

DEPARTMENT OF LABOR AND EMPLOYMENT  
FY 2024-25 JOINT BUDGET COMMITTEE HEARING AGENDA

**Thursday, December 7, 2023**  
**1:30 pm – 3:00 pm**

**1:30-1:35      INTRODUCTIONS AND OPENING COMMENTS**

Presenter: Joe Barela, Executive Director

**1:35-1:40      COMMON QUESTIONS**

Main Presenters:

- Joe Barela, Executive Director
- Darcy Kennedy, Deputy Executive Director and CFO
- Cher Haavind, Deputy Executive Director and CCO
- Caitlin Adams, Director of Policy and Government Affairs

Topics:

- Common Questions: Page 1-3.

**1:45-2:05      STATE INSURANCE PROGRAMS**

Main Presenters:

- Joe Barela, Executive Director
- Cher Haavind, Deputy Executive Director and CCO

Supporting Presenters:

- Phil Spesshardt, Division Director for the Unemployment Insurance Division
- Tracy Marshall, Division Director for the Family and Medical Leave Insurance Division

Topics:

- Family and Medical Leave Insurance: Page 4 and Appendix C
- Unemployment Insurance: Page 4-5

**2:05-2:40      EMPLOYMENT SUPPORT FUND BUDGET BALANCING PROPOSAL**

Main Presenters:

- Joe Barela, Executive Director
- Darcy Kennedy, Deputy Executive Director and CCO

Supporting Presenters:

- Daniel Chase, Chief of Staff

Topics:

- ESF Budget Balancing Proposal: Page 6-9

**2:40-3:00      CDLE OFFICES**

Main Presenters:

- Joe Barela, Executive Director

Supporting Presenters:

- Katherine Keegan, Director of the Office of the Future of Work
- Dee Daniels Scriven, Director of the Office of New Americans

Topics:

- Office of New Americans: Page 9-11
- Office of Future of Work: Page 11- 14

DEPARTMENT OF LABOR AND EMPLOYMENT  
FY 2024-25 JOINT BUDGET COMMITTEE HEARING

Thursday, December 7, 2023

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COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

- 1 Please describe one-time state and federal stimulus funds that have been allocated to the Department but are not expended as of September, 30, 2023, by bill, budget action, executive action, or other source that allocated funds. The description should include but is not limited to funds that originate from one-time or term-limited General Fund or federal funds originating from the American Rescue Plan Act (ARPA)/State and Local Fiscal Recovery Funds/Revenue Loss Restoration Cash Fund. Please describe the Department's plan to obligate or expend all allocated funds that originate from ARPA by December 2024.

Please further describe any budget requests that replace one-time General Fund or ARPA funded programs with ongoing appropriations, including the following information:

- a. Original fund source (General Fund, ARPA, other), amount, and FTE;
- b. Original program time frame;
- c. Original authorization (budget decision, legislation, other);
- d. Requested ongoing fund source, amount, and FTE; and
- e. Requested time frame (one-time extension or ongoing).

**ARPA/SLRF**

CWDC was allocated \$60M in SLFRF funding through HB21-1264.

- Funding was divided into two major programs, the Reskilling, Upskilling, and Nextskilling, or RUN Program and the Workforce Innovation Act, or WIA.
- Each major program required a set amount of funds to be formula allocated to local workforce boards and required that other funds be distributed to eligible entities through a competitive grant process
- Each of these funding streams was designed to function in accordance with Treasury Guidance on SLFRF funds and will be obligated by 12/31/2024 and expended by 12/31/2026.

ONA - Migrant Coordination was allocated \$130K in SLRF funding through a Governor's Office IA to hire 1.0 FTE Administrator IV to coordinate qualified social services organizations both nonprofit, governmental and or private to provide humanitarian relief. Performance start date 03/02/23 to 06/30/24.

Family and Medical leave Insurance Fund HB 22-1133 transferred \$57M from the Revenue Loss Restoration Fund to the FMLI Fund to prepay state employer premiums. The Department was required to transfer \$35M, the estimated unexpended amount, back to the Revenue Loss Restoration Fund.

Unemployment Insurance SB 22-234 State Treasurer was required to transfer \$600 million from the Revenue Loss Restoration Cash Fund to the new Title XII Repayment Fund.

Executive Director's Office ( IA with the Governor's Office) was allocated \$1.6M in SLFRF funding to build and improve financial reporting functionality of Colorado's MYUI+ system and to hire one term-limited auditor position (Auditor V) in order to manage the increased complexity of the Unemployment Insurance System associated with the COVID-19 pandemic.

In addition, one term-limited Audit Compliance FTE in order to ensure CDLE Divisions are effectively complying with all grant reporting requirements and fiscal rules, regardless of funding source as well as coordination of all audits and monitoring. This project was completed and the Audit Compliance position is funded until December, 2023.

Appendix A - Budget vs. Actuals/Encumbered as of September 30, 2023

### **One Time General Fund Transfer**

#### Just Transition Rural Economic Diversification

The office of Just Transition was allocated \$15M from HB21-1290, It creates a one-time state transfer and will increase state expenditures through FY 2022-23. In the current FY 2020-21, the bill transfers \$15.0 million from the General Fund to the Just Transition Cash Fund, of which \$7.0 million is deposited into the Coal Transition Worker Assistance Program Account and was amended by HB22-1193. The office of Just Transition was also allocated another \$15M from HB22-1394. It creates a one-time state transfer in FY 2022-23, and will increase state and local expenditures through FY 2026-27. On July 1, 2022, the bill transfers \$15.0 million from the General Fund of which \$5.0 million is deposited into the Just Transition Cash Fund, and \$10.0 million is deposited into the Coal Transition Worker Assistance Program Account.

#### Energy Career Pathways

The division of Employment and Training was allocated \$5M from HB21-1149, in FY 2021-22, the bill transfers \$5.0 million from the General Fund to the SPARC program fund. Currently, an energy sector career pathway is under development; however, it does not fully meet the bill's definition of energy sector. As a result, the department hired a temporary 0.3 FTE in FY 2021-22 only to work with industry and state agency partners to expand the current energy sector pathway by the end of FY 2021-22. CDLE will hire two workforce navigators (1.0 FTE in FY 2021-22 and 2.0 FTE FY 2022-23 through FY 2024-25) to support students in accessing training opportunities and navigating prior learning assessments, coordinate with local workforce centers and institutions of higher education, and engage industry partners. Associated operating expenses may include training, travel, and coordination with partnering entities

Appendix B - Budget vs. Actuals/Encumbered as of September 30, 2023

- 2 Please provide a description, calculation, and the assumptions for the fiscal impact of implementing compensation provisions of the Partnership Agreement, as well as a qualitative description of any changes to paid annual, medical, holiday or family leave as a result of the Agreement. Please describe any compensation and leave changes for employees exempt from the Agreement if applicable.

Paid FML: Based on a per employee, per month usage, Paid FML increased from .71 hr per employee per month in FY 22 to 1.7 hr per employee per month in FY 24. As expected, the usage almost doubled from FY 22 to FY 23 when the allowable number of paid FML hours doubled, going from .8 to 1.42. ( an increase of 78%) This increase in usage can be attributed to both the increase in number of hours of paid FML available, due to the PA, as well as a 46% increase in FML designation from calendar year 2022 to calendar year 2023. Over the last 3 fiscal years, (2021 through 2023) the use of paid FML has steadily increased and will continue to do so over the next fiscal year.

Sick: Using fiscal year 2020 as a baseline, there has been an increase in sick leave usage, per employee per month, of 19%. Between fiscal year 2020 and fiscal year 2021, sick leave usage declined by 15% but this can be attributed to the implementation of paid FML coving medical leave that would have previously used sick leave. With the exception of the time period of 1/1/21 to 6/30/21 (the start of paid FML) sick leave usage has increased year over year and is expected to continue in this trend.

Annual: Using Fy 2020 as the baseline, annual leave usage has increased by 22% from FY 2020 to FY 2024. Unlike the other leave usage, annual leave usage peaked in Fy 2022, the middle of the COVID pandemic, and then declined while still remaining 22% higher than the baseline year. Between Fy 23, when the accrual amount increased due to PA, to FY 24 the annual leave usage has decreased by 4%. With the additional 80 hours of paid FML in FY 23, annual leave usage decreased by 21%. This is a reasonable decrease as individuals increased the paid FML by 77% during that same time period.

Holiday: With the addition of the Juneteenth paid holiday effective FY 23 there was a 14%.

Summary: Excluding holiday pay, employee total paid leave accrual usage (paid FML, sick and annual) increased 38% from base year FY 2020 to current FY 2024. Employee total paid leave usage peaked in FY 22 with an increase of 49% over the base year, FY 2020. Again this was during the middle of the COVID pandemic. With the additional 80 hours of paid FML granted in FY 23, there was a 2% increase between FY 23 and the first half of FY 24. This can be attributed to the increase in FML designation that are utilizing all three paid leave accruals. Short term disability benefits have also increased by 45% from 2022 to 2023 which shows employees are on medical leave over the required 30 days waiting period before STD benefits are granted. Employees are out on medical leave for longer durations of time and as a result using all paid leaves available. The addition of paid leave could be a contributing factor to the increase in the duration of medical leave per employee.

Steward time: For FY 2022-2023, CDLE requested a total of \$21,508.94 in steward time reimbursement from DPA. This was based on the loaded salaries of four CDLE union stewards, who spent a total of 331 work hours performing steward duties. There was no direct fiscal impact to CDLE in this category, but there was a direct fiscal impact to the State of Colorado. Also, a conservative estimate of the cost to track steward hours and request reimbursement in FY 2022-2023 is \$2188.32. This is based on the straight salary of the CDLE Labor Relations Coordinator.

- 3 Provide a prioritized list of budget reductions the Department would propose if 10.0 percent General Fund appropriation reductions were required of every Department.

We appreciate the question and the desire to partner with the Department on identifying reductions. On November 1st the Governor submitted a balanced budget that provided decision items for increases and reductions that we spent over a half a year to identify and prioritize across the entire Executive Branch. The proposed budget is balanced, maintains a reserve of 15%, and does not require a 10.0 percent reduction in the General Fund to balance. If the economic conditions change the Governor will take actions to propose reduced expenditures and submit a plan to address the shortfall to the General Assembly. If the Joint Budget Committee wants feedback on specific reduction proposals, we welcome the opportunity to work with JBC staff on estimating the impacts and tradeoffs of those proposals.

## STATE INSURANCE PROGRAMS

### *FAMILY AND MEDICAL LEAVE INSURANCE*

1. *[Sen. Bridges]* Does the Department feel like they have adequate resources to meet the expected demand for the FAMLI program? Please explain.

Per Proposition 118, CDLE began collecting premiums as of January 1, 2023. With 3 quarters of Employer and Employee premiums collected, currently the FAMLI fund has a positive Balance of \$981,508,853. We estimate that with 4 quarters collected for 2023 the balance will be \$1.4B by 6/30/24. The FAMLI Division commissioned an actuarial study to predict employer participation rates, benefit payments, and administrative costs. The study made predictions on benefit payment levels and revenue levels needed to ensure solvency. 2023 premiums collected have come out higher than predicted, and with anticipated benefit levels for 2024, the Division is not concerned with solvency of the fund at this time.

The Division is continuously appropriating funds from the FAMLI fund to cover administrative costs for the program. The funding from the fund has already been used to build two large technology systems capable of managing FAMLI benefit demands and employer premium payments, alongside 300 FTE necessary for administration of the program. Based on current data available from other states, our actuarial analysis, and current employer participation rates, we believe this staffing level will be sufficient to administer the program within all statutory parameters.

### Appendix C Actuarial Study

### *UNEMPLOYMENT INSURANCE*

2. *[Sen. Zenzinger/Rep. Sirota/Rep. Taggart]* Please provide additional data/evidence/substantiation that the Department is processing claims within a 6-7 week time frame. Why are legislators receiving numerous communications that it is taking far longer than that to get approvals? Why are claimants reporting a lack of communication from the Department and saying they cannot get an email or phone response?

### **Processing Times:**

As of 10/31, 71.6% of payments are sent out in 6 weeks or less. After reviewing claims that paid out later than 7 weeks, all of them have circumstances that require additional processing time by federal law, which can include:

- Fraud, this can be either a claimant who is trying to file after finding out that a fraudulent claim was submitted previously under their SSN, or a claim that is filed and is flagged by our fraud detection system.
- Conflicting information from the claimant and employer, which requires additional follow up to both.
- Delays in response to that additional followup.

Our long term goal as a department is to ensure all claims who pass identity verification and fraud analytics are assigned to an adjudicator in three to four weeks, as opposed to our current assigning timeline of 6 weeks. We are also committed to ensuring that legitimate claimants who are caught in fraud holds can be resolved within a week of contacting the Division.

In February and March of 2023, the department reached these goals. However, an unexpected and massive surge of fraudulent claims had a significant and long lasting impact on our system, and we are still seeing the fallout impacting claimants today. In mid April, the Department's systems began showing signs of a severe attack of claims coming in, all of which were likely fraudulent, which lasted through June. In order to safeguard our system, the Department moved to implement several new measures to stop any chance of those claims from being processed and paid. While we are confident those measures prevented millions of dollars of fraudulent payments from being issued, they also flagged legitimate claimants at a much higher rate than we were able to handle.

Over the next few months, we released legitimate claims in large batches, and shifted resources to find and release any legitimate claims not caught in those batches. These efforts were successful, and the backlog was eliminated, however the downstream impact has resulted in a higher than normal processing delay, which we are again working to address.

#### **Customer Service:**

CDLE is making every effort to ensure claimants can receive timely assistance through our call center. Impacting both claims processing and the call center, CDLE has been experiencing a staffing shortage due to turnover and low applicant pools. These are high-stress positions which require extensive training. When we are able to recruit a class, we typically see about 10% fail during training and 10% of new hires quit within the first month, while also competing for staff with growing programs like the FAMLI program. In order to be more responsive to claimants, we are taking two different approaches to solve these issues:

1. Addressing staffing levels: We continue to bring on new classes of call center and adjudicator employees. Once hired, we are also modifying our training process to shorten the classroom time, and make new hires productive more quickly.
2. We are working to allow claimants to resolve their main issues without needing to call the call center, which has traditionally not been possible. The top two reasons a claimant calls our call center is claim status and hold issues. We are working to improve the web based virtual agent and the IVR to provide more claim details so that a claimant does not have to speak with a live agent to get a comprehensive update on where their claim stands in the process. Also, as of December 1st, CDLE signed an agreement with the United States Postal Service to allow claimants to verify their identity in person at any USPS facility in Colorado, instead of needing to come to CDLE's Denver office or calling into our call center. Not to mention, reducing the processing time will result in a large reduction in call volume.

As things currently stand, CDLE's UI call center is not where we want it to be, but we are committed to ensuring this area is improved in the next few months.

## *EMPLOYMENT SUPPORT FUND BUDGET BALANCING PROPOSAL:*

### **Additional summary information:**

The Unemployment Insurance (UI) Division was established as an enterprise under TABOR and is funded by federal funds and cash funds appropriated by the legislature. The problem we are solving with this proposal is that the Employment Support Fund (ESF), which funds about \$11 million of UI's expenses, statutorily sits outside of the UI enterprise, while the Employment and Training Technology Fund (tech fund) sits within the enterprise, thus the current funding structure does not maximize the impact of enterprise status.

The proposal is to maximize the use of the Tech Fund instead of the ESF. Current ESF expenditures would not be eligible for the Tech Fund, so the department is proposing moving technology related expenses off of our federal grants and onto the tech fund, which then frees up the federal grants to cover the ESF expenses, which would be fully allowable. We would then adjust the allocation of the support surcharge revenue and reserve caps for the funds to match this new funding scheme.

Another large part of ESF funded expenses is for local and statewide workforce development activities. CDLE is proposing the creation of a new workforce enterprise that would cover these activities, fund expenditures with their intended uses, and make exempt and non-exempt funds more clear.

In short:

- First, free up federal funds by moving \$10M in expenditures from the federal funds to the Tech fund.
- Then, moving \$10M in expenditures from the ESF to the federal funds.
- Create a new workforce enterprise to cover the current ESF expenditures under the Division of Employment and Training.
- Finally, reallocate the support surcharge percentages created in SB23-232 to decrease revenue to the ESF, increase revenue to the Tech Fund, and provide revenue to the Workforce Development Fund.

Impact:

The proposal does not change the employer community's contribution to both the support surcharge and the UI Trust Fund, nor will it increase or decrease funding to any of the services and programs being funded. The proposal only realigns existing revenues and expenditures across these different funds to be commensurate with the intended uses of those cash funds.

A new workforce enterprise would cover the workforce center costs currently covered by ESF to help align fund expenditures with their intended uses and make exempt and non-exempt funds more clear. More details on the financing of the new workforce fund will be provided on January 2nd.

The proposal will save \$76M GF subject to limit over two years, FY 23-24 and FY 24-25. This is \$29M in one time savings in FY 23-24 and \$23.5M ongoing in savings.



3. [Sen. Kirkmeyer/Rep. Bird] Please provide a detailed flow chart of the proposal and a clear explanation of the TABOR implications.

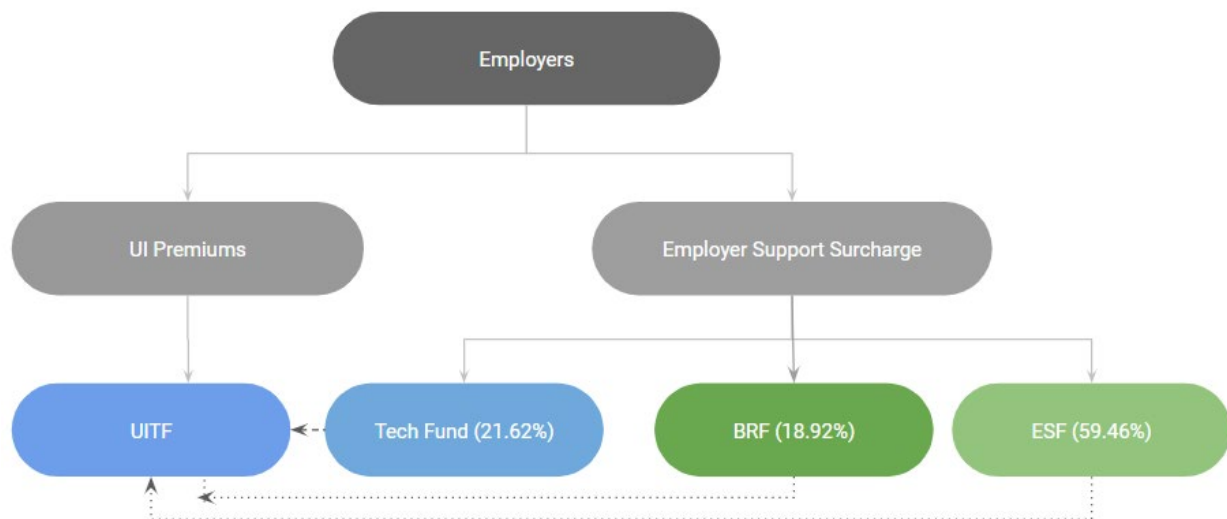
In the below flow-charts green represents non-exempt funds and blue represents exempt funds. Dotted lines represent where money over the caps of the funds go.

**Part 1:**

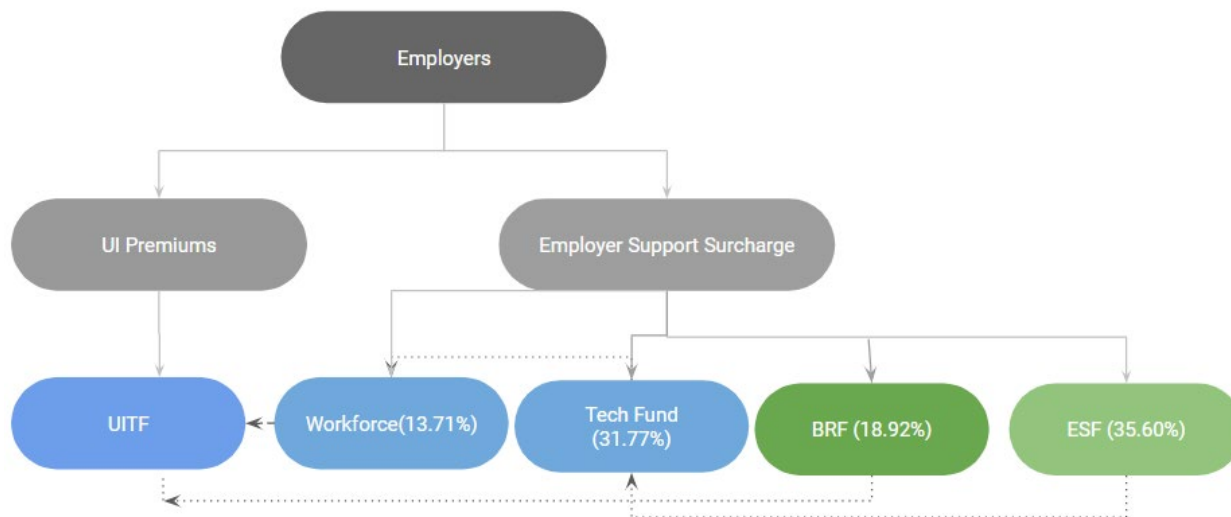


**Part 2:**

**Current Structure:**



## Proposal Structure:



The proposal will save \$76M GF over two years, FY 23-24 and FY 24-25. This is \$29M in one time savings in FY 23-24 and \$23.5M ongoing in savings. Details provided in subsequent answers.

Lowering the ESF cap and revenue will allow more money to be credited to the TABOR exempt UITF. By shifting current UI expenditures from ESF to within the UI enterprise, and by creating an exempt workforce fund (for current workforce center expenditures), this creates \$29M in one-time general fund savings and \$23.5M in ongoing general fund savings. More details on the workforce fund will be provided in the supplemental submission on January 2nd.

4. [Sen. Zenzinger] Is the Employment Support Fund Balancing Proposal an attempt to separate out uses of the fund? Or is it for another reason? This was a point of contention last year so I would like clarity on the exact reasoning and how this would impact the allowable uses.

The Department analyzed how the Unemployment Insurance (UI) division operates as a TABOR enterprise. The Department's goal is to clearly separate expenditures based on allowability, without any adverse impact to employer premiums, while also preserving adequate funding for UI technology to address post pandemic needs in system modernization and fraud. The Department also found value in splitting off the ESF revenue going towards workforce development to provide more distinction between funds and intended uses and to protect those resources for service delivery from local workforce centers. The legislative discussions in 2023 around the ESF were not a driver for these changes.

5. [Rep. Sirota] Is this an attempt to not fund labor standards programs? This is an allowable use in statute and I want to make sure statute is not being circumvented through this proposal. Is there any plan to reduce labor standards appropriations from the ESF?

The Department is not proposing any statutory changes to the list of allowable uses, nor abnormal adjustments to their budgetary appropriations. The Division of Labor Standards and Statistics budget is not impacted by this proposal.

6. *[Rep. Sirota]* The General Assembly just set the reserve cap on the ESF at \$32.5 million. Why are they proposing to immediately further reduce the cap to \$4.0 million?

This proposal decreases ESF expenditures by \$23.5M, by moving those expenditures to other more appropriately designated funds. This only leaves expenditures in EDO and DLSS to be covered by ESF. These expenditures at EDO and DLSS are less volatile, meaning the ESF needs a smaller reserve of 15%, equal to the General Fund reserve, or \$3.5M for \$23M in expenditures.

7. *[Sen. Zenzinger]* I am credulous of the idea of creating General Fund savings. What are the repercussions of this proposal on the General Fund? Need to know the clear rationale behind this proposal and why we would jump through these hoops.

The proposal will save \$76M GF subject to limit over two years, FY 23-24 and FY 24-25. This is \$29M in one time savings in FY 23-24 and \$23.5M ongoing in savings.

Category	FY 23-24 GF Savings	FY 24-25 GF Savings
Lowering the ESF reserve Cap	\$29M	
Switching Expenditures from ESF and FF to the Tech Fund	\$10	\$10
New Workforce Fund	\$13.5	\$13.5

Lowering the ESF reserve cap means that anything above the cap will be credited to the TABOR exempt UITF. This results in \$29M in one-time savings freeing up \$29M GF subject to limit under the TABOR cap.

IT costs (about \$10M) related to UI tech related administration currently covered by federal grants would move to the Tech Fund. The federal grants would then be used to cover the UI administration personnel costs that are currently covered by ESF (about \$10M). This moves \$10M currently non-exempt funds into an exempt fund.

Creating a new workforce fund allows reducing ESF non-exempt revenue by \$13.5M, while shifting those expenditures to an exempt fund. More details on the mechanism of this fund will be provided in the supplemental submission on January 2nd.

## CDLE OFFICES

### OFFICE OF NEW AMERICANS

8. *[Rep. Bird/Sen. Kirkmeyer]* When this Office was first created, one of the big reasons to support it was that the proponents said that it would be self-sustaining and would be funded through philanthropic effort, and the fiscal note indicates this. Please provide an update on what philanthropic funding has been received and what the efforts have been to seek out gifts, grants, and donations. Why after this initial bill was passed did other bills appropriate General Fund to this Office if it was meant to be self-funded?

ONA has pursued private funding for itself, its partners and New Americans. Please see the response below for more details.

The legislation that created ONA, HB 21-1150, legislative intent states:

(b) BE FUNDED THROUGH GIFTS, GRANTS, AND DONATIONS THROUGH THE 2022-23 STATE FISCAL YEAR AND THAT IN THE SECOND REGULAR SESSION OF THE SEVENTY-FOURTH GENERAL ASSEMBLY AN APPROPRIATION BE INCLUDED IN THE ANNUAL GENERAL APPROPRIATION ACT FOR THE OFFICE'S STATE FUNDING AND ASSOCIATED FTE, SUBJECT TO AVAILABLE APPROPRIATIONS; BUT NOTHING PRECLUDES THE GENERAL ASSEMBLY FROM MAKING AN APPROPRIATION TO THE OFFICE OF NEW AMERICANS PRIOR TO THE SECOND REGULAR SESSION OF THE SEVENTY-FOURTH GENERAL ASSEMBLY.

Further, the appropriation clause in HB 21-1150 states:

THE GENERAL ASSEMBLY MAY APPROPRIATE MONEY FROM THE GENERAL FUND OR FROM ANY OTHER AVAILABLE SOURCE FOR THE PURPOSES OF THE ONA SPECIFIED IN THIS ARTICLE 3.7. THE ONA MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS ARTICLE 3.7.

The state legislature passed additional bills (SB 22-234; SB 22-140; HB 21-1194) that mandated ONA to do additional work. These bills had general funds attached. ONA's first year of work is detailed in its [2023 Annual Report](#). ([Appendix D](#))

9. *[Sen. Bridges]* How does this request fit with the interim committee process that interacted with these offices?

ONA was created through a bill during the regular 2021 legislative session, not through an interim process or committee.

10. *[Rep. Bird]* What have been the efforts to procure gifts, grants, and donations? How successful has this been, how much private funding has the Office received?

ONA has pursued continued funding with the Emerson Collective, the entity that funded the New American Initiative that predated the ONA and provided funding for a fellow in the Governor's Office.

ONA pursued continued funding with a private, anonymous donor and was successful in obtaining another two year grant for a total of \$351k which expires January 31, 2025. This funding goes to fund the ONA Administrator position (hired January 31, 2023) and a small portion of the ONA Director.

ONA has attended philanthropy events and has deepened relationships with various foundations. Most are not interested in funding the state government, but are very interested in funding our nonprofit partners. To that end, ONA signed up to host panel discussions to highlight the work of our nonprofit partners at the SE and SW Rural Philanthropy conferences in Durango and La Junta this year. Our nonprofit partners were successful in attracting additional investments in their work.

Additionally, ONA successfully applied for a \$200k grant (specific to legal assistance) from the Emerson Collective on behalf of various nonprofit immigration legal service providers to build up the dearth of immigration legal service providers that we have in CO.

Starting in December 2022, the historic migrant influx began impacting Colorado, since then the majority of the rest of the gifts, grants and donations that ONA has promoted and pursued has been for the Newcomers Fund (hosted by the Rose Community Foundation) on behalf of Colorado's newest arrivals since these new arrivals are not eligible for any mainstream or refugee resettlement benefits, and most initially were not eligible for employment authorization. The Newcomers Fund has to date raised ~\$1.6M, ONA was successful in raising \$500k of this with a state plan to get more new arrivals employment authorization and employment as quickly as possible. Currently, ONA considers the needs of our new arrivals to be the most urgent and important.

At the end of November 2023, ONA received notice that it was receiving a \$30k private gift to support all of the work ONA was doing towards assisting with the migrant influx.

11. *[Rep. Bird]* Will transferring Refugee Services into ONA help to address the migrant influx?

No. There are many immigration pathways to the United States. The Colorado Refugee Services Program serves only Office of Refugee Resettlement (ORR) eligible populations. These populations have a legal status granted to them by the federal government mainly overseas. They are fully federally funded. CRSP is not allowed to serve any populations that they are not authorized to serve. Only a handful of the 28k who have arrived in CO via the southern border are eligible for refugee services.

