



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

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

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

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

25 (g) EMPLOYEE AND EMPLOYER CONTRIBUTIONS ARE COLLECTED  
26 AT RATES REASONABLY CALCULATED TO PROVIDE THE PROGRAM'S LEAVE  
27 BENEFITS AND SUPPORTING ADMINISTRATION OF THE PROGRAM, AND THE  
28 FISCAL APPROACH IN THIS PART 3 WAS INFORMED BY THE EXPERIENCE OF  
29 OTHER STATE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAMS,  
30 MODELING BASED ON THE COLORADO WORKFORCE, AND INPUT FROM A  
31 VARIETY OF STAKEHOLDERS IN COLORADO;

32 (h) WORKERS NEED COMPREHENSIVE PAID FAMILY AND MEDICAL  
33 LEAVE TO ADDRESS DOMESTIC ABUSE, SEXUAL ASSAULT OR ABUSE, AND  
34 STALKING, WHICH POSE SERIOUS HEALTH AND SAFETY CONCERNS.  
35 DOMESTIC ABUSE, SEXUAL ASSAULT OR ABUSE, AND STALKING ARE  
36 QUALIFYING PURPOSES FOR FAMILY AND MEDICAL LEAVE UNDER THIS PART  
37 3;

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

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

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

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

15 (m) RECOGNIZING THAT MANY PEOPLE NOW WORK OUTSIDE THE  
16 TRADITIONAL EMPLOYER-EMPLOYEE STRUCTURE, THIS PART 3 ALSO  
17 ALLOWS SELF-EMPLOYED WORKERS TO PARTICIPATE IN THE PROGRAM IF  
18 THEY CHOOSE, PROVIDING ACCESS TO NEEDED BENEFITS AND ADDED  
19 SECURITY;

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

24 (o) RESEARCH FROM STATES THAT HAVE IMPLEMENTED PAID  
25 FAMILY AND MEDICAL LEAVE PROGRAMS HAS SHOWN THAT EMPLOYERS  
26 BENEFIT THROUGH IMPROVED WORKER PRODUCTIVITY, PERFORMANCE,  
27 AND MORALE;

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

34 (q) WITHOUT AN INSURANCE SYSTEM, EMPLOYERS WHO PROVIDE  
35 PAID FAMILY AND MEDICAL LEAVE MAY NEED TO COVER THE FULL COSTS  
36 OUT OF POCKET, WHEREAS AN INSURANCE SYSTEM BENEFITS EMPLOYERS  
37 BY POOLING COSTS AND MAKING IT MORE AFFORDABLE TO PROVIDE PAID  
38 FAMILY AND MEDICAL LEAVE TO THEIR WORKFORCE;

39 (r) ACCESS TO PAID FAMILY AND MEDICAL LEAVE THROUGH AN  
40 INSURANCE PROGRAM LEVELS THE PLAYING FIELD FOR SMALL BUSINESS  
41 OWNERS, WHO OFTEN CANNOT AFFORD TO OFFER THE SAME GENEROUS

1 PAID FAMILY AND MEDICAL LEAVE BENEFITS AS LARGER COMPANIES AND  
2 THEREFORE FACE A COMPETITIVE DISADVANTAGE IN HIRING;

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

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

23 (u) ACCORDING TO PEW RESEARCH CENTER, THE PERCENTAGE OF  
24 MOTHERS NOT IN THE WORKFORCE GREW TO TWENTY-NINE PERCENT IN  
25 2012, UP FROM TWENTY-THREE PERCENT IN 1999. A MAJORITY OF  
26 UNEMPLOYED WOMEN REPORTED THAT THEY WERE HOME TO CARE FOR A  
27 FAMILY MEMBER, WHILE ONLY SIX PERCENT SAID THEY WERE HOME  
28 BECAUSE THEY COULD NOT FIND WORK. WHEN WOMEN, WHO COMPRISE  
29 FORTY-SEVEN PERCENT OF THE UNITED STATES' WORKFORCE, LEAVE THE  
30 WORKFORCE, LABOR SUPPLY GOES DOWN AND THE COST OF LABOR FOR  
31 BUSINESS GOES UP. ACCESS TO PAID LEAVE INCREASES LABOR SUPPLY AND  
32 THEREFORE DECREASES LABOR COSTS FOR BUSINESSES, PARTICULARLY IN  
33 TIGHT COMPETITIVE LABOR MARKETS.

34 **8-13.3-303. Definitions.** AS USED IN THIS PART 3, UNLESS THE  
35 CONTEXT OTHERWISE REQUIRES:

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

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

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

41 (b) BEEN EMPLOYED BY AND WORKED FOR ONE OR MORE

1 EMPLOYERS FOR A COMBINED TOTAL OF AT LEAST SIX HUNDRED EIGHTY  
2 HOURS; OR  
3 (c) IN THE CASE OF AIRLINE FLIGHT CREW MEMBERS, WORKED FOR,  
4 OR BEEN PAID BY, ONE OR MORE EMPLOYERS FOR FIVE HUNDRED FOUR  
5 HOURS.  
6 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND  
7 EMPLOYMENT.  
8 (4) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.  
9 (5) "DIVISION" MEANS THE DIVISION OF FAMILY AND MEDICAL  
10 LEAVE INSURANCE CREATED IN SECTION 8-13.3-304.  
11 (6) "DOMESTIC ABUSE" MEANS ANY ACT DESCRIBED IN SECTION  
12 13-14-101 (2) OR ANY OTHER CRIME, THE UNDERLYING FACTUAL BASIS OF  
13 WHICH HAS BEEN FOUND BY A COURT ON THE RECORD TO INCLUDE AN ACT  
14 OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1).  
15 (7) "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO SATISFIES  
16 THE REQUIREMENTS OF SECTION 8-13.3-306 AND IS ELIGIBLE TO RECEIVE  
17 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS AND, EXCEPT AS  
18 OTHERWISE SPECIFIED IN THIS PART 3, FAMILY AND MEDICAL LEAVE.  
19 (8) "EMPLOYEE" MEANS ANY INDIVIDUAL, INCLUDING A  
20 MIGRATORY LABORER, PERFORMING LABOR OR SERVICES FOR THE BENEFIT  
21 OF ANOTHER, IRRESPECTIVE OF WHETHER THE COMMON-LAW  
22 RELATIONSHIP OF MASTER AND SERVANT EXISTS. FOR THE PURPOSES OF  
23 THIS PART 3, AN INDIVIDUAL PRIMARILY FREE FROM CONTROL AND  
24 DIRECTION IN THE PERFORMANCE OF THE LABOR OR SERVICES, BOTH  
25 UNDER THE INDIVIDUAL'S CONTRACT FOR THE PERFORMANCE OF THE  
26 LABOR OR SERVICES AND IN FACT, AND WHO IS CUSTOMARILY ENGAGED IN  
27 AN INDEPENDENT TRADE, OCCUPATION, PROFESSION, OR BUSINESS  
28 RELATED TO THE LABOR OR SERVICES PERFORMED IS NOT AN "EMPLOYEE".  
29 (9) (a) "EMPLOYER" MEANS ANY PERSON ENGAGED IN COMMERCE  
30 OR AN INDUSTRY OR ACTIVITY AFFECTING COMMERCE THAT:  
31 (I) EMPLOYS AT LEAST ONE PERSON FOR EACH WORKING DAY  
32 DURING EACH OF TWENTY OR MORE CALENDAR WORKWEEKS IN THE  
33 CURRENT OR IMMEDIATELY PRECEDING CALENDAR YEAR; OR  
34 (II) PAID WAGES OF ONE THOUSAND FIVE HUNDRED DOLLARS OR  
35 MORE DURING ANY CALENDAR QUARTER IN THE PRECEDING CALENDAR  
36 YEAR.  
37 (b) "EMPLOYER" INCLUDES:  
38 (I) A PERSON WHO ACTS, DIRECTLY OR INDIRECTLY, IN THE  
39 INTEREST OF AN EMPLOYER WITH REGARD TO ANY OF THE EMPLOYEES OF  
40 THE EMPLOYER;  
41 (II) A SUCCESSOR IN INTEREST OF AN EMPLOYER THAT ACQUIRES

1 ALL OF THE ORGANIZATION, TRADE, OR BUSINESS OR SUBSTANTIALLY ALL  
2 OF THE ASSETS OF ONE OR MORE EMPLOYERS; AND  
3 (III) THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.  
4 (c) "EMPLOYER" DOES NOT INCLUDE A PERSON DESCRIBED IN  
5 SUBSECTION (9)(a) OR (9)(b) OF THIS SECTION THAT IS A CARRIER AS  
6 DEFINED IN 45 U.S.C. SEC. 151.  
7 (10) "FAMILY AND MEDICAL LEAVE" MEANS LEAVE FROM WORK  
8 UNDER THIS PART 3.  
9 (11) "FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS" OR  
10 "BENEFITS" MEANS THE BENEFITS PROVIDED UNDER THE PROGRAM.  
11 (12) "FAMILY MEMBER" MEANS:  
12 (a) A COVERED INDIVIDUAL'S IMMEDIATE FAMILY MEMBER, AS  
13 DEFINED IN SECTION 2-4-401 (3.7);  
14 (b) A CHILD TO WHOM THE COVERED INDIVIDUAL STANDS IN LOCO  
15 PARENTIS OR A PERSON WHO STOOD IN LOCO PARENTIS TO THE COVERED  
16 INDIVIDUAL WHEN THE COVERED INDIVIDUAL WAS A MINOR;  
17 (c) A PERSON FOR WHOM THE COVERED INDIVIDUAL IS  
18 RESPONSIBLE FOR PROVIDING UNPAID PHYSICAL, PSYCHOLOGICAL,  
19 HEALTH, LEGAL, OR FINANCIAL ASSISTANCE, AS WELL AS SUPPORT, OF THE  
20 TYPE TRADITIONALLY PROVIDED BY FAMILY, WITH:  
21 (I) ACCESS TO AND ADMINISTRATION OF MEDICAL CARE;  
22 (II) THE ACTIVITIES OF DAILY LIVING AS DEFINED IN SECTION  
23 25.5-6-104 (2)(a); OR  
24 (III) THE INSTRUMENTAL ACTIVITIES OF DAILY LIVING AS DEFINED  
25 IN SECTION 25.5-6-104 (2)(g); OR  
26 (d) A PERSON WITH WHOM THE COVERED INDIVIDUAL IS IN A  
27 COMMITTED RELATIONSHIP THAT INCLUDES:  
28 (I) SHARED FINANCIAL INTERDEPENDENCE OR DEPENDENCE;  
29 (II) RESPONSIBILITY FOR EACH OTHER'S COMMON WELFARE; AND  
30 (III) EITHER:  
31 (A) THE INTENT TO MARRY OR ENTER INTO A CIVIL UNION IN THE  
32 FUTURE; OR  
33 (B) THE INTENT FOR THE RELATIONSHIP TO LAST INDEFINITELY.  
34 (13) "FMLA" MEANS THE FEDERAL "FAMILY AND MEDICAL LEAVE  
35 ACT OF 1993", AS AMENDED, PUB.L. 103-3, CODIFIED AT 29 U.S.C. SEC.  
36 2601 ET SEQ.  
37 (14) "FMLA LEAVE" MEANS LEAVE FROM WORK AND ALL  
38 BENEFITS AUTHORIZED BY THE FMLA.  
39 (15) "FUND" MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE  
40 FUND CREATED IN SECTION 8-13.3-309.  
41 (16) "HEALTH CARE PROVIDER" MEANS ANY PERSON LICENSED,

1 CERTIFIED, OR REGISTERED UNDER FEDERAL OR STATE LAW TO PROVIDE  
2 MEDICAL OR EMERGENCY SERVICES. THE TERM INCLUDES PHYSICIANS,  
3 DOCTORS, NURSES, AND MIDWIVES.

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

6 (18) "PREMIUM" MEANS THE PAYMENTS AN INDIVIDUAL AND  
7 EMPLOYER ARE REQUIRED BY THIS PART 3 TO PAY TO THE DIVISION FOR  
8 THE PROGRAM.

9 (19) "PROGRAM" MEANS THE FAMILY AND MEDICAL LEAVE  
10 INSURANCE PROGRAM ESTABLISHED PURSUANT TO SECTION 8-13.3-305.

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

22 (21) "QUALIFYING YEAR" MEANS THE FIRST FOUR OF THE LAST FIVE  
23 COMPLETED CALENDAR QUARTERS OR THE LAST FOUR COMPLETED  
24 CALENDAR QUARTERS IMMEDIATELY PRECEDING THE FIRST DAY OF A  
25 COVERED INDIVIDUAL'S APPLICATION YEAR.

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

29 (I) INPATIENT CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL  
30 MEDICAL CARE FACILITY; OR

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

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

34 (23) "SEXUAL ASSAULT OR ABUSE" MEANS ANY ACT, ATTEMPTED  
35 ACT, OR THREATENED ACT OF UNLAWFUL SEXUAL BEHAVIOR, AS  
36 DESCRIBED IN SECTION 16-11.7-102 (3), OR SEXUAL ASSAULT, AS  
37 DESCRIBED IN SECTION 18-3-402, COMMITTED BY ANY PERSON AGAINST  
38 ANOTHER PERSON REGARDLESS OF THE RELATIONSHIP BETWEEN THE  
39 ACTOR AND THE VICTIM.

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

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

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

15           (b) THE ENTERPRISE ESTABLISHED PURSUANT TO THIS SUBSECTION  
16 (2) HAS ALL THE POWERS AND DUTIES AUTHORIZED BY THIS PART 3  
17 PERTAINING TO FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS. THE  
18 FUND CONSTITUTES PART OF THE ENTERPRISE ESTABLISHED PURSUANT TO  
19 THIS SUBSECTION (2).

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

23           (d) THE DIVISION IS HEREBY AUTHORIZED TO ISSUE REVENUE  
24 BONDS FOR THE EXPENSES OF THE DIVISION, WHICH BONDS MAY BE  
25 SECURED BY ANY REVENUES OF THE DIVISION. REVENUE FROM THE BONDS  
26 ISSUED PURSUANT TO THIS SUBSECTION (2) SHALL BE DEPOSITED INTO THE  
27 FUND.

28           **8-13.3-305. Family and medical leave insurance program -**  
29 **creation - division duties - outreach and education - rules.** (1) (a) THE  
30 DIVISION SHALL ESTABLISH AND ADMINISTER A FAMILY AND MEDICAL  
31 LEAVE INSURANCE PROGRAM TO GRANT FAMILY AND MEDICAL LEAVE TO  
32 ELIGIBLE INDIVIDUALS AND PAY FAMILY AND MEDICAL LEAVE INSURANCE  
33 BENEFITS TO ELIGIBLE INDIVIDUALS AS SPECIFIED IN THIS PART 3.

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

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

41           (3) THE DIVISION SHALL USE INFORMATION-SHARING AND



1 INTEGRATION TECHNOLOGY TO FACILITATE THE DISCLOSURE OF RELEVANT  
2 INFORMATION OR RECORDS PERTAINING TO A COVERED INDIVIDUAL IF THE  
3 COVERED INDIVIDUAL CONSENTS TO THE DISCLOSURE IN ACCORDANCE  
4 WITH THIS PART 3.

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

14 (5) (a) BY JULY 1, 2022, AND FOR AS LONG AS THE PROGRAM  
15 CONTINUES, THE DIVISION SHALL DEVELOP AND IMPLEMENT OUTREACH  
16 SERVICES TO EDUCATE THE PUBLIC ABOUT THE AVAILABILITY OF FAMILY  
17 AND MEDICAL LEAVE AND BENEFITS UNDER THIS PART 3 FOR COVERED  
18 INDIVIDUALS.

