VERMONT LEGISLATIVE
Joint Fiscal Office
1 Baldwin Street • Montpelier, VT 05633-5701 • (802) 828-2295 • https://ljfo.vermont.gov
Fiscal Note
May 8, 2024
Chris Rupe, Associate Fiscal Officer and Patrick Titterton, Senior Fiscal Analyst

H.55 – An act relating to miscellaneous unemployment insurance amendments

As recommended by the Senate Committee on Finance

Bill Summary

The bill proposes numerous modifications to Vermont's unemployment insurance (UI) laws, workers' compensation eligibility for certain State employees suffering from post-traumatic stress disorder (PTSD), would require the Department of Public Safety to subsidize cancer screening for firefighters, authorizes a Vermont Baby Bond pilot program, and extends the Vermont Economic Growth Incentive (VEGI) sunset by two years.

Fiscal Impact

The following provisions of H.55, as recommended by the Senate Committee on Economic Development, Housing and General Affairs, would have fiscal impacts:

- Several amendments to Unemployment Insurance have unknown – but likely insignificant – fiscal impacts.
- Modifying workers' compensation eligibility for certain State employees with post-traumatic stress disorder could increase the cost of workers' compensation benefits by up to approximately $425,000 annually and could result in an additional $105,000 in attorney fees. However, no significant immediate impact for fiscal year 2025 is expected.
- Requiring the Department of Public Safety's (DPS) Division of Fire Safety to subsidize the cost of providing cancer screening to all Vermont professional and volunteer firefighters, as well as all enrollees in the Vermont Fire Academy Firefighter I program.
- Establishing the Vermont Baby Bond Trust and the parameters of a Baby Bond pilot program. The implementation of the program would be contingent on the Treasurer receiving donations in an amount sufficient to operate a pilot program; therefore, no immediate fiscal impact is expected. Sustaining a permanent program, however, could require $6.5 million annually to fund.
- Extending the VEGI sunset would represent an extension of this tax expenditure for another two years. This program results in approximately $2.5 million to $4.0 million in foregone revenue annually.

Details on Sections with Fiscal Impact

Sections 1, 2, and 5: Unemployment Insurance Amendments

The following three sections of H.55, as recommended, pertain to Unemployment Insurance and have unknown but likely insignificant fiscal impacts:

Section 1 would affect the experience-rating record for employers with employee separations directly caused by a major disaster declared by the President of the United States. Currently, there are cases when individuals would have been eligible for federal disaster unemployment assistance (DUA) benefits but instead collect regular unemployment benefits. Under current law these individuals may collect up to four weeks of unemployment benefits without any impact on the employers' experience-rating record. The bill would extend that period to ten weeks.

Typically, employers are taxed at a rate tied to the experience-rating record, which reflects the amount of unemployment benefits paid to separated employees. In this instance, when the separation is caused by a federally declared natural disaster, there is a period in which former employees may collect unemployment insurance benefits without it affecting the employers' contributions to the Unemployment Insurance Trust Fund.

This provision would, in effect, "socialize" the unemployment benefits paid to employees who are separated from their employment due to a federally declared disaster and draw funds from the Trust Fund. The impact of extending the period of time in which these payments do not affect experience-rating networks from four to ten weeks will depend on the frequency and severity of disasters occurring in the future.

Section 2 would allow the Department of Labor (DOL) to waive overpayments of unemployment benefits payments that occurred through no fault of the claimant if the recovery of those payments would be against equity and good conscience. This would give DOL flexibility to waive the amount of the overpayment of benefits in cases where intentional misrepresentation was not committed and there could be an inability to repay those benefits.

Currently, DOL may waive recovery of the overpayment of benefits in instances where it was at fault. Section 2 changes would allow for additional flexibility and extend this waiver ability to cases where either the employer, DOL, or both are at fault for the overpayment of benefits. These instances represent a small proportion of annual benefits overpayments. Therefore, this section is not expected to have a significant fiscal impact on the Unemployment Insurance Trust Fund.

Section 5 would make statutory changes to how DOL may impose penalties or fines when false statements are made to increase unemployment benefits payments. This section specifies that individuals who intentionally make false statements to obtain, increase, or initiate benefits are liable to repay the overpaid benefits, assessed a $5,000 administrative penalty, and may be ineligible to receive benefits for up to five years from when the fraud was discovered. This section is not expected to have a significant fiscal impact.

Section 12: Eligibility for Workers' Compensation for State Employees with PTSD

Section 12 would make changes to workers' compensation relating to post-traumatic stress disorder (PTSD) for certain State employees. The Joint Fiscal Office (JFO) estimates that this section could increase the cost of workers' compensation benefits by up to approximately $425,000 annually and could result in an additional $105,000 in annual attorney fees at the Agency of Administration (AoA). However, no immediate significant impact is expected in fiscal year 2025.

Under current law, State employees are eligible for workers' compensation for PTSD if they are able to demonstrate that it is the result of an event or events that occurred in the workplace or while conducting duties related to work. Currently, the burden of proof is on employees (with some exceptions); this section would shift that requirement onto the State. The bill would also make these employees eligible to claim workers' compensation up to three years following their last active date of employment in their eligible role.

Benefits costs are expected to increase as a result of this change in presumption of proof and increased awareness of workers' compensation benefits within the group of eligible employees. Attorney fees would likely increase due to the expected increase in claims. Over time, the estimated increased cost of workers' compensation benefits paid would be borne by the General Fund, federal funds, and other special funds but an immediate impact for fiscal year 2025 is not anticipated.

As of January 29, 2024, there were 1,528 active State employees that the change would apply to. According to Section 12, these include those who:

- are facility employees at the Department of Corrections (DOC);
- are employees at DOC who provide direct security or treatment services to offenders;
- are classified employees of State-operated therapeutic community residences or inpatient psychiatric hospital units;
- are classified employees of public safety answering points (PSAP);
- are classified employees of the Department for Children and Families' (DCF) Family Services Division;
- are classified employees of the Vermont Veteran's Home; or
- are employees of the Department of State's Attorneys and Sheriffs.

Group	**Active Employee Count as of Jan. 29, 2024**
DCF – Family Services Division	335
DMH – Psychiatric Facilities	128
DPS – Dispatching (PSAP)	54
DOC – Facility, Probation & Parole, Work Crews	780
Vermont Veterans' Home	127
State's Attorneys and Sheriffs	104
Total	**1,528**

Section 12 would shift the burden of proof that the triggering event occurred at work from the employee to the State as the employer. This burden of proof setup currently applies to police officers, rescue or ambulance workers, and firefighters. These employees would also be eligible to claim workers' compensation related to PTSD for up to three years following the last active date of employment in their eligible role. This bill is likely to increase the number of workers' compensation claims relating to PTSD, which will likely lead to an increase in the annual cost of benefits as well as attorney fees at AoA.

Impact on Workers' Compensation Benefits Payments

The average cost of annual benefits paid annually per PTSD claim is approximately $12,280. The changes proposed in the bill are expected to result in an increase in accepted PTSD related claims annually, which is estimated to potentially result in approximately $425,000 in additional benefits paid beyond what has been typical in past years.

Impact on Workers' Compensation Benefits Premiums

AoA administers the State Employees' Workers' Compensation Fund to provide self-insurance coverage for all officers and State employees, including those referenced in this bill. All State agencies, departments, boards, and commissions participate in the program and contribute to the Fund.

State employee workers' compensation costs are paid for from a variety of fund sources, depending on the department and function. Ultimately the impact will depend on the experience – the number of claims filed and the severity of those claims. Some State agencies rely more heavily on federal funds or special funds, while others are completely funded by the General Fund.

Workers' compensation premiums are established using actuarial analysis of claims liability plus program operating costs. Premiums are then allocated to program participants based on department-specific loss over the previous five fiscal years, and loss exposure weighted by job duties for employees in each department. For example, a correctional officer has higher loss exposure than an office administrator. Departments build those premiums into their budgets each year and, depending on the loss exposure of employees in each department and the source of funding, determine the impact on each fund.

JFO does not expect these changes to affect fiscal year 2025 budgets. However, the cost to the various involved budgets could approach or equal the cost of estimated additional workers' compensation benefits in this bill. This will ultimately be determined by the actuarial analysis of risk exposure for these professions and experienced claims.

Impact on AoA Expenses

An increase in claims would likely result in an increase of appeals on denied workers' compensation for PTSD claims. This would increase attorney fees for AoA. In consultation with the Agency's Office of Risk Management, the potential increase in attorney fees is estimated to cost the General Fund $105,000 annually. The cost will be highly correlated with the level of claims submitted, level of claims denied, and level of denied claims appealed. The Office of Risk Management does not anticipate any additional actuarial costs.

Section 15: Firefighter Cancer Screening Grants

Section 15 would require DPS' Division of Fire Safety in fiscal year 2025 to subsidize the cost of providing cancer screening to all Vermont professional and volunteer firefighters, as well as all enrollees in the Vermont Fire Academy Firefighter I program. Though H.55 does not contain an appropriation to fund this initiative, H.883 as passed by the Senate contains a $1 million contingent appropriation for this purpose. [1]

Section 15 would authorize the Executive Director of the Division of Fire Safety to provide grants to fire departments to subsidize the cost of cancer screenings and/or contract directly with one or more entities to provide cancer screenings to fire departments at a discounted rate.

