

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
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3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
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5 Legislative Document

No. 978

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7 S.P. 333

In Senate, March 3, 1983

8 Submitted by the Department of Labor pursuant to Joint Rule 24.

9 Referred to the Committee on Labor. Sent down for concurrence and  
ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Baldacci of Penobscot.

Cosponsors: Representative Norton of Biddeford, Representative Beaulieu  
of Portland, and Representative Gauvreau of Lewiston.

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12 STATE OF MAINE  
13

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14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

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17 AN ACT to Clarify the Administration of  
18 the Department of Labor.  
19

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

22 Sec. 1. 2 MRSA §6, sub-§5, as repealed and  
23 replaced by PL 1981, c. 705, Pt. L, §§1-3, is amended  
24 to read:

25 5. Range 86. The salaries of the following  
26 state officials and employees shall be within the  
27 salary range 86:

28 Director of Labor Standards;

29 Deputy Chief of the State Police;

30 Director of State Lotteries;

1 State Archivist;  
2 Director of Maine Geological Survey;  
3 Executive Director, Maine Land Use Regulation  
4 Commission; and  
5 Chairman, Maine Employment Security Unemployment  
6 Insurance Commission.

7 Sec. 2. 2 MRSA §6, sub-§6, as repealed and  
8 replaced by PL 1981, c. 705, Pt. L, §§1-3, is amended  
9 to read:

10 6. Range 85. The salaries of the following  
11 state officials and employees shall be within salary  
12 range 85:

13 Director of Veterans' Services;  
14 Director of Civil Emergency Preparedness;  
15 Executive Director, Historic Preservation Commis-  
16 sion;  
17 Members, Maine Employment Security Unemployment  
18 Insurance Commission; and  
19 Deputy Adjutant General (Director of Military  
20 Bureau).

21 Sec. 3. 26 MRSA §1043, sub-§7, as amended by PL  
22 1979, c. 651, §§5 and 47, is further amended to read:

23 7. Commission. "Commission" means the 3-member  
24 Employment Security Unemployment Insurance Commis-  
25 sion.

26 Sec. 4. 26 MRSA §1045, sub-§1 is amended to  
27 read:

28 1. Civil actions. In any civil action to enforce  
29 this chapter, the commission bureau and the State may  
30 be represented by any qualified attorney who is  
31 employed by the commission bureau and designated by  
32 it for this purpose or at the commission's commis-  
33 sioner's request by the Attorney General.

1           Sec. 5. 26 MRSA §1051, sub-§5, as amended by PL  
2 1981, c. 327, is further amended to read:

3           5. Refusal to repay erroneous payments; waiver  
4 of repayment. If, after due notice, any person  
5 refuses to repay amounts erroneously paid to him as  
6 unemployment benefits, the amounts due from that  
7 person shall be collectible in the manner provided in  
8 subsection 6 or ~~in the discretion of the commission~~  
9 the amount erroneously paid to such person may be  
10 deducted from any future benefits payable to him  
11 under this chapter. Provided that, in accordance  
12 with regulations of the commission, there shall be no  
13 recovery of payments from any person who, in the  
14 judgment of at least 2 commissioners, in the determi-  
15 nation of a deputy, is without fault on his part and  
16 where, in the judgment of the commission, such that  
17 recovery would defeat the purpose of benefits other-  
18 wise authorized or would be against equity and good  
19 conscience. No recovery may be attempted until the  
20 determination of an erroneous payment is final as to  
21 law and fact and the individual has been notified by  
22 a deputy of the opportunity for a waiver under this  
23 subsection.

24           Sec. 6. 26 MRSA §1051, sub-§6, ¶A, as enacted  
25 by PL 1977, c. 460, §3, is amended to read:

26           A. The amount due may be collected by civil ac-  
27 tion in the name of the ~~commission~~ commissioner.

28           Sec. 7. 26 MRSA §1081, sub-§1, as amended by PL  
29 1981, c. 286, §1, is further amended to read:

30           1. Commission. The Maine Employment Security  
31 Unemployment Insurance Commission, as heretofore cre-  
32 ated, shall consist of 3 members, one of whom shall  
33 be a representative of labor, one of whom shall be a  
34 representative of employers, and one of whom shall be a  
35 representative of the general public who shall be  
36 impartial and shall be the chairman of the commis-  
37 sion. Except as provided in this subsection, the 3  
38 members and their successors shall be appointed by  
39 the Governor, subject to review by the Joint Standing  
40 Committee on Labor joint standing committee of the  
41 Legislature having jurisdiction over labor and to  
42 confirmation by the Senate, to hold office for a term

1 of 6 years or until a successor has been duly  
2 appointed and qualified, except that any member  
3 appointed to fill a vacancy occurring prior to the  
4 expiration of the term for which his predecessor was  
5 appointed shall be appointed for the remainder of the  
6 term. During his term of membership on the commis-  
7 sion, a member shall not engage in any other busi-  
8 ness, vocation or employment, nor serve as an officer  
9 or committee member of any political organization.

10 Sec. 8. 26 MRSA §1081, sub-§3, as amended by PL  
11 1977, c. 675, §5, is further amended to read:

12 3. Quorum. Any 2 members of the commission  
13 shall constitute a quorum. Whenever the commission  
14 hears any case involving a disputed claim for bene-  
15 fits under this chapter, the chairman shall act alone  
16 in the absence or disqualification of any other  
17 member, provided that in the event of illness or  
18 extended absence on the part of the chairman or in  
19 the event of a vacancy in that position, the remain-  
20 ing members may act on appeals and conduct hearings  
21 and render a decision, provided both members agree.  
22 Except as otherwise provided, no vacancy shall impair  
23 the right of the remaining members to exercise all of  
24 the powers of the commission. Any action, decision,  
25 order, rule or recommendation which is required by  
26 law to be made by the Maine Employment Security Unem-  
27 ployment Insurance Commission shall not be made until  
28 the commission has held a meeting in the regular  
29 course of its business for which all members have  
30 been provided with reasonable notice of the meeting  
31 and its agenda.

32 Sec. 9. 26 MRSA §1082, sub-§1, as amended by PL  
33 1981, c. 168, §11, is repealed and the following  
34 enacted in its place:

35 1. Powers and duties of the commis-  
36 sioner. Except as otherwise provided, it shall be  
37 the duty of the Commissioner of Labor to administer  
38 this chapter, through an organization to be known as  
39 the Bureau of Employment Security. The commissioner  
40 may employ such persons, make such expenditures, re-  
41 quire such reports, make such investigations and take  
42 such other actions as he deems necessary or suitable  
43 to that end. He shall determine his own organization

1 and shall have an official seal which shall be judi-  
2 cially noticed. The commissioner shall determine  
3 methods of operational procedures in accordance with  
4 the provisions of this chapter and by the Maine  
5 Administrative Procedure Act, Title 5, chapter 375.  
6 The commissioner shall make such recommendations for  
7 amendments to this chapter as he deems proper. When-  
8 ever the commissioner believes that a change in con-  
9 tribution or benefit rates will become necessary to  
10 protect the solvency of the fund, he shall promptly  
11 so inform the Governor and the Legislature and make  
12 recommendations with respect thereto.

13       Sec. 10. 26 MRSA §1082, sub-§2, as amended by PL  
14 1981, c. 168, §12, is repealed and the following  
15 enacted in its place:

16       2. Powers and duties of the commission. In ad-  
17 dition to other powers and duties provided in this  
18 chapter, the commission, with the advice and consent  
19 of the commissioner, may adopt or rescind rules, re-  
20 quire reports, make investigations and take other ac-  
21 tions as it deems necessary or suitable to carry out  
22 its duties. The procedures of the commission shall  
23 be governed by the Maine Administrative Procedure  
24 Act, Title 5, chapter 375. Each member of the com-  
25 mission shall have access to any information, memo-  
26 randa, reports or statistical data which is in the  
27 possession of or which has been prepared by any divi-  
28 sion of the Department of Labor and which relates to  
29 the administration of this chapter.

30       Sec. 11. 26 MRSA §1082, sub-§4, as amended by PL  
31 1981, c. 168, §14, is further amended to read:

32       4. Personnel. Subject to other provisions of  
33 this chapter, the Commissioner of Labor is authorized  
34 to appoint and prescribe the duties and powers of,  
35 and fix the compensation of, such officers, account-  
36 ants, attorneys, experts and other persons as may be  
37 necessary in the performance of his duties, subject  
38 to the Personnel Law. The commissioner may delegate  
39 to any such person so appointed such power and  
40 authority as is reasonable and proper for the effec-  
41 tive administration of this chapter, and may in his  
42 discretion bond any person handling moneys or signing  
43 checks under this chapter. On request of the commis-

1 sioner, the Attorney General shall represent the  
2 department, the Maine Employment Security Commission  
3 commission and the State in any court action relating  
4 to this chapter or to its administration and enforce-  
5 ment. Special counsel may be retained by the commis-  
6 sioner in accordance with Title 5, section 196, whose  
7 service and expenses shall be paid from the funds  
8 provided for the administration of this chapter. The  
9 commissioner shall not employ or pay any person who  
10 is an officer or committee member of any political  
11 party organization.

12 Sec. 12. 26 MRSA §1082, sub-§7, as amended by PL  
13 1979, c. 651, §§18 and 47, is further amended to  
14 read:

15 7. Records and reports. Each employing unit  
16 shall keep true and accurate work records, containing  
17 such information as the ~~commission~~ commissioner may  
18 prescribe. ~~Such~~ These records shall be open to  
19 inspection and be subject to being copied by the com-  
20 missioner or his authorized representatives at any  
21 reasonable time and as often as may be necessary.  
22 The commissioner may require from any employing unit  
23 any sworn or unsworn reports, with respect to persons  
24 employed by it, which the commissioner deems neces-  
25 sary for the effective administration of this chap-  
26 ter. Information thus obtained or obtained from any  
27 individual pursuant to the administration of this  
28 chapter shall, except to the extent necessary for  
29 proper presentation of a claim, be held confidential  
30 and shall not be published or be open to public  
31 inspection, other than to public employees in the  
32 performance of their public duties, in any manner  
33 revealing the individual's or employing unit's iden-  
34 tity, but any claimant or his legal representative at  
35 a hearing before an appeal tribunal or the commission  
36 shall be supplied with information from ~~such~~ the  
37 records to the extent necessary for the proper pre-  
38 sentation of his claim. Records, with any necessary  
39 authentication thereof, required in the prosecution  
40 of any criminal action brought by another state for  
41 misrepresentation to obtain benefits under the law of  
42 this State shall be made available to the agency ad-  
43 ministering the employment security law of any such  
44 state for the purpose of such prosecution. Any  
45 person who violates any provision of this subsection  
46 shall be guilty of a Class E crime.

1           Sec. 13. 26 MRSA §1082, sub-§8, as amended by PL  
2 1977, c. 694, §470, is further amended to read:

3           8. Oaths and witnesses. In the discharge of the  
4 duties imposed by this chapter, the commission, the  
5 chairman of an appeal tribunal and any duly author-  
6 ized representative of either of them shall have  
7 power to administer oaths and affirmations, take  
8 depositions, certify to official acts and issue sub-  
9 poenas to compel the attendance of witnesses and the  
10 production of books, papers, correspondence, memo-  
11 randa and other records deemed necessary as evidence  
12 in connection with a disputed claim or the adminis-  
13 tration of this chapter. Oaths and affirmations re-  
14 quired by reason of duties performed pursuant to this  
15 chapter may be administered by any of such persons as  
16 may be designated for the purpose by the ~~commission~~  
17 commissioner. In the discharge of the duties imposed  
18 by this chapter, the commission, the chairman of an  
19 appeal tribunal or any duly authorized representative  
20 of either of them, when the interests of any inter-  
21 ested party demand, may issue commissions to take  
22 depositions to any unemployment compensation or  
23 employment security official empowered to take such  
24 depositions under this chapter or the laws of any  
25 other state, for either of the following causes:

26           A. When the deponent resides out of, or is ab-  
27 sent from, the State;

28           B. When the deponent is bound to sea or is about  
29 to go out of the State; or

30           C. When the deponent is so aged, infirm or sick  
31 as to be unable to attend at the place of hear-  
32 ing.

33 Such depositions shall be taken by written interroga-  
34 tories to be compiled by the commission or the appeal  
35 tribunal, and the adverse party shall be afforded an  
36 opportunity to refute such testimony before a deter-  
37 mination is made. The deponent shall be sworn and  
38 the deposition shall be signed and sworn to by the  
39 deponent before admissible as testimony at a hearing  
40 before the appeal tribunal or the commission.

41 Subpoenas shall be issued pursuant to Title 5,  
42 section 9060.



1           Sec. 14. 26 MRSA §1082, sub-§12, as amended by  
2 PL 1979, c. 541, Pt. A, §181 is further amended to  
3 read:

4           12. Reciprocal benefit arrangements. The commis-  
5 sioner shall participate in any arrangements with the  
6 appropriate agencies of other states or the Federal  
7 Government for the payment of benefits on the basis  
8 of combining an individual's wages and employment  
9 covered under this chapter and his wages and employ-  
10 ment covered under the unemployment compensation or  
11 employment security laws of other states which are  
12 approved by the United States Secretary of Labor in  
13 consultation with the state unemployment compensation  
14 agencies as reasonably calculated to assure the  
15 prompt and full payment of compensation in such  
16 situations and which include provisions for applying  
17 the base period of a single state law to a claim  
18 involving the combining of an individual's wages and  
19 employment covered under 2 or more state unemployment  
20 compensation laws, and avoiding the duplicate use of  
21 wages and employment by reason of such combining. The  
22 commissioner shall reimburse such state or federal  
23 agency for such benefits as may be paid by that  
24 agency upon the basis of wages received in employment  
25 subject to this chapter or shall receive from such  
26 state or federal agency such amounts as may be paid  
27 from the fund upon the basis of wages received in  
28 employment subject to the laws of such state or of  
29 the Federal Government.

30           The commissioner is authorized to enter into reciproc-  
31 al agreements with the appropriate agencies of other  
32 states or the Federal Government adjusting the col-  
33 lection and payment of contributions by employers  
34 with respect to services of individuals not performed  
35 wholly within the jurisdiction of this State whereby  
36 such services may be agreed upon to be considered for  
37 all purposes, if the commissioner so desires, as  
38 wholly within, or wholly without, the jurisdiction of  
39 this State, notwithstanding any provisions of section  
40 1043, subsection 11.

41           The commissioner is authorized to make such investi-  
42 gations, secure and transmit such information, make  
43 available such services and facilities and exercise  
44 such of the other powers provided herein with respect

1 to the administration of this chapter as he deems  
2 necessary or appropriate to facilitate the adminis-  
3 tration of any unemployment compensation, employment  
4 security or public employment service law, and in  
5 like manner to accept and utilize information, ser-  
6 vices and facilities made available to this State by  
7 any agency charged with the administration of any  
8 such other unemployment compensation, employment  
9 security or public employment service law. To the  
10 extent permissible under the laws and Constitution of  
11 the United States, the commissioner is authorized to  
12 enter into or cooperate in arrangements whereby  
13 facilities and services provided under this chapter  
14 and facilities and services provided under the unem-  
15 ployment compensation or employment security laws of  
16 any foreign government may be utilized for the taking  
17 of claims and the payment of benefits under this  
18 chapter, or under a similar law of such government.  
19 On request of any agency which administers an employ-  
20 ment security law of another state, and which has  
21 found in accordance with such law that a claimant is  
22 liable to repay benefits received under such law by  
23 reason of having knowingly made a false statement or  
24 misrepresentation of a material fact with respect to  
25 a claim taken in this State as an agent for such  
26 agency, the commissioner may collect from such claim-  
27 ant the amount of such benefits to be refunded to  
28 such agency.

29 In any case in which under this subsection a claimant  
30 is liable to repay any amount to the agency of  
31 another state, such amounts may be collected without  
32 interest by civil action in the name of the commis-  
33 sioner acting as agent for such agency.

34 ~~The commission shall cooperate with the commissioner~~  
35 ~~to the extent necessary to accomplish the purpose of~~  
36 ~~this subsection.~~

37 Sec. 15. 26 MRSA §1082, sub-§13, as amended by  
38 PL 1971, c. 538, §§19 and 20, is further amended to  
39 read:

40 13. Filing payroll reports; penalty. The com-  
41 mission may prescribe regulations for the filing of  
42 payroll reports for the employing units in the State  
43 commencing with the 4th calendar quarter of 1970, and

1 the failure on the part of any employing unit to file  
2 the payroll reports within the time stated by the  
3 regulation of the commission shall render the employ-  
4 ing unit liable to a penalty of \$10, unless the delay  
5 was occasioned by the illness or death of the person  
6 in charge of the records of the employing unit or by  
7 other unavoidable occurrence which shall excuse the  
8 employing unit from ~~said~~ the penalty, except that an  
9 extension of time up to 30 days beyond the prescribed  
10 due date for a quarterly payroll report may be  
11 allowed ~~by the commission~~ for good cause upon written  
12 request made on or before the due date.

13 Provided that in the case of executive, administra-  
14 tive and professional employees, and outside sales-  
15 men, as defined in Part 541 of the Rules and Regula-  
16 tions promulgated under the Fair Labor Standards Act  
17 of 1938, as amended as of June 30, 1971, the ~~commis-~~  
18 ~~sion~~ commissioner, upon the request of an employer of  
19 ~~such~~ those individuals, may approve an alternative  
20 method for obtaining from that employer necessary  
21 wage information relative to ~~such~~ those employees.

22 Sec. 16. 26 MRSA §1164, as amended by PL 1979,  
23 c. 651, §§21 and 47, is further amended to read:

24 §1164. Special Administrative Expense Fund

25 The Special Administrative Expense Fund, as here-  
26 tofore created, shall be a special fund in the State  
27 Treasury. All interest, fines and penalties collected  
28 under this chapter, together with any voluntary con-  
29 tributions tendered as a contribution to this fund,  
30 shall be paid into this fund. ~~Said~~ The moneys shall  
31 not be expended or available for expenditure in any  
32 manner which would permit their substitution for or a  
33 corresponding reduction in federal funds which would  
34 in the absence of said moneys be available to finance  
35 expenditures for the administration of the Employment  
36 Security Law. Nothing in this section shall prevent  
37 ~~said~~ the moneys from being used as a revolving fund  
38 to cover expenditures, necessary and proper under the  
39 law, for which federal funds have been duly requested  
40 but not yet received, subject to the charging of ~~such~~  
41 those expenditures against ~~such~~ those funds when  
42 received. The moneys in this fund shall be used by  
43 the commissioner either for the payment of costs of

1 administration which are found not to have been prop-  
2 erly and validly chargeable against federal grants or  
3 other funds received for or in the Employment Secur-  
4 ity Administration Fund on or after January 1, 1943,  
5 or to finance the Maine Wage Assurance Fund estab-  
6 lished in section 632. ~~Such~~ The moneys shall be  
7 available either to satisfy the obligations incurred  
8 by ~~the Employment Security Commission or~~ the bureau  
9 directly or by requesting the Treasurer of State to  
10 transfer the required amount from the Special Admin-  
11 istrative Expense Fund to the Employment Security  
12 Administration Fund or the Maine Wage Assurance Fund.  
13 The Treasurer of State shall upon receipt of a writ-  
14 ten request of the commissioner make any such trans-  
15 fer. ~~No expenditure of this fund or transfer shall be~~  
16 ~~made unless and until the commission by resolution~~  
17 ~~duly entered in its minutes finds that no other funds~~  
18 ~~are available or can properly be used to finance such~~  
19 ~~expenditures.~~ The commissioner shall order the trans-  
20 fer of ~~such~~ the funds or the payment of any such  
21 obligation and ~~such~~ the funds shall be paid by the  
22 Treasurer of State on requisitions drawn by the com-  
23 missioner directing the State Controller to issue his  
24 warrant therefor. Any such warrant shall be drawn by  
25 the State Controller based upon bills of particulars  
26 and vouchers certified by an officer or employee des-  
27 ignated by the commissioner. ~~Such certification~~  
28 ~~shall among other things include a duly certified~~  
29 ~~copy of the resolution of the commission.~~ The moneys  
30 in this fund are specifically made available to  
31 replace, within a reasonable time, any moneys  
32 received by this State pursuant to section 302 of the  
33 Federal Social Security Act as amended, which because  
34 of any action or contingency, have been lost or have  
35 been expended for purposes other than, or in amounts  
36 in excess of, those necessary for the proper adminis-  
37 tration of the Employment Security Law. The moneys in  
38 this fund shall be continuously available to the com-  
39 missioner for expenditure in accordance with this  
40 section and shall not lapse at any time or be trans-  
41 ferred to any other fund except as provided. Any  
42 moneys in the Special Administrative Expense Fund may  
43 be used to make refunds of interest, penalties or  
44 fines erroneously collected and deposited in the Spe-  
45 cial Administrative Expense Fund. On June 30th of  
46 each year all moneys in excess of \$100,000 in this  
47 fund shall be transferred to the Unemployment Compens-  
48 ation Fund.

1           Sec. 17. 26 MRSA §1192, sub-§3, as amended by PL  
2 1979, c. 651, §§23 and 47, is further amended to  
3 read:

4           3. Is able and available for work. He is able to  
5 work and is available for full-time work at his usual  
6 or customary trade, occupation, profession or busi-  
7 ness or in such other trade, occupation, profession  
8 or business for which his prior training or experi-  
9 ence shows him to be fitted or qualified; and in ad-  
10 dition to having complied with subsection 2 is him-  
11 self actively seeking work in accordance with the  
12 regulations of the commission; provided that an unem-  
13 ployed individual who is neither able nor available  
14 for work due to good cause as determined by the ~~com-~~  
15 ~~mission~~ deputy shall be eligible to receive prorated  
16 benefits for that portion of the week during which he  
17 was able and available;

18           Sec. 18. 26 MRSA §1192, sub-§6, as amended by PL  
19 1971, c. 538, §25, is further amended to read:

20           6. Approved training. Notwithstanding any other  
21 provisions of this chapter, any otherwise eligible  
22 claimant in training, as approved for him by the com-  
23 mission, under regulations adopted by the ~~commission~~  
24 a deputy, shall not be denied benefits for any week  
25 with respect to section 1192, subsection 3, relating  
26 to availability and the work search requirement or  
27 the provisions of section 1193, subsection 3. Bene-  
28 fits paid to any eligible claimant while in approved  
29 training, as ~~approved by the commission~~, for which,  
30 except for this subsection, the claimant could be  
31 disqualified under section 1193, subsection 3, shall  
32 not be charged against the experience rating record  
33 of any employer but shall be charged to the General  
34 Fund.

35           Sec. 19. 26 MRSA §1193, sub-§4, as amended by PL  
36 1979, c. 651, §§46 and 47, is further amended to  
37 read:

38           4. Stoppage of work. For any week with respect  
39 to which the ~~deputy finds~~, after notification by the  
40 Director of Unemployment Compensation pursuant to  
41 section 1194, subsection 2, finds that his total or  
42 partial unemployment is due to a stoppage of work

1 which exists because of a labor dispute at the fac-  
2 tory, establishment or other premises at which he is  
3 or was employed. This subsection shall not apply if  
4 it is shown to the satisfaction of the deputy that:

5 A. He is not participating in or financing or  
6 directly interested in the labor dispute which  
7 caused the stoppage of work;

8 B. He does not belong to a grade or class of  
9 workers of which, immediately before the com-  
10 mencement of the stoppage there were members  
11 employed at the premises at which the stoppage  
12 occurs, any of whom are participating in or  
13 financing or directly interested in the dispute;

14 C. He has obtained employment subsequent to the  
15 beginning of the stoppage of work and has earned  
16 at least 8 times his weekly benefit amount or has  
17 been in employment by an employer for 5 full  
18 weeks; or

19 D. He became unemployed because of a strike or  
20 lockout caused by an employer's willful failure  
21 to observe the terms of the safety and health  
22 section of a union contract; an employer's  
23 willful failure to comply in a timely fashion  
24 with an official citation for a violation of fed-  
25 eral and state laws involving occupational safety  
26 and health; or the quitting of labor by an  
27 employee or employees in good faith because of an  
28 abnormally dangerous condition for work at the  
29 place of employment of ~~such~~ that employee or  
30 employees; provided that ~~such~~ the strike or lock-  
31 out shall not extend past the time of the employ-  
32 er's compliance with the safety and health  
33 section of the union contract, the employer's  
34 compliance with the official citation, or the  
35 finding that an abnormally dangerous condition  
36 does not exist by a federal or state official  
37 empowered to issue official citations for viola-  
38 tion of federal and state laws involving occupa-  
39 tional safety and health.

40 If in any case separate branches of work which are  
41 commonly conducted as separate businesses in separate  
42 premises are conducted in separate departments of the

1 same premises, each such department shall, for the  
2 purposes of this subsection, be deemed to be a sep-  
3 arate factory, establishment or other premises;

4 Sec. 20. 26 MRSA §1194, sub-§1 is amended to  
5 read:

6 1. Filing. Claims for benefits shall be made in  
7 accordance with such regulations as the commission  
8 may prescribe. Each employer shall post and maintain  
9 printed statements of ~~such~~ the regulations in places  
10 readily accessible to individuals in his service and  
11 shall make available to each such individual at the  
12 time he becomes unemployed a printed statement of  
13 ~~such~~ those regulations. ~~Such~~ The printed statements  
14 shall be supplied by the ~~commission~~ commissioner to  
15 each employer without cost to him.

16 Sec. 21. 26 MRSA §1194, sub-§2, as amended by  
17 PL 1981, c. 177, is further amended to read:

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

26 The deputy shall promptly examine all subsequent  
27 claims filed and, on the basis of the facts found by  
28 him, shall determine whether or not ~~such~~ the claim is  
29 valid with respect to sections 1192 and 1193, other  
30 than section 1192, subsection 5, or shall refer ~~such~~  
31 that claim or any question involved therein to an  
32 appeal tribunal or to the commission, which shall  
33 make a determination with respect thereto in accor-  
34 dance with the procedure described in subsection 3,  
35 except that in any case in which the payment or  
36 denial of benefits will be subject to section 1193,  
37 subsection 4, the deputy shall promptly transmit a  
38 report with respect to that subsection to the ~~commis-~~  
39 sion Director of Unemployment Compensation upon the  
40 basis of which the ~~commission~~ director shall notify  
41 its appropriate deputies as to the applicability of  
42 that subsection.

1 The deputy shall determine in accordance with section  
2 1221, subsection 3, paragraph A the proper employer's  
3 experience rating record, if any, against which bene-  
4 fits of an eligible individual shall be charged, if  
5 and when paid.

6 The deputy shall promptly notify the claimant and any  
7 other interested party of the determinations and  
8 reasons therefor. Subject to subsection 11, unless  
9 the claimant or any such interested party, within 15  
10 calendar days after such notification was mailed to  
11 his last known address, files an appeal from such  
12 determination, such determination shall be final,  
13 provided that the period within which an appeal may  
14 be filed may be extended, for a period not to exceed  
15 an additional 15 calendar days, for good cause shown.  
16 If new evidence or pertinent facts that would alter  
17 such determination become known to the deputy prior  
18 to the date such determination becomes final, a  
19 redetermination is authorized, but such redetermina-  
20 tion must be mailed before the original determination  
21 becomes final.

22 If an employer's separation report for an employee is  
23 not received by the office specified thereon within  
24 10 days after such report was requested, the claim  
25 shall be adjudicated on the basis of information at  
26 hand. If the employer's separation report containing  
27 possible disqualifying information is received after  
28 the 10-day period and the claimant is denied benefits  
29 by a revised deputy's decision, benefits paid prior  
30 to the date of the revised decision shall not consti-  
31 tute an overpayment of benefits. Any benefits paid  
32 after the date of the revised decision shall consti-  
33 tute an overpayment.

34 If an employer files an amended separation report or  
35 otherwise raises a new issue as to the employee's  
36 eligibility or changes the wages or weeks used in  
37 determining benefits which results in a denial of  
38 benefits or a reduction of the weekly benefit amount,  
39 the benefits paid prior to the date the determination  
40 is mailed shall not constitute an overpayment. Any  
41 benefits received after such date to which the claim-  
42 ant is not entitled pursuant to a new determination  
43 based on such new employer information shall consti-  
44 tute an overpayment.



1           Sec. 22. 26 MRSA §1194, sub-§4 is amended to  
2 read:

3           4. Appeal tribunals. To hear and decide disputed  
4 claims, ~~the eemission~~ commissioner shall establish  
5 one or more impartial appeal tribunals consisting in  
6 each case of either a salaried examiner or a body  
7 consisting of 3 members, one of whom shall be a sal-  
8 aried examiner, who shall serve as chairman, one of  
9 whom shall be a representative of employers and the  
10 other of whom shall be a representative of employees;  
11 each of the latter 2 members shall serve at the  
12 pleasure of the ~~eemission~~ commissioner and be paid a  
13 fee of not more than ~~\$10~~ \$50 per day of active ser-  
14 vice on ~~such that~~ tribunal plus necessary expenses.  
15 No person ~~shall~~ may participate on behalf of the ~~eem-~~  
16 ~~mission~~ bureau in any case in which he is an inter-  
17 ested party. The ~~eemission~~ commissioner may design-  
18 ate alternates to serve in the absence or disquali-  
19 fication of any member of an appeal tribunal. The  
20 chairman shall act alone in the absence or disquali-  
21 fication of any other member and his alternates. In  
22 no case ~~shall~~ may the hearings proceed unless the  
23 chairman of the appeal tribunal is present.

24           Sec. 23. 26 MRSA §1194, sub-§8, as repealed and  
25 repalced by PL 1977, c. 694, §476, is amended to  
26 read:

27           8. Appeals to courts. Any decision of the com-  
28 mission shall become final 10 days after receipt of  
29 written notification and any person aggrieved thereby  
30 may appeal by commencing an action pursuant to Title  
31 5, section 11001 et seq. The commissioner shall be  
32 made a party defendant in any such appeal.

33           Sec. 24. 26 MRSA §1221, sub-§4, ¶F, as amended  
34 by PL 1981, c. 16, §§1-6, is further amended to read:

35           F. Notwithstanding any other inconsistent law,  
36 any employer, who has been notified of his rate  
37 of contribution as required by paragraph E,  
38 subparagraph (1), for any year commencing January  
39 1st, may voluntarily make payment of additional  
40 contributions, and, upon ~~such that~~ payment, shall  
41 promptly receive a recomputation and  
42 renotification of his contribution rate for ~~such~~

1           that year, including in the calculation the addi-  
2           tional contributions so made. Any such addition-  
3           al contribution shall be made during the 30-day  
4           period following the date of the mailing to the  
5           employer of ~~such~~ the notice of his contribution  
6           rate in any year, unless, for good cause, the  
7           time of payment has been extended by the ~~commis-~~  
8           ~~sion~~ commissioner for not to exceed an additional  
9           10 days.

10           Sec. 25. 26 MRSA §1221, sub-§11, ¶A, as amended  
11 by PL 1979, c. 651, §27, is further amended to read:

12           A. At the end of each period as determined by  
13           the ~~commission~~ regulation, the commissioner shall  
14           assess each employer or governmental entity who  
15           has elected to make payments in lieu of contribu-  
16           tions an amount as provided in subsection 10.

17           Sec. 26. 26 MRSA §1221, sub-§12, as amended by  
18 PL 1979, c. 651, §§29 and 47, is further amended to  
19 read:

20           12. Provision of bond or other security. In the  
21           discretion of the ~~commission~~ commissioner, any  
22           employer who elects to become liable for payments in  
23           lieu of contributions shall be required within 60  
24           days after the effective date of his election to  
25           execute and file with the bureau a surety bond or he  
26           may elect to deposit with the bureau money or securi-  
27           ties as approved by the ~~commission~~ commissioner; upon  
28           the failure of an employer to comply with this sub-  
29           section within the time limits imposed, the ~~commis-~~  
30           ~~sion~~ commissioner may terminate ~~such that~~ employer's  
31           election to make payments in lieu of contributions  
32           and ~~such the~~ termination shall be effective for the  
33           current and next calendar year. This subsection  
34           shall not apply to governmental entities as defined  
35           by section 1043, subsection 28, whether they act  
36           singularly or in group accounts as allowed by subsec-  
37           tion 15.

38           Sec. 27. 26 MRSA §1222, sub-§2, ¶E, F and G, as  
39 enacted by PL 1979, c. 354, §2, are amended to read:

1 E. Except as otherwise provided in subsection 3,  
2 an employing unit which became an employer under  
3 section 1043, subsection 9, paragraph J, shall  
4 cease to be an employer subject to this chapter  
5 as of the first day of January of any calendar  
6 year, only if it files with the ~~commissioner~~ com-  
7 missioner, prior to the 31st day of January of  
8 that year, a written application for termination  
9 of coverage and the ~~commissioner~~ commissioner finds  
10 that there were ~~no~~ not 20 different days, each  
11 day being in a different week within the pre-  
12 ceding calendar year, within which that employing  
13 unit employed 10 or more individuals in agricul-  
14 tural labor subject to this chapter and did not  
15 pay wages of \$20,000 to individuals employed in  
16 agricultural labor in any calendar quarter. For  
17 the purpose of this subsection, the 2 or more  
18 employing units mentioned in section 1043, sub-  
19 section 9, paragraph B, C or D, shall be treated  
20 as a single employing unit.

21 F. The ~~commissioner~~ commissioner may, ~~upon its own~~  
22 ~~motion~~, terminate coverage of any employer who  
23 became an employer under section 1043, subsection  
24 9, paragraph J, when the ~~commissioner~~ com-  
25 missioner finds that there were not 20 different days, each  
26 day being in a different week within the pre-  
27 ceding calendar year, within which the employing  
28 unit employed 10 or more individuals in agricul-  
29 tural labor subject to this chapter and did not  
30 pay wages of \$20,000 to individuals employed in  
31 agricultural labor in any calendar quarter; and  
32 the ~~commissioner~~ commissioner may ~~upon its own~~  
33 ~~motion~~ terminate coverage of any employer who  
34 became an employer under section 1043, subsection  
35 9, paragraph K, when the ~~commissioner~~ com-  
36 missioner finds that the employing unit did not pay wages  
37 of \$1,000 to individuals employed in domestic  
38 service in any calendar quarter of the preceding  
39 calendar year.

40 G. Except as otherwise provided in subsection 3,  
41 an employing unit which became an employer under  
42 section 1043, subsection 9, paragraph K, shall  
43 cease to be an employer subject to this chapter  
44 as of the first day of January of any calendar  
45 year, only if it files with the ~~commissioner~~ com-

1           missioner, prior to the 31st day of January of  
2           that year, a written application for termination  
3           of coverage and the ~~commissioner~~ commissioner finds  
4           that the employing unit did not pay wages of  
5           \$1,000 to individuals employed in domestic ser-  
6           vice in any calendar quarter of the preceding  
7           calendar year. For the purpose of this subsec-  
8           tion, the 2 or more employing units mentioned in  
9           section 1043, subsection 9, paragraph B, C or D,  
10          shall be treated as a single employing unit.

11           Sec. 28. 26 MRSA §1225, sub-§3, as amended by PL  
12          1981, c. 552, is further amended to read:

13           3. Interest on past-due contributions. Contribu-  
14          tions which are unpaid on the date on which they are  
15          due and payable, as prescribed by the ~~commissioner~~  
16          regulation, shall bear interest at the rate deter-  
17          mined by the State Tax Assessor as established by  
18          Title 36, section 186, from and after the due date,  
19          until payment is received by the bureau. If it is  
20          shown to the satisfaction of the ~~commissioner~~ commis-  
21          sioner that the delinquency arose from reasonable  
22          questions of liability under this subchapter, the  
23          ~~commissioner~~ commissioner, in ~~its~~ his discretion, may  
24          abate part of the interest not to exceed 75% of the  
25          total interest. If it is shown to the satisfaction  
26          of the ~~commissioner~~ commissioner that the delinquency  
27          arose through no fault of the employer, no assessment  
28          of interest shall be made.

29           Sec. 29. 26 MRSA §1225, sub-§4, as amended by PL  
30          1979, c. 651, §§37 and 47, is further amended to  
31          read:

32           4. Penalty on past-due contributions. If quar-  
33          terly contributions are not paid when due, the com-  
34          missioner shall assess, for the first 30 days after  
35          the due date or a waiver, a penalty of 2% of the  
36          amount of the contributions and thereafter a penalty  
37          of 5% of the amount of the unpaid contributions, but  
38          this penalty shall not be less than \$5 nor more than  
39          \$100. The ~~commissioner~~ commissioner may waive ~~such~~  
40          that penalty if ~~it~~ he finds that the delay was occa-  
41          sioned by the illness or death of the person in  
42          charge of the records of the employing unit or by  
43          some other unavoidable occurrence. The ~~commissioner~~

1 commissioner may allow an extension of time up to 30  
2 days beyond the due date for good cause upon written  
3 request made on or before the due date.

4       Sec. 30. 26 MRSA §1225, sub-§5, as amended by PL  
5 1979, c. 651, §§38 and 47, is further amended to  
6 read:

7       5. Refunds. If not later than 4 years after the  
8 date on which any contributions or interest thereon  
9 became due, an employer who has paid such the contri-  
10 butions or interest thereon shall make application  
11 for an adjustment thereof in connection with subse-  
12 quent contribution payments, or for a refund thereof  
13 because such that adjustment cannot be made, and if  
14 the ~~commission~~ commissioner, shall determine that  
15 such the contributions, or interest or any portion  
16 thereof was erroneously collected, the ~~commission~~  
17 commissioner shall allow such the employer to make an  
18 adjustment thereof, without interest, in connection  
19 with subsequent contribution payments by him, or if  
20 such the adjustment cannot be made, the commissioner  
21 shall refund ~~said that~~ amount, without interest, from  
22 the fund. For like cause and within the same period,  
23 adjustment or refund may be so made on the ~~commis-~~  
24 sion's commissioner's own initiative. Any such ad-  
25 justment or refund, involving contributions with  
26 respect to wages upon the basis of which benefits  
27 have been paid for unemployment, shall be reduced by  
28 the amount of benefits so paid. If the ~~commission~~  
29 commissioner determines that contributions or inter-  
30 est were erroneously paid to this State on wages  
31 insured under the employment security law of some  
32 other state or of the Federal Government, refund or  
33 adjustment thereof may be made without interest,  
34 irrespective of the time limits provided in this sub-  
35 section, on satisfactory proof that contributions or  
36 interest on such the wages have been paid to such  
37 other state or to the Federal Government. Nothing in  
38 this chapter, or any part thereof, ~~shall~~ may be con-  
39 strued to authorize any refund or credit of money due  
40 and payable under the law and regulation in effect at  
41 the time such the money was paid.

42       Sec. 31. 26 MRSA §1226, sub-§1, ¶A, as amended  
43 by PL 1979, c. 651, §39, is further amended to read:

1 A. An employer may appeal determinations by the  
2 commissioner or his designated representatives  
3 made under sections 1221, 1222 and 1225, or an  
4 assessment made under section 1225, to the com-  
5 mission by filing an appeal, in accordance with  
6 such regulations as the commission shall pre-  
7 scribe, within 15 days after notification of the  
8 assessment is mailed to the employer's last known  
9 address as it appears in the records of the  
10 bureau or, in the absence of such mailing, within  
11 15 days after the notification is delivered. If  
12 the employer fails to perfect such appeal, the  
13 assessment or determination shall be final as to  
14 law and fact.

15 Sec. 32. 26 MRSA §1226, sub-§1, ¶B, as amended  
16 by PL 1981, c. 286, §§5 and 6, is further amended to  
17 read:

18 B. Upon appeal from ~~an~~ such assessment, or  
19 determination, the commission shall, after  
20 affording the appellant and the commissioner's  
21 designated representative a reasonable oppor-  
22 tunity for a fair hearing, make finding of facts  
23 and render its decision, which may affirm, modify  
24 or reverse the action of the designated repre-  
25 sentative. The conduct of ~~such~~ the hearings  
26 shall be governed by regulations of the commis-  
27 sion consistent with Title 5, section 9051, et  
28 seq. The commission shall promptly notify the  
29 parties to the proceeding of its finding of facts  
30 and its decision. ~~Such~~ The decision shall be  
31 subject to appeal pursuant to Title 5, section  
32 11001, et seq. The commissioner shall have the  
33 right to appeal a final decision of the Maine  
34 Employment Security Unemployment Insurance Com-  
35 mission to the Superior Court.

36 Sec. 33. 26 MRSA §1227, sub-§1, as enacted by PL  
37 1975, c. 462, §9, is amended to read:

38 1. Form and effect. Upon the failure of an  
39 employer to pay the amount assessed pursuant to  
40 section 1225, the ~~commissioner~~ commissioner may file in  
41 the registry of deeds of any county or with any town  
42 or city clerk a certificate under ~~its~~ his official  
43 seal, stating the name of the employer; his address;

1 the amount of the contributions and interest or pen-  
2 alties assessed and in default; and that the time in  
3 which an appeal is permitted pursuant to section 1226  
4 has expired without such the appeal having been taken  
5 or that delay will jeopardize collection. When such  
6 the certificate is duly filed and recorded, the  
7 amount of the assessment shall be a lien upon the  
8 entire interest of the employer, legal or equitable,  
9 in any real or tangible personal property situated  
10 within the jurisdiction of the office in which such  
11 that certificate was filed. A lien obtained in this  
12 manner is a lien for taxes and the priority of the  
13 lien shall be governed by the laws of this State.  
14 Said The liens shall be subordinate to any real  
15 estate mortgage previously recorded as required by  
16 law. No lien for contributions or interest shall be  
17 valid against one who purchases personal property  
18 from the employer in the usual course of his busi-  
19 ness, in good faith and without actual notice of such  
20 the lien. Such The lien may be enforced against any  
21 real or personal property by a civil action in the  
22 name of the ~~commissioner~~ commissioner. The ~~commissioner~~  
23 commissioner shall discharge any such lien upon  
24 receiving, from any such employer against whose prop-  
25 erty a lien certificate has been filed, a good and  
26 sufficient bond with sureties conditioned upon the  
27 payment of the amount of contributions and interest  
28 as finally determined, together with any additional  
29 amount which may have become due or may have accrued  
30 under this chapter and costs of court, if any.

31 The foregoing remedies shall be in addition to all  
32 other remedies.

33 Sec. 34. 26 MRSA §1227, sub-§2, as amended by PL  
34 1981, c. 557, §1, is further amended to read:

35 2. Filing lien. Certificates of liens for con-  
36 tributions or interest, or certificates discharging  
37 such the liens prepared in accordance with this  
38 section, shall be received, recorded and indexed by  
39 registrars of deeds or town or city clerks in the  
40 same manner as similar instruments are recorded and  
41 indexed. The fee to be paid by the ~~commissioner~~ commis-  
42 sioner for recording each such certificate is \$5,  
43 which need not be prepaid.

1           Sec. 35. 26 MRSA §1227, sub-§3, as enacted by PL  
2 1975, c. 462, §9, is amended to read:

3           3. Enforcement of lien. After any assessment has  
4 become final and rights of appeal exhausted or lost  
5 by virtue of failure to exercise ~~such~~ those rights,  
6 any property, real or personal, upon which a lien has  
7 been claimed under this chapter may be sold, after  
8 due notice, in conformity with the law applicable to  
9 sales of real or personal property on executions  
10 issued in personal actions, in connection with which  
11 sales the ~~commissioner~~ commissioner shall have the same  
12 rights, privileges, duties and responsibilities as  
13 one in whose favor an execution is issued.

14           Sec. 36. 26 MRSA §1229, as enacted by PL 1975,  
15 c. 462, §9, is amended to read:

16           §1229. Collection by civil action

17           If any employer fails to make any payment of con-  
18 tributions, interest or penalties after notice of an  
19 assessment under section 1225, subsection 1, and  
20 after the assessment has become final as to law and  
21 fact, in addition to or alternatively to any other  
22 method of collection prescribed in this chapter, the  
23 amount due may be collected by civil action in the  
24 name of the ~~commissioner~~ commissioner and the employer  
25 shall pay the costs of ~~such~~ those actions. Civil ac-  
26 tions brought under this section to collect contribu-  
27 tions and interest, or penalties due thereon, from an  
28 employer shall be heard by the court at the earliest  
29 possible date and shall be entitled to preference  
30 upon the calendar of the court over all other civil  
31 actions, except petitions for judicial review under  
32 this chapter and cases arising under the Workmen's  
33 Workers' Compensation Law Act of this State. The  
34 foregoing remedies shall be in addition to all other  
35 existing remedies against the employer or his succes-  
36 sor.

37           Sec. 37. 26 MRSA §1230, sub-§1, as amended by PL  
38 1979, c. 651, §§41 and 47, is further amended to  
39 read:

40           1. Request for warrant. If any contribution re-  
41 quired to be paid and any interest or penalty or both



1 payable to the commissioner under this chapter is not  
2 paid when due and has become final as to law and fact  
3 under section 1226, the commissioner may, within 3  
4 years thereafter, notify the employer who is liable  
5 according to the records of the bureau, specifying  
6 the amount due and demanding payment within 12 days  
7 after the date the notice is mailed. The notice  
8 shall inform the employer that if he does not make  
9 the payment as demanded, the commissioner will cer-  
10 tify ~~to the Attorney General~~ the amount due for col-  
11 lection by warrant as provided in this section. If  
12 the employer does not make payment as demanded within  
13 the 12-day period or within an extended period which  
14 the commissioner may allow, the commissioner ~~shall~~  
15 may certify to the Attorney General the amount due  
16 for collection. ~~The Attorney General may or~~ file in  
17 the office of the clerk of the Superior Court of  
18 Kennebec County, or any county, a certificate ad-  
19 dressed to the clerk specifying the contribution re-  
20 quired to be paid, interest and penalties due, the  
21 name and address of the liable employer as it appears  
22 on the records of the bureau, the facts whereby the  
23 amount has become final as to law and fact and the  
24 notice given, and requesting that a warrant be issued  
25 against the employer for the contribution required to  
26 be paid, together with interest and penalties, as set  
27 forth in the certificate, and with costs. If the  
28 commissioner has reasonable grounds to believe that  
29 the employer may abscond within the 12-day period,  
30 the commissioner may, without further notice to the  
31 employer, certify to the Attorney General the amount  
32 due for collection ~~without notice to the employer or~~  
33 file in the office of the clerk of the Superior Court  
34 a certificate addressed to the clerk, requesting the  
35 immediate issuance of a warrant.

36 Sec. 38. 26 MRSA §1230, sub-§4, as amended by PL  
37 1979, c. 651, §§42, 43 and 47, is further amended to  
38 read:

39 4. Form and effect of warrant

40 A. The warrant shall have the force and effect  
41 of an execution issued upon a judgment in a civil  
42 action for the collection of taxes and benefit  
43 overpayments and may be in substantially the fol-  
44 lowing form:

1 "..... (Name of County) SS. -- To the sher-  
2 iffs of our respective counties or their deputies  
3 or any agent of the Commissioner of Labor

4 Whereas, the Bureau of Employment Security and or  
5 the Attorney General have certified that, pur-  
6 suant to the terms of Title 26, section 1230,  
7 subsection 1, or section 1051, subsection 6, of  
8 the Revised Statutes, the amount of certain unem-  
9 ployment compensation tax, or benefit overpay-  
10 ment, assessed against ..... of .....  
11 with interest and penalties, has become final as  
12 to law and fact, to wit:

13		<u>Benefit</u>				
14	Per-	Contri-	<u>Over</u>	Inter	Penal-	<u>Weeks</u>
15	iod	butions	<u>payment</u>	est	ties	<u>Involve</u>

16 Interest will accrue at \$ .00 per day for each  
17 day after .....Total \$ ..... and \$  
18 ..... costs of this proceeding, .....

19 We command you, therefore, that of the money,  
20 goods and chattels of said debtor, in your pre-  
21 cinct, or the value thereof in money, you cause  
22 to be paid and satisfied unto the Bureau of  
23 Employment Security, to satisfy the sums afore-  
24 said and ..... cents more for this warrant,  
25 together with your own fees.

26 Hereof fail not, and make due return of this  
27 warrant, with your doings thereon, unto my office  
28 within one year from the date hereof.

29 .....  
30 Clerk of Courts, County of  
31 .....  
32 Date ....."

33 B. Warrants shall be returnable within one year.  
34 New warrants may be issued on any such certifi-  
35 cate within 2 years from the return day of the  
36 last preceding warrant for sums remaining unsat-  
37 isfied. Warrants shall be served by the sheriff  
38 of any county, or by any of his deputies, or by  
39 any agent of the Commissioner of Labor, in the  
40 county where the employer or claimant may be  
41 found.

1 C. The remedy provided by this section is in ad-  
2 dition to or an alternative to all other remedies  
3 given to the ~~emmission or~~ the commissioner in  
4 this chapter.

5 Sec. 39. 26 MRSA §1401, as amended by PL 1981,  
6 c. 168, §§19, 20 and 26, is further amended to read:

7 §1401. Department; commissioner

8 There is created and established the Department  
9 of Labor to achieve the most effective utilization of  
10 the ~~manpower~~ employment and training resources in the  
11 State by developing and maintaining an accountable  
12 state ~~manpower~~ employment and training policy, by  
13 insuring safe working conditions and protection  
14 against loss of income and by enhancing the oppor-  
15 tunities of the individual to improve his economic  
16 status, to consist of a Commissioner of Labor  
17 appointed by the Governor, subject to review by the  
18 joint standing committee ~~on~~ of the Legislature having  
19 jurisdiction over Labor and to confirmation by the  
20 Legislature, to serve at the pleasure of the Gover-  
21 nor, and the following as ~~heretofore~~ created and  
22 established: The Employment Security Unemployment  
23 Insurance Commission, the Bureau of Employment Secur-  
24 ity, the Bureau of Labor Standards, the Maine Man-  
25 power Advisory Committee, the Cooperative Area Man-  
26 power Planning System and the Manpower Development  
27 Training Program- the office of Maine CETA, the State  
28 Employment and Training Council, the State Job Train-  
29 ing Coordinating Council staff, the Private Industry  
30 Council staff, the Employment and Training staff and  
31 such other advisory, planning and coordinating coun-  
32 cil staff, and such other advisory, planning and  
33 coordinating committees as the commissioner deems  
34 necessary to carry out the purposes of the statute.

35 The Commissioner of Labor shall receive a fixed  
36 weekly salary in accordance with Title 2, section 6,  
37 and shall be paid from the administrative funds of  
38 the Maine Employment Security Commission Bureau of  
39 Employment Security, the Bureau of Labor Standards  
40 and from other program administrative funds which he  
41 is authorized by statute or Executive Order to admin-  
42 ister.

1           The commissioner shall have the following duties:

2           1. Budget. Prepare a budget for the department;

3           2. Personnel. Appoint to serve at his pleasure,  
4 provided these appointments are consistent with the  
5 law, persons to serve as directors or executive execu-  
6 tive directors of the following organizations: Man-  
7 power Adjudication, Manpower Affairs, Manpower  
8 Affairs Administrative Services, Manpower Research  
9 and Manpower Training and Labor he may administer;  
10 transfer personnel within the department to insure  
11 the efficient utilization of department personnel  
12 subject to the Personnel Law;

13          3. Purchase. Coordinate the purchase and use of  
14 all the department equipment; and

15          4. Review. Review the function and operation of  
16 the department to insure that overlapping functions  
17 and operations are brought to the attention of the  
18 Governor and Legislature.

19           **Sec. 40. Transitional provisions.** All exist-  
20 ing rules and regulations of the commission currently  
21 in effect and operation on the effective date of this  
22 Act shall continue in effect until rescinded, amended  
23 or changed according to law.

24           **Sec. 41. Revision clause.** Wherever in the  
25 Revised Statutes the words "Employment Security Com-  
26 mission" appear they shall be amended to read and  
27 mean "Unemployment Insurance Commission."

28           The term "regulation" shall include, but not be  
29 limited to, any regulation, rule, order, administra-  
30 tive procedure, policy determination, directive,  
31 authorization, privilege, form requirement, designa-  
32 tion or agreement.

33           All appointments and deputizations made by the  
34 commission shall continue in force and effect on the  
35 effective date of this Act, unless revoked by the  
36 Bureau of Employment Security.

37           All funds, equipment, property and records of  
38 the commission shall remain in the custody and con-

1 trol of the Bureau of Employment Security as required  
2 by the Revised Statutes, Title 26, chapter 13.

3 STATEMENT OF FACT

4 The purpose of this bill is to clarify the  
5 respective roles of the Commissioner of Labor and the  
6 members of the commission. The bill also is designed  
7 to correct inconsistencies in the Employment Security  
8 Law relative to the administrative authority and  
9 organization of the Employment Security Agency and  
10 clarify the roles of the commission and the Commis-  
11 sioner of Labor. The bill clarifies that the commis-  
12 sioner is the proper party defendant in unemployment  
13 compensation and tax appeals, an issue recently  
14 raised by the Supreme Judicial Court.

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