FISCAL IMPACT REPORT

SPONSOR	Reps. Chandler, Roybal Caballero and Serrato/Sen. Stewart	**LAST UPDATED**	
		ORIGINAL DATE	1/24/2025
SHORT TITLE	Paid Family & Medical Leave Act	**BILL NUMBER**	House Bill 11
		ANALYST	Faubion/Garcia

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
General fund payback	-	-	-	$6,000.0	$6,000.0	Recurring	General Fund
General fund payback	-	-	-	($6,000.0)	($6,000.0)	Recurring	PFML Fund
Contributions	-	-	$233,101.7	$481,176.9	$507,860.6	Recurring	PFML Fund
Benefits Paid	-	-	-	($157,425.6) to ($267,623.5)	($322.079.1) to ($547,534.4)	Recurring	PFML Fund

Parentheses ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation. See PFML fund analysis in Fiscal Implications for more detail and additional years of analysis.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	FY28	FY29	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
WSD Startup Costs	-	$25,286.8	$24,118.8	-	-	$49,405.5	Nonrecurring	General Fund
WSD Ongoing Operating Costs	-	-	-	$30,097.9	$23,338.5	$53,436.4	Recurring	PFML Fund
State Employer Contributions (employer portion)	-	-	$11,359.7	$23,400.9	$24,102.9	$58,863.6	Recurring	General Fund
State Employer Contributions (employee portion)	-	-	$14,199.6	$29,251.2	$30,128.7	$73,579.5	Recurring	General Fund
Total	-	$25,186.8	$49,678.1	$82,750.0	$77,570.1	$235,185.0	Recurring and Nonrecurring	General Fund and Other State Funds

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files; various state PFML annual and legislative reports

Agency Analysis Received From

Workforce Solutions Department (WSD)
State Personnel Office (SPO)
Health Care Authority (HCA)
Attorney General's Office (NMAG)
University of New Mexico (UNM)
State Investment Council (SIC)
General Services Department (GSD)
Early Childhood Care and Education Department (ECECD)

<u>Agency Analysis was Solicited but Not Received From</u>
Public Education Department (PED)
Department of Finance and Administration (DFA)
Economic Development Department (EDD)
Council of University Presidents (CUP)
Workers' Compensation Administration (WCA)
NM Municipal League
NM Association of Counties

<u>Agency Declined to Respond</u>
Higher Education Department (HED)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of House Bill 11

House Bill 11 would codify a 12-week family leave and nine-week paid medical leave (PFML) benefit for nearly all workers in the state and establish a state-run PFML program for employees who do not receive a qualifying benefit from their employer. Medical leave duration is subject to adjustment to 12 weeks if the paid family medical leave fund is solvent in calendar year 2031. The bill establishes procedures for administering and overseeing the state PFML program and calculating payroll tax contributions and leave benefits and establishes mechanisms to maintain fund solvency.

Contributions. The bill requires employee contributions of 0.5 percent and employer contributions of 0.4 percent of wages and salaries into the newly established PFML fund. Taxable income is capped at the maximum income subject to the federal social security payroll tax, set at $176.1 thousand by the Social Security Administration in 2025 and increased each year to account for inflation. Employers with fewer than five employees are exempt from paying the employer share of the payroll tax.

Starting on January 1, 2029, the Workforce Solutions Department (WSD) secretary would be required to ensure the fund is self-sufficient by performing an annual financial analysis and setting the premium for the following calendar year at a rate that would generate enough revenue to equal 140 percent of the benefits paid during the previous year plus all administrative costs minus net assets remaining in the fund as of June 30 of the current calendar year. The rate can only be raised up to 0.1 percent each year. The premium set by this standard would be paid 55 percent by the employee and 45 percent by the employer.

Solvency Equation:
Payroll *x* Tax Rate = Prior year benefit payments *x* 140% + admin costs – fund balance

Example:
Payroll *x* Tax Rate = Prior year benefit payments *x* 140% + admin costs – fund balance

$60 billion *x* (*tax rate*) = $430 million *x* 140% + $23 million - $100 million
$60 billion *x* (*tax rate*) = $525 million
Tax rate ~ 0.9%

The bill includes a provision allowing the department to waive employers and employees from contributing to the fund if the employer already has a leave program in place that is equal to or more generous than the proposed PFML benefit for an equal or lesser contribution premium by the employee.

Benefits. The 12-week benefit can be taken consecutively or intermittently and in increments of no less than eight hours. Medical leave for oneself or to care for family members is capped at nine weeks for the first two years of the program but can be increased to 12 weeks if the fund can support it and remain solvent. To receive the benefit, the employee would have to pay into the fund for at least a six-month period in the year prior to taking leave. Benefits paid equal 100 percent of the state minimum wage plus 67 percent of the employees wage above the minimum wage up to the state average wage.

Definitions. Leave can be taken for oneself or to care for a family member for the following qualifying events:

- A serious health condition;
- Seeking safe leave from domestic violence, stalking, sexual assault, or abuse; and
- On active military duty or called to impending active duty.

Family member is defined as the employee’s spouse or domestic partner and the employee’s or employee’s spouse or domestic partner’s biological, adoptive, foster, or step:

- Child or child under one’s care (in loco parentis),
- Parent or legal guardian,
- Grandparent,
- Great-grandparent,
- Grandchild,
- Sibling, and
- Any other individual that is the equivalent of a family relationship.

Leave can be taken for oneself:

- To bond with a child following birth or adoption, and
- Following the death of family member under the age of 18.

Administration. The PFML benefit would be paid for with money in the PFML fund, with some of the money in the fund going to administrative costs and paying back the general fund for start-up costs incurred by WSD. The bill includes annual $6 million transfers starting on January 1, 2029, from the newly created PFML fund to the general fund until the total transfers from the PFML fund equal the amount of appropriations made to WSD for administrative start-up costs.

The bill creates a PFML implementation advisory committee with representatives of both employers and employees, provides for rule-making authority for WSD, clarifies that the bill would not affect collective bargaining unit agreements, preempts local entities' policies, creates an administrative process for appeals, establishes WSD disciplinary powers, and makes it unlawful for an employer or other person to interfere with a person attempting to exercise a right under PFML.

The bill also requires WSD to contract with an actuarial consultant by January 1, 2026, to analyze the program components, including the premium rate, the rate structure, the benefit formula, and the fund reserve.

The bill requires WSD process and resolve claims according to timeliness standards outlined in the bill, including providing claimants with notice of claim approvals within 20 business days and afford parties with appeal and procedural due process. Individuals or the department may bring motions of alleged violations of PFML, and the department must provide a due process hearing and ruling within 30 days.

The bill outlines the following timeline:
1/1/2026 – Contract with actuarial consultant in place (Section 3(D))
1/1/2027 – Premium collection begins (Sections 4(B), (C) and (D)
1/1/2028 – Claim payment begins (Sections 5(A) and (B))
10/1/2029 – Solvency calculations due, based on 2028 data (Section 3(E))
10/1/2030 – Annual solvency calculation based on 2028 data due and used to determine whether to adjust payroll tax or benefit amount (Section 5(C))
1/1/2031 – First year in which there might be 12 weeks available for all types of leave (Section 5(C))

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns.

FISCAL IMPLICATIONS

Fund Solvency

Payroll taxes are estimated to generate $466.2 million in the first year of collections, rising to nearly $545 million by 2031 as incomes rise. This revenue estimate includes adjustments to account for the employer contribution exemption for businesses under five employees, federal employees, self-employed opt-ins, and a small share of waiver-eligible business.

Three scenarios were used to provide a range of potential costs depending on the assumed uptake rate. The low uptake scenario uses a 5 percent uptake rate, the middle scenario uses a 6.5 percent uptake rate, and the high uses an 8.5 percent uptake rate. In the high uptake scenario, the fund is cash flow negative, but because fund balances are quite high from the first year of collections, this does not trigger the provision requiring the secretary to increase the premium rates for many years, giving the department and the Legislature time to adjust if deemed necessary. The other two scenarios show revenues into the fund outpacing benefit payments out of the fund, resulting in fund sustainability and the possibility to lower the premium rate or increase benefits.
Contribution payments by employees and employers into the PFML fund begin January 1, 2027.

Leave compensation benefit payments to employees from the PFML fund begin January 1, 2028. The estimated contributions and payouts included in the tables represent a range of scenarios given varying, but plausible, estimates of the number, duration, and average amount of leave compensation claims, as well as varying estimates of the value of contributions. Other assumptions—such as wage levels, employment duration, length of leave, number of claims per qualifying event, and others—could have significant impacts on the estimates of the fund's revenues and disbursements. As a comparison to the state's unemployment insurance system, both revenue into the fund and disbursements annually could be significantly larger than the state's unemployment insurance system; in 2024, the state's unemployment insurance (UI) fund collected roughly $206 million in revenue and distributed roughly $199 million.

Low Uptake Scenario					
	2027	2028	2029	2030	2031
Eligible Workers		853,642	858,160	861,293	864,438
Leave Claims		42,682	42,908	43,065	43,222
Annual Benefits Paid		$ 314,851,147	$ 329,306,998	$ 343,172,396	$ 360,495,525
Administrative Costs*	$ 49,305,500	$ 30,097,872	$ 23,338,497	$ 23,338,497	$ 23,338,497
Reimburse General Fund			$ 6,000,000	$ 6,000,000	$ 6,000,000
Total Estimated Cost	**$ 49,305,500**	**$ 344,949,019**	**$ 358,645,495**	**$ 372,510,893**	**$ 389,834,022**
Estimated Revenue to FMLA Fund	**$ 466,203,439**	**$ 484,044,510**	**$ 504,309,421**	**$ 524,218,900**	**$ 544,917,995**
Interest Earned		$ 12,105,979	$ 15,261,377	$ 18,600,764	$ 22,074,459
Calendar Year Cash Flow	**$ 466,203,439**	**$ 151,201,470**	**$ 160,925,302**	**$ 170,308,771**	**$ 177,158,432**
Fund Balance Prior Year	$ -	$ 466,203,439	$ 617,404,909	$ 778,330,211	$ 948,638,983
FMLA Fund Balance (deficit)	**$ 466,203,439**	**$ 617,404,909**	**$ 778,330,211**	**$ 948,638,983**	**$ 1,125,797,415**

Middle Uptake Scenario					
	2027	2028	2029	2030	2031
Eligible Workers		853,642	858,160	861,293	864,438
Leave Claims		55,487	55,780	55,984	56,188
Annual Benefits Paid		$ 409,306,491	$ 428,099,098	$ 446,124,114	$ 468,644,182
Administrative Costs*	$ 49,305,500	$ 30,097,872	$ 23,338,497	$ 23,338,497	$ 23,338,497
Reimburse General Fund			$ 6,000,000	$ 6,000,000	$ 6,000,000
Total Estimated Cost	**$ 49,305,500**	**$ 439,404,363**	**$ 457,437,595**	**$ 475,462,611**	**$ 497,982,679**
Estimated Revenue to FMLA Fund	**$ 466,203,439**	**$ 484,044,510**	**$ 504,309,421**	**$ 524,218,900**	**$ 544,917,995**
Interest Earned		$ 10,216,872	$ 11,358,646	$ 12,560,944	$ 13,750,870
Calendar Year Cash Flow	**$ 466,203,439**	**$ 54,857,019**	**$ 58,230,472**	**$ 61,317,233**	**$ 60,686,185**
Fund Balance Prior Year	$ -	$ 466,203,439	$ 521,060,458	$ 579,290,930	$ 640,608,163
FMLA Fund Balance (deficit)	**$ 466,203,439**	**$ 521,060,458**	**$ 579,290,930**	**$ 640,608,163**	**$ 701,294,348**

High Uptake Scenario					
	2027	2028	2029	2030	2031
Eligible Workers		853,642	858,160	861,293	864,438
Leave Claims		72,560	72,944	73,210	73,477
Annual Benefits Paid		$ 535,246,950	$ 559,821,897	$ 583,393,073	$ 612,842,392
Administrative Costs*	$ 49,305,500	$ 30,097,872	$ 23,338,497	$ 23,338,497	$ 23,338,497
Reimburse General Fund			$ 6,000,000	$ 6,000,000	$ 6,000,000
Total Estimated Cost	**$ 49,305,500**	**$ 565,344,822**	**$ 589,160,394**	**$ 612,731,570**	**$ 642,180,889**
Estimated Revenue to FMLA Fund	**$ 466,203,439**	**$ 484,044,510**	**$ 504,309,421**	**$ 524,218,900**	**$ 544,917,995**
Interest Earned		$ 7,698,063	$ 6,155,004	$ 4,507,851	$ 2,652,750
Calendar Year Cash Flow	**$ 466,203,439**	**$ (73,602,249)**	**$ (78,695,969)**	**$ (84,004,819)**	**$ (94,610,144)**
Fund Balance Prior Year	$ -	$ 466,203,439	$ 392,601,190	$ 313,905,221	$ 229,900,402
FMLA Fund Balance (deficit)	**$ 466,203,439**	**$ 392,601,190**	**$ 313,905,221**	**$ 229,900,402**	**$ 135,290,258**

2027 administrative costs include all startup costs and is not calculated as part of the PFML fund cashflow as it is a separate general fund appropriation. Subsequent years only reflect ongoing operating expenses.

The PFML fund builds a large balance in the first year before benefits are paid out. This could result in the artificial reduction of the PFML tax rate beginning in 2030, even if the fund's cash flow is negative because the tax rate calculation incorporates the fund balance. This could result in an artificially low tax rate the first few years after rate adjustments, then a subsequent tax rate increase as the fund balance depletes. For example, in the middle uptake scenario, taxes would only need to be about 0.1 percent to satisfy the solvency requirement in 2030 because the fund balance covers most outflows. However, the tax rate would eventually need to increase to about 0.8 percent to reach a stable fund cashflow and fund balance. See a hypothetical example below of the solvency calculation with a high fund balance.

$60 billion *x* (*tax rate*) = $430 million *x* 140% + $23 million - $500 million
$60 billion *x* (*tax rate*) = $525 million
Tax rate ~ 0.2%

The 0.1 percent cap on tax rate changes will help moderate this effect but may not alleviate it altogether. The actuarial study should include analysis of this mechanism and recommend proper fund balance targets and tax rates to maintain tax predictability and consistency and fund solvency.

Risk: Uptake Rates. Uptake rates are extremely difficult to predict. Uptake rates of other state PFML programs vary from around 4 percent in Connecticut to 10 percent in Rhode Island ,with the average around 6 percent.[1] Differing health outcomes, wages, existing leave landscape, number of births, program structure, eligibility, and other factors greatly affect uptake rates.

