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H.781

Introduced by Representatives Bluemle of Burlington, Jerome of Brandon,  
Priestley of Bradford, and Williams of Barre City

Referred to Committee on

Date:

Subject: Unemployment insurance; overpayments; waiver

Statement of purpose of bill as introduced: This bill proposes to require the  
Commissioner of Labor to waive overpayments of unemployment insurance  
benefits under certain circumstances.

An act relating to the waiver of unemployment insurance overpayments

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

As used in this chapter:

\* \* \*

(27) “Ordinary living expenses” means costs associated with ordinary  
and necessary living expenses of a person and any other person for whom the  
person is financially responsible. “Ordinary living expenses” include:

(A) the cost of food and clothing;

(B) payments for rent or a mortgage;

1           (C) the cost of utilities, including electricity, heating fuel, water,  
2           sewer, internet, and telephone or cellphone;

3           (D) payments for loans or credit cards;

4           (E) child care expenses;

5           (F) insurance costs, including accident, automobile, health,  
6           homeowners, property, and renters' insurance;

7           (G) medical expenses;

8           (H) taxes; and

9           (I) transportation costs.

10           (28) "Public assistance benefits" means the State or federal Earned  
11           Income Tax Credit and any economic assistance a person receives from a State  
12           program or a State-administered federal program. "Public assistance benefits"  
13           include economic assistance that a person receives through:

14           (A) the Low Income Home Energy Assistance Program;

15           (B) Medicaid;

16           (C) public or subsidized housing, or a housing voucher provided  
17           through a State or State-administered federal program;

18           (D) Social Security Disability Insurance or Supplemental Security  
19           Income;

20           (E) the Supplemental Nutrition Assistance Program; or



1 overpayment that is not a result of the person's intentional misrepresentation of  
2 or failure to disclose a material fact if:

3 (A) the overpayment occurs through no fault of the person; and

4 (B) recovery of the overpayment would be against equity and good  
5 conscience.

6 (2) A person may request a waiver of an overpayment at any time after  
7 receiving notice of a determination pursuant to subsection (a) or (b) of this  
8 section.

9 (3)(A) An overpayment shall be deemed to occur through no fault of a  
10 person if the person provided, or attempted to provide, correct information and  
11 the overpayment was caused by the action or delay of the Department or the  
12 person's employer, including:

13 (i) the Department's failure to take appropriate action following  
14 the submission of information by the person;

15 (ii) the Department's delay in determining or redetermining the  
16 person's eligibility following the submission of correct information;

17 (iii) the Department's provision of conflicting, changing, or  
18 unclear information or instruction regarding the person's claim resulting in the  
19 person submitting incorrect information;

1           (iv) the submission by the person of incorrect information,  
2           provided the person made a good faith effort to contact the Department to  
3           clarify what information was needed and was unable to reach the Department;

4           (v) the submission by the person of incorrect information,  
5           provided the error was due to a barrier created by the person's primary  
6           language, disability, education, literacy, or other similar characteristic or  
7           circumstances;

8           (vi) a delay, error, or mistake of the Department;

9           (vii) a delay, error, or mistake of the person's employer; or

10          (viii) a good faith mistake of fact by the person.

11          (B) Requiring repayment of the amount of an overpayment shall be  
12          against equity and good conscience if any of the following circumstances  
13          occur:

14           (i) The person or a member of the person's household is currently  
15           receiving public assistance or has received public assistance during the 12-  
16           month period preceding the determination that an overpayment occurred.

17           (ii) The person's household income, not including any public  
18           assistance that the person or a member of the person's household may be  
19           receiving, is not more than 185 percent of the federal poverty level.

20           (iii) The person has already spent the overpaid benefits to pay for  
21           ordinary living expenses.

1           (iv) The person needs most of their current income to pay for the  
2           person's ordinary living expenses.

3           (v) The person, because of the notice that the benefit would be  
4           paid or the receipt of the overpayment, either relinquished a valuable right or  
5           changed the person's financial position for the worse because the person:

6                   (I) incurred a financial obligation, such as a lease;

7                   (II) took out a loan in reliance on the benefit payment, and  
8           spent the benefit amount in making a related down payment or payment on the  
9           loan balance or accrued interest, or both; or

10                   (III) did not apply for, declined, or was deemed ineligible for  
11           other financial assistance because of the receipt of the benefit.

12           (vi) The overpayment was caused, at least in part, by an error of  
13           the Department or by erroneous public information or guidance provided by  
14           the Department.

15           (vii) The repayment of the overpaid benefits would defeat the  
16           purpose for which the payment of benefits was authorized.

17           (viii) The Commissioner determines for any other reason that  
18           requiring repayment of the benefits would be unconscionable.

19           (4) Upon making a determination that an overpayment occurred  
20           pursuant to subsection (a) or (b) of this section, the Commissioner shall, to the  
21           extent possible and in consideration of the information available to the

1 Department, determine whether waiver of the amount of overpaid benefits is  
2 appropriate.

3 (5) The Commissioner shall provide notice of the right to request a  
4 waiver of an overpayment with each determination that an overpayment has  
5 occurred. The notice shall include clear instructions regarding the  
6 circumstances under which a waiver may be granted and how a person may  
7 apply for a waiver.

8 (6) If the Commissioner denies an application for a waiver, the  
9 Commissioner shall provide written notice of the reason for the denial and the  
10 person's right to appeal the determination pursuant to subsection (h) of this  
11 section

12 (g) The provisions of subsection (f) of this section shall, to the extent  
13 permitted by federal law, apply to overpayments made in relation to any  
14 federal unemployment insurance benefits or similar federal benefits.

15 (h) Interested parties shall have the right to appeal from any determination  
16 under this section and the same procedure shall be followed as provided for in  
17 subsection 1348(a) and section 1349 of this title.

18 (i) The Commissioner shall not attempt to recover an overpayment or  
19 withhold any amounts of unemployment insurance benefits from a person:

1           (1) until after the Commissioner makes a final determination regarding  
2           whether an overpayment of benefits to the person occurred and the person's  
3           right to appeal the determination is exhausted; or

4           (2) if the person filed an application for a waiver, until after the  
5           Commissioner makes a final determination regarding the application and the  
6           person's right to appeal the determination is exhausted.

7           (j)(1) The Commissioner shall provide any person who received an  
8           overpayment of benefits and is not currently receiving benefits pursuant to this  
9           chapter with the option of entering into a plan to repay the amount of the  
10           overpayment. The plan shall provide for reasonable weekly, biweekly, or  
11           monthly payments in an amount that permits the person to continue to afford  
12           the person's ordinary living expenses.

13           (2) The Commissioner shall permit a person to request a modification to  
14           a repayment plan created pursuant to this subsection if the person's ability to  
15           afford ordinary living expenses changes.

16       Sec. 3. EFFECTIVE DATE

17           This act shall take effect on July 1, 2024.