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

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LLS NO. 19-0511.01 Yelana Love x2295

SENATE BILL

SENATE SPONSORSHIP

Winter and Williams A.,

HOUSE SPONSORSHIP

Gray and Duran,

BILL TOPIC: "FAMLI Family Medical Leave Insurance Program"

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, who is unable to work due to the individual's own serious

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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1 CONTEXT OTHERWISE REQUIRES:

2 _____

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

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

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

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

14 (5) "DIVISION" MEANS THE DIVISION OF FAMILY AND MEDICAL
15 LEAVE INSURANCE CREATED IN SECTION 8-13.3-303.

16 (6) "DOMESTIC ABUSE" MEANS ANY ACT DESCRIBED IN SECTION
17 13-14-101 (2) OR ANY OTHER CRIME, THE UNDERLYING FACTUAL BASIS OF
18 WHICH HAS BEEN FOUND BY A COURT ON THE RECORD TO INCLUDE AN ACT
19 OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1).

20 (7) "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO SATISFIES
21 THE REQUIREMENTS OF SECTION 8-13.3-305 AND IS ELIGIBLE TO RECEIVE
22 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS.

23 (8) "EMPLOYEE" MEANS ANY INDIVIDUAL, INCLUDING A
24 MIGRATORY LABORER, PERFORMING LABOR OR SERVICES FOR THE BENEFIT
25 OF AN EMPLOYER IN WHICH THE EMPLOYER MAY COMMAND WHEN, WHERE,
26 AND HOW MUCH LABOR OR SERVICES SHALL BE PERFORMED. FOR THE
27 PURPOSES OF THIS PART 3, AN INDIVIDUAL PRIMARILY FREE FROM CONTROL

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

6 (9) (a) "EMPLOYER" MEANS ANY PERSON ENGAGED IN COMMERCE
7 OR AN INDUSTRY OR ACTIVITY AFFECTING COMMERCE THAT EMPLOYS AT
8 LEAST ONE PERSON FOR EACH WORKING DAY DURING EACH OF TWENTY OR
9 MORE CALENDAR WORKWEEKS IN THE CURRENT OR IMMEDIATELY
10 PRECEDING CALENDAR YEAR.

11 (b) "EMPLOYER" INCLUDES:

12 (I) A PERSON WHO ACTS, DIRECTLY OR INDIRECTLY, IN THE
13 INTEREST OF AN EMPLOYER WITH REGARD TO ANY OF THE EMPLOYEES OF
14 THE EMPLOYER;

15 (II) A SUCCESSOR IN INTEREST OF AN EMPLOYER; AND

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

17 (10) "FAMILY AND MEDICAL LEAVE" MEANS LEAVE FROM WORK
18 AND ALL BENEFITS AUTHORIZED UNDER PART 2 OF THIS ARTICLE 13.3.

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

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

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

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

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

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

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

14 (18) "PROGRAM" MEANS THE FAMILY AND MEDICAL LEAVE
15 INSURANCE PROGRAM ESTABLISHED PURSUANT TO SECTION 8-13.3-304.

16 (19) "QUALIFYING EXIGENCY" MEANS A NEED ARISING OUT OF A
17 COVERED INDIVIDUAL'S FAMILY MEMBER'S ACTIVE DUTY SERVICE OR
18 NOTICE OF AN IMPENDING CALL OR ORDER TO ACTIVE DUTY IN THE ARMED
19 FORCES, INCLUDING, BUT NOT LIMITED TO, PROVIDING FOR THE CARE OR
20 OTHER NEEDS OF THE MILITARY MEMBER'S CHILD OR OTHER FAMILY
21 MEMBER, MAKING FINANCIAL OR LEGAL ARRANGEMENTS FOR THE
22 MILITARY MEMBER, ATTENDING COUNSELING, ATTENDING MILITARY
23 EVENTS OR CEREMONIES, SPENDING TIME WITH THE MILITARY MEMBER
24 DURING A REST AND RECUPERATION LEAVE OR FOLLOWING RETURN FROM
25 DEPLOYMENT OR MAKING ARRANGEMENTS FOLLOWING THE DEATH OF THE
26 MILITARY MEMBER.

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1 (20) "QUALIFYING YEAR" MEANS THE FIRST FOUR OF THE LAST FIVE
2 COMPLETED CALENDAR QUARTERS OR THE LAST FOUR COMPLETED
3 CALENDAR QUARTERS IMMEDIATELY PRECEDING THE FIRST DAY OF A
4 COVERED INDIVIDUAL'S APPLICATION YEAR.

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

7 (I) INPATIENT CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL
8 MEDICAL CARE FACILITY; OR

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

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

12 (22) "SEXUAL ASSAULT OR ABUSE" MEANS ANY ACT, ATTEMPTED
13 ACT, OR THREATENED ACT OF UNLAWFUL SEXUAL BEHAVIOR, AS
14 DESCRIBED IN SECTION 16-11.7-102 (3), OR A CRIMES AS DEFINED IN
15 SECTION 18-3-402 BY ANY PERSON AGAINST ANOTHER PERSON
16 REGARDLESS OF THE RELATIONSHIP BETWEEN THE ACTOR AND THE VICTIM.

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

19 (24) "TOTAL ANNUAL COVERED WAGES" MEANS THE TOTAL
20 AMOUNT OF WAGES IN THE STATE THAT ARE SUBJECT TO PREMIUMS UNDER
21 THIS PART 3 EACH YEAR.

22 **8-13.3-303. Division of family and medical leave insurance -**
23 **creation as an enterprise - authority to issue bonds.** (1) THERE IS
24 HEREBY CREATED IN THE DEPARTMENT THE DIVISION OF FAMILY AND
25 MEDICAL LEAVE INSURANCE, THE HEAD OF WHICH IS THE DIRECTOR OF THE
26 DIVISION.

27 (2) (a) THE DIVISION CONSTITUTES AN ENTERPRISE FOR PURPOSES

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1 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, AS LONG AS
2 THE DIVISION RETAINS AUTHORITY TO ISSUE REVENUE BONDS AND THE
3 DIVISION RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL
4 REVENUES IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL
5 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. FOR AS LONG AS
6 IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SECTION, THE DIVISION
7 IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE
8 CONSTITUTION.

9 (b) THE ENTERPRISE ESTABLISHED PURSUANT TO THIS SUBSECTION
10 (2) HAS ALL THE POWERS AND DUTIES AUTHORIZED BY THIS PART 3
11 PERTAINING TO FAMILY AND MEDICAL LEAVE INSURANCE. THE FUND
12 CONSTITUTES PART OF THE ENTERPRISE ESTABLISHED PURSUANT TO THIS
13 SUBSECTION (2).

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

17 (d) THE DIVISION IS HEREBY AUTHORIZED TO ISSUE REVENUE
18 BONDS FOR THE EXPENSES OF THE DIVISION, WHICH BONDS MAY BE
19 SECURED BY ANY REVENUES OF THE DIVISION. REVENUE FROM THE BONDS
20 ISSUED PURSUANT TO THIS SUBSECTION (2) SHALL BE DEPOSITED INTO THE
21 FAMILY AND MEDICAL LEAVE INSURANCE FUND CREATED IN SECTION
22 8-13.3-309 (1)(a).

23 **8-13.3-304. Family and medical leave insurance program -**
24 **creation - division duties - outreach and education - rules.** (1) (a) THE
25 DIVISION SHALL ESTABLISH AND ADMINISTER A FAMILY AND MEDICAL
26 LEAVE INSURANCE PROGRAM AND PAY FAMILY AND MEDICAL LEAVE
27 INSURANCE BENEFITS TO ELIGIBLE INDIVIDUALS AS SPECIFIED IN THIS PART

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

5 (2) THE DIVISION SHALL ESTABLISH PROCEDURES AND FORMS FOR
6 FILING CLAIMS FOR BENEFITS UNDER THE PROGRAM. THE DIVISION SHALL
7 NOTIFY AN EMPLOYER WITHIN FIVE BUSINESS DAYS AFTER A COVERED
8 INDIVIDUAL FILES A CLAIM FOR BENEFITS UNDER SECTION 8-13.3-305.

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

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

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

1 (b) THE DIVISION SHALL ENSURE THAT THE OUTREACH
2 INFORMATION EXPLAINS, IN AN EASY-TO-UNDERSTAND FORMAT, AT LEAST
3 THE FOLLOWING:

4 (I) ELIGIBILITY REQUIREMENTS;

5 (II) THE CLAIMS PROCESS;

6 (III) WEEKLY BENEFIT AMOUNTS AND MAXIMUM BENEFITS
7 PAYABLE;

8 (IV) NOTICE AND MEDICAL CERTIFICATION REQUIREMENTS;

9 (V) REINSTATEMENT AND NONDISCRIMINATION RIGHTS;

10 (VI) CONFIDENTIALITY OF FILES AND RECORDS;

11 (VII) THE RELATIONSHIP BETWEEN EMPLOYMENT PROTECTION,
12 LEAVE FROM EMPLOYMENT, AND WAGE REPLACEMENT BENEFITS UNDER
13 THIS PART 3 AND OTHER LAWS, COLLECTIVE BARGAINING AGREEMENTS,
14 AND EMPLOYER POLICIES; AND

15 (VIII) ANY OTHER DETAILS OR INFORMATION ABOUT THE
16 PROGRAM THE DIVISION DEEMS APPROPRIATE.

17 (c) THE DIVISION SHALL DEVELOP A PROGRAM NOTICE THAT
18 DETAILS THE PROGRAM REQUIREMENTS, BENEFITS, CLAIMS PROCESS,
19 PAYROLL DEDUCTION REQUIREMENTS, AND OTHER PERTINENT PROGRAM
20 INFORMATION. EACH EMPLOYER SHALL POST THE PROGRAM NOTICE IN A
21 PROMINENT LOCATION IN THE WORKPLACE AND NOTIFY ITS EMPLOYEES OF
22 THE PROGRAM, IN WRITING, UPON HIRING AND UPON LEARNING OF AN
23 EMPLOYEE EXPERIENCING AN EVENT THAT TRIGGERS ELIGIBILITY
24 PURSUANT TO SECTION 8-13.3-305.

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

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

4 **8-13.3-305. Family and medical leave insurance benefits -**
5 **application - eligibility - rules.** (1) BEGINNING JANUARY 1, 2022,
6 EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, AN INDIVIDUAL
7 IS ELIGIBLE TO RECEIVE FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS
8 IF THE INDIVIDUAL:

9 (a) IS TAKING FAMILY AND MEDICAL LEAVE:

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

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

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

16 (IV) FOR A QUALIFYING EXIGENCY.

17 _____

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

20 (c) IS A COVERED INDIVIDUAL;

21 (d) CONSENTS TO THE DISCLOSURE OF INFORMATION OR RECORDS
22 DEEMED CONFIDENTIAL UNDER STATE LAW PURSUANT TO SECTION
23 8-13.3-304 (4); AND

24 (e) IF CURRENTLY EMPLOYED, ATTESTS, IN THE APPLICATION FOR
25 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS, THAT THE INDIVIDUAL
26 NOTIFIED THE INDIVIDUAL'S EMPLOYER OF THE INTENT TO TAKE FAMILY
27 AND MEDICAL LEAVE FROM WORK FOR ONE OF THE PURPOSES SPECIFIED IN

1 SUBSECTION (1)(a) OF THIS SECTION.

2 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1) OF THIS

3 SECTION, THE DIVISION MAY REQUIRE A COVERED INDIVIDUAL WHO

4 APPLIES FOR BENEFITS TO:

5 (a) ATTEST THAT THE COVERED INDIVIDUAL:

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

7 FOSTER CARE, IS CARING FOR A NEW CHILD DURING THE FIRST YEAR AFTER

8 BIRTH, ADOPTION, OR PLACEMENT OF THE CHILD;

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

10 CONDITION;

11 (C) HAS A SERIOUS HEALTH CONDITION; OR

12 (D) IS TAKING LEAVE FOR A QUALIFYING EXIGENCY.

13 (E) IS TAKING LEAVE FOR A QUALIFIED PURPOSE RELATED TO

14 ABUSIVE BEHAVIOR PURSUANT TO SECTION 8-13.3-306.

15 (II) IS NOT RECEIVING UNEMPLOYMENT INSURANCE BENEFITS OR

16 BENEFITS UNDER A DISABILITY INSURANCE POLICY IN AN AMOUNT THAT,

17 IF COMBINED WITH THE BENEFITS AVAILABLE TO THE COVERED INDIVIDUAL

18 UNDER THE PROGRAM, WOULD EXCEED THE COVERED INDIVIDUAL'S

19 WAGES, AS DETERMINED BY THE DIVISION; AND

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

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

22 PROVIDER PROVIDING HEALTH CARE TO THE COVERED INDIVIDUAL OR THE

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

24 THE CLAIM THAT THE COVERED INDIVIDUAL OR THE COVERED

25 INDIVIDUAL'S FAMILY MEMBER HAS A SERIOUS HEALTH CONDITION. TO

26 PROVIDE EVIDENCE THAT THE COVERED INDIVIDUAL OR THE COVERED

27 INDIVIDUAL'S FAMILY MEMBER HAS A SERIOUS HEALTH CONDITION

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1 RELATED TO DOMESTIC ABUSE, SEXUAL ASSAULT OR ABUSE, OR STALKING,
2 THE COVERED INDIVIDUAL MAY PROVIDE POLICE REPORT WRITTEN WITHIN
3 THE PRIOR SIXTY DAYS, A VALID PROTECTION ORDER, OR A WRITTEN
4 STATEMENT FROM A MEDICAL PROFESSIONAL OR APPLICATION ASSISTANCE
5 WHO CAN EXAMINED OR CONSULTED WITH THE COVERED INDIVIDUAL OR
6 COVERED INDIVIDUAL'S FAMILY MEMBER.

7 (3) A COVERED INDIVIDUAL WHO MEETS THE REQUIREMENTS OF
8 SUBSECTION (1) OF THIS SECTION IS ELIGIBLE FOR FAMILY AND MEDICAL
9 LEAVE INSURANCE BENEFITS:

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

13 (b) IF THE COVERED INDIVIDUAL FAILS TO FILE AN APPLICATION
14 FOR BENEFITS PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, NOTIFY
15 THE INDIVIDUAL'S EMPLOYER PURSUANT TO SUBSECTION (1)(e) OF THIS
16 SECTION, OR SUBMIT A CERTIFICATION PURSUANT TO SUBSECTION (2)(b)
17 OF THIS SECTION, BUT THE PAYMENT OF BENEFITS IS SUBJECT TO THE
18 LIMITATIONS SPECIFIED IN SECTION 8-13.3-307 (2).

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

22 _____

23 **8-13.3-306. Duration of benefits - payment intervals.**

24 (1) (a) THE MAXIMUM NUMBER OF WEEKS FOR WHICH FAMILY AND
25 MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE TO AN ELIGIBLE
26 INDIVIDUAL FOR THE PURPOSE SPECIFIED IN SECTION 8-13.3-305 (1)(a)(I)
27 IN ANY CONSECUTIVE FIFTY-TWO-WEEK PERIOD IS TWELVE WEEKS.

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1 (b) THE MAXIMUM NUMBER OF WEEKS FOR WHICH FAMILY AND
2 MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE TO AN ELIGIBLE
3 INDIVIDUAL FOR THE PURPOSES SPECIFIED IN SECTION 8-13.3-305 (1)(a)(II)
4 TO (1)(a)(V) IN ANY CONSECUTIVE FIFTY-TWO-WEEK PERIOD IS TWELVE
5 WEEKS.

6 (c) THE MAXIMUM NUMBER OF TOTAL WEEKS FOR WHICH FAMILY
7 AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE TO AN ELIGIBLE
8 INDIVIDUAL IN AGGREGATE UNDER SUBSECTIONS (1)(a) AND (1)(b) FOR
9 SEPARATE QUALIFYING EVENTS IN ANY CONSECUTIVE FIFTY-TWO-WEEK
10 PERIOD IS SIXTEEN WEEKS. FOR PURPOSES OF THIS SUBSECTION (1)(c),
11 BONDING WITH A CHILD IS A SEPARATE QUALIFYING EVENT FROM A
12 SERIOUS HEALTH CONDITION RELATED TO AND INCLUDING PREGNANCY
13 AND RECOVERY FROM CHILDBIRTH.

14 (2) FAILURE BY A COVERED INDIVIDUAL WHO IS OTHERWISE
15 ELIGIBLE UNDER SECTION 8-13.3-305 TO FILE A CLAIM FOR BENEFITS
16 PURSUANT TO SECTION 8-13.3-305 (1)(b), FURNISH NOTICE TO AN
17 EMPLOYER PURSUANT TO SECTION 8-13.3-305 (1)(e), OR SUBMIT
18 CERTIFICATION FROM A HEALTH CARE PROVIDER IN THE MANNER SPECIFIED
19 IN SECTION 8-13.3-305 (2)(b) DOES NOT INVALIDATE A CLAIM FOR
20 BENEFITS OR AN ELIGIBLE INDIVIDUAL'S ELIGIBILITY FOR BENEFITS, BUT
21 THE DIVISION IS NOT REQUIRED TO PAY BENEFITS FOR A PERIOD OF MORE
22 THAN TWO WEEKS PRIOR TO THE DATE ON WHICH THE ELIGIBLE INDIVIDUAL
23 FILES THE REQUIRED APPLICATION, FURNISHES NOTICE TO THE
24 INDIVIDUAL'S EMPLOYER, AND SUBMITS THE CERTIFICATION FROM THE
25 HEALTH CARE PROVIDER, UNLESS THE ELIGIBLE INDIVIDUAL
26 DEMONSTRATES TO THE SATISFACTION OF THE DIVISION THAT:

27 (a) GOOD CAUSE EXISTS, AS DETERMINED BY THE DIVISION, FOR

1 THE WORKER'S FAILURE TO SUBMIT THE APPLICATION OR CERTIFICATION
2 OR FURNISH THE NOTICE TO THE INDIVIDUAL'S EMPLOYER; AND

3 (b) THE ELIGIBLE INDIVIDUAL SUBMITTED THE APPLICATION AND
4 CERTIFICATION AND NOTIFIED THE INDIVIDUAL'S EMPLOYER AS SOON AS
5 WAS POSSIBLE.

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

10 **8-13.3-307. Amount of benefits - maximum weekly benefit.**

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

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

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

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

25 (c) THE DIVISION SHALL CALCULATE AN ELIGIBLE INDIVIDUAL'S
26 WEEKLY BENEFIT AMOUNT BASED ON THE ELIGIBLE INDIVIDUAL'S WEEKLY
27 WAGE EARNED FROM THE JOB FROM WHICH THE ELIGIBLE INDIVIDUAL IS

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

7 (2) AN ELIGIBLE INDIVIDUAL'S WEEKLY WAGE IS ONE-THIRTEENTH
8 OF THE WAGES PAID DURING THE QUARTER OF THE ELIGIBLE INDIVIDUAL'S
9 BASE PERIOD, AS DEFINED IN SECTION 8-7-103 (2) OR ALTERNATIVE BASE
10 PERIOD, AS DEFINED IN SECTION 8-7-103 (1.5) IN WHICH THE TOTAL WAGES
11 WERE HIGHEST.

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

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

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

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

27 OR

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

4 **8-13.3-308. Family and medical leave insurance fund -**
5 **creation - employee premiums - rules.** (1) (a) THERE IS HEREBY
6 CREATED IN THE STATE TREASURY THE FAMILY AND MEDICAL LEAVE
7 INSURANCE FUND. THE FUND CONSISTS OF PREMIUMS, REVENUES FROM
8 REVENUE BONDS ISSUED IN ACCORDANCE WITH SECTION 8-13.3-303 (2)(d),
9 AND FINES COLLECTED UNDER SECTION 8-13.3-310 (5). MONEY IN THE
10 FUND MAY BE USED ONLY TO PAY REVENUE BONDS AND TO PAY BENEFITS
11 UNDER, AND TO ADMINISTER, THE PROGRAM, INCLUDING TECHNOLOGY
12 COSTS, PURSUANT TO THIS PART 3, INCLUDING OUTREACH SERVICES
13 DEVELOPED UNDER SECTION 8-13.3-304 (5). INTEREST EARNED ON THE
14 INVESTMENT OF MONEY IN THE FUND REMAINS IN THE FUND. ANY MONEY
15 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE
16 FUND AND DOES NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.
17 STATE MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
18 DIVISION FOR THE PURPOSE OF THIS SECTION. THE GENERAL ASSEMBLY
19 SHALL NOT APPROPRIATE MONEY FROM THE FUND FOR THE GENERAL
20 EXPENSES OF THE STATE.

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

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

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1 RULE IN ACCORDANCE WITH THIS SUBSECTION (2)(a). THE DIRECTOR
2 SHALL NOT APPLY THE PREMIUM TO WAGES ABOVE THE CONTRIBUTION
3 AND BENEFIT BASE LIMIT ESTABLISHED ANNUALLY BY THE FEDERAL
4 SOCIAL SECURITY ADMINISTRATION FOR PURPOSES OF THE FEDERAL OLD-
5 AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM LIMITS
6 PURSUANT TO SECTION 42 U.S.C. 430. PREMIUMS ESTABLISHED IN
7 ACCORDANCE WITH THIS SUBSECTION (2) ARE FEES AND NOT TAXES.

8 (II) FOR THE FIRST YEAR, THE PREMIUM AMOUNT IS FIFTY-TWO ONE
9 HUNDREDTHS OF ONE PERCENT OF WAGES PER EMPLOYEE. THE EMPLOYEE
10 AND EMPLOYER SHALL EACH PAY ONE-HALF OF THE PREMIUM AMOUNT
11 DETERMINED PURSUANT TO THIS SUBSECTION (2)(a). EACH YEAR
12 THEREAFTER, THE DIRECTOR SHALL SET THE PREMIUM AT THE RATE
13 NECESSARY TO OBTAIN A TOTAL AMOUNT OF PREMIUM CONTRIBUTIONS
14 EQUAL TO ONE HUNDRED TWENTY-FIVE PERCENT OF THE BENEFITS PAID
15 DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR PLUS AN AMOUNT
16 EQUAL TO ONE HUNDRED PERCENT OF THE COST OF ADMINISTRATION OF
17 THE PAYMENTS OF THOSE BENEFITS DURING THE IMMEDIATELY PRECEDING
18 CALENDAR YEAR, LESS THE AMOUNT OF NET ASSETS REMAINING IN THE
19 ACCOUNT AS OF DECEMBER 31 OF THE IMMEDIATELY PRECEDING YEAR.

20 _____

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

26 **8-13.3-309. Employment protection - discrimination**
27 **prohibited - rules.** (1) (a) AN ELIGIBLE INDIVIDUAL WHO WAS EMPLOYED

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

4 (I) TO BE RESTORED BY THE EMPLOYER TO THE POSITION OF
5 EMPLOYMENT HELD BY THE ELIGIBLE INDIVIDUAL WHEN THE LEAVE
6 COMMENCED; OR

7 (II) TO BE RESTORED TO AN EQUIVALENT POSITION WITH
8 EQUIVALENT EMPLOYMENT BENEFITS, PAY, AND OTHER TERMS AND
9 CONDITIONS OF EMPLOYMENT.

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

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

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

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

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

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

26 (3) AN EMPLOYER SHALL NOT REDUCE AN ELIGIBLE INDIVIDUAL'S
27 PREVIOUSLY ACCRUED BENEFITS THAT HAVE ACCRUED PRIOR TO THE DATE

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1 ON WHICH THE FAMILY AND MEDICAL LEAVE COMMENCED.

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

8 (5) (a) THE DIRECTOR, BY RULE, SHALL ESTABLISH A FINE
9 STRUCTURE FOR EMPLOYERS WHO VIOLATE THIS SECTION. THE DIRECTOR
10 SHALL TRANSFER ANY FINES COLLECTED PURSUANT TO THIS SECTION TO
11 THE STATE TREASURER FOR DEPOSIT IN THE FUND.<*Do we need anything*
12 *about a complaint process, APA applicability, etc.?*>

