

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

INTRODUCED

LLS NO. 19-0511.01 Yelana Love x2295

SENATE BILL 19-188

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Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A FAMILY AND MEDICAL LEAVE**
102 **INSURANCE PROGRAM.**

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 creates the family and medical leave insurance (FAMLI) program and the division of family and medical leave insurance (division) in the department of labor and employment to provide partial wage replacement benefits to an eligible individual who takes leave from work:

! To care for a new child or a family member with a serious health condition;

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.

! Because the eligible individual is unable to work due to the individual's own serious health condition or because the individual or a family member is the victim of abusive behavior; or

! Due to certain needs arising from a family member's active duty service.

Each employee and employer in the state will pay one-half the cost of a premium as specified in the bill, which premium is based on a percentage of the employee's yearly wages. The premiums are deposited into the family and medical leave insurance fund, and family and medical leave benefits are paid to eligible individuals from the fund. The division is established as an enterprise, and premiums paid into the fund are not considered state revenues for purposes of the taxpayer's bill of rights (TABOR).

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 3 to article
3 13.3 of title 8 as follows:

4 **PART 3**

5 **FAMILY AND MEDICAL LEAVE INSURANCE**

6 **8-13.3-301. Short title.** THE SHORT TITLE OF THIS PART 3 IS THE
7 "FAMILY AND MEDICAL LEAVE INSURANCE ACT" OR "FAMLI ACT".

8 **8-13.3-302. Legislative declaration.** (1) THE GENERAL
9 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

10 (a) COLORADO IS A FAMILY-FRIENDLY STATE, AND PROVIDING THE
11 WORKERS OF COLORADO WITH FAMILY AND MEDICAL LEAVE INSURANCE
12 WILL ENCOURAGE AN ENTREPRENEURIAL ATMOSPHERE AND ECONOMIC
13 GROWTH AND PROMOTE A HEALTHY BUSINESS CLIMATE;

14 (b) THE UNITED STATES IS THE ONLY INDUSTRIALIZED NATION IN
15 THE WORLD THAT DOES NOT MANDATE ACCESS TO PAID LEAVE BENEFITS.
16 SIMULTANEOUSLY, NEARLY HALF OF AMERICANS LIVE PAYCHECK TO
17 PAYCHECK AND ARE UNABLE TO ACCESS TWO THOUSAND DOLLARS IN THE

1 EVENT OF AN EMERGENCY.

2 (c) LEAVE UNDER THE FEDERAL "FAMILY AND MEDICAL LEAVE
3 ACT OF 1993", AS AMENDED, PUB.L. 103-3, CODIFIED AT 29 U.S.C. SEC.
4 2601 ET SEQ., IS BOTH UNPAID AND UNAVAILABLE TO MORE THAN FORTY
5 PERCENT OF PRIVATE SECTOR WORKERS IN THE UNITED STATES. THIS PART
6 3, KNOWN AS THE STATE "FAMILY AND MEDICAL LEAVE INSURANCE ACT"
7 OR "FAMLI ACT", PROVIDES A NECESSARY SAFETY NET FOR ALL
8 COLORADO WORKERS, AS PAID FAMILY AND MEDICAL LEAVE ALLOWS
9 WORKERS TO REMAIN IN THE WORKFORCE, STAY SAFE, SEEK NECESSARY
10 MEDICAL TREATMENT, AND PROVIDE CARE TO LOVED ONES AT CRITICAL
11 TIMES.

12 (d) EVERY WORKER AT SOME POINT IN HIS OR HER LIFE WILL NEED
13 TO TAKE TIME OFF WORK FOR FAMILY OR HEALTH REASONS, MAKING THIS
14 AN ISSUE THAT AFFECTS ALL WORKERS. WHEN WORKERS NEED LEAVE BUT
15 CANNOT TAKE IT, ECONOMIC AND SOCIAL COSTS ACCUMULATE.

16 (e) PAID LEAVE BENEFITS EMPLOYERS BY IMPROVING
17 RECRUITMENT OPPORTUNITIES AND REDUCING TURNOVER. THEREFORE, IT
18 BENEFITS THE PUBLIC TO PROVIDE FAMILY AND MEDICAL LEAVE
19 INSURANCE FOR COLORADO WORKERS.

20 (f) THE PREMIUMS COLLECTED UNDER THIS PART 3 ARE USED
21 EXCLUSIVELY FOR THE PAYMENT OF FAMILY AND MEDICAL LEAVE
22 INSURANCE BENEFITS AND THE ADMINISTRATION OF THE PROGRAM. THE
23 DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE IS CREATED AS AN
24 ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE
25 CONSTITUTION, OPERATING AS A GOVERNMENT-RUN BUSINESS THAT
26 PROVIDES FAMILY AND MEDICAL LEAVE INSURANCE SERVICES.

27 (g) EMPLOYEE AND EMPLOYER CONTRIBUTIONS ARE COLLECTED

1 AT RATES REASONABLY CALCULATED TO PROVIDE THE PROGRAM'S LEAVE
2 BENEFITS AND SUPPORTING ADMINISTRATION OF THE PROGRAM, AND THE
3 FISCAL APPROACH IN THIS PART 3 WAS INFORMED BY THE EXPERIENCE OF
4 OTHER STATE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAMS,
5 MODELING BASED ON THE COLORADO WORKFORCE, AND INPUT FROM A
6 VARIETY OF STAKEHOLDERS IN COLORADO;

7 (h) WORKERS NEED COMPREHENSIVE PAID FAMILY AND MEDICAL
8 LEAVE TO ADDRESS DOMESTIC ABUSE, SEXUAL ASSAULT OR ABUSE, AND
9 STALKING, WHICH POSE SERIOUS HEALTH AND SAFETY CONCERNS.
10 DOMESTIC ABUSE, SEXUAL ASSAULT OR ABUSE, AND STALKING ARE
11 QUALIFYING PURPOSES FOR FAMILY AND MEDICAL LEAVE UNDER THIS PART
12 3.

13 (i) THIS PART 3 REFLECTS THE REALITY AND DIVERSITY OF
14 COLORADO FAMILIES BY ALLOWING WORKERS TO CARE FOR A RANGE OF
15 FAMILY MEMBERS AND CLOSE LOVED ONES WHEN THEY ARE DEALING WITH
16 A SERIOUS HEALTH CONDITION;

17 (j) JOB PROTECTION IS ESSENTIAL TO ENSURING WORKERS CAN
18 TAKE THE LEAVE THEY NEED WITHOUT RISKING THEIR JOBS OR THEIR
19 ECONOMIC SECURITY;

20 (k) COMPREHENSIVE, UNIVERSAL PAID FAMILY AND MEDICAL
21 LEAVE IS ESPECIALLY IMPORTANT FOR LOW-INCOME WORKERS LIVING
22 PAYCHECK TO PAYCHECK. WITHOUT THE LEGAL RIGHTS THEY NEED, THESE
23 WORKERS ARE DISPROPORTIONATELY MORE LIKELY TO LACK ACCESS TO
24 PAID LEAVE AND ARE LEAST ABLE TO AFFORD TO TAKE UNPAID LEAVE.

25 (l) THIS PART 3 OFFERS PORTABLE BENEFITS THAT WORKERS CAN
26 TAKE WITH THEM AS THEY MOVE FROM JOB TO JOB OR COMBINE MULTIPLE
27 SOURCES OF INCOME. PORTABLE BENEFITS ARE ESSENTIAL IN A CHANGING

1 ECONOMY, WHERE MORE AND MORE WORKERS FIND THEMSELVES RELYING
2 ON INSECURE JOBS OR PIECING TOGETHER MULTIPLE TYPES OF JOBS TO
3 MAKE ENDS MEET.

4 (m) RECOGNIZING THAT MANY PEOPLE NOW WORK OUTSIDE THE
5 TRADITIONAL EMPLOYER-EMPLOYEE STRUCTURE, THIS PART 3 ALSO
6 ALLOWS SELF-EMPLOYED WORKERS TO PARTICIPATE IN THE PROGRAM IF
7 THEY CHOOSE, PROVIDING ACCESS TO NEEDED BENEFITS AND ADDED
8 SECURITY.

9 **8-13.3-303. Definitions.** AS USED IN THIS PART 3, UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "AVERAGE WEEKLY WAGE" MEANS THE AVERAGE WEEKLY
12 WAGE DETERMINED IN ACCORDANCE WITH SECTION 8-47-106.

13 (2) "COVERED INDIVIDUAL" MEANS AN INDIVIDUAL WHO HAS
14 ELECTED COVERAGE UNDER SECTION 8-13.3-313 OR WHO HAS BEEN
15 EMPLOYED BY AND WORKED FOR ONE OR MORE EMPLOYERS FOR A
16 COMBINED TOTAL OF AT LEAST SIX HUNDRED EIGHTY HOURS, OR FIVE
17 HUNDRED FOUR HOURS IN THE CASE OF AIRLINE FLIGHT CREW MEMBERS,
18 DURING THE INDIVIDUAL'S QUALIFYING YEAR.

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

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

22 (5) "DIVISION" MEANS THE DIVISION OF FAMILY AND MEDICAL
23 LEAVE INSURANCE CREATED IN SECTION 8-13.3-304.

24 (6) "DOMESTIC ABUSE" MEANS ANY ACT DESCRIBED IN SECTION
25 13-14-101 (2) OR ANY OTHER CRIME, THE UNDERLYING FACTUAL BASIS OF
26 WHICH HAS BEEN FOUND BY A COURT ON THE RECORD TO INCLUDE AN ACT
27 OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1).

1 (7) "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO SATISFIES
2 THE REQUIREMENTS OF SECTION 8-13.3-306 AND IS ELIGIBLE TO RECEIVE
3 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS.

4 (8) "EMPLOYEE" MEANS ANY INDIVIDUAL, INCLUDING A
5 MIGRATORY LABORER, PERFORMING LABOR OR SERVICES FOR THE BENEFIT
6 OF ANOTHER, IRRESPECTIVE OF WHETHER THE COMMON-LAW
7 RELATIONSHIP OF MASTER AND SERVANT EXISTS. FOR THE PURPOSES OF
8 THIS PART 3, AN INDIVIDUAL PRIMARILY FREE FROM CONTROL AND
9 DIRECTION IN THE PERFORMANCE OF THE LABOR OR SERVICES, BOTH
10 UNDER THE INDIVIDUAL'S CONTRACT FOR THE PERFORMANCE OF THE
11 LABOR OR SERVICES AND IN FACT, AND WHO IS CUSTOMARILY ENGAGED IN
12 AN INDEPENDENT TRADE, OCCUPATION, PROFESSION, OR BUSINESS
13 RELATED TO THE LABOR OR SERVICES PERFORMED IS NOT AN "EMPLOYEE".

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

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

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

22 (b) "EMPLOYER" INCLUDES:

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

26 (II) A SUCCESSOR IN INTEREST OF AN EMPLOYER THAT ACQUIRES
27 ALL OF THE ORGANIZATION, TRADE, OR BUSINESS OR SUBSTANTIALLY ALL

1 OF THE ASSETS OF ONE OR MORE EMPLOYERS; AND

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

3 (10) "FAMILY AND MEDICAL LEAVE" MEANS LEAVE FROM WORK
4 UNDER THIS PART 3.

5 (11) "FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS" OR
6 "BENEFITS" MEANS THE BENEFITS PROVIDED UNDER THE PROGRAM.

7 (12) "FAMILY MEMBER" MEANS A COVERED INDIVIDUAL'S
8 IMMEDIATE FAMILY MEMBER, AS DEFINED IN SECTION 2-4-401 (3.7), A
9 COVERED INDIVIDUAL'S DOMESTIC PARTNER, AS DEFINED IN SECTION
10 24-50-603 (6.5), AND ANY OTHER INDIVIDUAL WITH WHOM THE COVERED
11 INDIVIDUAL HAS A SIGNIFICANT PERSONAL BOND THAT IS LIKE A FAMILY
12 RELATIONSHIP, REGARDLESS OF BIOLOGICAL OR LEGAL RELATIONSHIP.

13 (13) "FMLA" MEANS THE FEDERAL "FAMILY AND MEDICAL LEAVE
14 ACT OF 1993", AS AMENDED, PUB.L. 103-3, CODIFIED AT 29 U.S.C. SEC.
15 2601 ET SEQ.

16 (14) "FMLA LEAVE" MEANS LEAVE FROM WORK AND ALL
17 BENEFITS AUTHORIZED BY THE FMLA.

18 (15) "FUND" MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE
19 FUND CREATED IN SECTION 8-13.3-309.

20 (16) "HEALTH CARE PROVIDER" MEANS ANY PERSON LICENSED,
21 CERTIFIED, OR REGISTERED UNDER FEDERAL OR STATE LAW TO PROVIDE
22 MEDICAL OR EMERGENCY SERVICES. THE TERM INCLUDES PHYSICIANS,
23 DOCTORS, NURSES, AND MIDWIVES.

24 (17) "PREMIUM" MEANS THE PAYMENTS AN INDIVIDUAL AND
25 EMPLOYER ARE REQUIRED BY THIS PART 3 TO PAY TO THE DIVISION FOR
26 THE PROGRAM.

27 (18) "PROGRAM" MEANS THE FAMILY AND MEDICAL LEAVE

1 INSURANCE PROGRAM ESTABLISHED PURSUANT TO SECTION 8-13.3-305.

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

13 (20) "QUALIFYING YEAR" MEANS THE FIRST FOUR OF THE LAST FIVE
14 COMPLETED CALENDAR QUARTERS OR THE LAST FOUR COMPLETED
15 CALENDAR QUARTERS IMMEDIATELY PRECEDING THE FIRST DAY OF A
16 COVERED INDIVIDUAL'S APPLICATION YEAR.

17 (21) (a) "SERIOUS HEALTH CONDITION" MEANS AN ILLNESS,
18 INJURY, IMPAIRMENT, OR PHYSICAL OR MENTAL CONDITION THAT
19 INVOLVES:

20 (I) INPATIENT CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL
21 MEDICAL CARE FACILITY; OR

22 (II) CONTINUING TREATMENT BY A HEALTH CARE PROVIDER.

23 (b) "SERIOUS HEALTH CONDITION" INCLUDES DOMESTIC ABUSE,
24 SEXUAL ASSAULT OR ABUSE, AND STALKING.

25 (22) "SEXUAL ASSAULT OR ABUSE" MEANS ANY ACT, ATTEMPTED
26 ACT, OR THREATENED ACT OF UNLAWFUL SEXUAL BEHAVIOR, AS
27 DESCRIBED IN SECTION 16-11.7-102 (3), OR SEXUAL ASSAULT, AS

1 DESCRIBED IN SECTION 18-3-402, COMMITTED BY ANY PERSON AGAINST
2 ANOTHER PERSON REGARDLESS OF THE RELATIONSHIP BETWEEN THE
3 ACTOR AND THE VICTIM.

4 (23) "STALKING" MEANS ANY ACT, ATTEMPTED ACT, OR
5 THREATENED ACT OF STALKING, AS DESCRIBED IN SECTION 18-3-602.

6 **8-13.3-304. Division of family and medical leave insurance -**
7 **creation as an enterprise - authority to issue bonds.** (1) THERE IS
8 HEREBY CREATED IN THE DEPARTMENT THE DIVISION OF FAMILY AND
9 MEDICAL LEAVE INSURANCE, THE HEAD OF WHICH IS THE DIRECTOR OF THE
10 DIVISION.

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

20 (b) THE ENTERPRISE ESTABLISHED PURSUANT TO THIS SUBSECTION
21 (2) HAS ALL THE POWERS AND DUTIES AUTHORIZED BY THIS PART 3
22 PERTAINING TO FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS. THE
23 FUND CONSTITUTES PART OF THE ENTERPRISE ESTABLISHED PURSUANT TO
24 THIS SUBSECTION (2).

