

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Ways and Means to which was referred House Bill No.
3 66 entitled “An act relating to paid family and medical leave insurance”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 * * * Leave from Employment * * *

8 Sec. 1. 21 V.S.A. § 471 is amended to read:

9 § 471. DEFINITIONS

10 As used in this subchapter:

11 (1) “Bereavement leave” means a leave of absence from employment or
12 self-employment by an individual due to the death of the individual’s family
13 member that occurs not more than one year after the family member’s death.
14 Bereavement leave includes leave taken in relation to the administration or
15 settlement of the deceased family member’s estate. Leave taken in relation to
16 the administration or settlement of the deceased family member’s estate may
17 occur more than one year after the family member’s death.

18 (2) “Commissioner” means the Commissioner of Labor.

19 (3) “Domestic partner” means an individual with whom the employee
20 has an enduring domestic relationship of a spousal nature, provided the
21 employee and the domestic partner:

1 (A) have shared a residence for at least six consecutive months;

2 (B) are at least 18 years of age;

3 (C) are not married to or considered a domestic partner of another
4 individual;

5 (D) are not related by blood closer than would bar marriage under
6 State law; and

7 (E) have agreed between themselves to be responsible for each
8 other's welfare.

9 (4) "Domestic violence" has the same meaning as in 15 V.S.A. § 1151.

10 (5) "Employer" means ~~an individual, organization, or governmental~~
11 ~~body, partnership, association, corporation, legal representative, trustee,~~
12 ~~receiver, trustee in bankruptcy, and any common carrier by rail, motor, water,~~
13 ~~air, or express company doing business in or operating within this State which~~
14 a person who for the purposes of parental leave, safe leave, and leave for a
15 qualifying exigency employs 10 or more individuals who are employed for an
16 average of at least 30 hours per week during a year and for the purposes of
17 family leave employs 15 or more individuals for an average of at least 30 hours
18 per week during a year.

19 (2)(6) "Employee" means a person who, in consideration of direct or
20 indirect gain or profit, has been continuously employed by the same employer
21 for a period of one year for an average of at least 30 hours per week. For

1 purposes of safe leave only, “employee” means a person who in consideration
2 of direct or indirect gain or profit, has been continuously employed by the
3 same employer for a period of six months for an average of at least 20 hours
4 per week.

5 (3)(7) “Family leave” means a leave of absence from employment by an
6 employee who works for an employer which employs 15 or more individuals
7 who are employed for an average of at least 30 hours per week during the year
8 for one of the following reasons:

9 (A) the serious ~~illness~~ health condition of the employee; or

10 (B) the serious ~~illness~~ health condition of the employee’s ~~child,~~
11 ~~stepchild or ward who lives with the employee, foster child, parent, spouse, or~~
12 ~~parent of the employee’s spouse~~ family member.

13 (4)(8) “Parental leave” means a leave of absence from employment by
14 an employee who works for an employer which employs 10 or more
15 individuals who are employed for an average of at least 30 hours per week
16 during the year for one of the following reasons:

17 (A) the employee’s pregnancy;

18 (B) recovery from childbirth or miscarriage;

19 (C) the birth of the employee’s child and to care for or bond with the
20 child within one year after the child’s birth; or

1 ~~(B)~~(D) the initial placement of a child ~~16~~ 18 years of age or younger
2 with the employee for the purpose of adoption or foster care and to care for or
3 bond with the child within one year after the placement for adoption or foster
4 care.

5 (9) “Family member” means:

6 (A) regardless of age, an employee’s biological, adopted, or foster
7 child; an employee’s stepchild or legal ward; a child of the employee’s spouse
8 or civil union or domestic partner; a child to whom the employee stands in loco
9 parentis; or an individual to whom the employee stood in loco parentis when
10 the individual was under 18 years of age;

11 (B)(i) a parent of an employee or an employee’s spouse or civil union
12 or domestic partner, regardless of whether the relationship to the employee or
13 employee’s spouse or civil union or domestic partner is a biological, foster,
14 adoptive, or step relationship;

15 (ii) a legal guardian of an employee or employee’s spouse or civil
16 union or domestic partner; or

17 (iii) a person who stands in loco parentis for the employee or who
18 stood in loco parentis when the employee or employee’s spouse or civil union
19 or domestic partner was under 18 years of age;

20 (C) A person to whom the employee is legally married under the laws
21 of any state or a civil union or domestic partner of an employee;

1 (D) A grandparent, grandchild, or sibling of the employee or the
2 employee’s spouse or civil union or domestic partner, regardless of whether
3 the relationship to the employee or the employee’s spouse or civil union or
4 domestic partner is a biological, foster, adoptive, or step relationship; or

5 (E) As shown by the employee, any other individual with whom the
6 employee has a significant personal bond that is or is like a family relationship,
7 regardless of biological or legal relationship under the totality of the
8 circumstances surrounding the relationship, including:

9 (i) evidence of shared financial responsibility, such as a shared
10 lease, common ownership of property, joint liability for bills, and beneficiary
11 designations;

12 (ii) evidence of responsibility for the other’s personal well-being,
13 including emergency contact designations or an advance directive, as that term
14 is defined pursuant to 18 V.S.A. § 9701;

15 (iii) evidence showing an expectation of care created by the
16 relationship or the prior provision of care, or both;

17 (iv) cohabitation for a period of at least six months or geographic
18 proximity; and

19 (v) other similar evidence demonstrating a significant personal
20 bond.

1 (10) “Health care provider” means a licensed health care provider or a
2 health care provider as defined pursuant to 29 C.F.R. § 825.125.

3 (11) “In loco parentis” means a relationship in which an individual has
4 day-to-day responsibilities to care for and financially support a child.

5 (12) “Qualifying exigency” means a qualifying exigency identified
6 pursuant to 29 C.F.R. § 825.126 that is related to active duty service by a
7 family member in the U.S. Armed Forces.

8 (13) “Safe leave” means a leave of absence from employment by an
9 employee because:

10 (A) the employee or the employee’s family member is a victim or
11 alleged victim of domestic violence, sexual assault, or stalking;

12 (B) the employee is using the leave for one of the following reasons
13 related to the domestic violence, sexual assault, or stalking:

14 (i) to seek or obtain medical care, counseling, or social or legal
15 services, either for themselves or for a family member;

16 (ii) to recover from injuries;

17 (iii) to participate in safety planning, either for themselves or for a
18 family member;

19 (iv) to relocate or secure safe housing, either for themselves or for
20 a family member;

21 (v) to meet with a State’s Attorney or law enforcement officer; or

1 (vi) to attend a hearing concerning an order against stalking or
2 sexual assault pursuant to 12 V.S.A. § 5133, when the employee seeks the
3 order as plaintiff; and

4 (C) the employee is not the perpetrator or alleged perpetrator of the
5 domestic violence, sexual assault, or stalking.

6 ~~(5)~~(14) “Serious illness health condition” means:

7 (A) an accident, illness, injury, disease, or physical or mental
8 condition that:

9 ~~(A)~~(i) poses imminent danger of death;

10 ~~(B)~~(ii) requires inpatient care in a hospital, hospice, or residential
11 medical care facility; or

12 ~~(C)~~(iii) requires continuing ~~in-home care under the direction of~~
13 treatment by a physician health care provider; or

14 (B) rehabilitation from an accident, illness, injury, disease, or
15 physical or mental condition described in subdivision (A) of this subdivision
16 (12), including treatment for substance use disorder.

17 (15) “Sexual assault” has the same meaning as in 15 V.S.A. § 1151.

18 (16) “Stalking” has the same meaning as in 15 V.S.A. § 1151.

19 (17) “U.S. Armed Forces” means:

20 (A) the U.S. Army, Navy, Air Force, Marine Corps, Space Force, and
21 Coast Guard;

1 (B) a reserve component of the U.S. Army, Navy, Air Force, Marine
2 Corps, Space Force, and Coast Guard; or

3 (C) the National Guard of any state.

4 Sec. 2. 21 V.S.A. § 472 is amended to read:

5 § 472. LEAVE

6 (a)(1) During any 12-month period, an employee shall be entitled to take
7 unpaid leave for a period not to exceed 12 weeks:

8 ~~(1)(A) for parental leave, during the employee's pregnancy and~~
9 ~~following the birth of an employee's child or within a year following the initial~~
10 ~~placement of a child 16 years of age or younger with the employee for the~~
11 ~~purpose of adoption.;~~

12 ~~(2)(B) for family leave, for the serious illness of the employee or the~~
13 ~~employee's child, stepchild or ward of the employee who lives with the~~
14 ~~employee, foster child, parent, spouse, or parent of the employee's spouse; or~~

15 (C) for a qualifying exigency.

16 (2) During any 12-month period, an employee may use up to two out of
17 the 12 weeks of leave available pursuant to subdivision (1) of this subsection
18 for bereavement leave.

19 (3) In addition to the leave provided pursuant to subdivisions (1) and (2)
20 of this subsection, during any 12-month period an employee shall be entitled to
21 take unpaid leave for a period not to exceed 12 weeks for safe leave.

1 (b) During the leave, at the employee’s option, the employee may use
2 accrued sick leave ~~or~~, vacation leave ~~or~~, any other accrued paid leave, ~~not to~~
3 ~~exceed six weeks~~ or short-term disability insurance or other insurance benefits.
4 Utilization of accrued paid leave or insurance benefits shall not extend the
5 leave provided ~~herein~~ by this section.

6 * * *

7 (d) The employer shall post and maintain in a conspicuous place in and
8 about each of ~~his or her~~ its places of business printed notices of the provisions
9 of this subchapter on forms provided by the Commissioner of Labor.

10 (e)(1) An employee shall give the employee’s employer reasonable written
11 notice of intent to take leave under this ~~subchapter~~ section. Notice shall
12 include the date the leave is expected to commence and the estimated duration
13 of the leave.

14 (2) In the case of the adoption or birth of a child, an employer shall not
15 require that notice be given more than six weeks prior to the anticipated
16 commencement of the leave.

17 (3) In the case of an unanticipated serious health condition, a
18 miscarriage, an unanticipated need for safe leave, a premature birth, the death
19 of a family member; or a short-notice qualifying exigency, the employee shall
20 give the employer notice of the commencement of the leave as soon as
21 practicable.

1 (4)(A) In the case of serious ~~illness~~ health condition of the employee or
2 a member of the employee’s family, an employer may require certification
3 from a physician to verify the condition and the amount and necessity for the
4 leave requested.

5 (B) An employer may require an employee to provide documentation
6 of the need for safe leave. An employee may provide documentation from any
7 one of the following sources:

8 (i) a court or a law enforcement or other government agency;

9 (ii) a domestic violence, sexual assault, or stalking assistance
10 program;

11 (iii) a legal, clerical, medical, or other professional from whom the
12 employee, or the employee’s family member, received counseling or other
13 assistance concerning domestic violence, sexual assault, or stalking; or

14 (iv) a self-certification of the employee’s, or the employee’s
15 family member’s, status as a victim of domestic violence, sexual assault, or
16 stalking, signed under penalty of perjury, on a standard form adopted for that
17 purpose by:

18 (I) a federal or State government entity, including the Vermont
19 Department for Children and Families; or

20 (II) a nonprofit organization that provides support services to
21 victims of domestic violence, sexual violence, or stalking.

1 (C) An employer may require an employee to provide documentation
2 of the need for bereavement leave. An employee may provide any of the
3 following forms of documentation:

4 (i) a death certificate;

5 (ii) a published obituary; or

6 (iii) a written notice or verification of death, burial, or memorial
7 services from a mortuary, funeral home, burial society, crematorium, religious
8 organization, or governmental agency.

9 (D) An employer may require an employee to provide documentation
10 of the need for leave for a qualifying exigency as set forth in 29 C.F.R.
11 § 825.309.

12 (E) An employer shall not disclose any private medical information
13 or information relating to a safe leave that the employer receives pursuant to
14 this subdivision (4) except to the extent the disclosure is permitted by law and:

15 (i) consented to by the employee in writing;

16 (ii) required pursuant to a court order; or

17 (iii) required pursuant to State or federal law.

18 (5) An employee may return from leave earlier than estimated upon
19 approval of the employer.

20 (6) An employee shall provide reasonable notice to the employer of his
21 or her the need to extend leave to the extent provided by this chapter.

1 (f) Upon return from leave taken under this subchapter, an employee shall
2 be offered the same or comparable job at the same level of compensation,
3 employment benefits, seniority, or any other term or condition of the
4 employment existing on the day leave began. This ~~subchapter~~ subsection shall
5 not apply if, prior to requesting leave, the employee had been given notice or
6 had given notice that the employment would terminate. This subsection shall
7 not apply if the employer can demonstrate by clear and convincing evidence
8 that:

9 (1) during the period of leave the employee's job would have been
10 terminated or the employee laid off for reasons unrelated to the leave or the
11 condition for which the leave was granted; or

12 (2) the employee performed unique services and hiring a permanent
13 replacement during the leave, after giving reasonable notice to the employee of
14 intent to do so, was the only alternative available to the employer to prevent
15 substantial and grievous economic injury to the employer's operation.

16 (g) An employer may adopt a leave policy more generous than the leave
17 policy provided by this subchapter. Nothing in this subchapter shall be
18 construed to diminish an employer's obligation to comply with any collective
19 bargaining agreement or any employment benefit program or plan ~~which~~ that
20 provides greater leave rights than the rights provided by this subchapter. A
21 collective bargaining agreement or employment benefit program or plan may

1 not diminish rights provided by this subchapter. ~~Notwithstanding the~~
2 ~~provisions of this subchapter, an employee may, at the time a need for parental~~
3 ~~or family leave arises, waive some or all the rights under this subchapter~~
4 ~~provided the waiver is informed and voluntary and any changes in conditions~~
5 ~~of employment related to any waiver shall be mutually agreed upon between~~
6 ~~employer and employee.~~

7 (h) Except for ~~the serious illness~~ health condition of the employee or safe
8 leave when the employee is the victim or alleged victim, an employee who
9 does not return to employment with the employer who provided the leave shall
10 return to the employer the value of any compensation that the employer paid to
11 or on behalf of the employee during the leave, except payments for accrued
12 ~~sick leave or vacation leave.~~ An employer may elect to waive the rights
13 provided pursuant to this subsection.

14 **Sec. 3. 21 V.S.A. § 472c is amended to read:**

15 **§ 472c. LEAVE; ALLEGED CRIME VICTIMS; RELIEF FROM**

16 **STALKING OR ABUSE**

17 * * *

18 **(b) In addition to the leave provided in section 472 of this title, an**
19 **employee shall be entitled to take unpaid leave from employment for the**
20 **purpose of attending a deposition or court proceeding related to:**

21 * * *

1 (2) a relief from abuse hearing pursuant to 15 V.S.A. § 1103, when the
2 employee seeks the order as plaintiff; or

3 (3) ~~a hearing concerning an order against stalking or sexual assault~~
4 ~~pursuant to 12 V.S.A. § 5133, when the employee seeks the order as plaintiff;~~
5 ~~or~~

6 (4) a relief from abuse, neglect, or exploitation hearing pursuant to 33
7 V.S.A. chapter 69, when the employee is the plaintiff.

8 * * *

9 Sec. 4. 21 V.S.A. § 471 is amended to read:

10 § 471. DEFINITIONS

11 As used in this subchapter:

12 * * *

13 (5) “Employer” means a person who ~~for the purposes of parental leave~~
14 ~~and safe leave employs 10 or more individuals who are employed for an~~
15 ~~average of at least 30 hours per week during a year and for the purposes of~~
16 ~~family leave employs 15 or more individuals for an average of at least 30 hours~~
17 ~~per week during a year~~ employs one or more individuals in Vermont.

18 (6) “Employee” means a person who:

19 (A) in consideration of direct or indirect gain or profit, has been
20 continuously employed by the same employer;

1 (i) for a period of one year for an average of at least 30 hours per
2 week; or

3 (ii) For purposes of safe leave only, ~~“employee” means a person~~
4 ~~who in consideration of direct or indirect gain or profit, has been continuously~~
5 ~~employed by the same employer~~ for a period of six months for an average of at
6 least 20 hours per week; or

7 (B) is employed by an employer and:

8 (i) during at least two of the last four completed calendar quarters,
9 has received payments with respect to services performed for any employer
10 from which that employer was required to withhold Family and Medical Leave
11 Insurance Program contributions pursuant to 21 V.S.A. § 2553; or

12 (ii) has worked for the employer during at least two of the last four
13 calendar quarters and the employer is required to provide the employee with
14 coverage under a private plan approved pursuant to 21 V.S.A. § 2559.

15 (7) “Family leave” means a leave of absence from employment by an
16 employee for one of the following reasons:

17 (A) the serious health condition of the employee;

18 (B) the serious health condition of the employee’s family member.

19 (8) ~~“Parental leave” means a leave of absence from employment by an~~
20 ~~employee for one of the following reasons:~~

21 (A)(C) the employee’s pregnancy;

1 paid leave, Family and Medical Leave Insurance benefits, or insurance benefits
2 shall not extend the leave provided by this section.

3 * * *

4 * * * Paid Family and Medical Leave Insurance Program * * *

5 **Sec. 6.** 21 V.S.A. chapter 26 is added to read:

6 CHAPTER 26. FAMILY AND MEDICAL LEAVE INSURANCE

7 § 2051. DIVISION OF FAMILY AND MEDICAL LEAVE; DIRECTOR

8 (a) The Division of Family and Medical Leave is established in the Office
9 of the Treasurer to administer the Family and Medical Leave Insurance
10 Program established pursuant to this chapter.

11 (b)(1) The Treasurer shall appoint a Director of the Division. The Director
12 shall be a full-time State employee and exempt from the classified system and
13 shall serve at the pleasure of the Treasurer.

14 (2) The Director shall be responsible for:

15 (A) the operation and supervision of the Division of Family and
16 Medical Leave;

17 (B) the implementation of this chapter and any rules adopted
18 pursuant to section 2063 of this chapter; and

19 (C) employing staff as necessary to implement and carry out the
20 provisions of this chapter.

1 § 2052. FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM;

2 SPECIAL FUND

3 (a) The Family and Medical Leave Insurance Program is established within
4 the Division of Family and Medical Leave for the provision of Family and
5 Medical Leave Insurance benefits to qualified individuals pursuant to the
6 provisions of this chapter.

7 (b) The Family and Medical Leave Insurance Special Fund is created
8 pursuant to 32 V.S.A. chapter 7, subchapter 5 and shall be administered by the
9 Division of Family and Medical Leave and the Department of Taxes. Monies
10 in the Fund may be expended for the administration of the Family and Medical
11 Leave Insurance Program, for the payment of benefits provided pursuant to the
12 provisions of this chapter, and for necessary costs incurred in administering the
13 Fund. All interest earned on Fund balances shall be credited to the Fund.

14 (c) The Fund shall consist of:

15 (1) contributions collected pursuant to section 2053 of this chapter;

16 (2) amounts recovered or collected pursuant to sections 2061 and 2062
17 of this chapter;

18 (3) any amounts transferred or appropriated to the Fund by the General
19 Assembly; and

20 (4) any interest earned by the Fund.

1 (d) The Director may seek and accept grants from any source, public or
2 private, to be dedicated for deposit into the Fund.

3 § 2053. CONTRIBUTIONS; RATE; COLLECTION

4 (a) Contributions for employees and enrolled self-employed individuals
5 shall be apportioned as follows:

6 (1)(A) An employer may deduct and withhold from an employee’s
7 covered wages amounts equal to up to one-half of the rate of contribution
8 required for each employee pursuant to subsection (b) of this section and shall
9 remit the full amount of the contribution required for the employee to the
10 Department of Taxes pursuant to the provisions of subsection (c) of this
11 section.

12 (B) As used in this subdivision (1), the term “covered wages” means
13 all wages paid to an employee by an employer up to an amount equal to two
14 times the Social Security Contribution and Benefit Base.

15 (2)(A) An enrolled self-employed individual shall pay the full rate of
16 contribution required pursuant to subsection (b) of this section on the enrolled
17 self-employed individual’s covered work income.

18 (B) As used in this subdivision (2), the term “covered work income”
19 means an individual’s gross self-employment income earned by the enrolled
20 self-employed individual in Vermont up to an amount equal to two times the
21 Social Security Contribution and Benefit Base.

1 **(b)(1)** For the period from July 1, 2025 through December 31, 2025, the
2 contribution rate for employees and enrolled self-employed individuals shall be
3 0.55 percent of covered wages or covered work income, respectively.

4 **(2)** Beginning with calendar year 2026 and annually thereafter the
5 Director shall establish the rate of contribution for each calendar year on or
6 before the preceding October 1. The Director shall set the rate so that it
7 generates contributions in an amount equal to the sum of the projected amount
8 necessary to provide benefits pursuant to this chapter during the next calendar
9 year plus the projected cost to administer the Program during the next calendar
10 year plus a reserve equal to six months of the projected benefit payments and
11 administrative costs for the next calendar year minus any balance projected to
12 be remaining in the Fund from the prior calendar year.

13 **(3)** The rate of contribution shall be the same for the covered wages of
14 employees and the covered work income of enrolled self-employed individuals
15 and shall not exceed one percent.

16 **(4)** In the event that the Director determines that the rate of contribution
17 for any calendar year shall be one percent, the Director shall, not more than 14
18 days after making the determination, submit a written report to the Joint Fiscal
19 Committee, the House Committees on Appropriations, on General and
20 Housing, and on Ways and Means, and the Senate Committees on
21 Appropriations, on Economic Development, Housing and General Affairs, and

1 on Finance that provides a detailed explanation of the reason for the increase,
2 whether the rate is sufficient to pay the projected benefits and administrative
3 costs during the next calendar year while maintaining the required reserve, the
4 solvency of the Fund, and recommended legislative action to reduce the rate of
5 contribution in the following calendar year.

6 (c)(1) The Commissioner of Taxes shall collect the contributions required
7 pursuant to this section and shall deposit them into the Fund.

8 (2)(A) Employers shall withhold contributions pursuant to subdivision
9 (a)(1) of this section from wages that employers pay to employees as if the
10 contributions were Vermont income tax subject to the withholding
11 requirements of 32 V.S.A. chapter 151, subchapter 4. The administrative and
12 enforcement provisions of 32 V.S.A. chapter 151 shall apply to the
13 contribution and withholding requirements under this section as if the
14 contributions due pursuant to subdivision (a)(1) of this section were Vermont
15 income tax.

16 (B) Employers shall be responsible for the full amount of any unpaid
17 contributions due pursuant to subdivision (a)(1) of this section.

18 (3) Enrolled self-employed individuals shall make installment payments
19 of estimated contributions pursuant to subdivision (a)(2) of this section from
20 the enrolled self-employed individual's covered work income as if the
21 contributions were Vermont income tax subject to the estimated payment

1 requirements of 32 V.S.A. chapter 151, subchapter 5. The administrative and
2 enforcement provisions of 32 V.S.A. chapter 151 shall apply to the estimated
3 payment requirement under this section as if the contributions due pursuant to
4 subdivision (a)(2) of this section were Vermont income tax.

5 (d) An employer with an approved private plan pursuant to section 2059 of
6 this chapter shall not be required to withhold and pay contributions pursuant to
7 this section.

8 § 2054. BENEFITS

9 (a)(1) A qualified individual shall be permitted to receive a total of not
10 more than 12 weeks of benefits in a 12-month period for family and medical
11 leave and safe leave taken by the employee.

12 (2) A qualified individual may use up to two out of the 12 weeks of
13 benefits available to the individual during a 12-month period for bereavement
14 leave.

15 (b) A qualified individual awarded benefits under this section shall receive
16 90 percent of the individual's average weekly earnings or an amount equal to
17 the State average weekly wage determined pursuant to section 1338 of this
18 title, whichever is less.

19 (c) A qualified individual may receive benefits for an intermittent leave or
20 leave for a portion of a week. The benefit amount for an intermittent leave or

1 leave for a portion of a week shall be calculated in increments of one full day
2 or one-fifth of the qualified individual's weekly benefit amount.

3 (d) Benefits paid pursuant to this chapter may be used as wage replacement
4 for a leave taken pursuant to section 472 of this title or the federal Family and
5 Medical Leave Act, 29 U.S.C. §§ 2611–2654. The receipt of benefits paid
6 pursuant to this chapter shall not extend the leave provided pursuant to
7 section 472 of this title or the federal Family and Medical Leave Act.

