# Revised

**Consolidated Fiscal Note** **2019-2020 Legislative Session**

**HF5 - 4A - "Paid Family Medical Benefits Empl Leave"**

Chief Author: **Laurie Halverson**
Commitee: **Jobs & Economic Development Finance Division**
Date Completed: **03/29/2019**
Lead Agency: Employment and Economic Dvlpmt
Other Agencies:
- Administrative Hearings
- Human Services Dept
- Labor and Industry Dept
- Minn Management and Budget
- Revenue Dept
- Supreme Court

| State Fiscal Impact | Yes | No |
|---|---|---|
| Expenditures | X | |
| Fee/Departmental Earnings | X | |
| Tax Revenue | X | |
| Information Technology | X | |

| | | |
|---|---|---|
| Local Fiscal Impact | X | |

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
Reductions shown in the parentheses.

| **State Cost (Savings)** | | **Biennium** | | **Biennium** | |
|---|---|---|---|---|---|
| **Dollars in Thousands** | **FY2019** | **FY2020** | **FY2021** | **FY2022** | **FY2023** |
| **Administrative Hearings** | - | - | - | - | - |
| **Administrative Hearings** | - | - | - | - | - |
| **Employment and Economic Dvlpmt** | | | | | |
| **General Fund** | - | 10,549 | 21,975 | 16,096 | 15,181 |
| **Restrict Misc. Special Revenue** | - | - | (414,955) | (403,791) | (3,547) |
| **Human Services Dept** | | | | | |
| **General Fund** | - | 501 | 173 | 115 | 115 |
| **Labor and Industry Dept** | | | | | |
| **General Fund** | - | 596 | 1,444 | (70) | (70) |
| **Restrict Misc. Special Revenue** | - | - | - | 3,246 | 3,548 |
| **Minn Management and Budget** | | | | | |
| **General Fund** | - | 29 | 1,706 | 4,731 | 6,074 |
| **All Other Funds** | - | - | 3,598 | 10,025 | 12,881 |
| **Revenue Dept** | | | | | |
| **General Fund** | - | - | 91 | 149 | 117 |
| **Supreme Court** | | | | | |
| **General Fund** | - | - | 15 | - | 3,433 |
| State Total | | | | | |
| **Administrative Hearings** | - | - | - | - | - |
| **General Fund** | - | 11,675 | 25,404 | 21,021 | 24,850 |
| **Restrict Misc. Special Revenue** | - | - | (414,955) | (400,545) | 1 |
| **All Other Funds** | - | - | 3,598 | 10,025 | 12,881 |
| **Total** | **-** | **11,675** | **(385,953)** | **(369,499)** | **37,732** |
| **Biennial Total** | | | **(374,278)** | | **(331,767)** |

# Revised

| Full Time Equivalent Positions (FTE) | | Biennium | | Biennium | |
|---|---|---|---|---|---|
| | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| Administrative Hearings | - | - | - | - | - |
| Administrative Hearings | - | - | - | - | - |
| Employment and Economic Dvlpmt | | | | | |
| General Fund | - | 12.06 | 70.86 | 6.75 | 6.75 |
| Restrict Misc. Special Revenue | - | - | - | 283.7 | 309.32 |
| Human Services Dept | | | | | |
| General Fund | - | - | - | - | - |
| Labor and Industry Dept | | | | | |
| General Fund | - | 3 | 12 | - | - |
| Restrict Misc. Special Revenue | - | - | - | 27 | 27 |
| Minn Management and Budget | | | | | |
| General Fund | - | - | - | - | - |
| All Other Funds | - | - | - | - | - |
| Revenue Dept | | | | | |
| General Fund | - | - | 1.15 | 1.88 | 1.36 |
| Supreme Court | | | | | |
| General Fund | - | - | - | - | 52.5 |
| **Total** | **-** | **15.06** | **84.01** | **319.33** | **396.93** |

**Lead Executive Budget Officer's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.


EBO Signature:Laurena Schlottach-Ratcliff Date: 03/29/2019
Phone: 651 201-8043 Email:laurena.schlottach-ratcliff@state.mn.us

# Revised

**State Cost (Savings) Calculation Details**
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

| State Cost (Savings) = 1-2 | | Biennium | | Biennium | |
|---|---|---|---|---|---|
| Dollars in Thousands | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| Administrative Hearings | - | - | - | - | - |
| Administrative Hearings | - | - | - | - | - |
| Employment and Economic Dvlpmt | | | | | |
| General Fund | - | 10,549 | 21,975 | 16,096 | 15,181 |
| Restrict Misc. Special Revenue | - | - | (414,955) | (403,791) | (3,547) |
| Human Services Dept | | | | | |
| General Fund | - | 501 | 173 | 115 | 115 |
| Labor and Industry Dept | | | | | |
| General Fund | - | 596 | 1,444 | (70) | (70) |
| Restrict Misc. Special Revenue | - | - | - | 3,246 | 3,548 |
| Minn Management and Budget | | | | | |
| General Fund | - | 29 | 1,706 | 4,731 | 6,074 |
| All Other Funds | - | - | 3,598 | 10,025 | 12,881 |
| Revenue Dept | | | | | |
| General Fund | - | - | 91 | 149 | 117 |
| Supreme Court | | | | | |
| General Fund | - | - | 15 | - | 3,433 |
| **Total** | **-** | **11,675** | **(385,953)** | **(369,499)** | **37,732** |
| **Biennial Total** | | | **(374,278)** | | **(331,767)** |
| **1 - Expenditures, Absorbed Costs*, Transfers Out*** | | | | | |
| Administrative Hearings | - | - | - | - | - |
| Administrative Hearings | - | 23 | - | - | 23 |
| Employment and Economic Dvlpmt | | | | | |
| General Fund | - | 10,549 | 21,975 | 16,096 | 15,181 |
| Restrict Misc. Special Revenue | - | - | - | 426,119 | 826,363 |
| Human Services Dept | | | | | |
| General Fund | - | 501 | 173 | 115 | 115 |
| Labor and Industry Dept | | | | | |
| General Fund | - | 596 | 1,479 | - | - |
| Restrict Misc. Special Revenue | - | - | - | 3,246 | 3,548 |
| Minn Management and Budget | | | | | |
| General Fund | - | 29 | 1,706 | 4,731 | 6,074 |
| All Other Funds | - | - | 3,598 | 10,025 | 12,881 |
| Revenue Dept | | | | | |
| General Fund | - | - | 91 | 149 | 117 |
| Supreme Court | | | | | |
| General Fund | - | - | 15 | - | 4,636 |
| **Total** | **-** | **11,698** | **29,037** | **460,481** | **868,938** |
| **Biennial Total** | | | **40,735** | | **1,329,419** |
| **2 - Revenues, Transfers In*** | | | | | |
| Administrative Hearings | - | - | - | - | - |
| Administrative Hearings | - | 23 | - | - | 23 |

# Revised

| State Cost (Savings) = 1-2 | | | Biennium | | Biennium | |
|---|---|---|---|---|---|---|
| Dollars in Thousands | | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| Employment and Economic Dvlpmt | | | | | | |
| General Fund | | - | - | - | - | - |
| Restrict Misc. Special Revenue | | - | - | 414,955 | 829,910 | 829,910 |
| Human Services Dept | | | | | | |
| General Fund | | - | - | - | - | - |
| Labor and Industry Dept | | | | | | |
| General Fund | | - | - | 35 | 70 | 70 |
| Restrict Misc. Special Revenue | | - | - | - | - | - |
| Minn Management and Budget | | | | | | |
| General Fund | | - | - | - | - | - |
| All Other Funds | | - | - | - | - | - |
| Revenue Dept | | | | | | |
| General Fund | | - | - | - | - | - |
| Supreme Court | | | | | | |
| General Fund | | - | - | - | - | 1,203 |
| | **Total** | **-** | **23** | **414,990** | **829,980** | **831,206** |
| | **Biennial Total** | | | **415,013** | | **1,661,186** |

# Revised

**Fiscal Note** **2019-2020 Legislative Session**

**HF5 - 4A - "Paid Family Medical Benefits Empl Leave"**

| | |
|---|---|
| Chief Author: | **Laurie Halverson** |
| Commitee: | **Jobs & Economic Development Finance Division** |
| Date Completed: | **03/29/2019** |
| Agency: | Employment and Economic Dvlpmt |

| State Fiscal Impact | Yes | No |
|---|---|---|
| Expenditures | X | |
| Fee/Departmental Earnings | X | |
| Tax Revenue | X | |
| Information Technology | X | |

| | | |
|---|---|---|
| Local Fiscal Impact | X | |

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

| **State Cost (Savings)** | | | **Biennium** | | **Biennium** | |
|---|---|---|---|---|---|---|
| **Dollars in Thousands** | | **FY2019** | **FY2020** | **FY2021** | **FY2022** | **FY2023** |
| **General Fund** | | - | 10,549 | 21,975 | 16,096 | 15,181 |
| **Restrict Misc. Special Revenue** | | - | - | (414,955) | (403,791) | (3,547) |
| | **Total** | **-** | **10,549** | **(392,980)** | **(387,695)** | **11,634** |
| | | **Biennial Total** | | **(382,431)** | | **(376,061)** |

| **Full Time Equivalent Positions (FTE)** | | | **Biennium** | | **Biennium** | |
|---|---|---|---|---|---|---|
| | | **FY2019** | **FY2020** | **FY2021** | **FY2022** | **FY2023** |
| General Fund | | - | 12.06 | 70.86 | 6.75 | 6.75 |
| Restrict Misc. Special Revenue | | - | - | - | 283.7 | 309.32 |
| | **Total** | **-** | **12.06** | **70.86** | **290.45** | **316.07** |

**Executive Budget Officer's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature:Laurena Schlottach-Ratcliff Date: 3/29/2019 9:17:53 AM
Phone: 651 201-8043 Email:laurena.schlottach-ratcliff@state.mn.us

**State Cost (Savings) Calculation Details**
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

| State Cost (Savings) = 1-2 | | Biennium | | Biennium | |
|---|---|---|---|---|---|
| Dollars in Thousands | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| General Fund | - | 10,549 | 21,975 | 16,096 | 15,181 |
| Restrict Misc. Special Revenue | - | - | (414,955) | (403,791) | (3,547) |
| **Total** | **-** | **10,549** | **(392,980)** | **(387,695)** | **11,634** |
| **Biennial Total** | | | **(382,431)** | | **(376,061)** |
| **1 - Expenditures, Absorbed Costs*, Transfers Out*** | | | | | |
| General Fund | - | 10,549 | 21,975 | 16,096 | 15,181 |
| Restrict Misc. Special Revenue | - | - | - | 426,119 | 826,363 |
| **Total** | **-** | **10,549** | **21,975** | **442,215** | **841,544** |
| **Biennial Total** | | | **32,524** | | **1,283,759** |
| **2 - Revenues, Transfers In*** | | | | | |
| General Fund | - | - | - | - | - |
| Restrict Misc. Special Revenue | - | - | 414,955 | 829,910 | 829,910 |
| **Total** | **-** | **-** | **414,955** | **829,910** | **829,910** |
| **Biennial Total** | | | **414,955** | | **1,659,820** |

**<u>Bill Description</u>**

*Overview*

HF5 establishes a Family and Medical Benefits Division within the Minnesota Department of Employment and Economic Development (DEED). That division would be charged with administering a family and medical benefit insurance program to provide the following:

- Family care benefits
- Bonding benefits
- Pregnancy benefits
- Medical leave benefits
- Safety leave benefits
- Qualifying exigency leave benefits

Each program would have distinct eligibility requirements and the maximum length of benefits is dependent on the type of leave with a maximum length of benefits of 12 weeks per 52 week period for medical or pregnancy leave. An additional up to 12 weeks of benefits is available for bonding, safety leave or family care. Up to an additional 12 weeks of benefits is available for leave related to one or more qualifying exigencies.

*Premiums*

Under the bill, employees and employers would fund the benefit programs described above by paying premiums. All employers would be required to pay premiums, including governmental and nonprofit employers that do not pay taxes under Minnesota Unemployment Insurance law. The bill would also permit self-employed individuals to opt in to the program.

Employer premium obligations would be calculated using a taxable wage base consistent with the Federal Insurance Contribution Act (FICA) tax, which is currently $132,900.

Employers would be able to deduct up to 50% of annual premiums paid from employee wages, subject to the minimum wage.

The bill would require the Department to set employer premium rates annually based on a ratio of benefits paid to total covered wages, except that the 2021 premium rate would be set in statute. The premium rate for 2021 is currently .65 percent in the bill.

Each calendar year following the calendar year beginning January 1, 2023 the bill requires the DEED commissioner to adjust the annual premium rates using a formula in the bill.

The bill requires that premiums from employers be deposited in a special revenue fund in the state treasury. That fund would be used to pay benefits and grants for the business subsidy program as well as fund the administrative costs associated with this program.

*Substitution of a Private Plan*

The bill creates a process by which employers may substitute a private plan for the state's plan when they can demonstrate they already offer equal or better benefits to their employees

The DEED Commissioner will be required to approve applications for employers to substitute a private medical or family benefit program.

The DEED Commissioner will also be required to approve any amendments to a private plan that has previously been approved for substitution.

*Benefits*

To be eligible for benefits, an applicant must have earned sufficient wage credits as defined under Minnesota Unemployment Insurance law. Currently, that amount is $2,900 in the applicant's period. This is equivalent to 360 hours of work for a small employer (minimum wage of $8.04) or 294 hours for a large employer (minimum wage of $9.86).

The maximum weekly benefit amount payable to an applicant for any given week is based on the annual statewide average weekly wage (as defined under Minnesota Unemployment Insurance law). An individual applicant's weekly benefit amount would be determined partially based on that individual's average weekly wage; applicants with a lower average weekly wage would have a proportionately higher share of their wage replaced.

Maximum benefit duration would be limited to a certain number of weeks, which vary by benefit type. Applicants could receive more than one benefit type consecutively for the same qualifying event. The program provides a maximum length of benefits of 12 weeks per 52 week period for medical or pregnancy leave. The program allows for additional benefits of up to 12 weeks is available for bonding, safety leave or family care. The program also allows for up to an additional 12 weeks of benefits related to one or more qualifying exigencies. An applicant eligible under more than one benefit type could stack eligibility.

*Implementation Timeline*

The bill would require the Department to begin collecting premiums on January 1, 2021 and paying benefits on January 1, 2022. The bill would appropriate one-time General Fund dollars for the purpose of establishing the program.

The bill appropriates general funding in fiscal years 2020 and 2021 for DEED to do outreach, education and technical assistance for employees and employers.

The bill appropriates general funding in fiscal years 2020-2023 for the IT system build.

## Assumptions

*Overview*

HF5 would require the Department to build a new premium collection and benefit payment system for this program. As there are two other states, Washington and Massachusetts, who have recently enacted a similar family and medical leave program and are currently building premium collections and benefit payment systems, it is possible that Minnesota would be able to contract with a vendor familiar with such systems.

DEED assumes that general fund appropriations will fund staff and administrative costs in FY20 and FY21.

DEED assumes that costs in FY22 and in ongoing years will be covered by the special revenue account.

The department assumed that the administrative costs from the special revenue account would be made available at the start of FY22 for administrative costs. The bill, as written, allows the commissioner to spend up to seven percent of projected benefit payment for that calendar year for the administration of this program.

The department assumed that the .5 percent of revenue collected that the commissioner must use for public outreach, education and technical assistance for employees, employers and self-employed individuals would not be available until FY22 when adequate collections had been made to fund such costs.

The department assumes the remaining IT build costs of $11.5 million will be funded by the general fund in FY2024. DEED consulted with MMB and understands there will be an amendment to this bill to specify this funding.

*Total Number of Covered Workers*

We were required to estimate the number of people covered by this program. It is difficult to estimate the impact of the self-employment provisions on the total number of workers covered. California is the only state that has the option for self-employed individuals to opt into the state program where they can actively choose to opt-in at this time. About 0.03% of those enrolled in the Family Leave Program there are self-employed or exempted workers.

The Institute for Women's Policy Research (IWPR) simulation model that was developed in partnership with the Labor Research Center at the University of Massachusetts includes self-employed individuals in their estimate of the total number of covered workers in Minnesota who would participate in this program. We have chosen to follow their estimate which assumes that 6% of the state's self-employed workforce will opt into the program.

*Employer Opt-Out Estimation*

We have no way of estimating the number of employers who will be eligible to opt out of this program. We do not have a survey of existing employer benefits upon which we could infer the number of employers in the state whose current benefit package would qualify them to opt-out. Absent any modeling or analysis about the impact this bill may have on Minnesota's employer behavior, we have chosen to assume that Minnesota employers will not opt out of this program.

*Uptake Rates*

We were also required to estimate the number of covered workers who would 1) qualify for one or more benefit types and 2) choose to apply for them.

The anticipated uptake rates used in this fiscal note are sourced from estimates by the Institute for Women's Policy Research (IWPR). We are using these figures because they are the only estimates of uptake rates available to the Department for these benefit types.

We have no estimates of uptake rates or way of producing our own estimates for the qualifying exigency leave or safety leave. Upon advice from DEED's Labor Market Information office, department staff are estimating that 1,000 Minnesotans annually qualify for exigency benefits and 1,000 Minnesotans annually qualify for safety leave with a calculated take up rate consistent with that of family care.

We are not able to estimate the impact of applicants who access multiple benefit types sequentially.

We summarize uptake rates below as a percentage of the workforce and cost as and average amount of payout to each group in a year.

*Average Benefit Amount*

We were required to determine the average benefit amount that each applicant would receive under the program. The minimum weekly benefit amount under the bill would be approximately $200, while the maximum benefit amount would be approximately $1,077.

The department used the IWPR estimates for average weekly benefit amounts for participants.

*Average Benefit Duration*

We were required to determine the average length of time that each applicant would receive benefits. Applicants could collect a minimum of one week of benefits under any benefit type.

The department used the IWPR estimates for average number of weeks used.

*Total Benefit Costs*

DEED used the IWPR to estimate the number of covered workers, the uptake rate, the average benefit amount, and the average benefit duration, for all eligibilities except qualifying exigency and safety leave. For qualifying exigency and safety leave we assumed that the pattern of usage is approximated by family care.

This dollar figure relies on the notion that each individual would only collect one kind of benefits. HF5 would permit multiple categories of leave related to a single event subject to the maximum leave limitations in the bill.

| Total MN Employees | Own Health | Pregnancy | Bonding | Family Care | Qualifying Exigency | Safety |
|---|---|---|---|---|---|---|
| Est. Takeup rate | 4.01% | 1% | 0.52% | 0.52% | 0 | 0.03% |
| 3,039,356 | 121,945 | 30,364 | 28,467 | 15,906 | 1,000 | 1,000 |
| Maximum Wks Avail | 12 | 12 | 12 | 12 | 12 | 12 |
| Maximum Weekly Amount | $1,077 | $1,077 | $1,077 | $1,077 | $1,077 | $1,077 |
| Minimum Weekly Amount | $230 | $230 | $230 | $230 | $230 | $230 |
| Est Avg % of Wks Used | 0% | 0% | 0% | 0% | - | 0% |
| Est. Average Wks Used | 6.6 | 8.3 | 6.4 | 3.7 | 4 | 3.7 |
| Est. Average Weekly Amt | $598 | $598 | $598 | $598 | $598 | $598 |
| Annual Amt Pd | $481,292,526 | $150,708,678 | $108,948,902 | $35,193,616 | $2,212,600 | $2,212,600 |

**Expenditure and/or Revenue Formula**

*Revenue Formula: Family and Medical Leave Division*

We assume that the revenue formula would produce annual receipts equal at least to the amount paid plus a surplus to accommodate the quarterly revenue cycle plus unexpected increases in payout.

Accounting for the cost of the estimated annual benefit payment as estimated by the IWPR along with the estimate of the cost of the business grants program (discussed later in this fiscal note) the annual costs of this program without administrative costs is $785,568,922 million.

We calculated the premium rate by adding administrative costs as of FY23 for DEED and DLI. That administrative cost is $44,341,550. We assumed a premium rate should raise sufficient funds to pay benefit payments and administrative costs for this program for one year. Based on this calculation, the estimated premium rate would be .60% calculated using 2017 wages up to the 2019 FICA taxable wage base ($132,900); which is a wage base of $139,165,449,014.

| 2017 MN 2019 FICA taxable wage base | 139,165,449,014 |
|---|---|
| IWPR Calculated Annual Benefit Costs | 780,568,922 |
| Business Subsidy Program | 5,000,000 |
| Total | 785,568,922 |
| DEED and DLI Admin Cost FY23 | 44,341,550 |
| Total Benefits and Admin | 829,910,472 |
| Premium Rate Needed | 0.60% |

*Premium Rate Adjustments*

Each calendar year following the calendar year beginning January 1, 2023 the commissioner must adjust the annual premium rates using the formula in the bill.

*Cost to State and Local Government*

HF 5 would propose to charge premiums to state and local governments. In many cases, these employers already provide family and medical leave benefits but it is unclear what the impact this program would have on such employers and their decisions to opt-out or participate in this program. Absent data that could model this behavior, we assumed that all state and local governments will participate in this program.

*Expenditure Formula: Permanent Administrative Costs*

The Unemployment Insurance (UI) Program is one of several potential points of comparison for the proposed FMLI program. In an average year, the Minnesota UI program pays out approximately $800 million in benefits to approximately 150,000 Minnesotans. Program staffing has ranged from 300 FTEs to 400 FTEs depending on program demands.

That said, there are a number of reasons why the UI staffing ratio may be leaner than what would be possible in the first several years of the Paid Family and Medical Leave Division.

- The application process, data to be managed and stored, adjudication process, appeal process, premium structure, and financial structure contemplated in HF5 are all relatively complicated compared to UI.
- The Paid Family and Medical Leave Program will not have established technology systems, business processes, or trained staff.
- The program will not have the benefit of decades of court precedents to guide its interpretations.

With these challenges in mind, the administrative cost analysis that follows is based on a federal UI budgeting methodology called the Resource Justification Model (RJM). That model looks to a state's overall UI claims and projects out the number of staff *minutes per unit* necessary to complete the associated workload. This staffing model is relevant because the tasks that would have to be performed by staff under this proposal are similar to those performed in the UI program.

This estimate assumes the same tasks and minutes per unit as are currently used in the Minnesota UI program. Since Minnesota's UI program is one of the most cost effective in the country, it is unlikely that this level of efficiency would be obtainable, at least in the early years of the program. This can be considered a reasonable starting point for estimating staffing costs for the premium collections, benefit payments and business subsidy program as they are similar in nature to the UI program

Based on that methodology and other UI staffing considerations, we have estimated that premium collections, benefit payments and business subsidy programs program would collectively require 316 FTEs when the premium collection benefit payments and business subsidy payments are fully operational. We have scheduled staffing the premium collection unit and benefit payment and business subsidy payment units with staff two months prior to the system going "live" to allow time to fully train staff. DEED's staffing costs include program administration, benefit and collection, call center and administrative appeals. Staffing includes DEED's administrative appeals staffing costs but not appeals beyond DEED into the state court state system.

The MNIT staffing is included in the table below but discussed further in the MNIT/Technology Costs section.

Staff for the public outreach programs are included below but discussed in the Outreach Programs section.

| | FY20 | FY21 | FY22 | FY23 | FY24 |
|---|---|---|---|---|---|
| Outreach Staff Cost | | 533,088 | | | |
| Outreach Expenditures (incl staff costs) | | | 4,150,436 | 4,150,436 | 4,150,436 |
| Tax Staff Cost | | 2,956,201 | 4,667,687 | 4,667,687 | 4,667,687 |
| Business Subsidy Program Staff Cost | | - | 162,238 | 243,357 | 243,357 |
| Benefits Staff Cost | | - | 11,489,665 | 17,234,498 | 17,234,498 |
| Program Management Staff Cost | 691,104 | 691,104 | 2,362,636 | 3,330,365 | 3,330,365 |
| Financial and Agency Staff Cost | | 31,651 | 1,129,643 | 1,754,713 | 1,754,713 |
| Non Personnel Services | 172,776 | 1,333,095 | 6,872,517 | 9,412,802 | 9,412,802 |
| Total One-time Office Space Costs | 1,276,994 | 412,006 | | | |

| | | | | | |
|---|---|---|---|---|---|
| Rule Making | 302,087 | | | | |
| SubTotal DEED Admin | | | | 40,793,858 | |
| DLI Admin | | | | 3,547,692 | |
| Total | 2,442,961 | 5,957,145 | 30,834,821 | 44,341,550 | 40,793,858 |

| FTE | FY20 | FY21 | FY22 | FY23 |
|---|---|---|---|---|
| MNIT FTE | 5.25 | 6.25 | 6.75 | 6.75 |
| Tax FTE | | 51.30 | 54.00 | 54.00 |
| Outreach FTE | | 6.00 | 6.00 | 6.00 |
| Business Subsidy Prog FTE | | | 3.00 | 3.00 |
| Benefits FTE | | | 186.05 | 195.84 |
| Program Management FTE | 6.81 | 6.81 | 23.27 | 32.81 |
| Financial and Agency FTE | | 0.50 | 11.37 | 17.66 |
| **TOTAL FTE** | **12.06** | **70.86** | **290.45** | **316.07** |

*Outreach Programs*

The bill appropriates funding for DEED to do outreach, education and technical assistance for employees and employers. DEED has assumed this outreach will begin in FY21 and be funded through a general fund appropriation in FY21.

The bill funds public outreach in FY21 from revenue collected under this program however, we have assumed those collections will not be sufficient to fund this work until FY22. We assumed that general fund appropriations would fund public outreach in FY21.

The bill also appropriates general fund dollars for grants for outreach to community-based groups providing outreach, education and technical assistance. We have assumed this work will begin in FY21.

*Small Business Grants:*

The bill caps Small Business Assistance Grants at $5,000,000 annually.

*Expenditure Formula: MN.IT/Technology Costs*

This fiscal note estimates costs for the revenue portion of the IT system with the functionality for premium assessment and collection. This fiscal note also estimates costs for the benefits portion of the IT system with the functionality to process applications, verify leave-triggering events, determine program eligibility, make benefit determinations, disperse benefits, prevent and detect fraud, and track the appeals process.

HF5 would require that the Department design and implement collections systems and business processes in order to begin collecting premiums in January 1, 2021.

HF5 would also require that the Department design and implement benefit payment systems and benefit processes in order to begin paying benefits in January 1, 2022.

Minnesota HF5 would require the Department to build a new system. The ability to design and build IT systems for collections and payments within the timeframe identified in HF5 will necessitate acquiring contract resources to design, build and deliver a system.

Our cost estimates are speculative in nature due to a lack of program business experience, short time-lines to implementation and an unknown degree of alignment with the existing UI system.

For comparison, the UI system cost about $40 million to build in vendor costs between 2002 and 2007. That cost did not include either UI staff time or MNIT staff time. That system build included approximately 30 staff FTEs per year, using MNIT and UI staff time. Accounting for in-house staffing costs, the cost of delivering the UI system up to its final phase in 2007 was closer to $60 million.

System build considerations:

- The UI system was completed over 10 years ago. Costs have increased.

- That work done by program staff with long tenures and experience in UI.
- The timeline was longer than for that proposed in HF 5.
- In its current form, the paid leave program is more complicated than UI and will necessitate the build of a new system.

These factors lead us to the conclusion that we will need to estimate this as primarily an IT "Vendored" solution. With this in mind, we estimated the hourly rate for resources at $220/hour for SFY2020 SFY2024 leading to an estimated cost of $66,922,260 million for the IT spend. We based this estimate on some initial conversations with vendors who could bid on a project of this size and the rates they would likely charge to undertake a project of this scale in this timeframe. We also based this cost on the IT build costs budgeted by Washington State in 2017, which totaled $63,192,021 over four years. The department will issue an RFP for this project and the cost of this build will depend on the responses to the RFP.

| IT Build Staffing Breakdown | FY20 | FY21 | FY22 | FY23 | FY24 |
|---|---|---|---|---|---|
| MNIT Staff FTE | 5.25 | 6.25 | 6.75 | 6.75 | 7 |
| Contractor FTE | 15 | 32 | 32 | 30 | 22 |
| | | | | | |

*Expenditure Formula: Cost Sharing Agreement with Unemployment Insurance Program*

DEED will look for administrative efficiencies with the Unemployment Insurance program to the extent practicable. It should be noted, however, that the federal Unemployment Insurance law and regulations require a Cost Sharing Agreement whenever non-Unemployment Insurance activity is connected to an Unemployment Insurance tax collection process. Costs must be negotiated with the United States Department of Labor.

*Expenditure Formula: One-Time Facilities Costs*

On-going office space costs are built into the staffing cost estimates throughout the fiscal note. Staff costs also incorporate a one-time expenditure to set up office space of approximately $1.689 million.

*Cumulative Projected Expenditures*

| | FY20 | FY21 | FY22 | FY23 | FY24 |
|---|---|---|---|---|---|
| IWPR Calculated Annual Benefit Costs | | | 390,284,461 | 780,568,922 | 780,568,922 |
| Business Subsidy Program | | | 5,000,000 | 5,000,000 | 5,000,000 |
| Total IT Build Costs | 7,264,000 | 15,019,544 | 15,025,172 | 14,109,972 | 10,449,172 |
| IT Staff Costs | 842,400 | 998,400 | 1,071,200 | 1,071,200 | 1,071,200 |
| Outreach Staff Cost | | 533,088 | | | |
| Outreach Expenditures (incl staff costs) | | | 4,150,436 | 4,150,436 | 4,150,436 |
| Tax Staff Cost | | 2,956,201 | 4,667,687 | 4,667,687 | 4,667,687 |
| Business Subsidy Program Staff Cost | | - | 162,238 | 243,357 | 243,357 |
| Benefits Staff Cost | | - | 11,489,665 | 17,234,498 | 17,234,498 |
| Program Management Staff Cost | 691,104 | 691,104 | 2,362,636 | 3,330,365 | 3,330,365 |
| Financial and Agency Staff Cost | | 31,651 | 1,129,643 | 1,754,713 | 1,754,713 |
| Non Personnel Services | 172,776 | 1,333,095 | 6,872,517 | 9,412,802 | 9,412,802 |
| Total One-time Office Space Costs | 1,276,994 | 412,006 | | | |
| Rule Making | 302,087 | | | | |
| **Total** | **10,549,361** | **21,975,089** | **442,215,654** | **841,543,952** | **837,883,152** |

| | | | | | |
|---|---|---|---|---|---|
| General Fund | 10,549,361 | 21,975,089 | 16,096,372 | 15,181,172 | 11,520,372 |
| Special Revenue Fund | | | 426,119,282 | 826,362,780 | 826,362,780 |

The IWPR does not model beyond the implementation year of the program. As the department does not have the ability to project the IWPR model into future years, we have not factored inflation into the premium collections, estimated benefit payments, or the administrative costs.

**Long-Term Fiscal Considerations**

Each calendar year following the calendar year beginning January 1, 2023 the commissioner must adjust the annual premium rates using a formula in the bill.

**Local Fiscal Impact**

Local governments are included in the program and will be subject to the premiums stipulated.

**References/Sources**

Paid Family and Medical Leave Insurance: Options for Designing and Implementing a Minnesota Program, UMN, February 2016: http://mn.gov/deed/images/pfml.pdf

Implementing Paid Family and Medical Leave Insurance in Connecticut, Institute for Women's Policy Research, January 2016:

U.S. Department of Labor Women's Bureau Paid Leave Analysis Grant Final Report for: Montgomery County, Maryland; Submitted by the Office of Legislative Oversight, Montgomery County, MD in partnership with The Institute for Women's Policy Research and The Center for American Progress, 2016: https://www.dol.gov/wb/media/MoCo_Final_Report_2016_Final_Narrative_Report.pdf

Fiscal notes for Colorado's proposed paid family and medical leave program and Washington States expanded paid leave program were used as references for this fiscal note.

-

**Agency Contact:** Darielle Dannen

**Agency Fiscal Note Coordinator Signature:** Colleen Hazel **Date:** 3/29/2019 9:16:01 AM

**Phone:** 651 259-7038 **Email:** colleen.hazel@state.mn.us

# Revised

**Fiscal Note** **2019-2020 Legislative Session**

**HF5 - 4A - "Paid Family Medical Benefits Empl Leave"**

| | |
|---|---|
| Chief Author: | **Laurie Halverson** |
| Commitee: | **Jobs & Economic Development Finance Division** |
| Date Completed: | **03/29/2019** |
| Agency: | Administrative Hearings |

| State Fiscal Impact | Yes | No |
|---|---|---|
| Expenditures | X | |
| Fee/Departmental Earnings | X | |
| Tax Revenue | | X |
| Information Technology | | X |

| | | |
|---|---|---|
| Local Fiscal Impact | | X |

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

| **State Cost (Savings)** | | **Biennium** | | **Biennium** | |
|---|---|---|---|---|---|
| **Dollars in Thousands** | **FY2019** | **FY2020** | **FY2021** | **FY2022** | **FY2023** |
| **Administrative Hearings** | - | - | - | - | - |
| **Total** | **-** | **-** | **-** | **-** | **-** |
| **Biennial Total** | | | **-** | | **-** |

| **Full Time Equivalent Positions (FTE)** | | **Biennium** | | **Biennium** | |
|---|---|---|---|---|---|
| | **FY2019** | **FY2020** | **FY2021** | **FY2022** | **FY2023** |
| Administrative Hearings | - | - | - | - | - |
| **Total** | **-** | **-** | **-** | **-** | **-** |

**Executive Budget Officer's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature:Marianne Conboy Date: 3/28/2019 4:33:33 PM
Phone: 651 201-8189 Email:marianne.conboy@state.mn.us

**State Cost (Savings) Calculation Details**
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

| State Cost (Savings) = 1-2 | | Biennium | | Biennium | |
|---|---|---|---|---|---|
| Dollars in Thousands | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| Administrative Hearings | - | - | - | - | - |
| **Total** | **-** | **-** | **-** | **-** | **-** |
| **Biennial Total** | | | **-** | | **-** |
| **1 - Expenditures, Absorbed Costs*, Transfers Out*** | | | | | |
| Administrative Hearings | - | 23 | - | - | 23 |
| **Total** | **-** | **23** | **-** | **-** | **23** |
| **Biennial Total** | | | **23** | | **23** |
| **2 - Revenues, Transfers In*** | | | | | |
| Administrative Hearings | - | 23 | - | - | 23 |
| **Total** | **-** | **23** | **-** | **-** | **23** |
| **Biennial Total** | | | **23** | | **23** |

## Bill Description

HF5-4A creates a family and medical benefit insurance program within the Department of Employment and Economic Development (DEED). The legislation authorizes DEED to conduct rulemaking to implement the provisions of Sec. 6, Family and Medical Benefit Insurance Program Creation, and Sec. 7, Eligibility.