	Washington	**Massachusetts**	**Oregon**	**Colorado**	**California**	**Connecticut**	**Rhode Island**
Own Health (Maternity + Medical)	3.5%	3.1%	2.2%	2.9%	4.2%	3.2%	8.2%
New Child (Bonding)	2.2%	1.2%	1.7%	1.9%	1.4%	0.4%	1.3%
Family Medical (Caretaker)	0.9%	0.6%	0.6%	0.7%	0.2%	0.5%	0.4%
Military	0.002%	0.002%		0.010%		0.0005%	
Safe Leave			0.05%	0.10%		0.004%	
Total	**6.6%**	**4.8%**	**4.6%**	**5.6%**	**5.8%**	**4.0%**	**10.0%**

Note: Percent calculated as number of claims as share of total w orkforce.

There are several reasons to suggest more New Mexicans could utilize a PFML program, and New Mexico could have a higher uptake rate, than existing programs:

- The package proposed in this bill covers a broader set of eligible events and more broadly defines family than most comparator states.
    - New Mexico has the ninth highest rate of families living in multigenerational households (defined as three or more generations) at 5.4 percent. This is the second highest among other PFML states after California. This family structure could elevate family leave usage in New Mexico compared to other states.

[1] LFC analysis of public state PFML annual reports, legislative reports, and data sets. Uptake rate calculated by number of claims as a share of total workforce.

- Data from the U.S. Department of Labor shows low-wage workers have a 3 percent higher rate of taking the unpaid leave available under the federal Family and Medical Leave Act (FMLA).
  - New Mexico has one of the highest rates of workers earning under $15 hourly at about 31 percent.
  - Leave utilization increases as duration allowed and benefit amounts increase. This proposal has a more generous leave benefit calculation than many other states.
- New Mexico ranks unfavorably on several potentially impactful, qualifying health indicators that may elevate the number of people qualifying for leave:
  - New Mexico has higher rates of diabetes, chronic liver disease death, chronic lower respiratory death rates, and injury than the national average.
  - New Mexico has the ninth highest premature death rate among states, with about 498 lives lost early per 100 thousand people.
  - New Mexico has had the highest alcohol-related death rate in the United States since 1997.
- This bill includes exigency leave for an individual or for family members on or about to go on active duty that is not included in many other state paid family leave programs. New Mexico is ranked 18th in active and reserve enlistees per capita and has:
  - 14,330 active-duty service members,
  - 4,818 spouses of active-duty members,
  - 8,161 children of active-duty members.
- This bill includes safe leave, which is not included in many other comparator states. New Mexico violence data indicate many people may qualify for this leave.[2]
  - New Mexico's law-enforcement reported rate of domestic violence is 1.3 percent of the population, comprising 12,999 separate incidences in 2019.
  - The U.S. annual rate of partner violence is around 6.5 percent.
  - The U.S. annual stalking rate is 4.2 percent for women and 1.9 percent for men. New Mexico ranks in the worst 10 states for stalking for both men and women.

Fifteen percent of eligible employees nationally take unpaid FMLA each year, according to the most recent federal studies.[3] This, along with other state experience, suggest a high-end estimate of PFML uptake of around 10 percent of eligible workers. It is well-documented that more people will apply for and utilize leave when it is paid, and more people are taking leave than ever before. The percentage of U.S. workers taking leave for FMLA reasons increased by 2 percent from 2012 to 2018, even while number of eligible workers declined by 3 percent over the same period.

Other New Mexico Leave Programs' Uptake Rates. In Executive Order 2019-036, the governor created a 12-week paid parental leave program for state employees after employees complete one full year in the position. The Legislature passed a similar policy for legislative staff in 2022. In the executive order, the qualifying reasons for taking leave are following the birth or adoption of a child. The policy is much more narrowly defined than proposed in this bill. Even with this much narrower definition, the uptake rate for the state's parental leave policy in 2023

[2] nmcsap.org/wp-content/uploads/DV_Report_Trends_2015-2019_Betty_Caponera_Oct20web.pdf
[3]www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHD_FMLA2018SurveyResults_ExecutiveSummary_Aug2020.pdf

was about 3 percent. Including paid sick leave under FMLA, utilization at the state increases to almost 13 percent. The University of New Mexico (UNM) reported between 4 and 5.5 percent uptake rate for its paid parental leave and paid extended sick leave program across university entities, not including unpaid leave, intermittent leave, or family leave benefits.

Risk: Insufficient Contributions. If enacted, New Mexico would be the lowest-income state to implement a PFML program. This, combined with the generous benefit amounts included in this bill, could result in the payroll contribution being insufficient to cover the needs of the fund. This would result in an increase in the payroll tax over time. Other states have had to increase their payroll taxes to cover increasing utilization of their PFML programs. Washington State's rate has increased from 0.4 percent to 0.92 percent since the start of the program due to high usage. Actuarial studies in Washington predict the rate will reach its statutory cap of 1.2 percent by 2028. Rhode Island, Massachusetts, California, and Rhode Island have all experienced rate increases.

