

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

20 (4) “Employee” means an individual who receives payments with
21 respect to services performed for an employer from which the employer is

1 required to withhold Vermont income tax pursuant to 32 V.S.A. chapter 151,
2 subchapter 4.

3 (5) “Employer” means an individual, organization, governmental body,
4 partnership, association, corporation, legal representative, trustee, receiver,
5 trustee in bankruptcy, and any common carrier by rail, motor, water, air, or
6 express company doing business in or operating within this State.

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

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

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

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

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

15 (E) grandchild;

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

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

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

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

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

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

11 (C) the employee’s pregnancy;

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

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

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

19 (10) “Self-employed person” means a sole proprietor or partner owner
20 of an unincorporated business, the sole member of an LLC that does not have

1 any employees other than the member, or the sole shareholder of a corporation
2 that does not have any employees other than the shareholder.

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

5 (A) poses imminent danger of death;

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

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

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

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

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

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

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

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

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

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

20 (C) As used in this subsection, the term "covered wages" does not
21 include the amount of wages paid to an employee after he or she has received

1 wages equal to \$150,000.00. Beginning on January 1, 2021, and on each
2 subsequent January 1, the amount of wages included in the term “covered
3 wages” shall be increased by the percentage increase of the Consumer Price
4 Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as
5 calculated by the U.S. Department of Labor or successor agency for the
6 12 months preceding the previous September 1. The amount of wages
7 included in the term “covered wages” shall not be decreased.

8 (2)(A) Notwithstanding subdivision (1)(A) of this subsection (c), the
9 General Assembly shall annually establish the rate of contribution for the next
10 fiscal year. The rate shall equal the amount necessary to provide Family and
11 Medical Leave Insurance benefits pursuant to this subchapter, to maintain a
12 reserve equal to at least nine months of the projected benefit payments for the
13 next fiscal year, and to administer the Family and Medical Leave Insurance
14 Program during the next fiscal year, adjusted by any balance in the Fund from
15 the prior fiscal year.

16 (B) On or before February 1 of each year, the Commissioner of
17 Labor, in consultation with the Commissioner of Taxes, shall report to the
18 General Assembly the rate of contribution necessary to provide Family and
19 Medical Leave Insurance benefits pursuant to this subchapter, to maintain a
20 reserve equal to at least nine months of the projected benefit payments for the

1 next fiscal year, and to administer the Program during the next fiscal year,
2 adjusted by any balance in the Fund from the prior fiscal year.

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

10 § 573. BENEFITS

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

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

17 (b) A qualified employee awarded Family and Medical Leave Insurance
18 benefits under this section shall receive 100 percent of his or her average
19 weekly wage or an amount equal to a 40-hour workweek paid at a rate double
20 that of the livable wage, as determined by the Joint Fiscal Office pursuant to
21 2 V.S.A. § 505, whichever is less.

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

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

8 § 574. APPLICATION FOR BENEFITS; PAYMENT; TAX

9 WITHHOLDING

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

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

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

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

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

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

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

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

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

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

5 (2) The Commissioner of Labor shall follow all procedures specified by
6 26 U.S.C. chapter 24 and 32 V.S.A. chapter 151, subchapter 4 pertaining to the
7 withholding of income tax.

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

11 § 575. REINSTATEMENT; SENIORITY AND BENEFITS PROTECTED

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

19 (b) Upon reinstatement, the employee shall regain seniority and any unused
20 accrued paid leave he or she was entitled to prior to the family and medical

1 leave or bereavement leave, less any accrued paid leave used during the family
2 and medical leave or bereavement leave.

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

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

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

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

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

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

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

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

18 (d)(1) An employee aggrieved by an employer’s failure to comply with the
19 provisions of this section may bring an action in the Civil Division of the
20 Superior Court in the county where the employment is located for
21 compensatory and punitive damages or equitable relief, including restraint of

1 prohibited acts, restitution of wages or other benefits, reinstatement, costs, and
2 other appropriate relief.

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

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

7 § 576. ELECTIVE COVERAGE

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

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

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

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

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

1 (2) As used in this section, “covered work income” means an amount of
2 self-employment work income earned by a self-employed person that is equal
3 to the amount of covered wages pursuant to subdivision (c)(1)(C) of section
4 572 of this chapter.

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

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

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

20 (3) Notwithstanding subdivisions (1) and (2) of this subsection, a person
21 who, after electing to obtain coverage pursuant to this section, becomes an

1 employee or stops working in Vermont, may elect to terminate his or her
2 coverage pursuant to this section by providing the Commissioner with 30 days'
3 written notice in accordance with rules adopted by the Commissioner.

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

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

11 § 577. APPEALS

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

18 (2) If an employer petitions the Commissioner to reconsider a decision
19 pursuant to section 574 or 581 of this subchapter, the Commissioner shall
20 promptly notify the individual of the petition by ordinary, certified, or

1 electronic mail and provide him or her with an opportunity to file an answer to
2 the employer's petition.

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

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

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

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

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

1 § 578. FALSE STATEMENT OR REPRESENTATION; PENALTY

2 A person who willfully makes a false statement or representation for the
3 purpose of obtaining any benefit or payment or to avoid payment of any
4 required contributions under the provisions of this subchapter, either for
5 himself or herself or for any other person, after notice and opportunity for
6 hearing, may be assessed an administrative penalty of not more than
7 \$20,000.00 and shall forfeit all or a portion of any right to benefits under the
8 provisions of this subchapter, as determined to be appropriate by the
9 Commissioner of Labor or of Taxes, as appropriate, after a determination by
10 the Commissioner that the person has willfully made a false statement or
11 representation of a material fact.

12 § 579. RULEMAKING

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

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

19 § 580. CONFIDENTIALITY OF INFORMATION

20 (a) Information obtained from an employer or individual in the
21 administration of this subchapter and determinations of an individual's right to

1 receive benefits that reveal an employer's or individual's identity in any
2 manner shall be kept confidential and shall be exempt from public inspection
3 and copying under the Public Records Act. Such information shall not be
4 admissible as evidence in any action or proceeding other than one brought
5 pursuant to the provisions of this subchapter.

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

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

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

15 § 581. DISQUALIFICATIONS

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

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

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

1 § 582. OVERPAYMENT OF BENEFITS; COLLECTION

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

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

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

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

18 (2) If the Commissioner finds that the individual intentionally
19 misrepresented or failed to disclose a material fact with respect to his or her
20 claim for benefits, in addition to the repayment under subdivision (1) of this

1 subsection, the person shall pay an additional penalty of 15 percent of the
2 amount of the overpaid benefits, which shall also be deposited into the Fund.

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

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

10 (d) In addition to the remedy provided pursuant to this section, an
11 individual who intentionally misrepresented or failed to disclose a material fact
12 with respect to his or her claim for benefits may be subject to the penalties
13 provided pursuant to section 577 of this title.

14 **§ 583. PROTECTION FROM RETALIATION OR INTERFERENCE**

15 **(a) An employer shall not discharge or in any other manner retaliate against**
16 **an employee who exercises or attempts to exercise his or her rights under this**
17 **subchapter. The provisions against retaliation in subdivision 495(a)(8) of this**
18 **title shall apply to this subchapter.**

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

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

6 Sec. 2. ADOPTION OF RULES

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

10 (1) procedures for the collection of contributions; and

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

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

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

17 (B) acceptable documentation for demonstrating eligibility for
18 benefits;

19 (C) procedures for issuing benefits payments;

20 (D) forms and requirements for providing certification from a health
21 care provider of the need for family leave that are modeled on the federal rules

1 governing certification of a serious health condition under the Family and
2 Medical Leave Act;

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

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

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

13 Sec. 3. EDUCATION AND OUTREACH

14 On or before June 1, 2020, the Commissioner of Labor shall develop and
15 make available on the Department of Labor's website information and
16 materials to educate and inform employers and employees about the Family
17 and Medical Leave Insurance Program established pursuant to 21 V.S.A.
18 chapter 5, subchapter 13.

1 Sec. 4. ESTABLISHMENT OF FAMILY AND MEDICAL LEAVE
2 INSURANCE PROGRAM; EXPENDITURES FROM SPECIAL
3 FUND

4 Beginning on July 1, 2019, the Commissioner of Finance and Management
5 may, pursuant to 32 V.S.A. § 588(4)(C), issue warrants for expenditures from
6 the Family and Medical Leave Insurance Special Fund necessary to establish
7 the Family and Medical Leave Insurance Program in anticipation of the receipt
8 on or after July 1, 2020 of contributions submitted pursuant to 21 V.S.A.
9 § 572.

10 Sec. 5. ADEQUACY OF RESERVES; REPORT

11 Annually, on or before January 15, 2022, 2023, and 2024, the
12 Commissioners of Labor and of Taxes, in consultation with the Commissioners
13 of Finance and Management and of Financial Regulation, shall submit a
14 written report to the House Committees on Appropriations, on General,
15 Housing, and Military Affairs, and on Ways and Means and the Senate
16 Committees on Appropriations, on Economic Development, Housing and
17 General Affairs, and on Finance regarding the amount and adequacy of the
18 reserves in the Family and Medical Leave Insurance Special Fund and any
19 recommendations for legislative action necessary to ensure that an adequate
20 reserve is maintained in the Fund.

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

1 § 471. DEFINITIONS

2 As used in this subchapter:

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

11 * * *

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

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

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

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

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

3 (C) the employee’s pregnancy;

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

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

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

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

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

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

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

15 (E) grandchild;

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

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

21 * * *

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

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

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

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

8 § 472. FAMILY LEAVE

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

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

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

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

16 (2)(4) ~~for family leave, for the serious illness of the employee; or~~

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

20 (b) During the leave, at the employee’s option, the employee may use

21 accrued sick leave ~~or~~, vacation leave ~~or~~, any other accrued paid leave, ~~not to~~

1 ~~exceed six weeks~~ Family and Medical Leave Insurance benefits pursuant to
2 subchapter 13 of this chapter, or short-term disability insurance or other
3 insurance benefits. ~~Utilization~~ Use of accrued paid leave, Family and Medical
4 Leave Insurance benefits, or other insurance benefits shall not extend the leave
5 provided ~~herein~~ by this section.

6 * * *

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

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

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

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

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

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

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

8 * * *

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

15
16 Sec. 8. 21 V.S.A. § 1344 is amended to read:

17 § 1344. DISQUALIFICATIONS

18 (a) An individual shall be disqualified for benefits:

19 * * *

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

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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