1. Which sector does this recommendation support, and/or which barriers does it address?

Nonprofit organizations touch the lives of each Maine person nearly every day and play a vital role in the state’s economy and provision of services. Maine’s nonprofits have and continue to step up without hesitation to serve their communities, to protect public health and to support their own employees during this COVID-19 crisis. And as the state’s largest private sector industry, nonprofits still need immediate contracting, budget, staffing and programming flexibility and timely resources from the state, local governments and philanthropy to be able to continue this work through the months ahead.

Under Maine law, nonprofits (501c3) are given the option to forego contributions to the unemployment compensation fund, and to reimburse the fund for benefits paid to their employees (“self-fund their unemployment”) 26 MRSA 1221. Nonprofit employers often elect this reimbursement option because they rarely have a large number of layoffs. During the unprecedented COVID-19 crisis and through no fault of their own, many nonprofits have had to or will have to lay off or fire employees.

Currently, there is a crisis facing Maine’s charitable nonprofits who have elected to self-insure and reimburse the state unemployment insurance trust fund for the amount of benefits any terminated or laid off employees claim.

The CARES Act provided for 50% relief for these unemployment claims, but the remaining 50% has proven an unbearable burden for many of these nonprofit employers. (Current US DOL guidance says states must require self-insured nonprofits to reimburse their UI trust funds for 100% of their COVID-19 related UI claims upfront and then seek reimbursement from their already overburdened state UI trust funds of 50% of those payments.)

Under normal circumstances, nonprofits might use their operating reserves to provide the capital for this payment. However, this process will be particularly problematic during and after the COVID-19 crisis, since many nonprofits have already exhausted any operating reserves they may have had to mitigate immediate financial losses (otherwise, they probably would not have had to lay off or furlough staff in the first place).
2. What is the recommendation?

Due to the rapidly shifting landscape in Washington, we’re still collecting recommendations and information in order to arrive at the best solution for addressing this pressing need. Given the current crisis, however, we are working ardently to arrive at solutions as quickly as possible.

Any recommended solution will accompany our ask that the state follow the original guidance suggested in Section 2103 of the CARES Act, which says the states should offer maximum flexibility in payment options for self-insured nonprofits.

3. How urgent is this recommendation? (i.e. should it move forward immediately)

Nonprofits generally do not keep much in operating reserves as it is expected that they put revenue into programming. Therefore, these organizations do not have the reserves to pay these costs and wait for reimbursement. We know that there are nonprofit organizations in our state that are getting invoices for hundreds of thousands of dollars a month - right now.

For example, the nine YMCAs in Maine that self-fund their unemployment benefits, the total estimated cost of directly reimbursing their claims is more than $400,000 per month. If the Maine YMCAs that self-fund must directly reimburse all their unemployment claims during this crisis, there is a significant possibility that many will not be able to survive. The Maine YMCAs serve 130,000 Mainers each year; their demise would have a significant negative impact on their communities. Other examples include the Goodwill of Northern New England and the Community Dental centers in Maine.

4. What are the benefits?

By stabilizing these organizations, they will be able to bring back employees who serve our communities.

We know that having to pay these claims will delay the rehiring of some or all of their staff, which will harm Maine’s economy by slowing recovery from the COVID-19 crisis. It could result in making further cuts to programs and services, which in turn will harm communities, since they will have reduced access to health care, childcare, food assistance, affordable housing, domestic violence and homeless shelters, and other critical services. Our fear is that it could ultimately result in vital organizations going out of business altogether.
5. What are the costs?

The costs inherent in providing relief to the self-insured organizations will be dependent upon the recommended solutions. Our hope is that the Maine Department of Labor will be a resource in determining the fiscal impact to the state by providing a list of nonprofit self-insured organizations and the totals associated with the Covid-related unemployment claims.

6. When should implementation begin and when is an outcome realized?

Implementation should begin immediately. The sooner the organizations are stabilized, the sooner they can bring employees back to work.

7. Will any populations, communities, or industries be disadvantaged by this recommendation?

We do not believe so. Not acting will have a negative impact on many populations, communities and types of nonprofit organizations.

8. Is there an existing model for this, in or outside of Maine?

The following list of states hold nonprofits harmless for unemployment claims: Illinois (awaiting governor's signature), Iowa, Louisiana, Montana, Nebraska, New Hampshire, North Carolina and New Mexico. (LA, MT, NE and NH governor's issued executive orders to be able to do so.)

Orders and guidance in Delaware automatically defer payments for nonprofits and other reimbursable organizations by 90 days.

The broad language in emergency rulemaking in Georgia appears to include nonprofits in the declaration that employers “not be charged certain benefits paid for unemployment.”

In Utah, guidelines eliminated one of two rates normally imposed on employers and greatly reduced the remaining rate during the pandemic. Nonprofit and for-profit employers in Kentucky with fewer than 100 employees are held harmless for their reserve ratio.

9. What additional data or information is needed, if any?

It would be useful for this sub-committee to have from the Maine DOL a list of nonprofit organizations that self-insure their unemployment benefits and the total dollar amount of Covid-related claims made - perhaps from March 15 until the present day.
Anecdotal evidence has been gathered and can be provided from large Maine employers such as Goodwill NNE, Maine's YMCAs, the four Community Dental programs, as well as from the Unemployment Solutions Trust (UST), the country's largest private unemployment trust and others. The National Association of Nonprofits is currently conducting a nationwide survey on this issue.

10. What else should be considered to evaluate this recommendation?

To be clear, without a solution, the impact of these claims will be devastating for many nonprofits. Organizations like Spurwink, Sweetser, YWCA of Central Maine, Kidspeace, Girl Scouts of ME, Boys and Girls Club of Southern ME and potentially hundreds more nonprofit employers employing one in six Mainers will need to delay the rehiring of laid-off or furloughed workers, make further cuts to essential programs and services, and, in some cases, close their doors altogether.

My sincere thanks to this committee and the Mills' administration for your leadership. If I can provide clarity or answer any questions, please do not hesitate to contact me directly.

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