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FISCAL IMPACT REPORT

		LAST UPDATED	2/11/24
SPONSOR	Rep. Chandler/Sen. Stewart	**ORIGINAL DATE**	1/24/24
SHORT TITLE	Paid Family & Medical Leave Act	**BILL NUMBER**	Senate Bill 3/aSFC/aSFl#1/aSFl#2
		ANALYST	Faubion/Mercer-Garcia

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
General fund payback	$0	$0	$0	$6,000.0	$6,000.0	Recurring	General Fund
General fund payback	$0	$0	$0	($6,000.0)	($6,000.0)	Recurring	PFML Fund
Contributions	$0	$184,546.4	$376,286.8	$390,855.5	$405,940.2	Recurring	PFML Fund
Benefits Paid	$0	$0	($111,281.8) to ($206,356.1)	($226,843.7) to ($420,648.9)	($235,598.5) to ($436,883.6)	Recurring	PFML Fund

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

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	FY28*	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
WSD Start-up Costs	$24,362.5	$23,215.0			$47,577.5	Nonrecurring	General Fund
WSD Ongoing Operating Costs			$28,725.0	$22,849.0	$28,725.0	Recurring	PFML Fund
State Employer Contributions (employer portion)	$0	$10,334.4	$21,288.9	$31,623.4	$31,623.4	Recurring	General Fund
State Employer Contributions (employee portion)	$0	$12,918.0	$26,611.2	$39,529.2	$31,623.4	Recurring	General Fund
Total	**$24,362.5**	**$46,467.4**	**$76,625.1**	**$94,001.6**	**$139,549.3**	Recurring/Nonrecurring	

*FY28 included to show ongoing recurring costs are lower than in FY27. Total is not included in 3-year totals.

Duplicates House Bill 6, Conflicts with House Bill 11.

Sources of Information

LFC Files

<u>Agency Analysis Received From</u>
Workforce Solutions Department (WSD)

Attorney General's Office (NMAG)
State Personnel Office (SPO)
University of New Mexico (UNM)
Economic Development Department (EDD)
Health Care Authority (HCA)
State Investment Council (SIC)
Council of University Presidents (CUP)

Agency Analysis was Solicited but Not Received From
Taxation and Revenue Department (TRD)
Higher Education Department (HED)
Public Education Department (PED)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Senate Floor Amendments #1 and #2 to Senate Bill 3

The Senate floor amendments #1 and #2 to Senate Bill 3 significantly changed provisions of the bill related to benefits and fund solvency and made several smaller technical corrections.

First, the amendment changed the fund target from 135 percent of the previous year costs to 140 percent of previous year costs. This change may increase the likelihood of fund solvency but may also result in higher contribution rates in the future because the bill would require premium rates be set at a level sufficient to achieve a total contribution amount that is 140 percent of benefits paid plus administrative costs in the prior year.

Second, the amendment sets the maximum medical and safe leave benefits to nine weeks in calendar years 2027 and 2028. The maximum benefit would remain nine weeks in subsequent years until the fund reaches solvency, at which point the maximum benefit may be 12 weeks. The amendment also clarifies that the maximum benefit is 12 weeks in an application year and a beneficiary is not required to use the leave benefit consecutively.

The Senate Floor amendments also extend the period of time a beneficiary would need to have worked to guarantee a return to the beneficiary's previous position after a leave event, and the amendments change the composition of the advisory committee.

Synopsis of SFC Amendment to Senate Bill 3

The Senate Finance Committee (SFC) amendment to Senate Bill 3 made several technical revisions and added several definitions of the bill.

The amendment added definitions related to "employee leasing arrangements," or instances in which a temp agency provides contractor employees to a client. The amendment then clarified when an employee leasing arrangement is in place, contributions shall be remitted by the employee leasing contractor.

The SFC amendment also struck the language "related by blood or affinity" in the section of the bill which defines familial relationships that would render an employee eligible for leave.

The SFC amendment also clarifies self-employed individuals and employees may not be eligible for leave if the leave compensation duplicates other benefits or compensation the employee receives for the same period of time.

None of the SFC changes are projected to have a significant fiscal impact or affect the fiscal analysis below.

Synopsis of original Senate Bill 3

Senate Bill 3 (SB3) would codify a 12-week paid family 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. The bill establishes procedures for administering and overseeing the state PFML program, 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 into the newly established PFML fund. Taxable income is capped at the maximum income subject to the social security payroll tax, set at $168.6 thousand in 2024.

Starting on January 1, 2028, the 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 obtain contributions equal to 135 percent of the benefits paid during the previous year and 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.

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. 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 toward administrative costs and paying back the general fund for start-up costs incurred by the Workforce Solutions Department (WSD). The bill includes annual $6 million fund transfers starting on January 1, 2028, 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 members from various community organizations and others, 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, 2025, 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 10 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 20 days.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

FISCAL IMPLICATIONS

Fund Solvency

Three scenarios were used to provide a range of potential costs depending on the assumed uptake rate, and this analysis has been updated to reflect the Senate floor amendment that reduced maximum benefits for medical leave to nine weeks and maintained the 12-week benefit for family leave. In one of the three scenarios, the fund becomes insolvent, triggering a provision requiring the secretary to increase the premium rates. However, in the insolvent scenario, there are many years before insolvency, giving the department and the Legislature time to adjust if deemed necessary. Two scenarios shows revenues into the fund outpacing benefit payments out of the fund, resulting in fund sustainability and the possibility to lower the premium rate.

Contribution payments by employees and employers into the PFML fund begin January 1, 2026. Leave compensation benefit payments to employees from the PFML fund begin January 1, 2027. 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.

	Low Uptake Scenario				
	2026	2027	2028	2029	2030
Eligible Workers	753,519	757,935	761,839	766,033	770,250
Leave Takers	48,077	48,359	48,608	48,875	49,145
Annual Benefits Paid		$222,563,562	$231,123,755	$240,073,293	$249,369,374
Administrative Costs*	$47,577,500	$28,725,000	$22,849,000	$22,849,000	$22,849,000
Reimburse General Fund		$6,000,000	$6,000,000	$6,000,000	$6,000,000
Total Estimated Cost	**$47,577,500**	**$257,288,562**	**$259,972,755**	**$268,922,293**	**$278,218,374**
Estimated Revenue to FMLA Fund	**$ 369,092,841.4**	**$383,480,781**	**$398,230,138**	**$413,650,343**	**$429,667,647**
Calendar Year Cash Flow	**$ 369,092,841.4**	**$ 126,192,218.1**	**$ 138,257,382.3**	**$ 144,728,049.5**	**$ 151,449,272.9**
Fund Balance Prior Year		$369,092,841	$495,285,059	$633,542,442	$778,270,491
FMLA Fund Balance (deficit)	**$369,092,841**	**$495,285,059**	**$633,542,442**	**$778,270,491**	**$929,719,764**

	Middle Uptake Scenario				
	2026	2027	2028	2029	2030
Eligible Workers	753,519	757,935	761,839	766,033	770,250
Leave Takers	69,648	70,056	70,417	70,804	71,194
Annual Benefits Paid		$352,512,899	$366,071,176	$380,246,127	$394,969,958
Administrative Costs*	$47,577,500	$28,725,000	$22,849,000	$22,849,000	$22,849,000
Reimburse General Fund		$6,000,000	$6,000,000	$6,000,000	$6,000,000
Total Estimated Cost	**$47,577,500**	**$387,237,899**	**$394,920,176**	**$409,095,127**	**$423,818,958**
Estimated Revenue to FMLA Fund	**$ 369,092,841.4**	**$383,480,781**	**$398,230,138**	**$413,650,343**	**$429,667,647**
Calendar Year Cash Flow	**$ 369,092,841.4**	**$ (3,757,118.1)**	**$ 3,309,962.1**	**$ 4,555,216.4**	**$ 5,848,689.2**
Fund Balance Prior Year		$369,092,841	$365,335,723	$368,645,685	$373,200,902
FMLA Fund Balance (deficit)	**$369,092,841**	**$365,335,723**	**$368,645,685**	**$373,200,902**	**$379,049,591**

	High Uptake Scenario				
	2026	2027	2028	2029	2030
Eligible Workers	753,519	757,935	761,839	766,033	770,250
Leave Takers	81,500	81,978	82,400	82,854	83,310
Annual Benefits Paid		$412,712,146	$428,585,794	$445,181,426	$462,419,671
Administrative Costs*	$47,577,500	$28,725,000	$22,849,000	$22,849,000	$22,849,000
Reimburse General Fund		$6,000,000	$6,000,000	$6,000,000	$6,000,000
Total Estimated Cost	**$47,577,500**	**$447,437,146**	**$457,434,794**	**$474,030,426**	**$491,268,671**
Estimated Revenue to FMLA Fund	**$ 369,092,841.4**	**$383,480,781**	**$398,230,138**	**$413,650,343**	**$429,667,647**
Calendar Year Cash Flow	**$ 369,092,841.4**	**$ (63,956,365.2)**	**$ (59,204,655.8)**	**$ (60,380,082.7)**	**$ (61,601,024.4)**
Fund Balance Prior Year		$369,092,841	$305,136,476	$245,931,820	$185,551,738
FMLA Fund Balance (deficit)	**$369,092,841**	**$305,136,476**	**$245,931,820**	**$185,551,738**	**$123,950,713**

2026 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.

Risk: Uptake Rates. Uptake rates are extremely difficult to predict because every state and program is unique. Differing health outcomes, wages, existing leave landscape, number of births, and other factors could greatly affect uptake rates relative to other states. All existing state PFML programs are in wealthier states, and their uptake rates may be quite a bit lower than in New Mexico. There are several reasons to suggest more New Mexicans will 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 comparator states.
- 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 44.5 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 seventh highest premature death rate among states, with about 9,789 years of potential life lost per 100 thousand population based on a 75-year life span.
    - 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 program. New Mexico is ranked 24th in military 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[1].
    - New Mexico's law-enforcement reported rate of domestic violence is 1.3 percent of the population, comprising of 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.

