LFC Requester:	

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original X **Amendment** ____
Correction ___ **Substitute** ____

Date 1/19/24
Bill No: HB11

Sponsor: Matthews
Short Title: Paid Family & Medical Leave Insurance Act

Agency Name and Code Number: Economic Development Department 41900
Person Writing Sara Gutierrez
Phone: 505-231-4224 **Email:** Sara.gutierrez@edd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to: SB3, HB6-Paid Family Medical Leave Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:
House Bill 11 (HB11) establishes the Paid Family and Medical Leave Insurance Act, wherein a Paid Family and Medical Leave Insurance Authority (Authority) is created and is administratively attached to the Department of Workforce Solutions (DWS). The bill also creates a Paid Family and Medical Leave Insurance Board (board) to oversee and operate the Authority, and a Paid Family and Medical Leave Insurance fund (fund) to be administered by the Authority.

The bill establishes a paid family and medical leave program that provides up to six weeks of family and medical leave compensation during any twelve-month period to covered employees who need to take leave for reasons ranging from the birth of a child, the placement of a child for foster care or adoption, to care for a family member with a serious health condition, or to recover from a serious health condition.

Participation of all employers within New Mexico is required, unless the employer can demonstrate their participation in a private, paid FMLA program that provides equal or greater benefits than the state program. Employees who opt to enroll in the state program contribute a percentage of their subject earnings to the fund, at a rate set by the Authority, not to exceed one-half percent of the subject earnings.

The board consists of eleven voting members: four in defined positions within state government, four appointed by defined positions within the legislature, and three appointed by the governor. Board appointments are to be made by July 1, 2024. The board oversees the Authority, hires the director of the Authority, and sets the salary for the director position.

The Authority is administratively attached to DWS and is overseen by the board. The bill creates one position which serves as the director of the authority and is hired by the board as an at-will employee of the board. The director has authority to employ staff and contractors to carry out the Authority's duties. The Authority is responsible for creating the program, conducting annual actuarial studies to evaluate the sustainability of the fund, and making annual assessments and adjustments to the contribution rate identified in the actuarial studies. The Authority is required to promulgate and adopt rules for this program.

House Bill 11 outlines a timeline for certain actions and reporting deadlines:

- July 1, 2024: Board appointments are made

- July 1, 2025: Authority begins annual reports to the legislature
- July 1, 2026: Contributions to the fund begin
- July 1, 2027: Authority begins annual reporting of annual actuarial studies
- July 1, 2027: Authority begins compensation distribution
- July 1, 2028: Authority begins annual assessment and adjustments to contribution rates based on annual actuarial studies

The bill also outlines:

- Composition of the board membership and terms
- Detailed duties and responsibilities of the Authority
- How the fund is funded through employee contributions and investment
- How the fund shall be maintained to ensure solvency and self-sufficiency
- How funds are disbursed
- How employee contributions are calculated
- Requirements for remittance of employee contributions to DWS
- Employee eligibility and documentation requirements for compensation
- How compensation is calculated for continuous and intermittent leave
- Employee requirements regarding notification to employer of approved leave application and scheduling leave
- Benefits and requirements for self-employed individuals
- Confidentiality
- How fraudulent claims are handled, disqualification and repayment, and penalties
- Employment and employment benefits protection
- Appeal procedures and authority disciplinary powers
- Reporting requirements
- Employer and employee requirements upon return to employment

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

The positive result of implementing a paid family and medical leave program is not only to preserve an individual's employment while on family medical leave, but to also provide a source of income for up to six weeks if the individual does not have enough paid leave accumulated to cover the time off, making the benefits available to a larger population and easing 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, job creation and retention.

HB11 does not fully address the following items:

- The bill appropriates money in the fund to the Authority for the purpose of distributing compensation but does not make an initial appropriation to start the fund. Contributions to the fund begin July 1, 2026, but compensation is not available until July 1, 2027. Employees who opt to participate in the program and contribute a percentage of their subject earnings to the fund would not have access to the benefit for a year. This might discourage employee participation.

- Costs related to the administration of the program are to be covered by the fund, however, there is no initial appropriation made to DWS to pay for the many and varied start-up expenses and associated staffing that will be required to stand up the Authority and design and implement the internal infrastructure required to manage the program.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS