

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 11

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

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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

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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:

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

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

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

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

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

D. "claim for leave" means an application for welcome child or family wellness leave that an applicant makes

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to the department pursuant to the Welcome Child and Family Wellness Leave Act in accordance with department rules;

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

F. "domestic partner" means a person with whom another person maintains a household and a mutual committed relationship without a legally recognized marriage;

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

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

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

J. "employer" means a person that has one or more

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employees within the state and includes an agent of an employer and the state or a political subdivision of the state;

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

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

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

(3) a grandparent;

(4) a grandchild;

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

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

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

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

M. "foster leave" means paid leave granted to allow an applicant to bond with a foster child within twelve months

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of the placement of a foster child with the applicant;

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

O. "Indian tribe" means a federally recognized Indian nation, tribe or pueblo, wholly or partially located in New Mexico, a governmental unit, subdivision, agency, department or instrumentality thereof or a business enterprise wholly owned by such an Indian nation, tribe or pueblo;

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

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

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

- (1) providing for the care or other needs of the military member's child or other family member;
- (2) making financial or legal arrangements for the military member;
- (3) attending counseling, military events or ceremonies;

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

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

S. "safe leave" means paid leave granted to an applicant who is the victim or whose family member is the victim of domestic violence, stalking, sexual assault or abuse. "Safe leave" applies if the applicant is using the leave from work to protect the applicant or the applicant's family member by:

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

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

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

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

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

U. "serious health condition" means an illness,

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injury, impairment or physical or mental condition that involves:

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

(2) continuing treatment by a health care provider;

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

W. "wages" means all remuneration for services, including commissions, bonuses or unpaid loans to employees and the cash value of all remuneration in any medium other than cash; and

X. "welcome child benefit" means:

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

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

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

A. The "family wellness leave fund" is created in the state treasury and shall be administered by the department. The fund shall be held for the benefit of the employees and

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self-employed individuals who paid into the fund and consists of all revenue, including any fees collected pursuant to the Welcome Child and Family Wellness Leave Act in accordance with department rules. Money in the fund shall be invested by the state investment officer. Income from investment of the fund shall be credited to the fund.

B. Money in the family wellness leave fund is appropriated to the department to distribute family wellness leave benefits pursuant to the Welcome Child and Family Wellness Leave Act and to administer that act.

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

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

(1) the family wellness leave fund premium rate;

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- (2) the premium rate structure;
- (3) the weekly family wellness leave benefit formula;
- (4) the duration of the family wellness benefits fund reserve; and
- (5) other necessary components.

E. Beginning January 1, 2029, and not later than October 1 of each calendar year, the secretary shall ensure and maintain the self-sufficiency and solvency of the family wellness leave fund by:

- (1) performing an annual financial analysis;
- (2) setting the family wellness leave premium for the following calendar year, based on the percentage of employee wages and at the rate necessary to obtain a total amount of contributions equal to one hundred forty percent of the family wellness leave benefits paid during the previous fiscal year and all costs associated with outreach and the administration of the Welcome Child and Family Wellness Act during 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 or decrease necessary pursuant to this paragraph shall not exceed one-tenth percent of wages per employee per year. The department shall provide public notice in advance of January 1 of any changes to the premium; and

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

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

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

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

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

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

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

B. Beginning July 1, 2027 and for each calendar quarter thereafter until January 1, 2030, there is assessed against each employee two-tenths percent of the employee's wages up to the earnings cap established by the federal social security administration program, pursuant to the Federal Insurance Contributions Act. An employee shall not be required

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to make any contributions to the family wellness leave fund from the employee's own leave compensation. Beginning January 1, 2030 and for each calendar quarter thereafter, there is assessed against each employee an assessment on the employee's wages, up to the earnings cap established by the federal social security administration program, at fifty-five percent of the premium set by the secretary pursuant to Subsection E of Section 3 of the Welcome Child and Family Wellness Leave Act.

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

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D. Beginning July 1, 2027 and for each calendar quarter thereafter until January 1, 2030, there is assessed against each self-employed individual as described in Paragraph (3) of Subsection A of this section two-tenths percent of the individual's net income as designated by the self-employed individual up to the earnings cap established by the federal social security administration program, pursuant to the Federal Insurance Contributions Act. Beginning January 1, 2030 and for each calendar quarter thereafter, there is assessed against each self-employed individual as described in Paragraph (3) of Subsection A of this section an assessment on the individual's net income as designated by the self-employed individual at fifty-five percent of the premium set by the secretary pursuant to Subsection E of Section 3 of the Welcome Child and Family Wellness Leave Act.

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

F. The contributions of self-employed individuals shall be remitted by the individual following each end of the quarter for which the contributions are deducted and on a date determined by the secretary. A self-employed individual shall

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not be required to make contributions to the family wellness leave fund from leave compensation.

G. An employer that has adopted and operates a leave plan or program for the benefit of its employees that provides leave and leave benefits substantially similar to or greater than the leave and leave benefits offered pursuant to the Welcome Child and Family Wellness Leave Act may apply for a waiver to exempt the employer and its employees from the provisions of that act. An employer granted a waiver pursuant to this subsection and the employer's employees shall not be required to remit premium contributions to the family wellness leave fund. The employer shall apply and provide supporting documentation to the department for exemption each calendar year.

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

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

- (1) the employee is covered by a paid leave

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plan or program rather than a public plan;

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

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

(4) employees may appeal to the department if any right granted pursuant to the Welcome Child and Family Wellness Leave Act is violated.

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

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

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

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

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

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

A. Beginning January 1, 2028, the department shall provide family wellness leave to an eligible applicant who takes leave after the applicant, in accordance with the provisions of the Welcome Child and Family Wellness Leave Act and department rules, has:

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

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

B. Beginning January 1, 2028, the department shall provide family wellness leave benefits to an eligible self-employed individual after the self-employed individual, in

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accordance with the provisions of the Welcome Child and Family Wellness Leave Act and department rules, has:

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

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

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

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

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

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

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

(3) during family wellness or welcome child leave, the applicant does not use leave as related to the need

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for leave described in the applicant's application for leave;

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

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

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

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

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

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average weekly wages during the weeks the employee worked;

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

(3) the maximum amount of weekly family wellness leave payments shall be no more than 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.

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

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

(2) the calculation of weekly family wellness

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leave benefits shall be based on the self-employed individual's designated annual net income;

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

(4) the maximum amount of weekly family wellness leave payments shall be no more than 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.

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

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

(2) if the applicant is a self-employed

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individual, documentation that the individual's business operated and earned net income from self-employment during the previous twelve months.

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

(1) if approved, and shall notify the applicant of the amount of family wellness leave payments that the applicant is eligible to receive biweekly; provided that an eligible applicant shall begin receiving family wellness leave payments within ten business days of the date of submission of a properly completed claim for leave or ten business days after approved leave begins;

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

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

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

- (1) family wellness leave benefits may be subject to federal and state income taxes;
- (2) requirements exist pertaining to estimated tax payments;
- (3) the individual may elect to have federal income tax deducted and withheld from the individual's family wellness leave payments at the amount specified in the Internal Revenue Code of 1986; and
- (4) the individual is permitted to change a previously elected withholding status one time during each calendar year.

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

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

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

A. The "welcome child fund" is created in the state treasury and shall be administered by the department. The fund shall be held for the benefit of eligible employees and self-employed individuals who become new parents. Money in the

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fund shall be invested by the state investment officer. Income from investment of the fund shall be credited to the fund.

B. Money in the welcome child fund is appropriated to the department to distribute welcome child benefits pursuant to the Welcome Child and Family Wellness Leave Act. Money shall be disbursed from the fund only on warrant issued by the secretary of finance and administration pursuant to vouchers signed by the secretary of workforce solutions or the secretary's authorized representative. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert or be transferred to any other fund.

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

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

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

C. The welcome child benefit consists of:

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

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

STBTC→~~D~~. If more than one parent of a child applies to receive the welcome child refund, the welcome child refund may be divided evenly between the parents. No child's family shall be entitled to receive more than three thousand dollars (\$3,000) each month for the three months immediately following the birth or adoption of the child.←STBTC

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

STBTC→~~E~~.←STBTC STBTC→~~F~~.←STBTC On January 1, 2030 and each January 1 thereafter, the amount of welcome child refund shall be adjusted to account for inflation. The department shall make the adjustment by multiplying the amount of the refund by a fraction, the numerator of which is the

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consumer price index ending during the prior calendar year and the denominator of which is the consumer price index in calendar year 2028. The result of the multiplication shall be rounded to the nearest dollar, except that if the result would be an amount less than the amount of the refund for the preceding fiscal year, then no adjustment shall be made.

STBTC→~~F.~~←STBTC STBTC→~~G.~~←STBTC For purposes of this section, "consumer price index" means the consumer price index or its successor index for all urban consumers for all items, published by the bureau of labor statistics of the United States department of labor or its successor agency.

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

A. The department shall require an applicant who seeks:

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

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

(3) medical leave to provide, in accordance with department rules, verification by a health care provider that the applicant or a family member has a serious health condition that supports the applicant's claim for medical

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leave; provided that any verification by a health care provider shall include an expected time line for the applicant's return to work;

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

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

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

C. Employee information acquired by an employer who

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has been granted a waiver pursuant to the Welcome Child and Family Wellness Leave Act shall be kept confidential by the employer; provided that confidential records may be used by department employees or the employees of an authorized agent of the employer in the performance of their duties.

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

A. An employee shall:

- (1) make a reasonable effort to schedule welcome child or family wellness leave so as not to unduly disrupt the operations of the employer;
- (2) provide the employer with prior notice of the schedule on which the employee will be taking welcome child leave ninety days before use or family wellness leave twenty days before use or as soon as practicable; and
- (3) provide the employer with documentation of the approved welcome child or family wellness leave request pursuant to department rules.

B. Leave taken pursuant to the Welcome Child and Family Wellness Leave Act shall not result in a reduction of the total amount of leave to which an employee is otherwise entitled pursuant to contract, policy, collective bargaining agreement or other law or rule in excess of the amount of leave actually taken pursuant to the Welcome Child and Family Wellness Leave Act; provided that an employer subject to the

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federal Family and Medical Leave Act of 1993 may require an employee who takes leave and receives leave compensation pursuant to the Welcome Child and Family Wellness Leave Act that also qualifies for leave pursuant to the federal Family and Medical Leave Act of 1993 to take leave concurrently. An employer shall not require an employee to exhaust any other leave entitlement prior to granting leave pursuant to the Welcome Child and Family Wellness Leave Act.

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

D. An employer shall post and keep posted in a conspicuous place upon its premises a notice that informs employees of the right to take leave and summarizes the major provisions of the Welcome Child and Family Wellness Leave Act.

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

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

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

C. An employer that has employed an employee for

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one hundred eighty days or more prior to the commencement of an employee's welcome child or family wellness leave shall:

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

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

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

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

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

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

F. Nothing in this section shall prohibit an employer from requiring an employee who uses welcome child or family wellness leave to report periodically to the employer on

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the status and intention of the employee to return to work.

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

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

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

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

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

(1) requesting, filing for, applying for or exercising any right to take leave as provided for pursuant to

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the Welcome Child and Family Wellness Leave Act;

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

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

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

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

D. It is unlawful for an employer's absence policy to count leave taken pursuant to the Welcome Child and Family Wellness Leave Act as an absence that may lead to or result in discipline, discharge, demotion, suspension or any other adverse action.

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

F. An employer that is found by a hearing officer or court of competent jurisdiction to have discharged a worker in violation of this section shall rehire that employee;

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provided that the worker agrees to be rehired.

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

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

(1) the aggrieved party shall:

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

(b) set forth the reasons for appeal;
and

(c) provide notice to all parties that an appeal has been filed; and

(2) the secretary or authorized representative may:

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

(b) develop a record of the proceedings;
and

(c) rule on the appeal within twenty business days after the completion of the hearing and issue a

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final decision in accordance with Subsection B of Section 39-3-1.1 NMSA 1978.

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

- (1) the aggrieved party or the department shall:
 - (a) file a complaint alleging a violation of the Welcome Child and Family Wellness Leave Act in writing with the department within thirty business days of becoming aware of the alleged violation;
 - (b) set forth the grounds of the complaint; and
 - (c) provide notice to parties to the alleged violation that a complaint has been filed; and
- (2) the secretary or authorized representative shall:
 - (a) upon receipt of a complaint alleging a violation, first allow for mediation upon agreement by all parties;
 - (b) hold a hearing within ten business days after a complaint is properly made, due notice is given to the parties in dispute and mediation is refused by any party;
 - (c) develop a record of the proceedings;

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

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

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

D. The department may appear in its own name in district court in actions for injunctive relief to prevent any person or entity from violating the provisions of the Welcome Child and Family Wellness Leave Act or rules promulgated by the department.

SECTION 13. [NEW MATERIAL] PREEMPTION.--

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

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

SECTION 14. [NEW MATERIAL] COLLECTIVE BARGAINING AGREEMENTS UNAFFECTED.--Nothing in the Welcome Child and Family Wellness Leave Act shall be construed to diminish the rights, privileges or remedies of any employee under any collective bargaining agreement.

SECTION 15. [NEW MATERIAL] DEPARTMENT TO PROMULGATE RULES--AGENCIES AND DEPARTMENTS TO COOPERATE.--

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

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

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

SECTION 16. TEMPORARY PROVISION--WELCOME CHILD AND FAMILY

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WELLNESS LEAVE IMPLEMENTATION ADVISORY COMMITTEE--CREATED--
PURPOSE--MEMBERS.--

A. The "welcome child and family wellness leave implementation advisory committee" is created in the workforce solutions department. The advisory committee consists of eight members appointed by the secretary of workforce solutions. Members of the advisory committee include:

- (1) four representatives of employers; and
- (2) four representatives of employees.

B. The welcome child and family wellness leave implementation advisory committee shall 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 Welcome Child and Family Wellness Leave Act.

C. The secretary of workforce solutions shall consult with the welcome child and family wellness leave implementation advisory committee at least quarterly as rules are developed to implement a program pursuant to the Welcome Child and Family Wellness Leave Act.

D. Members of the welcome child and family wellness leave implementation advisory committee are not entitled to per diem and mileage expenses. The workforce solutions department shall provide staff for the committee.

E. The welcome child and family wellness leave

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implementation advisory committee shall function from the date of its appointment, which shall be no later than October 1, 2025, until January 1, 2027.

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