

**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

SENATE SPONSORSHIP

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Senate Committees

Business, Labor, & Technology
Finance
Appropriations

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 (n) PAID FAMILY AND MEDICAL LEAVE KEEPS WORKERS EMPLOYED
10 AND SAVES EMPLOYERS MONEY THROUGH IMPROVED RETENTION, AS
11 REPLACING A WORKER TYPICALLY COSTS AT LEAST ONE-FIFTH OF THAT
12 WORKER'S ANNUAL SALARY;

13 (o) RESEARCH FROM STATES THAT HAVE IMPLEMENTED PAID
14 FAMILY AND MEDICAL LEAVE PROGRAMS HAS SHOWN THAT EMPLOYERS
15 BENEFIT THROUGH IMPROVED WORKER PRODUCTIVITY, PERFORMANCE,
16 AND MORALE;

17 (p) WITH ACCESS TO PAID FAMILY AND MEDICAL LEAVE, WORKERS
18 ARE ABLE TO RECOVER FROM ILLNESS AND RETURN TO FULL PRODUCTIVITY
19 MORE QUICKLY, WHICH IN TURN HELPS AN EMPLOYER'S BOTTOM LINE.
20 WHEN WORKERS HAVE TO RETURN TO WORK BEFORE A CHRONIC
21 CONDITION IS STABILIZED OR BEFORE THEY HAVE HEALED FROM AN
22 INJURY, THEY ARE MORE LIKELY TO RELAPSE OR REINJURE THEMSELVES.

23 (q) WITHOUT AN INSURANCE SYSTEM, EMPLOYERS WHO PROVIDE
24 PAID FAMILY AND MEDICAL LEAVE MAY NEED TO COVER THE FULL COSTS
25 OUT OF POCKET, WHEREAS AN INSURANCE SYSTEM BENEFITS EMPLOYERS
26 BY POOLING COSTS AND MAKING IT MORE AFFORDABLE TO PROVIDE PAID
27 FAMILY AND MEDICAL LEAVE TO THEIR WORKFORCE;

1 (r) ACCESS TO PAID FAMILY AND MEDICAL LEAVE THROUGH AN
2 INSURANCE PROGRAM LEVELS THE PLAYING FIELD FOR SMALL BUSINESS
3 OWNERS, WHO OFTEN CANNOT AFFORD TO OFFER THE SAME GENEROUS
4 PAID FAMILY AND MEDICAL LEAVE BENEFITS AS LARGER COMPANIES AND
5 THEREFORE FACE A COMPETITIVE DISADVANTAGE IN HIRING;

6 (s) AS REPORTED IN 2014 BY THE COUNCIL OF ECONOMIC
7 ADVISERS, AN AGENCY WITHIN THE EXECUTIVE OFFICE OF THE PRESIDENT,
8 "[P]AID LEAVE POLICIES CAN HELP BUSINESS RECRUIT TALENTED WORKERS
9 WHO PLAN TO STAY WITH A FIRM AFTER HAVING CHILDREN... PAID LEAVE
10 HAS BEEN SHOWN TO INCREASE THE PROBABILITY THAT WOMEN CONTINUE
11 IN THEIR JOB AFTER HAVING A CHILD, RATHER THAN QUITTING
12 PERMANENTLY, SAVING EMPLOYERS THE EXPENSE OF RECRUITING AND
13 TRAINING ADDITIONAL EMPLOYEES." THE REPORT FURTHER FINDS, "[B]Y
14 ENABLING WORKERS WHO WOULD HAVE OTHERWISE DROPPED OUT OF THE
15 LABOR FORCE TO INSTEAD TAKE SHORT-TERM LEAVE, SUCH POLICIES
16 COULD BENEFIT THEIR EMPLOYER'S LONG-TERM PRODUCTIVITY BY
17 IMPROVING RECRUITMENT, RETENTION, AND WORKER MOTIVATION."

18 (t) A RECENT UNITED STATES DEPARTMENT OF LABOR STUDY
19 FOUND THAT LACK OF LEAVE MEANS THAT NEARLY FIVE MILLION WOMEN
20 IN THE UNITED STATES LEAVE THE WORKFORCE FOR FAMILY CAREGIVING
21 RESPONSIBILITIES AND THAT IF THOSE WOMEN PARTICIPATED IN THE
22 ECONOMY AT THE SAME RATE AS THEIR PEERS IN CANADA, A COUNTRY
23 WITH GENEROUS PAID FAMILY AND MEDICAL LEAVE BENEFITS, ECONOMIC
24 ACTIVITY IN THE UNITED STATES WOULD BE FIVE HUNDRED BILLION
25 DOLLARS HIGHER EVERY YEAR, A BENEFIT TO ALL COMPANIES;

26 (u) ACCORDING TO PEW RESEARCH CENTER, THE PERCENTAGE OF
27 MOTHERS NOT IN THE WORKFORCE GREW TO TWENTY-NINE PERCENT IN

1 2012, UP FROM TWENTY-THREE PERCENT IN 1999. A MAJORITY OF
2 UNEMPLOYED WOMEN REPORTED THAT THEY WERE HOME TO CARE FOR A
3 FAMILY MEMBER, WHILE ONLY SIX PERCENT SAID THEY WERE HOME
4 BECAUSE THEY COULD NOT FIND WORK. WHEN WOMEN, WHO COMPRISE
5 FORTY-SEVEN PERCENT OF THE UNITED STATES' WORKFORCE, LEAVE THE
6 WORKFORCE, LABOR SUPPLY GOES DOWN AND THE COST OF LABOR FOR
7 BUSINESS GOES UP. ACCESS TO PAID LEAVE INCREASES LABOR SUPPLY AND
8 THEREFORE DECREASES LABOR COSTS FOR BUSINESSES, PARTICULARLY IN
9 TIGHT COMPETITIVE LABOR MARKETS.

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

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

14 (2) "COVERED INDIVIDUAL" MEANS AN INDIVIDUAL WHO, DURING
15 THE INDIVIDUAL'S QUALIFYING YEAR HAS:

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

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

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

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

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

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

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

5 (7) "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO SATISFIES
6 THE REQUIREMENTS OF SECTION 8-13.3-306 AND IS ELIGIBLE TO RECEIVE
7 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS AND, EXCEPT AS
8 OTHERWISE SPECIFIED IN THIS PART 3, FAMILY AND MEDICAL LEAVE.

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

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

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

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

27 (b) "EMPLOYER" INCLUDES:

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

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

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

8 (c) "EMPLOYER" DOES NOT INCLUDE A PERSON DESCRIBED IN
9 SUBSECTION (9)(a) OR (9)(b) OF THIS SECTION THAT IS A CARRIER AS
10 DEFINED IN 45 U.S.C. SEC. 151.

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

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

15 (12) "FAMILY MEMBER" MEANS:

16 (a) A COVERED INDIVIDUAL'S IMMEDIATE FAMILY MEMBER, AS
17 DEFINED IN SECTION 2-4-401 (3.7);

18 (b) A CHILD TO WHOM THE COVERED INDIVIDUAL STANDS IN LOCO
19 PARENTIS OR A PERSON WHO STOOD IN LOCO PARENTIS TO THE COVERED
20 INDIVIDUAL WHEN THE COVERED INDIVIDUAL WAS A MINOR;

21 (c) A PERSON FOR WHOM THE COVERED INDIVIDUAL IS
22 RESPONSIBLE FOR PROVIDING UNPAID PHYSICAL, PSYCHOLOGICAL,
23 HEALTH, LEGAL, OR FINANCIAL ASSISTANCE, AS WELL AS SUPPORT, OF THE
24 TYPE TRADITIONALLY PROVIDED BY FAMILY, WITH:

25 (I) ACCESS TO AND ADMINISTRATION OF MEDICAL CARE;

26 (II) THE ACTIVITIES OF DAILY LIVING AS DEFINED IN SECTION
27 25.5-6-104 (2)(a); OR

1 (III) THE INSTRUMENTAL ACTIVITIES OF DAILY LIVING AS DEFINED
2 IN SECTION 25.5-6-104 (2)(g); OR

3 (d) A PERSON WITH WHOM THE COVERED INDIVIDUAL IS IN A
4 COMMITTED RELATIONSHIP THAT INCLUDES:

5 (I) SHARED FINANCIAL INTERDEPENDENCE OR DEPENDENCE;

6 (II) RESPONSIBILITY FOR EACH OTHER'S COMMON WELFARE; AND

7 (III) EITHER:

8 (A) THE INTENT TO MARRY OR ENTER INTO A CIVIL UNION IN THE
9 FUTURE; OR

10 (B) THE INTENT FOR THE RELATIONSHIP TO LAST INDEFINITELY.

