

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0511.01 Yelana Love x2295

SENATE BILL 19-188

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Senate Committees

Business, Labor, & Technology
Finance

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, DURING
14 THE INDIVIDUAL'S QUALIFYING YEAR HAS:

15 (a) ELECTED COVERAGE UNDER SECTION 8-13.3-313;

16 (b) BEEN EMPLOYED BY AND WORKED FOR ONE OR MORE
17 EMPLOYERS FOR A COMBINED TOTAL OF AT LEAST SIX HUNDRED EIGHTY
18 HOURS; OR

19 (c) IN THE CASE OF AIRLINE FLIGHT CREW MEMBERS, WORKED FOR,
20 OR BEEN PAID BY, ONE OR MORE EMPLOYERS FOR FIVE HUNDRED FOUR
21 HOURS.

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

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

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

27 (6) "DOMESTIC ABUSE" MEANS ANY ACT DESCRIBED IN SECTION

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

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

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

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

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

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

25 (b) "EMPLOYER" INCLUDES:

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

- 1 THE EMPLOYER;
- 2 (II) A SUCCESSOR IN INTEREST OF AN EMPLOYER THAT ACQUIRES
3 ALL OF THE ORGANIZATION, TRADE, OR BUSINESS OR SUBSTANTIALLY ALL
4 OF THE ASSETS OF ONE OR MORE EMPLOYERS; AND
- 5 (III) THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.
- 6 (10) "FAMILY AND MEDICAL LEAVE" MEANS LEAVE FROM WORK
7 UNDER THIS PART 3.
- 8 (11) "FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS" OR
9 "BENEFITS" MEANS THE BENEFITS PROVIDED UNDER THE PROGRAM.
- 10 (12) "FAMILY MEMBER" MEANS A COVERED INDIVIDUAL'S
11 IMMEDIATE FAMILY MEMBER, AS DEFINED IN SECTION 2-4-401 (3.7), A
12 COVERED INDIVIDUAL'S DOMESTIC PARTNER, AS DEFINED IN SECTION
13 24-50-603 (6.5), AND ANY OTHER INDIVIDUAL WITH WHOM THE COVERED
14 INDIVIDUAL HAS A SIGNIFICANT PERSONAL BOND THAT IS LIKE A FAMILY
15 RELATIONSHIP, REGARDLESS OF BIOLOGICAL OR LEGAL RELATIONSHIP.
- 16 (13) "FMLA" MEANS THE FEDERAL "FAMILY AND MEDICAL LEAVE
17 ACT OF 1993", AS AMENDED, PUB.L. 103-3, CODIFIED AT 29 U.S.C. SEC.
18 2601 ET SEQ.
- 19 (14) "FMLA LEAVE" MEANS LEAVE FROM WORK AND ALL
20 BENEFITS AUTHORIZED BY THE FMLA.
- 21 (15) "FUND" MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE
22 FUND CREATED IN SECTION 8-13.3-309.
- 23 (16) "HEALTH CARE PROVIDER" MEANS ANY PERSON LICENSED,
24 CERTIFIED, OR REGISTERED UNDER FEDERAL OR STATE LAW TO PROVIDE
25 MEDICAL OR EMERGENCY SERVICES. THE TERM INCLUDES PHYSICIANS,
26 DOCTORS, NURSES, AND MIDWIVES.
- 27 (17) "PREMIUM" MEANS THE PAYMENTS AN INDIVIDUAL AND

1 EMPLOYER ARE REQUIRED BY THIS PART 3 TO PAY TO THE DIVISION FOR
2 THE PROGRAM.

3 (18) "PROGRAM" MEANS THE FAMILY AND MEDICAL LEAVE
4 INSURANCE PROGRAM ESTABLISHED PURSUANT TO SECTION 8-13.3-305.

