LEGISLATIVE COMMITTEE MINUTES

SB42

Bill as Introduced

SB 42-FN - AS INTRODUCED

2023 SESSION

23-0875
05/04

SENATE BILL ***42-FN***

AN ACT relative to overpayment of unemployment compensation.

SPONSORS: Sen. Whitley, Dist 15; Sen. Watters, Dist 4; Sen. D'Allesandro, Dist 20; Sen. Rosenwald, Dist 13; Sen. Carson, Dist 14; Sen. Fenton, Dist 10; Sen. Perkins Kwoka, Dist 21; Sen. Innis, Dist 7; Sen. Prentiss, Dist 5; Sen. Soucy, Dist 18; Sen. Lang, Dist 2; Rep. C. McGuire, Merr. 27; Rep. Adjutant, Graf. 16; Rep. Wolf, Merr. 7; Rep. Wilhelm, Hills. 40

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill provides that the state shall not charge interest on the collection of an overpayment of unemployment compensation unless the person knowingly or willfully made a false statement in their application for benefits.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0875
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to overpayment of unemployment compensation.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Unemployment Compensation; Overpayment Penalties. Amend RSA 282-A:165, IV to read as follows:

IV. The commissioner shall collect any overpayment created under this chapter by civil action in any manner provided for the collection of contributions in RSA 282-A:141-156, ***except as provided in paragraph V,*** and shall withhold, in whole or in part as determined by the commissioner, any future benefits payable to the individual and shall credit such amount withheld against the overpayment until it is repaid in full.

2 New Paragraph; Unemployment Compensation; Overpayment Amend RSA 282-A:165 by inserting after paragraph IV the following new paragraph:

V. The commissioner shall not charge interest on overpayments unless the person willfully made a false statement or representation or knowingly failed to disclose a material fact to obtain or increase any benefit or other payment under this chapter, either for oneself or any other person pursuant to RSA 282-A:161 or RSA 282-A:164.

3 Effective Date. This act shall take effect 60 days after its passage.

LBA
23-0875
1/10/23

SB 42-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to overpayment of unemployment compensation.

FISCAL IMPACT: **[X] State** **[ ] County** **[ ] Local** **[ ] None**

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	$0	$0	$0	$0
Funding Source:	[ ] General [ ] Education [ ] Highway [X] Other - Administrative Contribution (RSA 282-A:140)			

METHODOLOGY:

This bill provides that the state shall not charge interest on the collection of an overpayment of unemployment compensation unless the person knowingly or willfully made a false statement in their application for benefits.

The Department of Employment Security provided the following information concerning interest charged on collection of an overpayment of unemployment compensation:

- Under existing law, interest on overpaid benefits accrues at the rate of 1% per month with few exceptions. However, an individual is only required to repay the State if the individual is determined to be at fault with respect to the overpayment. If the Department or an employer caused benefits to be overpaid, then the individual is not required to repay the benefits and thus does not accrue any interest.
- While an individual may be determined to be at fault in causing the overpaid benefits, this does not necessarily mean the individual acted fraudulently. To be considered at fault, they must be found to have made a material statement or misrepresentation which they knew or should have known was inaccurate, or have failed or caused another to fail to disclose a material fact that they knew or should have known was material in obtaining benefits.
- In situations where the individual is determined to be at fault and is determined to have acted willfully or intentionally, the situation would be considered fraudulent.

- If the individual is determined to be at fault in causing the benefits to be overpaid, but it is determined this was the result of negligence and not a willful or intentional conduct, the overpaid benefits would be considered non-fraudulent.
- Interest accrues when the individual is at fault in causing the benefits to be overpaid, whether the overpayment is deemed to be the result of fraud or not. There are mitigating circumstances such as the Commissioner's ability to waive interest that is $50.00 or less if the waiver is deemed to be "for the best interests of the state."
- Interest does not accrue on overpayments paid within 60 days "from the date of mailing of the final decision creating the overpayment."
- As charging interest is generally considered to be a matter of state law, this proposal likely would not raise a conformity issue with the United States Department of Labor.
- The money received from overpayment interest is deposited into the Administrative Contribution fund at RSA 282-A:140. During Fiscal year 2022, the Department collected $91,115 in interest from non-fraud overpaid benefits.

As is customary with all proposed legislation seeking to amend state law governing the unemployment compensation program, once the bill becomes public the Department will submit a request for compliance and conformity review to the United States Department of Labor and ask that their review be expedited.

It is assumed that any fiscal impact would occur after FY 2023.

AGENCIES CONTACTED:

Department of Employment Security

SB 42-FN - VERSION ADOPTED BY BOTH BODIES

2023 SESSION

23-0875
05/04

SENATE BILL ***42-FN***

AN ACT relative to overpayment of unemployment compensation.

SPONSORS: Sen. Whitley, Dist 15; Sen. Watters, Dist 4; Sen. D'Allesandro, Dist 20; Sen. Rosenwald, Dist 13; Sen. Carson, Dist 14; Sen. Fenton, Dist 10; Sen. Perkins Kwoka, Dist 21; Sen. Innis, Dist 7; Sen. Prentiss, Dist 5; Sen. Soucy, Dist 18; Sen. Lang, Dist 2; Rep. C. McGuire, Merr. 27; Rep. Adjutant, Graf. 16; Rep. Wolf, Merr. 7; Rep. Wilhelm, Hills. 40

COMMITTEE: Executive Departments and Administration

ANALYSIS

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23-0875
05/04

STATE OF NEW HAMPSHIRE

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3 Effective Date. This act shall take effect 60 days after its passage.

LBA
23-0875
1/10/23

SB 42-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to overpayment of unemployment compensation.

FISCAL IMPACT: **[X] State** **[ ] County** **[ ] Local** **[ ] None**

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	$0	$0	$0	$0
Funding Source:	[ ] General [ ] Education [ ] Highway [X] Other - Administrative Contribution (RSA 282-A:140)			

METHODOLOGY:

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- Interest does not accrue on overpayments paid within 60 days "from the date of mailing of the final decision creating the overpayment."
- As charging interest is generally considered to be a matter of state law, this proposal likely would not raise a conformity issue with the United States Department of Labor.
- The money received from overpayment interest is deposited into the Administrative Contribution fund at RSA 282-A:140. During Fiscal year 2022, the Department collected $91,115 in interest from non-fraud overpaid benefits.

As is customary with all proposed legislation seeking to amend state law governing the unemployment compensation program, once the bill becomes public the Department will submit a request for compliance and conformity review to the United States Department of Labor and ask that their review be expedited.

It is assumed that any fiscal impact would occur after FY 2023.

AGENCIES CONTACTED:

Department of Employment Security

SB 42-FN - FINAL VERSION

2023 SESSION

23-0875
05/04

SENATE BILL ***42-FN***

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3 Effective Date. This act shall take effect 60 days after its passage.

VETOED July 28, 2023

LBA
23-0875
1/10/23

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AGENCIES CONTACTED:

Department of Employment Security

Committee Minutes

SENATE CALENDAR NOTICE
Executive Departments and Administration

Sen Howard Pearl, Chair
Sen Sharon Carson, Vice Chair
Sen Carrie Gendreau, Member
Sen Rebecca Perkins Kwoka, Member
Sen Debra Altschiller, Member

Date: January 12, 2023

HEARINGS

Wednesday	01/18/2023
(Day)	(Date)

Executive Departments and Administration	State House 103	9:00 a.m.
(Name of Committee)	(Place)	(Time)

9:00 a.m.	**SB 42-FN**	relative to overpayment of unemployment compensation.
9:15 a.m.	**SB 44-FN**	relative to license requirements for certain alcohol and other drug use professionals.
9:30 a.m.	**SB 45**	relative to national guard educational benefits.
9:45 a.m.	**SB 49-FN**	relative to creating a dedicated non-lapsing fund for OPLC.
10:00 a.m.	**SB 57-FN**	relative to the reduction in the calculation of state retirement annuities at age 65.
10:15 a.m.	**SB 67**	relative to changes to certain weights and measures statutes.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 42-FN

Sen. Whitley	Sen. Watters	Sen. D'Allesandro	Sen. Rosenwald
Sen. Carson	Sen. Fenton	Sen. Perkins Kwoka	Sen. Innis
Sen. Prentiss	Sen. Soucy	Sen. Lang	Rep. C. McGuire
Rep. Adjutant	Rep. Wolf	Rep. Wilhelm	

SB 44-FN

Sen. Carson	Sen. Bradley

SB 45

Sen. Carson	Sen. Watters	Sen. Birdsell	Rep. Ladd
Rep. Moffett			

SB 49-FN

Sen. Lang	Rep. C. McGuire

SB 57-FN

Sen. D'Allesandro	Sen. Watters	Sen. Rosenwald	Sen. Soucy
Sen. Innis	Sen. Avard	Sen. Whitley	

SB 67

Sen. Gannon	Sen. Watters	Sen. Gray	Sen. Birdsell
Sen. Soucy	Sen. Ward	Rep. Guthrie	

Phil Jasak 271-1403

Howard Pearl
Chairman

Senate Executive Departments and Administration Committee

Phil Jasak 271-1403

SB 42-FN, relative to overpayment of unemployment compensation.

Hearing Date: January 18, 2023

Time Opened: 9:04 a.m. **Time Closed:** 9:30 a.m.

Members of the Committee Present: Senators Pearl, Carson, Gendreau, Perkins Kwoka and Altschiller

Members of the Committee Absent: None

Bill Analysis: This bill provides that the state shall not charge interest on the collection of an overpayment of unemployment compensation unless the person knowingly or willfully made a false statement in their application for benefits.

Sponsors:

Sen. Whitley	Sen. Watters	Sen. D'Allesandro
Sen. Rosenwald	Sen. Carson	Sen. Fenton
Sen. Perkins Kwoka	Sen. Innis	Sen. Prentiss
Sen. Soucy	Sen. Lang	Rep. C. McGuire
Rep. Adjutant	Rep. Wolf	Rep. Wilhelm

Who supports the bill: Senator Whitley (SD 15), Sen. Lang (SD 2), Sen. Watters (SD 4), Sen. Carson (SD 14), Sen. Prentiss (SD 5), Sen. Innis (SD7), Sen. Soucy (SD 18), Sen. Rosenwald (SD 13), Marissa Chase (NHAJ) Dawn McKinney (NH legal assistance),

Who opposes the bill: Julie Smith

Who is neutral on the bill: Rich Lavers (NH Department of Employment Security)

Summary of testimony presented in support:
Senator Whitley:

- Senator Whitley said that this bill prohibits the state from charging interest in the settlement of overpaid state unemployment compensation. She said that the bill only prohibits interest where fraud is not an issue.
- She then stated that this bill is consistent with federal law and that federal law already prohibits the state from collecting interest on federal overpayment of

unemployment compensation. She said that there are currently 22 states that do not charge interest on state unemployment benefits.

- Sen. Whitley then said that during the pandemic there was an increase in new unemployment claims and that by the time overpayment was discovered it was too late to pay it back because it was already spent by the person receiving the compensation. She noted that women were disproportionately affected by the pandemic.
- Senator Perkins Kwoka then asked how does overpayment occur?
    - Senator Whitley responded that it can happen due to mistakes in processing and that this bill does not include occurrences where people commit fraud.

Summary of testimony presented in opposition: None

Neutral Information Presented:

Rich Lavers of the NH Department of Employment Security:

- Mr. Lavers claimed that the NH Department of Employment Security doesn't have an opinion on the bill.
- Mr. Lavers said that there was a larger number of female workers filing for unemployment during the pandemic as opposed to male because of the sectors that were affected such as the service and healthcare industries that tend to have higher rates of female workers. He then said that during the 2008-2009 financial crisis it was different because male dominated sectors were the ones affected the most.
- Mr. Lavers then said that a 1% rate per month is the interest rate set by statute and that recipients are only required to repay if they are considered at-fault in receiving the overpayment. He stated that if the overpayment is due to an employer or state error then the recipient does not have to repay.
- Mr. Lavers then stated that if someone reasonably should have known information that would change the amount of payment received then the recipient is considered at-fault, and this triggers repayment. He then said that this is determined by an adjudicator in the department if the information provided by the recipient is incorrect and whether they reasonably should have known what the correct information is.
- Mr. Lavers added that there is then an appeals process in place and if there is no appeal, they still have 60 days to pay before interest accrues. If there is an appeal no interest is accrued.
- Mr. Lavers added that this bill will only apply to situations where there is no fraud. He claimed that the most common fraud area is where they have a qualifying situation but then the recipient continues to collect benefits even after finding new employment by not disclosing that they have found new

employment. He said that it is then determined if the situation was intentional or not to determine if there was fraud.

- Mr. Lavers then added that in 2022 unemployment insurance at the federal level there was no interest accrued and that about 2,400 individuals were overpaid totaling 2.7 million dollars in overpayment and 25.6 million in total payments. He said that of the 2.7 million, 1.2 million was paid to individuals who were considered at-fault which is approximately 45% and that 25% of the overpayments were considered agency error. He then said that this means about 12% of overpayment was considered fraud and that this bill does not impact interest accrual on individuals that committed fraud. Then he said that the situations this bill affect is those where the claimer is found at-fault but has not committed fraud.
- Senator Pearl then asked what is the recovery rate for the interest payments?
    - Mr. Lavers responded that about 91,000 dollars in interest was collected in 2022. He said that the budget of the department is not dependent of the collection of interest. He added that the ability to recoup the fraud debt is much easier than non-fraud and is largely dependent on voluntary payment for the non-fraud situations. He then clarified that in both fraud and non-fraud situations the department would enter into a pay agreement based on financial situation of the recipient.
- Senator Gendreau asked if the 12% fraud figure was specific to 2022.
    - Mr. Lavers answered that the 12% figure was just for the 2022 fiscal year.
    - Sen. Gendreau then asked if the department is now seeing more or less fraud.
    - Mr. Lavers responded that after the pandemic it is slightly higher and that before the pandemic the fraud rate was around 9%. He continued that earnings fraud is always part of the unemployment process and there is a full-time insurance fraud prosecutor at the agency for when individuals are involved in egregious cases. He then claimed that ID theft was the most common type as opposed to earning fraud during the pandemic because there was a lot of NH Citizen data stolen and taken advantage of due to the pandemic. He added that there is no state-to-state statistics for fraud detection, but NH is considered one of the best at detecting this type of fraud.

PJ
Date Hearing Report completed: January 24, 2023

Speakers

Senate Executive Departments & Administration Committee

Date 01/18/23 Time 9:00 a.m. Public Hearing on SB 42

(.)

Please check box(es) that apply.

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
✓	☒	☒ ☐	Sen. Whitley (prime)	Sen. Dist. 15
✓	☒	☐ ☐	Richard Lavers	NH Employment Security
✓	☐	☒ ☐	Dawn McKinney	NH Legal Assistance
	☐	☐ ☐		
	☐	☐ ☐		
	☐	☐ ☐		
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Senate Remote Testify

Executive Departments and Administration Committee Testify List for Bill SB42 on 2(

Support: 9 Oppose: 1

Name	Title	Representing	Position
Lang, Senator Tim	An Elected Official	Senate District 2	Support
Smith, Julie	A Member of the Public	Myself	Oppose
Perkins Kwoka, Senator Rebecca	An Elected Official	Myself	Support
Watters, Senator David	An Elected Official	Myself	Support
Carson, Senator Sharon	An Elected Official	Myself	Support
Prentiss, Suzanne	An Elected Official	Myself	Support
Chase, Marissa	A Lobbyist	NHAJ	Support
Innis, Senator Dan	An Elected Official	SD7	Support
Rosenwald, Cindy	An Elected Official	SD 13	Support
Soucy, Donna	An Elected Official	SD 18	Support

Voting Sheets

Senate Executive Departments & Administration Committee

EXECUTIVE SESSION RECORD

2023-2024 Session

Bill # 42

Hearing date: 1/5/23

Executive Session date: 1/18/23

Motion of: OTP **Vote:** 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Pearl, Chair	X			X	
Sen. Carson, VC	X	X		X	
Sen. Gendreau	X		X	X	
Sen. Perkins-Kwoka	X			X	
Sen. Altschiller	X			X	

Motion of: Consent **Vote:** 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Pearl, Chair				X	
Sen. Carson, VC		X		X	
Sen. Gendreau				X	
Sen. Perkins-Kwoka			X	X	
Sen. Altschiller				X	

Motion of: _____ **Vote:** _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Pearl, Chair					
Sen. Carson, VC					
Sen. Gendreau					
Sen. Perkins-Kwoka					
Sen. Altschiller					

Reported out by: Carson

Notes: _____

Senate Finance Committee

EXECUTIVE SESSION

Bill # SB 42-FN

Hearing date: N/A

Executive session date: 01/31/23

Motion of: OTP VOTE: 7-0

		Made by	Seconded by	Reported by
Senator:	Gray	☐	☐	☐
	Innis	☐	☐	☐
	Bradley	☐	☐	☐
	Birdsell	☐	☐	☐
	Pearl	☑	☐	☑
	D'Allesandro	☐	☐	☐
	Rosenwald	☐	☑	☐

Motion of: _____ VOTE: _____

		Made by	Seconded by	Reported by
Senator:	Gray	☐	☐	☐
	Innis	☐	☐	☐
	Bradley	☐	☐	☐
	Birdsell	☐	☐	☐
	Pearl	☐	☐	☐
	D'Allesandro	☐	☐	☐
	Rosenwald	☐	☐	☐

Committee Member	*Present*	Yes	No	*Reported out by*
Senator Gray , Chairman	☑	☑	☐	☐
Senator Innis, Vice-Chair	☑	☑	☐	☐
Senator Bradley	☑	☑	☐	☐
Senator Birdsell	☑	☑	☐	☐
Senator Pearl	☑	☑	☐	☑
Senator D'Allesandro	☑	☑	☐	☐
Senator Rosenwald	☑	☑	☐	☐

Amendments: _____

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Thursday, January 19, 2023

THE COMMITTEE ON Executive Departments and Administration

to which was referred **SB 42-FN**

AN ACT	relative to overpayment of unemployment compensation.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Sharon Carson
For the Committee

This bill provides that the state shall not charge interest on the collection of an overpayment of unemployment compensation unless the person knowingly or willfully made a false statement in their application for benefits.

Phil Jasak 271-1403

FOR THE CONSENT CALENDAR

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 42-FN, relative to overpayment of unemployment compensation.
Ought to Pass, Vote 5-0.
Senator Sharon Carson for the committee.

This bill provides that the state shall not charge interest on the collection of an overpayment of unemployment compensation unless the person knowingly or willfully made a false statement in their application for benefits.

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Tuesday, January 31, 2023

THE COMMITTEE ON Finance

to which was referred **SB 42-FN**

AN ACT relative to overpayment of unemployment compensation.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 7-0

Senator Howard Pearl
For the Committee

Deb Martone 271-4980

General Court of New Hampshire - Bill Status System

Docket of SB42

Docket Abbreviations

Bill Title: relative to overpayment of unemployment compensation.

Official Docket of **SB42.**:

Date	Body	Description
1/11/2023	S	**Introduced** 01/05/2023 and Referred to Executive Departments and Administration; **SJ 4**
1/12/2023	S	**Hearing:** 01/18/2023, Room 103, SH, 09:00 am; **SC 6**
1/18/2023	S	Committee Report: Ought to Pass, 01/26/2023; Vote 5-0; CC; **SC 7**
1/26/2023	S	Ought to Pass: MA, VV; Refer to Finance Rule 4-5; 01/26/2023; **SJ 5**
2/1/2023	S	Committee Report: Ought to Pass, 02/09/2023; **SC 9**
2/9/2023	S	**Ought to Pass**: MA, VV; OT3rdg; 02/09/2023; **SJ 6**
3/20/2023	H	Introduced (in recess of) 03/16/2023 and referred to Labor, Industrial and Rehabilitative Services
3/23/2023	H	Public Hearing: 04/13/2023 10:00 am LOB 305-307
5/18/2023	H	Executive Session: 05/25/2023 12:00 pm LOB 305-307
6/1/2023	H	Committee Report: Without Recommendation 05/25/2023 **RC**
6/8/2023	H	Amendment **#2023-1799h**: AF DV 186-187 06/08/2023 **HJ 15** P. 45
6/8/2023	H	**Ought to Pass**: MA DV 196-178 06/08/2023 **HJ 15** P. 46
6/30/2023	H	Enrolled (in recess of) 06/29/2023 **HJ 17**
6/30/2023	S	Enrolled Adopted, VV, (In recess 06/29/2023); **SJ 20**
8/1/2023	S	Vetoed by Governor 07/28/2023

NH House	NH Senate

General Court of New Hampshire - Bill Status System

Docket of SB42

Docket Abbreviations

Bill Title: relative to overpayment of unemployment compensation.

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NH House	NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 42 **Senate Committee:** EDA

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

X Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

X Bill version as it came to the committee
X All Calendar Notices
X Hearing Sign-up sheet(s)
X Prepared testimony, presentations, & other submissions handed in at the public hearing
X Hearing Report
___ Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment #_____ ___ - amendment #_____
___ - amendment #_____ ___ - amendment #_____

X Executive Session Sheet
X Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment #_____ ___ - amendment #_____
___ - amendment #_____ ___ - amendment #_____

Post Floor Action: (if applicable) {Clerk's Office}

___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
___ Enrolled Bill Amendment(s)
Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house
___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Committee Aide 7/7/23 Date

Senate Clerk's Office

AK

Senate Inventory Checklist for Archives

Bill Number: SB 42-FN **Senate Committee:** FINANCE - 2ND Comm Bill

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

X Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

X Bill version as it came to the committee

___ All Calendar Notices

___ Hearing Sign-up sheet(s)

___ Prepared testimony, presentations, & other submissions handed in at the public hearing

___ Hearing Report

___ Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

X Executive Session Sheet

X Committee Report

Floor Action Documents: {Clerk's Office}

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___ Enrolled Bill Amendment(s)

✓ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house

X final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Debra A. Mantoda 07/14/23

Committee Aide **Date**

Senate Clerk's Office HP AK

STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

CHRISTOPHER T. SUNUNU
Governor

July 28, 2023

Governor's Veto Message Regarding Senate Bill 42

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on July 28, 2023, I have vetoed Senate Bill 42, relative to overpayment of unemployment compensation.

New Hampshire's Unemployment Compensation Trust Fund is almost solely funded by mandatory contributions collected from New Hampshire employers. These entities fund unemployment benefits for those who need them the most and are unemployed through no fault of their own. In return, employers expect the state to provide accountability for these funds by ensuring those who are filing for benefits are eligible for them in the first place. If a claimant is found to be ineligible after they were paid benefits and the reason they received benefits was because they provided information to the department they knew and understood was inaccurate, employers expect the state to recoup those funds and ensure they go to eligible claimants. Without the accrual of interest, individuals do not have an incentive to pay these funds back. In other words, this bill would allow ineligible beneficiaries to get an interest-free loan on the backs of New Hampshire employers.

While Senate Bill 42 may be well-intentioned, it is important to note that the NH Department of Employment Security (NHES) already has a process in place contained within state law and administrative rule requiring the department to evaluate whether someone is 'with fault' or 'without fault' in causing benefits to have been paid when they are subsequently found ineligible. If the person is determined to be without fault because the department or an employer made an error then current law allows the person to keep the benefits. It is only in those instances where the person is found to be with fault in causing benefits to be paid when they should not have been paid, that the person is required to repay those benefits back to the trust fund and potentially could accrue interest if not repaid in a timely manner.

The State is currently attempting to recoup $6 million in overpayments from between 2017 and 2022. If Senate Bill 42 were to be signed, this would be nearly impossible to accomplish.

There was an opportunity to rectify all of the issues with the bill as written with an amendment offered in both the committee and on the floor. The amendment would have given NHES the flexibility they need to help ensure only the claimants who are eligible for benefits receive and keep them. Unfortunately, the amendment was not adopted.

For the reasons stated above, I have vetoed Senate Bill 42.

Respectfully submitted,

Christopher T. Sununu
Governor

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