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

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

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

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

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

24 (18) "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 (19) "PROGRAM" MEANS THE FAMILY AND MEDICAL LEAVE

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

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

13 (21) "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 (22) (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 (23) "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 (24) "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 DIVISION'S FILES AND
25 RECORDS 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 JULY 1, 2022, 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 AND BENEFITS UNDER THIS PART 3 FOR COVERED
10 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, 2024,**
16 **EXCEPT AS PROVIDED IN SUBSECTION (4) 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) A SERIOUS HEALTH CONDITION;

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

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

27 (IV) 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 SHALL 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) HAS A SERIOUS HEALTH CONDITION;

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

1 (C) IS CARING FOR A FAMILY MEMBER WHO HAS A SERIOUS HEALTH
2 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) SUBJECT TO LIMITATIONS ESTABLISHED BY THE DIRECTOR

25 BY RULE, A COVERED INDIVIDUAL'S FAMILY MEMBER MAY, WHEN THE

26 COVERED INDIVIDUAL IS UNABLE TO DO SO DUE TO A SERIOUS HEALTH

27 CONDITION:

1 (I) FILE A CLAIM FOR BENEFITS ON BEHALF OF THE COVERED
2 INDIVIDUAL PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION;

3 (II) NOTIFY THE COVERED INDIVIDUAL'S EMPLOYER ON BEHALF OF
4 THE COVERED INDIVIDUAL PURSUANT TO SUBSECTION (1)(e) OF THIS
5 SECTION; OR

6 (III) SUBMIT CERTIFICATION FROM A HEALTH CARE PROVIDER ON
7 BEHALF OF THE COVERED INDIVIDUAL PURSUANT TO SUBSECTION (2)(b) OF
8 THIS SECTION.

9 (b) A COVERED INDIVIDUAL'S FAMILY MEMBER SHALL NOT FILE,
10 NOTIFY, OR SUBMIT UNDER SUBSECTION (3)(a) OF THIS SECTION IF THE
11 FAMILY MEMBER IS THE INDIVIDUAL ACCUSED OF DOMESTIC ABUSE,
12 SEXUAL ASSAULT OR ABUSE, OR STALKING AGAINST THE COVERED
13 INDIVIDUAL FOR WHICH THE COVERED INDIVIDUAL IS REQUESTING FAMILY
14 AND MEDICAL LEAVE INSURANCE BENEFITS.

15 (c) A COVERED INDIVIDUAL SHALL NOT BE ADVERSELY AFFECTED
16 IF A FAMILY MEMBER FAILS TO ACT IN ACCORDANCE WITH SUBSECTION
17 (3)(a) OF THIS SECTION.

18 (d) SECTION 8-13.3-307 (2)(a) APPLIES IF A FAMILY MEMBER DOES
19 NOT FILE A CLAIM, FURNISH NOTICE, OR SUBMIT CERTIFICATION ON BEHALF
20 OF THE COVERED INDIVIDUAL UNDER SUBSECTION (3)(a) OF THIS SECTION.

21 (4) A COVERED INDIVIDUAL WHO OTHERWISE MEETS THE
22 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION IS ELIGIBLE FOR
23 FAMILY AND MEDICAL LEAVE AND BENEFITS:

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

27 (b) IF THE COVERED INDIVIDUAL FAILS TO FILE AN APPLICATION

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

6 (5) (a) THE DIVISION SHALL APPROVE OR DENY A CLAIM FOR
7 BENEFITS WITHIN FOURTEEN DAYS AFTER RECEIVING THE CLAIM.

8 (b) THE DIRECTOR SHALL ESTABLISH A SYSTEM FOR
9 ADMINISTRATIVE REVIEW AND DETERMINATION OF CLAIMS IN THE SAME
10 MANNER AS SECTION 8-74-102 AND PURSUANT TO ADDITIONAL RULES AS
11 PRESCRIBED BY THE DIRECTOR.

12 (c) A COVERED INDIVIDUAL MAY APPEAL THE DETERMINATION OF
13 THE DIVISION AND OBTAIN A HEARING IN THE SAME MANNER AS SPECIFIED
14 IN SECTION 8-74-103. THE HEARING OFFICER'S DECISION MAY BE APPEALED
15 IN THE SAME MANNER AS SPECIFIED IN SECTION 8-4-111.5 (5).

16 (d) IF A COVERED INDIVIDUAL FILES A CIVIL ACTION IN A COURT OF
17 COMPETENT JURISDICTION TO ENFORCE A JUDGMENT MADE UNDER THIS
18 SECTION, ANY FILING FEE UNDER ARTICLE 32 OF TITLE 13 SHALL BE
19 WAIVED.

20 **8-13.3-307. Duration of benefits - payment intervals.**

21 (1) (a) THE MAXIMUM NUMBER OF WEEKS FOR WHICH AN ELIGIBLE
22 INDIVIDUAL MAY TAKE FAMILY AND MEDICAL LEAVE AND FOR WHICH
23 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE TO AN
24 ELIGIBLE INDIVIDUAL FOR A PURPOSE SPECIFIED IN SECTION 8-13.3-306
25 (1)(a) IN ANY CONSECUTIVE FIFTY-TWO-WEEK PERIOD IS TWELVE WEEKS.

26 (b) THE MAXIMUM NUMBER OF TOTAL WEEKS FOR WHICH AN
27 ELIGIBLE INDIVIDUAL MAY TAKE FAMILY AND MEDICAL LEAVE AND FOR

1 WHICH FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE
2 TO AN ELIGIBLE INDIVIDUAL IN AGGREGATE FOR SEPARATE PURPOSES
3 SPECIFIED IN SECTION 8-13.3-306 (1)(a) IN ANY CONSECUTIVE
4 FIFTY-TWO-WEEK PERIOD IS TWELVE WEEKS.

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

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

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

25 (b) THE DIVISION SHALL NOTIFY THE ELIGIBLE INDIVIDUAL'S
26 EMPLOYER OF THE DIVISION'S DETERMINATION MADE PURSUANT TO THIS
27 SUBSECTION (2).

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

5 **8-13.3-308. Amount of benefits - maximum weekly benefit.**

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

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

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

15 (b) THE MAXIMUM WEEKLY BENEFIT AMOUNT DETERMINED UNDER
16 SUBSECTION (1)(a) OF THIS SECTION MUST NOT EXCEED ONE THOUSAND
17 DOLLARS PER WEEK. STARTING JANUARY 1, 2025, THE DIVISION SHALL
18 ANNUALLY ADJUST THE MAXIMUM WEEKLY BENEFIT AMOUNT TO AN
19 AMOUNT EQUAL TO NINETY PERCENT OF THE AVERAGE WEEKLY WAGE.

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

1 INDIVIDUAL'S WEEKLY BENEFIT AMOUNT.

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

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

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

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

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

26 OR

27 (c) ACCRUED PAID LEAVE, INCLUDING, BUT NOT LIMITED TO, SICK,

1 VACATION, OR PERSONAL TIME, THAT AN ELIGIBLE INDIVIDUAL
2 VOLUNTARILY ELECTS TO TAKE.

3 (5) (a) AN EMPLOYER MAY PAY FAMILY AND MEDICAL LEAVE
4 INSURANCE BENEFITS DIRECTLY TO AN ELIGIBLE INDIVIDUAL AND SEEK
5 REIMBURSEMENT AS PROVIDED IN THIS SUBSECTION (5).

6 (b) EXCEPT AS PROVIDED IN SUBSECTION (5)(c) OF THIS SECTION,
7 IF AN EMPLOYER MAKES ADVANCE PAYMENTS TO AN EMPLOYEE THAT ARE
8 EQUAL TO OR GREATER THAN THE AMOUNT REQUIRED UNDER THIS PART 3,
9 DURING ANY PERIOD OF FAMILY AND MEDICAL LEAVE FOR WHICH THE
10 EMPLOYEE IS ENTITLED TO THE BENEFITS PROVIDED BY THIS PART 3, THE
11 DIVISION SHALL REIMBURSE THE EMPLOYER FROM THE FUND IN AN
12 AMOUNT EQUAL TO ANY BENEFITS DUE OR TO BECOME DUE FOR THE
13 EMPLOYEE UNDER THIS PART 3 IF THE EMPLOYER'S CLAIM FOR
14 REIMBURSEMENT IS FILED WITH THE DIVISION PRIOR TO THE DIVISION'S
15 PAYMENT OF BENEFITS TO THE EMPLOYEE.

16 (c) IF AN EMPLOYER THAT PROVIDES FAMILY AND MEDICAL LEAVE
17 INSURANCE BENEFITS THROUGH A PRIVATE PLAN APPROVED PURSUANT TO
18 SECTION 8-13.3-315 MAKES ADVANCE PAYMENTS TO AN EMPLOYEE THAT
19 ARE EQUAL TO OR GREATER THAN THE AMOUNT REQUIRED UNDER THIS
20 PART 3, DURING ANY PERIOD OF FAMILY AND MEDICAL LEAVE FOR WHICH
21 THE EMPLOYEE IS ENTITLED TO THE BENEFITS PROVIDED BY THIS PART 3,
22 THE ENTITY THAT ISSUED THE PRIVATE PLAN SHALL REIMBURSE THE
23 EMPLOYER IN AN AMOUNT EQUAL TO ANY BENEFITS DUE OR TO BECOME
24 DUE FOR THE EXISTING FAMILY AND MEDICAL LEAVE, IF THE EMPLOYER'S
25 CLAIM FOR REIMBURSEMENT IS FILED WITH THE ENTITY THAT ISSUED THE
26 PRIVATE PLAN PRIOR TO PAYMENT OF THE BENEFITS UNDER THE PRIVATE
27 PLAN TO THE EMPLOYEE.

1 (d) THIS SUBSECTION (5) DOES NOT DIMINISH ANY RIGHTS OR
2 REMEDIES FOR THE EMPLOYEE UNDER THIS PART 3, INCLUDING BUT NOT
3 LIMITED TO ALL RIGHTS PROVIDED UNDER SECTION 8-13.3-310.

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

10 **8-13.3-309. Family and medical leave insurance fund -**
11 **creation - employee premiums - rules.** (1) (a) THERE IS HEREBY
12 CREATED IN THE STATE TREASURY THE FAMILY AND MEDICAL LEAVE
13 INSURANCE FUND. THE FUND CONSISTS OF PREMIUMS PAID PURSUANT TO
14 SUBSECTION (2) OF THIS SECTION AND REVENUES FROM REVENUE BONDS
15 ISSUED IN ACCORDANCE WITH SECTION 8-13.3-304 (2)(d). MONEY IN THE
16 FUND MAY BE USED ONLY TO PAY REVENUE BONDS; TO REIMBURSE
17 EMPLOYERS WHO PAY FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS
18 DIRECTLY TO EMPLOYEES IN ACCORDANCE WITH SECTION 8-13.3-308
19 (5)(a); TO REIMBURSE MEMBERS OF THE FAMILY AND MEDICAL LEAVE
20 INSURANCE ADVISORY BOARD IN ACCORDANCE WITH SECTION 8-13.3-317
21 (4); AND TO PAY BENEFITS UNDER, AND TO ADMINISTER, THE PROGRAM
22 PURSUANT TO THIS PART 3, INCLUDING TECHNOLOGY COSTS TO
23 ADMINISTER THE PROGRAM AND OUTREACH SERVICES DEVELOPED UNDER
24 SECTION 8-13.3-305 (5). INTEREST EARNED ON THE INVESTMENT OF
25 MONEY IN THE FUND REMAINS IN THE FUND. ANY MONEY REMAINING IN
26 THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE FUND AND DOES
27 NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND. STATE MONEY

1 IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE DIVISION FOR THE
2 PURPOSE OF THIS SECTION. THE GENERAL ASSEMBLY SHALL NOT
3 APPROPRIATE MONEY FROM THE FUND FOR THE GENERAL EXPENSES OF THE
4 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 JANUARY 1, 2023, EACH INDIVIDUAL
10 EMPLOYED BY AN EMPLOYER IN THIS STATE SHALL PAY SIXTY PERCENT
11 AND EACH EMPLOYER IN THE STATE SHALL PAY FORTY PERCENT OF THE
12 PREMIUM AMOUNT DETERMINED IN ACCORDANCE WITH THIS SUBSECTION
13 (2)(a). THE DIRECTOR SHALL NOT APPLY THE PREMIUM TO WAGES THAT
14 EXCEED EIGHTY PERCENT OF THE CONTRIBUTION AND BENEFIT BASE LIMIT
15 ESTABLISHED ANNUALLY BY THE UNITED STATES SOCIAL SECURITY
16 ADMINISTRATION FOR PURPOSES OF THE FEDERAL "OLD-AGE, SURVIVORS,
17 AND DISABILITY INSURANCE AMENDMENTS OF 1965", AS AMENDED,
18 PUB.L. 89-97. PREMIUMS ESTABLISHED IN ACCORDANCE WITH THIS
19 SUBSECTION (2) ARE FEES AND NOT TAXES.

20 (II) (A) FOR THE 2023 AND 2024 CALENDAR YEARS, THE PREMIUM
21 AMOUNT IS SIXTY-FOUR ONE-HUNDREDTHS OF ONE PERCENT OF WAGES PER
22 EMPLOYEE.

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

1 TO ONE HUNDRED PERCENT OF THE COST OF ADMINISTRATION OF THE
2 PAYMENT OF THOSE BENEFITS DURING THE IMMEDIATELY PRECEDING
3 CALENDAR YEAR. THE PREMIUMS ESTABLISHED IN ACCORDANCE WITH THIS
4 SUBSECTION (2)(a)(II)(B) MUST NOT EXCEED NINETY-NINE ONE
5 HUNDREDTHS OF ONE PERCENT OF WAGES PER EMPLOYEE.

6 (C) FOR THE 2026 CALENDAR YEAR AND EACH CALENDAR YEAR
7 THEREAFTER, THE DIRECTOR SHALL SET THE PREMIUM BASED ON A
8 PERCENT OF EMPLOYEE WAGES AND AT THE RATE NECESSARY TO OBTAIN
9 A TOTAL AMOUNT OF PREMIUM CONTRIBUTIONS EQUAL TO BETWEEN ONE
10 HUNDRED TWENTY-FIVE AND ONE HUNDRED FIFTY PERCENT OF THE
11 BENEFITS PAID DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR
12 PLUS AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE COST OF
13 ADMINISTRATION OF THE PAYMENT OF THOSE BENEFITS DURING THE
14 IMMEDIATELY PRECEDING CALENDAR YEAR. THE PREMIUMS ESTABLISHED
15 IN ACCORDANCE WITH THIS SUBSECTION (2)(a)(II)(C) MUST NOT EXCEED
16 NINETY-NINE ONE HUNDREDTHS OF ONE PERCENT OF WAGES PER
17 EMPLOYEE.

18 (b) EACH EMPLOYER SHALL COLLECT THE EMPLOYEE'S SHARE OF
19 THE PREMIUM AMOUNT FROM EACH EMPLOYEE AS A PAYROLL DEDUCTION
20 FROM THE EMPLOYEE'S WAGES EACH PAYROLL PERIOD AND SHALL REMIT
21 THE EMPLOYEE'S SHARE AND THE EMPLOYER'S SHARE OF THE PREMIUM
22 AMOUNT TO THE DIVISION, WHICH SHALL TRANSMIT THE PREMIUMS TO THE
23 STATE TREASURER FOR DEPOSIT IN THE FUND.

24 (3) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, IF A
25 LOCAL GOVERNMENT HAS DECLINED PARTICIPATION IN THE PROGRAM IN
26 ACCORDANCE WITH SECTION 8-13.3-314:

27 (a) THE LOCAL GOVERNMENT IS NOT REQUIRED TO PAY THE

1 PREMIUMS IMPOSED IN THIS SECTION OR COLLECT PREMIUMS FROM
2 EMPLOYEES WHO HAVE ELECTED COVERAGE PURSUANT TO SECTION
3 8-13.3-313.

4 (b) AN EMPLOYEE OF THE LOCAL GOVERNMENT IS NOT REQUIRED
5 TO PAY THE PREMIUMS IMPOSED IN THIS SECTION UNLESS THE EMPLOYEE
6 HAS ELECTED COVERAGE PURSUANT TO SECTION 8-13.3- 313.

7 **8-13.3-310. Employment protection - discrimination**
8 **prohibited - rules.** (1) (a) AN ELIGIBLE INDIVIDUAL WHO WAS EMPLOYED
9 BY AN EMPLOYER FOR NINETY DAYS OR LONGER AND WHO TAKES FAMILY
10 AND MEDICAL LEAVE UNDER THIS PART 3 FOR THE INTENDED PURPOSE OF
11 THE LEAVE IS ENTITLED, ON RETURN FROM THE LEAVE:

12 (I) TO BE RESTORED BY THE EMPLOYER TO THE POSITION OF
13 EMPLOYMENT HELD BY THE ELIGIBLE INDIVIDUAL WHEN THE LEAVE
14 COMMENCED; OR

15 (II) TO BE RESTORED TO AN EQUIVALENT POSITION WITH
16 EQUIVALENT EMPLOYMENT BENEFITS, PAY, AND OTHER TERMS AND
17 CONDITIONS OF EMPLOYMENT.

18 (b) THIS SUBSECTION (1) DOES NOT APPLY TO A SEASONAL
19 WORKER, AS DEFINED IN SECTION 8-73-106.

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 BENEFITS THAT HAVE ACCRUED PRIOR TO THE DATE ON WHICH THE FAMILY
5 AND MEDICAL LEAVE COMMENCED BASED ON THE ELIGIBLE INDIVIDUAL'S
6 CONDUCT SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

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

13 (5) (a) THE DIVISION SHALL ENFORCE THIS SECTION, INCLUDING
14 ESTABLISHING A SYSTEM UTILIZING MULTIPLE MEANS OF COMMUNICATION
15 TO RECEIVE COMPLAINTS REGARDING NONCOMPLIANCE WITH THIS
16 SECTION. ANY INDIVIDUAL AGGRIEVED BY A VIOLATION OF THIS SECTION
17 MAY FILE A COMPLAINT WITH THE DIVISION AGAINST AN EMPLOYER FOR A
18 VIOLATION OF THIS SECTION.

