

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**

**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

2. Absence without pay. The Except as provided in section 17765, the board may not allow service credit for a period of absence without pay of more than a month's duration for a full-time position.

**Sec. 2. 5 MRSA §17765** is enacted to read:

**§17765. Service credit for educational leave**

A member may purchase service credit for the period during which the member took an unpaid or partially paid educational leave pursuant to the Maine Educational Leave Act under the following conditions.

1. Payment. The member must, before any retirement benefit becomes effective, pay into the Members' Contribution Fund by a single payment or annual direct payments to the retirement system an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional service credit purchased under this section. Payments must be made as provided in section 17701, subsection 4.

If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service.

2. Limitation on use of purchased service credit. Notwithstanding any other provision of law, service credit purchased under this section may be used only for the purpose of increasing the amount of a member's service retirement benefit by inclusion of the purchased service credit and may not be used to establish a member's qualification for a service retirement benefit.

3. Return to employment. The member must have returned to state employment after completion of the educational leave.

See title page for effective date.

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**CHAPTER 191**

**H.P. 751 - L.D. 1028**

**An Act to Amend the Maine Probate Code**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 18-A MRSA §7-402, sub-§(c), ¶(26),** as enacted by PL 1979, c. 540, §1, is amended to read:

(26) To execute and deliver all instruments ~~which that~~ will accomplish or facilitate the exercise of the powers vested in the trustee; ~~and~~

**Sec. 2. 18-A MRSA §7-402, sub-§(c), ¶(27)** is enacted to read:

(27) To divide the funds and properties constituting a trust into 2 or more identical separate trusts that represent 2 or more fractional shares of the funds and properties being divided and to make distributions of income and principal by a method other than pro rata from the separate trusts created as the trustee determines to be in the best interest of the trust beneficiaries. In any case when a single trust has been divided by the trustee into 2 separate trusts, one of which is fully exempt from the federal generation-skipping transfer tax and one of which is fully subject to that tax, the trustee may thereafter, to the extent possible consistent with the terms of the governing instrument, determine the value of any mandatory or discretionary distributions to trust beneficiaries on the basis of the combined value of both trusts, but may satisfy those distributions by a method other than pro rata from the separate trusts in a manner designed to minimize the current and potential generation-skipping transfer tax.

See title page for effective date.

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**CHAPTER 192**

**S.P. 132 - L.D. 411**

**An Act to Bring Certain State Retirement Laws into Compliance with Federal Laws**

**Emergency preamble. Whereas,** Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the federal Small Business Protection Act of 1996 amended the law regarding treatment of assets and income of deferred compensation plans for state and local employees under the United States Internal Revenue Code, Section 457 making state law inconsistent with the federal law; and

**Whereas,** immediate amendment of current state law is necessary to permit state and local governments to convert the provisions of existing deferred compensation plans for employees and to establish new plans consistent with federal law; and