

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

FIRST SPECIAL SESSION
April 28, 2021 to July 19, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 18, 2021

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2021

pursuant to subsection 13, paragraph A, subparagraph (1), division (a), as well as a description of any changes to those rules that the department intends to propose in future rule-making.

(3) The report required under this paragraph may be included in the report required pursuant to section 1772, subsection 1.

14. Antitrust exclusions. A producer or stewardship organization, including a producer's or stewardship organization's officers, members, employees and agents that organize a packaging stewardship program or an alternative collection program under this section, is immune from liability for the producer's or stewardship organization's conduct under state laws relating to anti-trust, restraint of trade, unfair trade practices and other regulation of trade or commerce only to the extent necessary to plan and implement the producer's or stewardship organization's packaging stewardship program or alternative collection program consistent with the provisions of this section.

15. Proprietary information. Proprietary information submitted to the department pursuant to the requirements of this section or the rules adopted pursuant to this section that is identified by the submitter as proprietary information is confidential and must be handled by the department in the same manner as confidential information is handled under section 1310-B.

Sec. 3. Department of Environmental Protection; stewardship program for packaging; rulemaking. On or before December 31, 2023, the Department of Environmental Protection shall initiate rulemaking consistent with the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A to adopt rules necessary for the implementation, administration and enforcement of a stewardship program for packaging pursuant to Title 38, section 2146. Notwithstanding any provision of law to the contrary, the department may use funds within the Maine Solid Waste Management Fund established pursuant to Title 38, section 2201 to support its activities required by this section except that, if the department uses funds within the Maine Solid Waste Management Fund as authorized under this section, the department shall deposit back into that fund the same amount of funds withdrawn once reimbursed pursuant to Title 38, section 2146, subsection 13, paragraph B.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

Maine Environmental Protection Fund 0421

Initiative: Provides funding for 2 Environmental Specialist III positions and related All Other costs.

GENERAL FUND	2021-22	2022-23	
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POSITIONS - LEGISLATIVE	0.000	2.000
COUNT		
Personal Services	\$0	\$126,006
All Other	\$0	\$5,286
GENERAL FUND TOTAL	\$0	\$131,292

See title page for effective date.

CHAPTER 456

S.P. 507 - L.D. 1564

**An Act To Amend the Laws
Governing Unemployment
Compensation**

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

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

B. An individual, including corporate officers, is considered "partially unemployed" in any week of less than full-time work if the individual's wages payable from any source for such week are not \$5 \$100 or more in excess of the weekly benefit amount the individual would be entitled to receive if totally unemployed and eligible, except that remuneration payable or received as holiday pay is not considered wages for the purpose of this subsection and except that any amounts received from the Federal Government by members of the National Guard and organized reserve, including base pay and allowances, or any amounts received as a volunteer firefighter, a volunteer emergency medical services person or as an elected member of the Legislature, are not considered wages for the purpose of this subsection. On the first Sunday of June 2022 and each first Sunday of June thereafter, the excess earnings cap then in effect must be increased by the increase, if any, in the cost of living. The increase in the cost of living must be measured by the percentage increase, if any, as of December of the previous year over the level as of December of the year preceding that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the excess earnings cap rounded up to the nearest dollar.

Sec. 2. 26 MRSA §1043, sub-§17, ¶C, as amended by PL 1979, c. 515, §5, is further amended to read:

C. An individual's week of unemployment shall be deemed to commence commences only after his the individual's registration at an employment office,

except as the ~~commissioner~~ commissioner may by ~~regulation~~ rule otherwise prescribe.

Sec. 3. 26 MRSA §1043, sub-§19, as amended by PL 2017, c. 117, §3, is further amended to read:

19. Wages. "Wages" means all remuneration for personal services, including commissions, bonuses, severance or terminal pay, gratuities and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash must be estimated and determined in accordance with ~~regulations~~ rules prescribed by the ~~commissioner~~ commissioner, except that:

A. For purposes of section 1221, the term "wages" does not include remuneration that exceeds the first \$12,000 that is paid in a calendar year to an individual by an employer or the employer's predecessor for employment during any calendar year, unless that remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. The wages of an individual for employment with an employer are subject to this exception whether earned in this State or any other state when the employer-employee relationship is between the same legal entities;

B. For purposes of section 1191, subsection 2, section 1192, subsection 5 and section 1221, the term "wages" does not include:

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

- (a) Sickness or accident disability, but, in the case of payments made to an employee or any of the employee's dependents, this subparagraph excludes from the term "wages" only payments that are received under a workers' compensation law;
- (b) Medical or hospitalization expenses in connection with sickness or accident disability; or
- (c) Death;

(1-A) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or

accident disability, made by an employer or a 3rd party to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for that employer;

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

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

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

C. With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work includes wages paid for previously uncovered services. For the purposes of this paragraph, the term "previously uncovered services" means services:

(1) That were not employment as defined in subsection 11, and were not services covered pursuant to section 1222, at any time during the one-year period ending December 31, 1975; and

(2) That:

(a) Are agricultural labor, as defined in subsection 11, paragraph A-2 or domestic service as defined in subsection 11, paragraph A-3; or

