1   S.10

2   Senator Brock moves that the bill be amended after Sec. 10, revised

3   Unemployment Insurance Trust Fund target balance; report, <mark>by inserting Secs.</mark>

4   <mark>11 and 12 and their reader assistance heading to read as follows:</mark>

5   * * * Fraud Prevention * * *

6   Sec. 11. FINDINGS

7   The General Assembly finds that:

8   (1) Unemployment insurance program integrity is an ongoing challenge

9   in Vermont.

10   (2) During federal fiscal year 2019, Vermont's unemployment insurance

11   program had a 4.33 percent improper payment rate, which was primarily due to

12   overpayments.

13   (3) During the period from 2010 through 2019, Vermont's

14   unemployment insurance program made an estimated $55,000,000.00 in

15   overpayments, including overpayments due to fraud.

16   (4) While the Department of Labor employs multiple program integrity

17   tools, it has not engaged with the Integrity Data Hub run by the National

18   Association of State Workforce Agencies, a centralized database that allows

19   participating agencies to cross-check multistate unemployment claims,

20   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. UNEMPLOYMENT INSURANCE; FRAUD; OVERPAYMENTS;

5   DETECTION; PREVENTION; REPORT

6   (a) On or before November 15, 2021, the Commissioner of Labor shall

7 submit to the Senate Committee on Economic Development, Housing and

8 General Affairs and the House Committee on Commerce and Economic

9 Development a written report regarding the detection and prevention

10 unemployment insurance fraud and the reduction and effective recovery of

11 overpaid unemployment insurance benefits. The report shall:

12   (1) with respect to unemployment insurance fraud:

13   (A) review the Department of Labor's existing practices for detecting

14 fraud and preventing claimants from intentionally misrepresenting or failing to

15 disclose material facts;

16   (B) identify effective strategies and measures employed by other

17 states to detect fraud and prevent claimants from intentionally misrepresenting

18 or failing to disclose material facts;

19   (C) identify potential actions for improving the Department's ability

20 to detect fraud and prevent claimants from intentionally misrepresenting or

21 failing to disclose material facts;

1   (D) examine and identify when it may be appropriate to refer

2   unemployment insurance fraud for criminal prosecution;

3   (E) for any instances of unemployment insurance fraud that are

4   determined to be appropriate for criminal prosecution, examine whether they

5   can be effectively prosecuted under existing statutes and, if not, identify any

6   statutory changes necessary to allow for effective criminal prosecution;

7   (F) identify any additional resources, including staff, funding, and

8   training, that may be necessary to enable effective criminal prosecution of

9   unemployment insurance fraud;

10   (2) with respect to the overpayment of unemployment insurance

11   benefits:

12   (A) review existing practices for preventing, reducing, and collecting

13   overpayments of benefits;

14   (B) identify effective strategies employed by other states to prevent,

15   reduce, and collect overpayments of benefits;

16   (C) identify potential actions for improving the Department's ability

17   to prevent, reduce, and collect overpayments of benefits; and

18   (D) identify the instances in which an individual's liability for an

19   overpayment could potentially be reduced or waived, and the criteria, if any,

20   that the Department would employ to determine whether a reduction or waiver

21   is appropriate.

1   (b) In preparing the report, the Department shall consult with the Attorney

2 General, the Department of State's Attorneys and Sheriffs, representatives of

3 employers, and representatives of employees. The report shall specifically

4 identify the parties that the Department consulted with.

5   (c) The report shall specifically identify any legislative action necessary to

6 implement the plan developed pursuant to subdivision (a)(10) of this section.

7   (d) As used in this section:

8   (1) "Overpayment of unemployment insurance benefits" includes

9 overpayments due to a mistake on the part of a claimant or the Department, a

10 claimant's unintentional misrepresentation or nondisclosure of a material fact,

11 or a claimant's intentional misrepresentation or nondisclosure of a material

12 fact.

13   (2) "Unemployment insurance fraud" means a claimant's intentional

14 misrepresentation or nondisclosure of a material fact for purposes of obtaining

15 unemployment insurance benefits.

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