

SB188_L.045
SENATE COMMITTEE OF REFERENCE AMENDMENT
Committee on Finance.
SB19-188 be amended as follows:

1 Strike the Business, Labor, and Technology Committee Report, dated
2 March 13, 2019.

3 Amend printed bill, strike everything below the enacting clause and
4 substitute:

5 "SECTION 1. In Colorado Revised Statutes, **add** part 3 to article
6 13.3 of title 8 as follows:

7 PART 3

8 FAMILY AND MEDICAL LEAVE INSURANCE

9 **8-13.3-301. Short title.** THE SHORT TITLE OF THIS PART 3 IS THE
10 "FAMILY AND MEDICAL LEAVE INSURANCE ACT" OR "FAMLI ACT".

11 **8-13.3-302. Legislative declaration.** (1) THE GENERAL
12 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

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

17 (b) THE UNITED STATES IS THE ONLY INDUSTRIALIZED NATION IN
18 THE WORLD THAT DOES NOT MANDATE ACCESS TO PAID LEAVE BENEFITS.
19 SIMULTANEOUSLY, NEARLY HALF OF AMERICANS LIVE PAYCHECK TO
20 PAYCHECK AND ARE UNABLE TO ACCESS TWO THOUSAND DOLLARS IN THE
21 EVENT OF AN EMERGENCY.

22 (c) LEAVE UNDER THE FEDERAL "FAMILY AND MEDICAL LEAVE
23 ACT OF 1993", AS AMENDED, PUB.L. 103-3, CODIFIED AT 29 U.S.C. SEC.
24 2601 ET SEQ., IS BOTH UNPAID AND UNAVAILABLE TO MORE THAN FORTY
25 PERCENT OF PRIVATE SECTOR WORKERS IN THE UNITED STATES. THIS PART
26 3, KNOWN AS THE STATE "FAMILY AND MEDICAL LEAVE INSURANCE ACT"
27 OR "FAMLI ACT", PROVIDES A NECESSARY SAFETY NET FOR ALL
28 COLORADO WORKERS, AS PAID FAMILY AND MEDICAL LEAVE ALLOWS
29 WORKERS TO REMAIN IN THE WORKFORCE, STAY SAFE, SEEK NECESSARY
30 MEDICAL TREATMENT, AND PROVIDE CARE TO LOVED ONES AT CRITICAL
31 TIMES.

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

36 (e) PAID LEAVE BENEFITS EMPLOYERS BY IMPROVING
37 RECRUITMENT OPPORTUNITIES AND REDUCING TURNOVER. THEREFORE, IT
38 BENEFITS THE PUBLIC TO PROVIDE FAMILY AND MEDICAL LEAVE

1 INSURANCE FOR COLORADO WORKERS.

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

9 (g) EMPLOYEE AND EMPLOYER CONTRIBUTIONS ARE COLLECTED
10 AT RATES REASONABLY CALCULATED TO PROVIDE THE PROGRAM'S LEAVE
11 BENEFITS AND SUPPORTING ADMINISTRATION OF THE PROGRAM, AND THE
12 FISCAL APPROACH IN THIS PART 3 WAS INFORMED BY THE EXPERIENCE OF
13 OTHER STATE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAMS,
14 MODELING BASED ON THE COLORADO WORKFORCE, AND INPUT FROM A
15 VARIETY OF STAKEHOLDERS IN COLORADO;

16 (h) WORKERS NEED COMPREHENSIVE PAID FAMILY AND MEDICAL
17 LEAVE TO ADDRESS DOMESTIC ABUSE, SEXUAL ASSAULT OR ABUSE, AND
18 STALKING, WHICH POSE SERIOUS HEALTH AND SAFETY CONCERNS.
19 DOMESTIC ABUSE, SEXUAL ASSAULT OR ABUSE, AND STALKING ARE
20 QUALIFYING PURPOSES FOR FAMILY AND MEDICAL LEAVE UNDER THIS PART
21 3;

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

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

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

34 (l) THIS PART 3 OFFERS PORTABLE BENEFITS THAT WORKERS CAN
35 TAKE WITH THEM AS THEY MOVE FROM JOB TO JOB OR COMBINE MULTIPLE
36 SOURCES OF INCOME. PORTABLE BENEFITS ARE ESSENTIAL IN A CHANGING
37 ECONOMY, WHERE MORE AND MORE WORKERS FIND THEMSELVES RELYING
38 ON INSECURE JOBS OR PIECING TOGETHER MULTIPLE TYPES OF JOBS TO
39 MAKE ENDS MEET.

40 (m) RECOGNIZING THAT MANY PEOPLE NOW WORK OUTSIDE THE
41 TRADITIONAL EMPLOYER-EMPLOYEE STRUCTURE, THIS PART 3 ALSO
42 ALLOWS SELF-EMPLOYED WORKERS TO PARTICIPATE IN THE PROGRAM IF
43 THEY CHOOSE, PROVIDING ACCESS TO NEEDED BENEFITS AND ADDED

1 SECURITY;

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

6 (o) RESEARCH FROM STATES THAT HAVE IMPLEMENTED PAID
7 FAMILY AND MEDICAL LEAVE PROGRAMS HAS SHOWN THAT EMPLOYERS
8 BENEFIT THROUGH IMPROVED WORKER PRODUCTIVITY, PERFORMANCE,
9 AND MORALE;

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

16 (q) WITHOUT AN INSURANCE SYSTEM, EMPLOYERS WHO PROVIDE
17 PAID FAMILY AND MEDICAL LEAVE MAY NEED TO COVER THE FULL COSTS
18 OUT OF POCKET, WHEREAS AN INSURANCE SYSTEM BENEFITS EMPLOYERS
19 BY POOLING COSTS AND MAKING IT MORE AFFORDABLE TO PROVIDE PAID
20 FAMILY AND MEDICAL LEAVE TO THEIR WORKFORCE;

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

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

38 (t) A RECENT UNITED STATES DEPARTMENT OF LABOR STUDY
39 FOUND THAT LACK OF LEAVE MEANS THAT NEARLY FIVE MILLION WOMEN
40 IN THE UNITED STATES LEAVE THE WORKFORCE FOR FAMILY CAREGIVING
41 RESPONSIBILITIES AND THAT IF THOSE WOMEN PARTICIPATED IN THE
42 ECONOMY AT THE SAME RATE AS THEIR PEERS IN CANADA, A COUNTRY
43 WITH GENEROUS PAID FAMILY AND MEDICAL LEAVE BENEFITS, ECONOMIC

1 ACTIVITY IN THE UNITED STATES WOULD BE FIVE HUNDRED BILLION
2 DOLLARS HIGHER EVERY YEAR, A BENEFIT TO ALL COMPANIES;

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

14 **8-13.3-303. Definitions.** AS USED IN THIS PART 3, UNLESS THE
15 CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

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

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

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

32 (6) "DOMESTIC ABUSE" MEANS ANY ACT DESCRIBED IN SECTION
33 13-14-101 (2) OR ANY OTHER CRIME, THE UNDERLYING FACTUAL BASIS OF
34 WHICH HAS BEEN FOUND BY A COURT ON THE RECORD TO INCLUDE AN ACT
35 OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1).

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

40 (8) "EMPLOYEE" MEANS ANY INDIVIDUAL, INCLUDING A
41 MIGRATORY LABORER, PERFORMING LABOR OR SERVICES FOR THE BENEFIT
42 OF ANOTHER, IRRESPECTIVE OF WHETHER THE COMMON-LAW
43 RELATIONSHIP OF MASTER AND SERVANT EXISTS. FOR THE PURPOSES OF

1 THIS PART 3, AN INDIVIDUAL PRIMARILY FREE FROM CONTROL AND
2 DIRECTION IN THE PERFORMANCE OF THE LABOR OR SERVICES, BOTH
3 UNDER THE INDIVIDUAL'S CONTRACT FOR THE PERFORMANCE OF THE
4 LABOR OR SERVICES AND IN FACT, AND WHO IS CUSTOMARILY ENGAGED IN
5 AN INDEPENDENT TRADE, OCCUPATION, PROFESSION, OR BUSINESS
6 RELATED TO THE LABOR OR SERVICES PERFORMED IS NOT AN "EMPLOYEE".

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

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

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

15 (b) "EMPLOYER" INCLUDES:

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

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

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

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

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

27 (12) "FAMILY MEMBER" MEANS:

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

30 (b) A CHILD TO WHOM THE COVERED INDIVIDUAL STANDS IN LOCO
31 PARENTIS OR A PERSON WHO STOOD IN LOCO PARENTIS TO THE COVERED
32 INDIVIDUAL WHEN THE COVERED INDIVIDUAL WAS A MINOR;

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

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

38 (II) THE ACTIVITIES OF DAILY LIVING AS DEFINED IN SECTION
39 25.5-6-104 (2)(a); OR

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

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

- 1 (I) SHARED FINANCIAL INTERDEPENDENCE OR DEPENDENCE;
2 (II) RESPONSIBILITY FOR EACH OTHER'S COMMON WELFARE; AND
3 (III) EITHER:
4 (A) THE INTENT TO MARRY OR ENTER INTO A CIVIL UNION IN THE
5 FUTURE; OR
6 (B) THE INTENT FOR THE RELATIONSHIP TO LAST INDEFINITELY.
7 (13) "FMLA" MEANS THE FEDERAL "FAMILY AND MEDICAL LEAVE
8 ACT OF 1993", AS AMENDED, PUB.L. 103-3, CODIFIED AT 29 U.S.C. SEC.
9 2601 ET SEQ.
10 (14) "FMLA LEAVE" MEANS LEAVE FROM WORK AND ALL
11 BENEFITS AUTHORIZED BY THE FMLA.
12 (15) "FUND" MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE
13 FUND CREATED IN SECTION 8-13.3-309.
14 (16) "HEALTH CARE PROVIDER" MEANS ANY PERSON LICENSED,
15 CERTIFIED, OR REGISTERED UNDER FEDERAL OR STATE LAW TO PROVIDE
16 MEDICAL OR EMERGENCY SERVICES. THE TERM INCLUDES PHYSICIANS,
17 DOCTORS, NURSES, AND MIDWIVES.
18 (17) "LOCAL GOVERNMENT" HAS THE SAME MEANING AS SET
19 FORTH IN SECTION 29-1-304.5 (3)(b).
20 (18) "PREMIUM" MEANS THE PAYMENTS AN INDIVIDUAL AND
21 EMPLOYER ARE REQUIRED BY THIS PART 3 TO PAY TO THE DIVISION FOR
22 THE PROGRAM.
23 (19) "PROGRAM" MEANS THE FAMILY AND MEDICAL LEAVE
24 INSURANCE PROGRAM ESTABLISHED PURSUANT TO SECTION 8-13.3-305.
25 (20) "QUALIFYING EXIGENCY" MEANS A NEED ARISING OUT OF A
26 FAMILY MEMBER'S ACTIVE DUTY SERVICE OR NOTICE OF AN IMPENDING
27 CALL OR ORDER TO ACTIVE DUTY IN THE ARMED FORCES, INCLUDING, BUT
28 NOT LIMITED TO, PROVIDING FOR THE CARE OR OTHER NEEDS OF THE
29 MILITARY MEMBER'S CHILD OR OTHER FAMILY MEMBER, MAKING
30 FINANCIAL OR LEGAL ARRANGEMENTS FOR THE MILITARY MEMBER,
31 ATTENDING COUNSELING, ATTENDING MILITARY EVENTS OR CEREMONIES,
32 SPENDING TIME WITH THE MILITARY MEMBER DURING A REST AND
33 RECUPERATION LEAVE OR FOLLOWING RETURN FROM DEPLOYMENT, OR
34 MAKING ARRANGEMENTS FOLLOWING THE DEATH OF THE MILITARY
35 MEMBER.
36 (21) "QUALIFYING YEAR" MEANS THE FIRST FOUR OF THE LAST FIVE
37 COMPLETED CALENDAR QUARTERS OR THE LAST FOUR COMPLETED
38 CALENDAR QUARTERS IMMEDIATELY PRECEDING THE FIRST DAY OF A
39 COVERED INDIVIDUAL'S APPLICATION YEAR.
40 (22) (a) "SERIOUS HEALTH CONDITION" MEANS AN ILLNESS,
41 INJURY, IMPAIRMENT, OR PHYSICAL OR MENTAL CONDITION THAT
42 INVOLVES:
43 (I) INPATIENT CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL

1 MEDICAL CARE FACILITY; OR
2 (II) CONTINUING TREATMENT BY A HEALTH CARE PROVIDER.
3 (b) "SERIOUS HEALTH CONDITION" INCLUDES DOMESTIC ABUSE,
4 SEXUAL ASSAULT OR ABUSE, AND STALKING.
5 (23) "SEXUAL ASSAULT OR ABUSE" MEANS ANY ACT, ATTEMPTED
6 ACT, OR THREATENED ACT OF UNLAWFUL SEXUAL BEHAVIOR, AS
7 DESCRIBED IN SECTION 16-11.7-102 (3), OR SEXUAL ASSAULT, AS
8 DESCRIBED IN SECTION 18-3-402, COMMITTED BY ANY PERSON AGAINST
9 ANOTHER PERSON REGARDLESS OF THE RELATIONSHIP BETWEEN THE
10 ACTOR AND THE VICTIM.
11 (24) "STALKING" MEANS ANY ACT, ATTEMPTED ACT, OR
12 THREATENED ACT OF STALKING, AS DESCRIBED IN SECTION 18-3-602.
13 **8-13.3-304. Division of family and medical leave insurance -**
14 **creation as an enterprise - authority to issue bonds.** (1) THERE IS
15 HEREBY CREATED IN THE DEPARTMENT THE DIVISION OF FAMILY AND
16 MEDICAL LEAVE INSURANCE, THE HEAD OF WHICH IS THE DIRECTOR OF THE
17 DIVISION.
18 (2) (a) THE DIVISION CONSTITUTES AN ENTERPRISE FOR PURPOSES
19 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, AS LONG AS
20 THE DIVISION RETAINS AUTHORITY TO ISSUE REVENUE BONDS AND THE
21 DIVISION RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL
22 REVENUES IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL
23 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. FOR AS LONG AS
24 IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SECTION, THE DIVISION
25 IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE
26 CONSTITUTION.
27 (b) THE ENTERPRISE ESTABLISHED PURSUANT TO THIS SUBSECTION
28 (2) HAS ALL THE POWERS AND DUTIES AUTHORIZED BY THIS PART 3
29 PERTAINING TO FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS. THE
30 FUND CONSTITUTES PART OF THE ENTERPRISE ESTABLISHED PURSUANT TO
31 THIS SUBSECTION (2).
32 (c) NOTHING IN THIS SUBSECTION (2) LIMITS OR RESTRICTS THE
33 AUTHORITY OF THE DIVISION TO EXPEND ITS REVENUES CONSISTENT WITH
34 THIS PART 3.
35 (d) THE DIVISION IS HEREBY AUTHORIZED TO ISSUE REVENUE
36 BONDS FOR THE EXPENSES OF THE DIVISION, WHICH BONDS MAY BE
37 SECURED BY ANY REVENUES OF THE DIVISION. REVENUE FROM THE BONDS
38 ISSUED PURSUANT TO THIS SUBSECTION (2) SHALL BE DEPOSITED INTO THE
39 FUND.
40 **8-13.3-305. Family and medical leave insurance program -**
41 **creation - division duties - outreach and education - rules.** (1) (a) THE
42 DIVISION SHALL ESTABLISH AND ADMINISTER A FAMILY AND MEDICAL
43 LEAVE INSURANCE PROGRAM TO GRANT FAMILY AND MEDICAL LEAVE TO

1 ELIGIBLE INDIVIDUALS AND PAY FAMILY AND MEDICAL LEAVE INSURANCE
2 BENEFITS TO ELIGIBLE INDIVIDUALS AS SPECIFIED IN THIS PART 3.

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

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

10 (3) THE DIVISION SHALL USE INFORMATION-SHARING AND
11 INTEGRATION TECHNOLOGY TO FACILITATE THE DISCLOSURE OF RELEVANT
12 INFORMATION OR RECORDS PERTAINING TO A COVERED INDIVIDUAL IF THE
13 COVERED INDIVIDUAL CONSENTS TO THE DISCLOSURE IN ACCORDANCE
14 WITH THIS PART 3.

15 (4) INFORMATION CONTAINED IN THE DIVISION'S FILES AND
16 RECORDS PERTAINING TO A COVERED INDIVIDUAL UNDER THIS PART 3 ARE
17 CONFIDENTIAL AND NOT OPEN TO PUBLIC INSPECTION; EXCEPT THAT A
18 COVERED INDIVIDUAL OR A PERSON AUTHORIZED BY A COVERED
19 INDIVIDUAL, AS EVIDENCED BY A SIGNED AUTHORIZATION FROM THE
20 COVERED INDIVIDUAL, MAY REVIEW THE FILES AND RECORDS OR RECEIVE
21 SPECIFIC INFORMATION FROM THE FILES AND RECORDS. IN ADDITION, A
22 PUBLIC EMPLOYEE MAY ACCESS AND USE THE INFORMATION IN THE
23 PERFORMANCE OF THE PUBLIC EMPLOYEE'S OFFICIAL DUTIES.

24 (5) (a) BY JULY 1, 2022, AND FOR AS LONG AS THE PROGRAM
25 CONTINUES, THE DIVISION SHALL DEVELOP AND IMPLEMENT OUTREACH
26 SERVICES TO EDUCATE THE PUBLIC ABOUT THE AVAILABILITY OF FAMILY
27 AND MEDICAL LEAVE AND BENEFITS UNDER THIS PART 3 FOR COVERED
28 INDIVIDUALS.

29 (b) THE DIVISION SHALL ENSURE THAT THE OUTREACH
30 INFORMATION EXPLAINS, IN AN EASY-TO-UNDERSTAND FORMAT, AT LEAST
31 THE FOLLOWING:

- 32 (I) ELIGIBILITY REQUIREMENTS;
- 33 (II) THE CLAIMS PROCESS;
- 34 (III) WEEKLY BENEFIT AMOUNTS AND MAXIMUM BENEFITS
35 PAYABLE;
- 36 (IV) NOTICE AND DOCUMENTATION REQUIREMENTS;
- 37 (V) REINSTATEMENT AND NONDISCRIMINATION RIGHTS;
- 38 (VI) CONFIDENTIALITY OF FILES AND RECORDS;
- 39 (VII) THE RELATIONSHIP BETWEEN EMPLOYMENT PROTECTION,
40 LEAVE FROM EMPLOYMENT, AND WAGE REPLACEMENT BENEFITS UNDER
41 THIS PART 3 AND OTHER LAWS, COLLECTIVE BARGAINING AGREEMENTS,
42 AND EMPLOYER POLICIES; AND
- 43 (VIII) ANY OTHER DETAILS OR INFORMATION ABOUT THE

1 PROGRAM THE DIVISION DEEMS APPROPRIATE.

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

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

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

16 **8-13.3-306. Family and medical leave insurance benefits -**
17 **application - eligibility - rules.** (1) BEGINNING JANUARY 1, 2024,
18 EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, AN INDIVIDUAL
19 IS ELIGIBLE TO TAKE FAMILY AND MEDICAL LEAVE AND TO RECEIVE
20 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS IF THE INDIVIDUAL:

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

23 (I) A SERIOUS HEALTH CONDITION;
24 (II) CARING FOR A NEW CHILD DURING THE FIRST YEAR AFTER THE
25 BIRTH OR ADOPTION OF THE CHILD OR THE PLACEMENT OF THE CHILD
26 THROUGH FOSTER CARE;
27 (III) CARING FOR A FAMILY MEMBER WHO HAS A SERIOUS HEALTH
28 CONDITION; OR
29 (IV) A QUALIFYING EXIGENCY;

30 (b) FILES A CLAIM FOR BENEFITS IN A FORM AND MANNER
31 REQUIRED BY THE DIRECTOR BY RULE;
32 (c) IS A COVERED INDIVIDUAL;
33 (d) CONSENTS TO THE DISCLOSURE OF INFORMATION OR RECORDS
34 DEEMED CONFIDENTIAL UNDER STATE LAW PURSUANT TO SECTION
35 8-13.3-305 (4); AND

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

41 (II) IN ANY CASE IN WHICH THE NECESSITY FOR FAMILY AND
42 MEDICAL LEAVE IS FORESEEABLE, THE INDIVIDUAL SHALL PROVIDE THE
43 INDIVIDUAL'S EMPLOYER WITH NOT LESS THAN THIRTY DAYS' NOTICE

1 BEFORE THE DATE THE LEAVE IS TO BEGIN OF THE INDIVIDUAL'S INTENTION
2 TO TAKE LEAVE UNDER THIS PART 3. IF THE NECESSITY FOR LEAVE IS NOT
3 FORESEEABLE OR PROVIDING THIRTY DAYS' NOTICE IS NOT POSSIBLE, THE
4 INDIVIDUAL SHALL PROVIDE THE NOTICE AS SOON AS PRACTICABLE.

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

8 (a) ATTEST TO THE NEED FOR LEAVE AND THAT THE COVERED
9 INDIVIDUAL:

10 (I) (A) HAS A SERIOUS HEALTH CONDITION;
11 (B) BECAUSE OF A BIRTH, ADOPTION, OR PLACEMENT THROUGH
12 FOSTER CARE, IS CARING FOR A NEW CHILD DURING THE FIRST YEAR AFTER
13 BIRTH, ADOPTION, OR PLACEMENT OF THE CHILD;
14 (C) IS CARING FOR A FAMILY MEMBER WHO HAS A SERIOUS HEALTH
15 CONDITION; OR
16 (D) IS TAKING LEAVE FOR A QUALIFYING EXIGENCY;
17 (II) IS NOT RECEIVING UNEMPLOYMENT INSURANCE BENEFITS; AND
18 (b) FOR LEAVE DESCRIBED IN SUBSECTION (1)(a)(I) OR (1)(a)(III)
19 OF THIS SECTION, SUBMIT A CERTIFICATION FROM THE HEALTH CARE
20 PROVIDER PROVIDING HEALTH CARE TO THE COVERED INDIVIDUAL OR THE
21 COVERED INDIVIDUAL'S FAMILY MEMBER, AS APPLICABLE, SUPPORTING
22 THE CLAIM THAT THE COVERED INDIVIDUAL OR THE COVERED
23 INDIVIDUAL'S FAMILY MEMBER HAS A SERIOUS HEALTH CONDITION AND
24 ESTIMATING THE FREQUENCY AND DURATION OF LEAVE NEEDED. TO
25 PROVIDE EVIDENCE THAT THE COVERED INDIVIDUAL OR THE COVERED
26 INDIVIDUAL'S FAMILY MEMBER HAS A SERIOUS HEALTH CONDITION
27 RELATED TO DOMESTIC ABUSE, SEXUAL ASSAULT OR ABUSE, OR STALKING,
28 THE COVERED INDIVIDUAL MAY PROVIDE DOCUMENTS, INCLUDING, BUT
29 NOT LIMITED TO:

30 (I) A POLICE REPORT WRITTEN WITHIN THE PRIOR SIXTY DAYS;
31 (II) A VALID PROTECTION ORDER; OR
32 (III) A WRITTEN STATEMENT ESTIMATING THE FREQUENCY AND
33 DURATION OF LEAVE NEEDED FROM A HEALTH CARE PROVIDER OR
34 APPLICATION ASSISTANT, AS DEFINED IN SECTION 24-30-2103 (4), WHO
35 EXAMINED OR CONSULTED WITH THE COVERED INDIVIDUAL OR COVERED
36 INDIVIDUAL'S FAMILY MEMBER.

37 (3) (a) SUBJECT TO LIMITATIONS ESTABLISHED BY THE DIRECTOR
38 BY RULE, A COVERED INDIVIDUAL'S FAMILY MEMBER MAY, WHEN THE
39 COVERED INDIVIDUAL IS UNABLE TO DO SO DUE TO A SERIOUS HEALTH
40 CONDITION:

41 (I) FILE A CLAIM FOR BENEFITS ON BEHALF OF THE COVERED
42 INDIVIDUAL PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION;
43 (II) NOTIFY THE COVERED INDIVIDUAL'S EMPLOYER ON BEHALF OF

1 THE COVERED INDIVIDUAL PURSUANT TO SUBSECTION (1)(e) OF THIS
2 SECTION; OR
3 (III) SUBMIT CERTIFICATION FROM A HEALTH CARE PROVIDER ON
4 BEHALF OF THE COVERED INDIVIDUAL PURSUANT TO SUBSECTION (2)(b) OF
5 THIS SECTION.
6 (b) A COVERED INDIVIDUAL'S FAMILY MEMBER SHALL NOT FILE,
7 NOTIFY, OR SUBMIT UNDER SUBSECTION (3)(a) OF THIS SECTION IF THE
8 FAMILY MEMBER IS THE INDIVIDUAL ACCUSED OF DOMESTIC ABUSE,
9 SEXUAL ASSAULT OR ABUSE, OR STALKING AGAINST THE COVERED
10 INDIVIDUAL FOR WHICH THE COVERED INDIVIDUAL IS REQUESTING FAMILY
11 AND MEDICAL LEAVE INSURANCE BENEFITS.
12 (c) A COVERED INDIVIDUAL SHALL NOT BE ADVERSELY AFFECTED
13 IF A FAMILY MEMBER FAILS TO ACT IN ACCORDANCE WITH SUBSECTION
14 (3)(a) OF THIS SECTION.
15 (d) SECTION 8-13.3-307 (2)(a) APPLIES IF A FAMILY MEMBER DOES
16 NOT FILE A CLAIM, FURNISH NOTICE, OR SUBMIT CERTIFICATION ON BEHALF
17 OF THE COVERED INDIVIDUAL UNDER SUBSECTION (3)(a) OF THIS SECTION.
18 (4) A COVERED INDIVIDUAL WHO OTHERWISE MEETS THE
19 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION IS ELIGIBLE FOR
20 FAMILY AND MEDICAL LEAVE AND BENEFITS:
21 (a) REGARDLESS OF WHETHER THE COVERED INDIVIDUAL IS
22 CURRENTLY EMPLOYED OR IS WORKING AT AN ADDITIONAL JOB WHILE
23 TAKING FAMILY AND MEDICAL LEAVE; OR
24 (b) IF THE COVERED INDIVIDUAL FAILS TO FILE AN APPLICATION
25 FOR BENEFITS PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, NOTIFY
26 THE INDIVIDUAL'S EMPLOYER PURSUANT TO SUBSECTION (1)(e) OF THIS
27 SECTION, OR SUBMIT A CERTIFICATION PURSUANT TO SUBSECTION (2)(b)
28 OF THIS SECTION, BUT THE PAYMENT OF BENEFITS IS SUBJECT TO THE
29 LIMITATIONS SPECIFIED IN SECTION 8-13.3-307 (2)(a).
30 (5) (a) THE DIVISION SHALL APPROVE OR DENY A CLAIM FOR
31 BENEFITS WITHIN FOURTEEN DAYS AFTER RECEIVING THE CLAIM.
32 (b) THE DIRECTOR SHALL ESTABLISH A SYSTEM FOR
33 ADMINISTRATIVE REVIEW AND DETERMINATION OF CLAIMS IN THE SAME
34 MANNER AS SECTION 8-74-102 AND PURSUANT TO ADDITIONAL RULES AS
35 PRESCRIBED BY THE DIRECTOR.
36 (c) A COVERED INDIVIDUAL MAY APPEAL THE DETERMINATION OF
37 THE DIVISION AND OBTAIN A HEARING IN THE SAME MANNER AS SPECIFIED
38 IN SECTION 8-74-103. THE HEARING OFFICER'S DECISION MAY BE APPEALED
39 IN THE SAME MANNER AS SPECIFIED IN SECTION 8-4-111.5 (5).
40 (d) IF A COVERED INDIVIDUAL FILES A CIVIL ACTION IN A COURT OF
41 COMPETENT JURISDICTION TO ENFORCE A JUDGMENT MADE UNDER THIS
42 SECTION, ANY FILING FEE UNDER ARTICLE 32 OF TITLE 13 SHALL BE
43 WAIVED.

1 **8-13.3-307. Duration of benefits - payment intervals.**
2 (1) (a) THE MAXIMUM NUMBER OF WEEKS FOR WHICH AN ELIGIBLE
3 INDIVIDUAL MAY TAKE FAMILY LEAVE AND FOR WHICH FAMILY AND
4 MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE TO AN ELIGIBLE
5 INDIVIDUAL FOR A PURPOSE SPECIFIED IN SECTION 8-13.3-306 (1)(a) IN
6 ANY CONSECUTIVE FIFTY-TWO-WEEK PERIOD IS TWELVE WEEKS; EXCEPT
7 THAT BENEFITS ARE PAYABLE UP TO AN ADDITIONAL FOUR WEEKS TO AN
8 ELIGIBLE INDIVIDUAL WITH A SERIOUS HEALTH CONDITION RELATED TO
9 PREGNANCY COMPLICATIONS OR CHILDBIRTH COMPLICATIONS.
10 (b) THE MAXIMUM NUMBER OF TOTAL WEEKS FOR WHICH AN
11 ELIGIBLE INDIVIDUAL MAY TAKE FAMILY LEAVE AND FOR WHICH FAMILY
12 AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE TO AN ELIGIBLE
13 INDIVIDUAL IN AGGREGATE FOR SEPARATE PURPOSES SPECIFIED IN SECTION
14 8-13.3-306 (1)(a) IN ANY CONSECUTIVE FIFTY-TWO-WEEK PERIOD IS
15 FOURTEEN WEEKS; EXCEPT THAT BENEFITS ARE PAYABLE UP TO AN
16 ADDITIONAL TWO WEEKS TO AN ELIGIBLE INDIVIDUAL WITH A SERIOUS
17 HEALTH CONDITION RELATED TO PREGNANCY COMPLICATIONS OR
18 CHILDBIRTH COMPLICATIONS.
19 (c) FOR PURPOSES OF THIS SUBSECTION (1), CARING FOR A NEW
20 CHILD IS A SEPARATE QUALIFYING EVENT FROM A SERIOUS HEALTH
21 CONDITION RELATED TO AND INCLUDING PREGNANCY AND RECOVERY
22 FROM CHILDBIRTH.
23 (2) (a) FAILURE BY A COVERED INDIVIDUAL WHO IS OTHERWISE
24 ELIGIBLE UNDER SECTION 8-13.3-306 TO FILE A CLAIM FOR BENEFITS
25 PURSUANT TO SECTION 8-13.3-306 (1)(b), FURNISH NOTICE TO AN
26 EMPLOYER PURSUANT TO SECTION 8-13.3-306 (1)(e), OR SUBMIT
27 CERTIFICATION FROM A HEALTH CARE PROVIDER IN THE MANNER SPECIFIED
28 IN SECTION 8-13.3-306 (2)(b) DOES NOT INVALIDATE A CLAIM FOR
29 BENEFITS OR AN ELIGIBLE INDIVIDUAL'S ELIGIBILITY FOR BENEFITS, BUT
30 THE DIVISION IS NOT REQUIRED TO PAY BENEFITS FOR A PERIOD OF MORE
31 THAN TWO WEEKS PRIOR TO THE DATE ON WHICH THE ELIGIBLE INDIVIDUAL
32 FILES THE REQUIRED APPLICATION, FURNISHES NOTICE TO THE
33 INDIVIDUAL'S EMPLOYER, OR SUBMITS THE CERTIFICATION FROM THE
34 HEALTH CARE PROVIDER, AS APPLICABLE, UNLESS THE ELIGIBLE
35 INDIVIDUAL DEMONSTRATES TO THE SATISFACTION OF THE DIVISION THAT:
36 (I) GOOD CAUSE EXISTS, AS DETERMINED BY THE DIVISION, FOR
37 THE ELIGIBLE INDIVIDUAL'S FAILURE TO TIMELY SUBMIT THE APPLICATION
38 OR CERTIFICATION OR FURNISH THE NOTICE TO THE INDIVIDUAL'S
39 EMPLOYER; AND
40 (II) THE ELIGIBLE INDIVIDUAL SUBMITTED THE APPLICATION AND
41 CERTIFICATION AND NOTIFIED THE INDIVIDUAL'S EMPLOYER AS SOON AS
42 POSSIBLE.
43 (b) THE DIVISION SHALL NOTIFY THE ELIGIBLE INDIVIDUAL'S

1 EMPLOYER OF THE DIVISION'S DETERMINATION MADE PURSUANT TO THIS
2 SUBSECTION (2).

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

7 **8-13.3-308. Amount of benefits - maximum weekly benefit.**

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

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

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

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

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

31 (2) FOR PURPOSES OF CALCULATING AN ELIGIBLE INDIVIDUAL'S
32 WEEKLY BENEFIT IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION,
33 THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE IS ONE-THIRTEENTH OF THE
34 WAGES PAID DURING THE QUARTER OF THE ELIGIBLE INDIVIDUAL'S BASE
35 PERIOD, AS DEFINED IN SECTION 8-70-103 (2), OR ALTERNATIVE BASE
36 PERIOD, AS DEFINED IN SECTION 8-70-103 (1.5), IN WHICH THE TOTAL
37 WAGES WERE HIGHEST. FOR PURPOSES OF THIS SUBSECTION (2), WAGES
38 INCLUDE, BUT ARE NOT LIMITED TO, SALARY, WAGES, TIPS, COMMISSIONS,
39 AND OTHER COMPENSATION AS DETERMINED BY THE DIRECTOR BY RULE.

40 (3) AN ELIGIBLE INDIVIDUAL MAY TAKE INTERMITTENT LEAVE IN
41 INCREMENTS OF ONE HOUR OR SHORTER IF CONSISTENT WITH THE
42 INCREMENTS THE EMPLOYER TYPICALLY USES TO MEASURE EMPLOYEE
43 LEAVE; EXCEPT THAT BENEFITS ARE NOT PAYABLE UNTIL THE ELIGIBLE

1 INDIVIDUAL ACCUMULATES AT LEAST ONE DAY OR EIGHT HOURS OF
2 FAMILY AND MEDICAL LEAVE.

3 (4) THE DIVISION SHALL NOT REDUCE THE WEEKLY BENEFIT
4 AMOUNT BY THE AMOUNT OF WAGE REPLACEMENT THAT AN ELIGIBLE
5 INDIVIDUAL RECEIVES WHILE ON FAMILY AND MEDICAL LEAVE UNDER ANY
6 OF THE FOLLOWING CONDITIONS, UNLESS THE AGGREGATE AMOUNT AN
7 ELIGIBLE INDIVIDUAL WOULD RECEIVE WOULD EXCEED THE ELIGIBLE
8 INDIVIDUAL'S WEEKLY WAGE:

9 (a) A TEMPORARY DISABILITY POLICY OR PROGRAM OF AN
10 EMPLOYER;

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

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

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

19 (b) EXCEPT AS PROVIDED IN SUBSECTION (5)(c) OF THIS SECTION,
20 IF AN EMPLOYER MAKES ADVANCE PAYMENTS TO AN EMPLOYEE THAT ARE
21 EQUAL TO OR GREATER THAN THE AMOUNT REQUIRED UNDER THIS PART 3,
22 DURING ANY PERIOD OF FAMILY AND MEDICAL LEAVE FOR WHICH THE
23 EMPLOYEE IS ENTITLED TO THE BENEFITS PROVIDED BY THIS PART 3, THE
24 DIVISION SHALL REIMBURSE THE EMPLOYER FROM THE FUND IN AN
25 AMOUNT EQUAL TO ANY BENEFITS DUE OR TO BECOME DUE FOR THE
26 EMPLOYEE UNDER THIS PART 3 IF THE EMPLOYER'S CLAIM FOR
27 REIMBURSEMENT IS FILED WITH THE DIVISION PRIOR TO THE DIVISION'S
28 PAYMENT OF BENEFITS TO THE EMPLOYEE.

29 (c) IF AN EMPLOYER THAT PROVIDES FAMILY AND MEDICAL LEAVE
30 INSURANCE BENEFITS THROUGH A PRIVATE PLAN APPROVED PURSUANT TO
31 SECTION 8-13.3-315 MAKES ADVANCE PAYMENTS TO AN EMPLOYEE THAT
32 ARE EQUAL TO OR GREATER THAN THE AMOUNT REQUIRED UNDER THIS
33 PART 3, DURING ANY PERIOD OF FAMILY AND MEDICAL LEAVE FOR WHICH
34 THE EMPLOYEE IS ENTITLED TO THE BENEFITS PROVIDED BY THIS PART 3,
35 THE ENTITY THAT ISSUED THE PRIVATE PLAN SHALL REIMBURSE THE
36 EMPLOYER IN AN AMOUNT EQUAL TO ANY BENEFITS DUE OR TO BECOME
37 DUE FOR THE EXISTING FAMILY AND MEDICAL LEAVE, IF THE EMPLOYER'S
38 CLAIM FOR REIMBURSEMENT IS FILED WITH THE ENTITY THAT ISSUED THE
39 PRIVATE PLAN PRIOR TO PAYMENT OF THE BENEFITS UNDER THE PRIVATE
40 PLAN TO THE EMPLOYEE.

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

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

7 **8-13.3-309. Family and medical leave insurance fund -**
8 **creation - employee premiums - rules.** (1) (a) THERE IS HEREBY
9 CREATED IN THE STATE TREASURY THE FAMILY AND MEDICAL LEAVE
10 INSURANCE FUND. THE FUND CONSISTS OF PREMIUMS PAID PURSUANT TO
11 SUBSECTION (2) OF THIS SECTION AND REVENUES FROM REVENUE BONDS
12 ISSUED IN ACCORDANCE WITH SECTION 8-13.3-304 (2)(d). MONEY IN THE
13 FUND MAY BE USED ONLY TO PAY REVENUE BONDS; TO REIMBURSE
14 EMPLOYERS WHO PAY FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS
15 DIRECTLY TO EMPLOYEES IN ACCORDANCE WITH SECTION 8-13.3-308
16 (5)(a); TO REIMBURSE MEMBERS OF THE FAMILY AND MEDICAL LEAVE
17 INSURANCE ADVISORY BOARD IN ACCORDANCE WITH SECTION 8-13.3-317
18 (4); AND TO PAY BENEFITS UNDER, AND TO ADMINISTER, THE PROGRAM
19 PURSUANT TO THIS PART 3, INCLUDING TECHNOLOGY COSTS TO
20 ADMINISTER THE PROGRAM AND OUTREACH SERVICES DEVELOPED UNDER
21 SECTION 8-13.3-305 (5). INTEREST EARNED ON THE INVESTMENT OF
22 MONEY IN THE FUND REMAINS IN THE FUND. ANY MONEY REMAINING IN
23 THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE FUND AND DOES
24 NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND. STATE MONEY
25 IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE DIVISION FOR THE
26 PURPOSE OF THIS SECTION. THE GENERAL ASSEMBLY SHALL NOT
27 APPROPRIATE MONEY FROM THE FUND FOR THE GENERAL EXPENSES OF THE
28 STATE.

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

33 (2) (a) (I) EFFECTIVE JANUARY 1, 2023, EACH INDIVIDUAL
34 EMPLOYED BY AN EMPLOYER IN THIS STATE SHALL PAY FIFTY PERCENT
35 AND EACH EMPLOYER IN THE STATE SHALL PAY FIFTY PERCENT OF THE
36 PREMIUM AMOUNT DETERMINED IN ACCORDANCE WITH THIS SUBSECTION
37 (2)(a); EXCEPT THAT AN EMPLOYER THAT HAS FOUR OR FEWER EMPLOYEES
38 OR IS A LOCAL GOVERNMENT SHALL PAY TWELVE AND ONE-HALF PERCENT
39 OF THE PREMIUM AMOUNT; AND AN EMPLOYER THAT HAS FIVE TO TEN
40 EMPLOYEES OR IS A STATE GOVERNMENT SHALL PAY TWENTY-FIVE
41 PERCENT OF THE PREMIUM AMOUNT. THE DIRECTOR SHALL NOT APPLY THE
42 PREMIUM TO WAGES THAT EXCEED EIGHTY PERCENT OF THE
43 CONTRIBUTION AND BENEFIT BASE LIMIT ESTABLISHED ANNUALLY BY THE

1 UNITED STATES SOCIAL SECURITY ADMINISTRATION FOR PURPOSES OF THE
2 FEDERAL "OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE
3 AMENDMENTS OF 1965", AS AMENDED, PUB.L. 89-97. PREMIUMS
4 ESTABLISHED IN ACCORDANCE WITH THIS SUBSECTION (2) ARE FEES AND
5 NOT TAXES.

6 (II) (A) FOR THE 2023 CALENDAR YEAR, THE PREMIUM AMOUNT IS
7 SIXTY-FOUR ONE-HUNDREDTHS OF ONE PERCENT OF WAGES PER
8 EMPLOYEE.

9 (B) FOR THE 2024 CALENDAR YEAR, THE DIRECTOR SHALL SET THE
10 PREMIUM BASED ON A PERCENT OF EMPLOYEE WAGES AND AT THE RATE
11 NECESSARY TO OBTAIN A TOTAL AMOUNT OF PREMIUM CONTRIBUTIONS
12 EQUAL TO ONE HUNDRED FIFTY PERCENT OF THE BENEFITS PAID DURING
13 THE IMMEDIATELY PRECEDING CALENDAR YEAR PLUS AN AMOUNT EQUAL
14 TO ONE HUNDRED PERCENT OF THE COST OF ADMINISTRATION OF THE
15 PAYMENT OF THOSE BENEFITS DURING THE IMMEDIATELY PRECEDING
16 CALENDAR YEAR. THE PREMIUMS ESTABLISHED IN ACCORDANCE WITH THIS
17 SUBSECTION (2)(a)(II)(B) MUST NOT EXCEED NINETY-NINE ONE
18 HUNDREDTHS OF ONE PERCENT OF WAGES PER EMPLOYEE.

19 (C) FOR THE 2025 CALENDAR YEAR AND EACH CALENDAR YEAR
20 THEREAFTER, THE DIRECTOR SHALL SET THE PREMIUM BASED ON A
21 PERCENT OF EMPLOYEE WAGES AND AT THE RATE NECESSARY TO OBTAIN
22 A TOTAL AMOUNT OF PREMIUM CONTRIBUTIONS EQUAL TO BETWEEN ONE
23 HUNDRED TWENTY-FIVE AND ONE HUNDRED FIFTY PERCENT OF THE
24 BENEFITS PAID DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR
25 PLUS AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE COST OF
26 ADMINISTRATION OF THE PAYMENT OF THOSE BENEFITS DURING THE
27 IMMEDIATELY PRECEDING CALENDAR YEAR. THE PREMIUMS ESTABLISHED
28 IN ACCORDANCE WITH THIS SUBSECTION (2)(a)(II)(C) MUST NOT EXCEED
29 NINETY-NINE ONE HUNDREDTHS OF ONE PERCENT OF WAGES PER
30 EMPLOYEE.

31 (b) EACH EMPLOYER SHALL COLLECT THE EMPLOYEE'S SHARE OF
32 THE PREMIUM AMOUNT FROM EACH EMPLOYEE AS A PAYROLL DEDUCTION
33 FROM THE EMPLOYEE'S WAGES EACH PAYROLL PERIOD AND SHALL REMIT
34 THE EMPLOYEE'S SHARE AND THE EMPLOYER'S SHARE OF THE PREMIUM
35 AMOUNT TO THE DIVISION, WHICH SHALL TRANSMIT THE PREMIUMS TO THE
36 STATE TREASURER FOR DEPOSIT IN THE FUND.

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

40 (a) THE LOCAL GOVERNMENT IS NOT REQUIRED TO PAY THE
41 PREMIUMS IMPOSED IN THIS SECTION OR COLLECT PREMIUMS FROM
42 EMPLOYEES WHO HAVE ELECTED COVERAGE PURSUANT TO SECTION
43 8-13.3-313.

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

4 **8-13.3-310. Employment protection - discrimination**
5 **prohibited - rules.** (1) (a) AN ELIGIBLE INDIVIDUAL WHO WAS EMPLOYED

6 BY AN EMPLOYER FOR NINETY DAYS OR LONGER AND WHO TAKES FAMILY
7 AND MEDICAL LEAVE UNDER THIS PART 3 FOR THE INTENDED PURPOSE OF
8 THE LEAVE IS ENTITLED, ON RETURN FROM THE LEAVE:

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

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

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

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

20 (a) FILED FOR, APPLIED FOR, OR USED BENEFITS UNDER THIS PART
21 3;

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

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

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

27 (3) AN EMPLOYER SHALL NOT REDUCE AN ELIGIBLE INDIVIDUAL'S
28 BENEFITS THAT HAVE ACCRUED PRIOR TO THE DATE ON WHICH THE FAMILY
29 AND MEDICAL LEAVE COMMENCED BASED ON THE ELIGIBLE INDIVIDUAL'S
30 CONDUCT SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

31 (4) DURING ANY PERIOD OF FAMILY AND MEDICAL LEAVE TAKEN
32 UNDER THIS PART 3, AN EMPLOYER SHALL MAINTAIN ANY EXISTING
33 HEALTH BENEFITS OF THE ELIGIBLE INDIVIDUAL FOR THE DURATION OF THE
34 LEAVE AS IF THE ELIGIBLE INDIVIDUAL CONTINUED TO WORK FROM THE
35 DATE THE ELIGIBLE INDIVIDUAL COMMENCED FAMILY AND MEDICAL
36 LEAVE.

37 (5) (a) THE DIVISION SHALL ENFORCE THIS SECTION, INCLUDING
38 ESTABLISHING A SYSTEM UTILIZING MULTIPLE MEANS OF COMMUNICATION
39 TO RECEIVE COMPLAINTS REGARDING NONCOMPLIANCE WITH THIS
40 SECTION. ANY INDIVIDUAL AGGRIEVED BY A VIOLATION OF THIS SECTION
41 MAY FILE A COMPLAINT WITH THE DIVISION AGAINST AN EMPLOYER FOR A
42 VIOLATION OF THIS SECTION.

43 (b) UPON RECEIVING A COMPLAINT ALLEGING A VIOLATION OF THIS

1 SECTION, THE DIVISION SHALL INVESTIGATE THE COMPLAINT IN A TIMELY
2 MANNER AND MAY RESOLVE THE CLAIM THROUGH MEDIATION BETWEEN
3 THE AGGRIEVED INDIVIDUAL AND THE EMPLOYER IF THE AGGRIEVED
4 INDIVIDUAL AND THE EMPLOYER EACH AGREE TO MEDIATE AND AGREE TO
5 THE RESOLUTION.

6 (c) A CLAIM BROUGHT IN ACCORDANCE WITH THIS SECTION MUST
7 BE FILED WITHIN TWO YEARS AFTER THE DATE OF THE LAST EVENT
8 CONSTITUTING THE ALLEGED VIOLATION FOR WHICH THE ACTION IS
9 BROUGHT.

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

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

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

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

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

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

32 (g) AN EMPLOYER WHO VIOLATES THIS SECTION IS SUBJECT TO THE
33 DAMAGES AND EQUITABLE RELIEF AVAILABLE UNDER 29 U.S.C. SEC. 2617
34 (a)(1), INCLUDING ECONOMIC DAMAGES, LIQUIDATED DAMAGES,
35 ATTORNEY FEES, AND EQUITABLE RELIEF INCLUDING, BUT NOT LIMITED TO,
36 REINSTATEMENT TO EMPLOYMENT. IF THE AGGRIEVED INDIVIDUAL FILES
37 A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION AFTER A FINDING
38 BY THE DIVISION THAT AN EMPLOYER HAS VIOLATED THIS SECTION, ANY
39 FILING FEE UNDER ARTICLE 32 OF TITLE 13 SHALL BE WAIVED.

40 (h) THE DIRECTOR, BY RULE, SHALL ESTABLISH A FINE STRUCTURE
41 FOR EMPLOYERS WHO VIOLATE THIS SECTION. THE DIRECTOR SHALL
42 TRANSFER ANY FINES COLLECTED PURSUANT TO THIS SECTION TO THE
43 STATE TREASURER FOR DEPOSIT IN THE FUND.

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

3 (7) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE OF A LOCAL
4 GOVERNMENT THAT HAS ELECTED COVERAGE PURSUANT TO SECTION
5 8-13.3-313.

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

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

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

32 (d) SUBJECT TO THE LIMITATIONS UNDER SECTION 8-13.3-308 (4),
33 AN EMPLOYEE MAY SUPPLEMENT THE FAMILY AND MEDICAL LEAVE
34 INSURANCE BENEFITS THE EMPLOYEE IS RECEIVING THROUGH THE
35 PROGRAM, THROUGH VACATION, SICK, OR OTHER PAID TIME OFF, TO
36 ENSURE THAT THE EMPLOYEE IS RECEIVING ONE HUNDRED PERCENT OF THE
37 EMPLOYEE'S WEEKLY WAGE. NOTHING IN THIS SUBSECTION (1)(d)
38 REQUIRES AN EMPLOYEE TO RECEIVE OR USE, OR AN EMPLOYER TO
39 PROVIDE, ADDITIONAL PAID TIME OFF AS DESCRIBED THIS SUBSECTION
40 (1)(d).

41 (2) (a) FOR A COVERED INDIVIDUAL WHO IS ELIGIBLE FOR FAMILY
42 AND MEDICAL LEAVE INSURANCE BENEFITS DUE TO A SERIOUS HEALTH
43 CONDITION RESULTING FROM AN ACCIDENT, INJURY, OR OCCUPATIONAL

1 DISEASE FOR WHICH THE RIGHT OF COMPENSATION EXISTS UNDER SECTION
2 8-41-301, THE WEEKLY BENEFIT AMOUNT SHALL BE REDUCED, BUT NOT
3 BELOW ZERO, BY AN AMOUNT EQUAL TO SEVENTY-FIVE PERCENT OF:

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

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

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

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

21 (d) (I) WHERE BENEFITS HAVE BEEN PAID PRIOR TO A
22 DETERMINATION OF ELIGIBILITY FOR TEMPORARY DISABILITY BENEFITS OR
23 PERMANENT TOTAL DISABILITY BENEFITS UNDER THE "WORKERS'
24 COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF THIS TITLE 8,
25 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS MAY BE
26 RETROACTIVELY REDUCED AS SET FORTH IN SUBSECTION (2)(a) OF THIS
27 SECTION ONCE WORKERS' COMPENSATION BENEFITS HAVE BEEN PAID. THE
28 DIRECTOR MAY ADOPT RULES TO DEVELOP A PROCEDURE FOR RECOVERING
29 EXCESS BENEFITS, WHICH MAY INCLUDE THE ASSERTION OF A LIEN
30 AGAINST ANY TEMPORARY DISABILITY BENEFITS OR PERMANENT TOTAL
31 DISABILITY BENEFITS PAID PURSUANT TO ARTICLES 40 TO 47 OF THIS TITLE
32 8. IF A WORKERS' COMPENSATION CLAIM IS BROUGHT BY THE COVERED
33 INDIVIDUAL, AND THE COVERED INDIVIDUAL INCURS A PERSONAL
34 LIABILITY TO PAY ATTORNEY FEES AND COSTS, THE AMOUNT OF THE LIEN
35 MUST NOT EXCEED THE FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS
36 PAID, LESS THE AMOUNT OF THOSE ATTORNEY FEES AND COSTS.

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

40 (e) WHERE INDIVIDUALS ARE CONCURRENTLY ELIGIBLE FOR
41 BENEFITS DUE TO A SERIOUS HEALTH CONDITION RESULTING FROM AN
42 ACCIDENT, INJURY, OR OCCUPATIONAL DISEASE FOR WHICH THE RIGHT OF
43 COMPENSATION EXISTS UNDER SECTION 8-41-301 AND UNDER THIS PART

1 3 FOR A PURPOSE UNRELATED TO THAT SERIOUS HEALTH CONDITION, THE
2 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS SHALL BE REDUCED BY
3 AN AMOUNT TO BE DETERMINED BY THE DIRECTOR BY RULE. COMBINED
4 WORKERS' COMPENSATION BENEFITS AND FAMILY AND MEDICAL LEAVE
5 INSURANCE BENEFITS PAID IN ACCORDANCE WITH THIS SUBSECTION (2)(e)
6 MUST NOT EXCEED A COVERED INDIVIDUAL'S WEEKLY WAGE. THE
7 DIRECTOR SHALL ADOPT RULES TO ESTABLISH THE PROCESS AND REQUIRED
8 DOCUMENTATION REQUIRED FOR CONCURRENT RECEIPT OF BENEFITS.

9 (3) (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
28 FOR ONE YEAR FROM THE DATE THE DIVISION DISCOVERS THE FALSE
29 STATEMENT, MISREPRESENTATION, OR WILLFUL FAILURE TO REPORT A
30 MATERIAL FACT.

31 (2) IF FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAID
32 ERRONEOUSLY OR AS A RESULT OF WILLFUL MISREPRESENTATION, OR IF A
33 CLAIM FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS IS REJECTED
34 AFTER BENEFITS ARE PAID, THE DIVISION MAY SEEK REPAYMENT OF
35 BENEFITS FROM THE RECIPIENT. THE DIRECTOR SHALL EXERCISE
36 DISCRETION TO WAIVE, IN WHOLE OR IN PART, THE AMOUNT OF ANY
37 REPAYMENTS WHERE THE RECOVERY WOULD BE AGAINST EQUITY AND
38 GOOD CONSCIENCE. THE DIRECTOR MAY ADOPT RULES TO DEVELOP A
39 PROCEDURE FOR RECOVERING ERRONEOUS PAYMENTS OF BENEFITS.

40 **8-13.3-313. Elective coverage - withdrawal from coverage -**
41 **rules.** (1) AN EMPLOYEE OF A LOCAL GOVERNMENT THAT HAS DECLINED
42 PARTICIPATION IN THE PROGRAM PURSUANT TO SECTION 8-13.3-314 OR A
43 SELF-EMPLOYED PERSON, INCLUDING AN INDEPENDENT CONTRACTOR, SOLE

1 PROPRIETOR, PARTNER, OR JOINT VENTURER, MAY ELECT COVERAGE
2 UNDER THE PROGRAM FOR AN INITIAL PERIOD OF NOT LESS THAN THREE
3 YEARS OR A SUBSEQUENT PERIOD OF NOT LESS THAN ONE YEAR
4 IMMEDIATELY FOLLOWING ANOTHER PERIOD OF COVERAGE. THE
5 EMPLOYEE OF A LOCAL GOVERNMENT OR SELF-EMPLOYED PERSON MUST
6 FILE A NOTICE OF ELECTION IN WRITING WITH THE DIRECTOR IN THE FORM
7 AND MANNER REQUIRED BY THE DIVISION. THE ELECTION BECOMES
8 EFFECTIVE ON THE DATE THE NOTICE IS FILED.

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

16 (3) AN EMPLOYEE OF A LOCAL GOVERNMENT OR A SELF-EMPLOYED
17 PERSON WHO HAS ELECTED COVERAGE SHALL PAY ONLY THE EMPLOYEE
18 PORTION OF THE PREMIUM AMOUNT ESTABLISHED PURSUANT TO SECTION
19 8-13.3-309 (2)(a).

20 (4) AN EMPLOYEE OF A LOCAL GOVERNMENT OR A SELF-EMPLOYED
21 PERSON WHO HAS ELECTED COVERAGE IN ACCORDANCE WITH THIS
22 SECTION SHALL REMIT THE EMPLOYEE PORTION OF THE PREMIUM AMOUNT
23 DIRECTLY TO THE DIVISION, IN THE FORM AND MANNER REQUIRED BY THE
24 DIRECTOR BY RULE.

25 **8-13.3-314. Local government employers' ability to decline**
26 **participation in program - rules.** (1) A LOCAL GOVERNMENT MAY
27 DECLINE PARTICIPATION IN THE FAMILY AND MEDICAL LEAVE INSURANCE
28 PROGRAM IN THE FORM AND MANNER DETERMINED BY THE DIRECTOR BY
29 RULE.

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

33 (3) THE DIRECTOR SHALL PROMULGATE REASONABLE RULES FOR
34 THE IMPLEMENTATION OF THIS SECTION. AT A MINIMUM, THE RULES MUST
35 INCLUDE:

36 (a) THE PROCESS BY WHICH A LOCAL GOVERNMENT MAY DECLINE
37 PARTICIPATION IN THE PROGRAM;

38 (b) THE PROCESS BY WHICH A LOCAL GOVERNMENT THAT HAS
39 PREVIOUSLY DECLINED PARTICIPATION IN THE PROGRAM MAY
40 SUBSEQUENTLY ELECT COVERAGE IN THE PROGRAM; AND

41 (c) THE NOTICE THAT A LOCAL GOVERNMENT IS REQUIRED TO
42 PROVIDE ITS EMPLOYEES REGARDING WHETHER THE LOCAL GOVERNMENT
43 IS PARTICIPATING IN THE PROGRAM, THE ABILITY OF THE EMPLOYEES OF A

1 LOCAL GOVERNMENT THAT HAS DECLINED PARTICIPATION TO ELECT
2 COVERAGE PURSUANT TO SECTION 8-13.3-313, AND ANY OTHER
3 NECESSARY REQUIREMENTS.

4 **8-13.3-315. Employer option to provide family and medical**
5 **leave benefits through a private plan - approval requirements - rules.**

6 (1) AN EMPLOYER MAY APPLY TO THE DIVISION FOR APPROVAL TO
7 PROVIDE ITS EMPLOYEES THE FAMILY AND MEDICAL LEAVE INSURANCE
8 BENEFITS TO WHICH THE EMPLOYEES ARE ENTITLED UNDER THIS PART 3
9 THROUGH A PRIVATE PLAN INSTEAD OF THROUGH THE FUND ESTABLISHED
10 PURSUANT TO SECTION 8-13.3-309.

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

13 (a) CONFERS ALL OF THE SAME RIGHTS, PROTECTIONS, AND
14 BENEFITS PROVIDED TO COVERED INDIVIDUALS UNDER THIS PART 3,
15 INCLUDING:

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

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

22 (III) ALLOWING FAMILY AND MEDICAL LEAVE UNDER SECTION
23 8-13.3-306 (1)(a) TO BE TAKEN TO CARE FOR ANY FAMILY MEMBER;

24 (IV) ALLOWING FAMILY AND MEDICAL LEAVE UNDER SECTION
25 8-13.3-306 (1)(a) TO BE TAKEN BY A COVERED INDIVIDUAL WITH A
26 SERIOUS HEALTH CONDITION OR TO CARE FOR A FAMILY MEMBER WITH A
27 SERIOUS HEALTH CONDITION;

28 (V) PROVIDING A WAGE REPLACEMENT RATE DURING ALL FAMILY
29 AND MEDICAL LEAVE OF AT LEAST THE AMOUNT PROVIDED IN SECTION
30 8-13.3-308 (1)(a);

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

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

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

40 (IX) ALLOWING ANY INDIVIDUAL COVERED UNDER A PRIVATE
41 PLAN WHO IS ELIGIBLE TO TAKE FAMILY AND MEDICAL LEAVE UNDER THIS
42 PART 3 TO TAKE FAMILY AND MEDICAL LEAVE UNDER THE PRIVATE PLAN;
43 AND

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

5 (b) PROVIDES FOR ALL COVERED INDIVIDUALS THROUGHOUT THEIR
6 PERIOD OF EMPLOYMENT; AND

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

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

14 (3) THE DIVISION MAY WITHDRAW THE APPROVAL GRANTED UNDER
15 THIS SECTION FOR:

16 (a) FAILURE TO PAY BENEFITS;

17 (b) FAILURE TO PAY BENEFITS TIMELY AND IN A MANNER
18 CONSISTENT WITH THE PAYMENT OF BENEFITS PURSUANT TO SECTION
19 8-13.3-307 AND 8-13.3-308;

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

22 (d) MISUSE OF PRIVATE PLAN MONEY;

23 (e) FAILURE TO SUBMIT REPORTS OR COMPLY WITH AUDITS OR
24 OTHER COMPLIANCE REQUIREMENTS ESTABLISHED BY THE DIRECTOR BY
25 RULE;

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

28 (g) VIOLATION OF THE TERMS AND CONDITIONS OF THE PRIVATE
29 PLAN; OR

30 (h) ANY OTHER REASON AS MAY BE DETERMINED BY THE DIRECTOR
31 BY RULE.

32 (4) THE DIRECTOR, BY RULE, SHALL ESTABLISH A FINE STRUCTURE
33 FOR EMPLOYERS AND ENTITIES OFFERING PRIVATE PLANS THAT VIOLATE
34 THIS SECTION. THE DIRECTOR SHALL TRANSFER ANY FINES COLLECTED
35 PURSUANT TO THIS SUBSECTION (4) TO THE STATE TREASURER FOR DEPOSIT
36 INTO THE FUND.

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

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

1 (6) A DENIAL OF FAMILY AND MEDICAL LEAVE OR BENEFITS BY AN
2 EMPLOYER OR AN ENTITY OFFERING A PRIVATE PLAN MAY BE APPEALED AS
3 PROVIDED IN SECTION 8-13.3-306 (5).

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

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

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

23 (2) (a) THE DEPARTMENT SHALL STUDY THE FEASIBILITY OF
24 CONTRACTING WITH A THIRD PARTY TO ADMINISTER THE PROGRAM
25 CREATED IN THIS PART 3. IN DETERMINING WHETHER A THIRD PARTY
26 SHOULD ADMINISTER THE PROGRAM, THE DEPARTMENT SHALL CONSIDER
27 WHETHER DOING SO WOULD BE COST-EFFECTIVE, IN THE SHORT TERM AND
28 IN THE LONG TERM FOR BOTH THE STATE AND COVERED INDIVIDUALS, AND
29 LEAD TO MORE EFFICIENT PROGRAM ADMINISTRATION AND BENEFIT
30 MANAGEMENT WHILE ASSURING QUALITY, WORKER EXPERIENCE,
31 AFFORDABILITY, COVERAGE, AND PROGRAM ACCOUNTABILITY.

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

35 (3) NO LATER THAN MARCH 1, 2020, THE DEPARTMENT SHALL
36 PROVIDE THE GOVERNOR AND THE ADVISORY BOARD CREATED IN SECTION
37 8-13.3-317 WITH THE RESULTS OF THE STUDIES.

38 (4) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, AFTER
39 RECEIVING THE RECOMMENDATION OF THE ADVISORY BOARD, SHALL
40 DETERMINE HOW TO ADMINISTER THE PROGRAM USING THE CRITERIA
41 SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION.

