

NOTE: This bill has been prepared for the signature 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.

An Act

HOUSE BILL 08-1325

BY REPRESENTATIVE(S) Looper, Rose, Curry, Gallegos, Garza-Hicks, Labuda, McFadyen, Todd, and McKinley;
also SENATOR(S) Tapia, and Romer.

CONCERNING THE COLORADO NONIMMIGRANT AGRICULTURAL SEASONAL
WORKER PILOT PROGRAM, AND MAKING AN APPROPRIATION
THEREFOR.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Americans enjoy the safest, most abundant, and most affordable food supply in the world, thanks in large part to the efficiency and productivity of American farm and ranch families;

(b) Of all consumers worldwide, American consumers spend the lowest percentage of their annual income, only ten percent, on food;

(c) Agriculture continues to be a vital part of Colorado's future, playing a unique role in our economic strength, providing over one hundred five thousand jobs, four and four-tenths percent of the state's total,

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

generating over sixteen billion dollars of economic activity annually;

(d) Colorado is ranked as the sixteenth largest agricultural producer in the United States;

(e) Colorado's cash receipts for the year 2005 totaled five billion six hundred million dollars, with livestock products accounting for seventy-two percent of the total and crops accounting for the other twenty-eight percent;

(f) Colorado farmers and ranchers help to feed the world, exporting nearly one billion dollars in food products annually, with Mexico, Canada, Japan, and Taiwan receiving the largest share of Colorado food products;

(g) A 2007 Colorado state university agritourism study indicates that approximately thirteen million two hundred thousand people participated in some form of Colorado agritourism in 2006, and it is estimated that Colorado agritourism generated about two billion two hundred thousand dollars for Colorado's economy, or fourteen percent of tourism's economic activity in Colorado;

(h) Colorado's agriculture industry employs an estimated nine thousand seasonal workers annually, and the agriculture industry faces critical shortages of seasonal workers;

(i) The Colorado general assembly realizes Colorado's agricultural leadership in the world market would not be possible without the hard, tedious, and dangerous work of the farmer, rancher, and agricultural seasonal worker;

(j) The economic health of the state of Colorado, specifically the agriculture community and consumers of Colorado, will be bearing the negative effects of the inability of the United States department of labor to process H-2A visa applications in a timely manner;

(k) It is the purpose of this act to remove constraints on commerce caused by activities detrimental to Colorado's agriculture industry and to allow the Colorado department of labor and employment, in cooperation with the Colorado commissioner of agriculture, to establish a Colorado nonimmigrant agricultural seasonal worker pilot program and to assure necessary protections for nonimmigrant and seasonal agricultural workers;

(l) The Colorado department of labor and employment, the Colorado commissioner of agriculture, and approved agents will work closely with the United States department of labor, the United States citizenship and immigration services, and the United States department of state to provide for a timely, efficient, and effective process for workers participating in the Colorado nonimmigrant agricultural seasonal worker pilot program and the H-2A visa certification process;

(m) The Colorado nonimmigrant agricultural seasonal worker pilot program will include provisions for accountability, enforcement, and oversight;

(n) The Colorado nonimmigrant agricultural seasonal worker pilot program is an effort to save Colorado's agriculture economy from further harm, Colorado's farmers from additional closures due to labor shortages, and to provide Colorado consumers with the finest products in the world at a reasonable price, in a timely manner, and in a dependable way; and

(o) Because the federal H-2A visa certification process is often the only option available to Colorado producers needing temporary labor, and because of the multiple problems with the H-2A visa certification process' ability to provide seasonal workers in a time and manner to meet the needs of producers, the Colorado department of labor and employment and the Colorado commissioner of agriculture should work together and in conformity with existing federal laws to implement a pilot program to meet the temporary employment needs of Colorado producers.

SECTION 2. Title 8, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 3.5
Nonimmigrant Agricultural Seasonal
Worker Pilot Program

8-3.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO NONIMMIGRANT AGRICULTURAL SEASONAL WORKER PILOT PROGRAM ACT".

8-3.5-102. Legislative declaration. IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ESTABLISH A NONIMMIGRANT AGRICULTURAL

SEASONAL WORKER PILOT PROGRAM TO EXPEDITE THE SEASONAL WORKER APPLICATION AND APPROVAL PROCESS IN COMPLIANCE WITH THE EXISTING FEDERAL H-2A VISA CERTIFICATION PROCESS SO THAT ELIGIBLE WORKERS MAY COME TO COLORADO LEGALLY, SAFELY, AND IN A TIMELY MANNER TO MEET THE DEMANDS OF COLORADO PRODUCERS.

8-3.5-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGENT" MEANS A PERSON OR ENTITY IN THE BUSINESS OF:

(a) DEVELOPING AND SUBMITTING APPROPRIATE APPLICATION MATERIALS TO THE STATE EMPLOYMENT SECURITY AGENCY AND THE DEPARTMENT RESPONSIBLE FOR ISSUING LABOR CERTIFICATIONS FOR A SPECIFIC EMPLOYER AND JOB;

(b) COORDINATING LOCAL RECRUITMENT WITH THE EMPLOYER AND STATE EMPLOYMENT SECURITY AGENCY;

(c) DEVELOPING APPROPRIATE DOCUMENTATION OF EMPLOYER REQUIREMENTS AND EMPLOYMENT TERMS FOR USE IN SELECTING FOREIGN WORKERS; AND

(d) FILING FOR VISA PETITION APPROVAL AND COORDINATING VISA ISSUANCE BY THE UNITED STATES CONSULATE OR EMBASSY IN THE WORKER'S COUNTRY OF ORIGIN.

(2) "COMMISSIONER" MEANS THE COMMISSIONER OF THE COLORADO DEPARTMENT OF AGRICULTURE OR HIS OR HER DESIGNEE.

(3) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT.

(4) "DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT OR HIS OR HER DESIGNEE.

(5) "EMPLOYEE" MEANS A PERSON WHO WORKS FOR AN EMPLOYER AND IS AN ACTIVE PARTICIPANT IN THE PROGRAM.

(6) "EMPLOYER" MEANS A PERSON OR ENTITY THAT HAS APPLIED AND

BEEN ACCEPTED TO PARTICIPATE IN THE PROGRAM AND EMPLOYS ONE OR MORE EMPLOYEES.

(7) (a) "H-2A VISA" MEANS A TEMPORARY AGRICULTURAL NONIMMIGRANT VISA THAT ALLOWS FOREIGN NATIONALS TO ENTER INTO THE UNITED STATES TO PERFORM AGRICULTURAL LABOR OR SERVICES OF A TEMPORARY OR SEASONAL NATURE AND THAT IS ISSUED PURSUANT TO THE FEDERAL "IMMIGRATION REFORM AND CONTROL ACT OF 1986", 8 U.S.C. SEC. 1101 ET SEQ.

(b) AN H-2A VISA ALLOWS FOR THE ADMISSION OF NONIMMIGRANT FOREIGN WORKERS INTO THE UNITED STATES TO PERFORM AGRICULTURAL WORK THAT IS TEMPORARY IN NATURE, SUCH AS HARVESTING CROPS. NONIMMIGRANTS ARE PERSONS LEGALLY ADMITTED INTO THE UNITED STATES FOR A SPECIFIC PURPOSE AND TIME PERIOD AND WHO DO NOT INTEND TO MAKE THE UNITED STATES THEIR PERMANENT RESIDENCE. H-2A VISAS ARE ADMINISTERED JOINTLY BY THE UNITED STATES DEPARTMENT OF LABOR AND THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES.

(8) "LABOR CERTIFICATION" MEANS THE PROCESS BY WHICH THE UNITED STATES DEPARTMENT OF LABOR IS PERMITTED TO ISSUE CERTIFICATION THAT THERE ARE NOT SUFFICIENT UNITED STATES WORKERS WHO ARE ABLE, WILLING, AND QUALIFIED TO PERFORM AGRICULTURAL SERVICES ON A TEMPORARY BASIS, AND THAT THE EMPLOYMENT OF FOREIGN WORKERS IN THE LABOR OR SERVICES WILL NOT ADVERSELY AFFECT THE WAGES AND WORKING CONDITIONS OF WORKERS IN THE UNITED STATES. EMPLOYERS WHO ANTICIPATE A SHORTAGE OF AVAILABLE UNITED STATES WORKERS NEEDED TO PERFORM AGRICULTURAL LABOR ON A TEMPORARY BASIS MAY APPLY TO THE UNITED STATES DEPARTMENT OF LABOR FOR CERTIFICATION. THE APPLICATION FOR CERTIFICATION MUST INCLUDE A COPY OF THE JOB OFFER THAT WILL BE USED BY EACH EMPLOYER FOR THE RECRUITMENT OF UNITED STATES AND H-2A WORKERS, THE ESTIMATED NUMBER OF WORKERS NEEDED BY THE EMPLOYER, AND THE DATE BY WHICH THE WORKERS ARE NEEDED. EMPLOYERS ARE REQUIRED TO APPLY FOR CERTIFICATION AT LEAST FORTY-FIVE DAYS IN ADVANCE OF THEIR ESTIMATED DATE OF NEED.

(9) "PROGRAM" MEANS THE NONIMMIGRANT AGRICULTURAL SEASONAL WORKER PILOT PROGRAM ESTABLISHED IN SECTION 8-3.5-104.

8-3.5-104. Pilot program - creation - powers of department - advisory council. (1) THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT THE NONIMMIGRANT AGRICULTURAL SEASONAL WORKER PILOT PROGRAM. THE PURPOSE OF THE PROGRAM SHALL BE TO EXPEDITE THE APPLICATION AND APPROVAL OF THE FEDERAL H-2A VISA CERTIFICATION PROCESS ESTABLISHED AS PART OF THE FEDERAL "IMMIGRATION REFORM AND CONTROL ACT OF 1986", 8 U.S.C. SEC. 1101 ET SEQ. UPON THE PROMULGATION OF RULES PURSUANT TO SECTION 8-3.5-112, THE DIRECTOR OR HIS OR HER DESIGNEE, IN COOPERATION WITH THE COMMISSIONER OR HIS OR HER DESIGNEE, SHALL IMPLEMENT THE PROGRAM.

(2) THE PROGRAM SHALL INCLUDE SECTORS OF THE AGRICULTURE INDUSTRY IDENTIFIED BY THE DIRECTOR IN COOPERATION WITH THE COMMISSIONER, SHALL BE LIMITED TO ONE THOUSAND EMPLOYEES IN THE FIRST YEAR, AND SHALL INCREASE BY ONE THOUSAND ADDITIONAL EMPLOYEES ANNUALLY FOR FOUR YEARS THEREAFTER.

(3) THE DIRECTOR AND THE COMMISSIONER, IN CONJUNCTION WITH THE DIRECTOR OF THE GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE, MAY SEEK AGREEMENTS BETWEEN COLORADO AND FOREIGN COUNTRIES TO ASSIST IN THE RECRUITING AND SELECTION OF ELIGIBLE H-2A WORKERS AND IN THE MAINTENANCE OF A POOL OF WORKERS TO DEPART FOR WORK IN COLORADO UPON THE APPROVAL OF THE EMPLOYEES' FEDERAL H-2A VISAS AND EMPLOYER APPROVAL FOR PARTICIPATION IN THE PROGRAM. A FAMILY MEMBER OF AN EMPLOYEE MAY PARTICIPATE IN THE PROGRAM ONLY IF THE FAMILY MEMBER ALSO QUALIFIES FOR AND IS ISSUED A CURRENT H-2A VISA.

(4) THERE IS HEREBY ESTABLISHED THE NONIMMIGRANT AGRICULTURAL SEASONAL WORKER PILOT PROGRAM ADVISORY COUNCIL. THE ADVISORY COUNCIL MEMBERS SHALL BE THE COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE OR HIS OR HER DESIGNEE, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT OR HIS OR HER DESIGNEE, THE CHAIRS OF THE HOUSE BUSINESS AFFAIRS AND LABOR COMMITTEE AND THE SENATE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE, THE CHAIRS OF THE HOUSE AND SENATE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEES, OR THEIR SUCCESSOR COMMITTEES, AND THREE APPOINTEES OF THE GOVERNOR, ONE WHO IS A REPRESENTATIVE OF THE AGRICULTURE INDUSTRY, ONE WHO HAS EXPERIENCE IN IMMIGRATION SERVICES, AND ONE WHO IS A REPRESENTATIVE

OF A MIGRANT WORKER ADVOCACY GROUP. MEMBERS OF THE ADVISORY COUNCIL ARE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES. THE ADVISORY COUNCIL SHALL MAKE RECOMMENDATIONS FOR THE ADOPTION OF RULES PURSUANT TO SECTION 8-3.5-112 AND SHALL ASSIST IN THE PREPARATION OF THE REPORT TO THE GENERAL ASSEMBLY PURSUANT TO SECTION 8-3.5-111. THE ADVISORY COMMITTEE SHALL CONSULT WITH HEALTH INSURANCE CARRIERS IN THIS STATE TO DETERMINE THE AVAILABILITY OF HEALTH INSURANCE PLANS FOR EMPLOYEES PARTICIPATING IN THE PROGRAM. THE ADVISORY COMMITTEE SHALL INCLUDE IN THE REPORT TO THE GENERAL ASSEMBLY ANY LEGISLATIVE RECOMMENDATIONS DEEMED NECESSARY TO MAKE HEALTH INSURANCE AVAILABLE TO SEASONAL AGRICULTURAL WORKERS.

8-3.5-105. Application process - screening. (1) THE DEPARTMENT SHALL WORK WITH EMPLOYERS PARTICIPATING IN THE PROGRAM TO EXPEDITE THE H-2A VISA APPLICATION, APPROVAL, AND RECRUITMENT PROCESS SO THAT THE SEASONAL AGRICULTURAL NEEDS OF THE EMPLOYERS ARE MET IN A TIMELY MANNER.

(2) THE DEPARTMENT IS AUTHORIZED TO CHARGE EMPLOYERS A FEE NECESSARY TO COVER THE COSTS OF THE PROGRAM. THE FEES COLLECTED SHALL BE TRANSFERRED TO THE STATE TREASURER WHO SHALL DEPOSIT THE MONEYS INTO THE NONMIGRANT AGRICULTURAL SEASONAL WORKER PILOT PROGRAM CASH FUND ESTABLISHED IN SECTION 8-3.5-108.

(3) THE DIRECTOR MAY RETAIN AGENTS TO ASSIST IDENTIFIED WORKERS MAKING APPLICATIONS FOR H-2A VISAS THROUGH THE UNITED STATES EMBASSY OR CONSULATE, TO COORDINATE A MEDICAL SCREENING OF WORKERS PRIOR TO THEIR DEPARTURE TO THE UNITED STATES, TO COORDINATE TRAVEL TO COLORADO, AND TO DOCUMENT EACH EMPLOYEE'S RETURN TO HIS OR HER COUNTRY OF ORIGIN.

(4) THE EMPLOYER SHALL:

(a) REIMBURSE THE EMPLOYEE FOR THE COSTS OF TRANSPORTATION AND SUBSISTENCE FROM THE SITE OF RECRUITMENT TO THE PLACE OF EMPLOYMENT WHEN HALF OF THE CONTRACT PERIOD IS COMPLETE;

(b) PROVIDE FREE TRANSPORTATION TO THE EMPLOYEE BETWEEN

THE EMPLOYEE'S LOCAL HOUSING AND THE WORKSITE;

(c) PAY FOR THE COSTS OF RETURN TRANSPORTATION AND SUBSISTENCE TO THE PLACE OF RECRUITMENT WHEN THE CONTRACT PERIOD IS COMPLETE;

(d) PROVIDE FREE HOUSING FOR EACH EMPLOYEE THAT MEETS SAFETY AND HEALTH STANDARDS ESTABLISHED BY FEDERAL LAW, WHICH SHALL BE SUBJECT TO INSPECTION BY THE DEPARTMENT;

(e) PROVIDE UNITED STATES WORKERS AND EMPLOYEES THE SAME BENEFITS, WAGES, AND WORKING CONDITIONS;

(f) PAY THE EMPLOYEE WAGES THAT ARE IN COMPLIANCE WITH THE FEDERAL REQUIREMENTS ESTABLISHED PURSUANT TO THE FEDERAL "IMMIGRATION REFORM AND CONTROL ACT OF 1986", 8 U.S.C. SEC. 1101 ET SEQ.;

(g) PROVIDE WORKERS' COMPENSATION INSURANCE;

(h) PROVIDE ALL TOOLS, SUPPLIES, AND EQUIPMENT REQUIRED TO PERFORM THE DUTIES ASSIGNED, WITHOUT CHARGE, TO THE EMPLOYEE;

(i) IN COMPLIANCE WITH FEDERAL LAW, PROVIDE EACH EMPLOYEE WITH THREE LOW-COST MEALS PER DAY AND DISCLOSE THE COST IN THE EMPLOYMENT CONTRACT OR PROVIDE FREE COOKING AND KITCHEN FACILITIES;

(j) GUARANTEE EMPLOYMENT FOR AT LEAST THREE-FOURTHS OF THE WORK DAYS DURING THE WORK CONTRACT PERIOD;

(k) GUARANTEE THAT THE EMPLOYEE WILL BE PAID AT LEAST TWICE PER MONTH; AND

(l) PROVIDE TO THE EMPLOYEE A COPY OF THE WORK CONTRACT BETWEEN THE EMPLOYER AND THE EMPLOYEE.

(5) AN EMPLOYER SEEKING TO EMPLOY EMPLOYEES THROUGH THE PROGRAM SHALL MAKE THE FOLLOWING ASSURANCES:

(a) THAT THE EMPLOYER WILL COMPLY WITH APPLICABLE FEDERAL, STATE, AND LOCAL EMPLOYMENT LAWS;

(b) THAT NO UNITED STATES WORKER WILL BE REJECTED FOR OR TERMINATED FROM EMPLOYMENT OTHER THAN FOR A LAWFUL JOB-RELATED REASON; AND

(c) THAT THE EMPLOYER WILL, IN A TIMELY MANNER, PAY THE FEES ASSOCIATED WITH THE PROGRAM.

8-3.5-106. Visa violation notification - employee compliance.

(1) EACH EMPLOYER SHALL NOTIFY THE DEPARTMENT WITHIN THE TIME PERIOD SPECIFIED IN, AND IN ACCORDANCE WITH, SECTION 8 CFR 214.2 (h) (5) (vi) (A) IF AN EMPLOYEE ABSCONDS HIS OR HER EMPLOYMENT.

(2) IF AN EMPLOYER, WITH RECKLESS DISREGARD, FAILS TO NOTIFY THE DEPARTMENT AS REQUIRED IN SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT MAY:

(a) DENY THE EMPLOYER FUTURE PARTICIPATION IN THE PROGRAM;
OR

(b) IMPOSE A FINE ON THE EMPLOYER FOR EACH VIOLATION, NOT TO EXCEED TWO HUNDRED DOLLARS PER DAY PER VIOLATION, THAT SHALL BE DEPOSITED INTO THE NONIMMIGRANT AGRICULTURAL SEASONAL WORKER PILOT PROGRAM CASH FUND CREATED IN SECTION 8-3.5-108.

(3) THE DEPARTMENT SHALL NOTIFY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES OF ANY KNOWN VIOLATIONS OF THE CONDITIONS FOR THE ISSUANCE OF AN H-2A VISA.

(4) AN EMPLOYEE WHO COMPLIES WITH THE CONDITIONS OF THE PROGRAM SHALL HAVE THE OPPORTUNITY AND BE GIVEN PRIORITY TO PARTICIPATE IN THE PROGRAM THE FOLLOWING YEAR.

8-3.5-107. Retaliation prohibited. AN EMPLOYER SHALL NOT INTIMIDATE, THREATEN, RESTRAIN, COERCE, BLACKLIST, DISCHARGE, OR IN ANY MANNER DISCRIMINATE AGAINST ANY PERSON WHO HAS, WITH JUST CAUSE, PERFORMED ANY ACT ENUMERATED IN 20 CFR 655.103 (g).

8-3.5-108. Nonimmigrant agricultural seasonal worker pilot program cash fund. THERE IS HEREBY ESTABLISHED THE NONIMMIGRANT AGRICULTURAL SEASONAL WORKER PILOT PROGRAM CASH FUND IN THE STATE TREASURY, REFERRED TO IN THIS SECTION AS THE "FUND". MONEYS IN THE FUND SHALL CONSIST OF ANY FEES OR FINES COLLECTED PURSUANT TO THIS ARTICLE. THE MONEYS IN THE FUND SHALL BE ANNUALLY APPROPRIATED TO THE DEPARTMENT FOR THE ADMINISTRATIVE COSTS ASSOCIATED WITH THE PROGRAM. ANY MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

8-3.5-109. Identification cards issued by department of revenue. WITHIN TWO WEEKS AFTER AN EMPLOYEE'S ARRIVAL IN COLORADO, THE EMPLOYEE SHALL APPLY FOR AN IDENTIFICATION CARD ISSUED BY THE DEPARTMENT OF REVENUE PURSUANT TO PART 3 OF ARTICLE 2 OF TITLE 42, C.R.S. THE EMPLOYER SHALL PROVIDE FREE TRANSPORTATION TO THE EMPLOYEE IN ORDER FOR THE EMPLOYEE TO MEET THIS REQUIREMENT.

8-3.5-110. Penalties - hearing - court action - civil actions. (1) A PERSON WHO, WITH RECKLESS DISREGARD, VIOLATES ANY PROVISIONS OF THIS ARTICLE, OR WHO, WITH RECKLESS DISREGARD, CAUSES OR INDUCES ANOTHER TO VIOLATE ANY PROVISIONS OF THIS ARTICLE, MAY BE ASSESSED A FINE BY THE DIRECTOR OF NOT MORE THAN FIVE THOUSAND DOLLARS. ANY MONEYS COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSFERRED TO THE STATE TREASURER WHO SHALL DEPOSIT THE SAME INTO THE NONIMMIGRANT AGRICULTURAL SEASONAL WORKER PILOT PROGRAM CASH FUND ESTABLISHED IN SECTION 8-3.5-108.

(2) THE PERSON SHALL BE AFFORDED THE OPPORTUNITY FOR A HEARING UPON REQUEST TO THE DIRECTOR MADE WITHIN THIRTY DAYS AFTER THE DATE OF ISSUANCE OF THE NOTICE OF ASSESSMENT.

(3) IF ANY PERSON FAILS TO PAY AN ASSESSMENT AFTER IT HAS BECOME A FINAL AND UNAPPEALABLE ORDER, OR AFTER THE COURT HAS ENTERED FINAL JUDGMENT IN FAVOR OF THE DEPARTMENT, THE DIRECTOR SHALL REFER THE MATTER TO THE STATE ATTORNEY GENERAL, WHO SHALL RECOVER THE AMOUNT ASSESSED BY ACTION IN THE APPROPRIATE COURT OF COMPETENT JURISDICTION. IN SUCH ACTION, THE VALIDITY AND APPROPRIATENESS OF THE FINAL ORDER IMPOSING THE PENALTY SHALL NOT BE SUBJECT TO REVIEW.

8-3.5-111. Report to general assembly. ON OR BEFORE FEBRUARY 1, 2010, THE DIRECTOR, IN COOPERATION WITH THE COMMISSIONER, SHALL REPORT TO THE SENATE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE, THE SENATE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE, THE HOUSE BUSINESS AFFAIRS AND LABOR COMMITTEE, AND THE HOUSE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE OF THE GENERAL ASSEMBLY, OR THEIR SUCCESSOR COMMITTEES, REGARDING THE PROGRESS OF THE PROGRAM. THE REPORT SHALL INCLUDE ANY RECOMMENDED LEGISLATIVE CHANGES.

8-3.5-112. Rules. ON OR BEFORE JANUARY 1, 2009, THE DEPARTMENT, IN CONSULTATION WITH THE COMMISSIONER AND THE ADVISORY COUNCIL CREATED IN SECTION 8-3.5-104(4), SHALL PROMULGATE RULES AS NECESSARY FOR THE DELINEATION OF OVERSIGHT RESPONSIBILITIES TO THE DEPARTMENT UNDER, AND FOR THE IMPLEMENTATION OF, THIS ARTICLE.

8-3.5-113. Severability. IF ANY PROVISION OF THIS ARTICLE OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD ILLEGAL, INVALID, OR UNENFORCEABLE, NO OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE SHALL BE AFFECTED THAT CAN BE GIVEN EFFECT WITHOUT THE ILLEGAL, INVALID, OR UNENFORCEABLE PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE ARE SEVERABLE.

8-3.5-114. Repeal. THIS ARTICLE IS REPEALED, EFFECTIVE JANUARY 1, 2014.

SECTION 3. Appropriation - adjustments to the 2008 long bill.

(1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the nonimmigrant agricultural seasonal worker pilot program cash fund created in section 8-3.5-108, Colorado Revised Statutes, not otherwise appropriated, to the department of labor and employment, for allocation to the division of employment and training, for state operations, for the fiscal year beginning July 1, 2008, the sum of seventy-seven thousand seven hundred twenty-five dollars (\$77,725) and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the nonimmigrant agricultural seasonal worker pilot program cash fund created in section 8-3.5-108, Colorado

Revised Statutes, not otherwise appropriated, to the department of labor and employment, for allocation to the executive director's office, for legal services, for the fiscal year beginning July 1, 2008, the sum of four thousand three hundred twenty-two dollars (\$4,322), or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2008, the sum of four thousand three hundred twenty-two dollars (\$4,322), or so much thereof as may be necessary, for the provision of legal services to the department of labor and employment related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of labor and employment out of the appropriation made in subsection (2) of this section.

(4) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the legislative department, for allocation to legislative council, for the fiscal year beginning July 1, 2008, the sum of seven thousand twenty dollars (\$7,020), or so much thereof as may be necessary, for the implementation of this act.

(5) For the implementation of this act, the general fund appropriation to the controlled maintenance trust fund made in section 23 of the annual general appropriation act, for the fiscal year beginning July 1, 2008, shall be decreased by seven thousand twenty dollars (\$7,020).

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or

part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Peter C. Groff
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO