

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 6, 2006 to June 21, 2007**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 20, 2007**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2007**

**§2422. Expenditures from fund; distribution**

Funds in the Maine Pesticide Education Fund must be distributed by the department as follows:

**1. Integrated Pest Management Fund.** Three percent of the money in the fund to the Integrated Pest Management Fund established under section 2405;

**2. Pesticide education and pesticide pick-up program.** Forty-seven percent of the money in the fund to the Board of Pesticides Control for pesticide education programs, applicator licensing and obsolete pesticide collection programs; and

**3. Pest management education.** Fifty percent of the money in the fund to the University of Maine Cooperative Extension for pest management and pesticide education programs, including, but not limited to, homeowner integrated pest management, school pest management, medical and veterinary facility pest management, pesticide application and use education and community health-related pest management programs.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE**

**UM Cooperative Extension - Pesticide Education N011**

Initiative: Establishes a base allocation in fiscal year 2007-08 and fiscal year 2008-09 for funds received from the Maine Pesticide Education Fund for pest management and pesticide education programs.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500

See title page for effective date.

**CHAPTER 303  
H.P. 624 - L.D. 827**

**An Act To Allow Certain Special Education Teachers To Acquire Time from the Maine State Retirement System**

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

Sec. 1. 5 MRSA §17763-A is enacted to read:

**§17763-A. Purchase of service credit by an educator of a child with a disability; service before July 1, 1976**

If a member can provide the board with satisfactory evidence that the member performed before July 1, 1976 any work as an educator or teacher of a child with a disability, as defined in Title 20-A, section 7001, subsection 1-B, including as a teacher who may not meet the definition in section 17001, subsection 42, in a private or parochial school or other school, center, facility or program that was not part of a public school system, the member may purchase up to one year of service credit for any such work performed before July 1, 1976. Service credit for this work must be calculated on the basis of school years. In order to purchase this service credit and before any retirement benefit becomes effective, the member must pay into the Members' Contribution Fund by a single direct 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 creditable service. Annual payments must be made in accordance with section 17701, subsection 4. Additional amounts paid under this subsection become a part of the member's accumulated contributions. If any retirement benefit becomes effective before the completion of the payment under this section, the member is entitled to service credit for that portion of 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.

See title page for effective date.

**CHAPTER 304  
H.P. 353 - L.D. 454**

**An Act To Amend Truancy Laws Regarding Parent Involvement**

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

Sec. 1. 20-A MRSA §3272, sub-§2, as amended by PL 1989, c. 415, §5, is repealed and the following enacted in its place:

**2. Habitual truancy.** A person is habitually truant if:

A. The person is required to attend school or alternative instruction and has completed grade 6 under this chapter and has the equivalent of 10

full days of unexcused absences or 7 consecutive school days of unexcused absences during a school year; or

B. The person is required to attend school or alternative instruction and is at least 7 years of age and has not completed grade 6 under this chapter and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year.

**Sec. 2. 20-A MRSA §3272, sub-§3**, as enacted by PL 1985, c. 490, §8, is amended to read:

**3. Excusable absence.** A person's absence is excused when the absence is for the following reasons:

A. Personal illness;

B. An appointment with a health professional that must be made during the regular school day and the absence has prior approval;

C. Observance of a recognized religious holiday when the observance is required during the regular school day and the absence has prior approval;

D. A family emergency; or

E. A planned absence for a personal or educational purpose ~~which that has been approved prior approval.~~

**Sec. 3. 20-A MRSA §3273, sub-§1**, as repealed and replaced by PL 1989, c. 415, §6, is repealed and the following enacted in its place:

**1. Civil violations.** A parent who has control of a person who is habitually truant under section 3272, subsection 2 and who is primarily responsible for that person's truancy commits a civil violation under this chapter.

**Sec. 4. 20-A MRSA §3273, sub-§6** is enacted to read:

**6. Fine.** For a civil violation under this section, the court may impose a fine not to exceed \$250, all or part of which may be suspended upon the offender's compliance with a court order under this section.

**Sec. 5. 20-A MRSA §5051-A, sub-§1**, as enacted by PL 2003, c. 533, §3, is amended to read:

**1. Habitually truant.** A student is habitually truant if the student is subject to section 5001-A and:

~~A. Is subject to section 5001-A; and~~

B. Has completed grade 6 and has the equivalent of 10 full days of unexcused absences or 7 consecutive school days of unexcused absences during a school year; or

C. Is at least 7 years of age and has not completed grade 6 and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year.

**Sec. 6. 20-A MRSA §5051-A, sub-§2, ¶C**, as enacted by PL 2003, c. 533, §3, is amended to read:

C. If the superintendent or superintendent's designee is unable to correct the truancy of the child, the superintendent or superintendent's designee shall serve or cause to be served upon the parent in hand or by registered mail a written notice that attendance of the child at school is required by law. The notice must:

(1) State that the student is required to attend school pursuant to section 5001-A;

(2) Explain the parent's right to inspect the student's attendance records, attendance coordinator's reports and principal's reports;

(3) Explain that the failure to send the student to school and maintain the student in regular attendance is a civil violation in accordance with section 5053-A and explain the possible penalties;

(4) State that the superintendent or the superintendent's designee may notify the local law enforcement department of a violation of this statute and the Department of Health and Human Services of a violation under subsection 1, paragraph C; and

(5) Outline the plan developed to address the student's habitual truancy and the steps that have been taken to implement that plan.

**Sec. 7. 20-A MRSA §5051-A, sub-§2, ¶D**, as enacted by PL 2003, c. 533, §3, is amended to read:

D. Prior to notifying the local law enforcement department under paragraph E, the superintendent or superintendent's designee shall schedule at least one meeting as required in paragraph B and may invite a local prosecutor.

**Sec. 8. 20-A MRSA §5053-A, sub-§1**, as enacted by PL 2003, c. 533, §5, is amended to read:

**1. Civil violation.** If a parent has control of a student who is habitually truant under section 5051-A, subsection 1 and that parent is primarily responsible for that truancy, that parent commits a civil violation for which a fine of not ~~less~~ more than \$~~25~~ 250 may be adjudged, all or part of which may be suspended upon the parent's compliance with a court order under subsection 2.

**Sec. 9. 20-A MRSA §5053-A, sub-§4**, as enacted by PL 2003, c. 533, §5, is amended to read:

**4. Prima facie proof.** Evidence that shows that the parent received the notice under section 5051-A, subsection 2 and that the child has accumulated ~~40~~ 7 absences that are not justified under the established attendance policies of the school administrative unit is prima facie proof that the ~~child's parent failed to enroll~~

~~the child in school, failed to send the child to school or failed to require the child to regularly attend school parent is primarily responsible for the child's habitual truancy or the parent failed to take corrective measures for the child's habitual truancy.~~

**Sec. 10. 22 MRSA §4002, sub-§1,** as amended by PL 1985, c. 739, §1, is further amended to read:

**1. Abuse or neglect.** "Abuse or neglect" means a threat to a child's health or welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these or failure to ensure compliance with school attendance requirements under Title 20-A, section 3272, subsection 2, paragraph B or section 5051-A, subsection 1, paragraph C, by a person responsible for the child.

**Sec. 11. 22 MRSA §4002, sub-§6, ¶B,** as amended by PL 2005, c. 373, §4, is further amended to read:

B. Deprivation of adequate food, clothing, shelter, supervision or care or education when the child is at least 7 years of age and has not completed grade 6;

See title page for effective date.

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**CHAPTER 305**

**H.P. 258 - L.D. 323**

**An Act Permitting Substitute Teachers To Opt Out of the Maine State Retirement System**

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

**Sec. 1. 5 MRSA §17601, sub-§2,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

**2. Teachers.** Each superintendent or chief administrator of a public school shall submit the information set out in subsection 1 to the board for all teachers, except substitute teachers who elect not to become members of the retirement system pursuant to section 17652, subsection 6.

**Sec. 2. 5 MRSA §17652, sub-§2,** as amended by PL 2003, c. 261, §§1 and 2, is further amended to read:

**2. Delayed election of membership.** A person, including a substitute teacher, who elects not to join the retirement system at the beginning of ~~his~~ that person's employment may at any time apply for and be admitted to membership.

A-1. A person who joins the retirement system under this subsection may purchase service credit for the period during which the person served as an elected official or official appointed for a fixed term or was employed as a substitute teacher but was not a member of the retirement system.

B. Membership service credit for persons joining the retirement system under this subsection ~~shall begin~~ begins as of the effective date of first contributions or pick-up contributions to the system.

C. This subsection applies to any member who begins membership after December 31, 1985.

**Sec. 3. 5 MRSA §17652, sub-§6** is enacted to read:

**6. Substitute teachers.** Notwithstanding section 17651, membership in the retirement system is optional for substitute teachers. The right of a substitute teacher to rejoin the retirement system is limited to 2 occurrences.

**Sec. 4. 5 MRSA §17704-A, first ¶,** as amended by PL 2003, c. 261, §6, is further amended to read:

An elected official ~~or~~ an official appointed for a fixed term or a substitute teacher who began membership after December 31, 1985 may purchase service credit for the period during which that person elected not to be a member of the retirement system if the following requirements are met.

See title page for effective date.

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**CHAPTER 306**

**S.P. 270 - L.D. 860**

**An Act To Amend Certain Laws Affecting Transportation**

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

**Whereas,** this legislation makes changes to the law that need to take effect before the end of the summer tourist season; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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