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An act relating to miscellaneous unemployment insurance amendments

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

Sec. 1. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

~~The following words and phrases, as As used in this chapter, shall have the following meanings unless the context clearly requires otherwise:~~

* * *

(25) “Son,” “daughter,” and “child” include an individual’s biological child, foster child, adoptive child, stepchild, a child for whom the individual is listed as a parent on the child’s birth certificate, a legal ward of the individual, a child of the individual’s spouse, or a child that the individual has day-to-day responsibilities to care for and financially support.

(26) “Spouse” includes an individual’s domestic partner or civil union partner.

Sec. 2. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

As used in this chapter:

* * *

(5) “Employer” includes:

1 defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act,
2 including service in interstate commerce, performed for wages or under any
3 contract of hire, written or oral, expressed or implied. Services partly within
4 and partly ~~without~~ outside this State may by election as ~~hereinbefore~~ provided
5 in subdivision (5)(E)(i) of this section be treated as if wholly within the
6 jurisdiction of this State. ~~And whenever~~ If an employing unit ~~shall have~~ has
7 elected to come under the provisions of a similar act of a state where a part of
8 the services of an employee are performed, the Commissioner, upon ~~his or her~~
9 ~~approval of said~~ approving the election as to ~~any such~~ the employee, may treat
10 the services covered by ~~said approved~~ the election as having been performed
11 wholly ~~without~~ outside the jurisdiction of this State.

12 * * *

13 (ix) The term “employment” shall also include service for any
14 employing unit ~~which is performed after December 31, 1971~~ by an individual
15 in the employ of a religious, charitable, educational, or other organization ~~but~~
16 ~~only if:~~

17 (⊕) the service is excluded from “employment” as defined in the
18 Federal Unemployment Tax Act solely by reason of ~~section~~ subdivision
19 3306(c)(8) of that act; ~~and~~

20 (⊖) ~~the organization had four or more individuals in~~
21 ~~employment for some portion of a day in each of 20 different weeks, whether~~

1 ~~or not such weeks were consecutive, within either the current or preceding~~
2 ~~calendar year, regardless of whether they were employed at the same moment~~
3 ~~of time.~~

4 * * *

5 Sec. 3. 21 V.S.A. § 1321 is amended to read:

6 § 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

7 * * *

8 (c)(1) Financing benefits paid to employees of nonprofit organizations.

9 (A) Benefits paid to employees of nonprofit organizations shall be
10 financed in accordance with the provisions of this subsection (c).

11 (B) ~~For the purposes of~~ As used in this subsection (c), a “nonprofit
12 organization” ~~is~~ means an organization ~~(, or group of organizations),~~ described
13 in Section 501(c)(3) of the U.S. Internal Revenue Code ~~which that~~ is exempt
14 from income tax under Section 501(a) of ~~such~~ the Internal Revenue Code.

15 (2) Liability for contributions and election of reimbursement. Any
16 nonprofit organization ~~which that~~, pursuant to subdivision 1301(5)(B)(i) of this
17 ~~title chapter~~, is, or becomes, subject to this chapter ~~on or after January 1, 1972~~
18 shall pay contributions under the provisions of this section, unless it elects, in
19 accordance with this subsection, to pay to the Commissioner, for the
20 Unemployment Insurance Trust Fund, an amount equal to the amount of
21 regular benefits and of one-half of the extended benefits paid, that is

1 attributable to service in the employ of ~~such~~ the nonprofit organization; to
2 individuals for weeks of unemployment ~~which~~ that begin during the effective
3 period of ~~such~~ the election.

4 (A) ~~Any nonprofit organization which is, or becomes, subject to this~~
5 ~~chapter on January 1, 1972 may elect to become liable for payments in lieu of~~
6 ~~contributions for a period of not less than one calendar year beginning with~~
7 ~~January 1, 1972 provided it files with the Commissioner a written notice of its~~
8 ~~election within the 30 day period immediately following such date or within a~~
9 ~~like period immediately following April 16, 1971, whichever occurs later.~~

10 [Repealed.]

11 (B) Any nonprofit organization ~~which~~ that becomes subject to this
12 chapter ~~after January 1, 1972~~ may elect to become liable for payments in lieu
13 of contributions for a period of not less than 12 months ~~beginning with the date~~
14 ~~on which such subjectivity begins~~ by filing a written notice of its election with
15 the Commissioner not later than 30 days immediately following the date of the
16 determination of ~~such subjectivity~~ that the organization is subject to this
17 chapter.

18 (C) Any nonprofit organization ~~which~~ that makes an election in
19 accordance with ~~subdivisions (c)(2)(A) and~~ subdivision (B) of this section ~~will~~
20 subdivision (c)(2) shall continue to be liable for payments in lieu of
21 contributions until it files with the Commissioner a written notice terminating

1 its election not later than 30 days prior to the beginning of the calendar year for
2 which ~~such~~ the termination shall first be effective.

3 (D) Any nonprofit organization ~~which that~~ has been paying
4 contributions under this chapter ~~for a period subsequent to January 1, 1972~~
5 ~~may change to a reimbursable basis~~ elect to become liable for payments in lieu
6 of contributions by filing with the Commissioner not later than 30 days prior to
7 the beginning of any calendar year a written notice of election to become liable
8 for payments in lieu of contributions. ~~Such~~ An election under this subdivision
9 (c)(2)(D) shall not be terminable by the organization for that year and the next
10 year.

11 (E) The Commissioner may for good cause extend the period within
12 which a notice of election, or a notice of termination, must be filed and may
13 permit an election to be retroactive ~~but not any earlier than with respect to~~
14 ~~benefits paid after December 31, 1969.~~

15 (F) The Commissioner, in accordance with ~~such~~ any applicable rules
16 as adopted by the Board may prescribe, shall notify each nonprofit
17 organization of any determination ~~which he or she may make of that the~~
18 Commissioner makes with regard to its status as an employer and ~~of the~~
19 effective date of any election ~~which it~~ that the organization makes and of any
20 termination of ~~such~~ an election. ~~Such~~ The determinations shall be subject to

1 reconsideration and to appeal and review in accordance with the provisions of
2 section 1337a of this title.

3 (3) Reimbursement payments. Payments in lieu of contributions shall
4 be made in accordance with the provisions of this subdivision, including either
5 subdivision (A) or ~~subdivision~~ (B).

6 (A) At the end of each calendar quarter, or at the end of any other
7 period as determined by the Commissioner, the Commissioner shall bill each
8 nonprofit organization, or group of ~~such~~ nonprofit organizations, ~~which that~~
9 has elected to make payments in lieu of contributions for an amount equal to
10 the full amount of regular benefits plus one-half of the amount of extended
11 benefits paid during ~~such~~ the quarter or other prescribed period that is
12 attributable to service in the employ of ~~such~~ the organization.

13 (B)(i) Each nonprofit organization that has elected payments in lieu
14 of contributions may request permission to make ~~such~~ payments as provided in
15 this subdivision (c)(3)(B). ~~Such method of payment~~ Payment pursuant to the
16 provisions of this subdivision (c)(3)(B) shall become effective upon approval
17 of the Commissioner.

18 (ii) At the end of each calendar quarter, the Commissioner shall
19 bill each nonprofit organization approved to make payments pursuant to the
20 provisions of this subdivision (c)(3)(B) for an amount representing ~~one of the~~
21 ~~following~~:

1 ~~(I) For 1972, two-tenths of one percent of its total payroll for~~
2 ~~1971.~~

3 ~~(II) For years after 1972, such a percentage of its total payroll~~
4 ~~for the immediately preceding calendar year as that the Commissioner ~~shall~~~~
5 ~~determine. The determination shall be determines to be appropriate based each~~
6 ~~year on the average benefit costs attributable to service in the employ of~~
7 ~~nonprofit organizations during the preceding calendar year.~~

8 ~~(III) For The Commissioner may determine a different rate for~~
9 ~~any organization which that did not pay wages throughout the four calendar~~
10 ~~quarters of the preceding calendar year, such percentage of its payroll during~~
11 ~~that year as the Commissioner shall determine.~~

12 (iii) At the end of each calendar year, the Commissioner may
13 modify the quarterly percentage of payroll thereafter payable by the nonprofit
14 organization in order to minimize excess or insufficient payments.

15 (iv) At the end of each calendar year, the Commissioner shall
16 determine whether the total of payments for ~~such~~ the year made by a nonprofit
17 organization is less than, or in excess of, the total amount of regular benefits
18 plus one-half of the amount of extended benefits paid to individuals during
19 ~~such~~ the taxable year based on wages attributable to service in the employ of
20 ~~such~~ the organization. Each nonprofit organization whose total payments for
21 ~~such~~ the year are less than the amount ~~so~~ determined shall be liable for

1 payment of the unpaid balance to the Trust Fund in accordance with
2 subdivision (3)(C) of this subsection (c). If the total payments exceed the
3 amount so determined for the taxable year, all or a part of the excess shall, at
4 the election of the nonprofit organization, be refunded from the Trust Fund or
5 retained in the Trust Fund as part of the payments ~~which~~ that may be required
6 for the next calendar year.

7 (C) Payment of any bill rendered under subdivision (2) or ~~subdivision~~
8 (3) of this subsection (c) shall be made not later than 30 days after the bill is
9 mailed to the last known address of the nonprofit organization or is otherwise
10 delivered to it, unless there has been an application for redetermination by the
11 Commissioner or a petition for hearing before a referee in accordance with
12 subdivision (3)(E) of this subsection (c).

13 (D) Payments made by any nonprofit ~~corporation~~ organization under
14 the provisions of this section shall not be deducted or deductible, in whole or in
15 part, from the remuneration of individuals in the employ of the organization.

16 (E)(i) The amount due specified in any bill from the Commissioner
17 shall be conclusive on the organization unless, not later than 30 days after the
18 date of the bill, the organization files an application for reconsideration by the
19 Commissioner, or a petition for a hearing before a referee, setting forth the
20 grounds for ~~such~~ the application or petition.

1 (ii) The Commissioner shall promptly review and reconsider the
2 amount due specified in the bill and shall thereafter issue a redetermination in
3 any case in which ~~such~~ an application for redetermination has been filed. Any
4 such redetermination shall be conclusive on the organization unless, not later
5 than 30 days after the date of the redetermination, the organization files a
6 petition for a hearing before a referee, setting forth the grounds for the petition.

7 (iii) Proceedings on the petition for a hearing before a referee on
8 the amount of a bill rendered under this section or a redetermination of ~~such~~
9 the amount shall be in accordance with the provisions of section 1331 of this
10 title, and the decision of the referee shall be subject to the provisions of that
11 section. Review of the decision of the referee by the Employment Security
12 Board shall be in accordance with, and its decision shall be subject to, the
13 provisions of section 1332 of this title.

14 (F) Any employer, including the State of Vermont ~~which,~~ that makes
15 payments in lieu of contributions under this section shall be subject to the
16 provisions of sections 1314, 1322, 1328, 1329, 1334, and 1336 of this title as
17 follows:

18 (i) ~~that~~ The employer shall be liable for any reports as required by
19 the Commissioner ~~may require~~ pursuant to sections 1314 and 1322 of this
20 title.

1 (ii) ~~that~~ The employer shall be liable for any penalty imposed
2 pursuant to sections 1314 and 1328 of this title;

3 (iii) ~~that~~ The employer shall be liable for the same interest on past
4 due payments pursuant to subsection 1329(a) of this title;

5 (iv) ~~that~~ The employer shall be subject to a civil action for the
6 collection of past due payments as if those payments were contributions
7 pursuant to subsections 1329(b) and 1334(a) of this title; ~~and~~.

8 (v) ~~that~~ The employer shall be subject to ~~those~~ actions for the
9 collection of past due payments as if those payments were contributions
10 pursuant to subsections 1329(c) and (d); and 1334(b) and (c); and section 1336
11 of this title; however, those provisions shall not apply to the State of Vermont.

12 (4) Authority to terminate elections. If any nonprofit organization is
13 delinquent in making payments in lieu of contributions as required under this
14 subsection, the Commissioner may terminate ~~such~~ the organization's election
15 to make payments in lieu of contributions as of the beginning of the next
16 taxable year, and the termination shall be effective for that and the next taxable
17 year.

18 (5) Allocation of benefit costs.

19 (A) Each employer that is liable for payments in lieu of contributions
20 shall pay to the Commissioner for the Trust Fund the amount of regular

1 benefits plus the amount of one-half of extended benefits paid that are
2 attributable to service in the employ of ~~such~~ the employer.

3 (B) If benefits paid to an individual are based on wages paid by more
4 than one employer and one or more of ~~such~~ the employers are liable for
5 payments in lieu of contributions, the amount payable to the Trust Fund by
6 each employer that is liable for ~~such~~ payments in lieu of contributions shall be
7 ~~determined in accordance with subdivisions (5)(A) and (B) of this subsection~~
8 ~~(e):~~

9 ~~(A) Proportionate allocation when fewer than all base period~~
10 ~~employers are liable for reimbursement. If benefits paid to an individual are~~
11 ~~based on wages paid by one or more employers that are liable for payments in~~
12 ~~lieu of contributions and on wages paid by one or more employers who are~~
13 ~~liable for contributions, the amount of benefits payable by each employer that~~
14 ~~is liable for payments in lieu of contributions shall be an amount which that~~
15 ~~bears the same ratio to the total benefits paid to the individual as the total base-~~
16 ~~period wages paid to the individual by ~~such~~ the employer bear to the total base-~~
17 ~~period wages paid to the individual by all of ~~his or her~~ the individual's base-~~
18 ~~period employers.~~

19 ~~(B) Proportionate allocation when all base period employers are~~
20 ~~liable for reimbursement. If benefits paid to an individual are based on wages~~
21 ~~paid by two or more employers that are liable for payments in lieu of~~

1 ~~contributions, the amount of benefits payable by each employer shall be an~~
2 ~~amount which bears the same ratio to the total benefits paid to the individual as~~
3 ~~the total base period wages paid to the individual by the employer bear to the~~
4 ~~total base period wages paid to the individual by all of his or her base period~~
5 ~~employers.~~

6 (6) Group accounts. Two or more employers that have become liable
7 for payments in lieu of contributions, in accordance with the provisions of this
8 section and section 1380 of this title, may file a joint application to the
9 Commissioner for the establishment of a group account for the purpose of
10 sharing the cost of benefits paid that are attributable to service in the employ of
11 ~~such~~ the employers. Each application shall identify and authorize a group
12 representative to act as the group's agent for the purpose of this section. Upon
13 ~~his or her~~ approval of the application, the Commissioner shall establish a group
14 account for ~~such~~ the employers effective as of the beginning of the calendar
15 quarter in which ~~he or she~~ the Commissioner receives the application and shall
16 notify the group's representative of the effective date of the account. The
17 account shall remain in effect for not less than two years and thereafter until
18 terminated at the discretion of the Commissioner or upon application by the
19 group. Upon establishment of the account, each member of the group shall be
20 liable for payments in lieu of contributions with respect to each calendar
21 quarter in the amount that bears the same ratio to the total benefits paid in ~~such~~

1 the quarter that are attributable to service performed in the employ of all
2 members of the group as the total wages paid for service in employment by
3 ~~such~~ the member in ~~such~~ the quarter bear to the total wages paid during ~~such~~
4 the quarter for service performed in the employ of all members of the group.
5 The Board shall ~~prescribe regulations~~ adopt rules as it deems necessary with
6 respect to applications for establishment, maintenance, and termination of
7 group accounts that are authorized by this subdivision, for addition of new
8 members to, and withdrawal of active members from, such accounts, and for
9 the determination of the amounts that are payable under this ~~section~~ subsection
10 by members of the group and the time and manner of ~~such~~ the payments.

11 (7) ~~Notwithstanding any of the foregoing provisions of this section, any~~
12 ~~nonprofit organization that prior to January 1, 1969, paid contributions~~
13 ~~required by this section, and, pursuant to subsection (c) of this section, elects~~
14 ~~within 30 days after January 1, 1972, to make payments in lieu of~~
15 ~~contributions, shall not be required to make any such payment on account of~~
16 ~~any regular or extended benefits paid, on the basis of wages paid by such~~
17 ~~organization to individuals for weeks of unemployment which begin on and~~
18 ~~after the effective date of the election until the total amount of benefits equals~~
19 ~~the amount (1) by which the contributions paid by the organization with~~
20 ~~respect to the two-year period before the effective date of the election under~~
21 ~~subsection (b) of this section exceed (2) the total amount of unemployment~~

1 ~~benefits paid for the same period that were attributable to service performed in~~
2 ~~the employ of the organization and were charged to the experience rating~~
3 ~~record of the organization. [Repealed.]~~

4 * * *

5 (f) Any employer who makes payments in lieu of contributions under the
6 provisions of this section is considered to be self-insuring and shall pay to the
7 Commissioner for the Unemployment Compensation Trust Fund ~~such any~~
8 amounts as the Commissioner finds to be due under this chapter, including
9 benefits paid but denied on appeal or benefits paid in error ~~which that~~ cannot
10 be properly charged either against another employer who makes payments in
11 lieu of contributions or against the experience-rating record of another
12 employer who pays contributions. Benefits improperly paid where repayment
13 by the claimant is ordered pursuant to subsection 1347(a) or (b) of this title
14 will be credited to the employer's account when repayment from the claimant
15 is actually received by the Commissioner.

16 Sec. 4. NONPROFIT AND MUNICIPAL REIMBURSABLE EMPLOYERS;
17 EDUCATION; OUTREACH

18 (a) On or before October 1, 2023, the Commissioner of Labor, in
19 consultation with the Vermont League of Cities and Towns, Common Good
20 Vermont, United Way of Northwest Vermont, and other interested
21 stakeholders, shall develop information and education materials for nonprofit

1 and municipal employers regarding the unemployment insurance system. At a
2 minimum, the materials shall:

3 (1) explain the options available to nonprofit and municipal employers,
4 including paying regular unemployment insurance contributions, reimbursing
5 the Unemployment Insurance Trust Fund for attributable unemployment
6 insurance costs, and, with respect to nonprofit employers, quarterly payments
7 of estimated unemployment insurance costs;

8 (2) identify the potential benefits and drawbacks of each of the options
9 identified in subdivision (1) of this subsection;

10 (3) provide information on how a nonprofit or municipal employer can
11 evaluate its potential liability under each of the options identified in
12 subdivision (1) of this subsection;

13 (4) provide information developed by the Vermont League of Cities and
14 Towns, Common Good Vermont, United Way of Northwest Vermont, and
15 other interested stakeholders regarding how a nonprofit or municipal employer
16 can plan and budget for the potential expenses associated with each of the
17 options identified in subdivision (1) of this subsection; and

18 (5) provide additional information regarding the Unemployment
19 Insurance program and related laws that the Commissioner determines, in
20 consultation with the Vermont League of Cities and Towns, Common Good

1 Vermont, United Way of Northwest Vermont, and other interested
2 stakeholders, to be helpful or necessary for nonprofit and municipal employers.

3 (b)(1) The informational and educational materials developed pursuant to
4 subsection (a) of this section shall be made available on the Department's
5 website and shall, in coordination with the Secretary of State, Common Good
6 Vermont, United Way of Northwest Vermont, the Vermont League of Cities
7 and Towns, and other interested stakeholders, be shared directly with Vermont
8 nonprofit and municipal employers to the extent practicable.

9 (2) The Secretary of State shall assist the Commissioner of Labor in
10 identifying and contacting all active Vermont nonprofit employers. The Office
11 of the Secretary of State shall also make available on its website a link to the
12 information and educational materials provided on the Department of Labor's
13 website pursuant to this section.

14 (c) The Department of Labor, in collaboration with the Vermont League of
15 Cities and Towns, Common Good Vermont, United Way of Northwest
16 Vermont, and other interested stakeholders, shall hold one or more
17 informational sessions to present the materials and information developed
18 pursuant to subsection (a) of this section to nonprofit employers and municipal
19 employers. At least one session shall be held on or before November 1, 2023.
20 Each session shall allow for both in-person and remote participation and shall

1 be recorded. Recordings shall be made available to the public and to
2 stakeholder organizations for distribution to their members.

3 Sec. 5. 2021 Acts and Resolves No. 183, Sec. 59(b)(6) is amended to read:

4 (6) Sec. 52g (prospective repeal of unemployment insurance benefit
5 increase) shall take effect ~~upon the payment of a~~ when the cumulative total
6 amount of additional benefits paid pursuant to 21 V.S.A. § 1338(e) ~~when,~~
7 compared to the rate at which benefits would have been paid under the formula
8 set forth in 21 V.S.A. § 1338(e) on June 30, 2025 ~~equal to \$92,000,000.00,~~
9 plus the ~~difference between \$8,000,000.00 and the~~ amount of additional
10 benefits paid ~~out~~ pursuant to section 52b, ~~if any,~~ compared to the amount that
11 would have been paid pursuant to the provisions of 21 V.S.A. § 1338(f)(1) on
12 June 30, 2022, equals \$100,000,000.00 and shall apply to benefit weeks
13 beginning after that date.

14 Sec. 6. UNEMPLOYMENT DUE TO URGENT, COMPELLING, OR
15 NECESSITOUS CIRCUMSTANCES; COVERAGE; IMPACT;
16 REPORT

17 (a) On or before January 15, 2024, the Commissioner of Labor shall submit
18 a written report prepared in consultation with the Joint Fiscal Office to the
19 House Committee on Commerce and Economic Development and the Senate
20 Committee on Economic Development, Housing and General Affairs regarding
21 the potential impact of extending eligibility for unemployment insurance

1 benefits to individuals who separate from employment due to urgent,
2 compelling, or necessitous circumstances, including the individual's injury or
3 illness, to obtain or recover from medical treatment, to escape domestic or
4 sexual violence, to care for a child following an unexpected loss of child care,
5 or to care for an ill or injured family member.

6 (b) The report shall include:

7 (1) a list of states in which individuals who separate from employment
8 due to circumstances similar to those described in subsection (a) of this section
9 are eligible for unemployment insurance and shall identify the specific
10 circumstances for separation from employment in each identified state for
11 which there is no waiting period or period of disqualification related to the
12 circumstance;

13 (2) information, to the extent it is available, regarding the number of
14 approved claims in the states identified pursuant to subdivision (1) of this
15 subsection where the individual separated from employment due to
16 circumstances similar to those described in subsection (a) of this section;

17 (3) an estimate of the projected range of additional approved claims per
18 year in Vermont if individuals who separate from employment due to
19 circumstances similar to those described in subsection (a) of this section are
20 made eligible for unemployment insurance;

1 (4) an estimate of the range of potential impacts on the Unemployment
2 Insurance Trust Fund of making individuals who separate from employment
3 due to circumstances similar to those described in subsection (a) of this section
4 eligible for unemployment insurance; and

5 (5) any recommendations for legislative action.

6 Sec. 7. DOMESTIC AND SEXUAL VIOLENCE SURVIVORS’

7 TRANSITIONAL EMPLOYMENT PROGRAM; UTILIZATION;

8 REPORT

9 On or before January 15, 2024, the Commissioner of Labor shall submit a
10 written report to the House Committee on Commerce and Economic
11 Development and the Senate Committee on Economic Development, Housing
12 and General Affairs regarding the utilization of the Domestic and Sexual
13 Violence Survivors’ Transitional Employment Program. The report shall
14 include information regarding the utilization of the Program during the past 10
15 years, a summary of the Department’s efforts to make members of the public
16 aware of the Program and improve access to it, how the identified changes
17 have impacted utilization of the Program in comparison to prior years, any
18 potential ways to further increase awareness and utilization of the Program,
19 and any suggestions for legislative action to improve awareness or utilization
20 of the Program.

1 Sec. 8. 21 V.S.A. § 1256 is added to read:

2 § 1256. NOTIFICATION TO THE PUBLIC

3 The Department shall take reasonable measures to provide information to
4 the public about the Program, including publishing information on the
5 Department's website and providing timely materials related to the Program to
6 public agencies of the State and organizations that work with domestic and
7 sexual violence survivors, including law enforcement, State's Attorneys,
8 community justice centers, the Center for Crime Victim Services, the Vermont
9 Network Against Domestic and Sexual Violence (the Network), and any others
10 deemed appropriate by the Commissioner in consultation with the Network.

11 Sec. 9. EFFECTIVE DATES

12 (a) This section and Secs. 1, 3, 4, 5, 6, 7, and 8 shall take effect on July 1,
13 2023.

14 (b) Sec. 2 shall take effect on July 1, 2024.