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

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

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

23 (I) INPATIENT CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL
24 MEDICAL CARE FACILITY; OR

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

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

1 (22) "SEXUAL ASSAULT OR ABUSE" MEANS ANY ACT, ATTEMPTED
2 ACT, OR THREATENED ACT OF UNLAWFUL SEXUAL BEHAVIOR, AS
3 DESCRIBED IN SECTION 16-11.7-102 (3), OR SEXUAL ASSAULT, AS
4 DESCRIBED IN SECTION 18-3-402, COMMITTED BY ANY PERSON AGAINST
5 ANOTHER PERSON REGARDLESS OF THE RELATIONSHIP BETWEEN THE
6 ACTOR AND THE VICTIM.

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

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

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

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

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

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

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

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

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

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

27 (4) INFORMATION CONTAINED IN THE FILES AND RECORDS

1 PERTAINING TO A COVERED INDIVIDUAL UNDER THIS PART 3 ARE
2 CONFIDENTIAL AND NOT OPEN TO PUBLIC INSPECTION; EXCEPT THAT A
3 COVERED INDIVIDUAL OR A PERSON AUTHORIZED BY A COVERED
4 INDIVIDUAL, AS EVIDENCED BY A SIGNED AUTHORIZATION FROM THE
5 COVERED INDIVIDUAL, MAY REVIEW THE FILES AND RECORDS OR RECEIVE
6 SPECIFIC INFORMATION FROM THE FILES AND RECORDS. IN ADDITION, A
7 PUBLIC EMPLOYEE MAY ACCESS AND USE THE INFORMATION IN THE
8 PERFORMANCE OF THE PUBLIC EMPLOYEE'S OFFICIAL DUTIES.

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

14 (b) THE DIVISION SHALL ENSURE THAT THE OUTREACH
15 INFORMATION EXPLAINS, IN AN EASY-TO-UNDERSTAND FORMAT, AT LEAST
16 THE FOLLOWING:

17 (I) ELIGIBILITY REQUIREMENTS;

18 (II) THE CLAIMS PROCESS;

19 (III) WEEKLY BENEFIT AMOUNTS AND MAXIMUM BENEFITS
20 PAYABLE;

21 (IV) NOTICE AND DOCUMENTATION REQUIREMENTS;

22 (V) REINSTATEMENT AND NONDISCRIMINATION RIGHTS;

23 (VI) CONFIDENTIALITY OF FILES AND RECORDS;

24 (VII) THE RELATIONSHIP BETWEEN EMPLOYMENT PROTECTION,
25 LEAVE FROM EMPLOYMENT, AND WAGE REPLACEMENT BENEFITS UNDER
26 THIS PART 3 AND OTHER LAWS, COLLECTIVE BARGAINING AGREEMENTS,
27 AND EMPLOYER POLICIES; AND

1 (VIII) ANY OTHER DETAILS OR INFORMATION ABOUT THE
2 PROGRAM THE DIVISION DEEMS APPROPRIATE.

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

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

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

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

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

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

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

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

3 (IV) FOR A QUALIFYING EXIGENCY;

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

6 (c) IS A COVERED INDIVIDUAL;

7 (d) CONSENTS TO THE DISCLOSURE OF INFORMATION OR RECORDS
8 DEEMED CONFIDENTIAL UNDER STATE LAW PURSUANT TO SECTION
9 8-13.3-305 (4); AND

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

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

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

25 (a) ATTEST TO THE NEED FOR LEAVE AND THAT THE COVERED
26 INDIVIDUAL:

27 (I) (A) BECAUSE OF A BIRTH, ADOPTION, OR PLACEMENT THROUGH

1 FOSTER CARE, IS CARING FOR A NEW CHILD DURING THE FIRST YEAR AFTER
2 BIRTH, ADOPTION, OR PLACEMENT OF THE CHILD;

3 (B) IS CARING FOR A FAMILY MEMBER WHO HAS A SERIOUS HEALTH
4 CONDITION;

