

Joint Standing Committee on Labor

LD 6

An Act to Amend the Child Labor Laws

PUBLIC 53

<u>Sponsor(s)</u> O'NEIL		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-56
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LD 6 proposed to increase the number of hours per day and per week and to expand the hours of the day that a minor may work.

Committee Amendment "A" (H-56) proposed to replace the bill and to provide that the work hour restrictions applicable to 16-year-old and 17-year-old minors would be determined by whether the school attended by the minor is in session, rather than by reference to the public school schedule, even if the student attends a different school or is homeschooled.

Enacted Law Summary

Public Law 2003, chapter 53 provides that the work hour restrictions applicable to 16-year-old and 17-year-old minors are determined by whether the school attended by the minor is in session, rather than by reference to the public school schedule. The permissible work hours are more restrictive when the minor's school is in session than when it is not.

LD 9

An Act to Amend the Laws Governing the Workers' Compensation Board Administrative Fund

PUBLIC 93

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-106
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LD 9 proposed to clarify that the Workers' Compensation Board can use its reserve fund for any purpose set forth in the Maine Revised Statutes, Title 39-A, including "personal services" and "all other" costs.

Committee Amendment "A" (H-106) proposed to add language to ensure that the joint standing committee of the Legislature having jurisdiction over labor matters receives prompt notice of an approval of a request by the Workers' Compensation Board to use reserve funds to exceed its legislatively authorized allocation.

Enacted Law Summary

Public Law 2003, chapter 93 allows the Workers' Compensation Board to use its reserve funds for any of the purposes set forth in Title 39-A, the Maine Workers' Compensation Act of 1992. It also requires the Board to notify the joint standing committee of the Legislature having jurisdiction over labor matters whenever the Governor and the State Budget Officer approve a request by the Workers' Compensation Board to use reserve funds to exceed its legislatively authorized allocation.

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LD 10

An Act to Amend the Laws Governing the Extension of Benefits for Partial Incapacity Under the Maine Workers' Compensation Act of 1992

PUBLIC 52

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-62
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LD 10 proposed to allow the Workers' Compensation Board to delegate to hearing officers the authority to hear and decide cases involving a request for an extension of benefits due to extreme financial hardship caused by the inability to return to gainful employment.

Committee Amendment "A" (H-62) proposed to clarify that the Workers' Compensation Board may delegate a decision on extension of benefits to a hearing officer or a panel of 3 hearing officers and that the decision to delegate such authority must be made on a case-by-case basis. It also proposed to provide that hearing officer decisions on this issue may not be appealed to the Workers' Compensation Board, but may be appealed directly to the Law Court like other hearing officer decisions.

Enacted Law Summary

Public Law 2003, chapter 52 allows the Workers' Compensation Board, on a case-by-case basis, to delegate to hearing officers the authority to hear and decide cases involving a request for an extension of benefits due to extreme financial hardship due to inability to return to gainful employment. The case may be heard by a single hearing officer or a panel of three hearing officers, and hearing officer decisions on these matters may not be appealed to the Board.

LD 11

An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 2004

**P & S 6
EMERGENCY**

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-63
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LD 11 proposed to allocate funds for the operating budget of the Maine State Retirement System for fiscal year 2003-04 as required by statute.

Committee Amendment "A" (H-63) proposed to incorporate a fiscal note.

Enacted Law Summary

Private and Special Law 2003, chapter 6 provides an allocation of \$9,959,245 for the operating budget of the Maine State Retirement System for fiscal year 2003-04.

Private and Special Law 2003, chapter 6 is an emergency measure and takes effect July 1, 2003.

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LD 32 **An Act to Provide a 5% Increase in the State's Contribution for Insurance for Retired Teachers** **DIED ON ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CANAVAN MITCHELL	OTP-AM	H-55

LD 32 proposed to increase the State's contribution for health insurance for retired educators from 40% to 45% beginning July 1, 2004.

Committee Amendment "A" (H-55) proposed to add an appropriation and allocation section to the bill.

LD 32 was enacted in the House, but died on the Appropriations Table.

LD 34 **An Act to Ensure that Child Labor Laws Apply to Public Sector Employers** **PUBLIC 10**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS SMITH W	OTP	H-11 SMITH W

LD 34 proposed to apply the child labor laws to public employers. Currently, those laws apply only to private employers. Child labor laws require work permits for minors, limit the hours that minors may work and prohibit them from working in certain hazardous workplaces.

House Amendment "A" (H-11) proposed to exclude service in the National Guard from application of the child labor laws.

Enacted Law Summary

Public Law 2003, chapter 10 provides that child labor laws apply to public employers as well as to private employers, except that they do not apply to service in the National Guard.

LD 35 **An Act To Increase the Assessment on Workers' Compensation Insurance To Fund the Workers' Compensation Board Administrative Fund** **PUBLIC 425 EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	S-255 EDMONDS
	OTP-AM MIN	S-61

LD 35 proposed to increase the maximum allowable assessment to support the activities of the Workers' Compensation Board to \$8,350,000 in fiscal year 2003-04 and \$8,525,000 in fiscal year 2004-05.

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Committee Amendment "A" (S-61), the majority report of the committee, proposed to add an appropriation/allocation section.

Committee Amendment "B" (S-62), the minority report of the committee, proposed to limit the assessment to \$7,546,000 beginning in fiscal year 2003-04 and to create a 4-member commission to review the Workers' Compensation Board's process for establishing, approving and monitoring its budget. This amendment was not adopted.

Senate Amendment "B" to Committee Amendment "A" (S-255) proposed to increase the maximum allowable assessment to support the activities of the Workers' Compensation Board to \$8,390,000 in fiscal year 2003-04, \$8,565,000 in fiscal year 2004-05 and \$8,525,000 in fiscal year 2005-06 and thereafter. The amendment also proposed to restore the worker advocate and support staff positions to continue program operation. Included in the increased assessment cap for fiscal years 2003-04 and 2004-05 would be \$40,000 for the board to contract for programming services to implement electronic filing by insurers and self-insurers.

The amendment proposed to require the Workers' Compensation Board to adopt rules requiring the electronic filing of information with the board. The rules would be routine technical rules but must be developed through the consensus-based rule development process described in the Maine Administrative Procedure Act.

The amendment also proposed to create a 6-member commission to review the Workers' Compensation Board's process for establishing, approving and monitoring its budget, with 4 Legislators and 2 members of the Workers' Compensation Board. The commission would report its findings and recommendations to the Joint Standing Committee on Labor by December 3, 2003.

This amendment proposed to add an emergency preamble and clause and specify an effective date of July 1, 2003.

Enacted Law Summary

Public Law 2003, chapter 425 increases the cap on the assessment levied to fund the operations of the Workers' Compensation Board to \$8,390,000 in fiscal year 2003-04, \$8,565,000 in fiscal year 2004-05 and \$8,525,000 in fiscal year 2005-06. Included in the increased assessment cap for fiscal years 2003-04 and 2004-05 is \$40,000 for the board to contract for programming services to implement electronic filing by insurers and self-insurers. The law also provides for the worker advocate and support staff positions that were not included in the Part 1 budget bill due to lack of revenue to fund the positions.

The law requires the Workers' Compensation Board to adopt rules requiring the electronic filing of information with the board. The rules are routine technical rules but must be developed through the consensus-based rule development process described in the Maine Administrative Procedure Act.

The law creates a 6-member commission to review the Workers' Compensation Board's budget process for establishing, approving and monitoring its budget, with 4 Legislators and 2 members of the Workers' Compensation Board. The commission will report its findings and recommendations to the Joint Standing Committee on Labor by December 3, 2003.

Public Law 2003, chapter 425 was enacted as an emergency measure, effective July 1, 2003.

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LD 45 **An Act to Establish a Living Wage for Maine Citizens** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAVERRIERE- BOUCHER BRYANT	ONTP	

LD 45 was a concept draft that proposed to establish a minimum wage for Maine residents who are employed full time that compensates for the cost of rental property rates and food.

LD 56 **An Act to Discourage Unfounded Workers' Compensation Disputes** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W BRYANT	ONTP	

LD 56 proposed to require an employer to pay an employee's reasonable attorney's fees and costs in a workers' compensation proceeding if a workers' compensation hearing officer finds that an employer's refusal to pay benefits was not based on any rational grounds.

LD 68 **An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Employees of Public Higher Education Institutions Who Have Been Employed Less than Six Months** **PUBLIC 76**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLWELL EDMONDS	OTP-AM	H-83

LD 68 proposed to remove the provision in the higher education collective bargaining law that excludes employees from coverage in the first 6 months of employment.

Committee Amendment "A" (H-83) proposed to add a section to the bill to provide for negotiation of initial probationary periods for employees and to establish a minimum 6-month probationary period during which an employee may be terminated without just cause.

Enacted Law Summary

Public Law 2003, chapter 76 amends the collective bargaining law governing higher education employees. It removes the exclusion of persons who have been employed less than 6 months, provides for negotiation of initial probationary periods and establishes a minimum 6-month probationary period during which an employee may be terminated without just cause.

Joint Standing Committee on Labor

LD 71

An Act to Ban Strikebreakers

CARRIED OVER

<u>Sponsor(s)</u> PINEAU	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 71 proposes to require that a contract between an employer and replacement workers must provide that when the strike is settled or if the employees offer unconditionally to return to work the replacement workers will not be retained in preference to the strikers. It also proposes to repeal provisions in current law regarding replacement workers that were found by a Maine court in 1998 to be preempted by the National Labor Relations Act.

Committee Amendment "A" (H-92) proposed to change the language of the bill relating to employment contracts. It proposed that a contract between an employer whose employees are locked out or on strike and an individual or group of individuals hired to replace those workers is not enforceable after the strike or lockout is over unless it is enforceable under federal law.

