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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 1st Session, 2023

Bill Number	<u>SB11</u>	Sponsor	<u>Stewart/Padilla/Chandler/Serrato/Roybal Caballero</u>
Tracking Number	<u>.223784.6</u>	Committee Referrals	<u>STBTC/SFC</u>
Short Title	<u>Paid Family & Medical Leave Act</u>		
Analyst	<u>Hoxie</u>	Original Date	<u>2/9/2023</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

Senate Bill 11 (SB11) creates the Paid Family and Medical Leave Act to compensate employees and self-employed persons taking leave to:

- Bond with a child;
- Take measures to protect themselves or family members who are victims of domestic violence, stalking, or sexual assault; or
- Provide care for themselves or family members experiencing a service health condition.

SB11 would establish a 12-week paid family leave benefit for all public and private employees in the state, including self-employed persons who opt into the program.

SB11 creates the paid family and medical leave fund, a non-reverting fund created in the state treasury and administered by the Workforce Solutions Department (WSD).

This analysis is only specific to the impact to public schools.

FISCAL IMPACT

SB11 appropriates \$36.5 million from the general fund to WSD for the administrative costs associated with establishing the Paid Family and Medical Leave Act. The bill also includes an annual \$6 million in fund transfers beginning on January 1, 2026 to the paid family and medical leave fund to the general fund. Beginning January 1, 2026, WSD shall provide leave compensation to an eligible employee who takes leave under the Paid Family Leave Act.

SUBSTANTIVE ISSUES

Employee leave benefit offerings can consist of parental, family care, medical, and sick leave. These benefits offered by employers can be paid, unpaid or a combination of both.

Federal Family and Medical Leave Act. The federal Family and Medical Leave Act (FMLA) of 1993 offers 12 weeks of unpaid, job-protected leave to care for newborns or seriously ill family members. Eligible employees include those working for employers with at least 50 employees for at least a year. Research has shown these protections cover about 60 percent of the U.S. workforce, but about half of eligible employees do not take leave because they cannot afford it. SB11 acknowledges the FMLA provisions and allows employers to require employees to take these two types of leave concurrently. SB11 would fund leave currently offered under FMLA.

Benefits, like sick leave and other types of paid leave for school employees, are determined differently across the United States. For example, some states set minimum requirements for paid sick leave for school employees in state law, whereas New Mexico does not. A sample of school district leave policies shows most school districts in the state mention the use of FMLA in their human resources handbook. Depending on the school district policy, other stipulations may apply to use this type of leave by employees. For example, in one policy reviewed, the school district required employees who used FMLA to concurrently use their paid leave until it ran out. Another school district's policies prohibits employees from using paid sick leave and requires those who want to participate to take unpaid leave. Other school policies reviewed in New Mexico, paid sick leave allocations range from between eight and 12 days per year.

Paid Family and Medical Leave Act. To be eligible for paid leave under SB11, an employee must file a claim for leave approved by WSD, agree the employee will not obtain new employment while on leave, and contribute to the fund for at least six months during employment. To access funds, the employee needs to file a claim with WSD and provide information on total earnings, total number of weeks worked, and the average number of hours worked per week. The department is required to calculate weekly leave compensation based on the employee's average weekly wages during the 12 months immediately preceding the date of the claim for leave.

SB11 describes when an employee would be ineligible to receive leave compensation. The employee would be disqualified if (1) the employee files a fraudulent claim for leave, (2) the employee willingly brings on the injury or sickness for the filed claim, and (3) the employee does not use the leave in alignment with their claim. Similar to FMLA, SB11 requires the employer to hold the place of the employee's position until they come back from leave and notify the department when an employee returns to work.

OTHER SIGNIFICANT ISSUES

Teacher Retention. SB11 could positively impact teacher retention. According to national research from the Department of Education, teacher retention is a key factor in improving student performance. New Mexico's lawmakers and education leaders have placed increased importance on retaining high-quality educators in the classroom. Providing paid family and medical leave to educators could provide an incentive to stay in the profession. For example, [some studies](#) indicate paid family and medical leave can improve employee retention, talent attraction, and improved employee engagement. Additionally, according to the [American Psychological Association](#), there are numerous personal benefits to paid family and medical leave, including improved health outcomes for adults and cognitive growth for children.

Teacher-Specific Duties. SB11 requires employees to make an effort to schedule leave to not disrupt the operations of the employer and to provide prior notice of the leave to the greatest extent possible. Some paid sick leave benefits offered to school employees across the state have stipulations due to the unique features of school employee positions, such as teachers. Some school-specific paid sick leave plans require supervisors to monitor when employees request sick

leave days and determine if a pattern is established, such as an employee taking leave before or after holidays or on staff development days, for potential disciplinary action. Additionally, some policies require employees to provide a medical note from a doctor when leave is submitted or if the leave is taken after a number of consequent days. According to [research](#) from the National Bureau of Economic Research, teacher attendance is directly related to student outcomes; the more teachers are absent, the more student achievement is affected. For example, when teachers are absent 10 days, the decrease in student achievement is equivalent to the difference between having a brand new teacher and one with two or three years more experience.

SOURCES OF INFORMATION

- LESC Files
- State Personnel Office

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