LFC Requester:	Mercer-Garcia, Rachel

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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SECTION I: GENERAL INFORMATION

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

Date Prepared *1/21/25*
Bill Number: *HB0011*

Check all that apply:
Original _x Correction __
Amendment __ Substitute __

Sponsor: Christine Chandler
Short Title: Paid Family and Medical Leave Act

Agency Name and Code Number: Dept. of Workforce Solutions-631
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
$35,000	TBD	TBD	General Fund in early years; new Paid Family & Medical Leave Fund in future years

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
0	$186,150 (½ year of tax collection)	$390,100	Recurring	Paid Family & Medical Leave Fund

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	$25,286.75	$24,118.75	$30,097.872	$79,403.373	Recurring	PFML

(Parenthesis ( ) Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Synopsis: House Bill 11 (2025) creates the Paid Family Medical Leave Act (PFMLA or Act) which would establish a paid family and medical leave program in New Mexico, to be administered by the workforce solutions department (WSD). Employees and self-employed individuals can take up to twelve (12) weeks of leave per year for "family leave," which is defined as leave for new parents or for a parent who has lost a child under the age of 18 (collectively "family leave"). Employees would receive nine (9) weeks of leave for the employee's own medical reasons or those of their family members (collectively "medical leave"), seeking protection from domestic violence, stalking, or sexual assault ("safe leave"), and for a need arising out of an applicant's family member's active duty service ("exigency leave"). Medical, safe and exigency leave duration is subject to adjustment to 12 weeks if the Paid Family Medical Leave Trust Fund is solvent in calendar year 2031. (Section 5(C))

If the bill as amended passes this year, then the roll-out would be:
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 CY2028 data (Section 3(E))
10/1/2030 – Annual solvency calculation based on CY2028 data would be due and used to determine whether to increase number of weeks (Section 5(C))
1/1/2031 – First year in which there might be 12 weeks available for all types of leave (Section 5(C))

How it works. Eligible individuals may take time off from work as described above, which does not need to be used consecutively, and receive leave compensation while on leave. The leave under the Act may be used:

- to care for oneself or family members (defined in Section 2(K)) with a "serious health condition" (physical or mental, defined in Section 2(V))
- for bonding with newborn or recently adopted children, or after the death of a child under the age of 18 (defined in Section 2(J).
- as "safe leave" to seek protective measures against domestic violence, stalking, or sexual assault or abuse for oneself or family member(s) (defined in Section 2(T)).
- for "qualifying exigency leave" for individuals with a family member on active military duty or who've received an impending call to active duty (defined in Section 2(S)).

Claimants are limited to a total of 12 weeks of PFML in an "application year," which begins when an employee files their first claim (Section 5(D)). This addresses concerns about the possibility that an employee may have multiple qualifying events in the course of one year. Section 6 details the documentation that claimants must submit to substantiate a claim.

How much is leave compensation? An employee's weekly leave compensation payment is calculated by first determining their average weekly wage in the 12 months leading up to the application for leave. Next, multiply the current state minimum wage by the number of hours per week the employee works. To that figure, add 67% of the employee's average weekly wage to determine the amount of their weekly leave compensation payment. (Section 5(G))

For the self-employed, multiply the current state minimum wage by the number of weekly hours a person working full time (presumably in the self-employed individual's position) would work. To that figure, add 67% of the self-employed person's annual net income divided by 52. (Section 5(H))

For both employees and self-employed persons, weekly payments are capped and may not exceed the annual mean wage of all occupations in New Mexico as calculated by the United States bureau of labor statistics state occupational employment and wage estimates for the most recent year available divided by fifty-two. (Sections 5(G)(3) and (H)(4))

Who is eligible? Eligible individuals (Section 5(B)) include anyone who has:

- filed a claim for leave compensation, and
- contributed to the PFML fund for at least six months in the 12-month period before applying.

An individual may become ineligible by willfully or knowingly filing a fraudulent claim, receiving unemployment insurance for the period of the claim, not using the leave for the purpose intended, is receiving duplicate payments from workers' comp, or is earning wages for the same time period. (Section 5(F))

How is the program funded? The program is funded by quarterly contributions by employees, certain employers, and self-employed individuals starting January 1, 2027. (Sections 4(B) and (C)) These contributions go into the PFML fund. Money from the fund will then be appropriated to pay for leave compensation payments, administrative costs, and outreach activity required by the Act.

No later than January 1, 2026, the WSD secretary shall contract the services of a "qualified independent actuarial consultant" to determine an actuarially sound premium rate as well as a "future premium rate-setting mechanism" for the program. It is unclear why this occurs so early in the timeline for establishing the benefit, as there may not be enough information on utilization and the number of employers who choose to opt out at this time. (Section 3(D))

Beginning January 1, 2029, the WSD secretary shall ensure and maintain the self-sufficiency and solvency of the fund, perform annual financial analysis, and set premium rates for the upcoming calendar year. Essentially, the secretary shall set the premium at the rate necessary to obtain total contributions (for the next year) equal to 140 percent of benefits paid and administrative costs incurred during the previous fiscal year, minus the amount of net assets remaining in the fund as of June 30 of the current calendar year. HB 11 caps premium increases and decreases to the rate at one-tenth percent of wages per employee per year. (Section 3(E))

How are contributions determined?

For employees. From January 1, 2027 to January 1, 2030, each employee will be assessed one-half percent of their quarterly wages as contributions, up to the earnings cap set by the federal social security program. Starting January 1, 2030, each employee will have an assessment on their wages at 55 percent of the premium set by WSD for the current year. (Section 4(B))

For employers. From January 1, 2027 to January 1, 2030, employers with five or more employees will be assessed an amount equal to four-tenths percent of each participating employee's quarterly wages as contributions, up to the earnings cap set by the federal social security program. Then starting January 1, 2030, employers with five or more employees will be assessed an amount equal to each participating employee's wages at 45 percent of the premium set by WSD for the current year. (Section 4(C))

For the self-employed. From January 1, 2027, to January 1, 2030, self-employed persons will be assessed one-half percent of their net income. The self-employed calculation does not include the social security cap. From January 1, 2030, forward, self-employed persons will have an assessment on their net income at 55 percent of the premium set by WSD for the current year.

Who must pay contributions? (Section 4(A))

- All public and private employees subject to state jurisdiction, except employees of the United States.
- All employers of public and private employees, regardless of whether they are physically located in the state, except those with fewer than five employees.
- Self-employed individuals subject to state jurisdiction who opt into the program.
- Indian nations, tribes and pueblos that elect to be covered in the program for their employees.
- Employers and their employees if they are granted a waiver from participation by WSD (see below).

Exemptions authorized. Employers with paid family and medical leave plans or programs for the benefit of their employees that provide leave and leave compensation "substantially similar to or greater than the leave and leave compensation offered" under HB 11 may apply for a waiver to exempt the employer and its employees from participating in the PFML program. (Section 4(G)) HB 11 sets forth a number of requirements with regard to exclusions and waivers, including, for example, the right of employers and employees to appeal WSD's grant or denial of a waiver of participating in the program. (Section 4(H))

Claims processing. WSD shall process and claims according to the timelines and protocols expressly stated in HB 11. For example, WSD must protect the confidentiality of information received, provide employers and claimants notice of approval of their claim within 20 business days (Section 5(J)).

Appeals. An applicant or authorized representative may appeal an adverse determination of a claim. (Section 10(A)) WSD must hold a hearing within 10 business days after an appeal is properly made, due notice is given and mediation is refused, and must rule on the appeal within

20 business days of the hearing. (Section 10(A)(2))

Administrative Actions. Individuals or DWS on its own motion can bring “administrative actions” for alleged violations of the PFML by a public or privately run leave program by filing a complaint with WSD. WSD’s secretary or designee must then afford the parties a due process, on-the-record hearing and issue a ruling on the complaint within 20 business days of the hearing. HB 11 grants the WSD secretary or designee authority to take disciplinary action against parties, such as fines, censure or revocation of a waivers of participation in the state PFML program. (Section 10(B)) Appeals or judicial review of the agency’s final decision on an appeal or administrative action would be pursuant to Section 39-3-1.1. (Section 10(C))

Preemption. HB 11 preempts cities, counties, and other political subdivisions from having their own laws governing paid family and medical leave, with the exception of paid-time-off or paid-sick-leave ordinances, policies, or resolutions, or leave policies for its employees. (Section 11)

Collective bargaining. Nothing in the bill shall be construed to diminish the rights, privileges or remedies of any employee under any collective bargaining agreement. (Section 12)

Promulgation of Rules. WSD is obligated to promulgate rules and regulations necessary to carry out the purposes of the PFMLA. The deadline to promulgate rules to implement Sections 3, 4 and 5 of the Act is July 1, 2026. (Section 16)

PFMLA Advisory Committee. Section 14 creates an 8-member “paid family and medical leave implementation advisory committee” whose purpose is to provide input regarding best practices for the efficient and timely development, implementation and promulgation of rules and educational materials to carry out the provisions of the PFMLA. The WSD secretary shall consult with the committee at least quarterly and provide staff for it. The deadline to appoint the committee is October 1, 2025, and the committee’s work ends on January 1, 2027. Half of committee members must represent employers and the other half represent employees.

FISCAL IMPLICATIONS

Note: Major assumptions underlying fiscal impact should be documented.

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

The following is the DWS estimate of costs in dollars (not thousands of dollars). These costs have been revised to reflect increased salaries and inflation since the previous estimates in 2023 and 2024.

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

DWS 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 comparables to other states were difficult to obtain because we could find no other state in which the contributions, benefit administration, appeals and enforcement were all in one agency.

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

- The timeline of twenty business (20) days for DWS to issue a determination of eligibility after an application is complete is an improvement over previous iterations of this bill, but still impacts costs. 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 weeks as an average, and over 5 weeks as a median for processing claims, now that its program is mature.
- 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 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).

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 40,000 more applications in FY23 than in FY22.

We note that 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.

SIGNIFICANT ISSUES

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 would definitely 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.

The Department is tasked with substantial rulemaking efforts to clarify every aspect of the bill. This would include topics related to eligibility, documentation of claims, how or whether WSD is to investigate, prosecute, or adjudicate fraudulent claims, or recoup leave compensation obtained fraudulently.

WSD assumes that, as in past years, an appropriation would be made if the bill passes. We note the LFC budget's non-reverting appropriation of $35 million into the PFML fund with authority to spend up to that amount would be ideal, so that if work progresses more quickly than anticipated, the project is not stalled. If initial cost projections hold, more money would be required in the following year. We note that an appropriation from the fund to the operating budget of DWS would also be necessary, and we would recommend a new P-Code for the program given its size.

In discussions with other states, the cost of processing applications to opt-out of the fund and program and address related claims is substantial. Because opt-out programs do not pay into the fund, this is an unfair burden on participating employers. Other states have imposed fees on the opt-out application and related appeals and claims in order to address this issue. We read the bill to allow this to occur by rulemaking.

PERFORMANCE IMPLICATIONS

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. We note that in Washington State, which has a similarly structured program, the current processing time for applications and requests for review is 3-4 weeks (https://paidleave.wa.gov/about-the-program/).

ADMINISTRATIVE IMPLICATIONS

The Act would create a program about equal in size to the Unemployment Insurance program, effectively increasing the size of DWS by about one-third. This will necessitate new facilities under current personnel policies of the State.

Nothing in the bill appears to prohibit DWS from outsourcing components of the program. For example, Colorado outsources the call center for its PFML program.

Part of the basis of DWS'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 52,800 annual claims. Direct comparisons are challenging because each state has its own definitions of covered conditions, and each state has unique population characteristics. DWS believes estimating based on UI staffing levels with certain adjustments is the best method of approximation.

- Using the UI staffing base as a comparator, DWS projects an increase for PFML processing staff to reflect the statutory timelines for processing claims and hearings that we do not have in UI.

- In comparison to certain other states with lower relative staffing levels, DWS 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 broadband access, computer literacy, and lack of familiarity with government services. WA, RI and CA do not do in person claims, while NJ started in 2022. DC 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, CA appeals from PFML go to a different agency. Job protection is not available (so doesn't need to be enforced) in CA, in the initial NJ law, or for an employee's own health issues in RI and DC. RI and DC do not have waiver programs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None as of the date of this FIR.

TECHNICAL ISSUES

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.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

DWS has not reviewed an alternative bill as of the date of this FIA.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Paid family and medical leave will not be a legal requirement.

AMENDMENTS