April 17, 2019
Members of the General Assembly
Colorado State Capitol
200 East Colfax
Denver, CO 80203

RE: SB19-188

Dear Members of the General Assembly,

We are writing this letter as a response to a claim you received from the University of Denver Graduate School of Social Work on the REMI Partnership analysis of the FAMLI SB19-188 Bill. As a Partnership we have presented scenarios fairly and accurately and never engaged in advocacy one way or another for the bill. Our intent from the start has been to raise important questions that should help inform policymakers and ensure public policy is crafted in a way that does not create future unintended consequences.

The University of Denver Graduate School of Social Work letter however well intentioned, is simply not accurate. We reached out to the authors before we released our report, and we continue to be willing to work on research with them because accuracy is critical for the state in shaping such an important policy.

First and foremost, the study they reference "Analysis of the Cost and Risk of Financial Insolvency for a Colorado Paid Leave Program" was conducted by the REMI Partnership, not CSPR as the study is clearly labeled. It is also important to point out that the faculty on the letter also revise conclusions in their own study titled, Projected Economic Impacts of Paid Family Leave in Colorado released in February 2019, as it relates to the Rhode Island utilization rate. In their original study they cite an 11% rate and now are suggesting it is closer to 7% to 8%. Regardless if the rate is 11% or 7%, as of April 15th, Legislative Council released an updated forecast on SB-188 program costs and solvency and showed that at a 5.7% utilization rate in 2025 the program would be insolvent. The Legislative Council Table 1 closely mirrored the range of scenarios we presented in our study.

Their letter makes mischaracterizations about our study and it is important for policymakers to understand the points in which their analysis is simply not correct. We have enclosed a memo in hopes of clarifying those inaccuracies that we are aware of.

Lastly, it is important to note in the spirit of the academic debate, we always actively seek and encourage engagement with work that has previously been conducted. We made every effort to have an open and honest discussion about the details of this significant piece of legislation with the authors of the University of Denver Graduate School of Social Work's study. Instead of responding directly to our requests, the authors chose to write a public letter while at the same time taking a strong advocacy stance, voicing their support of the bill.

We have only presented the facts in our research in hopes of educating and informing policymakers and the public.

Sincerely,

Members of the REMI Partnership

A response to claims made by faculty at The University of Denver Graduate School of Social Work regarding the April 9, 2019 REMI Partnership Report on SB19-188

***Analysis of the Cost and Risk of Financial Insolvency for a Colorado Paid Leave Program***

**DU Graduate School of Social Work Statement:** *"In making the case, the CPSR report relies on one data point – Rhode Island (RI) utilization rates that the report author(s) incorrectly calculated while ignoring data from other states…"*

**Response:** To clarify, the report[1] was released by the REMI Partnership. Common Sense Policy Roundtable (CSPR), along with Colorado Concern, The Colorado Bankers Association, The Colorado Association of REALTORS and Denver South Economic Development Partnership, are REMI partners.

The report did not ignore data from other states. In fact, the study uses the utilization rate for the same three states referenced in the University of Denver Graduate School of Social Work's own study[2]: New Jersey, California and Rhode Island. Further, the REMI Partnership report also cites the utilization rate of 5 percent assumed in the University of Denver Graduate School of Social Work's study, as well as the range of utilization rates of 1.2 percent to 10 percent[3] noted in the initial Legislative Council fiscal note.

Faculty members of the DU Graduate School of Social Work also claim that the REMI Partnership's determination of Rhode Island's utilization rate, which differs from DU Graduate School of Social Work's study, is "not merely a disagreement about interpretation" but numbers that are "misused and in some cases simply incorrect." This assertion lacks support from the DU Graduate School of Social Work's own report, given they changed their own utilization rate calculations on the same data set between the release of their study in February and the writing of their letter in April.

**DU Graduate School of Social Work Statement:** *"The CSPR argument for building higher estimates of utilization are based on Rhode Island (RI) data. RI estimates are of utilization that rely on claims filed (rather than claims paid) overstate actual utilization for two important reasons:*

- *The RI reporting of claims includes both approved and pending claims filed in a given year, and it is likely that some of the claims filed will not be approved.*
- *Some of the Temporary Caregiver Insurance (TCI) claims for bonding with children are most likely extensions of prior Temporary Disability Insurance (TDI) claims related to pregnancy or recovery from childbirth and, thus, double count overall claim numbers."*

