

# MAINE STATE LEGISLATURE

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M  
Rd.

L.D. 1970

DATE: 5-25-99

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
FIRST REGULAR SESSION

18

COMMITTEE AMENDMENT "B" to H.P. 1372, L.D. 1970, Bill, "An Act to Address the Solvency of the Unemployment Compensation Fund"

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Amend the bill by inserting after the enacting clause the following:

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

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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, who has exhausted his that worker's benefit year within 30 months of his 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 13 weeks, or up to 26 weeks in the case of a worker residing in a county with an unemployment rate higher than the state average, provided that no benefits may be paid under this paragraph to any person:

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44

(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;

46

(2) Who is eligible for or who has exhausted, after the effective date of this paragraph, trade adjustment

COMMITTEE AMENDMENT

2 allowances as provided by the United States Trade Act  
3 of 1974, Title II, Chapter 2, Public Law 93-617, United  
4 States Code, Title 19, Section 2291, et seq., and any  
5 amendments or additions thereto, or a similar successor  
6 provision of that Act, except that any individual who  
7 was eligible for and received less than 26 weeks of  
8 benefits under the United States Trade Act may receive  
9 benefits for the number of weeks by which their  
10 benefits under that Act are less than 26 weeks; or

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

16 Further amend the bill in section 1 in paragraph A in the  
17 8th line (page 1, line 13 in L.D.) by striking out the following:  
18 "\$12,000" and inserting in its place the following: '\$14,000'  
19

20 Further amend the bill in section 2 in subsection 23 in the  
21 11th and 12th lines (page 1, lines 39 and 40 in L.D.) by striking  
22 out the following: "and that adversely affects a material or  
23 substantial interest of the employer"  
24

25 Further amend the bill in section 3 by striking out all of  
26 subsection 7 and inserting in its place the following:  
27

28 '**7. Limitation on recovery.** Deduction from benefits that  
29 may be or may become payable to an individual as provided for in  
30 subsection 5 shall-be is limited to not more than 10% 75% of any  
31 weekly benefit payment otherwise due the claimant. The  
32 department may negotiate to deduct a lesser percentage if the  
33 person has been paying in good faith.'  
34

35 Further amend the bill in section 4 by striking out all of  
36 subsection 9 and inserting in its place the following:  
37

38 '**9. Interest on overpayments.** Benefit payments owed to the  
39 commissioner bear interest at the rate of 1.0% per month or per  
40 fraction of a month. Except as provided in this subsection,  
41 interest accrues on any balance that remains unpaid one year  
42 after the first of the month following the date the determination  
43 establishing the benefit overpayment becomes final until payment  
44 plus accrued interest is received by the bureau. If the benefit  
45 overpayment was established in a determination rendered under  
46 section 1193, subsection 6, the interest rate is 1.5% per month  
47 or per fraction of a month and interest accrues from the first of  
48 the month following the date the overpayment was made until  
49 payment plus accrued interest is received by the bureau.'  
50

2 Further amend the bill in section 5 in that part designated  
4 "§1164." in the 27th line (page 4, line 12 in L.D.) by inserting  
6 after the following: "Fund" the following: ', including random  
audits of claimants and employers, which the department shall  
perform.'

8 Further amend the bill in section 6 by striking out all of  
10 subsection 2 and inserting in its place the following:

12 '2. **Weekly benefit amount for total unemployment.** Each  
14 eligible individual establishing a benefit year on or after  
16 October 1, 1983 and before January 1, 2000 who is totally  
18 unemployed in any week must be paid with respect to that week  
20 benefits equal to 1/22 of the wages, rounded to the nearest lower  
22 full dollar amount, paid to that individual in the high quarter  
24 of the base period, but not less than \$12. Each eligible  
individual establishing a benefit year on or after January 1,  
2000 who is totally unemployed in any week must be paid with  
respect to that week benefits equal to 2/47 of the average of the  
wages, rounded to the nearest lower full dollar amount, paid to  
that individual in the 2 highest quarters of the base period.  
The maximum weekly benefit amount for claimants requesting  
insured status determination beginning October 1, 1983 and  
thereafter from June 1st of a calendar year to May 31st of the  
next calendar year may not exceed 52% 50% of the annual average  
weekly wage, rounded to the nearest lower full dollar amount,  
paid in the calendar year preceding June 1st of that calendar  
year. ~~No increase in the maximum weekly benefit amount may occur  
for the period from June 1, 1992 to October 28, 1995. For the  
periods from October 29, 1995 to May 31, 1997 and from September  
28, 1997 to December 31, 1999, the~~ The maximum weekly benefit  
amount is limited to 94% 97% of the amount calculated previously  
in this subsection, rounded to the nearest lower full dollar  
amount. ~~For claimants requesting insured status determination on  
or after April 1, 1993 and before January 1, 1995, the weekly  
benefit amount must be the amount determined by this subsection  
minus \$6.~~ For claimants requesting insured status determination  
on or after April 1, 1995 and before January 1, 2000, the weekly  
benefit amount must be the amount determined by this subsection  
minus \$3.'

42 Further amend the bill by inserting after section 6 the  
44 following:

46 'Sec. 7. 26 MRSA §1191, sub-§4, as amended by PL 1987, c. 570,  
48 §2, is further amended by amending the first paragraph to read:

4. **Maximum amount of benefits.** The maximum amount of benefits which shall 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%~~ 30%, 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.

**Sec. 8. 26 MRSA §1191, sub-§6,** as amended by PL 1991, c. 885, Pt. E, §38 and affected by §47, is further amended by amending the first paragraph to read:

6. **Supplemental benefit for dependents.** An individual in total or partial unemployment and otherwise eligible for benefits must be paid for each week of that unemployment, in addition to the amounts payable under subsections 2 and 3, the sum of \$10 ~~\$12~~ for each unemancipated child of the individual who in any part of the benefit year and during any part of the individual's period of eligibility is, in fact, dependent upon and is being wholly or mainly supported by the individual, and who is under ~~the age of~~ 18 years of age, or who is 18 years of age or over and incapable of earning wages because of mental or physical incapacity, or who is a full-time student as defined in Title 39-A, section 102, subsection 9, paragraph C, or who is in that individual's custody pending the adjudication of a petition filed by the individual for the adoption of the child in a court of competent jurisdiction and for each such child for whom that individual is under a decree or order from a court of competent jurisdiction to contribute to that child's support and for whom no other person is receiving allowances hereunder. In no instance may the dependency benefits as provided in this subsection be more than 50% of the individual's weekly benefit amount.'

Further amend the bill in section 7 by striking out all of subsection 6 and inserting in its place the following:

'6. **Has falsified.** For any week for which the deputy finds that the claimant made a false statement or representation knowing it to be false or knowingly ~~fails~~ failed to disclose a material fact in his the claimant's application to obtain benefits, ~~and in.~~ In addition, the claimant shall ~~be~~ is ineligible to receive any benefits for a period of ~~not less than 6 months nor more than one year~~ or 4 weeks for every week of benefits fraudulently obtained, whichever is greater, and the commissioner shall assess a penalty of 200% of the benefits falsely obtained; or'

COMMITTEE AMENDMENT "B" to H.P. 1372, L.D. 1970

2 Further amend the bill in section 9 in subsection 4-A in the  
8th line (page 8, line 37 in L.D.) by striking out the  
4 following: "the predetermined yield" and inserting in its place  
the following: 'the greater of 85% of the predetermined yield or  
1.0%'

6  
8 Further amend the bill in section 9 in subsection 4-A in  
paragraph B by striking out all of subparagraph (3) and inserting  
in its place the following:

10  
12 '(3) The commissioner shall compute a reserve multiple  
14 on October 31st of each calendar year. The reserve  
16 multiple is determined by dividing the fund reserve  
18 ratio by the average benefit cost rate. The planned  
20 yield is .95% for the rate year beginning January 1,  
22 2000. For rate years beginning after January 1, 2000,  
24 the commissioner shall set a planned yield no greater  
26 than 1.06%. If the reserve multiple equals or exceeds  
1.0, the commissioner shall set the planned yield so  
that the reserve multiple projected to be computed the  
following October 31st equals 1.0. In determining the  
planned yield needed to achieve a reserve multiple of  
1.0, the commissioner shall use a tax-rated insured  
unemployment rate no greater than 110% of the tax-rated  
insured unemployment rate for the prior calendar year  
to estimate benefit costs.'

28 Further amend the bill in section 9 in subsection 4-A in  
30 paragraph C by striking out all of subparagraph (1) and inserting  
in its place the following:

32 '(1) Promptly notify each employer of the employer's  
34 rate of contributions as determined for the 12-month  
36 period commencing January 1st of each year. The  
38 determination is conclusive and binding upon the  
40 employer unless, within 30 days after notice of the  
42 determination is mailed to the employer's last known  
44 address or, in the absence of mailing, within 30 days  
46 after the delivery of the notice, the employer files an  
48 application for review and redetermination setting  
50 forth the employer's reasons. If the commission grants  
the review, the employer must be promptly notified and  
must be granted an opportunity for a hearing. In that  
hearing, the department has the burden of proof. An  
employer has standing in any proceedings involving the  
employer's rate of contributions or contribution  
liability to contest the chargeability to the  
employer's experience rating record of any benefits  
paid in accordance with a determination,  
redetermination or decision pursuant to section 1194.

## COMMITTEE AMENDMENT "f" to H.P. 1372, L.D. 1970

2           The employer must be promptly notified of the  
 4           commission's denial of the employer's application or  
           the commission's redetermination, both of which are  
           subject to appeal pursuant to Title 5, chapter 375,  
           subchapter VII; and'

6  
 8           Further amend the bill in section 10 in subsection 6 in the  
 10          first paragraph in the last line (page 12, line 38 in L.D.) by  
           striking out the following: "~~already---requires~~ otherwise  
           indicates" and inserting in its place the following: 'already  
           requires otherwise'

12  
 14          Further amend the bill in section 10 in subsection 6 in  
           paragraph J in the 2nd line (page 13, line 40 in L.D.) by  
           striking out the following: "3" and inserting in its place the  
           following: '5'

18          Further amend the bill in section 10 in subsection 6 in  
           paragraph J in the 3rd line (page 13, line 41 in L.D.) by  
           striking out the following: "20" and inserting in its place the  
           following: '15'

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 24          Further amend the bill in section 10 in subsection 6 in  
           paragraph L in the 4th line (page 14, line 2 in L.D.) by striking  
           out the following: "2.4" and inserting in its place the  
           following: '2.15'

28          Further amend the bill in section 10 in subsection 6 in  
           paragraph L in the 6th line (page 14, line 4 in L.D.) by striking  
           out the following: "2.5" and inserting in its place the  
           following: '2.25'

32  
 34          Further amend the bill in section 10 in subsection 6 by  
           inserting after paragraph P the following:

36           'Q. "Tax rated insured unemployment rate" means the  
 38           percentage obtained by dividing a calendar year's average  
           weekly continued claims by the average monthly covered  
           employment for the same calendar year. Employment and  
           continued claims attributable to direct reimbursing  
           employers are excluded from this calculation.'

42  
 44          Further amend the bill in section 11 by striking out all of  
           subsection 1-A and inserting in its place the following:

46           '1-A. Liability of employer and certain individuals. The  
           liability for contributions or fees and the interest or penalties  
           due on contributions are enforceable by assessment and  
           collection, in the manner prescribed in this section, against the  
           employer.'

2 Further amend the bill by inserting after section 12 the  
4 following:

6 'Sec. 13. Report. The Department of Labor shall report to the  
8 Joint Standing Committee on Labor by December 31, 1999 on the  
rate of return earned on funds in the Unemployment Compensation  
Fund and on options for obtaining a higher rate of return.

10 Sec. 14. Allocation. The following funds are allocated from  
12 Other Special Revenue funds to carry out the purposes of this Act.

	1999-00	2000-01
<b>BAXTER STATE PARK AUTHORITY</b>		
<b>Baxter State Park Authority</b>		
Personal Services	\$3,434	\$3,299
Provides funds for additional unemployment compensation costs.'		

24 Further amend the bill by relettering or renumbering any  
26 nonconsecutive Part letter or section number to read  
consecutively.

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

<b>'FISCAL NOTE</b>		
	1999-00	2000-01
<b>APPROPRIATIONS/ALLOCATIONS</b>		
Other Funds	\$3,434	\$3,299

36 Changes in this bill will have the net effect of increasing  
42 the reserves in the Unemployment Compensation Trust Fund, which  
is administered by the Department of Labor. Projected  
44 unemployment trends, which use a set of economic assumptions that  
include an "average high unemployment period" in the next decade,  
46 have been factored by the department into current statutory  
provisions (which assume the continuation of temporary solvency  
48 measures currently in effect), which in turn determine the  
amounts of unemployment benefits paid by the fund and the



2 by the fund. Based on this analysis, it is likely that the fund  
3 will have a deficit of approximately \$110,800,000 by calendar  
4 year 2004. Assuming no change in the planned yield during the  
5 projection period, the overall effect of the changes in this bill  
6 will result in a fund balance of \$31,500,000 by the end of  
7 calendar year 2004. The proposed system is designed to keep the  
8 trust fund balance with enough reserves to avoid long-term  
9 borrowing during an average recession.

10 For calendar year 2000, the net effect of changing the  
11 weekly benefit formula from 1/22 of high quarter wages to 2/47 of  
12 the average of the 2 highest quarters of wages and further  
13 reducing that calculation to 97% with a maximum of 50% of the  
14 average weekly wage; allowing the \$3 weekly benefit adjustment  
15 reduction to expire; reducing the 6% maximum weekly benefit  
16 adjustment reduction to 3%; changing the definition of  
17 misconduct; decreasing the amount of benefits payable in a  
18 benefit year; increasing the dependency allowance; changing  
19 provisions related to dislocated workers; and making other  
20 changes to provisions related to overpayment reductions, fraud  
21 and overpayment recovery will result in net savings estimated to  
22 range from \$16,000,000 to \$27,500,000 in benefits paid from the  
23 fund.

24 This bill also includes a number of changes that will  
25 increase revenues collected for the fund. Beginning in calendar  
26 year 2000, the total effect of increasing the taxable wage base  
27 from \$7,000 to \$14,000; allowing the .4% surcharge to expire;  
28 expanding delinquent contribution collections; and replacing the  
29 current experience rating system for employers with an array  
30 contribution system with a 0.95% planned yield will result in a  
31 decrease of \$5,300,000 in unemployment compensation contributions  
32 raised for the fund. In following years, the projected increase  
33 in annual revenues will be from \$3,700,000 in calendar year 2001  
34 to \$11,600,000 in calendar year 2004.

35 The bill includes Other Special Revenue funds allocations of  
36 \$3,434 and \$3,299 in fiscal years 1999-00 and 2000-01,  
37 respectively, for the Baxter State Park Authority for increased  
38 unemployment compensation costs.

39 The Department of Agriculture, Food and Rural Resources, the  
40 Atlantic Salmon Authority, the Saco River Corridor Commission and  
41 the Maine Sardine Council will incur some minor additional costs  
42 to pay for increased unemployment compensation costs. These  
43 costs can be absorbed within the respective agencies' existing  
44 budgeted resources.

45 If the analysis of the Unemployment Compensation Trust Fund  
46 is undertaken using economic assumptions that include insured  
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2 unemployment rates ranging from 2.2% to 2.7%, the fund would have  
a fund balance of approximately \$271,600,000 by calendar year  
4 2004; the overall effect of the changes in the bill under these  
assumptions would result in a fund balance of \$174,200,000 by the  
6 end of calendar year 2004. Also using these alternative economic  
assumptions, the benefit system adjustments would result in a net  
8 savings ranging from \$9,900,000 to \$14,000,000 in benefits paid  
from the fund in calendar year 2000. Unemployment compensation  
10 contributions raised for the fund would decrease by \$7,600,000 in  
calendar year 2000. In following years projected annual revenues  
12 to the fund would drop between \$41,200,000 and \$48,200,000 from  
calendar year 2001 to calendar year 2004.'

### 14 SUMMARY

16 This amendment is the minority report of the committee. It  
18 changes the taxable wage base to \$14,000 and provides that  
contribution rates will be capped in a manner that prevents the  
20 Unemployment Compensation Fund from holding more than the funds  
necessary to pay 12 months of benefits. The amendment provides  
22 for a lower planned yield than the bill, which will result in a  
lower tax rate.

24 It amends the definition of "misconduct" by striking the  
26 language requiring that the employee's conduct adversely affect a  
material or substantial interest of the employer. It also  
28 increases the maximum amount of benefit that may be deducted to  
recover overpayments to 75% and allows the Department of Labor to  
30 reduce the percentage for a person who has been paying in good  
faith. It also provides for an 18% annual interest rate for  
32 repayment of benefits falsely obtained and provides that interest  
begins accruing from the first of the month following the date  
34 the benefit was paid.

36 The amendment also changes the benefit calculation so that  
the benefit would be 2/47ths of the average of the 2 highest  
38 quarters, reduced to 97% and with a maximum of 50% of the average  
weekly wage. It decreases the maximum amount of benefits payable  
40 in a benefit year to the lesser of 26 weeks or 30% of the  
employee's total wages for insured work during the base period  
42 and increases the dependency benefit to \$12. The amendment  
provides a 200% penalty for falsely obtained benefits and  
44 provides for 4 weeks of disqualification for each week of falsely  
obtained benefits. It changes the number of weeks that  
46 dislocated workers in training programs can obtain extended  
benefits from 26 to 13 weeks, except in counties with  
48 above-average unemployment.

R.S.

COMMITTEE AMENDMENT "B" to H.P. 1372, L.D. 1970

2 The amendment provides for a lower rate for new employers  
than the bill or the majority amendment.

4 The amendment removes language imposing liability for  
6 contributions, fees and interest and penalties on the employer's  
officers, directors and members as well as the employer. It  
8 also requires the department to conduct random audits of  
claimants and employers.

10 The amendment adds an allocation section and a fiscal note  
to the bill.