

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred House Bill No. 217 entitled “An act relating to
4 miscellaneous workers’ compensation amendments” respectfully reports that it
5 has considered the same and recommends that the Senate propose to the House
6 that the bill be amended by striking out all after the enacting clause and
7 inserting in lieu thereof the following:

8 * * * Workers’ Compensation * * *

9 Sec. 1. WORKERS’ COMPENSATION RATE OF CONTRIBUTION

10 For fiscal year 2024, after consideration of the formula in 21 V.S.A.
11 § 711(b) and historical rate trends, the General Assembly determines that the
12 rate of contribution for the direct calendar year premium for workers’
13 compensation insurance shall be 1.5 percent. The contribution rate for self-
14 insured workers’ compensation losses and workers’ compensation losses of
15 corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

16 Sec. 2. 21 V.S.A. § 711 is amended to read:

17 § 711. WORKERS’ COMPENSATION ADMINISTRATION FUND

18 * * *

19 (b)(1) Annually, the General Assembly shall establish the rate of
20 contribution for the direct calendar year premium for workers’ compensation
21 insurance. The rate shall equal the amount approved in the appropriations

1 process for the program and the Department’s projection of salary and benefit
2 increases for that fiscal year, less the amount collected in the prior calendar
3 year under subsection (a) of this section from self-insured workers’
4 compensation losses and from corporations approved under this chapter,
5 adjusted by any balance in the fund from the prior fiscal year, divided by the
6 total direct calendar year premium for workers’ compensation insurance for the
7 prior year.

8 (2) In the event that the General Assembly does not establish the rate of
9 contribution for the direct calendar year premium for workers’ compensation
10 insurance for a given fiscal year, the rate shall remain unchanged from the
11 prior fiscal year.

12 Sec. 3. 2014 Acts and Resolves No. 199, Sec. 54b is amended to read:

13 Sec. 54b. 21 V.S.A. § 643a is added to read:

14 § 643a. DISCONTINUANCE OF BENEFITS

15 Unless an injured worker has successfully returned to work, an employer
16 shall notify both the Commissioner and the employee prior to terminating
17 benefits under either section 642 or 646 of this title. The notice of intention to
18 discontinue payments shall be filed on forms prescribed by the Commissioner
19 and shall include the date of the proposed discontinuance, the reasons for it,
20 and, if the employee has been out of work for 90 days, a verification that the
21 employer offered vocational rehabilitation screening and services as required

1 under this chapter. All relevant evidence, including evidence that does not
2 support discontinuance in the possession of the employer not already filed,
3 shall be filed with the notice. The liability for the payments shall continue for
4 seven days after the notice is received by the Commissioner and the employee.
5 If the claimant disputes the discontinuance, the claimant may file with
6 the Commissioner an objection to the discontinuance and seek an extension
7 of 14 days. The objection to the discontinuance shall be specific as to the
8 reasons and include supporting evidence. A copy of the objection shall be
9 provided to the employer at the time the request is made to the Commissioner.
10 ~~These~~ The payments shall be made without prejudice to the employer and may
11 be deducted from any amounts due pursuant to section 648 of this title if the
12 Commissioner determines that the discontinuance is warranted or if otherwise
13 ordered by the Commissioner. Every notice shall be reviewed by the
14 Commissioner to determine the sufficiency of the basis for the proposed
15 discontinuance. If, after review of all the evidence in the file, the
16 Commissioner finds that a preponderance of all the evidence in the file does
17 not reasonably support the proposed discontinuance, the Commissioner shall
18 order that payments continue until a hearing is held and a decision is rendered.
19 Prior to a formal hearing, an injured worker may request reinstatement of
20 benefits by providing additional new evidence to the Department that
21 establishes that a preponderance of all evidence now supports the claim. If the

1 Commissioner’s decision, after a hearing, is that the employee was not entitled
2 to any or all benefits paid between the discontinuance and the final decision,
3 upon request of the employer, the Commissioner may order that the employee
4 repay all benefits to which the employee was not entitled. The employer may
5 enforce a repayment order in any court of law having jurisdiction.

6 **Sec. 4.** 21 V.S.A. § 640b is amended to read:

7 § 640b. REQUEST FOR PREAUTHORIZATION TO DETERMINE IF
8 ~~PROPOSED TREATMENT IS~~ BENEFITS ARE NECESSARY

9 (a) As used in this section, “benefits” means medical treatment and
10 surgical, medical, and nursing services and supplies, including prescription
11 drugs and durable medical equipment.