Federal workers with an event that qualifies for FMLA, whose criteria match very closely to the eligibility criteria outlined in this bill, tend to be around 14 percent of workers, according to federal studies.[2] While some of these workers may not claim FMLA or claim FMLA and use existing benefits, like accrued sick leave, these higher rates suggest a high-end estimate of PFML uptake of around 10 percent. It is well-documented that more people will apply for and utilize leave when it is paid. More people are taking leave than ever before. The percentage of U.S.

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[1] nmcsap.org/wp-content/uploads/DV_Report_Trends_2015-2019_Betty_Caponera_Oct20web.pdf

[2] https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHD_FMLA2018SurveyResults_Appendices_Aug2020.pdf

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.

Additionally, University of New Mexico (UNM) analysis points out the following:

> As proposed, the bill provides for a lower threshold for eligibility than the federal Family Medical Leave Act. Specifically, the bill requires only that an employee pay into the fund for six months during any 12-month period to be eligible for PFML, whereas federal FMLA requires an employee work 1,250 hours in the 12-month period preceding the leave. As such, part-time employees who are unable to meet the hours-worked requirement for federal FMLA will likely meet eligibility criteria for PFML, increasing leave benefits available to these employees.

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 2022 was about 3.7 percent. UNM previously reported a roughly 5 percent uptake rate for its paid parental leave program.

Risk: Waived or Reduced Contributions. Over 52 thousand employees in New Mexico work for a business with fewer than five employees, contributing to nearly 10 percent of total wages. This could result in up to a 5 percent reduction in program contributions through the payroll tax than estimated. This bill also allows self-employed individuals to opt out of the program. However, employees 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, to pay in for six months, claim the benefit, and then opt out of the system.

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, which would be used disproportionately by lower wage earners.

The bill caps the income that can be taxed for the program at the social security taxable income level, which is $168.6 thousand in 2024[3]. This renders the PFML payroll tax regressive, as those with income higher than $168 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 claim.

Microsimulation Background, Model Specifications, and Limitations. This analysis uses the Worker PLUS model developed by the U.S. Department of Labor (DOL) to model the costs and revenues of hypothetical or real paid family and medical leave programs across states. The

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

Worker PLUS model uses the DOL FMLA employee survey public microdata to predict leave behavior given the state's underlying demographic makeup. With user-supplied paid leave program parameters (such as eligibility rules), the model then simulates specific leave-taking behavior and outcomes (including number of leaves, leave lengths, benefit levels, and benefit eligibility) with individual workers in a state using data from the five-year American community survey public use microdata sample.

The model has its limitations within the New Mexico context that require some out-of-model adjustments. Arguably the most crucial assumption for predicting PFML costs is uptake rates, or the share of eligible workers that utilize the program by taking leave. The Worker PLUS model does not approximate uptake rates. Users approximate uptake rates for each leave type and input them into the model on the front-end. The model uses the specified uptake rates for each type of leave-taker within the demographic makeup of the state to predict leave behavior. The model has preset uptake rates by leave type from three states, California, New Jersey, and Rhode Island, or users can input their own uptake rates into the model. Uptake rates have the largest impact on cost of any other variable input for any given program.

The model cannot accommodate additional types of leave beyond the six types already built in (own medical event, maternity leave, child bonding, ill parent, ill child, and ill spouse). This bill includes more reasons for leave, including caring for a sibling, grandparent, or other extended relative, and safe leave in instances of violence or stalking, which are not accounted for in the DOL model. The model also cannot approximate leave for optional participants, such as self-employed individuals who may or may not participate under this bill's proposal. This analysis assumes no participation of the self-employed to provide a baseline estimate of revenues consistent across the analysis. Their participation will increase both revenues and costs of the program. The estimated magnitude of those increases is unknown.

The model also does not have the capacity to apply a different tax rate depending on eligibility criteria. For example, this bill exempts businesses under five employees from paying the employer contribution. As the model cannot apply different tax rates, it is applying the full 0.9 percent rate on every participant's wage, likely inflating revenue forecasts.

When the DOL compared the model output to actual program results, it found that the model underestimated both revenues and benefit costs. The model used for the purpose of this analysis underpredicts program costs by 3 percent to 19.8 percent, depending on the program[4]. This model also underpredicts revenue by approximately 10 percent to 15 percent[5]. This range of discrepancy supports the LFC's practice of presenting a range of possible outcomes.

Lastly, the DOL microsimulation is run on 2020 data, and therefore, the results must be adjusted to forecast years 2026 and beyond when the program is in effect. It is also important to run the model using 2020 specifications, such as the 2020 average wage, minimum wage, maximum taxable income, etc. to get the most accurate results possible.

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[4] chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/microsim_issue_brief_4_model_testing_508.pdf

[5] chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/microsim_issue_brief_6_benefit_financing_508.pdf

New Mexico Model Specifications and Results. A first analysis was run on the DOL model using the 2020 Rhode Island uptake rates, which are considerably lower than the 2014-2018 uptake rates. 2020 was an unusual year because it was the peak of the coronavirus pandemic, and data from this period should be used with extreme caution. It is unclear why uptake rates would drop during this period. Rhode Island's demographics on health, family makeup, income, and workplace benefits suggest its uptake rates may be lower than New Mexico's. This simulation is considered a low uptake scenario.

The second run of the model uses actual uptake rates from the Rhode Island PFML program from 2014-2018 with some adjustments for the New Mexico context, particularly the inclusion of safe and exigency leave and some differing underlying demographic makeup, such as a higher fertility rate and having a greater share of people aged under 18 and over 65. This simulation is considered a middle uptake rate scenario.

The last run of the model uses actual uptake rates from the Rhode Island PFML program from 2014-2018 with a 20 percent upward adjustment to each uptake rate by type. This is to account for any state-to-state differences, program eligibility differences, and model underestimation. This is considered a high uptake scenario.

A summary of the key components of each model is presented in the charts below.

Constant model parameters						
	2020 (simulation year)	**2026**	**2027**	**2028**	**2029**	**2030**
Minimum wage annualized	*$ 18,720*	$ 27,040	$ 28,080	$ 29,120	$ 30,160	$ 31,200
Minimum wage	*$ 9.00*	$ 13.00	$ 13.50	$ 14.00	$ 14.50	$ 15.00
Average wage annualized	*$ 50,336*	$ 54,392	$ 54,392	$ 54,392	$ 54,392	$ 54,392
Average wage	*$ 24.20*	$ 26.15	$ 26.15	$ 26.15	$ 26.15	$ 26.15
Weekly benefit at mean wage	*$ 767*	$ 1,013	$ 1,052	$ 1,093	$ 1,134	$ 1,177
Maximum weekly benefit	*$ 968*	$ 1,256	$ 1,305	$ 1,355	$ 1,407	$ 1,462
Taxable income threshold	*$ 137,700*	$180,979	$188,034	$195,266	$202,827	$210,681

	Low Uptake	Middle Uptake	High Uptake
Uptake Rates (in model)			
own health	5.4%	8.2%	9.9%
maternity	1.8%	2.8%	3.4%
new child	1.1%	1.3%	1.5%
ill child	0.5%	0.6%	0.7%
ill spouse	0.1%	0.2%	0.2%
ill parent	0.1%	0.1%	0.1%

Beginning January 2028, this bill allows the secretary of WSD to adjust the rate a maximum of 0.1 percent 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 or payout amounts if solvency is in question.

The Paid Family and Medical Leave Taskforce, created by Senate Memorial 1 in the 2022 legislative session, studied the impacts of establishing a 12-week paid family and medical leave (PFML) benefit for nearly all state residents and produced a report with their findings. According to the report, contributions to the fund were expected to generate $463.2 million in 2025. The report estimated benefit pay outs of $368.3 million in 2026.

Appropriations

There are no appropriations included in this bill for start-up costs. If the Legislature adopts SB3, funding will need to be included in the General Appropriation Act of 2024 or other legislation.

House Bill 2, as adopted by the Senate Finance Committee, includes a $24 million supplemental appropriation from the general fund to the Workforce Solutions Department. The appropriation may be expended in FY24 or FY25. However, the appropriation would only cover the first year of estimated 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 $20.1 million as estimated using FY25 figures. 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 $45.1 million. A high-level breakdown can be found in the table below.

	Salary	0.5% employee contribution	0.4% employer contribution	**Total Contribution**
Legislative	$13,808,400	$69,042	$55,234	**$124,276**
Judicial	$239,578,900	$1,197,895	$958,316	**$2,156,210**
Executive	$1,189,111,360	$5,945,557	$4,756,445	**$10,702,002**
Public Education	$2,503,728,400	$12,518,642	$10,014,914	**$22,533,556**
Higher Education	$1,070,487,100	$5,352,436	$4,281,948	**$9,634,384**
Total	**$5,016,714,160**	**$25,083,571**	**$20,066,857**	**$45,150,427**

*LFC Volume III, FY25

Agency analysis may vary. This analysis uses payroll figures as reported in Volume III of the 2024 LFC report to the Legislature, Legislating for Results: Supplemental Tables and Graphs, for consistency. For example, UNM estimates its costs to pay both the employee and employer contributions to exceed $6.7 million annually. This figure includes central campus, branch campuses, and the Health Sciences Center, but excludes UNM Hospital.

UNM CAMPUS	EMPLOYEE COST	EMPLOYER COST	TOTAL UNM COST
Main Campus	$1,661,712	$1,365,720	$2,991,082
Health Sciences	$1,945,965	$1,747,728	$3,502,737
Gallup Branch	$46,015	$37,048	$82,826
Los Alamos Branch	$14,209	$11,603	$25,577
Taos Branch	$33,107	$26,722	$59,592
Valencia County Branch	$40,673	$32,774	$73,211
Grand Total	**$3,741,681**	**$3,221,596**	**$6,735,026**

The Council of University Presidents provided the following analysis:

The table below shows estimated direct costs for six of the seven CUP institutions, reflecting the employers' PFMLA contribution at 0.4 percent of wages. First-year direct costs for the six institutions that submitted data would total almost $5.2 million and over a three-year period (assuming the employers' contribution rate is unchanged) would amount to just over $16.7 million.

DIRECT EMPLOYER COSTS FOR HB6/SB3 (PFMLA Contributions)

Instn	***Year 1***	***Year 2***	***Year 3***	***TOTAL***	*Rec/Non*	*Fund*
ENMU	299.5	314.5	330.2	944.2	recurring	GF
NMHU	0.0	0.0	0.0	0.0	recurring	GF
NMSU	1,195.6	1,255.4	1,318.1	3,769.1	recurring	GF
NMT	160.0	334.0	351.0	845.0	recurring	GF
NNMC	36.5	38.7	41.0	116.2	recurring	GF
UNM	3,221.6	3,382.7	3,551.8	10,156.1	recurring	GF
WNMU	279.4	294.8	311.1	885.3	recurring	GF
Total	$ 5,192.6	$ 5,620.0	$ 5,903.3	$ 16,715.9	recurring	GF

Notes: *Data for NMHU was not available at the time this FIR was prepared.*
Projected costs for years 2 & 3 assume a 5% increase per year.
UNM's numbers include UNM HSC and its branches.
NMSU's submission did not indicate whether branches were included.

These numbers pale in comparison to the substantial accrued leave costs or liabilities that institutions would incur with the current bill, as explained by NM Tech below.
Additional administrative costs will likely be minimal.

NMTech states: "This bill will have a significant financial impact on the institution if it is not fully funded by the state. The total additional cost of the employer contributions is estimated to average $343 thousand per year over three years, assuming a 5 percent annual salary increase. If premiums are calculated to increase in the future, the additional cost to the institution will be higher. In addition, this bill will require the institution to accrue leave while employees are on their PFMLA leave. As a result, the institution is estimated to incur an average of $904 thousand in additional liabilities or costs per year, or $2.7 million to $3.6 million over three years, assuming a 5 percent annual salary increase"

NMSU states: Unless a waiver is received from participation in the program, as the bill allows, and in conjunction with other university leave programs already in place, participating employees will have an unprecedented amount of leave. Among other available leave, NMSU regular full-time employees accrue 21 days of leave per fiscal year and 12 days of sick leave (prorated for less than 1.00 FTE), up to 3 days of compassionate leave, holiday leave, etc., and eligible employees can participate in the NMSU sick leave bank, which allows for up to 70 days of paid leave."

NMTech states: "This bill requires employees to contribute 0.5 percent of their wages to the PFMLA fund for the first three years. The estimated cost to employees of the institution is approximately $1.3 million over three years. After the first three years, employees are required to contribute 55 percent of the premium set by the Secretary.

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 $47.6 million dollars. 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, 2028, 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 start-up costs.

WSD estimates it would collect enough funds in FY26 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 FY26. Both of these contributions would be repaid to the general fund from the PFML fund over time.

As amended, WSD projects the bill would not change the agency's estimate of costs but notes that the change in the job protection provisions, requiring an employee to be with the employer for 180 (instead of 90) days before protection attaches, may decrease the number of job protection claims and the related administrative costs. WSD could not determine a reliable methodology for determining the cost savings.

Program Year	Year 1	Year 2	Year 3	Ongoing
Fiscal Year	State Fiscal Year 2025 7/1/24 to 6/30/25	State Fiscal Year 2026 7/1/25 - 6/30/26	State Fiscal Year 2027 7/1/26 to 6/30/27	State Fiscal Year 2028+ 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 6/30/2025	Premium Collections begin 1/1/26	Benefit begins 1/1/27 New governor 1/1/27	Subject to annual escalation related to COLA pay increases, etc.
IT	$ 17,000,000	$ 10,500,000	$ 9,250,000	$ 4,000,000
Ops	$ 2,490,000	$ 8,000,000	$ 13,730,000	$ 14,279,200
Totals	$ 19,490,000	$ 18,500,000	$ 22,980,000	$ 18,279,200
With AS&T	$ 24,362,500	$ 23,125,000	$ 28,725,000	$ 22,849,000

WSD uses 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 unemployment insurance staffing structure. Comparisons with other states were difficult to obtain because no other state seems to include contributions, benefit administration, appeals and enforcement all in one agency.

WSD reported the following policy choices that are reflected in this bill that would affect staffing, and as a result, funding estimates related to operating costs:

- The timeline of twenty (20) days for DWS to issue a determination of eligibility after an application is complete is likely onerous. PFML cases may entail medical documents that require review and evaluation under strict confidentiality requirements pursuant to the HIPAA. Washington State for example reports over four average weeks, and over 5 weeks as a median for processing claims, with a median of 2.3 weeks, now that its program is mature. The provision that defers the 20-day timeline to start running when all information has been received is helpful on this issue.
- Similarly, Section 10(A)(2)(a) of the bill prescribes narrow time frames for hearings to be held within ten business (10) days with a ruling and final decision twenty (20) business days later. While this is an improvement from past years' version of this bill, these narrow time frames 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 that all parties will always be available and prepared to present all relevant evidence at a hearing within these narrow time frames. Timeliness and compliance will require significant staffing and resources dedicated to meet PFMLA's objectives.
- Making government agencies subject to PFML means DWS (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).

A 2021 DOL 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 DOL report noted projected and actual start-up costs up to $82 million.

The 2021 DOL 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 DOL 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 DOL report, costs per processed claims ranged between $155 in Rhode Island and $256 per claim 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.

SIGNIFICANT ISSUES

Waiver Eligibility

The University of New Mexico (UNM) make the following comments on its leave programs and waiver eligibility:

> UNM has a strong track record of investing in its employee benefits programs. While it does not currently offer a paid family medical leave program, UNM does offer a paid parental leave (PPL) program for benefits-eligible employees that provides for 4-weeks of paid leave to be used in conjunction with other available employee sick and annual leave. UNM's PPL program compensates employees at full pay without requiring employee contributions. Regular full-time staff employees also accrue nearly seven weeks of sick and annual leave each year (264 hours), and together can accrue a total of nearly 1300 hours of leave before maxing out (1,040 sick leave and 252 annual leave). When used, these leave hours are paid at an employee's full salary and are often take concurrently with FMLA. Additionally, UNM provides other programs such as a catastrophic leave program to safeguard employees who are required to be out of the office for extended periods of time for medical reasons. UNM previously reported a roughly 5 percent uptake rate for its paid parental leave program.
>
> Further, UNM faculty are eligible for a semester of parental leave at full pay, as well as up to six months of paid sick leave for cases of extended illness or injury. However, the proposed state PFML will fill a current gap for temporary, on-call, and student employees who are not in a benefits-eligible status. These employees have limited access to paid leave, and it is anticipated that the state PFML program will be a significant benefit to them.
>
> The criteria used for considering a waiver outlined in Section 4 (G) 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 articulated in Section 8 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.
>
> Finally, because it prohibits the reduction of other leave benefits, this legislation also raises the possibility of employees utilizing more than the allotted 12 weeks by stacking other employer-provided leave with the state PFML program. For instance, an employee could take the 12 weeks of state PFML, and then request four weeks of paid PPL from UNM at full pay, and then exhaust any paid sick or annual leave, significantly exceeding the 12-week duration of leave. The additional complexity of these programs potentially running in parallel will be significant, and likely require additional staff resources to manage and oversee these programs.

The State Personnel Office notes the following:

> The effect of this Act on the State of New Mexico as an employer is unclear. Section 2 of the Act defines "employer" as a person that has one or more employees within the state and includes an agent of an employer and the state or a political subdivision of the state. Section 11 of the Act pre-empts a city, county, home rule municipality or other political subdivision of the state from adopting or continuing any program that provides rights and

benefits as set out in the Act. But the bill is silent on whether the State of New Mexico is pre-empted as well.

Section 4(G) of the Act permits an employer that has adopted and operates a paid family and medical leave plan substantially similar to or greater than the program offered under the Act to apply for a waiver exempting the employer from participating in the program. Section 4(I)(1) presupposes that any employer granted a waiver is covered by a ***privately*** run leave program rather than a public plan. There is no recognition that the State of New Mexico has its own Paid Parental Leave policy in place pursuant to Executive Orders 2019-036 and 2020-062.

WSD notes Section 5(A)(2) states that an employee's time with an opt-out employer counts towards the 6-month contribution requirement. Employees in this situation will be drawing from the fund without having contributed to it.

Workforce

This bill could improve labor force participation in New Mexico, particularly among women. New Mexico's labor force participation rate (LFPR) is consistently lower than the national average and the fifth lowest in the country, as of 2021. According to analysis released by WSD in 2021, the labor force participation rate of women ages 16 years and older in New Mexico was 51.1 percent, 5 percentage points lower than the U.S. rate of 56.1 percent. New Mexico had the fourth lowest LFPR in the U.S. In this analysis, the impact of children is one of the reasons WSD cited for low LFPR, particularly among women, 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 would otherwise exit the labor force for prolonged periods after a birth, but reducing a brief interruption following a birth may have long-term employment benefits for affected women.

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 2023 State Business Tax Climate Rankings* currently rank New Mexico at 22nd overall, with corporate taxes ranking 12th and unemployment insurance taxes (one of the primary payroll taxes) ranked 9th.[6] Increasing taxes on businesses will likely make New Mexico less competitive compared with other and neighboring states.

The reporting and administrative requirements outlined in this bill may present 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).

[6] https://statetaxindex.org/state/new-mexico/

Investment of the Fund

The State Investment Council notes the following:

Section 3 of the bill outlines how the PFMLF will be administered, including how the fund will be invested, specifically, Section 3, line 24-25: "Money in the fund shall be invested by the state investment officer." There is no additional detail or stipulations as to what guidelines, standard of care, distribution/spending policy, timing, or other details that are typically included in statute for similar investment/reserve or endowment funds managed by the Council.

It is understood from the rest of the bill that some of these details cannot yet be determined due to the program Rules that the bill directs the Workforce Solutions Department (WSD) and its advisors to implement, as well as required actuarial work related to premiums that will be collected to make the fund self-sustaining and the related benefits it will deliver. However, the non-traditional structure of the PFMLF presents potential challenges in relation to its investment by the State Investment Officer, which is why SIC would raise the following concerns:

- Investments placed with the State Investment Officer and overseen by the State Investment Council are statutorily intended to be "long-term", with investment horizons of at minimum, at least one-year. Alternatively, any investments that may need to be withdrawn in shorter timeframes should be placed with the State Treasurer's Office, which focuses on short-term (less than 1 year) or slightly longer "medium-term" investment horizons of a few years.
- Standard endowment funds like the Early Childhood Education & Care Fund, the Rural Libraries Endowment Fund, the Opioid Settlement Restricted Fund and others – all have specific (though often differing) spending/distribution policies which usually dictate when and how much liquidity a fund will need to satisfy its programs. The PFMLF does not have a standardized spending policy, but instead appears to require funds be available on short notice for draw down as needed at the call of WSD with the approval of the Department of Finance & Administration. That presents an asset allocation challenge for longer-focused SIC investment options.
- Relatedly, standard distribution policies help determine the level of risk each fund should take to realistically achieve long-term growth targets and inform what types of assets it should be invested in to meet those goals.
- Most statutory funds indicate a basic level of risk/return sought based on each fund's distribution structure, or at least provide statutory guardrails like "this fund will be managed in accordance with the Uniform Prudent Investor Act", or "this fund is to be invested in a manner similar to the Land Grant Permanent Fund."

While there are always risks when investing capital, there are certainly degrees of risk that can be adjusted based on each fund's long-term goals, and it is important that the levels of risk taken are in alignment with not only the expected rewards, but also with the timing-needs associated with those investments' beneficiaries. Private market investments made by SIC are attractive to long-term (or permanent) funds as they seek to increase your risk/return metric in exchange for the accompanying liquidity restrictions. This "illiquidity premium" paid by private markets is appropriate for some funds, but not all, as some funds – like the PFMLF – may have high liquidity needs due to more frequent than annual withdrawals in undetermined amounts.

The inconsistency of the withdrawal structure has the potential to create specific problems in a longer-term asset allocation due to a misalignment with illiquid investment strategies. Private-market investments (private equity, real estate, credit funds) have typical lock-up periods of between a few years to a decade or more. If the PFMLF was invested in such assets with a illiquidity premium, getting cash out of those allocations can be an expensive proposition, forcing sale of assets at a discount/loss on secondary markets and should be avoided. Even for liquid assets like stocks and bonds, it should be recognized that there are not-insignificant additional costs involved with frequent forced buying and selling that might be needed to meet short-notice distribution requirements.

The primary difference between the State Treasurer's Office (STO) and SIC is that STO's focus and expertise is on short-term fixed income investments while SIC can invest from a greater menu of investment strategies, including private credit, public equities, private equity, real estate, real assets and more.

Given its short-term focus and expertise, arguably, the STO may be better suited to manage the PFMLF, versus SIC's longer-term horizon portfolios. In addition, SIC's more-liquid investment options – primarily stocks and bonds – have the potential to elevate risk of greater losses in the short-term, and if they occur at a time when the markets are falling and the PFMLF needs to be drawn down significantly, losses that would have likely recovered in the long-term, are locked in and will be realized due to short-term needs.

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 August 2023, 12 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.

The New Mexico Attorney General's Office notes:

The timeline for filing an administrative action with the department alleging violation of the provisions of the bill is an extremely short timeline such that the grievance procedure will likely be impracticable. The bill limits the timeframe for which an aggrieved party may file a complaint to within thirty business days the complainant becoming aware of the alleged violation. Comparable administrative grievance procedures for violations of state employment law currently exist in statute. The New Mexico Human Rights Act requires a complainant to file a grievance with the Human Rights Commission within three hundred days of the alleged wrongful act. If the bill is implemented with this comparatively brief timeframe for initiating grievances, it is likely that many valid complaints will go unheard.

The Economic Development Department notes:

Human Resources (HR) is the department primarily responsible for important tasks like recruiting talent, signing on new hires, and managing payroll and benefits administration. A high-performing HR team is key to running a successful business, or government department. However, there may be instances when it makes sense to outsource certain tasks, like FMLA management, to a third party, like WSD. When doing so, it's important to consider potential drawbacks to outsourcing HR functions, such as:

- HR manages many important tasks that have to do with a company's employees. Outsourcing those tasks may result in loss of internal controls.
- Employees may feel disconnected from the company or department and prefer to interact with internal HR staff.
- A company or government department may have less capacity for flexibility with their employees if they are required to adhere to policies and procedures mandated by an external entity.

The positive result of implementing a mandatory paid family and medical leave program, and presumably the intent, is to make the benefits available to a larger population and to ease the financial burden that often results with having to take unpaid time off for family or medical leave. The recommendation would be to ensure that all lines of communication between employee and employer remain open and that the employee's experience is regularly evaluated to ensure that they are supported. It is equally important to maintain a business-friendly environment that promotes expansion and job creation.

SB3 does not fully address the following items:

- The federal Family and Medical Leave Act (FMLA) requires private employers with 50 or more employees to provide FMLA benefits as outlined in the federal program. The state FMLA program requires employers of one or more employees to contribute to the program for those employees who opt in. Most start-up companies and small businesses younger than 3-5 years have very little resources, and often are not yet realizing a profit. The requirement to contribute to the fund in the early stages of the company's development may create a financial burden on the employers to the extent that it could negatively impact their hiring plans, and subsequently result in delayed or reduced job creation.
- It does not appear that there is any requirement that the employee request approval or notify the employer that they are applying for this program. WSD is required to notify the employer of the approved application and the employee is required to provide a copy of that approved application to the employer, but the employer has no knowledge of the
- employee's application until it has been completed and approved by WSD. This could put the employer in a burdensome situation if they have little or no notice that the employee will be out on extended leave and the employer is forced to find a temporary replacement quickly.

- It appears that participation in the state FMLA program on the part of the employee is voluntary but is mandatory for the employer. There are no provisions that would allow the employee who opted out of the paid family and medical leave program to exhaust accrued leave without penalty if they find themselves in a situation that requires extended unpaid family or medical leave.
- The bill does not address the potential fiscal impact of the paid family and medical leave program to state agencies, which currently adhere to the federal FMLA requirements, which include unpaid leave.
- The bill does not address whether an employee may use accrued leave in conjunction with the Paid Family and Medical Leave Act.
- The bill does not address whether WSD or an employer may require an employee to exhaust accrued leave before implementing the Paid Family and Medical Leave Act compensation.

ADMINISTRATIVE IMPLICATIONS

Workforce Solutions Department

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. Finally, the bill specifies WSD shall process and resolve all claims according to protocols and timelines outlined in the bill, which will impact staffing implications.

Building and administering the PFML program is an immense administrative undertaking. WSD estimates a need for 216 staff positions—roughly the same staffing as the entire unemployment insurance (UI) program—including staff who are in other divisions but support the program.

- 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. UNM's Bureau of Business and Economic Research estimated a little over 35 thousand claims annually. However, applying Washington State's claim numbers proportionally to New Mexico's population yields a number of estimated annual claims of 53 thousand. Direct comparisons are challenging because each state has its own definitions of covered conditions, and each state has unique population characteristics. WSD believes estimating based on UI staffing levels with certain adjustments is the best method of approximation.
- 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 that are not part of UI.
- Compared 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 limits on broadband access, computer literacy, and 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. Job protection is not available (so doesn't need to be enforced) in California, in the initial New Jersey law, or for an

employee's own health issues in Rhode Island and the District of Columbia. Rhode Island and the District of Columbia do not have waiver programs.

The following drafting issues were identified by WSD and may need to be addressed:

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 IVV. Target and existing technology solutions are cloud-based and technical architectural plans will need to be approved through exception which could impact timelines.

In Section 4(A)(4), it is unclear what is meant by stating that the Act applies to "Indian nations, tribes and pueblos that elect to be covered, or to terminate coverage, in the program for their employees." DWS is unsure what the underlined phrase intends.

Sections 4(G) et seq. refer to an opt-out as a "waiver." Our colleagues in other states have indicated that this is not consistent with common industry language and suggest that an "opt-out" would be more clear. It is also not clear from the language of the bill that an employee does not pay into the fund while they work for an opt-out employer.

In Section 5(J), would it make more sense to put this language in the notification of approval of an application rather than when an application is first filed.

Section 4(A) repeatedly uses the phrase "subject to state jurisdiction" to define who is covered by the Act. The phrase is not entirely clear, which may lead to disputes over who is actually subject to PFMLA requirements. Clarification of what that phrase means would be helpful.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill duplicates House Bill 6. This bill conflicts with House Bill 11, which is a different proposal for a state PFML program.

PERFORMANCE IMPLICATIONS

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 that 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 the 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 program affect Medicaid enrollment? Could PFML bump some people out of Medicaid income eligibility because they will not lose as much income when taking leave?

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 does this apply to New Mexico residents who work for out-of-state employers? How does this apply to nonresidents who work for a New Mexico-based company?

How can the program address "dine and dashers"—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/rl/hg/ss/hg/ne/rl/hg/al/ne/hg