1	L.D. 443
2	Date: (Filing No. S-)
3	LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT
4	Reproduced and distributed under the direction of the Secretary of the Senate.
5	STATE OF MAINE
6	SENATE
7	126TH LEGISLATURE
8	FIRST REGULAR SESSION
9 10 11	COMMITTEE AMENDMENT "" to S.P. 175, L.D. 443, Bill, "An Act To Amend the Maine Workers' Compensation Act of 1992 To Provide Benefits to Seriously Injured Workers"
12 13	Amend the bill by striking out everything after the enacting clause and inserting the following:
14 15	'Sec. 1. 39-A MRSA §213, sub-§1-B, as enacted by PL 2011, c. 647, §8, is repealed and the following enacted in its place:
16 17 18 19 20 21 22 23	1-B. Long-term partial incapacity; date of injury on or after January 1, 2013. While the employee's demonstrated earning capacity after the exhaustion of benefits under subsection 1, paragraph B is 70% or less than the employee's earnings at the time of injury and the employee is working within the employee's documented capacity, the employer shall pay 2/3 of the difference between the employee's average weekly wage at the time of injury and the employee's postinjury wage, but not more than the maximum benefit under section 211. Compensation under this subsection must be paid at a fixed rate and is reviewable no more frequently than every 2 years.
24 25 26 27	While the employee is claiming or receiving extended partial incapacity benefits under this subsection, the employee shall complete and provide quarterly employment status reports and provide copies of current tax returns as early as practicable after the return is filed.
28	Sec. 2. 39-A MRSA §214, sub-§1, ¶F is enacted to read:
29 30 31 32 33 34 35	F. If the employee is not working and has performed a work search sufficient for the receipt of unemployment benefits as required by the Department of Labor, a rebuttable presumption is created that the employee is entitled to receive a weekly compensation amount equal to the amount permitted for total incapacity under section 212. This presumption may be rebutted only by a showing that the employee has received a bona fide offer of reasonable employment and refused that offer without good and reasonable cause.

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COMMITTEE AMENDMENT

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1 Sec. 3. 39-A MRSA §217, sub-§8, as enacted by PL 2011, c. 647, §14, is 2 amended to read:

8. Presumption. If an employee is participating in a rehabilitation plan <u>voluntarily</u> <u>offered by the employee's employer or</u> ordered pursuant to subsection 2, there is a presumption that work is unavailable to the employee for as long as the employee continues to participate in employment rehabilitation.'

SUMMARY

8 This amendment is the majority report of the Joint Standing Committee on Labor, Commerce, Research and Economic Development. Current eligibility requirements 9 under the Maine Workers' Compensation Act of 1992 for long-term partial incapacity 10 benefits require at least an 18% permanent impairment, a weekly wage of 65% or less of 11 the preinjury weekly wage and that the employee have earnings for at least 12 of the prior 12 13 24 months. This amendment replaces those eligibility requirements with requirements that the employee have a demonstrated earning capacity of 70% or less than the 14 employee's earnings at the time of injury and the employee is working within the 15 employee's documented capacity. The amendment adds that compensation is to be made 16 at a fixed rate and reviewable no more frequently than every 2 years. Additionally, the 17 amendment creates a rebuttable presumption that an injured worker with partial 18 incapacity is eligible for benefits in the weekly amount permitted for total incapacity 19 benefits as long as that injured worker has performed a work search sufficient to qualify 20 for unemployment benefits through the Department of Labor. 21

The amendment also provides that rehabilitation plans voluntarily offered by the injured worker's employer qualify the injured worker for the same presumption that work is unavailable that is currently afforded to participants in Workers' Compensation Board rehabilitation plans.

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