

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1530

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S.P. 536

In Senate, April 25, 2017

### **An Act To Amend the Laws Governing Unemployment Compensation**

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Submitted by the Department of Labor pursuant to Joint Rule 204.  
Reference to the Committee on Labor, Commerce, Research and Economic Development  
suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator LANGLEY of Hancock.  
Cosponsored by Senator: VOLK of Cumberland, Representatives: AUSTIN of Gray,  
MASTRACCIO of Sanford, STETKIS of Canaan, VACHON of Scarborough.

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

2 **Sec. 1. 26 MRSA §1043, sub-§2**, as amended by PL 1999, c. 555, §1, is further  
3 amended to read:

4 **2. Annual payroll.** "Annual payroll" means the total amount of wages paid by an  
5 employer during a calendar year, not meaning, however, to include that part of individual  
6 wages or salaries in excess of ~~\$3,000 in any calendar year through 1971, \$4,200 in any~~  
7 ~~calendar year through 1977, \$6,000 in any calendar year through 1982, \$7,000 in any~~  
8 ~~calendar year through 1999~~ and \$12,000 in any subsequent calendar year.

9 **Sec. 2. 26 MRSA §1043, sub-§11, ¶F**, as repealed and replaced by PL 2011, c.  
10 691, Pt. A, §27, is amended to read:

11 F. The term "employment" does not include:

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

15 (2) Service performed in the employ of the United States Government or an  
16 instrumentality of the United States immune under the Constitution of the United  
17 States from the contributions imposed by this chapter, except that on and after  
18 January 1, 1940 to the extent that the Congress of the United States has permitted  
19 states to require any instrumentalities of the United States to make payments into  
20 an unemployment compensation fund under a state unemployment compensation  
21 or employment security law, all of the provisions of this chapter are applicable to  
22 such instrumentalities and to services performed for such instrumentalities in the  
23 same manner, to the same extent and on the same terms as to all other employers,  
24 employing units, individuals and services. If this State is not certified for any  
25 year by the Secretary of Labor under the federal Internal Revenue Code, Section  
26 3304, the payments required of such instrumentalities with respect to that year  
27 must be refunded by the commissioner from the fund in the same manner and  
28 within the same period as is provided in section 1225, subsection 5, with respect  
29 to contributions erroneously collected;

30 (3) Service with respect to which unemployment compensation is payable under  
31 an unemployment compensation system or employment security system  
32 established by an Act of Congress. The commissioner is authorized and directed  
33 to enter into agreements with the proper agencies under such an Act of Congress,  
34 which agreements become effective 10 days after publication thereof in the  
35 manner provided in section 1082, subsection 2, for regulations, to provide  
36 reciprocal treatment to individuals who have, after acquiring potential rights to  
37 benefits under this chapter, acquired rights to unemployment compensation under  
38 such an Act of Congress, or who have, after acquiring potential rights to  
39 unemployment compensation under such an Act of Congress, acquired rights to  
40 benefits under this chapter;

41 (4) Agricultural labor as defined in subsection 1, except as provided in paragraph  
42 A-2;

