



TO: Members of the Economic Affairs Interim Committee
FROM: Laurie Esau, Commissioner, Montana Department of Labor & Industry
DATE: July 12, 2022
RE: HJ48 Stakeholder Discussion

Chairman Bogner, Vice Chairman Harvey, Members of the Committee:

Thank you for the opportunity to provide feedback on the use of facial recognition technology by state agencies. This is an important issue, and the Department appreciates the feedback of the Committee as we work to protect the privacy rights of Montana citizens while preventing fraud and abuse within the unemployment insurance (UI) program.

The Department's responses to the Committee's written questions are below. State CIO Kevin Gilbertson and State CISO Andy Hanks will both be on hand at the Committee's discussion to answer further questions.

As was shared with the Committee prior to its April 20, 2022 meeting, the Department has been reviewing its use of ID.me. A security assessment of ID.me, led by SITSD, is underway.

The Department recognizes concerns over the use of ID.me and its implications for the privacy rights of Montana citizens. DLI has engaged a contractor, FAST Enterprises, to implement a new UI benefits system. The FAST solution includes a suite of available security and fraud prevention tools that do not utilize facial recognition technology. The Department's goal is that implementation of its new, modern benefits system will dramatically reduce – and potentially eliminate – its use of ID.me and the use of facial recognition technology for fraud prevention. The Department aims to launch its new benefits system – and associated security tools – in the fall of 2023.

Questions for Department of Labor & Industry

Facial recognition technology can be used two ways:

- *Facial verification – the process of comparing an image or facial biometric data to an image database (i.e., "one-to-one matching")*
- *Facial identification – the process of using a computer system to compare the image or facial biometric data of an unknown individual to a database of images of known individuals (i.e., "one-to-many matching")*

1. *Of the two methods listed above, how are you currently using facial recognition technology and how long has it been in use?*



In October of 2020, following an unprecedented rise in UI claims due to the COVID-19 pandemic, the Department engaged with ID.me, a private vendor, to obtain its facial verification services to prevent the filing of fraudulent UI claims.

ID.me has shared much about its processes with the Committee directly, but in general, it utilizes a one-to-one matching of a user's "selfie" against a form of photo ID such as a driver's license or passport. The service utilizes facial geometry derived by the "selfie" to verify a user's identity.

2. Under the proposed bill, your agency's use is grandfathered in – is this helpful to your agency?

The Department appreciates the Committee's effort to "grandfather" in existing uses of facial recognition technology to exempt it from a possible future moratorium. As noted above, DLI aims to eventually move away from the use of facial recognition technology for the vast majority of claimants as it adopts a new benefits processing system.

DLI presently procures ID.me's services in the form of "credits", each credit representing the value and cost of a single identity verification. DLI anticipates that its present supply of credits will suffice through much of the rest of 2022. However, the Department does anticipate needing additional credits as a bridge for fraud-prevention as DLI's new benefits system is developed. Depending on this timing, the Department is concerned that a moratorium may prohibit it from securing ID.me services before the new system is ready for launch.

3. Has ID.me been helpful at preventing unemployment fraud?

Yes. The Department views ID.me as an important tool to prevent widespread fraud and abuse of the UI system during the unprecedented volume of claims during the pandemic. However, the Department also understands the significant privacy concerns that accompany the use of ID.me, as well as the customer friction that accompanies its utilization. For these reasons, the Department hopes to replace ID.me with a safe, secure benefits system that includes a range of fraud prevention tools but does not utilize facial recognition technology.

4. What is the alternative to performing your role without facial recognition technology?

DLI has engaged FAST Enterprises to develop and implement a replacement for its outdated UI benefits system. The Department has already partnered with FAST in recent years on its employer tax processing system, and this new benefit system will take advantage of significant efficiencies. FAST offers FAST Identity Verification Services (FIVS) as its own identity verification and fraud prevention suite. FIVS utilizes public records data sources and provides tools for claimants to self-verify via PIN letters and identity quizzes.

The Department will utilize FIVS for the vast majority – maybe all – claimants, and only direct to ID.me those claimants who raise high levels of "red flags" for suspicious activity. More investigation is needed to know whether the Department will be able to completely eliminate the use of ID.me and



rely solely on FIVS for fraud prevention in the future.

5. *How would a moratorium impact your operations?*

DLI intends to move away from the utilization of facial recognition technology with the implementation of its new benefits system. The Department urges the Committee to enable the Department to continue its use of ID.me while this new system is in development – and, if necessary, permit its use for the tiny minority of claimants the new system flags as suspicious.

6. *How much time would you need to switch away from facial recognition technology if a moratorium were to go into place?*

The Department's benefits system modernization project is still in its earliest initial stages, with the Statement of Work executed at the end of May. The existing project timeline calls for the initial deployment of the new system in the fall of 2023, with final rollout completing by the end of January 2024. The Department does not believe it has adequate tools in place to prevent fraud without ID.me and hopes to retain ID.me's services until the new system and its suite of fraud prevention tools are implemented.