

# Committee Report

**REGULAR CALENDAR**

**November 12, 2019**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Finance to which was referred HB  
712-FN,**

**AN ACT relative to a family and medical leave  
insurance program. Having considered the same,  
report the same with the following amendment, and the  
recommendation that the bill OUGHT TO PASS WITH  
AMENDMENT.**

**Rep. Mary Jane Wallner**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Finance</b>
Bill Number:	<b>HB 712-FN</b>
Title:	<b>relative to a family and medical leave insurance program.</b>
Date:	<b>November 12, 2019</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>OUGHT TO PASS WITH AMENDMENT 2019-2786h</b>

### STATEMENT OF INTENT

This bill would establish a family and medical leave insurance program that would provide up to 12 weeks per year of paid leave at 60% wage replacement for care of oneself or a family member. It would cover private sector workers covered by unemployment insurance, state employees, and be available to municipal employees. It would be paid for by employers who would remit premiums (averaging \$5/week for the average employee) to the Department of Employment Security when they pay their quarterly unemployment premiums. Employers would pay the premiums and be authorized to recoup all or some of the cost of those premiums as a payroll deduction from employees. The bill would ensure people who take the benefit are not retaliated against for using the benefit and would mirror, not expand, the job protection provisions of the federal Family and Medical Leave Act. In this budget cycle the Treasurer would transfer \$3.5 million start-up costs of the program. This would be loaned to the fund and repaid over 5 years so the program would end up being entirely paid for by the insurance premiums.

Vote 13-7.

Rep. Mary Jane Wallner  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

Finance

**HB 712-FN**, relative to a family and medical leave insurance program. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Mary Jane Wallner for Finance. This bill would establish a family and medical leave insurance program that would provide up to 12 weeks per year of paid leave at 60% wage replacement for care of oneself or a family member. It would cover private sector workers covered by unemployment insurance, state employees, and be available to municipal employees. It would be paid for by employers who would remit premiums (averaging \$5/week for the average employee) to the Department of Employment Security when they pay their quarterly unemployment premiums. Employers would pay the premiums and be authorized to recoup all or some of the cost of those premiums as a payroll deduction from employees. The bill would ensure people who take the benefit are not retaliated against for using the benefit and would mirror, not expand, the job protection provisions of the federal Family and Medical Leave Act. In this budget cycle the Treasurer would transfer \$3.5 million start-up costs of the program. This would be loaned to the fund and repaid over 5 years so the program would end up being entirely paid for by the insurance premiums. **Vote 13-7.**

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Vote 13-7.

MJW

Rep. Mary Jane Wallner  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

Amendment to HB 712-FN

1 Amend RSA 282-B:3, I as inserted by section 1 of the bill by replacing it with the following:

2  
3 I. This chapter applies to the state and nongovernmental employers beginning January 1,  
4 2021, provided that any employer may instead exercise a business option of: participating in a self-  
5 insured plan, self-insuring, purchasing insurance, providing benefits, or any combination thereof,  
6 upon employer application and certification by the commissioner or authorized representative that  
7 the employer will provide an equivalent benefit to all of its employees. If the employer is subject to a  
8 collective bargaining agreement, this chapter shall apply to the employer upon the effective date of  
9 the first successor collective bargaining agreement following January 1, 2021 to permit the employer  
10 and the union to negotiate the premium rate share under RSA 282-B:3, II. Political subdivisions of  
11 the state may opt into this chapter upon certification by the authorized representative that this  
12 chapter's insurance benefits are at least equivalent to the benefits provided under the collective  
13 bargaining agreement, provided the applicable bargaining unit has first ratified this option.  
14 Beginning January 1, 2021, this chapter shall be a mandatory subject of bargaining for collective  
15 bargaining agreements. Employees not covered by a collective bargaining agreement in a political  
16 subdivision of the state may opt into this chapter if the political subdivision has not.

17  
18 Amend RSA 282-B:6, I as inserted by section 1 of the bill by replacing it with the following:

19  
20 I. An employee shall be limited up to 12 weeks of FMLI in any benefit year. An employee  
21 shall have had premium payments remitted as a percent of his or her wages for at least 6 months to  
22 be eligible for benefits and shall have worked in employment resulting in wages in the amount of at  
23 least 1,040 multiplied by the applicable minimum wage, in either the "base period" or "alternative  
24 base period," as those terms are defined in RSA 282-A:2.

25  
26 Amend RSA 282-B:10 as inserted by section 1 of the bill by replacing it with the following:

27  
28 282-B:10 Sustainability Mechanism. The commissioner shall continuously monitor the solvency  
29 of the fund. Should the commissioner determine at any time that the solvency of the fund is in  
30 jeopardy, or that the fund is in excess of necessary funds, the commissioner shall provide the  
31 advisory council with data supporting such solvency determination and may prospectively, effective  
32 in a future calendar quarter, reduce FMLI premiums in RSA 282-B:3, II, decrease the benefits

Amendment to HB 712-FN

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2 combination thereof, provided such prospective changes are no greater than or less than 10 percent  
3 of those required under this chapter. If the commissioner thereafter determines such changes are no  
4 longer necessary for fund solvency the commissioner shall reverse such changes. Advance notice of  
5 any and all changes pursuant to this paragraph shall be provided to all covered employers and  
6 employees.

7  
8 Amend RSA 282-B:11 as inserted by section 1 of the bill by replacing it with the following:

9  
10 282-B:11 Family and Medical Leave Insurance Program; Funding Transfer and Repayment.  
11 The state treasurer shall transfer funds from the general fund to the department of employment  
12 security for payment of the initial administrative and implementation costs associated with this  
13 chapter. In the first year the family and medical leave insurance program becomes operational, the  
14 treasurer shall transfer \$3,500,000. In the second year of operation, the treasurer shall transfer  
15 \$12,000,000. Within the first 5 years after the family and medical leave insurance program becomes  
16 operational, the department shall repay the general fund transfers in installments from funds  
17 deducted from the family medical leave insurance fund as follows: 10 percent in year 3, 40 percent in  
18 year 4, and 50 percent in year 5. The department shall have the option of prepaying the full amount  
19 at any time.

20  
21 Amend the bill by replacing section 4 with the following:

22  
23 4 Effective Date. This act shall take effect July 1, 2020.

# Voting Sheets



**HOUSE COMMITTEE ON FINANCE**

**EXECUTIVE SESSION on HB 712-FN**

**BILL TITLE:** relative to a family and medical leave insurance program.

**DATE:** November 12, 2019

**LOB ROOM:** 210-211

**MOTIONS: OUGHT TO PASS WITH AMENDMENT**

Moved by Rep. Wallner                      Seconded by Rep. Lovejoy                      AM Vote: 13-7

Amendment # 2019-2786h

Moved by Rep. Wallner                      Seconded by Rep. Lovejoy                      Vote: 13-7

**CONSENT CALENDAR: NO**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Katherine Rogers, Clerk

HOUSE COMMITTEE ON Finance

EXECUTIVE SESSION on HB 712-FN

BILL TITLE: relative to a family and medical leave insurance program.

