

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred Senate Bill No. 117 entitled “An act relating to rulemaking on safety
4 and health standards and technical corrections on employment practices and
5 unemployment compensation” respectfully reports that it has considered the
6 same and recommends that the House propose to the Senate that the bill be
7 amended by striking out all after the enacting clause and inserting in lieu
8 thereof the following:

9 * * * Safety and Health Rulemaking * * *

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

11 § 204. RULES AND PROCEDURE

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

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

1 (i) provide notice of the proposed rule or standard to interested
2 parties, including affected employers and trade organizations that are known to
3 the Commissioner;

4 (ii) post the proposed rule or standard to the Department’s website
5 for at least 30 days;

6 (iii) provide at least 30 days for members of the public to submit
7 comments regarding the proposed rule or standard; and

8 (iv) provide notice of the proposed rule or standard to the chairs of
9 the appropriate standing committees.

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

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

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

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

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

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

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

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

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

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

21 * * *

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

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

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

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

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

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

19 ~~(C)(i) After compliance with the procedures set forth in subdivision~~
20 ~~(B) of this subdivision (a)(1), adoption of the rule or standard shall be~~
21 ~~complete upon filing with the Secretary of State and the rule or standard shall~~

1 take effect on the later of 15 days after it is filed with the Secretary of State or
2 a later effective date as determined by the Commissioner.

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

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

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

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

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

12 ~~(H) the text of the rule or standard.~~

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

18 ~~(2)(A) For any rule or standard proposed that is more protective of~~
19 ~~health and safety than the federal standard or any rule or standard for which~~
20 ~~there is no corresponding federal rule or standard, the Commissioner shall~~
21 ~~adopt the proposed rule or standard pursuant to the rulemaking procedures set~~

1 ~~forth in 3 V.S.A. chapter 25, relating to administrative procedure, shall apply~~
2 ~~to this chapter and the VOSHA Code.~~

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

8 * * *

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

10 § 224. RULES AND STANDARDS

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

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

19 * * *

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

21 § 224. RULES AND STANDARDS

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

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

9 * * *

10 * * * Wage and Hour * * *

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

12 § 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

13 * * *

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

21 * * *

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, apprentices, and~~
19 ~~persons with disabilities, which may be less than the regular minimum wage~~
20 ~~rate for experienced workers without disabilities.~~

1 * * * Notice of Potential Layoffs * * *

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

3 § 411. DEFINITIONS

4 As used in this subchapter:

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

8 (2) “Business closing” means:

9 (A) the permanent shutdown of a facility;

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

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

15 * * *

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

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

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

21 (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 Sec. 8a. 21 V.S.A. § 413 is amended to read:

15 **§ 413. NOTICE AND WAGE PAYMENT OBLIGATIONS**

16 (a) An employer who will engage in a closing or mass layoff shall provide
17 notice to the Secretary of Commerce and Community Development, the
18 Executive Director of the Office of Workforce Strategy and Development, and
19 the Commissioner in accordance with this section to enable the State to present
20 information on potential support for the employer and separated employees.

1 (b) Notwithstanding subsection (a) of this section, an employer who will
2 engage in a closing or mass layoff shall provide notice to the Secretary of
3 Commerce and Community Development, the Executive Director of the Office
4 of Workforce Strategy and Development, and the Commissioner 45 days prior
5 to the effective date of the closing or layoffs that reach the thresholds defined
6 in section 411 of this subchapter, and shall provide 30 days' notice to the local
7 chief elected official or administrative officer of the municipality, affected
8 employees, and bargaining agent, if any.

9 (c) The employer shall send to the Commissioner, the Executive Director,
10 and the Secretary the approximate number and job titles of affected employees,
11 the anticipated date of the employment loss, and the affected worksites within
12 the time allotted for notice to the Commissioner and Secretary under
13 subsection 413(b) or 414(b) of this subchapter. Concurrent with the
14 notification to the affected employees, in accordance with subsection 413(b) of
15 this subchapter, the employer shall send to the Commissioner in writing the
16 actual number of layoffs, job titles, date of layoff, and other information as the
17 Commissioner deems necessary for the purposes of unemployment insurance
18 benefit processing and for accessing federal and State resources to mitigate
19 adverse employment impacts affecting employers, employees, and
20 communities.

21 * * *

1 Sec. 8b. 21 V.S.A. § 416 is amended to read:

2 § 416. POWERS OF THE COMMISSIONER

3 * * *

4 (c) Information obtained through administration of this subchapter by the
5 Commissioner, the Executive Director of the Office of Workforce Strategy and
6 Development, and the Secretary of Commerce and Community Development
7 shall be confidential, except that the number of layoffs, the types of jobs
8 affected, and work locations affected shall cease to be confidential after local
9 government and the affected employees have been notified. The Department
10 may provide the information collected pursuant to subsection 413(c) of this
11 subchapter to the U.S. Department of Labor and any other governmental
12 entities for the purposes of securing benefits for the affected employees.

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 assessment
6 shall be final unless the employer petitions for a hearing on the assessment
7 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 ordinary
18 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.

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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 or
8 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 (1)
19 of this subsection, divides operation of the successor business between two or
20 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 employees.

5 * * *

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

7 § 1326. RATE BASED ON BENEFIT EXPERIENCE

8 * * *

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

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

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

1 wages paid in covered employment for taxpaying employers for the same
2 period.

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

8 * * *

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

10 § 1338a. DISREGARDED EARNINGS

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

18 * * *

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 the~~
7 ~~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 * * * Workers' Compensation * * *

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

8 § 601. DEFINITIONS

9 As used in this chapter:

10 * * *

11 (31) “Medical case management” means the planning and coordination
12 of health care services appropriate to achieve the goal of medical
13 rehabilitation.

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

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

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

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

8 § 602. PROCESS AND PROCEDURE

9 * * *

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

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

15 § 640b. REQUEST FOR PREAUTHORIZATION TO DETERMINE IF

16 PROPOSED BENEFITS OR SERVICES ARE NECESSARY

17 (a) As used in this section:

18 (1) ~~“benefits”~~ “Benefits” means medical treatment and surgical,
19 medical, and nursing services and supplies, including prescription drugs and
20 durable medical equipment.

21 (2) “Services” means medical case management services.

1 * * *

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

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

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

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

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

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

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

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

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

19 § 650. PAYMENT; AVERAGE WAGE; COMPUTATION

20 * * *

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

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

9 (2) If the benefit payment is not mailed or deposited on the day
10 established, or if the payment is not mailed or deposited within five business
11 days following the end of the pay period the payment covers, the employer
12 shall pay to the claimant a late fee equal to the greater of \$10.00 or:

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

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

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

19 (3) As used in this subsection, "paid" means the payment is mailed to
20 the claimant's mailing address or, in the case of direct deposit, transferred into

1 the designated account. In the event of a dispute, proof of payment shall be
2 established by affidavit.

3 (4) The employer shall report the payment of any late fees paid pursuant
4 to subdivision (2) of this subsection to the Commissioner of Labor.

5 * * * Effective Dates * * *

6 **Sec. 26.** EFFECTIVE DATES

7 (a) Secs. 1, 3, 5–25, and this section shall take effect on July 1, 2025.

8 (b) Secs. 2 and 4 shall take effect on July 1, 2028.

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16 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE