

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-0623.01 Yelana Love x2295

HOUSE BILL 18-1001

HOUSE SPONSORSHIP

Winter and Gray,

SENATE SPONSORSHIP

Donovan and Fields,

House Committees

Business Affairs and Labor
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A FAMILY AND MEDICAL LEAVE**
102 **INSURANCE PROGRAM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the family and medical leave insurance (FAMLI) program in 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 or who is unable to work due to the individual's own serious

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 6, 2018

health condition.

Each employee in the state will pay a premium determined by the director of the division by rule, which premium is based on a percentage of the employee's yearly wages and must not initially exceed .99%. The premiums are deposited into the family and medical leave insurance fund from which family and medical leave benefits are paid to eligible individuals. The director may also impose a solvency surcharge by rule if determined necessary to ensure the soundness of the fund. The division is established as an enterprise, and premiums paid into the fund are not considered state revenues for purposes of the taxpayer's bill of rights (TABOR).

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Colorado is a family-friendly state;

5 (b) Providing the workers of Colorado with family and medical
6 leave insurance will encourage an entrepreneurial atmosphere, encourage
7 economic growth, and promote a healthy business climate; and

8 (c) The premiums collected under the "FAMLI Act", part 3 of
9 article 13.3 of title 8, Colorado Revised Statutes, are used exclusively for
10 the payment of family and medical leave benefits and the administration
11 of the family and medical leave insurance program.

12 **SECTION 2.** In Colorado Revised Statutes, **add** part 3 to article
13 13.3 of title 8 as follows:

14 **PART 3**

15 **FAMILY AND MEDICAL LEAVE INSURANCE**

16 **8-13.3-301. Short title.** THE SHORT TITLE OF THIS PART 3 IS THE
17 "FAMILY AND MEDICAL LEAVE INSURANCE ACT" OR "FAMLI ACT".

18 **8-13.3-302. Definitions.** AS USED IN THIS PART 3, UNLESS THE
19 CONTEXT OTHERWISE REQUIRES:

1 (1) "ANNUAL MEAN WAGE" MEANS THE ESTIMATED TOTAL ANNUAL
2 WAGES OF ALL OCCUPATIONS IN COLORADO DIVIDED BY THE
3 OCCUPATIONS' ESTIMATED EMPLOYMENT, AS DETERMINED BY THE
4 FEDERAL BUREAU OF LABOR STATISTICS IN THE UNITED STATES
5 DEPARTMENT OF LABOR.

6 (2) "COLORADO PERSONAL INCOME" MEANS THE TOTAL PERSONAL
7 INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE
8 BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF
9 COMMERCE, OR ANY SUCCESSOR INDEX.

10 (3) "COVERED INDIVIDUAL" MEANS AN INDIVIDUAL WHO HAS BEEN
11 EMPLOYED BY AND WORKED FOR ONE OR MORE EMPLOYERS FOR AT LEAST
12 SIX HUNDRED EIGHTY HOURS, OR FIVE HUNDRED FOUR HOURS IN THE CASE
13 OF AIRLINE FLIGHT CREW MEMBERS, DURING THE PERSON'S QUALIFYING
14 YEAR.

15 (4) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
16 EMPLOYMENT.

17 (5) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

18 (6) "DIVISION" MEANS THE DIVISION OF FAMILY AND MEDICAL
19 LEAVE INSURANCE CREATED IN SECTION 8-13.3-303.

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

1 DIRECTION IN THE PERFORMANCE OF THE SERVICE, BOTH UNDER HIS OR
2 HER CONTRACT FOR THE PERFORMANCE OF SERVICE AND IN FACT, AND
3 WHO IS CUSTOMARILY ENGAGED IN AN INDEPENDENT TRADE, OCCUPATION,
4 PROFESSION, OR BUSINESS RELATED TO THE SERVICE PERFORMED IS NOT
5 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 THE FMLA OR PART 2 OF THIS
19 ARTICLE 13.3.

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

22 (12) "FAMILY MEMBER" MEANS AN EMPLOYEE'S IMMEDIATE
23 FAMILY MEMBER, AS DEFINED IN SECTION 2-4-401 (3.7), AN EMPLOYEE'S
24 DOMESTIC PARTNER, AS DEFINED IN SECTION 24-50-603 (6.5), AND UP TO
25 ONE ADDITIONAL PERSON DESIGNATED ANNUALLY BY THE EMPLOYEE IN
26 ACCORDANCE WITH SECTION 8-13.3-306.

27 (13) "FMLA" MEANS THE FEDERAL "FAMILY AND MEDICAL LEAVE

1 ACT OF 1993", PUB.L. 103-3, AS AMENDED, 29 U.S.C. SEC. 2601 ET SEQ.

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

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

6 (16) "HEALTH CARE PROVIDER" HAS THE SAME MEANING AS SET
7 FORTH IN THE FMLA.

8 (17) "PREMIUM" MEANS THE PAYMENTS AN INDIVIDUAL IS
9 REQUIRED BY THIS PART 3 TO PAY TO THE DIVISION FOR THE PROGRAM.

10 (18) "PROGRAM" MEANS THE FAMILY AND MEDICAL LEAVE
11 INSURANCE PROGRAM ESTABLISHED PURSUANT TO THIS PART 3.

12 (19) "QUALIFYING YEAR" MEANS THE FIRST FOUR OF THE LAST FIVE
13 COMPLETED CALENDAR QUARTERS OR THE LAST FOUR COMPLETED
14 CALENDAR QUARTERS IMMEDIATELY PRECEDING THE FIRST DAY OF A
15 COVERED INDIVIDUAL'S APPLICATION YEAR.

16 (20) "RECENT AVERAGE CHANGE IN COLORADO PERSONAL
17 INCOME" MEANS THE AVERAGE PERCENTAGE CHANGE IN COLORADO
18 PERSONAL INCOME FROM ONE CALENDAR YEAR TO THE NEXT FOR THE SIX
19 IMMEDIATELY PRECEDING CALENDAR YEARS.

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

22 (a) INPATIENT CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL
23 MEDICAL CARE FACILITY; OR

24 (b) CONTINUING TREATMENT BY A HEALTH CARE PROVIDER.

25 **8-13.3-303. Division of family and medical leave insurance -**
26 **creation as an enterprise - authority to issue bonds.** (1) THERE IS
27 HEREBY CREATED IN THE DEPARTMENT THE DIVISION OF FAMILY AND

1 MEDICAL LEAVE INSURANCE, THE HEAD OF WHICH IS THE DIRECTOR OF THE
2 DIVISION.

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

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

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

20 (d) THE DIVISION IS HEREBY AUTHORIZED TO ISSUE REVENUE
21 BONDS FOR THE EXPENSES OF THE DIVISION, WHICH BONDS MAY BE
22 SECURED BY ANY REVENUES OF THE DIVISION.

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

1 SPECIFIED IN THIS PART 3.

2 (b) STARTING JULY 1, 2019, 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, BY RULE, SHALL ESTABLISH PROCEDURES AND
6 FORMS FOR FILING CLAIMS FOR BENEFITS UNDER THE PROGRAM. THE
7 DIVISION SHALL NOTIFY AN EMPLOYER WITHIN FIVE BUSINESS DAYS AFTER
8 A COVERED INDIVIDUAL FILES A CLAIM FOR BENEFITS UNDER SECTION
9 8-13.3-305.

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

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

24 (5) (a) BY JANUARY 1, 2020, AND FOR AS LONG AS THE PROGRAM
25 CONTINUES, THE DIVISION SHALL DEVELOP AND IMPLEMENT OUTREACH
26 SERVICES TO EDUCATE THE PUBLIC ABOUT THE AVAILABILITY OF FAMILY
27 AND MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 3 FOR

1 COVERED INDIVIDUALS.

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

5 (I) ELIGIBILITY REQUIREMENTS;

6 (II) THE CLAIMS PROCESS;

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

9 (IV) NOTICE AND MEDICAL CERTIFICATION REQUIREMENTS;

10 (V) REINSTATEMENT AND NONDISCRIMINATION RIGHTS;

11 (VI) CONFIDENTIALITY OF RECORDS;

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

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

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

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.

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, 2021,
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 HE OR SHE HAS A SERIOUS HEALTH CONDITION;

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

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

16 (IV) FOR ANY OTHER PURPOSE AUTHORIZED BY THE FMLA; OR

17 (V) FOR A QUALIFYING EXIGENCY RELATED TO A FAMILY
18 MEMBER'S MILITARY SERVICE IN ACCORDANCE WITH 29 U.S.C. SEC. 2612
19 (a)(1)(E);

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

22 (c) IS A COVERED INDIVIDUAL;

23 (d) CONSENTS TO THE DISCLOSURE OF INFORMATION OR RECORDS
24 DEEMED CONFIDENTIAL UNDER STATE LAW PURSUANT TO SECTION
25 8-13.3-304 (4); AND

26 (e) IF CURRENTLY EMPLOYED, ATTESTS, IN THE APPLICATION FOR
27 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS, THAT THE INDIVIDUAL

1 NOTIFIED HIS OR HER EMPLOYER IN WRITING OF THE INTENT TO TAKE
2 FAMILY AND MEDICAL LEAVE FROM WORK FOR ONE OF THE PURPOSES
3 SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION.

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

7 (a) ATTEST THAT THE COVERED INDIVIDUAL:

8 (I) (A) BECAUSE OF A BIRTH, ADOPTION, OR PLACEMENT THROUGH
9 FOSTER CARE, IS CARING FOR A NEW CHILD DURING THE FIRST YEAR AFTER
10 BIRTH, ADOPTION, OR PLACEMENT OF THE CHILD;

11 (B) IS CARING FOR A FAMILY MEMBER WHO HAS A SERIOUS HEALTH
12 CONDITION;

13 (C) HAS A SERIOUS HEALTH CONDITION; OR

14 (D) IS TAKING LEAVE FOR A QUALIFYING EXIGENCY RELATED TO
15 A FAMILY MEMBER'S MILITARY SERVICE IN ACCORDANCE WITH 29 U.S.C.
16 SEC. 2612 (a)(1)(E);

17 (II) IS NOT RECEIVING UNEMPLOYMENT INSURANCE BENEFITS OR
18 BENEFITS UNDER A DISABILITY INSURANCE POLICY IN AN AMOUNT THAT,
19 IF COMBINED WITH THE BENEFITS AVAILABLE TO THE COVERED INDIVIDUAL
20 UNDER THE PROGRAM, WOULD EXCEED THE COVERED INDIVIDUAL'S
21 WAGES, AS DETERMINED BY THE DIVISION; AND

22 (b) FOR LEAVE DESCRIBED IN SUBSECTION (1)(a)(I) OR (1)(a)(III)
23 OF THIS SECTION, SUBMIT A CERTIFICATION FROM THE HEALTH CARE
24 PROVIDER PROVIDING HEALTH CARE TO THE COVERED INDIVIDUAL OR THE
25 COVERED INDIVIDUAL'S FAMILY MEMBER, AS APPLICABLE, SUPPORTING
26 THE CLAIM THAT THE COVERED INDIVIDUAL OR THE COVERED
27 INDIVIDUAL'S FAMILY MEMBER HAS A SERIOUS HEALTH CONDITION.

1 (3) A COVERED INDIVIDUAL WHO MEETS THE REQUIREMENTS OF
2 SUBSECTION (2)(a)(I) OF THIS SECTION IS ELIGIBLE FOR FAMILY AND
3 MEDICAL LEAVE INSURANCE BENEFITS:

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

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

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

16 **8-13.3-306. Designation of a designated person.** AN EMPLOYER
17 MAY ESTABLISH A UNIFORM PROCESS FOR EMPLOYEES TO SELECT A
18 DESIGNATED PERSON FOR WHOM THE EMPLOYEE MAY TAKE FAMILY AND
19 MEDICAL LEAVE WITHIN THIRTY DAYS AFTER THE EMPLOYEE'S DATE OF
20 HIRE. THEREAFTER, THE EMPLOYER MUST PERMIT THE EMPLOYEE TO MAKE
21 OR CHANGE THE DESIGNATION ON AN ANNUAL BASIS. IF AN EMPLOYER
22 ESTABLISHES A UNIFORM PROCESS, THE COVERED EMPLOYEE MUST MAKE
23 THE DESIGNATION IN ACCORDANCE WITH THE EMPLOYER'S PROCESS. IF AN
24 EMPLOYER DOES NOT ESTABLISH A UNIFORM PROCESS, THE EMPLOYEE MAY
25 MAKE A DESIGNATION WHEN FILING A CLAIM FOR BENEFITS.

26 **8-13.3-307. Duration of benefits - payment intervals.** (1) THE
27 MAXIMUM NUMBER OF WEEKS FOR WHICH FAMILY AND MEDICAL LEAVE

1 INSURANCE BENEFITS ARE PAYABLE TO AN ELIGIBLE INDIVIDUAL IN ANY
2 CONSECUTIVE FIFTY-TWO-WEEK PERIOD IS TWELVE WEEKS.

3 (2) FAILURE BY A COVERED INDIVIDUAL WHO IS OTHERWISE
4 ELIGIBLE UNDER SECTION 8-13.3-305 TO FILE A CLAIM FOR BENEFITS
5 PURSUANT TO SECTION 8-13.3-305 (1)(b), FURNISH NOTICE TO AN
6 EMPLOYER PURSUANT TO SECTION 8-13.3-305 (1)(e), OR SUBMIT
7 CERTIFICATION FROM A HEALTH CARE PROVIDER IN THE MANNER SPECIFIED
8 IN SECTION 8-13.3-305 (2)(b) DOES NOT INVALIDATE A CLAIM FOR
9 BENEFITS OR AN ELIGIBLE INDIVIDUAL'S ELIGIBILITY FOR BENEFITS, BUT
10 THE DIVISION IS NOT REQUIRED TO PAY BENEFITS FOR A PERIOD OF MORE
11 THAN TWO WEEKS PRIOR TO THE DATE ON WHICH THE ELIGIBLE INDIVIDUAL
12 FILES THE REQUIRED APPLICATION, FURNISHES NOTICE TO HIS OR HER
13 EMPLOYER, AND SUBMITS THE CERTIFICATION FROM THE HEALTH CARE
14 PROVIDER, UNLESS THE ELIGIBLE INDIVIDUAL DEMONSTRATES TO THE
15 SATISFACTION OF THE DIVISION THAT:

16 (a) IT WAS NOT REASONABLY POSSIBLE TO SUBMIT THE
17 APPLICATION OR CERTIFICATION OR FURNISH THE NOTICE TO HIS OR HER
18 EMPLOYER; AND

19 (b) THE ELIGIBLE INDIVIDUAL SUBMITTED THE APPLICATION AND
20 CERTIFICATION, AND NOTIFIED HIS OR HER EMPLOYER, AS SOON AS WAS
21 POSSIBLE.

22 (3) THE DIVISION SHALL MAKE THE FIRST PAYMENT OF BENEFITS
23 TO AN ELIGIBLE INDIVIDUAL WITHIN TWO WEEKS AFTER THE ELIGIBLE
24 INDIVIDUAL FILES THE CLAIM FOR BENEFITS AND SHALL MAKE
25 SUBSEQUENT PAYMENTS BIWEEKLY.

26 **8-13.3-308. Amount of benefits - maximum weekly benefit.**

27 (1) (a) THE DIVISION SHALL DETERMINE THE WEEKLY BENEFIT AMOUNT,

1 SUBJECT TO SUBSECTION (1)(b) OF THIS SECTION, AS FOLLOWS:

2 (I) FOR AN ELIGIBLE INDIVIDUAL WHOSE YEARLY EARNINGS ARE
3 NOT MORE THAN TWENTY PERCENT OF THE ANNUAL MEAN WAGE, THE
4 DIVISION SHALL PAY WEEKLY BENEFITS IN AN AMOUNT EQUAL TO
5 NINETY-FIVE PERCENT OF THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE.

6 (II) FOR AN ELIGIBLE INDIVIDUAL WHOSE YEARLY EARNINGS ARE
7 MORE THAN TWENTY PERCENT BUT NOT MORE THAN THIRTY PERCENT OF
8 THE ANNUAL MEAN WAGE, THE DIVISION SHALL PAY WEEKLY BENEFITS IN
9 AN AMOUNT EQUAL TO NINETY PERCENT OF THE ELIGIBLE INDIVIDUAL'S
10 WEEKLY WAGE.

11 (III) FOR AN ELIGIBLE INDIVIDUAL WHOSE YEARLY EARNINGS ARE
12 MORE THAN THIRTY PERCENT BUT NOT MORE THAN FIFTY PERCENT OF THE
13 ANNUAL MEAN WAGE, THE DIVISION SHALL PAY WEEKLY BENEFITS IN AN
14 AMOUNT EQUAL TO EIGHTY-FIVE PERCENT OF THE ELIGIBLE INDIVIDUAL'S
15 WEEKLY WAGE.

16 (IV) FOR AN ELIGIBLE INDIVIDUAL WHOSE YEARLY EARNINGS ARE
17 MORE THAN FIFTY PERCENT OF THE ANNUAL MEAN WAGE, THE DIVISION
18 SHALL PAY WEEKLY BENEFITS IN AN AMOUNT EQUAL TO SIXTY-SIX
19 PERCENT OF THE ELIGIBLE INDIVIDUAL'S 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, 2022, THE DIVISION SHALL
23 ANNUALLY ADJUST THE MAXIMUM WEEKLY BENEFIT AMOUNT TO REFLECT
24 THE RECENT AVERAGE CHANGE IN COLORADO PERSONAL INCOME.

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

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

6 (2) BENEFITS ARE NOT PAYABLE FOR LESS THAN ONE DAY OR EIGHT
7 CONSECUTIVE HOURS OF FAMILY AND MEDICAL LEAVE TAKEN IN ONE
8 WORKWEEK.

9 **8-13.3-309. Family and medical leave insurance fund -**
10 **creation - employee premiums.** (1) (a) THERE IS HEREBY CREATED IN
11 THE STATE TREASURY THE FAMILY AND MEDICAL LEAVE INSURANCE FUND.
12 MONEY IN THE FUND MAY BE USED ONLY TO PAY REVENUE BONDS ISSUED
13 IN ACCORDANCE WITH SECTION 8-13.3-303 (2)(d) AND TO PAY BENEFITS
14 UNDER, AND TO ADMINISTER, THE PROGRAM PURSUANT TO THIS PART 3,
15 INCLUDING OUTREACH SERVICES DEVELOPED UNDER SECTION 8-13.3-304
16 (5). INTEREST EARNED ON THE INVESTMENT OF MONEY IN THE FUND
17 REMAINS IN THE FUND. ANY MONEY REMAINING IN THE FUND AT THE END
18 OF A FISCAL YEAR REMAINS IN THE FUND AND DOES NOT REVERT TO THE
19 GENERAL FUND OR ANY OTHER FUND. STATE MONEY IN THE FUND IS
20 CONTINUOUSLY APPROPRIATED TO THE DIVISION FOR THE PURPOSE OF THIS
21 SECTION. THE GENERAL ASSEMBLY SHALL NOT APPROPRIATE MONEY FROM
22 THE FUND FOR THE GENERAL EXPENSES OF THE STATE.

23 (b) THE DIVISION MAY SEEK AND ACCEPT GIFTS, GRANTS, AND
24 DONATIONS, INCLUDING PROGRAM-RELATED INVESTMENTS AND
25 COMMUNITY REINVESTMENT FUNDS, TO FINANCE THE COSTS OF SETTING
26 UP THE PROGRAM. THE DIVISION SHALL TRANSMIT ANY GIFTS, GRANTS,
27 AND DONATIONS IT RECEIVES TO THE STATE TREASURER FOR DEPOSIT IN

1 THE FUND.

2 (2) (a) (I) ON AND AFTER JULY 1, 2020, EVERY INDIVIDUAL
3 EMPLOYED BY AN EMPLOYER IN THIS STATE SHALL PAY A PREMIUM IN AN
4 AMOUNT DETERMINED BY THE DIRECTOR BY RULE IN ACCORDANCE WITH
5 THIS SUBSECTION (2)(a). PREMIUMS ESTABLISHED IN ACCORDANCE WITH
6 THIS SUBSECTION (2) ARE FEES AND NOT TAXES.

7 (II) FOR THE FIRST YEAR, THE DIRECTOR, BY RULE, SHALL SET THE
8 PREMIUM AMOUNT BASED ON TOTAL ESTIMATED CLAIMS AS A PORTION OF
9 TOTAL ANNUAL COVERED WAGES, NOT TO EXCEED NINETY-NINE
10 ONE-HUNDREDTHS OF ONE PERCENT. EACH YEAR THEREAFTER, THE
11 DIRECTOR, BY RULE, SHALL SET THE PREMIUM BASED ON THE PRIOR YEAR'S
12 CLAIMS PAYMENTS AS A PORTION OF TOTAL ANNUAL COVERED WAGES.

13 (III) THE DIRECTOR MAY ADJUST PREMIUM AMOUNTS ANNUALLY,
14 BY RULE, TO ENSURE THE ACTUARIAL SOUNDNESS OF THE FUND AND AVOID
15 AN EXCESSIVE FUND BALANCE.

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

21 (c) THE DEPARTMENT SHALL DETERMINE THE ASSISTANCE RATE TO
22 BE PROVIDED TO EMPLOYERS TO OFFSET THE INITIAL AND ONGOING
23 ADMINISTRATIVE COSTS RELATED TO THE IMPLEMENTATION OF THE ACT.
24 THE DEPARTMENT SHALL PROVIDE EMPLOYERS THE ASSISTANCE FROM THE
25 FUND.

26 (3) ON AND AFTER JANUARY 1, 2021, IF THE DIRECTOR
27 DETERMINES THAT A SOLVENCY SURCHARGE IS REQUIRED TO ENSURE THE

1 SOLVENCY OF THE FUND, THE DIRECTOR, BY RULE, MAY ESTABLISH A
2 SOLVENCY SURCHARGE THAT EVERY INDIVIDUAL EMPLOYED BY AN
3 EMPLOYER IN THIS STATE SHALL PAY THROUGH A PAYROLL DEDUCTION IN
4 THE MANNER SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION.

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

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

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

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

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

18 (2) AN EMPLOYER SHALL NOT DISCHARGE, DEMOTE, OR OTHERWISE
19 DISCRIMINATE OR TAKE AN ADVERSE EMPLOYMENT ACTION AGAINST AN
20 INDIVIDUAL BECAUSE HE OR SHE:

21 (a) FILED FOR, APPLIED FOR, OR USED BENEFITS UNDER THIS PART
22 3;

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

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

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

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

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

10 (5) (a) THE DIRECTOR, BY RULE, SHALL ESTABLISH A FINE
11 STRUCTURE FOR EMPLOYERS WHO VIOLATE THIS SECTION. THE DIRECTOR
12 SHALL TRANSFER ANY FINES COLLECTED PURSUANT TO THIS SECTION TO
13 THE STATE TREASURER FOR DEPOSIT IN THE FUND.

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

18 **8-13.3-311. Coordination of benefits.** (1) (a) LEAVE TAKEN
19 UNDER THIS PART 3 RUNS CONCURRENTLY WITH ANY LEAVE TAKEN UNDER
20 THE FMLA OR PART 2 OF THIS ARTICLE 13.3. IF A PERIOD OF FAMILY AND
21 MEDICAL LEAVE INSURANCE BENEFITS RECEIVED BY AN ELIGIBLE
22 EMPLOYEE UNDER THIS PART 3 IS CONCURRENTLY DESIGNATED AS LEAVE
23 PURSUANT TO THE FMLA OR PART 2 OF THIS ARTICLE 13.3, THE EMPLOYER
24 SHALL NOTIFY THE ELIGIBLE EMPLOYEE OF SUCH DESIGNATION AND SHALL
25 ALSO PROVIDE THE EMPLOYEE WITH THE NOTICE REQUIRED UNDER 29 CFR
26 825.301.

27 (b) AN EMPLOYER MAY REQUIRE THAT PAYMENT MADE OR LEAVE

1 TAKEN UNDER THIS PART 3 BE MADE OR TAKEN CONCURRENTLY OR
2 OTHERWISE COORDINATED WITH PAYMENT MADE OR LEAVE ALLOWED
3 UNDER THE TERMS OF DISABILITY OR FAMILY CARE LEAVE UNDER A
4 COLLECTIVE BARGAINING AGREEMENT OR EMPLOYER POLICY, AS
5 APPLICABLE. THE EMPLOYER SHALL GIVE ITS EMPLOYEES WRITTEN NOTICE
6 OF THIS REQUIREMENT.

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

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

18 (I) THE RIGHTS, PRIVILEGES, OR REMEDIES OF AN EMPLOYEE UNDER
19 A COLLECTIVE BARGAINING AGREEMENT OR EMPLOYMENT CONTRACT; OR

20 (II) AN EMPLOYER'S OBLIGATION TO COMPLY WITH A COLLECTIVE
21 BARGAINING AGREEMENT OR EMPLOYER POLICY, AS APPLICABLE, THAT
22 PROVIDES GREATER LEAVE THAN FMLA LEAVE OR FAMILY AND MEDICAL
23 LEAVE.

24 (b) AFTER THE EFFECTIVE DATE OF THIS PART 3, AN EMPLOYER
25 POLICY ADOPTED OR RETAINED MUST NOT DIMINISH A COVERED
26 INDIVIDUAL'S RIGHT TO BENEFITS UNDER THIS PART 3. ANY AGREEMENT
27 BY A COVERED INDIVIDUAL TO WAIVE HIS OR HER RIGHTS UNDER THIS PART

1 3 IS VOID AS AGAINST PUBLIC POLICY.

2 **8-13.3-312. Erroneous payments - disqualification for benefits**

3 - **rules.** (1) A COVERED INDIVIDUAL IS DISQUALIFIED FROM FAMILY AND
4 MEDICAL LEAVE INSURANCE BENEFITS FOR ONE YEAR IF THE COVERED
5 INDIVIDUAL, IN CONNECTION WITH AN APPLICATION FOR BENEFITS UNDER
6 THE PROGRAM, WILLFULLY MAKES A FALSE STATEMENT OR
7 MISREPRESENTATION REGARDING A MATERIAL FACT OR WILLFULLY FAILS
8 TO REPORT A MATERIAL FACT. A COVERED INDIVIDUAL WHO WILLFULLY
9 MAKES A FALSE STATEMENT OR MISREPRESENTATION REGARDING A
10 MATERIAL FACT OR WILLFULLY FAILS TO REPORT A MATERIAL FACT
11 COMMITS A MISDEMEANOR AND SHALL BE PUNISHED BY A FINE OF ONE
12 THOUSAND DOLLARS.

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

22 **8-13.3-313. Elective coverage - withdrawal from coverage -**

23 **rules.** (1) A SELF-EMPLOYED PERSON, INCLUDING A SOLE PROPRIETOR,
24 PARTNER, OR JOINT VENTURER, MAY ELECT COVERAGE UNDER THE
25 PROGRAM FOR AN INITIAL PERIOD OF NOT LESS THAN THREE YEARS OR A
26 SUBSEQUENT PERIOD OF NOT LESS THAN ONE YEAR IMMEDIATELY
27 FOLLOWING ANOTHER PERIOD OF COVERAGE. THE SELF-EMPLOYED PERSON

1 MUST FILE A NOTICE OF ELECTION IN WRITING WITH THE DIRECTOR, AS
2 REQUIRED BY THE DIVISION. THE ELECTION BECOMES EFFECTIVE ON THE
3 DATE THE NOTICE IS FILED.

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

10 **8-13.3-314. Federal income tax - state income tax.** (1) (a) IF
11 THE FEDERAL INTERNAL REVENUE SERVICE DETERMINES THAT FAMILY AND
12 MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART 3 ARE SUBJECT TO
13 FEDERAL INCOME TAX, THE DIVISION SHALL INFORM AN INDIVIDUAL FILING
14 A NEW CLAIM FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS, AT
15 THE TIME OF FILING, THAT:

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

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

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

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

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

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

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

7 **8-13.3-315. Reports.** BY SEPTEMBER 1, 2021, AND BY EACH
8 SEPTEMBER 1 THEREAFTER, THE DIVISION SHALL REPORT TO THE SENATE
9 COMMITTEES ON BUSINESS, LABOR, AND TECHNOLOGY AND HEALTH AND
10 HUMAN SERVICES AND THE HOUSE OF REPRESENTATIVES COMMITTEES ON
11 HEALTH, INSURANCE, AND ENVIRONMENT AND BUSINESS AFFAIRS AND
12 LABOR, OR THEIR SUCCESSOR COMMITTEES, ON PROJECTED AND ACTUAL
13 PROGRAM PARTICIPATION, SPECIFYING INCOME LEVEL, GENDER, RACE, AND
14 ETHNICITY OF PARTICIPANTS AND PURPOSE AND DURATION OF LEAVE,
15 PREMIUM RATES, FUND BALANCES, AND OUTREACH EFFORTS. THE DIVISION
16 SHALL POST THE REPORTS ON THE DEPARTMENT'S WEBSITE.
17 NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT
18 SPECIFIED IN THIS SECTION TO SUBMIT ANNUAL REPORTS TO COMMITTEES
19 OF THE GENERAL ASSEMBLY CONTINUES INDEFINITELY.

20 **8-13.3-316. Rules.** (1) THE DIRECTOR MAY ADOPT RULES AS
21 NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF THIS
22 PART 3.

23 (2) THE DIRECTOR SHALL ADOPT RULES:

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

26 (b) SETTING PREMIUM AMOUNTS PURSUANT TO SECTION
27 8-13.3-309 (2)(a); AND

1 (c) ESTABLISHING A FINE STRUCTURE PURSUANT TO SECTION
2 8-13.3-310 (5)(a).

3 **8-13.3-317. Severability.** IF ANY PROVISION OF THIS PART 3 OR ITS
4 APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE
5 INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF
6 THE PART THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION
7 OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS PART 3 ARE
8 SEVERABLE.

9 **SECTION 3.** In Colorado Revised Statutes, 24-1-121, **add** (3)(j)
10 as follows:

11 **24-1-121. Department of labor and employment - creation.**

12 (3) The department of labor and employment consists of the following
13 divisions and programs:

14 (j) THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE, THE
15 HEAD OF WHICH IS THE DIRECTOR OF THE DIVISION OF FAMILY AND
16 MEDICAL LEAVE INSURANCE. THE DIVISION, CREATED IN PART 3 OF
17 ARTICLE 13.3 OF TITLE 8, AND THE DIRECTOR OF THE DIVISION SHALL
18 EXERCISE THEIR POWERS, DUTIES, AND FUNCTIONS UNDER THE
19 DEPARTMENT OF LABOR AND EMPLOYMENT AS IF TRANSFERRED BY A **TYPE**
20 **2** TRANSFER.

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

23 **39-22-104. Income tax imposed on individuals, estates, and**
24 **trusts - single rate - definitions - repeal.** (4) There shall be subtracted
25 from federal taxable income:

26 (y) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
27 1, 2021, AN AMOUNT EQUAL TO ANY AMOUNT RECEIVED BY A TAXPAYER

1 AS FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS PURSUANT TO PART
2 3 OF ARTICLE 13.3 OF TITLE 8.

3 **SECTION 5. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2018 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.