DATE: November 12, 2019

ROOM: 210-211

MOTIONS: OTP, OTPA, ITL, Retained (1st Yr), Interim Study (2nd Yr)  
(Please circle one)

Moved by Rep. ~~Wallace~~ <sup>Wallace</sup> ~~Larson~~ Seconded by Rep. Larson Vote: 13 yes 7 no

Adoption of Amendment # 2019-27861

Moved by Rep. Wallace Seconded by Rep. Larson AM Vote: OTPA

Amendment Adopted  Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)  
(Please circle one)

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

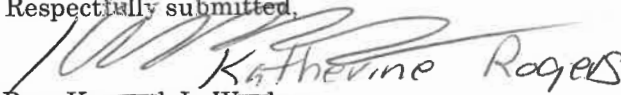
Adoption of Amendment # \_\_\_\_\_

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ AM Vote: \_\_\_\_\_

Amendment Adopted  Amendment Failed

CONSENT CALENDAR:  YES  NO  
(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,  
  
Katherine Rogers  
~~Rep. Kenneth L. Weyler~~  
Committee Clerk

13 yes 7 no 2 absent



2019 SESSION

Finance

Bill #: 712 Motion: OTP/A AM #: 2786h Exec Session Date: 11-12-19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Wallner, Mary Jane Chairman	12		
Huot, <del>David O. Vice Chairman</del> <u>Potter</u>	1		
Rogers, Katherine D. Clerk	2		
Nordgren, Sharon L.	3		
Leishman, Peter R.	4		
Buco, Thomas L.	5		
Hatch, William A.	6		
Ford, Susan M.	7		
Lovejoy, Patricia T.	8		
Walz, Mary Beth	9		
Heath, Mary	10		
<del>Martin, Joelle</del> <u>Weber</u>	11		
Murray, Kate R.	12		
Weyler, Kenneth L.		1	
Ober, Lynne M.		2	
Danielson, David J.		3	
Spanos, Peter J.		4	
Hennessey, Erin T.		5	
Barry, Richard W. <u>Att</u>		6	
Horn, Werner D.		7	
Erf, Keith			ABSEN
<b>TOTAL VOTE:</b>	<b>13</b>	<b>7</b>	<b>2 AD</b>

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Amendment to HB 712-FN

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23 4 Effective Date. This act shall take effect July 1, 2020.

Division I  
Work Session  
Minutes

HOUSE COMMITTEE ON Finance

DIVISION I WORK SESSION ON HB 712-FN

**BILL TITLE:** relative to a family and medical leave insurance program.

**DATE:** October 22, 2019

**ROOM:** 212

Time Work Session Called to Order: 10:00 a.m.

Time Adjourned: <<End Time>>

(please circle if present)

**Committee Members:** Lovejoy, Hatch, Leishman, Walz, Wallner, L. Ober, Spanos and Barry

**Bill Sponsors:**

Rep. Wallner  
Rep. K. Murray  
Rep. Wazir  
Rep. Le  
Sen. Rosenwald

Rep. Martin  
Rep. Altschiller  
Rep. McMahon  
Rep. Loughman

Rep. Fothergill  
Rep. McBeath  
Rep. Luneau  
Sen. Fuller Clark

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

Chair **Lovejoy** presented amendment #2019-2786h and went over the change.

Rep. **Ober** asked about part-time seasonal workers such as teenagers working at Water Country or Canobie Lake being forced to pay the Family Medical Leave Insurance (FMLI) tax.

Deputy Comm. **Richard Lavers** from Employment Security said yes.

Rep. **Spanos** asked about a service employee being taxed.

Deputy Comm. **Lavers** said that was a Department of Labor issue.

Rep. **Spanos** said they would pay for something they would never use.

Rep. **Walz** asked about applicable minimum wage and asked if the lower wage for service staff would be used.

Deputy Comm. **Lavers** said he didn't know. Court would rule on legislative intent.

Rep. **Barry** was concerned about whether this would work. FMLI may be wonderful but should not be mandatory.

Rep. **Lovejoy** said what makes it work because everyone will be mandated to pay whether eligible or not. There is no job protection.

Rep. **Leishman** asked about companies with 20 or 50 employees.

Rep. **Lovejoy**: No job protection.

October 22, 2019

Page 2 of 2

Rep. **Leishman** concerned about restaurants and employees working in restaurants.

Rep. **Lovejoy**: Employees will report tips and be taxed on that reporting. Everyone will pay .05% on salary and tips.

Rep. **Ober** asked Rep. **Lovejoy** to calculate payout per week for a person earning \$1,000 per week. After six months that person per Rep. **Lovejoy** gets \$600 per week.

Rep. **Ober** asked how much that person would have paid in after six months.

Rep. **Lovejoy**: \$260 total.

Rep. **Ober**: So that employee is eligible for \$6,000 for 10 weeks leave but would have only paid in \$260? How will this plan work?

Rep. **Lovejoy** said that's why it is mandatory.

Rep. **Leishman** asked about pay for seasonal employees and about overtime.

Deputy Comm. **Lavers** said unemployment maximum is \$14,000 earnings for paying unemployment.

Rep. **Barry** asked what the overarching reason to have state do this?

Rep. **Lovejoy** said it was cheaper?

Rep. **Barry**: Size and scope of FMLI is more doable on state basis? Why should we do this?

Rep. **Lovejoy**: Everybody pays.

Rep. **Leishman** - provides family leave and wants to know why this doesn't apply to political subdivisions.

Rep. **Ober**: Why should state become an insurance company?

Rep. **Lovejoy**: We already do it?

Rep. **Ober**: Then why do we need \$12,000,000 to write software? We don't do it.

Rep. **Lovejoy**: Will we have a system that collects unemployment?

Rep. **Wallner** moved adoption of amendment 2019-2786h. Rep. **Lovejoy** seconded. Vote five in favor, three against.

Rep. **Wallner** moved OTP/A, seconded by Rep. **Lovejoy**. Motion passed 5-3.

Respectfully submitted,



Rep. Lynne Ober  
Clerk, Division I



SB 72 Judicial Branch transfer  
in budget

Rep. Brishman moved ITR Rep. Waly Ind

SB 72

Rep. Longway presented amendment 2019-2786h  
and went over the change.

Rep. Ober asked about part time seasonal  
workers such as teenagers working at  
Water Country or Canobie Lake being forced  
to pay the FICA tax. <sup>Cont.</sup> Commissioner Lord  
from Employment Security said yes.

Rep. Spence asked about a service employee  
being taxed.

Cont. Comm. Lord said that was a Dept. of Labor  
issue.

Rep. Spence said they would pay for something  
they would not use.

Rep. Waly asked about applicable minimum  
wage and asked if the lower wage for service  
staff would be used.

Cont. Commissioner said he didn't know. Court would  
rule on legislative intent.

By. Ober So that employee is eligible for \$6,000 for 10 weeks leave but would have only paid in \$260. How will this plan work?

