

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

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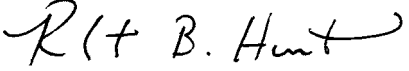
H.P. 445

House of Representatives, February 25, 2025

An Act Regarding the Laws Relating to Unemployment Insurance

Submitted by the Department of Labor pursuant to Joint Rule 204.

Received by the Clerk of the House on February 20, 2025. Referred to the Committee on Labor pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.


ROBERT B. HUNT
Clerk

Presented by Representative ARCHER of Saco.

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

2 **Sec. 1. 25 MRSA §6001, sub-§2, ¶B**, as enacted by PL 2021, c. 394, §1, is
3 amended to read:

4 B. Notwithstanding the provisions of paragraph A, a department, public employee or
5 public official may request a search of a facial surveillance system as provided in
6 paragraph C and may obtain, retain, possess, access or use the results of a search of a
7 facial surveillance system, as provided in paragraph C, for the purposes of:

8 (1) Investigating a serious crime, when there is probable cause to believe that an
9 unidentified individual in an image has committed the serious crime;

10 (2) Assisting in the identification of a person who is deceased or believed to be
11 deceased;

12 (3) Assisting in the identification of a missing or endangered person; ~~or~~

13 (4) Performing a duty authorized under paragraph D, subparagraph (1), if the
14 Bureau of Motor Vehicles or a public employee or public official of the Bureau of
15 Motor Vehicles makes the request for the search of the facial surveillance system;
16 or

17 (5) Performing a duty authorized under paragraph D, subparagraph (1), if the
18 Department of Labor, Bureau of Unemployment Compensation, or a public
19 employee or public official of the Bureau of Unemployment Compensation, makes
20 the request for the search of the facial surveillance system.

21 **Sec. 2. 26 MRSA §1043, sub-§3-A**, as amended by PL 1995, c. 9, §1, is further
22 amended to read:

23 **3-A. Alternate base period.** For benefit years effective on or after September 27,
24 1992 for any individual who fails to meet the eligibility requirements of section ~~1192,~~
25 ~~subsection 5~~ 1192-A, subsection 2, paragraph F in the base period as defined in subsection
26 3, the Department of Labor shall make a redetermination of eligibility based on a base
27 period that consists of the last 4 completed calendar quarters immediately preceding the
28 first day of the individual's benefit year. This base period is known as the "alternate base
29 period." If wage information for the most recent quarter of the alternate base period is not
30 available to the department from regular quarterly reports of wage information that is
31 systematically accessible, the department shall gather the necessary data in accordance with
32 rules established for this purpose.

33 If the department receives information from the employer that causes a revised monetary
34 determination under this subsection, benefits received prior to that revision may not
35 constitute an overpayment of benefits provided as long as the claimant did not knowingly
36 misrepresent information requested by the department.

37 Wages that fall within the base period of claims established under this subsection are not
38 available for reuse in qualifying for any subsequent benefit years under section ~~1192~~
39 1192-A.

40 In the case of a combined-wage claim pursuant to the arrangement approved by the United
41 States Secretary of Labor in accordance with section 1082, subsection 12, the base period

1 is that base period applicable under the unemployment compensation law of the paying
2 state.

3 **Sec. 3. 26 MRSA §1043, sub-§5, ¶B**, as amended by PL 2009, c. 271, §1, is
4 repealed.

5 **Sec. 4. 26 MRSA §1043, sub-§19, ¶B**, as amended by PL 2017, c. 117, §3, is
6 further amended to read:

7 B. For purposes of section 1191, subsection 2; ~~section 1192, subsection 5~~ 1192-A,
8 subsection 2, paragraph F; and section 1221, the term "wages" does not include:

9 (1) The amount of any payment, including any amount paid by an employer for
10 insurance or annuities, or into a fund, to provide for any such payment, made to,
11 or on behalf of, an employee or any of the employee's dependents under a plan or
12 system established by an employer that makes provision for the employer's
13 employees generally, or for the employer's employees generally and their
14 dependents, or for a class or classes of the employer's employees, or for a class or
15 classes of the employer's employees and their dependents, on account of:

16 (a) Sickness or accident disability, but, in the case of payments made to an
17 employee or any of the employee's dependents, this subparagraph excludes
18 from the term "wages" only payments that are received under a workers'
19 compensation law;

20 (b) Medical or hospitalization expenses in connection with sickness or
21 accident disability; or

22 (c) Death;

23 (1-A) Any payment on account of sickness or accident disability, or medical or
24 hospitalization expenses in connection with sickness or accident disability, made
25 by an employer or a 3rd party to, or on behalf of, an employee after the expiration
26 of 6 calendar months following the last calendar month in which the employee
27 worked for that employer;

28 (2) The payment by an employing unit, without deduction from the remuneration
29 of the employee, of the tax imposed upon an employee under section 3101 of the
30 Federal Insurance Contributions Act, as amended, with respect to service
31 performed after July 26, 1940, with respect to remuneration paid to an employee
32 for domestic service in a private home of the employer or for agricultural labor;

33 (3) The amount of any payment, other than vacation or sick pay, to an individual
34 after the month in which the individual attains the age of 62, if the individual did
35 not perform services for the employing unit in the period for which such payment
36 is made and is not expected to perform service in the future for the payment; or

37 (4) The amount of any nominal fee or stipend to a volunteer whose service is
38 excluded from the definition of employment pursuant to subsection 11, paragraph
39 F, subparagraph (35);

40 **Sec. 5. 26 MRSA §1051, sub-§1**, as amended by PL 2011, c. 645, §1, is further
41 amended to read:

1 **1. False statement or representation.** A person is guilty of unemployment fraud if
2 that person makes a false statement or representation knowing it to be false or knowingly
3 fails to disclose a material fact or solicits another person to make a false statement knowing
4 it to be false or knowingly solicits another person to fail to disclose a material fact:

5 A. To obtain or increase any benefit or other payment under this chapter or under an
6 employment security law of any other state or of the Federal Government;

7 B. To prevent or reduce the payment of unemployment benefits to any individual;

8 C. To avoid becoming or remaining an employer under this chapter; or

9 D. To avoid or reduce any contribution or other payment required from an employing
10 unit under this chapter.

11 Each false statement or representation or failure to disclose a material fact constitutes a
12 separate offense. Unemployment fraud is theft by deception under Title 17-A, section 354.

