

<p>COLORADO SUPREME COURT 2 East 14th Avenue, 4th Floor Denver, Colorado 80203</p>	
<p>C.A.R. 50 Certiorari to Colorado Court of Appeals Case No. 2022CA91</p>	
<p>Appeal from the Denver District Court, Honorable Judge Michael Martinez, Judge Case No. 2021CV32203</p>	
<p>In the Case of:</p> <p>CHRONOS BUILDERS, LLC,</p> <p>Petitioner</p> <p>v.</p> <p>DEPARTMENT OF LABOR AND EMPLOYMENT, DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE</p> <p>Respondent</p>	<p>▲ COURT USE ONLY ▲</p>
<p>Attorney for Amici Curiae</p> <p>Martha M. Tierney, Atty. Reg. No. 27521 Tierney Lawrence LLC 225 E. 16th Avenue, Suite 350 Denver, Colorado 80203 Phone: 720.242.7577 Email: mtierney@tierneylawrence.com</p>	<p>Case Number 22SC78</p>
<p>BRIEF OF AMICI CURIAE GOOD BUSINESS COLORADO, SMALL BUSINESS MAJORITY, AND EIGHT COLORADO BUSINESSES IN SUPPORT OF RESPONDENT</p>	

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 29 and C.A.R. 32, including all formatting requirements set forth in these rules.

Specifically, the undersigned certifies that:

The amicus brief complies with the application word limit set forth in C.A.R. 29(d). It contains 3752 words.

The amicus brief complies with the content and form requirements set forth in C.A.R. 29(c).

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

By: s/Martha M. Tierney_____

TABLE OF CONTENTS

TABLE OF CONTENTS	ii
TABLE OF AUTHORITIES	iii
STATEMENTS OF INTEREST	1
SUMMARY OF THE ARGUMENT	8
ARGUMENT	9
I. PAID FAMILY AND MEDICAL LEAVE IS A PROVEN PROGRAM THAT BENEFITS BUSINESSES AND THEIR WORKERS.	9
II. COLORADO’S FAMILI ACT HAS BROAD SUPPORT AMONG BUSINESS OWNERS AND WILL PROVIDE IMPORTANT BENEFITS AND SERVICES TO EMPLOYERS ACROSS THE STATE	11
CONCLUSION	18

TABLE OF AUTHORITIES

Statutes

§ 8-13.3-501 et seq., C.R.S.8

Other Authorities

A Better Balance, *Comparative Chart of Paid Family and Medical Leave Laws in the United States* (March 2022), <https://www.abetterbalance.org/resources/paid-family-leave-laws-chart/>.....15

A Better Balance, *Paid Leave Program Implementation Timelines* (Nov. 2021), <https://www.abetterbalance.org/resources/paid-leave-program-implementation-timelines>.....9

Ann P. Bartel et al., *Assessing Rhode Island’s Temporary Caregiver Insurance Act: Insights From a Survey of Employers*, U.S. DEPT. OF LABOR (Jan. 2016), https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/AssessingRhodeIslandTemporaryCaregiverInsuranceAct_InsightsFromSurveyOfEmployers.pdf.11

Ann P. Bartel et al., *Support for Paid Family Leave Among Small Employers Increases During the COVID-19 Pandemic*, NAT’L BUREAU OF ECON. RSCH. (Dec. 2021), https://www.nber.org/system/files/working_papers/w29486/w29486.pdf.11

Ann P. Bartel et al., *The Impact of Paid Family Leave on Employers: Evidence From New York*, NAT’L BUREAU OF ECON. RSCH. (June 2021), https://www.nber.org/system/files/working_papers/w28672/w28672.pdf.10

Chantel Boyens, *State Paid Family and Medical Leave Programs Helped a Surge of Workers Affected by the COVID-19 Pandemic*, URBAN INSTITUTE (June 2020), https://www.urban.org/sites/default/files/publication/102325/state-paid-family-and-medical-leave-programs-helped-a-surge-of-workers-affected-by-the-covid-19-pandemic_0.pdf.....18

