

# MAINE STATE LEGISLATURE

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New Draft of: S. P. 480, L. D. 1595

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ONE HUNDRED AND FIFTH LEGISLATURE

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Legislative Document

No. 1858

S. P. 663

In Senate, June 16, 1971

Reported by Senator Tanous of Penobscot from Committee on Labor and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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AN ACT to Amend the Employment Security Law to Conform  
to Federal Requirements.

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

Sec. 1. R. S., T. 26, § 1043, sub-§ 1, repealed and replaced. Subsection 1 of section 1043 of Title 26 of the Revised Statutes is repealed and the following enacted in place thereof:

1. Agricultural labor. "Agricultural labor" includes all services performed on a farm in the employ of the operator or group of operators of such farm in connection with the cultivation of the soil, the harvesting of crops or the management of livestock, bees or poultry or fur-bearing animals, or in connection with the processing, packing, transportation or marketing of the produce of such farm. Provided that storage sheds or warehouses operated by the operator or group of operators of a farm shall be considered as being part of the farm. Services performed for an operator or group of operators of a farm in connection with processing, packing, transportation, or marketing of the produce of such farm does not constitute "agricultural labor" unless more than  $\frac{1}{2}$  of the product is produced by the operator or group of operators for which the services were performed.

Lumbering and the cutting of wood for sale shall not be deemed "agricultural labor" unless carried on as an incident to ordinary farming operations.

The term "farm" shall include stock, dairy, poultry raising, fruit, fur-bearing animal and truck farms, nurseries, greenhouses and orchards.

This subsection shall not be deemed to be applicable with respect to service performed in connection with commercial canning or freezing or the commercial hatching of poultry.

**Sec. 2. R. S., T. 26, § 1043, sub-§ 2, amended.** Subsection 2 of section 1043 of Title 26 of the Revised Statutes is amended to read as follows:

2. Annual payroll. "Annual payroll" means the total amount of wages paid by an employer during a calendar year, not meaning, however, to include that part of individual wages or salaries in excess of \$3,000 in any calendar year through 1971, and \$4,200 in any subsequent calendar year.

**Sec. 3. R. S., T. 26, § 1043, sub-§ 9, ¶ A, amended.** Paragraph A of subsection 9 of section 1043 of Title 26 of the Revised Statutes is amended to read as follows:

**A.** On and after January 1, 1956, and prior to January 1, 1972, any employing unit which for some portion of a day, but not necessarily simultaneously, in each of 20 different weeks, whether or not such weeks were consecutive, within a calendar year starting with 1955, had in employment 4 or more individuals, irrespective of whether the same individuals are or were employed in each such day;

**Sec. 4. R. S., T. 26, § 1043, sub-§ 9, ¶ A-1, additional.** Subsection 9 of section 1043 of Title 26 of the Revised Statutes is amended by adding a new paragraph A-1 to read as follows:

**A-1.** On and after January 1, 1972, any employing unit which:

- (1) During any calendar quarter in either the current or preceding calendar year paid wages of \$1,500 or more, or
- (2) For some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or the preceding calendar year, has or had in employment one or more individuals, irrespective of whether the same individual was employed in each such day.

**Sec. 5. R. S., T. 26, § 1043, sub-§ 9, ¶¶ C, D, E, F and G, amended.** Paragraphs C, D, E, F and G of subsection 9 of section 1043 of Title 26 of the Revised Statutes, are amended to read as follows:

**C.** Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit not an employer subject to this chapter and which, if subsequent to such acquisition it were treated as a single unit with such other employing unit, would be an employer under ~~paragraph~~ paragraphs A, A-1 or H;

**D.** Any employing unit which together with one or more other employing units is owned or controlled, by legally enforceable means or otherwise, directly or indirectly by the same interests, or which owns or controls one or more other employing units, by legally enforceable means or otherwise, and which, if treated as a single unit with such other employing unit, or interests, or both, would be an employer under ~~paragraph~~ paragraphs A, A-1 or H;

**E.** Any employing unit not an employer by reason of any other paragraph of this subsection, for which within either the current or preceding calendar year service in employment is or was performed with respect to

which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a State Unemployment Fund, or which, as a condition for approval of this chapter for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such Act, to be an employer under this chapter;

F. Any employing unit which, having become an employer under paragraphs A, A-1, B, C, D, ~~or~~ G or H has not, under section 1222, ceased to be an employer subject to this chapter, or for the effective period of its election pursuant to section 1222, subsection 3, any other employing unit which has elected to become fully subject to this chapter; or

G. Any individual or employing unit which acquired any part of the organization, trade or business or assets of another which part had it been treated as a separate unit would have been an employer under ~~paragraph~~ paragraphs A, A-1 or H;

Sec. 6. R. S., T. 26, § 1043, sub-§ 9, ¶¶ H and I, additional. Subsection 9 of section 1043 of Title 26 of the Revised Statutes is amended by adding 2 new paragraphs H and I to read as follows:

H. Any employing unit for which service in employment, as defined in subsection 11, paragraph A-1, subparagraph (3) is performed after December, 31, 1971;

I. Any employing unit for which service in employment, as defined in subsection 11, paragraph A-1, subparagraph (1), is performed after December 31, 1971.

