

1                                    Waiver of Federal Benefit Overpayments

2            Sec. \_\_\_. WAIVER OF FEDERAL UNEMPLOYMENT BENEFIT  
3                                    OVERPAYMENTS.

4            (a) The Commissioner of Labor may, consistent with all applicable federal  
5            requirements, waive some or all of an individual’s liability to repay an  
6            overpayment of benefits paid through the Pandemic Unemployment  
7            Assistance, Federal Pandemic Unemployment Compensation, Mixed Earners  
8            Unemployment Compensation, or Pandemic Emergency Unemployment  
9            Compensation programs if the Commissioner determines that:

- 10                    (1) the individual is without fault; and  
11                    (2) requiring the individual to repay the amount of the overpayment  
12            would be contrary to equity and good conscience.

13            (b) As used in this section, “contrary to equity and good conscience”  
14            means:

- 15                    (1) requiring repayment of the amount of the overpayment would:  
16                    (A) cause financial hardship for the individual; or  
17                    (B) be unconscionable; or  
18                    (2) the individual can demonstrate that the individual has relinquished a  
19            valuable right or changed positions for the worse because of the incorrect  
20            payment or the notice that the payment would be made.

1           Modification to Penalty Weeks and Overpayments Draft from October 19

2           § 1347. NONDISCLOSURE OR MISREPRESENTATION

3           (a)(1) Any ~~person~~ individual who fails, without good cause, to make a  
4 reasonable effort to secure suitable work when directed to do so by the  
5 employment office or the Commissioner and has received any amount as  
6 benefits under this chapter with respect to weeks for which the ~~person~~  
7 individual is determined to be ineligible for such failure; and any ~~person~~  
8 individual who by nondisclosure or misrepresentation by ~~him or her~~ the  
9 individual, or by another, of a material fact (irrespective of whether such  
10 nondisclosure or misrepresentation was known or fraudulent) has received any  
11 amount as benefits under this chapter while any conditions for the receipt of  
12 benefits imposed by this chapter were not fulfilled ~~in his or her case~~ by the  
13 individual or while ~~he or she~~ the individual was disqualified from receiving  
14 benefits; shall be liable ~~for such~~ to repay the amount.

15           (2) Notice of a determination in such cases made pursuant to this  
16 subsection shall specify that the ~~person~~ individual is liable to repay to the Fund  
17 the amount of overpaid benefits, the basis of the overpayment, and the week or  
18 weeks for which ~~such~~ the benefits were paid.

19           (3) The determination shall be made within three years from the date of  
20 ~~such~~ the overpayment.

21           (b) Any ~~person~~ individual who receives remuneration described in  
22 subdivision 1344(a)(5) of this title that is allocable in whole or in part to prior

1 weeks during which ~~he or she~~ the individual received any amounts as benefits  
2 under this chapter shall be liable for all such amounts of benefits or those  
3 portions of such amounts equal to the portions of such remuneration properly  
4 allocable to the weeks in question. ~~Notice~~ A notice of a determination in such  
5 eases made under this subsection shall specify that the ~~person~~ individual is  
6 liable to repay to the Fund the amount of overpaid benefits, the basis of the  
7 overpayment, and the week or weeks for which ~~such~~ the benefits were paid.  
8 The determination shall be made within three years from the date of ~~such~~ the  
9 overpayment or within one year from the date of receipt of the remuneration,  
10 whichever period is longer.

11 (c)(1) ~~The person~~ An individual liable under this section shall repay ~~such~~  
12 the amount to the Commissioner for the Fund, provided that the Commissioner  
13 shall waive the amount of any overpayment for which an individual is without  
14 fault and may reduce or waive the amount for which an individual is liable if  
15 requiring repayment would be contrary to equity and good conscience.

16 (2) In addition to the repayment, if the Commissioner finds by clear and  
17 convincing evidence that a ~~person~~ an individual intentionally misrepresented or  
18 failed to disclose a material fact with respect to ~~his or her~~ the individual's  
19 claim for benefits, the ~~person~~ individual shall pay an additional penalty of 15  
20 percent of the amount of the overpaid benefits. Any additional penalty amount  
21 collected shall be deposited in the Fund. ~~Such~~ The amount may be collectible  
22 by civil action in the Superior Court, in the name of the Commissioner.

1           (d) ~~In any case in which under this section a person~~ If, pursuant to this  
2           section, an individual is liable to repay any amount to the Commissioner for  
3           the Fund, the Commissioner may withhold, ~~in whole or in part,~~ not more than  
4           50 percent of any future weekly benefits payable to ~~such person,~~ the individual  
5           and credit ~~such~~ the withheld benefits against the amount due from ~~such person~~  
6           the individual until it is repaid in full, less any penalties assessed under  
7           subsection (c) of this section.

8           (e)(1) In addition to the ~~foregoing~~ penalty imposed pursuant to subdivision  
9           (c)(2) of this section, when ~~it is found by~~ the Commissioner finds by clear and  
10          convincing evidence that ~~a person~~ an individual intentionally misrepresented or  
11          failed to disclose a material fact with respect to ~~his or her~~ the individual's  
12          claim for benefits and in the event the ~~person~~ individual is not prosecuted  
13          under section 1368 of this title and the penalty provided in section 1373 of this  
14          title is not imposed, the ~~person~~ individual shall be disqualified and shall not be  
15          entitled to receive benefits to which ~~he or she~~ the individual would otherwise  
16          be entitled after the determination for ~~such number of weeks not exceeding a~~  
17          period of not more than 26 weeks as the Commissioner ~~shall deem~~ deems just.  
18          The notice of determination shall ~~also~~ specify the period of disqualification  
19          imposed ~~hereunder~~.

20                 (2) Any remaining weeks in a period of disqualification imposed  
21                 pursuant subdivision (1) of this subsection shall be waived:

1           (A) in the event of a state of emergency declared by the Governor in  
2           relation to a public health emergency or disaster that has caused the statewide  
3           seasonally adjusted unemployment rate for any month to rise to a level that is  
4           at least one percentage point above the average statewide seasonally adjusted  
5           unemployment rate for the previous 12 months; or

6           (B) upon the passage of two years from the date of the determination.

7           (f)(1) Interested parties shall have the right to appeal from any  
8           determination under this section and the same procedure shall be followed as  
9           provided for in subsection 1348(a) and section 1349 of this title.

10           (2)(A) The Commissioner may, for good cause, reconsider a  
11           determination that an individual intentionally misrepresented or failed to  
12           disclose a material fact with respect to the individual's claim for benefits at any  
13           time within two years after the date of the original determination. Following  
14           reconsideration, the Commissioner may sustain, modify, or overturn the prior  
15           determination and any associated penalty or period of disqualification. Prompt  
16           notice of the Commissioner's decision upon reconsideration shall be given to  
17           the individual, the individual's last employer, and all other interested parties.

18           (B) Failure to file a timely appeal of the original determination shall  
19           not prevent the Commissioner from determining that good cause exists to  
20           reconsider the original determination.

21           (C)(i) If the Commissioner modifies or overturns the original  
22           determination, the Commissioner may, as appropriate:

1                   (I) retroactively restore benefits to an individual for weeks in  
2                   which the individual was improperly disqualified from receiving benefits  
3                   pursuant to subsection (c) of this section or had benefits improperly withheld  
4                   pursuant to the provisions of subsection (d) of this section; and

5                   (II) reimburse an individual for amounts paid in relation to an  
6                   overpayment or penalty that the Commissioner determines was assessed in  
7                   error.

8                   (ii) The reconsideration shall not affect any penalty weeks served  
9                   or penalty amounts paid prior to [the effective date of this act].

10                  (D) The parties shall have the right to appeal the Commissioner's  
11                  decision as provided in subsection 1348(a) and section 1349 of this title.

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\$25.00 Increase in Weekly Benefit Amount

Sec. \_\_. 21 V.S.A. § 1338 is amended to read:

§ 1338. WEEKLY BENEFITS

\* \* \*

(e)(1) An individual's weekly benefit amount shall be determined by dividing the individual's two high quarter total subject wages required under subdivision (d)(1) of this section by 45 and adding \$25.00 to the resulting quotient, provided that the weekly benefit amount so determined shall not exceed the maximum weekly benefit amount computed pursuant to subsection (f) of this section.

~~(2) Notwithstanding the maximum weekly benefit amount computed pursuant to subsection (f) of this section, an individual shall receive a supplemental benefit of \$25.00 per week in addition to the amount determined pursuant to subdivision (1) of this subsection.~~

(f)(1) The maximum weekly benefit amount shall be annually adjusted on the first day of the first calendar week in July to an amount equal to 57 percent of the State annual average weekly wage as determined by subsection (g) of this section plus \$25.00.

\* \* \*

Sec. \_\_. 2021 Acts and Resolves, No. 51, § 12 is amended to read:

Sec. 12. [Deleted.]

1       Sec. \_\_. 2021 Acts and Resolves, No. 51, § 17(a)(4) is amended to read:

2               (4) ~~Sec. 12 (repeal of supplemental weekly benefit) shall take effect~~  
3       ~~upon the payment of a cumulative total of \$100,000,000.00 in supplemental~~  
4       ~~benefits pursuant to 21 V.S.A. § 1338(e)(2) and shall apply prospectively to all~~  
5       ~~benefit payments in the next week and each subsequent week. [Deleted.]~~

6





1 amount so determined shall not exceed the maximum weekly benefit amount  
2 computed pursuant to subsection (f) of this section.

3 ~~(2) Notwithstanding the maximum weekly benefit amount computed~~  
4 ~~pursuant to subsection (f) of this section, an individual shall receive a~~  
5 ~~supplemental benefit of \$25.00 per week in addition to the amount determined~~  
6 ~~pursuant to subdivision (1) of this subsection. The supplemental benefit~~  
7 ~~provided pursuant to the subdivision shall be paid from the Unemployment~~  
8 ~~Insurance Supplemental Special Fund.~~

9 Sec. \_\_. 21 V.S.A. § 1321a is added to read:

10 § 1321a. SUPPLEMENTAL CONTRIBUTIONS

11 (a)(1) All employers liable for contributions pursuant to subsection 1321(a)  
12 of this chapter shall pay an additional contribution of      percent of the wages  
13 paid for employment by that employer at the same time and in the same  
14 manner as the contributions due pursuant to subsection 1321(a) of this chapter.

15 (2) All supplemental contributions collected pursuant to this section  
16 shall be deposited in the Unemployment Insurance Supplemental Special Fund  
17 established pursuant to section 1362a of this title and shall only be used for the  
18 purposes authorized pursuant to that section.

19 (3) The provisions of sections 1329–1332 and 1336 of this title shall  
20 apply to this section.

21 (b) As used in this section, the term “wages” has the same meaning as in  
22 section 1321 of this chapter.

1 Sec. \_\_. 21 V.S.A. § 1334 is amended to read:

2 § 1334. JUDGMENT; EXCEPTION

3 (a) Any liability for contributions, payments, penalties, interest, and costs  
4 imposed under this chapter becomes, from the time the liability is due and  
5 payable, a debt of the liable employer or employing unit to the State for the  
6 benefit of the Unemployment Compensation Fund, the Unemployment  
7 Insurance Supplemental Special Fund, and the Contingent Fund to be  
8 recovered in a civil action.

9 \* \* \*

10 Sec. \_\_. 21 V.S.A. § 1362a is added to read:

11 § 1362a. UNEMPLOYMENT INSURANCE SUPPLEMENTAL SPECIAL  
12 FUND

13 There is established the Unemployment Insurance Supplemental Special  
14 Fund, which shall be managed in accordance with 32 V.S.A. chapter 7,  
15 subchapter 5. Receipts from the supplemental contributions collected pursuant  
16 to section 1321a of this title shall be credited to the Fund. The Commissioner  
17 shall use the Fund to provide the supplemental benefit created pursuant to  
18 subdivision 1338(e)(2) of this title and to pay any costs associated with the  
19 administration of the supplemental benefit and of the Fund [ADDITIONAL  
20 PURPOSES?]. All interest earned on Fund balances shall be credited to the  
21 Fund. [The Commissioner may seek and accept grants from any source, public  
22 or private, to be dedicated for deposit into the Fund.]

1 Sec. \_\_. 21 V.S.A. § 1321 is amended to read:

2 § 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

3 \* \* \*

4 (b) Base of Contributions. ~~Subsequent to December 31, 1982, the term~~  
5 ~~“wages” shall not include that part of remuneration which, after remuneration~~  
6 ~~equal to \$8,000.00 has been paid in a calendar year to an individual by an~~  
7 ~~employer with respect to employment during a calendar year, unless that part~~  
8 ~~of the remuneration is subject to a tax under a federal law imposing a tax~~  
9 ~~against which credit may be taken for contributions required to be paid into a~~  
10 ~~state unemployment fund. For the period January 1, 2010, through December~~  
11 ~~31, 2010, the term “wages” shall not include that part of remuneration which,~~  
12 ~~after remuneration equal to \$10,000.00 has been paid in a calendar year to an~~  
13 ~~individual by an employer with respect to employment during a calendar year,~~  
14 ~~unless that part of the remuneration is subject to a tax under a federal law~~  
15 ~~imposing a tax against which credit may be taken for contributions required to~~  
16 ~~be paid into a state unemployment fund.~~ **[ADJUST TAXABLE WAGE**  
17 **BASE?]** The term “wages” shall not include that part of remuneration which,  
18 after remuneration equal to \$13,000.00 on January 1, 2011, and \$16,000.00 on  
19 January 1, 2012, has been paid in a calendar year to an individual by an  
20 employer with respect to employment during a calendar year, unless that part  
21 of the remuneration is subject to a tax under a federal law imposing a tax  
22 against which credit may be taken for contributions required to be paid into a

