1	H.97
2	Introduced by Representatives Jessup of Middlesex, Kornheiser of
3	Brattleboro, Ode of Burlington, Bluemle of Burlington,
4	Brumsted of Shelburne, Burrows of West Windsor, Christie of
5	Hartford, Cina of Burlington, Coffey of Guilford, Colston of
6	Winooski, Cordes of Lincoln, Hooper of Burlington, Houghton
7	of Essex, Howard of Rutland City, James of Manchester,
8	Masland of Thetford, Mrowicki of Putney, Mulvaney-Stanak of
9	Burlington, Patt of Worcester, Scheu of Middlebury, Squirrell
10	of Underhill, Surprenant of Barnard, Toleno of Brattleboro,
11	Townsend of South Burlington, Vyhovsky of Essex, Wood of
12	Waterbury, and Yantachka of Charlotte
13	Referred to Committee on
14	Date:
15	Subject: Labor; unemployment insurance; payment of benefits; appeals;
16	disqualification; notification of ineligibility for benefits
17	Statement of purpose of bill as introduced: This bill proposes to permit the
18	Commissioner of Labor to reduce or cancel a period of disqualification
19	imposed for an intentional misrepresentation of facts material to an
20	unemployment claim and to provide that such a period of disqualification will
21	expire three years after it is imposed. This bill also proposes to prevent

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individuals from having to repay unemployment benefits that were paid
because of the Department of Labor's error, to temporarily extend the time to
appeal an unemployment insurance determination from 30 to 90 days, to
require the Department to record communications related to an unemployment
insurance determination, to require the Department to provide unemployment
insurance claimants with confirmation that their claim has been submitted and
with an explanation of the benefits the claimant is receiving, to require
employers that are exempt from the unemployment insurance system to inform
their prospective employees of that fact, to temporarily extend COVID-19-
related experience rating relief and good cause reasons for quitting
employment, and to require the Commissioner of Labor to report to the
General Assembly regarding opportunities to improve the Department's ability
to process unemployment claims in a timely and transparent manner.

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. § 1347 is amended to read:

§ 1347. NONDISCLOSURE OR MISREPRESENTATION

18 ***

(e)(1) In addition to the foregoing, when it is found by the Commissioner finds that a person intentionally misrepresented or failed to disclose a material

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1	fact with respect to his or her claim for benefits and in the event the person is
2	not prosecuted under section 1368 of this title and the penalty provided in
3	section 1373 of this title is not imposed, the person shall be disqualified and
4	shall not be entitled to receive benefits to which he or she would otherwise be
5	entitled after the determination for such number of weeks not exceeding a
6	period of not more than 26 weeks as the Commissioner shall deem deems just.
7	The notice of determination shall also specify the period of disqualification
8	imposed hereunder .
9	(2) The Commissioner may cancel or reduce the period of
10	disqualification imposed pursuant to this subsection for good cause or as he or
11	she deems appropriate and just.
12	(3) The period of disqualification imposed pursuant to this subsection
13	shall expire three years after the date of the determination.
14	* * *
15	(g)(1) Notwithstanding any provision of subsection (a) or (b) of this section
16	to the contrary, an individual shall not be liable to repay any overpayment of
17	benefits that resulted from something other than the individual's own act or
18	omission.
19	(2) An individual may, at any time, request that the Commissioner
20	reduce or waive the amount for which the individual is liable pursuant to

subsections (a), (b), and (c). Upon receipt of a request, the Commissioner may

1 reduce or waive the amount for which an individual is liable for good cause or

- 2 <u>as he or she deems appropriate and just.</u>
- 3 Sec. 2. 21 V.S.A. § 1348 is amended to read:
- 4 § 1348. PROCEDURE

(a)(1) An authorized representative of the Commissioner shall pass upon each claim for benefits as provided in this chapter and shall, after such filing, promptly award such benefits as shall be found to be payable under the provisions of this chapter. Any verbal communications between the Commissioner's representative and a claimant shall be recorded, and in the event of an appeal pursuant to subdivision (2) of this subsection, a copy of the recording shall be provided to the parties at no cost. Prompt notice in writing of the determination of such representative and reasons therefor in respect to such claim shall be given to the claimant, his or her last employer, all other interested parties, and the Commissioner.

(2)(A) Any interested party may, within 30 days after notice thereof of the determination, file an appeal from the determination with an appeals referee employed by the Commissioner. Such The appeal shall, after notice to the claimant, his or her last employer, and all other interested parties, be heard at a place as convenient to the parties as, in the judgment of the referee, is practical, within 30 days after such the appeal is filed with the referee; after.

1	(B) After the hearing, the determination shall be sustained, modified,
2	or set aside by the referee as may be warranted. Prompt The referee shall
3	provide the parties with prompt notice in writing of the decision of the referee
4	and the reasons therefor shall be given for it.
5	* * *
6	Sec. 3. 21 V.S.A. § 1349 is amended to read:
7	§ 1349. APPEALS TO BOARD; SUPREME COURT APPEAL
8	(a)(1) Within 30 days after date thereof it is issued, an interested party may
9	appeal from the decision of the referee to the Board, by filing a written request
10	therefor in the manner prescribed by regulations the rules of the Board.
11	(2) The appeal shall be heard by the Board, after notice to the claimant
12	and his or her last employer, within a reasonable time after notice of the appeal
13	is filed , and the .
14	(3) The Board may affirm, modify, or reverse the decision of the referee
15	solely on the basis of evidence in the record transferred to it by the referee.
16	which shall include any recording created pursuant to subdivision 1348(a)(1)
17	of this chapter, or upon the basis of evidence in the record, including the
18	recording, and such additional evidence as it may direct the Board directs to be
19	taken.

1	(b) Upon motion made by the Commissioner, a review may be initiated by
2	the Board of The Board may, upon a motion by the Commissioner, review a
3	decision of the referee or a benefit determination.
4	(c) The Board shall make its findings of fact and conclusions thereon on
5	each matter that comes before it. Prompt In each matter, the Board shall
6	provide the parties with prompt notice of the its findings of fact, ruling of law,
7	conclusions, and decision of the Board shall be given as hereinabove provided
8	(d) The decision shall be final unless an appeal to the Supreme Court is
9	taken.
10	(e) Testimony given at any each hearing upon a disputed claim shall be
11	recorded, but the record need not be transcribed unless ordered.
12	Sec. 4. TEMPORARY EXTENSION OF TIME FOR APPEAL DURING
13	COVID-19 EMERGENCY
14	Notwithstanding any provision of 21 V.S.A. § 1348 to the contrary, a
15	claimant may file an appeal from a determination within 90 days after
16	receiving notice of the determination.
17	Sec. 5. PROSPECTIVE REPEAL
18	Sec. 4 shall be repealed 30 days after the termination of the state
19	of emergency declared in response to COVID-19 pursuant to Executive Order
20	<u>01-20.</u>

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1	Sec. 6. 21 V.S.A. § 1346 is amended to read:
2	§ 1346. CLAIMS FOR BENEFITS; RULES; NOTICE
3	(a)(1) Claims for benefits shall be made in accordance with rules adopted
4	by the Board.
5	(2) Upon receiving a new claim, the Department shall provide the
6	claimant with confirmation that his or her claim has been received.
7	(3) Upon making the initial payment of benefits for a claimant's benefit
8	year, the Department shall provide an eligible claimant with a detailed
9	explanation of the benefits that he or she is receiving. The explanation of
10	benefits shall include, at a minimum, the weekly benefit that the Department
11	has determined that the claimant is eligible to receive and the number of weeks
12	of benefits that the individual is receiving as part of the initial payment.
13	* * *
14	(d) Each employing unit that is not an employer pursuant to subdivision
15	1301(5) of this chapter, or that employs individuals whose services are not
16	covered employment pursuant to subdivision 1301(6) of this chapter, shall
17	inform each affected prospective employee in writing, at the time that an offer
18	of employment is made, that wages earned by the individual in the employ of
19	the employing unit cannot be used for the purpose of establishing monetary

eligibility for benefits under this chapter.

1	Sec. 7. 2020 Acts and Resolves No. 91, Sec. 38(3) is amended to read:
2	(3) Secs. 32 and 33 shall take effect on March 31, 2021 30 days after the
3	termination of the state of emergency declared in response to COVID-19
4	pursuant to Executive Order 01-20.
5	Sec. 8. UNEMPLOYMENT INSURANCE; IMPROVEMENTS IN
6	TRAINING AND CLAIMANT EXPERIENCE; REPORT
7	On or before January 15, 2022, the Commissioner of Labor shall submit a
8	written report to the House Committee on Commerce and Economic
9	Development and the Senate Committee on Economic Development, Housing
10	and General Affairs that identifies issues in the Department's staff training,
11	systems, and claims procedures that delayed the processing of benefits during
12	the COVID-19 pandemic and related opportunities for improvement. In
13	particular, the report shall identify:
14	(1) specific ways in which the training of claims staff could be
15	improved;
16	(2) opportunities for cross-training in order to improve the ability of the
17	Department of Labor to reallocate staff in response to a surge in claims;
18	(3) specific ways to streamline the claims process and to make it more
19	user friendly and transparent for claimants; and
20	(4) any resources and legislative changes necessary to accomplish the
21	potential changes and improvements identified.

- 1 Sec. 9. EFFECTIVE DATE
- 2 This act shall take effect on passage.