



The Commonwealth of Massachusetts
MASSACHUSETTS SENATE

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Chair
JOINT COMMITTEE ON HEALTH CARE FINANCING

Chair
SENATE COMMITTEE ON STEERING AND POLICY

October 8, 2025

Senator Jacob R. Oliveira
Chair, Joint Committee on Labor and Workforce Development
24 Beacon St. Room 416-B
Boston, MA 02133

Representative Paul McMurtry
Chair, Joint Committee on Labor and Workforce Development
24 Beacon St. Room 472
Boston, MA 02133

Dear Chair Oliveira and Chair McMurtry,

I write in support of a bill before your committee, S.1334, *An Act amending the unemployment insurance law for workers with fluctuating work schedules*.

Our unemployment insurance (UI) system unjustly denies benefits to hardworking people based solely on them having a work schedule that fluctuates. Consider two people who are filing for UI: both worked for the same number of hours and earned the same amount in wages. However, one has a steady, regular schedule while the other's schedule fluctuates due to business slowdowns, mandatory overtime, or other factors. Our UI system may approve benefits for the first person, while denying benefits to the second.

The UI system's formula for determining benefit eligibility is the cause of this inequity. Under the formula, to be eligible for benefits a person must have earned 30 times their average weekly wage (AWW) in the year before claiming benefits. For the person with a steady schedule who earned wages throughout all four of the year's calendar quarters, the formula determines their AWW by calculating their average weekly income during the two quarters in which they earned the most. By contrast, the person with a fluctuating schedule may have earned wages in only one or two quarters of the preceding year and may have earned more in one quarter than another. For this

claimant, the formula determines their AWW by calculating their average weekly income during the one quarter in which they earned the most, as opposed to the two highest quarters.

Using only the one highest quarter inadvertently makes workers with fluctuating schedules ineligible for UI despite them earning the same amount in the aggregate as workers with steady schedules. This is because taking the average of the one quarter with the highest earnings can make a worker appear to have a higher AWW than they should have given their total income. Due to the higher AWW the total amount they must earn to be eligible for UI increases, since claimants must earn 30 times their AWW. In many instances, these workers do not earn enough and are ineligible.

By way of example, imagine the claimants described above each earned \$50,000 last year. Because the first was steadily employed they earned an even \$12,500 per quarter. Their AWW is \$962 and to qualify for benefits they need to earn \$28,860. Since they made \$50,000, they qualify.

The second claimant also earned \$50,000 but due to their fluctuating schedule they made \$30,000 in one quarter, \$20,000 in another, and nothing in the remaining quarters. Their AWW, based on the quarter in which they earned the most, comes to \$2,308. To qualify they therefore need to earn \$69,240, which is over twice what the worker with the steady schedule had to earn. More importantly, because the claimant earned only \$50,000, they do not qualify.

S.1334 would address this inequity by simply requiring that when a person has a fluctuating schedule and has earned wages in two quarters, the formula calculates AWW based on those two quarters rather than on the highest quarter alone. This would remove the harsh penalty of ineligibility based solely on the random distribution of wages earned over certain quarters.

In 2010, the Department of Unemployment Assistance (DUA) recognized the inequitable effect of the existing formula and proposed a nearly identical remedy to the one in this bill.¹ More recently in 2018, the Senate unanimously passed this language as part of a larger bill modernizing UI.² Unfortunately, this policy did not make it to the Governor's desk.

This is an issue of fairness and it is long overdue that we address it. People who have worked the *same* number of hours and earned the *same* amount in wages should have equal access to UI.

Therefore, I respectfully request that the committee report S.1334 favorably. Thank you in advance for your consideration and please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Cynthia F. Friedman", with a long horizontal flourish extending to the right.

Cindy F. Friedman

¹ H.4490, § 37, <https://malegislature.gov/Bills/186/H4490>.

² S.2554, §1, <https://malegislature.gov/Bills/190/S2554>.