25 (c) NOTHING IN THIS SUBSECTION (2) LIMITS OR RESTRICTS THE
26 AUTHORITY OF THE DIVISION TO EXPEND ITS REVENUES CONSISTENT WITH
27 THIS PART 3.

1 (d) THE DIVISION IS HEREBY AUTHORIZED TO ISSUE REVENUE
2 BONDS FOR THE EXPENSES OF THE DIVISION, WHICH BONDS MAY BE
3 SECURED BY ANY REVENUES OF THE DIVISION. REVENUE FROM THE BONDS
4 ISSUED PURSUANT TO THIS SUBSECTION (2) SHALL BE DEPOSITED INTO THE
5 FUND.

6 **8-13.3-305. Family and medical leave insurance program -**
7 **creation - division duties - outreach and education - rules.** (1) (a) THE
8 DIVISION SHALL ESTABLISH AND ADMINISTER A FAMILY AND MEDICAL
9 LEAVE INSURANCE PROGRAM TO GRANT FAMILY AND MEDICAL LEAVE TO
10 ELIGIBLE INDIVIDUALS AND PAY FAMILY AND MEDICAL LEAVE INSURANCE
11 BENEFITS TO ELIGIBLE INDIVIDUALS AS SPECIFIED IN THIS PART 3.

12 (b) STARTING JULY 1, 2020, THE DIVISION SHALL ESTABLISH AND
13 IMPLEMENT THE PROGRAM, INCLUDING SETTING PREMIUM AMOUNTS BY
14 RULE IN ACCORDANCE WITH SECTION 8-13.3-309 (2)(a).

15 (2) THE DIVISION SHALL ESTABLISH PROCEDURES AND FORMS FOR
16 FILING CLAIMS FOR BENEFITS UNDER THE PROGRAM. THE DIVISION SHALL
17 NOTIFY AN EMPLOYER WITHIN FIVE BUSINESS DAYS AFTER A COVERED
18 INDIVIDUAL FILES A CLAIM FOR BENEFITS UNDER SECTION 8-13.3-306.

19 (3) THE DIVISION SHALL USE INFORMATION-SHARING AND
20 INTEGRATION TECHNOLOGY TO FACILITATE THE DISCLOSURE OF RELEVANT
21 INFORMATION OR RECORDS PERTAINING TO A COVERED INDIVIDUAL IF THE
22 COVERED INDIVIDUAL CONSENTS TO THE DISCLOSURE IN ACCORDANCE
23 WITH THIS PART 3.

24 (4) INFORMATION CONTAINED IN THE FILES AND RECORDS
25 PERTAINING TO A COVERED INDIVIDUAL UNDER THIS PART 3 ARE
26 CONFIDENTIAL AND NOT OPEN TO PUBLIC INSPECTION; EXCEPT THAT A
27 COVERED INDIVIDUAL OR A PERSON AUTHORIZED BY A COVERED

1 INDIVIDUAL, AS EVIDENCED BY A SIGNED AUTHORIZATION FROM THE
2 COVERED INDIVIDUAL, MAY REVIEW THE FILES AND RECORDS OR RECEIVE
3 SPECIFIC INFORMATION FROM THE FILES AND RECORDS. IN ADDITION, A
4 PUBLIC EMPLOYEE MAY ACCESS AND USE THE INFORMATION IN THE
5 PERFORMANCE OF THE PUBLIC EMPLOYEE'S OFFICIAL DUTIES.

6 (5) (a) BY JANUARY 1, 2021, AND FOR AS LONG AS THE PROGRAM
7 CONTINUES, THE DIVISION SHALL DEVELOP AND IMPLEMENT OUTREACH
8 SERVICES TO EDUCATE THE PUBLIC ABOUT THE AVAILABILITY OF FAMILY
9 AND MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 3 FOR
10 COVERED INDIVIDUALS.

11 (b) THE DIVISION SHALL ENSURE THAT THE OUTREACH
12 INFORMATION EXPLAINS, IN AN EASY-TO-UNDERSTAND FORMAT, AT LEAST
13 THE FOLLOWING:

- 14 (I) ELIGIBILITY REQUIREMENTS;
- 15 (II) THE CLAIMS PROCESS;
- 16 (III) WEEKLY BENEFIT AMOUNTS AND MAXIMUM BENEFITS
17 PAYABLE;
- 18 (IV) NOTICE AND DOCUMENTATION REQUIREMENTS;
- 19 (V) REINSTATEMENT AND NONDISCRIMINATION RIGHTS;
- 20 (VI) CONFIDENTIALITY OF FILES AND RECORDS;
- 21 (VII) THE RELATIONSHIP BETWEEN EMPLOYMENT PROTECTION,
22 LEAVE FROM EMPLOYMENT, AND WAGE REPLACEMENT BENEFITS UNDER
23 THIS PART 3 AND OTHER LAWS, COLLECTIVE BARGAINING AGREEMENTS,
24 AND EMPLOYER POLICIES; AND
- 25 (VIII) ANY OTHER DETAILS OR INFORMATION ABOUT THE
26 PROGRAM THE DIVISION DEEMS APPROPRIATE.

27 (c) THE DIVISION SHALL DEVELOP A PROGRAM NOTICE THAT

1 DETAILS THE PROGRAM REQUIREMENTS, BENEFITS, CLAIMS PROCESS,
2 PAYROLL DEDUCTION REQUIREMENTS, AND OTHER PERTINENT PROGRAM
3 INFORMATION. EACH EMPLOYER SHALL POST THE PROGRAM NOTICE IN A
4 PROMINENT LOCATION IN THE WORKPLACE AND NOTIFY ITS EMPLOYEES OF
5 THE PROGRAM, IN WRITING, UPON HIRING AND UPON LEARNING OF AN
6 EMPLOYEE EXPERIENCING AN EVENT THAT TRIGGERS ELIGIBILITY
7 PURSUANT TO SECTION 8-13.3-306.

8 (d) THE DIVISION SHALL PROVIDE THE INFORMATION REQUIRED BY
9 THIS SUBSECTION (5) IN A MANNER THAT IS CULTURALLY COMPETENT AND
10 LINGUISTICALLY APPROPRIATE.

11 (e) THE DIVISION MAY, ON ITS OWN OR THROUGH A CONTRACT
12 WITH AN OUTSIDE VENDOR, USE A PORTION OF THE MONEY IN THE FUND TO
13 DEVELOP, IMPLEMENT, AND ADMINISTER OUTREACH SERVICES.

14 **8-13.3-306. Family and medical leave insurance benefits -**
15 **application - eligibility - rules.** (1) BEGINNING JANUARY 1, 2022,
16 EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, AN INDIVIDUAL
17 IS ELIGIBLE TO TAKE FAMILY AND MEDICAL LEAVE AND TO RECEIVE
18 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS IF THE INDIVIDUAL:

19 (a) IS TAKING FAMILY AND MEDICAL LEAVE FOR ONE OF THE
20 FOLLOWING PURPOSES:

21 (I) BECAUSE THE INDIVIDUAL HAS A SERIOUS HEALTH CONDITION;

22 (II) BECAUSE THE INDIVIDUAL IS CARING FOR A NEW CHILD DURING
23 THE FIRST YEAR AFTER THE BIRTH OR ADOPTION OF THE CHILD OR THE
24 PLACEMENT OF THE CHILD THROUGH FOSTER CARE;

25 (III) BECAUSE THE INDIVIDUAL IS CARING FOR A FAMILY MEMBER
26 WHO HAS A SERIOUS HEALTH CONDITION; OR

27 (IV) FOR A QUALIFYING EXIGENCY;

1 (b) FILES A CLAIM FOR BENEFITS IN A FORM AND MANNER
2 REQUIRED BY THE DIRECTOR BY RULE;

3 (c) IS A COVERED INDIVIDUAL;

4 (d) CONSENTS TO THE DISCLOSURE OF INFORMATION OR RECORDS
5 DEEMED CONFIDENTIAL UNDER STATE LAW PURSUANT TO SECTION
6 8-13.3-305 (4); AND

7 (e) (I) IF CURRENTLY EMPLOYED, ATTESTS, IN THE APPLICATION
8 FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS, THAT THE
9 INDIVIDUAL NOTIFIED THE INDIVIDUAL'S EMPLOYER OF THE INTENT TO
10 TAKE FAMILY AND MEDICAL LEAVE FROM WORK FOR ONE OF THE PURPOSES
11 SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION.

