

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to  
3 which was referred House Bill No. 681 entitled “An act relating to employer  
4 registration for unemployment insurance and amendments to the  
5 unemployment insurance laws to address the COVID-19 outbreak”  
6 respectfully reports that it has considered the same and recommends that the  
7 Senate propose to the House that the bill be amended by striking out all after  
8 the enacting clause and inserting in lieu thereof the following:

9 \* \* \* Unemployment Insurance \* \* \*

10 Sec. 1. 21 V.S.A. § 1314a is amended to read:

11 § 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION;

12 PENALTIES

13 (a)(1) ~~Effective with the calendar quarter ending September 30, 1986 and~~  
14 ~~all subsequent calendar quarters, each~~ Each employing unit ~~which that~~ is an  
15 employer as ~~defined in subdivision 1301(5) of this chapter, having that has~~  
16 individuals in employment as defined in subdivision 1301(6) of this chapter;  
17 shall file with the Commissioner on forms ~~to be~~ supplied by the Commissioner  
18 ~~to each such employer~~ a detailed wage report ~~containing~~ for each calendar  
19 quarter that contains each individual worker’s name, Social Security number,  
20 gross wages paid during each ~~such~~ calendar quarter, and any other information

1 the Commissioner deems ~~reasonably~~ necessary in the administration of this  
2 chapter.

3 ~~(2) Effective with the calendar quarter ending March 31, 2001, and all~~  
4 ~~subsequent calendar quarters, in~~ In addition to other information required by  
5 this section, the wage reports required by this subsection shall include for each  
6 worker paid by the hour, the worker's gender, and the worker's hourly wage.  
7 ~~The wage reports may be filed electronically.~~

8 \* \* \*

9 (c) An employing unit, ~~as defined in subdivision 1301(4) of this chapter~~  
10 ~~which~~ that is not an employer, ~~as defined in subdivision 1301(5), shall, upon~~  
11 request of the Commissioner, ~~file~~ submit reports on forms furnished by the  
12 Commissioner ~~reports respecting~~ regarding employment, wages, hours of  
13 employment, ~~and~~ unemployment, and related matters ~~as~~ that the Commissioner  
14 deems ~~reasonably~~ necessary in the administration of this chapter.

15 (d) Reports required by subsection (c) of this section shall be ~~returned so as~~  
16 ~~to be received by~~ submitted to the Commissioner not later than 10 calendar  
17 days after the date ~~of the mailing of~~ the Commissioner's request was mailed to  
18 the employing unit.

19 (e) On ~~the~~ request of the Commissioner, any employing unit or employer  
20 shall report, within 10 days of the mailing or personal delivery of the request,  
21 separation information ~~with respect to~~ for a claimant, any disqualifying income

1 the claimant may have received, and any other information that the  
2 Commissioner may ~~reasonably~~ require to determine a the claimant's eligibility  
3 for unemployment compensation. The Commissioner shall make ~~such~~ a  
4 request ~~whenever~~ when:

5 (1) the claimant's eligibility is dependent ~~either~~ upon:

6 (A) wages paid during an incomplete calendar quarter in which the  
7 claimant was separated; or

8 (B) ~~upon~~ the last completed quarter; and

9 (2) ~~when to do so would~~ obtaining the information will result in more  
10 timely benefit payments.

11 (f)(1) Any employing unit or employer that fails to:

12 (A) File ~~any~~ a report required by this section shall be subject to ~~a~~ an  
13 administrative penalty of \$100.00 for each report not received by the  
14 prescribed due dates.

15 (B) Properly classify an individual regarding the status of  
16 employment is shall be subject to ~~a~~ an administrative penalty of not more than  
17 \$5,000.00 for each improperly classified employee. In addition, an employer  
18 found to have violated this section is prohibited from contracting, directly or  
19 indirectly, with the State or any of its subdivisions for up to three years  
20 following the date the employer was found to have failed to properly classify,  
21 as determined by the Commissioner in consultation with the Commissioner of

1 Buildings and General Services or the Secretary of Transportation, as  
2 appropriate. Either the Secretary or the Commissioner, as appropriate, shall be  
3 consulted in any appeal relating to prohibiting the employer from contracting  
4 with the State or its subdivisions.

5 (2)(A) Penalties under this subsection shall be collected in the same  
6 manner ~~provided for the collection of~~ as contributions ~~in~~ under section 1329 of  
7 this title and shall be paid into the Contingent Fund ~~provided~~ established in  
8 section 1365 of this title.