Rep. Lorigoy said that's why it is mandatory

Rep. Fishman asked about pay for seasonal employees and about overtime.

Asst. Commissioner Good said unemployment insurance is \$14,000 covering for paying unemployment.

Rep. Barry asked what the overriding reason to have state do this?

Rep. Lorigoy said it was cheaper?

Rep. Barry - Size & scope of FMLA is more doable on state basis? Why should we do this?

Rep. Lorigoy - everybody pay.

Rep. Fishman provides family leave and want to know why this doesn't apply to political sub-divisions.

Rep. Ober - Why should state become an insurance company?

Rep. Barry was concerned about whether this would work. FMLI may be wonderful but should not be mandatory.

Rep. Lorig said what makes it work because everyone will be mandated to pay whether eligible or not. There is no job protection.

Rep. Lushman asked about companies with 30 or 50 employees.

Rep. Lorig - no job protection.

Rep. Lushman concerned about restaurants and employees working in restaurants.

Rep. Lorig - Employees will report tips and be taxed on that reporting - Everyone will pay .05% on salary and tips.

Rep. Ober asked Rep. Lorig to calculate payout per week for a person earning \$1000 per week. After 6 months that person per Rep. Lorig get \$600 per week.

Rep. Ober asked how much that person would have paid in after 6 months.

Rep. Lorig \$260 total

Rep. Lovejoy - We already do it?

Rep. Ober - Then why do we need \$12,000,000 to write software if we don't do it.

Rep. Lovejoy - Will we have a system that collects unemployment.

Rep. Waller moved adoption of amendment 2019-278pkh. Rep. Lovejoy second  
5 in favor - 3 against.

Rep. Waller moved OTR/A  
Rep. Lovejoy second.

Motion passed 5-3



2019 SESSION

Finance - Division I

Bill #: 712 Motion: OT/A AM #: 2019-2786L Exec Session Date: 1/22/19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Lovejoy, Patricia T. Chairman	X		
Hatch, William A. Vice Chairman	X		
Leishman, Peter R.	X		
Walz, Mary Beth	X		
Wallner, Mary Jane	X		
Ober, Lynne M. Clerk		X	
Spanos, Peter J.		X	
Barry, Richard W.		X	
<b>TOTAL VOTE:</b>	<b>5</b>	<b>3</b>	

*Rep. Wallner moved OT/A*  
*Rep. Lovejoy second*

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**Amendment to HB 712-FN**  
**- Page 2 -**

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21 Amend the bill by replacing section 4 with the following:

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23       4 Effective Date. This act shall take effect July 1, 2020.

# Voting Sheets



**HOUSE COMMITTEE ON FINANCE**

**EXECUTIVE SESSION on HB 712-FN**

**BILL TITLE:** relative to a family and medical leave insurance program.

**DATE:** March 27, 2019

**LOB ROOM:** 210-211

**MOTIONS:      RETAINED**

Moved by Rep. Lovejoy

Seconded by Rep. Hatch

Vote: 13-8

Respectfully submitted,

Rep Katherine Rogers, Clerk

HOUSE COMMITTEE ON FINANCE

EXECUTIVE SESSION on HB 709-FN-A-LOCAL

BILL TITLE: relative to the formula for determining funding for an adequate education.

DATE:

LOB ROOM: 210-211

MOTION: (Please check one box)

- OTP           ITL           Retain (1<sup>st</sup> year)           Adoption of Amendment # \_\_\_\_\_  
 Interim Study (2nd year)          (if offered)

Moved by Rep. Lovejoy          Secunded by Rep. Hatch          Vote: B-8

MOTION: (Please check one box)

- OTP     OTP/A     ITL           Retain (1<sup>st</sup> year)           Adoption of Amendment # \_\_\_\_\_  
 Interim Study (2nd year)          (if offered)

Moved by Rep. \_\_\_\_\_          Secunded by Rep. \_\_\_\_\_          Vote: \_\_\_\_\_

MOTION: (Please check one box)

- OTP     OTP/A     ITL           Retain (1<sup>st</sup> year)           Adoption of Amendment # \_\_\_\_\_  
 Interim Study (2nd year)          (if offered)

Moved by Rep. \_\_\_\_\_          Secunded by Rep. \_\_\_\_\_          Vote: \_\_\_\_\_

MOTION: (Please check one box)

- OTP     OTP/A     ITL           Retain (1<sup>st</sup> year)           Adoption of Amendment # \_\_\_\_\_  
 Interim Study (2nd year)          (if offered)

Moved by Rep. \_\_\_\_\_          Secunded by Rep. \_\_\_\_\_          Vote: \_\_\_\_\_

CONSENT CALENDAR:    \_\_\_ YES    \_\_\_ NO

Minority Report?    \_\_\_ Yes    \_\_\_ No    If yes, author, Rep: \_\_\_\_\_ Motion \_\_\_\_\_

Respectfully submitted:   
Rep Katherine Rogers, Clerk

## 2019 SESSION

Finance

Bill #: HB 709 Motion: Retain AM #: \_\_\_\_\_ Exec Session Date: 3/27/19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Wallner, Mary Jane Chairman	13		
Huot, David O. Vice Chairman	1		
Rogers, Katherine D. Clerk	2		
Nordgren, Sharon L.	3		
Leishman, Peter R.	4		
Buco, Thomas L.	5		
Hatch, William A.	6		
Ford, Susan M.	7		
Lovejoy, Patricia T.	8		
Walz, Mary Beth	9		
Leath, Mary	10		
Martin, Joelle	11		
Murray, Kate R.	12		
Meyler, Kenneth L.		1	
Bober, Lynne M.		2	
Danielson, David J.		3	
Panos, Peter J.		4	
Lennessey, Erin T.		—	
Harry, Richard W.		5	
Bitre, Joseph A.		6	
Born, Werner D.		7	
Boff, Keith		8	
<b>TOTAL VOTE:</b>	<b>13</b>	<b>8</b>	

Division I  
Work Session  
Minutes

HOUSE COMMITTEE ON Finance

DIVISION I WORK SESSION ON HB 712-FN

**BILL TITLE:** relative to a family and medical leave insurance program.

**DATE:** March 13, 2019

**ROOM:** 212

**Time Work Session Called to Order:** <<Start Time>>

**Time Adjourned:** <<End Time>>

(please circle if present)

**Committee Members:** Lovejoy, Hatch, Leishman, Walz, Wallner, L. Ober, Spanos and Barry

**Bill Sponsors:**

Rep. Wallner  
Rep. K. Murray  
Rep. Wazir  
Rep. Le  
Sen. Rosenwald

Rep. Martin  
Rep. Altschiller  
Rep. McMahan  
Rep. Loughman

Rep. Fothergill  
Rep. McBeath  
Rep. Luneau  
Sen. Fuller Clark

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

Richard **Lavers**, Deputy Commissioner, Department of Labor testified on updated fiscal note.

\$5.4 million from the state employees, \$163.1 million from the private sector. Total \$168.5 million.

Estimates based on 2017 fourth quarter through 2018 third quarter.

Exceptions available for employees who provide all the leave/benefits in HB 712.

Department is unable to provide benefit estimates because they have not administered a family medical leave program. To provide our estimates there are many variables and assumptions that will need to be made:

- utilization rate;
- actual benefit;
- duration of leave.

Got a grant and hired Carsey School to study family medical leave act - Carsey put out a report. Data on viability of this plan is in the Carsey Institute - with their economists - Dr. **Smith**.

Dr. **Smith** suggested a .5 percent premium in a mandatory participation program.

Look at first four of the most recent five quarters, calculate 60% of highest quarter.

Applies to part-time employees if they have both worked the 6 months and made the minimum amount - about \$7,000.00 or 1040 times the minimum wage. By 2023 the program should be self-supporting. State has a history of loaning money to a program for development costs - from the general fund and them repayment within five years.

HB 712-FN

3/13/19

Page 2 of 2

Will take a total of 30 months to develop and set up the benefits program - and 24 months to set up the basic system. Should have about \$80 million collected before any benefits paid. Applies to seasonal employees too.

Motion to retain was made. Motion adopted 5-0.

Respectfully submitted,

Rep. Mary Beth Walz  
Acting Clerk, Division I

3/13/19 Division 1

MBV  
Acting

HB 712

Richard Lowers - Deputy Commissioner of Labor  
Deputy Commissioner of Labor testified  
on updated fiscal note:

\$1,631.5M total { 5.4 million from the state employees  
163.1 million from the private sector.

Estimates based on 2017 4<sup>th</sup> quarter though  
218 third quarter

Exception available for employers who  
provide all the leave/benefits in HB 712

Department is unable to provide benefit estimates  
because they have not administered a family  
medical leave program. To provide an  
estimates there are many variables & assumptions  
that will need to be made.

- utilization rate
- actual benefit.
- duration of leave

Got a grant & hired Casey school to study  
family medical leave act - Casey put out a report



Data on viability of this plan is in the Casey Institute - with their economists - or Smith

Dr Smith suggested a 1/2 percent premium in a mandatory participation program.

Look at

just 4 of the most recent 5 quarters  
calculate 60% of highest quarter

Applies to part time employees if they have both worked the 6 months and made the minimum amount - about \$7000.00, or 1040 times the minimum wage

By 2023 the program should be self supporting. State has a history of loaning money to a program for development costs - from the general fund and then repayment within five years.

Will take a total of 30 months to develop & set up the benefits program - and 24 months to set up the basic system

Should have about \$80 m collected before <sup>any</sup> benefits paid.

Applies to seasonal employees to



HOUSE COMMITTEE ON Finance

DIVISION I WORK SESSION ON HB 712-FN

**BILL TITLE:** relative to a family and medical leave insurance program.

**DATE:** March 13, 2019

**ROOM:** 212

**Time Work Session Called to Order:** <<Start Time>>

**Time Adjourned:** <<End Time>>

(please circle if present)

**Committee Members:** Lovejoy, Hatch, Leishman, Walz, Wallner, L. Ober, Spanos and Barry

**Bill Sponsors:**

Rep. Wallner  
Rep. K. Murray  
Rep. Wazir  
Rep. Le  
Sen. Rosenwald

Rep. Martin  
Rep. Altschiller  
Rep. McMahan  
Rep. Loughman

Rep. Fothergill  
Rep. McBeath  
Rep. Luneau  
Sen. Fuller Clark

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

Retain  
5-0



2019 SESSION

Finance - Division I

Bill #: 712 Motion: re-fair AM #: \_\_\_\_\_ Exec Session Date: 3/25/19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Lovejoy, Patricia T. Chairman	✓		
Hatch, William A. Vice Chairman	✓		
Leishman, Peter R.	absent		
Walz, Mary Beth	✓		
Wallner, Mary Jane	✓		
Ober, Lynne M. Clerk	absent		
Spanos, Peter J.	absent		
Barry, Richard W.	✓		
<b>TOTAL VOTE:</b>	<b>5-0</b>		

HOUSE COMMITTEE ON Finance  
DIVISION I WORK SESSION ON HB 712-FN

**BILL TITLE:** relative to a family and medical leave insurance program.

**DATE:** March 6, 2019

**ROOM:** 212

**Time Work Session Called to Order:** <<Start Time>>

**Time Adjourned:** <<End Time>>

(please circle if present)

**Committee Members:** Lovejoy, Hatch, Leishman, Walz, Wallner, L. Ober, Spanos and Barry

**Bill Sponsors:**

Rep. Wallner  
Rep. K. Murray  
Rep. Wazir  
Rep. Le  
Sen. Rosenwald

Rep. Martin  
Rep. Altschiller  
Rep. McMahan  
Rep. Loughman

Rep. Fothergill  
Rep. McBeath  
Rep. Luneau  
Sen. Fuller Clark

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

Rep. Wallner introduced the bill.


Karen Levchuk, legal council for Employment Security: This bill is lacking loan amount. The bill is lacking length of loan repayment. The bill is lacking in penalties if loan is not repaid.

Rep. Lovejoy wants to know if income will equal needed outgo.

Need to clarify:

- a. Term application (page 3, line 27);
- b. 1,040 (page 3, line 30);
- c. Page line 2, line 32 says: "...no greater than 0.5 percent of wages ..." and yet page 4 line 34 says "... increase or reduce ..." How can that be increased given page 2 language?

Respectfully submitted,

  
Rep. Lynne Ober  
Clerk, Division I

HOUSE COMMITTEE ON Finance

DIVISION I WORK SESSION ON HB 712-FN

**BILL TITLE:** relative to a family and medical leave insurance program.

**DATE:** March 6, 2019

**ROOM:** 212

**Time Work Session Called to Order:** <<Start Time>>

**Time Adjourned:** <<End Time>>

(please circle if present)

Committee Members: Lovejoy, Hatch, Leishman, Walz, Wallner, L. Ober, Spanos and Barry

**Bill Sponsors:**

Rep. Wallner  
Rep. K. Murray  
Rep. Wazir  
Rep. Le  
Sen. Rosenwald

Rep. Martin  
Rep. Altschiller  
Rep. McMahon  
Rep. Loughman

Rep. Fothergill  
Rep. McBeath  
Rep. Luneau  
Sen. Fuller Clark

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

Rep. Spence asked Rep. Wallz if this process by-passed the court system.

After discussion the members determined that page 4 lines 22-23 prohibits the full report to the superior court being released to the superior court.

Rep. Hopper asks that we look at it from a holistic view than just from the financial position. Say there would be "a lot more" right to know requests.

Rep. Wallz said people ask for nuisance right to know requests. "I know there is a lot of nuisance stuff out there. People ask and demand for data that is not kept."

Rep. Wallz and Rep. Hopper had a discussion about nuisance requests.

HB 712

Rep. Wallner introduced bills

from Lerschuk, Legal Council for Employment Security

The bill is lacking loan amount.

The bill is lacking length of loan repayment

The bill is lacking in penalties if loan is not repaid.

Rep Loring wants to know if income will equal needed outgo.

Monde Sears, lobbyist, brought charts from a year ago.

Need to clarify:

a. Term application (p. 3 line 27)

b. 1040 (p. 3, line 30)

c. page 2 line 32 says "... no greater than 0.5 percent of wages..." and yet page 4 line 34 says "... increase or reduce..." How can that be increased given page 2 language.

# Fiscal Notes



**HB 712-FN- FISCAL NOTE**  
AS AMENDED BY THE HOUSE (AMENDMENT #2019-0418h)

AN ACT relative to a family and medical leave insurance program.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	Indeterminable Increase
<b>Expenditures</b>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other - Family and Medical Leave Insurance Fund

**COUNTY:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	Indeterminable	Indeterminable	Indeterminable	Indeterminable

**LOCAL:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	Indeterminable	Indeterminable	Indeterminable	Indeterminable

**METHODOLOGY:**

This bill, as amended by the House, establishes a system of paid family and medical leave insurance. The Department of Employment Security would administer the program. The program would apply to both state and non-governmental employers, but provide an option for employers to opt out of the program if they could demonstrate they were providing an equivalent insurance plan for employees. The program would allow political subdivisions to opt in to the program provided they could show that the program benefits are at least equivalent to the benefits in their existing plans. Participating employers would remit payments equal to 0.5% of wages on a quarterly basis for deposit in the family medical leave insurance fund (FMLI fund). After having remitted premium payments for at least 6 months, qualifying employees would be able to take up to 12 weeks of paid leave during any 12 month period for certain qualifying events. The benefit would be 60% of the employee's average wage during the highest earning quarter in the base period, but not less than \$125 per week or higher than 85% of the average weekly NH wage. The Department made the following assumptions in considering the fiscal impact of the bill:

- Full participation from state and non-governmental employers, as the Department does not



have information on how many employers may elect to obtain their own comparable insurance. It is not possible at this time to speculate which local public employers may opt into the program.

- The Department would be responsible for administering the FMLI fund regardless of whether or not a third party administrator is engaged to administer the benefits. Based on data from the 4th quarter of 2017 through the 3rd quarter of 2018, which is the latest available, the Department calculated the proposed 0.5% premium would generate annual revenue of \$168.6 million from state and private employers. Since participation from local public employers is unknown, no revenue is assumed for local governments.
- It is not possible for the Department to estimate the total annual FMLI benefit costs as the number of participants in the program and/or the number of applications for leave cannot be predicted, however the Department does have wage and employment information which could be provided to aid in such an analysis.
- Concerning development and maintenance of the program, the cost to the Department would depend on whether the benefits are administered by the Department or by a third party administrator. If the benefits are administered by a third party, costs to the Department would be limited to issuing an RFP for administration of the FMLI benefit program, developing and administering the outreach program to create awareness of the program to employers and employees and developing, administering and maintaining of the FMLI revenue application.
- If the FMLI benefit program is administered by a third party, the Department assumes the vendor would be paid from the FMLI fund.
- If the RFP is not successful, the Department would incur additional costs to develop, administer and maintain the benefit component of the FMLI program.
- Development of the programs would take 24 months, regardless of who administers the benefits. This is the amount of time required to develop both the benefit and revenue IT infrastructures, which would be maintained separately from the Department's unemployment compensation program. The benefit infrastructure, if administered by a third party, would be developed by a private vendor selected through a competitive RFP process.
- The IT infrastructure associated with the FMLI revenue program would be developed by existing and new staff at the Department of Information Technology (DoIT). The Department currently relies on DoIT staff to manage the existing unemployment compensation revenue program. The Department assumes the FMLI revenue component would be constructed as an enhancement to, but separate from the existing program.
- Both the FMLI benefit program and the FMLI revenue programs would be developed simultaneously. Completion of the revenue program would be in 24 months, and completion of the benefits program would be in 30 months due to the time needed to issue an RFP,

negotiate a contract, and receive Governor and Council approval of the contract.

- Additional costs would include staff from the Department and DoIT working alongside the IT vendor to develop and test the systems, annual maintenance services for the FMLI benefit system from and outside vendor (20% of development cost), additional hardware, and leased office space and equipment for the new staff.

The Department projected the anticipated costs assuming the Department administering the entire FMLI program, and then separately assuming a third party administrator would administer the FMLI benefit program and the Department would administer the FMLI revenue program.

Department Administers Both Applications	Staff*	FY 2020	FY 2021	FY 2022	FY 2023
Development	6.88 FTEs	\$3,924,710			
Development	9.13 FTEs		\$6,565,239		
Development / Maintenance	38.61 FTEs			\$7,706,397	
Development / Maintenance	43.61 FTEs				\$6,641,571
<b>Total</b>		<b>\$3,924,710</b>	<b>\$6,565,239</b>	<b>\$7,706,397</b>	<b>\$6,641,571</b>
Source of Funds		TBD	TBD	TBD	FMLI Fund

\*FTE = Full-time Equivalent

The Department projected the development and ongoing maintenance costs for both programs as follows:

<b>Development Costs – Both Applications</b>	
Vendor Develop FMLI Benefit Payment Application	\$10,000,000
State staffing- Development	\$4,693,147
New Hardware -Revenue Application	\$200,000
New Hardware Benefit Application	\$200,000
<b>Total Development Costs:</b>	<b>\$15,093,147</b>
<b>Annual Maintenance – Both Applications</b>	
Maintenance of Benefit System Application (Paid to Outside Vendor)	\$2,000,000
State Staffing - Maintenance	\$4,641,571
<b>Total Maintenance Costs:</b>	<b>\$6,641,571</b>

The Department provided the following cost projections to administer the FMLI revenue application:

<b>Development Costs – Revenue Application</b>	
State DoIT Staffing	\$1,575,894
State Program Staffing	\$1,006,041
New Hardware	\$200,000
Office Lease, Equipment and In-State Travel	\$176,062
<b>Total Development</b>	<b>\$2,957,997</b>
<b>Annual Maintenance – Revenue Application</b>	
State DoIT Staffing	\$275,236
State Program Staffing	\$1,206,320
Office, In-State Travel, Banking Fees	\$106,012

Total Maintenance Costs:	\$1,587,568
--------------------------	-------------

This bill authorizes the state treasurer to transfer General Funds to the Department of Employment Security for payment of the initial administrative and implementation costs. Within the first five years after the program becomes operational the Department is to repay the general fund in installments from the FMLI fund. After the program is operational, if the Commissioner determines the solvency of the fund is in jeopardy, the Commissioner shall provide data supporting this determination to the advisory council and may increase premiums, decrease benefits, or decrease the length of leave, but by no more than 10 percent. After the Commissioner determines the changes are no longer necessary for fund solvency the changes shall be reversed. If the Commissioner the fund balance is in excess of necessary funds, the Commissioner shall provide data supporting the determination to the advisory council and reduce FMLI premiums.

The Insurance Department assumes it would not be involved with the program and there would be no impact on its operating budget. The Department does not anticipate the program will impact existing insurance products or product sales. The Department acknowledges that there are some products that may duplicate some of this coverage, but assumes the differences between this program and market coverage are enough that the bill would not cause changes in market behavior. The Department further assumes there would be no impact on Insurance Premium Tax revenue or on county or municipal health insurance benefit costs.

**AGENCIES CONTACTED:**

Departments of Employment Security and Insurance

Bill  
as  
Amended  
by the  
House

HB 712-FN - AS AMENDED BY THE HOUSE

27Feb2019... 0418h

2019 SESSION

19-0371  
06/10

HOUSE BILL **712-FN**

AN ACT relative to a family and medical leave insurance program.

SPONSORS: Rep. Wallner, Merr. 10; Rep. Martin, Hills. 23; Rep. Fothergill, Coos 1; Rep. K. Murray, Rock. 24; Rep. Altschiller, Rock. 19; Rep. McBeath, Rock. 26; Rep. Wazir, Merr. 17; Rep. McMahon, Rock. 7; Rep. Luneau, Merr. 10; Rep. Le, Rock. 31; Rep. Loughman, Rock. 21; Sen. Fuller Clark, Dist 21; Sen. Rosenwald, Dist 13

COMMITTEE: Labor, Industrial and Rehabilitative Services

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ANALYSIS

This bill establishes a system of paid family and medical leave insurance.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT relative to a family and medical leave insurance program.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Chapter; Family and Medical Leave Insurance. Amend RSA by inserting after chapter  
2 282-A the following new chapter:

3 CHAPTER 282-B

4 FAMILY AND MEDICAL LEAVE INSURANCE

5 282-B:1 Findings. The general court finds that family and medical leave insurance will help  
6 New Hampshire attract and retain workers, including younger workers, will enable parents to bond  
7 with biological, adopted, or foster children, will help meet the needs of an aging population, will  
8 advance the health of New Hampshire's workforce and workplace stability, and will enhance worker  
9 retention and productivity. The general court therefore finds that it is in the public interest to  
10 establish a system of family and medical leave insurance (FMLI) with benefits to be provided to  
11 qualified workers on a limited basis.

12 282-B:2 Definitions. In this chapter:

13 I. "Benefit year" means the 12-month period beginning with the first day of the calendar  
14 week in which the individual next files an application for FMLI benefits after the expiration of the  
15 individual's last preceding application year.

16 II. "Calendar quarter" has the same meaning as in RSA 282-A:5.

17 III. "Commissioner" means the commissioner of the department of employment security.

18 IV. "Department" means the department of employment security.

19 V. "Employer" has the same definition as relevant provisions of RSA 282-A:8, except as  
20 provided in RSA 282-A:9.

21 VI. "Employment" means wages paid for services by an employer that is covered by this  
22 chapter.

23 VII. "Family member" means a spouse or domestic partner under RSA 457, son, daughter,  
24 parent, stepparent, grandparent, or step grandparent related through birth, marriage, adoption,  
25 foster care, or legal guardianship.

26 VIII. "Family and medical leave" means leave from work:

27 (a) Because of the birth of a child of the employee, within the past 12 months; or

28 (b) Because of the placement of a child with the employee for adoption, legal  
29 guardianship, or fostering, within the past 12 months; or

30 (c) Because of a serious health condition of a family member; or

31 (d) Because of a serious health condition of the employee that isn't related to

1 employment; or

2 (e) Because of any qualifying exigency arising from the foreign deployment with the  
3 Armed Forces, or to care for a service member with a serious injury or illness as permitted under  
4 the federal Family and Medical Leave Act, 29 U.S.C. section 2612(a)(1)

5 IX. "FMLI" means family and medical leave insurance.

6 X. "Federal Family and Medical Leave Act" means the federal Family and Medical Leave  
7 Act of 1993, 29 U.S.C. section 28.

8 XI. "Serious health condition" means any illness covered by the federal Family and Medical  
9 Leave Act including treatment for addiction as prescribed by a treating clinician, consistent with  
10 American Society of Addiction Medicine criteria, as well as treatment for a mental health condition,  
11 consistent with American Psychiatric Association criteria.

12 XII. "Fund" means the family and medical leave insurance fund as described in RSA 282-  
13 B:4.

14 282-B:3 Employer Applicability.

15 I. This chapter applies to the state and nongovernmental employers beginning January 1,  
16 2020, provided that any employer may instead exercise a business option of: participating in a self-  
17 insured plan, self-insuring, purchasing insurance, providing benefits, or any combination thereof,  
18 upon employer application and certification by the commissioner or authorized representative that  
19 the employer will provide an equivalent benefit to all of its employees. If the employer is subject to  
20 a collective bargaining agreement, this chapter shall apply to the employer upon the effective date  
21 of the first successor collective bargaining agreement following January 1, 2020 to permit the  
22 employer and the union to negotiate the premium rate share under RSA 282-B:3, II. Political  
23 subdivisions of the state may opt into this chapter upon certification by the authorized  
24 representative that this chapter's insurance benefits are at least equivalent to the benefits provided  
25 under the collective bargaining agreement, provided the applicable bargaining unit has first ratified  
26 this option. Beginning January 1, 2020, this chapter shall be a mandatory subject of bargaining for  
27 collective bargaining agreements. Employees not covered by a collective bargaining agreement in a  
28 political subdivision of the state may opt into this chapter if the political subdivision has not.

29 II. All employers subject to this chapter shall remit FMLI premium payments on a calendar  
30 quarter basis. These quarterly insurance premium payments shall amount to 0.5 percent of wages  
31 per employee per week for each week of the preceding quarter. Employers may withhold or divert  
32 no greater than 0.5 percent of wages per week per employee to satisfy this paragraph, provided that  
33 such employers provide employees, before employment commences, a department approved  
34 information sheet containing conspicuous language explaining the costs and benefits of the  
35 insurance.

36 III. The penalties for falsity by employers shall be in accordance and consistent with RSA  
37 282-A:166. The process for failing to adequately report shall be in accordance and consistent with  
38 RSA 282-A:151-152 and 282-A:166-a, and any resulting appeals shall be processed in accordance

1 and consistent with RSA 282-A:94-98.

2 282-B:4 Family and Medical Leave Insurance Fund Administration. The department shall  
3 create and administer a family and medical leave insurance fund for deposits of insurance payments  
4 paid pursuant to RSA 282-B:3, and accept any other deposit of moneys as authorized by law or by  
5 the commissioner or authorized representative. No FMLI fund moneys shall be co-mingled with  
6 unemployment insurance fund moneys. The department is authorized to withdraw or deduct from  
7 the FMLI fund where there are qualifying FMLI benefit payments or for any amounts reasonably  
8 necessary to implement and administer the provisions of this chapter or to repay any start-up loan.

9 282-B:5 Employer and Employee Responsibilities.

10 I. An employee shall both file an application with the department, including any applicable  
11 medical certification or birth certificate, and provide his or her employer with written notice of  
12 intent to take a leave of absence at least 30 days before the leave will begin unless the leave was not  
13 reasonably foreseeable or the time of the leave changes due to circumstances that were not  
14 reasonably foreseeable, provided, however, that the employee shall provide notice as soon as  
15 practicable. An employee's failure to provide required notice may delay or reduce benefits.

16 II. Any employee of an employer covered under the federal Family and Medical Leave Act  
17 who takes leave under this chapter shall be restored to the position he or she held in the application  
18 period or to an equivalent position by his or her employer. Employers shall continue to provide  
19 health insurance to employees during the leave, but employees remain responsible for any  
20 employee-shared costs associated with the health insurance benefits. Employers shall not retaliate  
21 against any employee solely for exercising his or her rights under this chapter.

22 III. An employer may require that leave taken under this chapter be taken concurrently or  
23 otherwise coordinated with leave allowed under the terms of a collective bargaining agreement or  
24 employer policy. The employer shall give individuals in its employ written notice of this  
25 requirement.

26 282-B:6 Eligibility Process, Calculation, and Appeals.

27 I. An employee shall be limited up to 12 weeks of FMLI in any one application period. An  
28 employee shall have had premium payments remitted as a percent of his or her wages for at least 6  
29 months to be eligible for benefits and shall have worked in employment resulting in wages in the  
30 amount of at least 1,040 multiplied by the applicable minimum wage, in either the "base period" or  
31 "alternative base period," as those terms are defined in RSA 282-A:2.

32 II. An employee shall be eligible for FMLI for reasons identified in paragraph I and RSA  
33 282-B:2, IX.

34 III. The calculation of weekly FMLI benefits shall be the highest quarter of wages in either  
35 the base period or alternate base period as defined in RSA 282-A:2, then divided by 13 and  
36 multiplied by 0.6, provided that no such calculation of FMLI benefits shall be less than \$125 per  
37 week or greater than 0.85 of the average weekly wage in New Hampshire. The calculation for  
38 partial FMLI benefits shall be in a manner consistent with RSA 282-A:14.



1 IV. The process for FMLI benefits claims, violations, and any resulting appeals shall be in  
 2 accordance and consistent with RSA 282-A:42 through RSA 282-A:68 and RSA 282-A:118.  
 3 Processing of benefits claims and benefit payment may be administered by a third party selected  
 4 through a request for proposals issued by the department. The standard and process for handling  
 5 overpayments shall be in accordance and consistent with RSA 282-A:29, RSA 282-A:141-RSA 282-  
 6 A:156 and RSA 282-A:165. In addition, an individual shall be disqualified from FMLI benefits  
 7 beginning with the first day of the calendar week, and continuing for the next 26 weeks, in which  
 8 the individual has been found to willfully made a false statement or misrepresentation regarding a  
 9 material fact, or willfully failed to report a material fact, to obtain benefits under this chapter.

10 282-B:7 Limitations. Nothing in this chapter shall diminish an employer's obligation to comply  
 11 with a collective bargaining agreement or employer policy, nor does this chapter, or any decision by  
 12 the commissioner or authorized representative under this chapter, limit the ability of employers to  
 13 provide FMLI benefits or benefits beyond what is required by this chapter.

14 282-B:8 Report and Outreach.

15 I. The department shall make public and provide semi-annual reports to the governor,  
 16 senate president, speaker of the house of representatives, and the advisory council established  
 17 pursuant to RSA 282-A:128 involving a summary to include but not be limited to, compliance with  
 18 this chapter, payments into and out of the fund, fund balance, usage rates including for low wage  
 19 employees, and retention of employees who received FMLI benefits.

20 II. The department shall develop and implement an outreach program to ensure that  
 21 individuals who may be eligible to receive FMLI benefits under this chapter are made aware of  
 22 these benefits. Outreach information shall explain in an easy to understand format, eligibility  
 23 requirements, the claims process, weekly benefit amounts, maximum benefits available, notice  
 24 requirements, reinstatement and non-discrimination rights, confidentiality, and coordination of  
 25 leave under this chapter and other laws, collective bargaining agreements, and employer policies.

26 282-B:9 Rulemaking. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to  
 27 this chapter. In adopting rules, the commissioner shall maintain consistency with the rules adopted  
 28 to implement the federal Family and Medical Leave Act, to the extent such rules are not in conflict  
 29 with this chapter.

30 282-B:10 Sustainability Mechanism. The commissioner shall continuously monitor the  
 31 solvency of the fund. Should the commissioner determine at any time that the solvency of the fund  
 32 is in jeopardy, or that the fund is in excess of necessary funds, the commissioner shall provide the  
 33 advisory council with data supporting such solvency determination and may prospectively, effective  
 34 in a future calendar quarter, increase or reduce FMLI premiums in RSA 282-B:3, II, decrease the  
 35 benefits payable in RSA 282-B:6, III, or decrease the allowable length of leave in RSA 282-B:6, I, or  
 36 any combination thereof, provided such prospective changes are no greater than or less than 10  
 37 percent of those required under this chapter. If the commissioner thereafter determines such  
 38 changes are no longer necessary for fund solvency the commissioner shall reverse such changes.

1 Advance notice of any and all changes pursuant to this paragraph shall be provided to all covered  
2 employers and employees.

3 282-B:11 Family and Medical Leave Insurance Program; Funding Transfer and Repayment.  
4 The state treasurer shall transfer funds from the general fund to the department of employment  
5 security for payment of the initial administrative and implementation costs associated with this  
6 chapter. Within the first 5 years after the family and medical leave insurance program becomes  
7 operational, the department shall repay the general fund transfer in installments from funds  
8 deducted from the family medical leave insurance fund.

9 2 Advisory Council. Amend RSA 282-A:128 to read as follows:

10 282-A:128 Advisory Council. There is hereby created within the unemployment compensation  
11 bureau an advisory council on unemployment compensation *and family medical leave*  
12 *insurance*, hereinafter called the advisory council. The advisory council shall consist of 9 members  
13 to be appointed, with the exception of the legislative members, by the governor with the consent  
14 and advice of the governor's council. Three of the appointees of this advisory council shall be  
15 persons who, because of their vocations, employment or affiliations, shall be classed as representing  
16 the point of view of employers; 3 shall be persons who, because of their vocations, employment or  
17 affiliations, shall be classed as representing the point of view of employees; one shall be a senator  
18 appointed by the senate president; one shall be a representative [~~from the labor, industrial and~~  
19 ~~rehabilitative services committee~~] appointed by the speaker of the house; the remaining appointee,  
20 who shall be designated as chairman, shall be a person whose training and experience qualify him  
21 *or her* to deal with the problems of unemployment compensation. Such advisory council shall meet  
22 no later than 45 days after each calendar quarter and aid the commissioner in formulating policies  
23 and discussing problems related to the administration of this chapter *and RSA 282-B* and in  
24 assuring impartiality and freedom from political influence in the solution of such problems.  
25 Advisory council meetings shall provide opportunity for public comment. *The advisory council*  
26 *shall quarterly review and evaluate family medical leave insurance and, after 2 years of*  
27 *administration, the commissioner shall assess utilization, finances, and benefit levels and*  
28 *provide the general court with rate adjustment or fiscal recommendations.*

29 3 New Subparagraph; State Treasurer; Application of Receipts. Amend RSA 6:12, I(b) by  
30 inserting after subparagraph (343) the following new subparagraph:

31 (344) Moneys deposited in the family and medical leave insurance fund established  
32 in RSA 282-B:4.

