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No. 1571

H.P. 1168

House of Representatives, April 27, 2021

An Act To Strengthen the Unemployment Insurance System To Better Serve Maine Workers

Received by the Clerk of the House on April 23, 2021. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Speaker FECTEAU of Biddeford.
Cosponsored by Senator BENNETT of Oxford and
Representatives: CLOUTIER of Lewiston, CUDDY of Winterport, GERE of Kennebunkport,
HEPLER of Woolwich, McDONALD of Stonington, TUTTLE of Sanford, Senators: CURRY
of Waldo, VITELLI of Sagadahoc.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §1043, sub-§17, ¶B**, as amended by PL 1991, c. 548, Pt. D, §2,
3 is further amended to read:

4 B. An individual, including corporate officers, is considered "partially unemployed"
5 in any week of less than full-time work if the individual's wages payable from any
6 source for such week are not ~~\$5 or more~~ in excess of 150% of the weekly benefit
7 amount the individual would be entitled to receive if totally unemployed and eligible,
8 except that remuneration payable or received as holiday pay is not considered wages
9 for the purpose of this subsection and except that any amounts received from the
10 Federal Government by members of the National Guard and organized reserve,
11 including base pay and allowances, or any amounts received as a volunteer firefighter,
12 as a volunteer emergency medical services person or as an elected member of the
13 Legislature, are not considered wages for the purpose of this subsection.

14 **Sec. 2. 26 MRSA §1044, sub-§1**, as amended by PL 1979, c. 515, §6, is further
15 amended to read:

16 **1. Waiver of rights void; penalty.** Any agreement by an individual to waive, release
17 or commute ~~his~~ the individual's rights to benefits or any other rights under this chapter ~~shall~~
18 ~~be~~ is void. Any agreement by an individual in the employ of any person or concern to pay
19 all or any portion of an employer's contributions, required under this chapter from such
20 employer, ~~shall be~~ is void. ~~No~~ An employer ~~shall~~ may not directly or indirectly make or
21 require or accept any deduction from wages to finance the employer's required
22 contributions required from him, or require or accept any waiver of any right hereunder by
23 any individual in his the employer's employ or discourage or otherwise deter any individual
24 from applying for or receiving unemployment compensation benefits.

25 Any employer or officer or agent of an employer who violates any provision of this
26 subsection ~~shall~~ is, for each offense, ~~be~~ guilty of a Class E crime and liable to an employee
27 whose rights are adversely affected by a violation of this section for any amount of unpaid
28 unemployment compensation benefits that the employee would otherwise have received.

29 A judgment rendered in favor of an employee in an action brought to recover unpaid
30 unemployment compensation benefits under this section must include the unpaid
31 unemployment compensation benefits at a reasonable rate of interest, the costs of suit
32 including a reasonable attorney's fee and an additional amount equal to twice the amount
33 of unpaid unemployment compensation benefits as liquidated damages.

34 **Sec. 3. 26 MRSA §1051, sub-§9**, as enacted by PL 1999, c. 464, §4, is repealed.

35 **Sec. 4. 26 MRSA §1086** is enacted to read:

36 **§1086. Report on effectiveness of unemployment compensation**

37 **1. Annual measurement of effectiveness of unemployment compensation.** The
38 bureau shall implement an ongoing system to measure the effectiveness of unemployment
39 compensation benefits on an annual basis by:

40 A. Identifying the percentage of unemployed individuals receiving unemployment
41 compensation benefits, examining the demographics of eligible individuals and

1 determining the reasons why unemployed individuals are not receiving benefits,
2 including the demographics of those individuals; and

3 B. Determining the adequacy of unemployment compensation benefits to replace
4 wages and meet necessary living expenses for high-wage, medium-wage and low-wage
5 earners.

6 **2. Benchmarks established.** The bureau shall annually establish benchmarks to:

7 A. Target increases in the percentage of unemployed individuals receiving
8 unemployment compensation benefits, with the goal of covering at least 50% of
9 unemployed individuals by 2025; and

10 B. Ensure that the average weekly unemployment compensation benefit amount is
11 sufficient to raise a family of 3 above the federal poverty level for a family of that size.

