

House Calendar

Tuesday, March 26, 2019

77th DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

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ACTION CALENDAR

Action Postponed Until March 26, 2019

Favorable with Amendment

H. 439

An act relating to the Home Weatherization Assistance Program

Rep. Masland of Thetford, for the Committee on Ways and Means, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL TAX

(a)(1) There is imposed a tax on the retail sale of heating oil, propane, kerosene, and other dyed diesel fuel delivered to a residence or business, at the rate of ~~\$0.02~~ \$0.04 per gallon.

(2) There is imposed a gross receipts tax of ~~0.75~~ 1.0 percent on the retail sale of natural gas and 1.5 percent on the retail sale of coal.

* * *

Sec. 2. FUEL TAX; RATE SETTING

A company subject to 30 V.S.A. § 218 shall be entitled to recovery of an increase in the fuel tax in 33 V.S.A. § 2503(a)(2), in Sec. 1 of this act, from the effective date of that increase. The manner of recovery shall be approved by the Vermont Public Utility Commission pursuant to its authority in 30 V.S.A. § 218.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee Vote: 6-5-0)

NEW BUSINESS

Third Reading

H. 82

An act relating to the taxation of timber harvesting equipment

H. 249

An act relating to additional Reach Up Program benefits

H. 529

An act relating to the Transportation Program and miscellaneous changes to laws related to transportation

H. 530

An act relating to the qualifications and election of the Adjutant and Inspector General

S. 109

An act relating to captive insurance companies and risk retention groups

Committee Bill for Second Reading

H. 536

An act relating to education finance.

(Rep. Till of Jericho will speak for the Committee on Ways and Means.)

Favorable with Amendment

H. 205

An act relating to the regulation of neonicotinoid pesticides

Rep. Bartholomew of Hartland, for the Committee on Agriculture and Forestry, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 911 is amended to read:

§ 911. DEFINITIONS

As used in this chapter:

* * *

(4) “Secretary” means the Secretary of Agriculture, Food and Markets.

(5) “Economic poison” means:

(A) any substance produced, distributed, or used for preventing, destroying, or repelling any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living ~~man~~ humans or other animals, which the Secretary shall declare to be a pest;

(B) any substance produced, distributed, or used as a plant regulator, defoliant, or desiccant.

* * *

(7) “Fungicide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

(8) “Herbicide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

* * *

(12) “Insecticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects ~~which~~ that may be present in any environment whatsoever.

* * *

(16) “Person” means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not.

(17) “Registrant” means the person registering any economic poison pursuant to the provisions of this chapter.

(18) “Rodenticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal ~~which~~ that the Secretary shall declare to be a pest.

(19) “Weed” means any plant ~~which~~ that grows where not wanted.

(20) “Nematocide” means any substance produced, distributed, or used for preventing, destroying, or repelling nematodes.

(21) “Plant regulator” means any substance produced, distributed, or used for the purposes of accelerating or retarding the rate of growth or rate of maturation, or otherwise altering the behavior of plants but shall not include substances produced, distributed, or used for plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(22) “Defoliant” means any substance produced, distributed, or used for causing the foliage to drop from a plant, with or without causing abscission.

(23) “Desiccant” means any substance produced, distributed, or used for artificially accelerating the drying of plant tissues.

* * *

(25) “Agricultural seed” has the same meaning as in section 641 of this title.

(26) “Neonicotinoid pesticide” means any economic poison containing a chemical belonging to the neonicotinoid class of chemicals, including:

- (A) imidacloprid;
- (B) nithiazine;
- (C) acetamiprid;
- (D) clothianidin;
- (E) dinotefuran;
- (F) thiacloprid;
- (G) thiamethoxam; and
- (H) any other chemical designated by the Secretary by rule.

(27) “Treated article” or “treated article pesticide” shall have the same meaning as “treated article” in section 1101 of this title.

(28) “Treated article seed” means an agricultural seed, flower seed, or vegetable seed that is a treated article pesticide.

Sec. 2. 6 V.S.A. § 918 is amended to read:

§ 918. REGISTRATION

(a) Every economic poison ~~which~~ that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered in the Office of the Secretary, and such registration shall be renewed annually; provided that products ~~which~~ that have the same formula are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison; and additional names and labels shall be added by ~~supplement~~ supplemental statements during the current period of registration. It is further provided that any economic poison imported into this State, which is subject to the provisions of any federal act providing for the registration of economic poisons and which has been duly registered under the provisions of this chapter, may, in the discretion of the Secretary, be exempted from registration under this chapter, when sold or distributed in the unbroken immediate container in which it was originally shipped. The registrant shall file with the Secretary a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant.

(2) The name of the economic poison.

(3) A complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including directions for use.

(4) If requested by the Secretary, a full description of the tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information ~~which~~ that is different from that furnished when the economic poison was registered or last reregistered.

(b) The registrant shall pay an annual fee of ~~\$175.00~~ \$200.00 for each product registered, and \$160.00 of that amount shall be deposited in the special fund created in section 929 of this title, of which \$5.00 from each product registration shall be used for an educational program related to the proper purchase, application, and disposal of household pesticides, and \$5.00 from each product registration shall be used to collect and dispose of obsolete and unwanted pesticides. Of the registration fees collected under this subsection, \$15.00 of the amount collected shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title. Of the registration fees collected under this subsection, \$25.00 of the amount collected shall be used to offset the additional costs of inspection and to provide educational services and technical assistance to the general public and beekeepers in the State. The annual registration year shall be from December 1 to November 30 of the following year.

* * *

(f) The Secretary shall register as a restricted use pesticide any neonicotinoid pesticide labeled as approved for outdoor use that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State, provided that the Secretary shall not register the following products as restricted use pesticides, unless classified under federal law as restricted use products:

(1) pet care products used for preventing, destroying, repelling, or mitigating fleas, mites, ticks, heartworms, or other insects or organisms;

(2) personal care products used for preventing, destroying, repelling, or mitigating lice or bedbugs;

(3) indoor pest control products used for preventing, destroying, repelling, or mitigating insects indoors; and

(4) treated article seed.

Sec. 3. 6 V.S.A. § 3023 is amended to read:

§ 3023. DUTIES TO REGISTRATION; REPORT

(a) It shall be the duty of any Registration. A person who is the owner of any bees, apiary, colony, or hive to report to in the State shall register with the Secretary in writing.

(b) Report. Annually the owner of any bees, apiary, colony, or hive registered under subsection (a) of this section shall submit a report to the Secretary that includes all of the following information:

(1) the The location of all such apiaries and number of colonies that the person owns. The location of an apiary shall become its registered location;

(2) the change of Whether the location of any apiary will change within two weeks of the date that the report is submitted unless the change of location is to provide pollination services and the colonies will be returned to a registered apiary. Hives from a registered apiary may be moved to another registered apiary without reregistering;

(3) the discovery of Whether a serious disease was discovered within any of his or her colonies; registered colony.

(4) the transportation Whether the owner transported into this the State of any colonies or used equipment, except as noted in authorized under subsection 3032(c) of this title; and.

(5) the fact that he or she Whether the owner is engaged in the rearing of queen bees or any other bees for sale, if applicable.

(6) A current varroa mite and pest mitigation plan for each registered colony.

(7) Proof of certification, if required, under section 3023a of this title.

Sec. 4. 6 V.S.A. § 3023a is added to read:

§ 3023a. VERMONT BEEKEEPER CERTIFICATE

(a) The Secretary shall establish an educational program to train a person who owns bees, apiaries, colonies, or hives in the State. The educational program shall address:

(1) bee health;

(2) varroa mite identification and control;

(3) identification of common diseases or pests;

(4) proper maintenance of hives;

(5) State laws regarding beekeeping and pesticide application; and

(6) continued education opportunities.

(b) The Secretary shall award a certificate to a person who completes the Vermont beekeeper training program under subsection (a) of this section.

Sec. 5. 6 V.S.A. § 3032 is amended to read:

§ 3032. TRANSPORTATION OF BEES OR USED EQUIPMENT INTO
THE STATE

(a) ~~No~~ Except as provided under subsections (c) and (d) of this section, bees, used equipment, or colonies shall not be brought into the State of Vermont unless approved by the Secretary by permit. The Secretary shall not approve the import of bees, used equipment, or colonies from out of state unless accompanied by a valid certificate of inspection within the previous ~~ten months~~ 90 days from the state or country of origin stating that the bees, used equipment, or bee colonies are free from bee disease.

(b) Any person, other than a common carrier, who knowingly transports or causes to be transported used equipment or colonies to a point within this State shall provide the ~~secretary~~ Secretary with a copy of the certificate of inspection not more than 72 hours after entry into this State.

(c) This section shall not apply to a shipment of bees, equipment, or colonies which originated outside the ~~state~~ State and is destined for another point that is also located outside this State.

(d) The Secretary shall not require an import permit or a valid certificate of inspection under subsection (a) for bees, used equipment, or colonies that:

(1) are registered in Vermont;

(2) were transported no more than 75 miles from the registered location of the owner of the bees or colonies; and

(3) are imported back into the State within 90 days of the date of original transport.

Sec. 6. 6 V.S.A. § 3030 is amended to read:

§ 3030. RULES

The Secretary may adopt and enforce ~~such rules which may provide for to~~ implement the requirements of this chapter, including rules regarding:

(1) inspection, disinfection, seizure, destruction, or other disposition of bees, equipment, or bee products capable of carrying or transmitting any disease;

(2) importation of bees, equipment, or bee products capable of carrying or transmitting any disease; or

(3) registration and reporting by persons owning bees, an apiary, a colony, or a hive.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee Vote: 8-0-0)

Rep. Browning of Arlington, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Agriculture and Forestry and when further amended as follows:

In Sec. 2, 6 V.S.A. § 918, in subsection (b), in the first sentence, by striking out “\$160.00” where it appears and inserting in lieu thereof “~~\$160.00~~ \$185.00”

(Committee Vote: 11-0-0)

Rep. Conquest of Newbury, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Agriculture and Forestry and Ways and Means, and when further amended as follows:

By adding Sec. 6a to read as follows:

Sec. 6a. POSITIONS; POLLINATOR SPECIALIST; PESTICIDE
ENFORCEMENT

The establishment of the following new classified, full-time positions is authorized in fiscal year 2020:

(1) In the Agency of Agriculture, Food and Markets – pollinator specialist.

(2) In the Agency of Agriculture, Food and Markets – enforcement specialist.

(Committee Vote: 11-0-0)

H. 513

An act relating to broadband deployment throughout Vermont.

(Rep. Sibilica of Dover will speak for the Committee on Energy and Technology.)

Rep. Young of Greensboro, for the Committee on Ways and Means, recommends the bill ought to pass when amended as follows:

In Sec. 7, 30 V.S.A. § 7521(e), concerning the application of the Universal Service Charge to prepaid wireless telecommunications service, in subdivision (1), by striking out the last sentence in its entirety and by inserting in lieu thereof a new sentence to read as follows: “The Commissioner of Taxes shall establish registration and payment procedures applicable to the Universal Service Charge imposed under this subsection consistent with the registration and payment procedures that apply to the sales tax imposed on such services and also consistent with the administrative provisions of 32 V.S.A. chapter 151, including any enforcement or collection action available for taxes owed pursuant to that chapter.”

(Committee Vote 11-0-0)

Rep. Feltus of Lyndon, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Ways and Means.

(Committee Vote: 11-0-0)

Amendment to be offered by Reps. Sibia of Dover, Briglin of Thetford, Campbell of St. Johnsbury, Chase of Colchester, Chesnut-Tangerman of Middletown Springs, Higley of Lowell, Patt of Worcester, Scheuermann of Stowe and Yantachka of Charlotte to H. 513

That the bill be amended as follows:

First: In Sec. 14 (concerning the recommendation on general obligation bonding for municipal communications plants), by striking out the words “Director of the Municipal Bond Bank” and by inserting in lieu thereof “Executive Director of the Vermont Municipal Bond Bank”

Second: In Sec. 15, 10 V.S.A. § 280ee(c)(1), by striking out the word “Program” and by inserting in lieu thereof “Authority”

Third: In Sec. 15, 10 V.S.A. chapter 12, subchapter 114, in subdivision 280ee(c)(2), by striking out the words “adopt by rule standards” and by inserting in lieu thereof “establish policies,” and by striking out the word “rules” and by inserting in lieu thereof “policies”

Fourth: In Sec. 15, 10 V.S.A. chapter 12, subchapter 14, in subdivision 280ee(c)(2)(C), by striking out the words “borrowers may borrow up to” and by inserting in lieu thereof “a loan shall not exceed”

Fifth: In Sec. 15, 10 V.S.A. chapter 12, subchapter 14, in § 280ee, by adding a subsection (d) to read as follows:

(d) On or before January 1, 2020, and annually thereafter, the Authority shall submit a report of its activities pursuant to this section to the Senate

Committee on Finance and the House Committees on Commerce and Economic Development and on Energy and Technology. Each report shall include operating and financial statements for the two most recently concluded State fiscal years. In addition, each report shall include information on the Program portfolio, including the number of projects financed; the amount, terms, and repayment status of each loan; and a description of the broadband projects financed in whole or in part by the Program.

Sixth: In Sec. 15, 10 V.S.A. chapter 12, subchapter 14, in § 280ff, by striking out subsection (b) in its entirety and by inserting in lieu thereof a new subsection (b) to read as follows:

(b) Repayment from or appropriation to the Authority in years 2021 and until the Program terminates is based on the Authority's contributions to loan loss reserves for the Program in accordance with generally accepted accounting principles. Any difference between the actual loan losses incurred by the Authority in fiscal year 2020 through Program termination shall be adjusted in the following year's appropriation.

(1) The Program shall terminate when all borrowers enrolled in the Program have repaid in full or loans have been charged-off against the reserves of the Authority.

(2) Upon termination of the Program, any remaining funds held by the Authority and not used for the Program shall be repaid to the State.

(3) The accumulated total of the appropriation shall not exceed \$8,500,000.00 over the life of the Program.

(4) The Authority shall absorb its historical loan loss reserve rate before any State funds are expended.

(5) Additionally, the Authority shall absorb up to \$3,000,000.00 in Program losses shared with the State on a pro rata basis.

H. 531

An act relating to Vermont's child care and early learning system.

(Rep. Wood of Waterbury will speak for the Committee on Human Services.)

Rep. Trieber of Rockingham, for the Committee on Appropriations, recommends the bill ought to pass when amended as follows:

First: By inserting a new Sec. 5a after Sec. 5 (Bright Futures Information System; Modernization Plan) to read as follows:

Sec. 5a. BRIGHT FUTURES INFORMATION SYSTEM;

MODERNIZATION PLAN IMPLEMENTATION

(a) In fiscal year 2020, \$1,000,000.00 is appropriated from the General Fund to the Department for Children and Families' Child Development Division to begin implementation of the plan developed pursuant to Sec. 5 of this act.

(b) Any unused funds appropriated pursuant to Sec. 3 of this act shall be reserved to begin implementation of the plan developed pursuant to Sec. 5 of this act.

Second: By striking out Sec. 6 (Student Loan Repayment Assistance) and Sec. 7 (Child Care and Early Learning Workforce Scholarship) in their entirety and inserting in lieu thereof new Secs. 6 and 7 to read as follows:

Sec. 6. 33 V.S.A. § chapter 35, subchapter 5 is added to read:

Subchapter 5. Support for Child Care and Early Learning Workforce

§ 3533. STUDENT LOAN REPAYMENT ASSISTANCE

(a)(1) There is established a student loan repayment assistance program administered by the Division for the purpose of providing student loan repayment assistance to any individual employed by a regulated, privately operated center-based child care program or family child care home.

(2) An eligible individual shall:

(A) work in a privately operated center-based child care program or family child care home that is regulated by the Division for at least an average of 30 hours per week for 48 weeks of the year;

(B) receive an annual salary of not more than \$40,000.00; and

(C) have acquired credits in early childhood development or which are related directly to working with children birth through eight years of age.

(3) To participate in the program set forth in this section, an eligible individual shall submit to the Division documentation expressing the individual's intent to work in a regulated, privately operated center-based child care program or family child care home for at least the following 12 months. A participant may receive up to \$2,000.00 annually in student loan repayment assistance, which shall be distributed by the Division in two allotments. The Division shall distribute at least half of the individual's total annual benefit after the individual has completed six months of employment in accordance with the program. The remainder of an individual's total annual benefit shall be distributed by the Division after the individual has completed the 12th month of employment in accordance with the program.

(b)(1) The Division shall adopt policies, procedures, and guidelines necessary to implement the provisions of this section.

(2) Funds appropriated for this program shall be expended for repayment of student loans. Student loan repayments shall be available pursuant to this section on a first-come, first-served basis until appropriated funds are depleted.

(c) Otherwise eligible individuals with access to alternative loan forgiveness or loan repayment programs shall not be considered eligible for repayment assistance under this section.

(d) An individual shall not simultaneously participate in the student loan repayment assistance program set forth in this section and the scholarship program set forth section 3534 of this title.

§ 3534. CHILD CARE AND EARLY LEARNING WORKFORCE

SCHOLARSHIP

(a) There is established a need-based scholarship program for individuals employed by a regulated, privately operated center-based child care program or family child care home while acquiring credits in early childhood development or which are related directly to working with children birth through eight years of age.

(b) The Division shall contract for the administration of the program set forth in subsection (a) of this section and adopt policies, procedures, and guidelines necessary for its implementation. Scholarships distributed pursuant to this section shall be available on a first-come, first-served basis until any appropriated funds are depleted.

(c) An individual shall not simultaneously participate in the scholarship program set forth in this section and the student loan repayment assistance program set forth in section 3533 of this title.

Sec. 7. APPROPRIATIONS; COLLEGE LOAN REPAYMENT

ASSISTANCE; CHILD CARE AND EARLY LEARNING

WORKFORCE SCHOLARSHIP

(a)(1) In fiscal year 2020, \$500,000.00 is appropriated from the General Fund to the Department for Children and Families' Child Development Division for the student loan repayment assistance program established pursuant to 33 V.S.A. § 3533.

(2) In fiscal year 2020, \$500,000.00 is appropriated from the General Fund to the Department for Children and Families' Child Development

Division for the child care and early learning workforce scholarship program established pursuant to 33 V.S.A. § 3534.

(b) It is the intent of the General Assembly that appropriations that meet or exceed each of the amounts appropriated in fiscal year 2020 pursuant to subdivisions (a)(1) and (2) of this section be made in fiscal years 2021 through 2024.

Third: Before Sec. 8 by inserting a reader assistance heading to read as follows:

* * * Evaluation of Expenditures and Programs * * *

Fourth: By striking out Sec. 8 (Report; Evaluation of Expenditures and Programs) in its entirety and inserting a new Sec. 8 in lieu thereof to read as follows:

Sec. 8. REPORT; EVALUATION OF EXPENDITURES AND PROGRAMS

On or before January 1, 2024, the Commissioner for Children and Families, in consultation with stakeholders, shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare:

(1) evaluating the effectiveness of the expenditure in the Child Care Financial Assistance Program set forth in Sec. 3 of this act, the student loan repayment program set forth in 33 V.S.A. § 3533, and the scholarship program set forth in 33 V.S.A. § 3534;

(2) making recommendations as to whether the expenditures and programs in Sec. 3 of this act and in 33 V.S.A. §§ 3533–3534 should be continued and, if so, the appropriate funding amount and source; and

(3) evaluating how the expenditures and programs in Sec. 3 of this act and in 33 V.S.A. §§ 3533–3534 contribute to Vermont’s children and young people reaching their potential pursuant to 3 V.S.A. § 2311.

(Committee Vote 11-0-0)

Favorable

H. 342

An act relating to qualification for a public defender

Rep. Conquest of Newbury, for the Committee on Appropriations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Amendment to be offered by Rep. Hashim of Dummerston to H. 342

By striking Sec. 6 in its entirety and inserting in lieu thereof new Secs. 6–10 to read as follows:

Sec. 6. 13 V.S.A. § 5201 is amended to read:

§ 5201. DEFINITIONS

As used in this chapter:

(1) “Detain” means to have in custody or otherwise deprive of freedom of action.

(2) “Expenses,” when used with reference to representation under this chapter, includes the expenses of investigation, other preparation, and trial.

(3) “Needy person” means a person who at the time his or her need is determined is financially unable, without undue hardship, to provide for the full payment of an attorney and all other necessary expenses of representation or who is otherwise unable to employ an attorney.

(4) ~~[Repealed]~~ “Serious crime” includes:

(A) a felony;

(B) a misdemeanor the maximum penalty for which is a fine of more than \$1,000.00 or any period of imprisonment unless the judge, at the arraignment but before the entry of a plea, determines and states on the record that he or she will not sentence the defendant to a fine of more than \$1,000.00 or a period of imprisonment if the defendant is convicted of the misdemeanor; and

(C) an act that, but for the age of the person involved, would be a serious crime.

(5) “Serious crime” does not include the following misdemeanor offenses unless the judge at arraignment but before the entry of a plea determines and states on the record that a sentence of imprisonment or a fine over \$1,000.00 may be imposed on conviction:

(A) Big game violations (10 V.S.A. § 4518)

(B) Simple assault by mutual consent (13 V.S.A. § 1023(b))

(C) Bad checks (13 V.S.A. § 2022)

(D) Petit larceny (13 V.S.A. § 2502)

(E) Theft of services under \$500.00 (13 V.S.A. § 2582)

(F) Retail theft under \$900.00 (13 V.S.A. § 2577)

(G) Unlawful mischief (13 V.S.A. § 3701(c))

(H) Unlawful trespass (13 V.S.A. § 3705(a))

(I) Disorderly conduct (13 V.S.A. § 1026)

(J) Possession of marijuana (18 V.S.A. § 4230(a)(1)(A))

(K) Violation of municipal ordinances.

Sec. 7. 13 V.S.A. § 5206 is amended to read:

§ 5206. ~~[Repealed.]~~ APPOINTMENT OF COUNSEL BY COURT; USE OF
UNCOUNSELED CONVICTIONS

(a) Prior to any decision regarding the appointment of counsel under the provisions of subdivisions 5201(4)(B) and (5) of this title, the judge shall inquire of the prosecutor whether a term of imprisonment or a fine over \$1,000.00 will be sought.

(b) At the request of the prosecutor or on the judge's own motion, at any time prior to the commencement of trial and if there is a change of circumstances or new information, the judge may vacate the commitment to not sentence the defendant to a fine of not more than \$1,000.00 or to a period of incarceration upon conviction. If the judge vacates the commitment, the judge shall inform the defendant of the right to apply for the appointment of counsel at State expense.

(c) A prior uncounseled criminal conviction of a crime listed in subdivisions (A) through (K) of subdivision (5) of section 5201 of this title in which counsel was denied and the defendant was otherwise entitled to appointed counsel under this subchapter, shall not be used to subject that defendant to the enhanced statutory penalty for a subsequent conviction for the same offense.

(d) Notwithstanding subdivision 5201(4)(B) of this title, a needy person who is charged with an offense that provides for a felony penalty for the next subsequent conviction for the same offense shall be entitled to counsel under this chapter.

Sec. 8. 13 V.S.A. § 5231 is amended to read:

§ 5231. RIGHT TO REPRESENTATION, SERVICES, AND FACILITIES

(a) A needy person who is being detained by a law enforcement officer without charge or judicial process, or who is charged with having committed or is being detained under a conviction of a serious crime, is entitled:

(1) To be represented by an attorney to the same extent as a person having his or her own counsel.

(2) To be provided with the necessary services and facilities of representation. Any such necessary services and facilities of representation that exceed \$1,500.00 per item must receive prior approval from the court after a hearing involving the parties. The court may conduct the hearing outside the presence of the State, but only to the extent necessary to preserve privileged or confidential information. This obligation and requirement to obtain prior court approval shall also be imposed in like manner upon the Attorney General or a State's Attorney prosecuting a violation of the law.

(b) The attorney, services and facilities, and court costs shall be provided at public expense to the extent that the person, at the time the court determines need, is unable to provide for the person's payment without undue hardship.

Sec. 9. 13 V.S.A. § 5234 is amended to read:

§ 5234. NOTICE OF RIGHTS; REPRESENTATION PROVIDED

(a) If a person who is being detained by a law enforcement officer without charge or judicial process, or who is charged with having committed or is being detained under a conviction of a serious crime, is not represented by an attorney under conditions in which a person having his or her own counsel would be entitled to be so represented, the law enforcement officer, magistrate, or court concerned shall:

(1) Clearly inform the person of the right to be represented by an attorney and the right of a needy person to be represented at public expense.

(2) If the person detained or charged does not have an attorney and does not knowingly, voluntarily, and intelligently waive his or her right to have an attorney when detained or charged, notify the appropriate public defender that he or she is not so represented. This shall be done upon commencement of detention, formal charge, or post-conviction proceeding. As used in this subsection, the term "commencement of detention" includes the taking into custody of a probationer or parolee.

* * *

Sec. 10. EFFECTIVE DATES

(a) This section and Secs. 1–5 shall take effect July 1, 2019.

(b) Secs. 6–9 shall take effect July 1, 2021.

H. 526

An act relating to town clerk recording fees and town restoration and preservation reserve funds.

(Rep. Gannon of Wilmington will speak for the Committee on Government Operations.)

Rep. Browning of Arlington, for the Committee on Ways and Means, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

H. 533

An act relating to workforce development.

(Rep. Marcotte of Coventry will speak for the Committee on Commerce and Economic Development.)

Rep. Myers of Essex, for the Committee on Appropriations, recommends the bill ought to pass.

(Committee Vote: 10-1-0)

Amendment to be offered by Rep. Marcotte of Coventry to H. 533

First: In Sec. 3, in subsection (a), by striking out the words “the amount of \$350,000.00 is appropriated from the General Fund to” and by striking out the following: “, which”

Second: In Sec. 5, in subsection (b), by striking out the words “Vermonters possess a credential of value” and inserting in lieu thereof the words “Vermonters possess a degree or credential of value”

Third: By striking out Sec. 7 in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. RELOCATION SUPPORT SYSTEM

(a) The Department of Labor shall:

(1) collaborate with key employers and nongovernmental organizations to ensure that appropriate expertise is available to program staff and individuals looking to enter Vermont’s job market, through referrals or other information sharing mechanisms;

(2)(A) coordinate available information for each region that includes labor market information, housing and education information, recreation information, and other relevant resources; and

(B) make the information easily accessible for interested individuals to assist in aspects of preliminary decision making; and

(3) convene regional, multidisciplinary teams that:

(A) comprise partners with expertise from relevant sectors, including housing, transportation, education, health, child care, recreation, and economic development; and

(B) provide community-level knowledge, support, and services to best meet the needs of prospective employees.

(b) State agencies and State-funded programs shall coordinate with the Department to ensure that services and information that could assist a person in relocating to Vermont are made available through an integrated, employee-centered system.

Fourth: In Sec. 8 by adding a subsection (e) to read as follows:

(e) On or before January 15, 2020, the Department shall report to the House Committees on Commerce and Economic Development and on Appropriations and to the Senate Committees on Economic Development, Housing and General Affairs and on Appropriations concerning implementation and outcomes of this pilot program.

Fifth: In Sec. 10, by redesignating subsection (d) to be subsection (e) and by adding a new subsection (d) to read as follows:

(d) Meetings.

(1) The State Refugee Coordinator shall call the first meeting of the task force to occur on or before September 1, 2019.

(2) The task force shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The task force shall meet not more than six times and shall cease to exist on January 15, 2020.

Sixth: In Sec. 11 by striking out the words “not less than” and inserting in lieu thereof the words “not more than”

Seventh: In Sec. 12 by designating the existing paragraph as subsection (a) and by adding a subsection (b) to read as follows:

(b) On or before January 15, 2020, the Department shall report to the House Committees on Commerce and Economic Development and on Appropriations and to the Senate Committees on Economic Development,

Housing and General Affairs and on Appropriations concerning the creation of the registry and the extent the registry assisted employers and employees with barriers to employment.

Eighth: By striking out Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. APPROPRIATIONS

In fiscal year 2020, the amount of \$1,595,000.00 is appropriated from the General Fund to the following recipients for the purposes specified:

(1) \$450,000.00 to the Agency of Commerce and Community Development as follows:

(A) \$225,000 for economic development marketing pursuant to its authority in 3 V.S.A. § 2476(c) to execute the State's core Economic Development Marketing Plan through paid, owned, and earned media, utilizing technology, data, and analysis tools; and

(B) \$225,000.00 to identify, recruit, and provide relocation assistance to workers, including:

(i) identifying target audiences;

(ii) targeting through digital and social media; and

(iii) implementing strategies that convert visitors to residents and awarding grants for regional partnerships to help recruitment efforts at the local and regional levels; and

(2) \$1,145,000.00 to the Department of Labor as follows:

(A) \$275,000.00 to implement a relocation support system and provide services pursuant to Sec. 7 of this act; and

(B) \$870,000.00 for workforce development and training as follows:

(i) \$350,000.00 for grants to provide weatherization training pursuant to Sec. 3 of this act;

(ii) \$50,000.00 for a grant to the Community College of Vermont to purchase equipment to provide robotics training at its Rutland location; and

(iii) \$470,000.00 to the workforce education and training fund created in 10 V.S.A. § 543 to expand opportunities for apprenticeships, training, and adult career and technical education, which may include funding to replicate in additional locations the robotics training program at the Rutland location of the Community College of Vermont.

Ninth: By redesignating Sec. 15 to be Sec. 17 and adding new reader assistance headings and new Secs. 15–16 to read as follows:

* * * International Trade and Development * * *

Sec. 15. INTERNATIONAL TRADE, EDUCATION, AND CULTURAL
EXCHANGE

On or before December 15, 2019, the Agency of Commerce and Community Development shall review and report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs on effective mechanisms to collaborate with regional partners and form formal partnerships that will promote international trade, as well as educational and cultural exchanges, between and among Vermont, the New England states, and foreign nations.

* * * Agency of Commerce and Community Development;
Structure and Organization * * *

Sec. 16. AGENCY OF COMMERCE AND COMMUNITY
DEVELOPMENT; STRUCTURE AND ORGANIZATION;
REPORT

On or before January 15, 2020, the Secretary of Commerce and Community Development shall review and report to the House Committees on Commerce and Economic Development and on Appropriations and to the Senate Committees on Economic Development, Housing and General Affairs and on Appropriations concerning one or more proposals to amend the structure and organization of the Agency in order to enhance its ability to achieve its purposes and perform its duties.

NOTICE CALENDAR

Favorable with Amendment

H. 107

An act relating to paid family and medical leave

Rep. Stevens of Waterbury, for the Committee on General; Housing; and Military Affairs, 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. chapter 5, subchapter 13 is added to read:

Subchapter 13. Family and Medical Leave Insurance

§ 571. DEFINITIONS

As used in this subchapter:

(1) “Average weekly wage” means the employee’s total wages from his or her two highest-earning quarters in the last four completed calendar quarters divided by 26.

(2) “Bereavement leave” means a leave of absence from employment by an employee for the death of the employee’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.

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

(4) “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.

(5) “Employer” means an individual, organization, 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.

(6) “Family member” means the employee’s:

(A) child, step child or ward who lives with the employee, or foster child;

(B) spouse, domestic partner, or civil union partner;

(C) parent or the parent of the employee’s spouse, domestic partner, or civil union partner;

(D) sibling or the sibling of the employee’s spouse, domestic partner, or civil union partner;

(E) grandchild;

(F) grandparent or the spouse, domestic partner, or civil union partner of the employee’s grandparent;

(G) a child for whom the employee stands in loco parentis or an individual who stood in loco parentis for the employee when he or she was a child.

(7) “In loco parentis” means a child for whom the employee has day-to-day responsibilities to care for and financially support, or, in the case of the employee, an individual who had such responsibility for the employee when he or she was a child.

(8) “Family and medical leave” means a leave of absence from employment by an employee for:

(A) his or her own serious illness, provided he or she is not eligible to receive workers’ compensation pursuant to 21 V.S.A. chapter 9 for the serious illness;

(B) a serious illness of the employee’s family member;

(C) the employee’s pregnancy;

(D) the birth of the employee’s child; or

(E) the initial placement of a child 18 years of age or younger with the employee for the purpose of adoption or foster care.

(9) “Qualifying employee” means an individual who has earned wages during the last four completed calendar quarters in an amount that is equal to or greater than 1,040 hours at the minimum wage established pursuant to section 384 of this chapter.

(10) “Self-employed person” means a sole proprietor or partner owner of an unincorporated business, the sole member of an LLC that does not have any employees other than the member, or the sole shareholder of a corporation that does not have any employees other than the shareholder.

(11) “Serious illness” means an accident, disease, or physical or mental condition that:

(A) poses imminent danger of death;

(B) requires inpatient care in a hospital; or

(C) requires continuing in-home care under the direction of a physician.

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

§ 572. FAMILY AND MEDICAL LEAVE INSURANCE; SPECIAL
FUND; ADMINISTRATION

(a)(1) The Family and Medical Leave Insurance Program is established for the provision of Family and Medical Leave Insurance benefits to eligible employees pursuant to this section.

(2)(A) The Commissioner of Taxes shall administer the collection of contributions and shall forward quarterly taxable wage information for each employee and quarterly self-employment income information for each self-employed individual who opts in to the Family and Medical Leave Insurance Program to the Commissioner of Labor.

(B) The Commissioner of Labor shall administer the receipt and processing of benefits applications, the determination of eligibility for benefits, the payment of benefits, the collection of overpaid benefits, and all other aspects of the program that are not administered by the Commissioner of Taxes.

(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 Commissioners of Labor and of Taxes for the administration of the Family and Medical Leave Insurance Program and payment of Family and Medical Leave Insurance benefits provided pursuant to this section. All interest earned on Fund balances shall be credited to the Fund.

(c)(1)(A) The Fund shall consist of contributions equal to 0.93 percent of each employee's covered wages of which one-half shall be deducted and withheld by an employer from an employee's wages and one-half shall be paid by the employee's employer.

(B) In lieu of deducting and withholding the full amount of the contribution pursuant to subdivision (A) of this subdivision (1), an employer may elect to pay all or a portion of the contributions due from the employee's covered wages.

(C) As used in this subsection, the term "covered wages" does not include the amount of wages paid to an employee after he or she has received wages equal to \$150,000.00. Beginning on January 1, 2021, and on each subsequent January 1, the amount of wages included in the term "covered wages" shall be increased by the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1. The amount of wages included in the term "covered wages" shall not be decreased.

(2)(A) Notwithstanding subdivision (1)(A) of this subsection (c), the General Assembly shall annually establish the rate of contribution for the next fiscal year. The rate shall equal the amount necessary to provide Family and Medical Leave Insurance benefits pursuant to this subchapter, to maintain a reserve equal to at least nine months of the projected benefit payments for the next fiscal year, and to administer the Family and Medical Leave Insurance

Program during the next fiscal year, adjusted by any balance in the Fund from the prior fiscal year.

(B) On or before February 1 of each year, the Commissioner of Labor, in consultation with the Commissioner of Taxes, shall report to the General Assembly the rate of contribution necessary to provide Family and Medical Leave Insurance benefits pursuant to this subchapter, to maintain a reserve equal to at least nine months of the projected benefit payments for the next fiscal year, and to administer the Program during the next fiscal year, adjusted by any balance in the Fund from the prior fiscal year.

(d) The Commissioner of Taxes shall require the withholding of the contributions required pursuant to subsection (c) of this section from wages paid by any employer, as if the contributions were an additional Vermont income tax subject to the withholding requirements of 32 V.S.A. § 5841(a). The administrative and enforcement provisions of 32 V.S.A. chapter 151, subchapter 4 shall apply to the withholding requirement under this section as if the contributions withheld were a Vermont income tax.

§ 573. BENEFITS

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

(2) An employee may use up to two out of the 12 weeks of Family and Medical Leave Insurance benefits available to him or her during a 12-month period for bereavement leave.

(b) A qualified employee awarded Family and Medical Leave Insurance benefits under this section shall receive 100 percent of his or her average weekly wage or an amount equal to a 40-hour workweek paid at a rate double that of the livable wage, as determined by the Joint Fiscal Office pursuant to 2 V.S.A. § 505, whichever is less.

(c) A qualified employee who receives Family and Medical Leave Insurance benefits for an intermittent leave or for a portion of a week, shall receive a prorated benefit amount.

(d) A family and medical leave or bereavement leave for which benefits are paid pursuant to this subchapter shall run concurrently with a leave taken pursuant to section 472 of this title or the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654.

§ 574. APPLICATION FOR BENEFITS; PAYMENT; TAX

WITHHOLDING

(a) A qualified employee, or his or her agent, shall file an application for Family and Medical Leave Insurance benefits with the Commissioner of Labor under this section on a form provided by the Commissioner. The Commissioner shall determine whether the qualified employee is eligible to receive Family and Medical Leave Insurance benefits based on the following criteria:

(1) The purposes for which the claim is made are adequately documented pursuant to rules adopted by the Commissioner.

(2) The employee satisfies the monetary eligibility requirements for a qualified employee.

(3) The qualified employee satisfies the eligibility requirements for the requested leave and has specified the anticipated duration of the leave.

(4) The benefits are being requested in relation to a family and medical leave or bereavement leave.

(b)(1) The Commissioner of Labor shall make a determination of each claim not later than five business days after the date the claim is filed, and Family and Medical Leave Insurance benefits shall be paid from the Fund created pursuant to this section. The Commissioner may extend the time in which to make a determination of a claim by not more than 15 business days if necessary to obtain documents or information that are needed to make the determination.

(2) A qualified employee may file an application for Family and Medical Leave Insurance benefits up to 60 days before an anticipated family and medical leave, or in the event of a premature birth, an unanticipated serious illness, or the death of a family member within 60 days after commencing a family and medical leave or bereavement leave.

(3) Benefits shall be paid to an employee for the time period beginning on the day his or her leave began and the first benefit payment shall be sent to a qualified employee within 14 days after his or her claim is approved, and subsequent payments shall be sent biweekly.

(4) The provisions of sections 1367 and 1367a of this title shall apply to Family and Medical Leave Insurance benefits.

(c)(1) An individual filing a claim for benefits pursuant to this section 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) The Commissioner of Labor shall follow 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.

(d) As used in this section, "agent" means an individual who holds a valid power of attorney for the employee or other legal authorization to act on the employee's behalf that is acceptable to the Commissioner.

§ 575. REINSTATEMENT; SENIORITY AND BENEFITS PROTECTED

(a) The employer of an employee who receives Family and Medical Leave Insurance benefits under this subchapter shall reinstate the employee at the conclusion of his or her family and medical leave or bereavement leave, provided the employee does not take family and medical leave or bereavement leave for a total of more than 12 weeks in a 12-month period. The employee shall be reinstated in the first available suitable position given the position he or she held at the time his or her leave began.

(b) Upon reinstatement, the employee shall regain seniority and any unused accrued paid leave he or she was entitled to prior to the family and medical leave or bereavement leave, less any accrued paid leave used during the family and medical leave or bereavement leave.

(c)(1) Nothing in this section shall be construed to diminish an employee's rights pursuant to subsection 472(f) of this chapter.

(2) The provisions of this section shall not apply if:

(A) the employee had been given notice, or had given notice, prior to the employee providing his or her employer with notice of the leave;

(B) the employer can demonstrate by clear and convincing evidence that during the leave, or prior to the employee's reinstatement, the employee's position would have been terminated or the employee laid off for reasons unrelated to the leave or the reason for which the employee took the leave;

(C) the employee fails to inform the employer of:

(i) his or her interest in being reinstated at the conclusion of the leave; and

(ii) the date on which his or her leave is anticipated to conclude;

or

(D) more than two years have elapsed since the conclusion of the employee's leave.

(d)(1) An employee aggrieved by an employer's failure to comply with the provisions of this section may bring an action in the Civil Division of the Superior Court in the county where the employment is located for compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or other benefits, reinstatement, costs, and other appropriate relief.

(2) A copy of the complaint shall be filed with the Commissioner of Labor.

(3) The court shall award reasonable attorney's fees to the employee if he or she prevails.

§ 576. ELECTIVE COVERAGE

(a)(1) A self-employed person may elect to obtain coverage under the Family and Medical Leave Insurance Program for a period of three years by filing a notice of his or her election with the Commissioner of Taxes on a form provided by the Commissioner.

(2) The provisions of sections 573, 574, 578, 580, 581, and 582 of this chapter shall apply to a self-employed person who elects to obtain coverage pursuant to this section in the same manner as if he or she were an employee.

(b)(1) A person who elects to obtain coverage pursuant to this subsection shall:

(A) contribute an amount equal to 0.93 percent of his or her covered work income at times determined by the Commissioner; and

(B) provide to the Commissioner any documentation of his or her work income and any related information that the Commissioner determines is necessary.

(2) As used in this section, "covered work income" means an amount of self-employment work income earned by a self-employed person that is equal to the amount of covered wages pursuant to subdivision (c)(1)(C) of section 572 of this chapter.

(c) A person who elects coverage pursuant to this section shall be eligible to file a claim for and receive Family and Medical Leave Insurance benefits if he or she has made contributions to the Fund on covered work income that is equal to or greater than the amount of wages required to be a qualified employee as that term is defined pursuant to subdivision 571(4) of this subchapter.

(d)(1) A person who elects coverage pursuant to this section may terminate his or her coverage at the end of the three-year period by providing the

Commissioner with written notice of the termination at least 30 days before the end of the period.

(2) If a person who elects coverage pursuant to this subsection does not terminate it at the end of the initial three-year period, he or she may terminate the coverage at the end of any succeeding annual period by providing the Commissioner with written notice of the termination at least 30 days before the end of the period.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, a person who, after electing to obtain coverage pursuant to this section, becomes an employee or stops working in Vermont, may elect to terminate his or her coverage pursuant to this section by providing the Commissioner with 30 days' written notice in accordance with rules adopted by the Commissioner.

(e)(1) Nothing in this section shall be construed to prevent an individual who is both an employee and a self-employed person from electing to obtain coverage pursuant to this section.

(2) The monetary eligibility of an individual who is both an employee and a self-employed person shall be determined based on his or her combined wages and self-employment income during the last four completed calendar quarters.

§ 577. APPEALS

(a)(1) An employer or individual aggrieved by a decision of the Commissioner of Labor under section 574 or 581 of this subchapter may file with the Commissioner a petition for reconsideration within 30 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 Commissioner to reconsider a decision pursuant to section 574 or 581 of this subchapter, the Commissioner shall promptly notify the individual of the petition by ordinary, certified, or electronic mail and provide him or her with an opportunity to file an answer to the employer's petition.

(3) The Commissioner shall promptly notify the employer or individual, or both, of his or her decision by ordinary, certified, or electronic mail.

(b)(1) An employer or individual aggrieved by the Commissioner's decision on reconsideration may file an appeal with a departmental administrative law judge within 30 days after receiving the Commissioner's decision. The appeal shall set forth in detail the grounds upon which it is claimed that the decision is erroneous.

(2) The administrative law judge shall, upon not less than five business days' notice, hold a hearing on the appeal as provided pursuant to rules adopted by the Commissioner. After the hearing, all parties to the appeal shall be promptly notified by ordinary, certified, or electronic mail of the findings of fact, conclusions, and decision of the administrative law judge.

(c) Any party may appeal the administrative law judge's decision to the Supreme Court within 30 days after receiving the decision.

(d) The provisions of section 1353 of this title shall apply to all determinations, redeterminations, findings of fact, conclusions of law, decisions, orders, or judgments entered or made pursuant to this section.

§ 578. FALSE STATEMENT OR REPRESENTATION; PENALTY

A person who willfully 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 subchapter, either for himself or herself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00 and shall forfeit all or a portion of any right to benefits under the provisions of this subchapter, as determined to be appropriate by the Commissioner of Labor or of Taxes, as appropriate, after a determination by the Commissioner that the person has willfully made a false statement or representation of a material fact.

§ 579. RULEMAKING

(a) The Commissioner of Taxes shall adopt rules as necessary to implement the provisions of this subchapter related to the collection of contributions pursuant to section 572 of this subchapter and the determination of monetary eligibility for benefits.

(b) The Commissioner of Labor shall adopt rules as necessary to implement all other provisions of this subchapter.

§ 580. CONFIDENTIALITY OF INFORMATION

(a) Information obtained from an employer or individual in the administration of this subchapter 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 subchapter.

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

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

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

§ 581. DISQUALIFICATIONS

A qualified employee shall be disqualified for benefits for any week in which he or she has received:

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

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

§ 582. OVERPAYMENT OF BENEFITS; COLLECTION

(a)(1) Any individual who by nondisclosure or misrepresentation of a material fact, by him or her, or by another person, has received Family and Medical Leave Insurance benefits when he or she failed to fulfill a requirement for the receipt of benefits pursuant to this chapter or while he or she was disqualified from receiving benefits pursuant to section 580 of this chapter shall be liable to repay to the Commissioner of Labor the amount received.

(2) Upon determining that an individual has received benefits under this chapter that he or she was not entitled to, the Commissioner of Labor shall provide the individual with notice of the determination. The notice shall include a statement that the individual is liable to repay to the Commissioner the amount of overpaid benefits and shall identify the basis of the overpayment and the time period in which the benefits were paid.

(3) 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 Commissioner for deposit into the Fund.

(2) If the Commissioner finds that the individual intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits, in addition to the repayment under subdivision (1) of this subsection, the person shall pay an additional penalty of 15 percent of the amount of the overpaid benefits, which shall also be deposited into the Fund.

(3) The Commissioner may collect the amounts due under this section in civil action in the Superior Court.

(c) If an individual is liable to repay any amount pursuant to this section, the Commissioner 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, less any penalties assessed under subdivision (b)(2) of this section.

(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 his or her claim for benefits may be subject to the penalties provided pursuant to section 577 of this title.

§ 583. 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 his or her rights under this subchapter. The provisions against retaliation in subdivision 495(a)(8) of this title shall apply to this subchapter.

(b) An employer shall not interfere with, restrain, or otherwise prevent an employee from exercising or attempting to exercise his or her rights pursuant to this subchapter.

(c) An employee aggrieved by a violation of the provisions of this subchapter 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.

Sec. 2. ADOPTION OF RULES

(a) On or before April 1, 2020, the Commissioner of Taxes shall adopt rules necessary to implement the provisions of 21 V.S.A. chapter 5, subchapter 13 related to the collection of contributions, which shall include:

(1) procedures for the collection of contributions; and

(2) reporting and record-keeping requirements for employers and self-employed individuals.

(b)(1) On or before April 1, 2020, the Commissioner of Labor shall adopt rules necessary to implement all other provisions of 21 V.S.A. chapter 5, subchapter 13, which shall include:

(A) procedures for receiving and processing applications for benefits;

(B) acceptable documentation for demonstrating eligibility for benefits;

(C) procedures for issuing benefits payments;

(D) forms and requirements for providing certification from a health care provider of the need for family leave that are modeled on the federal rules governing certification of a serious health condition under the Family and Medical Leave Act;

(E) forms and procedures for obtaining authorization for an individual's health care provider to disclose to the Commissioner information necessary to make a determination of the individual's eligibility for benefits; and

(F) procedures for appealing a decision pursuant to 21 V.S.A. § 574 that are modeled, to the extent possible, on the appeals process provided for determinations of benefits in relation to unemployment insurance.

(2) On or before October 1, 2021, the Commissioner shall adopt any necessary rules related to establishing that an in loco parentis relationship exists between an employee and another individual.

Sec. 3. EDUCATION AND OUTREACH

On or before June 1, 2020, the Commissioner of Labor shall develop and make available on the Department of Labor'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 5, subchapter 13.

Sec. 4. ESTABLISHMENT OF FAMILY AND MEDICAL LEAVE

INSURANCE PROGRAM; EXPENDITURES FROM SPECIAL FUND

Beginning on July 1, 2019, the Commissioner of Finance and Management may, pursuant to 32 V.S.A. § 588(4)(C), issue warrants for expenditures from the Family and Medical Leave Insurance Special Fund necessary to establish the Family and Medical Leave Insurance Program in anticipation of the receipt on or after July 1, 2020 of contributions submitted pursuant to 21 V.S.A. § 572.

Sec. 5. ADEQUACY OF RESERVES; REPORT

Annually, on or before January 15, 2022, 2023, and 2024, the Commissioners of Labor and of Taxes, in consultation with the Commissioners of Finance and Management and of Financial Regulation, shall submit a

written report to the House Committees on Appropriations, on General, Housing, and Military Affairs, 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. 6. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

(1) “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 for the purposes of parental leave that 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.~~

* * *

(3) “Family leave” means a leave of absence from employment by an employee who works for an employer ~~which~~ that employs ~~15~~ 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 serious illness of the employee; ~~or~~

(B) the serious illness 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) ~~“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:~~

(C) the employee’s pregnancy;

~~(A)~~(D) the birth of the employee’s child; or

~~(B)~~(E) the initial placement of a child ~~16~~ 18 years of age or younger with the employee for the purpose of adoption or foster care.

(4) “Family member” means the employee’s:

(A) child, step child or ward who lives with the employee, or foster child;

(B) spouse, domestic partner, or civil union partner;

(C) parent or the parent of the employee's spouse, domestic partner, or civil union partner;

(D) sibling or the sibling of the employee's spouse, domestic partner, or civil union partner;

(E) grandchild;

(F) grandparent or the spouse, domestic partner, or civil union partner of the employee's grandparent;

(G) a child for whom the employee stands in loco parentis or an individual who stood in loco parentis for the employee when he or she was a child.

* * *

(6) "Commissioner" means the Commissioner of Labor.

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

(8) "In loco parentis" means a child for whom the employee has day-to-day responsibilities to care for and financially support, or, in the case of the employee, an individual who had such responsibility for the employee when he or she was a child.

Sec. 7. 21 V.S.A. § 472 is amended to read:

§ 472. FAMILY LEAVE

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

(1) for parental leave, during the employee's pregnancy and;

(2) following the birth of an the employee's child or;

(3) within a year following the initial placement of a child ~~16~~ 18 years of age or younger with the employee for the purpose of adoption- or foster care;

(2)(4) for family leave, for the serious illness of the employee; or

(5) the serious illness of 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 family member.

(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~~ Family and Medical Leave Insurance benefits pursuant to subchapter 13 of this chapter, or short-term disability insurance or other insurance benefits. ~~Utilization~~ Use of accrued paid leave, Family and Medical Leave Insurance benefits, or other 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 his or her employer reasonable written notice of intent to take family leave under this subchapter. 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 illness or premature birth, the employee shall give the employer notice of the commencement of the leave as soon as practicable.

(4) In the case of serious illness 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.

(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 need to extend the leave to the extent provided by this chapter.

* * *

(h) Except for serious illness of the employee, an employee who does not return to employment with the employer who provided the family leave shall return to the employer the value of any compensation paid to or on behalf of the employee during the leave, except payments of Family and Medical Leave Insurance benefits and payments for accrued sick leave or vacation leave. An employer may elect to waive the rights provided pursuant to this subsection.

Sec. 8. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

* * *

(5) For any week with respect to which the individual is receiving or has received remuneration in the form of:

* * *

(F) Family and Medical Leave Insurance benefits pursuant to chapter 5, subchapter 13 of this title.

* * *

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 3, 4, and 5 shall take effect on July 1, 2019.

(b) Secs. 6, 7, and 8 shall take effect on October 1, 2021.

(c) Contributions shall begin being paid pursuant to 21 V.S.A. § 572 on July 1, 2020, and, beginning on October 1, 2021, employees may begin to receive benefits pursuant to 21 V.S.A. chapter 5, subchapter 13.

(Committee Vote: 8-1-1)

Rep. Scheu of Middlebury, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Ways and Means and when further amended as follows:

By striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

It is the intent of the General Assembly that:

(1) the Family and Medical Leave Insurance Program established by this act shall provide employees with affordable Family and Medical Leave Insurance benefits;

(2) the Commissioner of Labor shall seek a private insurance carrier to provide the benefits required under the Program; and

(3) if the Commissioner is able to identify an insurance carrier that can provide the required benefits in a more cost-effective manner than would be possible if benefits were provided by the State, the Commissioner shall enter

into a contract with that insurance carrier to administer the Program and provide the benefits required by this act.

Sec. 2. 21 V.S.A. chapter 5, subchapter 13 is added to read:

Subchapter 13. Family and Medical Leave Insurance

§ 571. DEFINITIONS

As used in this subchapter:

(1) “Average weekly wage” means the employee’s total wages from his or her two highest-earning quarters in the last four completed calendar quarters divided by 26.

(2) “Bonding leave” means a leave of absence from employment by an employee for:

(A) the employee’s pregnancy;

(B) the birth of the employee’s child; or

(C) the initial placement of a child 18 years of age or younger with the employee for the purpose of adoption or foster care.

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

(4) “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.

(5) “Employer” means an individual, organization, 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.

(6) “Family member” means the employee’s:

(A) child, step child or ward who lives with the employee, or foster child;

(B) spouse, domestic partner, or civil union partner;

(C) parent or the parent of the employee’s spouse, domestic partner, or civil union partner;

(D) grandchild;

(E) grandparent; or

(F) a child for whom the employee stands in loco parentis or an individual who stood in loco parentis for the employee when he or she was a child.

(7) “In loco parentis” means a child for whom the employee has day-to-day responsibilities to care for and financially support, or, in the case of the employee, an individual who had such responsibility for the employee when he or she was a child.

(8) “Medical leave” means a leave of absence from employment by an employee for:

(A) his or her own serious illness, provided he or she is not eligible to receive workers’ compensation pursuant to 21 V.S.A. chapter 9 for the serious illness; or

(B) a serious illness of the employee’s family member;

(9) “Qualified employee” means an employee who has:

(A) earned wages in at least six months during the last four completed calendar quarters; and

(B) earned wages during the last four completed calendar quarters in an amount that is equal to or greater than 1,040 hours at the minimum wage established pursuant to section 384 of this chapter.