19 (b) UPON RECEIVING A COMPLAINT ALLEGING A VIOLATION OF THIS
20 SECTION, THE DIVISION SHALL INVESTIGATE THE COMPLAINT IN A TIMELY
21 MANNER AND MAY RESOLVE THE CLAIM THROUGH MEDIATION BETWEEN
22 THE AGGRIEVED INDIVIDUAL AND THE EMPLOYER IF THE AGGRIEVED
23 INDIVIDUAL AND THE EMPLOYER EACH AGREE TO MEDIATE AND AGREE TO
24 THE RESOLUTION.

25 (c) A CLAIM BROUGHT IN ACCORDANCE WITH THIS SECTION MUST
26 BE FILED WITHIN TWO YEARS AFTER THE DATE OF THE LAST EVENT
27 CONSTITUTING THE ALLEGED VIOLATION FOR WHICH THE ACTION IS

1 BROUGHT.

2 (d) THE DIVISION SHALL CONSULT WITH AND KEEP COMPLAINANTS
3 NOTIFIED REGARDING THE STATUS OF THEIR COMPLAINT, ANY RESULTING
4 INVESTIGATION, AND ANY NOTICE OF VIOLATION REGARDING THEIR CLAIM.
5 IF THE DIVISION RULES THAT A VIOLATION HAS OCCURRED, THE DIVISION
6 SHALL ISSUE TO THE OFFENDING EMPLOYER A NOTICE OF VIOLATION AND
7 ANY FINES PURSUANT TO SUBSECTION (5)(h) OF THIS SECTION. THE
8 DIRECTOR MAY GRANT A REASONABLE PERIOD OF TIME, BUT IN NO EVENT
9 LONGER THAN FOURTEEN DAYS AFTER THE DAY OF NOTIFICATION, FOR
10 CORRECTION OF THE VIOLATION. IF THE VIOLATION IS CORRECTED WITHIN
11 THAT PERIOD, NO FINE SHALL BE IMPOSED. THE DIRECTOR SHALL, BY RULE,
12 PROVIDE DETAILS REGARDING THE WAIVER OF FINES AND PRESCRIBE THE
13 FORM AND WORDING OF NOTICES OF VIOLATION, INCLUDING INFORMATION
14 ON APPEALING THE DECISION OF THE DIVISION.

15 (e) THE DIVISION SHALL RULE ON A CLAIM WITHIN ONE HUNDRED
16 EIGHTY DAYS AFTER THE CLAIM IS FILED.

17 (f) AN AGGRIEVED INDIVIDUAL SHALL NOT BRING A CIVIL ACTION
18 IN A COURT OF COMPETENT JURISDICTION UNTIL:

19 (I) A CLAIM BROUGHT UNDER THIS SECTION HAS BEEN RULED UPON
20 BY THE DIVISION;

21 (II) MEDIATION IS COMPLETE AND THE CLAIM IS RESOLVED; OR

22 (III) ONE HUNDRED EIGHTY DAYS HAVE ELAPSED FROM THE DATE
23 ON WHICH THE CLAIM WAS FILED.

24 (g) 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), INCLUDING ECONOMIC DAMAGES, LIQUIDATED DAMAGES,
27 ATTORNEY FEES, AND EQUITABLE RELIEF INCLUDING, BUT NOT LIMITED TO,

1 REINSTATEMENT TO EMPLOYMENT. IF THE AGGRIEVED INDIVIDUAL FILES
2 A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION AFTER A FINDING
3 BY THE DIVISION THAT AN EMPLOYER HAS VIOLATED THIS SECTION, ANY
4 FILING FEE UNDER ARTICLE 32 OF TITLE 13 SHALL BE WAIVED.

5 (h) THE DIRECTOR, BY RULE, SHALL ESTABLISH A FINE STRUCTURE
6 FOR EMPLOYERS WHO VIOLATE THIS SECTION. THE DIRECTOR SHALL
7 TRANSFER ANY FINES COLLECTED PURSUANT TO THIS SECTION TO THE
8 STATE TREASURER FOR DEPOSIT IN THE FUND.

9 (6) NOTHING IN THIS SECTION RELIEVES AN EMPLOYER OF ANY
10 OBLIGATION UNDER A COLLECTIVE BARGAINING AGREEMENT.

11 (7) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE OF A LOCAL
12 GOVERNMENT THAT HAS ELECTED COVERAGE PURSUANT TO SECTION
13 8-13.3-313.

14 **8-13.3-311. Coordination of benefits - rules.** (1) (a) LEAVE
15 TAKEN UNDER THIS PART 3 RUNS CONCURRENTLY WITH ANY FMLA LEAVE
16 OR LEAVE TAKEN UNDER PART 2 OF THIS ARTICLE 13.3. IF A PERIOD OF
17 FAMILY AND MEDICAL LEAVE RECEIVED BY AN EMPLOYEE UNDER THIS
18 PART 3 IS CONCURRENTLY DESIGNATED AS LEAVE PURSUANT TO THE
19 FMLA OR PART 2 OF THIS ARTICLE 13.3, THE EMPLOYER SHALL NOTIFY
20 THE EMPLOYEE OF THE DESIGNATION AND SHALL ALSO PROVIDE THE
21 EMPLOYEE WITH THE NOTICE REQUIRED UNDER 29 CFR 825.300 (d).

22 (b) AN EMPLOYER MAY REQUIRE THAT PAYMENT MADE OR LEAVE
23 TAKEN UNDER THIS PART 3 BE MADE OR TAKEN CONCURRENTLY OR
24 OTHERWISE COORDINATED WITH PAYMENT MADE OR LEAVE ALLOWED
25 UNDER THE TERMS OF DISABILITY OR FAMILY CARE LEAVE UNDER AN
26 EMPLOYER POLICY OR EMPLOYMENT CONTRACT, AS APPLICABLE. THE
27 EMPLOYER SHALL GIVE ITS EMPLOYEES WRITTEN NOTICE OF THIS

1 REQUIREMENT.

2 (c) NOTWITHSTANDING SUBSECTIONS (1)(a) AND (1)(b) OF THIS
3 SECTION, AN EMPLOYER SHALL NOT REQUIRE AN EMPLOYEE TO USE OR
4 EXHAUST TIME OFF UNDER AN EMPLOYER POLICY, INCLUDING PAID TIME
5 OFF, VACATION TIME, OR SICK TIME, PRIOR TO USE OF FAMILY AND
6 MEDICAL LEAVE UNDER THIS PART 3. IN ADDITION, AN EMPLOYER SHALL
7 NOT REQUIRE AN EMPLOYEE TO CHARGE ALL OR PART OF THE EMPLOYEE'S
8 FAMILY AND MEDICAL LEAVE UNDER THIS PART 3 TO UNUSED ACCRUALS
9 OR OTHER PAID TIME OFF, INCLUDING VACATION TIME AND SICK TIME,
10 EXCEPT WHERE THE EMPLOYER MAINTAINS A SEPARATE BANK OF PAID
11 TIME SOLELY FOR THE PURPOSE OF PAID FAMILY AND MEDICAL LEAVE
12 UNDER THIS PART 3.

13 (d) SUBJECT TO THE LIMITATIONS UNDER SECTION 8-13.3-308 (4),
14 AN EMPLOYEE MAY SUPPLEMENT THE FAMILY AND MEDICAL LEAVE
15 INSURANCE BENEFITS THE EMPLOYEE IS RECEIVING THROUGH THE
16 PROGRAM, THROUGH VACATION, SICK, OR OTHER PAID TIME OFF, TO
17 ENSURE THAT THE EMPLOYEE IS RECEIVING ONE HUNDRED PERCENT OF THE
18 EMPLOYEE'S WEEKLY WAGE. NOTHING IN THIS SUBSECTION (1)(d)
19 REQUIRES AN EMPLOYEE TO RECEIVE OR USE, OR AN EMPLOYER TO
20 PROVIDE, ADDITIONAL PAID TIME OFF AS DESCRIBED THIS SUBSECTION
21 (1)(d).

22 (2) (a) FOR A COVERED INDIVIDUAL WHO IS ELIGIBLE FOR FAMILY
23 AND MEDICAL LEAVE INSURANCE BENEFITS DUE TO A SERIOUS HEALTH
24 CONDITION RESULTING FROM AN ACCIDENT, INJURY, OR OCCUPATIONAL
25 DISEASE FOR WHICH THE RIGHT OF COMPENSATION EXISTS UNDER SECTION
26 8-41-301, THE WEEKLY BENEFIT AMOUNT SHALL BE REDUCED, BUT NOT
27 BELOW ZERO, BY AN AMOUNT EQUAL TO SEVENTY-FIVE PERCENT OF:

1 (I) ANY TEMPORARY DISABILITY BENEFITS PAID FOR THAT WEEK
2 PURSUANT TO SECTION 8-42-105 OR 8-42-106; OR

3 (II) THE PERMANENT TOTAL DISABILITY BENEFITS PAID PURSUANT
4 TO SECTION 8-42-111.

5 (b) NOTWITHSTANDING ANY OTHER LAW, BENEFITS PAID TO AN
6 INDIVIDUAL PURSUANT TO THE "WORKERS' COMPENSATION ACT OF
7 COLORADO", ARTICLES 40 TO 47 OF THIS TITLE 8, SHALL NOT BE REDUCED
8 OR OFFSET BASED ON THE RECEIPT OF FAMILY AND MEDICAL LEAVE
9 INSURANCE BENEFITS PURSUANT TO THIS PART 3.

10 (c) COMBINED WORKERS' COMPENSATION BENEFITS AND FAMILY
11 AND MEDICAL LEAVE INSURANCE BENEFITS PAID IN ACCORDANCE WITH
12 SUBSECTION (2)(a) OF THIS SECTION MUST NOT EXCEED A COVERED
13 INDIVIDUAL'S WEEKLY WAGE. WHERE COMBINED BENEFITS WOULD
14 OTHERWISE EXCEED THE COVERED INDIVIDUAL'S WEEKLY WAGE, THE
15 OFFSET PROVIDED FOR IN SUBSECTION (2)(a) OF THIS SECTION SHALL BE
16 INCREASED TO ENSURE COMBINED BENEFITS DO NOT EXCEED THE COVERED
17 INDIVIDUAL'S WEEKLY WAGE.

18 (d) (I) WHERE BENEFITS HAVE BEEN PAID PRIOR TO A
19 DETERMINATION OF ELIGIBILITY FOR TEMPORARY DISABILITY BENEFITS OR
20 PERMANENT TOTAL DISABILITY BENEFITS UNDER THE "WORKERS'
21 COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF THIS TITLE 8,
22 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS MAY BE
23 RETROACTIVELY REDUCED AS SET FORTH IN SUBSECTION (2)(a) OF THIS
24 SECTION ONCE WORKERS' COMPENSATION BENEFITS HAVE BEEN PAID. THE
25 DIRECTOR MAY ADOPT RULES TO DEVELOP A PROCEDURE FOR RECOVERING
26 EXCESS BENEFITS, WHICH MAY INCLUDE THE ASSERTION OF A LIEN
27 AGAINST ANY TEMPORARY DISABILITY BENEFITS OR PERMANENT TOTAL

1 DISABILITY BENEFITS PAID PURSUANT TO ARTICLES 40 TO 47 OF THIS TITLE
2 8. IF A WORKERS' COMPENSATION CLAIM IS BROUGHT BY THE COVERED
3 INDIVIDUAL, AND THE COVERED INDIVIDUAL INCURS A PERSONAL
4 LIABILITY TO PAY ATTORNEY FEES AND COSTS, THE AMOUNT OF THE LIEN
5 MUST NOT EXCEED THE FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS
6 PAID, LESS THE AMOUNT OF THOSE ATTORNEY FEES AND COSTS.

7 (II) A LIEN OR RECOVERY OF EXCESS BENEFITS PURSUANT TO THIS
8 SUBSECTION (2)(d) IS NOT A REDUCTION OR OFFSET OF BENEFITS PAID TO
9 AN INDIVIDUAL FOR PURPOSES OF SUBSECTION (2)(a) OF THIS SECTION.

10 (e) WHERE INDIVIDUALS ARE CONCURRENTLY ELIGIBLE FOR
11 BENEFITS DUE TO A SERIOUS HEALTH CONDITION RESULTING FROM AN
12 ACCIDENT, INJURY, OR OCCUPATIONAL DISEASE FOR WHICH THE RIGHT OF
13 COMPENSATION EXISTS UNDER SECTION 8-41-301 AND UNDER THIS PART
14 3 FOR A PURPOSE UNRELATED TO THAT SERIOUS HEALTH CONDITION, THE
15 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS SHALL BE REDUCED BY
16 AN AMOUNT TO BE DETERMINED BY THE DIRECTOR BY RULE. COMBINED
17 WORKERS' COMPENSATION BENEFITS AND FAMILY AND MEDICAL LEAVE
18 INSURANCE BENEFITS PAID IN ACCORDANCE WITH THIS SUBSECTION (2)(e)
19 MUST NOT EXCEED A COVERED INDIVIDUAL'S WEEKLY WAGE. THE
20 DIRECTOR SHALL ADOPT RULES TO ESTABLISH THE PROCESS AND REQUIRED
21 DOCUMENTATION REQUIRED FOR CONCURRENT RECEIPT OF BENEFITS.

22 (3) (a) THIS PART 3 DOES NOT DIMINISH:

23 (I) THE RIGHTS, PRIVILEGES, OR REMEDIES OF AN EMPLOYEE UNDER
24 A COLLECTIVE BARGAINING AGREEMENT, EMPLOYER POLICY, OR
25 EMPLOYMENT CONTRACT; OR

26 (II) AN EMPLOYER'S OBLIGATION TO COMPLY WITH A COLLECTIVE
27 BARGAINING AGREEMENT, EMPLOYER POLICY, OR EMPLOYMENT

1 CONTRACT, AS APPLICABLE, THAT PROVIDES GREATER LEAVE THAN FMLA
2 LEAVE OR FAMILY AND MEDICAL LEAVE.

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

8 **8-13.3-312. Erroneous payments - disqualification for benefits**
9 **- penalties - rules. (1) A COVERED INDIVIDUAL WHO, IN CONNECTION**
10 **WITH AN APPLICATION FOR BENEFITS UNDER THE PROGRAM, WILLFULLY**
11 **MAKES A FALSE STATEMENT OR MISREPRESENTATION REGARDING A**
12 **MATERIAL FACT OR WILLFULLY FAILS TO REPORT A MATERIAL FACT IS**
13 **DISQUALIFIED FROM:**

14 (a) FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS FOR ONE
15 YEAR FROM THE DATE THE DIVISION DISCOVERS THE FALSE STATEMENT,
16 MISREPRESENTATION, OR WILLFUL FAILURE TO REPORT A MATERIAL FACT;
17 AND

18 (b) EMPLOYMENT PROTECTION, AS PROVIDED IN SECTION
19 8-13.3-310 (1)(a).

20 (2) IF FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAID
21 ERRONEOUSLY OR AS A RESULT OF WILLFUL MISREPRESENTATION, OR IF A
22 CLAIM FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS IS REJECTED
23 AFTER BENEFITS ARE PAID, THE DIVISION MAY SEEK REPAYMENT OF
24 BENEFITS FROM THE RECIPIENT. THE DIRECTOR SHALL EXERCISE
25 DISCRETION TO WAIVE, IN WHOLE OR IN PART, THE AMOUNT OF ANY
26 REPAYMENTS WHERE THE RECOVERY WOULD BE AGAINST EQUITY AND
27 GOOD CONSCIENCE. THE DIRECTOR MAY ADOPT RULES TO DEVELOP A

1 PROCEDURE FOR RECOVERING ERRONEOUS PAYMENTS OF BENEFITS.

2 **8-13.3-313. Elective coverage - withdrawal from coverage -**

3 **rules. (1) AN EMPLOYEE OF A LOCAL GOVERNMENT THAT HAS DECLINED**
4 **PARTICIPATION IN THE PROGRAM PURSUANT TO SECTION 8-13.3-314 OR A**
5 **SELF-EMPLOYED PERSON, INCLUDING AN INDEPENDENT CONTRACTOR, SOLE**
6 **PROPRIETOR, PARTNER, OR JOINT VENTURER, MAY ELECT COVERAGE**
7 **UNDER THE PROGRAM FOR AN INITIAL PERIOD OF NOT LESS THAN THREE**
8 **YEARS OR A SUBSEQUENT PERIOD OF NOT LESS THAN ONE YEAR**
9 **IMMEDIATELY FOLLOWING ANOTHER PERIOD OF COVERAGE. THE**
10 **EMPLOYEE OF A LOCAL GOVERNMENT OR SELF-EMPLOYED PERSON MUST**
11 **FILE A NOTICE OF ELECTION IN WRITING WITH THE DIRECTOR IN THE FORM**
12 **AND MANNER REQUIRED BY THE DIVISION. THE ELECTION BECOMES**
13 **EFFECTIVE ON THE DATE THE NOTICE IS FILED.**

14 **(2) AN EMPLOYEE OF A LOCAL GOVERNMENT OR A SELF-EMPLOYED**
15 **PERSON WHO HAS ELECTED COVERAGE MAY WITHDRAW FROM COVERAGE**
16 **BY FILING WRITTEN NOTICE WITH THE DIRECTOR WITHIN THIRTY DAYS**
17 **AFTER THE END OF THE THREE-YEAR PERIOD OF COVERAGE OR AT OTHER**
18 **TIMES THE DIRECTOR MAY PRESCRIBE BY RULE. THE WITHDRAWAL FROM**
19 **COVERAGE TAKES EFFECT NO SOONER THAN THIRTY DAYS AFTER THE**
20 **SELF-EMPLOYED PERSON FILES THE NOTICE.**

21 **(3) AN EMPLOYEE OF A LOCAL GOVERNMENT OR A SELF-EMPLOYED**
22 **PERSON WHO HAS ELECTED COVERAGE SHALL PAY ONLY THE EMPLOYEE**
23 **PORTION OF THE PREMIUM AMOUNT ESTABLISHED PURSUANT TO SECTION**
24 **8-13.3-309 (2)(a).**

25 **(4) AN EMPLOYEE OF A LOCAL GOVERNMENT OR A SELF-EMPLOYED**
26 **PERSON WHO HAS ELECTED COVERAGE IN ACCORDANCE WITH THIS**
27 **SECTION SHALL REMIT THE EMPLOYEE PORTION OF THE PREMIUM AMOUNT**

1 DIRECTLY TO THE DIVISION, IN THE FORM AND MANNER REQUIRED BY THE
2 DIRECTOR BY RULE.

3 **8-13.3-314. Local government employers' ability to decline**
4 **participation in program - rules. (1) A LOCAL GOVERNMENT MAY**
5 **DECLINE PARTICIPATION IN THE FAMILY AND MEDICAL LEAVE INSURANCE**
6 **PROGRAM IN THE FORM AND MANNER DETERMINED BY THE DIRECTOR BY**
7 **RULE.**

8 **(2) AN EMPLOYEE OF A LOCAL GOVERNMENT THAT HAS DECLINED**
9 **PARTICIPATION IN THE PROGRAM IN ACCORDANCE WITH THIS SECTION MAY**
10 **ELECT COVERAGE AS SPECIFIED IN SECTION 8-13.3-313.**

11 **(3) THE DIRECTOR SHALL PROMULGATE REASONABLE RULES FOR**
12 **THE IMPLEMENTATION OF THIS SECTION. AT A MINIMUM, THE RULES MUST**
13 **INCLUDE:**

14 **(a) THE PROCESS BY WHICH A LOCAL GOVERNMENT MAY DECLINE**
15 **PARTICIPATION IN THE PROGRAM;**

16 **(b) THE PROCESS BY WHICH A LOCAL GOVERNMENT THAT HAS**
17 **PREVIOUSLY DECLINED PARTICIPATION IN THE PROGRAM MAY**
18 **SUBSEQUENTLY ELECT COVERAGE IN THE PROGRAM; AND**

19 **(c) THE NOTICE THAT A LOCAL GOVERNMENT IS REQUIRED TO**
20 **PROVIDE ITS EMPLOYEES REGARDING WHETHER THE LOCAL GOVERNMENT**
21 **IS PARTICIPATING IN THE PROGRAM, THE ABILITY OF THE EMPLOYEES OF A**
22 **LOCAL GOVERNMENT THAT HAS DECLINED PARTICIPATION TO ELECT**
23 **COVERAGE PURSUANT TO SECTION 8-13.3-313, AND ANY OTHER**
24 **NECESSARY REQUIREMENTS.**

25 **8-13.3-315. Employer option to provide family and medical**
26 **leave benefits through a private plan - approval requirements - rules.**

27 **(1) AN EMPLOYER MAY APPLY TO THE DIVISION FOR APPROVAL TO**

1 PROVIDE ITS EMPLOYEES THE FAMILY AND MEDICAL LEAVE INSURANCE
2 BENEFITS TO WHICH THE EMPLOYEES ARE ENTITLED UNDER THIS PART 3
3 THROUGH A PRIVATE PLAN INSTEAD OF THROUGH THE FUND ESTABLISHED
4 PURSUANT TO SECTION 8-13.3-309.

5 (2) THE DIVISION SHALL NOT APPROVE AN EMPLOYER'S REQUEST
6 TO OFFER BENEFITS THROUGH A PRIVATE PLAN UNLESS THE PRIVATE PLAN:

7 (a) CONFERS ALL OF THE SAME RIGHTS, PROTECTIONS, AND
8 BENEFITS PROVIDED TO COVERED INDIVIDUALS UNDER THIS PART 3,
9 INCLUDING:

10 (I) PROVIDING BENEFITS TO A COVERED INDIVIDUAL FOR THE
11 REASONS SET FORTH IN SECTION 8-13.3-306 (1)(a) FOR THE MAXIMUM
12 NUMBER OF WEEKS REQUIRED IN SUBSECTIONS 8-13.3-307 (1)(a) AND
13 (1)(b), IN A BENEFIT YEAR;

14 (II) ALLOWING FAMILY AND MEDICAL LEAVE TO BE TAKEN FOR ALL
15 PURPOSES SPECIFIED IN SECTION 8-13.3-306(1)(a);

16 (III) ALLOWING FAMILY AND MEDICAL LEAVE UNDER SECTION
17 8-13.3-306 (1)(a) TO BE TAKEN TO CARE FOR ANY FAMILY MEMBER;

18 (IV) ALLOWING FAMILY AND MEDICAL LEAVE UNDER SECTION
19 8-13.3-306 (1)(a) TO BE TAKEN BY A COVERED INDIVIDUAL WITH A
20 SERIOUS HEALTH CONDITION OR TO CARE FOR A FAMILY MEMBER WITH A
21 SERIOUS HEALTH CONDITION;

22 (V) PROVIDING A WAGE REPLACEMENT RATE DURING ALL FAMILY
23 AND MEDICAL LEAVE OF AT LEAST THE AMOUNT PROVIDED IN SECTION
24 8-13.3-308 (1)(a);

25 (VI) PROVIDING A MAXIMUM WEEKLY BENEFIT DURING ALL
26 FAMILY AND MEDICAL LEAVE OF AT LEAST THE AMOUNT SPECIFIED IN
27 SECTION 8-13.3-308 (1)(b);

1 (VII) ALLOWING FAMILY AND MEDICAL LEAVE TO BE TAKEN
2 INTERMITTENTLY AS AUTHORIZED BY SECTION 8-13.3-308 (3);

3 (VIII) IMPOSING NO ADDITIONAL CONDITIONS OR RESTRICTIONS ON
4 THE USE OF FAMILY AND MEDICAL LEAVE OR BENEFITS BEYOND THOSE
5 EXPLICITLY AUTHORIZED BY THIS PART 3 OR RULES ISSUED PURSUANT TO
6 THIS PART 3;

7 (IX) ALLOWING ANY INDIVIDUAL COVERED UNDER A PRIVATE
8 PLAN WHO IS ELIGIBLE TO TAKE FAMILY AND MEDICAL LEAVE UNDER THIS
9 PART 3 TO TAKE FAMILY AND MEDICAL LEAVE UNDER THE PRIVATE PLAN;

10 AND

11 (X) PROVIDING THAT THE COST TO A COVERED INDIVIDUAL UNDER
12 A PRIVATE PLAN IS NOT GREATER THAN THE COST CHARGED TO THE
13 COVERED INDIVIDUAL IF THE COVERED INDIVIDUAL WERE PAYING
14 PREMIUMS INTO THE FUND CREATED IN SECTION 8-13.3-309.

15 (b) PROVIDES FOR ALL COVERED INDIVIDUALS THROUGHOUT THEIR
16 PERIOD OF EMPLOYMENT; AND

17 (c) (I) IF THE PRIVATE PLAN IS IN THE FORM OF SELF-INSURANCE,
18 FURNISHES A BOND TO THE STATE, WITH A SURETY COMPANY AUTHORIZED
19 TO TRANSACT BUSINESS IN THE STATE, IN THE FORM AND AMOUNT
20 REQUIRED BY THE DIVISION; OR

21 (II) IF THE PRIVATE PLAN IS IN THE FORM OF A THIRD PARTY THAT
22 PROVIDES FOR INSURANCE, ISSUES THE FORMS OF THE POLICY BY AN
23 INSURER APPROVED BY THE DIVISION.

24 (3) THE DIVISION MAY WITHDRAW THE APPROVAL GRANTED UNDER
25 THIS SECTION FOR:

26 (a) FAILURE TO PAY BENEFITS;

27 (b) FAILURE TO PAY BENEFITS TIMELY AND IN A MANNER

1 CONSISTENT WITH THE PAYMENT OF BENEFITS PURSUANT TO SECTION
2 8-13.3-307 AND 8-13.3-308;

3 (c) FAILURE TO MAINTAIN AN ADEQUATE SURETY BOND AS
4 REQUIRED IN SUBSECTION (2)(c)(I) OF THIS SECTION;

5 (d) MISUSE OF PRIVATE PLAN MONEY;

6 (e) FAILURE TO SUBMIT REPORTS OR COMPLY WITH AUDITS OR
7 OTHER COMPLIANCE REQUIREMENTS ESTABLISHED BY THE DIRECTOR BY
8 RULE;

9 (f) FAILURE TO COMPLY WITH THIS PART 3 OR THE RULES
10 PROMULGATED PURSUANT TO THIS PART 3;

11 (g) VIOLATION OF THE TERMS AND CONDITIONS OF THE PRIVATE
12 PLAN; OR

13 (h) ANY OTHER REASON AS MAY BE DETERMINED BY THE DIRECTOR
14 BY RULE.