9 (B) If the employing unit demonstrates that its failure was due to a  
10 reasonable cause, the Commissioner may waive or reduce the penalty.

11 (g)(1) Notwithstanding any other provisions of this section, the  
12 Commissioner may where practicable require ~~of~~ any employing unit ~~that~~ to file  
13 the reports required ~~to be filed~~ pursuant to subsections (a) through (d) of this  
14 section ~~be filed~~, or any departmental registration required prior to submitting  
15 the reports required by this section, in an electronic media form.

16 (2) The Commissioner may waive the requirement that an employing unit  
17 submit a report in an electronic media form if the employing unit attests that it  
18 is unable to file the required report in that form.

1           \* \* \* Unemployment Insurance Related to COVID-19 Outbreak \* \* \*

2           Sec. 2. 21 V.S.A. § 1325 is amended to read:

3           § 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

4                         DISCLOSURE TO SUCCESSOR ENTITY

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

14   \* \* \*

15                         (G) The individual voluntarily separated from that employer as  
16                         provided by subdivision 1344(a)(2)(A) of this chapter for one of the following  
17                         reasons:

18                                 (i) To self-isolate or quarantine at the recommendation of a health  
19                                 care provider or pursuant to a specific recommendation, directive, or order  
20                                 issued by a public health authority with jurisdiction, the Governor, or the  
21                                 President for one of the following reasons:

1                   (I) the individual has been diagnosed with COVID-19;  
2                   (II) the individual is experiencing the symptoms of COVID-19;  
3                   (III) the individual has been exposed to COVID-19; or  
4                   (IV) the individual belongs to a specific class or group of  
5 persons that have been identified as being at high-risk if exposed to or infected  
6 with COVID-19.

7                   (ii) Because of an unreasonable risk that the individual could be  
8 exposed to or become infected with COVID-19 at the individual's place of  
9 employment.

10                  (iii) To care for or assist a family member of the individual who is  
11 self-isolating or quarantining at the recommendation of a health care provider  
12 or pursuant to a specific recommendation, directive, or order issued by a public  
13 health authority with jurisdiction, the Governor, or the President for one of the  
14 following reasons:

15                   (I) the family member has been diagnosed with COVID-19;  
16                   (II) the family member is experiencing the symptoms of  
17 COVID-19;  
18                   (III) the family member has been exposed to COVID-19; or  
19                   (IV) the family member belongs to a specific class or group of  
20 persons that have been identified as being at high-risk if exposed to or infected  
21 with COVID-19.

1                   (iv) To care for or assist a family member who has left  
2                   employment because of an unreasonable risk that they could be exposed to or  
3                   become infected with COVID-19 at their place of employment; or

4                   (v) To care for a child under 18 years of age because the child’s  
5                   school or child care has been closed or the child care provider is unavailable  
6                   due to a public health emergency related to COVID-19.

7                   (H) As used in this subdivision (a)(1):

8                   (i) “Family member” means an individual’s parent, grandparent,  
9                   spouse, child, brother, sister, parent-in-law, grandchild, or foster child.

10                  (ii) “An unreasonable risk that the individual could be exposed to  
11                  or become infected with COVID-19 at the individual’s place of employment”  
12                  shall include the individual’s place of employment being out of compliance  
13                  with the Guidance on Preparing Workplaces for COVID-19 issued by the U.S.  
14                  Occupational Safety and Health Administration (OSHA) or any similar  
15                  guidance issued by OSHA, the U.S. Centers for Disease Control, or the  
16                  Vermont Department of Health and any other conditions or factors that the  
17                  Commissioner determines to create an unreasonable risk.

18                  (2) If an individual’s unemployment is directly caused by a major  
19                  disaster declared by the President of the United States pursuant to 42 U.S.C. §  
20                  5122 and the individual would have been eligible for federal disaster  
21                  unemployment assistance benefits but for the receipt of regular benefits, an

1 employer shall be relieved of charges for benefits paid to the individual with  
2 respect to any week of unemployment occurring due to the natural disaster up  
3 to a maximum amount of four weeks.

4 (3)(A) Subject to the provisions of subdivision (B) of this subdivision  
5 (a)(3), an employer shall be relieved of charges for benefits paid to an  
6 individual for a period of up to eight weeks with respect to benefits paid  
7 because:

8 (i) the employer temporarily ceased operation, either partially or  
9 completely, at the individual's place of employment in response to a request  
10 from a public health authority with jurisdiction that the employer cease  
11 operations because of COVID-19, in response to an emergency order or  
12 directive issued by the Governor or the President related to COVID-19, or  
13 because the employer voluntarily ceased operations due to the actual exposure  
14 of workers at that place of employment to COVID-19;

15 (ii) the individual becomes unemployed as a direct result of a state  
16 of emergency declared by the Governor or the President in relation to COVID-  
17 19 or an order or directive issued by the Governor or President in relation to  
18 COVID-19; or

19 (iii) the individual has been recommended or requested by a  
20 medical professional or a public health authority with jurisdiction to be isolated



1 or quarantined as a result of COVID-19, regardless of whether the individual  
2 has been diagnosed with COVID-19.

3 (B) An employer shall only be eligible for relief of charges for  
4 benefits paid under the provisions of this subdivision (a)(3) if the individual is  
5 rehired by the employer within a reasonable period of time after the employer  
6 resumes operations at the individual’s place of employment, as determined by  
7 the Commissioner, or upon the completion of the individual’s period of  
8 isolation or quarantine.

9 (C) The Commissioner may extend the period for which an employer  
10 shall be relieved of charges for benefits paid to employees pursuant to  
11 subdivision (A)(i) of this subdivision (a)(3) by an amount that the  
12 Commissioner determines to be appropriate in light of the terms of any  
13 applicable request from a local health official or the Commissioner of Health  
14 or any applicable emergency order or directive issued by the Governor and any  
15 other relevant conditions or factors.

16 \* \* \*

17 Sec. 3. 21 V.S.A. § 1344 is amended to read:

18 § 1344. DISQUALIFICATIONS

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

20 \* \* \*

1           (2) For any week benefits are claimed, except as provided in subdivision  
2           (a)(3) of this section, until he or she has presented evidence to the satisfaction  
3           of the Commissioner that he or she has performed services in employment for  
4           a bona fide employer and has had earnings in excess of six times his or her  
5           weekly benefit amount if the Commissioner finds that such individual is  
6           unemployed because:

7                   (A) He or she has left the employ of his or her last employing unit  
8                   voluntarily without good cause attributable to such employing unit. An  
9                   individual shall not suffer more than one disqualification by reason of such  
10                  separation. However, an individual shall not be disqualified for benefits if:

11                          (i) the individual left such employment to accompany a spouse  
12                          who:

13                                ~~(i)~~(I) is on active duty with the U.S. Armed Forces and is required  
14                                to relocate due to permanent change of station orders, activation orders, or unit  
15                                deployment orders, and when such relocation would make it impractical or  
16                                impossible, as determined by the Commissioner, for the individual to continue  
17                                working for such employing unit; or

18                                ~~(ii)~~(II) holds a commission in the U.S. Foreign Service and is  
19                                assigned overseas, and when such relocation would make it impractical or  
20                                impossible, as determined by the Commissioner, for the individual to continue  
21                                working for such employing unit;

1                   (ii) The individual has left employment to self-isolate or  
2                   quarantine at the recommendation of a health care provider or pursuant to a  
3                   specific recommendation, directive, or order issued by a public health authority  
4                   with jurisdiction, the Governor, or the President for one of the following  
5                   reasons:

- 6                               (I) the individual has been diagnosed with COVID-19;  
7                               (II) the individual is experiencing the symptoms of COVID-19;  
8                               (III) the individual has been exposed to COVID-19; or  
9                               (IV) the individual belongs to a specific class or group of  
10                   persons that have been identified as being at high-risk if exposed to or infected  
11                   with COVID-19.

12                   (iii) The individual has left employment because of an  
13                   unreasonable risk that the individual could be exposed to or become infected  
14                   with COVID-19 at the individual’s place of employment.

15                   (iv) The individual has left employment to care for or assist a  
16                   family member of the individual who is self-isolating or quarantining at the  
17                   recommendation of a health care provider or pursuant to a specific  
18                   recommendation, directive, or order issued by a public health authority with  
19                   jurisdiction, the Governor, or the President for one of the following reasons:

- 20                               (I) the family member has been diagnosed with COVID-19;

1 (II) the family member is experiencing the symptoms of  
2 COVID-19;

3 (III) the family member has been exposed to COVID-19; or

4 (IV) the family member belongs to a specific class or group of  
5 persons that have been identified as being at high-risk if exposed to or infected  
6 with COVID-19.

7 (v) the individual has left employment to care for or assist a  
8 family member who has left employment because of an unreasonable risk that  
9 they could be exposed to or become infected with COVID-19 at their place of  
10 employment; or

11 (v) The individual left employment to care for a child under 18  
12 years of age because the child’s school or child care has been closed or the  
13 child care provider is unavailable due to a public health emergency related to  
14 COVID-19.

15 \* \* \*

16 (G) As used in this subdivision (a)(2):

17 (i) “Family member” means an individual’s parent, grandparent,  
18 spouse, child, brother, sister, parent-in-law, grandchild, or foster child.

19 (ii) “An unreasonable risk that the individual could be exposed to  
20 or become infected with COVID-19 at the individual’s place of employment”  
21 shall include the individual’s place of employment being out of compliance

1 with the Guidance on Preparing Workplaces for COVID-19 issued by the U.S.  
2 Occupational Safety and Health Administration (OSHA) or any similar  
3 guidance issued by OSHA, the U.S. Centers for Disease Control, or the  
4 Vermont Department of Health and any other conditions or factors that the  
5 Commissioner determines to create an unreasonable risk.

6 (H)(1) Except as otherwise provided pursuant to subdivision (2) of  
7 this subdivision (a)(2)(H), an unemployed individual who is eligible for  
8 benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection shall be  
9 ineligible for benefits under those subdivisions if the individual becomes  
10 eligible for benefits provided pursuant to:

11 (i) enacted federal legislation that amends or establishes a federal  
12 program providing benefits for unemployed individuals that are similar to the  
13 benefits provided pursuant to subdivisions (2)(A)(ii)–(vi); or

14 (ii) a national emergency declared by the President that results in  
15 the provision of benefits pursuant to Disaster Unemployment Assistance,  
16 Emergency Paid Leave Benefits, Emergency Unemployment Assistance,  
17 Extended Unemployment Compensation, Paid Sick Days for Public Health  
18 Emergencies, Personal and Family Care Act payments, or any similar type  
19 program.

20 (2) An individual who is otherwise eligible for unemployment benefits  
21 pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection and becomes

1 ineligible to continue receiving such benefits pursuant to subdivision (1) of this  
2 subdivision (a)(2)(H) shall be provided with benefits pursuant to the federal  
3 program or programs pursuant to which the individual has become eligible for  
4 benefits except when and to the extent that subdivisions (2)(A)(ii)–(vi) of this  
5 subsection provide eligibility for benefits not provided by the applicable  
6 federal program or programs, in which case the benefits provided under  
7 subdivisions (2)(A)(ii)–(vi) of this subsection shall continue.

8 \* \* \*

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

11 \* \* \*

12 (F) Sick pay or pay received pursuant to the federal Emergency  
13 Family and Medical Leave Expansion Act or the federal Emergency Paid Sick  
14 Leave Act.

15 \* \* \*

16 \* \* \* Repeal of COVID-19 Related Unemployment Insurance Provisions \* \* \*

17 Sec. 4. REPEAL

18 21 V.S.A. § 1325(a)(1)(G), (H), and (a)(3) are repealed.

19 Sec. 5. 21 V.S.A. § 1344 is amended to read:

20 § 1344. DISQUALIFICATIONS

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

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\* \* \*

(2) For any week benefits are claimed, except as provided in subdivision (a)(3) of this section, until he or she has presented evidence to the satisfaction of the Commissioner that he or she has performed services in employment for a bona fide employer and has had earnings in excess of six times his or her weekly benefit amount if the Commissioner finds that such individual is unemployed because:

(A) He or she has left the employ of his or her last employing unit voluntarily without good cause attributable to such employing unit. An individual shall not suffer more than one disqualification by reason of such separation. However, an individual shall not be disqualified for benefits if:

(i) the individual left such employment to accompany a spouse who:

(i) is on active duty with the U.S. Armed Forces and is required to relocate due to permanent change of station orders, activation orders, or unit deployment orders, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit; or

(ii) holds a commission in the U.S. Foreign Service and is assigned overseas, and when such relocation would make it impractical or

1 impossible, as determined by the Commissioner, for the individual to continue  
2 working for such employing unit;

3 ~~(ii) The individual has left employment to self isolate or~~  
4 ~~quarantine at the recommendation of a healthcare provider, or pursuant to a~~  
5 ~~specific recommendation, directive, or order issued by a public health authority~~  
6 ~~with jurisdiction, the Governor, or the President for one of the following~~  
7 ~~reasons:~~