12 (II) IN ANY CASE IN WHICH THE NECESSITY FOR FAMILY AND
13 MEDICAL LEAVE IS FORESEEABLE, THE INDIVIDUAL SHALL PROVIDE THE
14 INDIVIDUAL'S EMPLOYER WITH NOT LESS THAN THIRTY DAYS' NOTICE
15 BEFORE THE DATE THE LEAVE IS TO BEGIN OF THE INDIVIDUAL'S INTENTION
16 TO TAKE LEAVE UNDER THIS PART 3. IF THE NECESSITY FOR LEAVE IS NOT
17 FORESEEABLE OR PROVIDING THIRTY DAYS' NOTICE IS NOT POSSIBLE, THE
18 INDIVIDUAL SHALL PROVIDE THE NOTICE AS SOON AS PRACTICABLE.

19 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1) OF THIS
20 SECTION, THE DIVISION MAY REQUIRE A COVERED INDIVIDUAL WHO
21 APPLIES FOR BENEFITS TO:

22 (a) ATTEST TO THE NEED FOR LEAVE AND THAT THE COVERED
23 INDIVIDUAL:

24 (I) (A) BECAUSE OF A BIRTH, ADOPTION, OR PLACEMENT THROUGH
25 FOSTER CARE, IS CARING FOR A NEW CHILD DURING THE FIRST YEAR AFTER
26 BIRTH, ADOPTION, OR PLACEMENT OF THE CHILD;

27 (B) IS CARING FOR A FAMILY MEMBER WHO HAS A SERIOUS HEALTH

1 CONDITION;

2 (C) HAS A SERIOUS HEALTH CONDITION; OR

3 (D) IS TAKING LEAVE FOR A QUALIFYING EXIGENCY;

4 (II) IS NOT RECEIVING UNEMPLOYMENT INSURANCE BENEFITS; AND

5 (b) FOR LEAVE DESCRIBED IN SUBSECTION (1)(a)(I) OR (1)(a)(III)

6 OF THIS SECTION, SUBMIT A CERTIFICATION FROM THE HEALTH CARE

7 PROVIDER PROVIDING HEALTH CARE TO THE COVERED INDIVIDUAL OR THE

8 COVERED INDIVIDUAL'S FAMILY MEMBER, AS APPLICABLE, SUPPORTING

9 THE CLAIM THAT THE COVERED INDIVIDUAL OR THE COVERED

10 INDIVIDUAL'S FAMILY MEMBER HAS A SERIOUS HEALTH CONDITION AND

11 ESTIMATING THE FREQUENCY AND DURATION OF LEAVE NEEDED. TO

12 PROVIDE EVIDENCE THAT THE COVERED INDIVIDUAL OR THE COVERED

13 INDIVIDUAL'S FAMILY MEMBER HAS A SERIOUS HEALTH CONDITION

14 RELATED TO DOMESTIC ABUSE, SEXUAL ASSAULT OR ABUSE, OR STALKING,

15 THE COVERED INDIVIDUAL MAY PROVIDE DOCUMENTS, INCLUDING, BUT

16 NOT LIMITED TO:

17 (I) A POLICE REPORT WRITTEN WITHIN THE PRIOR SIXTY DAYS;

18 (II) A VALID PROTECTION ORDER; OR

19 (III) A WRITTEN STATEMENT ESTIMATING THE FREQUENCY AND

20 DURATION OF LEAVE NEEDED FROM A HEALTH CARE PROVIDER OR

21 APPLICATION ASSISTANT, AS DEFINED IN SECTION 24-30-2103 (4), WHO

22 EXAMINED OR CONSULTED WITH THE COVERED INDIVIDUAL OR COVERED

23 INDIVIDUAL'S FAMILY MEMBER.

24 (3) A COVERED INDIVIDUAL WHO MEETS THE REQUIREMENTS OF

25 SUBSECTION (1) OF THIS SECTION IS ELIGIBLE FOR FAMILY AND MEDICAL

26 LEAVE INSURANCE BENEFITS:

27 (a) REGARDLESS OF WHETHER THE COVERED INDIVIDUAL IS

1 CURRENTLY EMPLOYED OR IS WORKING AT AN ADDITIONAL JOB WHILE
2 TAKING FAMILY AND MEDICAL LEAVE; OR

3 (b) IF THE COVERED INDIVIDUAL FAILS TO FILE AN APPLICATION
4 FOR BENEFITS PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, NOTIFY
5 THE INDIVIDUAL'S EMPLOYER PURSUANT TO SUBSECTION (1)(e) OF THIS
6 SECTION, OR SUBMIT A CERTIFICATION PURSUANT TO SUBSECTION (2)(b)
7 OF THIS SECTION, BUT THE PAYMENT OF BENEFITS IS SUBJECT TO THE
8 LIMITATIONS SPECIFIED IN SECTION 8-13.3-307 (2).

9 (4) IF THE DIVISION DENIES A CLAIM FOR BENEFITS SUBMITTED
10 PURSUANT TO THIS SECTION, THE COVERED INDIVIDUAL MAY APPEAL THAT
11 DECISION IN THE MANNER SPECIFIED IN ARTICLE 74 OF THIS TITLE 8.

12 **8-13.3-307. Duration of benefits - payment intervals.**

13 (1) (a) THE MAXIMUM NUMBER OF WEEKS FOR WHICH FAMILY AND
14 MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE TO AN ELIGIBLE
15 INDIVIDUAL FOR A PURPOSE SPECIFIED IN SECTION 8-13.3-306 (1)(a) OF
16 THIS SECTION IN ANY CONSECUTIVE FIFTY-TWO-WEEK PERIOD IS TWELVE
17 WEEKS; EXCEPT THAT BENEFITS ARE PAYABLE UP TO AN ADDITIONAL FOUR
18 WEEKS TO AN ELIGIBLE INDIVIDUAL WITH A SERIOUS HEALTH CONDITION
19 RELATED TO PREGNANCY COMPLICATIONS OR CHILDBIRTH
20 COMPLICATIONS.

21 (b) THE MAXIMUM NUMBER OF TOTAL WEEKS FOR WHICH FAMILY
22 AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE TO AN ELIGIBLE
23 INDIVIDUAL IN AGGREGATE FOR SEPARATE PURPOSES SPECIFIED IN SECTION
24 8-13.3-306 (1)(a) IN ANY CONSECUTIVE FIFTY-TWO-WEEK PERIOD IS
25 FOURTEEN WEEKS; EXCEPT THAT BENEFITS ARE PAYABLE UP TO AN
26 ADDITIONAL TWO WEEKS TO AN ELIGIBLE INDIVIDUAL WITH A SERIOUS
27 HEALTH CONDITION RELATED TO PREGNANCY COMPLICATIONS OR

1 CHILDBIRTH COMPLICATIONS.

2 (c) FOR PURPOSES OF THIS SUBSECTION (1), CARING FOR A NEW
3 CHILD IS A SEPARATE QUALIFYING EVENT FROM A SERIOUS HEALTH
4 CONDITION RELATED TO AND INCLUDING PREGNANCY AND RECOVERY
5 FROM CHILDBIRTH.

6 (2) (a) FAILURE BY A COVERED INDIVIDUAL WHO IS OTHERWISE
7 ELIGIBLE UNDER SECTION 8-13.3-306 TO FILE A CLAIM FOR BENEFITS
8 PURSUANT TO SECTION 8-13.3-306 (1)(b), FURNISH NOTICE TO AN
9 EMPLOYER PURSUANT TO SECTION 8-13.3-306 (1)(e), OR SUBMIT
10 CERTIFICATION FROM A HEALTH CARE PROVIDER IN THE MANNER SPECIFIED
11 IN SECTION 8-13.3-306 (2)(b) DOES NOT INVALIDATE A CLAIM FOR
12 BENEFITS OR AN ELIGIBLE INDIVIDUAL'S ELIGIBILITY FOR BENEFITS, BUT
13 THE DIVISION IS NOT REQUIRED TO PAY BENEFITS FOR A PERIOD OF MORE
14 THAN TWO WEEKS PRIOR TO THE DATE ON WHICH THE ELIGIBLE INDIVIDUAL
15 FILES THE REQUIRED APPLICATION, FURNISHES NOTICE TO THE
16 INDIVIDUAL'S EMPLOYER, OR SUBMITS THE CERTIFICATION FROM THE
17 HEALTH CARE PROVIDER, AS APPLICABLE, UNLESS THE ELIGIBLE
18 INDIVIDUAL DEMONSTRATES TO THE SATISFACTION OF THE DIVISION THAT:

19 (I) GOOD CAUSE EXISTS, AS DETERMINED BY THE DIVISION, FOR
20 THE ELIGIBLE INDIVIDUAL'S FAILURE TO TIMELY SUBMIT THE APPLICATION
21 OR CERTIFICATION OR FURNISH THE NOTICE TO THE INDIVIDUAL'S
22 EMPLOYER; AND

23 (II) THE ELIGIBLE INDIVIDUAL SUBMITTED THE APPLICATION AND
24 CERTIFICATION AND NOTIFIED THE INDIVIDUAL'S EMPLOYER AS SOON AS
25 POSSIBLE.

26 (b) THE DIVISION SHALL NOTIFY THE ELIGIBLE INDIVIDUAL'S
27 EMPLOYER OF THE DIVISION'S DETERMINATION MADE PURSUANT TO THIS

1 SUBSECTION (2).

2 (3) THE DIVISION SHALL MAKE THE FIRST PAYMENT OF BENEFITS
3 TO AN ELIGIBLE INDIVIDUAL WITHIN TWO WEEKS AFTER THE ELIGIBLE
4 INDIVIDUAL FILES THE CLAIM FOR BENEFITS AND SHALL MAKE
5 SUBSEQUENT PAYMENTS WEEKLY OR BIWEEKLY.

6 **8-13.3-308. Amount of benefits - maximum weekly benefit.**

7 (1) (a) THE DIVISION SHALL DETERMINE AN ELIGIBLE INDIVIDUAL'S
8 WEEKLY BENEFIT AMOUNT, SUBJECT TO SUBSECTION (1)(b) OF THIS
9 SECTION, AS FOLLOWS:

10 (I) NINETY PERCENT OF THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE
11 FOR ALL WAGES THAT ARE LESS THAN FIFTY PERCENT OF THE AVERAGE
12 WEEKLY WAGE; AND

13 (II) FIFTY PERCENT OF THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE
14 FOR ALL WAGES THAT EQUAL OR EXCEED FIFTY PERCENT OF THE AVERAGE
15 WEEKLY WAGE.

16 (b) THE MAXIMUM WEEKLY BENEFIT AMOUNT DETERMINED UNDER
17 SUBSECTION (1)(a) OF THIS SECTION MUST NOT EXCEED ONE THOUSAND
18 DOLLARS PER WEEK. STARTING JANUARY 1, 2023, THE DIVISION SHALL
19 ANNUALLY ADJUST THE MAXIMUM WEEKLY BENEFIT AMOUNT TO AN
20 AMOUNT EQUAL TO NINETY PERCENT OF THE AVERAGE WEEKLY WAGE.

21 (c) THE DIVISION SHALL CALCULATE AN ELIGIBLE INDIVIDUAL'S
22 WEEKLY BENEFIT AMOUNT BASED ON THE ELIGIBLE INDIVIDUAL'S WEEKLY
23 WAGE EARNED FROM THE JOB FROM WHICH THE ELIGIBLE INDIVIDUAL IS
24 TAKING FAMILY AND MEDICAL LEAVE. IF THE ELIGIBLE INDIVIDUAL IS ABLE
25 TO CONTINUE WORKING AT AN ADDITIONAL JOB WHERE THE INDIVIDUAL
26 IS NOT TAKING LEAVE WHILE TAKING FAMILY AND MEDICAL LEAVE, THE
27 DIVISION SHALL NOT CONSIDER THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE

1 EARNED FROM THE ADDITIONAL JOB WHEN CALCULATING THE ELIGIBLE
2 INDIVIDUAL'S WEEKLY BENEFIT AMOUNT.

3 (2) FOR PURPOSES OF CALCULATING AN ELIGIBLE INDIVIDUAL'S
4 WEEKLY BENEFIT IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION,
5 THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE IS ONE-THIRTEENTH OF THE
6 WAGES PAID DURING THE QUARTER OF THE ELIGIBLE INDIVIDUAL'S BASE
7 PERIOD, AS DEFINED IN SECTION 8-70-103 (2), OR ALTERNATIVE BASE
8 PERIOD, AS DEFINED IN SECTION 8-70-103 (1.5), IN WHICH THE TOTAL
9 WAGES WERE HIGHEST. FOR PURPOSES OF THIS SUBSECTION (2), WAGES
10 INCLUDE , BUT ARE NOT LIMITED TO, SALARY, WAGES, TIPS, COMMISSIONS,
11 AND OTHER COMPENSATION AS DETERMINED BY THE DIRECTOR BY RULE.

12 (3) AN ELIGIBLE INDIVIDUAL MAY TAKE INTERMITTENT LEAVE IN
13 INCREMENTS OF ONE HOUR OR SHORTER IF CONSISTENT WITH THE
14 INCREMENTS THE EMPLOYER TYPICALLY USES TO MEASURE EMPLOYEE
15 LEAVE; EXCEPT THAT BENEFITS ARE NOT PAYABLE UNTIL THE ELIGIBLE
16 INDIVIDUAL ACCUMULATES AT LEAST ONE DAY OR EIGHT HOURS OF
17 FAMILY AND MEDICAL LEAVE.

18 (4) THE DIVISION SHALL NOT REDUCE THE WEEKLY BENEFIT
19 AMOUNT BY THE AMOUNT OF WAGE REPLACEMENT THAT AN ELIGIBLE
20 INDIVIDUAL RECEIVES WHILE ON FAMILY AND MEDICAL LEAVE UNDER ANY
21 OF THE FOLLOWING CONDITIONS, UNLESS THE AGGREGATE AMOUNT AN
22 ELIGIBLE INDIVIDUAL WOULD RECEIVE WOULD EXCEED THE ELIGIBLE
23 INDIVIDUAL'S WEEKLY WAGE:

24 (a) A TEMPORARY DISABILITY POLICY OR PROGRAM OF AN
25 EMPLOYER;

26 (b) A PAID FAMILY OR MEDICAL LEAVE POLICY OF AN EMPLOYER;

27 OR

1 (c) ACCRUED PAID LEAVE, INCLUDING, BUT NOT LIMITED TO, SICK,
2 VACATION, OR PERSONAL TIME, THAT AN ELIGIBLE INDIVIDUAL
3 VOLUNTARILY ELECTS TO TAKE.

4 **8-13.3-309. Family and medical leave insurance fund -**
5 **creation - employee premiums - rules.** (1) (a) THERE IS HEREBY
6 CREATED IN THE STATE TREASURY THE FAMILY AND MEDICAL LEAVE
7 INSURANCE FUND. THE FUND CONSISTS OF PREMIUMS, REVENUES FROM
8 REVENUE BONDS ISSUED IN ACCORDANCE WITH SECTION 8-13.3-304 (2)(d),
9 AND FINES COLLECTED UNDER SECTION 8-13.3-310 (5). MONEY IN THE
10 FUND MAY BE USED ONLY TO PAY REVENUE BONDS AND TO PAY BENEFITS
11 UNDER, AND TO ADMINISTER, THE PROGRAM PURSUANT TO THIS PART 3,
12 INCLUDING TECHNOLOGY COSTS TO ADMINISTER THE PROGRAM AND
13 OUTREACH SERVICES DEVELOPED UNDER SECTION 8-13.3-305 (5).
14 INTEREST EARNED ON THE INVESTMENT OF MONEY IN THE FUND REMAINS
15 IN THE FUND. ANY MONEY REMAINING IN THE FUND AT THE END OF A
16 FISCAL YEAR REMAINS IN THE FUND AND DOES NOT REVERT TO THE
17 GENERAL FUND OR ANY OTHER FUND. STATE MONEY IN THE FUND IS
18 CONTINUOUSLY APPROPRIATED TO THE DIVISION FOR THE PURPOSE OF THIS
19 SECTION. THE GENERAL ASSEMBLY SHALL NOT APPROPRIATE MONEY FROM
20 THE FUND FOR THE GENERAL EXPENSES OF THE STATE.

