

1 Introduced by Senator Ram Hinsdale

2 Referred to Committee on

3 Date:

4 Subject: Labor; corrections; public property; employment practices; minimum  
5 wage; overtime; payment of wages; workers' compensation;  
6 unemployment compensation; offender work; State construction;  
7 prevailing wage; payroll records

8 Statement of purpose of bill as introduced: This bill proposes to require  
9 agricultural workers to be paid the State minimum wage and to receive  
10 overtime pay for hours worked in excess of 60 hours per week. This bill also  
11 proposes to provide overtime pay to executive, administrative, and professional  
12 employees earning below a set salary threshold. This bill also proposes to  
13 require employers to pay out unused accrued vacation leave upon an  
14 employee's separation from employment. This bill also proposes to include  
15 health insurance benefits in the definition of wages for the purposes of  
16 workers' compensation, as well as requiring carriers to pay for translation  
17 services, allowing claimants to request medical case management services, and  
18 increasing penalties for late payments. This bill also proposes to clarify that  
19 contingent faculty are eligible to receive unemployment insurance between  
20 academic years, absent a reasonable assurance of future employment. This bill  
21 also proposes to require that incarcerated individuals receive at least minimum

1 wage. This bill also proposes to amend the prevailing wage requirements for  
2 State construction projects, to require employees working on certain  
3 construction projects to receive the higher of the federal or State prevailing  
4 wage, and to implement an enforcement mechanism for violations of  
5 prevailing wage requirements. This bill also proposes to require employers  
6 and subcontractors working on State construction projects to maintain accurate  
7 payroll records, to certify the accuracy of the records, to preserve the records,  
8 and to open the records for inspection.

9 An act relating to compensation, workers' compensation, unemployment  
10 compensation, and wage requirements for State construction projects

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

12 \* \* \* Minimum Wage \* \* \*

13 Sec. 1. 21 V.S.A. § 383 is amended to read:

14 § 383. DEFINITIONS

15 As used in this subchapter:

16 (1) "Commissioner" means the Commissioner of Labor or designee.

17 (2) "Employee" means any individual employed or permitted to work by  
18 an employer except:

19 (A) any individual employed in agriculture, provided the individual is  
20 the agricultural employer's parent, spouse, or child;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

\* \* \*

(E) any individual employed in a bona fide executive, administrative, or professional capacity who is paid a salary at least equal to \$1,128.00 per week;

\* \* \*

\* \* \* Overtime \* \* \*

Sec. 2. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

\* \* \*

(b) Notwithstanding subsection (a) of this section, an employer shall not pay an employee less than one and one-half times the regular wage rate for any work done by the employee in excess of 40 hours during a workweek.

However, this subsection shall not apply to:

\* \* \*

(9) Individuals employed in agriculture. However, an agricultural employer that receives State grants shall pay individuals employed in agriculture not less than one and one-half times the regular wage rate for any work done by the individual in excess of 60 hours during a workweek. This subdivision shall not apply to the agricultural employer’s parent, spouse, or child.

\* \* \*

1 \* \* \* Payment of Accrued Vacation on Separation from Employment \* \* \*

2 Sec. 3. 21 V.S.A. § 342 is amended to read:

3 § 342. WEEKLY PAYMENT OF WAGES

4 \* \* \*

5 (b)(1) An employee who:

6 (~~1~~)(A) voluntarily leaves employment shall be paid on the last regular  
7 pay day, or if there is no regular pay day, on the following Friday;

8 (~~2~~)(B) is discharged from employment shall be paid within 72 hours of  
9 following discharge;

10 (~~3~~)(C) is absent from ~~his or her~~ the employee's regular place of  
11 employment on the employer's regular scheduled date of wages or salary  
12 payment shall be entitled to payment upon demand.

13 (2) The final payment of wages to an employee who leaves  
14 employment, whether voluntarily or involuntarily, shall include payment for  
15 any unused accrued vacation leave.

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

17 Sec. 4. 21 V.S.A § 601 is amended to read:

18 § 601. DEFINITIONS

19 As used in this chapter:

20 \* \* \*

1           (13) “Wages” includes bonuses and the market value of health  
2       insurance, board, lodging, fuel, and other advantages that can be estimated in  
3       money and that the employee receives from the employer as a part of the  
4       employee’s remuneration, but does not include any sum paid by the employer  
5       to the employee to cover any special expenses entailed on the employee by the  
6       nature of the employment.

7   \* \* \*

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

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

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

20          (C) An injured employee shall be entitled to medical case  
21      management services if reasonably supported. Reasonable support includes a

1 recommendation made by a health care provider or evidence demonstrating the  
2 injured employee’s medical recovery would benefit from the services, or both.

3 Sec. 5 21 V.S.A. § 602 is amended to read:

4 § 602. PROCESS AND PROCEDURE

5 \* \* \*

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

10 Sec. 6. 21 V.S.A. 640b is amended to read:

11 § 640b. REQUEST FOR PREAUTHORIZATION TO DETERMINE IF  
12 PROPOSED BENEFITS OR SERVICES ARE NECESSARY

13 (a) As used in this section:

14 (1) “benefits” “Benefits” means medical treatment and surgical,  
15 medical, and nursing services and supplies, including prescription drugs and  
16 durable medical equipment.

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

18 \* \* \*

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

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

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

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

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

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

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

15       Sec. 7. 21 V.S.A. § 650 is amended to read:

16       § 650. PAYMENT; AVERAGE WAGE; COMPUTATION

17                               \* \* \*

18       (f)(1)(A) When benefits have been awarded or are not in dispute as  
19       provided in subsection (e) of this section, the employer shall establish a  
20       weekday on which payment shall be mailed or deposited and notify the



1 claimant and the Department of that day. The employer shall ensure that each  
2 weekly payment is mailed or deposited on or before the day established.

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

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

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

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

14 (C) 15 percent of the benefit amount for the third payment that is  
15 made after the established day;

16 (D) 20 percent of the benefit amount for the fourth payment that is  
17 made after the established day; and

18 (E) 25 percent of the benefit amount for the fifth and any subsequent  
19 payments that are made after the established day.

20 (3) As used in this subsection, “paid” means the payment is mailed to  
21 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 \* \* \* Unemployment Insurance for Contingent Faculty \* \* \*

4 Sec. 8. 21 V.S.A. § 1343 is amended to read:

5 § 1343. CONDITIONS

6 \* \* \*

7 (c) Benefits are payable on the basis of service in employment as defined in  
8 subdivisions 1301(6)(A)(ix) and (x) of this subchapter, in the same amount, on  
9 the same terms, and subject to the same conditions as benefits payable on the  
10 basis of other service subject to this chapter, except that:

11 (1) With respect to services performed in an instructional, research, or  
12 principal administrative capacity for an educational institution, benefits shall  
13 not be payable on the basis of such services for any week of unemployment  
14 commencing during the period between two successive academic years or  
15 terms (or, when an agreement provides instead for a similar period between  
16 two regular but not successive terms, during such period) or during a period of  
17 paid sabbatical leave provided for in the individual's contract, to any  
18 individual if the individual performs such services in the first of the academic  
19 years or terms and if there is a contract or reasonable assurance that the  
20 individual will perform services in any such capacity for any educational  
21 institution in the second of the academic years or terms.

1           (2) With respect to services performed in any other capacity for an  
2 educational institution, benefits shall not be payable on the basis of such  
3 services to any individual for any week of unemployment that commences  
4 during a period between two successive academic years or terms if the  
5 individual performs such services in the first of the academic years or terms  
6 and there is a reasonable assurance that the individual will perform such  
7 services for any educational institution in the second of the academic years or  
8 terms, except that if benefits are denied to any individual under this  
9 subdivision and the individual was not offered an opportunity to perform such  
10 services for the educational institution for the second of the academic years or  
11 terms, the individual shall be entitled to a retroactive payment of the benefits  
12 for each week for which the individual filed a timely claim for benefits and for  
13 which benefits were denied solely by reason of this subdivision.

14           (3) With respect to any services described in subdivision (1) or (2) of  
15 this subsection, benefits shall not be payable on the basis of services in any  
16 such capacities to any individual for any week that commences during an  
17 established and customary vacation period or holiday recess if the individual  
18 performs such services in the period immediately before the vacation period or  
19 holiday recess, and there is a reasonable assurance that the individual will  
20 perform such services in the period immediately following the vacation period  
21 or holiday recess. To the extent permitted by federal law, as used in this

1 subdivision, the term “reasonable assurance” means that all of the following  
2 requirements shall be met:

3 (A) The educational institution has made an offer of employment in  
4 the following academic year or term that is either written, oral, or implied.

5 (B) The offer of employment in the following academic year or term  
6 was made by an individual with actual authority to offer employment.

7 (C) The employment offered in the following academic year or term  
8 shall be in the same capacity as in the then-current academic year or term.

9 (D) The economic conditions of the employment offered may not be  
10 considerably less in the following academic year or term than in the then-  
11 current academic year or term. As used in this subdivision (D), “considerably  
12 less” means that the individual will earn less than 90 percent of the amount the  
13 individual earned in the then-current academic year or term.

14 (E) The offer of employment in the following academic year or term  
15 is not contingent upon a factor or factors within the educational institution’s  
16 control, such as course programming, allocation of available funding, final  
17 course offerings, program changes, or facility availability.

18 (F) Based on the totality of the circumstances, it is highly probable  
19 that there is a job available for the individual in the following academic term or  
20 year. If a job offer contains a contingency, primary weight should be given to  
21 the contingent nature of the offer of employment. Contingencies that are not

1 necessarily within the educational institution’s control, such as funding,  
2 enrollment, and seniority, may be taken into consideration, but the existence of  
3 any one contingency should not determine whether it is highly probable that  
4 there is a job available for the claimant in the following academic year or term.

5 (4) With respect to any services described in subdivision (1) or (2) of  
6 this subsection, benefits shall not be payable on the basis of services in any  
7 such capacities as specified in subdivisions (1), (2), and (3) of this subsection  
8 to any individual who performed such services in an educational institution  
9 while in the employ of an educational service agency. As used in this  
10 subdivision, the term “educational service agency” means a governmental  
11 agency or governmental entity that is established and operated exclusively for  
12 the purpose of providing such services to one or more educational institutions.

13 \* \* \*

14 \* \* \* Minimum Wage for Incarcerated Individuals \* \* \*

15 Sec. 9. 28 V.S.A. § 751b is amended to read:

16 § 751b. GENERAL PROVISIONS GOVERNING OFFENDER WORK

17 \* \* \*

18 (b) An offender shall not be required to engage in unreasonable labor or to  
19 perform any work for which ~~he or she~~ the offender is declared unfit by a  
20 physician employed or retained by the Department.

1 (c)(1) The Commissioner shall establish written guidelines governing the  
2 hours and conditions of offender work, and the rates of compensation of  
3 offenders for employment. An offender shall be compensated at a rate that is  
4 equal to or greater than the minimum wage established pursuant to 21 V.S.A.  
5 § 384(a)(1) unless a different wage is required for the offender’s position  
6 pursuant to federal law.

7 (2) Wage payments of offenders shall be set aside in a separate fund.

8 (3) The guidelines of the Department may provide for the making of  
9 deductions from wages of offenders to defray part or all of the cost of offender  
10 maintenance or payments to victims of crime. The guidelines may also  
11 provide for the setting aside by the Department of a portion of an offender’s  
12 wages to enable the offender to contribute to the support of ~~his or her~~ the  
13 offender’s dependents, if any; to make necessary purchases from a  
14 commissary; to purchase approved books, instruments, and instruction not  
15 supplied by a correctional facility; and to set aside sums to be paid to the  
16 offender upon release from the custody or supervision of the Commissioner.

17 (4) Any interest that accrues from these wages during the period of ~~such~~  
18 custody of an offender shall be credited to any fund maintained by the  
19 correctional facility for the welfare of offenders.

20 \* \* \*

1       Sec. 10. DEPARTMENT OF CORRECTIONS WAGE POLICIES; UPDATE

2           On or before January 1, 2026, the Commissioner of Corrections shall update  
3           all Department of Corrections policies relating to inmate wages to comply with  
4           the requirements of 28 V.S.A. § 751b.

5                           \* \* \* State Construction Projects \* \* \*

6       Sec. 11. 29 V.S.A. § 161 is amended to read:

7       § 161. REQUIREMENTS ON STATE CONSTRUCTION PROJECTS

8                           \* \* \*

9           (b) Each contract awarded under this section for any State project with a  
10          construction cost exceeding \$100,000.00, a construction project with a  
11          construction cost exceeding \$200,000.00 that is authorized and at least 50  
12          percent funded by a capital construction act pursuant to 32 V.S.A. § 701a, or a  
13          construction project with a construction cost exceeding \$200,000.00 that is at  
14          least 50 percent funded by the Cash Fund for Capital and Essential Investments  
15          established in 32 V.S.A. § 1001b shall provide that all construction employees  
16          working on the project shall be paid not less than ~~the mean prevailing wage~~  
17          ~~published periodically by the Vermont Department of Labor in its occupational~~  
18          ~~employment and wage survey plus an additional fringe benefit of 42 and one-~~  
19          ~~half percent of wage, as calculated by the current Vermont prevailing wage~~  
20          ~~survey. As used in this section, “fringe benefits” means benefits, including~~  
21          ~~paid vacations and holidays, sick leave, employer contributions and~~

1 ~~reimbursements to health insurance and retirement benefits, and similar~~  
2 ~~benefits that are incidents of employment~~ the prevailing rate of wages and  
3 benefits then payable for the labor in the locality where the public work is  
4 being performed, under a collective bargaining agreement. If no collective  
5 bargaining agreements exist in the immediate locality, then the prevailing rate  
6 of wages and benefits under a collective bargaining agreement in the nearest  
7 locality where a collective bargaining agreement exists shall apply. The  
8 Commissioner of Labor, in consultation with the Commissioner of Buildings  
9 and General Services, shall adopt rules to implement this section.

10 (c) In the construction of any State project, local capable labor shall be  
11 utilized whenever practicable, but this section shall not be construed to compel  
12 any person to discharge or lay off any regular employee.

13 (d)(1) Subsections (a) through (c) and subsection (g) of this section shall  
14 not apply to maintenance or construction projects carried out by the Agency of  
15 Transportation and by the Department of Forests, Parks and Recreation.

16 (2) Notwithstanding subdivision (1) of this subsection, to the extent that  
17 either the federal Davis-Bacon Act or the prevailing wages set forth in  
18 subsection (b) of this section may apply to any contract that is awarded for a  
19 maintenance or construction project, the higher wage shall apply.

20 (e) The Agency of Administration shall ensure that the State and any of its  
21 subdivisions do not contract, directly or indirectly, with employers who are



1 prohibited from contracting by the Commissioner of Labor pursuant to  
2 21 V.S.A. §§ 692, 708, and 1314a or the Commissioner of Financial  
3 Regulation pursuant to 8 V.S.A. § 3661.

4 (f) The Agency of Administration shall maintain a current list of employers  
5 that have been prohibited from contracting with the State or any of its  
6 subdivisions, and the Agencies of Administration and of Transportation shall  
7 publish that list on their websites.

8 (g) Employers and subcontractors contracting with the State of Vermont  
9 pursuant to this section shall keep a true and accurate record of all employees  
10 working on the project.

11 (1) For each employee, the record shall include:

12 (A) the name of the employee;

13 (B) the address of the employee;

14 (C) the hours worked by the employee;

15 (D) the wages paid to the employee;

16 (E) the employee's rate of pay; and

17 (F) the classification of the employee; the licensed trades shall supply  
18 proof of classification of journey workers and indentured apprentices.

19 (2) The records described in subdivision (1) of this subsection shall be  
20 submitted weekly by U.S. mail or email to the State agency overseeing the

1 construction project. The records shall be accompanied by a signed statement  
2 from the employer or subcontractor verifying the accuracy of the records.

3 (3) Each employer and subcontractor shall preserve the records  
4 described in subdivision (1) of this section for three years from the date of  
5 completion of the State project. The records shall be available for inspection  
6 by the Commissioner of Labor or the Attorney General at any reasonable time  
7 upon request.

8 (4) The records received pursuant to subdivision (2) of this section shall  
9 be subject to inspection or copying pursuant to 1 V.S.A. §§ 315–320.

10 (h) An employee may bring a public enforcement action on behalf of one  
11 or more current employees in relation to one or more violations of the  
12 provisions of this section. A public enforcement action shall not be subject to  
13 the requirements of Rule 23(a) of the Vermont Rules of Civil Procedure.

14 (1) The penalty and enforcement provisions of 21 V.S.A. § 495b shall  
15 apply to this section.

16 (2) Before commencing a public enforcement action, an employee shall  
17 submit a notice of the claim to the Attorney General.

18 (3) The Attorney General shall, not later than 60 days after the notice of  
19 the claim is submitted, review the claim and provide the employee with notice  
20 of whether the Attorney General intends to investigate the claim.

1           (4) If the Attorney General decides not to investigate the claim or fails  
2           to notify the relator within 60 days, the employee may commence a public  
3           enforcement action in relation to the claim.

4           (5) If the Attorney General decides to investigate the claim, the Attorney  
5           General shall complete the investigation within not more than 120 calendar  
6           days. At the conclusion of the investigation, the Attorney General shall notify  
7           the employer of whether the Attorney General intends to seek the remedies  
8           related to the claim pursuant to 21 V.S.A. § 495b.

9           (6) The employee may commence a public enforcement action if the  
10          Attorney General determines not to seek remedies related to the claim or fails  
11          to notify the employee of the outcome of the investigation within the time  
12          period set forth in subdivision (4) of this subsection.

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

14          Sec. 12. EFFECTIVE DATE

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