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H.134

Introduced by Representatives Scheu of Middlebury, Kornheiser of
Brattleboro, Anthony of Barre City, Arrison of Weathersfield,
Austin of Colchester, Bartholomew of Hartland, Birong of
Vergennes, Black of Essex, Bluemle of Burlington, Bos-Lun of
Westminster, Brady of Williston, Briglin of Thetford, Brown of
Richmond, Brumsted of Shelburne, Burke of Brattleboro,
Burrows of West Windsor, Campbell of St. Johnsbury, Chase of
Colchester, Christie of Hartford, Cina of Burlington, Colburn of
Burlington, Colston of Winooski, Conlon of Cornwall,
Copeland Hanzas of Bradford, Cordes of Lincoln, Dolan of
Essex, Dolan of Waitsfield, Donnally of Hyde Park, Durfee of
Shaftsbury, Elder of Starksboro, Emmons of Springfield, Grad
of Moretown, Houghton of Essex, Howard of Rutland City,
Jerome of Brandon, Jessup of Middlesex, Killacky of South
Burlington, LaLonde of South Burlington, Lanpher of
Vergennes, Lippert of Hinesburg, Long of Newfane, Masland of
Thetford, McCarthy of St. Albans City, Mrowicki of Putney,
Mulvaney-Stanak of Burlington, Nicoll of Ludlow, Noyes of
Wolcott, Ode of Burlington, Partridge of Windham, Patt of
Worcester, Pugh of South Burlington, Rachelson of Burlington,

1 Redmond of Essex, Satcowitz of Randolph, Sheldon of
2 Middlebury, Sims of Craftsbury, Small of Winooski, Squirrell
3 of Underhill, Stebbins of Burlington, Stevens of Waterbury,
4 Surprenant of Barnard, Till of Jericho, Toleno of Brattleboro,
5 Townsend of South Burlington, Troiano of Stannard, Vyhovsky
6 of Essex, Webb of Shelburne, White of Bethel, Wood of
7 Waterbury, Yacovone of Morristown, and Yantachka of
8 Charlotte

9 Referred to Committee on

10 Date:

11 Subject: Labor; employment practices; paid family and medical leave

12 Statement of purpose of bill as introduced: This bill proposes to create a Paid
13 Family and Medical Leave Insurance Program within the Departments of
14 Labor and of Taxes.

15 An act relating to paid family and medical leave insurance

16 It is hereby enacted by the General Assembly of the State of Vermont:

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

18 Subchapter 13. Family and Medical Leave Insurance

19 § 571. DEFINITIONS

20 As used in this subchapter:

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

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

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

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

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

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

16 (A) child, stepchild, ward, or foster child;

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

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

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

1 (E) grandchild or the grandchild of the employee’s spouse, domestic
2 partner, or civil union partner;

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

5 (G) as demonstrated by the employee, any other individual with
6 whom the employee has a significant personal bond that is or is like a family
7 relationship, regardless of biological or legal relationship.

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

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

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

14 (C) the employee’s pregnancy;

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

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

18 (8) “Qualified employee” means an individual who has earned wages
19 from which contributions were withheld pursuant to sections 573 and 574 of
20 this subchapter during at least two of the last four completed calendar quarters.

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

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

7 (A) poses imminent danger of death;

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

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

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

13 § 572. FAMILY AND MEDICAL LEAVE INSURANCE; SPECIAL

14 FUND; ADMINISTRATION

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

18 (2)(A) The Commissioner of Taxes shall administer the collection of
19 contributions and shall forward to the Commissioner of Labor quarterly
20 taxable wage information for each employee and quarterly self-employment

1 income information for each self-employed individual who opts into the
2 Family and Medical Leave Insurance Program.

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

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

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

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

1 (C) As used in this subsection, the term “covered wages” shall
2 include all wages paid to an employee up to the amount of the maximum
3 Social Security Taxable Wage.

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

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

19 (d) The Commissioner of Taxes shall require the withholding of
20 contributions pursuant to subsection (c) of this section from wages paid by any
21 employer, as if the contributions were an additional Vermont income tax

1 subject to the withholding requirements of 32 V.S.A. § 5841(a). The
2 administrative and enforcement provisions of 32 V.S.A. chapter 151,
3 subchapter 4 shall apply to the withholding requirement under this section as if
4 the contributions withheld were a Vermont income tax.

5 § 573. BENEFITS

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

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

12 (b) A qualified employee awarded Family and Medical Leave Insurance
13 benefits under this section shall receive 100 percent of his or her average
14 weekly wage or an amount equal to a 40-hour workweek paid at a rate double
15 that of the livable wage, as determined by the Joint Fiscal Office pursuant to
16 2 V.S.A. § 505, whichever is less.

17 (c) A qualified employee may receive Family and Medical Leave Insurance
18 benefits for an intermittent leave or leave for a portion of a week. The benefit
19 amount for an intermittent leave or leave for a portion of a week shall be
20 calculated in increments of one full day or one-fifth of the qualified
21 employee's weekly benefit amount.

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

7 § 574. APPLICATION FOR BENEFITS; PAYMENT; TAX

8 WITHHOLDING

9 (a) An employee, or his or her agent, may apply for Family and Medical
10 Leave Insurance benefits by filing an application with the Commissioner of
11 Labor in a form provided by the Commissioner. The Commissioner shall
12 determine whether the employee is eligible to receive Family and Medical
13 Leave Insurance benefits based on the following criteria:

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

16 (2) The employee satisfies the requirements to be a qualified employee.

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

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

1 (b)(1) The Commissioner of Labor shall make a determination of each
2 claim not later than five business days after the date the claim is filed, and
3 Family and Medical Leave Insurance benefits shall be paid from the Fund
4 created pursuant to section 572 of this subchapter. The Commissioner may
5 extend the time in which to make a determination of a claim by not more than
6 15 business days if necessary to obtain documents or information that are
7 needed to make the determination.

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

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

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

19 (c)(1) An individual filing a claim for benefits pursuant to this section
20 shall, at the time of filing, be advised that Family and Medical Leave Insurance

1 benefits may be subject to income tax and that the individual's benefits may be
2 subject to withholding.

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

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

10 § 575. REHIRING; LIMITED RIGHT; SENIORITY AND BENEFITS

11 PROTECTED

12 (a)(1)(A) An employee who is not entitled to job protection pursuant to
13 section 472 of this chapter and is separated from employment in relation to a
14 leave for which he or she receives Family and Medical Leave Insurance
15 benefits pursuant to this subchapter shall have a limited right to be rehired by
16 his or her employer following the conclusion of his or her leave.

17 (B) The employer shall offer the employee the first available suitable
18 position based on the position the employee held at the time his or her leave
19 began.

20 (C) If the employee declines the offer, he or she shall not be entitled
21 to any further employment offers from the employer.

1 (2) An employee shall not be entitled to the rehire rights provided
2 pursuant to the provisions of this section if:

3 (A) the employee fails to inform the employer of:

4 (i) the need for the leave;

5 (ii) his or her interest in being rehired at the conclusion of the
6 leave; and

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

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

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

14 (D) the employee has exhausted his or her right to job protection for
15 the leave pursuant to section 472 of this chapter and the federal Family and
16 Medical Leave Act, 29 U.S.C. §§ 2611–2654.

17 (3) An employee's right to be rehired pursuant to the provisions of this
18 section shall expire two years after the date on which his or her leave
19 concluded.

20 (b) Upon being rehired pursuant to the provisions of this section, an
21 employee shall regain any seniority and unused accrued paid leave he or she

1 was entitled to prior to the leave, less any accrued paid leave used during the
2 leave.

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

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

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

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

15 § 576. ELECTIVE COVERAGE

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

20 (2) The provisions of sections 573, 574, 577, 578, 580, 581, and 582 of
21 this chapter shall apply to a self-employed person who elects to obtain

1 coverage pursuant to this section in the same manner as if he or she were an
2 employee.

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

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

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

10 (2) As used in this section, "covered work income" means the amount of
11 self-employment work income earned by a self-employed person up to the
12 amount of covered wages set forth in subdivision (c)(1)(C) of section 572 of
13 this chapter.

14 (c) A person who elects coverage pursuant to this section shall be
15 considered a qualified employee pursuant to subdivision (a)(2) of section 574
16 of this subchapter if he or she has made contributions to the Fund on covered
17 work income during at least two of the last four completed calendar quarters.

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

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

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

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

14 (2) An individual who is both an employee and a self-employed person
15 shall be considered a qualified employee pursuant to subdivision (a)(2) of
16 section 574 of this subchapter if, during at least two of the last four completed
17 calendar quarters, he or she has:

18 (A) earned wages from which contributions were withheld pursuant
19 to section 572 of this subchapter;

20 (B) made contributions to the Fund on covered work income that he
21 or she has earned during those calendar quarters; or

1 (C) both.

2 § 577. APPEALS

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

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

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

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

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

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

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

11 § 578. FALSE STATEMENT OR REPRESENTATION; PENALTY

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

6 § 580. CONFIDENTIALITY OF INFORMATION

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

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

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

19 (2) an employer may be provided with information that the
20 Commissioner of Labor or of Taxes determines is necessary to enable the

1 employer to discharge fully its obligations and protect its rights under this
2 subchapter.

3 § 581. DISQUALIFICATIONS

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

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

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

10 § 582. OVERPAYMENT OF BENEFITS; COLLECTION

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

17 (2) Upon determining that an individual has received benefits under this
18 chapter that he or she was not entitled to, the Commissioner of Labor shall
19 provide the individual with notice of the determination. The notice shall
20 include a statement that the individual is liable to repay to the Commissioner

1 the amount of overpaid benefits and shall identify the basis of the overpayment
2 and the time period in which the benefits were paid.

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

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

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

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

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

19 (d) In addition to the remedy provided pursuant to this section, an
20 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 578 of this title.

3 § 583. PROTECTION FROM RETALIATION OR INTERFERENCE

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

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

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

16 § 584. NOTICE

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

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

4 Sec. 2. ADOPTION OF RULES

5 (a) On or before April 1, 2022, the Commissioner of Taxes shall adopt
6 rules necessary to implement the provisions of 21 V.S.A. chapter 5, subchapter
7 13 related to the collection of contributions, which shall include:

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

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

11 (b)(1) On or before April 1, 2022, the Commissioner of Labor shall adopt
12 rules necessary to implement all other provisions of 21 V.S.A. chapter 5,
13 subchapter 13, which shall include:

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

15 (B) acceptable documentation for demonstrating eligibility for
16 benefits;

17 (C) procedures for issuing benefits payments;

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

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

5 (F) procedures for appeals pursuant to 21 V.S.A. § 577 that are
6 modeled, to the extent possible, on the appeals process provided for
7 determinations made in relation to unemployment insurance.

8 (2) On or before October 1, 2023, the Commissioner shall adopt any
9 necessary rules related to an employee establishing that a significant personal
10 bond that is or is like a family relationship exists with another individual,
11 regardless of whether a biological or legal relationship exists between the
12 employee and that individual.

13 Sec. 3. EDUCATION AND OUTREACH

14 On or before June 1, 2022, 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.

19 Sec. 4. ESTABLISHMENT OF FAMILY AND MEDICAL LEAVE

20 INSURANCE PROGRAM; EXPENDITURES FROM SPECIAL
21 FUND

1 Beginning on July 1, 2021, the Commissioner of Finance and Management
2 may, pursuant to 32 V.S.A. § 588(4)(C), issue warrants for expenditures from
3 the Family and Medical Leave Insurance Special Fund necessary to establish
4 the Family and Medical Leave Insurance Program in anticipation of the receipt
5 on or after July 1, 2022 of contributions submitted pursuant to 21 V.S.A.
6 § 572.

7 Sec. 5. ADEQUACY OF RESERVES; REPORT

8 Annually, on or before January 15, 2024, 2025, and 2026, the
9 Commissioners of Labor and of Taxes, in consultation with the Commissioners
10 of Finance and Management and of Financial Regulation, shall submit a
11 written report to the House Committees on Appropriations, on General,
12 Housing, and Military Affairs, and on Ways and Means and the Senate
13 Committees on Appropriations, on Economic Development, Housing and
14 General Affairs, and on Finance regarding the amount and adequacy of the
15 reserves in the Family and Medical Leave Insurance Special Fund and any
16 recommendations for legislative action necessary to ensure that an adequate
17 reserve is maintained in the Fund.

18 Sec. 6. 21 V.S.A. § 1325 is amended to read:

19 § 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

20 DISCLOSURE TO SUCCESSOR ENTITY

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

10 * * *

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

16 * * *

17 Sec. 7. 21 V.S.A. § 1344 is amended to read:

18 § 1344. DISQUALIFICATIONS

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

20 * * *

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

3 * * *

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

6 * * *

7 Sec. 8. ENSURING SOLVENCY OF SPECIAL FUND; RESERVE;
8 REINSURANCE; REPORT

9 On or before January 15, 2022, the Commissioner of Labor, in consultation
10 with the Commissioners of Financial Regulation and of Taxes, shall report to
11 the House Committee on General, Housing, and Military Affairs and the
12 Senate Committee on Economic Development, Housing and General Affairs
13 regarding the potential benefits and drawbacks of ensuring the solvency of the
14 Family and Medical Leave Insurance Program by either maintaining a reserve
15 or obtaining reinsurance. The report shall specifically address unique or
16 increased risks posed by either option and whether either option will enable the
17 State to begin providing benefits to employees more quickly.

18 Sec. 9. EFFECTIVE DATES

19 (a) This section and Secs. 1, 2, 3, 4, 5, and 8 shall take effect on July 1,
20 2021.

21 (b) Secs. 6 and 7 shall take effect on October 1, 2022.

1 (c) Contributions shall begin being paid pursuant to 21 V.S.A. § 572 on
2 July 1, 2022, and, beginning on October 1, 2023, employees may begin to
3 receive benefits pursuant to 21 V.S.A. chapter 5, subchapter 13.