

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/22/2019**

Bill/Resolution No.: HB 1484

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>			\$275,000,000	\$105,000,000		
<b>Appropriations</b>			\$275,000,000			

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill increases, subject to appropriation, higher education matching grants; creates a health and human services stabilization fund; creates a paid family medical leave program; appropriates or transfers \$275 million from the general fund derived from legacy fund earnings.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The attached analysis prepared by WSI only relates to Sections 4 and 6 of HB 1484, relating to a paid family medical leave program, as they are the only sections that pertain to WSI outside of the emergency clause provisions in Section 10. Sections 4 and 6 of HB 1484 contain, in large part, the contents of HB 1509 for which WSI has previously submitted a fiscal note.(See Attachment)

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** John Halvorson

**Agency:** WSI

**Telephone:** 328-6016

**Date Prepared:** 01/24/2019

**WORKFORCE SAFETY & INSURANCE**  
**2019 LEGISLATION**  
**SUMMARY OF ACTUARIAL INFORMATION**

**BILL NO:** Sections 4 and 6 of HB 1484

**BILL DESCRIPTION:** Mandatory Paid Family Medical Leave Program Administered by WSI

**SUMMARY OF ACTUARIAL INFORMATION:** Workforce Safety & Insurance, together with its consulting actuaries, The Burkhalter Group, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

Sections 4 and 6 of HB 1484 contain, in large part, the contents of HB 1509. Based on our understanding, Sections 4 and 6 of the proposed legislation:

- Establishes a mandatory paid family medical leave program to be administered by WSI.
- Requires contributions from all employers with 50 or more employees and makes program optional for employers with less than 50 employees.
- Requires employee and employer to each contribute two cents for every ten dollars of wages earned (total contributions of four cents per \$10 earnings).
- Establishes family medical leave benefits of 66% of employee's wages, up to a maximum of \$4,000/month, for up to twelve calendar weeks per calendar year.
- Provides a transfer appropriation from the general fund to WSI of \$5,000,000 to administer the program. Requires funds to be paid back over a 20-year period.
- Section 10 of HB 1484 declares Sections 4 and 6 to be emergency measures.

**FISCAL IMPACT:**

The proposed legislation requires employee and employer to each contribute two cents for every ten dollars of wages earned (total contributions of four cents per \$10 earnings). Statewide earnings for employees of employers with 50 or more reportable employees totaled \$15.2 billion. At a rate of four cents per \$10 earnings, total contributions (employee and employer) would be in excess of \$60 million.

The proposed legislation requires contributions of two percent of earnings by each the employee and employer with no flexibility to adjust based on whether total contributions exceed or fall below the amount of total benefits issued. Given that this would be a new program, with no history or experience, we cannot quantify an appropriate level of contributions or estimate the amount of benefits that would be issued.

The proposed legislation provides a \$5 million transfer to administer the program but contains no specifics in regard to authorized FTEs. It is unclear in the number of FTEs that would be required to implement the new program. Thus, to the extent the proposal were to advance, continuing appropriation authority in regards to staffing the new program and other administrative costs may be required so the organization is able to staff appropriately while the program is under development and further maintain the program thereafter.

**DATE:** January 22, 2019

**2019 HOUSE EDUCATION**

**HB 1484**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau A Room, State Capitol

HB 1484  
2/4/2019  
32113

☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Bev Monroe
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**Explanation or reason for introduction of bill/resolution:**

Relating to health and human services stabilization fund & paid family medical leave program; to matching grants for institutions under control of state board of higher education; to provide appropriation; to provide for transfers; to provide statements of legislative intent; and to declare an emergency.

**Minutes:**

Attachment 1, 2, 3
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**Vice Chairman- Cynthia Schreiber-Beck Opened Hearing on HB1484**

**Rep. Josh Boschee:** (See Attachment 1) end 7:15

**Vice Chairman- Cynthia Schreiber-Beck:** questions from committee

**Rep. Ron Guggisberg:** Explain acute care centers.

**Rep. Boschee:** Instead of just Jamestown, people can get help where they are at, by or in their own communities instead of us investing in a new hospital specifically in Jamestown, this has been proposed by the Governor, these could be private or public partnerships. So we wouldn't have to create a state facility, it could be working with a health care provider in a community who might need to expand beds, or maybe a nonprofit provider who already provides outpatient services in the community but wants to provide some beds in their community so that the sheriff or the ambulance doesn't have to take people to Jamestown every other week.

**Vice Chairman- Cynthia Schreiber-Representative Rick Becker:** Committee and questions?

**Rep. Pat D. Heinert:** On Page 2 Section 6 of your testimony, you talk about the \$5 million for a start-up for family leave programs you said it would require 50 or more employees to participate and the option for 50 or less. Do we know how many employers have 50 or more employees in the state of North Dakota? Is this mandate for employers that already offer a sick leave benefit?

**Rep. Boschee:** 10:15 I do know that the vast majority of our employers in the state would fall under the 50 number, for employees. It would be an option for those employers. It would be up to twelve weeks paid or up to 66% of their salary. So some employers might make up the difference of that additional 34% if they wish. As far as other employers that already provide this they would be able to participate it would actually be a cost savings to those employers.

**Rep. Pat D. Heinert:** Can you explain the purpose of delineating allocations to higher education intuitions based upon the credit hours' distinction between those institutions?

**Rep. Boschee:** end 11:38 So you can see where we are outlining the matching grant funds for the higher scholarship's. Since the inception of the grants we have implemented a new funding formula for the interest of higher education so in drafting of this legislative council tried to mirror the new language to match that new funding formula so it is based on completed credits verses just enrollment. So it is not rewarding smaller intuitions it is based on completed credits.

**Rep. LaurieBeth Hager:** Explain delineating of accreditation

**Rep. Boschee:** I can't answer that, but if the intuition chooses to raise money to access this match each intuition is raising money for their own scholarships and the state would match that.

**Vice Chairman Cynthia Schreiber-Beck:** Challenge grant has The challenge grant has been in effect for a few years now, it hasn't been funded as it was originally. I was even beyond scholarships so if you wanted to do a new program than half of that money could be matched through the state. Have any studies been done on this?

**Rep. Boschee:** 16:00 I don't know of any.

**Vice Chairman- Cynthia Schreiber-Beck:** Any other questions from the committee? Any studies being done that you know of?

**Rep. Boschee:** end 18:05

**Vice Chairman- Cynthia Schreiber-Beck:** Section 6 mirror a bill. Any more in support?

**Sen. Joan Hekkeman:** 19:00 I just wanted to provide a little more information on the challenge grant. I served on that committee for a couple of sessions and it is a great opportunity for our school's foundations, because if the foundations raise the money they can come in with a two to one match. The program is very effective. Academic, not sports related scholarships. On the regional health facilities, I know there is real interest in South West North Dakota and Dickinson and the former hospital out there. There is a lot of interest by a private party in using that as a mental health facility, behavioral health facility addictions facility, whatever the design comes forward. 23:00

**Vice Chairman- Cynthia Schreiber-Beck:** Could you Clarify just one thing? The Hundred million not from the earnings but for the bill that you proposed in the senate, but from taking it from the principle correct?

**Rep. Hekkeman:** It is not taking the money from the principle and moving it into the bank, it's requesting that the state investment board take the investments that they have out of state and their fixed assets and bring one hundred million of that back to invest in the Bank of North Dakota so it requires no transfer of funds what it is is a reinvestment of funds. So right now the Bank told me that we are investing in New Jersey in their infrastructure program this would bring the money back to North Dakota to invest in our state programs.

**Vice Chairman- Cynthia Schreiber-Beck** Any others in support. Opposition

**Arik Spencer, President, CEO, Greater North Dakota Chamber(GNDC):** (See Attachment 2) 25:00 urge a do not pass 28:05

**Vice Chairman- Cynthia Schreiber-Beck:** Is there any more Opposition?

**Tim Wahlin, Chief, Injury Services, WSI:** 29:45 (See Attachment 3) 35:15

**Vice Chairman- Cynthia Schreiber-Beck:** opposition neutral testimony? close hearing

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau A Room, State Capitol

HB 1484  
2/5/2019  
32218

☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Bev Monroe
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## Explanation or reason for introduction of bill/resolution:

Health and human services stabilization fund and a paid family medical leave program and to matching grants for institutions under the control of the state board of higher education; to provide an appropriation; to provide for transfers; to provide statements of legislative intent; and to declare an emergency

## Minutes:

**Chairman Owens:** Opened committee work recognizing Rep. M. Johnson.

**Rep. Mary Johnson:** I move a **Do Not Pass** on HB 1484.

**Rep. Zubke:** I **second** the motion.

**Chairman Owens:** Any discussion?

**Rep. Brandy Pyle:** I agree with the DNP except that I do like the potential matching grant. The paid family medical leave fund we voted on in the floor session today and it was voted down. The challenge grant might be something we want to do, but instead of a one-for-one as suggested by Rep. Boschee, I would like to two-for-one type of deal.

