

LFC Requester:	Rachel Mercer-Garcia
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/27/25 *Check all that apply:*
Bill Number: HB 11 Original Correction
 Amendment Substitute

Sponsor: Rep. Chandler **Agency Name and Code** 995 NMC
Short Title: Paid Family Medical Leave Act **Number:** _____
Person Writing Hannah Kase Woods
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

Financial impacts: Counties only have two significant recurring revenue streams (GRT and property tax), and they have both been significantly eroded in recent years due to the removal of the hold harmless on food and medical taxes, the veteran's property tax exemptions, and other carve outs for special interests. Adding an additional recurring expense to support another state program is problematic and compounds these financial hits. If the state wants to introduce a new PFMLA program to assist employees, then the state should fund it and not require local governments to stand up the program.

Administrative costs: The legislation places an unfunded mandate on counties to administer this program.

Employee benefit costs: How will the benefits for the employee, such as health insurance and PERA, be paid under this new program? Will an employer have to pay benefits for an employee that is on leave for up to half a year?

SIGNIFICANT ISSUES

Critical service impacts: If employees pay for a program, they are more motivated to make sure they are using it. Most of the counties have many small departments (Clerks, Treasurers, GIS, 911) with limited staff to provide essential services. If 2 or more employees are out on extended leave, it is very difficult to provide these critical services. Counties continue to struggle with personnel vacancies and limited workforce especially in rural areas of the state.

Specialized training: The bill anticipates that a county could hire another employee or find a temporary one, but many county positions (i.e. law enforcement, detention, fire and EMS, 911 dispatch, elections) require specialized training or certifications. It is unrealistic that a county can easily find a certified or trained individual to fill these types of critical service vacancies on a temporary basis or that a county would have the resources or time to pay for the cost of training an additional temporary employee. For first responders, hiring a temp is not an option. This leads to mandatory overtime or reduced staffing levels, both impacting public safety.

Overtime costs: Where counties are unable to hire temporary employees to fill the void, they will face increased overtime costs or a reduction in service as work is redistributed to existing staff.

No meaningful opt out: Based on the requirements of “same rights and protections,” a “similar” plan means the same. Yet, the preemption section prevents local governments from adopting or continuing in effect any ordinance that mirrors the terms of the act. Counties already have well established and generous benefit packages in place. The current opt-out language is illusory and does not allow counties the flexibility of demonstrating a “similar” plan warranting exclusion. The result is that county employees will be required to pay for paid leave that they are or could be receiving at no additional cost were counties able to opt out.

No exhaustion: An employee is not required to exhaust any other leave entitlement prior to utilizing PFML.

Small business impact: County officials are receiving calls from constituents with significant concerns about what this will mean for their businesses in their community. The concerns of small business will discourage businesses from relocating to New Mexico because the financial and operational costs would hurt small businesses. The program and the paid leave mandate is applicable to employers with “one or more employees” unlike the federal FMLA which only applies to employers with at least 50 employees. The mandatory accommodation of protracted job protected time off could devastate such small employers even though the payroll tax contained in the bill is only imposed on employers with “five or more employees.”

PERFORMANCE IMPLICATIONS

Eligibility determination: Eligibility would be determined by a state department rather than the employer who knows its employees and sometimes their family members, especially in small counties. Granting oversight authority for county employees to the state would make it difficult for a county to hold an employee accountable. For example, the state will not know if an employer has a problem with an employee that routinely abuses leave. Counties are best equipped to authorize leave for employees on a case-by-case basis.

Employee pushback: What if employees do not want to participate or are reluctant to pay for benefits that they already receive for free through paid sick and annual leave.

ADMINISTRATIVE IMPLICATIONS

Eligible employee: Eligibility is not determined by hours worked. Instead, it requires six months of contributions during the twelve-month employment period preceding the application. An employee utilizing accrued paid leave balances (sick, sick bank, vacation, comp time, leave granted under a CBA, etc.) during the six-month contribution period will be eligible. Thus, an employee could be out for weeks, if not months, before seeking PFMLA leave. Note: FMLA eligibility requires 12 months of employment and 1,250 hours worked in the 12 months preceding the application.

No “key employee” exemption: The FMLA provides a limited exemption from the requirement that an employee must be restored to his prior position for a "key employee," that is, a salaried employee who is among the highest paid 10% of all the employees in the employer's workforce within 75 miles of the facility where the employee works.

Family member definition is too broad and vague: For example, it includes children regardless of age, grandparents, grandchildren, domestic partners, relatives of domestic partners,

and “an individual whose **close association . . . is the equivalent of a family relationship.**” Equivalent examples are not provided. By contrast, the FMLA is limited to a spouse, parent, son, or daughter (under 18 or over 18 if incapable of self-care because of a mental or physical disability). The terms “close association” and “family member equivalent” are problematic to define and ultimately up to the employee to defend. How would the state be able to dispute how close an employee’s relationship was and whether it warranted the leave. What would prohibit an employee from requesting leave for a friend that is “like a sister” and subsequently requesting leave for another close friend that was “like a mother.”

Stacking Leave: Twelve weeks of “safe leave” or medical leave under the expansive definition of “family member” under the PFMLA can be combined with an additional 12 weeks of leave under the FMLA in the same year. There are concerns about stacking where an employee could use 12 weeks under FMLA for a serious health condition and then request an additional 12 weeks under PFMLA for “safe leave” or caring for “an individual whose close association with the applicant or the applicant's spouse or domestic partner is the equivalent of a family relationship.” This would mean that an employee could be absent from work for 24 weeks or half of a year.

Safe leave definition: Counties are concerned that the safe leave definition of (victim of domestic violence, stalking, sexual assault or abuse) and its uses are too broad and vague and could easily be abused by simply providing a “signed statement from a victim services organization, a clergy member, an attorney, an advocate, **the applicant**, a family member of the applicant **or other person that supports the applicant's claim for leave compensation.**” A police report is not required because the bill uses the disjunctive “or” in the list of required documents: “a police report, court-issued document or signed statement...”

Bereavement leave: Entitled to 12 weeks of family leave following the death of a child under 18 years of age for whom the employee would have otherwise qualified for family leave. Thus, 12 weeks of FMLA prior to the death of a child can be combined with an additional 12 weeks of bereavement leave under the PFMLA.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS