

MAINE STATE LEGISLATURE

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Rep C

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L.D. 1564

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Date: 6/8/21

REPORT C

(Filing No. S- 225)

3

LABOR AND HOUSING

4

Reproduced and distributed under the direction of the Secretary of the Senate.

5

STATE OF MAINE

6

SENATE

7

130TH LEGISLATURE

8

FIRST SPECIAL SESSION

9

COMMITTEE AMENDMENT "C" to S.P. 507, L.D. 1564, "An Act To Amend the
10 Laws Governing Unemployment Compensation"

11

Amend the bill by striking out everything after the enacting clause and inserting the
12 following:

13

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

15

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

25

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

27

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

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

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

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

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

12 **§1086. Report on effectiveness of unemployment compensation**

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

16 A. Identifying the percentage of unemployed individuals receiving unemployment
17 compensation benefits, examining the demographics of eligible individuals and
18 determining the reasons why unemployed individuals are not receiving benefits,
19 including the demographics of those individuals; and

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

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

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

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

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

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

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

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

41 D. Proposed benchmarks for the subsequent year.

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

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

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

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

15 **3. Weekly benefit for partial unemployment.** Each eligible individual who is
16 partially unemployed in any week must be paid a partial benefit for that week. The partial
17 benefit is equal to the weekly benefit amount less the individual's weekly earnings in excess
18 of \$25, except that, beginning the first full benefit week beginning on or after January 1,
19 2018, the partial benefit is equal to the weekly benefit amount less the individual's weekly
20 earnings in excess of the greater of \$100 or 50% of gross wages. The following amounts
21 are not considered wages for purposes of this subsection:

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

24 B. Amounts received as a volunteer firefighter or as a volunteer emergency medical
25 services person;

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

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

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

33 **6. Supplemental benefit for dependents.** An individual in total or partial
34 unemployment and otherwise eligible for benefits must be paid for each week of that
35 unemployment, in addition to the amounts payable under subsections 2 and 3, the sum of
36 ~~\$10~~ \$25 for each unemancipated child of the individual who in any part of the benefit year
37 and during any part of the individual's period of eligibility is, in fact, dependent upon and
38 is being wholly or mainly supported by the individual, and who is under the age of 18, or
39 who is 18 years of age or over and incapable of earning wages because of mental or physical
40 incapacity, or who is a full-time student as defined in Title 39-A, section 102, subsection
41 8, paragraph C, or who is in that individual's custody pending the adjudication of a petition
42 filed by the individual for the adoption of the child in a court of competent jurisdiction and
43 for each such child for whom that individual is under a decree or order from a court of

1 competent jurisdiction to contribute to that child's support and for whom no other person
2 is receiving allowances hereunder. In no instance may the dependency benefits as provided
3 in this subsection be more than 50% 75% of the individual's weekly benefit amount.

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

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

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

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

15 **1. Voluntarily leaves work.**

16 A. For the week in which the claimant left regular employment voluntarily without
17 good cause attributable to that employment or other compelling and substantial reason
18 not directly attributable to employment but which would cause a reasonable person to
19 leave work under similar circumstances. The disqualification continues until the
20 claimant has earned 4 times the claimant's weekly benefit amount in employment by
21 an employer. A claimant may not be disqualified under this paragraph if:

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

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

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

33 (4) The leaving was necessary to protect the claimant or any member of the
34 claimant's immediate family from domestic abuse or the leaving was due to
35 domestic violence that caused the claimant reasonably to believe that the claimant's
36 continued employment would jeopardize the safety of the claimant or any member
37 of the claimant's immediate family and the claimant made all reasonable efforts to
38 preserve the employment; or

39 (5) The claimant's employer announced in writing to employees that it planned to
40 reduce the work force through a layoff or reduction in force and that employees
41 may offer to be among those included in the layoff or reduction in force, at which
42 time the claimant offered to be one of the employees included in the layoff or

1 reduction in force and the claimant's employer accepted the claimant's offer,
2 thereby ending the employment relationship; or

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

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

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

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

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

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

19 §1194-A. Expedited unemployment claims; mass layoff or reduction in hours

20 1. Employer application assistance. When an employer required to make
21 contributions to the Unemployment Compensation Fund under this chapter lays off or
22 reduces the hours of employment for more than 25% of the employer's employees at an
23 establishment or facility where such employees were employed at the time of the layoff or
24 reduction in hours, the employer shall file an initial claim for unemployment compensation
25 benefits, along with all wage and other information needed to process the claim, on behalf
26 of each such employee in accordance with rules adopted by the Department of Labor. The
27 employer shall notify each employee on behalf of whom the employer filed a claim for
28 unemployment compensation benefits under this section of the filing of the claim. The
29 department shall obtain authorization from the employee on whose behalf an employer
30 filed a claim for unemployment compensation benefits before processing the claim or
31 paying unemployment compensation benefits under this section. Once the department
32 obtains authorization from the employee, it shall process the claim and pay benefits in
33 accordance with this chapter.

34 2. Claim for benefits. If an employer fails to file a timely claim for unemployment
35 compensation benefits for an employee in accordance with this section, and the employee
36 does not file a timely claim for unemployment compensation benefits for that separation,
37 the employee's claim is deemed to have been filed on the Sunday of the initial week the
38 employee would have otherwise been eligible to receive unemployment compensation
39 benefits following that separation. The employer has the burden of demonstrating
40 compliance with the provisions of this section.

41 3. Penalty. Each failure of an employer to file a claim for unemployment
42 compensation benefits in accordance with this section constitutes a separate offense. The
43 Department of Labor shall issue a warning to the employer for the first violation. The

1 department shall assess a fine, in accordance with rules adopted by the department, for each
2 subsequent offense.

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

4 **1-A. Improving the efficiency and effectiveness of the work-sharing program.** To
5 improve the efficiency and effectiveness of the work-sharing program, the commissioner
6 shall:

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

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

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

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

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

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

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

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

29 **§1200. Peer navigator program**

30 **1. General requirements.** No later than January 1, 2022, the commissioner shall
31 establish the peer navigator program in accordance with this section to award navigator
32 grants to qualified entities; to raise awareness of the availability of unemployment
33 compensation benefits among underserved individuals and assist those individuals in
34 accessing those benefits; to promote access to reemployment services, including education
35 and training opportunities; to assist unemployed and underemployed individuals in
36 accessing resources necessary to meet their basic needs during the reemployment process;
37 and to identify systemic obstacles to receiving benefits or services necessary to support
38 successful reemployment efforts. The commissioner shall also provide appropriate support
39 from bureau staff to entities receiving navigator grants under this section, including support
40 resolving the issues of individual claimants and systemic issues that present barriers to
41 timely receipt of unemployment compensation benefits or other reemployment services.

1 Funding for these purposes, including for additional bureau staff that may be needed, is as
2 provided in subsection 4.

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

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

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

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

14 D. Provide navigator services under this section without charge to the individual
15 receiving those services.

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

19 A. The commissioner may award multiple grants to perform one or more of the
20 navigator services described in this section if the grants are distributed in a manner that
21 best achieves the comprehensive purpose of the peer navigator program established
22 pursuant to subsection 1 throughout the State.

23 B. To support the maintenance of relationships between qualified entities and
24 unemployed and underemployed individuals and to ensure a high quality of service,
25 the commissioner shall award grants to qualified entities for multiple-year periods in
26 accordance with state purchasing standards under Title 5, chapter 155. Multiple-year
27 grants are subject to a qualified entity's satisfying performance standards set forth in
28 the grant award.

29 C. The commissioner shall give priority for navigator grants to a qualified entity that:

30 (1) Has an organizational mission that requires them to represent the interest of
31 unemployed or underemployed individuals;

32 (2) Represents a membership base of workers; or

33 (3) Is a recognized source of support or advocacy for underserved groups including
34 racial and ethnic minorities, persons with low literacy and persons with disabilities.

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

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

- 1 (1) Outreach to identify individuals who are potentially eligible for unemployment
2 compensation benefits but who may be unaware of their eligibility, including
3 public relations activities using media or similar techniques;
- 4 (2) Targeted public education initiatives related to eligibility requirements for
5 unemployment compensation benefits, applying for and making ongoing claims
6 for unemployment compensation benefits, the relationship between unemployment
7 compensation benefits and education and training programs, work-sharing
8 arrangements established under section 1198, the fact-finding and appeals
9 processes and other relevant program benefits and requirements;
- 10 (3) Individual assistance in applying for and making ongoing claims for
11 unemployment compensation benefits or other procedural functions related to
12 unemployment compensation benefits;
- 13 (4) Assistance in identifying appropriate reemployment services, including
14 opportunities for education, training and apprenticeship, to increase employability
15 for high-wage, in-demand jobs;
- 16 (5) Referrals for unemployed or underemployed individuals to resources necessary
17 to help those individuals meet their basic needs during the reemployment process;
- 18 (6) Appropriate training to ensure the quality and accuracy of navigator services,
19 including training on how to most effectively assist communities that are
20 underrepresented in receiving unemployment compensation benefits and
21 reemployment services;
- 22 (7) Identification of systemic issues creating barriers to receipt of unemployment
23 compensation benefits and successful reemployment for unemployed or
24 underemployed individuals and presentation of those issues to the commissioner,
25 who shall promptly resolve or relay those issues to the joint standing committee of
26 the Legislature having jurisdiction over labor and housing matters; and
- 27 (8) Direct legal services when appropriate.

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

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

40 **Sec. 14. Promoting accountability in unemployment compensation.** No later
41 than January 1, 2022, the Department of Labor, Bureau of Unemployment Compensation
42 shall complete an analysis to determine why unemployed individuals do not apply for
43 unemployment compensation benefits, including identifying systemic obstacles identified
44 to individuals' receipt of benefits. The analysis must include the characteristics of

1 unemployed individuals who do not file, including employment history, age, gender,
2 income, geographic location, ethnicity and race. Data collection methodologies used to
3 conduct this analysis may be modeled on the nonfiler supplement to the United States
4 Current Population Survey established by the United States Department of Commerce,
5 Bureau of the Census and the United States Department of Labor, Bureau of Labor
6 Statistics, or a similarly effective instrument designed by the Bureau of Unemployment
7 Compensation for this purpose. The analysis may include reliable data already collected
8 by or available to the Bureau of Unemployment Compensation.

9 **Sec. 15. Department of Labor staff assessment; Bureau of Unemployment**
10 **Compensation.** By January 15, 2022, the Commissioner of Labor shall provide a report
11 to the Joint Standing Committee on Labor and Housing assessing the staff capacity within
12 the Department of Labor, Bureau of Unemployment Compensation to comply with the
13 performance core measures established by the United States Department of Labor related
14 to unemployment insurance benefit promptness and accuracy and the timeliness of appeal
15 determinations. The report must also describe any technology needs and other staffing
16 necessary to ensure the accessibility of the unemployment compensation system to
17 applicants and recipients.'

18 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
19 number to read consecutively.

20 **SUMMARY**

21 This amendment, which is a minority report of the committee, replaces the bill. This
22 amendment requires the Department of Labor, Bureau of Unemployment Compensation to
23 examine the adequacy of Maine's unemployment compensation system in meeting the
24 needs of today's workforce and economy, to establish benchmarks for program
25 improvement and to annually measure progress in reaching those benchmarks. It also
26 requires an assessment of the staffing capacity within the Department of Labor and requires
27 the Commissioner of Labor to submit a report of these findings to the Joint Standing
28 Committee on Labor and Housing. It establishes the peer navigator program to increase
29 access to unemployment compensation benefits for underserved individuals and makes
30 several amendments in current law to support these goals.

FISCAL NOTE REQUIRED
(See attached)



130th MAINE LEGISLATURE

LD 1564

LR 454(03)

An Act To Amend the Laws Governing Unemployment Compensation

Fiscal Note for Bill as Amended by Committee Amendment "C" (S.225)
 Committee: Labor and Housing
 Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - Unemployment Compensation Trust Fund
 Current biennium cost increase - All funds

Fiscal Detail and Notes

This legislation makes changes to the laws governing unemployment compensation including certain changes that will expand the amount of benefits paid out of the Unemployment Compensation Trust Fund beginning in fiscal year 2021-22. The impact to the trust fund will depend on the level of unemployment in the State. The estimated impact of these changes, developed by the Department of Labor, is provided in the table below. According to the department, low periods of unemployment are such periods that took place in 2019 and high periods of unemployment are such periods that occurred in 2009. These changes are not expected to result in an increase in an unemployment tax schedule. Information from the department states that, generally, a benefit cost increase of \$17.0 million or greater has the potential of causing an increase in the schedule in the following year.

LD 1564 An Act to Amend the Laws Governing Unemployment Compensation Fiscal Impact of Majority Report on Unemployment Insurance Trust Fund		
Provisions affecting Unemployment Insurance Trust Fund	Fiscal Impact Low Unemployment	Fiscal Impact High Unemployment
Increases amount of wages person may receive and still be eligible for partial unemployment benefit	\$1,000,000	\$6,600,000
Increases the maximum dependency benefit allowance from 50% to 75% of an individual's weekly benefit amount	\$1,600,000	\$6,500,000
Adds sudden loss of childcare, elder care or transportation to "good cause exemption" for temporary disqualification of benefits	\$500,000-\$1,000,000	\$1,000,000-\$1,500,000
Establishes Peer Navigator Program to be funded by increase in the Unemployment Administrative Fund planned yield (offset by corresponding reduction in employer contributions for UI Trust Fund)	\$3,000,000	\$3,000,000
Total impact of Unemployment Insurance Trust Fund	\$6,100,000-\$6,600,000	\$17,100,000-\$17,600,000

The State, with a few exceptions, is a direct reimbursement employer and, as such, would experience an increase in unemployment compensation costs as a result of this legislation. The impact will depend on actual experience. Additional costs to the Department of Labor to implement the requirements of this legislation can be absorbed within existing budgeted resources.