13 **Sec. 6. 26 MRSA §1051, sub-§6, ¶C,** as enacted by PL 1997, c. 434, §1, is
14 amended by amending subparagraph (4) to read:

15 (4) Upon receipt of an order to withhold issued by the Department of Labor, the
16 employer or other payor shall immediately begin withholding from the income of
17 the responsible individual 10% of gross wages, except that the amount withheld
18 may not exceed an amount by which the individual's disposable earnings are
19 reduced to a weekly equivalent of 40 times the ~~federal state~~ hourly minimum wage
20 prescribed by ~~29 United States Code, Section 206(a)(1)~~ section 664, subsection 1.
21 Sums withheld must be remitted to the Department of Labor within 10 days of the
22 date the individual is paid. Any person who honors an order to withhold issued
23 under this section is discharged from any liability or obligation to the individual
24 for the amount of the wages withheld.

25 **Sec. 7. 26 MRSA §1051, sub-§10,** as enacted by PL 1999, c. 464, §4, is amended
26 to read:

27 **10. Application of benefit repayments.** Amounts received through any means to
28 repay benefit payments owed to the commissioner must be applied first to any outstanding
29 penalties, 2nd to any outstanding interest and 3rd to any benefit payments owed to the
30 commissioner, except that if the repayment of benefit amounts owed to the commissioner
31 is accomplished by offsetting subsequent benefit payments issued under this chapter, that
32 repayment may be applied only to the principal amount.

33 **Sec. 8. 26 MRSA §1082, sub-§1,** as amended by PL 2021, c. 456, §8, is further
34 amended to read:

35 **1. Powers and duties of the commissioner.** Except as otherwise provided, it is the
36 duty of the commissioner to administer this chapter, through an organization to be known
37 as the Bureau of Unemployment Compensation. The commissioner may employ persons,
38 make expenditures, require reports, make investigations and take other actions the
39 commissioner determines necessary or suitable to that end. The commissioner is
40 responsible and possesses the necessary authority for the operation and management of the
41 Bureau of Unemployment Compensation. The commissioner shall determine methods of
42 operational procedures in accordance with the provisions of this chapter. The
43 commissioner may adopt rules in accordance with ~~the Maine Administrative Procedure~~

1 Act, Title 5, chapter 375, to achieve this purpose. ~~The commissioner may adopt rules with~~
2 ~~respect to a self-employment assistance program as provided in section 1197. The~~
3 ~~commissioner shall determine methods of operational procedures in accordance with the~~
4 ~~provisions of this chapter and by the Maine Administrative Procedure Act, Title 5, chapter~~
5 ~~375. The commissioner shall make recommendations for amendments to this chapter that~~
6 ~~the commissioner determines proper. When the commissioner believes that a change in~~
7 ~~contribution or benefit rates is necessary to protect the solvency of the fund, the~~
8 ~~commissioner shall promptly inform the Governor and the Legislature and make~~
9 ~~recommendations with respect to the change in rates.~~

10 **Sec. 9. 26 MRSA §1085, sub-§1, ¶A**, as enacted by PL 2019, c. 644, §4, is
11 amended by amending subparagraph (3) to read:

12 (3) An employee of the bureau who has or will be given access to federal tax
13 information as part of that employee's employment with the bureau and has not
14 undergone a federal background investigation within the past ~~10~~ 5 years; or

15 **Sec. 10. 26 MRSA §1191, sub-§4, ¶A**, as amended by PL 2009, c. 271, §2, is
16 further amended to read:

17 A. If a dislocated worker, as defined in section 1196, subsection 1, ~~who is in training~~
18 ~~approved under section 1192, subsection 6, 6-A, 6-C, 6-D or 6-E~~ qualifies for
19 additional benefits under section ~~1043, subsection 5, paragraph B~~ 1196, subsection
20 1-A, or exhausts the worker's entitlement to benefits available to the worker under this
21 subsection, the maximum amount under this subsection is the product of the worker's
22 most recent weekly benefit amount multiplied by the number of weeks in which the
23 worker thereafter attends an approved training program. ~~No~~ An increase may not be
24 made under this paragraph, with respect to any benefit period, greater than 26 times the
25 individual's weekly benefit amount.

26 (1) Benefits paid to an individual under this paragraph may not be charged against
27 the experience rating record of any employer, but must be charged to the General
28 Fund.