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

25 (2) (a) (I) EFFECTIVE JULY 1, 2021, EACH EMPLOYER AND EACH
26 INDIVIDUAL EMPLOYED BY AN EMPLOYER IN THIS STATE SHALL PAY
27 ONE-HALF OF THE PREMIUM AMOUNT DETERMINED IN ACCORDANCE WITH

1 THIS SUBSECTION (2)(a). THE DIRECTOR SHALL NOT APPLY THE PREMIUM
2 TO WAGES THAT EXCEED THE CONTRIBUTION AND BENEFIT BASE LIMIT
3 ESTABLISHED ANNUALLY BY THE UNITED STATES SOCIAL SECURITY
4 ADMINISTRATION FOR PURPOSES OF THE FEDERAL "OLD-AGE, SURVIVORS,
5 AND DISABILITY INSURANCE AMENDMENTS OF 1965", AS AMENDED,
6 PUB.L. 89-97. PREMIUMS ESTABLISHED IN ACCORDANCE WITH THIS
7 SUBSECTION (2) ARE FEES AND NOT TAXES.

8 (II) (A) FROM JULY 1, 2021, THROUGH DECEMBER 31, 2022, THE
9 PREMIUM AMOUNT IS SIXTY-FOUR ONE-HUNDREDTHS OF ONE PERCENT OF
10 WAGES PER EMPLOYEE.

11 (B) FOR THE 2023 AND 2024 CALENDAR YEARS, THE DIRECTOR
12 SHALL SET THE PREMIUM BASED ON A PERCENT OF EMPLOYEE WAGES AND
13 AT THE RATE NECESSARY TO OBTAIN A TOTAL AMOUNT OF PREMIUM
14 CONTRIBUTIONS EQUAL TO ONE HUNDRED FIFTY PERCENT OF THE BENEFITS
15 PAID DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR PLUS AN
16 AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE COST OF
17 ADMINISTRATION OF THE PAYMENT OF THOSE BENEFITS DURING THE
18 IMMEDIATELY PRECEDING CALENDAR YEAR, LESS THE AMOUNT OF NET
19 ASSETS REMAINING IN THE FUND AS OF DECEMBER 31 OF THE
20 IMMEDIATELY PRECEDING CALENDAR YEAR.

21 (C) FOR THE 2025 CALENDAR YEAR, AND EACH CALENDAR YEAR
22 THEREAFTER, THE DIRECTOR SHALL SET THE PREMIUM BASED ON A
23 PERCENT OF EMPLOYEE WAGES AND AT THE RATE NECESSARY TO OBTAIN
24 A TOTAL AMOUNT OF PREMIUM CONTRIBUTIONS EQUAL TO BETWEEN ONE
25 HUNDRED TWENTY-FIVE AND ONE HUNDRED FIFTY PERCENT OF THE
26 BENEFITS PAID DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR
27 PLUS AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE COST OF

1 ADMINISTRATION OF THE PAYMENT OF THOSE BENEFITS DURING THE
2 IMMEDIATELY PRECEDING CALENDAR YEAR, LESS THE AMOUNT OF NET
3 ASSETS REMAINING IN THE FUND AS OF DECEMBER 31 OF THE
4 IMMEDIATELY PRECEDING CALENDAR YEAR.

5 (b) EACH EMPLOYER SHALL COLLECT THE EMPLOYEE'S SHARE OF
6 THE PREMIUM AMOUNT FROM EACH EMPLOYEE AS A PAYROLL DEDUCTION
7 FROM THE EMPLOYEE'S WAGES EACH PAYROLL PERIOD AND SHALL REMIT
8 THE EMPLOYEE'S SHARE AND THE EMPLOYER'S SHARE OF THE PREMIUM
9 AMOUNT TO THE DIVISION, WHICH SHALL TRANSMIT THE PREMIUMS TO THE
10 STATE TREASURER FOR DEPOSIT IN THE FUND.

11 **8-13.3-310. Employment protection - discrimination**
12 **prohibited - rules.** (1) (a) AN ELIGIBLE INDIVIDUAL WHO WAS EMPLOYED
13 BY AN EMPLOYER FOR NINETY DAYS OR LONGER AND WHO TAKES FAMILY
14 AND MEDICAL LEAVE UNDER THIS PART 3 FOR THE INTENDED PURPOSE OF
15 THE LEAVE IS ENTITLED, ON RETURN FROM THE LEAVE:

16 (I) TO BE RESTORED BY THE EMPLOYER TO THE POSITION OF
17 EMPLOYMENT HELD BY THE ELIGIBLE INDIVIDUAL WHEN THE LEAVE
18 COMMENCED; OR

19 (II) TO BE RESTORED TO AN EQUIVALENT POSITION WITH
20 EQUIVALENT EMPLOYMENT BENEFITS, PAY, AND OTHER TERMS AND
21 CONDITIONS OF EMPLOYMENT.

22 (b) THIS SUBSECTION (1) DOES NOT APPLY TO A SEASONAL
23 WORKER, AS DEFINED IN SECTION 8-73-106, IF THE EMPLOYER CAN SHOW
24 THAT THE SEASONAL WORKER RETURNED FROM LEAVE AFTER THE
25 CONCLUSION OF THE SEASON FOR WHICH THE SEASONAL WORKER WAS
26 HIRED AND THAT THE EMPLOYER NOTIFIED THE SEASONAL WORKER OF THE
27 SEASONAL NATURE OF THE POSITION AT THE TIME OF HIRING.

1 (2) AN EMPLOYER SHALL NOT DISCHARGE, DEMOTE, OR OTHERWISE
2 DISCRIMINATE OR TAKE ANY ADVERSE EMPLOYMENT ACTION AGAINST AN
3 INDIVIDUAL BECAUSE THE INDIVIDUAL:

4 (a) FILED FOR, APPLIED FOR, OR USED BENEFITS UNDER THIS PART
5 3;

6 (b) COMMUNICATED TO THE EMPLOYER AN INTENT TO FILE A
7 CLAIM FOR BENEFITS, A COMPLAINT, OR AN APPEAL;

8 (c) TESTIFIED, AGREED TO TESTIFY, OR OTHERWISE ASSISTED IN
9 ANY PROCEEDING UNDER THIS PART 3; OR

10 (d) TOOK, OR ATTEMPTED TO TAKE, FAMILY AND MEDICAL LEAVE.

11 (3) AN EMPLOYER SHALL NOT REDUCE AN ELIGIBLE INDIVIDUAL'S
12 PREVIOUSLY ACCRUED BENEFITS THAT HAVE ACCRUED PRIOR TO THE DATE
13 ON WHICH THE FAMILY AND MEDICAL LEAVE COMMENCED.

14 (4) DURING ANY PERIOD OF FAMILY AND MEDICAL LEAVE TAKEN
15 UNDER THIS PART 3, AN EMPLOYER SHALL MAINTAIN ANY EXISTING
16 HEALTH BENEFITS OF THE ELIGIBLE INDIVIDUAL FOR THE DURATION OF THE
17 LEAVE AS IF THE ELIGIBLE INDIVIDUAL CONTINUED TO WORK FROM THE
18 DATE THE ELIGIBLE INDIVIDUAL COMMENCED FAMILY AND MEDICAL
19 LEAVE.

20 (5) (a) THE DIRECTOR, BY RULE, SHALL ESTABLISH A FINE
21 STRUCTURE FOR EMPLOYERS WHO VIOLATE THIS SECTION. THE DIRECTOR
22 SHALL TRANSFER ANY FINES COLLECTED PURSUANT TO THIS SECTION TO
23 THE STATE TREASURER FOR DEPOSIT IN THE FUND.

24 (b) AN EMPLOYER WHO VIOLATES THIS SECTION IS SUBJECT TO THE
25 DAMAGES AND EQUITABLE RELIEF AVAILABLE UNDER 29 U.S.C. SEC. 2617
26 (a)(1). AN AGGRIEVED INDIVIDUAL MAY BRING A CIVIL ACTION IN A COURT
27 OF COMPETENT JURISDICTION.

1 **8-13.3-311. Coordination of benefits.** (1) (a) LEAVE TAKEN
2 UNDER THIS PART 3 RUNS CONCURRENTLY WITH ANY LEAVE TAKEN UNDER
3 THE FMLA, PART 2 OF THIS ARTICLE 13.3, OR SECTION 24-34-402.7. IF A
4 PERIOD OF FAMILY AND MEDICAL LEAVE RECEIVED BY AN EMPLOYEE
5 UNDER THIS PART 3 IS CONCURRENTLY DESIGNATED AS LEAVE PURSUANT
6 TO THE FMLA OR PART 2 OF THIS ARTICLE 13.3, THE EMPLOYER SHALL
7 NOTIFY THE EMPLOYEE OF THE DESIGNATION AND SHALL ALSO PROVIDE
8 THE EMPLOYEE WITH THE NOTICE REQUIRED UNDER 29 CFR 825.300 (d).

9 (b) AN EMPLOYER MAY REQUIRE THAT PAYMENT MADE OR LEAVE
10 TAKEN UNDER THIS PART 3 BE MADE OR TAKEN CONCURRENTLY OR
11 OTHERWISE COORDINATED WITH PAYMENT MADE OR LEAVE ALLOWED
12 UNDER THE TERMS OF DISABILITY OR FAMILY CARE LEAVE UNDER AN
13 EMPLOYER POLICY OR EMPLOYMENT CONTRACT, AS APPLICABLE. THE
14 EMPLOYER SHALL GIVE ITS EMPLOYEES WRITTEN NOTICE OF THIS
15 REQUIREMENT.

16 (c) NOTWITHSTANDING SUBSECTIONS (1)(a) AND (1)(b) OF THIS
17 SECTION, AN EMPLOYER SHALL NOT REQUIRE AN EMPLOYEE TO USE OR
18 EXHAUST TIME OFF UNDER AN EMPLOYER POLICY, INCLUDING PAID TIME
19 OFF, VACATION TIME, OR SICK TIME, PRIOR TO USE OF FAMILY AND
20 MEDICAL LEAVE UNDER THIS PART 3. IN ADDITION, AN EMPLOYER SHALL
21 NOT REQUIRE AN EMPLOYEE TO CHARGE ALL OR PART OF THE EMPLOYEE'S
22 FAMILY AND MEDICAL LEAVE UNDER THIS PART 3 TO UNUSED ACCRUALS
23 OR OTHER PAID TIME OFF, INCLUDING VACATION TIME AND SICK TIME,
24 EXCEPT WHERE THE EMPLOYER MAINTAINS A SEPARATE BANK OF PAID
25 TIME SOLELY FOR THE PURPOSE OF PAID FAMILY AND MEDICAL LEAVE
26 UNDER THIS PART 3.

27 (d) SUBJECT TO THE LIMITATIONS UNDER SECTION 8-13.3-308 (4),

1 AN EMPLOYEE MAY SUPPLEMENT THE FAMILY AND MEDICAL LEAVE
2 INSURANCE BENEFITS THE EMPLOYEE IS RECEIVING THROUGH THE
3 PROGRAM, THROUGH VACATION, SICK, OR OTHER PAID TIME OFF, TO
4 ENSURE THAT THE EMPLOYEE IS RECEIVING ONE HUNDRED PERCENT OF THE
5 EMPLOYEE'S WEEKLY WAGE. NOTHING IN THIS SUBSECTION (1)(d)
6 REQUIRES AN EMPLOYEE TO RECEIVE OR USE, OR AN EMPLOYER TO
7 PROVIDE, ADDITIONAL PAID TIME OFF AS DESCRIBED THIS SUBSECTION
8 (1)(d).

9 (2) (a) THIS PART 3 DOES NOT DIMINISH:

10 (I) THE RIGHTS, PRIVILEGES, OR REMEDIES OF AN EMPLOYEE UNDER
11 A COLLECTIVE BARGAINING AGREEMENT, EMPLOYER POLICY, OR
12 EMPLOYMENT CONTRACT; OR

13 (II) AN EMPLOYER'S OBLIGATION TO COMPLY WITH A COLLECTIVE
14 BARGAINING AGREEMENT, EMPLOYER POLICY, OR EMPLOYMENT
15 CONTRACT, AS APPLICABLE, THAT PROVIDES GREATER LEAVE THAN FMLA
16 LEAVE OR FAMILY AND MEDICAL LEAVE.

17 (b) AFTER THE EFFECTIVE DATE OF THIS PART 3, AN EMPLOYER
18 POLICY ADOPTED OR RETAINED MUST NOT DIMINISH AN EMPLOYEE'S RIGHT
19 TO BENEFITS UNDER THIS PART 3. ANY AGREEMENT BY AN EMPLOYEE TO
20 WAIVE THE EMPLOYEE'S RIGHTS UNDER THIS PART 3 IS VOID AS AGAINST
21 PUBLIC POLICY.

22 **8-13.3-312. Erroneous payments - disqualification for benefits**

23 **- penalties - rules.** (1) A COVERED INDIVIDUAL WHO, IN CONNECTION
24 WITH AN APPLICATION FOR BENEFITS UNDER THE PROGRAM, WILLFULLY
25 MAKES A FALSE STATEMENT OR MISREPRESENTATION REGARDING A
26 MATERIAL FACT OR WILLFULLY FAILS TO REPORT A MATERIAL FACT IS
27 DISQUALIFIED FROM FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS

1 FOR ONE YEAR FROM THE DATE THE DIVISION DISCOVERS THE FALSE
2 STATEMENT, MISREPRESENTATION, OR WILLFUL FAILURE TO REPORT A
3 MATERIAL FACT.

4 (2) IF FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAID
5 ERRONEOUSLY OR AS A RESULT OF WILLFUL MISREPRESENTATION, OR IF A
6 CLAIM FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS IS REJECTED
7 AFTER BENEFITS ARE PAID, THE DIVISION MAY SEEK REPAYMENT OF
8 BENEFITS FROM THE RECIPIENT. THE DIRECTOR SHALL EXERCISE
9 DISCRETION TO WAIVE, IN WHOLE OR IN PART, THE AMOUNT OF ANY
10 REPAYMENTS WHERE THE RECOVERY WOULD BE AGAINST EQUITY AND
11 GOOD CONSCIENCE. THE DIRECTOR MAY ADOPT RULES TO DEVELOP A
12 PROCEDURE FOR RECOVERING ERRONEOUS PAYMENTS OF BENEFITS.

13 **8-13.3-313. Elective coverage - withdrawal from coverage -**
14 **rules.** (1) A SELF-EMPLOYED PERSON, INCLUDING AN INDEPENDENT
15 CONTRACTOR, SOLE PROPRIETOR, PARTNER, OR JOINT VENTURER, MAY
16 ELECT COVERAGE UNDER THE PROGRAM FOR AN INITIAL PERIOD OF NOT
17 LESS THAN THREE YEARS OR A SUBSEQUENT PERIOD OF NOT LESS THAN
18 ONE YEAR IMMEDIATELY FOLLOWING ANOTHER PERIOD OF COVERAGE. THE
19 SELF-EMPLOYED PERSON MUST FILE A NOTICE OF ELECTION IN WRITING
20 WITH THE DIRECTOR IN THE FORM AND MANNER REQUIRED BY THE
21 DIVISION. THE ELECTION BECOMES EFFECTIVE ON THE DATE THE NOTICE
22 IS FILED.

23 (2) A SELF-EMPLOYED PERSON WHO HAS ELECTED COVERAGE MAY
24 WITHDRAW FROM COVERAGE BY FILING WRITTEN NOTICE WITH THE
25 DIRECTOR WITHIN THIRTY DAYS AFTER THE END OF THE THREE-YEAR
26 PERIOD OF COVERAGE OR AT OTHER TIMES THE DIRECTOR MAY PRESCRIBE
27 BY RULE. THE WITHDRAWAL FROM COVERAGE TAKES EFFECT NO SOONER

1 THAN THIRTY DAYS AFTER THE SELF-EMPLOYED PERSON FILES THE NOTICE.

2 (3) A SELF-EMPLOYED PERSON WHO HAS ELECTED COVERAGE
3 SHALL PAY ONLY THE EMPLOYEE PORTION OF THE PREMIUM AMOUNT
4 ESTABLISHED PURSUANT TO SECTION 8-13.3-309 (2)(a).

5 **8-13.3-314. Federal income tax - state income tax.** (1) (a) IF
6 THE FEDERAL INTERNAL REVENUE SERVICE DETERMINES THAT FAMILY AND
7 MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 3 ARE SUBJECT TO
8 FEDERAL INCOME TAX, THE DIVISION SHALL INFORM AN INDIVIDUAL FILING
9 A NEW CLAIM FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS, AT
10 THE TIME OF FILING, THAT:

11 (I) THE FEDERAL INTERNAL REVENUE SERVICE HAS DETERMINED
12 THAT BENEFITS ARE SUBJECT TO FEDERAL INCOME TAX;

13 (II) REQUIREMENTS EXIST PERTAINING TO ESTIMATED TAX
14 PAYMENTS;

15 (III) THE INDIVIDUAL MAY ELECT TO HAVE FEDERAL INCOME TAX
16 DEDUCTED AND WITHHELD FROM THE INDIVIDUAL'S PAYMENT OF BENEFITS
17 IN THE AMOUNT SPECIFIED IN THE FEDERAL "INTERNAL REVENUE CODE OF
18 1986", AS AMENDED; AND

19 (IV) THE INDIVIDUAL IS PERMITTED TO CHANGE A PREVIOUSLY
20 ELECTED WITHHOLDING STATUS.

21 (b) AMOUNTS DEDUCTED AND WITHHELD FROM BENEFITS UNDER
22 THIS SECTION MUST REMAIN IN THE FUND UNTIL TRANSFERRED TO THE
23 FEDERAL INTERNAL REVENUE SERVICE AS A PAYMENT OF INCOME TAX.

24 (c) THE DIRECTOR SHALL FOLLOW ALL PROCEDURES SPECIFIED BY
25 THE FEDERAL INTERNAL REVENUE SERVICE PERTAINING TO DEDUCTING
26 AND WITHHOLDING INCOME TAX.

27 (2) FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS RECEIVED

1 PURSUANT TO THIS PART 3 ARE NOT SUBJECT TO STATE INCOME TAX
2 PURSUANT TO SECTION 39-22-104 (4)(z).

3 **8-13.3-315. Reports.** BY SEPTEMBER 1, 2022, AND BY EACH
4 SEPTEMBER 1 THEREAFTER, THE DIVISION SHALL REPORT TO THE SENATE
5 COMMITTEES ON BUSINESS, LABOR, AND TECHNOLOGY AND HEALTH AND
6 HUMAN SERVICES AND THE HOUSE OF REPRESENTATIVES COMMITTEES ON
7 HEALTH AND INSURANCE AND BUSINESS AFFAIRS AND LABOR, OR THEIR
8 SUCCESSOR COMMITTEES, ON PROJECTED AND ACTUAL PROGRAM
9 PARTICIPATION, SPECIFYING INCOME LEVEL, GENDER, RACE, AND
10 ETHNICITY OF PARTICIPANTS AND PURPOSE AND DURATION OF LEAVE;
11 PREMIUM RATES; FUND BALANCES; AND OUTREACH EFFORTS. THE DIVISION
12 SHALL POST THE REPORT ON THE DEPARTMENT'S WEBSITE.
13 NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT REQUIRED
14 IN THIS SECTION CONTINUES INDEFINITELY.

15 **8-13.3-316. Rules.** (1) THE DIRECTOR MAY ADOPT RULES AS
16 NECESSARY OR AS SPECIFIED IN THIS PART 3 FOR THE IMPLEMENTATION
17 AND ADMINISTRATION OF THIS PART 3.

18 (2) THE DIRECTOR SHALL ADOPT RULES:

19 (a) ESTABLISHING THE FORM AND MANNER OF FILING A CLAIM FOR
20 BENEFITS PURSUANT TO SECTION 8-13.3-306 (1)(b);

21 (b) SETTING PREMIUM AMOUNTS PURSUANT TO SECTION
22 8-13.3-309 (2)(a); AND

23 (c) ESTABLISHING A FINE STRUCTURE PURSUANT TO SECTION
24 8-13.3-310 (5)(a).

25 **8-13.3-317. Benefits available regardless of citizenship or**
26 **immigration status.** NOTWITHSTANDING SECTION 24-76.5-103, FAMILY
27 AND MEDICAL LEAVE INSURANCE BENEFITS ARE AVAILABLE TO ALL

1 ELIGIBLE INDIVIDUALS REGARDLESS OF THEIR CITIZENSHIP OR
2 IMMIGRATION STATUS.

3 **SECTION 2.** In Colorado Revised Statutes, 24-1-121, **add (3)(k)**
4 as follows:

5 **24-1-121. Department of labor and employment - creation.**

6 (3) The department of labor and employment consists of the following
7 divisions and programs:

8 (k) THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE, THE
9 HEAD OF WHICH IS THE DIRECTOR OF THE DIVISION OF FAMILY AND
10 MEDICAL LEAVE INSURANCE. THE DIVISION, CREATED IN PART 3 OF
11 ARTICLE 13.3 OF TITLE 8, AND THE DIRECTOR OF THE DIVISION SHALL
12 EXERCISE THEIR POWERS, DUTIES, AND FUNCTIONS UNDER THE
13 DEPARTMENT OF LABOR AND EMPLOYMENT AS IF TRANSFERRED BY A **TYPE**
14 **2** TRANSFER.

15 **SECTION 3.** In Colorado Revised Statutes, 24-34-402.7, **add (5)**
16 as follows:

17 **24-34-402.7. Unlawful action against employees seeking**
18 **protection - notice to revisor of statutes - repeal. (5)** THIS SECTION
19 WILL BE REPEALED WHEN THE FIRST FAMILY AND MEDICAL LEAVE
20 INSURANCE BENEFIT PAYMENT IS MADE TO AN ELIGIBLE INDIVIDUAL IN
21 ACCORDANCE WITH PART 3 OF ARTICLE 13.3 OF TITLE 8. THE DIRECTOR OF
22 THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE IN THE
23 DEPARTMENT OF LABOR AND EMPLOYMENT SHALL NOTIFY THE REVISOR OF
24 STATUTES IN WRITING OF THE DATE ON WHICH THE CONDITION SPECIFIED
25 IN THIS SUBSECTION (5) HAS OCCURRED BY E-MAILING THE NOTICE TO
26 REVISOROFSTATUTES.GA@STATE.CO.US. THIS SECTION IS REPEALED,
27 EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE PAYMENT

1 OF BENEFITS OCCURRED OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE,
2 UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

3 **SECTION 4.** In Colorado Revised Statutes, 39-22-104, **add**
4 (4)(z) as follows:

5 **39-22-104. Income tax imposed on individuals, estates, and**
6 **trusts - single rate - legislative declaration - definitions - repeal.**

7 (4) There shall be subtracted from federal taxable income:

8 (z) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
9 1, 2022, AN AMOUNT EQUAL TO ANY AMOUNT RECEIVED BY A TAXPAYER
10 AS FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS PURSUANT TO PART
11 3 OF ARTICLE 13.3 OF TITLE 8.

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