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

43 **8-13.3-317. Family and medical leave insurance program**

1 **advisory board - repeal.** (1) THERE IS HEREBY CREATED IN THE DIVISION
2 THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM ADVISORY
3 BOARD, REFERRED TO IN THIS SECTION AS THE "BOARD".
4 (2) (a) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS
5 APPOINTED BY THE GOVERNOR:
6 (I) THREE MEMBERS WHO ARE WORKERS OR REPRESENT AN
7 ORGANIZATION THAT REPRESENT WORKERS' INTERESTS IN PAID FAMILY
8 AND MEDICAL LEAVE, EACH OF WHOM SHALL BE APPOINTED FROM A LIST
9 OF AT LEAST THREE NAMES SUBMITTED BY A RECOGNIZED STATEWIDE
10 ORGANIZATION THAT PROMOTES WORKERS' RIGHTS;
11 (II) THREE MEMBERS WHO ARE PRIVATE EMPLOYERS WITH A
12 RANGE OF BUSINESS SIZE AND EXPERIENCE IN PROVIDING EMPLOYEES WITH
13 PAID FAMILY AND MEDICAL LEAVE, EACH OF WHOM SHALL BE APPOINTED
14 FROM A LIST OF AT LEAST THREE NAMES SUBMITTED BY A RECOGNIZED
15 STATEWIDE ORGANIZATION OF EMPLOYEES;
16 (III) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATE POLICY
17 ORGANIZATION THAT WORKS ON ISSUES OF ECONOMIC OPPORTUNITY;
18 (IV) ONE MEMBER WHO IS A PRIVATE INSURER WITH EXPERIENCE
19 IN ADMINISTERING TEMPORARY DISABILITY OR FAMILY AND MEDICAL
20 LEAVE INSURANCE BENEFITS;
21 (V) ONE MEMBER WHO REPRESENTS A STATE POLICY
22 ORGANIZATION THAT WORKS ON HEALTH ADVOCACY;
23 (VI) ONE LABOR ECONOMIST WITH DEMONSTRATED RESEARCH OR
24 EXPERTISE IN STUDYING PAID FAMILY AND MEDICAL LEAVE, LABOR
25 STANDARDS, AND THE DATA NECESSARY TO DO SO;
26 (VII) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATE
27 DOMESTIC VIOLENCE AND SEXUAL ASSAULT ORGANIZATION;
28 (VIII) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATE
29 ORGANIZATION THAT HAS EXPERTISE WITH MILITARY FAMILY ADVOCACY;
30 (IX) ONE MEMBER WHO IS A REPRESENTATIVE OF ORGANIZED
31 LABOR; AND
32 (X) TWO NONVOTING MEMBERS, ONE OF WHOM MUST REPRESENT
33 THE DEPARTMENT.
34 (b) THE GOVERNOR SHALL CONSIDER ETHNICITY, GENDER, AND
35 GEOGRAPHIC REPRESENTATION IN APPOINTING THE MEMBERS OF THE
36 BOARD.
37 (c) THE GOVERNOR SHALL MAKE THE INITIAL APPOINTMENTS TO
38 THE BOARD AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS
39 SECTION.
40 (3) EACH MEMBER OF THE BOARD SERVES AT THE PLEASURE OF
41 THE GOVERNOR.
42 (4) NOTWITHSTANDING SECTION 2-2-326, EACH MEMBER OF THE
43 BOARD SERVES WITHOUT COMPENSATION BUT IS ENTITLED TO RECEIVE

1 REIMBURSEMENT FROM MONEY IN THE FUND CREATED IN SECTION
2 8-13.3-309 FOR ACTUAL AND NECESSARY EXPENSES THE MEMBER INCURS
3 IN THE PERFORMANCE OF THE MEMBER'S DUTIES AS A MEMBER OF THE
4 BOARD.

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

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

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

11 (6) THE BOARD SHALL:

12 (a) NO LATER THAN JUNE 1, 2020, MAKE RECOMMENDATIONS TO
13 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT BASED ON THE ACTUARIAL
14 AND FEASIBILITY STUDIES PROVIDED TO THE BOARD PURSUANT TO SECTION
15 8-13.3-316 (3), USING THE CRITERIA SPECIFIED IN SECTION 8-13.3-316
16 (2)(a);

17 (b) PROVIDE COMMENT ON DEPARTMENT RULE-MAKING, POLICIES,
18 IMPLEMENTATION OF THIS PART 3, UTILIZATION OF BENEFITS, AND OTHER
19 INITIATIVES;

20 (c) STUDY ISSUES THE BOARD DETERMINES TO REQUIRE ITS
21 CONSIDERATION; AND

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

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

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

30 **8-13.3-318. Federal income tax - state income tax.** (1) (a) IF
31 THE FEDERAL INTERNAL REVENUE SERVICE DETERMINES THAT FAMILY AND
32 MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 3 ARE SUBJECT TO
33 FEDERAL INCOME TAX, THE DIVISION SHALL INFORM AN INDIVIDUAL FILING
34 A NEW CLAIM FOR BENEFITS, AT THE TIME OF FILING, THAT:

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

37 (II) REQUIREMENTS EXIST PERTAINING TO ESTIMATED TAX
38 PAYMENTS;

39 (III) THE INDIVIDUAL MAY ELECT TO HAVE FEDERAL INCOME TAX
40 DEDUCTED AND WITHHELD FROM THE INDIVIDUAL'S PAYMENT OF BENEFITS
41 IN THE AMOUNT SPECIFIED IN THE FEDERAL "INTERNAL REVENUE CODE OF
42 1986", AS AMENDED; AND

43 (IV) THE INDIVIDUAL IS PERMITTED TO CHANGE A PREVIOUSLY

1 ELECTED WITHHOLDING STATUS.

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

5 (c) THE DIRECTOR SHALL FOLLOW ALL PROCEDURES SPECIFIED BY
6 THE FEDERAL INTERNAL REVENUE SERVICE PERTAINING TO DEDUCTING
7 AND WITHHOLDING INCOME TAX.

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

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

16 (a) THE SENATE COMMITTEES ON BUSINESS, LABOR, AND
17 TECHNOLOGY AND HEALTH AND HUMAN SERVICES, OR THEIR SUCCESSOR
18 COMMITTEES;

19 (b) THE HOUSE OF REPRESENTATIVES COMMITTEES ON HEALTH
20 AND INSURANCE AND BUSINESS AFFAIRS AND LABOR, OR THEIR SUCCESSOR
21 COMMITTEES; AND

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

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

27 **8-13.3-320. Rules.** (1) THE DIRECTOR MAY ADOPT RULES AS
28 NECESSARY OR AS SPECIFIED IN THIS PART 3 FOR THE IMPLEMENTATION
29 AND ADMINISTRATION OF THIS PART 3.

30 (2) THE DIRECTOR SHALL ADOPT RULES:

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

33 (b) SETTING PREMIUM AMOUNTS PURSUANT TO SECTION
34 8-13.3-309 (2)(a);

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

37 (d) ESTABLISHING A FINE STRUCTURE PURSUANT TO SECTIONS
38 8-13.3-310 (5)(h) AND 8-13.3-315 (4);

39 (e) IMPLEMENTING SECTION 8-13.3-314; AND

40 (f) DETERMINING THE TOTAL AMOUNT EXPENDED FOR COSTS
41 ARISING OUT OF PRIVATE PLANS, APPROPRIATE REIMBURSEMENT RATES,
42 AND THE FORM AND MANNER FOR REIMBURSEMENT PURSUANT TO SECTION
43 8-13.3-315 (8).

1 **8-13.3-321. Benefits available regardless of citizenship or**
2 **immigration status.** NOTWITHSTANDING SECTION 24-76.5-103, FAMILY
3 AND MEDICAL LEAVE AND FAMILY AND MEDICAL LEAVE INSURANCE
4 BENEFITS ARE AVAILABLE TO ALL ELIGIBLE INDIVIDUALS REGARDLESS OF
5 THEIR CITIZENSHIP OR IMMIGRATION STATUS.

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

8 **2-3-1203. Sunset review of advisory committees - legislative**
9 **declaration - definition - repeal.** (17) (a) The following statutory
10 authorizations for the designated advisory committees will repeal on
11 September 1, 2026:

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

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

16 **24-1-121. Department of labor and employment - creation.**

17 (3) The department of labor and employment consists of the following
18 divisions and programs:

19 (k) THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE, THE
20 HEAD OF WHICH IS THE DIRECTOR OF THE DIVISION OF FAMILY AND
21 MEDICAL LEAVE INSURANCE. THE DIVISION, CREATED IN PART 3 OF
22 ARTICLE 13.3 OF TITLE 8, AND THE DIRECTOR OF THE DIVISION SHALL
23 EXERCISE THEIR POWERS, DUTIES, AND FUNCTIONS UNDER THE
24 DEPARTMENT OF LABOR AND EMPLOYMENT AS IF TRANSFERRED BY A **TYPE**
25 **2** TRANSFER.

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

28 **24-34-402.7. Unlawful action against employees seeking**
29 **protection - notice to revisor of statutes - repeal.** (5) THIS SECTION
30 WILL BE REPEALED WHEN THE FIRST FAMILY AND MEDICAL LEAVE
31 INSURANCE BENEFIT PAYMENT IS MADE TO AN ELIGIBLE INDIVIDUAL IN
32 ACCORDANCE WITH PART 3 OF ARTICLE 13.3 OF TITLE 8. THE DIRECTOR OF
33 THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE IN THE
34 DEPARTMENT OF LABOR AND EMPLOYMENT SHALL NOTIFY THE REVISOR OF
35 STATUTES IN WRITING OF THE DATE ON WHICH THE CONDITION SPECIFIED
36 IN THIS SUBSECTION (5) HAS OCCURRED BY E-MAILING THE NOTICE TO
37 REVISOROFSTATUTES.GA@STATE.CO.US. THIS SECTION IS REPEALED,
38 EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE PAYMENT
39 OF BENEFITS OCCURRED OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE,
40 UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

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

43 **39-22-104. Income tax imposed on individuals, estates, and**

UNEDITED
UNREVISED
REDRAFT
4.3.19
Double underlining
denotes changes from
prior draft

1 **trusts - single rate - legislative declaration - definitions - repeal.**

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

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

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

** ** ** ** **