**Vice Chairman Cynthia Schreiber-Beck:** In checking on the status with Appropriations, there is \$10M in the challenge grant and it is a state dollar-foundation two dollar, so it's as it exists. The other piece in existence is that there is \$10M in capital of building, so it is a matching in that which has never been there. Whether they had put \$20M for these matching pieces and divided it into buildings and more than scholarships. I'm unsure if there is anything else out there and there may be some other bills out there.

**Rep. Brandy Pyle:** In the challenge grants, that is for all the institutions to participate in.

**Rep. Ron Guggisberg:** I'm not sure why this bill came to our committee. It is all appropriation. I am going to vote against a DNP. I think we should pass it and let Appropriations deal with it.



**Chairman Owens:** I was familiarizing myself where the money was coming from since I was absent yesterday. Any further discussion?

**Rep. Mary Johnson:** I feel we don't have all the data on the family leave part. It is insurance and distribution of risk but I don't think it will be supported by two cents and two cents. I just don't think that is going to happen. We run the risk of depleting whatever that is and then what.

**Chairman Owens:** It will be like Social Security and Medicaid and unemployment insurance as far as employment tax and it will go up. That is what has happened throughout history and there's no reason to think it wouldn't happen again with this. Further discussion? The clerk will do a **Roll Call Vote** for a **Do Not Pass** for **HB 1484. Yes 12, No 2, Absent 0.** A **Do Not Pass** carries and Rep. Strinden will carry the bill.

Date: 2-5-19  
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1484**

House Education Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. M. Johnson Seconded By Rep. D. Zubke

Representatives	Yes	No	Representatives	Yes	No
Chairman M. Owens	✓		Rep. Guggisberg		✓
V. Chair. Schreiber-Beck	✓		Rep. Hager		✓
Rep. Heinert	✓				
Rep. Hoverson	✓				
Rep. D. Johnson	✓				
Rep. M. Johnson	✓				
Rep. Johnston	✓				
Rep. Longmuir	✓				
Rep. Marschall	✓				
Rep. Pyle	✓				
Rep. Strinden	✓				
Rep. Zubke	✓				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. M. Strinden

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1484: Education Committee (Rep. Owens, Chairman)** recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1484 was placed on the Eleventh order on the calendar.

**2019 TESTIMONY**

**HB 1484**



# North Dakota House of Representatives

State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505-0360

## Representative

Josh Boschee  
District 44  
517 First Street North  
Fargo, ND 58102-4540  
C: 701-367-3513  
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Minority Leader

February 4, 2019

HB 1484  
2-4-19  
#1

## HB 1484 Testimony House Education Committee

Good Morning Chairman Owens and members of the House Education Committee. For the record, I am Josh Boschee and I represent District 44 here in the House of Representatives.

HB 1484 is legislation that prioritizes the use of the unallocated Legacy Fund earnings from the current biennium and dedicate a portion from the 2019-21 earnings. Several of the priorities will be familiar to you all as they have been discussed over the past two months since Governor Burgum's budget address. Fortunately, there is strong bipartisan agreement on much of what you will find in Section 5 of the bill, which accounts for \$170 million of Legacy Fund earnings.

\$40 million for the education challenge grants that correspond with Sections 1 and 2. This program has proven successful with participating institutions raising \$2 from donors for a \$1 match from these state funds. By investing this \$40 million, our University System institutions will be able to raise an additional \$80 million for a total of \$120 million raised for student scholarships over the next two years.

\$30 million for career academy matching fund grants with \$1 raised from nonstate sources matched by \$1 from Legacy Fund earnings. This corresponds with Section 9 on the final page of the bill. Mr. Chairman, I request the committee to amend line 23 of page 7 by replacing the word "two" with the word "one" as this was a drafting error that I didn't catch prior to introducing the legislation.