## Assumptions

Based on past practices, OAH assumes that rulemaking under chapter 14 will require an estimated 135 hours of administrative law judge (ALJ) time for activity related to rulemaking procedures.

OAH currently bills ALJ time for rulemaking at the MMB-approved billable rate of $170 per hour.

## Expenditure and/or Revenue Formula

Estimated 135 hours of ALJ time for rulemaking activities related to implementing the requirements of Sec. 6, Family and Medical Benefit Insurance Program Creation, and Sec. 7, Eligibility = $22,950 charged to DEED FY2020 pursuant to the requirements of Minn. Stat. § 14.53.

The Department of Labor and Industry assumes a program of this size will require one large rulemaking at $302,087 in FY2023. Of this amount, $22,950 is for the estimated 135 hours of ALJ time for large rulemaking.

## Long-Term Fiscal Considerations

The costs associated with the rulemaking activities are a one-time occurrence.

## Local Fiscal Impact

## References/Sources

**Agency Contact:** Denise Collins

# Revised

**Agency Fiscal Note Coordinator Signature:** Tammy Pust
**Date:** 3/27/2019 8:22:01 PM
**Phone:** 651 361-7831
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# Revised

**Fiscal Note** **2019-2020 Legislative Session**

**HF5 - 4A - "Paid Family Medical Benefits Empl Leave"**

Chief Author: **Laurie Halverson**
Commitee: **Jobs & Economic Development Finance Division**
Date Completed: **03/29/2019**
Agency: Human Services Dept

| State Fiscal Impact | Yes | No |
|---|---|---|
| Expenditures | X | |
| Fee/Departmental Earnings | | X |
| Tax Revenue | | X |
| Information Technology | X | |

| | | |
|---|---|---|
| Local Fiscal Impact | | X |

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
Reductions shown in the parentheses.

| **State Cost (Savings)** | | Biennium | | Biennium | |
|---|---|---|---|---|---|
| **Dollars in Thousands** | **FY2019** | **FY2020** | **FY2021** | **FY2022** | **FY2023** |
| **General Fund** | - | 501 | 173 | 115 | 115 |
| **Total** | **-** | **501** | **173** | **115** | **115** |
| **Biennial Total** | | | **674** | | **230** |

| **Full Time Equivalent Positions (FTE)** | | Biennium | | Biennium | |
|---|---|---|---|---|---|
| | **FY2019** | **FY2020** | **FY2021** | **FY2022** | **FY2023** |
| General Fund | - | - | - | - | - |
| **Total** | **-** | **-** | **-** | **-** | **-** |

**Executive Budget Officer's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature:Travis Bunch Date: 3/28/2019 11:27:14 AM
Phone: 651 201-8038 Email:travis.bunch@state.mn.us

**State Cost (Savings) Calculation Details**
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

| State Cost (Savings) = 1-2 | | | Biennium | | Biennium | |
|---|---|---|---|---|---|---|
| Dollars in Thousands | | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| General Fund | | - | 501 | 173 | 115 | 115 |
| | **Total** | **-** | **501** | **173** | **115** | **115** |
| | **Biennial Total** | | | **674** | | **230** |
| **1 - Expenditures, Absorbed Costs*, Transfers Out*** | | | | | | |
| General Fund | | - | 501 | 173 | 115 | 115 |
| | **Total** | **-** | **501** | **173** | **115** | **115** |
| | **Biennial Total** | | | **674** | | **230** |
| **2 - Revenues, Transfers In*** | | | | | | |
| General Fund | | - | - | - | - | - |
| | **Total** | **-** | **-** | **-** | **-** | **-** |
| | **Biennial Total** | | | **-** | | **-** |

**Bill Description**

This bill creates a family and medical leave benefit program administered by the Department of Employment and Economic Development, and requires all employers to grant an unpaid leave of absence for certain medical and family reasons. There are five types of benefits available through this program, including up to 12 weeks of coverage for an applicant's serious health condition or a pregnancy, and up to 12 weeks of benefits for bonding or family care. This legislation also includes up to 26 weeks of benefits within a 52-week period for family care of a covered service member or one or more "qualifying exigencies." The program is funded through contributions from an employer tax and employee payroll deductions.

The bill includes provisions related to the eligibility of applicants receiving public assistance from programs governed by Minnesota Statutes, chapter 256P, including General Assistance and Minnesota Supplemental Aid under 256D, child care assistance programs under 119B, Housing Support under 256I, and the Minnesota Family Investment Program and Diversionary Work Program governed by chapter 256J. The bill would also have implications for the Medical Assistance and MinnesotaCare programs governed by chapters 256B and 256L.

**Assumptions**

This bill defines and creates a family and medical benefit insurance program governed by Minnesota Statutes, chapter 268B. Data from persons participating in this program would be subject to the same benefit eligibility monitoring by local and state public welfare agencies as other types of leave, including eligibility monitoring for the Minnesota Family Investment Program, cash assistance under chapters 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B or 256L.

Article 3, Sections 1 and 3 exempt parents receiving family and medical leave benefits from certain employment services requirements and from an MFIP requirement to have an employment plan. Sections 1 and 3 modify 256J for recipients of the leave benefits to be consistent with the family leave program. These changes are required to make the employment requirements under MFIP and DWP consistent with the leave benefit program, since the leave benefits are meant to allow the parent to have leave from work. Article 3, Section 2 exempts benefit recipients from the Diversionary Work Program (DWP) requirements under the MFIP program. Article 3, Section 4 stipulates that benefits paid under Chapter 268B, including the family medical benefit insurance program, shall be considered "earned income" for the purposes of programs governed by Chapter 256P.

There is no fiscal impact to DHS programs included in the changes in Article 3 reflected in this estimate. The bill language establishes paid family and medical leave as a new benefit program, and Article 3 further clarifies how this income would be used to determine eligibility and benefits for MFIP. It also adds the new family and medical leave program to the list of “earned income” eligibility criteria in Chapter 256P which governs General assistance and Minnesota supplemental aid under chapter 256D, child care assistance programs under chapter 119B, and Housing Assistance governed by chapter 256I, in addition to MFIP and DWP. The fiscal impact to MFIP and other economic assistance programs is indeterminate in that it may result in increased or decreased expenditures, depending primarily on the pattern of take-up of the leave benefit among actual and potential economic assistance recipients. In addition, this benefit might have longer-run impacts that could lead to changed employment, wages, and consumer prices that would affect the conditions under which families take-up economic assistance benefits. This program would also affect Medical Assistance and MinnesotaCare eligibility, but the impact is indeterminate since the program could either increase or decrease eligibility. This estimate therefore also does not include any fiscal impacts resulting from changes in health care program eligibility enrollment or disenrollment.

The fiscal costs included in this estimate are for impacts on DHS systems, including MAXIS, MEC², and METS. This new income type must be considered in eligibility determination for the following programs: MFIP, DWP, SNAP, Housing Support, MSA, GA, RCA, MA, MinnesotaCare, and CCAP. Because MAXIS is an integrated system, there are also implications for title IV-E. Since each of these programs have unique eligibility criteria, policies, and program rules regarding how various categories of income are treated and the level of benefits received by individual applicants, programming changes to each of these systems are necessary.

This estimate assumes that systems changes would be completed by 01/01/2021.

**Expenditure and/or Revenue Formula**

An estimated 7,412 hours of IT work for MAXIS, an estimated 1,585 hours of IT work for MEC2, and an estimated 6,074 hours of IT work for METS, are anticipated for the impact of this proposal on DHS systems. The systems costs include:

**MAXIS**
2,040 hours of analysis and design at the business analyst rate of $79/HR: $161,160
2,292 hours of programming and technical work at the technical rate of $93/HR: $213,156
1,844 hours of quality assurance at the quality assurance staff rate of $79/HR: $145,707.60
1,235 hour of project management at the project management rate of $79/HR: $97,587.12
**Total MAXIS systems costs FY20:** $617,610.72
**20% annual maintenance cost beginning in FY21: $**123,522.14
**20% annual maintenance costs in tails FY22-23:** $247,044.28

**MEC2**
427 hours of analysis and design at the business analyst rate of $79/HR: $33,748.80
516 hours of programming and technical work at the technical rate of $93/HR: $47,988
377 hours of quality assurance at the quality assurance staff rate of $79/HR: $29,767.20
265 hours of project management at the project management rate of $79/HR: $20,950.80
**Total MEC2 systems costs FY20-21:** $132,454.80
**20% annual maintenance costs in tails FY22-23:** $52,981.92

**METS**
3,146 hours of analysis and design at the business analyst rate of $79/HR: $248,565.60
468 hours of programming and technical work at the technical rate of $93/HR: $43,524.00
1,440 hours of quality assurance at the quality assurance staff rate of $79/HR: $113,760.00
1,020 hours of project management at the project management rate of $79/HR: $80,580.00
620 hours for a contractor at a contractor rate of $150/HR: $111,600
**Total METS systems costs FY20:** $598,029.60
**20% annual maintenance costs beginning in FY21:** $119,605.92
**20% annual maintenance costs in tails FY22-23:** $239,211.84

| Fiscal Tracking Summary ($000's) | | | | | | |
|---|---|---|---|---|---|---|
| **Fund** | **BACT** | **Description** | **FY2020** | **FY2021** | **FY2022** | **FY2023** |
| GF | 11 | MAXIS systems costs state share @ 55% | 340 | 68 | 68 | 68 |
| GF | 11 | MEC2 systems costs state share @ 55% | | 73 | 15 | 15 |
| GF | 11 | METS systems costs state share @ 27% | 161 | 32 | 32 | 32 |
| | | | | | | |
| | | | | | | |
| | | **Total Net Fiscal Impact** | **501** | **173** | **115** | **115** |
| | | **Full Time Equivalents** | | | | |

**Long-Term Fiscal Considerations**

The long-term fiscal impact to MFIP and other economic assistance programs is indeterminate in that it may result in increased or decreased expenditures, depending primarily on the pattern of enrollment in the leave benefit among actual and potential economic assistance recipients. As the paid family and medical leave program becomes a new benefit option for Minnesotans, particularly low-wage workers without current access to such a program that might otherwise turn to cash assistance, it is possible that enrollment could decline. In addition, this benefit might have longer-run impacts that could lead to changed employment, wages, and consumer prices that would affect the conditions under which families take-up economic assistance benefits. This program could also have longer-term impacts for Medical Assistance and MinnesotaCare eligibility, enrollment and service rates, but the impact is indeterminate at this time.

**Local Fiscal Impact**

Impact to counties is indeterminate at this time. Depending on the above long-term considerations, it's possible that this new paid family and medical leave program could impact the workloads of caseworkers as they see changes to the number of people enrolling in cash assistance or public health care programs.

**References/Sources**

MN.IT @ DHS

**Agency Contact:** Nic Demm, 651 431-2799

**Agency Fiscal Note Coordinator Signature:** Elyse Bailey **Date:** 3/28/2019 11:25:29 AM

**Phone:** 651 431-2932 **Email:** elyse.bailey@state.mn.us

# Revised

**Fiscal Note** **2019-2020 Legislative Session**

**HF5 - 4A - "Paid Family Medical Benefits Empl Leave"**

| | |
|---|---|
| Chief Author: | **Laurie Halverson** |
| Commitee: | **Jobs & Economic Development Finance Division** |
| Date Completed: | **03/29/2019** |
| Agency: | Labor and Industry Dept |

| State Fiscal Impact | Yes | No |
|---|---|---|
| Expenditures | X | |
| Fee/Departmental Earnings | | X |
| Tax Revenue | | X |
| Information Technology | X | |

| Local Fiscal Impact | | X |
|---|---|---|

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

| State Cost (Savings) | | Biennium | | Biennium | |
|---|---|---|---|---|---|
| Dollars in Thousands | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| **General Fund** | - | 596 | 1,444 | (70) | (70) |
| **Restrict Misc. Special Revenue** | - | - | - | 3,246 | 3,548 |
| **Total** | **-** | **596** | **1,444** | **3,176** | **3,478** |
| **Biennial Total** | | | **2,040** | | **6,654** |

| Full Time Equivalent Positions (FTE) | | Biennium | | Biennium | |
|---|---|---|---|---|---|
| | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| General Fund | - | 3 | 12 | - | - |
| Restrict Misc. Special Revenue | - | - | - | 27 | 27 |
| **Total** | **-** | **3** | **12** | **27** | **27** |

**Executive Budget Officer's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature:Laurena Schlottach-Ratcliff Date: 3/28/2019 7:29:42 PM
Phone: 651 201-8043 Email:laurena.schlottach-ratcliff@state.mn.us

**State Cost (Savings) Calculation Details**
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

| State Cost (Savings) = 1-2 | | Biennium | | Biennium | |
|---|---|---|---|---|---|
| Dollars in Thousands | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| General Fund | - | 596 | 1,444 | (70) | (70) |
| Restrict Misc. Special Revenue | - | - | - | 3,246 | 3,548 |
| **Total** | **-** | **596** | **1,444** | **3,176** | **3,478** |
| **Biennial Total** | | | **2,040** | | **6,654** |
| **1 - Expenditures, Absorbed Costs*, Transfers Out*** | | | | | |
| General Fund | - | 596 | 1,479 | - | - |
| Restrict Misc. Special Revenue | - | - | - | 3,246 | 3,548 |
| **Total** | **-** | **596** | **1,479** | **3,246** | **3,548** |
| **Biennial Total** | | | **2,075** | | **6,794** |
| **2 - Revenues, Transfers In*** | | | | | |
| General Fund | - | - | 35 | 70 | 70 |
| Restrict Misc. Special Revenue | - | - | - | - | - |
| **Total** | **-** | **-** | **35** | **70** | **70** |
| **Biennial Total** | | | **35** | | **140** |

**Bill Description**

This bill establishes a state administered paid employment leave benefit for all Minnesota workers to access for family, pregnancy, bonding, and serious medical conditions. The benefit is to be administered by the Department of Employment and Economic Development (DEED) with enforcement protection of that leave and compliance conducted by the Department of Labor and Industry (DLI). Contributions to fund such a benefit will be assessed to employers and employees through payroll deduction collected by DEED and then dispersed to eligible applicants by DEED. DLI will investigate allegations of employer retaliation against employee use, or attempt to use the said benefit. DLI will also ensure employer compliance with requirements related to the amount of premium costs they can pass on to employees. The bill also states that DLI may offer conciliation services to employers and employees to resolve disputes concerning alleged violations of employment protections articulated in the bill.
The bill provides authority for DLI to enforce premium deductions and retaliation starting July 1, 2019, however the premium deductions from employers, employees, and self-employed begin January 1, 2021.

Eligibility for leave benefits begins January 1, 2022.

$214,000 in FY20 and $377,000 in FY21 are appropriated to DLI for the purpose of outreach, education, and technical assistance. The general fund base amount for FY22 and beyond is $0.

$382,000 in FY20 and $1,101,000 in FY21 are appropriated to DLI for the Department’s enforcement duties. The general fund base amount for FY22 and beyond is $0.

**Assumptions**

DLI assumes the following:

- Its enforcement role and outreach responsibilities are expanded by this bill.
- It will enforce worker protections as articulated in Sec. 14 of this bill (268B.09, subd. 1  6)
- It will enforce deductions from worker's wages as articulated in Sec. 17 (268B.12, subd. 2).
- It may offer conciliation services to resolve disputes informally, as stated in Sec 25 of this bill (268B.20).
- It assumes it is not responsible for enforcing the worker protections in these sections for employers' private plans approved by DEED.
- It assumes that complaints related to premium deductions will begin after January 1, 2021.
- Complaints related to employer retaliation will begin after January 1, 2022.
- DEED is responsible for the employer misconduct penalties.

**Complaints - Employer Retaliation**
DLI estimates that approximately 920 workers will make retaliation complaints to DLI each year beginning January 1, 2022. This estimate is based on statistics from the Equal Employment Opportunity Commission (EEOC) as to how many retaliation claims it receives per year in Minnesota. The EEOC takes an average of 460 retaliation complaints in Minnesota per year. This is only for employees with some protected status claim (such as race, religion, sex, etc.). Retaliation here would apply to the entire workforce so we double the number of possible complaints to account for that.

DLI believes that retaliation against a benefit applicant may take several forms including:

- Employer interfering with their ability to take leave;
- Employer making an employee agree to waive their rights under this law or assign their benefits elsewhere;
- Employer failing to continue employee insurance while an employee is out on leave;
- Employer failing to reinstate an employee to their prior position upon return from leave; or
- Employer reinstating an employee and paying less wages, providing less benefits or loss of seniority.

DLI assumes that investigative time will vary based upon complexity of the case, completeness of records, availability and cooperation of witnesses and employers to bring about the resolution of complaints. In addition, not all complaints will lead to full investigations. Some claims will be resolved quickly, some may be determined to show no legal merit, while other claimants may seek their own legal representation and pursue a private right of action. DLI may engage in a strategy of informal conciliation to resolve these issues.

FTE Estimate Formula for 920 retaliation complaints:
65% Cases at 24 hours of investigative time. (598 x 24 = 14,352 hours)
25% Cases at 40 hours of investigative time (230 x 40 = 9,200 hours)
7.5% Cases at 80 hours of investigative time (69 x 80 = 5,520 hours)
2.5% Cases at 120 hours of investigative time (23 x 120 = 2,760 hours)
Total investigative hours = 31,832 divided by 2,088 hours = 15 FTE investigators annually starting in FY2022

**Complaints  Employee Premium Charge Backs**

DLI assumes that it will not begin enforcement of employee premium charge backs until employers start making deductions in FY2021. DLI anticipates that it will receive complaints of premium deduction errors.  DLI assumes that 1.5% percent of 167,500 employers in Minnesota (167,500 X 1.5% = 2,512) will be out of compliance related to the protection of this bill, with 920 of those are related to retaliation.  Of the 1,592 remaining employers in violation (2,512  920 = 1,592), we assume that 200 will result in a complaint and investigation related to employee premium charge backs.

FTE Estimate Formula for 200 premium charge back complaints:
65% Cases at 24 hours of investigative time.   (130 x 24 = 3,120 hours)
30% Cases at 40 hours of investigative time (60 x 40 = 2,400 hours)
3.5% Cases at 80 hours of investigative time (7 x 80 = 560 hours)
1.5% Cases at 120 hours of investigative time (3 x 120 = 360 hours)
Total investigative hours = 6,440 divided by 2,088 hours = 3 FTE investigators annually starting FY2021

**Targeted Inspections**

The remaining 1,392 Minnesota employers out of compliance (1,592  200 = 1,392) related to protection of this bill will be investigated over a five year cycle, or 278 investigations annually.

FTE Estimate Formula for 278 targeted inspections annually:
80% Cases at 24 hours of investigative time.   (222 x 24 = 5,328 hours)
15% Cases at 40 hours of investigative time (42 x 40 = 1,680 hours)
3.5% Cases at 80 hours of investigative time (10 x 80 = 800 hours)
1.5% Cases at 120 hours of investigative time (4 x 120 = 480 hours)
Total investigative hours = 8,288 divided by 2,088 hours = 4 FTE investigators annually starting FY2021

**Program Director**

It is anticipated that the division will require 1 FTE to fill the role of State Program Administrative Director to supervise the work related to DLI's enforcement responsibilities related to this bill.

**Start up, IT, Outreach, and Office Administrative Costs**

Extensive outreach will be needed to raise public awareness statewide about the Paid Family and Medical Leave Benefits.

DLI anticipates the need for 4 FTEs for administrative support, outreach, and to develop, launch and execute various outreach and engagement strategies about PFML retaliation protections and allowable deductions from employee paychecks. In addition, an effective outreach strategy will require collaboration with DEED to align messaging and engagement of employer and worker advocate organizations.

Public outreach will require staff to:

- Develop training and presentations for employees
- Develop training and presentations for employers
- Create and maintain web content
- Manage advertising contracts
- Handle media relations

Translation all materials into multiple languages

•

• Update above materials as legal determinations are made and/or statutes change

DLI will to work with HR software companies to communicate new requirements as they adjust their programs to better serve Minnesota employers.

**Case Management System**

DLI will need to expand their labor standards case management system to track PFML complaints, investigations, penalties, and court actions. It is assumed the current On-Base system can be used for this purpose, however DLI would need to build out a separate module within On Base for PFML. The initial investment is anticipated to be $200,000 due to integrating with DEED's system. The on-going maintenance costs are $30,000 per year, with license costs of $1,000 per FTE per year.

**Rulemaking**

DLI assumes a program of this size will require one large rulemaking at $302,087 in FY2023.

**Office of Administrative Hearings**

On average, DLI estimates it would refer 29 claims annually to the Office of Administrative Hearings (OAH). Of the 29 cases, OAH estimates that 15 may require a hearing. Averaging the number of administrative law judge (ALJ) hours in similar matters referred from DLI that ultimately go to hearing, it is assumed that each of the 15 hearings will require an estimated 55 hours of ALJ time at the currently approved billable rate of $170 per hour. The remaining 14 cases appealed to OAH are resolved before hearing and average 3 hours of ALJ time. Total estimated costs for OAH is $147,390.