12 (b) Within 14 days ~~of~~ after receiving a written request for preauthorization
13 for a proposed ~~medical treatment~~ benefits and medical evidence supporting the
14 requested ~~treatment~~ benefits, a workers’ compensation insurer shall do one of
15 the following, in writing:

16 (1) ~~authorize~~ Authorize the ~~treatment~~ benefits and notify the health care
17 provider, the injured worker, and the Department; ~~or,~~

18 (2)(A) ~~deny~~ Deny the ~~treatment~~ benefits because the entire claim is
19 disputed and the Commissioner has not issued an interim order to pay benefits;
20 ~~or.~~ The insurer shall notify the health care provider, the injured worker, and
21 the Department of the decision to deny benefits.

1 ~~(B)~~(3) ~~deny~~ Deny the ~~treatment~~ benefits if, based on a preponderance
2 of credible medical evidence specifically addressing the proposed ~~treatment~~
3 benefits, ~~it is~~ the benefits are unreasonable or, unnecessary, or unrelated to the
4 work injury. The insurer shall notify the health care provider, the injured
5 worker, and the Department of the decision to deny ~~treatment~~; or benefits.

6 ~~(3)~~(4) ~~notify~~ Notify the health care provider, the injured worker, and
7 the Department that the insurer has scheduled an examination of the employee
8 pursuant to section 655 of this title or ordered a medical record review
9 pursuant to section ~~655~~ 655a of this title. Based on the examination or review,
10 the insurer shall authorize or deny the ~~treatment~~ benefits and notify the
11 Department and the injured worker of the decision within 45 days ~~of~~ after a
12 request for preauthorization. The Commissioner may, ~~in his or her~~ the
13 Commissioner's sole discretion, grant a 10-day extension to the insurer to
14 authorize or deny ~~treatment~~ benefits, and such an extension shall not be subject
15 to appeal.

16 ~~(b)~~(c) If the insurer fails to authorize or deny the ~~treatment~~ benefits
17 pursuant to subsection ~~(a)~~ (b) of this section within 14 days ~~of~~ after receiving a
18 request, the claimant or health care provider may request that the Department
19 issue an order authorizing ~~treatment~~ benefits. After receipt of the request, the
20 Department shall issue an interim order within five days after notice to the
21 insurer, and five days in which to respond, absent evidence that the entire

1 claim is disputed. Upon request of a party, the Commissioner shall notify the
2 parties that the ~~treatment has~~ benefits have been authorized by operation of
3 law.

4 ~~(e)~~(d) If the insurer denies the preauthorization of the ~~treatment~~ benefits
5 pursuant to subdivision (a)(2) ~~or~~, (3), or (4) of this section, the Commissioner
6 may, ~~on his or her~~ the Commissioner's own initiative or upon a request by the
7 claimant, issue an order authorizing the ~~treatment~~ benefits if ~~he or she~~ the
8 Commissioner finds that the evidence shows that the ~~treatment is~~ benefits are
9 reasonable, necessary, and related to the work injury.

10 **Sec. 5.** 21 V.S.A. § 643d is added to read:

11 § 643d. WORK SEARCH; REQUIREMENTS; EXCEPTIONS

12 (a) An employer may require an employee who is receiving temporary
13 disability benefits pursuant to section 646 of this chapter to engage in a good
14 faith search for suitable work if:

15 (1) the injured employee is medically released to return to work, either
16 with or without limitations;

17 (2) the employer has provided the injured employee with written
18 notification that the employee is medically released to return to work and the
19 notification describes any applicable limitations; and

20 (3) the employer cannot offer the injured employee work that the
21 employee is medically released to do.

1 (b) An injured employee shall not be required to engage in a good faith
2 search for suitable work if the employee:

3 (1) is already employed; or

4 (2) has been referred for or is scheduled to undergo one or more surgical
5 procedures.

6 (c) An employer shall not require an injured employee to contact more than
7 three employers per week as part of a good faith work search performed
8 pursuant to this section.

9 **Sec. 6.** 21 V.S.A. § 646 is amended to read:

10 § 646. TEMPORARY PARTIAL DISABILITY BENEFITS

11 (a)(1) Where the disability for work resulting from an injury is partial,
12 during the disability and beginning on the eighth day thereof of the period of
13 disability, the employer shall pay the injured employee a weekly compensation
14 equal to the greater of:

15 (A) the difference between the amount the injured employee would
16 be eligible to receive pursuant to section 642 of this chapter, including any
17 applicable cost of living adjustment or dependency benefits that would be due,
18 and the wage the injured employee earns during the period of disability; and

19 (B) two-thirds of the difference between his or her the injured
20 employee's average weekly wage before the injury and the average weekly

1 ~~wage which he or she is able to earn thereafter~~ amount the employee earns
2 during the period of disability.

3 (2) Compensation paid pursuant to this subsection shall be adjusted
4 following the receipt of 26 weeks of benefits and annually on each subsequent
5 July 1, so that the compensation continues to bear the same percentage
6 relationship to the average weekly wage in the State as it did at the time of
7 injury.

8 (b)(1) In addition to the amount paid pursuant to subsection (a) of this
9 section, the employer shall pay the injured employee during the disability
10 \$20.00 per week for each dependent child under 21 years of age, provided that
11 no other injured worker is receiving the same benefits on behalf of the
12 dependent child or children.

13 (2) The amount allowed for dependent children shall be adjusted weekly
14 to reflect the number of dependent children during each week of payment.

15 **Sec. 7. 21 V.S.A. § 646 is amended to read:**

16 **§ 646. TEMPORARY PARTIAL DISABILITY BENEFITS**

17 * * *

18 ~~(b)(1) In addition to the amount paid pursuant to subsection (a) of this~~
19 ~~section, the employer shall pay the injured employee during the disability~~
20 ~~\$20.00 per week for each dependent child under 21 years of age, provided that~~

1 ~~no other injured worker is receiving the same benefits on behalf of the~~
2 ~~dependent child or children.~~

3 ~~(2) The amount allowed for dependent children shall be adjusted weekly~~
4 ~~to reflect the number of dependent children during each week of payment.~~

5 ~~[Repealed.]~~

6 Sec. 8. 21 V.S.A. § 642 is amended to read:

7 § 642. TEMPORARY TOTAL DISABILITY BENEFITS

8 (a)(1) Where the injury causes total disability for work, during ~~such~~ the
9 disability, but not including the first three days; with the day of the accident to
10 be counted as the first day; unless the employee received full wages for that
11 day, the employer shall pay the injured employee a weekly compensation equal
12 to two-thirds of the employee's average weekly wages; ~~but~~.

13 (2) The weekly compensation shall be in an amount that is not more
14 than the maximum nor less than the minimum weekly compensation.

15 (3) Compensation paid pursuant to this subsection shall be adjusted on
16 the first July 1 following the receipt of 26 weeks of benefits and annually on
17 each subsequent July 1, so that the compensation continues to bear the same
18 percentage relationship to the average weekly wage in the State as it did at the
19 time of injury.

20 ~~(b)(1) In addition, the injured employee, during the disability period shall~~
21 ~~receive \$10.00 a~~ to the amount paid pursuant to subsection (a) of this section,

1 the employer shall pay the injured employee during the disability \$20.00 per
2 week for each dependent child who is ~~unmarried and~~ under the age of 21 years
3 of age, provided that no other injured worker is receiving the same benefits on
4 behalf of the dependent child or children. ~~However, in no event shall an~~

5 (2) The amount allowed for the dependent children shall be adjusted
6 weekly to reflect the number of dependent children during each week of
7 payment.

8 (c) Notwithstanding any provision of subsection (a) or (b) of this section to
9 the contrary:

10 (1) An employee's total weekly wage replacement benefits, including
11 any payments for a dependent child, shall not exceed 90 percent of the
12 employee's average weekly wage prior to applying any applicable cost of
13 living adjustment. ~~The amount allowed for dependent children shall be~~
14 ~~increased or decreased weekly to reflect the number of dependent children~~
15 ~~extant during the week of payment.~~

16 (2) If the total disability continues after the third day for a period of
17 seven consecutive calendar days or more, compensation shall be paid for the
18 whole period of the total disability.

19 **Sec. 9. 21 V.S.A. § 642 is amended to read:**

20 **§ 642. TEMPORARY TOTAL DISABILITY BENEFITS**

21 * * *

1 (b)(1) In addition to the amount paid pursuant to subsection (a) of this
2 section, the employer shall pay the injured employee during the disability
3 ~~\$20.00~~ \$10.00 per week for each dependent child who is under 21 years of age,
4 provided that no other injured worker is receiving the same benefits on behalf
5 of the dependent child or children.

6 * * *

7 Sec. 10. 21 V.S.A. § 650 is amended to read:

8 § 650. PAYMENT; AVERAGE WAGE; COMPUTATION

9 * * *

10 (d)(1) Compensation computed pursuant to this section shall be adjusted
11 annually on July 1, so that ~~such~~ the compensation continues to bear the same
12 percentage relationship to the average weekly wage in the State ~~as computed~~
13 ~~under this chapter~~ as it did at the time of injury.

14 (2) Temporary total or temporary partial compensation shall first be
15 adjusted on the first July 1 following the receipt of 26 weeks of benefits.

16 (3) Permanent total and permanent partial compensation shall be
17 adjusted for each July 1 following the date of injury regardless of whether
18 indemnity benefits were paid on each intervening July 1.

19 (e)(1) If weekly compensation benefits or weekly accrued benefits are not
20 paid within 21 days after becoming due and payable pursuant to an order of the
21 Commissioner, or in cases in which the overdue benefit is not in dispute, 10

1 percent of the overdue amount shall be added and paid to the employee, in
2 addition to any amounts due pursuant to subsection (f) of this section and
3 interest and any other penalties.

4 (2) In the case of an initial claim, benefits are due and payable upon
5 entering into an agreement pursuant to subsection 662(a) of this title, upon
6 issuance of an order of the Commissioner pursuant to subsection 662(b) of this
7 title, or if the employer has not denied the claim within 21 days after the claim
8 is filed.

9 (3) Benefits are in dispute if the claimant has been provided actual
10 written notice of the dispute within 21 days ~~of~~ after the benefit being due and
11 payable and the evidence reasonably supports the denial.

12 (4) Interest shall accrue and be paid on benefits that are found to be
13 compensable during the period of nonpayment.

14 (5) The Commissioner shall promptly review requests for payment
15 under this section and, consistent with subsection 678(d) of this title, shall
16 allow for the recovery of reasonable attorney's fees associated with an
17 employee's successful request for payment under this subsection.

18 (f)(1)(A) When benefits have been awarded or are not in dispute as
19 provided in subsection (e) of this section, the employer shall establish a
20 weekday on which payment shall be mailed or deposited and notify the

1 claimant and the Department of that day. The employer shall ensure that each
2 weekly payment is mailed or deposited on or before the day established.

3 (B) Payment shall be made by direct deposit to a claimant who elects
4 that payment method. The employer shall notify the claimant of ~~his or her~~ the
5 claimant's right to payment by direct deposit.

6 (2) If the benefit payment is not mailed or deposited on the day
7 established, the employer shall pay to the claimant a late fee of \$10.00 or five
8 percent of the benefit amount, whichever is greater, for each weekly payment
9 that is made after the established day.

10 (3) As used in this subsection, “paid” means the payment is mailed to
11 the claimant’s mailing address or, in the case of direct deposit, transferred into
12 the designated account. In the event of a dispute, proof of payment shall be
13 established by affidavit.

14 **Sec. 11.** 21 V.S.A. § 678 is amended to read:

15 § 678. COSTS; ATTORNEY’S FEES

16 (a) ~~Necessary costs of proceedings under this chapter, including deposition~~
17 ~~expenses, subpoena fees, and expert witness fees, shall be assessed by the~~
18 ~~Commissioner against the employer or its workers’ compensation carrier when~~
19 ~~the claimant prevails. The Commissioner may allow the claimant to recover~~
20 ~~reasonable attorney’s fees when the claimant prevails.~~ Costs shall not be taxed
21 or allowed either party except as provided in this section.

1 **(b)(1) When a claimant prevails in either a formal or informal proceeding**
2 **under this chapter, the Commissioner shall award the claimant necessary costs**
3 **incurred in relation to the proceeding, including deposition expenses, subpoena**
4 **fees, and expert witness fees.**

5 **(2) The Commissioner may allow a claimant to recover reasonable**
6 **attorney’s fees when the claimant prevails.**

7 **(3) In cases for which a formal hearing is requested and the case is**
8 **resolved prior to a formal hearing:**

9 **(A) the Commissioner may award reasonable attorney’s fees if the**
10 **claimant retained an attorney in response to an actual or effective denial of a**
11 **claim and payments were made to the claimant as a result of the attorney’s**
12 **efforts; and**

13 **(B) the Commissioner shall award necessary costs if the claimant**
14 **incurred the costs in response to an actual or effective denial of a claim and**
15 **payments were made to the claimant as a result of the costs incurred.**

16 **(c)(1) In appeals to the Superior or Supreme Court, if the claimant prevails,**
17 **he or she the claimant shall be entitled to reasonable attorney’s fees as**
18 **approved by the court; necessary costs, including deposition expenses,**
19 **subpoena fees, and expert witness fees; and interest at the rate of 12 percent**
20 **per annum on that portion of any award the payment of which is contested.**

1 (2) Interest shall be computed from the date of the award of the
2 Commissioner.

3 ~~(e)~~(d) By January 1, 1999; and at least every five years thereafter, the
4 Commissioner shall amend existing rules regarding reasonable attorney’s fees
5 awarded under subsection (a) of this section. In amending these rules, the
6 Commissioner shall consider accessibility to legal services, appropriate
7 inflation factors, and any other related factors consistent with the purposes of
8 this chapter. In the event the Commissioner proposes no change in the rules in
9 any five-year period, the Commissioner shall provide a written report to the
10 Legislative Committee on Administrative Rules of the General Assembly
11 explaining the reasons for not changing the rules.

12 ~~(d) In cases for which a formal hearing is requested and the case is resolved~~
13 ~~prior to formal hearing, the Commissioner may award reasonable attorney’s~~
14 ~~fees if the claimant retained an attorney in response to an actual or effective~~
15 ~~denial of a claim and thereafter payments were made to the claimant as a result~~
16 ~~of the attorney’s efforts.~~

17 * * *

18 Sec. 12. ADOPTION OF RULES

19 The Commissioner of Labor shall, on or before July 1, 2024, adopt rules as
20 necessary to implement the provisions of **Secs. 4 through 11** of this act.

1 * * * Unemployment Insurance * * *

2 **Sec. 13.** 21 V.S.A. § 1301 is amended to read:

3 § 1301. DEFINITIONS

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

6 * * *

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

12 (26) “Spouse” includes an individual’s domestic partner or civil union
13 partner. As used in this subdivision, “domestic partner” means another
14 individual with whom an individual has an enduring domestic relationship of a
15 spousal nature, provided that the individual and the individual’s domestic
16 partner:

17 (A) have shared a residence for at least six months;

18 (B) are at least 18 years of age;

19 (C) are not married to, in a civil union with, or considered the

20 domestic partner of another individual;

1 (D) are not related by blood closer than would bar marriage under
2 State law; and

3 (E) have agreed between themselves to be responsible for each
4 other’s welfare.

5 **Sec. 14.** 21 V.S.A. § 1301 is amended to read:

6 § 1301. DEFINITIONS

7 As used in this chapter:

8 * * *

9 (5) “Employer” includes:

10 (A) Any employing unit ~~which, after December 31, 1971~~ that in any
11 calendar quarter in either the current or preceding calendar year paid for
12 service in employment, as ~~hereinafter~~ defined pursuant to subdivision (6) of
13 this section, wages of \$1,500.00 or more, or for some portion of a day in each
14 of 20 different calendar weeks, whether or not such weeks were consecutive, in
15 either the current or the preceding calendar year, had in employment, ~~as~~
16 ~~hereinafter defined~~, at least one individual (irrespective of whether the same
17 individual was in employment in each such day). When an employing unit
18 described in either this subdivision or subdivision ~~(5)~~(B) of this ~~section~~
19 subdivision (5), becomes an employer within any calendar year, it shall be
20 subject to this chapter for the whole of ~~such~~ the calendar year.

1 (B)(i) Any employing unit for which service in employment for a
2 religious, charitable, educational, or other organization as defined in
3 subdivision (6)(A)(ix) of this section is performed after December 31, 1971½,
4 except as provided in subdivision ~~(5)(C)~~ of this ~~section~~ subdivision (5).

5 * * *

6 (6)(A)(i) “Employment,” subject to the other provisions of this
7 subdivision (6), means service within the jurisdiction of this State, ~~performed~~
8 ~~prior to January 1, 1978, which was employment as defined in this subdivision~~
9 ~~prior to such date and, subject to the other provisions of this subdivision,~~
10 ~~service performed after December 31, 1977,~~ performed by an employee, as
11 defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act,
12 including service in interstate commerce, performed for wages or under any
13 contract of hire, written or oral, expressed or implied. Services partly within
14 and partly ~~without~~ outside this State may by election as ~~hereinbefore~~ provided
15 in subdivision (5)(E)(i) of this section be treated as if wholly within the
16 jurisdiction of this State. ~~And whenever~~ If an employing unit ~~shall have~~ has
17 elected to come under the provisions of a similar act of a state where a part of
18 the services of an employee are performed, the Commissioner, upon ~~his or her~~
19 ~~approval of said~~ approving the election as to ~~any such~~ the employee, may treat
20 the services covered by ~~said approved~~ the election as having been performed
21 wholly ~~without~~ outside the jurisdiction of this State.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

* * *

(ix) The term “employment” shall also include service for any employing unit ~~which is performed after December 31, 1974~~ by an individual in the employ of a religious, charitable, educational, or other organization ~~but only if:~~

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

~~(II) the organization had four or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.~~

* * *

Sec. 15. 21 V.S.A. § 1321 is amended to read:

§ 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

* * *

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

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

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

5 (2) Liability for contributions and election of reimbursement. Any
6 nonprofit organization ~~which~~ that, pursuant to subdivision 1301(5)(B)(i) of this
7 ~~title~~ chapter, is, or becomes, subject to this chapter ~~on or after January 1, 1972~~
8 shall pay contributions under the provisions of this section, unless it elects, in
9 accordance with this subsection, to pay to the Commissioner, for the
10 Unemployment Insurance Trust Fund, an amount equal to the amount of
11 regular benefits and of one-half of the extended benefits paid, that is
12 attributable to service in the employ of ~~such~~ the nonprofit organization, to
13 individuals for weeks of unemployment ~~which~~ that begin during the effective
14 period of ~~such~~ the election.

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

21 [Repealed.]

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

8 (C) Any nonprofit organization ~~which~~ that makes an election in
9 accordance with ~~subdivisions (c)(2)(A) and~~ subdivision (B) of this ~~section will~~
10 subdivision (c)(2) shall continue to be liable for payments in lieu of
11 contributions until it files with the Commissioner a written notice terminating
12 its election not later than 30 days prior to the beginning of the calendar year for
13 which ~~such~~ the termination shall first be effective.

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

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

5 (F) The Commissioner, in accordance with ~~such~~ any applicable rules
6 as adopted by the Board ~~may prescribe~~, shall notify each nonprofit
7 organization of any determination ~~which he or she may make of that the~~
8 Commissioner makes with regard to its status as an employer and ~~of the~~
9 effective date of any election ~~which it~~ that the organization makes and of any
10 termination of ~~such an~~ election. ~~Such~~ The determinations shall be subject to
11 reconsideration and to appeal and review in accordance with the provisions of
12 section 1337a of this title.

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

16 (A) At the end of each calendar quarter, or at the end of any other
17 period as determined by the Commissioner, the Commissioner shall bill each
18 nonprofit organization, or group of ~~such~~ nonprofit organizations, ~~which that~~
19 has elected to make payments in lieu of contributions for an amount equal to
20 the full amount of regular benefits plus one-half of the amount of extended

1 benefits paid during ~~such~~ the quarter or other prescribed period that is
2 attributable to service in the employ of ~~such~~ the organization.

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

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

12 ~~(I) For 1972, two tenths of one percent of its total payroll for~~
13 ~~1971.~~

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

19 ~~(III) For~~ The Commissioner may determine a different rate for
20 any organization ~~which~~ that did not pay wages throughout the four calendar

1 quarters of the preceding calendar year, ~~such percentage of its payroll during~~
2 ~~that year as the Commissioner shall determine.~~

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

6 (iv) At the end of each calendar year, the Commissioner shall
7 determine whether the total of payments for ~~such the~~ year made by a nonprofit
8 organization is less than, or in excess of, the total amount of regular benefits
9 plus one-half of the amount of extended benefits paid to individuals during
10 ~~such the~~ taxable year based on wages attributable to service in the employ of
11 ~~such the~~ organization. Each nonprofit organization whose total payments for
12 ~~such the~~ year are less than the amount ~~so~~ determined shall be liable for
13 payment of the unpaid balance to the Trust Fund in accordance with
14 subdivision ~~(3)(C)~~ of this ~~subsection~~ subdivision (c)(3). If the total payments
15 exceed the amount so determined for the taxable year, all or a part of the
16 excess shall, at the election of the nonprofit organization, be refunded from the
17 Trust Fund or retained in the Trust Fund as part of the payments ~~which that~~
18 may be required for the next calendar year.

19 (C) Payment of any bill rendered under subdivision (2) ~~or subdivision~~
20 ~~(3)~~ of this subsection (c) or this subdivision (c)(3) shall be made not later than
21 30 days after the bill is mailed to the last known address of the nonprofit

1 organization or is otherwise delivered to it; unless there has been an application
2 for redetermination by the Commissioner or a petition for hearing before a
3 referee in accordance with subdivision ~~(3)~~(E) of this ~~subsection~~ subdivision
4 (c)(3).

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

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

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

19 (iii) Proceedings on the petition for a hearing before a referee on
20 the amount of a bill rendered under this section or a redetermination of ~~such~~
21 the amount shall be in accordance with the provisions of section 1331 of this

1 title, and the decision of the referee shall be subject to the provisions of that
2 section. Review of the decision of the referee by the Employment Security
3 Board shall be in accordance with, and its decision shall be subject to, the
4 provisions of section 1332 of this title.

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

9 (i) ~~that~~ The employer shall be liable for any reports as required by
10 the Commissioner ~~may require~~ pursuant to sections 1314 and 1322 of this
11 title;

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

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

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

19 (v) ~~that~~ The employer shall be subject to ~~those~~ actions for the
20 collection of past due payments as if those payments were contributions

1 pursuant to subsections 1329(c) and (d); and 1334(b) and (c); and section 1336
2 of this title; however, those provisions shall not apply to the State of Vermont.

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

9 (5) Allocation of benefit costs.

10 (A) Each employer that is liable for payments in lieu of contributions
11 shall pay to the Commissioner for the Trust Fund the amount of regular
12 benefits plus the amount of one-half of extended benefits paid that are
13 attributable to service in the employ of ~~such~~ the employer.

