

LFC Requester:	Kelly Klundt
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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: 2/18/25 *Check all that apply:*
Bill Number: HB446 Original Correction
 Amendment Substitute

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI		

(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						
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(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

This Act addresses employment and parental leave by amending the Early Childhood Education and Care Fund to allow appropriations for parental leave compensation. It enacts the Paid Parental Leave Act, which establishes both the Paid Parental Leave Program and the Supplemental Paid Parental Leave Program, which provide eligible applicants with a percentage of their wages to bond with a new child. It outlines a maximum duration for paid parental leave, specifies employee exemptions, and assigns the Workforce Solutions Department to administer the program. Additionally, the Act preempts similar programs and creates a temporary advisory committee for oversight.

HB446 amends statutes governing the Early Childhood Education and Care Fund to allow the legislature to appropriate money from the Early Childhood Education and Care Fund to the Workforce Solutions Department for the purposes of paying leave compensation to employees and self-employed individuals covered by the Paid Parental Leave Act. HB446 applies to all employers, defined as a person that has one or more employees, including the agent of an employer, the state, and any political subdivision of the state.

Parental leave must be taken within twelve months of the birth or adoption of a child, or placement of a foster child (if the applicant is a first time foster parent).

Beginning Jan. 1, 2028, eligible employees and self-employed individuals will be annually entitled up to six weeks of leave compensation and three weeks of supplemental leave paid from the supplemental paid parental leave fund (if the employee opts into the supplemental paid parental leave fund.)

Beginning January 1, 2027, until January 1, 2023, each employee wishing to opt into the supplemental paid parental leave program will pay one half percent of the employee’s wages up to an earnings cap. In the case of a self-employed individual, one half percent of the individual’s net income would be paid. Recipients of paid parental leave must have contributed to the fund for at least six months during a twelve-month period prior to applying.

Leave shall be calculated based on an employee’s average weekly wages in the twelve months immediately preceding the date of the claim for leave. Leave will be calculated as state minimum wage plus 67% of the employee’s average weekly wages that exceed state minimum wage. The maximum amount of weekly leave compensation is limited by the annual mean weekly wage of all occupations in New Mexico as calculated by the United States Bureau of Labor Statistics. The same calculation applies to self-employed individuals.

The Department of Workforce Solutions (DWS) shall require applicants to provide DWS with evidence of the birth or adoption of a child or placement of a foster child with the applicant.

An employer shall pay its share of health insurance premiums and maintain an employee's health coverage while the employee is on leave pursuant to the Paid Parental Leave Act under terms that the employee would have received if the employee had not taken leave. The employee on leave shall pay the same share of premium payments as the employee would have paid if the employee were not on leave.

An employer is prohibited from interfering with an employee's attempt to exercise any right protected by the Paid Parental Leave Act. An employer is prohibited from retaliating against an employee for exercising rights protected pursuant to the Paid Parental Leave Act.

If a hearing officer finds that an employer who discharged a worker in violation of the Paid Parental Leave Act is required to rehire the affected employee.

The Paid Parental Leave Act provides an avenue for appeal of decisions made by the Department of Workforce Solutions, and requires that the Department of Workforce Solutions promulgate rules to implement the Paid Parental Leave Act. Additionally, a Paid Parental Leave Implementation Advisory Committee is created in the Department of Workforce Solutions.

FISCAL IMPLICATIONS

Based on our review we find the information indeterminate for financial impact. However, due to the sweeping applicability of the Paid Parental Leave Act to the vast majority of employed and self-employed persons in the State of New Mexico, appropriations from the Early Childhood Education and Care Fund will likely severely deplete the corpus of the Fund. Since employees and self-employed individuals are eligible within twelve months of any birth, adoption, or placement of a foster child with a first-time foster parent, the estimated costs of Parental Leave would need to consider average birth rates, adoptions within New Mexico, and number of first time foster parents within any given year. Calculations should also factor that for each qualifying birth, adoption, or first time foster placement, there are likely two employees who can apply for paid parental leave.

Any unexpended or unencumbered balance remaining at the end of the fiscal year shall not revert or be transferred to any other fund.

SIGNIFICANT ISSUES

If this act is implemented, it would redirect funds from child care needs to cover parental leave costs. If the bill aims to increase support without affecting the child care provided to children and families, it could still reduce the Fund's longevity, and services for young children and their families would be negatively impacted.

Since participation in the Supplemental Paid Parental Leave Fund is on an opt-in basis, it is likely that the only employees or self-employed individuals who will participate in the program will be individuals who are planning to have children, adopt, or provide foster care in the future. New Mexicans who do not plan to have children, adopt or provide foster care will not contribute to the fund. The bill does not specify what happens if contributions to the Supplemental Paid Parental Leave Fund are inadequate to cover costs of the benefit and administration of the entire Parental Paid Leave program.

PERFORMANCE IMPLICATIONS

Most of ECECD's programs are currently funded by the Early Childhood Education and Care Fund. The Early Childhood Education and Care Fund, which funds the Early Childhood Education and Care Program Fund, is a key funding source ECECD uses to administer its essential programs for families and young children, prenatal to age five. If funds in the Early Childhood Education and Care Fund are appropriated for the purpose outlined in HB446, ECECD's ability to provide key services, including home visiting, early intervention, child care assistance, New Mexico PreK, quality activities, workforce development, and infant early childhood mental health consultation may be threatened.

ADMINISTRATIVE IMPLICATIONS

Paid Parental Leave would be managed by DWS. However, as contributions of employees are required to be remitted by the employer following the end of each quarter for which the contributions are deducted, as an employer, all state agencies including ECECD would be required to expend administrative effort to ensure that proper accounting of participating employees' contributions are properly tracked and remitted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB11 substitute – Paid Family and Medical Leave

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

The requirement that an employee “make a reasonable effort to schedule leave so as not to unduly disrupt the operations of the employer,” may not be feasible due to the unpredictability of childbirth, adoption finalization, and foster care placements.

Additionally, the provision that an “employer has the right to appeal a determination to the department within fifteen calendar days after receipt of documentation of the approved claim for leave” needs clarity, as it is unclear as to the remedy that would be provided to an employer who files a successful appeal.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS