GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title:	**SB0325.01: Creating family and medical leave act**
Primary Sponsor:	Derek Harvey
Status:	As Introduced

☐ Included in the Executive Budget ☒ Needs to be included in HB 2 ☒ Significant Local Gov Impact

☐ Significant Long-Term Impacts ☒ Technical Concerns ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
Expenditures				
General Fund (01)	$0	$3,549,354	$3,703,252	$3,754,151
State Special Revenue (02)	$0	$2,659,566	$2,699,460	$2,739,952
Federal Special Revenue (03)	$0	$1,889,283	$1,917,622	$1,946,387
Other	$16,719,935	$54,909,058	$92,593,344	$98,708,228
Revenues				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$0	$0	$0	$0
Federal Special Revenue (03)	$0	$0	$0	$0
Other	$0	$119,677,099	$125,591,240	$131,351,761
Net Impact General Fund Balance	$0	($3,549,354)	($3,703,252)	($3,754,151)

Description of fiscal impact

This bill creates a Montana Family and Medical Leave Insurance (FAMLI) program, funded by equal contributions from employers and employees for deposit into to a new enterprise fund, from which benefits will be paid to eligible covered individuals who take family-related leave from work for medical or other allowed reasons. FAMLI will provide short-term partial wage replacement for covered individuals who miss work because they have a serious health condition; are caring for a new child or a family member with a serious health condition; have an exigent situation due to active or impending active duty of a family member; or who take any other leave from work authorized under the federal Family and Medical Leave Act of 1993. The bill assigns program administration to the Department of Labor & Industry (DLI). Fiscal impact to the state would include start up and implementation costs of the program as well as the state's contribution of up to 1% of an eligible employees' monthly wages to the family and medical leave insurance fund.

FISCAL ANALYSIS

Assumptions

Department of Labor and Industry (DLI)

Family Medical Leave Insurance Program (FMLI)

1. The FAMLI program will be developed at the Department of Labor and Industry, under a new unit specifically formed to administer the Montana Family and Medical Leave Insurance Act.

2. The program's operations, including payment of benefits, will be fully funded from a new enterprise fund, kept separate from all other public money. The funds are comprised of contributions from employers and employees and contributions and specified contributions from self-employed individuals who elect FAMLI coverage.
3. The department will develop and use software specifically written to administer FAMLI. These modules will integrate with the computer applications now supporting the Unemployment Insurance (UI) tax and benefits programs.
4. In FY 2026 the department will need 6.50 FTE to develop the program. 5.00 FTE would be hired for the full year and 1.50 FTE would be added for the last 6 months of FY 2026.
5. Starting July 1, 2025, the department will hire one bureau chief to oversee the new FAMLI unit to lead FAMLI IT project initiation and completion, program development, public outreach, and ongoing operations. The department will also hire two research analysts, one compliance specialist, and one claims examiner to assist with program development, including research and drafting of proposed administrative rules, write business processes and requirements, work with a vendor and contract IT project staff, and test FAMLI contributions and benefit IT components.
6. Three additional 0.50 FTE positions are needed starting January 1, 2026, including a supervisor, accounting technician, and a customer support agent, for the contribution's unit of the FAMLI unit. These FTE will support and educate employers and employees as they become subject to FAMLI assessments on July 1, 2026. They will also perform duties associated with filing and payment of the first quarter FAMLI contributions. The department assumes all FAMLI contribution payments will be electronic.
7. In FY 2027 the department requests an additional 22.50 FTE for a total of 29.00 FTE to run the FAMLI Unit. Starting July 1, 2027, the department will need to hire the remaining FAMLI unit staff to include two compliance specialists, five additional claims examiners, eight claims examiners, two collection agents, two fraud investigators, and two document imaging operators to begin adjudicating and paying benefits.
8. In FY 2028 and FY 2029 the department will maintain the 29.00 FTE to run the FAMLI Unit.
9. The DLI cost allocation plan is applied at 9.5% of personal services for FY 2026-2029. This equates to $109,017 in FY 2026, $217,324 in FY 2027, $220,892 in FY2028, and $219,476 in FY 2029.
10. One-time-only costs for each new FTE include $1,600 for office supplies/furniture and $1,200 for a computer for each employee. This equates to $22,400 in FY 2026, $58,800 in FY 2027.
11. Based on typical expenditures, the department estimates 13% of personal services expenses for items like telephone, copiers, scanners, utilities, minor equipment, supplies, technology costs, supplies etc. These expenditures are included in operating expenses and would total $149,182 in FY 2026, $297,390 in FY 2027, $302,274 in FY 2028 and FY 2029.
12. The department will need to secure additional space for the new work unit. Based on the General Services Division Real Property and Leasing analysis as of September 1, 2024. Rent in Helena is estimated at $24.00 per square foot. The department estimates 4,000 square feet for an annual cost of $96,000 each which is included in operating expenses.
13. One-time-only administrative rule-making costs estimated at $50,000 are included in operational expenses for FY 2026.
14. The department will work with the vendor of its Montana Unemployment Services Environment (MUSE) to execute a Statement of Work to develop the FAMLI IT system. DLI assumes the FAMLI rules are comparable to UI and the program is implemented into the existing UI system. The estimated IT costs for development of the contribution's component of FAMLI will be $4,000,000 and the benefits component of the FAMLI will be $10,000,000. This estimate is based on current completion of the UI contributions system and development of a new UI benefits system. The department assumes the work will be completed in FY 2026.
15. DLI estimates the yearly maintenance and support fee for the FAMLI contributions and benefits system to be $1,000,000. The annual maintenance fee is estimated based on the current UI system recently developed. The annual yearly cost would be $1,000,000 in FY 2027-2029.

16. Section 13 of SB 325 requires expenditures of 1% of each fiscal year's funds collected for family and medical leave insurance fund for public outreach. The department estimates $50,000 in public outreach expenses in FY 2026 and $15,000 in FY 2027, FY 2028 and FY 2029.
17. Per Section 4 of SB 325 the department will evaluate and determine on an annual basis the dollar amount of contributions needed to finance the FAMLI benefits program. This will require an annual actuarial analysis with an estimated cost at $50,000. This will ensure the FAMLI fund is actuarially sound, DLI will need to hire an actuary costing $50,000 in FY 2026-2029.
18. Section 3 of SB 325 requires funds be kept separate from other public money requiring a separate bank account. Based on the current UI bank account the average bank fees are $6,028 per month. DLI assumes an additional 40% increase in bank fees for the FAMLI account. It is estimated at $2,400 monthly. This is an estimate of $28,000 in operating expenses for each fiscal year FY 2026 – FY 2029.
19. With a new statewide program like FAMLI, the department estimates 4,368 hours of legal services will be required. The department's Legal Services Bureau charges each program a rate of $132 per hour, for expenses of $576,576 in FY 2026 - 2029

CENTRALIZED SERVICES DIVISION

20. In FY 2027, the department will need two 0.50 FTE in the Centralized Services Division.
21. A 0.50 FTE is needed for an accounting technician for the new FAMLI program to ensure compliance in accordance with the states accounting policies for the additional funds. The annual salary and benefits for this position are $41,323 in FY 2027, $42,054 in FY 2028, and $41,831 in FY 2029 in proprietary funding.
22. A 0.50 FTE is required for the Office of Administrative Hearings for an appeals attorney to cover the increase of appeals for the FAMLI program. The annual salary and benefits for this position is $55,854 in FY 2027, $56,860 in FY 2028, and $56,524 in FY 2029 in proprietary funding.
23. One-time-only operating expenditures for the two 0.50 FTE include $1,600 for office supplies and equipment and $1,200 for a computer per employee are included in FY 2027 for $5,600.

OFFICE OF LEGAL SERVICES

24. In FY 2026 the department will need 3.00 FTE for Offices of Legal Services. The increase in agency legal work for the FAMLI program cannot be absorbed by current agency legal staff. Therefore, the agency would need an additional 3.00 FTE for the Office of Legal Services, responsible for rulemaking, training, development of policies and procedures, and federal conformity with FMLA, HIPAA, ADA, and other requirements set forth in the bill. Attorney time will additionally take the shape of criminal prosecution for fraudulent claims for benefits. This is based on the time presently spent for unemployment insurance theft criminal prosecutions. Department legal services are funded through an internal service fund at an hourly rate of $132.00 charged to the programs. The additional 3.00 FTE will have an associated personal service cost of $387,468 in FY 2026, $387,468 in FY 2027, 384,640 in FY 2028 and $391,921 in FY2029 in proprietary funds.
25. Starting July 1, 2026, DLI will need to hire 1.00 FTE for a privacy/FAMLI analyst to perform a complete evaluation of the data system, data inventory, privacy analysis, and ongoing privacy assessments. The analyst annual salary and benefits would be $88,951 in FY 2027, $90,582 in FY 2028, and $89,989 in FY 2029. The total positions for FY 2027 would be 4.00 FTE for Offices of Legal Services.
26. DLI cost allocation plan is applied at 9.5% of personal services for FY 2026 – 2029. This equates to $42,540 in FY 2026 – 2029 in proprietary funding for the legal and compliance position.
27. One-time-only operating expenditures for the 4.00 FTE include $1,600 for office supplies and equipment and $1,200 for a computer per employee and are included in FY 2026 for $11,200.

Contribution (Revenue) Assumptions:

28. Employee and employer assessments will begin July 1, 2026, and will be due 30 days after each quarter ends.
29. The table in this assumption shows the annual contributions by business size, given the tax structure proposed by the bill. Average annual contributions are higher for employers with 16 employees since employers in this category pay 100% of their portion of the contribution. The contribution rate of 0.5% for employers with 16 or more workers on all wages up to $160,200 which is the 2023 contributions benefit per

42 U.S.C 430. Employers with 10-15 employees are assessed contribution rates of 0.4375% (employee share (.0025) +75% of employer share (0.0025*.75 = 0.001875), while employers with 10 workers or less are assessed a contribution rate of 0.375% (employee share (0.0025) +50% of employer share (0.0025*.5=0.00125) for all wagers below $160,200.

2023 Estimate of Contributions by Business Size With .5% Contribution Rate				
	10 or less	10 to 15	16 or more	Total
Workers	197,849	87,345	425,012	710,206
Avg. Contribution Per Worker	$111.00	$115.00	$159.00	$140.00
Total Annual Contributions	$21,961,239	$10,044,675	$67,576,908	$99,428,840

30. Using 2023 data as the basis, tax revenues are assumed to grow at the same rate as total wages provided by forecasts from SP Global. Given this growth, annual revenue would start being collected July 1, 2026, with total collections amounting to $119 million FY2027, $125 million in FY2028, $131 million in FY2029

Benefit Assumptions:

31. The department will begin to pay benefits to eligible covered individuals and employees whose work leave meets the requirements no sooner than thirty days after the commissioner declares the FAMLI fund is solvent. The department believes the fund will be eligible for benefit payments the final quarter of FY 2027. The fund will have received two quarters of revenue. It is estimated that in FY 2027 the revenue collected will be $119 million.
32. Uptake rates from other state programs suggest 2-5% of covered employment use state FMLA programs each year. This analysis assumes an average of 2.5% of covered employment uses FMLA each year across the forecast period.
33. The 2023 estimate of covered employment is used as the base period and the forecast period from 2024 to 2029 is forecasted using growth rates from SP Global's forecast of total non-farm employment.
34. The average weekly benefit is calculated as 1% of the annual average wage from the BLS Quarterly Census of Employment and Wages for 2023, then projected using growth in the average wage from SP Global.
35. The average duration of 10 weeks comes from analysis conducted by the Montana Budget and Policy Center as well as average benefit durations from the State of Massachusetts Paid Family and Medical Leave FY 2024 report.
36. Montana Budget and Policy Center data suggests 10.5 weeks would be the average given the durations experienced in California and New Jersey, while Massachusetts, which provides longer periods of benefits experiences an average duration of approximately 9 weeks over the last two fiscal years.
37. With the bill's effected date set at July 1, 2026, contributions will start being collected in FY 2027, and workers will not qualify for benefits until halfway through the year. The program will have its first full year of operation in FY 2028.

Total Benefits Estimate and Forecasted				
Fiscal Yar	Annual Paid Clients	Average Weekly Benefit	Duration (Weeks)	Total Benefits
FY2027	8,528	$572	10	$48,811,578
FY2028	14,739	$587	10	$86,500,969
FY2029	15,264	$607	10	$92,613,210
FY2030	15,316	$642	10	$98,372,959

Department of Administration

38. The total cost each year will vary depending on the number of eligible and participating employees and any statutory increases in pay.
39. The cost to the state can be decreased by electing to assess a portion of the contribution cost to the participating employees. However, the department cannot determine what the employee's proportional contribution would be.
40. If all eligible current state employees participate in the family and medical leave insurance program and if the state pays the full 1% of eligible wages to the family and medical leave insurance fund, then the estimated cost for FY 2027 would be approximately $8,740,993, FY 2028 would be $8,872,108, and FY 2029 would be $9,005,190. Employee wages for FY 2024 totaled $874,099,349 and are based off of a data report from the State Accounting, Budgeting, and Human Resources System (SABHRS).
41. This calculation does not include the Montana University System.
42. An inflation rate of 1.5% has been applied to FY 2028 and FY 2029.

Commissioner of Higher Education

43. SB 325 will have a fiscal impact for the Montana University System (MUS) based on the following assumptions:
    a. Applied the 1% for eligible employee's monthly wages for FY 2028.
    b. Applied 1.5% for eligible employee's monthly wages for FY 2028 and FY 2029.
    c. Assumptions are based upon an employer with 16 or more employees.

Secretary of State's Office

44. SB 325 requires the Office of the Secretary of State to notify each federally recognized tribal government in Montana. While there may be a minimal fiscal impact, the Office of the Secretary of State lcan perform the notifications with its existing operating budget.

Fiscal Analysis Table

Commissioner of Higher Education	**FY 2026 Difference**	**FY 2027 Difference**	**FY 2028 Difference**	**FY 2029 Difference**
Fiscal Impact				
Expenditures				
Transfers	$0	$206,248	$310,000	$310,000
TOTAL Expenditures	**$0**	**$206,248**	**$310,000**	**$310,000**
Funding of Expenditures				
General Fund (01)	$0	$206,248	$310,000	$310,000
TOTAL Funding of Expenditures	**$0**	**$206,248**	**$310,000**	**$310,000**
Revenues				
Net Impact to Fund Balance (Revenue minus Funding of Expenditures)				
General Fund (01)	$0	($206,248)	($310,000)	($310,000)

Department of Administration	**FY 2026 Difference**	**FY 2027 Difference**	**FY 2028 Difference**	**FY 2029 Difference**
Fiscal Impact				
Expenditures				
Personal Services	$0	$8,740,993	$8,872,108	$9,005,190
TOTAL Expenditures	**$0**	**$8,740,993**	**$8,872,108**	**$9,005,190**

Funding of Expenditures				
General Fund (01)	$0	$3,343,106	$3,393,252	$3,444,151
State Special Revenue (02)	$0	$2,659,566	$2,699,460	$2,739,952
Federal Special Revenue (03)	$0	$1,889,283	$1,917,622	$1,946,387
Other	$0	$849,038	$861,774	$874,700
TOTAL Funding of Expenditures	**$0**	**$8,740,993**	**$8,872,108**	**$9,005,190**
Revenues				
Net Impact to Fund Balance (Revenue minus Funding of Expenditures)				
General Fund (01)	$0	($3,343,106)	($3,393,252)	($3,444,151)
State Special Revenue (02)	$0	($2,659,566)	($2,699,460)	($2,739,952)
Federal Special Revenue (03)	$0	($1,889,283)	($1,917,622)	($1,946,387)
Other	$0	($849,038)	($861,774)	($874,700)

Department of Labor and Industry

	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
Fiscal Impact				
FTE	9.50	34.00	34.00	34.00
TOTAL Fiscal Impact	**9.50**	**34.00**	**34.00**	**34.00**
Expenditures				
Personal Services	$1,535,020	$2,861,212	$2,899,319	$2,890,452
Operating Expenses	$15,184,915	$2,387,230	$2,331,282	$2,329,866
Benefits	$0	$48,811,578	$86,500,969	$92,613,210
TOTAL Expenditures	**$16,719,935**	**$54,060,020**	**$91,731,570**	**$97,833,528**
Funding of Expenditures				
Other	$16,719,935	$54,060,020	$91,731,570	$97,833,528
TOTAL Funding of Expenditures	**$16,719,935**	**$54,060,020**	**$91,731,570**	**$97,833,528**
Revenues				
Other	$0	$119,677,099	$125,591,240	$131,351,761
TOTAL Revenues	**$0**	**$119,677,099**	**$125,591,240**	**$131,351,761**
Net Impact to Fund Balance (Revenue minus Funding of Expenditures)				
Other	($16,719,935)	$65,617,079	$33,859,670	$33,518,233

STATEWIDE SUMMARY

	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
Fiscal Impact				
FTE	9.50	34.00	34.00	34.00
TOTAL Fiscal Impact	**9.50**	**34.00**	**34.00**	**34.00**
Expenditures				
Personal Services	$1,535,020	$11,602,205	$11,771,427	$11,895,642
Operating Expenses	$15,184,915	$2,387,230	$2,331,282	$2,329,866
Benefits	$0	$48,811,578	$86,500,969	$92,613,210
Transfers	$0	$206,248	$310,000	$310,000

TOTAL Expenditures	**$16,719,935**	**$63,007,261**	**$100,913,678**	**$107,148,718**
Funding of Expenditures				
General Fund (01)	$0	$3,549,354	$3,703,252	$3,754,151
State Special Revenue (02)	$0	$2,659,566	$2,699,460	$2,739,952
Federal Special Revenue (03)	$0	$1,889,283	$1,917,622	$1,946,387
Other	$16,719,935	$54,909,058	$92,593,344	$98,708,228
TOTAL Funding of Expenditures	**$16,719,935**	**$63,007,261**	**$100,913,678**	**$107,148,718**
Revenues				
Other	$0	$119,677,099	$125,591,240	$131,351,761
TOTAL Revenues	**$0**	**$119,677,099**	**$125,591,240**	**$131,351,761**
Net Impact to Fund Balance (Revenue minus Funding of Expenditures)				
General Fund (01)	$0	($3,549,354)	($3,703,252)	($3,754,151)
State Special Revenue (02)	$0	($2,659,566)	($2,699,460)	($2,739,952)
Federal Special Revenue (03)	$0	($1,889,283)	($1,917,622)	($1,946,387)
Other	($16,719,935)	$64,768,041	$32,997,896	$32,643,533

Effect on County or Other Local Revenues or Expenditures

It is assumed that local government employers and employees would be subject to this act.

This bill may require local governments to spend additional sums for which no specific means of financing are provided. Section 1-2-114, MCA, provides that bills that have such an impact may not be introduced.

Technical Concerns

Department of Labor and Industry

1. The effective date of July 1, 2026, provides a short window for standup of a new program, staff onboarding, training, and technology standup.

Commissioner of Higher Education

2. In addition to impacting employees funded by current unrestricted operations of the MUS, approximately 49% of employees are funded by other sources such as auxiliary, restricted, or designated funds. Creating an additional fiscal impact to the MUS as noted in the table.

	FY 2026	FY 2027	FY 2028	FY 2029
Transfers	$0	$199,500	$285,000	$285,000
Other Fund Sources	$0	$199,500	$285,000	$285,000

3. The same assumptions were applied to this group of employees.

NO SPONSOR SIGNATURE 2/25

Sponsor's Initials Date

2/22/2025

Budget Director's Initials Date