

HB 1441: Study of Paid Family Leave Financial Impact

Senate IBL Committee – March 8, 2021

Rep. Karla Rose Hanson

Mr. Chairman and Members of the Committee,

HB 1441 addresses a situation that nearly every person in North Dakota faces at some point in their life: the arrival of a new child or a serious health event with themselves or a loved one. The problem arises when a person can't balance that infrequent but important personal time in their life with their job.

Too many North Dakotans face this impossible choice: staying in their job or bonding with their new baby.... their paycheck or being by their dad's side during the last two months of his life.

Businesses are impacted by this too. They may lose a talented employee who prioritizes that temporary but critical personal situation – and then they have to re-recruit and re-train during a time when businesses are competing for talent in a tight labor market. Or an employee tries to juggle the job with their personal situation, only to be unproductive and demoralized.

A paid family leave program would allow people to take care of themselves, their new child or a loved one – without having to leave their job permanently or without having to struggle financially if they stay in their job but take time off without pay. We know such a program is needed in our state, and we know it would be a win-win for both families and businesses.

HB 1441 aims to move the idea of paid family leave forward. It asks for a study of the financial impact of an optional leave program in North Dakota. This study is the necessary next step to help us as policy makers understand how to design the program to ensure financial viability.

Paid Family Leave is Needed

A state-facilitated optional paid family leave program would build upon the Family Medical Leave Act (FMLA). It would provide individuals who need to step away from their job for personal reasons with needed financial assistance during a major event in their lives. The FMLA is federal legislation enacted in 1993 that allows up to 12 weeks of time away from work for qualified employees – this is job-protected but unpaid leave. While this is a critical benefit for families, too many people simply can't afford to take unpaid time off and many don't qualify.

I often hear: let's leave it to companies - they can offer paid leave benefits themselves. But the fact is, many don't. Many simply can't.

Nationally, only 14% of employees have paid family leave from their employer, according to the [US Bureau of Labor Statistics](#). Here in ND, [Job Service reports](#) that just 12% of companies offer maternity leave and 6% offer paternity leave, which are even more limited programs than paid family leave.

In fact, a huge number of working North Dakotans don't even earn a single sick day as a benefit. According to [Job Service ND](#), 31% of ND employers don't offer sick leave to their full-time employees and 88% don't offer sick leave to part-time employees. So, when we are in the middle of a pandemic and we tell people to stay home when they are sick, we are making them choose between their paycheck and their well-being and their co-workers well-being.

So, we know there is a need in North Dakota, and we know that need is going unmet.

Win-Win for Businesses & Families

As we look to solve this problem, North Dakota lawmakers could design a paid family leave program that is good for families and good for business.

Paid family leave is good for families because it provides *financial stability* during those occasional but major events in life. New parents are more likely to *return to work* overall and to the same employer when they have paid leave. I'll also note that many daycares don't even accept babies until they reach a certain age, and many ND communities have inadequate daycare capacity, so this puts new parents in a quandary: what do you do with a tiny newborn who can't go to daycare but you need to go back to your job? Paid leave can help address that.

Paid leave is also good for business. Research from other states shows that businesses that offer paid leave realize increases in recruitment, retention, productivity, and profitability. They avoid the costs of replacing and re-training employees. I'll note that many small businesses would LIKE to offer such a benefit to their employees but it's not affordable; a state-facilitated program enables them to participate in a bigger pool. This helps them compete for talent against big companies who already offer paid leave benefits. (Microsoft example)

Offering this as a benefit improves a business's reputation as a great place to work with family-friendly benefits. We can create a competitive advantage here by establishing something in ND that MN, SD and MT don't offer. We can give ND companies another tool to draw young workers and families here and to retain talented employees rather than lose them to a temporary event.

Paid family leave will be good for our state budget too. Research shows it reduces reliance on poverty-related programs. Here in ND, it could *also* reduce the need for programs that provide financial assistance for caregiving such as ND's Service Payments for Elderly & Disabled (SPED) and Expanded-SPED – especially as our population ages.

How It Could Work: Optional and Flexible

This bill does not establish a program, it asks for a study of the financial impact of the program. However, I will share with you what a program could look like in North Dakota and the various levers that this study would consider. This is based on what other states in the US have done.

First, it's important to note that a paid family leave program would be funded through private contributions from employees and/or employers. The state would merely facilitate the program. Participation would likely be optional for all employers and employees in our state and we could design the program to provide maximum flexibility as to how they participate.