Eileen Appelbaum & Ruth Milkman, *Leaves That Pay: Employer and Worker Experiences With Paid Family Leave in California*, CNTR. FOR ECON. AND POLICY RSCH. (2011), <https://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>. 10, 16

Eileen Appelbaum & Ruth Milkman, *New Jersey Employers’ Experiences Managing Employee Leaves and Turnover*, RUTGERS UNIV. (2006), <https://smlr.rutgers.edu/sites/default/files/Documents/Centers/CWW/Publications/achieving%20a%20workable%20balance%202006%20Appelbaum.pdf>.....16

Sharon Lerner & Eileen Appelbaum, *Business As Usual: New Jersey Employers’ Experience with Family Leave Insurance*, CNTR. FOR ECON. AND POLICY RSCH. (June 2014), <https://www.cepr.net/documents/nj-fli-2014-06.pdf>.11

Small Business for America’s Future, *Small Business Survey: Citing costs as the main barrier to providing paid family & medical leave, majority of Main Street entrepreneurs seeking federal solution* (Aug. 2021), <https://www.smallbusinessforamericasfuture.org/small-business-survey-citing-cost-as-the-main-barrier-to-providing-paid-family-medical-leave-majority-of-main-street-entrepreneurs-seeking-bipartisan-solution>14

Small Business Majority, *Colorado Small Businesses Support Paid Family Medical Leave* (March 2019), <https://smallbusinessmajority.org/our-research/workforce/colorado-small-businesses-support-paid-family-medical-leave>12

Small Business Majority, *Small Businesses Support Bold Investment in Child Care and Paid Leave, Share Views on Mask and Vaccine Requirements* (Aug. 2021), <https://smallbusinessmajority.org/our-research/small-businesses-support-bold-investments-child-care>12

T.G. Hollo, *Evaluating Family and Medical Leave Insurance for Washington State*, ECONOMIC OPPORTUNITY INSTITUTE (May 2012), <http://www.opportunityinstitute.org/wp-content/uploads/family-leave-insurance/EvaluatingFamilyandMedicalLeave-May12.pdf>.17

Trish Stroman et al., *Why Paid Family Leave is Good Business*, BOSTON CONSULTING GROUP (Feb. 2017), <https://www.bcg.com/en-us/publications/2017/human-resources-people-organization-why-paid-family-leave-is-good-business>14

STATEMENTS OF INTEREST

Amici curiae are business groups and individual businesses across Colorado that support the statewide voter-initiated paid family and medical leave program and are interested in ensuring that this program—which benefits businesses and workers—properly goes into effect.

Good Business Colorado (“GBC”) is a statewide grassroots organization of over 420 member businesses in 31 counties across the state, working together to build a more prosperous economy, equitable communities, and a sustainable environment. GBC members believe that business success cannot be measured by profit alone and that true success means that our planet, communities, *and* bottom lines are all thriving. From the inception of the organization in 2017, GBC has worked with hundreds of businesses across the state at the Colorado State Legislature and then through the successful Proposition 118 ballot initiative campaign to advocate for the creation of a statewide paid family and medical leave program that is accessible, affordable, and adequate for all Colorado business owners and employees. GBC and its members are committed to supporting and contributing to the successful implementation of the Colorado Paid Family and Medical Leave Insurance (FAMLI) Act, which will deliver a desperately needed and incredibly beneficial program that levels the playing field by providing all

businesses with a low-cost benefit that decreases turnover and increases employee productivity, loyalty and morale.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. Small Business Majority has an office in Colorado, in addition to organizational offices in California, Georgia, Illinois, and Washington, D.C. As part of its work, Small Business Majority advocates for policies and programs that will level the playing field for small businesses, including state and federal paid family and medical leave programs. In Colorado, Small Business Majority has engaged its diverse state network of 4,000 small businesses to solicit feedback on a state-administered paid family and medical leave program over the past several years. This includes conducting opinion polls of small businesses across all areas of the state on proposed legislation, hosting roundtable discussions and listening sessions and facilitating testimony opportunities for local small business owners to share their views during the legislative process. Small Business Majority has also engaged Colorado small business owners throughout implementation to ensure their feedback is taken into consideration and that the program is administered equitably for the small business community. Through this work, we know that small business owners feel strongly that they would benefit from this program because it would level the playing field and make them more competitive in the

labor market with larger employers that can afford to offer paid family and medical leave benefits on their own.

Peri Bolts is the founder and co-owner of Eclectic CO, a small business based in Colorado Springs. Eclectic CO is a cooperative retail boutique that houses over 100 creatives and artists. Eclectic CO also has 4 W2 employees who are critical to the success of its business. As an incubator for micro businesses to improve their financial standing, Eclectic CO is an active participant in the community in many ways, and their involvement in paid family medical leave (PFML) is no exception. Eclectic CO believes that PFML is crucial for small businesses to thrive and compete with larger companies that provide health benefits and paid leave, given the necessity of affordable options for leave for all employees— regardless of where they work. Eclectic CO especially believes that Colorado’s PFML program has ample specifications for small business, and is an invaluable step towards more equity and human rights at work.

Jimmy Burds has owned Colorgraphic for 40 years. This business provides branding, signage & fleet wrap services. It has twelve employees and is located in Commerce City, CO. Colorado’s FAMILI Act will allow Colorgraphic to support its employees, such as their team member who took vacation time for the birth of his second child. This team member found that his vacation time was not enough when his wife had an accident and he had to also take care of her. Being a small

business, it was hard for Colorgraphic to cover for this team member while he was away from his job. And as much as they would love to provide him more paid family and medical leave, they were fiscally unable to do so. Jimmy firmly believes that paid family and medical leave insurance will benefit the business in the coming years. He believes most small business owners want to do what is best for their teams, and this program is a great step.

Tracy DuCharme has owned a small business in Colorado Springs for 13 years, where she currently employs 6 people. As small business owner, one of her greatest struggles is maintaining a talented and vibrant staff. The Colorado paid family and medical leave program will be a game changer for her business. It will help to level the playing field and allow workers to take a more interesting job that suits them, rather than chasing a corporate job with benefits small businesses cannot necessarily offer. Tracy's business competes for employees against larger organizations, and often loses out on top talent because it can't offer crucial benefits like paid family and medical leave. Tracy eagerly awaits the launch of the paid family and medical leave insurance program so that her business will finally be able to provide its employees with this critical benefit in a sustainable and predictable way.

Toby Gadd owns Nuance Chocolate, a small family-owned bean-to-bar chocolate maker located in Fort Collins with ten employees. Paid family and

medical leave (PFML) directly benefits Nuance Chocolate by enabling the company to support and retain vital employees. Nuance Chocolate supports the law because it is precisely the kind of inexpensive, effective, and targeted program that Nuance Chocolate, and businesses like it, need in today's tough labor market. The FAMLI Act directly enhances the stability and competitiveness of this small business by supporting the employees that make Nuance Chocolate's work possible.

Ashley Henshaw directs and co-owns a preschool and child care center in Littleton, Colorado. The business currently has 33 employees, all of whom work hard to provide care and early learning experiences for the children entrusted to them. In order to provide a healthy, high quality educational environment, the business needs employees who are healthy themselves, which is why they fully support Colorado's paid family and medical leave program. It is especially important that, as a small business that relies on meeting state ratio requirements in the classroom, the business is able to rely on state insurance funds to allow workers to take the time off that they need.

Katharine Knarreborg is the President of Merlin Instrument Company, a small engineering and manufacturing business in Centennial, CO. Merlin has three employees, ranging from highly trained assemblers earning a median wage to highly compensated engineers. In this industry, paid leave is an expected benefit,

so a paid family and medical leave program would be highly preferable to the current short term disability program that Merlin offers. Colorado's FAMLI Act would also mitigate the risks of self-insuring and guaranteeing leave, which requires large cash reserves that would be better invested in growing and sustaining the business.

Dan Shannon owns Gary's Auto Service, a small auto repair shop in Denver, Colorado that has been in business for over 35 years. Gary's Auto Service's most valuable asset is its three employees. The business depends on its employees to operate, and believes it is incredibly important to treat its employees with the support and respect that they deserve. Dan Shannon fully supported Proposition 118, so that his business could provide paid family and medical leave benefits to all of his employees, a benefit he would not be able to provide to them without the FAMLI program. Gary's Auto Service has separately noticed an improvement in the mindset of its employees since they have had access to paid sick days, which has benefited its business in measurable, positive ways. Gary's Auto Service and its employees look forward to the benefits the FAMLI Act will bring to the business once the law is fully implemented.

Sonal Patel, MD is sole-proprietor of NayaCare: 4th Trimester Home Health Clinic, located in Denver, Colorado. She founded NayaCare in 2018 with the mission to improve postpartum medical care for moms, newborns, and

families. She has served over 330 families. Through her clinic, she has seen firsthand the lack of concrete paid family and medical leave affecting her families. Parents scrambling to secure time for bonding, mothers having to return to work as early as 3 weeks, and fathers trying to balance jobs while supporting their partners, children, and newborns. As a sole proprietor, Colorado's paid medical and family leave (PMFL) law, the FAMLI Act, is the only option she will have to support herself and protect her business as she balances taking care of her children and aging parents. PFML allows an opportunity for a safety net to have a form of an income if the need ever arises. The FAMLI Act, for future sole proprietors in Colorado, provides an ability to innovate in the business sector.

SUMMARY OF THE ARGUMENT

In November 2020, Colorado's voters approved Proposition 118 by more than fifteen percentage points (57.75% to 42.25%), making the Paid Family and Medical Leave Insurance Act (“FAMLI Act”) law in this State. § 8-13.3-501 et seq., C.R.S. Many businesses across the State spoke out in favor of Proposition 118. *Amici* are comprised of business owners in Colorado, a grassroots organization of entrepreneurs and business owners, and a small business advocacy organization, all of whom are supportive of the FAMLI Act. Contrary to assertions from Petitioner Chronos Builders, LLC, (“Petitioner”), paid family and medical leave programs like the FAMLI Act benefit both employees and employers. Many business owners across Colorado, including *amici*, recognize that the FAMLI Act will not only support their workers but also lead to business savings, consistent with the experience in the other states across the country that have implemented paid family and medical leave insurance programs. The benefits of the FAMLI Act are especially significant to small businesses who are otherwise least likely to afford to pay for family and medical leave out of pocket. This finding is consistent with polling that shows strong support for the FAMLI Act among small businesses in Colorado. The FAMLI Act creates an affordable insurance pool that allows small businesses to provide paid family and medical leave to their workers. The program further levels the playing field by allowing smaller businesses to be more

competitive with larger employers that are more able to afford to provide more benefits to their employees. *Amici* urge this Court to recognize the critical benefits that the FAMLI Act will provide to Colorado employers and employees and uphold this essential, voter-approved service provided by the enterprise.

ARGUMENT

I. Paid Family and Medical Leave Is a Proven Program That Benefits Businesses and Their Workers.

State-run paid family and medical leave (PFML) insurance programs are a proven policy with a strong track record of success. Since California became the first state to enact a PFML law in 2002—a full twenty years ago—another eight states (including Colorado) and the District of Columbia have enacted their own programs to ensure that workers can take extended paid time off to care for their health and that of their loved ones without losing their jobs. A Better Balance, *Paid Leave Program Implementation Timelines* (Nov. 2021), <https://www.abetterbalance.org/resources/paid-leave-program-implementation-timelines>. One study in California found that concerns in the business community regarding the costs of PFML were unfounded: “the vast majority of employers reported that it has had minimal impact on their business operations.” Eileen Appelbaum & Ruth Milkman, *Leaves That Pay: Employer and Worker Experiences With Paid Family Leave in California*, CNTR. FOR ECON. AND POLICY

RSCH., at 6 (2011), <https://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>. In fact, most employers in California have reported that the program had either a positive or neutral effect on their business; the vast majority of employers reported a positive or neutral effect on productivity (89%), profitability and performance (91%), turnover (96%) and employee morale (99%). *Id.* at 4.