33 4 Effective Date. This act shall take effect upon its passage.

**HB 712-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to a family and medical leave insurance program.

FISCAL IMPACT:  State  County  Local  None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	Indeterminable Increase
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General Family and Medical Leave Insurance Fund	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other

**COUNTY:**

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

**LOCAL:**

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

**METHODOLOGY:**

This bill establishes a system of paid family and medical leave insurance. The Department of Employment Security would administer the program. The program would apply to non-governmental employers, but provide an option for employers to opt out of the program if they could demonstrate they were providing an equivalent insurance plan for employees. The program would allow the state and political subdivisions to opt in to the program provided they could show that the program benefits are at least equivalent to the benefits in their existing plans. Participating employers would remit payments equal to 0.5% of wages on a quarterly basis for deposit in the family medical leave insurance fund (FMLI fund). Qualifying employees would be able to take up to 12 weeks of paid leave during any 12 month period for certain qualifying events. The benefit would be 60% of the employee's average wage during the highest earning quarter in the base period, but not less than \$125 per week and not higher than 85% of the average weekly NH wage. The Department made the following assumptions in considering the fiscal impact of the bill:

- Full participation from non-governmental employers, as the Department does not have information on how many employers may elect to obtain their own insurance. It is not

possible at this time to speculate which public employers may opt into the program.

- The Department would be responsible for administering the FMLI fund regardless of whether or not a third party administrator is engaged to administer the benefits. Based on 2016 data, which is the latest available, the Department calculated the proposed 0.5% premium would generate annual revenue of \$156.6 million from private employers. Since participation from public employers is unknown, no revenue is assumed for state and local governments.
- It is not possible to estimate the total annual FMLI benefit costs as the number of participants in the program and/or the number of applications for leave cannot be predicted, however the Department does have wage and employment information.
- Concerning development and maintenance of the program, the cost to the Department would depend on whether the benefits are administered by the Department or by a third party administrator. If the benefits are administered by a third party, costs to the Department would be limited to issuing an RFP for administration of the FMLI benefit program, developing and administering the outreach program to create awareness of the program to employers and employees and developing, administering and maintaining of the FMLI revenue application.
- If the FMLI benefit program is administered by a third party, the Department assumes the vendor would be paid from the FMLI fund.
- If the RFP is not successful, the Department would incur additional costs to develop, administer and maintain the benefit component of the FMLI program.
- Development of the programs would take 24 months, regardless of who administers the benefits. This is the amount of time required to develop both the benefit and revenue IT infrastructures, which would be maintained separately from the Department's unemployment compensation program. The benefit infrastructure, if administered by a third party, would be developed by a private vendor selected through a competitive RFP process.
- The IT infrastructure associated with the FMLI revenue program would be developed by existing and new staff at the Department of Information Technology (DoIT). The Department currently relies on DoIT staff to manage the existing unemployment compensation revenue program. The Department assumes the FMLI revenue component would be constructed as an enhancement, but separate from the existing program.
- Both the FMLI benefit program and the FMLI revenue program would be developed simultaneously. Completion of the revenue program would be in 24 months, and completion of the benefits program would be in 30 months due to the time needed to issue an RFP, negotiate a contract and receive Governor and Council approval of the contract.
- Additional costs would include staff from the Department and DoIT working alongside the IT vendor to develop and test the systems, annual maintenance services for the FMLI

benefit system from and outside vendor (20% of development cost), additional hardware, and leased office space and equipment for the new staff.

The Department projected the anticipated costs assuming the Department administering the entire FMLI program, and then separately assuming a third party administrator would administer the FMLI benefit program and the Department would administer the FMLI revenue program.

<b>Department Administers Both Applications</b>	<b>Staff*</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
Development	6.88 FTEs	\$3,924,710			
Development	9.13 FTEs		\$6,565,239		
Development / Maintenance	38.61 FTEs			\$7,706,397	
Development / Maintenance	43.61 FTEs				\$6,641,571
<b>Total</b>		<b>\$3,924,710</b>	<b>\$6,565,239</b>	<b>\$7,706,397</b>	<b>\$6,641,571</b>
Source of Funds		TBD	TBD	TBD	FMLI Fund

\*FTE = Full-time Equivalent

The Department projected the development and ongoing maintenance costs for both programs as follows:

<b>Development Costs – Both Applications</b>	
Vendor Develop FMLI Benefit Payment Application	\$10,000,000
State staffing- Development	\$4,693,147
New Hardware -Revenue Application	\$200,000
New Hardware Benefit Application	\$200,000
<b>Total Development Costs:</b>	<b>\$15,093,147</b>
<b>Annual Maintenance – Both Applications</b>	
Maintenance of Benefit System Application (Paid to Outside Vendor)	\$2,000,000
State Staffing - Maintenance	\$4,641,571
<b>Total Maintenance Costs:</b>	<b>\$6,641,571</b>

The Department provided the following cost projections to administer the FMLI revenue application:

<b>Development Costs – Revenue Application</b>	
State DoIT Staffing	\$1,575,894
State Program Staffing	\$1,006,041
New Hardware	\$200,000
Office Lease, Equipment and In-State Travel	\$176,062
<b>Total Development</b>	<b>\$2,957,997</b>
<b>Annual Maintenance – Revenue Application</b>	
State DoIT Staffing	\$275,236
State Program Staffing	\$1,206,320
Office, In-State Travel, Banking Fees	\$106,012
<b>Total Maintenance Costs:</b>	<b>\$1,587,568</b>

This bill authorizes the state treasurer to transfer General Funds to the Department of

Employment Security for payment of the initial administrative and implementation costs. Within the first five years after the program becomes operational the Department is to repay the general fund in installments from the FMLI fund. After the program is operational, if the Commissioner determines the solvency of the fund is in jeopardy, the Commissioner shall provide data supporting this determination to the advisory council and may increase premiums, decrease benefits, or decrease the length of leave. After the Commissioner determines the changes are no longer necessary for fund solvency the changes shall be reversed.

The Insurance Department assumes it would not be involved with the program and there would be no impact on its operating budget. The Department does not anticipate the program will impact existing insurance products or product sales. The Department acknowledges that there are some products that may duplicate some of this coverage, but assumes the differences between this program and market coverage are enough that the bill would not cause changes in market behavior. The Department further assumes there would be no impact on Insurance Premium Tax revenue or on county or municipal health insurance benefit costs.

**AGENCIES CONTACTED:**

Departments of Employment Security and Insurance