Sec. 7. R. S., T. 26, § 1043, sub-§ 11, ¶ A, sub-¶ (3), additional. Paragraph A of subsection 11 of section 1043 of Title 26 of the Revised Statutes is amended by adding a new subparagraph (3) to read as follows:

(3) The term "employment" shall include an individual's service, wherever performed within the United States, the Virgin Islands or Canada, if such service is not covered under the unemployment compensation law of any other state, the Virgin Islands or Canada, and the place from which the service is directed or controlled is in this State.

Sec. 8. R. S., T. 26, § 1043, sub-§ 11, ¶ A-1, additional. Subsection 11 of section 1043 of Title 26 of the Revised Statutes is amended by adding a new paragraph A-1 to read as follows:

A-1. After December 31, 1971, employment shall include:

(1) Notwithstanding paragraph F except as herein provided, service performed by an individual in the employ of this State or any of its instrumentalities, or in the employ of this State and one or more states or their instrumentalities, for a hospital or institution of higher education located in this State, provided that such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c) (7) of that Act and is not excluded under paragraph F, subparagraphs (21) to (28);

(2) Any service performed by an individual as an agent-driver or commission-driver engaged in laundry or dry-cleaning services, or in distributing meat products, vegetable products, fruit products, bakery products, beverages, other than milk, for his principal; as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal, except for side-line sales activities on behalf of some other person, of orders from wholesalers, retailers, contractors or operators of hotels, restaurants or other similar establishments for merchandise for resale or supplies for use in their business operations;

(3) Notwithstanding paragraph F except as herein provided, service performed in the employ of a religious, charitable, educational or other organization which is excluded from the term employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c) (8) of that Act; and the organization had 4 or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time; and such services are not excluded under paragraph F, subparagraphs (21) to (28).

(4) The service of an individual who is a citizen of the United States, performed outside the United States, except in Canada or the Virgin Islands, in the employ of an American employer, other than service which is deemed employment under paragraph A, if:

(a) The employer's principal place of business in the United States is located in this State; or

(b) The employer has no place of business in the United States, but the employer is an individual who is a resident of this State; or the employer is a corporation which is organized under the laws of this State; or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this State is greater than the number who are residents of any other state; or

(c) None of the criteria of divisions (a) and (b) is met but the employer has elected coverage in this State or, the employer having failed to elect coverage in any State, the individual has filed a claim for benefits, based on such service, under the law of this State;

(d) An American employer, for purposes of this subparagraph, means a person who is an individual who is a resident of the United States; or a partnership if  $\frac{2}{3}$  or more of the partners are residents of the United States; or a trust, if all of the trustees are residents of the United States; or a corporation organized under the laws of the United States or of any state;

(e) For purposes of this subparagraph, United States includes the states, the District of Columbia and the Commonwealth of Puerto Rico.

graph (1) of paragraph F of subsection 11 of section 1043 of Title 26 of the Revised Statutes is amended to read as follows:

(1) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions, except as provided by this subsection;

Sec. 10. R. S., T. 26, § 1043, sub-§ 11, ¶ F, sub-¶¶ (10) and (11), repealed and replaced. Subparagraphs (10) and (11) of paragraph F of subsection 11 of section 1043 of Title 26 of the Revised Statutes are repealed and the following enacted in place thereof:

(10) Services performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more states or political subdivisions; and any services performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by section 3301 of the Federal Internal Revenue Code; except as provided in paragraph A-1, subparagraph (1);

(11) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Federal Internal Revenue Code, other than an organization described in section 401(a) or under section 521, of such Code, if the remuneration for such service is less than \$50;

Sec. 11. R. S., T. 26, § 1043, sub-§ 11, ¶ F, sub-¶¶ (7), (8), (12), (13), (14) and (15), repealed. Subparagraphs (7), (8), (12), (13), (14) and (15) of paragraph F of subsection 11 of section 1043 of Title 26 of the Revised Statutes, are repealed January 1, 1972.

Sec. 12. R. S., T. 26, § 1043, sub-§ 11, ¶ F, sub-¶¶ (21) to (28), additional. Paragraph F of subsection 11 of section 1043 of Title 26 of the Revised Statutes, as amended, is further amended by adding 8 new subparagraphs, (21) to (28), to read as follows:

(21) Service performed in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(22) Service performed by a duly ordained, commissioned or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(23) Service performed in the employ of a school which is not an institution of higher education;

(24) Service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired

physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

(25) Service performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any Federal agency or an agency of a state or political subdivision thereof by an individual receiving such work-relief or work-training;

(26) Service performed in the employ of a hospital as defined in subsection 26 by a patient of such hospital;

(27) Service performed for a hospital in a state prison or other state correctional institution by an inmate of such prison or correctional institution;

(28) Service performed in the employ of a school, college or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university.

Sec. 13. R. S., T. 26, § 1043, sub-§ 11, ¶ G, amended. Paragraph G of subsection 11 of section 1043 of Title 26 of the Revised Statutes is amended to read as follows:

**G.** Notwithstanding any other provisions of this section, "employment" shall include service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter.

Sec. 14. R. S., T. 26, § 1043, sub-§ 19, amended. The first sentence of subsection 19 of section 1043 of Title 26 of the Revised Statutes, as repealed and replaced by section 4 of chapter 381 of the public laws of 1965, is amended to read as follows:

"Wages" means all remuneration for personal services, including commissions and, bonuses, gratuities and the cash value of all remuneration in any medium other than cash.

Sec. 15. R. S., T. 26, § 1043, sub-§ 19, ¶ A, amended. The first sentence of paragraph A of subsection 19 of section 1043 of Title 26 of the Revised Statutes, as repealed and replaced by section 4 of chapter 381 of the public laws of 1965, is amended to read as follows:

For purposes of section 1221, the term "wages" shall not include that part of remuneration which after remuneration equal to \$3,000 through December 31, 1971, and on and after January 1, 1972 that part of remuneration equal to \$4,200 has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year unless that part of the 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.

Sec. 16. R. S., T. 26, § 1043, sub-§ 25, additional. Section 1043 of Title 26 of the Revised Statutes, as amended, is further amended by adding a new subsection 25 to read as follows:

25. Institution of higher education. "Institution of higher education" means an educational institution which:

A. Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

B. Is legally authorized to provide a program of education beyond high school;

C. Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

D. Is a public or other non profit institution.

E. Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this State are institutions of higher education for purposes of this subsection.

Sec. 17. R. S., T. 26, § 1043, sub-§ 26, additional. Section 1043 of Title 26 of the Revised Statutes, as amended, is further amended by adding a new subsection 26 to read as follows:

26. Hospital. "Hospital" means an institution which has been licensed, certified or approved by the Department of Health and Welfare as a hospital.

Sec. 18. R. S., T. 26, § 1082, sub-§ 12, amended. The first paragraph of subsection 12 of section 1082 of Title 26 of the Revised Statutes is amended to read as follows:

The commission ~~is authorized to enter into~~ shall participate in any arrangements with the appropriate agencies of other states or the Federal Government ~~whereby potential rights of individuals to for the payment of benefits accumulated on the basis of combining an individual's wages and employment covered under this chapter and his wages and employment covered under the unemployment compensation or employment security laws of the several other states or under such law of the Federal Government, or both, may constitute the basis for the payment of benefits to such individuals through a single appropriate agency under terms which the commission finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations and which include provisions for applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under 2 or more state unemploy-~~



ment compensation laws, and avoiding the duplicate use of wages and employment by reason of such combining. The commission ~~is authorized to~~ shall reimburse such state or federal agency for such benefits as may be paid by that agency upon the basis of wages received in employment subject to this chapter or ~~to~~ shall receive from such state or federal agency such amounts as may be paid from the fund upon the basis of wages received in employment subject to the laws of such state or of the Federal Government. ~~Any reimbursement made in accordance with this subsection shall be charged against the accounts of the employers whose accounts would have been charged if such benefits had been paid directly by the commission.~~

Sec. 19. R. S., T. 26, § 1082, sub-§ 13, amended. Subsection 13 of section 1082 of Title 26 of the Revised Statutes, as repealed and replaced by section 1 of chapter 398 of the public laws of 1967 and as amended by chapter 519 of the public laws of 1967, is further amended by adding at the end a new paragraph to read as follows:

The commission may prescribe regulations for the filing of payroll reports for the employing units in the State commencing with the 4th calendar quarter of 1970, and the failure on the part of any employing unit to file the payroll reports within the time stated by the regulation of the commission shall render the employing unit liable to a penalty of \$10, unless the delay was occasioned by the illness or death of the person in charge of the records of the employing unit or by other unavoidable occurrence which shall excuse the employing unit from said penalty, except that an extension of time up to 30 days beyond the prescribed due date for a quarterly payroll report may be allowed by the commission for good cause upon written request made on or before the due date.

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

Sec. 20. R. S., T. 26, § 1082, sub-§ 13, amended. The first paragraph of subsection 13 of section 1082 of Title 26 of the Revised Statutes, as repealed and replaced by section 1 of chapter 398 of the public laws of 1967 and as amended by chapter 519 of the public laws of 1967, is repealed effective January 31, 1972.

Sec. 21. R. S., T. 26, § 1191, sub-§ 2, amended. The first sentence of subsection 2 of section 1191 of title 26 of the Revised Statutes, as last amended by chapter 388 of the public laws of 1969, is further amended to read as follows:

~~On and after April 1, 1970, each~~ Each eligible individual establishing a benefit year on and after January 1, 1972, who is totally unemployed in any week shall be paid with respect to such week, benefits equal to 1/22 of the wages, rounded to the nearest dollar, paid to him in the high quarter of his base period, but not less than ~~\$10~~ \$12.

Sec. 22. R. S., T. 26, § 1191, sub-§ 5, amended. Subsection 5 of section 1191 of Title 26 of the Revised Statutes, as enacted by chapter 323 of the public laws of 1967, is amended to read as follows:

5. Minimum amount of benefits. ~~On and after April 1, 1967, an~~ An individual otherwise eligible for benefits, whether for total or partial unemployment, with respect to any benefit year, shall not be deemed to have exhausted his benefits in any benefit year, until he has received, in benefits, at least ~~50% of the figure set forth in section 1192, subsection 5~~ \$300, notwithstanding any other provision in this chapter to the contrary.

Sec. 23. R. S., T. 26, § 1192, sub-§ 3, amended. The last sentence of subsection 3 of section 1192 of Title 26 of the Revised Statutes is repealed.

Sec. 24. R. S., T. 26, § 1192, sub-§ 5, amended. Subsection 5 of section 1192 of Title 26 of the Revised Statutes, as amended by section 12 of chapter 381 of the public laws of 1965 and by section 3 of chapter 398 of the public laws of 1967, is further amended to read as follows:

5. Has earned wages. He has been paid during his base period wages of at least \$600 for insured work. For the purpose of this subsection wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer by whom such wages were paid has satisfied the conditions of section 1043, subsection 9 or section 1222, subsection 3, with respect to becoming an employer; provided no individual may receive benefits in a benefit year, unless, subsequent to the beginning of the next preceding benefit year during which he received benefits, he performed services, whether or not in employment as defined in section 1043, subsection 11, and earned remuneration for such service in an amount equal to not less than 8 times his weekly benefit amount in the benefit year being established. This subsection applies only to any individual requesting determination of insured status on and after January 1, 1972.

Sec. 25. R. S., T. 26, § 1192, sub-§ 6, amended. Subsection 6 of section 1192 of Title 26 of the Revised Statutes, as enacted by chapter 340 of the public laws of 1967, is amended to read as follows:

6. Approved training. Notwithstanding any other provisions of this chapter, any otherwise eligible claimant ~~regularly attending a vocational in training course or program, as approved for him by the commission, under regulations adopted by the commission, shall not be denied benefits and maintained in whole or in part by a federal, state or other for any week with respect to section 1192, subsection 3, relating to availability and the work search requirement or the provisions of section 1193, subsection 3. public agency, shall be deemed to be available for work and while attending the course or program and making satisfactory progress in the training shall not be denied benefits solely because of his refusal of suitable work for which he is reasonably fitted, or because of his failure to take any other action by reason of which failure he would otherwise be subject to disqualification pursuant to section 1193, subsection 5, if the acceptance of the work would prevent him from successfully completing such training course or program~~ Benefits

paid to any eligible claimant while in training, as approved by the commission, for which regularly attending such an approved course or program for any period of unemployment for which, except for this subsection, the claimant could be disqualified under section 1193, subsection 3, shall not be charged against the experience rating record of any employer but shall be charged to the General Fund.

Sec. 26. R. S., T. 26, § 1192, sub-§ 7, additional. Section 1192 of Title 26 of the Revised Statutes, as amended, is further amended by adding a new subsection 7 to read as follows:

7. Service with hospitals and institutions of higher education. Benefits based on service in employment in State hospitals and institutions of higher education and organizations which are defined as being employers under section 1043, subsection 9, paragraph H or in hospitals and institutions of higher education operated by political subdivisions which have elected coverage, shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter; except that benefits based on service in an instructional, research or principal administrative capacity in an institution of higher education, as defined in section 1043, subsection 25, shall not be paid to an individual for any week of unemployment which begins during the period between 2 successive academic years, or during a similar period between 2 regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for any institution or institutions of higher education for both such academic years or both such terms.

Sec. 27. R. S., T. 26, § 1192, sub-§ 8, additional. Section 1192 of Title 26 of the Revised Statutes, as amended, is further amended by adding a new subsection 8 to read as follows:

8. No denial or reduction of benefits. Benefits shall not be denied or reduced to an individual solely because he files a claim in another state, or a contiguous country with which the United States has an agreement with respect to unemployment compensation, or because he resides in another state or contiguous country at the time he files a claim for benefits.

Sec. 28. R. S., T. 26, § 1193, sub-§ 1, ¶ A, amended. The first sentence of paragraph A of subsection 1 of section 1193 of Title 26 of the Revised Statutes, as amended by section 13 of chapter 381 and section 4 of chapter 457, both of the public laws of 1965, is further amended to read as follows:

For the week in which he left his regular employment voluntarily without good cause attributable to such employment, ~~or with respect to a female claimant who has voluntarily left work to marry, or to perform the customary duties of a housewife, or to leave the locale to live with her husband or to a claimant who has voluntarily removed himself from the labor market where presently employed to an area where employment opportunity is less frequent, if so found by the commission, and disqualification shall continue for~~

12 weeks immediately following such week or until claimant has earned 8 times his weekly benefit amount, whichever occurs first.

Sec. 29. R. S., T. 26, § 1194, sub-§ 2, amended. The 2nd sentence of the 4th paragraph of subsection 2 of section 1194 of Title 26 of the Revised Statutes is amended to read as follows :

~~Unless Subject to the provisions of subsection 11, unless the claimant or any such interested party, within 7 calendar days after such notification was mailed to his last known address, files an appeal from such determination, such determination shall be final and benefits shall be paid or denied in accordance therewith.~~

Sec. 30. R. S., T. 26, § 1194, sub-§ 2, amended. The last 4 sentences of the 4th paragraph of subsection 2 of section 1194 of Title 26 of the Revised Statutes are repealed.

Sec. 31. R. S., T. 26, § 1194, sub-§ 3, amended. The last 2 sentences of subsection 3 of section 1194 of Title 26 of the Revised Statutes are amended to read as follows :

The parties shall be then duly notified of such tribunal's decision, together with its reasons therefor, which ~~subject to subsection 11~~ shall be deemed to be the final decision of the commission, unless within 15 days after the date of notification or mailing of such decision, ~~further appeal is initiated pursuant to subsection 5~~ the claimant and employer may appeal to the commission by filing an appeal in accordance with such rules as the commission shall prescribe provided that 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. ~~When an employer appeals from a deputy's decision in favor of a claimant and such appeal is limited solely to the issue as to which of one or more employer experience rating records or the general fund shall be charged, such appeal shall not interrupt the payment of benefits for continuous un-employment~~

Sec. 32. R. S., T. 26, § 1194, sub-§ 8, amended. The first sentence of subsection 8 of section 1194 of Title 26 of the Revised Statutes is amended to read as follows :

~~Any~~ Subject to the provisions of subsection 11, any decision of the commission shall become final 10 days after the date of notification or mailing thereof and any party aggrieved thereby shall have 15 days thereafter in which to perfect his or her appeal to the courts.

Sec. 33. R. S., T. 26, § 1194, sub-§ 10, amended. The last sentence of the 2nd paragraph of subsection 10 of section 1194 of Title 26 of the Revised Statutes is amended to read as follows :

~~Unless Subject to the provisions of subsection 11, unless the claimant files an appeal from such redetermination within 7 calendar days after such notification was mailed to his last known address such redetermination shall be final and benefits shall be paid or denied in accordance therewith.~~

Sec. 34. R. S., T. 26, § 1194, sub-§ 11, additional. Section 1194 of Title 26 of the Revised Statutes is amended by adding a new subsection 11 to read as follows :

11. Prompt payment of claims.

A. Benefits shall be paid promptly in accordance with a determination, reconsidered determination, redetermination, decision of an appeal tribunal, the commission, or a reviewing court under this section upon the issuance of such determination, reconsidered determination, redetermination or decision, regardless of the pendency of the period to apply for reconsideration, file an appeal, or petition for judicial review that is provided with respect thereto in this section or the pendency of any such application, filing or petition, unless and until such determination, redetermination or decision has been modified or reversed by a subsequent reconsidered determination, redetermination or decision. In which event benefits will be paid or denied for weeks of unemployment thereafter in accordance with such reconsidered determination, modified or reversed determination, redetermination or decision.

B. If an appeal tribunal affirms a determination of a deputy or the commission affirms a determination of an appeal tribunal, allowing benefits any subsequent appeal will be limited solely to the issue as to whether or not the employer's experience rating record is to be charged.

C. If any determination, reconsidered determination, redetermination or decision awarding benefits is finally modified or reversed, any benefits paid to the claimant which would not have been paid under such final decision shall be deemed to be erroneous payments that are not chargeable to the account of any employer.

Sec. 35. R. S., T. 26, § 1221, sub-§ 3, ¶ A, sub-¶ (4), repealed. Subparagraph (4) of paragraph A of subsection 3 of section 1221 of Title 26 of the Revised Statutes is repealed January 1, 1972.

Sec. 36. R. S., T. 26, § 1221, sub-§ 3, ¶ A, sub-¶ (5), additional. Paragraph A of subsection 3 of section 1221 of Title 26 of the Revised Statutes is amended by adding a new subparagraph (5), to read as follows :

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

Sec. 37. R. S., T. 26, § 1221, sub-§ 3, ¶ D, additional. Subsection 3 of section 1221 of Title 26 of the Revised Statutes, as amended by section 19 of chapter 381 of the public laws of 1965, is further amended by adding a new paragraph D, to read as follows :

D. This subsection shall apply only to employees subject to payment of contributions as provided in subsections 1 and 2.

Sec. 38. R. S., T. 26, § 1221, sub-§ 4, ¶ A, repealed and replaced. Paragraph A of subsection 4 of section 1221 of Title 26 of the Revised Statutes is repealed and the following enacted in place thereof:

A. The standard rate of contributions shall be 2.7%. No contributing employer's rate shall be varied from the standard rate unless and until his experience rating record has been chargeable with benefits throughout the 36-consecutive-calendar-month period ending on the computation date applicable to such year; provided, that with respect to the rate year beginning July 1, 1972, and each rate year thereafter, the rate of any contributing employer who has not been subject to this chapter for a sufficient period of time to meet the 36-month requirement may be varied from the standard rate if there shall have been a lesser period throughout which his experience rating record has been chargeable with benefits, but in no case less than the 24-consecutive-calendar-month period ending on the computation date applicable to such year; provided, further, that beginning January 1, 1972, and with respect to each rate year thereafter each contributing employer newly subject to this chapter shall pay contributions at the rate of 2% until such time as his experience rating record has been chargeable with benefits throughout the 24-consecutive-calendar-month period ending on the computation date applicable to such year, and for rate years thereafter his contribution rate shall be determined in accordance with subsections 3 and 4.

Sec. 39. R. S., T. 26, § 1221, sub-§ 4, ¶ B, amended. The 2nd paragraph and the Table following it, of paragraph B of subsection 4 of section 1221 of Title 26 of the Revised Statutes, as amended, are repealed and the following enacted in place thereof:

His contribution rate is the percent shown on the line of the following table on which in column A there is indicated his reserve ratio and under the column within which the amount in the fund falls as of the computation date.

**EMPLOYER'S CONTRIBUTION RATE IN PERCENT OF WAGES**

Reserve Ratio		Amount in Fund in Millions				
Equal to or more than	Less Than	Over 40	Over 35 not over 40	Over 30 not over 35	Over 25 not over 30	Under 25
Column A		B	C	D	E	F
19.0% and over		0.5%	0.7%	0.9%	1.5%	1.9%
18.0%	19.0%	0.6%	0.8%	1.0%	1.6%	2.0%
17.0%	18.0%	0.7%	0.9%	1.1%	1.7%	2.1%
16.0%	17.0%	0.8%	1.0%	1.2%	1.8%	2.2%
15.0%	16.0%	0.9%	1.1%	1.3%	1.9%	2.3%
14.0%	15.0%	1.0%	1.2%	1.4%	2.0%	2.4%
13.0%	14.0%	1.1%	1.3%	1.5%	2.1%	2.5%
12.0%	13.0%	1.2%	1.4%	1.6%	2.2%	2.6%
11.0%	12.0%	1.3%	1.5%	1.7%	2.3%	2.7%

10.0%	11.0%	1.4%	1.6%	1.8%	2.4%	2.8%
9.0%	10.0%	1.5%	1.7%	1.9%	2.5%	2.9%
8.0%	9.0%	1.6%	1.8%	2.0%	2.6%	3.0%
7.0%	8.0%	1.7%	1.9%	2.1%	2.7%	3.1%
6.0%	7.0%	1.8%	2.0%	2.2%	2.8%	3.2%
5.0%	6.0%	1.9%	2.1%	2.3%	2.9%	3.3%
4.0%	5.0%	2.0%	2.2%	2.4%	3.0%	3.4%
3.0%	4.0%	2.2%	2.4%	2.6%	3.2%	3.6%
2.0%	3.0%	2.4%	2.6%	2.8%	3.4%	3.8%
1.0%	2.0%	2.6%	2.8%	3.0%	3.6%	4.0%
.0%	1.0%	2.8%	3.0%	3.2%	3.8%	4.2%
Negative balance		3.1%	3.3%	3.5%	4.0%	4.5%

Notwithstanding any other provisions of this paragraph, each employer's contribution rate for the period from January 1, 1972 through June 30, 1972 shall be the percent shown on the line of the preceding table on which in column A there is indicated his reserve ratio for the computation date December 31, 1970, and under column F.

Sec. 40. R. S., T. 26, § 1221, sub-§ 4, ¶ C, repealed and replaced. Paragraph C of subsection 4 of section 1221 of Title 26 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

C. If at any time, from January 1, 1972 to December 31, 1972, the net balance available for benefit payments equals or is less than \$15,000,000, or from January 1, 1973 to December 31, 1973 the net balance available for benefit payments equals or is less than \$17,500,000, or on and after January 1, 1974 the net balance available for benefit payments equals or is less than \$20,000,000; and, in the opinion of the commission, an emergency exists such as to seriously impair the fund, the commission may, after reasonable notices and public hearing, forthwith impose the rates shown in column F of the schedule carried in paragraph B and, in addition thereto, increase such rates by not more than .5% and continue said rates, and additions thereto, in force until, in the opinion of the commission, such emergency no longer exists, or until the date set by this chapter for the computation of rates, whichever is earlier.

