Analyzing Paid Family and Medical Leave Insurance in Wisconsin: Possible Costs and Effects

Prepared for Wisconsin Chapter of 9to5, National Association of Working Women

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Foreword

This report is the result of collaboration between the Robert M. La Follette School of Public Affairs at the University of Wisconsin–Madison and 9to5 Wisconsin. The School's objective is to provide La Follette School graduate students the opportunity to improve their policy analysis skills while contributing to the capacity of partner organizations.

The La Follette School offers a two-year graduate program leading to a master's degree in public affairs. Students study policy analysis and public management, and they can choose to pursue a concentration in a policy focus area. They spend the first year and a half of the program taking courses in which they develop the expertise needed to analyze public policies.

The authors of this report all are in their final semester of their degree program and are enrolled in Public Affairs 869 Workshop in Public Affairs. Although acquiring a set of policy analysis skills is important, there is no substitute for doing policy analysis as a means of learning policy analysis. Public Affairs 869 gives graduate students that opportunity.

I am grateful to 9to5 Wisconsin for partnering with the La Follette School on this project. The staff have been generous with their time to support for the students, and the students have collectively contributed hundreds of hours to this report. The La Follette School is grateful for their efforts and hope that this report proves valuable for the development of policies that can improve the welfare of families and communities struggling in our state.

J. Michael Collins
Professor of Public Affairs
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Executive Summary

Caregivers in Wisconsin provide an estimated 538 million hours annually of unpaid care for relatives with serious illnesses and bonding with newborn children. Because the state of Wisconsin lacks a paid family and medical leave (PFML) program, workers have few options when they or their family members fall ill. The Wisconsin Chapter of 9to5, National Association for Working Women, commissioned this report as part of its ongoing efforts to advocate for workers' rights in Wisconsin. This report analyzes a piece of legislation that presents Wisconsin with its first state-based PFML program. A paid family and medical leave insurance (PFMLI) program was introduced in the Wisconsin State Legislature in 2015 through SB 385 and AB 516. Although this legislation ultimately failed, Wisconsin lawmakers are working to re-introduce a new piece of legislation to continue the fight for paid family and medical leave in Wisconsin.

The planned legislation describes a PFMLI program to be adopted by January 1, 2023. This program will be funded through an employee-only payroll deduction, through which all Wisconsin workers will contribute a small percentage of their pre-tax income. While insurance programs have the inherent limitations of adverse selection and moral hazard, PFMLI in Wisconsin has the potential to greatly benefit Wisconsin workers, businesses, and the statewide economy. This report provides estimates and recommendations for the successful implementation of a PFMLI program in Wisconsin.

<u>More than 2.7 million Wisconsin workers will be eligible for PFMLI.</u> The planned PFMLI legislation outlines a progressive benefit payout structure based on annual median wage (AMW). Using data from the U.S. Census Bureau's American Community Survey, we determined worker eligibility for PFMLI and the level of weekly payout upon claiming the benefit. Over 70% of eligible workers will receive the lowest rate of wage replacement (66% of weekly income). Using this same dataset, we determined the average weekly benefit payout for an eligible worker to be $569. Additionally, we estimated that the average duration of leave will be nine weeks based on the experiences of California, New Jersey, and Rhode Island, and that 6% of all eligible workers will access PFMLI benefits in a given year. The planned legislation does not specify a recommended payroll deduction; as such, we relied on our estimates of average weekly benefit payouts, leave take-up rates, and the Social Security payroll tax cap to calculate the total annual cost of the PFMLI program. Consequently, we recommend a <u>*0.767% employee-side payroll deduction*</u> to adequately fund the paid leave program in Wisconsin.

<u>PFMLI will benefit workers and businesses in Wisconsin.</u> Evidence from other states with paid family leave (PFL) suggests that children of parents with paid leave access have improved mental and physical health outcomes, including a reduced risk of obesity and attention-deficit hyperactivity disorder (ADHD). Additionally, workers with access to paid leave may experience fewer adverse outcomes related to stress and anxiety, including heart disease and suicidality. Paid leave also reduces production loss from employees working through illness and significant stress. For businesses, PFL has been linked to reduced employee turnover, which is incredibly costly to them, and increased employee retention. Evidence from other states also indicates that PFL increases employee morale, which has been demonstrated to increase productivity. We also anticipate a potential cost savings from a slight reduction in public assistance program take-up, especially from new mothers. Additionally, we expect some savings from Medicare spending on short-term rehabilitation and nursing home stays if family members are financially able to take leave to care for elderly relatives. PFMLI's anticipated increase in labor-force participation and positive effects for individual employees (alongside a lack of significant costs for employers) would almost certainly have a net positive effect on the Wisconsin economy.

Paid Family and Medical Leave programs in California, Washington, and New Jersey provide lessons for Wisconsin. California was the first state in the nation to institute a paid family and medical leave (PFML) program. In the 16 years since the law's passage, California has become an essential example for successful passage and implementation of a state-based PFML program. We suggest that Wisconsin emulate California's PFML process by: using an existing administrative structure, such as the Unemployment Insurance program, to manage premiums and claims; leveraging an advocacy network to advocate for paid leave legislation; capitalizing on strong employment trends and the favorable economic climate to implement PFML; and considering the political context and timing to appropriately target legislation with employer-friendly provisions to increase the likelihood of passing Wisconsin PFMLI legislation. The many hinderances to Washington's PFML journey serve as a cautionary tale for implementation in Wisconsin. The main lesson we learn from Washington is the importance of using an existing source of benefit funds, such as Unemployment Insurance or Worker's Compensation, to pool flexible monies for establishing the PFMLI program's benefit pool. Because Washington failed to do this, the state's PFML program was hindered by macroeconomic shocks of the Great Recession. Benefits are yet to be paid out 12 years after the program's passage. To avoid these complications, implementation of Wisconsin PFML legislation would benefit from funding mechanisms being explicitly stated in the bill's text and from the flexible use of existing Wisconsin benefit funds. New Jersey provides important insight about the importance of adequate wage replacement rates and state efforts to promote the program and educate residents. Under the first iteration of New Jersey's legislation, low wage replacement rates for workers with low incomes prevented many people from taking leave. In response, the state expanded the program and increased wage replacement rates for people with low incomes.

Ultimately, we recommend that lawmakers in Wisconsin make steps to implement paid family and medical leave insurance legislation. Due to the anticipated positive impacts on the health of children and workers, projections of increased productivity and reduced costs to businesses, and potential for widespread macroeconomic effects of PFMLI, we recommend that legislators in Wisconsin ultimately pass a version of PFMLI legislation. To strengthen the potential for PFMLI passage and implementation, we also present three recommendations for 9to5 to communicate with bill sponsors and maximize benefits from this legislation:

1. Public awareness campaign to increase worker knowledge of the PFMLI program. The planned legislation includes funding for a public awareness campaign, without a specific plan for the rollout. We recommend a concerted effort to produce accessible educational materials, including informational pamphlets and seminars for the public and human resources staff, as well as an efficient program website. We recommend that PFMLI program staff travel to all counties within the state to promote the program to all workers in every industry because all workers will contribute to the fund.

2. Changes to the planned benefit payout structure. The current planned legislation draws thresholds for different rates of benefit payouts at levels related to the state median wage. As drawn, the thresholds result in sudden changes in wage replacement rates, or cliffs, at certain income levels around the threshold. This structure may be confusing to people who use the benefit if they are unaware of the different levels. Furthermore, the cliffs may incentivize businesses and employees to set and take wages at levels just below those set in the legislation. We recommend that 9to5 and the state of Wisconsin consider an alternative payout structure

that is less abbreviated between different wage replacement rates. The simplest way to achieve this goal is to implement a gradual structure, similar to marginal tax brackets, that would result in similar benefits paid and requisite payroll tax. We analyzed the differences between the planned legislation and an alternative that follows the structure of Washington State's PFMLI program. The analyzed alternative would provide 90% wage replacement up to 50% of the state's average weekly wage ($492), and 50% wage replacement on all earnings thereafter. The program would still limit weekly payouts to a maximum of $1,000. Utilizing the same estimates and assumptions as our original analysis, we calculated that such a structure would result in over $876 million paid out in a given year, requiring a 0.808% employee payroll deduction to fund the program. The alternative could be tweaked to make the program's cost similar to the original planned legislation; our analysis demonstrates that implementing a less confusing, gradual structure is possible.

3. Specificity in funding timeline. We recommend the legislation be as specific as possible about the timeline for implementation. While specifics about wage base, percentage payroll deduction, and payouts might need to be determined by a state agency or office, providing specific dates about expected benefit fund implementation will encourage a more predictable, stable rollout of the program.

Table 1. Acronyms Used in this Report

Acronym	Definition	Description	Notes
PFL	Paid Family Leave	Paid time off for the purposes of taking care of a family member; most common is parental leave after the birth or adoption of a child	Only family member care
PFML	Paid Family and Medical Leave	Paid time off for the purposes of taking care of a family member and taking care of personal health	Family member and self-care
PFMLI	Paid Family and Medical Leave Insurance	Program that provides paid time off for the purposes of taking care of a family member AND taking care of personal health (employees contribute funds)	Type of paid leave program
FMLA	Family and Medical Leave Act	Federal law to guarantee up to 12 weeks of *unpaid*, employment-protected leave for purposes of taking care of a family member or personal health	Federal law for unpaid leave
FML	Wisconsin Family and Medical Leave Act	State law to guarantee up to 2 weeks of *unpaid* leave for an employee's own serious health condition or for the serious health condition of a parent, child or spouse, and up to 6 weeks for the birth or adoption of a child	State law for unpaid leave

Introduction

"It [was painful] that I could not be there for my mom who has held my hand through all of my life's fears as a child who could not hear."

