



STATE OF MAINE  
DEPARTMENT OF LABOR  
54 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0054

JOHN ELIAS BALDACCI  
GOVERNOR

LAURA A. FORTMAN  
COMMISSIONER

June 29, 2009

Cheryl Atkinson  
Administrator  
Office of Workforce Security  
200 Constitution Avenue NW  
Room S-4231  
Washington, DC 20210

Dear Ms. Atkinson:

I am submitting an application for the total share of the Modernization Incentive Payment for Maine. Although Maine statutes included provisions related to all of the requirements of the UI Modernization legislation, we did have to make some minor revisions to a couple of our statutes to full comply with the requirements of the federal proposals. The necessary legislative changes have now been made and we believe our statutes now qualify for the full incentive payment.

I am including copies of the applicable sections of Maine Revised Statutes, Title 26: Labor and Industry, Chapter 13: Unemployment Compensation; that we believe satisfy the UI Modernization requirements. The statutory cites include:

1. For the first one-third share: **§1043. Definitions, sub-§3-A, Alternate Base Period.**
2. For the remaining two-thirds share:
  - a. Part-time Provisions: **§1192. Eligibility Conditions, sub-§3 A, sub 1 & 2**
  - b. Voluntary Quit for Compelling Family Reasons: **§1193. Disqualification, sub-§1, Voluntarily Leaves Work, paragraph A.** This section of statute was amended through L.D. 1454 and engrossed through the passage of emergency legislation on 4/14/09 and signed into law (and into immediate effect) by Governor John E. Baldacci on 4/16/09.
  - c. Training Benefits: **Sec. 1. 26 MRSA §1043, sub-§5, Benefit Year and Sec. 2 26 MRSA §1191, sub-§4 Maximum amount of benefits.** These two statutory provisions were amended during this legislative session to remove the previously existing, 26-week benefit lifetime cap on the Maine dislocated worker benefits. **Sec. 4 26 MRSA §1196 Extended Benefits for dislocated workers in approved training, sub-§1, A.** was also changed to amend and expand the definition of a qualified dislocated worker used to establish eligibility for extended unemployment benefits for workers in approved training. All three of these legislative changes were part of LD 1474 and were signed by the Governor into public law on 6/3/09. As this legislation did not contain an emergency preamble, these changes will go into effect on September 12, 2009, 90 days after the legislative session ended on 6/12/09.

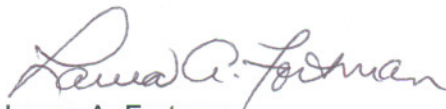
An additional statutory cite pertaining to Maine's Dislocated Worker Benefit Program is included: **§1192. Eligibility Conditions, 6-C Prohibition against disqualification of individuals in approved training under section 1196.** Also included is a copy of Maine Unemployment Insurance Commission Rules, Chapter 23: dislocated Worker Benefits which are referenced in §1192, 6-C.

I have included statutes that demonstrate that we meet three of the four UI Modernization provisions even though only two provisions are required for the remaining two-thirds of the incentive payments.

I certify that all of the applicable statutes provided are currently in effect with the exception of the changes made to the Maine Dislocated Worker Benefit (DWB) program. The DWB legislative changes go into effect on September 12, 2009. Additionally, I certify that this application and the legislative changes we have made to comply with the UI Modernization incentive pay requirements are being submitted in good faith with the intention of providing benefits to unemployed workers who meet the eligibility provisions on which the application is based. None of these statutes or recent legislative changes made involve any sunset or termination provision and all were made with the clear intention of permanently expanding unemployment eligibility to additional beneficiaries.

Initially, it is our intention to keep the incentive payment in the unemployment insurance trust fund to help offset the impact of significantly increased benefit payouts on employer unemployment tax rates and ensure the availability of funds to pay needed benefits to unemployed workers. As the economy improves, we will likely request that a portion of these payments be appropriated to make technological enhancements to the Maine Unemployment Insurance Program to improve service delivery, further strengthen Maine's UI claimant reemployment efforts and to improve the security and program integrity of the unemployment insurance system.

Sincerely,



Laura A. Fortman  
Commissioner

LAF/lb

cc: Gerard Hildebrand, Legislative Office, U.S. Department of Labor

Attachments: Applicable sections of Maine statutes

*Alternate Base Period  
1043 3A*

**Maine Revised Statutes**

*3 pages*

- §1043 PDF
- §1043 WORD/RTF
- STATUTE SEARCH
- CH. 13 CONTENTS
- TITLE 26 CONTENTS
- LIST OF TITLES
- DISCLAIMER
- MAINE LAW
- REVISOR'S OFFICE
- MAINE LEGISLATURE

**§1042 Title 26: LABOR AND INDUSTRY §1044**

**Chapter 13: UNEMPLOYMENT COMPENSATION**

**Subchapter 1: GENERAL PROVISIONS**

**§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. [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. [1977, c. 570, §1 (NEW) .]

[ 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.

[ 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 \$3,000 in any calendar year through 1971, \$4,200 in any calendar year through 1977, \$6,000 in any calendar year through 1982, \$7,000 in any calendar year through 1999 and \$12,000 in any subsequent calendar year.

[ 1999, c. 555, §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; provided that if the first quarter of the last 5 completed calendar quarters was included in the base period applicable to any individual's previous benefit year, his base period shall be 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 shall be that applicable under the unemployment compensation law of the paying state.

[ 1973, c. 555, §4 (AMD) .]

**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, subsection 5 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 provided 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.

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.

[ 1995, c. 9, §1 (AMD) .]

## Maine Revised Statutes

2 pages

- ▼ §1192 PDF
- ▼ §1192WORD/RTF
- ▶ STATUTE SEARCH
- ◀ CH. 13 CONTENTS
- ◀ TITLE 26 CONTENTS
- ◀ LIST OF TITLES
- ▼ DISCLAIMER
- ◀ MAINE LAW
- ◀ REVISOR'S OFFICE
- ◀ MAINE LEGISLATURE

§1191

### Title 26: LABOR AND INDUSTRY

§1193

#### Chapter 13: UNEMPLOYMENT COMPENSATION Subchapter 6: BENEFITS

#### §1192. Eligibility conditions

An unemployed individual shall be eligible to receive benefits with respect to any week only if: [1979, c. 651, §22 (AMD).]

**1. Has claim for benefits.** He has made a claim for benefits with respect to such week or part thereof in accordance with such regulations as the commission may prescribe;  
[ 1975, c. 344, §1 (AMD) .]

**2. Has registered for work.** He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the commission may prescribe, except that the commission may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this chapter. No such regulation shall conflict with section 1191, subsection 1;  
[ 1975, c. 25, (RPR) .]

**3. Is able and available for work.** The individual is able to work and is available for full-time work at the individual's usual or customary 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 subsection 2 is actively seeking work in accordance with the regulations of the commission; provided that no ineligibility may be found solely because the claimant is unable to accept employment on a shift, the greater part of which falls between the hours of midnight to 5 a.m., and is unavailable for that employment because of parental

obligation, the need to care for an immediate family member, or the unavailability of a personal care attendant required to assist the unemployed individual who is a handicapped person; and provided that an unemployed individual who is neither able nor available for work due to good cause as determined by the deputy is eligible to receive prorated benefits for that portion of the week during which the individual was able and available.

A. Notwithstanding this subsection, beginning January 1, 2004, an individual who is not available for full-time work as required in this subsection is not disqualified from receiving benefits if:

(1) The individual worked less than full time for a majority of the weeks during that individual's base period and the individual is able and available for and actively seeking part-time work for at least the number of hours in a week comparable to those customarily worked in part-time employment during that individual's base period; or

(2) The individual worked full time for a 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 an immediate family member or because of limitations necessary for the safety or protection of the individual or individual's immediate family member.

[2007, c. 352, Pt. C, §1 (AMD).]

[2007, c. 352, Pt. C, §1 (AMD).]

#### 4.

[1975, c. 8, (RP).]

**4-A. Has served a waiting period.** For each eligible individual establishing a benefit year on or after May 10, 1981, he has served a waiting period of one week of total or partial unemployment. No week may be counted as a week of total or partial unemployment for the purpose of this subsection:

A. If benefits have been paid with respect to that week; [1981, c. 220, (NEW).]

B. Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits; and [1981, c. 220, (NEW).]

C. 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 subsection; [1981, c. 220, (NEW).]

[1981, c. 220, (NEW).]

**5. Has earned wages.** For each eligible 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

*Voluntary Quit for  
Compelling Family Reasons*

# State of Maine Legislature

*7 pages*



## Summary of LD 1454

### Bill Info

**LD 1454** (SP 541)

**"An Act To Provide Additional Unemployment Benefits and Make Statutory Revisions in Accordance with the American Recovery and Reinvestment Act of 2009"**

(Emergency)

(Governor's Bill)

Sponsored by **President Elizabeth Mitchell**

### Status Summary

Last House Action **4/16/09 - PASSED TO BE ENACTED.**

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

**ROLL CALL NO. 27**

(Yeas 139 - Nays 1 - Absent 11 - Excused 0)

Sent for concurrence. ORDERED SENT FORTHWITH.

Last Senate Action **4/16/09 - Under suspension of the Rules PASSED TO BE ENACTED - Emergency -2/3 Elected Required in concurrence (Remarks Made)**

Last Engrossed by **4/15/09**  
House on

Last Engrossed by **4/14/09**  
Senate on

Governor Action **Signed by the Governor (Emergency Measure)**

Chapter **33**

Final Law Type **Public Law**

Date **4/16/09**

- New Search
- Summary
- Actions
- Bill Text and Other Docs
- Committee Info
- Title & Section
- Amendments
- Sponsors
- Roll-calls
- Subjects

### Related Links

[House Home Calendar](#)

[Senate Home Calendar](#)

[Legislature Home ANPH Schedule](#)

[Other State of Maine Home](#)



[Debate  
Members  
House Rules  
E-Mail Webmaster](#)

[Debate  
Members  
Senate Rules  
E-Mail Webmaster](#)

[Joint Rules  
E-Mail Webmaster](#)

[Session  
Information  
Glossary of Terms](#)

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## **An Act To Provide Additional Unemployment Benefits and Make Statutory Revisions in Accordance with the American Recovery and Reinvestment Act of 2009**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** there is a federal option that permits the State's long-term unemployed workers to qualify for either 13 or 20 weeks of additional unemployment benefits during periods of high unemployment; and

**Whereas,** effective February 17, 2009, the American Recovery and Reinvestment Act of 2009, Public Law 111-5 made changes to the laws governing extended benefits in the unemployment compensation program, under which this option exists, such that in most cases, 100% of the benefits paid out under this program would be paid by the federal government for weeks of unemployment beginning after February 17, 2009 and before January 1, 2010; and

**Whereas,** it is likely that as many as 9,900 unemployed workers of the State would benefit from extended benefits in the unemployment compensation program if the federal option were temporarily adopted by the State; and

**Whereas,** in addition, a change must be made to the Maine Revised Statutes, Title 26, section 1193, subsection 1 in order for this State to meet the provisions of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, Section 2003 pertaining to special transfers for unemployment compensation modernization; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 26 MRSA §1193, sub-§1, ¶A,** as amended by PL 2003, c. 28, §1, is further amended to read:

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 ~~reasons for the absence and by promptly requesting reemployment when again able to resume employment~~ 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 ~~and the claimant can clearly show within 14 days of arrival at the new place of residence an attachment to the new labor market~~, and the claimant is in all respects able, available and actively seeking suitable work;

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

(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; or

(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.

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

**Sec. 2. Alternative trigger.** In addition to the conditions provided in the Maine Revised Statutes, Title 26, section 1195, there is a state "on" indicator for a week in the period from February 17, 2009 until the week ending December 12, 2009 or until the week ending 3 weeks prior to the last week for which federal sharing is authorized by the American Recovery and Reinvestment Act of 2009, Public Law 111-5, Section 2005(a), whichever is later, if:

1. 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

2. 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 subsection 1 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.

**Sec. 3. Total extended benefit amount.** For the period from February 17, 2009 until the week ending December 12, 2009 or until the week ending 3 weeks prior to the last week for which federal sharing is authorized by the American Recovery and Reinvestment Act of 2009, Public Law 111-5, Section 2005(a), whichever is later, and effective with respect to weeks beginning in a high unemployment period, the total extended benefit amount payable to any eligible individual with respect

to the applicable benefit year is the least of the following amounts:

1. Eighty percent of the total amount of regular benefits that were payable to the individual under the Maine Revised Statutes, Title 26, chapter 13 in the applicable benefit year;
2. Twenty times the weekly benefit amount that was payable to the individual under Title 26, chapter 13 for a week of total unemployment in the applicable benefit year; and
3. Forty-six times the weekly benefit amount that was payable to the individual under Title 26, chapter 13 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 Title 26, chapter 13 with respect to the benefit year.

For purposes of this section, "high unemployment period" means any period during which an extended benefit period would be in effect if section 1 of this Act were applied with an average seasonally adjusted unemployment rate of 8% instead of 6.5%.

**Sec. 4. Definitions.** In addition to the definition of "exhaustee" in the Maine Revised Statutes, Title 26, section 1195, subsection 1, paragraph A, in the context of the extended benefits in the unemployment compensation program provided by this Act, "exhaustee" means an individual who, with respect to any week of unemployment in that individual's eligibility period, has received, prior to such week, all of the federal emergency unemployment compensation 2008 benefits that were available to that individual.

**Sec. 5. Eligibility period.** In the context of the extended benefits in the unemployment program provided by this Act, "eligibility period" of an individual means the period consisting of the weeks in the individual's benefit year or a period in which the individual is collecting benefits under the federal emergency unemployment compensation 2008 program that begins in an extended benefit period and, if the individual's benefit year or period of benefit collection under the federal emergency unemployment compensation 2008 program ends within such extended benefit period, any weeks thereafter that begin in such period.

**Sec. 6. Fund.** The Commissioner of Administrative and Financial Services shall establish, within the Department of Administrative and Financial Services, the Emergency Unemployment Benefit Reimbursement Fund, referred to in this section as "the fund." The fund must be used to reimburse eligible employers for the cost of extended benefits paid on their behalf from the Unemployment Compensation Fund under the Maine Revised Statutes, Title 26, section 1141 as a result of the triggering of the "on" indicator provided in this Act.

To obtain reimbursement from the fund, an employer must demonstrate to the administrator of the fund that the employer has paid its bill to the Unemployment Compensation Fund for the benefits and that the benefits paid were attributable to this "on" indicator.

If amounts in the fund are not sufficient to cover the total cost of the extended benefits under this Act, the Commissioner of Administrative and Financial Services, on behalf of the Governor, shall submit a budget request to the Second Regular Session of the 124th Legislature.

For purposes of this section, a school administrative unit as defined in the Maine Revised Statutes, Title 20-A, section 1, subsection 26 is not an eligible employer.

**Sec. 7. Retroactivity.** Sections 2 to 5 of this Act apply retroactively to February 17, 2009.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

### SUMMARY

This bill amends the Maine Revised Statutes, Title 26, section 1193, subsection 1, paragraph A, which governs unemployment benefit disqualification exceptions for voluntarily leaving one's job, in order to meet the unemployment insurance modernization provision requirements under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, Section 2003, and ensure that the State qualifies for receiving the maximum incentive payment allowable to the State under the federal recovery legislation.

It also temporarily adds an alternative methodology for determining when extended unemployment benefits are paid. Using the seasonally adjusted total unemployment rate methodology for determining when extended unemployment benefits are payable increases the likelihood that these benefits will become available for unemployed workers during the current period of economic downturn. The addition of the alternative methodology remains in effect for weeks of unemployment that begin after February 17, 2009 until the week ending December 12, 2009 or until the week ending 3 weeks prior to the last week for which federal sharing is authorized by the American Recovery and Reinvestment Act of 2009, Public Law 111-5, Section 2005(a), whichever is later. During this period, a temporary change made under the American Recovery and Reinvestment Act of 2009, Public Law 111-5 provides that the cost of all extended benefits in the unemployment compensation program will be paid 100% in most cases by the Federal Government.

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by inserting after section 6 the following:

**Sec. 7. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Emergency Unemployment Benefit Reimbursement Fund N070**

Initiative: Provides funds to support the costs of reimbursing certain direct reimbursement employers for extended benefits paid as a result of temporarily adding an alternative methodology for determining when extended unemployment benefits are paid.

<b>GENERAL FUND</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$600,000	\$0
<b>GENERAL FUND TOTAL</b>	<b>\$600,000</b>	<b>\$0</b>

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment adds an appropriations and allocations section to the bill.

**FISCAL NOTE REQUIRED**  
**(See attached)**



# State of Maine Legislature

## Summary of LD 1474

### Bill Info

**LD 1474** (HP 1025)

**"An Act To Assist Maine Workers and Businesses in Succeeding in a Changing Economy"**

Sponsored by **Speaker Hannah Pingree**

New Search  
Summary  
Actions

### Status Summary

Reference Committee **Labor**

Last House Action **5/28/09 - PASSED TO BE ENACTED.**

Sent for concurrence. ORDERED SENT FORTHWITH.

