

# Proposition 118: Paid Family and Medical Leave Insurance Program

1 **Proposition 118 proposes amending the Colorado statutes to:**

- 2 • create a paid family and medical leave insurance program for Colorado  
3 employees administered by the Colorado Department of Labor and  
4 Employment;
- 5 • require employers and employees in Colorado to pay a payroll premium to  
6 finance paid family and medical leave insurance benefits beginning  
7 January 1, 2023;
- 8 • allow eligible employees up to 12 weeks of paid family and medical leave  
9 insurance benefits annually beginning January 1, 2024; and
- 10 • create job protections for employees who take paid family and medical  
11 leave.

12 **What Your Vote Means**

**YES**

A “yes” vote on Proposition 118 means the state will create an insurance program to provide paid family and medical leave benefits to eligible employees in Colorado funded by premiums paid by employers and employees.

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**NO**

A “no” vote on Proposition 118 means the state will not create a paid family and medical leave insurance program.

1 **Summary and Analysis for Proposition 118**

2 **What happens if Proposition 118 passes?**

3 Proposition 118 creates a state-run paid family and medical leave (PFML) insurance  
4 program in Colorado that allows employees to take up to 12 weeks of leave and  
5 keep their job. An eligible employee may take leave for the following reasons:

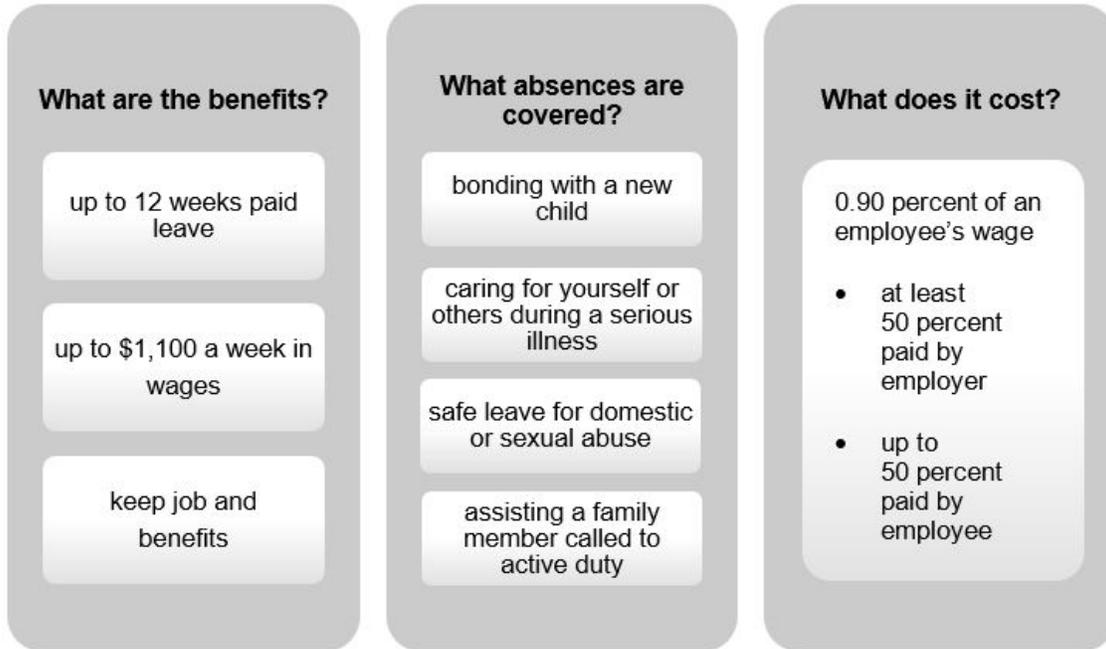
- 6 • to care for their own serious health condition;
- 7 • to care for a new child during the first year after the birth, adoption, or placement  
8 through foster care of that child;
- 9 • to care for a family member with a serious health condition;
- 10 • when a family member is on active duty military service or being called to active  
11 duty military service; and
- 12 • when the individual or the individual's family member is a victim of domestic  
13 violence, stalking, or sexual assault.

14 "Family member" is defined in the measure as the eligible employee's child, parent,  
15 spouse, domestic partner, grandparent, grandchild, sibling, or any individual with  
16 whom the employee has a significant personal bond that is like a family relationship.  
17 The maximum number of weeks an eligible employee may take paid leave in a year  
18 is 12 weeks, except that employees with a serious health condition related to  
19 pregnancy or childbirth complications may take up to an additional 4 weeks (16  
20 weeks in total). Employees are not required to take leave consecutively.

21 Both employers and employees will pay into a new Family and Medical Leave  
22 Insurance Fund (fund). The state will use money in the fund to pay wage benefits to  
23 employees during their leave, similar to unemployment insurance. The amount an  
24 employee will receive during leave is based on the employee's average weekly wage  
25 (AWW). Most employees become eligible to take paid leave after they have earned  
26 at least \$2,500 in wages and eligible for certain job protections after being employed  
27 with their current employer for at least 180 days.

28 Figure 1 below highlights the major components of the new PFML insurance  
29 program.

**Figure 1  
Paid Family and Medical Leave Program**



1 **What are the current paid and unpaid leave requirements for businesses in**  
 2 **Colorado?**

3 Both federal and state leave requirements apply to Colorado businesses. The  
 4 federal Family and Medical Leave Act of 1993 (FMLA) allows eligible employees to  
 5 take up to 12 weeks of unpaid leave per year for specified circumstances. A new  
 6 state law enacted in 2020, and effective for employers with 16 or more employees on  
 7 January 1, 2021, and all employers on January 1, 2022, requires employers in  
 8 Colorado to provide one hour of paid sick leave to each employee for every 30 hours  
 9 worked, up to a maximum of 48 hours per year. See Table 1 for a detailed  
 10 comparison of the existing provisions of the FMLA and Colorado's mandated sick  
 11 leave law with the provisions of Proposition 118.

12 In addition, Colorado law permits an eligible employee to take up to three days of  
 13 leave in any 12-month period if the employee is a victim of domestic abuse, stalking,  
 14 sexual assault, or another crime. The leave may be paid or unpaid and must be  
 15 used to seek a civil protection order, obtain medical care or mental health  
 16 counseling, secure the employee's home, or seek legal assistance.

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**Table 1**  
**Comparison of Leave Provisions in Current Law and Proposition 118**

<b>Proposition 118</b>	<b>FMLA</b>	<b>State Mandated Sick Leave</b>
<b>Type of Leave</b>		
Family and medical	Family and medical	Medical
<b>Length of Leave</b>		
Up to 12 weeks	Up to 12 weeks	Up to 6 days
<b>Paid or Unpaid</b>		
Paid	Unpaid	Paid
<b>Time until Employee Eligibility</b>		
Employee must make \$2,500 in wages subject to premium	Employee must work for 12 months	Employees receive 1 hour paid sick leave per 30 hours worked up to 48 hours per year
<b>Job Protection</b>		
Yes, if an employee has worked for their employer at least 180 days	Yes	N/A
<b>Employer Size</b>		
<ul style="list-style-type: none"> <li>All employer sizes, with a few exceptions</li> </ul>	<ul style="list-style-type: none"> <li>Private sector with 50 or more employees</li> <li>All public agencies</li> <li>All elementary and secondary schools</li> </ul>	<ul style="list-style-type: none"> <li>Employers with 16 or more employees as of 1/1/2021, and all employers beginning 1/1/2022</li> </ul>
<b>Qualifying Reasons for Leave</b>		
<ul style="list-style-type: none"> <li>Birth or adoption of child</li> <li>Care for self or family member* with serious health condition</li> <li>For circumstances related to a family member's active duty military service</li> <li>Safe leave for domestic abuse, sexual assault or abuse, and stalking</li> </ul>	<ul style="list-style-type: none"> <li>Birth or adoption of child</li> <li>Care for self or family member with serious health condition</li> <li>For circumstances related to a family member's active duty military service</li> </ul>	<ul style="list-style-type: none"> <li>Care for an employee's health or safety</li> <li>Care for a person for whom the employee is responsible for providing or arranging health or safety related care</li> </ul>

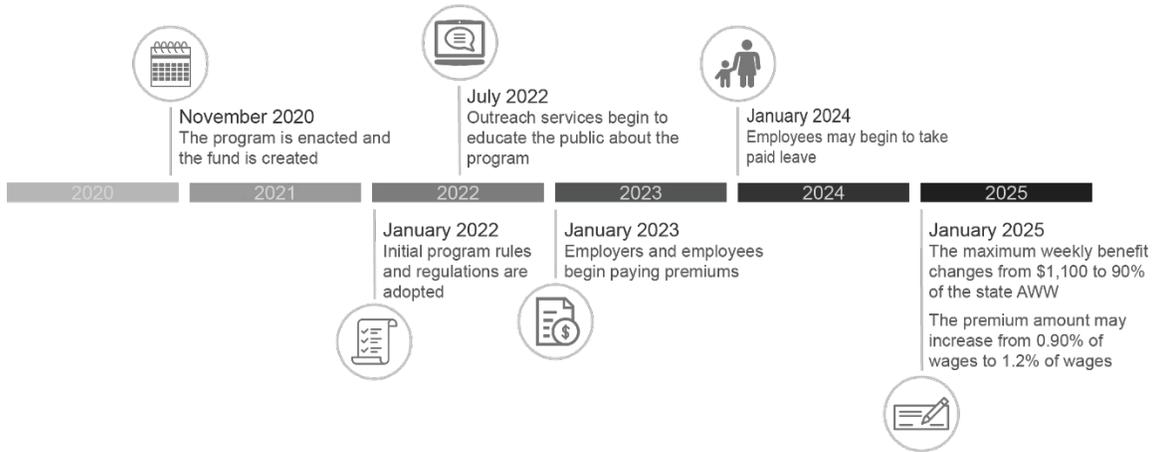
3 *\*Family member includes someone with whom the employee has a significant personal bond.*

4 **How will the program be implemented?**

5 In calendar year 2023, employers and employees will start paying into the program.  
 6 After the program has been collecting payments from employers and employees for  
 7 one year, employees can begin receiving up to \$1,100 each week for up to 12 weeks  
 8 while taking leave. A new paid family and medical leave division in the Colorado  
 9 Department of Labor and Employment (CDLE) will oversee the new program and  
 10 create rules and regulations to govern the program. Figure 2 shows the effective  
 11 dates for various provisions of the program.

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**Figure 2  
PFML Program Timeline**



3 **How will the program be funded?**

4 Employers and employees must contribute a certain percentage of each employee's  
 5 wages to fund the program, known as a premium. The initial premium rate is set in  
 6 the measure at 0.90 percent of wages per employee in the program's first two years.  
 7 The employer must pay at least 50 percent of the premium, but may choose to  
 8 contribute a larger percentage. The employee is responsible for up to 50 percent of  
 9 the premium, depending on the employer's contribution. The premium is calculated  
 10 based on the employee's taxable wages. The maximum amount of wages to which  
 11 the premium can be charged for calendar year 2023 is estimated to be \$161,700 per  
 12 person, which limits the maximum annual premium to \$1,455. Table 2 shows  
 13 examples of weekly and annual premiums for different wages and assumes that the  
 14 employer and employee will split the premium equally. Beginning in calendar year  
 15 2025, the program director can set the premium up to 1.2 percent of an employee's  
 16 taxable wages for an estimated maximum annual premium of \$2,092.

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**Table 2  
Weekly and Annual PFML Premium Scenarios  
For Calendar Year 2023**

Weekly Wages	Employer Weekly Premium	Employee Weekly Premium	Annual Wages	Employer Annual Premium	Employee Annual Premium
\$500	\$2.25	\$2.25	\$26,000	\$117	\$117
\$1,000	\$4.50	\$4.50	\$52,000	\$234	\$234
\$1,500	\$6.75	\$6.75	\$78,000	\$351	\$351
\$2,000	\$9.00	\$9.00	\$104,000	\$468	\$468
\$3,000	\$13.50	\$13.50	\$156,000	\$702	\$702

1 **Will all employers in Colorado participate in the program and pay premiums?**

2 Most employers are required to participate in the program and pay premiums. The  
3 individuals and organizations that are not required to pay the entire premium include:

- 4 • employers with nine or fewer employees;
- 5 • self-employed individuals;
- 6 • local governments that decline participation in the program; and
- 7 • employers that already offer approved paid leave benefits.

8 Employers with nine or fewer employees are not required to pay the employer  
9 portion of the premium, but are required to withhold and forward an employee's  
10 portion of the premium. Local governments that choose not to participate in the  
11 program do not pay the employer portion or collect premiums from employees. Local  
12 government employees whose employer has declined to participate and self-  
13 employed individuals may choose to opt in and pay only the employee portion of the  
14 premium. Finally, an employer with an approved private family and medical leave  
15 plan already in place is not required to pay premiums. Table 3 below illustrates  
16 premium responsibilities.

17 **Table 3**  
18 **Premium Responsibilities under Proposition 118**

Employer Type	Employer Premium	Employee Premium	No Premium
9 or fewer employees		√	
10 or more employees	√	√	
Participating self-employed		√	
Participating local government employee		√	
Nonparticipating local government			√
Nonparticipating self-employed			√
Employer with private plan			√

19 **How much will employees receive in benefit payments while on paid leave?**

20 The amount of benefits an eligible employee can receive is based on the individual's  
21 AWW, compared to the state average weekly wage (SAWW) set annually by the  
22 CDLE. Wages include salary, wages, tips, commission, and other forms of  
23 compensation. An eligible employee will receive 90 percent of their AWW for the  
24 portion of his or her wages that are less than or equal to 50 percent of the SAWW,  
25 and 50 percent of the portion of wages that exceed 50 percent of the SAWW. The  
26 maximum weekly benefit that an individual can receive is \$1,100 for leave taken in  
27 2024. Table 4 provides examples of benefit payments for different weekly wages in  
28 2024 based on an estimated SAWW of \$1,340. For leave beginning on or after  
29 January 1, 2025, the maximum weekly benefit that an individual may receive is 90  
30 percent of the SAWW, which is estimated to be \$1,392 per week for a maximum

1 benefit of \$1,253 per week. To the extent that the SAWW differs from these  
 2 estimates, the maximum benefit will vary accordingly.

**Table 4**  
**PFML Benefit Payment Scenarios**  
**Based on 2024 SAWW of \$1,340**

<b>Weekly Wage</b>	<b>Weekly Benefit</b>	<b>Maximum Annual Benefit</b>	<b>Percent of Weekly Wage*</b>
\$500	\$450	\$5,400	90%
\$1,000	\$768	\$9,216	77%
\$1,500	\$1,018	\$12,216	68%
\$2,000	\$1,100	\$13,200	55%
\$3,000	\$1,100	\$13,200	37%

3 *\*The weekly benefit as a percentage of the weekly wage declines as income increases and the*  
 4 *maximum benefit is reached.*

5 **What are the job protection requirements?**

6 Participating employers may not discipline or take retaliatory actions against  
 7 employees for requesting or using paid leave. Job protections are available to  
 8 employees who have been employed for at least 180 days with their current  
 9 employer prior to taking leave. This means that eligible employees who return from  
 10 leave are entitled to return to the same position or a position with equal seniority,  
 11 status, employment benefits, and pay. Employees are entitled to their health  
 12 benefits during their leave, but are required to pay their portion of the health  
 13 premium.

For information on those issue committees that support or oppose the measures on the ballot at the November 3, 2020, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

14 **Arguments For Proposition 118**

- 15 1) Paid leave has a positive impact on the health of Colorado families, especially  
 16 new parents and those with health issues. Research has shown that offering  
 17 paid leave to expectant and new mothers decreases the risk of infant mortality,  
 18 and allowing parents time to bond with their children will positively affect child  
 19 development. Most individuals will need to take leave to care for themselves or a  
 20 loved one at some point during their careers, and this measure allows employees  
 21 to do so with some financial support and job protection. The measure ensures  
 22 that Coloradans will not be forced to choose between their health and their  
 23 livelihood.
- 24 2) Paid leave will increase employment opportunities for Coloradans, and benefit  
 25 the state's economy. Only 18 percent of U.S. workers currently have access to

1 paid leave. Employees without paid leave risk being demoted or even losing  
2 their jobs if they have to take off work due to serious illnesses or to care for  
3 family members. This measure allows caretakers and those with chronic health  
4 issues to join and remain in the workforce, which will strengthen Colorado's  
5 economy. All workers deserve paid leave benefits, no matter their income level,  
6 the type of work they do, or the size of their employer.

7 **Arguments Against Proposition 118**

8 1) This measure places a financial and regulatory burden on employers to navigate  
9 the program's complex requirements. Businesses face increased costs to  
10 accommodate paid leave and new state-mandated sick leave obligations. The  
11 measure unfairly requires large businesses, but not certain small businesses or  
12 local governments, to pay premiums to fund the program. In addition, small  
13 businesses may be discouraged from growing in order to avoid premium costs.  
14 In the end, it will be up to employers and employees to bear the cost of an  
15 uncertain and expensive new government program.

16 2) This measure requires employees to pay into a program that they may never  
17 benefit from using. Employees are already faced with job uncertainty in the  
18 current economy, and cannot afford to lose part of their salary or other benefits.  
19 If the demand for the benefit is higher than anticipated, employees will be  
20 expected to contribute an even larger percentage of wages in the future or  
21 sacrifice other workplace gains.

22 **Estimate of Fiscal Impact for Proposition 118**

23 **State revenue.** Proposition 118 is expected to increase state revenue from PFML  
24 premiums by approximately \$575.4 million in state budget year 2022-23 (half-year  
25 impact) and \$1.2 billion in state budget year 2023-24 (full-year impact). Because of  
26 higher-than-usual economic uncertainty, the amount of premiums collected may  
27 differ from this estimate. The measure may also increase state revenue from bond  
28 proceeds and potentially gifts, grants, or donations to cover program start-up costs  
29 beginning in state budget year 2021-22. The timing of when this additional revenue  
30 is received will depend on final budget estimates for the program and when revenue  
31 bonds are issued.

32 **State spending.** Proposition 118 will increase state spending by \$3.2 million in state  
33 budget year 2021-22 and \$48.6 million in state budget year 2022-23 to create and  
34 administer the PFML insurance program. In state budget year 2023-24, state  
35 spending will increase by \$523.9 million to administer the PFML program, pay the  
36 employer share of premiums for state employees, and pay PFML benefits to eligible  
37 employees in the second half of the year.

38 **Local government spending.** Beginning January 1, 2023, local governments that  
39 participate in the PFML insurance program, school districts, and other public entities  
40 will have increased spending to pay the employer share of premiums for their  
41 employees. Local governments will also be required to process payroll deductions,  
42 and coordinate leave and benefits for employees. Local governments that decline to  
43 participate will not pay premiums, but may still be required to handle premium  
44 deductions and coordinate leave and benefits for employees if they have employees  
45 that elect to participate in the PFML insurance program.