**Penalties**

In CY2018, the Department assessed and collected a penalty in 1.2% of all investigations. For new penalties specific to PFML, DLI estimates the average collected penalty amount will be $500. This would result in new revenues in the amount of $7,000 (1,198 investigations X 1.2% = 14 penalties collected X $500 = $70,000)

**<u>Expenditure and/or Revenue Formula</u>**

| Labor Investigator Sr - MAPE 12L | 2020 | 2021 | 2022 | 2023 |
|---|---|---|---|---|
| FTE | 0 | 7 | 22 | 22 |
| Salary / Fringe / Indirect | - | 719,243 | 2,260,478 | 2,260,478 |
| Non-Personnel Services | - | 87,263 | 274,254 | 274,254 |
| Cumulative Cost | - | 806,505 | 2,534,731 | 2,534,731 |

| State Program Admin Director | 2020 | 2021 | 2022 | 2023 |
|---|---|---|---|---|
| FTE | 1 | 1 | 1 | 1 |
| Salary / Fringe / Indirect | 166,694 | 166,694 | 166,694 | 166,694 |
| Non-Personnel Services | 12,466 | 12,466 | 12,466 | 12,466 |
| Cumulative Cost | 179,160 | 179,160 | 179,160 | 179,160 |

| Outreach & Admin - AFSCME 64L | 2020 | 2021 | 2022 | 2023 |
|---|---|---|---|---|
| FTE | 2 | 4 | 4 | 4 |
| Salary / Fringe / Indirect | 149,230 | 298,459 | 298,459 | 298,459 |
| Non-Personnel Services | 64,432 | 78,864 | 28,864 | 28,864 |
| Cumulative Cost | 213,662 | 377,323 | 327,323 | 327,323 |

| Cumulative Expenditures | 2020 | 2021 | 2022 | 2023 |
|---|---|---|---|---|
| Labor Investigator Sr | - | 806,505 | 2,534,731 | 2,534,731 |
| State Program Admin Director | 179,160 | 179,160 | 179,160 | 179,160 |
| Outreach & Admin | 213,662 | 377,323 | 327,323 | 327,323 |
| OAH Legal Fees | - | 73,695 | 147,390 | 147,390 |
| On Base Case Mgmt Build | 200,000 | - | - | - |
| On Base Case Mgmt Maintenance | - | 30,000 | 30,000 | 30,000 |
| On Base Case Mgmt User Licenses | 3,000 | 12,000 | 27,000 | 27,000 |
| Rulemaking | - | - | - | 302,087 |
| **Cumulative Expenditures** | 595,822 | 1,478,684 | 3,245,605 | 3,547,692 |

| Penalty Revenue | 2020 | 2021 | 2022 | 2023 |
|---|---|---|---|---|
| Records Penalties | 0 | 35,000 | 70,000 | 70,000 |

## Long-Term Fiscal Considerations

DLI anticipates that complaints and violations have the potential to maintain these levels or possibly rise in the near term due to this being a new benefit. DLI doesn’t anticipate a reduction in complaints until following FY2024

## Local Fiscal Impact

None

## References/Sources

Minnesota Rulemaking Manual, September 2018

**Agency Contact:** Scott McLellan (651-284-5869)

**Agency Fiscal Note Coordinator Signature:** Jacob Gaub **Date:** 3/28/2019 7:25:08 PM

**Phone:** 651 284-5812 **Email:** jacob.gaub@state.mn.us

# Revised

**Fiscal Note** **2019-2020 Legislative Session**

**HF5 - 4A - "Paid Family Medical Benefits Empl Leave"**

| | |
|---|---|
| Chief Author: | **Laurie Halverson** |
| Commitee: | **Jobs & Economic Development Finance Division** |
| Date Completed: | **03/29/2019** |
| Agency: | Minn Management and Budget |

| State Fiscal Impact | Yes | No |
|---|---|---|
| Expenditures | X | |
| Fee/Departmental Earnings | | X |
| Tax Revenue | | X |
| Information Technology | | X |

| | | |
|---|---|---|
| Local Fiscal Impact | X | |

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
Reductions shown in the parentheses.

| State Cost (Savings) | | | Biennium | | Biennium | |
|---|---|---|---|---|---|---|
| Dollars in Thousands | | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| **General Fund** | | - | 29 | 1,706 | 4,731 | 6,074 |
| **All Other Funds** | | - | - | 3,598 | 10,025 | 12,881 |
| | **Total** | **-** | **29** | **5,304** | **14,756** | **18,955** |
| | **Biennial Total** | | | **5,333** | | **33,711** |

| Full Time Equivalent Positions (FTE) | | | Biennium | | Biennium | |
|---|---|---|---|---|---|---|
| | | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| General Fund | | - | - | - | - | - |
| All Other Funds | | - | - | - | - | - |
| | **Total** | **-** | **-** | **-** | **-** | **-** |

**Executive Budget Officer's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature: Marianne Conboy Date: 3/28/2019 4:36:36 PM
Phone: 651 201-8189 Email: marianne.conboy@state.mn.us

**State Cost (Savings) Calculation Details**
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

| State Cost (Savings) = 1-2 | | Biennium | | Biennium | |
|---|---|---|---|---|---|
| Dollars in Thousands | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| General Fund | - | 29 | 1,706 | 4,731 | 6,074 |
| All Other Funds | - | - | 3,598 | 10,025 | 12,881 |
| **Total** | **-** | **29** | **5,304** | **14,756** | **18,955** |
| **Biennial Total** | | | **5,333** | | **33,711** |
| **1 - Expenditures, Absorbed Costs*, Transfers Out*** | | | | | |
| General Fund | - | 29 | 1,706 | 4,731 | 6,074 |
| All Other Funds | - | - | 3,598 | 10,025 | 12,881 |
| **Total** | **-** | **29** | **5,304** | **14,756** | **18,955** |
| **Biennial Total** | | | **5,333** | | **33,711** |
| **2 - Revenues, Transfers In*** | | | | | |
| General Fund | - | - | - | - | - |
| All Other Funds | - | - | - | - | - |
| **Total** | **-** | **-** | **-** | **-** | **-** |
| **Biennial Total** | | | **-** | | **-** |

## Bill Description

This bill relates to the provision of employee paid family, pregnancy, bonding and medical condition benefits.

## Assumptions

- This fiscal note represents costing for the state executive branch, including Minnesota State, and the judicial branch (57,385 employees).
- Total state employment (headcount) will grow at 0.2% annually to FY 2021 reflecting the average annual growth since 2006.
- The state will participate in both the family benefit program and the medical benefit program.
- Assume premium payments will begin January 1, 2021 and the benefit to employees will begin January 1, 2022.
- Projected state payroll represents total payroll of employees making less than $132,900- the FICA wage limit for 2019. This represents 98 percent of total state payroll.
- Employees will be responsible for paying one half of the premiums for the benefit.
- The Family and Medical Leave Act ("FMLA") entitles eligible employees to up to a total of 12 weeks of unpaid leave per year, with continued employer contribution to insurance, for pregnancy leave, bonding leave, leave for the employee's own serious health condition, or leave to care for a child, spouse or parent with a serious health condition. Employees are eligible for FMLA if they are employed by the employer for 12 months and for 1,250 hours in the 12 months immediately preceding the leave.

  More state employees will use the proposed benefit than currently use unpaid leave under the FMLA

- because the proposed benefit is a paid benefit.

- More employees will meet the eligibility criteria for the proposed benefit (sufficient wage credits from an employer to establish an unemployment benefit account) than meet the FMLA eligibility criteria (work for the employer for 12 months and 1,250 hours).
- State employees will use the proposed benefit in circumstances not covered by the FMLA, for example to care for the serious health condition of a sibling (which is subject to the proposed benefit, but not subject to the FMLA).
- State employees will use the proposed benefit for more weeks than they use FMLA leave because FMLA is limited to a total of 12 weeks per year, and an employee could be eligible for up to a total of 24 weeks of the proposed benefit per year if they require both the medical benefit (*e.g.*, for pregnancy) and the family benefit (*e.g.*, for bonding).
- State parental/family paid leave and sick leave will not be credited.

- Employer contribution for insurance will continue during the full benefit period.

- There will be no new staffing costs associated with the proposed benefit to the extent it is used by the same number of state employees as currently use unpaid FMLA leave. The staffing costs below are based on the assumption that more state employees will use the proposed benefit than currently use unpaid FMLA leave and for longer periods, as described above.
- There will be no new insurance costs associated with the proposed benefit to the extent it is used simultaneously with FMLA leave. The insurance costs below are based on the assumption that state employees will use the proposed benefit in circumstances or for time periods not covered by the FMLA.
- Notices will be translated and printed in the primary languages spoken in the workplace spoken by less than 0.5% of the state population. It is assumed Spanish, Hmong and Somali translation will be undertaken by DEED. According to the Minnesota State Demographer, Minnesotans speak more than 100 languages though not all of these will be represented by state employees. We assume that the state will be responsible for translating materials into an additional 10 languages. It is assumed the document will be roughly 500 words long and will require proof reading and editing by an approved vendor. Assume that one new language will be added each year to accommodate new employees from diverse cultural backgrounds.

**Expenditure and/or Revenue Formula**

**Accounting/Payroll System Costs:**

1. **Payroll System Costs:** The State of Minnesota will need to update its payroll system to accommodate the change.
   **Costs of implementation (FY 2020):**
   Programmer Costs: $15,000
   Functional Costs: $8,000
   **Total Implementation Costs (2020): $23,000**

   **Annual Costs (FY 2021 through FY 2023):**
   Reapplication of system modifications: $7,000
   Withholding and reporting: $5,000
   **Total Ongoing Annual Costs: $12,000**

1. **Notice Requirements:**
   **Translation Costs for 10 languages and notification design/printing (FY 2020): $6,000**
   10 languages X ($500 translation & editing + $100 printing)
   **Translation Costs for 1 language and notification design/printing (FY 2021-23): $1,000**

   **Employer Paid Premium Costs:** It is assumed that the tax rate will stand at 0.60% starting January 1, 2021. In

2. FY 2018, total payroll stood at $3.305 Billion. Payroll is assumed to increase 4.0% in FY 2019. Payroll will increase 1.3% annually between FY 2019 and FY 2021 to reflect pay increases due to step progression. Payroll will be constant after FY 2021 per fiscal note policy. Employees will be responsible for paying one half of the premium cost.

| Fiscal Year | Projected State Payroll | One Half Projected State Payroll | Premium Rate | Total Taxes Paid |
|---|---|---|---|---|
| 2019 | $3.437 Billion | 1.719 Billion | 0% | $0 |
| 2020 | $3.482 Billion | 1.741 Billion | 0% | $0 |
| 2021 | $3.527 Billion | 1.764 Billion | 0% 6 months & 0.60% 6 months | $5.291 Million |
| 2022 | $3.527 Billion | 1.764 Billion | 0.60% | $10.582 Million |
| 2023 | $3.527 Billion | 1.764 Billion | 0.60% | $10.582 Million |

Premium Costs= Projected State Payroll X Premium Rate

1. **Costs due to Staffing Changes:** There are no reliable data upon which to base an estimate of the number of employees who will use the benefit. Starting FY 2014, there was an expansion of sick leave benefits allowing for the care of extended family members. This coincided with an increase in employees using sick leave benefits of 2.3% though there is no evidence that the new benefit was directly linked to the increase. Paid Parenting and Paid Family Leave represents a new benefit offered by the state starting in FY 2017. As of FY 2018, 2.2% of state employees used this benefit. Based on the two experiences noted above, we assume that 2.2% of employees will use the new benefit.

For most agencies, it is assumed that no additional staffing will be required as employees take leave, since work will be redistributed across existing employees. However, staffing changes may be necessary at 24 hour/7 day operations as noted below.

To calculate the staffing costs for 24/7 operations, we make the following assumptions:

- There were 6,404 employees in 24/7 operations in FY 2018.
- Assuming growth of state employment of 0.2%, there will be 6,443 employees in 24/7 operations in 2021. Assume no change after 2021 per fiscal note policy.
- The average wage (FY2018) for these employees was $32.03/hour including FICA, Retirement and the proposed payroll tax. The average overtime was $48.05/hour. Assume 2.5% annual wage growth to FY 2021 with no change after per fiscal note policy.
- Based on current paid leave usage, approximately 2.2% of the 6,443 multi-shift employees will take FMLA leave (142 employees)
- Assume that 142 employees use the benefit and that 50% of these employees would be replaced at overtime wage rates and 50% would be replaced at regular wage rates.
- These employees are assumed to take 12 weeks (480 hours) of the proposed benefit.
- If benefit begins January 1, 2022, assume costs calculated below will be one-half this amount for FY 2022 and the full amount for subsequent years.

| Fiscal Year | Total Leave-eligible employees taking benefit | Hourly Wage Rate | Total Hours | Wage Subtotal | Total Wages |
|---|---|---|---|---|---|
| FY 2022 | 35 | $34.49 Reg | 480 | $579,000 | $1,449,000 |
| | 35 | $51.74 OT | 480 | $869,000 | |
| FY 2023 | 71 | $34.49 Reg | 480 | $1,175,000 | $2,938,000 |
| | 71 | $51.74 OT | 480 | $1,763,000 | |

Total wages paid at regular wage rates= (number of employees *480 hours)*Reg. Wage Rate

Total wages paid at overtime wage rates= (number of employees*480 hours) * Overtime Wage Rate

Leave eligible employees taking benefit (FY 2022)= $579,000+$869,000=$1,449,000

Leave eligible employees taking benefit (FY 2023)= $1,175,000+$1,763,000=$2,938,000

**Total costs due to staffing changes FY 2022 $1,449,000, and FY 2023 $2,938,000**

1. **Costs due to Ongoing Insurance Coverage:** To calculate the costs of ongoing insurance for employees taking the benefit, we make the following assumptions:

   - State employment grows at 0.2% annually to FY 2021 and then remain constant per fiscal note policy.
   - 2.2% of 57,385 total state employees will use the benefit, so by 2021 there would be 1,270 employees taking leave. Assume no change in employee count after FY 2021. For the 6 months in FY 2022 there will be 635 employees taking leave- one half of 1,270.
   - State employees are expected to use the proposed benefit in circumstances or for time periods not covered by the FMLA.
   - Currently 42.8% of medical subscribers have single coverage and 57.2% have family coverage.
   - Currently, 45.7% of dental subscribers have single and 54.3% have family coverage.
   - Medical and dental insurance use patterns will continue at these levels.
   - Assume medical insurance premiums will increase 5.63% and dental insurance premiums will increase 3.0% annually to FY 2021 and then remain unchanged per fiscal note policy.
   - All affected employees are assumed to be full time with a 100% employer contribution.
   - All affected employees are assumed to take 12 weeks (3 months) of leave.
   - If benefit begins January 1, 2022, assume costs calculated below will be one-half this amount for FY 2022 and the full amount for subsequent years.

| Fiscal Year | Total Leave-eligible employees taking proposed benefit | Months of Leave | Single/Family Use Rate | 2021 Projected Insurance premiums month | Premium Subtotals | Total Premium Costs |
|---|---|---|---|---|---|---|
| FY 2022 | 635 | 3 | 42.8% Single Medical | $688.70 | $562,000 | $2,712,000 |
| | 635 | 3 | 57.2% Family Medical | $1,884.54 | $2,054,000 | |
| | 635 | 3 | 45.7% Single Dental | $27.94 | $24,000 | |
| | 635 | 3 | 54.3% Family Dental | $69.34 | $72,000 | |
| FY 2023 | 1,270 | 3 | 42.8% Single Medical | $688.70 | $1,123,000 | $5,422,000 |
| | 1,270 | 3 | 57.2% Family Medical | $1,884.54 | $4,107,000 | |
| | 1,270 | 3 | 45.7% Single Dental | $27.94 | $49,000 | |
| | 1,270 | 3 | 54.3% Family Dental | $69.34 | $143,000 | |

Premium Subtotals by Insurance Plan= (employees X Single/Family Use Rate) X 3 months leave X projected Insurance Premium per month.

Total insurance paid at a given % of eligible employees taking the benefit= Sum of medical and dental premiums at single and family levels of coverage.

Eligible employees taking benefit FY 2022= $562,000+$2,054,000+$24,000+$72,000=$2,712,000

Eligible employees taking benefit FY 2023= $1,123,000+$4,107,000+$49,000+$143,000=$5,422,000

**Total Insurance Premium Costs: $2,712,000 (FY 2022) and $5,422,000 (FY 2023)**

**Total Costs FY 2019 through FY 2023**

| | 2019 | 2020 | 2021 | 2022 | 2023 |
|---|---|---|---|---|---|
| Accounting/Payroll System Costs | $0 | $23,000 | $12,000 | $12,000 | $12,000 |
| Notice Requirements | $0 | $6,000 | $1,000 | $1,000 | $1,000 |
| Employer Paid Premium Costs | $0 | $0 | $5,291,000 | $10,582,000 | $10582,000 |
| Costs Due to Staffing Changes | $0 | $0 | $0 | $1,449,000 | $2,938,000 |
| Costs Due to Ongoing Insurance Coverage | $0 | $0 | $0 | $2,712,000 | $5,422,000 |
| Total Costs | $0 | $29,000 | $5,304 Million | $14,756 Million | $18,955 Million |

## Long-Term Fiscal Considerations

Payroll system, payroll tax, staffing and insurance costs are expected to continue into perpetuity.

## Local Fiscal Impact

It is assumed that local government will be impacted by the payroll tax and additional wage costs due to staffing changes as well as additional insurance costs.

## References/Sources

**Agency Contact:** Kyle Uphoff

**Agency Fiscal Note Coordinator Signature:** Ruth McGlynn **Date:** 3/28/2019 3:54:56 PM

**Phone:** 651 259-3787 **Email:** ruth.mcglynn@state.mn.us

# Revised

**Fiscal Note** **2019-2020 Legislative Session**

**HF5 - 4A - "Paid Family Medical Benefits Empl Leave"**

Chief Author: **Laurie Halverson**
Commitee: **Jobs & Economic Development Finance Division**
Date Completed: **03/29/2019**
Agency: Revenue Dept

| State Fiscal Impact | Yes | No |
|---|---|---|
| Expenditures | X | |
| Fee/Departmental Earnings | | X |
| Tax Revenue | X | |
| Information Technology | X | |

| | | |
|---|---|---|
| Local Fiscal Impact | | X |

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

| **State Cost (Savings)** | | | Biennium | | Biennium |
|---|---|---|---|---|---|
| **Dollars in Thousands** | **FY2019** | **FY2020** | **FY2021** | **FY2022** | **FY2023** |
| **General Fund** | - | - | 91 | 149 | 117 |
| **Total** | **-** | **-** | **91** | **149** | **117** |
| **Biennial Total** | | | **91** | | **266** |

| **Full Time Equivalent Positions (FTE)** | | | Biennium | | Biennium |
|---|---|---|---|---|---|
| | **FY2019** | **FY2020** | **FY2021** | **FY2022** | **FY2023** |
| General Fund | - | - | 1.15 | 1.88 | 1.36 |
| **Total** | **-** | **-** | **1.15** | **1.88** | **1.36** |

**Executive Budget Officer's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature:Paul Moore Date: 3/28/2019 10:23:28 AM
Phone: 651 259-3776 Email:paul.b.moore@state.mn.us

**State Cost (Savings) Calculation Details**
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

| State Cost (Savings) = 1-2 | | | Biennium | | Biennium | |
|---|---|---|---|---|---|---|
| Dollars in Thousands | | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| General Fund | | - | - | 91 | 149 | 117 |
| | **Total** | **-** | **-** | **91** | **149** | **117** |
| | **Biennial Total** | | | **91** | | **266** |
| **1 - Expenditures, Absorbed Costs*, Transfers Out*** | | | | | | |
| General Fund | | - | - | 91 | 149 | 117 |
| | **Total** | **-** | **-** | **91** | **149** | **117** |
| | **Biennial Total** | | | **91** | | **266** |
| **2 - Revenues, Transfers In*** | | | | | | |
| General Fund | | - | - | - | - | - |
| | **Total** | **-** | **-** | **-** | **-** | **-** |
| | **Biennial Total** | | | **-** | | **-** |

**Bill Description**

The bill creates a paid family and medical leave benefit insurance program that will be administered by the Department of Employment and Economic Development (DEED). It establishes an individual income tax subtraction for family and medical benefits paid to an individual.

**Assumptions**

The Department of Revenue (DOR) assumes the IRS will treat the benefits as taxable, but will not treat it as earned income, deemed to be in the nature of unemployment per the IRS website instructions for Form 1099G. The benefits should be reported on line 1 of Form 1099G. DOR will need to create a new line on the Individual Income Tax Schedule M1M to allow for a new subtraction. The benefits cannot be claimed until tax year 2021, so the cost for making updates would be in FY21. We assume we will receive 1099G information from DEED.

DOR will need to update the Integrated Tax System (GenTax) and other computer systems, which includes analysis, gathering requirements, and system testing.

DOR will need additional taxpayer assistance staff to handle an anticipated increase in phone calls due to this subtraction. DOR will also need additional staff for compliance activities, return processing, outreach and education.

DOR will create/update tax forms, instructions, schedules, fact sheets, web content, and provide outreach materials and communication to inform taxpayers about the changes in this bill.

DOR will also inform businesses, taxpayers, tax preparers, tax software companies about the changes in this bill.

DOR will mail letters to taxpayers affected by the law change. The letters will notify them of the change and provide related information about what the change means for them. We estimate sending 4,200 letters to taxpayers claiming the subtraction requesting additional information.

DOR will update employee instructional and training materials.

**Expenditure and/or Revenue Formula**

This bill will have an impact on state tax revenues. However, an estimate of revenue impact is not included in this fiscal note. The Department of Revenue prioritizes revenue estimate requests for bills before the Tax Committee and will provide one for this bill when it is before the Tax Committee.

| **Administrative Costs** | **FY19** | **FY20** | **FY21** | **FY22** | **FY23** |
|---|---|---|---|---|---|
| Employee | | | 78 | 147 | 113 |
| Systems Analysis and Testing | | | 4 | 1 | 1 |
| Systems Development | | | 6 | | |
| Systems Support | | | | 1 | 1 |
| Forms/Media/Communications | | | 3 | | |
| Mailing | | | | | 2 |
| **Total Administrative Costs** | | | **91** | **149** | **117** |

**Long-Term Fiscal Considerations**

Ongoing and annual system support is necessary to accommodate future maintenance of new code, storage, and support. System support is calculated at up to 20% of original development costs.

Staff will be needed on an ongoing basis to handle compliance activities, enforcement activities, return processing, outreach and education.