12 **3. Report.** By March 15, 2022 and annually thereafter, the bureau shall report to the
13 joint standing committee of the Legislature having jurisdiction over labor and housing
14 matters on:

15 A. The benchmarks established under subsection 2 for the preceding year and the
16 progress in meeting the benchmarks;

17 B. A comparison of the percentage of unemployed individuals receiving
18 unemployment compensation benefits in this State and the adequacy of those benefits
19 compared to those provided in other New England states;

20 C. Demographics of individuals receiving unemployment compensation benefits,
21 including employment history, age, gender, income, geographic location, ethnicity and
22 race, and an estimate of the percentage of unemployed individuals and the
23 demographics of those that did not receive benefits; and

24 D. Proposed benchmarks for the subsequent year.

25 If the bureau fails to meet its benchmarks for the preceding year, it shall identify the
26 obstacles that prevented it from reaching those benchmarks and present a plan for
27 addressing those obstacles to the joint standing committee along with any necessary
28 legislation to implement that plan for the subsequent year.

29 The report under this subsection must also include notice of, and the rationale for, any
30 reduction in aggregate funding for navigator grants provided in section 1200 when such
31 funding is reduced by an amount equal to or more than 25% of the prior year's funding.

32 **4. Public hearing required.** When the bureau presents a plan under subsection 3 to
33 the joint standing committee of the Legislature having jurisdiction over labor and housing
34 matters, the joint standing committee shall conduct a public hearing on the bureau's plan
35 and may introduce any legislation that the joint standing committee determines necessary
36 to improve the bureau's ability to reach its benchmarks for subsequent years.

37 **Sec. 5. 26 MRSA §1191, sub-§3,** as amended by PL 2017, c. 284, Pt. CCCCC, §1,
38 is further amended to read:

39 **3. Weekly benefit for partial unemployment.** Each eligible individual who is
40 partially unemployed in any week must be paid a partial benefit for that week. The partial
41 benefit is equal to the weekly benefit amount less the individual's weekly earnings in excess
42 of \$25, except that, beginning the first full benefit week beginning on or after January 1,

1 2018, the partial benefit is equal to the weekly benefit amount less the individual's weekly
2 earnings in excess of the greater of \$100 or 50% of gross wages. The following amounts
3 are not considered wages for purposes of this subsection:

4 A. Amounts received from the Federal Government by a member of the National
5 Guard and organized reserve, including base pay and allowances;

6 B. Amounts received as a volunteer firefighter or as a volunteer emergency medical
7 services person;

8 C. Amounts received as an elected member of the Legislature; and

9 D. Earnings for the week received as a result of participation in full-time training under
10 the United States Trade Act of 1974 as amended by the United States Trade and
11 Globalization Adjustment Assistance Act of 2009 up to an amount equal to the
12 individual's most recent weekly benefit amount.

13 **Sec. 6. 26 MRSA §1191, sub-§6**, as corrected by RR 2009, c. 2, §77, is amended
14 to read:

15 **6. Supplemental benefit for dependents.** An individual in total or partial
16 unemployment and otherwise eligible for benefits must be paid for each week of that
17 unemployment, in addition to the amounts payable under subsections 2 and 3, the sum of
18 \$10 \$25 for each unemancipated child of the individual who in any part of the benefit year
19 and during any part of the individual's period of eligibility is, in fact, dependent upon and
20 is being wholly or mainly supported by the individual, and who is under the age of 18, or
21 who is 18 years of age or over and incapable of earning wages because of mental or physical
22 incapacity, or who is a full-time student as defined in Title 39-A, section 102, subsection
23 8, paragraph C, or who is in that individual's custody pending the adjudication of a petition
24 filed by the individual for the adoption of the child in a court of competent jurisdiction and
25 for each such child for whom that individual is under a decree or order from a court of
26 competent jurisdiction to contribute to that child's support and for whom no other person
27 is receiving allowances hereunder. In no instance may the dependency benefits as provided
28 in this subsection be more than ~~50%~~ 75% of the individual's weekly benefit amount.

29 The commission shall prescribe regulations as to who may receive a dependency allowance
30 when both spouses are eligible to receive unemployment compensation benefits.

31 ~~No individual may be eligible to receive dependency allowances as provided in this~~
32 ~~subsection for any week during which that individual's spouse is employed full time~~
33 ~~provided that the spouse is contributing some support to their dependent or dependents. For~~
34 ~~purposes of this subsection, "employed full time" means the receipt of any wages, earnings,~~
35 ~~salary or other income equivalent to that amount that would be received for a 40-hour work~~
36 ~~week.~~

37 **Sec. 7. 26 MRSA §1192, sub-§4-A**, as enacted by PL 1981, c. 220, is repealed.

38 **Sec. 8. 26 MRSA §1193, sub-§1**, as amended by PL 2017, c. 117, §§6 to 8, is
39 further amended to read:

40 **1. Voluntarily leaves work.**

41 A. For the week in which the claimant left regular employment voluntarily without
42 good cause attributable to that employment or other compelling and substantial reason
43 not directly attributable to employment but which would cause a reasonable person to

1 leave work under similar circumstances. The disqualification continues until the
2 claimant has earned 4 times the claimant's weekly benefit amount in employment by
3 an employer. A claimant may not be disqualified under this paragraph if:

4 (1) The leaving was caused by the illness or disability of the claimant or an
5 immediate family member and the claimant took all reasonable precautions to
6 protect the claimant's employment status by promptly notifying the employer of
7 the need for time off, a change or reduction in hours or a shift change and being
8 advised by the employer that the time off or change or reduction in hours or shift
9 change cannot or will not be accommodated;

10 (2) The leaving was necessary to accompany, follow or join the claimant's spouse
11 in a new place of residence;

12 (3) The leaving was in good faith in order to accept new employment on a
13 permanent full-time basis and the new employment did not materialize for reasons
14 attributable to the new employing unit;

15 (4) The leaving was necessary to protect the claimant or any member of the
16 claimant's immediate family from domestic abuse or the leaving was due to
17 domestic violence that caused the claimant reasonably to believe that the claimant's
18 continued employment would jeopardize the safety of the claimant or any member
19 of the claimant's immediate family and the claimant made all reasonable efforts to
20 preserve the employment; or

21 (5) The claimant's employer announced in writing to employees that it planned to
22 reduce the work force through a layoff or reduction in force and that employees
23 may offer to be among those included in the layoff or reduction in force, at which
24 time the claimant offered to be one of the employees included in the layoff or
25 reduction in force and the claimant's employer accepted the claimant's offer,
26 thereby ending the employment relationship; or

27 (6) The leaving was the result of the loss of child care or transportation when no
28 reasonable alternatives were available within the time necessary to maintain
29 employment.

30 Separation from employment based on ~~the~~ compelling family reasons, including those
31 listed in subparagraphs (1), (2) ~~and~~, (4) and (6) does not result in disqualification.

32 B. For the duration of ~~his~~ a claimant's unemployment period subsequent to ~~his~~ the
33 claimant's having retired; or having been retired from ~~his~~ regular employment as a
34 result of a recognized employer policy or program, under which ~~he~~ the claimant is
35 entitled to receive pension payments, if so found by the deputy, and disqualification
36 ~~shall continue~~ continues until the claimant has earned 6 times ~~his~~ the claimant's weekly
37 benefit amount in employment by an employer;

38 C. For the duration of a leave of absence or sabbatical leave that has been mutually
39 agreed to by the employee and the employer; and

40 D. For the duration of a partial separation or reduction of hours initiated at the
41 employee's request and agreed to by the employee and employer;

42 **Sec. 9. 26 MRSA §1194-A** is enacted to read:

43 **§1194-A. Expedited unemployment claims; mass layoff or reduction in hours**

1 **1. Employer application assistance.** When an employer required to make
2 contributions to the Unemployment Compensation Fund under this chapter lays off or
3 reduces the hours of employment for more than 25% of the employer's employees at an
4 establishment or facility where such employees were employed at the time of the layoff or
5 reduction in hours, the employer shall file an initial claim for unemployment compensation
6 benefits, along with all wage and other information needed to process the claim, on behalf
7 of each such employee in accordance with rules adopted by the Department of Labor. The
8 employer shall notify each employee on behalf of whom the employer filed a claim for
9 unemployment compensation benefits under this section of the filing of the claim. The
10 department shall obtain authorization from the employee on whose behalf an employer
11 filed a claim for unemployment compensation benefits before processing the claim or
12 paying unemployment compensation benefits under this section. Once the department
13 obtains authorization from the employee, it shall process the claim and pay benefits in
14 accordance with this chapter.

15 **2. Claim for benefits.** If an employer fails to file a timely claim for unemployment
16 compensation benefits for an employee in accordance with this section, and the employee
17 does not file a timely claim for unemployment compensation benefits for that separation,
18 the employee's claim is deemed to have been filed on the Sunday of the initial week the
19 employee would have otherwise been eligible to receive unemployment compensation
20 benefits following that separation. The employer has the burden of demonstrating
21 compliance with the provisions of this section.

22 **3. Penalty.** Each failure of an employer to file a claim for unemployment
23 compensation benefits in accordance with this section constitutes a separate offense. The
24 Department of Labor shall issue a warning to the employer for the first violation. The
25 department shall assess a fine, in accordance with rules adopted by the department, for each
26 subsequent offense.

27 **Sec. 10. 26 MRSA §1198, sub-§1-A** is enacted to read:

28 **1-A. Improving the efficiency and effectiveness of the work-sharing program.** To
29 improve the efficiency and effectiveness of the work-sharing program, the commissioner
30 shall:

31 A. Employ a work-sharing manager and dedicate staff resources to ensure prompt
32 processing of employer applications and respond to questions related to the work-
33 sharing program from both employers and employees;

34 B. Consult with representatives of employers and employees to establish and carry out
35 a plan for effective outreach and education to increase the use of the work-sharing
36 program;

37 C. Track the experience of employers and participants in the work-sharing program
38 and generate metrics that will inform decisions about how best to improve the program,
39 including how to target work-sharing outreach and information; and

40 D. Conduct industry research to identify employers that may derive some value from
41 work-sharing and conduct targeted outreach to those employers identifying the
42 potential benefit of the work-sharing program to them.

43 **Sec. 11. 26 MRSA §1198, sub-§3,** as enacted by PL 2011, c. 91, §1 and affected
44 by §3, is amended to read:

1 **3. Approval or rejection of the work-sharing plan.** The commissioner shall approve
2 or reject a work-sharing plan in writing within 15 days of receipt of the plan. The
3 commissioner's decision is final and not subject to appeal. The eligible employer may
4 submit another work-sharing plan for approval, and a determination must be made based
5 upon the new information submitted by the eligible employer.

6 **Sec. 12. 26 MRSA §1199, sub-§3,** as enacted by PL 2019, c. 617, Pt. B, §1, is
7 repealed.

8 **Sec. 13. 26 MRSA §1200** is enacted to read:

9 **§1200. Peer navigator program**

10 **1. General requirements.** No later than January 1, 2022, the commissioner shall
11 establish the peer navigator program in accordance with this section to award navigator
12 grants to qualified entities; to raise awareness of the availability of unemployment
13 compensation benefits among underserved individuals and assist those individuals in
14 accessing those benefits; to promote access to reemployment services, including education
15 and training opportunities; to assist unemployed and underemployed individuals in
16 accessing resources necessary to meet their basic needs during the reemployment process;
17 and to identify systemic obstacles to receiving benefits or services necessary to support
18 successful reemployment efforts. The commissioner shall also provide appropriate support
19 from bureau staff to entities receiving navigator grants under this section, including support
20 resolving the issues of individual claimants and systemic issues that present barriers to
21 timely receipt of unemployment compensation benefits or other reemployment services.
22 Funding for these purposes, including for additional bureau staff that may be needed, is as
23 provided in subsection 4.

24 **2. Qualified entities.** To be eligible to receive a navigator grant under this section, an
25 entity must:

26 A. Demonstrate that it has existing peer relationships or could readily establish such
27 relationships with unemployed or underemployed individuals;

28 B. Have the capability to carry out the duties of this section, including knowledge of
29 eligibility requirements, application processes and other substantive provisions and
30 processes related to the unemployment compensation program, reemployment
31 services, education and training services and other resources necessary to help
32 unemployed or underemployed individuals increase their economic security;

33 C. Maintain strict confidentiality standards to ensure the privacy of all information
34 collected from individuals receiving navigator services; and

35 D. Provide navigator services under this section without charge to the individual
36 receiving those services.

37 **3. Commissioner's duties; award criteria; navigator services.** The commissioner
38 shall establish standards for the awarding of navigator grants to qualified entities in
39 accordance with this subsection.

40 A. The commissioner may award multiple grants to perform one or more of the
41 navigator services described in this section if the grants are distributed in a manner that
42 best achieves the comprehensive purpose of the peer navigator program throughout the
43 State.

1 B. To support the maintenance of relationships between qualified entities and
2 unemployed and underemployed individuals and to ensure a high quality of service,
3 the commissioner shall award grants to qualified entities for multiple-year periods in
4 accordance with state purchasing standards under Title 5, chapter 155. Multiple-year
5 grants are subject to a qualified entity satisfying performance standards set forth in the
6 grant award.

7 C. The commissioner shall give priority for navigator grants to a qualified entity that:
8 (1) Has an organizational mission that requires them to represent the interest of
9 unemployed or underemployed individuals;
10 (2) Represents a membership base of workers; or
11 (3) Is a recognized source of support or advocacy for underserved groups including
12 racial and ethnic minorities, persons with low literacy and persons with disabilities.

13 D. Navigator services provided by qualified entities that receive navigator grants must
14 be coordinated with and supplement, not supplant, services provided by the
15 Department of Labor.

16 E. The commissioner shall ensure that the following navigator services are provided
17 through qualified entities awarded navigator grants in accordance with this section and
18 that these navigator services are coordinated throughout the State:

19 (1) Outreach to identify individuals who are potentially eligible for unemployment
20 compensation benefits but who may be unaware of their eligibility, including
21 public relations activities using media or similar techniques;

22 (2) Targeted public education initiatives related to eligibility requirements for
23 unemployment compensation benefits, applying for and making ongoing claims
24 for unemployment compensation benefits, the relationship between unemployment
25 compensation benefits and education and training programs, work-sharing
26 arrangements established under section 1198, the fact-finding and appeals
27 processes and other relevant program benefits and requirements;

28 (3) Individual assistance in applying for and making ongoing claims for
29 unemployment compensation benefits or other procedural functions related to
30 unemployment compensation benefits;

31 (4) Assistance in identifying appropriate reemployment services, including
32 opportunities for education, training and apprenticeship, to increase employability
33 for high-wage, in-demand jobs;

34 (5) Referrals for unemployed or underemployed individuals to resources necessary
35 to help those individuals meet their basic needs during the reemployment process;

36 (6) Appropriate training to ensure the quality and accuracy of navigator services,
37 including training on how to most effectively assist communities that are
38 underrepresented in receiving unemployment compensation benefits and
39 reemployment services;

40 (7) Identification of systemic issues creating barriers to receipt of unemployment
41 compensation benefits and successful reemployment for unemployed or
42 underemployed individuals and presentation of those issues to the commissioner,

1 who shall promptly resolve or relay those issues to the joint standing committee of
2 the Legislature having jurisdiction over labor and housing matters; and

3 (8) Direct legal services when appropriate.

4 All navigator services provided under this subsection must be performed in a manner that
5 is culturally and linguistically appropriate to the needs of the population being served,
6 including individuals with limited English proficiency, persons with low literacy and
7 persons with disabilities, and must recognize the varying levels of digital literacy and
8 access to technology among individuals in need of services.

9 **4. Funding for navigator grants.** The Unemployment Program Administrative Fund
10 planned yield and predetermined yield established under section 1167 must be adjusted
11 each year to provide additional funds in the amount of \$3,000,000 for the peer navigator
12 program established under this section, including funds for bureau staff administering the
13 peer navigator program. The commissioner shall promptly provide payments to qualified
14 entities awarded navigator grants under this section to enable them to cover ongoing
15 expenses in a timely manner.

16 **Sec. 14. Promoting accountability in unemployment compensation.** No later
17 than January 1, 2022, the Department of Labor, Bureau of Unemployment Compensation
18 shall complete an analysis to determine why unemployed individuals do not apply for
19 unemployment compensation benefits, including identifying systemic obstacles identified
20 to individuals' receipt of benefits. The analysis must include the characteristics of
21 unemployed individuals who do not file, including employment history, age, gender,
22 income, geographic location, ethnicity and race. Data collection methodologies used to
23 conduct this analysis may be modeled on the nonfiler supplement to the United States
24 Current Population Survey established by the United States Department of Commerce,
25 Bureau of the Census and the United States Department of Labor, Bureau of Labor
26 Statistics, or a similarly effective instrument designed by the Bureau of Unemployment
27 Compensation for this purpose. The analysis may include reliable data already collected
28 by or available to the Bureau of Unemployment Compensation.

29 **Sec. 15. Department of Labor staff assessment; Bureau of Unemployment**
30 **Compensation.** By January 15, 2022, the Commissioner of Labor shall provide a report
31 to the Joint Standing Committee on Labor and Housing assessing the staff capacity within
32 the Department of Labor, Bureau of Unemployment Compensation to comply with the
33 performance core measures established by the United States Department of Labor related
34 to unemployment insurance benefit promptness and accuracy and the timeliness of appeal
35 determinations. The report must also describe any technology needs and other staffing
36 necessary to ensure the accessibility of the unemployment compensation system to
37 applicants and recipients.

38 SUMMARY

39 This bill requires the Department of Labor, Bureau of Unemployment Compensation
40 to examine the adequacy of Maine's unemployment compensation system in meeting the
41 needs of today's workforce and economy, to establish benchmarks for program
42 improvement and to annually measure progress in reaching those benchmarks. It also
43 requires an assessment of the staffing capacity within the Department of Labor and requires
44 the Commissioner of Labor to submit a report of these findings to the Joint Standing

1 Committee on Labor and Housing. It establishes the peer navigator program to increase
2 access to unemployment compensation benefits for underserved individuals and makes
3 several amendments in current law to support these goals.