

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) identify the number of fraud determinations that are appealed and
15 the percentage of those determinations that are reversed following the appeal;

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

18 (I) for any instances of unemployment insurance fraud that are
19 determined to be appropriate for criminal prosecution, examine whether they
20 can be effectively prosecuted under existing statutes and, if not, identify any
21 statutory changes necessary to allow for effective criminal prosecution; and

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

4 (2) with respect to the overpayment of unemployment insurance
5 benefits:

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

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

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

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

19 (b) In preparing the report, the Department shall consult with the Attorney
20 General, the Department of State’s Attorneys and Sheriffs, representatives of
21 employers, representatives of employees, and representatives of claimants.

1 The report shall specifically identify the parties that the Department consulted
2 with.

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

8 (d) As used in this section:

9 (1) “Overpayment of unemployment insurance benefits” includes
10 overpayments due to a mistake on the part of a claimant or the Department, a
11 claimant’s unintentional misrepresentation or nondisclosure of a material fact,
12 or a claimant’s intentional misrepresentation or nondisclosure of a material
13 fact.

14 (2) “Unemployment insurance fraud” means a claimant’s intentional
15 misrepresentation or knowing nondisclosure of a material fact for purposes of
16 obtaining unemployment insurance benefits.

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

18 (a)(1) On or before ~~January 15, 2022~~ November 15, 2021, the Attorney
19 General and the Commissioner of Labor shall submit a written report to the
20 House Committees on Commerce and Economic Development and on General,
21 Housing, and Military Affairs and the Senate Committees on Economic

1 Development, Housing and General Affairs and on Finance regarding the
2 enforcement of employment laws related to employee misclassification
3 pursuant to 21 V.S.A. §§ 346, 387, 712, and 1379 and by the Commissioner of
4 Labor pursuant to 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A.
5 chapters 9 and 17.

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

7 § 2222d. EMPLOYEE MISCLASSIFICATION TASK FORCE

8 * * *

9 (f) On or before ~~January 15, 2022~~ November 15, 2021, the Task Force shall
10 submit a written report to the House Committee on Commerce and Economic
11 Development and the Senate Committee on Economic Development, Housing
12 and General Affairs regarding ways to improve the effectiveness and
13 efficiency of the system of joint enforcement by the Commissioner of Labor
14 and the Attorney General of the laws related to employee misclassification that
15 is established pursuant to 21 V.S.A. §§ 3, 346, 387, 712, and 1379. In
16 particular, the Report shall examine:

17 * * *

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