-Hernandez, qtd. in Family Values at Work, 2018

When 65-year-old 9to5 Wisconsin member Maria Hernandez collapsed during her job cleaning Amazon's fulfillment center in Kenosha, Wisconsin, she learned that her company lacked a paid medical leave policy (Family Values at Work, 2018). Her adult son, Fidel, wanted to take time off from his job at Amazon to care for his mother during her medical emergency. However, he could not afford to take unpaid leave. So, Fidel continued working long hours and drove home every night to care for his sick mother.

Fidel and Maria are two of the many Wisconsin workers who struggle to balance maintaining employment with caring for ill loved ones or new children. Although workers are guaranteed job security during medical or family leave through the federal Family and Medical Leave Act (FMLA) and the Wisconsin Family and Medical Leave Act (FML), neither of these protections includes pay during leave. Resultantly, lawmakers and activists in Wisconsin and nationwide are advocating for paid family and medical leave (PFML) as social right. In effect, social and political momentum is growing for a state-based PFML insurance program in Wisconsin.

PFML programs help combat growing economic inequality, improve productivity, and increase investment in a healthy workforce. However, little Wisconsin-specific data is available for quantifying the benefit of PFML for individuals/families, businesses, and the state economy. As such, the primary goal of this report is to use updated data to convince its readers of *why* Wisconsin should adopt a PFML policy and to make the case for *how* Wisconsin can benefit from a state-based PFML insurance program, from the individual to businesses up to macroeconomic benefits for the state as a whole.

The following report begins by detailing a piece of legislation that introduces a paid family and medical leave insurance (PFMLI) program in Wisconsin. Next, the report utilizes updated Wisconsin-specific data to analyze program payout and take-up rates and examine the potential economic, personal, and business impact of a PFMLI program in the state. Finally, it will close by examining the impact of PFMLI programs in other states and presenting recommendations for how to best implement a state-based PFMLI program in Wisconsin.

Wisconsin Workers Lack Access to Leave

In 2013, an estimated 578,000 Wisconsin family caregivers provided 538 million hours of unpaid care for their sick family members, valued at $7 billion worth of care (Reinhard, Feinberg, Choula, & Houser, 2015). Because Wisconsin currently lacks a state-based paid family leave program, workers of all income levels without employer-based paid leave policies have few options for family-related and medical leave. While the percentage of Wisconsin workers with access to PFML is unclear, nationwide estimates indicate that only about 13% of workers have access to PFML (Donovan, 2018). Additionally, due to the eligibility gaps in FMLA and Wisconsin FML, only 27% of workers in Wisconsin are able to access the right to any form of employment-protected leave (National Partnership for Women and Families, 2019), paid or unpaid.

PFML will be valuable for Wisconsin families, especially for those with incomes at or below the poverty line and with aging relatives. In Wisconsin, nearly 30% of working families have incomes more than twice below the poverty line. As such, their lives are characterized by limited or nonexistent sick leave, lack of affordable, quality childcare, and health problems with limited access to health insurance (Dresser & Reynolds, 2015). Access to PFML would decrease the financial and mental stress faced by these families. Additionally, Wisconsin's population is aging, with an expected 40% increase in the number of people older than 65 in the next 15 years (National Partnership for Women and Families, 2019). As older workers are more likely to require care for serious medical conditions (National Partnership for Women and Families, 2017), the number of workers taking unpaid leave to care for aging parents is expected to increase.

As such, the first step toward expanding leave in Wisconsin is adjusting eligibility benchmarks. Model legislation expands FML accessibility and provides a state-based paid family and medical leave insurance program.

The United States is Moving Toward Paid Leave

While the federal government guarantees 12 weeks of employment-protected leave for caregivers through FMLA (Ford, 1993), this legislation fails to provide employees with the necessary safety net of pay during leave. As such, many workers cannot afford to use FMLA-sanctioned time because forfeiting pay to care for a family member is unrealistic. Of the nearly 40 million family caregivers in the United States, one-third report that caregiving produces a moderate or high degree of financial strain (Flaherty, 2015; National Alliance for Caregiving, 2015; Reinhard et al., 2015). Additionally, about one-third of family caregivers nationwide who take time off to provide care for aging parents and relatives will leave the workforce or reduce their hours. Over the course of the caregiver's lifetime, such leave or reduction in hours results in an estimated $303,260 to $659,139 loss in wages and benefits (MetLife Mature Market Institute, 2011).

Policymakers nationwide recognize the costs of limited access to PFML, contributing to building momentum across the country for paid leave. Legislation introduced in 2019 to the U.S. Congress (DeLauro, 2019) includes a wide range of family members for whom caregiving qualifies for leave, as well as a range of conditions for leave to ensure coverage for as many workers as possible. After nearly two decades of effort, the introduction and reception of paid leave legislation suggests mounting support for such legislation.

States across the country have passed paid leave legislation. In the 15 years since California adopted a PFL insurance program within their State Disability Insurance program, four other states and Washington, D.C., have enacted similar paid leave programs (National Conference of State Legislatures, 2018). In the three states with PFL programs operating for more than five years (California, New Jersey, and Rhode Island), most claims have been filed for bonding with a new child and self-medical care (National Partnership for Women and Families, 2018). For the first time in recent history, both Democrats and Republicans report feeling favorably toward PFL programs for new parents and for caregivers of for sick relatives ("Americans' Views on Income Inequality and Workers' Rights," 2015;

Isaacs, Healy, & Peters, 2017). In 2018, 19 states planned PFL legislation. Such events speak to growing political and social will for supporting paid leave legislation.

Planned Legislation in Wisconsin – Paid Family and Medical Leave Insurance Program (PFMLI)

In April 2017, Wisconsin State Senators Ringhand, Erpenbach, Hansen, Johnson, C. Larson, Miller, Risser, Shilling, and Wirch introduced Senate Bill 215 (SB 215). The bill was designed to expand the eligibility rules for Wisconsin Family and Medical Leave (FML) and introduce a state-based family and medical leave insurance (PFMLI). In March 2018, the bill failed to pass a Senate vote (Ringhand et al., 2017). State Senator Janis Ringhand and Representative Sandy Pope plan to reintroduce a similar piece of legislation for the 2019-2020 session. The sponsors of this bill hope to capitalize on growing bipartisan support for paid family leave (PFL) and pass legislation that will establish a PFMLI program in Wisconsin. The planned legislation, described below, has two main goals: expanding existing eligibility rules for Wisconsin FMLA and creating a PFMLI program within the state.

Expanding FMLA Eligibility for Employees in Wisconsin

The first aim of the planned legislation is to expand eligibility benchmarks (i.e., number of permanent employees, number of hours worked) to cover all Wisconsin employees, with an opt-in for self-employed workers. By lowering the number of hours worked in the calendar year from 1,000 to 680 and reducing the number of permanent employees for a qualifying employer from 50 to 0, the planned legislation opens FMLA to part-time and small-business workers. The planned legislation also expands the definition of “family member” to include parents, children, and spouses, as well as domestic partners, grandparents, grandchildren, and siblings. Finally, the planned legislation increases the amount of leave allowed within one calendar year from 10 weeks to 12 weeks and allows workers to take those 12 weeks without limits on the type of care for which the leave is intended. See Table 2 for a side-by-side comparison of the laws.

Table 2: Comparison of Current Wisconsin FMLA Law with Planned Legislation

Eligibility Criteria	Coverage	Current Wisconsin Law	Planned Legislation
Employer Size (permanent workers)		50	0
Number of businesses covered, 2017**		37,119	139,774
Hours Worked per Calendar Year		1,000	680
Length of Employment prior to Leave		52 weeks	One calendar year
Covered Family Members	Parent	Included	Included
	Child	Included	Included
	Spouse	Included	Included
	Domestic Partner	Included	Included
	Grandparent		Included
	Grandchild		Included
	Sibling		Included
	Newborn Child	Included	Included
	Self-Serious Medical Condition	Included	Included
Leave Time Allowed	12 weeks for any covered individual		Included
	Six weeks for birth or adoption	Included	
	Two weeks for caregiving	Included	
	Two weeks for self-serious medical condition	Included	

Notes: ** Kaiser Family Foundation, 2018

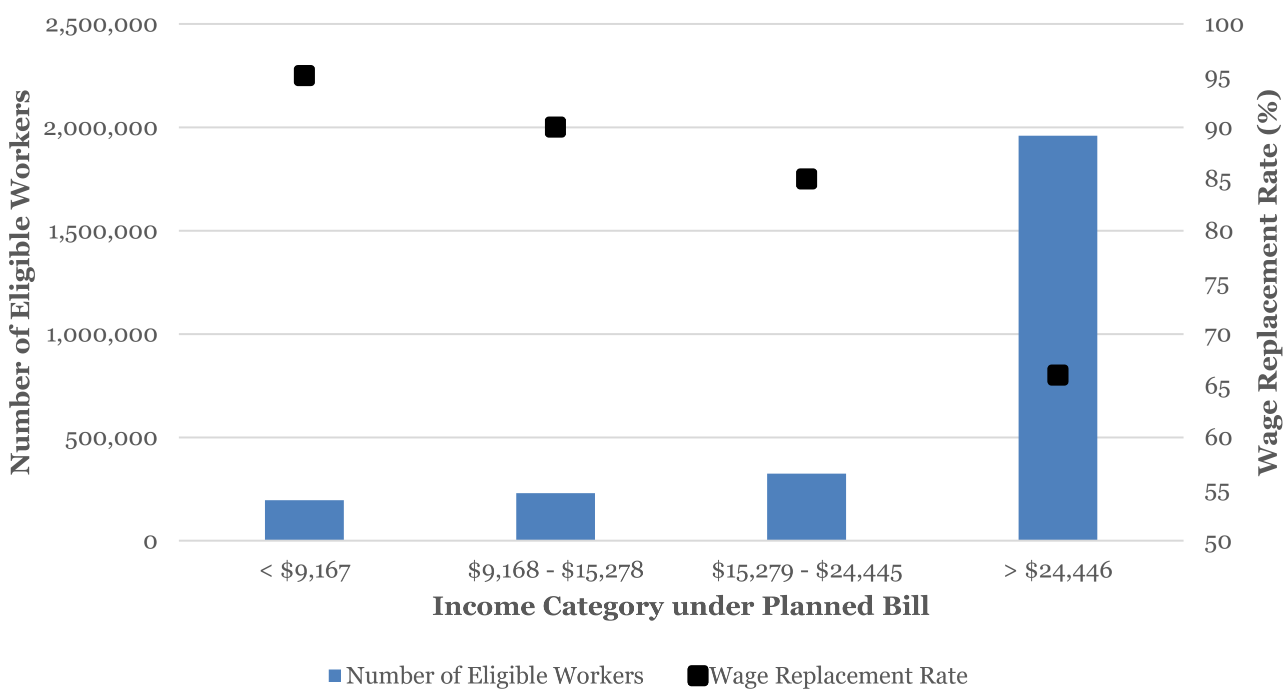
Creating a State-Based Family and Medical Leave Insurance Program

The second aim of the planned legislation is to establish a state-based PFMLI program. The major points of the legislation are summarized in the following sections, with a more detailed description in Appendix A.

Implementation and Administration. Beginning January 1, 2023, all individuals employed in the state and self-employed individuals who opt in to the PFMLI program would contribute to a statewide trust fund a percentage of their wages as a pre-tax payroll deduction. The amount contributed will be determined with the Department of Workforce Development (DWD), and contributions will be collected similarly to unemployment benefits. Ultimately, covered individuals will be able to receive up to 12 weeks of PFMLI benefits from the PFMLI trust fund.

Benefit Structure. Under the PFMLI program, covered employees are eligible to receive partial wage replacement during leave based on their income from the previous calendar year. Payout structures are designed based on how workers' income compares to state annual median wage (AMW). The payout structure is as follows: a worker making less than 30% AMW receives 95% wage replacement; 30%-50% AMW receives 90% wage replacement; 50%-80% AMW receives 85% wage replacement; and incomes greater than 80% AMW receive 66% wage replacement (see Figure 1). Additionally, benefits payable cannot exceed $1,000/week. A worker cannot receive PFMLI benefits during a period of family or medical leave in which he/she receives employer- or state-provided paid leave, workers compensation, or other types of paid leave. Finally, family and medical leave benefits are exempt from state income taxation; however, these benefits are still taxable at the federal level and the recipient has the option to deduct or withhold federal taxes from the benefit payout.

Figure 1. Benefit Structure with Replacement Rates (Planned Legislation)



The benefit structure was designed in line with progressive benefit structures of newer PFMLI programs. The bill's drafters learned from California's experience that low-wage workers who were entitled to only 50% of their income during leave could not afford to take leave, and thus the insurance program was inaccessible to these workers. The drafters of Wisconsin's PFMLI bill aimed to ensure that people who work in lower wage jobs would be able to take leave offered by the program by increasing the wage replacement rate for these workers.

Contingencies and Enforcement. The planned legislation outlines several contingencies to prevent PFMLI fraud by empowering DWD to oversee and enforce program guidelines. The legislation also ensures that employees can take up program benefits without employer- or state-based barriers, such as employer discrimination or collective bargaining agreements. The contingencies provided in the planned legislation are designed to protect employers, employees, and the state from potential unintended consequences from workers taking leave. Other contingencies, fraud protection details, and powers granted to DWD are in Appendix A.

Program Utilization, Payout, and Funding Estimates

The planned Wisconsin legislation would create a worker-funded insurance fund that would pay out proportions of weekly earnings to those taking family or medical leave. This section summarizes our estimates of benefit payouts, workers taking leave, and the requisite payroll funding mechanism. It also describes our key assumptions. Further details on program specifications, eligibility parameters, and estimate methodology are in Planned Legislation and Appendix B.

Using Wisconsin data from the U.S. Census American Community Survey's 2017 1-Year Public Use Microdata Sample (PUMS), we collected key information on workers' wages and time worked to determine their eligibility for PFMLI and the level of their weekly payout upon claiming the benefit. Assuming that all employers in the state must allow workers to take leave (per the planned legislation) and that all self-employed workers opt into the program (to avoid underestimating program cost), we find that more than 2.7 million Wisconsinites are eligible for PFMLI. After finding each worker's average weekly payout if they were to take leave, we calculate an average weekly payout of $569.

The next important predictions are the utilization rate of the program (% of workers taking leave in a given year) and the average duration of those leaves (in weeks). For both, we depend on the experiences of other states that have fully implemented PFMLI programs. Importantly, the selected states all also have a temporary disability insurance (TDI) program, which serves the same purpose as Wisconsin's PFMLI's self-care provision (Wisconsin does not currently have state-facilitated TDI). We estimate that 6% of all eligible workers will access PFMLI benefits in a given year. This is higher than the observed rate in California (4.5%) and New Jersey (2.5%) for both PFL and TDI, but lower than that in Rhode Island (11%) (Greenfield et al., 2019). Importantly, California and New Jersey allow employers to utilize private or self-insurance for PFL. The utilization rates for private pools are not publicly reported – so the public program's rate likely understates the amount of paid leave taken. Additionally, California and New Jersey's programs do not enhance federally mandated job protections during leave, whereas the planned Wisconsin legislation would provide 12 weeks of protection. These factors pushed our utilization rate estimate toward that of Rhode Island's rather than the other states. With a similar approach, we estimate that the average length of leave will be nine weeks based on the experiences of California, New Jersey, and Rhode Island, across which the average duration of leave (for both PFL and TDI) is 8.9 weeks (Greenfield et al., 2019).

Estimating the average weekly benefit payout, average duration of leave, and utilization rate allows for a prediction of total benefits paid in a given year. Due to the lack of data that indicates otherwise, we make an important assumption that one worker is as likely as any other worker to take leave (one could imagine that workers with certain characteristics or incomes could be more or less likely to take leave). This results in an estimate of 162,516 workers taking leave in a given year and more than $832 million in benefits paid (using the average weekly payout).

Table 3. Summary of Total PFMLI Benefits (Planned Legislation)

Parameter	Value
Average Weekly Benefit	$569
Workers Eligible (millions)	2.7
Average Leave Duration (weeks)	9
% of Workers Taking Leave	6
Workers Taking Leave	162,516
Benefits Paid Annually (millions)	$832

The PFMLI program would be funded by a statewide, employee-side payroll deduction, with no employer contribution. The planned legislation does not posit a wage level, or cap, after which the premium would no longer be deducted. Such a cap is a feature of existing payroll deductions and other states' PFMLI programs; other states range from $32,000 (NJ) to $132,900 (WA) (Greenfield et al., 2019). For this analysis and in the interest of simplified PFMLI administration, we linked the payroll tax cap to Social Security, which in 2019 caps payroll tax deductions after $132,900 of wages. By applying this cap to the PUMS data and including all state employees (not just those eligible for the program), we find a total taxable wage base of more than $126 billion.

Furthermore, the PFMLI program's funding mechanism should provide more than just the bare minimum to pay benefits in a given year. The Government Finance Officers Association states that government general funds should maintain reserves of no less than two months of regular operating expenditures (Government Finance Officers Association, 2019). This amount of surplus for just one program may be overstated, but it also serves to make a more conservative estimate of overall program cost in the event that program utilization or the average duration of leaves are unexpectedly high. Two months of benefit expenditures yields a predicted fund surplus of more than $138 million and a total annual cost of more than $971 million.

Thus, to fund the predicted annual benefit payouts and reserves, we find that the employee-side payroll deduction would be 0.767%.

Table 4. Predicted Payroll Deduction (Planned Legislation)

Parameter	Value
Benefits Paid Annually (millions)	$832
Fund Reserves (millions)	$138
Total Annual Program Cost (millions)	$971
Total Statewide Taxable Wages (under $132,900 cap, millions)	$126,780
Employee Payroll Deduction	0.767%

As seen in Table 5, the payroll deduction would vary significantly based on the worker's income. Those with an annual salary of $9,000, who get a wage replacement rate of 95% upon taking leave, would pay $1.33 per week into the program fund. Those with an annual salary of $30,000, who get the base wage replacement rate of 66%, would pay $4.42 per week into the program fund. The maximum weekly payroll deduction for the PFMLI program would be $19.59 for those at or above the Social Security payroll deduction cap.

Table 5. Payroll Deduction by Income Levels (Planned Legislation)

Annual Salary ($)	Weekly Payroll Deduction ($)
9,000	1.33
12,000	1.77
20,000	2.95
30,000	4.42
50,000	7.37
75,000	11.05
100,000	14.74
132,900	19.59

Limitations of Planned Legislation

Insurance programs, such as the planned paid family and medical leave insurance (PFMLI) legislation, inherently have limitations to appropriate usage, broad-based worker contribution, and sufficient funding. Here, we identify potential limitations of a PFMLI program and how the legislation addresses them.

Potential Increase in Leave Taking

Moral hazard occurs when someone who has insurance decides to take more risks when insured than if the person were otherwise not insured (Zweifel & Manning, 2000). This can lead to an increase in insurance claims, resulting in higher costs for the insurance pool (Dave & Kaestner, 2009). In the case of PFMLI, employees may take more leave after they have the coverage. However, increased leave taking seems unlikely for several reasons. First, the coverage is only a portion of lost wages, which serves as a deductible in other forms of insurance; the employee will share some part of the loss in wages (Lester, 2005). This also maintains work incentives. Second, the Department of Workforce Development will review claims, ensuring that only those who meet specific, objective standards will receive payments. These inclusions minimize the risk of program overuse.

The risks of people changing behavior under PFMLI in Wisconsin are relatively low. In 2014, 21 years after the passage of the Family and Medical Leave Act (FMLA), one researcher found that FMLA-eligible women have only a marginally increased probability of having a child and typically give birth to their first child one year earlier than non-FMLA eligible women (Cannonier, 2014). These estimates may not be fully applicable to PFMLI in Wisconsin, but the finding that women eligible for leave are more likely to have children and have them earlier are important considerations in assessing the moral hazard surrounding a paid leave insurance program.

Potential for Attracting Risky Employees into Pool

Adverse selection poses another limitation to insurance programs. In this situation, one party has more information than another (Bigelow, 1990). For the case of insurance, this translates to people electing coverage because they anticipate using it. The insurance pool will attract higher risk participants, resulting in higher claim rates and rising premiums, which in turn will be attractive to only those people who anticipate making claims. This will further increase premiums and cause lower risk individuals to drop out of the pool. Within the context of PFMLI in Wisconsin, adverse selection is a less pertinent issue because all workers will be pooled together in a mandatory program (except for self-employed workers, who can opt in).

Payout Timeline

Another limitation of the planned legislation surrounds time to accrue premiums before the first payout. The legislation is ambiguous in outlining specifics of the payroll deduction, such as the percentage contribution from wages, and in establishing a timeline for when the program will have sufficient funding to begin. After implementation of the payroll deduction for all Wisconsin workers in January 2023, employees will have to contribute for a period of time to collect enough funds before allowing people to take paid leave. However, it is unclear how long the payroll deduction will be in place before benefits can be redeemed. Based on the experiences of other states, we estimate the costs of a PFMLI program in Wisconsin require a payroll deduction of 0.767%. Later in the report, we highlight how other states have addressed time to accrue premiums by merging with another state program and recommend accordingly.

Impact Analysis

Effects of PFMLI on Families and Individuals

Paid Leave Definitions

Paid Family Leave (PFL):
Only family member care

Paid Family and Medical Leave (PFML):
Family member and self-care

Paid Family and Medical Leave Insurance (PFMLI):
Publicly funded insurance for paid leave

Increasing access to paid family and medical leave has the potential to significantly impact the lives of Wisconsin workers. PFML provides flexibility to workers during times of personal crisis or life changes. This flexibility translates into tangible benefits for children and increased well-being of workers. The United States is one of the few countries in the United Nations that does not require employers to provide paid leave for new parents. Despite lagging federal legislation, states across the country, including Rhode Island, New Jersey, and California, have enacted PFML legislation to improve the quality of life for workers. This section outlines the predicted impacts of a paid family leave law on families and individuals based on experiences of other states. While PFML will have some effects on senior citizens and elder care, based on other states' experiences, we anticipate that most claims will be used to take time off for children and self-care.

Children Health, Well-Being, and Safety

Children experience rapid developments in cognition, emotion, and behavior within the first years of life. However, it takes time for parents to become a responsive caregiver to their children. During this window, caregiving will have a long-term effect on social and brain development (Zigler, Muenchow, & Ruhm, 2012). Providing parents paid leave after the birth or adoption of a child can facilitate their own learning of how to care for their child. In turn, children may receive the foundation for successful development.

Children can benefit from more parent engagement:

- Improved academic proficiency
  - 2.7% decline in high school dropout rates (Carneiro, Løken, & Salvanes, 2011)
- Normal development
  - Researchers found that one month of maternity leave increased odds of reduced performance on the Motor and Social Development scale by 3 percent, suggesting a relationship between duration of maternity leave and impaired performance in motor and social development in children up to two years (Sherlock, Synnes, & Koehoorn, 2008).
- Improved health
  - Increased immunization rates (Berger, Hill, & Waldfogel, 2005; Burtle & Bezruchka, 2016; Hajizadeh, Heymann, Strumpf, Harper, & Nandi, 2015)
  - Lower probabilities of (Lichtman-Sadot & Bell, 2017):
    - Becoming overweight (9.7 to 14.7 percentage point reductions)
    - Being diagnosed with ADHD (3.1 to 3.7 percentage point reductions)
    - Reduced hearing problems (2.5 to 4.5 percentage point reductions)
  - Decreased abusive head trauma (AHT) hospitalizations (Klevens et al., 2016)
    - 5.1 level decrease in children younger than 1 year old
    - 3.2 level decrease children between 1 and 2 years old
  - Quicker recovery from illness and injury (Heymann, Toomey, & Furstenberg, 1999; Mahaffy, 1965; Melo, Ferreira, Lima, & Mello, 2014; Palmer, 1993; Vasli & Salsali, 2014)
    - 31% reduced duration of hospital stays (Taylor & O'Connor, 1989)

Based on prior research, we find improved academic outcomes, normal development, and improved health are the most compelling benefits of paid leave on children.

Individual Health and Well-Being

Parents also benefit from PFML. In California, parents who used paid leave reported a positive effect on their caregiving ability and arrangement of childcare after returning to work (Milkman & Appelbaum, 2013). In Rhode Island, comparisons between parents who used PFL and those who did not indicate better health and lower general stress for parents using PFL (Silver, Mederer, Djurdjevic, 2016). Aside from providing time to develop as a parent, PFML also can improve parents' general well-being. For example, PFML can improve worker general well-being by reducing the financial burden of taking time off for individual or family medical purposes, which in turn may reduce overall stress.

<u>Stress and Anxiety Impede Quality of Life and Productivity.</u> In the United States, 18% of adults, or 40 million people, live with anxiety disorders, but only 37% receive treatment. Individuals with anxiety may experience symptoms such as difficulty concentrating, disordered sleep, or fatigue (Leonard & Legg, 2018). People living with an anxiety disorder are three to five times more likely to go to the doctor and six times more likely to be hospitalized for psychiatric disorders than those who do not suffer from anxiety disorders (Anxiety and Depression Association of America, 2018). Quantifying the direct costs of anxiety disorders, like loss of productivity and medical care, is difficult. However, estimates from the late 1990s assessed the annual costs of anxiety disorders at between $42 billion and $47 billion

(DuPont, Rice, & Miller, 1996; Greenberg, Sisitsky, & Kessler, 1999), although these estimates are believed to be grossly underestimated (Kessler & Greenberg, 2002). Anxiety disorders also diminish an individual's quality of life. According to Annette Bonilla, vice president and director of human resources at Environmental Science Associates, "after California established [PFML], we began to notice that our employees who took time off when a new baby arrived or when a serious illness struck were less stressed than [other employees]. Less stressed workers mean more productive workers…" (National Partnership for Women and Families, 2018).

Stressful Life Events Contribute to Suicidality. While the global suicide rate declined between 1990 and 2016, the suicide rate in the United States increased by one-third between 1999 and 2017 (Naghavi, 2019). Wisconsin has a suicide rate of 15.4 per 100,000 people, making it the 27th highest rate in the country and above the national average of 14.0 per 100,000 people (National Center for Health Statistics & Centers for Disease Control, 2017). According to the American Foundation for Suicide Prevention, risk factors for suicidality include depression, anxiety disorders, and stressful life events. Paid leave may alleviate some of the stress during tumultuous times and provide an opportunity for employees to receive mental health care they may not otherwise obtain.

Heart Disease and Stress are Connected. Researchers have demonstrated a connection between chronic stress and heart disease. Heart disease is the leading killer of people in the United States, accounting for one-quarter of all deaths in the country annually (National Center for Chronic Disease Prevention and Health Promotion, 2017). Approximately one-third of people in the United States have hypertension (National Center for Chronic Disease Prevention and Health Promotion, 2016). People from countries with PFML may experience lower stress in part due to receiving paid leave, which can be translated into health outcomes.

Based on reports from previous states that implemented paid leave, such legislation may improve the lives of children and parents alike. Children may benefit from improved academic retention, increased wages, better health outcomes, and reduced infant abuse by having parents who are able to stay home after birth or adoption. Parents and workers may also experience reduced stress from reduced financial burden for taking leave and time to seek appropriate health services. Thus, PFML may contribute to overall well-being. Taken together, it is possible that paid leave reduces individual stress and in turn leads to improved life satisfaction, better work-life balance, and improved work performance and retention. Based on the evidence provided here, PFML could enhance the lives Wisconsin workers.

Effects of PFMLI on Businesses

The primary concerns of businesses that oppose paid family medical leave insurance (PFMLI) legislation are decreased productivity and costs. Studies of existing paid family leave programs demonstrate that PFMLI costs employers little in terms of profitability. In return, paid leave increases employee retention, morale, and productivity. Further, PFMLI programs decrease employee turnover and error rates.

Paid Leave is Associated with Increased Employee Retention and Reduced Turnover

Research shows that offering paid leave to employees increases retention and reduces turnover. Employee turnover is a significant cost to employers, with cost varying by the wage and role of the replaced employee. A recent study conducted by the Center for American Progress found that the cost of replacing an employee in a low-paying, high-turnover job (earning less than $30,000 per year) is 16% of that worker's annual wages; for employees in midrange positions ($30,000 to $50,000 per year), the cost of replacement is 20% of annual salary; and for high paying positions (more than $50,000 per year), the cost of replacement is up to 213% of annual salary (Boushey & Glynn, 2012).

PFMLI reduces employee turnover, saving businesses money. Studies on existing paid leave programs found that the option to take paid leave increases the likelihood a mother will return to work after childbirth (Jou et al., 2018; Boushey, 2008; Glass & Riley, 1998). First-time mothers who utilized paid leave have a 3% probability of quitting their job and a 92% probability of returning to the same employer post-birth; first-time mothers who do not utilize paid leave have a 34% probability of quitting their job and only a 73% probability of returning to their employer (Department of Labor, 2017). Additional research indicates that when paid leave is an option for an employee experiencing personal sickness, job retention is 67%; for employees experiencing personal illness without paid leave as an option, job retention is 45% (Veenstra et al., 2015). By having a paid leave policy in place, employers experience lower turnover and increased retention rates, lowering the costs of administration, hiring, and training.

Employees without Access to Paid Leave Experiencing Stress Have Reduced Productivity and Higher Error Rates

Employees without paid leave are three times less likely to take time off work to address personal medical concerns and are 1.5 times less likely to take time off work to care for family members (DeRigne et al., 2016). This data means workers in Wisconsin experiencing personal or family illness are more likely to work through stress when paid leave is not offered by employers. When an individual experiences personal or family medical concerns, financial fragility and stress rises. Financial fragility and personal stress decrease cognitive capacity, which has spillovers into workplace performance (Meuris & Leana, 2018). Employees working through illness and/or high levels of stress decrease productivity in the workplace by roughly 46%, resulting in a loss of 1.32 productive hours of work per week (Milli et al., 2016; Berger et al., 2001). Employee error rates decrease by 28% when paid leave is available (Milli et al., 2016). If paid leave is not offered, employers suffer the organizational costs of decreased productivity and increased error rate due to employees' financial and personal stress (Meuris & Leana, 2018). In fact, small and new employers who offer paid leave to employees have an increased venture survival rate compared to similar businesses that do not offer paid leave (Messersmith et al., 2017). The study by Messersmith and colleagues found that specific types of employee benefits induce quality employees to join a workplace and are important in developing human capital, concluding that employers offering paid family medical leave, health insurance, and flexible work schedules correlate with increased survival rate for new ventures, while employers offering employee stock ownership plans and tuition reimbursement had no significant influence on survival rates.

A strong positive relationship exists between employee morale and increased productivity, measured by the relationship between self-reported job satisfaction and the number of tasks performed and efficiency in completing them (Ajala, 2012; Neely et al., 1999; Paul & Gross, 1981). The presence of a paid family leave policy increases employee morale and motivation (Colla et al., 2013; Appelbaum & Milkman, 2011). In part because of increased morale, the return on investment of employers directly providing health services to employees is positive (Ozminkowski et al., 2016; Milli et al., 2016).

Employers Experience Few Costs from PFMLI Programs

Five years after California began its paid family leave policy, the Center for Economic and Policy Research surveyed businesses in California. The survey consisted of interviews and questionnaires with more than 250 California-based companies. The survey found that more than 90% of surveyed employers "reported positive effects [of paid leave] or no effect at all on their productivity, profitability, or performance" (Appelbaum & Milkman, 2011). Of the small minority of employers that reported negative effects, large businesses predominated, contradicting the common fear that paid family leave programs disproportionately harm small businesses (Ibid.). The most common way employers compensated for an employee taking paid leave was to assign work to other employees; the second most common way employers compensated was to hire a temporary replacement.

While the cost of hiring temporary replacements is notable, research on existing state PLI programs demonstrates it does not harm productivity or profitability. In 2016, the California Employment Development Department used administrative data on nearly all California employers existing between January 2000 and December 2014 to estimate PFMLI's effects on employers. The report found no before-after effect from California's PFMLI program on firm wage costs (Bedard & Rossin-Slater, 2016).

Initial data from New Jersey's PFMLI program has found no impact on employer productivity or profitability. Surveyed employers in New Jersey reported, on average, no losses to employee productivity or employer profitability (Lerner & Appelbaum, 2014; Ramirez, 2012).

Employers' Benefits Outweigh Costs

While employers experience some PFMLI-associated costs, the benefits outweigh costs. PFMLI reduces lost production from employees working through illness and stress. Additionally, PFMLI increases employee morale, which has been demonstrated to increase productivity. Finally, PFMLI does not impose high cost burdens on employers, showing little or no decrease in profitability, particularly for small businesses. Overall, PFMLI offers employers a cost-effective opportunity to pool the risk of an employee needing time off to address medical or family concerns, reducing lost productivity from employee turnover, stress, and error rate.

Effects of PFMLI on other Public Programs and the Statewide Economy

The proactive approach of PFMLI guarantees that financial support is available for families during their most financially challenging circumstances. It follows that PFMLI beneficiaries, especially those with lower incomes, may be less likely to depend on other forms of government support after such events. Implementation of a statewide paid family and medical leave insurance (PFMLI) program could therefore impact statewide economic trends and other forms of government spending. This section overviews the research and predicted state-level effects of implementing PFMLI on public assistance programs, Medicaid spending, state economic growth, and labor force participation.

Paid Leave May Decrease Utilization of Wisconsin Works (W-2) and SNAP Participation

After the Department of Labor permitted states to provide unemployment compensation to parents who leave work to care for a newborn or newly adopted child, Wisconsin's Temporary Assistance for

Needy Families (TANF) program, W-2, saw a doubling in the proportion of applicants caring for infants (Waldfogel, 2001; Hill, 2012). The current program provides nearly $700 monthly to parents of infants (Wisconsin Legislative Audit Bureau, 2017), which may incentivize new parents with low incomes to leave their jobs and apply for W-2 as a form of "paid leave." Implementing a comprehensive PFL policy would reduce the number of parents who need to leave their job to support their new child, and thus, could be expected to reduce state spending on the W-2 program.

Research and experiences from states that have implemented PFL also support a prediction of lessened public assistance participation. National comparisons of states with and without PFL have found that people (women especially) who take paid leave are significantly less likely to report taking public assistance – and those who still require assistance take less of it (Houser & Vartanian, 2012). Usage of the Supplemental Nutrition Assistance Program (SNAP) by women with low incomes was similarly lower in states with accessible PFL (Bellisle & Ybarra, 2018). Though these findings lead one to expect that implementation of PFMLI in Wisconsin might reduce uptake of public assistance, this substitution will likely apply to a small margin of workers and thus implementation of PFMLI in Wisconsin would not justify a reduction in TANF or SNAP spending.

The prediction of reduced public assistance participation by new mothers is weakened by possible confounding factors. It may be the case that states with PFL programs are more affluent or have better health and nutritional inputs, leading to lower rates of participation in TANF and SNAP programs. Likewise, TANF participation may not fall as expected because states with PFL have more generous benefits in their existing assistance programs (Ybarra, Stanczyk, Ha, 2019). Importantly, experiences of other states have indicated that knowledge and use of PFL programs are disproportionately lower for Black and Latina women, as well as low-income households (Applebaum & Milkman, 2011; Houser & White, 2012). In addition, several implementing states have encountered low PFL participation rates among low-income populations due to relatively low wage replacement rates (e.g., 55% in California) that do not adequately substitute for employment or other benefits (Ybarra, Stanczyk, Ha, 2019).

The design of the Wisconsin PFMLI program within the planned bill would alleviate some of these shortcomings and could reduce the need for parents to leave jobs and become eligible for W-2, likely leading to lessened participation in W-2 and SNAP for new parents. The bill's funding for marketing the program would increase participation among workers with low incomes, while its wage replacement of 95% for the lowest wage workers offers a far more sufficient benefit than other states, likely decreasing the need for supplemental assistance. To reap TANF program savings from implementing PFL, the program must adequately supersede other existing benefits, and the planned program seems likely to do so. It is important to note that this substitution will apply to a margin of TANF usage and likely would not justify substantive reductions in overall TANF funding.

Paid Leave Decreases State Spending on Short-Term Institutional Care for the Elderly

In addition to assisting new parents and their infants, another critical use of PFMLI is workers taking leave to care for aging family members. Primarily, PFL may present a method by which older Wisconsinites are able to avoid short-term stays in institutional care settings and remain in their homes with a family caretaker. Such an impact would be important for the state's Medicaid and Medicare spending. Medicaid is the primary payer for more than 63% of nursing home residents while Medicare is for 15% (Arora & Wolf, 2018). Medicare covers only short periods of stays in nursing home facilities (Medicare, 2019), like those after a fall or surgery. In this case, instead of a senior entering a nursing home facility where Medicare would cover the expenses, a family member could take off time to provide full-time care. Implementing a PFMLI program increases the likelihood that younger family members could actively perform caregiving duties for older relatives, possibly allowing for a decrease in institutionalized spending. Indeed, in California, nursing home usage dropped by about 0.65% upon implementation of PFL – a relative decline of more than 11% in the proportion of elderly in nursing homes (Arora & Wolf, 2018).

Another similar effect of PFL in Wisconsin would be to augment the national trend toward providing home- and community-based services rather than institutional care with Medicaid funds. Home-based services have been shown to "entail a short-term increase in spending, followed by a reduction in institutional spending and long-term cost savings" (Kaye, LaPlante, Harrington, 2009). Implementing PFL would alleviate the most significant financial burdens for the state (shelter and food costs in nursing homes). By further subsidizing home-based care through PFMLI, more patients would remain in home-based arrangements, possibly resulting in long-term cost savings for Wisconsin's Medicaid program. However, the increase of home- and community-based services has been met by warnings of unmeasured costs and burdens on the "informal care" system of family members and friends, who provide nearly 80% of all home-based long-term care (Miller, Allen, Mor, 2007). While costs to families providing care for an older relative are necessary to consider, paid leave offers the opportunity to shift state tax dollars to the private individual, potentially reducing state costs.

Paid Leave Increases Labor Force Participation and Does Not Limit Economic Growth

One common argument against PFMLI is the potential for stifled economic growth due to increased taxes, lower take-home wages, and losses from worker absences. While a payroll deduction on individual employees may result in slightly lower take-home wages, PFL will have numerous positive impacts on statewide economic growth. As discussed further in the Business Impacts section, individual businesses stand to gain from improved employee retention and productivity. Furthermore, PFMLI would likely increase statewide labor-force participation, leading to greater overall income from earnings, income tax revenue, and economic activity in the state economy. Studies of European and North American countries found that PFMLI policies are associated with "higher employment-to-population ratios and decreased unemployment for all workers" (Boushey, O'Leary, Mitukiewicz, 2013; Ruhm & Teague, 1995). The key driver is that women are more likely to return to the labor force in the year after they give birth when they have access to PFL (Joesch, 1997; Berger & Waldfogel, 2004; Rossin-Slater, Ruhm, Waldfogel, 2011; Baum & Ruhm, 2013; Winegarden & Bracy, 1995).

Taken together, PFMLI's anticipated increase in labor-force participation and positive effects for individual employees (alongside a lack of significant costs for employers) would almost certainly have a net positive effect on the Wisconsin economy. More workers remaining in jobs – especially new mothers – means more income, tax revenue, and economic consumption. Similarly, older workers with ailing parents would be more likely to remain in jobs than quit early to care for their parents. Thus, economic losses brought on by the employee payroll deduction would be offset by gains in productivity, retention, and the ability to participate in the workforce – as well as the more subjective benefits realized by Wisconsinites being more capable of caring for their loved ones and themselves.

Table 6. Summary of Effects of PFML

	Potential Effect of PFML Legislation
Childhood	↑ future wages ↑ immunization rates ↓ infant abuse ↑ academic retention Improved health outcomes (obesity, ADHD, quicker hospital recovery)
Adulthood	↑ time to care for mental health ↑ quality of life ↑ overall health
Workplace	↓ in worker error rate ↓ in turnover ↓ financial stress Small to no decreases on production
State Spending and Economy	↓ assistance program spending (e.g., TANF, SNAP) ↑ labor force participation

Lessons from Other States' Paid Leave Legislation

Passed in 1993, the federal Family and Medical Leave Act (FMLA) has a limited scope. First, the law does not apply to all family types, failing to extend coverage for care of grandparents, grandchildren, or in-law family members. Second, leave taken under the FMLA is unpaid, preventing many single parents and people with low incomes from taking time off. Third, unless specified by company policy, the FMLA does not apply to same-sex partners. Lastly, eligibility for leave under the FMLA is dictated by the employee's company size.

Between 1993 and 1999, nearly 20 separate pieces of legislation were introduced to Congress to expand the FMLA (Wisensale, 2006). Planned legislation included family definition expansion and application of FMLA protections to small-business employees (Gladstone, 1999; Jordan, 1999). President Bill Clinton, frustrated by legislative inaction, bypassed Congress by directing the Department of Labor to allow states to use funds from unemployment insurance to subsidize 12 weeks of FMLA leave (Clinton, 1999). Twenty-seven states introduced legislation to expand FMLA coverage (Wisensale, 2006). As of 2019, five states (California, New Jersey, Rhode Island, New York, and Washington) as well as Washington, D.C., passed paid family leave legislation.

Case Study: California

Political Process

The nation's first state-level paid family leave law was signed by California Governor Gray Davis on September 23, 2002 (Wisensale, 2006). Upon passage, California's paid leave law guaranteed up to six weeks of paid leave for employees to care for a new child (including adoption and foster care) or an ill family member (including parent, child, spouse, or domestic partner) (Ibid). Qualifying workers received up to 55% of their wages for six weeks, capped at $728 per week in 2002 dollars. The cap is continually adjusted to the state's average working wage. Because the paid leave benefit is funded through the California State Disability Insurance Program, it is entirely funded by a payroll deduction on employee contributions with no employer contribution (Fass, 2009).

California SB 1661 had a tumultuous journey to passage, including the attachment of more than 20 amendments (Wisensale, 2006). Between introduction and passage, legislators made four key changes to SB 1661. First, the original legislation called for 50-50 cost sharing between employer and employee. Legislators amended the bill so that employees pay the entirety of the payroll deduction (General Assembly Floor Debate, 2002). Second, the original legislation would have applied to all employers in California, but it was amended to adopt the FMLA provision which extends to covering only employees from companies of 50 or more employees (Ibid.). Third, an amendment required employees to use two weeks of vacation leave, if accrued, before applying for paid leave (Ibid.). Fourth, the original legislation guaranteed job security for leave takers, but an amendment stripped the job security guarantee. While these amendments diluted the original intent of SB 1661, they were necessary compromises for legislation passage.

Proponents of the paid leave legislation testified before the Insurance and Appropriations committees of the General Assembly. Supporters included the State Parent and Teachers Association, California National Organization for Women, California Child Care Resource, California Catholic Conference, and the California Labor Federation (Ibid.). They argued that families need support while caregiving, leave is not affordable without wage replacement, and the private sector was inadequate at responding to family and work conflicts (Ibid.). Opponents of the legislation included the California Manufacturing Technical Association, National Federation of Independent Businesses, and the California Chamber of Commerce. They argued that the legislation would be too costly, hurt small businesses, and cost California jobs (Ibid.).

Context: What Enabled Passage?

A review by the Labor Project for Working Families at the University of California-Berkeley (2003) concluded that three primary factors explain California's ability to pass the nation's first paid leave legislation. First, there was already an existing benefits structure. California and four other states (Hawaii, New York, New Jersey, and Rhode Island) were already using funds from state temporary disability insurance programs to fund paid leave during pregnancy and postpartum care (Wisensale, 2006). With SB 1661, California added family care to this existing model. By not requiring an entirely new administrative structure, the political feasibility of paid leave legislation in California increased greatly.

Second, in the decade prior to the passage of SB 1661, supporters created a strong advocacy network to promote paid leave in California. The California Work and Family Coalition, a partnership of labor unions organized by the Labor Project for Working Families, had been working with various unions for years in negotiating child care and paid leave into employment contracts (Wisensale, 2006; California Work and Family Coalition, 2019). Further, the California Labor Federation, the California branch of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), had been lobbying California legislators for decades to pass legislation protecting pregnancy rights and sick leave benefits (Wisensale, 2006; California Labor Federation, 2019). Because of existing advocacy networks, legislators were familiar with family leave policy and organizations experienced enhanced capacity to promote new paid leave legislation.

Third, the political circumstances in California were ideal to pass paid family leave legislation. Between 1998 and 2002, Democrats controlled the General Assembly, Senate, and Governor's office in California (Wisensale, 2006). California Democrats have a strong history of collaborating with labor unions and labor advocacy groups, especially the AFL-CIO (Dark, 2000). Additionally, 2002 was an election year in California in which Governor Davis was seeking re-election. The election potentially elevated public awareness and salience of a pro-labor policy proposal (Wisensale, 2006). Thus, California's political landscape in 2002 enabled passage of paid leave legislation. It is important to note that while Democrats historically were the primary supporters of PFML programs, bipartisan agreement has grown ever since, leading to the nationwide momentum for PFML.

In addition to the three influences on the passed legislation named by the Labor Project for Working Families, the state's economic conditions in 2001-2002 contributed to passage of SB 1661. The 2001 unemployment rate in California was 4.8%, down over 3 percentage points from 1995, lower than it had been since the late 1980s (US Bureau of Labor Statistics, 2019). California's labor force was also growing, expanding from 15.2 million workers in 1995 to more than 17 million workers by the end of 2000 (Ibid.).

Lessons for Wisconsin From California's Experience

- Use an existing administrative structure. Wisconsin's Unemployment Insurance program can be used to manage premiums and claims.
- Leverage an advocacy network. Like California, Wisconsin has an existing network of advocates that have been pressing for paid leave legislation for years.
- Political context and timing. Wisconsin will face different challenges from the Legislature's political composition. With Republicans controlling the Legislature and a Democrat as governor, bipartisan solutions are required. In this political context, more moderate, employer-friendly provisions in the legislation should be considered to increase the likelihood of passing Wisconsin PFMLI legislation.
- Capitalize on strong employment trends. Wisconsin's labor force has experienced positive changes over the last six years, just as California's labor force did between 1995 and 2001. California's favorable economic history contributed to PFMLI passage; similarly, Wisconsin's current economic climate lends itself to the passage and implementation of PFMLI.

Case Study: Washington State

Passage and Implementation

On July 5, 2007, Governor Christine Gregoire signed Washington State's first attempt at a paid leave insurance program. The initial program guaranteed up to five weeks of paid leave for new parents. Despite being passed in 2007, the legislation did not specify how the funding structure would be organized, relying on later deliberation and input from the Washington State Office of Financial Management. Washington State did not have a temporary disability insurance program to merge benefit funds with, so the state relied on generating the fund over the course of a year or more before payouts would begin. However, before a funding structure could be implemented, the Great Recession was in full effect. As a result, the WPFMLA benefit fund was not established until 2019, over a decade after the passage of the initial legislation. The 2007 legislation did not specify that funds from the state's unemployment insurance benefit fund could be used for the paid leave fund. When the legislation passed in 2007, as the US entered a recession, the state lacked revenue and political will to build the benefit fund and allow full implementation. The governor suspended determination of the structure of program administration, and paid leave went dormant in the state for a decade before macroeconomic conditions and political will allowed a benefit fund to be built (Fass, 2009). Flexible use of an existing benefit fund would have enabled Washington State to shield paid leave insurance's implementation from unfavorable macroeconomic conditions, but that was not an option, as it is not an option in Wisconsin. Given this limitation, we recommend Wisconsin legislation be as specific as reasonable about the timeline and mechanisms of the benefit fund, in order to ensure timely implementation. Additionally, passing temporary disability insurance in Wisconsin could be a predecessor to a robust PFMLI program.

In 2017, Washington State again passed the Washington Paid Family Medical Leave Act, which offered more expansive paid family medical leave insurance that extended beyond new parents. Under the new program, benefits are currently accumulating, and disbursement will start in 2020, when Washington will become the fifth state to guarantee paid family and medical leave (Washington State Department of Labor and Industries, 2019). The WPFMLA provides up to 12 weeks of paid leave within a 12-month period, provided the employee worked 1,250 hours in the 12-month period preceding request for an employer with 50 or more employees within a 75-mile radius of the filer's place of work. Employers with less than 50 employees will be exempt from paying the employer portion of the premium but will be required to collect the employee portion (Sundell, 2018). Workers started paying for the benefit with 0.4% payroll deduction at the start of 2019, with employees paying 63% of premiums and employers paying 37% (Lerman and Romano, 2018). Payouts range from $100 to $1,000 in weekly payouts, scaling to up to 90% of the filer's former wages, the highest wage replacement of any family and medical leave legislation in the country (Nickelsburg, 2018).

Lessons for Wisconsin From Washington's Experience

- Legislative language can facilitate implementation. The decade-long delay of WPFMLA's implementation is relevant to planned paid leave legislation in Wisconsin. Because a Wisconsin paid leave program cannot flexibly use of monies from other benefit funds, implementation and growing a benefit fund is dependent of favorable macroeconomic conditions and continued political will. The implementation of Wisconsin PFMLI legislation would benefit from a funding timeline and mechanisms being explicitly stated in the bill's text.
- Temporary disability insurance is often a predecessor to PFMLI legislation. It is common for states with PFMLI programs to have passed them as expansions of existing temporary disability insurance programs. If the political climate in Wisconsin allows for the passage of Wisconsin temporary disability insurance legislation, it may be more feasible to pass it as a predecessor to PFMLI.

Case Study: New Jersey

In 2009, New Jersey became the second state to enact paid family medical leave insurance legislation. The legislation utilized the existing temporary disability insurance benefit pool, renaming the Department of Labor and Workforce Development's Division of Temporary Disability Insurance to the Division of Temporary Disability and Family Leave Insurance. The 2009 legislation provided up to six weeks of paid leave with up to 66.7% wage replacement with a maximum weekly payout of $633. New Jersey residents were eligible to receive benefits if their place of employment employed at least 50 workers. The original program was funded by a payroll deduction on the first $34,400 of wages earned by eligible employees.

On March 12, 2018, New Jersey passed an expansion to its Temporary Disability and Family Leave Insurance program. Under the new legislation, payouts are set to begin in July 2020. New Jersey workers will be eligible for up to 12 weeks leave with up to 85% wage replacement with a maximum weekly payout of $859. The new legislation reduces the business size to 30 employees from 50 and expands the taxed wage base to the first $131,000. Further, the new program expands the acceptable reasons for paid leave eligibility, including victims of sexual assault and workers caring for sick loved ones who are not blood relatives, such as neighbors, friends, and the family of spouses. The new legislation also allocates $1.2 million to advertise and promote the paid leave program.

New Jersey expanded its Temporary Disability and Family Leave Insurance program because the previous time afforded and wage replacement levels were prohibitively low. In effect, few eligible workers with low and middle incomes were able to take leave. As Sheila Richardson, a senior policy analyst for New Jersey Policy Perspective, said in statement, “Far too many workers [under the previous legislation] were not taking leave, even though they pay into to program, because they either didn’t know about it or couldn’t afford to use it… By improving wage replacement rates, more low-income workers can afford to take leave when they need it. And by expanding the length of leave from six to 12 weeks, more new parents can take the necessary time to recover from birth and bond with a new child” (Marcus, 2019). Research conducted at Columbia University concluded that program utilization under the original legislation was concerningly low because of “significant barriers to accessing the program among low-income working parents,” noting that lack of knowledge about the program and low wage replacement were common reasons for non-utilization (National Center for Children in Poverty, 2016).

Lessons for Wisconsin from New Jersey’s Experience

New Jersey offers Wisconsin two critical lessons regarding PFMLI legislation implementation. First, the program must offer employees benefits that are substantial enough that employees are willing to file for leave. If the maximum time for leave or minimum eligible employer size is set too high or the wage replacement rates set too low, workers with low and middle incomes will face barriers to access the program. Second, there must be buy-in from the state in the form of funding for education about the program.

Understanding the overlap and distinctions between state and federal laws regarding family leave, sick leave, temporary disability insurance, unemployment insurance, and other similar programs can be daunting and confusing. To maximize fulfillment of the program’s goals (to enable citizens to take leave in times of medical and family hardship), program promotion and education should be a component of Wisconsin’s PFMLI legislation, and that legislation should have a specific plan to accomplish such goals.

- <u>At low-income levels, wage replacement rates must be relatively high</u>. Many workers with low incomes in Wisconsin will be unable to take leave under a new Wisconsin PFMLI program if the wage replacement rate is too low. To achieve the goals of this policy, the wage replacement rate should be progressive, replacing lower wages at higher replacement rates and higher wages at lower replacement rates.

- Education and promotion are important for successful implementation. To ensure the program is successful in provide leave access to all eligible Wisconsinites, the legislation should take intentional action to promote awareness of the program and educate employers and employees about the program.

Recommendations

This report describes the benefits of enacting PFMLI legislation in Wisconsin. The success of PFMLI will be greater if the following three recommendations are included while developing and implementing PFMLI in Wisconsin.

Recommendation 1: Public Awareness Campaign to Increase Worker Knowledge of PFMLI Program

The planned legislation stipulates funding to initiate a public awareness campaign for the PFMLI program. However, there is not a specific plan for introducing the program to workers. A timeline should be established for when and how educational events would happen. At least a year should be allocated for raising public awareness to ensure workers across the state have enough time to learn about the program. This could coincide with the time required to grow the benefit fund.

Upon legislation passage, educational materials minimally should include informational pamphlets, educational seminars for human resource staff, and a program website. All materials should include program details such as payroll deduction percentage, program eligibility, appropriate reasons to use leave, leave length limits, payout rates and caps, and program initiation. The public awareness campaign will require staff to create and distribute information. Further, staff will have to travel throughout the state to ensure workers know about the PFMLI program. Fostering awareness for the PFMLI program is important in meeting the policy goals for the program and expanding its accessibility to all eligible workers. Doing so will impact usage rates and costs; program staff should be mindful of these impacts and adjust the payroll deduction and wage replacement caps accordingly.

Recommendation 2: Modify the Benefit Payout Structure

The current planned legislation draws thresholds for benefit-payout rates at levels related to the state median wage (see Figure 1, page 5). As drawn, the thresholds result in sudden changes in wage replacement rates, or cliffs, at certain income levels around the threshold. For example, someone making 79% of the state median wage would get 80% of their wages replaced upon taking leave, while someone making 81% of the state median wage would only get 66% of their wages replaced. This structure may be confusing to workers taking benefits if they are unaware of the various levels. Furthermore, the cliffs may incentivize businesses and employees to set and take wages at levels just below those set in the legislation.

We recommend that 9to5 and the bill's sponsors consider an alternative payout structure that is less abbreviated between the various wage replacement rates. The simplest way to achieve this goal is to implement a gradual structure, like marginal tax brackets, that would result in similar benefits paid and requisite payroll tax. Fortunately, other states have modeled a graduated payout structure. We analyzed the differences between the planned Wisconsin legislation and an alternative that follows the structure of Washington State's PFMLI program. The analyzed alternative would provide 90% wage replacement up to 50% of the state's average weekly wage ($492), and 50% wage replacement on all earnings thereafter. The program would still limit weekly payouts to a maximum of $1,000.

Utilizing the same estimates and assumptions as our original analysis, we calculated that such a structure would result in more than $876 million paid in a given year, requiring a 0.808% employee payroll deduction to fund the program.

Table 7. Summary of Total PFMLI Benefits (Alternative Payout Structure)

	Original Planned Bill	Alternative Payout Structure
Average Weekly Benefit	$569	$599
Workers Eligible (millions)	2.7	2.7
Average Leave Duration (weeks)	9	9
Percent of Workers Taking Leave	6	6
Workers Taking Leave (annually)	162,516	162,516
Total Statewide Taxable Wages (under $132,900 cap, millions)	$126,780	$126,780
Benefits Paid Annually (millions)	$832	$876
Fund Reserves (millions)	$138	$146
Total Annual Program Cost (millions)	$971	$1,022
Employee Payroll Deduction	0.767%	0.808%

While this alternative would increase the benefits paid by around $40 million per year (and require a .04 percentage point increase in the payroll deduction), it demonstrates that a gradual payout structure could result in a program that induces similar costs and benefit payouts. A slight reduction of the wage replacement rate for earnings after the 50 percent of average weekly wage line would result in a program with analogous characteristics of the planned bill, but without cliffs that could cause confusion or unintended consequences.

Recommendation 3: Be Specific About Implementation Timeline

We recommend the legislation be as specific as possible about the timeline for implementation. While specifics about wage base, percentage payroll deduction, and payouts might need to be determined by a state agency or office, providing specific dates about expected benefit fund implementation will encourage a more predictable, stable rollout of the program.

Conclusion

Instituting a paid family and medical leave insurance program has the potential to positively impact the lives of Wisconsin workers and the state alike. Children, adults, employees, and employers would see major benefits under the program, including improved health and future wages for children; improved mental health, overall health, and quality of life for adults; decreased error rate, turnover, and financial stress for employees; and decreased state spending on other public assistance programs. Both established literature and other states' experiences demonstrate that PFMLI is an effective social policy, with wide-ranging positive impacts and minor negative effects. With individual-level premiums of less than $10 per week for those making $68,000 or less per year, the cost of establishing a public fund for paid family leave and medical care (i.e., temporary disability) is manageable. Consideration of our recommendations for legislation will aid 9to5 Wisconsin and state legislators in advocating for and implementing a PFMLI program that successfully meets its intended goals and is politically and financially viable.

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Appendix A: Overview of Planned PFMLI Legislation

Expanding State FMLA Eligibility

Under current Wisconsin FMLA eligibility guidelines, approximately 63% of workers in Wisconsin are unable to access the right to employment-protected leave (National Partnership for Women and Families, 2019). The first aim of the planned legislation is to expand those eligibility benchmarks to cover a larger percentage of Wisconsin workers. By lowering the number of hours worked in a calendar year from 1,000 to 680 and reducing the number of permanent employees for a qualifying employer from 50 to 1, the planned legislation opens FMLA to part-time and small-business workers. The planned legislation also expands the definition of "family member" to include parents, children, and spouses, as well as domestic partners, grandparents, grandchildren, and siblings. Finally, the planned legislation increases the amount of leave allowed within one calendar year from 10 weeks to 12 weeks and allows workers to take those 12 weeks without limits on the type of care for which the leave is intended.

Creating a State-Based Family and Medical Leave Insurance Program

The second aim of the planned legislation is to establish a state-based paid family and medical leave insurance (FMLI) program.

Implementation and Administration

Beginning January 1, 2023, all individuals employed in Wisconsin would contribute to a statewide trust fund a percentage of their wages as a payroll tax. The amount contributed will be determined by the Department of Workforce Development (DWD) in consultation with the commissioner of insurance. It will not exceed the amount needed to finance benefit payments and program administration. The planned legislation suggests that DWD collect these contributions in the same manner as it collects contributions for unemployment benefits. Self-employed individuals are eligible, but they are required to pay into the trust fund only if they elect coverage. Self-employed individuals who wish to elect coverage can do so by filing a written notice of election with DWD. If covered, the planned legislation stipulates that employees can receive up to 12 weeks of FMLI benefits from the FMLI trust fund. Finally, the planned legislation empowers DWD to establish procedures and forms for filing claims and collecting contributions from self-employed individuals; promulgate rules to implement the program; use information sharing and integration technology to facilitate the exchange of information for the department to perform its duties; conduct an outreach campaign to inform all parties about the insurance program; and submit annual reports.

Benefit Structure

Under the FMLI program, covered employees are eligible to receive partial wage replacement during leave based on their income from the previous calendar year. The benefit structure is summarized in Table 8. Additionally, benefits payable cannot exceed $1,000/week, adjusted every April 1 according to the Consumer Price Index (CPI) as determined by the U.S. Department of Labor. The planned legislation stipulates that benefits are payable beginning on the sixth day of family or medical leave and that benefits are payable with respect to the first five days of family or medical leave if the individual takes 10 or more days of leave in a calendar year. Additionally, no benefits are payable during a period of family or medical leave in which a covered individual is substituting paid leave of any other type provided by the employee's employer or in which a covered individual is receiving unemployment or worker's compensation benefits. Finally, family and medical leave benefits are exempt from state income taxation unless the recipient elects to have federal income tax deducted or withheld from benefit payment.

Table 8: FMLI Benefit Structure

Annual Wage in Previous Calendar Year (Percentage of Annual Median Wage)	Percentage of Weekly Earnings Paid during Leave
< 30	95
30 - 50	90
50 - 80	85
> 80	66

Contingencies and Enforcement

The planned legislation outlines several contingencies to prevent PFMLI fraud while also ensuring that employees can take these benefits without employer- or state-based barriers. The legislation stipulates that workers who are denied claims have a right to a hearing, similar to those for unemployment insurance claims. Additionally, DWD may seek repayment of benefits that were dispersed erroneously or as a result of willful misrepresentation, but DWD also may waive repayment if erroneous payment was not the fault of the recipient. The planned legislation states that an individual is disqualified from receiving benefits for one year after the date of disqualification if the person falsified anything in their insurance claim.

The legislation also includes various protections for employees, specifying that employers cannot discriminate against an individual seeking to use PFMLI benefits and that collective bargaining agreements or employment contracts cannot diminish an employee's right to take leave. Employees who believes their rights have been violated may file a complaint no more than 30 days after the violation occurs or "the person should reasonably have known that the violation occurred," whichever is later. DWD may also order an employer to remedy a violation of an employee's rights to use PFMLI benefits. Finally, the planned legislation establishes confidentiality statutes for leave requests and claims and, importantly, establishes guidelines for public education of the program such that employers must post forms for filing claims in obvious, conspicuous places so employees can access them and know their rights under the program.

Appendix B: Program Estimates Methodology

Our methodology for estimating the utilization and costs of PFMLI in Wisconsin follows processes established by researchers in other states; namely, Chris Stiffler at the Colorado Fiscal Institute and the teams in several states with whom he has worked to predict PFMLI benefits (Laura Dresser and Chris Reynolds at the Center on Wisconsin Strategy (COWS); Jennifer Greenfield, Nancy Reichman, Paula Cole, and Hannah Galgiani at the University of Denver; and the Institute for Women's Policy Research in Washington State). Our version of this methodology makes some critical assumptions, but it uses current Wisconsin data from the U.S. Census American Community Survey's 2017 1-Year Public Use Microdata Sample (PUMS) to provide realistic and conservative estimates of the cost of PFMLI in Wisconsin.

In our analysis, we used four key variables from the 2017 1-Year PUMS dataset: population weights (PWGTP), annual wage/salary (WAGP), hours worked per week (WKHP), and a categorical variable of weeks worked per year (WKW). First, we converted the categorical weeks per year into the midpoint of each categorical range (e.g., everyone in category 1 (50 to 52 weeks per year) was estimated to have worked 51 weeks). From this, we imputed the hours worked per year, which would serve as the basis of determining eligibility for the PFMLI program (>680 hours). Further, we used these imputations to estimate weekly and hourly wages for each data observation. We drop observations with hourly wages below $1 or above $190, following the reasoning of COWS and the Economic Policy Institute that this would remove "highly atypical or erroneous" responses (Dresser & Reynolds, 2015).

We then used the PUMS-reported annual state median wage of $30,557 to calculate the thresholds at which each eligible worker would transition to a different rate of wage replacement (see Figure 1, page 5). With this information, we could place each observation into a wage replacement category and calculate the weekly payout if they were to take leave. Each observation was multiplied by its population weight to determine the total payouts for people fitting that observation's characteristics. We divide the sum of total weekly payments by the number of eligible workers, resulting in an average weekly benefit of $569.

We estimate program utilization through simple estimates based on other states' experiences. Comparably to the team at the University of Denver (Greenfield., 2019), we estimate that 6% of eligible workers will take leave in a given year, with an average leave length of nine weeks. Due to the lack of data that indicates otherwise, we make an important assumption that any worker is as likely as any other worker to take leave (one could imagine that workers with certain characteristics or incomes could be more or less likely to take leave). This results in an estimate of 162,516 workers taking leave in a given year and more than $832 million in benefits paid (using the average weekly payout).

To determine the requisite employee payroll deduction to fund this level of benefit payouts, we calculate the amount of taxable wages in the state as a whole from the original 2017 1-year PUMS. We selected the same payroll deduction cap as the Social Security program in the interest of 1) simplicity of administration; 2) following another state's example (WA); and 3) creating a more progressive tax than would be the case with a lower cap, per the preferences of our client. We summed all annual wages less than $132,900 to find a taxable wage base of $126,780,520,598. It is important to note that this wage base includes workers who are not eligible for the PFMLI program, as is often the case with payroll deduction-funded programs. Utilizing the wage base estimate and the annual benefit payout estimate, we calculated that to fund our predicted level of PFMLI utilization, the state would need to levee a 0.767% payroll tax on employees.

We follow the same methodology when calculating the benefit payouts and overall cost of our recommended alternative based on Washington State's more gradual model of wage replacement rates. The only relevant difference is that instead of dividing workers into various wage replacement categories, we calculate the state's average weekly wage (AWW) from our imputed weekly wage ($984.09) and then 50% of the AWW ($492.05). For each observation, we calculate the wages earned below 50% of AWW and any wages above 50% of AWW. We multiply wages below the threshold by 90% wage replacement and those above the threshold by 50% wage replacement. We sum the two payouts and limit the overall payout to $1,000, and we follow the same initial methodology and estimates to calculate the average weekly payout ($599), total benefits paid ($876,630,540), and the requisite payroll deduction (0.808%).