

**Individual State Agency Fiscal Estimate  
November 8, 2007**

Bill Number: ESSSB 5659	Title: Family Leave Insurance	Agency: 540 Employment Security Department
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**Part I: Estimates**

Estimated Cash Receipts:

Cash receipts are not shown since, without a defined source, it is not known whether the revenue will be new or currently-collected revenue.

Estimated Expenditures for Base Scenario:

<b>Base Scenario</b>	FY08	FY09	2007-09	2009-11	2011-13
FTE Staff Years	5.0	27.0	16.0	49.5	48.1
<b>Fund</b>					
Family Leave Non-Appropriated	\$0	\$0	\$0	\$65,000,000	\$76,000,000
Family Leave - State	\$1,276,000	\$4,942,000	\$6,218,000	\$17,412,000	\$15,875,000
Total \$	\$1,276,000	\$4,942,000	\$6,218,000	\$82,412,000	\$91,875,000

Estimated Expenditures for Higher-than-Base Scenario:

<b>Higher-than-Base</b>	FY08	FY09	2007-09	2009-11	2011-13
FTE Staff Years	5.0	27.1	16.0	57.8	59.4
<b>Fund</b>					
Family Leave Non-Appropriated	\$0	\$0	\$0	\$90,600,000	\$106,500,000
Family Leave - State	\$1,276,000	\$5,127,000	\$6,403,000	\$19,750,000	\$19,044,000
Total \$	\$1,276,000	\$5,127,000	\$6,403,000	\$110,350,000	\$125,544,000

**Part II: Narrative Explanation**

This legislation established a Family Leave Insurance program that allows eligible employed applicants to bond with new biological or adopted children by providing temporary supplementary income. It is designed to complement state and federal family leave laws.

The benefit provides a maximum of \$250 per week, for up to five weeks, for applicants employed thirty-five hours or more each week. There is a waiting period of seven calendar days during which benefits are not payable. The legislation provides employment protection for applicants working for an employer with 26 or more

employees, requiring that an applicant applying and receiving Family Leave Insurance must be restored to a position of employment with the employer at the established ending date of the leave.

Funding for the program has yet to be determined, as well as which agency will assume operational responsibility. The legislation created a Joint Legislative Task Force to study and formulate recommendations to the Legislature by January 1, 2008. The task force dissolves July 1, 2009.

The Joint Legislative Task Force has requested that the Employment Security Department (ESD) provide cost estimates for development, implementation, administration, and benefit payments should the department be charged with operational responsibility.

ESD's cost estimates are based on a variety of assumptions. Because this program has never been implemented in Washington, and because there are a number of variables that could materialize in reality differently than assumed for cost-estimating purposes, the figures provided here are not definitive.

ESD's estimates are developed around two sets of participation-rate assumptions. The "base" scenario adopts Labor and Industry's (L&I's) estimated applicant rate and benefit costs and is highly correlated to California's experience with family leave.

For illustrative purposes, costs were estimated for a second scenario of claims' volume – a "higher-than-base" scenario – to test sensitivity of cost to volume. For this purpose, it was assumed that the initial claims load in FY10 would represent 37 percent of all births rather than the 27 percent assumed in the base scenario. Similar to the base, the claims grow at eight percent per year, ending the sixth year with more than half of the births in the state resulting in a claim being filed. Should the claims rate reach the higher level, it is useful to know the financial and operational costs of this significantly higher participation rate. Start-up and implementation costs are similar under both scenarios; however, throughout the document there are references to base and higher-than-base utilization and associated ongoing program-cost impacts.

Six-year costs are displayed for the period FY08 through FY13 to display start-up as well as operating expenditures. However, it is expected that the program will continue to mature for two years beyond that – through FY15 – and the increasing growth will be accompanied by increasing administrative costs as well.

Attached to this document are the following appendices:

- A. Potential Government Efficiencies
- B. Enforcement Assumptions
- C. Estimated Claims Volumes, Claims Counts and Claims Benefit Costs

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

**Section 4:** Establishes the Family Leave Insurance Program and provides that the department will:

- Establish and administer a Family Leave Insurance Program effective October 1, 2009.
- Pay insurance benefits to eligible employed applicants to bond with a new biological or adopted child.
- Establish procedures and forms for filing claims.
- Notify an employer within five business days of a claim being filed.
- Share information with ESD, subject to applicant consent. (This provision foresees disclosure by ESD on the apparent assumption that the Department of Labor and Industries or another state agency will administer the family leave program.)
- Execute a multi-lingual outreach program in English and other primary languages [as defined in RCW 74.04.025] to notify prospective applicants of the program benefits.
- Protect confidential applicant information. [Information in the files and records pertaining to an individual are confidential and not open to public inspection, other than to public employees in the performance of their duties; the applicant or an authorized representative, and the employer or the employer's representative in connection with a pending claim. The department has discretionary authority to allow other persons to review records when assisting the department during proceedings on any matter pertaining to the administration of this statute.]

**Section 5:** Provides that an employed new parent is eligible for benefits if he or she:

- Files a weekly claim for benefits, under rules established by the department.
- Has been employed at least 680 hours during the qualifying year.
- Establishes an application year.
- Consents to disclosure of information deemed confidential under the statute controlling privacy of records maintained by ESD. (This provision foresees disclosure by ESD to L&I on the apparent assumption in the legislation that L&I will administer the family leave program.)
- Discloses child support obligations.
- Documents notice of intention to take family leave to his or her employer [as required in RCW 49.72.250].

**Section 6:** Disqualifies an individual from receiving benefits for one year after misrepresenting facts to obtain Family Leave Insurance benefits.

**Section 7:** Defines maximum benefit payment and timing of payments as follows:

- Limits duration of benefits to five weeks in an application year.
- Creates a one-week waiting period before benefits become payable.
- Requires first payment within two weeks of the later of claim filing or leave beginning.
- Requires subsequent payments semi-monthly. (Claims are certified weekly.)

- Requires applicants to repay benefits if a timely appeal is filed with a decision that the payment was improper, and recoupment may be made from future payment due to the individual.
- Allows the director of the department discretion to waive repayment in whole or in part where the recovery would be against equity and good conscience.
- Directs the department to distribute payments of a deceased applicant according to a will or RCW 11.04.015 (intestacy statute).

**Section 8:** Defines determination of benefit level:

- \$250 per week for applicants regularly working 35 or more hours per week at the time of beginning family leave.
- An hourly rate equal to 0.025 times the maximum weekly benefit for applicants who were working more than 35 hours per week who take between eight and 35 hours family leave in a week.
- A prorated amount for applicants regularly working fewer than 35 hours per week.
- If an individual is eligible for benefits and discloses unpaid child support obligations, the department may withhold an amount from benefits consistent with RCW 50.40.050 (child support obligations' statutes).
- The applicant can elect to have federal income tax withheld by the department, if the Internal Revenue Service determines that benefits under this program are subject to federal tax.

**Section 9:** Requires the department to advise an individual that: benefits are subject to federal income tax (if determined by the Internal Revenue Service); they may elect to have federal withholding tax deducted from the benefits; and they are permitted to change a previously elected withholding status. The department must follow Internal Revenue Service procedures for deducting and withholding of income tax.

**Section 10:** Requires that an applicant who receives benefits to which he or she is not entitled due to error, willful misrepresentation, or rejection of claim after benefits are paid, the department shall seek repayment and penalize the applicant as required by RCW 51.32.240. Appeals are governed by Section 14 of the legislation.

**Section 11:** Requires the employer to restore the applicant to a position of employment as set out in the state family leave law if the employer employs 26 or more people and the applicant has worked for the employer for at least 1,250 hours in the previous 12-month period.

**Section 12:** Provides that, if spouses or people involved in a legal relationship governed by Title 26 RCW (domestic relations' statutes) work for the same employer, the employer may elect not to allow them to take concurrent family leave.

**Section 13:** Establishes elective coverage. Allows an employer or self-employed person not covered by this statute to:

- Elect coverage.
- Commit for a required initial three-year period and subsequent one-year periods.

- Notify the department of the coverage decision.
- Withdraw within 30 days after the end of the three-year period and potentially at other times, as allowed by rule.
- Notify employees of withdrawal within five days of filing notice.

**Section 14:** Provides an appeal process and defines the following rights of appeal for persons aggrieved by the department's decisions:

- An Administrative Procedure Act hearing with an Administrative Law Judge (ALJ) upon notice of appeal within 30 days after communication of an adverse departmental decision.
- Review by the director upon petition within 30 days after communication of the ALJ decision, with the possibility that the director may order additional evidence by the ALJ.
- The director may set aside the decision based on evidence presented to the ALJ and additional evidence.
- The director's decision is final and not subject to further appeal except upon petition for judicial review within 30 days after communication of the director's decision.
- Allows an ALJ or court to award reasonable attorney fees and costs to the prevailing party when a decision of the department is reversed or modified.
- Attorney fees and costs owed by the department are payable from the Family Leave Insurance Account.

**Section 15:** Prohibits discriminatory or retaliatory acts against a person who has filed or communicated to the employer an intent to file a claim, complaint or appeal, has testified or is about to testify, or has assisted with any proceeding related to family and medical leave insurance, including during the waiting period.

**Section 16:** Provides that family leave:

- Must be taken concurrently with any leave taken under the federal family and medical leave act of 1993.
- May be required by an employer to run concurrently with leave allowed under a collective bargaining agreement or an employer policy.
- Does not diminish an employer's obligation to comply with terms of a collective bargaining agreement or employer policy that provides greater leave for the birth or placement of a child.
- May not be diminished by a collective bargaining agreement adopted after the effective date of this section.
- Is not a right waivable by an employee.

**Section 18:** Authorizes the adoption of rules necessary to implement this legislation, provided they are consistent with the rules adopted to implement the federal family and medical leave act of 1993, to the extent the federal rules are not in conflict with the provisions of this legislation.

**Section 19:** Establishes the Family Leave Insurance account in the custody of the State Treasurer. Expenditures may be used only for the purpose of the Family Leave Insurance program and may be authorized only by the director of L&I or the director's designee.

**Section 22:** Authorizes the director of Labor and Industries to lend funds from time to time from the supplemental pension fund to the Family Leave Insurance account prior to July 1, 2009, if necessary for administration. The loan must be repaid within two years of the date of the loan including the proportionate share of earnings from pension fund investments.

**Section 23:** Amends RCW 51.44.033 to allow loans from the supplemental pension fund to the Family Leave Insurance account.

**Section 24:** Authorizes the Department of Labor and Industries to contract or enter into interagency agreements with other state agencies for the initial administration of the Family Leave Insurance program. This section expires October 1, 2011.

**Section 25:** Appropriates \$18 million from the Family Leave Insurance account for the biennium ending June 30, 2009 to L&I for initial administration of the Family Leave Insurance program.

**Section 26:** Requires an annual report to the legislature on program participation, premium rates, fund balances and outreach efforts, beginning September 1, 2010.

**Section 30:** Declares the effective date of the legislation as July 1, 2008.

## **II.B – Cash Receipt Impact, Start-up Loan, Assessed Premiums**

The source of revenue for this program is not yet determined. Cash receipts are not shown since, without a defined source, it is not known whether the revenue will be new or currently-collected revenue.

## **II.C – Expenditures**

The Family Leave Insurance Program will administer claims and pay benefits from the premiums collected and deposited into the Family Leave Insurance account. The account is subject to allotment procedures. An appropriation is required for administration expenses, but not for benefit payments which are non-appropriated.

### **II.C.1 Benefits Cost (non-appropriated):**

Each agency planned and budgeted for benefit costs. L&I staff provided actuarial analysis behind caseload numbers based in large part by looking to California to build assumptions

about claim volumes. ESD reviewed the work that L&I had done and provided input. The departments used the following assumptions related to benefit costs:

Item	Assumption <sup>1</sup>
Average duration of family leave for claims filed by <u>female</u> parents	4.6 weeks <sup>2</sup>
Average duration of family leave for claims filed by <u>male</u> parents	3.7 weeks
Average number of weeks eligible recipients will claim	4.21 weeks
Average weekly benefit	\$242.32
Eligible and qualified applicants	74,925
Take up rate – annual increase	8 percent <sup>3</sup>

### Estimated Claims Volumes, Claims Counts and Claims Benefit Costs

Using analysis and assumptions from Labor & Industries and relying on experience of the California program, the following claims and benefit payouts are estimated:

#### Base scenario<sup>4</sup>

	2010	2011	2012	2013	2014	2015
Births	92,441	94,114	95,705	97,380	98,880	99,866
Claim Counts	25,700	27,700	29,900	32,200	34,900	37,700
Percentage of Parents using the Program <sup>5</sup>	27%	29%	31%	33%	35%	37%
Benefit Outlays	\$31.3 M	\$33.7 M	\$36.6 M	\$39.4 M	\$42.6 M	\$46.1 M

### **II.C.2 Family Leave Insurance Program Implementation costs (appropriated):**

This section is organized into the following sub-sections:

1. Information Technology (IT) systems-development costs
2. Program start-up costs
3. Ongoing program-operations costs
4. Administrative services: start-up and ongoing costs

<sup>1</sup> Assumptions for benefit costs were used by both departments.

<sup>2</sup> Claim duration benefits were based on California's weekly duration data, with the benefit limited to the 5 week Washington family leave insurance program. The estimated claim benefit costs assume no inflationary change in benefits, consistent with OFM policy for fiscal note development.

<sup>3</sup> Eight percent is the growth rate anticipated per year growth in program participation each of the first six years. The takeup rate increases 8 percent per year from a first year rate of 68.058 percent.

<sup>4</sup> Not included in the claims count are an additional twelve percent of claims which are assumed to be denied and therefore, not counted in the caseload assumptions throughout the documents.

<sup>5</sup> These percentages represent total births in the state; a number of parents may not meet eligibility requirements (for example, a mother who has not been employed in the past year) and therefore, would not be eligible to receive family leave insurance benefits.

A summary of the major categories of start-up and ongoing costs is below. The remainder of the document contains more detailed descriptions of the methodology used, and the cost estimates for the various components.

<b>Base Start-up Costs (\$ in thousands)</b>	<b>FY08</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>
IT staff (development, testing, warehouse)	\$110	\$1,089	\$1,089	\$102	\$0	\$0
IT contract project manager & QA consultant	234	873	1,655	0	0	0
IT equipment	0	1,139	0	0	0	0
Family-leave program planning staff	203	714	311	0	0	0
UI staff assistance	55	102	28	0	0	0
Rulemaking & policy	0	238	0	0	0	0
One-time printing	0	44	0	0	0	0
Start-up communications and outreach	49	172	671	0	0	0
One-time facilities' costs	559	0	0	0	0	0
Indirect-cost allocation	66	298	228	14		
<b>Totals:</b>	<b>\$1,276</b>	<b>\$4,669</b>	<b>\$3,982</b>	<b>\$116</b>	<b>\$0</b>	<b>\$0</b>

<b>Base Ongoing Costs (\$ in thousands)</b>	<b>FY08</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>
IT staff (on-going maintenance)	\$0	\$0	\$0	\$404	\$404	\$404
IT fraud detection, collection	0	0	0	267	267	267
IT equipment maintenance	0	0	376	376	376	376
Data sharing and transactions	0	0	12	12	12	12
Claims handling and document management	0	29	1,871	2,020	2,136	2,258
Phones and language lines	0	0	131	143	157	172
Enforcement of employment standards	0	0	413	397	493	489
Investigations and collections	0	0	140	142	154	166
Printing and mailing	0	7	521	480	511	543
Attorneys' fees	0	0	1,950	2,097	2,254	2,418
Communications and outreach	0	0	25	348	348	348
Treasury	0	0	36	44	44	44
Rent and utilities	0	233	233	233	233	233
Indirect-cost allocation	0	4	277	366	368	388
<b>Totals:</b>	<b>\$0</b>	<b>\$273</b>	<b>\$5,985</b>	<b>\$7,329</b>	<b>\$7,757</b>	<b>\$8,118</b>

<b>Total Base Costs (\$ in thousands)</b>	<b>FY08</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>
Start-up (all years = \$10 million)	\$1,276	\$4,669	\$3,982	\$116	\$0	\$0
Ongoing	0	273	5,985	7,329	7,757	8,118
<b>Totals:</b>	<b>\$1,276</b>	<b>\$4,942</b>	<b>\$9,967</b>	<b>\$7,445</b>	<b>\$7,757</b>	<b>\$8,118</b>



### ***1. Information Technology (IT) systems-development costs:***

ESD estimates approximately 60,000 hours of development effort will be needed to build and implement a system to accept claims, process verifications and pay program benefits to Family Leave Insurance applicants. The development effort would use both contractors and ESD development staff. The target completion date for the system is October 1, 2009 – including time for final beta testing and implementation by the legislatively-required start date for benefit payments to Family Leave Insurance applicants. The work must begin January 1, 2008. Even with this start date, there is a high risk the work effort could not be completed on time. The project plan allows for 10.25 IT FTEs to work exclusively on development during the project phase. Ongoing support of the applications would require 3.75 IT FTEs for application and hardware support after implementation. The project would utilize contractors for overall project management and to supplement ESD staff.

#### *Implementation details:*

- The scope of the benefit payment system proposed excludes a medical claim component. The system scope is limited to claims processing, benefit determination, payments, and fraud detection/collections.
- The business model used by ESD to implement the program will be based partially on the California Family Leave Program. In California, applicants submit an application form and specific documents identified on the form. Upon receipt of the application, the information is scanned into a database to create an applicant record using optical character recognition (OCR) software. Verification of information is completed by automation and staff review and a new claim is approved. Applicants receive semi-monthly benefits and may request additional semiweekly benefits through on-line systems or telephone, according to program rules. Applicants may receive their benefits through direct deposit.
- Ongoing claims will be supported using an Interactive Voice Response (IVR) system. This service will be set up using the state shared IVR service provided by the Department of Information Services (DIS). The system will use a custom IVR application that allows applicants to call in to the system to request continuing claims each week.

#### *Assumptions:*

- New claims will be received at an average rate of 100 to 175 claims per day.
- ESD's cost analysis does not consider collecting any taxes; it includes costs to provide the benefit portion of the program only.
- The estimate includes a fraud detection and collections system.
- Family Leave Insurance applicants will submit weekly continued claims for benefits. (Claims are paid semi-monthly but are certified weekly.)
- The system must be fully operational to provide basic functions by October 1, 2009. (This date is a concern for IT staff.)
- Applicants may receive their benefits through direct deposit.

- Existing systems will be used to obtain required verification data and to process payments where possible.
- One-time equipment purchases would be made in 2008 to build required infrastructure for the system.

*Information Technology fiscal impact:*

The estimated fiscal impact of IT systems' development is presented in the following four tables:

- Table 1 – IT systems development hours
- Table 2 – Required systems development FTEs and costs
- Table 3 – Initial equipment and software purchases
- Table 4 – Ongoing hardware, software, and telephone costs

<b>Table 1 – IT Systems Development Hours</b>		
<b>System/function</b>	<b>Description</b>	<b>Estimated Hours</b>
Project start-up and planning	Project management planning, project charter, scope, project-management processes and staffing	190
Requirements and design	Defining the system and design. Includes use cases, functional requirements, business and technical design, data modeling and data source identification.	7,973
Prepare development, test infrastructure	Setting up servers and equipment for development and test platforms; defining database.	4,784
Imaging	Creating stores, indexes, and providing a means of viewing images of signed documents. Establishing the database, plus application development.	2,280
Requesting/receiving a claim for benefit	Enabling the request of family leave insurance benefits.	480
Customer authentication and verification	Entering authentication; includes introduction of documents for imaging and notification letters	2,800
Eligibility	Interacting with interfaces to examine eligibility; verifying employment requirements; determining if there are obligations to support enforcement; passing data to Office of Special Investigations.	2,800
Continued claims	Handling continued weekly claims for benefits.	1,440
Payments	Making benefit payments; allocate, obligate, and pay benefits. Maintains financial records and and mails benefit checks. Provides direct-deposit option.	3,600
Exceptions and denials	Providing mechanism for handling denial of benefits; includes written correspondence with applicants and fraud detection/collections.	640
Fraud; collection and oversight	Developing fraud detection and collection system for overpayments.	4,160
Testing and implementation	Testing and implementation of automated systems.	4,383
Contractor hours	Project manager, QA manager, IVR development, direct deposit, fraud detection/collection, programming	24,581
<b>Total estimated work hours</b>		<b>60,111</b>

<b>Table 2 - Required Systems Development FTEs and Costs</b>						
	FY08		FY09		FY10	
<b>Staff</b>	<b>FTEs</b>	<b>Dollars</b>	<b>FTEs</b>	<b>Dollars</b>	<b>FTEs</b>	<b>Dollars</b>
ITS6-Developer/DBA	0.5	\$ 59,945	2.0	\$ 245,320	2.0	\$ 245,320
ITS4-Application developer	0.5	50,275	5.0	511,861	6.0	613,683
ITS4-Server support	—	—	2.0	204,194	1.0	102,372
ITS4-Application tester	—	—	1.0	102,372	1.0	102,372
ITS4-Data warehouse	—	—	0.3	25,456	0.3	25,456
Project manager	—	130,000	—	260,000	—	260,000
Quality assurance consultant	—	—	—	105,000	—	105,000
Contract programmer	—	104,000	—	154,000	—	—
Equip. & maintenance	—	—	—	1,139,000	—	—
Interactive voice response system	—	—	—	76,800	—	40,440
Data sharing	—	—	—	26,862	—	—
Imaging	—	—	—	200,000	—	—
Direct deposit development	—	—	—	50,000	—	—
Fraud detection	—	—	—	—	—	750,000
Collection	—	—	—	—	—	500,000
<b>Total annual</b>	<b>1.0</b>	<b>\$ 344,220</b>	<b>10.3</b>	<b>\$3,100,865</b>	<b>10.3</b>	<b>\$2,744,643</b>
<b>Three-year grand total</b>						<b>\$6,189,728</b>

<b>Table 3 - Initial Equipment and Software Purchases</b>		
<b>Description</b>	<b>Cost per year</b>	<b>Total</b>
<u>Windows Servers:</u>		
2 application servers	\$16,500	\$33,000
2 SQL servers clustered	27,500	55,000
1 development SQL server	27,500	27,500
1 Web server	11,000	11,000
1 FAX server	16,500	16,500
1 Web app development server	11,000	11,000
1 SCAN capture W2K3 server	44,000	44,000
3 pre-production development servers	16,500	49,500
		247,500
<u>Disk storage array:</u>		
2 database and on-line retrieve	79,200	158,400
1 IDM-type legal storage	105,600	105,600
1 additional storage expansion	11,000	11,000
		275,000
<u>Licensing:</u>		
3 SQL full license	11,000	33,000
11 OS licenses	1,700	18,700

1 batch printer	5,900	5,900
Optical licensing & operating	88,000	<u>88,000</u>
		145,600
<u>Specialized equipment:</u>		
2 high-speed scanners	3,300	6,600
2 fax boards for fax server	4,400	8,800
1 specialized software	5,500	<u>5,500</u>
		20,900
<u>Imaging system and database storage:</u>		
1 imaging software	58,300	58,300
1 storage CD	84,700	84,700
Content management	20,000	20,000
1 media system disk storage	287,000	<u>287,000</u>
		450,000
<b>Total one-time equipment and software</b>		<b>\$1,139,000</b>

<b>Table 4 - Ongoing Hardware, Software, and Telephone Costs</b>	
Description	Annual Cost
Hardware and software maintenance	\$375,800
Interactive voice response (IVR) service fee	17,000
Collection system/fraud maintenance	250,000
Data sharing/transaction costs	12,200
<b>Total annual ongoing</b>	<b>\$655,000</b>

*Six-year IT impact summary – one-time and ongoing costs:*

One-time (FY08-10)	\$6,190,000
<u>Ongoing (FY11-13)</u>	<u>\$3,668,000</u> (operations)
Total IT costs – six years	\$9,858,000

NOTE: The cost estimates shown above assume the “base” scenario. The higher-than-base estimate of total claims would increase one-time costs by \$148,000 and increase ongoing cost total by \$139,000. The increases are related to higher costs for the imaging system and data storage needs.

## **2. Program start-up costs**

Regardless of whether the “base” or “higher-than-base” utilization assumptions are used, program start-up costs will be the same in either scenario, with the exception of the additional IT costs for imaging and storage noted above.

### **(a) Program planning and preparation staff**

Program development staff would be hired at the beginning of the project and work full-time until implementation. Training staff would be added toward the end of the planning period and work until program launch.

*Program planning staff assumptions:*

- Project manager - exempt
- Assistant project manager
- Documentation specialist - maintain the budget, project schedule, and document work products
- Three business analysts and one policy analyst - define and document the work flows of the new processes; document the business requirements for the information technology solutions; work with IT staff on validating the technical design; and work with IT staff to test the IT solutions prior to production; identify policy and procedure issues and concerns; and assist with writing business procedures for the operational unit. Once these resources are hired, they would work full-time until implementation.
- Administrative assistant –general support and administration to the program.
- Training staff.

*Training assumptions:*

- It is assumed one trainer would be hired in April 2009 and would remain through October 31, 2009. (0.25 FTE for FY09 and 0.33 FTE for FY10)
- The following areas would require staff training: initial claims, continued claims, question calls, adjudication, and appeals; aspects of the law; business processes and technology necessary to implement the law.
- All program staff would receive training on the law and the process of reviewing applications.
- Support staff would handle appeals.
- Eleven maximum trainees per session.
- Basic training session would be three days; adjudication training would require one additional day. Training for appeals would take two hours.

*TeleCenter staff training assumptions:*

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

*One-time fiscal impact of program planning and preparation staff:*

	FY08	FY09	FY10	3-Year Total
FTEs	2.0	7.4	3.2	
Salaries	\$141,000	\$493,000	\$215,000	\$849,000
Benefits	42,000	148,000	64,000	254,000
Goods & services	20,000	73,000	32,000	125,000
	\$203,000	\$714,000	\$311,000	\$1,228,000

**(b) Unemployment insurance implementation staff**

Beginning in January of 2008, experienced program staff will be needed to help with implementation of this legislation. Because these staff members are currently employed in the unemployment-insurance (UI) program, and must keep their time and charges separate for the purpose of complying with dedicated federal fund requirements, these staff-hours are displayed separately. The staff will aid in completing assignments and attend weekly work sessions and update meetings. It is estimated that each FTE will spend three hours per week in work sessions and updates; 20 hours per year in FY08, 40 hours per year in FY09, and 10 hours per year in FY10 for assignments.

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

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

*One-time fiscal impact of UI staff assistance:*

	FY08	FY09	FY10	3-Year Total
FTEs	0.5	1.0	0.3	
Salaries	\$38,000	\$71,000	\$19,000	\$128,000
Benefits	11,000	21,000	6,000	38,000
Goods & services	6,000	10,000	3,000	19,000
	\$55,000	\$102,000	\$28,000	\$185,000

**(c) Rulemaking & Policy**

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

- 1 WMS2 full-time from 01/01/08 to 12/31/08
- 1 court reporter; \$265 per hearing x 6 hearings = \$1,590
- Transcriptions; \$4.50 per page x 75 pages = \$337.50 x 6 hearings = \$2,025
- Travel for 6 hearings at approximately \$125 per hearing = \$750
- Cost to print 150 copies of the regulations and policies \$552
- Mailing Costs (150 copies x 6 hearings) x (2/3 to be mailed) x \$0.41 = \$246

Beginning in January of 2009, staff will be needed to analyze, design, develop and publish policies, procedures, forms, booklets, laws and rules. These staff members will also work on business design and system testing.

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

*One-time fiscal impact of rulemaking and policy:*

	FY08	FY09	FY10	3-Year Total
	0.0	2.6	0.0	
Salaries	\$0	\$161,000	\$0	\$161,000
Benefits	0	48,000	0	48,000
Goods & services	0	28,000	0	28,000
	\$0	\$238,000	\$0	\$238,000

**(d) One-time printing**

It is assumed that there will be initial mailings to active Washington state employers, informing them of the new Family Leave Insurance program. This mailing would occur after January 2009 and is expected to cost approximately \$44,000.

**3. Ongoing program-operations costs:**

**(a) Claims handling and document management**

*Application process:* Operationally, it is expected applicants would have the ability to file family-leave claims in two ways: over the internet and by paper. Applications could be submitted by mail, FAX (or e-mail), or through ESD's online filing system. Paper forms will need to be scanned with optical character recognition (OCR) software into a database to create an applicant record. If unable to utilize OCR, information will need to be manually entered into the database. It is not expected that claims would be received over the phone since that option would add 15 minutes per claim to the processing time.

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

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

**Monetary determination:** The claims taker will review the applicant's base-year wages/hours or initiate a request for wages/hours data from other state, federal or military employers if applicable. The system will issue a monetary determination to be mailed to the applicant. The monetary determination will display wages/hours for the base period (qualifying year) and calculate the average number of hours-per-workweek that an individual worked in the highest two quarters of wages. The monetary determination will provide estimated weekly benefit amounts for various leave amounts taken. If federal, military, or out-of-state wages have been requested, a preliminary monetary determination will inform the applicant that wages/hours have been requested. A final monetary determination will be issued after requested wages/hours have been reported. Monetary determinations must also state why an applicant is not eligible, if applicable, and provide appeal rights and appeal instructions. Applicants have a right to request corrections to wages/hours and can appeal a monetary denial (e.g., fewer than 680 hours worked during qualifying year).

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

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

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



**Weekly certifications:** It is assumed that weekly claims will be able to be made via IVR (telephone), the internet, or by mail. IVR and internet weekly claims will process into the payment system automatically. The department will strive to enter paper claims with optical character recognition (OCR) technology; however these documents will need to be reviewed for accuracy and, in some cases, may need to be entered manually. Applicants will be required to file weekly claims to certify their “inability to perform regular or customary work due to bonding with biological or adoptive child,” as well as certify the number of hours-per-week of family leave being claimed. The first seven calendar days of family leave taken in an application year are not payable and are considered the waiting period. The maximum number of weeks that benefits are payable during an application year is five. If the applicant chooses to file using the IVR or the Internet he or she will receive a benefit check and the department will assume the individual will continue to file this way. If the applicant files using a weekly paper claims form, the applicant will receive, along with the benefit check, a new claims form to fill out for the following week.

**Benefit payments:** Hard checks will be issued and mailed to applicants the day after the weekly claim is entered into the system. Direct-deposit transactions will occur the day after the weekly claim is entered into the system (if claimants are paid weekly rather than bi-monthly). Payments will be based on the number of leave hours on weekly certification. Payments will be automatically reduced for the following reasons: IRS deduction, overpayment offset, or Office of Support Enforcement reduction.

**Appeals:** Requests for appeals, along with supporting documents, will be mailed or FAXed to the department and will be indexed and scanned into the department’s imaging system. Office support staff will gather supporting documentation and file the appeal with the Office of Administrative Hearings on behalf of the applicant or employer. All interested parties will be mailed notification that an appeal has been filed, along with copies of supporting documentation.

The following FTEs and dollars are estimated to implement this process:

Base scenario: from \$29,000 in FY09 to \$2,258,000 in FY13. (Figures do not include the department’s indirect charge.)

- 1 Deputy Assistant Commissioner to administer the program
- 1 office manager
- 1 unit supervisor
- 1 unit lead
- 1 secretary senior
- 1 office assistant 2
- 12.0 to 13.9 FTEs: Unemployment Insurance Specialists to process paper applications and weekly claims, including some that result in an eligibility determination. These positions will also answer questions from applicants and inform applicants once decisions have been made on the claims.

- 4.5 to 5.3 FTEs: Office Assistants to process appeal requests, scan documents received with filed applications, with weekly benefit claims, and appeal information. Office assistants will also scan and index non-optical character recognition (OCR) documents and review OCR'd documents for accuracy – correcting them when needed and hand-entering those that are unreadable.
- 0.5 FTE: Employment Security Program Coordinator 2 for training, beginning in FY11 (on-going).
- 2.6 to 3.0 FTEs: Tax Specialists to review cases of missing or incorrect wage reports for qualifying with 680 hours and where the applicants are self-employed to determine eligibility.
- \$131,000 to \$172,000 in language-line telecommunication costs (includes SCAN and 1-800) for inbound and outbound calls.

*Ongoing fiscal impact of claims management (base scenario):*

	FY08	FY09	FY10	FY11	FY12	FY13
FTEs	0.0	0.2	24.6	26.6	28.3	30.0
Salaries	\$0	\$21,000	\$1,256,000	\$1,354,000	\$1,432,000	\$1,512,000
Benefits	0	6,000	377,000	406,000	430,000	454,000
Goods & services	0	2,000	369,000	403,000	431,000	464,000
	\$0	\$29,000	\$2,002,000	\$2,163,000	\$2,293,000	\$2,430,000

Higher-than-base scenario: from \$29,000 in FY09 to \$3,215,000 FY13. (These numbers do not include the department's indirect charge.)

- 1 Deputy Assistant Commissioner to administer the program
- 1 office manager
- 2 unit supervisor; 2 unit leads
- 1 secretary senior
- 5.2 to 6.8 FTEs: Office Assistants, duties as above
- 14.6 to 19.2 FTEs: Unemployment Insurance Specialists, duties as above
- 0.5 FTE: Employment Security Program Coordinator for training beginning in FY11 (on-going).
- 2.8 to 3.7 FTEs: Tax Specialist, duties as above.
- \$185,000 to \$243,000 in language-line telecommunication costs (includes SCAN and 1-800) for inbound and outbound calls.

*Ongoing fiscal impact of claims management (higher-than-base scenario):*

	FY08	FY09	FY10	FY11	FY12	FY13
FTEs	0.0	0.2	30.6	33.4	36.0	39.7
Salaries	\$0	\$21,000	\$1,556,000	\$1,688,000	\$1,807,000	\$1,990,000
Benefits	0	6,000	467,000	507,000	542,000	597,000
Goods & services	0	2,000	482,000	527,000	571,000	628,000
	\$0	\$29,000	\$2,505,000	\$2,722,000	\$2,921,000	\$3,215,000

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

**(b) Enforcement of employment standards**

ESD does not currently have an employment-standards' enforcement function. Unemployment Insurance Tax staff audit employers for reporting and payment of taxes but not for complaints of discrimination, compliance with the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, or the like. L&I's Employment Standards Program in the Specialty Compliance Services Division has this core competency. This fiscal assessment relies on L&I assumptions to estimate the cost of this program if implemented within ESD.

The L&I Employment Standards Program in the Specialty Compliance Services Division is charged with handling the complaints related to this proposed law. They expect complaints in two categories:

- Benefits not received as allowed under the law – Based on labor statistics, it is estimated there are approximately 200,000 employers in the state. It is also assumed that the majority of employers – 99 percent – will comply with the law. At the one percent non-compliance rate, it is expected that 2,000 complaints will be filed. It is further assumed that 99 percent of these complaints will be resolved by action of the L&I agent, and 1 percent or 20, will move on to litigation.
- Job discrimination – These complaints include loss of job or demotion when family leave is used. It is expected the majority of these complaints will be generated from small businesses which make up approximately half of the state's employers or 100,000 employers. Assuming a 99-percent compliance rate, an additional 420 complaints can be expected to be filed with the department. These could be related to job discrimination, denial of family leave, and denial of employment after taking leave. Consistent with the assumptions above, 99 percent of these will be resolved through L&I and one percent (an estimated 10 complaints) will move on to litigation.

To handle the expected workload of 420 family leave complaints annually, the Employment Standards program will need five FTEs:

- One Industrial Relation Agent 2 (IRA2) starting July 1, 2009;
- One Industrial Relation Agent 2 (IRA2) starting July 1, 2011;
- One Industrial Relations Agent (IRA3) assigned in the field. The Industrial Relations Agent 3 will also help develop policies and rules, provide consultation with the field staff, training and outreach.
- Two Customer Service Specialist 2s (CSS2) to assist in complaint intake, handling, and processing functions.

*Ongoing fiscal impact – enforcement of employment standards:*

	FY10	FY11	FY12	FY13
Enforcement FTE's	3.5	4.0	5.0	5.0
Total Cost (per L&I)	\$413,000	\$397,000	\$493,000	\$489,000

**(c) Investigations and collections:**

Estimates of the costs of fraud investigation and collections are based on experience with the unemployment-insurance program.

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

Collections: An overpayment can result for a number of reasons. One example would be failure to report wages upon return to work. The processes used to retrieve this money: billing statements will be sent to applicants immediately after the overpayment becomes active. If a applicant fails to reimburse the department for the overpayment ESD will move to a 90-day process. This process will allow the department to file a superior court warrant providing permission to garnish wages and bank accounts. ESD has several skip-tracing websites and cross-matches available to that are used to locate applicants' assets. Finally the department has a predictive dialer that is used to call applicants whose accounts have been identified as past due (assuming the legislation gives the department the needed authority).

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

<b>Investigations &amp; Collections – Assumptions for Base</b>				
FTEs	FY10	FY11	FY12	FY13
Fraud and collections FTEs	1.2	1.3	1.4	1.5
Support FTEs	0.5	0.6	0.6	0.7

Total FTEs	1.7	1.9	2.0	2.2
Applicants	25,700	27,700	29,900	32,200
Fraud cases	129	139	150	161
Non-fraud cases	1,061	1,148	1,239	1,330
Total cases	1,190	1,287	1,389	1,491

*Ongoing fiscal impact of investigations and collections (base scenario):*

	FY08	FY09	FY10	FY11	FY12	FY13
FTEs	0.0	0.0	1.7	1.9	2.0	2.2
Salaries	\$0	\$0	\$97,000	\$95,000	\$103,000	\$111,000
Benefits	0	0	26,000	29,000	31,000	33,000
Goods & services	0	0	17,000	18,000	20,000	22,000
	\$0	\$0	\$140,000	\$142,000	\$154,000	\$166,000

<b>Investigations &amp; Collections – Assumptions for Higher-than-Base</b>				
FTEs	FY10	FY11	FY12	FY13
Fraud and collections FTEs	1.5	1.7	1.8	2.0
Support FTEs	0.6	0.6	0.7	0.7
Total FTEs	2.1	2.3	2.5	2.7
Applicants	34,580	37,960	41,600	45,500
Fraud cases	173	190	208	228
Non-fraud cases	1,429	1,569	1,718	1,883
Total cases	1,602	1,759	1,926	2,111

*Ongoing fiscal impact of investigations and collections (higher-than-base scenario):*

	FY08	FY09	FY10	FY11	FY12	FY13
FTEs	0.0	0.0	2.1	2.3	2.5	2.7
Salaries	\$0	\$0	\$105,000	\$115,000	\$126,000	\$138,000
Benefits	0	0	31,000	35,000	38,000	41,000
Goods & services	0	0	20,000	21,000	24,000	26,000
	\$0	\$0	\$156,000	\$171,000	\$188,000	\$205,000

**(e) Printing and mailing**

*Brochures:*

Brochures would be needed in the following languages: English, Spanish, Chinese, Laotian, Vietnamese, and Cambodian. It is assumed that each year additional brochures would be printed. In the base scenario, it is estimated that 36,000 brochures would be reprinted annually (31,500 in English; 3,500 in Spanish; 1,000 in four other languages). For the higher-than-base estimate, a total of 51,500 will be reprinted each year (45,000 in English; 5,000 in Spanish; 1,500 in four other languages).

English:

31,500 brochures = \$4,500

45,000 brochures = \$5,500

Spanish:

3,500 brochures = \$1,500

5,000 brochures = \$1,800

Other languages:

1,000 brochures = \$1,000 (250 brochures in each language)

1,500 brochures = \$1,100 (375 brochures in each language)

Total:

36,000 brochures = \$7,000

51,500 brochures = \$8,400

*Applications:*

Applications and weekly-claims forms will be available three ways: on-line filing, Portable Document Format (PDF) printable files, and paper copies. The benefits application and the weekly claim forms will need to be printed in both English and Spanish for those applicants who choose not to file on-line. It is assumed that 10 percent of applicants would be Spanish-speaking, therefore 10 percent of the paper applications will be in Spanish and the remaining 90 percent of the paper applications would be in English. (Applicants who speak other languages would need to use the English form.) The cost for translating both the applications and the weekly-claims forms into Spanish is estimated to cost \$525 for each.

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

Estimate for printing paper applications (two sheets, four-sided, stapled):

1,000 English	\$147
<u>100 Spanish</u>	<u>74</u>
Total	\$221

Printing all applications:

Base scenario: from \$3,850 in FY09 to \$4,780 in FY13.

Mailing paper applications:

Base scenario: from \$6,610 in FY09 to \$8,720 in FY13.

*Weekly claim form:*

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

printing it from the on-line PDF file, picking up a copy at an ESD location, or by calling and requesting that a form be mailed.

Estimate for printing paper weekly-claim form (one sheet, two-sided):

1,000 English	\$74
<u>100 Spanish</u>	<u>37</u>
Total	\$111

Printing all weekly-claim forms:

Base scenario: from \$1,780 in FY09 to \$1,800 in FY13.

High-than-base scenario: from \$2,300 in FY09 to \$2,560 in FY13.

Mailing paper weekly-claim forms:

Base scenario: from \$5,000 in FY09 to \$6,600 in FY13.

High-than-base scenario: from \$7,100 in FY09 to \$9,300 in FY13.

*Benefit checks:*

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

Mailing benefit checks:

Base scenario: from \$85,000 in FY10 to \$112,000 in FY13.

High-than-base scenario: from \$120,300 in FY10 to \$158,300 in FY13.

*Additional mailings:*

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

Mailing additional documents:

Base scenario: from \$36,600 in FY10 to \$48,300 in FY13.

High-than-base scenario: from \$51,800 in FY10 to \$68,100 in FY13.

**(f) Legal costs**

Legal costs were estimated through coordination with L&I for assumptions on the number of appeals that are estimated to be filed. It is agreed that approximately 2.7 percent of all claims filed would result in an appeal to the Office of Administrative Hearings (OAH). This represents approximately one-fifth of the appeals that occur in the unemployment-insurance program.

To calculate costs, it is assumed that each appeal will cost \$484 at OAH. It is further assumed that the department would require an Assistant Attorney General's (AAG's) representation on each of the appeals at OAH since, if the department were to lose the

case, it would be faced with paying legal costs at a rate that could be five times the benefit amount owed to the applicant. It is assumed that each AAG would handle a workload of approximately 325 cases a year at a yearly cost of \$208,000 (approximately \$17,300 a month per FTE). One paralegal from the AAG's staff, costing a total of \$96,000 a year, would be permanently assigned to this task.

Approximately 10 percent of the cases reviewed by OAH would seek second-level review with the Commissioner. This is a similar appeals rate that ESD experiences with UI claims, which have an appeal process through OAH. Approximately 10 cases per year would proceed to superior court. AAG costs for Commissioner's level review will be similar to costs at OAH and each case at superior court will cost \$1,000 per case.

Included in the legal-cost estimate is the potential cost of attorney fees that can be set by an Administrative Law Judge (ALJ), as provided in the current language of the bill. It is the assumption that, in 20 percent of the cases at OAH, an ALJ either will reverse or in some way amend the department's decision. In each of those cases the ALJ may award attorney's fees.

The estimate includes attorneys' fee costs based on 32 hours of preparation, plus four hours of hearing at \$160 per hour (\$5,760 per case). The hourly rate is the average the state currently pays when paying opposing council's legal fees. The following is the estimate of the legal costs, including the potential award of attorneys' fees:

*Ongoing fiscal estimate of legal costs (base scenario):*

<b>Legal Costs - Base Scenario</b>				
	FY10	FY11	FY12	FY13
Number of appeals	788	851	918	988
Cost per appeal at OAH	\$484	\$484	\$484	\$484
OAH cost	\$381,392	\$411,884	\$444,312	\$478,192
Number of AAG FTEs needed	2.4	2.6	2.8	3.0
AAG cost at OHA	\$600,320	\$640,640	\$683,520	\$728,320
Cases at Commissioner's review	79	85	92	99
AAG FTEs	0.2	0.3	0.3	0.3
Cost of Commissioner's review	\$50,432	\$54,464	\$58,752	\$63,232
Cases at superior court	10	10	10	10
Cost of superior court	\$10,000	\$10,000	\$10,000	\$10,000
<b>Sub-total legal costs</b>	<b>\$1,042,144</b>	<b>\$1,116,988</b>	<b>\$1,196,584</b>	<b>\$1,279,744</b>
Cases where ESD pays attorney fees	158	170	184	198
Cost of attorney fees	\$907,776	\$980,352	\$1,057,536	\$1,138,176
<b>Total legal costs</b>	<b>\$1,949,920</b>	<b>\$2,097,340</b>	<b>\$2,254,120</b>	<b>\$2,417,920</b>



#### **4. Administrative services – start-up and ongoing:**

##### **(a) Public affairs and outreach**

The first year of media relations, marketing and public outreach for Family Leave Insurance implementation will require a temporary/project WMS2-level employee to oversee the efforts through the first year of benefit payments. On October 1, 2008, a Communications Consultant 5 will be hired to create and maintain Web content, assist in development of informational brochures and marketing materials, manage advertising contracts, handle media relations, oversee informational public meetings, develop informational displays for public events, write speeches and manage rule-making communications. Ongoing personnel will consist of one permanent Communications Consultant 5 (CC5).

##### Assumptions:

- An advertising campaign will be launched three months before Family Leave Insurance program initiation.
- Ongoing outreach will continue following program implementation.
- Current level of costs includes radio advertising and possibly billboards.
- Television advertising is not included and would significantly increase the cost.
- Informational brochures will be produced in English and other primary languages (Spanish, Chinese, Laotian, Vietnamese and Cambodian). Costs for brochures are included in the program start-up and ongoing cost section of this document.
- Benefits application and paper weekly-claim forms will be printed in English and in Spanish. Ten percent of applicants will be Spanish-speaking, therefore 10 percent of the applications should be in Spanish and the remaining 90 percent will be in English. The application and the weekly claim form will be available on the internet for family-leave applicants to download, print and mail. Approximately one-third of the applicants will choose this option over going to an ESD location to pick up a form or calling to request one be mailed. The cost for forms is included in the program start-up and ongoing cost section of this document.

##### Outreach:

Start-up: \$892,000

Ongoing: \$348,000 annually

##### **(b) Treasury cost to implement Family Leave Insurance Program**

The ESD Treasury will require 0.75 FTE to track and manage payments out of the Family Leave Insurance Account. Treasury would need system reports of checks issued through DIS; redemption and cancellation of checks; journal-posting updates; and processing of lost, destroyed, forged, or undeliverable checks. This position will begin October 1, 2009.

	FY08	FY09	FY10	FY11	FY12	FY13
FTEs	0.0	0.0	0.6	0.8	0.8	0.8
Salaries	\$0	\$0	\$23,242	\$29,052	\$29,052	\$29,052
Benefits	0	0	6,972	8,716	8,716	8,716
Goods & services	0	0	5,328	6,660	6,660	6,660
	\$0	\$0	\$35,542	\$44,428	\$44,428	\$44,428

**(c) Office space**

The estimated need for office space is 9,750 square feet of new leased space for permanent operations for about 39 staff. This includes space for co-location of all program staff, including operations, technology, audit, and collections staff. There is currently no available space in existing ESD facilities to house the program. The 9,750 square feet allows for the estimated program growth through FY13.

Start-up costs will be approximately \$559,000. Ongoing costs are estimated to be about \$233,000 per year.

Assumptions:

- Space for up to 40 staff in FY13
- Standard space requirements are 250 square feet per person; 250 sq. ft. x 39 = 9,750 square feet
- Lease term of five years; un-serviced lease rate in Thurston County is \$19.00
- Utilities are estimated at \$4.85 per square foot

<b>Office Space One Time Costs</b>	
Est. Tenant Improvement (4)	\$ 180,000
New Systems Furniture (5)	\$ 200,000
Other office furniture (8)	\$ 60,000
Est. Moving Cost	\$ 15,000
Est. GA Fees (6)	\$ 24,000
One-Time ITSD Items (7)	\$ 80,000
<b>One-Time Total</b>	<b>\$ 559,000</b>

<b>Office Space Ongoing Costs</b>	
Annual rent (9,750 sq. ft. x \$19)	\$185,250
Annual energy, utilities, and janitorial	47,288
<b>Ongoing annual total</b>	<b>\$232,538</b>

**(d) Indirect-allocation**

In addition to the direct costs estimated in this document, ESD assesses an indirect rate to cover agency-wide administrative costs. The U.S. Department of Labor (DOL) is

designated by the Office of Management and Budget to negotiate and maintain indirect cost rates and cost-allocation plans for organizations that receive a preponderance of funds from DOL, which includes Washington State's Employment Security Department.

The indirect cost charge assures that every funding source shares an equitable portion of overhead costs. ESD's current approved indirect rate is 20.09 percent and is applied to all direct salaries for Administration, Management, Fiscal, and Personnel FTE and activities. The estimated amounts below that will be received from the indirect charge on the family-leave insurance salary base will be used to fund indirect support activities that benefit the Family Insurance Program.

Depending on the needs of the agency, activities covered by the indirect funding include, for example, the handling and processing of vendor payments and payroll, administrative assistance to employees, desk-top and network support, contract administration, legislative services and public affairs, personnel and employee services, budget, accounting, and facilities management.

The amount included for indirect for the base cost estimate is:

	FY08	FY09	FY10	FY11	FY12	FY13
Indirect cost	\$66,000	\$302,000	\$505,000	\$380,000	\$368,000	\$388,000

### Part III: Expenditure Detail

#### III.A – Expenditure by Object or Purpose

*Total start-up and ongoing expenditures by object (base scenario):*

Object	FY08	FY09	FY10	FY11	FY12	FY13
A - Salaries and Wages	\$323	\$1,807	\$2,960	\$2,307	\$2,374	\$2,475
B - Employee Benefits	98	548	894	704	720	749
E - Goods and Services	854	2,580	6,081	4,430	4,659	4,890
G - Travel	1	7	32	4	4	4
Totals:	\$1,276	\$4,942	\$9,967	\$7,445	\$7,757	\$8,118

*Total start-up and ongoing expenditures by object (higher-than-base scenario):*

Object	FY08	FY09	FY10	FY11	FY12	FY13
A - Salaries and Wages	\$323	\$1,807	\$3,300	\$2,714	\$2,817	\$3,032
B - Employee Benefits	98	548	1,000	823	854	919
E - Goods and Services	855	2,765	6,692	5,183	5,526	5,887
G - Travel	1	7	33	4	4	5
Totals:	\$1,276	\$5,127	\$11,025	\$8,725	\$9,200	\$9,843

III.B – Detail: List FTEs by classification and corresponding compensation.

*FTEs (base scenario):*

<b>Classification</b>	<b>Salary</b>	<b>FY2008</b>	<b>FY2009</b>	<b>FY2010</b>	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>
Administrative Assistant 4	\$47,220	0.3	1.0	0.3			
Communications Consultant 5	63,388		0.8	1.0	1.0	1.0	1.0
Customer Service Specialist 2	36,036			1.5	2.0	2.0	2.0
Deputy Assistant Commissioner	85,000	0.5	1.0	1.5	1.0	1.0	1.0
ES Program Coordinator 2	52,104		0.3	1.6	1.9	2.0	2.1
ES Program Coordinator 3	57,504	1.5	6.9	2.3	0.2	0.2	0.2
ES Tax Specialist 3	48,396			2.4	2.6	2.8	3.0
Fiscal Analyst 2	44,928			0.6	0.8	0.8	0.8
Industrial Relations Agent 2	50,844			1.0	1.0	2.0	2.0
Industrial Relations Agent 3	54,744			1.0	1.0	1.0	1.0
ITS3	57,504						
ITS4	63,468	0.5	8.3	8.3	3.8	2.8	2.8
ITS6	77,352	0.5	2.0	2.0	1.0	1.0	1.0
Office Assistant2	30,564			3.8	4.1	4.4	4.7
Office Assistant3	32,808						
Office Assistant3	32,808	0.1	0.1	0.9	1.0	1.1	1.2
Secretary Senior	34,356			1.0	1.0	1.0	1.0
UI Specialist3							
UI Specialist 3	44,928			13.1	14.2	15.3	16.5
UI Specialist 4	49,572			1.2	1.3	1.4	1.5
UI Specialist 5	52,104			2.0	2.0	2.0	2.0
UI Specialist 6	54,744			1.0	1.0	1.0	1.0
WMS2	60,000	0.9	3.3	1.8			
WMS3	70,000	0.2	0.6	1.1	1.0	1.0	1.0
Indirect FTEs		0.6	2.8	4.6	3.5	3.4	3.5
<b>Total FTEs</b>		<b>5.0</b>	<b>27.0</b>	<b>53.8</b>	<b>45.1</b>	<b>47.0</b>	<b>49.2</b>

Part IV: Capital Budget Impact

None

Part V: New Rule Making Required

The department will be required to develop and adopt new regulations to administer the program.

APPENDICES

**Employment Security Department**  
**Family Leave Insurance Program**  
**E2SSB 5659 Fiscal Estimate**

Appendices

- D. Potential Government Efficiencies
- E. Enforcement Assumptions
- F. Estimated Claims Volumes, Claims Counts and Claims Benefit Costs

## Appendix A Potential Government Efficiencies

The Joint Legislative Task Force on Family Leave Insurance asked the Employment Security Department (ESD) to examine the Family Leave Insurance legislation<sup>6</sup> (E2SSB 5659) to identify changes in the legislation that could result in efficiencies and reduced operating costs. Listed below are potential changes the Legislature could consider. At this time the Department is not supporting or recommending any specific changes. It is important to note that many of these changes would have policy implications that would need to be considered.

In most cases it was difficult to project cost savings for these ideas in isolation. The actual cost savings will depend upon which combination (if any) of ideas are eventually adopted. In addition, the Department is still analyzing these ideas to better determine cost savings particularly as they relate to their impact on the computer systems.

The ideas for changes fit into the following four broad categories:

1. Make eligibility decisions easier and less time consuming;
2. Simplify benefit calculation;
3. Reduce number and cost of appeals;
4. Enhance integrity (prevent/pursue fraud).

### 1. Make eligibility decisions easier and less time consuming

#### Initial Eligibility Decisions

##### a. Simplify application process

Current law: To implement the law as written, both ESD and L&I assumed that an applicant must provide verification of birth or adoption as part of the application process. The applicant must also have formally applied for leave with his/her employer as required under existing FMLA laws.

Potential Efficiency: Simplify the eligibility process by eliminating these requirements up front. Instead, require only one application, with no supporting documents required; the applicant would be asked to attest that he/she has had a child. Utilize a computer match (at a later date) to actually verify the birth or adoption. The Department would also not be expected to verify if the applicant provided the proper paperwork to their employer.

**Estimated savings:** \$115,000 (FY 2013) from reduced application processing, scanning and phone calls.

##### b. Reduce interstate eligibility determination costs by requiring 680 hours of work in Washington for eligibility.

Current law: The legislation doesn't require that hours worked to qualify for benefits have been earned in Washington.

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<sup>6</sup> Chapter 357, Laws of 2007.

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Potential Efficiency: Reduce operating costs (the need to call out of state employers or search other states' data) by requiring only hours worked in Washington count against the required 680 hour eligibility minimum. Note: a potential significant problem with this efficiency is the impact it would have on Washington residents who work in another state.

**Estimated savings:** Potential savings of \$37,000 in FY 2013 (approximately .5 FTE's worth of work). Under current law staff may have to call out of state employers to find out how many hours the applicant worked. There is also potential savings for up front computer programming costs. *Savings are still being assessed.*

c. **Eliminate the option of direct withholding of federal income taxes.**

Current law: The legislation requires that each claimant be given the option of withholding federal income taxes on family leave benefits.

Potential Efficiency: Reduce computer programming and operating costs by eliminating this option.

**Estimated savings:** \$50,000 in up front computer programming costs.

d. **Eliminate the requirement for elective coverage of self-employed individuals.**

Current law: The legislation requires that individuals who are self-employed can opt-in to the Family Leave Insurance program.

Potential Efficiency: Reduce operating costs by eliminating the option for self-employed individuals. Since individuals who are self-employed do not report their hours worked to ESD, there is no simple way to verify if they have worked the minimum number of hours needed to qualify for this program.

**Estimated savings:** Some savings in up front computer programming (savings are still being assessed). Ongoing savings depends on how many self-employed would have filed claims. Assuming self employed individuals file at one fourth the rate of general population, savings could be approximately \$60,000 in FY 2013.

### Ongoing Eligibility Decisions

e. **Eliminate required weekly filing for benefits.**

Current law: The legislation requires applicants file weekly.

Potential Efficiency: Reduce operating costs by having applicant identify up-front how long leave will be, and simply require applicant to notify department if there are changes, as in the California program. This would eliminate the costs associated with each applicant filing a weekly claim with the Department.

**Estimated savings:** Reduces upfront computer programming costs by at least \$50,000. This will also reduce operating costs by an additional \$100,000 (reduced printing, 1-800 calls and staff time).

f. **Allow for leave payments for weeks prior to the Department receiving a formal application.**

Current law: The legislation does not allow for paid leave to start until the application is filed.

Potential Efficiency: Combined with the option above (1e) of eliminating the requirement for weekly filing, allow the option of filing an application after leave has begun. This could ensure a more accurate accounting of the number of weeks of leave taken and whether the individual worked part-time during those weeks. This is similar to how the California program is administered.

**Estimated savings:** Savings linked to option e above. Additional savings would be some reduction in number of checks mailed to claimants.

## 2. Simplify benefit calculation

a. **Have the same maximum benefit for all qualified applications.**

Current law: The legislation requires the department to calculate the maximum weekly benefit for each applicant based upon the numbers of hours a week the applicant worked during the past year. If an applicant is not working full time, he or she qualifies for less than \$250 in weekly benefits.

Potential Efficiency: Provide a flat \$250 weekly benefit regardless of the number of hours worked weekly in the qualifying period as long as the applicant worked at least 680 hours during the qualifying year.

**Estimated savings:** Potential reduction in up front computer programming costs. Also assume the time to adjudicate each claim will decrease. This combined with recommendation below could result in \$75,000 savings in FY 2013.

b. **Allow maximum \$250 weekly benefit for each week of leave taken unless applicant works more than 20 hours in that week.**

Current law: The legislation reduces benefits proportionally for less than full-time leave.

Potential Efficiency: Rather than having to calculate the benefit amount each week, have a simply formula. If an applicant takes 20 hours of leave a week or more, allow a \$250 weekly benefit. If an applicant takes 8 to 19 hours of leave a week, allow a fifty percent benefit, or \$125.

**Estimated savings:** Linked to option a above.



c. **Send applicant one check instead of two checks each month.**

Current law: The legislation requires benefit payments twice a month after the initial payment.

Potential Efficiency: Possibly combined with recommendations above (eliminate weekly check in and allow for payment of leave for weeks before the Department receives an application), require the applicant to state how long leave will be, and issue a single check for the leave period.

**Estimated savings:** Up to \$75,000 in mail and check processing costs in FY 2013.

### 3. Reduce number and cost of appeals

a. **Eliminate attorney's fees at the administrative level.**

Current law: The legislation allows the awarding of attorney's fees and costs at both the Office of Administrative Hearings and Superior Court.

Potential Efficiency: Reduce these costs by eliminating the option of attorney's fees and court costs at the administrative hearings level. Savings will include the use of Department staff rather than Attorney General Staff at OAH hearings. Additional savings will include the costs of agency attorneys at administrative hearings.

**Estimated savings:** Attorney's fee savings of \$1,140,000 in FY 2013. Staff savings \$300,000 in FY 2013 as a result of using ESD staff rather than AAG staff in most cases.

b. **Limit appeals to Office of Administrative Hearings.**

Current law: The legislation requires the option of both hearings by a hearings officer (at the Office of Administrative Hearings) and a later director-level hearing.

Potential Efficiency: Reduce appeals costs by eliminating the commissioner/director-level review.

**Estimated savings:** \$70,000 in FY 2013.

### 4. Enhance integrity (prevent/pursue fraud)

a. **Provide for collections tools similar to UI and Workers' Compensation.**

Current law: The legislation does not provide authority for warrants, garnishment, or lien authority to the operating department, which are collection options currently available to the Unemployment Insurance and Workers' Compensation programs.

Potential Efficiency: Provide the authority for warrants, garnishment, and lien authority.

**Estimated savings:** Indeterminate.

## 5. Other

a. **Eliminate payments to deceased applicants.**

Current law: Legislation requires payments owed to deceased applicants distributed according to applicant's will.

Potential Efficiency: Eliminate requirement to pay any benefits to applicants who have died.

**Estimated savings:** Indeterminate.

b. **Require direct deposit for payment of benefit.**

Current law: Legislation does not currently require applicants to have benefit payments directly deposited into a bank account.

Potential Efficiency: Require that benefit payments are directly deposited into applicants' bank account, thereby reducing the costs associated with printing and mailing warrants.

**Estimated savings:** Approximately \$100,000 in 2013, when program is at full capacity.

**Appendix B  
Enforcement Assumptions**

ESD does not currently have an employment-standards’ enforcement function. Unemployment Insurance Tax staff audit employers for reporting and payment of taxes but not for complaints of discrimination, compliance with the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, or the like. L&I’s Employment Standards Program in the Specialty Compliance Services Division has this core competency. This fiscal assessment relies on L&I assumptions to estimate the cost of this program if implemented within ESD.

The L&I Employment Standards Program in the Specialty Compliance Services Division is charged with handling the complaints related to this proposed law. They expect complaints in two categories:

- Benefits not received as allowed under the law -- Based on labor statistics we assume there are approximately 200,000 employers in the state. We also assume that the majority of employers or 98 percent will comply with the law. At the one percent non-compliance rate, we expect 4,000 complaints will be filed. It is further assumed that 99 percent, of these complains will be resolved by action of the L&I agent, and 1 percent or 20, will move on to litigation.
- Job discrimination – These complaints include loss of job or demotion when family leave is used. We expect the majority of these complaints will be generated from small businesses which make up approximately half of the state’s employers or 100,000 employers. Assuming a 98 percent compliance rate, we expect an additional 420 complaints related to job discrimination, denial of family leave, and denial of employment after taking leave will be filed with the department. Consistent with the assumptions above, 99 percent of these will be resolved through L&I and 1 percent (an estimated 10 complaints) will move on to litigation.

To handle the expected workload of 420 family leave complaints annually, the Employment Standards program will need five FTEs:

- One Industrial Relation Agent 2 (IRA2) starting July 1, 2009.
- One Industrial Relation Agent 2 (IRA2) starting July 1, 2011.
- One Industrial Relations Agent (IRA3) FTE assigned in the field . The Industrial Relations Agent 3 will also help develop policies and rules, consultation with the field staff, training and outreach.
- Two Customer Service Specialist 2 (CSS2) to assist in complaint intake, handling, and processing. One FTE will be in headquarters. The other FTE will be split among the field offices.

	FY 2010	FY 2011	FY 2012	FY 2013
Enforcement FTE’s	3.5	4.0	5.0	5.0
Total Cost (per L&I)	\$413,000	\$397,000	\$493,000	\$489,000

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**Appendix C  
Estimated Claims Volumes, Claims Counts and Claims Benefit Costs**

Each agency planned and budgeted for benefit costs. L&I staff provided actuarial analysis behind caseload numbers based in large part by looking to California to build assumptions about claim volumes. ESD reviewed the work that L&I had done and provided input. The departments used the following assumptions related to benefit costs:

<b>Item</b>	<b>Assumption<sup>7</sup></b>
Average duration of family leave for claims filed by <u>female</u> parents	4.6 weeks <sup>8</sup>
Average duration of family leave for claims filed by <u>male</u> parents	3.7 weeks
Average number of weeks eligible recipients will claim	4.21 weeks
Average weekly benefit	\$242.32
Eligible and qualified applicants	74,925
Take up rate – annual increase	8 percent <sup>9</sup>

**Estimated Claims Volumes, Claims Counts and Claims Benefit Costs**

Using analysis and assumptions from Labor & Industries and relying on experience of the California program, the following claims and benefit payouts are estimated:

**Base scenario<sup>10</sup>**

	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
Births	92,441	94,114	95,705	97,380	98,880	99,866
Claim Counts	25,700	27,700	29,900	32,200	34,900	37,700
Percentage of Parents using the Program <sup>11</sup>	27 %	29%	31%	33%	35%	37%
Benefit Outlays	\$31.3 M	\$33.7 M	\$36.6 M	39.4 M	\$42.6 M	\$46.1 M

<sup>7</sup> Assumptions for benefit costs were used by both departments.

<sup>8</sup> Claim duration benefits were based on California’s weekly duration data, with the benefit limited to the 5 week Washington family leave insurance program. The estimated claim benefit costs assume no inflationary change in benefits, consistent with OFM policy for fiscal note development.

<sup>9</sup> Eight percent is the growth rate anticipated per year growth in program participation each of the first six years. The take up rate increases 8 percent per year from a first year rate of 68.058 percent.

<sup>10</sup> Not included in the claims count are an additional twelve percent of claims which are assumed to be denied and therefore, not counted in the caseload assumptions throughout the documents.

<sup>11</sup> These percentages represent total births in the state; a number of parents may not meet eligibility requirements (for example, a mother who has not been employed in the past year) and therefore, would not be eligible to receive family leave insurance benefits.

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**Assumptions**

3,400,000	future ESD Employed Workforce in 2010 (2005 was 3,109,900)
90%	% of employed workforce covered
3,060,000	covered employees
90%	% of covered employees > 680 hours (eligible)
2,754,000	<b>covered &amp; eligible</b>
92,500	Assumed number of births in FY2010 based on OFM June 07 forecast
74,925	Assumed number of covered, eligible births (births * .9 * .9)
\$ 242.32	Average weekly benefit (\$250 and 35 hours per week for full-time)

Claims counts were estimated by L&I using the assumed number of covered and eligible births (74,925 in the first year) and based on California program's claim numbers as percentage of covered births. This number was then reduced by the estimated uptake rate of a program that grows about 8 percent per year and does not reach maturity until the sixth year.

Benefit outlays were estimated by L&I using the average weekly benefit estimate (\$242.32), times the estimated number of claims in a specific category (i.e., male parent with new child is 4,200 in first year), times the estimated average duration of benefits (which range from 3.4 weeks to 5 weeks, depending on the category of worker).

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**Higher-than-base scenario<sup>12</sup>**

The “higher-than-base” scenario assumes the following differences in the count of claims and commensurate increases in claims’ costs:

	2010	2011	2012	2013	2014	2015
Births	92,441	94,114	95, 705	97,380	98,880	99,866
Claim Counts	34,580	37,960	41,600	45,500	49,600	53,600
Percentage of Parents using the Program <sup>13</sup>	37%	40%	43%	47%	50%	53%
Benefit Outlays	\$44.5 M	\$46.1 M	\$50.9 M	\$55.6 M	\$60.5 M	\$65.5M

<sup>12</sup> For illustrative purposes, costs were estimated for a second scenario of claims’ volume – a “higher-than-base” scenario – to test sensitivity of cost to volume. For this purpose, it was assumed that the initial claims load in FY10 would represent 37 percent of all births rather than the 27 percent assumed in the base scenario. Similar to the base, the claims grow at eight percent per year, ending the sixth year with more than half of the births in the state resulting in a claim being filed. Should the claims rate reach the higher level, it is useful to know the financial and operational costs of this significantly higher participation rate. Start-up and implementation costs are similar under both scenarios; however, throughout the document there are references to base and higher-than-base utilization and associated ongoing program-cost impacts.

Not included in the claims count are an additional twelve percent of claims which are assumed to be denied and therefore, not counted in the caseload assumptions throughout the documents.

<sup>13</sup> These percentages represent total births in the state; a number of parents may not meet eligibility requirements (for example, a mother who has not been employed in the past year) and therefore, would not be eligible to receive family leave insurance benefits.