

Journal of the Senate

WEDNESDAY, MARCH 31, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Committee Relieved of Further Consideration; Bill Committed

H. 435.

On motion of Senator Benning, the Committee on Institutions was relieved of further consideration of House bill entitled:

An act relating to miscellaneous Department of Corrections-related amendments,

and the bill was committed to the Committee on Government Operations.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 133.

By Senator Hooker,

An act relating to authorizing the Probate Division to reopen guardianship proceedings to correct or remedy manifest injustice.

To the Committee on Judiciary.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 210.

An act relating to addressing disparities and promoting equity in the health care system.

To the Committee on Health and Welfare.

H. 436.

An act relating to miscellaneous changes to Vermont's tax laws.

To the Committee on Finance.

H. 437.

An act relating to changes that affect the revenue of the State.

To the Committee on Rules.

H. 438.

An act relating to capital construction and State bonding.

To the Committee on Institutions.

H. 439.

An act relating to making appropriations for the support of government.

To the Committee on Appropriations.

Bill Amended; Bill Passed

S. 10.

Senate bill entitled:

An act relating to extending certain unemployment insurance provisions related to COVID-19.

Was taken up.

Thereupon, pending third reading of the bill, Senators Brock and Sirotkin moved to amend the bill by inserting three new sections to be numbered Secs. 11 through 13 to read as follows:

* * * Prevention of Employee and Employer Fraud * * *

Sec. 11. UNEMPLOYMENT INSURANCE; FRAUD; OVERPAYMENTS;
DETECTION; PREVENTION; REPORT

(a) On or before November 15, 2021, the Commissioner of Labor shall submit to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development a written report regarding the detection and prevention unemployment insurance fraud and the reduction and effective recovery of overpaid unemployment insurance benefits. The report shall:

(1) with respect to unemployment insurance fraud:

(A) review the Department of Labor's existing practices for detecting fraud and preventing claimants from intentionally misrepresenting or knowingly failing to disclose material facts;

(B) identify effective strategies and measures employed by other states to detect fraud and prevent claimants from intentionally misrepresenting or knowingly failing to disclose material facts;

(C) identify potential actions for improving the Department's ability to detect fraud and prevent claimants from intentionally misrepresenting or knowingly failing to disclose material facts;

(D) identify potential actions for improving the Department's ability to effectively communicate with claimants regarding reporting requirements, application procedures, and program rules;

(E) identify any additional resources, including staff, funding, technology, and training, that may be necessary to improve claimants' ability to fully and accurately provide the Department with required information;

(F) examine the extent to which overpayments flagged as fraud are attributable to intentional fraud as opposed to the claimant's mistake, the claimant's misunderstanding of unemployment insurance rules and requirements, or a miscommunication by a departmental staff person;

(G) to the extent practicable, identify the number of fraud determinations that are appealed and the percentage of those determinations that are reversed following the appeal;

(H) examine and identify when it may be appropriate to refer unemployment insurance fraud for criminal prosecution;

(I) for any instances of unemployment insurance fraud that are determined to be appropriate for criminal prosecution, examine whether they can be effectively prosecuted under existing statutes and, if not, identify any statutory changes necessary to allow for effective criminal prosecution; and

(J) identify any additional resources, including staff, funding, and training, that may be necessary to enable effective criminal prosecution of unemployment insurance fraud; and

(2) with respect to the overpayment of unemployment insurance benefits:

(A) review existing practices for preventing, reducing, and collecting overpayments of benefits;

(B) identify effective strategies employed by other states to prevent, reduce, and collect overpayments of benefits;

(C) identify potential actions for improving the Department's ability to prevent, reduce, and collect overpayments of benefits, including hiring additional staff and making improvements to technology and training; and

(D) identify the instances in which an individual's liability for an overpayment could potentially be reduced or waived, such as when the claimant is not at fault or the overpayment results from a mistake or lack of understanding regarding the unemployment insurance rules, and the criteria, if any, that the Department would employ to determine whether a reduction or waiver is appropriate.

(b) In preparing the report, the Department shall consult with the Attorney General, the Department of State's Attorneys and Sheriffs, representatives of employers, representatives of employees, and representatives of claimants. The report shall specifically identify the parties that the Department consulted with.

(c)(1) The report shall specifically identify any legislative action necessary to implement any measures identified pursuant to subsection (a) of this section to improve the Department's ability to prevent and detect unemployment insurance fraud and its ability to reduce and more effectively recover overpaid unemployment insurance benefits.

(2) The Department may 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.

(d) 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. 12. 2020 Acts and Resolves No. 85, Sec. 9(a)(1) is amended to read:

(a)(1) On or before ~~January 15, 2022~~ November 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. 13. 3 V.S.A. 2222d is amended to read:

§ 2222d. EMPLOYEE MISCLASSIFICATION TASK FORCE

* * *

(f) On or before ~~January 15, 2022~~ November 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:

* * *

And by renumbering the remaining section to be numerically correct.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Third Readings Ordered

H. 10.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to permitted candidate expenditures.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 127.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the Town of Barre.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Thursday, April 1, 2021.