15 (4) THE DIRECTOR, BY RULE, SHALL ESTABLISH A FINE STRUCTURE
16 FOR EMPLOYERS AND ENTITIES OFFERING PRIVATE PLANS THAT VIOLATE
17 THIS SECTION. THE DIRECTOR SHALL TRANSFER ANY FINES COLLECTED
18 PURSUANT TO THIS SUBSECTION (4) TO THE STATE TREASURER FOR DEPOSIT
19 INTO THE FUND.

20 (5) (a) AN EMPLOYER OFFERING FAMILY AND MEDICAL LEAVE AND
21 BENEFITS THROUGH A PRIVATE PLAN APPROVED IN ACCORDANCE WITH
22 THIS SECTION SHALL COMPLY WITH SECTION 8-13.3-310 AND 8-13.3-311
23 (1)(c).

24 (b) A COVERED INDIVIDUAL UNDER A PRIVATE PLAN APPROVED
25 PURSUANT TO THIS SECTION RETAINS ALL APPLICABLE RIGHTS AND
26 REMEDIES UNDER SECTION 8-13.3-310.

27 (6) A DENIAL OF FAMILY AND MEDICAL LEAVE OR BENEFITS BY AN

1 EMPLOYER OR AN ENTITY OFFERING A PRIVATE PLAN MAY BE APPEALED AS
2 PROVIDED IN SECTION 8-13.3-306 (5).

3 (7) A COVERED INDIVIDUAL WHO IS ELIGIBLE TO RECEIVE BENEFITS
4 FROM AN EMPLOYER THROUGH AN APPROVED PRIVATE PLAN PURSUANT TO
5 THIS SECTION IS NOT ELIGIBLE TO RECEIVE BENEFITS FROM THE FUND
6 WHEN TAKING FAMILY AND MEDICAL LEAVE FROM THE EMPLOYER
7 COVERED BY THE PRIVATE PLAN.

8 (8) THE DIRECTOR SHALL ANNUALLY DETERMINE THE TOTAL
9 AMOUNT EXPENDED BY THE DIVISION FOR COSTS ARISING OUT OF THE
10 ADMINISTRATION OF PRIVATE PLANS. EACH ENTITY OFFERING A PRIVATE
11 PLAN PURSUANT TO THIS SECTION SHALL REIMBURSE THE DIVISION FOR
12 THE COSTS ARISING OUT OF THE PRIVATE PLANS IN THE AMOUNT, FORM,
13 AND MANNER DETERMINED BY THE DIRECTOR BY RULE. THE DIRECTOR
14 SHALL TRANSFER PAYMENTS RECEIVED PURSUANT TO THIS SECTION TO THE
15 STATE TREASURY FOR DEPOSIT IN THE FUND.

16 **8-13.3-316. Department to perform actuarial and feasibility**
17 **studies - report to the governor, general assembly, and the board -**
18 **repeal.** (1) THE DEPARTMENT SHALL CONTRACT FOR THE SERVICES OF A
19 QUALIFIED PRIVATE ACTUARY TO PERFORM AN ACTUARIAL STUDY OF THE
20 FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM ESTABLISHED
21 PURSUANT TO SECTION 8-13.3-305.

22 (2) (a) THE DEPARTMENT SHALL STUDY THE FEASIBILITY OF
23 CONTRACTING WITH A THIRD PARTY TO ADMINISTER THE PROGRAM
24 CREATED IN THIS PART 3. IN DETERMINING WHETHER A THIRD PARTY
25 SHOULD ADMINISTER THE PROGRAM, THE DEPARTMENT SHALL CONSIDER
26 WHETHER DOING SO WOULD BE COST-EFFECTIVE, IN THE SHORT TERM AND
27 IN THE LONG TERM FOR BOTH THE STATE AND COVERED INDIVIDUALS, AND

1 LEAD TO MORE EFFICIENT PROGRAM ADMINISTRATION AND BENEFIT
2 MANAGEMENT WHILE ASSURING QUALITY, WORKER EXPERIENCE,
3 AFFORDABILITY, COVERAGE, AND PROGRAM ACCOUNTABILITY.

4 (b) IN FULFILLING THE REQUIREMENTS OF THIS SUBSECTION (2),
5 THE DEPARTMENT SHALL MAKE A REQUEST FOR INFORMATION FROM THIRD
6 PARTIES THAT MAY BE WILLING TO ADMINISTER THE PROGRAM.

7 (3) NO LATER THAN MARCH 1, 2020, THE DEPARTMENT SHALL
8 PROVIDE THE GOVERNOR; THE SENATE BUSINESS, LABOR, AND
9 TECHNOLOGY COMMITTEE, OR ITS SUCCESSOR COMMITTEE; THE HOUSE OF
10 REPRESENTATIVES BUSINESS AFFAIRS AND LABOR COMMITTEE, OR ITS
11 SUCCESSOR COMMITTEE; AND THE ADVISORY BOARD CREATED IN SECTION
12 8-13.3-317 WITH THE RESULTS OF THE STUDIES.

13 (4) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, AFTER
14 RECEIVING THE RECOMMENDATION OF THE ADVISORY BOARD, SHALL
15 DETERMINE HOW TO ADMINISTER THE PROGRAM USING THE CRITERIA
16 SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION.

17 (5) THIS SECTION IS REPEALED, EFFECTIVE OCTOBER 1, 2020.

18 **8-13.3-317. Family and medical leave insurance program**
19 **advisory board - repeal.** (1) THERE IS HEREBY CREATED IN THE DIVISION
20 THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM ADVISORY
21 BOARD, REFERRED TO IN THIS SECTION AS THE "BOARD".

22 (2) (a) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS
23 APPOINTED BY THE GOVERNOR:

24 (I) THREE MEMBERS WHO ARE WORKERS OR REPRESENT AN
25 ORGANIZATION THAT REPRESENT WORKERS' INTERESTS IN PAID FAMILY
26 AND MEDICAL LEAVE, EACH OF WHOM SHALL BE APPOINTED FROM A LIST
27 OF AT LEAST THREE NAMES SUBMITTED BY A RECOGNIZED STATEWIDE

1 ORGANIZATION THAT PROMOTES WORKERS' RIGHTS;
2 (II) THREE MEMBERS WHO ARE PRIVATE EMPLOYERS WITH A
3 RANGE OF BUSINESS SIZE AND EXPERIENCE IN PROVIDING EMPLOYEES WITH
4 PAID FAMILY AND MEDICAL LEAVE, EACH OF WHOM SHALL BE APPOINTED
5 FROM A LIST OF AT LEAST THREE NAMES SUBMITTED BY A RECOGNIZED
6 STATEWIDE ORGANIZATION OF EMPLOYERS;
7 (III) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATE POLICY
8 ORGANIZATION THAT WORKS ON ISSUES OF ECONOMIC OPPORTUNITY;
9 (IV) ONE MEMBER WHO IS A PRIVATE INSURER WITH EXPERIENCE
10 IN ADMINISTERING TEMPORARY DISABILITY OR FAMILY AND MEDICAL
11 LEAVE INSURANCE BENEFITS;
12 (V) ONE MEMBER WHO REPRESENTS A STATE POLICY
13 ORGANIZATION THAT WORKS ON HEALTH ADVOCACY;
14 (VI) ONE LABOR ECONOMIST WITH DEMONSTRATED RESEARCH OR
15 EXPERTISE IN STUDYING PAID FAMILY AND MEDICAL LEAVE, LABOR
16 STANDARDS, AND THE DATA NECESSARY TO DO SO;
17 (VII) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATE
18 DOMESTIC VIOLENCE AND SEXUAL ASSAULT ORGANIZATION;
19 (VIII) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATE
20 ORGANIZATION THAT HAS EXPERTISE WITH MILITARY FAMILY ADVOCACY;
21 (IX) ONE MEMBER WHO IS A REPRESENTATIVE OF ORGANIZED
22 LABOR; AND
23 (X) TWO NONVOTING MEMBERS, ONE OF WHOM MUST REPRESENT
24 THE DEPARTMENT.
25 (b) THE GOVERNOR SHALL CONSIDER ETHNICITY, GENDER, AND
26 GEOGRAPHIC REPRESENTATION IN APPOINTING THE MEMBERS OF THE
27 BOARD.

1 (c) THE GOVERNOR SHALL MAKE THE INITIAL APPOINTMENTS TO
2 THE BOARD AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS
3 SECTION.

4 (3) EACH MEMBER OF THE BOARD SERVES AT THE PLEASURE OF
5 THE GOVERNOR.

6 (4) NOTWITHSTANDING SECTION 2-2-326, EACH MEMBER OF THE
7 BOARD SERVES WITHOUT COMPENSATION BUT IS ENTITLED TO RECEIVE
8 REIMBURSEMENT FROM MONEY IN THE FUND CREATED IN SECTION
9 8-13.3-309 OR APPROPRIATIONS FROM THE GENERAL ASSEMBLY FOR
10 ACTUAL AND NECESSARY EXPENSES THE MEMBER INCURS IN THE
11 PERFORMANCE OF THE MEMBER'S DUTIES AS A MEMBER OF THE BOARD.

12 (5)(a) THE MEMBER REPRESENTING THE DEPARTMENT SHALL CALL
13 THE FIRST MEETING OF THE BOARD.

14 (b) THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

15 (c) THE BOARD SHALL MEET AT LEAST FOUR TIMES EVERY YEAR.
16 THE CHAIR MAY CALL SUCH ADDITIONAL MEETINGS AS ARE NECESSARY
17 FOR THE BOARD TO COMPLETE ITS DUTIES.

18 (6) THE BOARD SHALL:

19 (a) NO LATER THAN JUNE 1, 2020, MAKE RECOMMENDATIONS TO
20 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT BASED ON THE ACTUARIAL
21 AND FEASIBILITY STUDIES PROVIDED TO THE BOARD PURSUANT TO SECTION
22 8-13.3-316 (3), USING THE CRITERIA SPECIFIED IN SECTION 8-13.3-316

23 (2)(a):

24 (b) PROVIDE COMMENT ON DEPARTMENT RULE-MAKING, POLICIES,
25 IMPLEMENTATION OF THIS PART 3, UTILIZATION OF BENEFITS, AND OTHER
26 INITIATIVES;

27 (c) STUDY ISSUES THE BOARD DETERMINES TO REQUIRE ITS

1 CONSIDERATION; AND

2 (d) REVIEW THE REPORT FROM THE DIVISION SUBMITTED IN
3 ACCORDANCE WITH SECTION 8-13.3-319.

4 (7) UPON REQUEST BY THE BOARD, THE DIVISION SHALL PROVIDE
5 OFFICE SPACE, EQUIPMENT, AND STAFF SERVICES AS MAY BE NECESSARY
6 TO IMPLEMENT THIS SECTION.

7 (8) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2026.
8 BEFORE THE REPEAL, THIS SECTION IS SCHEDULED FOR REVIEW IN
9 ACCORDANCE WITH SECTION 2-3-1203.

10 **8-13.3-318. Federal income tax - state income tax.** (1) (a) IF
11 THE FEDERAL INTERNAL REVENUE SERVICE DETERMINES THAT FAMILY AND
12 MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 3 ARE SUBJECT TO
13 FEDERAL INCOME TAX, THE DIVISION SHALL INFORM AN INDIVIDUAL FILING
14 A NEW CLAIM FOR BENEFITS, AT THE TIME OF FILING, THAT:

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

17 (II) REQUIREMENTS EXIST PERTAINING TO ESTIMATED TAX
18 PAYMENTS;

19 (III) THE INDIVIDUAL MAY ELECT TO HAVE FEDERAL INCOME TAX
20 DEDUCTED AND WITHHELD FROM THE INDIVIDUAL'S PAYMENT OF BENEFITS
21 IN THE AMOUNT SPECIFIED IN THE FEDERAL "INTERNAL REVENUE CODE OF
22 1986", AS AMENDED; AND

23 (IV) THE INDIVIDUAL IS PERMITTED TO CHANGE A PREVIOUSLY
24 ELECTED WITHHOLDING STATUS.

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

1 (c) THE DIRECTOR SHALL FOLLOW ALL PROCEDURES SPECIFIED BY
2 THE FEDERAL INTERNAL REVENUE SERVICE PERTAINING TO DEDUCTING
3 AND WITHHOLDING INCOME TAX.

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

6 **8-13.3-319. Reports.** (1) BY SEPTEMBER 1, 2024, AND BY EACH
7 SEPTEMBER 1 THEREAFTER, THE DIVISION SHALL SUBMIT A REPORT ON
8 PROJECTED AND ACTUAL PROGRAM PARTICIPATION, SPECIFYING INCOME
9 LEVEL, GENDER, RACE, AND ETHNICITY OF PARTICIPANTS AND PURPOSE
10 AND DURATION OF LEAVE; PREMIUM RATES; FUND BALANCES; AND
11 OUTREACH EFFORTS TO:

12 (a) THE SENATE COMMITTEES ON BUSINESS, LABOR, AND
13 TECHNOLOGY AND HEALTH AND HUMAN SERVICES, OR THEIR SUCCESSOR
14 COMMITTEES;

15 (b) THE HOUSE OF REPRESENTATIVES COMMITTEES ON HEALTH
16 AND INSURANCE AND BUSINESS AFFAIRS AND LABOR, OR THEIR SUCCESSOR
17 COMMITTEES; AND

18 (c) THE FAMILY AND MEDICAL LEAVE INSURANCE ADVISORY
19 BOARD CREATED IN SECTION 8-13.3-317.

20 (2) THE DIVISION SHALL POST THE REPORT ON THE DEPARTMENT'S
21 WEBSITE. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT
22 REQUIRED IN THIS SECTION CONTINUES INDEFINITELY.

23 **8-13.3-320. Rules.** (1) THE DIRECTOR MAY ADOPT RULES AS
24 NECESSARY OR AS SPECIFIED IN THIS PART 3 FOR THE IMPLEMENTATION
25 AND ADMINISTRATION OF THIS PART 3.

26 (2) THE DIRECTOR SHALL ADOPT RULES:

27 (a) ESTABLISHING THE FORM AND MANNER OF FILING A CLAIM FOR

1 BENEFITS PURSUANT TO SECTION 8-13.3-306 (1)(b); AND
2 (b) SETTING PREMIUM AMOUNTS PURSUANT TO SECTION
3 8-13.3-309 (2)(a);
4 (c) PROVIDING GUIDANCE ON THE FACTORS USED TO DETERMINE
5 WHETHER AN INDIVIDUAL IS A COVERED INDIVIDUAL'S FAMILY MEMBER;
6 (d) ESTABLISHING A FINE STRUCTURE PURSUANT TO SECTIONS
7 8-13.3-310 (5)(h) AND 8-13.3-315 (4);
8 (e) IMPLEMENTING SECTION 8-13.3-314; AND
9 (f) DETERMINING THE TOTAL AMOUNT EXPENDED FOR COSTS
10 ARISING OUT OF PRIVATE PLANS, APPROPRIATE REIMBURSEMENT RATES,
11 AND THE FORM AND MANNER FOR REIMBURSEMENT PURSUANT TO SECTION
12 8-13.3-315 (8).

13 **8-13.3-321. Benefits available regardless of citizenship or**
14 **immigration status.** NOTWITHSTANDING SECTION 24-76.5-103, FAMILY
15 AND MEDICAL LEAVE AND FAMILY AND MEDICAL LEAVE INSURANCE
16 BENEFITS ARE AVAILABLE TO ALL ELIGIBLE INDIVIDUALS REGARDLESS OF
17 THEIR CITIZENSHIP OR IMMIGRATION STATUS.

18 **SECTION 2.** In Colorado Revised Statutes, 2-3-1203, **add**
19 **(17)(a)(IV)** as follows:

20 **2-3-1203. Sunset review of advisory committees - legislative**
21 **declaration - definition - repeal.** (17) (a) The following statutory
22 authorizations for the designated advisory committees will repeal on
23 September 1, 2026:

24 (IV) THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM
25 ADVISORY BOARD CREATED IN SECTION 8-13.3-317.

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

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

2 **(3) The department of labor and employment consists of the following**
3 **divisions and programs:**

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

11 **SECTION 4. In Colorado Revised Statutes, 24-34-402.7, add (5)**
12 **as follows:**

13 **24-34-402.7. Unlawful action against employees seeking**
14 **protection - notice to revisor of statutes - repeal. (5) THIS SECTION**
15 **WILL BE REPEALED WHEN THE FIRST FAMILY AND MEDICAL LEAVE**
16 **INSURANCE BENEFIT PAYMENT IS MADE TO AN ELIGIBLE INDIVIDUAL IN**
17 **ACCORDANCE WITH PART 3 OF ARTICLE 13.3 OF TITLE 8. THE DIRECTOR OF**
18 **THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE IN THE**
19 **DEPARTMENT OF LABOR AND EMPLOYMENT SHALL NOTIFY THE REVISOR OF**
20 **STATUTES IN WRITING OF THE DATE ON WHICH THE CONDITION SPECIFIED**
21 **IN THIS SUBSECTION (5) HAS OCCURRED BY E-MAILING THE NOTICE TO**
22 **REVISOROFSTATUTES.GA@STATE.CO.US. THIS SECTION IS REPEALED,**
23 **EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE PAYMENT**
24 **OF BENEFITS OCCURRED OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE,**
25 **UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.**

26 **SECTION 5. In Colorado Revised Statutes, 39-22-104, add**
27 **(4)(z) as follows:**

1 **39-22-104. Income tax imposed on individuals, estates, and**
2 **trusts - single rate - legislative declaration - definitions - repeal.**

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

4 **(z) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY**
5 **1, 2023, AN AMOUNT EQUAL TO ANY AMOUNT RECEIVED BY A TAXPAYER**
6 **AS FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS PURSUANT TO PART**
7 **3 OF ARTICLE 13.3 OF TITLE 8.**

8 **SECTION 6. Safety clause. The general assembly hereby finds,**
9 **determines, and declares that this act is necessary for the immediate**
10 **preservation of the public peace, health, and safety.**