

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

3 \* \* \*

4 (5) "Employer" includes:

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

16 (B)(i) Any employing unit for which service in employment for a  
17 religious, charitable, educational, or other organization as defined in  
18 subdivision (6)(A)(ix) of this section is performed after December 31, 1971,  
19 except as provided in subdivision (5)(C) of this section.

20

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

17 \* \* \*

18 (ix) The term "employment" shall also include service for any  
19 employing unit ~~which is performed after December 31, 1971 by an individual~~  
20 ~~in the employ of a religious, charitable, educational, or other organization but~~  
21 ~~only if:~~

1 ~~(I) the service is excluded from “employment” as defined in~~  
2 the Federal Unemployment Tax Act solely by reason of ~~section~~ subdivision  
3 3306(c)(8) of that act; and

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

9 \* \* \*

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

11 § 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

12 \* \* \*

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

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

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

20 (2) Liability for contributions and election of reimbursement. Any

21 ~~nonprofit organization which that, pursuant to subdivision 1301(5)(B)(i) of~~

1 ~~this title chapter, is, or becomes, subject to this chapter on or after January 1,~~  
2 1972 shall pay contributions under the provisions of this section; unless it  
3 elects, in 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~~  
19 ~~date on which such subjectivity begins by filing a written notice of its election~~  
20 ~~with the Commissioner not later than 30 days immediately following the date~~

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

3 (C) Any nonprofit organization ~~which~~ 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  
8 for which ~~such~~ the termination shall first be effective.

9 (D) Any nonprofit organization ~~which~~ 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  
13 to the beginning of any calendar year a written notice of election to become  
14 liable for payments in lieu of contributions. ~~Such~~ An election under this  
15 subdivision (c)(2)(D) shall not be terminable by the organization for that year  
16 and the next 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 (H) ~~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 (HH) ~~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  
20 ~~subdivision~~ (3) of this subsection (c) shall be made not later than 30 days after  
21 ~~the bill is mailed to the last known address of the nonprofit organization or is~~

1 otherwise delivered to it, unless there has been an application for  
2 redetermination by the Commissioner or a petition for hearing before a referee  
3 in accordance with 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  
6 in part, from the remuneration of individuals in the employ of the  
7 organization.

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

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

20 (iii) Proceedings on the petition for a hearing before a referee on  
21 ~~the amount of a bill rendered under this section or a redetermination of such~~

1 ~~the amount shall be in accordance with the provisions of section 1331 of this~~  
2 title, and the decision of the referee shall be subject to the provisions of that  
3 section. Review of the decision of the referee by the Employment Security  
4 Board shall be in accordance with, and its decision shall be subject to, the  
5 provisions of section 1332 of this title.

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

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

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

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

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

20 (v) ~~that~~ The employer shall be subject to ~~those~~ actions for the  
21 ~~collection of past due payments as if those payments were contributions~~

1 ~~pursuant to subsections 1329(c) and (d) and 1334(b) and (c), and section 1336~~  
2 of this title; however, those provisions shall not apply to the State of Vermont.

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

9 (5) Allocation of benefit costs.

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

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

20 (A) ~~Proportionate allocation when fewer than all base-period~~

21 ~~employers are liable for reimbursement. If benefits paid to an individual are~~

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

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

17 (6) Group accounts. Two or more employers that have become liable  
18 for payments in lieu of contributions, in accordance with the provisions of this  
19 section and section 1380 of this title, may file a joint application to the  
20 Commissioner for the establishment of a group account for the purpose of  
21 ~~sharing the cost of benefits paid that are attributable to service in the employ~~

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

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

15 \* \* \*

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



1 ~~lieu of contributions or against the experience rating record of another~~  
2 employer who pays contributions. Benefits improperly paid where repayment  
3 by the claimant is ordered pursuant to subsection 1347(a) or (b) of this title  
4 will be credited to the employer's account when repayment from the claimant  
5 is actually received by the Commissioner.

6 Sec. 3. PROVISION OF SECURITY BY CURRENT REIMBURSABLE  
7 EMPLOYERS

8 A nonprofit organization that is liable to make payments in lieu of  
9 contributions pursuant to 21 V.S.A. § 1321(c) on July 1, 2023 shall, on or  
10 before September 30, 2023, either execute and file with the Commissioner a  
11 surety bond or deposit with the Commissioner money or another form of  
12 security approved by the Commissioner in accordance with the provisions of  
13 21 V.S.A. § 1321(c)(2)(G).

14 \* \* \* Supplemental Unemployment Benefit Sunset \* \* \*

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

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

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

5 \* \* \* Effective Date \* \*

6 Sec. 5. EFFECTIVE DATE

7 ~~This act shall take effect on July 1, 2023.~~

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

*§ 1301. DEFINITIONS*

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

*\* \* \**

*(25) “Son,” “daughter,” and “child” include an individual’s biological child, foster child, adoptive child, stepchild, a child for whom the individual is listed as a parent on the child’s birth certificate, a legal ward of the individual, a child of the individual’s spouse, or a child that the individual has day-to-day responsibilities to care for and financially support.*

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

*Sec. 2. 21 V.S.A. § 1301 is amended to read:*

*§ 1301. DEFINITIONS*

*As used in this chapter:*

\* \* \*

(5) "Employer" includes:

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

(B)(i) Any employing unit for which service in employment for a religious, charitable, educational, or other organization as defined in subdivision (6)(A)(ix) of this section is performed after December 31, 1971, ~~;~~ except as provided in subdivision (5)(C) of this section.

\* \* \*

(6)(A)(i) "Employment," subject to the other provisions of this subdivision (6), means service within the jurisdiction of this State, ~~performed~~

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

\* \* \*

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

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

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

\* \* \*

Sec. 3. 21 V.S.A. § 1321 is amended to read:

§ 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

\* \* \*

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

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

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

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

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

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

*with the Commissioner not later than 30 days immediately following the date of the determination ~~of such subjectivity~~ that the organization is subject to this chapter.*

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

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

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

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

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

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

*(B)(i) Each nonprofit organization that has elected payments in lieu of contributions may request permission to make ~~such~~ payments as provided in this subdivision (c)(3)(B). ~~Such method of payment~~ Payment pursuant to the*



*provisions of this subdivision (c)(3)(B) shall become effective upon approval of the Commissioner.*

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

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

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

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

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

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

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

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

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

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

*(iii) Proceedings on the petition for a hearing before a referee on the amount of a bill rendered under this section or a redetermination of ~~sueh~~ the amount shall be in accordance with the provisions of section 1331 of this title, and the decision of the referee shall be subject to the provisions of that section. Review of the decision of the referee by the Employment Security*

*Board shall be in accordance with, and its decision shall be subject to, the provisions of section 1332 of this title.*

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

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

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

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

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

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

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

*(5) Allocation of benefit costs.*

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

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

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

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

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

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

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

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

\* \* \*

~~(f) Any employer who makes payments in lieu of contributions under the provisions of this section is considered to be self-insuring and shall pay to the Commissioner for the Unemployment Compensation Trust Fund such any amounts as the Commissioner finds to be due under this chapter, including benefits paid but denied on appeal or benefits paid in error which that cannot be properly charged either against another employer who makes payments in~~



*lieu of contributions or against the experience-rating record of another employer who pays contributions. Benefits improperly paid where repayment by the claimant is ordered pursuant to subsection 1347(a) or (b) of this title will be credited to the employer's account when repayment from the claimant is actually received by the Commissioner.*

*Sec. 4. 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 other interested stakeholders regarding how a nonprofit or municipal employer can plan and budget for the potential expenses associated with each of the options identified in subdivision (1) of this subsection; and

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

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

(2) The Secretary of State shall assist the Commissioner of Labor in identifying and contacting all active Vermont nonprofit employers. The Office

of the Secretary of State shall also make available on its website a link to the information and educational materials provided on the Department of Labor's website pursuant to this section.

(c) The Department of Labor, in collaboration with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, shall hold one or more informational sessions to present the materials and information developed pursuant to subsection (a) of this section to nonprofit employers and municipal employers. At least one session shall be held on or before November 1, 2023. Each session shall allow for both in-person and remote participation and shall be recorded. Recordings shall be made available to the public and to stakeholder organizations for distribution to their members.

Sec. 5. 2021 Acts and Resolves No. 183, Sec. 59(b)(6) is amended to read:

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

§ 1338(f)(1) on June 30, 2022, equals \$100,000,000.00 and shall apply to benefit weeks beginning after that date.

*Sec. 6. 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;

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

(3) an estimate of the projected range of additional approved claims per year in Vermont if individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section are made eligible for unemployment insurance;

(4) an estimate of the range of potential impacts on the Unemployment Insurance Trust Fund of making individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section eligible for unemployment insurance; and

(5) any recommendations for legislative action.

*Sec. 7. DOMESTIC AND SEXUAL VIOLENCE SURVIVORS'*

*TRANSITIONAL EMPLOYMENT PROGRAM; UTILIZATION;  
REPORT*

On or before January 15, 2024, the Commissioner of Labor shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing

and General Affairs regarding the utilization of the Domestic and Sexual Violence Survivors' Transitional Employment Program. The report shall include information regarding the utilization of the Program during the past 10 years, a summary of the Department's efforts to make members of the public aware of the Program and improve access to it, how the identified changes have impacted utilization of the Program in comparison to prior years, any potential ways to further increase awareness and utilization of the Program, and any suggestions for legislative action to improve awareness or utilization of the Program.

Sec. 8. 21 V.S.A. § 1256 is added to read:

§ 1256. NOTIFICATION TO THE PUBLIC

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

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1, 3, 4, 5, 6, 7, and 8 shall take effect on July 1, 2023.

(b) Sec. 2 shall take effect on July 1, 2024.