19 (b) THE DIVISION SHALL ENSURE THAT THE OUTREACH  
20 INFORMATION EXPLAINS, IN AN EASY-TO-UNDERSTAND FORMAT, AT LEAST  
21 THE FOLLOWING:

- 22 (I) ELIGIBILITY REQUIREMENTS;
- 23 (II) THE CLAIMS PROCESS;
- 24 (III) WEEKLY BENEFIT AMOUNTS AND MAXIMUM BENEFITS  
25 PAYABLE;
- 26 (IV) NOTICE AND DOCUMENTATION REQUIREMENTS;
- 27 (V) REINSTATEMENT AND NONDISCRIMINATION RIGHTS;
- 28 (VI) CONFIDENTIALITY OF FILES AND RECORDS;
- 29 (VII) THE RELATIONSHIP BETWEEN EMPLOYMENT PROTECTION,  
30 LEAVE FROM EMPLOYMENT, AND WAGE REPLACEMENT BENEFITS UNDER  
31 THIS PART 3 AND OTHER LAWS, COLLECTIVE BARGAINING AGREEMENTS,  
32 AND EMPLOYER POLICIES; AND

33 (VIII) ANY OTHER DETAILS OR INFORMATION ABOUT THE  
34 PROGRAM THE DIVISION DEEMS APPROPRIATE.

35 (c) THE DIVISION SHALL DEVELOP A PROGRAM NOTICE THAT  
36 DETAILS THE PROGRAM REQUIREMENTS, BENEFITS, CLAIMS PROCESS,  
37 PAYROLL DEDUCTION REQUIREMENTS, AND OTHER PERTINENT PROGRAM  
38 INFORMATION. EACH EMPLOYER SHALL POST THE PROGRAM NOTICE IN A  
39 PROMINENT LOCATION IN THE WORKPLACE AND NOTIFY ITS EMPLOYEES OF  
40 THE PROGRAM, IN WRITING, UPON HIRING AND UPON LEARNING OF AN  
41 EMPLOYEE EXPERIENCING AN EVENT THAT TRIGGERS ELIGIBILITY

1 PURSUANT TO SECTION 8-13.3-306.  
2 (d) THE DIVISION SHALL PROVIDE THE INFORMATION REQUIRED BY  
3 THIS SUBSECTION (5) IN A MANNER THAT IS CULTURALLY COMPETENT AND  
4 LINGUISTICALLY APPROPRIATE.  
5 (e) THE DIVISION MAY, ON ITS OWN OR THROUGH A CONTRACT  
6 WITH AN OUTSIDE VENDOR, USE A PORTION OF THE MONEY IN THE FUND TO  
7 DEVELOP, IMPLEMENT, AND ADMINISTER OUTREACH SERVICES.  
8 **8-13.3-306. Family and medical leave insurance benefits -**  
9 **application - eligibility - rules.** (1) BEGINNING JANUARY 1, 2024,  
10 EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, AN INDIVIDUAL  
11 IS ELIGIBLE TO TAKE FAMILY AND MEDICAL LEAVE AND TO RECEIVE  
12 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS IF THE INDIVIDUAL:  
13 (a) IS TAKING FAMILY AND MEDICAL LEAVE FOR ONE OF THE  
14 FOLLOWING PURPOSES:  
15 (I) A SERIOUS HEALTH CONDITION;  
16 (II) CARING FOR A NEW CHILD DURING THE FIRST YEAR AFTER THE  
17 BIRTH OR ADOPTION OF THE CHILD OR THE PLACEMENT OF THE CHILD  
18 THROUGH FOSTER CARE;  
19 (III) CARING FOR A FAMILY MEMBER WHO HAS A SERIOUS HEALTH  
20 CONDITION; OR  
21 (IV) A QUALIFYING EXIGENCY;  
22 (b) FILES A CLAIM FOR BENEFITS IN A FORM AND MANNER  
23 REQUIRED BY THE DIRECTOR BY RULE;  
24 (c) IS A COVERED INDIVIDUAL;  
25 (d) CONSENTS TO THE DISCLOSURE OF INFORMATION OR RECORDS  
26 DEEMED CONFIDENTIAL UNDER STATE LAW PURSUANT TO SECTION  
27 8-13.3-305 (4); AND  
28 (e) (I) IF CURRENTLY EMPLOYED, ATTESTS, IN THE APPLICATION  
29 FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS, THAT THE  
30 INDIVIDUAL NOTIFIED THE INDIVIDUAL'S EMPLOYER OF THE INTENT TO  
31 TAKE FAMILY AND MEDICAL LEAVE FROM WORK FOR ONE OF THE PURPOSES  
32 SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION.  
33 (II) IN ANY CASE IN WHICH THE NECESSITY FOR FAMILY AND  
34 MEDICAL LEAVE IS FORESEEABLE, THE INDIVIDUAL SHALL PROVIDE THE  
35 INDIVIDUAL'S EMPLOYER WITH NOT LESS THAN THIRTY DAYS' NOTICE  
36 BEFORE THE DATE THE LEAVE IS TO BEGIN OF THE INDIVIDUAL'S INTENTION  
37 TO TAKE LEAVE UNDER THIS PART 3. IF THE NECESSITY FOR LEAVE IS NOT  
38 FORESEEABLE OR PROVIDING THIRTY DAYS' NOTICE IS NOT POSSIBLE, THE  
39 INDIVIDUAL SHALL PROVIDE THE NOTICE AS SOON AS PRACTICABLE.  
40 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1) OF THIS  
41 SECTION, THE DIVISION SHALL REQUIRE A COVERED INDIVIDUAL WHO

1 APPLIES FOR BENEFITS TO:

2 (a) ATTEST TO THE NEED FOR LEAVE AND THAT THE COVERED

3 INDIVIDUAL:

4 (I) (A) HAS A SERIOUS HEALTH CONDITION;

5 (B) BECAUSE OF A BIRTH, ADOPTION, OR PLACEMENT THROUGH

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

7 BIRTH, ADOPTION, OR PLACEMENT OF THE CHILD;

8 (C) IS CARING FOR A FAMILY MEMBER WHO HAS A SERIOUS HEALTH

9 CONDITION; OR

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

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

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

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

14 PROVIDER PROVIDING HEALTH CARE TO THE COVERED INDIVIDUAL OR THE

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

16 THE CLAIM THAT THE COVERED INDIVIDUAL OR THE COVERED

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

18 ESTIMATING THE FREQUENCY AND DURATION OF LEAVE NEEDED. TO

19 PROVIDE EVIDENCE THAT THE COVERED INDIVIDUAL OR THE COVERED

20 INDIVIDUAL'S FAMILY MEMBER HAS A SERIOUS HEALTH CONDITION

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

22 THE COVERED INDIVIDUAL MAY PROVIDE DOCUMENTS, INCLUDING, BUT

23 NOT LIMITED TO:

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

25 (II) A VALID PROTECTION ORDER; OR

26 (III) A WRITTEN STATEMENT ESTIMATING THE FREQUENCY AND

27 DURATION OF LEAVE NEEDED FROM A HEALTH CARE PROVIDER OR

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

29 EXAMINED OR CONSULTED WITH THE COVERED INDIVIDUAL OR COVERED

30 INDIVIDUAL'S FAMILY MEMBER.

31 (3) (a) SUBJECT TO LIMITATIONS ESTABLISHED BY THE DIRECTOR

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

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

34 CONDITION:

35 (I) FILE A CLAIM FOR BENEFITS ON BEHALF OF THE COVERED

36 INDIVIDUAL PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION;

37 (II) NOTIFY THE COVERED INDIVIDUAL'S EMPLOYER ON BEHALF OF

38 THE COVERED INDIVIDUAL PURSUANT TO SUBSECTION (1)(e) OF THIS

39 SECTION; OR

40 (III) SUBMIT CERTIFICATION FROM A HEALTH CARE PROVIDER ON

41 BEHALF OF THE COVERED INDIVIDUAL PURSUANT TO SUBSECTION (2)(b) OF

1 THIS SECTION.

2 (b) A COVERED INDIVIDUAL'S FAMILY MEMBER SHALL NOT FILE,  
3 NOTIFY, OR SUBMIT UNDER SUBSECTION (3)(a) OF THIS SECTION IF THE  
4 FAMILY MEMBER IS THE INDIVIDUAL ACCUSED OF DOMESTIC ABUSE,  
5 SEXUAL ASSAULT OR ABUSE, OR STALKING AGAINST THE COVERED  
6 INDIVIDUAL FOR WHICH THE COVERED INDIVIDUAL IS REQUESTING FAMILY  
7 AND MEDICAL LEAVE INSURANCE BENEFITS.

