

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. [Deleted.]**

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

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

5     § 1308. ORGANIZATION

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

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

13     § 1314. REPORTS AND RECORDS; SEPARATION INFORMATION;  
14             DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT  
15             EMPLOYMENT INFORMATION; DISCLOSURE OF  
16             INFORMATION TO OTHER STATE AGENCIES TO  
17             INVESTIGATE MISCLASSIFICATION OR MISCODING

18   \* \* \*

19             (c) If an employing unit fails to comply adequately with the provisions of  
20     subsection (b) of this section and section 1314a of this subchapter, the  
21     Commissioner shall determine the benefit rights of a claimant upon the

1 available information. Prompt notice in writing of the determination shall be  
2 given to the employing unit. The employing unit may request or authorize the  
3 Commissioner to provide notice of the determination electronically. The  
4 determination shall be final with respect to a noncomplying employer as to any  
5 charges against its experience-rating record for benefits paid to the claimant  
6 before the week following the receipt of the employing unit's reply. The  
7 employing unit's experience rating record shall not be relieved of these  
8 charges, notwithstanding any other provision of this chapter, unless the  
9 Commissioner determines that failure to comply was due to unavoidable  
10 accident or mistake.

11 \* \* \*

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

13 § 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION;  
14 PENALTIES

15 \* \* \*

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

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

1 delivery of the request, separation information for a claimant, any  
2 disqualifying income the claimant may have received, and any other  
3 information that the Commissioner may require to determine the claimant's  
4 eligibility for unemployment compensation. The Commissioner shall make a  
5 request when:

6 \* \* \*

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

8 § 1330. ASSESSMENT PROVIDED

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

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

17 § 1331. NOTICE; HEARING

18 (a) Any employer against whom an assessment is made may, within 30  
19 days after the date of the assessment, file with the Commissioner a petition for  
20 a hearing before a referee appointed for that purpose. The petition shall set



1 contributions paid, its coverage as an employer, or its termination of coverage  
2 may, within 30 days after the date of the determination, file with the  
3 Commissioner a petition for a hearing on the determination. The petition shall  
4 set forth specifically and in detail the grounds upon which it is claimed the  
5 administrative determination is erroneous. Hearing or hearings on the petition  
6 shall be held by a referee appointed for that purpose, at times and places as  
7 provided by rules of the Board. Notice of the time and place of the hearing or  
8 hearings shall be given electronically or by ordinary or certified mail to the  
9 petitioner.

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

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

18 § 1357. NOTICES; FORM AND SERVICE

19 Notices required under the provisions of this chapter, unless otherwise  
20 provided by the provisions of this chapter or by rules adopted by the Supreme  
21 Court, shall be deemed sufficient if given in writing and delivered to the

1 person entitled to it by an agent of the Commissioner, or sent electronically or  
2 by ordinary or certified mail to the last known address of the person appearing  
3 in the records of the Commissioner. The manner of service shall be certified  
4 by the agent of the Commissioner making the service. Regardless of the  
5 manner of service and unless otherwise provided, appeal periods shall  
6 commence to run from the date of the determination or decision rendered. If a  
7 person to whom a notice has been sent files with the Commissioner within 60  
8 days after the date of the notice a sworn statement to the effect that the notice  
9 was not received, or if the Commissioner is satisfied that the addressee did not  
10 receive the notice, a new notice shall be sent to that person and the appeal  
11 period shall commence to run from the date on which the new notice is sent.

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

13 § 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

14 DISCLOSURE TO SUCCESSOR ENTITY

15 \* \* \*

16 (b)(1) Disclosure of contribution rate to successor entity. Any individual or  
17 employing unit who in any manner succeeds to or acquires the organization,  
18 trade, or business or substantially all of the assets of any employer who has  
19 been operating the business within two weeks prior to the acquisition, except  
20 any assets retained by the employer incident to the liquidation of the  
21 employer's obligations, and who thereafter continues the acquired business

1 shall be considered to be a successor to the predecessor from whom the  
2 business was acquired and, if not already an employer before the acquisition,  
3 shall become an employer on the date of the acquisition. The Commissioner  
4 shall transfer the experience-rating record of the predecessor employer to the  
5 successor employer. If the successor was not an employer before the date of  
6 acquisition, the successor's rate of contribution for the remainder of the rate  
7 year shall be the rate applicable to the predecessor employers with respect to  
8 the period immediately preceding the date of acquisition if there was only one  
9 predecessor or there were only predecessors with identical rates. If the  
10 predecessors' rates were not identical, the Commissioner shall determine a rate  
11 based on the combined experience of all the predecessor employers. If the  
12 successor was an employer before the date of acquisition, the contribution rate  
13 that was assigned to the successor for the rate year in which the acquisition  
14 occurred will remain assigned to the successor for the remainder of the rate  
15 year, after which the experience-rating record of the predecessor shall be  
16 combined with the experience rating of the successor to form the single  
17 employer experience-rating record of the successor. At any time prior to the  
18 issuance of the certificate required by subsection 1322(b) of this chapter, an  
19 employing unit shall, upon request of a potential successor, disclose to the  
20 potential successor its current experience-rating record.

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

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

15                                   \* \* \*

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

17       § 1326. RATE BASED ON BENEFIT EXPERIENCE

18                                   \* \* \*

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



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

5 (2)(A) The highest benefit cost rate ~~shall be determined by dividing the~~  
6 ~~highest amount of benefit payments made during a consecutive 12 month~~  
7 ~~period that ended within the 10-year period ending on the preceding December~~  
8 ~~31, by the total wages paid during the four calendar quarter periods that ended~~  
9 ~~within that 12-month period~~ is the highest annual ratio within the 10-year  
10 period ending on the preceding December 31 of benefits paid, including the  
11 State’s share of extended benefits, for taxpaying employers divided by total  
12 wages paid in covered employment for taxpaying employers for the same  
13 period.

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

19 \* \* \*

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

21 § 1338a. DISREGARDED EARNINGS

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

8 \* \* \*

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

10 § 1462. PERIOD OF DORMANCY

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

1 2026, the Short-Time Compensation Program shall resume operation pursuant  
2 to the provisions of sections 1451–1461 of this subchapter.

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

4 Sec. 52f. UNEMPLOYMENT INSURANCE; INFORMATION  
5 TECHNOLOGY MODERNIZATION; ANNUAL REPORT;  
6 INDEPENDENT VERIFICATION

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

14 \* \* \*

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

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

17 § 601. DEFINITIONS

18 As used in this chapter:

19 \* \* \*

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

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

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

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

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

18 § 602. PROCESS AND PROCEDURE

19   \* \* \*

20           (d) When an injured employee does not speak English fluently, the  
21 employer shall pay for translation services to ensure the injured employee fully

1 understands the employee’s rights and can effectively participate in the  
2 employee’s medical recovery and the workers’ compensation claims process.

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

4 § 640b. REQUEST FOR PREAUTHORIZATION TO DETERMINE IF  
5 PROPOSED BENEFITS OR SERVICES ARE NECESSARY

6 (a) As used in this section:

7 (1) ~~“benefits”~~ “Benefits” means medical treatment and surgical,  
8 medical, and nursing services and supplies, including prescription drugs and  
9 durable medical equipment.

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

11 \* \* \*

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

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

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

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

5           (4) Notify the injured employee, the Department, and the treating  
6           provider recommending the services, if applicable, that the insurer has  
7           scheduled an examination of the injured employee pursuant to section 655 of  
8           this title or ordered a medical record review pursuant to section 655a of this  
9           title. Based on the examination or review, the insurer shall notify the injured  
10           employee and the Department of the decision within 45 days after a request for  
11           preauthorization. The Commissioner may, in the Commissioner’s sole  
12           discretion, grant a 10-day extension to the insurer to authorize or deny the  
13           services, and such an extension shall not be subject to appeal.

14           (f) If the insurer fails to authorize or deny the services pursuant to  
15           subsection (e) of this section within 14 days after receiving a request, the  
16           injured employee or the injured employee’s treating provider, if applicable,  
17           may request that the Department issue an order authorizing services. After  
18           receipt of the request, the Department shall issue an interim order within five  
19           days after notice to the insurer, and five days in which to respond, absent  
20           evidence that the entire claim is disputed. Upon request of a party, the

1 Commissioner shall notify the parties that the services have been authorized by  
2 operation of law.

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

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

9 § 650. PAYMENT; AVERAGE WAGE; COMPUTATION

10 \* \* \*

11 **(e)(1) If weekly compensation benefits or weekly accrued benefits are not**  
12 **paid within 21 days after becoming due and payable pursuant to an order of the**  
13 **Commissioner, or in cases in which the overdue benefit is not in dispute, 10**  
14 **percent of the overdue amount shall be added and paid to the employee, in**  
15 **addition to any amounts due pursuant to subsection (f) of this section and**  
16 **interest and any other penalties.**

17 **(2) In the case of an initial claim, benefits are due and payable upon**  
18 **entering into an agreement pursuant to subsection 662(a) of this title, upon**  
19 **issuance of an order of the Commissioner pursuant to subsection 662(b) of this**  
20 **title, or if the employer has not denied the claim within 21 days after the claim**  
21 **is filed.**

1 (3) Benefits are in dispute if the claimant has been provided actual  
2 written notice of the dispute within 21 days after the benefit being due and  
3 payable and the evidence reasonably supports the denial.

4 (4) Interest shall accrue and be paid on benefits that are found to be  
5 compensable during the period of nonpayment.

6 (5) The Commissioner shall promptly review requests for payment  
7 under this section and, consistent with subsection 678(d) of this title, shall  
8 allow for the recovery of reasonable attorney's fees associated with an  
9 employee's successful request for payment under this subsection.

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

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

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





1           and that after passage the title of the bill be amended to read: “An act  
2           relating to rulemaking on safety and health standards, wage and hour,  
3           unemployment compensation, and workers’ compensation”

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11           (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

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FOR THE COMMITTEE