

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 11

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO EMPLOYMENT; ENACTING THE WELCOME CHILD AND FAMILY WELLNESS LEAVE ACT; CREATING THE FAMILY WELLNESS LEAVE FUND; PROVIDING FOR THE FAMILY WELLNESS LEAVE FUND TO PAY AN ELIGIBLE APPLICANT A PERCENTAGE OF THE APPLICANT'S WAGES TO ALLOW THE APPLICANT TO TAKE FAMILY WELLNESS LEAVE; CREATING THE WELCOME CHILD FUND; PROVIDING FOR THE WELCOME CHILD FUND TO PAY AN ELIGIBLE APPLICANT A REFUND UPON THE BIRTH OR ADOPTION OF A CHILD; ALLOWING AN ELIGIBLE APPLICANT TO TAKE LEAVE TO BOND WITH A BIOLOGICAL OR ADOPTED CHILD; LIMITING THE TIME ALLOWED FOR WELCOME CHILD AND FAMILY WELLNESS LEAVE; EXCEPTING CERTAIN EMPLOYEES; PROVIDING FOR ADMINISTRATION OF THE FUNDS BY THE WORKFORCE SOLUTIONS DEPARTMENT; PREEMPTING SIMILAR PROGRAMS; CREATING A TEMPORARY ADVISORY COMMITTEE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

.230488.8

underscored material = new
~~[bracketed material]~~ = delete

1 **SECTION 1.** [NEW MATERIAL] SHORT TITLE.--This act may be
2 cited as the "Welcome Child and Family Wellness Leave Act".

3 **SECTION 2.** [NEW MATERIAL] DEFINITIONS.--As used in the
4 Welcome Child and Family Wellness Leave Act:

5 A. "applicant" means an employee or a self-employed
6 individual who, pursuant to the Welcome Child and Family
7 Wellness Leave Act, is applying for welcome child or family
8 wellness leave;

9 B. "application year" means the twelve-month period
10 beginning on the first day of the calendar week in which an
11 employee or a self-employed individual files an application for
12 welcome child or family wellness leave;

13 C. "bereavement leave" means paid leave granted
14 following the death of an adopted, biological or foster child
15 under eighteen years of age;

16 D. "claim for leave" means an application for
17 welcome child or family wellness leave that an applicant makes
18 to the department pursuant to the Welcome Child and Family
19 Wellness Leave Act in accordance with department rules;

20 E. "department" means the workforce solutions
21 department, the secretary or an employee of the department
22 exercising authority lawfully delegated to that employee by the
23 secretary;

24 F. "domestic partner" means a person with whom
25 another person maintains a household and a mutual committed

1 relationship without a legally recognized marriage;

2 G. "employee" means a person working within the
 3 state who performs a service for wages or other remuneration
 4 under a contract of hire, written or oral, express or implied,
 5 and includes a person employed by the state or a political
 6 subdivision of the state. "Employee" does not mean an employee
 7 of an employer subject to the provisions of Title II of the
 8 federal Railway Labor Act or an employee as defined in the
 9 federal Railroad Unemployment Insurance Act;

10 H. "employee leasing arrangement" means an
 11 arrangement in which a client contracts with an employee
 12 leasing contractor for the contractor to provide leased workers
 13 to the client;

14 I. "employee leasing contractor" means a person who
 15 provides leased workers to a client in New Mexico through an
 16 employee leasing arrangement;

17 J. "employer" means a person that has one or more
 18 employees within the state and includes an agent of an employer
 19 and the state or a political subdivision of the state;

20 K. "family member" means an applicant's spouse or
 21 domestic partner or a person related to an applicant or an
 22 applicant's spouse or domestic partner as:

23 (1) a biological, adopted or foster child, a
 24 stepchild or legal ward or a child to whom the applicant stands
 25 in loco parentis;

.230488.8

underscored material = new
 [bracketed material] = delete

1 (2) a biological, foster, step or adoptive
2 parent or legal guardian or a person who stood in loco parentis
3 when the applicant was a minor child;

4 (3) a grandparent;

5 (4) a grandchild;

6 (5) a biological, foster, step or adopted
7 sibling;

8 (6) a spouse or domestic partner of a family
9 member; or

10 (7) an individual whose close association with
11 the applicant or the applicant's spouse or domestic partner is
12 the equivalent of a family relationship;

13 L. "family wellness leave" means bereavement leave,
14 foster leave, medical leave, qualifying exigency leave or safe
15 leave;

16 M. "foster leave" means paid leave granted to allow
17 an applicant to bond with a foster child within twelve months
18 of the placement of a foster child with the applicant;

19 N. "health care provider" means an individual
20 licensed or certified to provide health care in the ordinary
21 course of business;

22 O. "Indian tribe" means a federally recognized
23 Indian nation, tribe or pueblo, wholly or partially located in
24 New Mexico, a governmental unit, subdivision, agency,
25 department or instrumentality thereof or a business enterprise

1 wholly owned by such an Indian nation, tribe or pueblo;

2 P. "leased worker" means a worker provided to a
3 client through an employee leasing arrangement;

4 Q. "medical leave" means paid leave granted to
5 allow an applicant to care for a family member with a serious
6 health condition or to manage the applicant's own serious
7 health condition;

8 R. "qualifying exigency leave" means paid leave
9 granted based on a need arising out of an applicant's family
10 member's active duty service or notice of an impending call or
11 order to active duty in the armed forces, including:

12 (1) providing for the care or other needs of
13 the military member's child or other family member;

14 (2) making financial or legal arrangements for
15 the military member;

16 (3) attending counseling, military events or
17 ceremonies;

18 (4) spending time with the military member
19 during a rest and recuperation leave or following return from
20 deployment; or

21 (5) making arrangements following the death of
22 the military member;

23 S. "safe leave" means paid leave granted to an
24 applicant who is the victim or whose family member is the
25 victim of domestic violence, stalking, sexual assault or abuse.

.230488.8

underscored material = new
~~[bracketed material]~~ = delete

1 "Safe leave" applies if the applicant is using the leave from
2 work to protect the applicant or the applicant's family member
3 by:

4 (1) seeking a civil protection order against a
5 perpetrator;

6 (2) obtaining medical care or mental health
7 counseling for the applicant or the employee's children to
8 address physical or psychological injuries;

9 (3) seeking new housing, relocating or making
10 the employee's home secure from a perpetrator; or

11 (4) attending or preparing for court-related
12 proceedings or seeking legal assistance to address issues
13 related to the act of domestic violence, stalking, sexual
14 assault or abuse;

15 T. "secretary" means the secretary of workforce
16 solutions;

17 U. "serious health condition" means an illness,
18 injury, impairment or physical or mental condition that
19 involves:

20 (1) inpatient care in a hospital, hospice or
21 residential medical facility; or

22 (2) continuing treatment by a health care
23 provider;

24 V. "spouse" means a partner to a lawful marriage;

25 W. "wages" means all remuneration for services,

1 including commissions, bonuses or unpaid loans to employees and
2 the cash value of all remuneration in any medium other than
3 cash; and

4 X. "welcome child benefit" means:

5 (1) a refund for which one eligible applicant
6 who is the parent of a biological or adopted child may apply
7 and receive for the three months immediately after the birth or
8 adoption of a child; and

9 (2) up to twelve weeks of leave that is
10 granted to allow the applicant to bond with a biological or
11 adopted child within twelve months of the birth or adoption of
12 a child.

13 **SECTION 3. [NEW MATERIAL] FAMILY WELLNESS LEAVE FUND--**
14 **CREATION.--**

15 A. The "family wellness leave fund" is created in
16 the state treasury and shall be administered by the department.
17 The fund shall be held for the benefit of the employees and
18 self-employed individuals who paid into the fund and consists
19 of all revenue, including any fees collected pursuant to the
20 Welcome Child and Family Wellness Leave Act in accordance with
21 department rules. Money in the fund shall be invested by the
22 state investment officer. Income from investment of the fund
23 shall be credited to the fund.

24 B. Money in the family wellness leave fund is
25 appropriated to the department to distribute family wellness

.230488.8

underscored material = new
~~[bracketed material]~~ = delete

1 leave benefits pursuant to the Welcome Child and Family
2 Wellness Leave Act and to administer that act.

3 C. Money shall be disbursed from the family
4 wellness leave fund only on warrant issued by the secretary of
5 finance and administration pursuant to vouchers signed by the
6 secretary or the secretary's authorized representative. Any
7 unexpended or unencumbered balance remaining at the end of a
8 fiscal year shall not revert or be transferred to any other
9 fund.

10 D. To determine an actuarially sound premium rate
11 and a future premium rate-setting mechanism for the family
12 wellness leave fund, by January 1, 2026, the department shall
13 contract with a qualified independent actuarial consultant who
14 is a member of a leading actuarial professional association and
15 has the relevant experience to analyze the following:

16 (1) the family wellness leave fund premium
17 rate;

18 (2) the premium rate structure;

19 (3) the weekly family wellness leave benefit
20 formula;

21 (4) the duration of the family wellness
22 benefits fund reserve; and

23 (5) other necessary components.

24 E. Beginning January 1, 2029, and not later than
25 October 1 of each calendar year, the secretary shall ensure and

.230488.8

underscored material = new
~~[bracketed material] = delete~~

1 maintain the self-sufficiency and solvency of the family
 2 wellness leave fund by:

3 (1) performing an annual financial analysis;
 4 (2) setting the family wellness leave premium
 5 for the following calendar year, based on the percentage of
 6 employee wages and at the rate necessary to obtain a total
 7 amount of contributions equal to one hundred forty percent of
 8 the family wellness leave benefits paid during the previous
 9 fiscal year and all costs associated with outreach and the
 10 administration of the Welcome Child and Family Wellness Act
 11 during the previous fiscal year, minus the amount of net assets
 12 remaining in the fund as of June 30 of the current calendar
 13 year; provided that the premium increase or decrease necessary
 14 pursuant to this paragraph shall not exceed one-tenth percent
 15 of wages per employee per year. The department shall provide
 16 public notice in advance of January 1 of any changes to the
 17 premium; and

18 (3) reporting the results of the analysis to
 19 the appropriate legislative body.

20 **SECTION 4.** [NEW MATERIAL] APPLICABILITY--CONTRIBUTIONS TO
 21 THE FAMILY WELLNESS LEAVE FUND--REMITTANCE OF CONTRIBUTIONS--
 22 EXEMPTION FOR CERTAIN LEAVE PLANS OR PROGRAMS--REQUIREMENTS FOR
 23 WAIVER.--

24 A. The Welcome Child and Family Wellness Leave Act
 25 applies to:

.230488.8

underscored material = new
 [bracketed material] = delete

1 (1) all public and private employees who are
2 in the state, except those employees who are employed by the
3 United States;

4 (2) the employers of employees as described in
5 Paragraph (1) of this subsection, whether or not the employer
6 is physically located in the state;

7 (3) self-employed individuals in the state who
8 make contributions to the family wellness leave fund pursuant
9 to Subsection D of this section; and

10 (4) Indian tribes that elect to be covered, or
11 to terminate coverage, in the program for their employees.

12 B. Beginning July 1, 2027 and for each calendar
13 quarter thereafter until January 1, 2030, there is assessed
14 against each employee two-tenths percent of the employee's
15 wages up to the earnings cap established by the federal social
16 security administration program, pursuant to the Federal
17 Insurance Contributions Act. An employee shall not be required
18 to make any contributions to the family wellness leave fund
19 from the employee's own leave compensation. Beginning January
20 1, 2030 and for each calendar quarter thereafter, there is
21 assessed against each employee an assessment on the employee's
22 wages, up to the earnings cap established by the federal social
23 security administration program, at fifty-five percent of the
24 premium set by the secretary pursuant to Subsection E of
25 Section 3 of the Welcome Child and Family Wellness Leave Act.

.230488.8

underscored material = new
~~[bracketed material] = delete~~

1 C. Beginning January 1, 2027 and for each calendar
 2 quarter thereafter until January 1, 2030, there is assessed
 3 against each employer with five or more employees an amount
 4 equal to fifteen-hundredths percent of each participating
 5 employee's wages up to the earnings cap established by the
 6 federal social security administration program, pursuant to the
 7 Federal Insurance Contributions Act. Beginning January 1, 2030
 8 and for each calendar year thereafter, there is assessed
 9 against each employer with five or more employees an amount
 10 equal to each participating employee's wages, up to the
 11 earnings cap established by the federal social security
 12 administration program, at forty-five percent of the premium
 13 set by the secretary pursuant to Subsection E of Section 3 of
 14 the Welcome Child and Family Wellness Leave Act. An employer
 15 shall not recover, or seek to recover, any amounts assessed
 16 against employers pursuant to this subsection from the
 17 employer's employees.

18 D. Beginning July 1, 2027 and for each calendar
 19 quarter thereafter until January 1, 2030, there is assessed
 20 against each self-employed individual as described in Paragraph
 21 (3) of Subsection A of this section two-tenths percent of the
 22 individual's net income as designated by the self-employed
 23 individual up to the earnings cap established by the federal
 24 social security administration program, pursuant to the Federal
 25 Insurance Contributions Act. Beginning January 1, 2030 and for

.230488.8

underscored material = new
~~[bracketed material]~~ = delete

1 each calendar quarter thereafter, there is assessed against
2 each self-employed individual as described in Paragraph (3) of
3 Subsection A of this section an assessment on the individual's
4 net income as designated by the self-employed individual at
5 fifty-five percent of the premium set by the secretary pursuant
6 to Subsection E of Section 3 of the Welcome Child and Family
7 Wellness Leave Act.

8 E. The contributions of employees and employers
9 shall be remitted by the employer following the end of each
10 quarter for which the contributions are deducted and on a date
11 determined by the secretary. When an employee leasing
12 arrangement is in place, contributions shall be remitted by the
13 employee leasing contractor on behalf of the leased worker.

14 F. The contributions of self-employed individuals
15 shall be remitted by the individual following each end of the
16 quarter for which the contributions are deducted and on a date
17 determined by the secretary. A self-employed individual shall
18 not be required to make contributions to the family wellness
19 leave fund from leave compensation.

20 G. An employer that has adopted and operates a
21 leave plan or program for the benefit of its employees that
22 provides leave and leave benefits substantially similar to or
23 greater than the leave and leave benefits offered pursuant to
24 the Welcome Child and Family Wellness Leave Act may apply for a
25 waiver to exempt the employer and its employees from the

.230488.8

1 provisions of that act. An employer granted a waiver pursuant
 2 to this subsection and the employer's employees shall not be
 3 required to remit premium contributions to the family wellness
 4 leave fund. The employer shall apply and provide supporting
 5 documentation to the department for exemption each calendar
 6 year.

7 H. An employer granted a waiver pursuant to
 8 Subsection G of this section and the employer's employees shall
 9 have the same rights and protections enjoyed by employers and
 10 employees covered pursuant to the Welcome Child and Family
 11 Wellness Leave Act, including the right to appeal a waiver
 12 granted or denied by Subsection G of this section to the
 13 department.

14 I. An employer granted a waiver pursuant to
 15 Subsection G of this section shall notify all employees covered
 16 by the employer's paid leave plan or program that:

17 (1) the employee is covered by a paid leave
 18 plan or program rather than a public plan;

19 (2) employees may apply to the employer or the
 20 operator of the approved paid leave plan or program;

21 (3) employers must provide paid leave and
 22 leave benefits substantially similar to or greater than that
 23 granted to employees pursuant to the Welcome Child and Family
 24 Wellness Leave Act; and

25 (4) employees may appeal to the department if

.230488.8

underscored material = new
 [bracketed material] = delete

1 any right granted pursuant to the Welcome Child and Family
2 Wellness Leave Act is violated.

3 J. A paid leave plan or program that has received a
4 waiver as described in Subsection G of this section shall not:

5 (1) require an employee to pay more for
6 private coverage than the employee would pay through
7 contribution to the family wellness leave fund as described in
8 Subsection B of this section; or

9 (2) impose additional restrictions or
10 conditions on leave or leave benefits beyond those explicitly
11 authorized by state law.

12 K. The department shall withdraw approval of a
13 waiver for a paid leave plan or leave program that violates the
14 provisions of Subsections G through J of this section. An
15 employer whose waiver has been withdrawn pursuant to this
16 subsection may reapply for a waiver five years after the
17 original waiver was withdrawn.

18 L. Nothing in this section shall be construed to
19 prohibit an employer without a waiver from providing
20 supplemental leave benefits or extended length of leave to
21 employees receiving benefits from the department.

22 **SECTION 5. [NEW MATERIAL] ELIGIBILITY--FAMILY WELLNESS**
23 **LEAVE--LEAVE CALCULATION--LEAVE DURATION--DOCUMENTATION**
24 **REQUIRED--NOTICE OF DETERMINATION.--**

25 A. Beginning January 1, 2028, the department shall

underscored material = new
[bracketed material] = delete

1 provide family wellness leave to an eligible applicant who
 2 takes leave after the applicant, in accordance with the
 3 provisions of the Welcome Child and Family Wellness Leave Act
 4 and department rules, has:

5 (1) filed a claim for family wellness leave
 6 approved by the department; and

7 (2) contributed to the family wellness leave
 8 fund for at least six months during any employment in the
 9 twelve-month period prior to submitting an application;
 10 provided that any time during the twelve-month period in which
 11 the individual was previously covered by a leave plan or
 12 program pursuant to Subsection G of Section 4 of the Welcome
 13 Child and Family Wellness Leave Act shall count toward this
 14 requirement.

15 B. Beginning January 1, 2028, the department shall
 16 provide family wellness leave benefits to an eligible self-
 17 employed individual after the self-employed individual, in
 18 accordance with the provisions of the Welcome Child and Family
 19 Wellness Leave Act and department rules, has:

20 (1) filed a claim for leave approved by the
 21 department; and

22 (2) contributed to the family wellness leave
 23 fund for at least six months during the twelve-month period
 24 prior to submitting an application, not including contributions
 25 made for other employment that the self-employed individual

.230488.8

underscored material = new
~~[bracketed material]~~ = delete

1 will continue during the leave.

2 C. Beginning January 1, 2028, an applicant shall be
3 eligible for a maximum of six weeks of family wellness leave in
4 an application year.

5 D. An applicant shall not be required by the
6 Welcome Child and Family Wellness Leave Act to use any leave
7 consecutively.

8 E. An applicant shall be ineligible to receive
9 family wellness leave or welcome child leave if:

10 (1) the applicant willfully or knowingly files
11 a fraudulent claim for leave or has filed a fraudulent claim
12 within the previous three years;

13 (2) the applicant is receiving unemployment
14 insurance benefits during the period for which the claim for
15 leave is filed;

16 (3) during family wellness or welcome child
17 leave, the applicant does not use leave as related to the need
18 for leave described in the applicant's application for leave;

19 (4) the family wellness leave benefits would
20 duplicate the amount the applicant is receiving or has received
21 in temporary total disability benefits from a workers'
22 compensation claim for the same time period; or

23 (5) the family wellness leave benefits
24 duplicate what the applicant is earning or has earned in wages
25 for the same time period.

.230488.8

1 F. Under no circumstances shall an applicant be
 2 eligible for more than a total of twelve weeks of leave in an
 3 application year pursuant to the Welcome Child and Family
 4 Wellness Leave Act.

5 G. The department shall issue family wellness leave
 6 benefits from the family wellness leave fund to an eligible
 7 applicant whose claim has been approved as follows:

8 (1) the calculation of weekly family wellness
 9 leave benefits shall be based on the employee's average weekly
 10 wages during the twelve months immediately preceding the date
 11 of the claim for leave. For the purposes of this paragraph,
 12 the "employee's average weekly wages" means an amount
 13 calculated by the department by dividing the total wages earned
 14 by an eligible employee during the previous twelve months by
 15 the number of weeks worked during the previous twelve months.
 16 If the employee worked fewer than twelve months, then weekly
 17 family wellness leave wages shall be based on the employee's
 18 average weekly wages during the weeks the employee worked;

19 (2) an eligible employee's weekly family
 20 wellness leave benefits shall equal one hundred percent of the
 21 compensation that would be paid to a non-tipped, state-minimum-
 22 wage-earning employee, pursuant to Section 50-4-22 NMSA 1978,
 23 working the same number of hours per week as the employee, plus
 24 sixty-seven percent of the employee's average weekly wages
 25 greater than the non-tipped, state minimum wage compensation;

.230488.8

underscored material = new
~~[bracketed material] = delete~~

1 and

2 (3) the maximum amount of weekly family
3 wellness leave payments shall be no more than the annual mean
4 wage of all occupations in New Mexico as calculated by the
5 United States bureau of labor statistics state occupational
6 employment and wage estimates for the most recent year
7 available divided by fifty-two.

8 H. The department shall issue family wellness leave
9 payments from the family wellness leave fund to self-employed
10 individuals as follows:

11 (1) a self-employed individual shall determine
12 the annual net income to be used by the department when the
13 self-employed individual files a claim for leave. A self-
14 employed individual may adjust the individual's annual net
15 income one time per year on the anniversary of the individual's
16 claim for leave;

17 (2) the calculation of weekly family wellness
18 leave benefits shall be based on the self-employed individual's
19 designated annual net income;

20 (3) a self-employed individual's weekly family
21 wellness leave payments shall equal one hundred percent of the
22 compensation that would be paid to a state-minimum-wage-earning
23 employee, pursuant to Section 50-4-22 NMSA 1978, working full
24 time each week, plus sixty-seven percent of the self-employed
25 individual's net income per week greater than the state minimum

.230488.8

1 wage compensation; and

2 (4) the maximum amount of weekly family
3 wellness leave payments shall be no more than the annual mean
4 wage of all occupations in New Mexico as calculated by the
5 United States bureau of labor statistics state occupational
6 employment and wage estimates for the most recent year
7 available divided by fifty-two.

8 I. When an applicant or an authorized
9 representative submits a claim for family wellness leave or
10 welcome child leave with the department, the department shall
11 verify:

12 (1) if the applicant is an employee, a record
13 of total wages, the total number of weeks worked and the
14 average number of hours worked per week during the previous
15 twelve months in the employment from which the applicant seeks
16 family wellness leave; or

17 (2) if the applicant is a self-employed
18 individual, documentation that the individual's business
19 operated and earned net income from self-employment during the
20 previous twelve months.

21 J. The department shall notify the employer and
22 applicant in writing within twenty business days of receiving
23 the claim for welcome child or family wellness leave:

24 (1) if approved, and shall notify the
25 applicant of the amount of family wellness leave payments that

.230488.8

1 the applicant is eligible to receive biweekly; provided that an
2 eligible applicant shall begin receiving family wellness leave
3 payments within ten business days of the date of submission of
4 a properly completed claim for leave or ten business days after
5 approved leave begins;

6 (2) if denied, and shall notify the applicant
7 of the grounds for denying the applicant's claim for welcome
8 child or family wellness leave and of the applicant's right to
9 appeal; and

10 (3) if further information or supporting
11 documentation is required to determine the applicant's
12 eligibility for welcome child or family wellness leave or the
13 amount of family wellness leave payments; provided that when
14 the department receives sufficient information or supporting
15 documentation from the applicant to make a determination, the
16 department shall adhere to the notification provision of this
17 subsection.

18 K. Every individual filing a new claim for leave
19 shall, at the time of filing such claim, be advised that:

20 (1) family wellness leave benefits may be
21 subject to federal and state income taxes;

22 (2) requirements exist pertaining to estimated
23 tax payments;

24 (3) the individual may elect to have federal
25 income tax deducted and withheld from the individual's family

.230488.8

1 wellness leave payments at the amount specified in the Internal
 2 Revenue Code of 1986; and

3 (4) the individual is permitted to change a
 4 previously elected withholding status one time during each
 5 calendar year.

6 L. Amounts deducted and withheld from family
 7 wellness leave benefits shall remain in the family wellness
 8 leave fund until transferred to the federal internal revenue
 9 service.

10 M. The department shall follow all state and
 11 federal laws, rules and procedures pertaining to the deducting
 12 and withholding of income tax.

13 **SECTION 6. [NEW MATERIAL] WELCOME CHILD FUND--CREATION.--**

14 A. The "welcome child fund" is created in the state
 15 treasury and shall be administered by the department. The fund
 16 shall be held for the benefit of eligible employees and
 17 self-employed individuals who become new parents. Money in the
 18 fund shall be invested by the state investment officer. Income
 19 from investment of the fund shall be credited to the fund.

20 B. Money in the welcome child fund is appropriated
 21 to the department to distribute welcome child benefits pursuant
 22 to the Welcome Child and Family Wellness Leave Act. Money
 23 shall be disbursed from the fund only on warrant issued by the
 24 secretary of finance and administration pursuant to vouchers
 25 signed by the secretary of workforce solutions or the

.230488.8

underscored material = new
 [bracketed material] = delete

1 secretary's authorized representative. Any unexpended or
2 unencumbered balance remaining at the end of a fiscal year
3 shall not revert or be transferred to any other fund.

4 **SECTION 7. [NEW MATERIAL] WELCOME CHILD BENEFIT--**
5 **ELIGIBILITY--LEAVE DURATION--DOCUMENTATION REQUIRED.--**

6 A. Beginning January 1, 2028, the department shall
7 provide the welcome child benefit, in accordance with the
8 provisions of the Welcome Child and Family Wellness Leave Act
9 and department rules to an eligible applicant who has been
10 employed for at least six months in the twelve-month period
11 prior to submitting an application and has filed a claim that
12 has been approved by the department.

13 B. The department shall require an applicant who
14 seeks the welcome child benefit to provide, in accordance with
15 department rules, documentation of the child's birth or
16 adoption.

17 C. The welcome child benefit consists of:

18 (1) except as provided in Subsection E of
19 this section, one three-thousand-dollar (\$3,000) welcome child
20 refund, to be paid to one of the child's parents each month for
21 the three months immediately following the birth or adoption of
22 the child; and

23 (2) up to twelve weeks of welcome child leave
24 granted to each parent, which shall be taken within one year of
25 the birth or adoption of the child.

.230488.8

1 D. An applicant is not required by the Welcome
 2 Child and Family Wellness Leave Act to use any leave
 3 consecutively. Under no circumstance shall an applicant be
 4 eligible for more than a total of twelve weeks of welcome child
 5 leave in an application year.

6 E. On January 1, 2030 and each January 1
 7 thereafter, the amount of welcome child refund shall be
 8 adjusted to account for inflation. The department shall make
 9 the adjustment by multiplying the amount of the refund by a
 10 fraction, the numerator of which is the consumer price index
 11 ending during the prior calendar year and the denominator of
 12 which is the consumer price index in calendar year 2028. The
 13 result of the multiplication shall be rounded to the nearest
 14 dollar, except that if the result would be an amount less than
 15 the amount of the refund for the preceding fiscal year, then no
 16 adjustment shall be made.

17 F. For purposes of this section, "consumer price
 18 index" means the consumer price index or its successor index
 19 for all urban consumers for all items, published by the bureau
 20 of labor statistics of the United States department of labor or
 21 its successor agency.

22 **SECTION 8. [NEW MATERIAL] CLAIMS FOR FAMILY WELLNESS**
 23 LEAVE--DOCUMENTATION--CONFIDENTIALITY.--

24 A. The department shall require an applicant who
 25 seeks:

.230488.8

underscored material = new
 [bracketed material] = delete

1 (1) bereavement leave to provide, in
2 accordance with department rules, documentation of the child's
3 death;

4 (2) foster leave to provide, in accordance
5 with department rules, documentation of the foster child's
6 placement;

7 (3) medical leave to provide, in accordance
8 with department rules, verification by a health care provider
9 that the applicant or a family member has a serious health
10 condition that supports the applicant's claim for medical
11 leave; provided that any verification by a health care provider
12 shall include an expected time line for the applicant's return
13 to work;

14 (4) qualifying exigency leave to provide, in
15 accordance with department rules, a copy of the military
16 member's active duty orders or other documentation issued by
17 the military that indicates that the military member is on
18 covered active duty or called to covered active duty status, or
19 that confirms the military member's death, and the dates of the
20 military member's covered active duty service; and

21 (5) safe leave to provide, in accordance with
22 department rules, a police report, court-issued document or
23 signed statement from a victim services organization, a clergy
24 member, an attorney, an advocate, the applicant, a family
25 member of the applicant or other person that supports the

.230488.8

underscored material = new
~~[bracketed material] = delete~~

1 applicant's claim for safe leave.

2 B. Information contained in an applicant's files
 3 and records pertaining to the Welcome Child and Family Wellness
 4 Leave Act are confidential and not open to public inspection,
 5 other than to department employees in the performance of their
 6 official duties. However, the applicant or an authorized
 7 representative may review the records or receive specific
 8 information from the records upon the presentation of the
 9 applicant's signed authorization.

10 C. Employee information acquired by an employer who
 11 has been granted a waiver pursuant to the Welcome Child and
 12 Family Wellness Leave Act shall be kept confidential by the
 13 employer; provided that confidential records may be used by
 14 department employees or the employees of an authorized agent of
 15 the employer in the performance of their duties.

16 **SECTION 9. [NEW MATERIAL] EMPLOYEE NOTICE TO EMPLOYER--**
 17 **REDUCTION OF OTHER LEAVE PROHIBITED.--**

18 A. An employee shall:

19 (1) make a reasonable effort to schedule
 20 welcome child or family wellness leave so as not to unduly
 21 disrupt the operations of the employer;

22 (2) provide the employer with prior notice of
 23 the schedule on which the employee will be taking welcome child
 24 leave ninety days before use or family wellness leave twenty
 25 days before use or as soon as practicable; and

.230488.8

underscored material = new
 [bracketed material] = delete

1 (3) provide the employer with documentation of
2 the approved welcome child or family wellness leave request
3 pursuant to department rules.

4 B. Leave taken pursuant to the Welcome Child and
5 Family Wellness Leave Act shall not result in a reduction of
6 the total amount of leave to which an employee is otherwise
7 entitled pursuant to contract, policy, collective bargaining
8 agreement or other law or rule in excess of the amount of leave
9 actually taken pursuant to the Welcome Child and Family
10 Wellness Leave Act; provided that an employer subject to the
11 federal Family and Medical Leave Act of 1993 may require an
12 employee who takes leave and receives leave compensation
13 pursuant to the Welcome Child and Family Wellness Leave Act
14 that also qualifies for leave pursuant to the federal Family
15 and Medical Leave Act of 1993 to take leave concurrently. An
16 employer shall not require an employee to exhaust any other
17 leave entitlement prior to granting leave pursuant to the
18 Welcome Child and Family Wellness Leave Act.

19 C. Nothing in this section shall be construed to
20 entitle an employee to more leave than required pursuant to
21 Subsection F of Section 5 of the Welcome Child and Family
22 Wellness Leave Act.

23 D. An employer shall post and keep posted in a
24 conspicuous place upon its premises a notice that informs
25 employees of the right to take leave and summarizes the major

1 provisions of the Welcome Child and Family Wellness Leave Act.

2 **SECTION 10. [NEW MATERIAL] RETURN TO EMPLOYMENT.--**

3 A. A self-employed individual shall notify the
4 department within ten business days of the self-employed
5 individual's return to work.

6 B. Upon an employee's return after welcome child or
7 family wellness leave, the employer shall notify the department
8 within ten business days that the employee has returned to
9 work.

10 C. An employer that has employed an employee for
11 one hundred eighty days or more prior to the commencement of an
12 employee's welcome child or family wellness leave shall:

13 (1) restore the employee to the position held
14 by the employee when the leave was commenced; or

15 (2) place the employee in a position for which
16 employee benefits, wages and other terms and conditions of
17 employment are equivalent to or greater than those provided in
18 the position from which the employee took leave.

19 D. Nothing in this section shall be construed to
20 entitle a restored employee to:

21 (1) the accrual of seniority or employment
22 benefits during the period the employee is using leave; or

23 (2) the right to any benefit or position of
24 employment other than the right the employee would have been
25 entitled to had the employee not taken the leave.

.230488.8

underscored material = new
~~[bracketed material]~~ = delete

1 E. Any yearly certification or training that an
2 employer requires as a condition of employment may remain in
3 place and applicable to any employee taking welcome child or
4 family wellness leave; provided that nothing in this subsection
5 shall supersede another provision of law or a collective
6 bargaining agreement that governs an employee's return to work
7 after leave.

8 F. Nothing in this section shall prohibit an
9 employer from requiring an employee who uses welcome child or
10 family wellness leave to report periodically to the employer on
11 the status and intention of the employee to return to work.

12 G. An employer shall pay its share of health
13 insurance premiums and maintain an employee's health coverage
14 while the employee is on leave pursuant to the Welcome Child
15 and Family Wellness Leave Act under terms that the employee
16 would have received if the employee had not taken leave. The
17 employee on leave shall pay the same share of premium payments
18 as the employee would have paid if the employee were not on
19 leave.

20 **SECTION 11. [NEW MATERIAL] INTERFERENCE AND RETALIATION**
21 **PROHIBITED.--**

22 A. It is unlawful for an employer or any other
23 person to interfere with, restrain or deny the exercise of, or
24 the attempt to exercise, any right protected pursuant to the
25 Welcome Child and Family Wellness Leave Act.

.230488.8

underscored material = new
~~[bracketed material] = delete~~

1 B. An employer shall timely provide to an employee
 2 documents required to apply for leave pursuant to the Welcome
 3 Child and Family Wellness Leave Act.

4 C. An employer, employee organization or other
 5 person shall not take retaliatory personnel action or otherwise
 6 discriminate against a person because the person exercised
 7 rights protected pursuant to the Welcome Child and Family
 8 Wellness Leave Act. Such rights include:

9 (1) requesting, filing for, applying for or
 10 exercising any right to take leave as provided for pursuant to
 11 the Welcome Child and Family Wellness Leave Act;

12 (2) communicating to the employer or any other
 13 person or entity an intent to file a claim, a complaint with
 14 the department or courts or an appeal;

15 (3) testifying, planning to testify or
 16 assisting at any time in any investigation, hearing or
 17 proceeding pursuant to the Welcome Child and Family Wellness
 18 Leave Act;

19 (4) informing any person about an employer's
 20 alleged violation of the Welcome Child and Family Wellness
 21 Leave Act; and

22 (5) informing any person of the person's
 23 rights pursuant to the Welcome Child and Family Wellness Leave
 24 Act.

25 D. It is unlawful for an employer's absence policy

.230488.8

underscoring material = new
~~[bracketed material]~~ = delete

1 to count leave taken pursuant to the Welcome Child and Family
2 Wellness Leave Act as an absence that may lead to or result in
3 discipline, discharge, demotion, suspension or any other
4 adverse action.

5 E. The protections provided in this section shall
6 apply to any person who reasonably but mistakenly alleges
7 violations of the Welcome Child and Family Wellness Leave Act.

8 F. An employer that is found by a hearing officer
9 or court of competent jurisdiction to have discharged a worker
10 in violation of this section shall rehire that employee;
11 provided that the worker agrees to be rehired.

12 **SECTION 12. [NEW MATERIAL] ADVERSE DETERMINATIONS--APPEAL**
13 **PROCEDURES--ADMINISTRATIVE ACTIONS--DEPARTMENTAL DISCIPLINARY**
14 **POWERS.--**

15 A. An applicant, an authorized representative or an
16 employer named in a claim for welcome child or family wellness
17 leave may appeal an adverse determination of that claim for
18 leave to the department as follows:

19 (1) the aggrieved party shall:

20 (a) file an appeal in writing with the
21 department within fifteen business days of receiving notice of
22 the adverse decision;

23 (b) set forth the reasons for appeal;

24 and

25 (c) provide notice to all parties that

1 an appeal has been filed; and

2 (2) the secretary or authorized representative
3 may:

4 (a) hold a hearing within ten business
5 days after an appeal is properly made, due notice is given to
6 the parties in dispute and mediation is refused by any party;

7 (b) develop a record of the proceedings;
8 and

9 (c) rule on the appeal within twenty
10 business days after the completion of the hearing and issue a
11 final decision in accordance with Subsection B of Section
12 39-3-1.1 NMSA 1978.

13 B. An aggrieved party, including an employee or
14 former employee, or the department on its own motion may bring
15 an administrative action for an alleged violation of the
16 Welcome Child and Family Wellness Leave Act as follows:

17 (1) the aggrieved party or the department
18 shall:

19 (a) file a complaint alleging a
20 violation of the Welcome Child and Family Wellness Leave Act in
21 writing with the department within thirty business days of
22 becoming aware of the alleged violation;

23 (b) set forth the grounds of the
24 complaint; and

25 (c) provide notice to parties to the

.230488.8

underscoring material = new
~~[bracketed material] = delete~~

1 alleged violation that a complaint has been filed; and

2 (2) the secretary or authorized representative
3 shall:

4 (a) upon receipt of a complaint alleging
5 a violation, first allow for mediation upon agreement by all
6 parties;

7 (b) hold a hearing within ten business
8 days after a complaint is properly made, due notice is given to
9 the parties in dispute and mediation is refused by any party;

10 (c) develop a record of the proceedings;

11 (d) have power to take disciplinary
12 action, including investigating, fining, censuring or
13 reprimanding a party or suspending or revoking a waiver issued
14 pursuant to the Welcome Child and Family Wellness Leave Act;
15 and

16 (e) rule on a complaint within twenty
17 business days after the completion of the hearing and issue a
18 final decision in accordance with Subsection B of Section
19 39-3-1.1 NMSA 1978.

20 C. A party may appeal a final decision made by the
21 department pursuant to the provisions of this section to the
22 district court pursuant to Section 39-3-1.1 NMSA 1978.

23 D. The department may appear in its own name in
24 district court in actions for injunctive relief to prevent any
25 person or entity from violating the provisions of the Welcome

.230488.8

1 Child and Family Wellness Leave Act or rules promulgated by the
 2 department.

3 **SECTION 13. [NEW MATERIAL] PREEMPTION.--**

4 A. A city, county, home rule municipality or other
 5 political subdivision of the state shall not adopt or continue
 6 in effect any ordinance, rule, regulation, resolution or
 7 statute that establishes a program of rights and benefits as
 8 set out in the Welcome Child and Family Wellness Leave Act,
 9 excluding a paid sick leave or paid time off ordinance, policy
 10 or resolution.

11 B. Subject to the requirements of the Welcome Child
 12 and Family Wellness Leave Act, the provisions of Subsection A
 13 of this section shall not prevent a city, county, home rule
 14 municipality or other political subdivision of the state from
 15 establishing any leave policies for its employees.

16 **SECTION 14. [NEW MATERIAL] COLLECTIVE BARGAINING**

17 **AGREEMENTS UNAFFECTED.--**Nothing in the Welcome Child and Family
 18 Wellness Leave Act shall be construed to diminish the rights,
 19 privileges or remedies of any employee under any collective
 20 bargaining agreement.

21 **SECTION 15. [NEW MATERIAL] DEPARTMENT TO PROMULGATE**

22 **RULES--AGENCIES AND DEPARTMENTS TO COOPERATE.--**

23 A. By July 1, 2026, the department shall adopt
 24 initial rules to implement the provisions of the Welcome Child
 25 and Family Wellness Leave Act.

.230488.8

underscored material = new
 [bracketed material] = delete

1 B. State agencies and departments shall cooperate
2 with the secretary to timely and efficiently provide the
3 information and services necessary to carry out the provisions
4 of the Welcome Child and Family Wellness Leave Act.

5 C. The department's initial rules shall address the
6 interaction of benefits or coordination of leave when a covered
7 individual is concurrently eligible for family wellness and
8 welcome child leave pursuant to the Welcome Child and Family
9 Wellness Leave Act and other benefits available by law.

10 **SECTION 16. TEMPORARY PROVISION--WELCOME CHILD AND FAMILY**
11 **WELLNESS LEAVE IMPLEMENTATION ADVISORY COMMITTEE--CREATED--**
12 **PURPOSE--MEMBERS.--**

13 A. The "welcome child and family wellness leave
14 implementation advisory committee" is created in the workforce
15 solutions department. The advisory committee consists of eight
16 members appointed by the secretary of workforce solutions.

17 Members of the advisory committee include:

18 (1) four representatives of employers; and

19 (2) four representatives of employees.

20 B. The welcome child and family wellness leave
21 implementation advisory committee shall provide input regarding
22 best practices for the efficient and timely development,
23 implementation and promulgation of rules and educational
24 materials to carry out the provisions of the Welcome Child and
25 Family Wellness Leave Act.

.230488.8

underscored material = new
~~[bracketed material]~~ = delete

