STATE OF MAINE
HOUSE OF REPRESENTATIVES
108TH LEGISLATURE
FIRST REGULAR SESSION

(Filing No. H-821)

COMMITTEE AMENDMENT " A" to H.P. 762, L.D. 1012, Bill, "AN ACT to Amend the Employment Security Law to Include Federal Requirements and other Options Available to the State."

Amend the Bill by striking out everything after the enacting clause and inserting in its place the following:

'Sec. 1. 26 MRSA §1043, sub-§1, as last amended by PL 1975, c. 407, §1, is repealed and the following enacted in its place:

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 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. 1141 J, 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 one-half 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 one-half 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.

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.

Sec. 2. 26 MRSA §1043, sub-§2, as last amended by PL 1971, c. 538, §2, is further amended to read:

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, ~~and~~ $4,200 in any ~~subsequent~~ calendar year through 1977 and $6,000 in any subsequent calendar year.

Sec. 3. 26 MRSA §1043, sub-§9, ¶F, as amended by PL 1971, c. 538, §5, is further amended to read:

F. Any employing unit which, having become an employer under paragraphs A, A-1, B, C, D, E, G, ~~or 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; or

Sec. 4. 26 MRSA §1043, sub-§9, ¶¶J - M, are enacted to read:

J. Any employing unit for which agricultural labor as ~~defined in subsection 11, paragraph A-2 is performed~~ after December 31, 1977;

K. Any employing unit for which domestic service in employment as defined in subsection 11, paragraph A-3 is performed after December 31, 1977;

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;

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.

Sec. 5. 26 MRSA §1043, sub-§10, is amended by inserting after the first sentence a new sentence to read:

On and after January 1, 1978, "employing unit" shall also mean 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.

Sec. 6. 26 MRSA §1043, sub-§11, ¶A, sub-¶(3), as enacted by PL 1971, c. 538, §7, is repealed and the following enacted in its place:

(3) The term "employment" shall include an individual's service, wherever performed within the United States or Canada and in the case of the Virgin Islands prior to January 1st of the year following the year in which the U. S. Secretary of Labor approves the unemployment compensation law of the Virgin Islands under section 3304 (a) of the Internal Revenue Code of 1954, in the employ of an American employer, other than service which is deemed employment under the unemployment compensation law of any other state, the Virgin Islands or Canada, and the place from which the service is directed, controlled, in this State.
(or) (is)

Sec. 7. 26 MRSA §1043, sub-§11, ¶A-1, sub-¶(1), as amended by PL 1973, c. 555, §7, is further amended to read:

(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 ~~is not excluded under paragraph F, subparagraph (21), divisions (a) through (h)~~ 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

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 (21)

Sec. 8. 26 MRSA §1043, sub-§11, ¶A-1, sub-¶(4), 1st ¶, as enacted by PL 1971, c. 538, §8, is amended to read:

(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 ~~or the Virgin Islands~~, and in the case of the Virgin Islands after December 31, 1971, and prior to January 1 of the year following the year in which the U. S. Secretary of Labor approves the unemployment compensation law of the Virgin Islands under section 3304 (a) of the Internal Revenue Code of 1954, in the employ of an American employer, other than service which is deemed employment under paragraph A, if:

Sec. 9. 26 MRSA §1043, sub-§11, ¶A-1, sub-¶(4), div. (e), as enacted by PL 1971, c. 538, §8, is repealed.

Sec. 10. 26 MRSA §1043, sub-§11, ¶A-2 is enacted to read:

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 individual 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 subparagraph (b):

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

(ii) such other person shall be treated as having paid wages to such individual in an amount equal to the amount of wages paid to such individual by the crew leader, either on his own behalf or on behalf of such other person for the service in agricultural labor performed for such 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 his own behalf or on behalf of such other person, the individuals so furnished by him for the service in agricultural labor performed by them, and

(iii) has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.

Sec. 11. 26 MRSA §1043, sub-§11, ¶A-3 is enacted to read:

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.

Sec. 12. 26 MRSA §1043, sub-§11, ¶F, sub-¶(4) is amended to read:

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

Sec. 13. 26 MRSA §1043, sub-§11, ¶F, sub-¶(5) is amended to read:

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

Sec. 14. 26 MRSA §1043, sub-§11, ¶F, sub-¶(21), div. (c), as repealed and replaced by PL 1973, c. 555, §8, is amended to read:

(c) ~~Service~~ Prior to January 1, 1978, service performed in the employ of a school primarily operated as an elementary, secondary or preparatory school for higher education, which is not an institution of higher education;

Sec. 15. 26 MRSA §1043, sub-§11, ¶F, sub-¶(21) div. (g), as repealed and replaced by PL 1973, c. 555, §8, is amended to read:

(g) Services performed prior to January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of such prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution;

Sec. 16. 26 MRSA §1043, sub-§11, ¶F, sub-¶(21), div. (i) is enacted to read:

(i) Prior to January 1, 1978, service performed in the employ of a school which is not an institution of higher education; after December 31, 1977, service performed in the employ of a governmental entity referred to in paragraph A-1, subparagraph (1) if such 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 thereof;

(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; or

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

Sec. 17. 26 MRSA §1043, sub-§16, is repealed and the following enacted in its place:

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.

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.

C. The provisions of paragraphs A and B, as including the Virgin Islands, shall become effective on the day after the day on which the U. S. Secretary of Labor approves for the first time under section 3304 (a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted to the Secretary by the Virgin Islands for such approval.

Sec. 18. 26 MRSA §1043, sub-§19, ¶A, 1st sentence, as amended by PL 1971, c. 538, §15, is further amended to read:

For purposes of section 1221, the term "wages" shall not include that part of remuneration which after remuneration equal to $3,000 through December 31, 1971, $4,200 through December 31, 1977, and on and after January 1, ~~1972~~ 1978 ~~,~~ $4,2 that part of remuneration equal to $6,000 has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year, unless that part of the 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.

Sec. 19. 26 MRSA §1043, sub-§19, ¶C is enacted to read:

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

(1) Which 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) Which:

(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 which is not an institution of higher education, as provided in subsection 11, paragraph F, subparagraph (21), division (1);

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.

Sec. 20. 26 MRSA §1043, sub-§§ 27 and 28 are enacted to read:

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 sorori as distinguished from service as an employee in the pursuit of an employer's trade, occupation, profession, enterprise or vocation.

28. Governmental entity. "Governmental entity" means the State of Maine, its instrumentalities and political subdivisions as represented by their elected or appointed governing body. In the case of political subdivisions, governing bodies shall include without limitation, city and town councils, boards of selectmen, boards of county commissioners and boards of directors or trustees of school districts or other special purpose districts.

Sec. 21. 26 MRSA §1192, sub-§7, as enacted by PL 1971, c. 538, §26, is repealed and the following enacted in its place:

7. Service with nonprofit organizations and educational institutions and state and local governments. Benefits based on service in employment defined in section 1043, subsection 11, paragraph A-1, subparagraphs (1) and (3) shall be 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 Act; except that

A. With respect to weeks of unemployment beginning after December 31, 1977, in an instructional, research or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two succe. lve academic years or terms, or when an agreement provides instead for a similar period between two regular but not successive terms, during such period, or during a period

of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years or terms, and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms, and

B. With respect to weeks of unemployment beginning after December 31, 1977, in any other capacity for an educational institution, other than an institution of higher education as defined in section 1043, subsection 25, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is reasonable assurance that such individual will perform such services in the second of such academic years or terms.

C. With respect to weeks of unemployment beginning after December 31, 1977, benefits shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs any services described in paragraphs A or B in the period immediately before such vacation period or holiday recess, and there is reasonable assurance that such individual will perform any such services in the period immediately following such vacation period or holiday recess.

Sec. 22. 26 MRSA §1192, sub-§§10 and 11 are enacted to read:

10. Benefit payments to athletes. Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons or similar periods, if such individual performed such services in the first of such seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the latter of such seasons or similar periods.

11. Benefit payments to illegal aliens. On and after January 1, 1978, benefits shall not be payable on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, as lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of section 203 (a) (7) or section 212 (d) (5) of the Immigratio and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

Sec. 23. 26 MRSA §1195, sub-§1, ¶A, sub-¶(3), as enacted by PL 1971, c. 119, is amended to read:

(3) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, ~~the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and~~ 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 the Virgin Islands or~~ of Canada or the Virgin Islands; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he ~~is~~ shall be considered an exhaustee if the other provisions of this definition are met; provided that the reference in this subparagraph to the Virgin Islands shall be inapplicable effective on the day on which the U. S. Secretary of Labor approves under section 3304 (a) of the Internal Revenue Code of 1954, an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.

Sec. 24. 26 MRSA §1195, sub-§1, ¶¶ E and F, as enacted by PL 1971, c. 119, are repealed and the following enacted in their place:

E. National "off" indicator. There is a "national off indicator" for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5 percent. The rate of insured unemployment, for the purposes of this subsection, shall be determined by the Secretary of Labor by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period.

F. National on indicator. There is a "national on indicator" for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded 4.5 percent. The rate of insured unemployment, for the purposes of this subsection, shall be determined by the Secretary of Labor by reference to the average monthly covered unemployment for the first four of the most recent six calendar quarters ending before the close of such period.

Sec. 25. 26 MRSA §1195, sub-§1, ¶M, as repealed and replaced by PL 1975, c. 299, §3, is repealed.

Sec. 26. 26 MRSA §1221, sub-§3, ¶A-2 is enacted to read:

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 P. L. 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.

Sec. 27. 26 MRSA §1221, sub-§10, ¶1st ¶, as enacted by PL 1971, c. 538, §41, is amended to read:

"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 commission for the unemployment compensation fund, in lieu of such contributions, an amount equal to the amount of regular benefits and of 1/2 of extended benefits paid, that are attributable to service in the employ of such employer ~~to individuals for weeks of unemployment which began during the effective period of such election~~. 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 commission, 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 entiti shall pay an amount equal to all of the extended benefits paid in addition all amounts of regular benefits paid to individuals that are tributable to service in the employ of such governmental entities.

Sec. 28. 26 MRSA §1221, sub-§10, ¶A, 1st sentence, as enacted by PL 1971, c. 538, §41, is repealed.

Sec. 29. 26 MRSA §1221, sub-§10, ¶A, as enacted by PL 1971, c. 538, §41, is amended by adding after the 2nd sentence, a new sentence to read:

Any nonprofit organization or governmental entity subject to this chapter on and after January 1, 1978, may elect to become liable for payments in lieu of contributions for a period of not less than (1) calendar year beginning with the date on which such subjectivity begins by filing a written notice of its election with the commission not later than 30 days immediately following the date of determination of its subjectivity.

Sec. 30. 26 MRSA §1221, sub-§10, ¶F, as enacted by PL 1973, c. 555, §18, is amended to read:

F. Any nonprofit organization, or governmental entity, which has been liable for payments in lieu of contributions whose election to make payments in lieu of contributions terminates under paragraphs A or C, shall pay contributions at the ~~standard~~ rate ~~of 2.7%~~ established for employers newly subject to this chapter as provided by subsection 4, paragraph A until such time as his experience rating record has been chargeable with benefits throughout the 24-consecutive-calendar-month period ending on the computation date applicable to such year, and for rate years thereafter his contribution rate shall be determined in accordance with subsections 3 and 4.

Sec. 31. 26 MRSA §1221, sub-§10, ¶G is enacted to read:

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 P. L. 94-566. No employer or governmental entity will be liable for payment in lieu of contributions for weekly benefits paid or the ma imum 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.

Sec. 32. 26 MRSA §1221, sub-§11, ¶¶ A - D, as enacted by PL 1971, c. 538, §42, are amended to read:

A. At the end of each period as determined by the commission, the commission shall assess each employer or governmental entity who has elected to make payments in lieu of contributions an amount ~~equal to the full amount of regular benefits plus 1/2 of the amount of extended benefits paid during such period that are attributable to service in the employ of such organizatio~~ as provided in subsection 10.

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.

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.

D. The amount due specified in any assessment from the commission shall be conclusive on the employer or governmental entity, unless not later than 15 days after the assessment was mailed to the last known address ~~of such employer~~, the employer or governmental entity files an application for redetermination by the commission setting forth the grounds for such application.

Sec. 33. 26 MRSA §1221, sub-§11, ¶F, as amended by PL 1975, c. 462, §6, is further amended to read:

F. The commission 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 shall be conclusive on the employer or governmental entity unless, not later than 15 days after the redetermination was mailed to ~~his~~ the last known address, the employer or governmental entity files an appeal in accordance with section 1226, subsection 2.

Sec. 34. 26 MRSA §1221, sub-§13, as enacted by PL 1971, c. 538, §44, is repealed and the following enacted in its place:

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 commission for the unemployment compensation fund, in lieu of contributions, an amount equal to the amount of regular benefits and 1/2 of 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 unemployme 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.

Sec. 35. 26 MRSA §1221, sub-§14, 1st sentence, as enacted by PL 1971, c. 538, §45, is amended to read:

Each employer or governmental entity who is liable for payments in lieu of contributions shall pay to the commission for the fund the amount ~~of regular benefits plus the amount of 1/2 of extended benefits paid that are attributable to service in the employ of such employer~~ as provided in subsection 10.

Sec. 36. 26 MRSA §1221, sub-§15, first, 2nd and 3rd sentences, as enacted by PL 1971, c. 538, §46, are amended to read:

Two or more ~~employers~~ nonprofit organizations or two 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 commission 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 entitities. Each such application shall 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 commission shall establish a group account for such employers or governmental entities effective as of the beginning of the calendar quarter in which it receives the application and shall notify the group's representative of the effective date of the account.

Sec. 37. 26 MRSA §1221, sub-§16, is enacted to read:

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.

Sec. 38. 26 MRSA §1222, sub-§3, ¶C, as enacted by PL 1971, c. 538, §48, is repealed.

Sec. 39. Constitutionality. If provisions of the federal unemployment compensation amendments of 1976, PL 94-566, are found by the United States Supreme Court to be unconstitutional and without legal effect, then this Act shall be repealed 9 months after the date of the Supreme Court's decision.

Sec. 40. Effective date. This Act shall become effective 91 days following adjournment of the Legislature, except that sections 1 to 5, 7, 10 to 16, 18 to 22 and 26 to 38 of this Act shall become effective January 1, 1978.'

Statement of Fact

The purpose of this amendment is to extend unemployment benefits to the following workers:

1. Employees of state and local governments and nonprofit schools;

2. Employees engaged in agricultural labor; and

3. Employees engaged in domestic service in residences.

This bill is in conformity with the federal unemployment compensation amendments of 1976, PL 94-566.

Sec. 1. This revises the definition of agricultural labor.

Sec. 2. This increases the tax base to $6,000.

Sec. 3. This includes reference to agricultural labor and domestic service.

Sec. 4. This includes as an employer, an employing unit for which agricultural labor is performed.

This includes as an employer, an employing unit for which domestic service is performed.

In establishing liability under general coverage, non-profit organizations, State or governmental entities, or agricultural labor, employees performing domestic service shall not be considered under this section.

In establishing liability for general coverage, non-profit organizations, state and governmental entities, or domestic service employees performing services under agricultural labor will not be taken into consideration. However, if an employing unit becomes subject because of agricultural labor, it shall also be determined an employer for general coverage.

Sec. 5. This provides that the State or governmental entities shall be an employer.

Sec. 6. This section is an amendment, only to include the Virgin Islands.

Sec. 7. This defines employment for the State and governmental entities.

Sec. 8. This is only to include the Virgin Islands.

Sec. 9. This section of the bill repeals a subparagraph defining the United States which is no longer needed as there is a new definition.

Sec. 10. This defines agricultural labor which is included as employment.

Sec. 11. This defines domestic service which is included as employment.

Sec. 12. This defines agricultural labor that is exempt employment.

Sec. 13. This defines domestic service that is exempt employment.

Sec. 14. This is amended to indicate services performed in elementary, secondary or preparatory schools as exempt employment, prior to January 1, 1978.

Sec. 15. This provides that services performed by an inmate of a custodial or penal institution are exempt employment.

Sec. 16. This provides that services performed by certain individuals in the employ of a governmental entity are exempt employment.

Sec. 17. This provides a new definition for State and United States, to include the Virgin Islands.

Sec. 18. This revises the definition of wages, to include $6,000 paid to an individual.

Sec. 19. This is to provide that wages earned by individuals performing services in the newly-covered categories for agricultural labor, domestic service, employees of non-profit schools and of State and local governments may be used for unemployment benefit purposes to provide protection under the Unemployment Insurance program for newly-covered workers. Benefits based on wages earned in previously uncovered services will be reimbursed by the Federal Government.

Sec. 20. This defines domestic service and governmental entity.

Sec. 21. This provides for the denial of benefits to certain school employees between terms and during established vacation periods or holiday recesses. These persons are eligible if they do not have written reasonable assurance of being rehired at the end of the term or vacation period.

Sec. 22. This provides for the denial of benefits to professional athletes on the basis of athletic wages during the off season when the attachment to athletic employment appears to be continuing.

This section covers the denial of benefits to illegal aliens.

Sec. 23 This amendment is to include the Virgin Islands.

Sec. 24. This amends the "National off indicator for extended benefits.

This amends the "National on indicator" for extended benefits.

Sec. 25. This repeals an extended benefit provision which ended December 31, 1976.

Sec. 26. This provides that benefits paid, based on previously uncovered services, will not be charged to the experience rating record of an employer.

Sec. 27. This provides that governmental entities may pay contributions or elect to make reimbursement payments in lieu of contributions.

Sec. 30. This provides that non-profit organizations or governmental entities who have been making reimbursement payments in lieu of contributions and change to pay contributions, will pay contributions at the same rate as any newly subject employer rather than the standard rate of 2.7%.

Sec. 31. This provides that no employer or governmental entity will be liable for payments in lieu of contributions for benefits paid based on wages in previously uncovered services.

Sec. 32. This provides the procedure for direct reimbursement by governmental entities.

Sec. 34. This covers payments by the State or governmental entities.

Sec. 35. This provides for allocation of benefit costs to include governmental entities.

Sec. 36. This provides that two or more governmental entities may form group accounts for reimbursement payments to the fu

Sec. 37. This provides that previously covered employers may receive credit for excess of contributions over benefits paid.

Sec. 38. This repeals the provision for voluntary election and termination of coverage for political subdivisions of this State.

Sec. 39. This automatically repeals this entire Act if the U.S. Supreme Court finds the federal legislation making possible this extended coverage of unemployment benefits to be unconstitutional. A 9-month period between such a Supreme Court ruling and the repeal date of this Act is provided so as to allow the Legislature to decide whether or not it wishes to stop unemployment benefits for agricultural and domestic service workers and employees of schools and state and local government.

Reported by the Majority of theComittee on Labor.

Reproduced and distributed under the direction of theClerk of the House.
6/23/77

(Filing No. H-821)