29 (2) ~~No benefits~~ Benefits may not be paid under this paragraph to ~~any person an~~
30 individual:

31 (b) Until the ~~person~~ individual has exhausted benefits for which the ~~person~~
32 individual is eligible under ~~any an~~ unemployment insurance benefit program
33 funded in whole or in part by the State ~~Government~~ or the Federal Government;
34 or

35 (c) Who is eligible for or who has exhausted, after ~~the effective date of this~~
36 ~~paragraph~~ March 20, 1986, trade adjustment allowances as provided by the
37 United States Trade Act of 1974, Title II, Chapter 2, Public Law 93-617, 19
38 United States Code, Title 19, Section 2291, et seq. to 2294, and any
39 amendments or additions thereto, or a similar successor provision of that Act,
40 except that any individual who was eligible for and received less than 26 weeks
41 of benefits under the United States Trade Act of 1974 may receive benefits for
42 the number of weeks by which ~~their~~ that individual's benefits under that Act
43 are less than 26 weeks.

1 **Sec. 11. 26 MRSA §1192**, as corrected by RR 2023, c. 2, Pt. E, §§89 to 92, is
2 repealed.

3 **Sec. 12. 26 MRSA §1192-A** is enacted to read:

4 **§1192-A. Eligibility conditions**

5 The following provisions govern an individual's eligibility to receive benefits under
6 this chapter.

7 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
8 following terms have the following meanings.

9 A. "Deputy" means a representative of the bureau designated by the commissioner.

10 B. "Educational service agency" means a governmental agency or governmental entity
11 that is established and operated exclusively for the purpose of providing services to one
12 or more educational institutions.

13 C. "Good cause" means:

14 (1) The unemployed individual is ill;

15 (2) The presence of the unemployed individual is required due to an illness of the
16 unemployed individual's spouse, child, parent, stepparent, sibling or relative who
17 has been acting in the capacity of a parent of either the unemployed individual or
18 the unemployed individual's spouse;

19 (3) The unemployed individual is in attendance at the funeral of any of the persons
20 described in subparagraph (2);

21 (4) The unemployed individual is observing a religious holiday as required by
22 religious conviction;

23 (5) The unemployed individual is performing either a military or civil duty as
24 required by law; and

25 (6) Another cause of a necessitous and compelling nature, including child care
26 emergencies and transportation emergencies.

27 "Good cause" does not include incarceration as a result of a conviction for a felony or
28 misdemeanor.

29 D. "Suitable employment" means, with respect to an individual, work of a substantially
30 equal or higher skill level than the individual's past adversely affected employment, as
31 defined for purposes of the United States Trade Act of 1974, and wages for that work
32 at not less than 80% of the individual's average weekly wage as determined for the
33 purposes of the United States Trade Act of 1974.

34 E. "Union hiring hall" means a service provided by a labor union or an entity associated
35 with a labor union that places employees with an employer under a collective
36 bargaining agreement or otherwise places employees with employers.

37 **2. Eligibility.** An unemployed individual is eligible to receive benefits with respect to
38 any week only if:

39 A. The individual has made a claim for benefits with respect to the week or part thereof
40 in accordance with rules adopted by the commissioner;

1 B. The individual has registered for work at and continued to report at an employment
2 office in accordance with rules the commissioner adopts, except that the commissioner
3 may, by rule, waive or alter either or both of the requirements of this paragraph as to
4 individuals attached to regular jobs and as to such other types of cases or situations
5 with respect to which the commissioner finds that compliance with the requirements
6 would be oppressive or would be inconsistent with the purposes of this chapter. A rule
7 under this paragraph may not conflict with section 1191, subsection 1;

8 C. For each week in which a claim for benefits is filed, the individual is actively
9 seeking work, unless the individual is participating in approved training under
10 subsection 3 or the work search requirement has been waived in accordance with rules
11 adopted by the commissioner, and the individual provides evidence of work search
12 efforts in a manner and form as prescribed by the Department of Labor. Failure to
13 provide required work search documentation results in a denial of benefits in
14 accordance with section 1194, subsection 2 for the week or weeks for which
15 documentation was not provided unless the department determines there is good cause
16 for the individual's failure to comply with this requirement.

17 Notwithstanding any provision of this paragraph to the contrary, an individual is
18 considered to be actively seeking work in accordance with this section if the individual
19 is a member of a bona fide labor union, maintains contact with that union and uses and
20 complies with the placement services of the union hiring hall in seeking work;

21 D. The individual is able to work and is available for work at the individual's usual or
22 customary hours, commute, trade, occupation, profession or business or in such other
23 trade, occupation, profession or business for which the individual's prior training or
24 experience shows the individual to be fitted or qualified, and in addition to having
25 complied with paragraphs B and C, is actively seeking work in accordance with the
26 rules of the commissioner.

27 Ineligibility may not be determined solely because an individual is unable to accept
28 employment on a shift, the greater part of which falls between the hours of midnight to
29 5 a.m., and is unavailable for that employment because of parental obligation, the need
30 to care for an immediate family member or the unavailability of a personal care
31 attendant required to assist the unemployed individual who is a person with a disability.
32 An unemployed individual who is neither able nor available for work due to good cause
33 as determined by the deputy is eligible to receive prorated benefits for that portion of
34 the week during which the individual was able and is available.

35 Notwithstanding this paragraph, an individual who worked full-time for the majority
36 of the weeks during that individual's base period but is able and available for and
37 actively seeking only part-time work because of the illness or disability of the
38 individual or an immediate family member, or because of limitations necessary for the
39 safety or protection of the individual or the individual's immediate family member,
40 may not be disqualified from receiving benefits. The individual's benefits must be
41 prorated in accordance with the individual's current availability;

42 E. The individual has served a waiting period of one week of total or partial
43 unemployment. A week may not be counted as a week of total or partial unemployment
44 for the purpose of this paragraph:

45 (1) If benefits have been paid with respect to that week;

1 (2) Unless it occurs within the benefit year that includes the week with respect to
2 which the individual claims payment of benefits; and

3 (3) Unless the individual was eligible for benefits with respect to that week, as
4 provided in this section and section 1193, except for the requirements of this
5 paragraph; and

6 F. For an individual establishing a benefit year on or after January 1, 1980, the
7 individual has been paid wages equal to or exceeding 2 times the annual average
8 weekly wage for insured work in each of 2 different quarters in the individual's base
9 period and has been paid total wages equal to or exceeding 6 times the annual average
10 weekly wage in the individual's base period for insured work.

11 For the purposes of this paragraph, the annual average weekly wage amount to be used
12 is that which is applicable at the time the individual files a request for determination of
13 insured status.

14 For the purposes of this paragraph, wages are counted as "wages for insured work" for
15 benefit purposes with respect to a benefit year only if the benefit year begins
16 subsequent to the date on which the employer by whom such wages were paid has
17 satisfied the conditions of section 1043, subsection 9, or section 1222, subsection 3,
18 with respect to becoming an employer; except that an individual may not receive
19 benefits in a benefit year unless, subsequent to the beginning of the next preceding
20 benefit year during which that individual received benefits, that individual performed
21 services and earned remuneration for such services in an amount equal to or greater
22 than 8 times that individual's weekly benefit amount in employment by an employer in
23 the benefit year being established.

24 This paragraph applies only to an individual requesting determination of insured status
25 on and after January 1, 1972. In determining an individual's qualification under this
26 subsection, payments pursuant to former Title 39, sections 54, 55, 188 and 189 and
27 Title 39-A, sections 608 and 609 are considered wages for insured work.

28 **3. Approved training.** Notwithstanding any provision of this chapter to the contrary,
29 an otherwise eligible individual who is in training, as approved for the individual by the
30 deputy, under rules adopted by the commissioner, may not be denied benefits for any week
31 with respect to subsection 2, paragraphs C and D relating to availability and the work search
32 requirement or section 1193, subsection 3. Enrollment in a degree-granting program may
33 not be the sole cause for denial of approved training status for an otherwise eligible
34 individual. Benefits paid to any eligible individual while in approved training for which
35 except for this subsection the individual could be disqualified under section 1193,
36 subsection 3 may not be charged against the experience rating record of an employer but
37 must be charged to the General Fund.

38 Notwithstanding any provision of this chapter to the contrary, the following provisions
39 further govern an individual's eligibility for benefits with respect to training:

40 A. Any otherwise eligible individual may not be denied benefits for any week because
41 the individual is in training approved under 19 United States Code, Section 2296(a) or
42 under any amendment or addition to the United States Trade Act of 1974. That
43 individual may not be denied benefits:

1 (1) For leaving work to enter that training, as long as the work left is not suitable
2 employment; or

3 (2) Because of the application to any such week in training of provisions in this
4 chapter or any applicable federal unemployment compensation law relating to
5 availability for work, active search for work or refusal to accept work.

6 Benefits paid to an eligible individual while in training for which, except for this
7 paragraph, the individual could be disqualified under section 1193, subsection 1 or 3
8 may not be charged against the experience rating record of an employer but must be
9 charged to the General Fund;

10 B. The acceptance of training for opportunities available through United States Public
11 Law 97-300 is considered to be acceptance of training with the approval of the State
12 within the meaning of any other provisions of federal or state law relating to
13 unemployment benefits;

14 C. The acceptance of training for opportunities available under sections 2031 and 2033
15 is considered to be acceptance of training with state approval under federal or state law
16 relating to unemployment benefits as long as the training is in accordance with rules
17 adopted by the commissioner; and

18 D. Unless inconsistent with federal law, the acceptance of training opportunities
19 available through the federal Workforce Innovation and Opportunity Act, 29 United
20 States Code, Sections 3101 to 3361 is considered to be acceptance of training with the
21 approval of the State within the meaning of any other provision of federal or state law
22 relating to unemployment benefits as long as the training is in accordance with rules
23 the commissioner adopts.

24 **4. Service with nonprofit organizations and educational institutions and state and**
25 **local governments.** Benefits based on service in employment, as defined in section 1043,
26 subsection 11, paragraph A-1, subparagraphs (1) and (3), are payable in the same amount,
27 on the same terms and subject to the same conditions as benefits payable on the basis of
28 other services subject to this chapter, except that:

29 A. With respect to weeks of unemployment beginning after December 31, 1977, for
30 services in an instructional, research or principal administrative capacity for an
31 educational institution, if there is a contract or annual written reasonable assurance that
32 the individual will perform services in such a capacity for the educational institution in
33 a 2nd academic year or term, benefits may not be paid to an individual based on those
34 services for any week of unemployment:

35 (1) Commencing during the period between 2 successive academic years or terms;

36 (2) During a period, similar to the period described in subparagraph 1, between 2
37 regular, but not successive, terms when provided for by an agreement; or

38 (3) During a period of paid sabbatical leave provided for in an individual's contract,
39 if that individual performs services in a first academic year or term;

40 B. With respect to weeks of unemployment beginning after September 3, 1982, for
41 services for an educational institution in any capacity other than an instructional,
42 research or principal administrative capacity, benefits may not be paid on the basis of
43 those services to an individual for any week that commences during a period between

1 2 successive academic years or terms if the individual performs those services in the
2 first of those academic years or terms and there is annual written reasonable assurance
3 that the individual will perform the services in the 2nd of those academic years or
4 terms; except that if benefits are denied to an individual under this paragraph and the
5 individual was not offered an opportunity to perform the services for the educational
6 institution for the 2nd of those academic years or terms, the individual is entitled to a
7 retroactive payment of benefits for each week for which the individual filed a timely
8 claim for benefits and for which benefits were denied solely by reason of this
9 paragraph;

10 C. With respect to weeks of unemployment beginning after December 31, 1977,
11 benefits must be denied to an individual for any week that commences during an
12 established and customary vacation period or holiday recess if:

13 (1) That individual performs a service described in paragraph A or B in the period
14 immediately before the vacation period or holiday recess; and

15 (2) There is annual written reasonable assurance that the individual will perform
16 those services in the period immediately following the vacation period or holiday
17 recess; and

18 D. With respect to weeks of unemployment beginning after June 30, 1979, benefits
19 must be denied to an individual who performed services in an educational institution
20 while in the employ of an educational service agency for any week that commences
21 during a period described in paragraph A, B or C if:

22 (1) That individual performs a service described in paragraph A or B in the first of
23 these periods, as specified in the applicable paragraph; and

24 (2) There is a contract or a written reasonable assurance as set out in the applicable
25 paragraph that the individual will perform these services in the 2nd of those
26 periods, as set out in the applicable paragraph.

27 **5. Claims in another state or contiguous country; individual residence; no denial**
28 **or reduction of benefits.** Benefits may not be denied or reduced to an individual solely
29 because the individual files a claim in another state or a contiguous country with which the
30 United States has an agreement with respect to unemployment compensation or because
31 the individual resides in another state or contiguous country at the time the individual files
32 a claim for benefits in this State.

33 **6. No denial of benefits for jury service.** Benefits may not be denied to an individual
34 solely because the individual is selected to serve as a juror. An individual who receives
35 actual earnings for jury service must be paid a partial benefit in an amount equal to the
36 individual's weekly benefit amount less the amount earned for jury service.

37 **7. Benefit payments to athletes.** Benefits may not be paid to an individual on the
38 basis of any service, substantially all of which consists of participating in sports or athletic
39 events or training or preparing to participate, for any week that commences during the
40 period between 2 successive sports seasons or similar periods, if that individual performed
41 those services in the first of those seasons or similar periods and there is a written
42 reasonable assurance that the individual will perform those services in the 2nd of those
43 seasons or similar periods.

1 **8. Benefit payments to aliens not lawfully present.** On and after January 1, 1978,
2 benefits are not payable on the basis of services performed by an alien unless the alien is
3 an individual who:

4 A. Was lawfully admitted for permanent residence in the State at the time the services
5 were performed;

6 B. Was lawfully present for purposes of performing the services; or

7 C. Was permanently residing in the United States under color of law at the time the
8 services were performed, including an alien who was lawfully present in the United
9 States as a result of temporary parole pursuant to the Immigration and Nationality Act,
10 8 United States Code, Section 1182(d)(5).

11 Any data or information required of individuals applying for benefits to determine whether
12 benefits are not payable to them because of their alien status must be uniformly required
13 from all applicants for benefits. In the case of an individual whose application for benefits
14 would otherwise be approved, a determination that benefits to the individual are not payable
15 because of the individual's alien status may not be made except upon a preponderance of
16 the evidence.

17 **9. Participation in reemployment services.** An individual who has been referred to
18 reemployment services pursuant to a profiling system established by the commissioner
19 must participate in those services or similar services unless it is determined that the
20 individual has completed those services or there is good cause for the individual's failure
21 to participate.

22 **10. Reemployment services and eligibility assessment; participation.** In the case
23 that an individual has been referred to reemployment services and eligibility assessment by
24 the Department of Labor, the individual must participate in those services, unless the
25 department determines there is good cause for the individual's failure to participate. Failure
26 to participate in reemployment services and eligibility assessment without good cause
27 results in a denial of benefits until the individual participates.

28 **11. Temporary layoff; work search.** Notwithstanding any provision of this chapter
29 to the contrary, an otherwise eligible individual who is temporarily laid off by an employer
30 that has given that individual a definite recall date may not be denied benefits for any week
31 that is within 6 weeks of the definite recall date based on the individual's failure to meet
32 the requirements of subsection 1, paragraph B, C or D for the period of up to 6 weeks during
33 that temporary layoff, as long as the individual remains able and available to work for that
34 employer.

35 An individual may not receive more than 6 weeks of benefits in a benefit year pursuant to
36 this subsection unless approved by the Department of Labor.

37 **Sec. 13. 26 MRSA §1193, sub-§6,** as amended by PL 2013, c. 314, §2, is repealed
38 and the following enacted in its place:

39 **6. Falsification.** For any week for which the deputy finds that the individual made a
40 false statement or representation knowing it to be false or knowingly failed to disclose a
41 material fact in the individual's application or solicited another person to make a false
42 statement knowing it to be false or fail to disclose a material fact to obtain benefits from
43 any state or federal unemployment compensation program administered by the bureau. In
44 addition, for a first or 2nd occurrence, the individual is ineligible to receive any benefits

1 for a period of not less than 6 months and not more than one year from the mailing date of
2 the determination, and the commissioner shall assess a penalty of 50% of the benefits
3 falsely obtained for the first occurrence and 75% for the 2nd occurrence. If an individual
4 is disqualified for a 3rd occurrence of statement falsification or misrepresentation in an
5 effort to obtain benefits, the commissioner shall assess a penalty of 100% of the benefits
6 falsely obtained and the individual is disqualified from receiving benefits for a period of
7 time to be determined by the commissioner. The progression of penalties for multiple
8 occurrences described in this subsection does not apply and an occurrence of fraud must
9 be treated as a 3rd occurrence if:

10 A. A claim for benefits is the result of fraudulent filing using illegally obtained identity
11 information. Such claims may be canceled immediately by the bureau upon
12 confirmation of the fraudulent filing; or

13 B. An individual is found to have filed a claim to obtain benefits from any state or
14 federal unemployment compensation program administered by the bureau in the name
15 of another person using illegally obtained identity information.

16 An amount equal to 15% of each overpayment on which the penalties under this subsection
17 were assessed must be transferred directly into the fund account upon recovery;

18 **Sec. 14. 26 MRSA §1194, sub-§2**, as amended by PL 2023, c. 53, §§3 and 4, is
19 further amended to read:

20 **2. Determination.** A representative designated by the commissioner, and in this
21 chapter referred to as a deputy, shall promptly examine the first claim filed by a claimant
22 in each benefit year and shall determine the weekly benefit amount and maximum benefit
23 amount potentially payable to the claimant during that benefit year in accordance with
24 section ~~1192~~, subsection ~~5~~ 1192-A, subsection 2, paragraph F.

25 The deputy shall promptly examine all subsequent claims filed and, on the basis of facts,
26 shall determine whether or not that claim is valid with respect to sections ~~1192~~ 1192-A and
27 1193, other than section ~~1192~~, subsection ~~5~~ 1192-A, subsection 2, paragraph F, or shall
28 refer that claim or any question involved in the claim to the Division of Administrative
29 Hearings or to the commission, which shall make a determination with respect to the claim
30 in accordance with the procedure described in subsection 3, except that in any case in which
31 the payment or denial of benefits is subject to section 1193, subsection 4, the deputy shall
32 promptly transmit a report with respect to that subsection to the Director of Unemployment
33 Compensation upon the basis of which the director shall notify appropriate deputies as to
34 the applicability of that subsection.

35 The deputy shall determine in accordance with section 1221, subsection 3, paragraph A,
36 the proper employer's experience rating record, if any, against which benefits of an eligible
37 individual must be charged, if and when paid.

38 The deputy shall promptly notify the claimant and any other interested party of the
39 determinations and reasons for the determinations. Subject to subsection 11, unless the
40 claimant or any such interested party, within 30 calendar days after that notification was
41 mailed to the claimant's ~~last-known~~ last-known address, files an appeal from that
42 determination, that determination is final, except that the period within which an appeal
43 may be filed may be extended, for a period not to exceed an additional 30 calendar days,
44 for good cause shown. If new evidence or pertinent facts that would alter that determination

1 become known to the deputy prior to the date that determination becomes final, a
2 redetermination is authorized, but that redetermination must be mailed before the original
3 determination becomes final.

4 If an employer's separation report for an employee is not received by the office specified
5 on the separation report within 10 days after that report was requested, the claim must be
6 adjudicated on the basis of information at hand. If the employer's separation report
7 containing possible disqualifying information is received after the 10-day period and the
8 claimant is denied benefits by a revised deputy's decision, benefits paid prior to the date of
9 the revised decision do not constitute an overpayment of benefits. Any benefits paid after
10 the date of the revised decision constitute an overpayment.

11 If an employer files an amended separation report or otherwise raises a new issue as to the
12 employee's eligibility or changes the wages or weeks used in determining benefits that
13 results in a denial of benefits or a reduction of the weekly benefit amount, the benefits paid
14 prior to the date the determination is mailed do not constitute an overpayment. Any benefits
15 received after that date to which the claimant is not entitled pursuant to a new determination
16 based on that new employer information constitute an overpayment.

17 If, during the period a claimant is receiving benefits, new information or a new issue arises
18 concerning the claimant's eligibility for benefits or which affects the claimant's weekly
19 benefit amount, benefits may not be withheld until a determination is made on the issue.
20 Before a determination is made, written notice must be mailed to the claimant and other
21 interested parties, which must include the issue to be decided, the law upon which it is
22 based, any factual allegations known to the bureau, the right to a fact-finding interview, the
23 date and location of the scheduled interview and the conduct of the interview and appeal.
24 Any fact-finding interview must be scheduled not less than 7 calendar days nor more than
25 14 calendar days after the notice is mailed. The bureau shall include in the notice a
26 statement notifying the claimant that any benefits paid prior to the determination may be
27 an overpayment under applicable law and recoverable by the bureau if it is later determined
28 that the claimant was not entitled to the benefits. If the claimant does not appear for the
29 scheduled interview, the deputy shall make a determination on the basis of available
30 evidence. The deputy shall make a prompt determination of the issue based solely on any
31 written statements of interested parties filed with the bureau before the interview, together
32 with the evidence presented by interested parties who personally participated in the
33 interview by telephone or e-mail or other electronic means. Upon request and notice to all
34 parties at the interview, the deputy may accept corroborative documentary evidence after
35 the interview. In no other case may the deputy base a decision on evidence received after
36 the interview has been held.

37 A. This subsection does not apply when the claimant reports that, in the week claimed:

38 (1) The claimant worked and reports a specific amount of earnings for that work;
39 (2) The claimant worked and had earnings from that work, but does not furnish
40 the amount of earnings;

41 (3) The claimant reports that the claimant was not able or available for work for a
42 specific portion of the week and there is sufficient information for the deputy to
43 determine that the inability or unavailability for work was for good cause. If the
44 information provided by the claimant indicated unavailability during the claim
45 week, but is not specific as to the amount of time involved, the ~~department~~

1 Department of Labor shall immediately initiate a fact-finding interview with the
2 individual and make a determination regarding the claimant's weekly benefit
3 amount on the basis of that interview. If the department is not able to conduct an
4 immediate fact-finding interview with the claimant, the notification and fact-
5 finding process described in this subsection must be followed; or

6 (4) The claimant received a specific amount of other remuneration as described in
7 section 1193, subsection 5;

8 (5) The claimant reported that the claimant did not complete a work search activity
9 for that week, and that week was not under a work search waiver approved by the
10 bureau;

11 (6) The claimant failed to respond to or failed to provide sufficient documentation
12 to satisfy a written request for documentation to verify the claimant's identity as
13 listed on an initial claim within the timeframe specified by the bureau; or

14 (7) The claimant's total or partial unemployment is due to a stoppage of work as
15 described in section 1193, subsection 4.

16 **Sec. 15. 26 MRSA §1194, sub-§10**, as amended by PL 1987, c. 641, §12, is further
17 amended by amending the first blocked paragraph to read:

18 The deputy may reconsider a benefit payment for any particular week or weeks whenever
19 an error has occurred, but no such redetermination may be made after one year from the
20 date of payment for that week or weeks. Notice of any such redetermination ~~shall~~ must be
21 promptly given to the claimant. Subject to subsection 11, unless the claimant files an
22 appeal from that redetermination within ~~15~~ 30 calendar days after that redetermination was
23 mailed to the claimant's ~~last known~~ last-known address, the redetermination ~~shall be~~ is
24 final, ~~provided except~~ that the period within which an appeal may be filed may be extended
25 for a period not to exceed an additional ~~15~~ 30 calendar days for good cause shown.

26 **Sec. 16. 26 MRSA §1195, sub-§1, ¶A**, as corrected by RR 2023, c. 2, Pt. E, §95,
27 is amended by amending subparagraph (2) to read:

28 (2) The individual's benefit year having expired prior to that week, has no or
29 insufficient wages or employment, or both, to establish a new benefit year or,
30 subsequent to December 31, 1971, ~~the individual~~ does not qualify by having
31 sufficient wages or employment, or both, as provided by section ~~1192, subsection~~
32 5 1192-A, subsection 2, paragraph F, since the beginning of the individual's prior
33 benefit year; and

34 **Sec. 17. 26 MRSA §1196**, as corrected by RR 2023, c. 2, Pt. E, §106, is amended
35 to read:

36 **§1196. Extended benefits for dislocated workers in approved training; ~~sunset and~~**
37 **review annual report**

38 **1. Dislocated worker defined.** As used in this section; ~~section 1043, subsection 5,~~
39 ~~paragraph B;~~ and section 1191, subsection 4, paragraph A, the term "dislocated worker"
40 means an individual who is in training as approved by the deputy, under rules adopted by
41 the commissioner, and:

42 A. An individual who:

1 (1) Has been terminated or laid off from employment as a result of a reduction of
2 operations at the individual's place of employment or who has received a notice of
3 termination or layoff from employment;

4 B. An individual who has been terminated or who has received a notice of termination
5 of employment, as a result of any permanent closure of a plant or facility; or

6 C. An individual who is long-term unemployed and has limited opportunities for
7 employment or reemployment in the same or a similar occupation in the area in which
8 the individual resides, including any older individual who may have substantial barriers
9 to employment because of the individual's age.

10 For the purposes of this section, "deputy" has the same meaning as in section 1192-A,
11 subsection 1, paragraph A.

12 **1-A. Extended benefits for dislocated workers.** A dislocated worker who has
13 exhausted the worker's benefit year within 30 months of the worker's enrollment in training
14 described in subsection 1 is entitled to the product of the worker's most recent weekly
15 benefit amount multiplied by the number of weeks in which that person is in approved
16 training, up to a maximum of 26 weeks, except that benefits may not be paid under this
17 subsection to a person:

18 A. Until the person has exhausted benefits for which that person is eligible under any
19 unemployment insurance benefit program funded in whole or in part by the State or the
20 Federal Government; or

21 B. Who is eligible for or who has exhausted, after March 20, 1986, trade adjustment
22 allowances as provided by the United States Trade Act of 1974, 19 United States Code,
23 Sections 2291 to 2294 and any amendments or additions thereto, or a similar successor
24 provision of that Act, except that any individual who was eligible for and received less
25 than 26 weeks of benefits under that Act may receive benefits for the number of weeks
26 by which the individual's benefits under that Act are less than 26 weeks.

27 **2. Annual report.** The ~~Commissioner of Labor~~ commissioner shall report to the joint
28 standing committee of the Legislature having jurisdiction over labor matters before March
29 1st of each year regarding the actions taken under ~~section 1043, subsection 5, paragraph B,~~
30 subsection 1-A and section 1191, subsection 4, paragraph A. The report shall must include:

31 A. The number of persons who receive benefits under those provisions;

32 B. The average length of time in training for persons who receive benefits under those
33 provisions;

34 C. The average weekly benefit and average total amount of benefits paid to persons
35 under those provisions;

36 D. The success rate in placing trainees who receive benefits under those provisions;

37 E. The total cost of benefits paid under those provisions and the effect on the
38 Unemployment Trust Fund; and

39 F. The number of persons participating in training while receiving extended
40 unemployment benefits under those provisions during the report year who have
41 previously completed a training program while receiving extended unemployment

1 benefits under those provisions, including the length of time between those
2 enrollments.

3 **Sec. 18. 26 MRSA §1197**, as amended by PL 2021, c. 456, §30, is repealed.

4 **Sec. 19. 26 MRSA §1198, sub-§10**, as enacted by PL 2011, c. 91, §1 and affected
5 by §3, is amended to read:

6 **10. Extended benefits for dislocated workers.** An individual who has received all
7 of the unemployment compensation or combined unemployment compensation and work-
8 sharing benefits available in a benefit year is considered an exhaustee for purposes of
9 extended benefits, as provided in section ~~1043, subsection 5, paragraph B~~ 1196, subsection
10 1-A, and, if otherwise eligible under that ~~paragraph subsection~~, is eligible to receive
11 extended benefits.

12 **Sec. 20. 26 MRSA §1199, sub-§2**, as enacted by PL 2019, c. 617, Pt. B, §1, is
13 amended to read:

14 **2. Eligibility.** An individual is deemed to have met the eligibility requirements under
15 section ~~1192, subsections 2 and 3~~ 1192-A, subsection 2, paragraphs B, C and D as long as
16 the individual remains able and available to work for, and maintains contact with, the
17 relevant employer and the individual is:

18 A. Under a temporary medical quarantine or isolation restriction to ensure that the
19 individual has not been affected by the subject condition of the state of emergency and
20 is expected to return to work; or

21 B. Temporarily laid off due to a partial or full closure of the individual's place of
22 employment as a result of the state of emergency and is expected to return to work once
23 the emergency closure is lifted.

24 **Sec. 21. 26 MRSA §1199, sub-§3**, as enacted by PL 2019, c. 617, Pt. B, §1, is
25 amended to read:

26 **3. Waiting period waived.** The waiting period requirement under section ~~1192,~~
27 ~~subsection 4-A~~ 1192-A, subsection 2, paragraph E is waived for an individual who is
28 dislocated or temporarily laid off as a result of the state of emergency.

29 **Sec. 22. 26 MRSA §1221, sub-§3, ¶A**, as amended by PL 2019, c. 585, §1, is
30 further amended by amending subparagraph (5) to read:

31 (5) Reimbursements are made to a state, the Virgin Islands or Canada for benefits
32 paid to a claimant under a reciprocal benefits arrangement as authorized in section
33 1082, subsection 12, as long as the wages of the claimant transferred to the other
34 state, the Virgin Islands or Canada under such an arrangement are less than the
35 amount of wages for insured work required for benefit purposes by section ~~1192,~~
36 ~~subsection 5~~ 1192-A, subsection 2, paragraph F;

37 **Sec. 23. 26 MRSA §1221-A, sub-§3**, as enacted by PL 1991, c. 468, §3 and
38 affected by §6, is amended to read:

39 **3. Reporting requirements.** The employee leasing company shall report and pay all
40 contributions under ~~its~~ the client company's state employer identification number, using ~~its~~
41 the client company's contribution rate. The employee leasing company shall keep separate

1 records and submit separate quarterly wage reports for each of its client companies to the
2 bureau.

3 SUMMARY

4 This bill amends the Unemployment Security Law in the following ways.

5 It allows the Department of Labor, Bureau of Unemployment Compensation to use
6 facial recognition technology for identity verification purposes.

7 It amends the definition of "unemployment fraud" to include instances when an
8 individual solicits someone else to file a fraudulent claim on the individual's behalf. The
9 provision governing grounds for disqualifying an individual from benefits is also amended
10 to include soliciting another person to make false statements or material omissions on
11 behalf of the individual. That provision is also amended to escalate the progression of
12 penalties in cases when a claim has been filed using illegally obtained identification
13 information such that the first offense is treated as a 3rd offense, which requires the highest
14 penalty.

15 It amends provisions governing overpayments made to individuals by the bureau. The
16 bill provides that the state minimum wage must be used to calculate the maximum amount
17 of weekly unemployment compensation benefits that may be withheld from an individual
18 who was overpaid by the bureau as the result of the individual's nondisclosure or
19 misrepresentation. This change increases the limitations on the amount of wages that may
20 be withheld. The bill provides that benefit overpayments recouped by reducing weekly
21 benefits must be applied only to the principal amount owed. The bill also changes the
22 appeal time frames for overpayment decisions to provide the same appeal time frames as
23 non-overpayment decisions.

24 It recodifies the section of law that governs eligibility for unemployment compensation
25 benefits. The bill also makes substantive changes to that section, including narrowing the
26 parameters defining an individual's availability for work to include work that aligns with
27 the customary hours and commute of the individual before becoming unemployed;
28 requiring that for certain training programs to qualify as approved training programs, those
29 programs must conform with rules adopted by the Commissioner of Labor; amending the
30 time frame during which an individual is excused from the work search requirements
31 during a period of layoff from the individual's employer and removing the requirement that
32 the individual stay in contact with the employer during that period; and modifying the
33 definition of "good cause" as it applies to an individual's failure to comply with certain
34 provisions governing the individual's eligibility for unemployment compensation benefits.

35 It amends the provision of law governing the bureau's process for determining
36 unemployment compensation benefit eligibility by creating several new exceptions from
37 that process. A claim is excepted from that process when an individual fails to perform a
38 work search and is not under a work search waiver; fails to adequately respond to a request
39 for identity verification; or is unemployed due to a stoppage of work.

40 It reorganizes provisions related to extended benefits for dislocated workers to conform
41 with modern drafting standards. The bill also changes those provisions to require that a
42 dislocated worker must be in training approved by a staff member of the bureau who has
43 been designated by the commissioner, in accordance with rules adopted by the
44 commissioner.

1 It eliminates the self-employment assistance program and cross-references to that
2 program. The bill also corrects and updates other cross-references.

3 Finally, it makes additional changes including changing the employer charging
4 methodology for employee leasing companies to report and pay contributions under the
5 client company, using the client company's contribution rate and changing the time frame
6 for bureau staff background checks from every 10 years to every 5 years.