CHAPTER 13

UNEMPLOYMENT COMPENSATION

SUBCHAPTER 1

GENERAL PROVISIONS

§1041. Short title

This chapter shall be known and may be cited as the "Employment Security Law".

§1042. Policy

Economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this State. Unemployment is therefore a subject of general interest and concern that requires appropriate action by the Legislature to prevent its spread and to lighten its burden, which may fall upon the unemployed worker, the unemployed worker's family and the entire community. The achievement of social security requires protection against this greatest hazard of our economic life. This objective can be furthered by operating free public employment offices in affiliation with a nationwide system of public employment services; by devising appropriate methods for reducing the volume of unemployment; and by the systematic accumulation of funds during periods of employment from which benefits may be paid for periods of unemployment, thus maintaining purchasing power, promoting the use of the highest skills of unemployed workers and limiting the serious social consequences of unemployment. [RR 2023, c. 2, Pt. E, §71 (COR).]

SECTION HISTORY

RR 2023, c. 2, Pt. E, §71 (COR).

§1043. Definitions

As used in this chapter, unless the context clearly requires otherwise, the following words shall have the following meanings.

1. Agricultural labor.

A. On and after January 1, 1978, "agricultural labor" includes any service performed:

(1) On a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural, aquacultural, or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife;

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended, 12 U.S.C. 1141J, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(4) In the employ of the operator of a farm, in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for

transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than 1/2 of the commodity with respect to which such service is performed; in the employ of a group of operators of farms, or a cooperative organization of which such operators are members, in the performance of service described in this subparagraph, but only if such operators produced more than 1/2 of the commodity with respect to which such service is performed. The provisions of this subparagraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for consumption; hatching or processing of poultry, transportation of poultry; grading of eggs or packing of eggs, transportation of eggs; the processing of any meat product or the transportation of any meat product; or to any potato packing business which customarily operates during a regularly recurring period of at least 140 working days in a calendar year; or

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business. [PL 1979, c. 515, §1-A (AMD).]

B. As used in paragraph A, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards. [PL 1977, c. 570, §1 (NEW).]

[PL 1979, c. 515, §1-A (AMD).]

1-A. Annual average weekly wage. "Annual average weekly wage," as used to establish the maximum weekly benefit amount for purposes of this chapter, means 1/52 of aggregate total wages paid in Maine covered employment, as reported on employer contribution reports for the calendar year, divided by the arithmetic mean of midmonth weekly covered employment reported on employer contribution reports for the calendar year.

[PL 1985, c. 591, §1 (NEW).]

2. Annual payroll. "Annual payroll" means the total amount of wages paid by an employer during a calendar year, not meaning, however, to include that part of individual wages or salaries in excess of $12,000.

[PL 2017, c. 117, §1 (AMD).]

3. Base period. "Base period" means the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an individual's benefit year; except that, if the first quarter of the last 5 completed calendar quarters was included in the base period applicable to an individual's previous benefit year, that individual's base period is the last 4 completed calendar quarters. In the case of a combined-wage claim pursuant to the arrangement approved by the secretary in accordance with section 1082, subsection 12, the base period is that applicable under the unemployment compensation law of the paying state.

[RR 2023, c. 2, Pt. E, §72 (COR).]

3-A. Alternate base period. For benefit years effective on or after September 27, 1992 for any individual who fails to meet the eligibility requirements of section 1192-A, subsection 2, paragraph F in the base period as defined in subsection 3, the Department of Labor shall make a redetermination of eligibility based on a base period that consists of the last 4 completed calendar quarters immediately preceding the first day of the individual's benefit year. This base period is known as the "alternate base period." If wage information for the most recent quarter of the alternate base period is not available to the department from regular quarterly reports of wage information that is systematically accessible, the department shall gather the necessary data in accordance with rules established for this purpose.

If the department receives information from the employer that causes a revised monetary determination under this subsection, benefits received prior to that revision may not constitute an overpayment of

benefits as long as the claimant did not knowingly misrepresent information requested by the department.

Wages that fall within the base period of claims established under this subsection are not available for reuse in qualifying for any subsequent benefit years under section 1192-A.

In the case of a combined-wage claim pursuant to the arrangement approved by the United States Secretary of Labor in accordance with section 1082, subsection 12, the base period is that base period applicable under the unemployment compensation law of the paying state.
[PL 2025, c. 235, §1 (AMD).]

4. Benefits. "Benefits" means the money payments payable to an individual, as provided in this chapter, with respect to that individual's unemployment.
[RR 2023, c. 2, Pt. E, §73 (COR).]

5. Benefit year. "Benefit year" means the one-year period beginning with the date with respect to which an insured worker files a request for determination of the worker's insured status, and thereafter the one-year period beginning with the date with respect to which the worker next files such a request after the end of the worker's last preceding benefit year. If an insured worker files a request for determination of the worker's insured status during a week in which one calendar quarter ends and another begins, the benefit year for applicable base period identity purposes is deemed to begin on the first day of the new calendar quarter.

A. [PL 1985, c. 591, §2 (RP).]

B. [PL 2025, c. 235, §2 (RP).]

In the case of a combined-wage claim pursuant to the arrangement approved by the secretary in accordance with section 1082, subsection 12, the benefit year is that applicable under the unemployment compensation law of the paying state.
[PL 2025, c. 235, §2 (AMD).]

5-A. Bureau of Unemployment Compensation. "Bureau" means the Bureau of Unemployment Compensation, the former Division of Unemployment Compensation in the Bureau of Employment Security.
[PL 1995, c. 560, Pt. G, §10 (RPR).]

5-A. Bureau of Employment Security.
[PL 1979, c. 579, §3 (NEW); PL 1979, c. 651, §47 (RP).]

6. Calendar quarter. "Calendar quarter" means the period of 3 consecutive calendar months ending on March 31st, June 30th, September 30th or December 31st.

6-A. Client company. "Client company" means a person, association, partnership, corporation or other entity that leases employees from an employee leasing company pursuant to contract.
[PL 1991, c. 468, §2 (NEW).]

7. Commission. "Commission" means the 3-member Unemployment Insurance Commission.
[PL 1983, c. 351, §3 (AMD).]

7-A. Commissioner. "Commissioner" means the Commissioner of Labor.
[PL 1981, c. 168, §10 (AMD).]

7-B. Domestic abuse. "Domestic abuse" means any of the following acts between any family or household members or sexual partners whether or not they have lived together:

A. Attempting to cause or causing bodily injury or offensive physical contact including sexual assaults; [PL 1991, c. 560, §1 (NEW).]

B. Attempting to place or placing another in fear of bodily injury through any course of conduct including, but not limited to, threatening, harassing or tormenting behavior; [PL 1991, c. 560, §1 (NEW).]

C. Compelling a person by force, threat of force or intimidation to engage in conduct from which the person has a right or privilege to abstain or to abstain from conduct in which the person has a right to engage; [PL 1991, c. 560, §1 (NEW).]

D. Knowingly restricting substantially the movements of another person without that person's consent or other lawful authority by: removing that person from that person's residence, place of business or school; moving that person a substantial distance from the vicinity where that person was found; or confining that person for a substantial period either in the place where the restriction commenced or in a place to which that person has been moved; [PL 1991, c. 560, §1 (NEW).]

E. Communicating to a person a threat to commit, or cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is to place the person to whom the threat is communicated, or the person against whom the threat is made, in reasonable fear that the crime will be committed; or [PL 1991, c. 560, §1 (NEW).]

F. Repeatedly intimidating or harassing a person with the intention of causing fear or intimidation. [PL 1991, c. 560, §1 (NEW).]

[PL 1991, c. 560, §1 (NEW).]

8. Money payments to the State Unemployment Compensation Fund.

A. "Contributions" means the money payments required by this chapter to be made into the fund by an employer on account of having individuals performing services for the employer. [RR 2023, c. 2, Pt. E, §74 (COR).]

B. "Payments in lieu of contributions" means the money payments made into the fund by an employer pursuant to section 1221, subsections 11 and 13. [PL 1973, c. 555, §6 (RPR).]

[RR 2023, c. 2, Pt. E, §74 (COR).]

8-A. Employee leasing company. "Employee leasing company" means a business entity that engages in the business of leasing employees to client companies without the client company severing an employer-employee relationship with the employees for services performed for the client company. [PL 1991, c. 468, §2 (NEW).]

9. Employer. "Employer" means:

A. [PL 1979, c. 541, Pt. A, §175 (RP).]

A-1. Any employing unit which:

(1) During any calendar quarter in either the current or preceding calendar year paid wages of $1,500 or more; or

(2) For some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or the preceding calendar year, has or had in employment one or more individuals, irrespective of whether the same individual was employed in each such day; [PL 1979, c. 541, Pt. A, §176 (AMD).]

B. Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this chapter;

C. Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit not an employer subject to this chapter and which, if subsequent to such acquisition it were treated as a single unit with such other

employing unit, would be an employer under paragraphs A, A-1 or H; [PL 1971, c. 538, §5 (AMD).]

D. Any employing unit which together with one or more other employing units is owned or controlled, by legally enforceable means or otherwise, directly or indirectly by the same interests, or which owns or controls one or more other employing units, by legally enforceable means or otherwise, and which, if treated as a single unit with such other employing unit, or interests, or both, would be an employer under paragraph A-1, H or J; [PL 1985, c. 348, §1 (AMD).]

E. Any employing unit not an employer by reason of any other paragraph of this subsection, for which within either the current or preceding calendar year service in employment is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a State Unemployment Fund; or which, as a condition for approval of this chapter for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such Act, to be an employer under this chapter; [PL 1971, c. 538, §5 (AMD).]

F. Any employing unit which, having become an employer under paragraphs A, A-1, B, C, D, E, G, H, J or K has not, under section 1222, ceased to be an employer subject to this chapter, or for the effective period of its election pursuant to section 1222, subsection 3, any other employing unit which has elected to become fully subject to this chapter; [PL 1979, c. 541, Pt. A, §177 (AMD).]

G. Any individual or employing unit that acquired any part of the organization, trade or business or assets of another, and the acquired part, had it previously been treated as a separate unit, would have been an employer under paragraphs A, A-1, H or J; [PL 1997, c. 293, §1 (AMD).]

H. Any employing unit for which service in employment, as defined in subsection 11, paragraph A-1, subparagraph (3) is performed after December 31, 1971; [PL 1971, c. 538, §6 (NEW).]

I. Any employing unit for which service in employment, as defined in subsection 11, paragraph A-1, subparagraph (1), is performed after December 31, 1971; [PL 1971, c. 538, §6 (NEW).]

J. Any employing unit for which agricultural labor as defined in subsection 11, paragraph A-2 is performed after December 31, 1977; [PL 1977, c. 570, §4 (NEW).]

K. Any employing unit for which domestic service in employment as defined in subsection 11, paragraph A-3 is performed after December 31, 1977; [PL 1977, c. 570, §4 (NEW).]

L. In determining whether or not an employing unit for which service, other than domestic service, is also performed is an employer under paragraphs A-1, H, I or J, wages earned or the employment of an employee performing domestic service after December 31, 1977, shall not be taken into account; or [PL 1979, c. 541, Pt. A, §178 (AMD).]

M. In determining whether or not an employing unit for which service, other than agricultural labor, is also performed is an employer under paragraphs A-1, H, I or K, the wages earned or the employment of an employee performing service in agricultural labor after December 31, 1977, shall not be taken into account. If an employing unit is determined an employer of agricultural labor, such employing unit shall be determined an employer for the purposes of paragraph A-1. [PL 1977, c. 570, §4 (NEW).]

N. If 2 or more related corporations concurrently employ the same individual and compensate that individual through a common paymaster which is one of the corporations, those corporations shall be considered to be a single employer, and each of the corporations shall be considered to have paid as wages to the individual only the amounts actually disbursed by it to the individual and shall not be considered to have paid as wages to the individual amounts actually disbursed to the individual by another of the corporations. [PL 1979, c. 146 (NEW).]

[PL 1997, c. 293, §1 (AMD).]

10. Employing unit. "Employing unit" means an individual or type of organization, including a partnership, association, trust, estate, joint stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, that has or subsequent to January 1, 1935 had in its employ one or more individuals performing services for it within this State. On and after January 1, 1978, "employing unit" includes the State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions. All individuals performing services within this State for an employing unit that maintains 2 or more separate establishments within this State are deemed to be employed by a single employing unit for all the purposes of this chapter. Whenever an employing unit contracts with or has under it a contractor or subcontractor for work that is part of its usual trade, occupation, profession or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of subsection 9 or section 1222, subsection 3, the employing unit for all the purposes of this chapter is deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which that individual is engaged in performing such work; except that each such contractor or subcontractor who is an employer by reason of subsection 9 or section 1222, subsection 3 is alone liable for the employer's contributions measured by wages to individuals in the employer's employ and except that an employing unit who becomes liable for and pays contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of subsection 9 or section 1222, subsection 3 may recover the same from the contractor or subcontractor. Each individual employed to perform or to assist in performing the work of an agent or employee of an employing unit is deemed to be employed by the employing unit for all the purposes of this chapter, whether the individual was hired or paid directly by the employing unit or by the agent or employee, as long as the employing unit had actual or constructive knowledge of the work.
[RR 2023, c. 2, Pt. E, §75 (COR).]

11. Employment. "Employment," except as otherwise provided in paragraph F, subparagraph (2), means any service performed prior to July 26, 1940 which was employment as defined in this subsection prior to such date, and subject to the other provisions of this subsection service performed after July 26, 1940, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied.

If the services performed during 1/2 or more of any pay period by an individual for the person employing that individual constitute employment, all the services of that individual for that period are deemed to be employment; but if the services performed during more than 1/2 of any pay period by an individual for the person employing that individual do not constitute employment, then none of the services of that individual for that period are deemed to be employment. As used in this paragraph, the term "pay period" means a period of not more than 31 consecutive days for which a payment of remuneration is ordinarily made to an individual by the person employing that individual. This paragraph is not applicable with respect to services performed in a pay period by an individual for the person employing that individual when any of such service is excepted by paragraph F, subparagraph (3).

A. The term "employment" shall include an individual's entire service, performed within or both within and without this State if:

(1) The service is localized in this State; or

(2) The service is not localized in any state but some of the service is performed in this State and the base of operations, or if there is no base of operations, then the place from which such service is directed or controlled, is in this State, or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(3) The term "employment" shall include an individual's service, wherever performed within the United States or Canada, in the employ of an American employer, other than service which is deemed employment under the unemployment compensation law of any other state or Canada, and the place from which the service is directed or controlled is in this State. [PL 1979, c. 515, §2 (AMD).]

A-1. After December 31, 1971, employment includes:

(1) Notwithstanding paragraph F, except as herein provided, service performed by an individual, prior to January 1, 1978, in the employ of this State or any of its instrumentalities, or in the employ of this State and one or more states or their instrumentalities, for a hospital or institution of higher education located in this State, provided that such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of Section 3306 (c)(7) of that Act and service performed after December 31, 1977, in the employ of this State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions; provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act by Section 3306 (c)(7) of that Act and is not excluded under paragraph F, subparagraph (17);

(2) Any service performed by an individual as an agent-driver or commission-driver engaged in laundry or dry-cleaning services, or in distributing meat products, vegetable products, fruit products, bakery products, beverages, other than milk, for that individual's principal; as a traveling or city sales representative, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, that individual's principal, except for side-line sales activities on behalf of some other person, of orders from wholesalers, retailers, contractors or operators of hotels, restaurants or other similar establishments for merchandise for resale or supplies for use in their business operations;

(3) Notwithstanding paragraph F, except as herein provided, service performed in the employ of a religious, charitable, educational or other organization that is excluded from the term employment as defined in the Federal Unemployment Tax Act solely by reason of Section 3306 (c)(8) of that Act; and the organization had 4 or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time; and such services are not excluded under paragraph F, subparagraph (17), divisions (a) through (i);

(4) The service of an individual who is a citizen of the United States, performed outside the United States, after December 31, 1971, except in Canada, in the employ of an American employer, other than service that is deemed employment under paragraph A, if:

(a) The employer's principal place of business in the United States is located in this State;

(b) The employer has no place of business in the United States, but the employer is an individual who is a resident of this State; or the employer is a corporation that is organized under the laws of this State; or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this State is greater than the number who are residents of any other state;

(c) None of the criteria of divisions (a) and (b) is met but the employer has elected coverage in this State or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this State; or

(d) An American employer, for purposes of this subparagraph, means a person who is an individual who is a resident of the United States; or a partnership if 2/3 or more of the

partners are residents of the United States; or a trust, if all of the trustees are residents of the United States; or a corporation organized under the laws of the United States or of any state. [PL 2011, c. 691, Pt. A, §26 (AMD).]

A-2. After December 31, 1977, employment shall include:

(1) Service performed by an individual in agricultural labor as defined in subsection 1 when:

(a) Such service is performed for a person who:

(i) During any calendar quarter in either the current or preceding calendar year paid wages of $20,000 or more to individuals employed in agricultural labor; or

(ii) For some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment of time.

(b) Notwithstanding the provisions of subsection 10, for the purposes of this paragraph any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader:

(i) If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963, or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(ii) If such individual is not an employee of such other person within the meaning of subsection 9.

(c) For the purposes of this paragraph, in the case of any individual who is furnished by a crew leader to perform services in agricultural labor for any other person and who is not treated as an employee of such crew leader under division (b):

(i) Such other person and not the crew leader shall be treated as the employer of such individuals; and

(ii) The other person must be treated as having paid wages to the individual in an amount equal to the amount of wages paid to the individual by the crew leader, either on the crew leader's own behalf or on behalf of the other person for the service in agricultural labor performed for the other person.

(d) For the purposes of this paragraph, the term "crew leader" means an individual who:

(i) Furnishes individuals to perform service in agricultural labor for any other person;

(ii) Pays either on the crew leader's own behalf or on behalf of the other person the individuals so furnished by the crew leader for the service in agricultural labor performed by the individuals; and

(iii) Has not entered into a written agreement with the other person under which the crew leader is designated as an employee of the other person. [RR 2023, c. 2, Pt. E, §§77, 78 (COR).]

A-3. After December 31, 1977, the term "employment" shall include domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for a person who paid wages of $1,000 or more after December 31, 1977, in the current calendar year or the preceding calendar year to individuals employed in such domestic service in any calendar quarter. [PL 1977, c. 570, §11 (NEW).]

B. Services performed within this State but not covered under paragraph A shall be deemed to be employment subject to this chapter, if contributions are not required and paid with respect to such services under an unemployment compensation or employment security law of any other state or of the Federal Government.

C. Services not covered under paragraph A, and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation or employment security law of any other state or of the Federal Government, shall be deemed to be employment subject to this chapter, if the individual performing such services is a resident of this State and the bureau approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter. [PL 1979, c. 651, §§44,47 (AMD).]

D. Service is considered to be localized within a state if:

(1) The service is performed entirely within a state; or

(2) The service is performed both within and outside a state, but the service performed outside a state is incidental to the individual's service within the State, including service that is temporary or transitory in nature or consists of isolated transactions.

Notwithstanding any other provisions of this section, "employment" includes all service performed after January 1, 1947 by an officer or member of the crew of an American vessel on or in connection with the vessel, as long as the operating office from which the operations of the vessel operating on navigable waters within, or within and outside, the United States are ordinarily and regularly supervised, managed, directed or controlled is within the State. [PL 2023, c. 405, Pt. A, §99 (RPR).]

E. Services performed by an individual for remuneration are considered to be employment subject to this chapter unless it is shown to the satisfaction of the bureau that the individual is free from the essential direction and control of the employing unit, both under the individual's contract of service and in fact, and the employing unit proves that the individual meets all of the criteria in subparagraph (1) and criteria of at least 3 divisions of subparagraph (2). In order for an individual to be considered an independent contractor:

(1) The following criteria must be met:

(a) The individual has the essential right to control the means and progress of the work except as to final results;

(b) The individual is customarily engaged in an independently established trade, occupation, profession or business;

(c) The individual has the opportunity for profit and loss as a result of the services being performed for the other individual or entity;

(d) The individual hires and pays the individual's assistants, if any, and, to the extent such assistants are employees, supervises the details of the assistants' work; and

(e) The individual makes the individual's services available to some client or customer community even if the individual's right to do so is voluntarily not exercised or is temporarily restricted; and

(2) At least 3 of the following criteria must be met:

(a) The individual has a substantive investment in the facilities, tools, instruments, materials and knowledge used by the individual to complete the work;

(b) The individual is not required to work exclusively for the other individual or entity;

(c) The individual is responsible for satisfactory completion of the work and may be held contractually responsible for failure to complete the work;

(d) The parties have a contract that defines the relationship and gives contractual rights in the event the contract is terminated by the other individual or entity prior to completion of the work;

(e) Payment to the individual is based on factors directly related to the work performed and not solely on the amount of time expended by the individual;

(f) The work is outside the usual course of business for which the service is performed; or

(g) The individual has been determined to be an independent contractor by the federal Internal Revenue Service. [PL 2011, c. 643, §6 (RPR); PL 2011, c. 643, §14 (AFF).]

F. The term "employment" does not include:

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

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

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

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

(5) Service performed by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to the United States Immigration and Nationality Act, Sections 214(c) and 101(a) (15) (H);

(6) Domestic service in a private home, except as provided in paragraph A-3;

(7) Service performed by an individual in the employ of that individual's child or spouse and service performed by a child under 18 years of age in the employ of that child's parent, except for periods of service for which unemployment insurance contributions are paid;

(8) Service performed by a student attending an elementary, secondary or postsecondary school while participating in a cooperative program of education and occupational training or on-the-job training that is part of the school curriculum;

(9) Service performed with respect to which unemployment compensation is payable under the federal Railroad Unemployment Insurance Act, 52 Stat. 1094 (1938);

(10) Service performed in the employ of any other state or any political subdivision thereof or any instrumentality of any one or more of the foregoing that is wholly owned by one or more states or political subdivisions and any services performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such a service, immune under the Constitution of the United States from the tax imposed by Section 3301 of the federal Internal Revenue Code, except as provided in paragraph A-1, subparagraph (1);

(11) Service performed in any calendar quarter in the employ of any organization exempt from income tax under the federal Internal Revenue Code, Section 501(a) other than an organization described in the federal Internal Revenue Code, Section 401(a), or under Section 521, if the remuneration for such service is less than $150;

(12) Service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(13) Service performed in the employ of an instrumentality wholly owned by a foreign government:

(a) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or an instrumentality thereof; and

(b) If the commissioner finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(14) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law and service performed as an intern in the employ of a hospital by an individual who has completed a 4-year course in a medical school chartered or approved pursuant to state law;

(15) Service performed by an individual for a person as a real estate broker, a real estate sales representative, an insurance agent or an insurance solicitor, if all such service performed by that individual for that person is performed for remuneration solely by way of commission;

(16) Service performed by an individual under 18 years of age in the delivery or distribution of newspapers or shopping news, except delivery or distribution to any point for subsequent delivery or distribution;

(17) Service performed in the employ of any organization that is excluded from the term "employment" as defined in the Federal Unemployment Tax Act solely by reason of 26 United States Code, Section 3306(c)(7) or (8) if:

(a) Service is performed in the employ of a church or convention or association of churches or an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) Service is performed by a duly ordained, commissioned or licensed minister of a church in the exercise of that minister's ministry or by a member of a religious order in the exercise of duties required by that order;

(d) Service is performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals with intellectual or developmental disabilities who are employed in capacities meeting the conditions set forth in section 666;

(e) Service is performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving that work relief or work training;

(f) Service is performed in the employ of a hospital, as defined in subsection 26, by a patient of that hospital;

(g) Service is performed by an inmate of a custodial or penal institution;

(h) Service is performed in the employ of a school, college or university if that service is performed by a student who is enrolled and is regularly attending classes at such a school, college or university; or

(i) Service is performed in the employ of a governmental entity referred to in paragraph A-1, subparagraph (1) if that service is performed by an individual in the exercise of duties:

(i) As an elected official;

(ii) As a member of a legislative body or a member of the judiciary of a state or political subdivision of a state;

(iii) As a member of the State National Guard or Air National Guard;

(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(v) In a position that, under or pursuant to the laws of this State, is designated as a major nontenured policy-making or advisory position or a policy-making or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week; or

(vi) As an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than $1,000;

(18) Service performed under a booth rental agreement or other rental agreement by:

(a) A hairdresser who holds a booth license and operates within another hairdressing establishment; or

(b) A tattoo artist if the service performed by the tattoo artist is not subject to federal unemployment tax;

(19) Service performed by a barber who holds a booth license and operates within another barbering establishment if operated under a booth rental agreement or other rental agreement;

(20) Service performed by a contract interviewer engaged in marketing research or public opinion interviewing when such interviewing is conducted in the field or over the telephone on premises not used or controlled by the person for whom such contract services are being provided;

(21) After December 31, 1981, service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life, unless those services would be included in the definition of "employment" for federal unemployment tax purposes under the Federal

Unemployment Tax Act, 26 United States Code, Section 3306(c), as amended. Also included in this exemption are services performed in harvesting shellfish for depuration from designated areas as authorized by Title 12, section 6856;

(22) Service performed by a member or leader of a musical group, band or orchestra or an entertainer when the services are performed under terms of a contract entered into by the leader or an agent of the musical group, band, orchestra or entertainer with an employing unit for whom the services are being performed, if the leader or agent is not an employer by reason of subsection 9 or of section 1222, subsection 3;

(23) Service performed in the delivery or distribution of newspapers or magazines to the ultimate consumer by an individual who is compensated by receiving or retaining a commission or profit on the sale of the newspaper or magazine;

(24) Service performed by a homeworker in the knitted outerwear industry as those terms are defined, on September 19, 1985, in 29 Code of Federal Regulations, Part 530, Section 530.1;

(25) Service performed by a full-time student, as defined in subsection 30, in the employ of a youth camp licensed under Title 22, section 2495 if the full-time student performed services in the employ of the camp for less than 13 calendar weeks in the calendar year and the camp:

(a) Did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year; or

(b) Had average gross receipts for any 6 months in the preceding calendar year that were not more than 33 1/3% of its average gross receipts for the other 6 months in the preceding calendar year;

(26) Service performed by an individual as a home stitcher as long as that employment is not subject to federal unemployment tax;

(27) Service performed by a person licensed as a guide as required by Title 12, section 12853, as long as that employment is not subject to federal unemployment tax;

(28) Service performed by a direct seller as defined in 26 United States Code, Section 3508(b)(2). This subparagraph does not include a person selling major improvements or renovations to the structure of a home, business or property;

(29) Service performed by lessees of taxicabs, as long as that employment is not subject to federal unemployment tax. This subparagraph may not be construed to affect a determination regarding a lessee's status as an independent contractor for workers' compensation purposes;

(30) Service provided by a dance instructor to students of a dance studio when there is a contract between the instructor and the studio under which the instructor's services are not offered exclusively to the studio, the studio does not control the scheduling of the days and times of classes other than beginning and end dates, the instructor is paid by the class and not on an hourly or salary basis, the compensation rate is the result of negotiation between the instructor and the studio and the instructor is given the freedom to develop the curriculum;

(31) Service performed by participants enrolled in programs or projects under the Maine Climate Corps Program established pursuant to Title 5, section 3257 or under national service laws including the federal National and Community Service Act of 1990, as amended, 42 United States Code, Section 12501 et seq. and the federal Domestic Volunteer Service Act, as amended, 42 United States Code, Section 4950 et seq.;

(32) Service of an author in furnishing text or other material to a publisher who:

(a) Does not control the author's work except to propose topics or to edit material submitted;

(b) Does not restrict the author from publishing elsewhere;

(c) Furnishes neither a place of employment nor equipment for the author's use;

(d) Does not direct or control the time devoted to the work; and

(e) Pays only for material that is accepted for publication.

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

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

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

(a) There is a written contract between the professional investigator and the party requesting services;

(b) The professional investigator offering the services operates independently of the party requesting services, except for the time frame and quality of finished work as specified in the contract;

(c) Compensation for services is negotiated between the 2 parties and is paid for each service performed; and

(d) The party requesting services furnishes neither equipment nor the place of employment to the professional investigator; and

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

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

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

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

For purposes of this subparagraph, "governmental entity" has the same meaning as in section 1221, subsection 10. [PL 2025, c. 388, Pt. D, §32 (AMD).]

G. Notwithstanding any other provisions of this section, "employment" shall include service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter. [PL 1971, c. 538, §13 (AMD).]

[PL 2025, c. 388, Pt. D, §32 (AMD).]

12. Employment office. "Employment office" means a free public employment office, or branch thereof, operated by this State or the United States or maintained as a part of a state-controlled system of public employment offices.

13. Employment Security Administration Fund. "Employment Security Administration Fund" means the Employment Security Administration Fund from which administrative expenses under this chapter shall be paid.

14. Fund. "Fund" means the Unemployment Compensation Fund to which all contributions and payments in lieu of contributions required and from which all benefits provided under this chapter shall be paid.
[PL 1973, c. 555, §9 (AMD).]

15. Insured work. "Insured work" means employment by employers.

16. State and United States.

A. "State" includes the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands. [PL 1977, c. 570, §17 (RPR).]

B. The term "United States" when used in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands. [PL 1977, c. 570, §17 (RPR).]

C. [PL 1979, c. 515, §4 (RP).]
[PL 1979, c. 515, §4 (AMD).]

17. Unemployment, total and partial. "Unemployment, total and partial," means:

A. An individual, including corporate officers, is considered "totally unemployed" in any week with respect to which wages are not payable to the individual and during which the individual does not perform services, except that remuneration payable or received as holiday pay is not considered wages for the purpose of this subsection and except that any amounts received from the Federal Government by members of the National Guard and organized reserve, including base pay and allowances, or any amounts received as a volunteer firefighter or a volunteer emergency medical services person, are not considered wages for the purpose of this subsection. [PL 1991, c. 193, §2 (AMD).]

B. An individual, including corporate officers, is considered "partially unemployed" in any week of less than full-time work if the individual's wages payable from any source for such week are not $100 or more in excess of the weekly benefit amount the individual would be entitled to receive if totally unemployed and eligible, except that remuneration payable or received as holiday pay is not considered wages for the purpose of this subsection and except that any amounts received from the Federal Government by members of the National Guard and organized reserve, including base pay and allowances, or any amounts received as a volunteer firefighter, a volunteer emergency medical services person or as an elected member of the Legislature, are not considered wages for the purpose of this subsection. On the first Sunday of June 2022 and each first Sunday of June thereafter, the excess earnings cap then in effect must be increased by the increase, if any, in the cost of living. The increase in the cost of living must be measured by the percentage increase, if any, as of December of the previous year over the level as of December of the year preceding that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the excess earnings cap rounded up to the nearest dollar. [PL 2021, c. 456, §1 (AMD).]

C. An individual's week of unemployment commences only after the individual's registration at an employment office, except as the commissioner may by rule otherwise prescribe. [PL 2021, c. 456, §2 (AMD).]
[PL 2021, c. 456, §§1, 2 (AMD).]

18. Unpaid wages. "Unpaid wages" means wages earned by an employee for employment from employers which remain unpaid because the assets of the employer for whom such employment was rendered are in the custody or control of an assignee for the benefit of creditors, receiver, trustee or any other fiduciary appointed by or under the control of a court of competent jurisdiction and shall, for all

the purposes of this chapter, be deemed to be and shall be treated as though such wages had been paid to such employee during the calendar quarter within which such wages were earned.
[PL 1973, c. 555, §11 (AMD).]

19. Wages. "Wages" means all remuneration for personal services, including commissions, bonuses, severance or terminal pay, gratuities and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash must be estimated and determined in accordance with rules prescribed by the commissioner, except that:

A. For purposes of section 1221, the term "wages" does not include remuneration that exceeds the first $12,000 that is paid in a calendar year to an individual by an employer or the employer's predecessor for employment during any calendar year, unless that 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 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; [PL 2017, c. 117, §3 (AMD).]

B. For purposes of section 1191, subsection 2; section 1192-A, subsection 2, paragraph F; and section 1221, the term "wages" does not include:

(1) The amount of any payment, including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment, made to, or on behalf of, an employee or any of the employee's dependents under a plan or system established by an employer that makes provision for the employer's employees generally, or for the employer's employees generally and their dependents, or for a class or classes of the employer's employees, or for a class or classes of the employer's employees and their dependents, on account of:

(a) Sickness or accident disability, but, in the case of payments made to an employee or any of the employee's dependents, this subparagraph excludes from the term "wages" only payments that are received under a workers' compensation law;

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

(c) Death;

(1-A) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer or a 3rd party to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for that employer;

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

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

(4) The amount of any nominal fee or stipend to a volunteer whose service is excluded from the definition of employment pursuant to subsection 11, paragraph F, subparagraph (35); [PL 2025, c. 235, §3 (AMD).]

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

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

(2) That:

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

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

except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services; [PL 2011, c. 691, Pt. A, §28 (AMD).]

D. Nothing in this subsection may be construed to include as wages any payment that is not included as wages under the Federal Unemployment Tax Act, 26 United States Code, Section 3306(b)(5) and (r), as amended, as of January 1, 1985; and [PL 2017, c. 117, §3 (AMD).]

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

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

(2) Required to be covered under this chapter as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act. [PL 2017, c. 117, §3 (AMD).]

[PL 2025, c. 235, §3 (AMD).]

20. Week. "Week" means such period or periods of 7 calendar days as the commissioner may by rule prescribe. The commissioner may, by rule, prescribe that a week is deemed to be "in," "within" or "during" a benefit year that includes any part of such week.
[PL 2021, c. 456, §4 (AMD).]

21. Weekly benefit amount. "Weekly benefit amount" means the amount of benefits an individual would be entitled to receive for one week of total unemployment.

22. Regular employment. "Regular employment" means work at the individual's customary trade, occupation, profession or business as opposed to temporary or odd job employment outside of such customary trade, occupation, profession or business.

23. Misconduct. "Misconduct" means a culpable breach of the employee's duties or obligations to the employer or a pattern of irresponsible behavior, which in either case manifests a disregard for a material interest of the employer. This definition relates only to an employee's entitlement to benefits and does not preclude an employer from discharging an employee for actions that are not included in this definition of misconduct. A finding that an employee has not engaged in misconduct for purposes of this chapter may not be used as evidence that the employer lacked justification for discharge.

A. The following acts or omissions are presumed to manifest a disregard for a material interest of the employer. If a culpable breach or a pattern of irresponsible behavior is shown, these actions or omissions constitute "misconduct" as defined in this subsection. This does not preclude other acts

or omissions from being considered to manifest a disregard for a material interest of the employer. The acts or omissions included in the presumption are the following:

(1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;

(2) Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;

(3) Unreasonable violation of rules that should be inferred to exist from common knowledge or from the nature of the employment;

(4) Failure to exercise due care for punctuality or attendance after warnings;

(5) Providing false information on material issues relating to the employee's eligibility to do the work or false information or dishonesty that may substantially jeopardize a material interest of the employer;

(6) Intoxication while on duty or when reporting to work, or unauthorized use of alcohol or cannabis while on duty except for the use of cannabis permitted under Title 22, chapter 558-C;

(7) Using illegal drugs or being under the influence of such drugs while on duty or when reporting to work;

(8) Unauthorized sleeping while on duty;

(9) Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer;

(10) Abusive or assaultive behavior while on duty, except as necessary for self-defense;

(11) Destruction or theft of things valuable to the employer or another employee;

(12) Substantially endangering the safety of the employee, coworkers, customers or members of the public while on duty;

(13) Conviction of a crime in connection with the employment or a crime that reflects adversely on the employee's qualifications to perform the work; or

(14) Absence for more than 2 work days due to incarceration for conviction of a crime. [PL 2019, c. 125, §1 (AMD); PL 2021, c. 669, §5 (REV).]

B. "Misconduct" may not be found solely on:

(1) An isolated error in judgment or a failure to perform satisfactorily when the employee has made a good faith effort to perform the duties assigned;

(2) Absenteeism caused by illness of the employee or an immediate family member if the employee made reasonable efforts to give notice of the absence and to comply with the employer's notification rules and policies; or

(3) Actions taken by the employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment. [PL 1999, c. 464, §2 (NEW).]

[PL 2019, c. 125, §1 (AMD); PL 2021, c. 669, §5 (REV).]

24. Insured worker. An "insured worker" is an individual who has been paid wages of at least $250 for insured work in each of 2 different quarters in that individual's base period and has been paid total wages of at least $900 in the base period for insured work. For each individual establishing a benefit year on or after January 1, 1980, an "insured worker" is an individual who has been paid wages equal to or exceeding 2 times the annual average weekly wage for insured work in each of 2 different quarters in that individual's base period and has been paid total wages equal to or exceeding 6 times the

annual average weekly wage in the base period for insured work. The annual average weekly wage amount to be used for purposes of this subsection must be that which is applicable at the time the individual files a request for determination of insured status.
[PL 2015, c. 329, Pt. A, §15 (AMD).]

25. Institution of higher education. "Institution of higher education" means an educational institution which:

A. Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate; [PL 1971, c. 538, §16 (NEW).]

B. Is legally authorized to provide a program of education beyond high school; [PL 1971, c. 538, §16 (NEW).]

C. Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; [PL 1971, c. 538, §16 (NEW).]

D. Is a public or other nonprofit institution; and [PL 1971, c. 538, §16 (NEW).]

E. Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this State are institutions of higher education for purposes of this subsection. [PL 1971, c. 538, §16 (NEW).]
[PL 1971, c. 538, §16 (NEW).]

