

Multiple Agency Fiscal Note Summary

Bill Number: 5459 SB	Title: Family & medical leave insur
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Estimated Cash Receipts

Agency Name	2015-17		2017-19		2019-21	
	GF- State	Total	GF- State	Total	GF- State	Total
Department of Revenue	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Department of Social and Health Services	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Employment Security Department	0	280,151,376	0	1,063,659,506	0	1,347,636,560
SWF Statewide Fiscal Note - OFM	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Total \$	0	280,151,376	0	1,063,659,506	0	1,347,636,560

Estimated Expenditures

Agency Name	2015-17			2017-19			2019-21		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Financial Management	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Revenue	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Labor and Industries	.0	0	0	.7	0	133,000	.8	0	156,000
Department of Social and Health Services	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Superintendent of Public Instruction	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Early Learning	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Employment Security Department	.0	0	11,613,000	.0	0	28,197,000	.0	0	34,418,000
SWF Statewide Fiscal Note - OFM	.0	6,138,606	17,079,193	.0	24,113,188	52,801,280	.0	29,810,558	54,364,982
Total	0.0	\$6,138,606	\$28,692,193	0.7	\$24,113,188	\$81,131,280	0.8	\$29,810,558	\$88,938,982

Local Gov. Courts *									
Loc School dist-SPI	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Other **	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Impact

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

<http://www.ofm.wa.gov/tax/default.asp>

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

ENPID: 39379

FNS029 Multi Agency rollout

Prepared by: Devon Nichols, OFM	Phone: (360) 902-0582	Date Published: Final 2/10/2015
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note
FNPID: 39379

Individual State Agency Fiscal Note

Bill Number: 5459 SB	Title: Family & medical leave insur	Agency: 105-Office of Financial Management
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☒ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☒ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/02/2015
Agency Preparation: Stephanie Lidren	Phone: 360-902-3056	Date: 02/02/2015
Agency Approval: Aaron Butcher	Phone: 360-902-0406	Date: 02/02/2015
OFM Review: Regan Hesse	Phone: (360) 902-0650	Date: 02/02/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

SB 5459 expands the State Family Leave Act to be paid family and medical leave beginning 10/1/17. The bill will potentially require all collective bargaining agreements to be opened and contract negotiations must be conducted off-cycle in Calendar year 2015.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The bill will potentially require all collective bargaining agreements to be opened and have these impacts bargained including but not limited to:

- Employee paying half of the premium; and
- Employer requiring more documentation above an attestation; and
- Clarifying discrepancies between state and federal law; and
- Limiting an employee's ability to be on employer paid leave and receive family or medical leave benefits from this new program. These types of terms and conditions are generally spelled out in the contract.

Due to the implementation date for this bill, contract negotiations must be conducted off-cycle in Calendar year 2015. It is estimated this work will require approximately 525 hours of staff negotiator's time to complete. This can be accomplished within existing resources.

A rule making will be needed to revise Title 357 WAC. It is estimated this will take about 50 hours of staff time. This can be accomplished within existing resources.

There are anticipated impacts to the HRMS payroll system and potentially there could be an impact to the Compensation Impact Model (CIM) if the amount of an employee contribution is negotiated. This cost is unknown but may impact the fees charged by the Department of Enterprise Services.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

A rule making will be needed to revise Title 357 WAC. It is estimated this will take about 50 hours of staff time.

Department of Revenue Fiscal Note

Bill Number: 5459 SB	Title: Family & medical leave insur	Agency: 140-Department of Revenue
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Part I: Estimates

☒ No Fiscal Impact

Estimated Cash Receipts to:

Indeterminate Impact

Estimated Expenditures from:

Indeterminate Impact

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/02/2015
Agency Preparation: Van Huynh	Phone: 360-534-1512	Date: 02/03/2015
Agency Approval: Kim Davis	Phone: 360-534-1508	Date: 02/03/2015
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 02/04/2015

Request # 5459-1-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill provides a Business and Occupation (B&O) tax credit for an employer with fewer than 50 employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year within 75 miles of the employee's worksite. The credit is allowed during the first 24 months following the hire date of the employer's first employee.

The credit is equal to the full amount of premium paid for an individual, less any amount deducted from the pay of the individual. The credit may not exceed the B&O tax otherwise due for the tax reporting period. Unused credit may not be carried over to be credited against taxes incurred in subsequent tax reporting periods. The total amount of all credits allowed for an employer may not exceed \$1,000.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

ASSUMPTIONS

- This new tax preference expires January 1, 2025 because the preference does not have a stated expiration date (RCW 82.32.805).

REVENUE ESTIMATES

As the bill is written, the revenue impact for the B&O tax credit (Section 27) is indeterminate.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

As the bill is written, the expenditure impact for the B&O tax credit (Section 27) is indeterminate.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

None.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

No rule-making required.

Individual State Agency Fiscal Note

Bill Number: 5459 SB	Title: Family & medical leave insur	Agency: 235-Department of Labor and Industries
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	0.0	0.0	0.0	0.7	0.8
Account					
Accident Account-State 608-1	0	0	0	114,000	134,000
Medical Aid Account-State 609-1	0	0	0	19,000	22,000
Total \$	0	0	0	133,000	156,000

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
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- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/02/2015
Agency Preparation: Jeri Deuel	Phone: 360-902-6982	Date: 02/03/2015
Agency Approval: Chris P Freed	Phone: 360-902-6698	Date: 02/03/2015
OFM Review: Devon Nichols	Phone: (360) 902-0582	Date: 02/04/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

See attached.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

See attached.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

See Attached

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years				0.7	0.8
A-Salaries and Wages				62,000	82,000
B-Employee Benefits				23,000	30,000
C-Professional Service Contracts					
E-Goods and Other Services				37,000	42,000
G-Travel				11,000	2,000
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$0	\$0	\$0	\$133,000	\$156,000

III. B - Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2016	FY 2017	2015-17	2017-19	2019-21
Fiscal Analyst 2	45,828				0.1	0.1
Industrial Relations Agent 2	51,864				0.6	0.7
Total FTE's	97,692				0.7	0.8

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None.

Part II: Explanation

This bill:

- Changes the Family Leave Insurance Program to the Family and Medical Leave Insurance Program.
- Allows workers to care for family members with a serious health condition or to recover from their own serious health condition.
- Expands the duties of the Employment Security Department (ESD).
- Requires each employer, for each individual, to pay a premium to ESD based on the amount of the employee's wages.
- Specifies terms for premium taxes.

This will take effect 90 days from its passage.

II. A – Brief Description of What the Measure Does that Has Fiscal Impact

Section 4 (7) – Specifies that ESD develop and implement an outreach program to inform eligible individuals of the benefits provided in this Act and their relation to other workplace benefits with technical assistance from the department of Labor and Industries (L&I).

Section 11 (3) (b) – Reduces the number of months an individual must be employed by an employer before receiving benefits. Twelve months would be reduced to six months of employment prior to a leave, and one thousand two hundred fifty hours of services has been reduced to six hundred fifty hours of service prior to a leave.

Section 11 (4) Specifies that enforcement authority of this section is held by L&I when employer fails to restore an employee to the job held after taking family medical leave.

II. B – Cash Receipt Impact

None

II. C – Expenditures

Employment Security will start paying benefits beginning October 1, 2017 in respect to leave for the birth or placement of a child or a family member's serious health condition and October 1, 2018 in respect to leave for an individual's serious health condition.

Section 4 – The requirement for LNI to provide technical assistance to ESD for outreach would be minimal and would be managed within existing resources.

Section 11 – The assumption for LNI to enforcement the job restoration requirement are as follows:

According to ESD there are 2.2 million employees working for businesses that match the size requirement (25) for this bill. Our historical experience is .002% of employees file protected leave complaints which would result in a new complaint work load of 44 per year (2.2 million times .002% = 44). Projected leave agents (Industrial Relations Agent) can handle 60 per year which would result in a need for .73 Industrial Relations Agent. 44 divided by 60 = .73 beginning January 1, 2018.

Administrative Hearings:

Based on AAG estimates there would be three appeals annually. The AAG estimates the cost to handle the appeals could be handled within the current AAG budget. Administrative Hearings cost estimated at 20 hours at \$120 per hour = \$2,400 times 3 appeals = \$7,200

Indirect Costs

The amount included in this fiscal note for indirect is:

Fund	Name	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
608	Accident Account			2,000	3,000	3,000	3,000
609	Medical Aid Account			1,000	1,000	1,000	1,000
	Total:	\$0	\$0	\$3,000	\$4,000	\$4,000	\$4,000

The department assesses an indirect rate to cover agency-wide administrative costs. Labor and Industries indirect rate is applied on salaries, benefits, and standard costs. For fiscal note purposes the total indirect amount is converted into salary and benefits for partial or full indirect FTEs. Salary and benefits costs are based on a Fiscal Analyst 2 (Range 44, Step G).

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

None.

Individual State Agency Fiscal Note

Bill Number: 5459 SB	Title: Family & medical leave insur	Agency: 300-Dept of Social and Health Services
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

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- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/02/2015
Agency Preparation: Bill Jordan	Phone: 360-902-8183	Date: 02/03/2015
Agency Approval: Dan Winkley	Phone: 360-902-8179	Date: 02/03/2015
OFM Review: Bryce Andersen	Phone: (360) 902-0580	Date: 02/03/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1 amends RCW 49.86.005 to allow workers to care for family members with a serious health condition or to recover from their own serious health condition.

Section 15 adds a section to RCW 49.86 (1) requiring each employer, for each individual, to pay a premium to the Employment Security Department (ESD) based on the amount of the employee's wages. Each employer may deduct from the pay of each individual one-half of the full amount that the employer is required to pay for the individual.

(2)(a) Beginning July 1, 2016, and ending December 31, 2017, each employer shall pay a premium of two-tenths of one percent of the employee's wages.

(2)(b) Beginning January 1, 2018, and ending December 31, 2018, each employer shall pay a premium of four-tenths of one percent of the employee's wages.

(2)(c) By September 1, 2018, and by each subsequent September 1st, the Commissioner of ESD shall adjust the amount of the premium to ensure that the amount is the lowest rate necessary to pay family and medical leave insurance benefits and administrative costs on a current basis, and maintain actuarial solvency in accordance with recognized insurance principles.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

For lidded grants where the Department of Social and Health Services (DSHS) cannot earn federal reimbursement for additional costs, it is assumed that GF-State will be needed. For federal funds that can be earned such as Food Stamps, Title 19, Child Support, are based on the DSHS Compensation Impact Model (CIM) funding percentages.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The effect of Senate Bill 5459 for the additional premium to be paid to the Employment Security Department is addressed in the Office of Financial Management statewide fiscal note.

Discussion of the potential fiscal impacts in this indeterminate statewide note is not intended to be exhaustive. DSHS has attempted to describe the range of impacts in the areas most likely to have potential costs or savings. Although the fiscal impact is indeterminate, the following scenarios provide a reasonable illustration of the potential fiscal impact.

The Family and Medical Leave Insurance Premium is likely to have the following indeterminate impacts on DSHS:

- Increased expenditures for collectively bargained home-care worker wages; and
- Higher vendor rates as vendors will want to negotiate contracted reimbursement levels.

Aging and Long-Term Support and Developmental Disability:

DSHS' Home and Community Services (HCS) Division promotes, plans, develops and pays for long-term care services responsive to the needs of persons with disabilities and the elderly with priority attention to low income individuals and families. SEIU Healthcare 775NW is recognized as the sole and exclusive representative for all individual providers of in-home care services as defined in RCW 74.39A.240 and under the provisions of 74.39A.270.

The estimated Annual Cost of Wages for Home Care workers is \$682,227,000 for Fiscal Year 2017. Using the premium rates from Section 15 (2) and assuming that the employer will NOT deduct one-half of the premium from the employee's pay, the following are the estimated expenditures:

Fiscal Year 17 $\$682,227,000 \times 0.2\% = \$1,364,000$

Fiscal Year 18 $\$682,227,000 - \text{one-half} \times 0.2\%$ for the first six months - \$682,000, and $\text{one-half} \times 0.4\%$ for the second six months - \$1,364,000. Fiscal Year 18 Total \$2,046,000.

Fiscal Year 19 and Beyond $\$682,227,000 \times 0.4\% = \$2,729,000$

Vendors:

Additional funding to support increased vendor rates will be necessary. The indeterminate impact on vendors is due to the fact that many DSHS vendor contracts are paid on a performance-based deliverable basis or are paid at an agreed-upon rate for a unit of service. Under these payment arrangements, DSHS collects total expenditure information or the number of units of service provided. DSHS does not collect information about the number of employees hired by vendors, the number of hours worked by vendor employees or the hourly wage paid by vendors.

For example, it is likely that contract payment amounts would be impacted by the Family and Medical Leave Insurance premium as vendors would realize an increase in operational costs, and, in turn would likely want to negotiate higher reimbursement levels.

If we assume that the Child Care funding in the Economic Services Administration primarily pays wages to the child care workers the cost is \$197,884,000 for Fiscal Year 2017. Using the premium rates from Section 15 (2) and assuming that the employer will NOT deduct one-half of the premium from the employee's pay, the following are the estimated expenditures:

Fiscal Year 17 $\$197,884,000 \times 0.2\% = \$396,000$

Fiscal Year 18 $\$197,884,000 - \text{one-half} \times 0.2\%$ for the first six months - \$198,000, and $\text{one-half} \times 0.4\%$ for the second six months - \$396,000. Fiscal Year 18 Total \$594,000.

Fiscal Year 19 and Beyond $\$197,884,000 \times 0.4\% = \$792,000$

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

No rules are needed to implement this legislation.

Individual State Agency Fiscal Note

Bill Number: 5459 SB	Title: Family & medical leave insur	Agency: 350-Supt of Public Instruction
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/02/2015
Agency Preparation: Mike Woods	Phone: 360 725-6283	Date: 02/02/2015
Agency Approval: Mike Woods	Phone: 360 725-6283	Date: 02/02/2015
OFM Review: Kate Davis	Phone: (360) 902-0570	Date: 02/02/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

The bill modifies the Family Leave Insurance Act passed by the 2007 Legislature as ESSSB 5659.

Section 1

The family leave program is expanded to family and medical leave.

Section 2

Definitions are expanded and updated.

The Employment Security Department is directed to administer the program.

Family leave is expanded to become “family and medical leave”.

Section 5

Beginning October 1, 2017 family and medical leave insurance benefits are payable to an individual during a period in which the individual is unable to perform his or her regular customary work because he or she is on family and medical leave.

Section 7

The maximum number of weeks during which benefits are payable is changed from five to twelve.

Section 8

Benefit rates are set. The weekly benefit an amount equal to five and two-tenths percent of the average quarterly wages of the individual’s total wages during the two quarters of the individual’s qualifying year in which such total wages were the highest. Beginning October 1, 2017 the maximum weekly benefit amount shall be \$1,000 and each subsequent September 30th the Employment Security Department shall adjust the rate to account for inflation.

Section 13

If an individual does not have a spouse, the individual may designate one person for whom the employee will care if the designated person has a serious health condition. An employer may establish a process for an individual to make such designation within thirty days of the individual’s date of hire and annually thereafter.

Section 15

Beginning July 1, 2016 each employer shall pay a premium to the Employment Security Department based on the amount of the employee's wages. Each employer may deduct from the pay of each individual one-half of the full amount that the employer is required to pay for the individual.

Beginning July 1, 2016 and ending December 31, 2015 (OSPI assumes this is a typo that should say 2017) each employer shall pay a premium of two-tenths of one percent of the employee's wages.

Beginning January 1, 2018 and ending December 31, 2018 the premium increases to four-tenths of one percent.

By September 1, 2018 and by each September 1 Employment Security shall adjust the premium to ensure that the amount is the lowest rate necessary to pay the benefits and administrative costs. The adjusted rate will take place January 1 of each year thereafter.

Section 19

Allows any individual who believes that he or she has been discharged or otherwise discriminated against by an employer in violation of this section may file a complaint with the Employment Security Department.

Section 20

Employers may require leave taken under this bill to be taken concurrently with leave under other applicable laws.

Section 22

Changes the name of the Family Leave Insurance Account to the “Family and Medical Leave Insurance Account”.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The fiscal note prepared by OFM will identify the cost of the premium for OSPI employees.

OSPI assumes the appropriate state agencies will modify statewide systems such as HRMS and the Employee Self Service Online Leave System to accommodate any administrative changes resulting from this bill. Therefore OSPI does not expect to incur significant HR/Payroll costs to administer and monitor leave, etc.

OSPI executes several personal services contracts each year. Contractor costs may increase in future years as contractors incur the additional cost of the insurance premium. The number and value of personal services contracts is dependent upon legislative requirements passed each session and in each budget. Therefore OSPI cannot predict the impact on our contract expenditures.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5459 SB	Title: Family & medical leave insur	Agency: 357-Department of Early Learning
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/02/2015
Agency Preparation: John Rich	Phone: 360 725-4513	Date: 02/03/2015
Agency Approval: Mike Steenhout	Phone: (360) 725-4920	Date: 02/03/2015
OFM Review: Rayanna Williams	Phone: (360) 902-0553	Date: 02/03/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Allows workers to care for family members with a serious health condition or to recover from their own serious health condition.

Requires each employer, for each individual, to pay a premium to the employment security department based on the amount of the employee's wages.

Provides a business and occupation tax credit for certain employers.

Changes the name of the family leave insurance program to the family and medical leave insurance program.

Changes the name of the family leave insurance account to the family and medical leave insurance account.

The fiscal impact for employees of the Department of Early Learning (DEL) will be included in the fiscal note from the Office of Financial Management, so this fiscal note shows no fiscal impact to DEL.

The fiscal impact to DEL contractors is indeterminate because DEL does not have access to the wage information necessary to estimate the impact of the premium or tax credit on the contractors, nor can DEL estimate how these impacts may affect future contracting costs.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Expenditure impact for DEL staff is included in the OFM fiscal note for this bill.

Expenditure impact to contractors is indeterminate, for the reasons indicated above.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None.

Individual State Agency Fiscal Note

Bill Number: 5459 SB	Title: Family & medical leave insur	Agency: 540-Employment Security Department
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2016	FY 2017	2015-17	2017-19	2019-21
Family Leave Insurance Account-State 14F-1		280,151,376	280,151,376	1,063,659,506	1,347,636,560
Total \$		280,151,376	280,151,376	1,063,659,506	1,347,636,560

Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
Account					
Family Leave Insurance Account-State 14F-1	7,280,000	4,333,000	11,613,000	28,197,000	34,418,000
Total \$	7,280,000	4,333,000	11,613,000	28,197,000	34,418,000

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/02/2015
Agency Preparation: Joyce Miller	Phone: 360 902 9251	Date: 02/09/2015
Agency Approval: Trent Howard	Phone: 360 902 9425	Date: 02/09/2015
OFM Review: Devon Nichols	Phone: (360) 902-0582	Date: 02/09/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1 amends RCW 49.86.005 stating the intentions of the Legislature.

Section 2 amends RCW 49.86.010 providing definitions.

Section 3 adds a new section to RCW 49.86 stating the definitions of employer and employment in Section 1 of the railroad unemployment insurance act also apply throughout this chapter unless the context clearly requires otherwise.

Section 4 amends RCW 49.86.020 requiring ESD to do the following:

Establish and administer an FMLI program and pay benefits.

Establish procedures and forms for filing claims.

Notify the applicant's employer within five business days of a claim filing.

Use information sharing and integration technology to facilitate disclosure of information or records by other state agencies, assuming the individual consents to disclosure.

Protect confidential applicant information, which is not open to public inspection. Exceptions are provided for the applicant and the employer. The employer may review the records in connection with a pending claim. ESD has discretionary authority to allow others to review records when assisting ESD.

With technical assistance from the Department of Labor and Industries, execute a multi-lingual outreach program in the primary languages (as defined in RCW 74.04.025) to notify prospective applicants of the program benefits and requirements.

ESD may require that:

The individual attests that there has been a birth or placement of a child, or that he/she or a family member has a serious health condition.

The individual attests that he/she is not earning waiting period credits, receiving state or federal crime victims' compensation, unemployment insurance benefits, industrial insurance benefits, or disability insurance benefits.

The individual attests that his/her serious health condition is not a result of perpetration of a gross misdemeanor or felony.

A claim is supported by the individual's health care provider.

Section 5 amends RCW 49.86.030 stating beginning October 1, 2017, benefits are payable to an individual during a period in which the individual is unable to perform his or her regular or customary work because he or she is on family and medical leave if he or she:

Files a claim for benefits as required by rules;

Has been employed at least 680 hours during the qualifying year;

Establishes an application year (an additional application year may not be established if the qualifying year includes hours worked before the previous application year was established);

Consents to disclosure of information deemed confidential;

Discloses whether or not he or she owes child support obligations;

Provides the employer with written notice of the intent to take family and medical leave as required in RCW 49.78.250 (State Family Leave statute) and attests to ESD that such notice has been provided; and

Provides a document authorizing the individual's or family member's health care provider to disclose health care

information in a certification of a serious health condition.

For leave for the birth or placement of a child or family member's serious health condition, FMLI benefits are payable on or after October 1, 2017 as soon as the funds are available. For leave for an individual's serious health condition, FMLI benefits are payable beginning October 1, 2018.

Section 6 adds a new section to RCW 49.86 stating an individual is disqualified from receiving benefits for the next 52 weeks if he/she is suffering from a serious health condition as a result of his or her own perpetration of a gross misdemeanor or felony.

Section 7 amends RCW 49.86.050 stating the following applies regarding payments:

Maximum number of weeks during FMLI is twelve weeks for leave for a family member's serious health condition AND for the birth or placement of a child; PLUS twelve weeks for the individual's serious health condition.

There is a seven day waiting period before benefits become payable with respect to a particular type of family and medical leave.

The first payment must be made within two weeks after the complete claim is received or start of leave, whichever is later. Subsequent payments must be made biweekly.

