

1 S.10

2 Senator Brock of Franklin District moves that the bill be amended after  
3 Sec. 10, revised Unemployment Insurance Trust Fund target balance; report,  
4 by inserting Secs. 11 through 16 and their reader assistance heading to read as  
5 follows:

6 \* \* \* Fraud Prevention \* \* \*

7 Sec. 11. FINDINGS

8 The General Assembly finds that:

9 (1) Unemployment insurance program integrity is an ongoing challenge  
10 in Vermont.

11 (2) During federal fiscal year 2019, Vermont’s unemployment insurance  
12 program had a 4.33 percent improper payment rate, which was primarily due to  
13 overpayments.

14 (3) During the period from 2010 through 2019, Vermont’s  
15 unemployment insurance program made an estimated \$55,000,000.00 in  
16 overpayments, including overpayments due to fraud.

17 (4) While the Department of Labor employs multiple program integrity  
18 tools, it has not engaged with the Integrity Data Hub run by the National  
19 Association of State Workforce Agencies, a centralized database that allows  
20 participating agencies to cross-check multistate unemployment claims,  
21 suspicious activity, and foreign IP addresses, among other things.

1           (5) The U.S. Department of Labor has strongly encouraged states to  
2           engage with the Integrity Data Hub as part of their unemployment insurance  
3           program integrity efforts.

4           (6) The Integrity Data Hub has become a vital tool for many states,  
5           including Massachusetts and Maine, in their efforts to prevent fraud and  
6           overpayments.

7           (7) Between the third quarter of 2017 and the first quarter of 2020,  
8           Vermont made nearly \$6,000,000.00 in unemployment insurance  
9           overpayments but only managed to recover \$2,000,000.00 of the  
10           overpayments.

11           (8) During the same period, the amount of overpayments that were due  
12           to fraud exceeded the total amount of overpayments recovered.

13           (9) Vermont's overpayment recovery rate during that period was lower  
14           than the U.S. average as well as more than five percent below the recovery rate  
15           for New Hampshire and more than 43 percent below the recovery rate for  
16           Maine.

17           (10) According to the Inspector General, the rate of unemployment  
18           fraud across the United States is projected to increase by as much as 10 times  
19           during 2020 and 2021.

1           (11) Reflecting this national trend, Vermont’s Department of Labor  
2           warned that fraud was increasing sharply in early July 2020 and reported  
3           fraudulent phishing attempts in November of 2020.

4           Sec. 12. 21 V.S.A. § 1347 is amended to read:

5           § 1347. NONDISCLOSURE OR MISREPRESENTATION

6   \* \* \*

7           (c)(1) ~~The~~ A person liable under this section shall repay ~~such~~ the amount of overpaid benefits to the Commissioner for the Fund.

9           (2) In addition to the repayment, if the Commissioner finds that a person  
10 intentionally misrepresented or failed to disclose a material fact with respect to  
11 his or her claim for benefits, the person shall ~~pay~~ be liable for:

12           (A) an additional penalty of 15 percent of the amount of the overpaid  
13 benefits; and

14           (B) interest on the amount of overpaid benefits at the rate of one and  
15 one-half percent per month from the date of the determination.

16           (3) Any additional penalty amount and interest collected shall be  
17 deposited in the Fund.

18           (4) ~~Such amount~~ The amounts due pursuant to this section may be  
19 ~~collectible by~~ collected in a civil action in the Superior Court, that is brought in  
20 the name of the Commissioner and commenced within eight years from the  
21 date of the determination.

1 (5) The Commissioner may only waive some or all of the amount of  
2 overpaid benefits, additional penalties, and interest due from a person who  
3 intentionally misrepresented or failed to disclose a material fact with respect to  
4 his or her claim for benefits if there is good cause to do so.

5 (6) In addition to any amounts required to be paid pursuant to this  
6 subsection and, if applicable, section 1373 of this chapter if the Commissioner  
7 believes that a person may have engaged in fraudulent activity in violation of  
8 13 V.S.A. § 2001, 2002, or 2030 and received more than \$900.00 in benefits  
9 because of the intentional misrepresentation or failure to disclose a material  
10 fact, the Commissioner shall refer the case to the Attorney General for possible  
11 prosecution under the appropriate provision.

12 \* \* \*

13 Sec. 13. DEPARTMENT OF LABOR; UNEMPLOYMENT INSURANCE  
14 FRAUD; APPROPRIATION; POSITION

15 (a) In addition to any other funds appropriated to the Department of Labor  
16 in fiscal year 2022, there is appropriated from the General Fund to the  
17 Department \$200,000.00 in fiscal year 2022 for the purpose of hiring a full-  
18 time Assistant Attorney General to prosecute fraud related to unemployment  
19 insurance pursuant to 21 V.S.A. § 1347(c)(6), to assist with the collection of  
20 overpaid unemployment insurance benefits, and to enforce the provisions of

1 21 V.S.A. § 1368 related to false statements and representations to increase  
2 unemployment insurance payments.

3 (b) The Governor may accept any federal funding available to support the  
4 position established pursuant to this section.

5 (c)(1) The position established pursuant to this section shall be transferred  
6 and converted from existing vacant positions in the Executive Branch and shall  
7 not increase the total number of authorized State positions.

8 (2) Absent legislative action to the contrary, the position established  
9 pursuant to this section shall be eliminated on July 1, 2024.

10 Sec. 14. UNEMPLOYMENT INSURANCE OVERPAYMENTS;

11 RECOVERY; PLAN

12 On or before January 15, 2022, the Commissioner of Labor shall submit to  
13 the Senate Committee on Economic Development, Housing and General  
14 Affairs and the House Committee on Commerce and Economic Development a  
15 plan to improve the Department of Labor’s ability to successfully recover  
16 overpaid unemployment insurance benefits. The plan shall identify existing  
17 challenges and issues that prevent the Department from recovering a greater  
18 amount of overpaid benefits and specific actions to address those challenges  
19 and issues. The report shall also include a detailed explanation of any  
20 additional resources or legislative changes required to enable the Department  
21 to successfully implement the plan.

1 Sec. 15. 21 V.S.A. § 1347a is added to read:

2 § 1347a. UNEMPLOYMENT INSURANCE OVERPAYMENTS FROM  
3 FRAUD; RECOVERY; PROSECUTIONS; ANNUAL REPORT

4 (a) On or before January 15 of each year, the Commissioner shall submit a  
5 written report to the Senate Committee on Economic Development, Housing  
6 and General Affairs and the House Committee on Commerce and Economic  
7 Development that provides the following information for each of the past five  
8 years:

9 (1) the number of unemployment insurance overpayments resulting  
10 from fraud;

11 (2) the total amount of unemployment insurance benefits that were  
12 overpaid as a result of fraud;

13 (3) the amount of unemployment insurance benefits overpaid as a result  
14 of fraud that have been recovered by the Department;

15 (4) the number of fraud cases referred for possible prosecution pursuant  
16 to subdivision 1347(c)(6) of this chapter;

17 (5) the number of prosecutions resulting from the referrals; and

18 (6) the number of convictions resulting from the prosecutions.

19 (b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall  
20 not apply to this section.

1       Sec. 16. INTEGRITY DATA HUB; IMPLEMENTATION

2           The Commissioner of Labor shall take all necessary steps to ensure that, on  
3           or before July 1, 2021, the Department of Labor implements and begins  
4           utilizing the National Association of State Workforce Agencies' Integrity Data  
5           Hub.

6           and by renumbering the remaining section to be numerically correct.