

*Resultant*

# **Unemployment Fraud and Overpayment Review | Office of the Vermont State Auditor**

December 2021





# Table of Contents

SEC. 01   EXECUTIVE SUMMARY .....	3
SEC. 02   CURRENT STATE .....	14
SEC. 03   STATE COMPARISON RESEARCH .....	16
SEC. 04   HUMAN-CENTERED DESIGN PROCESS .....	32
SEC. 05   FINDINGS .....	39
SEC. 06   RECOMMENDATIONS .....	52
SEC. 07   IMPLEMENTATION ROADMAP .....	67
SEC. 08   CONCLUSION .....	68
SEC. 09   APPENDIX .....	69
SEC. 10   CITATIONS .....	85



## SEC. 01 | EXECUTIVE SUMMARY

### Background

Over the past two years, state governments have implemented strict regulations to mitigate the spread of COVID-19. Those initial responses to the pandemic resulted in an economic downturn that left millions unemployed and unable to find work. At the start of the pandemic, state unemployment insurance (UI) programs had to address unprecedented claim volumes. However, in the years leading up to the pandemic, unemployment rates had hit near-historic lows and agencies across the country had faced federal budgetary constraints requiring retractions of their workforces and processes. Additionally, agencies had to learn how to navigate remote work while administering new and complicated federal UI programs in a matter of a few short weeks. Even the most recession-proof states with more advanced software, technology, and application development capabilities were overwhelmed by the number of claims filed. While state UI programs scrambled to hire staff, build capacity in their contact centers and benefits divisions, modify their operating systems to accommodate program changes, and migrate their staff to virtual work, federal guidance on new UI programs was slow to come and confusing when it finally arrived. Desperately needed federal funds were slow to arrive as well, which piled additional barriers on states attempting to adapt to dramatic changes in their UI programs.

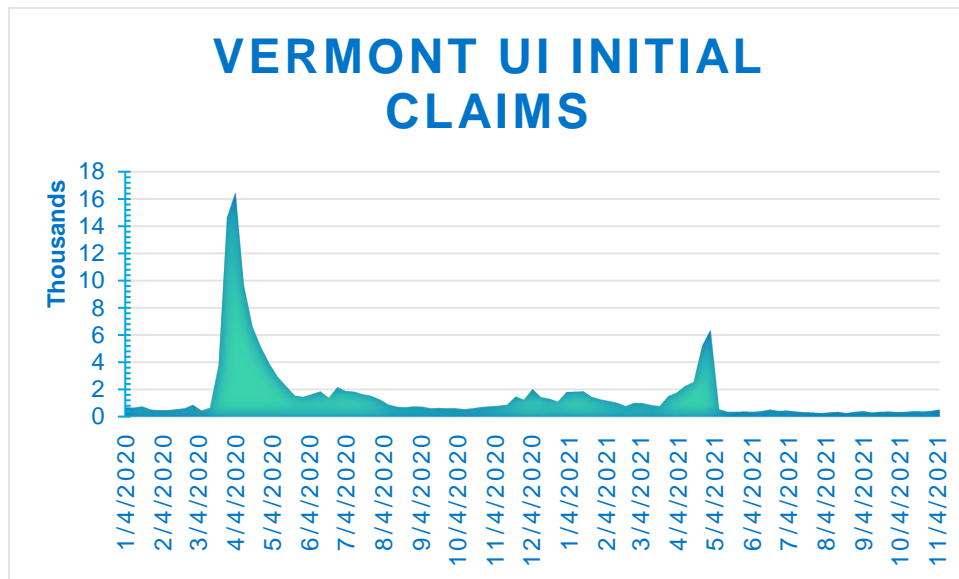
Strategic initiatives that were on the schedule as of March 1, 2020, such as operating system modernization or enhancements, were paused or too hastily completed to make way for the considerable number of technical changes required to implement new federal UI programs. Backlogs of work in all areas – Contact Center, Claims, Benefits, Appeals, Adjudication, Benefit Accuracy Management (BAM), Program Integrity Policy, Legislative Services, Communications, Tax, and other state UI services – grew quickly as the overwhelming need spread to every part of each state's UI program. The number of claims filed continued to increase as states managed recent programs with limited federal guidance.

The introduction of new federal programs and changes to state UI programs caused confusion with both claimants who had interacted with the UI system in the past and the large influx of first-time claimants. Identifying vulnerable populations, systematic and intentional fraud schemes exploited common weaknesses in states across the nation to obtain several billions of dollars-worth of illegitimate UI benefits. This caused more work for states and more obstacles for valid claimants attempting to receive their benefits.

While this unparalleled situation affected every state's UI program, the impacts, challenges, and opportunities for support are specific to each state. Vermont's economy is diverse and relies on several industry clusters including hospitality and tourism, education, and business services. Because the restrictions necessary to slow the spread of COVID-19 focused on limiting travel and maintaining small group settings, Vermont's workforce, specifically those in hospitality and tourism, were significantly impacted over a sustained period.



- According to the U.S. Bureau of Labor Statistics, Vermont's most recent unemployment rate (October 2021) is at 2.8%, down from the peak of 14.8% in April 2020. However, the unemployment rate has not reached the pre-pandemic rate of 2.6% (March 2020)<sup>1</sup>.



- Through the week ending on November 6, 2021, there were a total of 147,716 initial claims for UI filed since the week ending on March 14, 2020. The peak number of UI initial claims filed in one week was 16,474 during the week ending April 4, 2020. As of the writing of this report, initial claim filing volumes have decreased 97% from the peak.

- The Pandemic Unemployment Assistance (PUA) program, which provided benefits for anyone who could show that they were unemployed because of the pandemic who were not eligible for regular UI including self-employed workers, 1099 contract workers, gig workers, and more, had a total of 14,833 PUA initial claims filed in Vermont since the start of the PUA program through November 13, 2021.

The overwhelming surge of unemployment claims, coupled with outdated technology with limited scalability and interoperability exposed weaknesses in the technical infrastructure of the Vermont Department of Labor that the organizational structure could not absorb.

### Project Focus

Resultant's methodology included a three-phased approach that builds upon the work and deliverables from the previous phases resulting in this comprehensive final deliverable that has been informed by deep technical research, empathetic fact finding, and strategic visioning. Our assessment methodology was designed to bring Resultant alongside claimants, employers, and the Vermont Department of Labor (VDOL). The *Unemployment Fraud and Overpayment Review* outlines the current state of Vermont's UI system with a focus on fraud and overpayments and articulates a vision for an enhanced future state.

Act 51 required the Vermont State Auditor's Office to contract with a consultant to examine and identify opportunities for improvement in Vermont's efforts to detect and prevent unemployment insurance fraud and unemployment insurance overpayments. As outlined in the SOW, Resultant examined:

- The Department of Labor's existing practices and procedures for detecting and preventing unemployment insurance fraud.
- Instances in which it may be appropriate to refer unemployment insurance fraud for criminal prosecution, including a reasonable minimum threshold for such a referral.



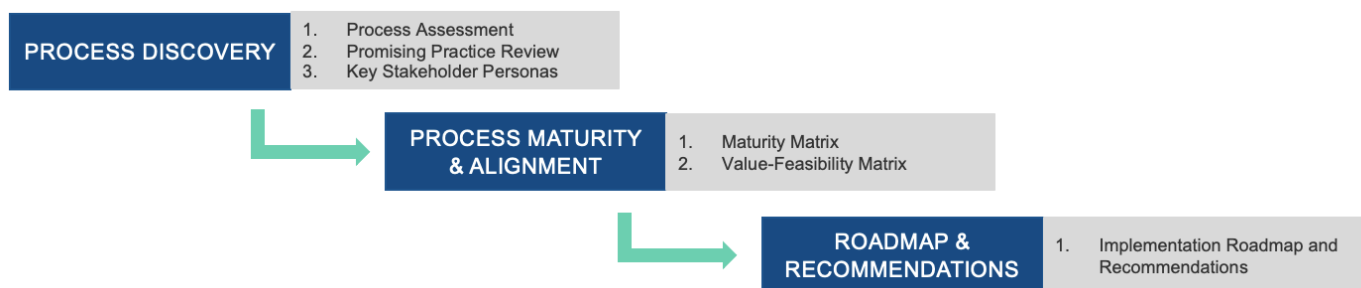
- Potential measures to eliminate or minimize claim processing delays that result from fraud prevention measures; and
- The Department of Labor’s existing practices and procedures for preventing, reducing, and collecting overpayments of unemployment insurance benefits.

In performing the evaluation required pursuant to subsection (a) of this section, the independent consulting entity was directed to do the following:

Specifically identify:

- Best practices and high performing aspects of other states’ unemployment insurance systems.
- Shortcomings, challenges, and opportunities for improvement in Vermont’s unemployment insurance system.
- Potential changes and improvements to the Vermont Department of Labor’s staffing, resources, information technology, training, funding, communications, practices, and procedures that are necessary to address the shortcomings, challenges, and opportunities for improvement identified pursuant to subdivision.
- Potential statutory changes are necessary to address the shortcomings, challenges, and opportunities for improvement identified pursuant to subdivision.
  - Consult with informed parties and relevant entities, including the Department of Labor, the Attorney General, the Agency of Digital Services, the Department of Human Resources, the Department of State’s Attorneys and Sheriffs, representatives of employers, representatives of employees, and representatives of claimants.

Resultant’s three-phased methodology worked to identify opportunities for improvement by:



- Providing technical improvement opportunities between existing technology and VDOL’s future state system where applicable.
- Improving communication with claimants and the legislature.
- Improving department workflow; and
- Reducing burdens on claimants and staff, where possible.

Resultant completed a human-centered design analysis of how people, processes, and technology interact to enable and sustain the current system, analyzed existing policy and documentation, and conducted research on the state of UI fraud and overpayment mitigation and modernization. Resultant then combined the information from the initial



phase into a maturity matrix model to orient all findings and recommendations within a shared rubric. The roadmap of feasible solutions featured later in the report is a result of this analysis.

## DESIRED OUTCOMES

UI program stakeholders desire to better serve Vermonters by providing UI benefits in an accurate and timely manner while mitigating fraud against the UI Trust Fund. Solutions provided in this review will assist VDOL and other UI program stakeholders meet their desired outcomes, which are listed below.

- Protect the State of Vermont, claimants, and non-claimants from fraudulent activity by enhancing fraud prevention tactics
- Easy access to accurate data and reports
- Unified definition and understanding of fraud and consequences for various levels of fraudulent activities
- Reduction of unnecessary complexities in the UI process
- Updated UI technology that:
  - Enables VDOL and Agency of Digital Services (ADS) to easily make changes to IT and business processes
  - Allows the General Assembly to implement desired legislative changes to the program
  - Supports simplified use and equitable access for Vermonters
- Comprehensive strategic plan developed through human-centered design that leverages state assets, staff, and budget responsibly

## NOTE

Throughout our investigation and interviews many expressed a desire to quantitatively identify the scale of improper payments and, more specifically, fraud within the Vermont UI system to achieve two goals: 1) gauge VDOL's success or failure against its peer UI systems, and 2) identify the most critical failure points within the system to prioritize the most impactful improper payment areas. Resultant empathizes with this desire, and our team believes some of the recommendations outlined in this review will pave the way for future efforts to perform the necessary data analyses. This project did not undertake this task, as it was not in scope based on the statement of work. Also, through our discovery it became clear that such an analysis would be hindered by the current mainframe system and its complex data retrieval process. Lastly, judging the effectiveness of a UI system by comparing rates of fraud or even standardized federal reports can be misleading due to the wildly different state laws and policies.

## Relevant Research

Starting in September 2021 through December 2021, Resultant:

- Analyzed over 20 documents and reports.
- Conducted 18 individual discovery sessions both virtually and in-person with key stakeholders as well as held standing weekly sessions with both Vermont Department of Labor as well as the Office of the Vermont State Auditor. Stakeholders interviewed during discovery include:
  - Members of the Vermont General Assembly
  - Office of Legislative Counsel
  - Vermont Legal Aid



- Vermont Businesses for Social Responsibility (VBSR)
  - Vermont Chamber of Commerce
  - Agency of Digital Services
  - Department of Human Resources
  - Agency of Administration
  - Vermont Office of Racial Equity
  - Office of the Vermont Attorney General
  - Department of State’s Attorneys and Sheriffs
- Independently researched U.S. Department of Labor (USDOL) and Bureau of Labor Statistics (BLS) reports and datasets, economic cluster data, other related state UI research, technical and business-processes and other publicly available resources.
- Attended Unemployment Insurance Study Committee Meetings held on September 14<sup>th</sup>, October 18<sup>th</sup>, November 1<sup>st</sup>, and November 18<sup>th</sup>.

## Definitions

It is necessary to establish the terminology related to the spectrum of “Fraudulent” and “Non-Fraudulent” activity. Within this report readers will find words and phrases such as “Overpayments,” “Fraud Overpayments,” “Fraud Penalty Overpayments,” and “Fraud Penalty Weeks” which carry specific meanings within the context of UI. These phrases are inter-related, commonly interchanged, and used loosely within casual conversation about the topic. This has led to confusion and misunderstanding of UI fraud, improper payments, overpayments, and misclassifications.

The legal definition for an improper payment used within the Vermont UI system, also aligned to federal standards is as follows:

**“Any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements; and includes any payment to an ineligible recipient...”**

By this definition, **all fraudulent payments are improper payments but not all improper payments are necessarily fraudulent.**

According to VDOL, fraud takes place in the UI system when people:

**“Willfully and intentionally make a false statement or representation to obtain or increase any benefit or other payment under this chapter, either for himself, herself, or any other person.”**

It is important to note that despite the existence of this specific definition of fraud within the context of the UI system, there is a diversity of opinions on what actions can constitute fraud. The singular definition fails to effectively distinguish between the spectrum of actions and delineate between egregious fraudulent actions like identity theft and minor fraudulent actions such as intentionally underreporting cash tips during a week of unemployment. Furthermore, there are widely varying opinions on how “willfully” and “intentionally” can be construed in the context of applying the fraud statute.

USDOL’s Employment and Training Division has acknowledged that every state can define unemployment compensation fraud differently. Their own improper payment documentation defines the ‘Fraud Rate’ in the following way<sup>2</sup>:



*The definition of unemployment compensation (UC) fraud varies from state to state – there is no federal definition of fraud in the UC program. Fraud involves a knowing and willful act and/or concealment of material facts to obtain or increase benefits when benefits are not due. States vary on the level of evidence required to demonstrate a knowing and willful act or the concealment of facts. An overpayment which is classified as a fraud overpayment in one state might be determined to be a nonfraud overpayment in another state. Often fraud determinations include looking at a pattern of action or the claimant’s certification of erroneous information under the penalty of lying under oath. Also states differ on the implementing fraud administrative penalty determinations. In some states, fraud determination becomes effective on the date of the fraudulent act. In other states, the administrative penalty takes effect on the determination date. Since fraud determination criteria and thresholds vary throughout the individual states. The rate includes all causes and responsible parties.*

For further clarification on how VDOL refines and interprets these definitions, stakeholders can look at VDOL’s website and the claimant handbook. These sources outline the following definitions:

**UI Improper Payment** – Any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements; and includes any payment to an ineligible recipient.<sup>3</sup>

**UI Identity Theft** – Unemployment Insurance identity theft fraud occurs when someone’s identity has been stolen and a claim has been opened in their name. Individuals will not be held liable for any claims made using their stolen information, nor do fraudulent claims impact an individual’s credit report or credit score. The fraudulent filing information is then forwarded to state and federal law enforcement agencies.

**UI Claimant Fraud** – Unemployment Insurance Claimant Fraud occurs when someone intentionally misrepresents a material fact involving an initial UI claim or a weekly claim to receive benefits or affect their obligations to the Department. Additionally, fraud can occur when someone lies about a material fact to affect someone else’s obligations or benefits. Proven claimant fraud can result in a claimant’s loss of benefits, an order to repay any improper benefit payments, and the loss of eligibility for future benefits. Administrative penalties may also be assessed in proven circumstances.

**Overpayment** – When information is received indicating a claimant is not entitled to benefits for an already paid week and a formal determination is made denying all or a portion of the previously paid week of entitlement, the week is then considered ‘overpaid’ and an overpayment is created to track the overpayment.

**Fraud Overpayment** – When a claimant *intentionally* misrepresents a material fact to receive additional benefits. If you are not truthful or fail to disclose valuable information to receive unemployment benefits you will be required to repay the money to the Department. Future benefits can and will be withheld to offset your overpayment until paid in full, and penalty weeks may be assessed. Your federal and state tax refunds may be withheld, you may be taken to court for a Judgment Order, and a future employer may be required to withhold earnings from your paycheck. The Department will impose penalty weeks in situations where it is determined you intentionally misrepresented a material fact to obtain benefits for which you were not otherwise entitled to receive.

## NOTE

*The Vermont UI Claimant Handbook does not specifically refer to a “Fraud Overpayment” but does call out overpayments in conjunction with fraudulent actions. It is important to note that Fraud Overpayments are accompanied by a 15% penalty per USDOL regulation when established. <sup>4</sup>*





**Fraudulent Communications** – Refers to any activity in which someone receives communication that could be a part of a phishing scam. These communications include but are not limited to phone calls, text messages, emails, etc. <sup>5</sup>

**Employee Misclassification** – Misclassification occurs when an employer calls someone who is an employee a “subcontractor” or an “independent contractor” to avoid providing benefits such as Workers’ Compensation or Unemployment Insurance, or to avoid withholding and paying payroll taxes.

To remove ambiguity within the report, the following lexicon was established. Further refinement of this lexicon is required based on the recommendations provided later in the report.

**Ineligibility** – Actions taken by a claimant that lack a willful intent to gain benefits through false statements or misrepresentations which result in the denial of their benefits.

**Fraud** – Actions taken by a claimant to gain access to a benefit or payment through willful and intentional misrepresentations of material facts that result in the denial of current and/or future benefits through the application of specialized penalties.

**Prosecutable Fraud** - Actions taken by a claimant to gain access to a benefit or payment through willful and intentional misrepresentations of material facts that result in the denial of current and/or future benefits through the application of specialized penalties and can be formally prosecuted.

## Improper Payment Types

Improper Payments		
Ineligibility	Fraud	Prosecutable Fraud
<p><b>Example</b></p> <p>Claimant is paid. Employer appeals the Determination of Eligibility and the claimant is then deemed ineligible.</p>	<p><b>Example</b></p> <p>Claimant is paid because they purposefully withheld their weekly earnings while filing for benefits.</p>	<p><b>Example</b></p> <p>A person files multiple claims under stolen identities and amasses payments greater than \$20,000</p>
<p>Willfully and intentionally making a false statement or representation to obtain or increase any benefit or other payment under this chapter, either for himself, herself, or any other person.</p>		

Lastly, it must be noted that the PUA program was an anomaly which introduced an extreme number of new filers to the UI system while also introducing an untried and unvetted set of rules to act as an entirely new and temporary social safety net program. The definitions described above are more specifically suited to the traditional UI system but can be applied to the PUA program.



## Summary Findings

### **VDOL has taken critical initial steps to limit fraud, enhance claimant security, and improve the claimant experience.**

- Prior to the pandemic, Vermont had a lower improper payment rate (4.42%) than other researched states despite outdated technology
- Implementation of ID proofing and creating a new internal fraud unit in response to increased fraudulent activity
- Proactively took the UI application offline when initial claim volumes skyrocketed
- VDOL is beginning Phase I of UI Modernization which will enhance customer and employer portals

### **Measures to improve the claimant experience, fraud prevention, and overpayment reduction can be made to bridge the gap between the current state and a future modernized state.**

Collaborative and transparent definitions are needed to codify types of fraud and subsequent consequences.

- There is a lack of universal understanding of several types of improper payments (fraud, ineligibilities, etc.) and how to right-size penalties for the different circumstances. Collaborative and transparent processes to codify definitions of improper payments and aligned consequences will reduce confusion and move away from a one-size-fits-all approach.

Outdated technology has reduced options for innovation and responsiveness.

- VDOL's outdated mainframe system does not allow the agency or policymakers to implement changes in an efficient manner without elevated risk.
- Modernization will improve the agency's agility; however, a fully modernized system is years away and there are other bridge solutions that VDOL can implement now.

Enhanced communication is needed to better educate claimants and stakeholders of complex UI processes and requirements.

- Need to reduce unnecessary complexities within the UI process and focus on common language UI application (i.e., fired v. quit v. laid off)
- Increase equitable and simplified access for UI claimants and employers

Increased crossmatch automation can allow VDOL to process claims and detect fraud before a payment is issued to a claimant more efficiently.

- Crossmatching is currently a manual process that requires many dedicated hours by VDOL staff. Identifying opportunities to automate this process will more quickly and easily detect fraud and will allow VDOL to reposition staff to other strategic priorities.



### **Despite positive steps that have been taken to reduce fraud, additional practices, and procedures for detecting and preventing fraud can be deployed.**

Staffing, training, and budget constraints have required VDOL to re-prioritize tasks.

- Not unlike other state UI programs, VDOL has experienced and currently is experiencing staffing challenges and budget constraints which were exacerbated during the pandemic. With the influx of claims, the need to onboard staff quickly led to shortened training for new hires.

Default usernames and passwords combined with lack of ID proofing puts Vermonters at risk, including Vermonters who have never filed for UI.

- Additional methods for identity verification could be deployed to better equip the system and Vermonters against identity theft and insurance fraud.

Authentication processes do not change program eligibility for claimants.

- Deploying an authentication process will better secure Vermonters' accounts and will not impact their eligibility for the UI program.

VDOL is unable to access IRS 1099 data.

- VDOL actively investigates and penalizes employers for employee misclassification, however due to security concerns with the 40-year-old mainframe system, VDOL is barred from accessing IRS 1099 data that would make identifying employer misclassification easier.

### **New and coordinated intergovernmental communication and collaboration is required to meet UI program goals and expectations including successfully implementing fraud prevention measures and the UIM.**

- The UI program (processes and technology) is complex and requires intense collaboration and communication at both state and federal levels to successfully implement and operate the program and policies.
- Collaboration, clear communication, and trust between VDOL, the General Assembly, ADS and other key stakeholders is critical to delivering program enhancements that will better serve Vermonters.

No unified understanding of the “modernization” process

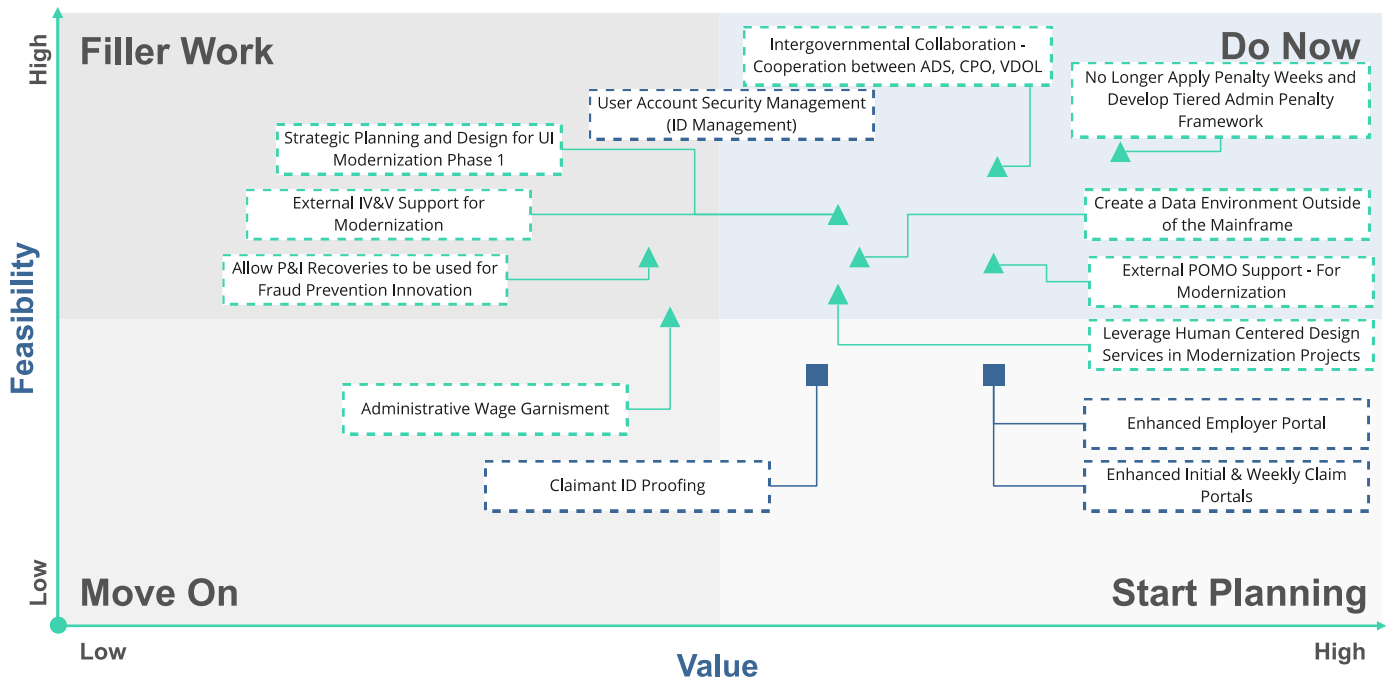
- There is universal understanding of the need for VDOL to modernize their current systems to better serve Vermonters. However, the ‘how’ and reasons for that approach are critically important to the long-term acceptance and success of a modernized system. The novelty of a new system wears off quickly if it does not meet expectations. Modernization without long-term planning can result in unintended consequences.

