

1 HOUSE BILL 11
2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO EMPLOYMENT; ENACTING THE PAID FAMILY AND MEDICAL
12 LEAVE ACT; CREATING THE PAID FAMILY AND MEDICAL LEAVE FUND;
13 PROVIDING FOR THE PAID FAMILY AND MEDICAL LEAVE PROGRAM TO PAY
14 AN ELIGIBLE APPLICANT A PERCENTAGE OF THE EMPLOYEE'S WAGES TO
15 ALLOW THE APPLICANT TO BOND WITH A NEW CHILD, CARE FOR A FAMILY
16 MEMBER, PREPARE FOR AND ADJUST TO A SPOUSE'S MILITARY
17 DEPLOYMENT OR TO TAKE ACTION TO PROTECT THE EMPLOYEE OR THE
18 EMPLOYEE'S FAMILY MEMBER FROM CERTAIN FORMS OF VIOLENCE;
19 LIMITING THE TIME ALLOWED FOR PAID FAMILY AND MEDICAL LEAVE;
20 EXCEPTING CERTAIN EMPLOYEES; PROVIDING FOR ADMINISTRATION OF
21 THE PROGRAM BY THE WORKFORCE SOLUTIONS DEPARTMENT; PREEMPTING
22 SIMILAR PROGRAMS; CREATING A TEMPORARY ADVISORY COMMITTEE.
23

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

25 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be

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1 cited as the "Paid Family and Medical Leave Act".

2 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
3 Paid Family and Medical Leave Act:

4 A. "applicant" means an employee or self-employed
5 individual who is applying for leave compensation pursuant to
6 the Paid Family and Medical Leave Act;

7 B. "application year" means the twelve-month period
8 beginning on the first day of the calendar week in which an
9 employee or self-employed individual files an application for
10 family and medical leave compensation;

11 C. "claim for leave" means an application for leave
12 compensation that an applicant makes to the department pursuant
13 to the Paid Family and Medical Leave Act in accordance with
14 department rules;

15 D. "department" means the workforce solutions
16 department, the secretary or an employee of the department
17 exercising authority lawfully delegated to that employee by the
18 secretary;

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

22 F. "employee" means a person working within the
23 state who performs a service for wages or other remuneration
24 under a contract of hire, written or oral, express or implied,
25 and includes a person employed by the state or a political

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1 subdivision of the state. "Employee" does not mean an employee
2 of an employer subject to the provisions of Title II of the
3 federal Railway Labor Act or an employee as defined in the
4 federal Railroad Unemployment Insurance Act;

5 G. "employee leasing arrangement" means an
6 arrangement in which a client contracts with an employee
7 leasing contractor for the contractor to provide leased workers
8 to the client;

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

12 I. "employer" means a person that has one or more
13 employees within the state and includes an agent of an employer
14 and the state or a political subdivision of the state;

15 J. "family leave" means leave for which an
16 applicant can apply for leave compensation pursuant to the Paid
17 Family and Medical Leave Act and that is granted to the
18 applicant to allow the applicant to bond with a child of the
19 applicant within twelve months of the birth or adoption of a
20 child or placement of a foster child with the applicant or
21 following the death of a child under eighteen years of age for
22 whom the applicant would have otherwise qualified for family
23 leave;

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

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1 applicant's spouse or domestic partner as:

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

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

8 (3) a grandparent;

9 (4) a grandchild;

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

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

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

17 L. "fund" means the paid family and medical leave
18 fund;

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

22 N. "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

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

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

4 P. "leave" means family leave, safe leave,
5 qualifying exigency leave or medical leave for which an
6 applicant can apply for leave compensation pursuant to the Paid
7 Family and Medical Leave Act;

8 Q. "leave compensation" means income that the
9 department pays from the fund to an applicant who takes family
10 leave, safe leave, qualifying exigency leave or medical leave;

11 R. "medical leave" means leave for which an
12 applicant can apply for leave compensation pursuant to the Paid
13 Family and Medical Leave Act and that is granted to the
14 applicant to allow the applicant to provide care for a family
15 member if the family member has a serious health condition or
16 the applicant's own serious health condition;

17 S. "qualifying exigency leave" means leave for
18 which an applicant can apply for leave compensation pursuant to
19 the Paid Family and Medical Leave Act based on a need arising
20 out of an applicant's family member's active duty service or
21 notice of an impending call or order to active duty in the
22 armed forces, including:

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

25 (2) making financial or legal arrangements for

1 the military member;

2 (3) attending counseling, military events or
3 ceremonies;

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

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

9 T. "safe leave" means leave for which an applicant
10 can apply for leave compensation pursuant to the Paid Family
11 and Medical Leave Act that is granted to an applicant who is
12 the victim or whose family member is the victim of domestic
13 violence, stalking, sexual assault or abuse. "Safe leave"
14 applies if the applicant is using the leave from work to
15 protect the applicant or the applicant's family member by:

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

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

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

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

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1 assault or abuse;

2 U. "secretary" means the secretary of workforce
3 solutions;

4 V. "serious health condition" means an illness,
5 injury, impairment or physical or mental condition that
6 involves:

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

9 (2) continuing treatment by a health care
10 provider;

11 W. "spouse" means a partner to a lawful marriage;
12 and

13 X. "wages" means all remuneration for services,
14 including commissions, bonuses or unpaid loans to employees and
15 the cash value of all remuneration in any medium other than
16 cash.

17 SECTION 3. [NEW MATERIAL] PAID FAMILY AND MEDICAL LEAVE
18 FUND--CREATION.--

19 A. The "paid family and medical leave fund" is
20 created in the state treasury and shall be administered by the
21 department. The fund shall be held for the benefit of the
22 employees and self-employed individuals who paid into the fund
23 and shall consist of all revenue, including any fees collected
24 pursuant to the Paid Family and Medical Leave Act in accordance
25 with department rules. Money in the fund shall be invested by

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1 the state investment officer. Income from investment of the
2 fund shall be credited to the fund.

3 B. Money in the fund is appropriated to the
4 department to distribute leave compensation pursuant to the
5 Paid Family and Medical Leave Act and to cover the costs of
6 administration and outreach for the paid family and medical
7 leave program pursuant to that act.

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

14 D. To determine an actuarially sound premium rate
15 and a future premium rate-setting mechanism for the program
16 created pursuant to the Paid Family and Medical Leave Act, by
17 January 1, 2026, the department shall contract with a qualified
18 independent actuarial consultant who is a member of a leading
19 actuarial professional association and has the relevant
20 experience to analyze the following:

- 21 (1) the family and medical leave premium rate;
22 (2) the premium rate structure;
23 (3) the weekly benefit formula;
24 (4) the duration of benefits fund reserve; and
25 (5) other necessary components.

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

4 (1) performing an annual financial analysis;
5 (2) setting the premium for the following
6 calendar year, based on the percentage of employee wages and at
7 the rate necessary to obtain a total amount of contributions
8 equal to one hundred forty percent of the benefits paid during
9 the previous fiscal year and all administrative costs of the
10 paid family and medical leave program during the previous
11 fiscal year, minus the amount of net assets remaining in the
12 fund as of June 30 of the current calendar year; provided that
13 the premium increase or decrease necessary under this provision
14 shall not exceed one-tenth percent of wages per employee per
15 year. The department shall provide public notice in advance of
16 January 1 of any changes to the premium. For purposes of this
17 paragraph, the costs of administration include the costs of
18 repayment of interest and principal on general fund
19 appropriations pursuant to Section 15 of this 2025 act; and

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

22 SECTION 4. [NEW MATERIAL] APPLICABILITY--CONTRIBUTIONS TO
23 FUND--REMITTANCE OF CONTRIBUTIONS--EXEMPTION FOR PRIVATELY RUN
24 PROGRAMS--REQUIREMENTS OF PRIVATELY RUN PROGRAMS.--

25 A. The Paid Family and Medical Leave Act applies

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1 to:

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

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

8 (3) self-employed individuals in the state of
9 New Mexico who opt into the program; and

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

12 B. Beginning January 1, 2027 and for each calendar
13 quarter thereafter until January 1, 2030, there is assessed
14 against each employee one-half percent of the employee's wages
15 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 fund from leave compensation.
19 Beginning January 1, 2030 and for each calendar quarter
20 thereafter, there is assessed against each employee an
21 assessment on the employee's wages, up to the earnings cap
22 established by the federal social security administration
23 program, at fifty-five percent of the premium set by the
24 secretary pursuant to Subsection E of Section 3 of the Paid
25 Family and Medical Leave Act.

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

17 D. Beginning January 1, 2027 and for each calendar
18 quarter thereafter until January 1, 2030, there is assessed
19 against each self-employed individual as described in Paragraph
20 (3) of Subsection A of this section one-half percent of the
21 individual's net income as designated by the self-employed
22 individual. Beginning January 1, 2030 and for each calendar
23 quarter thereafter, there is assessed against each self-
24 employed individual as described in Paragraph (3) of Subsection
25 A of this section an assessment on the individual's net income

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1 as designated by the self-employed individual at fifty-five
2 percent of the premium set by the secretary pursuant to
3 Subsection E of Section 3 of the Paid Family and Medical Leave
4 Act.

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

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

17 G. An employer that has adopted and operates a paid
18 family and medical leave plan or program for the benefit of its
19 employees that provides leave and leave compensation
20 substantially similar to or greater than the leave and leave
21 compensation offered pursuant to the Paid Family and Medical
22 Leave Act may apply for a waiver to exempt the employer and its
23 employees from participating in the paid family and medical
24 leave program. An employer granted a waiver pursuant to this
25 subsection and the employer's employees shall not be required

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1 to remit premium contributions to the fund. The employer shall
2 apply and provide supporting documentation to the department
3 for exemption each calendar year.

4 H. An employer granted a waiver pursuant to
5 Subsection G of this section and the employer's employees shall
6 have the same rights and protections enjoyed by employers and
7 employees covered pursuant to the Paid Family and Medical Leave
8 Act, including the right to appeal a waiver granted or denied
9 by Subsection G of this section to the department.

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

13 (1) the employee is covered by a privately run
14 leave program rather than a public plan;

15 (2) employees may apply to the employer or the
16 operator of the approved privately operated paid leave plan or
17 program for leave;

18 (3) employers must provide leave and leave
19 compensation substantially similar to or greater than that
20 granted to employees pursuant to the Paid Family and Medical
21 Leave Act; and

22 (4) employees may appeal to the department if
23 any right granted pursuant to the Paid Family and Medical Leave
24 Act is violated.

25 J. A paid family and medical leave plan that is

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1 privately operated, as described in Subsection G of this
2 section, shall not:

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

7 (2) impose additional restrictions or
8 conditions on leave or leave compensation beyond those
9 explicitly authorized by state law.

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

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

20 SECTION 5. [NEW MATERIAL] ELIGIBILITY--LEAVE COMPENSATION
21 CALCULATION--LEAVE DURATION--DOCUMENTATION REQUIRED--NOTICE OF
22 DETERMINATION.--

23 A. Beginning January 1, 2028, the department shall
24 provide leave compensation to an eligible applicant who takes
25 leave after the applicant, in accordance with the provisions of
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1 the Paid Family and Medical Leave Act and department rules,
2 has:

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

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

12 B. Beginning January 1, 2028, the department shall
13 provide leave compensation to an eligible self-employed
14 individual after the self-employed individual, in accordance
15 with the provisions of the Paid Family and Medical Leave Act
16 and department rules, has:

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

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

24 C. Beginning January 1, 2028, an applicant shall be
25 eligible for a maximum of twelve weeks of family leave in an

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1 application year. In calendar years 2028 and 2029, an
2 applicant shall be eligible for a maximum of nine weeks of
3 medical leave, safe leave or qualifying exigency leave in an
4 application year. Thereafter, the maximum medical leave, safe
5 leave or qualifying exigency leave compensation pursuant to
6 this subsection shall remain at nine weeks per application year
7 until the subsequent annual financial analysis determines that
8 the fund is solvent after taking into account any permissible
9 premium changes, at which point the maximum leave compensation
10 for the following calendar year and thereafter shall be
11 increased to twelve weeks.

12 D. In no event shall an applicant be eligible for
13 more than twelve weeks of leave compensation in an application
14 year.

15 E. An applicant is not required by the Paid Family
16 and Medical Leave Act to use any leave consecutively.

17 F. An applicant shall be ineligible to receive
18 leave compensation if:

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

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

25 (3) during leave, the applicant does not

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1 provide the care or use leave as related to the need for leave
2 described in the applicant's application for leave;

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

7 (5) the leave compensation duplicates what the
8 applicant is earning or has earned in wages for the same time
9 period.

10 G. The department shall issue leave compensation
11 from the fund to an eligible applicant whose claim has been
12 approved as follows:

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

24 (2) an eligible employee's weekly leave
25 compensation shall equal one hundred percent of the

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1 compensation that would be paid to a non-tipped, state-minimum-
2 wage-earning employee, pursuant to Section 50-4-22 NMSA 1978,
3 working the same number of hours per week as the employee, plus
4 sixty-seven percent of the employee's average weekly wages
5 greater than the non-tipped, state minimum wage compensation;
6 and

7 (3) the maximum amount of weekly leave
8 compensation shall be no more than the annual mean wage of all
9 occupations in New Mexico as calculated by the United States
10 bureau of labor statistics state occupational employment and
11 wage estimates for the most recent year available divided by
12 fifty-two.

13 H. The department shall issue leave compensation
14 from the fund to self-employed individuals as follows:

15 (1) a self-employed individual shall determine
16 the annual net income to be used by the department when the
17 self-employed individual enrolls in the paid family and medical
18 leave program. A self-employed individual may adjust the
19 individual's annual net income one time per year on the
20 anniversary of the individual's enrollment;

21 (2) the calculation of weekly leave
22 compensation shall be based on the self-employed individual's
23 designated annual net income;

24 (3) a self-employed individual's weekly leave
25 compensation shall equal one hundred percent of the

1 compensation that would be paid to a state-minimum-wage-earning
2 employee, pursuant to Section 50-4-22 NMSA 1978, working full
3 time each week, plus sixty-seven percent of the self-employed
4 individual's net income per week greater than the state minimum
5 wage compensation; and

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

12 I. When an applicant or an authorized
13 representative submits a claim for leave compensation with the
14 department, the department shall verify:

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

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

24 J. The department shall notify the employer and
25 applicant in writing within twenty business days of

1 application:

2 (1) if approved, and shall notify the
3 applicant of the amount of leave compensation that the
4 applicant is eligible to receive biweekly; provided that an
5 eligible applicant shall begin receiving leave compensation
6 within ten business days of the date of submission of a
7 properly completed application or ten business days after
8 approved leave begins;

9 (2) if denied, and shall notify the applicant
10 of the grounds for denying the applicant's application for
11 eligibility and of the applicant's right to appeal; and

12 (3) if further information or supporting
13 documentation is required to determine the applicant's
14 eligibility for paid leave or the amount of leave compensation;
15 provided that when the department receives sufficient
16 information or supporting documentation from the applicant to
17 make an eligibility determination, the department shall adhere
18 to the notification provision of this subsection.

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

22 (1) leave compensation may be subject to
23 federal and state income taxes;

24 (2) requirements exist pertaining to estimated
25 tax payments;

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1 (3) the individual may elect to have federal
2 income tax deducted and withheld from the individual's leave
3 compensation payments at the amount specified in the Internal
4 Revenue Code of 1986; and

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

8 L. Amounts deducted and withheld from leave
9 compensation shall remain in the fund until transferred to the
10 federal internal revenue service.

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

14 SECTION 6. [NEW MATERIAL] CLAIMS FOR LEAVE--
15 DOCUMENTATION--CONFIDENTIALITY.--

16 A. The department shall require an applicant who
17 seeks family leave compensation to provide, in accordance with
18 department rules, evidence of the birth or adoption of a child
19 or placement of a foster child with the applicant.

20 B. The department shall require an applicant who
21 seeks medical leave compensation to provide, in accordance with
22 department rules, verification by a health care provider that
23 the applicant or a family member has a serious health condition
24 that supports the applicant's claim for leave compensation;
25 provided that any verification by a health care provider shall

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1 include an expected time line for the applicant's return to
2 work.

3 C. The department shall require an applicant who
4 seeks qualifying exigency leave compensation to provide, in
5 accordance with department rules, a copy of the military
6 member's active duty orders or other documentation issued by
7 the military that indicates that the military member is on
8 covered active duty, or call to covered active duty status, and
9 the dates of the military member's covered active duty service.

10 D. The department shall require an applicant who
11 seeks safe leave compensation to provide, in accordance with
12 department rules, a police report, court-issued document or
13 signed statement from a victim services organization, a clergy
14 member, an attorney, an advocate, the applicant, a family
15 member of the applicant or other person that supports the
16 applicant's claim for leave compensation.

17 E. Information contained in an applicant's files
18 and records pertaining to the Paid Family and Medical Leave Act
19 are confidential and not open to public inspection, other than
20 to department employees or the employees of an approved
21 privately operated paid leave program or plan in the
22 performance of their official duties. However, the applicant
23 or an authorized representative may review the records or
24 receive specific information from the records upon the
25 presentation of the applicant's signed authorization.

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1 F. Employee information acquired by a private
2 employer pursuant to the Paid Family and Medical Leave Act
3 shall be kept confidential by the employer; provided that
4 confidential records may be used by department employees or the
5 employees of an approved privately operated paid leave program
6 or plan in the performance of their duties.

7 SECTION 7. [NEW MATERIAL] EMPLOYEE NOTICE TO EMPLOYER--
8 REDUCTION OF OTHER LEAVE PROHIBITED.--

9 A. Beginning January 1, 2028, an employer shall
10 allow an employee to take up to a combined total of twelve
11 weeks of family leave, medical leave, safe leave and qualifying
12 exigency leave during any application year. An employee or
13 self-employed individual is not required to use any leave
14 consecutively.

15 B. An employee shall:

16 (1) make a reasonable effort to schedule leave
17 so as not to unduly disrupt the operations of the employer;

18 (2) provide the employer with prior notice of
19 the schedule on which the employee will be taking leave twenty
20 days before use or as soon as practicable; and

21 (3) provide the employer with documentation of
22 the approved leave compensation request pursuant to department
23 rules.

24 C. The employer has the right to appeal a
25 determination to the department within fifteen calendar days

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1 after receipt of documentation of the approved leave
2 compensation request.

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

18 E. Nothing in this section shall be construed to
19 entitle an employee to more leave than required pursuant to
20 Section 5 of the Paid Family and Medical Leave Act.

21 F. An employer shall post and keep posted in a
22 conspicuous place upon its premises a notice that informs
23 employees of the right to take leave and summarizes the major
24 provisions of the Paid Family and Medical Leave Act.

25 SECTION 8. [NEW MATERIAL] RETURN TO EMPLOYMENT.--

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

4 B. Upon an employee's return after leave or upon
5 the completion of an intermittent leave claim, an employer
6 shall notify the department within ten business days that the
7 employee has returned to work.

8 C. An employer that has employed an employee for
9 one hundred eighty days or more prior to the commencement of an
10 employee's leave shall:

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

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

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

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

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

24 E. Any yearly certification or training that an
25 employer requires as a condition of employment may remain in

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1 place and applicable to any employee taking leave; provided
2 that nothing in this subsection shall supersede another
3 provision of law or a collective bargaining agreement that
4 governs an employee's return to work after leave.

5 F. Nothing in this section shall prohibit an
6 employer from requiring an employee who uses leave to report
7 periodically to the employer on the status and intention of the
8 employee to return to work.

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

16 SECTION 9. [NEW MATERIAL] INTERFERENCE AND RETALIATION
17 PROHIBITED.--

18 A. It is unlawful for an employer or any other
19 person to interfere with, restrain or deny the exercise of, or
20 the attempt to exercise, any right protected pursuant to the
21 Paid Family and Medical Leave Act.

22 B. An employer shall timely provide to the employee
23 documents required to apply for leave.

24 C. An employer, employee organization or other
25 person shall not take retaliatory personnel action or otherwise

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1 discriminate against a person because the person exercised
2 rights protected pursuant to the Paid Family and Medical Leave
3 Act. Such rights include:

4 (1) requesting, filing for, applying for or
5 exercising any right to take leave as provided for pursuant to
6 the Paid Family and Medical Leave Act;

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

10 (3) testifying, planning to testify or
11 assisting at any time in any investigation, hearing or
12 proceeding pursuant to the Paid Family and Medical Leave Act;

13 (4) informing any person about an employer's
14 alleged violation of the Paid Family and Medical Leave Act; and

15 (5) informing any person of the person's
16 rights pursuant to the Paid Family and Medical Leave Act.

17 D. It is unlawful for an employer's absence policy
18 to count leave taken pursuant to the Paid Family and Medical
19 Leave Act as an absence that may lead to or result in
20 discipline, discharge, demotion, suspension or any other
21 adverse action.

22 E. The protections provided in this section shall
23 apply to any person who reasonably but mistakenly alleges
24 violations of the Paid Family and Medical Leave Act.

25 F. An employer that is found by a hearing officer

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1 or court of competent jurisdiction to have discharged a worker
2 in violation of this section shall rehire that employee;
3 provided that the worker agrees to be rehired.

4 SECTION 10. [NEW MATERIAL] ADVERSE DETERMINATIONS--APPEAL
5 PROCEDURES--ADMINISTRATIVE ACTIONS--DEPARTMENTAL DISCIPLINARY
6 POWERS.--

7 A. An applicant or an authorized representative
8 named in an application for leave may appeal an adverse
9 determination of that application to the department as follows:

10 (1) the aggrieved party shall:

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

14 (b) set forth the reasons for appeal;
15 and

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

18 (2) the secretary or authorized representative
19 may:

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

23 (b) develop a record of the proceedings;
24 and

25 (c) rule on the appeal within twenty

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1 business days after the completion of the hearing and issue a
2 final decision in accordance with Subsection B of Section
3 39-3-1.1 NMSA 1978.

4 B. An aggrieved party, including an employee or
5 former employee, or the department on its own motion may bring
6 an administrative action for an alleged violation of the Paid
7 Family and Medical Leave Act under a public or privately run
8 leave program as follows:

9 (1) the aggrieved party or the department
10 shall:

11 (a) file a complaint alleging a
12 violation of the Paid Family and Medical Leave Act in writing
13 with the department within thirty business days of becoming
14 aware of the alleged violation;

15 (b) set forth the grounds of the
16 complaint; and

17 (c) provide notice to parties to the
18 alleged violation that a complaint has been filed; and

19 (2) the secretary or authorized representative
20 shall:

21 (a) upon receipt of a complaint alleging
22 a violation, first allow for mediation upon agreement by all
23 parties;

24 (b) hold a hearing within ten business
25 days after a complaint is properly made, due notice is given to

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1 the parties in dispute and mediation is refused by any party;

2 (c) develop a record of the proceedings;

3 (d) have power to take disciplinary
4 action, including investigating, fining, censuring or
5 reprimanding a party or suspending or revoking a waiver issued
6 pursuant to the Paid Family and Medical Leave Act; and

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

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

14 D. The department may appear in its own name in
15 district court in actions for injunctive relief to prevent any
16 person or entity from violating the provisions of the Paid
17 Family and Medical Leave Act or rules promulgated by the
18 department.

19 SECTION 11. [NEW MATERIAL] PREEMPTION.--

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

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1 resolution.

2 B. Subject to the requirements of the Paid Family
3 and Medical Leave Act, the provisions of Subsection A of this
4 section shall not prevent a city, county, home rule
5 municipality or other political subdivision of the state from
6 establishing any leave policies for its employees.

7 SECTION 12. [NEW MATERIAL] COLLECTIVE BARGAINING
8 AGREEMENTS UNAFFECTED.--Nothing in the Paid Family and Medical
9 Leave Act shall be construed to diminish the rights, privileges
10 or remedies of any employee under any collective bargaining
11 agreement.

12 SECTION 13. [NEW MATERIAL] DEPARTMENT TO PROMULGATE
13 RULES--AGENCIES AND DEPARTMENTS TO COOPERATE.--

14 A. By July 1, 2026, the department shall adopt
15 initial rules to implement provisions in Sections 3, 4 and 5 of
16 the Paid Family and Medical Leave Act.

17 B. State agencies and departments shall cooperate
18 with the secretary to timely and efficiently provide the
19 information and services necessary to carry out the provisions
20 of the Paid Family and Medical Leave Act.

21 SECTION 14. TEMPORARY PROVISION--PAID FAMILY AND MEDICAL
22 LEAVE IMPLEMENTATION ADVISORY COMMITTEE--CREATED--PURPOSE--
23 MEMBERS.--

24 A. The "paid family and medical leave
25 implementation advisory committee" is created in the workforce

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1 solutions department. The advisory committee consists of eight
2 members appointed by the secretary of workforce solutions.

3 Members of the advisory committee include:

4 (1) four representatives of employers; and

5 (2) four representatives of employees.

6 B. The paid family and medical leave implementation
7 advisory committee shall provide input regarding best practices
8 for the efficient and timely development, implementation and
9 promulgation of rules and educational materials to carry out
10 the provisions of the Paid Family and Medical Leave Act.

11 C. The secretary of workforce solutions shall
12 consult with the paid family and medical leave implementation
13 advisory committee at least quarterly as rules are developed to
14 implement a program pursuant to the Paid Family and Medical
15 Leave Act.

16 D. Members of the paid family and medical leave
17 implementation advisory committee are not entitled to per diem
18 and mileage expenses. The workforce solutions department
19 shall provide staff for the committee.

20 E. The paid family and medical leave implementation
21 advisory committee shall function from the date of its
22 appointment, which shall be no later than October 1, 2025,
23 until January 1, 2027.

24 SECTION 15. TEMPORARY PROVISION--REPAYMENT OF
25 APPROPRIATION.--Beginning January 1, 2029, six million dollars
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1 (\$6,000,000) shall be transferred from the paid family and
2 medical leave fund at the end of each fiscal year to the
3 general fund until the total transfers pursuant to this section
4 equal the total amount of an appropriation made to the
5 workforce solutions department for costs associated with the
6 implementation of the Paid Family and Medical Leave Act
7 contingent on the passage of legislation in the first session
8 of the fifty-seventh legislature appropriating funds for the
9 purposes of the Paid Family and Medical Leave Act.