

1 S.10

2 Senators Brock and Sirotkin move that the bill be amended after Sec. 10,
3 revised Unemployment Insurance Trust Fund target balance; report, by
4 inserting Secs. 11 through 13 and their reader assistance heading to read as
5 follows:

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

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

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

15 (1) with respect to unemployment insurance fraud:

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

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

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

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

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

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

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

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

19 (I) for any instances of unemployment insurance fraud that are
20 determined to be appropriate for criminal prosecution, examine whether they

1 can be effectively prosecuted under existing statutes and, if not, identify any
2 statutory changes necessary to allow for effective criminal prosecution; and

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

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

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

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

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

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

4 The report shall specifically identify the parties that the Department consulted
5 with.

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

11 (2) The Department may omit from the report information regarding
12 techniques, procedures, and guidelines for unemployment insurance fraud
13 investigations or prosecution if the disclosure of that information could
14 reasonably be expected to risk circumvention of the law.

15 (d) As used in this section:

16 (1) “Overpayment of unemployment insurance benefits” includes
17 overpayments due to a mistake on the part of a claimant or the Department, a
18 claimant’s unintentional misrepresentation or nondisclosure of a material fact,
19 or a claimant’s intentional misrepresentation or nondisclosure of a material
20 fact.

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

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

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

14 Sec. 13. 3 V.S.A. 2222d is amended to read:

15 § 2222d. EMPLOYEE MISCLASSIFICATION TASK FORCE

16 * * *

17 (f) On or before ~~January 15, 2022~~ November 15, 2021, the Task Force shall
18 submit a written report to the House Committee on Commerce and Economic
19 Development and the Senate Committee on Economic Development, Housing
20 and General Affairs regarding ways to improve the effectiveness and
21 efficiency of the system of joint enforcement by the Commissioner of Labor

1 and the Attorney General of the laws related to employee misclassification that
2 is established pursuant to 21 V.S.A. §§ 3, 346, 387, 712, and 1379. In
3 particular, the Report shall examine:

4 * * *

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