Last Senate Action **5/28/09 - Under suspension of the Rules PASSED TO BE ENACTED** in concurrence

Last Engrossed by House on **5/21/09**

Last Engrossed by Senate on **5/26/09**

Governor Action **Signed by the Governor**  
Chapter **271**

Final Law Type **Public Law**  
Date **6/3/09**

Bill Text and Other Docs  
Committee Info  
Title & Section  
Amendments  
Sponsors  
Roll-calls  
Subjects

### Related Links

**House**  
[Home](#)  
[Calendar](#)  
[Debate](#)  
[Members](#)  
[House Rules](#)  
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[Debate](#)  
[Members](#)  
[Senate Rules](#)  
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**Legislature**  
[Home](#)  
[ANPH Schedule](#)  
[Joint Rules](#)  
[E-Mail Webmaster](#)

**Other**  
[State of Maine Home](#)  
[Session Information](#)  
[Glossary of Terms](#)

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## An Act To Assist Maine Workers and Businesses in Succeeding in a Changing Economy

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

**Sec. 1. 26 MRSA §1043, sub-§5**, as corrected by RR 1991, c. 1, §35, is amended to read:

**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 ~~his~~the worker's insured status, and thereafter the one-year period beginning with the date with respect to which ~~he~~the worker next files such a request after the end of ~~his~~the worker's last preceding benefit year. If an insured worker files a request for determination of ~~his~~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 ~~shall be~~is deemed to begin on the first day of the new calendar quarter.

B. A dislocated worker, as defined in section 1196, subsection 1, enrolled in a training program approved under section 1192, subsection 6, ~~6-A or 6-B, 6-C, 6-D or 6-E~~ who has exhausted ~~his~~the worker's benefit year within 30 months of ~~his~~the worker's enrollment in the training program, ~~shall be~~is entitled to the product of ~~his~~the worker's most recent weekly benefit amount multiplied by the number of weeks in which that person is in an approved training program, up to a maximum of 26 weeks, provided that no benefits may be paid under this paragraph to any person:

(1) 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 Government or Federal Government; or

(2) Who is eligible for or who has exhausted, after the effective date of this paragraph, trade adjustment allowances as provided by the United States Trade Act of 1974, Title II, Chapter 2, Public Law 93-617, United States Code, Title 19, Section 2291, et seq., 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 may receive benefits for the number of weeks by which their benefits under that Act are less than 26 weeks; ~~or~~.

(3) ~~For a subsequent enrollment in any training program after his initial enrollment, following the effective date of this paragraph, and final termination of a training program approved under section 1192, subsection 6, 6-A or 6-B.~~

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 ~~shall be~~is that applicable under the unemployment compensation law of the paying state.

**Sec. 2. 26 MRSA §1191, sub-§4**, as amended by PL 1987, c. 570, §2, is further amended to

Elimination  
of prior up on  
DWB benefit  
con check



read:

**4. Maximum amount of benefits.** The maximum amount of benefits ~~which shall~~ that may be paid to any eligible individual with respect to any benefit year, whether for total or partial unemployment, ~~shall~~ may not exceed the lesser of 26 times ~~his~~ the individual's weekly benefit amount or 33 1/3%, rounded to the nearest dollar, of ~~his~~ the individual's total wages paid for insured work during ~~his~~ 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, who is in training approved under section 1192, subsection 6, ~~6-A or 6-B~~, 6-C, 6-D or 6-E qualifies for additional benefits under section 1043, subsection 5, paragraph B, or exhausts ~~his~~ the worker's entitlement to benefits available to ~~him~~ the worker under this subsection, the maximum amount under this subsection ~~shall~~ be the product of ~~his~~ the worker's most recent weekly benefit amount multiplied by the number of weeks in which ~~he~~ the worker thereafter attends an approved training program. No increase may 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 ~~shall~~ may not be charged against the experience rating record of any employer, but ~~shall~~ must be charged to the General Fund.

