

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 * * * Experience Rating Relief for Calendar Year 2020 * * *

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

10 § 1325. EMPLOYERS’ EXPERIENCE-RATING RECORDS;

11 DISCLOSURE TO SUCCESSOR ENTITY

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

21 * * *

1 (G) ~~The~~ Between March 15, 2020 and December 31, 2020, the
2 individual voluntarily separated from that employer as provided by subdivision
3 1344(a)(2)(A) of this chapter for one of the following reasons:

4 * * *

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

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

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

1 (iii) the employer has temporarily laid off the individual ~~has been~~
2 ~~recommended or requested~~ based on a recommendation or request by a
3 medical professional or a public health authority with jurisdiction ~~to~~ that the
4 individual be isolated or quarantined as a result of COVID-19, regardless of
5 whether the individual has been diagnosed with COVID-19.

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

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

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

1 (ii) If the Commissioner has cause to believe or receives an
2 allegation or other information indicating that an employer may not be entitled
3 to relief from charges pursuant to this subdivision (a)(3), the Commissioner
4 shall examine the employer's records and any other documents and
5 information necessary to determine if the employer is entitled to relief from
6 charges pursuant to this subdivision (a)(3).

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

14 * * *

15 * * * Experience Rating Relief for Calendar Year 2021 * * *

16 Sec. 2. RELIEF FROM COVID-19-RELATED UNEMPLOYMENT

17 BENEFIT CHARGES FOR CALENDAR YEAR 2021

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

1 (1)(A) the individual voluntarily separated from employment with the
2 employer for one of the reasons set forth in 21 V.S.A. § 1344(a)(2)(A)(ii)–(vi);

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

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

16 (D) the employer temporarily laid off the individual based on a
17 recommendation or request by a medical professional or a public health
18 authority with jurisdiction that the individual be isolated or quarantined as a
19 result of COVID-19, regardless of whether the individual was diagnosed with
20 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 (1) of this subsection (a)
4 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 * * * Extension of Unemployment Insurance Related Sunset
5 from 2020 Acts and Resolves No. 91 * * *

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

7 (3) Secs. 32 and 33 shall take effect on ~~March 31, 2021~~ on the first day
8 of the calendar quarter following the calendar quarter in which the state of
9 emergency declared in response to COVID-19 pursuant to Executive Order 01-
10 20 is terminated, provided that if the state of emergency is terminated within
11 the final 30 days of a calendar quarter, Secs. 32 and 33 shall take effect on the
12 first day of the second calendar quarter following the calendar quarter in which
13 the state of emergency is terminated.

14 * * * Implementation of Continued Assistance Act Provisions * * *

15 Sec. 4. TEMPORARY SUSPENSION OF CERTAIN REQUIREMENTS

16 FOR TRIGGERING AN EXTENDED BENEFIT PERIOD

17 For purposes of determining whether the State is in an extended benefit
18 during the period from November 1, 2020 through December 31, 2021, the
19 Commissioner shall disregard the requirement in 21 V.S.A. § 1421 that no
20 extended benefit period may begin before the 14th week following the end of a
21 prior extended benefit period.

1 * * * Increased Unemployment Insurance Benefits * * *

2 Sec. 5. 21 V.S.A. § 1338 is amended to read:

3 § 1338. WEEKLY BENEFITS

4 (a) Each eligible individual who is totally unemployed in any week shall be
5 paid with respect to such a week a weekly benefit amount determined as
6 provided in this section.

7 * * *

8 (e)(1) For benefit years beginning on January 3, 1988 and subsequent
9 thereto, an individual’s weekly benefit amount shall be determined by dividing
10 the individual’s two high quarter total subject wages required under
11 subdivision (d)(1) of this section by ~~45~~ 38; provided that the weekly benefit
12 amount so determined shall not exceed the maximum weekly benefit amount
13 computed as provided in subsection (f) of this section.

14 (2)(A) In addition to the weekly benefit amount determined pursuant to
15 subdivision (1) of this subsection, an individual shall be entitled to an
16 additional weekly allowance of \$50.00 if the individual has one or more
17 dependent children under 18 years of age.

18 (B) The provisions of subdivision (A) of this subsection (2) shall not
19 apply during the period from July 1, 2022 through June 30, 2023 if, on
20 April 15, 2022, the balance of the Unemployment Insurance Trust Fund is

1 either below \$90,000,000.00 or projected to drop below that amount on or
2 before December 31, 2022.

3 * * *

4 Sec. 6. MAXIMUM WEEKLY BENEFIT FOR BENEFIT YEARS

5 BEGINNING JULY 1, 2021 AND JULY 1, 2022

6 (a) Notwithstanding any provision of 21 V.S.A. § 1338(f) to the contrary,
7 the maximum weekly benefit for the benefit year beginning July 1, 2021 shall
8 be \$637.00 plus the amount of any dependent allowance pursuant to 21 V.S.A.
9 § 1338(e)(2).

10 (b) Notwithstanding any provision of 21 V.S.A. § 1338(f) to the contrary,
11 the maximum weekly benefit for the benefit year beginning July 1, 2022 shall
12 be equal to 57 percent of the State annual average weekly wage determined
13 pursuant to 21 V.S.A. § 1338(g).

14 Sec. 7. 21 V.S.A. § 1338 is amended to read:

15 § 1338. WEEKLY BENEFITS

16 (a) Each eligible individual who is totally unemployed in any week shall be
17 paid with respect to such a week a weekly benefit amount determined as
18 provided in this section.

19 * * *

20 (e)(1) For benefit years beginning on January 3, 1988 and subsequent
21 thereto, an individual's weekly benefit amount shall be determined by dividing

1 the individual's two high quarter total subject wages required under
2 subdivision (d)(1) of this section by ~~38~~ 45; provided that the weekly benefit
3 amount so determined shall not exceed the maximum weekly benefit amount
4 computed as provided in subsection (f) of this section.

5 * * *

6 Sec. 8. 21 V.S.A. § 1338 is amended to read:

7 § 1338. WEEKLY BENEFITS

8 (a) Each eligible individual who is totally unemployed in any week shall be
9 paid with respect to such a week a weekly benefit amount determined as
10 provided in this section.

11 * * *

12 (e)(1) For benefit years beginning on January 3, 1988 and subsequent
13 thereto, an individual's weekly benefit amount shall be determined by dividing
14 the individual's two high quarter total subject wages required under
15 subdivision (d)(1) of this section by 45; provided that the weekly benefit
16 amount so determined shall not exceed the maximum weekly benefit amount
17 computed as provided in subsection (f) of this section.

18 (2)(A) ~~In addition to the weekly benefit amount determined pursuant to~~
19 ~~subdivision (1) of this subsection, an individual shall be entitled to an~~
20 ~~additional weekly allowance of \$50.00 if the individual has one or more~~
21 ~~dependent children under 18 years of age.~~

1 ~~(B) The provisions of subdivision (A) of this subdivision (2) shall not~~
2 ~~apply during the period from July 1, 2022 through June 30, 2023 if, on~~
3 ~~April 15, 2022, the balance of the Unemployment Insurance Trust Fund is~~
4 ~~either below \$90,000,000.00 or projected to drop below that amount on or~~
5 ~~before December 31, 2022.~~

6 * * *

7 * * * Unemployment Insurance Contribution Relief * * *

8 **Sec. 9. UNEMPLOYMENT INSURANCE RATE SCHEDULE FOR**
9 **BENEFIT YEAR BEGINNING JULY 1, 2021**

10 (a) Notwithstanding any provision of 21 V.S.A. § 1326 to the contrary, the
11 unemployment insurance contribution rate schedule for the benefit year
12 beginning on July 1, 2021 shall remain at Schedule I.

13 (b) The provisions of this section shall not apply if, on April 15, 2021, the
14 balance of the Unemployment Insurance Trust Fund is either below
15 \$90,000,000.00 or projected to drop below that amount on or before
16 December 31, 2021.

17 **Sec. 10. AVOIDANCE OF LONG-TERM RATE IMPACTS ON**
18 **EMPLOYERS**

19 During the period beginning on July 1, 2022 and ending on June 30, 2031,
20 the Commissioner of Labor shall reduce the amount of unemployment
21 insurance contributions made by employers by a total of \$66,500,000.00. The

1 reductions shall be distributed proportionately across each year of the period
2 and among all employers liable for payment of contributions to the
3 Unemployment Insurance Trust Fund. Notwithstanding any provision of
4 21 V.S.A. chapter 17 to the contrary, the reductions shall be accomplished by
5 the following means:

6 (1) a proportionate reduction in the rates for each rate class on the
7 appropriate rate schedule set forth in 21 V.S.A. § 1326(e);

8 (2) any other proportionate reduction in the contributions made by each
9 employer liable for payment of contributions to the Unemployment Insurance
10 Trust Fund that is permitted by federal law; or

11 (3) both.

12 Sec. 11. UNEMPLOYMENT INSURANCE; BASE OF CONTRIBUTIONS
13 FOR 2022 AND 2023

14 (a)(1) Notwithstanding 21 V.S.A. § 1321(b), the base of contributions for
15 calendar year 2022 shall be the same amount as for calendar year 2021.

16 (2) The provisions of this subsection shall not apply if, on October 15,
17 2021, the balance of the Unemployment Insurance Trust Fund is either below
18 \$90,000,000.00 or projected to drop below that amount on or before
19 December 31, 2021.

20 (b) Notwithstanding any provision of subsection (a) of this section or
21 21 V.S.A. § 1321(b) to the contrary, the base of contributions for calendar year

1 2023 shall be determined pursuant to 21 V.S.A. § 1321(b) as if the base of
2 contributions for calendar year 2022 had been determined pursuant to
3 21 V.S.A. § 1321(b) rather than the provisions of subsection (a) of this section.

4 * * * Effective Dates * * *

5 **Sec. 12. EFFECTIVE DATES**

6 (a)(1) Secs. 5 and 6 shall take effect on September 6, 2021.

7 (2) Sec. 7 shall take effect on July 1, 2022.

8 (3) Sec. 8 shall take effect on July 1, 2023.

9 (4) Notwithstanding subdivisions (1) and (2) of this subsection, Secs. 5,
10 6, 7, and 8 shall not take effect at all if on April 15, 2021, the balance of the
11 Unemployment Insurance Trust Fund is either below \$90,000,000.00 or
12 projected to drop below that amount on or before December 31, 2021.

13 (b) This section and the remaining sections of this act shall take effect on
14 passage; provided, however, that if the date of passage is after March 31, 2021,
15 then notwithstanding 1 V.S.A. § 214, Sec. 3 shall apply retroactively to
16 March 31, 2021.

1

2

3 (Committee vote: _____)

4

5

Senator _____

6

FOR THE COMMITTEE