

1 H.55

2 Introduced by Representatives Marcotte of Coventry, Carroll of Bennington,
3 Chase of Chester, Graning of Jericho, Jerome of Brandon,
4 Mulvaney-Stanak of Burlington, Nicoll of Ludlow, Priestley of
5 Bradford, and White of Bethel

6 Referred to Committee on

7 Date:

8 Subject: Labor; unemployment insurance; benefits; nonprofit organizations

9 Statement of purpose of bill as introduced: This bill proposes to require all
10 Vermont nonprofit employers to participate in the unemployment insurance
11 program, to require nonprofit reimbursable employers to provide security for
12 the potential cost of unemployment benefits, and to amend the sunset for
13 supplemental unemployment insurance benefits paid out pursuant to 2022 Acts
14 and Resolves No. 183.

15 An act relating to miscellaneous unemployment insurance amendments

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

17 * * * Reimbursable Nonprofit Employers * * *

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

19 § 1301. DEFINITIONS

1 title chapter, is, or becomes, subject to this chapter ~~on or after January 1, 1972~~
2 shall pay contributions under the provisions of this section, unless it elects, in
3 accordance with this subsection, to pay to the Commissioner, for the
4 Unemployment Insurance Trust Fund, an amount equal to the amount of
5 regular benefits and of one-half of the extended benefits paid, that is
6 attributable to service in the employ of ~~such~~ the nonprofit organization, to
7 individuals for weeks of unemployment ~~which~~ that begin during the effective
8 period of ~~such~~ the election.

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

15 [Repealed.]

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

1 determination of ~~such subjectivity~~ that the organization is subject to this
2 chapter.

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

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

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

1 (F) The Commissioner, in accordance with ~~such~~ any applicable rules
2 as adopted by the Board ~~may prescribe~~, shall notify each nonprofit
3 organization of any determination ~~which he or she may make of~~ that the
4 Commissioner makes with regard to its status as an employer and ~~of~~ the
5 effective date of any election ~~which it~~ that the organization makes and of any
6 termination of ~~such~~ an election. ~~Such~~ The determinations shall be subject to
7 reconsideration and to appeal and review in accordance with the provisions of
8 section 1337a of this title.

9 (G)(i) A nonprofit organization that elects to become liable for
10 payments in lieu of contributions shall, within 30 days after making its
11 election, either execute and file with the Commissioner a surety bond or
12 deposit with the Commissioner money or another form of security approved by
13 the Commissioner.

14 (ii) The amount of the bond, deposit, or other form of security
15 shall be two percent of the nonprofit organization's wages paid during the four
16 completed calendar quarters immediately preceding the effective date of the
17 election. If the nonprofit organization did not pay wages in each of those four
18 calendar quarters, the amount of the bond, deposit, or other form of security
19 shall be determined by the Commissioner.

20 (iii) The bond, deposit, or other form of security shall be required
21 to be in force for a period of not less than two calendar years, as determined by

1 the Commissioner. Upon the expiration of the bond, deposit, or other form of
2 security, the nonprofit organization shall be required to execute and file with
3 the Commissioner a new surety bond or to deposit with the Commissioner
4 money or another form of security approved by the Commissioner. The
5 Commissioner shall determine the amount of the new bond, deposit, or other
6 form of security in accordance with subdivision (ii) of this subdivision
7 (c)(2)(G).

8 (iv) If a nonprofit organization fails to reimburse the Trust Fund
9 for the full amount of the benefits attributable to service in its employ as
10 provided pursuant to subdivision (3) of this subsection (c), the Commissioner
11 shall be permitted to recover from the bond, deposit, or other form of security
12 the unpaid amount plus any applicable penalties and interest.

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

16 (A) At the end of each calendar quarter, or at the end of any other
17 period as determined by the Commissioner, the Commissioner shall bill each
18 nonprofit organization, or group of ~~such~~ nonprofit organizations, ~~which that~~
19 has elected to make payments in lieu of contributions for an amount equal to
20 the full amount of regular benefits plus one-half of the amount of extended

1 benefits paid during ~~such~~ the quarter or other prescribed period that is
2 attributable to service in the employ of ~~such~~ the organization.

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

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

12 ~~(I) For 1972, two tenths of one percent of its total payroll for~~
13 ~~1971.~~

14 ~~(II) For years after 1972, such a percentage of its total payroll~~
15 ~~for the immediately preceding calendar year as~~ that the Commissioner ~~shall~~
16 ~~determine. The determination shall be~~ determines to be appropriate based ~~each~~
17 ~~year~~ on the average benefit costs attributable to service in the employ of
18 nonprofit organizations during the preceding calendar year.

19 ~~(III) For~~ The Commissioner may determine a different rate for
20 any organization ~~which~~ that did not pay wages throughout the four calendar

1 quarters of the preceding calendar year, ~~such percentage of its payroll during~~
2 ~~that year as the Commissioner shall determine.~~

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

6 (iv) At the end of each calendar year, the Commissioner shall
7 determine whether the total of payments for ~~such~~ the year made by a nonprofit
8 organization is less than, or in excess of, the total amount of regular benefits
9 plus one-half of the amount of extended benefits paid to individuals during
10 ~~such~~ the taxable year based on wages attributable to service in the employ of
11 ~~such~~ the organization. Each nonprofit organization whose total payments for
12 ~~such~~ the year are less than the amount ~~so~~ determined shall be liable for
13 payment of the unpaid balance to the Trust Fund in accordance with
14 subdivision (3)(C) of this subsection (c). If the total payments exceed the
15 amount so determined for the taxable year, all or a part of the excess shall, at
16 the election of the nonprofit organization, be refunded from the Trust Fund or
17 retained in the Trust Fund as part of the payments ~~which~~ that may be required
18 for the next calendar year.

19 (C) Payment of any bill rendered under subdivision (2) or ~~subdivision~~
20 (3) of this subsection (c) shall be made not later than 30 days after the bill is
21 mailed to the last known address of the nonprofit organization or is otherwise

1 delivered to it; unless there has been an application for redetermination by the
2 Commissioner or a petition for hearing before a referee in accordance with
3 subdivision (3)(E) of this subsection (c).

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

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

12 (ii) The Commissioner shall promptly review and reconsider the
13 amount due specified in the bill and shall thereafter issue a redetermination in
14 any case in which ~~such~~ an application for redetermination has been filed. Any
15 such redetermination shall be conclusive on the organization unless, not later
16 than 30 days after the date of the redetermination, the organization files a
17 petition for a hearing before a referee; setting forth the grounds for the petition.

18 (iii) Proceedings on the petition for a hearing before a referee on
19 the amount of a bill rendered under this section or a redetermination of ~~such~~
20 the amount shall be in accordance with the provisions of section 1331 of this
21 title, and the decision of the referee shall be subject to the provisions of that

1 section. Review of the decision of the referee by the Employment Security
2 Board shall be in accordance with, and its decision shall be subject to, the
3 provisions of section 1332 of this title.

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

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

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

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

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

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

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

7 (5) Allocation of benefit costs.

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

12 (B) If benefits paid to an individual are based on wages paid by more
13 than one employer and one or more of ~~such~~ the employers are liable for
14 payments in lieu of contributions, the amount payable to the Trust Fund by
15 each employer that is liable for ~~such~~ payments in lieu of contributions shall be
16 ~~determined in accordance with subdivisions (5)(A) and (B) of this subsection~~
17 ~~(e):~~

18 ~~(A) Proportionate allocation when fewer than all base period~~
19 ~~employers are liable for reimbursement. If benefits paid to an individual are~~
20 ~~based on wages paid by one or more employers that are liable for payments in~~
21 ~~lieu of contributions and on wages paid by one or more employers who are~~

1 ~~liable for contributions, the amount of benefits payable by each employer that~~
2 ~~is liable for payments in lieu of contributions shall be an amount which that~~
3 bears the same ratio to the total benefits paid to the individual as the total base-
4 period wages paid to the individual by ~~such~~ the employer bear to the total base-
5 period wages paid to the individual by all of ~~his or her~~ the individual's base-
6 period employers.

7 ~~(B) Proportionate allocation when all base period employers are~~
8 ~~liable for reimbursement. If benefits paid to an individual are based on wages~~
9 ~~paid by two or more employers that are liable for payments in lieu of~~
10 ~~contributions, the amount of benefits payable by each employer shall be an~~
11 ~~amount which bears the same ratio to the total benefits paid to the individual as~~
12 ~~the total base period wages paid to the individual by the employer bear to the~~
13 ~~total base period wages paid to the individual by all of his or her base period~~
14 ~~employers.~~

15 (6) Group accounts. Two or more employers that have become liable
16 for payments in lieu of contributions, in accordance with the provisions of this
17 section and section 1380 of this title, may file a joint application to the
18 Commissioner for the establishment of a group account for the purpose of
19 sharing the cost of benefits paid that are attributable to service in the employ of
20 ~~such~~ the employers. Each application shall identify and authorize a group
21 representative to act as the group's agent for the purpose of this section. Upon

1 ~~his or her~~ approval of the application, the Commissioner shall establish a group
2 account for ~~such the~~ employers effective as of the beginning of the calendar
3 quarter in which ~~he or she~~ the Commissioner receives the application and shall
4 notify the group's representative of the effective date of the account. The
5 account shall remain in effect for not less than two years and thereafter until
6 terminated at the discretion of the Commissioner or upon application by the
7 group. Upon establishment of the account, each member of the group shall be
8 liable for payments in lieu of contributions with respect to each calendar
9 quarter in the amount that bears the same ratio to the total benefits paid in ~~such~~
10 the quarter that are attributable to service performed in the employ of all
11 members of the group as the total wages paid for service in employment by
12 ~~such the~~ member in ~~such the~~ quarter bear to the total wages paid during ~~such~~
13 the quarter for service performed in the employ of all members of the group.
14 The Board shall ~~prescribe regulations~~ adopt rules as it deems necessary with
15 respect to applications for establishment, maintenance, and termination of
16 group accounts that are authorized by this subdivision, for addition of new
17 members to, and withdrawal of active members from, such accounts, and for
18 the determination of the amounts that are payable under this ~~section~~ subsection
19 by members of the group and the time and manner of ~~such the~~ payments.

20 (7) ~~Notwithstanding any of the foregoing provisions of this section, any~~
21 ~~nonprofit organization that prior to January 1, 1969, paid contributions~~

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

13 * * *

14 (f) Any employer who makes payments in lieu of contributions under the
15 provisions of this section is considered to be self-insuring and shall pay to the
16 Commissioner for the Unemployment Compensation Trust Fund ~~such any~~
17 amounts as the Commissioner finds to be due under this chapter, including
18 benefits paid but denied on appeal or benefits paid in error ~~which that~~ cannot
19 be properly charged either against another employer who makes payments in
20 lieu of contributions or against the experience-rating record of another
21 employer who pays contributions. Benefits improperly paid where repayment

1 by the claimant is ordered pursuant to subsection 1347(a) or (b) of this title
2 will be credited to the employer's account when repayment from the claimant
3 is actually received by the Commissioner.

4 Sec. 3. PROVISION OF SECURITY BY CURRENT REIMBURSABLE
5 EMPLOYERS

6 A nonprofit organization that is liable to make payments in lieu of
7 contributions pursuant to 21 V.S.A. § 1321(c) on July 1, 2023 shall, on or
8 before September 30, 2023, either execute and file with the Commissioner a
9 surety bond or deposit with the Commissioner money or another form of
10 security approved by the Commissioner in accordance with the provisions of
11 21 V.S.A. § 1321(c)(2)(G).

12 * * * Supplemental Unemployment Benefit Sunset * * *

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

14 (6) Sec. 52g (prospective repeal of unemployment insurance benefit
15 increase) shall take effect ~~upon the payment of a~~ when the cumulative total
16 amount of additional benefits paid pursuant to 21 V.S.A. § 1338(e) ~~when,~~
17 compared to the rate at which benefits would have been paid under the formula
18 set forth in 21 V.S.A. § 1338(e) on June 30, 2025 ~~equal to \$92,000,000.00,~~
19 ~~plus the difference between \$8,000,000.00 and the amount of additional~~
20 ~~benefits paid out pursuant to section 52b, if any,~~ compared to the amount that
21 would have been paid pursuant to the provisions of 21 V.S.A. § 1338(f)(1) on

