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**LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**

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**STATE OF MAINE  
SENATE  
128TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 657, L.D. 1770, Bill, “An Act To Revise Laws Regarding Unemployment That Were Amended or Affected by Recently Enacted Legislation”

Amend the bill by inserting after the enacting clause and before section 1 the following:

**Sec. 1. 26 MRSA §1085** is enacted to read:

**§1085. Required staffing**

**1. Positions filled.** Notwithstanding any other provision of law, and without further approval or justification, the department shall promptly fill all of the following positions within the Department of Labor for which funding is provided:

- A. Customer representative associate;
- B. Customer representative specialist;
- C. Claims adjudicator;
- D. Hearings examiner;
- E. Labor program specialist; and
- F. Field advisor and examiner.

**2. Notice of employment.** The department shall widely post public notices for the vacancies listed in subsection 1 on publicly accessible state websites and in other appropriate locations. Public notice must be posted within 30 days of each vacancy that occurs. The department shall recruit and hire qualified individuals for these vacant positions.

**Sec. 2. 26 MRSA §1194, sub-§§1-B and 1-C** are enacted to read:

**1-B. Alternative filing methods.** The department shall provide alternative methods to an Internet-based system for the prompt filing of initial and continuing claims for unemployment benefits, including the filing of work search documentation, and for

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1 obtaining information. The alternative methods must include filing by telephone, using a  
2 telephone system that allows a claimant to leave a message or request a return telephone  
3 call. A claimant may choose which method to use for the filing of initial and continuing  
4 claims for unemployment benefits, including the filing of work search documentation,  
5 and for obtaining information.

6 **1-C. Claimant service response telephone system.** The department shall maintain  
7 a claimant service response telephone system, which allows a claimant to leave a message  
8 by telephone or request a return telephone call. The claimant service response telephone  
9 system must enable the department to promptly receive and promptly respond to claimant  
10 inquiries, including those related to the filing of claims or the prompt or correct payment  
11 of benefits. If a claimant contacts the department through the claimant service response  
12 telephone system, the department must consider that contact when determining if the  
13 claimant has good cause for not complying with section 1192, subsection 1, 2, 3, 12 or  
14 13.

15 **Sec. 3. 26 MRSA §1194, sub-§2,** as amended by PL 2003, c. 163, §1, is further  
16 amended to read:

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

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

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

35 The deputy shall promptly notify the claimant and any other interested party of the  
36 determinations and reasons for the determinations. Subject to subsection 11, unless the  
37 claimant or any such interested party, within 15 calendar days after that notification was  
38 mailed to the claimant's last known address, files an appeal from that determination, that  
39 determination is final, except that the period within which an appeal may be filed may be  
40 extended, for a period not to exceed an additional 15 calendar days, for good cause  
41 shown. If new evidence or pertinent facts that would alter that determination become  
42 known to the deputy prior to the date that determination becomes final, a redetermination  
43 is authorized, but that redetermination must be mailed before the original determination  
44 becomes final.

1 If an employer's separation report for an employee is not received by the office specified  
2 on the separation report within 10 days after that report was requested, the claim must be  
3 adjudicated on the basis of information at hand. If the employer's separation report  
4 containing possible disqualifying information is received after the 10-day period and the  
5 claimant is denied benefits by a revised deputy's decision, benefits paid prior to the date  
6 of the revised decision do not constitute an overpayment of benefits. Any benefits paid  
7 after the date of the revised decision constitute an overpayment. Only the most recent  
8 employer from which the claimant's separation occurred may contest whether a  
9 disqualification may be applied for reasons related to the separation pursuant to section  
10 1193.

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

17 If, during the period a claimant is receiving benefits, new information or a new issue  
18 arises concerning the claimant's eligibility for benefits or which affects the claimant's  
19 weekly benefit amount, benefits may not be withheld until a determination is made on the  
20 issue. Before a determination is made, written notice shall be mailed to the claimant and  
21 other interested parties, which must include the issue to be decided, the law upon which it  
22 is based, any factual allegations known to the bureau, the right to a fact-finding interview,  
23 the date and location of the scheduled interview and the conduct of the interview and  
24 appeal. The fact-finding interview must be scheduled not less than 5 days nor more than  
25 14 days after the notice is mailed. The bureau shall include in the notice a statement  
26 notifying the claimant that any benefits paid prior to the determination may be an  
27 overpayment under applicable law and recoverable by the bureau if it is later determined  
28 that the claimant was not entitled to the benefits. If the claimant does not appear for the  
29 scheduled interview, the deputy shall make a determination on the basis of available  
30 evidence. The deputy shall make a prompt determination of the issue based solely on any  
31 written statements of interested parties filed with the bureau before the interview,  
32 together with the evidence presented by interested parties who personally appeared at the  
33 interview. Upon request and notice to all parties at the interview, the deputy may accept  
34 corroborative documentary evidence after the interview. In no other case may the deputy  
35 base a decision on evidence received after the interview has been held.