Sections 18-19: Baby Bonds Trust and Baby Bonds Pilot Program

Section 18 would create the Vermont Baby Bond Trust, to be administered by the Office of the State Treasurer. Amounts on deposit in the Trust would not be commingled with State funds and the State would have no claim to or against, or interest in, the amount on deposit in the Trust. Amounts obligated to be paid from the Trust would be limited to the amounts available for that obligation on deposit in the Trust.

Section 18 would direct the Treasurer to establish in the Trust an accounting for each designated beneficiary in the amount of $3,200. "Designated beneficiaries" would be individuals born on or after July 1, 2024, who are eligible at birth for coverage in the Dr. Dynasaur program or for coverage available pursuant to 33 V.S.A. chapter 19, subchapter 9. In 2022, 2,021 individuals were born in Vermont who would have met this definition – 38 percent of total Vermont births.[2] Assuming a similarly sized cohort in future years, approximately $6.5 million would be needed annually to fund a $3,200 accounting in the Trust for each individual.

A designated beneficiary would become eligible to receive the total sum of the $3,200 plus their pro rata share of the total net earnings from investments in the Trust upon their 18th birthday and the completion of a financial coaching requirement to be prescribed by the Treasurer. Beneficiaries would only be permitted to use their claim for an "eligible expenditure" – education, purchase of a dwelling unit or real property in Vermont, investment in a business in Vermont, or investment or rollover in a qualified retirement account, Section 529 account, or Section 529A account. Beneficiaries would be able to submit a claim for a payment from the Trust until their 30th birthday, provided that they are a resident of Vermont at the time. If the beneficiary dies before submitting a valid claim or fails to submit a valid claim before their 30th birthday, the funds in their accounting would be credited back to the assets of the Trust. The property of the Trust and earnings on the Trust would be exempt from all State taxation. No sum of money invested in the Trust would be considered assets or income for the purposes of determining an individual's eligibility for benefits administered by the Agency of Human Services (AHS) or for need-based institutional aid grants offered to an individual by a public postsecondary school located in Vermont.

1 See H.883 Senate Proposal of Amendment Sec. B.1102 (a)(13).

2 https://www.kff.org/medicaid/state-indicator/births-financed-by-medicaid/

Section 18 explicitly says that the duty to implement the program is contingent upon the Office of the State Treasurer's receipt of donations designated for purposes of implementation or administration of the Trust in an amount sufficient to operate a pilot program. Therefore, passage of the bill without an appropriation would not create a funding obligation to the State. The pilot program is intended to be used to evaluate the impact, effectiveness, and operational necessities of a permanent program. Future funding sources would likely need to be identified to sustain the program on a permanent basis.

Section 19 would direct the Office of the State Treasurer to evaluate various issues and options relating to the Trust and program. These include:

- How funds may be invested (consistent with the Treasurer's fiduciary obligations) to advance housing opportunities in Vermont
- Potential funding sources for the program
- Creating eligibility conditions for, and safeguards to protect, a beneficiary's investment in a business in Vermont
- Additional mechanisms to encourage beneficiaries to stay in Vermont
- Modifications to the financial coaching element of the program
- Measures for achieving inflationary adjustment of the statutorily mandated accounting
- Whether additional needs-based programs administered by the State may be impacted by a beneficiary's entitlement to funds in the Trust
- The feasibility of altering the program to permit unclaimed funds to roll over into a beneficiary's retirement account, including mechanisms for creating an account on behalf of a beneficiary and ensuring funds in the account are not accessible until the beneficiary reaches retirement age

The Office of the State Treasurer would be required to submit a written report to the General Assembly by January 15, 2025, with its findings and any recommendations for legislative action.

Section 20: Vermont Employment Growth Incentive (VEGI)

Section 20 would extend the sunset provision for the Vermont Employment Growth Incentive from January 1, 2025 to January 1, 2027. Currently, the Vermont Economic Progress Council may approve an incentive paid from the incremental tax revenues generated by estimated economic activity. The Department of Taxes verifies whether approved applicants achieve payroll or investment targets in order to receive an incentive. If approved, the incentive is applied as a credit against a firm's withholding tax due.

From 2007 to 2021 the program has paid approximately $35.4 million in incentives to businesses. Because this is effectively a reduction in withholding tax remitted to the State, this is a tax expenditure and is foregone revenue. This program results in approximately $2.5 million to $4.0 million in foregone revenue annually. Year-to-year, the amount of foregone revenue depends on the level of economic activity occurring.