5 (C) HAS A SERIOUS HEALTH CONDITION; OR

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

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

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

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

10 PROVIDER PROVIDING HEALTH CARE TO THE COVERED INDIVIDUAL OR THE

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

12 THE CLAIM THAT THE COVERED INDIVIDUAL OR THE COVERED

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

14 ESTIMATING THE FREQUENCY AND DURATION OF LEAVE NEEDED. TO

15 PROVIDE EVIDENCE THAT THE COVERED INDIVIDUAL OR THE COVERED

16 INDIVIDUAL'S FAMILY MEMBER HAS A SERIOUS HEALTH CONDITION

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

18 THE COVERED INDIVIDUAL MAY PROVIDE DOCUMENTS, INCLUDING, BUT

19 NOT LIMITED TO:

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

21 (II) A VALID PROTECTION ORDER; OR

22 (III) A WRITTEN STATEMENT ESTIMATING THE FREQUENCY AND

23 DURATION OF LEAVE NEEDED FROM A HEALTH CARE PROVIDER OR

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

25 EXAMINED OR CONSULTED WITH THE COVERED INDIVIDUAL OR COVERED

26 INDIVIDUAL'S FAMILY MEMBER.

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

1 SUBSECTION (1) OF THIS SECTION IS ELIGIBLE FOR FAMILY AND MEDICAL
2 LEAVE INSURANCE BENEFITS:

3 (a) REGARDLESS OF WHETHER THE COVERED INDIVIDUAL IS
4 CURRENTLY EMPLOYED OR IS WORKING AT AN ADDITIONAL JOB WHILE
5 TAKING FAMILY AND MEDICAL LEAVE; OR

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

12 (4) (a) THE DIVISION SHALL APPROVE OR DENY A CLAIM FOR
13 BENEFITS WITHIN FOURTEEN DAYS AFTER RECEIVING THE CLAIM.

14 (b) AFTER EXHAUSTING THE ADMINISTRATIVE PROCESS SPECIFIED
15 IN THIS SECTION, A COVERED INDIVIDUAL OR THE EMPLOYEE OF A COVERED
16 INDIVIDUAL MAY APPEAL THE DECISION OF THE DIVISION IN THE MANNER
17 SPECIFIED IN ARTICLE 74 OF THIS TITLE 8.

18 **8-13.3-307. Duration of benefits - payment intervals.**

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

27 (b) THE MAXIMUM NUMBER OF TOTAL WEEKS FOR WHICH FAMILY

1 AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE TO AN ELIGIBLE
2 INDIVIDUAL IN AGGREGATE FOR SEPARATE PURPOSES SPECIFIED IN SECTION
3 8-13.3-306 (1)(a) IN ANY CONSECUTIVE FIFTY-TWO-WEEK PERIOD IS
4 FOURTEEN WEEKS; EXCEPT THAT BENEFITS ARE PAYABLE UP TO AN
5 ADDITIONAL TWO WEEKS TO AN ELIGIBLE INDIVIDUAL WITH A SERIOUS
6 HEALTH CONDITION RELATED TO PREGNANCY COMPLICATIONS OR
7 CHILDBIRTH COMPLICATIONS.

8 (c) FOR PURPOSES OF THIS SUBSECTION (1), CARING FOR A NEW
9 CHILD IS A SEPARATE QUALIFYING EVENT FROM A SERIOUS HEALTH
10 CONDITION RELATED TO AND INCLUDING PREGNANCY AND RECOVERY
11 FROM CHILDBIRTH.

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

25 (I) GOOD CAUSE EXISTS, AS DETERMINED BY THE DIVISION, FOR
26 THE ELIGIBLE INDIVIDUAL'S FAILURE TO TIMELY SUBMIT THE APPLICATION
27 OR CERTIFICATION OR FURNISH THE NOTICE TO THE INDIVIDUAL'S

1 EMPLOYER; AND

2 (II) THE ELIGIBLE INDIVIDUAL SUBMITTED THE APPLICATION AND
3 CERTIFICATION AND NOTIFIED THE INDIVIDUAL'S EMPLOYER AS SOON AS
4 POSSIBLE.

5 (b) THE DIVISION SHALL NOTIFY THE ELIGIBLE INDIVIDUAL'S
6 EMPLOYER OF THE DIVISION'S DETERMINATION MADE PURSUANT TO THIS
7 SUBSECTION (2).

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

12 **8-13.3-308. Amount of benefits - maximum weekly benefit.**

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

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

19 (II) FIFTY PERCENT OF THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE
20 FOR ALL WAGES THAT EQUAL OR EXCEED FIFTY PERCENT OF THE AVERAGE
21 WEEKLY WAGE.

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

27 (c) THE DIVISION SHALL CALCULATE AN ELIGIBLE INDIVIDUAL'S

1 WEEKLY BENEFIT AMOUNT BASED ON THE ELIGIBLE INDIVIDUAL'S WEEKLY
2 WAGE EARNED FROM THE JOB FROM WHICH THE ELIGIBLE INDIVIDUAL IS
3 TAKING FAMILY AND MEDICAL LEAVE. IF THE ELIGIBLE INDIVIDUAL IS ABLE
4 TO CONTINUE WORKING AT AN ADDITIONAL JOB WHERE THE INDIVIDUAL
5 IS NOT TAKING LEAVE WHILE TAKING FAMILY AND MEDICAL LEAVE, THE
6 DIVISION SHALL NOT CONSIDER THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE
7 EARNED FROM THE ADDITIONAL JOB WHEN CALCULATING THE ELIGIBLE
8 INDIVIDUAL'S WEEKLY BENEFIT AMOUNT.

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

18 (3) AN ELIGIBLE INDIVIDUAL MAY TAKE INTERMITTENT LEAVE IN
19 INCREMENTS OF ONE HOUR OR SHORTER IF CONSISTENT WITH THE
20 INCREMENTS THE EMPLOYER TYPICALLY USES TO MEASURE EMPLOYEE
21 LEAVE; EXCEPT THAT BENEFITS ARE NOT PAYABLE UNTIL THE ELIGIBLE
22 INDIVIDUAL ACCUMULATES AT LEAST ONE DAY OR EIGHT HOURS OF
23 FAMILY AND MEDICAL LEAVE.

24 (4) THE DIVISION SHALL NOT REDUCE THE WEEKLY BENEFIT
25 AMOUNT BY THE AMOUNT OF WAGE REPLACEMENT THAT AN ELIGIBLE
26 INDIVIDUAL RECEIVES WHILE ON FAMILY AND MEDICAL LEAVE UNDER ANY
27 OF THE FOLLOWING CONDITIONS, UNLESS THE AGGREGATE AMOUNT AN

1 ELIGIBLE INDIVIDUAL WOULD RECEIVE WOULD EXCEED THE ELIGIBLE
2 INDIVIDUAL'S WEEKLY WAGE:

3 (a) A TEMPORARY DISABILITY POLICY OR PROGRAM OF AN
4 EMPLOYER;

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

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

10 (5) THE DIVISION SHALL, IN A TIMELY MANNER, PROVIDE
11 ELECTRONIC DATA TO THE DEPARTMENT OF REVENUE WITH INFORMATION
12 REGARDING TAXPAYERS TO WHOM BENEFITS HAVE BEEN PAID IN
13 ACCORDANCE WITH THIS PART 3, INCLUDING THE BENEFICIARY'S TAX
14 IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER, THE AMOUNT OF
15 BENEFITS PAID, AND THE TAX YEAR IN WHICH BENEFITS WERE RECEIVED.

16 **8-13.3-309. Family and medical leave insurance fund -**
17 **creation - employee premiums - rules.** (1) (a) THERE IS HEREBY
18 CREATED IN THE STATE TREASURY THE FAMILY AND MEDICAL LEAVE
19 INSURANCE FUND. THE FUND CONSISTS OF PREMIUMS AND REVENUES FROM
20 REVENUE BONDS ISSUED IN ACCORDANCE WITH SECTION 8-13.3-304 (2)(d).
21 MONEY IN THE FUND MAY BE USED ONLY TO PAY REVENUE BONDS AND TO
22 PAY BENEFITS UNDER, AND TO ADMINISTER, THE PROGRAM PURSUANT TO
23 THIS PART 3, INCLUDING TECHNOLOGY COSTS TO ADMINISTER THE
24 PROGRAM AND OUTREACH SERVICES DEVELOPED UNDER SECTION
25 8-13.3-305 (5). INTEREST EARNED ON THE INVESTMENT OF MONEY IN THE
26 FUND REMAINS IN THE FUND. ANY MONEY REMAINING IN THE FUND AT THE
27 END OF A FISCAL YEAR REMAINS IN THE FUND AND DOES NOT REVERT TO

1 THE GENERAL FUND OR ANY OTHER FUND. STATE MONEY IN THE FUND IS
2 CONTINUOUSLY APPROPRIATED TO THE DIVISION FOR THE PURPOSE OF THIS
3 SECTION. THE GENERAL ASSEMBLY SHALL NOT APPROPRIATE MONEY FROM
4 THE FUND FOR THE GENERAL EXPENSES OF THE STATE.

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

9 (2) (a) (I) EFFECTIVE JULY 1, 2021, EACH EMPLOYER AND EACH
10 INDIVIDUAL EMPLOYED BY AN EMPLOYER IN THIS STATE SHALL PAY
11 ONE-HALF OF THE PREMIUM AMOUNT DETERMINED IN ACCORDANCE WITH
12 THIS SUBSECTION (2)(a); EXCEPT THAT EMPLOYERS THAT HAVE FOUR OR
13 FEWER EMPLOYEES OR ARE LOCAL GOVERNMENTS, AS DEFINED IN SECTION
14 29-1-802 (4), SHALL PAY ONE-EIGHTH OF THE PREMIUM AMOUNT; AND
15 EMPLOYERS THAT HAVE FIVE TO TEN EMPLOYEES OR ARE STATE
16 GOVERNMENTS SHALL PAY ONE-FOURTH OF THE PREMIUM AMOUNT. THE
17 DIRECTOR SHALL NOT APPLY THE PREMIUM TO WAGES THAT ARE GREATER
18 THAN ONE HUNDRED FORTY PERCENT OF THE AVERAGE WEEKLY WAGE PER
19 EMPLOYEE PER WEEK. PREMIUMS ESTABLISHED IN ACCORDANCE WITH THIS
20 SUBSECTION (2) ARE FEES AND NOT TAXES.

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

24 (B) FOR THE 2023 AND 2024 CALENDAR YEARS, THE DIRECTOR
25 SHALL SET THE PREMIUM BASED ON A PERCENT OF EMPLOYEE WAGES AND
26 AT THE RATE NECESSARY TO OBTAIN A TOTAL AMOUNT OF PREMIUM
27 CONTRIBUTIONS EQUAL TO ONE HUNDRED FIFTY PERCENT OF THE BENEFITS

1 PAID DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR PLUS AN
2 AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE COST OF
3 ADMINISTRATION OF THE PAYMENT OF THOSE BENEFITS DURING THE
4 IMMEDIATELY PRECEDING CALENDAR YEAR, LESS THE AMOUNT OF NET
5 ASSETS REMAINING IN THE FUND AS OF DECEMBER 31 OF THE
6 IMMEDIATELY PRECEDING CALENDAR YEAR. THE PREMIUMS ESTABLISHED
7 IN ACCORDANCE WITH THIS SUBSECTION (2)(a)(II)(B) SHALL NOT EXCEED
8 NINETY-NINE ONE HUNDREDTHS OF ONE PERCENT OF WAGES PER
9 EMPLOYEE.