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

- 38 (1) The claimant worked and reports a specific amount of earnings for that work;  
39 (2) The claimant worked and had earnings from that work, but does not furnish  
40 the amount of earnings;  
41 (3) The claimant reports that the claimant was not able or available for work for  
42 a specific portion of the week and there is sufficient information for the deputy to  
43 determine that the inability or unavailability for work was for good cause. If the  
44 information provided by the claimant indicated unavailability during the claim

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

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

9 Amend the bill by adding after section 6 the following:

10 **Sec. 7. Deadline.** The Department of Labor shall post public notice of the  
11 vacancies on the effective date of this Act in positions identified in the Maine Revised  
12 Statutes, Title 26, section 1085, subsection 1 in the manner specified in Title 26, section  
13 1085, subsection 2 no later than 30 days after the effective date of this Act. The staffing  
14 for the positions identified in Title 26, section 1085, subsection 1 that are vacant on the  
15 effective date of this Act must be achieved as soon as possible after the effective date of  
16 this Act, but no later than December 30, 2018. The department shall recruit and hire  
17 qualified individuals for these vacant positions.

18 **Sec. 8. Correction of problems.** Until January 1, 2019, the Department of Labor  
19 shall provide an opportunity for all unemployment insurance claimants denied benefits  
20 for failure to file a timely claim for benefits or work search documentation, as required by  
21 the Maine Revised Statutes, Title 26, section 1192, subsections 1 and 2, in any week  
22 during the period from December 1, 2017 until July 1, 2018 to apply for those benefits  
23 and shall grant good cause for failure to file a timely claim for benefits or work search  
24 documentation for those weeks if the claimant asserts that the claimant's inability to use  
25 the department's Internet-based filing system was the basis for the claimant's failure to  
26 file.

27 **Sec. 9. Allocation of money credited to State of Maine account in**  
28 **Unemployment Trust Fund under Section 903(f) of federal Social Security**  
29 **Act.** Money credited to the account of the State of Maine in the federal Unemployment  
30 Trust Fund by the United States Secretary of the Treasury on July 29, 2009 pursuant to  
31 Section 903(f) of the federal Social Security Act may not be requisitioned from the State's  
32 account or used except for the payment of benefits and for the payment of expenses  
33 incurred for the administration of the State's unemployment compensation law and public  
34 employment offices. Money used for the payment of benefits is requisitioned as defined  
35 in the Maine Revised Statutes, Title 26, section 1162. Money requisitioned and used for  
36 the payment of expenses incurred for the administration of the State's unemployment  
37 compensation law and public employment offices requires a specific appropriation by the  
38 Legislature as provided in subsection 1. That use is only permissible if the expenses are  
39 incurred and the money is requisitioned after the effective date of a law making an  
40 appropriation and specifying the purposes for which the money is appropriated and the  
41 amounts appropriated for those purposes. Any amount that may be obligated under such  
42 an appropriation is limited to an amount that does not exceed the amount by which the  
43 aggregate of the amounts transferred to the account of the State of Maine pursuant to  
44 Section 903(f) of the federal Social Security Act exceeds the aggregate of the amounts

1 used by the State pursuant to this Act and charged against the amounts transferred to the  
 2 account of the State of Maine.

3 For purposes of this section, the amounts obligated under an appropriation for  
 4 administrative purposes must be charged against transferred amounts at the exact time the  
 5 obligation is entered into. The appropriation, obligation and expenditure or other  
 6 disposition of money appropriated under this section must be accounted for in accordance  
 7 with standards established by the United States Secretary of Labor. Money appropriated  
 8 as provided in this Act for the payment of administration must be requisitioned as needed  
 9 for the payment of obligations incurred under the appropriation and, upon requisition,  
 10 must be deposited in the Employment Security Administration Fund from which  
 11 payments are made. Money so deposited must, until expended, remain a part of the  
 12 unemployment fund and, if it will not be immediately expended, must be returned  
 13 promptly to the account of the State of Maine in the federal Unemployment Trust Fund.

14 **1. Allocation maintaining state unemployment compensation and public**  
 15 **employment system.** There is allocated out of funds made available to the State under  
 16 Section 903(f) of the federal Social Security Act, as amended, the sum of \$895,156 in  
 17 accordance with this section, to be used under the direction of the Department of Labor,  
 18 for the purpose of maintaining and operating the State's unemployment compensation and  
 19 public employment system as amended by this Act. The uses include both personnel and  
 20 nonpersonnel administrative costs required to administer the unemployment insurance  
 21 program and deliver employment assistance services through the Department of Labor's  
 22 career center system.

23 The amount obligated pursuant to this Act may not exceed at any time the amount by  
 24 which the aggregate of the amount transferred to the account of the State of Maine  
 25 pursuant to Section 903(f) of the federal Social Security Act exceeds the aggregate of the  
 26 amounts obligated for administration and paid out for benefits and required by law to be  
 27 charged against the amounts transferred to the State of Maine account.

28 **Sec. 10. Appropriations and allocations.** The following appropriations and  
 29 allocations are made.

30 **LABOR, DEPARTMENT OF**  
 31 **Employment Security Services 0245**

32 Initiative: Allocates funds for 11 limited-period Customer Representative Specialist -  
 33 Benefits positions and related All Other costs to support the voice mail option to an  
 34 Internet-based system for filing initial and continuing claims for unemployment benefits.  
 35 These positions end June 30, 2019.

36	<b>FEDERAL EXPENDITURES FUND</b>	<b>2017-18</b>	<b>2018-19</b>
37	Personal Services	\$0	\$529,643
38	All Other	\$0	\$97,658
39			
40	FEDERAL EXPENDITURES FUND TOTAL	\$0	\$627,301

41 **Employment Security Services 0245**

1 Initiative: Allocates one-time funds for the cost to add the First in Line feature to the  
 2 Interactive Voice Response System that manages calls to the claims centers.

3	<b>FEDERAL EXPENDITURES FUND</b>	<b>2017-18</b>	<b>2018-19</b>
4	All Other	\$0	\$161,000
5			
6	FEDERAL EXPENDITURES FUND TOTAL	\$0	\$161,000

7 **Employment Security Services 0245**

8 Initiative: Allocates funds for the annual maintenance of the First in Line feature.

9	<b>FEDERAL EXPENDITURES FUND</b>	<b>2017-18</b>	<b>2018-19</b>
10	All Other	\$0	\$24,000
11			
12	FEDERAL EXPENDITURES FUND TOTAL	\$0	\$24,000

13	<b>LABOR, DEPARTMENT OF</b>		
14	<b>DEPARTMENT TOTALS</b>	<b>2017-18</b>	<b>2018-19</b>
15			
16	<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$812,301</b>
17			
18	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$812,301</b>
19			

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

22 **SUMMARY**

23 This amendment adds several provisions to the bill to make the following changes to  
 24 the Employment Security Law.

25 1. It requires the Department of Labor to fill vacancies for 6 different position types  
 26 for which funding is provided;

27 2. It requires the Department of Labor to provide options to an Internet-based system  
 28 for the filing of claims for unemployment benefits, including the filing of work search  
 29 documentation, and for obtaining information. The options must include filing by  
 30 telephone, using a telephone system that allows a claimant to leave a message or request a  
 31 return telephone call. The individual making a claim for unemployment benefits may  
 32 choose which option to use.

33 3. It requires the Department of Labor to maintain a claimant service response  
 34 telephone system that allows a claimant to leave a message or request a return telephone  
 35 call in order to enable the department to promptly receive and promptly respond to  
 36 claimant inquiries. If a claimant timely contacts the claimant service response telephone

1 system, the department must consider that contact when determining if the claimant had  
2 good cause for not complying with the requirements to file a timely claim for benefits,  
3 register for work and actively search for work, file work search documentation or  
4 participate in reemployment services and eligibility assessment.

5 4. It clarifies that only the most recent employer from which the claimant's  
6 employment separation occurred may contest whether a disqualification may be applied  
7 to the claimant for reasons related to the separation.

8 The amendment also directs the Department of Labor to provide until January 1,  
9 2019 an opportunity for all unemployment insurance claimants denied benefits for failure  
10 to file a timely claim for benefits or work search documentation in any week during the  
11 period from December 1, 2017 until July 1, 2018 to apply for those benefits and provides  
12 that the Department of Labor must grant good cause for failure to file a timely claim for  
13 benefits or work search documentation for those weeks if the claimant asserts that the  
14 claimant's inability to use the department's Internet-based filing system was the basis for  
15 the claimant's failure to file.

16 In 2009, Maine received a \$28,200,000 distribution to the Unemployment Trust Fund  
17 under the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5,  
18 123 Stat. 115 (2009), which may be used to maintain the State's unemployment and  
19 public employment system or to pay regular unemployment benefits. There is  
20 \$27,503,000 remaining from this distribution. The amendment authorizes the use of  
21 \$895,156 of those funds to meet the allocation required in the amendment. The funds  
22 will be used to maintain and operate the State's unemployment and employment  
23 programs, including paying the administrative costs required to administer the  
24 unemployment insurance program and delivering employment assistance services through  
25 the Department of Labor's career center system. The intent of the authorization of funds  
26 is to provide the Department of Labor with funding necessary to implement the  
27 provisions of this amendment.

28 **FISCAL NOTE REQUIRED**

29 **(See attached)**