#### OFFICE OF FUTURE OF WORK

12. *[Sen. Bridges]* Please provide additional discussion of the purpose of the Office of Future of Work, and how the purpose/vision/programming has changed over time?

In September 2019 the Office of Future of Work (OFW) was established through Executive Order to raise awareness of future of work trends and to identify policies and programs that would prepare Coloradans for their impact. To implement this directive, the OFW established the following key activities:

- Conducting and reviewing research to understand future of work trends and their impact or as directed by the legislature
- Sharing best practices, research, and data related to the future of work with the workforce development system and other stakeholders
- Supporting and aligning with related efforts (e.g. Colorado Resiliency Framework, Talent Pipeline Report, Office of Just Transition)
- Establishing and leading key initiatives as directed by the Governor's Office or legislature. These currently include leading the State Apprenticeship Agency and the state's Digital Equity Initiative.

On June 23, 2021, Governor Polis signed HB21-1007: State Apprenticeship Agency (SAA) into law, codifying the state's commitment to increase access to earn-and-learn programs that lead to high quality jobs and to build the talent pipeline that industry needs.

In August 2021, CDLE announced the OFW will lead the implementation of HB21-1007 and the apprenticeship expansion efforts funded through the following federal discretionary grants. This relationship and the OFW were codified in SB23-051: Conforming Workforce Development Statutes in March 2023. The purposes laid out in SB23-051 for the OFW directly align with the activities previously defined in Executive Order.

13. *[Rep. Taggart]* How has this office collaborated with the Office of Just Transition to support blue collar workers?

Coal impacted workers and communities are the sole focus of the Office of Just Transition, which works closely with OFW. OFW meets regularly with OJT and shares research, data, and opportunities that could assist workers and communities that may be impacted directly by coal disruption, but also indirect impacts to occupations and industries as a result of the transition. OFW's Apprenticeship Colorado Program Development Team and Apprenticeship Consultants through the workforce system partner with OJT to explore how apprenticeships can support workers in coal transition communities and to build them.

14. *[Sen. Zenzinger]* What is the nexus between this Office and the Employment Support Fund? Is this a reasonable use of this fund based on statute, it is not clear to me this is an appropriate use. This is not related to workforce development or workforce centers, so how is this a relevant fund?

A primary focus of the OFW is talent and workforce development strategies to deal with career transitions as a result of the changing world of work. The research and analyses conducted by OFW are used to directly inform workforce development activities within CDLE and at the local level. OFW regularly presents its findings to local workforce boards and other stakeholders in the workforce system to inform their strategies and programs.

With oversight of the SAA and expansion of registered apprenticeships, the OFW plays a direct role in workforce development. Colorado's State Apprenticeship Agency, which falls within the OFW's purview, was approved by USDOL in July 2023 to oversee registered apprenticeships in the state. Expansion of registered apprenticeships is a critical component of the talent pipeline agenda for the state and local workforce centers to meet workforce shortages and develop dynamic skills and competencies that all workers will need to acquire to be successful today and in the future at work. The OFW has partnered directly with workforce centers to establish an apprenticeship hub to expand registered apprenticeships.

The OFW also oversees the digital equity, literacy, and inclusion initiative for the state to help address how technological advances are impacting skills needed for work and learning. Through this initiative, OFW is placing digital navigators in local communities in partnership with the rural workforce centers and other service providers to assess community members' digital skills, which are a critical component of job success, and developing a plan for digital equity for all Coloradans.

15. *[Rep. Taggart]* How many FTEs are focused on fundraising for the office? How much of this Office has been directed to be funded through gifts, grants, and donations? It appears so far the fundraising efforts have not raised a significant amount of money.

The majority of fundraising for the Office has occurred in the State Apprenticeship Agency unit and the focus has been on securing federal grants. OFW has received over \$13.9M in funding from federal grants and \$175,000 from philanthropic grants since its creation. 62% of OFW's FY23-24 budget comes from grants.

The OFW does not have an FTE singularly focused on fundraising, but the OFW Director, Digital Equity Manager, and Apprenticeship Colorado Director identify and manage fundraising efforts for the work with support in grant writing from their teams and Organizational Services.

16. [Rep. Sirota] This Office was created via executive order and it now has 25 FTE. Where did the additional resources and FTE come from?

Additional resources and FTE have been added through federal grants and additional state legislation that expanded the work of the OFW. Since the Executive Order was signed in 2019, stakeholders, advocates, legislators and other elected officials have passed several bills that tasked OFW with responsibilities.

There are currently 23 FTEs, with 2 more FTE to be hired. 12 FTE are funded from federal grants; 13 FTE are funded from General Fund, and 0.5 FTE are funded through philanthropic grants. Further detail can be found at this link to a chart breaking down all funding sources for the FTE. In some cases, FTE funding is split across multiple positions.

OFW is divided into three units: 1) Apprenticeship Colorado (the State Apprenticeship Agency), 2) Future of Work (FOW) Labs (which is currently only the Digital Equity Initiative), and 3) Organizational Services. Organizational Services provides administrative/infrastructure support to the entire office (Operations, Salesforce Administration, Communications, Policy, and DEIA). Future of Work Labs will house the Research Manager funded through this Decision Item. You can see the OFW Org Chart [here](#).

Position/Unit	FTE	Funding Sources
OFW Director	1.0	<ul style="list-style-type: none"><li>• USDOL Federal Grant<ul style="list-style-type: none"><li>○ SAEEI</li></ul></li><li>• General Fund<ul style="list-style-type: none"><li>○ SB22-140</li><li>○ HB21-1007</li></ul></li><li>• ARPA<ul style="list-style-type: none"><li>○ HB21-1264</li></ul></li></ul>
OFW Program Assistant	1.0	<ul style="list-style-type: none"><li>• HB21-1007 (General Fund)</li></ul>
State Apprenticeship Agency	17.0 (incl. 2.0 to be hired as a result of HB23-1212)	<ul style="list-style-type: none"><li>• USDOL Federal Grants<ul style="list-style-type: none"><li>○ SAEEI</li><li>○ SAEF</li><li>○ CO-HELPS</li></ul></li><li>• General Fund<ul style="list-style-type: none"><li>○ HB21-1007</li><li>○ SB19-171</li><li>○ SB21-246</li><li>○ SB19-196</li><li>○ HB23-1212</li><li>○ HB23-1246</li></ul></li><li>• Philanthropic Grants<ul style="list-style-type: none"><li>○ PAYA</li></ul></li></ul>
FOW Labs	2.0	<ul style="list-style-type: none"><li>• ARPA<ul style="list-style-type: none"><li>○ HB21-1264</li></ul></li><li>• General Fund<ul style="list-style-type: none"><li>○ SB22-140</li></ul></li></ul>

Organizational Services	4.5	<ul style="list-style-type: none"> <li>● USDOL - Federal Grants <ul style="list-style-type: none"> <li>○ SAEEI</li> <li>○ SAEF</li> <li>○ CO-HELPS</li> </ul> </li> <li>● ARPA <ul style="list-style-type: none"> <li>○ HB21-1264</li> </ul> </li> <li>● General Fund <ul style="list-style-type: none"> <li>○ HB21-1007</li> <li>○ SB19-196</li> <li>○ HB23-1212</li> </ul> </li> <li>● Philanthropic Grants <ul style="list-style-type: none"> <li>○ PAYA</li> </ul> </li> </ul>
Total	25.5	





Colorado Department of Labor and Employment

# Family and Medical Leave Insurance Program

## **Actuarial Study of Short- and Long-term Solvency**

December 2, 2022



Richard Ward, FSA, FCA, MAAA  
West Region Market Director, Public Sector  
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December 2, 2022

Tracy Marshall  
Division Director – Family and Medical Leave Insurance  
Colorado Department of Labor and Employment  
633 17<sup>th</sup> Street #201  
Denver, CO 80202

Dear Director Marshall:

As requested, Segal has completed an actuarial analysis of the Family and Medical Leave Insurance Program (FAMLI) administered by the Colorado Department of Labor and Employment (CDLE).

Our analysis projects income and expenses for State Fiscal Years 2023-2032 and relies on a number of actuarial assumptions. Our Baseline Projection indicates the Plan will be solvent over this 10-year period, but actual results are dependent on how experience may deviate from these assumptions. We have included some sensitivity testing to illustrate the impact of changing key assumptions. These assumptions should be reviewed against plan experience, once the plan has generated sufficient credible experience, and adjusted as necessary.

To guard against solvency risk and claims cost volatility, we have provided a recommended Target Funding Range. Maintaining funding at this level should provide sufficient solvency protection in the early years of the program, without accumulating unnecessary levels of assets. Once the Plan has multiple years of experience it would be prudent to review the Plan's funding and reserving policy.

We have also provided some considerations for sharing experience gains with employees, should the program's funding reach levels where that could be considered without threatening the Plan's solvency, as well as for data collection and reporting.

By signing below, I certify that I am a qualified actuary by education and experience to evaluate health reserves and funding practices. I am a Fellow of the Society of Actuaries and a member of the American Academy of Actuaries and certify that all analysis was conducted in accordance with all applicable Actuarial Standards of Practice. All sections of this report are considered an integral part of the actuarial opinion.

Director Tracy Marshall  
December 2, 2022  
Page 2

Please let us know if it would be helpful to discuss any aspect of this report or our analysis.

Sincerely,

A handwritten signature in blue ink, appearing to read 'RW', is positioned above the printed name of the sender.

Richard Ward, FSA, FCA, MAAA  
West Region Market Director, Public Sector

cc: Tracy Palotta, CDLE FAMLI Employer Services & Program Integrity Branch Manager  
Evan Grimes - CDLE FAMLI Policy Unit Manager  
Neil Smith CDLE FAMLI Project Manager  
Amy Cohen, Segal Actuary

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# Executive Summary

## Introduction

Colorado voters approved Proposition 118 in November of 2020, paving the way for a state-run Paid Family and Medical Leave Insurance (FAMLI) program. The FAMLI program will ensure all Colorado workers have access to paid leave for a range of needs and situations, such as:

- Care for a new child, including adopted and fostered children
- Care for themselves, if they have a serious health condition
- Care for a family member's serious health condition
- Making arrangements for a family member's military deployment
- Address the immediate safety needs and impact of domestic violence and/or sexual assault

Initial premiums are 0.90% of pay up to a maximum salary established by the federal social security administration for the purposes of the Federal Old-Age, Survivors and Disability Insurance (OASDI) program limits, with the premiums split into equal 0.45% shares for the employer and the employee. Employers have the option of paying the employee portion on the employee's behalf. Beginning calendar 2025, the director will set the premium based on the percentage of employee wages necessary to generate premium equal to the sum of 135% of paid benefits and 100% of administration fees less the amount of net assets remaining in the plan as of December 31 of the immediately preceding calendar year.

Benefits are based on the employee's weekly eligible income, with benefits generally 90% of the State Average Weekly Wage (SAWW), however for calendar year 2024, the maximum weekly benefit has been set to \$1,100. FAMLI generally pays benefits first, with other programs paying secondary.

The Federal government, as an employer, is exempt, but other Colorado employers are required to participate, including the State, subject to the following:

- Local governments may vote to opt-out, with their employees having the option to participate by paying the employee share of the premium (0.45%). For those employees, the local government employer is responsible for withholding the employee premium.
- Private employers with less than ten (10) employees in Colorado may opt-out, but are responsible for withholding the premiums for employees that opt-in.
- Private employers with ten (10) or more employees can opt-out if they offer an equivalent or better private plan, subject to review and approval by FAMLI. Private plans can be insured or self-insured.
- Self-employed individuals may choose to opt-in, or opt-out, of the program.

Premiums will first be paid in January 2023, with benefits eligibility beginning in January 2024. Employers that pay premiums in 2023 but ultimately opt-out, maybe be eligible for a premium refund, less administrative expenses.

Segal has been engaged to provide an actuarial analysis of the FAMLI program. An initial actuarial study was performed in 2019 by AMI Risk Consultants, Inc. This report is an update of that analysis and reflects provisions adopted after the 2019 study.

Our analysis projects expenses and income for the program, based on the program's provisions and using reasonable actuarial assumptions, developed from reviewing experience in similar programs in other states as well as industry data and practices.

## Data

Program data is not yet available. Premiums will not be collected until 2023; benefits will not be paid until 2024 and employers have not yet had the opportunity to officially opt-out.

The Federal Bureau of Labor and Statistics (BLS) has information for the Colorado market (as well as the other 49 states), which includes number of employees and pay range distribution. This data is provided by industry and employment type (hourly versus salaried). Importantly, it includes data for local government employers, as well as private employers, in Colorado. This analysis uses the most recent BLS data from 2021.

FAMLI provided the initial fund balance as of July 1, 2022, as well as projected operational, administrative and personnel related expenses.

Segal reviewed the data for reasonableness, but has not audited the data, and has concluded that it is reasonable for this analysis.

Subsequent actuarial studies should utilize FAMLI program specific data if available.

## Results

Utilizing the data, assumptions and methodology outlined in this report we conclude that the current premium and administrative fee scheduled should be sufficient to support the program's benefits as currently designed.

Below is the baseline projection of the first ten (10) years of the program. The program received initial funding of \$57,000,000 from the State at the beginning of State Fiscal Year (SY) 2023 and this initial balance is anticipated to grow to approximately \$1.62 billion at the 2029 fiscal year. Then, revenue will closely align with expenses for 2-3 years, before drawing down to about \$1.35 billion in 2032.

### 10-Year Projection of FAMILI Revenues and Expenses

Incurred Basis, Amounts shown in \$000s

Fiscal Year	Contributions	Other Revenue	Benefit Payments	Administrative Expenses	Projected Ending Fund Balance
2023	\$678,470	\$14,207	\$0	\$22,289	\$670,388
2024	\$1,287,829	\$14,659	\$552,727	\$60,694	\$1,359,455
2025	\$1,374,918	\$922	\$1,185,584	\$59,174	\$1,490,537
2026	\$1,452,855	\$947	\$1,317,879	\$60,700	\$1,565,761
2027	\$1,525,810	\$961	\$1,422,740	\$62,267	\$1,607,525
2028	\$1,607,122	\$685	\$1,532,770	\$63,874	\$1,618,688
2029	\$1,697,103	\$403	\$1,647,714	\$65,523	\$1,602,957
2030	\$1,787,152	\$395	\$1,766,627	\$67,214	\$1,556,663
2031	\$1,877,448	\$379	\$1,893,131	\$68,949	\$1,472,410
2032	\$1,971,422	\$352	\$2,027,910	\$70,729	\$1,345,546

## Sensitivity and Risk Analysis

There are a number of key assumptions that can result in material variation in results, compared to the Baseline Projection.