\$60 million will be transferred to the Department of Commerce to invest in two key ventures that will support the diversification of our state's economy. \$30 million will be dedicated to the development of infrastructure to support beyond visual line of sight to support further unmanned aerial systems research and development throughout the state. This investment will allow North Dakota to jump further ahead of other states by building out technology and infrastructure that will bring further investment of private industry to our growing UAS sector. This will support research in agriculture, pipeline and rail safety as well as likely increased advanced manufacturing of embedded systems and drones. The remaining \$30 million will be invested in Research ND to support research at our institutions of higher education for them to continue to do groundbreaking research that will lay the groundwork for future industries throughout ND, as well as support ongoing research that these institutions have championed for decades.

\$40 million will be dedicated to the development and support of regional behavioral health acute care centers throughout the state. Through public-private partnerships with healthcare providers, nonprofits or other government entities, these 16-24 bed units will allow North Dakotans to receive treatment and support closer to their support networks. Rather than building a new behavioral health clinic in Jamestown, these centers will be able to leverage existing infrastructure in some communities, while supporting the development of new infrastructure in others. For instance, the use of dormant facilities at the Life Skills and Development Center in Grafton could serve the NE corner of the state, while partnering with a non-profit healthcare facility in the SW region may better serve that corner of the state. These acute care centers would also develop infrastructure in these regions to provide additional forms of treatment and supports to be built out to meet the growing addiction and behavioral health needs facing every community throughout North Dakota.

Section 6 appropriates \$5 million for a startup loan to implement a paid family leave program, which the proposed policy can be found in Section 4. 46% of our state's private sector employees do not have access to a single paid sick day. With 62,000 North Dakotans serving as family caregivers and approximately 11,000 babies born every year in North Dakota, this employee-employer paid program will benefit our state's workforce. Additionally, as we seek to support private and public employers throughout the state in remaining competitive, a program such as this would be a strong recruitment tool to bring a more qualified workforce, as well as retain more students and families. The program would benefit small businesses, startups, entrepreneurs and corporations equally, allowing employees the opportunity to work at any size employer.

The program would require employers with 50 or more employees to participate and be an option for those with less than 50 employees. For every \$10 in wages that an employee earns, the employer and the employee each contributes .02 cents into the fund through payroll deduction. Employees that work 25+ hours a week and have been employed for 12 months would be eligible for the benefit. For the cost of a (cheap) cup of coffee every week, businesses would have an effective tool to recruit and retain talent.

See chart on next page:

Wage Scenarios	Annual wage	Paid leave contribution for employee and employer each	
Average employee wage in ND (mean)	\$48,130	\$1.85 / week	\$96.26 / year
50th percentile (median) wage in ND	\$40,040	\$1.54 / week	\$80.08 / year
Entry-level employee (average of bottom 1/3 of overall wage distribution)	\$24,440	94 cents per week	\$48.88 / year
Experienced (average of upper 2/3 of overall wage distribution)	\$59,970	\$2.30 per week	\$120 / year

Finally, Mr. Chairman and members of the committee, Section 7 appropriates \$100 million of 2019-21 Legacy Fund earnings to a newly created Health and Human Services Stabilization Fund, outlined in Section 3. With our state budget being very volatile due to a dependence on energy and agriculture economies, we are all familiar with the dramatic cuts that were made over the past two biennia impacting every state budget, except for K-12 funding, which remained flat thanks to the Foundation Aid Stabilization Fund. Like the Foundation Aid Stabilization Fund, once the balance of the HHS Fund exceeds 15% of the general fund appropriation to the Dept of Health and the Dept of Human Services, excess funds may be appropriated or transferred for health and/or human services related purposes.

Members, as you can see, this is an ambitious allocation of one-time funds totally \$100 million that would leverage \$140 million of nonstate funds to support student scholarships, ground-breaking research and further support of emerging industries throughout the state that will grow our workforce and diversify our economy. With a small investment of \$5 million, we can provide a recruitment and retention tool for our hardworking employees and employers of every size in supporting their families. And for \$135 million, we can solidly invest in supporting behavioral health and human services infrastructure throughout the state, as well as minimize the impact of potential future budget cuts.

I appreciate the committee's consideration of this legislation and I will try my best to answer any questions committee members may have.



Greater North Dakota Chamber  
HB 1484  
House Education Committee  
Feb. 4, 2019

Mr. Chairman and members of the House Education Committee, my name is Arik Spencer, President & CEO of the Greater North Dakota Chamber (GNDC). GNDC is North Dakota's largest statewide business advocacy organization. We stand in opposition to Sections 4 and 6 of HB 1484.

