

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2023

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Legislative Document

No. 1272

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S.P. 509

In Senate, March 21, 2023

### An Act to Index Unemployment Benefits to the Unemployment Rate

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Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator STEWART of Aroostook.  
Cosponsored by Representative MORRIS of Turner and  
Senator: GUERIN of Penobscot, Representatives: BRADSTREET of Vassalboro, HALL of  
Wilton.

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

2 **Sec. 1. 26 MRSA §585, sub-§1**, as enacted by PL 1997, c. 387, §2, is amended to  
3 read:

4 **1. Agricultural labor.** "Agricultural labor" means agricultural labor as defined in the  
5 ~~Employment Security Law, chapter 13~~ Reemployment Assistance Program.

6 **Sec. 2. 26 MRSA §663, sub-§3, ¶A**, as amended by PL 1975, c. 717, §5, is further  
7 amended to read:

8 A. Any individual employed in agriculture as defined in the ~~Maine Employment~~  
9 ~~Security Law~~ Reemployment Assistance Program and the Federal Unemployment  
10 Insurance Tax Law, except when that individual performs services for or on a farm  
11 with over 300,000 laying birds;

12 **Sec. 3. 26 MRSA §1041** is amended to read:

13 **§1041. Short title**

14 This chapter ~~shall be~~ is known and may be cited as "the "Employment Security Law  
15 Reemployment Assistance Program"."

16 **Sec. 4. 26 MRSA §1043, sub-§16-A** is enacted to read:

17 **16-A. State average unemployment rate.** "State average unemployment rate" means  
18 a percentage equal to the average of the 3 months of the most recent 3rd quarter of a  
19 calendar year of the seasonally adjusted unemployment rate for the State as published by  
20 the Department of Labor.

21 **Sec. 5. 26 MRSA §1164**, as amended by PL 1999, c. 464, §5, is further amended to  
22 read:

23 **§1164. Special Administrative Expense Fund**

24 The Special Administrative Expense Fund is created as a special fund in the State  
25 Treasury. All interest, fines and penalties collected under this chapter and all voluntary  
26 contributions tendered as a contribution to this fund must be paid into this fund. The money  
27 may not be expended or available for expenditure in any manner that would permit its  
28 substitution for, or a corresponding reduction in, federal funds that would in the absence of  
29 that money be available to finance expenditures for the administration of the ~~Employment~~  
30 ~~Security Law~~ Reemployment Assistance Program. Nothing in this section prevents the  
31 money from being used as a revolving fund to cover expenditures, necessary and proper  
32 under the law, for which federal funds have been duly requested but not yet received,  
33 subject to the charging of those expenditures against those funds when received. The  
34 money in this fund must be used by the commissioner either for the payment of costs of  
35 administration that are found not to have been properly and validly chargeable against  
36 federal grants or other funds received for or in the Employment Security Administration  
37 Fund on or after January 1, 1943, to finance the Maine Wage Assurance Fund established  
38 in section 632; for the payment of costs of administering chapter 26, for which federal  
39 funds are not available; or to fund activities that will improve the solvency of the  
40 Unemployment Compensation Fund. The money must be available either to satisfy the  
41 obligations incurred by the bureau directly or by requesting the Treasurer of State to  
42 transfer the required amount from the Special Administrative Expense Fund to the

1 Employment Security Administration Fund or the Maine Wage Assurance Fund. The  
2 Treasurer of State shall upon receipt of a written request of the commissioner make any  
3 such transfer. The commissioner shall give notice to the commission prior to any  
4 expenditures from this fund. The commissioner shall order the transfer of the funds or the  
5 payment of any such obligation and the funds must be paid by the Treasurer of State on  
6 requisitions drawn by the commissioner directing the State Controller to issue the State  
7 Controller's warrant for them. The warrant must be drawn by the State Controller based  
8 upon bills of particulars and vouchers certified by an officer or employee designated by the  
9 commissioner. The money in this fund is specifically made available to replace, within a  
10 reasonable time, any money received by this State pursuant to ~~section~~ Section 302 of the  
11 Federal Social Security Act as amended that, because of any action or contingency, has  
12 been lost or has been expended for purposes other than, or in amounts in excess of, those  
13 necessary for the proper administration of the ~~Employment Security Law~~ Reemployment  
14 Assistance Program. The money in this fund must be continuously available to the  
15 commissioner for expenditure in accordance with this section and may not lapse at any time  
16 or be transferred to any other fund except as provided. Any money in the Special  
17 Administrative Expense Fund may be used to make refunds of interest, penalties or fines  
18 erroneously collected and deposited in the Special Administrative Expense Fund. On June  
19 30th of each year all money in excess of \$100,000 in this fund must be transferred to the  
20 Unemployment Compensation Fund.

21 **Sec. 6. 26 MRSA §1191, sub-§4**, as amended by PL 2009, c. 271, §2, is further  
22 amended to read:

23 **4. Maximum amount of benefits.** The maximum amount of benefits that may be  
24 paid to any eligible individual with respect to any benefit year, whether for total or partial  
25 unemployment, ~~may not exceed the lesser of 26 is 12~~ times the individual's weekly benefit  
26 amount ~~or 33 1/3%, rounded to the nearest dollar, of the individual's total wages paid for~~  
27 ~~insured work during the individual's base period, plus the supplemental weekly benefit for~~  
28 ~~dependents payable under subsection 6~~ if the state average unemployment rate is at or  
29 below 5.5%, plus an additional amount equal to one week of the individual's weekly benefit  
30 amount for each 0.5% of the state average unemployment rate above 5.5%, up to a  
31 maximum of 20 times the individual's weekly benefit amount.

32 A. If a dislocated worker, as defined in section 1196, subsection 1, who is in training  
33 approved under section 1192, subsection 6, 6-A, 6-C, 6-D or 6-E qualifies for  
34 additional benefits under section 1043, subsection 5, paragraph B, or exhausts the  
35 worker's entitlement to benefits available to the worker under this subsection, the  
36 maximum amount under this subsection is the product of the worker's most recent  
37 weekly benefit amount multiplied by the number of weeks in which the worker  
38 thereafter attends an approved training program. No increase may be made under this  
39 paragraph, with respect to any benefit period, greater than ~~26~~ 20 times the individual's  
40 weekly benefit amount.

41 (1) Benefits paid to an individual under this paragraph may not be charged against  
42 the experience rating record of any employer, but must be charged to the General  
43 Fund.

44 (2) No benefits may be paid under this paragraph to any person:

- 1 (b) Until the person has exhausted benefits for which the person is eligible  
2 under any unemployment insurance benefit program funded in whole or in part  
3 by the State Government or Federal Government; or
- 4 (c) Who is eligible for or who has exhausted, after the effective date of this  
5 paragraph, trade adjustment allowances as provided by the United States Trade  
6 Act of 1974, Title II, Chapter 2, Public Law 93-617, United States Code, Title  
7 19, Section 2291, et seq., and any amendments or additions thereto, or a similar  
8 successor provision of that Act, except that any individual who was eligible  
9 for and received less than ~~26~~ 20 weeks of benefits under the United States  
10 Trade Act may receive benefits for the number of weeks by which their  
11 benefits under that Act are less than ~~26~~ 20 weeks.

12 **Sec. 7. 26 MRSA §1221, sub-§3, ¶A**, as amended by PL 2019, c. 585, §1, is further  
13 amended to read:

14 A. At the time the status of an employing unit is ascertained to be that of an employer,  
15 the commissioner shall establish and maintain, until the employer status is terminated,  
16 for the employer an experience rating record, to which are credited all the contributions  
17 that the employer pays on the employer's own behalf. This chapter may not be  
18 construed to grant any employer or individuals in the employer's service prior claims  
19 or rights to the amounts paid by the employer into the fund. Benefits paid to an eligible  
20 individual under the ~~Employment Security Law~~ Reemployment Assistance Program  
21 must be charged against the experience rating record of the claimant's most recent  
22 subject employer or to the General Fund if the otherwise chargeable experience rating  
23 record is that of an employer whose status as such has been terminated; except that no  
24 charge may be made to an individual employer but must be made to the General Fund  
25 if the commission finds that:

- 26 (1) The claimant's separation from the claimant's last employer was for misconduct  
27 in connection with the claimant's employment or was voluntary without good cause  
28 attributable to the employer;
- 29 (2) The claimant has refused to accept reemployment in suitable work when  
30 offered by a previous employer, without good cause attributable to the employer;
- 31 (3) Benefits paid are not chargeable against any employer's experience rating  
32 record in accordance with section 1194, subsection 11, paragraphs B and C;
- 33 (5) Reimbursements are made to a state, the Virgin Islands or Canada for benefits  
34 paid to a claimant under a reciprocal benefits arrangement as authorized in section  
35 1082, subsection 12, as long as the wages of the claimant transferred to the other  
36 state, the Virgin Islands or Canada under such an arrangement are less than the  
37 amount of wages for insured work required for benefit purposes by section 1192,  
38 subsection 5;
- 39 (6) The claimant was hired by the claimant's last employer to fill a position left  
40 open by a Legislator given a leave of absence under chapter 7, subchapter 5-A, and  
41 the claimant's separation from this employer was because the employer restored  
42 the Legislator to the position after the Legislator's leave of absence as required by  
43 chapter 7, subchapter 5-A;

1 (7) The claimant was hired by the claimant's last employer to fill a position left  
2 open by an individual who left to enter active duty in the United States military,  
3 and the claimant's separation from this employer was because the employer  
4 restored the military serviceperson to the person's former employment upon  
5 separation from military service;

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

11 (9) The claimant initiated a partial separation or reduction of hours and that partial  
12 separation or reduction of hours was agreed to by the employee and employer.

13 **Sec. 8. 26 MRSA §1221-B, sub-§5, ¶C**, as enacted by PL 2001, c. 381, §1, is  
14 amended to read:

15 C. Could cause services in the employ of the Indian tribe to be excepted from  
16 employment for purposes of obtaining benefits under the ~~Employment Security Law~~  
17 Reemployment Assistance Program.

18 **Sec. 9. 36 MRSA §5219-XX, sub-§2**, as amended by PL 2021, c. 181, Pt. A, §13,  
19 is further amended to read:

20 **2. Credit allowed.** A taxpayer engaged in the production of renewable chemicals in  
21 the State who has complied with subsection 5 and the rules adopted under that subsection  
22 is allowed a credit against the tax imposed by this Part on income derived during the taxable  
23 year from the production of renewable chemicals in the amount of 8¢ per pound of  
24 renewable chemical produced in the State as long as the taxpayer demonstrates to the  
25 Department of Economic and Community Development that at least 75% of the employees  
26 of the contractors hired or retained to harvest renewable biomass used in the production of  
27 the renewable chemicals meet the eligibility conditions specified in the ~~Employment~~  
28 Security Law Reemployment Assistance Program.

29 If the taxpayer does not contract directly with those hired or retained to harvest the  
30 renewable biomass, the taxpayer may obtain the necessary documentation under this  
31 subsection from the landowner or other entity that contracts directly.

32 **Sec. 10. 39-A MRSA §220, sub-§1**, as enacted by PL 1991, c. 885, Pt. A, §8 and  
33 affected by §§9 to 11, is amended to read:

34 **1. Reduction for unemployment benefits.** Compensation paid under this Act, except  
35 compensation under section 212, subsection 3 and lump sum settlements, to any employee  
36 for any period for which the employee is receiving or has received benefits under the  
37 ~~Employment Security Law~~ Reemployment Assistance Program, Title 26, chapter 13, must  
38 be reduced by the amount of the unemployment benefits.

## 39 SUMMARY

40 This bill renames the Employment Security Law the Reemployment Assistance  
41 Program and establishes the maximum amount of unemployment benefits at 12 weeks if

1 the State's average unemployment rate is 5.5% or below, with an additional week added for  
2 every 0.5% the rate is above 5.5% to a maximum of 20 weeks of benefits.