8 **§ 2055. ELIGIBILITY**

9 An individual shall be eligible to receive benefits pursuant to the provisions
10 of this chapter if:

11 (1) the individual is currently an employee or an enrolled self-employed
12 individual, or both;

13 (2) except as otherwise provided pursuant to subsection 2059(f) of this
14 chapter, the individual has:

15 (A)(i) earned wages from which contributions were withheld during
16 at least two calendar quarters in the preceding calendar year;

17 (ii) made contributions to the Fund on covered work income that
18 was earned during at least two calendar quarters in the preceding calendar
19 year; or

20 (iii) both; or

1 (B)(i) earned wages from which contributions were withheld
2 pursuant to section 2053 of this chapter in two of the last four calendar quarters
3 and provided documentation of those wages that is acceptable to the Director;

4 (ii) made contributions to the Fund on covered work income that
5 was earned during two of the last four calendar quarters and provided
6 documentation of that covered work income that is acceptable to the Director;

7 or

8 (iii) both;

9 (3) the individual is unable to work because the individual:

10 (A) has a serious health condition;

11 (B) is caring for a family member with a serious health condition;

12 (C) is pregnant;

13 (D) is recovering from childbirth or miscarriage;

14 (E) is caring for a new child during the first year following the birth,
15 adoption, or placement for foster care of that child;

16 (F) is taking safe leave;

17 (G) is taking a bereavement leave; or

18 (H) is taking leave related to a qualifying exigency of a family

19 member who is on active duty in the U.S. Armed Forces or who has been

20 called to active duty in the U.S. Armed Forces; and

1 (4) the Director determines that the individual is not disqualified
2 pursuant to section 2065 of this chapter.

3 § 2056. APPLICATION FOR BENEFITS

4 (a)(1) An employee or enrolled self-employed individual, or the
5 employee’s or enrolled self-employed individual’s agent, may apply for
6 benefits pursuant to this chapter by filing an application with the Division in a
7 form approved by the Director.

8 (2) An employee or enrolled self-employed individual, or the
9 employee’s or enrolled self-employed individual’s agent, shall, to the extent
10 possible, submit documentation of the need for the leave together with the
11 application filed pursuant to subdivision (1) or this subsection. The Director
12 shall specify acceptable forms of documentation on the application form.

13 (b)(1) The Division shall review each application and any accompanying
14 documentation and determine if the employee or enrolled self-employed
15 individual is eligible to receive benefits pursuant to section 2055 of this
16 chapter not later than five business days after the date the application is filed
17 with the Division.

18 (2) Notwithstanding subdivision (1) of this subsection, the Director may
19 extend the time in which to make a determination by not more than 15 business
20 days if necessary to obtain documents or information that are needed to make
21 the determination.

1 (c) An employee or enrolled self-employed individual may file an
2 application for benefits up to 60 calendar days before an anticipated family and
3 medical leave, safe leave, or bereavement leave or, in the event of a premature
4 birth, an unanticipated serious health condition, safe leave or, the death of a
5 family member within 60 calendar days after commencing a family and
6 medical leave, safe leave, or bereavement leave.

7 § 2057. PAYMENT OF BENEFITS; TAX WITHHOLDING

8 (a) Benefits shall be paid to a qualified individual for the time period
9 beginning on the day the qualified individual's leave began.

10 (b) A qualified individual's first benefit payment shall be sent within 14
11 calendar days after the qualified individual's claim is approved or the
12 individual's leave begins, whichever is later, and subsequent payments shall be
13 sent biweekly.

14 (c)(1) Except as otherwise provided pursuant to section 2062 of this
15 chapter and subdivision (2) and (3) of this subsection, benefits paid pursuant to
16 the provisions of this chapter shall not be assignable before payment and shall
17 be exempt from all claims of creditors, and from levy, execution, attachment,
18 trustee process, and any other remedy provided for the recovery or collection
19 of a debt.

1 (2)(A) An individual filing a new claim for benefits pursuant to this
2 chapter shall, at the time of filing, notify the Division of whether the individual
3 owes child support obligations.

4 (B) If, during the review of the individual’s application, the Director
5 determines that the individual has outstanding, unpaid child support
6 obligations, the Director shall deduct and withhold an amount necessary to pay
7 the outstanding, unpaid child support obligations from any benefits payable to
8 the individual pursuant to this chapter and remit that amount to the appropriate
9 child support enforcement agency. The amount deducted and withheld from
10 an individual’s benefits pursuant to this subdivision (B) shall not exceed 30
11 percent of the benefit payment to the individual.

12 (C) In the absence of any outstanding, unpaid child support
13 obligation, an individual may request that the Director deduct and withhold a
14 specified amount from the individual’s benefits and remit that amount to the
15 appropriate entity as payment of the individual’s child support obligations.

16 (3) If an individual has outstanding Vermont State tax liability, the
17 Director shall deduct and withhold the outstanding amount from the benefits
18 payable to the individual pursuant to this chapter and remit it to the
19 Commissioner of Taxes. The amount deducted and withheld from an
20 individual’s benefits pursuant to this subdivision shall not exceed 30 percent of
21 the benefit payment to the individual.

1 (d)(1) An individual filing a claim for benefits pursuant to this chapter
2 shall, at the time of filing, be advised that Family and Medical Leave Insurance
3 benefits may be subject to income tax and that the individual’s benefits may be
4 subject to withholding.

5 (2) All procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A.
6 chapter 151, subchapter 4 pertaining to the withholding of income tax shall be
7 followed in relation to the payment of benefits.

8 § 2058. ELECTIVE COVERAGE

9 (a)(1) A self-employed individual may elect to obtain coverage through the
10 Program for an initial period of three years by filing a notice of the election
11 with the Division on a form provided by the Director.

12 (2) After electing to obtain coverage pursuant to this section, an enrolled
13 self-employed individual shall, if otherwise eligible pursuant to section 2055 of
14 this chapter, be able to receive benefits through the Program after paying
15 contributions pursuant to section 2053 of this chapter in two calendar quarters
16 within a four-calendar quarter period.

17 (b) A self-employed individual who elects to obtain coverage pursuant to
18 this section shall agree as a condition of obtaining coverage to provide to the
19 Director and the Commissioner of Taxes any documentation of the self-
20 employed individual’s work income and any related information that the

1 Director, in consultation with the Commissioner of Taxes, determines is
2 necessary.

3 (c)(1) An enrolled self-employed individual may terminate the coverage at
4 the end of the initial three-year period by providing the Director with written
5 notice of the termination at least 30 calendar days before the end of the period.

6 (2) An enrolled self-employed individual who does not terminate
7 coverage at the end of the initial three-year period may terminate the coverage
8 at the end of any succeeding annual period by providing the Director with
9 written notice of the termination at least 30 calendar days before the end of the
10 period.

11 (3) Notwithstanding subdivisions (1) and (2) of this subsection, an
12 enrolled self-employed individual who becomes an employee or stops working
13 in Vermont may elect to terminate coverage pursuant to this section by
14 providing the Director with 30 calendar days' written notice in accordance
15 with rules adopted by the Director.

16 (d) Nothing in this section shall be construed to prevent an individual who
17 is both an employee and a self-employed individual from electing to obtain
18 coverage pursuant to this section.

19 § 2059. EMPLOYER OPTION; PRIVATE PLAN

20 (a)(1) As an alternative to and in lieu of participating in the Program, an
21 employer may, upon approval by the Director, comply with the requirements

1 of this chapter through a private plan that provides to all of its employees
2 benefits that are equal to or more generous than the benefits provided pursuant
3 to this chapter.

4 (2) An employer may elect to provide such benefits by:

5 (A) establishing and maintaining to the satisfaction of the Director
6 necessary self-insurance; or

7 (B) purchasing insurance coverage from an insurance carrier
8 authorized to provide family and medical leave insurance in this State.

9 (b)(1) The Director shall approve a private plan under this section upon
10 making a determination that it:

11 (A) provides leave for periods that are equal to or more generous than
12 the leave provided pursuant to this chapter;

13 (B) provides coverage for all employees who would otherwise be
14 eligible for benefits pursuant to this chapter;

15 (C) costs employees the same or less than the employees' portion of
16 the contribution would be pursuant to subsection 2053(a) of this chapter;

17 (D) provides coverage for all forms of leave for which benefits may
18 be paid pursuant to this chapter;

19 (E) provides wage replacement in an amount that is equal to or
20 greater than the rate of wage replacement provided pursuant to section 2054 of
21 this chapter;

1 (F) imposes no additional restrictions or conditions on the use of paid
2 leave benefits beyond the restrictions and conditions that are established
3 pursuant to this chapter and the rules adopted by the Director; and

4 (G) satisfies any additional requirements established in rules adopted
5 by the Director in consultation with the Commissioner of Financial Regulation.

6 (2) Nothing in this section shall be construed to require the benefits
7 provided by a private insurance or benefit plan to be identical to the benefits
8 provided pursuant to this chapter.

9 (c)(1)(A) An employer shall submit an application to the Director for
10 approval of a new or modified private plan on or before October 15 of the
11 calendar year prior to when it is proposed to take effect.

12 (B) The Director shall make a determination and notify the employer
13 of whether its application has been approved on or before December 1. If the
14 application is approved, the Director shall also provide a copy of the notice to
15 the Commissioner of Taxes on or before December 1.

16 (2) Following the approval of its private plan, an employer shall cease to
17 participate in the Program beginning on the next January 1 and the approval
18 shall remain in effect until it is terminated pursuant to subdivision (3) of this
19 subsection.

20 (3) An employer with an approved private plan may terminate the
21 approval effective January 1 of any year by filing notice of termination with

1 the Director and the Commissioner of Taxes on or before November 1 of the
2 prior year.

3 (d) A contested determination or a denial of benefits under a private plan
4 approved pursuant to this section shall be subject to appeal pursuant to section
5 2060 of this chapter.

6 (e)(1) The Director may terminate the approval of a private plan approved
7 pursuant to this section if the Director determines that the terms and conditions
8 of the plan have been violated, including if the plan:

9 (A) fails to pay benefits in a timely manner or in a manner that is
10 consistent with the plan’s terms;

11 (B) misuses private plan funds;

12 (C) fails to submit required reports to the Director; or

13 (D) fails to comply with any applicable provisions of law or with
14 rules adopted by the Director.

15 (2) The Director shall provide notice to the employer of the proposed
16 termination that includes the date on which the approval will terminate and the
17 reason for the termination.

18 (3) An employer may appeal the termination to the Director in
19 accordance with rules adopted by the Director.

20 (f)(1) An employee who ceases to be covered by an approved private plan
21 shall, for purposes of determining eligibility for benefits pursuant to the

1 provisions of section 2055 of this chapter, be treated as if the employee had
2 earned wages from which contributions were withheld during the period of the
3 employee’s employment with the employer.

4 (2) For purposes of this subsection (f), an employee ceases to be covered
5 by a private plan if:

6 (A) the employee separates from employment with the employer due
7 to a layoff or the end of seasonal employment with the employer;

8 (B) the employer terminates the employer’s private plan pursuant to
9 subdivision (c)(3) of this section;

10 (C) the approval of the employer’s private plan is terminated by the
11 Director pursuant to subsection (e) of this section; or

12 (D) the employer becomes insolvent or ceases to do business in
13 Vermont.

14 § 2060. APPEALS

15 (a)(1) An employer or individual aggrieved by a decision of the Director
16 relating to eligibility for benefits, the amount of benefits that a qualified
17 individual is entitled to receive, or the amount of contributions due may file
18 with the Director a petition for reconsideration within 30 calendar days after
19 receipt of the decision. The petition shall set forth in detail the grounds upon
20 which it is claimed that the decision is erroneous and may include materials
21 supporting that claim.

1 (2) If an employer petitions the Director to reconsider a decision relating
2 to an application for benefits or the amount of benefits that a qualified
3 individual is entitled to receive, the Director shall promptly notify the
4 individual who applied for the benefits of the petition by ordinary, certified, or
5 electronic mail and provide the individual with an opportunity to file an answer
6 to the employer’s petition.

7 (3) The Director shall promptly notify the employer or individual, or
8 both, as appropriate, of the Director’s decision by ordinary, certified, or
9 electronic mail.

10 (b) An employer or individual aggrieved by the Director’s decision on
11 reconsideration may file an appeal with the Supreme Court within 30 calendar
12 days after receiving the decision.

13 (c) Any determination, redetermination, finding of fact, conclusion of law,
14 decision, order, or judgment entered or made pursuant to this section shall only
15 be binding on the Division and all parties in that proceeding and is not binding,
16 conclusive, or admissible in any separate or subsequent action between an
17 individual and any other party brought before an arbitrator, court, or judge of
18 this State or of the United States, regardless of whether the prior proceeding
19 was between the same or related parties or involved the same facts.

1 § 2061. FALSE STATEMENT OR REPRESENTATION; PENALTY

2 (a)(1) An individual who intentionally makes a false statement or
3 representation for the purpose of obtaining any benefit or payment or to avoid
4 payment of any required contributions under the provisions of this chapter,
5 whether for themselves or for any other person, after notice and opportunity for
6 hearing, shall be prohibited from receiving benefits pursuant to this chapter for
7 a period of not less than one year and not more than three years as determined
8 to be appropriate by the Director.

9 (2) The penalty imposed pursuant to this section shall be in addition to
10 any liability incurred by the individual pursuant to section 2062 of this chapter.

11 (b) A person who intentionally makes a false statement to avoid payment of
12 any required contributions under the provisions of this chapter shall, after
13 notice and an opportunity for a hearing, be liable for:

14 (1) the full amount of unpaid contributions; and

15 (2) an administrative penalty of not more than \$5,000.00.

16 (c)(1) The administrative penalty imposed pursuant to subsection (b) of this
17 section may be collected in a civil action in Superior Court brought in the
18 name of the Director. If the action is successful, the Director shall be entitled
19 to recover the Division's costs and reasonable attorney's fees incurred in
20 bringing the action.

1 (2) Any amounts recovered and any penalties collected pursuant to this
2 section shall be deposited in the Fund.

3 § 2062. OVERPAYMENT OF BENEFITS; COLLECTION

4 (a)(1) Any individual who by nondisclosure or misrepresentation of a
5 material fact, by either the individual or another person, receives benefits that
6 the individual is not eligible to receive shall be liable to repay to the Division
7 the amount received in excess of the amount, if any, that the individual is
8 eligible to receive.

9 (2) Notwithstanding the provisions of subdivision (1) of this subsection,
10 the Director shall waive an overpayment if it was:

11 (A) caused by the Division’s mistake or an unintentional error or
12 omission by another person; and

13 (B) the Director determines that requiring repayment would be
14 against equity and good conscience.

15 (3) Upon determining that an individual is liable for an overpayment of
16 benefits pursuant to subdivision (1) of this subsection, the Director shall
17 provide the individual with notice of the determination. The notice shall
18 include a statement that the individual is liable to repay to the Division the
19 amount of overpaid benefits and shall identify the basis of the overpayment
20 and the time period in which the benefits were paid. The notice shall also

1 provide information regarding the individual’s right to appeal the
2 determination pursuant to the provisions of section 2060 of this chapter.

3 (4) The determination shall be made within not more than three years
4 after the date of the overpayment.

5 (b)(1) An individual liable under this section shall repay the overpaid
6 amount to the Director for deposit into the Fund.

7 (2) The Director may collect the amounts due under this section in a
8 civil action in the Superior Court.

9 (3) An individual may, at any time, request that the Director reduce or
10 waive the amount for which the individual is liable pursuant to subsection (a)
11 of this section. Upon receipt of a request, the Director may reduce or waive
12 the amount for which an individual is liable for good cause or as the Director
13 deems appropriate and just.

14 (c) If an individual is liable to repay any amount pursuant to this section,
15 the Director may withhold, in whole or in part, any future benefits payable to
16 the individual pursuant to this chapter and credit the withheld benefits against
17 the amount due from the individual until it is repaid in full.

18 (d) In addition to the remedy provided pursuant to this section, an
19 individual who intentionally misrepresented or failed to disclose a material fact
20 with respect to the individual’s claim for benefits may be subject to the
21 penalties provided pursuant to section 2061 of this chapter.

1 § 2063. RULEMAKING

2 (a) The Commissioner of Taxes, in consultation with the Director, shall
3 adopt rules as necessary to implement the provisions of this chapter related to
4 the collection of contributions pursuant to section 2053 of this chapter.

5 (b) The Director shall adopt rules as necessary to implement all other
6 provisions of this chapter.

7 § 2064. CONFIDENTIALITY OF INFORMATION

8 (a) Information obtained from an employer or individual in the
9 administration of this chapter and determinations of an individual's right to
10 receive benefits that reveal an employer's or individual's identity in any
11 manner shall be kept confidential and shall be exempt from public inspection
12 and copying under the Public Records Act. Such information shall not be
13 admissible as evidence in any action or proceeding other than one brought
14 pursuant to the provisions of this chapter.

15 (b) Notwithstanding subsection (a) of this section:

16 (1) an individual or the individual's agent may be provided with
17 information to the extent necessary for the proper presentation of the
18 individual's claim for benefits or to inform the individual of the individual's
19 existing or prospective rights to benefits; and

1 (2) an employer may be provided with information that the Director or
2 the Commissioner of Taxes determines is necessary to enable the employer to
3 discharge fully its obligations and protect its rights under this chapter.

4 § 2065. DISQUALIFICATIONS

5 (a) An individual shall be disqualified from receiving benefits for any week
6 in which the individual has received:

7 (1)(A) compensation for temporary total disability under the workers’
8 compensation law of any state or under a similar law of the United States; or

9 (B) compensation for temporary partial disability related to the
10 serious health condition for which the individual is seeking benefits pursuant to
11 this chapter; or

12 (2) unemployment compensation benefits under the law of any state.

13 (b)(1) An individual shall be disqualified from receiving benefits for any
14 day in which the individual receives remuneration from the individual’s
15 employer in an amount that would, in combination with the benefits provided
16 pursuant to this chapter, result in the individual receiving more than the
17 amount of the individual’s average daily wage on a single day or the
18 individual’s average weekly wage during the course of a calendar week.

19 (2) Except as otherwise provided pursuant to subdivision (1) of this
20 subsection, an employer may provide an employee with additional income to
21 supplement the amount of the benefits provided to the employee pursuant to

1 this chapter, provided that the sum of the employer-provided additional income
2 and the benefits provided pursuant to this chapter does not exceed the
3 employee’s average daily wage on any day or the employee’s average weekly
4 wage in any calendar week.

5 (3) As used in this subsection:

6 (A) “Average daily wage” means one-fifth of an individual’s average
7 weekly wage.

8 (B) “Average weekly wage” means either:

9 (i) the sum of a qualified individual’s wages, if any, upon which
10 contributions were paid pursuant to section 2053 of this chapter during the
11 preceding calendar year divided by 52, provided those wages are used for
12 purposes of determining the amount of the individual’s benefits pursuant to
13 this chapter; or

14 (ii) the sum of a qualified individual’s documented wages during
15 the individual’s two highest earning calendar quarters out of the last four
16 completed calendar quarters divided by 26, provided those wages are used for
17 purposes of determining the amount of the individual’s benefits pursuant to
18 this chapter.

19 (C) “Remuneration” means wages and payments for vacation leave,
20 sick leave, or any other accrued paid leave.

1 § 2066. PROTECTION FROM RETALIATION OR INTERFERENCE

2 (a) An employer shall not discharge or in any other manner retaliate against
3 an employee who exercises or attempts to exercise the rights provided pursuant
4 to this chapter. The provisions against retaliation in subdivision 495(a)(8) of
5 this title shall apply to this chapter.

6 (b) An employer shall not interfere with, restrain, or otherwise prevent an
7 employee from exercising or attempting to exercise the employee’s rights
8 pursuant to this chapter.

9 (c) An employer shall not treat any leave for which benefits are provided
10 pursuant to this chapter as an absence that may lead to or result in discipline,
11 discharge, demotion, suspension, or any other adverse employment action.

12 (d) An employee aggrieved by a violation of the provisions of this section
13 may bring an action in Superior Court seeking compensatory and punitive
14 damages or equitable relief, including restraint of prohibited acts, restitution of
15 wages or other benefits, reinstatement, costs, reasonable attorney’s fees, and
16 other appropriate relief.

17 § 2067. NOTICE

18 (a) An employer shall post and maintain in a conspicuous place in and
19 about each of its places of business printed notices of the provisions of this
20 chapter on forms provided by the Director.

1 (b) An employer shall provide written notice of the provisions of this
2 chapter to new employees within 30 calendar days after the date on which they
3 are hired.

4 § 2068. EMPLOYER OBLIGATIONS; EMPLOYEE RIGHTS

5 (a) Nothing in this chapter shall be construed to diminish an employer’s
6 obligation to comply with any collective bargaining agreement, employer
7 policy, or employment agreement that provides more generous benefits than
8 the benefits provided pursuant to this chapter.

9 (b) Nothing in this chapter shall be construed to diminish any rights,
10 privileges, and protections provided to an employee pursuant to a collective
11 bargaining agreement, employer policy, or employment agreement.

12 (c) An employee receiving benefits for family and medical leave, safe
13 leave, leave for a qualifying exigency, or bereavement leave shall be entitled to
14 all rights and protections provided pursuant to section 472 of this title and the
15 federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654, to which the
16 employee would otherwise be entitled.

17 (d) Any agreement to waive the rights and protections provided to an
18 employee pursuant to this chapter shall be void.

19 § 2069. ANNUAL REPORT

20 (a) On or before February 15 of each year, the Director shall publish a
21 report regarding the usage of the Program during the preceding calendar year.

1 **(b) The report shall include the following information:**

2 **(1) the total number of claims filed;**

3 **(2) the total number and percentage of claims approved;**

4 **(3) the total number and percentage of claims denied, broken down by**
5 **the reason for denial;**

6 **(4) the percentage of claims, both total and approved claims, attributable**
7 **to each eligible reason for leave;**

8 **(5) average weekly benefit and average length of leave, broken down by**
9 **eligible reason for leave;**

10 **(6) the total number of enrolled self-employed individuals;**

11 **(7) the total number of covered employees and enrolled self-employed**
12 **individuals and the percentage of working Vermonters who are covered by the**
13 **Program;**

14 **(8) the gross benefits paid by the Program and any changes in the**
15 **amount of gross benefits paid in comparison to prior years; and**

16 **(9) the average time required to process an initial claim and an appeal,**
17 **as well as the average time from submission of a benefits application to final**
18 **determination.**

19 **(c) All information provided pursuant to subdivisions (b)(1)–(5) of this**
20 **section shall be further broken down by claimant demographics, including age.**

1 gender, race, ethnicity, income, geographic distribution by county, and
2 occupation.

3 § 2070. DEFINITIONS

4 As used in this chapter:

5 (1) “Agent” means an individual who holds a valid power of attorney
6 for an employee or self-employed individual or another legal authorization to
7 act on the employee or self-employed individual’s behalf that is acceptable to
8 the Director.

9 (2) “Average weekly earnings” means either:

10 (A) the sum of a qualified individual’s wages, if any, upon which
11 contributions were paid pursuant to section 2053 of this chapter during the
12 preceding calendar year plus the qualified individual’s self-employment
13 income, if any, upon which contributions were paid pursuant to section 2053 of
14 this chapter during the preceding calendar year divided by 52; or

15 (B) the sum of a qualified individual’s documented wages, if any,
16 upon which contributions were paid pursuant to section 2053 of this chapter
17 during the individual’s two highest earning calendar quarters out of the last
18 four completed calendar quarters, plus, the qualified individual’s self-
19 employment income, if any, upon which contributions were paid pursuant to
20 section 2053 of this chapter during those two calendar quarters divided by 26.

1 (3) “Benefits” means Family and Medical Leave Insurance benefits
2 provided pursuant to this chapter.

3 (4) “Bereavement leave” means a leave of absence from employment or
4 self-employment by an individual due to the death of the individual’s family
5 member that occurs not more than one year after the family member’s death.
6 Bereavement leave includes leave taken in relation to the administration or
7 settlement of the deceased family member’s estate. Leave taken in relation to
8 the administration or settlement of the deceased family member’s estate may
9 occur more than one year after the family member’s death.

10 (5) “Director” means the Director of the Division of Family and Medical
11 Leave.

12 (6) “Division” means the Division of Family and Medical Leave in the
13 Office of the Treasurer.

14 (7) “Domestic partner” means an individual with whom the qualified
15 individual has an enduring domestic relationship of a spousal nature, provided
16 the qualified individual and the domestic partner:

17 (A) have shared a residence for at least six consecutive months;

18 (B) are at least 18 years of age;

19 (C) are not married to or considered a domestic partner of another
20 individual;

1 (D) are not related by blood closer than would bar marriage under
2 State law; and

3 (E) have agreed between themselves to be responsible for each
4 other’s welfare.

5 (8) “Domestic violence” has the same meaning as in 15 V.S.A. § 1151.

6 (9) “Employee” means an individual who receives payments with
7 respect to services performed for an employer from which the employer is
8 required to withhold Vermont income tax pursuant to 32 V.S.A. chapter 151,
9 subchapter 4.

10 (10) “Employer” means a person who employs one or more employees.

11 (11) “Enrolled self-employed individual” means a self-employed
12 individual who has obtained coverage under the Program pursuant to section
13 2058 of this chapter.

14 (12) “Family and medical leave” means a leave of absence from
15 employment or from self-employment by a qualified individual for one of the
16 following reasons:

17 (A) the qualified individual’s own serious health condition;

18 (B) to care for a family member with a serious health condition;

19 (C) the qualified individual’s pregnancy;

20 (D) recovery from childbirth or miscarriage;

1 (E) the birth of the qualified individual’s child and to care for or bond
2 with the qualified individual’s child within one year after the child’s birth;

3 (F) the initial placement of a child 18 years of age or younger with
4 the qualified individual for the purpose of adoption or foster care and to care
5 for or bond with the child within one year after the placement for adoption or
6 foster care; or

7 (G) a qualifying exigency arising out of a qualified individual’s
8 family member’s active duty service in the U.S. Armed Forces or notice of an
9 impending call or order to active duty in the U.S. Armed Forces.

10 (13) “Family member” means:

11 (A) regardless of age, a qualified individual’s biological, adopted, or
12 foster child; a qualified individual’s stepchild or legal ward; a child of the
13 qualified individual’s spouse or civil union or domestic partner; a child to
14 whom the qualified individual stands in loco parentis; or an individual to
15 whom the qualified individual stood in loco parentis when the individual was
16 under 18 years of age;

17 (B)(i) a parent of a qualified individual or qualified individual’s
18 spouse or civil union or domestic partner, regardless of whether the
19 relationship to the qualified individual or qualified individual’s spouse or civil
20 union or domestic partner is a biological, foster, adoptive, or step relationship;

1 (ii) a legal guardian of a qualified individual or qualified
2 individual’s spouse or civil union or domestic partner; or

3 (iii) a person who stands in loco parentis for the qualified
4 individual or who stood in loco parentis when the qualified individual or
5 qualified individual’s spouse or civil union or domestic partner was under 18
6 years of age;

7 (C) a person to whom the qualified individual is legally married
8 under the laws of any state or a civil union or domestic partner of a qualified
9 individual;

10 (D) a grandparent, grandchild, or sibling of the qualified individual or
11 qualified individual’s spouse or civil union or domestic partner, regardless of
12 whether the relationship to the qualified individual or the qualified individual’s
13 spouse or civil union or domestic partner is a biological, foster, adoptive, or
14 step relationship; or

15 (E) as shown by the qualified individual, any other individual with
16 whom the qualified individual has a significant personal bond that is or is like
17 a family relationship, regardless of biological or legal relationship, under the
18 totality of the circumstances surrounding the relationship, including:

19 (i) evidence of shared financial responsibility, such as a shared
20 lease, common ownership of property, joint liability for bills, and beneficiary
21 designations;

1 (ii) evidence of responsibility for the other’s personal well-being,
2 including emergency contact designations or an advance directive, as that term
3 is defined pursuant to 18 V.S.A. § 9701;

4 (iii) evidence showing an expectation of care created by the
5 relationship or the prior provision of care, or both;

6 (iv) cohabitation for a period of at least six months or geographic
7 proximity; and

8 (v) other similar evidence demonstrating a significant personal
9 bond.

10 (14) “Health care provider” means a licensed health care provider or a
11 health care provider as defined pursuant to 29 C.F.R. § 825.125.

12 (15) “Highest earning quarters” means the two calendar quarters of the
13 last four completed calendar quarters when an individual earned the highest
14 combined total of wages upon which contributions were paid pursuant to
15 section 2053 of this chapter and self-employment income upon which
16 contributions were paid pursuant to section 2053 of this chapter.

17 (16) “In loco parentis” means a relationship in which an individual has
18 day-to-day responsibilities to care for and financially support a child.

19 (17) “Program” means the Family and Medical Leave Insurance
20 Program created pursuant to this chapter.

1 (18) “Qualified individual” means an employee or enrolled self-
2 employed individual who:

3 (A) satisfies the eligibility requirements established pursuant to
4 section 2056 of this chapter; and

5 (B) has submitted an application and all necessary documentation of
6 the need for the leave pursuant to section 2057 of this chapter.

7 (19) “Qualifying exigency” means a qualifying exigency identified
8 pursuant to 29 C.F.R. § 825.126 that is related to active duty service by a
9 family member in the U.S. Armed Forces.

10 (20) “Safe leave” means a leave of absence from employment or self-
11 employment by a qualified individual because:

12 (A) the qualified individual or the qualified individual’s family
13 member is a victim of domestic violence, sexual assault, or stalking;

14 (B) the qualified individual is using the leave for one of the following
15 reasons related to the domestic violence, sexual assault, or stalking:

16 (i) to seek or obtain medical care, counseling, or social or legal
17 services, either for themselves or for a family member;

18 (ii) to recover from injuries;

19 (iii) to participate in safety planning, either for themselves or for a
20 family member;

1 (iv) to relocate or secure safe housing, either for themselves or for
2 a family member; or

3 (v) to meet with a State’s Attorney or law enforcement officer;
4 and

5 (C) the qualified individual is not the alleged perpetrator of the
6 domestic violence, sexual assault, or stalking.

7 (21) “Self-employed individual” means a sole proprietor or partner
8 owner of an unincorporated business, the sole member of an LLC, or the sole
9 shareholder of a corporation.

10 (22) “Self-employment income” has the same meaning as in 26 U.S.C.
11 § 1402.

12 (23) “Serious health condition” means:

13 (A) an accident, illness, injury, disease, or physical or mental
14 condition that:

15 (i) poses imminent danger of death;

16 (ii) requires inpatient care in a hospital, hospice, or residential
17 medical care facility; or

18 (iii) requires continuing treatment by a health care provider; or

19 (B) rehabilitation from an accident, illness, injury, disease, or
20 physical or mental condition described in subdivision (A) of this subdivision

21 (23), including treatment for substance use disorder.

1 (24) “Sexual assault” has the same meaning as in 15 V.S.A. § 1151.

2 (25) “Stalking” has the same meaning as in 15 V.S.A. § 1151.

3 (26) “U.S. Armed Forces” means:

4 (A) the U.S. Army, Navy, Air Force, Marine Corps, Space Force, and
5 Coast Guard;

6 (B) a reserve component of the U.S. Army, Navy, Air Force, Marine
7 Corps, Space Force, and Coast Guard; or

8 (C) the National Guard of any state.

9 (27) “Wages” means all remuneration paid by an employer to an
10 employee for services or work performed by the employee. Wages include
11 salaries, tips, commissions, bonuses, and the cash value of any remuneration
12 paid in a medium other than cash. The reasonable cash value of remuneration
13 paid in a medium other than cash shall be estimated and determined in
14 accordance with rules adopted pursuant to 21 V.S.A. chapter 17. Wages shall
15 not include:

16 (A) The amount of any payment made to, or on behalf of, an
17 employee or any of the employee’s dependents under a plan or system
18 established by an employer that provides insurance, annuities, or a fund or plan
19 that provides for the employer’s employees or the employees’ dependents, or
20 both, or any class or classes of the employees or the employees’ dependents, or
21 both, on account of:

1 (i) sickness, accident, or disability;

2 (ii) medical or hospitalization expenses in connection with
3 sickness, accident, or disability; or

4 (iii) death.

5 (B) Any payment on account of sickness, accident, or disability, or
6 any medical or hospitalization expenses in connection with sickness, accident,
7 or disability, that is made by an employer to, or on behalf of, an employee
8 more than six calendar months after the last calendar month in which the
9 employee worked for the employer.

10 (C) Any payment made to, or on behalf of, an employee or the
11 employee’s beneficiary:

12 (i) from or to a trust described in 26 U.S.C. § 401(a) that is exempt
13 from tax under 26 U.S.C. § 501(a) at the time of the payment, unless the
14 payment is made to an employee of the trust as remuneration for services
15 rendered as the employee and not as a beneficiary of the trust; or

16 (ii) under or to an annuity plan that, at the time of such payment,
17 is a plan described in 26 U.S.C. § 403(a).

18 Sec. 6. 32 V.S.A. § 3102(e) is amended to read:

19 (e) The Commissioner may, in the Commissioner’s discretion and subject
20 to such conditions and requirements as the Commissioner may provide,

1 including any confidentiality requirements of the Internal Revenue Service,
2 disclose a return or return information:

3 * * *

4 (22) To the Treasurer and to the Director of the Division of Family and
5 Medical Leave, provided the return or return information relates to the
6 provision of family and medical leave insurance under 21 V.S.A. chapter 26.

7 Sec. 7. ADOPTION OF RULES

8 (a) On or before April 1, 2025, the Director of the Division of Family and
9 Medical Leave shall adopt rules necessary to implement the provisions of 21
10 V.S.A. chapter 26.

11 (b) On or before April 1, 2025, the Commissioner of Taxes, in consultation
12 with the Director of the Division of Family and Medical Leave, shall adopt
13 rules as necessary to carry out the provisions of 21 V.S.A. § 2053.

14 Sec. 8. EDUCATION AND OUTREACH

15 (a)(1) On or before June 1, 2025, the Director of the Division of Family
16 and Medical Leave shall develop and make available on the Division’s website
17 information and materials to educate and inform employers and employees
18 about the Family and Medical Leave Insurance Program established pursuant
19 to 21 V.S.A. chapter 26.

20 (2)(A) During the period from June 1, 2025 through May 31, 2026, the
21 Division shall offer monthly informational sessions for employers, employees,

1 and self-employed individuals. The Director shall ensure that sessions are
2 available to both individuals attending in person and to individuals who are not
3 physically present by:

4 (i) using technology that permits the attendance of individuals
5 through electronic or other means;

6 (ii) allowing individuals to access the session by telephone; and

7 (iii) posting information that allows individuals to directly access
8 and participate in each session electronically and providing that information on
9 the Division’s website and in any public notice for a session.

10 (B) Sessions for employers shall be developed in consultation with
11 the Department of Taxes and shall be designed to educate employers regarding
12 employers’ rights and obligations under 21 V.S.A. chapter 25 and shall include
13 information regarding resources available to employers through the Division
14 and the Department of Taxes.

15 (C) Sessions for employees shall be developed in consultation with
16 the Department of Taxes and shall be designed to educate employees regarding
17 employees’ rights and obligations under 21 V.S.A. chapter 25, the tax credit
18 available to certain individuals pursuant to 32 V.S.A. § 5830g, and resources
19 available to employees through the Division and the Department of Taxes.

20 (D) Sessions for self-employed individuals shall be developed in
21 consultation with the Department of Taxes and shall be designed to educate

1 self-employed individuals regarding self-employed individuals' rights and
2 obligations under 21 V.S.A. chapter 25, the tax credit available to certain
3 individuals pursuant to 32 V.S.A. § 5830g, and resources available to self-
4 employed individuals through the Division and the Department of Taxes.

5 (b) The Director shall make available translations of all information and
6 materials created pursuant to subsection (a) of this section on the Division's
7 website in the five most commonly spoken languages in Vermont after
8 English.

9 (c) The Division's website shall be accessible to individuals with
10 disabilities in accordance with WCAG 2.1 AA or a similar updated standard.

11 **Sec. 9. ADEQUACY OF RESERVES; REPORT**

12 Annually, on or before December 15, 2025, 2026, 2027, and 2028, the
13 Director of the Division of Family and Medical Leave, in consultation with the
14 Commissioners of Finance and Management, of Financial Regulation, and of
15 Taxes, shall submit a written report to the House Committees on
16 Appropriations; on General and Housing; and on Ways and Means and the
17 Senate Committees on Appropriations; on Economic Development, Housing
18 and General Affairs; and on Finance regarding the amount and adequacy of the
19 reserves in the Family and Medical Leave Insurance Special Fund and any
20 recommendations for legislative action necessary to ensure that an adequate
21 reserve is maintained in the Fund.

1 **Sec. 10. PRIVATE PLANS; INITIAL APPROVAL**

2 (a) An employer wishing to utilize a private plan to meet the employer's
3 obligations pursuant to 21 V.S.A. chapter 26 beginning on January 1, 2026
4 shall submit an application for approval of a private plan on or before October
5 15, 2025.

6 (b) The Director of the Division of Family and Medical Leave shall review
7 the proposed plan as provided pursuant to the provisions of 21 V.S.A. § 2059.

8 (c) An employer that receives approval for a private plan pursuant to this
9 section shall:

10 (1) beginning on January 1, 2026, be exempt from withholding and
11 paying contributions as provided pursuant to 21 V.S.A. 2053(d);

12 (2) begin providing benefits pursuant to the private plan on or before
13 January 1, 2026; and

14 (3) on or before January 15, 2026, be reimbursed by the Director for any
15 contributions that the employer paid for the calendar quarters ending
16 September 30, 2025 and December 31, 2025.

17 **Sec. 11. APPROPRIATIONS**

18 (a) The amount of \$35,100,000.00 is appropriated to the Division of Family
19 and Medical Leave for fiscal years 2024, 2025, and 2026 to be deposited in the
20 Family and Medical Leave Insurance Special Fund and used for the
21 establishment of the Family and Medical Leave Insurance Program.

1 **(b) The amount of \$5,107,500.00 is appropriated to the Department of**
2 **Taxes for fiscal years 2024, 2025, and 2026 to be deposited in the Family and**
3 **Medical Leave Insurance Special Fund and used for the establishment of the**
4 **Family and Medical Leave Insurance Program.**

5 **(c) The amount of \$97,151,064.00 is transferred from the General Fund to**
6 **the Family and Medical Leave Insurance Special Fund for the costs of**
7 **operating the Family and Medical Leave Insurance Program during calendar**
8 **year 2026 and the maintenance of the reserve required pursuant to 21 V.S.A.**
9 **§ 2053(b).**

10 **Sec. 12. DEPARTMENT OF TAXES; POSITIONS**

11 **(a) The establishment of the following new permanent classified positions**
12 **is authorized in the Department of Taxes in Fiscal Year 2024:**

13 **(1)**

14 **(2)**

15 **(b) The establishment of the following new permanent exempt positions is**
16 **authorized in the Department of Taxes in Fiscal Year 2024:**

17 **(1)**

18 **(2)**

19 **(c) The establishment of the following new classified limited-service**
20 **positions is authorized in the Department of Taxes in Fiscal Year 2024:**

21 **(1)**

1 (2)

2 (d) The establishment of the following new exempt limited-service

3 positions is authorized in the Department of Taxes in Fiscal Year 2024:

4 (1)

5 (2)

6 **Sec. 13. DIVISION OF FAMILY AND MEDICAL LEAVE; POSITIONS**

7 (a) The establishment of the following new permanent classified positions

8 is authorized in the Division of Family and Medical Leave in Fiscal Year 2024:

9 (1)

10 (2)

11 (b) The establishment of the following new permanent exempt positions is

12 authorized in the Division of Family and Medical Leave in Fiscal Year 2024:

13 (1) one full-time, exempt Director of the Division;

14 (2)

15 (c) The establishment of the following new classified limited-service

16 positions is authorized in the Division of Family and Medical Leave in Fiscal

17 Year 2024:

18 (1)

19 (2)

1 (d) The establishment of the following new exempt limited-service
2 positions is authorized in the Division of Family and Medical Leave in Fiscal
3 Year 2024:

4 (1)

5 (2)

6 Sec. 14. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

7 The Commissioner of Buildings and General Services shall allocate space
8 for the Division of Family and Medical Leave established pursuant to section 6
9 of this act. The space shall be allocated on or before September 30, 2023.

10 * * * Income Tax Credit; Family and Medical Leave Contributions * * *

11 Sec. 15. 32 V.S.A. § 5830g is added to read:

12 § 5830g. FAMILY AND MEDICAL LEAVE CONTRIBUTION CREDIT

13 (a) A qualified individual shall be entitled to a credit against the tax
14 imposed under section 5822 of this title for the taxable year in which the
15 individual made family and medical leave contributions pursuant to 21 V.S.A.
16 chapter 26, provided the qualified individual’s combined annual total of
17 covered wages and covered work income does not exceed \$25,000.00 in the
18 taxable year. The credit under this section shall be in the amount of:

19 (1) \$40.00 for a qualified individual whose combined annual total of
20 covered wages and covered work income does not exceed \$15,000.00; or

1 (2) \$70.00 for a qualified individual whose combined annual total of
2 covered wages and covered work income exceeds \$15,000.00 but is less than
3 or equal to \$25,000.00.

4 (b) The Commissioner of Taxes shall annually adjust for inflation the
5 dollar amounts of the maximum combined annual totals of covered wages and
6 covered work income and the dollar amounts of the credit in subsection (a) of
7 this section by using the adjustment percentage of the national average wage
8 index computed and published for the taxable year by the Commissioner of the
9 Social Security Administration.

10 (c) The Commissioner of Taxes shall transfer the amount of family and
11 medical leave contribution credits paid to qualified individuals pursuant to this
12 section from the Family and Medical Leave Insurance Program Special Fund
13 created under 21 V.S.A. § 2052 to the General Fund created under section 435
14 of this title.

15 (d) As used in this section:

16 (1) “Covered wages” has the same meaning as in 21 V.S.A.
17 § 2053(a)(1)(B).

18 (2) “Covered work income” has the same meaning as in 21 V.S.A.
19 § 2053(a)(2)(B).

20 (3) “National average wage index” has the same meaning as in 42
21 U.S.C. § 409(k)(1).

1

2

Representative _____

3

FOR THE COMMITTEE