Washington State Legislature

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Legislative Task Force on Paid Family and Medical Leave Insurance Premiums

John L. O'Brien Building
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Senator June Robinson
Co-Chair

Representative Peter Abbarno
Co-Chair

December 12, 2022

The Honorable Jay Inslee
Office of the Governor
PO Box 40002
Olympia, WA 98504

Sarah Bannister
Secretary of the Senate
Washington State Senate
PO Box 40482
Olympia, WA 98504

Bernard Dean
Chief Clerk of the House
Washington House of Representatives
PO Box 40600
Olympia, WA 98504

Dear Governor Inslee, Secretary Bannister, and Chief Clerk Dean:

As the co-chairs of the Legislative Task Force on Paid Family and Medical Leave Insurance Premiums (Task Force), we are pleased to notify you that the Task Force has made recommendations in fulfillment of the obligations set forth in Section 11, Chapter 233, Laws of 2022. The Task Force's activities and recommendations are described in the attached report.

The Task Force's work is now concluded, and the Task Force expires January 4, 2023.

Kind regards,

June Robinson, Co-Chair
Senator
38th Legislative District

Peter Abbarno, Co-Chair
Representative
20th Legislative District

Task Force documents & presentations can be found online on the following website:
https://leg.wa.gov/JointCommittees/PFMLIP/Pages/default.aspx

Legislative Task Force on
Paid Family and Medical Leave
Insurance Premiums

Report and Recommendations

December 2022
Report to the Legislature

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Background

Paid Family and Medical Leave Program

The Paid Family and Medical Leave (PFML) program provides up to 12 to 16 weeks of paid family or medical leave for eligible workers who have worked at least 820 hours during a qualifying year. Claimants may receive cash benefits equal to up to 90 percent of their wages, up to a weekly maximum cap ($1,327 in 2022).

Employers collect and remit premiums on taxable wages to the Employment Security Department (ESD) quarterly. Taxable wages are earnings up to the Social Security maximum taxable earnings cap ($147,000 in 2022).

The premium rate has two components: a family leave share and a medical leave share. The split between the shares is based on the percentage of paid claims in each category in the previous year. Of the medical leave share, employers pay 55 percent and employees pay 45 percent (with an exception for employers with fewer than 50 employees). For the family leave share, employees pay 100 percent unless the employer chooses to pay a portion.

The balance of the Family and Medical Leave Insurance Account (Account) fluctuates as premium remittances are received quarterly and benefits are paid out. The account balance ratio is calculated by dividing the account balance by the total covered wages paid by employers and those electing coverage. The ESD is required to assess a solvency surcharge if the account balance ratio of the Account is below .05 percent as of September 30 of each year. The surcharge is required to be set at the lowest rate necessary to provide revenue for the costs of the program for the upcoming calendar year.

Account Condition

Demand for PFML benefits has outpaced premium collection consistently since early 2020.

Based on the statutory premium calculation, the PFML premium rate remained at 0.4 percent from 2019 through 2021 and increased to 0.6 percent in 2022. These premium rates were insufficient to fund growing administrative expenses and benefit payments for the PFML program.

At the end of 2021, the Account balance had declined to $123 million with a projected cash deficit to occur by Spring 2022. A temporary cash deficit first occurred in April 2022 and again in July and October. In March 2022 the ESD requested and was granted temporary deficit authorization pursuant to RCW 43.88.260(2)(b). As a result, benefit payments were not impacted. In addition, the 2022 supplemental operating budget appropriated $350 million to the Office of Financial Management (OFM) to be available for transfer into the Account on June 30, 2023, should the account be in a deficit at the end of the 2021-23 biennium. The OFM may only transfer the amounts necessary to prevent the account from being in a deficit.

The ESD has set the premium rate to increase to 0.8 percent in 2023, comprised of a 0.6 percent base rate and a 0.2 percent solvency surcharge. In 2023 temporary deficits are expected in January, April, and possibly other months.

Second Substitute Senate Bill 5649 (2022)

In 2022 the Legislature passed Second Substitute Senate Bill (2SSB) 5649, which made various changes to the PFML program. The significant changes included several specific uses for leave and a number of required actuarial assessments.

For the use of leave, 2SSB 5649 provided for the use of family leave in the seven calendar days after a stillbirth or death of an infant. The bill also provided that the default leave in the six weeks after a pregnancy would be medical leave, without the need for doctor certification.

For the actuarial assessments, 2SSB 5649 first required the OFM to contract for actuarial services and report to the Legislature on the conditions of the Account, any recommendations on modifying the PFML program premium provisions, and comparisons to other states. This report was received by the Legislature in October of 2022.

Next, 2SSB 5649 created an Office of Actuarial Services within the ESD. Beginning in 2023 this office must report annually, by November 1, to the PFML Advisory Committee created in RCW 50A.05.030 and the Legislature on various financial information regarding the Account, as well as what the lowest necessary premium rates could be while limiting fluctuations. Separately, the ESD must report quarterly to the PFML Advisory Committee on premium collections, benefit payments, the account balance, and other program expenditures.

In addition, 2SSB 5649 required the Joint Legislative Audit and Review Committee (JLARC) to complete a performance audit by October 2024 on the PFML program, including both financial evaluations and a broader analysis of the implementation of the program. A progress report of the audit is due October 1, 2023.

Lastly, 2SSB 5649 created a legislative task force on PFML program premiums (Task Force). The Task Force consists of members from both chambers and parties of the legislature, the voting members of the PFML Advisory Committee, and Governor appointees representing the Governor's Office and the ESD. Staff support for the Task Force is provided by nonpartisan legislative staff.

The Task Force must review the annual PFML program reports to the Legislature and make recommendations for legislative changes to the premium provisions to ensure the lowest premium rates necessary to maintain solvency of the Account while limiting fluctuations in rates.

The Task Force must issue a final report to the Governor and Legislature by December 30, 2022. The Task Force expires January 4, 2023.

Task Force Members and Represented Organizations

Member	Representing
Senator June Robinson (Co-Chair)	Washington State Senate
Representative Peter Abbarno (Co-Chair)	Washington House of Representatives
Senator Karen Keiser	Washington State Senate
Representative Liz Berry	Washington House of Representatives
Senator Curtis King	Washington State Senate
Representative Larry Hoff	Washington House of Representatives
Senator Lynda Wilson	Washington State Senate
Representative Amy Walen	Washington House of Representatives
Bob Battles	PFML Committee Voting Member (Employer Interests)
Christine Brewer	PFML Advisory Committee Voting Member (Employer Interests)
Justin DeFour	Employment Security Department Representative
Julia Gorton	PFML Advisory Committee Voting Member (Employer Interests)
Samantha Grad	PFML Advisory Committee Voting Member (Employee Interests)
Tammie Hetrick	PFML Advisory Committee Voting Member (Employer Interests)
Maggie Humphreys	PFML Advisory Committee Voting Member (Employee Interests)
Joe Kendo	PFML Advisory Committee Voting Member (Employee Interests)
Marilyn Watkins	PFML Advisory Committee Voting Member (Employee Interests)
Robyn Williams	Office of Financial Management Governor’s Office Representative

Staff support was provided by Senate Committee Services and the Office of Program Research.

Task Force Meetings

The Task Force convened five meetings between July and November of 2022. The meeting dates and agendas were as follows:

July 28, 2022

1. Review of enabling legislation: 2SSB 5649 (2022).
2. Review task force structure and staffing support.
3. Election of task force co-chairs.
4. Presentation on Paid Family and Medical Leave Premiums and Fund Status.
5. Discussion of future meeting topics, frequency, and process.

September 22, 2022

1. Review of the Paid Family and Medical Leave Insurance Fund rate setting process, annual program reports, and critical factors for long-term sustainability.
2. Discussion of the cochairs' draft work plan.

October 7, 2022

1. Presentation by Milliman of the actuarial report required under section 8 of 2SSB 5649 (2022).
2. Discussion of actuarial report recommendations.

November 22, 2022

1. Presentation of draft proposals.
2. Discussion of any proposed revisions to draft proposals.

November 30, 2022

1. Discussion of final proposals.
2. Adoption of final recommendations.

Summary of Task Force Recommendations

Final Recommendation F (Foxtrot)

1. At the end of the current biennium, use whatever remains of the $350 million allocated to the Paid Family and Medical Leave program as a one-time fund transfer to the Family and Medical Leave Insurance Account.

2. Calculate the premium rate to four decimal places. Next, round up to set the premium rate at two decimal places (so 0.7424% becomes 0.75%).

3. Cap the premium rate at 1.2%.

4. Remove the solvency surcharge in RCW 50A.10.030(7).

5. Create a new formula for calculating the premium rate that establishes the equivalent of roughly three months in benefits in reserve. The formula must calculate the premium rate that relies on historical program usage, not the current method based on the ending fund balance on a specific day. The new formula is to be calculated as follows:

    a. Begin with 140% of the previous fiscal year's expenses (benefits + administrative costs), subtract the account balance from that amount, and divide by the prior fiscal year's taxable wages.

    b. Round the result to four decimal places. Next, round up to set the rate at two decimal places (so 0.7489% becomes 0.75%) to arrive at the rate.

    c. If the rate calculated above results in the projected annual account balances for the coming rate collection year to be above an amount equivalent to the estimated 3-month reserve, the rate must be set at the minimum level necessary to maintain an annual end balance of at least that amount. The 3-month reserve is defined as the average monthly expenditures (benefits + administrative costs) in the prior 12 calendar months multiplied by 3.

Appendix A

Additional statements provided by Task Force members

Business Representatives Statement

Members:
Julia Gorton, Washington Hospitality Association
Bob Battles, Association of Washington Business
Tammie Hetrick, Washington Food Industry Association
Christine Brewer, Brewer Public Affairs

The business representatives of the Legislative Taskforce on Paid Family and Medical Leave Insurance Premiums appreciate the opportunity to provide comments on the proposals contained in this report. We developed principles in approaching proposed solutions that included maintaining a solvent fund; a fund reserve was developed and capped and the level necessary to support solvency; maintained the original components of the program; and that premium rates were kept at the low so that businesses and workers could afford this critical program. We are pleased with the unanimous support of the Foxtrot (F) proposal, which aligns with our principles. As this concept is translated into technical language for proposed legislation, we will work to ensure that the Department will utilize clear guidelines based on established actuarial principles when projecting the fund balance for the purposes of a reserve, and that premiums will be capped to ensure reserves do not exceed three months.

Democrat and Labor Caucus Statement

Members:
Senator June Robinson, Co-Chair
Senator Karen Keiser
Representative Liz Berry
Representative Amy Walen
Joe Kendo, Washington State Labor Council, AFL-CIO
Marilyn Watkins
Samantha Grad, Teamsters Local 117
Maggie Humphries, Moms Rising

The taskforce members representing the House and Senate Democratic Caucuses, and employee interest organizations, appreciate the hard work of the entire taskforce and are pleased to be a part of the unanimous endorsement of proposal F (Foxtrot) submitted to the Legislature. The endorsed proposal Foxtrot reflects an augmented version of proposal C (Charlie) submitted by our members, which limited its consideration to the formula by which rates are calculated for the paid family and medical leave program, without expanding the revenue base, and assuming an appropriation of the remaining money set aside by the Legislature in 2022 to act as a reserve. We are confident that this compromise approach will result in relatively low, stable, and predictable rates, and will secure the fiscal health of a social insurance benefit that hundreds of thousands of Washingtonians have utilized since payments commenced in January 2020.

However, we do regret the missed opportunities presented by not adopting elements of Proposals D (Delta) or E (Echo). Delta would have marginally expanded the taxable base wage to ensure that those earning up to $250,000 per year contributed at the same rate as those earning $30,000 per year. This new taxable wage base would have escalated with benefits, fixing a fundamental misalignment between benefit growth and revenues. The current financial structure of the PFML program correctly ties maximum benefit values to growth in the *state* average wage, but the revenue cap grows only by the *Federal* social security base wage—a metric pulled down by low wage states elsewhere in the country. Aside from improving fairness in the revenue structure, Delta would also have kept rates lower than those expected under Foxtrot. An apples-to-apples analysis requested by the taskforce shows that Delta could establish rates between 0.72% and 0.80% through 2032. This contrasts with Charlie (the proposal from which Foxtrot was developed) which projects rates to range between 0.77% and 0.84%.

Echo, too, presented an opportunity to further reduce rates. This proposal would have moved the employer contribution exemption from 50 or fewer FTEs to 15 or fewer FTEs, ensuring that truly small businesses would benefit from that special consideration, while asking some medium sized firms to contribute a fairer share. This stood to establish rates between 0.73% and 0.81%—a lower range than that reflected in Charlie (and in turn, presumably, Foxtrot). In 2019, only *five percent* of employers contributed premiums, which decreased to only four percent in 2021. Echo would have brought in a mere 12% of employers—an extremely modest slice of the employer community, which could have broadly lowered rates for everyone. If combined, these two variables outlined in Delta and Echo would have maximized the success of the taskforce in achieving its stated, statutory aims—to secure fiscal stability, and to secure the *lowest possible* premium rate.

While it is regrettable that we were unable to secure fairer, lower premiums rates, we do believe that this compromise proposal is worthy of the Legislature's adoption. It is the result of a great deal of hard work, good faith, and mutual respect and should ultimately stabilize the program. By adopting the policy reflected in the endorsed proposal, lawmakers will deliver on the promise Legislators made to the people of Washington when Paid Family and Medical Leave was realized in 2017.

Appendix B

All proposed recommendations considered and brief fiscal analysis

Proposed Recommendation A (Alpha)

Task Force Members
Julia Gorton, Bob Battles, Christine Brewer, Tammie Hetrick

Proposed Recommendations
Prepared by proposal submitters

Change the rate setting formula to align with the model used by the actuary in the actuarial report.

Each year, on Sept. 30, the department shall calculate a 3-month reserve by determining the average quarterly benefit payments from the previous 4 completed quarters.

The department will determine the lowest rate necessary to pay projected annual benefits and maintain a 3-month reserve (as defined above). Projected annual benefits will be determined by:

- Identifying a fund utilization rate from the previous 4 completed quarters by dividing the number of workers who utilized the benefit by the total number of eligible workers.
- Multiplying the fund utilization rate by the projected number of eligible workers for the upcoming year based on employment estimates from the forecast council.
- Multiply the projected fund utilization rate by the average length of leave from the previous 4 quarters, then multiply by the average weekly benefit amount as calculated by the previous 4 quarters and adjusted for the average weekly wage increase.

To analyze the proposed change, we request the department conduct an analysis of historical program use, using the 2020 data - the most recent data available, applying the above proposed rate setting structure. We would like to see how this method would have performed if it had been used to set rates in 2021 and 2022.

Description/Reasoning/Other Background
Prepared by proposal submitters

In 2021, the PFML rate calculation formula indicated no rate increase was necessary, despite the fund paying significantly more in benefits than it took in for premiums. The rate formula indicated a modest increase in 2022 was needed, but still has raised enough funds necessary to pay benefits.

We believe the current rate setting formula that uses an ending fund balance on a specific day, rather than incorporating overall usage of the program is not supporting solvency and would like to see how a model similar to the one used in the actuarial report would have impacted rates based on historical data and program usage.

We would also like to test a 3-month reserve to see if that would have been sufficient to support fund solvency, based on benefit usage of the program.

Fiscal Analysis

Prepared by Employment Security Department (ESD) and non-partisan legislative staff

Proposed Recommendation A (Alpha) closely aligns with the actuarial report with regards to benefits and requires the ESD to set the lowest rate possible to maintain solvency with a 3-month reserve at year-end. Section 723 of ESSB 5693 (2022) allows for up to $350 million to be transferred into the Family and Medical Leave Insurance Account at the end of the 2021-23 fiscal biennium to cover any cash deficit as of June 30, 2023. Similarly, this proposed recommendation only allows for what is necessary of the $350 million to cover the negative account balance on June 30, 2023 ($67 million in this model). To achieve a 3-month reserve at year-end under this proposed recommendation, the premium rate would need to be higher in 2024 (0.85%) to attain a 3-month reserve by year-end before lowering to 0.67% in 2025 and 0.71% in 2026 and 2027 once enough of a surplus has been achieved.

Proposed Recommendation A (Alpha) outlines a new benefit projection method that the ESD would use in determining the lowest rate to pay those benefits, described in the Proposed Recommendation section above. When calculating the fund utilization rate from the previous four completed quarters, “workers who utilized the benefit” is defined as the number of paid claims, similar to the actuary’s report.

As illustrated in the table below, this proposed methodology would result in a lower projection for benefit payments compared to the baseline. When applying this methodology to previous years to see how it would have performed, the benefits projection method would have underestimated actual benefit payments in those years.

Proposed Recommendation A (Alpha)

Model	Calendar Year:	2023	2024	2025	2026	2027
Baseline* (ESD)	Benefit Payments	-$1,383	-$1,515	-$1,661	-$1,755	-$1,844
	Premiums Collected	$1,495	$1,591	$1,736	$1,856	$1,955
	Premium Rate	**0.80%**	**0.75%**	**0.80%**	**0.80%**	**0.80%**
	Account Balance (end of year)	*$69*	*$72*	*$72*	*$97*	*$129*
Proposed Recommendation A (Alpha)	Benefit Payments	-$1,352	-$1,407	-$1,470	-$1,544	-$1,621
	Premiums Collected	$1,495	$1,755	$1,561	$1,627	$1,735
	Premium Rate	**0.80%**	**0.85%**	**0.67%**	**0.71%**	**0.71%**
	Account Balance (end of year)	*$85*	*$359*	*$376*	*$382*	*$418*
Variance	Benefit Payments	$32	$108	$191	$211	$223
	Premiums Collected		$163	-$175	-$229	-$220
	Premium Rate		**0.10%**	**-0.13%**	**-0.09%**	**-0.09%**
	Account Balance (end of year)	*$16*	*$287*	*$303*	*$286*	*$288*

*Baseline is ESD's estimate based on continuing the current program state with a 2023 premium rate of 0.8%

Millions of dollars

Proposed Recommendation B (Bravo)

Task Force Members
Julia Gorton, Bob Battles, Christine Brewer, Tammie Hetrick

Proposed Recommendations
Prepared by proposal submitters

Provide all remaining funds from the $350 million PFML reserve account to support a 3-month reserve, change the rate setting formula to align with the model used by the actuary in the actuarial report.

Each year, on Sept. 30, the department shall calculate a 3-month reserve by determining the average quarterly benefit payments from the previous 4 completed quarters.

The department will determine the lowest rate necessary to pay projected annual benefits and maintain a 3-month reserve (as defined above). Projected annual benefits will be determined by:

- Identifying a fund utilization rate from the previous 4 completed quarters by dividing the number of workers who utilized the benefit by the total number of eligible workers.
- Multiplying the fund utilization rate by the projected number of eligible workers for the upcoming year based on employment estimates from the forecast council.
- Multiply the projected fund utilization rate by the average length of leave from the previous 4 quarters, then multiply by the average weekly benefit amount as calculated by the previous 4 quarters and adjusted for the average weekly wage increase.

Description/Reasoning/Other Background
Prepared by proposal submitters

In 2021, the PFML rate calculation formula indicated no rate increase was necessary, despite the fund paying significantly more in benefits than it took in for premiums. The rate formula indicated a modest increase in 2022 was needed, but still has raised enough funds necessary to pay benefits.

We believe the current rate setting formula that uses an ending fund balance on a specific day, rather than incorporating overall usage of the program is not supporting solvency and would like to see how a model similar to the one used in the actuarial report would have impacted rates based on historical data and program usage.

We would like to see how projected rates may be impacted or reduced if the 3-month reserve is provided by the PFML reserve funds.

Fiscal Analysis
Prepared by Employment Security Department (ESD) and non-partisan legislative staff

Proposed Recommendation B (Bravo) includes the same parameters as Proposed Recommendation A (Alpha), however it also adds all of the remaining $350 million provided in Section 723 of ESSB 5693 to support a 3-month reserve at year-end, rather than only the amount is necessary to cover any cash deficits that ESSB 5693 allows. Providing all of the

$350 million results in a lower premium rate in the short-term as the account is able to build the 3-month reserve earlier and without the need to increase the rate in 2024 to do so. As illustrated below, the premium rate would be 0.68% in 2024, 0.71% in 2025 and 2026, and 0.70% in 2027.

Proposed Recommendation B (Bravo) outlines a new benefit projection method that ESD would use in determining the lowest rate to pay those benefits, as seen also in Proposed Recommendation A (Alpha). When calculating the fund utilization rate from the previous four completed quarters, "workers who utilized the benefit" is defined as the number of paid claims, similar to the actuary's report.

This proposed methodology would result in a lower projection for benefit payments compared to the baseline. When applying this methodology to previous years to see how it would have performed, the benefits projection method would have underestimated actual benefit payments in those years.

Proposed Recommendation B (Bravo)

Model	Calendar Year:	2023	2024	2025	2026	2027
Baseline* (ESD)	Benefit Payments	-$1,383	-$1,515	-$1,661	-$1,755	-$1,844
	Premiums Assessed	$1,495	$1,591	$1,736	$1,856	$1,955
	Premium Rate	**0.80%**	**0.75%**	**0.80%**	**0.80%**	**0.80%**
	Account Balance (end of year)	*$69*	*$72*	*$72*	*$97*	*$129*
Biz Proposal 2 (ESD)	Benefit Payments	-$1,352	-$1,407	-$1,470	-$1,544	-$1,621
	Premiums Assessed	$1,495	$1,477	$1,548	$1,647	$1,716
	Premium Rate	**0.80%**	**0.68%**	**0.71%**	**0.71%**	**0.70%**
	Account Balance (end of year)	*$368*	*$365*	*$368*	*$395*	*$411*
Variance	Benefit Payments	$32	$108	$191	$211	$223
	Premiums Assessed		-$114	-$188	-$209	-$239
	Premium Rate		**-0.07%**	**-0.09%**	**-0.09%**	**-0.10%**
	Account Balance (end of year)	*$299*	*$293*	*$295*	*$298*	*$282*

*Baseline is ESD's estimate based on continuing the current program state with a 2023 premium rate of 0.8% *Millions of dollars*

Proposed Recommendation C (Charlie)

Task Force Members
Senators Keiser and Robinson, Representatives Berry and Walen, Samantha Grad, Maggie Humphreys, Joe Kendo, Marilyn Watkins

Proposed Recommendations
Prepared by proposal submitters

At the end of the current biennium, use whatever remains of the $350 million allocated to the paid family and medical leave program as seed money for a 'reserve' in the paid family and medical leave fund. Thus, the remaining amount will be in the fund prior to calculating the 2024 rate using the new formula below.

Modify the rate formula in RCW 50A.10.030 (6) to be 140% of previous year disbursements (benefits + admin costs), subtracted by the fund balance, and divided by prior fiscal year taxable wages. Round to four decimal places. Next, round up to set the rate at two decimal places (so 0.7489% becomes 0.75%).

Modify the solvency surcharge in RCW 50A.10.030 (7) to remove a specific trigger, give permissive authority, and look at fiscal years instead of calendar years. The new subsection will read:

> The commissioner may assess a solvency surcharge at the lowest rate necessary to provide revenue to pay for the administrative and benefit costs of family and medical leave, for the fiscal year, as determined by the commissioner. The solvency surcharge shall be at least one-tenth of one percent and no more than six-tenths of one percent and be added to the total premium rate for family and medical leave benefits.

Description/Reasoning/Other Background
Prepared by proposal submitters

In 2021, the PFML rate calculation formula indicated no rate increase was necessary, despite the fund paying significantly more in benefits than it took in for premiums. The rate formula indicated a modest increase in 2022 was needed, but still has raised enough funds necessary to pay benefits.

The submitters believe the current rate setting formula that uses an ending fund balance on a specific day, rather than incorporating overall usage of the program is not supporting solvency and would like to see how a model similar to the one used in the actuarial report would have impacted rates based on historical data and program usage.

The submitters would also like to test a three-month reserve to see if that would have been sufficient to support fund solvency, based on benefit usage of the program.

Fiscal Analysis
Prepared by Employment Security Department (ESD) and non-partisan legislative staff

Proposed Recommendation C (Charlie) includes a net fund transfer of $350 million (General Fund-State) into the Family and Medical Leave Insurance Account. Section 723 of ESSB 5693

(2022) allows for up to $350 million to be transferred into the Account at the end of the 2021-23 fiscal biennium to cover any cash deficit as of June 30, 2023. Pursuant to ESSB 5693, the ESD projects a fund transfer of $83 million into the Account. This proposal assumes the remaining $267 million ($350 million minus $83 million) would be transferred into the Account at the beginning of FY2024.

To arrive at the 2024 premium rate, the projected September 30, 2023, Account balance ($321 million) is subtracted from 140% of FY2023 disbursements ($1.9 billion) and is then divided by FY2023 taxable wages ($0.2 trillion). The resulting calculated rate of 0.7812% is rounded up to 0.79% to achieve the 2024 premium rate. This calculation is repeated yearly through 2027 with resulting rates and Account balances displayed in the table below.

ESD Projection	Calendar Year:	2023	2024	2025	2026	2027
Baseline* (ESD)	Benefit Payments	-$1,383	-$1,515	-$1,661	-$1,755	-$1,844
	Premiums Collected	$1,495	$1,591	$1,736	$1,856	$1,955
	Premium Rate (rounded up)	**0.80%**	**0.75%**	**0.80%**	**0.80%**	**0.80%**
	Account Balance (end of year)	***$69***	***$72***	***$72***	***$97***	***$129***
Proposal C	Benefit Payments	-$1,383	-$1,515	-$1,661	-$1,755	-$1,844
	Premiums Collected	$1,495	$1,657	$1,721	$1,882	$2,042
	Premium Rate (rounded up)	**0.80%**	**0.79%**	**0.78%**	**0.82%**	**0.84%**
	Account Balance (end of year)	***$336***	***$405***	***$390***	***$440***	***$560***
Variance	Benefit Payments					
	Premiums Collected		$65	-$15	$26	$87
	Premium Rate (rounded up)		**0.04%**	**-0.02%**	**0.02%**	**0.04%**
	Account Balance (end of year)	**$267**	**$333**	**$318**	**$344**	**$431**

**Baseline is ESD's estimate based on continuing the current program state* *Millions of dollars*

Proposed Recommendation D (Delta)

Task Force Members
Senators Keiser and Robinson, Representatives Berry and Walen, Samantha Grad, Maggie Humphreys, Joe Kendo, Marilyn Watkins

Proposed Recommendations
Prepared by proposal submitters

At the end of the current biennium, use whatever remains of the $350 million allocated to the paid family and medical leave program as seed money for a 'reserve' in the paid family and medical leave fund. Thus, the remaining amount will be in the fund prior to calculating the 2024 rate using the new formula below.

Modify the covered wages on which premiums are assessed under RCW 50A.10.030 (4) to be $250,000 as of January 2024 and to grow at the same rate as weekly benefit amounts grow.

Modify the rate formula in RCW 50A.10.030(6) to be 140% of previous year disbursements (benefits + admin costs), subtracted by the fund balance, and divided by prior fiscal year taxable wages. Round to four decimal places. Next, round up to set the rate at two decimal places (so 0.7489% becomes 0.75%).

Modify the solvency surcharge in RCW 50A.10.030 (7) to remove a specific trigger, give permissive authority, and look at fiscal years instead of calendar years. The new subsection will read:

> The commissioner may assess a solvency surcharge at the lowest rate necessary to provide revenue to pay for the administrative and benefit costs of family and medical leave, for the fiscal year, as determined by the commissioner. The solvency surcharge shall be at least one-tenth of one percent and no more than six-tenths of one percent and be added to the total premium rate for family and medical leave benefits.

Description/Reasoning/Other Background
Prepared by proposal submitters

This proposal creates a reserve for the paid family and medical leave fund and establishes a rate formula similar to that in use by other states with similar programs. The reserve will allow greater stability in the rates year over year. The proposed changes work together to stabilize tax rates while shoring up the program's financial structure.

This proposal also provides a fail safe for potential future cash flow concerns in worst-case scenarios by modifying the solvency surcharge process. The proposal considers the potential for a first quarter deficit while benefits are paid out during the lag period before receiving premiums towards the end of the first quarter.

The different growth factors by which benefits and wages on which premiums are assessed increase creates a long-term structural weakness in the solvency of the program. Over the last 5 years Washington's average annual wage grew by 7.0% while the social security wage base grew by 4.5%. Setting the covered wages at $250,000 allows us to catch up on the growth in benefits compared to covered wages since the program was designed 5 years ago. Assessing premiums on a larger percentage of wages better reflects Washington's wage structure and helps keep the overall premium lower for all employers and employees.

Fiscal Analysis

Prepared by Employment Security Department (ESD) and non-partisan legislative staff

Proposed Recommendation D (Delta) includes a net fund transfer of $350 million (General Fund-State) into the Family and Medical Leave Insurance Account. Section 723 of ESSB 5693 (2022) allows for up to $350 million to be transferred into the Account at the end of the 2021-23 fiscal biennium to cover any cash deficit as of June 30, 2023. Pursuant to ESSB 5693, the ESD projects a fund transfer of $83 million into the Account. This proposal assumes the remaining $267 million ($350 million minus $83 million) would be transferred into the Account at the beginning of FY2024.

To arrive at the 2024 premium rate, the projected September 30, 2023, Account balance ($321 million) is subtracted from 140% of FY2023 disbursements ($1.9 billion) and is then divided by FY2023 taxable wages ($0.2 trillion). The resulting calculated rate of 0.7812% is rounded up to 0.79% to achieve the 2024 premium rate. This calculation is repeated yearly through 2027 with resulting rates and Account balances displayed in the table below.

Currently, premiums are collected up to the federal Social Security wage cap, which will be $160,200 in 2023. This proposal would raise the premium collections wage cap to $250,000 in 2024 and adjust annually at the average weekly benefit growth rate. The ESD projects this will increase premium collections by $21 million per Quarter initially, growing to $29 million per Quarter by the end of 2027. This impact is included in the “Premiums Collected” totals in the table below.

ESD Projection	Calendar Year:	2023	2024	2025	2026	2027
Baseline* (ESD)	Benefit Payments	-$1,383	-$1,515	-$1,661	-$1,755	-$1,844
	Premiums Collected	$1,495	$1,591	$1,736	$1,856	$1,955
	Premium Rate (rounded up)	**0.80%**	**0.75%**	**0.80%**	**0.80%**	**0.80%**
	Account Balance (end of year)	***$69***	***$72***	***$72***	***$97***	***$129***
Proposal D	Benefit Payments	-$1,383	-$1,515	-$1,661	-$1,755	-$1,844
	Premiums Collected	$1,495	$1,722	$1,801	$1,824	$1,943
	Premium Rate (rounded up)	**0.80%**	**0.79%**	**0.76%**	**0.73%**	**0.75%**
	Account Balance (end of year)	***$336***	***$470***	***$535***	***$527***	***$548***
Variance	Benefit Payments					
	Premiums Collected		$131	$65	-$32	-$12
	Premium Rate (rounded up)		**0.04%**	**-0.04%**	**-0.07%**	**-0.05%**
	Account Balance (end of year)	**$267**	**$398**	**$462**	**$431**	**$419**

**Baseline is ESD's estimate based on continuing the current program state* *Millions of dollars*

Proposed Recommendation E (Echo)

Task Force Members

Senators Keiser and Robinson, Representatives Berry and Walen, Samantha Grad, Maggie Humphreys, Joe Kendo, Marilyn Watkins

Proposed Recommendations

Prepared by proposal submitters

At the end of the current biennium, use whatever remains of the $350 million allocated to the paid family and medical leave program as seed money for a 'reserve' in the paid family and medical leave fund. Thus, the remaining amount will be in the fund prior to calculating the 2024 rate using the new formula below.

Modify the covered employers in RCW 50A.10.030 (5)(a) to be fewer than 15 employees as of 2024.

Modify the rate formula in RCW 50A.10.030 (6) to be 140% of previous year disbursements (benefits + admin costs), subtracted by the fund balance, and divided by prior fiscal year taxable wages. Round to four decimal places. Next, round up to set the rate at two decimal places (so 0.7489% becomes 0.75%).

Modify the solvency surcharge in RCW 50A.10.030 (7) to remove a specific trigger, give permissive authority, and look at fiscal years instead of calendar years. The new subsection will read:

> The commissioner may assess a solvency surcharge at the lowest rate necessary to provide revenue to pay for the administrative and benefit costs of family and medical leave, for the fiscal year, as determined by the commissioner. The solvency surcharge shall be at least one-tenth of one percent and no more than six-tenths of one percent and be added to the total premium rate for family and medical leave benefits.

Description/Reasoning/Other Background

Prepared by proposal submitters

This proposal creates a reserve for the paid family and medical leave fund and establishes a rate formula similar to that in use by other states with similar programs. The reserve will allow greater stability in the rates year over year. The proposed changes work together to stabilize tax rates while shoring up the program's financial structure.

This proposal also provides a fail safe for potential future cash flow concerns in worst-case scenarios by modifying the solvency surcharge process. The proposal considers the potential for a first quarter deficit while benefits are paid out during the lag period before receiving premiums towards the end of the first quarter.

This proposal ensures additional employers contribute to these critical benefits for their employees. Our state's smallest employers would still be exempt (although their employees can continue to participate). Having more employers contributing helps keep the overall premium lower for all employers and employees.

Fiscal Analysis

Prepared by Employment Security Department (ESD) and non-partisan legislative staff

Proposed Recommendation E (Echo) includes a net fund transfer of $350 million (General Fund-State) into the Family and Medical Leave Insurance Account. Section 723 of ESSB 5693 (2022) allows for up to $350 million to be transferred into the Account at the end of the 2021-23 fiscal biennium to cover any cash deficit as of June 30, 2023. Pursuant to ESSB 5693, the ESD projects a fund transfer of $83 million into the Account. This proposal assumes the remaining $267 million ($350 million minus $83 million) would be transferred into the Account at the beginning of FY2024.

To arrive at the 2024 premium rate, the projected September 30, 2023, Account balance ($321 million) is subtracted from 140% of FY2023 disbursements ($1.9 billion) and is then divided by FY2023 taxable wages ($0.2 trillion). The resulting calculated rate of 0.7812% is rounded up to 0.79% to achieve the 2024 premium rate. This calculation is repeated yearly through 2027 with resulting rates and Account balances displayed in the table below.

Currently, employers with fewer than 50 employees are not required to pay the employer portion of premiums. This proposal would lower the threshold to fewer than 15 employees. The ESD projects this will increase premium collections by $19 million per Quarter initially, growing to $23 million per Quarter by the end of 2027. This impact is included in the "Premiums Collected" totals in the table below.

ESD Projection	Calendar Year:	2023	2024	2025	2026	2027
Baseline* (ESD)	Benefit Payments	-$1,383	-$1,515	-$1,661	-$1,755	-$1,844
	Premiums Collected	$1,495	$1,591	$1,736	$1,856	$1,955
	Premium Rate (rounded up)	**0.80%**	**0.75%**	**0.80%**	**0.80%**	**0.80%**
	Account Balance (end of year)	***$69***	***$72***	***$72***	***$97***	***$129***
Proposal E	Benefit Payments	-$1,383	-$1,515	-$1,661	-$1,755	-$1,844
	Premiums Collected	$1,495	$1,712	$1,782	$1,888	$2,014
	Premium Rate (rounded up)	**0.80%**	**0.79%**	**0.77%**	**0.78%**	**0.79%**
	Account Balance (end of year)	***$336***	***$460***	***$506***	***$562***	***$654***
Variance	Benefit Payments					
	Premiums Collected		$121	$45	$32	$59
	Premium Rate (rounded up)		**0.04%**	**-0.03%**	**-0.02%**	**-0.01%**
	Account Balance (end of year)	**$267**	**$388**	**$433**	**$465**	**$524**

**Baseline is ESD's estimate based on continuing the current program state* — *Millions of dollars*

Proposed Recommendation F (Foxtrot)

<u>Task Force Members</u>
Co-chairs Senator Robinson and Representative Abbarno

<u>Proposed Recommendations</u>
Prepared by proposal submitters

1. At the end of the current biennium, use whatever remains of the $350 million allocated to the Paid Family and Medical Leave program as a one-time fund transfer to the Family and Medical Leave Insurance Account.

2. Calculate the premium rate to four decimal places. Next, round up to set the premium rate at two decimal places (so 0.7424% becomes 0.75%).
3. Cap the premium rate at 1.2%.

4. Remove the solvency surcharge in RCW 50A.10.030(7)

5. Create a new formula for calculating the premium rate that establishes the equivalent of roughly three months in benefits in reserve. The formula must calculate the premium rate that relies on historical program usage, not the current method based on the ending fund balance on a specific day. The new formula is to be calculated as follows:

    a. Begin with 140% of the previous fiscal year's expenses (benefits + administrative costs), subtract the account balance from that amount, and divide by the prior fiscal year's taxable wages.

    b. Round the result to four decimal places. Next, round up to set the rate at two decimal places (so 0.7489% becomes 0.75%) to arrive at the rate.

    c. If the rate calculated above results in the projected annual account balances for the coming rate collection year to be above an amount equivalent to the estimated 3-month reserve, the rate must be set at the minimum level necessary to maintain an annual end balance of at least that amount. The 3-month reserve is defined as the average monthly expenditures (benefits + administrative costs) in the prior 12 calendar months multiplied by 3.

Staff note: Proposed Recommendation F (Foxtrot) was submitted after the period for fiscal analysis, and did not have the same specific fiscal analysis as was available for the above other proposed recommendations (A through E).