

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

FIRST SPECIAL SESSION
April 28, 2021 to July 19, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 18, 2021

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

Augusta, Maine
2021

solely from annual federal transportation appropriations for funding for qualified transportation projects.

PART F

Sec. F-1. Transfer of funds; Highway Fund; TransCap Trust Fund. Notwithstanding any provision of law to the contrary, the State Controller shall transfer \$6,752,206 in fiscal year 2021-22 and \$6,831,841 in fiscal year 2022-23 from the Highway Fund unallocated surplus to the TransCap Trust Fund.

PART G

Sec. G-1. Transfer of Highway Fund unallocated balance; capital program needs; Department of Transportation. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law to the contrary, at the close of the fiscal years 2021-22 and 2022-23 the State Controller shall transfer amounts exceeding \$100,000 from the unallocated balance in the Highway Fund after the deduction of all allocations, financial commitments, other designated funds or any other transfer authorized by statute to the Department of Transportation Highway and Bridge Capital, Highway Light Capital and Maintenance and Operations programs for capital or all other needs. The Commissioner of Transportation is authorized to allot these funds by financial order upon the recommendation of the State Budget Officer and the approval of the Governor. The transferred amounts are considered adjustments to allocations.

Within 30 days of approval of the financial order under this section, the Commissioner of Transportation shall provide to the members of the joint standing committee of the Legislature having jurisdiction over transportation matters a report detailing the financial status of the department's capital program.

PART H

Sec. H-1. Transfer of Personal Services savings; Department of Transportation. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law to the contrary, for the fiscal years ending June 30, 2022 and June 30, 2023 the Commissioner of Transportation is authorized to transfer, by financial order upon the recommendation of the State Budget Officer and approval of the Governor, identified Highway Fund Personal Services savings to the Department of Transportation Highway and Bridge Capital, Highway Light Capital and Maintenance and Operations programs for capital or all other needs. The financial order must identify the specific savings after all adjustments that may be required by the State Controller to ensure that all financial commitments have been met in Personal Services after assuming all costs for that program including collective bargaining costs. The Commissioner of Transportation shall provide a report by September 15, 2022 and September 15, 2023 to the members of the joint standing committee of the Legislature having jurisdiction

over transportation matters detailing the financial adjustments to the Highway Fund.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 16, 2021.

CHAPTER 225

H.P. 372 - L.D. 509

An Act To Protect Teachers from a Decrease in Retirement Benefits Arising from the COVID-19 Pandemic

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

Whereas, teachers nearing retirement have experienced a reduction in income from the elimination of an extracurricular or cocurricular position due to circumstances related to the COVID-19 pandemic; and

Whereas, this legislation provides the opportunity for those teachers who are in their last 3 years before retirement to purchase service credit in the state retirement system for the income lost from the extracurricular or cocurricular position from January 1, 2020 to July 1, 2021; and

Whereas, it is important that this legislation take effect as soon as possible so those teachers nearing retirement may complete the purchase of that service credit before their retirement; 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:

Sec. 1. 5 MRSA §17001, sub-§4, ¶A, as amended by PL 2015, c. 385, §2, is further amended to read:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest. However, if a member is subject to a temporary layoff or other time off without pay as a result of a Governor's Executive Order, time off without pay or loss of pay pursuant to the agreements of February 15, 1991, October 23, 1991 and June 11, 1993 between the Executive Department and the American

Federation of State, County and Municipal Employees, Council 93, time off without pay pursuant to the agreement of June 11, 1993 between the Executive Department and the Maine State Employees Association, days off without pay as authorized by legislative action or days off without pay resulting from any executive order declaring or continuing a state of emergency relating to the lack of an enacted budget document for fiscal years ending June 30, 1992 and June 30, 1993, or, if a member elects to make the payments as set forth in section 17704-B, as a result of days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay as authorized by legislative action, by the State Court Administrator or from executive order for the fiscal year beginning July 1, 2002, July 1, 2009, July 1, 2010, July 1, 2011 or July 1, 2012, or a combination thereof, or, if a member is subject to days off without pay, not to exceed 10 days in each fiscal year ending June 30, 1992 and June 30, 1993, as a result of actions taken by local school administrative units to offset school subsidy reductions, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions taken by a local school administrative unit and the member elects to make the payments as set forth in section 17704-B or, notwithstanding section 18202, as a result of actions of a participating local district to offset reductions in municipal revenue sharing or a combination thereof, for the fiscal years ending June 30, 1992 and June 30, 1993, or, if a member of a local school administrative unit is subject to loss of compensation from employment in an extracurricular or cocurricular position that was eliminated or otherwise unavailable during the period from January 1, 2020 to July 1, 2021 due to circumstances related to the novel coronavirus disease referred to as COVID-19 and the member elects to make the payments as set forth in section 17704-B, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions of a participating local district and the member elects to make the payments as set forth in section 18305-C, the 3-year average final compensation must be determined as if the member had not been temporarily laid off, reduced in pay or provided days off without pay; or

Sec. 2. 5 MRSA §17704-B, as amended by PL 2015, c. 385, §9, is further amended to read:

§17704-B. Back contributions for certain days off without pay

1. Election. If the retirement system determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of com-

ensation that would have been paid for days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay in fiscal year 2002-03, 2009-10, 2010-11, 2011-12 or 2012-13, or a combination thereof, or the loss of compensation from employment in an extracurricular or cocurricular position that was eliminated or otherwise unavailable during the period from January 1, 2020 to July 1, 2021 due to circumstances related to the novel coronavirus disease referred to as COVID-19, as provided in section 17001, subsection 4, paragraph A, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments set forth in subsection 2.

2. Payment. The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that member would have made on compensation that would have been paid to that member on the days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay during fiscal year 2002-03, 2009-10, 2010-11, 2011-12 or 2012-13, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, plus interest at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed beginning at the end of the year when those contributions or pick-up contributions would have been made to the date of payment. For the loss of compensation from employment in an extracurricular or cocurricular position that was eliminated or otherwise unavailable during the period from January 1, 2020 to July 1, 2021 due to circumstances related to the novel coronavirus disease referred to as COVID-19, the member must pay an amount equal to the computed actuarial value. If the member elects to make the payment, the retirement system shall withhold the required amount from the member's first retirement benefit check.

3. Benefit calculation. If the member fails to make the election within 31 days of the notification provided under subsection 1, the retirement system shall calculate the member's retirement benefit without inclusion of the days off without pay and without inclusion of the compensation that otherwise would have been paid if the freezing of merit pay and longevity pay had not occurred during fiscal year 2002-03, 2009-10, 2010-11, 2011-12 or 2012-13, or a combination thereof, or the loss of compensation from employment in an extracurricular or cocurricular position that was eliminated or otherwise unavailable during the period from January 1, 2020 to July 1, 2021 due to circumstances related to the novel coronavirus disease referred to as COVID-19, as provided in section 17001, subsection 4, paragraph A.

Sec. 3. 5 MRSA §17768 is enacted to read:

§17768. Service credit for teachers

A member who is a teacher and who experiences a reduction in income from an extracurricular or cocurricular position due to circumstances related to coronavirus disease 2019, referred to in this section as "COVID-19," may purchase service credit for the period during which the extracurricular or cocurricular position was eliminated or otherwise unavailable under the following conditions.

1. Eligibility requirements. A teacher may purchase service credit under this section only if:

A. During the 12 months preceding the start of the period of the service credit, the teacher received income from employment in an extracurricular or cocurricular position that was eliminated or otherwise unavailable during the period from January 1, 2020 to July 1, 2021 due to circumstances related to COVID-19; and

B. The teacher is in the final 3 years of service during the period from January 1, 2020 to July 1, 2021.

2. Limit on service credit. The additional service credit under this section may be purchased only for the period from January 1, 2020 to July 1, 2021.

3. Payment. A member purchasing service credit under this section must, before any retirement benefit becomes effective, pay into the Members' Contribution Fund by a single payment or annual direct payments to the State Employee and Teacher Retirement Program 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.

4. Limitation on use of purchased service credit. Notwithstanding any provision of law to the contrary, 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.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 16, 2021.

CHAPTER 226

H.P. 441 - L.D. 605

An Act To Amend the Marijuana Legalization Act

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

Whereas, businesses regulated under the State's adult use marijuana program are in the early stages of operation and the changes provided in this bill will help those businesses get started; and

Whereas, this bill removes the October 1, 2021 repeal of the law providing for licensee self-sampling of marijuana for the purpose of mandatory testing; and

Whereas, this bill needs to take effect before the expiration of the 90-day period in order to take effect before October 1, 2021; 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:

Sec. 1. 28-B MRS §102, sub-§35, as amended by PL 2019, c. 528, §19, is further amended to read:

35. Marijuana trim. "Marijuana trim" means any part of a marijuana plant, whether processed or unprocessed, that is not marijuana flower or a marijuana seed except that "marijuana trim" does not include the stalks or roots of the marijuana plant. "Marijuana trim" does not include any part of a hemp plant as defined in Title 7, section 2231, subsection 1-A, paragraph D.

Sec. 2. 28-B MRS §102, sub-§37, as amended by PL 2019, c. 528, §19, is further amended to read:

37. Mother plant. "Mother plant" means a ~~mature~~ marijuana plant that is used solely for the taking of seedling cuttings. "Mother plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

Sec. 3. 28-B MRS §108, as enacted by PL 2017, c. 409, Pt. A, §6, is amended to read:

~~§108. Awareness and education on public health and safety matters programs~~ **Public health and safety matters programs**

The department shall develop and implement or facilitate the development and implementation by a public or private entity of programs, initiatives and