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

20 ~~(A) Proportionate allocation when fewer than all base period~~
21 ~~employers are liable for reimbursement. If benefits paid to an individual are~~

1 ~~based on wages paid by one or more employers that are liable for payments in~~
2 ~~lieu of contributions and on wages paid by one or more employers who are~~
3 ~~liable for contributions, the amount of benefits payable by each employer that~~
4 ~~is liable for payments in lieu of contributions shall be an amount which that~~
5 ~~bears the same ratio to the total benefits paid to the individual as the total base-~~
6 ~~period wages paid to the individual by ~~such~~ the employer bear to the total base-~~
7 ~~period wages paid to the individual by all of ~~his or her~~ the individual's base-~~
8 ~~period employers.~~

9 ~~(B) Proportionate allocation when all base period employers are~~
10 ~~liable for reimbursement. If benefits paid to an individual are based on wages~~
11 ~~paid by two or more employers that are liable for payments in lieu of~~
12 ~~contributions, the amount of benefits payable by each employer shall be an~~
13 ~~amount which bears the same ratio to the total benefits paid to the individual as~~
14 ~~the total base period wages paid to the individual by the employer bear to the~~
15 ~~total base period wages paid to the individual by all of his or her base period~~
16 ~~employers.~~

17 (6) Group accounts. Two or more employers that have become liable
18 for payments in lieu of contributions, in accordance with the provisions of this
19 section and section 1380 of this title, may file a joint application to the
20 Commissioner for the establishment of a group account for the purpose of
21 sharing the cost of benefits paid that are attributable to service in the employ of

1 ~~such~~ the employers. Each application shall identify and authorize a group
2 representative to act as the group's agent for the purpose of this section. Upon
3 ~~his or her~~ approval of the application, the Commissioner shall establish a group
4 account for ~~such~~ the employers effective as of the beginning of the calendar
5 quarter in which ~~he or she~~ the Commissioner receives the application and shall
6 notify the group's representative of the effective date of the account. The
7 account shall remain in effect for not less than two years and thereafter until
8 terminated at the discretion of the Commissioner or upon application by the
9 group. Upon establishment of the account, each member of the group shall be
10 liable for payments in lieu of contributions with respect to each calendar
11 quarter in the amount that bears the same ratio to the total benefits paid in ~~such~~
12 the quarter that are attributable to service performed in the employ of all
13 members of the group as the total wages paid for service in employment by
14 ~~such~~ the member in ~~such~~ the quarter bear to the total wages paid during ~~such~~
15 the quarter for service performed in the employ of all members of the group.
16 The Board shall ~~prescribe regulations~~ adopt rules as it deems necessary with
17 respect to applications for establishment, maintenance, and termination of
18 group accounts that are authorized by this subdivision, for addition of new
19 members to, and withdrawal of active members from, such accounts, and for
20 the determination of the amounts that are payable under this ~~section~~ subsection
21 by members of the group and the time and manner of ~~such~~ the payments.

1 (7) ~~Notwithstanding any of the foregoing provisions of this section, any~~
2 ~~nonprofit organization that prior to January 1, 1969, paid contributions~~
3 ~~required by this section, and, pursuant to subsection (c) of this section, elects~~
4 ~~within 30 days after January 1, 1972, to make payments in lieu of~~
5 ~~contributions, shall not be required to make any such payment on account of~~
6 ~~any regular or extended benefits paid, on the basis of wages paid by such~~
7 ~~organization to individuals for weeks of unemployment which begin on and~~
8 ~~after the effective date of the election until the total amount of benefits equals~~
9 ~~the amount (1) by which the contributions paid by the organization with~~
10 ~~respect to the two year period before the effective date of the election under~~
11 ~~subsection (b) of this section exceed (2) the total amount of unemployment~~
12 ~~benefits paid for the same period that were attributable to service performed in~~
13 ~~the employ of the organization and were charged to the experience rating~~
14 ~~record of the organization. [Repealed.]~~

15 * * *

16 (f) Any employer who makes payments in lieu of contributions under the
17 provisions of this section is considered to be self-insuring and shall pay to the
18 Commissioner for the Unemployment Compensation Trust Fund ~~such any~~
19 amounts as the Commissioner finds to be due under this chapter, including
20 benefits paid but denied on appeal or benefits paid in error ~~which that~~ cannot
21 be properly charged either against another employer who makes payments in

1 lieu of contributions or against the experience-rating record of another
2 employer who pays contributions. Benefits improperly paid where repayment
3 by the claimant is ordered pursuant to subsection 1347(a) or (b) of this title
4 will be credited to the employer's account when repayment from the claimant
5 is actually received by the Commissioner.

6 **Sec. 16.** NONPROFIT AND MUNICIPAL REIMBURSABLE

7 EMPLOYERS; EDUCATION; OUTREACH

8 (a) On or before October 1, 2023, the Commissioner of Labor, in
9 consultation with the Vermont League of Cities and Towns, Common Good
10 Vermont, United Way of Northwest Vermont, and other interested
11 stakeholders, shall develop information and education materials for nonprofit
12 and municipal employers regarding the unemployment insurance system. At a
13 minimum, the materials shall:

14 (1) explain the options available to nonprofit and municipal employers,
15 including paying regular unemployment insurance contributions, reimbursing
16 the Unemployment Insurance Trust Fund for attributable unemployment
17 insurance costs, and, with respect to nonprofit employers, quarterly payments
18 of estimated unemployment insurance costs;

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

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

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

9 (5) provide additional information regarding the Unemployment
10 Insurance program and related laws that the Commissioner determines, in
11 consultation with the Vermont League of Cities and Towns, Common Good
12 Vermont, United Way of Northwest Vermont, and other interested
13 stakeholders, to be helpful or necessary for nonprofit and municipal employers.

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

20 (2) The Secretary of State shall assist the Commissioner of Labor in
21 identifying and contacting all active Vermont nonprofit employers. The Office

1 of the Secretary of State shall also make available on its website a link to the
2 information and educational materials provided on the Department of Labor’s
3 website pursuant to this section.

4 (c) The Department of Labor, in collaboration with the Vermont League of
5 Cities and Towns, Common Good Vermont, United Way of Northwest
6 Vermont, and other interested stakeholders, shall hold one or more
7 informational sessions to present the materials and information developed
8 pursuant to subsection (a) of this section to nonprofit employers and municipal
9 employers. At least one session shall be held on or before November 1, 2023.
10 Each session shall allow for both in-person and remote participation and shall
11 be recorded. Recordings shall be made available to the public and to
12 stakeholder organizations for distribution to their members.

13 **Sec. 17.** 2021 Acts and Resolves No. 183, Sec. 59(b)(6) is amended to read:

14 (6) Sec. 52g (prospective repeal of unemployment insurance benefit
15 increase) shall take effect ~~upon the payment of a~~ when the cumulative total
16 amount of additional benefits paid pursuant to 21 V.S.A. § 1338(e) ~~when,~~
17 compared to the rate at which benefits would have been paid under the formula
18 set forth in 21 V.S.A. § 1338(e) on June 30, 2025 ~~equal to \$92,000,000.00,~~
19 plus the ~~difference between \$8,000,000.00 and the~~ amount of additional
20 benefits paid ~~out~~ pursuant to section 52b, ~~if any,~~ compared to the amount that
21 would have been paid pursuant to the provisions of 21 V.S.A. § 1338(f)(1) on

1 June 30, 2022, equals \$100,000,000.00 and shall apply to benefit weeks
2 beginning after that date.

3 **Sec. 18.** UNEMPLOYMENT DUE TO URGENT, COMPELLING, OR
4 NECESSITOUS CIRCUMSTANCES; COVERAGE; IMPACT;
5 REPORT

6 (a) On or before January 15, 2024, the Commissioner of Labor shall submit
7 a written report prepared in consultation with the Joint Fiscal Office to the
8 House Committee on Commerce and Economic Development and the Senate
9 Committee on Economic Development, Housing and General Affairs regarding
10 the potential impact of extending eligibility for unemployment insurance
11 benefits to individuals who separate from employment due to urgent,
12 compelling, or necessitous circumstances, including the individual's injury or
13 illness, to obtain or recover from medical treatment, to escape domestic or
14 sexual violence, to care for a child following an unexpected loss of child care,
15 or to care for an ill or injured family member.

16 (b) The report shall include:

17 (1) a list of states in which individuals who separate from employment
18 due to circumstances similar to those described in subsection (a) of this section
19 are eligible for unemployment insurance and shall identify the specific
20 circumstances for separation from employment in each identified state for

1 which there is no waiting period or period of disqualification related to the
2 circumstance;

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

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

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

15 (5) any recommendations for legislative action.

16 **Sec. 19.** DOMESTIC AND SEXUAL VIOLENCE SURVIVORS’

17 TRANSITIONAL EMPLOYMENT PROGRAM; UTILIZATION;

18 REPORT

19 On or before January 15, 2024, the Commissioner of Labor shall submit a
20 written report to the House Committee on Commerce and Economic
21 Development and the Senate Committee on Economic Development, Housing

1 and General Affairs regarding the utilization of the Domestic and Sexual
2 Violence Survivors' Transitional Employment Program. The report shall
3 include information regarding the utilization of the Program during the past 10
4 years, a summary of the Department's efforts to make members of the public
5 aware of the Program and improve access to it, how the identified changes
6 have impacted utilization of the Program in comparison to prior years, any
7 potential ways to further increase awareness and utilization of the Program,
8 and any suggestions for legislative action to improve awareness or utilization
9 of the Program.

10 **Sec. 20.** 21 V.S.A. § 1256 is added to read:

11 § 1256. NOTIFICATION TO THE PUBLIC

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

(a) This section and Secs. 1 and 3 shall take effect on passage.

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

(c) Secs. 7 and 9 shall take effect on July 1, 2028.

(d) The remaining sections shall take effect on July 1, 2023.

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE