

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred House Bill No. 217 entitled “An act relating to
4 miscellaneous workers’ compensation amendments” respectfully reports that it
5 has considered the same and recommends that the Senate propose to the House
6 that the bill be amended by striking out all after the enacting clause and
7 inserting in lieu thereof the following:

8 * * * Workers’ Compensation * * *

9 Sec. 1. WORKERS’ COMPENSATION RATE OF CONTRIBUTION

10 For fiscal year 2024, after consideration of the formula in 21 V.S.A.
11 § 711(b) and historical rate trends, the General Assembly determines that the
12 rate of contribution for the direct calendar year premium for workers’
13 compensation insurance shall be 1.5 percent. The contribution rate for self-
14 insured workers’ compensation losses and workers’ compensation losses of
15 corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

16 Sec. 2. 21 V.S.A. § 711 is amended to read:

17 § 711. WORKERS’ COMPENSATION ADMINISTRATION FUND

18 * * *

19 (b)(1) Annually, the General Assembly shall establish the rate of
20 contribution for the direct calendar year premium for workers’ compensation
21 insurance. The rate shall equal the amount approved in the appropriations

1 process for the program and the Department’s projection of salary and benefit
2 increases for that fiscal year, less the amount collected in the prior calendar
3 year under subsection (a) of this section from self-insured workers’
4 compensation losses and from corporations approved under this chapter,
5 adjusted by any balance in the fund from the prior fiscal year, divided by the
6 total direct calendar year premium for workers’ compensation insurance for the
7 prior year.

8 (2) In the event that the General Assembly does not establish the rate of
9 contribution for the direct calendar year premium for workers’ compensation
10 insurance for a given fiscal year, the rate shall remain unchanged from the
11 prior fiscal year.

12 Sec. 3. 2014 Acts and Resolves No. 199, Sec. 54b is amended to read:

13 Sec. 54b. 21 V.S.A. § 643a is added to read:

14 § 643a. DISCONTINUANCE OF BENEFITS

15 Unless an injured worker has successfully returned to work, an employer
16 shall notify both the Commissioner and the employee prior to terminating
17 benefits under either section 642 or 646 of this title. The notice of intention to
18 discontinue payments shall be filed on forms prescribed by the Commissioner
19 and shall include the date of the proposed discontinuance, the reasons for it,
20 and, if the employee has been out of work for 90 days, a verification that the
21 employer offered vocational rehabilitation screening and services as required

1 under this chapter. All relevant evidence, including evidence that does not
2 support discontinuance in the possession of the employer not already filed,
3 shall be filed with the notice. The liability for the payments shall continue for
4 seven days after the notice is received by the Commissioner and the employee.
5 If the claimant disputes the discontinuance, the claimant may file with
6 the Commissioner an objection to the discontinuance and seek an extension
7 of 14 days. The objection to the discontinuance shall be specific as to the
8 reasons and include supporting evidence. A copy of the objection shall be
9 provided to the employer at the time the request is made to the Commissioner.
10 ~~These~~ The payments shall be made without prejudice to the employer and may
11 be deducted from any amounts due pursuant to section 648 of this title if the
12 Commissioner determines that the discontinuance is warranted or if otherwise
13 ordered by the Commissioner. Every notice shall be reviewed by the
14 Commissioner to determine the sufficiency of the basis for the proposed
15 discontinuance. If, after review of all the evidence in the file, the
16 Commissioner finds that a preponderance of all the evidence in the file does
17 not reasonably support the proposed discontinuance, the Commissioner shall
18 order that payments continue until a hearing is held and a decision is rendered.
19 Prior to a formal hearing, an injured worker may request reinstatement of
20 benefits by providing additional new evidence to the Department that
21 establishes that a preponderance of all evidence now supports the claim. If the

1 Commissioner’s decision, after a hearing, is that the employee was not entitled
2 to any or all benefits paid between the discontinuance and the final decision,
3 upon request of the employer, the Commissioner may order that the employee
4 repay all benefits to which the employee was not entitled. The employer may
5 enforce a repayment order in any court of law having jurisdiction.

6 [New language from S. 101]

7 **Sec. 4.** 21 V.S.A. § 640b is amended to read:

8 § 640b. REQUEST FOR PREAUTHORIZATION TO DETERMINE IF

9 PROPOSED ~~TREATMENT IS~~ BENEFITS ARE NECESSARY

10 (a) As used in this section, “benefits” means medical treatment and
11 surgical, medical, and nursing services and supplies, including prescription
12 drugs and durable medical equipment.

13 (b) Within 14 days ~~of~~ after receiving a written request for preauthorization
14 for a proposed ~~medical treatment~~ benefits and medical evidence supporting the
15 requested ~~treatment~~ benefits, a workers’ compensation insurer shall do one of
16 the following, in writing:

17 (1) ~~authorize~~ Authorize the ~~treatment~~ benefits and notify the health care
18 provider, the injured worker, and the Department; ~~or,~~

19 (2)(A) ~~deny~~ Deny the ~~treatment~~ benefits because the entire claim is
20 disputed and the Commissioner has not issued an interim order to pay benefits;

1 ~~or~~. The insurer shall notify the health care provider, the injured worker, and
2 the Department of the decision to deny benefits.

3 ~~(B)(3) deny~~ Deny the ~~treatment~~ benefits if, based on a preponderance
4 of credible medical evidence specifically addressing the proposed ~~treatment~~
5 benefits, it is the benefits are unreasonable or, unnecessary, or unrelated to the
6 work injury. The insurer shall notify the health care provider, the injured
7 worker, and the Department of the decision to deny ~~treatment; or~~ benefits.

8 ~~(3)(4) notify~~ Notify the health care provider, the injured worker, and
9 the Department that the insurer has scheduled an examination of the employee
10 pursuant to section 655 of this title or ordered a medical record review
11 pursuant to section ~~655~~ 655a of this title. Based on the examination or review,
12 the insurer shall authorize or deny the ~~treatment~~ benefits and notify the
13 Department and the injured worker of the decision within 45 days ~~of~~ after a
14 request for preauthorization. The Commissioner may, ~~in his or her~~ the
15 Commissioner's sole discretion, grant a 10-day extension to the insurer to
16 authorize or deny ~~treatment~~ benefits, and such an extension shall not be subject
17 to appeal.

18 ~~(b)(c)~~ If the insurer fails to authorize or deny the ~~treatment~~ benefits
19 pursuant to subsection ~~(a)~~ (b) of this section within 14 days ~~of~~ after receiving a
20 request, the claimant or health care provider may request that the Department
21 issue an order authorizing ~~treatment~~ benefits. After receipt of the request, the

1 Department shall issue an interim order within five days after notice to the
2 insurer, and five days in which to respond, absent evidence that the entire
3 claim is disputed. Upon request of a party, the Commissioner shall notify the
4 parties that the ~~treatment~~ benefits have been authorized by operation of
5 law.

6 ~~(e)~~(d) If the insurer denies the preauthorization of the ~~treatment~~ benefits
7 pursuant to subdivision (a)(2) ~~or~~ (3), or (4) of this section, the Commissioner
8 may, ~~on his or her~~ the Commissioner's own initiative or upon a request by the
9 claimant, issue an order authorizing the ~~treatment~~ benefits if ~~he or she~~ the
10 Commissioner finds that the evidence shows that the ~~treatment is~~ benefits are
11 reasonable, necessary, and related to the work injury.

12 [New language from S. 101]

13 **Sec. 5.** 21 V.S.A. § 643d is added to read:

14 § 643d. WORK SEARCH; REQUIREMENTS; EXCEPTIONS

15 (a) An employer may require an employee who is receiving temporary
16 disability benefits pursuant to section 646 of this chapter to engage in a good
17 faith search for suitable work if:

18 (1) the injured employee is medically released to return to work, either
19 with or without limitations;

1 (2) the employer has provided the injured employee with written
2 notification that the employee is medically released to return to work and the
3 notification describes any applicable limitations; and

4 (3) the employer cannot offer the injured employee work that the
5 employee is medically released to do.

6 (b) An injured employee shall not be required to engage in a good faith
7 search for suitable work if the employee:

8 (1) is already employed; or

9 (2) has been referred for or is scheduled to undergo one or more surgical
10 procedures.

11 (c) An employer shall not require an injured employee to contact more than
12 three employers per week as part of a good faith work search performed
13 pursuant to this section.

14 [New language from S. 101]

15 Sec. 6. 21 V.S.A. § 646 is amended to read:

16 § 646. TEMPORARY PARTIAL DISABILITY BENEFITS

17 (a)(1) Where the disability for work resulting from an injury is partial,
18 ~~during the disability and~~ beginning on the eighth day ~~thereof~~ of the period of
19 disability, the employer shall pay the injured employee a weekly compensation
20 equal to:

1 (A) the difference between the wage the injured employee earns
2 during the period of disability and the amount the injured employee would be
3 eligible to receive pursuant to section 642 of this chapter, including any
4 applicable cost of living adjustment or dependency benefits that would be due;
5 or

6 (B) for an injured employee who would be eligible to receive the
7 maximum weekly compensation pursuant to section 642 of this chapter, two-
8 thirds of the difference between ~~his or her~~ the injured employee's average
9 weekly wage before the injury and the ~~average weekly wage which he or she is~~
10 able to earn thereafter amount the employee earns during the period of
11 disability.

12 (2) Compensation paid pursuant to this subsection shall be adjusted
13 following the receipt of 26 weeks of benefits and annually on each subsequent
14 July 1, so that the compensation continues to bear the same percentage
15 relationship to the average weekly wage in the State as it did at the time of
16 injury.

17 (b)(1) In addition to the amount paid pursuant to subsection (a) of this
18 section, the employer shall pay the injured employee during the disability
19 \$20.00 per week for each dependent child under 21 years of age, provided that
20 no other injured worker is receiving the same benefits on behalf of the
21 dependent child or children.

1 (2) The amount allowed for dependent children shall be adjusted weekly
2 to reflect the number of dependent children during each week of payment.

3 (c)(1)(A) For an injured employee who continues to work for the employer
4 from whom the employee is claiming workers' compensation, payment of
5 compensation pursuant to this section shall be mailed or deposited into the
6 injured employee's bank account within not more than seven days after the
7 injured employee's wages are paid.

8 (B) The employer shall be responsible for providing the injured
9 employee's wage information to the insurance carrier.

10 (2) For an injured employee who is working for a different employer
11 from the employer from whom the employee is claiming workers'
12 compensation, payment of compensation pursuant to this section shall be
13 mailed or deposited into the injured employee's bank account within not more
14 than three days after the insurance carrier receives the wage information from
15 the injured employee.

16 [New language from S. 101]

17 Sec. 7. 21 V.S.A. § 642 is amended to read:

18 § 642. TEMPORARY TOTAL DISABILITY BENEFITS

19 (a)(1) Where the injury causes total disability for work, during such the
20 disability, but not including the first three days; with the day of the accident to
21 be counted as the first day; unless the employee received full wages for that

1 day, the employer shall pay the injured employee a weekly compensation equal
2 to two-thirds of the employee's average weekly wages, ~~but~~.

3 (2) The weekly compensation shall be in an amount that is not more
4 than the maximum nor less than the minimum weekly compensation.

5 (3) Compensation paid pursuant to this subsection shall be adjusted on
6 the first July 1 following the receipt of 26 weeks of benefits and annually on
7 each subsequent July 1, so that the compensation continues to bear the same
8 percentage relationship to the average weekly wage in the State as it did at the
9 time of injury.

10 ~~(b)(1) In addition, the injured employee, during the disability period shall~~
11 ~~receive \$10.00 a~~ to the amount paid pursuant to subsection (a) of this section,
12 the employer shall pay the injured employee during the disability \$20.00 per
13 week for each dependent child who is ~~unmarried and~~ under the age of 21 years
14 of age, provided that no other injured worker is receiving the same benefits on
15 behalf of the dependent child or children. ~~However, in no event shall an~~

16 (2) The amount allowed for the dependent children shall be adjusted
17 weekly to reflect the number of dependent children during each week of
18 payment.

19 (c) Notwithstanding any provision of subsection (a) or (b) of this section to
20 the contrary:

1 (3) Permanent total and permanent partial compensation shall be
2 adjusted for each July 1 following the date of injury regardless of whether
3 indemnity benefits were paid on each intervening July 1.

4 (e)(1) If weekly compensation benefits or weekly accrued benefits are not
5 paid within 21 days after becoming due and payable pursuant to an order of the
6 Commissioner, or in cases in which the overdue benefit is not in dispute, ~~40~~ 25
7 percent of the overdue amount shall be added and paid to the employee, in
8 addition to any amounts due pursuant to subsection (f) of this section and
9 interest and any other penalties.

10 (2) In the case of an initial claim, benefits are due and payable upon
11 entering into an agreement pursuant to subsection 662(a) of this title, upon
12 issuance of an order of the Commissioner pursuant to subsection 662(b) of this
13 title, or if the employer has not denied the claim within 21 days after the claim
14 is filed.

15 (3) Benefits are in dispute if the claimant has been provided actual
16 written notice of the dispute within 21 days ~~of~~ after the benefit being due and
17 payable and the evidence reasonably supports the denial.

18 (4) Interest shall accrue and be paid on benefits that are found to be
19 compensable during the period of nonpayment.

20 (5) The Commissioner shall promptly review requests for payment
21 under this section and, consistent with subsection 678(d) of this title, shall

1 allow for the recovery of reasonable attorney's fees associated with an
2 employee's successful request for payment under this subsection.

3 (f)(1)(A) When benefits have been awarded or are not in dispute as
4 provided in subsection (e) of this section, the employer shall establish a
5 weekday on which payment shall be mailed or deposited and notify the
6 claimant and the Department of that day. The employer shall ensure that each
7 weekly payment is mailed or deposited on or before the day established.

8 (B) Payment shall be made by direct deposit to a claimant who elects
9 that payment method. The employer shall notify the claimant of ~~his or her~~ the
10 claimant's right to payment by direct deposit.

11 (2) If the benefit payment is not mailed or deposited on the day
12 established, the employer shall pay to the claimant a late fee equal to the
13 greater of \$10.00 or:

14 (A) five percent of the benefit amount, ~~whichever is greater~~, for each
15 ~~weekly~~ the first payment that is made after the established day;

16 (B) 10 percent of the benefit amount for the second payment that is
17 made after the established day;

18 (C) 15 percent of the benefit amount for the third payment that is
19 made after the established day; and

20 (D) 20 percent of the benefit amount for the fourth and any
21 subsequent payments that are made after the established day.

1 (A) the Commissioner may award reasonable attorney’s fees if the
2 claimant retained an attorney in response to an actual or effective denial of a
3 claim and payments were made to the claimant as a result of the attorney’s
4 efforts; and

5 (B) the Commissioner shall award necessary costs if the claimant
6 incurred the costs in response to an actual or effective denial of a claim and
7 payments were made to the claimant as a result of the costs incurred.

8 (c)(1) In appeals to the Superior or Supreme Court, if the claimant prevails,
9 ~~he or she~~ the claimant shall be entitled to reasonable attorney’s fees as
10 approved by the court; necessary costs, including deposition expenses,
11 subpoena fees, and expert witness fees; and interest at the rate of 12 percent
12 per annum on that portion of any award the payment of which is contested.

13 (2) Interest shall be computed from the date of the award of the
14 Commissioner.

15 ~~(e)(d)~~ By January 1, 1999; and at least every five years thereafter, the
16 Commissioner shall amend existing rules regarding reasonable attorney’s fees
17 awarded under subsection (a) of this section. In amending these rules, the
18 Commissioner shall consider accessibility to legal services, appropriate
19 inflation factors, and any other related factors consistent with the purposes of
20 this chapter. In the event the Commissioner proposes no change in the rules in
21 any five-year period, the Commissioner shall provide a written report to the

1 Legislative Committee on Administrative Rules of the General Assembly
2 explaining the reasons for not changing the rules.

3 ~~(d) In cases for which a formal hearing is requested and the case is resolved~~
4 ~~prior to formal hearing, the Commissioner may award reasonable attorney’s~~
5 ~~fees if the claimant retained an attorney in response to an actual or effective~~
6 ~~denial of a claim and thereafter payments were made to the claimant as a result~~
7 ~~of the attorney’s efforts.~~

8 * * *

9 [New language from S. 101]

10 **Sec. 10.** ADOPTION OF RULES

11 The Commissioner of Labor shall, on or before July 1, 2024, adopt rules as
12 necessary to implement the provisions Secs. 4 through 9 of this act.

13 [New language from H. 55]

14 * * * Unemployment Insurance * * *

15 **Sec. 11.** 21 V.S.A. § 1301 is amended to read:

16 § 1301. DEFINITIONS

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

19 * * *

20 (25) “Son,” “daughter,” and “child” include an individual’s biological
21 child, foster child, adoptive child, stepchild, a child for whom the individual is

1 listed as a parent on the child’s birth certificate, a legal ward of the individual,
2 a child of the individual’s spouse, or a child that the individual has day-to-day
3 responsibilities to care for and financially support.

4 (26) “Spouse” includes an individual’s domestic partner or civil union
5 partner. As used in this subdivision, “domestic partner” means another
6 individual with whom an individual has an enduring domestic relationship of a
7 spousal nature, provided that the individual and the individual’s domestic
8 partner:

9 (A) have shared a residence for at least six months;

10 (B) are at least 18 years of age;

11 (C) are not married to, in a civil union with, or considered the
12 domestic partner of another individual;

13 (D) are not related by blood closer than would bar marriage under
14 State law; and

15 (E) have agreed between themselves to be responsible for each
16 other’s welfare.

17 [New language from H. 55]

18 Sec. 12. 21 V.S.A. § 1301 is amended to read:

19 § 1301. DEFINITIONS

20 As used in this chapter:

21 * * *

1 (5) “Employer” includes:

2 (A) Any employing unit ~~which, after December 31, 1971~~ that in any
3 calendar quarter in either the current or preceding calendar year paid for
4 service in employment, as ~~hereinafter~~ defined pursuant to subdivision (6) of
5 this section, wages of \$1,500.00 or more, or for some portion of a day in each
6 of 20 different calendar weeks, whether or not such weeks were consecutive, in
7 either the current or the preceding calendar year, had in employment, ~~as~~
8 ~~hereinafter defined~~, at least one individual (irrespective of whether the same
9 individual was in employment in each such day). When an employing unit
10 described in either this subdivision or subdivision ~~(5)(B)~~ of this ~~section~~
11 subdivision (5), becomes an employer within any calendar year, it shall be
12 subject to this chapter for the whole of ~~such~~ the calendar year.

13 (B)(i) Any employing unit for which service in employment for a
14 religious, charitable, educational, or other organization as defined in
15 subdivision (6)(A)(ix) of this section is performed after December 31, 1971^{1/2},
16 except as provided in subdivision ~~(5)(C)~~ of this ~~section~~ subdivision (5).

17 * * *

18 (6)(A)(i) “Employment,” subject to the other provisions of this
19 subdivision (6), means service within the jurisdiction of this State, ~~performed~~
20 ~~prior to January 1, 1978, which was employment as defined in this subdivision~~
21 ~~prior to such date and, subject to the other provisions of this subdivision,~~

1 ~~service performed after December 31, 1977,~~ performed by an employee, as
2 defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act,
3 including service in interstate commerce, performed for wages or under any
4 contract of hire, written or oral, expressed or implied. Services partly within
5 and partly ~~without~~ outside this State may by election as ~~hereinbefore~~ provided
6 in subdivision (5)(E)(i) of this section be treated as if wholly within the
7 jurisdiction of this State. ~~And whenever~~ If an employing unit ~~shall have~~ has
8 elected to come under the provisions of a similar act of a state where a part of
9 the services of an employee are performed, the Commissioner, upon ~~his or her~~
10 ~~approval of said~~ approving the election as to ~~any such~~ the employee, may treat
11 the services covered by ~~said approved~~ the election as having been performed
12 wholly ~~without~~ outside the jurisdiction of this State.

13 * * *

14 (ix) The term “employment” shall also include service for any
15 employing unit ~~which is performed after December 31, 1974~~ by an individual
16 in the employ of a religious, charitable, educational, or other organization ~~but~~
17 ~~only~~ if:
18 (⊖) the service is excluded from “employment” as defined in the
19 Federal Unemployment Tax Act solely by reason of ~~section~~ subdivision
20 3306(c)(8) of that act; ~~and~~

1 accordance with this subsection, to pay to the Commissioner, for the
2 Unemployment Insurance Trust Fund; an amount equal to the amount of
3 regular benefits and of one-half of the extended benefits paid; that is
4 attributable to service in the employ of ~~such~~ the nonprofit organization; to
5 individuals for weeks of unemployment ~~which~~ that begin during the effective
6 period of ~~such~~ the election.

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

13 [Repealed.]

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

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

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

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

19 (F) The Commissioner, in accordance with ~~such~~ any applicable rules
20 as adopted by the Board ~~may prescribe~~, shall notify each nonprofit
21 organization of any determination ~~which he or she may make of~~ that the

1 Commissioner makes with regard to its status as an employer and of the
2 effective date of any election ~~which is~~ that the organization makes and of any
3 termination of ~~such an~~ election. ~~Such~~ The determinations shall be subject to
4 reconsideration and to appeal and review in accordance with the provisions of
5 section 1337a of this title.

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

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

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

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

5 ~~(I) For 1972, two tenths of one percent of its total payroll for~~
6 ~~1971.~~

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

12 ~~(III) For~~ The Commissioner may determine a different rate for
13 ~~any organization ~~which~~ that did not pay wages throughout the four calendar~~
14 ~~quarters of the preceding calendar year, such percentage of its payroll during~~
15 ~~that year as the Commissioner shall determine.~~

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

19 (iv) At the end of each calendar year, the Commissioner shall
20 determine whether the total of payments for ~~such~~ the year made by a nonprofit
21 organization is less than, or in excess of, the total amount of regular benefits

1 plus one-half of the amount of extended benefits paid to individuals during
2 ~~such the~~ taxable year based on wages attributable to service in the employ of
3 ~~such the~~ organization. Each nonprofit organization whose total payments for
4 ~~such the~~ year are less than the amount so determined shall be liable for
5 payment of the unpaid balance to the Trust Fund in accordance with
6 subdivision ~~(3)~~(C) of this ~~subsection~~ subdivision (c)(3). If the total payments
7 exceed the amount so determined for the taxable year, all or a part of the
8 excess shall, at the election of the nonprofit organization, be refunded from the
9 Trust Fund or retained in the Trust Fund as part of the payments ~~which that~~
10 may be required for the next calendar year.

11 (C) Payment of any bill rendered under subdivision (2) ~~or subdivision~~
12 ~~(3)~~ of this subsection (c) or this subdivision (c)(3) shall be made not later than
13 30 days after the bill is mailed to the last known address of the nonprofit
14 organization or is otherwise delivered to it; unless there has been an application
15 for redetermination by the Commissioner or a petition for hearing before a
16 referee in accordance with subdivision ~~(3)~~(E) of this ~~subsection~~ subdivision
17 (c)(3).

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

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

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

12 (iii) Proceedings on the petition for a hearing before a referee on
13 the amount of a bill rendered under this section or a redetermination of ~~such~~
14 the amount shall be in accordance with the provisions of section 1331 of this
15 title, and the decision of the referee shall be subject to the provisions of that
16 section. Review of the decision of the referee by the Employment Security
17 Board shall be in accordance with, and its decision shall be subject to, the
18 provisions of section 1332 of this title.

19 (F) Any employer, including the State of Vermont ~~which,~~ that makes
20 payments in lieu of contributions under this section shall be subject to the

1 provisions of sections 1314, 1322, 1328, 1329, 1334, and 1336 of this title as
2 follows:

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

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

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

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

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

17 (4) Authority to terminate elections. If any nonprofit organization is
18 delinquent in making payments in lieu of contributions as required under this
19 subsection, the Commissioner may terminate ~~such~~ the organization's election
20 to make payments in lieu of contributions as of the beginning of the next

1 taxable year, and the termination shall be effective for that and the next taxable
2 year.

3 (5) Allocation of benefit costs.

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

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

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

1 period wages paid to the individual by all of ~~his or her~~ the individual's base-
2 period employers.

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

11 (6) Group accounts. Two or more employers that have become liable
12 for payments in lieu of contributions, in accordance with the provisions of this
13 section and section 1380 of this title, may file a joint application to the
14 Commissioner for the establishment of a group account for the purpose of
15 sharing the cost of benefits paid that are attributable to service in the employ of
16 ~~such~~ the employers. Each application shall identify and authorize a group
17 representative to act as the group's agent for the purpose of this section. Upon
18 ~~his or her~~ approval of the application, the Commissioner shall establish a group
19 account for ~~such~~ the employers effective as of the beginning of the calendar
20 quarter in which ~~he or she~~ the Commissioner receives the application and shall
21 notify the group's representative of the effective date of the account. The

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

16 (7) ~~Notwithstanding any of the foregoing provisions of this section, any~~
17 ~~nonprofit organization that prior to January 1, 1969, paid contributions~~
18 ~~required by this section, and, pursuant to subsection (c) of this section, elects~~
19 ~~within 30 days after January 1, 1972, to make payments in lieu of~~
20 ~~contributions, shall not be required to make any such payment on account of~~
21 ~~any regular or extended benefits paid, on the basis of wages paid by such~~

1 ~~organization to individuals for weeks of unemployment which begin on and~~
2 ~~after the effective date of the election until the total amount of benefits equals~~
3 ~~the amount (1) by which the contributions paid by the organization with~~
4 ~~respect to the two-year period before the effective date of the election under~~
5 ~~subsection (b) of this section exceed (2) the total amount of unemployment~~
6 ~~benefits paid for the same period that were attributable to service performed in~~
7 ~~the employ of the organization and were charged to the experience rating~~
8 ~~record of the organization. [Repealed.]~~

9 * * *

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

[New language from H. 55]

Sec. 14. NONPROFIT AND MUNICIPAL REIMBURSABLE

EMPLOYERS; EDUCATION; OUTREACH

(a) On or before October 1, 2023, the Commissioner of Labor, in consultation with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, shall develop information and education materials for nonprofit and municipal employers regarding the unemployment insurance system. At a minimum, the materials shall:

(1) explain the options available to nonprofit and municipal employers, including paying regular unemployment insurance contributions, reimbursing the Unemployment Insurance Trust Fund for attributable unemployment insurance costs, and, with respect to nonprofit employers, quarterly payments of estimated unemployment insurance costs;

(2) identify the potential benefits and drawbacks of each of the options identified in subdivision (1) of this subsection;

(3) provide information on how a nonprofit or municipal employer can evaluate its potential liability under each of the options identified in subdivision (1) of this subsection;

(4) provide information developed by the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and

1 other interested stakeholders regarding how a nonprofit or municipal employer
2 can plan and budget for the potential expenses associated with each of the
3 options identified in subdivision (1) of this subsection; and

4 (5) provide additional information regarding the Unemployment
5 Insurance program and related laws that the Commissioner determines, in
6 consultation with the Vermont League of Cities and Towns, Common Good
7 Vermont, United Way of Northwest Vermont, and other interested
8 stakeholders, to be helpful or necessary for nonprofit and municipal employers.

9 (b)(1) The informational and educational materials developed pursuant to
10 subsection (a) of this section shall be made available on the Department's
11 website and shall, in coordination with the Secretary of State, Common Good
12 Vermont, United Way of Northwest Vermont, the Vermont League of Cities
13 and Towns, and other interested stakeholders, be shared directly with Vermont
14 nonprofit and municipal employers to the extent practicable.

15 (2) The Secretary of State shall assist the Commissioner of Labor in
16 identifying and contacting all active Vermont nonprofit employers. The Office
17 of the Secretary of State shall also make available on its website a link to the
18 information and educational materials provided on the Department of Labor's
19 website pursuant to this section.

20 (c) The Department of Labor, in collaboration with the Vermont League of
21 Cities and Towns, Common Good Vermont, United Way of Northwest

1 Vermont, and other interested stakeholders, shall hold one or more
2 informational sessions to present the materials and information developed
3 pursuant to subsection (a) of this section to nonprofit employers and municipal
4 employers. At least one session shall be held on or before November 1, 2023.
5 Each session shall allow for both in-person and remote participation and shall
6 be recorded. Recordings shall be made available to the public and to
7 stakeholder organizations for distribution to their members.

8 [New language from H. 55]

9 **Sec. 15.** 2021 Acts and Resolves No. 183, Sec. 59(b)(6) is amended to read:

10 (6) Sec. 52g (prospective repeal of unemployment insurance benefit
11 increase) shall take effect ~~upon the payment of a~~ when the cumulative total
12 amount of additional benefits paid pursuant to 21 V.S.A. § 1338(e) ~~when,~~
13 compared to the rate at which benefits would have been paid under the formula
14 set forth in 21 V.S.A. § 1338(e) on June 30, 2025 ~~equal to \$92,000,000.00,~~
15 plus the ~~difference between \$8,000,000.00 and the~~ amount of additional
16 benefits paid ~~out~~ pursuant to section 52b, ~~if any,~~ compared to the amount that
17 would have been paid pursuant to the provisions of 21 V.S.A. § 1338(f)(1) on
18 June 30, 2022, equals \$100,000,000.00 and shall apply to benefit weeks
19 beginning after that date.

[New language from H. 55]

Sec. 16. UNEMPLOYMENT DUE TO URGENT, COMPELLING, OR
NECESSITOUS CIRCUMSTANCES; COVERAGE; IMPACT;
REPORT

(a) On or before January 15, 2024, the Commissioner of Labor shall submit a written report prepared in consultation with the Joint Fiscal Office to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the potential impact of extending eligibility for unemployment insurance benefits to individuals who separate from employment due to urgent, compelling, or necessitous circumstances, including the individual’s injury or illness, to obtain or recover from medical treatment, to escape domestic or sexual violence, to care for a child following an unexpected loss of child care, or to care for an ill or injured family member.

(b) The report shall include:

(1) a list of states in which individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section are eligible for unemployment insurance and shall identify the specific circumstances for separation from employment in each identified state for which there is no waiting period or period of disqualification related to the circumstance;

1 Violence Survivors’ Transitional Employment Program. The report shall
2 include information regarding the utilization of the Program during the past 10
3 years, a summary of the Department’s efforts to make members of the public
4 aware of the Program and improve access to it, how the identified changes
5 have impacted utilization of the Program in comparison to prior years, any
6 potential ways to further increase awareness and utilization of the Program,
7 and any suggestions for legislative action to improve awareness or utilization
8 of the Program.

9 [New language from H. 55]

10 **Sec. 18.** 21 V.S.A. § 1256 is added to read:

11 § 1256. NOTIFICATION TO THE PUBLIC

12 The Department shall take reasonable measures to provide information to
13 the public about the Program, including publishing information on the
14 Department’s website and providing timely materials related to the Program to
15 public agencies of the State and organizations that work with domestic and
16 sexual violence survivors, including law enforcement, State’s Attorneys,
17 community justice centers, the Center for Crime Victim Services, the Vermont
18 Network Against Domestic and Sexual Violence (the Network), and any others
19 deemed appropriate by the Commissioner in consultation with the Network.

1
2
3
4
5
6
7
8
9
10
11
12
13

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES

(a) This section and Secs. 1 and 3 shall take effect on passage.

(b) Sec. 13 shall take effect on July 1, 2024.

(c) The remaining sections shall take effect on July 1, 2023.

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE