Analysis of Paid Family and Medical Leave Benefits in New Mexico

Based on New Mexico Senate Bill 3 of the 2024 Legislative Session

Commissioned by Southwest Women's Law Center (SWWomenslaw.org)

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Introduction

This paper provides an overview of the paid family and medical leave (PFML) insurance program established in New Mexico Senate Bill 3 of the 2024 Legislative Session (Senate Bill 3). It also includes illustrative projections of financial experience for the program based on a high-level actuarial analysis. The PFML program would require New Mexico employers to provide income benefits to workers who take leaves of absence for qualifying family or medical reasons. The program would be funded by contributions from employers and employees, with premium contributions beginning in 2026 and benefits beginning in 2027.

Senate Bill 3

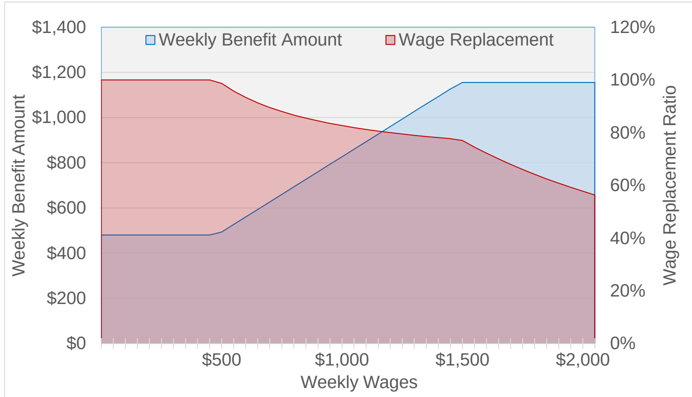
The benefits established in Senate Bill 3 are summarized in Figure 1 below:

FIGURE 1: NEW MEXICO PFML BENEFIT PROVISIONS

1. **Qualifying events**: Maternity; bonding; caring for family members with serious health conditions; treating an own serious health condition; attending military exigencies; following the death of a child under eighteen years of age for whom the employee would have otherwise qualified for family leave; or attending exigencies arising from domestic violence, stalking, sexual assault, or abuse.
2. **Benefit Period**: 12 weeks for each individual qualifying event, up to a combined maximum of 12 weeks within an application year.
3. **Definition of Family Member**: Includes biological, fostered, adoptive, and step relationships, as well as relationships by affinity (i.e., any other individual whose close association with the employee is the equivalent of an immediate family relationship).
4. **Unpaid Waiting Period**: None.
5. **Weekly Benefit Amount**: 100% of the state minimum weekly wage plus 67% of wages above the state minimum weekly wage, up to a maximum weekly benefit amount equal to 100% of the state average weekly wage (SAWW).

The following graph shows estimated 2027 PFML weekly benefit amounts and wage replacement ratios for different wage levels, assuming a minimum wage of $12 per hour (i.e., the current minimum wage in New Mexico):

FIGURE 2: PFML BENEFIT AMOUNTS AND REPLACEMENT RATIOS



Senate Bill 3 also establishes an initial overall contribution rate of 0.90% of taxable wages (capped at the Social Security Administration's Old-Age, Survivors, and Disability Insurance wage limit) from 2026 through 2028. Beginning in 2029, contribution rates would be determined from the following formula that takes into consideration claim experience from the prior 12 months and PFML fund balances at the end of the fiscal year:

> *Contribution rates would be established to obtain a total amount of contributions equal to 135% of the benefits and administrative costs from the previous fiscal year, minus the amount of net assets remaining in the fund as of June 30 of the current calendar year, provided that the premium increase shall not exceed one-tenth of one percent (0.1%) of wages per employee per year. Employers with fewer than five employees would be exempt from paying the employer portion of premium contributions.*

This premium formula targets a fund ratio (i.e., ratio of fund balance to total expenditure from the prior 12-month period) of 35% assuming no changes in the experience from year to year – i.e., no changes in covered employees, demographics, claims, etc. Note that our financial projections for New Mexico PFML (shown below) assume employment growth and wage growth throughout the projection period, as well as increasing claim incidence rates during the initial years as the program phases in, resulting in an ultimate projected fund ratio of 30%.

