

1 S.117

2 Introduced by Committee on Economic Development, Housing and General  
3 Affairs

4 Date: March 13, 2025

5 Subject: Labor; safety; employment practices; wage and hour; notice of  
6 potential layoffs; unemployment compensation

7 Statement of purpose of bill as introduced: This bill proposes to modify the  
8 formal rulemaking requirements for the State's Occupational Safety and  
9 Health Plan. This bill also proposes to clarify the employee's share of  
10 recovery where an employer has willfully withheld pay. This bill also  
11 proposes to clarify how the minimum wage is calculated and to remove the  
12 Commissioner of Labor's authority to recommend a subminimum wage for  
13 individuals with disabilities. This bill also proposes changes to the notice  
14 requirement for potential layoffs. This bill also proposes to provide employers  
15 and claimants with the option to receive unemployment insurance notices and  
16 determinations electronically. This bill also proposes to clarify reporting, for  
17 unemployment insurance purposes, when a successor divides the operation of  
18 an employer's business. This bill also proposes to amend the statutory  
19 definition of the highest benefit cost rate used to calculate the tax rate schedule  
20 for unemployment insurance. This bill also proposes to round down the  
21 earnings on weekly claims with respect to disregarded earnings. This bill also

1 proposes to resume the short-term compensation program effective with  
2 completion of the modernization of the unemployment insurance system and to  
3 extend the deadline for implementation of the modernized system by one year  
4 to July 1, 2026.

An act relating to ~~rulemaking on safety and health standards and technical~~  
~~corrections on employment practices and unemployment compensation~~  
*wage and hour, unemployment compensation, and workers' compensation*

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

6 ~~\*\*\* Safety and Health Rulemaking \*\*\*~~

7 Sec. 1. 21 V.S.A. § 204 is amended to read:

8 § 204. RULES AND PROCEDURE

9 (a)(1)(A) Except as otherwise provided pursuant to subdivision (2) of this  
10 subsection (a), the provisions of 3 V.S.A. chapter 25, subchapter 3 shall not  
11 apply to the Commissioner's adoption in its entirety of any rule or standard  
12 adopted by the U.S. Department of Labor's Occupational Safety and Health  
13 Administration pursuant to the act for which the State is required to adopt a  
14 rule or standard that is at least as effective as the federal rule or standard in  
15 order to maintain the approval of the State's Occupational Safety and Health  
16 Plan.

17 (B) For every rule or standard proposed to be adopted pursuant to the  
18 provisions of this subdivision (1), the Commissioner shall:

1 (i) provide notice of the proposed rule to interested parties

2 including affected employers and trade organizations that are known to the

3 Commissioner;

4 (ii) post the proposed rule or standard to the Department's website

5 for at least 30 days; and

6 (iii) provide at least 30 days for members of the public to submit

7 comments regarding the proposed rule.

8 (C)(i) After compliance with the procedures set forth in subdivision

9 (B) of this subdivision (a)(1), adoption of the rule or standard shall be

10 complete upon filing with the Secretary of State and the rule or standard shall

11 take effect on the later of 15 days after it is filed with the Secretary of State or

12 a later effective date as determined by the Commissioner.

13 (ii) The filing with the Secretary of State shall include:

14 (I) a cover sheet on a form prepared by the Secretary of State

15 that contains at least the following information:

16 (aa) the title or subject of the rule or standard;

17 (bb) a summary of the dates on which the Department

18 complied with the requirements of this subdivision (a)(1); and

19 (cc) a signed and dated statement by the Commissioner that

20 the procedural requirements of this subdivision (a)(1) have been met and that

21 the Commissioner approves the contents of the filing, and

~~(II) the text of the rule or standard~~

~~(D) After adopting a rule or standard pursuant to the provisions of this subdivision (a)(1), the Department shall create a file containing all papers and records used or created during the adoption of the rule or standard. The file shall be maintained for at least one year after the date on which the rule or standard is adopted.~~

~~(2)(A) For any rule or standard proposed that is more protective of health and safety than the federal standard or any rule or standard for which there is no corresponding federal rule or standard, the Commissioner shall adopt the proposed rule or standard pursuant to the rulemaking procedures set forth in 3 V.S.A. chapter 25, relating to administrative procedure, shall apply to this chapter and the VOSHA Code.~~

~~(B) Upon request of 25 or more persons made in relation to a rule or standard proposed for adoption pursuant to subdivision (1) of this subsection (a), the Commissioner shall be required to adopt the proposed rule or standard pursuant to the rulemaking procedures set forth in 3 V.S.A. chapter 25, subchapter 3.~~

\* \* \*

Sec. 2. 21 V.S.A. § 204 is amended to read:

~~(a)(1)(A) Except as otherwise provided pursuant to subdivision (2) of this subsection (a), the provisions of 3 V.S.A. chapter 25, subchapter 3 shall not~~

1 ~~apply to the Commissioner's adoption in its entirety of any rule or standard~~  
2 ~~adopted by the U.S. Department of Labor's Occupational Safety and Health~~  
3 ~~Administration pursuant to the act for which the State is required to adopt a~~  
4 ~~rule or standard that is at least as effective as the federal rule or standard in~~  
5 ~~order to maintain the approval of the State's Occupational Safety and Health~~  
6 ~~Plan.~~

7 ~~(B) For every rule or standard proposed to be adopted pursuant to the~~  
8 ~~provisions of this subdivision (1), the Commissioner shall:~~

9 ~~(i) provide notice of the proposed rule to interested parties,~~  
10 ~~including affected employers and trade organizations that are known to the~~  
11 ~~Commissioner;~~

12 ~~(ii) post the proposed rule or standard to the Department's website~~  
13 ~~for at least 30 days; and~~

14 ~~(iii) provide at least 30 days for members of the public to submit~~  
15 ~~comments regarding the proposed rule.~~

16 ~~(C)(i) After compliance with the procedures set forth in subdivision~~  
17 ~~(B) of this subdivision (a)(1), adoption of the rule or standard shall be~~  
18 ~~complete upon filing with the Secretary of State and the rule or standard shall~~  
19 ~~take effect on the later of 15 days after it is filed with the Secretary of State or~~  
20 ~~a later effective date as determined by the Commissioner.~~

~~(ii) The filing with the Secretary of State shall include:~~

~~(I) a cover sheet on a form prepared by the Secretary of State that contains at least the following information:~~

~~(aa) the title or subject of the rule or standard;~~

~~(bb) a summary of the dates on which the Department complied with the requirements of this subdivision (a)(1); and~~

~~(cc) a signed and dated statement by the Commissioner that the procedural requirements of this subdivision (a)(1) have been met and that the Commissioner approves the contents of the filing; and~~

~~(II) the text of the rule or standard.~~

~~(D) After adopting a rule or standard pursuant to the provisions of this subdivision (a)(1), the Department shall create a file containing all papers and records used or created during the adoption of the rule or standard. The file shall be maintained for at least one year after the date on which the rule or standard is adopted.~~

~~(2)(A) For any rule or standard proposed that is more protective of health and safety than the federal standard or any rule or standard for which there is no corresponding federal rule or standard, the Commissioner shall adopt the proposed rule or standard pursuant to the rulemaking procedures set forth in 3 V.S.A. chapter 25, relating to administrative procedure, shall apply to this chapter and the VOSH Code.~~

1 ~~(P) Upon request of 25 or more persons made in relation to a rule or~~  
2 ~~standard proposed for adoption pursuant to subdivision (1) of this subsection~~  
3 ~~(a), the Commissioner shall be required to adopt the proposed rule or standard~~  
4 ~~pursuant to the rulemaking procedures set forth in 3 V.S.A. chapter 25,~~  
5 ~~subchapter 3.~~

6 \* \* \*

7 Sec. 3. 21 V.S.A. § 224 is amended to read:

8 § 224. RULES AND STANDARDS

9 (a) The Subject to the procedures set forth in section 204 of this chapter,  
10 the Commissioner shall adopt rules and standards necessary to implement the  
11 purposes and duties set forth in this subchapter insofar as they relate to safety  
12 and to enforcement of the VOSHA Code.

13 (b) The Subject to the procedures set forth in section 204 of this chapter,  
14 the Commissioner, in consultation with the Secretary of Human Services, shall  
15 adopt rules and standards necessary to implement the purposes of the VOSHA  
16 Code and duties imposed by the Code, insofar as they relate to health.

17 \* \* \*

18 Sec. 4. 21 V.S.A. § 224 is amended to read:

19 § 224. RULES AND STANDARDS

20 (a) ~~Subject to the procedures set forth in section 204 of this chapter, the~~  
21 ~~The Commissioner shall adopt rules and standards necessary to implement the~~

1 ~~purposes and duties set forth in this subchapter insofar as they relate to safety~~  
2 and to enforcement of the VOSHA Code.

3 (b) ~~Subject to the procedures set forth in section 204 of this chapter, the~~  
4 The Commissioner, in consultation with the Secretary of Human Services,  
5 shall adopt rules and standards necessary to implement the purposes of the  
6 VOSHA Code and duties imposed by the Code, insofar as they relate to health.

7 \* \* \*

8 \* \* \* Wage and Hour \* \* \*

9 Sec. 5. 21 V.S.A. § 342a is amended to read:

10 § 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

11 \* \* \*

12 (d) If the Commissioner determines that the unpaid wages were willfully  
13 withheld by the employer, the order for collection ~~may~~ shall provide that the  
14 employer is liable to pay an additional amount not to exceed twice the amount  
15 of unpaid wages, ~~one-half~~. One-half of which will the additional amount  
16 recovered above the employee's unpaid wages shall be remitted to the  
17 employee and ~~one-half of which~~ shall be retained by the Commissioner to  
18 offset administrative and collection costs.



1 ~~Sec. 6. 21 V.S.A. § 384 is amended to read:~~

2 § 384. EMPLOYMENT; WAGES

3 (a)(1) Beginning on January 1, 2022, an employer shall not employ any  
4 employee at a rate of less than \$12.55, and on each subsequent January 1, the  
5 minimum wage rate shall be increased by five percent or the percentage  
6 increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally  
7 adjusted, or successor index, as calculated by the U.S. Department of Labor or  
8 successor agency, rounded to one decimal point, for the 12 months preceding  
9 the previous September 1, whichever is smaller, but in no event shall the  
10 minimum wage be decreased. The minimum wage shall be rounded off to the  
11 nearest \$0.01.

12 \* \* \*

13 Sec. 7. 21 V.S.A. § 385 is amended to read:

14 § 385. ADMINISTRATION

15 The Commissioner and the Commissioner's authorized representatives have  
16 full power and authority for all the following:

17 \* \* \*

18 (5) To recommend a suitable scale of rates for learners, and apprentices,  
19 ~~and persons with disabilities~~, which may be less than the regular minimum  
20 ~~wage rate for experienced workers without disabilities.~~

~~\*\*\* Notice of Potential Layoffs \*\*\*~~

Sec. 8. 21 V.S.A. § 411 is amended to read:

§ 411. DEFINITIONS

As used in this subchapter:

(1) “Affected employees” means employees who may be expected to experience an employment loss as a consequence of a proposed or actual business closing or mass layoff by their employer.

(2) “Business closing” means:

(A) the permanent shutdown of a facility;

(B) the permanent cessation of operations at one or more worksites in the State that results in the layoff of ~~50~~ 20 or more employees over a 90-day period; or

(C) the cessation of work or operations not scheduled to resume within 90 days that affects ~~50~~ 20 or more employees.

\* \* \*

(5) “Employer” means any person that employs:

(A) 50 or more full-time employees in total, including nationally and internationally;

(B) 50 or more part-time employees in total, including nationally and internationally, who work at least 1,040 hours per employee per year; or

~~(C) a combination of 50 or more.~~

1 ~~(i) full-time employees; and~~

2 (ii) part-time employees who work at least 1,040 hours per  
3 employee per year.

4 \* \* \*

5 (7) "Mass layoff" means a permanent employment loss of at least ~~50~~ 20  
6 employees at one or more worksites in Vermont during any 90-day period. In  
7 determining whether a mass layoff has occurred or will occur, employment  
8 losses for two or more groups of employees, each of which is below this  
9 threshold but which in the aggregate exceed this threshold and which occur  
10 within any 90-day period shall be considered to be a mass layoff unless the  
11 employer demonstrates that the employment losses are the result of separate  
12 and distinct actions and causes.

13 \* \* \*

14 \* \* \* Unemployment Compensation \* \* \*

15 Sec. 9. 21 V.S.A. § 1308 is amended to read:

16 § 1308. ORGANIZATION

17 The Commissioner shall determine ~~his or her~~ the method of procedure in  
18 accordance with the provisions of this chapter. Notwithstanding any  
19 requirement in this chapter that the Commissioner mail notices and  
20 determinations, the Commissioner may provide claimants and employers with

1 ~~the option to authorize communications from the Commissioner to be~~  
2 ~~delivered electronically.~~

3 Sec. 10. 21 V.S.A. § 1314 is amended to read:

4 § 1314. REPORTS AND RECORDS; SEPARATION INFORMATION;  
5 DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT  
6 EMPLOYMENT INFORMATION; DISCLOSURE OF  
7 INFORMATION TO OTHER STATE AGENCIES TO  
8 INVESTIGATE MISCLASSIFICATION OR MISCODING

9 \* \* \*

10 (c) If an employing unit fails to comply adequately with the provisions of  
11 subsection (b) of this section and section 1314a of this subchapter, the  
12 Commissioner shall determine the benefit rights of a claimant upon the  
13 available information. Prompt notice in writing of the determination shall be  
14 given to the employing unit. The employing unit may request or authorize the  
15 Commissioner to provide notice of the determination electronically. The  
16 determination shall be final with respect to a noncomplying employer as to any  
17 charges against its experience-rating record for benefits paid to the claimant  
18 before the week following the receipt of the employing unit's reply. The  
19 employing unit's experience rating record shall not be relieved of these  
20 ~~charges, notwithstanding any other provision of this chapter, unless the~~

1 Commissioner determines that failure to comply was due to unavoidable  
2 accident or mistake.

3 \* \* \*

4 Sec. 11. 21 V.S.A. § 1314a is amended to read:

5 § 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION;  
6 PENALTIES

7 \* \* \*

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

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

19 \* \* \*

20 Sec. 12. 21 V.S.A. § 1330 is amended to read:

21 ~~§ 1330. ASSESSMENT PROVIDED~~

1 ~~When any employer fails to pay any contributions or payments required~~  
2 under this chapter, the Commissioner shall make an assessment of  
3 contributions against the employer together with applicable interest and  
4 penalty. After making the assessment, the Commissioner shall give notice to  
5 the employer electronically or by ordinary or certified mail, and the  
6 assessment shall be final unless the employer petitions for a hearing on the  
7 assessment pursuant to section 1331 of this subchapter.

8 Sec. 13. 21 V.S.A. § 1331 is amended to read:

9 § 1331. NOTICE; HEARING

10 (a) Any employer against whom an assessment is made may, within 30  
11 days after the date of the assessment, file with the Commissioner a petition for  
12 a hearing before a referee appointed for that purpose. The petition shall set  
13 forth specifically and in detail the grounds upon which it is claimed the  
14 assessment is erroneous.

15 (b) Hearing or hearings on the assessment shall be held by the referee at  
16 times and places provided by the rules of the Board and due notice of the time  
17 and place of the hearing or hearings shall be given electronically or by  
18 ordinary or certified mail to the petitioner.

19 (c) After the hearing the petitioner shall be promptly notified electronically  
20 or by ordinary or certified mail of the findings of fact, conclusions, and  
21 decision of the referee.

\* \* \*

Sec. 14. 21 V.S.A. § 1332 is amended to read:

§ 1332. REVIEW BY BOARD; SUPREME COURT APPEAL

\* \* \*

(d) The parties shall be promptly notified electronically or by ordinary or certified mail of the findings of fact, conclusions, and decision of the Board. The decision of the Board shall be final unless it is appealed to the Supreme Court.

Sec. 15. 21 V.S.A. § 1337a is amended to read:

§ 1337a. ADMINISTRATIVE DETERMINATION; HEARING ON

(a) Any employing unit aggrieved by an administrative determination affecting its rate of contributions, its rights to adjustment or refund on contributions paid, its coverage as an employer, or its termination of coverage may, within 30 days after the date of the determination, file with the Commissioner a petition for a hearing on the determination. The petition shall set forth specifically and in detail the grounds upon which it is claimed the administrative determination is erroneous. Hearing or hearings on the petition shall be held by a referee appointed for that purpose, at times and places as provided by rules of the Board. Notice of the time and place of the hearing or hearings shall be given electronically or by ordinary or certified mail to the petitioner.

1 ~~(b) After a hearing pursuant to subsection (a) of this section, the petitioner~~  
2 shall be promptly notified electronically or by ordinary or certified mail of the  
3 findings of fact, conclusions, and decision of the referee. The decision of the  
4 referee shall be final unless the employing unit or Commissioner makes  
5 application for review of the decision by the Board within 30 days after the  
6 date of the decision or unless the Board, on its own motion within the same  
7 period, initiates a review of the decision.

8 Sec. 16. 21 V.S.A. § 1357 is amended to read:

9 § 1357. NOTICES; FORM AND SERVICE

10 Notices required under the provisions of this chapter, unless otherwise  
11 provided by the provisions of this chapter or by rules adopted by the Supreme  
12 Court, shall be deemed sufficient if given in writing and delivered to the  
13 person entitled to it by an agent of the Commissioner, or sent electronically or  
14 by ordinary or certified mail to the last known address of the person appearing  
15 in the records of the Commissioner. The manner of service shall be certified  
16 by the agent of the Commissioner making the service. Regardless of the  
17 manner of service and unless otherwise provided, appeal periods shall  
18 commence to run from the date of the determination or decision rendered. If a  
19 person to whom a notice has been sent files with the Commissioner within 60  
20 days after the date of the notice a sworn statement to the effect that the notice  
21 was not received, or if the Commissioner is satisfied that the addressee did not



1 ~~receive the notice, a new notice shall be sent to that person and the appeal~~

2 period shall commence to run from the date on which the new notice is sent.

3 Sec. 17. 21 V.S.A. § 1325 is amended to read:

4 § 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

5 DISCLOSURE TO SUCCESSOR ENTITY

6 \* \* \*

7 (b)(1) Disclosure of contribution rate to successor entity. Any individual  
8 or employing unit who in any manner succeeds to or acquires the organization,  
9 trade, or business or substantially all of the assets of any employer who has  
10 been operating the business within two weeks prior to the acquisition, except  
11 any assets retained by the employer incident to the liquidation of the  
12 employer's obligations, and who thereafter continues the acquired business  
13 shall be considered to be a successor to the predecessor from whom the  
14 business was acquired and, if not already an employer before the acquisition,  
15 shall become an employer on the date of the acquisition. The Commissioner  
16 shall transfer the experience-rating record of the predecessor employer to the  
17 successor employer. If the successor was not an employer before the date of  
18 acquisition, the successor's rate of contribution for the remainder of the rate  
19 year shall be the rate applicable to the predecessor employers with respect to  
20 the period immediately preceding the date of acquisition if there was only one  
21 predecessor or there were only predecessors with identical rates. If the

1 ~~predecessors' rates were not identical, the Commissioner shall determine a rate~~  
2 based on the combined experience of all the predecessor employers. If the  
3 successor was an employer before the date of acquisition, the contribution rate  
4 that was assigned to the successor for the rate year in which the acquisition  
5 occurred will remain assigned to the successor for the remainder of the rate  
6 year, after which the experience-rating record of the predecessor shall be  
7 combined with the experience rating of the successor to form the single  
8 employer experience-rating record of the successor. At any time prior to the  
9 issuance of the certificate required by subsection 1322(b) of this chapter, an  
10 employing unit shall, upon request of a potential successor, disclose to the  
11 potential successor its current experience-rating record.

12 (2) Notwithstanding the provisions of subdivision (1) of this subsection,  
13 an individual or employing unit who in any manner succeeds to or acquires the  
14 organization, trade, or business or substantially all of the assets of any  
15 employing unit who was an employer before the date of acquisition and whose  
16 currently assigned contribution rate is higher than that currently assigned to the  
17 acquiring individual or employing unit shall not be treated as a successor.

18 (3) If a successor, upon acquisition of an employer under subdivision  
19 (1) of this subsection, divides operation of the successor business between two  
20 or more corporate entities, the successor shall designate one of the corporate  
21 entities involved in successor's business operations as the filing successor for

1 ~~purposes of quarterly wage reporting and benefit rate assignment. The~~  
2 designated filing successor shall include all employees involved in carrying on  
3 the successor business in the designated filing successor's quarterly wage  
4 reporting and shall pay the full successor benefit tax on all business  
5 employees.

6 \* \* \*

7 Sec. 18. 21 V.S.A. § 1326 is amended to read:

8 § 1326. RATE BASED ON BENEFIT EXPERIENCE

9 \* \* \*

10 (d) The Commissioner shall compute a current fund ratio, and a highest  
11 benefit cost rate, as follows:

12 (1) The current fund ratio shall be determined by dividing the available  
13 balance of the Unemployment Compensation Fund on December 31 of the  
14 preceding calendar year by the total wages paid for employment during that  
15 calendar year as reported by employers by the following March 31.

16 (2)(A) The highest benefit cost rate ~~shall be determined by dividing the~~  
17 ~~highest amount of benefit payments made during a consecutive 12-month~~  
18 ~~period that ended within the 10-year period ending on the preceding December~~  
19 ~~31, by the total wages paid during the four calendar quarter periods that ended~~  
20 ~~within that 12-month period~~ is the highest annual ratio within the 10-year  
21 period ending on the preceding December 31, of benefits paid, including the

1 ~~State's share of extended benefits for taxpaying employers divided by total~~  
2 ~~wages paid in covered employment for taxpaying employers for the same~~  
3 ~~period.~~

4 (B) Notwithstanding any provision of subdivision (A) of this  
5 subdivision (d)(2), to the contrary, when computing the tax rate schedule to  
6 become effective on July 1, 2021 and on each subsequent July 1, the  
7 Commissioner shall calculate the highest benefit cost rate without  
8 consideration of benefit payments made in calendar year 2020.

9 \* \* \*

10 Sec. 19. 21 V.S.A. § 1338a is amended to read:

11 § 1338a. DISREGARDED EARNINGS

12 (a) An individual shall be deemed "partially unemployed" in any week of  
13 less than full-time work if the wages earned by the individual with respect to  
14 such week are less than the weekly benefit amount the individual would be  
15 entitled to receive if totally unemployed and eligible. As used in this section,  
16 "wages" in any one week includes only that amount of remuneration rounded  
17 down to the nearest dollar that is in excess of 50 percent of the individual's  
18 weekly wage.

1 ~~Sec. 20. 21 V.S.A. § 1462 is amended to read:~~

2 § 1462. PERIOD OF DORMANCY

3 On July 1, 2020, the Short-Time Compensation Program established  
4 pursuant to sections 1451–1461 of this subchapter ~~shall cease~~ ceased operation  
5 ~~and shall not resume operation unless directed to do so by enactment of the~~  
6 ~~General Assembly or, if the General Assembly is not in session, by order of~~  
7 ~~the Joint Fiscal Committee. The Joint Fiscal Committee shall issue such order~~  
8 ~~only upon finding that, due to a change in circumstances, resumption of the~~  
9 ~~Short-Time Compensation Program would be the most effective way to assist~~  
10 ~~employers in avoiding layoffs. Upon the effective date of such an enactment~~  
11 ~~or order~~ Effective upon completion of the project to implement a modernized  
12 information technology system for the unemployment insurance program in  
13 2026, the Short-Time Compensation Program shall resume operation pursuant  
14 to the provisions of sections 1451–1461 of this subchapter.

15 Sec. 21. 2022 Acts and Resolves No. 183, Sec. 52f is amended to read:

16 Sec. 52f. UNEMPLOYMENT INSURANCE; INFORMATION

17 TECHNOLOGY MODERNIZATION; ANNUAL REPORT;

18 INDEPENDENT VERIFICATION

19 (a)(1) The Secretary of Digital Services and the Commissioner of Labor  
20 shall, to the greatest extent possible, plan and carry out the development and  
21 ~~implementation of a modernized information technology system for the~~

1 ~~unemployment insurance program so that the modernized system is ready and~~  
2 able to implement on or before July 1, ~~2025~~ 2026 the changes to the  
3 unemployment insurance weekly benefit amount set forth in Secs. 52d and 52e  
4 of this act.

5 \* \* \*

6 \* \* \* Effective Dates \* \* \*

7 Sec. 22. EFFECTIVE DATES

8 (a) Secs. 1, 3, 5–21, and this section shall take effect on July 1, 2025.

9 ~~(b) Secs. 2 and 4 shall take effect on July 1, 2026.~~

*\* \* \* Safety and Health Rulemaking \* \* \**

*Sec. 1. [Deleted.]*

*Sec. 2. [Deleted.]*

*Sec. 3. [Deleted.]*

*Sec. 4. [Deleted.]*

*\* \* \* Wage and Hour \* \* \**

*Sec. 5. 21 V.S.A. § 342a is amended to read:*

*§ 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES*

*\* \* \**

*(d) If the Commissioner determines that the unpaid wages were willfully withheld by the employer, the order for collection ~~may~~ shall provide that the employer is liable to pay an additional amount not to exceed twice the amount of unpaid wages, ~~one-half~~. One-half of which will the additional amount recovered above the employee's unpaid wages shall be remitted to the employee and one-half of which shall be retained by the Commissioner to offset administrative and collection costs.*

*\* \* \**

*Sec. 6. 21 V.S.A. § 384 is amended to read:*

*§ 384. EMPLOYMENT; WAGES*

*(a)(1) Beginning on January 1, 2022, an employer shall not employ any employee at a rate of less than \$12.55, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency, rounded to one decimal point, for the 12 months preceding the previous September 1, whichever is smaller; but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest \$0.01.*

*\* \* \**

*Sec. 7. 21 V.S.A. § 385 is amended to read:*

*§ 385. ADMINISTRATION*

*The Commissioner and the Commissioner's authorized representatives have full power and authority for all the following:*

*\* \* \**

*~~(5) To recommend a suitable scale of rates for learners, apprentices, and persons with disabilities, which may be less than the regular minimum wage rate for experienced workers without disabilities.~~*

*\* \* \* Notice of Potential Layoffs \* \* \**

*Sec. 8. [Deleted.]*

*\* \* \* Unemployment Compensation \* \* \**

*Sec. 9. 21 V.S.A. § 1308 is amended to read:*

*§ 1308. ORGANIZATION*

*The Commissioner shall determine ~~his or her~~ the method of procedure in accordance with the provisions of this chapter. Notwithstanding any requirement in this chapter that the Commissioner mail notices and determinations, the Commissioner may provide claimants and employers with the option to authorize communications from the Commissioner to be delivered electronically.*

*Sec. 10. 21 V.S.A. § 1314 is amended to read:*

*§ 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*

*\* \* \**

*(c) If an employing unit fails to comply adequately with the provisions of subsection (b) of this section and section 1314a of this subchapter, the Commissioner shall determine the benefit rights of a claimant upon the available information. Prompt notice in writing of the determination shall be given to the employing unit. The employing unit may request or authorize the Commissioner to provide notice of the determination electronically. The determination shall be final with respect to a noncomplying employer as to any charges against its experience-rating record for benefits paid to the claimant before the week following the receipt of the employing unit's reply. The employing unit's experience rating record shall not be relieved of these charges, notwithstanding any other provision of this chapter, unless the Commissioner determines that failure to comply was due to unavoidable accident or mistake.*

*\* \* \**

*Sec. 11. 21 V.S.A. § 1314a is amended to read:*

*§ 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION;  
PENALTIES*

*\* \* \**

*(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 sent electronically or mailed to the employing unit.*

*(e) On request of the Commissioner, any employing unit or employer shall report, within 10 days after the mailing, electronic delivery, 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:*

*\* \* \**



*Sec. 12. 21 V.S.A. § 1330 is amended to read:*

*§ 1330. ASSESSMENT PROVIDED*

*When any employer fails to pay any contributions or payments required under this chapter, the Commissioner shall make an assessment of contributions against the employer together with applicable interest and penalty. After making the assessment, the Commissioner shall give notice to the employer electronically or by ordinary or certified mail, and the assessment shall be final unless the employer petitions for a hearing on the assessment pursuant to section 1331 of this subchapter.*

*Sec. 13. 21 V.S.A. § 1331 is amended to read:*

*§ 1331. NOTICE; HEARING*

*(a) Any employer against whom an assessment is made may, within 30 days after the date of the assessment, file with the Commissioner a petition for a hearing before a referee appointed for that purpose. The petition shall set forth specifically and in detail the grounds upon which it is claimed the assessment is erroneous.*

*(b) Hearing or hearings on the assessment shall be held by the referee at times and places provided by the rules of the Board and due notice of the time and place of the hearing or hearings shall be given electronically or by ordinary or certified mail to the petitioner.*

*(c) After the hearing the petitioner shall be promptly notified electronically or by ordinary or certified mail of the findings of fact, conclusions, and decision of the referee.*

*\* \* \**

*Sec. 14. 21 V.S.A. § 1332 is amended to read:*

*§ 1332. REVIEW BY BOARD; SUPREME COURT APPEAL*

*\* \* \**

*(d) The parties shall be promptly notified electronically or by ordinary or certified mail of the findings of fact, conclusions, and decision of the Board. The decision of the Board shall be final unless it is appealed to the Supreme Court.*

*Sec. 15. 21 V.S.A. § 1337a is amended to read:*

*§ 1337a. ADMINISTRATIVE DETERMINATION; HEARING ON*

*(a) Any employing unit aggrieved by an administrative determination affecting its rate of contributions, its rights to adjustment or refund on contributions paid, its coverage as an employer, or its termination of coverage*

*may, within 30 days after the date of the determination, file with the Commissioner a petition for a hearing on the determination. The petition shall set forth specifically and in detail the grounds upon which it is claimed the administrative determination is erroneous. Hearing or hearings on the petition shall be held by a referee appointed for that purpose, at times and places as provided by rules of the Board. Notice of the time and place of the hearing or hearings shall be given electronically or by ordinary or certified mail to the petitioner.*

*(b) After a hearing pursuant to subsection (a) of this section, the petitioner shall be promptly notified electronically or by ordinary or certified mail of the findings of fact, conclusions, and decision of the referee. The decision of the referee shall be final unless the employing unit or Commissioner makes application for review of the decision by the Board within 30 days after the date of the decision or unless the Board, on its own motion within the same period, initiates a review of the decision.*

*Sec. 16. 21 V.S.A. § 1357 is amended to read:*

*§ 1357. NOTICES; FORM AND SERVICE*

*Notices required under the provisions of this chapter, unless otherwise provided by the provisions of this chapter or by rules adopted by the Supreme Court, shall be deemed sufficient if given in writing and delivered to the person entitled to it by an agent of the Commissioner, or sent electronically or by ordinary or certified mail to the last known address of the person appearing in the records of the Commissioner. The manner of service shall be certified by the agent of the Commissioner making the service. Regardless of the manner of service and unless otherwise provided, appeal periods shall commence to run from the date of the determination or decision rendered. If a person to whom a notice has been sent files with the Commissioner within 60 days after the date of the notice a sworn statement to the effect that the notice was not received, or if the Commissioner is satisfied that the addressee did not receive the notice, a new notice shall be sent to that person and the appeal period shall commence to run from the date on which the new notice is sent.*

*Sec. 17. 21 V.S.A. § 1325 is amended to read:*

*§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;  
DISCLOSURE TO SUCCESSOR ENTITY*

*\* \* \**

*(b)(1) Disclosure of contribution rate to successor entity. Any individual or employing unit who in any manner succeeds to or acquires the organization, trade, or business or substantially all of the assets of any employer who has been operating the business within two weeks prior to the acquisition, except*

*any assets retained by the employer incident to the liquidation of the employer's obligations, and who thereafter continues the acquired business shall be considered to be a successor to the predecessor from whom the business was acquired and, if not already an employer before the acquisition, shall become an employer on the date of the acquisition. The Commissioner shall transfer the experience-rating record of the predecessor employer to the successor employer. If the successor was not an employer before the date of acquisition, the successor's rate of contribution for the remainder of the rate year shall be the rate applicable to the predecessor employers with respect to the period immediately preceding the date of acquisition if there was only one predecessor or there were only predecessors with identical rates. If the predecessors' rates were not identical, the Commissioner shall determine a rate based on the combined experience of all the predecessor employers. If the successor was an employer before the date of acquisition, the contribution rate that was assigned to the successor for the rate year in which the acquisition occurred will remain assigned to the successor for the remainder of the rate year; after which the experience-rating record of the predecessor shall be combined with the experience rating of the successor to form the single employer experience-rating record of the successor. At any time prior to the issuance of the certificate required by subsection 1322(b) of this chapter, an employing unit shall, upon request of a potential successor, disclose to the potential successor its current experience-rating record.*

*(2) Notwithstanding the provisions of subdivision (1) of this subsection, an individual or employing unit who in any manner succeeds to or acquires the organization, trade, or business or substantially all of the assets of any employing unit who was an employer before the date of acquisition and whose currently assigned contribution rate is higher than that currently assigned to the acquiring individual or employing unit shall not be treated as a successor.*

*(3) If a successor, upon acquisition of an employer under subdivision (1) of this subsection, divides operation of the successor business between two or more corporate entities, the successor shall designate one of the corporate entities involved in successor's business operations as the filing successor for purposes of quarterly wage reporting and benefit rate assignment. The designated filing successor shall include all employees involved in carrying on the successor business in the designated filing successor's quarterly wage reporting and shall pay the full successor benefit tax on all business employees.*

\* \* \*

*Sec. 18. 21 V.S.A. § 1326 is amended to read:*

*§ 1326. RATE BASED ON BENEFIT EXPERIENCE*

*\* \* \**

*(d) The Commissioner shall compute a current fund ratio, and a highest benefit cost rate, as follows:*

*(1) The current fund ratio shall be determined by dividing the available balance of the Unemployment Compensation Fund on December 31 of the preceding calendar year by the total wages paid for employment during that calendar year as reported by employers by the following March 31.*

*(2)(A) ~~The highest benefit cost rate shall be determined by dividing the highest amount of benefit payments made during a consecutive 12-month period that ended within the 10-year period ending on the preceding December 31, by the total wages paid during the four calendar quarter periods that ended within that 12-month period is the highest annual ratio within the 10-year period ending on the preceding December 31 of benefits paid, including the State's share of extended benefits, for taxpaying employers divided by total wages paid in covered employment for taxpaying employers for the same period.~~*

*(B) Notwithstanding any provision of subdivision (A) of this subdivision (d)(2) to the contrary, when computing the tax rate schedule to become effective on July 1, 2021 and on each subsequent July 1, the Commissioner shall calculate the highest benefit cost rate without consideration of benefit payments made in calendar year 2020.*

*\* \* \**

*Sec. 19. 21 V.S.A. § 1338a is amended to read:*

*§ 1338a. DISREGARDED EARNINGS*

*(a) An individual shall be deemed "partially unemployed" in any week of less than full-time work if the wages earned by the individual with respect to such week are less than the weekly benefit amount the individual would be entitled to receive if totally unemployed and eligible. As used in this section, "wages" in any one week includes only that amount of remuneration rounded down to the nearest dollar that is in excess of 50 percent of the individual's weekly wage.*

*\* \* \**

*Sec. 20. 21 V.S.A. § 1462 is amended to read:*

*§ 1462. PERIOD OF DORMANCY*

*On July 1, 2020, the Short-Time Compensation Program established pursuant to sections 1451–1461 of this subchapter shall ~~cease~~ ceased operation and shall not resume operation unless directed to do so by enactment of the General Assembly or, if the General Assembly is not in session, by order of the Joint Fiscal Committee. The Joint Fiscal Committee shall issue such order only upon finding that, due to a change in circumstances, resumption of the Short-Time Compensation Program would be the most effective way to assist employers in avoiding layoffs. Upon the effective date of such an enactment or order Effective upon completion of the project to implement a modernized information technology system for the unemployment insurance program in 2026, the Short-Time Compensation Program shall resume operation pursuant to the provisions of sections 1451–1461 of this subchapter.*

*Sec. 21. 2022 Acts and Resolves No. 183, Sec. 52f is amended to read:*

*Sec. 52f. UNEMPLOYMENT INSURANCE; INFORMATION  
TECHNOLOGY MODERNIZATION; ANNUAL REPORT;  
INDEPENDENT VERIFICATION*

*(a)(1) The Secretary of Digital Services and the Commissioner of Labor shall, to the greatest extent possible, plan and carry out the development and implementation of a modernized information technology system for the unemployment insurance program so that the modernized system is ready and able to implement on or before July 1, ~~2025~~ 2026 the changes to the unemployment insurance weekly benefit amount set forth in Secs. 52d and 52e of this act.*

*\* \* \**

*Sec. 21a. 2022 Acts and Resolves No. 183, Sec. 59 is amended to read:*

*Sec. 59. EFFECTIVE DATES*

*\* \* \**

*(b)(1) Notwithstanding 1 V.S.A. § 214, Sec. 52a (repeal of prior unemployment insurance supplemental benefit) shall take effect retroactively on October 7, 2021.*

*\* \* \**

*(4)(A) Sec. 52d (amendment of temporary increase in unemployment insurance maximum weekly benefit) shall take effect on July 1, ~~2025~~ 2026 or the date on which the Commissioner of Labor determines that the Department*

*of Labor is able to implement the provisions of that section as set forth in Sec. 52f(b), whichever is earlier; and shall apply to benefit weeks beginning after that date.*

*(B) However, Sec. 52d shall not take effect at all if Sec. 52c takes effect before the conditions of subdivision (A) of this subdivision (b)(4) are satisfied.*

*(5)(A) Sec. 52e (increase in unemployment insurance weekly benefit amount) shall take effect on July 1, 2025 2026 and shall apply to benefit weeks beginning after that date.*

*(B) However, Sec. 52e shall not take effect at all if either*

*(i) Sec. 52d takes effect before July 1, 2025 2026; or*

*(ii) Sec. 52c has not taken effect before July 1, 2025 2026.*

*\* \* \**

*\* \* \* Workers' Compensation \* \* \**

*Sec. 22. 21 V.S.A § 601 is amended to read:*

*§ 601. DEFINITIONS*

*As used in this chapter:*

*\* \* \**

*(31) "Medical case management" means the planning and coordination of health care services appropriate to achieve the goal of medical rehabilitation.*

*(A) Medical case management may include medical case assessment, including a personal interview with the injured employee; assistance in developing, implementing, and coordinating a medical care plan with health care providers in consultation with the injured employee and the employees' family; and an evaluation of treatment results. The goal of medical case management is to provide the injured employee with reasonable treatment options to ensure that the injured employee can make an informed choice.*

*(B) Medical case managers shall not provide medical care or adjust claims.*

*(C) An injured employee shall be entitled to medical case management services if reasonably supported. Reasonable support includes a recommendation made by a health care provider or evidence demonstrating the injured employee's medical recovery would benefit from the services, or both.*

Sec. 23. 21 V.S.A. § 602 is amended to read:

§ 602. PROCESS AND PROCEDURE

\* \* \*

(d) When an injured employee does not speak English fluently, the employer shall pay for translation services to ensure the injured employee fully understands the employee's rights and can effectively participate in the employee's medical recovery and the workers' compensation claims process.

Sec. 24. 21 V.S.A. § 640b is amended to read:

§ 640b. REQUEST FOR PREAUTHORIZATION TO DETERMINE IF  
PROPOSED BENEFITS OR SERVICES ARE NECESSARY

(a) As used in this section,:

(1) "benefits" "Benefits" means medical treatment and surgical, medical, and nursing services and supplies, including prescription drugs and durable medical equipment.

(2) "Services" means medical case management services.

\* \* \*

(e) Within 14 days after receiving a request for preauthorization of proposed medical case management services, the insurer shall do one of the following, in writing:

(1) Authorize the services and notify the injured employee, the Department, and the treating provider recommending the services, if applicable.

(2) Deny the services because the entire claim is disputed, and the Commissioner has not issued an interim order to pay benefits. The insurer shall notify the injured employee, the Department, and the treating provider recommending the services, if applicable, of the decision to deny benefits.

(3) Deny the request if there is not reasonable support for the requested services. The insurer shall notify the injured employee, the Department, and the treating provider recommending the services, if applicable, of the decision to deny benefits.

(4) Notify the injured employee, the Department, and the treating provider recommending the services, if applicable, that the insurer has scheduled an examination of the injured employee pursuant to section 655 of this title or ordered a medical record review pursuant to section 655a of this title. Based on the examination or review, the insurer shall notify the injured employee and the Department of the decision within 45 days after a request for



preauthorization. The Commissioner may, in the Commissioner's sole discretion, grant a 10-day extension to the insurer to authorize or deny the services, and such an extension shall not be subject to appeal.

(f) If the insurer fails to authorize or deny the services pursuant to subsection (e) of this section within 14 days after receiving a request, the injured employee or the injured employee's treating provider, if applicable, may request that the Department issue an order authorizing services. After receipt of the request, the Department shall issue an interim order within five days after notice to the insurer, and five days in which to respond, absent evidence that the entire claim is disputed. Upon request of a party, the Commissioner shall notify the parties that the services have been authorized by operation of law.

(g) If the insurer denies the preauthorization of the services pursuant to subdivision (e)(2), (3), or (4) of this section, the Commissioner may, on the Commissioner's own initiative or upon a request by the injured worker, issue an order authorizing the services if the Commissioner finds that the evidence shows that the services are reasonably supported.

Sec. 25. 21 V.S.A. § 650 is amended to read:

§ 650. PAYMENT; AVERAGE WAGE; COMPUTATION

\* \* \*

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

(B) Payment shall be made by direct deposit to a claimant who elects that payment method. The employer shall notify the claimant of the claimant's right to payment by direct deposit.

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

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

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

(C) 15 percent of the benefit amount for the third and any subsequent payments that are made after the established day.



*(3) As used in this subsection, “paid” means the payment is mailed to the claimant’s mailing address or, in the case of direct deposit, transferred into the designated account. In the event of a dispute, proof of payment shall be established by affidavit.*

*Sec. 26. LATE PAYMENT OF AVERAGE WEEKLY WAGES; PENALTY;  
REPORT*

*(a) The payment of any late fee pursuant to 21 V.S.A. § 650(f)(2) shall be reported to the Commissioner on a quarterly basis for one year, commencing on October 1, 2025. The employer shall attest to the reasons for the late payment and the steps being taken to avoid future late payments of benefit amounts. The Commissioner shall compile the information in a format of the Commissioner’s choosing.*

*(b) An employer who fails to submit the report required by subsection (a) of this section may be assessed an administrative penalty of not more than \$500.00.*

*(c) On or before January 15, 2027, the Commissioner shall submit a written report to the General Assembly with the Commissioner’s findings on the frequency of late payments at each penalty level, the reasons given for the late payments, and the effectiveness of the late fee penalties in reducing the number of late payments. The report shall include the Commissioner’s recommendation on whether to continue the reporting requirement and whether the penalties for late payments should be maintained, increased, or decreased based upon the reported data.*

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

*Sec. 27. EFFECTIVE DATE*

*This act shall take effect on July 1, 2025.*