10 (C) FOR THE 2025 CALENDAR YEAR, AND EACH CALENDAR YEAR
11 THEREAFTER, THE DIRECTOR SHALL SET THE PREMIUM BASED ON A
12 PERCENT OF EMPLOYEE WAGES AND AT THE RATE NECESSARY TO OBTAIN
13 A TOTAL AMOUNT OF PREMIUM CONTRIBUTIONS EQUAL TO BETWEEN ONE
14 HUNDRED TWENTY-FIVE AND ONE HUNDRED FIFTY PERCENT OF THE
15 BENEFITS PAID DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR
16 PLUS AN 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. THE PREMIUMS ESTABLISHED
21 IN ACCORDANCE WITH THIS SUBSECTION (2)(a)(II)(C) SHALL NOT EXCEED
22 NINETY-NINE ONE HUNDREDTHS OF ONE PERCENT OF WAGES PER
23 EMPLOYEE.

24 (b) EACH EMPLOYER SHALL COLLECT THE EMPLOYEE'S SHARE OF
25 THE PREMIUM AMOUNT FROM EACH EMPLOYEE AS A PAYROLL DEDUCTION
26 FROM THE EMPLOYEE'S WAGES EACH PAYROLL PERIOD AND SHALL REMIT
27 THE EMPLOYEE'S SHARE AND THE EMPLOYER'S SHARE OF THE PREMIUM

1 AMOUNT TO THE DIVISION, WHICH SHALL TRANSMIT THE PREMIUMS TO THE
2 STATE TREASURER FOR DEPOSIT IN THE FUND.

3 **8-13.3-310. Employment protection - discrimination**

4 **prohibited - rules.** (1) (a) AN ELIGIBLE INDIVIDUAL WHO WAS EMPLOYED
5 BY AN EMPLOYER FOR NINETY DAYS OR LONGER AND WHO TAKES FAMILY
6 AND MEDICAL LEAVE UNDER THIS PART 3 FOR THE INTENDED PURPOSE OF
7 THE LEAVE IS ENTITLED, ON RETURN FROM THE LEAVE:

8 (I) TO BE RESTORED BY THE EMPLOYER TO THE POSITION OF
9 EMPLOYMENT HELD BY THE ELIGIBLE INDIVIDUAL WHEN THE LEAVE
10 COMMENCED; OR

11 (II) TO BE RESTORED TO AN EQUIVALENT POSITION WITH
12 EQUIVALENT EMPLOYMENT BENEFITS, PAY, AND OTHER TERMS AND
13 CONDITIONS OF EMPLOYMENT.

14 (b) THIS SUBSECTION (1) DOES NOT APPLY TO A SEASONAL
15 WORKER, AS DEFINED IN SECTION 8-73-106, IF THE EMPLOYER CAN SHOW
16 THAT THE SEASONAL WORKER RETURNED FROM LEAVE AFTER THE
17 CONCLUSION OF THE SEASON FOR WHICH THE SEASONAL WORKER WAS
18 HIRED AND THAT THE EMPLOYER NOTIFIED THE SEASONAL WORKER OF THE
19 SEASONAL NATURE OF THE POSITION AT THE TIME OF HIRING.

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

23 (a) FILED FOR, APPLIED FOR, OR USED BENEFITS UNDER THIS PART
24 3;

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

27 (c) TESTIFIED, AGREED TO TESTIFY, OR OTHERWISE ASSISTED IN

1 ANY PROCEEDING UNDER THIS PART 3; OR

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

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

6 (4) DURING ANY PERIOD OF FAMILY AND MEDICAL LEAVE TAKEN
7 UNDER THIS PART 3, AN EMPLOYER SHALL MAINTAIN ANY EXISTING
8 HEALTH BENEFITS OF THE ELIGIBLE INDIVIDUAL FOR THE DURATION OF THE
9 LEAVE AS IF THE ELIGIBLE INDIVIDUAL CONTINUED TO WORK FROM THE
10 DATE THE ELIGIBLE INDIVIDUAL COMMENCED FAMILY AND MEDICAL
11 LEAVE.

12 (5) (a) AN AGGRIEVED INDIVIDUAL MAY BRING A CLAIM AGAINST
13 AN EMPLOYER FOR A VIOLATION OF THIS SECTION.

14 (b) THE CLAIM MAY BE RESOLVED THROUGH MEDIATION IF THE
15 AGGRIEVED INDIVIDUAL AND THE EMPLOYER EACH AGREE.