Sec. 41. R. S., T. 26, § 1221, sub-§ 10, additional. Section 1221 of Title 26 of the Revised Statutes, as amended, is further amended by adding a new subsection 10, to read as follows:

10. Liability for contributions and election of reimbursement. Benefits paid to employees of nonprofit organizations shall be financed in accordance with this subsection. For the purpose of this subsection a nonprofit organization is an organization, or group of organizations, described in section 501 (c) (3) of the U. S. Internal Revenue Code which is exempt from income tax under section 501 (a) of such code. A nonprofit organization shall pay contributions as provided in subsections 1 and 2, unless it elects in accordance with this subsection to pay to the commission for the unemployment compensation fund, in lieu of such contributions, an amount equal to the amount of regular benefits and of  $\frac{1}{2}$  of extended benefits paid, that are

attributable to service in the employ of such employer to individuals for weeks of unemployment which began during the effective period of such election.

A. Any nonprofit organization which is or becomes subject to this chapter January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than 2 calendar years beginning with January 1, 1972, provided it files with the commission a written notice of its election within a 30-day period immediately following such date. Any nonprofit organization which becomes subject to this chapter after January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of 2 calendar years beginning with the date on which such subjectivity begins by filing a written notice of its election with the commission not later than 30 days immediately following the date of determination of its subjectivity. Any nonprofit organization which makes an election in accordance with this paragraph will continue to be liable for payments in lieu of contributions until it files with the commission a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which such termination shall first be effective.

B. Any employing unit which has become an employer pursuant to section 1043, subsection 9, paragraph H which has been paying contributions under this chapter may change to a reimbursable basis by filing with the commission not later than 30 days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by such employer for that and the next calendar year.

C. If any employer who has elected to make payments in lieu of contributions is delinquent in making payments as required under this subsection, the commission may terminate such employer's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be effective for that and the next calendar year and such employer shall be liable for contributions until an election of reimbursements is filed pursuant to paragraph B.

D. The commission may for good cause extend the period within which a notice of election or a notice of termination must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1971.

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

Sec. 42. R. S., T. 26, § 1221, sub-§ 11, additional. Section 1221 of Title 26 of the Revised Statutes, as amended, is further amended by adding a new subsection 11, to read as follows:



11. Reimbursement payments in lieu of contributions. Reimbursement payments in lieu of contributions shall be made in accordance with this subsection.

A. At the end of each period as determined by the commission, the commission shall assess each employer who has elected to make payments in lieu of contributions an amount equal to the full amount of regular benefits plus  $\frac{1}{2}$  of the amount of extended benefits paid during such period that are attributable to service in the employ of such organization.

B. Payment of any assessment rendered under paragraph A shall be made not later than 30 days after such assessment was mailed to the last known address of such employer, unless there has been an application for redetermination in accordance with paragraph D.

C. Payments made by an employer under this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of such employer.

D. The amount due specified in any assessment from the commission shall be conclusive on the employer, unless not later than 15 days after the assessment was mailed to the last known address of such employer, the employer files an application for redetermination by the commission setting forth the grounds for such application.

E. Past-due payments of amounts in lieu of contributions shall be subject to the same interest, penalties and collection provisions that, pursuant to section 1223, subsections 1, 2, 3, and 4 apply to past-due contributions.

F. The commission shall promptly review and reconsider the amount due specified in the assessment and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the employer unless, not later than 15 days after the redetermination was mailed to his last known address, the employer files an appeal in accordance with section 1223, subsection 8.

Sec. 43. R. S., T. 26, § 1221, sub-§ 12, additional. Section 1221 of Title 26 of the Revised Statutes, as amended, is further amended by adding a new subsection 12, to read as follows:

12. Provision of bond or other security. In the discretion of the commission, any employer who elects to become liable for payments in lieu of contributions shall be required within 60 days after the effective date of his election to execute and file with the commission a surety bond or he may elect to deposit with the commission money or securities as approved by the commission; upon the failure of an employer to comply with this subsection within the time limits imposed, the commission may terminate such employer's election to make payments in lieu of contributions and such termination shall be effective for the current and next calendar year.

Sec. 44. R. S., T. 26, § 1221, sub-§ 13, additional. Section 1221 of Title 26 of the Revised Statutes, as amended, is further amended by adding a new subsection 13, to read as follows:

13. Payments by the State, any political subdivisions, or instrumentalities. When the State or any political subdivision or any of their instrumentalities become an employer payments to the commission shall be made to the Unemployment Compensation Fund, in lieu of contributions as provided in subsections 1 and 2. Such payments shall be made in an amount equal to the amount of regular benefits and  $\frac{1}{2}$  of extended benefits paid that are attributable to service in the employ of the State or political subdivisions or instrumentalities. Payments of the amounts due shall be made in accordance with such regulations as the commission may prescribe.

Sec. 45. R. S., T. 26, § 1221, sub-§ 14, additional. Section 1221 of Title 26 of the Revised Statutes, as amended, is further amended by adding a new subsection 14, to read as follows:

14. Allocation of benefit costs. Each employer who is liable for payments in lieu of contributions shall pay to the commission for the fund the amount of regular benefits plus the amount of  $\frac{1}{2}$  of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer who is liable for such payments shall be determined in accordance with paragraph A or B.

A. If benefits paid to an individual are based on wages paid by one or more employers who are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer who is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employers.

B. If benefits paid to an individual are based on wages paid by 2 or more employers who are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employers.

C. When it has been determined that benefits have been erroneously paid to a claimant and entitlement is based in whole or in part on wages with an employer who is liable for payments in lieu of contributions, such employer's proportionate share of such erroneous payment will be credited at the time recovery is effected.

Sec. 46. R. S., T. 26, § 1221, sub-§ 15, additional. Section 1221 of Title 26 of the Revised Statutes, as amended, is further amended by adding a new subsection 15, to read as follows:

15. Group accounts. Two or more employers that have become liable for payments in lieu of contributions, in accordance with subsections 10 and 13

may file a joint application to the commission 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. Each such application shall 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 commission shall establish a group account for such employers effective as of the beginning of the calendar quarter in which it receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than 2 years and thereafter until terminated at the discretion of the commission or upon application by the group. Upon establishment of the account, each member of the group shall be 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 shall prescribe such regulations as it deems 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. 47. R. S., T. 26, § 1222, sub-§ 2, amended. Subsection 2 of section 1222 of Title 26 of the Revised Statutes is amended to read as follows:

**2. Termination of employer's coverage.**

**A.** Except as otherwise provided in subsection 3, an employing unit which became an employer under section 1043, subsection 9, paragraph H shall cease to be an employer subject to this chapter as of the first day of January of any calendar year, only if it files with the commission, prior to the 31st day of January of such year, a written application for termination of coverage, and the commission finds that there were no 20 different days, each day being in a different week within the preceding calendar year, within which such employing unit employed 4 or more individuals in employment subject to this chapter. For the purpose of this subsection, the 2 or more employing units mentioned in section 1043, subsection 9, paragraph B or C or D shall be treated as a single employing unit.

**B.** The commission may upon its own motion terminate coverage of any employer who became an employer under section 1043, subsection 9, paragraph H when the commission finds that there were no 20 different days, each day being in a different week within the preceding calendar year, within which such employing unit employed 4 or more individuals in employment subject to this chapter; and the commission may, upon its own motion terminate the coverage of an employing unit which had become an employer by virtue of subsection 3, as of January 1st of any calendar year when such employing unit has, by virtue of approval of its election to become a subject employer, been such a subject employer for the 2 or more preceding calendar years.

C. Except as otherwise provided in subsection 3, an employing unit shall cease to be an employer subject to this chapter as of the 1st day of January of any calendar year, only if it files with the commission, prior to the 31st day of January of such year, a written application for termination of coverage, and the commission finds that there were no 20 different weeks, within the preceding calendar year, within which such employing unit employed one or more individuals in employment subject to this chapter, and did not pay wages of \$1,500 in any calendar quarter. For the purpose of this subsection, the 2 or more employing units mentioned in section 1043, subsection 9, paragraph B or C or D shall be treated as a single employing unit.

D. The commission may upon its own motion terminate coverage of any employer when the commission finds that there were no 20 different weeks within the preceding calendar year, within which such employing unit employed one or more individuals in employment subject to this chapter and did not pay wages of \$1,500 in any calendar quarter; and the commission may upon its own motion terminate the coverage of an employing unit which had become an employer by virtue of subsection 3, paragraphs A and B as of January 1st of any calendar year when such employing unit has, by virtue of approval of its election to become a subject employer, been such a subject employer for the 2 or more preceding calendar years.

Sec. 48. R. S., T. 26, § 1222, sub-§ 3, ¶ C, additional. Subsection 3 of section 1222 of Title 26 of the Revised Statutes is amended by adding a new paragraph C, to read as follows:

C. Any political subdivision of this State may elect to cover under this chapter service performed by employees in all of the hospitals and institutions of higher education, as defined in section 1043, subsection 25 and 26, operated by such political subdivision:

(1) Election is to be made by filing with the commission a notice of such election at least 30 days prior to the effective date of such election. The election may exclude any services described in section 1043, subsection 11, paragraph F.

(2) An election under this section may be terminated by filing with the commission written notice not later than 30 days preceding the last day of the calendar year in which the termination is to be effective. Such termination becomes effective as of the first day of the next ensuing calendar year with respect to services performed after that date.

Sec. 49. Effective dates. Sections 1 to 18 and sections 21 to 48 of this Act shall become effective January 1, 1972. Section 20 of this Act shall become effective January 31, 1972.