An estimated 34 thousand employees in New Mexico work for a business with fewer than five employees, contributing to 5 percent of total payroll in the state. Exempting small business employers from contributing to the PFML fund could put stress on or jeopardize fund solvency. This bill also allows self-employed individuals to opt out of the program. However, self-employed individuals only need to pay into the fund for six months to qualify for benefits, opening the door for people, especially those who are expecting a child or have upcoming medical needs, to pay in for six months, claim the benefit, and then opt out of the system. In fact, other states have found extremely high uptake rates for opt-in participants because they can make an informed decision on enrollment. For example, in Washington the uptake rates for elective individuals are eight to 16 times higher than other covered employees, with an average of between 0.5 and one claim submitted per employee per year. Washington requires elective participants to enroll in the program for a minimum of three years to alleviate solvency issues from "dine and dash."

This bill also allows organizations to waive their participation if they provide a PFML program that meets the basic requirements outlined in the state plan. This will overwhelmingly apply to larger, higher paying industries and businesses, jeopardizing the revenues flowing into the fund. The payroll tax on higher wages helps sustain the fund.

The bill caps the income that can be taxed for the program at the social security taxable income level, which is $176.1 thousand in 2025.[4] This renders the PFML payroll tax regressive, as those with income higher than $176 thousand are taxed at a lower rate than those at lower incomes. Additionally, taxes on higher incomes help sustain the fund, and capping the income level that can be taxed may not be prudent in a low-income state. However, the maximum weekly benefit is capped at the average wage, so it may not be fair to tax all income, especially once the amount paid into the fund far exceeds the benefit one could possibly claim.

2027 Estimated Benefit and Contribution Amounts, by Income						
	Weekly Wage	Weekly Contribution (.9%)	Weekly Benefit	Annual Wage	Annual Contribution (.9%)	12-Week Benefit

[4] https://www.ssa.gov/oact/cola/cbb.html

Minimum Wage	$540.00	$4.86	$540.00	$28,080.00	$252.72	$6,480.00
Average Wage	$1,274.12	$11.47	$1,031.86	$66,254.17	$596.29	$12,382.31
High Wage (at taxable limit)	$3,617.31	$32.56	$1,274.12	$188,100.00	$1,692.90	$15,289.42

New Mexico Model Specifications and Results. LFC staff used the latest UNM Bureau of Business and Economic Research forecast of employment levels and total wages and salaries in New Mexico and data from the Social Security Administration to estimate the number of possible eligible employees and payroll contributions into the fund. Adjustments were made to account for exemptions for small businesses, self-employed individuals, federal employees, and the contribution cap at the social security taxable income cap.

To estimate benefits paid out of the fund each year, LFC staff used high-, middle-, and low-end uptake rates and leave durations from other PFML programs and income data to estimate a range of benefit costs at high and low program utilization. Uptake rates are the largest factor in benefit costs and are extremely difficult to estimate (see "Risks: Uptake Rates" above).

Beginning January 2029, this bill allows the secretary of WSD to adjust the rate a maximum of 0.1 percent each year to ensure collections reach 140 percent of the prior year's disbursements. This could significantly increase the required contributions for both employees and employers if increases are required year after year. The bill does not include other solvency triggers, such as allowing WSD to lower the benefit rate, payout amounts, or leave duration if solvency is in question.

Appropriations

There are no appropriations included in this bill for start-up costs. If the Legislature adopts this bill, funding will need to be included in the General Appropriation Act of 2025 or other legislation.

The General Appropriation Act, as recommended by the Legislative Finance Committee, includes a $35 million special appropriation from the general fund to the paid family and medical leave fund, for expenditure in fiscal year 2026, to implement the Paid Family Medical Leave Act, contingent on passage of a paid family medical leave bill. The appropriation would provide WSD with funding for start-up costs associated with implementing the program. However, the appropriation would not cover all projected start-up costs, and WSD would likely request additional start-up and recurring operating costs in future years.

Direct Costs to State Agencies

Total cost to the state to pay the 0.4 percent employer contribution is just under $25 million per year as estimated using FY26 figures and 3 percent growth each year. The state may choose to give employees a raise to cover the employee contribution above other planned compensation increases. If state agencies absorb the 0.5 percent employee contribution in the form of higher salaries, the total cost is between $50 and $55 million per year. The first year of contributions, FY27, begins halfway through the fiscal year, so impacts are lower. A high-level breakdown can be found in the table below.

	FY26 - LFC Salary Rec*	0.5% employee contribution	0.4% employer contribution	**Total PFML Contribution**
Legislative	$18,346,200	$91,731	$73,385	**$165,116**
Judicial	$265,602,200	$1,328,011	$1,062,409	**$2,390,420**
Executive	$1,398,831,800	$6,994,159	$5,595,327	**$12,589,486**
Public Education	$2,689,170,600	$13,445,853	$10,756,682	**$24,202,535**
Higher Education	$1,142,455,400	$5,712,277	$4,569,822	**$10,282,099**
FY26 Total	**$5,514,406,200**	**$27,572,031**	**$22,057,625**	**$49,629,656**
FY27 Total	**$5,679,838,386**	**$14,199,596**	**$11,359,677**	**$25,559,273**
FY28 Total	**$5,850,233,538**	**$29,251,168**	**$23,400,934**	**$52,652,102**
FY29 Total	**$6,025,740,544**	**$30,128,703**	**$24,102,962**	**$54,231,665**
FY30 Total	**$6,206,512,760**	**$31,032,564**	**$24,826,051**	**$55,858,615**

Salaries are grown by 3% each year. Contributions begin in January 2027. *LFC Volume III, FY26

Agency analysis may vary. This analysis uses payroll figures as reported in Volume 3 of the 2025 LFC report to the Legislature, *Legislating for Results: Supplemental Tables and Graphs*, for consistency. Agency analysis may vary. For example, UNM estimates the total cost to pay for the contributions at almost $7 million across their campuses (see table below).

UNM CAMPUS	EMPLOYEE COST	EMPLOYER COST	TOTAL UNM COST
Main	$1,816,264	$1,453,011	$3,269,275
Health Sciences	$1,871,216	$1,496,973	$3,368,189
Gallup	$50,615	$40,492	$91,108
Los Alamos	$14,620	$11,696	$26,316
Taos	$36,992	$29,593	$66,585
Valencia	$42,733	$34,186	$76,919
Grand Total	**$3,832,440**	**$3,065,952**	**$6,898,391**

In addition to costs to pay for contributions for state employees, the state may need to increase contract costs for services the state pays outside contractors. Some agencies rely extensively on contracts to perform their duties. This could directly impact state costs for early childhood and disability waiver providers, Medicaid providers, IT projects, and transportation and other infrastructure projects, among others. While difficult to calculate, this increased cost could be as high as $65 million across state agencies, not including increased costs to nonrecurring or one-time projects.

ECECD anticipates only minor fiscal implications related to this bill. However, the bill cites the implementation date of leave beginning in January 2028. This is likely to have a fiscal impact beginning in FY28 due to the need for additional substitutes for coverage for educators.

Workforce Solutions Department

According to the Workforce Solutions Department, the estimated cost associated with this new program for the first two fiscal years would be approximately $49.4 million. This includes direct operational staffing, IT Infrastructure support, and indirect cost for operational sustainment –

such as facilities and administrative services.

The bill includes annual transfers of $6 million, starting on January 1, 2029, from the newly created PFML fund to the general fund until the total transfers from the PFML fund equal the total appropriations made to WSD for start-up costs.

WSD estimates it would collect enough funds in FY27 to cover the costs of administration, although the timing of receipt of those funds (collection of contributions would start half-way through FY26), may necessitate an additional one-time appropriation in FY27. Both these contributions would be repaid to the general fund from the PFML fund over time.

Program Year	Year 1	Year 2	Year 3	Ongoing
Fiscal Year	State Fiscal Year 2026 7/1/25 to 6/30/26	State Fiscal Year 2027 7/1/26 - 6/30/27	State Fiscal Year 2028 7/1/27 to 6/30/28	State Fiscal Year 2029+ 7/1/28 +
Activities	Planning/Rule Making/ Initial Contract Awards/ Start IT build	Operational Builds and IT and Facilities, Half Operations	Full implementation, O&M, post-implementation improvements	Running Full Program
Milestones	Rulemaking Complete 6/30/2026	Premium Collections begin 1/1/27; New governor 1/1/27	Benefit begins 1/1/28	
IT	$17,510,000	$10,815,000	$9,527,500	$4,120,000
Ops	$2,639,400	$8,480,000	$14,550,798	$14,550,798
Totals	$20,149,400	$19,295,000	$24,078,298	$18,670,798
With AS&T	$25,186,750	$24,118,750	$30,097,872	$23,338,497

WSD used a variety of methods to compute staffing, including receiving data from states with existing programs, evaluating the bill for program requirements and modeling staffing based on the UI staffing structure. Direct comparison to other states is difficult because no other state houses the contributions, benefit administration, appeals and enforcement all in one agency.

The following policy choices would affect staffing, and as a result, administration funding estimates:

- The timeline of 20 business days for WSD to issue a determination of eligibility after an application is complete could be costly. PFML cases may entail medical documents that require review and evaluation under strict confidentiality requirements pursuant to the federal Health Insurance Portability and Accountability Act. Washington State for example reports over four weeks as an average and over five weeks as a median for processing claims, now that its program is mature.
- Similarly, the bill prescribes hearings be held within 10 business days with a ruling and final decision 20 business days later. These narrow timeframes entail significant amounts of staffing and resources dedicated to the hearing procedures to ensure timeliness and compliance. Also, as a practical matter, it is unlikely all parties will always be available and prepared to present all relevant evidence at hearing within these narrow timeframes. Timeliness and compliance will require significant staffing and resources dedicated to meet PFML's objectives.
- Making government agencies subject to PFML means WSD (like all agencies) will need to staff in anticipation of coverage issues. Many states do not mandate that public agencies are covered (RI, CA, NJ, DC).

WSD notes that estimates related to fund solvency are difficult to make with any degree of confidence. Utilization rates vary widely from state to state and change over time. For example, Washington State has found that demand for leave increased dramatically over time, receiving 40, thousand more applications in FY23 than in FY22 (see “Risk: Uptake Rates” above).

A 2021 U.S. Department of Labor (USDOL) report suggests states implementing paid family leave have generally assumed two to three years of start-up costs for programs before they begin to disburse program benefits. IT costs are generally the largest start-up costs states incur, accounting for 48 to 91 percent of costs reported in implementing states. Among analyzed states, the USDOL report noted projected and actual start-up costs up to $82 million.

The 2021 USDOL report noted claims processing and review staff are the largest drivers of ongoing administrative costs, and the number of processing staff is driven by the expected number of claims and time to process determinations. The report included ongoing administrative costs ranging between $8 million and $239 million in implementing states and noted costs tend to increase incrementally over time. Among existing and operating programs included in the report, costs per processed claims ranged between $155 in Rhode Island and $256 in California, or between 4 percent and 6 percent of benefit disbursements. In addition, a 2023 brief published by National Partnership for Women analyzed administrative costs in the District of Columbia, Washington State, Massachusetts, and Connecticut and reported operating costs to range between 4.6 percent and 10.5 percent of premiums collected annually.

Investment of the Fund

The State Investment Council notes the paid family and medical leave fund shall be invested by the state investment officer, with investment income to be reinvested into the fund. However, the bill provides limited detail about how the fund is to be invested, and the State Investment Council (SIC) notes potential logistical challenges, given the nature of the PFML fund and program. SIC notes, ideally, investments placed with the state investment officer are intended to be long term, with investments of, at minimum, a year. Typically, investments that involve a shorter timeframe or that are used for ongoing programmatic uses are placed with the Treasurer’s Office. The bill does not establish a distribution policy, and the funds would likely require a high level of liquidity, presenting an asset allocation challenge for SIC.

SIGNIFICANT ISSUES

Waiver Eligibility

Waiver eligibility outlined in the bill is ambiguous and leaves open the interpretation of whether a private program is “substantially similar to or greater than the leave and leave compensation offered” pursuant to this bill. There are concerns that unless the benefit amount, leave length, and leave eligibility are each at least as generous as outlined in this bill, employees may be able to contest their employer’s waiver and could put the state at risk for lawsuits. For example, the state employee leave program includes 12 weeks of paid parental leave at full pay but does not offer paid family medical leave. The parental leave program is more generous than the leave offered in this bill, but the family medical leave is less generous. Would this be “substantially similar” if one component is more generous but others less generous?

The University of New Mexico (UNM) made the following comments on its leave programs and waiver eligibility in analysis submitted for a similar bill in 2024:

> The criteria used for considering a waiver are unclear, specifically as it pertains to existing paid leave programs that run concurrently with FMLA and how the department will determine what constitutes "substantially similar." It is not clear how the reemployment requirements would apply to employees who are subject to an employment agreement or contract with a fixed end date, and whether reinstatement rights extend past the contract end date.

Workforce

This bill could improve labor force participation in New Mexico. Research published in the American Economic Review suggests short-duration paid leave in the months directly proceeding and following a birth increases the labor force attachment of women who otherwise would have exited the labor force temporarily in the months around a birth. Analysis of the impact of paid leave laws in California and New Jersey concluded short leave is unlikely to alter the behavior of women who were planning to exit the labor force for prolonged periods after a birth; however, reducing a brief interruption following a birth may have long-term employment benefits for affected women who intended to remain in the labor force.

The Early Education and Care Department (ECECD) notes this bill would support families in caring for children in the time when no licensed childcare is available (0-6 weeks) and for other child health-related issues. At this time, there is a lack of infant care across the state and infants are the most underserved group of children in ECECD's programs. This is especially of concern because secure attachment and stable caregiver relationships are most impactful on development in the earliest weeks of life. In addition, licensed childcare programs must exclude children when they are ill, meaning this bill would also serve to address that gap in care.

Business Environment

This bill acts as a 0.5 percent payroll increase on employees and a 0.4 percent increase on employers. The *Tax Foundation 2025 State Business Tax Climate Rankings* currently rank New Mexico at 31st overall, with corporate taxes ranking 22nd and unemployment insurance (UI) taxes (one of the primary payroll taxes) ranked 16th. Revenue into the state's unemployment insurance trust fund was roughly $200 million in 2024, and the UI taxable wage base in 2024 was $31.7 thousand, considerably lower than the wage base proposed in the bill. Increasing taxes on businesses will likely make New Mexico less competitive compared with other and neighboring states in business-friendliness rankings. However, other rankings such as Oxfam's "Best States to Work Index," and WalletHub's "Best States to Raise a Family" reward states with paid leave programs. New Mexico ranks last in WalletHub's 2025 highly cited ranking, which also considers education, healthcare, employment, and quality of life measures.

The reporting and administrative requirements outlined in this bill may increase costs of doing business in New Mexico, especially smaller businesses and those without a full human resources department or staff (see "Administrative Implications" for further discussion).

Other Significant Issues

- In Executive Order 2019-036, the governor created a 12-week paid parental leave program for state employees after employees complete one full year in the position. The Legislature passed a similar policy for legislative staff in 2022.
- In 2019, the state enacted Section 10-16H-1 NMSA 1978, which expanded state employee and public-school employee use of accrued sick leave for extended family members.
- In 2021, in Section 50-17-1 NMSA 1978 the state enacted the Healthy Workplaces Act requiring all public and private employers to allow employees to accrue earned sick leave of 64 hours per year.
- As of January 2025, 13 states and the District of Columbia offer paid family and medical leave. All state programs are funded through employee-paid payroll taxes, and some are also partially funded by employer-paid payroll taxes.
- Federal social security disability benefits apply to those with a terminal diagnosis or if the disability diagnosis is determined to last at least 12 months.
- The bill does not include guardrails around WSD's authority to adjust the benefit in the event of surpluses in the fund as opposed to adjusting the rate.

ADMINISTRATIVE IMPLICATIONS

WSD is very concerned that the first day of tax collection would be the first day of a new administration. This means a new secretary could be in place; in addition, many senior WSD staff including the deputy secretary and UI director, are eligible for retirement. This would be a very difficult position for a new administration and potentially impact implementation.

Building and administering the PFML, including substantial rulemaking, is an immense administrative undertaking. New Mexico's unemployment insurance system, also administered by WSD, provides a point of comparison regarding potential administrative costs and infrastructure that might be needed in New Mexico to administer a PFML program. The unemployment insurance program has an FY25 operating budget of $14.1 million and 164 FTE and processes between 45 thousand and 48 thousand claims annually; as displayed in the high-end scenarios above, New Mexico could have significantly more PFML claims than this UI benchmark.

WSD estimates the act would create a program about equal in size to the unemployment insurance program, effectively increasing the size of WSD by about one-third. This will necessitate new facilities under current personnel policies. Nothing in the bill appears to prohibit WSD from outsourcing components of the program. For example, Colorado outsources the call center for its PFML program.

The bill states specific timeline requirements that will directly impact the requirements on operational staffing and system automation. Appropriate funding is required to ensure effective implementation to meet these performance standards. The volume of claims will also impact performance levels and operational support requirements.

Part of the basis of WSD's staffing analysis is the estimated number of annual claims. Estimates of the number of annual claims vary quite widely. Applying Washington State's claim numbers proportionally to New Mexico's population yields an estimate of 52.8 thousand annual claims. Direct comparisons are challenging because each state has its own definitions of covered conditions, and each state has unique population characteristics. WSD believes estimates should be based on UI staffing levels with certain adjustments.

- Using the UI staffing base as a comparator, WSD projects an increase for PFML processing staff to reflect the statutory timelines for processing claims and hearings.
- In comparison to certain other states with lower relative staffing levels, WSD allows filing by phone and in person for UI and would anticipate the same for PFML. New Mexicans require phone and in-person service because of limited broadband access and lack of familiarity with government services. Washington, Rhode Island, and California do not do in person claims, while New Jersey started in 2022. The District of Columbia does not allow filing by phone or in person.
- Comparison to other states' staffing levels is also challenging because states with lower relative staffing levels have different roles and less administrative burden. For example, California appeals from PFML go to a different agency.

In discussions with other states, WSD notes the cost of processing applications to opt-out of the fund and program and address related claims is substantial. Other states have imposed fees on the opt-out application and related appeals and claims to address this issue. WSD reads the bill to allow this to occur by rulemaking.

WSD is required to coordinate with the Department of Information Technology concerning this project effort. This will impact the timeline and require consideration in increased cost for independent verification and validation (IV&V WSD may be able to purchase technology solutions used in other states, which could reduce costs.

OTHER SUBSTANTIVE ISSUES

Participating Workplaces

The reporting and administrative requirements outlined in this bill may present more administrative duties and costs for business owners, state agencies, and other eligible places of work, especially smaller businesses and those without a full human resources department or staff. For example, the business owner must work with the WSD to report employees applying for PFML and help certify their leave. Additionally, businesses must hold a position for employees that take PFML and who have worked for that business for at least six months. This requirement could be difficult for a business with a small workforce where a single worker may constitute a large share of the business output. They may be forced to stretch their remaining employees' duties to cover the absent coworker, or the business may hire someone new to cover their duties and be forced to release the new worker on return of the worker on PFML.

The state PFML program may also help local businesses keep employees during and after leave who may otherwise leave the workforce, stabilizing their workforce, reducing onboarding and training costs, and possibly reducing the cost to provide paid leave. Employers may want to provide leave to their employees in case of emergency or after the birth of a child but cannot afford the cost of an independent program, given a small workforce and slim profit margins. This program may extend that benefit and provide an affordable program for employers.

POSSIBLE QUESTIONS

How does this bill affect labor supply and demand? A full review of the labor market and the New Mexico economy is needed to determine the impact of PFML and the associated payroll tax.

How can the program address "dine and dash"—self-employed people who may pay into the program for six months, use the leave for a qualifying event, and then stop paying into the fund?

JF/RMG/hj/hg