Department of Planning and Budget
2016 Fiscal Impact Statement

1. **Bill Number:** HB999

House of Origin	X	Introduced	☐	Substitute	☐	Engrossed
Second House	☐	In Committee	☐	Substitute	☐	Enrolled

2. **Patron:** Levine

3. **Committee:** Commerce and Labor

4. **Title:** Family and Medical Leave Insurance Program.

5. **Summary:** Entitles individuals to a Family and Medical Leave Insurance benefit payment for each month they are engaged in qualified caregiving, not to exceed 60 qualified caregiving days per year. Qualified caregiving means an activity, except regular employment, for a reason an individual is entitled to leave under the federal Family and Medical Leave Act of 1993. Benefits would amount to 66 percent of an individual's monthly wages, based on highest annual earnings from the prior three years, up to a capped monthly amount, and would be indexed to the national average wage index. If a person takes the maximum number of days, the benefits would range from a minimum benefit of $580 to a maximum benefit of $4,000 per month in the program's first year. To be eligible for benefits, an individual is required to (i) be insured for disability insurance benefits under the Social Security Act at the time his application is filed; (ii) have earned income from employment during the 12 months before filing the application; (iii) have filed an application for a Family and Medical Leave Insurance benefit; and (iv) have been engaged in qualified caregiving, or anticipate being so engaged, during the 90-day period before the application is filed or within 30 days thereafter. The measure establishes the Family and Medical Leave Insurance Fund and requires benefit payments to be made only from this Fund. A tax of 0.2 percent is imposed on the wages received by every individual, and an excise tax of 0.2 percent of the wages paid in any calendar year by the employer with respect to their employment is imposed on employers. The measure becomes effective January 1, 2017.

6. **Budget Amendment Necessary**: Yes, new Item 127.10 would need to be created (HB30/SB30) since these activities would need to be administered separately.

7. **Fiscal Impact Estimates:** Preliminary.

   7a. Expenditure Impact: (Administration of the Family and Medical Leave Insurance program – see Item 8 below)

Fiscal Year	*Dollars*	*Positions*	*Fund*
2016	$0	N/A	N/A
2017	$14,000,000	125	TBD
2018	$14,000,000	125	TBD
2019	$14,000,000	125	TBD

2020	$14,000,000	125	TBD
2021	$14,000,000	125	TBD
2022	$14,000,000	125	TBD

7b. Expenditure Impact: (Family and Medical Leave Insurance Fund)

Fiscal Year	*Dollars*	*Positions*	*Fund*
2016	$0	N/A	N/A
2017	$313,783,000	N/A	NGF
2018	$627,565,000	N/A	NGF
2019	$627,565,000	N/A	NGF
2020	$627,565,000	N/A	NGF
2021	$627,565,000	N/A	NGF
2022	$627,565,000	N/A	NGF

8. Fiscal Implications: The Family and Medical Insurance Leave Program provides for a new program to be administered by the Virginia Employment Commission (VEC). Currently, VEC provides temporary income support from funds derived from a tax paid by state employers to the Unemployment Insurance Trust Fund. Similarly, this establishes the Family and Medical Insurance Fund to be comprised of an employee and employer tax. All funds collected shall be used solely for the purposes of paying family and medical leave insurance benefits to individuals, but it does not appear that any funds collected could be used to administer the program.

In addition, the bill provides that funds may be made available by the federal government under Title III of the Social Security Act (42 U.S.C. § 501 et seq. - Grants to States for Unemployment Compensation Administration). If this is not possible, then the expenses of administering the family and medical leave insurance shall be paid out of the employment security administration account or any other account or fund in which funds granted under Title III are deposited. However, the U.S. Department of Labor has indicated that VEC is prohibited from using any federal funds allocated for the administration of the Unemployment Insurance Trust Fund to be used for Family and Medical Leave Insurance activities. The fund source for the administration of Family and Medical Leave Insurance would need to come from another source or from the general fund. VEC does not have a nongeneral fund with sufficient funds to support this new program.

According to VEC, the current unemployment insurance program operates with a $14.0 million budget and about 125 positions, which provides a comparable model for developing this program. Once established, the total annual operating cost for the program is anticipated to be $14.0 million. The operating cost in FY 2017 is anticipated to be $7.0 million, since the program is slated to begin January 1, 2017; however, it is anticipated that the agency will also incur one-time set up cost (i.e IT programming, acquiring office space, equipment, and furnishings). Thus, the estimated cost in FY 2017 is $14.0 million.

According to the U.S. Department of Labor, 13.2 percent of eligible employees use Family and Medical Leave Insurance in a year. Based on an estimate of Virginia's eligible employees, it can reasonably be assumed that of those employees who use Family and Medical Leave Insurance, approximately 118,000 per year would do so for caregiver related activities. Using Virginia's average wages, the estimated annual benefits for those individuals could be $627.6 million. The first year of implementation reflects only half of the annual amount because the bill does not take effect until January 1, 2017.

The revenue generated for the Family and Medical Leave Insurance Fund is from a tax on the income of every individual of 0.2 percent of the wages received by the individual. In addition, there is an excise tax imposed on every employer with respect to having individuals in employment, equal to 0.2 percent of the wages paid in any calendar year by the employer. The amount collected would need to be sufficient to the cover expenditures of those eligible for the program. According to VEC, the estimated revenue for this fund could be between $609.2 million and $744.0 million depending on its definition of taxable wage base and whether or not every employee and employer is assessed the tax, or just taxable employers. Because the program would begin in the middle of FY 2017, revenue is estimated to be approximately one-half of the anticipated annual revenue.

The agency would also need to establish a separate internal division to govern the activities associated administrating the Family and Medical Leave Insurance since it cannot be comingled with other federal programs and this has a separate function.

9. **Specific Agency or Political Subdivisions Affected:** The Virginia Employment Commission.

10. **Technical Amendment Necessary:** Possibly, the bill notes two different program titles: the Family and Medical Insurance Leave program and the Family and Medical Leave Insurance program.

11. **Other Comments:** None.

Date: 01/28/2015 /jlm
Cc: Secretary of Commerce and Trade