFIED RISK TOBACCO PRODUCT" MEANS ANY TOBACCO
10 PRODUCT FOR WHICH THE SECRETARY OF THE UNITED STATES
11 DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS ISSUED AN ORDER
12 AUTHORIZING THE PRODUCT TO BE COMMERCIALY MARKETED AS A
13 MODIFIED RISK TOBACCO PRODUCT IN ACCORDANCE WITH 21 U.S.C. SEC.
14 387k, OR ANY SUCCESSOR SECTION; EXCEPT THAT THE TERM DOES NOT
15 INCLUDE A NONCOMBUSTIBLE PRODUCT THAT PRODUCES VAPOR OR
16 AEROSOL FOR INHALATION FROM THE APPLICATION OF A HEATING
17 ELEMENT TO A LIQUID SUBSTANCE CONTAINING NICOTINE.

18 (7) "NICOTINE PRODUCT" MEANS A PRODUCT THAT CONTAINS
19 NICOTINE DERIVED FROM TOBACCO OR CREATED SYNTHETICALLY THAT IS
20 INTENDED FOR HUMAN CONSUMPTION, WHETHER BY VAPORIZING,
21 CHEWING, SMOKING, ABSORBING, DISSOLVING, INHALING, SNORTING,
22 SNIFFING, AEROSOLIZING, OR BY ANY OTHER MEANS, AND THAT IS NOT:

23 (a) A CIGARETTE;

24 (b) TOBACCO PRODUCTS, AS DEFINED IN SECTION 39-28.5-101 (5);

25 OR

26 (c) A DRUG, DEVICE, OR COMBINATION PRODUCT AUTHORIZED FOR
27 SALE BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN

1 SERVICES, AS THOSE TERMS ARE DEFINED IN THE "FEDERAL FOOD, DRUG,
2 AND COSMETIC ACT", 21 U.S.C. SEC. 301 ET SEQ.

3 (8) "SALE" MEANS ANY TRANSFER, EXCHANGE, OR BARTER, IN ANY
4 MANNER OR BY ANY MEANS WHATSOEVER, FOR A CONSIDERATION,
5 INCLUDING ALL SALES MADE BY ANY PERSON. THE TERM INCLUDES:

6 (a) A GIFT BY A PERSON ENGAGED IN THE BUSINESS OF SELLING
7 NICOTINE PRODUCTS, FOR ADVERTISING, AS A MEANS OF EVADING THE
8 PROVISIONS OF THIS ARTICLE 28.6, OR FOR ANY OTHER PURPOSES
9 WHATSOEVER; AND

10 (b) A DELIVERY SALE.

11 **39-28.6-103. Tax levied.** (1) THERE IS LEVIED A TAX UPON THE
12 SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF ALL NICOTINE
13 PRODUCTS IN THIS STATE, EXCLUDING NICOTINE PRODUCTS THAT ARE
14 MODIFIED RISK TOBACCO PRODUCTS, AT THE RATE OF:

15 (a) THIRTY PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE
16 NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JANUARY 1,
17 2021, BUT PRIOR TO JANUARY 1, 2022;

18 (b) THIRTY-FIVE PERCENT OF THE MANUFACTURER'S LIST PRICE OF
19 THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JANUARY 1,
20 2022, BUT PRIOR TO JANUARY 1, 2023;

21 (c) FIFTY PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE
22 NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JANUARY 1,
23 2023, BUT PRIOR TO JULY 1, 2024;

24 (d) FIFTY-SIX PERCENT OF THE MANUFACTURER'S LIST PRICE OF
25 THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JULY 1,
26 2024, BUT PRIOR TO JULY 1, 2027; AND

27 (e) SIXTY-TWO PERCENT OF THE MANUFACTURER'S LIST PRICE OF

1 THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JULY 1,
2 2027.

3 (2) THERE IS LEVIED A TAX UPON THE SALE, USE, CONSUMPTION,
4 HANDLING, OR DISTRIBUTION OF NICOTINE PRODUCTS THAT ARE MODIFIED
5 RISK TOBACCO PRODUCTS IN THIS STATE AT THE RATE OF:

6 (a) FIFTEEN PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE
7 NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JANUARY 1,
8 2021, BUT PRIOR TO JANUARY 1, 2022;

9 (b) SEVENTEEN AND ONE-HALF PERCENT OF THE MANUFACTURER'S
10 LIST PRICE OF THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND
11 AFTER JANUARY 1, 2022, BUT PRIOR TO JANUARY 1, 2023;

12 (c) TWENTY-FIVE PERCENT OF THE MANUFACTURER'S LIST PRICE
13 OF THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JANUARY
14 1, 2023, BUT PRIOR TO JULY 1, 2024;

15 (d) TWENTY-EIGHT PERCENT OF THE MANUFACTURER'S LIST PRICE
16 OF THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JULY 1,
17 2024, BUT PRIOR TO JULY 1, 2027; AND

18 (e) THIRTY-ONE PERCENT OF THE MANUFACTURER'S LIST PRICE OF
19 THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JULY 1,
20 2027.

21 (3) THE TAX SET FORTH IN THIS SECTION IS COLLECTED BY THE
22 DEPARTMENT AND IS IMPOSED AT THE TIME THE DISTRIBUTOR:

23 (a) BRINGS, OR CAUSES TO BE BROUGHT, INTO THIS STATE FROM
24 WITHOUT THE STATE NICOTINE PRODUCTS FOR SALE;

25 (b) MAKES, MANUFACTURES, OR FABRICATES NICOTINE PRODUCTS
26 IN THIS STATE FOR SALE IN THIS STATE;

27 (c) SHIPS OR TRANSPORTS NICOTINE PRODUCTS TO RETAILERS IN

1 THIS STATE TO BE SOLD BY THOSE RETAILERS; OR

2 (d) MAKES A DELIVERY SALE.

3 **39-28.6-104. Exempt sales.** THE TAX IMPOSED BY SECTION
4 39-28.6-103 SHALL NOT APPLY WITH RESPECT TO ANY NICOTINE PRODUCTS
5 THAT, UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES, MAY
6 NOT BE MADE THE SUBJECT OF TAXATION BY THIS STATE. A PERSON SHALL
7 REPORT THE EXEMPT SALES TO THE DEPARTMENT, AS REQUIRED BY THE
8 DEPARTMENT.

9 **39-28.6-105. Licensing required - rules - fines.** BEGINNING
10 JANUARY 1, 2021, IT IS UNLAWFUL FOR ANY PERSON TO ENGAGE IN THE
11 BUSINESS OF A DISTRIBUTOR OF NICOTINE PRODUCTS AT ANY PLACE OF
12 BUSINESS WITHOUT FIRST OBTAINING A LICENSE GRANTED AND ISSUED BY
13 THE DEPARTMENT, WHICH LICENSE IS IN EFFECT UNTIL JUNE 30 FOLLOWING
14 THE DATE OF ISSUE, UNLESS SOONER REVOKED. THE DEPARTMENT SHALL
15 GRANT A LICENSE ONLY TO A PERSON WHO OWNS OR OPERATES THE PLACE
16 FROM WHICH THE PERSON ENGAGES IN THE BUSINESS OF A DISTRIBUTOR OF
17 NICOTINE PRODUCTS, AND, IF THE BUSINESS IS OPERATED IN TWO OR MORE
18 SEPARATE PLACES BY THE PERSON, A SEPARATE LICENSE FOR EACH PLACE
19 OF BUSINESS IS REQUIRED. A LICENSE MAY BE RENEWED ONLY UPON
20 TIMELY APPLICATION AND PAYMENT OF THE REQUIRED FEE PRIOR TO
21 EXPIRATION. A LICENSE MAY BE TRANSFERRED IN THE DISCRETION OF AND
22 PURSUANT TO THE RULES ADOPTED BY THE DEPARTMENT. THE FEE FOR A
23 LICENSE IS TEN DOLLARS PER YEAR, AND THE FEE IS CREDITED TO THE
24 GENERAL FUND. THE FEE IS REDUCED AT THE RATE OF TWO DOLLARS AND
25 FIFTY CENTS FOR EACH EXPIRED QUARTER OF THE LICENSE YEAR. THE
26 DEPARTMENT SHALL, ON REASONABLE NOTICE AND AFTER A HEARING,
27 SUSPEND OR REVOKE THE LICENSE OF ANY PERSON VIOLATING ANY

1 PROVISION OF THIS ARTICLE 28.6, AND THE DEPARTMENT SHALL NOT ISSUE
2 A LICENSE TO THE SAME PERSON WITHIN A PERIOD OF TWO YEARS
3 THEREAFTER. THE DEPARTMENT MAY SHARE INFORMATION ON THE NAMES
4 AND ADDRESSES OF PERSONS WHO PURCHASED NICOTINE PRODUCTS FOR
5 RESALE WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
6 AND COUNTY AND DISTRICT PUBLIC HEALTH AGENCIES. THE DEPARTMENT
7 SHALL REFUSE TO ISSUE A NEW OR RENEWAL DISTRIBUTOR LICENSE, AND
8 SHALL REVOKE A DISTRIBUTOR'S LICENSE, IF THE DISTRIBUTOR OWES THE
9 STATE ANY DELINQUENT TAXES ADMINISTERED BY THE DEPARTMENT OR
10 INTEREST THEREON PURSUANT TO THIS TITLE 39 THAT HAVE BEEN
11 DETERMINED BY LAW TO BE DUE AND UNPAID, UNLESS THE DISTRIBUTOR
12 HAS ENTERED INTO AN AGREEMENT APPROVED BY THE DEPARTMENT TO
13 PAY THE AMOUNT DUE. THE DEPARTMENT SHALL ONLY ISSUE A NEW OR
14 RENEWAL DISTRIBUTOR LICENSE TO A DISTRIBUTOR THAT HAS A CURRENT
15 LICENSE ISSUED PURSUANT TO SECTION 39-26-103.

16 **39-28.6-106. Books and records to be preserved.** (1) EVERY
17 DISTRIBUTOR SHALL KEEP AT EACH LICENSED PLACE OF BUSINESS
18 COMPLETE AND ACCURATE RECORDS FOR THAT PLACE OF BUSINESS,
19 INCLUDING ITEMIZED INVOICES OF NICOTINE PRODUCTS HELD, PURCHASED,
20 MANUFACTURED, BROUGHT IN OR CAUSED TO BE BROUGHT IN FROM
21 WITHOUT THE STATE, OR SHIPPED OR TRANSPORTED TO RETAILERS IN THIS
22 STATE, AND OF ALL SALES OF NICOTINE PRODUCTS MADE, EXCEPT SALES TO
23 THE ULTIMATE CONSUMER WITHIN THE STATE.

24 (2) THE DISTRIBUTOR'S RECORDS MUST SHOW THE NAMES AND
25 ADDRESSES OF PURCHASERS, THE INVENTORY OF ALL NICOTINE PRODUCTS
26 ON HAND, AND OTHER PERTINENT PAPERS AND DOCUMENTS RELATING TO
27 THE PURCHASE, SALE, OR DISPOSITION OF NICOTINE PRODUCTS.

1 (3) WHEN A LICENSED DISTRIBUTOR SELLS NICOTINE PRODUCTS
2 EXCLUSIVELY TO THE ULTIMATE CONSUMER WITHIN THE STATE AT THE
3 ADDRESS GIVEN IN THE LICENSE, NO INVOICE OF THOSE SALES IS REQUIRED,
4 BUT THE LICENSED DISTRIBUTOR SHALL MAKE ITEMIZED INVOICES OF ALL
5 NICOTINE PRODUCTS TRANSFERRED TO OTHER RETAIL OUTLETS OWNED OR
6 CONTROLLED BY THAT LICENSED DISTRIBUTOR. A DISTRIBUTOR SHALL
7 PRESERVE ALL BOOKS, RECORDS, AND OTHER PAPERS AND DOCUMENTS
8 REQUIRED BY THIS SECTION TO BE KEPT FOR A PERIOD OF AT LEAST THREE
9 YEARS AFTER THE DATE OF THE DOCUMENTS, UNLESS THE DEPARTMENT,
10 IN WRITING, AUTHORIZES THEIR DESTRUCTION OR DISPOSAL AT AN EARLIER
11 DATE.

12 (4) (a) EVERY RETAILER THAT IS NOT ALSO A LICENSED
13 DISTRIBUTOR SHALL KEEP AT ITS PLACE OF BUSINESS COMPLETE AND
14 ACCURATE RECORDS TO SHOW THAT ALL NICOTINE PRODUCTS RECEIVED
15 BY THE RETAILER WERE PURCHASED FROM A LICENSED DISTRIBUTOR. THE
16 RETAILER SHALL PROVIDE A COPY OF SUCH RECORDS TO THE DEPARTMENT
17 IF SO REQUESTED. THE DEPARTMENT MAY ESTABLISH THE ACCEPTABLE
18 FORM OF SUCH RECORDS.

19 (b) THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEY FOR ANY
20 EXPENSES INCURRED BY THE DEPARTMENT RELATED TO ENFORCING
21 SUBSECTION (4)(a) OF THIS SECTION FROM THE TOBACCO TAX
22 ENFORCEMENT CASH FUND CREATED IN SECTION 39-28-107 (1)(b).

23 **39-28.6-107. Returns and remittance of tax - civil penalty -**
24 **rules.** (1) EVERY DISTRIBUTOR SHALL FILE A RETURN WITH THE
25 DEPARTMENT EACH QUARTER. THE RETURN, WHICH MUST BE UPON FORMS
26 PRESCRIBED AND FURNISHED BY THE DEPARTMENT, MUST CONTAIN,
27 AMONG OTHER THINGS, THE TOTAL AMOUNT OF NICOTINE PRODUCTS

1 PURCHASED BY THE DISTRIBUTOR DURING THE PRECEDING QUARTER AND
2 THE TAX DUE THEREON.

3 (2) EVERY DISTRIBUTOR SHALL FILE A RETURN WITH THE
4 DEPARTMENT BY THE TWENTIETH DAY OF THE MONTH FOLLOWING THE
5 MONTH REPORTED AND SHALL THEREWITH REMIT THE AMOUNT OF TAX
6 DUE, LESS ONE AND ONE-TENTH PERCENT OF ANY AMOUNT REMITTED TO
7 COVER THE DISTRIBUTOR'S EXPENSE IN THE COLLECTION AND REMITTANCE
8 OF THE TAX. IF ANY DISTRIBUTOR IS DELINQUENT IN REMITTING THE TAX,
9 OTHER THAN IN UNUSUAL CIRCUMSTANCES SHOWN TO THE SATISFACTION
10 OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, THE DISTRIBUTOR IS
11 NOT ALLOWED TO RETAIN ANY AMOUNTS TO COVER HIS OR HER EXPENSE
12 IN COLLECTING AND REMITTING THE TAX AND, IN ADDITION, THE PENALTY
13 IMPOSED UNDER SECTION 39-28.6-111 (2)(b) APPLIES.

14 (3) THE DEPARTMENT SHALL REQUIRE DISTRIBUTORS TO USE
15 ELECTRONIC FUNDS TRANSFERS TO REMIT TAX PAYMENTS DUE PURSUANT
16 TO THIS ARTICLE 28.6 TO THE DEPARTMENT AND SHALL REQUIRE
17 DISTRIBUTORS TO FILE TAX RETURNS ELECTRONICALLY. THE DEPARTMENT
18 MAY PROMULGATE RULES GOVERNING ELECTRONIC PAYMENT AND FILING.

19 (4) (a) ANY PERSON, FIRM, LIMITED LIABILITY COMPANY,
20 PARTNERSHIP, OR CORPORATION, OTHER THAN A DISTRIBUTOR, IN
21 POSSESSION OF NICOTINE PRODUCTS FOR WHICH TAXES HAVE NOT
22 OTHERWISE BEEN REMITTED PURSUANT TO THIS SECTION IS LIABLE AND
23 RESPONSIBLE FOR THE UNCOLLECTED TAX THAT IS LEVIED PURSUANT TO
24 SECTION 39-28.6-103 ON BEHALF OF THE DISTRIBUTOR WHO FAILED TO PAY
25 THE TAX. THE PERSON OR ENTITY SHALL MAKE THE PAYMENT TO THE
26 DEPARTMENT WITHIN THIRTY DAYS OF FIRST TAKING POSSESSION OF THE
27 NICOTINE PRODUCT. THE DEPARTMENT SHALL ESTABLISH A FORM TO BE

1 USED FOR REMITTANCE OF THE PAYMENT. THE DEPARTMENT SHALL REMIT
2 THE PROCEEDS IT RECEIVES PURSUANT TO THIS SUBSECTION (4)(a) TO THE
3 STATE TREASURER, AND THE STATE TREASURER SHALL CREDIT FIFTEEN
4 PERCENT OF THE PROCEEDS TO THE TOBACCO TAX ENFORCEMENT CASH
5 FUND CREATED IN SECTION 39-28-107 (1)(b) AND EIGHTY-FIVE PERCENT
6 TO THE OLD AGE PENSION FUND CREATED IN SECTION 1 OF ARTICLE XXIV
7 OF THE STATE CONSTITUTION.

8 (b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY IMPOSE
9 A CIVIL PENALTY ON ANY PERSON, FIRM, LIMITED LIABILITY COMPANY,
10 PARTNERSHIP, OR CORPORATION IN POSSESSION OF NICOTINE PRODUCTS
11 THAT FAILS TO MAKE A PAYMENT REQUIRED PURSUANT TO SUBSECTION
12 (4)(a) OF THIS SECTION OR WHO IS A DISTRIBUTOR BY VIRTUE OF BEING THE
13 FIRST PERSON WHO RECEIVES THE NICOTINE PRODUCTS IN THE STATE AND
14 WHO FAILS TO MAKE A PAYMENT REQUIRED PURSUANT TO THIS SECTION IN
15 AN AMOUNT THAT DOES NOT EXCEED FIVE HUNDRED PERCENT OF SUCH
16 PAYMENT. THE DEPARTMENT SHALL REMIT ANY MONEY RECEIVED
17 PURSUANT TO THIS SUBSECTION (4)(b) TO THE STATE TREASURER FOR
18 DEPOSIT IN THE TOBACCO TAX ENFORCEMENT CASH FUND CREATED IN
19 SECTION 39-28-107 (1)(b).

20 **39-28.6-108. When credit may be obtained for tax paid.**
21 WHERE NICOTINE PRODUCTS, UPON WHICH THE TAX IMPOSED BY THIS
22 ARTICLE 28.6 HAS BEEN REPORTED AND PAID, ARE SHIPPED OR
23 TRANSPORTED BY THE DISTRIBUTOR TO RETAILERS WITHOUT THE STATE TO
24 BE SOLD BY THOSE RETAILERS, ARE SHIPPED OR TRANSPORTED BY THE
25 DISTRIBUTOR TO A CONSUMER WITHOUT THE STATE ON OR AFTER JANUARY
26 1, 2021, OR ARE RETURNED TO THE MANUFACTURER BY THE DISTRIBUTOR
27 OR DESTROYED BY THE DISTRIBUTOR, CREDIT OF SUCH TAX MAY BE MADE

1 TO THE DISTRIBUTOR IN ACCORDANCE WITH REGULATIONS PRESCRIBED BY
2 THE DEPARTMENT.

3 **39-28.6-109. Distribution of tax collected.** (1) THE STATE
4 TREASURER SHALL CREDIT THE MONEY COLLECTED FOR PAYMENT OF THE
5 TAX IMPOSED UNDER THIS ARTICLE 28.6 TO THE OLD AGE PENSION FUND
6 CREATED IN SECTION 1 OF ARTICLE XXIV OF THE STATE CONSTITUTION IN
7 ACCORDANCE WITH SECTION 2 (a) AND (f) OF ARTICLE XXIV OF THE
8 STATE CONSTITUTION AND SHALL FURTHER TRANSFER AN AMOUNT EQUAL
9 TO THIS AMOUNT TO THE GENERAL FUND IN ACCORDANCE WITH SECTION
10 7 (c) OF ARTICLE XXIV OF THE STATE CONSTITUTION.

11 (2) [REDACTED] THE STATE TREASURER SHALL TRANSFER AN AMOUNT
12 EQUAL TO THE TAX IMPOSED UNDER THIS ARTICLE 28.6 FROM THE
13 GENERAL FUND TO THE 2020 TAX HOLDING FUND CREATED IN SECTION
14 24-22-118 (1).

15 **39-28.6-110. Taxation by cities and towns.** THIS ARTICLE 28.6
16 DOES NOT PREVENT A STATUTORY OR HOME RULE MUNICIPALITY, COUNTY,
17 OR CITY AND COUNTY FROM IMPOSING, LEVYING, AND COLLECTING ANY
18 SPECIAL SALES TAX UPON SALES OF CIGARETTES, TOBACCO PRODUCTS, OR
19 NICOTINE PRODUCTS, AS THAT TERM IS DEFINED IN SECTION 18-13-121 (5),
20 OR UPON THE OCCUPATION OR PRIVILEGE OF SELLING CIGARETTES,
21 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS. THIS ARTICLE 28.6 DOES
22 NOT AFFECT ANY EXISTING AUTHORITY OF LOCAL GOVERNMENTS TO
23 IMPOSE A SPECIAL SALES TAX ON CIGARETTES, TOBACCO PRODUCTS, OR
24 NICOTINE PRODUCTS, IN ACCORDANCE WITH SECTION 39-28-112, TO BE
25 USED FOR LOCAL AND GOVERNMENTAL PURPOSES.

26 **39-28.6-111. Prohibited acts - penalties.** (1) BEGINNING
27 JANUARY 1, 2021, IT IS UNLAWFUL FOR ANY DISTRIBUTOR TO SELL AND

1 DISTRIBUTE ANY NICOTINE PRODUCTS IN THIS STATE WITHOUT A LICENSE
2 AS REQUIRED IN SECTION 39-28.6-105, OR TO WILLFULLY MAKE ANY FALSE
3 OR FRAUDULENT RETURN OR FALSE STATEMENT ON ANY RETURN, OR TO
4 WILLFULLY EVADE THE PAYMENT OF THE TAX, OR ANY PART THEREOF, AS
5 IMPOSED BY THIS ARTICLE 28.6. ANY DISTRIBUTOR OR AGENT THEREOF
6 WHO WILLFULLY VIOLATES ANY PROVISION OF THIS ARTICLE 28.6 IS
7 SUBJECT TO PUNISHMENT AS PROVIDED BY SECTION 39-21-118.

8 (2) (a) IF A PERSON NEGLECTS OR REFUSES TO MAKE A RETURN AS
9 REQUIRED BY THIS ARTICLE 28.6 AND NO AMOUNT OF TAX IS DUE, THE
10 EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL IMPOSE A PENALTY IN
11 THE AMOUNT OF TWENTY-FIVE DOLLARS.

12 (b) IF A PERSON FAILS TO PAY THE TAX IN THE TIME ALLOWED IN
13 SECTION 39-28.6-107, A PENALTY EQUAL TO TEN PERCENT OF THE TAX
14 PLUS ONE-HALF OF ONE PERCENT PER MONTH FROM THE DATE WHEN DUE,
15 TOGETHER WITH INTEREST ON SUCH DELINQUENT TAXES AT THE RATE
16 COMPUTED UNDER SECTION 39-21-110.5, APPLIES.

17 (c) IN COMPUTING AND ASSESSING THE PENALTY, PENALTY
18 INTEREST, AND INTEREST PURSUANT TO SUBSECTION (2)(b) OF THIS
19 SECTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY MAKE AN
20 ESTIMATE, BASED UPON INFORMATION AS MAY BE AVAILABLE, OF THE
21 AMOUNT OF TAXES DUE FOR THE PERIOD FOR WHICH THE TAXPAYER IS
22 DELINQUENT.

23 **39-28.6-112. Revenue and spending limitations.**
24 NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR
25 APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE
26 CONSTITUTION OR ANY OTHER PROVISION OF LAW, ANY REVENUE
27 GENERATED BY THE TAX IMPOSED BY THIS ARTICLE 28.6 APPROVED BY THE

1 VOTERS AT THE STATEWIDE ELECTION IN NOVEMBER 2020 MAY BE
2 COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE.

3 **SECTION 19.** In Colorado Revised Statutes, 13-40-127, amend
4 (5)(a) as follows:

5 **13-40-127. Eviction legal assistance - fund - rules - report -**
6 **definitions.** (5) (a) In addition to MONEY TRANSFERRED TO THE FUND
7 PURSUANT TO SECTION 24-22-118 (2) AND any appropriation from the
8 general fund, the administrator may seek, accept, and expend gifts, grants,
9 or donations from private or public sources for the purposes of this
10 section. The administrator shall transmit all money received through gifts,
11 grants, or donations to the state treasurer, who shall credit the money to
12 the fund.

13 **SECTION 20.** In Colorado Revised Statutes, add 22-54-142 as
14 follows:

15 **22-54-142. Rural school funding - rural schools cash fund -**
16 **created - definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE
17 CONTEXT OTHERWISE REQUIRES:

18 (a) "DISTRIBUTION YEAR" MEANS THE BUDGET YEAR IN WHICH
19 RURAL SCHOOL FUNDING IS DISTRIBUTED PURSUANT TO THIS SECTION.

20 (b) "ELIGIBLE INSTITUTE CHARTER SCHOOL" MEANS AN INSTITUTE
21 CHARTER SCHOOL THAT HAS A SMALL RURAL DISTRICT OR A LARGE RURAL
22 DISTRICT AS ITS ACCOUNTING DISTRICT.

23 (c) "FUND" MEANS THE RURAL SCHOOLS CASH FUND CREATED IN
24 SUBSECTION (5) OF THIS SECTION.

25 (d) "LARGE RURAL DISTRICT" MEANS A DISTRICT THAT THE
26 DEPARTMENT OF EDUCATION DETERMINES IS A RURAL DISTRICT, BASED ON
27 THE GEOGRAPHIC SIZE OF THE DISTRICT AND THE DISTANCE OF THE

1 DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA, AND THAT HAD A
2 FUNDED PUPIL COUNT FOR THE BUDGET YEAR IMMEDIATELY PRECEDING
3 THE DISTRIBUTION YEAR OF AT LEAST ONE THOUSAND BUT FEWER THAN
4 SIX THOUSAND FIVE HUNDRED PUPILS IN KINDERGARTEN THROUGH
5 TWELFTH GRADE.

6 (e) "PER PUPIL DISTRIBUTION AMOUNT" MEANS:

7 (I) FOR A LARGE RURAL DISTRICT, AN AMOUNT EQUAL TO THE
8 AMOUNT APPROPRIATED PURSUANT TO SUBSECTION (6) OF THIS SECTION
9 FOR THE APPLICABLE DISTRIBUTION YEAR MULTIPLIED BY THE
10 PERCENTAGE SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION AND THEN
11 DIVIDED BY THE SUM OF THE TOTAL FUNDED PUPIL COUNT FOR THE
12 BUDGET YEAR IMMEDIATELY PRECEDING THE DISTRIBUTION YEAR OF ALL
13 LARGE RURAL DISTRICTS AND THE TOTAL STUDENT ENROLLMENT FOR THE
14 BUDGET YEAR IMMEDIATELY PRECEDING THE DISTRIBUTION YEAR OF ALL
15 ELIGIBLE INSTITUTE CHARTER SCHOOLS THAT HAVE A LARGE RURAL
16 DISTRICT AS THE ACCOUNTING DISTRICT; OR

17 (II) FOR A SMALL RURAL DISTRICT, AN AMOUNT EQUAL TO THE
18 AMOUNT APPROPRIATED PURSUANT TO SUBSECTION (6) OF THIS SECTION
19 FOR THE APPLICABLE DISTRIBUTION YEAR MULTIPLIED BY THE
20 PERCENTAGE SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION AND THEN
21 DIVIDED BY THE SUM OF THE TOTAL FUNDED PUPIL COUNT FOR THE
22 BUDGET YEAR IMMEDIATELY PRECEDING THE DISTRIBUTION YEAR OF ALL
23 SMALL RURAL DISTRICTS AND THE TOTAL STUDENT ENROLLMENT FOR THE
24 BUDGET YEAR IMMEDIATELY PRECEDING THE DISTRIBUTION YEAR OF ALL
25 ELIGIBLE INSTITUTE CHARTER SCHOOLS THAT HAVE A SMALL RURAL
26 DISTRICT AS THE ACCOUNTING DISTRICT.

27 (f) "SMALL RURAL DISTRICT" MEANS A DISTRICT THAT THE

1 DEPARTMENT OF EDUCATION DETERMINES IS A RURAL DISTRICT, BASED ON
2 THE GEOGRAPHIC SIZE OF THE DISTRICT AND THE DISTANCE OF THE
3 DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA, AND THAT HAD A
4 FUNDED PUPIL COUNT FOR THE BUDGET YEAR IMMEDIATELY PRECEDING
5 THE DISTRIBUTION YEAR OF FEWER THAN ONE THOUSAND PUPILS IN
6 KINDERGARTEN THROUGH TWELFTH GRADE.

7 (2) FOR THE 2020-21, 2021-22, AND 2022-23 BUDGET YEARS, THE
8 DEPARTMENT OF EDUCATION SHALL DISTRIBUTE THE AMOUNT
9 APPROPRIATED PURSUANT TO SUBSECTION (6) OF THIS SECTION FOR THE
10 APPLICABLE DISTRIBUTION YEAR TO LARGE RURAL DISTRICTS, SMALL
11 RURAL DISTRICTS, AND ELIGIBLE INSTITUTE CHARTER SCHOOLS. THE
12 DEPARTMENT OF EDUCATION SHALL DISTRIBUTE:

13 (a) FIFTY-FIVE PERCENT OF THE MONEY APPROPRIATED FOR THE
14 APPLICABLE DISTRIBUTION YEAR TO LARGE RURAL DISTRICTS AND TO
15 ELIGIBLE INSTITUTE CHARTER SCHOOLS IN LARGE RURAL DISTRICTS, AS
16 PROVIDED IN THIS SECTION; AND

17 (b) FORTY-FIVE PERCENT OF THE MONEY APPROPRIATED FOR THE
18 APPLICABLE DISTRIBUTION YEAR TO SMALL RURAL DISTRICTS AND TO
19 ELIGIBLE INSTITUTE CHARTER SCHOOLS IN SMALL RURAL DISTRICTS, AS
20 PROVIDED IN THIS SECTION.

21 (3) (a) THE DEPARTMENT OF EDUCATION SHALL DISTRIBUTE TO
22 EACH LARGE RURAL DISTRICT AND EACH SMALL RURAL DISTRICT AN
23 AMOUNT EQUAL TO THE APPLICABLE PER PUPIL DISTRIBUTION AMOUNT FOR
24 THE APPLICABLE DISTRIBUTION YEAR MULTIPLIED BY THE LARGE RURAL
25 DISTRICT'S OR SMALL RURAL DISTRICT'S FUNDED PUPIL COUNT FOR THE
26 BUDGET YEAR IMMEDIATELY PRECEDING THE DISTRIBUTION YEAR.

27 (b) EACH LARGE RURAL DISTRICT AND EACH SMALL RURAL

1 DISTRICT THAT IS THE AUTHORIZER FOR A CHARTER SCHOOL SHALL
2 DISTRIBUTE TO THE CHARTER SCHOOL ONE HUNDRED PERCENT OF AN
3 AMOUNT EQUAL TO THE APPLICABLE PER PUPIL DISTRIBUTION AMOUNT FOR
4 THE APPLICABLE DISTRIBUTION YEAR MULTIPLIED BY THE NUMBER OF
5 STUDENTS ENROLLED IN THE CHARTER SCHOOL FOR THE BUDGET YEAR
6 IMMEDIATELY PRECEDING THE DISTRIBUTION YEAR.

7 (4) THE DEPARTMENT OF EDUCATION SHALL CALCULATE FOR EACH
8 ELIGIBLE INSTITUTE CHARTER SCHOOL AND DISTRIBUTE TO THE STATE
9 CHARTER SCHOOL INSTITUTE AN AMOUNT EQUAL TO THE APPLICABLE PER
10 PUPIL DISTRIBUTION AMOUNT FOR THE APPLICABLE DISTRIBUTION YEAR
11 MULTIPLIED BY THE NUMBER OF STUDENTS ENROLLED IN THE ELIGIBLE
12 INSTITUTE CHARTER SCHOOL FOR THE BUDGET YEAR IMMEDIATELY
13 PRECEDING THE DISTRIBUTION YEAR. THE STATE CHARTER SCHOOL
14 INSTITUTE SHALL DISTRIBUTE TO EACH ELIGIBLE INSTITUTE CHARTER
15 SCHOOL ONE HUNDRED PERCENT OF THE AMOUNT RECEIVED FOR THE
16 ELIGIBLE INSTITUTE CHARTER SCHOOL PURSUANT TO THIS SUBSECTION (4).

17 (5) THE RURAL SCHOOLS CASH FUND IS HEREBY CREATED IN THE
18 STATE TREASURY. THE FUND CONSISTS OF MONEY TRANSFERRED TO THE
19 FUND PURSUANT TO SECTION 24-22-118 (2). THE STATE TREASURER SHALL
20 CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
21 INVESTMENT OF MONEY IN THE RURAL SCHOOLS CASH FUND TO THE FUND.

22 (6) (a) FOR THE 2020-21 BUDGET YEAR, THE GENERAL ASSEMBLY
23 SHALL APPROPRIATE TWENTY-FIVE MILLION DOLLARS FROM THE FUND TO
24 THE DEPARTMENT OF EDUCATION TO PROVIDE ADDITIONAL FUNDING FOR
25 LARGE RURAL DISTRICTS, SMALL RURAL DISTRICTS, AND ELIGIBLE
26 INSTITUTE CHARTER SCHOOLS PURSUANT TO THIS SECTION.

27 (b) FOR THE 2021-22 BUDGET YEAR, THE GENERAL ASSEMBLY

1 SHALL APPROPRIATE THIRTY MILLION DOLLARS FROM THE FUND TO THE
2 DEPARTMENT OF EDUCATION TO PROVIDE ADDITIONAL FUNDING FOR
3 LARGE RURAL DISTRICTS, SMALL RURAL DISTRICTS, AND ELIGIBLE
4 INSTITUTE CHARTER SCHOOLS PURSUANT TO THIS SECTION.

5 (c) FOR THE 2022-23 BUDGET YEAR, THE GENERAL ASSEMBLY
6 SHALL APPROPRIATE THIRTY-FIVE MILLION DOLLARS FROM THE FUND TO
7 THE DEPARTMENT OF EDUCATION TO PROVIDE ADDITIONAL FUNDING FOR
8 LARGE RURAL DISTRICTS, SMALL RURAL DISTRICTS, AND ELIGIBLE
9 INSTITUTE CHARTER SCHOOLS PURSUANT TO THIS SECTION.

10 (7) EACH DISTRICT, DISTRICT CHARTER SCHOOL AND ELIGIBLE
11 INSTITUTE CHARTER SCHOOL THAT RECEIVES MONEY PURSUANT TO THIS
12 SECTION SHALL REPORT TO THE DEPARTMENT OF EDUCATION, BY A DATE
13 DETERMINED BY THE DEPARTMENT, THE SPECIFIC EXPENDITURES FOR
14 WHICH THE DISTRICT OR CHARTER SCHOOL USED THE MONEY RECEIVED
15 PURSUANT TO THIS SECTION.

16 (8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2023.

17 **SECTION 21.** In Colorado Revised Statutes, 24-22-117, **amend**
18 (1)(a) and (2)(c)(I) as follows:

19 **24-22-117. Tobacco tax cash fund - accounts - creation -**
20 **legislative declaration.** (1) (a) There is hereby created in the state
21 treasury the tobacco tax cash fund, which fund is referred to in this
22 section as the "cash fund". The cash fund ~~shall consist~~ CONSISTS of
23 ~~moneys~~ MONEY collected from the cigarette and tobacco taxes imposed
24 pursuant to section 21 of article X of the state constitution AND MONEY
25 TRANSFERRED IN ACCORDANCE WITH SECTION 24-22-118 (2). All interest
26 and income derived from the deposit and investment of ~~moneys~~ MONEY
27 in the cash fund shall be credited to the cash fund; except that all interest

1 and income derived from the deposit and investment of ~~moneys~~ MONEY
2 in the cash fund during the 2008-09, 2009-10, 2010-11, and 2011-12
3 fiscal years shall be credited to the general fund. Any unexpended and
4 unencumbered ~~moneys~~ MONEY remaining in the cash fund at the end of
5 a fiscal year shall remain in the cash fund and shall not be credited or
6 transferred to the general fund or any other fund, except as otherwise
7 provided in this section.

8 (2) There are hereby created in the state treasury the following
9 funds:

10 (c) (I) The tobacco education programs fund IS to be administered
11 by the department of public health and environment. The state treasurer
12 and the controller shall transfer an amount equal to sixteen percent of the
13 ~~moneys~~ MONEY deposited into the cash fund, plus sixteen percent of the
14 interest and income earned on the deposit and investment of ~~those moneys~~
15 SUCH MONEY AND THE AMOUNTS SPECIFIED IN SECTION 24-22-118 (2), to
16 the tobacco education programs fund; except that, for the 2008-09,
17 2009-10, 2010-11, and 2011-12 fiscal years, the state treasurer and the
18 controller shall transfer to the tobacco education programs fund only an
19 amount equal to sixteen percent of the ~~moneys~~ MONEY deposited into the
20 cash fund. All interest and income derived from the deposit and
21 investment of ~~moneys~~ MONEY in the tobacco education programs fund
22 shall be credited to the tobacco education programs fund; except that all
23 interest and income derived from the deposit and investment of ~~moneys~~
24 MONEY in the tobacco education programs fund during the 2008-09,
25 2009-10, 2010-11, and 2011-12 fiscal years shall be credited to the
26 general fund. Any unexpended and unencumbered ~~moneys~~ MONEY
27 remaining in the tobacco education programs fund at the end of a fiscal

1 year shall remain in the fund and shall not be credited or transferred to the
2 general fund or any other fund.

3 **SECTION 22.** In Colorado Revised Statutes, **add** 24-22-118 as
4 follows:

5 **24-22-118. Revenue from nicotine products and additional**
6 **tobacco taxes - 2020 tax holding fund - preschool programs cash fund**
7 **- creation - definitions.** (1) THE 2020 TAX HOLDING FUND IS HEREBY
8 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY
9 CREDITED TO THE FUND PURSUANT TO SECTIONS 39-28-110 (1)(b),
10 39-28.5-108 (1)(b), AND 39-28.6-109 (2).

11 (2) THE STATE TREASURER SHALL TRANSFER THE MONEY IN THE
12 2020 TAX HOLDING FUND AS FOLLOWS:

13 (a) FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2020:

14 (I) FIVE MILLION FOUR HUNDRED SEVENTY-FIVE THOUSAND
15 DOLLARS TO THE TOBACCO TAX CASH FUND CREATED IN SECTION
16 24-22-117 (1);

17 (II) TWO MILLION TWENTY-FIVE THOUSAND DOLLARS TO THE
18 GENERAL FUND;

19 (III) ELEVEN MILLION ONE HUNDRED SIXTY-SIXTY THOUSAND
20 DOLLARS TO THE HOUSING DEVELOPMENT GRANT FUND CREATED IN
21 SECTION 24-32-721 (1);

22 (IV) FIVE HUNDRED THOUSAND DOLLARS TO THE EVICTION LEGAL
23 DEFENSE FUND CREATED IN SECTION 13-40-127 (2);

24 (V) TWENTY-FIVE MILLION DOLLARS TO THE RURAL SCHOOLS CASH
25 FUND CREATED IN SECTION 22-54-142; AND

26 (VI) THE REMAINDER TO THE STATE EDUCATION FUND CREATED IN
27 SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

1 (b) FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2021:
2 (I) TEN MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS TO THE
3 TOBACCO TAX CASH FUND CREATED IN SECTION 24-22-117 (1);
4 (II) FOUR MILLION FIFTY THOUSAND DOLLARS TO THE GENERAL
5 FUND;
6 (III) ELEVEN MILLION ONE HUNDRED SIXTY-SEVEN THOUSAND
7 DOLLARS TO THE HOUSING DEVELOPMENT GRANT FUND CREATED IN
8 SECTION 24-32-721 (1);
9 (IV) FIVE HUNDRED THOUSAND DOLLARS TO THE EVICTION LEGAL
10 DEFENSE FUND CREATED IN SECTION 13-40-127 (2);
11 (V) THIRTY MILLION DOLLARS TO THE RURAL SCHOOLS CASH FUND
12 CREATED IN SECTION 22-54-142; AND
13 (VI) THE REMAINDER TO THE STATE EDUCATION FUND CREATED IN
14 SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION;
15 (c) FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2022:
16 (I) TEN MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS TO THE
17 TOBACCO TAX CASH FUND CREATED IN SECTION 24-22-117 (1);
18 (II) FOUR MILLION FIFTY THOUSAND DOLLARS TO THE GENERAL
19 FUND;
20 (III) ELEVEN MILLION ONE HUNDRED SIXTY-SEVEN THOUSAND
21 DOLLARS TO THE HOUSING DEVELOPMENT GRANT FUND CREATED IN
22 SECTION 24-32-721 (1);
23 (IV) FIVE HUNDRED THOUSAND DOLLARS TO THE EVICTION LEGAL
24 DEFENSE FUND CREATED IN SECTION 13-40-127 (2);
25 (V) THIRTY-FIVE MILLION DOLLARS TO THE RURAL SCHOOLS CASH
26 FUND CREATED IN SECTION 22-54-142; AND
27 (VI) THE REMAINDER TO THE STATE EDUCATION FUND CREATED IN

1 SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION;
2 (d) FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2023:
3 (I) TEN MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS TO THE
4 TOBACCO TAX CASH FUND CREATED IN SECTION 24-22-117 (1);
5 (II) FOUR MILLION FIFTY THOUSAND DOLLARS TO THE GENERAL
6 FUND; AND
7 (III) THE REMAINDER TO THE PRESCHOOL PROGRAMS CASH FUND
8 CREATED IN SUBSECTION (3) OF THIS SECTION;
9 (e) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1,
10 2024, BUT BEFORE JULY 1, 2027:
11 (I) TEN MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS TO THE
12 TOBACCO TAX CASH FUND CREATED IN SECTION 24-22-117 (1);
13 (II) FOUR MILLION FIFTY THOUSAND DOLLARS TO THE GENERAL
14 FUND;
15 (III) TWENTY MILLION DOLLARS TO THE TOBACCO EDUCATION
16 PROGRAMS FUND CREATED IN SECTION 24-22-117 (2)(c)(I); AND
17 (IV) THE REMAINDER TO THE PRESCHOOL PROGRAMS CASH FUND
18 CREATED IN SUBSECTION (3) OF THIS SECTION;
19 (f) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1,
20 2027:
21 (I) TEN MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS TO THE
22 TOBACCO TAX CASH FUND CREATED IN SECTION 24-22-117 (1);
23 (II) FOUR MILLION FIFTY THOUSAND DOLLARS TO THE GENERAL
24 FUND;
25 (III) THIRTY MILLION DOLLARS TO THE TOBACCO EDUCATION
26 PROGRAMS FUND CREATED IN SECTION 24-22-117 (2)(c)(I); AND
27 (IV) THE REMAINDER TO THE PRESCHOOL PROGRAMS CASH FUND

1 CREATED IN SUBSECTION (3) OF THIS SECTION.

2 (g) THE STATE TREASURER SHALL MAKE THE TRANSFERS REQUIRED
3 BY THIS SUBSECTION (2) ON AN ONGOING BASIS THROUGHOUT THE FISCAL
4 YEAR. IF THERE IS INSUFFICIENT REVENUE TO TRANSFER THE SPECIFIC
5 AMOUNTS REQUIRED BY THIS SUBSECTION (2) FOR A FISCAL YEAR, THEN
6 THE STATE TREASURER SHALL PROPORTIONALLY REDUCE EACH OF THE
7 TRANSFERS.

8 (3) (a) THE PRESCHOOL PROGRAMS CASH FUND IS HEREBY
9 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY
10 CREDITED TO THE FUND PURSUANT TO SUBSECTION (2) OF THIS SECTION
11 AND MONEY TRANSFERRED TO THE FUND PURSUANT TO SECTION 39-28-116
12 (6). THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME
13 DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
14 PRESCHOOL PROGRAMS CASH FUND TO THE FUND. THE GENERAL
15 ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEY IN THE PRESCHOOL
16 PROGRAMS CASH FUND TO A DESIGNATED DEPARTMENT FOR THE PURPOSES
17 SET FORTH IN THIS SUBSECTION (3).

18 (b) (I) A DESIGNATED DEPARTMENT SHALL PRIORITIZE ITS USE OF
19 MONEY FROM THE PRESCHOOL PROGRAMS CASH FUND TO EXPAND AND
20 ENHANCE THE COLORADO PRESCHOOL PROGRAM OR ANY SUCCESSOR
21 PROGRAM IN ORDER TO OFFER AT LEAST TEN HOURS PER WEEK OF
22 VOLUNTARY PRESCHOOL FREE OF CHARGE TO EVERY CHILD IN COLORADO
23 DURING THE LAST YEAR OF PRESCHOOL BEFORE HIS OR HER ENTRY TO
24 KINDERGARTEN.

25 (II) THE DESIGNATED DEPARTMENT SHALL USE THE MONEY
26 REMAINING IN THE PRESCHOOL PROGRAMS CASH FUND AFTER THE USE
27 IDENTIFIED IN SUBSECTION (3)(b)(I) OF THIS SECTION TO PROVIDE

1 ADDITIONAL PRESCHOOL PROGRAMMING FOR LOW-INCOME FAMILIES AND
2 CHILDREN AT RISK OF ENTERING KINDERGARTEN WITHOUT BEING SCHOOL
3 READY.

4 (c) IN DESIGNING A PROGRAM THAT IS FUNDED THROUGH THIS
5 SUBSECTION (3), A DESIGNATED DEPARTMENT MUST ENSURE THAT THE
6 PROGRAM ADDRESSES THE FOLLOWING:

7 (I) PROGRAMMATIC ADMINISTRATION THAT ALLOWS FOR PARENT
8 CHOICE, ENSURES SCHOOL-BASED AND COMMUNITY-BASED PROGRAMS
9 THAT MEET QUALITY AND PROGRAM STANDARDS ARE ABLE TO
10 PARTICIPATE, PRIORITIZES COMMUNITY NEEDS IN A MANNER THAT WILL
11 SUPPORT AND STRENGTHEN THE DIVERSITY OF BIRTH THROUGH
12 KINDERGARTEN ENTRY SERVICE PROVIDERS, AND WILL HELP TO ACHIEVE
13 STATE AND LOCAL MIXED DELIVERY GOALS;

14 (II) HIGH-QUALITY PROGRAMMING THAT HELPS PREPARE CHILDREN
15 FOR KINDERGARTEN;

16 (III) COORDINATION WITH EXISTING EARLY CHILDHOOD SYSTEMS
17 AND INITIATIVES, FUNDING STREAMS, AND ADVANCING ALIGNMENT WITH
18 KINDERGARTEN THROUGH TWELFTH GRADE SYSTEMS TO SUPPORT
19 CHILDREN'S TRANSITIONS TO SCHOOL;

20 (IV) OPPORTUNITIES FOR EVIDENCE-BASED PARENT, FAMILY, AND
21 COMMUNITY ENGAGEMENT; AND

22 (V) AN EVALUATION OF EARLY CHILDHOOD EDUCATION PROGRAM
23 EFFECTIVENESS, INCLUDING THE IMPACT OF PRESCHOOL ON CHILD AND
24 FAMILY OUTCOMES.

25 (d) IN FURTHERANCE OF THE PURPOSES SET FORTH IN SUBSECTION
26 (3)(b) OF THIS SECTION AND IN ORDER TO MEET AN EXPANSION OF
27 CURRENT PRESCHOOL POPULATIONS, A DESIGNATED DEPARTMENT MAY

1 USE MONEY IN THE FUND TO ENSURE THE AVAILABILITY OF QUALITY,
2 VOLUNTARY, MIXED-DELIVERY PRESCHOOL BY MEANS THE DEPARTMENT
3 DEEMS APPROPRIATE INCLUDING:

4 (I) RECRUITING, TRAINING, AND RETAINING EARLY CHILDHOOD
5 EDUCATION PROFESSIONALS;

6 (II) EXPANDING OR IMPROVING THE STAFF, FACILITIES, EQUIPMENT,
7 TECHNOLOGY, AND PHYSICAL INFRASTRUCTURE OF PRESCHOOL PROGRAMS
8 OFFERED BY LICENSED PROVIDERS SO AS TO INCREASE PRESCHOOL ACCESS;

9 (III) PARENT AND FAMILY OUTREACH TO FACILITATE TIMELY AND
10 EFFECTIVE ENROLLMENT; AND

11 (IV) SUCH OTHER USES AS ARE CONSISTENT WITH AND FURTHER
12 THE PURPOSE OF THIS SECTION.

13 (e) THE DESIGNATED DEPARTMENT MAY USE MONEY
14 APPROPRIATED FROM THE PRESCHOOL PROGRAMS CASH FUND FOR THE
15 COSTS OF A THIRD-PARTY ENTITY THAT ADMINISTERS THE PROGRAM
16 ESTABLISHED ON BEHALF OF THE DESIGNATED DEPARTMENT IN
17 ACCORDANCE WITH THIS SUBSECTION (3).

18 (f) AS USED IN THIS SUBSECTION (3), "DESIGNATED DEPARTMENT"
19 MEANS ONE OR MORE DEPARTMENTS THAT THE GENERAL ASSEMBLY HAS
20 DETERMINED TO BE BEST QUALIFIED TO ADMINISTER THE COLORADO
21 PRESCHOOL PROGRAM OR ANY SUCCESSOR PROGRAM TO ENSURE THE
22 AVAILABILITY OF QUALITY, VOLUNTARY, MIXED-DELIVERY PRESCHOOL BY
23 APPROPRIATING MONEY FROM THE PRESCHOOL PROGRAMS CASH FUND TO
24 THE DEPARTMENT OR DEPARTMENTS.

25 (4) THE STATE AUDITOR SHALL ANNUALLY CONDUCT A FINANCIAL
26 AUDIT OF THE USE OF THE MONEY ALLOCATED AND APPROPRIATED UNDER
27 THIS SECTION.