All public and private employers with workers in New Mexico would be required to participate in the PFML program, although employers of the federal government would be exempt from participating. Self-employed workers, Indian nations, tribes, and pueblos could opt in to the program. Employers would have the option to provide benefits through the New Mexico PFML fund or through private insurance plans. The projections below are for the state plan and exclude experience from private plans. We assumed 15% of eligible employees would receive benefits through private plans and 85% would receive benefits through the state fund.

Financial Projections

We have developed illustrative projections of estimated financial experience for the New Mexico PFML program established in Senate Bill 3. These projections are based on a high-level analysis of PFML benefits in New Mexico and are provided in Figures 3 - 5 of the following pages, also summarized below:

- **Projection 1** (Figure 3) – Initial contribution rates are based on the statutory rate of 0.90% of taxable wages for 2026 through 2028. The premium formula in Senate Bill 3 was used to calculate contribution rates for 2029 and beyond, excluding the 0.1% cap on annual rate increases.
- **Projection 2** (Figure 4) – Like Projection 1, the initial contribution rate is 0.90% for 2026 through 2028, and the contribution rates for 2029 and beyond were determined from the premium formula in Senate Bill 3. However, in this scenario we included the 0.1% cap on annual rate increases.
- **Projection 3** (Figure 5) – This scenario is like Projection 2; however, we included a 0.1% cap on both annual rate increases and annual rate reductions for estimating contribution rates in 2029 and beyond.

In Projection 1, the contribution rate decreases sharply from 0.90% in 2028 to 0.15% in 2029 because the premium formula is used to set the rate for 2029, and the projected fund balance at the end of 2028 is significantly higher than target levels; therefore, the premium formula establishes a low rate for 2029 to spend down excess surplus in the account. When the premium formula is applied in 2030 and beyond (excluding the 0.1% cap on annual rate increases), the resulting contribution rates increase sharply in 2030 and remain relatively level thereafter. These rates maintain a fund ratio of 30% in 2031 and beyond. However, the increase in 2030 is greater than 0.1%.

In Projection 2, the contribution rate decreases from 0.90% in 2028 to 0.15% in 2029 due to the premium formula, as in Projection 1. The projected contribution rates are increased by 0.1% in 2030 through 2035 based on the 0.1% maximum increase specified in Senate Bill 3. The resulting fund balances are negative in 2030 and beyond and contribution rates would be too low to cover benefits and expenses in those years.

Projection 3 includes a 0.1% cap on both annual rate increases and annual rate reductions. Under this approach, the estimated contribution rates decrease from 0.90% in 2028 to 0.60% in 2031, based on the 0.1% maximum reduction in those years (because the uncapped premium formula suggests rate reductions greater than 0.1%). The estimated contribution rates then increase from 0.60% in 2031 to 0.80% in 2033, based on the 0.1% maximum increase in those years. In 2035 and 2036, the estimated contribution rates are determined directly from the premium formula because the implied rate changes are less than 0.1% in those years. The estimated contribution rates maintain a fund ratio of 30% in 2035 and beyond.

PFML premium formulas can be useful for targeting a specific level of surplus in the fund, although they may be prone to wide fluctuations depending on how experience emerges. For example, contribution rates could experience significant variation after a public emergency due to the formula’s 12-month lookback period. Some states use formulas like the formula included in Senate Bill 3 for determining PFML contribution rates, whereas other states establish rates annually based on sound actuarial principles that do not depend on a prescribed formula.

The financial projections shown below were developed from a high level analysis of PFML benefits in New Mexico, and are illustrative only. The projections depend on a variety of actuarial assumptions about future experience, including but not limited to employment and wage growth, PFML claim experience, expenses, and investment income. It is nearly certain that actual experience will vary from these assumptions, meaning that actual fund balances would be higher or lower than the illustrated values.

Detailed documentation of the data, assumptions, and methods is provided in the next section of this paper.

FIGURE 3

PROJECTION 1 : NEW MEXICO PFML PROJECTION BASED ON FUNDING MECHANISMS IN SENATE BILL 3 EXCLUDING THE 0.1% CAP ON ANNUAL RATE INCREASES

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Covered Employees		774,152	783,740	793,447	803,273	813,222	823,294	833,490	843,813	854,264	864,844
Taxable Wages ($ millions)	$41,253	$43,225	$45,292	$47,458	$49,728	$52,105	$54,597	$57,208	$59,943	$62,810	$65,813
Claims											
Family		17,378	16,789	17,507	17,901	18,122	18,347	18,574	18,804	19,037	19,273
Medical		36,180	38,460	40,104	41,007	41,514	42,029	42,549	43,076	43,610	44,150
Total		**53,558**	**55,248**	**57,611**	**58,907**	**59,637**	**60,376**	**61,123**	**61,880**	**62,647**	**63,423**
Benefit Payments ($ millions)											
Family		$111.3	$111.3	$120.2	$127.2	$133.2	$139.6	$146.3	$153.3	$160.6	$168.3
Medical		$226.6	$249.3	$269.1	$284.8	$298.4	$312.7	$327.6	$343.3	$359.7	$376.9
Total		**$338.0**	**$360.7**	**$389.3**	**$412.0**	**$431.7**	**$452.3**	**$473.9**	**$496.6**	**$520.3**	**$545.2**
Expenses ($ millions)											
Start-up	$36.5	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0
Family		$5.9	$5.9	$6.3	$6.7	$7.0	$7.3	$7.7	$8.1	$8.5	$8.9
Medical		$11.9	$13.1	$14.2	$15.0	$15.7	$16.5	$17.2	$18.1	$18.9	$19.8
Total	**$36.5**	**$17.8**	**$19.0**	**$20.5**	**$21.7**	**$22.7**	**$23.8**	**$24.9**	**$26.1**	**$27.4**	**$28.7**
Total Expenditure ($ millions)											
Family		$117.2	$117.2	$126.5	$133.9	$140.3	$147.0	$154.0	$161.4	$169.1	$177.2
Medical		$238.6	$262.5	$283.3	$299.8	$314.1	$329.1	$344.9	$361.4	$378.6	$396.8
Total		**$355.8**	**$379.7**	**$409.8**	**$433.6**	**$454.4**	**$476.1**	**$498.9**	**$522.7**	**$547.7**	**$573.9**
Contributions ($ millions)	$372.3	$390.1	$408.7	$69.2	$446.8	$461.7	$477.8	$500.6	$524.6	$549.7	$575.9
Contribution Rates	**0.90%**	**0.90%**	**0.90%**	**0.15%**	**0.90%**	**0.89%**	**0.88%**	**0.88%**	**0.88%**	**0.88%**	**0.88%**
Investment Income ($ millions)	$14.2	$14.9	$15.2	$3.6	$4.2	$4.6	$4.8	$5.0	$5.3	$5.5	$5.8
Fund Balance ($ millions)	$349.9	$399.1	$443.4	$106.4	$123.7	$135.6	$142.1	$148.9	$156.0	$163.5	$171.3
Fund Balance % of Total Expenditure		112%	117%	26%	29%	30%	30%	30%	30%	30%	30%

FIGURE 4

PROJECTION 2 : NEW MEXICO PFML PROJECTION BASED ON FUNDING MECHANISMS IN SENATE BILL 3 INCLUDING THE 0.1% CAP ON ANNUAL RATE INCREASES

