

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0172.01 Christy Chase x2008

SENATE BILL 14-196

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SENATE SPONSORSHIP

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HOUSE SPONSORSHIP

Salazar,

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Senate Committees  
State, Veterans, & Military Affairs

House Committees

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A BILL FOR AN ACT

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

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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://www.leg.state.co.us/billsummaries>.)*

The bill creates the family and medical leave insurance (FAMLI) program in the newly created division of family and medical leave insurance (division) in the department of labor and employment (department) to provide partial wage replacement benefits to eligible individuals who take leave from work to care for a new child or a family

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

member with a serious health condition or who are unable to work due to their own serious health condition. Each employee in the state that has not opted out of the program will pay a premium based on a percentage of the employee's yearly wages, and 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 division is established as an enterprise, and premiums paid into the fund are not considered state revenues for purposes of section 20 of article X of the state constitution (TABOR).

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

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

4 **PART 3**

5 **FAMILY AND MEDICAL LEAVE INSURANCE**

6 **8-13.3-301. Short title.** THIS PART 3 SHALL BE KNOWN AND MAY  
7 BE CITED AS THE "FAMILY AND MEDICAL LEAVE INSURANCE ACT" OR  
8 "FAMLI ACT".

9 **8-13.3-302. Definitions.** AS USED IN THIS PART 3, UNLESS THE  
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "APPLICATION YEAR" MEANS THE TWELVE-MONTH PERIOD  
12 BEGINNING ON THE FIRST DAY OF THE CALENDAR WEEK IN WHICH A  
13 COVERED INDIVIDUAL APPLIES FOR FAMILY AND MEDICAL LEAVE  
14 INSURANCE BENEFITS.

15 (2) "COVERED INDIVIDUAL" MEANS AN INDIVIDUAL WHO:

16 (a) HAS BEEN EMPLOYED BY AND WORKED FOR ONE OR MORE  
17 EMPLOYERS FOR AT LEAST SIX HUNDRED EIGHTY HOURS DURING THE  
18 PERSON'S QUALIFYING YEAR; AND

19 (b) HAS CONTRIBUTED PREMIUMS TO THE PROGRAM FOR AT LEAST  
20 ONE CALENDAR YEAR.

1 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND  
2 EMPLOYMENT.

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

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

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

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

14 (b) THE TERM INCLUDES:

15 (I) A PERSON WHO ACTS DIRECTLY OR INDIRECTLY IN THE  
16 INTEREST OF AN EMPLOYER TO ANY OF THE EMPLOYEES OF THE EMPLOYER;

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

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

19 (8) "FAMILY AND MEDICAL LEAVE" MEANS FMLA LEAVE OR  
20 LEAVE AUTHORIZED UNDER PART 2 OF THIS ARTICLE.

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

23 (10) "FAMILY MEMBER" MEANS A PERSON FOR WHOM AN  
24 EMPLOYEE IS ENTITLED TO TAKE FAMILY AND MEDICAL LEAVE.

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

27 (12) "FMLA LEAVE" MEANS LEAVE FROM WORK AND ALL

1 BENEFITS AUTHORIZED BY THE FMLA.

2 (13) "HEALTH CARE PROVIDER" HAS THE SAME MEANING AS SET  
3 FORTH IN THE FMLA.

4 (14) "PREMIUM" MEANS THE PAYMENTS AN INDIVIDUAL IS  
5 REQUIRED BY THIS PART 3 TO PAY TO THE DIVISION FOR THE PROGRAM.

6 (15) "PROGRAM" MEANS THE FAMILY AND MEDICAL LEAVE  
7 INSURANCE PROGRAM ESTABLISHED PURSUANT TO THIS PART 3.

8 (16) "QUALIFYING YEAR" MEANS THE FIRST FOUR OF THE LAST FIVE  
9 COMPLETED CALENDAR QUARTERS OR THE LAST FOUR COMPLETED  
10 CALENDAR QUARTERS IMMEDIATELY PRECEDING THE FIRST DAY OF A  
11 COVERED INDIVIDUAL'S APPLICATION YEAR.

12 (17) "SERIOUS HEALTH CONDITION" HAS THE SAME MEANING AS  
13 SET FORTH IN THE FMLA.

14 **8-13.3-303. Division of family and medical leave insurance -**  
15 **creation as an enterprise - authority to issue bonds.** (1) THERE IS  
16 HEREBY CREATED A DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE  
17 IN THE DEPARTMENT, THE HEAD OF WHICH IS THE DIRECTOR OF THE  
18 DIVISION.

19 (2) (a) THE DIVISION CONSTITUTES AN ENTERPRISE FOR PURPOSES  
20 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, AS LONG AS  
21 THE DIVISION RETAINS AUTHORITY TO ISSUE REVENUE BONDS AND THE  
22 DIVISION RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL  
23 REVENUES IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), C.R.S.,  
24 FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. FOR  
25 AS LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SECTION,  
26 THE DIVISION IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE  
27 CONSTITUTION.

1 (b) THE ENTERPRISE ESTABLISHED PURSUANT TO THIS SUBSECTION  
2 (2) HAS ALL THE POWERS AND DUTIES AUTHORIZED BY THIS PART 3  
3 PERTAINING TO FAMILY AND MEDICAL LEAVE INSURANCE. THE FAMILY  
4 AND MEDICAL LEAVE INSURANCE FUND CREATED IN SECTION 8-13.3-308  
5 CONSTITUTES PART OF THE ENTERPRISE ESTABLISHED PURSUANT TO THIS  
6 SUBSECTION (2).

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

10 (d) SUBJECT TO APPROVAL BY THE GENERAL ASSEMBLY, EITHER BY  
11 BILL OR JOINT RESOLUTION, AND AFTER APPROVAL BY THE GOVERNOR  
12 PURSUANT TO SECTION 39 OF ARTICLE V OF THE STATE CONSTITUTION, THE  
13 FAMILY AND MEDICAL LEAVE INSURANCE DIVISION IS HEREBY AUTHORIZED  
14 TO ISSUE REVENUE BONDS FOR THE EXPENSES OF THE DIVISION, SECURED  
15 BY ANY REVENUES OF THE DIVISION.

16 **8-13.3-304. Family and medical leave insurance program -**  
17 **creation - division duties - applicant duties - outreach and education**  
18 **- rules.** (1) THE DIVISION SHALL ESTABLISH AND ADMINISTER A FAMILY  
19 AND MEDICAL LEAVE INSURANCE PROGRAM AND PAY FAMILY AND  
20 MEDICAL LEAVE INSURANCE BENEFITS TO ELIGIBLE INDIVIDUALS AS  
21 SPECIFIED IN THIS PART 3.

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

26 (3) THE DIVISION SHALL USE INFORMATION SHARING AND  
27 INTEGRATION TECHNOLOGY TO FACILITATE THE DISCLOSURE OF RELEVANT

1 INFORMATION OR RECORDS PERTAINING TO A COVERED INDIVIDUAL IF THE  
2 COVERED INDIVIDUAL CONSENTS TO THE DISCLOSURE IN ACCORDANCE  
3 WITH THIS PART 3.

4 (4) INFORMATION CONTAINED IN THE FILES AND RECORDS  
5 PERTAINING TO A COVERED INDIVIDUAL UNDER THIS PART 3 ARE  
6 CONFIDENTIAL AND NOT OPEN TO PUBLIC INSPECTION, OTHER THAN TO  
7 PUBLIC EMPLOYEES IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES;  
8 EXCEPT THAT:

9 (a) A COVERED INDIVIDUAL OR A PERSON AUTHORIZED BY A  
10 COVERED INDIVIDUAL, AS EVIDENCED BY A SIGNED AUTHORIZATION FROM  
11 THE COVERED INDIVIDUAL, MAY REVIEW THE RECORDS OR RECEIVE  
12 SPECIFIC INFORMATION FROM THE RECORDS;

13 (b) AN EMPLOYER OR THE EMPLOYER'S DULY AUTHORIZED  
14 REPRESENTATIVE MAY REVIEW THE RECORDS OF A COVERED INDIVIDUAL  
15 EMPLOYED BY THE EMPLOYER IN CONNECTION WITH A PENDING CLAIM;  
16 AND

17 (c) AT THE DIVISION'S DISCRETION, OTHER PERSONS MAY REVIEW  
18 RECORDS WHEN THE PERSONS ARE RENDERING ASSISTANCE TO THE  
19 DIVISION AT ANY STAGE OF THE PROCEEDINGS ON ANY MATTER  
20 PERTAINING TO THE ADMINISTRATION OF THIS PART 3.

21 (5) (a) THE DIVISION SHALL DEVELOP AND IMPLEMENT AN  
22 OUTREACH PROGRAM TO EDUCATE THE PUBLIC ABOUT THE AVAILABILITY  
23 OF FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS UNDER THIS PART  
24 3 FOR COVERED INDIVIDUALS.

25 (b) THE DIVISION SHALL ENSURE THAT THE OUTREACH  
26 INFORMATION EXPLAINS AT LEAST THE FOLLOWING IN AN EASY TO  
27 UNDERSTAND FORMAT:

- 1 (I) ELIGIBILITY REQUIREMENTS;
- 2 (II) THE CLAIMS PROCESS;
- 3 (III) WEEKLY BENEFIT AMOUNTS AND MAXIMUM BENEFITS
- 4 PAYABLE;
- 5 (IV) NOTICE AND MEDICAL CERTIFICATION REQUIREMENTS;
- 6 (V) REINSTATEMENT AND NONDISCRIMINATION RIGHTS;
- 7 (VI) CONFIDENTIALITY OF RECORDS;
- 8 (VII) THE RELATIONSHIP BETWEEN EMPLOYMENT PROTECTION,
- 9 LEAVE FROM EMPLOYMENT, AND WAGE REPLACEMENT BENEFITS UNDER
- 10 THIS PART 3 AND OTHER LAWS, COLLECTIVE BARGAINING AGREEMENTS,
- 11 AND EMPLOYER POLICIES; AND
- 12 (VIII) ANY OTHER DETAILS OR INFORMATION ABOUT THE
- 13 PROGRAM THE DIVISION DEEMS APPROPRIATE.

14 (c) THE DIVISION SHALL DEVELOP A PROGRAM NOTICE FOR  
15 EMPLOYERS TO POST THAT DETAILS THE PROGRAM REQUIREMENTS,  
16 BENEFITS, CLAIMS PROCESS, PAYROLL DEDUCTION REQUIREMENTS, AND  
17 OTHER PERTINENT PROGRAM INFORMATION. EACH EMPLOYER SHALL POST  
18 THE PROGRAM NOTICE IN A PROMINENT LOCATION IN THE WORKPLACE AND  
19 SHALL INFORM ITS EMPLOYEES OF THE PROGRAM.

20 (d) THE DIVISION MAY USE A PORTION OF THE MONEYS IN THE  
21 FAMILY AND MEDICAL LEAVE INSURANCE FUND TO DEVELOP, IMPLEMENT,  
22 AND ADMINISTER THE OUTREACH PROGRAM.

23 **8-13.3-305. Family and medical leave insurance benefits -**  
24 **application - eligibility.** (1) BEGINNING ONE YEAR AFTER THE DATE ON  
25 WHICH THE DIVISION STARTS COLLECTING PREMIUMS PURSUANT TO  
26 SECTION 8-13.3-308 (2), FAMILY AND MEDICAL LEAVE INSURANCE  
27 BENEFITS ARE PAYABLE TO AN INDIVIDUAL WHO:

1 (a) (I) HAS A SERIOUS HEALTH CONDITION THAT MAKES THE  
2 INDIVIDUAL UNABLE TO PERFORM THE FUNCTIONS OF HIS OR HER JOB;

3 (II) IS CARING FOR HIS OR HER NEW CHILD DURING THE FIRST YEAR  
4 AFTER THE BIRTH OR ADOPTION OF THE CHILD OR THE PLACEMENT OF THE  
5 CHILD THROUGH FOSTER CARE;

6 (III) IS CARING FOR A FAMILY MEMBER WHO HAS A SERIOUS  
7 HEALTH CONDITION; OR

8 (IV) IS TAKING ANY OTHER LEAVE FROM WORK AUTHORIZED BY  
9 THE FMLA;

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

12 (c) IS A COVERED INDIVIDUAL;

13 (d) CONSENTS TO THE DISCLOSURE OF INFORMATION OR RECORDS  
14 DEEMED PRIVATE AND CONFIDENTIAL UNDER STATE LAW PURSUANT TO  
15 SECTION 8-13.3-304 (4); AND

16 (e) IF CURRENTLY EMPLOYED, ATTESTS, IN THE APPLICATION FOR  
17 FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS, THAT THE INDIVIDUAL  
18 NOTIFIED HIS OR HER EMPLOYER IN WRITING OF HIS OR HER INTENT TO  
19 TAKE LEAVE FROM WORK FOR ONE OF THE PURPOSES SPECIFIED IN  
20 PARAGRAPH (a) OF THIS SUBSECTION (1).

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

24 (a) ATTEST THAT:

25 (I) (A) BECAUSE OF A BIRTH, ADOPTION, OR PLACEMENT THROUGH  
26 FOSTER CARE, THE COVERED INDIVIDUAL IS CARING FOR A NEW CHILD  
27 DURING THE FIRST YEAR AFTER BIRTH, ADOPTION, OR PLACEMENT OF THE



1 CHILD;

2 (B) THE COVERED INDIVIDUAL IS CARING FOR A FAMILY MEMBER  
3 WHO HAS A SERIOUS HEALTH CONDITION; OR

4 (C) THE COVERED INDIVIDUAL HAS A SERIOUS HEALTH CONDITION  
5 THAT RENDERS HIM OR HER UNABLE TO PERFORM HIS OR HER REGULAR OR  
6 CUSTOMARY WORK;

7 (II) THE COVERED INDIVIDUAL IS NOT RECEIVING UNEMPLOYMENT  
8 INSURANCE BENEFITS OR BENEFITS UNDER A DISABILITY INSURANCE  
9 POLICY IN AN AMOUNT THAT, IF COMBINED WITH THE BENEFITS AVAILABLE  
10 TO THE INDIVIDUAL UNDER THE PROGRAM, WOULD EXCEED THE  
11 INDIVIDUAL'S WAGES, AS DETERMINED BY THE DIVISION; AND

12 (b) SUBMIT A CERTIFICATION FROM THE HEALTH CARE PROVIDER  
13 PROVIDING HEALTH CARE TO THE COVERED INDIVIDUAL OR THE COVERED  
14 INDIVIDUAL'S FAMILY MEMBER, AS APPLICABLE, SUPPORTING THE CLAIM  
15 THAT THE COVERED INDIVIDUAL OR THE COVERED INDIVIDUAL'S FAMILY  
16 MEMBER HAS A SERIOUS HEALTH CONDITION.

17 (3) A COVERED INDIVIDUAL WHO MEETS THE REQUIREMENTS OF  
18 SUB-SUBPARAGRAPH (A), (B), OR (C) OF SUBPARAGRAPH (I) OF  
19 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION IS ELIGIBLE FOR  
20 BENEFITS REGARDLESS OF WHETHER THE COVERED INDIVIDUAL IS  
21 CURRENTLY EMPLOYED.

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

25 **8-13.3-306. Duration of benefits - waiting period - payment**  
26 **intervals.** (1) THE MAXIMUM NUMBER OF WEEKS DURING WHICH FAMILY  
27 AND MEDICAL LEAVE INSURANCE BENEFITS ARE PAYABLE TO AN ELIGIBLE

1 INDIVIDUAL IN AN APPLICATION YEAR IS TWELVE WEEKS.

2 (2) (a) BENEFITS ARE NOT PAYABLE FOR THE FIRST SEVEN  
3 CONSECUTIVE CALENDAR DAYS IN AN APPLICATION YEAR THAT AN  
4 INDIVIDUAL MEETS THE ELIGIBILITY REQUIREMENTS OF SECTION  
5 8-13.3-305. IF AN ELIGIBLE INDIVIDUAL USES TEN OR MORE DAYS OF  
6 FAMILY AND MEDICAL LEAVE IN AN APPLICATION YEAR, THE DIVISION  
7 SHALL PAY THE ELIGIBLE INDIVIDUAL BENEFITS FOR THE SEVEN-DAY  
8 WAITING PERIOD; EXCEPT THAT, IF THE ELIGIBLE INDIVIDUAL RECEIVED  
9 OTHER COMPENSATION FROM THE EMPLOYER FOR ALL OR A PORTION OF  
10 THOSE SEVEN DAYS, THE DIVISION SHALL REDUCE THE BENEFITS PAYABLE  
11 TO THE ELIGIBLE INDIVIDUAL BASED ON THE AMOUNT OF OTHER  
12 COMPENSATION RECEIVED FROM THE EMPLOYER DURING THE WAITING  
13 PERIOD.

14 (b) THE WAITING PERIOD DESCRIBED IN THIS SUBSECTION (2)  
15 APPLIES ONLY ONCE IN EACH APPLICATION YEAR.

16 (c) FAILURE TO FILE AN APPLICATION FOR BENEFITS, FURNISH  
17 NOTICE TO AN EMPLOYER, OR SUBMIT CERTIFICATION FROM A HEALTH  
18 CARE PROVIDER IN THE MANNER SPECIFIED IN SECTION 8-13.3-305 DOES  
19 NOT INVALIDATE A CLAIM FOR BENEFITS OR AN INDIVIDUAL'S ELIGIBILITY  
20 FOR BENEFITS, BUT THE DIVISION IS NOT REQUIRED TO PAY BENEFITS FOR  
21 A PERIOD OF MORE THAN TWO WEEKS PRIOR TO THE DATE ON WHICH THE  
22 INDIVIDUAL FILES THE REQUIRED APPLICATION, FURNISHES NOTICE TO HIS  
23 OR HER EMPLOYER, AND SUBMITS THE CERTIFICATION FROM THE HEALTH  
24 CARE PROVIDER UNLESS THE INDIVIDUAL DEMONSTRATES TO THE  
25 SATISFACTION OF THE DIVISION THAT IT WAS NOT REASONABLY POSSIBLE  
26 TO SUBMIT THE APPLICATION OR CERTIFICATION OR FURNISH THE NOTICE  
27 TO HIS OR HER EMPLOYER, AND THAT THE INDIVIDUAL SUBMITTED THE

1 APPLICATION AND CERTIFICATION, AND NOTIFIED HIS OR HER EMPLOYER,  
2 AS SOON AS WAS POSSIBLE.

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

7 **8-13.3-307. Amount of benefits - maximum weekly benefit.**

8 (1) (a) THE DIVISION SHALL DETERMINE THE WEEKLY BENEFIT AMOUNT  
9 AS FOLLOWS, SUBJECT TO PARAGRAPH (b) OF THIS SUBSECTION (1):

10 (I) FOR AN ELIGIBLE INDIVIDUAL WHOSE YEARLY EARNINGS ARE  
11 NOT MORE THAN THIRTY PERCENT OF THE AREA MEDIAN INCOME, THE  
12 DIVISION SHALL PAY WEEKLY BENEFITS IN AN AMOUNT EQUAL TO  
13 NINETY-FIVE PERCENT OF THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE;

14 (II) FOR AN ELIGIBLE INDIVIDUAL WHOSE YEARLY EARNINGS ARE  
15 MORE THAN THIRTY PERCENT BUT NOT MORE THAN FIFTY PERCENT OF THE  
16 AREA MEDIAN INCOME, THE DIVISION SHALL PAY WEEKLY BENEFITS IN AN  
17 AMOUNT EQUAL TO NINETY PERCENT OF THE ELIGIBLE INDIVIDUAL'S  
18 WEEKLY WAGE;

19 (III) FOR AN ELIGIBLE INDIVIDUAL WHOSE YEARLY EARNINGS ARE  
20 MORE THAN FIFTY PERCENT BUT NOT MORE THAN EIGHTY PERCENT OF THE  
21 AREA MEDIAN INCOME, THE DIVISION SHALL PAY WEEKLY BENEFITS IN AN  
22 AMOUNT EQUAL TO EIGHTY-FIVE PERCENT OF THE ELIGIBLE INDIVIDUAL'S  
23 WEEKLY WAGE;

24 (IV) FOR AN ELIGIBLE INDIVIDUAL WHOSE YEARLY EARNINGS ARE  
25 MORE THAN EIGHTY PERCENT OF THE AREA MEDIAN INCOME, THE DIVISION  
26 SHALL PAY WEEKLY BENEFITS IN AN AMOUNT EQUAL TO SIXTY-SIX  
27 PERCENT OF THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE.

1 (b) THE MAXIMUM WEEKLY BENEFIT AMOUNT DETERMINED UNDER  
2 PARAGRAPH (a) OF THIS SUBSECTION (1) MUST NOT EXCEED ONE  
3 THOUSAND DOLLARS PER WEEK. STARTING JANUARY 1, 2018, THE  
4 DIVISION SHALL ANNUALLY ADJUST THE MAXIMUM WEEKLY BENEFIT  
5 AMOUNT TO REFLECT CHANGES IN THE UNITED STATES BUREAU OF LABOR  
6 STATISTICS CONSUMER PRICE INDEX FOR THE DENVER-BOULDER-GREELEY  
7 CONSOLIDATED METROPOLITAN STATISTICAL AREA FOR ALL URBAN  
8 CONSUMERS, ALL GOODS, OR ITS SUCCESSOR INDEX.

9 (2) BENEFITS ARE NOT PAYABLE FOR LESS THAN ONE DAY OR EIGHT  
10 CONSECUTIVE HOURS OF FAMILY AND MEDICAL LEAVE TAKEN IN ONE  
11 WORK WEEK.

12 **8-13.3-308. Family and medical leave insurance fund -**  
13 **creation - employee premiums.** (1) THERE IS HEREBY CREATED IN THE  
14 STATE TREASURY THE FAMILY AND MEDICAL LEAVE INSURANCE FUND,  
15 REFERRED TO IN THIS SECTION AS THE "FUND". MONEYS IN THE FUND MAY  
16 BE USED ONLY TO PAY BENEFITS UNDER AND TO ADMINISTER THE FAMILY  
17 AND MEDICAL LEAVE INSURANCE PROGRAM PURSUANT TO THIS PART 3,  
18 INCLUDING THE OUTREACH PROGRAM DEVELOPED UNDER SECTION  
19 8-13.3-304(5). INTEREST EARNED ON THE INVESTMENT OF MONEYS IN THE  
20 FUND, AND ANY MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL  
21 YEAR, REMAIN IN THE FUND AND DO NOT REVERT TO THE GENERAL FUND  
22 OR ANY OTHER FUND.

23 (2) (a) (I) STARTING ON A DATE DETERMINED BY THE DIVISION BUT  
24 NO LATER THAN JANUARY 1, 2016, EVERY INDIVIDUAL EMPLOYED BY AN  
25 EMPLOYER IN THIS STATE, OTHER THAN AN INDIVIDUAL WHO OPTS OUT OF  
26 PARTICIPATION IN THE PROGRAM PURSUANT TO PARAGRAPH (c) OF THIS  
27 SUBSECTION (2), SHALL PAY A PREMIUM IN AN AMOUNT EQUAL TO

1 FORTY-TWO ONE-HUNDREDTHS PERCENT OF HIS OR HER YEARLY WAGES TO  
2 FUND THE PROGRAM, BUT THE MAXIMUM ANNUAL PREMIUM CHARGED TO  
3 AN EMPLOYEE MUST NOT EXCEED THREE HUNDRED TWENTY-EIGHT  
4 DOLLARS PER YEAR. THE PREMIUM IS ASSESSED ON THE FIRST  
5 SEVENTY-EIGHT THOUSAND DOLLARS OF YEARLY INCOME EARNED IN A  
6 CALENDAR YEAR. THE DIVISION MAY ANNUALLY ADJUST THE PERCENTAGE  
7 AMOUNT SPECIFIED IN THIS SUBPARAGRAPH (I), EITHER BY INCREASING OR  
8 DECREASING THE AMOUNT BY NO MORE THAN ONE-TENTH OF A  
9 PERCENTAGE POINT, TO ENSURE THE ACTUARIAL SOUNDNESS OF THE FUND  
10 AND AVOID A BALANCE IN THE FUND THAT EXCEEDS THE AMOUNT  
11 NECESSARY TO PAY EXISTING AND EXPECTED CLAIMS FOR BENEFITS.

12 (II) STARTING JANUARY 1, 2017, THE DIVISION SHALL ANNUALLY  
13 ADJUST THE MAXIMUM ANNUAL PREMIUM AMOUNT AND THE AMOUNT OF  
14 YEARLY INCOME ON WHICH THE PREMIUM IS ASSESSED, AS SPECIFIED IN  
15 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), TO REFLECT CHANGES IN THE  
16 UNITED STATES BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX  
17 FOR THE DENVER-BOULDER-GREELEY CONSOLIDATED METROPOLITAN  
18 STATISTICAL AREA FOR ALL URBAN CONSUMERS, ALL GOODS, OR ITS  
19 SUCCESSOR INDEX.

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

26 (c) (I) AN EMPLOYEE MAY OPT OUT OF PARTICIPATION IN THE  
27 PROGRAM IN THE MANNER DETERMINED BY THE DIVISION. IF AN EMPLOYEE

1 OPTS OUT OF THE PROGRAM, THE EMPLOYEE IS NOT OBLIGATED TO PAY THE  
2 PREMIUM SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (2), AND HIS  
3 OR HER EMPLOYER SHALL NOT COLLECT THE PREMIUM AS A PAYROLL  
4 DEDUCTION FROM HIS OR HER WAGES. AN EMPLOYEE WHO HAS OPTED OUT  
5 OF THE PROGRAM MAY OPT BACK INTO THE PROGRAM IN THE MANNER  
6 SPECIFIED BY THE DIVISION BUT IS NOT ELIGIBLE TO RECEIVE BENEFITS  
7 UNTIL THE EMPLOYEE HAS CONTRIBUTED PREMIUMS TO THE PROGRAM FOR  
8 AT LEAST ONE CALENDAR YEAR AND MEETS THE BENEFITS ELIGIBILITY  
9 REQUIREMENTS AS SPECIFIED IN SECTION 8-13.3-305.

10 (II) AN EMPLOYER SHALL NOT COERCE, FORCE, INDUCE, OR  
11 OTHERWISE INFLUENCE AN EMPLOYEE, DIRECTLY OR INDIRECTLY, TO OPT  
12 OUT OF PROGRAM PARTICIPATION. AN EMPLOYER THAT ENGAGES IN  
13 CONDUCT PROHIBITED BY THIS SUBPARAGRAPH (II) IS SUBJECT TO A FINE  
14 AS SPECIFIED IN SECTION 8-13.3-309 (3) (a).

15 **8-13.3-309. Employment protection - discrimination**  
16 **prohibited.** (1) AFTER A PERIOD IN WHICH AN ELIGIBLE INDIVIDUAL  
17 RECEIVES FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS OR EARNS  
18 WAITING PERIOD CREDITS UNDER THIS PART 3, THE ELIGIBLE INDIVIDUAL  
19 IS ENTITLED TO BE RESTORED TO AN EQUIVALENT POSITION OF  
20 EMPLOYMENT WITH THE EMPLOYER FROM WHICH LEAVE WAS TAKEN IN  
21 THE SAME MANNER AS AN EMPLOYEE ENTITLED TO FAMILY AND MEDICAL  
22 LEAVE FOR THE TIME THAT THE ELIGIBLE INDIVIDUAL IS ABSENT FROM  
23 WORK AND RECEIVING FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS.

24 (2) AT ANY TIME, INCLUDING DURING THE WAITING PERIOD OR THE  
25 PERIOD IN WHICH AN INDIVIDUAL IS RECEIVING BENEFITS UNDER THIS PART  
26 3, AN EMPLOYER SHALL NOT DISCHARGE, EXPEL, DEMOTE, OR OTHERWISE  
27 DISCRIMINATE OR TAKE AN ADVERSE EMPLOYMENT ACTION AGAINST AN

1 INDIVIDUAL BECAUSE HE OR SHE:

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

4 (b) COMMUNICATED TO THE EMPLOYER HIS OR HER INTENT TO FILE  
5 A CLAIM FOR BENEFITS, A COMPLAINT, OR AN APPEAL; OR

6 (c) TESTIFIED, AGREED TO TESTIFY, OR OTHERWISE ASSISTED IN  
7 ANY PROCEEDING UNDER THIS PART 3.

8 (3) (a) THE DIRECTOR MAY ASSESS A FINE OF NOT MORE THAN  
9 THREE THOUSAND DOLLARS AGAINST A PERSON WHO VIOLATES THIS  
10 SECTION. THE DIRECTOR SHALL TRANSFER ANY FINES COLLECTED  
11 PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE  
12 FAMILY AND MEDICAL LEAVE INSURANCE FUND CREATED IN SECTION  
13 8-13.3-308 (1).

14 (b) IF AN EMPLOYER VIOLATES THIS SECTION, THE EMPLOYER IS  
15 SUBJECT TO DAMAGES AND EQUITABLE RELIEF AS SPECIFIED IN THE FMLA.  
16 AN AGGRIEVED EMPLOYEE MAY BRING AN ACTION IN STATE COURT  
17 AGAINST THE EMPLOYER TO RECOVER DAMAGES OR EQUITABLE RELIEF.

18 **8-13.3-310. 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.

21 (b) AN EMPLOYER MAY REQUIRE THAT PAYMENT MADE OR LEAVE  
22 TAKEN UNDER THIS PART 3 BE MADE OR TAKEN CONCURRENTLY OR  
23 OTHERWISE COORDINATED WITH PAYMENT MADE OR LEAVE ALLOWED  
24 UNDER THE TERMS OF DISABILITY OR FAMILY CARE LEAVE UNDER A  
25 COLLECTIVE BARGAINING AGREEMENT OR EMPLOYER POLICY, AS  
26 APPLICABLE. THE EMPLOYER SHALL GIVE ITS EMPLOYEES WRITTEN NOTICE  
27 OF THIS REQUIREMENT.

1           (2) (a) THIS PART 3 DOES NOT DIMINISH AN EMPLOYER'S  
2 OBLIGATION TO COMPLY WITH A COLLECTIVE BARGAINING AGREEMENT OR  
3 EMPLOYER POLICY, AS APPLICABLE, THAT PROVIDES GREATER LEAVE THAN  
4 FMLA LEAVE OR LEAVE PERMITTED UNDER PART 2 OF THIS ARTICLE.

5           (b) A COLLECTIVE BARGAINING AGREEMENT ENTERED INTO OR  
6 RENEWED OR AN EMPLOYER POLICY ADOPTED OR RETAINED AFTER THE  
7 EFFECTIVE DATE OF THIS PART 3 MUST NOT DIMINISH AN INDIVIDUAL'S  
8 RIGHT TO BENEFITS UNDER THIS PART 3. ANY AGREEMENT BY AN  
9 INDIVIDUAL TO WAIVE HIS OR HER RIGHTS UNDER THIS PART 3 IS VOID AS  
10 AGAINST PUBLIC POLICY.

11           **8-13.3-311. Erroneous payments - disqualification for benefits.**

12           (1) A COVERED INDIVIDUAL IS DISQUALIFIED FROM FAMILY AND MEDICAL  
13 LEAVE INSURANCE BENEFITS FOR ONE YEAR IF THE INDIVIDUAL WILLFULLY  
14 MAKES A FALSE STATEMENT OR MISREPRESENTATION REGARDING A  
15 MATERIAL FACT, OR WILLFULLY FAILS TO REPORT A MATERIAL FACT, TO  
16 OBTAIN BENEFITS UNDER THE PROGRAM.

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

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

27 **rules.** (1) A SELF-EMPLOYED PERSON, INCLUDING A SOLE PROPRIETOR,



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

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

14 **8-13.3-313. Federal income tax - state income tax.** (1) (a) IF  
15 THE INTERNAL REVENUE SERVICE DETERMINES THAT FAMILY AND MEDICAL  
16 LEAVE INSURANCE BENEFITS UNDER THIS PART 3 ARE SUBJECT TO FEDERAL  
17 INCOME TAX, THE DIVISION SHALL ADVISE AN INDIVIDUAL FILING A NEW  
18 CLAIM FOR FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS, AT THE  
19 TIME OF FILING, THAT:

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

22 (II) REQUIREMENTS EXIST PERTAINING TO ESTIMATED TAX  
23 PAYMENTS;

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

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

1 ELECTED WITHHOLDING STATUS.

2 (b) AMOUNTS DEDUCTED AND WITHHELD FROM BENEFITS MUST  
3 REMAIN IN THE FAMILY AND MEDICAL LEAVE INSURANCE FUND UNTIL  
4 TRANSFERRED TO THE FEDERAL TAXING AUTHORITY AS A PAYMENT OF  
5 INCOME TAX.

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

9 (2) FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS RECEIVED  
10 PURSUANT TO THIS PART 3 ARE NOT SUBJECT TO STATE INCOME TAX  
11 PURSUANT TO SECTION 39-22-104 (4) (t), C.R.S.

12 **8-13.3-314. Reports.** BY SEPTEMBER 1, 2017, AND BY EACH  
13 SEPTEMBER 1 THEREAFTER, THE DIVISION SHALL REPORT TO THE SENATE  
14 COMMITTEES ON BUSINESS, LABOR, AND TECHNOLOGY AND HEALTH AND  
15 HUMAN SERVICES AND THE HOUSE OF REPRESENTATIVES COMMITTEES ON  
16 HEALTH, INSURANCE, AND ENVIRONMENT AND BUSINESS, LABOR, AND  
17 ECONOMIC AND WORKFORCE DEVELOPMENT, OR THEIR SUCCESSOR  
18 COMMITTEES, ON PROJECTED AND ACTUAL PROGRAM PARTICIPATION,  
19 SPECIFYING GENDER, RACE, AND ETHNICITY OF PARTICIPANTS AND  
20 PURPOSE AND DURATION OF LEAVE, PREMIUM RATES, FUND BALANCES,  
21 AND OUTREACH EFFORTS. THE DIVISION SHALL POST THE REPORTS ON THE  
22 DEPARTMENT'S WEB SITE. NOTWITHSTANDING SECTION 24-1-136 (11),  
23 C.R.S., THE REQUIREMENT SPECIFIED IN THIS SECTION TO SUBMIT ANNUAL  
24 REPORTS TO COMMITTEES OF THE GENERAL ASSEMBLY CONTINUES  
25 INDEFINITELY.

26 **8-13.3-315. Rules.** THE DIRECTOR MAY ADOPT RULES AS  
27 NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF THIS

1 PART 3.

2 **8-13.3-316. Severability.** IF ANY PROVISION OF THIS PART 3 OR  
3 THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD  
4 INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR  
5 APPLICATIONS OF THE PART THAT CAN BE GIVEN EFFECT WITHOUT THE  
6 INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF  
7 THIS PART 3 ARE SEVERABLE.

8 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **add** (4)  
9 (t) as follows:

10 **39-22-104. Income tax imposed on individuals, estates, and**  
11 **trusts - single rate - definitions - repeal.** (4) There shall be subtracted  
12 from federal taxable income:

13 (t) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
14 1, 2017, AN AMOUNT EQUAL TO ANY AMOUNT RECEIVED BY A TAXPAYER  
15 AS FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS PURSUANT TO PART  
16 3 OF ARTICLE 13.3 OF TITLE 8, C.R.S.

17 **SECTION 3. Act subject to petition - effective date.** This act  
18 takes effect at 12:01 a.m. on the day following the expiration of the  
19 ninety-day period after final adjournment of the general assembly (August  
20 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a  
21 referendum petition is filed pursuant to section 1 (3) of article V of the  
22 state constitution against this act or an item, section, or part of this act  
23 within such period, then the act, item, section, or part will not take effect  
24 unless approved by the people at the general election to be held in  
25 November 2014 and, in such case, will take effect on the date of the  
26 official declaration of the vote thereon by the governor.