# MAINE STATE LEGISLATURE

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2	DATE: 4/3/06	L.D. 1847 (Filing No. H-937)
6	LABOR	
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10	Reproduced and distributed under the the House.	direction of the Clerk of
12	STATE OF MA	INF
14	HOUSE OF REPRESENTATIVES 122ND LEGISLATURE	
16	SECOND REGULAR SESSION	
18	COMMITTEE AMENDMENT " $eta$ " to H.P.	
20	COMMITTEE AMENDMENT "" to H.P. Act To Clarify the Unemployment Laws R	
22	Amend the bill by striking out the following:	the title and substituting
24	-	i .
26	'Resolve, To Require the Department with Interested Parties, To Examin Regarding the Definition of "Emp	
28	Unemployment Compensation'	
30	Further amend the bill by striki title and before the summary and i	
32	following:	insercing in its place the
34	Sec. 1. Definition of employment. I	<del>-</del>
36	of Labor, in consultation with interthe laws and practices used in definit	ng "employment" for purposes
38	of unemployment compensation. The examination of the following issues as or an interested party determines to be	nd any others the department
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42	<ol> <li>The adequacy of current law "employment" for purposes of unemployed the Maine Revised Statutes, Title 20</li> </ol>	ment compensation, including
44	11, paragraph E, to distinguish accordance bona fide independent contractor	urately between persons who

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2. The need for, or benefit of, revising the Department of Labor survey instrument used to determine who is a bona fide

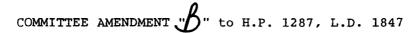
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considered employees;

independent contractor;



P. O.S.
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3. The need for, or benefit of, the State's adopting Internal Revenue Service guidelines for determining who is a bona fide independent contractor;

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4. The need for, or benefit of, the State's adopting the same criteria for determining who is a bona fide independent contractor for purposes of unemployment compensation that it now follows for purposes of workers' compensation; and

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5. The need for, or benefit of, the State's instituting a precertification program for bona fide independent contractors similar to programs in Montana and other states; and be it further

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Sec. 2. Report. Resolved: That the Department of Labor, after consultation with interested parties, shall submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters by January 15, 2007 regarding this resolve. The report must include findings, recommendations and any proposed implementing legislation. The joint standing committee of the Legislature having jurisdiction over labor matters may report out legislation relating to the subject matter of this resolve to the First Regular Session of the 123rd Legislature; and be it further

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Sec. 3. Participants in study. Resolved: That, in conducting the study under section 1 and preparing the report under section 2, the Department of Labor shall call upon interested parties to participate and offer comment and shall offer equal participation to representatives of both management and labor interests, including, but not limited to, representatives of:

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Contractors who employ the services of subcontractors;

34 36 Self-employed, unincorporated subcontractors;

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3. Persons engaged in the installation of flooring materials; and  $% \left( 1\right) =\left( 1\right) +\left( 1\right) +$ 

4. Attorneys who practice in labor law, including the areas

40 42 of unemployment compensation and workers' compensation law; and be it further

Sec. 4. Funding. Resolved: That the Department of Labor

**44 46**  shall seek outside funds from the Federal Government, nonprofit foundations and other appropriate public or private sources to fund the costs of the study. Contributions to support the study may not be accepted from any party having a pecuniary or other

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# COMMITTEE AMENDMENT "B" to H.P. 1287, L.D. 1847

vested interest in the outcome of the matters being studied. To the extent that outside contributions are inadequate to pay for all costs of the study, the department shall make every effort to complete the study and report within existing budgeted resources.'

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#### SUMMARY

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This amendment strikes the bill and replaces it with a resolve. The resolve requires the Department of Labor to conduct a study of the laws and practices regarding the definition of "employment" for purposes of unemployment compensation. The department shall call upon interested parties in conducting its study and shall submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters with its findings, recommendations and any proposed implementing legislation.

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## FISCAL NOTE REQUIRED (See attached)

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### 122nd MAINE LEGISLATURE

LD 1847

LR 2986(04)

An Act to Clarify the Unemployment Laws Relating to Subcontractors

Fiscal Note for Bill as Amended by Committee Amendment ""

Committee: Labor

Fiscal Note Required: Yes

#### **Fiscal Note**

Minor cost increase - General Fund

#### **Fiscal Detail and Notes**

Additional costs to the Department of Labor to conduct the required study and issue the required report can be absorbed utilizing existing budgeted resources and the outside contribution provisions included in this legislation.