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

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

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

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

20 (b) IF THE COVERED INDIVIDUAL FAILS TO FILE AN APPLICATION  
21 FOR BENEFITS PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, NOTIFY  
22 THE INDIVIDUAL'S EMPLOYER PURSUANT TO SUBSECTION (1)(e) OF THIS  
23 SECTION, OR SUBMIT A CERTIFICATION PURSUANT TO SUBSECTION (2)(b)  
24 OF THIS SECTION, BUT THE PAYMENT OF BENEFITS IS SUBJECT TO THE  
25 LIMITATIONS SPECIFIED IN SECTION 8-13.3-307 (2)(a).

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

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

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

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

40 **8-13.3-307. Duration of benefits - payment intervals.**

41 (1) (a) THE MAXIMUM NUMBER OF WEEKS FOR WHICH AN ELIGIBLE

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

5 (b) THE MAXIMUM NUMBER OF TOTAL WEEKS FOR WHICH AN  
6 ELIGIBLE INDIVIDUAL MAY TAKE FAMILY AND MEDICAL LEAVE AND FOR  
7 WHICH FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE  
8 TO AN ELIGIBLE INDIVIDUAL IN AGGREGATE FOR SEPARATE PURPOSES  
9 SPECIFIED IN SECTION 8-13.3-306 (1)(a) IN ANY CONSECUTIVE  
10 FIFTY-TWO-WEEK PERIOD IS TWELVE WEEKS.

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

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

28 (II) THE ELIGIBLE INDIVIDUAL SUBMITTED THE APPLICATION AND  
29 CERTIFICATION AND NOTIFIED THE INDIVIDUAL'S EMPLOYER AS SOON AS  
30 POSSIBLE.

31 (b) THE DIVISION SHALL NOTIFY THE ELIGIBLE INDIVIDUAL'S  
32 EMPLOYER OF THE DIVISION'S DETERMINATION MADE PURSUANT TO THIS  
33 SUBSECTION (2).

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

38 **8-13.3-308. Amount of benefits - maximum weekly benefit.**

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

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

4 (II) FIFTY PERCENT OF THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE  
5 FOR ALL WAGES THAT EQUAL OR EXCEED FIFTY PERCENT OF THE AVERAGE  
6 WEEKLY WAGE.

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

12 (c) THE DIVISION SHALL CALCULATE AN ELIGIBLE INDIVIDUAL'S  
13 WEEKLY BENEFIT AMOUNT BASED ON THE ELIGIBLE INDIVIDUAL'S WEEKLY  
14 WAGE EARNED FROM THE JOB FROM WHICH THE ELIGIBLE INDIVIDUAL IS  
15 TAKING FAMILY AND MEDICAL LEAVE. IF THE ELIGIBLE INDIVIDUAL IS ABLE  
16 TO CONTINUE WORKING AT AN ADDITIONAL JOB WHERE THE INDIVIDUAL  
17 IS NOT TAKING LEAVE WHILE TAKING FAMILY AND MEDICAL LEAVE, THE  
18 DIVISION SHALL NOT CONSIDER THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE  
19 EARNED FROM THE ADDITIONAL JOB WHEN CALCULATING THE ELIGIBLE  
20 INDIVIDUAL'S WEEKLY BENEFIT AMOUNT.

21 (2) FOR PURPOSES OF CALCULATING AN ELIGIBLE INDIVIDUAL'S  
22 WEEKLY BENEFIT IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION,  
23 THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE IS ONE-THIRTEENTH OF THE  
24 WAGES PAID DURING THE QUARTER OF THE ELIGIBLE INDIVIDUAL'S BASE  
25 PERIOD, AS DEFINED IN SECTION 8-70-103 (2), OR ALTERNATIVE BASE  
26 PERIOD, AS DEFINED IN SECTION 8-70-103 (1.5), IN WHICH THE TOTAL  
27 WAGES WERE HIGHEST. FOR PURPOSES OF THIS SUBSECTION (2), WAGES  
28 INCLUDE, BUT ARE NOT LIMITED TO, SALARY, WAGES, TIPS, COMMISSIONS,  
29 AND OTHER COMPENSATION AS DETERMINED BY THE DIRECTOR BY RULE.

30 (3) AN ELIGIBLE INDIVIDUAL MAY TAKE INTERMITTENT LEAVE IN  
31 INCREMENTS OF ONE HOUR OR SHORTER IF CONSISTENT WITH THE  
32 INCREMENTS THE EMPLOYER TYPICALLY USES TO MEASURE EMPLOYEE  
33 LEAVE; EXCEPT THAT BENEFITS ARE NOT PAYABLE UNTIL THE ELIGIBLE  
34 INDIVIDUAL ACCUMULATES AT LEAST ONE DAY OR EIGHT HOURS OF  
35 FAMILY AND MEDICAL LEAVE.

36 (4) THE DIVISION SHALL NOT REDUCE THE WEEKLY BENEFIT  
37 AMOUNT BY THE AMOUNT OF WAGE REPLACEMENT THAT AN ELIGIBLE  
38 INDIVIDUAL RECEIVES WHILE ON FAMILY AND MEDICAL LEAVE UNDER ANY  
39 OF THE FOLLOWING CONDITIONS, UNLESS THE AGGREGATE AMOUNT AN  
40 ELIGIBLE INDIVIDUAL WOULD RECEIVE WOULD EXCEED THE ELIGIBLE  
41 INDIVIDUAL'S WEEKLY WAGE:

1 (a) A TEMPORARY DISABILITY POLICY OR PROGRAM OF AN  
2 EMPLOYER;

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

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

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

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

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

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

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

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

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

27           (2) (a) (I) EFFECTIVE JANUARY 1, 2023, EACH INDIVIDUAL  
28 EMPLOYED BY AN EMPLOYER IN THIS STATE SHALL PAY SIXTY PERCENT  
29 AND EACH EMPLOYER IN THE STATE SHALL PAY FORTY PERCENT OF THE  
30 PREMIUM AMOUNT DETERMINED IN ACCORDANCE WITH THIS SUBSECTION  
31 (2)(a). THE DIRECTOR SHALL NOT APPLY THE PREMIUM TO WAGES THAT  
32 EXCEED EIGHTY PERCENT OF THE CONTRIBUTION AND BENEFIT BASE LIMIT  
33 ESTABLISHED ANNUALLY BY THE UNITED STATES SOCIAL SECURITY  
34 ADMINISTRATION FOR PURPOSES OF THE FEDERAL "OLD-AGE, SURVIVORS,  
35 AND DISABILITY INSURANCE AMENDMENTS OF 1965", AS AMENDED,  
36 PUB.L. 89-97. PREMIUMS ESTABLISHED IN ACCORDANCE WITH THIS  
37 SUBSECTION (2) ARE FEES AND NOT TAXES.

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

41           (B) FOR THE 2025 CALENDAR YEAR, THE DIRECTOR SHALL SET THE



1 PREMIUM BASED ON A PERCENT OF EMPLOYEE WAGES AND AT THE RATE  
2 NECESSARY TO OBTAIN A TOTAL AMOUNT OF PREMIUM CONTRIBUTIONS  
3 EQUAL TO ONE HUNDRED FIFTY PERCENT OF THE BENEFITS PAID DURING  
4 THE IMMEDIATELY PRECEDING CALENDAR YEAR PLUS AN AMOUNT EQUAL  
5 TO ONE HUNDRED PERCENT OF THE COST OF ADMINISTRATION OF THE  
6 PAYMENT OF THOSE BENEFITS DURING THE IMMEDIATELY PRECEDING  
7 CALENDAR YEAR. THE PREMIUMS ESTABLISHED IN ACCORDANCE WITH THIS  
8 SUBSECTION (2)(a)(II)(B) MUST NOT EXCEED NINETY-NINE ONE  
9 HUNDREDTHS OF ONE PERCENT OF WAGES PER EMPLOYEE.

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

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

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

31 (a) THE LOCAL GOVERNMENT IS NOT REQUIRED TO PAY THE  
32 PREMIUMS IMPOSED IN THIS SECTION OR COLLECT PREMIUMS FROM  
33 EMPLOYEES WHO HAVE ELECTED COVERAGE PURSUANT TO SECTION  
34 8-13.3-313.

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

38 **8-13.3-310. Employment protection - discrimination**  
39 **prohibited - rules.** (1) (a) AN ELIGIBLE INDIVIDUAL WHO WAS EMPLOYED  
40 BY AN EMPLOYER FOR NINETY DAYS OR LONGER AND WHO TAKES FAMILY  
41 AND MEDICAL LEAVE UNDER THIS PART 3 FOR THE INTENDED PURPOSE OF

1 THE LEAVE IS ENTITLED, ON RETURN FROM THE LEAVE:  
2 (I) TO BE RESTORED BY THE EMPLOYER TO THE POSITION OF  
3 EMPLOYMENT HELD BY THE ELIGIBLE INDIVIDUAL WHEN THE LEAVE  
4 COMMENCED; OR  
5 (II) TO BE RESTORED TO AN EQUIVALENT POSITION WITH  
6 EQUIVALENT EMPLOYMENT BENEFITS, PAY, AND OTHER TERMS AND  
7 CONDITIONS OF EMPLOYMENT.  
8 (b) THIS SUBSECTION (1) DOES NOT APPLY TO A SEASONAL  
9 WORKER, AS DEFINED IN SECTION 8-73-106.  
10 (2) AN EMPLOYER SHALL NOT DISCHARGE, DEMOTE, OR OTHERWISE  
11 DISCRIMINATE OR TAKE ANY ADVERSE EMPLOYMENT ACTION AGAINST AN  
12 INDIVIDUAL BECAUSE THE INDIVIDUAL:  
13 (a) FILED FOR, APPLIED FOR, OR USED BENEFITS UNDER THIS PART  
14 3;  
15 (b) COMMUNICATED TO THE EMPLOYER AN INTENT TO FILE A  
16 CLAIM FOR BENEFITS, A COMPLAINT, OR AN APPEAL;  
17 (c) TESTIFIED, AGREED TO TESTIFY, OR OTHERWISE ASSISTED IN  
18 ANY PROCEEDING UNDER THIS PART 3; OR  
19 (d) TOOK, OR ATTEMPTED TO TAKE, FAMILY AND MEDICAL LEAVE.  
20 (3) AN EMPLOYER SHALL NOT REDUCE AN ELIGIBLE INDIVIDUAL'S  
21 BENEFITS THAT HAVE ACCRUED PRIOR TO THE DATE ON WHICH THE FAMILY  
22 AND MEDICAL LEAVE COMMENCED BASED ON THE ELIGIBLE INDIVIDUAL'S  
23 CONDUCT SPECIFIED IN SUBSECTION (2) OF THIS SECTION.  
24 (4) DURING ANY PERIOD OF FAMILY AND MEDICAL LEAVE TAKEN  
25 UNDER THIS PART 3, AN EMPLOYER SHALL MAINTAIN ANY EXISTING  
26 HEALTH BENEFITS OF THE ELIGIBLE INDIVIDUAL FOR THE DURATION OF THE  
27 LEAVE AS IF THE ELIGIBLE INDIVIDUAL CONTINUED TO WORK FROM THE  
28 DATE THE ELIGIBLE INDIVIDUAL COMMENCED FAMILY AND MEDICAL  
29 LEAVE.  
30 (5) (a) THE DIVISION SHALL ENFORCE THIS SECTION, INCLUDING  
31 ESTABLISHING A SYSTEM UTILIZING MULTIPLE MEANS OF COMMUNICATION  
32 TO RECEIVE COMPLAINTS REGARDING NONCOMPLIANCE WITH THIS  
33 SECTION. ANY INDIVIDUAL AGGRIEVED BY A VIOLATION OF THIS SECTION  
34 MAY FILE A COMPLAINT WITH THE DIVISION AGAINST AN EMPLOYER FOR A  
35 VIOLATION OF THIS SECTION.  
36 (b) UPON RECEIVING A COMPLAINT ALLEGING A VIOLATION OF THIS  
37 SECTION, THE DIVISION SHALL INVESTIGATE THE COMPLAINT IN A TIMELY  
38 MANNER AND MAY RESOLVE THE CLAIM THROUGH MEDIATION BETWEEN  
39 THE AGGRIEVED INDIVIDUAL AND THE EMPLOYER IF THE AGGRIEVED  
40 INDIVIDUAL AND THE EMPLOYER EACH AGREE TO MEDIATE AND AGREE TO  
41 THE RESOLUTION.

1 (c) A CLAIM BROUGHT IN ACCORDANCE WITH THIS SECTION MUST  
2 BE FILED WITHIN TWO YEARS AFTER THE DATE OF THE LAST EVENT  
3 CONSTITUTING THE ALLEGED VIOLATION FOR WHICH THE ACTION IS  
4 BROUGHT.

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

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

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

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

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

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

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

35 (h) THE DIRECTOR, BY RULE, SHALL ESTABLISH A FINE STRUCTURE  
36 FOR EMPLOYERS WHO VIOLATE THIS SECTION. THE DIRECTOR SHALL  
37 TRANSFER ANY FINES COLLECTED PURSUANT TO THIS SECTION TO THE  
38 STATE TREASURER FOR DEPOSIT IN THE FUND.

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

41 (7) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE OF A LOCAL

1 GOVERNMENT THAT HAS ELECTED COVERAGE PURSUANT TO SECTION  
2 8-13.3-313.

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

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

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

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

38 (2) (a) FOR A COVERED INDIVIDUAL WHO IS ELIGIBLE FOR FAMILY  
39 AND MEDICAL LEAVE INSURANCE BENEFITS DUE TO A SERIOUS HEALTH  
40 CONDITION RESULTING FROM AN ACCIDENT, INJURY, OR OCCUPATIONAL  
41 DISEASE FOR WHICH THE RIGHT OF COMPENSATION EXISTS UNDER SECTION

1 8-41-301, THE WEEKLY BENEFIT AMOUNT SHALL BE REDUCED, BUT NOT  
2 BELOW ZERO, BY AN AMOUNT EQUAL TO SEVENTY-FIVE PERCENT OF:

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

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

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

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

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

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

39 (e) WHERE INDIVIDUALS ARE CONCURRENTLY ELIGIBLE FOR  
40 BENEFITS DUE TO A SERIOUS HEALTH CONDITION RESULTING FROM AN  
41 ACCIDENT, INJURY, OR OCCUPATIONAL DISEASE FOR WHICH THE RIGHT OF

1 COMPENSATION EXISTS UNDER SECTION 8-41-301 AND UNDER THIS PART  
2 3 FOR A PURPOSE UNRELATED TO THAT SERIOUS HEALTH CONDITION, THE  
3 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS SHALL BE REDUCED BY  
4 AN AMOUNT TO BE DETERMINED BY THE DIRECTOR BY RULE. COMBINED  
5 WORKERS' COMPENSATION BENEFITS AND FAMILY AND MEDICAL LEAVE  
6 INSURANCE BENEFITS PAID IN ACCORDANCE WITH THIS SUBSECTION (2)(e)  
7 MUST NOT EXCEED A COVERED INDIVIDUAL'S WEEKLY WAGE. THE  
8 DIRECTOR SHALL ADOPT RULES TO ESTABLISH THE PROCESS AND REQUIRED  
9 DOCUMENTATION REQUIRED FOR CONCURRENT RECEIPT OF BENEFITS.

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

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

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

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

23 **8-13.3-312. Erroneous payments - disqualification for benefits**  
24 **- penalties - rules.** (1) A COVERED INDIVIDUAL WHO, IN CONNECTION  
25 WITH AN APPLICATION FOR BENEFITS UNDER THE PROGRAM, WILLFULLY  
26 MAKES A FALSE STATEMENT OR MISREPRESENTATION REGARDING A  
27 MATERIAL FACT OR WILLFULLY FAILS TO REPORT A MATERIAL FACT IS  
28 DISQUALIFIED FROM:

29 (a) FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS FOR ONE  
30 YEAR FROM THE DATE THE DIVISION DISCOVERS THE FALSE STATEMENT,  
31 MISREPRESENTATION, OR WILLFUL FAILURE TO REPORT A MATERIAL FACT;  
32 AND

33 (b) EMPLOYMENT PROTECTION, AS PROVIDED IN SECTION  
34 8-13.3-310 (1)(a).

35 (2) IF FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAID  
36 ERRONEOUSLY OR AS A RESULT OF WILLFUL MISREPRESENTATION, OR IF A  
37 CLAIM FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS IS REJECTED  
38 AFTER BENEFITS ARE PAID, THE DIVISION MAY SEEK REPAYMENT OF  
39 BENEFITS FROM THE RECIPIENT. THE DIRECTOR SHALL EXERCISE  
40 DISCRETION TO WAIVE, IN WHOLE OR IN PART, THE AMOUNT OF ANY  
41 REPAYMENTS WHERE THE RECOVERY WOULD BE AGAINST EQUITY AND

1 GOOD CONSCIENCE. THE DIRECTOR MAY ADOPT RULES TO DEVELOP A  
2 PROCEDURE FOR RECOVERING ERRONEOUS PAYMENTS OF BENEFITS.

3 **8-13.3-313. Elective coverage - withdrawal from coverage -**  
4 **rules.** (1) AN EMPLOYEE OF A LOCAL GOVERNMENT THAT HAS DECLINED  
5 PARTICIPATION IN THE PROGRAM PURSUANT TO SECTION 8-13.3-314 OR A  
6 SELF-EMPLOYED PERSON, INCLUDING AN INDEPENDENT CONTRACTOR, SOLE  
7 PROPRIETOR, PARTNER, OR JOINT VENTURER, MAY ELECT COVERAGE  
8 UNDER THE PROGRAM FOR AN INITIAL PERIOD OF NOT LESS THAN THREE  
9 YEARS OR A SUBSEQUENT PERIOD OF NOT LESS THAN ONE YEAR  
10 IMMEDIATELY FOLLOWING ANOTHER PERIOD OF COVERAGE. THE  
11 EMPLOYEE OF A LOCAL GOVERNMENT OR SELF-EMPLOYED PERSON MUST  
12 FILE A NOTICE OF ELECTION IN WRITING WITH THE DIRECTOR IN THE FORM  
13 AND MANNER REQUIRED BY THE DIVISION. THE ELECTION BECOMES  
14 EFFECTIVE ON THE DATE THE NOTICE IS FILED.

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

22 (3) AN EMPLOYEE OF A LOCAL GOVERNMENT OR A SELF-EMPLOYED  
23 PERSON WHO HAS ELECTED COVERAGE SHALL PAY ONLY THE EMPLOYEE  
24 PORTION OF THE PREMIUM AMOUNT ESTABLISHED PURSUANT TO SECTION  
25 8-13.3-309 (2)(a).

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

31 **8-13.3-314. Local government employers' ability to decline**  
32 **participation in program - rules.** (1) A LOCAL GOVERNMENT MAY  
33 DECLINE PARTICIPATION IN THE FAMILY AND MEDICAL LEAVE INSURANCE  
34 PROGRAM IN THE FORM AND MANNER DETERMINED BY THE DIRECTOR BY  
35 RULE.

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

39 (3) THE DIRECTOR SHALL PROMULGATE REASONABLE RULES FOR  
40 THE IMPLEMENTATION OF THIS SECTION. AT A MINIMUM, THE RULES MUST  
41 INCLUDE:

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

3 (b) THE PROCESS BY WHICH A LOCAL GOVERNMENT THAT HAS  
4 PREVIOUSLY DECLINED PARTICIPATION IN THE PROGRAM MAY  
5 SUBSEQUENTLY ELECT COVERAGE IN THE PROGRAM; AND

6 (c) THE NOTICE THAT A LOCAL GOVERNMENT IS REQUIRED TO  
7 PROVIDE ITS EMPLOYEES REGARDING WHETHER THE LOCAL GOVERNMENT  
8 IS PARTICIPATING IN THE PROGRAM, THE ABILITY OF THE EMPLOYEES OF A  
9 LOCAL GOVERNMENT THAT HAS DECLINED PARTICIPATION TO ELECT  
10 COVERAGE PURSUANT TO SECTION 8-13.3-313, AND ANY OTHER  
11 NECESSARY REQUIREMENTS.

12 **8-13.3-315. Employer option to provide family and medical**  
13 **leave benefits through a private plan - approval requirements - rules.**

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

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

21 (a) CONFERS ALL OF THE SAME RIGHTS, PROTECTIONS, AND  
22 BENEFITS PROVIDED TO COVERED INDIVIDUALS UNDER THIS PART 3,  
23 INCLUDING:

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

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

30 (III) ALLOWING FAMILY AND MEDICAL LEAVE UNDER SECTION  
31 8-13.3-306 (1)(a) TO BE TAKEN TO CARE FOR ANY FAMILY MEMBER;

32 (IV) ALLOWING FAMILY AND MEDICAL LEAVE UNDER SECTION  
33 8-13.3-306 (1)(a) TO BE TAKEN BY A COVERED INDIVIDUAL WITH A  
34 SERIOUS HEALTH CONDITION OR TO CARE FOR A FAMILY MEMBER WITH A  
35 SERIOUS HEALTH CONDITION;

36 (V) PROVIDING A WAGE REPLACEMENT RATE DURING ALL FAMILY  
37 AND MEDICAL LEAVE OF AT LEAST THE AMOUNT PROVIDED IN SECTION  
38 8-13.3-308 (1)(a);

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



1 (VII) ALLOWING FAMILY AND MEDICAL LEAVE TO BE TAKEN  
2 INTERMITTENTLY AS AUTHORIZED BY SECTION 8-13.3-308 (3);  
3 (VIII) IMPOSING NO ADDITIONAL CONDITIONS OR RESTRICTIONS ON  
4 THE USE OF FAMILY AND MEDICAL LEAVE OR BENEFITS BEYOND THOSE  
5 EXPLICITLY AUTHORIZED BY THIS PART 3 OR RULES ISSUED PURSUANT TO  
6 THIS PART 3;  
7 (IX) ALLOWING ANY INDIVIDUAL COVERED UNDER A PRIVATE  
8 PLAN WHO IS ELIGIBLE TO TAKE FAMILY AND MEDICAL LEAVE UNDER THIS  
9 PART 3 TO TAKE FAMILY AND MEDICAL LEAVE UNDER THE PRIVATE PLAN;  
10 AND  
11 (X) PROVIDING THAT THE COST TO A COVERED INDIVIDUAL UNDER  
12 A PRIVATE PLAN IS NOT GREATER THAN THE COST CHARGED TO THE  
13 COVERED INDIVIDUAL IF THE COVERED INDIVIDUAL WERE PAYING  
14 PREMIUMS INTO THE FUND CREATED IN SECTION 8-13.3-309.  
15 (b) PROVIDES FOR ALL COVERED INDIVIDUALS THROUGHOUT THEIR  
16 PERIOD OF EMPLOYMENT; AND  
17 (c) (I) IF THE PRIVATE PLAN IS IN THE FORM OF SELF-INSURANCE,  
18 FURNISHES A BOND TO THE STATE, WITH A SURETY COMPANY AUTHORIZED  
19 TO TRANSACT BUSINESS IN THE STATE, IN THE FORM AND AMOUNT  
20 REQUIRED BY THE DIVISION; OR  
21 (II) IF THE PRIVATE PLAN IS IN THE FORM OF A THIRD PARTY THAT  
22 PROVIDES FOR INSURANCE, ISSUES THE FORMS OF THE POLICY BY AN  
23 INSURER APPROVED BY THE DIVISION.  
24 (3) THE DIVISION MAY WITHDRAW THE APPROVAL GRANTED UNDER  
25 THIS SECTION FOR:  
26 (a) FAILURE TO PAY BENEFITS;  
27 (b) FAILURE TO PAY BENEFITS TIMELY AND IN A MANNER  
28 CONSISTENT WITH THE PAYMENT OF BENEFITS PURSUANT TO SECTION  
29 8-13.3-307 AND 8-13.3-308;  
30 (c) FAILURE TO MAINTAIN AN ADEQUATE SURETY BOND AS  
31 REQUIRED IN SUBSECTION (2)(c)(I) OF THIS SECTION;  
32 (d) MISUSE OF PRIVATE PLAN MONEY;  
33 (e) FAILURE TO SUBMIT REPORTS OR COMPLY WITH AUDITS OR  
34 OTHER COMPLIANCE REQUIREMENTS ESTABLISHED BY THE DIRECTOR BY  
35 RULE;  
36 (f) FAILURE TO COMPLY WITH THIS PART 3 OR THE RULES  
37 PROMULGATED PURSUANT TO THIS PART 3;  
38 (g) VIOLATION OF THE TERMS AND CONDITIONS OF THE PRIVATE  
39 PLAN; OR  
40 (h) ANY OTHER REASON AS MAY BE DETERMINED BY THE DIRECTOR  
41 BY RULE.

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

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

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

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

16 (7) A COVERED INDIVIDUAL WHO IS ELIGIBLE TO RECEIVE BENEFITS  
17 FROM AN EMPLOYER THROUGH AN APPROVED PRIVATE PLAN PURSUANT TO  
18 THIS SECTION IS NOT ELIGIBLE TO RECEIVE BENEFITS FROM THE FUND  
19 WHEN TAKING FAMILY AND MEDICAL LEAVE FROM THE EMPLOYER  
20 COVERED BY THE PRIVATE PLAN.

21 (8) THE DIRECTOR SHALL ANNUALLY DETERMINE THE TOTAL  
22 AMOUNT EXPENDED BY THE DIVISION FOR COSTS ARISING OUT OF THE  
23 ADMINISTRATION OF PRIVATE PLANS. EACH ENTITY OFFERING A PRIVATE  
24 PLAN PURSUANT TO THIS SECTION SHALL REIMBURSE THE DIVISION FOR  
25 THE COSTS ARISING OUT OF THE PRIVATE PLANS IN THE AMOUNT, FORM,  
26 AND MANNER DETERMINED BY THE DIRECTOR BY RULE. THE DIRECTOR  
27 SHALL TRANSFER PAYMENTS RECEIVED PURSUANT TO THIS SECTION TO THE  
28 STATE TREASURY FOR DEPOSIT IN THE FUND.

29 **8-13.3-316. Department to perform actuarial and feasibility**  
30 **studies - report to the governor, general assembly, and the board -**  
31 **repeal.** (1) THE DEPARTMENT SHALL CONTRACT FOR THE SERVICES OF A  
32 QUALIFIED PRIVATE ACTUARY TO PERFORM AN ACTUARIAL STUDY OF THE  
33 FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM ESTABLISHED  
34 PURSUANT TO SECTION 8-13.3-305.

35 (2) (a) THE DEPARTMENT SHALL STUDY THE FEASIBILITY OF  
36 CONTRACTING WITH A THIRD PARTY TO ADMINISTER THE PROGRAM  
37 CREATED IN THIS PART 3. IN DETERMINING WHETHER A THIRD PARTY  
38 SHOULD ADMINISTER THE PROGRAM, THE DEPARTMENT SHALL CONSIDER  
39 WHETHER DOING SO WOULD BE COST-EFFECTIVE, IN THE SHORT TERM AND  
40 IN THE LONG TERM FOR BOTH THE STATE AND COVERED INDIVIDUALS, AND  
41 LEAD TO MORE EFFICIENT PROGRAM ADMINISTRATION AND BENEFIT

1 MANAGEMENT WHILE ASSURING QUALITY, WORKER EXPERIENCE,  
2 AFFORDABILITY, COVERAGE, AND PROGRAM ACCOUNTABILITY.

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

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

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

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

17 **8-13.3-317. Family and medical leave insurance program**  
18 **advisory board - repeal.** (1) THERE IS HEREBY CREATED IN THE DIVISION  
19 THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM ADVISORY  
20 BOARD, REFERRED TO IN THIS SECTION AS THE "BOARD".

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

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

28 (II) THREE MEMBERS WHO ARE PRIVATE EMPLOYERS WITH A  
29 RANGE OF BUSINESS SIZE AND EXPERIENCE IN PROVIDING EMPLOYEES WITH  
30 PAID FAMILY AND MEDICAL LEAVE, EACH OF WHOM SHALL BE APPOINTED  
31 FROM A LIST OF AT LEAST THREE NAMES SUBMITTED BY A RECOGNIZED  
32 STATEWIDE ORGANIZATION OF EMPLOYERS;

33 (III) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATE POLICY  
34 ORGANIZATION THAT WORKS ON ISSUES OF ECONOMIC OPPORTUNITY;

35 (IV) ONE MEMBER WHO IS A PRIVATE INSURER WITH EXPERIENCE  
36 IN ADMINISTERING TEMPORARY DISABILITY OR FAMILY AND MEDICAL  
37 LEAVE INSURANCE BENEFITS;

38 (V) ONE MEMBER WHO REPRESENTS A STATE POLICY  
39 ORGANIZATION THAT WORKS ON HEALTH ADVOCACY;

40 (VI) ONE LABOR ECONOMIST WITH DEMONSTRATED RESEARCH OR  
41 EXPERTISE IN STUDYING PAID FAMILY AND MEDICAL LEAVE, LABOR

1 STANDARDS, AND THE DATA NECESSARY TO DO SO;  
2 (VII) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATE  
3 DOMESTIC VIOLENCE AND SEXUAL ASSAULT ORGANIZATION;  
4 (VIII) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATE  
5 ORGANIZATION THAT HAS EXPERTISE WITH MILITARY FAMILY ADVOCACY;  
6 (IX) ONE MEMBER WHO IS A REPRESENTATIVE OF ORGANIZED  
7 LABOR; AND  
8 (X) TWO NONVOTING MEMBERS, ONE OF WHOM MUST REPRESENT  
9 THE DEPARTMENT.  
10 (b) THE GOVERNOR SHALL CONSIDER ETHNICITY, GENDER, AND  
11 GEOGRAPHIC REPRESENTATION IN APPOINTING THE MEMBERS OF THE  
12 BOARD.  
13 (c) THE GOVERNOR SHALL MAKE THE INITIAL APPOINTMENTS TO  
14 THE BOARD AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS  
15 SECTION.  
16 (3) EACH MEMBER OF THE BOARD SERVES AT THE PLEASURE OF  
17 THE GOVERNOR.  
18 (4) NOTWITHSTANDING SECTION 2-2-326, EACH MEMBER OF THE  
19 BOARD SERVES WITHOUT COMPENSATION BUT IS ENTITLED TO RECEIVE  
20 REIMBURSEMENT FROM MONEY IN THE FUND CREATED IN SECTION  
21 8-13.3-309 OR APPROPRIATIONS FROM THE GENERAL ASSEMBLY FOR  
22 ACTUAL AND NECESSARY EXPENSES THE MEMBER INCURS IN THE  
23 PERFORMANCE OF THE MEMBER'S DUTIES AS A MEMBER OF THE BOARD.  
24 (5)(a) THE MEMBER REPRESENTING THE DEPARTMENT SHALL CALL  
25 THE FIRST MEETING OF THE BOARD.  
26 (b) THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.  
27 (c) THE BOARD SHALL MEET AT LEAST FOUR TIMES EVERY YEAR.  
28 THE CHAIR MAY CALL SUCH ADDITIONAL MEETINGS AS ARE NECESSARY  
29 FOR THE BOARD TO COMPLETE ITS DUTIES.  
30 (6) THE BOARD SHALL:  
31 (a) NO LATER THAN JUNE 1, 2020, MAKE RECOMMENDATIONS TO  
32 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT BASED ON THE ACTUARIAL  
33 AND FEASIBILITY STUDIES PROVIDED TO THE BOARD PURSUANT TO SECTION  
34 8-13.3-316 (3), USING THE CRITERIA SPECIFIED IN SECTION 8-13.3-316  
35 (2)(a);  
36 (b) PROVIDE COMMENT ON DEPARTMENT RULE-MAKING, POLICIES,  
37 IMPLEMENTATION OF THIS PART 3, UTILIZATION OF BENEFITS, AND OTHER  
38 INITIATIVES;  
39 (c) STUDY ISSUES THE BOARD DETERMINES TO REQUIRE ITS  
40 CONSIDERATION; AND  
41 (d) REVIEW THE REPORT FROM THE DIVISION SUBMITTED IN

1 ACCORDANCE WITH SECTION 8-13.3-319.

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

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

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

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

15 (II) REQUIREMENTS EXIST PERTAINING TO ESTIMATED TAX  
16 PAYMENTS;

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

21 (IV) THE INDIVIDUAL IS PERMITTED TO CHANGE A PREVIOUSLY  
22 ELECTED WITHHOLDING STATUS.

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

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

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

31 **8-13.3-319. Reports.** (1) BY SEPTEMBER 1, 2024, AND BY EACH  
32 SEPTEMBER 1 THEREAFTER, THE DIVISION SHALL SUBMIT A REPORT ON  
33 PROJECTED AND ACTUAL PROGRAM PARTICIPATION, SPECIFYING INCOME  
34 LEVEL, GENDER, RACE, AND ETHNICITY OF PARTICIPANTS AND PURPOSE  
35 AND DURATION OF LEAVE; PREMIUM RATES; FUND BALANCES; AND  
36 OUTREACH EFFORTS TO:

37 (a) THE SENATE COMMITTEES ON BUSINESS, LABOR, AND  
38 TECHNOLOGY AND HEALTH AND HUMAN SERVICES, OR THEIR SUCCESSOR  
39 COMMITTEES;

40 (b) THE HOUSE OF REPRESENTATIVES COMMITTEES ON HEALTH  
41 AND INSURANCE AND BUSINESS AFFAIRS AND LABOR, OR THEIR SUCCESSOR

1 COMMITTEES; AND  
2 (c) THE FAMILY AND MEDICAL LEAVE INSURANCE ADVISORY  
3 BOARD CREATED IN SECTION 8-13.3-317.  
4 (2) THE DIVISION SHALL POST THE REPORT ON THE DEPARTMENT'S  
5 WEBSITE. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT  
6 REQUIRED IN THIS SECTION CONTINUES INDEFINITELY.  
7 **8-13.3-320. Rules.** (1) THE DIRECTOR MAY ADOPT RULES AS  
8 NECESSARY OR AS SPECIFIED IN THIS PART 3 FOR THE IMPLEMENTATION  
9 AND ADMINISTRATION OF THIS PART 3.  
10 (2) THE DIRECTOR SHALL ADOPT RULES:  
11 (a) ESTABLISHING THE FORM AND MANNER OF FILING A CLAIM FOR  
12 BENEFITS PURSUANT TO SECTION 8-13.3-306 (1)(b); AND  
13 (b) SETTING PREMIUM AMOUNTS PURSUANT TO SECTION  
14 8-13.3-309 (2)(a);  
15 (c) PROVIDING GUIDANCE ON THE FACTORS USED TO DETERMINE  
16 WHETHER AN INDIVIDUAL IS A COVERED INDIVIDUAL'S FAMILY MEMBER;  
17 (d) ESTABLISHING A FINE STRUCTURE PURSUANT TO SECTIONS  
18 8-13.3-310 (5)(h) AND 8-13.3-315 (4);  
19 (e) IMPLEMENTING SECTION 8-13.3-314; AND  
20 (f) DETERMINING THE TOTAL AMOUNT EXPENDED FOR COSTS  
21 ARISING OUT OF PRIVATE PLANS, APPROPRIATE REIMBURSEMENT RATES,  
22 AND THE FORM AND MANNER FOR REIMBURSEMENT PURSUANT TO SECTION  
23 8-13.3-315 (8).  
24 **8-13.3-321. Benefits available regardless of citizenship or**  
25 **immigration status.** NOTWITHSTANDING SECTION 24-76.5-103, FAMILY  
26 AND MEDICAL LEAVE AND FAMILY AND MEDICAL LEAVE INSURANCE  
27 BENEFITS ARE AVAILABLE TO ALL ELIGIBLE INDIVIDUALS REGARDLESS OF  
28 THEIR CITIZENSHIP OR IMMIGRATION STATUS.  
29 **SECTION 2.** In Colorado Revised Statutes, 2-3-1203, **add**  
30 (17)(a)(IV) as follows:  
31 **2-3-1203. Sunset review of advisory committees - legislative**  
32 **declaration - definition - repeal.** (17) (a) The following statutory  
33 authorizations for the designated advisory committees will repeal on  
34 September 1, 2026:  
35 (IV) THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM  
36 ADVISORY BOARD CREATED IN SECTION 8-13.3-317.  
37 **SECTION 3.** In Colorado Revised Statutes, 24-1-121, **add** (3)(k)  
38 as follows:  
39 **24-1-121. Department of labor and employment - creation.**  
40 (3) The department of labor and employment consists of the following  
41 divisions and programs:

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

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

10 **24-34-402.7. Unlawful action against employees seeking**  
11 **protection - notice to revisor of statutes - repeal.** (5) THIS SECTION  
12 WILL BE REPEALED WHEN THE FIRST FAMILY AND MEDICAL LEAVE  
13 INSURANCE BENEFIT PAYMENT IS MADE TO AN ELIGIBLE INDIVIDUAL IN  
14 ACCORDANCE WITH PART 3 OF ARTICLE 13.3 OF TITLE 8. THE DIRECTOR OF  
15 THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE IN THE  
16 DEPARTMENT OF LABOR AND EMPLOYMENT SHALL NOTIFY THE REVISOR OF  
17 STATUTES IN WRITING OF THE DATE ON WHICH THE CONDITION SPECIFIED  
18 IN THIS SUBSECTION (5) HAS OCCURRED BY E-MAILING THE NOTICE TO  
19 REVISOROFSTATUTES.GA@STATE.CO.US. THIS SECTION IS REPEALED,  
20 EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE PAYMENT  
21 OF BENEFITS OCCURRED OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE,  
22 UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

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

25 **39-22-104. Income tax imposed on individuals, estates, and**  
26 **trusts - single rate - legislative declaration - definitions - repeal.**  
27 (4) There shall be subtracted from federal taxable income:

28 (z) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
29 1, 2023, AN AMOUNT EQUAL TO ANY AMOUNT RECEIVED BY A TAXPAYER  
30 AS FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS PURSUANT TO PART  
31 3 OF ARTICLE 13.3 OF TITLE 8.

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

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