**Local Fiscal Impact**

**References/Sources**

**Agency Contact:** Lisa Knops

**Agency Fiscal Note Coordinator Signature:** Lisa Knops

**Date:** 3/28/2019 9:00:23 AM

**Phone:** 651 556-6754

**Email:** Lisa.Knops@state.mn.us

**Fiscal Note** **2019-2020 Legislative Session**

**HF5 - 4A - "Paid Family Medical Benefits Empl Leave"**

Chief Author: **Laurie Halverson**
Commitee: **Jobs & Economic Development Finance Division**
Date Completed: **03/29/2019**
Agency: Supreme Court

| State Fiscal Impact | Yes | No |
|---|---|---|
| Expenditures | X | |
| Fee/Departmental Earnings | X | |
| Tax Revenue | | X |
| Information Technology | | X |

| | | |
|---|---|---|
| Local Fiscal Impact | X | |

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
Reductions shown in the parentheses.

| **State Cost (Savings)** | | Biennium | | Biennium | |
|---|---|---|---|---|---|
| **Dollars in Thousands** | **FY2019** | **FY2020** | **FY2021** | **FY2022** | **FY2023** |
| **General Fund** | - | - | 15 | - | 3,433 |
| **Total** | **-** | **-** | **15** | **-** | **3,433** |
| **Biennial Total** | | | **15** | | **3,433** |

| **Full Time Equivalent Positions (FTE)** | | Biennium | | Biennium | |
|---|---|---|---|---|---|
| | **FY2019** | **FY2020** | **FY2021** | **FY2022** | **FY2023** |
| General Fund | - | - | - | - | 52.5 |
| **Total** | **-** | **-** | **-** | **-** | **52.5** |

**Executive Budget Officer's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature:Jim King Date: 3/27/2019 3:19:00 PM
Phone: 651 201-8033 Email:jim.king@state.mn.us

**State Cost (Savings) Calculation Details**
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

| State Cost (Savings) = 1-2 | | | Biennium | | Biennium | |
|---|---|---|---|---|---|---|
| Dollars in Thousands | | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
| General Fund | | - | - | 15 | - | 3,433 |
| | **Total** | **-** | **-** | **15** | **-** | **3,433** |
| | **Biennial Total** | | | **15** | | **3,433** |
| **1 - Expenditures, Absorbed Costs*, Transfers Out*** | | | | | | |
| General Fund | | - | - | 15 | - | 4,636 |
| | **Total** | **-** | **-** | **15** | **-** | **4,636** |
| | **Biennial Total** | | | **15** | | **4,636** |
| **2 - Revenues, Transfers In*** | | | | | | |
| General Fund | | - | - | - | - | 1,203 |
| | **Total** | **-** | **-** | **-** | **-** | **1,203** |
| | **Biennial Total** | | | **-** | | **1,203** |

**Bill Description**

HF5-2A creates a family and medical benefit insurance program administered by the Department of Employment and Economic Development (DEED) in chapter 268B. There are four types of benefits available: pregnancy benefits, bonding benefits, family care benefits, and serious health condition benefits. Employers are required to grant leave to employees during the period of benefit receipt. The program is funded through contributions from an employer tax and employee payroll deductions.

Article 1

Section 11 [268B.07] establishes an appeal process. Any party or the commissioner may seek reconsideration of an appeal.  A final decision on a request for reconsideration may be appealed by a party directly to the Minnesota Court of Appeals.

Section 14 [268B.09] provides for employment protections and establishes a private civil action for individuals injured by a violation of this section. The cause of action may be maintained in any federal or state court of competent jurisdiction.

Section 15 [268B.10] allows an employer to apply the DEED to substitute a private plan for either or both the family and medical benefit programs under chapter 268B. An employer may appeal any adverse decision by DEED regarding the use of a private plan and the assessment of penalties in a manner specified by the commissioner of DEED.

Section 18 [268B.13] provides for collection of premiums. If judgment is entered against an employer for past due amounts, the interest rate is one percent per month. Employers may submit an application for credit adjustment. The denial of a credit adjustment or refund is a final determination unless an appeal is timely filed. Effective January 1, 2021.

Section 21 [268B.16] sets penalties for applicants who intentionally misrepresent or omit facts in an effort to obtain benefits for which they did not qualify. The determination of ineligibility is final unless an appeal is timely filed.

Section 22 [268B.17] sets penalties for employers who collude with an applicant for the purpose of assisting an applicant in receiving benefits fraudulently. The determination of penalty is final unless an appeal is timely filed.

Section 24 [268B.19] gives authority to the commissioner or benefit judge to issue subpoenas to compel the attendance of individuals and the production of documents and other personal property necessary in conjunction with the administration of the chapter. The subpoena is enforceable through the Ramsey County District Court.

Section 31 [Effective Date] provides that benefits under Minnesota Statutes chapter 268B shall not be applied for nor paid until January 1, 2022 and thereafter. Article 1 section 15 is effective July 1, 2020; sections 18, 22 and 24 are effective January 1, 2021; and sections 11, 14, and 21 are effective on January 1, 2022.

**Assumptions**

Employer's Tax

The Minnesota Judicial Branch is an employer required to pay taxes on the wages paid to employees in covered employment for each calendar year up to the maximum.

The Minnesota Judicial Branch tax obligation will be calculated by Minnesota Management and Budget (MMB) and included in its fiscal note worksheet.

Appeals

Appeals will be filed with the Minnesota Court of Appeals for denial of claims, assessment of penalties, and denial of credit adjustments and refunds. The number of appeals that may be filed for denied benefit claims and other reasons is unknown. Although language in this bill is modeled on the state's unemployment statutes, a comparison to unemployment claims appealed is may underestimate the number of appeals due to the declining unemployment rate.

DEED estimates that there will be 196,682 benefit claims filed per year. It is assumed that at least 1% or 1,967 of benefit claims filed will be appealed to the Court of Appeals per year.

Approximately 80% of all appeals filed with the Court of Appeals are briefed and assigned to a three judge panel. It is assumed that there will be approximately 1,574 benefit denial cases briefed per year (1,967 appeals x 80%). Two hundred and twenty five (225) briefed cases per year require the time of one three judge court of appeals panel (three court of appeals judges). One additional staff attorney will be needed if to process an increase of approximately 225 briefed cases.

It will take approximately 7 (1,574 divided by 225) additional three-judge panels to hear these additional cases. A court of appeals judge unit is comprised of an appellate court judge, 2.5 law clerks and judicial administrative assistant. It is assumed that other appeals brought under this bill can be handled with the additional three-judge panels. It also is assumed an additional 7 staff attorneys will be needed.

It is assumed that no appeals will be filed with the Court of Appeals until FY23. It is assumed the appellate filing fee in FY23 will be $550.

Civil Action

An employee who is injured as a result of a violation of the employment protections section of the bill may bring a cause of action in district court to recover damages and for injunctive and other equitable relief. The number of civil actions that may be filed is unknown.

For purpose of this fiscal note, the number of employment cases will be used to calculate impact. The average number of employment cases filed in district court in 2016, 2017 and 2018 was 357 cases. It is assumed that the increase in the number of district court cases filed as a result of this bill would not be more than one half of all the other employment cases filed or approximately 178 cases. It is assumed that this will result in an impact of less than one district court judgeship and less than one court administration staff on a statewide basis.

It is assumed that no private causes of action filed with the District Courts until FY23. It is assumed the civil filing fee in FY23 will be $285. The amount of the law library fee will depend on the county in which the case is filed.

Tax Collection

DEED may bring an action in district court to collect overdue taxes from an employer under Minn. Stat. § 16D.14. The number of civil actions that may be filed is unknown. For purposes of this fiscal note, the number of cases filed to collect unemployment insurance taxes will be used to calculate impact. There were no cases found where DEED was the plaintiff in an action to recover overdue unemployment insurance taxes from an employer under Chapter 268 in 2016, 2017 or 2018. There were no cases found where DEED was the plaintiff in an action to recover overpaid unemployment insurance benefits in 2016, 2017, or 2018. It is assumed that there is a negligible impact on the need for district court judges and court administration staff to process claims to collect overdue taxes from an employer under this legislation.

Judgments entered in these actions would have an interest rate of 1% per month. This interest rate cannot currently be automatically calculated in the Judicial Branch case management system (MNCIS). Interest at this rate would need to be manually assessed as needed on the case.

It is assumed that automation of this interest rate, based on the cost of development for a 2010 modification to the judgment interest rate component, would be a one-time cost of approximately $15,000. Based on the development schedule It is assumed that it will take approximately 2 years for the development to be completed.

Subpoena Enforcement

The commissioner or benefit judge has the authority to issue subpoenas to compel the attendance of individuals and the production of documents and personal property necessary in connection with the administration of the Program.

The commissioner or benefit judge may petition or apply to the Ramsey County District Court to enforce the subpoena when a person refuses to comply with the subpoena issued. For purposes of this fiscal note, the number of subpoenas will be compared to the number of subpoenas issued in unemployment insurance cases under Minn. Stat. § 268.188. There have been no applications filed in Ramsey County District Court for enforcement of a subpoena issued in an unemployment insurance matter in 2017 or 2018. It is assumed that an application for subpoena enforcement under this bill would be rare and have nominal fiscal impact.

**Expenditure and/or Revenue Formula**

This bill will not result in an increase in court of appeals or a change in revenue in FY20, FY21, or FY22 because benefits will not be applied for or paid before January 1, 2022 (second half of FY22). There will be costs beginning FY23.

This bill will increase the number of appeals filed with the Court of Appeals annually beginning FY23. For purposes of this fiscal note, it is assumed two additional three-judge panels (6 Court of Appeals Judges and staff) and at least one staff attorney will be needed to handle an additional briefed cases.

The costs of the Court of Appeals Judge unit and the staff attorney for FY23 are unknown at this time. For purposes of this fiscal note these costs will be based on FY21 costs. The biennial cost of a Court of Appeals judge unit is $570,000 the first year and $529,000 the second year. The first year includes $41,000 for chamber startup costs. The cost for one staff attorney is $ $92,300 per year.

It is estimated that the cost of 7 Court of Appeals Judge Units for FY23 would be $3,990,000 ($570,000 x 7) and the cost of 7 staff attorney for FY23 will be $646,100 per year for a total of $4,636,100.

The private cause of action and tax collection cases will result in an increase in the number of cases filled in district court, but that the increase in district court judge need will be less than 1 FTE and the increase in court administration staff need will be less than 1 FTE. An application for subpoena enforcement under this bill would be rare and have nominal fiscal impact.

It is assumed that there will be an increase in revenue to the general fund from filing fees.

The filing fee of $550 in Minn. Stat. § 357.08 will apply to the parties who file an appeal with the Court of Appeals. It is not known how many appellants will apply for and be granted in forma pauperis status. It is assumed that approximately 25% of claimants who appeal to the court of appeals will have been granted in forma pauperis status. It is assumed that filing fees will be paid beginning FY23. The amount of additional revenue in FY23 is estimated as follows:

1,574 cases x 1.75 parties per appeal x $550 = $1,514,975 per fiscal year.

The fees in Minn. Stat. § 357.021 will apply to cases filed in the District Court, unless a party is granted an order to proceed in forma pauperis or another exemption applies. Filing fees include the civil filing fee plus the county law library fee. Assuming district court civil filing fees will be paid in approximately 178 cases (estimated number of private causes of action filed), the increase to the state general fund is estimated to be $88,778 ($285 x 178 cases x 1.75 parties) per fiscal year beginning FY23. The fees in Minn. Stat. § 357.021 will not apply to DEED in cases brought to collect the benefits taxes under Minn. Stat. § 16D.14.

The total increase in filing fee revenue per year is estimated at $1,202,814 discounted by 3 months to account for cash flow. ($1,514,975 + $88,778 = $1,603,753. $1,603,753 / 12 mos. =133,646 per month x 9 mos.)

**Long-Term Fiscal Considerations**

It is not known if MJB can absorb the employer's tax beginning January 1, 2021. The Judicial Branch may need to seek an appropriation to cover the cost of the tax.

**Local Fiscal Impact**

This bill will increase revenues for county law libraries in FY23 and beyond.

**References/Sources**

**Agency Contact:** Janet Marshall

**Agency Fiscal Note Coordinator Signature:** Janet Marshall **Date:** 3/27/2019 3:10:12 PM

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