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

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

(c) Who is eligible for or who has exhausted, after the effective date of this paragraph, trade adjustment allowances as provided by the United States Trade Act of 1974, Title II, Chapter 2, Public Law 93-617, United States Code, Title 19, Section 2291, et seq., 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 may receive benefits for the number of weeks by which their benefits under that Act are less than 26 weeks; ~~or~~.

(d) ~~For a subsequent enrollment in any training program after his initial enrollment, following the effective date of this paragraph, and final termination of a training program approved under section 1192, subsection 6, 6-A or 6-B.~~

**Sec. 3. 26 MRSA §1192, sub-§6-D**, as amended by PL 1995, c. 665, Pt. DD, §1 and affected by §12, is further amended to read:

**6-D. Prohibition against disqualification of individuals in approved training.** Notwithstanding any provisions of this chapter, the acceptance of training for opportunities available under ~~section~~ sections 2031 and 2033 is deemed to be acceptance of training with state approval under

federal or state law relating to unemployment benefits.

**Sec. 4. 26 MRSA §1196, sub-§1, ¶A,** as enacted by PL 1985, c. 591, §5, is amended to read:

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;

~~(2) Is eligible for or has exhausted his entitlement to unemployment compensation; and~~

~~(3) Is unlikely to return to his previous industry or occupation;~~

**Sec. 5. Review; report.** The Commissioner of Labor shall review the unemployment insurance program established under the Maine Revised Statutes, Title 26, chapter 13 to determine factors that contribute to the State's low reciprocity rate relative to other states as determined by the United States Department of Labor, Office of Workforce Security, Division of Fiscal and Actuarial Services. For purposes of this section, "reciprocity rate" means the number of insured unemployed persons in regular unemployment insurance programs as a percent of the total unemployed persons. The commissioner shall report findings, including any recommendations to improve the unemployment insurance reciprocity rate, to the Joint Standing Committee on Labor by January 15, 2010. The Joint Standing Committee on Labor is authorized to introduce any legislation in response to this report to the Second Regular Session of the 124th Legislature.

## SUMMARY

This bill amends the definition of "dislocated worker" used to establish eligibility for extended unemployment benefits for workers in an approved training program. It extends coverage beyond those laid off as a result of a plant closing to those who have been terminated or laid off as a result of a reduction in operations at their place of employment. The bill removes the provision making individuals who previously completed an approved training program ineligible for the extended unemployment benefit program for dislocated workers. It also updates cross-references to approved training programs to reflect current additions to this list. Finally, it directs the Commissioner of Labor to examine the State's unemployment insurance program to determine why the State's percent of unemployed workers receiving unemployment benefits appears low relative to other states.

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Amend the bill by inserting after section 4 the following:

‘**Sec. 5. 26 MRSA §1196, sub-§2, ¶D**, as enacted by PL 1985, c. 591, §5, is amended to read:

D. The success rate in placing trainees who receive benefits under those provisions; ~~and~~

**Sec. 6. 26 MRSA §1196, sub-§2, ¶E**, as enacted by PL 1985, c. 591, §5, is amended to read:

E. The total cost of benefits paid under those provisions and the effect on the Unemployment Trust Fund; and

**Sec. 7. 26 MRSA §1196, sub-§2, ¶F** is enacted to read:

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.’

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

## SUMMARY

This amendment requires the Commissioner of Labor to report on the status of persons who are receiving extended benefits for dislocated workers in approved training and have previously received such benefits in the commissioner's annual report due to the Committee on Labor each March 1st.

**Title 26: LABOR AND INDUSTRY**  
**Chapter 13: UNEMPLOYMENT COMPENSATION**  
**Subchapter 6: BENEFITS**

**§1196. Extended benefits for dislocated workers in approved training; sunset and review**

**1. Dislocated worker defined.** As used in this section; section 1043, subsection 5, paragraph B; and section 1191, subsection 4, paragraph A, the term "dislocated worker" means:

A. An individual who:

(1) Has been terminated or laid off or who has received a notice of termination or layoff from employment;

*Removed by LD 1474* (2) Is eligible for or has exhausted his entitlement to unemployment compensation; and

(3) Is unlikely to return to his previous industry or occupation; [1985, c. 591, §5 (NEW).]

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 [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 he resides, including any older individual who may have substantial barriers to employment because of his age. [1985, c. 591, §5 (NEW).]

[ 1985, c. 591, §5 (NEW) .]

**2. Annual report.** The Commissioner of Labor shall report to the joint standing committee of the Legislature having jurisdiction over labor before March 1st of each year regarding the actions taken under section 1043, subsection 5, paragraph B, and section 1191, subsection 4, paragraph A. The report shall include:

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

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

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

D. The success rate in placing trainees who receive benefits under those provisions; and [1985, c. 591, §5 (NEW).]

E. The total cost of benefits paid under those provisions and the effect on the Unemployment Trust Fund. [1985, c. 591, §5

(NEW) .]

[ 1985, c. 591, §5 (NEW) .]

**3. Repeal.**

[ 1995, c. 9, §3 (RP) .]

**4. Suspension of provisions due to the reserve multiple.**

[ 1995, c. 9, §4 (RP) .]

SECTION HISTORY

1985, c. 591, §5 (NEW). 1987, c. 570, §4 (AMD). 1991, c. 472, §§1,2 (AMD). 1993, c. 3, §1 (AMD). 1993, c. 22, §§4,5 (AMD). 1993, c. 3, §2 (AFF). 1995, c. 9, §§3,4 (AMD).

*Data for this page extracted on 12/10/2008 02:07:15.*

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**Office of the Revisor of Statutes**

**7 State House Station**

**State House Room 108**

**Augusta, Maine 04333-0007**

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- ☑ [TITLE 26 CONTENTS](#)
- ☑ [LIST OF TITLES](#)
- ☑ [DISCLAIMER](#)
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§1191

### Title 26: LABOR AND INDUSTRY

§1193

### Chapter 13: UNEMPLOYMENT COMPENSATION Subchapter 6: BENEFITS

#### §1192. Eligibility conditions

An unemployed individual shall be eligible to receive benefits with respect to any week only if: [1979, c. 651, §22 (AMD).]

**1. Has claim for benefits.** He has made a claim for benefits with respect to such week or part thereof in accordance with such regulations as the commission may prescribe;

[ 1975, c. 344, §1 (AMD) .]

**2. Has registered for work.** He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the commission may prescribe, except that the commission may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this chapter. No such regulation shall conflict with section 1191, subsection 1;

[ 1975, c. 25, (RPR) .]

**3. Is able and available for work.** The individual is able to work and is available for full-time work at the individual's usual or customary 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 subsection 2 is actively seeking work in accordance with the regulations of the commission; provided that no ineligibility may be found solely because the claimant is unable to accept employment on a shift, the greater part of which falls between the hours of midnight to 5 a.m., and is unavailable for that employment because of parental

obligation, the need to care for an immediate family member, or the unavailability of a personal care attendant required to assist the unemployed individual who is a handicapped person; and provided that an unemployed individual who is neither able nor available for work due to good cause as determined by the deputy is eligible to receive prorated benefits for that portion of the week during which the individual was able and available.

A. Notwithstanding this subsection, beginning January 1, 2004, an individual who is not available for full-time work as required in this subsection is not disqualified from receiving benefits if:

(1) The individual worked less than full time for a majority of the weeks during that individual's base period and the individual is able and available for and actively seeking part-time work for at least the number of hours in a week comparable to those customarily worked in part-time employment during that individual's base period; or

(2) The individual worked full time for a 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 an immediate family member or because of limitations necessary for the safety or protection of the individual or individual's immediate family member.

[2007, c. 352, Pt. C, §1 (AMD).]

[ 2007, c. 352, Pt. C, §1 (AMD) .]

#### 4.

[ 1975, c. 8, (RP) .]

**4-A. Has served a waiting period.** For each eligible individual establishing a benefit year on or after May 10, 1981, he has served a waiting period of one week of total or partial unemployment. No week may be counted as a week of total or partial unemployment for the purpose of this subsection:

A. If benefits have been paid with respect to that week; [1981, c. 220, (NEW) .]

B. Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits; and [1981, c. 220, (NEW) .]

C. 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 subsection; [1981, c. 220, (NEW) .]

[ 1981, c. 220, (NEW) .]

**5. Has earned wages.** For each eligible 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. The annual average weekly wage amount to be used for purposes of this subsection is that which is applicable at the time the individual files a request for determination of insured status. For the purpose of this subsection, wages are counted as "wages for insured work" for benefit purposes with respect to any benefit year only if such 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; provided that no individual may 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 service in an amount equal to not less than 8 times that individual's weekly benefit amount in employment by an employer in the benefit year being established. This subsection applies only to any individual requesting determination of insured status on and after January 1, 1972. In determining a claimant's qualification under this subsection, payments pursuant to former Title 39, sections 54 and 55, the Workers' Compensation Act, and former Title 39, sections 188 and 189, Title 39-A, sections 608 and 609, the Occupational Disease Law, are considered wages for insured work.

[ 1991, c. 885, Pt. E, §39 (AMD); 1991, c. 885, Pt. E, §47 (AFF) .]

**6. Approved training.** Notwithstanding any other provisions of this chapter, any otherwise eligible claimant in training, as approved for the claimant by the commission, under rules adopted by the commission with the advice and consent of the commissioner, may not be denied benefits for any week with respect to subsection 3, relating to availability and the work search requirement or the provisions of 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 claimant. Benefits paid to any eligible claimant while in approved training, for which, except for this subsection, the claimant could be disqualified under section 1193, subsection 3, may not be charged against the experience rating record of any employer but must be charged to the General Fund.

[ 1991, c. 870, §3 (AMD) .]

**6-A. Prohibition against disqualification of individuals in approved training under the United States Trade Act of 1974.** Notwithstanding any other provisions of this chapter, no otherwise eligible individual may be denied benefits for any week because he is in training approved under the United States Trade Act of 1974, Section 236 (a) (1), nor may that individual be denied benefits by reason of leaving work to enter that training, provided the work left is not suitable employment, or 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 any eligible claimant while in such training for which, except for this subsection, the claimant could be disqualified under section 1193, subsection 1 or 3, shall not be charged against the experience rating record of any employer but shall be charged to the General Fund.

For purposes of this subsection, the term "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 such 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.

[ 1981, c. 548, §2 (NEW) .]

**6-B. Prohibition against disqualification of individuals in approved training under United States Public Law 97-300.** Notwithstanding any other provisions of this chapter, the acceptance of training for such opportunities as are available through United States Public Law 97-300 shall be deemed 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.

[ 1983, c. 510, (NEW) .]

**6-C. Prohibition against disqualification of individuals in approved training under section 1196.** Notwithstanding any other provision of this chapter, no otherwise eligible individual may be denied benefits for any week because that individual is in training as approved by the commission, under rules adopted by the commission with the advice and consent of the commissioner, nor may that individual be denied benefits by reason of leaving work to enter that training, provided that the work left is not suitable employment.

For purposes of this subsection, the term "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.

[ 1989, c. 502, Pt. A, §109 (RPR) .]

**6-D. Prohibition against disqualification of individuals in approved training.** Notwithstanding any provisions of this chapter, the acceptance of training for opportunities available under section 2031 is deemed to be acceptance of training with state approval under federal or state law relating to unemployment benefits.

[ 1995, c. 665, Pt. DD, §1 (AMD); 1995, c. 665, Pt. DD, §12 (AFF) .]

**6-E. Prohibition against disqualification of individuals in approved training under federal Workforce Investment Act.**

# MAINE DEPARTMENT OF LABOR

Administrative Office located at:  
45 Commerce Drive, 47A State House Station  
Augusta, ME 04333-0047

Facsimile  
Transmission

To: <b>Division of UC Legislation</b>	Fax Phone No.:	<b>202-693-2874</b>
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Agency: <b>US Dept of Labor</b>	Phone No.:	
Address: <b>Office of Workforce Security</b>	Date:	<b>June 30, 2009</b>
<b>200 Constitution Ave NW, Washington, DC</b>	Time:	<b>4:25 PM</b>
From: <b>Laura Boyett, Director, UC Bureau</b>	Fax Phone No.:	<b>207-287-2305</b>
Bureau/Division: <b>Maine Dept. of Labor - BUC</b>	Phone No.:	<b>207-621-5156</b>
Address: <b>47A State House Station, Augusta, ME</b>		

Message:

**Attention: Cheryl Atkinson, Administrator, Office of Workforce Security**  
**Gerard Hildebrand, Director, Division of UC Legislation**  
**Patricia Mertens, Division of UC Legislation**

**Attached please find the Maine application for the UI Modernization Incentive Payment. Any questions, please contact:**

**Laura L. Boyett, Director, Bureau of Unemployment Compensation**  
**Maine Department of Labor**  
**(207) 621-5156**  
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Page 1 of 26 pages

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