26. Hospital. "Hospital" means an institution which has been licensed, certified or approved by the Department of Health and Human Services as a hospital.
[PL 1975, c. 293, §4 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

27. Domestic service. "Domestic service" includes all service for a person in the operation and maintenance of a private household, local college club or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer's trade, occupation, profession, enterprise or vocation.
[PL 1977, c. 570, §20 (NEW).]

28. Governmental entity. "Governmental entity" means the State of Maine and its instrumentalities, political subdivisions and school administrative units as represented by their elected or appointed governing bodies and includes, without limitation, city and town councils, select boards, boards of county commissioners, municipally owned and operated hospitals and administrative entities formed under Title 30-A, chapter 115. In the case of school administrative units, governing bodies include, without limitation, municipal school committees, school administrative district directors and community school district school committees. In the case of special purpose districts, governing bodies include, without limitation, boards of directors or trustees.
[PL 2021, c. 275, §12 (AMD).]

29. Educational institution. "Educational institution" means any school, including nursery schools and schools of higher education, which is licensed by the State and which provides an organized course of study designed to transfer knowledge, skills, attitudes or abilities under the guidance of a teacher.
[PL 1979, c. 250 (NEW).]

30. Full-time student. "Full-time student" for purposes of subsection 11, paragraph F, subparagraph (36), means an individual who:

A. Is enrolled as a full-time student at an educational institution; or [PL 1987, c. 17, §2 (NEW).]

B. Is between academic years or terms if:

(1) The individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term; and

(2) There is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term after the period described in subparagraph (1). [PL 1987, c. 17, §2 (NEW).]

[PL 1987, c. 17, §2 (NEW).]

31. Mail. "Mail" includes delivery by United States Postal Service, private carrier or electronic mail.

[PL 2023, c. 53, §1 (NEW).]

SECTION HISTORY

PL 1965, c. 217, §1 (AMD). PL 1965, c. 381, §§1-6 (AMD). PL 1965, c. 457, §1 (AMD). PL 1967, c. 294 (AMD). PL 1969, c. 433, §66 (AMD). PL 1971, c. 538, §§1-17 (AMD). PL 1971, c. 586 (AMD). PL 1971, c. 598, §53 (AMD). PL 1973, c. 379 (AMD). PL 1973, c. 471 (AMD). PL 1973, c. 555, §§3-11 (AMD). PL 1973, c. 788, §121 (AMD). PL 1975, c. 57 (AMD). PL 1975, c. 116, §1 (AMD). PL 1975, c. 201, §§1,2 (AMD). PL 1975, c. 217 (AMD). PL 1975, c. 293, §4 (AMD). PL 1975, c. 407, §1 (AMD). PL 1975, c. 462, §1 (AMD). PL 1975, c. 691, §1 (AMD). PL 1975, c. 710, §1 (AMD). PL 1975, c. 770, §§119,120 (AMD). PL 1977, c. 483 (AMD). PL 1977, c. 570, §§1-20 (AMD). PL 1977, c. 585, §1 (AMD). PL 1977, c. 675, §2 (AMD). PL 1979, c. 94 (AMD). PL 1979, c. 127, §159 (AMD). PL 1979, c. 146 (AMD). PL 1979, c. 165, §1 (AMD). PL 1979, c. 250 (AMD). PL 1979, c. 306 (AMD). PL 1979, c. 515, §§1A-5A (AMD). PL 1979, c. 541, §§A175-A180 (AMD). PL 1979, c. 579, §§3,4,43,44 (AMD). PL 1979, c. 651, §§4,5,44,45, 47 (AMD). PL 1981, c. 168, §10 (AMD). PL 1981, c. 325 (AMD). PL 1981, c. 633 (AMD). PL 1981, c. 635 (AMD). PL 1983, c. 13, §§1,2 (AMD). PL 1983, c. 351, §3 (AMD). PL 1985, c. 74 (AMD). PL 1985, c. 302 (AMD). PL 1985, c. 348, §§1,2 (AMD). PL 1985, c. 591, §§1-3 (AMD). PL 1985, c. 814, §J1 (AMD). PL 1987, c. 17, §§1,2 (AMD). PL 1987, c. 338, §§1-3 (AMD). PL 1987, c. 402, §A157 (AMD). PL 1987, c. 570, §1 (AMD). PL 1987, c. 737, §§C71,C106 (AMD). PL 1987, c. 769, §A106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). RR 1991, c. 1, §35 (COR). PL 1991, c. 173 (AMD). PL 1991, c. 193, §§1,2 (AMD). PL 1991, c. 468, §2 (AMD). PL 1991, c. 548, §D2 (AMD). PL 1991, c. 560, §1 (AMD). PL 1991, c. 706 (AMD). PL 1991, c. 870, §1 (AMD). PL 1993, c. 22, §1 (AMD). RR 1995, c. 2, §62 (COR). PL 1995, c. 9, §1 (AMD). PL 1995, c. 204, §§1,2 (AMD). PL 1995, c. 560, §G10 (AMD). PL 1995, c. 587, §§1,2 (AMD). PL 1995, c. 612, §§1,2 (AMD). RR 1997, c. 1, §§23,24 (COR). PL 1997, c. 293, §§1-3 (AMD). PL 1997, c. 349, §§1,2 (AMD). PL 1997, c. 431, §§1,2 (AMD). PL 1997, c. 683, §A14 (AMD). PL 1999, c. 389, §§1-3 (AMD). PL 1999, c. 389, §4 (AFF). PL 1999, c. 464, §§1,2 (AMD). PL 1999, c. 555, §1 (AMD). RR 2001, c. 1, §40 (COR). PL 2001, c. 274, §§1,2 (AMD). PL 2003, c. 414, §B38 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF). PL 2003, c. 689, §B6 (REV). PL 2005, c. 35, §1 (AMD). PL 2005, c. 119, §2 (AMD). PL 2007, c. 230, §1 (AMD). PL 2009, c. 211, Pt. B, §24 (AMD). PL 2009, c. 271, §1 (AMD). PL 2009, c. 637, §12 (AMD). PL 2011, c. 66, §1 (AMD). PL 2011, c. 70, §1 (AMD). PL 2011, c. 292, §1 (AMD). PL 2011, c. 643, §6 (AMD). PL 2011, c. 643, §14 (AFF). PL 2011, c. 678, Pt. C, §8 (AMD). PL 2011, c. 691, Pt. A, §§26-28 (AMD). PL 2015, c. 329, Pt. A, §15 (AMD). PL 2017, c. 117, §§1-3 (AMD). PL 2019, c. 125, §1 (AMD). PL 2021, c. 275, §12 (AMD). PL 2021, c. 456, §§1-4 (AMD). PL 2021, c. 669, §5 (REV). PL 2021, c. 728, §4 (AMD). PL 2023, c. 53, §1 (AMD). PL 2023, c. 405, Pt. A, §99 (AMD). RR 2023, c. 2, Pt. E, §§72-79 (COR). PL 2025, c. 235, §§1-3 (AMD). PL 2025, c. 388, Pt. D, §32 (AMD).

§1044. Protection of rights and benefits

1. Waiver of rights void; penalty. Any agreement by an individual to waive, release or commute that individual's rights to benefits or any other rights under this chapter is void. Any agreement by an individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this chapter from that employer, is void. An employer may not directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from the employer, or require or accept any waiver of any right hereunder by an individual in the employer's employ.

An employer or officer or agent of an employer who violates any provision of this subsection is, for each offense, guilty of a Class E crime.
[RR 2023, c. 2, Pt. E, §80 (COR).]

2. Limitation of fees; penalty. No individual claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission or its representatives or by any court or any officer thereof unless otherwise provided by Title 5, section 8001 et seq. Any individual claiming benefits in any proceeding before the commission or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the commission.

In the event a claimant has retained counsel for the purpose of prosecuting an appeal from a decision of the commission, and the final decision of the court results in a reversal, in whole or in part, of the decision appealed from, the fees for the service must be paid by the commissioner from the commissioner's administrative fund.

Any person who violates any provision of this subsection shall be guilty of a Class E crime.
[RR 2023, c. 2, Pt. E, §81 (COR).]

3. No assignment of benefits; exemptions. Any assignment, pledge or encumbrance of any right to benefits that are or may become due or payable under this chapter is void. Such rights to benefits are exempt from levy, execution, attachment or any other remedy provided for the collection of debt. Benefits received by an individual, as long as they are not mingled with other funds of the recipient, are exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to the individual or the individual's spouse or dependents during the time when the individual was unemployed. A waiver of any exemption provided for in this subsection is not valid.
[RR 2023, c. 2, Pt. E, §82 (COR).]

SECTION HISTORY

PL 1965, c. 294 (AMD). PL 1977, c. 694, §467 (AMD). PL 1979, c. 515, §§6-8 (AMD). PL 1979, c. 579, §5 (AMD). PL 1979, c. 651, §§6,47 (AMD). RR 2023, c. 2, Pt. E, §§80-82 (COR).

§1045. Representation in court

1. Civil actions. In any civil action to enforce this chapter the bureau and the State may be represented by any qualified attorney who is employed by the bureau and designated by it for this purpose or at the commissioner's request by the Attorney General.
[PL 1983, c. 351, §4 (AMD).]

2. Criminal actions. All criminal actions for violation of any provision of this chapter, or of any regulations issued pursuant thereto, shall be prosecuted by the Attorney General or district attorney.
[PL 1981, c. 470, Pt. A, §143 (AMD).]

SECTION HISTORY

PL 1981, c. 470, §A143 (AMD). PL 1983, c. 351, §4 (AMD).

§1046. Nonliability

Benefits shall be deemed to be due and payable under this chapter only to the extent provided in this chapter and to the extent that moneys are available therefor to the credit of the Unemployment Compensation Fund, and neither the State, the bureau nor the commission shall be liable for any amount in excess of such sums. [PL 1979, c. 651, §§ 7, 47 (AMD).]

SECTION HISTORY

PL 1979, c. 579, §6 (AMD). PL 1979, c. 651, §§7,47 (AMD).

§1047. Information privileged

All information transmitted to the bureau, the commission or its duly authorized representatives pursuant to this chapter is absolutely privileged and may not be made the subject matter or basis in any action of slander or libel in any court in this State. The privileged nature of any such information may not limit or affect the use of that information in any prosecution or action to enforce Title 39-A, section 324. [PL 1991, c. 885, Pt. E, §36 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

SECTION HISTORY

PL 1979, c. 579, §7 (AMD). PL 1979, c. 651, §§8,47 (AMD). PL 1987, c. 77, §1 (AMD). PL 1991, c. 885, §E36 (AMD). PL 1991, c. 885, §E47 (AFF).

§1048. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

§1048-A. Disclosure of wage and unemployment compensation information to National Directory of New Hires

Notwithstanding any other provision of law, the commissioner shall provide quarterly data, contained in the department's records of wages and unemployment compensation benefits paid to individuals who are reported to the Department of Health and Human Services pursuant to Title 19-A, section 2154, to the Department of Health and Human Services for transmission to the federal Secretary of Health and Human Services as required by Section 313(g)(2) of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 110 Stat. 2105. The cost of complying with the requirements of this section must be paid for by the federal Department of Health and Human Services to the maximum extent permitted by law, with any remaining cost paid for by the Department of Health and Human Services. [PL 1997, c. 537, §58 (NEW); PL 1997, c. 537, §62 (AFF); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1997, c. 537, §58 (NEW). PL 1997, c. 537, §62 (AFF). PL 2003, c. 689, §B6 (REV).

§1049. Saving clause

All the rights, privileges or immunities conferred by this chapter or by acts done pursuant thereto shall exist subject to the power of the Legislature to amend or repeal this chapter at any time.

§1050. Constitutionality

If at any time the provisions of this chapter requiring the payment of contributions and benefits have been held invalid under the Constitution of Maine by the Supreme Judicial Court of this State or under the United States Constitution by the Supreme Court of the United States in such manner that any person or concern required to pay contributions under this chapter might secure a similar decision, or that the tax imposed by Title IX of the federal Social Security Act, as amended, or any other federal tax against which contributions under this chapter may be credited has been amended or repealed by Congress or has been held unconstitutional by the Supreme Court of the United States, with the result

that no portion of the contributions required by this chapter may be credited against such federal tax, the Governor shall forthwith publicly so proclaim and upon the date of such proclamation the provisions of this chapter requiring the payment of contributions and benefits must be suspended. The commissioner shall thereupon requisition from the Unemployment Trust Fund all moneys therein standing to the commissioner's credit and shall direct the Treasurer of State to deposit such moneys, together with any other moneys in the fund, as a special fund in any banks or public depositories in this State in which general funds of the State may be deposited, and to hold such moneys for such disposition as the Legislature may prescribe. The commissioner shall thereupon refund, as the Legislature may prescribe, without interest and in accordance with rules prescribed by the commissioner, to each person or concern by whom contributions have been paid, their pro rata share of the total contributions paid under this chapter. Any interest or earnings of the fund must be available to the commissioner to pay for the costs of making such refunds. When the commissioner has executed the duties prescribed and performed such other acts as are incidental to the termination of the commissioner's duties under this chapter, the Governor shall by proclamation declare that this chapter ceases to be operative. [PL 2021, c. 456, §5 (AMD).]

SECTION HISTORY

PL 1979, c. 579, §8 (AMD). PL 1979, c. 651, §§9,47 (AMD). PL 2021, c. 456, §5 (AMD).

§1051. Penalties

1. False statement or representation. A person is guilty of unemployment fraud if that person makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact or solicits another person to make a false statement knowing it to be false or knowingly solicits another person to fail to disclose a material fact:

A. To obtain or increase any benefit or other payment under this chapter or under an employment security law of any other state or of the Federal Government; [PL 1979, c. 515, §9 (NEW).]

B. To prevent or reduce the payment of unemployment benefits to any individual; [PL 1979, c. 515, §9 (NEW).]

C. To avoid becoming or remaining an employer under this chapter; or [PL 1983, c. 118 (AMD).]

D. To avoid or reduce any contribution or other payment required from an employing unit under this chapter. [PL 1979, c. 515, §9 (NEW).]

Each false statement or representation or failure to disclose a material fact constitutes a separate offense. Unemployment fraud is theft by deception under Title 17-A, section 354.
[PL 2025, c. 235, §4 (AMD).]

2. Separate offense. Any person who willfully fails or refuses to make any contributions or other payments, to furnish any reports required by this chapter or to produce or permit the inspection or copying of records as required is guilty of a Class D crime. Each failure or refusal shall constitute a separate offense. For purposes of this paragraph, "person" means an individual, corporation or partnership or an officer or employee of any corporation, including a dissolved corporation, or a member or employee of any partnership who was, at the time of the violation, under a duty to comply with this paragraph.
[PL 1985, c. 348, §3 (AMD).]

3. Class E crime. Any person who willfully violates any provision of this chapter or any regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, is guilty of a Class E crime.
[PL 1983, c. 118 (AMD).]

4. Nondisclosure or misrepresentation to receive benefits. A person who, by reason of the nondisclosure or misrepresentation by that person or by another of a material fact, if that nondisclosure or misrepresentation was known to that person or ought to have been known by that person to be fraudulent, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in that person's case, or while that person was disqualified from receiving benefits, is either liable to have the sum deducted from any future benefits payable to that person under this chapter or is liable to repay to the bureau for the Unemployment Compensation Fund a sum equal to the amount so received by that person, and the sum must be collectible in the manner provided in subsection 6.
[RR 2023, c. 2, Pt. E, §83 (COR).]

5. Refusal to repay erroneous payments; waiver of repayment. If, after due notice, any person refuses to repay amounts erroneously paid to that person as unemployment benefits, the amounts due from that person are collectible in the manner provided in subsection 6 or in the discretion of the commissioner or the commissioner's designee, the amount erroneously paid to such person may be deducted from any future benefits payable to that person under this chapter; except that there is no recovery of payments from any person who, in the judgment of the commissioner or the commissioner's designee, is without fault and when, in the judgment of the commissioner or the commissioner's designee, such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience. No recovery may be attempted until the determination of an erroneous payment is final as to law and fact and the individual has been notified of the opportunity for a waiver under this subsection.
[PL 2021, c. 456, §6 (AMD).]

6. Collection of erroneous payments or payments received by nondisclosure or misrepresentation. Any amounts of benefit payments owed to the commissioner by any individual may be collected by any of the following methods.

A. The amount due may be collected by civil action in the name of the commissioner. [PL 1983, c. 351, §5 (AMD).]

B. If any amount of benefit payments owed to the commissioner is not paid when the decision establishing or a decision upholding the establishment of the debt has become final as to law and fact under section 1194, and if the amount of benefit payments due was set forth on a notice duly mailed to the individual following the finality of the last decision, the amount due may be collected by warrant as follows.

(1) The commissioner may file in the office of the clerk of the Superior Court of Kennebec County a certificate addressed to the clerk specifying the amount of benefit payments required to be paid and the weeks involved, the name and address of the liable person as it appears on the records of the bureau, the facts whereby the amount has become final as to law and fact and requesting that a warrant be issued against the person for the amount required to be paid, and with costs, but without interest.

(2) When the certificate is filed, the clerk of the Superior Court shall issue a warrant in favor of the bureau against the person for the amount required to be paid and with costs. The clerk shall file the certificate in a separate docket entitled "Special Warrants for Unemployment Compensation Benefit Payments." These records are not to become a part of the extended record of the court.

(3) The warrant shall have the force and effect of an execution issued upon a judgment in a civil action, may be substantially the same as the form in section 1230, subsection 4, paragraph A, and shall specify the amount of benefit payments required to be paid and the weeks involved.

(4) Warrants shall be returnable within one year, and new warrants may be issued on any such certificate within 4 years from the return day of the last preceding warrant for sums remaining unsatisfied. [PL 1979, c. 651, §§11, 12 (AMD).]

C. If the amount of benefit payments owed to the commissioner, as a result of nondisclosure or misrepresentation, when the decision establishing or a decision upholding the establishment of the debt has become final as to law and fact under section 1194 is over $100, and if the amount of benefit payments due was set forth on a notice duly mailed to the individual following the finality of the last decision and the individual has failed to make payments for 90 days, the amount due may be collected by an order to withhold and deliver as follows.

(1) The commissioner may serve on any person an order to withhold and deliver wages that are due or belong to the individual. Any person served with an order to withhold and deliver shall answer the order within 20 days of receipt of the order.

(2) Before implementation of the order to withhold, the individual must be served with a notice of intention to withhold weekly earnings.

(3) If the individual requests review by the commission of a notice of debt accrued or seeks relief in a court of proper jurisdiction, and if the Department of Labor receives the request or service of pleadings within 21 days after service of the notice of debt, it shall stay the collection action. The Department of Labor shall accept ordinary mail service of copies of all pleadings, which must be addressed to the Department of Labor representative whose name appears on the face of the notice of debt. Service upon the Department of Labor must be in addition to any other service required under the Maine Rules of Civil Procedure.

(4) Upon receipt of an order to withhold issued by the Department of Labor, the employer or other payor shall immediately begin withholding from the income of the responsible individual 10% of gross wages, except that the amount withheld may not exceed an amount by which the individual's disposable earnings are reduced to a weekly equivalent of 40 times the state hourly minimum wage prescribed by section 664, subsection 1. Sums withheld must be remitted to the Department of Labor within 10 days of the date the individual is paid. Any person who honors an order to withhold issued under this section is discharged from any liability or obligation to the individual for the amount of the wages withheld.

(5) The withholding may be terminated with regard to a current obligation only upon notification by the commissioner.

(6) An employer may not discharge an employee because a lien or order to withhold and deliver has been served against the employee's earnings. An aggrieved employee may maintain a civil action against that employee's employer for violation of this subparagraph. [PL 2025, c. 235, §5 (AMD).]

[PL 2025, c. 235, §5 (AMD).]

7. Limitation on recovery. Deduction from benefits that may be or may become payable to an individual as provided for in subsection 5 is limited to not more than 10% of the first $100 and 50% of any amount above $100 of any weekly benefit payment otherwise due the claimant.

[PL 1999, c. 464, §3 (AMD).]

8. Setoff of debts against lottery winnings. Lottery winnings may be offset for benefit payments owed to the commissioner in accordance with this subsection.

A. The commissioner shall provide the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, referred to in this paragraph as the "bureau," access to an electronic database of all persons who owe the Department of Labor an unemployment compensation debt that has been liquidated by judicial or administrative action. Before paying any state lottery winnings of an amount equal to or greater than the amount for which

the bureau is required to file a Form W-2G or substantially equivalent form with the United States Internal Revenue Service, the bureau shall determine whether the lottery winner owes to the State an unemployment compensation debt that has been liquidated by judicial or administrative action. If the bureau determines that the winner owes unemployment compensation debts, the bureau shall suspend payment of winnings and notify the winner of its intention to offset the winner's unemployment compensation debt against the winnings. The bureau shall release any remaining winnings to the winner. The bureau shall notify the winner of the winner's right to appeal to the Commissioner of Labor pursuant to Title 5, chapter 375. The winner must appeal in writing within 15 days of receipt of that notice. The hearing is limited to the questions of whether the debt is liquidated and whether postliquidation events have affected the winner's liability. The decision of the Department of Labor as to the existence of a liquidated debt constitutes final agency action. [PL 2021, c. 543, §3 (AMD).]

B. The commissioner shall periodically notify the Tri-state Lotto Commission of all persons who owe the Department of Labor an unemployment compensation debt that has been liquidated by judicial or administrative action. [PL 1997, c. 434, §2 (NEW).]

[PL 2021, c. 543, §3 (AMD).]

9. Interest on overpayments. A benefit overpayment established in a determination rendered under section 1193, subsection 6 accrues interest at the rate of 1.0% per month or per fraction of a month from the first of the month following the date the determination establishing the benefit overpayment becomes final until payment plus accrued interest is received by the bureau.
[RR 2021, c. 2, Pt. A, §92 (COR).]

10. Application of benefit repayments. Amounts received through any means to repay benefit payments owed to the commissioner must be applied first to any outstanding penalties, 2nd to any outstanding interest and 3rd to any benefit payments owed to the commissioner, except that if the repayment of benefit amounts owed to the commissioner is accomplished by offsetting subsequent benefit payments issued under this chapter, that repayment may be applied only to the principal amount. [PL 2025, c. 235, §6 (AMD).]

SECTION HISTORY

PL 1971, c. 419 (AMD). PL 1975, c. 462, §2 (AMD). PL 1975, c. 710, §3 (AMD). PL 1977, c. 460, §§1-3 (AMD). PL 1979, c. 515, §9 (AMD). PL 1979, c. 579, §§9-11,43 (AMD). PL 1979, c. 651, §§10-12,44, 47 (AMD). PL 1981, c. 284 (AMD). PL 1981, c. 327 (AMD). PL 1983, c. 118 (AMD). PL 1983, c. 305, §1 (AMD). PL 1983, c. 351, §5 (AMD). PL 1985, c. 348, §3 (AMD). PL 1997, c. 293, §4 (AMD). PL 1997, c. 434, §§1,2 (AMD). PL 1999, c. 464, §§3,4 (AMD). PL 2011, c. 645, §1 (AMD). PL 2021, c. 456, §§6, 7 (AMD). PL 2021, c. 543, §3 (AMD). RR 2021, c. 2, Pt. A, §92 (COR). RR 2023, c. 2, Pt. E, §83 (COR). PL 2025, c. 235, §§4-6 (AMD).

§1052. Method of mail for required notices

The bureau may not send a notice to an individual as required under this chapter exclusively by electronic mail without first allowing the individual the opportunity to elect to receive that notice exclusively by electronic mail. [PL 2023, c. 53, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 53, §2 (NEW).

SUBCHAPTER 2

ADMINISTRATION

§1081. Administrative organization

1. Commission. The Maine Unemployment Insurance Commission consists of 3 members, one of whom must be a representative of labor, one of whom must be a representative of employers and one of whom must be a representative of the general public who shall be impartial, must be an attorney admitted to the practice of law in the State and is the chair of the commission. Except as provided in this subsection, the 3 members and their successors must be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over labor matters and to confirmation by the Senate, to hold office for a term of 6 years or until a successor has been duly appointed and confirmed, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed must be appointed for the remainder of the term. During a term of membership on the commission, a member may not engage in any other business, vocation or employment, nor serve as an officer or committee member of any political organization.
[RR 2023, c. 2, Pt. E, §84 (COR).]

2. Salaries. The members of the commission shall receive a fixed weekly salary in accordance with Title 2, section 6, and shall be paid from the Employment Security Administration Fund.
[PL 1981, c. 470, Pt. A, §144 (AMD).]

3. Quorum. Any 2 members of the commission constitutes a quorum. Whenever the commission hears a case under this chapter and Title 36, chapter 831, the chair shall act alone in the absence or disqualification of any other member, except that in the event of illness or extended absence on the part of the chair or in the event of a vacancy in that position, the remaining members may act on appeals, conduct hearings and render decisions, as long as both members agree. Except as otherwise provided, a vacancy may not impair the right of the remaining members to exercise all of the powers of the commission. Any action, decision, order, rule or recommendation that is required by law to be made by the Maine Unemployment Insurance Commission may not be made until the commission has held a meeting in the regular course of its business for which all members have been provided with reasonable notice of the meeting and its agenda.
[RR 2023, c. 2, Pt. E, §85 (COR).]

4. Removal. Members of the commission must be sworn and may be removed by the Governor for inefficiency, willful neglect of duty or malfeasance in office, but only with the review and concurrence of the joint standing committee of the Legislature having jurisdiction over labor matters upon hearing in executive session or by impeachment. Before removing a commission member, the Governor shall notify the President of the Senate and the Speaker of the House of Representatives of the removal and the reasons for the removal.
[PL 2017, c. 284, Pt. ZZZZ, §1 (NEW).]

5. Oaths and witnesses. In the discharge of the duties imposed by this chapter, the commission and any duly authorized representative has the power to administer oaths and affirmations, take depositions, certify official acts and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records determined necessary as evidence in connection with a disputed claim. Oaths and affirmations required by reason of duties performed pursuant to this chapter may be administered by any persons as may be designated for the purpose by the commissioner. In the discharge of the duties imposed by this chapter, the commission or any duly authorized representative, when the interests of any interested party demand, may issue commissions to take depositions to any unemployment compensation or employment security official empowered to take such depositions under this chapter or the laws of any other state, for any of the following causes:

A. When the deponent resides out of or is absent from the State; [PL 2025, c. 388, Pt. PPP, §1 (NEW).]

B. When the deponent is bound to sea or is about to go out of the State; or [PL 2025, c. 388, Pt. PPP, §1 (NEW).]

C. When the deponent is so aged, infirm or sick as to be unable to attend at the place of hearing. [PL 2025, c. 388, Pt. PPP, §1 (NEW).]

A deposition pursuant to paragraph A, B or C must be taken by written interrogatories to be compiled by the commission, and the adverse party must be afforded an opportunity to refute such testimony before a determination is made. The deponent must be sworn and the deposition must be signed and sworn to by the deponent before admissible as testimony at a hearing before the commission.

Subpoenas under this subsection must be issued pursuant to Title 5, section 9060.
[PL 2025, c. 388, Pt. PPP, §1 (NEW).]

6. Refusal to appear. A person who without just cause fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in that person's power to do so, in obedience to a subpoena of the commission or the duly authorized representative commits a Class E crime. This crime is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. If a person refuses to obey a subpoena duly issued by the commission or the duly authorized representative, any court of this State within the jurisdiction of which the person resides or transacts business has jurisdiction to issue to that person an order requiring the person to appear and produce evidence or testimony, and any failure to obey that order may be punished by the court as contempt of court.
[PL 2025, c. 388, Pt. PPP, §2 (NEW).]

7. Protection against self-incrimination. A person may not be excused from attending and testifying or from producing books, papers, correspondence, memoranda and other records before the commission or any duly authorized representative or in obedience to the subpoena of the commission or the duly authorized representative in any cause or proceeding before the commission or any duly authorized representative on the ground that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate that person or subject that person to a penalty or fine; but an individual may not be prosecuted or subjected to any penalty or fine for or on account of any transaction, matter or thing concerning which that individual is compelled, after having claimed privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual in testifying under this subsection is not exempt from prosecution and punishment for perjury committed in testifying.
[PL 2025, c. 388, Pt. PPP, §3 (NEW).]

SECTION HISTORY

PL 1965, c. 328 (AMD). PL 1967, c. 476, §21 (AMD). PL 1967, c. 494, §§21-A (AMD). PL 1969, c. 504, §44 (AMD). PL 1971, c. 620, §§2-5 (AMD). PL 1975, c. 771, §285 (AMD). PL 1977, c. 675, §§3-5 (AMD). PL 1981, c. 286, §1 (AMD). PL 1981, c. 470, §A144 (AMD). PL 1983, c. 351, §§6,7 (AMD). PL 1987, c. 641, §§1,2 (AMD). PL 2017, c. 284, Pt. ZZZZ, §1 (AMD). RR 2023, c. 2, Pt. E, §§84, 85 (COR). PL 2025, c. 388, Pt. PPP, §§1-3 (AMD).

§1082. Powers and duties

1. Powers and duties of the commissioner. Except as otherwise provided, it is the duty of the commissioner to administer this chapter, through an organization to be known as the Bureau of Unemployment Compensation. The commissioner may employ persons, make expenditures, require reports, make investigations and take other actions the commissioner determines necessary or suitable to that end. The commissioner is responsible and possesses the necessary authority for the operation and management of the Bureau of Unemployment Compensation. The commissioner shall determine methods of operational procedures in accordance with the provisions of this chapter. The commissioner may adopt rules in accordance with Title 5, chapter 375 to achieve this purpose. The commissioner

shall make recommendations for amendments to this chapter that the commissioner determines proper. When the commissioner believes that a change in contribution or benefit rates is necessary to protect the solvency of the fund, the commissioner shall promptly inform the Governor and the Legislature and make recommendations with respect to the change in rates.
[PL 2025, c. 235, §7 (AMD).]

2. Powers and duties. In addition to other powers and duties provided in this chapter, the commission may require reports, make investigations and undertake other activities necessary to carry out the duties of the commission. Each member of the commission is entitled to access to any information, memoranda, reports or statistical data that is in the possession of or that has been prepared by a division of the Department of Labor and that relates to the administration of this chapter.
[PL 2021, c. 456, §9 (AMD).]

3. Publication. The Commissioner of Labor shall cause to be printed for distribution to the public the text of this chapter, the commission's regulations, the commissioner's annual reports to the Governor and any other material the commissioner or the commission considers relevant and suitable, and shall furnish the same to any person upon application.

The commissioner shall cause to be printed a comprehensive set of Department of Labor internal rules, policies, regulations, memoranda, instructions and other forms used in determining eligibility, payment of benefits and similar issues. The compilation must be indexed conveniently to facilitate its use by the public and easily accessible to the public.

The commissioner shall annually publish data on the content and usage of the fund for not less than the preceding 10 years, including financing, benefit costs, experience rating and contribution rates as applicable. Legislative changes enacted after December 31, 2010 that have an impact on the content or usage of the fund must be disclosed separately for not less than the 5 years after enactment of the change.
[PL 2011, c. 212, §1 (AMD).]

4. Personnel. Subject to other provisions of this chapter, the commissioner is authorized to appoint and prescribe the duties and powers of, and fix the compensation of, such officers, accountants, attorneys, experts and other persons as may be necessary in the performance of the commissioner's duties, subject to the Civil Service Law. The commissioner may delegate to any person so appointed such power and authority as is reasonable and proper for the effective administration of this chapter and may in the commissioner's discretion bond any person handling moneys or signing checks under this chapter. On request of the commissioner, the Attorney General shall represent the department, the commission and the State in any court action relating to this chapter or to its administration and enforcement. Special counsel may be retained by the commissioner in accordance with Title 5, section 196, and the special counsel's service and expenses must be paid from the funds provided for the administration of this chapter. The commissioner may not employ or pay any person who is an officer or committee member of any political party organization.
[RR 2023, c. 2, Pt. E, §86 (COR).]

4-A. Division of Administrative Hearings.

[PL 2025, c. 388, Pt. PPP, §4 (RP).]

5. Advisory council.
[PL 2001, c. 352, §13 (RP).]

6. Employment stabilization. The Commissioner of Labor may take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise and assist in the establishment and operation, by municipalities, counties, school districts and the State, of reserves for public works to be used in times of business depression and unemployment; to promote the

reemployment of unemployed workers throughout the State in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.
[PL 2001, c. 352, §14 (AMD).]

7. Records and reports. Each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe. These records must be open to inspection and be subject to being copied by the commissioner or the commissioner's authorized representatives at any reasonable time and as often as may be necessary. The commissioner may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, that the commissioner considers necessary for the effective administration of this chapter. Information thus obtained or obtained from any individual pursuant to the administration of this chapter, except to the extent necessary for proper presentation of a claim, must be held confidential and may not be published or opened to public inspection, other than to public employees in the performance of their public duties or to any agent of an agency that is under contract with a state or local child-support agency, or to any agent of an agency that is under contract or subcontract with the state employment and job training agency, pursuant to safeguards established by the commissioner, in any manner revealing the individual's or employing unit's identity, but the department shall, upon request, provide to any party to an adjudicatory proceeding information from the records relating to the proceeding. Final decisions of adjudicatory proceedings are available to the public after the names and addresses of claimants and employers are deleted from the decisions. Records, with any necessary authentication of those records, required in the prosecution of any criminal action brought by another state for misrepresentation to obtain benefits under the law of this State must be made available to the agency administering the employment security law of any such state for the purpose of such prosecution.

A. A person who violates this subsection commits a Class E crime. [PL 2003, c. 452, Pt. O, §4 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. An agent of an agency that is under contract with a state or local child-support agency, or an agent of an agency that is under contract or subcontract with the state employment and job training agency who discloses any information that is confidential pursuant to this subsection, other than disclosure authorized by this subsection, commits a Class E crime. [PL 2003, c. 452, Pt. O, §4 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.
[PL 2003, c. 452, Pt. O, §4 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

8. Oaths and witnesses.

[PL 2025, c. 388, Pt. PPP, §5 (RP).]

9. Subpoenas.
[PL 1977, c. 694, §471 (RP).]

9-A. Refusal to appear.
[PL 2025, c. 388, Pt. PPP, §6 (RP).]

10. Protection against self-incrimination.
[PL 2025, c. 388, Pt. PPP, §7 (RP).]

11. State-federal cooperation. In the administration of this chapter, the commissioner shall cooperate to the fullest extent consistent with this chapter with the Department of Labor; shall make such reports, in such form and containing such information as the Secretary of Labor may from time to time require, and shall comply with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations of the Secretary of Labor governing the expenditure of such sums as may be allotted and paid to this State under Title III of the Social Security Act for the purpose of assisting in the

administration of this chapter. Upon request therefor, the commissioner shall furnish to any agency of the United States, charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of benefits and such recipient's rights to further benefits under this chapter. The commissioner may make the state's records relating to the administration of this chapter available to the Railroad Retirement Board and may furnish the Railroad Retirement Board, at the expense of such board, such copies thereof as the Railroad Retirement Board deems necessary for its purposes. The commissioner may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law or employment security law.
[PL 1977, c. 675, §10 (AMD).]

12. Reciprocal benefit arrangements. The commissioner shall participate in any arrangements with the appropriate agencies of other states or the Federal Government for the payment of benefits on the basis of combining an individual's wages and employment covered under this chapter and that individual's wages and employment covered under the unemployment compensation or employment security laws of other states that are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations and that include provisions for applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under 2 or more state unemployment compensation laws, and avoiding the duplicate use of wages and employment by reason of such combining. The commissioner shall reimburse such state or federal agency for such benefits as may be paid by that agency upon the basis of wages received in employment subject to this chapter or shall receive from such state or federal agency such amounts as may be paid from the fund upon the basis of wages received in employment subject to the laws of such state or of the Federal Government.

The commissioner is authorized to enter into reciprocal agreements with the appropriate agencies of other states or the Federal Government adjusting the collection and payment of contributions by employers with respect to services of individuals not performed wholly within the jurisdiction of this State whereby such services may be agreed upon to be considered for all purposes, if the commissioner so desires, as wholly within, or wholly without, the jurisdiction of this State, notwithstanding any provisions of section 1043, subsection 11.

The commissioner is authorized to make such investigations, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of this chapter as the commissioner considers necessary or appropriate to facilitate the administration of any unemployment compensation, employment security or public employment service law, and in like manner to accept and utilize information, services and facilities made available to this State by any agency charged with the administration of any such other unemployment compensation, employment security or public employment service law. To the extent permissible under the laws and Constitution of the United States, the commissioner is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this chapter and facilities and services provided under the unemployment compensation or employment security laws of any foreign government may be utilized for the taking of claims and the payment of benefits under this chapter, or under a similar law of such government. The commissioner, by agreement with another state or the Federal Government, as provided under Section 303(g) of the federal Social Security Act, may recover any overpayment of benefits paid to any individual under the laws of this State or of another state or under an unemployment benefit program of the Federal Government. Any overpayments subject to this subsection may be deducted from any future benefits payable to the individual under the laws of this State or of another state or under an unemployment program of the Federal Government.

In any case in which under this subsection a claimant is liable to repay any amount to the agency of another state, such amounts may be collected without interest by civil action in the name of the commissioner acting as agent for such agency.
[PL 2019, c. 343, Pt. RRR, §1 (AMD).]

13. Filing payroll reports; penalty. The commissioner may prescribe rules for the filing of payroll reports for the employing units in the State. Each employing unit shall submit a quarterly payroll report by electronic submission or on forms prescribed by the bureau. These quarterly reports are due in the office of the bureau, or of any duly constituted agent of the bureau, on or before the last day of the month following the close of the calendar quarter for which the reports relate. The failure on the part of any employing unit to file the payroll reports within this time frame renders the employing unit liable for a penalty of $25 or 10% of the tax due, whichever is greater.

In the case of executive, administrative and professional employees, and outside sales representatives, as defined in Part 541 of the Rules and Regulations promulgated under the federal Fair Labor Standards Act of 1938, as amended as of June 30, 1971, the commissioner, upon the request of an employer of those individuals, may approve an alternative method for obtaining from that employer necessary wage information relative to those employees.
[PL 2021, c. 456, §10 (AMD).]

13-A. Certificate of records of payroll reports as evidence. Notwithstanding any other provision of law or rule of evidence, for purposes of any prosecution or action to enforce Title 39-A, section 324, a certificate signed by the Director of Unemployment Compensation or a representative of the commissioner duly authorized by the commissioner stating what the payroll report records show must be received in any court in this State as prima facie evidence of any fact stated in the certificate or the records attached to the certificate.
[PL 1991, c. 885, Pt. E, §37 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

14. Determination of employer or employment; appeal.

A. The Director of Unemployment Compensation or a representative of the commissioner duly authorized by the commissioner to do so shall determine whether an employing unit is an employer and whether services performed for or in connection with the business of the employing unit constitute employment and shall give written notice of the determination to the employing unit. Unless the employing unit, within 30 calendar days after notification was mailed to its last known address, files an appeal from that determination to the Division of Administrative Hearings, the determination is final. [PL 2017, c. 284, Pt. AAAAA, §1 (AMD).]

B. After a determination has been made under paragraph A, the Director of Unemployment Compensation or a representative of the commissioner may within one year reconsider the determination in the light of additional evidence and make a redetermination and shall give written notice of the redetermination to the employing unit. Unless the employing unit, within 30 calendar days after notification was mailed to its last known address, files an appeal from that redetermination to the Division of Administrative Hearings, the redetermination is final. [PL 2017, c. 284, Pt. AAAAA, §1 (AMD).]

C. [PL 2017, c. 284, Pt. AAAAA, §2 (RP).]

D. The employer or the commissioner may appeal a decision of the Division of Administrative Hearings to the commission, which may affirm, modify or reverse the decision upon review of the record. The commission may hold further hearings or may remand the case to the Division of Administrative Hearings for the taking of additional evidence. The commission shall notify the parties to the proceeding of its findings of fact and decision, and such decision is subject to appeal pursuant to Title 5, section 11001 et seq. In the absence of appeal therefrom, the determination of the commission, together with the record of the proceeding under this subsection, is admissible in any subsequent material proceeding under this chapter, and if supported by evidence, and in the

absence of fraud, is conclusive, except as to errors of law, upon any employing unit that was a party to the proceeding under this subsection. [PL 2017, c. 284, Pt. AAAAA, §3 (AMD).]

E. [PL 1977, c. 694, §473 (RP).]

[PL 2017, c. 284, Pt. AAAAA, §§1-3 (AMD).]

SECTION HISTORY

PL 1965, c. 381, §7 (AMD). PL 1967, c. 398, §1 (AMD). PL 1967, c. 519 (AMD). PL 1971, c. 538, §§18-20 (AMD). PL 1971, c. 620, §§6-10 (AMD). PL 1975, c. 90 (AMD). PL 1975, c. 771, §286 (AMD). PL 1977, c. 460, §4 (AMD). PL 1977, c. 675, §§6-11 (AMD). PL 1977, c. 694, §§468-473 (AMD). PL 1977, c. 696, §§373,375 (AMD). PL 1979, c. 127, §§160,161 (AMD). PL 1979, c. 515, §§9A-11 (AMD). PL 1979, c. 541, §A181 (AMD). PL 1979, c. 579, §§13-17,44 (AMD). PL 1979, c. 651, §§14-18,45, 47 (AMD). PL 1981, c. 168, §§11-16 (AMD). PL 1981, c. 470, §A145 (AMD). PL 1983, c. 115, §1 (AMD). PL 1983, c. 351, §§8-14 (AMD). PL 1983, c. 489, §14 (AMD). PL 1983, c. 812, §164 (AMD). PL 1983, c. 816, §A21 (AMD). PL 1985, c. 348, §4 (AMD). PL 1985, c. 537 (AMD). PL 1985, c. 785, §B120 (AMD). PL 1987, c. 77, §2 (AMD). PL 1987, c. 338, §4 (AMD). PL 1987, c. 641, §§3-6 (AMD). PL 1989, c. 483, §A49 (AMD). PL 1989, c. 503, §B111 (AMD). PL 1989, c. 878, §A72 (AMD). PL 1991, c. 885, §E37 (AMD). PL 1991, c. 885, §E47 (AFF). PL 1993, c. 312, §1 (AMD). PL 1993, c. 710, §1 (AMD). PL 1995, c. 560, §G11 (AMD). PL 1995, c. 657, §§1,2 (AMD). PL 1995, c. 657, §10 (AFF). PL 1997, c. 687, §1 (AMD). PL 2001, c. 352, §§13,14 (AMD). PL 2003, c. 452, §§O3-5 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2011, c. 212, §1 (AMD). PL 2015, c. 39, §1 (AMD). PL 2017, c. 284, Pt. AAAAA, §§1-3 (AMD). PL 2019, c. 343, Pt. RRR, §1 (AMD). PL 2021, c. 456, §§8-10 (AMD). RR 2023, c. 2, Pt. E, §86 (COR). PL 2025, c. 235, §7 (AMD). PL 2025, c. 388, Pt. PPP, §§4-7 (AMD).

§1083. Employment service

1. State employment service. The commissioner shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this chapter and for the purpose of performing such duties as are within the purview of the "Wagner-Peyser Act." It shall be the duty of the commissioner to cooperate with any official or agency of the United States having powers or duties under the said Act of Congress, as amended, and to do and perform all things necessary to secure to this State the benefits of the said Act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said Act of Congress, as amended, are accepted by this State, in conformity with section 4 of said Act, and this State will observe and comply with the requirements thereof. The Department of Labor is designated and constituted the agency of this State for the purpose of this Act. The commissioner may cooperate with or enter into agreements with the Railroad Retirement Board with respect to the establishment, maintenance and use of free employment service facilities.

[PL 1981, c. 168, §17 (AMD).]

2. Financing. All funds received by this State under the federal Wagner-Peyser Act, as amended, must be paid into an employment services fund and the funds made available to the commissioner to be expended as provided by this section and by that Act of Congress. For the purpose of establishing and maintaining free public employment offices, the commissioner is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of an unemployment compensation law or employment security law, with any political subdivision of this State or with any private, nonprofit organization, and as a part of any such agreement the commissioner may accept funds, services or quarters as a contribution to an employment services fund.

[PL 2013, c. 467, §3 (AMD).]

3. Services to students. The commissioner shall include in each annual plan of service a program for service to students in Maine public secondary schools. Such plan shall give priority of service to all public high school students, particularly those who do not have definite post-graduation plans for employment or further education. The service may provide to such students testing where appropriate, counseling concerning their ability and the availability of jobs, and any other services of the Employment Service which will assist them to obtain and retain suitable employment or further education, including services of the Job Bank.

Nothing in this subsection shall be construed as requiring the commissioner to submit an annual plan of service which would be out of compliance with Federal statutes or regulations governing this plan, or the programs or budgets conducted thereunder.
[PL 1975, c. 688 (NEW).]

SECTION HISTORY

PL 1975, c. 688 (AMD). PL 1977, c. 675, §§12,13 (AMD). PL 1981, c. 168, §17 (AMD). PL 2013, c. 467, §3 (AMD).

§1084. Municipal employment service

1. Authorization. The legislative body of a municipality may authorize its municipal officers or their designee to enter into an agreement, not financed by the State, with the commissioner for the purpose of providing job services or job service facilities, or both.
[PL 1995, c. 560, Pt. G, §12 (AMD).]

2. Liability of the State. Notwithstanding any other provision of law or agreement to the contrary, for the purposes of this section, the municipality shall be considered an agent of the State and the municipal officials and employees shall be considered to be acting on behalf of the State in its official capacity. The State shall indemnify, hold harmless and, with the consent of the municipality or its officials or employees, defend the municipality and its officials and employees against any claim which arises out of an act or omission occuring within the course or scope of employment for purposes of performing the duties within the purview of this section. If the defense of the municipality or its officials or employees creates a conflict of interest between the State and the municipality, official or employee, the State need not assume the defense; however, the State shall be liable for reasonable attorney's fees and court costs of the municipality, official or employee.

This subsection does not apply if the municipality, official or employee settles the claim without the consent of the State or if the municipality, official or employee does not notify the State within 30 days after receiving actual written notice of the claim against the municipality, official or employee or within 15 days after the service of the summons and complaint upon the municipality, official or employee and if the State is prejudiced by the claim.
[RR 2023, c. 2, Pt. E, §87 (COR).]

SECTION HISTORY

PL 1981, c. 648 (NEW). PL 1995, c. 560, §G12 (AMD). RR 2023, c. 2, Pt. E, §87 (COR).

§1085. Access to federal tax information; background investigation requirements

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

A. "Affected person" means a person who is:

(1) An applicant for employment with the bureau who will have access to federal tax information as part of that employment;

(2) A contractor for the bureau who provides or is assigned to provide services to the bureau under an identified contract. For the purposes of this subparagraph, "identified contract" means

a contract that the Director of Unemployment Compensation determines involves access, or the substantial possibility of access, to the bureau's information technology systems that contain federal tax information;

(3) An employee of the bureau who has or will be given access to federal tax information as part of that employee's employment with the bureau and has not undergone a federal background investigation within the past 5 years; or

(4) An employee or contractor of another state agency, if the bureau determines the duties of that employee or contractor involve access or the substantial possibility of access through the bureau to federal tax information obtained from the United States Internal Revenue Service or the Department of Administrative and Financial Services, Bureau of Revenue Services. [PL 2025, c. 235, §8 (AMD).]

B. "Contractor" includes a contractor's employees and subcontractors and employees of those subcontractors. [PL 2019, c. 644, §4 (NEW).]

C. "Federal tax information" means returns and return information as defined in the United States Internal Revenue Code of 1986, Section 6103(b) that are received directly from the United States Internal Revenue Service or obtained through a secondary source authorized by the Internal Revenue Service and that are subject to the confidentiality protections and safeguarding requirements of the United States Internal Revenue Code of 1986 and corresponding federal regulations and guidance. "Federal tax information" also includes information received as part of the treasury offset program under the authority of the United States Internal Revenue Code of 1986, Section 6103(l)(10) from the United States Department of the Treasury, Bureau of the Fiscal Service. "Federal tax information" does not include information in the possession of the State that is obtained by means wholly from sources independent from the Internal Revenue Service. [PL 2019, c. 644, §4 (NEW).]

[PL 2025, c. 235, §8 (AMD).]

2. Federal background investigation requirements. The Bureau of Unemployment Compensation shall perform background investigations for affected persons in accordance with this subsection. A federal background investigation conducted pursuant to this subsection must include fingerprinting and obtaining national criminal history record information from the Federal Bureau of Investigation and must satisfy the background investigation standards established by the United States Internal Revenue Service regarding access to federal tax information.

A. As part of the process of evaluating an affected person for employment with the bureau involving access to federal tax information, a federal background investigation must be conducted before an offer of employment is extended. [PL 2019, c. 644, §4 (NEW).]

B. A federal background investigation for an affected person assigned to provide services to the bureau under an identified contract must be conducted before that affected person begins providing services to the bureau and at least once every 10 years as long as the affected person continues providing services to the bureau. [PL 2019, c. 644, §4 (NEW).]

C. As part of the process of evaluating an affected person for continued employment with the bureau, a federal background investigation must be conducted at least once every 10 years. If an affected person has not been subject to a federal background investigation within 10 years prior to the effective date of this section, a federal background investigation must be conducted within one year of the effective date of this section. [PL 2019, c. 644, §4 (NEW).]

D. A federal background investigation for an affected person who is an employee or contractor of another state agency must be conducted before that affected person is provided access, or the substantial possibility of access, to federal tax information obtained from the bureau and at least once every 10 years as long as the affected person continues to have such access, except that, if the

bureau determines that the affected person has been subject to a background investigation that satisfies the background investigation standards established by the United States Internal Revenue Service regarding access to federal tax information within the past 10 years, no further investigations are required under this paragraph for the 10-year period commencing at the time of the federal background investigation. [PL 2019, c. 644, §4 (NEW).]

[PL 2019, c. 644, §4 (NEW).]

3. Fingerprinting. An affected person must consent to having fingerprints taken for use in background investigations in accordance with this subsection. The State Police shall take or cause to be taken the affected person's fingerprints and shall forward the fingerprints to the Department of Public Safety, State Bureau of Identification so that the State Bureau of Identification can conduct state and national criminal history record checks for the Bureau of Unemployment Compensation. The State Police may charge the Bureau of Unemployment Compensation for the expenses incurred in processing state and national criminal history record checks. The full fee charged under this subsection must be deposited in a dedicated revenue account for the State Bureau of Identification with the purpose of paying costs associated with the maintenance and replacement of the criminal history record systems.
[PL 2019, c. 644, §4 (NEW).]

4. Confidentiality. All information obtained by the bureau pursuant to this section is confidential. The information may be used only for making decisions regarding the suitability of an affected person for new or continued employment with the bureau, to provide services to the bureau under an identified contract or to access federal tax information obtained from the bureau.
[PL 2025, c. 111, §2 (AMD).]

5. Affected person's access to criminal history record information. The bureau shall provide an affected person with access to information obtained pursuant to this section, if requested, by providing a paper copy of the criminal history record information directly to the affected person, but only after the bureau confirms that the affected person is the subject of the record. In addition, the bureau shall publish guidance on requesting such information from the Federal Bureau of Investigation.
[PL 2019, c. 644, §4 (NEW).]

6. Disqualifying offenses; refusal to consent. The Director of Unemployment Compensation shall review the information obtained under this section and determine whether an affected person has a disqualifying offense that would prohibit authorizing that individual to access federal tax information. Refusal by the affected person to consent to the background investigation requirements under this section is deemed a disqualifying offense.

The following applies to an affected person who has a disqualifying offense:

A. The bureau may not employ or utilize that affected person in a position for which access to federal tax information is required; [PL 2019, c. 644, §4 (NEW).]

B. If the affected person is an employee of the bureau or is assigned to provide services to the bureau under an identified contract and the director of the bureau has authorized the affected person to access federal tax information, the bureau shall terminate that affected person's access and may remove that affected person from any position that involves access, or the substantial possibility of access, to federal tax information. If the affected person is an employee of the bureau, the bureau shall make a reasonable effort to retain that person as an employee in another position within the bureau that does not require access to federal tax information; and [PL 2019, c. 644, §4 (NEW).]

C. If the affected person is an employee or contractor of another state agency, the bureau shall notify the other agency and the agency shall terminate the affected person's access, or substantial possibility of access, to federal tax information and may remove that affected person from any position that involves such access. If the affected person is an employee of the other agency, the agency shall make a reasonable effort to retain that person as an employee in another position that does not require access to federal tax information. [PL 2019, c. 644, §4 (NEW).]

[PL 2019, c. 644, §4 (NEW).]

SECTION HISTORY

PL 2019, c. 644, §4 (NEW). PL 2025, c. 111, §2 (AMD). PL 2025, c. 235, §8 (AMD).

SUBCHAPTER 3

EMPLOYMENT SECURITY ADMINISTRATION FUND

§1111. Use of fund

The special fund in the State Treasury known as the Unemployment Compensation Administration Fund, as heretofore created, shall hereafter be known as the Employment Security Administration Fund. All moneys which are deposited or paid into this fund are appropriated and made available to the commissioner. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this chapter, and for no other purpose whatsoever. The fund shall consist of all moneys appropriated by this State, and all moneys received from the United States of America, or any agency thereof, including the Social Security Board, Railroad Retirement Board and the United States Employment Service, or from any other source, for such purpose. Moneys received from the Railroad Retirement Board as compensation for services or facilities supplied to said board shall be paid into this fund on the same basis as expenditures are made for such services or facilities from such fund. All moneys in this fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. Any balances in this fund shall not lapse at any time, but shall be continuously available to the commissioner for expenditure consistent with this chapter. [PL 1979, c. 651, §§ 45, 47 (AMD).]

SECTION HISTORY

PL 1979, c. 579, §44 (AMD). PL 1979, c. 651, §§45,47 (AMD).

§1112. Reimbursement of fund

If any moneys received in the Employment Security Administration Fund after June 30, 1941 are found by the Secretary of Labor because of any action or contingency to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of this chapter, it is the policy of this State that such moneys shall be replaced by moneys appropriated for such purpose from the general funds of this State to the Employment Security Administration Fund for expenditure as provided in section 1111. Upon receipt of notice of such a finding by the Secretary of Labor, the commissioner shall promptly report the amount required for such replacement to the Governor, and the Governor shall at the earliest opportunity submit to the Legislature a request for the appropriation of such amount. This section shall not be construed to relieve this State of its obligation with respect to funds received prior to July 1, 1941, pursuant to Title III of the Social Security Act. [PL 1979, c. 651, §§ 45, 47 (AMD).]

SECTION HISTORY

PL 1979, c. 579, §44 (AMD). PL 1979, c. 651, §§45,47 (AMD).

SUBCHAPTER 4

UNEMPLOYMENT COMPENSATION FUND

§1141. Contents of fund

The Unemployment Compensation Fund, as heretofore created, shall be a special fund, separate and apart from all public moneys or funds of this State, and shall be administered by the commissioner exclusively for the purposes of this chapter. All moneys in the fund shall be mingled and undivided. This fund shall consist of: [PL 1979, c. 651, §19 (AMD).]

1. Contributions. All contributions and payments in lieu of contributions collected under this chapter;
[PL 1973, c. 555, §12 (AMD).]

2. Interest. Interest earned upon any moneys in the fund;

3. Property or securities. Any property or securities acquired through the use of moneys belonging to the fund;

4. Earnings. All earnings of such property or securities;

5. Moneys. All other moneys received for the fund under any Act of Congress or from any other source.

SECTION HISTORY

PL 1973, c. 555, §12 (AMD). PL 1977, c. 675, §14 (AMD). PL 1979, c. 579, §18 (AMD). PL 1979, c. 651, §§19,47 (AMD).

SUBCHAPTER 5

MANAGEMENT OF FUNDS

§1161. Accounts and deposit

The Treasurer of State is the ex officio treasurer and custodian of the Unemployment Compensation Fund and shall administer the fund in accordance with the directions of the commissioner. The Treasurer of State shall maintain within the fund 4 separate accounts: [PL 2003, c. 164, §1 (AMD).]

1. Clearing account. A clearing account for all money payable to the trust fund account that is not deposited into the tax deposit account;
[PL 2015, c. 39, §2 (AMD).]

2. Trust fund account. An unemployment trust fund account;
[PL 2003, c. 164, §1 (AMD).]

3. Benefit account. A benefit account; and
[PL 2003, c. 164, §1 (AMD).]

4. Tax deposit account. A clearing account for that portion of unemployment insurance contributions payable to the trust fund account from the tax deposit account.
[PL 2015, c. 39, §2 (AMD).]

All money payable to the fund, upon receipt by the commissioner, must be forwarded to the Treasurer of State, who shall immediately deposit it in the clearing account or the tax deposit account. Refunds payable pursuant to section 1043, subsection 11, paragraph F, subparagraph (2) or section 1225 may be paid from the clearing account, the tax deposit account or the benefit account upon warrants prepared by the commissioner and signed by the State Controller. After clearance, all other money in the clearing account and all of the unemployment compensation money in the tax deposit account must be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of law in this State relating to the deposit, administration, release or disbursement of money in the possession or

custody of this State to the contrary notwithstanding. The benefit account must consist of all money requisitioned from this State's account in the Unemployment Trust Fund. [PL 2015, c. 39, §2 (AMD).]

Except as otherwise provided, money in the clearing, tax deposit and benefit accounts may be deposited by the Treasurer of State, under the direction of the commissioner, in any bank or public depository in which general funds of the State may be deposited, but no public deposit insurance charge or premium may be paid out of the fund. [PL 2015, c. 39, §2 (AMD).]

The Governor is authorized to apply for advances to the account of this State in the Unemployment Trust Fund in accordance with the provisions of Title XII of the Social Security Act, 42 United States Code, Section 1321, as amended, or under any other Act of Congress extending such authority, in order to secure to this State and its citizens the advantages available under the provisions of Title XII of the Social Security Act. [PL 2003, c. 164, §1 (AMD).]

SECTION HISTORY

PL 1975, c. 462, §3 (AMD). PL 1975, c. 770, §121 (AMD). PL 1977, c. 675, §15 (AMD). PL 2003, c. 164, §1 (AMD). PL 2015, c. 39, §2 (AMD).

§1162. Withdrawals

Moneys must be requisitioned from the State's account in the Unemployment Trust Fund solely for the payment of benefits and for the payment of refunds pursuant to section 1043, subsection 11, paragraph F, subparagraph (2) and section 1225 in accordance with rules prescribed by the commissioner. The commissioner shall from time to time requisition from the Unemployment Trust Fund the amounts, not exceeding the amounts standing to this State's account therein, as the commissioner considers necessary for the payment of the benefits and refunds for a reasonable future period. Upon receipt thereof the Treasurer of State shall deposit the moneys in the benefit account and warrants must be issued for the payment of benefits and refunds solely from the benefit account. All warrants issued for the payment of benefits and refunds must bear the signature of the commissioner or the commissioner's duly authorized agent for that purpose. When so signed and delivered to the payee, the warrants become a check against a designated bank or trust company acting as a depository of the State Government. The commissioner is the final judge of the legality or propriety of any award of benefits, or the amount thereof, appearing in any such warrant prepared by the commissioner, subject only to the right of appeal as provided in section 1194, subsection 8. Any balance of moneys requisitioned from the Unemployment Trust Fund that remains unclaimed or unpaid in the benefit account after the expiration of the period for which the sums were requisitioned must either be deducted from estimates for, and may be utilized for the payment of, benefits and refunds during succeeding periods or, in the discretion of the commissioner, be redeposited with the United States Secretary of the Treasury, to the credit of this State's account in the Unemployment Trust Fund, as provided in section 1161. [PL 2023, c. 405, Pt. A, §100 (AMD).]

SECTION HISTORY

PL 1975, c. 462, §4 (AMD). PL 1979, c. 579, §19 (RPR). PL 1979, c. 651, §§20,47 (RPR). PL 2021, c. 456, §11 (AMD). PL 2023, c. 405, Pt. A, §100 (AMD).

§1163. Management on discontinuance of Unemployment Trust Fund

Sections 1141, 1161 and 1162, to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such Unemployment Trust Fund, from which no other state is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties or securities therein, belonging to the Unemployment Compensation Fund of this State shall be transferred to the treasurer of the

Unemployment Compensation Fund, who shall hold, invest, transfer, sell, deposit and release such moneys, properties or securities in a manner approved by the commissioner in accordance with this chapter. Such moneys shall be invested in the following readily marketable classes of securities: Bonds or other interest-bearing obligations of the United States of America or of any state in the said United States. Such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for payment of benefits. The Treasurer of State shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the commissioner. [PL 1977, c. 675, §16 (AMD).]

SECTION HISTORY

PL 1977, c. 675, §16 (AMD).

§1164. Special Administrative Expense Fund

The Special Administrative Expense Fund is created as a special fund in the State Treasury. All interest, fines and penalties collected under this chapter and all voluntary contributions tendered as a contribution to this fund must be paid into this fund. The money may not be expended or available for expenditure in any manner that would permit its substitution for, or a corresponding reduction in, federal funds that would in the absence of that money be available to finance expenditures for the administration of the Employment Security Law. Nothing in this section prevents the money from being used as a revolving fund to cover expenditures, necessary and proper under the law, for which federal funds have been duly requested but not yet received, subject to the charging of those expenditures against those funds when received. The money in this fund must be used by the commissioner either for the payment of costs of administration that are found not to have been properly and validly chargeable against federal grants or other funds received for or in the Employment Security Administration Fund on or after January 1, 1943, to finance the Maine Wage Assurance Fund established in section 632; for the payment of costs of administering chapter 26, for which federal funds are not available; or to fund activities that will improve the solvency of the Unemployment Compensation Fund. The money must be available either to satisfy the obligations incurred by the bureau directly or by requesting the Treasurer of State to transfer the required amount from the Special Administrative Expense Fund to the Employment Security Administration Fund or the Maine Wage Assurance Fund. The Treasurer of State shall upon receipt of a written request of the commissioner make any such transfer. The commissioner shall give notice to the commission prior to any expenditures from this fund. The commissioner shall order the transfer of the funds or the payment of any such obligation and the funds must be paid by the Treasurer of State on requisitions drawn by the commissioner directing the State Controller to issue the State Controller's warrant for them. The warrant must be drawn by the State Controller based upon bills of particulars and vouchers certified by an officer or employee designated by the commissioner. The money in this fund is specifically made available to replace, within a reasonable time, any money received by this State pursuant to section 302 of the Federal Social Security Act as amended that, because of any action or contingency, has been lost or has been expended for purposes other than, or in amounts in excess of, those necessary for the proper administration of the Employment Security Law. The money in this fund must be continuously available to the commissioner for expenditure in accordance with this section and may not lapse at any time or be transferred to any other fund except as provided. Any money in the Special Administrative Expense Fund may be used to make refunds of interest, penalties or fines erroneously collected and deposited in the Special Administrative Expense Fund. On June 30th of each year all money in excess of $100,000 in this fund must be transferred to the Unemployment Compensation Fund. [PL 1999, c. 464, §5 (AMD).]

SECTION HISTORY

PL 1977, c. 675, §17 (AMD). PL 1979, c. 127, §162 (AMD). PL 1979, c. 202, §2 (AMD). PL 1979, c. 579, §20 (AMD). PL 1979, c. 628 (AMD). PL 1979, c. 651, §§21,47 (AMD). PL 1983,

c. 351, §15 (AMD). PL 1985, c. 346, §1 (AMD). PL 1985, c. 518 (AMD). PL 1991, c. 9, §KK (AMD). PL 1999, c. 464, §5 (AMD).

§1165. Federal Advance Interest Fund

The Federal Advance Interest Fund shall be a special nonlapsing fund in the State Treasury. All receipts, including interest, fines and penalties collected from the special assessment as defined in section 1241, shall be paid into this fund. Income from investment of this fund shall be deposited to the credit of the fund. All money in the fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as are provided by law for other special funds in the State Treasury. [PL 1983, c. 738, §1 (NEW).]

The money in this fund shall be used exclusively for the purpose of paying interest incurred on advances received from the Federal Unemployment Trust Fund. If, as of December 31st of any year, no interest is payable and no balance of interest-bearing advances exists in the Unemployment Compensation Fund, the unobligated and unencumbered balance of the Federal Advance Interest Fund in excess of $50,000 shall be transferred to the Unemployment Compensation Fund by January 31st of the following year. [PL 1983, c. 738, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 738, §1 (NEW).

§1166. Competitive Skills Scholarship Fund

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

A. "Competitive Skills Scholarship Fund contributions" means the money payments required by this section to be made into the Competitive Skills Scholarship Fund by an employer as a percentage of the employer's taxable payroll based on the Competitive Skills Scholarship Fund predetermined yield in effect for that Competitive Skills Scholarship Fund rate year. [PL 2007, c. 352, Pt. A, §1 (NEW).]

B. "Competitive Skills Scholarship Fund planned yield" means the percentage of wages, as defined in section 1043, subsection 19, equal to .034% of the total wages for each contributing employer subject to this chapter. [PL 2023, c. 184, §1 (AMD).]

C. "Competitive Skills Scholarship Fund predetermined yield" means the amount determined by multiplying the ratio of total wages to taxable wages, as defined by section 1221, subsection 6, paragraph L, by the Competitive Skills Scholarship Fund planned yield. The Competitive Skills Scholarship Fund predetermined yield is rounded to the nearest .01%. [PL 2007, c. 352, Pt. A, §1 (NEW).]

D. "Competitive Skills Scholarship Fund rate year" has the same meaning as "rate year" under section 1221, subsection 6, paragraph F. [PL 2007, c. 352, Pt. A, §1 (NEW).]
[PL 2023, c. 184, §1 (AMD).]

2. Established. The Competitive Skills Scholarship Fund, referred to in this section as "the fund," is established as a special fund in the State Treasury. All receipts, including interest, fines and penalties collected from Competitive Skills Scholarship Fund contributions, must be paid into the fund. Income from investment of the fund must be deposited to the credit of the fund. All money in the fund must be deposited, administered and disbursed in the same manner and under the same conditions and requirements as are provided by law for other special funds.

The money in the fund must be administered by the commissioner exclusively for the purposes of chapter 25, subchapter 5 and section 2066 and for the costs of administering the fund.
[PL 2025, c. 396, §1 (AMD).]

3. Unencumbered balances.
[PL 2017, c. 284, Pt. BBBBB, §1 (RP).]

4. No supplantation. Allocations from the fund must be used to supplement, not supplant, federal or state funds received by the Department of Labor, by a local board or by organizations that deliver workforce investment services through the career center provided by the department.
[PL 2007, c. 352, Pt. A, §1 (NEW).]

5. Employers liable for Competitive Skills Scholarship Fund contribution. Each employer, as defined in section 1043, subsection 9, other than an employer liable for a payment in lieu of a contribution, shall pay a Competitive Skills Scholarship Fund contribution.

Beginning January 1, 2008, Competitive Skills Scholarship Fund contributions are payable in the same manner as described under section 1221, subsection 1 and in accordance with section 1221, subsection 4-A.
[PL 2007, c. 352, Pt. A, §1 (NEW).]

6. Receipts. All receipts collected from Competitive Skills Scholarship Fund contributions, including interest, fines and penalties on contributions not paid when due, must be paid into the fund.
[PL 2007, c. 352, Pt. A, §1 (NEW).]

7. Experience rating records. Competitive Skills Scholarship Fund contributions may not be credited to an employer's experience rating record as described in section 1221, subsection 3.
[PL 2007, c. 352, Pt. A, §1 (NEW).]

8. Relationship to unemployment insurance contributions. Competitive Skills Scholarship Fund contributions may not be considered as part of the employer's unemployment insurance contribution rate pursuant to section 1221. Unemployment insurance contributions for all employers subject to the contribution provisions of this chapter must be reduced by a percentage equal to the total Competitive Skills Scholarship Fund contribution assessment as in section 1221, subsection 4-A. Exceptions pertaining to new employer rates and contribution rate category 20 are described in section 1221, subsection 4-A, paragraphs A and B.
[PL 2007, c. 352, Pt. A, §1 (NEW).]

9. Other provisions of this chapter. All provisions of this chapter and rules adopted under this chapter regarding payments, time limits, dates of payment, reports, interest and penalties on amounts not paid by employers when due, fines, liens and warrants that apply to the collection of contributions also apply to the collection of Competitive Skills Scholarship Fund contributions.
[PL 2007, c. 352, Pt. A, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 352, Pt. A, §1 (NEW). PL 2007, c. 506, §1 (AMD). PL 2017, c. 284, Pt. BBBBB, §1 (AMD). PL 2023, c. 184, §1 (AMD). PL 2025, c. 396, §1 (AMD).

§1167. Unemployment Program Administrative Fund

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

A. "Unemployment Program Administrative Fund contributions" or "fund contributions" means the money payments required by this section to be made into the Unemployment Program Administrative Fund by an employer as a percentage of the employer's taxable payroll based on the Unemployment Program Administrative Fund predetermined yield in effect for the Unemployment Program Administrative Fund rate year. [PL 2019, c. 616, Pt. FF, §1 (NEW).]

B. "Unemployment Program Administrative Fund planned yield" means the percentage of wages, as defined in section 1043, subsection 19, equal to .04% of the total wages for each contributing employer subject to this chapter. [PL 2019, c. 616, Pt. FF, §1 (NEW).]

C. "Unemployment Program Administrative Fund predetermined yield" means the amount determined by multiplying the ratio of total wages to taxable wages, as defined by section 1221, subsection 6, paragraph L, by the Unemployment Program Administrative Fund planned yield. The Unemployment Program Administrative Fund predetermined yield is rounded to the nearest .01%. [PL 2019, c. 616, Pt. FF, §1 (NEW).]

D. "Unemployment Program Administrative Fund rate year" has the same meaning as "rate year" under section 1221, subsection 6, paragraph F. [PL 2019, c. 616, Pt. FF, §1 (NEW).]

[PL 2019, c. 616, Pt. FF, §1 (NEW).]

2. Established. The Unemployment Program Administrative Fund, referred to in this section as "the fund," is established as a special fund in the State Treasury. All receipts, including interest, fines and penalties collected from the Unemployment Program Administrative Fund contributions, must be paid into the fund. Income from the investment of the fund must be deposited to the credit of the fund. All money in the fund must be deposited, administered and disbursed in the same manner and under the same conditions and requirements as are provided by law for other special funds.
[PL 2019, c. 616, Pt. FF, §1 (NEW).]

3. Administered. The money in the fund must be administered by the commissioner exclusively for the purpose of administering this chapter and for the costs of administering the fund.
[PL 2019, c. 616, Pt. FF, §1 (NEW).]

4. Employers liable for fund contribution. Each employer, as defined in section 1043, subsection 9, other than an employer liable for a payment in lieu of a contribution, shall pay a fund contribution. Beginning January 1, 2021, fund contributions are payable in the same manner as described under section 1221, subsection 1 and in accordance with section 1221, subsection 4-A.
[PL 2019, c. 616, Pt. FF, §1 (NEW).]

5. Receipts. All receipts collected from fund contributions, including interest, fines and penalties on fund contributions not paid when due, must be paid into the fund.
[PL 2019, c. 616, Pt. FF, §1 (NEW).]

6. Experience rating records. Fund contributions may not be credited to an employer's experience rating record as described in section 1221, subsection 3.
[PL 2019, c. 616, Pt. FF, §1 (NEW).]

7. Relationship to unemployment insurance contributions. Fund contributions may not be considered as part of the employer's unemployment insurance contribution rate pursuant to section 1221. Unemployment insurance contributions for all employers subject to the contribution provisions of this chapter must be reduced by a percentage equal to the total fund contribution assessment as in section 1221, subsection 4-A. Exceptions pertaining to new employer rates and contribution rate category 20 are described in section 1221, subsection 4-A, paragraphs A and B.
[PL 2019, c. 616, Pt. FF, §1 (NEW).]

8. Other provisions of this chapter. All provisions of this chapter and rules adopted under this chapter regarding payments, time limits, dates of payment, reports, interest and penalties on amounts not paid by employers when due, fines, liens and warrants that apply to the collection of contributions also apply to the collection of fund contributions.
[PL 2019, c. 616, Pt. FF, §1 (NEW).]

9. Maximum fund balance. The Department of Labor shall transfer any cash balance that exceeds 180 days working capital as of December 31, 2023, and every year thereafter, from the Unemployment Program Administrative Fund to the Unemployment Compensation Fund within 30 days.
[PL 2019, c. 616, Pt. FF, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 616, Pt. FF, §1 (NEW).

SUBCHAPTER 6

BENEFITS

§1190. Study of benefit changes

1. Referral for review and evaluation. Whenever a legislative measure containing an unemployment compensation benefit change is proposed, the bureau shall complete a review and evaluation pursuant to subsection 2 in advance of the public hearing on the proposed measure. Once a review and evaluation has been completed, the joint standing committee of the Legislature having jurisdiction over the proposal shall review the findings of the bureau. A proposed benefit change may not be enacted into law unless review and evaluation pursuant to subsection 2 has been completed. For purposes of this section, a "benefit change" means any change in law that will cause a change in the number of people eligible as well as any increase or decrease in the dollar amount, maximum amount or duration of benefits payable.
[PL 1999, c. 740, §1 (NEW).]

2. Content of review. The review and evaluation must include, at a minimum and to the extent information is available, the following:

A. Projected annual change in cost to the fund for the ensuing 5 years; [PL 2011, c. 212, §2 (AMD).]

B. Projected impact on the experience rating records of employers, sorted by size and industry, and on employer's experience classifications, as described in section 1221, subsection 4-A, for the ensuing 5 years; [PL 2011, c. 212, §2 (AMD).]

C. Review of the impact of a proposed benefit change on recipient groups, including an analysis by gender, income levels and geographic distribution; [PL 2021, c. 456, §12 (AMD).]

C-1. The projected impact of the proposed change on the State’s unemployment insurance recipiency rate. For purposes of this paragraph, "recipiency rate" means the number of insured unemployed persons in regular unemployment insurance programs as a percent of total unemployed persons; and [PL 2021, c. 456, §13 (NEW).]

D. Any other information that the bureau considers appropriate to assist the Legislature in deciding on the proposed benefit change. [PL 1999, c. 740, §1 (NEW).]
[PL 2021, c. 456, §§12, 13 (AMD).]

SECTION HISTORY

PL 1999, c. 740, §1 (NEW). PL 2011, c. 212, §2 (AMD). PL 2021, c. 456, §§12, 13 (AMD).

§1191. Payment and amounts

1. Payment of benefits. Benefits must be paid from the Unemployment Compensation Fund through public employment offices or such other agencies as the commissioner may by rule prescribe, and in accordance with such rules as the commissioner may prescribe.
[PL 2021, c. 456, §14 (AMD).]