16 (c) A CLAIM BROUGHT IN ACCORDANCE WITH THIS SECTION MUST
17 BE FILED WITHIN TWO YEARS AFTER THE DATE ON WHICH THE AGGRIEVED
18 INDIVIDUAL KNEW OR SHOULD HAVE KNOWN OF THE VIOLATION.

19 (d) THE DIVISION SHALL RULE ON THE CLAIM WITHIN ONE
20 HUNDRED EIGHTY DAYS AFTER THE CLAIM IS FILED. IF THE DIVISION FINDS
21 THAT AN EMPLOYER HAS VIOLATED THIS SECTION, THE DIVISION MAY
22 PROVIDE THE AGGRIEVED INDIVIDUAL WITH ECONOMIC DAMAGES,
23 LIQUIDATED DAMAGES, ATTORNEY FEES, AND EQUITABLE RELIEF.

24 (e) AN AGGRIEVED INDIVIDUAL SHALL NOT BRING A CIVIL ACTION
25 IN A COURT OF COMPETENT JURISDICTION UNTIL A CLAIM BROUGHT UNDER
26 THIS SECTION IS RESOLVED, MEDIATION IS COMPLETE, OR ONE HUNDRED
27 EIGHTY DAYS ELAPSE FROM THE DATE ON WHICH THE CLAIM WAS FILED.

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 OR PART 2 OF THIS ARTICLE 13.3. IF A PERIOD OF FAMILY AND
4 MEDICAL LEAVE RECEIVED BY AN EMPLOYEE UNDER THIS PART 3 IS
5 CONCURRENTLY DESIGNATED AS LEAVE PURSUANT TO THE FMLA OR PART
6 2 OF THIS ARTICLE 13.3, THE EMPLOYER SHALL NOTIFY THE EMPLOYEE OF
7 THE DESIGNATION AND SHALL ALSO PROVIDE THE EMPLOYEE WITH THE
8 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); AND

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

23 **8-13.3-317. Benefits available regardless of citizenship or**
24 **immigration status.** NOTWITHSTANDING SECTION 24-76.5-103, FAMILY
25 AND MEDICAL LEAVE INSURANCE BENEFITS ARE AVAILABLE TO ALL
26 ELIGIBLE INDIVIDUALS REGARDLESS OF THEIR CITIZENSHIP OR
27 IMMIGRATION STATUS.

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

3 **24-1-121. Department of labor and employment - creation.**

4 (3) The department of labor and employment consists of the following
5 divisions and programs:

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

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

15 **24-34-402.7. Unlawful action against employees seeking**
16 **protection - notice to revisor of statutes - repeal.** (5) THIS SECTION
17 WILL BE REPEALED WHEN THE FIRST FAMILY AND MEDICAL LEAVE
18 INSURANCE BENEFIT PAYMENT IS MADE TO AN ELIGIBLE INDIVIDUAL IN
19 ACCORDANCE WITH PART 3 OF ARTICLE 13.3 OF TITLE 8. THE DIRECTOR OF
20 THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE IN THE
21 DEPARTMENT OF LABOR AND EMPLOYMENT SHALL NOTIFY THE REVISOR OF
22 STATUTES IN WRITING OF THE DATE ON WHICH THE CONDITION SPECIFIED
23 IN THIS SUBSECTION (5) HAS OCCURRED BY E-MAILING THE NOTICE TO
24 REVISOROFSTATUTES.GA@STATE.CO.US. THIS SECTION IS REPEALED,
25 EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE PAYMENT
26 OF BENEFITS OCCURRED OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE,
27 UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

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

3 **39-22-104. Income tax imposed on individuals, estates, and**
4 **trusts - single rate - legislative declaration - definitions - repeal.**

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

6 (z) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
7 1, 2022, AN AMOUNT EQUAL TO ANY AMOUNT RECEIVED BY A TAXPAYER
8 AS FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS PURSUANT TO PART
9 3 OF ARTICLE 13.3 OF TITLE 8.

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