

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION

HOUSE AMENDMENT "A" to H.P. 24, L.D. 49, Bill, "An Act to Exempt Contract Dance Instructors from the Unemployment Tax"

Amend the bill by striking out the title and substituting the following:

'An Act to Exempt Contract Dance Instructors and National Service Volunteers from the Unemployment Tax'

Further amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, Maine communities presently benefit from the community service performed by state citizens participating in national service programs funded by the federal agency known as the Corporation for National Service; and

Whereas, national service participants in AmeriCorps*USA, AmeriCorps*VISTA, Learn and Service America Students and Senior Corps not only help communities carry out projects that would remain undone were it not for the assistance of national service but also engage local citizens as volunteers to build the communities' capacity to sustain the service project; and

HOUSE AMENDMENT

2 **Whereas,** some national service programs require a time
commitment that precludes employment and, therefore, make it
4 possible for citizens of all socioeconomic backgrounds to serve
their communities by providing a modest living allowance; and

6 **Whereas,** national service participants in AmeriCorps*USA
and AmeriCorps*VISTA become eligible for educational awards held
8 in trust under the system established by the federal National and
Community Service Trust Act of 1993; and

10 **Whereas,** the federal laws and regulations pertaining to
12 national service programs clearly state that national service
participants are not employees, are not serving for the purpose
14 of gaining employment skills and may not displace workers and
that national service participants are not eligible to collect
16 unemployment benefits from the federal system under a
determination by the United States Department of Labor; and

18 **Whereas,** under the standards of Maine law, the stipend and
20 educational award have been determined to be compensation; and

22 **Whereas,** this discrepancy creates a fiscal impact for the
State which not only benefits from the service activities of
24 these volunteers but also administers national service programs;
and

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

32 Further amend the bill in section 1 in subparagraph (39) in
34 the last line (page 1, line 16 in L.D.) by striking out the
following: "and"

36 Further amend the bill in section 2 in the 2nd line (page 1,
38 line 19 in L.D.) by striking out the following: "a new
subparagraph (40)" and inserting in its place the following: '2
40 new subparagraphs'

42 Further amend the bill in section 2 by striking out all of
subparagraph (40) and inserting in its place the following:

44 '(40) Services provided by a dance instructor to students
46 of a dance studio when there is a contract between the
48 instructor and the studio under which the instructor's
50 services are not offered exclusively to the studio, the
studio does not control the scheduling of the days and times
of classes other than beginning and end dates, the

instructor is paid by the class and not on an hourly or salary basis, the compensation rate is the result of negotiation between the instructor and the studio and the instructor is given the freedom to develop the curriculum; and

(41) Services performed by participants enrolled in programs or projects under the national service laws including the federal National and Community Service Act of 1990, as amended, 42 United States Code, Section 12501 et seq., and the federal Domestic Volunteer Service Act, as amended, 42 United States Code, Section 4950 et seq.'

Further amend the bill by inserting before the summary the following:

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

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

The Unemployment Compensation Trust Fund, administered by the Department of Labor, will realize minor offsetting savings and revenue losses from the exemption of contract dance instructors from unemployment tax requirements.'

SUMMARY

This amendment adds specific criteria that contract dance instructors must meet in order to qualify for the exception to the definition of employment for unemployment compensation purposes. It also adds an emergency preamble and clarifies that national service volunteers serving in Maine projects or programs, e.g., AmeriCorps*USA and AmeriCorps*VISTA, and receiving stipends in order to allow them to serve their communities are not employees under state law. This amendment also adds a fiscal note to the bill.

SPONSORED BY: 
(Representative HATCH)

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