1 **SECTION 23**. In Colorado Revised Statutes, **add** 25-3.5-810 as
2 follows:

3 **25-3.5-810. Nicotine products education, prevention, and**
4 **cessation programs.** THE EDUCATION, PREVENTION, AND CESSATION
5 PROGRAMS THAT ARE FUNDED WITH MONEY TRANSFERRED TO THE
6 TOBACCO EDUCATION PROGRAMS FUND IN ACCORDANCE WITH SECTION
7 24-22-118 (2) MAY ALSO APPLY TO NICOTINE PRODUCTS.

8 **SECTION 24**. In Colorado Revised Statutes, 39-21-119.5,
9 **amend** (1), (4)(e), and (4)(f); and **add** (4)(g) as follows:

10 **39-21-119.5. Mandatory electronic filing of returns -**
11 **mandatory electronic payment - penalty - waiver - definitions.**

12 (1) For purposes of this section, "return" means any report, claim, tax
13 return statement, or other document required or authorized under articles
14 11 and 25 of title 29, article 11 of title 30, articles 22, 26, 27, 28, 28.5,
15 **28.6**, 28.8, and 29 of this title 39, article 2 of title 40, article 3 of title 42,
16 article 4 of title 43, and title 44, and any form, statement report, or other
17 document prescribed by the executive director for reporting a tax liability,
18 a fee liability, or other information required to be returned to the
19 executive director, including the reporting of changes or amendments
20 thereto, and any schedule certification, worksheet, or other document
21 required to accompany the return.

22 (4) Except as provided in subsection (6) of this section, on and
23 after August 2, 2019, electronic filing of returns and the payment of any
24 tax or fee by electronic funds transfer is required for the following:

25 (e) Any retail marijuana excise tax return required to be filed and
26 payment required to be made pursuant to section 39-28.8-304; ~~and~~

27 (f) Any retail marijuana sales tax return required to be filed and

1 payment required to be paid pursuant to section 39-28.8-202; AND
2 (g) ANY NICOTINE PRODUCTS TAX RETURN REQUIRED TO BE FILED
3 AND PAYMENT REQUIRED TO BE PAID PURSUANT TO ARTICLE 28.6 OF THIS
4 TITLE 39.

5 **SECTION 25.** In Colorado Revised Statutes, 24-22-721, **amend**
6 **(1) and (2)(a) as follows:**

7 **24-32-721. Colorado affordable housing construction grants**
8 **and loans - housing development grant fund - creation - housing**
9 **assistance for persons with behavioral, mental health, or substance**
10 **use disorders - cash fund - appropriation - report to general**
11 **assembly - definition.** (1) There is hereby created in the state treasury
12 the housing development grant fund, which fund is administered by the
13 division and is referred to in this section as the "fund". The fund consists
14 of money credited to the fund in accordance with section 39-26-123
15 (3)(b); MONEY TRANSFERRED TO THE FUND IN ACCORDANCE WITH SECTION
16 24-22-118 (2); money appropriated to the fund by the general assembly;
17 all money transferred to the fund from the marijuana tax cash fund
18 created in section 39-28.8-501 (1) and any other cash fund maintained by
19 the state; all money collected by the division for purposes of this section
20 from federal grants, from other contributions, gifts, grants, and donations
21 received from any other organization, entity, or individual, public or
22 private; and from any fees or interest earned on such money. The division
23 is hereby authorized and directed to solicit, accept, expend, and disburse
24 all money collected for the fund from the sources specified in this
25 subsection (1) for the purpose of making grants or loans and for program
26 administration as provided in this section. All such money must be
27 transmitted to the state treasurer to be credited to the fund. The money in

1 the fund is continuously appropriated to the division for the purposes of
2 this section.

3 (2) (a) Subject to the requirements of this section, upon the
4 approval of the board, the division may make a grant or loan from money
5 in the fund to improve, preserve, or expand the supply of affordable
6 housing in Colorado as well as to fund the acquisition of housing and
7 economic data necessary to advise the board on local housing conditions.
8 In making loans or grants from the fund, the division shall give priority
9 to owners of property that was either destroyed or incurred substantial
10 damage as a result of one or more state or federally declared natural
11 disasters where the property owner has received the maximum insurance
12 proceeds and public disaster assistance. The division shall annually
13 allocate, with or without board approval, at least one-third of the money
14 credited to the fund in accordance with section 39-26-123 (3)(b) to
15 improve, preserve, or expand affordable housing for households whose
16 annual income is less than or equal to thirty percent of the area median
17 income, as published annually by the United States department of housing
18 and urban development. THE DIVISION SHALL USE AT LEAST FIVE MILLION
19 DOLLARS OF THE AMOUNT TRANSFERRED TO THE FUND IN ACCORDANCE
20 WITH SECTION 24-22-118 (2) TO IMPROVE, PRESERVE, OR EXPAND THE
21 SUPPLY OF AFFORDABLE HOUSING IN RURAL COLORADO.

22 **SECTION 26.** In Colorado Revised Statutes, 39-22-623, **amend**
23 (1)(a)(II)(A) as follows:

24 **39-22-623. Disposition of collections - definition.** (1) The
25 proceeds of all money collected under this article 22, less the reserve
26 retained for refunds, shall be credited as follows:

27 (a) (II) (A) Effective July 1, 1987, an amount equal to

1 twenty-seven percent of the gross state cigarette tax shall be apportioned
2 to incorporated cities and incorporated towns that levy taxes and adopt
3 formal budgets and to counties. For the purposes of this section, a city
4 and county is considered a city. The city or town share shall be
5 apportioned according to the percentage of state sales tax revenues
6 collected by the department of revenue in an incorporated city or town as
7 compared to the total state sales tax collections that may be allocated to
8 all political subdivisions in the state; the county share shall be the same
9 as that which the percentage of state sales tax revenues collected in the
10 unincorporated area of the county bears to total state sales tax revenues
11 that may be allocated to all political subdivisions in the state. The
12 department of revenue shall certify to the state treasurer, at least annually,
13 the percentage for allocation to each city, town, and county, and the
14 department shall apply the percentage for allocation certified in all
15 distributions to cities, towns, and counties until changed by certification
16 to the state treasurer. In order to qualify for distributions of state income
17 tax money, units of local government are prohibited from imposing taxes
18 on any person as a condition for engaging in the business of selling
19 cigarettes. For purposes of this subsection (1)(a)(II), the "gross state
20 cigarette tax" means the total tax FROM TEN MILLS ON EACH CIGARETTE
21 before the discount provided for in section 39-28-104 (1), PLUS AN
22 AMOUNT EQUAL TO THE AMOUNT TRANSFERRED TO THE GENERAL FUND
23 FOR THE STATE FISCAL YEAR IN ACCORDANCE WITH SECTION 24-22-118
24 (2). For any city, town, or county that was previously disqualified from
25 the apportionment set forth in this subsection (1)(a)(II)(A) by reason of
26 imposing a fee or license related to the sale of cigarettes, the city, town,
27 or county is eligible for any allocation of money that is based on an

1 apportionment made on or after July 1, 2019, but not for an allocation of
2 money that is based on an apportionment made before July 1, 2019.

3 **SECTION 27. Effective date.** (1) Except as otherwise provided
4 in subsection (2) of this section, this act takes effect upon passage.

5 (2) Sections 2 to 26 of this act take effect only if, at the November
6 2020 statewide election, a majority of voters approve the ballot issue
7 referred in accordance with section 39-28-401, Colorado Revised
8 Statutes, created in section 1 of this act. If the voters approve the ballot
9 issue, then sections 2 to 26 of this act take effect on the date of the
10 governor's proclamation or January 1, 2021, whichever is later.

11 **SECTION 28. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.