

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1359

H.P. 961

House of Representatives, February 18, 1999

**An Act to Make the Unemployment Compensation Program More Responsive to the Needs of Today's Workforce and to Ensure the Solvency of the Unemployment Compensation Trust Fund.**

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Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative HATCH of Skowhegan.  
Cosponsored by Senator CATHCART of Penobscot and  
Representatives: BRYANT of Dixfield, DUPLESSIE of Westbrook, FRECHETTE of  
Biddeford, GOODWIN of Pembroke, MATTHEWS of Winslow, SAMSON of Jay.

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

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4       **Sec. 1. 26 MRSA §1043, sub-§19, ¶A**, as amended by PL 1983, c. 13, §2, is further amended to read:

6       A. For purposes of section 1221, the term "wages" shall  
8       ~~does~~ not include ~~that--part--of--remuneration--which--after~~  
10       ~~remuneration--equal--to~~ remuneration that exceeds the first  
12       \$3,000 through December 31, 1971, \$4,200 through December  
14       31, 1977, \$6,000 through December 31, 1982, \$7,000 through  
16       December 31, 1999, and on and after January 1, 1983,--that  
18       ~~part--of--remuneration--equal--to--\$7,000--has--been--2000, \$16,000~~  
20       that is paid in a calendar year to an individual by an  
22       employer or his the employer's predecessor with--respect--to  
24       for employment during any calendar year, is--paid--to--the  
      individual--by--the--employer--during--that--calendar--year, unless  
      that part of the remuneration is subject to a tax under a  
      federal law imposing a tax against which credit may be taken  
      for contributions required to be paid into a state  
      unemployment fund. The wages of an individual for employment  
      with an employer ~~shall--be~~ are subject to this exception  
      whether earned in this State or any other state when the  
      employer-employee relationship is between the same legal  
      entities;

26       **Sec. 2. 26 MRSA §1192, sub-§3**, as repealed and replaced by PL  
28       1983, c. 816, Pt. A, §22, is amended to read:

30       **3. Is able and available for work.** ~~He~~ The individual is  
32       able to work and, is available for full-time work at his the  
34       individual's usual or customary trade, occupation, profession or  
36       business or in such ~~other~~ another trade, occupation, profession  
38       or business for which his the individual's prior training or  
40       experience shows him the individual to be fitted or qualified;  
42       and, in addition to having complied with subsection 2, is himself  
44       actively seeking work in accordance with the regulations of the  
46       commission; ~~provided--that--no--ineligibility--may--be--found--solely~~  
48       ~~because--the--claimant--is--unable--to--accept--employment--on--a--shift,~~  
      ~~the--greater--part--of--which--falls--between--the--hours--of--midnight--to~~  
      ~~5--a.m.,--and--is--unavailable--for--that--employment--because--of~~  
      ~~parental--obligation,--the--need--to--care--for--an--immediate--family~~  
      ~~member,--or--the--unavailability--of--a--personal--care--attendant~~  
      ~~required--to--assist--the--unemployed--individual--who--is--a--handicapped~~  
      ~~person;~~ and provided that an unemployed individual who is neither  
      able nor available for work due to good cause as determined by  
      the deputy ~~shall--be~~ is eligible to receive prorated benefits for  
      that portion of the week during which he the individual was able  
      and available, An individual may not be denied benefits under  
50       this subsection if:

2 A. The individual is unable to accept employment on a  
4 shift, the greater part of which falls between the hours of  
6 midnight and 5 a.m., because of parental obligation, the  
8 need to care for an immediate family member or the  
10 unavailability of a personal care attendant required to  
12 assist the unemployed individual who is a handicapped  
14 person; or

16 B. The individual's availability for or ability to work is  
18 limited to part-time work, provided the individual has good  
20 cause for the limitation and a reasonable field of  
22 employment remains open to the individual in the labor  
24 market area in which the individual resides. For purposes of  
26 this paragraph, "good cause" means the illness or disability  
28 of the individual or an immediate family member, domestic  
30 responsibility or another compelling reason that would  
32 influence a prudent person in the same circumstances as the  
34 claimant, who is genuinely desirous of working, to impose a  
36 limitation on that prudent person's availability for work.

38 **Sec. 3. 26 MRSA §1193, sub-§1, ¶A, as repealed and replaced by**  
40 **PL 1991, c. 560, §2, is amended to read:**

42 **A. For the week in which the claimant left regular**  
44 **employment voluntarily without good cause attributable to**  
46 **that employment. The disqualification continues until the**  
48 **claimant has earned 4 times the claimant's weekly benefit**  
50 **amount in employment by an employer. A claimant may not be**  
**disqualified under this paragraph if:**

(1) The leaving was caused by the illness or disability of the claimant or an immediate family member and the claimant took all reasonable precautions to protect the claimant's employment status by promptly notifying the employer of the reasons for the absence and by promptly requesting reemployment when again able to resume employment;

(2) The leaving was necessary to accompany, follow or join the claimant's spouse in a new place of residence and the claimant can clearly show within 14 days of arrival at the new place of residence an attachment to the new labor market, and the claimant is in all respects able, available and actively seeking suitable work;

(3) The leaving was in good faith in order to accept new employment on a permanent full-time basis and the new employment did not materialize for reasons attributable to the new employing unit; or

2 (4) The leaving was necessary to protect the claimant  
4 from domestic abuse and the claimant made all  
reasonable efforts to preserve the employment;

6 (5) The leaving occurred because the claimant was not  
8 able to make safe and appropriate arrangements for the  
10 care of a child for the time during which the claimant  
12 was scheduled to be at work; or

14 (6) The leaving was necessary because the claimant did  
16 not have access to reliable transportation necessary to  
18 work.

20 **Sec. 4. 26 MRSA §1195, sub-§1, ¶A, as amended by PL 1979, c.**  
22 **515, §17, is further amended to read:**

24 **A. Exhaustee. "Exhaustee" means an individual who, with**  
26 **respect to any week of unemployment in his that individual's**  
28 **eligibility period:**

30 (1) Has received, prior to such week, all of the  
32 regular benefits that were available to him that  
34 individual under this chapter or any other state law,  
36 including dependents' allowances and benefits payable  
38 to federal civilian employees and ex-servicemen under 5  
40 U.S.C. Chapter 85, in his that individual's current  
42 benefit year that includes such week; provided that for  
the purposes of this paragraph, an individual shall-be  
deemed is considered to have received all of the  
regular benefits that were available to him that  
individual although as a result of a pending appeal  
with respect to wages or employment, or both, that were  
not considered in the original monetary determination  
in his that individual's benefit year, he the  
individual may subsequently be determined to be  
entitled to added regular benefits, or he the  
individual may be entitled to regular benefits with  
respect to future weeks of unemployment,--but--such  
benefits--are--not--payable--with--respect--to--such--week--of  
unemployment--by--reason--of--section--1251;

44 (2) His Whose benefit year having expired prior to  
46 such week, has no or insufficient wages or employment,  
48 or both, to establish a new benefit year or, subsequent  
to December 31, 1971, he the individual does not  
qualify by having sufficient wages or employment, or  
both, as provided by section 1192, subsection 5, since  
the beginning of his the prior benefit year; and

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2 (3) Has no right to unemployment benefits or  
allowances, as the case may be, under the Railroad  
4 Unemployment Insurance Act, or under such other federal  
laws as are specified in regulations issued by the  
6 United States Secretary of Labor; and has not received  
and is not seeking unemployment benefits under the  
8 unemployment compensation law of Canada; but if he  
the individual is seeking such benefits and the appropriate  
agency finally determines that he the individual is not  
10 entitled to benefits under such law ~~he shall be~~ the  
individual is considered an exhaustee if the other  
12 provisions of this definition are met.

14 **Sec. 5. 26 MRS §1221, sub-§4-A is enacted to read:**

16 **4-A. Employer's experience classifications after January 1,**  
**2000. For rate years commencing on and after January 1, 2000,**  
18 **the commissioner shall compute annually contribution rates for**  
**each employer based on the employer's own experience rating**  
20 **record and shall designate a schedule and planned yield.**

22 **A. The standard rate of contributions is 5.4%. A**  
**contributing employer's rate may not be varied from the**  
24 **standard rate, unless the employer's experience rating**  
**record has been chargeable with benefits throughout the**  
26 **24-consecutive-calendar-month period ending on the**  
**computation date applicable to such a year. A contributing**  
28 **employer newly subject to this chapter shall pay**  
**contributions at a rate equal to the predetermined yield**  
30 **until the employer's experience rating record has been**  
**chargeable with benefits throughout the**  
32 **24-consecutive-calendar-month period ending on the**  
**computation date applicable to such a year. For rate years**  
34 **thereafter, the employer's contribution rate is determined**  
**in accordance with this subsection and subsection 3.**

36 **B. Subject to paragraph A, an employer's contribution rate**  
38 **for the 12-month period commencing January 1st of each year**  
**is based on the employer's experience rating record and**  
40 **determined from the employer's reserve ratio. The employer's**  
**reserve ratio is the percent obtained by dividing the**  
42 **amount, if any, by which the employer's contributions**  
**credited from the time the employer first or most recently**  
44 **became an employer, whichever date is later, and up to and**  
**including June 30th of the preceding year, including any**  
46 **part of the employer's contributions due for that year paid**  
**on or before July 31st of that year, exceed the employer's**  
48 **benefits charged during the same period, by the employer's**  
**average annual payroll for the 36-consecutive-month period**  
50 **ending June 30th of the preceding year. The employer's**

2 contribution rate is determined under subparagraphs (1) to  
3 (7).

4 (1) The commissioner shall prepare a schedule listing  
5 all employers for whom a reserve ratio has been  
6 computed pursuant to this paragraph, in the order of  
7 their reserve ratios, beginning with the highest ratio.  
8 For each employer, the schedule must show:

10 (a) The amount of the employer's reserve ratio;

12 (b) The amount of the employer's annual taxable  
13 payroll; and

14 (c) A cumulative total consisting of the amount  
15 of the employer's annual taxable payroll plus the  
16 amount of the annual taxable payrolls of all other  
17 employers preceding the employer on the list.

20 (2) The commissioner shall segregate employers into  
21 contribution categories in accordance with the  
22 cumulative totals under subparagraph (1), division (c).  
23 The contribution category is determined by the  
24 cumulative payroll percentage limits in column B of  
25 this subparagraph. Each contribution category is  
26 identified by the contribution category number in  
27 column A that is opposite the figures in column B,  
28 which represent the percentage limits of each  
29 contribution category. If an employer's taxable payroll  
30 falls in more than one contribution category, the  
31 employer must be assigned to the lower-numbered  
32 contribution category, except that an employer may not  
33 be assigned to a higher contribution category than is  
34 assigned any other employer with the same reserve ratio.

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	<u>A</u>	<u>B</u>		<u>C</u>
	<u>Contribution</u>	<u>% of Taxable Payrolls</u>		<u>Experience</u>
	<u>Category</u>	<u>From</u>	<u>To</u>	<u>Factors</u>
42	<u>1</u>	<u>00.00</u>	<u>05.00</u>	<u>.30</u>
	<u>2</u>	<u>05.01</u>	<u>10.00</u>	<u>.35</u>
44	<u>3</u>	<u>10.01</u>	<u>15.00</u>	<u>.40</u>
	<u>4</u>	<u>15.01</u>	<u>20.00</u>	<u>.45</u>
46	<u>5</u>	<u>20.01</u>	<u>25.00</u>	<u>.50</u>
	<u>6</u>	<u>25.01</u>	<u>30.00</u>	<u>.55</u>
48	<u>7</u>	<u>30.01</u>	<u>35.00</u>	<u>.60</u>
	<u>8</u>	<u>35.01</u>	<u>40.00</u>	<u>.65</u>
50	<u>9</u>	<u>40.01</u>	<u>45.00</u>	<u>.70</u>

10	45.01	50.00	.75	
2	11	50.01	55.00	.85
	12	55.01	60.00	.95
4	13	60.01	65.00	1.05
	14	65.01	70.00	1.20
6	15	70.01	75.00	1.35
	16	75.01	80.00	1.50
8	17	80.01	85.00	1.65
	18	85.01	90.00	1.85
10	19	90.01	95.00	2.05
	20	95.01	100.00	2.30

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(3) The commissioner shall compute a reserve multiple to determine the schedule and planned yield in effect for a rate year. The reserve multiple is determined by dividing the fund reserve ratio by the average benefit cost rate. The determination date is October 31st of each calendar year. The schedule and planned yield that apply for the 12-month period commencing every January 1st are shown on the line of the following table that corresponds with the applicable reserve multiple in column A except that column B must be in effect for the 12-month period commencing January 1, 2000.

	<u>A</u>	<u>B</u>	<u>C</u>
26			
28	<u>Reserve</u>	<u>Schedule</u>	<u>Planned</u>
	<u>Multiple</u>		<u>Yield</u>
30	<u>1.50 and over</u>	<u>A</u>	<u>0.8%</u>
	<u>1.25 - 1.49</u>	<u>B</u>	<u>1.0%</u>
32	<u>1.00 - 1.24</u>	<u>C</u>	<u>1.2%</u>
	<u>.75 - .99</u>	<u>D</u>	<u>1.4%</u>
34	<u>.50 - .74</u>	<u>E</u>	<u>1.6%</u>
	<u>under .50</u>	<u>F</u>	<u>1.8%</u>

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(4) The commissioner shall compute the predetermined yield by multiplying the ratio of total wages to taxable wages for the 12-month period ending the preceding June 30th by the planned yield.

(5) The commissioner shall determine the contribution rates effective for a rate year by multiplying the planned yield by the experience factors for each contribution category. Contribution category 20 in the table in subparagraph (2) must be assigned a contribution rate of at least 5.4%. The employer's experience factor is the percent shown in column C in the table in subparagraph (2) that corresponds with the employer's contribution category in column A.



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(6) If, subsequent to the assignment of contribution rates for a rate year, the reserve ratio of an employer is recomputed and changed, the employer must be placed in the position on the schedule prepared pursuant to subparagraph (1) that the employer would have occupied had the corrected reserve ratio been shown on the schedule. The altered position on the schedule does not affect the position of any other employer.

(7) In computing the contribution rates, only the wages reported by employers liable for payment of contributions into the fund and net benefits paid that are charged to an employer's experience rating record or to the fund are considered in the computation of the average benefit cost rate and the ratio of total wages to taxable wages.

C. The commissioner shall:

(1) Promptly notify each employer of the employer's rate of contributions as determined for the 12-month period commencing January 1st of each year. The determination is conclusive and binding upon the employer unless within 30 days after notice of the determination is mailed to the employer's last known address or, in the absence of mailing, within 30 days after the delivery of the notice, the employer files an application for review and redetermination, setting forth the employer's reasons. If the commission grants the review, the employer must be promptly notified and must be granted an opportunity for a hearing. An employer does not have standing in any proceedings involving the employer's rate of contributions or contribution liability to contest the chargeability to the employer's experience rating record of any benefits paid in accordance with a determination, redetermination or decision pursuant to section 1194, except upon the ground that the services for which benefits were found to be chargeable did not constitute services performed in employment for the employer and only when the employer was not a party to the determination, redetermination or decision or to any other proceedings under this chapter in which the character of the services was determined. The employer must be promptly notified of the commission's denial of the employer's application or the commission's redetermination, both of which are subject to appeal pursuant to Title 5, chapter 375, subchapter VII; and

2           (2) Provide each employer at least monthly with a  
4           notification of benefits paid and chargeable to the  
6           employer's experience rating record. In the absence of  
8           an application for redetermination filed in the manner  
10           and within the period prescribed by the commission, a  
12           notification is conclusive and binding upon the  
14           employer for all purposes. A redetermination made after  
16           notice and opportunity for hearing and the commission's  
          findings of fact may be introduced in subsequent  
          administrative or judicial proceedings involving the  
          determination of the rate of contributions of an  
          employer for the 12-month period commencing January 1st  
          of any year and is entitled to the same finality as is  
          provided in this section with respect to the findings  
          of fact made by the commission in proceedings to  
          redetermine the contribution rates of an employer.

18           **Sec. 6. 26 MRSA §1221, sub-§6, as amended by PL 1985, c. 348,**  
20           **§11, is repealed and the following enacted in its place:**

22           **6. Definitions.** As used in this section, unless the  
24           context otherwise indicates, the following terms have the  
          following meanings.

26           A. "Average benefit cost rate" means the percentage obtained  
28           by averaging the 3 highest cost rates for the last 20  
          completed calendar years preceding the computation date. The  
          rate is rounded down to the nearest 0.1%.

30           B. "Benefits charged" means the benefits paid and charged  
32           against the experience rating record of an employer as  
34           provided in subsection 3, including all benefits paid and  
          charged on or before the computation date.

36           C. "Composite cost rate" means the arithmetic average of  
38           the annual cost rates for the last 15 completed calendar  
40           years multiplied by a factor of 1.95; either the resulting  
          composite rate applies for the reserve multiple calculation  
          or the rate of 2.20, whichever is greater; but in no case  
          may a composite cost rate higher than 2.83 apply.

42           D. "Computation date" means June 30th of each calendar  
44           year, and the reserve ratio of each employer is determined  
          by the commissioner as of that date.

46           E. "Contributions credited" means the contributions credited  
48           to the experience rating record of an employer as provided  
50           in subsection 3, including all contributions due and paid on  
          or before July 31st following the computation date.

- 2       F. "Cost rate" means the percentage obtained by dividing  
3       net benefits paid for a calendar year by the total wages for  
4       the same period.
  
- 6       G. "Effective date" means the date on which the new rates  
7       become effective and is January 1st of each calendar year.
  
- 8       H. "Experience factors" means the weights in subsection 4-A,  
9       paragraph B, subparagraph (2) assigned to the contribution  
10       categories and used to calculate the contribution rates.
  
- 12       I. "Fund reserve ratio" means the percentage obtained by  
13       dividing the net balance available for benefits payments as  
14       of September 30th of each calendar year by the total wages  
15       for the preceding calendar year.
  
- 16       J. "Net balance available for benefit payments" means the  
17       sum of the balance in the trust fund, the benefit fund and  
18       the clearing account after adjustment for outstanding checks  
19       and adjustment for funds in transit between either of the  
20       funds or the account.
  
- 22       K. "Planned yield" means the percentage of total wages  
23       determined by the reserve multiple for the rate year in  
24       accordance with the table in subsection 4-A, paragraph B,  
25       subparagraph (3).
  
- 28       L. "Predetermined yield" means the percentage determined by  
29       multiplying the ratio of total wages to taxable wages by the  
30       planned yield. The predetermined yield is rounded up to the  
31       nearest 0.01% and is the calculated average contribution  
32       rate for the rate year.
  
- 34       M. "Rate year" means the 12-month period commencing January  
35       1st of each year.
  
- 36       N. "Ratio of total wages to taxable wages" means the factor  
37       obtained by dividing total wages for the 12-month period  
38       ending June 30th by taxable wages for the same period.
  
- 40       O. "Reserve multiple" means the measure of the fund reserve  
41       that expresses the current fund reserve ratio as a multiple  
42       of the composite cost rate. The reserve multiple must be  
43       rounded to 2 decimal places. For rate years that begin on  
44       and after January 1, 2000, the "reserve multiple" is a  
45       measure of the fund reserve that expresses the current fund  
46       reserve ratio as a multiple of the average benefit cost rate.
  
- 48       P. "Total wages" means the aggregate total wages paid in  
49       Maine for a calendar year in covered employment by  
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2 contributing employers, as reported on employer contribution  
3 reports.

4 **Sec. 7. 26 MRSA §1251**, as amended by PL 1997, c. 293, §9, is  
5 repealed.

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8 **SUMMARY**

9  
10 This bill provides access to unemployment compensation  
11 benefits for persons who must restrict their work hours to  
12 part-time for good cause. It permits individuals who must leave  
13 work because of lack of child care or transportation to receive  
14 unemployment compensation benefits. It eliminates the  
15 restriction on unemployment benefits for seasonal workers. It  
16 increases the taxable wage base to \$16,000 while adopting an  
17 array system to more equitably distribute tax rates among  
18 employers and to help address the system's solvency problems.  
Finally, the bill corrects format.