

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing, and Military Affairs to which was  
3 referred House Bill No. 107 entitled “An act relating to paid family leave”  
4 respectfully reports that it has considered the same and recommends that the  
5 bill be amended by striking out all after the enacting clause and inserting in  
6 lieu thereof the following:

7 **Sec. 1.** 21 V.S.A. chapter 5, subchapter 13 is added to read:

8 Subchapter 13. **Family and Medical Leave Insurance**

9 § 571. DEFINITIONS

10 As used in this subchapter:

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

14 (2) “Bereavement leave” means a leave of absence from employment by  
15 an employee for the death of the employee’s family member that occurs not  
16 more than one year after the family member’s death. Bereavement leave  
17 includes leave taken in relation to the administration or settlement of the  
18 deceased family member’s estate.

19 (3)(A) “De facto parent” means an individual who can demonstrate to  
20 the Commissioner by clear and convincing evidence that:

1           (i) he or she resided with the child as a regular member of the  
2 child’s household for a significant period of time;

3           (ii) he or she engaged in consistent caretaking of the child;

4           (iii) he or she undertook full and permanent responsibilities of a  
5 parent of the child without expectation of financial compensation;

6           (iv) he or she held out the child as his or her child;

7           (v) he or she established a bonded and dependent relationship with  
8 the child which is parental in nature; and

9           (vi) he or she and another parent of the child fostered or supported  
10 the bonded and dependent relationship required under subdivision (v) of this  
11 subdivision (7)(A).

12           (B) As used in this subdivision (7)(A), the term “child” includes the  
13 employee when he or she was under 18 years of age.

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

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

19           (6) “Employer” means an individual, organization, governmental body,  
20 partnership, association, corporation, legal representative, trustee, receiver,

1 trustee in bankruptcy, and any common carrier by rail, motor, water, air, or  
2 express company doing business in or operating within this State.

3 **(7)** “Family member” means the employee’s:

4 (A) child;

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

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

8 (D) grandchild;

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

11 (F) aunt, uncle, niece, or nephew, for whom an employee is primarily  
12 responsible either to arrange for health care or to provide care; or

13 (G) an individual who is a de facto parent of the employee or for  
14 whom the employee is a defacto parent.

15 **(8)** “Parental and family leave” means a leave of absence from  
16 employment by an employee for:

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

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

21 (C) the employee’s pregnancy;

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

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

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

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

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

14           (A) poses imminent danger of death;

15           (B) requires inpatient care in a hospital; or

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

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

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

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

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

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

16            (b) The Family and Medical Leave Insurance Special Fund is created  
17    pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund may be expended by  
18    the Commissioners of Labor and of Taxes for the administration of the Family  
19    and Medical Leave Insurance Program and payment of Family and Medical  
20    Leave Insurance benefits provided pursuant to this section. All interest earned  
21    on Fund balances shall be credited to the Fund.

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

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

9                (C) As used in this subsection, the term “covered wages” does not  
10       include the amount of wages paid to an employee after he or she has received  
11       wages equal to \$150,000.00. Beginning on January 1, 2021, and on each  
12       subsequent January 1, the amount of wages included in the term “covered  
13       wages” shall be increased by the percentage increase of the Consumer Price  
14       Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as  
15       calculated by the U.S. Department of Labor or successor agency for the  
16       12 months preceding the previous September 1. The amount of wages  
17       included in the term “covered wages” shall not be decreased.

18                (2)(A) Notwithstanding subdivision (1)(A) of this subsection (c), the  
19       General Assembly shall annually establish the rate of contribution for the next  
20       fiscal year. The rate shall equal the amount necessary to provide Family and  
21       Medical Leave Insurance benefits pursuant to this subchapter, to maintain a

1 reserve equal to at least nine months of the projected benefit payments for the  
2 next fiscal year, and to administer the **Family and Medical Leave** Insurance  
3 Program during the next fiscal year, adjusted by any balance in the Fund from  
4 the prior fiscal year.

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

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

1     § 573. BENEFITS

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

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

8           (b) A qualified employee awarded Family and Medical Leave Insurance  
9     benefits under this section shall receive 100 percent of his or her average  
10    weekly wage or an amount equal to a 40-hour workweek paid at a rate double  
11    that of the livable wage, as determined by the Joint Fiscal Office pursuant to  
12    2 V.S.A. § 505, whichever is less.

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

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



1     § 574. APPLICATION FOR BENEFITS; PAYMENT; TAX

2             WITHHOLDING

3             (a) A qualified employee shall file an application for **Family and Medical**  
4 **Leave Insurance** benefits with the Commissioner of Labor under this section  
5 on a form provided by the Commissioner. The Commissioner shall determine  
6 whether the qualified employee is eligible to receive **Family and Medical**  
7 **Leave Insurance** benefits based on the following criteria:

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

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

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

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

16             (b)(1) The Commissioner of Labor shall make a determination of each  
17 claim not later than five business days after the date the claim is filed, and  
18 **Family and Medical Leave Insurance** benefits shall be paid from the Fund  
19 created pursuant to this section. The Commissioner may extend the time in  
20 which to make a determination of a claim by not more than 15 business days if

1 necessary to obtain documents or information that are needed to make the  
2 determination.

3 (2) A qualified employee may file an application for Family and  
4 Medical Leave Insurance benefits up to 45 days before an anticipated family  
5 and medical leave, or in the event of a premature birth, an unanticipated  
6 serious illness, or the death of a family member within 60 days after  
7 commencing a family and medical leave or bereavement leave.

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

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

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

18 (2) The Commissioner of Labor shall follow all procedures specified by  
19 26 U.S.C. chapter 24 and 32 V.S.A. chapter 151, subchapter 4 pertaining to the  
20 withholding of income tax.

21 § 575. REINSTATEMENT; SENIORITY AND BENEFITS PROTECTED

1       (a) The employer of an employee who receives **Family and Medical Leave**  
2       Insurance benefits under this subchapter shall reinstate the employee at the  
3       conclusion of his or her **family and medical leave** or bereavement leave,  
4       provided the employee is not out of work for a continuous period in excess of  
5       12 weeks. The employee shall be reinstated in the first available suitable  
6       position given the position he or she held at the time his or her leave began.

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

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

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

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

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

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

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

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

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

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

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

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

16                   § 576. ELECTIVE COVERAGE

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

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

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

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

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

11           (2) As used in this section, “covered work income” means an amount of  
12           self-employment work income earned by a self-employed person that is equal  
13           to the amount of covered wages pursuant to subdivision (c)(1)(C) of section  
14           572 of this chapter.

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

1       (d)(1) A person who elects coverage pursuant to this section may terminate  
2       his or her coverage at the end of the three-year period by providing the  
3       Commissioner with written notice of the termination at least 30 days before the  
4       end of the period.

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

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

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

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

1     § 577. APPEALS

2           (a)(1) An employer or individual aggrieved by a decision of the  
3     Commissioner of Labor under section 574 or 581 of this subchapter may file  
4     with the Commissioner a petition for reconsideration within 30 days after  
5     receipt of the decision. The petition shall set forth in detail the grounds upon  
6     which it is claimed that the decision is erroneous and may include materials  
7     supporting that claim.

8           (2) If an employer petitions the Commissioner to reconsider a decision  
9     pursuant to section 574 or 581 of this subchapter, the Commissioner shall  
10    promptly notify the individual of the petition by ordinary, certified, or  
11    electronic mail and provide him or her with an opportunity to file an answer to  
12    the employer's petition.

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

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

20          (2) The administrative law judge shall, upon not less than five business  
21    days' notice, hold a hearing on the appeal as provided pursuant to rules

1 adopted by the Commissioner. After the hearing, all parties to the appeal shall  
2 be promptly notified by ordinary, certified, or electronic mail of the findings of  
3 fact, conclusions, and decision of the administrative law judge.

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

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

9 § 578. FALSE STATEMENT OR REPRESENTATION; PENALTY

10 A person who willfully makes a false statement or representation for the  
11 purpose of obtaining any benefit or payment or to avoid payment of any  
12 required contributions under the provisions of this subchapter, either for  
13 himself or herself or for any other person, after notice and opportunity for  
14 hearing, may be assessed an administrative penalty of not more than  
15 \$20,000.00 and shall forfeit all or a portion of any right to benefits under the  
16 provisions of this subchapter, as determined to be appropriate by the  
17 Commissioner of Labor or of Taxes, as appropriate, after a determination by  
18 the Commissioner that the person has willfully made a false statement or  
19 representation of a material fact.



1     § 579. RULEMAKING

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

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

8     § 580. CONFIDENTIALITY OF INFORMATION

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

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

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

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

5           § 581. DISQUALIFICATIONS

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

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

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

12          § 582. OVERPAYMENT OF BENEFITS; COLLECTION

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

19          (2) Upon determining that an individual has received benefits under this  
20          chapter that he or she was not entitled to, the Commissioner of Labor shall  
21          provide the individual with notice of the determination. The notice shall

1 include a statement that the individual is liable to repay to the Commissioner  
2 the amount of overpaid benefits and shall identify the basis of the overpayment  
3 and the time period in which the benefits were paid.

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

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

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

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

15 (c) If an individual is liable to repay any amount pursuant to this section,  
16 the Commissioner may withhold, in whole or in part, any future benefits  
17 payable to the individual pursuant to this chapter and credit the withheld  
18 benefits against the amount due from the individual until it is repaid in full,  
19 less any penalties assessed under subdivision (b)(2) of this section.

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

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

3 **Sec. 2.** ADOPTION OF RULES

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

7 (1) procedures for the collection of contributions; and  
8 (2) reporting and record-keeping requirements for employers and self-  
9 employed individuals.

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

13 (1) procedures for receiving and processing applications for benefits;  
14 (2) acceptable documentation for demonstrating eligibility for benefits;  
15 (3) procedures for issuing benefits payments  
16 (4) forms and requirements for providing certification from a health care  
17 provider of the need for family leave that are modeled on the federal rules  
18 governing certification of a serious health condition under the Family and  
19 Medical Leave Act;

1           (5) forms and procedures for obtaining authorization for an individual’s  
2           health care provider to disclose to the Commissioner information necessary to  
3           make a determination of the individual’s eligibility for benefits; and

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

7           **Sec. 3. EDUCATION AND OUTREACH**

8           On or before June 1, 2020, the Commissioner of Labor shall develop and  
9           make available on the Department of Labor’s website information and  
10           materials to educate and inform employers and employees about the Family  
11           and Medical Leave Insurance Program established pursuant to 21 V.S.A.  
12           chapter 5, subchapter 13.

13           **Sec. 4. ESTABLISHMENT OF PARENTAL AND FAMILY LEAVE**

14           INSURANCE PROGRAM; EXPENDITURES FROM SPECIAL  
15           FUND

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

1 **Sec. 5.** ADEQUACY OF RESERVES; REPORT

2 Annually, on or before January 15, 2022, 2023, and 2024, the  
3 Commissioners of Labor and of Taxes, in consultation with the Commissioners  
4 of Finance and Management and of Financial Regulation, shall submit a  
5 written report to the House Committees on Appropriations, on General,  
6 Housing, and Military Affairs, and on Ways and Means and the Senate  
7 Committees on Appropriations, on Economic Development, Housing and  
8 General Affairs, and on Finance regarding the amount and adequacy of the  
9 reserves in the Family and Medical Leave Insurance Special Fund and any  
10 recommendations for legislative action necessary to ensure that an adequate  
11 reserve is maintained in the Fund.

12 Sec. 6. 21 V.S.A. § 471 is amended to read:

13 § 471. DEFINITIONS

14 As used in this subchapter:

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

1 ~~purposes of family leave employs 15 or more individuals for an average of at~~  
2 ~~least 30 hours per week during a year.~~

3 \* \* \*

4 (3) “Family leave” means a leave of absence from employment by an  
5 employee who works for an employer ~~which~~ that employs ~~15~~ 10 or more  
6 individuals who are employed for an average of at least 30 hours per week  
7 during the year for one of the following reasons:

8 (A) the serious illness of the employee; ~~or~~

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

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

16 (C) the employee’s pregnancy;

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

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

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

21 (A) child;





1                    (v) he or she established a bonded and dependent relationship with  
2                    the child which is parental in nature; and

3                    (vi) he or she and another parent of the child fostered or supported  
4                    the bonded and dependent relationship required under subdivision (v) of this  
5                    subdivision (7)(A).

6                    (B) As used in this subdivision (7)(A), the term “child” includes the  
7                    employee when he or she was under 18 years of age.

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

9                    § 472. FAMILY LEAVE

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

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

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

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

17                    ~~(2)(4) for family leave, for the serious illness of the employee; or~~

18                    (5) the serious illness of the employee’s ~~child, stepchild or ward of the~~  
19                    employee who lives with the employee, foster child, parent, spouse, or parent  
20                    of the employee’s spouse family member.

1 (b) During the leave, at the employee's option, the employee may use  
2 accrued sick leave ~~or~~, vacation leave ~~or~~, any other accrued paid leave, ~~not to~~  
3 ~~exceed six weeks~~ **Family and Medical Leave** Insurance benefits pursuant to  
4 subchapter 13 of this chapter, or short-term disability insurance or other  
5 insurance benefits. Utilization Use of accrued paid leave, **Family and Medical**  
6 **Leave** Insurance benefits, or other insurance benefits shall not extend the leave  
7 provided herein by this section.

8 \* \* \*

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

12 (e)(1) An employee shall give his or her employer reasonable written  
13 notice of intent to take family leave under this subchapter. Notice shall include  
14 the date the leave is expected to commence and the estimated duration of the  
15 leave.

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

19 (3) In the case of an unanticipated serious illness or premature birth, the  
20 employee shall give the employer notice of the commencement of the leave as  
21 soon as practicable.



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(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: \_\_\_\_\_)

\_\_\_\_\_  
Representative \_\_\_\_\_  
FOR THE COMMITTEE