**Response:** The REMI Partnership used Rhode Island's utilization rate to mirror the definition in the initial fiscal note on SB-188 issued 3/12/19. The section discussing "benefit utilization assumptions" stated:

*The fiscal note assumes 3.0 percent utilization in FY 2021-22 and 3.5 percent utilization in FY 2022-23. In other states that have a paid family leave benefit, utilization has varied between 1.2 percent and 10 percent. The fiscal note also assumes that utilization will grow as the program becomes more widely known, but that it will also fluctuate.*

[1] https://remipartnership.org/senate-bill-188/
[2] https://socialwork.du.edu/sites/g/files/lmucqz281/files/2019-02/Paid-Family-Leave-Report.pdf
[3] https://leg.colorado.gov/sites/default/files/documents/2019A/bills/fn/2019a_sb188_00.pdf

Through subsequent correspondence with the fiscal analyst, it was clarified that this rate represented the rate of claims against all eligible employees. To create the equivalent rate and benefits covered in SB19-188 in other states, we looked for source data on the three states that have a similar history of paid leave. We used the same source data cited in the DU Graduate School of Social Work's study for Rhode Island specifically. This source data indicates there were 47,075 claims for temporary disability insurance (TDI) benefits and 11,153 claims for temporary caregiver insurance (TCI) benefits in 2017[4]. The total number of employees that it reports paid into the program was 424,000.

47,075 (TDI claims) + 11,153 (TCI claims)= 58,228 (total claims)
58,228 (total claims)/424,000 (employees in program) = 13.7%

The faculty researchers at the DU Graduate School of Social Work claim this figure is too high – even though these are the exact same claim figures used on page 16 of their own study[5]. They now suggest it is both "likely" some of these claims will not be approved and "likely" some of the claims are from individuals who took TCI for bonding with a child while also taking TDI before or after the TCI claim. Yet, these suggestions were never mentioned by them when contacted or in their own study or reported on in the RI annual report.

Under the current language of SB19-188, if a new mother were to take paid leave for medical complications related to child birth before or after giving birth, and then take paid leave again to care for her newborn, this would be two different claims. It will be up to CDLE how to report those claims but including both TDI claims and TCI claims is consistent with the utilization rate definition in the REMI Partnership Study.

While the original DU Graduate School of Social Work study cited a Rhode Island utilization rate of 11 percent, the authors have now revised their own research in the letter to suggest that the utilization rate in Rhode Island is closer to 7 percent to 8 percent. In 2017, there were 58,228 claims. Under the revised research, between 49 percent and 58 percent of all claims were either rejected, not yet paid or applied to mothers taking leave for both being a caregiver and for a medical issue related to childbirth. The DU Graduate School of Social Work does not cite how it drew this conclusion, but for reasons stated earlier, given the definition of claims relative to eligible employees the REMI Study does not remove claims made by the same individual.

To reiterate, our research never determines nor suggests a definitive utilization number for Colorado. As the DU Graduate School of Social Work authors emphasized in their letter, knowing what the right number should be is challenging. We could not agree more. But if the experience in Colorado was even the lower utilization rate that they now arrive at of 7 percent to 8 percent, the costs and the premium would more than double, and the premium cap of .99% of payroll would be insufficient to fund the benefits. **As emphasized in our study, determining the "correct" rate for a potential Colorado paid leave program is impossible. Instead, the objective is to build robust policy that identifies ways to alleviate costs, rather than simply fund the benefits regardless of how expensive they become.**

The definition of the utilization rate has changed through the issuance of a new Legislative Council fiscal note memorandum on April 15, 2019. The new definition is the percent of employees filing a FAMLI claim and receiving benefits for 12 weeks and is assumed to be 3% instead of the original 3.5%. But the fiscal analysts show that just a 5.7 percent utilization rate will render the program insolvent by 2025 (see table below).



[4] http://www.dlt.ri.gov/pdf/2017DLTAnnualRpt.pdf
[5] https://socialwork.du.edu/sites/g/files/lmucqz281/files/2019-02/Paid-Family-Leave-Report.pdf

| Calendar Year | Utilization Rate | FAMLI Program Costs | Surplus/(Deficit) at 0.64% Premium | Surplus/(Deficit) at 0.99% Premium |
|---|---|---|---|---|
| 2024 | 3.0% | $910 Million | $239 Million | - |
| | 5.0% | $1,504 Million | ($355 Million) | - |
| | 7.0% | $2,090 Million | ($949 Million) | - |
| | 10.0% | $2,989 Million | ($1,840 Million) | - |
| 2025 | 3.0% | $989 Million | $217 Million | $877 Million |
| | 5.0% | $1,636 Million | ($430 Million) | $230 Million |
| | 7.0% | $2,283 Million | ($1,077 Million) | ($417 Million) |
| | 10.0% | $3,253 Million | ($2,047 Million) | ($1,387Million) |

