

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 1032

H.P. 767

House of Representatives, March 10, 2021

An Act To Promote the Sustainability of the State's Unemployment Insurance System by Linking the Duration of Benefits to the State's Average Unemployment Rate

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative STETKIS of Canaan.

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

2 **Sec. 1. 26 MRSA §585, sub-§1**, as enacted by PL 1997, c. 387, §2, is amended to
3 read:

4 **1. Agricultural labor.** "Agricultural labor" means agricultural labor as defined in the
5 ~~Employment Security Law~~ Reemployment Assistance Program, chapter 13.

6 **Sec. 2. 26 MRSA §663, sub-§3, ¶A**, as amended by PL 1975, c. 717, §5, is further
7 amended to read:

8 A. Any individual employed in agriculture as defined in the ~~Maine Employment~~
9 ~~Security Law~~ Reemployment Assistance Program and the Federal Unemployment
10 Insurance Tax Law, except when that individual performs services for or on a farm
11 with over 300,000 laying birds;

12 **Sec. 3. 26 MRSA §1041** is amended to read:

13 **§1041. Short title**

14 This chapter ~~shall be~~ is known and may be cited as "the "Employment Security Law"
15 Reemployment Assistance Program."

16 **Sec. 4. 26 MRSA §1043, sub-§5, ¶B**, as amended by PL 2009, c. 271, §1, is further
17 amended to read:

18 B. A dislocated worker, as defined in section 1196, subsection 1, enrolled in a training
19 program approved under section 1192, subsection 6, 6-A, 6-C, 6-D or 6-E who has
20 exhausted the worker's benefit year within 30 months of the worker's enrollment in the
21 training program is entitled to the product of the worker's most recent weekly benefit
22 amount multiplied by the number of weeks in which that person is in an approved
23 training program, up to a maximum of ~~26~~ 20 weeks, ~~provided~~ except that no benefits
24 may be paid under this paragraph to any person:

25 (1) Until the person has exhausted benefits for which that person is eligible under
26 any unemployment insurance benefit program funded in whole or in part by the
27 State Government or Federal Government; or

28 (2) Who is eligible for or who has exhausted, after the effective date of this
29 paragraph, trade adjustment allowances as provided by the United States Trade Act
30 of 1974, Title II, Chapter 2, Public Law 93-617, United States Code, Title 19,
31 Section 2291, et seq., and any amendments or additions thereto, or a similar
32 successor provision of that Act, except that any individual who was eligible for and
33 received less than ~~26~~ 20 weeks of benefits under the United States Trade Act may
34 receive benefits for the number of weeks by which their benefits under that Act are
35 less than ~~26~~ 20 weeks.

36 **Sec. 5. 26 MRSA §1043, sub-§31** is enacted to read:

37 **31. State average unemployment rate.** "State average unemployment rate" means a
38 percentage equal to the average of the 3 months of the most recent 3rd quarter of a calendar
39 year of the seasonally adjusted unemployment rates as published by the Department of
40 Labor.

1 **Sec. 6. 26 MRSA §1164**, as amended by PL 1999, c. 464, §5, is further amended to
2 read:

3 **§1164. Special Administrative Expense Fund**

4 The Special Administrative Expense Fund is created as a special fund in the State
5 Treasury. All interest, fines and penalties collected under this chapter and all voluntary
6 contributions tendered as a contribution to this fund must be paid into this fund. The money
7 may not be expended or available for expenditure in any manner that would permit its
8 substitution for, or a corresponding reduction in, federal funds that would in the absence of
9 that money be available to finance expenditures for the administration of the ~~Employment~~
10 ~~Security Law Reemployment Assistance Program~~. Nothing in this section prevents the
11 money from being used as a revolving fund to cover expenditures, necessary and proper
12 under the law, for which federal funds have been duly requested but not yet received,
13 subject to the charging of those expenditures against those funds when received. The
14 money in this fund must be used by the commissioner either for the payment of costs of
15 administration that are found not to have been properly and validly chargeable against
16 federal grants or other funds received for or in the Employment Security Administration
17 Fund on or after January 1, 1943, to finance the Maine Wage Assurance Fund established
18 in section 632; for the payment of costs of administering chapter 26, for which federal
19 funds are not available; or to fund activities that will improve the solvency of the
20 Unemployment Compensation Fund. The money must be available either to satisfy the
21 obligations incurred by the bureau directly or by requesting the Treasurer of State to
22 transfer the required amount from the Special Administrative Expense Fund to the
23 Employment Security Administration Fund or the Maine Wage Assurance Fund. The
24 Treasurer of State shall upon receipt of a written request of the commissioner make any
25 such transfer. The commissioner shall give notice to the commission prior to any
26 expenditures from this fund. The commissioner shall order the transfer of the funds or the
27 payment of any such obligation and the funds must be paid by the Treasurer of State on
28 requisitions drawn by the commissioner directing the State Controller to issue the State
29 Controller's warrant for them. The warrant must be drawn by the State Controller based
30 upon bills of particulars and vouchers certified by an officer or employee designated by the
31 commissioner. The money in this fund is specifically made available to replace, within a
32 reasonable time, any money received by this State pursuant to ~~section~~ Section 302 of the
33 ~~Federal federal~~ Social Security Act as amended that, because of any action or contingency,
34 has been lost or has been expended for purposes other than, or in amounts in excess of,
35 those necessary for the proper administration of the ~~Employment Security Law~~
36 ~~Reemployment Assistance Program~~. The money in this fund must be continuously
37 available to the commissioner for expenditure in accordance with this section and may not
38 lapse at any time or be transferred to any other fund except as provided. Any money in the
39 Special Administrative Expense Fund may be used to make refunds of interest, penalties
40 or fines erroneously collected and deposited in the Special Administrative Expense Fund.
41 On June 30th of each year all money in excess of \$100,000 in this fund must be transferred
42 to the Unemployment Compensation Fund.

43 **Sec. 7. 26 MRSA §1191, sub-§4**, as amended by PL 2009, c. 271, §2, is further
44 amended to read:

45 **4. Maximum amount of benefits.** The maximum amount of benefits that may be
46 paid to any eligible individual with respect to any benefit year, whether for total or partial

1 unemployment, may not exceed the lesser of ~~26~~ 12 times the individual's weekly benefit
2 amount or 33 1/3%, rounded to the nearest dollar, of the individual's total wages paid for
3 insured work during the individual's base period, plus the supplemental weekly benefit for
4 dependents payable under subsection 6 unless otherwise specified in subsection 4-A.

5 A. If a dislocated worker, as defined in section 1196, subsection 1, who is in training
6 approved under section 1192, subsection 6, 6-A, 6-C, 6-D or 6-E qualifies for
7 additional benefits under section 1043, subsection 5, paragraph B, or exhausts the
8 worker's entitlement to benefits available to the worker under this subsection, the
9 maximum amount under this subsection is the product of the worker's most recent
10 weekly benefit amount multiplied by the number of weeks in which the worker
11 thereafter attends an approved training program. No increase may be made under this
12 paragraph, with respect to any benefit period, greater than ~~26~~ 20 times the individual's
13 weekly benefit amount.

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

17 (2) No benefits may be paid under this paragraph to any person:

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

21 (c) Who is eligible for or who has exhausted, after the effective date of this
22 paragraph, trade adjustment allowances as provided by the United States Trade
23 Act of 1974, Title II, Chapter 2, Public Law 93-617, United States Code, Title
24 19, Section 2291, et seq., and any amendments or additions thereto, or a similar
25 successor provision of that Act, except that any individual who was eligible
26 for and received less than ~~26~~ 20 weeks of benefits under the United States
27 Trade Act may receive benefits for the number of weeks by which their
28 benefits under that Act are less than ~~26~~ 20 weeks.

29 **Sec. 8. 26 MRSA §1191, sub-§4-A** is enacted to read:

30 **4-A. Maximum amount of benefits; state average unemployment rate.** The
31 maximum amount of benefits that may be paid to any eligible individual with respect to
32 any benefit year, whether for total or partial unemployment, is as follows:

33 A. Twelve times the individual's weekly benefit amount, if the state average
34 unemployment rate is at or below 5 1/2%;

35 B. Twelve times the individual's weekly benefit amount, with the addition of one week
36 of benefits for each 1/2% increase in the state average unemployment rate up to 9%;
37 and

38 C. Twenty times the individual's weekly benefit amount, if the state average
39 unemployment rate is 9% or above.

40 **Sec. 9. 26 MRSA §1221, sub-§3, ¶A**, as amended by PL 2019, c. 585, §1, is further
41 amended to read:

42 A. At the time the status of an employing unit is ascertained to be that of an employer,
43 the commissioner shall establish and maintain, until the employer status is terminated,

1 for the employer an experience rating record, to which are credited all the contributions
2 that the employer pays on the employer's own behalf. This chapter may not be
3 construed to grant any employer or individuals in the employer's service prior claims
4 or rights to the amounts paid by the employer into the fund. Benefits paid to an eligible
5 individual under the ~~Employment Security Law~~ Reemployment Assistance Program
6 must be charged against the experience rating record of the claimant's most recent
7 subject employer or to the General Fund if the otherwise chargeable experience rating
8 record is that of an employer whose status as such has been terminated; except that no
9 charge may be made to an individual employer but must be made to the General Fund
10 if the commission finds that:

11 (1) The claimant's separation from the claimant's last employer was for misconduct
12 in connection with the claimant's employment or was voluntary without good cause
13 attributable to the employer;

14 (2) The claimant has refused to accept reemployment in suitable work when
15 offered by a previous employer, without good cause attributable to the employer;

16 (3) Benefits paid are not chargeable against any employer's experience rating
17 record in accordance with section 1194, subsection 11, paragraphs B and C;

18 (5) Reimbursements are made to a state, the Virgin Islands or Canada for benefits
19 paid to a claimant under a reciprocal benefits arrangement as authorized in section
20 1082, subsection 12, as long as the wages of the claimant transferred to the other
21 state, the Virgin Islands or Canada under such an arrangement are less than the
22 amount of wages for insured work required for benefit purposes by section 1192,
23 subsection 5;

24 (6) The claimant was hired by the claimant's last employer to fill a position left
25 open by a Legislator given a leave of absence under chapter 7, subchapter 5-A, and
26 the claimant's separation from this employer was because the employer restored
27 the Legislator to the position after the Legislator's leave of absence as required by
28 chapter 7, subchapter 5-A;

29 (7) The claimant was hired by the claimant's last employer to fill a position left
30 open by an individual who left to enter active duty in the United States military,
31 and the claimant's separation from this employer was because the employer
32 restored the military serviceperson to the person's former employment upon
33 separation from military service;

34 (8) The claimant was hired by the claimant's last employer to fill a position left
35 open by an individual given a leave of absence for family medical leave provided
36 under Maine or federal law, and the claimant's separation from this employer was
37 because the employer restored the individual to the position at the completion of
38 the leave; or

39 (9) The claimant initiated a partial separation or reduction of hours and that partial
40 separation or reduction of hours was agreed to by the employee and employer.

41 **Sec. 10. 26 MRSA §1221-B, sub-§5, ¶C**, as enacted by PL 2001, c. 381, §1, is
42 amended to read:

1 C. Could cause services in the employ of the Indian tribe to be excepted from
2 employment for purposes of obtaining benefits under the ~~Employment Security Law~~
3 Reemployment Assistance Program.

4 **Sec. 11. 39-A MRSA §220, sub-§1**, as enacted by PL 1991, c. 885, Pt. A, §8 and
5 affected by §9 to 11, is amended to read:

6 **1. Reduction for unemployment benefits.** Compensation paid under this Act, except
7 compensation under section 212, subsection 3 and lump sum settlements, to any employee
8 for any period for which the employee is receiving or has received benefits under the
9 ~~Employment Security Law~~ Reemployment Assistance Program, Title 26, chapter 13, must
10 be reduced by the amount of the unemployment benefits.

11 **SUMMARY**

12 This bill renames the Employment Security Law the Reemployment Assistance
13 Program.

14 It also links unemployment insurance benefits with the state average unemployment
15 rate. An employee may receive:

16 1. Twelve weeks of unemployment insurance if the state average unemployment rate
17 is at or below 5 1/2%;

18 2. One additional week added to the 12 weeks for each 1/2% increase in the state
19 average unemployment rate above 5 1/2%; and

20 3. Up to a maximum of 20 weeks of unemployment insurance benefits if the state
21 average unemployment rate is over 9%.