Lack of enterprise support of non-tech process reengineering

- Process redesign should accompany or precede technical implementations to ensure that technology is not simply memorializing inefficient processes. Process re-engineering is viewed as the bastion of subject matter experts, but individual SMEs (like those in VDOL's UI Division) do not normally have process re-engineering in their skillset.



## Value / Feasibility Matrix



### Proposed Recommendations

As a result of discovery and our persona findings, a set of recommendations were established to help with fraud mitigation, agency efficiency, and cross-agency collaboration. Out of the 28 total recommended solutions, below is the list of 13 recommendations that have been identified as ‘Do Now,’ ‘Start Planning’ or ‘Filler Work’ projects with high value/feasibility scoring. These are recommendations outlined in the above Value-Feasibility Matrix.

### START PLANNING

- Enhanced Initial & Weekly Claim Portal (Page 53) – Increases VDOL’s ability to take initial and weekly claims more efficiently while increasing agency access to the claim filing data for increased data driven decision making.
- Enhanced Employer Portal (Page 53) – Links employers to the claims process efficiently to eliminate disruptions in requirements between employers and VDOL.
- Claimant ID Proofing (Page 53) – Enhances verification of identities before a case is created and a claim is filed ensuring that claimants “are who they say they are.”

### DO NOW

- User Account Security Management (ID Management) (Page 54) – Establishes protocols and secure repository for claimant’s account credentials, enhancing security of already established accounts.



- External IV&V Support for Phase I of Modernization (Page 55) – Provides objective oversight of the modernization project to identify and address project team blind spots and monitor project risks and issues
- External POMO Support for Modernization (Page 56) – Ensures timelines, key benchmarks, risks are documented and tracked, and project outcomes are successfully achieved
- Leverage Human Centered Design Services in Modernization Projects (Page 57) – Brings the points-of-view of claimants, VDOL employees, and employers into the modernization process
- Intergovernmental Collaboration – Cooperation Between ADS, CPO, & VDOL (Page 58) – Aligns expectations between multiple stakeholders, presents an opportunity to enhance business processes in conjunction with technology implementations
- No Longer Apply Penalty Weeks and Develop Tiered Administrative Penalty Framework (Page 60) – Removes onerous, or unnecessarily punitive penalties against claimants, can be amended based on deterrence effectiveness
- Create a Data Environment Outside of the Mainframe (Page 61) – Allows for ongoing modernization, promotes interoperability and shared information across systems in a secure environment
- Strategic Planning & Design for UI Modernization (Page 63) – Opportunity for transparent, shared benchmarks for related stakeholders

## FILLER WORK

- Administrative Wage Garnishment (Page 59) – Grant VDOL the ability to collect via wage garnishments administratively increasing the deterrence effect of monetary overpayments and penalties
- Allow Penalty & Interest Recoveries to be Used for Fraud Prevention Innovation (Page 64) – Ongoing optimization of prevention strategies, iterative assessment of performance in fraud prevention

Full descriptions of these recommendations and others can be found in [Section 06: Recommendations](#).



## SEC. 02 | CURRENT STATE

### About Vermont Department of Labor

The Vermont Department of Labor is comprised of four major divisions: Workforce Development, Labor Market Information, Unemployment Insurance, and Workers' Compensation & Workplace Safety. The Department serves both individuals and employers with equal dedication and energy. The goal is the protection and growth of Vermont's workforce.

The mission of the Vermont Department of Labor is to promote Vermont's economic strength by.

- Assisting employers with job creation, retention, and recruitment.
- Coordinating the education and training of Vermont's workforce for current and future job opportunities.
- Ensuring that Vermont workers have well-paying jobs in safe work environments.
- Administering economic support and reemployment assistance to workers who suffer a job loss or workplace injury; and
- Providing labor market information and analysis to enable effective planning and decision-making relating to economic, education, labor and employment policies and direction.

### National Insights

The following section provides historical and national context for the current state of Vermont's economy and unemployment insurance system.

#### **National Insight No. 1: Despite the unique cause, 2020 was not an outlier nor will the cyclical nature of unemployment disappear.**

Economists typically predict cyclical economic recessions every five to ten years.<sup>6</sup> While the COVID-19 pandemic has certainly brought new and unique programs and challenges to the world of unemployment insurance, it is safe to assume that, after states recover from the pandemic recession, there will be future economic recessions that state unemployment insurance programs must be ready to face.

Cyclical unemployment caused by the natural ebbs and flows of the economy and structural unemployment caused by new and disruptive technologies are inevitable. Experts posit that the rapid increase in computer automation will affect unemployment. The onset of new industrial breakthroughs in automation have historically led to an initial rise in unemployment followed by eventual stabilization.<sup>7</sup>

#### **National Insight No. 2: Fraudulent UI claims spiked nationally during COVID-19.**

In addition to UI claims spiking nationally, fraudulent claims spiked as well due to the mass volume of claims caused by the COVID-19 pandemic and the introduction of new federal UI programs that were mandated in a short timeframe with little guidance from the federal government. COVID-19 caused governments to implement strict regulations to mitigate the spread of the virus, which resulted in an economic downturn that left millions unemployed and unable to find work. State agencies across the nation experienced this onslaught of fraudulent claims and struggled to mitigate the consequences of bad actors due to a lack of technical systems capable of verifying identities and the reallocation of staff to claims processing and backlog reduction. Improper payments range from small, accidental miscalculations on



income reporting to larger schemes attempting to garner thousands of dollars in claims benefits through identity theft, phishing scams and more. Reducing fraud and other ineligible payments should be understood in context of the pronounced differences between pre-pandemic and pandemic rates of fraud, the unique circumstances that led each state to develop their own strategy for mitigation,<sup>8</sup> and lastly the perplexing balance between timeliness and accuracy.

**National Insight No. 3: Scaling skilled UI subject matter experts (SMEs) have never kept pace with a rapid and sustained rise in unemployment.**

The idea that any state UI program could rapidly scale UI subject matter expertise to address rapid increases in UI workloads due to sudden and sustained rises in unemployment is not practicable. There is no higher education program implemented by any college, university, or trade school to train UI professionals. It is known and accepted that state workforce agencies must teach UI program basics to any outside hire, and many states have standardized their UI call center and adjudicator training programs as a result. However, the UI program is broad and incredibly complex, and building the type of deep subject matter expertise necessary to issue policies, interpret federal guidance, and implement changes through process development and IT systems takes considerable time. For this reason, UI subject matter expertise is rare and not hireable externally, nor is it easily developed and scaled internally.

**National Insight No. 4: Race to procure the next modernization system**

The pandemic highlighted the age, inefficiencies, and overall shortcomings of the technology present in UI systems across the country. Much like the last period of extreme unemployment, the Great Recession, there is a renewed push for modernization and states are racing to procure their next modernized system. There is not a clear and cohesive definition of what a ‘fully’ modernized UI system should have nor how to approach developing or procuring one. Clearly states want choice in how they proceed from both a project and architecture perspective, and a one-size-fits-all approach is unwelcomed. Despite this lack of agreement on approach, significant interstate agreement exists regarding the future of UI mainframe programs; they represent significant risk to the health, efficiency, and responsiveness of UI systems to the needs of citizens as well as a barrier to innovation of both process and policy. There is a unique convergence of funding, technological capability, and political will that has fueled the recent interest in modernization.

**National Insight No. 5: Expanded UI benefits did not cause labor shortage**

At the beginning of the pandemic, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act which created new UI programs to assist workers who had lost their jobs and provided claimants with an additional \$600/week benefit. The benefits were also expanded to workers who typically are unable to collect benefits, specifically gig workers and self-employed individuals. These programs expired in September 2021; however, many employers have felt the impacts of a labor shortage on their ability to hire talent. In a report titled *Employment Effects of Unemployment Insurance Generosity During the Pandemic* from Yale University, researchers found no evidence to suggest that enhanced jobless benefits reduced employment.<sup>9</sup> For the week ending December 4, 2021, UI benefit initial claims dropped nationally to 184,000, the lowest number recorded since 1969<sup>10</sup>. The public and private sectors must recognize other factors outside of UI benefits that contributed to the labor shortage, including retirements (in some cases early retirements), employees leaving the job market to return to postsecondary institutions to earn credentials or degrees, two income households consolidating to a one income household, career transitions into different sectors, lack of childcare and the ongoing COVID-19 pandemic which continues to leave some afraid of returning to work. Opportunities exist to better connect UI and workforce systems which could help alleviate some of the current labor shortages that employers are facing.



## SEC. 03 | STATE COMPARISON RESEARCH

### State Insights

When doing comparative research into other states and their respective UI practices related to fraud, various attributes were identified that represent significant similarities and differences to Vermont. These attributes included modernization status, population, and geographical size, claim filing statistics, economic clusters, and economic indicators including educational attainment, unemployment rates, and employment rates. UI departments throughout the United States felt the impact of increased claim filing due to COVID-19 (including the newly established federal programs). Identifying and analyzing how each state reacted by implementing modern technology services, adapting business processes, and amending state statutes will enable Vermont to catalog best practices and implement desired strategies. All research was conducted utilizing publicly available primary and secondary sources. Resultant did not conduct discovery interviews with any state UI department except Vermont’s in direct relation with this effort.

When plotting researched states on an attributes matrix, economic clusters were also considered to help determine varying economic impact due to COVID-19 and the specific impact on certain industries and clusters. The U.S. Cluster Mapping site provides over 50 million open data records on industry clusters and regional business environments in the U.S. to promote economic growth and national competitiveness. Below are the top economic clusters out of the 11 states analyzed.<sup>11</sup>

- Hospitality and Tourism
- Education and Knowledge Creation
- Business Services
- Distribution and Electronic Commerce
- Oil and Gas Production and Transportation
- Information Technology and Analytical Instruments

State insights helped inform overarching practices regarding fraud measurements and what was occurring on a national scale in the UI space. To create the most impactful outcomes for Vermont, it is critical to understand other states’ statutes relating to fraud and other types of improper payments as well as best practices states undertook prior to and considering the COVID-19 pandemic. As Vermont begins their modernization journey and system overhaul, it is critical to highlight other states currently modernizing and other states that have completed modernization to identify best practices, successes, challenges, and risks. Below is an overview of Vermont as well as the remaining 10 states as they exist within the three categories. Please see [Sec. 09 – Appendix](#) for the entire state research attributes matrix.

### Vermont Snapshot

#### Demographic Data

- Population Size – 643,077
- Median Income - \$63,001
- Employment Rate – 63.1%
- Unemployment Rate (Aug 2021) – 3%
- Bachelor’s Degree/Higher Ed: 38.7%<sup>12</sup>
- Geographic Region - Northeast
- Geographic Size – 9215 sq miles
- Modernization Status - Mainframe<sup>13</sup>
- UI Claim Filings (2019) – 27,689
- Benefits Paid (2019) - \$63M
- UI Claim Filings (2020) – 109,251
- Benefits Paid (2020) – \$381.1M<sup>14</sup>





- PUA Initial Claim Filings (as of 9/18/21) – 14,827<sup>15</sup>
- Improper Payment Rate – 4.42%<sup>16</sup>
- Timeliness Rate (March 2020 – August 2021 at 28 days) – 72.59%<sup>17</sup>

Vermont has felt the burden of outdated technology in a unique way. As one of the smaller states in both geographical size and population, Vermont has a more physically and socially accessible population. The state's economy relies heavily on hospitality and tourism, with approximately 17,000 workers being employed in this sector. The hospitality and tourism cluster of the economy was particularly hard hit during the COVID-19 pandemic, as governments restricted travel and gathering to decrease the spread of the virus. Anecdotally, many people interviewed throughout the discovery process described Vermont as a place where the close-knit social fabric was so tightly woven that even those diametrically opposed politically learn to cooperate. The size and closeness also meant that at a time when other states wanted more automation, Vermont did not abandon human-driven interactions. The increased claim filing during the pandemic and VDOL's historically low staffing levels immediately preceding the pandemic revealed that their technology and processes lacked scalability. Despite succeeding in paying unprecedented numbers of claims, the state's current technology did not meet Vermonters' expectations and led to opportunities for fraudulent claims, overpayments, and decreased timeliness.

### Past and Current UI Modernization Projects

To replace the outdated UI technology, Vermont engaged in two prior modernization efforts. The first involved a consortium known as 'VMW' that included Vermont, Maryland, and West Virginia. This project failed due to misaligned procurement processes between Maryland and Vermont. In conversations with leaders of VDOL present at the time of the consortium, the decision to sever the consortium was made to protect the autonomy and ownership of Vermont's UI technology. Following Vermont's participation in the VMW consortium, Vermont joined North Dakota in a consortium led by Idaho. This effort ended due to disagreements over the prioritization of Vermont's and North Dakota's needs and concern with Idaho's inability to deliver a system that would meet the requirements of Vermont. These two failed attempts at system modernization have led multiple stakeholders to question the possibility of the state's ability to manage and develop a technology project at this scale. It must be noted that, at the time that Vermont entered into these consortium agreements, the U.S. Department of Labor was encouraging the use of consortiums to achieve economies of scale in the application of modernization funds.

In 2021, the Vermont legislature allocated \$4.5M for Phase I of a third UI modernization project. VDOL and the Agency of Digital Services (ADS) will lead the state's effort to develop a system that meets Vermont's requirements. The state is not pursuing a consortium solution for this project. The legislature established the Joint Information Technology Oversight Committee (JITOC) which was given authority over the project budget and project approval process. Of the \$4.5M allocated for Phase I of the unemployment insurance modernization (UIM), \$3.5M of this funding is allocated to replace the externally facing portals and \$1M is allocated to replace Joblink. Upon development of an adequate project plan and requirements, JITOC will then release funds to VDOL and ADS.

The project roadmap developed by VDOL and ADS is broken into four phases which outline requirements and impacted internal and external stakeholders. An RFP for Phase I of the UIM project is in development and is intended to be released in Q4 of CY 2021.<sup>18</sup> The UIM Roadmap as of late 2021 is outlined below.



## Phase I

- Claimant Portal
- Employer Portal
- Employer Registration
- Fraud Reporting & Case Management

## Phase II

- Benefits System - Replace Mainframe
- Claimant Portal Integration
- SIDES
- Benefit Reporting

## Phase III

- Tax System - Replace Mainframe
- Employer Portal Integration
- Tax Reporting
- Benefits System - BPC
- TOP Implementation (Collections)

## Phase IV

- Benefits System - BAM Case Management
- External Agency Reports, LMI Reports, DUA
- Tax System - TPS, Employer Audit
- RESEA

### Relevant Fraud Definitions/Statutes

Title 21 Chapter 017: Unemployment Compensation sets forth program requirements for the Vermont UI program. Specific statutes related to fraud and penalties are highlighted below:

- 21 V.S.A § 1314: Reports and records; separation information; determination of eligibility; failure to report employment information; disclosure of information to other State agencies to investigate misclassification or miscoding
- 21 V.S.A § 1314a: Quarterly wage reporting; misclassification; penalties
- 21 V.S.A § 1347: Nondisclosure or misrepresentation
- 21 V.S.A § 1368: False statements to increase payments
- 21 V.S.A § 1369: False statements to avoid unemployment program obligations
- 21 V.S.A § 1371: Each separate offense
- 21 V.S.A § 1373: General penalty; civil

While Vermont law includes definitions of several types of fraudulent activities, in most cases the same consequences for fraud are imposed universally. When it is determined that claimants have committed fraud against the UI program, VDOL:

- Imposes penalty weeks
- Seeks repayment (with a 15% penalty per USDOL regulation)
- Intercepts state and federal tax refunds
- Pursues wage garnishment

In Vermont, no statute defines the specific actions that constitute UI fraud by a claimant other than the following clause in 21 V.S.A § 1368:

**A person shall not willfully and intentionally make a false statement or representation to obtain or increase any benefit or other payment under this chapter, either for himself, herself, or any other person.**

The statute as written provides significant latitude for the agency to identify new or emergent fraud schemes, but also places significant responsibility on VDOL to maintain consistency and accuracy in its applied definition to avoid undue bias and subjectivity.



Upon VDOL's determination of fraud, a claimant can be required to serve penalty weeks, not to exceed 26, and is required to repay their overpayment and penalty overpayments prior to receiving future UI benefits. The repayment process includes a 15% penalty per USDOL regulation. (Dollars collected through the 15% are directed to the UI Trust Fund). Creating definitions, standard operating procedures, and consequences that better fit the level of fraud will allow VDOL to identify and penalize misclassifications, UI claimant fraud and ID theft more effectively. This will ensure Vermonters seeking UI benefits avoid undue punishment for certain actions or mistakes.

### **Employee Misclassification**

In addition to claimant fraud, employers also play a vital role in the UI program. The Unemployment Trust Fund is financed by the State UI tax levied on employers. The established State UI tax rate for FY22 is determined by Rate Schedule III. Employers also play a crucial role in VDOL's ability to detect and investigate claimant fraud by reporting wages quarterly and separations to the department in a timely manner. The department then leverages this information to crossmatch against UI applications and weekly claim vouchers.

Employers have the responsibility to submit quarterly wage and separation data to the department in a timely manner or are subject to fines.

- 21 V.S.A § 1314 grants VDOL the authority to fine employers \$100.00 for each wage data report not received by the prescribed due date.
- 21 V.S.A § 1314a grants VDOL the authority to fine employers \$100.00 for each separation report not filed with the department within 10 days of the mailing or personal delivery of the request.

In addition to submitting timely and accurate wage and separation data, employers are liable for unemployment coverage for full-time, part-time, temporary, seasonal, probationary on or off premise employees or in the employees' own home. Employers are not liable for UI coverage for independent contractors. It is critical that employers classify their employees correctly, as misclassification of employees results in employers not paying State UI tax or payroll tax and do not provide required workers compensation coverage or unemployment benefits to those employees.

**“Employee misclassification is the practice of identifying workers as independent contractors or consultants, rather than employees when the opposite is true.”<sup>19</sup>**

The act of willful misclassification is considered fraud against the UI Trust Fund. Employers may be fined up to \$5000.00 for each improperly classified employee and are barred from contracting directly or indirectly with the State of Vermont or any of its subdivisions for up to three years. 21 V.S.A. § 346, 387, 712, and 1379 grants the Attorney General investigation and enforcement authority regarding complaints of employee misclassification. This authority runs concurrent to VDOL's investigation and enforcement authority. The authority granted in 21 V.S.A. § 346, 387, 712, and 1379 to the Attorney General currently sunsets on July 1, 2026.

Funds from the fines are deposited into the department's Penalty and Interest (P&I) fund which can be redirected to fund improvements to the UI program.

### **VDOL Practices and Processes**

Due to the unprecedented COVID-19 pandemic, states across the nation experienced an increase in claim filings and an onslaught of fraudulent claims. Vermont, like many other states, saw their outdated UI technology systems and processes struggle to handle the volume of initial and weekly claims while simultaneously paying out benefits in a



timely manner. The mainframe system's limited flexibility stems from a constrained supply of F-COBOL programming expertise within the UI sector and more specifically F-COBOL developers that deeply understand Vermont's system. Additionally, the mainframe system lacks a true test environment, preventing developers from exploring the application and learning outside of studying the production environment. These limitations hindered the agency's agility in building out the new federal pandemic programs and implementing new legislation or policies as desired by the General Assembly.

As claim volumes increased, challenges with the mainframe caused backlogs, VDOL worked to implement workforce development programs intended to get Vermonters back to work. Such initiatives included free training programs at educational institutions and virtual job fairs to connect unemployed Vermonters with job opportunities. Additionally, Vermont put in place a supplemental weekly benefit for claimants, adding up to five weeks. This supplemental benefit was intended to both ensure impacted Vermonters impacted by the COVID-19 pandemic had the critical funds to continue to pay bills and stabilize the state's economy.<sup>20</sup>

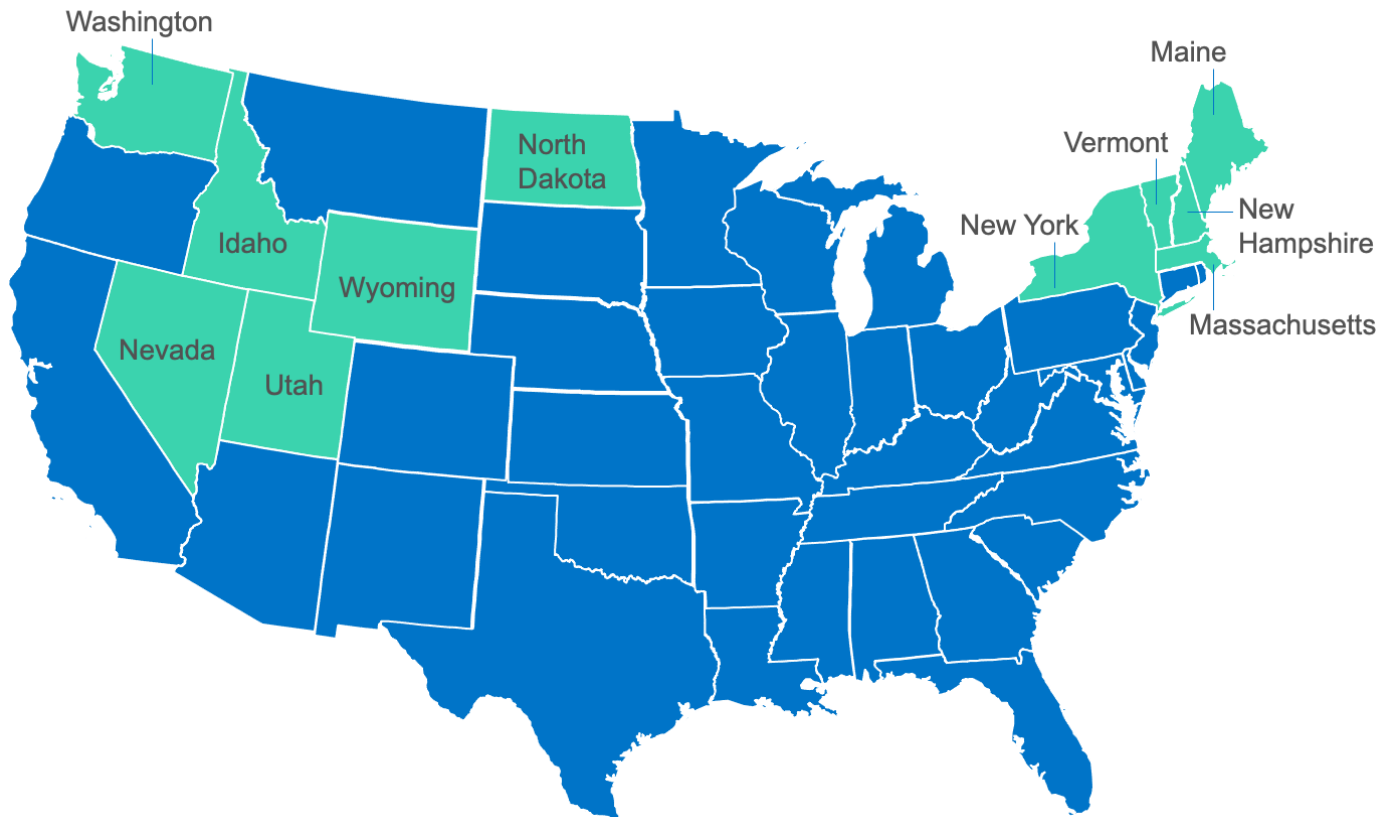
Despite its technology constraints, VDOL's improper payment rate, prior to the pandemic, was kept at 4.42%. Of the eleven states researched, the average improper rate was 9.8% with the highest rate being 17.7%<sup>21</sup>. The rate during the pandemic was undoubtedly higher, and an official, publishable rate is ever evolving as the agency continues to address federal updates to the pandemic program even after they ended. Clarity around Vermont's success in relation to other states' workforce, labor, or employment divisions will develop as the remaining work from the pandemic programs settles and final numbers are produced nationally. This may be because of various changes implemented by VDOL because of the pandemic and the less automated nature of the Vermont system as compared to those states that were most heavily impacted. Below are several changes and/or processes made by VDOL that have already improved or point to future improvements in efficiency, security, and/or accessibility of the UI system.

- Requiring initial claims to be filed by phone
- Claim payments made by check or direct deposit, no EBT Card Option
- Implementation of an internal fraud unit
- ID Proofing
- Phase I of Modernization



### State Overview

Resultant researched 10 other states in addition to Vermont to identify fraud prevention practices and statutes that were deployed or enacted prior to or during the COVID-19 pandemic. The states researched were identified based on various attributes. The final list was determined in collaboration with project stakeholders. States that were researched are highlighted on the map below.



### Fraud Prevention Practices

Across the country, states scrambled to handle the incoming claims that were being filed during the COVID-19 pandemic. States with modernized UI systems as well as those with mainframe systems were equally impacted by the increased volume of claims. The national fragility and uniqueness of COVID-19 created the perfect opportunity for fraudulent behavior, as many schemes saw state governments rush to implement new federal UI programs with little to no guidance from the Federal government. Not only did the program requirements lead to less strict identity verification, but they highlighted current gaps that existed in UI technology and processes even prior to the pandemic.<sup>22</sup> Several fraud mitigation methods identified through state comparison research can continue to be leveraged as the economy rebounds and unemployment rates decline. New processes and technology will continue to benefit those needing to utilize the UI system even after the pandemic recedes.

Below is a list of common practices identified either among one or many states researched and analyzed. These best practices of deterrents to UI fraud are categorized under three subtopics: **Prevention, Detection, & Investigation**.



## Prevention

Definition: Proactive elements within statute, rule, technology, or business processes to prevent fraudulent activity from occurring. Examples of prevention activities:

- Actions that require direct connection to Identity: ID Proofing, Human Touchpoints, Banking Institution Involvement, SSA Crossmatch
- Systemic Payment Delays: Waiting Week Periods, Localization Requirements, Manual Processes or Reduced Automation
- Posted and Enforceable Deterrents: Fraud Penalties (Monetary or Punitive) when Known, Social Nudges

Prior to the pandemic, distinct fraud prevention mechanisms were limited. Identity theft was non-existent, and the UI program's 70-year-old format discouraged fraud by its built-in wage crossmatch and required engagement with all employers within the claimant's base period. Prior to COVID-19, identity theft fraud (the use of an identity other than your own to receive UI benefits) at this scale was unheard of, therefore nationwide techniques and services tailored for UI fraud prevention were limited due to low demand and limited funding. Most states leverage the Social Security Administrations (SSA) crossmatch to check a person's personal information against the SSA's information on file. This service has limited utility in that people's full names and dates of birth are in many cases readily available via the internet or social media, and social security numbers (SSN) can be purchased on the dark web or acquired through social engineering directly from the victim of the identity theft. While each state had their own unique ways of preventing fraud due to their size, claim volume, and system status, many shared similar practices for their effectiveness.

Third-party outsourcing was seen to be highly effective due to the current lack of resources at UI and labor agencies. Many agencies were already spread thin, and the pandemic forced them to stretch their limited resources even further. As a result, agencies began partnering with a variety of third-party vendors to help them become more efficient with identity verification, claims filing, and analytics.<sup>23</sup> Identity proofing, also known as identity verification, was adopted by states as the pandemic programs continued. Many states have used this service as both a 'detection' and an 'investigative' tool. However, it is most effective when placed in front of the registration processes to ensure the system is engaging the true owner of an identity. States also chose to force human intervention touchpoints via their call center services to leverage human expertise via direct conversation with claimants. This process served two purposes. First, it acted as a deterrent to large-scale ID theft schemes that were popular within the PUA program due to its lack of built-in eligibility crossmatch features. Second, filing over the phone allowed Customer Service Representatives to flexibly interview claimants and immediately raise concerns regarding the legitimacy of an identity or claim. These call centers and those verifying identities can request pertinent and private documentation via phone conversations.

## Detection

Definition: Technology, processes, and methods for detecting fraudulent activity within the claims filing process.

Examples of detection activities include:

- Data Crossmatches: Quarterly Wage Crossmatch, State and Federal New Hire Crossmatch, IDH Crossmatch, PUPs
- Partner Support & Engagement: Benefit Charge Notification to Past Employers, Fraud Tips, Work Refusal Notifications



Fundamentally, detection mechanisms operate in an almost identical fashion to the ‘prevention’ mechanisms with the exception that much of the data that is available to the ‘detection’ process is simply not available in time for preventing fraud. National Association of State Workforce Agency’s (NASWA) Integrity Data Hub (IDH) is an example of a fraud detection framework that produces new crossmatch hits as added information is received through other states. Vermont performs quarterly wage crossmatch that can identify potentially fraudulent behavior but only after said behavior has occurred. Vermont has been utilizing manual agency crossmatch to help verify claimants, personal information as a means of detecting fraud. Maine has been flagging various claims as potentially fraudulent, and, if the claimant associated with this claim does not respond within a certain timeframe, the claim is cancelled and officially deemed fraudulent.<sup>24</sup>

Additionally, hiring more adjunct or temporary staff, whether in a call center or in claims filing verification, has allowed state agencies to take on more work while paying benefits timely and accurately. States like Idaho, Maine, and Vermont worked to bolster their call centers for the sake of making their claim filing processes and detection mechanisms more efficient. However, hiring adjunct staff poses an additional challenge, as training them on complex UI processes and agency norms can take substantial time and resources.

### Investigation

Definition: A State’s use of employees to investigate the result of any detected fraud and those individuals’ activities that lead to a decision proving fraud or ineligibility decision by leveraging the data received through the detection methods and their own investigative activities. It also includes deploying employees to recoup payments to the trust fund and penalize fraudulent activity. Examples of investigation activities include:

- Fraud Improper Payment Decisions: Interviewing Third Parties, Interviewing Claimants, Documenting Findings, Preparing Cases for Litigation
- Overpayment and Penalty Collection: Locating Claimants, Initiating Civil Collection Activities, Managing Payment Agreements, Managing Payment/Banking Errors

Effective fraud prevention, detection and investigation strategies are supported by state statute and/or agency rules. Listed practices may fall under multiple subtopics as they either serve multiple purposes or are utilized in diverse ways under different integration strategies. Descriptions for each measure and practice are presented to describe their purpose as necessary for each subtopic.

For UI agencies, the investigation of fraud is essential in ensuring the integrity of their UI system. However, its need is regularly seen as a breakdown in processes, procedures, or a direct result of technological limitations. Fraud investigations are tedious and must be carefully constructed to ensure the consequences of the decision withstand the scrutiny of appellate review. States have attempted to enhance their investigative processes by engaging in new services like Pondera’s CaseTracker, and Google’s Improper Payment toolset. These tools offer enhanced investigative resources that pull together disparate details about a unique person’s behavior and characteristics to determine the validity of a claim more effectively. Idaho built a custom tool that provided a Graphical User Interface to their backend crossmatch activities. This tool was shared with NASWA for further development that would allow it to be shared with other states. Lastly, states have begun utilizing their legal services as a way of investigating fraudulent activity as well as prosecuting this behavior. As mentioned previously, practices mentioned above also serve investigatory powers, and, nationally, states have taken immense measures to investigate large fraud schemes and prosecute them accordingly.<sup>25</sup>



## Statutes & Fraud Definitions

Fraud is a nuanced topic. When identifying strategies and mechanisms of mitigating fraud, it is important to define what constitutes fraud. Furthermore, as levels of improper payment classification vary, defining fraud and associated consequences in statute and could better help UI programs devote necessary resources to preventing, detecting, and investigating fraud.

Throughout discovery and research, most stakeholders recognized that there should not be a one-size-fits-all approach to consequences for all fraudulent activity. Additionally, there was wide agreement that larger schemes and ID theft were two of the most egregious behaviors that deserved penalties.

In Vermont, no statute defines the specific actions that constitute UI fraud by a claimant other than the following clause found in 21 V.S.A § 1368:

**A person shall not willfully and intentionally make a false statement or representation to obtain or increase any benefit or other payment under this chapter, either for himself, herself, or any other person.**

The statute as written provides significant latitude for the agency to identify new or emergent fraud schemes, but it also places significant responsibility on VDOL to maintain consistency and accuracy in its applied definition to avoid undue bias and avoid subjectivity in the application of their decisions.

Across the country, many states' fraud statutes are like that of Vermont. These statutes are written vaguely and obscurely which allows for multiple interpretations as to what constitutes fraud. For example, there are no specific consequences for fraudulent activity like identity theft or overpayments. Instead, all fraudulent activity is treated the same in the statutes. However, states like Massachusetts<sup>26</sup>, Washington<sup>27</sup>, and Nevada<sup>28</sup> define various fraudulent activities and outline appropriate penalties for each one. These statutes are beneficial because they allow departments to make efficient decisions regarding egregious activity versus incidental issues. Rather than spending time applying a blanket penalty that may not be appropriate for every level of fraudulent activity, department staff can devote more time and resources toward helping claimants get their benefits and return to work.

States' laws across the country vary when it comes to UI benefit and fraud statutes. Each state has their own unique way of preventing, detecting, and investigating fraud. Tables 1, 2 and 3 outline each state's guidelines for UI benefits, fraud, penalties, and more. This information serves as a comparative analysis of Vermont's current UI statute and guidelines and other states' strategies. The themes for each table are listed below.

- Nonfraud and Non-Fault Provisions
- Recovery Provisions
- Recovery Provisions, Fines, & Criminal Penalties

### Nonfraud and Non-Fault Provisions

When a claimant is not liable for repayment of an overpayment, some states offer waivers in this instance. Table 1 outlines each state and their applicable waivers for non-fault overpayments.

*Many states provide that, if the overpayment is without fault or fraud on the individual's part, under certain circumstances, the individual may not be liable to repay the amount overpaid. The following table lists some of the reasons states waive recovery of the overpayment.<sup>29</sup>*





TABLE 1: WAIVER OF NONFRAUD OR NON-FAULT OVERPAYMENTS

State	Agency Error	Employer Error	Equity Or Good Conscience	Financial Hardship	Other
Vermont					X
Idaho	X	X			
Maine				X	
Massachusetts			X		
Nevada			X		
New Hampshire					X
New York*					
North Dakota			X		
Utah				X	
Washington			X		
Wyoming			X	X	

\*New York does not have overpayment waiver provisions

Recovery Provisions

State agencies will work with claimants in a situation where overpayment needs to be recovered. Below is language directly from the USDOL regarding this recovery process broken down per state.

All state laws provide for recovering benefits paid to individuals who later are found not to be entitled to them referred to in this chapter as overpayments. In addition to direct repayment, states utilize several tools to



recoup these funds. States may, at the discretion of the agency, recover nonfraud and fraud overpayments by deducting from future benefits payable (benefit offset); and, under specific circumstances, benefit offset is mandatory. States must also recover certain types of overpayments from an individual's federal income tax refund through the Treasury Offset Program, including overpayments due to fraud and overpayments due to misreported work and earnings. Similarly, states may also offset overpayments with state tax refunds due to the individual, or by the interception of lottery winnings, or they can compel repayment by pursuing civil action in state court. Some state laws may also include provisions for denying or suspending professional licenses of persons owing to an overpayment of UI benefits. Finally, some states assess interest on outstanding overpayment balances. The following table provides information about how states recover nonfraud overpayments.<sup>30</sup>

**TABLE 2: RECOVERY OF NONFRAUD OVERPAYMENTS**

STATE	BENEFIT OFFSET		OFFSETS WITH STATE TAX REFUND	CIVIL ACTION PERMITTED	INTEREST ASSESSED
	Offset Against Future Benefits	Number Of Years Limited			
Vermont	100%	5 years from determination date	Yes <sup>1</sup>	Yes	No
Idaho	100%	No	Yes	Yes	Yes
Maine	10% of 1st \$100 WBA; 50% of rest	No	Yes	No	1% per month starting 1 year after decision is set up in system
Massachusetts	100%; 50% if no-fault and individual requests	No	Yes	Yes <sup>2</sup>	No
Nevada	50%	5 years from date overpayment established	No	No	No
New Hampshire	1%-10%	10 years from date overpayment decision is final	No	Yes	1% per month on principal balance from 1st day of month after



					decision if not paid within 60 days
New York	50%	No	Yes	No	No
North Dakota	Minimum 50%	No	Yes <sup>1</sup>	Yes	18% starting 180 days after establishment of overpayment or 180 days from date of final appeal determination
Utah	50% (no-fault) or 100% (fault)	If no-fault, 3 years from date decision is final; if fault, 8 years from effective date of judgment lien	Yes (fault only)	Yes (fault only)	No, unless it goes to judgement
Washington	50% (up to 100% depending on claimant request)	No	No	Yes	1% per month (simple interest) after ≥ 2 minimum monthly payments are delinquent
Wyoming	100%	First 5 years from effective date of claim resulting in overpayment	Yes	Yes	No

<sup>1</sup> ND, VT - provision found in non-UI law (all other states' provision found in UI law).

<sup>2</sup> MA- does not pursue civil action based on policy

### Recovery Provisions, Fines, & Criminal Penalties

In instances where fraud can be pursued under criminal action in court, states have various policies. Table 3 outlines each state and their respective processes. Below is USDOL language describing these different treatments of fraud.



For fraud, including willful misrepresentation generally and concealment of facts, states utilize the same methods to recover overpayments as they do for nonfraud overpayments. However, most states can pursue criminal action in court, which can lead to monetary assessments and prison sentences. Further, states can administratively assess additional monetary fines or penalties. Although UI benefit fraud typically involves a claimant’s attempt to obtain or increase benefits, it also includes employers who attempt to prevent or reduce benefits to eligible claimants and employers who abet a claimant’s attempt to fraudulently claim benefits. The following table provides information about how states treat benefit fraud. The table below reflects state law provisions. A state’s policy may be different (e.g., it may not, in fact, pursue criminal prosecution) and can change.<sup>31</sup>

**TABLE 3: TREATMENT OF FRAUD**

State	RECOVERY OF OP'S THROUGH OFFSET		MONETARY ASSESSMENTS				MAX PRISON TIME IMPOSED WHEN FRAUD COMMITTED	
	Benefits	State Tax Refunds	Interest Charged		Fines / Penalties on Claimants	Fines / Penalties on Employers	By Claimant	By Employer
Vermont	100%	5 years from determination date	No	No	Up to \$5,000	Up to \$5,000	N/A	N/A
Idaho	100%	8 years from final determination date	Yes <sup>2</sup>	Yes	25% 1st instance; 50% 2nd instance; 100% 3rd instance and subsequent. <sup>2</sup>	\$20 – \$200 and 10 x WBA	X <sup>1</sup>	X <sup>1</sup>



Maine	1	No	Yes	1% per month.	50% 1st incident, 75% 2nd incident, 100% other incidents.	X <sup>1</sup>	X <sup>1</sup>	X <sup>1</sup>
Massachusetts	1	No	Yes	1% per month until total interest = 50% of OP.	Fine of \$1,000 - \$10,000.	\$2,500 - \$10,000	6 months to 5 years	1 year
Nevada	100%	5 years from date OP was established.	No	Civil Judgments only (6% per year)	25% or 50% <sup>3</sup>	\$2,000	10 years	10 years
New Hampshire	1%-10%	10 years from date OP decision is final	No	1% per month	Up to \$4,000	Up to \$100,000	15 years	15 years
New York	100%	No	Yes <sup>2</sup>	9% per year (civil action only)	\$500	\$500	1 year	1 year
North Dakota	100%	No	Yes <sup>2</sup>	18% per year	\$10,000 fine	\$1,000 fine	10 years	30 days
Utah	N/A	N/A	Yes <sup>2</sup>	No, unless it goes to judgement	100%	Up to \$20,000	15 years	15 years



Washington	100%	No	No	1% per month	\$20-\$250	\$20-\$250	90 days	90 days
Wyoming	100%	No	No	No	5% when OP established and every 6 months thereafter until paid.	\$750	5 years	5 years

N/A: Not applicable

GENERAL NOTES: - All states pursue civil action to recover fraud overpayments except MA.

All states impose monetary assessments and prison time on employers who fraudulently act to prevent or reduce a claimant’s benefits. In addition, some states impose assessments/prison time for abetting a claimant’s fraudulent receipt of benefits.

Where these penalties differ, the higher is shown.

<sup>1</sup> Penalty is assessed under misdemeanor or felony statutes.

<sup>2</sup> In ID, NY, ND, VT, and UT provision found in non-UI law.

<sup>3</sup> If the OP is > \$1,000 but ≤ \$2,500 the penalty is 25%, if the OP is > \$2,500 the penalty is 50%.

### Strategic Plans & Modernization Efforts/Status

States create and utilize strategic plans as roadmaps for bettering their agencies and ensuring that public funds are used responsibly. Workforce, employment, and unemployment are frequently mentioned in state strategic plans throughout the nation. As a result of the COVID-19 pandemic, workforce agencies are under additional pressure to balance paying benefits timely and accurately while also revamping antiquated processes and introducing recent technologies. The consequences of the COVID-19 pandemic emphasized the importance of continuously modernizing outdated resources.

Like many economic development strategies, workforce and employment issues are critical to the success of state economies. Workforce reemployment and UI programs are key pieces of the social safety net, and the COVID-19 pandemic stress-tested those programs to their limits. Vermonters were not alone in their struggle to cope with the onslaught of claims and unemployment as well as unprecedented fraudulent claims. As a result, state strategic plans and goals are shifting to focus on resiliency and customer-centric service models. States with and without modernized UI systems are preparing to apply new strategies learned throughout the pandemic.



Of the states Resultant researched, three out of 11 had mainframe unemployment systems with the remaining eight having a variation of an internet connected system and/or claimant portal. <sup>32</sup>

UNEMPLOYMENT SYSTEMS	
Mainframe	Web-Based
New York	Idaho
North Dakota	Maine
Vermont	Massachusetts
	Nevada
	New Hampshire
	Utah
	Washington
	Wyoming

Modernization is a difficult and arduous task. The success of these projects has been mixed. Many states, modernized or not, face uphill battles with their next modernization including but not limited to funding via capital or operational investment, bandwidth from program and technical experts, process improvement alignment, change management, and outcomes management. In large, complex technological efforts it is easy for projects to lose sight of strategic objectives and lose connection to the projects' initial value propositions. Significant work should be done prior to kicking off a modernization project to ensure the long-term strategy aligns with the needs of stakeholders and customers.



## SEC. 04 | HUMAN-CENTERED DESIGN PROCESS

### Purpose

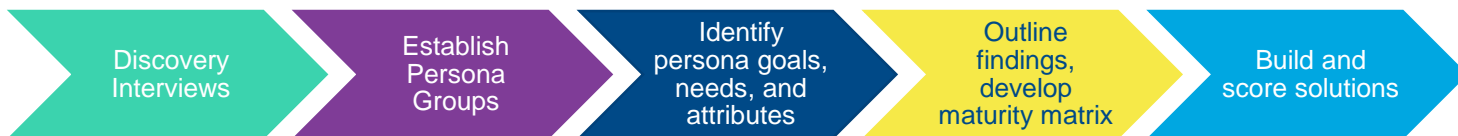
Resultant’s approach to human-centered design (HCD), whether technology or business-centered, focuses on the intersection of people, process, and technology. At Resultant, we understand that behind every business problem there is a person who is experiencing the challenge firsthand. That is why our approach starts and ends with empathy and putting ourselves in the shoes of our clients and the user, so we understand exactly what they are going through. Starting with empathy enables future change management as users have had an active role in the change rather than passively experiencing its effects. Empowering end users in this way also unlocks limitless value for customers as changes in the process create a better-quality work product.

The HCD process allowed Resultant to embody the needs, experiences, pain points, and goals of those who interact with and influence the UI system. At the center of Resultant’s HCD approach are stakeholder personas. Personas are a core aspect of Resultant’s HCD approach because they:

- Provide solutions rooted in the real-life experiences of those who interact with and influence the UI system every day,
- Gauge the feasibility of solutions based on the resources available to each key stakeholder interviewed, and
- Improve collaboration by encouraging stakeholders to empathize with each other.

### Methodology

As outlined in Section 14 of Vermont Act 51 of 2021, Resultant was required to “consult with informed parties and relevant entities, including the Department of Labor, the Attorney General, the Agency of Digital Services, the Department of Human Resources, the Department of State’s Attorneys and Sheriffs, representatives of employers, representatives of employees, and representatives of claimants.”



### Stakeholder Personas

First, Resultant engaged in 18 discovery sessions with required stakeholders and other interested parties. Discovery sessions with these stakeholders resulted in Resultant establishing four persona groups.

Personas are fictional characters that the project team created based on research and discovery sessions to represent diverse types of users who might interact with the respective UI process or system. Creating personas





deepens the understanding of users' needs, experiences, and objectives. Personas also allow stakeholders to apply empathy in identifying with a user while acknowledging that all people have unique needs and expectations.

The personas Resultant created for this report include Claimants and Claimant Advocates, Employers and Employer Advocates, Vermont State Government, and the Vermont Department of Labor. The personas developed for this report were intended to be high-level and all-encompassing of the diverse range of stakeholder groups that interact and influence the UI program. Using findings from discovery sessions with stakeholders within each group, Resultant compiled relevant information to chart each persona's expressed needs and insights.



These expressed needs and insights were then leveraged to determine persona's satisfactions and frustrations, knowledge and skills, goals, and unique considerations. Resultant also developed an attribute scale to rank each persona's proficiency in five key areas:

- UI System Technical Knowledge
- Federal UI Policy Knowledge
- Vermont UI Policy Knowledge
- Policy Influence
- Access to VDOL and their systems

The findings and recommendations mentioned later in the report address the goals and needs defined within the persona development process. Resultant developed personas that broadly encapsulate the stakeholders who influence and interact with the UI system. Every stakeholder included in the discovery process expressed their desire to:

- Help provide financial stability to each Vermonter experiencing unemployment,
- Help claimants return to work, and
- Ensure that UI benefits are given to valid claimants in a timely and accurate manner.

This unity around these three major goals demonstrates that the stakeholders on which these personas are based have found some common ground. Once these stakeholders align around UI roles, responsibilities, and processes, they can work together to address their shared desires.

While these personas address the relationships and needs of high-level stakeholders who interact with the UI system, further analysis should be considered to create detailed personas for the end users of Vermont's UI system, such as specific types of claimants, fraudsters, and employers. Discovery sessions with more granular populations will further ensure that the strategies of the high-level personas described below address the needs of end users.

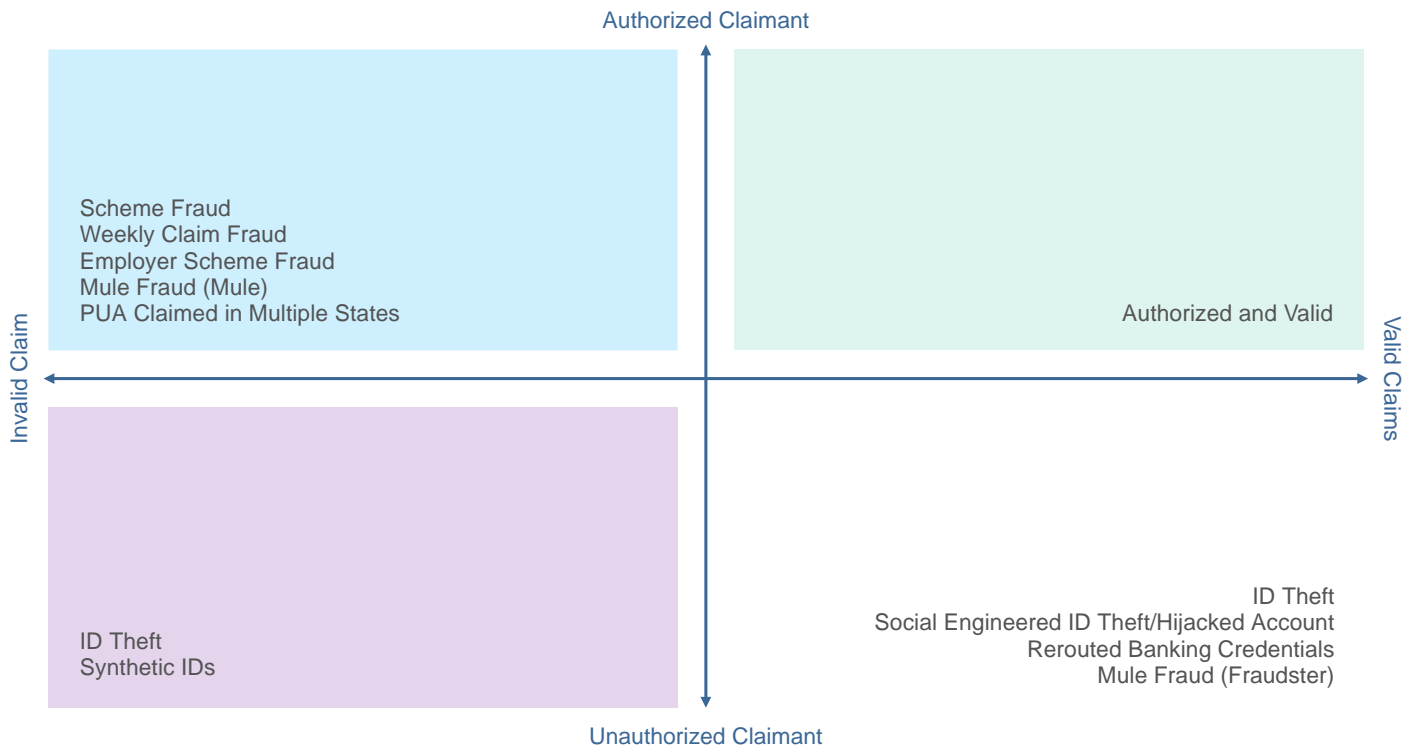
### **Fraud Use Case Definition Using the Fraud/Improper Payment Matrix**

Given the complexities in the UI program, significant confusion surrounds the definitions of improper payments and the subsequent penalties associated with each. This lack of clarity complicates efforts to effectively communicate problems and identify solutions. The Improper Payment Type Matrix is a visual model developed to spur discussion and use case identification around the types of fraud and other improper payments found within the UI system. The tool was



used in discovery sessions with VDOL to generate a sufficient landscape of fraud and improper scenarios to lead into a categorical identification phase. VDOL and Resultant collaborated on identifying use cases and plotted them on the Improper Payment Type Matrix. The use cases identified on the matrix are not meant to be inclusive of all fraudulent or improper payment scenarios. The Improper Payment Matrix graphic is not meant to be legible, however Resultant detailed several use cases that demonstrate the process and has provided full descriptions of the information on the Matrix in [Sec. 09: Appendix](#).

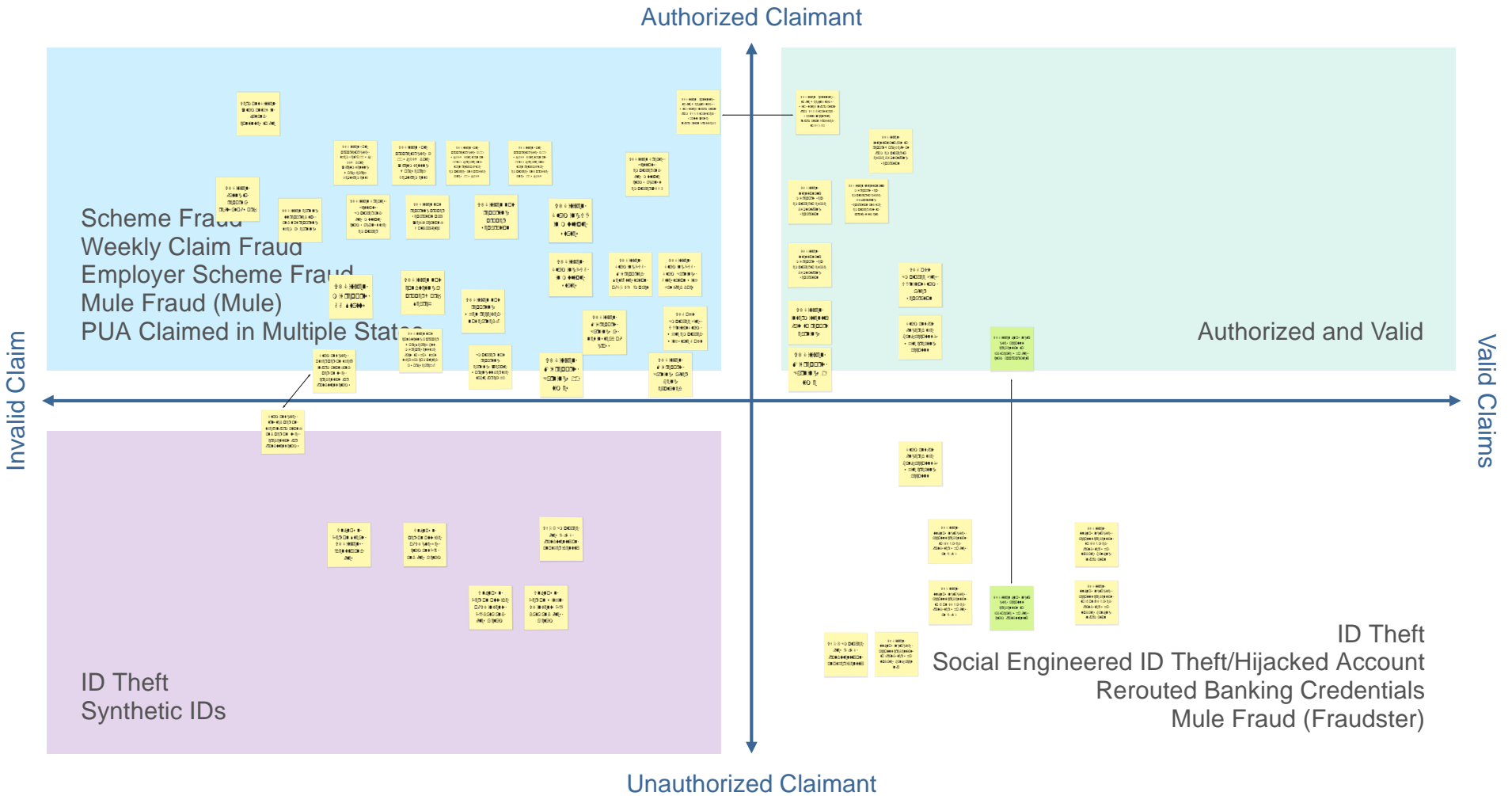
## Fraud/Improper Payment Matrix Template



During the categorical identification phase, five key traits were drawn out of the analysis of the Improper Payment Type Matrix. These were deemed necessary for defining solutions in the UI fraud and improper payment space for Vermont: Intent, Penalty, Enforceability, Equity, and Cost. These five key traits were leveraged on the Maturity Matrix in the following section.



# Fraud/Improper Payment Matrix





## Maturity Matrix

The development of a Maturity Matrix is a process that helps steer institutional growth by defining a range of possible aspirational states and allowing an organization to identify their current state. From there, the organization can chart a course toward their desired and realistic next state of maturity. The purpose of this exercise is to engage an organization's growth mindset and steer it toward long-term thinking. Building on the five traits identified in the prior analysis phase, the Resultant team pre-populated several of the maturity levels, then collaborated with VDOL to further tailor the language and co-author the final few. Resultant then led VDOL through the process of identifying their currently assessed position on the Maturity Matrix, and finally their desired future position.

The elements within this model encompass all aspects of both high functioning and maturing programs; the constructive output of the analysis is the position the agency has intentionally/unintentionally chosen to engage each of the processes as well as the disposition and maturity of that engagement along a five-step model (Reactive, Efficient, Proactive, Aligned, and Strategic).

**Reactive** – The reactive stage is characterized by a lack of planning or preparation around the process or procedure. Advancement of a process may regularly occur in response to some type of negative or positive outside stimulus but does not often happen by design or desire. Traditionally, the response in this stage can be effective at mitigating the current risk but fails to address or prepare for future needs. Processes and procedures tend to become 'brittle' over time and require additional investment in the future.

**Efficient** – The efficient stage is characterized by its embrace of the unknown and its desire and goal to overcome problems through on-demand, creative problem solving. It is capable of swiftly mitigating new and novel problems as they arise with limited disruption to other established processes.

**Proactive** – The proactive stage builds on the efficient stage by seeking out and identifying future risks and utilizing rapid problem-solving abilities to mitigate future-potential negative outcomes by pre-empting them with solutions.

**Aligned** – The aligned stage is marked not only by future risk mitigation but also by collaborative work products that address multiple problems within an entire service ensuring alignment throughout a process or user experience. Solutions are aimed at addressing the root cause rather than the symptom.

**Strategic** – The strategic stage is marked by rich alignment with an elevated level of strategic planning aimed at steering all aspects and outcomes of the agency's mission. There is a high degree of awareness and transparency between departments which opens opportunities for collaboration across service lines. The solution carefully balances people, process, and technologies that are scalable, yet maintain flexibility, retaining options for future needs.

The Maturity Matrix technique was used to evaluate VDOL's current level of maturity related to the fraud characteristics identified in the Improper Payment Type Matrix process. In the table below, Resultant, in collaboration with VDOL, outlined the agency's current state through a guided assessment. The **red** squares indicate VDOL's current state in relation to the five characteristics.

The **green** circles indicate VDOL's desired future state. This assisted in the identification of goals for solution discussions between VDOL and Resultant and encouraged a more open mindset for addressing problems across the full spectrum of fraud and improper payment characteristics. Both VDOL and Resultant agreed upon the placement of the markers for the current and future state of the agency. The agency should always be working toward reaching their desired future state.



Maturity Matrix for Fraud Characteristics

	REACTIVE	EFFICIENT	PROACTIVE	ALIGNED	STRATEGIC
Intent	Intent is inferred during the investigation when the claimant fails to accurately provide information correctly reflecting verifiable information. Intent is determined individually for each claimant and for each adjudicator.	Definitions that establish the basis for intent are clearly laid out in policy such that adjudicators have guidelines and training for approaching the determination of intent.	The definitions for proving intent are available to both investigators and the public.	The definitions of intent are clearly defined and incorporated into the fact-finding and claim filing processes such that they reduce the chance of uninformed or incidental misrepresentations of facts. Clear FAQs are present and support accurate information gathering.	Warnings, and real-time data crossmatches detect errant reporting errors and discrepancies such that a person could only commit fraud through intentional misrepresentation or omission.
Penalty	Penalties serve only the purpose of punishing the person committing fraud.	Penalties are used to punish the person committing but also serve to replenish dollars lost to the trust fund.	Penalties are used to punish the person committing the fraud but also serve to replenish dollars lost to the trust fund. The penalties are clearly presented to the claimant in basic UI orientation materials available online or in-person.	Penalties are used to punish the person committing the fraud but also serve to replenish dollars lost to the trust fund. The penalties are clearly presented during the claim filing process such that claimants succeed at providing the most accurate information possible.	Penalties serve to regain trust in the VT UI system by showing the claimant and employer community plus the broader community of non-filers that the agency can effectively identify and apply penalties.
Enforceability	The agency and/or its partners can apply penalties but lack the mechanisms to enforce penalties. When enforcement is required, it is specifically addressed in one off manner within the agency or through its partners.	The agency and/or its partners can enforce penalties on an as needed basis but still do so in an unstructured and manual way. There are no mechanisms in place to prioritize	The agency and/or its partners can enforce penalties. They are incorporated into the department's regular collection or entitlement system such that overpayments and other penalties are aligned with current processes.	The agency and/or its partners enforce penalties. They are incorporated into the department's regular collection or entitlement system such that overpayments and other penalties are aligned with current processes.	The agency and/or its partners enforce penalties through automated processes. They are incorporated into the department's regular collection or entitlement system such that overpayments and other penalties are scalable with current processes.
Equity	Equitability of applied penalties is unknown. The application of the law contains subjectivity and therefore bias.	Equitability of applied penalties is unknown. The application of the law contains subjectivity and therefore bias. Clear policies are present to help establish baselines during the application of the law and applicable penalties.	Equitability in the application of the penalties anecdotally understood and steps are taken to amend policies and procedures when potential problems are detected.	Consistent data analysis and accountability about equitably applied penalties	Consistent data analysis with automated triggers to spur intervention strategies to mitigate implicit bias in the application of penalties, and conversely the receipt of benefits.
Cost	New funding, resources, or staff reassignment must be procured to analyze and roll out any new detection and investigation rules. Costs (effort, budget) are unknown without ROI is not calculable. Costs to third party participants such as employers or employer advocates are not considered	New Funding must be procured to analyze and roll out new detection and investigation rules. The costs are understood. ROI can be defined. Costs to third party participants such as employers or employer advocates are not considered.	Funding for limited ongoing improvements exists and the process, and timelines for evaluating and rolling them out is understood.	Funding for limited ongoing improvements exists and the process, and timelines for evaluating and rolling them out is understood and can be done by experts within the agency or its partners. The procedural processes to support new crossmatches are well understood within the agency.	Funding for limited ongoing improvements exists and the process, and timelines for evaluating and rolling them out is understood and can be done by experts within the agency or its partners. The procedural processes to support new crossmatches are well understood within the agency and easily communicable to the agency's customers and partners.



### Value – Feasibility Analysis

A Value-Feasibility Analysis is a process to assess solutions and determine appropriate implementation timelines. The evaluation methodology can range from deep, objective, data-informed evaluations to subjective evaluations that simply perform a comparative analysis between solutions. The method used in this project identified specific criteria but used subjective input from multiple parties to identify each criteria’s collective value. The involvement of multiple criteria and multiple stakeholders provides a balancing effect that mitigates critical levels of bias from any specific opinion. All recommendations were evaluated by leveraging the Value-Feasibility Analysis process. Each recommendation was then plotted on a chart as seen below to determine prioritization.

### Value / Feasibility Matrix





## SEC. 05 | FINDINGS

### Stakeholder Persona Findings



**Claimants &  
Claimant Advocates**



**Employers &  
Employer Advocates**



**Vermont State  
Government**



**Vermont  
Department of  
Labor**

### CLAIMANTS AND CLAIMANT ADVOCATES

#### Definition

*Those who advocate for claimants throughout the UI process. Many claimants must advocate for themselves, but a few leverage their legislators or community advocacy groups, such as Vermont Legal Aid for additional assistance.*

#### Key Themes and Takeaways

- Most claimants advocate for themselves as they interact with the UI system rather than reaching out to their legislator or Vermont Legal Aid.
- Claimants and claimant advocates expect the UI system to pay benefits in a timely and accurate manner, so they are unimpressed when this happens. When it does not, they are frustrated.
- The biggest challenges for claimants and claimant advocates relate to understanding the complexities of the UI process and having enough resources to effectively navigate the UI system.

The goals of this persona relate to ensuring benefits are accessible and paid in a timely manner to those Vermonters who qualify for them.

Frustrations arise when claimants (or their advocates) do not understand aspects of the UI filing process. This lack of understanding or clarity may result in improper payments due to unintentional mistakes. The complexity of the UI system can be even more daunting to claimants who lack technology themselves, have a language barrier, or have a disability. It is important that these barriers are taken into consideration when implementing changes to the UI program. Claimants and claimant advocates can feel left out when their unique situation makes accessing UI difficult or impossible.

While claimants and claimant advocates feel heard when they reach out to VDOL and their issues are addressed, they are unimpressed when they receive their benefits timely and accurately. Claimants and claimant advocates who do not regularly navigate or experience the intricacies of the UI process may be unaware of the complexity of the UI system.

Additionally, it is important to consider the negative social stigma associated with filing UI benefits for claimants. Across the nation, employers are struggling to find talent to fill positions, and some are falsely attributing this to the UI



program. Studies have shown that the increased UI benefits provided during COVID-19 did not cause the current talent shortage<sup>33</sup>. Despite this information, the negative narrative around UI benefits is still prevalent. This can make it difficult for claimants to seek advocacy or interact with the UI system without feeling ashamed.

## EMPLOYERS AND EMPLOYER ADVOCATES

### Definition

*Those who advocate for employers throughout the UI process. Some employers hire government affairs representatives or join business advocacy groups, but some small businesses must advocate for themselves.*

### Key Themes and Takeaways

- Employers play a critical role in the UI program. They fund the UI Trust Fund and can help mitigate fraud by providing timely and accurate data to VDOL.
- Employers' purposeful misclassification of employees negatively impacts the UI program.
- Employers and employer advocates want to improve the UI system, but they do not want to spend additional time and resources doing so.
- Not all employers are connected to business advocacy groups or have the resources to hire government affairs and compliance specialists.

The goals of employers and employer advocates are contradictory. They hope to have some influence over the UI process, but they also want to reduce their time, resources, and dollars spent on the UI program. They recognize that a strong UI trust fund can help stabilize the economy, but they also want to keep their UI taxes as low as possible.

Most of this persona's satisfactions and frustrations have to do with balancing these objectives. They feel thankful when their former employees can access UI, but they feel less trust in government when UI funds are paid to those who do not qualify for benefits. They feel pleased when they can focus on their business instead of UI, but they are aggravated when they cannot communicate with VDOL.

Employers play a critical role in the UI program. They are the sole contributors to the UI Trust Fund through the reporting of quarterly wage records and payment of UI taxes. This persona's most influential role in preventing fraud and other improper payments on UI claims is their participation in the adjudication process. This important cross verification step is also critical in the accurate and timely payment of UI benefits. Employers can support the agency in the mitigation of claimant fraud by providing timely and accurate wage data and separation data to VDOL. However, they can also commit fraud against the UI Trust Fund if they do not accurately classify employees. In exceedingly rare scenarios fraudsters create "false employers" to establish false UI claims.

Skills and challenges can vary depending on the business's unique situation, but employers and employer advocates are typically skilled at accessing technology and capital. Most of their challenges involve communication with VDOL and providing the agency with information as required in Title 21 Chapter 017 of Vermont State Statute. This challenge may be connected to a lack of understanding of UI regulations and the role of employers in the UI system at-large.





## VERMONT STATE GOVERNMENT

### Definition

*Those who interact and collaborate with the UI system from within the state government not including VDOL. Some of these entities may write or implement policies that influence the operations of the UI system.*

### Key Themes and Takeaways

- Vermont state government officials feel disconnected when the lines of communication between areas of government are not transparent or accessible.
- Vermont state government officials desire clear definitions, roles, and responsibilities regarding the UI system.
- While Vermont state government officials support modernization, they are looking to VDOL to provide innovative solutions and drive that effort.

The Vermont State Government persona's goals relate to implementing and improving the UI system. Clearly defined roles and responsibilities are key priorities for this persona. A universal understanding of key terms such as "fraud" and "modernization" may go a long way in improving collaboration and communication, thus improving transparency and trust in the UI system. One of the largest concerns of this persona is the lack of reliable UI data on which to base policy and program changes. Because it is so time-consuming to pull data from the mainframe, it is difficult for the Vermont State Government (specifically the General Assembly) to craft purposeful, data-driven policy.

This persona feels satisfied when they can help constituents, be it through the UI system or otherwise. They also feel like good stewards of public funds when they deliver long-term solutions for Vermont, often through policymaking. The Vermont State Government persona feels supported in these two initiatives when there is increased trust, communication, and collaboration between agencies and branches of government.

Most of their frustrations result from the breakdown of those intergovernmental lines of communication. While communication with VDOL could be improved, VDOL is sometimes incapable of sharing claimant and fraud prevention information with other government stakeholders due to federal confidentiality standards. Frustration levels are especially high when the breakdown of communication is combined with a lack of innovative solutions, as this persona feels as though their hands are tied when they cannot make necessary changes due to outdated technology.

While this persona excels at communicating with their constituents and maintaining current technological processes, knowledge-sharing, large IT projects, and intergovernmental communication are key challenges.

## VERMONT DEPARTMENT OF LABOR

### Definition

*Those who are employed by the Vermont Department of Labor influence the operations of the UI system either directly or indirectly and provide customer service to Vermonters leveraging the UI system.*

### Key Themes and Takeaways

- VDOL wants to execute a successful modernization project as soon as possible and understands their lack of resources and technology are a barrier to innovation and UI program changes.
- VDOL feels a lack of trust from other UI program stakeholders.



- Compared to the other three personas, VDOL is the most knowledgeable about the technical aspects of the UI system and federal UI policy.

The top priority of the VDOL persona is to provide benefits to Vermonters accurately and timely. Agency leaders believe that a successful modernization project is crucial to achieving this goal. Because of their current technology and staffing limitations, they have struggled to implement innovative changes to UI processes and systems that would positively impact Vermonters.

Although VDOL had one of the lowest improper payment rates in the country prior to COVID-19, they recognize the need to improve processes and technology that would mitigate future fraud. VDOL feels inadequate when they cannot deliver the value that they know Vermonters deserve due to their current limitations. VDOL attempts to communicate the complexities of the UI system to other stakeholders, but it is often difficult for outside parties to fully comprehend the program. VDOL desires to be viewed as the subject-matter-expert for the UI program in Vermont. Retaining institutional technical knowledge has also been a challenge for VDOL, as many of the mainframe operators have retired.

There are also several factors affecting VDOL's operations that exist outside of their control. For example, USDOL regulates the UI trust fund and many other functions of VDOL's UI division. VDOL must also balance transparency with protecting fraud prevention methods and confidential information.

## NOTE

Full personas for each group can be found in [Sec. 09: Appendix](#).

## **Finding 1: VDOL has taken critical initial steps to limit fraud, enhance claimant security, and improve the claimant experience.**

### **PRIOR TO THE PANDEMIC, VERMONT HAD LOWER IMPROPER PAYMENT RATES THAN OTHER RESEARCHED STATES DESPITE OUTDATED TECHNOLOGY**

Throughout the pandemic, VDOL has kept the interests of both claimants and employers at the forefront of their strategy despite the department's limitations. It is important to note that Vermont was not alone in its struggle to cope with unprecedented claim filings and increased fraudulent activity during the pandemic. However, compared to neighboring states as well as states across the country, Vermont's improper payment rate fared well thanks to proactive measures taken by VDOL. VDOL's improper payment rate, prior to the pandemic, was kept at 4.42%. Of the eleven states researched, the average improper rate was 9.8% with the highest rate being 17.7%. Although Vermont is a small state, their practices and accomplishments are impressive given the status of their mainframe technology and low staff numbers.

### **IMPLEMENTATION OF ID PROOFING AND A NEW INTERNAL FRAUD UNIT IN RESPONSE TO INCREASED FRAUDULENT ACTIVITY**

Additionally, to enhance claimant security, Vermont is in the process of implementing various methods of ID proofing as well as creating a new internal fraud unit in response to increased fraudulent activity. The new fraud unit will assist VDOL in detection and investigation of fraudulent activity.



## PROACTIVE IN TAKING THE UI APPLICATION OFFLINE WHEN FRAUDULENT CLAIMS SKYROCKETED

Following the increased volume of fraudulent claims filed in the Spring of 2021, VDOL was proactive in taking the UI application offline. This required all claimants to call VDOL to establish an initial claim, thus helping to decrease further activity while protecting identities and accounts of Vermonters.

**“Our ultimate goal is to protect Vermonters, whether that be ensuring individuals receive timely benefits or preventing fraudsters from using the identities of innocent Vermonters to defraud the state.”**

## VDOL IS BEGINNING PHASE I OF MODERNIZATION WHICH WILL ENHANCE CUSTOMER PORTALS

VDOL and ADS have begun planning for Phase I of Modernization. This initiative will enhance customer portals, implement ID proofing, and increase VDOL's access to data through software that connects to mainframe data. Details on Vermont's modernization plans can be found in [Sec. 03: State Comparison Research](#).

**Finding 2: Measures to improve the claimant experience, fraud prevention and overpayment reduction can be made to bridge the gap between the current state and a future modernized state.**

## COLLABORATIVE AND TRANSPARENT DEFINITIONS ARE NEEDED TO CODIFY TYPES OF FRAUD AND SUBSEQUENT CONSEQUENCES

VDOL classifies types of improper payments ranging from ineligibilities to fraud on their website. However, these definitions and the subsequent consequences for these violations are not codified in Vermont state law. This lack of specificity is both a benefit and liability to the application of any fraud penalties. The lack of codified fraud definitions means that VDOL's fraud decisions face scrutiny when others disagree with the VDOL's application of 'Willful and Intentional' upon a claimant's actions. This does not mean that VDOL should not face scrutiny, nor does it mean that the law requires specific definitions to be codified. Resultant would simply like to emphasize that finding a collective understanding of which actions relate to specific penalties is a critical first step to improving the effectiveness of all Fraud Prevention, Detection, and Investigation tools. This will help VDOL move away from its one-size-fits-all approach that is seen as overly harsh or too lax.

Resultant feels strongly that it is inappropriate for our team to make definitive policy recommendations regarding the specific actions that constitute fraud and their related punishments. However, Resultant recognizes the level of discord created in their absence. And for that reason, Resultant began a process with a singular Persona group (VDOL) to develop use cases grounded in experience and research. These use cases were discussed and then arranged based on VDOL's perspective. To achieve shared definitions, members of the other personas (Claimants and Claimant Advocates, Employers and Employer Advocates, and Vermont State Government) should also contribute to the shared universe of fraud use cases. These use cases can be the basis for defining policies that apply fraud penalties in a consistent and equitable manner.

VDOL currently imposes penalty weeks and then seeks repayment for claims that have been deemed to be fraudulent. VDOL lacks the authority to refer UI fraud cases for criminal prosecution.



## OUTDATED TECHNOLOGY HAS REDUCED OPTIONS FOR INNOVATION AND RESPONSIVENESS

The Vermont UI program operates on a mainframe system that is more than forty years old and leverages F-COBAL coding. Outdated technology has reduced VDOL's confidence in implementing innovative processes and improvements to the current system. Vermont's outdated mainframe system does not allow the agency or policymakers to implement changes without elevated risk. Vermont's Joint Fiscal Office's independent review of the UI mainframe system found that that "changes to the program are extremely risky and should be avoided. The reasons include: no way to safely make and test changes, no documentation, and limited access to skilled programmers."<sup>34</sup>

Modernization will increase the agency's ability to be agile. However, a fully modernized system is years away and there are other bridge solutions that VDOL can implement now. The identification and implementation of bridge solutions can boost agency morale by allowing the agency to celebrate quick wins and will allow claimants to receive their benefits in a timelier manner.

### **“Our unemployment system is archaic and it's on fumes.”**

## ENHANCED COMMUNICATION IS NEEDED TO BETTER EDUCATE CLAIMANTS AND STAKEHOLDERS ON COMPLEX UI PROCESSES AND REQUIREMENTS.

UI statutes and processes are complex regardless of the state or agency executing them. As a result, Vermonters and legislators feel a sense of frustration when attempting to discuss methods of improving claimant experiences because it is difficult to simplify the process. Effectively communicating UI statutes and processes to key stakeholders will bolster trust in the UI system and allow for innovation.

### **“Constituents don't have to know how to navigate state government.”**

Enhanced communication of complex UI processes and requirements could include:

- Focusing on common language in the UI application (i.e., fired v. quit v. laid off)
- reducing unnecessary complexities such as redundancies in the process
- Increasing equitable and simplified access for UI Claimants and Employers

### **“Communication is an issue because the VDOL website is often difficult for claimants to navigate.”**

## INCREASED CROSSMATCH AUTOMATION WILL ALLOW VDOL TO PROCESS CLAIMS AND DETECT IMPROPER PAYMENTS AND FRAUD BEFORE A PAYMENT IS ISSUED TO A CLAIMANT MORE EFFICIENTLY

Identity verification methods are important tools for mitigating fraud. Crossmatching is an extremely effective method for verifying identities. Crossmatching verifies claimant identities through separate government agencies using their name, driver's license number, or social security number. This not only allows VDOL to either prove or disprove a claimant's identity, but it also gives VDOL a claimant's employment status and/or incarceration status. Automating this process will allow VDOL to process claims and detect improper payments and fraud before a payment is issued to a claimant more efficiently. Automating the process will also allow VDOL to reallocate staff to other strategic priorities.



**Finding 3: Despite the positive steps that have been taken to reduce fraud, additional practices, and procedures for preventing, detecting, and investigating fraud can be deployed.**

**STAFFING, TRAINING, AND BUDGET CONSTRAINTS HAVE REQUIRED VDOL TO RE-PRIORITIZE TASKS**

While VDOL has taken initial steps to combat fraud, many fraud prevention tasks remain heavily manual. As with many labor agencies across the country, VDOL has experienced staffing, training, and budget constraints. Due to the COVID-19 pandemic, VDOL was forced to 1) work remotely and 2) hire fresh staff and contractors to perform complicated jobs with little opportunity for training.

Additionally, the UI division is currently undergoing a reorganization to bring in more staff, support strategic thinking, and enhance program management. Resultant supports this reorganization, as it could lead to increased efficiency, comprehensive strategy planning and improved customer service. These quick wins could boost morale within the division.

**CLAIMANT USERNAMES AND PASSWORDS**

*This section has been redacted and presented verbally.*

**AUTHENTICATION PROCESSES DO NOT CHANGE PROGRAM ELIGIBILITY FOR CLAIMANTS**

It is not possible to eliminate fraud entirely but reducing fraud exposure via proven prevention mechanisms like ID proofing and ID verification is critical to delivering benefits timely for legitimate claimants. Placing the verification at the start of the process 1) provides the convenience and security of a signal sign-on with multi-factor authentication and 2) ensures downstream processing accuracy. Fortifying the authentication process can be done online, via phone, and through in-person kiosks as to not limit the accessibility of the UI program to Vermonters. Note that changes to the authentication process do not change the UI eligibility of valid claimants. A strategic communication strategy including an update to the UI Claimant Handbook will need to be deployed to educate claimants on the new authentication processes.

**VDOL IS UNABLE TO ACCESS IRS 1099 DATA**

VDOL actively investigates employee misclassification and, beginning in 2020, enforces penalties against employers who misclassify employees.

Penalties for employee misclassification are investigated and enforced by VDOL with support, as necessary, from the Office of the Attorney General. They include:

- Monetary fines up to \$5000.00
- Second violation (10-year period): \$2000.00
- Third violation (10-year period): \$5000.00
- Disbarment from contracting with the State of Vermont for up to three years

VDOL is obligated by USDOL to audit employers for compliance to ensure they are properly reporting employees to VDOL. The VDOL Field Auditors proactively audit Vermont employers for compliance with UI program statutes. Additionally, whenever a claimant files for UI, the department crosschecks against reported quarterly wages.



Whenever quarterly wage reports are not found for the claimant, VDOL immediately launches an investigation into the employer to determine why wages were not reported. If it is found that an employer has misclassified or failed to report an employee, VDOL has the authority to collect UI Trust Fund contributions with interest dating back three years.

However, due to outdated UI legacy systems and security concerns, VDOL has not been granted access by the Internal Revenue Service (IRS) to obtain 1099 data from previous tax seasons. Access to this data would allow VDOL to investigate employee misclassification more efficiently.

**Finding 4: Coordinated intergovernmental communication and collaboration is required to meet UI program goals and expectations including successfully implementing fraud prevention measures and the UIM.**

### INSUFFICIENT TRUST, COMMUNICATION, AND COLLABORATION BETWEEN INTERGOVERNMENTAL STAKEHOLDERS

Due to the compact size of Vermont, purposeful collaboration and communication are required to successfully implement policy changes and manage projects. Through discovery, it was clear that there is a lack of trust between UI program stakeholders at the state government level.

The processes and technology of the UI program are complex and require intense collaboration and communication between the legislative and executive branches of state government and federal partners, most notably USDOL. Collaboration, clear communication, and trust are critical to delivering program enhancements that will better serve Vermonters.

### NO UNIFIED UNDERSTANDING OF THE MODERNIZATION PROCESS

There is a universal understanding amongst all UI program stakeholders that there is a need for a modernization project to update current technology and processes. However, the project management approach, technical approach, scope, and timeline are critically important to the long-term acceptance and success of a modernized system. The novelty of a new system wears off quickly if it does not meet expectations. Modernization without long-term planning can result in unintended consequences.

### LACK OF ENTERPRISE SUPPORT OF NON-TECH PROCESS REENGINEERING

There is also a lack of enterprise support of non-tech process reengineering within VDOL. Vermont has been training state employees in Lean Six Sigma and has a network of approximately 700 'belted' practitioners across state government. However, very few, if any, trained Lean practitioners are currently employed by VDOL. The Agency of Administration employs a Chief Performance Officer (CPO). This position is currently being staffed by an interim CPO who centrally champions process improvement training and strategy across Vermont state government. Its centralization is like the value that ADS provides for Vermont State Government's technology. By unifying and supporting best practices across state government, the CPO's office intends to introduce a common language surrounding process improvement so cooperation between different branches and divisions within branches of government are made easier. Furthermore, expertise, costs, and coordination are more easily managed between all executive branch activities through this centralization.

Considering VDOL's upcoming modernization projects, the importance of process redesign cannot be understated. Process redesign should accompany or precede technical implementations to ensure that technology is not simply memorializing inefficient processes. Modernizations of all kinds, including UI modernizations, are littered with examples



of applying technology in ways that simply moved the same 'manual' processes into a digital format. This, at best, can bring better visibility to an ill-formed process through better data; at worst, it will impede the process by making its steps more cumbersome. Sometimes technology implementations and process design go together, and other times only one is required. Process re-engineering is viewed as the bastion of subject matter experts, but individual SMEs do not always have process re-engineering in their skillset. Additionally, in environments such as UI where administration budgets are regularly constrained, carving out internal process improvement time can feel misplaced when critical work like UI claimants remain unresolved.

VDOL is currently undergoing organizational restructuring in multiple areas. They recently dedicated an entirely new unit to spearhead the investigation of fraudulent activity. This unit was never deemed necessary prior to the pandemic but the volume and novelty created by the recent programs required a level of focus and specialization to provide the new unit with the time and space to establish best practices to disseminate. It is not currently clear what the long-term structure might look like for this unit, but other states have had dedicated 'Benefit Payment Control' units for years. Observations of other states with these dedicated structures suggest that one of the largest problems with dedicated units is the silo-ing of information within units. This reduces the learning between divisions. Fraud units fail to learn new operational procedures implemented in the Claims and Adjudication units and then the Claims and Adjudication units become disconnected from the needs of the fraud units. It must be noted that VDOL has had a Benefits Accuracy Measurement (BAM) unit that performs regular full claim reviews of claimant accounts to identify errors. The BAM unit's discovery and output determines the State's Improper Payment rate amongst other important key performance indicators at the federal level. Despite their ability to review and correct errors BAM is only sampling a small number of cases every year. Therefore, BAM determines quality and accuracy from a sample of cases rather than reviewing every claim.

In addition to the BPC unit, VDOL is seeking to hire a mid-management layer to support the growth and development of their staff and the systems underlying business processes. Hiring the right type of servant leaders could be highly beneficial to efficiency and growth within the agency.

### **Fraud Use Case Development & Analysis**

The following use cases were constructed during the discovery phases to provide ongoing points of discussion as well as a mechanism for continued analysis. They are not specific real-world examples gathered through discovery, but instead fictional scenarios grounded in research and context and designed to focus attention on the similarities and differences between different parties. Additionally, the techniques used for identifying, elaborating, and utilizing the use cases for further analysis can and should be continued as discussions arise about fraud and other improper payments. Grounding conversations about the topic in a landscape of shared, codified examples aids discussions about the complexity of the UI system. Rather than focusing on extreme, rare examples, use cases steer conversation toward a measured, nuanced understanding of user experiences. Furthermore, this technique allows for a layer of abstraction from specific claimant facts, allowing VDOL to engage in conversations more directly with legislators about scenarios and fact patterns, as VDOL is unable to share the facts of any specific case outside of approved authorizations. The graphic below is an exercise where the use cases were used to identify VDOL's perspective on how different actors might receive punishment. The output from this exercise was not a specific definition of fraud but an opportunity to learn what was important from their perspective in preventing fraud from occurring and which behaviors should align with which punishments. The use cases elaborated below are long form examples of the use cases that were

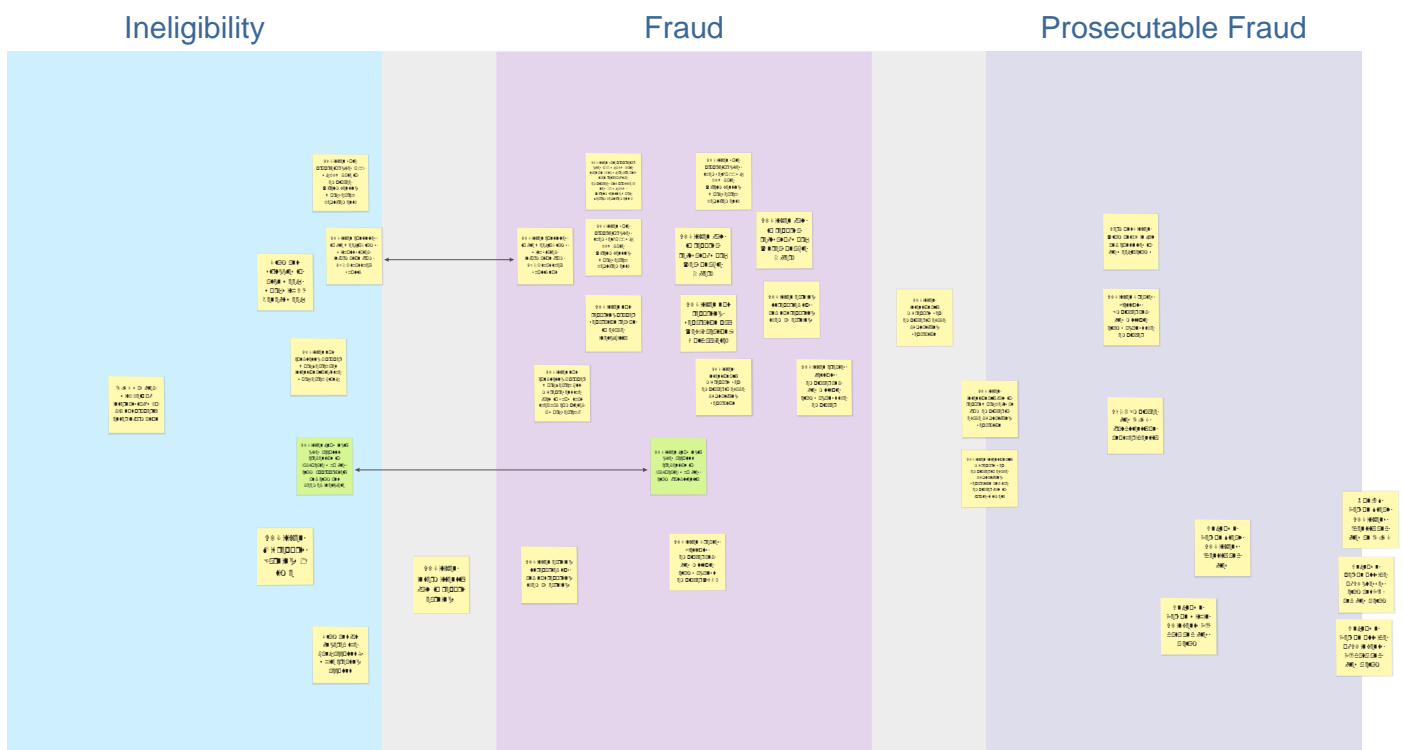


discussed during the session. The format can and should be used to drive additional learning from other relevant stakeholders as future definitions of fraud and penalties are discussed.

### OPPORTUNISTIC VERMONTER "I HEARD OTHERS HAD GOTTEN AWAY WITH IT"

**USE CASE 1:** James F., a Vermont citizen, needed extra money but was earning over his weekly benefit amount. He heard that others had gotten away with underreporting their earnings to still receive a weekly entitlement. However, he

## Improper Payment Use Case Alignment



was second-guessing their ability to get away with the crime because they were required to verify their identity through a third-party service.

**USE CASE 1 ANALYSIS:** The claimant in this case was externally influenced by another claimant’s perceived success at committing fraud. Verification of the claimant’s identity may have deterred the claimant from committing a more egregious act of fraud by ensuring that identities can only be used by their true owners. If employers are properly responding to requests for information and reporting their wages in a timely manner, then UI crossmatches can identify and prevent fraud.

**USE CASE 1 OPPORTUNITIES:** Enhance messaging to claimants at the point of information entry to further discourage fraudulent behavior. Increase understanding around the penalties for fraudulent acts and clarity around





what constitutes fraudulent acts. Make claim notifications and benefit charge information “real-time” so employers can receive information about employee’s claim activity more easily.

### OPPORTUNISTIC U.S. FRAUDSTER “I HEARD OTHERS HAD GOTTEN AWAY WITH IT”

**USE CASE 2:** John D., a fraudster within the U.S., heard that others had filed fraudulently for UI in Vermont and had successfully been paid. John D., despite still working out-of-state, simply did not report that employment or earnings when filing for benefits. John D. used his real identity because he had worked in Vermont for a small window of time in the past year but now lives out of state. John D. was not aware of the potential consequences of his actions because he did not bother reading the claimant handbook.

**USE CASE 2 ANALYSIS:** The claimant in this case was externally influenced by the perceived success of committing UI fraud in Vermont. The verification of the claimant’s identity may have deterred the claimant from committing a more egregious act of fraud. The existence of ‘covered employment’ (having wages from an employer that is required by statute or by choice to submit those wages and those wages are eligible for use in a UI claim) suggests that the claimant is filing a UI claim. If the Vermont wages were enough to establish a UI claim in Vermont, then it is possible for the claimant to have filed and received benefits without additional information from another state. However, if the Vermont wages were not enough, wages would have needed to be collected from another state or federal agency and additional crossmatches or cross-state processes would be necessary. Quarterly wage crossmatches would not have worked for out-of-state employment and Federal New Hire information only works if a claimant has started a new job while filing.

**USE CASE 2 OPPORTUNITIES:** Enhance messaging to claimants at the point of information entry to further discourage fraudulent behavior. Ensure that the consequences for committing fraud can reach beyond the borders of Vermont by integrating multi-state debt collection tools such as TOP.

### OPPORTUNISTIC NON-U.S. FRAUDSTER “I AM UNTOUCHABLE. YOU’LL NEVER FIND ME”

**USE CASE 3:** Jane A., a fraudster outside of U.S., heard that others had filed for UI in Vermont and had successfully been paid. Jane A. used a stolen identity of an individual who had worked in Vermont for a small window of time in the past year but now lives out of state. Jane A. was unconcerned by the potential consequences of her actions because she is outside of the reach of U.S. debt collection or law enforcement activities.

**USE CASE 3 ANALYSIS:** The claimant in this case was externally influenced by the perceived success of committing UI fraud against the Vermont UI system. The existence of ID verification could have deterred the claimant from even attempting to commit fraud or outright prevented it. The existence of both Vermont and non-Vermont wages could mean that the claimant could report a layoff from a bogus out-of-state separating employer. VDOL staff would not have reason to believe this user was not a legitimate claimant without an employer protest. New Hire and Quarterly Wage Crossmatches would not have triggered later investigation.

**USE CASE 3 OPPORTUNITIES:** ID proofing and account security measures might be the only way to prevent this type of fraud from occurring.



## FAILED TO COMPLETE A WORK SEARCH “I RAN OUT OF TIME THIS WEEK. I’LL COMPLETE SIX WORK SEARCHES THE FOLLOWING WEEK TO MAKE UP FOR IT”

**USE CASE 4:** Paul A., a Vermont citizen, failed to complete his work search activities within week two of his claim. While filing benefits for week two Paul A submitted three work searches that he completed on Sunday the day following the benefit week but recorded them as on his voucher for week two to remain eligible.

**USE CASE 4 ANALYSIS:** In this use case the claimant was clearly misrepresenting the facts to maintain his eligibility. He failed to complete the necessary work searches to remain eligible within the benefit week despite fulfilling the general spirit of the rule by completing the work searches. Identification of this type of fraud would require verification of every work search performed. Validating work searches across a variety of different job board platforms and word of mouth activities that comprise a valid work search is a daunting task if done manually. They also do not ‘scale’ well. Other states have employed electronic work searches which can eliminate but fail to address the purpose of a job search getting people back to work.

**USE CASE 4 OPPORTUNITIES:** Manually verifying all work searches for compliance. This might not be a realistic opportunity. Develop a Work Search verification process that randomly samples or targets specific groups for review.

## FAILED TO COMPLETE A WORK SEARCH HONESTLY PUT NOTHING “I DIDN’T COMPLETE MY WORK SEARCH. MAYBE THEY CAN LET IT SLIDE THIS TIME”

**USE CASE 5:** Anna B., a Vermont citizen, failed to complete her work search activities within week two of her claim. While filing benefits for week 2 Anna B. left all three required work searches blank. An issue was created to investigate and determine why Anna B. had not completed her work search. The issue was later cancelled in error and Anna B. was paid for week two despite her honesty in her Weekly Claim.

**USE CASE 5 ANALYSIS:** In this use case the claimant had clearly failed to comply with an eligibility requirement but was honest about her information in case she was otherwise eligible. The claimant was granted benefits due to a department adjudication error.

**USE CASE 5 OPPORTUNITIES:** Manually verifying all work searches for compliance. This might not be a realistic opportunity. Develop a Work Search verification process that randomly samples or targets specific groups for review.

## FAILED TO COMPLETE A WORK SEARCH JUST MADE UP THE ENTRIES “I DIDN’T COMPLETE MY WORK SEARCH. HOW WOULD THEY KNOW I WAS LYING?”

**USE CASE 6:** Will C., a Vermont citizen, failed to complete his work search activities within week two of his claim. While filing benefits for week two Will C. concocted three work searches to avoid disqualification in his second week.

**USE CASE 6 ANALYSIS:** In this use case the claimant had clearly failed to comply with an eligibility requirement but was simply fabricated a work search to avoid disqualification.

**USE CASE 6 OPPORTUNITIES:** Manually verifying all work searches for compliance. This might not be a realistic opportunity. Develop a Work Search verification process that randomly samples or targets specific groups for review.



## VERMONT CITIZEN'S IDENTITY WAS STOLEN AND WEEKLY CLAIMS WERE FILED ON THEIR IDENTITY. BUT NO PAYMENTS WERE ISSUED "MY IDENTITY WAS STOLEN!"

**USE CASE 7:** Barbara H. had a claim and benefit weeks filed against her UI account without her knowledge. Claim notices were sent to her base period employers which included her current employer. Embarrassingly, she found out from her employer that the claim had been filed when they confronted her about filing a UI claim while working.

