

# MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 742, L.D. 2045)

2 SECOND REGULAR SESSION  
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE  
5

6 Legislative Document

No. 2338

7  
8 S.P. 861

In Senate, March 21, 1984

9 Reported by Senator Hayes of Penobscot from the Committee on Labor.  
10 Printed under Joint Rule 2.

11 Original bill presented by Senator Dutremble of York. Cosponsored by  
Representative Gauvreau of Lewiston, Senator Brown of Washington and  
Representative Bonney of Falmouth.

JOY J. O'BRIEN, Secretary of the Senate

12  
13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-FOUR  
17

18 AN ACT to Provide for Repayment of  
19 Interest Charges Incurred on Federal  
20 Advances to the Unemployment Compensation  
21 Fund.  
22

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

25 Sec. 1. 26 MRSa §1165 is enacted to read:

26 §1165. Federal Advance Interest Fund

27 The Federal Advance Interest Fund shall be a spe-  
28 cial nonlapsing fund in the State Treasury. All re-  
29 ceipts, including interest, fines and penalties col-  
30 lected from the special assessment as defined in sec-  
31 tion 1241, shall be paid into this fund. Income from  
32 investment of this fund shall be deposited to the  
33 credit of the fund. All money in the fund shall be  
34 deposited, administered and disbursed in the same

1 manner and under the same conditions and requirements  
2 as are provided by law for other special funds in the  
3 State Treasury.

4 The money in this fund shall be used exclusively  
5 for the purpose of paying interest incurred on ad-  
6 vances received from the Federal Unemployment Trust  
7 Fund and any associated administrative costs. If, as  
8 of December 31st of any year, no interest is payable  
9 and no balance of interest-bearing advances exists in  
10 the Unemployment Compensation Fund, the unobligated  
11 and unencumbered balance of the Federal Advance In-  
12 terest Fund in excess of \$50,000 shall be transferred  
13 to the Unemployment Compensation Fund by January 31st  
14 of the following year.

15 Sec. 2. 26 MRS §1241 is enacted to read:

16 §1241. Special assessment

17 1. Definitions. As used in this section, unless  
18 the context otherwise indicates, the following terms  
19 have the following meanings.

20 A. "Advance" means a loan made from the Federal  
21 Unemployment Trust Fund to the state's Unemploy-  
22 ment Compensation Fund on which interest will be  
23 due and payable if the loan is not repaid by the  
24 due date set out by the Federal Government.

25 B. "Anticipated interest" means the amount of  
26 interest that will be due on an advance under  
27 federal law on its interest due date if the ad-  
28 vance is not repaid by the interest due date.

29 C. "Assessment quarter" means the calendar quar-  
30 ter in which an advance is received.

31 D. "Assessment rate" means a rate equal to the  
32 percentage, rounded to the next highest 1/10th of  
33 1%, derived if the amount of interest that will  
34 be due if an advance is not repaid by the inter-  
35 est due date, minus any existing unobligated and  
36 unencumbered balance in the Federal Advance In-  
37 terest Fund, is divided by the taxable wages re-  
38 ported by contributing employers for the calendar  
39 quarter in the immediately preceding calendar

1 year that corresponds to the assessment quarter.

2 E. "Federal Advance Interest Fund" means the  
3 fund defined in section 1165.

4 F. "Interest due date" means:

5 (1) The date on which anticipated interest  
6 is due to the Federal Government on an ad-  
7 advance which was not repaid by the due date  
8 set by the Federal Government; or

9 (2) If the Federal Government allows the  
10 State to defer repayment of an advance and  
11 anticipated interest on the advance, the  
12 date on which the deferred repayment is due  
13 to the Federal Government.

14 G. "Subsequent assessment quarter" means a cal-  
15 endar quarter subsequent to the assessment quar-  
16 ter.

17 2. Special assessment. If an advance has not  
18 been repaid during the assessment quarter for the ad-  
19 advance and the balance in the Federal Advance Interest  
20 Fund is insufficient to pay the anticipated interest  
21 charges that will be due on the advance on its inter-  
22 est due date, and if, using standards adopted under  
23 the Maine Administrative Procedure Act, the Commis-  
24 sioner of Labor determines that it is probable that  
25 the advance will not be repaid by the interest due  
26 date, then the Commissioner of Labor may assess a  
27 special assessment for that assessment quarter. The  
28 amount of an employer's special assessment shall be  
29 determined by multiplying the wages for employment  
30 taxable to an employer under section 1221 for that  
31 quarter by the assessment rate. Assessments shall be  
32 paid into the Federal Advance Interest Fund for use  
33 in paying interest on the advance.

34 After the money is received from the special assess-  
35 ment for the assessment quarter, if the balance in  
36 the Federal Advance Interest Fund is still not suffi-  
37 cient to pay the interest charges that will be due on  
38 the advance on its interest due date, then the com-  
39 missioner may assess further special assessments in  
40 subsequent assessment quarters to raise the balance

1 in the Federal Advance Interest Fund up to a balance  
2 sufficient to pay the interest charges. All provi-  
3 sions in this section that apply to the special as-  
4 essment also shall apply to these further special  
5 assessments.

6 No special assessments may be assessed if sufficient  
7 unobligated and unencumbered funds are present in the  
8 Federal Advance Interest Fund to pay the anticipated  
9 interest on the advance on its due date.

10 3. Employers liable for special assess-  
11 ment. Each employer subject to this chapter, other  
12 than those liable for payments in lieu of contribu-  
13 tions, shall be liable for special assessments.

14 4. Receipts. All receipts collected from a spe-  
15 cial assessment, including interest, fines and penal-  
16 ties on special assessments not paid when due, shall  
17 be paid into the Federal Advance Interest Fund.

18 5. Experience rating records. No special as-  
19 essment may be credited to any employer's experience  
20 rating record.

21 6. Other provisions of chapter. All provisions  
22 of this chapter and rules promulgated under this  
23 chapter regarding payments, time limits, dates of  
24 payment, reports, interest and penalties on amounts  
25 not paid by employers when due, fines, liens and war-  
26 rants which apply to the collection of contributions  
27 also shall apply to the collection of special assess-  
28 ments.

1

STATEMENT OF FACT

2           Section 1 establishes a fund which can be used  
3 for the payment of interest charges incurred on fed-  
4 eral advances to the state's Unemployment Compensa-  
5 tion Fund. In the past, advances were interest free,  
6 but Congress has now passed legislation requiring  
7 states to make interest payments on advances. A spe-  
8 cial and separate fund is required because interest  
9 payments may not be made directly from the Unemploy-  
10 ment Compensation Fund.

11           Section 2 establishes the conditions under which  
12 a special assessment will be charged to generate rev-  
13 enues to make interest payments. If a federal ad-  
14 vance has not been repaid during the calendar quarter  
15 in which it was received and the balance in the Fed-  
16 eral Advance Interest Fund is insufficient to pay the  
17 anticipated interest on the interest due date, the  
18 Commissioner of Labor may assess employers a special  
19 assessment for the quarter if it is probable the ad-  
20 vance will not be repaid in time to avoid interest  
21 charges. The assessment is not automatic; for exam-  
22 ple, the commissioner may choose not to assess a spe-  
23 cial assessment if the advance was a cash-flow loan  
24 that will be repaid before the interest due date.

25           Unobligated, unencumbered money already in the  
26 fund is subtracted from the total interest due in  
27 calculating the formula for the assessment rate.  
28 However, money in the fund raised to pay interest  
29 charges on an advance is obligated for payment of in-  
30 terest and may not be subtracted from the total in-  
31 terest due in calculating the assessment rate to re-  
32 pay anticipated interest on another separate advance.

33           If, on December 31st, no interest is payable and  
34 no balance of federal interest-bearing advances ex-  
35 ists in the Unemployment Compensation Fund, the  
36 unobligated and unencumbered balance of the Federal  
37 Advance Interest Fund in excess of \$50,000 shall be  
38 transferred to the Unemployment Compensation Fund.  
39 This relatively small balance will be kept in the  
40 fund to meet emergency situations, such as a natural  
41 disaster leading to unexpected unemployment compensa-  
42 tion claims and the necessity for a 2nd advance in  
43 the same calendar year. This unusual condition

1 triggers different federal provisions on interest  
2 that could necessitate immediate repayment in other-  
3 wise interest-free conditions, and the \$50,000 bal-  
4 ance could help avoid penalties.

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