*Source: Colorado Legislative Council Staff Memorandum Subject: FAMLI Program Utilization*

**DU Graduate School of Social Work Statement:** *"Colorado's plan, as amended and passed by the Senate Finance Committee, would allow for private coverage and would therefore have utilization rates closer to those in states like California and New Jersey."*

**Response:** The ability for employers to "opt-out" of the state paid leave program would have no discernable impact on the utilization rate as calculated in our study or on the rate as reported in the original fiscal note. The REMI Partnership study clearly defines the utilization rate as the percent of claims relative to the number of eligible employees. If an employer provides a qualifying paid leave plan, its employees would no longer be eligible for the state plan and would no longer be included in the denominator as an eligible employee. There could be some distributional effects based on age or wage distribution, but that is beyond the scope of the DU Graduate School of Social Work's criticism.

**DU Graduate School of Social Work Statement:** *"Rhode Island has the 9th oldest workforce in the country, and therefore is likely to have a higher number of workers at risk of needing medical leave when compared with states like Colorado that have a relatively younger workforce."*

**Response:** This argument gets to the heart of the issue of the REMI Partnership report. Despite characterizing the REMI Partnership's utilization rate estimate as false, the DU Graduate School of Social Work relies on the phrase "likely to have a higher number." Nowhere in the REMI Partnership study do we determine a utilization rate for a potential paid leave program in Colorado. We have simply made the case that there is enough uncertainty in the utilization rate, given the known experience with similar programs, to raise the issue of the program's financial risk and to develop sensible ways to manage that risk.

**DU Graduate School of Social Work Statement:** *"CSPR's claim that the wage replacement rate in SB-188 is higher than other states and will therefore result in a higher utilization rate is not accurate. Missing from CSPR's discussion of wage replacement is an understanding of what the progressive formula built into the program actually yields… When evaluating all eligible workers and applying the wage replacement formula using 2017 data from the American Community Survey, the average wage replacement is 57 (percent)."*

**Response:** Given the progressive formula, it is inaccurate to use a simple average when calculating the wage replacement rate, as it is not equally distributed across all weekly wage brackets. Below is a table that comes directly from the excel-based model developed by the Colorado Department of Labor and Employment (CDLE) and used to calculate the anticipated costs of SB19-188. Using this model, the weighted average for the wage replacement ratio is 78 percent, with higher rates on the lower end of the weekly wage range and lower rates on the higher end. Our own calculations showed the weighted average to be 73%. Only 17.5 percent of workers would have a wage replacement ratio less than 57 percent – the average cited by the DU Graduate School of Social Work. See the 2 following tables for calculations and for comparison to other states.

| A. Wage Bracket (% of AWW) | B. Distribution of CO workers that earn within the wage bracket | C. Est # of Individuals | D. Wage replacement Rate for middle wage earnings in AWW Bracket (middle wage benefit/middle weekly wage) | E. Wage replacement share to develop weighted average (authors Calculations (B*D*100) |
|---|---|---|---|---|
| 0 - 10% | 1.0% | 27,000 | 90% | 0.90 |
| 10.1 - 20% | 2.0% | 54,000 | 90% | 1.80 |
| 20.1 - 30% | 7.0% | 189,000 | 90% | 6.30 |
| 30.1 - 40% | 7.5% | 202,500 | 90% | 6.75 |
| 40.1 - 50% | 7.5% | 202,500 | 90% | 6.75 |
| 50.1 - 60% | 8.5% | 229,500 | 90% | 7.65 |
| 60.1 - 70% | 10.0% | 270,000 | 90% | 9.00 |
| 70.1 - 80% | 8.5% | 229,500 | 90% | 7.65 |
| 80.1 - 90% | 7.0% | 189,000 | 95% | 5.95 |
| 90.1 - 100% | 6.0% | 162,000 | 85% | 5.09 |
| 100.1 - 110% | 5.5% | 148,500 | 77% | 4.22 |
| 110.1 - 120% | 5.0% | 135,000 | 70% | 3.50 |
| 120.1 - 130% | 4.0% | 108,000 | 64% | 2.58 |
| 130.1 - 140% | 3.0% | 81,000 | 60% | 1.79 |
| 140.1 - 150% | 3.0% | 81,000 | 56% | 1.67 |
| 150.1 - 160% | 2.0% | 54,000 | 52% | 1.04 |
| 160.1 - 170% | 1.0% | 27,000 | 49% | 0.49 |
| 170.1 - 180% | 1.0% | 27,000 | 46% | 0.46 |
| 180.1 - 190% | 0.5% | 13,500 | 44% | 0.22 |
| >190% | 10.0% | 270,000 | 41% | 4.13 |
| | 100% | 2,700,000 | | weighted average =77.93% |