The following table shows the impact on assets and year of insolvency for experience deviating from our assumptions by -50% and +50%. This provides a uniform comparison of the assumptions' sensitivity.

Assumption	Range	2032 Fund Balance (\$000,000s)	SFY of Insolvency
Local Government Employer Participation Rate	12.5% - 37.5%	\$1,412 / \$1,279	Post 2032
Private Employer Participation Rate	62.5% - 87.5%	\$1,014 / \$1,677	Post 2032
Incidence Rates	Varies	\$8,025 / (\$5,332)	Post 2032 / 2027
Duration	Varies	\$8,027 / (\$3,578)	Post 2032 / 2027
Salary Trend Rate & SAWW	2% - 6% Government 2.75% - 8.25% Private 2.6% - 7.7% SAWW	\$1,472 / \$916	Post 2032
Interest Income	0.0125% - 0.0375%	\$1,344 / \$1,347	Post 2032

Overall results are the most sensitive to the assumptions for Incidence Rates and Benefit Duration.

# Comments and Considerations

Under the Baseline Projection the Plan is expected to remain solvent through 2032. However, there are additional funding needs that CDLE should consider.

## Reserves

There will be annual variances in claims and revenue, and it is prudent to maintain assets in reserve in anticipation of adverse experience. Maintaining adequate assets should enable CDLE to manage the program with premiums at the lowest possible levels and managed well over time avoiding sharp increases.

## Solvency Reserves

The purpose of a solvency reserve is to absorb unexpected and temporary adverse fluctuation in overall claims. The reserve helps stabilize annual changes in premium levels. Many plans utilize a minimum funding level target, but this can result in differences in views when determining when a plan is overfunded and how much of the “overfunding” is “excess”.

In our experience, plans benefit from a reserving policy that utilizes a Target Funding Range, rather than a minimum. Having a defined higher end of the Target Funding Range can provide a commonly defined threshold for when policies could be considered to spend-down assets, and to what level.

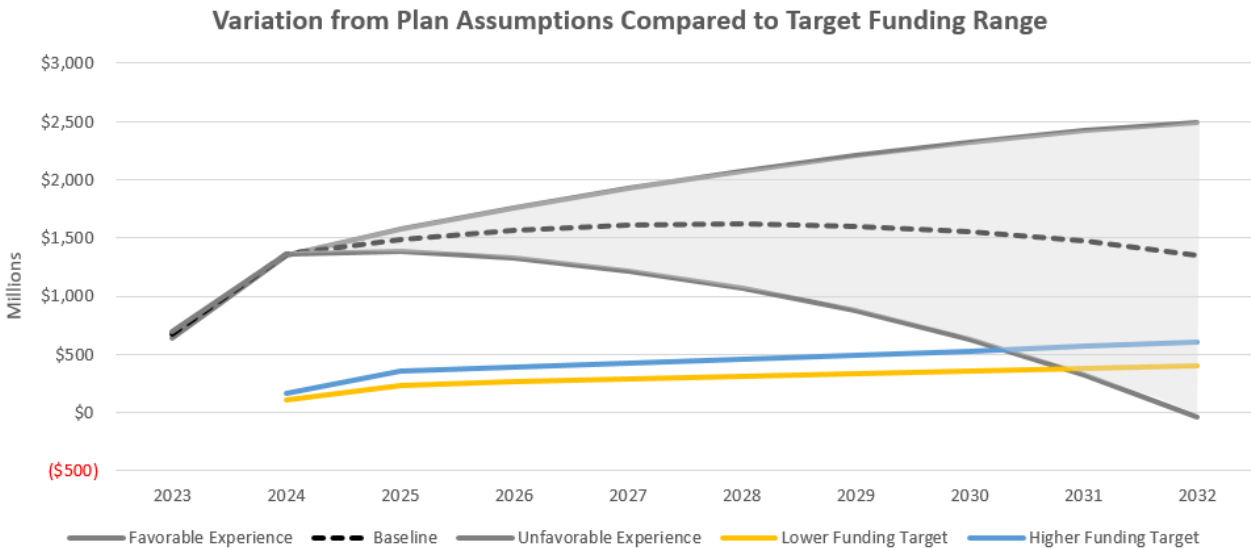
Segal also recommends that the Target Funding Range be defined as a function of metrics that are defined annually, enabling the Range to be adjusted as plan expectations evolve over time.

Our recommendation for the FAMLI Plan is to maintain assets between 20% - 30% of projected incurred annual claims. As long as premiums track close to expenses, this should provide solvency protection and stability, as well as enable CDLE to manage the program with a long-term focus.

The Baseline Projection indicates that assets will remain above the Target Funding Range through 2032. Although there is a spend-down anticipated in the later years, which would likely result in assets being close to the Target Funding Range by 2035-40.

This is a possible scenario where experience is consistently unfavorable. Under this scenario, assets decline beginning in SFY25, but remain above the lower end of the Target Funding Range until SFY31.





Estimated incurred claims include paid claims, IBNR claims and open claims. Therefore, maintaining assets within a Target Funding Range of 120% - 130% of estimated incurred claims will result in assets covering the expected claim liability, as well as an additional 20-30% margin to manage expected fluctuation.

## Excess Reserves

In the event the program generates excess reserves, there are several approaches that FAML I may consider sharing the results of the favorable experience with employees:

- **Direct payments:** Direct payments to employees is one option to refund excess premiums. While this may be the most straightforward approach, tax implications may vary by employee and circumstance.
- **Premium reductions:** While this approach is likely to spend down reserves, it often results in the need for future premium increases, which may not be desirable.
- **Premium holidays:** Provides temporary premium, potentially for both employers and employees. This has the benefit of not setting the stage for a future increase but may be operationally challenging.
- **Direct contributions to tax sheltered accounts:** Refunding excess premiums or reserves directly to employees' tax-sheltered accounts may be operationally challenging, as there may be a range of account types (Health Savings Accounts, Flexible Spending Accounts, Retirement Accounts, Tuition Savings Plans (529 Plans), etc. There may also be varying eligibility requirements, especially for Health Savings Accounts that require the employee to be enrolled in a specific type of health plan (an IRS regulated High Deductible Health Plan) and come with annual contribution limits. Health Reimbursement Arrangements are not likely a viable option since these are notional accounts and the only permissible contributions are employer contributions. There are also a range of potential tax consequences that can vary by account type.
- **Provide additional benefits:** Another option could be to provide paid-up, portable, individual policies for life insurance or other safety net insurance coverages. State issued bonds may

also be an option. Of course, tax implications here may vary by approach and employee circumstances.

## Data Collection and Reporting

- Since the assumptions for this analysis were developed before the program goes into effect, the assumptions are based on a review of experience in similar programs in other states as well as industry data and practices.
- It will be important to monitor experience relative to these assumptions and to consider if subsequent actuarial analyses should utilize updated assumptions to reflect program experience more closely.
- We recommend quarterly reporting to monitor claims prevalence, duration, and costs against these projections.

# Introduction

## Background

Colorado voters approved Proposition 118 in November of 2020, paving the way for a state-run Paid Family and Medical Leave Insurance (FAMLI) program. The FAMLI program will ensure all Colorado workers have access to paid leave for a range of needs and situations, such as:

- Care for a new child, including adopted and fostered children
- Care for themselves if they have a serious health condition
- Care for a family member's serious health condition
- Make arrangements for a family member's military deployment
- Address the immediate safety needs and impact of domestic violence and/or sexual assault

Initial premiums are 0.90% of pay up to a maximum salary established by the federal social security administration for the purposes of the Federal Old-Age, Survivors and Disability Insurance (OASDI) program limits, with the premiums split into equal 0.45% shares for the employer and the employee. Employers have the option of paying the employee portion on the employee's behalf. Beginning calendar 2025, the director will set the premium based on the percentage of employee wages necessary to generate premium equal to the sum of 135% of paid benefits and 100% of administration fees less the amount of net assets remaining in the plan as of December 31 of the immediately preceding calendar year.

Benefits are based on the employees weekly eligible income, with benefits generally 90% of the State Average Weekly Wage (SAWW), however for calendar year 2024, the maximum weekly benefit has been set to \$1,100. FAMLI generally pays benefits first, with other programs paying secondary.

The Federal government, as an employer, is exempt, but other Colorado employers are required to participate, including the State, subject to the following:

- Local governments may vote to opt-out, with their employees having the option to participate by paying the employee share of the premium (0.45%). For those employees, the local government employer is responsible for withholding the employee premium.
- Private employers with less than ten (10) employees in Colorado may opt-out, but are responsible for withholding the premiums for employees that opt-in.
- Private employers with ten (10) or more employees can opt-out if they offer an equivalent or better private plan, subject to review and approval by FAMLI. Private plans can be insured or self-insured.
- Self-employed individuals may choose to opt-in, or opt-out, of the program.

Premiums will first be paid in January 2023, with benefits eligibility beginning in January 2024. Employers that pay premiums in 2023 but ultimately opt-out, maybe be eligible for a premium refund, less administrative expenses.

## Segal's Role

Segal has been engaged to provide an actuarial analysis of the FAMLl program. An initial actuarial study was performed in 2019 by AMI Risk Consultants, Inc and this report is an update of that analysis and reflects provisions adopted after the 2019 study.

Our analysis projects expenses and income for the program, based on the program's provision and using reasonable actuarial assumptions, developed from reviewing experience in similar programs in other states as well as industry data and practices.

The result is a baseline projection of assets for the first ten (10) years of the program, from SFY 2023 through SFY 2032.

Our analysis also includes a sensitivity analysis of key assumptions to better understand the potential variance in results and associated risk.

This report includes comments and considerations as well as the results of our analysis. Segal is available to provide insights, observations, and strategic guidance on an ongoing basis.

This work product was prepared for CDLE for the specific purpose of this actuarial analysis and may not be appropriate to use for other purposes. Any third-party recipient of this work product who desires professional guidance should not rely upon this report but should engage qualified professionals for advice appropriate to its own specific needs. Any release of this report to a third party shall be in its entirety.

Segal utilizes a proprietary model developed by internal actuaries to project both revenues and expenses of the FAMLl program. For modeling purposes, we have relied on the following sources for key assumptions:

- For the purposes of projecting employee counts in the State of Colorado over the next 10-year period, we have relied on population projections developed by the Department of Local Affairs and published on the Colorado Information Marketplace.
- For the purposes of projecting average employee salaries, we have relied on historical Colorado-specific data and trends published by the U.S. Bureau of Labor and Statistics. Initial average annual salaries are based on actual calendar year 2021 salaries by ownership and industry type.
- The initial 2022 maximum salary was set at \$147,000 published by the federal social security administration.
- The initial 2022 State Average Weekly Wage in the State of Colorado was set at \$1,210 as published by the CDLE. CDLE also provided projected program expenses for SFY23-27.
- We have relied on the published experience of similar FAMLl programs offered in the states of California, New Jersey, and Rhode Island to set initial assumptions for claim frequency and duration rates.

Actual experience in the State of Colorado may vary and projections are recommended to be updated at least quarterly once the program is live. We are not aware of any material inconsistencies among the assumptions used in the modeling; and, in the aggregate, output from the model appears to be reasonable.

# Data

Program data is not yet available. Premiums will not be collected until 2023; benefits will not be paid until 2024 and employers have not yet had the opportunity to officially opt-out.

The Federal Bureau of Labor and Statistics (BLS) has information for the Colorado market (as well as the other 49 states), which includes number of employees and pay range distribution. This data is provided by industry and employment type (hourly versus salaried). Importantly, it includes data for local government employers, as well as private employers, in Colorado. This analysis uses the most recent BLS data from 2021.

Additional data sources used to develop our assumptions include:

- Colorado Department of Health & Environment (2022). *Colorado Health Information Dataset (2020-2021) for Live Birth Statistics*. <https://cohealthviz.dphe.state.co.us/t/HealthInformaticsPublic/views/COHIDLIVEBirthsDashboard/>
- Blue Cross Blue Shield (2020). *Trends in Pregnancy and Childhood Complications*
- CAP Women's Initiative (2017). *Paid Family and Medical Leave: By the Numbers*, Center for American Progress. <https://www.americanprogress.org/article/paid-family-medical-leave-numbers/>
- National Partnership for Women & Families (2022). *Paid Leave Works: Evidence from State Programs*. <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-leave-works-evidence-from-state-programs.pdf>
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- U.S. Bureau of Labor Statistics (2015). *Self-employment rates by state, annual averages* <https://www.bls.gov/spotlight/2016/self-employment-in-the-united-states/home.htm>

## **California**

- Appelbaum, Eileen and Milkman, Ruth (2011). *Employer and Worker Experiences with Paid Family Leave in California*. <https://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>
- State of California's Employment Development Department (2022). *Overview of California's Paid Family Leave Program* [https://edd.ca.gov/siteassets/files/pdf\\_pub\\_ctr/de2530.pdf](https://edd.ca.gov/siteassets/files/pdf_pub_ctr/de2530.pdf)
- State of California's Employment Development Department (2004-2022). *Paid Family Leave Program Monthly Dataset*. <https://data.edd.ca.gov/Disability-Insurance/Paid-Family-Leave-PFL-Monthly-Data/r95e-fvkm/data>

### **Connecticut**

- Connecticut Paid Leave Authority (2022). *Connecticut Paid Lave Annual Report 2022* <https://www.cbja.com/wp-content/uploads/2022/07/CTPL-Annual-Report.pdf>

### **Massachusetts**

- Commonwealth of Massachusetts, Executive Office of Labor and Workforce Development, Department of Family and Medical Leave, (2022). *FY2021 Annual Report for the Massachusetts Paid Family and Medical Leave*. <https://www.mass.gov/info-details/fy2021-annual-report-for-the-massachusetts-paid-family-and-medical-leave#types-of-leave->
- Commonwealth of Massachusetts, Executive Office of Labor and Workforce Development, Department of Family and Medical Leave, (2022). *FY2022 Annual Report for the Massachusetts Paid Family and Medical Leave*. <https://www.mass.gov/doc/fy2022-dfml-annual-report/download>

### **New Jersey**

- Lerner, Sharon and Appelbaum, Eileen (2014). *Business As Usual: New Jersey Employers' Experiences with Family Leave Insurance*. <https://www.cepr.net/documents/nj-fl-i-2014-06.pdf>
- New Jersey Department of Labor and Workforce Development (2019). *Annual Report For 2019 Family Leave Insurance and Temporary Disability Insurance Programs* [https://nj.gov/labor/myleavebenefits/assets/pdfs/ANNUAL\\_FLI-TDI\\_REPORT\\_FOR\\_2019.pdf](https://nj.gov/labor/myleavebenefits/assets/pdfs/ANNUAL_FLI-TDI_REPORT_FOR_2019.pdf)
- New Jersey Department of Labor and Workforce Development, Office of Research and Information (2020). *Annual Report for 2019 Family Leave Insurance and Temporary Disability Insurance Programs*. [https://nj.gov/labor/myleavebenefits/assets/pdfs/ANNUAL\\_FLI-TDI\\_REPORT\\_FOR\\_2019.pdf](https://nj.gov/labor/myleavebenefits/assets/pdfs/ANNUAL_FLI-TDI_REPORT_FOR_2019.pdf)

### **Rhode Island**

- State of Rhode Island's Department of Labor and Training (2022). *Unemployment Insurance (UI) & Temporary Disability Insurance (TDI) Statistics*. <https://dlt.ri.gov/labor-market-information/data-center/unemployment-insurance-ui-temporary-disability-insurance-tdi>
- State of Rhode Island's Department of Labor and Training (2022). *Current Employment Statistics (CES)* <https://dlt.ri.gov/labor-market-information/data-center/current-employment-statistics-ces>

### **Washington**

- Washington State, Employment Security Department (2021). *Washington Paid Family & Medical Leave Annual Report*. <https://media.esd.wa.gov/esdwa/Default/ESDWAGOV/newsroom/Legislative-resources/2021-paid-family-and-medical-leave-annual-report-to-legislature.pdf>

FAMLI provided the initial fund balance as of July 1, 2022, as well as projected operational, administrative and personnel related expenses.

Segal reviewed the data for reasonableness, but has not audited the data, and has concluded that it is reasonable for this analysis.

Subsequent actuarial studies should utilize FAMLII program specific data if available.

# Results

## Baseline Results

Utilizing the data, assumptions and methodology outlined in this report we conclude that the current premium and administrative fee scheduled should be sufficient to support the program's benefits as currently designed.

Below is the baseline projection of the first ten (10) years of the program. The program received initial funding of \$57,000,000 from the State at the beginning of State Fiscal Year (SFY) 2023 and this initial balance is anticipated to grow to approximately \$1.62 billion at the 2028 fiscal year. Then, revenue will closely align with expenses for 2-3 years, before drawing down to about \$1.35 billion in 2032.

### 10-Year Projection of FAMI Revenues and Expenses

Incurred Basis, Amounts shown in \$000s

Fiscal Year	Contributions	Investment Income	Benefit Payments	Administrative Expenses	Projected Ending Fund Balance
2023	\$678,470	\$14,207	\$0	\$22,289	\$670,388
2024	\$1,287,829	\$14,659	\$552,727	\$60,694	\$1,359,455
2025	\$1,374,918	\$922	\$1,185,584	\$59,174	\$1,490,537
2026	\$1,452,855	\$947	\$1,317,879	\$60,700	\$1,565,761
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2031	\$1,877,448	\$379	\$1,893,131	\$68,949	\$1,472,410
2032	\$1,971,422	\$352	\$2,027,910	\$70,729	\$1,345,546

The following are included in Appendix C:

- Number of claims by leave of absence reason by SFY
- Benefit payments by leave of absence reason by SFY
- Paid claims cash flow projection by SFY
- Number of open claims at end of SFY



# Sensitivity and Risk Analysis

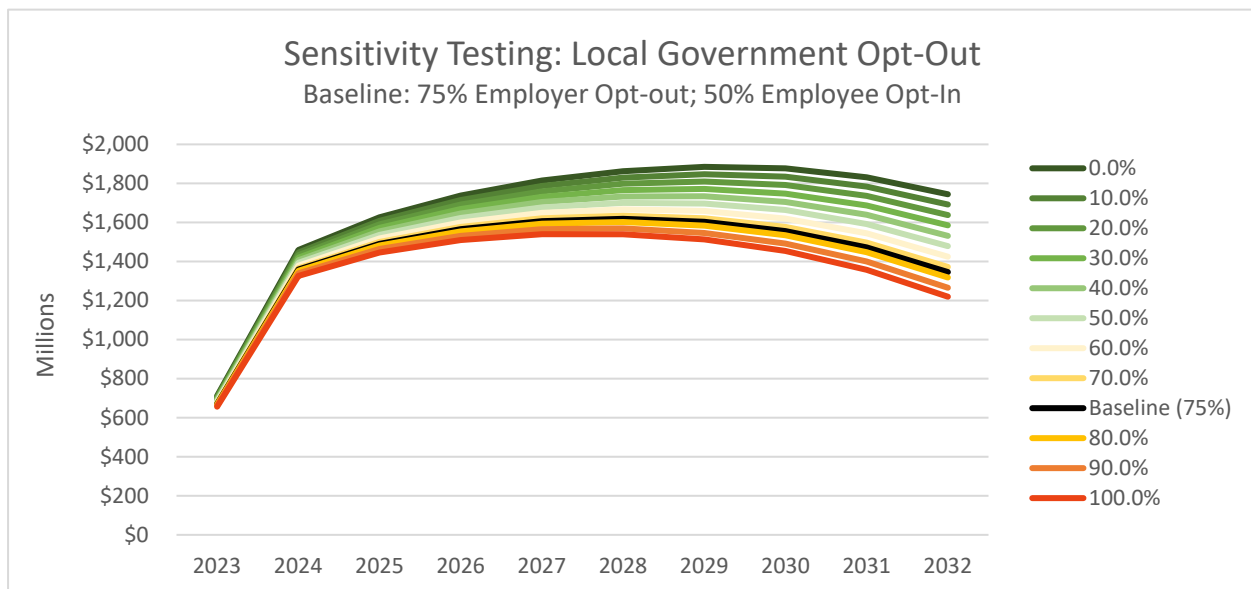
There are a number of key assumptions that can result in material variation in results, compared to the Baseline Projection.

## Local Government Participation

Local government employers can opt-out of FAMLI, but their employees can then opt-in to FAMLI, paying only the 0.45% employee premium while being fully benefit eligible. This poses some risk to the solvency of the program.

The Baseline Projection assumes that 75% of local government employers opt-out, and that 50% of the employees of those opt-out employers enroll in FAMLI.

Higher opt-out rates for local governments lead to lower projected assets. If 100% of local governments opt-out, the program remains solvent through SFY32, but assets will be about 9.4% (\$126,000,000) lower than for the Baseline Projection.



## Private Employer Participation

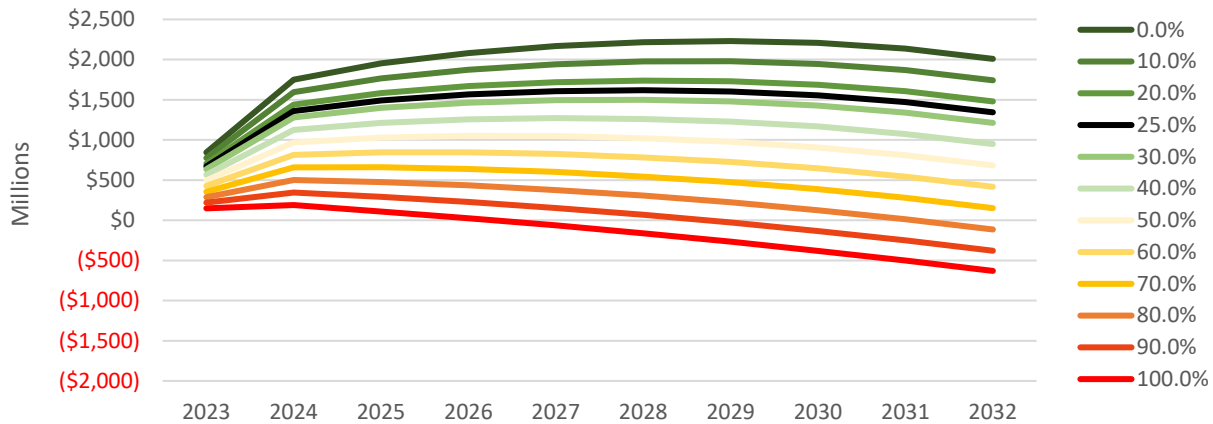
In addition, the Program could be challenged if a large number of private employers establish their own programs and FAMLI approves their opt-out requests.

The Baseline Projection assumes that 25% of private employers qualify to opt-out of FAMLI.

At higher opt-out rates, the program's solvency can be challenged. If 100% of private employers qualify to opt-out, then the program would reach insolvency within three years of paying claims, or 2027. This is because the local government and private employers represent about 9% and 80% of employees respectively. Without the private employer population, the proportion of covered lives for which the program only collects 0.45% of salaries (i.e., self-employed individuals and local government employees whose employer has opted out) increases significantly.

## Sensitivity Testing: Private Employer Opt-Out

Baseline: 25% Employer Opt-out



## Local Government and Private Employer Participation

Participation by Private employers is a risk for the FAML program if the availability for qualifying private plans at a lower cost improves over time. Private insurance companies are currently developing products to file for approval in the State of Colorado and once approved, will market to both local government and private employers. In the early years of the program, there may not be a significant number of private plans available that would cause private employer participation rate to drop below 40%. Monitoring of private plan availability and participation rates is recommended.

The following table shows the projected SFY when the program becomes insolvent for different combinations of private and local government employer participation rates.

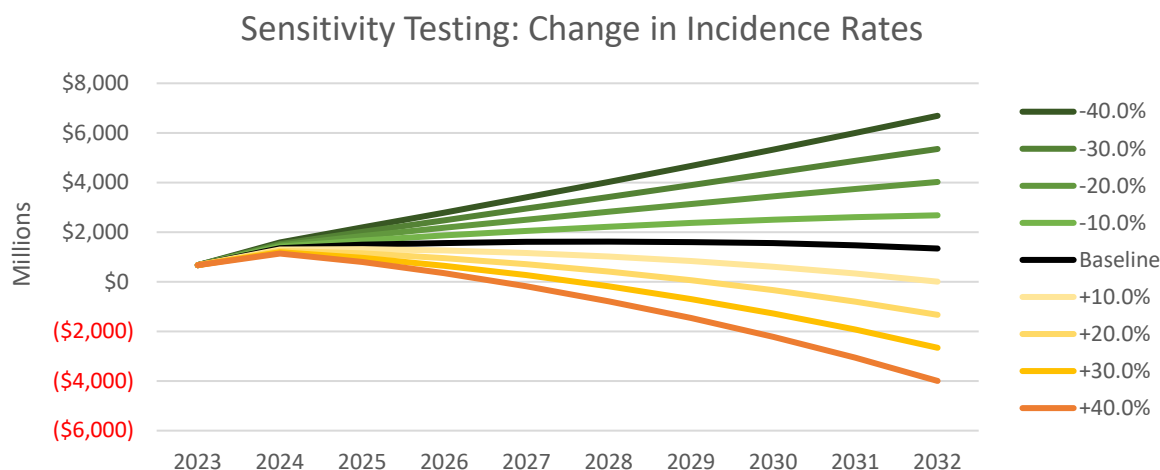
		Private Employer Participation Rate										
		100%	90%	80%	70%	60%	50%	40%	30%	20%	10%	0%
Local Government Employer Participation Rate	100%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2030
	90%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2032	2029
	80%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2032	2029
	70%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2031	2028
	60%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2031	2028
	50%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2030	2028
	40%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2032	2030	2027
	30%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2032	2029	2027
	20%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2031	2029	2027
	10%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2031	2029	2026
	0%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2031	2028	2026

## Benefit Incidence Rates and Duration

A clear element of risk to the program would be benefit payments exceeding assumed rates, either due to an increased level of incidence rates, or in the length of the benefit period. The rates of both may increase during times of economic uncertainty, particularly for hourly and service industry workers.

The following shows the impact of incidence rates varying from our assumptions by -40% to +40%. While any decrease in claim rates improves the solvency projection, an increase in claim incidence rate by 20% will result in a need to increase premiums before the plan becomes insolvent in 2030.

Similarly, a 40% higher claim rate results in a negative fund balance by the end of SFY 2027.



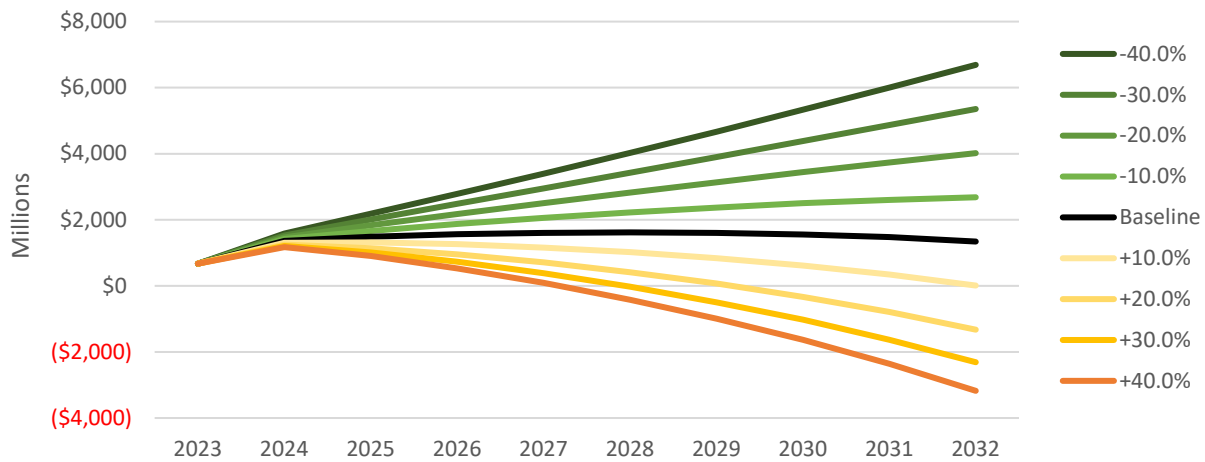
The table below shows the assumed incidence rates for certain scenarios.

	Newborn Child Care	Care for Yourself	Care for Family Member	Prep for Military Deployment	Immediate Safety Risk
-20%	1.60%	3.2%	0.40%	0.00%	0.06%
-10%	1.80%	3.6%	0.45%	0.01%	0.07%
Baseline	2.00%	4.00%	0.50%	0.01%	0.08%
+10%	2.20%	4.40%	0.55%	0.01%	0.09%
+20%	2.40%	4.80%	0.60%	0.01%	0.10%

The following shows the impact of a variation in benefit period duration assumptions by -40% to +40%. While results are sensitive to variations in average duration, claim incidence rates have the greatest impact on program solvency.

With a 10% increase in average duration, the plan remains solvent through 2032. However, with a 20% increase in average duration, insolvency is expected by 2030.

### Sensitivity Testing: Change in Duration Rates

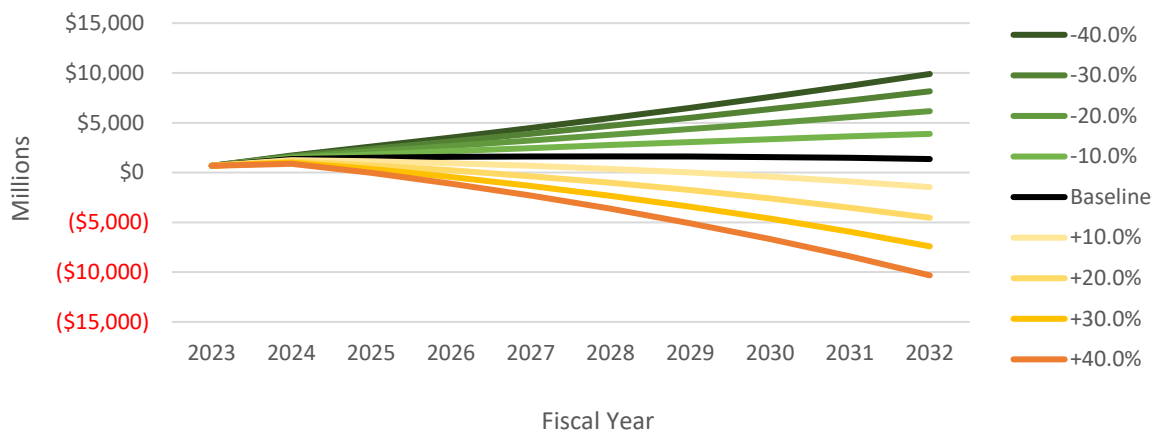


The table below shows the assumed duration rates in weeks for certain scenarios.

	Newborn Child Care	Care for Yourself	Care for Family Member	Prep for Military Deployment	Immediate Safety Risk
-20%	8.16	6.64	6.64	2.40	3.00
-10%	9.18	7.47	7.47	2.70	3.38
Baseline	10.20	8.30	8.30	3.00	3.75
+10%	11.22	9.13	9.13	3.30	4.13
+20%	12.24	9.96	9.96	3.60	4.50

If both the incident rates and duration exceed our assumptions by 40%, then program solvency will be challenged immediately. This is considered to be an unlikely situation but given that the contribution rate as a percentage of salary is fixed at 0.90% for both 2023 and 2024, actual results for these assumptions will need to be monitored closely as experience begins in January 2024.

### Sensitivity Testing: Changes in both Incidence and Duration



Frequency and duration of claims combine to determine the total benefit payments. Since program solvency is sensitive to how experience may deviate from the assumptions CDLE should constantly monitor for deviations from expected assumption rates.

As illustrated below, the FAMILI program is expected to remain solvent over the next 10 years with claim frequency rates below expected levels, even if most or all claimants utilize the maximum 12-week benefit duration. In contrast, if frequency of claims is greater than expected, the plan's solvency will be at risk within the 10-year period requiring the contribution rate of 0.90% of salary to be increased.

The following table shows the projected SFY when the program becomes insolvent for different combinations in variance in claim incidence rates and duration.

	Duration of Claims									
	-40%	-30%	-20%	-10%	Baseline	+10%	+20%	+30%	+40%	MAX
Frequency of Claims	-40%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032
	-30%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032
	-20%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032
	-10%	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2031	2030	2029
	Baseline	Post 2032	Post 2032	Post 2032	Post 2032	Post 2032	2030	2029	2028	2027
	+10%	Post 2032	Post 2032	Post 2032	Post 2032	2030	2028	2027	2027	2027
	+20%	Post 2032	Post 2032	Post 2032	Post 2032	2030	2028	2027	2026	2026
	+30%	Post 2032	Post 2032	Post 2032	2031	2027	2026	2026	2026	2026
	+40%	Post 2032	Post 2032	2032	2029	2027	2026	2026	2025	2025

## Salary Growth

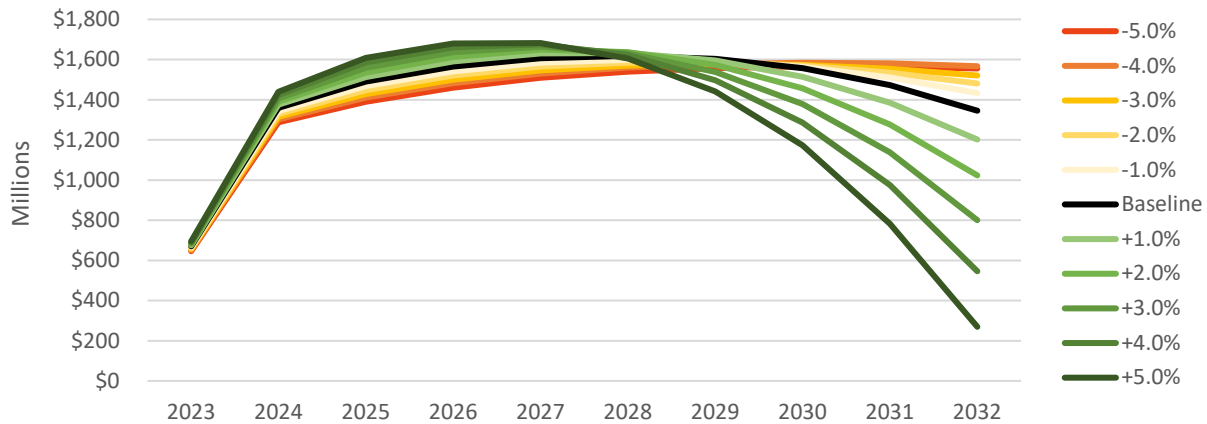
Although salary is a significant component to the FAMILI program financials, aggregate revenues and benefit payments are positively correlated when modeling various scenarios. Reductions in salary reduce both contributions and benefit payments and vice versa. However, the risk associated with different rates of salary increases arises when salary levels exceed expectations because this results in a greater increase in benefit payments than in premium revenue.

For example, in 2028, for every 1% increase in the annual salary growth assumption, revenue increases by \$63.8 (+4%) while benefits increase by \$72.4M (+4.7%). This is because revenue for each employee is capped at an amount established annually by the federal social security administration for the OASDI program while benefits continue to grow with the State Average Weekly Wage.

The following shows the impact of deviations in the baseline salary assumptions between -5% and +5%.

## Sensitivity Testing: Changes in Salary Growth Assumptions

Baseline: 4% Public Sector; 5.5% Private Sector; 5.1% SAWW



The table below shows the assumed 2026 – 2032 salary growth rates for certain scenarios. (Note that modeling assumes that short term salary growth rates will be 2% higher than those shown below, reduced by 0.5 basis points per year until the ultimate growth rates are achieved.)

	State Government	Local Government	Private Employer	Self-Employed
+3%	+7%	+7%	+8.5%	+8.5%
+2%	+6%	+6%	+7.5%	+7.5%
+1%	+5%	+5%	+6.5%	+6.5%
Baseline	+4%	+4%	+5.5%	+5.5%
-1%	+3%	+3%	+4.5%	+4.5%
-2%	+2%	+2%	+3.5%	+3.5%
-3%	+1%	+1%	+2.5%	+2.5%

The following table shows the impact on assets and year of insolvency for experience deviating from our assumptions by -50% and +50%. This provides a uniform comparison of the assumptions' sensitivity.

Assumption	Range	2032 Fund Balance (\$'000,000s)	SFY of Insolvency
Local Government Employer Participation Rate	12.5% - 37.5%	\$1,412 / \$1,279	Post 2032
Private Employer Participation Rate	62.5% - 87.5%	\$1,014 / \$1,677	Post 2032
Incidence Rates	Varies	\$8,025 / (\$5,332)	Post 2032 / 2027
Duration	Varies	\$8,027 / (\$3,578)	Post 2032 / 2027
Salary Trend Rate & SAWW	2% - 6% Government 2.75% - 8.25% Private 2.6% - 7.7% SAWW	\$1,472 / \$916	Post 2032
Interest Income	0.0125% - 0.0375%	\$1,344 / \$1,347	Post 2032

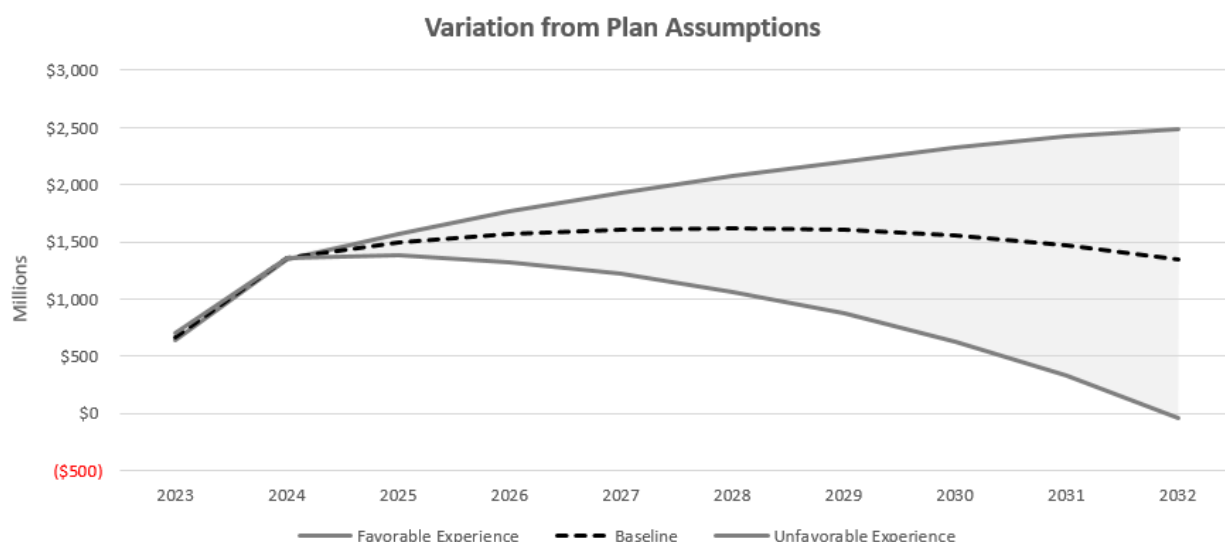
Overall results are the most sensitive to the assumptions for Incidence Rates and Benefit Duration.

## Scenario Modeling

While it is informative to review the potential impact of experience varying from assumptions for a single variable, the more likely scenario is that experience for some assumptions will be favorable, and experience for other assumptions will be unfavorable.

Scenario modeling enables us to model variations to multiple assumptions simultaneously. The result is a range in potential outcomes and the ability to review the likely downside risk. In other words, we can determine a range of likely outcomes that are more favorable, and less favorable, than the Baseline Projection.

The following graph illustrates a likely range of variance from the Baseline Projection due to experience, in aggregate, varying on an annual basis. While the downside of this variance indicates the program could be insolvent in 2032, it is much more likely that experience will track closer to the Baseline Projection. Similarly, if overall experience is consistently favorable, it is much more likely for that experience to track close to the Baseline Projection.



# Comments and Considerations

Under the Baseline Projection the Plan is expected to remain solvent through 2032. However, there are additional funding needs that CDLE should consider.

## Reserves

There will be annual variances in claims and revenue, and it is prudent to maintain assets in reserve in anticipation of adverse experience. Maintaining adequate assets should enable CDLE to manage the program with premiums at the lowest possible levels and managed well over time avoiding sharp increases.

## Solvency Reserves

The purpose of a solvency reserve is to absorb unexpected and temporary adverse fluctuation in overall claims. The reserve helps stabilize annual changes in premium levels. Many plans utilize a minimum funding level target, but this can result in differences in views when determining when a plan is overfunded and how much of the “overfunding” is “excess”.

In our experience, plans benefit from a reserving policy that utilizes a Target Funding Range, rather than a minimum. Having a defined higher end of the Target Funding Range can provide a commonly defined threshold for when policies could be considered to spend-down assets, and to what level.

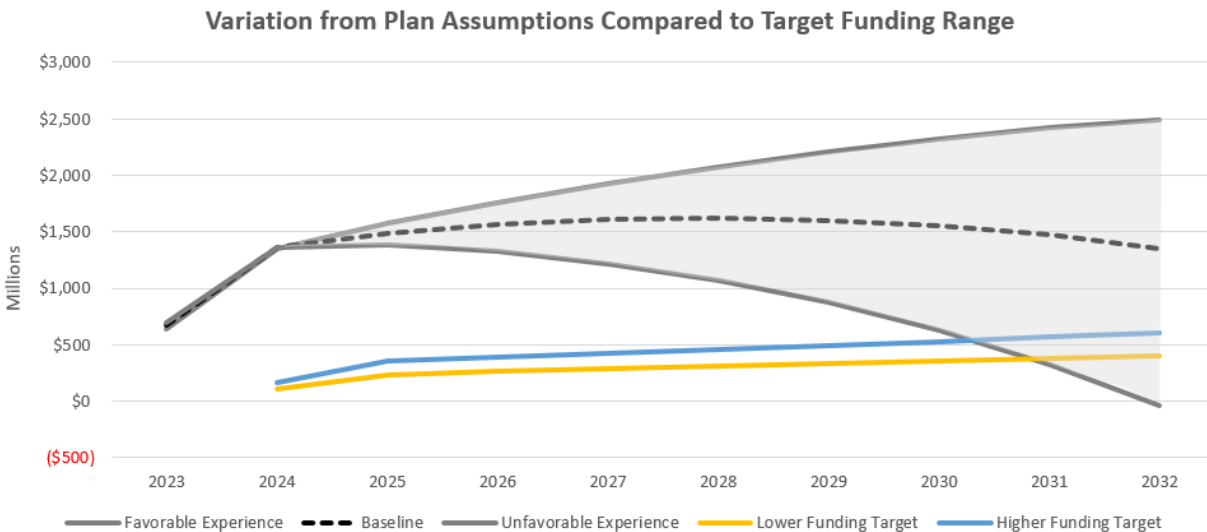
Segal also recommends that the Target Funding Range be defined as a function of metrics that are defined annually, enabling the Range to be adjusted as plan expectations evolve over time.

Our recommendation for the FAML I Plan is to maintain assets between 20% - 30% of projected incurred annual claims. As long as premiums track close to expenses, this should provide solvency protection and stability, as well as enable CDLE to manage the program with a long-term focus.

The Baseline Projection indicates that assets will remain above the Target Funding Range through 2032. Although there is a spend-down anticipated in the later years, which would likely result in assets being close to the Target Funding Range by 2035-40.

There is a possible scenario where experience is consistently unfavorable. Under this scenario, assets decline beginning in SFY25, but remain above the lower end of the Target Funding Range until SFY31.





## Open Claim Reserves

At any given time, there will be claims that are in payment status and it is prudent to maintain reserves for these claims until they are closed. It is our recommendation that CDLE engage an actuary to estimate the Open Claim Liability annually each June 30.

## Incurred But Not Reported (IBNR) Claim Reserves

At any given time, there will be claims that have been submitted, but have not yet been processed, approved and in payment status. For example, there may be a birth on June 30, but the claim may not appear on an open claims report until sometime in July. It is our recommendation that CDLE engage an actuary to estimate the Open Claim Liability annually each June 30.

Estimated incurred claims include paid claims, IBNR claims and open claims in progress. Therefore, maintaining assets within a Target Funding Range of 20% - 30% of estimated incurred claims will result in assets covering the expected claim liability, as well as providing an additional 20-30% margin to manage expected fluctuation.

## Excess Reserves

Sharing experience gains with covered participants is a common practice with mutual insurance companies, where policyholders contribute towards funding a set risk margin and then share in dividends in the event the margin is not fully utilized.

FAMLI could consider a similar approach to share excess reserves with contributing employees. Care should be exercised, however, so that assets are not disbursed in a manner that results in a premium increase. Experience gains should only be shared as long as future premiums and benefits can remain stable.

FAMLI should consider establishing parameters that enable such a disbursement. For example, if current premiums are anticipated to cover projected expenses (fund balance is anticipated to

grow) for the subsequent three years and remain above the higher end of the Target Funding Range, then Plan management can have the option to authorize a disbursement.

Disbursements should be limited such that remaining assets are maintained at, or above, the higher end of the Target Funding Range. Disbursements to employees should not exceed a given percentage of each employee's premium payments for the specified time period. FAMLl should calculate an equitable maximum percentage, such as 50% of premium contributions, once it has determined the aggregate dollar amount of disbursements.

An equitable and easy to employ methodology for determining the amount of the disbursement for each covered employee would be to allocate based on actual premium paid in the prior year and limited to the premium amount paid by each employee.

We recommend that no disbursements be made until at least two years after assumptions are established based on FAMLl specific experience. Additionally, any disbursements should be discretionary and not formulaic to enable Plan management to account for unforeseen circumstances, such as a pandemic or anticipated economic downturn.

In the event the program generates excess reserves, there are a number of approaches that FAMLl may consider sharing the results of the favorable experience with employees:

- **Direct payments:** Direct payments to employees is one option to refund excess premiums. While this may be the most straightforward approach, tax implications may vary by employee and circumstance.
  - Advantages include:
    1. Favorable publicity if amounts are significant (i.e., welcomed surprise)
    2. Adjusts net employee premiums to be better aligned with program costs
  - Considerations include:
    1. Unfavorable publicity if amounts are significant (i.e., Premiums are too high to begin with)
    2. Cost of administration (i.e., postage, envelopes, administrative effort in calculating refunds and checking final amounts)
    3. Risk of incorrect/unknown mailing addresses for recipients resulting in unclaimed payments
    4. Cost of postage may exceed the amount of refund in some instances, which may generate "bad publicity"
- **Premium reductions:** While this approach is likely to spend down reserves, it often results in the need for future premium increases, which may not be desirable.
  - Advantages include:
    1. Favorable publicity so long as the premium reduction is not followed by a more significant increase the following year.
    2. Adjusts net premiums to be better aligned with program costs
  - Considerations include:
    1. May be followed by premium increases if reduction was too high.
    2. Reduces employer premiums as well and the impact to employees will be reduced compared to other approaches that are directed towards employees

- **Premium holidays:** Provides temporary premium, potentially for both employers and employees. This has the benefit of not setting the stage for a future increase but may be operationally challenging.
  - Advantages include:
    1. Positive publicity
    2. Adjusts revenue to better align with expenses
  - Considerations include:
    1. May be complicated to administer for a large number of individual employers and direct pay employees (self-employed, individual public sector opt-in employees)
    2. Reduces employer premiums as well and the impact to employees will be reduced compared to other approaches that are directed towards employees
- **Direct contributions to tax sheltered accounts:** Refunding excess premiums or reserves directly to employees' tax-sheltered accounts may be operationally challenging, as there may be a range of account types (Health Savings Accounts, Flexible Spending Accounts, Retirement Accounts, Tuition Savings Plans (529 Plans), etc. There may also be varying eligibility requirements, especially for Health Savings Accounts that require the employee to be enrolled in a specific type of health plan (an IRS regulated High Deductible Health Plan) and come with annual contribution limits. Health Reimbursement Arrangements are not likely a viable option since these are notional accounts and the only permissible contributions are employer contributions. There are also a range of potential tax consequences that can vary by account type.
  - Advantages include:
    1. Adjusts net employee premiums to better align with expenses
  - Considerations include:
    1. Administrative fees paid to third party administrator
    2. No single account solution would cover all covered employees
    3. Likely necessary to provide direct disbursements in some select instances
    4. Employees without existing accounts will need to establish new accounts and incur administrative costs to maintain accounts with limited balances in some instances
    5. Operational challenges surrounding eligibility rules or IRS requirements for some accounts
    6. Coordination with other parties administering accounts employees may have could be challenging
- **Provide additional benefits:** Another option could be to provide paid-up, portable, individual policies for life insurance or other safety net insurance coverages. State issued bonds may also be an option. Of course, tax implications here may vary by approach and employee circumstances.
  - Advantages include
    1. Provides additional safety net benefits to employees
  - Considerations include:
    1. Need to contract with insurer to support unique program with policies with low face values
    2. Employees may not appreciate the value as much as a direct disbursement

### 3. Likely necessary to provide direct disbursements in some select instances

FAMLI could also establish a means for employees to select from a range of options (direct payment, Health Savings Account, qualified retirement account, etc), perhaps via a member portal where the appropriate account information could be provided. This could potentially streamline FAMLI's administrative efforts for processing disbursements but increase data storage and security requirements.

Segal can assist with further explorations of any of these potential approaches.

## Data Collection and Reporting

Since the assumptions for this analysis were developed before the program goes into effect, the assumptions are based on a review of experience in similar programs in other states as well as industry data and practices.

It will be important to monitor experience relative to these assumptions and to consider if subsequent actuarial analyses should utilize updated assumptions to more closely reflect program experience.

We recommend quarterly reporting to monitor claims prevalence, duration, and costs against these projections. Claims expenses should be tracked by:

- Type of benefit (maternity, family leave, etc)
- Duration (frequency by number of weeks)
- Type of claim (open, closed, pending)
- Employee category (private employer, private, State Government, Local government, Local Government employee opting in after employer opts-out self-employed)
- NAICS code(s)
- Average weekly benefit
- Total Benefit paid to date

Premium revenue should be tracked by:

- Employer (split into employer and employee)
- Employer category (private, State Government, Local government, Local Government employee opting in after employer opts-out, self-employed)
  - Including NAICS code
- Employee category (private, State Government, Local government, Local Government employee opting in after employer opts-out self-employed)

Additionally, detailed data should be collected and stored to enable FAMLI staff (and potentially vendors) to review detailed experience as necessary. Employee data should include:

- SSN or other unique identifier (used to track an employee over time across one or more employers)
- Gender
- DOB or Age
- Effective date of coverage
- Coverage termination (should track multiple coverage periods if data system supports this approach)
- Employer(s)
- Employer category (private, public, public employee opting in after employer opts-out, self-employed)
- Industry
- County or zip code
- Salary
- Hourly/Salaried indicator
- Claims activity
  - SSN or ID (to enable matching back to census data)
  - Start and end dates
  - Duration of absence
  - Claim type (open, closed, pending)
  - Type of benefit (maternity, family leave, etc)
  - Weekly benefit
  - Total benefit

FAMLI staff may find it helpful to record and track operational data and statistics on such items as:

- Call volume (by hour, day, etc)
- Call reason (file a claim, check on claim, benefit/coverage question, etc)
- Representative that took the call
- Speed to answer
- Call resolution
- Call duration
- Employee satisfaction
- Appeals
  - Type of benefit
  - Reason for appeal
  - Outcome
  - Length of time to rule on appeal
  - Second level, or additional, appeals
  - Open vs. resolved appeals

Segal can assist in developing a data and reporting structure as well as provide appropriate industry performance benchmarks.

## Appendix A: Plan Benefits

### Qualifying Events

Benefits under the FAMILI Program may be paid to a participating employee with job protection due to any of the following qualifying events:

- To care for a new child during the first year after the birth, adoption, or placement through foster care of the child;
- To care for their own serious health condition;
- To care for a family member with a serious health condition;
- When a family member is on active-duty military service or being called to active-duty military service; and
- When the individual or the individual's family member is a victim of domestic violence, stalking or sexual assault.

### Benefit Rates

Weekly benefit payments are based on both the eligible participant's average weekly wage and the State Average Weekly Wage (SAWW), which is published by the Colorado Department of Labor annually. For 2021, the average annual salary in Colorado was \$62,900 which equates to a SAWW \$1,210. In May, 2022, the Colorado Division of Worker's Compensation issued a report that set the FY2023 SAWW to \$1,350.55.

$$\text{Weekly Benefit} = 0.90 \times \text{MIN} [\text{Weekly Wage}, 50\% \text{ of SAWW}] + 0.50 \times \text{MAX} [\$0, \text{Weekly Wage} - 50\% \text{ of SAWW}]$$

	Actual	Annual Trend Assumption
FY 2023 State Average Weekly Wage (SAWW)	\$1,350.55	5.1%
2024 Maximum Weekly Benefit	\$1,100	90% of SAWW
Benefit Replacement Ratio (below SAWW)	90%	N/A
Benefit Replacement Ratio (above SAWW)	50%	N/A

## Appendix B: Assumptions

### Employee and Population Growth

The Bureau of Labor and Statistics reported that there was a total of 2.69M employees in the State of Colorado in calendar year 2021. Published data includes employee count by state, industry, and ownership type (i.e., Federal, State or Local Government versus private industry). While there are no published statistics on the number of self-employed individuals in Colorado, we assumed that this group is 10% of the total workforce.

Overall employee population growth rates are assumed to follow population projections published on the Colorado Information Marketplace by the Department of Local Affairs.

Owner Type	2021 Baseline	Distribution
Federal Government	54,151	1.8%
State Government	107,727	3.7%
Local Government	250,188	8.5%
Private (< 10 EEs)	384,491	13.1%
Private (≥10 EEs)	1,894,179	64.5%
Self-Employed	244,612	8.3%
<b>Total</b>	<b>2,881,197</b>	<b>100.0%</b>

Calendar Year	Annual Growth Rate
<b>2022</b>	1.2%
<b>2023</b>	1.2%
<b>2024</b>	1.2%
<b>2025</b>	1.3%
<b>2026</b>	1.3%
<b>2027</b>	1.3%
<b>2028</b>	1.2%
<b>2029</b>	1.2%
<b>2030</b>	1.2%
<b>2031</b>	1.1%
<b>2032</b>	1.1%
<b>2033</b>	1.0%
<b>2034</b>	1.0%
<b>2035</b>	0.9%



## Employer Growth

The Bureau of Labor and Statistics reported that there was a total of 229,000 employers in the State of Colorado in calendar year 2021. This represents a 3.9% increase of 2020 levels, or 5.0% growth in the private sector.

Owner Type	2021 Baseline	Distribution	Annual Growth Assumption
Federal Government	1,196	0.50%	0%
State Government	724	0.30%	0%
Local Government	1,533	0.70%	0%
Private (< 10 EEs)	181,949	79.3%	0%
Private (≥10 EEs)	44,053	19.2%	0%
<b>Total</b>	<b>229,455</b>	<b>100%</b>	

## Average Annual Salary

The Bureau of Labor and Statistics publishes aggregate and average annual salary information by state, industry, and ownership type. Historical data between 2017 and 2021 was used to set baseline and salary growth assumptions by industry. During that time period, salaries of State and Local Government employees grew between 3.5% and 7.5% while salaries of private sector employees grew between 3.5% and 8.25%.

Owner Type	2021 Baseline	2022	2023	2024	2025	2026+
State Government	\$73,713	6.0%	5.5%	5.0%	4.5%	4.0%
Local Government	\$56,922	6.0%	5.5%	5.0%	4.5%	4.0%
Private (< 10 EEs)	\$66,458	7.5%	7.0%	5.5%	5.5%	5.5%
Private (≥10 EEs)	\$70,397	7.5%	7.0%	5.5%	5.5%	5.5%
Self-Employed	\$70,629	7.5%	7.0%	5.5%	5.5%	5.5%
<b>Average</b>	<b>\$68,845</b>					

## Participation Rate

Federal Government employers and employees were excluded from the analysis.

All (100%) State Government employers and employees are included in the analysis.

Both Local Governments and Private employers may opt out of the Colorado FAMLI program if the employer can demonstrate that it offers comparable coverage to its employees. Employees of those Local Government employers that do opt out of the FAMLI program may elect to enroll in the FAMLI program as an individual participant with no employer sponsor. Employees of Private employers who opt out of the FAMLI program may not elect to enroll in FAMLI as an individual participant.

The baseline model uses the following assumptions for employer participation in 2023.

	Federal Government	State Government	Local Government	Private	Self-Employed
Employer Participation Rate	0%	100%	25%	75%	N/A
Employee Participation Rate					
Employer Opt-in	0%	100%	100%	100%	10%
Employer Opt-out	N/A	N/A	50%	0%	

Although a Local Government may elect FAMI Program coverage following a previous declination, approval is subject to a vote of the governing body and participation must be aligned with the entity's budgeting cycle. For the purposes of the baseline projection, the modeling assumes that once an employer opts out of the program, the opt-out remains in place through the end of the projection period. This implies that Local Government employers who opt out renew their opt-out status at least every eight (8) years per 7 CCR 1107-2.5 subsection C.

## Employer and Employee Contribution Rates

Initial premium contributions to the FAMI program are equal to 0.9% of salary, subject to a minimum salary of \$2,500 and a maximum salary equal to the taxable maximum salary established by the Social Security Administration's OASDI program. The current maximum for 2023 is \$160,200. Employers and employees each contribute 50% of the total premium requirement.

Owner Type	Employer Contribution Rate	Employee Contribution Rate	Total Contribution Rate
State Government	0.45%	0.45%	0.90%
Local Government			
Employer Opt-In	0.45%	0.45%	0.90%
Employer Opt-Out	0.00%	0.45%	0.45%
Private			
Employer Opt-In (< 10 EEs)	0.00%	0.45%	0.45%
Employer Opt-In (≥10 EEs)	0.45%	0.45%	0.90%
Employer Opt-Out	0.00%	0.00%	0.00%
Self-Employed Individuals	0.00%	0.45%	0.45%

	2023	2024	2025	2026+
OASDI Taxable Maximum Trend	4.0%	3.5%	3.0%	2.5%
State Average Weekly Wage Trend	6.1%	5.6%	5.1%	5.1%

Participating employers with less than 10 employees are not required to contribute the employer portion of the premium.

HB1133 provided initial funding for the FAMI program in the amount of \$57 million as an advanced payment of premiums for state employee coverage. The program is required to credit the state employer premium accounts annually beginning January 1, 2023 until the account has a zero dollar balance. The projections included in this analysis assume the initial \$57 million was received on July 1, 2022 and credits to the projected State Government employer premiums each year until the credit amount is returned to zero.

Beginning in calendar year 2025, the director may increase the overall contribution rate based on the formula shown and subject to a maximum rate of 1.2% of salary:

$$\text{Premium Rate} = \text{MIN} [(1.35 \times \text{Benefits} + 1.0 \times \text{Admin} - \text{Net Assets}) / \text{Salary Base}, 1.20]$$

Initial premium contributions to the FAMLI program are equal to 0.9% of salary, subject to Investment Income

Investment income is assumed to be 0.025% of the average cash balance per year.

## Claim Incidence Rates

Benefits under the FAMLI Program may be paid to a participating employee with job protection due to any of the following qualifying events:

- To care for their own serious health condition;
- To care for a family member with a serious health condition;
- To care for a new child during the first year after the birth, adoption, or placement through foster care of the child;
- When a family member is on active-duty military service or being called to active-duty military service; and
- When the individual or the individual's family member is a victim of domestic violence, stalking or sexual assault.

Leave of Absence Type	2024
Birth or adoption of child	2.00%
Care for yourself	4.00%
Care of family member	0.50%
Active-duty military deployment	0.01%
Domestic violence	0.08%

Rates for subsequent years are expected to increase by the following rates. For example, the 2024 assumed rate of claims due to the need to care for oneself would be:

$$4.00\% \times 1.03 = 4.12\%$$

Year	Birth or adoption of child	Care for yourself	Care for family member	Active-duty military deployment	Domestic violence
2024	3.00%	3.00%	3.00%	1.50%	1.50%
2025	2.50%	2.50%	2.50%	1.25%	1.25%
2026	2.00%	2.00%	2.00%	1.00%	1.00%
2027	1.50%	1.50%	1.50%	0.75%	0.75%
2028 and beyond	1.00%	1.00%	1.00%	0.50%	0.50%

## Claim Duration Rates

The maximum duration of paid leave under the Colorado FAMLI Program is 12 weeks with an additional four (4) weeks available for complicated pregnancies.

Leave of Absence Type	2024
Birth or adoption of child	10.20
Care for yourself	8.30
Care of family member	8.30
Active-duty military service	3.00
Domestic violence	3.75

## Administrative Expenses

Administrative expense projections were provided by CDLE for SFY 2023 through SFY 2027. Expenses include salaries and benefits for 349 full- time employees and other operating expenses. Beyond SFY 2027, the following growth rates were assumed:

Expense Type	Annual Growth Rate
Personnel Service Expenses	3.0%
Operating Expenses	2.0%

## Administrative Fees

A \$500 application fee is assumed to be charged for each private employer that opts-out.

Additionally, an ongoing fee may be charged to opt-out employers. In accordance with C.R.S. 8-13.3-521(7), in addition to the initial application fee, starting in the first calendar quarter of 2025, an employer with an approved private plan may be required to pay the Division an annual maintenance fee to cover amounts expended by the division for costs arising out of the prior year's administration of private plans.

The Division will calculate each employer's maintenance fee based on costs arising out of the administration of the employer's private plan and will notify the employer of the annual maintenance fee amount and its due date.

This ongoing has yet to be determined. For conservatism, this initial assumes a \$0 maintenance, which will then be updated in future analyses once a policy has been finalized.

## Appendix C: Supporting Exhibits

### Projection of Number of Claimants by Leave of Absence Type

Fiscal Year	Newborn Child Care	Care for Yourself	Care for Family Member	Prep for Military Deployment	Immediate Safety Risk	Total
2024	20,588	41,174	5,148	57	822	67,788
2025	41,938	83,876	10,483	114	1,663	138,073
2026	43,380	86,760	10,841	116	1,699	142,794
2027	44,641	89,281	11,159	119	1,727	146,925
2028	45,839	91,679	11,460	121	1,759	150,857
2029	46,968	93,933	11,741	123	1,794	154,558
2030	47,996	95,988	11,998	124	1,824	157,928
2031	49,023	98,046	12,256	127	1,851	161,302
2032	50,048	100,097	12,510	131	1,881	164,666

## Projection of Benefit Payments by Leave of Absence Type

Amounts shown in \$000s

Fiscal Year	Newborn Child Care	Care for Yourself	Care for Family Member	Prep for Military Deployment	Immediate Safety Risk	Total
2024	\$194,190	\$316,022	\$39,508	\$157	\$2,851	\$552,727
2025	\$416,546	\$677,911	\$84,725	\$331	\$6,071	\$1,185,584
2026	\$463,062	\$753,623	\$94,167	\$361	\$6,665	\$1,317,879
2027	\$499,930	\$813,619	\$101,692	\$389	\$7,110	\$1,422,740
2028	\$538,606	\$876,574	\$109,577	\$418	\$7,595	\$1,532,770
2029	\$579,034	\$942,325	\$117,781	\$445	\$8,128	\$1,647,714
2030	\$620,840	\$1,010,355	\$126,289	\$471	\$8,672	\$1,766,627
2031	\$665,303	\$1,082,745	\$135,339	\$507	\$9,236	\$1,893,131
2032	\$712,690	\$1,159,879	\$144,954	\$545	\$9,843	\$2,027,910

## Projection of Paid Claims Cash Flow

Fiscal Year	Incurred Claim Projection	2024	2025	2026	2027	2028	2029	2030	2031	2032
2024	\$552,727	\$442,182	\$110,545							
2025	\$1,185,584		\$948,468	\$237,117						
2026	\$1,317,879			\$1,054,303	\$263,576					
2027	\$1,422,740				\$1,138,192	\$284,548				
2028	\$1,532,770					\$1,226,216	\$306,554			
2029	\$1,647,714						\$1,318,171	\$329,543		
2030	\$1,766,627							\$1,413,301	\$353,325	
2031	\$1,893,131								\$1,514,504	\$378,626
2032	\$2,027,910									\$1,622,328
<b>Estimate of Paid Claims</b>		<b>\$442,182</b>	<b>\$1,059,013</b>	<b>\$1,291,420</b>	<b>\$1,401,768</b>	<b>\$1,510,764</b>	<b>\$1,624,725</b>	<b>\$1,742,844</b>	<b>\$1,867,830</b>	<b>\$2,000,954</b>

Assumes 80% of claims are incurred and fully paid during the fiscal year; 20% of claims remain open and carryover into the next fiscal year.

## Projection of Open Claims at End of Fiscal Year

Fiscal Year	Incurred Claim Count	2024	2025	2026	2027	2028	2029	2030	2031	2032
2024	67,788	55,230	13,558							
2025	138,073		110,458	27,615						
2026	142,794			114,235	28,559					
2027	146,925				117,540	29,385				
2028	150,857					120,686	30,171			
2029	154,558						123,646	30,912		
2030	157,928							126,342	31,586	
2031	161,302								129,041	32,260
2032	164,666									131,732
<b>Estimate of Paid Claims</b>		<b>55,247</b>	<b>125,070</b>	<b>141,921</b>	<b>146,161</b>	<b>150,130</b>	<b>153,873</b>	<b>157,304</b>	<b>160,677</b>	<b>164,043</b>

Assumes 80% of claims are incurred and fully paid during the fiscal year; 20% of claims remain open and carryover into the next fiscal year.





# Unemployment Insurance Funding Restructure

Legislative Fact Sheet  
December 6, 2023

## Background:

During the 2023 legislative session, the Department proposed and the Legislature passed Senate Bill 23-232. This legislation altered the revenue collection methods of several cash funds within the Department to resolve issues that posed compliance threats to the entire Unemployment Insurance (UI) program with federal law. With these conformity issues now resolved, the Department is shifting attention to how the UI Division operates as a TABOR enterprise. Our goals are to (1) align existing revenues and expenditures to the most appropriate fund, while also considering their TABOR impact, (2) ensure no adverse impact on employer premiums, (3) safeguard adequate and sustainable funding for UI technology to address system modernization and fraud as federal pandemic resources diminish, and (4) protect resources currently allocated for service delivery from local workforce centers.

## Summary of Proposal:

The Unemployment Insurance (UI) Division was established as an enterprise under TABOR and is funded by federal funds and cash funds appropriated by the legislature. Of those cash funds, the two primary funds are the Employment Support Fund (ESF) which is NOT exempt from TABOR, and the Employment and Training Technology Fund (Tech Fund), which IS exempt from TABOR.

The proposal maximizes the use of the Tech Fund instead of the ESF. Current ESF expenditures are not eligible for the Tech Fund, so the department proposes moving technology related expenses off of our federal grants and onto the tech fund, which frees up the federal grants to cover the ESF expenses, which is fully allowable under federal law.

Another large part of ESF funded expenses is for local and statewide workforce development activities. CDLE is proposing the creation of a new workforce enterprise that would cover these activities, fund expenditures with their intended uses, and make the distinction between TABOR exempt and non-exempt funds more clear. We would then adjust the allocation of the support surcharge revenue and reserve caps for the funds to match this new funding scheme.

## In short:

- ◆ First, free up federal funds by moving \$10M in expenditures from the federal funds to the Tech fund.
- ◆ Then, move \$10M in expenditures from the ESF to the federal funds.
- ◆ Create a new workforce enterprise to cover the current ESF expenditures under the Division of Employment and Training.
- ◆ Finally, reallocate the support surcharge percentages created in SB23-232 to decrease revenue to the ESF, increase revenue to the Tech Fund, and provide revenue to the Workforce Development Fund.

## Impact:

The proposal does not change the employer community's contribution to either the support surcharge or the UI Trust Fund, nor will it increase or decrease funding to any of the services and programs being funded. The proposal only aligns existing revenues and expenditures across these different funds to be commensurate with the intended uses of those cash funds.

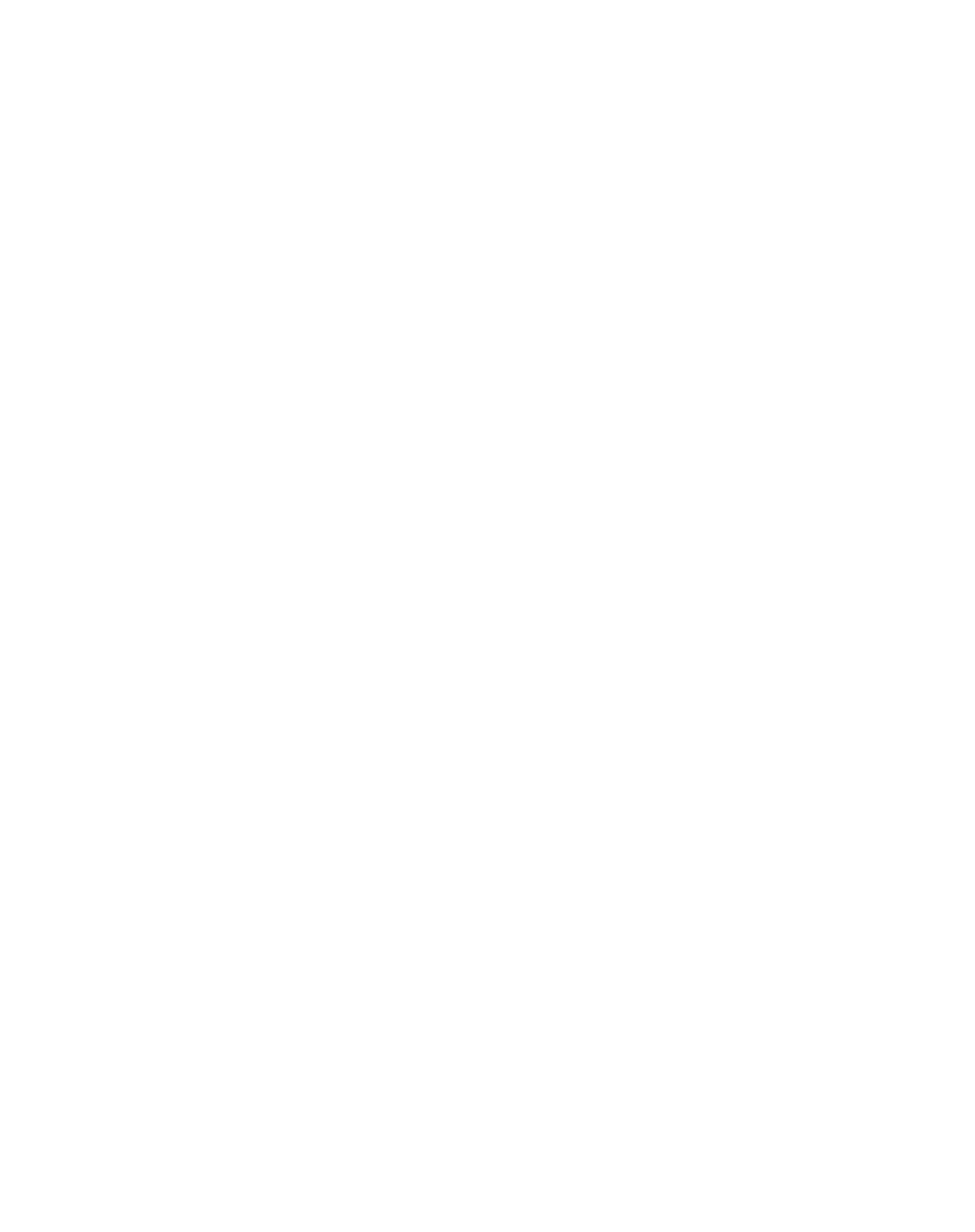
The allocations from the ESF to local workforce boards provides much needed consistency to mitigate the impact of annual fluctuations in federal allocations. Federal funding is expected to continually decrease over the next several years. Therefore, establishing the new enterprise ensures a base level of funding is available to support employers and meet talent shortages in the state.

## Fiscal Impact:

Revenue neutral for the Department, but will save \$76M of General Fund subject to limit over two years, FY 23-24 and FY 24-25. This is \$29M in one time savings in FY 23-24 and \$23.5M ongoing in savings.

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# CLAIMS PROCESSING FLOW CHART