HB 1484 raises the fundamental question of whether the government should establish a paid family leave mandate for business who employ 50 more (25 hours per week) employees or if the private market can be responsive to the benefits sought by North Dakota's workforce?

According to the Census Bureau's Survey of Income and Program Participation (SIPP), Pew Research polling, and the National Survey of Working Mothers, more than 60 percent of mothers or workers have access to paid leave. Other government surveys estimate that the number is between 45 and 57 percent, much higher than the BLS figure commonly used by proponents of government-mandated paid family leave, which does not include all paid leave options and benefits.

The share of first-time mothers who reported using paid leave and/or disability grew from 16 to 61 percent over 50 years. This represents a 280 percent increase and suggests the private market is responsive to employee demands. Although the Census Bureau discontinued asking mothers about paid leave in 2014, there is reason to think paid leave policies continued to grow. Over 100 large name-brand companies have created or expanded paid family leave policies over the last three years. Major companies, including Walmart, Walgreens, Home Depot, Target, Starbucks, Amazon, FedEx, and McDonald's, have created or expanded paid leave programs since late 2017 alone, with expansions applying to low-wage or hourly workers, not just high-wage or educated workers. Even small employers such as GNDC offer paid family leave.

Make no mistake, the private sector has grown its paid leave offerings in response to employee demands and continues to do so. A government mandate has not been needed and is not needed to force companies to compete for workers through a combination of wages and benefits.

In fact, wage restructuring, efficiency, and redistributive effects that happen as a result of government mandates may actually have a detrimental effect on our workforce.

I urge a "Do Not Pass" recommendation on HB 1484 and I'll stand for any questions.



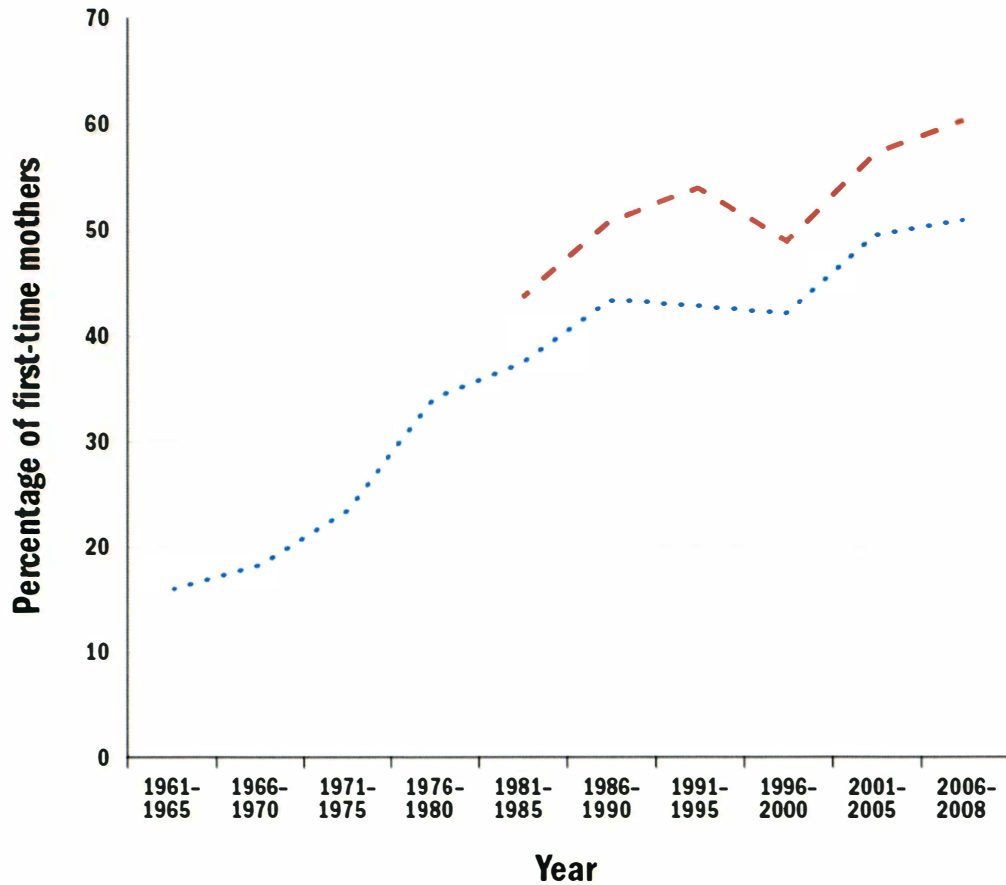
## Estimates of access to paid leave

Source	Paid leave figure	Details
National Survey of Working Mothers	63% of employed mothers said their employer provided paid maternity leave benefits	2013 survey
Pew Research	63% of "Americans who took time off from work in the past two years for parental, family, or medical reasons report that they received at least some pay during this time."	2017
Census Bureau's Survey of Income and Program Participation (SIPP)	50.8% of working mothers report using paid leave of some kind before or after childbirth, and 60.3% of working mothers report using paid leave and/or disability before or after birth	2006–2008 data
Family and Medical Leave Act Work-site and Employee Surveys	57% of women and 55% of men received pay for parental leave from any source	2012 data
Census Bureau's Current Population Survey (CPS)	Dating back to 1994, on average 45% of working women who took parental leave received some pay	1994–2014 data
U.S. Bureau of Labor and Statistics	15% of civilian workers report access to paid family leave, when the definition of paid leave is narrowly defined	March 2017

**Source:** Barbara Gault et al., "Figure 1: Paid Parental/Family Leave Access and Usage Statistics from Five Federal Key Data Sources," in "Paid Parental Leave in the United States: What the Data Tell Us about Access, Usage, and Economic and Health Benefits," Institute for Women's Policy Research, U.S. Department of Labor, March 2014, [https://www.dol.gov/wb/resources/paid\\_parental\\_leave\\_in\\_the\\_united\\_states.pdf](https://www.dol.gov/wb/resources/paid_parental_leave_in_the_united_states.pdf); Eugene R. Declercq et al., "Listening to Mothers III: New Mothers Speak Out," New York: Childbirth Connection, June 2013, <http://Transform.childbirthconnection.org/reports/listeningtomothers/>; Renee Stepler, "Key Takeaways on Americans' Views of and Experiences with Family and Medical Leave," Pew Research Center, March 23, 2017, <http://www.pewresearch.org/fact-tank/2017/03/23/key-takeaways-on-americans-views-of-and-experiences-with-family-and-medical-leave/>; Bureau of Labor Statistics (BLS), "Employee Benefits Survey," March 2017, <https://www.bls.gov/ncs/ebs/benefits/2017/ownership/civilian/table32a.htm>; and BLS, "National

Compensation Survey: Glossary of Employee Benefit Terms," April 11, 2017, <https://www.bls.gov/ncs/ebs/glossary20162017.htm>.

**First-time mothers' leave use, 1961-2008**



..... **Paid leave**      - - - - **Paid leave and/or disability benefits**

**Source:** U.S. Census Bureau, "Table 5: Selected Leave Arrangements Used by Women Who Worked during Pregnancy preceding First Birth: 1981-1985 to 2006-2008," in "Maternity Leave and Employment Patterns of First-Time Mothers: 1961-2008," U.S. Census Bureau, Current Population Reports, October 2011, <https://www.census.gov/prod/2011pubs/p70-128.pdf>; U.S. Census Bureau, "Table F: Leave Arrangements Used by Women Who Worked during Pregnancy: 1961-1965 to 1991-95," in "Maternity Leave and Employment Patterns: 1961-1995," U.S. Census Bureau, Current Population Reports, November 2001, <https://www.census.gov/prod/2001pubs/p70-79.pdf>.

HB 1484  
2-4-19  
#3

**2019 House Bill No. 1484  
Testimony before the House Education Committee  
Presented by Tim Wahlin  
Workforce Safety and Insurance  
February 4, 2019**

Mr. Chairman and Members of the Committee:

My name is Tim Wahlin, Chief of Injury Services at WSI. I am here today to provide testimony regarding House Bill 1484 and offer amendments consistent with the testimony. The relevant sections from WSI's perspective only include sections four, six and ten. Coincidentally, these sections were, in large part, contained in a standalone proposal, HB 1509. That bill was heard in the House Industry Business and Labor Committee on January 28. The House IBL Committee gave a Do Not Pass recommendation and it is pending a floor vote in the House.

The WSI Board does not support HB 1509 nor does it support sections four, six and ten of HB 1484. It is the Board's position administering this fund is not part of WSI's core purpose and may well detract from current obligations.

Section four of this bill creates a new chapter to title 65, the North Dakota workers' compensation act that will establish a statewide mandatory paid family medical leave program for all North Dakota employers and employees in the event the employer has more than 49 employees. It is optional for employers with less than 50 employees.

Section four creates a fund for the payment of lost wages for qualifying medical leave. Qualifying medical leave includes employee leave for personal medical reasons as well as leave to care for a family member with medical problems.

Section six appropriates and transfers \$5 million out of the general fund to WSI to administer the program. WSI is required to repay that sum to the general fund over a period of twenty years. It is the intent the funds be transferred from earnings on the legacy fund. The bill directs that this fund be administered by WSI.

The bill is conceptually novel. In the event this bill advances, we have several concerns and would ask that a number of ambiguities be clarified.

An initial concern is whether this fund is intended to be a special fund, entirely supported by employer and employee premiums. Additionally, there remains ambiguity regarding whether these funds would not only support the leave payments but also pay expenses involved with the administration of the fund, including any required FTE's.

WSI is a special fund organization. WSI administers a constitutionally established trust "required for the payment of compensation to injured employees or death claims, duly approved." N.D.Const Art. X Sec. 12. The North Dakota Legislature determines benefits and how they are to be paid and WSI administers and pays benefits from the fund. Rates are actuarially derived and reviewed every year to guarantee that funding is adequate to pay all claims to ultimate conclusion, along with administrative expenses. The only source of funding is employer premiums.

It is unclear whether this fund is to operate in a similar fashion or is it to remain a general fund obligation with any shortfalls becoming the responsibility of the State of North Dakota. To the



extent general funds are involved, accounting and managing within the same organization will be problematic.

Another concern is if the intent of the bill is to create a self-supporting special fund program, the rate which has been established of four cents per ten dollars in wages, two from the employer and two from the employee, may or may not be adequate. Benefits are capped at no more than \$4,000 per month and can be drawn no more than twelve weeks in a given calendar year.

WSI has analyzed our existing employer pool in an effort to estimate impact. Statewide earnings for employees of employers with 50 or more reportable employees totaled \$15.2 billion. At a rate of four cents per \$10 earnings, total contributions (employee and employer) would be in excess of \$60 million. This does not contemplate employers of less than 50 employees who may elect to participate. Generating reliable information on claim rates which may occur is impossible. As a result, adequacy of collections may be completely inadequate to cover expenditures. If that occurs, the obvious question is from where will those amounts be derived? To the extent this proposal advances, WSI requests that these issues be addressed and clarified.

In addition, nothing in this proposed chapter contemplates establishing due process requirements and appeal or filing timelines. No statute of limitations, authority to investigate and adjudicate, or assignment of responsibility for burdens of proof exists. Likewise, no provisions for the enforcement of payments or audit and collection authorities have been described.

In short, if this proposal advances numerous points require clarification for the fund to be meaningfully established and maintained.

Finally, there exist significant concerns regarding the effective dates in this matter. Section six directs WSI will administer the program "for the period beginning with the effective date of this Act, and ending June 30, 2021." Section ten of the bill indicates the bill is intended to be declared an emergency measure. This appears to mean the effective date for claims and employer/employee premiums would be when the bill is signed by the Governor. Likewise, it appears the appropriation of the \$5,000,000 will happen simultaneously. WSI submits building the infrastructure necessary to implement this program cannot be completed by July 1, 2019 even if the emergency provisions were removed. Certainly nothing can be accomplished prior to funding being appropriated.

WSI has prepared an amendment that is attached to this testimony which removes sections four and six and rennumbers accordingly for the Committee's consideration.

Because of these concerns, the WSI Board opposes the bill.

This concludes my testimony and I would be happy to address any questions you may have.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1484

Page 1, line 1, remove "and chapter 65-05.3"

Page 1, line 2, remove the second "and"

Page 1, line 3, remove "a paid family medical leave program"

Page 4, remove lines 21 through 31

Page 5, remove lines 1 through 30

Page 6, remove lines 1 through 5, and remove lines 30 through 31

Page 7, remove lines 1 through 8

Page 7, line 25, remove "4," and remove "6,"

Re-number accordingly