*Source: FAMLI Projections CDLE Excel (LMI Report: Quarterly Census of Employment and Wages (2017), LMI Report: Size Class Report (2017), LMI Report: Occupational Employment and Wage Rates (OES) for Multiple Occupations in Colorado (2017), LMI Report: Current Employment Statistics (2017)).*

### Comparison of Wage Replacement Ratios

| Colorado (proposed under SB-188) | California (2017*) | Rhode Island (2017*) | New Jersey (2017*) |
|---|---|---|---|
| 90% of wages below 50% of state's average weekly wage, and 50% of wages above the AWW. Capped at $1,000 per week | 55% of wages but capped at $1,173 per week in 2017 | 60% but capped at $795 per week | Up to 66% of wages but capped at $633 per week. |

**Existing states may have changed their benefits since 2017, but the reported wage replacement ratios used in this figure correspond with the latest available utilization rates at the time of this study*

**DU Graduate School of Social Work Statement:** *"The model and data used in CSPR's analysis of revenues required and effects on business and economy are not available to replicate and assess the claims made as one would expect in a professional study. Even so, it appears that models are narrowly focused to disregard any increased economic activity or potential savings on state expenditures."*

**Response:** The DU Graduate School of Social Work fails to identify that the economic impact scenarios referenced in the REMI Partnership study were conducted by the National Federation of Independent Businesses (NFIB). That group released a separate study[6] describing its assumptions and model inputs, making it possible for the DU Graduate School of Social Work to replicate. Included in those assumptions are ones that account for increases in economic activity resulting in additional consumption from the wage replacement benefit. The DU Graduate School of Social Work makes several claims about assumptions that they believe are missing, despite suggesting in their claim it only" appears the models are narrowly focused."

**DU Graduate School of Social Work Statement:** *"Comparisons to other social insurance programs should be done with care… The CSPR report also draws conclusions about the paid family leave proposal by making direct comparisons to unemployment insurance. This analysis is problematic at best. Unemployment insurance claims typically fluctuate with the economy, whereas leave-taking for medical and family reasons are stable over time…"*

**Response:** The REMI Partnership study draws insights from two other Colorado programs operated by the state. One, Unemployment Insurance Benefits, may be characterized as a social insurance program. The second, PERA, is a defined benefit retirement plan offered to many of Colorado's public employees. The comparison we draw with the state's unemployment insurance plan is the potential for large-rate escalation and prolonged cost increases to pay off debt. The study makes no suggestion that paid leave will fluctuate with the unemployment rate in a similar way unemployment insurance does. A market research study[7] on the California paid leave



[6] https://www.nfib.com/assets/FAMLI-Study-NFIB_CO_HB181001.pdf
[7] https://www.edd.ca.gov/disability/pdf/Paid_Family_Leave_Market_Research_Report_2015.pdf

program concluded that from FY2004 to FY2014, the comprehensive annual growth rate for paid family leave grew "six-fold higher than California's overall population growth rate and almost seven times greater than California's civilian labor force growth rate during the same time period." The latest fiscal note also includes the statement, "The fiscal note also assumes that utilization will grow as the program becomes more widely known, but that it will also fluctuate." Clearly, this supports the central argument of the REMI Partnership report: Costs could soon approach a level where the .99 percent premium cap could not support claims.

**DU Graduate School of Social Work Statement:** *"A comparison with PERA or other retirement insurance programs is problematic because the solvency of retirement programs is assessed across a much longer time horizon than a paid leave insurance program needs to be."*

**Response:** The DU Graduate School of Social Work authors are entirely correct that a paid leave program does not have the benefit of amassing a large investment pool similar to PERA, where any projected threats to solvency would occur years in the future. That only further reinforces the concerns we have raised around cash flow and the interaction of capping the premium rate without any mechanism to lower the benefits or the cost of claims. The comparison to PERA in the REMI Partnership report is regarding the extent to which assumptions don't always live up to reality.