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

17 **8-13.3-310. Coordination of benefits.** (1) (a) LEAVE TAKEN
18 UNDER THIS PART 3 RUNS CONCURRENTLY WITH ANY LEAVE TAKEN UNDER
19 THE FMLA, PART 2 OF THIS ARTICLE 13.3, OR SECTION 24-34-402.7. IF A
20 PERIOD OF FAMILY AND MEDICAL LEAVE RECEIVED BY AN EMPLOYEE
21 UNDER THIS PART 3 IS CONCURRENTLY DESIGNATED AS LEAVE PURSUANT
22 TO THE FMLA OR PART 2 OF THIS ARTICLE 13.3, THE EMPLOYER SHALL
23 NOTIFY THE EMPLOYEE OF THE DESIGNATION AND SHALL ALSO PROVIDE
24 THE EMPLOYEE WITH THE NOTICE REQUIRED UNDER 29 CFR 825.300(d).

25 (b) AN EMPLOYER MAY REQUIRE THAT PAYMENT MADE OR LEAVE
26 TAKEN UNDER THIS PART 3 BE MADE OR TAKEN CONCURRENTLY OR
27 OTHERWISE COORDINATED WITH PAYMENT MADE OR LEAVE ALLOWED

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1 UNDER THE TERMS OF DISABILITY OR FAMILY CARE LEAVE UNDER AN
2 EMPLOYER POLICY OR EMPLOYMENT CONTRACT, AS APPLICABLE. THE
3 EMPLOYER SHALL GIVE ITS EMPLOYEES WRITTEN NOTICE OF THIS
4 REQUIREMENT.

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

16 (d) AN EMPLOYER MAY OFFER SUPPLEMENTAL BENEFIT PAYMENTS
17 TO AN EMPLOYEE ON FAMILY AND MEDICAL LEAVE IN ADDITION TO THE
18 ANY FAMILY AND MEDICAL LEAVE BENEFITS THE EMPLOYEE IS RECEIVING
19 THROUGH THE PROGRAM, INCLUDING, BUT NOT LIMITED TO, VACATION,
20 SICK, OR OTHER PAID TIME OFF. THE EMPLOYEE HAS THE CHOICE OF
21 WHETHER TO RECEIVE AND USE SUPPLEMENTAL BENEFIT PAYMENTS.
22 NOTHING IN THIS SUBSECTION (1)(d) REQUIRES AN EMPLOYEE TO RECEIVE
23 OR AN EMPLOYER TO PROVIDE SUPPLEMENTAL BENEFIT PAYMENTS.

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

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

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

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

10 **8-13.3-311. Erroneous payments - disqualification for benefits**

11 **- penalties - rules.** (1) A COVERED INDIVIDUAL IS DISQUALIFIED FROM
12 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS FOR ONE YEAR IF THE
13 COVERED INDIVIDUAL, IN CONNECTION WITH AN APPLICATION FOR
14 BENEFITS UNDER THE PROGRAM, WILLFULLY MAKES A FALSE STATEMENT
15 OR MISREPRESENTATION REGARDING A MATERIAL FACT OR WILLFULLY
16 FAILS TO REPORT A MATERIAL FACT.

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

26 **8-13.3-312. Elective coverage - withdrawal from coverage -**

27 **rules.** (1) A SELF-EMPLOYED PERSON, INCLUDING AN INDEPENDENT

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

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

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

17 **8-13.3-313. Federal income tax - state income tax.** (1) (a) IF
18 THE FEDERAL INTERNAL REVENUE SERVICE DETERMINES THAT FAMILY AND
19 MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 3 ARE SUBJECT TO
20 FEDERAL INCOME TAX, THE DIVISION SHALL INFORM AN INDIVIDUAL FILING
21 A NEW CLAIM FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS, AT
22 THE TIME OF FILING, THAT:

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

25 (II) REQUIREMENTS EXIST PERTAINING TO ESTIMATED TAX
26 PAYMENTS;

27 (III) THE INDIVIDUAL MAY ELECT TO HAVE FEDERAL INCOME TAX

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1 DEDUCTED AND WITHHELD FROM THE INDIVIDUAL'S PAYMENT OF BENEFITS
2 IN THE AMOUNT SPECIFIED IN THE FEDERAL "INTERNATIONAL REVENUE
3 CODE OF 1986", AS AMENDED; AND

4 (IV) THE INDIVIDUAL IS PERMITTED TO CHANGE A PREVIOUSLY
5 ELECTED WITHHOLDING STATUS.

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

9 (c) THE DIRECTOR SHALL FOLLOW ALL PROCEDURES SPECIFIED BY
10 THE FEDERAL INTERNAL REVENUE SERVICE PERTAINING TO DEDUCTING
11 AND WITHHOLDING INCOME TAX.

12 (2) FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS RECEIVED
13 PURSUANT TO THIS PART 3 ARE NOT SUBJECT TO STATE INCOME TAX
14 PURSUANT TO SECTION 39-22-104 (4)(z).

15 **8-13.3-314. Reports.** BY SEPTEMBER 1, 2022, AND BY EACH
16 SEPTEMBER 1 THEREAFTER, THE DIVISION SHALL REPORT TO THE SENATE
17 COMMITTEES ON BUSINESS, LABOR, AND TECHNOLOGY AND HEALTH AND
18 HUMAN SERVICES AND THE HOUSE OF REPRESENTATIVES COMMITTEES ON
19 HEALTH AND INSURANCE AND BUSINESS AFFAIRS AND LABOR, OR THEIR
20 SUCCESSOR COMMITTEES, ON PROJECTED AND ACTUAL PROGRAM
21 PARTICIPATION, SPECIFYING INCOME LEVEL, GENDER, RACE, AND
22 ETHNICITY OF PARTICIPANTS AND PURPOSE AND DURATION OF LEAVE;
23 PREMIUM RATES; FUND BALANCES; AND OUTREACH EFFORTS. THE DIVISION
24 SHALL POST THE REPORT ON THE DEPARTMENT'S WEBSITE.
25 NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT REQUIRED
26 IN THIS SECTION CONTINUES INDEFINITELY.

27 **8-13.3-315. Rules.** (1) THE DIRECTOR MAY ADOPT RULES AS

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1 NECESSARY OR AS SPECIFIED IN THIS PART 3 FOR THE IMPLEMENTATION
2 AND ADMINISTRATION OF THIS PART 3.

3 (2) THE DIRECTOR SHALL ADOPT RULES:

4 (a) ESTABLISHING THE FORM AND MANNER OF FILING A CLAIM FOR
5 BENEFITS PURSUANT TO SECTION 8-13.3-305 (1)(b);

6 (b) SETTING PREMIUM AMOUNTS PURSUANT TO SECTION
7 8-13.3-309 (2)(a); AND

8 (c) ESTABLISHING A FINE STRUCTURE PURSUANT TO SECTION
9 8-13.3-310 (5)(a).

10 **8-13.3-316. Benefits available regardless of citizenship or**
11 **immigration status.** NOTWITHSTANDING SECTION 24-76.5-103, FAMILY
12 AND MEDICAL LEAVE INSURANCE BENEFITS ARE AVAILABLE TO ALL
13 ELIGIBLE INDIVIDUALS REGARDLESS OF THEIR CITIZENSHIP OR
14 IMMIGRATION STATUS.

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

17 **24-1-121. Department of labor and employment - creation.**

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

20 (k) THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE, THE
21 HEAD OF WHICH IS THE DIRECTOR OF THE DIVISION OF FAMILY AND
22 MEDICAL LEAVE INSURANCE. THE DIVISION, CREATED IN PART 3 OF
23 ARTICLE 13.3 OF TITLE 8, AND THE DIRECTOR OF THE DIVISION SHALL
24 EXERCISE THEIR POWERS, DUTIES, AND FUNCTIONS UNDER THE
25 DEPARTMENT OF LABOR AND EMPLOYMENT AS IF TRANSFERRED BY A **TYPE**
26 **2** TRANSFER.

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

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1 as follows:

2 **24-34-402.7. Unlawful action against employees seeking**
3 **protection. (5) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2021.**

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

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

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

9 (z) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
10 1, 2022, AN AMOUNT EQUAL TO ANY AMOUNT RECEIVED BY A TAXPAYER
11 AS FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS PURSUANT TO PART
12 3 OF ARTICLE 13.3 OF TITLE 8.

13 **SECTION 6. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2020 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.