1 state unemployment fund. After January 1, 2012, whenever the  
2 Unemployment Compensation Fund has a positive balance and all advances  
3 made to the State Unemployment Compensation Fund pursuant to Title XII of  
4 the Social Security Act have been repaid as of June 1, the base of contribution  
5 amount shall be adjusted on January 1 of the following year by the same  
6 percentage as any increase in the State annual average wage as calculated by  
7 subsection 1338(g) of this title. When the unemployment contribution rate  
8 schedule established by subsection 1326(e) of this title is reduced to schedule  
9 III, the base of contribution amount shall be reduced by \$2,000.00 on  
10 January 1 of the following year and shall be adjusted annually thereafter on  
11 January 1 of the following year by the same percentage as any increase in the  
12 State annual average wage as calculated by subsection 1338(g) of this title.  
13 When the unemployment contribution rate schedule established by subsection  
14 1326(e) of this title is reduced to schedule I, the base of contribution amount  
15 shall be reduced by \$2,000.00 on January 1 of the following year and shall be  
16 adjusted annually thereafter on January 1 of the following year by the same  
17 percentage as any increase in the State annual average wage as calculated by  
18 subsection 1338(g) of this title. For the purposes of this subsection:

19 \* \* \*

20 Sec. \_\_. 21 V.S.A. § 1326 is amended to read:

21 § 1326. RATE BASED ON BENEFIT EXPERIENCE

22 \* \* \*

1 (e) The rate schedule shall be determined by dividing the current fund ratio  
 2 by the highest benefit cost rate. The applicable rate schedule shall be that  
 3 schedule below the resultant quotient that appears in column C of the  
 4 following table: [ADJUST RATIOS FOR EACH TAX CLASS?]

5 A. B. C.

6 IF THE RESULTING QUOTIENT IS:

7	Rate	% of Taxable						
8	Class	Payrolls	2.50	2.00	1.50	1.00		
9			and	to	to	to	under	
10		From	To	over	2.49	1.99	1.49	1.00
11				I.	II.	III.	IV.	V.
12	0	00.00	00.00	0.4%	0.6%	0.8%	1.1%	1.3%
13	1	00.01	05.00	0.5	0.7	0.9	1.2	1.5
14	2	05.01	10.00	0.6	0.8	1.1	1.4	1.8
15	3	10.01	15.00	0.7	1.0	1.4	1.7	2.1
16	4	15.01	20.00	0.8	1.2	1.7	2.0	2.4
17	5	20.01	25.00	0.9	1.4	2.0	2.3	2.7
18	6	25.01	30.00	1.1	1.7	2.3	2.6	3.0
19	7	30.01	35.00	1.4	2.0	2.6	2.9	3.3
20	8	35.01	40.00	1.7	2.3	2.9	3.2	3.6
21	9	40.01	45.00	2.0	2.6	3.2	3.5	4.0
22	10	45.01	50.00	2.3	2.9	3.5	3.8	4.4

**UI Study Committee: Additional Potential Legislative Language  
November 18, 2021**

1	11	50.01	55.00	2.6	3.2	3.8	4.1	4.8
2	12	55.01	60.00	2.9	3.5	4.1	4.5	5.2
3	13	60.01	65.00	3.2	3.8	4.4	4.9	5.6
4	14	65.01	70.00	3.5	4.1	4.7	5.3	6.0
5	15	70.01	75.00	3.8	4.4	5.0	5.7	6.4
6	16	75.01	80.00	4.1	4.7	5.3	6.1	6.8
7	17	80.01	85.00	4.4	5.0	5.6	6.5	7.2
8	18	85.01	90.00	4.7	5.3	5.9	6.9	7.6
9	19	90.01	95.00	5.0	5.6	6.2	7.3	8.0
10	20	95.01	100.00	5.4	5.9	6.5	7.7	8.4

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\* \* \*