- **The contributions:** A paid family leave program would require a participating employee to contribute a specific amount based on their wages. For example, the contribution could be six cents for every \$10 in wages – which would amount to \$300 a year for an employee earning \$50,000 a year. Other states that facilitate paid family leave programs typically require an equal contribution from the employee and the employer. North Dakota’s paid leave program could have a different model in that the contributions into the fund could be shared by the employee & employer OR paid entirely by one party or the other – we could design it to ensure maximum flexibility. One aspect that this study will consider is the required amount for contributions.
- **The benefit to the employee:** If an employee has an eligible event, they will draw from the paid leave fund instead of taking their salary or leaving their job entirely. For example, they could withdraw 66% of their average weekly wage for up to 12 weeks in one calendar year, with a cap of \$1,000 per week. Paid leave programs aren’t intended to make anyone rich but rather to keep them from falling behind financially and able to pay their bills. Additional aspects that this study will consider include the number of weeks available as a benefit and the percent of wages paid.
- **The benefit to the employer:** Another consideration of the study is the benefit to the employer. For example, we could design ND’s paid family leave program in a way so that if the employer pays for any or all of an employee’s contributions, the employer gets a tax credit. For example, they could be entitled to a credit against state income tax liability equal to 20% of the contributions they made on behalf of that employee. That’s on top of the boost to employee retention and productivity that I mentioned earlier.

Here’s how this type of flexible program could look:

The average ND salary is ~\$50,000 a year. For a participating employee earning that amount, the annual contributions into the paid leave fund would be \$300 a year (6 cents per \$10).

| Contributions: | Employee pays: | Employer pays: | Employee gets: | Employer gets |
|---|-------------------------------|-------------------------------|--|--|
| Employee pays 100% of the 6 cents per \$10/wage | \$300 / year or \$5.77 / week | \$0 | \$634.60 per week for up to 12 weeks (66% of \$961.53 per week wage) | Increased retention and productivity |
| Employer pays 100% | \$0 | \$300 / year or \$5.77 / week | \$634.60 per week | \$60 tax credit + retention/productivity |
| Employer & employee split 50/50 | \$150 / year or \$2.88 / week | \$150 / year or \$2.88 / week | \$634.60 per week | \$30 tax credit + retention/productivity |

Program’s Flexibility Could Include Gig Workers

Besides traditional employees, eligible participants could include independent contractors and sole proprietors. “Gig workers” include a wide range of work: highly skilled contract workers and consultants, freelance writers, hairstylists, craft-sellers, Uber drivers, etc. This part of our economy is not just a “side hustle.” Contingent workers are ~40% of the workforce and

growing. It's projected that 60% of the US workforce will be independent by 2027 and 40% of organizations plan on using more gig workers in the next 5 years. Rather than tying paid leave benefits to a traditional employer relationship, North Dakota can support our state's growing gig economy by designing a paid family leave program that allows them to participate. This is another factor the study can consider when looking at potential participation.

Usage Rates

The study will also consider estimated usage rates by looking at state and federal trends. Data from the *federal* FMLA show that nearly half of all leave events are 10 days or less while only 17% are 60 days or more. Additionally, 55% of all leave events are for the employee's own illness, 21% are to care for a new child, and 18% are to care for a family member.

Phased-in timeline

A study of a paid family leave program's financial impact would assume a phased rollout. For example, once a program is enacted, the first year would be focused on hiring staff and establishing rules, likely using a short-term loan for these start-up costs. Contributions would typically begin in year two, with withdrawals beginning in year three.

Other states

Ten states have enacted laws to *require* paid family leave; the latest is Colorado, which passed it at the ballot this past November.

I know that many of my colleagues would prefer to have a say in how such a policy would look, rather than having the people take this into their own hands, so passing HB 1441 and studying this issue sends a message that the ND Legislature will take a leadership role on this issue. And it allows us to design the program so that participation is *optional* rather than required and so we have a program that maximizes *flexibility* for participants.

Analysis of the model

I expect a program designed as I described to be financially viable. However, having a private third party conduct an actuarial analysis will provide concrete assurances of financial stability and confirm the ideal program design to ensure success.

Rather than an insurance model like other states use, some asked if a better model may be something similar to a health savings account. The employees who need this – those who don't have paid leave from their employer – are unlikely to be able to save an amount that is equal to several weeks or months of salary. Research tells us that 40% of Americans would struggle to pay an unexpected expense of \$400, so the insurance model is recommended.

Let's move paid family leave forward and give ND a leg up

In conclusion, we know a paid family leave program is needed in our state and it would be a win-win: good for business and good for families. HB 1441 helps us take the necessary next step to move this concept forward in our state. Thank you for considering HB 1441 and I urge a do-pass recommendation.