

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was  
3 referred House Bill No. 55 entitled “An act relating to miscellaneous  
4 unemployment insurance amendments” respectfully reports that it has  
5 considered the same and recommends that the bill be amended by striking out  
6 all after the enacting clause and inserting in lieu thereof the following:

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

8 § 1301. DEFINITIONS

9 ~~The following words and phrases, as As used in this chapter, shall have the~~  
10 ~~following meanings unless the context clearly requires otherwise:~~

11 \* \* \*

12 (5) “Employer” includes:

13 (A) Any employing unit ~~which, after December 31, 1971~~ that in any  
14 calendar quarter in either the current or preceding calendar year paid for  
15 service in employment, as ~~hereinafter~~ defined pursuant to subdivision (6) of  
16 this section, wages of \$1,500.00 or more, or for some portion of a day in each  
17 of 20 different calendar weeks, whether or not such weeks were consecutive, in  
18 either the current or the preceding calendar year, had in employment, ~~as~~  
19 ~~hereinafter defined~~, at least one individual (irrespective of whether the same  
20 individual was in employment in each such day). When an employing unit  
21 described in either this subdivision or subdivision (5)(B) of this section,

1 becomes an employer within any calendar year, it shall be subject to this  
2 chapter for the whole of ~~such~~ the calendar year.

3 (B)(i) Any employing unit for which service in employment for a  
4 religious, charitable, educational, or other organization as defined in  
5 subdivision (6)(A)(ix) of this section is performed after December 31, 1971 $\frac{1}{2}$ ,  
6 except as provided in subdivision (5)(C) of this section.

7 \* \* \*

8 (6)(A)(i) “Employment,” subject to the other provisions of this  
9 subdivision (6), means service within the jurisdiction of this State, ~~performed~~  
10 ~~prior to January 1, 1978, which was employment as defined in this subdivision~~  
11 ~~prior to such date and, subject to the other provisions of this subdivision,~~  
12 ~~service performed after December 31, 1977,~~ performed by an employee, as  
13 defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act,  
14 including service in interstate commerce, performed for wages or under any  
15 contract of hire, written or oral, expressed or implied. Services partly within  
16 and partly ~~without~~ outside this State may by election as ~~hereinbefore~~ provided  
17 in subdivision (5)(E)(i) of this section be treated as if wholly within the  
18 jurisdiction of this State. ~~And whenever~~ If an employing unit ~~shall have~~ has  
19 elected to come under the provisions of a similar act of a state where a part of  
20 the services of an employee are performed, the Commissioner, upon ~~his or her~~  
21 ~~approval of said~~ approving the election as to ~~any such~~ the employee, may treat

1 the services covered by ~~said approved~~ the election as having been performed  
2 wholly ~~without~~ outside the jurisdiction of this State.

3 \* \* \*

4 (ix) The term “employment” shall also include service for any  
5 employing unit ~~which is performed after December 31, 1971~~ by an individual  
6 in the employ of a religious, charitable, educational, or other organization ~~but~~  
7 ~~only~~ if:

8 (I) the service is excluded from “employment” as defined in the  
9 Federal Unemployment Tax Act solely by reason of ~~section~~ subdivision  
10 3306(c)(8) of that act; ~~and~~

11 (II) ~~the organization had four or more individuals in~~  
12 ~~employment for some portion of a day in each of 20 different weeks, whether~~  
13 ~~or not such weeks were consecutive, within either the current or preceding~~  
14 ~~calendar year, regardless of whether they were employed at the same moment~~  
15 ~~of time.~~

16 \* \* \*

17 (25) “Son,” “daughter,” and “child” include an individual’s biological  
18 child, foster child, adoptive child, stepchild, or a child that the individual has  
19 day-to-day responsibilities to care for and financially support.

20 (26) “Spouse” includes an individual’s domestic partner or civil union  
21 partner.

1 Sec. 2. 21 V.S.A. § 1321 is amended to read:

2 § 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

3 \* \* \*

4 (c)(1) Financing benefits paid to employees of nonprofit organizations.

5 (A) Benefits paid to employees of nonprofit organizations shall be  
6 financed in accordance with the provisions of this subsection (c).

7 (B) ~~For the purposes of~~ As used in this subsection (c), a “nonprofit  
8 organization” ~~is~~ means an organization ~~(, or group of organizations),~~ described  
9 in Section 501(c)(3) of the U.S. Internal Revenue Code ~~which that~~ is exempt  
10 from income tax under Section 501(a) of ~~such~~ the Internal Revenue Code.

11 (2) Liability for contributions and election of reimbursement. Any  
12 nonprofit organization ~~which that~~, pursuant to subdivision 1301(5)(B)(i) of this  
13 ~~title chapter~~, is, or becomes, subject to this chapter ~~on or after January 1, 1972~~  
14 shall pay contributions under the provisions of this section, unless it elects, in  
15 accordance with this subsection, to pay to the Commissioner, for the  
16 Unemployment Insurance Trust Fund, an amount equal to the amount of  
17 regular benefits and of one-half of the extended benefits paid, that is  
18 attributable to service in the employ of ~~such~~ the nonprofit organization, to  
19 individuals for weeks of unemployment ~~which that~~ begin during the effective  
20 period of ~~such~~ the election.

1           (A) ~~Any nonprofit organization which is, or becomes, subject to this~~  
2 ~~chapter on January 1, 1972 may elect to become liable for payments in lieu of~~  
3 ~~contributions for a period of not less than one calendar year beginning with~~  
4 ~~January 1, 1972 provided it files with the Commissioner a written notice of its~~  
5 ~~election within the 30 day period immediately following such date or within a~~  
6 ~~like period immediately following April 16, 1971, whichever occurs later.~~

7 [Repealed.]

8           (B) Any nonprofit organization ~~which~~ that becomes subject to this  
9 chapter ~~after January 1, 1972~~ may elect to become liable for payments in lieu  
10 of contributions for a period of not less than 12 months ~~beginning with the date~~  
11 ~~on which such subjectivity begins~~ by filing a written notice of its election with  
12 the Commissioner not later than 30 days immediately following the date of the  
13 determination ~~of such subjectivity~~ that the organization is subject to this  
14 chapter.

15           (C) Any nonprofit organization ~~which~~ that makes an election in  
16 accordance with ~~subdivisions (c)(2)(A) and~~ subdivision (2)(B) of this section  
17 ~~will~~ subsection (c) shall continue to be liable for payments in lieu of  
18 contributions until it files with the Commissioner a written notice terminating  
19 its election not later than 30 days prior to the beginning of the calendar year for  
20 which ~~such~~ the termination shall first be effective.

1           (D) Any nonprofit organization ~~which that~~ has been paying  
2 contributions under this chapter ~~for a period subsequent to January 1, 1972~~  
3 may ~~change to a reimbursable basis~~ elect to become liable for payments in lieu  
4 of contributions by filing with the Commissioner not later than 30 days prior to  
5 the beginning of any calendar year a written notice of election to become liable  
6 for payments in lieu of contributions. ~~Such~~ An election under this subdivision  
7 (c)(2)(D) shall not be terminable by the organization for that year and the next  
8 year.

9           (E) The Commissioner may for good cause extend the period within  
10 which a notice of election, or a notice of termination, must be filed and may  
11 permit an election to be retroactive ~~but not any earlier than with respect to~~  
12 ~~benefits paid after December 31, 1969.~~

13           (F) The Commissioner, in accordance with ~~such~~ any applicable rules  
14 as adopted by the Board ~~may prescribe~~, shall notify each nonprofit  
15 organization of any determination ~~which he or she may make of that the~~  
16 Commissioner makes with regard to its status as an employer and ~~of the~~  
17 effective date of any election ~~which it~~ that the organization makes and of any  
18 termination of ~~such~~ an election. ~~Such~~ The determinations shall be subject to  
19 reconsideration and to appeal and review in accordance with the provisions of  
20 section 1337a of this title.

1           (3) Reimbursement payments. Payments in lieu of contributions shall  
2 be made in accordance with the provisions of this subdivision, including either  
3 subdivision (A) or subdivision (B).

4           (A) At the end of each calendar quarter, or at the end of any other  
5 period as determined by the Commissioner, the Commissioner shall bill each  
6 nonprofit organization, or group of ~~such~~ nonprofit organizations, ~~which that~~  
7 has elected to make payments in lieu of contributions for an amount equal to  
8 the full amount of regular benefits plus one-half of the amount of extended  
9 benefits paid during ~~such~~ the quarter or other prescribed period that is  
10 attributable to service in the employ of ~~such~~ the organization.

11           (B)(i) Each nonprofit organization that has elected payments in lieu  
12 of contributions may request permission to make ~~such~~ payments as provided in  
13 this subdivision (c)(3)(B). ~~Such method of payment~~ Payment pursuant to the  
14 provisions of this subdivision (c)(3)(B) shall become effective upon approval  
15 of the Commissioner.

16           (ii) At the end of each calendar quarter, the Commissioner shall  
17 bill each nonprofit organization approved to make payments pursuant to the  
18 provisions of this subdivision (c)(3)(B) for an amount representing ~~one of the~~  
19 ~~following:~~

20           ~~(i) For 1972, two tenths of one percent of its total payroll for~~  
21 ~~1971.~~

1                   ~~(H) For years after 1972, such a~~ percentage of its total payroll  
2                   for the immediately preceding calendar year ~~as that~~ the Commissioner ~~shall~~  
3                   ~~determine. The determination shall be~~ determines to be appropriate based ~~each~~  
4                   ~~year~~ on the average benefit costs attributable to service in the employ of  
5                   nonprofit organizations during the preceding calendar year.

6                   ~~(H) For~~ The Commissioner may determine a different rate for  
7                   any organization ~~which that~~ did not pay wages throughout the four calendar  
8                   quarters of the preceding calendar year, ~~such percentage of its payroll during~~  
9                   ~~that year as the Commissioner shall determine.~~

10                   (iii) At the end of each calendar year, the Commissioner may  
11                   modify the quarterly percentage of payroll thereafter payable by the nonprofit  
12                   organization in order to minimize excess or insufficient payments.

13                   (iv) At the end of each calendar year, the Commissioner shall  
14                   determine whether the total of payments for ~~such the~~ year made by a nonprofit  
15                   organization is less than, or in excess of, the total amount of regular benefits  
16                   plus one-half of the amount of extended benefits paid to individuals during  
17                   ~~such the~~ taxable year based on wages attributable to service in the employ of  
18                   ~~such the~~ organization. Each nonprofit organization whose total payments for  
19                   ~~such the~~ year are less than the amount ~~so~~ determined shall be liable for  
20                   payment of the unpaid balance to the Trust Fund in accordance with  
21                   subdivision (3)(C) of this subsection (c). If the total payments exceed the



1 amount so determined for the taxable year, all or a part of the excess shall, at  
2 the election of the nonprofit organization, be refunded from the Trust Fund or  
3 retained in the Trust Fund as part of the payments ~~which~~ that may be required  
4 for the next calendar year.

5 (C) Payment of any bill rendered under subdivision (2) or ~~subdivision~~  
6 (3) of this subsection (c) shall be made not later than 30 days after the bill is  
7 mailed to the last known address of the nonprofit organization or is otherwise  
8 delivered to it, unless there has been an application for redetermination by the  
9 Commissioner or a petition for hearing before a referee in accordance with  
10 subdivision (3)(E) of this subsection (c).

11 (D) Payments made by any nonprofit ~~corporation~~ organization under  
12 the provisions of this section shall not be deducted or deductible, in whole or in  
13 part, from the remuneration of individuals in the employ of the organization.

14 (E)(i) The amount due specified in any bill from the Commissioner  
15 shall be conclusive on the organization unless, not later than 30 days after the  
16 date of the bill, the organization files an application for reconsideration by the  
17 Commissioner, or a petition for a hearing before a referee, setting forth the  
18 grounds for ~~such~~ the application or petition.

19 (ii) The Commissioner shall promptly review and reconsider the  
20 amount due specified in the bill and shall thereafter issue a redetermination in  
21 any case in which ~~such~~ an application for redetermination has been filed. Any

1 such redetermination shall be conclusive on the organization unless, not later  
2 than 30 days after the date of the redetermination, the organization files a  
3 petition for a hearing before a referee, setting forth the grounds for the petition.

4 (iii) Proceedings on the petition for a hearing before a referee on  
5 the amount of a bill rendered under this section or a redetermination of ~~such~~  
6 the amount shall be in accordance with the provisions of section 1331 of this  
7 title, and the decision of the referee shall be subject to the provisions of that  
8 section. Review of the decision of the referee by the Employment Security  
9 Board shall be in accordance with, and its decision shall be subject to, the  
10 provisions of section 1332 of this title.

11 (F) Any employer, including the State of Vermont ~~which, that~~ makes  
12 payments in lieu of contributions under this section shall be subject to the  
13 provisions of sections 1314, 1322, 1328, 1329, 1334, and 1336 of this title as  
14 follows:

15 (i) ~~that~~ The employer shall be liable for any reports ~~as~~ required by  
16 the Commissioner ~~may require~~ pursuant to sections 1314 and 1322 of this  
17 title;

18 (ii) ~~that~~ The employer shall be liable for any penalty imposed  
19 pursuant to sections 1314 and 1328 of this title;

20 (iii) ~~that~~ The employer shall be liable for the same interest on past  
21 due payments pursuant to subsection 1329(a) of this title;

1           (iv) ~~that~~ The employer shall be subject to a civil action for the  
2 collection of past due payments as if those payments were contributions  
3 pursuant to subsections 1329(b) and 1334(a) of this title; ~~and~~.

4           (v) ~~that~~ The employer shall be subject to ~~those~~ actions for the  
5 collection of past due payments as if those payments were contributions  
6 pursuant to subsections 1329(c) and (d) and 1334(b) and (c); and section 1336  
7 of this title; however, those provisions shall not apply to the State of Vermont.

8           (4) Authority to terminate elections. If any nonprofit organization is  
9 delinquent in making payments in lieu of contributions as required under this  
10 subsection, the Commissioner may terminate ~~such~~ the organization's election  
11 to make payments in lieu of contributions as of the beginning of the next  
12 taxable year, and the termination shall be effective for that and the next taxable  
13 year.

14           (5) Allocation of benefit costs.

15           (A) Each employer that is liable for payments in lieu of contributions  
16 shall pay to the Commissioner for the Trust Fund the amount of regular  
17 benefits plus the amount of one-half of extended benefits paid that are  
18 attributable to service in the employ of ~~such~~ the employer.

19           (B) If benefits paid to an individual are based on wages paid by more  
20 than one employer and one or more of ~~such~~ the employers are liable for  
21 payments in lieu of contributions, the amount payable to the Trust Fund by

1 each employer that is liable for such payments in lieu of contributions shall be  
2 ~~determined in accordance with subdivisions (5)(A) and (B) of this subsection~~  
3 ~~(e):~~

4 ~~(A) Proportionate allocation when fewer than all base period~~  
5 ~~employers are liable for reimbursement. If benefits paid to an individual are~~  
6 ~~based on wages paid by one or more employers that are liable for payments in~~  
7 ~~lieu of contributions and on wages paid by one or more employers who are~~  
8 ~~liable for contributions, the amount of benefits payable by each employer that~~  
9 ~~is liable for payments in lieu of contributions shall be an amount which that~~  
10 ~~bears the same ratio to the total benefits paid to the individual as the total base-~~  
11 ~~period wages paid to the individual by such the employer bear to the total base-~~  
12 ~~period wages paid to the individual by all of his or her the individual's base-~~  
13 ~~period employers.~~

14 ~~(B) Proportionate allocation when all base period employers are~~  
15 ~~liable for reimbursement. If benefits paid to an individual are based on wages~~  
16 ~~paid by two or more employers that are liable for payments in lieu of~~  
17 ~~contributions, the amount of benefits payable by each employer shall be an~~  
18 ~~amount which bears the same ratio to the total benefits paid to the individual as~~  
19 ~~the total base period wages paid to the individual by the employer bear to the~~  
20 ~~total base period wages paid to the individual by all of his or her base period~~  
21 ~~employers.~~

1           (6) Group accounts. Two or more employers that have become liable  
2           for payments in lieu of contributions, in accordance with the provisions of this  
3           section and section 1380 of this title, may file a joint application to the  
4           Commissioner for the establishment of a group account for the purpose of  
5           sharing the cost of benefits paid that are attributable to service in the employ of  
6           ~~such~~ the employers. Each application shall identify and authorize a group  
7           representative to act as the group’s agent for the purpose of this section. Upon  
8           ~~his or her~~ approval of the application, the Commissioner shall establish a group  
9           account for ~~such~~ the employers effective as of the beginning of the calendar  
10          quarter in which ~~he or she~~ the Commissioner receives the application and shall  
11          notify the group’s representative of the effective date of the account. The  
12          account shall remain in effect for not less than two years and thereafter until  
13          terminated at the discretion of the Commissioner or upon application by the  
14          group. Upon establishment of the account, each member of the group shall be  
15          liable for payments in lieu of contributions with respect to each calendar  
16          quarter in the amount that bears the same ratio to the total benefits paid in ~~such~~  
17          the quarter that are attributable to service performed in the employ of all  
18          members of the group as the total wages paid for service in employment by  
19          ~~such~~ the member in ~~such~~ the quarter bear to the total wages paid during ~~such~~  
20          the quarter for service performed in the employ of all members of the group.  
21          The Board shall ~~prescribe regulations~~ adopt rules as it deems necessary with

1 respect to applications for establishment, maintenance, and termination of  
2 group accounts that are authorized by this subdivision, for addition of new  
3 members to, and withdrawal of active members from, such accounts, and for  
4 the determination of the amounts that are payable under this ~~section~~ subsection  
5 by members of the group and the time and manner of ~~such~~ the payments.

6 (7) ~~Notwithstanding any of the foregoing provisions of this section, any~~  
7 ~~nonprofit organization that prior to January 1, 1969, paid contributions~~  
8 ~~required by this section, and, pursuant to subsection (c) of this section, elects~~  
9 ~~within 30 days after January 1, 1972, to make payments in lieu of~~  
10 ~~contributions, shall not be required to make any such payment on account of~~  
11 ~~any regular or extended benefits paid, on the basis of wages paid by such~~  
12 ~~organization to individuals for weeks of unemployment which begin on and~~  
13 ~~after the effective date of the election until the total amount of benefits equals~~  
14 ~~the amount (1) by which the contributions paid by the organization with~~  
15 ~~respect to the two-year period before the effective date of the election under~~  
16 ~~subsection (b) of this section exceed (2) the total amount of unemployment~~  
17 ~~benefits paid for the same period that were attributable to service performed in~~  
18 ~~the employ of the organization and were charged to the experience rating~~  
19 ~~record of the organization. [Repealed.]~~

20 \* \* \*

1 (f) Any employer who makes payments in lieu of contributions under the  
2 provisions of this section is considered to be self-insuring and shall pay to the  
3 Commissioner for the Unemployment Compensation Trust Fund ~~such any~~  
4 amounts as the Commissioner finds to be due under this chapter, including  
5 benefits paid but denied on appeal or benefits paid in error ~~which that~~ cannot  
6 be properly charged either against another employer who makes payments in  
7 lieu of contributions or against the experience-rating record of another  
8 employer who pays contributions. Benefits improperly paid where repayment  
9 by the claimant is ordered pursuant to subsection 1347(a) or (b) of this title  
10 will be credited to the employer's account when repayment from the claimant  
11 is actually received by the Commissioner.

12 **Sec. 3. NONPROFIT REIMBURSABLE EMPLOYERS; EDUCATION;**

13 **OUTREACH**

14 (a) On or before October 1, 2023, the Commissioner of Labor, in  
15 consultation with Common Good Vermont and United Way of Northwest  
16 Vermont, shall develop information and education materials for nonprofit  
17 employers regarding the unemployment insurance system. At a minimum, the  
18 materials shall:

19 (1) explain the options available to nonprofit employers, including  
20 paying regular unemployment insurance contributions, reimbursing the

1 Unemployment Insurance Trust Fund for attributable unemployment insurance  
2 costs, and quarterly payments of estimated unemployment insurance costs;

3 (2) identify the potential benefits and draw backs of each of the three  
4 options identified in subdivision (1) of this subsection;

5 (3) provide information on how a nonprofit employer can evaluate its  
6 potential liability under each of the three options identified in subdivision (1)  
7 of this subsection; and

8 (4) provide information regarding how a nonprofit employer can plan  
9 and budget for the potential expenses associated with each of the three options  
10 identified in subdivision (1) of this subsection.

11 (b) The informational and educational materials developed pursuant to  
12 subsection (a) of this section shall be made available on the Department's  
13 website and shall, in coordination with Common Good Vermont and United  
14 Way of Northwest Vermont, be shared directly with Vermont nonprofit  
15 employers to the extent practicable.

16 Sec. 4. 2021 Acts and Resolves No. 183, Sec. 59(b)(6) is amended to read:

17 (6) Sec. 52g (prospective repeal of unemployment insurance benefit  
18 increase) shall take effect ~~upon the payment of a~~ when the cumulative total  
19 amount of additional benefits paid pursuant to 21 V.S.A. § 1338(e) ~~when,~~  
20 compared to the rate at which benefits would have been paid under the formula  
21 set forth in 21 V.S.A. § 1338(e) on June 30, 2025 ~~equal to \$92,000,000.00,~~



1 plus the difference between ~~\$8,000,000.00~~ and the amount of additional  
2 benefits paid ~~out~~ pursuant to section 52b, if any, compared to the amount that  
3 would have been paid pursuant to the provisions of 21 V.S.A. § 1338(f)(1) on  
4 June 30, 2022, equals \$100,000,000.00 and shall apply to benefit weeks  
5 beginning after that date.

6 **Sec. 5. UNEMPLOYMENT DUE TO URGENT, COMPELLING, OR**  
7 **NECESSITOUS CIRCUMSTANCES; COVERAGE; IMPACT;**  
8 **REPORT**

9 (a) On or before January 15, 2024, the Commissioner of Labor shall submit  
10 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 the potential impact of extending eligibility for  
13 unemployment insurance benefits to individuals who leave work due to urgent,  
14 compelling, or necessitous circumstances, including the individual's injury or  
15 illness, to obtain or recover from medical treatment, to escape domestic or  
16 sexual violence, to care for a child following an unexpected loss of child care,  
17 or to care for an ill or injured family member.

18 (b) The report shall include:

19 (1) a list of states in which individuals who leave work due to  
20 circumstances similar to those described in subsection (a) of this section are  
21 eligible for unemployment insurance;

1           (2) information, to the extent it is available, regarding the number of  
2 approved claims in the states identified pursuant to subdivision (1) of this  
3 subsection where the individual separated from employment due to  
4 circumstances similar to those described in subsection (a) of this section;

5           (3) the projected number of additional approved claims per year in  
6 Vermont if individuals who leave work due to circumstances similar to those  
7 described in subsection (a) of this section are made eligible for unemployment  
8 insurance;

9           (4) the projected impact on the Unemployment Insurance Trust Fund of  
10 making individuals who leave work due to circumstances similar to those  
11 described in subsection (a) of this section eligible for unemployment  
12 insurance; and

13           (5) any recommendations for legislative action.

14 **Sec. 6. DOMESTIC AND SEXUAL VIOLENCE SURVIVORS'**

15 **TRANSITIONAL EMPLOYMENT PROGRAM; UTILIZATION;**

16 **REPORT**

17 On or before January 15, 2024, the Commissioner of Labor shall submit a  
18 written report to the House Committee on Commerce and Economic  
19 Development and the Senate Committee on Economic Development, Housing  
20 and General Affairs regarding the utilization of the Domestic and Sexual  
21 Violence Survivors' Transitional Employment Program. The report shall

1 include information regarding the utilization of the Program during the past 10  
2 years, a summary of the Department’s efforts to make members of the public  
3 aware of the Program and how to access it, potential ways to increase  
4 awareness and utilization of the Program, and any suggestions for legislative  
5 action to improve awareness or utilization of the Program.

6 **Sec. 7. EFFECTIVE DATES**

7 (a) This section and Secs. 2, 3, 4, 5, and 6 shall take effect on July 1, 2023.

8 (b) Sec. 1 shall take effect on July 1, 2024.

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12

13 (Committee vote: \_\_\_\_\_)

14

\_\_\_\_\_

15

Representative \_\_\_\_\_

16

FOR THE COMMITTEE