(10) “Serious illness” means an accident, disease, or physical or mental condition that:

(A) poses imminent danger of death;

(B) requires inpatient care in a hospital; or

(C) requires continuing in-home care under the direction of a physician.

(11) “Vermont’s weekly livable wage” means a 40-hour workweek paid at the rate of the livable wage determined by the Joint Fiscal Office pursuant to 2 V.S.A. § 505.

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

§ 572. FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM;

ADMINISTRATION

(a) The Family and Medical Leave Insurance Program is established in the Department of Labor for the provision of Family and Medical Leave Insurance benefits to eligible employees pursuant to this section.

(b)(1) The Commissioner of Labor shall endeavor to identify and contract with a suitable insurance company to provide paid family and medical leave insurance in accordance with this subchapter.

(2) On or before July 15, 2019, the Commissioner of Labor, in consultation with the Commissioners of Financial Regulation, of Human Resources, and of Taxes, shall develop and issue a request for proposals for an insurance carrier to provide family and medical leave insurance that satisfies the requirements of this subchapter. An insurance carrier shall not be selected unless it can demonstrate that it would be able to provide the required family and medical leave insurance benefits and comply with the provisions of this subchapter in a more cost-effective manner than if the Family and Medical Leave Insurance Program were administered by the State.

(3) The Commissioner of Labor, in consultation with the Commissioners of Financial Regulation, of Human Resources, and of Taxes, shall evaluate the proposals received in response to the request for proposals and shall select the proposal that the Commissioner determines:

(A) best satisfies the requirements of this subchapter;

(B) will provide the required family and medical leave insurance benefits and comply with the provisions of this subchapter in a more cost-effective manner than if the Family and Medical Leave Insurance Program were administered by the State; and

(C) delivers the greatest value to the State and Vermont's employees and employers.

(4) An agreement with an insurance carrier to provide family and medical leave insurance pursuant to this subsection shall include a clause that permits the Commissioner of Labor to terminate the agreement for noncompliance with this chapter.

(5)(A) An agreement with an insurance carrier pursuant to this subsection shall be for a period of not more than four years.

(B) Not later than six months prior to the expiration on the agreement pursuant to this subsection, the Commissioner of Labor shall determine whether to renew the agreement for an additional period of not more than four years or to issue a new request for proposals for an insurance carrier to provide family and medical leave insurance that satisfies the requirements of this subchapter.

(c)(1) In the event that the Commissioner of Labor is unable to secure a suitable insurance carrier pursuant to subsection (b) of this section, the Paid

Family and Medical Leave Insurance Program shall be administered by the Department of Labor pursuant to the provisions of this subchapter.

(2) In the event that the Paid Family and Medical leave Insurance Program is administered by the Department of Labor, the Commissioner of Labor may contract with a third-party administrator for actuarial support, fund administration, the processing of benefits claims and payments, and the initial determination of appeals.

§ 573. CONTRIBUTIONS

(a) An employer that does not elect to meet its obligations under this subchapter as provided pursuant to section 577 shall remit the contributions required by subsection (b) of this section to the Commissioner of Taxes on a quarterly basis beginning with the calendar quarter that starts on January 1, 2020.

(b)(1) Contributions shall be equal to:

(A) for the two calendar quarters between January 1, 2020 and June 30, 2020, 0.20 percent of each employee's covered wages; and

(B) beginning on July 1, 2020 and thereafter, 0.55 percent of each employee's covered wages.

(2) An employer shall have the option of paying some or all of the contributions due for an employee's covered wages or may deduct and withhold the full amount of the contribution due from the employee's covered wages.

(c) As used in this section, the term "covered wages" shall include all wages paid to an employee up to the amount of the maximum Social Security Taxable Wage.

(d)(1) The General Assembly shall annually review and, if necessary, adjust the rate of contribution established pursuant to subsection (b) of this section for the next fiscal year. The rate shall equal the amount necessary to provide Family and Medical Leave Insurance benefits pursuant to this subchapter, to administer the Family and Medical Leave Insurance Program during the next fiscal year, and, if a reserve is necessary, to ensure that it is adequately funded.

(2) On or before February 1 of each year, the Commissioner of Labor, in consultation with the insurance carrier that the State has contracted with, if any, and the Commissioners of Financial Regulation and of Taxes, shall report to the General Assembly the rate of contribution necessary to provide Family and Medical Leave Insurance benefits pursuant to this subchapter, to

administer the Program during the next fiscal year, and, if a reserve is necessary, to ensure that it is adequately funded.

§ 574. COLLECTION OF CONTRIBUTIONS; REMITTANCE

(a)(1) The Commissioner of Taxes shall collect all contributions required pursuant to section 573 of this subchapter and deposit them into the Family and Medical Leave Insurance Special Fund until the Commissioner remits them to the private insurance carrier contracted with by the Commissioner of Labor pursuant to section 572 of this subchapter.

(2) In the event that the Commissioner of Labor does not contract with a private insurance carrier to provide family and medical leave insurance that satisfies the requirements of this subchapter, the Commissioner of Taxes shall deposit the collected contributions into the Family and Medical Leave Insurance Special Fund for use by the Commissioner of Labor in the administration of this subchapter and the payment of benefits.

(b)(1) The Commissioner of Taxes shall require the withholding of the contributions required pursuant to section 573 of this subchapter from wages paid by any employer, as if the contributions were an additional Vermont income tax subject to the withholding requirements of 32 V.S.A. § 5841(a). The administrative and enforcement provisions of 32 V.S.A. chapter 151, subchapter 4 shall apply to the withholding requirement under this section as if the contributions withheld were a Vermont income tax.

(2) An employer that has received approval from the Commissioner of Labor for an alternative insurance or benefit plan pursuant to the provisions of section 577 shall not be required to withhold contributions pursuant to this section.

(c) The Commissioner of Taxes may enter into a memorandum of understanding with the private insurance carrier contracted with by the Commissioner of Labor pursuant to section 572 of this subchapter, the Commissioner of Labor, or both, as the Commissioner of Taxes determines is necessary to carry out the provisions of this section.

§ 575. BENEFITS

(a) A qualified employee shall be permitted to receive a total of not more than 12 weeks of Family and Medical Leave Insurance benefits in a calendar year, which may include:

(1) up to 12 weeks of benefits for bonding leave taken by the employee;
and

(2) up to eight weeks of benefits for medical leave taken by the employee.

(b)(1) A qualified employee awarded Family and Medical Leave Insurance benefits under this section shall receive a weekly benefit amount equal to:

(A) if he or she earns an average weekly wage that is not more than Vermont's weekly livable wage, 90 percent of his or her average weekly wage;

(B) if he or she earns an average weekly wage that is greater than Vermont's weekly livable wage, 90 percent of Vermont's weekly livable wage plus 50 percent of the amount by which his or her average weekly wage exceeds Vermont's weekly livable wage.

(2) Notwithstanding subdivision (1) of this subsection, no qualified employee may receive Parental and Family Leave Insurance benefits that exceed two-and-one-half times Vermont's weekly livable wage for any single week.

(c) A qualified employee may receive Family and Medical Leave Insurance 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 employee's weekly benefit amount.

(d) A bonding leave or medical leave for which benefits are paid pursuant to this subchapter shall run concurrently with a leave taken pursuant to section 472 of this title or the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611-2654.

(e)(1) A qualified employee shall not be permitted to receive Family and Medical Leave Insurance benefits for any day for which he or she is receiving:

(A) wages;

(B) payment for the use of vacation leave, sick leave, or other accrued paid leave;

(C) payment pursuant to a disability insurance plan;

(D) unemployment insurance benefits pursuant to 21 V.S.A. chapter 17 or the law of any other state; or

(E) compensation for temporary partial disability or temporary total disability pursuant to 21 V.S.A. chapter 9, the workers' compensation law of any state, or any similar law of the United States.

(2) Notwithstanding subdivision (1) of this subsection, an employer may provide its employees with additional income to supplement the amount of the

benefits provided pursuant to this section provided that the sum of the additional income and the benefits provided pursuant to this section does not exceed the employee's average weekly wage.

§ 576. APPLICATION FOR BENEFITS; PAYMENT; TAX

WITHHOLDING

(a) A qualified employee, or his or her agent, shall file an application for Family and Medical Leave Insurance benefits under this subchapter on a form approved by the Commissioner of Labor. The determination of whether the qualified employee is eligible to receive Family and Medical Leave Insurance benefits shall be based on the following criteria:

(1) The claim is for a bonding leave or a medical leave and the need for the leave is adequately documented.

(2) The claimant satisfies the requirements to be a qualified employee as defined pursuant to subsection 571(8) of this subchapter.

(3) The claimant has specified the anticipated start date and duration of the leave.

(b)(1) A determination shall be made in relation to each claim within not more than five business days after the date the claim is filed. The time to make a determination on a claim may be extended by not more than 15 business days if necessary to obtain documents or information that are needed to make the determination.

(2) An application for Family and Medical Leave Insurance benefits may be filed:

(A) up to 60 days before an anticipated leave; or

(B) in the event of a premature birth or an unanticipated serious illness, within 60 days after the leave begins.

(3)(A) Benefits shall be paid to a qualified employee for the time period beginning on the day his or her leave began.

(B) The first benefit payment shall be sent to the qualified employee within 14 days after his or her claim is approved, and subsequent payments shall be sent biweekly.

(4) The provisions of sections 1367 and 1367a of this title shall apply to Family and Medical Leave Insurance benefits.

(c)(1) An individual filing a claim for Family and Medical Leave Insurance benefits 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 Family and Medical Leave Insurance benefits.

(d) As used in this section, "agent" means an individual who holds a valid power of attorney for the employee or other legal authorization to act on the employee's behalf that is acceptable to the Commissioner of Labor.

§ 577. EMPLOYER OPTION; ALTERNATIVE INSURANCE OR BENEFITS

(a) As an alternative to and in lieu of participating in the Family and Medical Leave Insurance Program, an employer may, upon approval by the Commissioner of Labor, comply with the requirements of this subchapter through the use of an alternative insurance plan or benefit plan that provides to all of its employees benefits for bonding and medical leave that are equivalent to or more generous than the benefits provided pursuant to this subchapter. An employer may elect to provide such benefits by:

(1) establishing and maintaining to the satisfaction of the Commissioner of Financial Regulation self-insurance necessary to provide equivalent or greater benefits;

(2) purchasing insurance coverage for the payment of equivalent or greater benefits from any insurance carrier authorized to provide family and medical leave insurance in this State;

(3) establishing an employee benefits plan that provides equivalent or greater benefits; or

(4) any combination of subdivisions (1) through (3) of this subsection.

(b)(1) The Commissioner of Labor may approve an alternative insurance or benefit plan under this section upon making a determination that it provides benefits that are equivalent to or more generous than the benefits provided pursuant to this subchapter.

(2)(A) Nothing in this section shall be construed to required that the benefits provided by an alternative insurance or benefit plan be identical to the benefits provided pursuant to this subchapter.

(B) The Commissioner shall determine whether the benefits provided by a proposed alternative insurance or benefit plan are equivalent to or more

generous than the benefits provided pursuant to this subchapter by weighing the relative value of the alternative plan's length of leave, wage replacement, and cost to employees against the provisions of this subchapter.

(c)(1) Except as otherwise provided pursuant to subdivision (4) of this subsection, an alternative insurance or benefit plan shall only be permitted to become effective on January 1 following its approval and shall remain in effect until it is discontinued pursuant to subdivision (3) of this subsection.

(2)(A) An employer shall submit an application to the Commissioner of Labor for approval of a new or modified alternative insurance or benefit plan on or before October 15 of the calendar year prior to when it shall take effect.

(B) The Commissioner 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 Commissioner shall also provide a copy of the notice to the Commissioner of Taxes on or before December 1.

(3) An employer may discontinue its alternative insurance or benefit plan on January 1 of any year by filing notice of its intent to discontinue the plan with the Commissioners of Labor and of Taxes on or before November 1 of the prior year.

(4)(A) Notwithstanding any provisions of subdivisions (1) and (2) of this subsection to the contrary, for calendar year 2020, an employer shall submit an application for a new alternative insurance or benefit plan on or before April 15.

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

(C) Beginning on July 1, 2020, an employer that receives approval for an alternative insurance or benefit plan pursuant to this subdivision (4) shall be exempt from withholding contributions as provided pursuant to subdivision 574(b)(2) of this subchapter.

(d) Nothing in this subchapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or paid time off policy that provides more generous benefits than the benefits provided pursuant to this subchapter.

§ 578. DISQUALIFICATIONS

A qualified employee shall be disqualified for benefits for any week in which he or she has received:

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

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

§ 579. APPEALS

(a) An employer or employee aggrieved by a decision under section 576 or 578 of this subchapter may file an initial appeal of the decision with the insurance carrier that the State has contracted with.

(b) Within 20 days after receiving notice of the insurance carrier's decision on the initial appeal, the employer or employee may appeal the decision as provided pursuant to sections 1348, 1349, and 1351–1357 of this title.

§ 580. FALSE STATEMENT OR REPRESENTATION; PENALTY

A person who willfully 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 subchapter, either for himself or herself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00 and shall forfeit all or a portion of any right to benefits under the provisions of this subchapter, as determined to be appropriate by the Commissioner of Labor.

§ 581. REINSTATEMENT; SENIORITY AND BENEFITS PROTECTED

(a) The employer of an employee who receives Family and Medical Leave Insurance benefits under this subchapter shall reinstate the employee at the conclusion of his or her bonding leave or medical leave, provided the employee does not take bonding leave or medical leave for a combined total of more than 12 weeks in a calendar year. The employee shall be reinstated in the first available suitable position given the position he or she held at the time his or her leave began.

(b) Upon reinstatement, the employee shall regain seniority and any unused accrued paid leave he or she was entitled to prior to the leave, less any accrued paid leave used during the leave.

(c)(1) Nothing in this section shall be construed to diminish an employee's rights pursuant to subsection 472(f) of this chapter.

(2) The provisions of this section shall not apply if:

(A) the employee had been given notice, or had given notice, prior to the employee providing his or her employer with notice of the leave;

(B) the employer can demonstrate by clear and convincing evidence that during the leave, or prior to the employee's reinstatement, the employee's position would have been terminated or the employee laid off for reasons unrelated to the leave or the reason for which the employee took the leave;

(C) the employee fails to inform the employer of:

(i) his or her interest in being reinstated at the conclusion of the leave; and

(ii) the date on which his or her leave is anticipated to conclude;
or

(D) more than two years have elapsed since the conclusion of the employee's leave.

(d)(1) An employee aggrieved by an employer's failure to comply with the provisions of this section may bring an action in the Civil Division of the Superior Court in the county where the employment is located for compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or other benefits, reinstatement, costs, and other appropriate relief.

(2) A copy of the complaint shall be filed with the Commissioner of Labor.

(3) The court shall award reasonable attorney's fees to the employee if he or she prevails.

§ 582. 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 his or her rights under this subchapter. The provisions against retaliation in subdivision 495(a)(8) of this title shall apply to this subchapter.

(b) An employer shall not interfere with, restrain, or otherwise prevent an employee from exercising or attempting to exercise his or her rights pursuant to this subchapter.

(c) An employee aggrieved by a violation of the provisions of this subchapter 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.

§ 583. CONFIDENTIALITY OF INFORMATION

(a) Information obtained from an employer or individual in the administration of this subchapter 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, to the extent that such information is obtained by the State, 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 subchapter.

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

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

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

§ 584. RULEMAKING

(a) The Commissioner of Taxes shall adopt rules as necessary to implement the provisions of section 574 of this subchapter. The rules adopted by the Commissioner of Taxes shall include:

(1) procedures for the collection of contributions; and

(2) reporting and record-keeping requirements for employers.

(b) The Commissioner of Labor shall adopt rules as necessary to implement all other provisions of this subchapter. The rules adopted by the Commissioner of Labor shall include:

(1) acceptable documentation for demonstrating eligibility for benefits;

(2) requirements for providing certification from a health care provider of the need for family leave that are modeled on the federal rules governing certification of a serious health condition under the Family and Medical Leave Act;

(3) requirements for obtaining authorization for an individual's health care provider to disclose information necessary to make a determination of the individual's eligibility for benefits;

(4) requirements and criteria for the approval of an employer's alternative insurance or benefit plan pursuant to 21 V.S.A. § 577 and for determining whether a proposed plan provides benefits that are equivalent to or more generous than the benefits provided pursuant to 21 V.S.A. chapter 5, subchapter 13; and

(5) procedures for appeals pursuant to 21 V.S.A. § 579(b).

§ 585. FAMILY AND MEDICAL LEAVE INSURANCE SPECIAL FUND

The Family and Medical Leave Insurance Special Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund shall consist of contributions collected from employers pursuant to section 574 of this subchapter. The Fund may be expended by the Commissioner of Taxes for the payment of premiums for the Family and Medical Leave Insurance Program. All interest earned on Fund balances shall be credited to the Fund.

Sec. 3. 21 V.S.A. § 586 is added to read:

§ 586. OVERPAYMENT OF BENEFITS; COLLECTION

(a)(1) Any individual who by nondisclosure or misrepresentation of a material fact, by him or her, or by another person, has received Family and Medical Leave Insurance benefits when he or she failed to fulfill a requirement for the receipt of benefits pursuant to this chapter or while he or she was disqualified from receiving benefits pursuant to section 580 of this chapter shall be liable to repay to the Commissioner of Labor the amount received.

(2) Upon determining that an individual has received benefits under this chapter that he or she was not entitled to, the Commissioner of Labor shall provide the individual with notice of the determination. The notice shall include a statement that the individual is liable to repay to the Commissioner the amount of overpaid benefits and shall identify the basis of the overpayment and the time period in which the benefits were paid.

(3) 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 Commissioner for deposit into the Fund.

(2) If the Commissioner finds that the individual intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits, in addition to the repayment under subdivision (1) of this subsection, the person shall pay an additional penalty of 15 percent of the amount of the overpaid benefits, which shall also be deposited into the Fund.

(3) The Commissioner may collect the amounts due under this section in civil action in the Superior Court.

(c) If an individual is liable to repay any amount pursuant to this section, the Commissioner 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, less any penalties assessed under subdivision (b)(2) of this section.

(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 his or her claim for benefits may be subject to the penalties provided pursuant to section 580 of this title.

Sec. 4. ADOPTION OF RULES

(a) On or before January 1, 2020, the Commissioner of Taxes shall adopt rules necessary to implement the provisions of 21 V.S.A. § 574, which shall include:

(1) procedures for the collection of contributions; and

(2) reporting and record-keeping requirements for employers.

(b)(1) On or before April 1, 2020, the Commissioner of Labor shall adopt rules necessary to implement all other provisions of 21 V.S.A. chapter 5, subchapter 13, which shall include:

(A) acceptable documentation for demonstrating eligibility for benefits;

(B) requirements for providing certification from a health care provider of the need for family leave that are modeled on the federal rules governing certification of a serious health condition under the Family and Medical Leave Act;

(C) requirements for obtaining authorization for an individual's health care provider to disclose information necessary to make a determination of the individual's eligibility for benefits;

(D) requirements and criteria for the approval of an employer's alternative insurance or benefit plan pursuant to 21 V.S.A. § 577 and for determining whether a proposed plan provides benefits that are equivalent to or more generous than the benefits provided pursuant to 21 V.S.A. chapter 5, subchapter 13; and

(E) procedures for appealing a decision pursuant to 21 V.S.A. § 579(b).

(2) On or before April 1, 2020, the Commissioner of Labor shall adopt any necessary rules related to establishing that an in loco parentis relationship exists between an employee and another individual.

Sec. 5. EDUCATION AND OUTREACH

On or before April 1, 2020, the Commissioner of Labor shall develop and make available on the Department of Labor'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 5, subchapter 13.

Sec. 6. ESTABLISHMENT OF FAMILY AND MEDICAL LEAVE

INSURANCE PROGRAM; EXPENDITURES FROM SPECIAL FUND

Beginning on October 1, 2019, the Commissioner of Finance and Management may, pursuant to 32 V.S.A. § 588(4)(C), issue warrants for expenditures from the Family and Medical Leave Insurance Special Fund necessary to establish the Family and Medical Leave Insurance Program in anticipation of the receipt on or after January 1, 2020 of contributions submitted pursuant to 21 V.S.A. § 572.

Sec. 7. ADEQUACY OF RESERVES; REPORT

Annually, on or before January 15, 2021, 2022, and 2023, the Commissioner of Labor, 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, Housing, and Military Affairs, 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. 8. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

(1) "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

~~for the purposes of parental leave that 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.~~

* * *

(3) “Family leave” means a leave of absence from employment by an employee who works for an employer ~~which~~ that employs ~~15~~ 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 serious illness of the employee; ~~or~~

~~(B) the serious illness 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) “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:~~

~~(C) the employee’s pregnancy;~~

~~(A)~~(D) the birth of the employee’s child; or

~~(B)~~(E) the initial placement of a child ~~16~~ 18 years of age or younger with the employee for the purpose of adoption or foster care.

~~(4) “Family member” means the employee’s:~~

~~(A) child, step child or ward who lives with the employee, or foster child;~~

~~(B) spouse, domestic partner, or civil union partner;~~

~~(C) parent or the parent of the employee’s spouse, domestic partner, or civil union partner;~~

~~(D) grandchild;~~

~~(E) grandparent; or~~

~~(F) a child for whom the employee stands in loco parentis or an individual who stood in loco parentis for the employee when he or she was a child.~~

* * *

~~(6) “Commissioner” means the Commissioner of Labor.~~

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

(8) “In loco parentis” means a child for whom the employee has day-to-day responsibilities to care for and financially support, or, in the case of the employee, an individual who had such responsibility for the employee when he or she was a child.

Sec. 9. 21 V.S.A. § 472 is amended to read:

§ 472. FAMILY LEAVE

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

(1) ~~for parental leave, during the employee’s pregnancy and;~~

(2) following the birth of an the employee’s child or;

(3) within a year following the initial placement of a child 16 18 years of age or younger with the employee for the purpose of adoption. or foster care;

~~(2)(4) for family leave, for the serious illness of the employee; or~~

~~(5) the serious illness of 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 family member.~~

(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~~ Family and Medical Leave Insurance benefits pursuant to subchapter 13 of this chapter, or short-term disability insurance or other insurance benefits. Utilization Use of accrued paid leave, Family and Medical Leave Insurance benefits, or other 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 his or her employer reasonable written notice of intent to take family leave under this subchapter. 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 illness or premature birth, the employee shall give the employer notice of the commencement of the leave as soon as practicable.

(4) In the case of serious illness 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.

(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 need to extend the leave to the extent provided by this chapter.

* * *

(h) Except for serious illness of the employee, an employee who does not return to employment with the employer who provided the family leave shall return to the employer the value of any compensation paid to or on behalf of the employee during the leave, except payments of Family and Medical Leave Insurance benefits and payments for accrued sick leave or vacation leave. An employer may elect to waive the rights provided pursuant to this subsection.

Sec. 10. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

* * *

(5) For any week with respect to which the individual is receiving or has received remuneration in the form of:

* * *

(F) Family and Medical Leave Insurance benefits pursuant to chapter 5, subchapter 13 of this title.

* * *

Sec. 11. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;
DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

* * *

(G) The individual was employed by that employer as a result of another employee taking leave under chapter 5, subchapter 13 of this title, and the individual's employment was terminated as a result of the reinstatement of the other employee following his or her leave under chapter 5, subchapter 13 of this title.

* * *

Sec. 12. SELF-EMPLOYED INDIVIDUAL; OPT-IN; REPORT

On or before January 15, 2021, the Commissioner of Labor, in consultation with the insurance carrier that the State has contracted with, if any, and the Commissioners of Financial Regulation and of Taxes, shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding the potential for permitting self-employed individuals to elect to obtain coverage through the Family and Medical Leave Insurance Program. In particular, the report shall examine the experience of other states that allow self-employed individuals to obtain coverage under their family and medical leave insurance programs, and the potential impact of permitting self-employed individuals to elect to obtain coverage through the Family and Medical Leave Insurance Program on the Program, contribution rates, and administrative costs. The report shall also include a recommendation for legislative action necessary to permit self-employed individuals to elect to obtain coverage through the Family and Medical Leave Insurance Program.

Sec. 13. POTENTIAL TRANSITION TO STATE-OPERATED FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM; REPORT

On or before January 15, 2023, the Commissioner of Labor, in consultation with the Commissioner of Taxes, shall report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding the potential

for transitioning the Family and Medical Leave Insurance Program to a program that is fully administered and operated by the State. The report shall identify the potential costs to the State of such a transition and the amount of time necessary to successfully accomplish the transition, as well as the expected impacts on contribution rates, administrative efficiency, and the experience of employers and employees. The report shall also examine and contrast the potential benefits and drawbacks of ensuring the solvency of a program that is fully administered and operated by the State by either maintaining a reserve or obtaining reinsurance. The report shall include a recommendation regarding whether the Family and Medical Leave Insurance Program should transition to a program that is fully administered and operated by the State.

Sec. 14. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 4, 5, 12, and 13 shall take effect on passage.

(b) Secs. 3, 6, and 7 shall not take effect until October 1, 2019, and shall not take effect at all if the Commissioner of Labor secures a suitable insurance company to provide paid family and medical leave insurance pursuant to the provisions of 21 V.S.A. § 572(b).

(c) Secs. 8, 9, 10, and 11 shall take effect on January 1, 2020.

(d)(1) Contributions shall begin being paid pursuant to 21 V.S.A. §§ 573 and 574 on January 1, 2020, and, beginning on July 1, 2020, employees may begin to receive benefits pursuant to 21 V.S.A. chapter 5, subchapter 13.

(2) An employer that is subject to a collective bargaining agreement shall not be required to pay contributions or be subject to the provisions of 21 V.S.A. chapter 5, subchapter 13 until the effective date of the next collective bargaining agreement after January 1, 2020 in order to permit the employer and the collective bargaining representative to negotiate regarding the employer and employee shares of the contribution rate or whether the employer will provide benefits through an alternative plan established pursuant to 21 V.S.A. § 577.

(Committee Vote: 7-4-0)

H. 524

An act relating to health insurance and the individual mandate.

(Rep. Jickling of Randolph will speak for the Committee on Health Care.)

Rep. Till of Jericho, for the Committee on Ways and Means, recommends the bill ought to pass when amended as follows:

First: By striking out Sec. 1, 32 V.S.A. chapter 244, in its entirety and inserting in lieu thereof the following

Sec. 1. 32 V.S.A. chapter 244 is amended to read:

CHAPTER 244. REQUIREMENT TO MAINTAIN MINIMUM
ESSENTIAL COVERAGE

§ 10451. DEFINITIONS

As used in this chapter:

(1) “Applicable individual” means, with respect to any month, an individual other than the following:

(A) an individual ~~with a religious conscience exemption~~ who is:

(i) a member of a recognized religious sect or division thereof that is described in 26 U.S.C. § 1402(g)(1) and is an adherent of established tenets or teachings of that sect or division; or

(ii) a member of a religious sect or division thereof that is not described in 26 U.S.C. § 1402(g)(1), who relies solely on a religious method of healing, and for whom the acceptance of medical health services would be inconsistent with the individual’s religious beliefs;

(B) an individual not lawfully present in the United States; or

(C) an individual for any month if for the month the individual is incarcerated, other than incarceration pending the disposition of charges.

~~(2) “Eligible employer-sponsored plan” shall have the same meaning as in 26 U.S.C. § 5000A, as amended, and as in effect on December 31, 2017, and any related regulations.~~

~~(3) “Minimum essential coverage” shall have~~ has the same meaning as in 26 U.S.C. § 5000A, as amended, and any related regulations and federal guidance, as in effect on December 31, 2017, and any related regulations. The term also includes any other coverage or health insurance product deemed by the Department of Financial Regulation to constitute minimum essential coverage based on the criteria established in federal law and guidance in effect on December 31, 2017.

§ 10452. REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL
COVERAGE

An applicable individual shall ensure that the individual and any dependent of the individual who is also an applicable individual is covered at all times under minimum essential coverage.

§ 10453. REPORTING AND DOCUMENTATION OF COVERAGE

(a) Each applicable individual who files or is required to file an individual income tax return as a resident of Vermont, either separately or jointly with a spouse, shall indicate on the return, in a manner prescribed by the Commissioner of Taxes, whether the individual had minimum essential coverage in effect for each of the 12 months of the taxable year for which the return is filed as required by section 10452 of this chapter, whether covered as an individual or as a named beneficiary of a policy covering multiple individuals.

(b) An applicable individual who indicates on a Vermont income tax return that the individual had minimum essential coverage shall provide to the Department of Taxes, upon the Department's request, a copy of the statement of coverage furnished to the individual pursuant to 26 U.S.C. § 6055 by the provider of the individual's minimum essential coverage.

(c) In the event that the requirement for providers of minimum essential coverage to furnish a statement of coverage to individuals pursuant to 26 U.S.C. § 6055 is suspended or eliminated for any taxable year, the Department of Vermont Health Access and each employer, health insurance carrier, and other entity providing minimum essential coverage to residents of this State shall submit a return to the Department of Taxes including the same information as had been provided to the Internal Revenue Service pursuant to 26 U.S.C. § 6055 at such time and in such form as the Commissioner of Taxes shall require.

§ 10454. OUTREACH TO UNINSURED VERMONTERS

The Department of Vermont Health Access, in consultation with the Office of the Health Care Advocate and other interested stakeholders, shall use information obtained from the Department of Taxes regarding Vermont residents without minimum essential coverage to provide targeted outreach to assist those residents in identifying and enrolling in appropriate and affordable health insurance or other health coverage.

Second: By striking out Sec. 3, 32 V.S.A. § 3112, in its entirety and inserting in lieu thereof the following:

Sec. 3. [Deleted.]

Third: By striking out Sec. 11, premium assistance expansion; legislative intent, in its entirety and inserting in lieu thereof the following:

Sec. 11. [Deleted.]

Fourth: In Sec. 13, effective dates, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Sec. 2 (32 V.S.A. § 3102(e)) shall take effect on January 1, 2020.

Fifth: In Sec. 13, effective dates, in subsection (e), by striking out “11 (premium assistance; intent),”

(Committee Vote 11-0-0)

Rep. Lanpher of Vergennes, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Ways and Means and when further amended as follows:

In Sec. 9, health insurance affordability; report, as follows:

First: In subdivision (a)(1), by adding the word “and” following the semicolon at the end of subdivision (A), by striking out subdivision (B) in its entirety, and by redesignating subdivision (C) to be subdivision (B)

Second: In subsection (a), by adding the word “and” following the semicolon at the end of subdivision (2), by striking out subdivision (3) in its entirety, and by redesignating subdivision (4) to be subdivision (3)

(Committee Vote: 7-4-0)

Favorable

S. 14

An act relating to extending the moratorium on home health agency certificates of need

Rep. Nicoll of Ludlow, for the Committee on Human Services, recommends that the bill ought to pass in concurrence.

(Committee Vote: 10-0-1)

(For text see Senate Journal January 31, 2019)

Ordered to Lie

H. 97

An act relating to fiscal year 2019 budget adjustments.

Pending Question: Shall the House concur in the Senate Proposal of Amendment to House Proposal of Amendment to Senate Proposal of Amendment?

Information Notice

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)) on or before **Friday, March 15, 2019**, and filed with the Secretary/Clerk so that they may be placed on the Calendar for Notice the next legislative day.

(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 22, 2019**, and filed with the Secretary/Clerk so that 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.

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(a)(2):

(1) JFO #2955 - \$22,932 from the Corporation for National and Community Service (CNCS) to SerVermont. The funding would be used to perform criminal history re-checks of CNCS-funded members and staff, which has been required by CNCS due to background check compliance issues nationwide.
[JFO received 2/25/19]

(2) JFO #2956 - \$123,040 from the American Association of Motor Vehicle Administrators to the VT Dept. of Motor Vehicles. The funding would be used to make Vermont vehicle title information available on the National Motor Vehicle Title Information System (NMVTIS).
[JFO received 2/25/19]

(3) JFO #2957 – \$99,919 from the U.S. Dept. of Agriculture to the VT Agency of Education. The funding would be used to hire a temporary, part-time position to provide Child and Adult Care

Food (CACF) program training and professional development
to child and adult care institutions in Vermont.

[JFO received 3/11/19]

Joint Assembly

Joint Assembly to vote on the retention of eight Superior Judges and one
Magistrate March 27, 2019 at 10:30 am