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S.62

Introduced by Senators Sirotkin, Balint, Clarkson, Hooker and Lyons

Referred to Committee on Economic Development, Housing and General
Affairs

Date: February 3, 2021

Subject: Commerce and trade; economic development

Statement of purpose of bill as introduced: This bill proposes to create a New
Vermont Employee Incentive Program.

~~An act relating to creating a New Vermont Employee Incentive Program~~
~~An act relating to creating incentives for new remote and relocating workers~~
*An act relating to employee incentives, technical education, and
unemployment insurance*

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

~~Sec. 1, 10 V.S.A., chapter 1 is amended to read:~~

CHAPTER 1. ECONOMIC DEVELOPMENT

* * *

§ 4. NEW VERMONT EMPLOYEE INCENTIVE PROGRAM

(a) The Agency of Commerce and Community Development shall design
and implement a New Vermont Employee Incentive Program to award
incentive grants to qualifying new employees as provided in this section and
subject to the policies and procedures the Agency adopts to implement the
Program

~~(b) A qualifying new employee may be eligible for a grant under the Program for qualifying expenses, subject to the following:~~

~~(1) A base grant shall not exceed \$5,000.00.~~

~~(2) The Agency may award an enhanced grant, which shall not exceed \$7,500.00, for a qualifying new employee who becomes a resident in a labor market area in this State in which:~~

~~(A) the average annual unemployment rate in the labor market area exceeds the average annual unemployment rate in the State; or~~

~~(B) the average annual wage in the State exceeds the annual average wage in the labor market area.~~

~~(c) The Agency shall:~~

~~(1) adopt procedures for implementing the Program, which shall include a simple certification process to certify qualifying new employees and qualifying expenses;~~

~~(2) promote awareness of the Program, including through coordination with relevant trade groups and by integration into the Agency's economic development marketing campaigns;~~

~~(3) award grants to qualifying new employees on a first-come, first-served basis beginning on January 1, 2021, subject to available funding and~~

~~(4) adopt measurable goals, performance measures, and an audit strategy to assess the utilization and performance of the Program.~~

1 ~~(d) Annually, on or before December 15, the Agency shall submit a report~~
2 to the House Committee on Commerce and Economic Development and the
3 Senate Committee on Economic Development, Housing and General Affairs
4 concerning the implementation of this section, including:

5 (1) a description of the policies and procedures adopted to implement
6 the Program;

7 (2) the promotion and marketing of the Program; and

8 (3) an analysis of the utilization and performance of the Program.

9 (e) As used in this section:

10 (1) "New relocating worker" means an individual who on or after
11 January 1, 2021:

12 (A) becomes a full-time resident of this State;

13 (B) becomes a full-time employee of a business domiciled or
14 authorized to do business in this State;

15 (C)(i) is employed in an occupation identified by the Department of
16 Labor in its 2016–2026 Long Term Occupational Projections as one of the top
17 occupations at each level of educational attainment typical for entry; or

18 (ii) the Agency determines should otherwise receive an incentive
19 grant under the Program because the worker possesses exceptional education,
20 skills, or training or due to other extraordinary circumstances; and

21 ~~(D) receives gross wages for the position that equal or exceed:~~

1 ~~(i) 160 percent of the State minimum wage, or~~
2 ~~(ii) if the employer is located in a labor market area in which the~~
3 ~~average annual unemployment rate is higher than the average annual~~
4 ~~unemployment rate for the State, 140 percent of the State minimum wage.~~
5 ~~(2) "New remote worker" means an individual who:~~
6 ~~(A) is a full-time employee of a business with its domicile or primary~~
7 ~~place of business within or outside Vermont;~~
8 ~~(B) becomes a full-time resident of this State on or after January 1,~~
9 ~~2021; and~~
10 ~~(C) performs the majority of his or her employment duties remotely~~
11 ~~from a home office or a co-working space located in this State.~~
12 ~~(3) "Qualifying expenses" means:~~
13 ~~(A) for a new relocating worker, the actual costs the new relocating~~
14 ~~worker incurs for one or more of the following:~~
15 ~~(i) relocation expenses, which may include closing costs for a~~
16 ~~primary residence, rental security deposit, first month's rent payment, and~~
17 ~~other expenses established in Agency guidelines; and~~
18 ~~(ii) expenses necessary for a new worker to perform his or her~~
19 ~~employment duties, including connectivity costs, specialized tools and~~
20 ~~equipment, and other expenses established in Agency guidelines, and~~

1 ~~(B) for a new remote worker, the actual costs the new remote worker~~
2 incurs for one or more of the following that are necessary to perform his or her
3 employment duties:

- 4 (i) relocation to this State;
5 (ii) computer software and hardware;
6 (iii) broadband access or upgrade; and
7 (iv) membership in a co-working or similar space.

8 (4) "Qualifying new employee" means:

- 9 (A) a new relocating worker; or
10 (B) a new remote worker.

11 * * *

12 Sec. 2. IMPLEMENTATION; FUNDING; TRANSITION

13 (a) It is the intent of the General Assembly to consolidate into a single
14 program:

15 (1) the funding and activities of the New Remote Worker Grant
16 Program created in 2018 Acts and Resolves No. 197, Sec. 1, as amended by
17 2019 Acts and Resolves No. 80, Sec. 15; and

18 (2) the funding and activities of the New Worker Relocation Incentive
19 Program created by 2019 Acts and Resolves No. 80, Sec. 12.

20 (b) Consistent with subsection (a) of this section, the Agency of Commerce
21 and Community Development may use any remaining funds appropriated to it

1 ~~for the New Remote Worker Grant Program and the New Worker Relocation~~

2 Incentive Program to:

3 (1) award incentives to new remote workers and new workers who
4 qualify for an incentive under either of those programs until July 1, 2021; and

5 (2) award incentives to qualifying employees under the New Vermont
6 Employee Incentive Program created by this act on or after July 1, 2021.

7 Sec. 3. REPEAL

8 The following are repealed:

9 (1) 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts
10 and Resolves No. 80, Sec. 15 (New Remote Worker Grant Program); and

11 (2) 2019 Acts and Resolves No. 80, Sec. 12 (New Worker Relocation
12 Incentive Program).

13 Sec. 4. EFFECTIVE DATE

14 ~~This act shall take effect on passage.~~

~~Sec. 1. INTENT AND PURPOSE~~

~~It is the intent of the General Assembly and the purpose of this act to:~~

~~(1) expand the Vermont workforce;~~

~~(2) attract new residents to the State; and~~

~~(3) provide support to employers who are unable to fill positions from
among candidates who are already located in this State, whether due to very
low unemployment rate or due to a disconnect between job requirements and
candidate qualifications.~~

~~Sec. 2. 10 V.S.A. chapter 1 is amended to read:~~

~~CHAPTER 1. ECONOMIC DEVELOPMENT~~

~~§ 4. NEW RELOCATING AND REMOTE EMPLOYEES, INCENTIVES~~

~~(a) The Agency of Commerce and Community Development shall design and implement a program to award incentive grants to relocating employees as provided in this section and subject to the policies and procedures the Agency adopts to implement the program.~~

~~(b) A relocating employee may be eligible for a grant under the program for qualifying expenses, subject to the following:~~

~~(1) A base grant shall not exceed \$5,000.00.~~

~~(2) The Agency may award an enhanced grant, which shall not exceed \$7,500.00, for a relocating employee who becomes a resident in a labor market area in this State in which:~~

~~(A) the average annual unemployment rate in the labor market area exceeds the average annual unemployment rate in the State; or~~

~~(B) the average annual wage in the State exceeds the annual average wage in the labor market area.~~

~~(c) The Agency shall:~~

~~(1) adopt procedures for implementing the program, which shall include a simple certification process to certify relocating employees and qualifying expenses;~~

~~(2) promote awareness of the program, including through coordination with relevant trade groups and by integration into the Agency's economic development marketing campaigns;~~

~~(3) award grants to relocating employees on a first-come, first-served basis beginning on July 1, 2021, subject to available funding; and~~

~~(4) adopt measurable goals, performance measures, and an audit strategy to assess the utilization and performance of the program.~~

~~(d) Annually, on or before December 15, the Agency shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning the implementation of this section, including:~~

~~(1) a description of the policies and procedures adopted to implement the program;~~

~~(2) the promotion and marketing of the program;~~

~~(3) an analysis of the utilization and performance of the program, including the projected revenue impacts and other qualitative and quantitative returns on investment in the program based on available data and modeling.~~

~~(c) As used in this section.~~

~~(1) "Qualifying expenses" means the actual costs a relocating employee incurs for one or more of the following:~~

~~(A) relocation expenses, which may include moving costs, closing costs for a primary residence, rental security deposit, one month's rent payment, and other relocation expenses established in Agency guidelines;~~

~~(B) reasonable and necessary costs, considering the employee's location and employment position, to access or upgrade broadband Internet connectivity or to acquire membership in a co-working or similar space.~~

~~(2) "Relocating employee" means an individual who on or after July 1, 2021 meets the following criteria:~~

~~(A) The individual becomes a full-time resident of this State.~~

~~(B) The individual~~

~~(i)(I) becomes a full-time employee at a Vermont location of a business domiciled or authorized to do business in this State; and~~

~~(II) the employer attests to the Agency that, after reasonable time and effort, the employer has been unable to fill the employee's position from among Vermont applicants; or~~

~~(ii) is a full-time employee of an out-of-state business and performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.~~

~~(C) The individual receives gross salary or wages that equal or exceed:~~

~~(i) 160 percent of the State minimum wage; or~~

~~(ii) 140 percent of the State minimum wage if:~~

~~(I) the individual becomes a full-time employee at a Vermont location of a business domiciled or authorized to do business in this State that is located in a Vermont labor market area in which the average annual unemployment rate is higher than the average annual unemployment rate for the State; or~~

