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Members of the Senate Committee on Economic Development, Housing and General Affairs  
Vermont State House  
Montpelier, VT

VIA EMAIL

Good Afternoon Senators,

Thank you for an opportunity to submit testimony about provisions of S10, and in particular, the proposed fraud prevention amendment to the bill.

At the outset, it is important to remember that when the unemployment system was created in the 1930s, it was with the specific intention to create a program to assist workers who are unemployed through no fault of their own. We believe that this intention should be foremost in legislators' minds as they seek to make improvements to the system.

Although fraud is certainly a consideration, we respectfully submit that it is not the biggest problem facing the Vermont Department of Labor (VDOL) right now, and accordingly, fraud prevention should not be the priority of this legislature. Instead, the real problems facing Vermonters right now in our Unemployment program are: 1) Vermonters are waiting many months for determinations and appeal hearings and are being forced to go months without critical benefits to which they are entitled in this time of crisis, and 2) People are still having too much trouble getting reliable and accurate answers to questions when they call VDOL. For example, one of our clients received five different answers to the same question on separate occasions when he called VDOL's Claimant Assistance Line.

Furthermore, it is unfair, unjust, and insulting to Vermont workers, who outnumber Vermont employers by far, to assume that claimants will commit fraud to stay on benefits. This appears to be the starting point of the committee because "fraud prevention" is such a high priority. It is worth mentioning that conversations around Vermont employers in the committee never seem to come from an assumption that employers are out to commit fraud, whereas discussions about proposals to increase benefits often seem to begin with an assumption of fraudulent intent on the part of workers.

Vermont Legal Aid submits that any fraud that does exist in Vermont's unemployment system does not stem primarily from individual Vermont claimants filing claims for benefits, but from interstate claimants seeking to defraud states or organized and established fraudsters who regularly operate with a criminal intent regardless of the context. These "bad actors" are few and

far between compared with the overall number of unemployment claims filed. The average Vermont worker who applies for unemployment benefits does not have any intention to commit fraud. It is disrespectful of Vermont workers to assume otherwise.

We further believe that the proposal of adding possible criminal prosecution to the unemployment benefit program without giving adequate deliberation to what it means or how it supports (or does not support) Vermont policy regarding criminal justice, anti-poverty initiatives, and collateral consequences, is unwise. If fraud prevention strategies are going to change, that should be done through a deliberative process where all players, including the Attorney General's Office, Vermont Legal Aid, Workers' Rights groups, as well as employers and businesses, can try to develop a policy in a thoughtful and measured way.

We are frankly alarmed that the legislature is considering adding a pool of Vermonters to those already harmed by the collateral consequences of a criminal record, which disproportionately impact low-income workers. We know for a fact that criminal records have long-standing and harmful impacts on housing and employment opportunities, for example. We also know that in the vast majority of cases we have seen (nearly 100%) where VDOL determined that claimants intentionally misrepresented or failed to disclose information to VDOL, those determinations were reversed on appeal. This was because either the determination had little to no evidence to back it up, or because a thorough and complete review of the evidence actually revealed that the claimant simply made a mistake or otherwise did not have any intention to mislead or fail to inform the VDOL of anything.

Those folks who had determinations reversed have had to endure financial hardship and stress for months while their appeals played out at VDOL. For example, one client was receiving unemployment benefits based on part-time work, and contracted COVID. Due to her severe illness, she could not get the medical evidence to the Department on time. Her benefits were terminated due to "intentional misrepresentation." She has a doctor's letter verifying that she was very ill with COVID, but she will have to wait two to three months for her appeal hearing to be scheduled, and for her benefits to resume. This is just one story. We are also certain there are many more Vermonters who never contacted Legal Aid and likely are having to live with unjust determinations that they intentionally mislead the Department, because they did not have the wherewithal or the ability to appeal those determinations.

Finally, it is a false narrative to say that unemployment benefits, or any increase thereof, provides a disincentive to work. It is critical to note that claimants do not have a choice about whether to go back to work or remain on unemployment benefits. Much of the testimony from employers seems to be based on an assumption that claimants can refuse to return to work and choose to remain on unemployment benefits. This is simply not true. **If a claimant refuses an offer of suitable work**, whether that offer comes from a former employer or a completely new employer, **they are immediately disqualified from receiving unemployment benefits**. It is therefore inaccurate to suggest that claimants can decide to stay on unemployment indefinitely, and that increases in benefits provide a disincentive for folks to return to work. The biggest disincentives to working in Vermont are actually the lack of high paying jobs, lack of job training and education (workforce development), lack of quality, affordable childcare, lack of transportation, and lack of affordable housing to provide for stable lives for workers.

As it seeks to improve the unemployment system for Vermonters the legislature should be focused on upgrading technology at VDOL, increasing its staffing, and improving the training of that staff. These are the most important problems facing the VDOL right now, and these problems can only be solved by providing adequate funding for it to make necessary changes.

Increasing benefits for claimants is an important goal for this committee. It is also vital for both workers and employers that this committee and VDOL work together to support a workforce that is prepared to do 21<sup>st</sup> century work. Focusing on fraud prevention does not achieve this goal and expends valuable energy and resources on the highly questionable assumption that fraud is the biggest problem in Vermont's unemployment system. It is a fact that our Department of Labor lacks the infrastructure it needs, both in terms of staffing and technology, to provide meaningful assistance to people accessing the unemployment system. Solving this problem should be the focus of the Commissioner and this Committee.

Thank you again for the opportunity to present testimony. Please do not hesitate to contact me if you should have any questions.

Sincerely,

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