2. Weekly benefit amount for total unemployment. Each eligible individual establishing a benefit year on or after October 1, 1983 and before January 1, 2000 who is totally unemployed in any week must be paid with respect to that week benefits equal to 1/22 of the wages, rounded to the nearest lower full dollar amount, paid to that individual in the high quarter of the base period, but not less than $12. Each eligible individual establishing a benefit year on or after January 1, 2000 who is totally

unemployed in any week must be paid with respect to that week benefits equal to 1/22 of the average of the wages, rounded to the nearest lower full dollar amount, paid to that individual in the 2 highest quarters of the base period. The maximum weekly benefit amount for claimants requesting insured status determination beginning October 1, 1983 and thereafter from June 1st of a calendar year to May 31st of the next calendar year may not exceed 52% of the annual average weekly wage, rounded to the nearest lower full dollar amount, paid in the calendar year preceding June 1st of that calendar year. For the period from September 28, 1997 to December 31, 1999, the maximum weekly benefit amount is limited to 94% of the amount calculated previously in this subsection, rounded to the nearest lower full dollar amount. For claimants requesting insured status determination on or after April 1, 1995 and before January 1, 2000, the weekly benefit amount must be the amount determined by this subsection minus $3.

[PL 1999, c. 464, §6 (AMD).]

3. Weekly benefit for partial unemployment. Each eligible individual who is partially unemployed in any week must be paid a partial benefit for that week. The partial benefit is equal to the weekly benefit amount less the individual's weekly earnings in excess of $25, except that, beginning the first full benefit week beginning on or after January 1, 2018, the partial benefit is equal to the weekly benefit amount less the individual's weekly earnings in excess of $100. On the first Sunday of June 2022 and each first Sunday of June thereafter, the individual's earnings disregard then in effect must be increased by the increase, if any, in the cost of living. The increase in the cost of living must be measured by the percentage increase, if any, as of December of the previous year over the level as of December of the year preceding that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the individual's earnings disregard rounded up to the nearest dollar. The following amounts are not considered wages for purposes of this subsection:

A. Amounts received from the Federal Government by a member of the National Guard and organized reserve, including base pay and allowances; [PL 2009, c. 466, §1 (NEW).]

B. Amounts received as a volunteer firefighter or as a volunteer emergency medical services person; [PL 2009, c. 466, §1 (NEW).]

C. Amounts received as an elected member of the Legislature; and [PL 2009, c. 466, §1 (NEW).]

D. Earnings for the week received as a result of participation in full-time training under the United States Trade Act of 1974 as amended by the United States Trade and Globalization Adjustment Assistance Act of 2009 up to an amount equal to the individual's most recent weekly benefit amount. [PL 2009, c. 466, §1 (NEW).]

[PL 2021, c. 456, §15 (AMD).]

4. Maximum amount of benefits. The maximum amount of benefits that may be paid to any eligible individual with respect to any benefit year, whether for total or partial unemployment, may not exceed the lesser of 26 times the individual's weekly benefit amount or 33 1/3%, rounded to the nearest dollar, of the individual's total wages paid for insured work during the individual's base period, plus the supplemental weekly benefit for dependents payable under subsection 6.

A. If a dislocated worker, as defined in section 1196, subsection 1, qualifies for additional benefits under section 1196, subsection 1-A, or exhausts the worker's entitlement to benefits available to the worker under this subsection, the maximum amount under this subsection is the product of the worker's most recent weekly benefit amount multiplied by the number of weeks in which the worker thereafter attends an approved training program. An increase may not be made under this paragraph, with respect to any benefit period, greater than 26 times the individual's weekly benefit amount.

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

(2) Benefits may not be paid under this paragraph to an individual:

(b) Until the individual has exhausted benefits for which the individual is eligible under an unemployment insurance benefit program funded in whole or in part by the State or the Federal Government; or

(c) Who is eligible for or who has exhausted, after March 20, 1986, trade adjustment allowances as provided by the United States Trade Act of 1974, 19 United States Code, Sections 2291 to 2294, and any amendments or additions thereto, or a similar successor provision of that Act, except that any individual who was eligible for and received less than 26 weeks of benefits under the United States Trade Act of 1974 may receive benefits for the number of weeks by which that individual's benefits under that Act are less than 26 weeks. [RR 2025, c. 1, Pt. A, §35 (COR).]

[RR 2025, c. 1, Pt. A, §35 (COR).]

5. Minimum amount of benefits. An individual otherwise eligible for benefits, whether for total or partial unemployment, with respect to any benefit year may not be considered to have exhausted that individual's benefits in any benefit year until that individual has received in benefits at least $300, notwithstanding any other provision in this chapter to the contrary.

[RR 2023, c. 2, Pt. E, §88 (COR).]

6. Supplemental benefit for dependents. An individual in total or partial unemployment and otherwise eligible for benefits must be paid for each week of that unemployment, in addition to the amounts payable under subsections 2 and 3, the sum of $25 for each unemancipated child of the individual who in any part of the benefit year and during any part of the individual's period of eligibility is, in fact, dependent upon and is being supported by the individual, and who is under the age of 18, or who is 18 years of age or over and incapable of earning wages because of mental or physical incapacity, or who is a full-time student as defined in Title 39-A, section 102, subsection 8, paragraph C, or who is in that individual's custody pending the adjudication of a petition filed by the individual for the adoption of the child in a court of competent jurisdiction and for each such child for whom that individual is under a decree or order from a court of competent jurisdiction to contribute to that child's support and for whom no other person is receiving allowances hereunder. In no instance may the dependency benefits as provided in this subsection be more than 75% of the individual's weekly benefit amount.

Only one individual is entitled to a dependency allowance for the same dependent with respect to any week. The commissioner shall prescribe rules as to who may receive a dependency allowance when both spouses are eligible to receive unemployment compensation benefits.

[PL 2021, c. 456, §16 (AMD).]

7. Child support obligations deducted and withheld from benefits. Child support obligations shall be deducted and withheld from benefits as follows.

A. An individual filing a new claim for unemployment compensation on and after October 1, 1982 shall, at the time of filing the claim, disclose whether or not the individual owes child support obligations as defined under paragraph G. If an individual discloses that that individual owes child support obligations and is determined to be eligible for unemployment compensation, the commissioner shall notify the state or local child support enforcement agency enforcing the obligation that the individual has been determined to be eligible for unemployment compensation.

The state or local child support enforcement agency shall biweekly provide the commissioner by magnetic tape or other automated process with identification of individuals who owe child support obligations as defined under paragraph G. [PL 1993, c. 6, Pt. C, §10 (AMD).]

B. Notwithstanding any other provisions of this chapter, the commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes child support obligations and who has been reported under paragraph A:

(1) Amounts in excess of income exempt under Title 19-A, section 2356, if neither subparagraph (2) nor subparagraph (3) applies;

(2) The amount, if any, determined pursuant to an agreement submitted to the commissioner under the United States Social Security Act, Section 454 (20) (B) (i), by the state or local child support enforcement agency, unless subparagraph (3) applies; or

(3) Any amount otherwise required to be so deducted and withheld from the unemployment compensation pursuant to legal process, as that term is defined in the United States Social Security Act, Section 462 (e), properly served upon the commissioner, whether or not the individual has been reported under paragraph A. [PL 1995, c. 694, Pt. D, §53 (AMD); PL 1995, c. 694, Pt. E, §2 (AFF).]

C. Any amount deducted and withheld under paragraph B shall be paid by the commissioner to the appropriate state or local child support enforcement agency. [PL 1981, c. 548, §1 (NEW).]

D. Any amount deducted and withheld under paragraph B shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations. [PL 1981, c. 548, §1 (NEW).]

E. For purposes of paragraphs A to D, the term, "unemployment compensation" means any compensation payable under this chapter, including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance or allowances with respect to unemployment. [PL 1981, c. 548, §1 (NEW).]

F. This subsection applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the commissioner under this subsection which are attributable to child support obligations being enforced by the state or local child support enforcement agency. [PL 1981, c. 548, §1 (NEW).]

G. The term "child support obligations" is defined for purposes of this subsection as including only obligations which are being enforced pursuant to a plan described in the United States Social Security Act, Section 454, which has been approved by the Secretary of Health and Human Services under the United States Social Security Act, Title IV, Part D. [PL 1981, c. 548, §1 (NEW).]

H. The term "state or local child support enforcement agency" as used in this subsection means any agency of this State or a political subdivision thereof operating pursuant to a plan described in paragraph G. [PL 1981, c. 548, §1 (NEW).]

[PL 1995, c. 694, Pt. D, §53 (AMD); PL 1995, c. 694, Pt. E, §2 (AFF).]

8. Unemployment compensation; rounded to lowest dollar amount. Notwithstanding any other provisions of this law to the contrary, any amount of unemployment compensation payable to any individual for any week if not an even dollar amount, shall be rounded to the next lower full dollar amount.

[PL 1983, c. 13, §6 (NEW).]

9. Voluntary withholding of income tax. Individuals must be notified that federal, state and local income tax may be withheld from payments made on or after January 1, 1997 as follows.

A. An individual filing a new claim for unemployment compensation must be advised at the time of filing the claim, that:

(1) Unemployment compensation is subject to federal and state income taxes;

(2) Requirements exist pertaining to estimated tax payments;

(3) The individual may elect to have federal income tax deducted and withheld from the individual's payment of unemployment compensation at the amount specified in the federal Internal Revenue Code;

(4) Notwithstanding the requirements of Title 36, section 5255-B, the individual may elect to have state income tax deducted and withheld from the individual's payment of unemployment compensation at the rate of 5%; and

(5) The individual must be permitted to change a previously elected withholding status. [PL 1995, c. 554, §1 (NEW).]

B. Amounts deducted and withheld from unemployment compensation remain in the unemployment compensation fund until transferred to the federal or state taxing authority as a payment of income tax. [PL 1995, c. 554, §1 (NEW).]

C. The commissioner shall follow all procedures specified by the United States Department of Labor and the federal Internal Revenue Service pertaining to the deducting and withholding of income tax. [PL 1995, c. 554, §1 (NEW).]

D. Amounts may be deducted and withheld under this subsection only after amounts are deducted and withheld for any overpayments, child support obligations, Supplemental Nutrition Assistance Program overissues or any other amounts required to be deducted and withheld under this chapter. [PL 2023, c. 405, Pt. C, §16 (AMD).]

For purposes of this subsection, the term "unemployment compensation" means any compensation payable under this chapter, including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance or allowances with respect to unemployment.
[PL 2023, c. 405, Pt. C, §16 (AMD).]

10. Estimated benefit. Upon inquiry from an individual, the Department of Labor shall provide an estimate of the amount and duration of benefits likely to be paid to that individual under this chapter if the individual applied for benefits that day. If the inquiry is made within 2 weeks before the beginning of a calendar quarter, the Department of Labor shall also provide an estimate of the duration and amount of benefits likely to be paid to that individual if the individual applied for benefits after the beginning of that calendar quarter. Inquiries under this subsection may be made and answered over the telephone and are not considered applications for benefits.
[PL 2003, c. 95, §1 (NEW).]

SECTION HISTORY

PL 1965, c. 217, §2 (AMD). PL 1965, c. 381, §§8-10 (AMD). PL 1965, c. 457, §§2,3 (AMD). PL 1967, c. 323 (AMD). PL 1967, c. 398, §2 (AMD). PL 1969, c. 388 (AMD). PL 1971, c. 538, §§21,22 (AMD). PL 1975, c. 568, §§1,2 (AMD). PL 1975, c. 710, §1-A (AMD). PL 1975, c. 720 (AMD). PL 1977, c. 444 (AMD). PL 1979, c. 515, §12 (AMD). PL 1981, c. 342, §§1,2 (AMD). PL 1981, c. 548, §1 (AMD). PL 1983, c. 13, §§3-6 (AMD). PL 1983, c. 305, §§2,3 (AMD). PL 1983, c. 862, §75 (AMD). PL 1985, c. 591, §4 (AMD). PL 1985, c. 737, §A71 (AMD). PL 1985, c. 814, §J2 (AMD). PL 1987, c. 570, §2 (AMD). PL 1987, c. 636, §1 (AMD). PL 1989, c. 363, §1 (AMD). PL 1991, c. 193, §3 (AMD). PL 1991, c. 870, §2 (AMD). PL 1991, c. 885, §E38 (AMD). PL 1991, c. 885, §E47 (AFF). PL 1993, c. 6, §C10 (AMD). PL 1993, c. 22, §2 (AMD). PL 1993, c. 528, §1 (AMD). PL 1995, c. 9, §2 (AMD). PL 1995, c. 554, §1 (AMD). PL 1995, c. 694, §D53 (AMD). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 380, §1 (AMD). PL 1997, c. 745, §1 (AMD). PL 1999, c. 464, §6 (AMD). PL 2003, c. 95, §1 (AMD). RR 2009, c. 2, §77 (COR). PL 2009, c. 271, §2 (AMD). PL 2009, c. 466, §1 (AMD). PL 2017, c. 284, Pt. CCCCC, §1

(AMD). PL 2021, c. 456, §§14-16 (AMD). PL 2023, c. 405, Pt. C, §16 (AMD). RR 2023, c. 2, Pt. E, §88 (COR). PL 2025, c. 235, §9 (AMD). RR 2025, c. 1, Pt. A, §35 (COR).

§1192. Eligibility conditions

(REPEALED)

SECTION HISTORY

PL 1965, c. 381, §§11,12 (AMD). PL 1965, c. 409 (AMD). PL 1967, c. 340 (AMD). PL 1967, c. 398, §3 (AMD). PL 1971, c. 538, §§23-27 (AMD). PL 1973, c. 555, §13 (AMD). PL 1975, c. 8 (AMD). PL 1975, c. 25 (AMD). PL 1975, c. 26 (AMD). PL 1975, c. 344, §§1,2 (AMD). PL 1975, c. 448 (AMD). PL 1975, c. 568, §3 (AMD). PL 1975, c. 770, §122 (AMD). PL 1977, c. 570, §§21,22 (AMD). PL 1977, c. 585, §2 (AMD). PL 1979, c. 165, §2 (AMD). PL 1979, c. 496, §1 (AMD). PL 1979, c. 515, §§13-14 (AMD). PL 1979, c. 579, §§21,22 (AMD). PL 1979, c. 651, §§22,23,47 (AMD). PL 1981, c. 220 (AMD). PL 1981, c. 548, §2 (AMD). PL 1983, c. 13, §7 (AMD). PL 1983, c. 129 (AMD). PL 1983, c. 257, §1 (AMD). PL 1983, c. 351, §16 (AMD). PL 1983, c. 510 (AMD). PL 1983, c. 816, §A22 (AMD). PL 1985, c. 348, §5 (AMD). PL 1987, c. 570, §3 (AMD). PL 1987, c. 861, §21 (AMD). PL 1989, c. 502, §§A109,A110 (AMD). PL 1991, c. 377, §14 (AMD). PL 1991, c. 870, §3 (AMD). PL 1991, c. 885, §E39 (AMD). PL 1991, c. 885, §E47 (AFF). RR 1995, c. 1, §23 (COR). PL 1995, c. 222, §1 (AMD). PL 1995, c. 665, §DD1 (AMD). PL 1995, c. 665, §DD12 (AFF). PL 1999, c. 705, §1 (AMD). PL 2003, c. 458, §1 (AMD). PL 2005, c. 454, §1 (AMD). PL 2007, c. 352, Pt. C, §1 (AMD). PL 2009, c. 271, §3 (AMD). PL 2009, c. 466, §2 (AMD). PL 2011, c. 645, §§2-5 (AMD). PL 2013, c. 314, §1 (AMD). PL 2013, c. 474, §§1, 2 (AMD). PL 2017, c. 110, §8 (AMD). PL 2017, c. 117, §§4, 5 (AMD). PL 2017, c. 453, §§1-5 (AMD). PL 2017, c. 475, Pt. A, §44 (AMD). PL 2021, c. 348, §39 (AMD). PL 2021, c. 456, §§17-21 (AMD). PL 2021, c. 676, Pt. A, §44 (AMD). PL 2023, c. 233, §§1-3 (AMD). RR 2023, c. 2, Pt. E, §§89-92 (COR). PL 2025, c. 235, §10 (RP).

§1192-A. Eligibility conditions

The following provisions govern an individual's eligibility to receive benefits under this chapter. [PL 2025, c. 235, §11 (NEW).]

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

A. "Deputy" means a representative of the bureau designated by the commissioner. [PL 2025, c. 235, §11 (NEW).]

B. "Educational service agency" means a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing services to one or more educational institutions. [PL 2025, c. 235, §11 (NEW).]

C. "Good cause" means:

(1) The unemployed individual is ill;

(2) The presence of the unemployed individual is required due to an illness of the unemployed individual's spouse, child, parent, stepparent, sibling or relative who has been acting in the capacity of a parent of either the unemployed individual or the unemployed individual's spouse;

(3) The unemployed individual is in attendance at the funeral of any of the persons described in subparagraph (2);

(4) The unemployed individual is observing a religious holiday as required by religious conviction;

(5) The unemployed individual is performing either a military or civil duty as required by law; and

(6) Another cause of a necessitous and compelling nature, including child care emergencies and transportation emergencies.

"Good cause" does not include incarceration as a result of a conviction for a felony or misdemeanor. [PL 2025, c. 235, §11 (NEW).]

D. "Suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the United States Trade Act of 1974, and wages for that work at not less than 80% of the individual's average weekly wage as determined for the purposes of the United States Trade Act of 1974. [PL 2025, c. 235, §11 (NEW).]

E. "Union hiring hall" means a service provided by a labor union or an entity associated with a labor union that places employees with an employer under a collective bargaining agreement or otherwise places employees with employers. [PL 2025, c. 235, §11 (NEW).]

[PL 2025, c. 235, §11 (NEW).]

2. Eligibility. An unemployed individual is eligible to receive benefits with respect to any week only if:

A. The individual has made a claim for benefits with respect to the week or part thereof in accordance with rules adopted by the commissioner; [PL 2025, c. 235, §11 (NEW).]

B. The individual has registered for work at and continued to report at an employment office in accordance with rules the commissioner adopts, except that the commissioner may, by rule, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which the commissioner finds that compliance with the requirements would be oppressive or would be inconsistent with the purposes of this chapter. A rule under this paragraph may not conflict with section 1191, subsection 1; [PL 2025, c. 235, §11 (NEW).]

C. For each week in which a claim for benefits is filed, the individual is actively seeking work, unless the individual is participating in approved training under subsection 3 or the work search requirement has been waived in accordance with rules adopted by the commissioner, and the individual provides evidence of work search efforts in a manner and form as prescribed by the Department of Labor. Failure to provide required work search documentation results in a denial of benefits in accordance with section 1194, subsection 2 for the week or weeks for which documentation was not provided unless the department determines there is good cause for the individual's failure to comply with this requirement.

Notwithstanding any provision of this paragraph to the contrary, an individual is considered to be actively seeking work in accordance with this section if the individual is a member of, or represented by, a bona fide labor union, or is otherwise authorized to use the services of a bona fide union hiring hall, maintains contact with that union and uses and complies with the placement services of the union hiring hall in seeking work; [PL 2025, c. 235, §11 (NEW).]

D. The individual is able to work and is available for work at the individual's usual or customary hours, commute, trade, occupation, profession or business or in such other trade, occupation, profession or business for which the individual's prior training or experience shows the individual to be fitted or qualified, and in addition to having complied with paragraphs B and C is actively seeking work in accordance with the rules of the commissioner.

Ineligibility may not be determined solely because an individual 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 person with a disability. An unemployed individual who is neither able nor

available for work due to good cause as determined by the deputy is eligible to receive prorated benefits for that portion of the week during which the individual was able and is available.

Notwithstanding this paragraph, an individual who worked full-time for the majority of the weeks during that individual's base period but is able and available for and actively seeking only part-time work because of the illness or disability of the individual or an immediate family member, or because of limitations necessary for the safety or protection of the individual or the individual's immediate family member, may not be disqualified from receiving benefits. The individual's benefits must be prorated in accordance with the individual's current availability; [PL 2025, c. 235, §11 (NEW).]

E. The individual has served a waiting period of one week of total or partial unemployment. A week may not be counted as a week of total or partial unemployment for the purpose of this paragraph:

(1) If benefits have been paid with respect to that week;

(2) Unless it occurs within the benefit year that includes the week with respect to which the individual claims payment of benefits; and

(3) Unless the individual was eligible for benefits with respect to that week, as provided in this section and section 1193, except for the requirements of this paragraph; and [PL 2025, c. 235, §11 (NEW).]

F. For an individual establishing a benefit year on or after January 1, 1980, the individual has been paid wages equal to or exceeding 2 times the annual average weekly wage for insured work in each of 2 different quarters in the individual's base period and has been paid total wages equal to or exceeding 6 times the annual average weekly wage in the individual's base period for insured work.

For the purposes of this paragraph, the annual average weekly wage amount to be used is that which is applicable at the time the individual files a request for determination of insured status.

For the purposes of this paragraph, wages are counted as "wages for insured work" for benefit purposes with respect to a benefit year only if the benefit year begins subsequent to the date on which the employer by whom such wages were paid has satisfied the conditions of section 1043, subsection 9, or section 1222, subsection 3, with respect to becoming an employer; except that an individual may not receive benefits in a benefit year unless, subsequent to the beginning of the next preceding benefit year during which that individual received benefits, that individual performed services and earned remuneration for such services in an amount equal to or greater than 8 times that individual's weekly benefit amount in employment by an employer in the benefit year being established.

This paragraph applies only to an individual requesting determination of insured status on and after January 1, 1972. In determining an individual's qualification under this subsection, payments pursuant to former Title 39, sections 54, 55, 188 and 189 and Title 39-A, sections 608 and 609 are considered wages for insured work. [PL 2025, c. 235, §11 (NEW).]

[PL 2025, c. 235, §11 (NEW).]

3. Approved training. Notwithstanding any provision of this chapter to the contrary, an otherwise eligible individual who is in training, as approved for the individual by the deputy, under rules adopted by the commissioner, may not be denied benefits for any week with respect to subsection 2, paragraphs C and D relating to availability and the work search requirement or section 1193, subsection 3. Enrollment in a degree-granting program may not be the sole cause for denial of approved training status for an otherwise eligible individual. Benefits paid to any eligible individual while in approved training for which except for this subsection the individual could be disqualified under section 1193, subsection 3 may not be charged against the experience rating record of an employer but must be charged to the General Fund.

Notwithstanding any provision of this chapter to the contrary, the following provisions further govern an individual's eligibility for benefits with respect to training:

A. Any otherwise eligible individual may not be denied benefits for any week because the individual is in training approved under 19 United States Code, Section 2296(a) or under any amendment or addition to the United States Trade Act of 1974. That individual may not be denied benefits:

(1) For leaving work to enter that training, as long as the work left is not suitable employment; or

(2) Because of the application to any such week in training of provisions in this chapter or any applicable federal unemployment compensation law relating to availability for work, active search for work or refusal to accept work.

Benefits paid to an eligible individual while in training for which, except for this paragraph, the individual could be disqualified under section 1193, subsection 1 or 3 may not be charged against the experience rating record of an employer but must be charged to the General Fund; [PL 2025, c. 235, §11 (NEW).]

B. The acceptance of training for opportunities available through United States Public Law 97-300 is considered to be acceptance of training with the approval of the State within the meaning of any other provisions of federal or state law relating to unemployment benefits; [PL 2025, c. 235, §11 (NEW).]

C. The acceptance of training for opportunities available under sectiond 2031 and 2033 is considered to be acceptance of training with state approval under federal or state law relating to unemployment benefits; and [PL 2025, c. 235, §11 (NEW).]

D. Unless inconsistent with federal law, the acceptance of training opportunities available through the federal Workforce Innovation and Opportunity Act, 29 United States Code, Sections 3101 to 3361 is considered to be acceptance of training with the approval of the State within the meaning of any other provision of federal or state law relating to unemployment benefits as long as the training is in accordance with rules the commissioner adopts. [PL 2025, c. 235, §11 (NEW).]
[PL 2025, c. 235, §11 (NEW).]

4. Service with nonprofit organizations and educational institutions and state and local governments. Benefits based on service in employment, as defined in section 1043, subsection 11, paragraph A-1, subparagraphs (1) and (3), are payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other services subject to this chapter, except that:

A. With respect to weeks of unemployment beginning after December 31, 1977, for services in an instructional, research or principal administrative capacity for an educational institution, if there is a contract or annual written reasonable assurance that the individual will perform services in such a capacity for the educational institution in a 2nd academic year or term, benefits may not be paid to an individual based on those services for any week of unemployment:

(1) Commencing during the period between 2 successive academic years or terms;

(2) During a period, similar to the period described in subparagraph (1), between 2 regular, but not successive, terms when provided for by an agreement; or

(3) During a period of paid sabbatical leave provided for in an individual's contract, if that individual performs services in a first academic year or term; [RR 2025, c. 1, Pt. A, §36 (COR).]

B. With respect to weeks of unemployment beginning after September 3, 1982, for services for an educational institution in any capacity other than an instructional, research or principal

administrative capacity, benefits may not be paid on the basis of those services to an individual for any week that commences during a period between 2 successive academic years or terms if the individual performs those services in the first of those academic years or terms and there is annual written reasonable assurance that the individual will perform the services in the 2nd of those academic years or terms; except that if benefits are denied to an individual under this paragraph and the individual was not offered an opportunity to perform the services for the educational institution for the 2nd of those academic years or terms, the individual is entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph; [PL 2025, c. 235, §11 (NEW).]

C. With respect to weeks of unemployment beginning after December 31, 1977, benefits must be denied to an individual for any week that commences during an established and customary vacation period or holiday recess if:

(1) That individual performs a service described in paragraph A or B in the period immediately before the vacation period or holiday recess; and

(2) There is annual written reasonable assurance that the individual will perform those services in the period immediately following the vacation period or holiday recess; and [PL 2025, c. 235, §11 (NEW).]

D. With respect to weeks of unemployment beginning after June 30, 1979, benefits must be denied to an individual who performed services in an educational institution while in the employ of an educational service agency for any week that commences during a period described in paragraph A, B or C if:

(1) That individual performs a service described in paragraph A or B in the first of these periods, as specified in the applicable paragraph; and

(2) There is a contract or a written reasonable assurance as set out in the applicable paragraph that the individual will perform these services in the 2nd of those periods, as set out in the applicable paragraph. [PL 2025, c. 235, §11 (NEW).]

[RR 2025, c. 1, Pt. A, §36 (COR).]

5. Claims in another state or contiguous country; individual residence; no denial or reduction of benefits. Benefits may not be denied or reduced to an individual solely because the individual files a claim in another state or a contiguous country with which the United States has an agreement with respect to unemployment compensation or because the individual resides in another state or contiguous country at the time the individual files a claim for benefits in this State.
[PL 2025, c. 235, §11 (NEW).]

6. No denial of benefits for jury service. Benefits may not be denied to an individual solely because the individual is selected to serve as a juror. An individual who receives actual earnings for jury service must be paid a partial benefit in an amount equal to the individual's weekly benefit amount less the amount earned for jury service.
[PL 2025, c. 235, §11 (NEW).]

7. Benefit payments to athletes. Benefits may not be paid to an individual on the basis of any service, substantially all of which consists of participating in sports or athletic events or training or preparing to participate, for any week that commences during the period between 2 successive sports seasons or similar periods, if that individual performed those services in the first of those seasons or similar periods and there is a written reasonable assurance that the individual will perform those services in the 2nd of those seasons or similar periods.
[PL 2025, c. 235, §11 (NEW).]

8. Benefit payments to aliens not lawfully present. On and after January 1, 1978, benefits are not payable on the basis of services performed by an alien unless the alien is an individual who:

A. Was lawfully admitted for permanent residence in the State at the time the services were performed; [PL 2025, c. 235, §11 (NEW).]

B. Was lawfully present for purposes of performing the services; or [PL 2025, c. 235, §11 (NEW).]

C. Was permanently residing in the United States under color of law at the time the services were performed, including an alien who was lawfully present in the United States as a result of temporary parole pursuant to the Immigration and Nationality Act, 8 United States Code, Section 1182(d)(5). [PL 2025, c. 235, §11 (NEW).]

Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status must be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, a determination that benefits to the individual are not payable because of the individual's alien status may not be made except upon a preponderance of the evidence.
[PL 2025, c. 235, §11 (NEW).]

9. Participation in reemployment services. An individual who has been referred to reemployment services pursuant to a profiling system established by the commissioner must participate in those services or similar services unless it is determined that the individual has completed those services or there is good cause for the individual's failure to participate.
[PL 2025, c. 235, §11 (NEW).]

10. Reemployment services and eligibility assessment; participation. In the case that an individual has been referred to reemployment services and eligibility assessment by the Department of Labor, the individual must participate in those services, unless the department determines there is good cause for the individual's failure to participate. Failure to participate in reemployment services and eligibility assessment without good cause results in a denial of benefits until the individual participates.
[PL 2025, c. 235, §11 (NEW).]

11. Temporary layoff; work search. Notwithstanding any provision of this chapter to the contrary, an otherwise eligible individual who is temporarily laid off by an employer that has given that individual a definite recall date may not be denied benefits for any week that is within 6 weeks of the definite recall date based on the individual's failure to meet the requirements of subsection 1, paragraph B, C or D for the period of up to 6 weeks during that temporary layoff, as long as the individual remains able and available to work for that employer.

An individual may not receive more than 6 weeks of benefits in a benefit year pursuant to this subsection unless approved by the Department of Labor.
[PL 2025, c. 235, §11 (NEW).]

SECTION HISTORY

PL 2025, c. 235, §11 (NEW). RR 2025, c. 1, Pt. A, §36 (COR).

§1193. Disqualification

An individual shall be disqualified for benefits:

1. Voluntarily leaves work.

A. For the week in which the claimant left regular employment voluntarily without good cause attributable to that employment. The disqualification continues until the claimant has earned 4 times the claimant's weekly benefit 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 need for time off, a change or reduction in hours or a shift change and being advised by the employer that the time off or change or reduction in hours or shift change cannot or will not be accommodated;

(2) The leaving was necessary to accompany, follow or join the claimant's spouse in a new place of residence;

(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;

(4) The leaving was necessary to protect the claimant or any member of the claimant's immediate family from domestic abuse or the leaving was due to domestic violence that caused the claimant reasonably to believe that the claimant's continued employment would jeopardize the safety of the claimant or any member of the claimant's immediate family and the claimant made all reasonable efforts to preserve the employment;

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

(6) The leaving was due to the unexpected loss of child or elder care for which the claimant was not at fault and for which no work alternatives such as changes in hours or a leave of absence or alternate child or elder care options were available despite good faith efforts made by the claimant to resolve the issue and continue working.

Separation from employment based on the compelling family reasons in subparagraphs (1), (2), (4) and (6) does not result in disqualification. [PL 2021, c. 456, §22 (AMD).]

B. For the duration of the individual's unemployment period subsequent to the individual's having retired; or having been retired from regular employment as a result of a recognized employer policy or program, under which the individual is entitled to receive pension payments, if so found by the deputy, and disqualification continues until the claimant has earned 6 times the claimant's weekly benefit amount in employment by an employer; [RR 2023, c. 2, Pt. E, §93 (COR).]

C. For the duration of a leave of absence or sabbatical leave that has been mutually agreed to by the employee and the employer. [PL 2017, c. 117, §7 (AMD).]

D. For the duration of a partial separation or reduction of hours initiated at the employee's request and agreed to by the employee and employer; [PL 2017, c. 117, §8 (NEW).]
[RR 2023, c. 2, Pt. E, §93 (COR).]

2. Discharge for misconduct. For the week in which the individual has been discharged for misconduct connected with the individual's work, if so found by the deputy, and disqualification continues until claimant has earned 8 times the claimant's weekly benefit amount in employment by an employer.

A. For the duration of any period for which the individual has been suspended from the individual's work by the individual's employer as discipline for misconduct, if so found by the deputy, or until the claimant has earned 8 times the claimant's weekly benefit amount in employment by an employer; [PL 2011, c. 645, §6 (AMD).]
[PL 2011, c. 645, §6 (AMD).]

3. Refused to accept work. For the duration of the individual's unemployment subsequent to the individual's having refused to accept an offer of suitable work for which the individual is reasonably fitted, or having refused to accept a referral to a suitable job opportunity when directed to do so by a

local employment office of this State or another state or if an employer is unable to contact a former employee at last known or given address, for the purpose of recall to suitable employment; or the individual fails to respond to a request to report to the local office for the purpose of a referral to a suitable job, and the disqualification continues until claimant has earned 10 times the claimant's weekly benefit amount in employment by an employer. If the deputy determines that refusal has occurred for cause of necessitous and compelling nature, the individual is ineligible while such inability or unavailability continues, but is eligible to receive prorated benefits for that portion of the week during which the individual was able and available.

A. In determining whether or not any work is suitable for an individual during the first 10 consecutive weeks of unemployment, the deputy shall consider the degree of risk involved to the individual's health, safety and morals, the individual's physical fitness and prior training, the individual's experience and prior earnings, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation and the distance of the available work from the individual's residence.

In determining whether or not work is suitable for an individual after the first 10 consecutive weeks of unemployment, the deputy shall consider the degree of risk involved to the individual's health, safety and morals, the individual's physical fitness, the individual's prior earnings, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation and the distance of the available work from the individual's residence. The individual's prior earnings may not be considered with respect to an offer of or referral to an otherwise suitable job that pays wages equal to or exceeding the average weekly wage in the State. [PL 2011, c. 645, §7 (AMD).]

B. Notwithstanding any other provisions of this chapter, work may not be considered suitable and benefits may not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout or other labor dispute;

(2) If the wages, hours or other conditions of work, such as fringe benefits, are substantially less favorable to the individual than those prevailing for similar work in the locality;

(3) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining or maintaining membership in any bona fide labor organization;

(4) If the position offered is the same one previously vacated by the claimant for good cause attributable to that employment or is the position that the employee left for reasons attributable to that employment, but which were found insufficient to relieve disqualification for benefits under subsection 1, paragraph A, as long as, in either instance, the specific good cause or specific reasons for leaving have not been removed or otherwise changed; and

(5) If the position offered is on a shift, the greater part of which falls between the hours of midnight and 5 a.m., and is refused 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 person with a disability; [PL 2023, c. 233, §§4, 5 (AMD).]

[PL 2023, c. 233, §§4, 5 (AMD).]

4. Stoppage of work. For any week with respect to which the deputy, after notification by the Director of Unemployment Compensation under section 1194, subsection 2, finds that the claimant's total or partial unemployment is due to a stoppage of work that exists because of a labor dispute at the factory, establishment or other premises at which the claimant is or was employed, or there would have been a stoppage of work had substantially normal operations not been maintained with other personnel

previously and currently employed by the same employer and any other additional personnel that the employer may hire to perform tasks not previously done by the striking employees. This subsection does not apply if it is shown to the satisfaction of the deputy that:

A. The claimant is not participating in or financing or directly interested in the labor dispute that caused the stoppage of work; [PL 1997, c. 391, §1 (AMD).]

B. The claimant does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; [PL 1997, c. 391, §1 (AMD).]

C. The claimant has obtained employment subsequent to the beginning of the stoppage of work and has earned at least 8 times the claimant's weekly benefit amount in employment by an employer or has been in employment by an employer for 5 full weeks; [PL 1997, c. 391, §1 (AMD).]

D. The claimant became unemployed because of a strike or lockout caused by an employer's willful failure to observe the terms of the safety and health section of a union contract; an employer's willful failure to comply in a timely fashion with an official citation for a violation of federal and state laws involving occupational safety and health; or the quitting of labor by an employee or employees in good faith because of an abnormally dangerous condition for work at the place of employment of that employee or employees; provided that the strike or lockout does not extend past the time of the employer's compliance with the safety and health section of the union contract, the employer's compliance with the official citation or the finding that an abnormally dangerous condition does not exist by a federal or state official empowered to issue official citations for violation of federal and state laws involving occupational safety and health; or [PL 1997, c. 391, §1 (AMD).]

E. The claimant became unemployed because of a lockout by the employer. For purposes of this subsection, the word "lockout" means the withholding of employment by an employer from its employees for the purpose of resisting their demands or gaining a concession from them. [PL 1997, c. 391, §1 (NEW).]

If in any case separate branches of work that are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each department must, for the purposes of this subsection, be deemed to be a separate factory, establishment or other premises; [PL 1997, c. 391, §1 (AMD).]

5. Receiving remuneration. For any week with respect to which the individual is receiving, has been scheduled to receive or has received remuneration in the form of:

A. Dismissal wages, wages in lieu of notice or terminal pay; or [PL 2019, c. 419, §1 (AMD).]

A-1. [PL 2019, c. 419, §1 (RP).]

B. Benefits under the unemployment compensation or employment security law of any state or similar law of the United States. [PL 1985, c. 506, Pt. A, §51 (RPR).]

C. [PL 1981, c. 149, §1 (RP).]

If the remuneration under paragraph A is less than the benefits that would otherwise be due under this chapter, the individual is entitled to receive for that week, if otherwise eligible, benefits reduced by the amount of the remuneration, rounded to the nearest lower full dollar amount; [PL 2019, c. 419, §1 (AMD).]

6. Falsification. For any week for which the deputy finds that the individual made a false statement or representation knowing it to be false or knowingly failed to disclose a material fact in the individual's application or solicited another person to make a false statement knowing it to be false or fail to disclose a material fact to obtain benefits from any state or federal unemployment compensation program

administered by the bureau. In addition, for a first or 2nd occurrence, the individual is ineligible to receive any benefits for a period of not less than 6 months and not more than one year from the mailing date of the determination, and the commissioner shall assess a penalty of 50% of the benefits falsely obtained for the first occurrence and 75% for the 2nd occurrence. If an individual is disqualified for a 3rd occurrence of statement falsification or misrepresentation in an effort to obtain benefits, the commissioner shall assess a penalty of 100% of the benefits falsely obtained and the individual is disqualified from receiving benefits for a period of time to be determined by the commissioner. The progression of penalties for multiple occurrences described in this subsection does not apply and an occurrence of fraud must be treated as a 3rd occurrence if:

A. A claim for benefits is the result of fraudulent filing using illegally obtained identity information. Such claims may be canceled immediately by the bureau upon confirmation of the fraudulent filing; or [PL 2025, c. 235, §12 (NEW).]

B. An individual is found to have filed a claim to obtain benefits from any state or federal unemployment compensation program administered by the bureau in the name of another person using illegally obtained identity information. [PL 2025, c. 235, §12 (NEW).]

An amount equal to 15% of each overpayment on which the penalties under this subsection were assessed must be transferred directly into the fund account upon recovery;
[PL 2025, c. 235, §12 (RPR).]

7. Discharged for crime. For the period of unemployment next ensuing with respect to which the individual was discharged for conviction of a felony or misdemeanor in connection with the individual's work. The ineligibility of the individual continues for all weeks subsequent until the individual has thereafter earned $600 or 8 times the individual's weekly benefit amount, whichever is greater, in employment by an employer;
[RR 2023, c. 2, Pt. E, §94 (COR).]

7-A. Absence from work due to incarceration. For the duration of the individual's unemployment subsequent to a discharge arising from the individual's absence from work for more than 2 workdays due to the individual's incarceration for conviction of a criminal offense. This disqualification continues until the individual has earned 8 times the individual's weekly benefit amount in employment by an employer; or
[PL 2017, c. 117, §9 (AMD).]

8. Retirement benefits.
[PL 1981, c. 149, §3 (RP).]

9. Receiving pension.

[PL 2007, c. 352, Pt. B, §1 (RP).]

10. Receiving pension. Except as provided in this subsection, for any week with respect to which the individual is receiving a governmental or other pension, retirement or retired pay, annuity or any other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer.

A. The individual receives benefits with no reduction under this subsection if:

(1) The individual is receiving a pension paid under the United States Social Security Act or any other pension or plan to which the individual made at least 50% of the contributions;

(2) All contributions to the plan were made by the individual and an employer or any other person or organization who is not a base period or chargeable employer; or

(3) The services performed for the employer by the individual during the base period, or remuneration received for these services, did not affect the individual's eligibility for, or

increase the amount of, that pension, retirement or retired pay, annuity or similar payment. [PL 2007, c. 352, Pt. B, §2 (NEW).]

B. If the individual contributed to the plan, but not at least 50% of the contributions, the individual receives a benefit reduced by the prorated weekly amount of the pension after deduction of that portion of the pension that is directly attributable to the percentage of the contributions made to the plan by that individual. The benefit may not be reduced below zero. [PL 2007, c. 352, Pt. B, §2 (NEW).]

C. If the individual did not contribute to the plan, the individual receives a benefit reduced by the full prorated weekly amount of the pension received. The benefit may not be reduced below zero. [PL 2011, c. 516, §1 (NEW).]

[PL 2011, c. 516, §1 (AMD).]

SECTION HISTORY

PL 1965, c. 381, §§13-18 (AMD). PL 1965, c. 457, §4 (AMD). PL 1967, c. 293 (AMD). PL 1969, c. 176 (AMD). PL 1971, c. 209 (AMD). PL 1971, c. 305 (AMD). PL 1971, c. 422 (AMD). PL 1971, c. 538, §28 (AMD). PL 1973, c. 555, §14 (AMD). PL 1975, c. 537 (AMD). PL 1975, c. 770, §123 (AMD). PL 1977, c. 472, §§1,1-A,2 (AMD). PL 1977, c. 536 (AMD). PL 1979, c. 98 (AMD). PL 1979, c. 428, §§1-6 (AMD). PL 1979, c. 499 (AMD). PL 1979, c. 515, §§15-16A (AMD). PL 1979, c. 579, §45 (AMD). PL 1979, c. 651, §§46,47 (AMD). PL 1979, c. 663, §161 (AMD). PL 1981, c. 149, §§1-4 (AMD). PL 1981, c. 470, §A146 (AMD). PL 1983, c. 13, §8 (AMD). PL 1983, c. 257, §2 (AMD). PL 1983, c. 305, §§4,5 (AMD). PL 1983, c. 351, §17 (AMD). PL 1983, c. 650, §1 (AMD). PL 1983, c. 753, §1 (AMD). PL 1985, c. 66 (AMD). PL 1985, c. 348, §6 (AMD). PL 1985, c. 420, §§1,2 (AMD). PL 1985, c. 506, §A51 (AMD). PL 1985, c. 737, §A72 (AMD). PL 1987, c. 365, §1 (AMD). PL 1989, c. 702, §F1 (AMD). PL 1991, c. 560, §2 (AMD). PL 1997, c. 391, §1 (AMD). PL 1999, c. 464, §7 (AMD). PL 2003, c. 28, §1 (AMD). PL 2007, c. 352, Pt. B, §§1, 2 (AMD). PL 2009, c. 33, §1 (AMD). PL 2009, c. 638, §1 (AMD). PL 2011, c. 516, §1 (AMD). PL 2011, c. 645, §§6-9 (AMD). PL 2013, c. 314, §2 (AMD). PL 2017, c. 117, §§6-9 (AMD). PL 2019, c. 419, §1 (AMD). PL 2021, c. 348, §40 (AMD). PL 2021, c. 456, §22 (AMD). PL 2023, c. 233, §§4, 5 (AMD). RR 2023, c. 2, Pt. E, §§93, 94 (COR). PL 2025, c. 235, §12 (AMD).

§1194. Claims for benefits

1. Filing. Claims for benefits must be made in accordance with such rules as the commissioner may prescribe. Each employer shall post and maintain printed statements of the rules in places readily accessible to individuals in the employer's service and shall make available to each such individual at the time the individual becomes unemployed a printed statement of those rules. The printed statements must be supplied by the commissioner to each employer without cost to the employer.
[PL 2021, c. 456, §23 (AMD).]

1-A. Partial unemployment claim forms. An employer shall issue a properly completed partial unemployment claim form to each of the employer's employees who is customarily employed full time and who is given less than full-time hours during a week due to a lack of work, or who is given no work for one week due to a lack of work and who is not separated from that employer.

A. Partial unemployment claim forms for a week must be provided to eligible employees no later than the day that the payroll for that week is available to employees. [PL 1999, c. 376, §1 (NEW).]

B. An employer who fails to provide a partial unemployment claim form in accordance with this subsection is subject to a fine of $25 per day per form for each day the form is late. [PL 1999, c. 376, §1 (NEW).]

C. An employer is not required to issue a partial unemployment claim form to an employee:

(1) Whose earnings or earnings plus holiday pay for the week exceed the maximum weekly benefit amount plus $5; or

(2) Whose vacation or holiday pay for the week exceeds the maximum weekly benefit amount. [PL 1999, c. 376, §1 (NEW).]

D. The Director of Unemployment Compensation may authorize the use of partial unemployment claim forms for periods of 2 or more consecutive weeks in which the employee is given no work. [PL 1999, c. 376, §1 (NEW).]

[PL 1999, c. 376, §1 (NEW).]

2. Determination. A representative designated by the commissioner, and in this chapter referred to as a deputy, shall promptly examine the first claim filed by a claimant in each benefit year and shall determine the weekly benefit amount and maximum benefit amount potentially payable to the claimant during that benefit year in accordance with section 1192-A, subsection 2, paragraph F.

The deputy shall promptly examine all subsequent claims filed and, on the basis of facts, shall determine whether or not that claim is valid with respect to sections 1192-A and 1193, other than section 1192-A, subsection 2, paragraph F, or shall refer that claim or any question involved in the claim to the Division of Administrative Hearings or to the commission, which shall make a determination with respect to the claim in accordance with the procedure described in section 1194, except that in any case in which the payment or denial of benefits is subject to section 1193, subsection 4, the deputy shall promptly transmit a report with respect to that subsection to the Director of Unemployment Compensation upon the basis of which the director shall notify appropriate deputies as to the applicability of that subsection.

The deputy shall determine in accordance with section 1221, subsection 3, paragraph A, the proper employer's experience rating record, if any, against which benefits of an eligible individual must be charged, if and when paid.

The deputy shall promptly notify the claimant and any other interested party of the determinations and reasons for the determinations. Subject to subsection 11, unless the claimant or any such interested party, within 30 calendar days after that notification was mailed to the claimant's last-known address, files an appeal from that determination, that determination is final, except that the period within which an appeal may be filed may be extended, for a period not to exceed an additional 30 calendar days, for good cause shown. If new evidence or pertinent facts that would alter that determination become known to the deputy prior to the date that determination becomes final, a redetermination is authorized, but that redetermination must be mailed before the original determination becomes final.

If an employer's separation report for an employee is not received by the office specified on the separation report within 10 days after that report was requested, the claim must be adjudicated on the basis of information at hand. If the employer's separation report containing possible disqualifying information is received after the 10-day period and the claimant is denied benefits by a revised deputy's decision, benefits paid prior to the date of the revised decision do not constitute an overpayment of benefits. Any benefits paid after the date of the revised decision constitute an overpayment.

If an employer files an amended separation report or otherwise raises a new issue as to the employee's eligibility or changes the wages or weeks used in determining benefits that results in a denial of benefits or a reduction of the weekly benefit amount, the benefits paid prior to the date the determination is mailed do not constitute an overpayment. Any benefits received after that date to which the claimant is not entitled pursuant to a new determination based on that new employer information constitute an overpayment.

If, during the period a claimant is receiving benefits, new information or a new issue arises concerning the claimant's eligibility for benefits or which affects the claimant's weekly benefit amount, benefits may not be withheld until a determination is made on the issue. Before a determination is made, written notice must be mailed to the claimant and other interested parties, which must include the issue to be

decided, the law upon which it is based, any factual allegations known to the bureau, the right to a fact-finding interview, the date and location of the scheduled interview and the conduct of the interview and appeal. Any fact-finding interview must be scheduled not less than 7 calendar days nor more than 14 calendar days after the notice is mailed. The bureau shall include in the notice a statement notifying the claimant that any benefits paid prior to the determination may be an overpayment under applicable law and recoverable by the bureau if it is later determined that the claimant was not entitled to the benefits. If the claimant does not appear for the scheduled interview, the deputy shall make a determination on the basis of available evidence. The deputy shall make a prompt determination of the issue based solely on any written statements of interested parties filed with the bureau before the interview, together with the evidence presented by interested parties who personally participated in the interview by telephone or e-mail or other electronic means. Upon request and notice to all parties at the interview, the deputy may accept corroborative documentary evidence after the interview. In no other case may the deputy base a decision on evidence received after the interview has been held.

A. This subsection does not apply when the claimant reports that, in the week claimed:

(1) The claimant worked and reports a specific amount of earnings for that work;

(2) The claimant worked and had earnings from that work, but does not furnish the amount of earnings;

(3) The claimant reports that the claimant was not able or available for work for a specific portion of the week and there is sufficient information for the deputy to determine that the inability or unavailability for work was for good cause. If the information provided by the claimant indicated unavailability during the claim week, but is not specific as to the amount of time involved, the Department of Labor shall immediately initiate a fact-finding interview with the individual and make a determination regarding the claimant's weekly benefit amount on the basis of that interview. If the department is not able to conduct an immediate fact-finding interview with the claimant, the notification and fact-finding process described in this subsection must be followed;

(4) The claimant received a specific amount of other remuneration as described in section 1193, subsection 5;

(5) The claimant reported that the claimant did not complete a work search activity for that week, and that week was not under a work search waiver approved by the bureau;

(6) The claimant failed to respond to or failed to provide sufficient documentation to satisfy a written request for documentation to verify the claimant's identity as listed on an initial claim within the time frame specified by the bureau; or

(7) The claimant's total or partial unemployment is due to a stoppage of work as described in section 1193, subsection 4.

The bureau may not withhold benefit payments pursuant to subparagraph (6) for claimants receiving benefit payments unless the bureau has credible evidence on the record that substantiates a reasonable basis for establishing an issue of potential fraud and withholding payment. If there is such evidence, the bureau shall issue timely notice to the claimant informing the claimant that benefit payments are withheld and include with that notice instructions for how the claimant may satisfy identity verification requirements and how to submit those documents to the bureau. The notice must give a reasonable time frame for submitting documents and describe the consequences for failing to provide documentation, as well as the claimants' appeal and hearing rights. The bureau shall allow individuals a reasonable time frame to submit documents that comply with an identity verification request and provide a list of acceptable documents and alternatives. The bureau shall also allow multiple means by which a claimant may submit documents for identity verification. If the claimant fails to comply with the request for documents in the time frame

allowed or the documents provided are insufficient or determined to be fraudulent, the bureau shall render a timely decision denying further benefits. [PL 2025, c. 235, §13 (AMD).]

B. [PL 1999, c. 464, §8 (RP).]
[PL 2025, c. 235, §13 (AMD).]

3. Appeals. Unless such appeal is withdrawn, the Division of Administrative Hearings after affording the parties reasonable opportunity for fair hearing, shall affirm, modify or set aside the findings of fact and decision of the deputy. The parties must be then duly notified of the division's decision, together with its reasons therefor, which subject to subsection 11 is deemed to be the final decision of the commission unless, within 15 calendar days after that notification was mailed to the claimant's and employer's last known address, the claimant or employer appeals to the commission by filing an appeal in accordance with such rules as the commissioner prescribes, as long as the appealing party appeared at the hearing and was given notice of the effect of the failure to appear in writing prior to the hearing.
[PL 2021, c. 456, §25 (AMD).]

4. Appeal tribunals.
[PL 1987, c. 641, §9 (RP).]

5. Commission review. The commission may on its own motion affirm, modify or set aside any decision of the Division of Administrative Hearings on the basis of the evidence previously submitted in that case or direct the taking of additional evidence, or may permit any of the parties of that decision to initiate further appeals before it. The commission shall permit such further appeal by any of the parties interested in a decision of the Division of Administrative Hearings and by the deputy whose decision has been overruled or modified by the Division of Administrative Hearings. The commission may remove to itself or transfer to the Director of the Division of Administrative Hearings or to another administrative hearing officer the proceedings on any claim pending before the Division of Administrative Hearings. Any proceedings so removed to the commission must be heard in accordance with the requirements in subsection 3. All hearings conducted pursuant to this section may be heard by a quorum of commissioners, as defined in section 1081, subsection 3. The commission shall promptly notify the interested parties of its findings and decisions.
[PL 2025, c. 388, Pt. PPP, §8 (AMD).]

6. Procedure. The manner in which disputed claims must be presented, and the reports thereon required from the claimant and from employers must be in accordance with rules prescribed by the commissioner. The conduct of hearings and appeals must be in accordance with Title 5, chapter 375.
[PL 2021, c. 456, §26 (AMD).]

7. Witness fees. Notwithstanding the provisions of Title 5, section 9060, witnesses subpoenaed pursuant to this chapter shall be allowed fees at a rate fixed by the commission to be paid out of the Employment Security Administration Fund, except that no attendance or mileage fee shall be due or payable when a subpoena is issued to compel an employing unit to appear and produce records and reports for the purpose of making a determination as to liability or for the purpose of completing routine reports as provided under this chapter.
[PL 1977, c. 694, §475 (AMD).]

8. Appeals to courts. Any decision of the commission becomes final 10 days after receipt of written notification and any person aggrieved by the decision may appeal by commencing an action pursuant to Title 5, chapter 375, subchapter VII. The commission must be made a party defendant in any such appeal.
[RR 1991, c. 2, §99 (COR).]

9.
[PL 1979, c. 541, Pt. A, §182 (RP).]

10. Determination may be reconsidered; appeal. The deputy may reconsider a determination with respect to the weekly benefit amount and maximum total amount of benefits for a claimant for any given benefit year, if the deputy finds that an error has occurred or that wages have been erroneously reported, but no such redetermination may be made after one year from the date of the original determination. Notice of any such redetermination shall be promptly given to the parties entitled to notice of the original determination, in the manner prescribed in this section with respect to notice of an original determination. If the maximum amount of benefits is increased upon that redetermination, an appeal solely with respect to the matters involved in that increase may be filed in the manner and subject to the limitations provided in subsection 2. If the amount of benefits is decreased upon such redetermination, the matters involved in such decrease shall be subject to an appeal by claimant with respect to subsequent benefits which may be affected by the redetermination. An appeal may be filed in the manner and subject to the limitations provided in subsection 2.

The deputy may reconsider a benefit payment for any particular week or weeks whenever an error has occurred, but no such redetermination may be made after one year from the date of payment for that week or weeks. Notice of any such redetermination must be promptly given to the claimant. Subject to subsection 11, unless the claimant files an appeal from that redetermination within 30 calendar days after that redetermination was mailed to the claimant's last-known address, the redetermination is final, except that the period within which an appeal may be filed may be extended for a period not to exceed an additional 30 calendar days for good cause shown.

Subject to the same limitations and for the same reasons, the commission may reconsider the determination in any case in which the final decision has been rendered by the Division of Administrative Hearings, the commission or a court, and may apply to the body or court which rendered that final decision to issue a revised decision. In the event that an appeal involving an original determination is pending as of the date a redetermination thereof is issued, that appeal, unless withdrawn, shall be treated as an appeal from the redetermination.
[PL 2025, c. 235, §14 (AMD).]

11. Prompt payment of claims.

A. Benefits shall be paid promptly in accordance with a determination, reconsidered determination, redetermination, decision of the Division of Administrative Hearings, the commission or a reviewing court under this section upon the issuance of the determination, reconsidered determination, redetermination or decision, regardless of the pendency of the period to apply for reconsideration, file an appeal or petition for judicial review that is provided with respect thereto in this section or the pendency of any such application, filing or petition, unless and until that determination, redetermination or decision has been modified or reversed by a subsequent reconsidered determination, redetermination or decision. In which event, benefits will be paid or denied for weeks of unemployment thereafter in accordance with that reconsidered determination, modified or reversed determination, redetermination or decision. [PL 1987, c. 641, §13 (AMD).]

B. [PL 1981, c. 290 (RP).]

C. If any determination, reconsidered determination, redetermination or decision awarding benefits is finally modified or reversed, any benefits paid to the claimant which would not have been paid under such final decision shall be deemed to be erroneous payments that are not chargeable to the account of any employer. [PL 1971, c. 538, §34 (NEW).]
[PL 1987, c. 641, §13 (AMD).]

12. Collateral estoppel. Except for proceedings under this chapter, no finding of fact or conclusion of law contained in a decision of a deputy, an administrative hearing officer, the commission, the commissioner or a court, obtained under this chapter, has preclusive effect in any other action or proceeding.

This provision applies to decisions issued on or after July 14, 1990.

[PL 1997, c. 293, §5 (AMD).]

13. Voluntary withdrawal. A claimant who has filed a claim for benefits under this section may voluntarily withdraw that claim at any time before receiving the benefits. The commissioner shall treat a claimant who has withdrawn a claim under this subsection as not having filed the claim. A claimant may initiate the withdrawal of a claim under this subsection by way of telephone, but the Department of Labor may require a signed withdrawal authorization to verify the withdrawal. Cashing a benefit check relating to the claim is deemed to revoke any withdrawal of that claim.
[PL 2003, c. 96, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 418 (AMD). PL 1971, c. 538, §§29-34 (AMD). PL 1973, c. 147 (AMD). PL 1975, c. 39 (AMD). PL 1975, c. 227 (AMD). PL 1975, c. 710, §§2,4 (AMD). PL 1975, c. 770, §§124,125 (AMD). PL 1977, c. 460, §5 (AMD). PL 1977, c. 587 (AMD). PL 1977, c. 666, §§1,2 (AMD). PL 1977, c. 694, §§474-477 (AMD). PL 1979, c. 78 (AMD). PL 1979, c. 113 (AMD). PL 1979, c. 541, §A182 (AMD). PL 1981, c. 145 (AMD). PL 1981, c. 177 (AMD). PL 1981, c. 286, §§2,3 (AMD). PL 1981, c. 290 (AMD). PL 1981, c. 547, §1 (AMD). PL 1983, c. 246 (AMD). PL 1983, c. 305, §6 (AMD). PL 1983, c. 351, §§18-21 (AMD). PL 1983, c. 816, §A23 (AMD). PL 1985, c. 348, §§7,8 (AMD). PL 1987, c. 365, §2 (AMD). PL 1987, c. 641, §§7-13 (AMD). PL 1989, c. 691 (AMD). RR 1991, c. 2, §99 (COR). PL 1997, c. 293, §5 (AMD). PL 1999, c. 376, §1 (AMD). PL 1999, c. 464, §8 (AMD). PL 2003, c. 96, §1 (AMD). PL 2003, c. 163, §1 (AMD). PL 2021, c. 456, §§23-26 (AMD). PL 2023, c. 53, §§3, 4 (AMD). PL 2025, c. 235, §§13, 14 (AMD). PL 2025, c. 388, Pt. PPP, §8 (AMD).

§1195. Extended benefits

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Definitions. Notwithstanding any other provisions of this chapter, the following words, as used in this section, shall have the following meanings, unless the context clearly requires otherwise.

A. "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(1) Has received, prior to that week, all of the regular benefits that were available to the individual under this chapter or any other state law, including dependents' allowances and benefits payable to federal civilian employees and ex-service members under 5 United States Code, Chapter 85, in the individual's current benefit year that includes that week; except that for the purposes of this paragraph, an individual is deemed to have received all of the regular benefits that were available to the 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 the individual's benefit year, the individual may subsequently be determined to be entitled to added regular benefits, or the individual may be entitled to regular benefits with respect to future weeks of unemployment, but those benefits are not payable with respect to that week of unemployment by reason of section 1251;

(2) The individual's benefit year having expired prior to that week, has no or insufficient wages or employment, or both, to establish a new benefit year or, subsequent to December 31, 1971, does not qualify by having sufficient wages or employment, or both, as provided by section 1192-A, subsection 2, paragraph F, since the beginning of the individual's prior benefit year; and

(3) Does not have a right to unemployment benefits or allowances, as the case may be, under the federal Railroad Unemployment Insurance Act, or under such other federal laws as are specified in regulations issued by the United States Secretary of Labor and has not received and is not seeking unemployment benefits under the unemployment compensation law of

Canada, but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law, the individual is considered an exhaustee if the other provisions of this definition are met. [PL 2025, c. 235, §15 (AMD).]

B. "Eligibility period" of an individual means the period consisting of the weeks in the individual's benefit year that begin in an extended benefit period and, if the individual's benefit year ends within the extended benefit period, any weeks thereafter that begin in the period. [RR 2023, c. 2, Pt. E, §96 (COR).]

C. Extended benefit period. "Extended benefit period" means a period which:

(1) Begins with the 3rd week after a week for which there is a state "on" indicator; and

(2) Ends with either of the following weeks, whichever occurs later:

(a) The 3rd week after the first week for which there is a state "off" indicator; or

(b) The 13th consecutive week of such period; provided that no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect with respect to this State. [PL 1981, c. 548, §3 (RPR).]

D. "Extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-service members pursuant to 5 United States Code, Chapter 85, payable to an individual under this section for weeks of unemployment in the individual's eligibility period. [RR 2023, c. 2, Pt. E, §97 (COR).]

E. [PL 1981, c. 548, §4 (RP).]

F. [PL 1981, c. 548, §4 (RP).]

G. "Rate of insured unemployment," for purposes of paragraphs H and I, means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits in this State for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the commissioner on the basis of the commissioner's reports to the United States Secretary of Labor, by the average monthly employment covered under this chapter for the first 4 of the most recent 6 completed calendar quarters ending before the end of the 13-week period. Computations required by this paragraph must be made by the commissioner in accordance with regulations prescribed by the United States Secretary of Labor. [RR 2023, c. 2, Pt. E, §98 (COR).]

H. State "off" indicator. There is a "state 'off' indicator" for this State for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter:

(1) Was less than 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years, or

(2) Was less than 4%, except that for weeks beginning after September 25, 1982, the percentage shall be 5%. [PL 1981, c. 548, §5 (AMD).]

I. State "on" indicator. There is a "state 'on' indicator" for this State for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter:

(1) Equaled or exceeded 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years; and

(2) Equaled or exceeded 4%, except that for weeks beginning after September 25, 1982, the percentage shall be 5%. [PL 1981, c. 548, §6 (AMD).]

J. "Regular benefits" means benefits payable to an individual under this chapter or under any other state law, including benefits payable to federal civilian employees and to ex-service members pursuant to 5 United States Code, Chapter 85, other than extended benefits. [RR 2023, c. 2, Pt. E, §99 (COR).]

K. State law. "State law" means the unemployment compensation or employment security law of any state, approved by the United States Secretary of Labor under the Internal Revenue Code of 1954, Section 3304. [PL 1971, c. 119 (NEW).]

L. With respect to benefits for weeks of unemployment beginning after June 1, 1977, the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraph I:

(1) Did not contain subparagraph (1) thereof; and

(2) The figure "4" contained in subparagraph (2) thereof were "5;"

except that, notwithstanding any such provision of this subsection, any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator. For weeks beginning after September 25, 1982, the figure 5 in subparagraph (2) shall be 6. [PL 1981, c. 548, §7 (AMD).]

M. [PL 1977, c. 570, §25 (RP).]

[PL 2025, c. 235, §15 (AMD).]

1-A. Alternate trigger. In addition to the conditions provided in subsection 1, paragraphs H and I with respect to weeks of unemployment beginning on or after January 1, 2022, the determination of whether there has been a state "on" indicator or a state "off" indicator beginning or ending any extended benefit period must be made under this subsection if:

A. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of that week equals or exceeds 6.5%; and [PL 2021, c. 456, §27 (NEW).]

B. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the 3-month period referred to in paragraph A equals or exceeds 110% of the average rate for either or both of the corresponding 3-month periods ending in the 2 preceding calendar years. [PL 2021, c. 456, §27 (NEW).]

There is a state "off" indicator for a week based on the rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, only if the period consisting of the most recent 3 months for which data for all states are published before the close of such week does not result in a state "on" indicator.

[PL 2021, c. 456, §27 (NEW).]

2. Effect of state law provisions relating to regular benefits on claims for, and the payment of, extended benefits. Except when the result would be inconsistent with the other provisions of this subchapter, as provided in the rules of the commissioner, the provisions of this chapter that apply to claims for, or the payment of, regular benefits apply to claims for, and the payment of, extended benefits.

[PL 2021, c. 456, §28 (AMD).]

3. Eligibility requirements for extended benefits. An individual is eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the deputy finds that with respect to that week:

A. The individual is an exhaustee; [RR 2023, c. 2, Pt. E, §100 (COR).]

B. The individual has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and [RR 2023, c. 2, Pt. E, §100 (COR).]

C. For each individual who files an initial claim for extended benefits after September 25, 1982, the individual has been paid wages for insured work during the individual's base period equal to at least 1 1/2 times the wages paid in that calendar quarter of the individual's base period in which those wages were highest. [RR 2023, c. 2, Pt. E, §100 (COR).]

[RR 2023, c. 2, Pt. E, §100 (COR).]

3-A. (TEXT EFFECTIVE ON CONTINGENCY: Not effective if inconsistent with Federal-State Extended Compensation Act of 1970, as amended) Failure to accept or seek work as grounds for ineligibility. Notwithstanding subsection 3, an individual is ineligible for payment of extended benefits for any week of unemployment in that individual's eligibility period if the deputy finds that during such period:

A. The individual failed to accept an offer of suitable work, as defined under subsection 3-C, or failed to apply for any suitable work to which the individual was referred by the employment service; or [PL 1993, c. 22, §3 (AMD).]

B. The individual failed to actively engage in seeking work as prescribed under subsection 3-E, unless that individual is not actively engaged in seeking work because that individual is:

(1) Before any court of the United States or any state pursuant to a lawfully issued summons to appear for jury duty; or

(2) Hospitalized for treatment of an emergency or a life-threatening condition. [PL 1993, c. 22, §3 (AMD).]

This subsection is not in effect for the weeks beginning after March 6, 1993 and before January 1, 1995.

This subsection is not in effect if inconsistent with the Federal-State Extended Compensation Act of 1970, as amended.

[PL 1993, c. 22, §3 (AMD).]

3-B. Additional ineligibility. An individual who has been found ineligible for extended benefits for reason of the provisions in subsection 3-A must also be denied benefits beginning with the first day of the week following the week in which that failure occurred and until the individual has been employed in each of 4 subsequent weeks, whether or not consecutive, and has earned remuneration equal to not less than 4 times the extended weekly benefit amount.

[RR 2023, c. 2, Pt. E, §101 (COR).]

3-C. Definition. For purposes of this section, the term "suitable work" means, with respect to any individual, any work which is within the individual's capabilities, subject to the following:

A. The gross average weekly remuneration payable for the work must exceed the sum of:

(1) The individual's extended weekly benefit amount as determined under subsection 4; and

(2) The amount, if any, of supplemental unemployment benefits as defined in the United States Internal Revenue Code of 1954, Section 501(c)(17)(D), payable to the individual for that week; [PL 1981, c. 228 (NEW).]

B. The work must pay wages not less than the higher of:

(1) The minimum wage provided by the United States Fair Labor Standards Act of 1938, Section 6(a)(1), without regard to any exemption; or

(2) The applicable state or local minimum wage; and [PL 1981, c. 228 (NEW).]

C. No individual may be denied extended benefits for failure to accept an offer of or apply for any job which meets the definition of suitability described in this subsection if:

(1) The position was not offered to the individual in writing or was not listed with the employment service;

(2) The failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in section 1193, subsection 3 to the extent that the criteria of suitability in that section are not inconsistent with this subsection; and

(3) The individual furnishes satisfactory evidence to the deputy that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good. If the evidence is determined satisfactory for this purpose, the determination of whether any work is suitable with respect to that individual must be made in accordance with the description of suitable work for regular benefit claimants in section 1193, subsection 3 without regard to the definition specified by this subsection. [RR 2023, c. 2, Pt. E, §102 (COR).]

[RR 2023, c. 2, Pt. E, §102 (COR).]

3-D. Work to be in accord with labor standard provisions. Notwithstanding the provisions of subsection 3 to the contrary, no work may be deemed to be suitable work, for an individual, which does not accord with the labor standard provisions required by the United States Internal Revenue Code of 1954, Section 3304(a)(5) and set forth under section 1193, subsection 3, paragraph B.

[PL 1981, c. 228 (NEW).]

3-E. Actively engaged in seeking work. For the purposes of subsection 3-A, paragraph B, an individual shall be treated as actively engaged in seeking work during any week if:

A. The individual has engaged in a systematic and sustained effort to obtain work during that week; and [PL 1981, c. 228 (NEW).]

B. The individual furnishes tangible evidence that the individual has engaged in that effort during that week. [RR 2023, c. 2, Pt. E, §103 (COR).]

[RR 2023, c. 2, Pt. E, §103 (COR).]

3-F. Referred to suitable work. The employment service shall refer any claimant entitled to extended benefits under subsections 3-A to 3-E to any suitable work which meets the criteria prescribed in subsection 3-C.

[PL 1981, c. 228 (NEW).]

4. Weekly extended benefit amount. The weekly extended benefit amount payable to an individual for a week of total unemployment in the eligibility period is an amount equal to the weekly benefit amount payable to the individual during the applicable benefit year.

[RR 2023, c. 2, Pt. E, §104 (COR).]

5. Total extended benefit amount. The total extended benefit amount payable to an eligible individual with respect to the individual's applicable benefit year is the lesser of the following amounts:

A. Fifty percent of the total amount of regular benefits that were payable to the individual under this chapter in the applicable benefit year; [RR 2023, c. 2, Pt. E, §105 (COR).]

B. Thirteen times the individual's weekly benefit amount that was payable to the individual under this chapter for a week of total unemployment in the applicable benefit year; and [RR 2023, c. 2, Pt. E, §105 (COR).]

C. Thirty-nine times the individual's weekly benefit amount that was payable to the individual under this chapter for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits that were paid, or deemed paid, to the individual under this chapter with respect to the benefit year. [RR 2023, c. 2, Pt. E, §105 (COR).]

Notwithstanding any other provisions of this chapter, if the benefit year of an individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, except for this subsection, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, must be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year multiplied by the individual's weekly benefit amount for extended benefits.
[RR 2023, c. 2, Pt. E, §105 (COR).]

5-A. Total extended benefit amount in high unemployment period. With respect to weeks of unemployment beginning on or after January 1, 2022, effective with respect to weeks beginning in a high unemployment period, subsection 5 must be applied by substituting:

A. "Eighty percent" for "50%" in paragraph A; [PL 2021, c. 456, §29 (NEW).]

B. "Twenty" for "13" in paragraph B; and [PL 2021, c. 456, §29 (NEW).]

C. "Forty-six" for "39" in paragraph C. [PL 2021, c. 456, §29 (NEW).]

For purposes of this subsection, "high unemployment period" means any period during which an extended benefit period would be in effect if subsection 1-A, paragraph A were applied by substituting "8%" for "6.5%."
[PL 2021, c. 456, §29 (NEW).]

6. Experience rating charges. The state portion of extended benefits paid under this subchapter shall be charged to the General Fund.
[PL 1971, c. 119 (NEW).]

7. Beginning and termination of extended benefit period. Whenever an extended benefit period is to become effective in this State, or an extended benefit period is to be terminated in this State the commissioner shall make an appropriate public announcement.
[PL 1981, c. 548, §11 (AMD).]

7-A. Cessation of interstate extended benefits. Payment of extended benefits shall not be made to any individual for any week beginning after June 1, 1981, if extended benefits are payable for that week pursuant to an interstate claim filed in any state under the interstate benefit payment plan, and no extended benefit period is in effect for that week in that state. This subsection shall not apply with respect to the first 2 weeks for which extended benefits are payable, determined without regard to this subsection, pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended benefit account established for the individual with respect to the benefit year.
[PL 1981, c. 104 (NEW).]

8. Administration. In the administration of the provisions of this section which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, the commissioner shall take such action as may be necessary to ensure that the provisions are so interpreted and applied as to meet the requirements of such Federal Act as interpreted by the United States Department of Labor, and to secure to this State the full reimbursement of the federal share of extended and regular benefits paid under this chapter that are reimbursable under the Federal Act.
[PL 1977, c. 675, §22 (AMD).]

9. Notwithstanding any other provisions of this chapter, no employer's experience rating account shall be charged, and no employer shall be liable for payments in lieu of contributions, with respect to extended benefit payments which are wholly reimbursed to the State by the Federal Government.
[PL 1975, c. 299, §4 (NEW).]

SECTION HISTORY

PL 1971, c. 119 (NEW). PL 1973, c. 753, §§1-3 (AMD). PL 1975, c. 299, §§1-4 (AMD). PL 1977, c. 247 (AMD). PL 1977, c. 570, §§23-25 (AMD). PL 1977, c. 675, §§18-22 (AMD). PL 1979, c. 127, §163 (AMD). PL 1979, c. 515, §17 (AMD). PL 1979, c. 541, §A183 (AMD). PL 1979, c. 579, §45 (AMD). PL 1979, c. 651, §§46,47 (AMD). PL 1981, c. 104 (AMD). PL 1981, c. 228 (AMD). PL 1981, c. 548, §§3-11 (AMD). PL 1981, c. 698, §118 (AMD). PL 1983, c. 305, §7 (AMD). PL 1983, c. 491 (AMD). PL 1993, c. 22, §3 (AMD). PL 2021, c. 456, §§27-29 (AMD). RR 2023, c. 2, Pt. E, §§95-105 (COR). PL 2025, c. 235, §15 (AMD).

§1196. Extended benefits for dislocated workers in approved training; annual report

1. Dislocated worker defined. As used in this section and section 1191, subsection 4, paragraph A, the term "dislocated worker" means an individual who is in training as approved by the deputy, under rules adopted by the commissioner, and:

A. An individual who:

(1) Has been terminated or laid off from employment as a result of a reduction of operations at the individual's place of employment or who has received a notice of termination or layoff from employment; [PL 2009, c. 271, §4 (AMD).]

B. An individual who has been terminated or who has received a notice of termination of employment, as a result of any permanent closure of a plant or facility; or [PL 1985, c. 591, §5 (NEW).]

C. An individual who is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including any older individual who may have substantial barriers to employment because of the individual's age. [RR 2023, c. 2, Pt. E, §106 (COR).]

For the purposes of this section, "deputy" has the same meaning as in section 1192-A, subsection 1, paragraph A.
[PL 2025, c. 235, §16 (AMD).]

1-A. Extended benefits for dislocated workers. A dislocated worker who has exhausted the worker's benefit year within 30 months of the worker's enrollment in training described in subsection 1 is entitled to the product of the worker's most recent weekly benefit amount multiplied by the number of weeks in which that person is in approved training, up to a maximum of 26 weeks, except that benefits may not be paid under this subsection to a person:

A. Until the person has exhausted benefits for which that person is eligible under any unemployment insurance benefit program funded in whole or in part by the State or the Federal Government; or [PL 2025, c. 235, §16 (NEW).]

B. Who is eligible for or who has exhausted, after March 20, 1986, trade adjustment allowances as provided by the United States Trade Act of 1974, 19 United States Code, Sections 2291 to 2294 and any amendments or additions thereto, or a similar successor provision of that Act, except that any individual who was eligible for and received less than 26 weeks of benefits under that Act may receive benefits for the number of weeks by which the individual's benefits under that Act are less than 26 weeks. [PL 2025, c. 235, §16 (NEW).]
[PL 2025, c. 235, §16 (NEW).]

2. Annual report. The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over labor matters before March 1st of each year regarding the actions taken under subsection 1-A and section 1191, subsection 4, paragraph A. The report must include:

A. The number of persons who receive benefits under those provisions; [PL 1985, c. 591, §5 (NEW).]

B. The average length of time in training for persons who receive benefits under those provisions; [PL 1985, c. 591, §5 (NEW).]

C. The average weekly benefit and average total amount of benefits paid to persons under those provisions; [PL 1985, c. 591, §5 (NEW).]

D. The success rate in placing trainees who receive benefits under those provisions; [PL 2009, c. 271, §5 (AMD).]

E. The total cost of benefits paid under those provisions and the effect on the Unemployment Trust Fund; and [PL 2009, c. 271, §6 (AMD).]

F. The number of persons participating in training while receiving extended unemployment benefits under those provisions during the report year who have previously completed a training program while receiving extended unemployment benefits under those provisions, including the length of time between those enrollments. [PL 2009, c. 271, §7 (NEW).]

[PL 2025, c. 235, §16 (AMD).]

3. Repeal.

[PL 1995, c. 9, §3 (RP).]

4. Suspension of provisions due to the reserve multiple.

[PL 1995, c. 9, §4 (RP).]

SECTION HISTORY

PL 1985, c. 591, §5 (NEW). PL 1987, c. 570, §4 (AMD). PL 1991, c. 472, §§1,2 (AMD). PL 1993, c. 3, §1 (AMD). PL 1993, c. 3, §2 (AFF). PL 1993, c. 22, §§4,5 (AMD). PL 1995, c. 9, §§3,4 (AMD). PL 2009, c. 271, §§4-7 (AMD). RR 2023, c. 2, Pt. E, §106 (COR). PL 2025, c. 235, §16 (AMD).

§1197. Self-employment assistance program

(REPEALED)

SECTION HISTORY

PL 1993, c. 710, §2 (NEW). PL 1995, c. 665, §§DD2,3 (AMD). PL 1995, c. 665, §DD12 (AFF). PL 1997, c. 130, §§1,2 (AMD). PL 2005, c. 39, §§1,2 (AMD). PL 2021, c. 456, §30 (AMD). PL 2025, c. 235, §17 (RP).

§1198. Work-sharing benefits

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

A. "Affected unit" means a specified plant, department, shift or other definable unit consisting of 2 or more eligible employees to which a work-sharing plan applies. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

B. "Commissioner" means the Commissioner of Labor or the commissioner's designee. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

C. "Eligible employee" means an individual who usually works for the eligible employer submitting a work-sharing plan. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

D. "Eligible employer" means a public or private employer who is not delinquent in the payment of contributions or reimbursements or in the reporting of wages. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

E. "Fringe benefits" includes, but is not limited to, health insurance, retirement benefits, paid vacation and holidays, sick leave and similar advantages that are incidents of employment. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

F. "Intermittent employment" means employment that is not continuous but may consist of intervals of weekly work and intervals of no weekly work or annually reoccurring reductions of work at a year-round business that has not been determined seasonal. [PL 2017, c. 117, §10 (AMD).]

G. "Seasonal employment" means employment in seasonal industries within the determined seasonal period or periods. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

H. "Seasonal industry" means an industry in which, because of the seasonal nature of the industry, it is customary to operate only during a regularly recurring period or periods of less than 26 weeks in a calendar year and any seasonal industry under section 1251, subsection 1. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

I. [PL 2013, c. 448, §1 (RP).]

J. "Usual weekly hours of work" means the normal hours of work each week for an eligible employee in an affected unit when that unit is operating on a full-time basis, not to exceed 40 hours and not including overtime. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

K. "Work-sharing benefits" means benefits payable to eligible employees in an affected unit under an approved work-sharing plan. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

L. "Work-sharing employer" means an eligible employer with an approved work-sharing plan in effect. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

M. "Work-sharing plan" means a plan submitted to the commissioner by an eligible employer under which there is a reduction in the number of hours worked by the eligible employees in the affected unit in lieu of layoffs of some of the employees. [PL 2013, c. 448, §2 (AMD).]

[PL 2017, c. 117, §10 (AMD).]

2. Criteria for approval of a work-sharing plan. An eligible employer wishing to participate in a work-sharing program under this section must submit a signed work-sharing plan to the commissioner for approval. The commissioner shall approve a work-sharing plan if the terms of the employer's written work-sharing plan and implementation plan described in paragraph I attest that they are consistent with employer obligations under applicable federal and state laws and if the following requirements are met:

A. The work-sharing plan identifies the affected unit or units and specifies the effective date of the plan; [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

B. The work-sharing plan identifies the eligible employees in the affected unit or units by name, social security number, usual weekly hours of work, proposed wage and hour reduction and any other information that the commissioner requires; [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

C. The work-sharing plan certifies that the reduction in the usual weekly hours of work is in lieu of layoffs that would have affected at least 10% of the eligible employees in the affected unit or units and that would have resulted in an equivalent reduction in work hours; [PL 2013, c. 448, §3 (AMD).]

D. Under the work-sharing plan the usual weekly hours of work for eligible employees in the affected unit or units are reduced by not less than 10% and not more than 50% and the reduction in hours in each affected unit is spread equally among eligible employees in the affected unit; [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

E. The work-sharing plan specifies the manner in which the fringe benefits of the eligible employees will be affected. If the employer provides health benefits or retirement benefits under a defined benefit plan, the employer must continue to provide the benefits to employees participating in the work-sharing program as if the workweeks of these employees had not been reduced or to the same extent the benefits are provided to other employees not participating in the work-sharing program; [PL 2013, c. 448, §3 (AMD).]

F. In the case of eligible employees represented by a collective bargaining agent, the work-sharing plan is approved in writing by the collective bargaining agent that covers the affected eligible employees. In the absence of a collective bargaining agent, the work-sharing plan must contain a certification by the eligible employer that the proposed plan, or a summary of the plan, has been made available to each eligible employee in the affected unit; [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

G. A statement that the work-sharing plan will not serve as a subsidy of seasonal employment during the off-season or of intermittent employment is included; [PL 2013, c. 448, §3 (AMD).]

H. The eligible employer agrees to furnish reports relating to the proper conduct of the work-sharing plan and agrees to allow the commissioner or the commissioner's designee or authorized representatives access to all records necessary to verify the plan prior to approval and to monitor and evaluate application of the plan after approval; [PL 2013, c. 448, §3 (AMD).]

I. The work-sharing plan specifies the manner in which the requirements of this subsection will be implemented including a plan for giving notice, when feasible, to an employee whose workweek is to be reduced together with an estimate of the number of layoffs that would have occurred absent the ability of employees to participate in the work-sharing and such other information as the United States Secretary of Labor determines is appropriate; and [PL 2013, c. 448, §3 (NEW).]

J. The eligible employer allows eligible employees to participate, as appropriate, in training, including employer-sponsored training or worker training funded under the federal Workforce Innovation and Opportunity Act, Public Law 113-128, to enhance job skills if such training has been approved by the commissioner. [PL 2017, c. 475, Pt. A, §45 (RPR).]

[PL 2017, c. 475, Pt. A, §45 (AMD).]

3. Approval or rejection of the work-sharing plan. The commissioner shall approve or reject a work-sharing plan in writing. The commissioner's decision is final and not subject to appeal. The eligible employer may submit another work-sharing plan for approval, and a determination must be made based upon the new information submitted by the eligible employer.

[PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

4. Effective date and duration of the work-sharing plan. A work-sharing plan takes effect on the date specified in the plan or on the first Sunday following the date on which the plan is approved by the commissioner, whichever is later. It expires at the end of the 12th full calendar month after its effective date or on the date specified in the plan if that date is earlier, unless the plan is previously revoked by the commissioner. If a plan is revoked by the commissioner, it terminates on the date specified in the written order of revocation.

[PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

5. Review; revocation of approval. The commissioner shall review the operation of each approved work-sharing plan at least once during the period the plan is in effect to ensure that it complies with the work-sharing plan requirements under subsection 2. The commissioner may revoke approval of a work-sharing plan for good cause.

A. The revocation order must be in writing, state the reason for revocation and specify the date the revocation takes effect. The revocation order is final and not subject to appeal. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

B. Action to revoke the work-sharing plan may be taken at any time by the commissioner on the commissioner's own motion, on the motion of any of the affected unit's eligible employees or on the motion of a collective bargaining agent that covers the affected employees. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

For the purposes of this subsection, "good cause" includes, but is not limited to, failure to comply with assurances given in the work-sharing plan, unreasonable revision of productivity standards for the affected unit, conduct or occurrences tending to defeat the intent and effective operation of the plan and violation of any criteria on which approval of the plan was based.
[PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

6. Modification of the work-sharing plan. An operational approved work-sharing plan may be modified by the eligible employer with the consent of a collective bargaining agent that covers the affected employees, if any, if the modification is not substantial, conforms with the plan approved by the commissioner and is reported promptly to the commissioner by the eligible employer. If the hours of work are increased or decreased substantially beyond the level in the original plan or any other conditions are changed substantially, the commissioner shall approve or disapprove the modifications without changing the expiration date of the original plan. If the substantial modifications do not meet the requirements for approval under subsection 2, the commissioner shall disallow those modifications in writing. The decision of the commissioner is final and not subject to appeal.
[PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

7. Eligibility for work-sharing benefits. After serving a waiting period as prescribed by the commissioner, an eligible employee is eligible to receive work-sharing benefits with respect to any week only if the commissioner finds that, in addition to meeting other conditions of eligibility for regular benefits under this Title that are not inconsistent with this section:

A. During the week, the eligible employee is employed as a member of an affected unit under an approved work-sharing plan that was approved prior to that week and that is in effect with respect to the week for which work-sharing benefits are claimed; and [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

B. The eligible employee is available and able to work the normal workweek with the work-sharing employer. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

Notwithstanding any other provisions of this chapter, an eligible employee is deemed unemployed in any week for which remuneration is payable to that eligible employee as an eligible employee in an affected unit for less than that eligible employee's normal weekly hours of work as specified under the approved work-sharing plan in effect for the week.

Notwithstanding any other provisions of this Title, an eligible employee may not be denied work-sharing benefits for any week by reason of the application of laws and rules relating to the availability for work and active search for work with an employer other than the work-sharing employer.
[PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

8. Work-sharing benefits. This subsection governs the payment of work-sharing benefits under this section.

A. The weekly work-sharing benefit amount is the product of the regular weekly benefit amount, including any dependents' allowances, multiplied by the percentage reduction in the eligible employee's usual weekly hours of work as specified in the approved work-sharing plan. If the weekly work-sharing benefit amount is not an exact multiple of $1, the weekly work-sharing benefit amount must be rounded down to the next lower multiple of $1. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

B. An eligible employee may not receive a total of work-sharing benefits and regular unemployment compensation in any benefit year that exceeds the maximum entitlement established

for unemployment compensation, nor may an eligible employee be paid work-sharing benefits for more than 52 weeks in any benefit year pursuant to an approved work-sharing plan. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

C. The work-sharing benefits paid must be deducted from the maximum entitlement amount established for an eligible employee's benefit year. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

D. If an eligible employer approves time off and the eligible employee has performed some work during the week, the eligible employee is eligible for work-sharing benefits based on the combined work and paid leave hours for that week. If the eligible employer does not grant time off, the question of availability must be investigated by the commissioner. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

E. If an eligible employee was sick and consequently did not work all the hours offered by the work-sharing employer in a given week, the employee must be denied work-sharing benefits for that week. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

F. Claims for work-sharing benefits must be filed in the same manner as claims for unemployment compensation or as prescribed in rules by the commissioner. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

G. Laws and rules applicable to unemployment compensation claimants apply to work-sharing claimants to the extent that they are not inconsistent with the established work-sharing provisions. An eligible employee who files an initial claim for work-sharing benefits, if eligible for work-sharing benefits, must be provided a monetary determination of entitlement to work-sharing benefits and must serve a waiting period of one week. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

H. If an eligible employee works in the same week for a work-sharing employer and an employer other than the work-sharing employer, the eligible employee's work-sharing benefits must be computed in the same manner as if the eligible employee worked solely with the work-sharing employer, except that if the eligible employee is not able to work or is not available for the normal workweek with the work-sharing employer, work-sharing benefits may not be paid to that eligible employee for that week. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

I. An eligible employee who does not work during a week for the work-sharing employer and is otherwise eligible must be paid the full weekly unemployment compensation amount. That week is not counted as a week for which work-sharing benefits were received. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

J. An eligible employee who does not work for the work-sharing employer during a week but works for another employer and is otherwise eligible must be paid benefits for that week under the partial unemployment compensation provisions of this chapter. That week is not counted as a week for which work-sharing benefits were received. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

K. Nothing in this section precludes an otherwise eligible employee from receiving total or partial unemployment benefits when the eligible employee's work-sharing benefits have been exhausted. [PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

[PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

9. Benefit charges. Notwithstanding any other provisions of this Title, work-sharing benefits are charged to the account of the work-sharing employer. Employers liable for payments in lieu of contributions must reimburse the Unemployment Compensation Fund for the full amount of work-sharing benefits paid to their employees under an approved work-sharing plan.

[PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

10. Extended benefits for dislocated workers. An individual who has received all of the unemployment compensation or combined unemployment compensation and work-sharing benefits available in a benefit year is considered an exhaustee for purposes of extended benefits, as provided in section 1196, subsection 1-A, and, if otherwise eligible under that subsection, is eligible to receive extended benefits.
[PL 2025, c. 235, §18 (AMD).]

11. Rules. The commissioner shall adopt rules to implement this section. Those rules are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.
[PL 2011, c. 91, §1 (NEW); PL 2011, c. 91, §3 (AFF).]

12. Repeal.
[PL 2013, c. 448, §4 (RP).]

SECTION HISTORY

PL 2011, c. 91, §1 (NEW). PL 2011, c. 91, §3 (AFF). PL 2013, c. 448, §§1-4 (AMD). PL 2017, c. 110, §9 (AMD). PL 2017, c. 117, §§10, 11 (AMD). PL 2017, c. 475, Pt. A, §45 (AMD). PL 2025, c. 235, §18 (AMD).

§1199. Provisions under a declared state of emergency

The provisions of this section apply for the duration of a state of emergency declared by the Governor pursuant to Title 37-B, section 742 due to the outbreak of COVID-19, and for 30 days following the termination of that state of emergency. [PL 2019, c. 617, Pt. B, §1 (NEW).]

1. Benefits not charged against employer. Notwithstanding section 1191 or 1221, if an individual is dislocated or temporarily laid off as a result of the state of emergency, benefits paid to that individual under this subchapter may not be charged against the experience rating record of any employer but must be charged to the General Fund.
[PL 2019, c. 617, Pt. B, §1 (NEW).]

2. Eligibility. An individual is deemed to have met the eligibility requirements under section 1192-A, subsection 2, paragraphs B, C and D as long as the individual remains able and available to work for, and maintains contact with, the relevant employer and the individual is:

A. Under a temporary medical quarantine or isolation restriction to ensure that the individual has not been affected by the subject condition of the state of emergency and is expected to return to work; or [PL 2019, c. 617, Pt. B, §1 (NEW).]

B. Temporarily laid off due to a partial or full closure of the individual's place of employment as a result of the state of emergency and is expected to return to work once the emergency closure is lifted. [PL 2019, c. 617, Pt. B, §1 (NEW).]
[PL 2025, c. 235, §19 (AMD).]

3. Waiting period waived. The waiting period requirement under section 1192-A, subsection 2, paragraph E is waived for an individual who is dislocated or temporarily laid off as a result of the state of emergency.
[PL 2025, c. 235, §20 (AMD).]

4. Temporary leave of absence due to COVID-19. Notwithstanding section 1193, subsection 1, during the state of emergency, an individual who is on a temporary leave of absence due to a medical quarantine or isolation restriction, a demonstrated risk of exposure or infection or a need to care for a dependent family member as a result of COVID-19 is not disqualified from receiving benefits during this absence as long as the individual continues to remain able and available to work for, and maintains contact with, the relevant employer.
[PL 2019, c. 617, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 617, Pt. B, §1 (NEW). PL 2025, c. 235, §§19, 20 (AMD).

SUBCHAPTER 7

EMPLOYER'S CONTRIBUTIONS AND COVERAGE

§1221. Payments; rates; amounts

1. Payment.

A. Contributions accrue and become payable by each employer subject to this chapter, other than those liable for payments in lieu of contributions, for each calendar year in which the employer is subject to this chapter, with respect to wages for employment, as defined in section 1043, subsection 11. These contributions become due and must be paid by each employer to the bureau for the fund on or before the last day of the month following the close of the calendar quarter to which the contributions relate and may not be deducted, in whole or in part, from the wages of the employees. [PL 1995, c. 657, §3 (AMD); PL 1995, c. 657, §10 (AFF).]

B. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to 1/2¢ or more, in which case it shall be increased to 1.

[PL 1995, c. 657, §3 (AMD); PL 1995, c. 657, §10 (AFF).]

2. Rate of contribution. Each employer subject to this chapter, other than those liable for payments in lieu of contributions, shall pay contributions at the rate of 5.4% of the wages paid by the employer with respect to employment during each calendar year, except as otherwise prescribed in subsection 4.

A. [PL 1985, c. 348, §9 (RP).]

B. [PL 1983, c. 16 (NEW); MRSA T. 26 §1221, sub-§2, ¶B (RP).]

C. Each employer subject to this chapter, other than those liable for payments in lieu of contributions, shall pay, in addition to the contribution rate as prescribed in subsection 4, 7/10 of 1% of the wages paid by the employer with respect to employment during the calendar year 1993, 8/10 of 1% of the wages paid by the employer with respect to employment during the calendar year 1994 and 4/10 of 1% of the wages paid by the employer with respect to employment during calendar years 1995, 1996, 1997, 1998 and 1999. [PL 1997, c. 745, §2 (AMD).]

[RR 2023, c. 2, Pt. E, §107 (COR).]

3. Experience rating record.

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

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

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

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

(5) Reimbursements are made to a state, the Virgin Islands or Canada for benefits paid to a claimant under a reciprocal benefits arrangement as authorized in section 1082, subsection 12, as long as the wages of the claimant transferred to the other state, the Virgin Islands or Canada under such an arrangement are less than the amount of wages for insured work required for benefit purposes by section 1192-A, subsection 2, paragraph F;

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

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

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

(9) The claimant initiated a partial separation or reduction of hours and that partial separation or reduction of hours was agreed to by the employee and employer. [PL 2025, c. 235, §21 (AMD).]

A-1. [PL 1989, c. 363, §2 (RP).]

A-2. No charge shall be made to an individual employer or governmental entity for benefits paid to any individual whose base-period wages include wages for previously uncovered services as defined in section 1043, subsection 19, paragraph C to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to section 121 of PL 94-566. No charge shall be made to an employer or governmental entity for benefits paid to any individual if eligibility for such benefits would not have been established but for the use of wages paid for previously uncovered services. [PL 1977, c. 570, §26 (NEW).]

B. The commissioner shall classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their experience rating records and shall submit in the commissioner's annual report to the Governor the results of the actual experience in payment of contributions on behalf of the individual employers and with respect to benefits charged to their experience rating records together with the recommendations relative to the advisability of the continuance of the rates based on benefit experience. [RR 2023, c. 2, Pt. E, §108 (COR).]

C. [PL 2011, c. 499, §1 (AMD); MRSA T. 26 §1221, sub-§3, ¶C (RP).]

C-1. [PL 2017, c. 284, Pt. CCCCC, §3 (RP).]

C-2. For the purposes of paragraph A, the experience rating record of the most recent subject employer may not be charged with benefits paid to a claimant whose work record with that employer totaled 5 consecutive weeks or less of total or partial employment, in which case the most recent subject employer with whom the claimant's work record exceeded 5 consecutive weeks of

total or partial employment must be charged if that employer would have otherwise been chargeable had not subsequent employment intervened. [PL 2019, c. 585, §2 (NEW).]

D. This subsection shall apply only to employers subject to payment of contributions as provided in subsections 1 and 2. [PL 1971, c. 538, §37 (NEW).]

E. An employer's experience rating record may not be relieved of charges relating to an erroneous payment from the fund if the bureau determines that:

(1) The erroneous payment was made because the employer or agent of the employer was at fault for failing to respond timely or adequately to a written or electronic request from the bureau for information relating to the claim for unemployment compensation; and

(2) The employer or agent of the employer has established a pattern of failing to respond timely or adequately to written or electronic requests from the bureau for information relating to claims for unemployment compensation.

A determination of the bureau not to relieve charges pursuant to this paragraph is subject to appeal as other determinations of the bureau with respect to the charging of employers' experience rating records. [PL 2013, c. 314, §3 (NEW); PL 2013, c. 314, §6 (AFF).]

[PL 2025, c. 235, §21 (AMD).]

4. Employer's experience classifications. The commissioner shall compute annually contribution rates for each employer based on the employer's experience rating record and shall designate a contribution rate schedule.

A. The standard rate of contributions is 5.4%. A contributing employer's rate may not be varied from the standard rate, unless and until the employer's experience rating record has been chargeable with benefits throughout the 24-consecutive-calendar-month period ending on the computation date applicable to that year; each contributing employer newly subject to this chapter shall pay contributions at the average contribution rate, rounded to the next higher 1/10 of 1%, on the taxable wages reported by contributing employers for the 12-month period immediately preceding the last computation date, except that the rate may not exceed 3.0% nor be less than 1% and except that, with respect to the rate year beginning January 1, 1986, and each rate year thereafter, the rate may not exceed 4.0% nor be less than 1%, until such time as the employer's experience rating record has been chargeable with benefits throughout the 24-consecutive-calendar-month period ending on the computation date applicable to that year, and for rate years thereafter the employer's contribution rate is determined in accordance with subsection 3 and this subsection. [RR 2023, c. 2, Pt. E, §109 (COR).]

B. Subject to paragraph A, each employer's contribution rate for the 12-month period commencing January 1st of each year is based upon the employer's experience rating record and determined from the employer's reserve ratio, which is the percent obtained by dividing the amount by which, if any, the employer's contributions credited from the time the employer first or most recently became an employer, whichever date is later, and up to and including June 30th of the preceding year, including any part of the employer's contributions due for that year paid on or before July 31st of that year, exceed the employer's benefits charged during the same period, by the employer's average annual payroll for the 36-consecutive-month period ending June 30th of the preceding year. The employer's contribution rate is the percent shown on the line of the following table on which in column A there is indicated the employer's reserve ratio and under the schedule within which the reserve multiple falls as of September 30th of each year. The following table applies for each 12-month period commencing January 1st of each year as determined by paragraph C.

EMPLOYER'S CONTRIBUTION RATE IN PERCENT OF WAGES

Employer Reserve Ratio		When Reserve Multiple is:							
Equal to or over	Less than	2.37-	2.23-	2.09-	1.95-	1.81-	1.67-	1.53-	

more than	than	2.50	2.50	2.36	2.22	2.08	1.94	1.80	1.66
Column A		Schedules							
		A	B	C	D	E	F	G	H
19.0% and over		0.5%	0.6%	0.7%	0.8%	0.9%	1.0%	1.1%	1.2%
18.0%	19.0%	0.6%	0.7%	0.8%	0.9%	1.0%	1.1%	1.2%	1.3%
17.0%	18.0%	0.7%	0.8%	0.9%	1.0%	1.1%	1.2%	1.3%	1.4%
16.0%	17.0%	0.8%	0.9%	1.0%	1.1%	1.2%	1.3%	1.4%	1.5%
15.0%	16.0%	0.9%	1.0%	1.1%	1.2%	1.3%	1.4%	1.5%	1.6%
14.0%	15.0%	1.0%	1.1%	1.2%	1.3%	1.4%	1.5%	1.6%	1.7%
13.0%	14.0%	1.1%	1.2%	1.3%	1.4%	1.5%	1.6%	1.7%	1.8%
12.0%	13.0%	1.2%	1.3%	1.4%	1.5%	1.6%	1.7%	1.8%	1.9%
11.0%	12.0%	1.3%	1.4%	1.5%	1.6%	1.7%	1.8%	1.9%	2.0%
10.0%	11.0%	1.4%	1.5%	1.6%	1.7%	1.8%	1.9%	2.0%	2.1%
9.0%	10.0%	1.5%	1.6%	1.7%	1.8%	1.9%	2.0%	2.1%	2.2%
8.0%	9.0%	1.6%	1.7%	1.8%	1.9%	2.0%	2.1%	2.2%	2.3%
7.0%	8.0%	1.7%	1.8%	1.9%	2.0%	2.1%	2.2%	2.3%	2.4%
6.0%	7.0%	1.8%	1.9%	2.0%	2.1%	2.2%	2.3%	2.4%	2.5%
5.0%	6.0%	1.9%	2.0%	2.1%	2.2%	2.3%	2.4%	2.5%	2.6%
4.0%	5.0%	2.0%	2.1%	2.2%	2.3%	2.4%	2.5%	2.6%	2.7%
3.0%	4.0%	2.2%	2.3%	2.4%	2.5%	2.6%	2.7%	2.8%	2.9%
2.0%	3.0%	2.4%	2.5%	2.6%	2.7%	2.8%	2.9%	3.0%	3.1%
1.0%	2.0%	2.6%	2.7%	2.8%	2.9%	3.0%	3.1%	3.2%	3.3%
.0%	1.0%	2.8%	2.9%	3.0%	3.1%	3.2%	3.3%	3.4%	3.5%
-1.0%	.0%	3.0%	3.1%	3.2%	3.3%	3.4%	3.5%	3.6%	3.7%
-2.0%	-1.0%	3.1%	3.2%	3.3%	3.4%	3.5%	3.6%	3.7%	3.8%
-3.0%	-2.0%	3.2%	3.3%	3.4%	3.5%	3.6%	3.7%	3.8%	3.9%
-4.0%	-3.0%	3.3%	3.4%	3.5%	3.6%	3.7%	3.8%	3.9%	4.0%
-5.0%	-4.0%	3.4%	3.5%	3.6%	3.7%	3.8%	3.9%	4.0%	4.1%
-6.0%	-5.0%	3.5%	3.6%	3.7%	3.8%	3.9%	4.0%	4.1%	4.2%
-7.0%	-6.0%	3.6%	3.7%	3.8%	3.9%	4.0%	4.1%	4.2%	4.3%
-8.0%	-7.0%	3.7%	3.8%	3.9%	4.0%	4.1%	4.2%	4.3%	4.4%
-9.0%	-8.0%	3.8%	3.9%	4.0%	4.1%	4.2%	4.3%	4.4%	4.5%
-10.0%	-9.0%	4.0%	4.1%	4.2%	4.3%	4.4%	4.5%	4.6%	4.7%
-11.0%	-10.0%	4.2%	4.3%	4.4%	4.5%	4.6%	4.7%	4.8%	4.9%
-12.0%	-11.0%	4.4%	4.5%	4.6%	4.7%	4.8%	4.9%	5.0%	5.1%
under	-12.0%	6.4%	6.4%	6.4%	6.4%	6.4%	6.4%	6.4%	6.4%

EMPLOYER'S CONTRIBUTION RATE IN PERCENT OF WAGES

Employer Reserve Ratio		When Reserve Multiple is:							
Equal to or more than	Less than	1.39-1.52	1.25-1.38	1.11-1.24	.97-1.10	.83-.96	.68-.82	.45-.67	under .45
Column A		Schedules							
		I	J	K	L	M	N	O	P
19.0% and over		1.3%	1.4%	1.5%	1.6%	1.7%	1.8%	1.9%	2.4%
18.0%	19.0%	1.4%	1.5%	1.6%	1.7%	1.8%	1.9%	2.0%	2.5%
17.0%	18.0%	1.5%	1.6%	1.7%	1.8%	1.9%	2.0%	2.1%	2.6%
16.0%	17.0%	1.6%	1.7%	1.8%	1.9%	2.0%	2.1%	2.2%	2.7%
15.0%	16.0%	1.7%	1.8%	1.9%	2.0%	2.1%	2.2%	2.3%	2.8%
14.0%	15.0%	1.8%	1.9%	2.0%	2.1%	2.2%	2.3%	2.4%	2.9%
13.0%	14.0%	1.9%	2.0%	2.1%	2.2%	2.3%	2.4%	2.5%	3.0%

12.0%	13.0%	2.0%	2.1%	2.2%	2.3%	2.4%	2.5%	2.6%	3.1%
11.0%	12.0%	2.1%	2.2%	2.3%	2.4%	2.5%	2.6%	2.7%	3.2%
10.0%	11.0%	2.2%	2.3%	2.4%	2.5%	2.5%	2.7%	2.8%	3.3%
9.0%	10.0%	2.3%	2.4%	2.5%	2.6%	2.7%	2.8%	2.9%	3.4%
8.0%	9.0%	2.4%	2.5%	2.6%	2.7%	2.8%	2.9%	3.0%	3.5%
7.0%	8.0%	2.5%	2.6%	2.7%	2.8%	2.9%	3.0%	3.1%	3.6%
6.0%	7.0%	2.6%	2.7%	2.8%	2.9%	3.0%	3.1%	3.2%	3.7%
5.0%	6.0%	2.7%	2.8%	2.9%	3.0%	3.1%	3.2%	3.3%	3.8%
4.0%	5.0%	2.8%	2.9%	3.0%	3.1%	3.2%	3.3%	3.4%	3.9%
3.0%	4.0%	3.0%	3.1%	3.2%	3.3%	3.4%	3.5%	3.6%	4.1%
2.0%	3.0%	3.2%	3.3%	3.4%	3.5%	3.6%	3.7%	3.8%	4.3%
1.0%	2.0%	3.4%	3.5%	3.6%	3.7%	3.8%	3.9%	4.0%	4.5%
.0%	1.0%	3.6%	3.7%	3.8%	3.9%	4.0%	4.1%	4.2%	4.7%
-1.0%	.0%	3.8%	3.9%	4.0%	4.1%	4.2%	4.3%	4.4%	4.9%
-2.0%	-1.0%	3.9%	4.0%	4.1%	4.2%	4.3%	4.4%	4.5%	5.0%
-3.0%	-2.0%	4.0%	4.1%	4.2%	4.3%	4.4%	4.5%	4.6%	5.1%
-4.0%	-3.0%	4.1%	4.2%	4.3%	4.4%	4.5%	4.6%	4.7%	5.2%
-5.0%	-4.0%	4.2%	4.3%	4.4%	4.5%	4.6%	4.7%	4.8%	5.3%
-6.0%	-5.0%	4.3%	4.4%	4.5%	4.6%	4.7%	4.8%	4.9%	5.4%
-7.0%	-6.0%	4.4%	4.5%	4.6%	4.7%	4.8%	4.9%	5.0%	5.5%
-8.0%	-7.0%	4.5%	4.6%	4.7%	4.8%	4.9%	5.0%	5.1%	5.6%
-9.0%	-8.0%	4.6%	4.7%	4.8%	4.9%	5.0%	5.1%	5.2%	5.7%
-10.0%	-9.0%	4.8%	4.9%	5.0%	5.1%	5.2%	5.3%	5.4%	5.9%
-11.0%	-10.0%	5.0%	5.1%	5.2%	5.3%	5.4%	5.5%	5.6%	6.1%
-12.0%	-11.0%	5.2%	5.3%	5.4%	5.5%	5.6%	5.7%	5.8%	6.3%
under	-12.0%	6.4%	6.4%	6.4%	6.4%	6.4%	6.4%	6.4%	6.4%

[PL 2017, c. 284, Pt. CCCCC, §4 (AMD).]

C. To designate the contribution rate schedule to be effective for a rate year, a reserve multiple must be determined. The reserve multiple must be determined by dividing the fund reserve ratio by the composite cost rate. The determination date is September 30th of each calendar year, and the schedule of contribution rates to apply for the 12-month period commencing January 1st, is determined by this reserve multiple, except that for the 1998 and 1999 rate years Schedule P is in effect. [PL 1997, c. 745, §3 (AMD).]

D. As used in this section, the words "contributions credited" and "benefits charged" mean the contributions credited to and the benefits paid and chargeable against the experience rating record of an employer as provided in subsection 3, including all contributions due and paid on or before July 31st following the computation date and all benefits paid and chargeable on or before the computation date. [RR 2023, c. 2, Pt. E, §109 (COR).]

E. The commissioner:

(1) Shall promptly notify each employer of the employer's rate of contributions as determined for the 12-month period commencing January 1st of each year pursuant to this section. The determination becomes conclusive and binding upon the employer unless, within 15 days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within 15 days after the delivery of the notice, the employer files an application for review and redetermination, setting forth the employer's reasons for filing. If the commission grants the review, the employer must be promptly notified thereof and must be granted an opportunity for a hearing, but 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 on the basis of which these benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that 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 these 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 7; and

(2) Shall provide each employer at least monthly with a notification of benefits paid and chargeable to the employer's experience rating record, and any such notification, in the absence of an application for redetermination filed in such a manner and within such period as the commission may prescribe, becomes conclusive and binding upon the employer for all purposes. Such a redetermination, made after notice and opportunity for hearing, and the commission's findings of fact in connection with the redetermination, may be introduced in any subsequent administrative or judicial proceedings involving the determination of the rate of contributions of any 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. [RR 2023, c. 2, Pt. E, §109 (COR).]

F. Notwithstanding any other inconsistent law, an employer who has been notified of the employer's rate of contribution as required by paragraph E, subparagraph (1), for any year commencing January 1st, may voluntarily make payment of additional contributions and, upon that payment, is entitled to promptly receive a recomputation and renotification of the employer's contribution rate for that year, including in the calculation the additional contributions so made. Any such additional contribution must be made during the 30-day period following the date of the mailing to the employer of the notice of the employer's contribution rate in any year unless, for good cause, the time of payment has been extended by the commissioner for a period not to exceed an additional 10 days. [RR 2023, c. 2, Pt. E, §109 (COR).]

[RR 2023, c. 2, Pt. E, §109 (COR).]

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

A. The standard rate of contributions is 5.4%. A contributing employer's rate may not be varied from the standard rate unless the employer's experience rating record has been chargeable with benefits throughout the period of 24 consecutive calendar months ending on the computation date applicable to such a year. A contributing employer newly subject to this chapter shall pay contributions at a rate equal to the greater of the predetermined yield or 1.0% until the employer's experience rating record has been chargeable with benefits throughout the period of 24 consecutive calendar months ending on the computation date applicable to such a year. For rate years thereafter, the employer's contribution rate is determined in accordance with this subsection and subsection 3.

Effective January 1, 2008, the contribution rate must be reduced by the Competitive Skills Scholarship Fund predetermined yield as defined in section 1166, subsection 1, paragraph C, except that a contribution rate under this paragraph may not be reduced below 1%.

Effective January 1, 2021, the contribution rate must also be reduced by the Unemployment Program Administrative Fund predetermined yield as defined in section 1167, subsection 1, paragraph C, except that a contribution rate under this paragraph may not be reduced below 1%. [PL 2019, c. 616, Pt. EE, §1 (AMD).]

B. Subject to paragraph A, an employer's contribution rate for the 12-month period commencing January 1st of each year is based upon the employer's experience rating record and determined from the employer's reserve ratio. The employer's reserve ratio is the percent obtained by dividing the amount, if any, by which the employer's contributions, credited from the time the employer first or most recently became an employer, whichever date is later, up to and including June 30th of the preceding year, including any part of the employer's contributions due for that year paid on or before July 31st of that year, exceed the employer's benefits charged during the same period, by the employer's average annual payroll for the period of 36 consecutive months ending June 30th of the preceding year. The employer's contribution rate is determined under subparagraphs (1) to (8).

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

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

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

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

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

A	B		C	D	E
Contribution Category	% of Taxable Payrolls From	To	Experience Factors	Phase-in Experience Factors 2002 and 2003	Phase-in Experience Factors 2000 and 2001
1	00.00	05.00	.30	.38750	.4750
2	05.01	10.00	.35	.43125	.5125
3	10.01	15.00	.40	.47500	.5500
4	15.01	20.00	.45	.51875	.5875
5	20.01	25.00	.50	.56250	.6250
6	25.01	30.00	.55	.60625	.6625
7	30.01	35.00	.60	.65000	.7000
8	35.01	40.00	.65	.69375	.7375
9	40.01	45.00	.70	.73750	.7750
10	45.01	50.00	.75	.78125	.8125
11	50.01	55.00	.80	.82500	.8500
12	55.01	60.00	.90	.91250	.9250
13	60.01	65.00	1.00	1.00000	1.0000
14	65.01	70.00	1.10	1.08750	1.0750
15	70.01	75.00	1.25	1.21875	1.1875
16	75.01	80.00	1.40	1.35000	1.3000
17	80.01	85.00	1.60	1.52500	1.4500
18	85.01	90.00	1.90	1.78750	1.6750
19	90.01	95.00	2.20	2.05000	1.9000

20	95.01	100.00	2.60	2.40000	2.2000

(3-A) Beginning January 1, 2008, 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 on January 1, 2008 and every January 1st thereafter are shown on the line of the following table that corresponds with the applicable reserve multiple in column A.

A Reserve Multiple	B Schedule	C Planned Yield
Over 1.58	A	0.6%
1.50 - 1.57	B	0.7%
1.42 - 1.49	C	0.8%
1.33 - 1.41	D	0.9%
1.25 - 1.32	E	1.0%
.50 - 1.24	F	1.1%
.25 - .49	G	1.2%
Under .25	H	1.3%

(4) The commissioner shall compute the predetermined yield by multiplying the ratio of total wages to taxable wages for the preceding calendar year by the planned yield.

(5) The commissioner shall determine the contribution rates effective for a rate year by multiplying the predetermined 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 percentage shown in column C in the table in subparagraph (2) that corresponds with the employer's contribution category in column A, except that the experience factors in column E must be used to determine the contribution rates for rate years 2000 and 2001 and those in column D must be used for rate years 2002 and 2003. Beginning January 1, 2018, for rate years when schedule A is in effect as determined in subparagraph (3-A), the experience factor in subparagraph (2) for contribution category 1 is assigned an experience factor of 0.00 in column C.

(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.

(8) Beginning January 1, 2008, all contribution rates must be reduced by the Competitive Skills Scholarship Fund predetermined yield as defined in section 1166, subsection 1, paragraph C, except that contribution category 20 under this paragraph may not be reduced below 5.4%.

(9) Beginning January 1, 2021, the contribution rate must also be reduced by the Unemployment Program Administrative Fund predetermined yield as defined in section 1167, subsection 1, paragraph C, except that a contribution rate under this paragraph may not be reduced below 1%. [PL 2019, c. 616, Pt. EE, §2 (AMD).]

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 Division of Administrative Hearings 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 Division of Administrative Hearings' denial of the employer's application, which is subject to appeal pursuant to section 1226; and

(2) Provide each employer at least monthly with a notification of benefits paid and chargeable to the employer's experience rating record. In the absence of an application for redetermination filed within 30 days after the notification was mailed, a notification is conclusive and binding upon the employer for all purposes. Any request for reconsideration must be made in accordance with section 1226. [PL 2019, c. 585, §3 (AMD).]

D. Notwithstanding the provisions of this subsection, contributions may not be reduced by the Competitive Skills Scholarship Fund predetermined yield as defined in section 1166, subsection 1, paragraph C for any rate year in which contribution rate schedule H under paragraph B is to be in effect. [PL 2007, c. 352, Pt. A, §2 (NEW).]

[PL 2019, c. 585, §3 (AMD); PL 2019, c. 616, Pt. EE, §§1, 2 (AMD).]

5. Successor transfers of experience and assignment of rates; no common ownership. The following applies to the assignment of rates and transfers of experience in successor purchases when there is substantially no common ownership, management or control between purchaser and predecessor.

A. Effective as of the date on which the business was acquired:

(1) The executors, administrators, successors or assigns of a new employer who acquires the business of the predecessor employer in toto may acquire the experience rate of that employer with payrolls, contributions and benefits or may be assigned the state average contribution rate, whichever rate is lower; and

(2) The executors, administrators, successors or assigns of an existing employer with an established experience rate who acquires the business of the predecessor employer in toto may acquire the experience rate of that predecessor employer with payrolls, contributions and benefits, which is then blended with the successor's established experience rate to form a new rate, or retain the established experience rate of the successor, whichever is lower. [PL 2015, c. 107, §1 (RPR).]

B. [PL 2007, c. 23, §1 (RP).]

[PL 2015, c. 107, §1 (RPR).]

5-A. Transfers of experience and assignment of rates involving common ownership. The following applies to the assignment of rates and transfers of experience when there is substantial common ownership, management or control between the successor and predecessor employers.

A. If:

(1) An employer transfers its trade or business, or a portion of its trade or business, to another employer and, at the time of the transfer, there is substantially common ownership, management or control of the 2 employers, then the unemployment experience attributable to the transferred trade or business is transferred to the employer to whom the business is transferred. The rates of both employers must be recalculated and made effective immediately upon the date of the transfer of the trade or business. The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of trade or business when, as the result of such transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and such trade or business is performed by the employer to whom the workforce is transferred; and

(2) Following a transfer of experience under subparagraph (1), the commissioner determines that the purpose of the transfer of trade or business was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved must be combined into a single account and a single rate assigned to such account. [RR 2005, c. 1, §12 (COR).]

B. Whenever a person who is not an employer under this chapter acquires the trade or business of an employer, the unemployment experience of the acquired trade or business is not transferred to that person if the commissioner finds that the person acquired the trade or business solely or primarily for the purpose of obtaining a lower rate of contributions. In such circumstances, the person acquiring the trade or business is assigned the applicable new employer rate under subsection 4-A. In determining whether the trade or business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the commissioner shall consider objective factors that may include the cost of acquiring the trade or business, whether the person continued the business enterprise of the acquired trade or business, how long the business enterprise was continued or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition. [PL 2005, c. 120, §1 (NEW).]

C. If a person knowingly violates or attempts to violate paragraph A or B or any other provision of this chapter related to determining the assignment of a contribution rate or if a person knowingly advises another person in a way that results in a violation of such a provision, the person commits a Class D crime. In addition, the person is subject to the following:

(1) If the person is an employer, then that employer is assigned the highest rate assignable under this chapter for the rate year during which the violation or attempted violation occurred and for the 3 rate years immediately following that rate year, except that, if the person's business is already at the highest rate for any year or if the amount of increase in the person's rate would be less than 2% for such year, then a penalty rate of contributions of 2% of taxable wages is imposed for that year; and

(2) If the person is not an employer, that person is subject to a fine of not more than $5,000, which must be deposited in the Special Administrative Expense Fund established under section 1164. [PL 2005, c. 120, §1 (NEW).]

D. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(2) "Person" has the meaning given that term by Section 7701(a)(1) of the Internal Revenue Code of 1986.

(3) "Trade or business" includes the employer's workforce.

(4) "Violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresentation or willful nondisclosure. [PL 2005, c. 120, §1 (NEW).]

E. The commissioner shall adopt rules to identify the transfer or acquisition of a business for purposes of this subsection. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 120, §1 (NEW).]

F. This subsection must be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor. [PL 2005, c. 120, §1 (NEW).]

[PL 2015, c. 107, §2 (AMD).]

6. Definitions. The following terms, as used in this section, have the following meanings, unless the context otherwise indicates.

A. "Computation date" means June 30th of each calendar year, and the reserve ratio of each employer is determined by the commissioner as of that date. [PL 1999, c. 464, §10 (AMD).]

B. "Effective date" means the date on which the new rates become effective and is January 1st of each calendar year. [PL 1999, c. 464, §10 (AMD).]

C. "Fund reserve ratio" means the percentage obtained by dividing the net balance available for benefits payments as of September 30th of each calendar year by the total wages for the preceding calendar year. [PL 1981, c. 547, §3 (AMD).]

D. "Cost rate" means the percentage obtained by dividing net benefits paid for a calendar year by the total wages for the same period. [PL 1973, c. 563, §3 (RPR).]

E. "Net balance available for benefit payments" means the sum of the balance in the trust fund, the benefit fund and the clearing account after adjustment for outstanding checks and adjustment for funds in transit between either of the funds or the account. [PL 1999, c. 464, §10 (AMD).]

F. "Rate year" means the 12-month period commencing January 1st of each year. [PL 1999, c. 464, §10 (AMD).]

G. "Reserve multiple" means a measure of the fund reserve that expresses the current fund reserve ratio as a multiple of the composite cost rate. The reserve multiple must be rounded to 2 decimal places. For rate years that begin on and after January 1, 2000, the "reserve multiple" is a measure of the fund reserve that expresses the current fund reserve ratio as a multiple of the average benefit cost rate. [PL 1999, c. 464, §10 (AMD).]

H. "Total wages" means the aggregate total wages paid in Maine for a calendar year in covered employment by contributing employers, as reported on employer contribution reports. [PL 1973, c. 563, §3 (AMD).]

I. "Composite cost rate" means the arithmetic average of the annual cost rates for the last 15 completed calendar 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. [PL 1999, c. 464, §10 (AMD).]

J. "Average benefit cost rate" means the percentage obtained 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%. [PL 1999, c. 464, §10 (NEW).]

K. "Planned yield" means the percentage of total wages determined by the reserve multiple for the rate year in accordance with the table in subsection 4-A, paragraph B, subparagraph (3). [PL 1999, c. 464, §10 (NEW).]

L. "Ratio of total wages to taxable wages" means the factor obtained by dividing total wages for the preceding calendar year by taxable wages for the same period, except that a ratio of total wages

to taxable wages equal to 2.4 must be used to determine the contribution rates effective for rate year 2000 and a ratio equal to 2.5 must be used to determine the contribution rates effective for rate year 2001. [PL 1999, c. 464, §10 (NEW).]

M. "Predetermined yield" means the amount determined by multiplying the ratio of total wages to taxable wages by the planned yield. The predetermined yield is rounded up to the nearest 0.01% and is the calculated average contribution rate for the rate year. [PL 1999, c. 464, §10 (NEW).]

N. "Experience factors" means the weights in subsection 4-A, paragraph B, subparagraph (2) assigned to the contribution categories and used to calculate the contribution rates. [PL 1999, c. 464, §10 (NEW).]

O. "Contributions credited" means the contributions credited to the experience rating record of an employer as provided in subsection 3, including all contributions due and paid on or before July 31st following the computation date. [PL 1999, c. 464, §10 (NEW).]

P. "Benefits charged" means the benefits paid and charged against the experience rating record of an employer as provided in subsection 3, including all benefits paid and charged on or before the computation date. [PL 1999, c. 464, §10 (NEW).]

Q. "Erroneous payment" means a payment that would not have been made but for the failure by the employer or agent of the employer to respond timely or adequately to a written or electronic request from the bureau for information relating to a claim for unemployment compensation. [PL 2013, c. 314, §4 (NEW).]

R. "Pattern of failing" means repeated documented instances of failure on the part of the employer or agent of the employer to respond timely or adequately to a written or electronic request from the bureau for information relating to a claim for unemployment compensation, taking into consideration the number of instances of failure in relation to the total number of requests. An employer or agent of the employer that fails to respond timely or adequately to a written or electronic request from the bureau for information relating to a claim for unemployment compensation may not be determined to have engaged in a pattern of failing if the number of instances of failure during the year prior to a request is fewer than 2 or less than 2% of requests, whichever is greater. [PL 2013, c. 314, §5 (NEW).]

[PL 2013, c. 314, §§4, 5 (AMD).]

7. Period of time to compute rates. The commissioner shall have from July 1st to December 31st of each calendar year for the purpose of computing the rates of each employer entitled to the benefits of this section.

[PL 1981, c. 16, §10 (AMD).]

8. Effective date; definition.

[PL 1973, c. 563, §4 (RP).]

9. Contributions paid in error to another state. Contributions due under this chapter with respect to wages for insured work shall for the purpose of this section be deemed to have been paid to the fund as of the date payment was made as contributions therefor under another state or federal employment security law if payment into the fund of such contributions is made on such terms as the commissioner finds will be fair and reasonable as to all affected interests. Payments to the fund under this subsection shall be deemed to be contributions for purposes of this section.

[PL 1977, c. 675, §27 (AMD).]

10. Liability for contributions and election of reimbursement. Benefits paid to employees of nonprofit organizations and governmental entities shall be financed in accordance with this subsection. For the purpose of this subsection a nonprofit organization is an organization, or group of organizations, described in section 501(c)(3) of the U.S. Internal Revenue Code which is exempt from income tax under section 501(a) of such code. A nonprofit organization shall pay contributions as provided in

subsections 1 and 2, unless it elects in accordance with this subsection to pay to the bureau for the unemployment compensation fund, in lieu of such contributions, an amount equal to the amount of regular benefits and of 1/2 of the extended benefits paid that are attributable to service in the employ of such employer. For the purposes of this subsection, a governmental entity is an employing unit as defined in section 1043, subsection 10 for which services in employment as defined in section 1043, subsection 11, paragraph A-1, subparagraph (1), are performed. A governmental entity shall pay contributions as provided in subsections 1 and 2, unless it elects to pay to the bureau, in lieu of contributions, an amount equal to the amount of regular benefits and of 1/2 of extended benefits paid, except that for weeks of unemployment beginning after December 31, 1978, governmental entities shall pay an amount equal to all of the extended benefits paid in addition to all amounts of regular benefits paid to individuals that are attributable to service in the employ of such governmental entities.

A. Any nonprofit organization that becomes subject to this chapter after January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of 2 calendar years beginning with the date on which such subjectivity begins by filing a written notice of its election with the bureau not later than 30 days immediately following the date of determination of its subjectivity. Any nonprofit organization or governmental entity subject to this chapter on or after January 1, 1978, may elect to become liable for payments in lieu of contributions for a period of not less than one calendar year beginning with the date on which such subjectivity begins by filing a written notice of its election with the bureau not later than 30 days immediately following the date of determination of its subjectivity. Any nonprofit organization or governmental entity that makes an election in accordance with this paragraph will continue to be liable for payments in lieu of contributions, until it files with the bureau a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which such termination is first effective. [PL 1997, c. 293, §6 (AMD).]

B. Any employing unit that has become an employer pursuant to section 1043, subsection 9, paragraph H or I and has been paying contributions under this chapter may change to a reimbursable basis by filing with the bureau not later than 30 days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. The election may not be terminable by the employer for that and the next calendar year. [PL 1995, c. 220, §2 (AMD).]

C. If any employer who has elected to make payments in lieu of contributions is delinquent in making payments as required under this subsection, the bureau may terminate such employer's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be effective for that and the next calendar year and such employer shall be liable for contributions until an election of reimbursements is filed pursuant to paragraph B. [PL 1979, c. 651, §44 (AMD).]

D. The bureau may for good cause extend the period within which a notice of election or a notice of termination must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1971. [PL 1979, c. 651, §44 (AMD).]

E. The commissioner, in accordance with such rules as the commissioner may prescribe, shall notify each such employer of any determination that is made of its status as an employer and of the effective date of any election that it makes and any termination of such election. Such determination is subject to reconsideration, appeal and review in accordance with section 1082, subsection 14. [PL 2021, c. 456, §31 (AMD).]

F. A nonprofit organization, or governmental entity, that has been liable for payments in lieu of contributions whose election to make payments in lieu of contributions terminates under paragraph A or C shall pay contributions at the rate established for employers newly subject to this chapter as provided by subsection 4, paragraph A until such time as the organization's or entity's experience

rating record has been chargeable with benefits throughout the 24-consecutive-calendar-month period ending on the computation date applicable to that year, and for rate years thereafter the organization's or entity's contribution rate is determined in accordance with subsections 3 and 4. [RR 2023, c. 2, Pt. E, §110 (COR).]

G. Any employer or governmental entity who elects to make payments in lieu of contributions into the unemployment compensation fund as provided in this section shall not be liable to make such payments with respect to benefits paid to any individual whose base period wages include wages for previously uncovered services as defined in section 1043, subsection 19, paragraph C to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to section 121 of PL 94-566. No employer or governmental entity will be liable for payment in lieu of contributions for weekly benefits paid or the maximum amount paid to any individual if eligibility for such benefits would not have been established, but for the use of wages paid for previously uncovered services. [PL 1977, c. 570, §31 (NEW).]

[RR 2023, c. 2, Pt. E, §110 (COR).]

11. Reimbursement payments in lieu of contributions. Reimbursement payments in lieu of contributions shall be made in accordance with this subsection.

A. At the end of each period as determined by regulation, the commissioner shall assess each employer or governmental entity who has elected to make payments in lieu of contributions an amount as provided in subsection 10. [PL 1983, c. 351, §23 (AMD).]

B. Payment of any assessment rendered under paragraph A shall be made not later than 30 days after such assessment was mailed to the last known address of such employer or governmental entity, unless there has been an application for redetermination in accordance with paragraph D. [PL 1977, c. 570, §32 (AMD).]

C. Payments made by an employer or governmental entity under this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of such employer or governmental entity. [PL 1977, c. 570, §32 (AMD).]

D. The amount due specified in any assessment from the commissioner is conclusive on the employer or governmental entity, unless not later than 15 days after the assessment was mailed to the last known address the employer or governmental entity files an application for redetermination by the Division of Administrative Hearings setting forth the grounds for such application. [PL 2019, c. 585, §4 (AMD).]

E. Past-due payments of amounts in lieu of contributions are subject to the same interest, penalties and collection provisions that, pursuant to section 1225, subsections 3 and 4, sections 1229, 1230 and 1231 apply to past-due contributions. [PL 1997, c. 293, §7 (AMD).]

F. The commissioner shall promptly review and reconsider the amount due specified in the assessment and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination is conclusive on the employer or governmental entity unless the employer or governmental entity files an appeal in accordance with Title 5, chapter 375, subchapter VII. [PL 1997, c. 293, §8 (AMD).]

G. Refunds of payments in lieu of contributions or interest thereon shall be subject to the same provision that, pursuant to section 1225, subsection 5, applies to refunds of contributions or interest thereon. [PL 1975, c. 462, §7 (AMD).]

[PL 2019, c. 585, §4 (AMD).]

12. Provision of bond or other security. In the discretion of the commissioner, an employer who elects to become liable for payments in lieu of contributions is required within 60 days after the effective date of the employer's election to execute and file with the bureau a surety bond or the employer may elect to deposit with the bureau money or securities as approved by the commissioner; upon the failure

of an employer to comply with this subsection within the time limits imposed, the commissioner may terminate that employer's election to make payments in lieu of contributions, and the termination is effective for the current and next calendar year. This subsection does not apply to governmental entities as defined by section 1043, subsection 28, whether they act singly or in group accounts as allowed by subsection 15.
[RR 2023, c. 2, Pt. E, §111 (COR).]

13. Payments by the State, any political subdivision, or instrumentalities. The State or any political subdivision or any of their instrumentalities shall pay contributions in accordance with subsections 1 and 2, unless a governmental entity elects to pay to the bureau for the unemployment compensation fund, in lieu of contributions, an amount equal to the amount of regular benefits and 1/2 of the extended benefits paid that are attributable to service in the employ of such governmental entity, except that with respect to benefits paid for weeks of unemployment after January 1, 1979, such governmental entity must make payments in lieu of contributions as provided in subsection 10.

Each individual branch of State Government and each agency of State Government may be determined an individual entity and elect payment on an individual election to the unemployment compensation fund as provided by this subsection. Political subdivisions of the State shall be individual governmental entities for the purpose of this chapter and shall have the option of paying to the unemployment compensation fund as provided by this subsection.

Payments of the amounts due shall be made in accordance with such regulations as the commission may prescribe.
[PL 1979, c. 651, §§30, 47 (AMD).]

14. Allocation of benefit costs. Each employer or governmental entity who is liable for payments in lieu of contributions shall pay to the bureau for the fund the amount as provided in subsection 10. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer who is liable for such payments shall be determined in accordance with paragraph A or B.

A. If benefits paid to an individual are based on wages paid by one or more employers who are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer who is liable for payments in lieu of contributions must be an amount that bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by the employer bear to the total base period wages paid to the individual by all of the individual's base period employers. [RR 2023, c. 2, Pt. E, §112 (COR).]

B. If benefits paid to an individual are based on wages paid by 2 or more employers who are liable for payments in lieu of contributions, the amount of benefits payable by each such employer must be an amount that bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by the employer bear to the total base period wages paid to the individual by all of the individual's base period employers. [RR 2023, c. 2, Pt. E, §113 (COR).]

C. When it has been determined that benefits have been erroneously paid to a claimant and entitlement is based in whole or in part on wages with an employer who is liable for payments in lieu of contributions, such employer's proportionate share of such erroneous payment will be credited at the time recovery is effected. [PL 1971, c. 538, §45 (NEW).]

[RR 2023, c. 2, Pt. E, §§112, 113 (COR).]

15. Group accounts. Two or more nonprofit organizations or 2 or more governmental entities that have become liable for payments in lieu of contributions, in accordance with subsections 10 and 13, may file a joint application to the commissioner for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers or governmental entities. Each such application must identify and authorize a group

representative to act as the group's agent for the purposes of this subsection. Upon approval of the application, the commissioner shall establish a group account for such employers or governmental entities effective as of the beginning of the calendar quarter in which the commissioner receives the application and shall notify the group's representative of the effective date of the account. Such account remains in effect for not less than 2 years and thereafter until terminated at the discretion of the commissioner or upon application by the group. Upon establishment of the account, each member of the group is liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The commissioner shall prescribe such rules the commissioner considers necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subsection by members of the group and the time and manner of such payments.
[PL 2021, c. 456, §32 (AMD).]

16. Transition provision. Notwithstanding subsections 10, 11, 14 and 15, any nonprofit organization or group of organizations not required to be covered pursuant to section 3309(a)(1) of the Federal Unemployment Tax Act prior to January 1, 1978, that prior to October 20, 1976, paid contributions required by subsection 1, and pursuant to subsection 10, elects, within 30 days after January 1, 1978, to make payments in lieu of contributions shall not be required to make any such payment on account of any regular or extended benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which begin on or after the effective date of such election until the total amount of such benefits equals the amount of the positive balance in the experience rating record of such organization.
[PL 1977, c. 570, §37 (NEW).]

SECTION HISTORY

PL 1965, c. 381, §§19-21 (AMD). PL 1971, c. 538, §§35-46 (AMD). PL 1971, c. 620, §11 (AMD). PL 1973, c. 555, §§15-19 (AMD). PL 1973, c. 563, §§1-5 (AMD). PL 1975, c. 462, §§5-7 (AMD). PL 1975, c. 693 (AMD). PL 1975, c. 729 (AMD). PL 1977, c. 285 (AMD). PL 1977, c. 460, §§6,7 (AMD). PL 1977, c. 564, §§99-A (AMD). PL 1977, c. 570, §§26-37 (AMD). PL 1977, c. 585, §3 (AMD). PL 1977, c. 675, §§23-28 (AMD). PL 1977, c. 694, §§478,479 (AMD). PL 1977, c. 696, §205 (AMD). PL 1979, c. 541, §A184 (AMD). PL 1979, c. 579, §§23-29,43- 45 (AMD). PL 1979, c. 651, §§24-30,44- 47 (AMD). PL 1981, c. 16, §§1-10 (AMD). PL 1981, c. 168, §25 (AMD). PL 1981, c. 286, §4 (AMD). PL 1981, c. 547, §§2,3 (AMD). PL 1983, c. 16 (AMD). PL 1983, c. 128, §2 (AMD). PL 1983, c. 351, §§22-24 (AMD). PL 1983, c. 650, §2 (AMD). PL 1983, c. 753, §§2,3 (AMD). PL 1985, c. 348, §§9-11 (AMD). PL 1989, c. 363, §2 (AMD). PL 1993, c. 22, §§6,7 (AMD). PL 1993, c. 22, §8 (AFF). PL 1993, c. 312, §2 (AMD). PL 1995, c. 9, §5 (AMD). PL 1995, c. 9, §6 (AFF). PL 1995, c. 220, §§1,2 (AMD). PL 1995, c. 657, §3 (AMD). PL 1995, c. 657, §10 (AFF). PL 1997, c. 293, §§6-8 (AMD). PL 1997, c. 380, §§2,3 (AMD). PL 1997, c. 745, §§2,3 (AMD). PL 1999, c. 191, §1 (AMD). PL 1999, c. 464, §§9,10 (AMD). PL 1999, c. 740, §2 (AMD). RR 2005, c. 1, §12 (COR). PL 2005, c. 40, §1 (AMD). PL 2005, c. 120, §1 (AMD). PL 2007, c. 23, §1 (AMD). PL 2007, c. 352, Pt. A, §2 (AMD). PL 2011, c. 499, §§1, 2 (AMD). PL 2011, c. 499, §4 (AFF). PL 2013, c. 175, §1 (AMD). PL 2013, c. 314, §§3-5 (AMD). PL 2013, c. 314, §6 (AFF). PL 2015, c. 107, §§1, 2 (AMD). PL 2017, c. 117, §12 (AMD). PL 2017, c. 284, Pt. CCCCC, §§2-5 (AMD). PL 2019, c. 343, Pt. TTT, §1 (AMD). PL 2019, c. 585, §§1-4 (AMD). PL 2019, c. 616, Pt. EE, §§1, 2 (AMD). PL 2021, c. 456, §§31, 32 (AMD). RR 2023, c. 2, Pt. E, §§107-113 (COR). PL 2025, c. 235, §21 (AMD).

§1221-A. Employee leasing companies

1. Joint and several liability. A client company is jointly and severally liable for unpaid contributions, interest and penalties due under this chapter from the employee leasing company for wages paid to employees leased to the client company.
[PL 1995, c. 221, §1 (AMD).]

2. Liability for contributions. Notwithstanding any other provisions of this chapter, during the term of the employee leasing arrangement, an employee leasing company is liable for the payment of contributions, penalties and interest on wages paid to employees leased to a client company, except compensation paid to sole proprietors of or partners in the client company.
[PL 1991, c. 468, §3 (NEW); PL 1991, c. 468, §6 (AFF).]

3. Reporting requirements. Until January 1, 2026, the employee leasing company shall report and pay all contributions under its state employer identification number using the employee leasing company's contribution rate. Beginning January 1, 2026, the employee leasing company shall report and pay all contributions under the client company's state employer identification number using the client company's contribution rate. The employee leasing company shall keep separate records and submit separate quarterly wage reports for each of its client companies to the bureau.
[PL 2025, c. 235, §22 (AMD).]

4. Administration of benefits. The employee leasing company is responsible for administration of claims for unemployment insurance benefits for the employees leased to each client company.
[PL 1991, c. 468, §3 (NEW).]

5. Surety bond securities.
[PL 1995, c. 221, §2 (RP).]

6. Limitation on application. This section does not apply to private employment agencies that provide their employees to employers on a temporary help basis, if the private employment agencies are liable as employers for the payment of contributions on wages paid to those temporary employees.
[PL 1991, c. 468, §3 (NEW).]

7. Client company ceasing to pay wages. Whenever a client company does not pay wages for a period of 12 consecutive calendar quarters following the latest calendar quarter in which it paid wages, the commissioner shall terminate the client company's account and experience rating record. If the client company subsequently becomes subject to this section after its account and experience rating record have been terminated, the client company is deemed a new employer for the purposes of this chapter and shall pay contributions at the average contribution rate as defined in section 1221, subsection 4, paragraph A.
[PL 1991, c. 468, §3 (NEW).]

8. Penalty. A person or an employee leasing company that violates this chapter is subject to a forfeiture of $100 per day for each violation. A corporation, partnership, sole proprietorship or other form of business entity and an officer, director, general partner, agent, representative or employee of any of those types of business entities that knowingly uses or participates in an employee leasing agreement, arrangement or mechanism for the purpose of depriving one or more insurers of premiums or avoiding the calculation of the proper contribution rate for purposes of unemployment contributions commits a Class E crime.
[PL 1995, c. 221, §3 (RPR).]

9. Rebuttable presumption. When an employee leasing company leases employees to only one client company or when the leasing company and the client company or companies are owned or controlled by the same parties or interests, directly or indirectly, by legally enforceable means or otherwise, there is a rebuttable presumption that the client company or companies entered into an

employee leasing arrangement to avoid the calculation of the proper contribution rate for payment of unemployment contributions.
[PL 1995, c. 221, §4 (NEW).]

SECTION HISTORY

PL 1991, c. 468, §3 (NEW). PL 1991, c. 468, §6 (AFF). PL 1993, c. 264, §§1,2 (AMD). PL 1995, c. 221, §§1-4 (AMD). PL 2025, c. 235, §22 (AMD).

§1221-B. Treatment of Indian tribes

To the extent permitted under federal law, including the Maine Indian Claims Settlement Act, Title 25, United States Code, Chapter 19, Subchapter II, this section governs unemployment contributions and direct reimbursement options for Indian tribes. [PL 2001, c. 381, §1 (NEW).]

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

A. "Employing unit," as defined in this chapter, includes any Indian tribe for which service in employment is performed. [PL 2001, c. 381, §1 (NEW).]

B. "Employment" includes service performed in the employ of an Indian tribe, as defined in the Federal Unemployment Tax Act, 26 United States Code, Chapter 23, Section 3306(u), 2000, referred to in this section as "FUTA," as long as that service is excluded from the definition of employment as defined in 26 United States Code, Section 3306(c) solely by reason of 26 United States Code, Section 3306(c)(7) and is not otherwise excluded from the definition of employment under this chapter. For purposes of this paragraph, the exclusions from employment in section 1043, subsection 11, paragraph F, subparagraph (17), division (i), subdivisions (i), (ii), (iii), (iv) and (v) are applicable to services performed in the employ of an Indian tribe. [PL 2011, c. 691, Pt. A, §29 (AMD).]

C. "Indian tribe" means an Indian tribe or tribal unit, including a subdivision, subsidiary or business enterprise wholly owned by an Indian tribe subject to this chapter. [PL 2001, c. 381, §1 (NEW).]
[PL 2011, c. 691, Pt. A, §29 (AMD).]

2. Benefits. Benefits based on service in employment are payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter.
[PL 2001, c. 381, §1 (NEW).]

3. Payments in lieu of contributions. Contributions by Indian tribes for unemployment tax purposes are controlled by this subsection.

A. An Indian tribe shall pay contributions under the same terms and conditions as all other subject employers unless that Indian tribe elects to pay into the fund amounts equal to the amount of benefits attributable to service in the employ of the Indian tribe. [PL 2001, c. 381, §1 (NEW).]

B. An Indian tribe electing to make payments in lieu of contributions shall make that election in the same manner and under the same conditions as provided in section 1221, subsection 11 for the State and local governments and nonprofit organizations subject to this chapter. An Indian tribe shall determine if reimbursement for benefits paid will be elected by the Indian tribe as a whole, by an individual tribal unit or by a combination of individual tribal units. [PL 2001, c. 381, §1 (NEW).]

C. An Indian tribe or tribal unit must be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions. [PL 2001, c. 381, §1 (NEW).]

D. At the discretion of the commissioner, an Indian tribe that elects to become liable for payments in lieu of contributions shall, within 60 days after the effective date of its election:

(1) Execute and file with the commissioner a surety bond approved by the commissioner; or

(2) Deposit with the commissioner money or securities on the same basis as other employers with the same election option. [PL 2001, c. 381, §1 (NEW).]

[PL 2001, c. 381, §1 (NEW).]

4. Failure to make payments. An Indian tribe that fails to make the required payment is subject to this subsection.

A. An Indian tribe that fails to make the payments required by this chapter, including assessments of interest and penalty, within 90 days of receipt of the bill loses the option to make payments in lieu of contributions, as described in subsection 3, for the following tax year unless payment in full is received before contribution rates for the next tax year are computed. [PL 2001, c. 381, §1 (NEW).]

B. An Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in paragraph A, regains the option if, after a period of one year, all contributions have been made on time and no contributions, payments in lieu of contributions for benefits paid, interest or penalties remain outstanding. [PL 2001, c. 381, §1 (NEW).]

C. Notwithstanding subsection 1, paragraph B, if the Indian tribe fails to make required payments, including assessments of interest and penalty, after all collection activities considered necessary by the commissioner have been exhausted, services performed for that Indian tribe are not considered employment for purposes of subsection 1, paragraph B. [PL 2001, c. 381, §1 (NEW).]

D. An Indian tribe that loses coverage due to paragraph C may have services performed for that Indian tribe included as employment at the discretion of the commissioner, once all contributions, payments in lieu of contributions, interest and penalties have been paid. [PL 2001, c. 381, §1 (NEW).]

[PL 2001, c. 381, §1 (NEW).]

5. Notices to Indian tribes. The commissioner shall provide notification in notices of payment and reporting delinquency to Indian tribes that failure to make full payment within the prescribed time frame:

A. Will cause the Indian tribe to be liable for taxes under FUTA; [PL 2001, c. 381, §1 (NEW).]

B. Will cause the Indian tribe to lose the option to make payments in lieu of contributions; and [PL 2001, c. 381, §1 (NEW).]

C. Could cause services in the employ of the Indian tribe to be excepted from employment for purposes of obtaining benefits under the Employment Security Law. [PL 2001, c. 381, §1 (NEW).]

[PL 2001, c. 381, §1 (NEW).]

6. Notices to Federal Government. If an Indian tribe fails to make payments required under this section, including assessments of interest and penalties, within 90 days of a final notice of delinquency, the commissioner shall notify immediately the United States Internal Revenue Service and the United States Department of Labor.

[PL 2001, c. 381, §1 (NEW).]

7. Extended benefits. Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the Federal Government must be financed in their entirety by that Indian tribe.

[PL 2001, c. 381, §1 (NEW).]

8. Continuation of coverage. Unemployment benefits payable to unemployed individuals who performed services in employment for an Indian tribe as defined in this section and who meet the eligibility qualifications under this chapter may not be withheld because the Indian tribe is delinquent in the payment of unemployment contributions or reimbursement payments in lieu of contributions as defined in this chapter.
[PL 2001, c. 381, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 381, §1 (NEW). PL 2011, c. 691, Pt. A, §29 (AMD).

§1222. Period, election and termination of coverage

1. Period of employer's coverage. Any employing unit which is or becomes an employer subject to this chapter within any calendar year shall be subject to this chapter during the whole of such calendar year.

2. Termination of employer's coverage.

A. Except as otherwise provided in subsection 3, an employing unit which became an employer under section 1043, subsection 9, paragraph H shall cease to be an employer subject to this chapter as of the first day of January of any calendar year, only if it files with the commissioner, prior to the 31st day of January of such year, a written application for termination of coverage, and the commissioner finds that there were no 20 different days, each day being in a different week within the preceding calendar year, within which such employing unit employed 4 or more individuals in employment subject to this chapter. For the purpose of this subsection, the 2 or more employing units mentioned in section 1043, subsection 9, paragraph B or C or D shall be treated as a single employing unit. [PL 1979, c. 651, §45 (AMD).]

B. The commissioner may upon the commissioner's own motion terminate coverage of an employer, who became an employer under section 1043, subsection 9, paragraph H, when the commissioner finds that there were no 20 different days, each day being in a different week within the preceding calendar year, within which the employing unit employed 4 or more individuals in employment subject to this chapter; and the commissioner may upon the commissioner's own motion terminate the coverage of an employing unit that had become an employer by virtue of subsection 3, as of January 1st of any calendar year when the employing unit has, by virtue of approval of its election to become a subject employer, been a subject employer for the 2 or more preceding calendar years. [RR 2023, c. 2, Pt. E, §114 (COR).]

C. Except as otherwise provided in subsection 3, an employing unit which became an employer under section 1043, subsection 9, paragraph A-1, shall cease to be an employer subject to this chapter as of the first day of January of any calendar year, only if it files with the commissioner, prior to the 31st day of January of such year, a written application for termination of coverage, and the commissioner finds that there were no 20 different weeks, within the preceding calendar year, within which such employing unit employed one or more individuals in employment subject to this chapter, and did not pay wages of $1,500 in any calendar quarter. For the purpose of this subsection, the 2 or more employing units mentioned in section 1043, subsection 9, paragraph B or C or D shall be treated as a single employing unit. [PL 1979, c. 651, §45 (AMD).]

D. The commissioner may upon the commissioner's own motion terminate coverage of an employer when the commissioner finds that there were no 20 different weeks within the preceding calendar year within which the employing unit employed one or more individuals in employment subject to this chapter and did not pay wages of $1,500 in any calendar quarters; and the commissioner may upon the commissioner's own motion terminate the coverage of an employing unit that had become an employer by virtue of subsection 3, paragraphs A and B, as of January 1st of any calendar year when the employing unit has, by virtue of approval of its election to become

a subject employer, been a subject employer for the 2 or more preceding calendar years. [RR 2023, c. 2, Pt. E, §115 (COR).]

E. Except as otherwise provided in subsection 3, an employing unit which became an employer under section 1043, subsection 9, paragraph J, shall cease to be an employer subject to this chapter as of the first day of January of any calendar year, only if it files with the commissioner, prior to the 31st day of January of that year, a written application for termination of coverage and the commissioner finds that there were not 20 different days, each day being in a different week within the preceding calendar year, within which that employing unit employed 10 or more individuals in agricultural labor subject to this chapter and did not pay wages of $20,000 to individuals employed in agricultural labor in any calendar quarter. For the purpose of this subsection, the 2 or more employing units mentioned in section 1043, subsection 9, paragraph B, C or D, shall be treated as a single employing unit. [PL 1983, c. 351, §25 (AMD).]

F. The commissioner may terminate coverage of any employer who became an employer under section 1043, subsection 9, paragraph J, when the commissioner finds that there were not 20 different days, each day being in a different week within the preceding calendar year, within which the employing unit employed 10 or more individuals in agricultural labor subject to this chapter and did not pay wages of $20,000 to individuals employed in agricultural labor in any calendar quarter; and the commissioner may terminate coverage of any employer who became an employer under section 1043, subsection 9, paragraph K, when the commissioner finds that the employing unit did not pay wages of $1,000 to individuals employed in domestic service in any calendar quarter of the preceding calendar year. [PL 1983, c. 351, §25 (AMD).]

G. Except as otherwise provided in subsection 3, an employing unit which became an employer under section 1043, subsection 9, paragraph K, shall cease to be an employer subject to this chapter as of the first day of January of any calendar year, only if it files with the commissioner, prior to the 31st day of January of that year, a written application for termination of coverage and the commissioner finds that the employing unit did not pay wages of $1,000 to individuals employed in domestic service in any calendar quarter of the preceding calendar year. For the purpose of this subsection, the 2 or more employing units mentioned in section 1043, subsection 9, paragraph B, C or D, shall be treated as a single employing unit. [PL 1983, c. 351, §25 (AMD).]

[RR 2023, c. 2, Pt. E, §§114, 115 (COR).]

3. Election and termination of employer's coverage.

A. An employing unit, not otherwise subject to this chapter, which files with the commissioner its written election to become an employer subject hereto for not less than 2 calendar years, shall, with the written approval of such election by the commissioner, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1st of any calendar year subsequent to such 2 calendar years, only if it files with the commissioner, prior to the 31st day of January of such year, a written application for termination of coverage. [PL 1979, c. 651, §45 (AMD).]

B. Any employing unit, for which services that do not constitute employment as defined in this chapter are performed, may file with the commissioner a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this chapter for not less than 2 calendar years. Upon the written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to this chapter from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1st of any calendar year subsequent to such 2 calendar years, if not later than January 31st of such year such employing unit has filed with the commissioner an application for termination of coverage. [PL 1979, c. 651, §45 (AMD).]

C. [PL 1977, c. 570, §38 (RP).]
[PL 1979, c. 651, §45 (AMD).]

SECTION HISTORY

PL 1971, c. 538, §§47-49 (AMD). PL 1977, c. 570, §§38,40 (AMD). PL 1979, c. 354, §§1,2 (AMD). PL 1979, c. 579, §§30,31,44 (AMD). PL 1979, c. 651, §§31,32,45,47 (AMD). PL 1983, c. 351, §25 (AMD). RR 2023, c. 2, Pt. E, §§114, 115 (COR).

§1223. Collection of contributions

(REPEALED)

SECTION HISTORY

PL 1969, c. 186, §2 (AMD). PL 1973, c. 555, §20 (AMD). PL 1975, c. 462, §8 (RP).

§1224. Exempt employers to report on accrued wages

All employers, exempt from the weekly payment of wage law of this State, may be required to report to the commissioner all accrued wages payable for employment during the calendar quarter when filing payroll reports in accordance with section 1082, subsection 13 under such regulations as the commission may prescribe. Nothing in this section shall be construed to make contributions due and payable on any part of such reported wages which have not actually been paid, but wages so reported shall be deemed to be wages paid for unemployment benefit purposes. [PL 1979, c. 651, §33 (AMD).]

SECTION HISTORY

PL 1979, c. 515, §17A (AMD). PL 1979, c. 579, §32 (AMD). PL 1979, c. 651, §§33,47 (AMD).

§1225. Assessment of contributions, interest, penalties and filing fees

1. Assessment procedure. If any employer files reports for the purpose of determining the amount of contribution due, but fails to pay any part of the contribution, interest or penalties due thereon as prescribed by the commissioner, or fails to file the reports when due, or files an incorrect or insufficient report, the Director of Unemployment Compensation may assess the contribution and any interest or penalties due on the basis of the information submitted by the employer or on the basis of an estimate as to the amount due and shall give written notice of the assessment to the employer.
[PL 1993, c. 312, §3 (AMD).]

1-A. Liability of employer and certain individuals. The liability for contributions or fees and the interest or penalties due on contributions are enforceable by assessment and collection, in the manner prescribed in this section, against the employer and against any officer, director or member of that employer who, in that capacity, is responsible for the control or management of the funds or finances of that employer or is responsible for the payment of that employer's contribution.
[PL 1999, c. 464, §11 (NEW).]

1-B. Responsible individual. Each employer liable for contributions shall inform the commissioner or the commissioner's duly authorized representative, at the time an audit of that employer's account is performed, of the name and position of the individual who generally is responsible for the control or management of that employer's funds or finances and, if different, the individual who is specifically responsible for the collection and paying over of those contributions.
[PL 1999, c. 464, §11 (NEW).]

2. Jeopardy assessment. If the Director of Unemployment Compensation determines that the collection of any contribution, interest or penalty under this subchapter, as amended, will be jeopardized by delay, the director may immediately assess the contributions, interest or penalties, whether or not the time prescribed by law or any rules issued pursuant to section 1082, subsection 2 for making reports and paying the contributions has expired, and shall give written notice of the assessment to the employer. In these cases, the right to appeal to the Division of Administrative Hearings, as provided in

section 1226, is conditioned upon payment of the contributions, interest or penalties so assessed, or upon giving appropriate security to the commissioner for the payment thereof.
[PL 2019, c. 585, §5 (AMD).]

3. Interest on past-due contributions. Contributions are due and payable on or before the last day of the month following the close of the calendar quarter to which contributions relate. Contributions that are unpaid on the date on which they are due and payable bear interest at the rate determined by the State Tax Assessor as established by Title 36, section 186, from and after the due date, until payment is received by the bureau. If it is shown to the satisfaction of the commissioner that the delinquency arose from reasonable questions of liability under this subchapter, the commissioner, in the commissioner's discretion, may abate part of the interest not to exceed 75% of the total interest. If it is shown to the satisfaction of the commissioner that the delinquency arose through no fault of the employer, an assessment of interest may not be made.
[PL 1995, c. 657, §4 (AMD); PL 1995, c. 657, §10 (AFF).]

4. Penalty on past-due contributions. If quarterly contributions are not paid when due, the commissioner shall assess a penalty of 1% of the amount of the unpaid contributions for each month or fraction of a month during which the failure continues, to a maximum in the aggregate of 25% of the unpaid contributions.
[PL 1995, c. 657, §4 (AMD); PL 1995, c. 657, §10 (AFF).]

5. Refunds. If, not later than 4 years after the date on which any contributions or interest thereon became due, an employer who has paid the contributions or interest thereon makes application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because that adjustment can not be made, and if the commissioner determines that the contributions or interest or any portion thereof was erroneously collected, the commissioner shall allow the employer to make an adjustment, without interest, in connection with subsequent contribution payments by the employer, or if the adjustment can not be made, the commissioner shall refund that amount, without interest, from the fund. For like cause and within the same period, adjustment or refund may be so made on the commissioner's own initiative. Any adjustment or refund involving contributions with respect to wages upon the basis of which benefits have been paid for unemployment must be reduced by the amount of benefits paid. If the commissioner determines that contributions or interest were erroneously paid to this State on wages insured under the employment security law of some other state or of the Federal Government, refund or adjustment thereof may be made without interest, irrespective of the time limits provided in this subsection, on satisfactory proof that contributions or interest on the wages have been paid to the other state or to the Federal Government. Nothing in this chapter or any part of the chapter may be construed to authorize any refund or credit of money due and payable under the law and rule in effect at the time the money was paid.
[PL 1993, c. 312, §3 (AMD).]

6. Limitations on assessment. Limitations on assessments are governed by this subsection.

A. Notification of assessments must be mailed to the employer not later than 4 years after a report was due or filed, whichever is later. Before the expiration of the time prescribed in this subsection, the commissioner and the employer may consent in writing to an assessment after that time, and the notification of assessment must be mailed within the agreed-upon limitation. [PL 1993, c. 312, §3 (NEW).]

B. Exceptions to paragraph A are as follows.

(1) If, with willful intent to evade the liability imposed by this chapter, a report is not filed or a false report is filed, a notification of an assessment may be mailed to the employer at any time.

(2) The running of the period of limitations for assessment or collection of unemployment compensation contributions against an employer must be stayed for the period of time, plus

365 days, during which an assessment against that person is subject to administrative or judicial review or remains outstanding because that person is subject to bankruptcy proceedings under 11 United States Code. [PL 1993, c. 312, §3 (NEW).]

[PL 1993, c. 312, §3 (AMD).]

7. Filing fees. Any employer who fails to make and submit reports or pay any contributions or reimbursements, including interest and penalties, when due is liable to the commissioner for any filing fees, including recording lien fees, discharge lien fees and sheriff fees, incurred in collecting the amounts due or in obtaining the reports.

[PL 1993, c. 312, §3 (NEW).]

8. Reasonable cause. For reasonable cause, the commissioner shall waive or abate any penalty imposed by subsection 4 and section 1082, subsection 13. Reasonable cause includes, but is not limited to, the following:

A. The failure to file or pay resulted directly from erroneous information provided by the Department of Labor; [PL 1995, c. 657, §5 (NEW); PL 1995, c. 657, §10 (AFF).]

B. The failure to file or pay resulted directly from the death or serious illness of the taxpayer or a member of the taxpayer's immediate family; [PL 1995, c. 657, §5 (NEW); PL 1995, c. 657, §10 (AFF).]

C. The failure to file or pay resulted directly from a natural disaster; [PL 1995, c. 657, §5 (NEW); PL 1995, c. 657, §10 (AFF).]

D. The report was filed and paid less than one month late and all of the taxpayer's reports and payments during the preceding 3 years were timely; or [PL 1995, c. 657, §5 (NEW); PL 1995, c. 657, §10 (AFF).]

E. The amount subject to a penalty is de minimis when considered in relation to the amount otherwise properly paid and the number of employees for whom wages are being reported. [PL 1995, c. 657, §5 (NEW); PL 1995, c. 657, §10 (AFF).]

The burden of establishing reasonable cause for waiver or abatement is on the taxpayer.

[PL 1995, c. 657, §5 (NEW); PL 1995, c. 657, §10 (AFF).]

SECTION HISTORY

PL 1975, c. 462, §9 (NEW). PL 1977, c. 460, §8 (AMD). PL 1979, c. 106 (AMD). PL 1979, c. 515, §18 (AMD). PL 1979, c. 579, §§33-37,44 (AMD). PL 1979, c. 651, §§34-38,45, 47 (AMD). PL 1981, c. 552 (AMD). PL 1983, c. 351, §§26-28 (AMD). PL 1983, c. 733 (AMD). PL 1985, c. 348, §12 (AMD). PL 1993, c. 312, §3 (AMD). PL 1995, c. 657, §§4,5 (AMD). PL 1995, c. 657, §10 (AFF). PL 1999, c. 464, §11 (AMD). PL 2019, c. 585, §5 (AMD).

§1226. Appeal of determination or assessment

1. Appeal to the commission.

A. An employer may appeal determinations by the commissioner or the commissioner's designated representatives made under sections 1082, subsection 14, 1221, 1222, 1225 and 1228, or an assessment made under section 1225, to the Division of Administrative Hearings by filing an appeal, in accordance with rules that the commissioner prescribes, within 30 days after notification is mailed to the employer's last known address as it appears in the records of the bureau or, in the absence of such mailing, within 30 days after the notification is delivered. If the employer fails to perfect this appeal, the assessment or determination is final as to law and fact. [PL 2021, c. 456, §33 (AMD).]

B. Upon appeal from such assessment or determination the Division of Administrative Hearings shall, after affording the appellant and the commissioner's designated representative a reasonable

opportunity for a fair hearing, make finding of facts and render its decision, which may affirm, modify or reverse the action of the designated representative. The conduct of the hearings is governed by rules of the commission consistent with Title 5, section 9051 et seq. The Division of Administrative Hearings shall promptly notify the parties to the proceeding of its finding of facts and its decision. The decision is subject to appeal to the commission, which may affirm, modify or reverse the decision of the Division of Administrative Hearings based on the evidence presented or may remand the case to the Division of Administrative Hearings for further hearing pursuant to the commission's rules. The decision of the commission is subject to appeal pursuant to Title 5, section 11001 et seq. The commissioner has the right to appeal a final decision of the commission to the Superior Court. [PL 2017, c. 284, Pt. AAAAA, §4 (AMD).]

[PL 2021, c. 456, §33 (AMD).]

2. Appeal to Superior Court.

[PL 1977, c. 694, §481 (RP).]

3. Conclusiveness of determination. Any determination or decision duly made in proceedings under section 1082, subsection 14 or this subchapter that has become final is binding in any proceedings relating to applications or requests for refunds or credit, insofar as such determination or decision necessarily involves the issue of whether an employing unit constitutes an employer or whether services performed for, or in connection with, the business of such employing unit constitute employment.

[PL 2017, c. 284, Pt. AAAAA, §4 (AMD).]

SECTION HISTORY

PL 1975, c. 462, §9 (NEW). PL 1977, c. 460, §9 (AMD). PL 1977, c. 694, §§480-481 (AMD). PL 1979, c. 127, §164 (AMD). PL 1979, c. 579, §§38,39 (AMD). PL 1979, c. 651, §§39,40,47 (AMD). PL 1981, c. 286, §§5,6 (AMD). PL 1983, c. 351, §§29,30 (AMD). PL 1995, c. 657, §6 (AMD). PL 1995, c. 657, §10 (AFF). PL 2017, c. 284, Pt. AAAAA, §4 (AMD). PL 2021, c. 456, §33 (AMD).

§1227. Liens

1. Form and effect. Upon the failure of an employer to pay the amount assessed pursuant to section 1225, the commissioner may file in the registry of deeds of any county a certificate under the commissioner's official seal, stating the name of the employer; the employer's address; the amount of the contributions and interest or penalties assessed and in default; and that the time in which an appeal is permitted pursuant to section 1226 has expired without the appeal having been taken or that delay will jeopardize collection. When the certificate is duly filed and recorded, the amount of the assessment is a lien upon the entire interest of the employer, legal or equitable, in any real or tangible personal property situated within the jurisdiction of the office in which that certificate was filed. A lien obtained in this manner is a lien for taxes, and the priority of the lien is governed by the laws of this State. The liens are subordinate to any real estate mortgage previously recorded as required by law. A lien for contributions or interest is not valid against a person who purchases personal property from the employer in the usual course of business in good faith and without actual notice of the lien. The lien may be enforced against any real or personal property by a civil action in the name of the commissioner. The commissioner shall discharge any such lien upon receiving, from any such employer against whose property a lien certificate has been filed, a good and sufficient bond with sureties conditioned upon the payment of the amount of contributions and interest as finally determined, together with any additional amount that may have become due or may have accrued under this chapter and costs of court, if any.

The remedies in this subsection are in addition to all other remedies.

[PL 2025, c. 390, Pt. A, §47 (AMD).]

2. Filing lien. Certificates of liens for contributions or interest, or certificates discharging the liens prepared in accordance with this section, must be received, recorded and indexed by registrars of deeds in the same manner as similar instruments are recorded and indexed. The fee to be paid by the

commissioner for recording each certificate is the usual and customary fee, which need not be prepaid. This recording fee, along with all other filing fees pursuant to section 1225, subsection 7, is the liability of the employer and must be assessed as part of the lien pursuant to subsection 1.
[PL 1993, c. 312, §4 (AMD).]

3. Enforcement of lien. After any assessment has become final and rights of appeal exhausted or lost by virtue of failure to exercise those rights, any property, real or personal, upon which a lien has been claimed under this chapter may be sold, after due notice, in conformity with the law applicable to sales of real or personal property on executions issued in personal actions, in connection with which sales the commissioner shall have the same rights, privileges, duties and responsibilities as one in whose favor an execution is issued.
[PL 1983, c. 351, §33 (AMD).]

SECTION HISTORY

PL 1975, c. 462, §9 (NEW). PL 1977, c. 189 (AMD). PL 1981, c. 557, §1 (AMD). PL 1983, c. 351, §§31-33 (AMD). PL 1987, c. 14, §§1,2 (AMD). PL 1993, c. 312, §4 (AMD). RR 2023, c. 2, Pt. E, §116 (COR). PL 2025, c. 390, Pt. A, §47 (AMD).

§1228. Liability of successor

An individual or organization, including the types of organizations described in section 1043, subsection 10, whether or not an employing unit, that acquires the organization, trade or business or a substantial part of the assets thereof from an employer, is liable, in an amount not to exceed the reasonable value of the organization, trade, business or assets acquired, for any contributions or interest due or accrued and unpaid by the employer, and the amount of the liability must, in addition, be a lien against the property or assets acquired, which must be prior to all other liens. The lien may not be valid as against a person who acquires from the successor any interest in the property or assets in good faith, for value and without notice of the lien. Upon written request made after the acquisition is completed, the commissioner shall furnish the successor with a written statement of the amount of contributions and interest due or accrued and unpaid by the employer as of the date of the acquisition, and the amount of the liability of the successor or the amount of the lien may not exceed the liability disclosed by the statement. The remedies in this section are in addition to all other existing remedies against the employer or the employer's successor. [PL 2025, c. 390, Pt. A, §48 (AMD).]

SECTION HISTORY

PL 1975, c. 462, §9 (NEW). PL 1979, c. 579, §44 (AMD). PL 1979, c. 651, §§45,47 (AMD). RR 2023, c. 2, Pt. E, §117 (COR). PL 2025, c. 390, Pt. A, §48 (AMD).

§1229. Collection by civil action

If any employer fails to make any payment of contributions, interest or penalties after notice of an assessment under section 1225, subsection 1, and after the assessment has become final as to law and fact, in addition to or alternatively to any other method of collection prescribed in this chapter, the amount due may be collected by civil action in the name of the commissioner and the employer shall pay the costs of those actions. Civil actions brought under this section to collect contributions and interest, or penalties due thereon, from an employer must be heard by the court at the earliest possible date and are entitled to preference upon the calendar of the court over all other civil actions, except petitions for judicial review under this chapter and cases arising under the Maine Workers' Compensation Act of 1992. The foregoing remedies are in addition to all other existing remedies against the employer or the employer's successor. [RR 1993, c. 1, §70 (COR).]

SECTION HISTORY

PL 1975, c. 462, §9 (NEW). PL 1983, c. 351, §34 (AMD). RR 1993, c. 1, §70 (COR).

§1230. Collection by warrant

1. Request for warrant. If any contribution required to be paid and any interest or penalty or both payable to the commissioner under this chapter is not paid when due and has become final as to law and fact under section 1226, the commissioner may, within 3 years thereafter, notify the employer who is liable according to the records of the bureau, specifying the amount due and demanding payment within 12 days after the date the notice is mailed. The notice must inform the employer that if the employer does not make the payment as demanded, the commissioner will certify the amount due for collection by warrant as provided in this section. If the employer does not make payment as demanded within the 12-day period or within an extended period that the commissioner may allow, the commissioner may certify to the Attorney General the amount due for collection or file in the office of the clerk of the Superior Court of Kennebec County, or any county, a certificate addressed to the clerk specifying the contribution required to be paid, interest and penalties due, the name and address of the liable employer as it appears on the records of the bureau, the facts according to which the amount has become final as to law and fact and the notice given and requesting that a warrant be issued against the employer for the contribution required to be paid, together with interest and penalties, as set forth in the certificate, and with costs. If the commissioner has reasonable grounds to believe that the employer may abscond within the 12-day period, the commissioner may, without further notice to the employer, certify to the Attorney General the amount due for collection or file in the office of the clerk of the Superior Court a certificate addressed to the clerk requesting the immediate issuance of a warrant.
[RR 2023, c. 2, Pt. E, §118 (COR).]

2. Issuance of warrant. When the certificate is filed, the clerk of the Superior Court shall issue a warrant in favor of the bureau against the employer for the contribution required to be paid, together with interest and penalties, as set forth in the certificate and with costs. The clerk of the Superior Court shall file the certificate in a separate docket entitled "Special Warrants for Unemployment Compensation Tax." These records are not to become a part of the extended record of the court.
[PL 1979, c. 651, §44 (AMD).]

3. Warrant effective as lien. An abstract or copy of the warrant may be filed for record in the registry of deeds of any county. From the time of the filing, the amount specified in the warrant constitutes a lien upon all real property and other tangible assets in the county or town owned by the liable employer or acquired by the liable employer during the period of the lien. The lien has the force, effect and priority of a judgment lien and continues for 5 years from the date of recording, unless sooner released or otherwise discharged or extended as prescribed in this subsection. The lien may be extended for an additional 5-year period by filing, for record in the registry of deeds, an abstract or copy of the warrant within the original 5-year period or within 5 years from the date of the last extension of the lien.
[PL 2025, c. 390, Pt. A, §49 (AMD).]

4. Form and effect of warrant.

A. The warrant has the force and effect of an execution issued upon a judgment in a civil action for the collection of taxes and benefit overpayments and may be in substantially the following form:

"..... (Name of County) SS. -- To the sheriffs of our respective counties or their deputies or any agent of the Commissioner of Labor

Whereas, the Bureau of Unemployment Compensation or the Attorney General have certified that, pursuant to the terms of Title 26, section 1230, subsection 1, or section 1051, subsection 6, of the Revised Statutes, the amount of certain unemployment compensation tax, or benefit overpayment, assessed against ..... of ..... with interest and penalties, has become final as to law and fact, to wit:

Period	Contributions	Benefit Over payment	Interest	Penalties	Weeks Involved

Interest will accrue at $ .00 per day for each day after .....

Total $ ..... and $ ..... costs of this proceeding, ...

We command you, therefore, that of the money, goods and chattels of said debtor, in your precinct, or the value thereof in money, you cause to be paid and satisfied unto the Bureau of Unemployment Compensation, to satisfy the sums aforesaid and ..... cents more for this warrant, together with your own fees.

Hereof fail not, and make due return of this warrant, with your doings thereon, unto my office within one year from the date hereof.

.....

Clerk of Courts, County of

.....

Date....." [PL 1995, c. 560, Pt. G, §13 (AMD).]

B. Warrants must be returnable within one year. New warrants may be issued on any such certificate within 2 years from the return day of the last preceding warrant for sums remaining unsatisfied. Warrants must be served by the sheriff of any county, or by any of the sheriff's deputies, or by any agent of the Commissioner of Labor, in the county where the employer or claimant may be found. [RR 2023, c. 2, Pt. E, §120 (COR).]

C. The remedy provided by this section is in addition to or an alternative to all other remedies given to the commissioner in this chapter. [PL 1983, c. 351, §36 (AMD).]

[RR 2023, c. 2, Pt. E, §120 (COR).]

SECTION HISTORY

PL 1975, c. 462, §9 (NEW). PL 1979, c. 579, §§40-43 (AMD). PL 1979, c. 651, §§41-44,47 (AMD). PL 1983, c. 351, §§35,36 (AMD). PL 1987, c. 14, §3 (AMD). PL 1995, c. 560, §G13 (AMD). RR 2023, c. 2, Pt. E, §§118-120 (COR). PL 2025, c. 390, Pt. A, §49 (AMD).

§1231. Priorities under legal dissolutions or distributions

In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this State, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims, except claims for wages of not more than $250 to each claimant, earned within 6 months of the commencement of the proceeding. [PL 1975, c. 462, §9 (NEW).]

SECTION HISTORY

PL 1975, c. 462, §9 (NEW).

§1232. Licenses

1. Information provided to commissioner. At the request of the commissioner, every department, board, commission, division, authority, district or other agency of the State issuing or renewing a license or other certificate of authority to conduct a profession, trade or business shall provide to the commissioner, in such form as the commissioner may prescribe, a list of all licenses or certificates of authority issued or renewed by that agency during the preceding calendar year, beginning with calendar year 1993. The list provided to the commissioner must contain the name, address, social security or federal identification number of the licensees and such other identifying information as the commissioner may adopt by rule. Notwithstanding other provisions of law, a person seeking a license or certificate of authority or a renewal shall provide, and the responsible agency shall collect, the information required by the commissioner under this section. Failure by a person to provide that information to a licensing or certifying agency results in an automatic denial of a request for a license or certificate of authority or a renewal.

[PL 1993, c. 312, §5 (NEW).]

2. Failure to file or pay taxes; determination to prevent renewal, reissuance or other extension of license or certificate. If the commissioner determines that an employer who holds a state-issued license or certificate of authority to conduct a profession, trade or business has failed to file a return at the time required under this chapter or has failed to pay a tax liability due under this chapter that has been demanded and the employer continues to fail to file or pay after at least 2 specific written requests to do so, the commissioner shall notify the employer in writing by certified mail, return receipt requested, that refusal to file the required tax return or to pay the overdue tax liability may result in loss of license or certificate of authority.

This written notice must include information about the opportunity to request a fact-finding interview for the purpose of determining essential facts, negotiating a payment agreement and determining the appropriateness of further enforcement under this section.

If the employer requests a fact-finding interview within 30 days, the commissioner shall schedule the interview at which the commissioner shall attempt to negotiate a reasonable payment agreement. The employer must be notified in writing if the commissioner's determination is to prevent renewal, reissuance or extension of the license or certificate of authority by the issuing agency. If the employer enters into a payment agreement, a determination may not be made under this section until the employer fails to comply with the agreement.

If the employer continues, for a period in excess of 30 days from notice of possible denial of renewal or reissuance of a license or certificate of authority, to fail to file or show reason why the person is not required to file or if the employer continues not to pay, the commissioner shall notify the employer in writing of the determination to prevent renewal, reissuance or extension of the license or certificate of authority by the issuing agency.

A review of the determination is available by filing an appeal under section 1226 to the Division of Administrative Hearings. Either by failure to proceed to the next step of appeal or by exhaustion of the steps of appeal, the determination of the commissioner's right to prevent renewal or reissuance becomes final unless otherwise determined by appeal.

In any event, the license or certificate of authority in question remains in effect until all appeals are taken to their final conclusion. This subsection may not be invoked for any tax liability under appeal.
[PL 2019, c. 585, §6 (AMD).]

3. Refusal to renew, reissue or otherwise extend license or certificate. Notwithstanding any other provision of law, any issuing agency that is notified by the commissioner of the commissioner's final determination to prevent renewal or reissuance of a license or certificate of authority under subsection 2 shall refuse to reissue, renew or otherwise extend the license or certificate of authority. Notwithstanding Title 5, sections 10003 and 10005, an action by an issuing agency pursuant to this subsection is not subject to the requirements of Title 5, chapter 375, subchapters IV and VI and no hearing by the issuing agency or in District Court is required. A refusal by an agency to reissue, renew or otherwise extend the license or certificate of authority is deemed a final determination within the meaning of Title 5, section 10002.
[PL 1993, c. 312, §5 (NEW); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

4. Subsequent reissuance, renewal or other extension of license or certificate. The agency may reissue, renew or otherwise extend the license or certificate of authority in accordance with the agency's statutes and rules after the agency receives a certificate issued by the commissioner that the person is in good standing with respect to all returns due or with respect to any tax due as of the date of issuance of the certificate. An agency may waive any applicable requirement for reissuance, renewal or other extension if it determines that the imposition of that requirement places an undue burden on the person and that a waiver of the requirement is consistent with the public interest.

[PL 1993, c. 312, §5 (NEW).]

5. Financial institutions excluded. This section does not apply to any registration, permit, order or approval issued pursuant to Title 9-B nor does it apply to tax registration certificates issued by the Bureau of Revenue Services for sales tax, withholding tax and fuel tax.
[PL 1993, c. 312, §5 (NEW); PL 1997, c. 526, §14 (AMD).]

SECTION HISTORY

PL 1993, c. 312, §5 (NEW). PL 1997, c. 526, §14 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2019, c. 585, §6 (AMD).

§1233. Collection by levy on 3rd parties

1. Notice of levy. If an employer fails to pay any part of the contribution, interest or penalties due under this chapter, the Director of Unemployment Compensation may notify by mail a 3rd party who has possession or control of property in which the delinquent employer may have an interest or who may owe a debt to the delinquent employer, other than earnings.

A. A notice under this section may be given any time after the amount due under this Title becomes delinquent. The notice must state the aggregate amount of contributions, penalties, interest or other amounts due and any additional amount that will accrue by operation of law in a period not to exceed the computation ending date of the month in which the notice is given and, in the case of a credit, bank, or savings account or deposit, is effective only up to that amount. [PL 1999, c. 464, §12 (NEW).]
[PL 1999, c. 464, §12 (NEW).]

2. Notification and freezing assets. Upon receipt of a notice provided under this section, the person receiving the notice:

A. Shall advise the Director of Unemployment Compensation no later than 20 calendar days after the date the notice was sent of any property belonging to the delinquent employer that is possessed or controlled by the person receiving the notice and of any debt owed by the person receiving the notice to the delinquent employer, except earnings; and [PL 1999, c. 464, §12 (NEW).]

B. May not transfer or dispose of the property or debt possessed, controlled or owed by the person receiving the notice during the period of 60 calendar days after the date the notice was sent. [PL 1999, c. 464, §12 (NEW).]

A notice sent under this section that attempts to prohibit the transfer or disposition of any property possessed or controlled by a bank is effective if it is mailed to the principal or any branch office of the bank, including any office of the bank at which the deposit is carried or the credit or property is held.

A person who has received a notice under this section and who transfers or disposes of any property or debt in a manner that violates this section is liable to the Director of Unemployment Compensation for the amount of the indebtedness of the delinquent person with respect to whose obligation the notice was given to the extent of the value of that property or debt.
[PL 1999, c. 464, §12 (NEW).]

3. Levy on property. At any time during the period of 60 calendar days described in this section, the Director of Unemployment Compensation may levy on the property or debt by delivery of a notice of levy. Upon receipt of the levy notice, the person possessing the property or debt shall transfer the property to the director or pay to the director the amount owed to the delinquent employer.
[PL 1999, c. 464, §12 (NEW).]

4. Effect of levy. A notice is effective:

A. At the time of delivery against all property, rights to property, credits and debts involving the delinquent employer that are not, as of the date of the notice, subject to a preexisting lien,

attachment, garnishment or execution issued through a judicial process; and [PL 1999, c. 464, §12 (NEW).]

B. Against all property, rights to property, credits and debts involving the delinquent employer that come into the possession or control of the person served with the notice within the period of 60 calendar days described in this section. [PL 1999, c. 464, §12 (NEW).]

A person acting in accordance with the terms of the notice of freeze or levy issued by the Director of Unemployment Compensation is discharged from any obligation or liability to the delinquent employer with respect to the affected property, rights to property, credits and debts of the person affected by compliance with the notice of freeze or levy.
[PL 1999, c. 464, §12 (NEW).]

5. Property subject to levy. The delinquent employer property subject to levy includes:

A. A credit, bank or savings account or deposit that is subject to execution pursuant to Title 14, section 4751; or [PL 1999, c. 464, §12 (NEW).]

B. Any other interest or personal property that is not exempt from attachment or execution pursuant to Title 14, sections 4421 to 4426. [PL 1999, c. 464, §12 (NEW).]
[PL 1999, c. 464, §12 (NEW).]

SECTION HISTORY

PL 1973, c. 555, §20 (AMD). PL 1999, c. 464, §12 (NEW).

§1241. Special assessment

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

A. "Advance" means a loan made from the Federal Unemployment Trust Fund to the state's Unemployment Compensation Fund on which interest will be due and payable if the loan is not repaid by the due date set by the Federal Government. [PL 1983, c. 738, §2 (NEW).]

B. "Anticipated interest" means the amount of interest that will be due on an advance under federal law on its interest due date if the advance is not repaid by the interest due date. [PL 1983, c. 738, §2 (NEW).]

C. "Assessment quarter" means the calendar quarter in which an advance is received. [PL 1983, c. 738, §2 (NEW).]

D. "Assessment rate" means a rate equal to the percentage, rounded to the next highest 1/10th of 1%, derived if the amount of interest that will be due if an advance is not repaid by the interest due date, minus any existing unobligated and unencumbered balance in the Federal Advance Interest Fund, is divided by the taxable wages reported by contributing employers for the calendar quarter in the immediately preceding calendar year that corresponds to the assessment quarter. [PL 1983, c. 738, §2 (NEW).]

E. "Federal Advance Interest Fund" means the fund defined in section 1165. [PL 1983, c. 738, §2 (NEW).]

F. "Interest due date" means:

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

(2) If the Federal Government allows the State to defer repayment of an advance and anticipated interest on the advance, the date on which the deferred repayment is due to the Federal Government. [PL 1983, c. 738, §2 (NEW).]

G. "Subsequent assessment quarter" means a calendar quarter subsequent to the assessment quarter. [PL 1983, c. 738, §2 (NEW).]

[PL 1983, c. 738, §2 (NEW).]

2. Special assessment. If an advance has not been repaid during the assessment quarter for the advance and the balance in the Federal Advance Interest Fund is insufficient to pay the anticipated interest charges that will be due on the advance on its interest due date, and if, using standards adopted under the Maine Administrative Procedure Act, the Commissioner of Labor determines that it is probable that the advance will not be repaid by the interest due date, then the Commissioner of Labor may assess a special assessment for that assessment quarter. The amount of an employer's special assessment shall be determined by multiplying the wages for employment taxable to an employer under section 1221 for that quarter by the assessment rate. Assessments shall be paid into the Federal Advance Interest Fund for use in paying interest on the advance.

After the money is received from the special assessment for the assessment quarter, if the balance in the Federal Advance Interest Fund is still not sufficient to pay the interest charges that will be due on the advance on its interest due date, then the commissioner may assess further special assessments in subsequent assessment quarters to raise the balance in the Federal Advance Interest Fund up to a balance sufficient to pay the interest charges. All provisions in this section that apply to the special assessment also shall apply to these further special assessments.

No special assessments may be assessed if sufficient unobligated and unencumbered funds are present in the Federal Advance Interest Fund to pay the anticipated interest on the advance on its due date.
[PL 1983, c. 738, §2 (NEW).]

3. Employers liable for special assessment. Each employer subject to this chapter, other than those liable for payments in lieu of contributions, shall be liable for special assessments.
[PL 1983, c. 738, §2 (NEW).]

4. Receipts. All receipts collected from a special assessment, including interest, fines and penalties on special assessments not paid when due, shall be paid into the Federal Advance Interest Fund.
[PL 1983, c. 738, §2 (NEW).]

5. Experience rating records. No special assessment may be credited to any employer's experience rating record.
[PL 1983, c. 738, §2 (NEW).]

6. Other provisions of chapter. All provisions of this chapter and rules promulgated under this chapter regarding payments, time limits, dates of payment, reports, interest and penalties on amounts not paid by employers when due, fines, liens and warrants which apply to the collection of contributions also shall apply to the collection of special assessments.
[PL 1983, c. 738, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 738, §2 (NEW).

SUBCHAPTER 8

SEASONAL EMPLOYMENT

§1251. Investigations; hearings; regulations

1. Seasonal industry. As used in this section, the term "seasonal industry" means an industry in which, because of the seasonal nature thereof, it is customary to operate only during a regularly recurring period or periods of less than 26 weeks in a calendar year. The commission shall, after

investigation and hearing, pursuant to Title 5, section 9051 et seq., determine, and may thereafter from time to time redetermine, the longest seasonal period or periods during which, by the best practice of the industry in question, operations are conducted. Until such determination by the commission, no industry may be deemed seasonal.
[PL 1983, c. 750, §1 (AMD).]

2. Rules. The commissioner shall prescribe fair and reasonable rules, pursuant to Title 5, section 8051 et seq., applicable to the payment of benefits to individuals whose qualifying wages in whole or in part were earned in seasonal industries, to the period during which benefits are payable to the individuals and to charges to be made to experience rating records or general funds as a result of benefits so paid.
[PL 2021, c. 456, §34 (AMD).]

3. Exceptions.

A. Any hotel, motel, inn, variety store, trading post, sporting camp or other lodging facility, including youth camps licensed under Title 22, section 2495, restaurants and other eating establishments, which customarily conducts operations that are primarily related to the production of characteristic goods or services for a regularly recurring period or periods of less than 26 weeks in any one calendar year is deemed seasonal. [PL 2009, c. 211, Pt. B, §25 (AMD).]

B. Any potato packing business which customarily operates during a regularly recurring period of 26 or more weeks in a calendar year shall not be deemed seasonal. [PL 1983, c. 750, §2 (AMD).]
[PL 2009, c. 211, Pt. B, §25 (AMD).]

SECTION HISTORY

PL 1973, c. 516 (AMD). PL 1975, c. 407, §2 (AMD). PL 1977, c. 694, §§482,483 (AMD). PL 1983, c. 750, §§1,2 (AMD). PL 1987, c. 131 (AMD). PL 1997, c. 293, §9 (AMD). PL 2009, c. 211, Pt. B, §25 (AMD). PL 2021, c. 456, §34 (AMD).

SUBCHAPTER 9

MAINE DEVELOPMENT CORPORATION

(REPEALED)

§1261. Purpose

(REPEALED)

SECTION HISTORY

PL 1975, c. 602, §1 (NEW). PL 1985, c. 497, §20 (RP).

§1262. Definitions

(REPEALED)

SECTION HISTORY

PL 1975, c. 602, §1 (NEW). PL 1985, c. 497, §20 (RP).

§1263. Commission

(REPEALED)

SECTION HISTORY

PL 1975, c. 602, §1 (NEW). PL 1981, c. 168, §18 (AMD). PL 1985, c. 295, §40 (AMD). PL 1985, c. 497, §20 (RP). PL 1987, c. 402, §A158 (RP).

§1264. Powers and duties

(REPEALED)

SECTION HISTORY

PL 1975, c. 602, §1 (NEW). PL 1985, c. 497, §20 (RP).

§1265. Applications

(REPEALED)

SECTION HISTORY

PL 1975, c. 602, §1 (NEW). PL 1985, c. 497, §20 (RP).

§1266. Agreements

(REPEALED)

SECTION HISTORY

PL 1975, c. 602, §1 (NEW). PL 1985, c. 497, §20 (RP).

§1267. Establishment of training programs; agreement approval

(REPEALED)

SECTION HISTORY

PL 1975, c. 602, §1 (NEW). PL 1985, c. 497, §20 (RP).

§1268. Use of funds

(REPEALED)

SECTION HISTORY

PL 1975, c. 602, §1 (NEW). PL 1985, c. 497, §20 (RP).

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