Although such studies show that it is extremely rare for employers to report negative effects from PFML programs, businesses with fewer than 100 employees were the least likely to report any negative effects stemming from PFML. *Id.*

Just as the research from California shows, PFML laws have broad support from employers in other jurisdictions where these programs are in effect. For example, a majority of New York employers are very or somewhat supportive of the State's paid family leave law. Ann P. Bartel et al., *The Impact of Paid Family Leave on Employers: Evidence From New York*, NAT'L BUREAU OF ECON. RSCH., at 3 (June 2021),

https://www.nber.org/system/files/working_papers/w28672/w28672.pdf. In-depth interviews with New Jersey employers on New Jersey's PFML law have also shown that the program had little negative effect on business operations, but in fact, improved employee morale, and has not led to employee abuse of the program. Sharon Lerner & Eileen Appelbaum, *Business As Usual: New Jersey Employers' Experience with Family Leave Insurance*, at pp. 15-16, *CNTR. FOR*

ECON. AND POLICY RSCH. (June 2014), <https://www.cepr.net/documents/nj-fli-2014-06.pdf>. A survey of New York and New Jersey employers with 10-99 employees found that the high level of employer support for paid family leave insurance programs in the fall of 2019 increased during the pandemic to 70% support as of the fall of November 2020. Ann P. Bartel et al., *Support for Paid Family Leave Among Small Employers Increases During the COVID-19 Pandemic*, NAT'L BUREAU OF ECON. RSCH. (Dec. 2021), https://www.nber.org/system/files/working_papers/w29486/w29486.pdf. One year after Rhode Island's paid family leave, or Temporary Caregiver Insurance, law took effect, a study of employers in the State showed 61% favored the law and 15% were neutral. Ann P. Bartel et al., *Assessing Rhode Island's Temporary Caregiver Insurance Act: Insights From a Survey of Employers*, U.S. DEPT. OF LABOR, at 5 (Jan. 2016), https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/AssessingRhodeIslandTemporaryCaregiverInsuranceAct_InsightsFromSurveyOfEmployers.pdf.

II. Colorado's FAMLI Act Has Broad Support Among Business Owners And Will Provide Important Benefits and Services to Employers Across The State

Amici are businesses across a variety of sectors and business organizations that represent the interests of Colorado small businesses, all of whom believe that Colorado's FAMLI Act will benefit their businesses and their workers. Beyond

individual *amici*, two-thirds of small business owners in Colorado support PFML; in a 2019 poll of 300 Colorado small business owners (those who employ 2 to 50 workers), 64% supported a PFML program like the FAMLI Act, with more than one in three strongly in support. Small Business Majority, *Colorado Small Businesses Support Paid Family Medical Leave* (March 2019), <https://smallbusinessmajority.org/our-research/workforce/colorado-small-businesses-support-paid-family-medical-leave>. National polling of small business owners shows similarly strong support for PFML and suggests support may have increased further during the ongoing COVID-19 pandemic. Small Business Majority, *Small Businesses Support Bold Investment in Child Care and Paid Leave, Share Views on Mask and Vaccine Requirements* (Aug. 2021), <https://smallbusinessmajority.org/our-research/small-businesses-support-bold-investments-child-care>.

One reason that small businesses support PFML policies is that these laws benefit companies that might not otherwise have the financial means to provide robust benefits—like 12 weeks of paid family and medical leave—to their workers. In the experience of *amici*, businesses —especially small businesses—*want* to provide these benefits to their workers but may struggle to pay workers out of pocket for extended time off. While larger businesses might be able to provide PFML out of pocket, social insurance programs, like the one the Colorado FAMLI

Act establishes, allow *all* businesses to affordably provide paid time off to care for personal or family medical emergencies, bond with a new child, respond to domestic or sexual violence, and address military family needs.

Colorado's FAMLI Act also benefits self-employed and independent contractors, who can opt into coverage. Without access to an affordable PFML program, self-employed individuals or workers who are independent contractors may find it too financially risky to pursue an independent business venture. The ability to opt in to receive the paid leave benefits provided by the FAMLI Act is a crucial support for these workers and business owners. Once fully implemented, the FAMLI Act will allow hardworking Coloradans to start a business, or remain in business, without risking their own or their family's well-being and livelihood during critical life moments.

