

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1319

6
7 S.P. 493

In Senate, April 16, 1985

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 Tuttle of York.

11 Cosponsored by Representative Beaulieu of Portland, Representative Hale
of Sanford and Senator Black of Cumberland.

12 STATE OF MAINE
13

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

17 AN ACT to Amend Certain Sections of the
18 Employment Security Law.
19

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

22 Sec. 1. 26 MRSA §1043, sub-§9, ¶D, as amended by
23 PL 1971, c. 538, §5, is further amended to read:

24 D. Any employing unit which together with one or
25 more other employing units is owned or con-
26 trolled, by legally ~~enforceable~~ enforceable means
27 or otherwise, directly or indirectly by the same
28 interests, or which owns or controls one or more
29 other employing units, by legally ~~enforceable~~
30 enforceable means or otherwise, and which, if
31 treated as a single unit with such other employ-
32 ing unit, or interests, or both, would be an em-
33 ployer under ~~paragraphs A7~~ paragraph A-1 or, H or
34 J;

1 Sec. 2. 26 MRSA §1043, sub-§19, as amended by PL
2 1977, c. 570, §§18 and 19, is further amended to
3 read:

4 19. Wages. "Wages" means all remuneration for
5 personal services, including commissions, bonuses,
6 severance or terminal pay, gratuities and the cash
7 value of all remuneration in any medium other than
8 cash. The reasonable cash value of remuneration in
9 any medium other than cash shall be estimated and de-
10 termined in accordance with regulations prescribed by
11 the commission, except that:

12 A. For purposes of section 1221, the term
13 "wages" shall not include that part of remunera-
14 tion which after remuneration equal to \$3,000
15 through December 31, 1971, \$4,200 through Decem-
16 ber 31, 1977, \$6,000 through December 31, 1982,
17 and on and after January 1, 1983, that part of
18 remuneration equal to \$7,000 has been paid in a
19 calendar year to an individual by an employer or
20 his predecessor with respect to employment during
21 any calendar year, is paid to the individual by
22 the employer during that calendar year, unless
23 that part of the remuneration is subject to a tax
24 under a federal law imposing a tax against which
25 credit may be taken for contributions required to
26 be paid into a state unemployment fund. The
27 wages of an individual for employment with an em-
28 ployer shall be subject to this exception whether
29 earned in this State or any other state when the
30 employer-employee relationship is between the
31 same legal entities;

32 B. For purposes of section 1191, subsection 2,
33 section 1192, subsection 5 and section 1221, the
34 term "wages" shall not include:

35 (1) The amount of any payment made to, or
36 on behalf of, an employee under a plan or
37 system established by an employing unit
38 which makes provision for his employees gen-
39 erally or for a class or classes of his em-
40 ployees, including any amount paid by an em-
41 ploying unit for insurance or annuities, or
42 into a fund, to provide for any such pay-
43 ment, on account of retirement, or sickness

1 er accident disability, or medical and hos-
2 pitalization expense in connection with
3 sickness or accident disability, or death;

4 (1) The amount of any payment, including
5 any amount paid by an employer for insurance
6 or annuities, or into a fund, to provide for
7 any such payment, made to, or on behalf of,
8 an employee or any of his dependents under a
9 plan or system established by an employer
10 which makes provision for his employees gener-
11 ally, or for his employees generally and
12 their dependents, or for a class or classes
13 of his employees, or for a class or classes
14 of his employees and their dependents, on
15 account of:

16 (a) Sickness or accident disability,
17 but, in the case of payments made to an
18 employee or any of his dependents, this
19 subparagraph shall exclude from the
20 term "wages" only payments which are
21 received under a workers' compensation
22 law;

23 (b) Medical or hospitalization ex-
24 penses in connection with sickness or
25 accident disability;

26 (c) Death; or

27 (d) Any payment on account of sickness
28 or accident disability, or medical or
29 hospitalization expenses in connection
30 with sickness or accident disability,
31 made by an employer to, or on behalf
32 of, an employee after the expiration of
33 6 calendar months following the last
34 calendar month in which the employee
35 worked for that employer;

36 (2) The payment by an employing unit, with-
37 out deduction from the remuneration of the
38 employee, of the tax imposed upon an employ-
39 ee under section 3101 of the Federal Insur-
40 ance Contributions Act, as amended, with re-
41 spect to service performed after July 26,

1 1940, with respect to remuneration paid to
2 an employee for domestic service in a pri-
3 rate home of the employer or for agricultur-
4 al labor;

5 (3) The amount of any payment, other than
6 vacation or sick pay, to an individual after
7 the month in which he attains the age of 65
8 62, if he did not perform services for the
9 employing unit in the period for which such
10 payment is made and is not expected to per-
11 form services in the future for the payment;
12 and

13 C. With respect to weeks of unemployment begin-
14 ning on or after January 1, 1978, wages for in-
15 sured work shall include wages paid for previous-
16 ly uncovered services. For the purposes of this
17 paragraph, the term "previously uncovered ser-
18 vices" means services:

19 (1) Which were not employment as defined in
20 subsection 11, and were not services covered
21 pursuant to section 1222, at any time during
22 the one-year period ending December 31,
23 1975; and

24 (2) Which:

25 (a) Are agricultural labor, as defined
26 in subsection 11, paragraph A-2 or do-
27 mestic service as defined in subsection
28 11, paragraph A-3, or

29 (b) Are services performed by an em-
30 ployee of this State or a political
31 subdivision thereof, or any of their
32 instrumentalities as provided in sub-
33 section 11, paragraph A-1, subparagraph
34 (1), or by an employee of a nonprofit
35 educational institution which is not an
36 institution of higher education, as
37 provided in subsection 11, paragraph F,
38 subparagraph (21), division (i);

39 except to the extent that assistance under Title
40 II of the Emergency Jobs and Unemployment Assist-

1 ance Act of 1974 was paid on the basis of such
2 services.

3 Sec. 3. 26 MRSA §1051, sub-§2, as amended by PL
4 1983, c. 118, is further amended to read:

5 2. Separate offense. Any person who willfully
6 fails or refuses to make any contributions or other
7 payments, to furnish any reports required by this
8 chapter or to produce or permit the inspection or
9 copying of records as required is guilty of a Class D
10 crime. Each failure or refusal shall constitute a
11 separate offense. For purposes of this paragraph,
12 "person" means an individual, corporation or partner-
13 ship or an officer or employee of any corporation,
14 including a dissolved corporation, or a member or em-
15 ployee of any partnership who was, at the time of the
16 violation, under a duty to comply with this para-
17 graph.

18 Sec. 4. 26 MRSA §1082, sub-§8, as amended by PL
19 1983, c. 351, §12, is further amended to read:

20 8. Oaths and witnesses. In the discharge of the
21 duties imposed by this chapter, the commissioner, the
22 commission, the chairman of an appeal tribunal and
23 any duly authorized representative ~~of either~~ of them
24 shall have power to administer oaths and affirma-
25 tions, take depositions, certify to official acts and
26 issue subpoenas to compel the attendance of witnesses
27 and the production of books, papers, correspondence,
28 memoranda and other records deemed necessary as evi-
29 dence in connection with a disputed claim or the ad-
30 ministration of this chapter. Oaths and affirmations
31 required by reason of duties performed pursuant to
32 this chapter may be administered by any of such per-
33 sons as may be designated for the purpose by the com-
34 missioner. In the discharge of the duties imposed by
35 this chapter, the commissioner, the commission, the
36 chairman of an appeal tribunal or any duly authorized
37 representative ~~of either~~ of them, when the interests
38 of any interested party demand, may issue commissions
39 to take depositions to any unemployment compensation
40 or employment security official empowered to take
41 such depositions under this chapter or the laws of
42 any other state, for either of the following causes:

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

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

5 C. When the deponent is so aged, infirm or sick
6 as to be unable to attend at the place of hear-
7 ing.

8 Such depositions shall be taken by written interroga-
9 tories to be compiled by the commission or the appeal
10 tribunal, and the adverse party shall be afforded an
11 opportunity to refute such testimony before a deter-
12 mination is made. The deponent shall be sworn and the
13 deposition shall be signed and sworn to by the depo-
14 nent before admissible as testimony at a hearing be-
15 fore the appeal tribunal or the commission.

16 Subpoenas shall be issued pursuant to Title 5, sec-
17 tion 9060.

18 Sec. 5. 26 MRSA §1165, as enacted by PL 1983, c.
19 738, §1, is amended to read:

20 §1165. Federal Advance Interest Fund

21 The Federal Advance Interest Fund shall be a spe-
22 cial nonlapsing fund in the State Treasury. All re-
23 ceipts, ~~including interest, fines and penalties~~ col-
24 lected from the special assessment as defined in sec-
25 tion 1241, shall be paid into this fund. Income
26 from investment of this fund shall be deposited to
27 the credit of the fund. All money in the fund shall
28 be deposited, administered and disbursed in the same
29 manner and under the same conditions and requirements
30 as are provided by law for other special funds in the
31 State Treasury.

32 The money in this fund shall be used exclusively
33 for the purpose of paying interest incurred on ad-
34 vances received from the Federal Unemployment Trust
35 Fund. If, as of December 31st of any year, no inter-
36 est is payable and no balance of interest-bearing ad-
37 vances exists in the Unemployment Compensation Fund,
38 and no advances are anticipated in the following cal-
39 endar year, the unobligated and unencumbered balance

1 of the Federal Advance Interest Fund in excess of
2 ~~\$50,000~~ \$100,000 shall be transferred to the Unem-
3 ployment Compensation Fund by January 31st of the
4 following year.

5 Sec. 6. 26 MRSA §1192, sub-§5, as amended by PL
6 1979, c. 515, §13-A, is further amended to read:

7 5. Has earned wages. For each eligible individu-
8 al establishing a benefit year on or after January 1,
9 1980, he has been paid wages equal to or exceeding 2
10 times the annual average weekly wage for insured work
11 in each of 2 different quarters in his base period
12 and has been paid total wages equal to or exceeding 6
13 times the annual average weekly wage in his base pe-
14 riod for insured work. The annual average weekly wage
15 amount to be used for purposes of this subsection
16 shall be that which is applicable at the time the in-
17 dividual files a request for determination of his in-
18 sured status. For the purpose of this subsection,
19 wages shall be counted as "wages for insured work"
20 for benefit purposes with respect to any benefit year
21 only if such benefit year begins subsequent to the
22 date on which the employer by whom such wages were
23 paid has satisfied the conditions of section 1043,
24 subsection 9, or section 1222, subsection 3, with re-
25 spect to becoming an employer; provided that no indi-
26 vidual may receive benefits in a benefit year, un-
27 less, subsequent to the beginning of the next preced-
28 ing benefit year during which he received benefits,
29 he performed services, ~~whether or not in employment~~
30 ~~as defined in section 1043, subsection 11,~~ and earned
31 remuneration for such service in an amount equal to
32 not less than 8 times his weekly benefit amount in
33 employment by an employer in the benefit year being
34 established. This subsection applies only to any in-
35 dividual requesting determination of insured status
36 on and after January 1, 1972. In determining a
37 claimant's qualification under this subsection, pay-
38 ments pursuant to Title 39, sections 54 and 55, the
39 Workers' Compensation Act, and Title 39, sections 188
40 and 189, the Occupational Disease Law, shall be con-
41 sidered wages for insured work.

42 Sec. 7. 26 MRSA §1193, sub-§4, ¶C, as amended by
43 PL 1983, c. 351, §17, is further amended to read:

1 C. He has obtained employment subsequent to the
2 beginning of the stoppage of work and has earned
3 at least 8 times his weekly benefit amount in em-
4 ployment by an employer or has been in employment
5 by an employer for 5 full weeks; or

6 Sec. 8. 26 MRSA §1194, sub-§2, as repealed and
7 replaced by PL 1983, c. 816, Pt. A, §23, is amended
8 to read:

9 2. Determination. A representative designated
10 by the commissioner, and in this chapter referred to
11 as a deputy, shall promptly examine the first claim
12 filed by a claimant in each benefit year and shall
13 determine the weekly benefit amount and maximum bene-
14 fit amount potentially payable to the claimant during
15 that benefit year in accordance with section 1192,
16 subsection 5.

17 The deputy shall promptly examine all subsequent
18 claims filed and, on the basis of the facts found by
19 him, shall determine whether or not that claim is
20 valid with respect to sections 1192 and 1193, other
21 than section 1192, subsection 5, or shall refer that
22 claim or any question involved therein to an appeal
23 tribunal or to the commission, which shall make a de-
24 termination with respect thereto in accordance with
25 the procedure described in subsection 3, except that
26 in any case in which the payment or denial of bene-
27 fits will be subject to section 1193, subsection 4,
28 the deputy shall promptly transmit a report with re-
29 spect to that subsection to the Director of Unemploy-
30 ment Compensation upon the basis of which the direc-
31 tor shall notify ~~its~~ appropriate deputies as to the
32 applicability of that subsection.

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

38 The deputy shall promptly notify the claimant and any
39 other interested party of the determinations and rea-
40 sons therefor. Subject to subsection 11, unless the
41 claimant or any such interested party, within 15 cal-
42 endar days after that notification was mailed to his

1 last known address, files an appeal from that deter-
2 mination, that determination shall be final, provided
3 that the period within which an appeal may be filed
4 may be extended, for a period not to exceed an addi-
5 tional 15 calendar days, for good cause shown. If
6 new evidence or pertinent facts that would alter that
7 determination become known to the deputy prior to the
8 date that determination becomes final, a redetermina-
9 tion is authorized, but that redetermination must be
10 mailed before the original determination becomes fi-
11 nal.

12 If an employer's separation report for an employee is
13 not received by the office specified thereon within
14 10 days after that report was requested, the claim
15 shall be adjudicated on the basis of information at
16 hand. If the employer's separation report containing
17 possible disqualifying information is received after
18 the 10-day period and the claimant is denied benefits
19 by a revised deputy's decision, benefits paid prior
20 to the date of the revised decision shall not consti-
21 tute an overpayment of benefits. Any benefits paid
22 after the date of the revised decision shall consti-
23 tute an overpayment.

24 If an employer files an amended separation report or
25 otherwise raises a new issue as to the employee's el-
26 igibility or changes the wages or weeks used in de-
27 termining benefits which results in a denial of bene-
28 fits or a reduction of the weekly benefit amount, the
29 benefits paid prior to the date the determination is
30 mailed shall not constitute an overpayment. Any ben-
31 efits received after that date to which the claimant
32 is not entitled pursuant to a new determination based
33 on that new employer information shall constitute an
34 overpayment.

35 If, during the period a claimant is receiving bene-
36 fits, new information or a new issue arises concern-
37 ing the claimant's eligibility for benefits or which
38 affects the claimant's weekly benefit amount, no ben-
39 efits may be withheld until a determination is made
40 on the issue, unless authorized by the claimant. Be-
41 fore a determination is made, written notice shall be
42 mailed to the claimant and other interested parties,
43 which shall include the issue to be decided, the law
44 upon which it is based, any factual allegations known

1 to the bureau, the right to a fact-finding interview,
2 the date and location of the scheduled interview, and
3 the claimant's rights regarding the continuation of
4 benefits, conduct of the interview and appeal. The
5 fact-finding interview shall be scheduled not less
6 than 5 days nor more than 14 days after the notice is
7 mailed. The bureau shall include with the notice a
8 preprinted form, which the claimant may sign and re-
9 turn to the bureau after indicating thereon whether
10 he wishes to continue to receive benefits until a de-
11 termination is made, acknowledging an understanding
12 that any benefits paid prior to the determination may
13 be an overpayment under applicable law and recover-
14 able by the bureau if it is later determined that the
15 claimant was not entitled to the benefits. If the
16 claimant does not appear for the scheduled interview,
17 the deputy shall make a determination on the basis of
18 available evidence. The deputy shall make a prompt
19 determination of the issue based solely on any writ-
20 ten statements of interested parties filed with the
21 bureau before the interview, together with the evi-
22 dence presented by interested parties who personally
23 appeared at the interview. Upon request and notice
24 to all parties at the interview, the deputy may ac-
25 cept corroborative documentary evidence after the in-
26 terview. In no other case may the deputy base his
27 decision on evidence received after the interview has
28 been held.

29 Sec. 9. 26 MRSA §1194, sub-§10, as amended by PL
30 1983, c. 305, §6, is further amended to read:

31 10. Determination may be reconsidered; appeal.
32 The deputy may reconsider a determination with re-
33 spect to the weekly benefit amount and maximum total
34 amount of benefits for a claimant for any given bene-
35 fit year, if he finds that an error has occurred in
36 connection therewith, or that wages have been erro-
37 neously reported, but no such redetermination shall
38 be made after one year from the date of the original
39 determination. Notice of any such redetermination
40 shall be promptly given to the parties entitled to
41 notice of the original determination, in the manner
42 prescribed in this section with respect to notice of
43 an original determination. If the maximum amount of
44 benefits is increased upon such redetermination, an
45 appeal therefrom solely with respect to the matters

1 involved in such increase may be filed in the manner
2 and subject to the limitations provided in subsection
3 2. If the amount of benefits is decreased upon such
4 redetermination, the matters involved in such de-
5 crease shall be subject to an appeal by claimant with
6 respect to subsequent benefits which may be affected
7 by the redetermination. An appeal may be filed in
8 the manner and subject to the limitations provided in
9 subsection 2.

10 The deputy may reconsider a benefit payment for any
11 particular week or weeks whenever he finds that an
12 error has occurred, but no such redetermination may
13 be made after one year from the date of payment for
14 such week or weeks. Notice of any such redetermina-
15 tion shall be promptly given to the claimant. Sub-
16 ject to subsection 11, unless the claimant files an
17 appeal from such redetermination within ~~20~~ 15 calen-
18 dar days after such redetermination was mailed to his
19 last known address, such redetermination shall be fi-
20 nal, provided that the period within which an appeal
21 may be filed may be extended for a period not to ex-
22 ceed an additional 15 calendar days for good cause
23 shown.

24 Subject to the same limitations and for the same rea-
25 sons, the commission may reconsider the determination
26 in any case in which the final decision has been ren-
27 dered by an appeal tribunal, the commission or a
28 court, and may apply to the body or court which ren-
29 dered such final decision to issue a revised deci-
30 sion. In the event that an appeal involving an origi-
31 nal determination is pending as of the date a rede-
32 termination thereof is issued, such appeal, unless
33 withdrawn, shall be treated as an appeal from such
34 redetermination.

35 Sec. 10. 26 MRSA §1221, sub-§2, as amended by PL
36 1983, c. 16, is further amended to read:

37 2. Rate of contribution. Each employer subject
38 to this chapter, other than those liable for payments
39 in lieu of contributions, shall pay contributions at
40 the rate of ~~2-7%~~ 5.4% of the wages paid by him with
41 respect to employment during each calendar year, ex-
42 cept as otherwise prescribed in subsection 4.

1 A. Each employer subject to this chapter, other
2 than those liable for payments in lieu of contri-
3 butions, shall pay, in addition to his contribu-
4 tion rate as prescribed in subsection 4, 3/10 of
5 1% of the wages paid by him with respect to em-
6 ployment during the calendar year 1977.

7 B. Each employer subject to this chapter, other
8 than those liable for payments in lieu of contri-
9 butions, shall pay, in addition to his contribu-
10 tion rate as prescribed in subsection 4, 6/10 of
11 1% of the wages paid by him with respect to em-
12 ployment during the calendar years 1983 and 1984.
13 This paragraph is repealed January 1, 1985.

14 Sec. 11. 26 MRSA §1221, sub-§4, ¶A, as amended
15 by PL 1983, c. 753, §2, is further amended to read:

16 A. The standard rate of contributions shall be
17 5.4%. No contributing employer's rate may be var-
18 ied from the standard rate, unless and until his
19 experience rating record has been chargeable with
20 benefits throughout the ~~36-consecutive-~~
21 ~~calendar-month~~ 24-consecutive-calendar-month pe-
22 riod ending on the computation date applicable to
23 such year; provided that with respect to the rate
24 year beginning July 1, 1972, and each rate year
25 thereafter, the rate of any contributing employer
26 who has not been subject to this chapter for a
27 sufficient period of time to meet the 36-month
28 requirement may be varied from the standard rate,
29 if there shall have been a lesser period through-
30 out which his experience rating record has been
31 chargeable with benefits, but in no case less
32 than the 24-consecutive-calendar-month period
33 ending on the computation date applicable to such
34 year, provided, further, that beginning July 1,
35 1976, and with respect to each rate year thereaf-
36 ter, each contributing employer newly subject to
37 this chapter shall pay contributions at the aver-
38 age contribution rate, rounded to the next higher
39 1/10 of 1%, on the taxable wages reported by con-
40 tributing employers for the 12-month period imme-
41 diately preceding the last computation date, pro-
42 vided such rate does may not exceed 3.0%, and not
43 nor be less than 1%; provided that, with respect
44 to the rate year beginning January 1, 1986, and

1 each rate year thereafter, the rate shall not ex-
2 ceed 4.0% nor be less than 1% and until such time
3 as his experience rating record has been charge-
4 able with benefits throughout the
5 24-consecutive-calendar-month period ending on
6 the computation date applicable to such year, and
7 for rate years thereafter his contribution rate
8 shall be determined in accordance with subsec-
9 tions 3 and 4.

10 Sec. 12. 26 M RSA §1221, sub-§4, ¶B, as amended
11 by PL 1983, c. 753, §3, is repealed and the following
12 enacted in its place:

13 B. Subject to paragraph A, each employer's con-
14 tribution rate for the 12-month period commencing
15 January 1st of each year shall be based upon his
16 experience rating record and determined from his
17 reserve ratio, which is the percent obtained by
18 dividing the amount by which, if any, his contri-
19 butions credited from the time he first or most
20 recently became an employer, whichever date is
21 later, and up to and including June 30th of the
22 preceding year, including any part of his contri-
23 butions due for that year payable on or before
24 July 31st of the preceding year, exceed his bene-
25 fits charged during the same period, by his aver-
26 age annual payroll for the 36-consecutive-month
27 period ending June 30th of the preceding year.
28 His contribution rate is the percent shown on the
29 line of the following table on which in column A
30 there is indicated his reserve ratio and under
31 the schedule within which the reserve multiple
32 falls as of September 30th of each year. The
33 following table applies for each 12-month period
34 commencing January 1st of each year as determined
35 by paragraph C. Notwithstanding any other provi-
36 sions of this paragraph, each employer's contri-
37 bution rate computed and effective as of July 1,
38 1981, shall be for the 6-month period ending De-
39 cember 31, 1981.

EMPLOYER'S CONTRIBUTION RATE IN PERCENT OF WAGES

Employer Reserve Ratio	Equal to or Less than	When Reserve Multiple is:						
		over 2.50	2.12- 2.50	1.74- 2.11	1.36- 1.73	.98- 1.35	.60- .97	under .60
		Column A	Schedules					Column G
	A	B	C	D	E	F	G	
19.0%	and over	0.5%	0.7%	1.0%	1.3%	1.6%	1.9%	2.4%
18.0%	19.0%	0.6%	0.8%	1.1%	1.4%	1.7%	2.0%	2.5%
17.0%	18.0%	0.7%	0.9%	1.2%	1.5%	1.8%	2.1%	2.6%
16.0%	17.0%	0.8%	1.0%	1.3%	1.6%	1.9%	2.2%	2.7%
15.0%	16.0%	0.9%	1.1%	1.4%	1.7%	2.0%	2.3%	2.8%
14.0%	15.0%	1.0%	1.2%	1.5%	1.8%	2.1%	2.4%	2.9%
13.0%	14.0%	1.1%	1.3%	1.6%	1.9%	2.2%	2.5%	3.0%
12.0%	13.0%	1.2%	1.4%	1.7%	2.0%	2.3%	2.6%	3.1%
11.0%	12.0%	1.3%	1.5%	1.8%	2.1%	2.4%	2.7%	3.2%
10.0%	11.0%	1.4%	1.6%	1.9%	2.2%	2.5%	2.8%	3.3%
9.0%	10.0%	1.5%	1.7%	2.0%	2.3%	2.6%	2.9%	3.4%
8.0%	9.0%	1.6%	1.8%	2.1%	2.4%	2.7%	3.0%	3.5%
7.0%	8.0%	1.7%	1.9%	2.2%	2.5%	2.8%	3.1%	3.6%
6.0%	7.0%	1.8%	2.0%	2.3%	2.6%	2.9%	3.2%	3.7%
5.0%	6.0%	1.9%	2.1%	2.4%	2.7%	3.0%	3.3%	3.8%
4.0%	5.0%	2.0%	2.2%	2.5%	2.8%	3.1%	3.4%	3.9%
3.0%	4.0%	2.2%	2.4%	2.7%	3.0%	3.3%	3.6%	4.1%
2.0%	3.0%	2.4%	2.6%	2.9%	3.2%	3.5%	3.8%	4.3%
1.0%	2.0%	2.6%	2.8%	3.1%	3.4%	3.7%	4.0%	4.5%
.0%	1.0%	2.8%	3.0%	3.3%	3.6%	3.9%	4.2%	4.7%
-1.0%	.0%	3.0%	3.2%	3.5%	3.8%	4.1%	4.4%	4.9%
-2.0%	-1.0%	3.1%	3.3%	3.6%	3.9%	4.2%	4.5%	5.0%
-3.0%	-2.0%	3.2%	3.4%	3.7%	4.0%	4.3%	4.6%	5.1%
-4.0%	-3.0%	3.3%	3.5%	3.8%	4.1%	4.4%	4.7%	5.2%
-5.0%	-4.0%	3.4%	3.6%	3.9%	4.2%	4.5%	4.8%	5.3%
-6.0%	-5.0%	3.5%	3.7%	4.0%	4.3%	4.6%	4.9%	5.4%
-7.0%	-6.0%	3.6%	3.8%	4.1%	4.4%	4.7%	5.0%	5.5%
-8.0%	-7.0%	3.7%	3.9%	4.2%	4.5%	4.8%	5.1%	5.6%
-9.0%	-8.0%	3.8%	4.0%	4.3%	4.6%	4.9%	5.2%	5.7%
-10.0%	-9.0%	4.0%	4.2%	4.5%	4.8%	5.1%	5.4%	5.9%
-11.0%	-10.0%	4.2%	4.4%	4.7%	5.0%	5.3%	5.6%	6.1%
-12.0%	-11.0%	4.4%	4.6%	4.9%	5.2%	5.5%	5.8%	6.3%
under	-12.0%	5.4%	5.4%	5.4%	5.4%	5.7%	6.0%	6.5%

1 Sec. 13. 26 MRS §1221, sub-§6, ¶E, as repealed
2 and replaced by PL 1973, c. 563, §3, is amended to
3 read:

4 E. Net balance available for benefit payments.
5 "Net balance available for benefit payments"
6 means the sum of the balance in the trust fund,
7 the benefit fund, and the clearing account after
8 adjustment for outstanding checks, and adjustment
9 for funds in transit between either of said funds
10 or said account.

11 Sec. 14. 26 MRS §1225, sub-§4, as amended by PL
12 1983, c. 351, §27, is further amended to read:

13 4. Penalty on past-due contributions. If quar-
14 terly contributions are not paid when due, the com-
15 missioner shall assess, for the first 30 days after
16 the due date or a waiver, a penalty of 2% of the
17 amount of the contributions and thereafter a penalty
18 of 5% of the amount of the unpaid contributions, ~~but~~
19 ~~this penalty shall not be less than \$5 nor more than~~
20 ~~\$100.~~ The commissioner may waive that penalty if he
21 finds that the delay was occasioned by the illness or
22 death of the person in charge of the records of the
23 employing unit or by some other unavoidable occur-
24 rence. The commissioner may allow an extension of
25 time up to 30 days beyond the due date for good cause
26 upon written request made on or before the due date.

27 Sec. 15. 26 MRS §1241, as enacted by PL 1983,
28 c. 738, §2, is amended to read:

29 §1241. Special assessment

30 1. Definitions. As used in this section, unless
31 the context otherwise indicates, the following terms
32 have the following meanings.

33 A. "Advance" means a loan made from the Federal
34 Unemployment Trust Fund to the state's Unemploy-
35 ment Compensation Fund on which interest will be
36 due and payable if the loan is not repaid by the
37 due date set by the Federal Government.

38 B. "Anticipated interest" means the amount of
39 interest that will be due on an advance under

1 federal law on its interest due date if the ad-
2 vance is not repaid by the interest due date.

3 C. "Assessment quarter" means the calendar quar-
4 ter in which an advance is received or
5 anticipated.

6 D. "Assessment rate" means a rate equal to the
7 percentage, rounded to the next highest 1/10th of
8 1%, derived if the amount of interest that will
9 be due if an advance is not repaid by the inter-
10 est due date, minus any existing unobligated and
11 unencumbered balance in the Federal Advance In-
12 terest Fund, is divided by the taxable wages re-
13 ported by contributing employers for the calendar
14 quarter ending March 31st in the immediately
15 preceding calendar year that corresponds to the
16 assessment quarter prior to the year of the as-
17 essment quarter.

18 E. "Federal Advance Interest Fund" means the
19 fund defined in section 1165.

20 F. "Interest due date" means:

21 (1) The date on which anticipated interest
22 is due to the Federal Government on an ad-
23 vance which was not repaid by the due date
24 set by the Federal Government; or

25 (2) If the Federal Government allows the
26 State to defer repayment of an advance and
27 anticipated interest on the advance, the
28 date on which the deferred repayment is due
29 to the Federal Government.

30 G. "Subsequent assessment quarter" means a cal-
31 endar quarter subsequent to the assessment quar-
32 ter.

33 2. Special assessment. If as of December 31st,
34 of any year an advance has not been repaid during the
35 assessment quarter for the advance is anticipated for
36 the next calendar year and the balance in the Federal
37 Advance Interest Fund is insufficient to pay the an-
38 ticipated interest charges that will be due on the
39 advance on its interest due date, and if, using stan-

1 dards adopted under the Maine Administrative Procedure
2 Act, the Commissioner of Labor determines that
3 it is probable that the advance will not be repaid by
4 the interest due date, then the Commissioner of Labor
5 may assess a special assessment for that assessment
6 quarter. The amount of an employer's special assess-
7 ment shall be determined by multiplying the wages for
8 employment taxable to an employer under section 1221
9 for that the quarter ending March 31st in the year of
10 the assessment quarter by the assessment rate. As-
11 sements shall be paid into the Federal Advance In-
12 terest Fund for use in paying interest on the ad-
13 vance.

14 After the money is received from the special assess-
15 ment for the assessment quarter, if the balance in
16 the Federal Advance Interest Fund is still not suffi-
17 cient to pay the interest charges that will be due on
18 the advance on its interest due date, then the com-
19 missioner may assess further special assessments in
20 subsequent assessment quarters to raise the balance
21 in the Federal Advance Interest Fund up to a balance
22 sufficient to pay the interest charges. All provi-
23 sions in this section that apply to the special as-
24 sessment also shall apply to these further special
25 assessments.

26 No special assessments may be assessed if sufficient
27 unobligated and unencumbered funds are present in the
28 Federal Advance Interest Fund to pay the anticipated
29 interest on the advance on its due date.

30 3. Employers liable for special assessment.
31 Each employer subject to this chapter, other than
32 those liable for payments in lieu of contributions,
33 shall be liable for special assessments.

34 4. Receipts. All receipts collected from a spe-
35 cial assessment, ~~including interest, fines and penal-~~
36 ~~ties on special assessments not paid when due,~~ shall
37 be paid into the Federal Advance Interest Fund.

38 5. Experience rating records. No special as-
39 sessment may be credited to any employer's experience
40 rating record.

1 6. Other provisions of chapter. All provisions
2 of this chapter and rules promulgated under this
3 chapter regarding payments, time limits, dates of
4 payment, reports, interest and penalties on amounts
5 not paid by employers when due, fines, liens and war-
6 rants which apply to the collection of contributions
7 also shall apply to the collection of special assess-
8 ments.

9 Sec. 16. 28 MRSA §304, as amended by PL 1981, c.
10 698, §124, is further amended to read:

11 §304. Licensee not to be indebted, obligated or
12 involved

13 Except as provided by section 601, no person
14 shall be issued a license or a renewal of a license
15 if he shall be indebted in any manner, directly or
16 indirectly, to any other person for liquor or to the
17 State of Maine for any tax, other than property tax,
18 assessed and deemed final under Title 36 which the
19 State Tax Assessor certifies, in accordance with Ti-
20 tle 36, section 172, as remaining unpaid in an amount
21 exceeding \$1,000 for a period greater than 60 days
22 after the applicant or licensee has received notice
23 of the finality of such tax. No person may be issued
24 a license or a renewal of a license if he is indebted
25 for any contributions assessed and deemed final under
26 Title 26, section 1225, when the Director of Unem-
27 ployment Compensation certifies that the amount re-
28 remains unpaid for a period greater than 60 days, after
29 the applicant or licensee has received notice of the
30 finality of that tax. It shall be unlawful for any
31 licensee or any applicant for license, directly or
32 indirectly, to receive any money, credit, thing of
33 value, indorsement of commercial paper, guarantee of
34 credit or financial assistance of any sort from any
35 person, association or corporation within or without
36 the State, if such person, association or corporation
37 shall be engaged, directly or indirectly, in the man-
38 ufacture, distribution, sale, storage or transporta-
39 tion of liquor; or if such person, association or
40 corporation shall be engaged in the manufacture, dis-
41 tribution, sale or transportation of any commodity,
42 equipment, material or advertisement used in connec-
43 tion with the manufacture, distribution, sale, stor-
44 age or transportation of liquor. No Maine retail li-

1 quor licensee shall have any interest, direct or in-
2 direct, in any Maine manufacturer's or wholesaler's
3 license or certificate of approval issued to an out-
4 of-state manufacturer or foreign wholesaler of malt
5 liquor or table wine; and no out-of-state manufactur-
6 er or foreign wholesaler having a state certificate
7 of approval, nor any state wholesaler or manufactur-
8 ing licensee, shall have any interest, direct or in-
9 direct, in any state retail liquor license. Minor
10 investment in securities of a corporation engaged in
11 liquor business not amounting to more than 1% shall
12 not be held to be an interest forbidden by the fore-
13 going sentence. This section shall not prohibit a
14 wholesaler from receiving normal credits for the pur-
15 chase of malt liquor or table wine from the manufac-
16 turer thereof within or without the State.

17 STATEMENT OF FACT

18 Section 1 of this bill corrects a spelling error,
19 deletes reference to a provision that has been re-
20 pealed and makes this subsection consistent with oth-
21 er provisions of the law.

22 Section 2 is an amendment to align the Maine Em-
23 ployment Security Law with the Federal Unemployment
24 Tax Act. Failure to change the Maine law to agree
25 with the federal law would result in a decreased Fed-
26 eral Unemployment Tax Act tax credit and increased
27 costs for certain Maine employers.

28 Section 3 strengthens the enforcement authority
29 of the department in collecting unpaid unemployment
30 taxes. This provision is similar to the enforcement
31 authority already granted to the Bureau of Taxation.

32 Section 4 authorizes the commissioner to issue
33 subpoenas, administer oaths and certify official
34 acts. This corrects an oversight when this provision
35 was previously amended.

36 Section 5 ensures that the department will be
37 able to make required interest payments should it ev-
38 er be necessary to borrow money from the Federal Gov-
39 ernment to pay unemployment compensation benefits.

1 Sections 6 and 7 require that an individual earn
2 requalification wages from an employer subject to the
3 Employment Security Law. These amendments are con-
4 sistent with other requalification provisions pres-
5 ently in the law.

6 Section 8 corrects a grammatical error.

7 Section 9 conforms the appeal period for a recon-
8 sidered deputy's decision to the appeal provisions
9 for other deputy decisions.

10 Section 10 does the following:

11 1. Conforms the tax rate on contributions to the
12 standard rate contained in another provision of
13 the law. This corrects an inconsistency in the
14 law; and

15 2. Repeals a provision that is no longer in ef-
16 fect.

17 Section 11 provides that a new employer shall pay
18 unemployment taxes at the average rate of all employ-
19 ers, not to exceed 4%. Presently, new employers can-
20 not be assigned a rate in excess of 3% even though
21 the average rate is in excess of that amount. As a
22 result, after 2 years, these employers receive large
23 tax increases; and

24 Section 12 provides for new employer contribution
25 rate schedules. The new schedules simplify the fi-
26 nancing mechanism by reducing the number of sched-
27 ules, improving the solvency of the unemployment in-
28 surance system by increasing the fund reserve level,
29 establish prudent fiscal planning by ensuring that
30 the system is self-financing, stabilize employers'
31 costs by limiting the number of changes in schedules
32 from year to year and reduces the variations and un-
33 certainties of contribution rates by increasing the
34 counter-cyclical financing nature of the system.

35 Section 13 adds the word benefit to make this
36 provision consistent.

37 Section 14 strengthens the penalties on unpaid
38 unemployment taxes.

1 Section 15 ensures that the department will be
2 able to make required interest payments should it ever
3 be necessary to borrow money from the Federal Govern-
4 ment to pay unemployment compensation benefits.

5 Section 16 provides that no person may be issued
6 a liquor license or renewal if he owes any unemploy-
7 ment taxes.

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