(b) Are services performed by an employee of this State or a political subdivision thereof, or any of their instrumentalities as provided in subsection 11, paragraph A-1, subparagraph (1), or by an employee of a nonprofit educational institution that is not an institution of higher education, as provided in subsection 11, paragraph F, subparagraph (17), division (i);

except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services;

D. Nothing in this subsection may be construed to include as wages any payment that is not included as wages under the Federal Unemployment Tax Act, 26 United States Code, Section 3306(b)(5) and (r), as amended, as of January 1, 1985; and

E. Nothing in this subsection may be construed to exclude from wages any remuneration that is:

(1) Taxable under any federal law that imposes a tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or

(2) Required to be covered under this chapter as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act.

Sec. 4. 26 MRSA §1043, sub-§20 is amended to read:

20. Week. "Week" means such period or periods of 7 calendar days as the ~~commissioner~~ commissioner may by ~~regulation~~ rule prescribe. The ~~commissioner~~ commissioner may, by ~~regulation~~ rule, prescribe that a week ~~shall be~~ is deemed to be "in," "within" or "during" a benefit year ~~which that~~ includes any part of such week.

Sec. 5. 26 MRSA §1050, as amended by PL 1979, c. 579, §8 and c. 651, §§9 and 47, is further amended to read:

§1050. Constitutionality

If at any time the provisions of this chapter requiring the payment of contributions and benefits have been held invalid under the Constitution of ~~this State~~ Maine by the Supreme Judicial Court of this State or under the United States Constitution by the Supreme Court of the United States in such manner that any person or concern required to pay contributions under this chapter might secure a similar decision, or that the tax imposed by Title IX of the federal Social Security Act, as amended, or any other federal tax against which contributions under this chapter may be credited has been amended or repealed by Congress or has been held unconstitutional by the Supreme Court of the United States, with the result that no portion of the contributions required by this chapter may be credited against such federal tax, the Governor shall forthwith publicly so proclaim and upon the date of such proclamation the provisions of this chapter requiring the payment of contributions and benefits ~~shall~~ must be suspended. The commissioner shall thereupon requisition from the Unemployment Trust Fund all moneys therein standing to ~~his~~ the commissioner's credit and shall direct the Treasurer of State to deposit such moneys, together with any other moneys

in the fund, as a special fund in any banks or public depositories in this State in which general funds of the State may be deposited, and to hold such moneys for such disposition as the Legislature ~~shall~~ may prescribe. The commissioner shall thereupon refund, as the Legislature ~~shall~~ may prescribe, without interest and in accordance with ~~regulations~~ rules prescribed by the ~~commissioner~~ commissioner, to each person or concern by whom contributions have been paid, their pro rata share of the total contributions paid under this chapter. Any interest or earnings of the fund ~~shall~~ must be available to the commissioner to pay for the costs of making such refunds. When the commissioner ~~shall~~ have ~~has~~ executed the duties prescribed and performed such other acts as are incidental to the termination of ~~his~~ the commissioner's duties under this chapter, the Governor shall by proclamation declare that this chapter ~~shall~~ cease ~~ceases~~ to be operative.

Sec. 6. 26 MRSA §1051, sub-§5, as amended by PL 1997, c. 293, §4, is further amended to read:

5. Refusal to repay erroneous payments; waiver of repayment. If, after due notice, any person refuses to repay amounts erroneously paid to that person as unemployment benefits, the amounts due from that person are collectible in the manner provided in subsection 6 or in the discretion of the ~~commissioner~~ commissioner or the ~~commissioner's~~ designee, the amount erroneously paid to such person may be deducted from any future benefits payable to that person under this chapter; ~~provided~~ except that there is no recovery of payments from any person who, in the judgment of ~~at least 2 commissioner members~~ the commissioner or the commissioner's designee, is without fault and ~~where~~ when, in the judgment of the ~~commissioner~~ commissioner or the ~~commissioner's~~ designee, such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience. No recovery may be attempted until the determination of an erroneous payment is final as to law and fact and the individual has been notified of the opportunity for a waiver under this subsection.

Sec. 7. 26 MRSA §1051, sub-§9, as enacted by PL 1999, c. 464, §4, is amended to read:

9. Interest on overpayments. ~~Benefit payments owed to the commissioner bear interest at the rate of 1.0% per month or per fraction of a month. Except as provided in this subsection, interest accrues on any balance that remains unpaid one year after the first of the month following the date the determination establishing the benefit overpayment becomes final until payment plus accrued interest is received by the bureau. If the~~ A ~~benefit overpayment was established in a determination rendered under section 1193, subsection 6, accrues interest~~ accrues ~~at the rate of 1.0% per month or per fraction of a month from the first of the month following the date the determination establishing the benefit~~

overpayment becomes final until payment plus accrued interest is received by the bureau.

Sec. 8. 26 MRSA §1082, sub-§1, as amended by PL 1995, c. 560, Pt. G, §11, is further amended to read:

1. Powers and duties of the commissioner. Except as otherwise provided, it is the duty of the ~~Commissioner of Labor~~ commissioner to administer this chapter, through an organization to be known as the Bureau of Unemployment Compensation. The commissioner may employ persons, make expenditures, require reports, make investigations and take other actions the commissioner determines necessary or suitable to that end. The commissioner is responsible and possesses the necessary authority for the operation and management of the Bureau of Unemployment Compensation. The commissioner shall determine methods of operational procedures in accordance with the provisions of this chapter. The commissioner may adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to achieve this purpose, ~~except rules pertaining to unemployment insurance as provided in subsection 2.~~ The commissioner may adopt rules with respect to a self-employment assistance program as provided in section 1197. The commissioner shall determine methods of operational procedures in accordance with the provisions of this chapter and by the Maine Administrative Procedure Act, Title 5, chapter 375. The commissioner shall make recommendations for amendments to this chapter that the commissioner determines proper. When the commissioner believes that a change in contribution or benefit rates is necessary to protect the solvency of the fund, the commissioner shall promptly inform the Governor and the Legislature and make recommendations with respect to the change in rates.

Sec. 9. 26 MRSA §1082, sub-§2, as amended by PL 2003, c. 452, Pt. O, §3 and affected by Pt. X, §2, is further amended to read:

2. Powers and duties. In addition to other powers and duties provided in this chapter, the ~~commission, by majority vote and with the advice of the commissioner, may adopt or rescind rules with respect to unemployment insurance in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.~~ The commission may require reports, make investigations and undertake other activities necessary to carry out the duties of the commission. Each member of the commission is entitled to access to any information, memoranda, reports or statistical data that is in the possession of or that has been prepared by a division of the Department of Labor and that relates to the administration of this chapter.

Sec. 10. 26 MRSA §1082, sub-§13, as amended by PL 2015, c. 39, §1, is further amended to read:

13. Filing payroll reports; penalty. The ~~commission~~ commissioner may prescribe rules for the filing of payroll reports for the employing units in the State. Each employing unit shall submit a quarterly payroll report by electronic submission or on forms prescribed by the bureau. These quarterly reports are due in the office of the bureau, or of any duly constituted agent of the bureau, on or before the last day of the month following the close of the calendar quarter for which the reports relate. The failure on the part of any employing unit to file the payroll reports within this time frame renders the employing unit liable for a penalty of \$25 or 10% of the tax due, whichever is greater.

In the case of executive, administrative and professional employees, and outside sales representatives, as defined in Part 541 of the Rules and Regulations promulgated under the federal Fair Labor Standards Act of 1938, as amended as of June 30, 1971, the commissioner, upon the request of an employer of those individuals, may approve an alternative method for obtaining from that employer necessary wage information relative to those employees.

Sec. 11. 26 MRSA §1162, as repealed and replaced by PL 1979, c. 579, §19 and c. 651, §§20 and 47, is amended to read:

§1162. Withdrawals

Moneys ~~shall~~ must be requisitioned from the ~~state's~~ State's account in the Unemployment Trust Fund solely for the payment of benefits and for the payment of refunds pursuant to section 1043, subsection 11, paragraph F, subparagraph (2) and section 1225 in accordance with ~~regulations~~ rules prescribed by the ~~commission~~ commissioner. The commissioner shall from time to time requisition from the Unemployment Trust Fund the amounts, not exceeding the amounts standing to this ~~state's~~ State's account therein, as ~~he deems~~ the commissioner considers necessary for the payment of the benefits and refunds for a reasonable future period. Upon receipt thereof the Treasurer of State shall deposit the moneys in the benefit account and warrants ~~shall~~ must be issued for the payment of benefits and refunds solely from the benefit account. All warrants issued for the payment of benefits and refunds ~~shall~~ must bear the signature of the commissioner or ~~his~~ the commissioner's duly authorized agent for that purpose. When so signed and delivered to the payee, the warrants ~~shall~~ become a check against a designated bank or trust company acting as a depository of the State Government. The ~~commission~~ commissioner is the final judge of the legality or propriety of any award of benefits, or the amount thereof, appearing in any such warrant prepared by the commissioner, subject only to the right of appeal as provided in section 1194, subsections 8 and 9. Any balance of moneys requisitioned from the Unemployment Trust Fund ~~which~~ that remains unclaimed or unpaid in the benefit account after the expiration of the period for which the sums were requisitioned ~~shall~~

must either be deducted from estimates for, and may be utilized for the payment of, benefits and refunds during succeeding periods; or, in the discretion of the commissioner, shall be redeposited with the United States Secretary of the Treasury of the United States of America, to the credit of this state's State's account in the Unemployment Trust Fund, as provided in section 1161.

Sec. 12. 26 MRSA §1190, sub-§2, ¶C, as enacted by PL 1999, c. 740, §1, is amended to read:

C. Review of the impact of a proposed benefit change on recipient groups, including an analysis by gender, income levels and geographic distribution; and

Sec. 13. 26 MRSA §1190, sub-§2, ¶C-1 is enacted to read:

C-1. The projected impact of the proposed change on the State's unemployment insurance reciprocity rate. For purposes of this paragraph, "reciprocity rate" means the number of insured unemployed persons in regular unemployment insurance programs as a percent of total unemployed persons; and

Sec. 14. 26 MRSA §1191, sub-§1 is amended to read:

1. Payment of benefits. Benefits shall must be paid from the Unemployment Compensation Fund through public employment offices or such other agencies as the ~~commissioner~~ commissioner may by ~~regulation~~ rule prescribe, and in accordance with such ~~regulations~~ rules as the ~~commissioner~~ commissioner may prescribe.

Sec. 15. 26 MRSA §1191, sub-§3, as amended by PL 2017, c. 284, Pt. CCCC, §1, is further amended to read:

3. Weekly benefit for partial unemployment. Each eligible individual who is partially unemployed in any week must be paid a partial benefit for that week. The partial benefit is equal to the weekly benefit amount less the individual's weekly earnings in excess of \$25, except that, beginning the first full benefit week beginning on or after January 1, 2018, the partial benefit is equal to the weekly benefit amount less the individual's weekly earnings in excess of \$100. On the first Sunday of June 2022 and each first Sunday of June thereafter, the individual's earnings disregard then in effect must be increased by the increase, if any, in the cost of living. The increase in the cost of living must be measured by the percentage increase, if any, as of December of the previous year over the level as of December of the year preceding that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the individual's earnings disregard

rounded up to the nearest dollar. The following amounts are not considered wages for purposes of this subsection:

- A. Amounts received from the Federal Government by a member of the National Guard and organized reserve, including base pay and allowances;
- B. Amounts received as a volunteer firefighter or as a volunteer emergency medical services person;
- C. Amounts received as an elected member of the Legislature; and
- D. Earnings for the week received as a result of participation in full-time training under the United States Trade Act of 1974 as amended by the United States Trade and Globalization Adjustment Assistance Act of 2009 up to an amount equal to the individual's most recent weekly benefit amount.

Sec. 16. 26 MRSA §1191, sub-§6, as corrected by RR 2009, c. 2, §77, is amended to read:

6. Supplemental benefit for dependents. An individual in total or partial unemployment and otherwise eligible for benefits must be paid for each week of that unemployment, in addition to the amounts payable under subsections 2 and 3, the sum of ~~\$40~~ \$25 for each unemancipated child of the individual who in any part of the benefit year and during any part of the individual's period of eligibility is, in fact, dependent upon and is being ~~wholly or mainly~~ supported by the individual, and who is under the age of 18, or who is 18 years of age or over and incapable of earning wages because of mental or physical incapacity, or who is a full-time student as defined in Title 39-A, section 102, subsection 8, paragraph C, or who is in that individual's custody pending the adjudication of a petition filed by the individual for the adoption of the child in a court of competent jurisdiction and for each such child for whom that individual is under a decree or order from a court of competent jurisdiction to contribute to that child's support and for whom no other person is receiving allowances hereunder. In no instance may the dependency benefits as provided in this subsection be more than ~~50%~~ 75% of the individual's weekly benefit amount.

Only one individual is entitled to a dependency allowance for the same dependent with respect to any week. The ~~commissioner~~ commissioner shall prescribe ~~regulations~~ rules as to who may receive a dependency allowance when both spouses are eligible to receive unemployment compensation benefits.

No individual may be eligible to receive dependency allowances as provided in this subsection for any week during which that individual's spouse is employed full time provided that the spouse is contributing some support to their dependent or dependents. For purposes of this subsection, "employed full time" means the receipt

of any wages, earnings, salary or other income equivalent to that amount that would be received for a 40-hour work week.

Sec. 17. 26 MRSA §1192, sub-§1, as amended by PL 1975, c. 344, §1, is further amended to read:

1. Has claim for benefits. ~~He~~ The individual has made a claim for benefits with respect to such week or part thereof in accordance with such ~~regulations~~ rules as the ~~commission~~ commissioner may prescribe;

Sec. 18. 26 MRSA §1192, sub-§2, as amended by PL 2013, c. 314, §1, is further amended to read:

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

The individual must actively seek work each week in which a claim for benefits is filed unless the individual is participating in approved training under subsection 6 or work search has been waived in accordance with rules adopted by the ~~commission~~ commissioner and provide evidence of work search efforts in a manner and form as prescribed by the Department of Labor. Failure to provide required work search documentation results in a denial of benefits in accordance with section 1194, subsection 2 for the week or weeks for which no documentation was provided unless the department determines there is good cause for the individual's failure to comply with this requirement;

Sec. 19. 26 MRSA §1192, sub-§3, as amended by PL 2017, c. 453, §1, is further amended to read:

3. Is able and available for work. The individual is able to work and is available for full-time work at the individual's usual or customary trade, occupation, profession or business or in such other trade, occupation, profession or business for which the individual's prior training or experience shows the individual to be fitted or qualified, as long as the geographic region in which the work will take place is not greater than 35 miles from the individual's primary residence; and in addition to having complied with subsection 2 is actively seeking work in accordance with the ~~regulations~~ rules of the ~~commission~~ commissioner; ~~provided~~ except that no ineligibility may be found solely because the claimant is unable to accept employment on a shift, the greater part of which falls between the hours of midnight to 5 a.m., and is unavailable for that employment because of parental obligation, the need to care for an immediate

family member or the unavailability of a personal care attendant required to assist the unemployed individual who is a ~~handicapped~~ person with a disability; and ~~provided~~ except that an unemployed individual who is neither able nor available for work due to good cause as determined by the deputy is eligible to receive prorated benefits for that portion of the week during which the individual was able and available.

A. Notwithstanding this subsection, beginning January 1, 2004, an individual who is not available for full-time work as required in this subsection is not disqualified from receiving benefits if:

(1) The individual worked less than full time for a majority of the weeks during that individual's base period and the individual is able and available for and actively seeking part-time work for at least the number of hours in a week comparable to those customarily worked in part-time employment during that individual's base period; or

(2) The individual worked full time for a majority of the weeks during that individual's base period, but is able and available for and actively seeking only part-time work because of the illness or disability of an immediate family member or because of limitations necessary for the safety or protection of the individual or individual's immediate family member.

Sec. 20. 26 MRSA §1192, sub-§6, as amended by PL 2013, c. 474, §1, is further amended to read:

6. Approved training. Notwithstanding any other provisions of this chapter ~~to the contrary~~, any otherwise eligible claimant in training, as approved for the claimant by the deputy, under rules adopted by the ~~commission~~ with the advice and consent of the commissioner, may not be denied benefits for any week with respect to subsection 3, relating to availability and the work search requirement or the provisions of section 1193, subsection 3. Enrollment in a degree-granting program may not be the sole cause for denial of approved training status for an otherwise eligible claimant. Benefits paid to any eligible claimant while in approved training, for which, except for this subsection, the claimant could be disqualified under section 1193, subsection 3, may not be charged against the experience rating record of any employer but must be charged to the General Fund. For purposes of this subsection, "the deputy" means a representative from the bureau designated by the commissioner.

Sec. 21. 26 MRSA §1192, sub-§6-C, as amended by PL 2013, c. 474, §2, is further amended to read:

6-C. Prohibition against disqualification of individuals in approved training under section 1196. Notwithstanding any other provision of this chapter to

~~the contrary~~, no otherwise eligible individual may be denied benefits for any week because that individual is in training as approved by the deputy, under rules adopted by the ~~commission with the advice and consent of the commissioner~~, nor may that individual be denied benefits by reason of leaving work to enter that training, as long as the work left is not suitable employment.

For purposes of this subsection, "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, and "the deputy" means a representative from the bureau designated by the commissioner.

Sec. 22. 26 MRSA §1193, sub-§1, ¶A, as amended by PL 2017, c. 117, §6, is further amended to read:

A. For the week in which the claimant left regular employment voluntarily without good cause attributable to that employment. The disqualification continues until the claimant has earned 4 times the claimant's weekly benefit amount in employment by an employer. A claimant may not be disqualified under this paragraph if:

- (1) The leaving was caused by the illness or disability of the claimant or an immediate family member and the claimant took all reasonable precautions to protect the claimant's employment status by promptly notifying the employer of the need for time off, a change or reduction in hours or a shift change and being advised by the employer that the time off or change or reduction in hours or shift change cannot or will not be accommodated;
- (2) The leaving was necessary to accompany, follow or join the claimant's spouse in a new place of residence;
- (3) The leaving was in good faith in order to accept new employment on a permanent full-time basis and the new employment did not materialize for reasons attributable to the new employing unit;
- (4) The leaving was necessary to protect the claimant or any member of the claimant's immediate family from domestic abuse or the leaving was due to domestic violence that caused the claimant reasonably to believe that the claimant's continued employment would jeopardize the safety of the claimant or any member of the claimant's immediate family and the claimant made all reasonable efforts to preserve the employment; ~~or~~
- (5) The claimant's employer announced in writing to employees that it planned to reduce the work force through a layoff or reduction in force and that employees may offer to be

among those included in the layoff or reduction in force, at which time the claimant offered to be one of the employees included in the layoff or reduction in force and the claimant's employer accepted the claimant's offer, thereby ending the employment relationship; or

(6) The leaving was due to the unexpected loss of child or elder care for which the claimant was not at fault and for which no work alternatives such as changes in hours or a leave of absence or alternate child or elder care options were available despite good faith efforts made by the claimant to resolve the issue and continue working.

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

Sec. 23. 26 MRSA §1194, sub-§1 is amended to read:

1. Filing. Claims for benefits ~~shall~~ must be made in accordance with such ~~regulations~~ rules as the ~~commission~~ commissioner may prescribe. Each employer shall post and maintain printed statements of the ~~regulations~~ rules in places readily accessible to individuals in ~~his~~ the employer's service and shall make available to each such individual at the time ~~he~~ the individual becomes unemployed a printed statement of those ~~regulations~~ rules. The printed statements ~~shall~~ must be supplied by the commissioner to each employer without cost to ~~him~~ the employer.

Sec. 24. 26 MRSA §1194, sub-§2, as amended by PL 2003, c. 163, §1, is further amended by amending the 6th blocked paragraph to read:

If, during the period a claimant is receiving benefits, new information or a new issue arises concerning the claimant's eligibility for benefits or which affects the claimant's weekly benefit amount, benefits may not be withheld until a determination is made on the issue. Before a determination is made, written notice ~~shall~~ must be mailed to the claimant and other interested parties, which must include the issue to be decided, the law upon which it is based, any factual allegations known to the bureau, the right to a fact-finding interview, the date and location of the scheduled interview and the conduct of the interview and appeal. The fact-finding interview must be scheduled not less than 5 days nor more than 14 days after the notice is mailed. The bureau shall include in the notice a statement notifying the claimant that any benefits paid prior to the determination may be an overpayment under applicable law and recoverable by the bureau if it is later determined that the claimant was not entitled to the benefits. If the claimant does not appear for the scheduled interview, the deputy shall make a determination on the basis of available evidence. The deputy shall make a prompt determination

of the issue based solely on any written statements of interested parties filed with the bureau before the interview, together with the evidence presented by interested parties who personally ~~appeared at~~ participated in the interview by telephone or e-mail or other electronic means. Upon request and notice to all parties at the interview, the deputy may accept corroborative documentary evidence after the interview. In no other case may the deputy base a decision on evidence received after the interview has been held.

Sec. 25. 26 MRSA §1194, sub-§3, as amended by PL 1987, c. 641, §8, is further amended to read:

3. Appeals. Unless such appeal is withdrawn, the Division of Administrative Hearings after affording the parties reasonable opportunity for fair hearing, shall affirm, modify or set aside the findings of fact and decision of the deputy. The parties ~~shall must~~ be then duly notified of the division's decision, together with its reasons therefor, which subject to subsection 11 ~~shall be~~ is deemed to be the final decision of the commission unless, within 15 calendar days after that notification was mailed to ~~his~~ the claimant's and employer's last known address, the claimant ~~and or employer may~~ appeal ~~appeals~~ to the commission by filing an appeal in accordance with such rules as the ~~commission shall prescribe~~ commissioner prescribes, ~~provided that as long as~~ the appealing party appeared at the hearing and was given notice of the effect of the failure to appear in writing prior to the hearing.

Sec. 26. 26 MRSA §1194, sub-§6, as repealed and replaced by PL 1977, c. 694, §474, is amended to read:

6. Procedure. The manner in which disputed claims ~~shall must~~ be presented, and the reports thereon required from the claimant and from employers ~~shall must~~ be in accordance with ~~regulations~~ rules prescribed by the ~~commission~~ commissioner. The conduct of hearings and appeals ~~shall must~~ be in accordance with Title 5, ~~section 8001 et seq~~ chapter 375.

Sec. 27. 26 MRSA §1195, sub-§1-A is enacted to read:

1-A. Alternate trigger. In addition to the conditions provided in subsection 1, paragraphs H and I with respect to weeks of unemployment beginning on or after January 1, 2022, the determination of whether there has been a state "on" indicator or a state "off" indicator beginning or ending any extended benefit period must be made under this subsection if:

A. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of that week equals or exceeds 6.5%; and

B. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the 3-month period referred to in paragraph A equals or exceeds 110% of the average rate for either or both of the corresponding 3-month periods ending in the 2 preceding calendar years.

There is a state "off" indicator for a week based on the rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, only if the period consisting of the most recent 3 months for which data for all states are published before the close of such week does not result in a state "on" indicator.

Sec. 28. 26 MRSA §1195, sub-§2, as enacted by PL 1971, c. 119, is amended to read:

2. Effect of state law provisions relating to regular benefits on claims for, and the payment of, extended benefits. Except when the result would be inconsistent with the other provisions of this subchapter, as provided in the ~~regulations~~ rules of the ~~commission~~ commissioner, the provisions of this chapter ~~which~~ that apply to claims for, or the payment of, regular benefits ~~shall~~ apply to claims for, and the payment of, extended benefits.

Sec. 29. 26 MRSA §1195, sub-§5-A is enacted to read:

5-A. Total extended benefit amount in high unemployment period. With respect to weeks of unemployment beginning on or after January 1, 2022, effective with respect to weeks beginning in a high unemployment period, subsection 5 must be applied by ~~substituting:~~

A. "Eighty percent" for "50%" in paragraph A;

B. "Twenty" for "13" in paragraph B; and

C. "Forty-six" for "39" in paragraph C.

For purposes of this subsection, "high unemployment period" means any period during which an extended benefit period would be in effect if subsection 1-A, paragraph A were applied by substituting "8%" for "6.5%."

Sec. 30. 26 MRSA §1197, sub-§8-B, ¶B-1, as enacted by PL 2005, c. 39, §1, is amended to read:

B-1. A person aggrieved by the decision of the hearing officer may appeal to the commission by filing an appeal in accordance with rules established by the ~~commission~~ commissioner as long as the appealing party participated in the hearing by that hearing officer and was given notice of the effect of the failure to participate in writing prior to the hearing.

Sec. 31. 26 MRSA §1221, sub-§10, ¶E, as amended by PL 1981, c. 168, §25, is further amended to read:

E. The ~~Commissioner of Labor~~ commissioner, in accordance with such ~~regulations~~ rules as the ~~commission~~ commissioner may prescribe, shall notify each such employer of any determination ~~which~~ that is made of its status as an employer and of the effective date of any election ~~which~~ that it makes and any termination of such election. Such determination ~~shall be~~ is subject to reconsideration, appeal and review in accordance with section 1082, subsection 14.

Sec. 32. 26 MRSA §1221, sub-§15, as amended by PL 1981, c. 286, §4, is further amended to read:

15. Group accounts. Two or more nonprofit organizations or 2 or more governmental entities that have become liable for payments in lieu of contributions, in accordance with subsections 10 and 13, may file a joint application to the commissioner for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers or governmental entities. Each such application ~~shall~~ must identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon approval of the application, the commissioner shall establish a group account for such employers or governmental entities effective as of the beginning of the calendar quarter in which ~~it~~ the commissioner receives the application and shall notify the group's representative of the effective date of the account. Such account ~~shall remain~~ remains in effect for not less than 2 years and thereafter until terminated at the discretion of the commissioner or upon application by the group. Upon establishment of the account, each member of the group ~~shall be~~ is liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The ~~commission~~ commissioner shall prescribe such ~~regulations as it deems~~ rules the commissioner considers necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subsection by members of the group and the time and manner of such payments.

Sec. 33. 26 MRSA §1226, sub-§1, ¶A, as amended by PL 2017, c. 284, Pt. AAAAA, §4, is further amended to read:

A. An employer may appeal determinations by the commissioner or the commissioner's designated

representatives made under sections 1082, subsection 14, 1221, 1222, 1225 and 1228, or an assessment made under section 1225, to the Division of Administrative Hearings by filing an appeal, in accordance with rules that the ~~commission~~ commissioner prescribes, within 30 days after notification is mailed to the employer's last known address as it appears in the records of the bureau or, in the absence of such mailing, within 30 days after the notification is delivered. If the employer fails to perfect this appeal, the assessment or determination is final as to law and fact.

Sec. 34. 26 MRSA §1251, sub-§2, as amended by PL 1977, c. 694, §483, is further amended to read:

2. Regulations Rules. The ~~commission~~ commissioner shall prescribe fair and reasonable ~~regulations~~ rules, pursuant to Title 5, section 8051 et seq., applicable to the payment of benefits to individuals whose qualifying wages in whole or in part were earned in seasonal industries, to the period during which benefits ~~shall be~~ are payable to ~~them~~ the individuals and to charges to be made to experience rating records or general funds as a result of benefits so paid.

Sec. 35. 26 MRSA c. 26-A, as amended, is amended by amending the chapter headnote to read:

CHAPTER 26-A

PEER SUPPORT PROGRAM FOR DISPLACED WORKERS PROGRAMS

Sec. 36. 26 MRSA c. 26-A, sub-c. 1, headnote is enacted by adding before section 2061 the following to read:

SUBCHAPTER 1

PEER SUPPORT PROGRAM FOR DISPLACED WORKERS

Sec. 37. 26 MRSA c. 26-A, sub-c. 2 is enacted to read:

SUBCHAPTER 2

PEER WORKFORCE NAVIGATOR PILOT PROGRAM

§2065. Peer workforce navigator pilot program

1. Peer workforce navigator pilot program. No later than January 1, 2022, the Commissioner of Labor, referred to in this subchapter as "the commissioner," shall adopt a peer workforce navigator pilot program to support the Governor's Maine Jobs and Recovery Plan dated May 4, 2021. The Department of Labor, referred to in this subchapter as "the department," shall contract with qualified entities to operate the pilot program for a period of 2 years. The pilot program must:

A. Target underserved populations as described in subsection 2, paragraph A to expand opportunities for employment through reemployment services,

education or training opportunities, apprenticeships and other models that result in skill development and family-supporting careers;

B. Assist individuals with meeting basic needs in order to help them persist in education and work;

C. Connect individuals with services and job training programs provided by career centers operated by the department or its workforce partners, including the Maine Community College System and the University of Maine System;

D. Conduct outreach and provide individual assistance and education to individuals applying for and making ongoing claims for unemployment compensation benefits, including partial unemployment benefits and assistance for dislocated or marginalized workers; and

E. Identify systemic issues creating barriers to successful reemployment for individuals seeking jobs, including improvements to the unemployment compensation system in chapter 13 to reduce those barriers.

2. Qualified entities. To be eligible to receive a navigator contract under this section, an entity must:

A. Demonstrate that it has existing peer relationships with underserved populations, including immigrants, individuals with limited English proficiency, inexperienced and untrained individuals, low-income and homeless individuals, individuals who have been out of the workforce for an extended period, individuals with low literacy and individuals with disabilities;

B. Have the capability to carry out the duties of this section, including knowledge of eligibility requirements and application processes related to the unemployment compensation system in chapter 13, reemployment services, education and training services and other resources necessary to help underserved populations increase their economic security;

C. Comply with existing confidentiality standards to ensure the privacy of all information collected from individuals receiving navigator services; and

D. Provide services under this section without charge to the individuals receiving those services.

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

A. The commissioner may award multiple contracts to perform one or more of the navigator services described in this section.

B. To support the maintenance of relationships between qualified entities and underserved populations and to ensure a high quality of service, the commissioner shall award contracts to qualified entities for the duration of the pilot period as long as the qualified entities satisfy performance standards set forth in the contracts.

C. The commissioner shall give priority for navigator contracts to qualified entities that are a recognized source of support or advocacy for underserved populations as described in subsection 2, paragraph A, such as racial and ethnic minorities, persons with low literacy, persons with disabilities and others seeking to improve skills and gain employment.

D. Navigator services provided by qualified entities that receive navigator contracts must be coordinated with and supplement, not supplant, services provided by the department.

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

4. Funding. The department shall seek available workforce development funds for the pilot program under this section.

Sec. 38. Unemployment insurance working group. The Commissioner of Labor shall convene a working group to review and make recommendations and a report related to certain provisions of the unemployment insurance program under the Maine Revised Statutes, Title 26, chapter 13. The commissioner shall appoint members of the working group that include stakeholders representing the interest of employers and employees and shall convene the first meeting of the working group no later than September 30, 2021.

1. In developing its recommendations and report under this section, the working group shall examine the following issues:

A. Methods of connecting employers and unemployed workers following the pandemic related to coronavirus disease 2019;

B. Processes and methods to improve the efficiency and effectiveness of the work-sharing plan established under Title 26, section 1198;

C. A determination regarding whether the provisions of Title 26, section 1044 are working effectively to achieve the protection of rights and benefits goals;

D. Methods to streamline and facilitate application for unemployment insurance benefits that will increase access for unemployed workers, simplify reporting requirements for employers and determine any clarifications or modifications that may be needed related to the submission of partial unemployment claim forms in accordance with Title 26, section 1194, subsection 1-A;

E. How an employer liaison contract might be designed to provide assistance to the business community in interacting with the unemployment insurance program, focused on the goal of reducing administrative burden and improving user experience, including recommendations of a funding source to support such a contract;

F. Whether unemployed individuals have completed reemployment services and eligibility assessment with the Department of Labor within the prior 5 years and whether these individuals should be considered to have good cause for not participating in reemployment services and eligibility assessment under Title 26, section 1192, subsections 2 and 13; and

G. Any software or technology issues contributing to delays, claims processing issues and paperwork burden to businesses that may be resolved through technological means or any ways to promote improved claimant or employer user experience and interface with the unemployment insurance system.

2. No later than January 15, 2022, the Commissioner of Labor shall submit the report and recommendations developed pursuant to this section, including any suggested legislation, to the Joint Standing Committee on Labor and Housing. The Joint Standing Committee on Labor and Housing may submit a bill in response to this report to the Second Regular Session of the 130th Legislature.

Sec. 39. Analysis of unemployment insurance reciprocity rate. The Department of Labor, Bureau of Unemployment Compensation shall complete an analysis of the State's unemployment insurance reciprocity rate to investigate the factors that contribute to the State's low reciprocity rate and make recommendations for improvement. For purposes of this section, "reciprocity rate" has the same meaning as in the Maine Revised Statutes, Title 26, section 1190, subsection 2, paragraph C-1. In conducting this analysis, the bureau may use any reliable data or research available to the bureau or conduct additional research within available resources.

1. The analysis must consider:

A. The State's unemployment insurance reciprocity rate as determined by the United States Department

of Labor, Employment and Training Administration for the most recently completed 20 calendar years;

B. The State's unemployment insurance reciprocity rate relative to the average of other New England states' reciprocity rates;

C. An evaluation of the factors contributing to the State's low reciprocity rate based on the consensus of national research or any available data for the State, including consideration of monetary and nonmonetary eligibility factors and lack of awareness of potential eligibility for unemployment insurance benefits;

D. To the extent available from state or national research or data, the demographics, including gender, age, race, ethnicity, income and urban or rural geographic representation of unemployed individuals who do not file for unemployment benefits; and

E. The adequacy of unemployment benefits to replace wages for wage earners at different income levels.

2. The bureau shall issue a report with its recommendations, including any suggested legislation, to the Joint Standing Committee on Labor and Housing by February 1, 2022. Recommendations must include, but are not limited to:

A. Administrative or legislative initiatives to increase awareness of and application rates for unemployment benefits;

B. Changes in monetary and nonmonetary eligibility for unemployment benefits needed to increase the State's reciprocity rate;

C. A benchmark for the State's reciprocity rate based on the experience of other New England states; and

D. Any increase in staff capacity needed to comply with the core performance measures established by the United States Department of Labor related to unemployment insurance benefit promptness and accuracy and the timeliness of appeal determinations.

The Joint Standing Committee on Labor and Housing is authorized to introduce legislation in response to this report to the Second Regular Session of the 130th Legislature.

See title page for effective date.