The FAMLI Act establishes an enterprise-administered PFML insurance program that will be funded through a small fee, or a premium, to ensure that employees can take time off when they need to address personal or family caregiving needs. This policy not only allows businesses to anticipate their labor costs, but also helps with attracting and retaining employees who desire this important and broadly popular benefit. Trish Stroman et al., *Why Paid Family Leave is Good Business*, BOSTON CONSULTING GROUP (Feb. 2017), <https://www.bcg.com/en-us/publications/2017/human-resources-people->

organization-why-paid-family-leave-is-good-business. According to one national report, “79 % of [s]mall employers who offer paid leave of some sort see it as a business imperative to attract and retain quality employees.” Small Business for America’s Future, *Small Business Survey: Citing costs as the main barrier to providing paid family & medical leave, majority of Main Street entrepreneurs seeking federal solution* (Aug. 2021),

<https://www.smallbusinessforamericasfuture.org/small-business-survey-citing-cost-as-the-main-barrier-to-providing-paid-family-medical-leave-majority-of-main-street-entrepreneurs-seeking-bipartisan-solution>. Not offering PFML makes it more difficult to attract and retain talented employees.

The FAMLI Act has established a new baseline right for employees across the State, and it will allow businesses to ensure that their workers will be able to take paid, job-protected time off during many of life’s most critical moments. Petitioner notes on page 3 of its Opening Brief that they have an informal policy of working with employees who need to take time off, but informal policies can provide little assurance to prospective and existing employees. Employees deserve a baseline, legally enforceable right to paid family and medical leave, rather than informal policies that could be unduly restrictive, applied differently to different categories of workers, or lead to retaliation against the employee. A uniform and enforceable baseline right to PFML in Colorado will act as a helpful recruitment

tool for new hires, so that they know they will be able to take time off in case of an emergency or life-changing event. Such a uniform legal right also levels the playing field to ensure that all employers can offer the same minimum benefit to their employees, regardless of business size.

Another benefit of a statewide PFML insurance program is that it reduces costs for businesses that want to provide this benefit. Cost is the most cited barrier to businesses providing PFML. *Id.* A PFML insurance program allows businesses to spread the cost of the program across businesses around the state, not only reducing the cost of providing this important benefit through a statewide pool to which employees also contribute, but also making it easier for individual companies to anticipate labor costs. The program also supports small businesses by providing that the smallest businesses in the State are not required to pay the employer portion of the FAML I premium, as is the case in several other paid family and medical leave insurance programs. A Better Balance, *Comparative Chart of Paid Family and Medical Leave Laws in the United States* (March 2022), <https://www.abetterbalance.org/resources/paid-family-leave-laws-chart/>. And for businesses like Petitioner that state they already offer some amount of PFML-like benefits, the FAML I program will essentially act as a subsidy for the benefits that they are currently providing out of pocket. Eileen Appelbaum & Ruth Milkman, *Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in*

California, CNTR. FOR ECON. AND POLICY RSCH. at 8 (2011),

<https://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>.

Amici also disagree with Petitioner that PFML benefits will unduly affect business operations. In states with PFML laws structured like the FAML I Act, most businesses quickly adapt to employees taking time off. Under existing PFML programs, most employers report temporarily reassigning work duties to existing employees rather than needing to hire a temporary replacement. Eileen Appelbaum & Ruth Milkman, *New Jersey Employers' Experiences Managing Employee Leaves and Turnover*, RUTGERS UNIV., at 13 (2006), <https://smlr.rutgers.edu/sites/default/files/Documents/Centers/CWW/Publications/achieving%20a%20workable%20balance%202006%20Appelbaum.pdf>. Like other PFML programs, the FAML I Act will also ease administrative burdens. Employees in Colorado will apply to the Division or an approved private insurer for PFML benefits, and the Division or private insurer will process claims, issue determinations, and issue wage replacement benefits to the employees; *amici* welcome this administrative support in handling and processing PFML claims.