8 ~~(I) the individual has been diagnosed with COVID-19;~~  
9 ~~(II) the individual is experiencing the symptoms of COVID-19;~~  
10 ~~(III) the individual has been exposed to COVID-19; or~~  
11 ~~(IV) the individual belongs to a specific class or group of~~  
12 ~~persons that have been identified as being at high risk if exposed to or infected~~  
13 ~~with COVID-19.~~

14 ~~(iii) The individual has left employment because of an~~  
15 ~~unreasonable risk that the individual could be exposed to or become infected~~  
16 ~~with COVID-19 at the individual's place of employment.~~

17 ~~(iv) The individual has left employment to care for or assist a~~  
18 ~~family member of the individual who is self isolating or quarantining at the~~  
19 ~~recommendation of a healthcare provider or pursuant to a specific~~  
20 ~~recommendation, directive, or order issued by a public health authority with~~  
21 ~~jurisdiction, the Governor, or the President, for one of the following reasons:~~



1                   ~~(I) the family member has been diagnosed with COVID-19;~~  
2                   ~~(II) the family member is experiencing the symptoms of~~  
3                   ~~COVID-19;~~  
4                   ~~(III) the family member has been exposed to COVID-19; or~~  
5                   ~~(IV) the family member belongs to a specific class or group of~~  
6                   ~~persons that have been identified as being at high risk if exposed to or infected~~  
7                   ~~with COVID-19.~~

8                   ~~(v) the individual has left employment to care for or assist a~~  
9                   ~~family member who has left employment because of an unreasonable risk that~~  
10                  ~~they could be exposed to or become infected with COVID-19 at their place of~~  
11                  ~~employment; or~~

12                  ~~(v) The individual left such employment to care for a child under~~  
13                  ~~18 years of age because the child’s school or child care has been closed or the~~  
14                  ~~child care provider is unavailable due to a public health emergency related to~~  
15                  ~~COVID-19.~~

16                                   \* \* \*

17                  ~~(G) As used in this subdivision (a)(2):~~

18                  ~~(i) “Family member” means an individual’s parent, grandparent,~~  
19                  ~~spouse, child, brother, sister, parent in law, grandchild, or foster child.~~

20                  ~~(ii) “An unreasonable risk that the individual could be exposed to~~  
21                  ~~or become infected with COVID-19 at the individual’s place of employment”~~

1 shall include the individual's place of employment being out of compliance  
2 with the Guidance on Preparing Workplaces for COVID-19 issued by the U.S.  
3 Occupational Safety and Health Administration (OSHA) or any similar  
4 guidance issued by OSHA, the U.S. Centers for Disease Control, or the  
5 Vermont Department of Health and any other conditions or factors that the  
6 Commissioner determines to create an unreasonable risk.

7 \* \* \*

8 (5) For any week in which the individual is receiving or has received  
9 remuneration in the form of:

10 \* \* \*

11 ~~(F) Sick pay or pay received pursuant to the federal Emergency~~  
12 ~~Family and Medical Leave Expansion Act or the federal Emergency Paid Sick~~  
13 ~~Leave Act.~~

14 \* \* \*

15 Sec. 6. 21 V.S.A. § 1346 is amended to read:

16 § 1346. CLAIMS FOR BENEFITS; RULES; NOTICE

17 \* \* \*

18 (c)(1) An employer shall post notice of how an unemployed individual can  
19 seek unemployment benefits in a form provided by the Commissioner in a  
20 place conspicuous to individuals performing services for the employer. The  
21 notice shall also advise individuals of their rights under the Domestic and

1 Sexual Violence Survivor’s Transitional Employment Program, established  
2 pursuant to chapter 16A of this title. The Commissioner shall provide a copy  
3 of the notice to an employer upon request without cost to the employer.

4 (2) An employer shall provide an individual with notification of the  
5 availability of unemployment compensation at the time of the individual’s  
6 separation from employment. The notification may be based on model  
7 notification language provided by the U.S. Secretary of Labor.

8 \* \* \* Effective Dates \* \* \*

9 **Sec. 7. EFFECTIVE DATES**

- 10 (a) This section and Secs. 2, 3, and 6 shall take effect on passage.  
11 (b) Sec. 1 shall take effect on July 1, 2020.  
12 (c) Secs. 4 and 5 shall take effect on March 31, 2021.

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

\_\_\_\_\_  
Senator \_\_\_\_\_  
FOR THE COMMITTEE