

# House Calendar

Friday, February 17, 2023

45th DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Third Reading**

**H. 190**

An act relating to removing the residency requirement from Vermont's patient choice at end of life laws

**NOTICE CALENDAR**

**Favorable with Amendment**

**H. 62**

An act relating to the interstate Counseling Compact

**Rep. Berbeco of Winooski**, for the Committee on Health Care, recommends the bill be amended as follows:

First: By inserting after Sec. 1, 26 V.S.A. chapter 65, a new Sec. 2 to read as follows:

Sec. 2. 3 V.S.A. § 123(j)(1) is amended to read:

(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for license renewal of any Office-issued credential, including a license, certification, registration, or specialty designation for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; ~~and~~

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33;

(E) licensed clinical mental health counselors licensed under 26 V.S.A. chapter 65;

(F) licensed marriage and family therapists licensed under 26 V.S.A. chapter 76; and

(G) individuals registered on the roster of psychotherapists who are nonlicensed and noncertified.

and by renumbering the remaining section to be numerically correct.

Second: By striking out the newly renumbered Sec. 3, effective date, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATES

This section and Sec. 2 (3 V.S.A. § 123(j)(1)) shall take effect on July 1, 2023. Sec. 1 (clinical mental health counselors) shall take effect on July 1, 2024.

**(Committee Vote: 10-0-0)**

**Rep. Andrews of Westford**, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Health Care and when further amended as follows:

First: By inserting a new Sec. 3 after Sec. 2, 3 V.S.A. § 123(j)(1), to read as follows:

Sec. 3. 26 V.S.A. § 3270a is amended to read:

§ 3270a. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

- (1) Application for licensure \$150.00
- (2) Biennial renewal \$200.00

(b) A licensee of a remote state under the Counseling Compact established in subchapter 2 of this chapter shall pay a biennial \$50.00 privilege to practice fee.

and by renumbering the remaining section to be numerically correct.

Second: By deleting the newly renumbered Sec. 4, effective dates, and inserting a new Sec. 4 to read as follows:

Sec. 4. EFFECTIVE DATES

This section and Sec. 2 (3 V.S.A. § 123(j)(1)) shall take effect on July 1, 2023. Sec. 1 (clinical mental health counselors) and Sec. 3 (fees) shall take effect on July 1, 2024.

**(Committee Vote: 11-0-1)**

**H. 66**

An act relating to paid family and medical leave insurance

**Rep. Chesnut-Tangerman of Middletown Springs**, for the Committee on General and Housing, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

§ 471. DEFINITIONS

As used in this subchapter:

(1) “Commissioner” means the Commissioner of Labor.

(2) “Domestic partner” has the same meaning as in 17 V.S.A. § 2414.

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

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

(2)(5) “Employee” means a person who, in consideration of direct or indirect gain or profit, has been continuously employed by the same employer for a period of one year for an average of at least 30 hours per week. For purposes of safe leave only, “employee” means a person who in consideration of direct or indirect gain or profit, has been continuously employed by the same employer for a period of six months for an average of at least 20 hours per week.

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

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

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

(4)(7) “Parental leave” means a leave of absence from employment by an employee who works for an employer which employs 10 or more

~~individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:~~

~~(A) the employee's pregnancy;~~

~~(B) recovery from childbirth or miscarriage;~~

~~(A)(C) the birth of the employee's child and to care for or bond with the child within one year after the child's birth; or~~

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

(8) "Family member" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) to recover from injuries;

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

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

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

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

(5)(12) “Serious illness health condition” means:

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

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

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

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

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

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

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

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

§ 472. LEAVE

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

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

~~(2)(B) for family leave, for the serious illness of the employee or the employee’s child, stepchild or ward of the employee who lives with the employee, foster child, parent, spouse, or parent of the employee’s spouse.~~

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

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

\* \* \*

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



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

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

(3) In the case of an unanticipated serious health condition, a miscarriage, an unanticipated need for safe leave, or a premature birth, the employee shall give the employer notice of the commencement of the leave as soon as practicable.

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

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

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

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

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

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

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

(II) a nonprofit organization that provides support services to protected tenants.

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

(i) consented to by the employee in writing;

(ii) required pursuant to a court order; or

(iii) required pursuant to State or federal law.

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

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

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

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

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

(g) An employer may adopt a leave policy more generous than the leave policy provided by this subchapter. Nothing in this subchapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or any employment benefit program or plan which that provides greater leave rights than the rights provided by this subchapter. A collective bargaining agreement or employment benefit program or plan may not diminish rights provided by this subchapter. ~~Notwithstanding the provisions of this subchapter, an employee may, at the time a need for parental or family leave arises, waive some or all the rights under this subchapter provided the waiver is informed and voluntary and any changes in conditions of employment related to any waiver shall be mutually agreed upon between employer and employee.~~

(h) Except for the serious illness health condition of the employee or safe leave when the employee is the victim or alleged victim, an employee who does not return to employment with the employer who provided the leave shall return to the employer the value of any compensation that the employer paid to or on behalf of the employee during the leave, except payments for accrued

~~sick leave or vacation leave. An employer may elect to waive the rights provided pursuant to this subsection.~~

Sec. 3. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

\* \* \*

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

(5) ~~“Employee” means a person who:~~

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

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

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

~~(B) is employed by an employer and, during at least two of the last four completed calendar quarters, has received payments with respect to services performed for any employer from which the employer is required to withhold Vermont income tax pursuant to 32 V.S.A. chapter 151, subchapter 4.~~

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

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

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

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

~~(A)(C) the employee’s pregnancy;~~

~~(B)(D) recovery from childbirth or miscarriage;~~

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

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

~~(8)~~(7) “Family member” means:

\* \* \*

~~(9)~~(8) “Health care provider” means a licensed health care provider or a health care provider as defined pursuant to 29 C.F.R. § 825.125.

~~(10)~~(9) “In loco parentis” means a relationship in which an individual has day-to-day responsibilities to care for and financially support a child.

~~(11)~~(10) “Safe leave” means a leave of absence from employment by an employee because:

\* \* \*

~~(12)~~(11) “Serious health condition” means:

\* \* \*

~~(13)~~(12) “Sexual assault” has the same meaning as in 15 V.S.A. § 1151.

~~(14)~~(13) “Stalking” has the same meaning as in 15 V.S.A. § 1151.

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

§ 472. LEAVE

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

~~(A)~~ for parental leave; or

~~(B)~~ for family leave.

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

(b) During the leave, at the employee’s option, the employee may use accrued sick leave, vacation leave, any other accrued paid leave, Family and Medical Leave Insurance benefits pursuant to chapter 26 of this Title, or short-term disability insurance or other insurance benefits. Utilization of accrued paid leave, Family and Medical Leave Insurance benefits, or insurance benefits shall not extend the leave provided by this section.

\* \* \*

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

CHAPTER 26. FAMILY AND MEDICAL LEAVE INSURANCE

§ 2051. DIVISION OF FAMILY AND MEDICAL LEAVE; DIRECTOR

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

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

(2) The Director shall be responsible for:

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

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

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

§ 2052. FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM;

SPECIAL FUND

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

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

(c) The Fund shall consist of:

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

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

(3) any amounts appropriated to the Fund.

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

§ 2053. CONTRIBUTIONS; RATE; COLLECTION

(a) The following contribution rates shall apply to employees and enrolled self-employed individuals.

(1)(A) Contributions for employees shall equal 0.55 percent of each employee's covered wages.

(B) An employer may deduct and withhold up to one half of the contribution required for each employee from the employee's covered wages and shall remit the full amount of the contribution required for the employee to the Department of Taxes pursuant to the provisions of subsection (c) of this section.

(C) As used in this subdivision (1), the term "covered wages" means all wages paid to an employee by an employer up to an amount equal to two times the maximum Social Security Contribution and Benefit Base.

(2)(A) Contributions from enrolled self-employed individuals shall equal 0.55 percent of each enrolled self-employed individual's covered work income.

(B) As used in this subdivision (2), the term "covered work income" means self-employment work income earned by an enrolled self-employed individual in Vermont up to an amount equal to two times the maximum Social Security Contribution and Benefit Base.

(b)(1) Annually, on or before October 1, the Director shall establish the rate of contribution for the coming year. The Director shall annually set the rate so that it generates contributions in an amount equal to the sum of the projected amount necessary to provide benefits pursuant to this chapter during the next calendar year plus a reserve equal to at least nine months of the projected benefit payments for the next calendar year plus the projected cost to administer the Program during the next calendar year minus any balance projected to be remaining in the Fund from the prior calendar year.

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

(3) In the event that the Director determines that the rate of contribution for any calendar year shall be one percent, the Director shall, not more than 14 days after making the determination, submit a written report to the Joint Fiscal Committee, the House Committees on Appropriations, on General and

Housing, and on Ways and Means, and the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance that provides a detailed explanation of the reason for the increase, whether the rate is sufficient to pay the projected benefits and administrative costs during the next calendar year while maintaining the required reserve, the solvency of the Fund, and recommended legislative action to reduce the rate of contribution in the following calendar year.

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

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

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

(3) Enrolled self-employed individuals shall make installment payments of estimated contributions pursuant to subdivision (a)(2) of this section from the enrolled self-employed individual's covered work income as if the contributions were Vermont income tax subject to the estimated payment requirements of 32 V.S.A. chapter 151, subchapter 5. The administrative and enforcement provisions of 32 V.S.A. chapter 151 shall apply to the estimated payment requirement under this section as if the contributions due pursuant to subdivision (a)(2) of this section were Vermont income tax.

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

#### § 2054. BENEFITS

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

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

(b) A qualified individual awarded benefits under this section shall receive 100 percent of the individual's average weekly earnings or an amount equal to the State average weekly wage determined pursuant to section 1338 of this title, whichever is less.

(c) A qualified individual may receive benefits for an intermittent leave or leave for a portion of a week. The benefit amount for an intermittent leave or leave for a portion of a week shall be calculated in increments of one full day or one-fifth of the qualified individual's weekly benefit amount.

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

#### § 2055. ELIGIBILITY

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

(1) the individual is an employee or an enrolled self-employed individual who:

(A) earned wages from which contributions were withheld pursuant to section 2053 of this chapter in two of the last four calendar quarters;

(B) made contributions to the Fund on covered work income that was earned during two of the last four calendar quarters; or

(C) both;

(2) the individual is unable to work because the individual:

(A) has a serious health condition;

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

(C) is pregnant;



(D) is recovering from childbirth or miscarriage;

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

(F) is taking safe leave; or

(G) is taking a bereavement leave; and

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

#### § 2056. APPLICATION FOR BENEFITS

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

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

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

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

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

#### § 2057. PAYMENT OF BENEFITS; TAX WITHHOLDING

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

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

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

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

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

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

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

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

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

§ 2058. ELECTIVE COVERAGE

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

(b) A self-employed individual who elects to obtain coverage pursuant to this section shall agree as a condition of obtaining coverage to provide to the Director and the Commissioner of Taxes any documentation of the self-employed individual's work income and any related information that the Director, in consultation with the Commissioner of Taxes, determines is necessary.

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

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

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

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

§ 2059. EMPLOYER OPTION; PRIVATE PLAN

(a)(1) As an alternative to and in lieu of participating in the Program, an employer may, upon approval by the Director, comply with the requirements of this chapter through a private plan that provides to all of its employees benefits that are equal to or more generous than the benefits provided pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) An employer with an approved private plan may terminate the approval effective January 1 of any year by filing notice of termination with the Director and the Commissioner of Taxes on or before November 1 of the

prior year.

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

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

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

(B) misuses private plan funds;

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

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

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

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

(f) Each employee covered by an approved private plan on the date it is terminated shall, for purposes of determining eligibility for benefits pursuant to the provisions of this chapter, be treated as if the employer had paid contributions for that employee pursuant to the provisions of section 2053 of this chapter throughout the period of the employee's employment with the employer.

## § 2060. APPEALS

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

(2) If an employer petitions the Director to reconsider a decision relating to an application for benefits or the amount of benefits that a qualified individual is entitled to receive, the Director shall promptly notify the individual who applied for the benefits of the petition by ordinary, certified, or

electronic mail and provide the individual with an opportunity to file an answer to the employer's petition.

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

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

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

#### § 2061. FALSE STATEMENT OR REPRESENTATION; PENALTY

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

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

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

(1) the full amount of unpaid contributions; and

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

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

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

§ 2062. OVERPAYMENT OF BENEFITS; COLLECTION

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

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

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

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

(3) Upon determining that an individual is liable for an overpayment of benefits pursuant to subdivision (1) of this subsection, the Director shall provide the individual with notice of the determination. The notice shall include a statement that the individual is liable to repay to the Division the amount of overpaid benefits and shall identify the basis of the overpayment and the time period in which the benefits were paid. The notice shall also provide information regarding the individual's right to appeal the determination pursuant to the provisions of section 2060 of this chapter.

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

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

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

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

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

(d) In addition to the remedy provided pursuant to this section, an individual who intentionally misrepresented or failed to disclose a material fact

with respect to the individual's claim for benefits may be subject to the penalties provided pursuant to section 2061 of this chapter.

#### § 2063. RULEMAKING

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

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

#### § 2064. CONFIDENTIALITY OF INFORMATION

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

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

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

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

#### § 2065. DISQUALIFICATIONS

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

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

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

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

(b) An individual shall be disqualified from receiving benefits for any day in which the individual has received:



(1) wages; or

(2) remuneration for vacation leave, sick leave, or any other accrued paid leave.

§ 2066. PROTECTION FROM RETALIATION OR INTERFERENCE

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

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

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

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

§ 2067. NOTICE

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

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

§ 2068. EMPLOYER OBLIGATIONS; EMPLOYEE RIGHTS

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

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

(c)(1) An employee taking family and medical leave shall be entitled to all of the rights and protections provided pursuant to section 472 of this title and the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654.

(2) An employee taking safe leave shall be entitled to all of the rights and protections provided pursuant to section 472d of this title.

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

(e) An employee taking bereavement leave for which benefits are paid pursuant to this chapter shall be entitled to the following rights and protections:

(1) Upon return from the leave, the employee shall be offered the same or a comparable job at the same level of compensation, employment benefits, seniority, or any other term or condition of the employment existing on the day the leave began.

(A) The provisions of this subdivision (1) shall not apply if, prior to requesting leave, the employee had been given notice or had given notice that the employment would terminate.

(B) The provisions of this subdivision (1) shall not apply if the employer can demonstrate by clear and convincing evidence that:

(i) during the period of leave the employee’s job would have been terminated or the employee laid off for reasons unrelated to the leave; or

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

(2) The employer shall continue the employee’s employment benefits for the duration of the leave at the level and under the conditions coverage would be provided if the employee continued in employment continuously for the duration of the leave. The employer may require that the employee contribute to the cost of the employment benefits during the leave at the existing rate of employee contribution.

#### § 2069. DEFINITIONS

As used in this chapter:

(1) “Agent” means an individual who holds a valid power of attorney for an employee or self-employed individual or another legal authorization to

act on the employee or self-employed individual's behalf that is acceptable to the Director.

(2) "Average weekly earnings" means the sum of a qualified individual's wages, if any, upon which contributions have been paid pursuant to section 2053 of this chapter during the individual's two highest-earning quarters plus the qualified individual's self-employment income, if any, upon which contributions have been paid pursuant to section 2053 of this chapter during the individual's two highest-earning quarters divided by 26.

(3) "Benefits" means Family and Medical Leave Insurance benefits provided pursuant to this chapter.

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

(5) "Director" means the Director of the Division of Family and Medical Leave.

(6) "Division" means the Division of Family and Medical Leave in the Office of the Treasurer.

(7) "Domestic partner" has the same meaning as in 17 V.S.A. § 2414.

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

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

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

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

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

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

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

(C) the qualified individual's pregnancy;

(D) recovery from childbirth or miscarriage;

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

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

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

(13) "Family member" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) "Program" means the Family and Medical Leave Insurance Program created pursuant to this chapter.

(18) "Qualified individual" means an employee or enrolled self-employed individual who:

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

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

(19) "Qualifying exigency" means a qualifying exigency related to active duty service in the U.S. Armed Forces that is identified pursuant to 29 C.F.R. § 825.126.

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

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

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

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

(ii) to recover from injuries;

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

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

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

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

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

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

(23) “Serious health condition” means:

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

(i) poses imminent danger of death;

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

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

(B) rehabilitation from an accident, illness, injury, disease, or physical or mental condition described in subdivision (A) of this subdivision (23), including treatment for substance use disorder.

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

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

(26) “U.S. Armed Forces” means:

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

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

(C) the National Guard of any state.

(27) “Wages” means payments that are included in the definition of wages set forth in 26 U.S.C. § 3401.

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

(e) The Commissioner may, in the Commissioner’s discretion and subject to such conditions and requirements as the Commissioner may provide, including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

\* \* \*

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

Sec. 7. ADOPTION OF RULES

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

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

Sec. 8. EDUCATION AND OUTREACH

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

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

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

#### Sec. 9. APPROPRIATION; ADVANCE PAYMENT OF STATE

##### CONTRIBUTIONS

(a) The amount of \$20,000,000.00 is appropriated to the Family and Medical Leave Insurance Special Fund from the General Fund.

(b) The amount appropriated pursuant to subsection (a) of this section shall be considered an advance payment of the State's portion of the contributions due for State employees pursuant to 21 V.S.A. § 2053(a). The State shall receive a credit against the contributions due from the State pursuant to 21 V.S.A. § 2053 equal to 100 percent of the State's portion of the contributions due until the cumulative amount of the credit equals the amount appropriated pursuant to subsection (a) of this section.

#### Sec. 10. ADEQUACY OF RESERVES; REPORT

Annually, on or before January 15, 2026, 2027, 2028, and 2029, the Director of the Division of Family and Medical Leave, in consultation with the Commissioners of Finance and Management, of Financial Regulation, and of Taxes, shall submit a written report to the House Committees on Appropriations; on General and Housing; and on Ways and Means and the Senate Committees on Appropriations; on Economic Development, Housing and General Affairs; and on Finance regarding the amount and adequacy of the reserves in the Family and Medical Leave Insurance Special Fund and any recommendations for legislative action necessary to ensure that an adequate reserve is maintained in the Fund.

#### Sec. 11. PRIVATE PLANS; INITIAL APPROVAL

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

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

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

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

(2) notwithstanding any provision of 21 V.S.A. § 2059 to the contrary,



begin providing benefits pursuant to the private plan on or before October 1, 2026; and

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

#### Sec. 12. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 5, 6, 7, 8, 9, 10, and 11 shall take effect on July 1, 2023.

(b) Secs. 3 and 4 shall take effect on October 1, 2026.

(c) Contributions shall begin to be paid pursuant to 21 V.S.A. § 2053 on July 1, 2025, and, beginning on October 1, 2026, employees may begin to apply for and receive benefits pursuant to 21 V.S.A. chapter 26.

**(Committee Vote: 9-3-0)**

### H. 67

An act relating to household products containing hazardous substances

**Rep. Stebbins of Burlington**, for the Committee on Environment and Energy, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. FINDINGS

The General Assembly finds that:

(1) Thousands of household products sold in the State contain substances designated as hazardous under State or federal law.

(2) Vermont's hazardous waste rules establish specific requirements for the management of hazardous waste, including a prohibition on disposal in landfills.

(3) Leftover household products, known as household hazardous waste (HHW), are regulated through a requirement that municipal solid waste management entities (SWMEs) include provisions in solid waste implementation plans for the management and diversion of unregulated hazardous waste. The State solid waste management plan also requires the SWMEs to each hold a minimum of two HHW collection events every year.

(4) Many SWMEs already offer more than two HHW collection events, and seven of the SWMEs have established permanent facilities for the regular collection of HHW.

(5) HHW collection events and permanent facilities are expensive to operate, and SWMEs spend approximately \$2.2 million a year to manage HHW, costs that are subsequently passed on to the residents of Vermont through taxes, fees, or disposal charges.

(6) As a result of the failure to divert HHW, it is estimated that 855 tons or more per year of HHW are being disposed of in landfills.

(7) There is general agreement among the SWMEs and the Agency of Natural Resources that additional collection sites and educational and informational activities are necessary to capture more of the HHW being disposed of in landfills.

(8) Funding constraints are a current barrier to new collection sites and educational and informational activities.

(9) HHW released into the environment can contaminate air, groundwater, and surface waters, thereby posing a significant threat to the environment and public health.

(10) To improve diversion of HHW from landfills, reduce the financial burden on SWMEs and taxpayers, reduce the cost of the overall system of managing HHW, and lessen the environmental and public health risk posed by improperly disposed of HHW, the State shall implement a program to require the manufacturers of household products containing a hazardous substance to implement a stewardship organization to collect household products containing a hazardous substance free of charge to the public.

Sec. 2. 10 V.S.A. chapter 164B is added to read:

CHAPTER 164B. COLLECTION AND MANAGEMENT OF  
HOUSEHOLD HAZARDOUS PRODUCTS

§ 7181. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Natural Resources.

(2) “Consumer product” means any product that is regularly used or purchased to be used for personal, family, or household purposes.

(3) “Covered entity” means any person who presents to a collection facility or event that is included in an approved collection plan any number of covered household hazardous products, with the exception of large quantity generators or small quantity generators as those terms are defined in the Agency of Natural Resources’ Vermont Hazardous Waste Regulations.

(4)(A) “Covered household hazardous product” means a consumer product offered for retail sale that is contained in the receptacle in which the product is offered for retail sale, if the product has any of the following characteristics:

(i) the product or a component of the product is a hazardous waste under subchapter 2 of the Vermont Hazardous Waste Management Regulations, regardless of the status of the generator of the hazardous waste; or

(ii) the product is a gas cylinder.

(B) “Covered household hazardous product” does not mean any of the following:

(i) a primary battery;

(ii) a lamp that contains mercury;

(iii) a thermostat that contains mercury;

(iv) architectural paint as that term is defined in section 6672 of this title;

(v) a covered electronic device as that term is defined in section 7551 of this title;

(vi) a pharmaceutical drug;

(vii) citronella candles;

(viii) flea and tick collars;

(ix) pesticides required to be registered with the Agency of Agriculture, Food and Markets; or

(x) products that are intended to be rubbed, poured, sprinkled on, sprayed on, introduced into, or otherwise applied to the human body or any part of a human for cleansing, moisturizing, sun protection, beautifying part of a human for cleansing, moisturizing, sun protection, beautifying, promoting attractiveness, or altering appearance, unless designated as a hazardous material or a hazardous waste by the Secretary of Natural Resources.

(5)(A) “Gas cylinder” means:

(i) any nonrefillable cylinder and its contents supplied to a consumer for personal, family, or household use and shall include those containing flammable pressurized gas, spray foam insulating products, single-use and rechargeable handheld fire extinguishers, helium, or carbon dioxide, of any size not exceeding any cylinder with a water capacity of 50 pounds,

including seamless cylinders and tubes, welded cylinders, and insulated cylinders intended to contain helium, carbon dioxide, or flammable materials such as propane, butane, or other flammable compressed gasses; or

(ii) refillable cylinders containing propane for personal, family, or household use not exceeding a water capacity of one pound.

(B) “Gas cylinder” does not include any medical or industrial-grade cylinder.

(6)(A) “Manufacturer” means a person who:

(i) manufactures or manufactured a covered household hazardous product under its own brand or label for sale in the State;

(ii) sells in the State under its own brand or label a covered household hazardous product produced by another supplier;

(iii) owns a brand that it licenses or licensed to another person for use on a covered household hazardous product sold in the State;

(iv) imports into the United States for sale in the State a covered household hazardous product manufactured by a person without a presence in the United States;

(v) manufactures a covered household hazardous product for sale in the State without affixing a brand name; or

(vi) assumes the responsibilities, obligations, and liabilities of a manufacturer as defined under subdivisions (i) through (v) of this subdivision (6)(A), provided that the Secretary may enforce the requirements of this chapter against a manufacturer defined under subdivisions (i) through (v) of this subdivision (6)(A) if a person who assumes the manufacturer’s responsibilities fails to comply with the requirements of this chapter.

(B) “Manufacturer” does not mean a person set forth under subdivisions (A)(i)–(vi) of this subdivision (6) if the person manufactures, sells, licenses, or imports less than \$5,000.00 of covered household hazardous products in the United States in a program year and is registered with the Secretary.

(7) “Orphan covered product” means a covered household hazardous product for which no manufacturer is participating in a stewardship organization pursuant to section 7182 of this title.

(8) “Program year” means the period from January 1 through December 31.

(9) “Retailer” means a person who sells a covered household hazardous product in the State through any means, including a sales outlet, a catalogue, the telephone, the Internet, or any electronic means.

(10) “Secretary” means the Secretary of Natural Resources.

(11) “Sell” or “sale” means any transfer for consideration of title or of the right to use by lease or sales contract a covered household hazardous product to a person in the State of Vermont. “Sell” or “sale” does not include the sale, resale, lease, or transfer of a used covered household hazardous product or a manufacturer’s wholesale transaction with a distributor or a retailer.

(12) “Stewardship organization” means a legal entity such as an organization, association, or entity that has developed a system, method, or other mechanism that assumes the responsibilities, obligations, and liabilities under this chapter of multiple manufacturers of covered household hazardous products.

#### § 7182. SALE OF COVERED HOUSEHOLD HAZARDOUS PRODUCTS;

##### STEWARDSHIP ORGANIZATION REGISTRATION

(a) Sale prohibited. Beginning on July 1, 2025, a manufacturer of a covered household hazardous product shall not sell, offer for sale, or deliver to a retailer for subsequent sale a covered household hazardous product unless all the following have been met:

(1) The manufacturer is participating in a stewardship organization implementing an approved collection plan.

(2) The name of the manufacturer, the manufacturer’s brand, and the name of the covered household hazardous product are submitted to the Agency of Natural Resources by a stewardship organization and listed on the stewardship organization’s website as covered by an approved collection plan.

(3) The stewardship organization in which the manufacturer participates has submitted an annual report under section 7185 of this title.

(4) The stewardship organization in which the manufacturer participates has conducted a plan audit consistent with the requirements of subsection 7185(b) of this title.

(b) Stewardship organization registration requirements.

(1) Beginning on July 1, 2024 and annually thereafter, a stewardship organization shall file a registration form with the Secretary. The Secretary

shall provide the registration form to the stewardship organization. The registration form shall include:

(A) a list of the manufacturers participating in the stewardship organization;

(B) a list of the brands of each manufacturer participating in the stewardship organization;

(C) a list of the covered household hazardous products of each manufacturer participating in the stewardship organization;

(D) the name, address, and contact information of a person responsible for ensuring the manufacturer's compliance with this chapter;

(E) a description of how the stewardship organization meets the requirements of subsection 7184(b) of this title, including any reasonable requirements for participation in the stewardship organization; and

(F) the name, address, and contact information of a person for a nonmember manufacturer to contact regarding how to participate in the stewardship organization to satisfy the requirements of this chapter.

(2) A renewal of a registration without changes may be accomplished through notifying the Agency of Natural Resources on a form provided by the Agency.

#### § 7183. COLLECTION PLANS

(a) Collection plan required. Prior to January 1, 2025, any stewardship organization registered with the Secretary as representing manufacturers of covered household hazardous products shall coordinate and submit to the Secretary for review one collection plan for all manufacturers.

(b) Collection plan; minimum requirements. Each collection plan shall include, at a minimum, all of the following requirements:

(1) List of participants. A list of the manufacturers, brands, and products participating in the collection plan and a methodology for adding and removing manufacturers and notifying the Agency of new participants.

(2) Free statewide collection of covered household hazardous products. The collection program shall provide for free, convenient, and accessible statewide opportunities for the collection from covered entities of covered household hazardous products, including orphan covered products. A stewardship organization shall accept all covered household hazardous products collected from a covered entity and shall not refuse the collection of a covered household hazardous product, including orphan covered household

products, based on the brand or manufacturer of the covered household hazardous product unless specifically exempt from this requirement. The collection program shall also provide for the payment of collection, processing, and end-of-life management of the covered household hazardous products. Collection costs include facility costs, equipment costs, labor, supplies, maintenance, events costs, and event contractor costs, including collection event set-up fees, environmental service fees, insurance fees, and shipping containers and materials.

(3) Convenient collection location. The stewardship organization shall develop a collection program that allows all municipal household hazardous waste collection programs to opt to be a part of the collection plan, including collection events and facilities offered by solid waste planning entities.

(4) Public education and outreach. The collection plan shall include an education and outreach program that shall include a website and may include media advertising, retail displays, articles and publications, and other public educational efforts. Outreach and education shall be suitable for the State's diverse ethnic populations, through translated and culturally appropriate materials, including in-language and targeted outreach. During the first year of program implementation and every two years thereafter, each stewardship organization shall carry out a survey of public awareness regarding the requirements of the program established under this chapter that can identify communities that have disparities in awareness and need more outreach. Each stewardship organization shall share the results of the public awareness surveys with the Secretary. If multiple stewardship organizations are implementing plans approved by the Secretary, the stewardship organizations shall coordinate in carrying out their education and outreach responsibilities under this subdivision and shall include in their annual reports to the Secretary a summary of their coordinated education and outreach efforts. The education and outreach program and website shall notify the public of the following:

(A) that there is a free collection program for covered household hazardous products;

(B) the location and hours of operation of collection points and how a covered entity can access this collection program;

(C) the special handling considerations associated with covered household hazardous products; and

(D) source reduction information for consumers to reduce leftover covered household products.

(5) Compliance with appropriate environmental standards. In implementing a collection plan, a stewardship organization shall comply with all applicable laws related to the collection, transportation, and disposal of hazardous waste. A stewardship organization shall comply with any special handling or disposal standards established by the Secretary for covered household hazardous products or for the collection plan of the manufacturer.

(6) Method of disposition. The collection plan shall describe how covered household hazardous products will be managed in the most environmentally and economically sound manner, including following the waste-management hierarchy. The management of covered household hazardous products under the collection plan shall use management activities in the following priority order: source reduction, reuse, recycling, energy recovery, and disposal. Collected covered household hazardous products shall be recycled when technically and economically feasible.

(7) Performance goals. A collection plan shall include:

(A) A performance goal for covered household hazardous products determined by the number of total participants at collection events and facilities listed in the collection plan during a program year divided by the total number of households. The number of households shall include seasonal households. The calculation methodology for the number of households shall be included in the plan.

(B) At a minimum, the collection performance goal for the first year of a plan shall be a participation rate of five percent of the households for every collection program based on the number of households the collection program serves, provided that the required participation rate shall increase by one percent for every year of the initial plan. After the initial approved program plan, the stewardship organization shall propose performance goals for subsequent program plans. The Secretary shall approve the performance goals for the plan at least every five years. The Secretary shall use the results of the most recent waste composition study required under 6604 of this title and other relevant factors to establish the performance goals of the collection plan. If a stewardship organization does not meet its performance goals, the Secretary may require the stewardship organization to revise the collection plan to provide for one or more of the following: additional public education and outreach, additional collection events, or additional hours of operation for collection sites. A stewardship organization is not authorized to reduce or cease collection, education and outreach, or other activities implemented under an approved plan on the basis of achievement of program performance goals.



(C) Proposed goals for increasing public awareness of the program, including meaningful participation for environmental justice focus populations as required by 3 V.S.A. chapter 72.

(8) Collection plan funding. The collection plan shall describe how the stewardship organization will fund the implementation of the collection plan and collection activities under the plan, including the costs for education and outreach, collection, processing, and end-of-life management of the covered household hazardous product. Collection costs include facility costs, equipment costs, labor, supplies, maintenance, events costs, and event contractor costs, including collection event set-up fees, environmental service fees, insurance fees, and shipping containers and materials. The collection plan shall include how municipalities will be compensated for all costs associated with collection of covered household hazardous products.

(c) Term of collection plan. A collection plan approved by the Secretary under section 7187 of this title shall have a term not to exceed five years, provided that the manufacturer remains in compliance with the requirements of this chapter and the terms of the approved collection plan.

(d) Collection plan implementation. Stewardship organizations shall implement the collection plan on or before July 1, 2025.

#### § 7184. STEWARDSHIP ORGANIZATIONS

(a) Participation in a stewardship organization. A manufacturer shall meet the requirements of this chapter by participating in a stewardship organization that undertakes the responsibilities under sections 7182, 7183, and 7185 of this title.

(b) Qualifications for a stewardship organization. To qualify as a stewardship organization under this chapter, an organization shall:

(1) commit to assume the responsibilities, obligations, and liabilities of all manufacturers participating in the stewardship organization;

(2) not create unreasonable barriers for participation in the stewardship organization; and

(3) maintain a public website that lists all manufacturers and manufacturers' brands and products covered by the stewardship organization's approved collection plan.

#### § 7185. ANNUAL REPORT; COLLECTION PLAN AUDIT

(a) Annual report. On or before September 1, 2026 and annually thereafter, a stewardship organization of manufacturers of covered household

hazardous products shall submit a report to the Secretary that contains all of the following:

(1) A description of the collection program.

(2) The volume or weight by hazard category, as defined by the Secretary, of covered household hazardous products collected, the disposition of the collected covered household hazardous products, and the number of covered entities participating at each collection facility or collection event from which the covered household hazardous products were collected.

(3) The name and address of all the recycling and disposal facilities where the covered household hazardous products are collected and delivered and deposited.

(4) The weight or volume by hazard category of covered household hazardous products sold in the State in the previous calendar year by a manufacturer participating in a stewardship organization's collection plan. Sales data provided under this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Confidential information shall be redacted from any final public report.

(5) A comparison of the collection plan's participation rate and public awareness goals compared to the actual participation rate and public awareness and how the program will be improved if the participation rate and public awareness goals are not met.

(6) A description of the methods used to reduce, reuse, collect, transport, recycle, and process the covered household hazardous products.

(7) The cost of implementing the collection plan, including the costs of administration, collection, transportation, recycling, disposal, and education and outreach.

(8) A description and evaluation of the success of the education and outreach materials. If multiple stewardship organizations are implementing the collection plan approved by the Secretary, the stewardship organizations shall include a summary of their coordinated education and outreach efforts.

(9) Recommendations for any changes to the program.

(b) Collection plan audit. On or before September 1, 2030 and every five years thereafter, a stewardship organization of manufacturers of covered household hazardous products shall hire an independent third party to audit the collection plan and the plan's operation. The auditor shall examine the effectiveness of the program in collecting and disposing of covered household hazardous products. The auditor shall examine the cost-effectiveness of the

program and compare it to that of collection programs for covered household hazardous products in other jurisdictions. The auditor shall make recommendations to the Secretary on ways to increase the program's efficacy and cost-effectiveness.

(c) Public posting. A stewardship organization shall post a report or audit required under this section to the website of the stewardship organization.

#### § 7186. ANTITRUST; CONDUCT AUTHORIZED

(a) Activity authorized. A manufacturer, group of manufacturers, or stewardship organization implementing or participating in an approved collection plan under this chapter for the collection, transport, processing, and end-of-life management of covered household hazardous products is individually or jointly immune from liability for conduct under State laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce under 9 V.S.A. chapter 63, subchapter 1 to the extent that the conduct is reasonably necessary to plan, implement, and comply with the stewardship organization's chosen system for managing discarded covered household hazardous products.

(b) Limitations on antitrust activity. Subsection (a) of this section shall not apply to an agreement among producers, groups of manufacturers, retailers, wholesalers, or stewardship organizations affecting the price of covered household hazardous products or any agreement restricting the geographic area in which or customers to whom covered household hazardous products shall be sold.

#### § 7187. AGENCY RESPONSIBILITIES

(a) Review and approve collection plans. The Secretary shall review and approve or deny collection plans submitted under section 7183 of this title according to the public notice and comment requirements of section 7714 of this title.

(b) Criteria for plan approval.

(1) The Secretary shall approve a collection plan if the Secretary finds that the collection plan:

(A) complies with the requirements of subsection 7183(b) of this title;

(B) provides adequate notice to the public of the collection opportunities available for covered household hazardous products;

(C) ensures that collection of covered household hazardous products will occur in an environmentally sound fashion that is consistent with the law or with any special handling requirements adopted by the Secretary;

(D) promotes the collection and disposal of covered household hazardous products; and

(E) is reasonably expected to meet performance goals and convenience standards.

(2) If a manufacturer or a stewardship organization fails to submit a plan that is acceptable to the Secretary because it does not meet the requirements of this chapter, the Secretary shall modify the submitted plan to make it conform to the requirements of this chapter and place the modified draft plan on notice pursuant to section 7714 of this title.

(c) Collection plan amendment. The Secretary, in the Secretary's discretion or at the request of a manufacturer or a stewardship organization, may require a stewardship organization to amend an approved collection plan. The Secretary shall amend the performance goals in the collection plan at least every five years. Collection plan amendments shall be subject to the public input provisions of section 7717 of this title.

(d) Registrations. The Secretary shall accept, review, and approve or deny registrations required by this chapter. The Secretary may revoke a registration of a stewardship organization when the actions of the stewardship organization are unreasonable, unnecessary, or contrary to the requirements or the policy of this chapter.

(e) Supervisory capacity. The Secretary shall act in a supervisory capacity over the actions of a stewardship organization registered under this section. In acting in this capacity, the Secretary shall review the actions of the stewardship organization to ensure that they are reasonable, necessary, and limited to carrying out requirements of and policy established by this chapter.

(f) Special handling requirements. The Secretary may adopt by rule special handling requirements for the collection, transport, and disposal of covered household hazardous products.

(g) Identification of regulated pesticides. The Secretary annually shall confer with the Secretary of Agriculture, Food and Markets for the purpose of identifying those pesticides that are subject to regulation under this chapter due to registration with the Agency of Agriculture, Food and Markets as Class C pesticides.

§ 7188. OTHER DISPOSAL PROGRAMS

A municipality or other public agency shall not require covered entities to use public facilities to dispose of covered household hazardous products to the exclusion of other lawful programs available. A municipality and other public agencies are encouraged to work with manufacturers to assist them in meeting their collection and disposal obligations under this chapter. Nothing in this chapter prohibits or restricts the operation of any program collecting and disposing of covered household hazardous products in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or disposing of covered household hazardous products, provided that all other applicable laws are met.

§ 7189. RULEMAKING

The Secretary of Natural Resources may adopt rules to implement the requirements of this chapter.

Sec. 3. AGENCY OF NATURAL RESOURCES RECOMMENDATION OF  
REGISTRATION FEE FOR COVERED HOUSEHOLD  
HAZARDOUS PRODUCTS

On or before January 15, 2024, the Secretary of Natural Resources shall submit to the House Committees on Ways and Means and on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy a recommended fee for the registration of stewardship organizations under the covered household hazardous product program under 10 V.S.A. chapter 164B.

Sec. 4. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in solid waste or in landfills:

\* \* \*

(12) Covered household hazardous products after July 1, 2025.

Sec. 5. 10 V.S.A. § 7714 is amended to read:

§ 7714. TYPE 3 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when adopting general permits, except for general permits governed by section 7712 of this chapter, and when considering other permits listed in this section.

(2) The procedures under this section shall be known as Type 3 Procedures. This section governs each of the following:

(A) Each general permit issued pursuant to the Secretary's authority under this title other than a general permit subject to section 7712 of this chapter. However, this section does not apply to a notice of intent under a general permit.

(B) Issuance of a dam safety order under chapter 43 of this title, except for an unsafe dam order under section 1095 of this title.

(C) An application or request for approval of:

(i) an aquatic nuisance control permit under chapter 50 of this title;

(ii) a change in treatment for a public water supply under chapter 56 of this title;

(iii) a collection plan for mercury-containing lamps under section 7156 of this title;

(iv) an individual plan for the collection and recycling of electronic waste under section 7554 of this title; ~~and~~

(v) a primary battery stewardship plan under section 7586 of this title; and

(vi) a covered household hazardous waste collection plan under section 7183 of this title.

\* \* \*

Sec. 6. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

\* \* \*

(30) 3 V.S.A. § 2810, relating to interim environmental media standards; ~~and~~

(31) 10 V.S.A. chapter 124, relating to the trade in covered animal parts or products; and

(32) 10 V.S.A. chapter 164B, relating to collection and management of covered household hazardous products.

\* \* \*

Sec. 7. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

\* \* \*

(V) chapter 124 (trade in covered animal parts or products); and

(W) chapter 164B (collection and management of covered household hazardous products).

(2) 29 V.S.A. chapter 11 (management of lakes and ponds).

(3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

(4) 3 V.S.A. § 2810 (interim environmental media standards).

\* \* \*

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

**(Committee Vote: 11-0-0)**

## H. 76

An act relating to captive insurance

**Rep. Chase of Chester**, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 6045 is amended to read:

§ 6045. BRANCH CAPTIVE REPORTS

Prior to March 1 15 of each year, or with the approval of the Commissioner within ~~60~~ 75 days after its fiscal year-end, a branch captive insurance company shall file with the Commissioner a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the alien captive

insurance company is formed, verified by oath of two of its executive officers. If the Commissioner is satisfied that the annual report filed by the alien captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the alien captive insurance company, the Commissioner may waive the requirement for completion of the captive annual statement for business written in the alien jurisdiction.

Sec. 2. 8 V.S.A. § 6014(h) is amended to read:

(h) Annually, ~~11~~ 13 percent of the premium tax revenues collected pursuant to this section shall be transferred to the Department of Financial Regulation for the regulation of captive insurance companies under this chapter.

Sec. 3. 8 V.S.A. § 6034a is amended to read:

§ 6034a. INCORPORATED PROTECTED CELLS

\* \* \*

(c) The articles of incorporation or articles of organization of an incorporated protected cell shall refer to the sponsored captive insurance company for which it is a protected cell and shall state that the protected cell is incorporated or organized for the limited purposes authorized by the sponsored captive insurance company's license. A copy of the prior written approval of the Commissioner to add the incorporated protected cell, required by subdivision 6034(~~11~~)(8) of this title, shall be attached to and filed with the articles of incorporation or the articles of organization.

(d)(1) An incorporated protected cell formed after ~~May 7, 2015~~ or established prior to the effective date of this act shall have its own distinct name or designation, which shall include the words "Incorporated Cell" or the abbreviation "IC;" or, in the alternative, such incorporated protected cell may instead choose to have its own distinct name or designation consistent with the naming conventions in subdivisions (2)(A)–(C) of this subdivision, as applicable. The provisions of Title 11A V.S.A., chapter 4 and Title 11B V.S.A., chapter 4 shall not apply to the naming of incorporated protected cells.

(2) An incorporated protected cell formed or established on or after the effective date of this act shall have its own distinct name or designation as follows:

(A) If the incorporated protected cell is formed or established as a corporation, mutual corporation, or nonprofit corporation, its name or designation shall include the words "Incorporated Cell" or the abbreviation "IC." The provisions of 11A V.S.A. chapter 4 and 11B V.S.A. chapter 4 shall not apply to the naming of such incorporated protected cell.



(B) If the incorporated protected cell is formed or established as a limited liability company, its name or designation shall include the word “Cell.” In addition, 11 V.S.A. § 4005 shall apply to the naming of such incorporated protected cell.

(C) If the incorporated protected cell is formed or established as a reciprocal insurer, its name or designation shall include the word “Cell.” In addition, subdivision 4834(1) of this title shall apply to the naming of such incorporated protected cell.

\* \* \*

Sec. 4. 8 V.S.A. § 6048k(d) is amended to read:

(d) Unless otherwise approved in advance by the Commissioner, all ~~original~~ books, records, documents, accounts, vouchers, and agreements shall be preserved and kept available in this State for the purpose of examination and inspection and until such time as the Commissioner approves the destruction or other disposition of such books, records, documents, accounts, vouchers, and agreements. If the Commissioner approves the keeping of the items listed in this subsection outside this State, the special purpose financial insurance company shall maintain in this State a complete and true copy of each such ~~original item~~. Books, records, documents, accounts, vouchers, and agreements may be photographed, reproduced on film, or stored and reproduced electronically.

Sec. 5. 8 V.S.A. § 6049h(c) is amended to read:

(c) Unless otherwise approved in advance by the Commissioner, all ~~original~~ books, records, documents, accounts, vouchers, and agreements shall be preserved and kept available in this State for the purpose of examination and inspection and until such time as the Commissioner approves the destruction or other disposition of such books, records, documents, accounts, vouchers, and agreements. If the Commissioner approves the keeping outside this State of the items listed in this subsection, the affiliated reinsurance company shall maintain in this State a complete and true copy of each such ~~original item~~. Books, records, documents, accounts, vouchers, and agreements may be photographed, reproduced on film, or stored and reproduced electronically.

Sec. 6. 8 V.S.A. § 6002(c) is amended to read:

(c)(1) Before receiving a license, a captive insurance company shall:

(A) File with the Commissioner a copy of its organizational documents and any other statements or documents required by the Commissioner.

(B) Submit to the Commissioner for approval a description of the coverages, deductibles, coverage limits, and rates, together with such additional information as the Commissioner may reasonably require. In the event of any subsequent material change in any item in such description, the captive insurance company shall submit to the Commissioner for approval an appropriate revision and shall not offer any additional kinds of insurance until a revision of such description is approved by the Commissioner. The captive insurance company shall inform the Commissioner of any material change in rates within 30 days of following the adoption of such change.

(2) Each applicant captive insurance company shall also file with the Commissioner evidence of the following:

(A) the amount and liquidity of its assets relative to the risks to be assumed;

(B) the adequacy of the expertise, experience, and character of the person or persons who will manage it;

(C) the overall soundness of its plan of operation;

(D) the adequacy of the loss prevention programs of its insureds; ~~and~~

(E) its beneficial ownership, sponsorship, or membership; and

(F) such other factors deemed relevant by the Commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(3) Information submitted pursuant to this subsection, including any subsequent updates, amendments, or revisions of or to such information, shall be and remain confidential, and may not be made public by the Commissioner or an employee or agent of the Commissioner without the written consent of the company, except that:

\* \* \*

## Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

**(Committee Vote: 11-0-0)**

## H. 77

An act relating to Vermont's adoption of the Physical Therapy Licensure Compact

**Rep. Peterson of Clarendon**, for the Committee on Health Care, recommends the bill be amended as follows:

First: In Sec. 1, 26 V.S.A. chapter 38, subchapter 5, in section 2133, in subdivision (1), following “10 U.S.C.”, by striking out “§” and inserting in lieu thereof “chapters”.

Second: In Sec. 1, 26 V.S.A. chapter 38, subchapter 5, following section 2143 (construction and severability), by adding a new section 2144 to read as follows:

§ 2144. STATE ADMINISTRATION OF THE COMPACT

(a) The Office of Professional Regulation shall have the power to oversee the administration and enforcement of the Compact within the State of Vermont subject to the provisions and rules of the Compact.

(b) The Director of the Office of Professional Regulation shall designate the one delegate of the Compact for the State of Vermont pursuant to subsection 2138(b) of this subchapter.

Third: After Sec. 1, 26 V.S.A. chapter 38, subchapter 5, by adding a new Sec. 2 to read as follows:

Sec. 2. 3 V.S.A. § 123(j)(1) is amended to read:

(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for license renewal of any Office-issued credential, including a license, certification, registration, or specialty designation for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; and

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33; and

(E) physical therapists licensed under 26 V.S.A. chapter 38.

and by renumbering the remaining section to be numerically correct.

Fourth: By striking out the newly renumbered Sec. 3, effective date, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATES

This section and Sec. 2 (3 V.S.A. § 123(j)(1)) shall take effect on July 1, 2023. Sec. 1 (physical therapists) shall take effect on July 1, 2024.

**(Committee Vote: 10-0-0)**

**Rep. Andrews of Westford**, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Health Care and when further amended as follows:

First: By striking out Sec. 3, effective dates, its entirety and inserting in lieu thereof new a Sec. 3 and Sec. 4 to read as follows:

Sec. 3. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

\* \* \*

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

\* \* \*

(4) Biennial renewal, \$240.00, except biennial renewal for:

\* \* \*

(C) Physical therapists and assistants, \$150.00, except that a licensee of a remote state under the Physical Therapy Licensure Compact established in 26 V.S.A. chapter 38, subchapter 5 shall pay a biennial \$50.00 privilege to practice fee.

\* \* \*

Sec. 4. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that Sec. 1 (physical therapist licensure compact) and Sec. 3 (fees) shall take effect on July 1, 2024.

**(Committee Vote: 11-0-1)**

**H. 86**

An act relating to Vermont's adoption of the Audiology and Speech-Language Pathology Interstate Compact

**Rep. Farlice-Rubio of Barnet**, for the Committee on Health Care, recommends the bill be amended as follows:

First: After Sec. 3, 26 V.S.A. chapter 67, subchapter 5, by adding a new Sec. 4 to read as follows:

Sec. 4. 3 V.S.A. § 123(j)(1) is amended to read:

(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for license renewal of any Office-issued credential, including a license, certification, registration, or specialty designation for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; ~~and~~

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33;

(E) audiologists licensed under 26 V.S.A. chapter 67; and

(F) speech-language pathologists licensed under 26 V.S.A. chapter 87.

and by renumbering the remaining section to be numerically correct.

Second: After Sec. 4, 3 V.S.A. § 123(j)(1), by adding a new Sec. 5 to read as follows:

Sec. 5. 26 V.S.A. § 3290 is amended as follows:

§ 3290. ELIGIBILITY FOR AUDIOLOGIST LICENSE

To be eligible for licensure as an audiologist, an applicant shall have:

(1) Either:

(A) A a master's degree or equivalent in audiology or speech-language pathology from an educational institution approved by the Director, with course work completed in areas specified by rule; or

(B) a doctoral degree in audiology, or an equivalent doctoral degree regardless of name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization.

\* \* \*

and by renumbering the remaining section to be numerically correct.

Third: By striking out the newly renumbered Sec. 6, effective date, in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. EFFECTIVE DATES

This section, Sec. 4 (3 V.S.A. § 123(j)(1)), and Sec. 5 (26 V.S.A. § 3290) shall take effect on July 1, 2023. Secs. 1–3 (audiologists and speech-language pathologists compact) shall take effect on July 1, 2024.

**(Committee Vote: 10-0-0)**

**Rep. Andrews of Westford**, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Health Care and when further amended as follows:

First: By striking out Sec. 6, effective dates, in its entirety and inserting in lieu thereof a new Sec. 6 and a Sec. 7 to read as follows:

Sec. 6. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

\* \* \*

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

\* \* \*

(4) Biennial renewal, \$240.00, except biennial renewal for:

\* \* \*

(T) A licensee of a remote state under the Audiology and Speech-Language Pathology Interstate Compact established in 26 V.S.A. chapter 87, subchapter 2 shall pay a biennial \$50.00 privilege to practice fee.

Sec. 7. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that Secs. 1–3 (audiologists and speech-language pathologists interstate compact) and Sec. 6 (fees) shall take effect on July 1, 2024.

**(Committee Vote: 11-0-1)**

## **CONSENT CALENDAR**

### **Concurrent Resolutions for Adoption Under Joint Rules 16a - 16d**

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration in that member's chamber before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Senate Secretary's Office or the House Clerk's Office, as applicable. For text of resolutions, see Addendum to House Calendar and Senate Calendar of February 16, 2023.

#### **H.C.R. 31**

House concurrent resolution in memory of Marshall Webb

#### **H.C.R. 32**

House concurrent resolution congratulating Jody Stahlman on winning the 2023 Vermont State Women's Pinball Championship

#### **H.C.R. 33**

House concurrent resolution honoring Raymond and Joyce Ballantine for their enduring community service in the Town of Jamaica

#### **H.C.R. 34**

House concurrent resolution congratulating the 2022 Montpelier High School Division III championship field hockey team

#### **H.C.R. 35**

House concurrent resolution honoring Barre Town Manager Carl Rogers for his outstanding municipal public service

#### **H.C.R. 36**

House concurrent resolution congratulating Shawna Wakeham-Smith of Shelburne on the tenth anniversary of her leadership as Director of Wish Granting at Make-A-Wish Vermont

## **For Informational Purposes**

### **CROSSOVER DATES**

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 17, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 17, 2023**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 24, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**Note:** The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

**Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills).**

### **NOTICE OF JFO GRANTS AND POSITIONS**

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

**JFO #3138:** One (1) limited-service position, Statewide Grants Administrator, to the Agency of Administration, Department of Finance and Management to cover increased grant activity due to the Covid-19 pandemic. The position is funded through Act 185 of 2022. Sec G.801 of the Act appropriates ARPA funds for administrative costs related to the pandemic. This position is funded through 12/31/2026. The grant packet can be found at:

<https://ljfo.vermont.gov/assets/grants-documents/ec01b0bea7/JFO-3138-packet.pdf>

*[Received February 9, 2023]*

**JFO #3137:** One (1) limited-service position to the Vermont Department of Health, Senior Health Asbestos and Lead Engineer, to perform senior professional level work to educate, advise on and enforce Vermont asbestos



and lead control regulations. The position is funded through 9/30/2024 through an existing Environmental Protection Agency grant. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/a44b7c8cac/JFO-3137-packet-v2.pdf>  
*[Received 1/23/2023]*

**JFO #3136:** \$5,000,000.00 to the Agency of Administration, Public Service Department, VT Community Broadband Board (VCBB) from the National Telecommunications and Information Administration, Broadband Equity, Access and Deployment Program to deliver broadband to unserved and underserved areas in Vermont. This is a 5-year grant and will fill in the technical gaps existing in the VCBB's program of broadband deployment. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/3d7b96fcb1/JFO-3136-packet.pdf>  
*[Received 1/23/2023]*