The FAML I Act will also ease the burden on businesses of replacing valued workers, since it would be far more disruptive to *amici* businesses, and the businesses *amici* organizations represent, if employees leave their jobs when an emergency arises rather than take a limited amount of time away from work. In

that event, businesses would have to hire and train a replacement, which can be particularly challenging and expensive in a competitive labor market and lead to the loss of valuable institutional knowledge.

Finally, creating a PFML program in Colorado will save businesses money in the future. The FAMLI Act will allow businesses to anticipate the cost of providing leave to their employees, since they pay a small, regular insurance premium rather than having to fund time off out of pocket—at a greater cost—on a speculative and case-by-case basis. Research further shows that PFML reduces incidence of on-the-job injuries and makes it less likely that workers with chronic health conditions could relapse or re-injure themselves by returning to work before they have recovered. T.G. Hollo, *Evaluating Family and Medical Leave Insurance for Washington State*, Economic Opportunity Institute, at 11 (May 2012), <http://www.opportunityinstitute.org/wp-content/uploads/family-leave-insurance/EvaluatingFamilyandMedicalLeave-May12.pdf>. Establishing a PFML program will also benefit businesses in the case of future public health crises like the ongoing COVID-19 pandemic and emergence of “long COVID.” When COVID-19 first emerged, states with existing PFML programs were able to quickly distribute benefits to workers without requiring employers to front the costs of those benefits. Chantel Boyens, *State Paid Family and Medical Leave Programs Helped a Surge of Workers Affected by the COVID-19 Pandemic*,

URBAN INSTITUTE, at 3 (June 2020),

https://www.urban.org/sites/default/files/publication/102325/state-paid-family-and-medical-leave-programs-helped-a-surge-of-workers-affected-by-the-covid-19-pandemic_0.pdf. When employees are assured that they can take time off to care for their health and that of their loved ones, employers are able to reduce the spread of contagion amongst their workers and maintain productivity levels with healthy employees. *Id.*

CONCLUSION

Amici submit this brief to demonstrate that, contrary to Petitioner's assertions, PFML is an important program that benefits workers *and* their employers. For the above reasons, *amici* urge this court to uphold Colorado's FAMILI Act.

Respectfully submitted this 4th day of April, 2022.

TIERNEY LAWRENCE LLC

By: s/Martha M. Tierney
Martha M. Tierney, No. 27521
225 E 16th Ave., Suite 350
Denver, Colorado 80203
Phone Number: (720) 242-7577
E-mail: mtierney@tierneylawrence.com

Attorneys for Amici Curiae Good
Business Colorado, Small Business
Majority, and Eight Colorado Businesses

CERTIFICATE OF SERVICE

I certify that on April 4, 2022, I served this **BRIEF OF AMICI CURIAE GOOD BUSINESS COLORADO, SMALL BUSINESS MAJORITY, AND EIGHT COLORADO BUSINESSES IN SUPPORT OF RESPONDENT** on all parties to this case, as identified below, using the Colorado Courts E-filing System.

Daniel E. Burrows
Advance Colorado
1312 17th St.
Unit 2029
Denver, CO 80202
Email: dan@advancecolorado.org
Attorney for Petitioner

Office of the Colorado Attorney General
Noah C. Patterson, Assistant Solicitor General
Davin W. Dahl, Senior Assistant Attorney General
Shelby A. Krantz, Assistant Attorney General
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 8th Floor
Denver, CO 80203
Email: noah.patterson@coag.gov; davin.dahl@coag.gov;
shelby.krantz@coag.gov
Attorneys for Respondent

Tyler Martinez
NATIONAL TAXPAYERS UNION FOUNDATION
122 C Street NW, Suite 650
Washington, DC 20001
Email: tmartinez@ntu.org
Attorney for Amicus Curiae National Taxpayers Union Foundation

David B. Kopel
INDEPENDENCE INSTITUTE
727 East 16th Ave.
Denver, CO 80203
Email: david@i2i.org

Richard A. Westfall
Westfall Law, LLC
5842 W. Marquette Dr
Denver, Colorado 80235
E-Mail: rwestfall@westfall.law
Attorneys for Amicus Curiae Independence Institute

s/Martha M. Tierney