



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2021 Biennium

Bill # HB0208

Title: Establishing family medical leave insurance

Primary Sponsor: Funk, Moffie

Status: As IntroducedAs Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2019</u> <u>Difference</u>	<u>FY 2020</u> <u>Difference</u>	<u>FY 2021</u> <u>Difference</u>	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>
Expenditures:					
General Fund	\$0	\$2,607,383	\$2,607,383	\$2,607,383	\$2,607,383
State Special Revenue	\$0	\$2,140,156	\$2,140,156	\$2,140,156	\$2,140,156
Federal Special Revenue	\$0	\$1,185,461	\$1,185,461	\$1,185,461	\$1,185,461
Other	\$436,972	\$4,529,376	\$1,919,468	\$67,750,592	\$70,785,016
Revenue:					
General Fund	\$0	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0	\$0
Federal Special Revenue	\$0	\$0	\$0	\$0	\$0
Other	\$0	\$21,910,079	\$88,237,430	\$88,849,555	\$89,476,984
Net Impact-General Fund Balance:	<u>\$0</u>	<u>(\$2,607,383)</u>	<u>(\$2,607,383)</u>	<u>(\$2,607,383)</u>	<u>(\$2,607,383)</u>

Description of fiscal impact: HB 208 creates a Montana Family Medical Leave Insurance (FAMLI) program funded by equal contributions from employers and employees for deposit into to a new enterprise fund, from which benefits will be paid to eligible covered individuals who take family-related leave from work for medical or other allowed reasons. As an employer, the State of Montana will be required to pay into the new program.

FISCAL ANALYSIS

Assumptions:

Department of Labor and Industry (DLI)

Expenditure Assumptions

1. HB 208 assigns FAMLI program administration to the DLI.
2. FAMLI will provide short-term partial wage replacement for covered individuals who miss work because they have a serious health condition; are caring for a new child or a family member with a serious health condition; have an exigent situation due to active or impending active duty of a family member; or take any other leave from work authorized under the federal Family and Medical Leave Act of 1993.

3. The FAMLI program will be placed in the Unemployment Insurance Division of DLI under a new bureau specifically created for the program. The program’s operations, including payment of benefits, will be fully funded from the new enterprise fund comprised of equal contributions from employers and employees and contributions and specified contributions from self-employed individuals who elect FAMLI coverage.
4. DLI will develop and use software specifically written to administer FAMLI. These modules will integrate with the computer applications now supporting the UI tax and benefits programs (STAARS and MISTICS, respectively).
5. Program and IT development for FAMLI will start immediately after HB 208 enactment to meet the January 1, 2020, effective date.
6. Starting June 1, 2020, DLI will need one bureau chief to oversee the new FAMLI bureau to lead FAMLI IT project initiation and completion, program development, public outreach, and ongoing operations.
7. DLI will need four subject matter experts (SMEs) to assist with program development, including research and drafting of proposed administrative rules; writing business processes and requirements; working with vendor and contract IT project staff; and testing FAMLI contributions and benefit IT components. DLI will reassign two Management Analysts and two Tax Examiners currently working in UI program support and contribution bureaus as FAMLI SMEs. They will work from June 1, 2019, through June 30, 2020. Their regular positions will need to be backfilled during this time.
8. Table 1 shows the type and number of FTE needed for the FAMLI program and costs for FY 2019.

Table 1

Fiscal Year	Months	Position	No. of FTE	Personal Services	DLI Cost Allocation	OTO Costs	Operating Costs	Total
2019	1	Bureau Chief	1	\$8,983	\$705	\$2,800		\$12,488
2019	1	Mgmt Analyst	2	\$11,805	\$927	\$5,600		\$18,332
2019	1	Tax Examiner	2	\$11,264	\$884	\$5,600		\$17,748
2019	1	Operating					\$13,404	\$13,404
2019	1	Technology					\$375,000	\$375,000
			Total	\$32,052	\$2,516	\$14,000	\$388,404	\$436,972

9. Starting January 1, 2020, DLI will need three more FTE for a supervisor, an accountant, and a customer support specialist within the contribution unit of the FAMLI bureau. These FTE will support and educate employers and employees as they become subject to FAMLI assessments on January 1, 2020. They will also perform duties associated with filing and payment of the first quarter FAMLI contributions in April 2020. DLI assumes all FAMLI contribution payments will be electronic.
10. Table 2 shows the type and number of FTE needed for the FAMLI program and costs for FY 2020.

Table 2

Fiscal Year	Months	Position	No. of FTE	Personal Services	DLI Cost Allocation	OTO Costs	Operating Costs	Total
2020	12	Bureau Chief	1	\$108,415	\$8,511	\$0		\$116,926
2020	12	Mgmt Analyst	2	\$143,353	\$11,253	\$0		\$154,606
2020	12	Tax Examiner	2	\$136,776	\$10,737	\$0		\$147,513
2020	6	Supervisor	1	\$41,955	\$3,293	\$2,800		\$48,048
2020	6	Accountant	1	\$33,888	\$2,660	\$2,800		\$39,348
2020	6	Cust Serv Spec	1	\$21,983	\$1,726	\$2,800		\$26,509

2020	12	Operating					\$319,664	\$319,664
2020	12	Technology					\$3,001,960	\$3,001,960
			Total	\$486,370	\$38,180	\$8,400	\$3,321,624	\$3,854,574

11. collection technician in the benefits unit of the FAMLI bureau. These tax examiners will replace the SME's.
 12. Table 3 shows the type and number of FTE needed for the FAMLI program and costs for FY 2021.

Table 3

Fiscal Year	Months	Position	No. of FTE	Personal Services	DLI Cost Allocation	OTO Costs	Operating Costs	Total
2021	12	Bureau Chief	1	\$108,103	\$8,486			\$116,589
2021	12	Supervisor	1	\$84,143	\$6,605			\$90,748
2021	12	Accountant	1	\$67,956	\$5,335			\$73,291
2021	12	Tax Examiner	2	\$127,795	\$10,032			\$137,827
2021	12	Collection Tech	1	\$55,112	\$4,326			\$59,438
2021	12	Cust Serv Spec	1	\$44,069	\$3,459			\$47,528
2021	12	Operating					\$256,549	\$256,549
2021	12	Technology					\$462,696	\$462,696
			Total	\$487,178	\$38,243	\$0	\$719,245	\$1,244,666

13. Starting July 1, 2021, DLI will need to hire the remaining benefit members including a half-time fraud investigator, a half-time compliance technician, three claims examiner 5, and three claims examiner 4 to begin adjudicating and paying benefits.
 14. Table 4 shows the type and number of FTE to fully staff the FAMLI program and costs FY 2022.

Table 4

Fiscal Year	Months	Position	No. of FTE	Personal Services	DLI Cost Allocation	OTO Costs	Operating Costs	Total
2022	12	Bureau Chief	1	\$108,103	\$8,486			\$116,589
2022	12	Supervisor	1	\$84,143	\$6,605			\$90,748
2022	12	Fraud Invest	0.5	\$44,730	\$3,511	\$1,400		\$49,641
2022	12	Compliance Spec	0.5	\$43,828	\$3,440	\$1,400		\$48,668
2022	12	Accountant	1	\$67,956	\$5,335			\$73,291
2022	12	Tax Examiner	2	\$127,795	\$10,032			\$137,827
2022	12	CLE5	3	\$169,006	\$13,267	\$8,400		\$190,673
2022	12	Collection Tech	1	\$55,112	\$4,326			\$59,438
2022	12	Cust Serv Spec	1	\$44,069	\$3,459			\$47,528
2022	12	CLE4	3	\$130,706	\$10,260	\$8,400		\$149,366
2022	12	Operating					\$300,145	\$300,145
2022	12	Technology					\$462,696	\$462,696
			Total	\$875,448	\$68,721	\$19,600	\$762,841	\$1,726,610

15. Table 5 shows the type and number of fully staffed FTE for the FAMLI program and costs FY 2023.

Table 5

Fiscal Year	Months	Position	No. of FTE	Personal Services	DLI Cost Allocation	OTO Costs	Operating Costs	Total
2023	12	Bureau Chief	1	\$108,103	\$8,486			\$116,589
2023	12	Supervisor	1	\$84,143	\$6,605			\$90,748
2023	12	Fraud Invest	0.5	\$44,730	\$3,511			\$48,241
2023	12	Compliance Spec	0.5	\$43,828	\$3,440			\$47,268
2023	12	Accountant	1	\$67,956	\$5,335			\$73,291
2023	12	Tax Examiner	2	\$127,795	\$10,032			\$137,827
2023	12	CLE5	3	\$169,006	\$13,267			\$182,273
2023	12	Collection Tech	1	\$55,112	\$4,326			\$59,438
2023	12	Cust Serv Spec	1	\$44,069	\$3,459			\$47,528
2023	12	CLE4	3	\$130,706	\$10,260			\$140,966
2023	12	Operating					\$300,145	\$300,145
2023	12	Technology					\$462,696	\$462,696
			Total	\$875,448	\$68,721	\$0	\$762,841	\$1,707,010

16. Total personal services costs for the above FTE will be \$32,052 for FY 2019, \$486,370 for FY 2020, \$487,178 for FY 2021, \$875,448 for FY 2022 and FY 2023.
17. DLI cost allocation plan is applied at 7.85% of personal services for \$2,516 for FY 2019, \$38,180 for FY 2020, \$38,243 for FY 2021, \$68,721 for FY 2022 and FY 2023.
18. One-time-only costs for each new FTE include \$1,600 for office supplies/furniture and \$1,200 for computers, for \$14,000 in FY 2019; and \$8,400 in FY 2020; none in FY 2021.
19. Technology service costs per FTE are estimated at \$242 per FTE per month and are included in operating expenses; \$1,120 in FY 2019; \$18,876 in FY 2020; \$20,328 in FY 2021; \$43,560 in FY 2022 and FY 2023.
20. Based on typical expenditures, DLI estimates a cost of 13% of personal services expenses for items such as telephone, copiers, scanners, utilities, minor equipment, supplies, etc. These expenditures are included in operating expenses and total \$4,160 in FY 2019, \$63,228 in FY 2020, \$83,661 in FY 2021, and \$154,465 in FY 2022 and FY 2023.
21. Rent is estimated at an annual cost of \$36,680 which is included in operating expenses. FY 2019 rent will be \$3,064; and \$36,680 for FY 2020, FY 2021, FY 2022 and FY 2023.
22. One-time-only administrative rule-making costs estimated at \$5,060 are included in operational expenses for FY 2019.
23. DLI will work with the vendor for its UI tax system (STAARS) to execute a Statement of Work for development of the contributions component (comparable to a new tax type) of the FAMLI IT system. The vendor IT estimated costs for the contributions component of FAMLI will be \$2.5 million. DLI assumes a SOW will be executed in June 2019, with 15% of the SOW cost of \$375,000 due in FY 2019 and the remaining \$2,125,000 due in FY 2020.

24. DLI estimates the annual licensing fee for STAARS at 15% of \$2,500,000, or \$375,000 in FY 2021, FY 2022 and FY 2023.
25. DLI will work with contracted Technology Service Division (TSD) staff to develop the benefits component of the FAMLI IT system. DLI anticipates \$876,960 in development costs, based on 10,440 work hours at approved contract rates. Work will start July 1, 2019.
26. DLI estimates the annual maintenance for FAMLI IT system at 10% of \$876,960, or \$87,696 in FY 2021, FY 2022 and FY 2023.
27. Section 13 of HB 208 allows for expenditure of up to 1% of each fiscal year’s estimated revenue for public outreach. DLI estimates \$50,000 in public outreach expenses in FY 2020, and \$15,000 in FY 2021, FY 2022 and FY 2023.
28. DLI estimates 1,040 hours of legal services for a new statewide program like FAMLI will be required over the first two years of program operation at an expense of \$100,880 in FY 2020 and FY 2021, and half of that for \$50,440 for FY 2022 and FY 2023.
29. One-time actuarial costs are estimated at \$50,000 in FY 2020.
30. Initial set-up expenses will be incurred before DLI is able to collect revenue, so DLI anticipates needing a general fund loan to cover start-up expenses of the program.

Contribution (Revenue) Assumptions:

31. Employee and employer quarterly assessments will begin January 1, 2020 and will be due 30 days after each quarter ends.
32. Contributions will be assessed and collected on wages of covered individuals up to a maximum base wage of \$84,001 per year. This was derived from the maximum weekly benefit prescribed in section 7(3)(a) of HB 208. If the first \$20,628 of base wage (50% of the current average annual wage in Montana) is assessed by 1.92%, equaling \$396.0576, and that is subtracted from the maximum weekly benefit of \$1,000, .96% of wages above \$20,628 may not be greater than \$603.9424. $\$603.9424 / .0096 = \$62,910.6667 + \$20,628 = \$83,538.6667$.
33. Table 6 shows the estimated annual FAMLI contribution if employers and employees are assessed a rate of one-half percent (.5%) on total wages, within various wage bands, starting in January 2020. Numbers within bands are based on employer-reported annual wages for UI covered employees.

Table 6 Equal contribution by employers and employees, representing one-half percent (1/2%) of total wages.				
Employee Earns Annual Wages Totaling	Employee’s Annual Contribution	Employer’s Annual Contribution	Estimated Number of Employees	Estimated Annual Contributions for FAMLI
\$10,000 or less	\$25.00	\$25.00	166,775	\$8,338,750
\$10,000 - \$20,000	\$38.00	\$38.00	86,883	\$6,516,225
\$20,000 - \$30,000	\$63.00	\$63.00	74,509	\$9,313,625
\$30,000 - \$40,000	\$88.00	\$88.00	63,576	\$11,125,800
\$40,000 - \$50,000	\$113.00	\$113.00	46,529	\$10,469,025
\$50,000 - \$60,000	\$138.00	\$138.00	34,135	\$9,387,125
\$60,000-\$70,000	\$163.00	\$163.00	23,835	\$7,746,375
\$70,000-\$84,000	\$188.00	\$188.00	22,772	\$8,539,500
Above \$84,000	\$210.00	\$210.00	35,780	\$15,027,779
Grand Total				\$86,464,204

34. The table 7 shows the estimated contributions for sole proprietors and self-employed individuals based on ranges of annual wages provided by the DLI’s Research and Analysis Bureau. A participation rate of 20% is estimated for this group.

Table 7 Employees and employer’s equal contributions representing one-half percent (1/2%) of total wages.			
Employee Earns Annual Wages Totaling	Contribution	Estimated Number of Employees	Estimated Annual Contributions for FAMILI
\$10,000 or less	\$50.00	9,643	\$96,430
\$10,000 - \$20,000	\$75.00	5,024	\$75,360
\$20,000 - \$30,000	\$125.00	4,308	\$107,700
\$30,000 - \$40,000	\$175.00	3,676	\$128,660
\$40,000 - \$50,000	\$225.00	2,690	\$121,050
\$50,000 - \$60,000	\$275.00	1,974	\$108,570
\$60,000-\$70,000	\$325.00	1,378	\$89,570
\$70,000-\$84,000	\$375.00	1,317	\$98,775
Above \$84,000	\$420.00	2,069	\$173,796
Grand Total			\$999,991

35. The table 8 shows the estimated contributions for agriculture individuals based on ranges of annual wages for that sector provided by the DLI’s Research and Analysis Bureau. A participation rate of 20% is estimated for this group.

Table 8 Employees and employer’s equal contributions representing one-half percent (1/2%) of total wages.			
Employee Earns Annual Wages Totaling	Contribution	Estimated Number of Employees	Estimated Annual Contributions for FAMILI
\$10,000 or less	\$50.00	1,698	\$16,980
\$10,000 - \$20,000	\$75.00	885	\$13,275
\$20,000 - \$30,000	\$125.00	759	\$18,975
\$30,000 - \$40,000	\$175.00	647	\$22,648
\$40,000 - \$50,000	\$225.00	474	\$21,330
\$50,000 - \$60,000	\$275.00	348	\$19,140
\$60,000-\$70,000	\$325.00	243	\$15,795
\$70,000-\$84,000	\$375.00	232	\$17,400
Above \$84,000	\$420.00	364	\$30,576
Grand Total			\$176,119

36. The only contribution payments DLI will receive in FY 2020 will be those reported by employers for quarter ending 3/31/2020. DLI assumes \$21,910,059 will be collected in state fiscal year 2020, which is 25% of the estimated total annual contribution of \$87,640,234.

37. An annual growth factor of 2.5% for the two highest wage brackets is applied in succeeding state fiscal years.

Benefit Assumptions:

- 38. DLI will begin paying benefits to eligible covered individuals and employees whose work leave meets the requirements of the act and occurs on or after October 1, 2021. DLI believes the commissioner will be able to declare the FAML I fund solvent by August 31, 2021.
- 39. Using current vital record numbers for births and deaths, DLI estimates 60% of the 22,176 current vital events will result in a covered individual seeking and receiving FAML I benefits. Table 9 shows the estimated participation with 2% growth factor for applied for FY 2022 and FY 2023.
- 40. Using an average benefit duration of 9 weeks and an average weekly current benefit of \$521, table 9 shows the estimated benefit totals for FY 2022 and FY 2023 using a 2.65% growth factor for the weekly benefit amount.

Table 9

Estimated FAML I Benefits Paid				
State Fiscal Year	FAML I Eligible Participants	Average Duration in Weeks	Average Weekly Benefit Amount	Estimated Benefit Amount
2022	13,572	9	\$535	\$65,349,180
2023	13,844	9	\$549	\$68,403,204

Department of Administration:

- 41. The State of Montana will contribute to the program as an employer. The annual cost will vary depending on the number of eligible and participating employees and potential increases in pay.
- 42. The cost can be decreased by electing to assess a portion of the contribution cost to the participating employees. However, the department cannot determine what the employees’ proportional contribution would be.
- 43. If all current state employees will be eligible and will participate in the family and medical leave insurance program and if the state pays the full 1% of eligible wages to the family and medical leave insurance fund, the cost for FY 2020 will be approximately \$6,607,802 based on FY 2018 total employee wages \$660,780,167.
- 44. These funds will be deposited into an enterprise fund managed by DLI.

Office of the Secretary of State:

- 45. HB 208 will have minimal cost for postage and administrative duties. The Office of the Secretary of State does not receive general fund monies for office operations but has agreed to assume the fiscal responsibility for this bill.

	<u>FY 2019</u> <u>Difference</u>	<u>FY 2020</u> <u>Difference</u>	<u>FY 2021</u> <u>Difference</u>	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>
<u>Fiscal Impact:</u>					
FTE (DLI)	5.00	8.00	7.00	14.00	14.00
<u>Expenditures:</u>					
Personal Services (DLI)	\$32,052	\$486,370	\$487,178	\$875,448	\$875,448
Personal Services (DOA)	\$0	\$6,607,802	\$6,607,802	\$6,607,802	\$6,607,802
Operating Expenses (DLI)	\$404,920	\$3,368,204	\$757,488	\$851,162	\$831,562
Benefits (DLI)	\$0	\$0	\$0	\$65,349,180	\$68,403,204
TOTAL Expenditures	<u>\$436,972</u>	<u>\$10,462,376</u>	<u>\$7,852,468</u>	<u>\$73,683,592</u>	<u>\$76,718,016</u>
<u>Funding of Expenditures:</u>					
General Fund (DOA)	\$0	\$2,607,383	\$2,607,383	\$2,607,383	\$2,607,383
State Special Revenue (DOA)	\$0	\$2,140,156	\$2,140,156	\$2,140,156	\$2,140,156
Federal Special Revenue (DOA)	\$0	\$1,185,461	\$1,185,461	\$1,185,461	\$1,185,461
Other (DOA)	\$0	\$674,802	\$674,802	\$674,802	\$674,802
Other (DLI)	\$436,972	\$3,854,574	\$1,244,666	\$67,075,790	\$70,110,214
TOTAL Funding of Exp.	<u>\$436,972</u>	<u>\$10,462,376</u>	<u>\$7,852,468</u>	<u>\$73,683,592</u>	<u>\$76,718,016</u>
<u>Revenues:</u>					
General Fund (01)	\$0	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$0	\$0	\$0	\$0	\$0
Other	\$0	\$21,910,079	\$88,237,430	\$88,849,555	\$89,476,984
TOTAL Revenues	<u>\$0</u>	<u>\$21,910,079</u>	<u>\$88,237,430</u>	<u>\$88,849,555</u>	<u>\$89,476,984</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>					
General Fund (01)	\$0	(\$2,607,383)	(\$2,607,383)	(\$2,607,383)	(\$2,607,383)
State Special Revenue (02)	\$0	(\$2,140,156)	(\$2,140,156)	(\$2,140,156)	(\$2,140,156)
Federal Special Revenue (03)	\$0	(\$1,185,461)	(\$1,185,461)	(\$1,185,461)	(\$1,185,461)
Other	(\$436,972)	\$17,380,703	\$86,317,962	\$21,098,963	\$18,691,968

Technical Notes:

Department of Labor and Industry (DLI)

1. Upon passage, DLI will incur initial start-up expenses related to the program prior to receiving revenue. DLI anticipates needing a general fund loan to support these initial costs. This loan would be repaid once the program is fully implemented.
2. The fine provided in Section 10 (3)(a) does not specify a maximum amount and appears to give unlimited discretion to DLI to establish the amount of the fine. That unlimited discretion may constitute an improper delegation of legislative authority.
3. Section 12 (1)(a)(v) references retaliatory “elections”. The probable intended term is “actions.”

4. Section 14 appears to require DLI to withhold state income taxes from benefits provided under Section 6, but payment of tax withholdings to the Department of Revenue is not expressly authorized as it is in Section 14 (3) for federal taxes withheld.

Sponsor's Initials

Date

TL

Budget Director's Initials

1/25/19

Date