Payment and acceptance of benefits is not a binding determination of rights.

If the decision in an appeal is that the payment was improper, the individual must repay, and recoupment may be made from future payments. The commissioner may waive, in whole or in part, a payment where recovery would be against equity and good conscience.

If an individual dies before receiving payment, the payment must be distributed consistent with the will or RCW 11.04.015 (intestacy statute), if the individual dies intestate.

Section 8 amends RCW 49.86.060 stating the amount of the benefit is determined as follows:

An amount equal to 5.2 percent of the individual's average quarterly wages in the two quarters of the qualifying year in which the wages were the highest, up to \$1,000 per week. This benefit amount is not prorated based on how many hours the individual regularly worked just before the family leave began; rather, the individual will get the full amount calculated under this section, unless taking less than eight hours of leave in the week.

Beginning October 1, 2017, the maximum benefit is \$1,000 per week.

By September 30, 2017, and each subsequent September 30th, ESD must calculate an adjusted maximum weekly benefit to amount for inflation. The adjusted maximum weekly benefit amounts calculated under this subsection take effect on the following January 1st.

Benefits are not payable for less than 8 hours of family and medical leave taken in a week.

If the individual discloses he or she owes child support obligations, ESD must notify the applicable child enforcement agency and deduct and withhold an amount from benefits consistent with RCW 50.40.050 (child support obligations' statutes).

The bill is silent, due to an amendment, on deducting and withholding federal income tax.

Section 9 amends RCW 49.86.070 stating if the IRS determines benefits are subject to federal income tax, ESD must advise each individual filing a claim of this determination at the time of the filing and requirements exist pertaining to estimated tax payments.

Section 10 amends RCW 49.86.080 stating if benefits are paid erroneously, as a result of willful misrepresentation, or if a claim is rejected after benefits are paid, RCW 51.32.240 (workers' compensation statute) applies. However, appeals are governed by RCW 49.86.120, penalties are paid into the FMLI account,

and ESD will seek repayment. ESD must issue an overpayment assessment.

Whenever the overpayment assessment becomes conclusive and final, ESD may file with a superior court clerk a warrant in the amount of the overpayment plus a filing fee under RCW 36.18.012(10). ESD must first give 20 days notice by certified mail return receipt requested.

The clerk must immediately designate a cause number. The name of the person(s) mentioned in the warrant, the amount of the assessment, and the date the warrant was filed must be entered into judgment docket.

The amount of the warrant as docketed will become a lien on the title and any interest in all real and personal property of the person(s). The warrant so docketed is sufficient to support the issuance of writs of execution and garnishment in favor of the state in the manner provided by law for a civil judgment.

A copy of the warrant must be mailed to the person(s) by certified mail to the last known address within ten days of the warrant's filing with the clerk.

Section 11 amends RCW 49.86.090 stating when an individual receives FMLI benefits or earns waiting period credits, he/she is entitled to family and medical leave and to be restored to a position of employment with his or her employer as specified in RCW 49.78.280 (state Family Leave Act). This section applies only to an individual if:

The employer employs more than 25 employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year within 75 miles of the employee's worksite; and
He or she has been employed for at least 12 months by the employer and for at least 1,250 hours with the employer during the previous six months. This section shall be enforced by the Department of Labor and Industries.

Section 12 amends RCW 49.86.100 stating if spouses work for the same employer, the employer may not allow them to take leave concurrently if such leave is taken for the birth or placement of a child or for a parent's serious health condition.

Section 13 adds a new section in RCW 49.86 stating if an individual does not have spouse, the individual may designate one person for whom the employee will care if the designated person has a serious health condition. Employees can change this designation once a year. An employer may establish a process for an individual to make such a designation within thirty days of the individual's date of hire. If an individual's employer establishes such a process, the individual must make such a designation using the employer's process. If an individual's employer does not establish such a process, the individual may make such a designation when filing a claim for benefits.

Section 14 amends RCW 49.86.110 stating beginning January 1, 2017, an employer of individuals not covered by this legislation or a self-employed person may elect coverage by providing written notice to the Commissioner. Coverage must be for an initial period of at least three years or a subsequent period of at least one year immediately following another period of coverage.

An employer or self-employed person who has elected coverage may file a notice of withdrawal within 30 days after the end of the three-year period or at other times as prescribed by rule. Within 5 days of filing the notice of withdrawal, the employer must notify all employees in writing.

ESD may cancel elective coverage if the employer fails to make required payments or reports. ESD may collect premiums and may levy an additional premium for the period of coverage. Within 5 days of receiving the notice of cancellation, the employer must notify all employees in writing.

ESD must adopt efficiencies to improve administration and reduce costs.

Section 15 adds a new chapter to RCW 49.86 stating beginning July 1, 2016, and ending December 31, 2015, for each worker, an employer must pay a premium of two tenths of one percent of the employee's wages. Beginning January 1, 2018 and ending December 31, 2018, each employer shall pay a premium of four tenths of one percent of the employee's wages. Employers may deduct the premium amount from the employees' pay (the start date is unspecified). Premium payments will be deposited in the FMLI Account.

ESD is required to:

Adopt efficiencies to improve administration and reduce costs, including using combined reporting and payment, with a single return, of FMLI premiums and Unemployment Insurance contributions.

By September 1, 2018 and by each subsequent September 1st, adjust the premium to ensure it is the lowest rate necessary to:

Pay benefits and administrative costs;

Maintain actuarial solvency.

ESD will determine when and how the payments will be made.

Section 16 adds a new section to RCW 49.86 stating as specified by the legislation and the commissioner, an employer must make reports, pay premiums, and furnish information to ESD.

ESD must adopt efficiencies to improve administration and reduce costs, including combining reporting and payment in one single return.

Temporary help companies are considered to be employers for this purpose; however, if the temporary help companies fail to pay premiums; the customers to whom the employees were provided are responsible for payment.

The following apply regarding employers' records:

An employer must keep a record of employment, which must be open to inspection by ESD at all times.

Information from employer records is confidential and not open to public inspection, though an exception is provided for presenting cases in question.

The requirements regarding assessment and collection of FMLI premiums are the same as those applied under Title 50 RCW (unemployment insurance statute). The requirements apply to:

An employer that fails to make required reports or premiums;

An employer that willfully makes a false statement or misrepresentation to avoid making required reports or paying premiums;

A successor in the manner specified in RCW 50.24.210 (Payment of tax by employer quitting business - Liability of successor);

The person having control or supervision of payment and/or reporting of FMLI or the responsibility for filing of returns in the manner specified in RCW 50.24.230 (termination, dissolution, or abandonment of business — Personal liability for unpaid premiums).

Appeals regarding premiums are governed by RCW 49.86.120.

Section 17 amends RCW 49.86.120 stating the following applies to appeals to ESD's decision:

An individual may file a notice of appeal from determination or re-determination made by ESD with the commissioner within 30 days after ESD's decision was served.

A hearing with an Administrative Law Judge (ALJ) must then be requested in accordance with RCW 34.05 (Administrative Procedures Act).

A party may petition for judicial review within 30 days after ALJ's decision is served.

A court may award reasonable attorneys' fees and costs to the prevailing party when a decision of ESD is reversed or modified.

Fees and costs owed by ESD are payable from the FMLI Account.

This section strikes other detail in current law on how the agency handles the administrative review decision making involving the Administrative Law Judge, the agency, and the attorney general.

Section 18 adds a new section to RCW 49.86 regarding determinations and redeterminations.

A determination of the amount of benefits potentially payable cannot be appealed. However, a re-determination by the Commissioner may be requested within one year of determination, or any re-determination. A re-determination must be furnished to the individual in writing and provide the basis for appeal.

A determination of denial of benefits is final unless there is a timely appeal. The Commissioner may make a re-determination within one year from delivery or mailing to correct an error in identity, omission of fact, or misapplication of law with respect to the facts.

A determination of allowance of benefits is also final unless there is a timely appeal. The Commissioner may re-determine the allowance within 2 years following the application year to recover any overpayments.

A re-determination may be made at any time to:

Conform to a final court decision applicable to an initial determination or redetermination of denial or allowance;

In the event of a back pay award or settlement; or

In the case of misrepresentation or willful failure to report a material fact.

Such a redetermination shall be promptly mailed or delivered to all interested parties.

Section 19 amends RCW 49.86.130 stating employers, individuals, and organizations may not discriminate against an individual who has filed or communicated intent to file a claim, complaint or appeal, has testified or is about to testify, or has assisted with any proceeding related to FMLI.

In addition, an individual who has been discharged or discriminated against by an employer may file a complaint with the Commissioner within 90 days of the alleged violation. The Commissioner shall investigate as he/she deems appropriate and notify the complainant of his/her determination within 90 days of the complaint filing. If the Commissioner determines this section has been violated, he/she must bring an action to the superior court. If the Commissioner does not make this determination, the individual may institute an action with the superior court on his/her own behalf. In any action, the superior court has the jurisdiction to restrain violations and order all appropriate relief, including rehiring or reinstatement of the individual with back pay.

Section 20 amends RCW 49.86.140. Under current law, family leave must be taken concurrently with any leave taken under the federal Family and Medical Leave Act (FMLA) or the state Family Leave Act (FLA). An employer may require that family leave be taken concurrently or coordinated with leave allowed under a collective bargaining agreement or employer policy.

This legislation states that if entitled to employment protection under this legislation and under other applicable federal, state, or local law, the individual is entitled to the most favorable employment protection law. More permissive than current law, this legislation states that if entitled to family and medical leave and leave under

FMLA and FLA or other applicable federal, state, or local law, the employer may require that the family and medical leave be taken concurrently with leave under other applicable laws, except as otherwise provided.

This legislation also adds:

- The employer may require that an individual take family and medical leave concurrently with leave under other applicable laws.
- An individual may not increase his or her leave time by tacking on leave under this legislation to leave under other applicable laws.
- Leave from employment under this legislation is in addition to leave during which benefits are payable under industrial insurance laws.
- An individual is disqualified from receiving FMLI in any week in which he/she is earning waiting period credits or receiving benefits under victims' compensation, Unemployment Insurance, industrial insurance, or disability insurance laws.
- Except as provided in this section, employers may negotiate collective bargaining agreements and adopt policies to coordinate existing benefits with leave from employment and wage replacement benefits required under this legislation.
- If an employer provides wage replacement benefits to an individual while on family and medical leave, the individual may elect which benefit to collect first.

Under current law, an employer's obligation to comply with a collective bargaining agreement or employer policy that provides greater leave is not diminished. This legislation expands this to say an employer's obligation to comply with a collective bargaining agreement or employer policy that provides greater employment protection, leave, or wage replacement benefits is not diminished. An individual's rights to employment protection, leave, and wage replacement benefits may not be diminished by a collective bargaining agreement.

Section 21 amends RCW 49.86.160 to authorize the Commissioner, instead of the director, to adopt rules to implement this legislation. RCW 34.05.328 (significant rulemaking requirements) do not apply to rules adopted by the commissioner to implement RCW 49.86.060(1) or section 15(3) of this act.

Section 22 amends RCW 49.86.170 stating the FMLI account is created in the custody of the State Treasurer. All FMLI premium receipts must be deposited in the account. This section is updated to reflect that only the Commissioner or his/her designee, instead of the director, may authorize expenditures.

Section 23 amends RCW 49.86.180 this section is updated to read FMLI account, instead of FLI account.

Section 24 amends RCW 43.79A.040 this section is updated to read FMLI account, instead of FLI account.

Section 25 amends RCW 49.86.210 stating beginning December 1, 2018, and each year thereafter, ESD must report on program participation, premium rates, fund balances, and outreach efforts.

Section 26 amends RCW 50.29.021 stating that an employer's experience rating account will not be charged if an employee worked for an employer for fifteen weeks or less, and was laid off at the end of temporary employment when the individual temporarily replaced a permanent employee who received benefits under Chapter 49.86 and the layoff is due to the return of the permanent employee. This subsection applies to claims with an effective date on or after July 5, 2017.

Section 27 adds a new section to RCW 82.04 stating in computing the Business & Occupation tax imposed under

this chapter, a credit is allowed for an employer with fewer than fifty employees for each working day during each of twenty or more calendar work weeks in the current or preceding calendar year within seventy five miles of the employee's worksite. The credit is allowed for the first 24 months after a hire, and is equal to the amount of premium paid to the department, less amount of premium deducted from the worker. The credit may not exceed tax otherwise due. No credit may be carried over to be credited against taxes incurred in subsequent tax periods. Total tax credit is \$1,000. No refunds may be granted for this credit.

Section 28 amends RCW 34.05.328 stating that this rule-making law does not apply to the rules of the Employment Security Department to implement RCW 49.86.060(1) or section 15(3) of this act.

Section 29 is a State severability clause stating if any provision in the act or its application to any person or circumstance is invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

ASSESSED PREMIUMS

Effective July 1, 2016 and ending December 31, 2018 premiums for the Family Medical Leave Insurance program will be assessed at the rate of two tenths of one percent of the employee's wages. Assumes four tenths of one percent of wages beginning January 1, 2018.

The department will need to set up a process for determining what the lowest rate necessary to pay benefits and administrative costs will be. For fiscal note purposes the revenue estimate is calculated at the four tenths of one percent per employee hour worked beginning January 1, 2016 through Fiscal Year 2019.

In order to provide benefits by October 1, 2017, ESD will need to begin the development of the premium collection system implementation no later than July 2015, (beginning of Fiscal Year 2016). Due to the timing of the collections of revenue beginning July 2016, (beginning of Fiscal Year 2017), the Family Medical Leave Insurance account will not have adequate revenue in Fiscal Year 2016 for the first year of start-up costs.

Section 27 of the proposed legislation provides for a Business & Occupation tax credit to employers with fewer than fifty employees, equal to the full amount of the premium, less any amount deducted from the pay of the individual, with a maximum credit of one thousand dollars. No credit may be carried over to be credited in future tax periods.

At this time the department is unable to determine the cost associated with this requirement. The language in the substitute legislation does not clearly define what reporting period, (monthly, quarterly or yearly), would be used to determine the number of employees. For example, an employer may have seasonal staff that exceeds fifty employees in a given month or quarter, but average less than fifty on an annual basis. In order for the department to determine a cost or revenue decrease associated with these sections clarification would be needed.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

This is an entirely new and unique benefit program that ESD must develop and administer. The Family Medical Leave Insurance (FMLI) program will collect premiums, administer claims, and pay benefits to claimants from the premiums collected. A dedicated account has been established for the FMLI program, and will include FMLI premiums collected. All premiums and penalties will be deposited into this account.

ESD is a federally funded agency, and the Family Medical Leave Insurance Premium Program, outlined in this legislation is a state mandated program. This legislation requires the following:

- Benefits must be paid out beginning October 1, 2017, as outlined in Section 5.
- ESD will be required to build two systems, a premium collection system and an FMLI benefit payment system. Estimated time for build is between 23 and 36 months.
- Revenue collected versus benefits paid timeline outlined in this legislation will result in a solvent fund balance. However, due to the timing of the collection of the premium, the timing of the startup costs of implementation, and the payment of the benefits, the fund will not have adequate revenue for Fiscal Year 2016, as outlined in the II.B of this fiscal note, and displayed in ATTACHMENT A.

This section is organized into the following sub-sections:

1. COST SHARING AGREEMENT (CSA) – Cost of sharing a portion of the system currently used for collecting Unemployment Insurance (UI) taxes.
2. PREMIUM COLLECTION – Cost for development of the premium collection system unique to the FMLI program.
3. OPERATIONAL COSTS/BENEFIT IMPLEMENTATION – Start-up and ongoing operational costs for collecting premiums. These costs are unique to the FMLI premium collection system program and are not eligible for inclusion under the CSA.
 - Taxable and Reimbursable employers (employers currently enrolled in the UI system).
 - Opt-in employers (employers not currently enrolled in the UI system).
4. ADMINISTRATIVE SERVICES – Start-up and ongoing costs not eligible for inclusion under the CSA. Refer to ATTACHMENT C for expenditure summary.

1. COST SHARING AGREEMENT (CSA)

The basis of the cost development for the Cost Sharing Agreement (CSA) with the Unemployment Insurance (UI) system is for the FMLI premium assessment and collection to “piggyback” on the existing structure for collection of UI taxes. This agreement is allowed by federal requirements under USDOL TEGL 6-05 and OMB Circular A-87. Where operational costs and processes can be shared, and are directly associated with collection of the FMLI premiums, the cost will be contained within a cost sharing agreement with the Unemployment Insurance program.

Costs for collection of the FMLI premiums need to be negotiated with the United States Department of Labor, but should be similar to those paid by the Employment Services Administrative Account (EAS) for collection of taxes under RCW 50.24.014. Federal law requires that any sharing of the UI tax collection mechanism requires participation in the overall cost of the system, not just the added cost of operation, and that costs are not based on the amount of revenue collected. Currently EAS pays 5.3% of \$25 million per year for the total tax collection program, or approximately \$1.3 million per year. The operational costs assume 2% inflation annually for the cost of current tax operations.

The CSA model will allow employers currently registered with UI to register for FMLI through the Next Generation Tax System – NGTS, calculate the UI tax and the FMLI premium, and pay both with a single payment. Program operations specific to the FMLI benefit program such as creating new forms, outreach, and auditing for specific compliance are included in this document as costs unique to the FMLI benefit program and

are not eligible for inclusion in the cost-sharing agreement.

For purposes of computing operational costs of FMLI premium collections, the cost to the FMLI premium collections for piggybacking on the NGTS system is calculated as described below:

- Calculate the base of current operations for registered employers within the NGTS system
- Add on-going FMLI-related costs that will become part of the base of current operations under the cost sharing agreement
- Multiply the adjusted base by 5.3%.

The 5.3% rate was negotiated with USDOL in 1993 based on bytes in the database as a proxy for the fair share of EAS costs. A second 5.3% rate was also applied to the now defunct Employment and Training Trust Fund. The calculation for the FMLI premium collections CSA is based on the assumption that USDOL will accept the FMLI premium collections as a substitute for the defunct program. There is an inherent risk that USDOL does not accept this rate, the new participation rate for both FMLI and EAS could be greater than the current 5.3%.

For fiscal note purposes the department estimates the cost sharing agreement at \$1.3 million per year in on-going cost.

2. PREMIUM COLLECTION – Cost for development of the premium collection system and a benefit payment system unique to FMLI; the anticipated completion time is 23 to 36 months.

The ESD estimates over 56,000 hours of development effort will be needed to build and implement a system to collect premiums for the Family Medical Leave Insurance benefit program. The development effort would use ESD development staff. This includes time for final testing and ability to collect tax by July 1, 2016, (see Section 15). The project plan allows for an average of 15.4 IT FTEs to work exclusively on development during the project phase. The project would utilize contractors for overall project management, quality assurance, programming, testing, and to supplement ESD staff. Ongoing support of the applications will require 5.2 IT FTEs for application and hardware support after implementation.

Determination of technology needs included an evaluation of current infrastructure as related to the hardware and software needs for the FMLI program. Through the cost sharing agreement model, the ESD was able to utilize the existing infrastructure of the NGTS system for the FMLI premium collections.

Information Technology fiscal impact: (FOR FISCAL NOTE PURPOSES THE FIGURES OUTLINED IN THIS FISCAL NOTE REFLECT A 24 MONTH TIMELINE). Until a feasibility study or a detailed analysis is completed the actual timeline is only a placeholder.

3. OPERATIONAL COSTS/BENEFIT IMPLEMENTATION – Start-up and ongoing operational costs are unique to the FMLI program and not eligible for inclusion under the CSA.

Implementation details:

- The premium collection application is designed to use an initial premium rate of two tenths of one percent of wages by an employee. The system will allow the premium rate to be changed.
- This estimate is based on a consolidated approach to employer reporting and agency billing. An employer will use one reporting vehicle that will support both Unemployment Insurance (UI) wage reporting and Family Leave Insurance (FMLI) hourly reporting.
- ESD's design approach requires changes to the existing tax management system, NGTS.

- FMLI data will be added into the NGTS database so NGTS can produce consolidated employer statements.
- Employers who do not participate in UI but opt into FMLI must register with ESD and pay FMLI premiums quarterly.
- The NGTS employer database will be the controlling source of data for employers.
- A data-sharing agreement will allow the FMLI application to use copies of the NGTS employer data and quarterly reporting.
- A cost-sharing agreement will be necessary to co-locate FMLI data into the NGTS database so consolidated billing can be achieved.
- Existing ESD automated reporting applications will be modified to separate UI employer reporting from FMLI employer reporting.

Assumptions:

- If an employer reports wages but does not report hours, the application will calculate hours by dividing quarterly wages reported by the current minimum wage.
- Only employers registered in Washington State pay the premium.
- If an employer elects FMLI coverage, and has initially “opted in,” he or she must pay FMLI premiums for at least three years.
- Reporting of quarterly hours worked is required for both FMLI and Unemployment Insurance.
- Reporting of total hours worked by employee per quarter is sufficient for determining benefits.
- ESD will charge interest and penalties for FMLI premiums not collected.
- Corporate officers can “opt in” for FMLI and UI.
- The FMLI requirements will result in a change order for the NGTS projects. At this point in the NGTS project, ESD would have to submit a change order to the project vendor for an estimate on the impact to the design and development costs.
- ESD will develop a separate intranet application for FMLI.
- ESD will use Social Security Numbers to identify employees uniquely.
- The FMLI premium collection project will take a minimum of 24 months to implement and will be a separate project from the benefit project.

Taxable and Reimbursable employers (T&R)

The designation of taxable and reimbursable is used to define employers currently enrolled in the UI system. Taxable are those employers that pay unemployment insurance based on a percentage of wages paid. A reimbursable employer is an employer that repays the Unemployment Insurance Trust Fund for any benefits paid to former employees in lieu of contributions. These employers are either governmental entities, tribes, or non-profit organizations with a 501(c)(3) designation with the IRS.

T&R - Start-up Operating costs unique to the FMLI collections system:

Start-up costs are those costs related to establishing the program, and are not subject to cost-sharing because they are attributable directly to the FMLI program. Program development staff will be hired at the beginning of the project and work full-time until implementation. Training staff will be added toward the end of the planning period and work until program launch. Start-up costs include revising and translating new forms and procedures for taxable and reimbursable employers to report the FMLI program hours and pay premiums. Also included is printing and mailing outreach documents to employers explaining the new program and instructing them how to pay the premium. ESD anticipates a significant increase in telephone calls from employers in the first six months of the program. ESD also anticipates incurring Attorney General costs for their services related to program challenges.

T&R - Ongoing Operating costs unique to FMLI:

Some on-going costs are not subject to cost-sharing because they encompass functions unique to the FMLI program. Costs include auditing and compliance issues specifically related to FMLI, such as; auditing whether employers properly withheld FMLI premiums from employees and transmitted them to the department (assumes 4000 audits at 0.2 hours), and auditing reimbursable employers who are not currently audited under the UI system (assumes 40 audits/year based on assuming 2% of reimbursable employers). Other costs would include obtaining data from “wage-request” reimbursable employers who do not file quarterly UI reports, and collections and appeals involving employers who pay UI taxes but fail to pay FMLI premiums.

Opt-in employers

The opt-in designation represents two groups of employers. There are those employers who are already in the UI system, but that opt in for FMLI eligible personnel who are not subject to UI (e.g., owners or certain categorically exempt employees). Costs for this group are included in the cost-sharing agreement since the employers are not unique to FMLI.

The second group includes businesses that do not currently register or report for UI at all, such as self-employed individuals or religious employers. There are many unknowns with estimating the number of the employers and self-employed individuals who will opt in to the FMLI program, including uncertainties on the number of potential businesses impacted and on the percentage of those businesses that will opt in. For purposes of this fiscal estimate, ESD assumes that there will be 10,000 employers in this category. This group of employers will register for FMLI outside of the UI NGTS system. They are not eligible for cost-sharing because they are totally outside of the UI system and will be processed through a separate database.

Opt-in - Start-up costs unique to FMLI:

There will be additional start-up costs specific to opt-in employers and employees. This includes costs to expand coverage to employers that are already in the UI system, and to cover businesses that do not currently register or report for UI at all. Start-up costs for these categories include additional development of new forms, rules, manuals, procedures, and audit processes, a transition phase for registration of employers currently unregistered for UI, and expanded outreach to employers (both registered and unregistered for UI). The outreach will explain the program and whether they may opt in for FMLI, as well as how they should register and pay the premiums. We also anticipate an additional increase in phone calls from employers in the first six months of the program.

Opt-in - On-going costs unique to FMLI:

Most on-going costs specifically attributable to opt-in employers are considered unique to FMLI and not subject to cost-sharing because they are totally outside the UI system and are separable. These costs include on-going registration, audits, and collections of FMLI employer that are not under UI. Audits are assumed to be up to 2% of 10,000 employers, but are also assumed to be much simpler because they voluntarily opted in and will typically be self-employed persons. Collection costs are assumed to be disproportionately high because it may be difficult to follow up on the required three-year commitment for opt-in employers.

4. Administrative Costs Unique to FMLI:

Treasury Costs

Lockbox fees are estimated at \$15 thousand annually, beginning July 1, 2016. This is a contracted service by the bank to receive and open the envelopes for premium payments and then reconcile and transfer the revenue to the agency daily. This fee will only be incurred for the opt-in group of employers that are not covered under the CSA. The lockbox is currently under negotiation, so this estimate may change once the contract is complete.

Assistant Attorney General Legal Support

The program will require the legal services from the Assistant Attorney General's Office (AGO) to handle appeals relating to premium issues. The AGO provided the Department of Labor and Industries (LNI) an estimate of approximately \$268 thousand per year to handle FMLI premium issues. Based on that assumption the ESD estimates the costs to be approximately one-half of the LNI estimate. ESD will require the AGO legal support beginning July 2018, and ongoing for each year thereafter. The rate may increase, depending on the level of legal support ESD requires to handle the appeals.

Rulemaking and Policy

This program would require major rulemaking efforts. One full-time Washington Management Service (WMS) 2 would be needed to lead rulemaking activities including communicating with stakeholders, holding six hearings, drafting rules, and coordinating review and approval. Travel would be required. In addition, costs for a court reporter and for transcriptions of each hearing would be needed.

Staff will be needed to analyze, design, develop and publish policies, procedures, forms, booklets, laws and rules. These staff members will also work on business design and system testing.

- 3 ESPC3 for 6 months
- 1 WMS2 for 6 months

One-time fiscal impact of rulemaking and policy:

Forecasting of the Family Leave Trust Fund

The program will require staff to Forecast the Family Leave Trust Fund, monitor benefit payouts and premium collections, advise management on appropriate premium based on financial and statistical models, and conduct economic research studies.

Office Space

The estimated need for office space is 9,250 square feet of new leased space for permanent operations for about 37 staff. It is assumed the FMLI premium collection program could not be co-located with the FMLI program for which ESD has operational responsibility and new space would have to be leased. Currently, there is no available space in existing ESD facilities to house the program. The 9,250 square feet allows for estimated program growth through FY21.

Assumptions:

- Space for up to 24 staff in FY16
- Standard space requirements are 250 square feet per person; $250 \text{ sq. ft.} \times 37 = 9,250 \text{ square feet}$
- Lease term of five years; un-serviced lease rate in Thurston County is \$20.00
- Utilities are estimated at \$4.85 per square foot.

Indirect allocation

In addition to the direct costs estimated in this document, ESD assesses an indirect rate to cover agency-wide administrative costs. The U.S. Department of Labor (DOL) is designated by the Office of Management and Budget to negotiate and maintain indirect cost rates and cost-allocation plans for organizations that receive a preponderance of funds from DOL, which includes Washington State's Employment Security Department.

The indirect cost charge assures that every funding source shares an equitable portion of overhead costs. ESD's current approved indirect rate is 28.06 percent and is applied to all direct salaries for Administration,

Management, Fiscal, and Personnel FTE and activities. The estimated amounts below that will be received from the indirect charge on the family medical leave insurance salary base will be used to fund indirect support activities that benefit the Family Medical Leave Insurance Program.

Additionally, there are direct costs for desktop support and telecommunications that will be charged based on a per FTE cost of \$4,323.

Activities covered by the indirect and FTE direct charges include, the handling and processing of vendor payments and payroll, administrative assistance to employees, desk-top and network support, contract administration, legislative services and public affairs, personnel and employee services, budget, accounting, and facilities management.

The costs are calculated only on the FMLI direct charged FTEs, and does not include the FTE covered in the cost-sharing agreement.

Family Medical Leave Insurance Benefit Program Implementation costs:

Per Section 5 of this legislation benefits must be paid out beginning October 1, 2017.

1. Benefit Cost-SEE ATTACHMENT B for timing and duration of Benefit Pay outs

Item	Assumption
Average weekly benefit	\$600.00
Maturity rate – annual increase	8 percent

Estimated Claims Volumes, Claims Counts and Claims Benefit Costs

2. Claims handling and document management

Application process: Operationally, it is expected applicants would have the ability to file family medical leave claims over the internet and by paper. Applications could be submitted by mail, FAX (or e-mail), or through ESD's online filing system.

Once information is available in the department's database, a claim intake agent will review the applicant's information and enter key data elements into a server-based functional graphical user interface (GUI) system, which will set up the family-leave claim. The application will also request that the applicant provide a preferred time for a call back as well as a telephone number.

A language line will be required to assist applicants who do not speak English. Telecommunication costs include SCAN and 1-800 access for inbound and outbound calls. This cost will increase over a six-year period based on increasing numbers of applicants. It is assumed that 25 percent of intake agents are bilingual.

Monetary determination: The claims intake agent will review the applicant's base-year wages/hours or initiate a request for wages/hours data from other state, federal or military employers if applicable. The system will issue a monetary determination to be mailed to the applicant. The monetary determination will display wages/hours for the base period (qualifying year) and calculate the average number of hours-per-workweek that an individual worked in the highest two quarters of wages. If federal, military, or out-of-state wages have been requested, a preliminary monetary determination will inform the applicant that wages/hours have been requested. A final monetary determination will be issued after requested wages/hours have been reported. Monetary determinations will also state why an applicant is not eligible, if applicable, and provide additional information needed to

complete their claim, appeal rights and appeal instructions. Applicants have a right to request corrections to wages/hours and can appeal a monetary denial (e.g., fewer than 680 hours worked during qualifying year).

Notice to the employer: Notice will be generated from the entered application and mailed to the employer.

Presentation of Benefit Rights (PBR): In order to maximize efficiency, outbound calls to applicants will be scheduled via the application review. Intake agents will call the applicant and provide semi-weekly claiming instructions and review applicants' rights and responsibilities. This should reduce the number of inbound question calls received by the Department, and evenly distribute weekly workload. Applicant instructions will be mailed as well. If an applicant is not available at the time of the call, he or she will be instructed to read the mailed materials and call for questions.

Non-monetary eligibility decisions: In some cases, an adjudicator must conduct fact-finding with the applicant and issue a non-monetary eligibility decision. (Examples: a grandparent who is caring for a child, care of foster child, reporting requirements.) The decision will be written with a template-based system and have a simple "check the block" or "paragraph insert" functionality. The decision must be mailed to the applicant and provide appeal rights and instructions. The adjudicator must be able to stop payment of benefits for any denial period. Denials can include overpayments of benefits or fraud which incurs additional penalties. A request for waiver for overpaid benefits will automatically be mailed to the applicant under specific circumstances. Decisions regarding allowance or denial of waiver will be written and mailed to the applicant. It is assumed that 15 percent of applications will result on a non-monetary decision.

Certifications: It is assumed that continued claims will be able to be made via IVR (telephone), the internet, or by mail. IVR and internet claims will process completed claims into the payment system automatically. Automated notification and follow up by the intake agents will occur for incomplete claim submission. The intake agent will enter the paper application into the system manually. Applicants will be required to file claims to certify their "inability to perform regular or customary work due serious health conditions, to bonding with biological or adoptive child, or to care for ill relatives" as well as certify the number of hours-per-week of family leave being claimed. The individual submitting a claim must notify the health care provider that a claim was submitted. In the communication to the health care provider, instructions, request for information and medical certification form will be sent. Medical certifications must be submitted within five working days of receipt. If medical certification is not submitted within five working days, intake agent will follow up with medical provider as well as notify the individual of the delay. The following are probable causes for delay of claims: Missing health care provider's signature, electronic or hard copy, missing health care provider's license number to practice, missing diagnosis code(s) and missing estimated recovery date and/or prognosis date. The first seven calendar days of family leave taken in an application year are not payable and are considered the waiting period. If the applicant chooses to file using the IVR or the Internet, the Department will assume the individual will continue to file this way. If the applicant files using a paper claim form, the applicant will receive, along with the benefit check, a new claims form to fill out for the following week.

Benefit payments: Hard checks will be issued and mailed to applicants the day after the claim is entered into the system. Direct-deposit transactions will occur the day after the claim is entered into the system. Payments will be automatically reduced for the following reasons: Overpayment offset, or Division of Child Support reduction.

3. Family Medical Leave Insurance Program Implementation

The key components for program implementation include project team, one time facilities and initial outreach, information technology staffing and equipment as well as agency indirect costs.

General Program Assumptions:

- ESD has not analyzed the sections regarding job protection.
- The programs will begin making benefit payment on October 1, 2017 for claims taken to bond with child or relative and October 1, 2018 for claims taken to care for self serious health condition. Individuals may file one time within six weeks of starting leave for claims taken to bond with child and weekly for claims taken to care for relative's or self serious health condition.
- The agency may contract or enter into interagency agreements with other state agencies for the initial administration of the program, (consistent with RCW 49.86.200).
- The agency must study the impacts of the programs on the UI Program and options for mitigating impacts (a Recommendation of the Joint Task Force on Family Medical Leave Insurance).
- The Commissioner shall appoint a state advisory committee to aid in formulating policies and discussing problems related to the administration of the programs (a Recommendation of the Joint Task Force on Family Medical Leave Insurance).
- The benefit is available to employees, regardless of the employer's size (assuming all other eligibility criteria are met).

(a) Program planning and preparation staff

Program development staff would be hired at the beginning of the project and work full-time until implementation. Training staff would be added 6 months before the launch of each program.

Program planning staff assumptions:

- Director- Exempt
- Business Lead, WMS 2
- Documentation specialist, Program Coordinator 3- document work products and maintain version control
- Policy Analyst – Management Analyst 5
- Three business analysts – Employment Security Program Coordinator 3- define and document the work flows of the new processes; document the business requirements for the information technology solutions; work with IT staff on validating the system technical design; and work with IT staff to test the IT solutions prior to production; identify policy and procedure issues and concerns; and assist with writing business procedures for the operational unit. Once these resources are hired, they would work full-time until implementation.
- Administrative assistant –general support and administration to the program.
- Trainer – Project Coordinator 2

Training assumptions:

- It is assumed that all positions, except for the trainer, start in FY 2016 and are full time.
- It is assumed one trainer would be hired 6 months prior to the launching of each program and remain until the program is implemented.
- The following areas would require staff training: initial claims, continued claims, question calls, adjudication, and appeals; aspects of the law; business processes and technology necessary to implement the law.
- All program staff would receive training on the law and the process of reviewing applications.
- Support staff would handle appeals.
- Eleven maximum trainees per session.
- Basic training session would be three days; adjudication training would require one additional day. Training for appeals would take two hours.

Claims Center staff training assumptions:

- Implementation of the Family Leave Insurance program would have impacts to the existing Unemployment Insurance program.
- There will be two-hour Family Leave Insurance training sessions for adjudicators in the Claims Centers.
- A limited two-hour training session will be necessary for adjudicators in the Claims Centers on the topic of whether it would be a voluntary quit or discharge should a Family Leave applicant not retain his or her job following the leave.
- Four days of adjudicator training would be required (two days in each Claims Center with one trainer).
- Training of UI staff on the impacts to UI laws of Family Leave legislation is a legitimate UI expense and would not be budgeted as part of Family Leave implementation.

(b) Unemployment insurance implementation staff

Beginning in July 1, 2015, experienced program staff will be needed to help with implementation of this legislation. Because these staff members are currently employed in the unemployment-insurance (UI) program, and must keep their time and charges separate for the purpose of complying with dedicated federal fund requirements, these staff-hours are displayed separately. The staff will aid in completing assignments and attend work sessions and update meetings.

The following positions would spend a small portion of time implementing this program:

- 1 EMS3
- 1 WMS3
- 1 WMS2
- 1 Employment Security Program Coordinator 3 (ESPC3)
- 1 Office Assistant 3 (OA3)

(c) Rulemaking and Policy

This legislation would require major rulemaking efforts. One full-time Washington Management Service (WMS) 2 would be needed to lead rulemaking activities including communicating with stakeholders, holding six hearings, drafting rules, and coordinating review and approval. Travel would be required. In addition, costs for a court reporter and for transcriptions of each hearing would be needed.

6 months prior to the launch of the programs, staff will be needed to analyze, design, develop and publish policies, procedures, forms, booklets, laws and rules. These staff members will also work on business design and system testing.

- 3 ESPC3 for 6 months
- 1 WMS3 for 6 months

(d) One-time printing

It is assumed that there will be initial mailings to active Washington state employers, informing them of the new Family Leave Insurance program (bonding) and the new Family and Medical Leave Insurance program (care of self and family member). The mailing would occur approximately 3-6 months prior to the implementation of the programs.

(e) One-time medical consultant

It is assumed that ESD will need to hire a one-time consultant to assist in defining “Serious Medical Condition” per statute definition, developing forms for medical release that comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements, and developing certification form to be completed by the health care providers. The cost will be approximately \$100,000 with additional \$2,000 costs for the Request for

Proposal (RFP) process.

4. Information Technology (IT) systems-development costs:

ESD estimates approximately 56,000 hours of development effort will be needed to build and implement a system to accept claims, process verifications and pay program benefits to Family and Medical Leave Insurance and Family and Medical Leave Insurance applicants. The development effort would use ESD development staff. The project plan allows for 15.4 IT FTEs to work exclusively on development during the project phase. Ongoing support of the applications would require 5.2 IT FTEs for application and hardware support after implementation. Implementation details:

- Scope of project must be determined before final estimates can be made.
- Technical approach may be revised depending on the results of detailed analysis and business requirements.
- Scope and deliverables will be directly tied to the amount of funding provided.
- Additional clarification & definitions of legislative terms will be provided.
- Enhancements will be incorporated into the existing prioritization process.
- Other ESD & ITSD priorities and projects may be delayed or impacted by this work effort
- Contracted or non-permanent resources may need to be obtained to complete project
- Business resources will be dedicated to complete User Acceptance Testing
- Project Manager will be procured to support project completion
- Registration, wage reporting, payments, collections and auditing will be completed in NGTS
- Federal, Military and out-of-state employers (all non-WA employers) will not be included
- COPES are entitled to FMLI
- Only electronic registrations and wage reports will be accepted
- Only one format allowed for both registration form and wage

5. Ongoing program-operations costs:

(a) Claim management: When whole positions are not needed, the Department may use some staff to support the unemployment-insurance program and this program. These staff would be responsible for accurate time reporting so that their duties under each program are appropriately charged to the proper budget.

(b) Appeals: Requests for appeals, along with supporting documents, will be mailed or Faxed to the Department and will be indexed and scanned into the department's imaging system. Office support staff will gather supporting documentation and file the appeal with the Office of Administrative Hearings on behalf of the applicant or employer. All interested parties will be mailed notification that an appeal has been filed, along with copies of supporting documentation. The department estimates this will take 30 minutes per case at an Office Assistant 3 level for preparation and 15 minutes per case at an Unemployment Insurance Specialist 5 level for review.

(c) Legal costs

Approximately 2.7 percent of all claims filed would result in an appeal to the Office of Administrative Hearings (OAH). The proposed language in this legislation would result in the appeals being referred to an Administrative Law Judge for review and determination or redetermination made by the Commissioner. The Administrative Law Judge would conduct a hearing and issue a proposed decision and order. This order becomes a Final Order after 30 days unless a claimant files an appeal and then this would go to Superior Court for determination. The department estimates 4,238 cases per year would be referred to OAH.

(c) Fraud and collections:

Estimates of the costs of fraud investigation and collections are based on experience with the

unemployment insurance program.

Fraud investigation: Cases that present a question of fraudulent activity will be identified through skip-tracing efforts, cross-matches and a variety of sources that provide tips and leads. Investigations will be conducted to determine whether fraud exists. Investigators will gather and preserve documentary evidence. Fact-finding, telephone and in-person interviews will be held as needed, as well as field surveillance. Administrative subpoenas will be obtained and served. Investigative reports will be written to establish proof of facts and evidence sufficient to use in administrative and superior courts. Investigators will send notices with advice of rights, and attend appeal hearings in person and/or by telephone. Where applicable, ESD will present cases to the U.S. Attorney's Office and/or the County Attorney Office.

Collections: An overpayment can result for a number of reasons. One example would be failure to report wages upon return to work. The processes used to retrieve this money: billing statements will be sent to applicants immediately after the overpayment becomes active. If an applicant fails to reimburse the Department for the overpayment ESD will send the notice of intention to file with a superior court warrant to the applicants 20 days prior to filing. This process will allow the Department to file a superior court warrant providing permission to garnish wages and bank accounts. ESD has several skip-tracing websites and cross-matches available to that are used to locate applicants' assets. Finally the Department has a predictive dialer that is used to call applicants whose accounts have been identified as past due (assuming the legislation gives the Department the needed authority).

Based on experience with the unemployment-insurance program, it is estimated that 0.5 percent of claims' volume will result in fraud. Between July 2006 and June 2007, there were 8,806 fraud cases and 72,728 non-fraud cases – a ratio of 8.26 to 1. This ratio was used to project family-leave non-fraud cases.

Section 27 of the proposed legislation provides for a credit to employers with fewer than fifty employees. The credit is equal to the full amount, less any amount deducted from the pay of the individual, with a maximum credit of one thousand dollars. No credit may be carried over to be credited against taxes incurred in the future.

(d) Enforcement of employment standards

L&I's Employment Standards Program in the Specialty Compliance Services Division has this core competency and would be responsible for this activity.

6. Administrative services – start-up and ongoing:

(a) Public affairs and outreach

The first year of media relations, marketing and public outreach for Family Leave Insurance implementation will require a WMS2-level employee to oversee the efforts, create and maintain Web content, develop of informational brochures and marketing materials, manage advertising contracts, handle media relations, oversee informational public meetings, develop informational displays for public events, write speeches and manage rule-making communications. A Communication Consultant 5 will be hired to assist. Ongoing personnel will consist of one permanent WMS2.

Assumptions:

- An advertising campaign will be launched six months before the programs initiation.
- Ongoing outreach will continue following program implementation.
- Current level of costs includes radio advertising, advertising in parenting publications, and possible on-line

advertising.

- Television advertising is not included and would significantly increase the cost.
- Informational brochures will be produced in English and other primary languages (Spanish, Chinese, Laotian, Vietnamese and Cambodian). Costs for brochures are included in the program start-up and ongoing cost section of this document.

Outreach:

(b) Printing and mailing

Brochures:

Brochures would be needed in the following languages: English, Spanish, Chinese, Laotian, Vietnamese, and Cambodian. It is assumed that each year additional brochures would be printed. It is estimated that 36,000 brochures would be reprinted annually (31,500 in English; 3,500 in Spanish; 1,000 in four other languages).

Applications:

Applications and claims forms will be available three ways: on-line filing, Portable Document Format (PDF) printable files, and paper copies. The benefits application and the claim forms will need to be printed in both English and Spanish for those applicants who choose not to file on-line. It is assumed that 10 percent of applicants would be Spanish-speaking, therefore 10 percent of the paper applications will be in Spanish and the remaining 90 percent of the paper applications would be in English. (Applicants who speak other languages would need to use the English form.)

It is assumed that half of applicants will choose either on-line filing or printing their own applications from the on-line PDF file. The remaining will prefer to pick up a form from an ESD location or request that a form be mailed to them.

Claim form:

It is assumed that 90 percent of applicants will choose to file their claim forms using one of the following three options: on-line filing system, the IVR system, or printing their own applications from the on-line PDF file. The remaining 10 percent of applicants will prefer paper forms. If the applicant files a paper claim form, then he or she will receive a new paper claim forms along with the benefit check. An applicant who chooses to file on paper for the first time may obtain the form by printing it from the on-line PDF file, picking up a copy at an ESD location, or by calling and requesting that a form be mailed.

Benefit checks:

It is assumed that each applicant will receive three checks by mail. The cost of printing and mailing each check is estimated at \$1.16.

Additional mailings:

Additional mailing costs include the cost of sending notices to employers; mailing monetary determinations, claim instructions, non-monetary decisions, notice-of-appeal-filed and miscellaneous correspondence.

(c) Treasury cost to implement Family Leave Insurance Program

The ESD Treasury will require a fiscal analyst 2 to track and manage payments out of the Family Leave Insurance Account. Treasury would need system reports of checks issued through DIS; redemption and cancellation of checks; journal-posting updates; and processing of lost, destroyed, forged, or undeliverable checks.

(d) Office space

The startup teams will be housed in an existing ESD facility. The need for office space for permanent operations of about 119 staff is 29,750 square feet of new leased space. This includes space for co-location of all program staff, including operations, technology, audit, and collections staff. There is currently no available space in existing ESD facilities to house the program. The 29,750 square feet allows for the estimated program growth through FY 2021

Assumptions:

- Space for up to 124 staff in FY21
- Standard space requirements are 250 square feet per person; $250 \text{ sq. ft.} \times 119 = 29,750$ square feet
- Lease term of five years; un-serviced lease rate in Thurston County is \$20.00
- Utilities are estimated at \$4.85 per square foot.

(e) Indirect-allocation

In addition to the direct costs estimated in this document, ESD assesses an indirect rate to cover agency-wide administrative costs. The U.S. Department of Labor (DOL) is designated by the Office of Management and Budget to negotiate and maintain indirect cost rates and cost-allocation plans for organizations that receive a preponderance of funds from DOL, which includes Washington State's Employment Security Department.

The indirect cost charge assures that every funding source shares an equitable portion of overhead costs. ESD's current approved indirect rate is 28.06 percent and is applied to all direct salaries for Administration, Management, Fiscal, and Personnel FTE and activities. The estimated amounts below that will be received from the indirect charge on the family-leave insurance salary base will be used to fund indirect support activities that benefit the Family Insurance Program.

Additionally, there are direct costs for desktop support and telecommunications that will be charged based on a per FTE cost of \$4,323.

Activities covered by the indirect and FTE direct charges include, the handling and processing of vendor payments and payroll, administrative assistance to employees, desk-top and network support, contract administration, legislative services and public affairs, personnel and employee services, budget, accounting, and facilities management.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years					
A-Salaries and Wages	1,588,000	1,753,000	3,341,000	13,052,000	16,034,000
B-Employee Benefits	506,000	560,000	1,066,000	4,171,000	5,125,000
C-Professional Service Contracts	102,000		102,000		
E-Goods and Other Services	2,869,000	1,513,000	4,382,000	9,878,000	12,421,000
G-Travel	19,000	20,000	39,000	159,000	194,000
J-Capital Outlays	2,196,000	487,000	2,683,000	937,000	644,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$7,280,000	\$4,333,000	\$11,613,000	\$28,197,000	\$34,418,000

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

ATTACHMENT A

FMLI Fund Balance Estimate						
	FY16	FY17	FY18	FY19	FY20	FY21
Beginning Balance		(\$7,280,000)	\$268,538,376	\$600,318,217	\$893,375,882	\$1,133,396,740
Estimated Revenue		\$280,151,376	\$440,329,841	\$623,329,665	\$657,124,858	\$690,511,702
Estimated Benefit Payments (8 weeks)		-	\$96,275,000	\$314,350,000	\$400,350,000	\$432,250,000
Implementation Cost	\$7,280,000	\$4,333,000	\$12,275,000	\$15,922,000	\$16,754,000	\$17,664,000
Fund Balance	(\$7,280,000)	\$268,538,376	\$600,318,217	\$893,375,882	\$1,133,396,740	\$1,373,994,442

FMLI REVENUE				
July 2016 to December 2017				
Sum by Quarter for two tenths of one percent				
Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
		\$72,294,549	\$70,373,313	\$142,667,862
\$70,353,434	\$67,130,080	\$76,270,749	\$74,243,845	\$287,998,108

Note: Two tenths of one percent is split 50/50 employee/employer, each contributing one tenth of one percent.

FMLI REVENUE				
January 2018 to December 2018				
Sum by Quarter for four tenths for one percent				
Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
\$148,305,040	\$141,510,208	\$160,778,738	\$156,506,026	\$607,100,012

Note: Four tenths of one percent is split 50/50 employee/employer, each contributing two tenth of one percent.

FMLI BENEFITS				
October 2017 to June 2020				
Average Benefit Payment: \$600				
Assuming an Eight Week Duration				
	FY18	FY19	FY20	FY21
Benefit Pay Outs	\$96,275,000	\$314,350,000	\$400,350,000	\$432,250,000
Employees Receiving Benefits	39,075	80,200	86,600	93,500

SB 54593 Family & Medical Leave Insurance
FAMILY LEAVE INSURANCE

Start-up (\$ in thousands)	FY16		FY17		FY18		FY19		FY20		FY21		Total	
	FTE	\$	FTE	\$	FTE	\$	FTE	\$	FTE	\$	FTE		FTE (Annualized)	\$
Program Implementation & Admin														
Family-leave program planning staff	4.5	449	4.5	449									3.0	\$ 898
UI staff assistance	1.4	170	1.4	170									0.9	340
Rulemaking & policy	2.5	264	1.0	125									1.2	389
One-time printing				48									-	48
Start-up communications and outreach	1.5	191	2.0	742	1.0	1,175							1.5	2,108
One-time medical consultant		102											-	102
One-time facilities' costs	-	1,424	-										-	1,424
Rent & Utility	-	793		793									-	1,586
Indirect-cost allocation	1.9	122	1.8	72									1.2	194
IT Systems														
IT staff (development, testing, warehouse)	13.6	1,636	12.8	1,521	-	0	-						8.8	3,157
IT contract project mgr & QA consultant	-	0	-	0	-	0	-						-	0
IT equipment	-	2,129	-	413	-	413	-						-	2,955
													-	
Totals:	25.4	\$7,280	23.5	\$4,333	1.0	\$1,588	-	\$0		\$0		\$0	16.6	\$13,201

On-going (\$ in thousands)	FY16		FY17		FY18		FY19		FY20		FY21		Total	
	FTE	\$	FTE	\$	FTE	\$	FTE	\$	FTE	\$	FTE	\$	FTE	\$
Benefits														
Claims handling and document mgmt.					57.6	4,311	88.3	6,604	93.1	6,961	98.2	7,346	67.4	25,222
Phones and language lines						228		378		408		441	-	1,455
Appeals														
Appeals					2.3	1,857	3.7	2,112	4.0	2,280	4.4	2,466	2.9	8,715
Fraud/Collections														
Investigations and collections					3.3	275	5.5	443	6.0	472	6.4	509	4.2	1,699
Program Implementation & Admin														
Communications and outreach							1.0	667	1.0	667	1.0	667	0.6	2,001
Printing and mailing						784		1,279		1,382		1,493	-	4,938
Treasury					0.7	56	1.2	91	1.2	91	1.2	91	0.9	329
Rent and utilities						793		793		793		793	-	3,172
Advisory Committee													-	-
Indirect-cost allocation					4.8	1,855	7.3	2,763	7.7	2,908	8.1	3,066	5.6	10,592
IT Systems														
IT staff (on-going maintenance)			-	-	4.4	528	4.4	528	4.4	528	4.4	528	3.5	2,112
IT equipment maintenance			-	-	-	-	-	250	-	250	-	250	-	750
Data sharing and transactions			-	-	-	-	-	14	-	14	-	14	-	42
Family Leave Study			-	-	-	-	-	-	-	-	-	-	-	-
Totals:		\$0	-	\$0	73.1	\$10,687	111.4	\$15,922	117.4	\$16,754	123.7	\$17,664	85.1	\$61,027

ESD Costs	FY16		FY17		FY18		FY19		FY20		FY21		Total	
	FTE	\$	FTE	\$	FTE	\$	FTE	\$	FTE	\$	FTE	\$	FTE	\$
Start-up	25.4	\$7,280	23.5	\$4,333	1.0	\$1,588	-	\$0	-	\$0	-	\$0		\$13,201
Ongoing	-	\$0	-	\$0	73.1	\$10,687	111.4	\$15,922	117.4	\$16,754	123.7	\$17,664		\$61,027
Totals:	25.4	\$7,280	23.5	\$4,333	74.1	\$12,275	111.4	\$15,922	117.4	\$16,754	123.7	\$17,664	79.3	\$74,228

	FTE	\$
Biennium 15-17	24.5	\$11,613
Biennium 17-19	92.8	\$28,197
Biennium 19-21	120.6	\$34,418

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5459 SB	Title: Family & medical leave insur
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☒ Cities: Indeterminate but significant (more than \$3 million) increased expenditures for all jurisdictions with employees
- ☒ Counties: Same as above
- ☒ Special Districts: Same as above
- ☐ Specific jurisdictions only:
- ☐ Variance occurs due to:

Part II: Estimates

- ☐ No fiscal impacts.
- ☒ Expenditures represent one-time costs:
- ☐ Legislation provides local option:
- ☒ Key variables cannot be estimated with certainty at this time: Backfill and payroll/personnel costs

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Darleen Muhly	Phone: (360) 725-5030	Date: 02/09/2015
Leg. Committee Contact:	Phone:	Date: 02/02/2015
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 02/09/2015
OFM Review: Devon Nichols	Phone: (360) 902-0582	Date: 02/10/2015

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

This bill expands the family leave insurance legislation enacted in 2007.

Section 2 changes the definition of “family leave” to “family and medical leave” and adds leave for the individual’s or a family member’s serious health condition. The current definition includes only leave related to the birth or placement of a child.

Section 5 makes October 1, 2017, the effective date of the leave benefits for birth or placement of a child or a family member's serious health condition and makes October 1, 2018, the effective date for the benefits related to an individual’s serious health condition. The program provides a weekly benefit designed to offset lost wages.

Section 6 excludes individuals' health conditions from eligibility if they result from perpetration of a crime.

Section 7 changes the maximum number of weeks for family and medical leave insurance (FMLI) payments from five weeks (under current law) to 12 weeks for family member's serious health condition and birth or placement of a child plus 12 weeks for the individual's serious health condition.

Section 8 changes the calculation of the weekly benefit from a set amount based on the number of hours worked and leave taken (maximum \$250) to an amount equal to 5.2 percent of the average quarterly wages of the individual during the highest two quarters of the individual's qualifying year. This weekly benefit would be capped at \$1,000 with adjustments for inflation taking effect each January starting January 2017.

Section 10 amends provisions dealing with overpayments to individuals to provide that the Department of Employment Security (ESD), which administers the program, may file a warrant in superior court for the overpayment assessed plus the applicable filing fee.

Section 11 changes the thresholds where employers must restore individuals to a similar position after leave ends as follows:

- Changes the employer threshold from employers with more than 25 employees to employers with at least 25 employees in each working day during each of 20 or more calendar workweeks in the current or preceding calendar year within 75 miles of the employee's worksite
- Reduces the individual's employment threshold with that employer from at least 12 months with at least 1,250 hours of service to at least six months with at least 650 hours of service.

Section 13 provides that if an individual does not have a spouse or domestic partner, the individual may designate one person for whom the employee will care if the designated person has a serious health condition. The employer may establish a process for making this designation within 30 days of hire and annually thereafter. If the employer does not establish a process, the individual may make that designation when filing the claim.

Section 15 would require employers to pay a premium based on employee wages. Up to half of this premium may be deducted from employees. From July 1, 2016 to December 31, 2015, (assuming drafting error and this should be 2017) this premium would be 0.2 percent of wages. In calendar year 2018, it would be 0.4 percent of wages. Thereafter it would be adjusted to the lowest rate needed to cover program costs and ensure actuarial solvency.

Section 16 provides that temporary employment agencies are employers for purposes of this act, but, if they do not pay the premium, the customer is liable for the premiums. This section also provides record keeping requirements.

Section 18 provides that determination of benefits is not subject to appeal to an administrative court judge.

Section 19 provides that individual who believes he or she had been discharged or otherwise discriminated against in violation of the act may file a complaint with the Commissioner of the Department of Employment Security. The commissioner must bring an action in superior court if the investigation following the complaint leads to the determination that the individual has been discriminated against. If the court determines there was no violation, the individual may bring suit. The superior court may restrain violations and order other appropriate relief.

Section 20 provides that this leave is in addition to leave from employment during which industrial insurance benefits are paid and disqualifies individuals from receiving these benefits during weeks they are also receiving, or in the waiting week for receiving crime victims, industrial insurance or unemployment compensation.

Section 26 would add layoffs of temporary workers replacing permanent employees who received family and medical leave to those cases for which contribution paying base year employers may receive relief from unemployment insurance charges .

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures . Delineate between city, county and special district impacts.

This bill is expected to result in an indeterminate but significant (more than \$1 million annually) expenditure increase to all local governments with employees. The majority of these expenditures are a result of the wage premium and backfilling, but other costs include personnel/payroll costs such as reprogramming payroll systems, revising personnel policies and procedures, and collective bargaining . There could also be local government court impacts, but those would be addressed in the Administrative Office of the Courts' fiscal note .

WAGE PREMIUM:

Assuming that local government employers will pay half of the premium and collect the other half from their employees, this bill would result in the following local government premium costs:

- \$4.6 million in FY 2017
- \$7.3 million in FY 2018
- \$10.3 million in SY 2019
- \$10.8 million in FY 2020
- \$11.4 million in FY 2021

These numbers are derived by taking the total premium revenue estimate from ESD's fiscal note (\$280.2 million in FY 2016, increasing thereafter), dividing it in half, and applying the percent of local government unemployment insurance recipients to it (3.3%). In addition to this estimate, Section 16 provides that, if a temporary employment agency does not pay its premiums, its customers are liable . This results in a potential liability for local governments that use temporary employment agencies .

BACKFILLING POSITIONS:

This bill would result in indeterminate but significant (more than \$1 million annually) increased local government expenditures to backfill positions while incumbents are on leave. It is assumed 1,289 local government employees will receive FMLI benefits in FY 2018 increasing to 3,086 in FY 2021 . These numbers are derived by taking the total number of benefit recipients assumed in ESD's fiscal note (39,075 in FY 2018, increasing to 93,500 in FY 2019) and applying the percent of local government unemployment insurance recipients to it (3.1%). It is not possible to estimate how many of these positions will require backfilling and at what salary levels backfilling would occur. For illustrative purposes only, if only 10 percent of positions were backfilled for an average of 10 weeks at an average cost of \$30 per hour, the local government cost to backfill would be \$1.5 million in FY 2018, increasing to \$3.7 million in FY 2021 .

PERSONNEL AND PAYROLL COSTS:

This bill would require indeterminate, one-time costs for personnel and payroll systems to be reprogrammed to account for this new payroll tax and the new type of leave. Local government employers who pay unemployment premiums through the NGTS system may have lesser costs because they could calculate and pay the new premium and their unemployment tax together . Payroll and/or personnel staff would need to notify all employees of the new payroll tax and be trained on how to administer and report this data . It is assumed that local governments would pay half of the premium and elect to collect the other half from employee wages . However, this wage collection may require changes in some employee contracts potentially resulting in additional time spent on contract negotiations .

It is assumed that these personnel/payroll staff would also need to develop a policy on designating a person an employee would care for, per Section 13, or face the potential liability of expanding the number of employees who could take the leave. (Individuals whose employers don't have a policy in place can designate a person when filing their claim.). This would result in additional ongoing notification and documentation at hiring and annually .

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources . Delineate between city, county and special district impacts.

This bill would not impact local government revenues. The entire premium that local governments may collect from their employees' wages is remitted to the Employment Security Department for administration of the FMLI program .

SOURCES:

Washington State Employment Security Department
Association of Washington Cities

Individual State Agency Fiscal Note

Bill Number: 5459 SB	Title: Family & medical leave insur	Agency: SDF-School District Fiscal Note - SPI
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/02/2015
Agency Preparation: Mike Woods	Phone: (360) 725-6283	Date: 02/02/2015
Agency Approval: Mike Woods	Phone: (360) 725-6283	Date: 02/02/2015
OFM Review: Kate Davis	Phone: (360) 902-0570	Date: 02/02/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

The bill modifies the Family Leave Insurance Act passed by the 2007 Legislature as ESSSB 5659.

Section 1

The family leave program is expanded to family and medical leave.

Section 2

Definitions are expanded and updated.

The Employment Security Department is directed to administer the program.

Family leave is expanded to become “family and medical leave”.

Section 5

Beginning October 1, 2017 family and medical leave insurance benefits are payable to an individual during a period in which the individual is unable to perform his or her regular customary work because he or she is on family and medical leave.

Section 7

The maximum number of weeks during which benefits are payable is changed from five to twelve.

Section 8

Benefit rates are set. The weekly benefit is an amount equal to five and two-tenths percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's qualifying year in which such total wages were the highest. Beginning October 1, 2017 the maximum weekly benefit amount shall be \$1,000 and each subsequent September 30th the Employment Security Department shall adjust the rate to account for inflation.

Section 13

If an individual does not have a spouse, the individual may designate one person for whom the employee will care if the designated person has a serious health condition. An employer may establish a process for an individual to make such designation within thirty days of the individual's date of hire and annually thereafter.

Section 15

Beginning July 1, 2016 each employer shall pay a premium to the Employment Security Department based on the amount of the employee's wages. Each employer may deduct from the pay of each individual one-half of the full amount that the employer is required to pay for the individual.

Beginning July 1, 2016 and ending December 31, 2015 (OSPI assumes this is a typo that should say 2017) each employer shall pay a premium of two-tenths of one percent of the employee's wages.

Beginning January 1, 2018 and ending December 31, 2018 the premium increases to four-tenths of one percent.

By September 1, 2018 and by each September 1 Employment Security shall adjust the premium to ensure that the amount is the lowest rate necessary to pay the benefits and administrative costs. The adjusted rate will take place January 1 of each year thereafter.

Section 19

Allows any individual who believes that he or she has been discharged or otherwise discriminated against by an employer in violation of this section may file a complaint with the Employment Security Department.

Section 20

Employers may require leave taken under this bill to be taken concurrently with leave under other applicable laws.

Section 22

Changes the name of the Family Leave Insurance Account to the “Family and Medical Leave Insurance Account”.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

School districts will incur the costs of employer premiums identified in Section 15. OSPI assumes districts will charge employees 1/2 the rate as allowed by Section 15 (employees will be responsible for the remaining 1/2).

Based on statewide district salary costs of \$8,848,838,323 in school year 2014, OSPI estimates employer premium costs of:

SFY17 \$8,848,838

SFY18 \$13,273,257

SFY19 \$17,697,677

SFY20 \$17,697,677

SFY21 \$17,697,677

District will incur costs to modify payroll and human resource administrative systems and processes to accommodate the bill's requirements. OSPI cannot estimate districts costs as they will be dependent on the rules still to be developed by the Employment Security Department and the complexity of each district's systems and processes.

The bill could increase district costs for substitute teachers if the bill results in additional certificated staff leave. OSPI has no way to determine if leave will increase and by how much.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5459 SB	Title: Family & medical leave insur	Agency: SWF-SWF Statewide Fiscal Note - OFM
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
Account					
All Other Funds-State 000-1	0	10,940,587	10,940,587	28,688,092	24,554,424
General Fund-State 001-1	0	6,138,606	6,138,606	24,113,188	29,810,558
Total \$	0	17,079,193	17,079,193	52,801,280	54,364,982

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/02/2015
Agency Preparation: Stephanie Lidren	Phone: (360) 902-3056	Date: 02/02/2015
Agency Approval: Aaron Butcher	Phone: (360) 902-5555	Date: 02/02/2015
OFM Review: Pam Davidson	Phone: 360-902-0550	Date: 02/09/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 15 requires employers to pay a family and medical leave insurance premium tax, beginning on July 1, 2016, based on employee wages.

- The tax rate is 2/10th of a percent from 7/1/2016 through 12/31/2018. (The bill language reads “. . .and ending December 31, 2015 . . .” which is assumed to be a typographical error, based on subsequent language.)
- From 1/1/2018 through 12/31/2018, the rate is 4/10th of a percent.
- In subsequent years, the premium rate is set by the Commissioner of Employment Security. For the fiscal note, in the absence of other information, the 4/10th of a percent rate is assumed to continue.

The bill also provides for up to 12 weeks of paid family and medical leave, which could affect the need to pay premium pay to employees in 24/7 institutions in order to backfill positions for absent co-workers. We do not have any data to use for a cost estimate for this, so it is not included in the fiscal note.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

Agencies may deduct one-half of the premium cost from employee pay, but it is not known to what extent this would occur.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

This cost estimate is for the insurance premium tax for all state employees, in both general government agencies and higher education institutions, and includes student employees. The calculations were based on the premium tax rates of two-tenths of a percent and four-tenths of a percent, applied to the compensation data provided to the Office of Financial Management by agencies for use in the Compensation Impact Model.

The bill in Section 15(1) permits employers to deduct one-half of the premium amount from employee pay. If this provision were implemented, the net cost would be up to 50 percent less than the above estimate, if fully applied to all state employees.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

NONE

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.