- 1 (5) Service performed by an individual who is an alien admitted to the United  
2 States to perform agricultural labor pursuant to the United States Immigration  
3 and Nationality Act, Sections 214(c) and 101(a) (15) (H);
- 4 (6) Domestic service in a private home, except as provided in paragraph A-3;
- 5 (7) Service performed by an individual in the employ of that individual's son,  
6 daughter or spouse and service performed by a child under 18 years of age in the  
7 employ of that child's father or mother, except for periods of such service for  
8 which unemployment insurance contributions are paid;
- 9 (8) Service performed by a student attending an elementary, secondary or  
10 postsecondary school while participating in a cooperative program of education  
11 and occupational training or on-the-job training that is part of the school  
12 curriculum;
- 13 (9) Service performed with respect to which unemployment compensation is  
14 payable under the federal Railroad Unemployment Insurance Act, 52 Stat. 1094  
15 (1938);
- 16 (10) Service performed in the employ of any other state or any political  
17 subdivision thereof or any instrumentality of any one or more of the foregoing  
18 that is wholly owned by one or more states or political subdivisions and any  
19 services performed in the employ of any instrumentality of one or more other  
20 states or their political subdivisions to the extent that the instrumentality is, with  
21 respect to such a service, immune under the Constitution of the United States  
22 from the tax imposed by Section 3301 of the federal Internal Revenue Code,  
23 except as provided in paragraph A-1, subparagraph (1);
- 24 (11) Service performed in any calendar quarter in the employ of any  
25 organization exempt from income tax under the federal Internal Revenue Code,  
26 Section 501(a) other than an organization described in the federal Internal  
27 Revenue Code, Section 401(a), or under Section 521, if the remuneration for such  
28 service is less than \$150;
- 29 (12) Service performed in the employ of a foreign government, including service  
30 as a consular or other officer or employee or a nondiplomatic representative;
- 31 (13) Service performed in the employ of an instrumentality wholly owned by a  
32 foreign government:
- 33 (a) If the service is of a character similar to that performed in foreign  
34 countries by employees of the United States Government or an  
35 instrumentality thereof; and
- 36 (b) If the commissioner finds that the United States Secretary of State has  
37 certified to the United States Secretary of the Treasury that the foreign  
38 government, with respect to whose instrumentality exemption is claimed,  
39 grants an equivalent exemption with respect to similar service performed in  
40 the foreign country by employees of the United States Government and of  
41 instrumentalities thereof;

- 1 (14) Service performed as a student nurse in the employ of a hospital or a nurses'  
2 training school by an individual who is enrolled and is regularly attending classes  
3 in a nurses' training school chartered or approved pursuant to state law and  
4 service performed as an intern in the employ of a hospital by an individual who  
5 has completed a 4-year course in a medical school chartered or approved  
6 pursuant to state law;
- 7 (15) Service performed by an individual for a person as a real estate broker, a  
8 real estate sales representative, an insurance agent or an insurance solicitor, if all  
9 such service performed by that individual for that person is performed for  
10 remuneration solely by way of commission;
- 11 (16) Service performed by an individual under 18 years of age in the delivery or  
12 distribution of newspapers or shopping news, except delivery or distribution to  
13 any point for subsequent delivery or distribution;
- 14 (17) Service performed in the employ of any organization that is excluded from  
15 the term "employment" as defined in the Federal Unemployment Tax Act solely  
16 by reason of 26 United States Code, Section 3306(c)(7) or (8) if:
- 17 (a) Service is performed in the employ of a church or convention or  
18 association of churches or an organization that is operated primarily for  
19 religious purposes and that is operated, supervised, controlled or principally  
20 supported by a church or convention or association of churches;
- 21 (b) Service is performed by a duly ordained, commissioned or licensed  
22 minister of a church in the exercise of that minister's ministry or by a member  
23 of a religious order in the exercise of duties required by that order;
- 24 ~~(c) Prior to January 1, 1978, service is performed in the employ of a school~~  
25 ~~primarily operated as an elementary, secondary or preparatory school for~~  
26 ~~higher education that is not an institution of higher education;~~
- 27 (d) Service is performed in a facility conducted for the purpose of carrying  
28 out a program of rehabilitation for individuals ~~whose earning capacity is~~  
29 ~~impaired by age or physical or mental disability or injury or providing~~  
30 ~~remunerative work for individuals who, because of their impaired physical or~~  
31 ~~mental capacity, cannot be readily absorbed in the competitive labor market~~  
32 ~~by an individual receiving such rehabilitation or remunerative work~~ with  
33 intellectual or developmental disabilities who are employed in capacities  
34 meeting the conditions set forth in section 666;
- 35 (e) Service is performed as part of an unemployment work-relief or  
36 work-training program assisted or financed in whole or in part by any federal  
37 agency or an agency of a state or political subdivision thereof by an  
38 individual receiving that work relief or work training;
- 39 (f) Service is performed in the employ of a hospital, as defined in subsection  
40 26, by a patient of that hospital;
- 41 (g) Service is performed ~~prior to January 1, 1978 for a hospital in a state~~  
42 ~~prison or other state correctional institution by an inmate of that prison or~~

- 1 ~~correctional institution and after December 31, 1977~~ by an inmate of a  
2 custodial or penal institution;
- 3 (h) Service is performed in the employ of a school, college or university if  
4 that service is performed by a student who is enrolled and is regularly  
5 attending classes at such a school, college or university; or
- 6 ~~(i) Prior to January 1, 1978, service is performed in the employ of a school~~  
7 ~~that is not an institution of higher education and after December 31, 1977,~~  
8 ~~service~~ Service is performed in the employ of a governmental entity referred  
9 to in paragraph A-1, subparagraph (1) if that service is performed by an  
10 individual in the exercise of duties:
- 11 (i) As an elected official;
- 12 (ii) As a member of a legislative body or a member of the judiciary of a  
13 state or political subdivision of a state;
- 14 (iii) As a member of the State National Guard or Air National Guard;
- 15 (iv) As an employee serving on a temporary basis in case of fire, storm,  
16 snow, earthquake, flood or similar emergency;
- 17 (v) In a position that, under or pursuant to the laws of this State, is  
18 designated as a major nontenured policy-making or advisory position or a  
19 policy-making or advisory position the performance of the duties of  
20 which ordinarily does not require more than 8 hours per week; or
- 21 (vi) As an election official or election worker if the amount of  
22 remuneration received by the individual during the calendar year for  
23 services as an election official or election worker is less than \$1,000;
- 24 (18) Service performed under a booth rental agreement or other rental agreement  
25 by:
- 26 (a) A hairdresser who holds a booth license and operates within another  
27 hairdressing establishment; or
- 28 (b) A tattoo artist if the service performed by the tattoo artist is not subject to  
29 federal unemployment tax;
- 30 (19) Service performed by a barber who holds a booth license and operates  
31 within another barbering establishment if operated under a booth rental  
32 agreement or other rental agreement;
- 33 (20) Service performed by a contract interviewer engaged in marketing research  
34 or public opinion interviewing when such interviewing is conducted in the field  
35 or over the telephone on premises not used or controlled by the person for whom  
36 such contract services are being provided;
- 37 (21) After December 31, 1981, service performed by an individual on a boat  
38 engaged in catching fish or other forms of aquatic animal life, unless those  
39 services would be included in the definition of "employment" for federal  
40 unemployment tax purposes under the Federal Unemployment Tax Act, 26  
41 United States Code, Section 3306(c), as amended. Also included in this

- 1 exemption are services performed in harvesting shellfish for depuration from  
2 designated areas as authorized by Title 12, section 6856;
- 3 (22) Service performed by a member or leader of a musical group, band or  
4 orchestra or an entertainer when the services are performed under terms of a  
5 contract entered into by the leader or an agent of the musical group, band,  
6 orchestra or entertainer with an employing unit for whom the services are being  
7 performed, if the leader or agent is not an employer by reason of subsection 9 or  
8 of section 1222, subsection 3;
- 9 (23) Service performed in the delivery or distribution of newspapers or  
10 magazines to the ultimate consumer by an individual who is compensated by  
11 receiving or retaining a commission or profit on the sale of the newspaper or  
12 magazine;
- 13 (24) Service performed by a homemaker in the knitted outerwear industry as  
14 those terms are defined, on September 19, 1985, in 29 Code of Federal  
15 Regulations, Part 530, Section 530.1;
- 16 (25) Service performed by a full-time student, as defined in subsection 30, in the  
17 employ of a youth camp licensed under Title 22, section 2495 if the full-time  
18 student performed services in the employ of the camp for less than 13 calendar  
19 weeks in the calendar year and the camp:
- 20 (a) Did not operate for more than 7 months in the calendar year and did not  
21 operate for more than 7 months in the preceding calendar year; or
- 22 (b) Had average gross receipts for any 6 months in the preceding calendar  
23 year that were not more than 33 1/3% of its average gross receipts for the  
24 other 6 months in the preceding calendar year;
- 25 (26) Service performed by an individual as a home stitcher as long as that  
26 employment is not subject to federal unemployment tax;
- 27 (27) Service performed by a person licensed as a guide as required by Title 12,  
28 section 12853, as long as that employment is not subject to federal  
29 unemployment tax;
- 30 (28) Service performed by a direct seller as defined in 26 United States Code,  
31 Section 3508(b)(2). This subparagraph does not include a person selling major  
32 improvements or renovations to the structure of a home, business or property;
- 33 (29) Service performed by lessees of taxicabs, as long as that employment is not  
34 subject to federal unemployment tax. This subparagraph may not be construed to  
35 affect a determination regarding a lessee's status as an independent contractor for  
36 workers' compensation purposes;
- 37 (30) Service provided by a dance instructor to students of a dance studio when  
38 there is a contract between the instructor and the studio under which the  
39 instructor's services are not offered exclusively to the studio, the studio does not  
40 control the scheduling of the days and times of classes other than beginning and  
41 end dates, the instructor is paid by the class and not on an hourly or salary basis,

1 the compensation rate is the result of negotiation between the instructor and the  
2 studio and the instructor is given the freedom to develop the curriculum;

3 (31) Service performed by participants enrolled in programs or projects under the  
4 national service laws including the federal National and Community Service Act  
5 of 1990, as amended, 42 United States Code, Section 12501 et seq. and the  
6 federal Domestic Volunteer Service Act, as amended, 42 United States Code,  
7 Section 4950 et seq.;

8 (32) Service of an author in furnishing text or other material to a publisher who:  
9 (a) Does not control the author's work except to propose topics or to edit  
10 material submitted;  
11 (b) Does not restrict the author from publishing elsewhere;  
12 (c) Furnishes neither a place of employment nor equipment for the author's  
13 use;  
14 (d) Does not direct or control the time devoted to the work; and  
15 (e) Pays only for material that is accepted for publication.

16 This exception does not apply if the employment is subject to federal  
17 unemployment tax;

18 (33) Service provided by an owner-operator of a truck or truck tractor while it is  
19 leased to a motor carrier, as defined in 49 Code of Federal Regulations, Section  
20 390.5 (2000), as long as that employment is not subject to federal unemployment  
21 tax; ~~and~~

22 (34) Service performed by a professional investigator, as defined in Title 32,  
23 section 8103, subsection 5, as long as that employment is not subject to federal  
24 unemployment tax and the following requirements are met:

25 (a) There is a written contract between the professional investigator and the  
26 party requesting services;  
27 (b) The professional investigator offering the services operates  
28 independently of the party requesting services, except for the time frame and  
29 quality of finished work as specified in the contract;  
30 (c) Compensation for services is negotiated between the 2 parties and is paid  
31 for each service performed; and  
32 (d) The party requesting services furnishes neither equipment nor the place  
33 of employment to the professional investigator; ~~and~~

34 (35) Service performed by an individual who volunteers for an employer or  
35 governmental entity if the volunteer:

36 (a) Performs hours of service for the employer or governmental entity for  
37 civic, charitable or humanitarian reasons, without promise, expectation or  
38 receipt of compensation for services rendered. Although a volunteer may  
39 receive no compensation, a volunteer may be paid expenses, reasonable  
40 benefits or a nominal fee to perform such services;



1                   **(b) Offers services freely and without pressure or coercion, direct or implied,**  
2                   **from an employer; and**

3                   **(c) Is not otherwise employed by the same employer or governmental entity**  
4                   **to perform the same type of services as those for which the individual**  
5                   **proposes to volunteer.**

6                   **For purposes of this subparagraph, "governmental entity" has the same meaning**  
7                   **as in section 1221, subsection 10.**

8                   **Sec. 3. 26 MRSA §1043, sub-§19**, as amended by PL 2011, c. 691, Pt. A, §28, is  
9 further amended to read:

10                   **19. Wages.** "Wages" means all remuneration for personal services, including  
11 commissions, bonuses, severance or terminal pay, gratuities and the cash value of all  
12 remuneration in any medium other than cash. The reasonable cash value of remuneration  
13 in any medium other than cash ~~shall~~ **must** be estimated and determined in accordance  
14 with regulations prescribed by the commission, except that:

15                   A. For purposes of section 1221, the term "wages" does not include remuneration  
16 that exceeds ~~the first \$7,000 through December 31, 1999, and on and after January 1,~~  
17 ~~2000~~; the first \$12,000 that is paid in a calendar year to an individual by an employer  
18 or the employer's predecessor for employment during any calendar year, unless that  
19 remuneration is subject to a tax under a federal law imposing a tax against which  
20 credit may be taken for contributions required to be paid into a state unemployment  
21 fund. The wages of an individual for employment with an employer are subject to this  
22 exception whether earned in this State or any other state when the employer-  
23 employee relationship is between the same legal entities;

24                   B. For purposes of section 1191, subsection 2, section 1192, subsection 5 and section  
25 1221, the term "wages" ~~shall~~ **does** not include:

26                   (1) The amount of any payment, including any amount paid by an employer for  
27 insurance or annuities, or into a fund, to provide for any such payment, made to,  
28 or on behalf of, an employee or any of ~~his~~ **the employee's** dependents under a  
29 plan or system established by an employer ~~which that~~ makes provision for ~~his~~ **the**  
30 **employer's** employees generally, or for ~~his~~ **the employer's** employees generally  
31 and their dependents, or for a class or classes of ~~his~~ **the employer's** employees, or  
32 for a class or classes of ~~his~~ **the employer's** employees and their dependents, on  
33 account of:

34                   (a) Sickness or accident disability, but, in the case of payments made to an  
35 employee or any of ~~his~~ **the employee's** dependents, this subparagraph ~~shall~~  
36 ~~exclude~~ **excludes** from the term "wages" only payments ~~which that~~ are  
37 received under a workers' compensation law;

38                   (b) Medical or hospitalization expenses in connection with sickness or  
39 accident disability; or

40                   (c) Death;

41                   (1-A) Any payment on account of sickness or accident disability, or medical or  
42 hospitalization expenses in connection with sickness or accident disability, made

1 by an employer or a 3rd party to, or on behalf of, an employee after the expiration  
2 of 6 calendar months following the last calendar month in which the employee  
3 worked for that employer;

4 (2) The payment by an employing unit, without deduction from the remuneration  
5 of the employee, of the tax imposed upon an employee under section 3101 of the  
6 Federal Insurance Contributions Act, as amended, with respect to service  
7 performed after July 26, 1940, with respect to remuneration paid to an employee  
8 for domestic service in a private home of the employer or for agricultural labor;  
9 ~~or~~

10 (3) The amount of any payment, other than vacation or sick pay, to an individual  
11 after the month in which ~~he~~ the individual attains the age of 62, if ~~he~~ the  
12 individual did not perform services for the employing unit in the period for which  
13 such payment is made and is not expected to perform service in the future for the  
14 payment; or

15 (4) The amount of any nominal fee or stipend to a volunteer whose service is  
16 excluded from the definition of employment pursuant to subsection 11, paragraph  
17 F, subparagraph (35);

18 C. With respect to weeks of unemployment beginning on or after January 1, 1978,  
19 wages for insured work includes wages paid for previously uncovered services. For  
20 the purposes of this paragraph, the term "previously uncovered services" means  
21 services:

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

25 (2) That:

26 (a) Are agricultural labor, as defined in subsection 11, paragraph A-2 or  
27 domestic service as defined in subsection 11, paragraph A-3; or

28 (b) Are services performed by an employee of this State or a political  
29 subdivision thereof, or any of their instrumentalities as provided in  
30 subsection 11, paragraph A-1, subparagraph (1), or by an employee of a  
31 nonprofit educational institution that is not an institution of higher education,  
32 as provided in subsection 11, paragraph F, subparagraph (17), division (i);

33 except to the extent that assistance under Title II of the Emergency Jobs and  
34 Unemployment Assistance Act of 1974 was paid on the basis of such services;

35 D. Nothing in this subsection may be construed to include as wages any payment  
36 ~~which that~~ which that is not included as wages under the Federal Unemployment Tax Act, 26  
37 United States Code, Section 3306(b)(5) and (r), as amended, as of January 1, 1985;  
38 and

39 E. Nothing in this subsection may be construed to exclude from wages any  
40 remuneration ~~which that~~ which that is:

41 (1) Taxable under any federal law that imposes a tax against which credit may be  
42 taken for contributions required to be paid into a state unemployment fund; or

1 (2) Required to be covered under this chapter as a condition for full tax credit  
2 against the tax imposed by the Federal Unemployment Tax Act.

3 **Sec. 4. 26 MRSA §1192, sub-§6-E**, as enacted by PL 1999, c. 705, §1, is  
4 amended to read:

5 **6-E. Prohibition against disqualification of individuals in approved training**  
6 **under federal Workforce Innovation and Opportunity Act.** Notwithstanding any  
7 other provision of this chapter, unless inconsistent with federal law, the acceptance of  
8 training opportunities available through the federal Workforce ~~Investment~~ Innovation and  
9 Opportunity Act of 1998, 20 United States Code, Sections 9201 to 9276 (1998) is deemed  
10 to be acceptance of training with the approval of the State within the meaning of any  
11 other provision of federal or state law relating to unemployment benefits.

12 **Sec. 5. 26 MRSA §1192, sub-§13**, as enacted by PL 2011, c. 645, §4, is amended  
13 to read:

14 **13. Reemployment services and eligibility assessment; participation.** In the case  
15 that the individual has been referred to reemployment services and eligibility assessment  
16 ~~services~~ by the Department of Labor, the individual participates in those services, unless  
17 the department determines there is good cause for the individual's failure to participate.  
18 Failure to participate in reemployment services and eligibility assessment ~~services~~  
19 without good cause results in a denial of benefits until the individual participates.

20 **Sec. 6. 26 MRSA §1193, sub-§1, ¶A**, as amended by PL 2009, c. 33, §1, is  
21 further amended to read:

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

26 (1) The leaving was caused by the illness or disability of the claimant or an  
27 immediate family member and the claimant took all reasonable precautions to  
28 protect the claimant's employment status by promptly notifying the employer of  
29 the need for time off, a change or reduction in hours or a shift change and being  
30 advised by the employer that the time off or change or reduction in hours or shift  
31 change cannot or will not be accommodated;

32 (2) The leaving was necessary to accompany, follow or join the claimant's  
33 spouse in a new place of residence, ~~and the claimant is in all respects able,~~  
34 ~~available and actively seeking suitable work;~~

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

38 (4) The leaving was necessary to protect the claimant or any member of the  
39 claimant's immediate family from domestic abuse or the leaving was due to  
40 domestic violence that caused the claimant reasonably to believe that the  
41 claimant's continued employment would jeopardize the safety of the claimant or

1 any member of the claimant's immediate family and the claimant made all  
2 reasonable efforts to preserve the employment; or

3 (5) The claimant's employer announced in writing to employees that it planned  
4 to reduce the work force through a layoff or reduction in force and that  
5 employees may offer to be among those included in the layoff or reduction in  
6 force, at which time the claimant offered to be one of the employees included in  
7 the layoff or reduction in force and the claimant's employer accepted the  
8 claimant's offer, thereby ending the employment relationship.

9 Separation from employment based on the compelling family reasons in  
10 subparagraphs (1), (2) and (4) does not result in disqualification.

11 **Sec. 7. 26 MRSA §1193, sub-§1, ¶C**, as enacted by PL 1989, c. 702, Pt. F, §1, is  
12 amended to read:

13 C. For the duration of ~~an unpaid voluntary~~ a leave of absence or sabbatical leave that  
14 has been mutually agreed to by the employee and the employer.

15 **Sec. 8. 26 MRSA §1193, sub-§1, ¶D** is enacted to read:

16 D. For the duration of a partial separation or reduction of hours initiated at the  
17 employee's request and agreed to by the employee and employer;

18 **Sec. 9. 26 MRSA §1193, sub-§7-A**, as enacted by PL 1985, c. 420, §2, is  
19 amended to read:

20 **7-A. Absence from work due to incarceration.** For the duration of ~~his~~ the  
21 individual's unemployment subsequent to a discharge arising from ~~his~~ the individual's  
22 absence from work for more than 2 workdays due to ~~his~~ the individual's incarceration for  
23 conviction of a criminal offense. This disqualification continues until the ~~claimant~~  
24 individual has earned ~~4~~ 8 times ~~his~~ the individual's weekly benefit amount in  
25 employment by an employer; or

26 **Sec. 10. 26 MRSA §1198, sub-§1, ¶F**, as enacted by PL 2011, c. 91, §1 and  
27 affected by §3, is amended to read:

28 F. "Intermittent employment" means employment that is not continuous but may  
29 consist of intervals of weekly work and intervals of no weekly work or annually  
30 reoccurring reductions of work at a year-round business that has not been determined  
31 seasonal.

32 **Sec. 11. 26 MRSA §1198, sub-§2, ¶J**, as enacted by PL 2013, c. 448, §3, is  
33 amended to read:

34 J. The eligible employer allows eligible employees to participate, as appropriate, in  
35 training, including employer-sponsored training or worker training funded under the  
36 federal Workforce ~~Investment~~ Innovation and Opportunity Act of 1998, ~~Public Law~~  
37 ~~105-220, 112 Stat. 936~~, to enhance job skills if such training has been approved by  
38 the commissioner.

1           **Sec. 12. 26 MRSA §1221, sub-§3, ¶A**, as amended by PL 2013, c. 175, §1, is  
2 further amended to read:

3           A. At the time the status of an employing unit is ascertained to be that of an  
4 employer, the commissioner shall establish and maintain, until the employer status is  
5 terminated, for the employer an experience rating record, to which are credited all the  
6 contributions that the employer pays on the employer's own behalf. This chapter may  
7 not be construed to grant any employer or individuals in the employer's service prior  
8 claims or rights to the amounts paid by the employer into the fund. Benefits paid to  
9 an eligible individual under the Maine Employment Security Law must be charged  
10 against the experience rating record of the claimant's most recent subject employer or  
11 to the General Fund if the otherwise chargeable experience rating record is that of an  
12 employer whose status as such has been terminated; except that no charge may be  
13 made to an individual employer but must be made to the General Fund if the  
14 commission finds that:

15           (1) The claimant's separation from the claimant's last employer was for  
16 misconduct in connection with the claimant's employment or was voluntary  
17 without good cause attributable to the employer;

18           (2) The claimant has refused to accept reemployment in suitable work when  
19 offered by a previous employer, without good cause attributable to the employer;

20           (3) Benefits paid are not chargeable against any employer's experience rating  
21 record in accordance with section 1194, subsection 11, paragraphs B and C;

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

28           (6) The claimant was hired by the claimant's last employer to fill a position left  
29 open by a Legislator given a leave of absence under chapter 7, subchapter 5-A,  
30 and the claimant's separation from this employer was because the employer  
31 restored the Legislator to the position after the Legislator's leave of absence as  
32 required by chapter 7, subchapter 5-A;

33           (7) The claimant was hired by the claimant's last employer to fill a position left  
34 open by an individual who left to enter active duty in the United States military,  
35 and the claimant's separation from this employer was because the employer  
36 restored the military serviceperson to the person's former employment upon  
37 separation from military service; ~~or~~

38           (8) The claimant was hired by the claimant's last employer to fill a position left  
39 open by an individual given a leave of absence for family medical leave provided  
40 under Maine or federal law, and the claimant's separation from this employer was  
41 because the employer restored the individual to the position at the completion of  
42 the leave; or

