

Joint Standing Committee on Labor

LD 536 **An Act to Define and Revise Noncompete Employment Contracts** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRUNO SHOREY	ONTP	

LD 536 is a concept draft that proposed to enact standards for noncompete employment contracts, i.e., contracts that limit the ability of an employee to leave a business and begin work with another business in the same field within a certain geographical area and time frame.

LD 847 **An Act to Examine Issues Regarding the Canadian Workforce** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRACY	ONTP	

LD 847 is a concept draft that proposed to examine issues regarding the Canadian workforce in order to enable Maine workers to effectively compete.

LD 981 **An Act to Amend the Laws Governing the Maine Unemployment Insurance Commission** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE SAWYER	ONTP	

LD 981 proposed to change the membership of the Maine Unemployment Insurance Commission and to require the commission to report yearly to the Legislature and to locate its office in Augusta.

LD 1015 **An Act Regarding Health Insurance for Firefighters** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE	ONTP	

LD 1015 proposed to make active and retired career municipal firefighters eligible to participate in the state employee health insurance program.

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LD 1211

An Act to Supplement Benefits for State Employees and Teachers Whose Pensions are Subject to Reductions Enacted in 1993

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS	ONTP	

LD 1211, a carry-over bill from the First Regular Session, was a concept draft pursuant to Joint Rule 208. It proposed to create a new defined contribution retirement plan as a supplemental benefit for those state employees and teachers who are in service under the Maine State Retirement System on or after January 1, 2001.

1. The proposed DC plan would not have covered:
 - a. A member who was in service and had 10 years of creditable service on July 1, 1993—it was intended to cover so-called "cliff employees;"
 - b. A member covered by the 1998 Special Plan; or
 - c. A member covered by the plan for Maine State Police officers.
2. Contributions to the plan would have been at the rate of 2% of an employee's salary or wages earned after December 31, 2000. The amount would be deducted from the employee's existing required contribution to the Maine State Retirement System but the employee's defined benefits under the Maine State Retirement System would not be diminished.
3. The added cost of maintaining the employee's defined benefits would have been allocated to the employer's share of the pension contribution. For state employees, the added cost would have been apportioned across the entire payroll for state employees covered under the Maine State Retirement System whether or not they were also covered by the new plan.
4. The Maine State Retirement System would have managed amounts contributed to the plan for the benefit of each employee in a non-lapsing fund. Each employee's share of the fund would have been tax sheltered and portable as provided in Section 457 and other provisions of the Internal Revenue Code.
5. Each employee's accumulated contributions and net earnings would have been non-lapsing and could have been withdrawn or rolled over in accordance with the Internal Revenue Code when the employee dies, retires or departs from state service. The employee would have had a range of annuity options for payment of benefits to the employee or the employee's spouse.

See LD 2199, "An Act to Address the Unfunded Liability of the Maine State Retirement System and the Equity of Retirement Benefits for State Employees and Teachers," which was enacted as Public Law 2001, chapter 707.

LD 1258

An Act to Make the Unemployment Insurance Program More Responsive to the Needs of Today's Workforce

VETO
SUSTAINED

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MATTHEWS	OTP-AM MAJ	H-1027 BUNKER
EDMONDS	ONTP MIN	H-839

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LD 1258 was carried over from the First Regular Session. It proposed to amend the unemployment compensation laws in 3 ways. First, it proposed to provide coverage to part-time workers if they are able and available to work at least 20 hours a week. Second, it proposed to prevent disqualification of a person who loses a job because of a child-care or transportation-related problem provided that the person took all reasonable steps to maintain that employment. Finally, it proposed to remove a provision from current law that penalizes persons who have worked in seasonal industries even though they are able, available and actively seeking employment on a full-time, year-round basis.

LD 1258 was reported out of committee in the First Regular Session, but referred back to committee and carried over. In the Second Regular Session, the bill was again reported out of committee on a divided report.

Committee Amendment "C" (H-839) proposed to replace the bill. It proposed to delete provisions relating to seasonal workers and to persons who leave work because of child-care or transportation difficulties. The amendment proposed to provide that, beginning June 1, 2003, a person is not ineligible for unemployment benefits solely because the person is not available for full-time work, provided that the person is available to work at least part-time. The amendment proposed to require the Department of Labor to provisionally adopt rules to implement the part-time worker standard and to submit the rule and any necessary statutory changes to the Legislature by February 1, 2003.

House Amendment "B" to Committee Amendment "C" (H-1027) proposed to state that the extension of benefits to part-time workers was made pursuant to the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147, which provides federal Reed Act funds to states. It also proposed to require the Department of Labor to report to the joint standing committee of the Legislature having jurisdiction over labor matters no later than March 15, 2008 regarding unemployment benefits provided to part-time workers.

LD 1258 was vetoed by the Governor. See also LD 2218.

LD 1594

**An Act to Provide Disclosure and Financial Protections to
Temporary Workers**

**DIED BETWEEN
BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	ONTP MAJ	
DUPLESSIE	OTP-AM MIN	

LD 1594 proposed to regulate the practices of temporary services companies and to require such companies to disclose wages, charges, work hours and other work conditions prior to assigning temporary workers to a job. The bill proposed to require that a temporary worker who has worked for a client employer for 90 days or more be provided the same compensation and benefits as permanent employees of the client employer.

Committee Amendment "A" (S-425), the minority report of the Joint Standing Committee on Labor, proposed to strike several provisions in the bill. It proposed to retain the provisions that would (1) prohibit a temporary services company from restricting a temporary worker from accepting a permanent position with a client company, (2) prohibit a temporary services company from charging to cash a paycheck and (3) prohibit discrimination against a temporary worker who asserts rights under the law. (Not adopted)

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LD 1629

An Act to Increase the State Share of Health Insurance for Certain Retired Teachers

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MICHAUD MH SAXL	ONTP MAJ OTP-AM MIN	

LD 1629 was carried over from the First Regular Session. It proposed to increase the minimum portion of retired teachers' health insurance paid by the State from the then current amount of 30% to 35% beginning January 1, 2002 for retired teachers with a household income of 180% or more of the federal poverty level and further increase the State contribution in 5% increments up to 50% for retired teachers with a household income of less than 60% of the federal poverty level.

An amendment was added and enacted as part of the Budget Bill (Public Law 2001, chapter 559, Part N) that provides for the State-paid share of teacher retiree health insurance premiums to be 35% from July 1, 2002 until March 31, 2003 and 40% thereafter.

LD 1746

An Act Regarding Workers' Compensation Benefits for Firefighters, Rescue Workers and Safety Workers Who Contract Certain Communicable Diseases

PUBLIC 663

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE	OTP-AM	H-931

LD 1746 is a concept draft that proposed to provide a rebuttable presumption of eligibility for workers' compensation benefits for hepatitis or hepatic-related disease for firefighters and emergency medical services personnel, except for those who worked with more than one firefighting entity.

Committee Amendment "A" (H-931) proposed to replace the bill. It proposed to provide that a firefighter, emergency medical services person, law enforcement officer or corrections officer who contracts hepatitis, meningococcal meningitis or tuberculosis is presumed to have contracted the disease in the course of employment if certain criteria are met. First, the person must have run a high risk of exposure in the course of that work. Second, the person must sign an affidavit stating that, to the best of the person's knowledge, there are not other likely sources of the disease. Third, a person must have received immunization against the diseases if the employer requires it and the immunization is medically recognized, unless the worker's physician determines that the immunization would pose a risk to the worker. Finally, except for persons employed or providing service prior to the effective date of the bill, the person must have had a negative test for hepatitis or tuberculosis prior to diagnosis.

Enacted law summary

Public Law 2001, chapter 663 provides that a firefighter, emergency medical services person, law enforcement officer or corrections officer who contracts hepatitis, meningococcal meningitis or tuberculosis is presumed under the workers' compensation law to have contracted the disease in the course of employment if certain criteria are met. First, the person must have run a high risk of exposure in the course of that work. Second, the person must sign an affidavit stating that, to the best of the person's knowledge, there are not other likely sources of the disease. Third, a person must have received immunization against the diseases if the employer requires it and the

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immunization is medically recognized, unless the worker's physician determines that the immunization would pose a risk to the worker. Finally, except for persons employed or providing service prior to the effective date of the bill, the person must have had a negative test for hepatitis or tuberculosis prior to diagnosis.

LD 1884

An Act to Authorize Certain Former Members of the Maine State Retirement System to Rejoin the Maine State Retirement System

PUBLIC 545

Sponsor(s)
YOUNGBLOOD
FISHER

Committee Report
OTP-AM

Amendments Adopted
S-445

LD 1884 proposed to allow former members of the Maine State Retirement System who opted out of the defined benefit state retirement plan into the defined contribution plan offered by the Maine Technical College System through Teachers Insurance and Annuity Association/College Retirement Equities Fund (TIAA-CREF) in 1999 and 2000 to switch back to the Maine State Retirement System within a 6-month period following enactment of this bill.

Committee Amendment "A" (S-445) proposed that:

1. Employees of the Maine Technical College System who are former members electing to rejoin the Maine State Retirement System must repay the amount of their contributions plus interest;
2. Employees of the Maine Technical College System who were not formerly members of the Maine State Retirement System and who elected to join the defined contribution plan when they became employees of the Maine Technical College System may now elect to join the Maine State Retirement System;
3. Both employees of the Maine Technical College System who are former members of the Maine State Retirement System and those who are not former members of the Maine State Retirement System and who elect to join or rejoin the Maine State Retirement System under this bill may purchase service credit under the Maine State Retirement System for the period of time they participated in the defined contribution plan offered by the Maine Technical College System if they pay to the Maine State Retirement System the full actuarial cost of the benefit associated with that service; and
4. Repayment of contributions to purchase credit for prior time may be started immediately, rather than waiting for 2 years as currently required by law.

Also see Public Law 2001, chapter 710, Section 7 for technical corrections to the public law resulting from this bill.

Enacted law summary

Public Law 2001, chapter 545 allows Maine Technical College System employees who are former members of the Maine State Retirement System who opted out of the membership in the retirement system in order to participate in the defined contribution plan offered by the MTCS through the Teachers Insurance and Annuity Association/College Retirement Equities Fund in 1999 and 2000 to switch back to membership in the retirement system within a 6-month period provided they repay the amount of their withdrawn contributions plus interest. Chapter 545 also provides that employees of the Maine Technical College System who were not former members of the Maine State Retirement System and who elected to join the defined contribution plan when they became

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employees of the MTCS may elect to join the retirement system under the same conditions. The law also allows both employees of the MTCS who are former members of the Maine State Retirement System and those who are not former members of the Maine State Retirement System and who elect to join or rejoin the retirement system under this law to purchase service credit under the retirement system for the period of time they participated in the defined contribution plan offered by the MTCS if they pay to the retirement system the full actuarial cost of the benefit associated with that service.

LD 1912 **An Act to Ensure that Recipients of Trade Adjustment Assistance
Retain Eligibility for Unemployment Compensation** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MICHAUD MH SAXL	ONTP	

LD 1912 proposed to specify that an applicant for trade adjustment assistance who is initially denied but ultimately is granted such assistance does not become ineligible for unemployment compensation upon voluntarily leaving a job that pays less than 80% of the average weekly wage received in the individual's previous position.

LD 1945 **An Act to Promote Organ Donation** **PUBLIC 684**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARLEY BROMLEY	OTP-AM	H-840 S-554 GOLDTHWAIT

LD 1945 proposed to amend the family and medical leave act to allow a person to take leave from work to donate an organ for human transplantation.

Committee Amendment "A" (H-840) proposed to add an appropriation section to provide funds for reprinting and distribution of the Department of Labor's Regulation of Employment poster.

Senate Amendment "A" to Committee Amendment "A" (S-554) proposed to remove the appropriation section and allow the Department to update the Regulation of Employment poster to reflect the organ donation provision when it next reprints the poster.

Enacted law summary

Public Law 2001, chapter 684 amends the state Family and Medical Leave Act to authorize a person to take leave from his or her job in order to donate an organ to be used for human organ transplant.

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LD 1946

An Act to Safeguard Volunteer Firefighters' Regular Employment

P & S 70

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HUTTON	OTP-AM MAJ	H-947
KILKELLY	ONTP MIN	S-536 O'GARA

LD 1946 proposed to prohibit an employer from firing or laying off an employee who is absent from work to perform volunteer fire-fighting duties.

Committee Amendment "B" (H-947) proposed to replace the bill. It proposed to protect a volunteer firefighter from being discharged or disciplined by an employer on the grounds that the volunteer arrives late or does not arrive at work because the volunteer firefighter is responding to an emergency such as fires, hazardous or toxic waste spills or other situations to which the fire department is called to respond. The amendment proposed to allow written agreements between employers and local fire officials to supersede the terms of the proposed law. The amendment also proposed to require the joint standing committee of the Legislature having jurisdiction over labor matters to review the law in 2005.

Senate Amendment "A" to Committee Amendment "B" (S-536) proposed to replace the committee amendment and require the Maine Fire Protection Services Commission to examine the issue of providing protection to a volunteer firefighter from being discharged or disciplined by an employer on the grounds that the volunteer firefighter arrives late or does not arrive at work because the volunteer firefighter is responding to an emergency.

Enacted law summary

Private and Special Law 2001, chapter 70 requires the Maine Fire Protection Services Commission to examine the issue of providing protection to a volunteer firefighter from being discharged or disciplined by an employer on the grounds that the volunteer firefighter arrives late or does not arrive at work because the volunteer firefighter is responding to an emergency. The Commission is required to report its findings and recommendations on the issue to the legislative committees on labor and criminal justice by December 31, 2002. Those committees are authorized to report out legislation in response to the Commission report.

LD 1960

An Act to Promote Safety of Families through the Workplace

PUBLIC 685

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAXL	OTP-AM	H-841
EDMONDS		S-555 GOLDTHWAIT

LD 1960 proposed to amend the law providing leave from work for employees who are the victims of violence. The amendment proposed to require an employer to grant an employee leave from work if a child of that employee is a victim of violence, assault, sexual assault, stalking or any other act that would support an order for protection.

Committee Amendment "A" (H-841) proposed to replace the bill. It proposed to allow an employee to take leave if the employee's spouse, child or parent is the victim of violence. The amendment also proposed to add language to define the family relationships and to allow the employer to require confirmation of the family relationship

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Senate Amendment "A" to Committee Amendment "A" (S-555) proposed to remove the appropriation section and allow the Department to update the Regulation of Employment poster to reflect the change in law when it next reprints the poster.

Enacted law summary

Public Law 2001, chapter 685 amends the law allowing victims of violence to take a leave from work to attend to legal and medical needs arising from the violence. Chapter 685 allows a person to take leave to attend to the needs of a child, parent or spouse who is the victim of violence as well as being able to take a leave if the employee himself or herself is the victim.

LD 1970

**An Act to Clarify the Status of Retirees Who Return to Service
Under the Maine State Retirement System**

PUBLIC 557

Sponsor(s)
NORTON
EDMONDS

Committee Report
OTP-AM

Amendments Adopted
H-874

LD 1970 proposed that a retired teacher who returns to work under Public Law 2001, chapter 442 be eligible upon ceasing work to return to coverage under the group health insurance plan in effect for active teachers in the school unit from which the teacher originally retired, including state payment of a percentage of the premium cost under the Maine Revised Statutes, Title 20-A, section 13451.

Committee Amendment "A" (H-874) proposed that a retired teacher who returns to work as a teacher under Public Law 2001, chapter 442 may participate in the group health insurance plan for active teachers in the school administrative unit in which that teacher is working. The amendment would not affect the ability of a retired teacher, if it is acceptable to the teacher and the new employer, to remain in the group health insurance plan under which that teacher retired pursuant to the Maine Revised Statutes, Title 20-A, section 13451, including state payment of a percentage of the cost of that teacher's health insurance premium. The amendment also proposed to add a mandate preamble and a fiscal note to the bill.

Public Law 2001, chapter 559 (the Budget Bill), Part QQ, sections 1-3 and chapter 667 (the Errors Bill), Part E contain related provisions that affect the ability of a retired teacher who returns to work for the Legislature to qualify for State-paid health and dental insurance. The intent of the related provisions of those 2 bills was to qualify such an employee for eligibility to participate in the group health and dental insurance programs.

Enacted law summary

Public Law 2001, chapter 557 clarifies that a retired teacher who returns to work under Public Law 2001, chapter 442 is eligible upon ceasing work to return to coverage under the group health insurance plan in effect for active teachers in the school unit from which the teacher originally retired, including state payment of a percentage of the premium cost under the Maine Revised Statutes, Title 20-A, section 13451. Chapter 557 further clarifies that a retired teacher who returns to work as a teacher under the provision of chapter 442, which was enacted in 2001, is eligible to participate in the group health insurance plan for active teachers in the school administrative unit in which that teacher is working. The amendment does not affect the ability of a retired teacher, if it is acceptable to the teacher and the new employer, to remain in the group health insurance plan under which that teacher retired

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pursuant to the Maine Revised Statutes, Title 20-A, section 13451, including state payment of a percentage of the cost of that teacher's health insurance premium.

LD 1988 **An Act to Increase the Opportunities of Retired State Employees to Enroll a Spouse or Dependents in the Maine State Health Insurance Plan** **PUBLIC 641**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P COLWELL	OTP-AM	S-461

LD 1988 proposed to increase the ability of a retired state employee to add a dependent to the employee's health insurance plan by establishing an annual 2-week open enrollment period to add dependents.

Committee Amendment "A" (S-461) proposed to replace the bill. It proposed that a retired state employee be allowed to add coverage of a spouse or dependent under the retiree's state group health insurance plan at the time of retirement or at a later date if, at retirement, the retiree had designated the spouse or dependent for later coverage and the spouse or dependent can demonstrate continuity of coverage under another health insurance plan at the time of enrollment.

Enacted law summary

Public Law 2001, chapter 641 authorizes a retired state employee to add coverage of a spouse or dependent under the retiree's state group health insurance plan at the time of retirement or at a later date if the retiree had designated that spouse or dependent for later coverage and the spouse or dependent can demonstrate at least 18 months of continuous coverage under another health insurance plan at the time of enrollment. Current law, which is not changed by chapter 641, allows a spouse or dependents to be added at the time of significant life events, such as marriage or birth of a child. The retiree is responsible for payment of the premiums for a spouse or dependent enrolled in coverage under the state group plan.

LD 2001 **An Act to Amend the Law Regarding Severance Pay** **PUBLIC 625**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWLES CARPENTER	OTP-AM	H-948

LD 2001 proposed to amend the law governing severance pay. It proposed to set forth criteria for determining when a substantial cessation of operations occurs, triggering the requirement to make severance payments. It also proposed that any employee laid off within a period of one year prior to the substantial cessation of operations would be eligible.

Committee Amendment "A" (H-948) proposed to replace the bill. It proposed to require the Department of Labor to adopt major substantive rules to implement the severance pay law and to submit an initial set of rules to the Legislature by January 15, 2003.

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Enacted law summary

Public Law 2001, chapter 625 requires the Department of Labor to adopt rules to clarify implementation of the severance pay law. Initial rules must be provisionally adopted as major substantive rules and submitted to the Legislature for review by January 15, 2003.

LD 2006

An Act to Protect Retirement Income

PUBLIC 657

<u>Sponsor(s)</u> COLWELL MARTIN	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-873
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LD 2006 proposed to preserve retirement benefits for teachers who serve in the Legislature. Under the bill, any legislator who is a public school teacher or an employee of the Vocational-Technical Institute System and a member of the Maine State Retirement System who takes a leave of absence in order to serve as a legislator may make contributions to the Retirement System on the amount that represents the difference between the salary earned as a legislator and the salary the legislator would have received in the legislator's job as a teacher.

Committee Amendment "A" (H-873) proposed to clarify that the right of a legislator on leave of absence from teaching or from the Maine Technical College System to make additional contributions to the Maine State Retirement System is prospective beginning July 1, 2002. The amendment also proposed to require the State to pay the employer share of contributions on the difference between the legislative salary and the teaching salary of those who elect the option provided in the bill.

Enacted law summary

Public Law 2001, chapter 657 provides that, beginning July 1, 2002, a Legislator who is a public school teacher or an employee of the Vocational-Technical Institute System who takes a leave of absence in order to serve as a Legislator may make contributions to the Maine State Retirement System on the amount that represents the difference between the salary earned as a Legislator and the salary the Legislator would have received in the Legislator's job as a teacher thus preserving a higher level of compensation for purposes of calculating retirement benefits. The law also requires the State to pay the employer share of contributions on the difference between the legislative salary and the teaching salary of those who elect the option.

LD 2028

An Act to Provide Retirement Equity for Capital Security Officers

**PUBLIC 646
EMERGENCY**

<u>Sponsor(s)</u> COLWELL DAGGETT	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-846
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LD 2028 proposed to include capital security officers in the Maine State Retirement System 1998 Special Plan beginning January 1, 2002. A capital security officer eligible to transfer to the 1998 Special Plan who has been contributing to another retirement plan would be required to decide whether to transfer within 90 days of the effective date of eligibility in the 1998 Special Plan.

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LD 2051

**An Act to Increase the Workers' Compensation Insurance
Assessment to Fund a Hearing Officer Position**

PUBLIC 692

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	S-589 MARTIN
	ONTP MIN	

LD 2051 proposed to increase the assessment for the Workers' Compensation Board Administrative Fund by \$125,000 in order to provide funding for a full-time hearing officer for the Board's Caribou office.

Committee Amendment "A" (H-1036), which was not adopted, proposed to replace the bill. It proposed to increase the cap on the assessment to fund the Workers' Compensation Board to \$8,300,000 beginning in fiscal year 2002-03. It proposed to reduce the limit on the reserve fund created by over-collections from 25% of the board's budget to 10% of the board's budget and to authorize the board to use the reserve fund, at its discretion, to support the activities of the board. The amendment also proposed to add an allocation section authorizing the board to spend \$1,415,108 in fiscal year 2002-03 in addition to the funds allocated for fiscal year 2002-03 in a previously enacted budget bill. The amendment proposed to direct the board to use its reserve account to fund the increased allocation for fiscal year 2002-03.

Senate Amendment "A" (S-589) proposed to replace the committee amendment. It proposed to amend the bill to add a position count for the Workers' Compensation Board for the Caribou hearing officer.

Enacted law summary

Public Law 2001, chapter 692 increases the cap on the Workers Compensation Board Administrative Fund assessment from \$6,735,000 to \$6,860,000 beginning in fiscal year 2002-03. It also allocates the additional \$125,000 to be used by the Board to fund a hearing officer in the Caribou regional office of the Workers Compensation Board, and authorizes an additional hearing officer position for the Board.

LD 2052

**An Act to Clarify the Application of Workers' Compensation
Coverage Requirements to Wood Harvesters**

PUBLIC 490

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

LD 2052 proposed to clarify the application of workers' compensation coverage requirements to wood harvesters.

Enacted law summary

Public Law 2001, chapter 490 clarifies the exemption from workers compensation law for persons engaged in harvesting forest products. It provides that family members and certain partners of persons who contract with landowners need not themselves qualify as independent contractors as long as the person who contracts with the landowner meets the criteria for obtaining a certificate of independent status or a predetermination of independent contractor status.

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LD 2053

An Act to Clarify the Treatment of Members of Limited Liability Companies Under the Workers' Compensation Laws

PUBLIC 518

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-793

LD 2053 proposed to clarify that members of limited liability companies are treated the same as partners in limited partnerships by allowing family members of a member of a limited liability company to waive workers' compensation coverage when they work for the limited liability company.

Committee Amendment "A" (H-793) proposed to give members of limited liability companies the same opportunity as sole proprietors and partners to elect to be covered by the Maine Workers' Compensation Act of 1992.

Enacted law summary

Public Law 2001, chapter 518 clarifies that members of limited liability companies are treated the same as partners in limited partnerships for certain purposes under the workers compensation law. It allows a member of a limited liability company to elect to be personally covered by the law and it allows certain family members of limited liability companies to waive coverage under the law.

LD 2054

An Act Regarding the Payment of Severance Pay

DIED BETWEEN BODIES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE	OTP-AM A	
EDMONDS	ONTP B	
	OTP-AM C	

LD 2054 proposed to require the payment of severance pay to laid-off employees, even if there is not a substantial cessation of operations at the covered establishment. The bill proposed to apply this change retroactively to January 1, 2000.

Committee Amendment "A" (H-929), which was not adopted, was the majority report of the Joint Standing Committee on Labor and proposed to replace the bill and make substantive and clarifying changes in the severance pay laws.

The amendment proposed to eliminate bankruptcy as an excuse from paying severance pay and to require that notice of business termination or relocation be given to employees, municipalities and the Department of Labor. With regard to enforcement of the severance pay law, the amendment proposed to repeal language that allowed a departmental court action to supercede a citizen action. It also provided for the court to award attorney fees and interest on unpaid severance pay recovered in a court action. The amendment proposed to allow the Department to recover a civil forfeiture against businesses that violate the law.

The amendment proposed to clarify (1) that an employer must have owned a covered establishment for at least 3 years before the employer is required to pay severance pay; (2) that the amount due an employee for severance pay is based on the total number of years the employee worked at the establishment; (3) that contractual severance pay

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supersedes the statute only if the employer is bound by the contract; and (4) that parent corporations are liable for severance pay of a subsidiary when the subsidiary's covered establishment is terminated or relocated.

Committee Amendment "B" (H-930), which was not adopted, was a minority report of the Joint Standing Committee on Labor. It proposed to replace the bill and make the same changes in the severance pay law as in the majority report, except that (1) it did not propose to eliminate bankruptcy as an excuse from paying severance pay, but clarified the application of that provision; (2) it did not propose to address liability of a parent corporation; (3) it proposed to clarify that employees who are on leave, disability or workers' compensation are eligible employees but payments under disability and workers' compensation are not counted as gross wages; (4) that interest would be determined in the same manner as for post-judgment interest, not pre-judgment interest as in the majority report; and (5) that employees could agree to be paid severance pay at a time other than with the last wage payment.

LD 2058 **Resolve, to Continue the Study of the Benefits and Costs for** **RESOLVE 115**
Increasing Access to Family and Medical Leave for Maine Families

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
OTP-AM	MAJ	H-847
ONTP	MIN	S-545 GOLDTHWAIT

LD 2058 was the recommendation of the Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families, which was created by joint order in the First Regular Session of the 120th Legislature. The committee recommended that it be allowed to continue its work during another interim, since the lack of sufficient data prevented members from reaching a conclusion in 2001 regarding the costs and benefits of paid family and medical leave in Maine. Several state and interest groups are working on creating models for estimating costs and benefits of paid family and medical leave, which the committee may be able to use in 2002. Also, committee members intend to identify interest groups and experts in Maine to gather data for the next phase of the study and to provide economic analysis expertise necessary to use that data.

Committee Amendment "A" (H-847) proposed to add clarifying language to the section of the resolve authorizing the committee to introduce legislation.

Senate Amendment "A" to Committee Amendment "A" (S-545) proposed to strip the emergency preamble and emergency clause, remove language requiring that the Senator and the House member be from different political parties, change the convening date, clarify the use of outside funding, amend reimbursement language and strike the General Fund appropriation.

Enacted law summary

Resolve 2001, chapter 115 provides for continuation of the Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families, which was created by joint order in the First Regular Session of the 120th Legislature.

Joint Standing Committee on Labor

LD 2066

An Act to Expedite Employment in Maine Industry

PUBLIC 556

<u>Sponsor(s)</u> BENNETT		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-459
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LD 2066 proposed to amend the law relating to substance abuse testing of job applicants to allow employers to perform a screening test using a rapid response test method in order to quickly determine whether to have an applicant undergo a confirmation test.

Committee Amendment "A" (S-459) proposed to replace the bill. It proposed to allow the use of rapid response tests and to clarify the procedures that must be followed by employers using such a test.

Enacted law summary

Public Law 2001, chapter 556 permits employers to perform a screening test on job applicants using a so-called "rapid response" test. Such tests are read at the point of collection rather than being sent to a laboratory for analysis. If the screening test is positive, it must be sent to a qualified laboratory for analysis. Positive results may be used to reject an applicant only if the laboratory confirms the positive result. If the "rapid-response" test is used, the employer's written policy must include procedures for ensuring confidentiality of test results and for training.

LD 2077

An Act to Require Logging Contractors to Notify Landowners and Employees of the Cancellation of Workers' Compensation Insurance Coverage

PUBLIC 622

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-907
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LD 2077 proposed to require any person engaged in harvesting wood products and not exempt from carrying workers' compensation coverage for that person's employees to notify landowners and employees within 3 business days of canceling a workers' compensation insurance policy. The bill also proposed to require the Workers' Compensation Board to (1) study its enforcement policies and practices concerning persons engaged in harvesting wood products who fail to maintain required workers' compensation coverage for their employees; (2) refocus its attention on safety in the forest products harvesting industry; and (3) work with the industry to develop incentive-based systems to reduce the number of accidents in the industry.

Committee Amendment "A" (H-907) proposed to change the section of the bill requiring the Workers' Compensation Board to study the forest products harvesting industry. Instead of requiring the board to perform these tasks, the amendment proposed to require the Department of Labor to convene an interagency working group to review enforcement efforts, develop accident-reduction systems and report to the Joint Standing Committee of the Legislature having jurisdiction over labor matters by January 15, 2003.

Enacted law summary

Public Law 2001, chapter 622 requires any person who is engaged in harvesting wood products and who is not exempt from carrying workers' compensation coverage for his or her employees to notify landowners and employees within 3 business days of cancellation of a workers' compensation insurance policy. Failure to comply with this

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law subjects the person to a civil forfeiture of between \$50 and \$100 for each day of noncompliance. The law also requires the Department of Labor to convene an interagency working group, including the Workers' Compensation Board, to review efforts to enforce the workers' compensation coverage requirement in the forest products harvesting industry, to develop accident-reduction systems in that industry, to consider ways to enhance data collection to assist in reducing accidents and to consider how enforcement and accident prevention can be of benefit in other industries and work places. The law requires the Department to submit its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over labor matters and the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters by January 15, 2003. The committees are authorized to report out legislation in response to the report.

LD 2098 **An Act to Protect Workers from Unilateral Imposition of Random or Arbitrary Drug Testing** **PUBLIC 706**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUNLAP CATHCART	OTP-AM MAJ ONTP MIN	H-887 S-537 EDMONDS

LD 2098 proposed to eliminate the provision in current law that allows random drug testing without cause to be a part of a labor agreement.

Committee Amendment "A" (H-887) proposed to replace the bill. It proposed to allow for random or arbitrary drug testing to be imposed through the collective bargaining process. However, it proposed to clarify that such a program can not be imposed by unilateral imposition of the employer's last best offer, for example, when bargaining reaches an impasse.

Senate Amendment "A" to Committee Amendment "A" (S-537) proposed to strike the emergency preamble and clause.

Enacted law summary

Public Law 2001, chapter 706 amends the law governing random substance abuse testing in the workplace. Chapter 706 provides that an employer that chooses to implement a random testing program through collective bargaining may not implement such a program through implementation of the employer's last best offer when bargaining reaches an impasse.

LD 2108 **An Act to Amend the Maine Overtime Pay Provisions Regarding Certain Drivers and Drivers' Helpers** **PUBLIC 628
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER TURNER	OTP-AM	H-999

LD 2108 proposed to amend Maine overtime law, retroactive to January 1, 1995, to exempt interstate truck drivers and other employees of interstate trucking companies who are regulated by the federal Motor Carrier Act from the requirement to pay time-and-a-half for overtime hours.

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Committee Amendment "A" (H-999) proposed to amend the law retroactive to January 1, 1995 to exempt certain drivers and driver's helpers from the overtime law. It also proposed to amend the law effective September 1, 2003 to exempt certain drivers and driver's helpers only if they are paid wages equivalent to overtime pay wages. The amendment proposed to exempt cases pending on March 20, 2002 from the retroactive changes.

Enacted law summary

Public Law 2001, chapter 628 provides, retroactive to January 1, 1995, that interstate truck drivers and driver's helpers whose hours are regulated by the federal Motor Carrier Act are exempt from Maine's overtime law. However, beginning September 1, 2003, most such drivers and driver's helpers will be exempt from the overtime law only if they receive overtime pay reasonably equivalent to the pay that would be required under Maine's overtime law. The Department of Labor may adopt major substantive rules setting forth standards for determining whether pay is "reasonably equivalent." Also retroactive to January 1, 1995, drivers and driver's helpers who are governed by a collective bargaining agreement that regulates such pay, and those who are employed by an entity under contract with the federal government that dictates pay are exempt from the Maine law, regardless of whether they meet the "reasonably equivalent" standard. Cases pending on March 20, 2002 are not affected by the new law.

Public Law 2001, chapter 628 was enacted as an emergency measure, effective April 5, 2002.

LD 2133

An Act to Implement the Recommendations of the Workers' Compensation Board Governance Study

DIED BETWEEN BODIES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	ONTP MAJ	
BUNKER	OTP-AM MIN	

LD 2133 proposed to implement the recommendations of a consultant's report on administration of the workers' compensation system, submitted pursuant to Resolve 2001, chapter 49. The bill proposed to create the Workers' Compensation Agency and divide the responsibilities of the current Workers' Compensation Board among the new agency and the board. The agency would perform administrative functions and would be managed by an Executive Director, appointed by the Governor, subject to confirmation by the Legislature. The board would be composed of 9 members appointed by the Governor, subject to confirmation by the Legislature: 3 labor members, 3 management members and 3 public members. The board would continue to provide general oversight of the system and would continue to set general policy and adopt governing rules. The bill proposed to give the Executive Director greater authority to manage staff of the agency.

The bill also proposed to change the method of assessing insurers to pay the costs of administering the system. Instead of requiring each insurer to assess and remit a specific percentage of the premium collected in the current fiscal year, the bill proposed that each insurer pay a specific amount calculated as a percentage of the previous year's premium. The assessment would not appear as a separate charge on premium notices, but would be included in the rates charged by the insurer.

Committee Amendment "A" (S-486), which was not adopted, was the minority report of the committee. It proposed to specify that the Workers' Compensation Board, in carrying out its duties, must focus on efficiency, worker safety, prompt dispute resolution and reduction in the cost of the workers' compensation system relative to

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other states. The amendment also proposed to charge public members with representing the broad public interests of the State. Finally, the amendment proposed to specify that insurers must bill and collect assessments through a surcharge based on premium, which must be separately stated on premium notices.

LD 2137 **Resolve, Regarding Legislative Review of Chapter 9: Rules Governing Administrative Civil Money Penalties for Labor Law Violations, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards** **RESOLVE 103 EMERGENCY**

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 2137 proposed to authorize the Department of Labor to finally adopt a rule governing civil money penalties for violations of certain state labor laws, including those regarding wages and hours, substance abuse testing, equal pay, severance pay and prevailing wages.

Enacted law summary

Resolve 2001, chapter 103 authorizes the Department of Labor to finally adopt a rule setting forth the criteria for imposing administrative civil money penalties for certain labor law violations. The rule is Chapter 9: Rules Governing Administrative Civil Money Penalties for Labor Law Violations, a major substantive rule of the Department of Labor, Bureau of Labor Standards. The Legislature did not require any change in the rule as provisionally adopted by the department.

Resolve 2001, chapter 103 was finally passed as an emergency measure, effective April 4, 2002.

LD 2151 **An Act to Extend Unemployment Benefits by 13 Weeks** **ONTP**

<u>Sponsor(s)</u> BUNKER EDMONDS		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 2151 proposed to enact a temporary emergency unemployment compensation program to provide up to an additional 13 weeks of unemployment benefits to individuals whose unemployment benefits run out on or after April 1, 2002 but before April 1, 2003. The program would be repealed April 1, 2003 and take effect only if the Federal Government has failed to enact a similar program by July 1, 2002. The Federal Government did create a comparable program in March, 2002 through Public Law 107-147, the federal Job Creation and Worker Assistance Act of 2002.

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LD 2185

An Act to Amend Maine State Retirement System Statutes

PUBLIC 699

Sponsor(s)

Committee Report

Amendments Adopted

OTP

LD 2185 proposed two changes in existing law. First, it proposed to amend the definition of “teacher” under the Maine State Retirement System to include a school employee for whom certification by the Department of Education is required whose duties include either (1) the setup, maintenance or upgrading of a school computer system, the purpose of which is to assist in the introduction of new learning to students, or (2) providing school faculty orientation and training related to use of the computer system.

Second, the bill proposed to repeal the current law that provides for reduction in benefits for retirees of participating local districts under the Maine State Retirement System who return to employment in a participating local district covered by the retirement system if they exceed certain earnings limitations. The bill would permit retirees to return to covered service and keep both their pension and their full earnings. Retirees who take advantage of the provisions of the bill would not be eligible to earn additional retirement benefits based on their return to service employment. This bill was similar to Public Law 2001, chapter 442 enacted last year covering state employees and teachers.

Enacted law summary

Public Law 2001, chapter 699 accomplishes 2 purposes. First, it includes within the definition of “teacher” under the Maine State Retirement System a school employee for whom certification by the Department of Education is required whose duties include either (1) the setup, maintenance or upgrading of a school computer system the purpose of which is to assist in the introduction of new learning to students or (2) providing school faculty orientation and training related to use of the computer system.

Second, chapter 699 repeals the current law that provides for reduction in benefits for retirees of participating local districts under the Maine State Retirement System who return to employment in a participating local district covered by the retirement system if they exceed certain earnings limitations. The bill would permit retirees to return to covered service and keep both their pension and their full earnings. Retirees who take advantage of the provisions of the bill would not be eligible to earn additional retirement benefits based on their return to service employment. This part of the bill is similar to Public Law 2001, chapter 442 enacted last year and covering state employees and teachers.

LD 2187

An Act to Provide Equity to Adoptive Parents with Respect to Parental Leave

ONTP

Sponsor(s)

BAKER

Committee Report

ONTP

Amendments Adopted

LD 2187 proposed to provide that an employer who provides paid leave to an employee in connection with the birth of that employee's child must provide comparable paid leave to an employee in connection with that employee's adoption of a child who is less than a year old.

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LD 2197

An Act Concerning Disability Retirement Benefits under the Maine State Retirement System

PUBLIC 701

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 2197 proposed to extend the rollback of disability retirement benefit reductions based on increased earnings capacity by the Maine State Retirement System under Public Law 2001, chapter 443 from January 1, 2003 to February 15, 2004.

Enacted law summary

Public Law 2001, chapter 701 extends the rollback of disability retirement benefit reductions based on increased earnings capacity by the Maine State Retirement System under Public Law 2001, chapter 443 from January 1, 2003 to February 15, 2004.

LD 2199

An Act to Address the Unfunded Liability of the Maine State Retirement System and the Equity of Retirement Benefits for State Employees and Teachers

PUBLIC 707

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
MICHAUD MH SAXL		OTP-AM		S-521 S-618 GOLDTHWAIT

LD 2199 proposed to:

1. Require the State to retire the unfunded liabilities of the Maine State Retirement System at a specific rate that is no less than the rate paid during fiscal year 2001-02; and
2. Establish the Task Force to Study Methods of Addressing Inequities in the Retirement Benefits of State Employees and Teachers to study the impact of the changes made to the law that treat state employees and teachers who did not have 10 years of creditable service on July 1, 1993 less favorably than those with 10 years of creditable service before July 1, 1993.

Committee Amendment "A" (S-521) proposed to clarify that the floor established in the bill for the rate of retirement of the unfunded liabilities of the Maine State Retirement System applies whether the unfunded liabilities are retired within the time period required by the Constitution of Maine or some shorter period of time. The amendment also proposed to clarify the membership of the task force established in section 2 of the bill. It proposed to remove the executive director and a member of the Board of Trustees of the Maine State Retirement System from the task force and provide for 2 of the 3 legislators to be appointed by the Speaker of the House. The executive director or a designee would be made an adjunct nonvoting member of the task force. It proposed to change the process for convening the first meeting. The amendment also proposed to limit the task force to 4 meetings and provide for staffing services by the Office of Policy and Legal Analysis. Non legislative members could be reimbursed for expenses only. The amendment proposed to change the reporting date of the task force to November 6th and the joint standing committee of the Legislature having jurisdiction over retirement matters would

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be authorized to report out a bill to the First Regular Session of the 121st Legislature. This amendment proposed to add a fiscal note to the bill.

Senate Amendment "A" to Committee Amendment "A" (S-618) proposed that the portion of the employer contribution may not be less than the amount paid during the immediately preceding fiscal year. If the unfunded liability amount would be less than the amount paid in the immediately preceding year, the amendment proposed that the Board of Trustees of the Maine State Retirement System be directed to recommend a methodology to adjust plan funding in order to realize payment of the required amount. If no such methodology can be identified, then a General Fund appropriation in the amount of the difference between the General Fund portions of the unfunded liability payment in the 2 years in question must be sought. This amendment also proposed to remove the emergency preamble and clause.

Enacted law summary

Public Law 2001, chapter 707 requires the State to retire the unfunded liabilities of the Maine State Retirement System at a specific rate that is not less than the amount paid during the immediately preceding fiscal year. If the unfunded liability payment which is actuarially determined would be less than the amount paid in the immediately preceding year, the Board of Trustees of the Maine State Retirement System is directed to recommend a methodology to adjust plan funding in order to realize payment of the required amount; if no such methodology can be identified, then a General Fund appropriation in the amount of the difference between the General Fund portions of the unfunded liability payment in the 2 years in question must be sought.

Chapter 707 also establishes the Task Force to Study Methods of Addressing Inequities in the Retirement Benefits of State Employees and Teachers to study the impact of the changes made to the law that treat state employees and teachers who did not have 10 years of creditable service on July 1, 1993 less favorably than those with 10 years of creditable service before July 1, 1993. The Task Force is to report to the Labor Committee which is authorized to introduce legislation to the First Regular Session of the 121st Legislature.

LD 2202

An Act to Ensure that 25% of Workers' Compensation Cases with Permanent Impairment Remain Eligible for Duration-of-disability Benefits in Accordance With the Workers' Compensation Act

PUBLIC 712

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KILKELLY	OTP-AM MAJ	S-623 KILKELLY
TREADWELL	OTP-AM MIN	

LD 2202 proposed to amend a provision in section 213 of the Workers' Compensation Act of 1992 that determines whether a person with permanent impairment from a work injury is entitled to receive benefits for the duration of his or her incapacity to work, or is subject to a durational limit, which is currently 7 years. A person is entitled to benefits for the duration of incapacity if his or her permanent impairment, expressed as a percentage of impairment to the whole body, exceeds a threshold percentage established by the Workers Compensation Board. The law requires the Board to set the threshold at a percentage level so that 25% of cases with permanent impairment fall above the threshold and 75% fall below.

The bill proposed to set clear standards for the Board to use in determining whether impairment resulting from prior injuries or conditions are taken into account in determining an individual's permanent impairment percentage and in setting the threshold.

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LD 2202 proposed that the determination of permanent impairment for the purposes of this law include impairment resulting from a prior injury or condition that is aggravated or accelerated by the current work injury, but does not include impairment from injuries or conditions that do not affect the same body part as the current work injury or are not medically affected by the current work injury. The bill proposed to overturn the decision of the Maine Supreme Judicial Court in Kotch v. American Protective Services, Inc. 2002 ME 19, which interpreted section 213 to permit inclusion of preexisting injuries or conditions that combine with the current work injury to create disability, even if the injuries and conditions are not aggravated or accelerated by the current work injury.

The bill proposed to make these changes applicable retroactively to all injuries occurring on or after January 1, 1993, including determinations made in pending proceedings.

Committee Amendment “A” (S-574), which was not adopted, was the majority report of the Joint Standing Committee on Labor and proposed to replace the bill. It proposed to overturn the decision in Kotch v. American Protective Services, Inc. by specifying that a permanent impairment evaluation to determine an employee's entitlement to benefits for the duration of the employee's incapacity may not include nonwork-related conditions that merely combine with the current work injury without being caused, aggravated or accelerated by the work injury.

The amendment also proposed to adopt 10 years as the duration for partial benefits for employees whose impairments are below the permanent impairment threshold of 11.8%. It proposed to fix the threshold at 11.8% and repeal the adjustment mechanisms for changing both the threshold and the duration of partial benefits for those below the threshold.

The amendment proposed to change administrative provisions relating to the Workers' Compensation Board. It proposed to give the Executive Director of the board greater authority to manage the staff and finances of the board. It proposed that the Executive Director, General Counsel, hearing officers and most other staff be removable only for cause, and to require a vote of 3/4 of members of the board to remove the executive director.

Committee Amendment “B” (S-575), the minority report of the Joint Standing Committee on Labor, proposed to add a fiscal note to the bill. It was not adopted.

House Amendment "A" (H-1101) proposed to replace the bill. It proposed that the determination of permanent impairment for purposes of section 213 of the Workers' Compensation Act must include the work injury at issue as well as other work injuries that combine with the work injury at issue and contribute to the incapacity. Like the bill, it also proposed to include permanent impairment arising from other preexisting conditions and injury if those conditions or injuries are aggravated or accelerated by the work injury at issue. The amendment proposed to make these changes retroactive to injuries on or after January 1, 1993. It was not adopted.

Senate Amendment "A" to House Amendment “A” (S-609), which was not adopted, proposed to amend House Amendment “A” to provide a delayed effective date for the provision including prior work injuries that are not aggravated or accelerated by the current work injury, but that combine with the injury and contribute to incapacity to work. It proposed to provide that such injuries may be included only in determining an individual's permanent impairment for injuries on or after January 1, 2004, and only if the employee received a benefit for the prior injury under the Maine Workers' Compensation Act of 1992 but for which a lifetime lump sum has not already been paid. It also proposed that such injuries would not be included unless the Workers' Compensation Board adjusted the threshold effective January 1, 2004 in a way that takes into account the inclusion of such injuries. The amendment also proposed that the Workers' Compensation Board report the appropriate adjustment to the joint standing

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committee of the Legislature having jurisdiction over labor matters by January 2, 2004 and indicate whether the necessary adjustment has been made.

Senate Amendment "B" to House Amendment "A" (S-622), which was not adopted, proposed to amend House Amendment "A" to allow inclusion of prior work injuries that are not aggravated or accelerated by the current work injury beginning with injuries on or after January 1, 2002, as long as the prior work injury was verifiable and resulted in benefits being paid to the worker under workers' compensation law in Maine or another state. Injuries for which a lump sum settlement was made are not included if the permanent impairment percentage from the injury exceeded the applicable threshold.

It also proposed that the Workers' Compensation Board hire 2 actuaries to develop recommendations on how the permanent impairment threshold should be adjusted to reflect the inclusion of those prior injuries and conditions and that, if the board failed to make the required adjustment by November 1, 2002, the matter must be referred to an arbitrator for resolution.

Senate Amendment "C" (S-623) proposed to replace the bill. It proposed that permanent impairment, for purposes of section 213, includes (1) impairment resulting from prior injuries and physical conditions that are aggravated or accelerated by the work injury at issue; and (2) for injuries on or after January 1, 2002, impairment resulting from prior work injuries combine with the current injury and contribute to the incapacity, provided the worker received a benefit or compensation under the Maine Workers' Compensation Act of 1992. It does not include (1) impairment from nonwork injuries that are not aggravated or accelerated by the current injury or (2) injuries for which a lump sum settlement was paid to a worker whose impairment percentage exceeded the applicable threshold.

The amendment also proposed to direct the Workers' Compensation Board to hire 2 actuaries to develop recommendations on how the permanent impairment threshold should be adjusted and proposed that, if the board fails to make the required adjustment by November 1, 2002, the matter must be referred to an arbitrator for resolution. Finally, the amendment proposed to make the changes contained in this bill retroactive to injuries on or after January 1, 1993, with exceptions for already-resolved cases.

Enacted law summary

Public Law 2001, chapter 712 amends the Workers' Compensation Act of 1992 to provide specific rules for determining the degree of an injured worker's permanent impairment, for purposes of determining whether the worker is entitled to benefits for the duration of disability. The law provides that the permanent impairment calculation includes impairment from (1) the current work injury; (2) other injuries or physical conditions that are aggravated or accelerated by the current work injury; and (3) for injuries occurring on or after January 1, 2003, prior work injuries that contribute to the employee's disability, if the worker received a benefit for that prior work injury under the Maine Workers' Compensation Act of 1992, the prior injury was not found to be ineligible under that Act, and the worker did not receive a lifetime lump sum settlement for that injury. The rules apply to permanent impairment determinations for injuries occurring on or after January 1, 1993, but it does not change any determination that was made and finalized before the effective date of the new law. Chapter 712 also assists the Workers Compensation Board in revising the threshold for determining eligibility for duration-of-disability benefits by requiring the Board to hire actuaries and to submit the issue to arbitration if the board is unable to adjust the threshold.

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LD 2206

An Act to Assist the Displaced Workers at Hathaway Shirt Company

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GAGNON BUNKER	ONTP	

LD 2206 proposed to provide that an employer that has owned and operated a covered establishment for less than 2 years prior to the termination or relocation owes severance pay if the employer, its predecessors or the covered establishment received significant public benefits in the 5 years before the termination or relocation. As an alternative to paying severance pay, the employer would be permitted to pay over to the Department of Labor the value of all significant public benefits provided in the past 5 years. The department would use those funds to make severance payments to employees of the covered establishment and to repay the municipality or other public entity that provided the significant public benefit.

LD 2217

Resolve, to Fund the Operations of the Workers' Compensation Board for Fiscal Year 2002-03

RESOLVE 126

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J BUNKER		

LD 2217 proposed to authorize the Workers' Compensation Board to use up to \$1,341,750 from its reserve account to fund operations of the Board for fiscal year 2002-03.

Enacted law summary

Resolve 2001, chapter 126 authorizes the Workers' Compensation Board to use up to \$1,341,750 from its reserve account in fiscal year 2002-2003 to fund operational needs, technological improvements, contracted staff for the worker advocate program, and collective bargaining costs.

LD 2218

An Act to Improve the Responsiveness of the Unemployment Insurance Program

UNSIGNED

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER EDMONDS		

LD 2218 proposed to provide that, between June 1, 2003 and May 31, 2006, a person is not ineligible for unemployment benefits solely because the person is not available for full-time work, as long as the person is available to work at least part-time. The bill proposed that the Department of Labor provisionally adopt rules to implement the part-time standard and submit them to the Labor Committee by February 1, 2003. Pursuant to the federal Job Creation and Worker Assistance Act of 2002, federal funds could be utilized to pay the costs of this provision.

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SP 0756

**JOINT ORDER, Relative to the Commission to Study Issues
Concerning School Bus Drivers (as amended by H-799)**

**PASSED
(not funded)**

Sponsor(s)

Committee Report
OTP-AM MAJ

Amendments Adopted
H-799

This Joint Order proposed to create a commission to gather information pertaining to the retention of, recruitment of and access to unemployment compensation for school bus drivers and to make a recommendation to the Legislature on the advisability of increasing access to unemployment compensation for school bus drivers.

Although this Joint Order passed in both bodies, the Legislative Council did not provide funding for its implementation from the legislative account.

SP 0821

**JOINT ORDER, Relative to the Task Force to Study a Universal
Special Retirement Plan for All Levels of Law Enforcement Officers**

**DIED ON
ADJOURNMENT**

Sponsor(s)
SAWYER

Committee Report

Amendments Adopted

This Joint Order proposed to create a task force to study the feasibility, advantages, disadvantages, cost implications and other relevant information concerning the establishment of a universal special retirement plan for law enforcement officers.

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LD 981	311
LD 1015	311
LD 1211	311
LD 1258	312
LD 1594	313
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