**USE CASE 7 ANALYSIS:** In this use case, the claimant's identity or account information was intercepted and used to file fraudulent claims. Luckily for the claimant and employer, there were no payments issued and the natural structure of the UI system assisted in preventing improper payments. The identity of the "identity thief" is not necessarily known or discoverable, nor is it clear whether the actions taken by the fraudster could be directly punished by current statutory authority. This one instance had negative consequences for the Vermont citizen and an employer because they were forced to address and interact with a UI system that they should have never needed to. VDOL would have had to spend time cleaning up the claim and amending any work that had been completed prior to receiving the protest from current employer.

**USE CASE 7 OPPORTUNITIES:** Requiring ID proofing would have likely prevented the account from being accessed and claims from being filed. Additionally, ensuring penalties can be applied to identity thieves even when UI payments were not received could ensure that probing fraud attacks can be punished.



## SEC. 06 | RECOMMENDATIONS

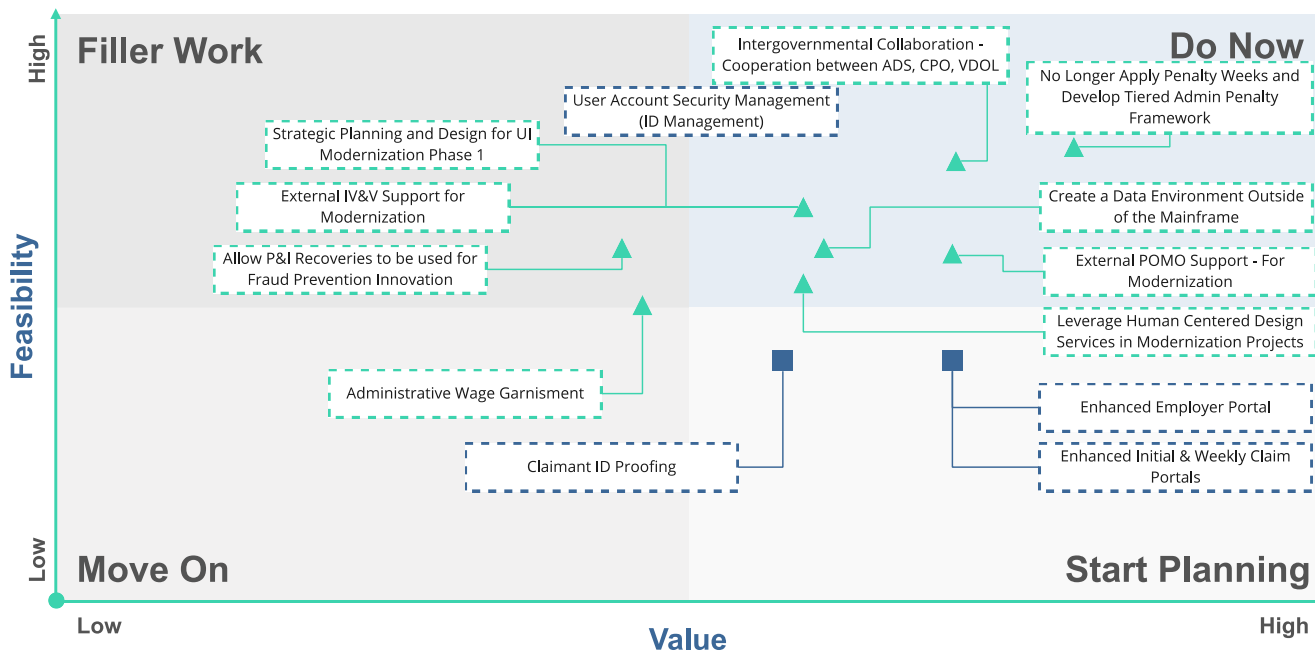
### Value – Feasibility Analysis Results

After initial discovery interviews and policy research, Resultant identified an initial set of potential recommendations. These recommendations evolved through additional discussions with key stakeholders to create more fully-fledged options. Some recommendations were determined to be impractical, unrealistic, or unworthy of inclusion in further analysis. The final list was trimmed to 28 different solutions and then evaluated across the following Feasibility dimensions:

- Estimated Cost to Implement (Cost),
- Availability of Expertise (Expertise)
- Estimated Timeline for Implementation (Implementation)
- the Delivered Product’s General Acceptance by the Relevant Personas (Acceptance), and
- a simple value assessment.

The plotted results revealed a universe of solutions ranging from items to implement immediately to others that will require additional planning, discovery, or investigation.

### Value / Feasibility Matrix



The resulting recommendations were placed into three categorical areas: People & Process, Legislation & Policy, Technology



## Authorized Projects

The following solutions have already been authorized by the Vermont General Assembly and are currently slated for execution during 2022. The solutions were evaluated along with the other currently unauthorized solutions using the same rubric. The results of this evaluation identified them as high-value activities. The claimant and employer portals scored slightly lower on their feasibility due to their overall complexity and the estimated time it will take to realize their value.

### ENHANCED INITIAL & WEEKLY CLAIM PORTAL

#### Solution Statement

Preventing, detecting, and investigating claim fraud requires better initial and weekly claim filing data collection and process education. Without more easily updated or supportable data collection tools, like initial and weekly claim filing, the ongoing fraud processes will continue to be hampered by outward facing system limitations. Delivering outward facing portals that can more easily adapt to emerging needs will allow VDOL and the Vermont General Assembly to continue to craft a more useful system for the citizens of Vermont.

Additionally, the modernization of these outwardly facing tools could drastically reduce the complexity for the end user by eliminating unnecessary or redundant claim filing steps. Reducing the complexity for end users reduces the uncertainty around whether their actions were willful and intentional, which increases the ability to identify and prove fraudulent activity.

### CLAIMANT ID PROOFING

#### Solution Statement

ID Proofing is the process of leveraging personal information and comparing it against other known information about an identity to 'prove' that the person is who they say they are. Manual ID Proofing has occurred for many years through interviews and through the process of investigating claims. The pandemic programs revealed how these practices could fall short and create extreme amounts of downstream work for victims of identity theft and the agency. ID Proofing as a service has existed for years as an in-line service and a background crossmatch service, but it has been embraced over the past 18 months (about one and a half years) within the UI sector as well as other major federal programs such as the Department of Veterans Affairs, the Social Security Administration, and the Internal Revenue Service. There are many new offerings that merge distinctive features and functionalities to support ID Proofing for claimants as a one-time or as an ongoing service. Engaging ID Proofing services as part of the Phase I of Modernization has the potential to reduce VDOL's exposure to fraudulent actors through direct identity verification and deterrence of claim fraud by legitimate claimants who previously could have claimed ID Theft.

### ENHANCED EMPLOYER PORTAL

#### Solution Statement

Employer participation is necessary for the success of the UI System. Submission of quarterly wage reports is a critical element of establishing UI claims timely and accurately. Additionally, this information is utilized in crossmatches that detect improper payments and fraud. The development of a new Employer portal should allow for greater visibility and insight for employers into their UI accounts. Examples of improvements include faster and more efficient bi-directional



communication regarding claim issues, more timely and accurate wage reporting, and an increased willingness to engage electronically, thus reducing the burden of manual staff intervention.

## USER ACCOUNT SECURITY MANAGEMENT (ID MANAGEMENT)

### Solution Statement

Once an identity has been tied to an account the ongoing security of the account is paramount to the protection of the identity. For instance, many state governments are seeking to leverage a single login for all government services, but without significant account protections for a person's login a single identity breach could expose a citizen's identity to fraud with multiple agencies. The application of enhanced user account management should provide increased account security to protect individual claimants with limited awareness of the best practices for online security.



## People & Process

### EXTERNAL IV&V SUPPORT FOR PHASE I OF MODERNIZATION

#### Solution Statement

Independent Verification and Validation (IV&V) is an industry best-practice for large scale IT projects. When implemented correctly, IV&V monitors the project and detects potential problems before they grow and derail the project, or worse, the trust between project stakeholders. Due to the complexity of UI Modernization projects, they tend to have high rates of failure. The leading causes tend to be vendor relationship management, requirement assumptions, and undefined or unrealistic expectations from customer and client. Large projects with uncertain goals and multiple overlapping responsibilities can turn into a game of “finger-pointing.” IV&V aims to be a neutral voice to speak through the sometimes-charged rhetoric of disagreements to help ensure the project outcomes are achieved.

#### Scope

#### Description of Need

Procure resources to perform IV&V activities throughout Phase I of Modernization. Seek experts in the field for IV&V through external resources or within state government.

#### Timeline

Duration of UIM Phase I (Est. End of 2022)

#### Est. Cost

2-3 FTE

### IMPACTS ON PERSONA GROUPS

Claimants & Claimant Advocates	Employers & Employer Advocates	Vermont State Government	Vermont Department of Labor
<ul style="list-style-type: none"> <li>Increased likelihood of a modernized system delivered to claimants</li> </ul>	<ul style="list-style-type: none"> <li>Increased likelihood of a modernized system delivered to employers</li> </ul>	<ul style="list-style-type: none"> <li>Independent voice to provide consistent feedback and updates on modernization</li> </ul>	<ul style="list-style-type: none"> <li>Receives independent feedback on project to increase likelihood of success</li> </ul>



## EXTERNAL POMO SUPPORT FOR MODERNIZATION

### Solution Statement

Like a traditional project management office (PMO), a project outcomes management office (POMO) is responsible for the management of an organization’s projects, but it distinguishes itself from traditional PMOs by focusing on the achievement of the outcomes not simply the implementation of software. Leveraging a POMO for UIM will ensure project outcomes are being tracked and met throughout design and implementation.

### Scope

### Description of Need

Procure resources to perform or support POMO activities throughout Phase I of Modernization

### Timeline

Duration of UIM Phase I (Est. End of 2022)

### Est. Cost

4 - 8 FTEs (Dependent on Scope)

IMPACTS ON PERSONA GROUPS			
Claimants & Claimant Advocates	Employers & Employer Advocates	Vermont State Government	Vermont Department of Labor
<ul style="list-style-type: none"> <li>Increased likelihood of a modernized system delivered to claimants</li> </ul>	<ul style="list-style-type: none"> <li>Increased likelihood of a modernized system delivered to employers</li> </ul>	<ul style="list-style-type: none"> <li>Opportunity to extend beyond the normal capacity of ads and provide additional support</li> </ul>	<ul style="list-style-type: none"> <li>Support in identifying and achieving specific measurable success criteria</li> </ul>





## LEVERAGE HUMAN CENTERED DESIGN SERVICES IN MODERNIZATION PROJECTS

### Solution Statement

Human Centered Design is focused on better understanding the needs of the people using the system so that the project is A) more likely to deliver the expected value B) able to measure the appropriate outcomes to ensure customers have positive experiences.

### Scope

### Description of Need

Engage a partner to drive human centered design activities related to Phase I Modernization, as either a part of the POMO or as a separate engagement.

### Timeline

Duration of UIM Phase I (TBD)

### Est. Cost

2-4 FTEs (Scope Dependent)

### IMPACTS ON PERSONA GROUPS

Claimants & Claimant Advocates	Employers & Employer Advocates	Vermont State Government	Vermont Department of Labor
<ul style="list-style-type: none"> <li>• A system designed with their experience in mind</li> <li>• A more equitable process for all customers regardless of ability</li> </ul>	<ul style="list-style-type: none"> <li>• A system designed for those who will utilize the system (employers and their staff)</li> <li>• A more equitable process for all employers regardless of resources</li> </ul>	<ul style="list-style-type: none"> <li>• Greater accountability with the public and staying on track of project goals</li> <li>• Greater accountability on VDOL for accomplishing their project goals</li> </ul>	<ul style="list-style-type: none"> <li>• Better equipped to understand human-centered design approach and their customers to apply across other processes</li> </ul>



## INTERGOVERNMENTAL COLLABORATION – COOPERATION BETWEEN ADS, CPO, & VDOL

### Solution Statement

Increased intergovernmental collaboration between ADS, the CPO, and VDOL will ensure that operational and technological processes are aligned across agencies. Not only should this collaboration result in a successful modernization project, but it should create opportunities for VDOL to innovate in other areas as well.

### Scope

### Description of Need

Develop ongoing touchpoints between ADS, CPO, and VDOL leadership to ensure opportunities are being regularly identified.

### Timeline

Duration of UIM Phase I (TBD)

### Est. Cost

Low

### IMPACTS ON PERSONA GROUPS

Claimants & Claimant Advocates	Employers & Employer Advocates	Vermont State Government	Vermont Department of Labor
<ul style="list-style-type: none"> <li>• Higher likelihood of recent technology and processes that will increase ease of access</li> <li>• Build trust in UI program</li> </ul>	<ul style="list-style-type: none"> <li>• Higher likelihood of recent technology and processes that will increase ease of interaction</li> <li>• Build trust in UI program and prevent tax increases by protecting employer contributions to the UI trust fund</li> </ul>	<ul style="list-style-type: none"> <li>• Increased likelihood of success of state government. projects</li> <li>• Increased likelihood of spending tax dollars responsibly</li> <li>• Increased public trust in the UI program</li> </ul>	<ul style="list-style-type: none"> <li>• Increased likelihood of success of gov. projects</li> <li>• Increased opportunity to innovate and problem solve</li> <li>• Leveraging of SMEs in other government agencies to reduce VDOL's workload</li> </ul>



## Legislation/Policy

### ADMINISTRATIVE WAGE GARNISHMENT

#### Solution Statement

Establish legislation that would allow VDOL to garnish wages without seeking the garnishment through the court system for individuals who meet specific overpayment criteria such as types of overpayments like fraud, and/or unreported earnings (suggestion: align rules with Treasury Offset Program (TOP) guidelines). Increasing the collectability of overpayments serves two purposes. First, recouping payments more quickly has a positive impact on the health of the UI Trust Fund, which makes it possible to consider alterations to employer taxing/contributions without risking insolvency. Additionally, effective recoupment of overpayments acts as a deterrent of future fraud by ensuring that the anecdotal narrative surrounding UI fraud discourages fraudsters.

#### Scope

#### Description of Need

Draft legislative language to grant the authority for VDOL to garnish wages.

#### Timeline

Passing Necessary Legislation: Legislative session

Developing and Confirming Process Prototypes: 2-4 Months

Implementation of Process Automation: 3-5 Months

#### Est. Cost

Cost to implement legislation: Low

Cost to implement VDOL business process: Low

Cost to implement supportive technologies: Low to High (Dependent on desired level of automation)

### IMPACTS ON PERSONA GROUPS

Claimants & Claimant Advocates	Employers & Employer Advocates	Vermont State Government	Vermont Department of Labor
<ul style="list-style-type: none"> <li>• More resources to help claimants due to less fraud</li> </ul>	<ul style="list-style-type: none"> <li>• Increased overpayment recoveries could allow for beneficial tax rate changes</li> <li>• Reimbursable employers more likely to recoup benefit charge payments</li> </ul>	<ul style="list-style-type: none"> <li>• Reduced use of VT civil court system</li> <li>• Expected increase in collections</li> </ul>	<ul style="list-style-type: none"> <li>• Increased collections</li> <li>• Reduced time spent preparing for request of court for each new employer or period of employment</li> </ul>



## NO LONGER APPLY PENALTY WEEKS AND DEVELOP TIERED ADMINISTRATIVE PENALTY FRAMEWORK

### Solution Statement

Penalty weeks would no longer be applied in cases of fraud. Instead, the agency would work with other interested personas to identify an "accepted" and equitable approach to a tiered system of administrative penalties. The tiered system would consider elements such as 'number' of instances of fraud and the type of fraud (identity theft vs. unreported earnings vs misreported earnings, etc.).

This solution is applicable for two reasons. First, penalty weeks are not a deterrent to all fraudsters. Those who commit UI fraud and never apply for UI in Vermont again never have to cope with penalty weeks. Therefore, VDOL never recoups the funds lost to those fraudsters, as the penalty weeks do not affect them. Because the claimant never faces negative consequences for committing the fraudulent act, penalty weeks do not effectively deter fraud. This leads to the second reason to support this solution: a tiered administrative penalty framework would allow VDOL to recoup losses through recovery mechanisms that extend beyond Vermont's borders.

### Scope

#### Description of Need

Work collaboratively with legislative partners and VDOL staff to craft a tiered framework for fraud.

#### Timeline

Estimated 2 - 4 months for establishing policy, process, VDOL internal and external change management activities

#### Est. Cost

Cost to Develop Tiered Admin Penalty Policy: Low (Investment is mostly staff time)

Cost to Integrate New Tiered Penalty Processes into VDOL Fraud Adjudication Processes: Low (Investment is mostly staff time)

### IMPACTS ON PERSONA GROUPS

Claimants & Claimant Advocates	Employers & Employer Advocates	Vermont State Government	Vermont Department of Labor
<ul style="list-style-type: none"> <li>Limits the impact on first time offenders while ensuring that fraudsters face consequences.</li> <li>Allows claimants to resolve overpayments prior to needing future benefits,</li> </ul>	<i>No specific impact</i>	<ul style="list-style-type: none"> <li>Equitable punishment that matches the specific type of fraud</li> </ul>	<ul style="list-style-type: none"> <li>More likely to recover Fraud Overpayments with no penalty weeks impacting the collectability of weeks</li> </ul>



## Technology

### CREATE A DATA ENVIRONMENT OUTSIDE OF THE MAINFRAME

#### Solution Statement

Currently, the process to retrieve data from the mainframe is lengthy and inefficient. VDOL needs the help of ADS and technicians trained in F-COBOL to pull data from the mainframe environment. A web-based data environment would allow VDOL to access key data more easily. A data environment could drastically increase VDOLs agility by providing a more flexible way to access their data and leverage it.

#### Scope

#### Description of Need

Procure a vendor to assist VDOL and ADS in developing a data environment to support the agency’s modernization journey and the ongoing need to leverage data for decision making at the macro and micro levels.

#### Timeline

Duration of UIM Phase I (TBD)

#### Est. Cost

Professional Service Implementation Costs: 2-4 FTEs (Scope Dependent)

Infrastructure Costs: Low–High (Costs are highly dependent on design i.e. On-Prem v Cloud, Shared v Dedicated, etc.)

### IMPACTS ON PERSONA GROUPS

Claimants & Claimant Advocates	Employers & Employer Advocates	Vermont State Government	Vermont Department of Labor
<ul style="list-style-type: none"> <li>Increased fraud prevention and detection mechanisms allow for more resources to help legitimate claimants</li> </ul>	<p><i>No specific impact</i></p>	<ul style="list-style-type: none"> <li>Increased accessibility of program statistics for purposes of program monitoring</li> </ul>	<ul style="list-style-type: none"> <li>Gives VDOL access to their data to develop meaningful datasets for fraud detection</li> <li>Easier access to programmatic statistics for monitoring program health and reporting</li> </ul>



## Other Recommended Solutions

The recommendations listed below were all deemed important and scored highly on the value-feasibility scale. The recommendations fell into this list for one or many of the following reasons:

- Completion of other projects is necessary to achieve this recommendation.
- Solutioning requires engagement from additional stakeholders before recommendation can be confirmed.
- The recommendation was identified during discovery but is not related to VDOL or the State's approach to stopping fraud.

## People & Processes

### PROCESS REENGINEERING & CONTINUOUS IMPROVEMENT TRAINING FOR VDOL STAFF

#### Solution Statement

Through collaborating with the CPO, VDOL directors and managers should undergo process reengineering and continuous improvement training. Process reengineering would enhance VDOL's ability to innovate their current processes despite technological setbacks. Continuous Improvement training will allow VDOL to review their internal processes and outcomes regularly and strategically. Each division should not only review their internal goals and processes but collaborate with other divisions to see how their outcomes connect to accomplish the agency's overall goals. VDOL is currently in the process of making changes to their organizational structure. The goal of the reorganization is to provide additional management support within the department, which will allow for additional decision-making capacity and support for continuous improvement processes. We recommend that the initial training for staff should start with a "train the trainer" approach and could also coincide with the establishment of the new organizational structure or as a planned first follow-on to the completion of organizational changes.

### NASWA'S IDH CROSSMATCH (MANUAL - CURRENT) - LEVERAGE CPO'S COMMUNITY OF LEAN GREEN BELTS TO ENHANCE MANUAL PROCESSES FOR IDH DATA CROSSMATCHES

#### Solution Statement

VDOL is currently utilizing NASWA's IDH crossmatch tool, but they are still learning to incorporate it into their detection and investigation processes. NASWA developed the national crossmatch service to support states more efficiently in identifying claimants potentially committing fraud through the filing of multiple claims across multiple states. The service can be used in a manual way via a secure web interface or as an automated batch process or real time service.

This is a new and evolving process for VDOL. It is recommended that they seek support from and collaboration with Vermont State Government's network of Lean Green Belt certified practitioners to enhance the usability of the IDH tool and effectiveness of the results.



## DATA LITERACY TRAINING

### Solution Statement

VDOL's staff should be trained in the best practices for data literacy and analysis. UI modernization requires data-driven decision making to ensure that effective decisions are being made about the direction of the product's development. With the UI data associated with the new claimant portal becoming more accessible in the first phase of modernization, this training will allow VDOL to leverage this data as the modernization process continues. Additionally, continuous improvement practices like Lean and Agile are data-informed processes. Although data literacy training would be beneficial for VDOL staff, it becomes significantly more valuable if access to program data is available and can be leveraged to support learning through practical and applied on the job learning.

## INTERGOVERNMENTAL COLLABORATION - INTER-AGENCY COLLABORATION TO IDENTIFY OPPORTUNITY FOR CITIZENS

### Solution Statement

For many citizens, Unemployment Insurance is their first experience with the social safety net. Through our discussions with multiple stakeholders within the Vermont government and beyond, it became clear that many were interested in increasing the effectiveness of necessary government services. Accessibility and awareness were two of the most critically missing elements. Citizens in need of services simply are not aware of the support mechanisms available to them. Developing intergovernmental collaboration between agencies to explore the intersectionality of citizen needs, available services, and delivery platforms could form a synergistic relationship with the centralization of IT services. This could help drive the goal of wrapping around support for citizens and employers. As it relates to fraud in the UI space, centralization of data and citizen record linkage across the breadth of government services could lead to an increased ability for state-level identity proofing and inter-governmental crossmatching/referencing to prevent fraudulent benefits.

## STRATEGIC PLANNING & DESIGN FOR UI MODERNIZATION

### Solution Statement

Prior to kicking off a modernization project, a period of planning should commence to identify the following: desired outcomes and the specific measurements that will be used to identify outcome achievement, ongoing support and enhancement strategy, and the ongoing 'business' and 'technical' ownership/governance structure. The purpose of these activities is to establish a shared understanding of the project's impact on the future of the program's next steps. What if the deployed application requires stabilization or amendment after Phase I? How will that affect the launch of Phase II? From experience deploying custom applications within the public sector, we can definitively state that modernizations do not just fail when they fail to launch. They also fail when they are not properly supported through ongoing maintenance, pruning, and enhancement.



## Legislation/Policy

### NO LONGER APPLY PENALTY WEEKS

#### Solution Statement

The agency would simply stop applying penalty weeks on fraud decisions. Legislation could also be passed removing the Penalty Weeks statute from Vermont law to avoid future re-implementations of the Penalty Week Penalties. As previously mentioned, fraudsters who do not file for UI in Vermont never serve their penalty weeks. Therefore, VDOL never imposes a punishment on those fraudsters and never recoups the funds stolen. Alternatively, those who commit fraud and reapply for benefits must serve their penalty weeks regardless of the degree of fraud they committed. The legislature could create a waiver system to address specific cases in which penalty weeks should not be served, but this would give VDOL another system to manage despite their lack of time and resources. Allowing the Commissioner to waive certain claimants' penalty weeks depending on their specific situation would require the Commissioner to make subjective decisions, which cannot guarantee equity in the decision-making process.

### ALLOW PENALTY & INTEREST RECOVERIES TO BE USED FOR FRAUD PREVENTION INNOVATION

#### Solution Statement

Other states have funneled recovered claimant penalty or interest debts toward the enhancement of their UI fraud prevention, detection, and investigation platforms. The practice creates a funding stream that appropriately dissolves when the agency is effectively preventing fraud from occurring. To be effective, this recommendation does require that the agency be effective at recovering benefit overpayments and penalties.

### OPEX VS CAPEX MODEL FOR IT FUNDING

#### Solution Statement

Modernization, as evidenced by the legacy system, requires long-term commitment and continuous improvement. UI systems have been funded by large one-time Capital Investments traditionally funded by the federal government on or after a significant unemployment event. This model almost guarantees that when an emergency happens the systems operating during the event were conceived 5-10 years prior to the event, ensuring that the system is hobbled by unaccepted user experiences or inefficient technology, by current standards.

This recommendation is not immediately critical, but its relationship to the success of the UI modernization project suggests that it could hold immense value. However, it will take considerable time and discussion with stakeholders beyond this project's scope to confirm how this recommendation could be realized.

### AUTO-EXPIRATION OF PENALTY WEEKS

#### Solution Statement

Applying rules that will automatically expire penalty weeks after a period or during extreme unemployment events. These rules could be implemented by the legislature and manually achieved through the business process. However,





the solution did not score highly from a value standpoint and would satisfy a potentially disappearing problem if other more valuable recommendations are implemented.

## Technology

### DEVELOP PROGRAM INTEGRITY CROSSMATCHES WITHIN THE DATA ENVIRONMENT

#### Solution Statement

The legacy mainframe system is already performing some of the standard program integrity crossmatches such as the quarterly wage crossmatch, but these legacy crossmatches suffer from their inability to be enhanced. By developing the crossmatches within a data environment, not only could individual crossmatches be directly enhanced or improved by leveraging additional data points, but new crossmatches could also be implemented as needed.

This recommendation is dependent on the deployment of a data environment or later phases of the modernization effort that would allow custom development of an introduction of custom code to incorporate the crossmatches directly into the application.

### SSA'S PRISONER UPDATE PROCESSING SYSTEM (PUPS) CROSSMATCH

#### Solution Statement

PUPS data is a data system designed to provide federal incarceration data. Access to the information was made available to state workforce agencies for use in UI fraud and improper payment prevention through the Unemployment Insurance Program Letter (UIPL) No 01-22. Preventing payments to incarcerated claimants is a straightforward way to ensure program integrity and subsequently public trust.

This recommendation is dependent on the deployment of a data environment or later phases of the modernization effort that would allow custom development of an introduction of custom code to incorporate this crossmatch directly into the application.

### NASWA'S IDH CROSSMATCH (AUTOMATED)

#### Solution Statement

NASWA developed a national crossmatch service that identifies users who could be committing fraud through the filing of multiple claims across multiple states. The service can be automated to send and receive crossmatch information.

This recommendation is dependent on the deployment of a data environment or later phases of the modernization effort that would allow custom development of an introduction of custom code to incorporate this crossmatch directly into the application. Additionally, this is dependent on the agency having a firm understanding of the business rules related to NASWA IDH tool responses and the business actions required for each response type. Starting with improving business processes with the Lean Green Belt network is recommended. (See [Prior Recommendation](#))



## Solutions Not Recommended

### ALTERING THE MAINFRAME

Resultant agrees with the JFO's independent technology consultant report dated November 1, 2021<sup>35</sup>. The mainframe should not be amended in any way unless it is necessary for modernization or directly supports the modernization effort.

### TIERED PENALTY SYSTEM WITH PENALTY WEEKS

During discussions, a codified system of tiered fraud levels with related penalty weeks was discussed as a solution to provide reasonable and equitable penalties for the diverse types of fraud. After further idea generation it was determined that penalty weeks were not functionally the best mechanism for providing 'punishment' for fraudulent acts. Claimants opportunistically committing fraud are rarely considering the impact that current fraud could have on their future unemployment benefits, but monetary penalties are a real ongoing punishment, especially if the agency is perceived as being effective at recouping debts. Additionally, penalty weeks prevent the collection of the underlying overpayment through UI benefit offsets, thus increasing the likelihood that a claimant's overpayments will go uncollected and simply be waived.

### REVERSE ORDER OF PENALTY WEEKS AND OVERPAYMENT COLLECTION

This rejected recommendation sought to reverse the application of the overpayment penalty weeks to be applied after the collection of overpayments through offsets or other means. This was considered due to its positive effect on the recovery of debts that support the trust fund. It was determined that this would either require an update to the mainframe, significant manual intervention, or waiting for a later modernization phase. As other options were identified and significant questions of feasibility and value were identified, it was determined that this was no longer a valid option.

### TIERED PENALTY SYSTEM WITH MONETARY PENALTY PERCENT INCREASES

A codified system of tiered fraud levels with related penalty weeks was discussed as a solution to provide reasonable and equitable penalties for diverse types of fraud. This option leveraged the tiered fraud levels but applied the variable fraud penalties through the application of a variable monetary penalty with each level of fraud. Example: first time fraud 15% penalty, second time fraud 50% penalty, third time 100% penalty. This is a common option with other states. In discussions about the effectiveness of this approach, it was determined that applying penalties as percentages hides the impact from the claimant considering whether to commit fraud, but in doing so it diminishes the deterrent effect intended by the penalty. Additionally, it was determined that this would either require an update to the mainframe, significant manual intervention, or waiting for a later modernization phase.



## SEC. 07 | IMPLEMENTATION ROADMAP

A rough implementation schedule for the main recommended solutions can be found below. The timeline covers the activities either currently authorized or recommended and provides a rough timeframe for which quarter the work might start and end. Additionally, this timeline takes into consideration general assumptions about interdependencies between tasks and a cautious approach to project timeline slippage due to unknown project risks and/or intentional and unplanned scope change.

Some important items that are not depicted on the timeline are any project initiation milestones required for kicking off future work phases. It is expected that external project management or internal project resources will identify these requirements. Additionally, it was recommended that finalizing the specific needs for implementing these recommendations would require coordination with the various stakeholder groups. This coordination and the timelines related to it are not represented below.

Recommendations	2022 Q1	2022 Q2	2022 Q3	2022 Q4	2023 Q1	2023 Q2	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4
Authorized	Enhanced Initial & Weekly Claim Portal	█	█	█	█							
	Claimant ID Proofing	█	█	█	█							
	Enhanced Employer Portal	█	█	█	█							
	User Account Security Management (ID Management)	█	█	█	█							
Recommended	External IV&V Support For Phase I of Modernization	█	█	█	█							
	External POMO Support for Phase I of Modernization	█	█	█	█							
	Leverage Human Centered Design Services in Modernization Projects	█	█	█	█	█	█	█				
	Intergovernmental Collaboration	█	█	█	█	█	█	█	█	█	█	█
	Administrative Wage Garnishment			█	█	█						
	No Longer Apply Penalty Weeks and Develop Tiered Administrative Penalty Framework	█										
	No Longer Apply Penalty Weeks	█										
	Create a Data Environment Outside of the Mainframe	█	█	█	█							
Other Recommendations	Develop Program Integrity Crossmatches in Data Environment			█	█							
	Integrate PUPs Data Crossmatch				█	█						
	Automate IDH Data Crossmatch					█						
	State Lean Green Belt Network Support for NASWA IDH Process Development	█										
	Process Reengineering and Continuous Improvement Training for VDOL Staff		█	█	█	█	█	█	█			
Modernization	Phase II of Modernization				█	█	█	█	█	█		
	Phase III of Modernization							█	█	█	█	█
	Phase IV of Modernization											█



## SEC. 08 | CONCLUSION

All UI program stakeholders have a clearly aligned goal of claimants returning to the workforce. Through a purposeful, all-government approach, Vermont can implement people/process, technology, and legislative/policy solutions that will better prevent, detect, and investigate fraud, impose equitable consequences for violators, reduce UI program complexities, and improve customer service to Vermonters in need of this critical social safety net. Implementing solutions between the current state and the future modernized state will better prepare the agency for modernization, thus ensuring a successful transition. These solutions will help serve the customer in more transparent, effective, and efficient ways leading to better customer service and greater stability for Vermonters.

Resultant would like to thank the Office of the Vermont State Auditor, Vermont Department of Labor, Vermont General Assembly and all other UI program stakeholders and their staff for their transparency, collaboration, work ethic and partnership during our review.



## SEC. 09 | APPENDIX

### State Research Data Tables

State Research Data Tables					
	Vermont	New Hampshire	Maine	Massachusetts	New York

#### DEMOGRAPHIC DATA

<b>Population</b>	643,077	1,377,529	1,362,359	7,029,917	20,201,249
<b>Median Income</b>	\$63,001	\$77,983	\$58,924	\$85,843	\$72,108
<b>Employment Rate</b>	63.10%	64.7%	60.7%	64.8%	60.5%
<b>Unemployment Rate (Aug 2021)</b>	3.00%	3.0%	4.9%	5.0%	7.4%
<b>Bachelor's Degree/Higher Ed</b>	38.70%	37.6%	33.2%	45.0%	37.8%
<b>Geographical Region</b>	Northeast	Northeast	Northeast	Northeast	Northeast
<b>Geographical Size (Land Area)</b>	9,215 sq miles	8,961 sq miles	30,837 sq miles	7,798 sq miles	47,111 sq miles

#### UI INFORMATION

<b>Modernization Status</b>	Mainframe	Modernized	Modernized	Modernized	Mainframe
<b>UI Initial Claim Filings (2019)</b>	27,689	27,149	35,367	296,846	823,926
<b>Benefits Paid (2019)</b>	\$63.0M	\$43.3M	\$84.5M	\$1.4B	\$2.1B



<b>UI Claim Filings (2020)</b>	109,251	305,509	229,470	1,848,923	4,708,666
<b>PUA Initial Claim Filings (as of 9/18/21)</b>	14,827	70,029	114,424	1,004,580	2,236,163
<b>Claims per capita (2019-2020)</b>	21.3%	24.1%	19.4%	30.5%	27.4%
<b>Benefits Paid (2020)</b>	\$389.1M	\$349.9M	\$564.3M	\$6.4B	\$14.3B
<b>Improper Payment Rate</b>	4.42%	8.71%	5.86%	17.70%	12.15%
<b>Timeliness Rate (March 2020-Aug 2021 at 28 days)</b>	72.59%	68.91%	70.23%	75.53%	64.72%

TOP 3 ECONOMIC CLUSTERS (PRIVATE, NON-AGRICULTURAL EMPLOYMENT)

<b>Cluster #1</b>	Hospitality and Tourism	Business Services	Business Services	Business Services	Business Services
<b>Cluster #2</b>	Education and Knowledge Creation	Distribution and Electronic Commerce	Distribution and Electronic Commerce	Education and Knowledge Creation	Education and Knowledge Creation
<b>Cluster #3</b>	Business Services	Education and Knowledge Creation	Education and Knowledge Creation	Distribution and Electronic Commerce	Distribution and Electronic Commerce

	Wyoming	Washington	Nevada	Idaho	Utah	North Dakota
--	---------	------------	--------	-------	------	--------------

DEMOGRAPHIC DATA

<b>Population</b>	576,851	7,705,281	3,104,614	1,839,106	3,271,616	779,094
-------------------	---------	-----------	-----------	-----------	-----------	---------



<b>Median Income</b>	\$65,003	\$78,687	\$63,276	\$60,999	\$75,780	\$64,577
<b>Employment Rate</b>	61.9%	61.2%	60.0%	61.2%	67.2%	67.30%
<b>Unemployment Rate (Aug 2021)</b>	4.9%	5.1%	7.7%	2.9%	2.6%	3.60%
<b>Bachelor's Degree/Higher Ed</b>	29.1%	37.0%	25.7%	28.7%	34.8%	30.40%
<b>Geographical Region</b>	West	West	West	West	West	Midwest
<b>Geographical Size (Land Area)</b>	97,063 sq miles	66,437 sq miles	109,831 sq miles	82,623 sq miles	82,355 sq miles	68,976 sq miles

UI

<b>Modernization Status</b>	Modernized	Modernized	Modernized	Modernized	Modernized	Mainframe
<b>UI Initial Claim Filings (2019)</b>	20,819	340,586	119,418	58,791	23,479	23,479
<b>Benefits Paid (2019)</b>	\$47M	\$968.2M	275.6M	\$83.8M	\$144.3M	\$80.1M
<b>UI Claim Filings (2020)</b>	84,308	2,129,555	809,682	286,331	281,850	116,572
<b>PUA Initial Claim Filings (as of 9/18/21)</b>	12,771	649,691	1,117,205	34,583	51,443	37,678
<b>Claims per capita (2019-2020)</b>	18.2%	32.1%	29.9%	18.8%	10.4%	18.0%
<b>Benefits Paid (2020)</b>	\$180.8M	\$4.3B	\$2.6B	\$264.1M	\$636.1M	\$383.1M



<b>Improper Payment Rate</b>	9.14%	14.29%	9.50%	11.69%	4.27%	9.50%
<b>Timeliness Rate (March 2020-Aug 2021 at 28 days)</b>	90.74%	63.05%	57.33%	78.36%	77.09%	94.35%

TOP 3 ECONOMIC CLUSTERS (PRIVATE, NON-AGRICULTURAL EMPLOYMENT)

<b>Cluster #1</b>	Oil and Gas Production and Transportation	Business Services	Hospitality and Tourism	Business Services	Business Services	Oil and Gas Production and Transportation
<b>Cluster #2</b>	Hospitality and Tourism	Distribution and Electronic Commerce	Business Services	Distribution and Electronic Commerce	Distribution and Electronic Commerce	Distribution and Electronic Commerce
<b>Cluster #3</b>	Distribution and Electronic Commerce	Information Technology and Analytical Instruments	Distribution and Electronic Commerce	Education and Knowledge Creation	Education and Knowledge Creation	Business Services

Vermont Statutes

Title 21, Chapter 017, Subchapter 001, 1347: Nondisclosure or misrepresentation

(a) Any person who fails, without good cause, to make reasonable effort to secure suitable work when directed to do so by the employment office or the Commissioner and has received any amount as benefits under this chapter with respect to weeks for which the person is determined to be ineligible for such failure, and any person who by nondisclosure or misrepresentation by him or her, or by another, of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) has received any amount as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in his or her case or while he or she was disqualified from receiving benefits, shall be liable for such amount. Notice of determination in such cases shall specify that the person is liable to repay the Fund the number of overpaid benefits, the basis of the overpayment, and the week or weeks for which such benefits were paid. The determination shall be made within three years of the date of such overpayment.

(b) Any person who receives remuneration described in subdivision 1344(a)(5) of this title that is allocable in whole or in part to prior weeks during which he or she received any amounts as benefits under this chapter shall be liable for all such amounts of benefits or those portions of such amounts equal to the portions of such remuneration properly





allocable to the weeks in question. Notice of determination in such cases shall specify that the person is liable to repay the Fund the number of overpaid benefits, the basis of the overpayment, and the week or weeks for which such benefits were paid. The determination shall be made within three years from the date of such overpayment or within one year from the date of receipt of the remuneration, whichever period is longer.

(c) The person liable under this section shall repay such an amount to the Commissioner for the Fund. In addition to the repayment, if the Commissioner finds that a person intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits, the person shall pay an additional penalty of 15 percent of the amount of the overpaid benefits. Any additional penalty amount collected shall be deposited in the Fund. Such an amount may be collectible by civil action in the Superior Court, in the name of the Commissioner.

(d) In any case in which under this section a person is liable to repay any amount to the Commissioner for the Fund, the Commissioner may withhold, in whole or in part, any future benefits payable to such person, and credit such withheld benefits against the amount due from such person until it is repaid in full, less any penalties assessed under subsection (c) of this section.

In addition to the foregoing, when it is found by the Commissioner that a person intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits and in the event the person is not prosecuted under section 1368 of this title and penalty provided in section 1373 of this title is not imposed, the person shall be disqualified and shall not be entitled to receive benefits to which he or she would otherwise be entitled after the determination for such number of weeks not exceeding 26 as the Commissioner shall deem just. The notice of determination shall also specify the period of disqualification imposed hereunder.

#### Title 21, Chapter 017, Subchapter 001, 1320: Investigations, General Powers

(a) The Commissioner is authorized to make such investigations, secure and transmit such information, make available such services and facilities, and exercise such of the other powers provided herein with respect to the administration of this chapter as the Commissioner deems necessary or appropriate to facilitate the administration of any unemployment compensation or public employment service law, and in like manner, to accept and utilize information, services, and facilities made available to this State by any agency charged with the administration of any such other unemployment compensation or public employment service law. To the extent permissible under the laws and constitution of the United States, the Commissioner of Labor is authorized to enter or cooperate in arrangements whereby facilities and services provided under this chapter and facilities and services provided under the unemployment compensation law of any foreign government, may be utilized for the taking of claims and the payment of benefits under this chapter, or under a similar law of such government.

(b) On request of an agency which administers an employment security law of another state or of a foreign government, and which has found in accordance with the provisions of such law that an individual is liable to repay benefits received under such law, the Commissioner may collect from the individual the amount of such benefits to be refunded to such agency, and such amounts may be collected by civil action in the name of the Commissioner acting as agent for such agency.

(c) Records, with any necessary authentication thereof, required in the prosecution of any criminal action brought by another state or foreign government for misrepresentation to obtain benefits under the law of this State shall be made available to the agency administering the employment security law of any such state or foreign government for the purpose of such prosecution.

(d) The Commissioner may begin and prosecute civil proceedings in any other state to collect contributions, penalties, and interest legally due under this chapter. The officials of other states which extend a like comity to this State may sue



for the collection of contributions, interest, and penalties imposed by those other states, in the courts of this State; in any such case the Commissioner of Labor of this State may through his or her legal assistant, begin and conduct the suit for the other state. The courts of this State shall recognize and enforce liability for those contributions, interest, and penalties imposed by other states which extend a like comity to this State.

(e) The Commissioner may enter or cooperate in arrangements or reciprocal agreements with authorized agencies of other states by which:

(1) overpayments of benefits as determined under this chapter may be recovered by offset from benefits otherwise payable under the unemployment compensation law of another state; and

(2) overpayments of benefits as determined under the unemployment compensation law of another state may be recovered by offset from benefits otherwise payable under this chapter. (Amended 1959, No. 329 (Adj. Sess.), § 22, eff. March 1, 1961; 1961, No. 210, § 15, eff. July 11, 1961; 1967, No. 88, eff. April 12, 1967; 1981, No. 66, § 5(b), eff. May 1, 1981; 1991, No. 183 (Adj. Sess.), § 2; 2005, No. 103 (Adj. Sess.), § 3, eff. April 5, 2006.

Title 21, Chapter 017, Subchapter 001, 1314a: Quarterly wage reporting, misclassification, penalties

(a)(1) Each employing unit that is an employer that has individuals in employment as defined in subdivision 1301(6) of this chapter shall file with the Commissioner on forms supplied by the Commissioner a detailed wage report for each calendar quarter that contains each individual worker's name, Social Security number, gross wages paid during each calendar quarter, and any other information the Commissioner deems necessary in the administration of this chapter.

(2) In addition to other information required by this section, the wage reports required by this subsection shall include for each worker paid by the hour the worker's gender and the worker's hourly wage.

(b) Reports required by subsection (a) of this section shall be filed with the Commissioner by the last day of the calendar month following the calendar quarter for which the report is submitted.

(c) An employing unit that is not an employer shall, upon request of the Commissioner, submit reports on forms furnished by the Commissioner regarding employment, wages, hours of employment, unemployment, and related matters that the Commissioner deems necessary in the administration of this chapter.

(d) Reports required by subsection (c) of this section shall be submitted to the Commissioner not later than 10 calendar days after the date the Commissioner's request was mailed to the employing unit.

(e) On request of the Commissioner, any employing unit or employer shall report, within 10 days of the mailing or personal delivery of the request, separation information for a claimant, any disqualifying income the claimant may have received, and any other information that the Commissioner may require to determine the claimant's eligibility for unemployment compensation. The Commissioner shall make a request when:

(1) the claimant's eligibility is dependent upon:

(A) wages paid during an incomplete calendar quarter in which the claimant was separated; or

(B) the last completed quarter; and

(2) obtaining the information will result in more timely benefit payments.

(f)(1) Any employing unit or employer that fails to:

(A) File a report required by this section shall be subject to an administrative penalty of \$100.00 for each report not received by the prescribed due dates.



(B) Properly classify an individual regarding the status of employment shall be subject to an administrative penalty of not more than \$5,000.00 for each improperly classified employee. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the State or any of its subdivisions for up to three years following the date the employer was found to have failed to properly classify, as determined by the Commissioner in consultation with the Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate. Either the Secretary or the Commissioner, as appropriate, shall be consulted in any appeal relating to prohibiting the employer from contracting with the State or its subdivisions.

(2)(A) Penalties under this subsection (f) shall be collected in the same manner as contributions under section 1329 of this title and shall be paid into the Contingent Fund established in section 1365 of this title.

(B) If the employing unit demonstrates that its failure was due to a reasonable cause, the Commissioner may waive or reduce the penalty.

(g)(1) Notwithstanding any other provisions of this section, the Commissioner may, where practicable, require any employing unit to file the reports required pursuant to subsections (a) through (d) of this section, or any departmental registration required prior to submitting the reports required by this section, in an electronic media form.

(2) The Commissioner may waive the requirement that an employing unit submit a report in an electronic media form if the employing unit attests that it is unable to file the required report in that form. (Added 1985, No. 50, § 6; amended 1985, No. 146 (Adj. Sess.), § 4; 1987, No. 227 (Adj. Sess.), § 2, eff. May 26, 1988; 1989, No. 132 (Adj. Sess.), § 3; 1997, No. 101 (Adj. Sess.), § 2; 1999, No. 119 (Adj. Sess.), § 10, eff. May 18, 2000; 2001, No. 56, § 1; 2009, No. 142 (Adj. Sess.), § 9; 2013, No. 173 (Adj. Sess.), § 2; 2019, No. 91 (Adj. Sess.), § 29, eff. July 1, 2020.)



## Claimant & Claimant Advocate Persona Canvas

### Definition

Those who advocate for claimants throughout the UI process. **Many claimants must advocate for themselves**, but a few leverage their legislators or community advocacy groups, such as Vermont Legal Aid for additional assistance.

### Stakeholder Examples



VERMONT  
GENERAL  
ASSEMBLY



VERMONT  
LEGAL  
AID

### Goals

- Claimants return to work.
- UI system and VDOL are accessible to everyone who needs them
- People do not lose access to the UI system due to fraudsters and inaccurate fraud prevention mechanisms.
- UI fund goes to deserving claimants.

"Our unemployment system is archaic and it's on fumes."

"Communication is an issue because the VDOL website is often difficult for clients to navigate."

"The claimant portal is often difficult for claimants to access."

"We see claimants stuck in the system and they have no idea why."

### Satisfactions

- I feel thankful when my benefits are paid out in a timely manner so that I can stabilize my income and look for work.
- I feel heard when I can reach out to VDOL for help with my UI issue.
- I feel unimpressed and unaware of the UI system's complexity when I receive my benefits timely and accurately. As a result, I expect that the system should constantly work this way.

### Frustrations

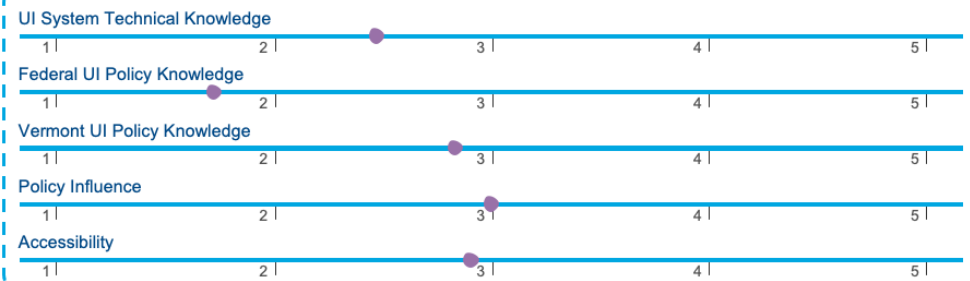
- I feel confused when I file for unemployment (understanding the work search requirement, reporting wages, knowing when to appeal, etc.).
- I feel stressed when benefits are not paid out in a timely manner because of VDOL's antiquated technology.
- I feel angry and anxious when my identity could be used for a fraudulent claim.
- I feel left out when the UI system does not consider my unique situation (lack of technology, language barrier, etc.).

### Unique Considerations

- Use of the UI system is stigmatized.
- UI has a negative presence in the media (talent shortage).
- Claimants need the most advocacy, as their voices are small individually.

### Skills and Challenges

- **Skill:** advocating for constituents
- **Skill:** understanding that valid claimants are entitled to UI
- **Challenge:** understanding the complexities of the UI process
- **Challenge:** having enough time and resources to navigate the UI system





## Employer & Employer Advocate Persona Canvas

### Definition

Those who advocate for employers throughout the UI process. Some employers hire government affairs representatives or join business advocacy groups, but some small businesses must advocate for themselves.

### Stakeholder Examples



### Goals

- Claimants return to work.
- Keep UI taxes down.
- Reduced time spent on UI.
- Strong and stable economy.
- Influence over the UI process.
- Former employees have access to the UI system.
- Streamlined communication with VDOL.

"I have gotten anecdotal reports from employers that, if employees themselves file for UI, the appeals process took a really inaccessibly long amount of time."

"Employers are just struggling to find [talent], so it's far more significant to them when there is fraudulent activity going on."

### Satisfactions

- I feel thankful when my former employees receive UI benefits after I can no longer pay them.
- I feel heard when legislators and business advocacy groups listen to my UI issues and address our needs.
- I feel pleased when I can focus on my business instead of on UI.
- I feel grateful when the system can prevent payments to people who should not receive benefits.

### Frustrations

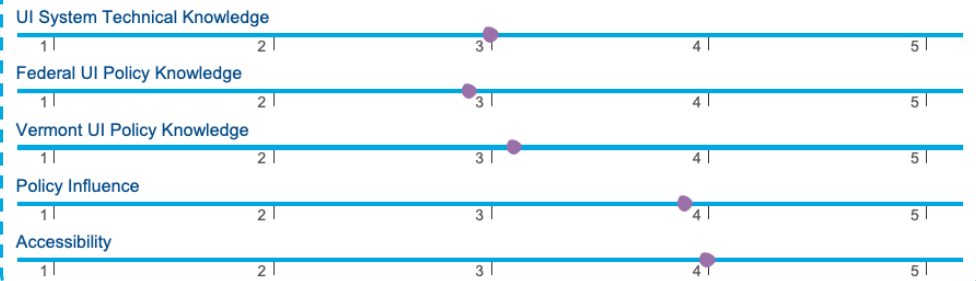
- I feel annoyed when I send VDOL the documentation they requested, and no action is taken.
- I feel aggravated when I spend more time and resources (taxes) on the UI system and do not see direct economic benefits.
- I feel less trust in government when my tax dollars are paid to fraudsters.

### Unique Considerations

- Some businesses can't afford external expertise to navigate government systems.
- Chittenden County businesses may have more resources than others.
- Employers fund the UI trust fund.

### Skills and Challenges

- **Skill:** Accessing technology and capital.
- **Skill:** Prioritizing my business.
- **Challenge:** Quarterly wage and new hire reporting.
- **Challenge:** Responding to VDOL in a timely manner.
- **Challenge:** Understanding UI regulations





## Vermont State Government Persona Canvas

### Definition

Those who interact and collaborate with the UI system from within state government not including VDOL. Some of these entities may write or implement policy that influences the operations of the UI system.

### Stakeholder Examples



### Goals

- Claimants return to work.
- Get reelected or reappointed.
- Use public funds responsibly.
- Increase accessibility for claimants.
- Clear understanding of definitions, roles, and responsibilities.
- Improved communication and transparency.
- Reliable UI data on which to base policy.

"Constituents don't have to know how to navigate state government. We can start using basic data to drive them to services."

"Information is often not shared across agencies."

"The task to solve the problem is to identify the issue and come to the legislature if you need additional funding."

### Satisfactions

- I feel impactful when I help a constituent.
- I feel secure and supported when there is increased trust, communication, and collaboration between agencies and branches of government.
- I feel like a good steward of public funds when I deliver long-term solutions for Vermont.

### Frustrations

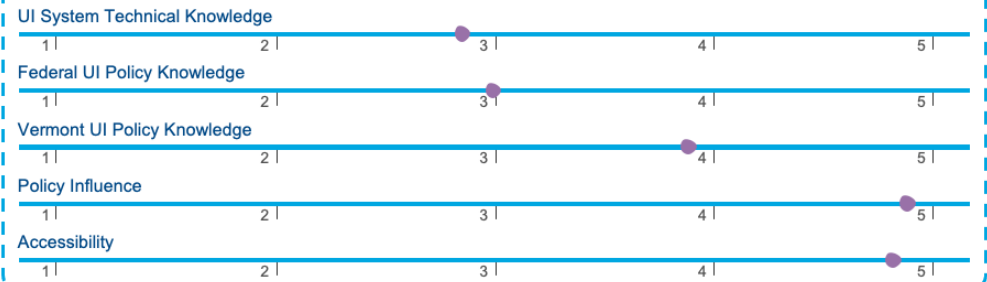
- I feel frustrated when I experience a lack of resources (updated technology, staff, etc.).
- I feel disconnected when the lines of communication between areas of government are not transparent or accessible.
- I feel like my hands are tied when we can't make necessary changes due to outdated technology and a lack of staff.

### Unique Considerations

- Although these stakeholders want them to, VDOL can't communicate transparently about everything due to legal limitations.
- Vermont has 2 year terms for legislators and the governor.

### Skills and Challenges

- **Skill:** Communicating with constituents
- **Skill:** Maintaining current processes
- **Challenge:** Sharing knowledge
- **Challenge:** Large IT projects
- **Challenge:** Communication between legislative and executive branches
- **Challenge:** Driving long-term outcomes





## Vermont Department of Labor Persona Canvas

### Definition

Those who are employed by the Vermont Department of Labor, influence the operations of the UI system either directly or indirectly, and provide customer service to Vermonters leveraging the UI system.

### Stakeholder Examples



### Goals

- Claimants return to work.
- A successful modernization project.
- Clearer guidelines from USDOL.
- Get out of the news.
- Hold fraudsters accountable.
- Build trust with the legislature.
- Adequate staffing and funding.
- Pay benefits in a timely manner.

"We live in this stuff every day, and we have external partners who don't believe what we are saying or don't trust what we are saying."

"If we want to sit down and talk about what the framework and system should look like and do if something is identified as fraudulent, I think we can sit down and be very cordial about that conversation."

### Satisfactions

- I feel satisfied when benefits are paid out to claimants in a timely and accurate manner.
- I feel proud when I am seen as a good steward of public funds. This results in maintaining the trust fund without raising taxes on employers.
- I feel heard when others understand the complex UI process.

### Frustrations

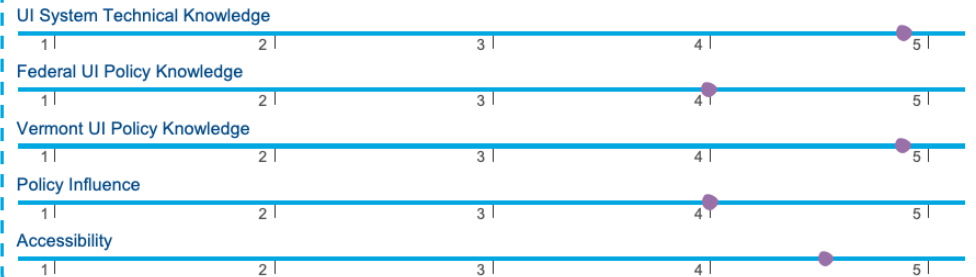
- I feel frustrated when legislators do not trust the way that we administer the UI program.
- I feel inadequate when we can't deliver the value that we know Vermonters deserve due to staffing and technology.
- I feel scared that I'm not going to meet my goals when the legislature and/or external stakeholders set high expectations for the UI system.
- I feel helpless when I cannot fix a problem due to outdated technology and people defraud the system.

### Unique Considerations

- Balancing transparency with protecting fraud prevention methods.
- USDOL controls some policies and funding.
- VDOL has one of the best improper payment rates in the country.

### Skills and Challenges

- **Skill:** Federal and state UI policy
- **Skill:** Compliance
- **Challenge:** Retaining institutional knowledge (mainframe and otherwise)
- **Challenge:** Modernization projects
- **Challenge:** Problem solving and innovation
- **Challenge:** Communicating complexities





Use Case List

USE CASE ID	USE CASE LABEL	USE CASE DESCRIPTION
001	Vermont Citizen (Claimant) is in jail and continues to file weekly claims	Despite being incarcerated, a UI claimant who lives in Vermont continues to file for benefits.
002	VT Citizen sole proprietor gives themselves a 10 wk RTW date (Circumventing Work search Requirement)	A sole proprietor of a business reports themselves as an employee of their own corporation and files for benefits as being laid off. They then provide themselves with a 10 week return to work date granting themselves a waiver from completing work searches.
003	VT Citizen sole proprietor gives a 10 wk RTW date to employee (Circumventing Work search Requirement)	A business owner who lives in Vermont gives their employees a 10 week return to work date, which is the maximum amount of time allowed before employees must complete work search requirements.
004	VT Citizen sole proprietor gives a 10 wk RTW date then on 11th wk rehire and then relay off the employees and provide a new 10 wk RTW (Circumventing Work Search Requirements)	A business owner who lives in Vermont gives their employees a 10 week return to work date, which is the maximum amount of time allowed before employees must complete work search requirements. This cycle continues so that employees can receive unemployment benefits without searching for work. Businesses receive a benefit of maintaining a workforce because their employees don't need to look for work for long periods of time.
005	VT Citizen Creates Fictitious employer and files multiple claims against employer (PUA)	A VT citizen creates a fake employer, files claims against the fake employer, and attempts to receive PUA benefits despite the fact that no employees have ever actually worked for the "employer."





006	VT Citizen fails to report a refusal of work (Reasonable Offer)	A VT citizen fails to report that they were offered and then refused to accept a reasonable offer of work. Refusing a reasonable offer of work is disqualifying for UI benefits.
007	VT Citizen fails to report a refusal of work (Unreasonable Offer)	A VT citizen fails to report that they were offered and then refused to accept an unreasonable offer of work. Refusing an unreasonable offer of work is not disqualifying for UI benefits.
008	VT Citizen intentionally misreports sep employer to evade disqualifying separation	A VT citizen intentionally misreports their separating employer in order to receive benefits. Their separation from the actual separating employer would have disqualified them from receiving benefits.
009	VT Citizen creates fictitious employer and files multiple claims against the employer	A VT citizen creates a fake employer, files claims against the fake employer, and attempts to receive benefits despite the fact that no employees have ever actually worked for the "employer."
010	VT Citizen not reporting separation pay (Sev, Vacation, Holiday, etc)	A VT citizen does not report their separation pay (severance, vacation, holidays, etc.) accurately, which allows payments to be made when they otherwise shouldn't.
011	VT Citizen not reporting proper separation reason to evade ineligibility	A VT citizen inaccurately reports their specific type of separation from employment so that they will not be found ineligible for benefits. (E.g. Reports a layoff when they actually quit)
012	VT Citizen earning unreported tips and not reporting them as earnings	A VT citizen works a job that involves receiving tips as a form of compensation and fails to report this portion of their earnings in their claimant file.



013	Claimant fat fingered the bank account # while creating account	A claimant filing in Vermont mistakenly types in the wrong number when inputting their bank account information.
014	VT Citizen knowingly gives account credentials to 'advocate' who files claim appropriately and claimant deemed ineligible	A claimant who lives in Vermont gives their UI account password, username, and other information to their chosen advocate for them to file on the claimant's behalf. The advocate files claims appropriately.
015	VT Citizen not conducting a proper Work Search but misrepresent the facts to show that they had completed a work search.	A VT citizen knowingly misrepresents themselves performing the proper Work Search requirement when filing for benefits in order to still receive benefits.
016	VT Citizen Misreports Earnings 1 time	A VT citizen misrepresents their earnings once when filing for benefits.
017	VDOL Employee files IC/WC fraudulently on another identity	A VT citizen fails to report their part time earnings on their first weekly claim but subsequently reports all future weeks correctly.
018	Non-US Person Steals VT Citizens Identity and files an IC/WC	A Non-US person performs identity theft in order to receive benefits themselves.
019	Unknown person outside of VT guesses claimant PIN and files a claim	A non-VT citizen attempts to steal a claimants account by guessing their credentials. The person is successful in their attempt and falsely files a claim to receive benefits.



020	Unknown Person outside of VT invents PII data and files a claim	An non-VT citizen creates PII data in an attempt to file a claim and receive benefits.
021	Unknown Person within VT invents PII data and files a claim	A VT citizen creates PII data in an attempt to file a claim and receive benefits.
022	VT Citizen knowingly gives account credentials to 'advocate' who files claim fraudulently	A claimant who lives in Vermont gives their UI account password, username, and other information to their chosen advocate for them to file on the claimant's behalf. The advocate files claims fraudulently.
023	VT Citizen continues to file Weekly Claims with stated information from VDOL that they should	After reading the information in the claimant handbook and on VDOL's website, a claimant who lives in Vermont determines that they qualify for UI and continues to file weekly claims.
024	Claimant struggles to align weeks worked with UI Benefit weeks	A claimant's employer operates on a work week that begins on Monday and ends on Sunday. Because the claimant works weekends, specifically Sundays, their earnings are not as easily aligned with the Sunday to Saturday benefit weeks and the claimant regularly fails to report earnings accurately.
025	VT Citizen not conducting a proper Work Search and accurately and honestly left the work search blank	Because a VT citizen did not complete their required work search, they do not report that they have done any work search activities.
026	IC/WC was filed with help of internal staff who did not properly enter information	Claims taking staff accidentally entered incorrect information on behalf of a claimant while taking their claim 'manually'. The claimant then verbally agreed when the information was re-read to them during the confirmation process.



028

VT Citizen intermittently fails to report earnings

A VT citizen does not consistently report earnings as required to receive benefits.



## SEC. 10 | CITATIONS

---

- <sup>1</sup> Employment & Training Administration (ETA) - U.S. Department of Labor. “Unemployment Insurance Weekly Claims Data.” Accessed November 30, 2021. <https://oui.doleta.gov/unemploy/claims.asp>.
- <sup>2</sup> “Overpayment Cause Definitions.” Washington, D.C.: United States Department of Labor, 2020. [https://oui.doleta.gov/unemploy/pdf/Overpayment\\_CauseDefinitions.pdf](https://oui.doleta.gov/unemploy/pdf/Overpayment_CauseDefinitions.pdf).
- <sup>3</sup> “Overpayment Cause Definitions.” Washington, D.C.: United States Department of Labor, 2020. [https://oui.doleta.gov/unemploy/pdf/Overpayment\\_CauseDefinitions.pdf](https://oui.doleta.gov/unemploy/pdf/Overpayment_CauseDefinitions.pdf).
- <sup>4</sup> Vermont Department of Labor. “Unemployment Insurance Claimant Handbook,” 2021. <https://labor.vermont.gov/document/unemployment-insurance-claimant-handbook>.
- <sup>5</sup> Vermont Department of Labor. “Unemployment Insurance Fraud,” 2021. <https://labor.vermont.gov/unemployment-insurance/fraud#communications>.
- <sup>6</sup> Keng, Cameron, “Recession Is Overdue by 4.5 Years, Here’s How to Prepare”, October 23, 2018, Forbes Magazine, available at <https://www.forbes.com/sites/cameronkeng/2018/10/23/recession-is-overdue-by-4-5-years-heres-how-to-prepare/?sh=ef94ca040d8a>.
- <sup>7</sup> Vermeulen, Ben; Kesselhut, Jan; Pyka, Andreas; Saviotti, Pier Paolo, “The Impact of Automation on Employment: Just the Usual Structural Change?”
- <sup>8</sup> National Association of State Workforce Agencies (last). “2021 State of the Workforce | Responding to the Pandemic,” 2021. <https://www.naswa.org/state-of-the-workforce-2021>.
- <sup>9</sup> Joseph Altonji, Zara Contractor, Lucas Finamor, Ryan Haygood, Ilse Lindenlaub, Costas Meghir, Cormac O’Dea, Dana Scott, Liana Wang, and Ebonya Washington. “Employment Effects of Unemployment Insurance Generosity During the Pandemic.” Tobin Center for Economic Policy; Yale University, July 14, 2020. [https://tobin.yale.edu/sites/default/files/files/C-19%20Articles/CARES-UI\\_identification\\_vF\(1\).pdf](https://tobin.yale.edu/sites/default/files/files/C-19%20Articles/CARES-UI_identification_vF(1).pdf).
- <sup>10</sup> Greg Iacurci. “Why Unemployment Claims Are at Their Lowest in Decades.” CNBC, December 9, 2021. <https://www.cnbc.com/2021/12/09/why-unemployment-claims-are-at-their-lowest-in-decades.html>.
- <sup>11</sup> Michael E. Porter. “U.S. Cluster Mapping.” Accessed November 30, 2021. <https://www.clustermapping.us/>.
- <sup>12</sup> United States Census Bureau. “Explore Census Data.” Accessed November 30, 2021. <https://data.census.gov/cedsci/>.
- <sup>13</sup> Simon-Mishel, Julia, Maurice Emsellem, Michele Evermore, Ellen Leclere, Andrew Stettner, and Martha Coven. “Centering Workers—How to Modernize Unemployment Insurance Technology,” October 5, 2020. <https://tcf.org/content/report/centering-workers-how-to-modernize-unemployment-insurance-technology/>.
- <sup>14</sup> Employment & Training Administration (ETA) - U.S. Department of Labor. “Unemployment Insurance Weekly Claims Data.” Accessed November 30, 2021. <https://oui.doleta.gov/unemploy/claims.asp>.
- <sup>15</sup> Employment & Training Administration (ETA) - U.S. Department of Labor. “Unemployment Insurance Weekly Claims Data.” Accessed November 30, 2021. <https://oui.doleta.gov/unemploy/claims.asp>.
- <sup>16</sup> Employment & Training Administration (ETA) - U.S. Department of Labor. “Unemployment Insurance Payment Accuracy by State.” Accessed November 30, 2021. <https://www.dol.gov/agencies/eta/unemployment-insurance-payment-accuracy#IN>.



- 
- <sup>17</sup> Employment & Training Administration (ETA) - U.S. Department of Labor. “Benefits: Timeliness and Quality Reports.” Accessed November 30, 2021. <https://oui.doleta.gov/unemploy/btq.asp>.
- <sup>18</sup> Daniel Smith. “Memorandum: Unemployment Insurance Modernization - Path Forward.” Memorandum, July 8, 2021. <https://lifo.vermont.gov/assets/Subjects/Independent-Review-of-DOL-UI-Modernization-Project/8934b946c6/UI-Modernization-Path-Forward-Memo-v2.pdf>.
- <sup>19</sup> Vermont Department of Labor. “Notice: Attention Vermont Employers - Employee Misclassification,” n.d. [https://labor.vermont.gov/sites/labor/files/doc\\_library/Misclassification%20Employer%20Notice.pdf](https://labor.vermont.gov/sites/labor/files/doc_library/Misclassification%20Employer%20Notice.pdf).
- <sup>20</sup> National Association of State Workforce Agencies (last). “2021 State of the Workforce | Responding to the Pandemic,” 2021. <https://www.naswa.org/state-of-the-workforce-2021>.
- <sup>21</sup> Employment & Training Administration (ETA) - U.S. Department of Labor. “Unemployment Insurance Payment Accuracy by State.” Accessed November 30, 2021. <https://www.dol.gov/agencies/eta/unemployment-insurance-payment-accuracy#IN>.
- <sup>22</sup> Ramgopal, Kit, Andrew Blankenstein, and Tom Winter. “How Billions in Pandemic Aid Was Swindled by Con Artists and Crime Syndicates.” NBC News, February 13, 2021. <https://www.nbcnews.com/news/us-news/how-billions-pandemic-aid-was-swindled-con-artists-crime-syndicates-n1257766>.
- <sup>23</sup> Michael Wisehart. “Arizona Prevents More Than \$75 Billion in Unemployment Benefit Fraud,” September 30, 2021. <https://spark.adobe.com/page/A3iY9mEGah5Ea/>.
- <sup>24</sup> Jon Chrisos. “Maine Cancels More than 100,000 Fraudulent Unemployment Claims since Start of Pandemic.” WGME, October 1, 2020. <https://wgme.com/news/i-team/maine-cancels-more-than-100000-fraudulent-unemployment-claims-since-start-of-pandemic>.
- <sup>25</sup> Kit Ramgopal, Andrew Blankstein, and Tom Winter. “How Billions in Pandemic Aid Was Swindled by Con Artists and Crime Syndicates.” NBC News, February 13, 2021. <https://www.nbcnews.com/news/us-news/how-billions-pandemic-aid-was-swindled-con-artists-crime-syndicates-n1257766>.
- <sup>26</sup> Mass Legal Services. “What Are the Penalties for Fraud?” Accessed November 30, 2021. <https://www.masslegalservices.org/content/54-what-are-penalties-fraud>.
- <sup>27</sup> Overpayment Notice, Assessment and Fraud, Chapter 192-220 WAC §. Accessed November 30, 2021. <https://app.leg.wa.gov/WAC/default.aspx?cite=192-220>.
- <sup>28</sup> Unemployment Compensation, Chapter 612 §. Accessed November 30, 2021. <https://www.leg.state.nv.us/nrs/nrs-612.html#NRS612Sec445>.
- <sup>29</sup> Employment & Training Administration (ETA) - U.S. Department of Labor. “State UI Law Information.” Accessed November 30, 2021. <https://oui.doleta.gov/unemploy/statelaws.asp#RecentStatelaw>.
- <sup>30</sup> Employment & Training Administration (ETA) - U.S. Department of Labor. “State UI Law Information.” Accessed November 30, 2021. <https://oui.doleta.gov/unemploy/statelaws.asp#RecentStatelaw>.
- <sup>31</sup> Employment & Training Administration (ETA) - U.S. Department of Labor. “State UI Law Information.” Accessed November 30, 2021. <https://oui.doleta.gov/unemploy/statelaws.asp#RecentStatelaw>.



---

<sup>32</sup> Simon-Mishel, Julia, Maurice Emsellem, Michele Evermore, Ellen Leclere, Andrew Stettner, and Martha Coven. “Centering Workers—How to Modernize Unemployment Insurance Technology,” October 5, 2020. <https://tcf.org/content/report/centering-workers-how-to-modernize-unemployment-insurance-technology/>.

<sup>33</sup> Joseph Altonji, Zara Contractor, Lucas Finamor, Ryan Haygood, Ilse Lindenlaub, Costas Meghir, Cormac O’Dea, Dana Scott, Liana Wang, and Ebonya Washington. “Employment Effects of Unemployment Insurance Generosity During the Pandemic.” Tobin Center for Economic Policy; Yale University, July 14, 2020. [https://tobin.yale.edu/sites/default/files/files/C-19%20Articles/CARES-UI\\_identification\\_vF\(1\).pdf](https://tobin.yale.edu/sites/default/files/files/C-19%20Articles/CARES-UI_identification_vF(1).pdf).

<sup>34</sup> Lisa Gauvin. “The Feasibility of Changing the Unemployment Insurance Mainframe Program,” November 1, 2021. [https://ljfo.vermont.gov/assets/Subjects/Independent-Review-of-DOL-UI-Modernization-Project/8c3edb1046/Lisa-Gauvin-memo-DOL\\_UI\\_Change\\_Nov2021\\_FinForDistribution.pdf](https://ljfo.vermont.gov/assets/Subjects/Independent-Review-of-DOL-UI-Modernization-Project/8c3edb1046/Lisa-Gauvin-memo-DOL_UI_Change_Nov2021_FinForDistribution.pdf).

<sup>35</sup> Lisa Gauvin. “The Feasibility of Changing the Unemployment Insurance Mainframe Program,” November 1, 2021. [https://ljfo.vermont.gov/assets/Subjects/Independent-Review-of-DOL-UI-Modernization-Project/8c3edb1046/Lisa-Gauvin-memo-DOL\\_UI\\_Change\\_Nov2021\\_FinForDistribution.pdf](https://ljfo.vermont.gov/assets/Subjects/Independent-Review-of-DOL-UI-Modernization-Project/8c3edb1046/Lisa-Gauvin-memo-DOL_UI_Change_Nov2021_FinForDistribution.pdf).