

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to  
3 which was referred Senate Bill No. 10 entitled “An act relating to extending  
4 certain unemployment provisions related to COVID-19” respectfully reports  
5 that it has considered the same and recommends that the bill be amended by  
6 striking out all after the enacting clause and inserting in lieu thereof the  
7 following:

8 Sec. 1. 21 V.S.A. § 1325 is amended to read:

9 § 1325. EMPLOYERS’ EXPERIENCE-RATING RECORDS;

10 DISCLOSURE TO SUCCESSOR ENTITY

11 (a)(1) The Commissioner shall maintain an experience-rating record for  
12 each employer. Benefits paid shall be charged against the experience-rating  
13 record of each subject employer who provided base-period wages to the  
14 eligible individual. Each subject employer’s experience-rating charge shall  
15 bear the same ratio to total benefits paid as the total base-period wages paid by  
16 that employer bear to the total base-period wages paid to the individual by all  
17 base-period employers. The experience-rating record of an individual subject  
18 base-period employer shall not be charged for benefits paid to an individual  
19 under any of the following conditions:

20 \* \* \*

1           (3)(A) Subject to the provisions of ~~subdivision~~ subdivisions (B) and (C)  
2 of this subdivision (a)(3), an employer shall be relieved of charges for benefits  
3 paid to an individual between March 15, 2020 and December 31, 2020 for a  
4 period of up to eight weeks with respect to benefits paid because:

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

12           (ii) the individual becomes unemployed as a direct result of a state  
13 of emergency declared by the Governor or the President in relation to COVID-  
14 19 or an order or directive issued by the Governor or President in relation to  
15 COVID-19, including through a change or reduction in the employer's  
16 operation at the individual's place of employment that is a direct result of such  
17 a state of emergency, order, or directive; or

18           (iii) the employer has temporarily laid off the individual ~~has been~~  
19 ~~recommended or requested~~ based on a recommendation or request by a  
20 medical professional or a public health authority with jurisdiction ~~to~~ that the

1 individual be isolated or quarantined as a result of COVID-19, regardless of  
2 whether the individual has been diagnosed with COVID-19.

3 (B)(i) ~~A~~ Unless extended by the Commissioner pursuant to  
4 subdivision (C) of this subdivision (a)(3), an employer shall ~~only be eligible~~  
5 ~~for relief~~ be relieved of charges for up to eight weeks of benefits paid between  
6 March 15, 2020 and December 31, 2020 under the provisions of this  
7 subdivision (a)(3) ~~if the employer rehires or offers to rehire the individual~~  
8 ~~within a reasonable period of time after the employer resumes operations at the~~  
9 ~~individual's place of employment, as determined by the Commissioner, or~~  
10 ~~upon the completion of the individual's period of isolation or quarantine~~ unless  
11 the Commissioner determines that:

12 (I) the employee was not separated from employment for one  
13 of the reasons set forth in subdivision (A) of this subdivision (a)(3); or

14 (II) the reason for the individual's separation from employment  
15 set forth in subdivision (A) of this subdivision (a)(3) no longer exists and the  
16 employer has failed to rehire or offer to rehire the individual without good  
17 cause.

18 (ii) If the Commissioner has cause to believe or receives an  
19 allegation or other information indicating that an employer may not be entitled  
20 to relief from charges pursuant to this subdivision (a)(3), the Commissioner  
21 shall examine the employer's records and any other documents and

1 information necessary to determine if the employer is entitled to relief from  
2 charges pursuant to this subdivision (a)(3).

3 (C) The Commissioner may extend the period for which an employer  
4 shall be relieved of charges for benefits paid to employees pursuant to  
5 subdivision (A)(i) of this subdivision (a)(3) by an amount that the  
6 Commissioner determines to be appropriate in light of the terms of any  
7 applicable request from a local health official or the Commissioner of Health  
8 or any applicable emergency order or directive issued by the Governor or the  
9 President and any other relevant conditions or factors.

10 \* \* \*

11 Sec. 2. 2020 Acts and Resolves No. 91, Sec. 38(3) is amended to read:

12 (3) Secs. 32 and 33 shall take effect on ~~March 31, 2021~~ on the first day  
13 of the calendar quarter following the calendar quarter in which the state of  
14 emergency declared in response to COVID-19 pursuant to Executive Order 01-  
15 20 is terminated, provided that if the state of emergency is terminated within  
16 the final 30 days of a calendar quarter, Secs. 32 and 33 shall take effect on the  
17 first day of the second calendar quarter following the calendar quarter in which  
18 the state of emergency is terminated.

19 Sec. 3. RELIEF FROM COVID-19-RELATED UNEMPLOYMENT

20 BENEFIT CHARGES FOR CALENDAR YEAR 2021

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

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

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

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

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

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

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

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

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

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

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

4           **Sec. 4. TEMPORARY SUSPENSION OF CERTAIN REQUIREMENTS**

5                   **FOR TRIGGERING AN EXTENDED BENEFIT PERIOD**

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

11           **Sec. 5. CONTINUED ELIGIBILITY FOR PANDEMIC EMERGENCY**

12                   **UNEMPLOYMENT COMPENSATION; DELAY OF**

13                   **SUBSEQUENT BENEFIT YEAR**

14           (a) Notwithstanding any provision of 21 V.S.A. chapter 17 to the contrary,  
15           an individual shall be eligible to receive or to continue to receive Pandemic  
16           Emergency Unemployment Compensation benefits in lieu of regular  
17           unemployment insurance benefits if:

18                   (1) the individual was determined to be eligible for Pandemic  
19           Emergency Unemployment Compensation during a benefit year that expired  
20           after December 27, 2020;

1           (2) the individual has remaining entitlement to Pandemic Emergency  
2           Unemployment Compensation benefits with respect to the expired benefit year;

3           (3) the individual would qualify pursuant to 21 V.S.A. chapter 17 for  
4           regular unemployment insurance benefits in a new benefit year; and

5           (4) the weekly benefit amount for regular unemployment insurance  
6           benefits in the new benefit year would be at least \$25.00 less than the weekly  
7           benefit amount payable on the individual's Pandemic Emergency  
8           Unemployment Compensation claim in the prior benefit year.

9           (b)(1) The new benefit year of an individual who is determined to be  
10           eligible to receive or to continue receiving Pandemic Emergency  
11           Unemployment Compensation benefits pursuant to subsection (a) shall not  
12           begin until after the individual has exhausted his or her eligibility for Pandemic  
13           Emergency Unemployment Compensation benefits.

14           (2) The individual's weekly benefit amount for the new benefit year  
15           shall be determined based on the wages that would have been in the  
16           individual's base period if the beginning of the new benefit year had not been  
17           deferred pursuant to this section.

18           Sec. 6. EFFECTIVE DATE

19           This act shall take effect on passage.

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(Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

FOR THE COMMITTEE

DRAFT