LD 83

An Act To Expand Unemployment Benefits

**PUBLIC 28
EMERGENCY**

<u>Sponsor(s)</u> CLARK STANLEY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-16 H-21 CLARK
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LD 83 proposed to specify that a person is not disqualified from receiving unemployment compensation benefits if the person agrees to be laid off when a layoff or reduction in force is announced by the employer and the employer asks for volunteers.

Committee Amendment "A" (H-16) proposed to incorporate a fiscal note.

House Amendment "A" (H-21) proposed to add an emergency preamble and an emergency clause to the bill.

Enacted Law Summary

Public Law 2003, chapter 28 provides that a person is not disqualified from receiving unemployment compensation benefits on the grounds that the person volunteered to be laid off, when a layoff or reduction in force is announced by the employer and the employer asks for volunteers.

Public Law 2003, chapter 28 was enacted as an emergency measure, effective April 8, 2003.

LD 101

An Act to Amend the Maine Workers' Compensation Act of 1992 as it Relates to Compensation for Amputation of a Body Part

ONTP

<u>Sponsor(s)</u> GOODWIN	<u>Committee Report</u> OTP-AM MAJ ONTP MIN	<u>Amendments Adopted</u>
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LD 101 proposed to amend the Maine Workers' Compensation Act of 1992 to provide a lump-sum benefit in addition to the current weekly benefit when an employee's injury is the amputation of a body part. The amount of the lump-sum benefit would be equal to the amount of the weekly benefit times the period of presumed incapacity.

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LD 116

Resolve, Directing the Department of Labor, Bureau of Unemployment Compensation To Provide Access to a Toll-free Telephone Number

RESOLVE 63

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT	OTP-AM MAJ ONTP MIN	H-518 SMITH W S-168

LD 116 proposed to require the Commissioner of Labor to ensure that the Bureau of Unemployment Compensation maintains and provides appropriate staff to monitor a toll-free telephone line to direct individuals to the appropriate resources and personnel within the bureau.

Committee Amendment "A" (S-168) proposed to replace the bill with a resolve. It proposed to require the Department of Labor, Bureau of Unemployment Compensation to provide a toll-free telephone line if, and to the extent that, funds are allocated for that purpose from the Reed Act Distribution of 2002.

House Amendment "A" to Committee Amendment "A" (H-518) proposed to remove the emergency preamble and emergency clause.

Enacted Law Summary

Resolve 2003, chapter 63 requires the Department of Labor, Bureau of Unemployment Compensation to provide a toll-free telephone line if, and to the extent that, funds are allocated for that purpose from the Reed Act Distribution of 2002. The line would allow persons to obtain information about unemployment benefits and to file for benefits. See also LD 1552, Private and Special Law 2003, chapter 23.

LD 117

An Act Relating to Unemployment Compensation

INDEF PP

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

LD 117 proposed to repeal the one-week waiting period before unemployment compensation is paid.

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LD 148 **An Act To Clarify Employment Status of Owner-operators in the Trucking Industry** **ONTP**

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

LD 148 proposed to forgive certain unemployment taxes due from certain owner-operators of trucks or truck tractors leased to a motor carrier based on wages prior to the effective date of the law that exempted those wages from state unemployment insurance law.

LD 170 **An Act To Improve the Health and Safety of Young Workers** **PUBLIC 59**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE BRYANT	OTP-AM	H-64

LD 170 proposed to amend the child labor laws to provide that the Department of Labor rules prohibiting minors from working in hazardous jobs must include a rule prohibiting minors from working in confined spaces.

Committee Amendment "A" (H-64) proposed to replace the bill. It proposed to restructure the section of law relating to hazardous employment for minors. It proposed to add language prohibiting minors from working in confined spaces or at a certain height when federal Occupational Safety and Health Administration regulations would require special procedures or precautions for such work. It proposed to require that Department of Labor rules limiting minors from such work include specific exceptions for work needed for public safety.

Enacted Law Summary

Public Law 2003, chapter 59 requires that the Department of Labor rules prohibiting minors from working in hazardous jobs must include a rule prohibiting minors from working in confined spaces or at a certain height, when federal Occupational Safety and Health Administration regulations would require special procedures or precautions for such work. It requires that the rules limiting minors from such work include specific exceptions for work needed for public safety. It also restructures the entire section of law to make it easier to read.

LD 240 **An Act to Ensure that Maine's Unemployment System is Responsive to the Needs of Today's Workforce** **PUBLIC 458**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORTON EDMONDS	OTP-AM MAJ ONTP MIN	H-482 H-528 SMITH W

LD 240 proposed to amend the law relating to qualification for unemployment benefits to provide that a person who is only available for part-time work is not disqualified from receiving benefits, beginning on January 1, 2004. Under

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current law, an unemployed individual is eligible to receive unemployment benefits only if the individual is available for full-time work.

Committee Amendment "A" (H-482) proposed to replace the bill. It proposed the specific circumstances under which a person who is unavailable for full-time work can continue to be eligible for unemployment benefits. A person who has a history of part-time work would not be disqualified from receiving unemployment benefits as long as that person continues to be available to work for a number of hours comparable to the number worked during part-time weeks in the base period. A person who is unavailable to work full-time would not be disqualified from receiving benefits if the person's lack of availability is the result of illness or disability of an immediate family member or the lack of availability is necessary for the safety or protection of the individual or a member of the individual's immediate family.

House Amendment "A" to Committee Amendment "A" (H-528) proposed to limit the application of the provision allowing unemployment benefits for persons seeking part-time work to persons who file applications for benefits before October 1, 2005.

Enacted Law Summary

Current law requires that, in order to be eligible to receive unemployment compensation benefits, a person must be able, available for and actively seeking full-time work. Public Law 2003, chapter 458 provides that a person who is able, available and seeking only part-time work is not disqualified from receiving benefits if (1) the person had a history of part-time work and continues to seek work for a comparable number of hours per week; or (2) the person can only work part-time because of a family member's illness or disability or because of the safety of the person or the person's family member. This provision allowing a person to limit his or her work search to part-time work does not apply to applications for unemployment benefits filed on or after October 1, 2005.

LD 284

**An Act To Require Use of United States Citizens for Work with the
Bureau of Parks and Lands**

**VETO
SUSTAINED**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON	OTP-AM MAJ	H-402
MARTIN	ONTP MIN	

LD 284 proposed to prohibit the Department of Conservation, Bureau of Parks and Lands from contracting for timber harvesting on the public reserved and nonreserved lands with anyone who is not a United States citizen.

Committee Amendment "A" (H-402) proposed to clarify the application of the United States citizenship requirement and to add hauling to the list of activities that may be performed only by United State citizens. It proposed to clarify that the citizenship requirement does not apply to corporations and other legal entities, but it does prohibit those entities from employing persons who are not United States citizens to cut, skid or haul timber on or from public reserved lands or nonreserved public lands under any contract or permit to cut timber on those lands.

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LD 334

An Act To Establish a Transportation Assistance Pilot Program

PUBLIC 99

<u>Sponsor(s)</u> GAGNON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-43
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LD 334 proposed to establish the Transportation Assistance Revolving Loan Fund and the Transportation Assistance Program to assist persons with disabilities in rural areas of the State in purchasing used motor vehicles to travel to and from work. The fund and the program would be administered by the Department of Labor, Bureau of Rehabilitation Services in conjunction with the Finance Authority of Maine and would guarantee loans for private-sector loan originators that offer loans at less than 10% per year interest.

Committee Amendment "A" (S-43) proposed to replace the bill. Instead of creating a separate program to make loans, this amendment proposed to create a 2-year pilot program to allow the Kim Wallace Adaptive Equipment Loan Program Fund to be used for the purpose. Loans may be made for the purchase of a vehicle needed as part of an individualized plan towards employment for up to \$7,000 per qualifying borrower. Total loans under the pilot program may not exceed \$250,000 in each of the 2 fiscal years in which it will operate. The amendment also proposed to require the Kim Wallace Adaptive Equipment Loan Program Fund Board to present a report on the pilot program to the legislative committee having jurisdiction over transportation matters by January 1, 2005.

Enacted Law Summary

Public Law 2003, chapter 99 creates a 2-year pilot program to allow use of up to \$250,000 each year from the Kim Wallace Adaptive Equipment Loan Program Fund to make loans to persons with disabilities in rural areas of the State to assist them in purchasing used motor vehicles for the purpose of traveling to and from work. Loans may be made for the purchase of a vehicle needed as part of an individualized plan towards employment, in amounts up to \$7,000 per qualifying borrower. The Kim Wallace Adaptive Equipment Loan Program Fund Board will present a report on the pilot program to the legislative committee having jurisdiction over transportation matters by January 1, 2005.

LD 339

An Act To Require the Workers' Compensation Board To Adopt Rules To Require Electronic Filing

INDEF PP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-191
	OTP-AM MIN	S-243 EDMONDS

LD 339 proposed to require the Workers' Compensation Board to adopt rules requiring the electronic filing of information.

Committee Amendment "A" (H-191), the majority report of the committee, proposed to replace the bill. It proposed that rules relating to electronic filing of information with the Workers' Compensation Board are major substantive rules, except for rules requiring electronic filing of first reports of lost-time injuries. Those rules are routine technical. It also proposed to increase the limit on the assessment used to fund the Workers' Compensation Board Administrative Fund to cover the cost of a staff person and setup, training and consulting costs.

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Committee Amendment "B" (H-192), the minority report of the committee, proposed to replace the bill. It proposed that all rules to require electronic filing of information are major substantive rules and must be brought to the Legislature for review before being finally adopted. It also proposed to require the Workers' Compensation Board to use the consensus-based rule development process described in the Maine Administrative Procedure Act to develop the rules and specify certain additional requirements. This amendment was not adopted.

Senate Amendment "A" (S-243) proposed to specify that the electronic filing rulemaking required by Committee Amendment "A" must be developed through the consensus-based rule development process and must include certain participants. The Workers' Compensation Board would be required to test the electronic filing process to ensure that it functions correctly. This amendment also proposed to increase the cap on assessments by \$40,000 for each of the fiscal years 2003-04 and 2004-05 and allocate the additional \$40,000 for the implementation of the electronic filing system.

See LD 35, which incorporates the provisions of Committee Amendment "A" as amended by Senate Amendment "A."

LD 361

**An Act to Amend the Laws Governing Wage and Benefit Records
of Persons Working on Public Works Projects**

PUBLIC 432

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HUTTON	OTP-AM MAJ	H-93
EDMONDS	ONTP MIN	

LD 361 proposed to require the contractor and each subcontractor in charge of the construction of a public work, on a weekly basis, to file a wage and benefit record with the public authority that entered into the contract. It proposed to require that the record be open at all reasonable hours to the inspection of any aggrieved party or resident of this State.

Committee Amendment "A" (H-93) proposed to replace the bill and to provide that the records kept by contractors and subcontractors on public works construction projects must include information about independent contractors working with them as well as information about their employees. It also proposed to require that the records be filed monthly rather than weekly. It proposed to provide that the records filed with the public authority are public records, but the public authority must adopt rules to prevent the disclosure of certain personal information, such as a person's Social Security number or taxpayer identification number.

Enacted Law Summary

Public Law 2003, chapter 432 requires contractors and subcontractors on public works projects to monthly file their wage and benefit records with the public agency that entered into the contract. The records must include information about independent contractors working with the contractors and subcontractors as well as information about employees of those contractors and subcontractors. The records filed with the public agency are public records, but the public agency must adopt rules to prevent the disclosure of certain personal information, such as a person's Social Security number or taxpayer identification number.

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LD 398

An Act To Improve Collection of Information about Work-related Injuries and To Enhance Injury Prevention Efforts

PUBLIC 471

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	OTP-AM MAJ	S-239 EDMONDS
HATCH PR	ONTP MIN	

LD 398 proposed to require employers and insurers, beginning January 1, 2004, to file with the Workers' Compensation Board reports of workplace injuries that require medical care, even if the injury did not cause the employee to lose a day's work. It proposed to require that the reports be filed electronically and to place the ultimate responsibility for timely and accurate filing of first reports of injury on insurers, self-insurers and group self-insurers.

Finally, the bill proposed to require the Bureau of Labor Standards to convene a working group to develop a plan to use information about work-related injuries to identify the causes of such injuries and find ways to prevent them from occurring.

Committee Amendment "A" (S-80), which was the majority report of the Joint Standing Committee on Labor and was not adopted, proposed to require the filing of medical-only forms only if the Board adopts rules to require electronic filing of such reports. It proposed to require the Board to adopt rules requiring electronic filing of all information required to be filed and classified those rules as major substantive, except for rules requiring electronic filing of forms that are already required to be filed with the Board (lost-time claims). It also proposed increase the limit on assessments to fund the Workers' Compensation Board Administrative Fund to fund the costs of developing and implementing electronic filing.

Senate Amendment "A" (S-239) proposed to clarify that employers are required to file reports of medical-only claims with the Board only if the major substantive rule-making process has been completed. This amendment also proposed to remove the increase in the assessment limit.

Enacted Law Summary

Public Law 2003, chapter 471 provides that employers may be required to electronically file with the Workers Compensation Board reports of injuries that required medical attention, but did not result in loss of work days, if the Board adopts major substantive rules to require such filing.

LD 411

An Act To Provide Employees Fair Access to Personnel Files

PUBLIC 58

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HATCH PR	OTP-AM	H-54
EDMONDS		

LD 411 proposed to amend the law giving an employee the right to review that employee's personnel file by requiring the employer to furnish a copy of the personnel record without cost within 5 days of the employee's written request for the copy.

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fund. Each employee's share of the fund would be tax sheltered and portable as provided in the United States Internal Revenue Code, Section 457 and other provisions of the Internal Revenue Code.

LD 476 **An Act To Protect Maine Families When Workplace Fatalities Occur** **PUBLIC 437**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE	OTP-AM MAJ	H-96
EDMONDS	ONTP MIN	

LD 476 proposed to require an employer to continue to provide health insurance coverage to the family of an employee who dies as a result of a workplace injury. The employer would be required to pay 100% of the cost of the coverage for up to 6 months after the employee's death.

Committee Amendment "A" (H-96) proposed to replace the bill. It proposed to remove the limitation on including the value of certain benefits when determining an employee's average weekly wage for purposes of calculating a workers' compensation benefit. The limitation would not apply in the event of an employee's death so that more of the value of such benefits may be used in determining the death benefit due to survivors.

Enacted Law Summary

Public Law 2003, chapter 437 amends current law relating to the inclusion of the value of discontinued benefits in calculating an employee's average weekly wages, earnings or salary for purposes of workers' compensation. Currently, that value is not included in the calculation to the extent that the inclusion causes the wage to exceed 2/3 of the state average weekly wage at the time of injury. This law removes the 2/3 limitation in the event of an employee's death so that more of the value of such benefits may be used in determining the death benefit due to survivors.

LD 510 **An Act To Reimburse Employees for Attorney's Fees and Costs When Forced To Pursue Petitions for Payment of Medical Services** **ONTP**

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

LD 510 proposed to require a workers' compensation hearing officer to order an employer to pay reasonable attorney's fees and costs incurred by an employee if the hearing officer finds that the employer's refusal to pay medical benefits was not based on any reasonable grounds.

Committee Amendment "A" (H-107) proposed to clarify that attorneys are not prohibited from accepting fees for representing a claimant seeking payment of medical expenses when the employer has unreasonably contested the payment of those expenses. It proposed that the maximum fee based on benefits accrued and weekly benefit amounts does not apply to fees collected for recovery of medical benefits. This amendment was not adopted.

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LD 528 **An Act To Increase the Number of Members of the Board of Trustees of the Maine State Retirement System** **ONTP**

<u>Sponsor(s)</u> O'BRIEN J		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 528 proposed to add one member to the Board of Trustees of the Maine State Retirement System, to be selected from a list of 3 nominees submitted by the Maine Association of Retirees.

LD 550 **An Act Regarding Employment of Workers' Compensation Board Hearing Officers and Mediators** **CARRIED OVER**

<u>Sponsor(s)</u> EDMONDS SMITH W		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 550 proposes to transfer the authority to hire or contract with workers' compensation hearing officers and mediators from the Workers' Compensation Board to the Board's executive director.

LD 550 was reported out of committee with 2 "ought-to-pass as amended" reports, but was re-referred to committee and carried over. The 2 proposed reports were as follows:

1. **Committee Amendment "A" (S-53)**, the majority report of the committee, proposed that hearing officers and mediators continue in their current status as non-civil service employees, serving at the pleasure of the appointing authority. It also proposed to require the executive director to enter into a written agreement with each hearing officer employed by the Board, setting forth the terms and conditions of employment and providing for renewable terms of employment of up to 5 years.
2. **Committee Amendment "B" (S-54)**, the minority report of the committee, proposed to replace the bill. It proposed that the Workers' Compensation Board continue as the appointing authority for hearing officers and mediators, and that the Board must enter into written agreements with hearing officers specifying the terms and conditions of their employment, including specifying the term of employment, which may be up to 3 years. The amendment also proposed to require the executive director of the board to evaluate hearing officers before they are reappointed and to make a recommendation to the board regarding reappointment.

LD 561 **An Act To Improve Standards for Public Assistance to Employers in the State** **CARRIED OVER**

<u>Sponsor(s)</u> HUTTON EDMONDS		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 561 proposes to require employers who receive the benefit of several state economic development incentive programs to meet certain wage and benefit standards.

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LD 575 An Act To Encourage Workers' Compensation Dispute Resolutions CARRIED OVER

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

LD 575 proposes to authorize the Workers' Compensation Board to levy a \$500 surcharge on an employer if, at the conclusion of mediation, the employee obtains or retains more benefits than the employer had offered prior to mediation. The bill also proposed to levy a \$1,500 surcharge on an employer if, at the conclusion of a formal hearing, the employee obtains or retains more benefits than the employer had offered prior to the hearing. The surcharges would be deposited in a dedicated fund to be used to defray the costs of the worker advocate program.

LD 575 was reported out of committee on a divided report (OTP-AM and ONTP), but was re-referred to committee and carried over.

LD 589 An Act To Create a Woods-related Bargaining Council ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN SMITH W	ONTP	

LD 589 was a concept draft that proposed to set up a bargaining council to allow loggers and independent truckers engaged primarily in the forest industry to bargain collectively. The council would be modeled on the Maine Agricultural Bargaining Board. See also LD 1318.

LD 658 An Act To Improve the Operation of the Workers' Compensation Board PUBLIC 382

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W EDMONDS	OTP-AM MAJ ONTP MIN	H-57

LD 658 proposed to move authority to review appointments to the Workers' Compensation Board from the Legislature's committee on state and local government matters to the committee on labor matters. It proposed to authorize the Workers' Compensation Board to appoint the general counsel and the executive director of the Board for 5-year terms, removable by vote of a simple majority of the Board. It proposed to authorize the general counsel and the executive director to hire the remaining personnel, including hiring or contracting for hearing officers for 5-year terms. It proposed to direct the executive director to submit the biennial and annual budgets, and to allow the board to expend up to 10% of the Workers' Compensation Board Administrative Fund in a fiscal year for unanticipated expenses, without legislative approval.

Committee Amendment "A" (H-57) proposed to delete all sections of the bill except the section that moves authority to review nominations of Workers' Compensation Board members from the joint standing committee having jurisdiction over state and local government matters to the committee having jurisdiction over labor matters.

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Enacted Law Summary

Public Law 2003, chapter 382 moves authority to review nominations of Workers' Compensation Board members from the joint standing committee having jurisdiction over state and local government matters to the committee having authority over labor matters.

LD 672 **An Act Relating to Employees Whose Membership in the Maine State Retirement System is Optional** **PUBLIC 261**

<u>Sponsor(s)</u> EDMONDS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-138
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LD 672 proposed to allow confidential employees of the Maine Technical College System who are not represented in a collective bargaining unit to amend their retirement system election.

Committee Amendment "A" (S-138) proposed to replace the bill. It proposed to provide that any employee whose membership in the Maine State Retirement System is optional, including confidential employees of the Maine Community College System, may purchase, at the actuarial cost, service credit for the time during which that person was eligible to be in the Maine State Retirement System but elected not to join. It proposed that a confidential employee of the Maine Community College System whose membership is optional and who is not represented by a union may join or rejoin the Maine State Retirement System only when the funds necessary to pay the additional costs to the Maine Community College System have been identified and designated.

Enacted Law Summary

Public Law 2003, chapter 261 clarifies the ability of an employee whose membership in the Maine State Retirement System is optional, including confidential employees of the Maine Community College System, to reenter the system after having earlier withdrawn. It provides that any employee whose membership is optional may purchase service credit for the time during which that person was eligible to be in the Maine State Retirement System but elected not to join the Maine State Retirement System. The employee would be required to pay the full actuarial cost of the service credit. Finally, it provides that a confidential employee of the Maine Community College System whose membership is optional and who is not represented by a union may join or rejoin the Maine State Retirement System only when the funds necessary to pay the additional costs to the Maine Community College System have been identified and designated.

LD 673 **An Act To Increase Maine's Minimum Wage** **CARRIED OVER**

<u>Sponsor(s)</u> HATCH PH PATRICK	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 673 proposes to increase the minimum wage from the current \$6.25 per hour to \$6.65 per hour beginning October 1, 2003 and to \$7 per hour beginning October 1, 2004.

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LD 718 **An Act To Create a New Pension System for Newly Hired Teachers CARRIED OVER
and State Employees**

<u>Sponsor(s)</u> MILLS P		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 718 proposes to create a new retirement program for teachers and state employees hired on or after January 1, 2004. Instead of being covered by the existing state employee and teacher plan of the Maine State Retirement System, new hires would be required to participate in Social Security and would also be covered by a newly created defined benefit plan.

LD 752 **Resolve, Directing the Department of Labor To Develop the Family CARRIED OVER
Security Fund To Implement the Recommendations of the
Committee to Continue to Study the Benefits and Costs for
Increasing Access to Family and Medical Leave for Maine Families**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 752 proposes to require the Department of Labor to develop an insurance program that would provide partial wage replacement for persons who are unable to work due to temporary disabilities. The program would be based on the recommendations of the Committee to Continue to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families.

LD 797 **Resolve, To Provide Health Insurance to Unemployed Workers** **ONTP**

<u>Sponsor(s)</u> DAGGETT HUTTON		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 797 proposed to direct the Department of Labor to apply to the federal government for a national emergency grant to provide health insurance for eligible unemployed workers. It also proposed to require the Department of Labor to review options for providing health insurance to other unemployed workers and to report recommendations to the Joint Standing Committee on Labor. The committee would be authorized to report out legislation to the Second Regular Session of the 121st Legislature. See also LD 1576.

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LD 809 **An Act To Provide Health Insurance Contributions to All Retired Teachers** **ONTP**

<u>Sponsor(s)</u> O'BRIEN J		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 809 proposed to require the State to reimburse the accident and sickness or health insurance coverage costs of retired teachers who are not eligible to participate in the group accident and sickness or health insurance plan for retired teachers at the same rate as the State contributes to accident and sickness or health insurance coverage of retired teachers under the group plan.

LD 823 **An Act To Distribute Costs for the Funding of Pensions and Health Insurance for Retired Teachers** **ONTP**

<u>Sponsor(s)</u> MILLS P		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 823 was a concept draft that proposed to require local school administrative units to pay the employer portion of the costs of teacher retirement and teacher retiree health insurance and to provide for reimbursement to local units through the education funding formula. In addition to paying the current cost for health insurance for retirees, the units would contribute an actuarially determined amount into a reserve fund to pay the cost of future health insurance benefits for members who are not yet retired.

LD 831 **An Act Pertaining to Former Members of the Maine State Retirement System** **PUBLIC 273**

<u>Sponsor(s)</u> MCLAUGHLIN		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-322
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LD 831 proposed to allow a municipality or other participating local district that has withdrawn from the Maine State Retirement System to elect to permit participants to purchase military service credits, even if the provision allowing such purchases were in effect prior to the withdrawal and could have been adopted by the district prior to withdrawing.

Committee Amendment "A" (H-322) proposed to replace the bill and to broaden its scope. It proposed to allow a participating local district to adopt any provision of the Maine State Retirement System laws after the local district withdraws from the retirement system, regardless of whether the provision was enacted before or after the local district's withdrawal.

Enacted Law Summary

Public Law 2003, chapter 273 allows a municipality or other participating local district that has withdrawn from the Maine State Retirement System to elect to adopt any provision of the Maine State Retirement System laws after the local district withdraws from the retirement system, regardless of whether the provision was enacted before or

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after the local district's withdrawal. Those changes would apply only to persons who remained in the retirement system plan at the time the local district withdrew from the retirement system.

LD 834 **An Act To Protect the Solvency of Workers' Compensation Trust Funds** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HATCH PR HATCH PH	ONTP	

LD 834 proposed to require employers who self-insure for workers' compensation to report to the Superintendent of Insurance within the Department of Professional and Financial Regulation transfers out of their trust funds, except transfers to pay benefits under the Maine Workers' Compensation Act of 1992.

LD 880 **An Act To Eliminate the Social Security Offset for Unemployment Benefits** **CARRIED OVER**

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

LD 880 proposes to eliminate the pension offset against unemployment benefits for persons who receive Social Security or other pensions, provided the person contributed at least 50% of the contributions to that pension.

LD 880 was reported out of committee on a divided report, but was re-referred to committee and carried over.

LD 881 **An Act To Allow the Buyback of Active Duty Military Time for Maine State Retirement System Credit** **ONTP**

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

LD 881 proposed to allow members of the MSRS with active military service to buy back service credit for that service at a subsidized rate, regardless of whether the military service occurred during a federally-recognized period of conflict. Current law requires a member whose military service was not during a federally-recognized period of conflict to pay the full actuarial cost of the credit.

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LD 883

An Act Regarding an Employee's Access to Personnel Files

ONTP

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

LD 883 proposed that the penalty paid by an employer who fails to provide a personnel file to an employee or for new employee must be paid to the employee rather than the state.

LD 919

An Act To Require Public Improvement Projects Contractors and Subcontractors To Meet Certain Criteria **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE HATCH PH		

LD 919 proposes to enact criteria that must be met by any contractor or subcontractor performing work on a public improvement project, including compliance with prevailing wage laws, provision of employer-paid health and hospitalization benefits, apprenticeship programs and proper classification of employees for purposes of workers' compensation, unemployment and other tax purposes.

LD 943

An Act To Discourage Abuse and Fraud under the Workers' Compensation Laws

ONTP

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

LD 943 proposed to direct the Workers' Compensation Board to appoint a permanent hearing officer to hear cases alleging fraud, intentional misrepresentation or willful violation of the workers' compensation laws and to increase the penalties that may be imposed for fraud, intentional misrepresentation or a willful violation of the workers' compensation laws.

LD 943 would also increase the annual rate of interest that must be paid on weekly compensation that is paid pursuant to an award and would direct the Department of the Attorney General to conduct an audit to determine how many insurers have failed to pay the required interest on awards.

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LD 954

An Act To Require Disclosure of the Amount and Duration of Unemployment Benefits to Recipients

PUBLIC 95

<u>Sponsor(s)</u> JACKSON EDMONDS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-104
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LD 954 proposed to require the Department of Labor to provide information concerning the amount and duration of unemployment benefit payments over the telephone upon inquiry of the person receiving the benefits.

Committee Amendment "A" (H-104) proposed to state that the information given by the Department of Labor to a person who inquires about unemployment compensation benefits is an estimate, not an actual calculation of benefits and to clarify that an inquiry is not considered an application for benefits. It also proposed that the estimate be provided for benefits that would be paid if the individual applied on the day of the inquiry, and, if the inquiry is made within 2 weeks before the beginning of a calendar quarter, the department must also give an estimate for benefits that would be paid if the individual applied after the beginning of that calendar quarter.

Enacted Law Summary

Public Law 2003, chapter 95 requires the Department of Labor, upon inquiry from a person, to provide that person an estimate of the amount and duration of unemployment benefit payments likely to be paid to that person. Inquiry may be made by telephone, and is not considered to be an application for benefits. The estimate will be provided for benefits that would be paid if the individual applied on the day of the inquiry, and, if the inquiry is made within 2 weeks before the beginning of a calendar quarter, an estimate will be provided of benefits that would be paid if the individual applied after the beginning of that calendar quarter.

LD 955

An Act To Allow Recipients To Withdraw from Receiving Unemployment Benefits by Phone and at Any Time before Receiving Benefits

PUBLIC 96

<u>Sponsor(s)</u> JACKSON EDMONDS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-103
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LD 955 proposed to allow a claimant for unemployment benefits to withdraw the claim, by telephone, at any time before receiving benefits. It also proposed to require the Department of Labor to treat a claimant who has withdrawn a claim as not having filed the claim.

Committee Amendment "A" (H-103) proposed to allow the Department of Labor to require a person to submit a signed withdrawal authorization after initiating authorization to withdraw benefits by telephone. It also proposed that a person who cashes a benefit check is deemed to have revoked any withdrawal of that claim.

Enacted Law Summary

Public Law 2003, chapter 96 allows a claimant for unemployment benefits to withdraw the claim at any time before receiving benefits. Withdrawal may be initiated by telephone, but the Department of Labor may require a person to

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submit a signed withdrawal authorization following the withdrawal by phone. A person who cashes a benefit check is deemed to have revoked any withdrawal of that claim.

LD 974 **An Act To Prohibit the Use of Workers' Compensation Trust Funds for Political Contributions** **PUBLIC 424**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HATCH PH	OTP-AM MAJ	S-161
HATCH PR	ONTP MIN	S-213 EDMONDS

LD 974 proposed to prohibit self-insuring employers and employer groups from using workers' compensation trust funds to make contributions to political candidates or political action committees. It also proposed to require the Department of Administrative and Financial Services, Bureau of Revenue Services to review the tax filings related to self-insurer trust funds to determine whether funds removed from the trusts for the purpose of political contributions prior to the effective date of this bill were properly accounted for.

Committee Amendment "A" (S-161) proposed to add an appropriations and allocations section to fund the review by the Bureau of Revenue Services.

Senate Amendment "A" (S-213) proposed to strike the language from the bill that requires the Bureau of Revenue Services to review the tax filings of self-insurers and replace it with language that requires an individual or group self-insurer to include a certification that no political contributions have been made from the trust fund. The amendment also proposed to strike the appropriations and allocations section.

Enacted Law Summary

Public Law 2003, chapter 424 prohibits self-insuring employers and employer groups from using workers' compensation trust funds to make contributions to political candidates or political action committees. It also requires individual or group self-insurers, when they apply to the Superintendent of Insurance for renewal of authority to self-insure, to include a certification that no political contributions have been made from the trust fund in violation of the Maine Revised Statutes, Title 39-A, section 403, subsection 18.

LD 990 **An Act To Provide an Alternative Method of Payment under the Maine State Retirement System** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL	ONTP	
DAVIS G		

LD 990 proposed to allow a retired member of the Maine State Retirement System who elects to receive reduced benefits in order to enable a beneficiary to continue to receive benefits after the member dies, to revert to receiving full benefits if the named beneficiary predeceases the member.

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LD 992

**An Act To Clarify the Purchase of Military Time Served under the
Maine State Retirement System**

ONTP

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

LD 992 proposed to allow certain members of the Maine State Retirement System to purchase past military time and to count the purchased service credit toward meeting the requirement of 10 years of service credit in order to have retirement benefits calculated under a more favorable formula than for people who do not meet the 10-year requirement. This amendment proposed to allow a person who was not eligible to purchase military time before July 1, 1993 to also count that time toward qualifying for the more favorable benefit formula, but only if the person pays the actuarial cost of obtaining the right to the more favorable benefit as well as paying the cost of the service credits.

LD 1009

An Act Concerning Retirement Benefits for State Employees

PUBLIC 486

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE	OTP-AM MAJ	H-441
DAGGETT	ONTP MIN	S-298 CATHCART

LD 1009 proposed to amend the definition of “average final compensation” in the Maine State Retirement System laws to provide that days taken without pay as a result of legislative or Executive action during the 2002-03 fiscal year would be counted as if they were paid days, for purposes of determining a member’s average final compensation for that fiscal year.

Committee Amendment "A" (H-441) proposed to fund the additional cost of including compensation that would have been paid for certain days during fiscal year 2002-03 in a member’s average final compensation. It proposed to provide for an immediate appropriation of \$76,081 to represent the employer contribution and to require employees who gain a higher retirement benefit as a result of the bill to pay the amount that would have been paid as an employee contribution on compensation for those days, plus interest, when they retire.

Senate Amendment "A" to Committee Amendment "A" (S-298) proposed to allow state employees who took days off without pay during the 2002-03 fiscal year to have the compensation that would have been paid on those days included in their average final compensation, provided they elect to do so and to pay the employee portion of the cost by contributing to the Maine State Retirement System the employee contribution that would have been paid on that compensation, plus interest. This amendment proposed a special retirement cost assessment to be applied to all departments and agencies from July 1, 2003 to September 30, 2003 to fund the employer's share of the costs associated with the bill.

Enacted Law Summary

Public Law 2003, chapter 486 allows Maine State Retirement System retirees to have their average final compensation calculated as if they did not take days off without pay during the 2002-2003 fiscal year, provided they elect at the time of retirement to make a retroactive payment of the contribution that would have been made on that compensation, plus interest. This applies to persons who took days off without pay pursuant to legislative

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action, Executive Order, or authorization of the State Court Administrator, and who use 2002 or 2003 as one of their high-three years of compensation.

LD 1013 **An Act To Address Maine's Direct Care Worker Shortage** **ONTP**

<u>Sponsor(s)</u> EDER	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1013 proposed to require health care facilities and health care practitioners that receive state funding for the provision of health care to patients to pay to their employees a livable wage beginning January 1, 2004. The bill also proposed to require the State Planning Office to calculate a livable wage based on the basic needs budget that the SPO annually calculates.

LD 1038 **Resolve, Directing the Maine State Retirement System To Study the Windfall Elimination Provision of the Social Security Program** **ONTP**

<u>Sponsor(s)</u> BARSTOW HALL	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1038 proposed to direct the Maine State Retirement System to study the windfall elimination provision under the federal social security program and to suggest recommendations for the Maine Congressional Delegation to change that provision.

LD 1093 **An Act to Conform State Workforce Development Laws to the Federal Workforce Investment Act of 1998** **PUBLIC 114**

<u>Sponsor(s)</u> EDMONDS SMITH W	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 1093 proposed to update state workforce development laws to reflect the changes in federal law from the Job Training Partnership Act to the Workforce Investment Act of 1998.

Enacted Law Summary

Public Law 2003, chapter 114 updates state workforce development laws to reflect the changes in federal law from the Job Training Partnership Act to the Workforce Investment Act of 1998. It deletes obsolete language, updates references and defines terms.

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LD 1107

**An Act To Clarify Eligibility in the Maine State Retirement System
Life Insurance Program**

PUBLIC 485

<u>Sponsor(s)</u> DUPLESSIE	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-363
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LD 1107 was a concept draft that would clarify eligibility for life insurance for a person who is retired from a position covered by a plan within the Maine State Retirement System and, after retiring, becomes employed in a position covered by a different plan within the Maine State Retirement System.

Committee Amendment "A" (H-363) proposed to replace the bill. It proposed that a person who has life insurance coverage as a retiree may purchase insurance as an active employee, provided that person pays the cost of the active employee coverage.

Enacted Law Summary

Public Law 2003, chapter 485 allows a member of the Maine State Retirement System who has life insurance coverage as a retiree, but who becomes reemployed in a position that qualifies for life insurance, to purchase active employee coverage at the person's own expense.

LD 1117

An Act Regarding Wrongful Discharge

PUBLIC 442

<u>Sponsor(s)</u> HUTTON BRYANT	<u>Committee Report</u> OTP-AM MAJ OTP-AM MIN	<u>Amendments Adopted</u> H-265 H-527 HUTTON
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LD 1117 proposed to define a discharge of an employee as wrongful if it was in violation of the employer's written personnel policy.

Committee Amendment "A" (H-265), the majority report of the committee, proposed to replace the bill. It proposed that an employer that provides a written personnel policy to its employees must provide certain information regarding the employees' at-will status if the employer wishes to treat the employees as at-will employees. If the employer provides a written personnel policy to its employees but does not include the proper notice, the employer must comply with the procedures and standards set forth in the personnel policy for employment termination.

Committee Amendment "B" (H-266), which was not adopted, was the minority report of the committee and proposed to replace the bill. It proposed that the notice of at-will status that is currently required in the Department of Labor's Regulation of Employment Poster must be printed in a bold type-face that is larger than in the current poster printing.

House Amendment "A" to Committee Amendment "A" (H-527) proposed to replace the Committee Amendment with language specifying that the notice of at-will status that is currently required in the Department of Labor's Regulation of Employment Poster must be printed in a bold type face that is larger than in the current poster printing, beginning with the next reprinting of the poster.

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Enacted Law Summary

Public Law 2003, chapter 442 requires the Department of Labor to print the notice that Maine employees are generally “at-will” employees, contained in the Regulation of Employment poster, in a bold typeface that is larger than in the current poster printing.

LD 1120 **An Act To Amend the Laws Governing Noncompete Clauses in Broadcast Industry Contracts** **PUBLIC 225**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRUNO	OTP MAJ ONTP MIN	

LD 1120 proposed to strike the provision of law that excludes broadcasting industry sales representatives from the law specifying that certain noncompetition agreements in the broadcasting industry are presumed unreasonable.

Enacted Law Summary

Under current law, a provision in a broadcasting industry employment contract is presumed unreasonable if it prevents a person from working for a competing employer in a particular geographic area for a certain amount of time after the contract is completed or the person is let go from employment. Current law excludes contracts with sales persons from this presumption. Public Law 2003, chapter 225 removes that exclusion.

LD 1131 **An Act to Require that Certain Employees Be Paid on a Weekly Basis** **DIED IN CONCURRENCE**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TWOMEY HATCH PH	OTP-AM MAJ ONTP MIN	

LD 1131 proposed to reenact laws that were repealed in 1999 relating to payment of wages, including a provision requiring that certain employees be paid on a weekly basis.

Committee Amendment "A" (H-193) was the majority report and proposed to replace the bill. Rather than reenacting the weekly pay law that contained outdated language, the amendment proposed to amend current law to provide that minimum wage workers must be paid weekly or more often. The amendment also proposed to delete all proposed changes in the bill except the change in timing for payment of minimum wage workers. The committee amendment was not adopted.

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LD 1150 **An Act To Protect the Rights of State Workers** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAGGETT SMITH W		

LD 1150 proposes to extend to workers hired by the State through long-term contracts or long-term grants the same benefits as all other state employees.

LD 1163 **An Act To Provide That Employee Terminations by Any Company That Receives Monetary Benefits from the State Require Just Cause** **DIED IN CONCURRENCE**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SULLIVAN EDMONDS	OTP-AM MAJ ONTP MIN	H-175 H-497 SMITH W

LD 1163 proposed to prohibit employers from terminating employment of an employee without just cause if that employer has more than 50 employees and receives taxpayer incentive benefits such as the business equipment tax reimbursement program, or "BETR."

Committee Amendment "A" (H-175) proposed to clarify application of the law.

House Amendment "A" (H-497) proposed to exclude first-year employees from coverage of the law.

LD 1165 **An Act To Provide Qualified Interpretation and Translation Services in Workers' Compensation Proceedings** **ONTP**

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

LD 1165 proposed to require the Workers' Compensation Board to provide qualified interpretation and translation services to persons with limited English proficiency.

LD 1185 **An Act To Provide Paid Family and Medical Leave** **ONTP**

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

LD 1185 proposed to create the Maine Temporary Disability and Family Leave Benefits Program, to provide wage replacement benefits to persons who are on leave from work because of their own illness, the illness of a family member or the birth or adoption of a child. The program would be funded by employer and employee contributions and provide 2/3 of the employee's average weekly wage for up to 26 weeks for the employee's own illness and up to 12 weeks for other leave purposes. Employee contributions would be collected on a sliding scale based on wages.

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LD 1193 **An Act To Strengthen the Family Medical Leave Laws** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS SMITH W	ONTP	

LD 1193 proposed to amend the family medical leave requirements in Maine law to reflect the requirements of the federal Family and Medical Leave Act of 1993 by extending the family medical leave entitlement to 12 weeks from 10 weeks and allowing the court to award liquidated damages equal to actual wages lost by the employee or costs paid by the employee due to the violation as well as reasonable attorney's and expert witness fees as well and court costs.

LD 1223 **An Act Relating to Retirement Qualifications for Hazardous Materials Workers** **ONTP**

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

LD 1223 was a concept draft that proposed to allow oil and hazardous materials emergency response workers in the Department of Environmental Protection to qualify for retirement at 55 years of age with 10 years of creditable service, regardless of whether the service was performed before or after those workers were included in the 1998 Special Plan.

LD 1225 **Resolve, To Assist Retired Teachers by Establishing a Health Insurance Payment Program** **ONTP**

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

LD 1225 proposed to require the Department of Administrative and Financial Services to establish the Retired Teachers' Health Insurance Premium Payment Program to allow teachers to make pretax contributions to a Retired Teachers' Health Insurance Premium Payment Fund, which would be used to pay the employee portion of the cost of health insurance premiums once the teachers retire.

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LD 1248

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

PUBLIC 328

<u>Sponsor(s)</u> DUNLAP CATHCART	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-355
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LD 1248 proposed to change the formula used for reducing the disability retirement benefit for a person who is a member in a Participating Local District under the Maine State Retirement System, when the disability retiree also collects a benefit under either or both the United States Social Security System or workers' compensation laws. It proposed to limit the total of benefits collected to 80% of all wages and earnings, not just 80% of wages and earnings from employment covered by the retirement system.

Committee Amendment "A" (H-355) proposed to clarify that, in calculating the reduction in the disability retirement benefit, the only other wages and earnings taken into account are from employment.

Enacted Law Summary

Public Law 2003, chapter 328 changes the formula for reducing a disability retirement benefit in Participating Local Districts of the Maine State Retirement System in situations in which the disability retiree collects benefits under either or both the United States Social Security System or workers' compensation laws as well as receiving a benefit under the retirement system. Under current law, the retirement system benefit in such cases is reduced to an amount that, added to the Social Security or workers' compensation benefits, does not exceed 80% of the disability retiree's average final compensation from employment covered by the state retirement system. P.L. 2003, chapter 328 changes the formula in Participating Local Districts so that the 80% reduction is based on the retiree's total wages and compensation from all employment, not just employment covered by the retirement system.

LD 1277

An Act To Allow a Retiree Eligible for State-paid Health Insurance Coverage To Decline Coverage and Reenroll at a Later Date

PUBLIC 214

<u>Sponsor(s)</u> WESTON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-102
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LD 1277 proposed to allow a retiree who is eligible for health insurance at the time of retirement to decline coverage for some period of time and then reenroll in the program at a later date without penalty.

Committee Amendment "A" (S-102) proposed to clarify the timing of an election to withdraw from the state health insurance plan and to preserve the option of reenrolling. A person may elect to decline health insurance coverage at the time of retirement and retain the option to reenroll pursuant to the provisions of this new law, or a person may elect to withdraw from health coverage at any time after retirement, provided the person had elected at the time of retirement to be covered by the state health insurance plan. It also proposed to clarify the conditions under which the spouse or dependent of a retiree may enroll in the state health insurance plan.

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Enacted Law Summary

Public Law 2003, chapter 214 allows a retired state employee who is eligible for retiree health insurance to decline coverage for some period of time and then reenroll in the program at a later date without penalty. A person may elect to decline health insurance coverage at the time of retirement and retain the option to reenroll pursuant to the provisions of this new law, or a person may elect to withdraw from health coverage at any time after retirement, provided the person had elected at the time of retirement to be covered by the state health insurance plan. It also clarifies the conditions under which the spouse or dependent of a retiree who reenrolls may obtain coverage under the health insurance plan.

LD 1286 **An Act Regarding the Operation of Vending Services in Public Buildings** **ONTP**

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

LD 1286 proposed to remove the provision that gives the Department of Labor, Division for the Blind and Visually Impaired the first option for placing vending machines operated by the division in a public building or property if a vending facility operated by a blind person is not warranted at that location.

LD 1315 **An Act To Change the Retirement Eligibility Qualifications for Certain Military Firefighters and Police Officers** **ONTP**

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

LD 1315 proposed to allow certain military firefighters and police officers employed at the Bangor International Airport to elect to participate in the 1998 Special Plan.

LD 1318 **An Act To Provide Collective Bargaining Rights to Certain Forest Products Workers** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W MARTIN		

LD 1318 proposes to allow individual forest products harvesters and haulers to join together to bargain with forest landowners over the prices and other terms of contracts for harvesting and hauling trees in Maine forests. The bill proposes to create a Forest Products Bargaining Board to implement the law, set forth a procedure for mediation and arbitration if the parties can not come to agreement on their own and list prohibited unfair practices.

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LD 1318 was reported out of committee on a divided report, but was re-referred to committee and carried over.

Committee Amendment "A" (H-440), the majority report of the committee, proposed to replace the bill. Rather than allowing harvesters and haulers to collectively bargain with forest landowners to establish rates of compensation, this amendment proposed to require the State Board of Arbitration and Conciliation to establish rates of compensation, based on factors set forth in the statute. Harvesters and haulers would be authorized to form associations to participate in the rate determination proceedings and to negotiate with forest landowners prior to the rate determination proceeding. Any tentative agreement reached in those negotiations would have to be reviewed and approved by the State Board of Arbitration and Conciliation through a rate determination proceeding.

LD 1343 Resolve, To Create the Task Force To Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal and County Law Enforcement Officers and Firefighters RESOLVE 76 EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON J EDMONDS	OTP-AM	H-190 S-275 GAGNON

LD 1343 proposed to create the Task Force to Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal Law Enforcement Officers and Firefighters.

Committee Amendment "A" (H-190) proposed to incorporate a fiscal note.

Senate Amendment "A" (S-275) proposed to remove a member from the Maine Municipal Association and add county law enforcement officers to the study. It proposed to change the number of task force members from 11 to 8, with a county representative added to the changed makeup of the task force. It also proposed to add a hardship per diem payment in the compensation section.

Enacted Law Summary

Resolve 2003, chapter 76 creates an 8-member task force to review the differences in retirement benefits offered to state, county and local law enforcement officers and firefighters, to develop options for providing parity and improving portability of benefits, and review differences in benefits among municipal law enforcement officers and firefighters in different municipalities and consider creating a uniform benefit plan.

Resolve 2003, chapter 76 was passed as an emergency measure effective June 17, 2003.

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LD 1350 **An Act To Assist Seasonal Workers with Workers' Compensation** **DIED IN CONCURRENCE**

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

LD 1350 proposed to remove the provision in the workers' compensation law that classifies agricultural, harvesting or forest products workers as seasonal workers for purposes of determining their "average weekly wage," regardless of whether they worked more than 26 weeks in a year.

LD 1352 **An Act To Amend the Benefit for Accidental Death in the Line of Duty for Law Enforcement Officers** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON J	ONTP MAJ	
HATCH PH	OTP-AM MIN	

LD 1352 proposed to provide that, for purposes of determining whether beneficiaries of a law enforcement officer are entitled to the accidental death benefit provided by the Maine State Retirement System, a law enforcement officer is presumed to have died in the course of employment if the officer dies as a result of hypertension or heart disease, and a prior physical examination at the time the member became a law enforcement officer or after had not shown evidence of hypertension or heart disease.

Committee Amendment "A" (H-202) proposed to replace the bill. Instead of providing a presumption of work-related death under the Maine State Retirement System laws, this amendment proposed to extend to law enforcement officers an existing presumption under the workers' compensation law relating to firefighters. It proposed to provide that a law enforcement officer who suffers cardiovascular injury or disease or pulmonary disease is presumed to have suffered a compensable injury under the Maine Workers' Compensation Act of 1992 if the law enforcement officer was an active officer for at least 2 years and the injury or disease or death from the injury or disease occurs within 6 months after active duty. The presumption would be rebuttable. This amendment was not adopted.

LD 1380 **An Act To Promote Safety and Fair Labor Practices for Forestry Workers** **CARRIED OVER**

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

LD 1380 proposes to enact laws to protect workers who perform reforestation activities, on a temporary or seasonal basis, from unsafe, unhealthy or unfair working conditions. It proposes to require the employer to provide and pay for (1) protective clothing, gear and necessary equipment; (2) safe transportation to the work site that meets the standards provided in the federal Migrant and Seasonal Agricultural Worker Protection Act as well as

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meeting additional standards including limits on driving time and requirements for insurance; and (3) housing near the work site to any forestry worker whose permanent residence is more than 50 miles from the work site and who wishes to live in such housing.

It proposes to prohibit the employer or any other person from selling goods or services to workers in employer-provided housing for an amount that constitutes an unjust or unreasonable profit. The bill proposes to require the employer to ensure that workers residing in employer-provided housing have the right to receive visitors and that visitors have access to roadways used to reach the housing. The bill proposes to define "employer" to ensure that all persons and entities that directly benefit from the labor performed by forestry workers are simultaneously and jointly responsible for the decent treatment of workers.

The bill proposes to prohibit any person from discriminating or retaliating against any person who exercises the rights or protections provided by the new law or who files a complaint or participates in a proceeding under the law. Persons who violate the law would be subject to civil penalties of up to \$2,500 per violation, enforceable by the Attorney General. That amount would increase to \$50,000 for certain egregious violations that result in a worker's bodily injury or death. The bill also proposes to provide a private right of action for aggrieved persons and declare void any attempt to waive or modify the workers' rights under the law.

LD 1435 **An Act To Clarify Immunity and Workers' Compensation for Search and Rescue Volunteers** **PUBLIC 489**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE BRYANT	OTP-AM	H-452 S-310 CATHCART

LD 1435 proposed to include under the definition of state "employee" for purposes of workers' compensation law and the Maine Tort Claims Act a person, whether paid or unpaid, who performs a search and rescue activity upon request of a state, county or local government.

Committee Amendment "A" (H-452) proposed that only those individuals certified by the Director of the Maine Emergency Management Agency as qualified search and rescue workers are considered employees of the State for purposes of workers' compensation coverage when they are engaged in search and rescue activity at the request of a state, county or local government entity.

Senate Amendment "A" to Committee Amendment "A" (S-310) proposed to change the source of funding for workers' compensation coverage from the Department of Defense, Veterans and Emergency Management to the Department of Inland Fisheries and Wildlife.

Enacted Law Summary

Public Law 2003, chapter 489 provides safeguards for persons who volunteer to perform search and rescue activity at the request of a state, county or local government. It provides immunity from lawsuits for injury or damage while the person is conducting search and rescue by including those persons as "employees" under the Maine Tort Claims Act. It also includes those persons as employees of the state for workers' compensation purposes, but only if the person is certified by the Maine Emergency Management Agency as a qualified search and rescue worker.

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LD 1453

An Act To Allow for Immediate Unemployment Fact-finding Interviews for Able and Availability Issues

PUBLIC 163

<u>Sponsor(s)</u> EDMONDS		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-81
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LD 1453 proposed to allow the Department of Labor, Bureau of Unemployment Compensation, to hold an immediate fact-finding interview when an individual submits information in a weekly unemployment claim indicating the claimant was not available for work during some part of the claim week and to modify the benefit check amount based on the information provided by the claimant during the fact-finding interview.

Committee Amendment "A" (S-81) proposed to incorporate a fiscal note.

Enacted Law Summary

Public Law 2003, chapter 163 allows the Department of Labor, Bureau of Unemployment Compensation, to hold an immediate fact-finding interview when an individual submits information in a weekly unemployment claim indicating that the claimant was not available for work during the claim week. The Department may modify the benefit check amount accordingly based on the information provided by the claimant during the fact-finding interview.

LD 1476

An Act To Improve Timeliness of Unemployment Trust Fund Deposits

PUBLIC 164

<u>Sponsor(s)</u> SMITH W		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-147
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LD 1476 would help to ensure the more timely deposit of unemployment insurance contributions into the Unemployment Trust Fund, as required by the Federal Deposit Standard. Currently the interagency cooperation that requires the combined payment for unemployment insurance contributions and income tax withholding is deposited into a combined unemployment insurance contributions and income tax withholding account, and the unemployment insurance contributions portion is subsequently deposited into the clearing account as is now required under the Maine Revised Statutes, Title 26, section 1161. The reconciliation and clearance process in 2 accounts is not efficient cash management and is an unnecessary duplication. It delays the timely deposit of contributions into the Unemployment Trust Fund, resulting in a loss of interest, and creates conditions that impede meeting the Federal Deposit Standard.

Committee Amendment "A" (H-147) proposed a technical amendment to clarify that only the unemployment compensation money in the combined account is deposited in the Unemployment Trust Fund.

Enacted Law Summary

Public Law 2003, chapter 164 modifies the process for depositing unemployment insurance contributions from employers into the Unemployment Trust Fund to eliminate delays in the deposit. Currently there is a 2-step process, which is inefficient and creates conditions that may not meet federal standards.

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LD 1501

An Act To Amend the Laws Relating to the Maine State Retirement System

PUBLIC 387

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS SMITH W	OTP-AM	S-179

LD 1501, which was a Maine State Retirement System bill, proposed to make several changes in the laws of the retirement system. The bill proposed to amend the definition of Consumer Price Index as applied to judges' retirement benefits, change the length of time a member may earn creditable service while on active military duty, extend rehabilitation services to more disability retirees and make those services optional, make withdrawal of membership contributions optional in certain circumstances, and make changes in the way the Participating Local District Advisory Committee conducts its business.

Committee Amendment "A" (S-179) proposed to clarify the changes in rehabilitation services made in the bill. Under this amendment, rehabilitation services for state employee, teacher and participating local district disability retirees under the Maine Revised Statutes, Title 5, chapter 421, subchapter 5, Article 3 and Article 3-A disability plans would be optional and must be agreed to by both the Executive Director of the Maine State Retirement System and the retiree.

The amendment also proposed to make changes to the recently enacted law allowing state employees, teachers and participating local district members of the retirement system to retire and return to covered employment without a limitation on earnings. First, to comply with federal age discrimination law, the amendment proposed to provide that retirees who take advantage of the new state law and exercise their choice to retire without a cap on their earnings while retired but also without the ability to accrue additional service credit for retirement purposes do so willingly and knowingly. Second, the amendment proposed to direct the retirement system to adopt rules regarding termination of employment to comply with federal tax law and regulations. Third, the amendment proposed to provide the retirement system the ability to collect the necessary information from employers to determine the impact of the new law on the costs of the plan.

Enacted Law Summary

Public Law 2003, chapter 387 makes several changes in the laws of the Maine State Retirement System. Chapter 387 does the following:

1. Amends the definition of Consumer Price Index that applies to judges for cost of living adjustments and other purposes to make it consistent with the definition that applies to all other Maine State Retirement System members.
2. Brings state law into compliance with federal law with respect to the period of time that a member may continue to earn creditable service while on a leave of absence in order to serve in the military.
3. Extends rehabilitation services to additional disability retirement recipients and makes participation in rehabilitation services designed to assist their return to substantially gainful activity optional—an activity that must be mutually agreed to by the Executive Director of the Maine State Retirement System and the retiree. The law also repeals the discontinuance of disability retirement benefits to recipients who decline to participate in the rehabilitation services program.

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4. Makes the withdrawal of contributions from the Maine State Retirement System optional when a member who is covered by the Social Security Act elects to cease contributing to Maine State Retirement System and when a member who is covered by an employer-provided retirement plan elects to cease contributing to the Maine State Retirement System.
5. Changes the attendance and voting requirements under which the Participating Local District Advisory Committee transacts business and adds the retirement system staff to those permitted to make rule amendment proposals regarding the consolidated retirement plan for local district employees to the Board of Trustees of the Maine State Retirement System. The Participating Local District Advisory Committee was previously the sole entity permitted to make such proposals.
6. Makes changes to the recently enacted law (Public Law 2001, chapter 442) allowing state employees, teachers and participating local district members of the retirement system to retire and return to covered employment without a limitation on earnings. First, to comply with federal age discrimination law, chapter 387 provides that retirees who take advantage of the new state law and exercise their choice to retire without a cap on their earnings while retired but also without the ability to accrue additional service credit for retirement purposes do so willingly and knowingly. Second, it directs the retirement system to adopt rules regarding termination of employment to comply with federal tax law and regulations. Third, the law provides the retirement system the ability to collect the necessary information from employers to determine the impact of the new law on the costs of the plan.

LD 1532

**An Act To Raise the Threshold under the Fair Minimum Wage
Rate on Construction Projects Law**

PUBLIC 197

<u>Sponsor(s)</u> PATRICK	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 1532 proposed to increase the threshold for requiring a wage and benefit determination on a state construction project from \$10,000 to \$50,000.

Enacted Law Summary

Public Law 2003, chapter 197 increases the threshold for requiring a wage and benefit determination on a state construction project from \$10,000 to \$50,000.

LD 1535

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

**PUBLIC 324
EMERGENCY**

<u>Sponsor(s)</u> GAGNON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-152
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Public Law 2001, chapter 442 removed the earning cap for retirees under the Maine State Retirement System who returned to covered service and, at the same time, precluded those retirees from being restored to membership in the Maine State Retirement System. LD 1535 proposed to allow a recipient of retirement benefits under the Maine State Retirement System at the time the law was changed who had returned to covered service to rejoin the system in certain circumstances, which would permit the member potentially to increase retirement benefits.

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Committee Amendment "A" (S-152) proposed to require an employee who exercises the option under the bill to be retroactively restored to membership in the Maine State Retirement System to pay back to the retirement system over earnings while not a member, to pay full actuarial cost of the retirement benefit based on additional creditable service allowed under the bill and to repay retirement benefits received after retroactive restoration to membership. The amendment also proposed to provide an option for an employee to be restored to membership prospectively. An employee who exercises that option must repay the retirement system for any over earnings while retired before Public Law 2001, chapter 442 was enacted.

Enacted Law Summary

A previously enacted law (Public Law 2001, chapter 442) removed the earnings cap for retirees under the Maine State Retirement System who returned to covered service and, at the same time, precluded those retirees from being restored to membership in the Maine State Retirement System. Public Law 2003, chapter 324 allows a recipient of retirement benefits under the Maine State Retirement System at the time the law was changed who had returned to covered service to rejoin the system in certain circumstances, which would allow the member potentially to increase retirement benefits.

Under chapter 324 such an employee may exercise the option to be retroactively restored to membership in the Maine State Retirement System. In that case, the employee is required to pay back to the retirement system over earnings while not a member, to pay the full actuarial cost of the new retirement benefit based on additional creditable service allowed under this chapter and to repay retirement benefits received after being retroactively restored to membership. An employee also has the option to be restored to membership prospectively. That employee must repay the retirement system for any over earnings while retired before Public Law 2001, chapter 442 was enacted.

Public Law 2003, chapter 324 was enacted as an emergency measure, effective May 27, 2003.

LD 1544

An Act To Revise the Standards for Reporting Public Sector Workplace Deaths and Serious Injuries

PUBLIC 244

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

LD 1544 proposed to reduce the time frame within which a public employer must report a death or serious injury to the Director of the Bureau of Labor Standards within the Department of Labor.

Enacted Law Summary

Public Law 2003, chapter 244 reduces the time frame within which a public employer must report a death or serious injury to the Director of the Bureau of Labor Standards within the Department of Labor from 48 hours to 8 hours for a death and 24 hours for a serious injury, consistent with federal requirements under the Occupational Safety and Health Administration regulations.

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LD 1552

**An Act To Allocate a Portion of the Reed Act Distribution of 2002
To Use for the Administration of the Unemployment Insurance and
Employment Services Programs**

P & S 23

<u>Sponsor(s)</u> EDMONDS TREADWELL	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-180
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LD 1552 proposed to authorize the Department of Labor to use \$9.76 million of the approximately \$32.5 million distributed to Maine by the federal government in 2002 under the Reed Act. Permitted uses of the funds include maintenance and operation of the State's unemployment and employment offices, expanded information services, expanded customer access options for program services; toll-free customer access to unemployment services delivered via telephone; technology upgrades; and the repair and accessibility upgrade of the facility in Augusta. The sum of \$22,786,816 of the Reed Act funds would remain in the federal Unemployment Trust Fund to pay unemployment benefits when needed.

Committee Amendment "A" (S-180) proposed to add an appropriations and allocations section to the bill.

Enacted Law Summary

Under federal law, money in the federal Unemployment Trust Fund may be distributed to the states, to be used for state unemployment and employment services programs, when the balance in the federal Trust Fund exceeds a certain amount. Such a distribution is known as a "Reed Act" distribution. Maine received a Reed Act distribution in 2002 of \$32,486,816.

Private and Special Law 2003, chapter 23 authorizes the use of \$9,760,000 of these funds to maintain and operate the State's unemployment and employment offices, including expanded unemployment, employment and labor market information program services for workers and employers in the State; expanded customer access options for program services; toll-free customer access to unemployment services delivered via telephone; technology improvements; and accessibility improvements to the offices in Augusta. The remainder of the Reed Act funds would remain in the federal Unemployment Trust Fund, accessible by the State, to pay unemployment benefits when needed.

LD 1576

**An Act To Provide Group Health Insurance Coverage to Maine
Citizens Eligible for Assistance Under the Federal Trade
Adjustment Assistance Reform Act of 2002**

**PUBLIC 348
EMERGENCY**

<u>Sponsor(s)</u> DAGGETT COLWELL	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-228
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LD 1576 proposed to authorize the Department of Administrative and Financial Services to sponsor a group health insurance plan, that would be made available to certain displaced workers, retirees and their dependents who are eligible to receive federal health insurance subsidy payments under the federal Trade Adjustment Assistance Reform Act of 2002.

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Committee Amendment "A" (S-228) proposed to clarify that those who enroll in the group health plan authorized in the bill must meet the eligibility criteria set forth in the federal law that provides for tax credits for enrollment in the plan by certain unemployed persons.

Enacted Law Summary

Public Law 2003, chapter 348 makes group health insurance coverage available to certain displaced workers, retirees and their dependents who are eligible to receive federal health insurance subsidy payments under the federal Trade Adjustment Assistance Reform Act of 2002.

Public Law 2003, chapter 348 was enacted as an emergency measure, effective May 29, 2003.

LD 1618 **An Act To Clarify the Employment Status of Court Reporters, Stenographers and Videographers** **CARRIED OVER**

<u>Sponsor(s)</u> WATSON		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1618 proposes to specify that court reporters, stenographers and videographers are independent contractors, for purposes of unemployment insurance.

LD 1619 **An Act To Provide Equitable Treatment to State Employees** **PUBLIC 423**

<u>Sponsor(s)</u> RICHARDSON J TREAT		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-531
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LD 1619 proposed to amend state law relating to overtime pay to include state employees in the law requiring payment of time-and-a-half for hours worked in excess of 40 hours in a week. The bill also proposed to amend the remedy provision so that state employees who are not paid the appropriate overtime wage recover only the amount of unpaid wages, not liquidated damages or attorney's fees as provided for private sector employees. It proposed a 3-year statute of limitations for violations if violation of the law is willful.

It also proposed to amend the workers' compensation law to provide that state employees who are barred from suing the State under admiralty law or certain federal laws because of sovereign immunity would not be excluded from coverage under the state workers' compensation law.

Committee Amendment "A" (H-531) proposed to remove legislative employees from the provision requiring overtime pay for other state employees. It also proposed to add language to make clear that compensatory time agreements that may be used to comply with federal overtime laws applicable to public employees may also be used to comply with the overtime rate provisions being applied to executive and judicial employees.

Enacted Law Summary

Public Law 2003, chapter 423 amends certain state labor laws to equalize the treatment of state employees to the treatment of private sector employees. Recent United States Supreme Court cases have ruled that the State, as an

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employer, cannot be sued under certain federal employment laws unless the State consents to be sued. Instead of waiving immunity to allow state employees to sue the State under federal labor law, PL 2003, chapter 423 amends state labor laws to provide remedies to state employees under state law.

It includes state employees, except for legislative employees, in the law requiring employers to pay time-and-a-half for overtime hours worked. Currently all public employees are exempt from that requirement. It amends the remedy provision so that state employees who are not paid the appropriate overtime wage recover only the amount of unpaid wages, not liquidated damages or attorney's fees as provided for private sector employees. It provides for a 3-year statute of limitations for violations of the minimum wage law for state employees if the violation of the law is willful. Compensatory time may in some instances be substituted for overtime pay, when allowed by federal law.

PL 2003, chapter 423 amends the workers' compensation law to provide that state employees who are barred from suing the State under admiralty law or certain federal laws because of sovereign immunity are not excluded from coverage under the state workers' compensation law.

LD 1627

Resolve, Regarding Legislative Review of Chapter 14: Rules Governing Alternative Methods of Payment of Overtime for Certain Drivers and Drivers Helpers, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards

**RESOLVE 74
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-556
	OTP-AM MIN	

LD 1627 proposed to authorize the Department of Labor to finally adopt a major substantive rule: Chapter 14: Rules Governing Alternative Methods of Payment of Overtime for Certain Drivers and Drivers Helpers.

Committee Amendment "B" (H-556), the minority report of the Joint Standing Committee on Labor, proposed to authorize final adoption of the rule relating to alternative methods of payment for truck drivers and drivers helpers. It proposed to require the Department of Labor to seek an Attorney General's opinion on the same issue as provided in the majority committee report and to report the results of the opinion and the department's recommendations in response to the opinion to the Joint Standing Committee on Labor.

Committee Amendment "A" (H-555), the majority report of the Joint Standing Committee on Labor, proposed that the Department of Labor is not authorized to finally adopt its rule, Chapter 14. It proposed to require the department to seek a legal opinion from the Attorney General regarding the Department's ability to consider work performed outside the State in regulating pay for work performed within the State, e.g., in counting hours worked outside the State in considering whether a person is entitled to overtime pay for work performed within the State. It proposed to require the Department to meet with the Labor Committee to discuss the Attorney General's opinion and the department's recommendations relating to the opinion. Finally, it proposed to require the department to resubmit rules to the Second Regular Session of the 121st Legislature. This committee amendment was not adopted.

Enacted Law Summary

Resolve 2003, chapter 74 authorizes final adoption of Department of Labor Rule Chapter 14, which sets forth an alternative method of payment for overtime worked by certain trucker drivers and drivers' helpers, allowing

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employers to pay on a basis other than hours worked, e.g., by miles driven. The Resolve also requires the Department of Labor to seek an opinion of the Attorney General regarding the Department's ability to take into account the number of hours worked outside the State in determining the required amount of pay for work conducted within the State. The Department must meet with the Labor Committee in September, 2003 to discuss the Attorney General's opinion and the Department's response to the opinion.

Resolve 2003, chapter 74 was finally passed as an emergency measure, effective June 16, 2003.

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