



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

HB0651 - Establish the Montana family and medical leave insurance act (Harvey, Derek J)

Status: As 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 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Other	\$14,032,750	\$3,166,292	\$57,013,023	\$77,261,833
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Other	\$27,296,696	\$110,063,933	\$110,960,817	\$111,877,881
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: This bill creates a Montana Family and 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.

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 who take any other leave from work authorized under the federal Family and Medical Leave Act of 1993. The bill assigns program administration to the Department of Labor & Industry (DLI).

FISCAL ANALYSIS

Assumptions:

1. The FAMLI program will be placed in the Unemployment Insurance Division of the Department of Labor & Industry, 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 FAMILI coverage.

2. The department will develop and use software written to administer FAMILI. These modules will integrate with the computer applications now supporting the Unemployment Insurance (UI) tax and benefits programs.
3. Program and IT development for FAMILI will start immediately after bill enactment to meet the January 1, 2024, effective date.
4. Starting July 1, 2023, the department will need one bureau chief to oversee the new FAMILI bureau to lead FAMILI IT project initiation and completion, program development, public outreach, and ongoing operations.
5. The department will need four subject matter experts (SMEs) to assist with program development, including research and drafting of proposed administrative rules, write business processes and requirements, work with vendor and contract IT project staff, and test FAMILI contributions and benefit IT components. The department will reassign two Research Analysts and two Tax Examiners currently working in UI program support and contribution bureaus as FAMILI SMEs. They will work from July 1, 2023, through June 30, 2024. Their regular positions will need to be backfilled during this time.
6. Starting January 1, 2024, the department will need three more FTE, a supervisor, an accountant, and a customer support specialist, for the contribution’s unit of the FAMILI bureau. These FTE will support and educate employers and employees as they become subject to FAMILI assessments on January 1, 2024. They will also perform duties associated with filing and payment of the first quarter FAMILI contributions in April 2024. The department assumes all FAMILI contribution payments will be electronic.
7. Table 1 shows the type and number of FTE needed for the FAMILI program and costs for FY 2024.

Fiscal Year	Months	Position	No. of FTE	Personal Services	DLI Cost Allocation	OTO Costs	Total
2024	12	Bureau Chief	1	\$ 117,010	\$ 11,116	\$ 2,800	\$ 130,926
2024	12	Research Analyst	2	\$ 182,228	\$ 17,312	\$ 5,600	\$ 205,140
2024	12	Tax Examiner	2	\$ 171,789	\$ 16,320	\$ 5,600	\$ 193,709
2024	6	Supervisor	1	\$ 47,077	\$ 4,472	\$ 2,800	\$ 54,349
2024	6	Accountant	1	\$ 29,870	\$ 2,838	\$ 2,800	\$ 35,508
2024	6	Cust Serv Asst	1	\$ 26,798	\$ 2,546	\$ 2,800	\$ 32,144
			Total	\$ 574,772	\$ 54,604	\$ 22,400	\$ 651,776

8. Starting July 1, 2024, the department will need 3.00 FTE, two tax examiners, for the contribution’s unit and a collection technician, for the benefits unit of the FAMILI bureau. These tax examiners replace the SME’s.
9. Table 2 shows the type and number of FTE needed for the FAMILI program and costs for FY 2025.

Fiscal Year	Months	Position	No. of FTE	Personal Services	DLI Cost Allocation	OTO Costs	Total
2025	12	Bureau Chief	1	\$ 117,411	\$ 11,154		\$ 128,565
2025	12	Tax Examiner	2	\$ 172,353	\$ 16,374		\$ 188,727
2025	12	Supervisor	1	\$ 94,468	\$ 8,974		\$ 103,442
2025	12	Accountant	1	\$ 59,922	\$ 5,693		\$ 65,615
2025	12	Cust Serv Asst	1	\$ 53,754	\$ 5,107		\$ 58,861
2025	12	Collection Tech	1	\$ 57,549	\$ 5,467		\$ 63,016
			Total	\$ 555,457	\$ 52,769	\$ -	\$ 608,226

10. Starting FY 2025, the department will hire the remaining benefit staff including, a fraud investigator, three claims examiner 3’s and three claims examiner 4’s to begin adjudicating and paying benefits.
11. Table 3 shows the type and number of FTE to fully staff the FAMILI program and costs FY 2026.

Fiscal Year	Months	Position	No. of FTE	Personal Services	DLI Cost Allocation	OTO Costs	Total
2026	12	Bureau Chief	1	\$ 117,411	\$ 11,154		\$ 128,565
2026	12	Tax Examiner	2	\$ 172,353	\$ 16,374		\$ 188,727
2026	12	Supervisor	1	\$ 94,468	\$ 8,974		\$ 103,442
2026	12	Accountant	1	\$ 59,922	\$ 5,693		\$ 65,615
2026	12	Cust Serv Asst	1	\$ 53,754	\$ 5,107		\$ 58,861
2026	12	Collection Tech	1	\$ 57,549	\$ 5,467		\$ 63,016
2026	12	Fraud Investigator	1	\$ 80,847	\$ 7,680	\$ 2,800	\$ 91,327
2026	12	CLE 4	3	\$ 212,195	\$ 20,158	\$ 8,400	\$ 240,753
2026	12	CLE 5	3	\$ 255,756	\$ 24,297	\$ 8,400	\$ 288,453
		Total		\$ 1,104,255	\$ 104,904	\$ 19,600	\$ 1,228,759

12. Table 4 shows the type and number of fully staffed FTE for the FAMLI program and costs FY 2027.

Fiscal Year	Months	Position	No. of FTE	Personal Services	DLI Cost Allocation	OTO Costs	Total
2027	12	Bureau Chief	1	\$ 117,411	\$ 11,154		\$ 128,565
2027	12	Tax Examiner	2	\$ 172,353	\$ 16,374		\$ 188,727
2027	12	Supervisor	1	\$ 94,468	\$ 8,974		\$ 103,442
2027	12	Accountant	1	\$ 59,922	\$ 5,693		\$ 65,615
2027	12	Cust Serv Asst	1	\$ 53,754	\$ 5,107		\$ 58,861
2027	12	Collection Tech	1	\$ 57,549	\$ 5,467		\$ 63,016
2027	12	Fraud Investigator	1	\$ 80,847	\$ 7,680		\$ 88,527
2027	12	CLE 4	3	\$ 212,195	\$ 20,158		\$ 232,353
2027	12	CLE 5	3	\$ 255,756	\$ 24,297		\$ 280,053
		Total		\$ 1,104,255	\$ 104,904	\$ -	\$ 1,209,159

13. Total personal services costs for the above FTE will be \$574,772 for FY 2024; \$555,457 for FY 2025; \$1,104,255 for FY 2026 and \$1,104,255 for FY 2027.
14. DLI cost allocation plan is applied at 9.5% of personal services for FY 2024-2027. This equates to \$54,604 for FY 2024; \$52,769 for FY 2025; \$104,904 for FY 2026 and FY 2027.
15. One-time-only costs for each new FTE include \$1,600 for office supplies/furniture and \$1,200 for a computer. This equates to \$22,400 in FY 2024; \$0 in FY 2025 as the new employees will use the SME’s computers purchased in FY 2024; \$19,600 in FY 2026 and \$0 in FY 2027.
16. Based on typical expenditures, the department estimates 13% of personal services expenses for items like telephone, copiers, scanners, utilities, equipment, supplies, etc. These expenditures are included in operating expenses and would total \$74,720 in FY 2024, \$72,209 in FY 2025 and \$143,553 in FY 2026 and FY 2027.
17. The department will work with the vendor for its UI tax and benefits systems to execute a Statement of Work for development of the contributions component of the FAMLI IT system, as well as a benefits component of the FAMLI IT system. DLI assumes the IT costs for the contribution’s component of FAMLI will be \$3,000,000 and the benefits component of the FAMLI will be \$10,000,000. This estimate is based on current work being done to upgrade the UI contributions system and development of a new UI benefits system. The department assumes the work will be completed in FY 2024.
18. DLI estimates the yearly licensing & maintenance fee for the FAMLI contributions and benefits systems to be \$2,000,000. The annual maintenance fee is based on estimates for the current UI contributions system and the UI benefits system under development. DLI assumes the annual maintenance cost will start in FY 2025.
19. Section 13 of HB 651 requires 1% of each fiscal year’s fund revenue collected for family and medical leave insurance fund be used for public outreach. The department will base the 1% revenue on the prior fiscal year revenue. Beginning in FY 2025 public outreach expenses will be \$272,967, public outreach expenses will be \$1,100,639 in FY 2026, and \$1,109,608 in FY 2027.

20. With a new statewide program like FAMLII, the department estimates 1,040 hours of legal services will be required in each of the first two years of program operation. The department's Legal Services Bureau charges each program a rate of \$132/hour, for an expense of \$137,280 in FY 2024 and FY 2025.
21. The department estimates 520 hours of legal services will be required in each of FY 2026 and FY 2027 for ongoing legal issues and potential litigation. At \$132/hour for legal services, this equals \$68,640 in each of FY 2026 and FY 2027.
22. One-time-only administrative rule-making costs estimated at \$40,800 are included in operational expenses for FY 2024. This includes 20 pages of Secretary of State filing at \$60 per page and 300 hours of legal work on rules at \$132/hour.
23. The increase in agency legal work for this program cannot be absorbed by current agency legal staff. Therefore, the agency would need to add 0.50 FTE in the Legal Bureau. Which is funded through an internal service fund at an hourly rate charged to the programs. An additional 0.50 FTE and an associated \$68,834 in FY 2024 and \$69,050 in each of FY 2025, FY 2026 and FY 2027 in proprietary funding would be required.
24. DLI cost allocation plan is applied at 9.5% of personal services for FY 2024-2027. This equates to \$6,539 in FY 2024 and \$6,560 in FY 2025-2027 in proprietary funding for the legal position.
25. One-time-only costs for the legal FTE include \$1,600 for office supplies/furniture and \$1,200 for a computer.
26. One-time-only actuarial costs are estimated at \$50,000 in FY 2024. To ensure the FAMLII fund is actuarially sound, DLI will need to hire an actuary.
27. Because initial set-up expenses will be incurred before the department is able to collect revenue, the department anticipates needing a general fund loan to cover start-up expenses of the program in FY 2024.

Contribution (Revenue) Assumptions:

28. Employee and employer assessments will begin January 1, 2024, and be due 30 days after each quarter ends.
29. Contributions will be assessed and collected on wages of covered individuals up to a maximum base wage of \$79,000 per year. This was derived from the maximum weekly benefit prescribed in section 7(2)(a)(b) of HB 651. If the first \$25,311 of base wage (50% of the current annual average wage in Montana which is \$50,622) is assessed at 1.92%, equaling \$485.97, and that is subtracted from the maximum weekly benefit amount of \$1,000, the maximum base wage to receive the maximum weekly benefit amount is \$79,000, when any wages above 50% of the average annual wage is assessed at 0.96%. (The maximum weekly benefit amount when 0.96% of wages above \$25,311 is assessed cannot be more than \$514.03. $\$514.03/0.0096 = \$53,544.79 + \$25,311 = \$78,855.79$ rounded to \$79,000)
30. Table 5 shows the estimated annual FAMLII contribution if employers and employees are assessed a rate of one-half percent (0.5%) on total wages, within various wage bands, starting in January 2024. Numbers within bands are based on employer-reported annual wages for UI covered employees. DLI assumes only 0.5% combined contributions by both employees and employers would be needed at the start of the program (pending an actuarial analysis).

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 FAMILI
\$10,000 or less	\$25.00	\$25.00	153,816	\$7,690,800
\$10,000 - \$20,000	\$37.50	\$37.50	81,402	\$6,105,150
\$20,000 - \$30,000	\$62.50	\$62.50	67,222	\$8,402,750
\$30,000 - \$40,000	\$87.50	\$87.50	66,665	\$11,666,375
\$40,000 - \$50,000	\$112.50	\$112.50	58,211	\$13,097,475
\$50,000 - \$60,000	\$137.50	\$137.50	45,199	\$12,429,725
\$60,000-\$70,000	\$162.50	\$162.50	33,262	\$10,810,150
\$70,000-\$79,000	\$180.00	\$180.00	35,487	\$12,775,320
Above \$79,000	\$197.50	\$197.50	66,352	\$26,209,040
Grand Total				\$109,186,785

- 31. The only contribution payments the department would receive in FY 2024 would be those reported by employers for quarter ending March 31, 2024. The department assumes only 25% of the estimated total annual contribution of \$109,186,785 will be collected in state fiscal year 2024 for a total of \$27,296,696.
- 32. An annual growth factor of 2.5% for the two highest wage brackets is applied in succeeding state fiscal years.
- 33. The number of self-employed workers or sole proprietors who would voluntarily participate in the program is unknown. Participation would result in a 1% non-refundable tax, with potentially less return than a traditional savings account, Certificate of Deposit (CD) or other investment account.


Benefit Assumptions:

- 34. The department 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, 2025. The department believes the commissioner will be able to declare the FAMILI fund solvent by August 31, 2025.
- 35. Using vital record numbers for births and deaths and the DOL 2018 FMLA Employee Survey of eligible employees for FMLA, the department estimates there are 22,824 qualifying events and 56% of those qualifying events will result in a covered individual seeking and receiving FAMILI benefits. (22,824 x 56% = 12,781). DLI also assumes qualifying events will increase at a rate of 1.3% per year equaling an estimated 10,359 individuals receiving benefits in FY 2026 (only 75% of the fiscal year due to an October 1, 2025 start date) and 13,991 individuals receiving benefits in FY 2027.
- 36. DLI assumes the average weekly benefit would be \$562 in FY 2026 and \$577 in FY 2027. This is calculated by averaging the maximum available weekly benefit amount for each wage band and the weekly benefit amount for each wage band when assuming only 1/2 year of work. DLI also assumes a 2.5% increase year over year in weekly benefit amounts.
- 37. DLI assumes an average benefit duration of nine weeks as not all individuals receiving benefits would receive benefits for the full 12 weeks allowable in HB 651.
- 38. Using the average benefit duration of nine weeks and an average weekly benefit of \$562 in FY 2026 and \$577 in FY 2027, table 6 shows the estimated benefit totals for FY 2026 and FY 2027.

FY	FAMILI Eligible Participants	Average Duration (Weeks)	Average Weekly Benefit	Estimated Total Benefits
2026	10,359	9	\$562	\$52,395,822
2027	13,991	9	\$577	\$72,655,263

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	7.00	7.50	14.50	14.50
<u>Expenditures:</u>				
Personal Services	\$643,606	\$624,507	\$1,173,305	\$1,173,305
Operating Expenses	\$13,389,144	\$2,541,785	\$3,443,896	\$3,433,265
Benefits	\$0	\$0	\$52,395,822	\$72,655,263
TOTAL Expenditures	<u>\$14,032,750</u>	<u>\$3,166,292</u>	<u>\$57,013,023</u>	<u>\$77,261,833</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$14,032,750	\$3,166,292	\$57,013,023	\$77,261,833
TOTAL Funding of Exp.	<u>\$14,032,750</u>	<u>\$3,166,292</u>	<u>\$57,013,023</u>	<u>\$77,261,833</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$27,296,696	\$110,063,933	\$110,960,817	\$111,877,881
TOTAL Revenues	<u>\$27,296,696</u>	<u>\$110,063,933</u>	<u>\$110,960,817</u>	<u>\$111,877,881</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$13,263,946	\$106,897,641	\$53,947,794	\$34,616,048

NOT SIGNED BY SPONSOR

Sponsor's Initials	Date	 Budget Director's Initials	2-28-23 Date
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