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2026
Covered Employees		774,152	783,740	793,447	803,273	813,222	823,294	833,490	843,813	854,264	864,844
Taxable Wages ($ millions)	$41,253	$43,225	$45,292	$47,458	$49,728	$52,105	$54,597	$57,208	$59,943	$62,810	$65,813
Claims											
Family		17,378	16,789	17,507	17,901	18,122	18,347	18,574	18,804	19,037	19,273
Medical		36,180	38,460	40,104	41,007	41,514	42,029	42,549	43,076	43,610	44,150
Total		**53,558**	**55,248**	**57,611**	**58,907**	**59,637**	**60,376**	**61,123**	**61,880**	**62,647**	**63,423**
Benefit Payments ($ millions)											
Family		$111.3	$111.3	$120.2	$127.2	$133.2	$139.6	$146.3	$153.3	$160.6	$168.3
Medical		$226.6	$249.3	$269.1	$284.8	$298.4	$312.7	$327.6	$343.3	$359.7	$376.9
Total		**$338.0**	**$360.7**	**$389.3**	**$412.0**	**$431.7**	**$452.3**	**$473.9**	**$496.6**	**$520.3**	**$545.2**
Expenses ($ millions)											
Start-up	$36.5	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0
Family		$5.9	$5.9	$6.3	$6.7	$7.0	$7.3	$7.7	$8.1	$8.5	$8.9
Medical		$11.9	$13.1	$14.2	$15.0	$15.7	$16.5	$17.2	$18.1	$18.9	$19.8
Total	**$36.5**	**$17.8**	**$19.0**	**$20.5**	**$21.7**	**$22.7**	**$23.8**	**$24.9**	**$26.1**	**$27.4**	**$28.7**
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Family		$117.2	$117.2	$126.5	$133.9	$140.3	$147.0	$154.0	$161.4	$169.1	$177.2
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Total		**$355.8**	**$379.7**	**$409.8**	**$433.6**	**$454.4**	**$476.1**	**$498.9**	**$522.7**	**$547.7**	**$573.9**
Contributions ($ millions)	$372.3	$390.1	$408.7	$69.2	$125.0	$181.0	$247.3	$314.1	$392.4	$471.4	$557.2
Contribution Rates	**0.90%**	**0.90%**	**0.90%**	**0.15%**	**0.25%**	**0.35%**	**0.45%**	**0.55%**	**0.65%**	**0.75%**	**0.85%**
Investment Income ($ millions)	$14.2	$14.9	$15.2	$3.6	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0
Fund Balance ($ millions)	$349.9	$399.1	$443.4	$106.4	($202.2)	($475.6)	($704.4)	($889.2)	($1,019.6)	($1,095.9)	($1,112.6)
Fund Balance % of Total Expenditure		112%	117%	26%	-47%	-105%	-148%	-178%	-195%	-200%	-194%

FIGURE 5

PROJECTION 3 : NEW MEXICO PFML PROJECTION BASED ON FUNDING MECHANISMS IN SENATE BILL 3 INCLUDING A 0.1% CAP ON ANNUAL RATE INCREASES AND RATE REDUCTIONS

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Covered Employees		774,152	783,740	793,447	803,273	813,222	823,294	833,490	843,813	854,264	864,844
Taxable Wages ($ millions)	$41,253	$43,225	$45,292	$47,458	$49,728	$52,105	$54,597	$57,208	$59,943	$62,810	$65,813
Claims											
Family		17,378	16,789	17,507	17,901	18,122	18,347	18,574	18,804	19,037	19,273
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Benefit Payments ($ millions)											
Family		$111.3	$111.3	$120.2	$127.2	$133.2	$139.6	$146.3	$153.3	$160.6	$168.3
Medical		$226.6	$249.3	$269.1	$284.8	$298.4	$312.7	$327.6	$343.3	$359.7	$376.9
Total		**$338.0**	**$360.7**	**$389.3**	**$412.0**	**$431.7**	**$452.3**	**$473.9**	**$496.6**	**$520.3**	**$545.2**
Expenses ($ millions)											
Start-up	$36.5	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0
Family		$5.9	$5.9	$6.3	$6.7	$7.0	$7.3	$7.7	$8.1	$8.5	$8.9
Medical		$11.9	$13.1	$14.2	$15.0	$15.7	$16.5	$17.2	$18.1	$18.9	$19.8
Total	**$36.5**	**$17.8**	**$19.0**	**$20.5**	**$21.7**	**$22.7**	**$23.8**	**$24.9**	**$26.1**	**$27.4**	**$28.7**
Total Expenditure ($ millions)											
Family		$117.2	$117.2	$126.5	$133.9	$140.3	$147.0	$154.0	$161.4	$169.1	$177.2
Medical		$238.6	$262.5	$283.3	$299.8	$314.1	$329.1	$344.9	$361.4	$378.6	$396.8
Total		**$355.8**	**$379.7**	**$409.8**	**$433.6**	**$454.4**	**$476.1**	**$498.9**	**$522.7**	**$547.7**	**$573.9**
Contributions ($ millions)	$372.3	$390.1	$408.7	$378.1	$348.5	$315.1	$382.6	$455.8	$540.9	$591.4	$575.9
Contribution Rates	**0.90%**	**0.90%**	**0.90%**	**0.80%**	**0.70%**	**0.60%**	**0.70%**	**0.80%**	**0.90%**	**0.94%**	**0.88%**
Investment Income ($ millions)	$14.2	$14.9	$15.2	$14.4	$11.9	$7.5	$4.5	$3.1	$3.9	$5.5	$5.8
Fund Balance ($ millions)	$349.9	$399.1	$443.4	$426.2	$353.0	$221.2	$132.2	$92.3	$114.3	$163.5	$171.3
Fund Balance % of Total Expenditure		112%	117%	104%	81%	49%	28%	18%	22%	30%	30%

Data, Assumptions, and Methods

We developed demographic assumptions based on 2023 New Mexico employment data from the US Census Bureau QWI Explorer database. This data is segmented by age and gender and was adjusted to exclude employees of the federal government. Because we did not have data on New Mexico self-employed workers , Indian nations, tribes, and pueblos, we did not make an explicit adjustment to the assumed covered employees for workers who would be allowed to opt in to the program. In other states where self-employed workers can opt in to the program, participation rates are typically low and often less than 5%.

We assumed employment in New Mexico would increase at a rate of 1.2% annually, based on employment growth forecasts from 2022 through 2032 from the New Mexico Workforce Connection. We also assumed wages would increase by 3.5% annually based on average wage growth statistics reported by the US Department of Labor for the national economy.

We assumed that wages for employers with fewer than five employees represent approximately 8% of total wages in New Mexico, based on employment data included in the New Mexico PFML Task Force Report. We also assumed that all eligible employers with fewer than five employees would provide benefits through the state fund rather than private plans.

We researched participation rates for private plans in states that allow employers to provide benefits through private plans rather than the state plan. The participation rates vary from state to state, ranging from less than 5% of eligible employees in California to approximately 20% of eligible employees in Massachusetts. There are many reasons why an employer may choose to provide benefits through a private plan in lieu of the state plan, such as existing leave policies, ease of administration, benefit levels, cost, and the structure of the private plan option. We have assumed 10% of eligible employees in New Mexico would be covered by private plans and that 90% of eligible employees would be covered by the state plan for developing the financial projections in the prior section.

We developed morbidity assumptions (i.e., claim incidence rates and average benefit durations) for projecting New Mexico PFML claims and benefit payments based on recent claim experience in states with mandatory PFML programs. We adjusted the experience for differences between New Mexico PFML benefits and the other states (e.g., waiting period, replacement ratio, definition of family member, etc.). We also adjusted the experience for differences in industry and geographic risk between New Mexico and the other states. The maternity and bonding incidence rates were adjusted for differences in fertility rates between New Mexico and the other states. We included an estimate of backlog bonding claims for 2027 based on bonding experience in other states with new PFML programs. We assumed that bereavement leave following the death of a child under 18 for whom the employee would have otherwise qualified for family leave would last the maximum benefit period of 12 weeks. The other duration assumptions for the standard qualifying events are based on claim experience in other states with PFML programs.

We considered the impact of private plans on the morbidity assumptions by taking into consideration the following factors:

- There could be adverse selection into the state plan if insurers set premium rates based on risk characteristics such as industry and demographics, whereas the state rate is a single community rate that applies equally to all employers.
- We used experience from states with existing paid leave laws to develop the morbidity assumptions. Many of these states allow employers to provide benefits through private plans, so any adverse selection risk would be embedded in the experience.
- Employers may choose to provide benefits through private plans in lieu of the state plan for other reasons besides cost. There is evidence that large employers are more likely than small employers to provide PFML benefits through private plans, and large employers have higher claim rates than small employers. According to reports from the New York Department of Financial Services , paid family leave incidence rates for employers with 500 or more employees are much higher than the incidence rates for employers with fewer than 500 employees. Other considerations, such as plan design and existing benefits, can also influence an employer’s decision to use private plans for providing PFML benefits.
- Administrative expenses tend to be significantly lower for PFML benefits provided through the state fund versus private plans, which translates directly to lower premium rates for the state plan versus private plans, with all else equal. Similarly, premium rates for private plans are typically loaded for broker commissions whereas the state rate is not loaded for commissions.
- The state plan is prefunded by 12 months of premium payments before benefits begin, whereas there is no pre-funding for private plans.
- In our experience working with insurance companies, we have noticed many cases where the premium rate is greater than the state rate.

For these reasons, we did not make an explicit adjustment to our morbidity assumptions for allowing employers to provide benefits through private plans. We used the morbidity and demographic assumptions to estimate New Mexico PFML claims and benefit payments in 2027 and beyond.

We assumed $36.5 million in start-up costs specified by Southwest Women's Law Center. We also assumed ongoing administrative expenses equal to 5% of total expenditure in every year, based on expense ratios in other states with PFML programs, as shown below:

- California (2022): 4.4%
- New Jersey (2022): 3.5%
- Rhode Island (2022): 4.6%
- Connecticut (2022-23): 11.7%
- Washington (2023): 4.3%

Connecticut uses a third party to administer claims whereas the other states do not use third party administrators, which may explain the difference between the expense ratio in Connecticut and the other states.

We developed investment income assumptions for projecting returns on assets held in the PFML fund based on the US Treasury 1-year forward curve as of October, 2024. We used the 1-year forward curve rather than forward rates for shorter maturities because the current US Treasury yield curve is inverted, which is likely a conservative assumption.

The projection of end-of-year fund balances is equal to the beginning-of-year fund balance plus the contributions in that year, minus total expenditure in that year, plus the assumed investment income in that year.

Because the analysis was performed at a high level, we applied the premium formula on a calendar year basis rather than a fiscal year basis. We believe the estimated contribution rates would exhibit similar patterns for each of the modeled scenarios on a fiscal year basis. Developing cash flow projections on both a calendar and fiscal year basis was beyond the scope of work for this assignment.

Limitations

The projections contained herein are high-level estimates based on carefully constructed assumptions and methodologies that have been described in this report. Actual experience, however, will almost certainly differ from those assumptions. As such, actual claim costs may be either higher or lower than the amounts illustrated in this paper.

This paper was prepared for the use and benefit of Southwest Women's Law Center. Milliman recognizes that this paper may be public records subject to disclosure to third parties. Milliman does not intend to benefit and assumes no duty or liability to any third-party recipients of the report.

In performing the analysis for this project, Milliman relied on publicly available data from PFML programs in states with mandated benefits, as well as information from Southwest Women's Law Center including the 2022 New Mexico PFML Task Force Report. Milliman did not audit or independently verify any of the data and other information, except that we did review the data for reasonableness and consistency. To the extent that any of the data or other information is incorrect or inaccurate, the results of our analysis could be affected and may need to be revised.

Qualifications

I, Paul Correia, am a consulting actuary for Milliman, Inc. and a member of the American Academy of Actuaries. I meet the qualification standards of these organizations for rendering the actuarial opinions contained herein.

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