

Additional Information on Paid Family Leave

1. Explanation of Replacement Costs for State Employees

Notes from Harold Schwartz, VT Department of Human Resources; Director, HR Operations

- Compensation and compensation liability include pay and state contribution to FICA and retirement
- Lost productivity assumes full productivity replacement cost
- Costs do not assume any supplementation of benefit by accrued leave
- Lower Limit Scenario includes costing for temporary employees who did not generally have paid FMLA in 2016, costs for classified and exempt employees who incurred FMLA time that was unpaid, in addition to actual costs for FMLA in 2016.
- Full annual additional cost in future years would be trended up based on percentage of total salaries

2. Information on Administrative Costs for Paid Family Leave in Rhode Island

- The Vermont Commission on Women study used 7.5% of benefits as the estimate of admin costs because that was the recommendation of the Summer Study in Vermont in 2014
- The 2016 budget for Rhode Island suggests administrative costs for their Temporary Disability/Caregiver program of about 6.7 percent; Rhode Island started its Paid Family Leave program in 2014 but had an established Temporary Disability Insurance program

3. More Information on New York State's Paid Family Leave Benefits Program

<https://www.ny.gov/programs/new-york-state-paid-family-leave>

<https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-how-it-works>

Benefits

- Covers bonding with new child, care for a family member with a serious health condition, or relieving family pressures when someone is called to active military service
- Benefits begin January 1, 2018
 - 8 weeks in 2018 at 50% of the employee's average weekly wage, capped at 50% of the statewide average weekly wage (\$1296 in 2017; 50% is \$648)
 - 10 weeks in 2019 at 55% of the employee's average weekly wage, capped at 55% of the statewide average weekly wage

- 10 weeks in 2020 at 60% of the employee's average weekly wage, capped at 60% of the statewide average weekly wage
- Fully phased in at 12 weeks in 2021 at 67% of the employee's average weekly wage, capped at 67% of the statewide average weekly wage

Taxes

- Taxes begin July 1, 2017
- The premium will be fully funded by employees through payroll deductions. A maximum rate of employees' contribution will be established each year.

Eligibility

- Every full-time or part-time private employee in New York State will be eligible; participation is not optional
- Public employers may opt into the program; public employees who are represented by a union may be covered if Paid Family Leave is collectively bargained
- An employee must be employed full-time for 26 weeks or part-time for 175 days

Paid Family Leave for Bonding

- Paid family leave begins after birth and is not available for prenatal conditions
- A parent may take Paid Family Leave during the first 12 months following the birth, adoption, or fostering of a child

Paid Family Leave for Caring for a Close Relative with a Serious Health Condition

- A close relative includes
 - Spouse
 - Domestic partner
 - Child
 - Parent
 - Parent in-law
 - Grandparent
 - Grandchild
- A serious health condition is an illness, injury, impairment, or physical or mental condition that involves:
 - inpatient care in a hospital, hospice, or residential health care facility; or

- continuing treatment or continuing supervision by a health care provider.

Paid Family Leave for Active Duty Deployment

- Available for families eligible for time off under the military provisions in the federal Family Medical Leave Act when a spouse, child, domestic partner or parent of the employee is on active duty or has been notified of an impending call or order of active duty
- May be taken to care for same “close relatives” as indicated above

Proposed Regulations for New York’s Program-- from a memo released on March 20, 2017

<https://www.littler.com/publication-press/publication/new-york-proposes-regulations-new-paid-family-leave-law>

Financing

- Paid family leave benefits will be financed by deductions from employee pay and will provide paid benefits for a leave period not covered by workers’ compensation benefits, state disability benefits, or private disability insurance
- On June 1, 2017, the New York State Superintendent of Financial Services is scheduled to set the maximum employee contribution amount
- Employers that (i) fail to collect employee contributions to provide family leave coverage and (ii) fail to provide coverage by purchase of an insurance policy or self-insurance, will be liable for the payment of family leave benefits
- If an employer collects employee contributions but does not use those contributions to provide PFLBL coverage, the proposed regulations will, if adopted, require the employer to refund those contributions to employees

Employer Responsibilities

- Employers must provide employees whose regular work schedule will render them ineligible for paid family leave (e.g., an employee who is scheduled to work fewer than 26 weeks or 175 days in a year) the option to file a waiver to exempt them from making contributions for PFLBL coverage; employers may make deductions from the pay of employees who opt not to file such a waiver
- Employers must continue health insurance coverage to employees during paid family leave, and employees must continue to pay their share of the health plan premiums during the leave, even if the rate changes during the leave

- An employer that fails to provide paid family leave under the PFLBL will be subject to a fine of up to 0.5% of the employer's weekly payroll, plus an additional sum of not more than \$500

Clarification of Benefits

- Employees may take leave in daily or weekly increments
- If an eligible employee's child was born or placed for adoption or foster care before January 1, 2018, the employee may take paid family leave on or after January 1, 2018, during the first 12 months after the child's birth or placement; For example, if an eligible employee gives birth to a child on December 1, 2017, that employee may take paid family leave during the first 11 months of 2018

Differences between the federal Family and Medical Leave Act (FMLA) and the NY State Paid Family Leave Benefits Law (PFLBL) program

- The FMLA provides eligible employees with 12 weeks of unpaid family leave, and applies only to large employers that employ 50 or more employees; the PFLBL provides paid family leave to eligible employees, and applies to every employer (i.e., those that employ one or more employees)
- The FMLA covers employees who have worked for a covered employer for 12 months and have worked 1,250 hours in the previous 12 months; under the PFLBL, full-time employees become eligible after 26 consecutive weeks of work, and part-time workers become eligible on their 175th day of work
- The FMLA provides unpaid leave for the serious health condition of an employee or the employee's family member; unlike the FMLA, the PFLBL provides no leave benefits for an employee's own serious health condition

4. Varying the Length of Paid Leave, the Wage Replacement Rate, and the Definition of Family Member

I do not have any useful information about how the cost estimates would vary if the definition of "family member" changed.

The following table illustrates the effect of varying the length of paid family leave and the wage replacement rate as estimated in the 2016 Feasibility Study, Table 1 on p. 22

	12 Weeks	6 Weeks		Ratio
	100%	100%		
Total Cost (mil)	\$79.4	\$47.4		1.68
Cost as % of Total Earnings	0.93%	0.55%		1.69
Avg. Weeks	7.8	4.8		1.63
100%: 100% of own wages up to twice Vermont's livable wage, ~\$52,000; then capped				
	12 Weeks	12 Weeks		Ratio
	100%	Modified		
Total Cost (mil)	\$79.4	\$66.8		1.19
Cost as % of Total Earnings	0.93%	0.78%		1.19
Avg. Weeks	7.8	7.8		1.00
Modified: 90% of weekly earnings up to Vermont's livable wage, ~\$26,000; and 60% of weekly earnings up to twice Vermont's livable wage, ~\$52,000; then capped				
	12 Weeks	6 Weeks		Ratio
	100%	Modified		
Total Cost (mil)	\$79.4	\$40.5		1.96
Cost as % of Total Earnings	0.93%	0.47%		1.98
Avg. Weeks	7.8	4.8		1.63

5. Survey Results on Length of Leave and Wage Replacement

As reported in the 2016 Feasibility Study, Chapter 3B, a survey of 500 adults produced the following results. Note that the margin of error is +/- 4.4%.

On length of leave:

- 39% responded that 8 weeks was about right
- 29% responded that 8 weeks was too long
- 22% responded that 8 weeks was too short

On rate of wage replacement:

- 43% responded that replacing 100% of wages was too much
- 44% responded that replacing 100% of wages was about right
- 36% responded that replacing 90% of wages was too much
- 46% responded that replacing 90% of wages was about right
- 41% responded that replacing 66% of wages was not enough
- 38% responded that replacing 66% of wages was about right

6. Areas of Uncertainty or Risk

a. Earnings Amounts Estimated in the Study vs. Vermont Payroll Amounts

IMPAQ estimated total earnings in Vermont, CY 2017: \$11.47 billion

Actual Vermont payroll data (VDOL), CY 2016: \$13.15 billion

In addition, approximately \$1 billion in self-employed earnings (not counted here)

If grow payroll by 1.5% in 2017, Vermont payroll earnings would be \$13.35 billion

Ratio of Vermont payroll to estimated earnings in 2017: 1.164, meaning Vermont payroll would be about 16.4% higher than estimated amount used in the study

If total earnings are higher than estimated in the study, are the benefits also proportionally higher than estimated in the study? What happens to the balance in the Special Fund over time?

Different Estimates of Vermont's Earnings or Payroll			
Calendar Year	Study Estimated Total Earnings (Grow 2% p.a.)	VDOL Payroll Data (Assume grow 1.5% p.a.)	Ratio of Vermont Payroll to Study Estimate
2016		\$ 13,154,379,718	
2017	\$11,467,389,000	\$ 13,351,695,413	1.164
2018	\$11,696,737,000	\$ 13,551,970,845	1.159
2019	\$11,930,672,000	\$ 13,755,250,407	1.153
2020	\$12,169,285,000	\$ 13,961,579,163	1.147

b. Take-up Rates

The Feasibility Study assumes that 25% of leave takers use the Paid Family Leave benefits, based on other states' experience; some workers have employer benefits, some are unaware of the benefits, some don't want to miss time at work even though their job is protected, etc.

c. Changes in Employer Benefits Over Time

Other states see evidence that employers drop their paid family leave benefits over time

d. Demographics in Vermont differ from the Situation in Other States

e. Reserve Fund

What size reserves would be appropriate? The Feasibility Study shows a balance of ~150% of program benefits after the first year of available benefits for the 12 week/Modified benefit program, and ~165% after the second year.

f. Results from a Model are Intended to be Illustrative

The Institute for Women's Policy Research, together with economists Albelda and Clayton-Matthews at UMass, developed and update a simulation model known as the ICPR-ACM model to estimate the usage and costs of family and medical leave. The model simulates specific leave-taking behavior (number, length, benefit eligibility, and benefit receipt) onto individual employees working in a state using data from the Census Bureau's 2009-2013 American Community Survey. The model estimates probability of needing a leave, taking a leave, getting paid for a leave, and extending a leave if some or more pay were received. Leave-taking behavior is based on a nationwide 2012 FMLA Survey conducted by Abt Associates for the U.S. Department of Labor.

IWPR/ACM Model (Jeffrey Hayes) used in studies for New Hampshire, Massachusetts, Minnesota, Washington, Connecticut, District of Columbia, U.S. DOL

IMPAQ was involved in the Minnesota studies and conducted a series of studies on family and paid medical leave for the U.S. DOL; e.g., "Estimating Usage and Costs of Alternative Policies to Provide Paid Family and Medical Leave in the United States," January 2017

7. How Many Workers in Vermont Currently Have Paid Family Leave Coverage?

2014 Report from the Vermont Department of Labor, as reported in the 2016 Feasibility Study

- ~50% of private sector workers have paid vacation

- ~33% have paid sick days
- ~20% have paid personal leave
- Among firms of 3-9 employees, 11% offer short-term disability insurance to full-time employees, and 8% offered long-term disability insurance
- Among firms with 250+ employees, 82% offer short-term disability insurance to full-time employees, and 78% offered long-term disability insurance