~~(II) the individual is a full-time employee of an out-of-state business and performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State, and the individual becomes a resident in a Vermont labor market area in which the average annual unemployment rate is higher than the average annual unemployment rate for the State.~~

~~(D) The individual is subject to Vermont income tax.~~

~~Sec. 3. IMPLEMENTATION; FUNDING; TRANSITION; REPORT~~

~~(a) It is the intent of the General Assembly to consolidate into a single program:~~

~~(1) the funding and activities of the New Remote Worker Grant Program created in 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15; and~~

~~(2) the funding and activities of the New Worker Relocation Incentive Program created by 2019 Acts and Resolves No. 80, Sec. 12.~~

~~(b) Consistent with subsection (a) of this section, the Agency of Commerce and Community Development may use any remaining funds appropriated to it for the New Remote Worker Grant Program and the New Worker Relocation Incentive Program to:~~

~~(1) award incentives to new remote workers and new relocating workers who qualify for an incentive under either of those programs until July 1, 2021; and~~

~~(2) award incentives to relocating employees under the program created pursuant to Sec. 2 of this act on or after July 1, 2021.~~

~~(c) On or before January 15, 2022, the Agency of Commerce and Community Development shall report to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on Commerce and Economic Development concerning any recommended changes to the program created in Sec. 2 of this act, including any residency requirements or other further changes on new employee eligibility.~~

~~Sec. 4. REPEAL~~

~~The following are repealed:~~

~~(1) 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15 (New Remote Worker Grant Program); and~~

~~(2) 2019 Acts and Resolves No. 80, Sec. 12 (New Worker Relocation Incentive Program).~~

~~Sec. 5. EFFECTIVE DATES~~

~~(a) This section and Sec. 3 shall take effect on passage.~~

~~(b) The remaining sections shall take effect on July 1, 2021.~~

**** New Relocating Employees ****

Sec. 1. INTENT AND PURPOSE

It is the intent of the General Assembly and the purpose of Sec. 2 of this act to:

(1) expand the Vermont workforce;

(2) attract new residents to the State; and

(3) provide support to employers who are unable to fill positions from among candidates who are already located in this State, whether due to very low unemployment rate or due to a disconnect between job requirements and candidate qualifications.

Sec. 2. 10 V.S.A. § 4 is added to read:

§ 4. NEW RELOCATING EMPLOYEE INCENTIVES

(a) The Agency of Commerce and Community Development shall design and implement a program to award incentive grants to relocating employees as provided in this section and subject to the policies and procedures the Agency adopts to implement the program.

(b) A relocating employee may be eligible for a grant under the program for qualifying expenses, subject to the following:

(1) A base grant shall not exceed \$5,000.00.

(2) The Agency may award an enhanced grant, which shall not exceed \$7,500.00, for a relocating employee who becomes a resident in a labor market area in this State in which:

(A) the average annual unemployment rate in the labor market area exceeds the average annual unemployment rate in the State; or

(B) the average annual wage in the State exceeds the annual average wage in the labor market area.

(c) The Agency shall:

(1) adopt procedures for implementing the program, which shall include a simple certification process to certify relocating employees and qualifying expenses;

(2) promote awareness of the program, including through coordination with relevant trade groups and by integration into the Agency's economic development marketing campaigns;

(3) award grants to relocating employees on a first-come, first-served basis beginning on July 1, 2021, subject to available funding; and

(4) adopt measurable goals, performance measures, and an audit strategy to assess the utilization and performance of the program.

(d) On or before January 15, 2022, the Agency shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning the implementation of this section, including:

(1) a description of the policies and procedures adopted to implement the program;

(2) the promotion and marketing of the program; and

(3) an analysis of the utilization and performance of the program, including the projected revenue impacts and other qualitative and quantitative returns on investment in the program based on available data and modeling.

(e) As used in this section:

(1) “Qualifying expenses” means the actual costs a relocating employee incurs for relocation expenses, which may include moving costs, closing costs for a primary residence, rental security deposit, one month’s rent payment, and other relocation expenses established in Agency guidelines.

(2) “Relocating employee” means an individual who meets the following criteria:

(A)(i) On or after July 1, 2021:

(I) the individual becomes a full-time resident of this State;

(II) the individual becomes a full-time employee at a Vermont location of a for-profit or nonprofit business organization domiciled or authorized to do business in this State, or of a State, municipal, or other public sector employer;

(III) the individual becomes employed in one of the “Occupations with the Most Openings” identified by the Vermont Department of Labor in its “Short Term Employment Projections 2020-2022”; and

(IV) the employer attests to the Agency that, after reasonable time and effort, the employer was unable to fill the employee’s position from among Vermont applicants; or

(ii) on or after February 1, 2022:

(I) the individual becomes a full-time resident of this State; and

(II) the individual is a full-time employee of an out-of-state business and performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(B) The individual receives gross salary or wages that equal or exceed the Vermont livable wage rate calculated pursuant to 2 V.S.A. § 526.

(C) The individual is subject to Vermont income tax.

Sec. 2a. ALLOCATION OF APPROPRIATION

The Agency of Commerce shall allocate the amounts appropriated in Sec. G.300(a)(20) of H. 439 as follows:

(1) The Agency may use not more than \$480,000.00 to provide grants to new relocating employees who qualify under 10 V.S.A. § 4(e)(2)(A)(i).

(2) The Agency may use not more than \$130,000.00 to provide grants to new relocating employees who qualify under 10 V.S.A. § 4(e)(2)(A)(ii).

(3)(A) The Agency shall transfer not more than \$40,000.00 to the Department of Financial Regulation for the amount required to hire an independent consultant as required in Sec. 2b of this act.

(B) If any amounts from subdivision (3)(A) of this section remain unspent upon conclusion of the study, the Agency shall divide such amounts evenly for grants pursuant to subdivisions (1) and (2) of this section.

Sec. 2b. NEW RELOCATING WORKERS; STUDY

(a) The Department of Financial Regulation shall contract with an independent consultant to study and report on the effectiveness of incentive programs to attract new workers and new remote workers in meeting the demographic challenges and workforce shortages that exist in Vermont.

(b) The Agency of Commerce and Community Development shall make available to the consultant any data and information necessary to assess the administration and outcomes of the programs created in 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15 (New Remote Worker Grant Program); in 2019 Acts and Resolves No. 80, Sec. 12 (New Worker Relocation Incentive Program); and the new relocating employee program created by this act in 10 V.S.A. § 4.

(c) On or before December 15, 2021, the Department shall deliver a final report and any recommendations for legislative action to the House Committees on Commerce and Economic Development and on Appropriations and the Senate Committees on Economic Development, Housing and General Affairs and on Appropriations.

Sec. 3. REPEALS

The following are repealed:

(1) 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15 (New Remote Worker Grant Program); and

(2) 2019 Acts and Resolves No. 80, Sec. 12 (New Worker Relocation Incentive Program).

** * * Adult CTE Investments * * **

Sec. 4. CAREER AND TECHNICAL EDUCATION; ALLOCATIONS

The following recipients shall use the amounts appropriated in Sec. G.300(a)(21) of H. 439 for the purposes specified:

(1) Career and Technical Education Adult Training Scholarships.

(A) The Vermont Student Assistance Corporation (VSAC) shall use \$100,000.00 appropriated for CTE Adult Training Scholarships to provide not more than \$1,000.00 in tuition support to students enrolled in workforce development programs at Adult Career and Technical Education Centers.

(B) Funding may be used for standalone grants or for supplemental grants to the VSAC Advancement Grant.

(C) Eligible students may be nominated by a VSAC Outreach Counselor or a caseworker from the Vermont Department of Labor.

(2) Career and Technical Education equipment purchasing.

(A) The Vermont Agency of Education shall use \$150,000.00 appropriated to award grants of not more than \$20,000.00 to Adult Career and Technical Education Centers for the purchase of equipment needed to launch or sustain workforce development programs in high-growth, high-need sectors.

(B) The Agency of Education shall collaborate with the Vermont Adult Career and Technical Education Association and the Vermont Department of Labor to create a competitive grant program.

(3) CTE program development and instruction.

(A) The Agency of Education shall use \$150,000.00 to provide adult CTE coordinators with access to curriculum development experts to build local programs that are needed to address local or regional workforce development needs.

(B) The Agency shall collaborate with the Adult Career and Technical Education Association and the Vermont Department of Labor to make awards of not more than \$20,000.00.

** * * Unemployment Insurance; Intent * * **

Sec. 5. INTENT

It is the intent of the General Assembly to:

(1) ensure that COVID-19-related protections for unemployment insurance claimants and employers that were enacted as part of 2020 Acts and Resolves No. 91 remain in effect until after the state of emergency declared in relation to the COVID-19 pandemic has been lifted;

(2) ensure that the maximum amount of weekly unemployment insurance benefits that a claimant may receive does not decrease;

(3) provide claimants with enhanced unemployment insurance benefits;

(4) prevent unemployment insurance tax rates from increasing by an amount that is greater than necessary to replenish the Unemployment Insurance Trust Fund;

(5) ensure that the Unemployment Insurance Trust Fund is restored to a healthy balance;

(6) determine whether the State should increase the amount of unemployment insurance benefits that a claimant may be eligible to receive in the future;

(7) develop improved strategies to prevent the Trust Fund from being harmed by unemployment insurance fraud and employee misclassification; and

(8) avoid placing additional demands on the Department of Labor's limited staff and information technology resources, which are already experiencing significant strain from the unprecedented demands placed on the unemployment insurance system by the COVID-19 Pandemic.

** * * Experience Rating Relief for Calendar Year 2020 * * **

Sec. 6. 21 V.S.A. § 1325 is amended to read:

*§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;
DISCLOSURE TO SUCCESSOR ENTITY*

(a)(1) The Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual

subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

** * **

(G) The During calendar year 2020, the individual voluntarily separated from that employer as provided by subdivision 1344(a)(2)(A) of this chapter for one of the following reasons:

** * **

(3)(A) Subject to the provisions of Except as otherwise provided pursuant to subdivision (B) of this subdivision (a)(3), an employer shall be relieved of charges for benefits paid to an individual for a period of up to eight weeks with respect to benefits paid because:

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

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

(iii) the individual has been recommended or requested by a medical professional or a public health authority with jurisdiction to be isolated or quarantined as a result of COVID-19, regardless of whether the individual has been diagnosed with COVID-19 during calendar year 2020.

(B)(i) An employer shall only be eligible for relief be relieved of charges for benefits paid during calendar year 2020 in relation to a COVID-19-related separation from employment under the provisions of this subdivision (a)(3) if the employer rehires or offers to rehire the individual within a reasonable period of time after the employer resumes operations at the individual's place of employment, as determined by the Commissioner, or upon the completion of the individual's period of isolation or quarantine unless the Commissioner determines that the COVID-19-related reason for the individual's separation from employment no longer exists and the employer has failed to rehire or offer to rehire the individual without good cause.

(ii) If the Commissioner has cause to believe or receives an allegation or other information indicating that an employer may not be

entitled to relief from charges pursuant to this subdivision (a)(3), the Commissioner shall examine the employer's records and any other documents and information necessary to determine if the employer is entitled to relief from charges pursuant to this subdivision (a)(3).

(C) The Commissioner may extend the period for which an employer shall be relieved of charges for benefits paid to employees pursuant to subdivision (A)(i) of this subdivision (a)(3) by an amount that the Commissioner determines to be appropriate in light of the terms of any applicable request from a local health official or the Commissioner of Health or any applicable emergency order or directive issued by the Governor or the President and any other relevant conditions or factors. As used in this subdivision (a)(3), "COVID-19-related separation from employment" shall mean a separation from employment for one of the following reasons:

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

(ii) the individual became unemployed as a direct result of a state of emergency declared by the Governor or the President in relation to COVID-19 or an order or directive issued by the Governor or President in relation to COVID-19, including through a change or reduction in the employer's operation at the individual's place of employment that directly resulted from such a state of emergency, order, or directive; or

(iii) the employer temporarily laid off the individual based on a recommendation or request by a medical professional or a public health authority with jurisdiction that the individual be isolated or quarantined as a result of COVID-19, regardless of whether the individual has been diagnosed with COVID-19.

* * *

* * * Experience Rating Relief for Calendar Year 2021 * * *

**Sec. 7. RELIEF FROM COVID-19-RELATED UNEMPLOYMENT
BENEFIT CHARGES FOR CALENDAR YEAR 2021**

(a) For calendar year 2021, an employer shall be relieved from charges against its unemployment insurance experience rating under 21 V.S.A. § 1325 for benefits paid to an individual because:

(1)(A) the individual voluntarily separated from employment with the employer for one of the reasons set forth in 21 V.S.A. § 1344(a)(2)(A)(ii)–(vi);

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

(C) the individual became unemployed as a direct result of a state of emergency declared by the Governor or the President in relation to COVID-19 or an order or directive issued by the Governor or President in relation to COVID-19, including through a change or reduction in the employer’s operation at the individual’s place of employment that was a direct result of such a state of emergency, order, or directive; or

(D) the employer temporarily laid off the individual based on a recommendation or request by a medical professional or a public health authority with jurisdiction that the individual be isolated or quarantined as a result of COVID-19, regardless of whether the individual was diagnosed with COVID-19; and

(2)(A) the employer rehired or offered to rehire the employee within a reasonable time, not to exceed 30 days after the reason for the individual’s separation from employment set forth in subdivision (1) of this subsection (a) no longer exists; or

(B) the employer demonstrates to the satisfaction of the Commissioner that it had good cause for failing to rehire or offer to rehire the employee within the time period set forth in subdivision (A) of this subdivision (a)(2).

(b) On or before July 1, 2021, the Commissioner of Labor shall adopt procedures and an application form for employers to apply for relief from charges pursuant to subsection (a) of this section.

(c) The Commissioner shall not be required to initiate rulemaking pursuant to 3 V.S.A. § 831(c) in relation to any procedures adopted under subsection (b) of this section.

(d) On or before June 15, 2021, the Commissioner shall:

(1) submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report summarizing the procedures and application form to be adopted pursuant to subsection (b) of this section; and

(2) commence a public outreach campaign to notify employers, employees, and claimants of the requirements and procedures to obtain relief from charges under this section.

** * * Extension of Unemployment Insurance-Related Sunset
from 2020 Acts and Resolves No. 91 * * **

Sec. 8. 2020 Acts and Resolves No. 91, Sec. 38(3) is amended to read:

(3) Secs. 32 and 33 shall take effect on ~~March 31, 2021~~ the first day of the calendar quarter following the calendar quarter in which the state of emergency declared in response to COVID-19 pursuant to Executive Order 01-20 is terminated, provided that if the state of emergency is terminated within the final 30 days of a calendar quarter, Secs. 32 and 33 shall take effect on the first day of the second calendar quarter following the calendar quarter in which the state of emergency is terminated.

** * * Implementation of Continued Assistance Act Provisions * * **

*Sec. 9. TEMPORARY SUSPENSION OF CERTAIN REQUIREMENTS
FOR TRIGGERING AN EXTENDED BENEFIT PERIOD*

For purposes of determining whether the State is in an extended benefit period during the period from November 1, 2020 through December 31, 2021, the Commissioner shall disregard the requirement in 21 V.S.A. § 1421 that no extended benefit period may begin before the 14th week following the end of a prior extended benefit period.

** * * Unemployment Insurance Contribution Relief * * **

Sec. 9a. 21 V.S.A. § 1326 is amended to read:

§ 1326. RATE BASED ON BENEFIT EXPERIENCE

** * **

(d) The Commissioner shall compute a current fund ratio, and a highest benefit cost rate, as follows:

~~(1) The current fund ratio shall be determined by dividing the available balance of the Unemployment Compensation Fund on December 31 of the preceding calendar year by the total wages paid for employment during the said that calendar year as reported by employers by the following March 31;~~

~~(2)(A) The highest benefit cost rate shall be determined by dividing the highest amount of benefit payments made during a consecutive 12-month 12-month period which that ended within the 10-year 10-year period ended with ending on the preceding December 31, by the total wages paid during the four calendar quarter periods which that ended within such 12-month that 12-month period.~~

~~(B) Notwithstanding any provision of subdivision (A) of this subdivision (d)(2) to the contrary, when computing the tax rate schedule to become effective on July 1, 2021 and on each subsequent July 1, the Commissioner shall calculate the highest benefit cost rate without consideration of benefit payments made in calendar year 2020.~~

* * *

* * * Unemployment Insurance Benefits * * *

Sec. 10. 21 V.S.A. § 1338(f) is amended to read:

~~(f)(1) The maximum weekly benefit amount shall be \$425.00. When the State Unemployment Compensation Fund has a positive balance and all advances made to the State Unemployment Compensation Fund pursuant to Title XII of the Social Security Act have been repaid as of December 31 of the last completed calendar year, on the first day of the first calendar week of July, the maximum weekly benefit amount shall be adjusted by a percentage equal to the percentage change during the preceding calendar year in the State average weekly wage as determined by subsection (g) of this section. When the unemployment contribution rate schedule established by subsection 1326(e) of this title is at schedule III, the maximum weekly benefit amount shall be annually adjusted on the first day of the first calendar week in July to an amount equal to 57 percent of the State annual average weekly wage as determined by subsection (g) of this section.~~

~~(2) Notwithstanding any provision of subdivision (1) of this subsection to the contrary:~~

~~(A) The maximum weekly benefit amount shall not increase in any year that advances made to the State Unemployment Compensation Fund pursuant to Title XII of the Social Security Act, as amended, remain unpaid.~~

~~(B) The maximum weekly benefit amount shall not decrease.~~

Sec. 11. 21 V.S.A. § 1338 is amended to read:

§ 1338. WEEKLY BENEFITS

** * **

(b) For benefit years beginning prior to January 3, 1988 to qualify for benefits an individual must have had at least 20 weeks of work at wages of at least \$35.00 per week in employment with an employer subject to this chapter in the individual's base period. [Repealed.]

(c) For benefit years beginning prior to January 3, 1988, an individual's weekly benefit amount shall be one-half of the average weekly wage earned by such individual in employment with an employer subject to this chapter for 20 of the weeks in the individual's base period, whether or not consecutive, in which the wages earned by him or her in that employment were highest. Such weekly benefit amount shall be computed as a multiple of \$1.00; provided, that the weekly benefit amount so determined:

(1) shall not exceed 1/40th of the total wages actually used in the calculation of the average weekly wage for the highest 20 weeks as hereinbefore provided; and

(2) shall not exceed the maximum weekly benefit amount computed as provided in this section. [Repealed.]

(d)(1) For benefit years beginning on January 3, 1988 and subsequent thereto, to Io qualify for benefits an individual must:

** * **

(e)(1) For benefit years beginning on January 3, 1988 and subsequent thereto, An individual's weekly benefit amount shall be determined by dividing the individual's two high quarter total subject wages required under subdivision (d)(1) of this section by 45; provided that the weekly benefit amount so determined shall not exceed the maximum weekly benefit amount computed as provided in pursuant to subsection (f) of this section.

(2) Notwithstanding the maximum weekly benefit amount computed pursuant to subsection (f) of this section, an individual shall receive a supplemental benefit of \$25.00 per week in addition to the amount determined pursuant to subdivision (1) of this subsection.

** * **

Sec. 12. 21 V.S.A. § 1338(e) is amended to read:

~~(e)(1) An individual's weekly benefit amount shall be determined by dividing the individual's two high quarter total subject wages required under subdivision (d)(1) of this section by 45; provided that the weekly benefit amount so determined shall not exceed the maximum weekly benefit amount computed pursuant to subsection (f) of this section.~~

~~(2) Notwithstanding the maximum weekly benefit amount computed pursuant to subsection (f) of this section, an individual shall receive a supplemental benefit of \$25.00 per week in addition to the amount determined pursuant to subdivision (1) of this subsection.~~

* * * Reports * * *

Sec. 13. 21 V.S.A. § 1309 is amended to read:

§ 1309. REPORTS; SOLVENCY OF TRUST FUND

~~(a)(1) On or before January 31 of each year, the Commissioner shall submit to the Governor and the Chairs of the Senate ~~Committee~~ Committees on Economic Development, Housing and General Affairs and on Finance and the House Committees on Commerce and Economic Development and on Ways and Means a report covering the administration and operation of this chapter during the preceding calendar year.~~

~~(2) The report shall include:~~

~~(A) a balance sheet of the monies in the Fund and data as to probable reserve requirements based upon accepted actuarial principles, with respect to business activity, and other relevant factors for the longest available period. The report shall also include:~~

~~(B) recommendations for amendments of this chapter as the Board considers proper; and~~

~~(C) an accounting of the amount of supplemental benefits paid to claimants pursuant to subdivision 1338(e)(2) of this chapter.~~

~~(b) Whenever the Commissioner believes that the solvency of the Fund is in danger or the balance of the Fund drops below \$180,000,000.00, the Commissioner shall promptly inform the Governor and the Chairs of the Senate Committees on Economic Development, Housing and General Affairs and on Finance, and the House Committees on Commerce and Economic Development and on Ways and Means, and make recommendations for preserving an adequate level in the Trust Fund. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.~~

Sec. 14. UNEMPLOYMENT INSURANCE; DETECTION AND PREVENTION OF FRAUD AND OVERPAYMENTS; CLAIM PROCESSING; CONSULTANT; REPORT

(a) On or before July 15, 2021, the State Auditor, in consultation with the Joint Fiscal Office, shall contract with an independent consulting entity with expertise in the field of unemployment insurance to evaluate certain aspects of Vermont's unemployment insurance system in comparison with the unemployment insurance systems of other states and in consideration of the needs of Vermont claimants, employees, and employers, as well as the preparation for the modernization of the Department's unemployment insurance information technology systems during the next several years. The independent consulting entity shall specifically examine:

(1) the Department of Labor's existing practices and procedures for detecting and preventing unemployment insurance fraud;

(2) instances in which it may be appropriate to refer unemployment insurance fraud for criminal prosecution, including a reasonable minimum threshold for such a referral;

(3) potential measures to eliminate or minimize claim processing delays that result from fraud prevention measures; and

(4) the Department of Labor's existing practices and procedures for preventing, reducing, and collecting overpayments of unemployment insurance benefits.

(b) In performing the evaluation required pursuant to subsection (a) of this section, the independent consulting entity shall do the following:

(1) specifically identify:

(A) best practices and high performing aspects of other states' unemployment insurance systems;

(B) shortcomings, challenges, and opportunities for improvement in Vermont's unemployment insurance system;

(C) potential changes and improvements to the Vermont Department of Labor's staffing, resources, information technology, training, funding, communications, practices, and procedures that are necessary to address the shortcomings, challenges, and opportunities for improvement identified pursuant to subdivision (B) of this subdivision (b)(1);

(D) potential statutory changes necessary to address the shortcomings, challenges, and opportunities for improvement identified pursuant to subdivision (B) of this subdivision (b)(1); and

(E) the anticipated cost of implementing the changes and improvements identified pursuant to subdivisions (C) and (D) of this subdivision (b)(1) and any ongoing costs associated with such changes and improvements; and

(2) consult with informed parties and relevant entities, including the Department of Labor, the Attorney General, the Agency of Digital Services, the Department of Human Resources, the Department of State's Attorneys and Sheriffs, representatives of employers, representatives of employees, and representatives of claimants.

(c) The Department of Labor shall cooperate with the independent consulting entity and shall, to the maximum extent permitted by law, provide the independent consulting entity with prompt access to all information requested.

(d)(1) On or before December 15, 2021, the independent consulting entity shall submit a written report detailing the findings and recommendations to the State Auditor, the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance, and the House Committees on Appropriations, on Commerce and Economic Development, and on Ways and Means.

(2) The independent consulting entity shall omit from the report information regarding techniques, procedures, and guidelines for unemployment insurance fraud investigations or prosecution if the disclosure of that information could reasonably be expected to risk circumvention of the law.

(e) As used in this section:

(1) "Overpayment of unemployment insurance benefits" includes overpayments due to a mistake on the part of a claimant or the Department, a claimant's unintentional misrepresentation or nondisclosure of a material fact, or a claimant's intentional misrepresentation or nondisclosure of a material fact.

(2) "Unemployment insurance fraud" means the intentional misrepresentation or knowing nondisclosure of a material fact by a claimant or any other entity for purposes of obtaining unemployment insurance benefits.

*Sec. 14a. UNEMPLOYMENT INSURANCE; TRUST FUND; BENEFITS;
PENALTIES; REIMBURSABLE EMPLOYERS; STUDY
COMMITTEE; REPORT*

(a) Creation. There is created the Unemployment Insurance Study Committee to examine the solvency of Vermont's Unemployment Insurance Trust Fund, its benefit structure, potential grants of authority for the Commissioner of Labor to reduce or waive certain penalties, and potential measures to mitigate the liability of reimbursable employers for some benefit charges.

(b) Membership. The Committee shall be composed of the following four members:

(1) one current member of the House Committee on Commerce and Economic Development, who shall be appointed by the Speaker of the House;

(2) one current member of the House Committee on Ways and Means, who shall be appointed by the Speaker of the House;

(3) one current member of the Senate Committee on Economic Development, Housing and General Affairs, who shall be appointed by the Committee on Committees; and

(4) one current member of the Senate Committee on Finance, who shall be appointed by the Committee on Committees.

(c) Powers and duties.

(1) The Committee shall study the following issues:

(A) the solvency of Vermont's Unemployment Insurance Trust Fund and the amount necessary to ensure that the Trust Fund remains solvent and able to continue meeting the needs of claimants during a future economic recession and subsequent recovery;

(B) the adequacy and appropriateness of Vermont's unemployment insurance benefits, whether Vermont's benefits should be increased, and whether the Vermont statutes related to benefits should be modified in any manner;

(C) instances for which it may be appropriate to provide the Commissioner of Labor with authority to reduce or waive a period of disqualification imposed in relation to a determination of unemployment insurance fraud;

(D) instances for which it may be appropriate to provide the Commissioner of Labor with authority to reduce or waive an individual's liability to repay overpaid unemployment insurance benefits; and

(E) potential statutory changes to mitigate the impact of benefit charges attributed to reimbursable employers who paid wages to a claimant during the claimant's base period but did not cause the claimant to become unemployed.

(2) In studying the issues set forth in subdivision (1) of this subsection, the Committee shall compare Vermont's unemployment insurance system with the unemployment insurance systems of other states and specifically identify:

(A) best practices and high performing aspects of other states' unemployment insurance systems;

(B) shortcomings, challenges, and opportunities for improvement in Vermont's unemployment insurance system;

(C) potential changes and improvements to the Vermont Department of Labor's staffing, resources, information technology, training, funding, communications, practices, and procedures that are necessary to address the shortcomings, challenges, and opportunities for improvement identified pursuant to subdivision (B) of this subdivision (c)(2);

(D) potential statutory changes necessary to address the shortcomings, challenges, and opportunities for improvement identified pursuant to subdivision (B) of this subdivision (c)(2); and

(E) to the extent possible, the anticipated cost of implementing the changes and improvements identified pursuant to subdivisions (C) and (D) of this subdivision (c)(2) and any ongoing costs associated with such changes and improvements.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Counsel, the Office of Legislative Operations, and the Joint Fiscal Office.

(e) Report. On or before December 15, 2021, the Committee shall submit a written report to the House Committees on Appropriations, on Commerce and Economic Development, and on Ways and Means and the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Speaker of the House shall call the first meeting of the Committee to occur on or before September 15, 2021.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on December 31, 2021.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than 3 meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 15. 2020 Acts and Resolves No. 85, Sec. 9(a)(1) is amended to read:

(a)(1) On or before ~~January 15, 2022~~ December 15, 2021, the Attorney General and the Commissioner of Labor shall submit a written report to the House Committees on Commerce and Economic Development and on General, Housing, and Military Affairs and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding the enforcement of employment laws related to employee misclassification pursuant to 21 V.S.A. §§ 346, 387, 712, and 1379 and by the Commissioner of Labor pursuant to 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17.

Sec. 16. 3 V.S.A. § 2222d is amended to read:

§ 2222d. EMPLOYEE MISCLASSIFICATION TASK FORCE

* * *

(f) On or before ~~January 15, 2022~~ December 15, 2021, the Task Force shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding ways to improve the effectiveness and efficiency of the system of joint enforcement by the Commissioner of Labor and the Attorney General of the laws related to employee misclassification that is established pursuant to 21 V.S.A. §§ 3, 346, 387, 712, and 1379. In particular, the Report shall examine:

* * *

** * * Effective Dates * * **

Sec. 17. EFFECTIVE DATES

(a)(1) This section and, except as provided in subdivisions (2)–(4) of this subsection, Secs. 5–16 shall take effect on passage.

(2) Notwithstanding 1 V.S.A. § 214, Sec. 8 (extension of sunset) shall take effect retroactively on March 31, 2021.

(3) Sec. 11 (supplemental weekly benefit) shall take effect 30 days after the termination date for Federal Pandemic Unemployment Compensation set forth in 15 U.S.C. § 9023(e)(2), as amended.

(4) Sec. 12 (repeal of supplemental weekly benefit) shall take effect upon the payment of a cumulative total of \$100,000,000.00 in supplemental benefits pursuant to 21 V.S.A. § 1338(e)(2) and shall apply prospectively to all benefit payments in the next week and each subsequent week.

(b) Secs. 1–4 shall take effect on July 1, 2021.