

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General and Housing to which was referred House Bill  
3 No. 66 entitled “An act relating to paid family and medical leave insurance”  
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. § 471 is amended to read:

8 § 471. DEFINITIONS

9 As used in this subchapter:

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

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

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

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

1           ~~(2)~~(5) “Employee” means a person who, in consideration of direct or  
2 indirect gain or profit, has been continuously employed by the same employer  
3 for a period of one year for an average of at least 30 hours per week. For  
4 purposes of safe leave only, “employee” means a person who in consideration  
5 of direct or indirect gain or profit, has been continuously employed by the  
6 same employer for a period of six months for an average of at least 20 hours  
7 per week.

8           ~~(3)~~(6) “Family leave” means a leave of absence from employment by an  
9 employee ~~who works for an employer which employs 15 or more individuals~~  
10 ~~who are employed for an average of at least 30 hours per week during the year~~  
11 for one of the following reasons:

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

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

16           ~~(4)~~(7) “Parental leave” means a leave of absence from employment by  
17 an employee ~~who works for an employer which employs 10 or more~~  
18 ~~individuals who are employed for an average of at least 30 hours per week~~  
19 ~~during the year~~ for one of the following reasons:

20           (A) the employee’s pregnancy;

21           (B) recovery from childbirth or miscarriage;

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

3           ~~(B)~~(D) the initial placement of a child ~~46~~ 18 years of age or younger  
4 with the employee for the purpose of adoption or foster care and to care for or  
5 bond with the child within one year after the placement for adoption or foster  
6 care.

7           (8) “Family member” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15                   (ii) to recover from injuries;

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

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

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

21 and

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

3            ~~(5)~~(12) “Serious illness health condition” means:

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

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

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

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

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

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

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

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

17           § 472. LEAVE

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

20           ~~(A)~~(A) for parental leave, ~~during the employee’s pregnancy and~~  
21           ~~following the birth of an employee’s child or within a year following the initial~~

1 placement of a child 16 years of age or younger with the employee for the  
2 purpose of adoption; or

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

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

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

14 \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

12                   (i) consented to by the employee in writing;

13                   (ii) required pursuant to a court order; or

14                   (iii) required pursuant to State or federal law.

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

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

19                   (f) Upon return from leave taken under this subchapter, an employee shall  
20                   be offered the same or comparable job at the same level of compensation,  
21                   employment benefits, seniority, or any other term or condition of the

1 employment existing on the day leave began. This ~~subchapter~~ subsection shall  
2 not apply if, prior to requesting leave, the employee had been given notice or  
3 had given notice that the employment would terminate. This subsection shall  
4 not apply if the employer can demonstrate by clear and convincing evidence  
5 that:

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

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

13 (g) An employer may adopt a leave policy more generous than the leave  
14 policy provided by this subchapter. Nothing in this subchapter shall be  
15 construed to diminish an employer’s obligation to comply with any collective  
16 bargaining agreement or any employment benefit program or plan ~~which~~ that  
17 provides greater leave rights than the rights provided by this subchapter. A  
18 collective bargaining agreement or employment benefit program or plan may  
19 not diminish rights provided by this subchapter. ~~Notwithstanding the~~  
20 ~~provisions of this subchapter, an employee may, at the time a need for parental~~  
21 ~~or family leave arises, waive some or all the rights under this subchapter~~

1 ~~provided the waiver is informed and voluntary and any changes in conditions~~  
2 ~~of employment related to any waiver shall be mutually agreed upon between~~  
3 ~~employer and employee.~~

4 (h) Except for the serious illness health condition of the employee or safe  
5 leave when the employee is the victim or alleged victim, an employee who  
6 does not return to employment with the employer who provided the leave shall  
7 return to the employer the value of any compensation that the employer paid to  
8 or on behalf of the employee during the leave, except payments for accrued  
9 ~~sick leave or vacation~~ leave. An employer may elect to waive the rights  
10 provided pursuant to this subsection.

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

12 § 471. DEFINITIONS

13 As used in this subchapter:

14 \* \* \*

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

20 (5) “Employee” means a person who;

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

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

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

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

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

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

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

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

19           ~~(A)~~(C) the employee’s pregnancy;

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



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

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

4 ~~(B) for family leave.~~

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

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

14 \* \* \*

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

16 CHAPTER 26. FAMILY AND MEDICAL LEAVE INSURANCE

17 § 2051. DIVISION OF FAMILY AND MEDICAL LEAVE; DIRECTOR

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

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

4               (2) The Director shall be responsible for:

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

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

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

11       § 2052. FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM;

12                       SPECIAL FUND

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

17       (b) The Family and Medical Leave Insurance Special Fund is created  
18       pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund may be expended by  
19       the Director and the Commissioner of Taxes for the administration of the  
20       Family and Medical Leave Insurance Program, for the payment of benefits  
21       provided pursuant to the provisions of this chapter, and for necessary costs

1 incurred in administering the Fund. All interest earned on Fund balances shall  
2 be credited to the Fund.

3 (c) The Fund shall consist of:

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

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

7 (3) any amounts appropriated to the Fund.

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

10 § 2053. CONTRIBUTIONS; RATE; COLLECTION

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

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

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

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

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

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

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

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

1           (3) In the event that the Director determines that the rate of contribution  
2           for any calendar year shall be one percent, the Director shall, not more than 14  
3           days after making the determination, submit a written report to the Joint Fiscal  
4           Committee, the House Committees on Appropriations, on General and  
5           Housing, and on Ways and Means, and the Senate Committees on  
6           Appropriations, on Economic Development, Housing and General Affairs, and  
7           on Finance that provides a detailed explanation of the reason for the increase,  
8           whether the rate is sufficient to pay the projected benefits and administrative  
9           costs during the next calendar year while maintaining the required reserve, the  
10           solvency of the Fund, and recommended legislative action to reduce the rate of  
11           contribution in the following calendar year.

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

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

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

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

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

14           § 2054. BENEFITS

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

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

1       (b) A qualified individual awarded benefits under this section shall receive  
2       100 percent of the individual’s average weekly earnings or an amount equal to  
3       the State average weekly wage determined pursuant to section 1338 of this  
4       title, whichever is less.

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

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

14       § 2055. ELIGIBILITY

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

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

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

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

3           (C) both;

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

5           (A) has a serious health condition;

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

7           (C) is pregnant;

8           (D) is recovering from childbirth or miscarriage;

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

11          (F) is taking safe leave; or

12          (G) is taking a bereavement leave; and

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

15          § 2056. APPLICATION FOR BENEFITS

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

20          (2) An employee or enrolled self-employed individual, or the  
21          employee's or enrolled self-employed individual's agent, shall, to the extent

1 possible, submit documentation of the need for the leave together with the  
2 application filed pursuant to subdivision (1) or this subsection. The Director  
3 shall specify acceptable forms of documentation on the application form.

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

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

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

19 § 2057. PAYMENT OF BENEFITS; TAX WITHHOLDING

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

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

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

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

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

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

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

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

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

18          § 2058. ELECTIVE COVERAGE

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

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

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

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

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

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

4        § 2059. EMPLOYER OPTION; PRIVATE PLAN

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

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

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

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

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

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

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

21                (C) costs employees the same or less than the employees' portion of

1 the contribution would be pursuant to subsection 2053(a) of this chapter;

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

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

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

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

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

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

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

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

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

9           (d) A contested determination or a denial of benefits under a private plan  
10           approved pursuant to this section shall be subject to appeal pursuant to section  
11           2060 of this chapter.

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

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

17                   (B) misuses private plan funds;

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

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

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

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

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

12           § 2060. APPEALS

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

20           (2) If an employer petitions the Director to reconsider a decision relating  
21           to an application for benefits or the amount of benefits that a qualified

1 individual is entitled to receive, the Director shall promptly notify the  
2 individual who applied for the benefits of the petition by ordinary, certified, or  
3 electronic mail and provide the individual with an opportunity to file an answer  
4 to the employer’s petition.

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

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

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

18 § 2061. FALSE STATEMENT OR REPRESENTATION; PENALTY

19 (a)(1) An individual who intentionally makes a false statement or  
20 representation for the purpose of obtaining any benefit or payment or to avoid  
21 payment of any required contributions under the provisions of this chapter,

1 whether for themselves or for any other person, after notice and opportunity for  
2 hearing, shall be prohibited from receiving benefits pursuant to this chapter for  
3 a period of not less than one year and not more than three years as determined  
4 to be appropriate by the Director.

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

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

10 (1) the full amount of unpaid contributions; and

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

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

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

19 § 2062. OVERPAYMENT OF BENEFITS; COLLECTION

20 (a)(1) Any individual who by nondisclosure or misrepresentation of a  
21 material fact, by either the individual or another person, receives benefits that

1 the individual is not eligible to receive shall be liable to repay to the Division  
2 the amount received in excess of the amount, if any, that the individual is  
3 eligible to receive.

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

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

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

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

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

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

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

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

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

12           (d) In addition to the remedy provided pursuant to this section, an  
13           individual who intentionally misrepresented or failed to disclose a material fact  
14           with respect to the individual's claim for benefits may be subject to the  
15           penalties provided pursuant to section 2061 of this chapter.

16           § 2063. RULEMAKING

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

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

1        § 2064. CONFIDENTIALITY OF INFORMATION

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

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

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

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

17        § 2065. DISQUALIFICATIONS

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

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

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

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

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

7           (1) wages; or

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

10           § 2066. PROTECTION FROM RETALIATION OR INTERFERENCE

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

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

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

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

6        § 2067. NOTICE

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

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

13       § 2068. EMPLOYER OBLIGATIONS; EMPLOYEE RIGHTS

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

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

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

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

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

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

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

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

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

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

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

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

12 § 2069. DEFINITIONS

13 As used in this chapter:

14           (1) “Agent” means an individual who holds a valid power of attorney  
15 for an employee or self-employed individual or another legal authorization to  
16 act on the employee or self-employed individual’s behalf that is acceptable to  
17 the Director.

18           (2) “Average weekly earnings” means the sum of a qualified  
19 individual’s wages, if any, upon which contributions have been paid pursuant  
20 to section 2053 of this chapter during the individual’s two highest-earning  
21 quarters plus the qualified individual’s self-employment income, if any, upon

1 which contributions have been paid pursuant to section 2053 of this chapter  
2 during the individual’s two highest-earning quarters divided by 26.

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

5 (4) “Bereavement leave” means a leave of absence from employment or  
6 self-employment by an individual due to the death of the individual’s family  
7 member that occurs not more than one year after the family member’s death.  
8 Bereavement leave includes leave taken in relation to the administration or  
9 settlement of the deceased family member’s estate. Leave taken in relation to  
10 the administration or settlement of the deceased family member’s estate may  
11 occur more than one year after the family member’s death.

12 (5) “Director” means the Director of the Division of Family and Medical  
13 Leave.

14 (6) “Division” means the Division of Family and Medical Leave in the  
15 Office of the Treasurer.

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

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

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

1           (10) “Employer” means a person who employs one or more employees.

2           (11) “Enrolled self-employed individual” means a self-employed  
3           individual who has obtained coverage under the Program pursuant to section  
4           2058 of this chapter.

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

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

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

10                  (C) the qualified individual’s pregnancy;

11                  (D) recovery from childbirth or miscarriage;

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

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

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

21           (13) “Family member” means:

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

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

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

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

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

20          (D) a grandparent, grandchild, or sibling of the qualified individual or  
21          qualified individual’s spouse or civil union or domestic partner, regardless of

1 whether the relationship to the qualified individual or the qualified individual’s  
2 spouse or civil union or domestic partner is a biological, foster, adoptive, or  
3 step relationship; or

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

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

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

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

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

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

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

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

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

8           (17) “Program” means the Family and Medical Leave Insurance  
9           Program created pursuant to this chapter.

10           (18) “Qualified individual” means an employee or enrolled self-  
11           employed individual who:

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

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

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

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

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

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

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

7                   (ii) to recover from injuries;

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

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

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

13           and

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

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

19                   (22) “Self-employment income” has the same meaning as in 26 U.S.C.  
20                   § 1402.

21                   (23) “Serious health condition” means:

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

3                   (i) poses imminent danger of death;

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

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

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

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

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

12           (26) “U.S. Armed Forces” means:

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

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

17                   (C) the National Guard of any state.

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



1 about the Family and Medical Leave Insurance Program established pursuant  
2 to 21 V.S.A. chapter 26.

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

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

9 Sec. 9. APPROPRIATION; ADVANCE PAYMENT OF STATE

10 CONTRIBUTIONS

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

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

1       Sec. 10. ADEQUACY OF RESERVES; REPORT

2           Annually, on or before January 15, 2026, 2027, 2028, and 2029, the  
3       Director of the Division of Family and Medical Leave, in consultation with the  
4       Commissioners of Finance and Management, of Financial Regulation, and of  
5       Taxes, shall submit a written report to the House Committees on  
6       Appropriations; on General and Housing; and on Ways and Means and the  
7       Senate Committees on Appropriations; on Economic Development, Housing  
8       and 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. 11. PRIVATE PLANS; INITIAL APPROVAL

13           (a) An employer wishing to utilize a private plan to meet the employer's  
14       obligations pursuant to 21 V.S.A. chapter 26 beginning on October 1, 2026  
15       shall submit an application for approval of a private plan on or before October  
16       15, 2025.

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

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

21           (1) beginning on January 1, 2026, be exempt from withholding and

1 paying contributions as provided pursuant to 21 V.S.A. 2053(d); and  
2 (2) notwithstanding any provision of 21 V.S.A. § 2059 to the contrary,  
3 begin providing benefits pursuant to the private plan on or before October 1,  
4 2026.

5 Sec. 12. EFFECTIVE DATES

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

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

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

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17 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

19

Representative \_\_\_\_\_

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FOR THE COMMITTEE